

**PUBLIC ACCOUNTS COMMITTEE
(1972-73)**

(FIFTH LOK SABHA)

EIGHTY-THIRD REPORT

[Action taken by Government on the recommendations of the Public Accounts Committee contained in their 44th Report (Fifth Lok Sabha) relating to Union Excise].



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CORRIGENDA TO EIGHTY THIRD REPORT OF THE PAC
(FIFTH LOK SABHA) PRESENTED TO LOKSABHA ON
26.4.1973.

<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
70	1.11	11	The Committee are not satisfied with this reply and they would like to reiterate that a representative of Audit should be associated with the Review Committee from now.	The Committee are not satisfied with this reply. No reasons are given for not accepting the recommendation of the Committee that a representative of Audit should be associated with the Review Committee. To consult Audit as and when the Review Committee consider it necessary is something totally different from having a representative of audit on the Committee. It is the Committee's considered view that their recommendation is the sounder and better calculated to achieve the object in mind. The Committee, therefore, desire that it be given further consideration in depth.
71	-	9	Add the following sentence at the end. That would be a fairer course to adopt.	
72	1.24	5	by the Assistant Collector. The Committee suggest	by the Assistant Collector. The approval was not in accordance with the provisions of Rule 44 of the Central Excise Rules, 1944. The Committee suggest
73	-	3	be issued by the Board.	be issued by the Board fixing a fairly rigid time limit for the completion of examination not being completed by that date for an interim intimation to the organisation making the reference of the progress made in the examination and of the probable date by which final orders may be expected.

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PUBLIC ACCOUNTS COMMITTEE

(1972-73)

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Shri Era Sezhiyan

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22. Shri Shyam Lal Yadav

SECRETARIAT

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 Eighty-third Report on action taken by Government on the recommendations of the Committee contained in their 44th Report (Fifth Lok Sabha) on Chapter III of Audit Report (Civil) Revenue Receipts, 1970 and the Report of the Comptroller and Auditor General of India for 1969-70—Central Government (Civil)—Revenue Receipts relating to Union Excise.

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 6th April, 1973. The Report was finally adopted by the Public Accounts Committee on the 21st April, 1973.

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.

(vi)

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;

21st April, 1973

1 Vaisakha, 1895 (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 Forty-fourth Report of the Public Accounts Committee (Fifth Lok Sabha) on Chapter III of the Report of the Comptroller and Auditor General of India for the year 1969-70 (Civil)—Revenue Receipts, relating to Union Excise, which was presented to the House on 27th April, 1972.

1.2. Action Taken Notes in respect of all the 82 recommendations/observations contained in the Report have been received from Government.

1.3. The Action Taken Notes have been categorised as under:

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

S. Nos. 3, 6, 7, 9—15, 17—28, 30, 32—44, 46, 49, 52, 53, 56, 58—60, 63, 64, 66, 67, 69—79, 81, 82.

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

S. Nos. 2, 29, 45.

(iii) *Recommendations/observations replies to which have not been accepted by the Committee and which require reiteration.*

S. Nos. 1, 4, 51, 57, 61, 62, 63.

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

S. Nos. 5, 8, 16, 31, 47, 48, 50, 54, 55, 65, 80.

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.

Taxing of commodities with low yield of Revenue, Paragraph 1.9 (S. No. 1).

1.6. Commenting upon the items with yields of excise duty less than Rs. 50 lakhs per year, the Committee made the following observations in paragraph 1.9:

“The Committee note that the number of excisable commodities has increased from 76 in 1965-66 to 115 at present. There are quite a few commodities which are not yielding substantial revenue. During the years 1968-69, 1969-70 and

1970-71, the number of commodities which yielded total revenue of less than Rs. 50 lakhs in each year was 8, 13 and 9 respectively. The Chanda Committee expressed the view as early as 1963 that "the increased in yield has not been commensurate with the number of items which have been added to the list of excisable goods." The Committee feel that taxing commodities with yields less than Rs. 50 lakhs a year particularly those produced by small units dispersed throughout the country is not worth-while as they would involve disproportionate cost of collection."

1.7. In their note dated the 15th November, 1972 the Ministry of Finance (Department of Revenue and Insurance) stated as follows:

"The question of limiting excise levies to commodities yielding substantial revenue and in the collection of which administrative effort and cost involved will be relatively low has been under examination for some years now. As a result of a special study undertaken, in the 1965 budget, excise duties on silver cigars and cheroots, mechanically driven gramophones and parts thereof, and all parts and accessories or electrically or battery operated gramophones, record players record-playing decks, or record changer decks, excepting a few specified items, were totally exempted from duty. However, in view of the imperative need to raise additional resources, keeping in view the socio-economic objectives to be achieved through fiscal measures, and on account of the limit upto which duty on the existing items could be increased, extending excess coverage to new items, became inescapable.

While examining the recommendations of the Committee on Taxation under the Chairmanship of Shri Bhoothalingam, it was not found feasible to impose a general excise levy at 10 per cent *ad valorem* on all manufactured goods. However, with a view to introduce an element of progression in the field of indirect taxation, new items like photographic cameras, cinematograph projects, lipsticks, shampoos, mosaic tiles, zip fasteners, etc. were selected for central excise levy.

A statement showing excisable items yielding an annual revenue of less than Rs. 50 lakhs, the number of units to be controlled and progressive revenue realisation, year-wise is enclosed (page. 57). The statement would show that in several cases the number of units to be controlled

is not large and to that extent the effort involved in collecting the revenue would also be proportionately low.”

1.8. The Committee had observed that taxing commodities with yields less than Rs. 50 lakhs a year particularly those produced by small units dispersed throughout the country was not worth-while as it would involve disproportionate cost of collection. It has been stated in the Ministry's reply that in view of the imperative need to raise additional resources, keeping in view the socio-economic objective to be achieved through fiscal measures, and on account of the limit upto which duty on the existing items could be increased, extending excise coverage to new items has become inescapable. It has been further stated that in several cases the number of units to be controlled is not large and to that extent the effort involved in collecting the revenue would also be proportionately low. It is however seen from the statement furnished by the Ministry that the number of units is quite high in some cases. For instance it is seen that between 1968-69 to 1971-72, Rs. 26 to Rs. 50 lakhs per annum have been collected from Domestic Electrical Appliances produced in 186 units, Rs. 32 to Rs. 40 lakhs a year from safes, strong boxes etc. produced in 178 units and Rs. 25.1 to Rs. 45 lakhs per annum from Mosaic tiles produced in 514 units. The Committee suggest that cost of collection of duties on these commodities should be computed on some basis so that it may be decided whether it is worthwhile taxing them.

Study of the working of Self-Removal Procedure—Paragraph 1.22
(S. No. 4)

1.9. Suggesting that a representative of the Audit should be associated with the Review Committee appointed to go into the working of the Self Removal Procedure, the Committee made the following observations in paragraph 1.22:

“The Committee note that Government have made a departmental study of the working of SRP on certain commodities particularly with reference to their production and revenue. This study reveals that after the introduction of SRP the production of some of the commodities like cigars, cigarettes, cheroots, VNE oils, sodium silicate, cosmetics and toilet preparations, steel ingots, footwear, matches, synthetic fibre and yarn, woollen yarn, Cotton fibre etc. has shown a perceptible decline. The study also reveals fall of revenue in respect of some other items. The Committee have been informed that Government have received complaints from different quarters about the possible evasions of duty and have set up a Committee •

with wide terms of reference to go into the working of SRP to find out whether the scheme has achieved its purpose and to what extent it has afforded scope for evasion, to recommend measures to plug loopholes and also to examine the organisational and administrative set up of the Excise Department. The Committee feel that it would be helpful if a representative of the Audit is also associated with the Committee."

1.10. In their note dated 16th Sept., 1972, the Ministry of Finance (Department of Revenue and Insurance) stated:

"The suggestion has been examined by the SRP Review Committee and Committee proposed holding discussions with the representatives of C&AG at the appropriate time on all matters with which audit is likely to be concerned."

1.11. The Committee had felt that it would be helpful if a representative of the Audit was also associated with the S.R.P. Review Committee set up by Government to go into the working of S.R.P. to find out whether the scheme had achieved its purpose and to what extent it had afforded scope for evasion, to recommend measures to plug loopholes and also to examine the organisational and administrative set up of the Excise Department. From the reply of the Ministry, it appears that the S.R.P. Review Committee has examined the suggestion and they propose to hold discussions with the representative of the Comptroller and Auditor General at the appropriate time on matters with which audit is likely to be concerned. The Committee are not satisfied with this reply. No reasons are given for not accepting the recommendation of the Committee that a representative of Audit should be associated with the Review Committee. To consult Audit as and when the Review Committee consider it necessary is something totally different from having a representative of audit on the Committee. It is the Committee's considered view that their recommendation is the sounder and better calculated to achieve the object in mind. The Committee, therefore, desire that it be given further consideration in depth.

Review cases of payment of Excise Duty under protest—Paragraph 1.210 (S. No. 51).

1.12. Referring to review of cases when the excise duty was paid under protest, the Committee made the following observations in paragraph 1.210:

"The Committee understand that in the new Central Excise Bill proposed to be submitted to Parliament Government is

going to provide a clause in the Bill to permit the Collector to review *suo motu* in each case if the payment is made under protest. In any case, the Committee hope that in future the payments under protest will not be ignored and suitable instructions will be issued for reporting such cases to the higher authorities for review."

1.13. In their note dated 14th Nov., 1972, the Ministry of Finance (Department of Revenue and Insurance) stated:

"When the assessee does not accept the decision of the proper officer and pays duty under protest, he may go in appeal against the decision of the proper officer. Section 35A of Central Excises & Salt Act, 1944 inserted under the Finance Act, 1972, empowers the Central Board of Excise and Customs to review a decision or an order (other than an order passed on an appeal) for satisfying itself as to correctness, legality or propriety of such a decision or order. Similarly, section 36(2) empowers the Central Government to review a decision or an order passed under section 35A. There is, however, no provision at present in the Central Excises and Salt Act, 1944, to review all cases where duty has been paid by an assessee under protest nor would such a provision appear necessary in view of the powers of review under Section 35A. Nevertheless, instructions have been issued to the effect that Central Excise Officers should visit factories for expediting finalisation of classification and valuation matters and Collectors are also required to report to the Board/Government for examination and review whenever they notice that decisions of the subordinate officers in regard to classification or valuation are not in consonance with the Board's orders, Government's ruling or advice or when they feel that the orders are patently wrong and have adverse effect on revenue collection."

1.14. The Committee had suggested that payments made under protest should not be ignored and suitable instructions should be issued for reporting such cases to the higher authorities for review. In reply, the Ministry have stated that there is no specific provision in the Central Excise and Salt Act to review all cases where duty has been paid by an assessee under protest nor would such a provision appear necessary in view of the powers of review under Section 35A which was introduced *vide* Finance Act, 1972. The Committee

suggest that a suitable provision may also be included in the new Central Excise Bill. The Committee desire that instructions may also be issued that the cases involving substantial amounts where duty is paid under protest, should be specifically brought to the notice of the Board who may review such cases, if necessary, under Section 35A. That would be a fairer course to adopt.

*Laying down time-limit for finalisation of provisional assessments—
Paragraph No. 1.231 (S. No. 57).*

1.15. With regard to the provisional assessments, the Committee made the following observations in paragraph 1.231:—

Provisional assessments carry a state of suspense with them. They are likely to affect the Budgetary forecasts. The lower assessments will postpone realisation of **rightful** dues to Government and higher assessment if refunded later will not pass on to the consumer. The Committee, therefore, feel that it is high time that provisional assessment is reduced to the absolute minimum particularly after the introduction of self removal procedure under which approval of classification and prices is the pre-condition for clearance of goods. In this connection the Committee would suggest that:

- (a) Provisional assessment should be resorted to as exception rather than rule;
- (b) It should be examined whether a limit can be provided in the rules itself for finalisation of these assessments, with built in safeguards against dilatory tactics of assesses like delay in production of invoices and other required information;
- (c) A strict time limit should be laid down for the Chemical examiner and such officers to furnish test reports and price lists and if necessary these organisations should be strengthened qualitatively as well as quantitatively; and
- (d) A periodical review at the higher level should be prescribed to watch the progress.

1.16. In the reply dated the 28-10-1972 the Ministry of Finance stated:

“The observations of the Committee have been noted and the matter is further being examined.”

1.17. Subsequently the Ministry informed Audit on 12th February, 1972 as follows:

"The matter has been examined further and it felt that it is not feasible to lay down any statutory time limit for finalisation of all provisional assessments. Further instructions have, however, been issued under this Ministry's F. No. 202/17/72-CX-6 dated the 10th January, 1973 laying down that where provisional assessments in any particular case are not finalised within 6 months the case should be reported to the Collector for necessary directions to ensure speedy finalisation of the case."

1.18. The Committee feel that in order to reduce the provisional assessments to the minimum it is necessary to fix statutory time-limit for their finalisation. The Committee would, therefore, like to reiterate that a time-limit should be provided in the Rules for finalisation for all provisional assessments with built in safeguard against dilatory tactics of assessees like delay in production of invoices and other required information. Further a strict time-limit should also be laid down for the chemical examiner and such officers to furnish test reports and price lists.

Need to regulate collection and clearance of cheques—Paragraphs 1.242 and 1.243 (S. Nos. 61-62).

1.19. Commenting upon certain cases of non-receipt, loss or non-clearance of cheques for payment of duty, the Committee made the following observations in paragraphs 1.242 and 1.243:

"All these instances indicate that there is a serious laxity of control in clearance of cheques within the Excise Department. The Committee would like the Government to devise a foolproof procedure to regulate collection and clearance of cheques to avoid recurrence of these lapses in future.

These cases raise doubts about the dependence on the present procedure to allowing the assessees themselves to maintain their own PLA's. Particularly when under the S.R. Procedure, the assessee can remove goods at his will without any on the spot check. The Committee therefore desire that it should be examined whether the responsibility of maintaining P.L.A. should not be undertaken by the Department."

1.20. In their note dated 17-11-1972, the Ministry of Finance (Department of Revenue and Insurance) stated:

"Under S.R.P. which governs all central excise commodities other than unmanufactured tobacco, an assessee himself has to despatch cheques by registered post to the Chief Accounts Officer or by a special messenger. There should, therefore, be no occasion now for delay in receipt of these cheques by the C.A.O. Under the existing instructions, the C.A.O. is required to verify all credit entries in the P.L.A. with cheques received from assessee and/or from credit advice received directly from the treasuries. He is also required to verify that each debit entry is covered by sufficient credit on the date of removal of goods and co-relate the duty paid documents with the return in Form R.T. 12.

The primary object of S.R.P. was to relieve the assessee from the requirement of approaching the Central Excise Officer for examination and clearance of the excisable goods from his premises. However, as a Committee is currently reviewing the working of the S.R.P., Government would like to await the Committee's recommendations in this regard."

1.21. The Committee had pointed out certain cases regarding non-receipt, loss or non-clearance of cheques worth lakhs of rupees which indicated chaotic state of affairs so far as cheque transactions in the Excise Department were concerned. The Committee had suggested that Government should devise a foolproof procedure to regulate collection and clearance of cheques to avoid recurrence of the lapses. The Committee also expressed doubts about the dependence on the present procedure of allowing the assessee themselves to maintain their own Personal Ledger Accounts and advised Government to examine whether the responsibility of maintaining P.L.A. should not be undertaken by the Department itself. The Ministry have stated that the primary object of S.R.P. was to relieve the assessee from the requirement of approaching the Central Excise Officer for examination and clearance of excisable goods from his premises. However, Government would like to await the recommendations of the S.R.P. Review Committee which is currently reviewing the working of S.R.P. The Committee would like to suggest that both these aspects should be clearly brought to the notice of the Review Committee.

Proper Scrutiny of Factory Plans—Paragraph 1,257 (S. No. 64)

1.22. Commenting upon a case in which the scrutiny of the plan of a new factory and its inspection were not done properly, the Committee made the following observations in paragraph 1,257:

"Although the plan of the factory is required to be approved

by the Assistant Collector, no notice seems to have been taken of the process of flow of the acid at an intermediary stage before it reached storage tank. The Chemical Examiner who visited the factory in 1967 also did not notice that the acid flowing to the leaching plant was not being accounted for in the production of the factory and he did not give any guidance on this point to the staff. The Committee regret that scrutiny of the original plan of the factory and the inspection by the Chemical Examiner were perfunctory. The Committee desire that this question should be examined and remedial steps taken for future."

1.23. In their note dated the 27th November, 1972, the Ministry of Finance (Department of Revenue & Insurance) stated:

"Only ground plans showing the locations of the various sections of the factory were approved by the Assistant Collector. The Collector has reported that as suggested by the Chemical Examiner who visited the factory on 18-3-1971, the factory have installed a separate tank in the leaching section. The acid intended for use in the leaching tank can be stored exclusively in the newly constructed tank."

1.24. The Committee had adversely commented upon the perfunctory scrutiny of the original plans of the factory and subsequent inspections by the chemical examiner. The Ministry have stated in their reply that only ground plans showing locations of various sections of factory were approved by the Assistant Collector. The approval was not in accordance with the provisions of Rule 44 of the Central Excise Rules, 1944. The Committee suggest that necessary instructions should be issued to avoid recurrence of such cases.

Avoidance of delay in issue of rulings by the Board—Paragraph 1.266 (S. No. 68)

1.25. Dealing with a case of delay in taking decision by the Board on a reference made by a Collectorate, the Committee made the following observations in paragraph 1.266:

"The Committee regret that the Board took 3½ years to give a decision on a reference made to them on the 27th July 1963 by the Bombay Collectorate regarding the problem of set off of special excise duty on internal combustion engines used in motor vehicles. It was only in March, 1967 that Government issued a notification granting exemption of special excise duty also. In the meantime different practices were followed by the Collectorates for allowing credit:

for special excise duty paid on engines. The Committee feel that a time limit of 3 to 4 months is reasonable for giving ruling in such matters. The Committee desire that a suitable time limit should be fixed for this purpose."

1.26. In their note dated the 7th November, 1972, the Ministry of Finance (Department of Revenue & Insurance) stated:

"In dealing with references received from the Collectors, some time inevitably gets taken in the Board consulting other Ministries and technical authorities concerned. However, it is fully appreciated that inordinate delays in arriving at decisions will be self-defeating.

The observations of the Committee have been noted and efforts are being made for severely curtailing the time taken for giving rulings."

1.27. The Committee note the Ministry's reply that efforts are being made for severely curtailing the time taken by the Board for giving rulings. The Committee would however, like to reiterate that a time limit of 3 to 4 months should be reasonable for consulting technical authorities or other Ministries before giving clarification by the Board. The Committee suggest that suitable instructions may be issued by the Board fixing a fairly rigid time limit for the completion of examination and in the event of examination not being completed by that date for an interim intimation to the organisation making the reference of the progress made in the examination and of the probable date by which final orders may be expected.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The Committee note that the cost of collection has come down from 1.07 per cent in 1967-68 to 0.97 per cent in 1968-69 and to 0.84 per cent in 1969-70 after the introduction of SRP. However, as admitted by the Ministry, this fall is not solely attributed to the introduction of SRP Scheme, but is the cumulative effect of various factors like progressive increase in revenue receipts, etc. Under the existing accounting system followed in the Excise Department it is difficult to bring out the actual impact of SRP on the cost of collection. After the introduction of SRP, the Staff Inspection Unit of the Ministry of Finance have after prolonged and detailed study found 384 posts of sub-inspectors and 1715 posts of sepoy surplus. The Committee suggest that the impact of the system of SRP on the cost of collection may be kept under watch.

[S. No. 3, Para No. 1.16 of Appendix III of PAC 44th Report, 5th Lok Sabha, 1971-72].

Action taken

The Committee's suggestion to keep a watch on the cost of collection as a result of impact of the SRP has been noted.

[Deptt. of Rev. & Insurance No. 234/4/72—CX-7 dt. 3-8-72].

Recommendation

1.36. The Committee regret to observe that there was lack of coordination between the Central Excise Department and the Ministry of Health in the classification of the product 'Protinules'. The product was treated as Patent and Proprietary medicine by the Ministry of Health and as 'food product' by the Excise Department. The product which was originally charged to duty as medicine from April, 1962 was on the representation from the licensee decided in March, 1968 to be essentially a food product and hence not excisable after consulting the Drugs Controller (India). An amount of Rs.

1.68 lakhs collected as duty was refunded to this party, Subsequently in July, 1967, the Director General of Health Services decided to treat it as a medicinal preparation eligible for reimbursement under Medical Attendance Rules applicable to Central Government Servants but without consulting the Drugs Controller (India). The Ministry of Health referred the matter to the Drugs Controller (India) only on receipt of a draft Audit para from the Ministry of Finance when it was decided not to treat this as drug. The failure of the Ministry of Health to consult the Drugs Controller (India) in 1967 when the preparation was included in reimbursable list of medicines, is regrettable. The Committee suggest that some procedure should be laid down whereby opinions of the Drugs Controller on various medicinal preparations in cases referred to by the Excise Department are made available to the Director General of Health Services and *vice-versa* so that there is uniformity in treatment of products as drug or food products.

1.37. An unsatisfactory aspect of the case is that the manufacturer received a refund of Excise Duty amounting to Rs. 1.68 lakhs although he had already passed on the burden of duty to consumers. Else where in this report the Committee have discussed the question of desirability of making refunds in such cases. The Committee desire that at least the Income-tax authorities should be informed about the income of the manufacturers in this regard.

[Sl. No. 6-8-Paras 1.36—1.38 of Appendix III to the 44th Report of P.A.C., 1971-72].

Action taken

1.36. The observations of the P.A.C. were brought to the notice of the Ministry of Health. That Ministry have reported that in future wherever any advice is given by the Drug Control Department, a copy of such advice will be communicated to the Deputy Director General (Medical) in the Directorate General Health Services who deals with the subject of medical reimbursement.

1.37. The Collector, Central Excise, Baroda has reported that the Income Tax Authorities have been suitably informed about the refund sanctioned to the party. A copy of the instructions issued in this Ministry providing for an intimation to the Income Tax Authorities in all cases of refund exceeding of Rs. one lakh or more is enclosed.

[Deptt. of Rev. & Insurance OM No. 234/17/72-CX-7 dt. 7-11-72].

CONFIDENTIAL

F. No. 223/72/72-CX 6

CENTRAL BOARD OF EXCISE & CUSTOMS
New Delhi, the 2nd August, 1972

To

All Collectors of Central Excise,
All Deputy Collectors of Central Excise.

SUBJECT:—*Central Excise—Refunds exceeding Rs. 1 lakh granted to
assesseees—Intimation to Income-tax Department*

Sir,

I am directed to state that the Board have decided that whenever refunds exceeding Rs. 1 lakh are granted to Central Excise assesseees, the particulars of such refunds should invariably be intimated to the Income-tax authorities concerned.

2. Necessary instructions in the matter may please be issued to lower formations.

3. Receipt of this letter may please be acknowledged.

Yours faithfully,
Sd/- S. K. DHAR,
Under Secretary.

Copy forwarded to:—

1. D.I.C.C.E. New Delhi (35 copies).
2. Directorate of Revenue Intelligence, New Delhi.

Sd/- S. K. DHAR,
Under Secretary.

Recommendation

1.46. The Committee are perturbed over the lapses revealed in this case. The dispersed Carbon Black ordinarily used for printing of textiles which was assessable to higher rate of duty from March, 1964 continued to be assessed as pigments colours, paints and enamels N.O.S. at lower rate upto 18th October, 1967 resulting in an under assessment of Rs. 14.12 lakhs. Even after the Assistant Collector concerned received on 14th March, 1966 the final opinion of the Chief Chemist, that the product was an organic pigment which overruled

the earlier opinion of Deputy Chief Chemist, the Assistant Collector did not take any action to raise a demand till the receipt of audit objection in July, 1967. The delay of 18 months in taking action resulted in raising the demand for only Rs. 1.25 lakhs from the 18th July, 1967 to 17th October, 1967. Had the Assistant Collector raised the demands immediately after the receipt of the final report of the Chief Chemist on the 14th March, 1966, a sum of Rs. 7.01 lakhs more could have been recovered. The Committee note that the explanation of the Assistant Collector has been obtained in October, 1970, but no further action has been taken as the file is stated to be lying with the Board for one year. The Committee are unhappy over the delay in taking action. They desire that the matter should be finalised expeditiously.

[S. No. 9, Paragraph No. 1.46 of Appendix III to the 44th Report of PAC 1971-72]

Action taken

1.46. The comments of the Collector of Central Excise, Bombay on the explanation of Assistant Collector concerned have been obtained and it has been decided to institute disciplinary proceedings against him:

[Deptt. of Rev. & Ins. O.M. No. 2341/72-CX-7, dated 6-2-1973].

Recommendation

1.60. As far back as 1967 the Committee had drawn the attention of the Government to a loss of Rs. 168 lakhs in 1963 and 1964 alone as result of omission to levy higher duty on tobacco cured in whole form but used in manufacture of biris and Government had admitted then that the position was not free from doubt and they should have taken the earliest opportunity to rectify legislation if it was not workable. The Committee regret to note that Government did not rectify the position till July, 1969.

1.61. An explanation under Tariff Item No. 4(I)(5) was deleted w.e.f. March, 1968 without making a suitable provision under the Rules to levy differential duty on the tobacco assessed initially at lower rate but used for manufacture of biris, which attracted higher duty, on the plea that Government did not anticipate any large scale diversion. The mistake was realised and a new Rule 40A was inserted to cover this diversion but only on 12th July, 1969 some 15 months after the deletion of the Explanation. Unfortunately the loss of revenue during the period March, 1968 to 11th July, 1969 could not be ascertained as according to Government there was no provision for

assessment of differential duty prior to 12th July, 1969 and it was not practicable to determine the quality of such tobacco actually diverted to biri manufacturer by licensees scattered in thousands all over the country. The delay in inserting new Rule 40-A has been admitted. It took for the Finance Ministry 5 months to seek opinion from the Collectorates and another 4 months to send a draft Notification to the Ministry of Law for vetting and finally this draft notification was pending with the Board for discussion with the Chairman for 4 months, the delay which is quite indefensible. The Committee need hardly stress the need to act with promptitude.

1.62. The Committee find that due to the importance of tobacco from the point of its revenue as well as its foreign exchange earning capacity Government has decided to set up a committee to go into the question of levy on tobacco in detail. The Ministry agreed to the suggestion during the course of evidence that the question whether present Rule 40-A is adequate to check diversion of tobacco for biri manufacture would also be referred to the Committee. It is significant to point out that according to an unofficial estimate, tobacco consumption in 1968-69 for manufacture of biris constituted 29.5 per cent of the total production in the country. The problem of evasion of excise duty on stock of tobacco diverted to biri making merits serious consideration. The Committee hope that the proposed Committee will be set up soon. They would like to be informed of the findings of the Committee in due course.

1.63. In the meantime, the Committee hope that the new rule will be carefully applied by the Collectors and loss of revenue avoided.

1.64. The Committee note that out of under assessment of Rs. 79,873 detected after the introduction of Rule 40-A a sum of Rs. 48,843 has been realised. The Committee desire that efforts should be made to realise the balance.

[Sl. No. 10—14-Para 1.60—1.64 Appendix III]

Action taken

1.60—1.161. The observations of the Committee have been noted.

1.62. An Expert Committee on Tobacco has been constituted. The Committee is expected to start functioning shortly. The findings of the committee will be intimated to P.A.C. in due course.

1.63. Necessary instructions in the matter have since been issued to all the Collectors vide letter No. 81|18|72-CX-3 dated 22-8-1972 (copy enclosed).

1.64. Out of Rs. 79,873.53, a total amount of Rs. 60,931.73 has been realised so far and one demand for Rs. 20.48 has been cancelled by the Collector as it was found to have been actually used in the manufacture of Zarda. Efforts are being made to realise the balance amount of Rs. 18,921.33 and the P.A.C. will be informed in due course.

[Deptt. of Rev. & Ins., O.M. No. 234|29|72-CX-7, dated 29-1-1973].

F. No. 81/18/72-CX.3

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE AND INSURANCE)

New Delhi the 22nd August, 1972.

From

Shri K. Vishwanathan,
Under Secretary.

To

All Collectors of Central Excise, including Deputy Collectors.

Sir,

SUBJECT:—Tobacco—PAC Report 1971-72—Audit Para No. 18 of 1969-70—Loss of revenue due to assessment of tobacco under inappropriate tariff item.

I am directed to forward herewith an extract from the observations made by the Public Accounts Committee in their 44th Report, 1971-72 (5th Lok Sabha) on the above subject wherein the Public Accounts Committee have viewed with concern the problem of evasion of excise duty on tobacco diverted to biri making. No doubt the Government is seized of the problem and is examining the question, *inter-alia* considering whether Rule 40-A is adequate to check diversion of tobacco for biri manufacture. Till such time the Ministry completes its examination of the matter, the Ministry desire you to ensure that Rule 40-A is carefully applied to avoid loss of revenue.

Yours faithfully,

Sd/- K. VISWANATHAN,

Under Secretary to the Government of India.

Copy to DS(PAC) Shri M. S. Subramanayam for information.

Sd/- K. VISWANATHAN,

Under Secretary to the Government of India.

Recommendation

1.73. The Committee are concerned to note that after bringing Durgapur Steel Plant under excise control in 1962 Government have failed to recover so far Rs. 38.72 lakhs on account of shortages detected in annual stock taking of excisable goods during 1964-65 to 1967-68. The Committee have been informed that adjudication in respect of 8 cases of Iron and Steel products as well as steel ingots for the year 1964-65 to 1967-68 have been finalised but the licensee has not deposited duty and has gone in appeal. The Committee desire that the remaining cases should be finalised expeditiously.

[Sl. No. 15, Para No. 1.73 of Appendix III to 44th Report of PAC 1971-72].

Action taken

1.73. The Collector has reported that review of the results of stock taking for 1968-69 in respect of Steel ingots and Steel Products has been completed.

[Deptt. of Rev. & Insurance No. 234/18/72-CX-7, dated 10-11-1972]

Recommendation

1.80. The Committee consider it unfortunate that in spite of a clear provision introduced by Finance Act, 1964 amplifying the term 'manufacturers' to include not only any person who employed hired labours in the production or manufacture of excisable goods but also any person engaged in production or manufacture on his own account; loan licensees were not treated as manufacturers by the Customs & Excise Department requiring separate licenses. The mistake was found only when the Law Ministry gave a ruling in 1968. The result was that the duty paid clearances accountable to loan licensee were added to the duty paid clearances of the principal manufacturer for regulating the clearance of 5 per cent clinical samples of the latter. The total loss of revenue on this account amounted to Rs. 3.34 lakhs. The Committee note that Government have now revised their earlier instructions and brought the loan licensees of Patent and Proprietary medicines under licensing control with effect from 18th October, 1968. From the data furnished to the Committee they find that loan licensees have been brought under licensing control by the Collectors during the period from 1968 to 1971. The Committee hope that none of the loan manufacturer is now left out of excise control.

1.81. The Committee have been informed that Government have

not so far reviewed the effect of the revised definition of the manufacturer on commodities other than Patent and Proprietary medicines. They would suggest that Government should consider whether there is need to undertake such a review.

[Sl. Nos. 17 & 18, Para Nos. 1.80 & 1.81—Chapter III of the 44th Report of the P.A.C.]

Action taken

1.80. All the loan licensees of Patent or Proprietary medicines have been brought under licensing control.

1.81. The matter is under review and consequential instructions will be issued as soon as the examination is completed.

[Deptt. of Rev. & Ins. No. 234/21/72-CX.1 dated 3-11-1972]

Recommendation

The Committee find that in these two cases withdrawals from the Personal Ledger Account of Assessee were allowed by Government on the ground of financial stringency and transfer of funds for building another factory. As deposits made in the Personal Ledger Accounts are credited to Government account, withdrawals therefrom, if at all necessary, can be permitted only after making suitable provision in the Rules.

[Sl. No. 19, Para No. 1.87 of Chapter III of PAC 44th Report (5th Lok Sabha) 1971-72]

Action taken

The observations of the Committee regarding part-withdrawal of amount from Personal Ledger Account have been noted. Steps to amend the Central Excise Rules, 1944 suitably are being taken in consultation with the Ministry of Law.

[Deptt. of Rev. & Ins. O.M. No. 234/9/72/CX-3, dated 12-12-1972].

Recommendation

The Committee find that during the year 1969-70 as a result of mistakes pointed out by Internal Audit the Excise Department raised demands amounting to Rs. 88,63,594 as against Rs. 72,78,636 in 1967-68 and Rs. 10,97,478 in 1966-67. But the recoveries made by the Department against these demands are not encouraging. Out of the demands amounting to Rs. 88,63,594 raised during 1968-69, the amount

realised is only Rs. 8,07,992. The Committee desire that necessary efforts should be made by the Department to recover expeditiously the amount underassessed.

With the introduction of SRP the Committee feel that the responsibilities of the Internal Audit Department to check irregularities have become greater. The Committee suggest that it should be carefully examined by the C.B.E. & C. as to what extent the Internal Audit Department should be strengthened so that it should be more effective, in preventing loss of revenue to the Exchequer.

[Sl. Nos. 20-21, Para Nos. 1.98-1.99 of Appendix III to the 44th Report 1971-72]

Action taken

1.98. The latest position of the demands is as under:—

	1966-67	1967-68	1968-69
Demands realised.	4,57,301	15,35,422	16,17,073
Demands withdrawn	3,52,491	23,00,578	7,69,318
Total accounted for.	8,09,792	38,36,000	23,86,91

Special efforts are being made to finalise action in respect of the pending demands.

1.99. The recommendations of the P.A.C. have been noted and necessary steps to strengthen the Internal Audit Department are being taken.

[Deptt. of Rev. & Ins. No. 234/11/72/CX-7 dated 1-11-1972]

Recommendation

1.105. The Committee regret to note a loss of revenue amounting to Rs. 1.47 lakhs on refrigerating and air conditioning appliances assessable to excise duty with reference to their value, due to incorrect approval of prices initially and inordinate delay in follow-up measures to verify prices. The Assessing Officer in this case approved in May, 1962 the prices charged by the manufacturer to its sole selling agent as the value for assessment without verifying the actual sale price in the wholesale market. While the Committee note that he simultaneously asked the Range Officers to get the market structure and price structure verified, the Committee feel that pending

such verification the Assessing Officer should have made provisional assessment. The failure of the Assessing Officer is reprehensible.

1.106. The Committee are surprised that it took four years for the Assessing Officer to fix the price. The Committee have already suggested elsewhere in this Report that some time limit should be prescribed for fixing of prices. The Committee suggest that responsibility may be fixed for lapses that occurred in this case.

1.107. The Committee understand that the party had been adopting dilatory tactics in this case in giving information about the price to the Assessing Officer. The Committee would like the Board to examine whether any action can be taken against such parties.

[Sl. Nos. 22—24, Para Nos. 1.105—1.107 of Appendix III of 44th Report of PAC 1971-72]

Action taken

1.105. and 1.106. The P.A.C.'s recommendations regarding fixation of time limit for finalisation of the assessments are under examination. The Collector has initiated disciplinary action against the concerned officers for the lapses.

1.107. Rule 173-C of the Central Excise Rules 44 introduced with effect from June, 1968, lays down that all clearances shall be made only after the approval of the price list by the proper officer. The proper officer may, however, on a written request made by the assessee, allow clearances on provisional basis in respect of cases where approval of the price list is likely to be delayed. The assessee will not be able to clear his goods unless the required particulars are furnished.

[Deptt. of Rev. & Ins. No. 234|20|72-CX-7, dated 27-1-73].

Recommendation

1.112. This case is indicative of defective drafting of notifications and delay in raising of demands which cost the public Exchequer Rs. 1.44 lakhs. The electrical steel sheets to be charged at specific rate were charged concessional rate laid down for ordinary steel sheets from 17th May, to 30th September, 1962 resulting in under-assessment of Rs. 1.44 lakhs in a collectorate. The mistake was noticed by the Board only on the representation made about levy of countervailing duty by another manufacturer and a clarification was issued on the 20th August, 1962. The Committee have already suggested in Para 1.209 of their 111th Report (Fourth Lok Sabha) that

Government should ensure that the notifications precisely translate Government's intention.

1.113. The Superintendent concerned who received the clarification on the 24th August, 1962 raised the demands only on 9th November, 1962 taking about 3 months to collect data. Had he raised the demands immediately on receipt of clarification the duty amounting to Rs. 17,528.21 only for the period from 17th to 24th May, 1962 would have been lost instead of Rs. 1.44 lakhs for the period 17th May to 9th August, 1962 which was refunded by Government in June, 1966 on account of time bar, on a revision petition preferred by the party. The Committee hope that such costly delays will be avoided in future and the officers responsible for these lapses will be dealt with suitably.

[Sl. Nos. 25 & 26, Para Nos. 1.112 & 1.113 of Appendix III of 44th Report of PAC 1971-72]

Action taken

1.112. The observations of the P.A.C. have been noted.

1.113. The observations of the P.A.C. have been brought to the notice of all concerned and necessary instructions issued in this regard under F. No. 234|25|72-CX-7 dated 7th August, 1972 (copy attached).

The Collector has reported that Deputy Superintendent who was responsible for the lapses is dead.

[Dept. of Rev. & Ins. O.M. No. 234/25/72-CX-7, dated 1-2-1973]

No. 234|25|72—CX-7

GOVERNMENT OF INDIA

MINISTRY OF FINANCE (REV. & INS.)

New Delhi, 7th August, 1972.

To

All Collectors of Central Excise.

SUBJECT:—44th Report of PAC (5th Lok Sabha) 1971-72—Audit
Para 37|1970—Loss of revenue due to misclassification
of electrical steel sheets.

Sir,

I am directed to say that the PAC in their 44th report 1971-72

(5th Lok Sabha) while commenting on Audit Para 37/1970 regarding loss of revenue due to misclassification of electrical steel sheets have observed as under:—

“1.113. The superintendent concerned who received the clarification on the 24th August, 1962 raised the demands only on 9th November, 1962 taking about 3 months to collect data. Had he raised the demands immediately on receipt of clarification the duty amounting to Rs. 17,528,21 only for the period from 17th to 24th May, 1962 would have been lost instead of Rs. 1.44 lakhs for the period 17th May to 9th August, 1962 which was refunded by Government in June, 1966 on account of time bar, on a revision petition preferred by the party. The Committee hope that such costly delays will be avoided in future and the officers responsible for these lapses will be dealt with suitably”.

It is, therefore, requested that PAC's recommendations may be brought to the notice of all concerned for strict compliance. In this connection a reference is also invited to instructions contained in Board's letter F. No. 8|12|64-CX-1 dated the 16th January, 1965 wherein, *inter alia*, the need for issuing timely demands in such cases, was stressed. Collectors were also required to devote personal attention to such matter.

It is requested that suitable instructions may be issued to all concerned.

The receipt of this letter may please be acknowledged.

Yours faithfully,
Sd/- D. K. SARKAR,
Under Secretary (PAC).

* * * * *

Recommendation

1.121. The Committee regret to note that although the factory in this case started producing bottles in September, 1965, the necessary statement of cost of production was not obtained by the Collectorate till the receipt of Audit Objection in November, 1968. Earlier, the assessments were made on the basis of the debit price indicated by the factory which was more than the cost price. In view of the fact that instructions of the Board issued in 1963 provided inclusion of suitable marginal profit in the cost of production, the failure of Collectorate to initiate necessary action is regrettable.

1.122. The Committee have informed that the demand raised by the Collectorate in this case is still pending and the case is being

•

examined *de-novo*. The Committee would like to be informed of the outcome.

[Sl. No. 27 to 28, Paragraphs 1.121—1.122 of Appendix III to the 44th Report of PAC, 1971-72].

Action Taken

1.121. The observations of the P.A.C. have been noted.

1.122. The Asstt. Collector concerned has confirmed the demand and passed an appealable order on 16-8-1972.

[Dept. of Rev. & Ins. No. 234|31|72|—CX-7, dt. 6-10-72].

Recommendation

1.131. The Committee regret that although according to clinical pamphlet quinine was not the principal ingredient in the drug in this case a concession of duty was allowed in disregard of the notification issued in June 1962 and subsequent clarification issued in October 1962. Even after Audit raised an objection in July, 1968 the Assistant Collector did not take any action to raise a provisional demand for differential duty. Only after Audit reiterated the objection that a reference was made to the Drugs Controller but the demand for differential duty was raised only in March 1969. The Committee desire that in case of audit objection normal procedure of raising demands immediately should be followed to avoid loss of revenue. The Committee would also like to know about the recovery of the demand of Rs. 89,556 raised in this case and three other demands amounting to Rs. 33,512 in similar other cases.

[Sl. No. 30—Paragraph 1.131 of Appendix III—44th Report of PAC 1971-72].

Action Taken

1.131. In the light of the observations of the PAC necessary instructions have been issued to the Collectors *vide* F.No. 234|19|72—CX—7 dated 10-7-72 (copy enclosed). The demand of Rs. 89,556 is pending realisation.

The position of the three other demands for Rs. 33,512.06 is as under:—

- (i) Rs. 31,007.76 was realised by adjustment of the amount against the party's refund claim of Rs. 40,677.13 on 17-8-71.

- (ii) Rs. 1,519,68—On considering the representation of the party this demand has been reduced to Rs. 90.30 by the Assistant Collector by accepting the product 'Enterobeel' to be assessable at 2½ per cent under notification No. 160/66 dated 8-10-66. The reduced amount has been realised by adustment in the PLA.
- (iii) Rs. 984.62—This demand also relates to the product 'Enterobeel' and the same has been withdrawn in view of the product being eligible for assessment of 2½ per cent.

[Dept. of Rev. & Ins. OM No. 234|19|72—CX-7 dt. 10-11-72].

F. No. 234|19|72—CX—7

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE AND INSURANCE)

New Delhi, the 10th July, 1972.

To

All Collectors of Central Excise.

SUBJECT.—44th Report (5th Lok Sabha) 1971-72—Audit Para 19 of 1969-70—Underassessment due to application or lower rate of duty.

Sir,

I am directed to say that PAC while commenting on the Audit Para No. 19|1969-70 regarding under assessment due to application of lower rate of duty, have observed as follows:—

"The Committee regret that although according to clinical pamphlet quinine was not the principal ingredient in the drug in this case a concession of duty was allowed in disregard of the notification issued in June 1962 and subsequent clarification issued in October, 1962. Even after audit raised an objection in July, 1968 the Assistant Collector did not take any action to raise a provisional demand for differential duty. Only after audit reiterated the objection that a reference was made to the Drugs Controller but the demand for differential duty was raised only in March, 1969. The Committee desire that in case of audit objection normal procedure of raising demands immediately should be followed to avoid loss of revenue."

In this connection reference is invited to instruction contained in Board's letter F. No. 8|12|64—CX—I dated the 16th January, 1965 wherein, *inter alia*, the need for issuing timely demands in such cases, was stressed. Collectors were also required to devote personal attention to such matters. If the instructions already in force had been complied with, the short levy referred to above would not have arisen.

It is requested that suitable instructions may be issued to all concerned. Receipt of this letter may also be acknowledged.

Yours faithfully,

Sd|- D. K. SARKAR.

Under Secretary to the Government of India.

* * * * *

Recommendation

1.145. The Committee note from the information furnished that according to the Collector there has been no case where goods removed for export under bond were not exported. The cases were shown pending as the running bond account could not be brought up-to date in the absence of connected documents which were not readily available or had been misplaced. The Committee are, however, surprised how in the absence of connected documents it has been claimed by the Collector that all exports have been made. The Committee hope that all documents which were not available or had been misplaced are now available.

1.146. The Committee, however, find that 25 per cent entries against running bond accounts maintained in Bombay, 2286 entries in Madras and 3624 entries in Cochin are in arrears. The Committee desire that the reasons for the arrears may be looked into and necessary action taken to bring them up-to-date in these Collectorates.

1.147. The Committee have been informed that except in Ahmedabad Collectorate, Running Bond Accounts are not audited by the Internal Audit Department. The Committee suggest that the scope of Internal Audit Department should be extended to check the records in other Collectorates also.

1.148. The Committee have been informed that 2416 cases of diversions had been noticed in all the Collectorates during the three years ending 1970-71 and duties were demanded in respect of all the cases. The Committee trust that recoveries have been made in all these cases.

[Sl. Nos. 32—35—Para 1.145—1.148 Appendix—III].

Action Taken

1.145. It has been reported by the Collector of Central Excise, Calcutta & Orissa that excepting for one case accounting for Rs. 74.69 which is yet to be co-related with the relevant documents for want of details from the A.G. (Central), all the other cases have been finalised with reference to connected documents.

1.146. The latest position of the cases is as under:

Out of 25 per cent entries against running bond accounts in Bombay Collectorate, 14 per cent have been brought up-to-date and the remaining 11 per cent are pending mainly due to the fact that the cases relate to the exports through a port other than Bombay Port. In Madras only 47 cases are now pending. In Cochin only 164 cases are now pending. Attempts are being made to finalise the cases as early as possible.

1.147. Necessary instructions in this regard have been issued to all the Collectors of Central Excise *vide* letter F. No. 206/7/72—CX—6 dated 7-9-72 (copy enclosed).

1.148. Out of 2416 diversion cases duty in respect of 2364 cases has been realised and in one case clearance was allowed in bond to another mill under A.R.3 for further processing. Action for realising the dues in respect of the remaining 51 cases is in progress.

[Dptt. of Rev. & Ins. OM No. 234/34/72-CX-7, dt. 9-11-72]

F. No. 206/7/72—CX—6

GOVERNMENT OF INDIA

CENTRAL BOARD OF EXCISE AND CUSTOMS

New Delhi, the 7th September, 1972.

To

All Collectors of Central Excise

Sir,

Sub:—*Central Excise—Functions of Internal Audit.*

I am directed to say that it has been brought to the notice of the Board that there are considerable arrears in entries against Running Bond Accounts in Bombay, Madras, Cochin and other Collectorates and that Internal Audit is not auditing accounts pertaining to Running Bond Accounts. Board desires that Internal

Audit Department should audit Running Bond Accounts in the offices of all the Maritime Collectors and ensure that there are no arrears and also that intimation about proof of export is promptly sent to the concerned officers in the Collectorates.

Yours faithfully,

Sd/- S. K. BHAR,

Under Secretary, Central Board of Excise and Customs.

Copy to all (as usual)

Recommendation

1.155. The Committee find that according to the opinion given by the Ministry of Law in May, 1965, the PVC compound was liable to payment of additional duty during the period 1st March, 1961 to 29th February, 1964, i.e., before the tariff was amended.

There was failure to raise any demands for additional duty in this case during the period 1st March, 1961 to 29th February, 1964. The demands raised by the Assistant Collector after March, 1964 were ordered by the Collector to be withdrawn in March, 1965. When the clarification from Law Ministry on this point was received in May, 1965 it was too late and it was not possible to enforce the demand. The new result was loss of duty amounting to Rs. 25 lakhs for the period prior to 1st March, 1964 which is regrettable.

1.156. The Committee feel that the instruction initially issued by the Board should have mentioned about the further duty payable on PVC compounds. The Committee stress that the instructions of the Board should clearly bring out the intention of the Government. [SL Nos. 36.37—Para Nos. 1.155 & 1.156 of Appendix III to the 44th Report of PAC, 1971-72].

Action Taken

The observations of the Public Accounts Committee have been brought to the notice of all concerned for strict compliance.

[Deptt. of Rev. & Ins. Letter No. 234/26/72-CX-7, dt. 4-10-72].

Recommendation

1.166. The Committee note that the Board issued executive instruction in April, 1965 that the proviso to Rule 96(1) to Central Excise Rules, 1964 has been rendered inoperative and need not be acted upon by the Collectors. Accordingly, the Collectors could

allow small size units producing cotton fabrics on powerlooms to be assessed under the compounded levy system even though these came into existence after 1st December, 1960. The Committee however, regret that the formal amendment to this Rule deleting the Proviso was issued by the Board after about 16 months. In the meantime the concession to the manufacturers on the basis of the executive instructions was continued. The Committee have in their earlier reports (Para 3.16 of 24th Report, Fourth Lok Sabha) objected to making exemptions through executive instructions.

1.167. The Committee hope that the delay in issuing formal notification will be avoided in future.

[Sl. Nos. 38-39, Paras. 1.166 & 1.167 of Appendix III to the 44th Report of PAC 1971-72].

Action Taken

The observations of the P.A.C. have been noted. In compliance with the recommendation in para 3.16 of 24th Report (4th Lok Sabha), granting exemption through executive instructions has already been discontinued.

[Deptt. of Rev. Ins. OM No. 234/23/72-CX-7, dt. 19-1-73].

Recommendation

1.174. The Committee are unhappy over the negligence of Customs and Excise officials who allowed a concessional rate of duty on flue-cured tobacco without checking the correctness of the sieve through which it was required to pass for entitlement of concessional rate of duty. This practice continued for about 4 years from March, 1963 till January, 1967 when Audit pointed out the mistake. The mistake resulted in under-assessment amounting to Rs. 8.46 lakhs out of which only Rs. 29,000 could be recovered and the balance of Rs. 8.17 lakhs was irrecoverable being time-barred or unenforceable.

1.175. It is regretted that although the clearances were made under the supervision of the Customs and Excise officers they failed to check that the sieve used was not of prescribed specification. The Committee desire that necessary action should be taken against the officers concerned for their negligence.

1.176. The Committee note that the Board have issued instructions for checking the sieves. The Committee trust that the instructions will be followed by the Collectors.

1.177. The Committee would also like Govt. to examine the feasibility of maintaining a master sieve in all the Collectors or ranges as might be convenient so as to facilitate testing.

[Sl. Nos. 40—43 Paragraphs 1.174—1.177 of Appendix III of P.A.C. 44th Report, 1971-72]

Action Taken

1.174. P.A.C.'s observations have been noted.

1.175. The Collector has initiated disciplinary action against the concerned officers.

1.176 & 1.177. Further instructions have been issued to the Collectors *vide* F. No. 261|4|61|72—CX—8, dated 28-10-72 (copy enclosed).

[Deptt of Rev. & Ins. OM No. 234|27|72-CX-7, dt. 27-1-73].

Immediate

F. No. 261|4|61|72-CX-8

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE AND INSURANCE)

New Delhi, the 28th October, 1972.

From

Shri K. L. Mukherji,
Under Secretary.

To

All Collectors of Central Excise.
The Deputy Collector of Central Excise, Jaipur|Bhubanaswar|
Amritsar.

Sir,

SUBJECT: *Tobacco—P.A.C.'s observations in their 44th Report (5th Lok Sabha) 1971-72 on Audit Para No. 20|70—Loss of revenue due to short levy of Additional Excise Duty on tobacco dust not conforming the specifications—*

I am directed to enclose herewith an extract of Para 1.177 from the 44th Report of P.A.C. (5th Lok Sabha) 1971-72 and invite your attention in connection therewith to the Board's F. No. 9|22|59—CXI dated 20-3-59, in which steps for securing sufficient number of selves for the use of officers were asked to be taken. Thereafter a

number of letters bearing the same number were issued to all Collectors in 1959-60, indicating sources of supply of sieves, their prices and tolerance to be given in their specifications. All Collectors are requested to immediately check up whether or not all officers concerned have been supplied with test sieve and *if not* take appropriate steps to this effect. In addition to field officers concerned a master sieve should be maintained at the Divisional office to facilitate testing. A compliance report may please be sent positively by 15th November, 1972.

Yours faithfully,
Sd/- K. L. MUKHERJI,
Under Secretary.

Extract of 44th Report of P.A.C. (5th Lok Sabha) 1971-72 Audit Para 20|1970—Loss of revenue due to short levy of additional excise duty on tobacco dust not conforming to specifications.

* * * * *

1.177. The Committee would also like Government to examine the feasibility of maintaining a master sieve in all the collectorates or ranges as might be convenient so as to facilitate testing.

Recommendation

1.187. The Committee find that during the year 1969-70 prosecutions were launched in 30 cases as against 17 in 1968-69 and 10 in 1967-68. Out of these 30 cases 25 related to the commodities which are under physical control and 5 to those under self Removal Procedure. Although the number of offences prosecuted has increased the Committee are not satisfied with the figure for the whole country particularly considering that there are 115 commodities under excise control. The Committee are anxious that the Department should launch prosecutions in preference to imposing fines and penalties so that the Department's action acts as sufficient deterrent against evasion.

1.189. From the figures given to the Committee they find that the sale proceeds of confiscated goods represented only 27 per cent of their value at the time of confiscation. One of the reasons stated by the Department is deterioration in goods and low bids offered by bidders. The Committee desire that necessary steps should be taken to dispose of the confiscated goods expeditiously and to improve their storage condition.

[Sl. Nos. 44-46, Paragraphs 1.187 & 1.189 of Appendix III to the 44th Report of PAC, 1971-72].

Action Taken

1.187. The PAC's recommendations have been circulated to all the Collectors and suitable instructions have also been issued vide Board's letters F. Nos. 230|4|72|SRPC dated 5th June 1972 and 230|6|72—SRPC(CX) dated 18-9-72 (copies enclosed).

1.188. The figures of Rs. 4,000 printed in the Audit Report for the year 1969-70 represent "Goods confiscated in Court cases only" and not the "Total value of goods confiscated" as furnished to the C&A.G. vide Ministry's U.O.F. No. 10|19|70—CX—7, dated 10-3-71. The total value of goods confiscated during the relevant year is Rs. 46,49,165.

[Deptt. of Rev. & Ins. OM No. 234|13|72-CX-7, dt. 1-4-72].

F. No. 230|4|72|SRPC(CX)

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(Department of Revenue and Insurance)

New Delhi, the 5th June, 1972.

From

Shri A. N. Bhattacharya,
Secretary,
Central Board of Excise & Customs.

To

All Collectors of Central Excise.

Sir,

SUBJECT: *Frauds and evasions-launching prosecution in preference to imposing fines and penalties PAC's observations contained in their 44th Report on Audit Paras 44|70 and 32|69-70 regarding.*

I am directed to invite your kind attention to the enclosed copy of the extract from the 44th Report of the Public Accounts Committee on the above subject. In para I thereof the PAC has expressed their dis-satisfaction with the number of offence case in which prosecutions were launched during each of the three years ending with the year 1969-70 and have desired that the department should launch prosecution in preference to imposing of fines & penalties in order to have a more effective deterrent against evasion.

2. After the introduction of S.R.P., instructions were issued for viewing seriously, offences committed by the licensees working under S.R.P., and for imposition of deterrent penalties in cases of breach of rules with deliberate intention of evading payment of duty. Suitable provisions to this effect were also accordingly made under rule 173-Q of the Central Excise rules.

3. In the light of the observations now made by the Public Accounts Committee the Board desires that cases involving substantial amount of loss of revenue, as also cases of seemingly deliberate attempts to do fraud the Government of its revenue should be seriously considered for prosecution in addition to the imposition of fines and penalties through the process of departmental adjudication. Proceedings in cases considered fit for prosecution should be expeditiously launched, according to the procedure laid down in this behalf.

4. In para 2 of the extract enclosed, the Public Accounts Committee have pointed out the low figure of the value of the confiscated goods during the year 1969-70. It is requested that figures for the value of the confiscated goods for the years 1968-69 and 1969-70, in respect of your Collectorate, together with reasons for a fall in the value of the confiscated goods during 1969-70, if any, may please be furnished to the Board.

Yours faithfully,

Sd/-

A. N. BHATTACHARYA,

Secretary,

Central Board of Excise and Customs.

F. No. 230/6/72-SRPC(CX)

CENTRAL BOARD OF EXCISE & CUSTOMS

New Delhi, the 18th September, 1972.

To

All Collectors of Central Excise

SUBJECT: *Frauds and Evasions—Launching of prosecution in preference to imposing fines and penalties and disposal of confiscated goods expeditiously and to improve their storage condition—P.A.C.'s observations contained in their 44th Report on Audit Paras 44/70 and 32/69-70.*

Sir,

I am directed to invite your attention to para. 3 of the extract

from the 44th Report of the Public Accounts Committee enclosed with instructions issued vide Board's letter F. No. 230/4/72-SRPC (CX) dated 5-8-72 on the subject mentioned above. The P.A.C. have expressed their concern over the steep decline in the value of confiscated goods, as realised on their disposal when compared to the value at the time of confiscation. As this has been attributed by the Department to the deterioration in the condition of the goods and low bids offered by the bidders, the Committee desire that there should be speedy disposal of confiscated goods and improvement in their storage condition.

2. Board desires that the observations made by the P.A.C. should be strictly followed in your charge and you should issue suitable instructions to all your officers for the expeditious disposal of confiscated goods. Steps should also be taken to improve the storage facilities for the storage of confiscated goods so that there is hardly any deterioration during storage. Officers during their tours and inspections should examine the arrangements for storage and progress of disposal of the seized goods. Where there are central godowns for the storage of seized goods Collectors should entrust to a senior officer the responsibility of supervising the arrangement for the storage and progress of disposal of seized goods.

Yours faithfully,

Sd/-

A. N. BHATTACHARYA,

Secretary, Central Board of Excise and Customs.

Copy forwarded to the D.I.C.C.E. with the request that instructions should please be issued to the Inspecting Officers to see during their inspections, how the above instructions are being followed.

Copy also forwarded to the Addl. Director-in-Charge, S & I Branch (Central Excise) with the request that additional information relating to the value actually realised on disposal of the confiscated goods during the month may also be called for from the Collectors of Central Excise by introducing another sub-column in the proforma for the monthly statement of disposal of confiscated goods, prescribed vide S & I Branch letter No. St. 4201/67 dated 27-10-67 under the heading "Consignments disposed of during the month". The intention is that the statement should show in respect of goods disposed of the value at the time of seizure and at the time of disposal.

A consolidated statement showing (i) the progress of disposal of the confiscated goods and (ii) the quantum of depreciation in value, on disposal should be submitted to the Board every month.

Sd/-

A. N. BHATTACHARYA,
Secretary, Central Board of Excise & Customs.

Recommendation

1.208. Evidently, in this case, the officer failed to make correct assessment of duty initially and then did not take due notice of the payments made under protest by the party for 5 long years. When the mistake was realised the whole amount of Rs. 6.61 lakhs was refunded to the party. The party passed on only Rs. 1 lakh to some of the principal customers and got himself fortuitous benefit of Rs. 5.61 lakhs. Govt. have no power to ask the party to pass on entire amount to actual consumers who were overcharged. It is also not possible for the party to distribute the refund to thousands of customers after a lapse of so many years. The Committee are not happy over this position. The Committee trust that at least the Income Tax authorities have been informed about the refund of Rs. 5.61 lakhs to the manufacturer in this case.

[Sl. Nos. 49, Para No. 1.208 Appendix III of the 44th Report].

Action taken

1.208. The Income Tax authorities had been informed about the refund of Rs. 5.61 lakhs to the manufacturer. Instructions had also been issued by the Board that all refund cases exceeding Rs. 1 lakh should be reported to the Income Tax authorities.

[Deptt. of Rev & Ins. OM No. 234|28|72-CX-7, dt. 11-11-72]

Recommendation

1.217. The Committee take a serious view of the lapse resulting in a total loss of revenue amounting to Rs. 7.22 lakhs. Artificial leather cloth which was assessed under Tariff item 19 upto February, 1968 was brought under higher levy under Tariff item 22-B with effect from March, 1968. The stock in fully manufactured condition at the mid-night of 29th February/1st March, 1968 was treated as pre-excise stock and allowed free clearance as if the item had come under levy for the first time.

1.218. Another regrettable feature of the case is that even after about 4 years the Government are still in doubt whether it should be assessed under Tariff item 19 or 22B and in this confusion some collectorates are assessing it under Tariff item 19 and others under 22B. The Committee desire that the question regarding classification of this item should be expeditiously decided in consultation with the Ministry of Law so that there is uniformity in the assessment of duty. The Committee also suggest that any amendment necessitated in the Central Excise Rules may also be made.

[Sl. Nos. 52 & 53, Paragraph 1.217 & 1.218 of Appendix III to the 44th Report 1971-72].

Action taken

The Ministry of Law have advised that the pre-budget stock of artificial leather cloth is changeable to duty under Tariff Item No. 22B of Central Excise Tariff and accordingly necessary instructions have been issued vide copy of Board's letter No. 4/6/72-CX-1 dated 22nd November, 1972 enclosed on the question of liability to duty under Tariff Item 22B of pre-budget stock of leather cloth a case is pending before the Bombay High Court. It cannot definitely be said at this stage that the view taken on the advice of the Ministry of Law will be acceptable to the Court.

[Deptt. of Rev. & Ins. OM No. 234|2|72-CX-4, dt. 23-1-73].
Circular Miscellaneous No. 23/72/CX-7.

F. No. 4/6/72-CXI.

CENTRAL BOARD OF EXCISE & CUSTOMS

New Delhi, the 22nd November, 1972.

To

All Collectors of Central Excise.
All Deputy Collectors of Central Excise.
All Collectors of Customs.

SUBJECT: *Central Excise Duty liability of excisable goods transferred from one tariff item to another Clarification regarding.*

Sir,

I am directed to say that a doubt had arisen whether stocks of articles lying with the manufacturers in fully manufactured and ready for delivery condition on the crucial date, when, by a Finance Bill or Ordinance, the articles are taken out of the purview of one

Tariff item and put under a different Tariff item, can be treated as pre-excite stocks and allowed clearance without payment of duty. To cite an instance, prior to 1968 Budget 'artificial leather cloth' was chargeable to duty under Tariff-Item 19 of the Central Excise Tariff as "cotton fabrics, processed in any other manner". By the Finance Bill, 1968, a new tariff item No. 22-B viz., "Textile fabrics impregnated or coated with preparations of cellulose derivatives or of other artificial plastic materials" was introduced with effect from 1st March, 1968. Artificial leather cloth which was hitherto assessable under tariff item 19 came under the purview of the new tariff item No. 22-B from 1st March, 1968. However, in the Budget instructions, forwarded under this Ministry's F. No. B.1/1/68-CXI, dated the 22nd February, 1968, it was held that the stocks of artificial leather cloth lying with the manufacturers as on the mid-night of 29th February, 1968/1st March, 1968 which were in fully manufactured condition and ready for delivery, were not to be subjected to duty under the new tariff item 22-B. Some of the Collectors had expressed the view that since artificial leather cloth was already excisable under tariff item No. 19, stocks of such cloth in packed and marketable condition which were lying with the manufacturers on the midnight of 29th February/1st March, 1968 were not eligible for duty-free clearances.

2. The general question, as well as the specific issue regarding the dutiability of the pre-Budget stocks of artificial cloth has been examined in consultation with the Ministry of Law. As regards the general question, the Board has been advised that the correct legal position in respect of pre-Budget stocks of articles transferred from one tariff item to another as part of the Budget Proposal, is, that since the articles do not become excisable for the first time as a result of the transfer of the articles from one tariff item to another, a mere change in the tariff entry relating to the articles, does not make the pre-Budget stocks of such articles non-excisable and therefore appropriate duty should be charged on all clearances of such articles, on or after the crucial date under the new tariff item. As regards the specific issue regarding pre-Budget stocks of artificial leather cloth, lying with the manufacturer on the mid-night of 29th February/1st March, 1968 in fully manufactured condition and ready for delivery and cleared on or after the said date, the Board has been advised that such stocks were liable to pay duty under tariff item 22-B.

3. Board have accepted the above advice of the Ministry of Law and desire that this may be brought to the notice of all the assessing officers concerned. Necessary action in respect of pre-Budget stocks

of artificial leather cloth which were allowed to be cleared without payment of duty may also be taken accordingly.

4. Please acknowledge the receipt of this letter.

Your faithfully,

Sd|-

S. R. NARAYANAN,
Under Secretary.

Recommendation ..

1.230. The Committee are concerned to note that there were more than 78 thousand cases of provisional assessments pending finalisation out of which more than 13 thousand, 17 per cent were pending for more than a year at the end of 1971 inspite of the fact that according to existing instructions the maximum period for finalisation of such cases is 6 months only. The reasons for such pendency are stated to include delay in (i) obtaining test reports from the Chemical Examiner (ii) getting the end-use verification report (iii) getting price fixation through various Government agencies and (iv) production of invoices etc. by the assesseees to approve the price list.

[Sl. No. 56—Para 1.230—Appendix III].

Action taken

1.230. The observations of the Committee have been noted and the matter is further being examined.

[Deptt. of Rev. & Ins. OM No. 234|33|72-CX-7, dt. 28-10-72].

Recommendation

1.239. The cases brought out in the Audit paragraph indicate chaotic state of affairs so far as cheque transactions in the Excise Department are concerned. As many as 187 cheques involving the revenue collection of Rs. 1.13 lakhs remained uncashed for more than a year. Another 32 cheques amounting to Rs. 1.88 lakhs paid by a factory remained uncashed for about a year. In other two cases the cheques issued by the assesseees were either lost or not received by the Chief Accounts Officer. In all these cases the assesseees had already taken credit in their Personal Ledger Accounts and therefore it amounted to clearance of goods worth lakhs of rupees by them duty free till they issued fresh cheques and the same were uncashed.

1.240. In yet another case a party cleared goods without sufficient balance in his P.L.A. and this clearance without payment involved duty of Rs. 4.58 lakhs. The Finance Secretary admitted that "It was serious offence".

1.241. The Committee note that action has been taken against an Inspector and that action against the Supdt. is in progress. The Committee would like to be apprised of the action taken against all the officers concerned and also the penal action taken or proposed to be taken against the party for clearing goods without sufficient balance at credit in his P.L.A.

[SI. Nos. 58-60, Para 1.239-1.241 Appendix-III]

Action taken

1.239 to 1.241. The observations of the P.A.C. have been noted.

The Collector of C. E. West Bengal Calcutta has reported that there is no scope for penal action against the licensee inasmuch as he had discharged his responsibility under the existing procedure by issuing cheques towards payment of excise duty. Apart from the action taken against the Superintendent and Inspector, action against the Range Officer is in progress.

Regarding 32 cheques involving Rs. 1.88 lakhs, a further report will follow on receipt of full details from the Deputy Commissioner, Andaman & Nicobar Islands, Port Blair. In respect of the cheques pertaining to Bombay, the Collector has reported that a penalty of Rs. 250/- has been imposed on the party and disciplinary action against the officers concerned for the lapses is under consideration.

[Deptt. of Rev. & Ins. OM No. 234|32|72-CX-7, 20-12-72].

Recommendations

1.256. The Committee regret to note that in this case the factory has been, since it started production, escaping excise duty on sulphuric acid consumed in the leaching plant and the drying acid tank. What is more serious is that while the Department were aware of the acid consumed in the drying acid tank they have no knowledge of the acid being diverted at an intermediary stage to the leaching plant.

1.257. Although the plan of the factory is required to be approved by the Assistant Collector, no notice seems to have been taken of the process of flow of the acid at an intermediary stage before it reached storage tank. The Chemical Examiner who visited the factory in

1967 also did not notice that the acid flowing to the leaching plant was not being accounted for in the production of the factory and he did not give any guidance on this point to the staff. The Committee regret that scrutiny of the original plan of the factory and the inspection by the Chemical Examiner were perfunctory. The Committee desire that this question should be examined and remedial steps taken for future.

1.259. The Committee find that the Chief Chemist is of the view that sulphuric acid is used in drying sulphur dioxide and not air and hence not exempted from duty. The Committee would like Government to examine it and if the view is confirmed, to recover the duty on such acid expeditiously.

1.260. The Committee understand that the question regarding penal action against the party is under examination. The Committee desire the examination should be completed expeditiously. The Committee hope that Government will take serious note of the suppression of certain records regarding consumption of acid by the assessee.

[Sl. Nos. 63, 64, 66 & 67, Para Nos. 1.256, 1.257., 1.259 & 1.260 of PAC's 44th Reports, 5th Lok Sabha, 1971-72].

Action taken

1.256. The observations of the Public Accounts Committee have been noted.

1.257. Only ground plans showing the locations of the various sections of the factory were approved by the Assistant Collector. The Collector has reported that as suggested by the Chemical Examiner who visited the factory on 18-3-71, the factory have installed a separate tank in the leaching section. The acid intended for use in the leaching tank can be stored exclusively in the newly constructed tank.

1.259. The matter has been examined. As the acid for drying sulphur dioxide is always in circulation and is neither spent in essence nor removed from the factory, no duty is liable to be charged on such acids. Necessary instructions, will, however, be issued in consultation with the C & A.G. It is also relevant to mention that when the operations originally started duty paid acid from outside the factory was put into process.

1.260. A case has been registered against the party and action is in progress.

[Deptt. of Rev. & Ins. OM No. 234/14/72-CX-7, dt. 27-11-72].

Recommendation

1.274. The Committee consider it unfortunate that at the time of issue of notification 20th March, 1968 reducing the length of fents for concessional duty/nil duty, the Board should not have considered about the possibility of existing fents conforming to the previous specifications already packed before the 20th March, 1968 and made suitable provision for their clearance. Lack of foresight is regrettable.

1.275. The Committee have in the past critically commented upon the practice of allowing exemptions retrospectively by executive instructions or notification. The Attorney General of India has also opined that under the Excise Law the Government have no powers to allow concession retrospectively through executive instructions or notifications. The Committee hope that such cases will be avoided in future.

[Sl. No. 69 & 70, Para Nos. 1.274 & 1.275 of PAC 44th Report 1971-72]

Action taken

The observations of the P.A.C. have been noted.

[Dept. of Rev. & Ins. O.M. No. 234/39/72-CX-7 dated 10-11-1972]

Recommendation

1.283. It is a matter of regret that the arrears of excise duty are showing an ever-increasing trend. In the year under report alone, there has been an increase of about 80 per cent. In their successive reports the Committee have been expressing concern over the heavy accumulation of arrears but there appears to be no sign of improvement. The arrears which amounted to Rs. 16.07 crores in 1966-67 rose to Rs. 21.29 crores in 1967-68, Rs. 23.48 crores in 1968-69 and finally to Rs. 42.12 crores in 1969-70.

1.284. A part of the arrears relate to the periods as early as 1950 i.e. more than 12 years. There are thirty cases involving an amount of Rs. 234.92 lakhs which are pending for action at the Board level. These include four cases involving an amount of Rs. 1031 lakhs pertaining to the year 1965-66, over 5 years old. The reasons for pendency of these cases should be looked into and necessary action taken in the matter.

1.285. The Committee note that measures have been taken by Government to liquidate the arrears. The Committee desire that in view of mounting arrears vigorous and concerted efforts are required to clear the arrears. The Committee would watch the progress made in this regard through future Audit Reports.

1.286. The Committee find that a large number of cases of arrears are held up in Appeal at various stages i.e. with the Assistant Collector, Collector Board, and Government of India. In this connection the Committee have already suggested in para 1.20 of their 31st Report (5th Lok Sabha) that Government should examine the feasibility of making payment of duty obligatory before filing an appeal in disputed assessments.

[Sl. Nos. 71—74, Para Nos. 1.283—1.286 of Appendix III to the 44th Report of PAC 1971-72]

Action taken

It is true that the amount of arrears of revenue has been showing an increasing trend. A substantial percentage of the arrears is due to disputed assessments; out of the arrears of Rs. 52.39 crores, on 1st April, 1972, arrears to the extent of Rs. 43.34 crores (83 per cent) were due to matters pending in courts of law or pending adjudication, in appeal or in revision application before the departmental authorities. Only arrears of Rs. 9.05 crores, that is (about 17 per cent), could be deemed to be effective arrears, i.e. those which are ripe for pursuing realisation.

The percentage of arrears as on 1st April, 1972 is 2.5 of the total revenue realisations during 1971-72 (Rs. 2087.46 crores) and the figure of Rs. 52.39 crores represents not only the arrears which accrued during 1971-72 but also those which have accumulated over the past years.

Out of the amount of Rs. 234.92 lakhs reported pending for action at the Board's level, an amount of Rs. 29.11 lakhs is pending for want of Board's final clarification/decision. A substantial part of this amount is in respect of Butta and Lappet fabrics. The Board have deferred its decision in the matter as an identical issue is pending before the Bombay High Court.

As regards Rs. 10.31 lakhs pertaining to the year 1965-66, only an amount of Rs. 3,11,000 is pending in two cases. In respect of Rs. 1,16,000 a revision application filed before the Government of India on 8th April, 1972 is pending.

The observations of the Public Accounts Committee have been noted.

Enclosed statement gives the age-wise break-up of the arrears as on 1st April, 1968 and 1st April, 1972. Out of the arrears of Rs. 10.88 crores (as on 1st April, 1968) pertaining to the period 1965-66 and earlier, an amount of Rs. 5.65 crores has been liquidated by 1st April, 1972. Likewise the arrears of Rs. 3.86 crores which had accrued during 1966-67 stands reduced by Rs. 0.82 crores and that pertaining to the period 1967-68 has been brought down by nearly Rs. 3.07 crores. The reduction in these arrears has been the result of the special drive launched by the field formations.

The position of arrears is reviewed every month in the monthly meetings with the Finance Secretary and suitable instructions are issued to Collectors.

Provisions on the lines of section 129 of the Customs Act, 1962 are proposed to be incorporated in the Central Excises Bill which is under preparation separately.

[Dept. of Rev. & Ins. O.M. No. 234/15/72-CX-7 dated 7-11-1972]

Statement showing Arrears of Revenue pending recovery (yearwise break-up)

Arrears as on	Assessment year									Total
	Up to 1965-66	1966-67	1967-68	1968-69	1969-70	1970-71	1971-72	8	9	
I	2	3	4	5	6	7	8	9		
	(Rs. in lakhs.)									
1-4-68	1088.42	386.24	654.79	..	..	..	..	..	..	2129.45
1-4-72	523.46	303.88	347.98	796.79	994.61	1040.66	1239.68	..	..	5239.06
Arrears liquidated during the period 1-4-68 to 31-3-72.	564.96	82.36	306.81	..	..	..	..	..	..	954.13

Recommendations

1.291. The Committee are informed that the Collector while passing the order for refund of duty did not go into the details of the claim and erroneously refunded duty paid on the stock of hard board which were not fully manufactured and ready for delivery at the time of levy of duty and which could not be treated as pre-excise stock. This omission resulted in loss of Rs. 63,392. The Committee are, however, glad to note that in the Finance Bill, 1972, Government have proposed to make provision in the Central Excise & Salt Act to have a remedy against any erroneous orders passed.

[Sl. No. 75 Para No. 1.291 of Appendix III to the 44th Report of PAC 1971-72]

Action taken

In the Finance Act, 1972 (No. 16 of 1972) necessary provision for review have already been made by inserting Sections 35A and 36(2) in the Central Excise and Salt Act, 1944. Extracts of the relevant Sections are attached.

[Dept. of Rev. & Ins. O.M. No. 224/38/72-CX-7 dated 7-11-1972]

Extract of Section 35A & 36(2) of Finance Act, 1972.

(Amendment of Act I of 1944)

In the Central Excises and Salt Act, 1944 (hereinafter referred to as the Central Excises Act),—

- (a) after section 35, the following section shall be inserted, namely:—

Revision by Board

35-A. The Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963, ⁵⁴ of may, of its own motion or otherwise, call for and examine the record of any proceeding in which any decision or order has been passed under this Act or the rules made thereunder (not being a decision or order passed on appeal under section 35) for the purpose of satisfying itself as to the correctness, legality or propriety of such decision or order and may pass such order thereon as it thinks fit.

Provided that no decision or order shall be varied so as to prejudicially affect any person unless such person is

given a reasonable opportunity of making a representation and, if he so desires, of being heard in his defence;

Provided further that no proceedings shall be commenced under this section in respect of any decision or order (whether such decision or order has been passed before or after the coming into force of this section) after the expiration of a period of one year from the date of such decision or order”.

“36 (2) The Central Government may, of its own motion or otherwise, call for and examine the record of any proceeding in which any decision or order has been passed under section 35 or section 35A of this Act for the purpose of satisfying itself as to the correctness, legality or propriety of such decision or order and may pass such order thereon as it thinks fit;

Provided that no decision or order shall be varied so as to prejudicially affect any person unless such person is given a reasonable opportunity of making a representation and, if he so desires, of being heard in his defence;

Provided further that no proceedings shall be commenced under this sub-section in respect of any decision or order (whether such decision or order has been passed before or after the coming into force of this sub-section)) after the expiration of a period of one year from the date of such decision or order”.

Recommendation

1.295. The Committee are unhappy over the loss of Rs. 1.32 lakhs owing to incorrect assessment of excise duty on Cellophane at anchored stage i.e. before application of surface-coating materials instead of assessing it after it was impregnated with surface coating. This practice continued till 5th August, 1961 even after the Board issued clarification in July, 1961. Had the correct procedure been followed immediately after the receipt of Board's clarification an amount of Rs. 33,617.61 could still have been realised.

1.296. The Committee desire the Board to stress the need for taking prompt action on the rulings of the Board.

[Sl. Nos. 76 & 77 Para Nos. 1.295 & 1.296 of Appendix III to the 44th Report of PAC, 1971-72]

Action taken

The observations have been noted. Necessary instructions have been issued to Collectors *vide* circular letter F. No. 234|37|72-CX-7 dated 31st July, 1972 (copy enclosed).

[Dept. of Rev. & Ins. OM No. 234|37|72-CX-7, dt. 18-12-72].

F. No. 234/37/72-CX-7

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE AND INSURANCE)

New Delhi, the 31st July, 1972.

To

All Collectors of Central Excise.

SUBJECT: PAC observations contained in paragraphs 1.295 and 1.296 of 44th Report (5th Lok Sabha) 1971-72 on Audit Para 27|1970—Loss of revenue in respect of Cellophane.

Sir,

I am directed to say that P.A.C. while commenting on Audit Para No. 27/1970 regarding under assessment due to application of lower rate of duty, have observed as under:—

1.295. The Committee are unhappy over the loss of Rs. 1.32 lakhs owing to incorrect assessment of excise duty on Cellophane at anchored stage *i.e.*, before application of surface-coating materials instead of assessing it after it was impregnated with surface coating. This practice continued till 5th August, 1961 even after the Board issued clarification in July, 1961. Had the correct procedure been followed immediately after the receipt of Board's clarification an amount of Rs. 33,617.61 could still have been realised.

1.296. The Committee desire the Board to stress the need for taking prompt action on the ruling of the Board.

It is requested that the recommendations of the Committee for taking prompt action on the rulings of the Board may be brought to the notice of all the officers concerned.

Please acknowledge the receipt of this letter.

Yours faithfully,

Sd/-

D. K. SARKAR,

Under Secretary to the Govt. of India.

Recommendation

1.301. This is yet another case of lack of forethought in drafting the notification issued by the Board. Although Government intended to give relief to only small scale operators manufacturing paper from pulp, the defective wording in the notification dated 8th September, 1967 enlarged the scope of relief to others as well resulting in loss of revenue amounting to Rs. 1.73 lakhs. The Committee have been repeatedly urging Government that precision and clarity of expression being the very essence of all legal and statutory documents, drafting of notification should be given special care and lapses in this regard should be taken serious note of.

[Sl. No. 78 Para No. 1.301 Appendix III]

Action taken

The observations of the Public Accounts Committee have been noted.

[Dept. of Rev. & Ins. O.M. No. 234/30/72-CX-7, dated 8-2-1973]

Recommendation

1.308. The Committee regret that the aluminium wires were wrongly assessed to duty with reference to formula laid down under the Indian Standards Institution Table, 1960 Edition instead of assessing it on the basis of formula prescribed in their 1964 Edition as required under the instructions issued by the Central Board of Customs and Excise. This resulted in under-assessment of Rs. 90,145. What is more serious is the inordinate delay of about 3 years in issuing the clarification in October, 1969 after the Audit raised the objection in 1966. The Assistant Collector took 5 months to put up the Audit objection to the Collector. The Collector took 9 months to refer the matter to the Board, the Board took 4 months to give clarification and the Collector took 15 months to refer the matter back to the Board. The delay at all stages is regrettable.

[Sl. No. 79, Para No. 1.308 Appendix III]

Action taken

The observations of the P.A.C. have been noted.

[Dept. of Rev. & Ins. O.M. No. 234/35/72-CX-7 dated 9-11-1972]

Recommendation

1.314. This case involves a loss of Rs. 48,027 due to wrong withdrawal of the demand for duty under the orders of the Assistant Collector. It is surprising that the Assistant Collector applied his own interpretation which ran counter to the tariff and the instructions issued by the Board in December, 1962.

1.315. It has been reported that few such cases occurred in other Collectorates. The Committee note that Board have issued a clarification in May, 1968 that such products having names different from those given in official pharmacopoeia should be assessed to duty. The Committee hope that such mistakes will not recur.

[Sl. Nos. 81 & 82, Para Nos. 1.314 & 1.315 of Appendix III to the 44th Report of PAC 1971-72]

Action taken

Necessary instructions in this regard have been issued to all the Collectors of Central Excise vide circular letter No. 234/36/72-CX-7 dated 26th July, 1972 (copy enclosed).

[Dept. of Rev. & Ins. O.M. No. 234/36/72-CX-7, dated 18-12-1972]

F. No. 234/36/72-CX-7

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE AND INSURANCE)

New Delhi, the 26th July, 1972.

To

All Collectors of Central Excise.

SUBJECT:—Paragraphs 1.314 and 1.315 of the 44th Report of PAC 1971-72—Audit Para 24/1970—Loss of revenue arising from clearance of an excisable product as non-excisable.

Sir,

I am directed to say that PAC while commenting on Audit Para

24/1970—"Loss of revenue arising from clearance of excisable product as non-excisable" have observed as under:

1.314. This case involves a loss of Rs. 49,027 due to wrong withdrawal of the demand for duty under the orders of the Assistant Collector. It is surprising that the Assistant Collector applied his own interpretation which ran counter to the tariff and the instructions issued by the Board in December, 1962.

1.315. It has been reported that few such cases occurred in other Collectorates. The Committee note that Board have issued a clarification in May, 1968 that such products having name different from those given in official pharmacopoeia should be assessed to duty. The Committee hope that such mistakes will not recur.

2. In this connection your attention is invited to the instructions contained in the Board's letter F. No. 7/81/62-CX-VI dated 27th December, 1962 detailing the guiding principles to be observed while considering a preparation as a proprietary medicine and the instructions contained in Board's letter F. No. 24/14/68-CX-1, dated 22nd May, 1968 laying down that there the labels bear names different from the pharmacopoeial names the concerned preparations will attract duty under tariff item 14E read with the Explanation thereto.

Failure to comply with the above mentioned instructions has not only resulted in loss of revenue but has also given rise to adverse comments by the PAC.

All concerned may be suitably instructed.

Yours faithfully,

Sd|
D. K. SARKAR

24-7-1972

Under Secretary to the Govt. of India

Copy forwarded for information to: DI(C&CE), New Delhi.
Copy to U.S. CX-1.

Sd|
D. K. SARKAR,
24-7-72.

Under Secretary to the Government of India.

CHAPTER III

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

Recommendation

The Committee deem it necessary that in order to formulate the taxation policy on a rational basis Government should develop a fully integrated system of costing so as to find out the cost of collection commodity-wise.

[Sl. Nos. 2, Para No. 1.10 of Appendix III to the 44th Report of PAC, 1971-72]

Action taken

1.10. With reference to the recommendations of the Chanda Committee, the question of evolving a suitable technique for computing the cost of collection, commodity-wise, was examined and it was found that it was not possible to work out, with any degree of accuracy, commodity-wise cost of collection, even if the system of accounting was radically revised.

[Dept. of Rev. & Ins. OM. No. 234/7/72-CX-7 dt. 15-11-72]

Recommendation

1.123. The Committee suggest that the Board should examine whether some uniform percentage of marginal profit could be fixed so that this margin may not be left entirely to the discretion of the Collector and that it may not differ from factory to factory. It should also be examined whether it can be spelled out in clear terms as to what constitutes cost.

Action taken

1.123. Whether the existing instructions contained in para 8(v) of this Ministry's letter F. No. 36/45.88-CX-I dated 14-11-68 issued in consultation with the C&AG, could be elaborated has been examined. Since cost of reduction and margin of profit vary not only from commodity to commodity but also from one manufacturer to another depending upon various factors, it does not seem practicable

to lay down any more clear terms as to what constitutes cost or prescribe any uniform percentage of margin of profit to be added to the cost.

[Dept. of Rev. & Ins. O.M. No. 234/31/72—CX—7 dt. 6-10-72],

Recommendation

1.188 The value of goods confiscated during 1969-70 is stated as Rs. 4,000 as against Rs. 33,18,191 in 1968-69. The Committee desire that Department should look into the reasons for this low figure during the year.

[S. No. 45, Paragraph 1.187—1.189 of Appendix III to the 44th Report of PAC, 1971-72]

Action Taken

1.189. The PAC's recommendations have been circulated to all the Collectors and suitable instructions have also been issued *vide* Board's letters F. Nos. 230/4/72/SRPC dated 5th June, 1972 and 230/6/72—SRPC(CX) dated 18-9-72 (copies enclosed).

[Dept. of Rev. Ins. OM No. 234/13/72—CX-7, 1-11-72]

F. No. 230/4/72/SRPC(CX)

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE AND INSURANCE)

New Delhi, the 5th June, 1972.

From

Shri A. N. Bhattacharya,
Secretary,
Central Board of Excise & Customs.

To

All Collectors of Central Excise.

Sir,

SUB:—*Frauds and evasions launching prosecution in preference to imposing fines and penalties P.A.C.'s observations contained in their 44th Report on Audit Paras 44/70 and 22/69—70-regarding.*

I am directed to invite your kind attention to the enclosed copy

of the extract from the 44th Report of the Public Accounts Committee on the above subject. In para I thereof the PAC has expressed their dis-satisfaction with the number of offence case in which prosecutions were launched during each of the three years ending with the year 1969-70 and have desired that the department should launch prosecution in preference to imposing of fines & penalties in order to have a more effective deterrent against evasion.

2. After the introduction of S.R.P., instructions were issued for viewing seriously, offences committed by the licensees working under S.R.P., and for imposition of deterrent penalties in cases of breach of rules with deliberate intention of evading payment of duty. Suitable provisions to this effect were also accordingly made under rule 173—Q of the Central Excise rules.

3. In the light of the observations now made by the Public Accounts Committee the Board desires that cases involving substantial amount of loss of revenue, as also cases of seemingly deliberate attempts to do-fraud the Government of its revenue should be seriously considered for prosecution in addition to the imposition of fines and penalties through the process of departmental adjudication. Proceedings in cases considered fit for prosecution should be expeditiously launched, according to the procedure laid down in this behalf.

4. In para 2 of the extract enclosed, the Public Accounts Committee have pointed out the low figure of the value of the confiscated goods during the year 1969-70. It is requested that figures for the value of the confiscated goods for the years 1968-69 and 1969-70, in respect of your Collectorate, together with reasons for a fall in the value of the confiscated goods during 1969-70, if any, may please be furnished to the Board.

Yours faithfully,

Sd|-

A. N. BHATTACHARYA

Secretary,

Central Board of Excise and Customs.

F. No. 230|6|72—SRPC(CX)

CENTRAL BOARD OF EXCISE & CUSTOMS

New Delhi, the 18th Sept., 1972

To

All Collectors of Central Excise

SUB:—*Frauds & evasions—Launching of prosecution in preference to imposing fines & penalties and disposal of con-*

confiscated goods expeditiously and to improve their storage condition—P.A.C's observations contained in their 44th Report on Audit Paras, 44|70 and 32|69-70.

Sir,

I am directed to invite your attention to para. 3 of the extract from 44th Report of the Public Accounts Committee enclosed with instructions issued vide Board's letter F. No. 230|4|72—SRPC (CX) dated 5-6-72 on the subject mentioned above. The P.A.C. have expressed their concern over the steep decline in the value of confiscated goods, as realised on their disposal when compared to the value at the time of confiscation. As this has been attributed by the Department to the deterioration in the condition of the goods and low bids offered by the bidders, the Committee desire that there should be speedy disposal of confiscated goods and improvement in their storage condition.

2. Board desires that the observations made by the P.A.C. should be strictly followed in your charge and you should issue suitable instructions to all your officers for the expeditious disposal of confiscated goods. Steps should also be taken to improve the storage facilities for the storage of confiscated goods so that there is hardly any deterioration during storage. Officers during their tours and inspections should examine the arrangements for storage and progress of disposal of the seized goods. Where there are central godowns for the storage of seized goods Collectors should entrust to a senior officer the responsibility of supervising the arrangement for the storage and progress of disposal of seized goods.

Yours faithfully,

Sd|-

A. N. BHATTACHARYA.

Secretary, Central Board of Excise & Customs

Copy forwarded to the D.I.C.C.E. with the request that instructions should please be issued to the Inspecting Officers to see during their inspections, how the above instructions are being followed.

Copy also forwarded to the Addl. Director-in-Charge, S & I Branch (Central Excise) with the request that additional information relating to the value actually realised on disposal of the confiscated goods during the month may also be called for from the Collectors of Central Excise by introducing another sub-column in the proforma for the monthly statement of disposal of confiscated goods prescribed vide S & I Branch letter No. 4201|67 dated 27-10-67 under

the heading "Consignments disposed of during the month". The intention is that the statement should show in respect of goods disposed of the value at the time of seizure and at the time of disposal.

A consolidated statement showing (i) the progress of disposal of the confiscated goods and (ii) the quantum of depreciation in value, on disposal should be submitted to the Board every month.

Sd/-

A. N. BHATTACHARYA

Secretary, Central Board of Excise & Customs

CHAPTER IV

RECOMMENDATIONS|OBSERVATIONS REPLIES TO WHICH HAVE NOT BEEN ACCEPTED B THE COMMITTEE AND WHICH REQUIRE REITERATION.

Recommendation

The Committee note that the number of excisable commodities has increased from 76, 1965-66 to 113 at present. There are quite a few commodities which are not yielding substantial revenue. During the years 1968-69, 1969-70 and 1970-71, the number of commodities which yielded total revenue of less than Rs. 50 lakhs in each year was 8, 13 and 9 respectively. The Chanda Committee expressed the view as early as 1963 that "the increased in yield has not been commensurate with the number of items which have been added to the list of excisable goods". The Committee feel that taxing commodities with yields less than Rs. 50 lakhs a year particularly those produced by small units dispersed throughout the country is not worthwhile as they would involve disproportionate cost of collection.

[Sl. No. 1, Para No. 1.9—of Appendix III to the 44th Report of PAC, 1971-72].

Action taken

The question of limiting excise levies to commodities yielding substantial revenue and in the collection of which administrative effort and cost involved will be relatively low has been under examination for some years now. As a result of a special study undertaken in the 1965 budget, excise duties on cigars and cheroots, mechanically driven gramophones and parts thereof, and all parts and accessories or electrically or battery operated gramophones, record players record-playing decks, or record changer decks, excepting a few specified items, were totally exempted from duty. However, in view of the imperative need to raise additional resources, keeping in view the socio-economic objectives to be achieved through fiscal measures, and on account of the limit upto which duty on the existing items could be increased, extending excess coverage to new items, became inescapable.

While examining the recommendations of the Committee on Taxation under the Chairmanship of Shri Bhoothalingam, it was not

found feasible to impose a general excise levy at 10 per cent *ad-
valorem* on all manufactured goods. However, with a view to in-
troduce an element of progression in the field of indirect taxation,
new items like photographic cameras, cinematograph projectors,
lip-sticks, shampoos, mosaic tiles, zip fasteners, etc. were selected
for central excise levy.

A statement showing excisable items yielding an annual revenue
of less than Rs. 50 lakhs, the number of units to be controlled and
progressive revenue realisation, year-wise, is enclosed. The state-
ment would show that in several cases the number of units to be
controlled is not large and to that extent the effort involved in col-
lecting the revenue would also be proportionately low.

[Dept. of Rev. & Ins. OM No. 224/7/72/CK-7, dt. 15-11-72]

Statement showing No. of units, date of imposition of Ex. duty and revenue Relaxation in respect of commodities where the annual yield is less than Rs. 50 lakhs.

Sl. No.	Tariff Item No.	Description	Date of imposition of Ex. duty	No. of units	Revenue (Rs. Lakhs)					S.B. E. (Rs. lakhs) 1972-73
					68-69	69-70	70-71	71-72	7	
1	2	3	4	5	6	7	8	9	10	
1.	39	Mechanical lighters.	1-3-1934	17	1	1	1	1	0.6	1
2.	14C	Glycerine	1-3-1961	21	17	19	18	17.7	17.7	25
3.	37A	Gramophones and parts thereof	24-4-1962	30	18	15	27	35.3	35.3	40
4.	27A	Lead	20-8-1965	1	12	10	7	9.5	9.5	18
5.	14DD	Optical Bleaching Agents	1-3-1966	39	45	55	56	62.1	62.1	93
6.	33C	Domestic Electrical Appliances	1-3-1969	186	1	26	33	49.4	49.4	50
7.	45	Safety Razor Blades of Stainless Steel.	1-3-1970	5		Neg.	14	23.0	23.0	25
8.	47	Slotted Angles and channels	1-3-1970	49		1	8	12.4	12.4	17
9.	48	Safes, strong boxes etc.	1-3-1970	178		Neg.	39	32.0	32.0	40
10.	22C	Limelean	29-5-1971	1				9.4	9.4	30
11.	22D	Ready made garments.	Do.	126				44.3	44.3	100
12.	22E	Typewriter or similar ribbons.	Do.	6				10.4	10.4	15

1	2	3	4	5	6	7	8	9	10
13	23D	Mosaic tiles.	29-5-1971	514				25.1	45
14	34B	Fork lift trucks & platform trucks	Do.	7				18.4	25
15	37D	Cinematograph Projectors	Do.	10				15.4	17
16	36 C	Photographic cameras	29-5-1971	6				6.9	15
17	53	Zip or slide fasteners.	Do.	21				30.0	35
18	54	Pressure cookers	Do.	33				34.5	40
19	55	Vacuum flasks	Do.	27				33.4	40
20	56	Playing cards.	Do.	52				31.4	45
21	57	Campther	Do.	8				18.8	36
22	58	Monthol	Do.	14		..		17.0	26
23	59	Electric Insulating tapes.	Do.	27				9.9	52
24	60	Adhesive tamps W.E.S.	Do.	21		..		24.4	52

Source : 1. No. of Units-Statistical year book 1970-71.

2. Commodity-wise brochure of S & I Branch 1971-72.

3. Revenue realisation - Statistical year Book 1970-71

4. S. & I Branch -Commodity statement of revenue realisation 1972.

Recommendation

The Committee note that Government have made a departmental study of the working of SRP on certain commodities particularly with reference to their production and revenue. This study reveals that after the introduction of SRP the production of some of the commodities like cigars, cigarettes, cheroots, VNE oils, sodium silicate, cosmetics and toilet preparations, steel ingots, footwear, matches, synthetic fibre & yarn, woollen yarn, Cotton fibre etc. has shown a perceptible decline. The study also reveals fall of revenue in respect of some other items. The Committee have been informed that Government have received complaints from different quarters about the possible evasions of duty and have set up a Committee with wide terms of reference to go into the working of SRP to find out whether the scheme has achieved its purpose and to what extent it has afforded scope for evasion, to recommend measures to plug loopholes and also to examine the organisational and administrative set up of the Excise Department. The Committee feel that it would be helpful if a representative of the Audit is also associated with the Committee.

[S. No. 4, Paragraph 1.22 Appendix III to the 44th Report of PAC 1971-72]

Action taken

The suggestion has been examined by the SRP Review Committee and Committee proposes holding discussions with the representative of C & A.G. at the appropriate time on all matters with which audit is likely to be concerned.

[Dept. of Rev. & Ins. OM No. 234/4/72-CX-7 dated 13-11-72]

Recommendation

1.210. The Committee understand that in the new Central Excise Bill proposed to be submitted to Parliament, Government is going to provide a clause in the Bill to permit the Collector to review *suo motu* in each case if the payment is made under protest. In any case, the Committee hope that in future the payments under protest will not be ignored and suitable instructions will be issued for reporting such cases to the higher authorities for review.

[S. No. 51-Para Nos. 1.208 to 1.210—Appendix III of the 44th Report]

Action taken

1.210. When the assessee does not accept the decision of the proper officer and pays duty under protest, he may go in appeal against the decision of the proper officer. Section 35A of Central Excises & Salt Act, 1944 inserted under the Finance Act, 1972, empowers the Central Board of Excise and Customs to review a decision or an order (other than an order passed on an appeal) for satisfying itself as to correctness, legality or propriety of such a decision or order. Similarly, section 36(2) empowers the Central Government to review a decision or an order passed under section 35A. There is, however, no provision at present in the Central Excises and Salt Act, 1944, to review all cases where duty has been paid by an assessee under protest nor would such a provision appear necessary in view of the powers of review under Section 35A. Nevertheless, instructions have been issued to the effect that Central Excise Officers should visit factories for expediting finalisation of classification and valuation matters and Collectors are also required to report to the Board/Government for examination and review whenever they notice that decisions of the subordinate officers in regard to classification or valuation are not in consonance with the Board's orders, Govt's ruling or advice or when they feel that the orders are patently wrong and have adverse effect on revenue collection.

[Dept of Rev. & Ins. OM No. 234/28/72-CX-7 dt. 14-11-72].

Recommendation

1.231. Provisional assessments carry a state of suspense with them. They are likely to affect the Budgetary forecasts. The lower assessments will postpone realisation of rightful dues to Government and higher assessment if refunded later will not pass on to the consumer. The Committee therefore, feel that it is high time that provisional assessment is reduced to the absolute minimum particularly after the introduction of Self Removal Procedure under which approval of classification and prices is the pre-condition for clearance of goods. In this connection the Committee would suggest that—

- (a) Provisional assessment should be resorted to as exception rather than rule;
- (b) It should be examined whether a limit can be provided in the Rules itself for finalisation of these assessments, with built in safeguards against dilatory tactics of assessee like delay in production of invoices and other required information;

- (c) A strict time limit should be laid down for the chemical examiner and such officers to furnish test reports and price lists and if necessary these organisations should be strengthened qualitatively as well as quantitatively; and
- (d) A periodical review at the higher level should be prescribed to watch the progress.

[Sl. No. 57—Para 1.230-1.231—Appendix III]

Action taken

1.231. The observations of the Committee have been noted and the matter is further being examined.

[Dept. of Rev. & Ins.]

Recommendation

1.242. All these instances indicate that there is a serious laxity of control in clearance of cheques within the Excise Department. The Committee would like the Government to devise a foolproof procedure to regulate collection and clearance of cheques to avoid recurrence of these lapses in future.

1.243. These cases raise doubts about the dependence on the present procedure of allowing the assessee himself to maintain their own PLA's. Particularly when under the S. R. Procedure, the assessee can remove goods at his will without any on the spot check. The Committee therefore desire that it should be examined whether the responsibility of maintaining P.L.A. should not be undertaken by the Department.

[Sl. Nos. 61-62—Para 1.242-1.243) Appendix—III]

Action taken

1.242. Under S.R.P. which governs all central excise commodities other than unmanufactured tobacco, an assessee himself has to despatch cheques by registered post to the Chief Accounts Officer or by a special messenger. There should, therefore, be no occasion now for delay in receipt of these cheques by the C.A.O. Under the existing instructions, the C.A.O. is required to verify all credit entries in the P.L.A. with cheques received from assessee and or from credit advice received directly from the treasuries. He is also required to verify that such debit entry is covered by sufficient credit on the date of removal of goods and co-relate the duty paid documents with the return in Form R.T. 12.

1.243. The primary object of S.R.P. was to relieve the assesseees from the requirement of approaching the Central Excise Officer for examination and clearance of the excisable goods from his premises. However, as a Committee is currently reviewing the working of the S.R.P., Government would like to await the Committee's recommendations in this regard.

[Dept. of Rev. & Ins. O.M. No: 234/32/72—CX-7, dt: 20-12-72]

Recommendation

1.266. The Committee regret that the Board took 3½ years to give a decision on a reference made to them on the 27th July 1963 by the Bombay Collectorate regarding the problem of set off of special excise duty on internal combustion engines used in motor vehicles. It was only in March, 1967 that Government issued a notification granting exemption of special excise duty also. In the meantime different practices were followed by the Collectorates for allowing credit for special excise duty paid on engines. The Committee feel that a time limit of 3 to 4 months is reasonable for giving ruling in such matters. The Committee desire that a suitable time limit should be fixed for this purpose.

Action taken

1.266. In dealing with references received from the collectors, some time inevitably gets taken in the Board consulting other Ministries and technical authorities concerned. However, it is fully appreciated that inordinate delays in arriving at decisions will be self-defeating.

The observations of the Committee have been noted and efforts are being made for severely curtailing the time taken for giving rulings.

[Dept. of Rev. & Ins. O.M. 234/24/72-CX-7, dt. 19-1-73].

CHAPTER V

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

Recommendation

The Committee would like to be apprised of the findings of the Committee and action taken thereon.

[S. No. 55, Paragraph 1.22-1.23, Appendix III to the 44th Report of PAC, 1971-72]

Action taken

The findings of the SRP Review Committee and action taken thereon will be intimated after the Committee submits its report and the findings have been examined.

[Dept. of Rev. & Ins. O.M. No. 234/4/71-CX-7, dt, 13-4-72]

Recommendation

1.38. From the information given the Committee understand that the products viz. Complān, Protinex and Provitex are being treated differently. Complān is being assessed to duty as preserved food under item 1B. Protinex is assessed as medicine under item 14E. Audit had raised a point that Protinex also should be assessed as preserved food under item 1B. While Protinex is included in the list of inadmissible medicines Provitex is eligible for reimbursement under the Medical Attendance Scheme. The Committee desire that the treatment of these and similar other preparations like Protinules both for medical reimbursement and for excise levy should be carefully examined.

[S. No. 8, Para 1.38 of Appendix III to the 44th Report of P.A.C. 1971-72].

Action taken

1.38. The matter is under examination in the Ministry of Health. Further action will be considered in this Ministry on hearing from them.

[Dep. & of Rev. & Ins. OM No. 234/17/72-CX-7 dt. 7-4-72].

Recommendation

1.74. While wide variations have been revealed on stock verification in Tisco plant, no stock verification has been attempted so far in Rourkela and Bhilai Plants. It is significant that there is no systematic procedure evolved so far for stock verification in respect of both public as well as private sector steel plants. The Committee however, find that the Board have issued instructions on stock taking in steel in April, 1971. The Committee hope that there would now be no difficulty in getting the stock verification done in public and private sector plants. The Committee would like Government to keep this matter under constant watch and report the results to the Committee.

[S. Nos. 15 & 16, Para Nos. 1.73 & 1.74 of Appendix III to 44th Report of PAC 1971-72].

Action taken

1.74. Necessary action has been taken to keep a watch on the results of annual stock taking in steel plants. The results will be reported to the Public Accounts Committee in due course.

[Dept. of Rev. & Ins. OM No. 234/18/72-CX-7. dt. 10-11-72].

Recommendation

The Committee regret to point-out-that this is yet another case where there was delay in issue of clarification of the C.B.E. & C on a reference made by the Collector in June, 1969. It took the Board more than two years to issue clarification in September, 1971. The delay in issue of clarification resulted in under assessment of Rs. 4.60 lakhs for the period June, 1968 to November, 1970. The demands have been raised but the party has filed revision petition against the Deputy Collector's orders which is pending. The Committee would like to be apprised of the outcome.

[S. No. 31, Para No. 1.138 of Appendix III to the 44th Report of PAC, 1971-72].

Action taken

The observations of the P.A.C. regarding delay in issue of clarifications have been noted. In this connection reference is also invited to this Ministry's reply to point No. 1.266. Disposal of the Revision Application is held up for want of some further information on certain points to obtain which arrangements have already been made

The case will be decided on receipt of the data. The decision taken on the R. A. will be intimated to the P.A.C. in due course.

[Dept. of Rev. & Ins. OM No. 234/40/72-CX-7, dated 1-11-72].

Recommendations

The Committee are surprised how the officers failed to follow the instructions of the Board that on detection of yarn to be in lower denier, the higher rate of duty was to be charged till fresh sample was tested and found to fall within the category declared by the manufacturer. The Committee find the demands for differential duty (Rs. 2.10 lakhs) have been raised but the party has filed a revision application which is under the consideration of Government. The Committee would like to be informed about the outcome of the revision petition.

The Committee also understand that the question of prosecuting the assessee for mis-declaration is being examined by the Collector. The Committee would like to be informed about the action taken against the assessee.

[S. No. 47-48, Para No. 1.198-1.199-Appendix III of their 44th Report].

Action taken

1.198. The case will be decided after the personal hearing sought for by the party is granted and the case examined further. The decision will be communicated to the P.A.C. in due course.

1.199. It has been reported by the Collector that local legal advice does not favour launching prosecution. The matter is being further examined.

[Dept. of Rev. & Ins. OM No. 234/12/72-CX-7, dt. 15-11-72].

Recommendation

1.209. In para 1.25 of their 95th Report (4th Lok Sabha) the Public Accounts Committee had recommended that Govt. should consider whether it would be possible to incorporate a suitable provision in Central Excise Bill on the line of Section 37(I) of the Bombay Sales Tax Act so that trade does not get fortuitous benefit of excess collection of Tax realised from consumers. The Committee were given to understand during evidence that the relevant provision of the Bombay Sales Tax Act had been struck down by the Supreme Court. The Committee desire that the matter should be examined in the

light of the judgement of the Supreme Court with a view to including a suitable provision in the Central Excise Bill when it is re-introduced in Parliament.

[S. Nos. 50—Para Nos. 1.209 Appendix III of the 44th Report].

Action taken

1.209. The proposal for incorporation in the new Central Excise Bill of some provisions on the lines of those contained in section 37 of the Bombay Sales Tax Act has been examined in consultation with the Ministry of Law in the light of the decision of the Supreme Court in *Abdul Qadar & Co. V/s Sales Tax officer* (1964) 6 SCRP. 867 and in *Ashoka Marketing Ltd. V/s the State of Bihar* (26 STC P. 254), that Ministry have observed as follows:—

“The proposed levy, therefore, cannot be sustained as being incidental to the levy of duty of excise, though it can be sustained, if at all, only by invoking the residuary powers which cannot be availed of in respect of the State of Jammu & Kashmir. Again, the duty having been lawfully collected by the producer from the purchaser it may be argued that the provisions are really tantamount to deprivation of the property of the producer”.

However a revised draft of the new Central Excises Bill is at present under preparation. The recommenadtion of the Public Accounts Committee will be placed before the Select Committee that may be appointed for the Bill when the Bill has been finalised and introduced in the Lok Sabha.

[Dept. of Rev. & Ins. OM No. 234/28/72-CX-7, dt. 14-11-72].

Recommendation

1.222. The Committee find that according to the view held by Audit an *ad hoc* discount allowed for clearance of medicines on their list price should not be allowed on clinical samples which are meant for free distribution among the medicinal profession and not for sale and are allowed duty free under Notification No. 161/66 dated 8-10-66. Government however, feel that for the determination of quota of 5 per cent duty free clinical samples and also for the purpose of assessment of samples in excess of this quota the *ad hoc* discount should also be taken into account. This difference of opinion involves Rs. 9.66 lakhs of revenue from May, 1962 to August 1967 in respect of eight Collectorates alone.

1.223. The Committee regret to note that the differences between the Ministry and audit have not been resolved for the last four years. The Committee desire that the matter should be examined in consultation with the Audit and the Ministry of Law expeditiously. They would like to await the outcome.

[S. Nos. 54-55, Paragraphs 1.222 & 1.223—Appendix III to the 44th Report of PAC, 1971-72].

Action taken

The observations of the P.A.C. have been noted. The matter has been referred to the Ministry of Law and Justice through the C. & A.G. and the issue will be finalised after joint discussion with the C. & A.G. and the Ministry of Law.

[Dept. of Rev. & Ins. OM No. 234|3|72|CX-7, dt. 19-1-73]

Recommendation

1.258. The Committee note that demands for Rs. 1.65 lakhs have been raised but the party has filed a revision application before the Government. A show-cause notice in respect of a further quantity of 637.094 M.T. and 54.387 M.T. of acid has been issued consequent on investigation by the Deputy Director of Inspection. The Committee would like to know about the recoveries made.

[S. Nos. 68, Para No. 1.258 of PAC's 44th Report, 5th Lok Sabha, 1971-72].

Action taken

1.258. The Government have rejected the Revision Application filed by M/s. Cominco Benani Zinc Ltd.

As regards recoveries in respect of 637.094 M.T. and 54.387 M.T. of acid, it has been reported that the demands were confirmed by the Assistant Collector and the party preferred an appeal to the Appellate Collector.

[Dept. of Rev. & Ins. OM No. 234/14/72-CX-7, dt. 27-11-72].

Recommendation

1.309. The Committee note that the demands for Rs. 90.145 have been raised but the case is still pending in Revision Application. The Committee would like to know the outcome.

[S. No. 80, Para 1.309 Appendix-III].

Action taken

1.309. The Revision Application is under consideration of the Govt. and the decision taken in the matter will be intimated to the P.A.C. in due course.

[Dept. of Rev. & Ins. OM No. 234/35/72-CX-7, dt. 9-11-72].

NEW DELHI;
April 1973.

Chaitra , 1895 (S).

ERA SEZHIYAN,
Chairman,
Public Accounts Committee.

APPENDIX

Summary of main Conclusions/Recommendations.

S. No.	Para No. of Report	Ministry Dept. concerned	Conclusions/Recommendations
(1)	(2)	(3)	(4)
1	1-86	Dept. of Rev. & Insurance	<p>The Committee had observed that taxing commodities with yields less than Rs. 50 lakhs a year particularly those produced by small units dispersed throughout the country was not worth-while as it would involve disproportionate cost of collection. It has been stated in the Ministry's reply that in view of the imperative need to raise additional resources, keeping in view the socio-economic objective to be achieved through fiscal measures, and on account of the limit upto which duty on the existing items could be increased, extending excise coverage to new items has become inescapable. It has been further stated that in several cases the number of units to be contributed is not large and to that extent the effort involved in collecting the revenue would also be proportionately low. It is however seen from the statement furnished by the Ministry that the number of units is quite high in some cases. For instance it is seen that between 1968-69 to 1971-72 Rs. 26 to Rs. 50 lakhs per annum have been collected from Domestic Electrical Appliances produced in 186 units, Rs. 32 to Rs. 40 lakhs a year from safes, strong boxes etc. produced</p>

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in 178 units and Rs. 25.1 to Rs. 45 lakhs per annum from Mosaic tiles produced in 514 units. The Committee suggest that cost of collection of duties on these commodities should be computed on some basis so that it may be decided whether it is worthwhile taxing them.

2 1.11 Dept. of Rev. & Ins.

The Committee had felt that it would be helpful if a representative of the Audit was also associated with the S.R.P. Review Committee set up by Government to go into the working of S.R.P. to find out whether the scheme had achieved its purpose and to what extent it had afforded scope for evasion, to recommend measures to plug loopholes and also to examine the organisational and administrative set up of the Excise Department. From the reply of the Ministry, it appears that the S.R.P. Review Committee has examined the suggestion and they propose to hold discussions with the representative of the Comptroller and Auditor General at the appropriate time on matters with which audit is likely to be concerned. The Committee are not satisfied with this reply and they would like to reiterate that a representative of Audit should be associated with the Review Committee from now.

3 1.14 -Do-

The Committee had suggested that payments made under protest should not be ignored and suitable instructions should be issued for reporting such cases to the higher authorities for review. In reply, the Ministry have stated that there is no specific provision in the Central Excise and Salt Act to review all cases where duty has been

paid by an assessee under protest nor would such a provision appear necessary in view of the powers of review under Section 35A which was introduced vide Finance Act, 1972. The Committee suggest that a suitable provision may also be included in the new Central Excise Bill. The Committee desire that instructions may also be issued that the cases involving substantial amounts where duty is paid under protest, should be specifically brought to the notice of the Board who may review such cases, if necessary, under Section 35A.

4 1.18 Dept. of Rev. & Insurance

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The Committee feel that in order to reduce the provisional assessments to the minimum it is necessary to fix statutory time-limit for their finalisation. The Committee would, therefore, like to reiterate that a time-limit should be provided in the Rules for finalisation for all provisional assessment with built in safeguard against dilatory tactics of assessees like delay in production of invoices and other required information. Further a strict time-limit should also be laid down for the chemical examiner and such officers to furnish test reports and price lists.

5 1.21 -Do-

The Committee had pointed out certain cases regarding non-receipt, loss or non-clearance of cheques worth lakhs of rupees which indicated, chaotic state of affairs so far as cheque transactions in the Excise Department were concerned. The Committee had suggested that Government should devise a foolproof procedure to regulate collection and clearance of cheques to avoid recurrence of the lapses. The Committee also expressed doubts about the dependence on the

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present procedure of allowing the assessee themselves to maintain their own Personal Ledger Accounts and advised Government to examine whether the responsibility of maintaining P.L.A. should not be undertaken by the Department itself. The Ministry have stated that the primary object of S.R.P. was to relieve the assessee from the requirement of approaching the Central Excise Officer for examination and clearance of excisable goods from his premises. However, Government would like to await the recommendations of the S.R.P. Review Committee which is currently reviewing the working of S.R.P. The Committee would like to suggest that both these aspects should be clearly brought to the notice of the Review Committee.

The Committee had adversely commented upon the perfunctory scrutiny of the original plans of the factory and subsequent inspections by the chemical examiner. The Ministry have stated in their reply that only ground plans showing locations of various sections of factory were approved by the Assistant Collector. The Committee suggest that necessary instructions should be issued to avoid recurrence of such cases.

The Committee note the Ministry's reply that efforts are being made for severely curtailing the time taken by the Board for giving rulings. The Committee would however, like to reiterate that a time limit of 3 to 4 months should be reasonable for consulting tech-

Dept. of Rev. & Ins.

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nical authorities or other Ministries before giving clarification by the Board. The Committee suggest that suitable instructions may be issued by the Board.
