P.A.C. No. 712

# PUBLIC ACCOUNTS COMMITTEE (1978-79)

(SIXTH LOK SABHA)

## HUNDRED AND FORTY SIXTH REPORT

## UNION EXCISE DUTIES

## MINISTRY OF FINANCE

**(Department of Revenue)**

**[Action taken by Government on the recommendations of the Public Accounts Committee contained in the 13th Report (Sixth Lok Sabha).]**


*Presented in Lok Sabha on 30-4-1979*
*Laid in Rajya Sabha on 30-4-1979*

LOK SABHA SECRETARIAT
NEW DELHI
*April, 1979/Vaisakha, 1901 (S)*
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## Corrigenda to 146th Report of PAC (6th Lok Sabha)

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| 35 | | 21 | 26 | 25 |
| 35 and 96 | | Recommendation and action taken portions relating to Paragraph 2.53 appearing on Page 35 may be read on Page 96 before line 3 from bottom. | | |
| 36 | | 5 | The recommendation:/observation has been noted for. | The Committee desire that in future while |
| 36 | | 25 | The Committee desire that in future while | The recommendatio /observation has been noted for. |
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| 96 | | 28 | 25 | 24 |
| 101 | | 1 | Insert the first line at the top as a heading 'Recommendations' | |
| 101 | Line 4 from below | | Recommendations | Action Taken |
| 119 | | 4 | Insert 4th line as heading 'Recommendation' | |
| 123 | | 25 | Para 3.26 | Para 3.36 |
| 137 | | 3 | nistry | Ministry |

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## PUBLIC ACCOUNTS COMMITTEE

(1978-79)

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Shri D. C. Pande—*Chief Financial Committee officer.*

Shri T. R. Ghai—*Senior Financial Committee officer.*

## INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Hundred and Forty-Sixth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their Thirteenth Report (Sixth Lok Sabha) on Union Excise Duties relating to Ministry of Finance.

2. On 31 May, 1978, an 'Action Taken Sub-Committee' consisting of the following Members was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports:

1. Shri P. V. Narasimha Rao—*Chairman*
2. Shri Asoke Krishna Dutt—*Convener*
3. Shri Vasant Sathe
4. Shri M. Satyanarayan Rao
5. Shri Gauri Shankar Rai
6. Shri Kanwar Lal Gupta

*Members*

3. The Action Taken Sub-Committee of the Public Accounts Committee (1978-79) considered and adopted the Report at their sitting held on 27 April, 1979. The Report was finally adopted by the Public Accounts Committee (1978-79) on 28 April, 1979.

4. For facility of reference the recommendations or conclusions of the Committee have been printed in thick type in the body of the Report. For the sake of convenience, the recommendations or conclusions of the Committee have also been reproduced in a consolidated form in the Appendix to the Report.

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

NEW DELHI;
*April* 28, 1979
*Vaisakha* 8, 1901 (*S*)

P. V. NARASIMHA RAO,
*Chairman*

## CHAPTER I

### REPORT

1.1. This Report deals with the action taken by Government on the Committee's recommendations or observations contained in their 13th Report (Sixth Lok Sabha) on paragraphs of the Report of the Comptroller & Auditor General of India for the year 1973-74, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes relating to Union Excise Duties.

1.2. The 13th Report was presented to the Lok Sabha on 2 December, 1977 and contained 107 recommendations or observations. Replies to all the recommendations have been received from Government and these have been broadly categorised as follows:

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

Sl. Nos. 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 21, 23, 26, 30, 34, 35, 36—38, 39, 40, 41, 42, 44; 45, 46, 48, 50, 54, 60, 62, 65—67, 75—77, 80, 81, 82—84, 88, 90, 91, 93, 94 and 97.

(ii) *Recommendations or observations which the Committee do not desire to pursue in the light of the replies received from Government:*

Sl. Nos. 1, 2, 3, 5, 16—19, 20, 24, 25, 27—29, 49, 58, 59, 61, 63, 68—71, 72, 73, 74, 79, 86-87; 89, 95-96, 98, 102—106 and 107.

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

Sl. Nos. 15, 22, 31—33, 43, 47, 78, 85, 92 & 99—101.

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

Sl. Nos. 51, 52, 53, 55, 56, 57 and 64.

**1.3. The Committee require that final replies duly vetted by Audit to those recommendations or observations in respect of which interim replies have so far been furnished, should be submitted expeditiously.**

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

*Regulation of the powers enjoyed by Government for issue of notifications etc. (Paragraphs 2.43 & 8.30—Sl. Nos. 15 & 78).*

1.5. Prior to 24 April, 1962, art silk fabrics/hosiery items manufactured in the powerloom sector were subjected to Central Excise Duty. With effffect from 24 April, 1962 unprocessed fabrics whether manufactured in the handlooms/powerlooms or in a composite mill were granted exemption from basic and additional duty as also handloom cess and only those manufacturers who processed art silk fabrics with the aid of power were required to take out a licence and pay duty on the processed fabrics. This change in the stage of levy of duty led to substantial quantities of art silk fabrics processed with the aid of power and steam escaping levy of duty as a result of unscrupulous practices adopted by the manufacturers/processors, loss of revenue in one Collectorate alone amounted to Rs. 13.60 lakhs.

1.6. Dealing with the extent of powers enjoyed by the Government with regard to the issue of exemption notifications, the Committee had, in paragraphs 2.43 and 8.30 of their 13th Report (Sixth Lok Sabha), recommended as follows:

> "3.43. Prior to 24 April, 1962, art silk fabrics/hosiery items manufactured in the powerloom sector were subjected to Central Excise duty. With effect from 24 April, 1962 unprocessed fabrics whether manufactured in the handloom/powerlooms or in a composite mill were granted exemption from basic and additional duty as also handloom cess and only those manufacturers who processed art silk fabrics with the aid of power were required to take out a licence and pay duty on the processed fabrics. This is an instance which brings out a serious lacuna by an executive action by issuing of a Notification making use of rule-making power, cutting at the very roots of the substantive provisions of the Act of Parliament, thus rendering the object of taxing a particular item nugatory and without the Parliament being informed of this change which results in loss of revenue. The Committee would, therefore, like to reiterate their earlier recommendation made in paragraph 1.25 of their 111th Report (Fourth Lok Sabha) (1969-70) that whenever any Notification or order has an adverse fiscal effect, previous sanction of Parliament must be obtained before giving effect to any such Notification or Order."

"8.30. The Committee are not satisfied with the withdrawal of demands of duty amounting to Rs. 1.48 crores on the clearance of high density polyethelene yarn/fabrics for the period preceding the issue of notifications exempting payment of excise duty on high density polyethelene tapes, if used for manufacture of art silk fabrics and high density polyethelene woven fabrics, if intended for making sacks, through an exemption order. In their earlier reports, the Committee have been emphasising from time to time that the power given to the executive to modify the effect of the statutory tariff should be regulated by well-defined criteria. This was last reiterated by the Committee in paragraph 15.15 of their 177th Report (Fifth Lok Sabha) (1975-76). The Committee have been informed by the Ministry of Finance in the Action Taken Note that it was not possible to accept the recommendation. The Committee are still of the view that it should be possible to lay down well-defined criteria to regulate the grant of exemptions. The Committee accordingly desire that this should be once again re-examined in detail by Government and specific guidelines prescribed in this regard "

1.7. In their Action Taken Note dated 24-7-1978 on paragraph 2.43, the Ministry of Finance (Department of Revenue) have intimated as follows:

"Section 25(1) of the Customs Act, 1962 empowers the Central Government by issue of notification in the Official Gazette, to exempt generally, either absolutely or subject to such conditions as may be prescribed, goods of any specified description from the whole or any part of the duty of customs leviable thereon. Sub-section (2) ibid empowers the Central Government to exempt from payment of duty, under circumstances of exceptional nature, any goods on which duty is leviable, by special order in each case. Likewise, provisions for duty exemptions exist on the Central Excise side in terms of rule 8(1) and rule 8(2), respectively of the Central Excise Rules, 1944. On the Customs side, there is provision (Section 159) for laying copies of every notification before each House of Parliament within stipulated time limits and it further provides that it both the Houses agree to make any modification in the notification or agree that the notification should not be issued, such a notification would have effect only in such modified form, or be of no effect, as the case may be, but without

prejudice to the validity of anything previously done under that notification. Similar statutory provisions do not exist on the Central Excise side. However, copies of all Central Excise notifications involving duty exemptions are laid before both the Houses of Parliament soon after their issue, if the Parliament is in session, or soon after the next session begins. To that extent, the provisions under the Customs Act, 1962 and the Central Excise and Salt Act, 1944 (including the rules made thereunder) are somewhat different but, in either case, there is no requirement of prior sanction of the Parliament before issue of exemption notifications.

The Government have, in the past, considered the recommendation of the PAC for obtaining prior sanction of Parliament before giving effect to exemption notifications or orders. However, the implementation of the recommendation involve practical difficulties, as indicated below;

(i) Prior sanction of the Parliament before giving effect to duty exemption under section 25(1) of the Customs Act or Rule 8(1) of the Central Excise Rules, 1944 would imply giving publicity to the duty exemption even before it is brought into operation and this is likely to give rise to speculations in the trade which may have adverse repercussions on the supplies of goods to the markets and on the level of prices.

(ii) The bulk of the exemptions issued under section 25(1) of the Customs Act and Rule 8(1) of the Central Excise Rules, form part of the budget proposals which are fully discussed in the Parliament. These are brought into force from the midnight of the day the Finance Minister announces such proposals in the Parliament. Any modification that may be found necessary as a result of discussion in the Parliament is carried out by issue of fresh notifications. It is only in those cases where exemptions may become necessary during the course of a financial year that these are issued during mid-year and they do not form part of a budget proposals. Although there is no provision, either in the Central Excises and Salt Act, 1944 or in the Central Excise Rules, 1944 for placing such notifications before the Parliament nevertheless such notifications, together with covering Memoranda indicating the implications of such notifications, continue to be placed on the Table of both the

Houses of Parliament soon after their issue. The procedure thus followed provides for in effect ratification by Parliament of every such notification.

(iii) Difficulty would also arise in obtaining prior sanction of the Parliament before issuing a notification when Parliament is not in session. As exemptions from duty are authorised in special circumstances, it may not be in public interest to postpone decision to a future date when circumstances warrant immediate action.

For reasons stated above, it is not possible to accept the recommendations of the PAC contained in para 2.43 of their 13th Report."

1.8. Action Taken Note dated 30 March 1979 on paragraph 8.30, furnished by the Department of Revenue reads as follows:

"The Committee's attention is invited to the Action Taken Note furnished by the Department vide F. No. 234/46/78-CX.7 dated 24 January 1979, on para 1.38 of their 68th Report (Sixth Lok Sabha), 1977-78, (reproduced below):

'As desired by the Committee, the matter regarding prescribing well defined guidelines for regulating the grant of exemptions, was once again reviewed in detail by the Government.

Exemptions from Central Excise Duty, either full or partial are granted on various considerations. But such exemptions are granted only after detailed examination of the various requirements of 'public interest' and after obtaining the orders of the Minister. In other words, the Government is guided by the general criterion of 'public interest' while exercising the power to grant exemptions. At present, Rule 8, as it exists, does not provide for any guideline for grant of duty exemptions, but in clause 29 of the proposed Central Excises Bill, a provision has been made for granting duty exemptions in public interest, on the same lines, as in Section 25 of Customs Act, 1962.

Government feel that it would not be necessary to elaborate this criterion, by way of laying down a series of guidelines.

The matter regarding obtaining prior approval of Parliament before granting exemptions involving a revenue

effect of rupees one crore and above was reviewed recently while examining the Committee's recommendation contained in para 2.43 of this Report. The practical difficulties in accepting this recommendation were brought to the notice of the Committee vide this Ministry's F. No. 234/18/78-CX.7. In view of the position explained therein, it would not be possible for the Government to accept the recommendation contained in sub-para (i).

As regards the recommendations contained in sub-para (ii), it may be stated that the revenue implication of each notification is generally indicated in the Explanatory Memorandum, which, alongwith a copy of the notification, is placed on the Table of both the Houses of Parliament, soon after the issue of the notification. Similarly the financial implication of all exemption notifications, issued as part of the Budget, are also brought to the notice of Parliament by the Government at the time of presenting the Budget. These are contained in the Explanatory Memorandum to the provisions of the Finance Bill (known as the Pink Book). It is, however, not possible to determine the revenue implications of all the notifications in operation, at any given point of time. This is because the financial implication of a given notification, may not remain constant over the years, as it changes with the changes in the pattern of production/clearance of the excisable commodity in question, its price, the shift in the pattern of consumption as between the home market and the export market etc. In view of this practical difficulty in determining the financial implications of all exemption notifications in operation, it has not been possible to accept the Committee's suggestion in this regard.

This issues with the approval of the Finance Minister'."

**1.9. According to the Ministry of Finance, Section 25(1)(2) of the Customs Act, 1962 and Rule 8(1)(2) of the Central Excise Rules, 1944 empower the Government to issue exemption notifications etc. As the action taken note itself reveals, these powers are required to be exercised under circumstances of exceptional nature, but the Committee are distressed to find that in actual practice, Government takes recourse to these provisions very frequently, virtually rendering the levy of the duties authorised by Parliament nugatory. The**

**Committee agree that in some exceptional circumstances it might not be possible for Government to obtain prior sanction of Parliament but that should not be the general rule. In this connection, the Estimates Committee of Parliament have expressed similar views, on the subject, in paragraphs 3.125 and 3.126 of their 28th Report (Sixth Lok Sabha),** inter alia, **observing: "The Committee feel that if at all necessary, Government should exercise the power to grant exemptions very sparingly and in extreme cases only. The Committee would also like that the notifications of exemption should be subject to modification or annulment by Parliament within a stipulated period and a suitable provision to this effect should be made in the parent Act."**

**1.10. The Committee note that under Section 159 of the Customs Act, copies of every notification are required to be laid in each House of Parliament within stipulated time-limits and further if both the Houses agree to make any modification in the notification or agree that the notification should not be issued, such a notification would have effect only in such modified form or be of no effect, as the case may be. Such statutory provisions, however, do not exist on the Central Excise side. The Committee would like the Government to examine the question of making similar statutory provisions on the Excise side as well.**

**1.11. The Committee also firmly believe that the power given to the executive to modify the effect of the statutory tariff should be regulated by a well-defined criteria in consultation with the Comptroller and Auditor General of India, keeping in view all the earlier recommendations made by the Committee in this regard.**

**Annual review of all exemption notifications before finalising the Budget proposals. (Paragraphs 11.38 to 11.40—Sl. Nos. 99—101).**

1.12. The Excise Revenue foregone during the year 1973-74, on account of exemption from duty under Rule 8(1) amounted to as much as Rs. 364.98 crores. Further the revenue foregone on account of exemptions issued under rule 8(ii) amounted to Rs. 2.83 crores. Commenting on this, the Committee had in paragraphs 11.38 to 11.40 of their 13th Report observed as follows:

> "11.38. The Committee note that the excise revenue foregone during the year 1973-74, on account of exemption from duty granted under Rule 8(i) of the Central Excise Rules amounted to as much as Rs. 364.98 crores pertaining to 149 notifications in force during the year (excluding the

exemptions which represent specific rates of duty announced as a part of Budget/Supplementary Budget proposals and exemption intended to avoid double taxation under the same Tariff item). Further, the revenue foregone on account of exemptions issued under Rule 8(ii) of the Central Excise Rules during the same year amounted to Rs. 2.83 crores. The Committee have been expressing their anxiety from time to time in their earlier Reports on the revenue foregone due to exemption notifications and stressing the need for undertaking a review of all the existing notifications from time to time."

"11.39. In paragraph 15.14 of their 177th Report (Fifth Lok Sabha—1975-76), the Committee had, *inter alia,* urged the Ministry of Finance to fulfil their assurance earlier given to the Committee that a review of all exemptions would be made to determine the reasons for the exemptions and to withdraw them if they were found to be unjustified. In their Action Taken Note, the Department of Revenue and Banking have informed the Committee that the last such review was made in October-November 1973. The Committee understand that on this review most of the exemptions were continued as a measure of fiscal relief to small scale sector. Another comprehensive review of all the exemption notifications according to the Ministry is proposed to be undertaken shortly."

"11.40. The Committee need hardly stress that such a review should be critically undertaken at least once every year before finalising the proposals for the next Budget so as to obviate continuation of any unintended benefits which have ceased to serve public interest or in respect of which serious deficiencies have come to notice."

1.13. In their Action Taken Note dated 27 June 1978, the Ministry of Finance (Department of Revenue) have stated:

"As a result of review of the exemption notifications undertaken in 1976, 27 notifications had been rescinded. In addition to this, a list of notifications which have ceased to be in force either by efflux of time or otherwise and which, according to the Ministry of Law, need no formal rescission have also been forwarded to the field formations for considering them as rescinded. A copy of Ministry's letter F. No. 331/15/75-TRU dated 14 April 1977 is enclosed (not attached).

As a part of the 1978 Budget, a number of individual exemption notifications applicable to small scale units manufacturing specified commodities were rescinded and a single notification applicable to 69 commodities was issued. Further, as a part of the 1978 Budget, two important exemption notifications relating to tea waste and vegetable products [No. 32/51-CX dated 6-10-1951 and No. CER 8(3) 56-CE dated 14-1-1956] were also reviewed. While the exemption relating to tea waste was modified, that relating to vegetable product was rescinded. In this connection it is submitted that it is not possible to undertake a complete review of all the existing notifications every year prior to the formulation of budget proposals but a review on a limited scale is invariably being done every year before the budget and also in the course of year to rescind the notifications which have ceased to serve public interest or in respect of which deficiencies in regard to revenue have come to notice."

**1.14. The Committee do not appreciate the reply of the Department that as recommended by them, it is not possible to undertake complete review of all the existing notifications every year prior to the finalisation of Budget proposals. The Committee feel that such an annual review prior to the finalisation of the Budget proposals is very necessary so as to obviate continuation of any unintended benefits which have ceased to serve public interest. The Committee would like the Department to examine once again the need for introduction of such an annual review on regular basis.**

**Indication of the capacity of the Processing Units on the licences issued to them. (Paragraph 2.50—Sl. No. 22).**

1.15. Dealing with the question of evasion of duty on art silk fabrics, the Committee had in paragraph 2.50 of their 13th Report (Sixth Lok Sabha) recommended as follows:

"It has been further stated that the licences issued to the Processing Units did not specifically mention the capacity. The Committee feel that had the Department of Excise taken timely action to identify 'these constraints and difficulties' and initiated action to survey the processing units and noted down their capacity and tightened up the field organisation, it should have been possible to exercise proper excise surveillance over these Processing Units and plugged all loopholes for evasion of duty. The Committee

also stress that the capacity should invariably be mentioned in specific terms in the licence itself so that difficulties of the nature experienced in the instant case do not arise."

1.16. The Action Taken Note dated 11-8-1978 furnished by the Ministry of Finance (Department of Revenue) reads as follows:

"The Committee's attention is invited to the evidence tendered by the Finance Secretary before the PAC on para 2.17 of the Audit Report for the year 1973-74 (page 30 of the PAC Report). It was explained by the Finance Secretary as to how merely going on the capacity criterion may not be a very satisfactory and reliable check on the processing units. In any case, a specific mention of the capacity of the unit on the licence is not necessary in view of the fact that a provision already exists for indicating the quantity of excisable goods which a factory is capable of producing in the AL-4 application (application for a licence for manufacture of goods). The information is required to be furnished by the applicant both at the time of initial application for, as well as at the time of renewal of the licence. Consequently the Department is already aware as to what the capacity of each unit is."

**1.17. As one of the measures for controlling the evasion of duty on Art Silk Fabrics, the Committee had earlier recommended that the capacity of the Processing Units should invariably be mentioned in specific terms in the licences issued to such units. The Committee are surprised that even after the omissions in the existing procedure noticed in the cases in question the Department of Revenue has still pleaded that it is not necessary to mention the capacity of the unit because the same is required to be given by the applicant at the time of applying as well as renewal of the licence. This procedure does not appear to be effective, as inspite of such a mention in the application the Collectorate could not detect the evasion. The Committee believe that for exercising proper excise surveillance over the processing units, it is necessary to mention the capacity of the unit in the licence itself. The Committee, therefore, reiterate that an indication about the capacity of the factory in the licence itself, is very necessary.**

**Fixation of responsibility for non-detection of evasion of duty by M/s. Binny Ltd. (Paragraphs 3.34 to 3.36—Sl. Nos. 31—33)**

1.18. From March 1st, 1973, a new sub-item (1A) was introduced under tariff item 19-I (cotton fabrics) through the Finance Act,

1973 to cover cotton fabrics containing 30 per cent of more by weight of fibre or yarn or both, of non-cellulosic origin. Subsequently, Government issued instructions in March 1973 that cotton yarn used in the manufacture of these fabrics should be subjected to duty.

1.19. In February 1974, Audit pointed out that duty on cotton yarn used in the manufacture of Tosca, Neptune and Jupiter had not been paid by Binny Mills, Madras. Consequently, a show cause notice was issued to the Mills in respect of evasion of duty for Rs. 72,461.

1.20. Dealing with non-detection of evasion of duty by the assessment-cum Inspection Group in the above case, the Committee had, in paragraphs 3.34 to 3.36 of their 13th Report (Sixth Lok Sabha), recommended as follows:

> "3.34. From 1 March 1973, a new sub-item (1A) was introduced under tariff item 19-I (cotton fabrics) through the Finance Act, 1973 to cover cotton fabrics containing 30 per cent or more by weight of fibre or yarn or both, of non-cellulosic origin. Though these fabrics are assessable to duty *ad valorem*, Government issued specific instructions in March 1973 that cotton yarn used in the manufacture of these fabrics should be subjected to duty."

> "3.35. It was, however, only after Audit had pointed out to the Department in February 1974 that duty on cotton yarn used in the manufacture of Tosca, Neptune and Jupiter had not been paid by Binny Mills, Madras that a show cause notice was issued to the Mills. The short levy of Rs. 72,461 for the period 1 March 1973 to 30 November 1973 has been finally paid by the assessees."

> "3.36. The Committee are concerned over the failure of the Department to detect the evasion which might have continued but for scrutiny by Audit. As admitted by the Finance Secretary, it was obviously a case of non-observance of budgetary instructions by the field staff. The Committee would like responsibility to be fixed for the lapse and suitable follow-up action taken."

1.21. The Action Taken Note dated 1-6-1978 received from the Ministry of Finance (Department of Revenue) reads as follows:

> "It has been reported by the Collector of Central Excise, Madras that M/s. Binny Ltd. were under the charge of an

Assessment-cum-Inspection Group during the period from 1-3-1973 to 31-3-1974. The Collector who studied in depth the work-load had noticed that the assessment-cum-Inspection Group covering M/s. Binny Ltd. was perhaps the heaviest group with extremely heavy work-load. Even according to the norms prescribed by S.I.U. the group (having only one Supdt. and 6 Inspectors) required 5 Supdts. and 29 Inspectors; it had five times the work-load of a normal range. Hence the Supdt. and the Inspectors who were working under enormous strain and pressure could not inspect the unit after 17-3-1973 and the short levy of duty was therefore not detected by them. He has, therefore, reported that no malafide was suspected on the part of local staff and the omission to detect the short levy was *bona fide* and in such circumstances disciplinary proceedings are not warranted."

**1.22. The Committee are not convinced of the explanations now offered of heavy work-load with the concerned Assessment-cum-Inspection Group, for the non-detection of evasion of duty for Rs. 72,461 by Binny Mills, Madras. If, according to the Department, the Assessment-cum-Inspection Group needed 5 Superintendents and 29 Inspectors against the working strength of 1 Superintendent and 6 Inspectors, the Committee believe that the Department should have taken timely steps to reinforce the then existing staff in accordance with the norms prescribed by the Staff Inspection Unit rather than finding an excuse now that the Assessment-cum-Inspection Group was under-staffed. Evidently, but for scrutiny by Audit, the evasion might have remained undetected.**

**1.23. The Committee are also not convinced of the opinion of the Collector of Central Excise, Madras that "no malafide was suspected on the part of local staff and the omission to detect the short levy was** bona fide **and in such circumstances disciplinary proceedings are not warranted." The Committee desire that a probe should be ordered in the matter through CBI.**

**1.24. The Committee also deprecate the practice of merely communicating the opinions of individual Collectors on the recommendation of the Committee without the Government (i.e. Ministry of Finance) having given its considered opinion.**

**Recovery of excise duty and imposition of penalties on M/s. Binny Mills. (Paragraph 3.46—Sl. No. 43).**

1.25. Dealing with the three cases involving Binny Mills with excise implications of Rs. 19.6 lakhs covering a period from 1 March

1969 to 30 September 1973, the Committee had in paragraph 3.46 of their 13th Report (Sixth Lok Sabha) observed as follows:

> "The Committee are concerned to note that besides the short levy of excise duty in the cases pointed out in the Audit paragraph there are three other cases involving Binny Mills with excise implications of Rs. 19.6 lakhs—covering a period from 1 March 1969 to 30 September 1973. Among these cases, two of them with an excise implication of Rs. 15.8 lakhs relate to the declaration of certain variety of fabrics wrongly under item number 19(1)(2) though these should have been assessed appropriately on *ad valorem* basis under tariff item 19(I)(1). In the third case, with a tax implication of Rs. 3.8 lakhs, it is understood that the mills deliberately cut certain variety of terry cotton fabrics into fents in order to fraudulently avail of lower excise duty. The Committee desire that all these cases should be thoroughly gone into and conclusive action taken to recover not only the excise duty of Rs. 19.6 lakhs which is due but also to impose penalties as admissible under the rules, so as to act as a deterrent to others. The Committee would like to be specifically informed within three months of the action taken by the Government in the matter."

1.26. In their Action Taken Note dated 4-4-1978, the Ministry of Finance (Department of Revenue) have stated as follows:

> "The Collector of Madras has reported that three offence cases for evasion of duty were registered against M/s. Binny and Co. Ltd., manufacturing cotton fabrics in the Buckingham and Carnatic Mills situated at Madras. After thorough investigation and detailed examination and scrutiny of several documents and records, show cause notices for the above offence cases were issued on 29-9-1973 and 11-4-1974, 27-2-1974 and 28-2-1974 respectively to the said assessee for contravention of provisions of Central Excise Rules. The assessee submitted the replies to show cause notice pertaining to each case on 10-5-1974, 9-7-1974, 30-4-1974 and 31-8-1974 respectively. They at the same time requested for personal hearing and also permission to cross examine all the witnesses in each of three cases during personal hearing.
>
> The Collector has further reported that adjudication of three cases has not been completed so far. It is stated that as

these cases are of highly technical and complicated nature involving a very substantial revenue and the manufacturers have also desired to cross-examine a large number of witnesses. it has been felt by the Collector to engage an independent counsel to assist the Department during the adjudication proceedings. The Collector has, therefore, sought for Government's permission to engage the Central Government Junior Standing Counsel for this purpose. The adjudicating authority will decide the cases in a quasi-judicial capacity taking into consideration of all facts and circumstances including evidences to be recorded during the adjudication proceeding. The observations of the Public Accounts Committee in this para (3.46) have, however, been brought to the notice of the Collector."

**1.27. The Committee are deeply concerned to note that the three cases involving Binny Mills with excise implications of Rs. 19.6 lakhs, are pending adjudication for such a long time when replies to show cause notices pertaining to these cases were submitted by the assessees by 31-8-1974. While desiring to know the reasons for very long pendency of adjudication proceedings in these cases, the Committee would emphasise that concerted efforts should be made to secure early adjudication on these cases.**

**Penal proceedings against M/s. Mahadeva Textile, Hubli for evasion of excise duty by short accounting of certain quantities of fabrics. (Paragraph 4.16—Sl. No. 47)**

1.28. Dealing with the cases of evasion of excise duty by M/s. Mahadeva Textile. Hubli by short accounting of certain quantities of fabrics amounting to Rs. 27,797, the Committee had, in paragraph 4.16 of their 13th Report, recommended as follows:—

"The Committee are unhappy over the evasion of excise duty by M/s. Mahadeva Textiles, Hubli, by short accounting of certain quantities of fabrics in the registers prescribed for recording daily production. What worries the Committee more is that departmental machinery does not appear to be effective in detecting such omissions. In this case, the malpractice of short accounting adopted by the Mill could not be detected by the Inspection Group when they visited the Mill in October 1970. The short accounting was detected only when the Audit Party visited the Mill later, in October 1971. From this, the Committee are inclined to believe that the Department

did not exercise any effective check of the records of daily production maintained by the Mills. On the advice of Audit, further investigations were made and short levy of duty amounting to Rs. 12,864 on account of short accounting of production over the period 28 August, 1970 to 31 March, 1972 was found. 6 more cases of short accounting/non-accounting of fabrics involving evasion of duty for Rs. 14,933 were also noticed subsequently in this unit. The Committee learn that the Collectorate have initiated penal proceedings against the party in these cases. The case regarding demand of Rs. 12,864 is to be adjudicated according to the Appellate Collector's orders. The Collector is being advised by the Board to consider adjudicating the cases himself, if these have not been adjudicated/re-adjudicated by the Assistant Collector. The Committee desire that these cases should be adjudicated expeditiously and the Committee informed about the penalties imposed on the party. The Committee would also like to know the action taken against the departmental officers for their failure to check on their own the records and accounts properly."

1.29. In their Action Taken Note dated 24-5-1978, the Department of Revenue have stated as follows:—

"As regards the case of short levy of Rs. 12,864.00 which was to be re-adjudicated *denovo* by the Assistant Collector on the basis of the Appellate Collector's order and in respect of other cases which, according to the Ministry's reply on point 61 of the list of points called for additional information *vide* F. No. 234/30/76-CX. 7 dated 3-4-1976, were to be taken over by the Collector himself for adjudication, if the Assistant Collector had not re-adjudicated/adjudicated the cases till then, it is now reported by the Collector that on 1-6-1976 in pursuance of Board's letter dated 8-4-1976 he directed the Assistant Collector concerned to send all relevant files relating to these cases to the Collector's headquarters for adjudication by him. The cases had, however, been adjudicated by the Assistant Collector himself in regard to short levy of duty due to non/short accountal of cotton fabrics in the RG-1 register but he had on 1-9-75 forwarded the case records pertaining to show cause notice for penal action of the assessee for incorrect maintenance of the account in RG-1 to

Collectorate Headquarters. The position of the cases adjudicated by Assistant Collector is as follows:—

(a) The case relating to short levy of duty amounting to Rs. 12,864.37 has since been re-adjudicated by the Assistant Collector who has confirmed the duty to the extent of Rs. 8,138.37 only against Rs. 12,864.37 as reported earlier. Since the assessee had already paid the original demand for Rs. 12,864.37, the excess amount of Rs. 4,726 was refunded to the party.

(b) Besides, regarding the cases of short/non-account of cotton fabrics reported on point 60(c) of the list of points calling for additional information vide Ministry's reply F. No. 234/30/76-CX.7 dated 6-3-1976 it has been reported that due to wrong quotation of the Rules invoked in the original show cause notices, revised show cause notices for six cases were issued on 14-5-1976. Moreover, by this time one more case was registered and therefore another show cause notice was issued. The particulars of the seven show cause notices issued to the assessee are stated below:—

(1) C.No. V/19/3/152/75 dated 14-5-76 for Rs. 39.60.
(2) C.No. V/19/3/151/75 dated 14-5-76 for Rs. 1315.00.
(3) C.No. V/18A/3/89/74 dated 14-5-76 for Rs. 2978.50.
(4) C.No. V/18A/3/126/74 dated 14-5-76 for Rs. 4326.77.
(5) C.No. V/19/3/18/74 dated 14-5-76 for Rs. 6432.56.
(6) C.No. V/19/3/97/75 dated 14-5-76 for Rs. 155.91.
(7) C.No. V/19/3/153/75 dated 14-5-76 for Rs. 274.13.

All these seven cases had also been adjudicated by the Assistant Collector and finally a sum of Rs. 8,435.88 was demanded in his order dated 16-7-1976 and the amount was also paid by the assessee on 6-10-1976.

In regard to penalising the party it has been reported that on 28-8-75 instructions were issued to the Assistant Collector for submitting the case records to the Collector. The Assistant Collector had sent the case files to Collectorate Headquarters on 1-9-75 but after that the matter was not properly pursued in the Collectorate office till 15-1-77 when the Assistant Collector of Division was directed to

send a revised show cause notices. The Collector has reported that he is calling for the concerned Assistant Collector to adjudication of the cases referred to above and also the officers in the Collectorate office responsible for the failure to follow up the case properly. In order to expedite the matter the Collector is taking action to call for all the relevant files, some of which are with the Appellate Collector and to issue a revised show cause notice, if necessary, for imposition of penalties. The Collector has regretted the lapse and has also reported that he is taking suitable action to avoid the recurrence of such delays.

As regards disciplinary proceedings against the Department officers, the Collector asked the Assistant Collector to obtain explanation for the lapses on the part of the officers of Inspection Group who inspected the records of the assessee covering the period from August 1970 to April 1971. The Assistant Collector forwarded the explanation of the Superintendent of the Inspection Group who gave his reason for not having noticed the irregularity. However, it is reported that though the irregularities of short/non-accountal of production referred to in the Audit para were not noticed by the Inspection Group, several similar irregularities had been noticed by the officers of the same Inspection Group, while inspecting the records of the mill for subsequent periods. Hence the view was taken that there was no malafide intention on the part of the officers of the Inspection Group and consequently the officers concerned were warned."

**1.30. The Committee note that on 1-9-1975 the Assistant Collector forwarded the case records pertaining to show cause notice to Collectorate Headquarters, for examining the question of imposing penalties on the assessee for incorrect maintenance of the accounts in RG-1. The Committee are distressed to find that the Collectorate office slept over the case till 15-1-1977 when the Assistant Collectorate was again directed by the office to send a revised show cause notice. The Committee take a very serious view of this delay of 1½ years in the Collectorate office. They suspect that it was done with a view to benefit the assessee. The Committee would like the matter to be investigated with a view to fixing responsibility. The Committee also stress that the question of imposition of penalties on the assessee for short accounting of quantities of fabrics and consequential evasion of excise duty should now be finalised urgently.**

*Recovery on account of differential duty*
*(Paragraph 9.15—Serial No. 85)*

1.31. As a result of amended notification issued on 24 July, 1972 certain varieties of blended yarn were taken out of the compounded levy scheme. The yarn on which compounded levy was withdrawn from 24 July, 1972 and which was already cleared without payment of duty for use in weaving of fabrics became leviable to duty. Consequently, the total amount of differential duty of Rs. 84,13,376 became recoverable in respect of yarn in stock or used in fibres lying in stock on 24-7-1972 and cleared thereafter.

1.32. Dealing with the question of recovery of differential duty in these cases, the Committee had in Paragraph 9.15 of their 13th Report recommended as follows:—

> "As a result of the amending notification issued on 24 July, 1972, certain varieties of blended yarn were taken out of the compounded levy scheme. Yarn being a separate commodity is excisable before it is converted to fabrics and therefore duty is payable before such yarn is taken to the weaving shed. The yarn on which compounded levy was withdrawn from 24 July, 1972 and which was already cleared without payment of duty for use in weaving of fabrics became leviable to duty in the normal course at effective rates. According to the information furnished by the Ministry, the total amount of differential duty of Rs. 84,13,376 was recoverable in respect of yarn in stock or used in fibres lying in stock on 24 July, 1972 and cleared thereafter. Out of this, an amount of Rs. 45,39,827 is still unrealised due to pending adjudications, appeals and revision applications. The Committee desire that vigorous efforts should be made to finalise the pending cases and recover the outstanding amounts expeditiously. The Committee would like to know the progress made in the realisation of the outstanding amount."

1.33. In their action taken note dated 11-8-1978, the Ministry of Finance (Department of Revenue) have stated:—

> "On re-verification, it is reported that there is a slight difference in the total amount of differential duty recoverable in respect of yarn in stock or used in fabrics lying in stock on 24th July, 1972 and cleared thereafter which works out to Rs. 84,14,386.26 as against Rs. 84,13,376 reported earlier and brought out in this para. (The difference between the figures then reported and now is due

to the change in the amount indicated by Collector of Central Excise, Bangalore, who had earlier reported a figure of Rs. 2,46,914 but on verification revised it to Rs. 2,47,924).

Out of this total amount of Rs. 84,14,386.26 the amount still pending realisation is only Rs. 29,28,841.16. Out of this amounts of Rs. 15,68,087.72 and Rs. 3,37,714.80 pertaining to Baroda and Bombay Collectorates respectively are pending recovery since the parties have gone in revision to the Government. An amount of Rs. 7,28,798.64 is pending in Bombay Collectorate on account of writ petition filed in High Court of Bombay. An amount of Rs. 2,98,240 pertaining to West Bengal Collectorate is pending realisation, since the party's appeal against *de novo* adjudication has been rejected by the Appellate Collector on 1-11-1977."

**1.34. The Committee are unhappy to note that out of total recoverable amount of Rs. 84,14,386.26 on account of differential duty quite a substantial amount of Rs. 29,28,841.16 is still pending realization. While deprecating the lack of serious approach on the part of the authorities to expedite the realization of these huge amounts, the Committee would once again stress that vigorous efforts should be made to secure early finalization of the pending cases and consequential recovery of the amounts involved.**

*Delay in finalization of revised classification list filed by M/s Hindustan Conductors Pvt. Ltd.* (*Paragraph No.* 11.31—*Serial No.* 92)

1.35. Consequent on the issue of amended notification No. 199/75 dated 8 September, 1975, enhancing the limit for the value of plant and machinery installed in a unit to Rs. 10 lakhs for the purpose of getting concession in excise duty on electric wires and cables, M/s Hindustan Conductors Pvt. Ltd. filed a revised classification list, claiming an assessment of exciseable goods on concessional rates under this modification.

1.36. Commenting upon the question of delay in finalization of the revised classification list, the Committee had in Paragraph 11.31 of their 13th Report, observed as follows:

"The Committee have been informed on 16 May 1977 that the unit in question has filed the revised classification list, claiming an assessment of exciseable goods on concessional rate under the amended notification of 8 Septem-

ber 1975. The matter is stated to be under the consideration of the Assistant Collector. The Committee would like to know the decision taken on this classification list."

1.37. The action taken note dated 17-8-1978 furnished by the Department of Revenue, reads as follows:

"It has since been reported by the Collector of Central Excise, Baroda that the classification lists filed by the unit have not yet been approved. However, the assessments are being done at the concessional rate of 4 per cent *ad valorem* on the basis of the earlier approval classification lists. The assessment on the RT-12's are also being accordingly finalised but show cause notices for the differential amount of duty are being issued periodically. Six such show cause notices covering the period from 1-3-1972 to 30-11-77 for total amount of Rs. 16,78,171.52 are reported to have been issued.

It has been further reported that the Audit Party of the Local Accountant General during their visit in January 1976 have again raised an objection in respect of this unit regarding the exclusion of certain items in the calculation of total investment, thus holding that the manufacturer was not entitled for the concessional rate under Notification No. 199/75 dated 8-9-1975. The objection has not been accepted by the Collectorate and the issue is reported to be pending with office of the Accountant General, Gujarat. It has therefore not been possible to finalise the classification lists submitted by the unit after the issue of the amended Notification dated 8-9-1975."

**1.38. The Committee are concerned to note that the revised classification list submitted by a unit on issue of the amended Notification of 8 September, 1975 has not been finalised so far although about 3 years have passed.**

**The Department has issued six show cause notices covering the period from 1-3-1972 to 30-11-1977 for payment of differential amount of duty for Rs. 16,78,171.52. The Committee would emphasize that the Department should take final decision on the revised classification list submitted by the Unit, otherwise the realization of differetail duty may become difficult. The Committee would also like to know whether the Department have since realised the amount of Rs. 16,78,171.52 on account of differential duty.**

## CHAPTER II

## RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

**Recommendation**

The Committee stress that positive and concerted measures should be taken for realising the outstanding arrears. Action may be taken *inter alia* to identify parties (other than Government organisations) who owe arrears of excise duty on tobacco of Rs. 5 lakhs or more. Special attention should also be paid to the effecting of recoveries in older cases where substantial amounts are outstanding for three years or more from parties. Since the number of these cases is not likely to be very large, it should be possible for the Board as well as the Collectors in the field to pay special attention to this matter and take conclusive action to recover the amounts. The Committee also stress the need for ensuring that current dues are recovered in time and not allowed to go into arrears.

[Serial No. 4 (Para 1.41) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

The observations of the Committee in these Paras have been brought to the notice of the Collectors to take suitable and concerted action for bringing down the arrears and to guard against accural of any further arrears. A copy of this Department's D.O.F. No. 234/23/76-CX-7 dated 24-1-1978 to all the Collectors of Central Excise is enclosed (Annexure).

In regard to collection of penal interest on arrears or to levy penalty on the parties because of pending arrears, it is submitted that there are no legal provisions in the Central Excise Law. In this connection reference is invited to this Ministry's 'action taken note' submitted under F. No. 234/17/76-CX-7 dated 28-7-1976 on Para 20.19 (Sl. No. 74) of PAC's 177th (1975-76) (5th Lok Sabha). The Department had indicated therein that the suggestion for amending the Central Excise Laws to provide for levy of interest if the duty was not paid on the due date at the time of clearance of excisable goods or recovery of duties have been stayed by Courts of Law was not feasible in view of the reasons given therein. Subsequently in the 68th Report (1977-78) (6th Lok Sabha) which is a review report on action taken by

Government on the 177th Report, the Committee had indicated that they did not intend to pursue the recommendations contained in Para 20.19 (Serial No. 74) in view of the reply furnished by the Department. As this also covers the suggestion made in Para 1.42 above, the PAC may not wish this suggestion to be further pursued.

[Ministry of Finance (Department of Revenue) letter No. 234/23/78-CX-7 dated 24-5-1978]

*Annexure*

PAC MATTER
MOST IMMEDIATE

H. K. GHOSH,
DEPUTY SECRETARY (PAC)
Tel. No. 373356

D.O.F. No. 234/23/78-CX-7
Ministry of Finance
Department of Revenue
NEW DELHI, 24th Jan. 1978.

Dear Shri

SUBJECT :—*Audit Para No. 24/73/74-variation between estimates actuals—13th Report of PAC (77-78) Sixth Lok Sabha—Paras 1.38 to 1.51*

I am enclosing herewith the PAC observations contained in Paras 1.40, 1.41 and 1.42 of the 13th Report (77-78) (6th Lok Sabha) of the Public Accounts Committee regarding the arrears of revenue in case of unmanufactured tobacco.

It may be seen therefrom, that the Committee have desired that immediate steps should be taken to identify the parties, other than Government organisations, who owe arrears of excise duty on tobacco of Rs. 5 lakhs or more and also pay special attention to wiping out the cases of substantial arrears which are pending for more than 3 years. The Committee also desires that current dues should also be recovered and not allowed to get into arrears. The Committee has also desired that in case of arrears penal interest should be recovered and penalties as admissible under the Rules should be levied to act as a deterrent to others.

Though there are no legal provisions for the collection of penal interest on arrears or to levy penalties on parties because of arrears pending, the Board desires that all out efforts should be made as suggested by the Public Accounts Committee to bring down the arrears to the minimum and guard against mounting of further arrears.

Receipt of this letter may please be acknowledged.

Yours sincerly,
Sd/-
(H. K. GHOSH)

To

All the Collectors of Central Excise.

**Recommendation**

The Committee find that out of the total exports of 367,885 tonnes of tobacco during 1970—75 15,392 tonnes only were of manufactured variety and the rest represent unmanufactured tobacco. Further, the quantity of manufactured tobacco exported during these five years represent a mere 4.2 per cent of the total exports of tobacco. It is also noted that there has hardly been any worthwhile increase in the quantities/value of manufactured tobacco during the last three years. The Committee understand that the increase in exports of manufactured tobacco in 1971-72 and 1972-73 was on account of large exports to USSR. The Committee would like the Tobacco Board and the Government to go into the matter in depth to see why the higher exports could not be sustained in subsequent years so that effective remedial measures can be taken at least to restore the exports to the level reached five years earlier.

[Serial No. 6 (Para 1.43) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

The exports of manufactured tobacco from India during the years 1969-70 to 1976-77 were as follows:

| Year | qty. in Metric tonnes | Value in Rs. lakhs |
|---|---|---|
| 1969-70 | 1447 | 64·57 |
| 1970-71 | 2280 | 116·37 |
| 1971-72 | 3608 | 283·38 |
| 1972-73 | 3613 | 279·81 |
| 1973-74 | 2929 | 250·04 |
| 1974-75 | 2974 | 186·40 |
| 1975-76 | 4181 | 526·75 |
| 1976-77 | 5469 | 548·44 |

2. It will be observed from the above figures that the temporary fall in exports of manufactured tobacco registered during 1973-74 and 1974-75 as compared to 1971-72 and 1972-73, had been more than made up during 1975-76 and 1976-77 when the exports both in terms of quantity and value were substantially more than the levels reached earlier. The fall in exports during 1973-74 and 1974-75 was due to less quantity of cigarettes shipped to USSR. However, notwithstanding the increasing trend in exports registered in subsequent years, it is recognised that the proportion of manufactured tobacco in total tobacco exports is still very small—about 5 per cent only—and there is a need for sustained efforts for increasing this proportion. As a first step in this direction, the Tobacco Board has been advised to formulate a proposal for consideration by the Government for sending a study team to West Asian and West European countries for making a study of the consumer preferences, tariff structures and other related matters with a view to exploring export potential for our various tobacco products in those countries and for recommending a suitable plan of action aimed at full exploitation of the potential which the study may reveal.

[Ministry of Commerce, Civil Supply and Cooperation (Department of Commerce) letter No. 4/16/77-EP (Agri-vi) dated 27-4-1978]

**Recommendation**

The Committee feel greatly concerned that all these years inspite of the fact that as stated by the national commission on Agriculture that India is capable of producing the best quality tobacco and also in view of the fact that India is one of the major producers of tobacco in the world, India has not so far been able to make appreciable headway in the export of manufactured tobacco. The Committee feel that with a little effort and attention, Indian manufacturers could produce competitive quality of cigarettes, cheroots, cigars, export quality bidis, smoking mixtures etc. and with its comparatively lesser cost of production due to availablity of cheap labour, India could establish itself as a main exporter of tobacco products in the world. The Committee would like to point out that this has not been possible due to some vested interests which seem to have been engaged more in exporting mainly to their foreign affiliates. If this has not been so, the staggering figure of manufactured tobacco exported remaining 5 per cent all these years could not have been. The Committee would, therefore, strongly recommend the Government to give urgent attention to the need of increasing the proportion of manufactured tobacco export which is capable of earning much larger foreign exchange.

[Serial No. 7 (Para 1.44) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

Action Taken

It is a fact that our tobacco exports are primarily in the form of unmanufactured tobacco. This is so because in the world tobacco trade in general, preference is for unmanufactured tobacco rather than manfactured tobacco products. At present Indian exports of manufactured tobacco products are confined mainly to manufactured Hookah or Gooduku tobacco and cigarettes. Gooduku tobacco exports are to the Middle East countries while cigarette exports are mainly directed towards East European countries. Though our exports of tobacco products have risen from 2280 Metric tonnes and Rs. 116.37 lakhs during 1970-71 to 5469 Metric tonnes and Rs. 548.44 lakhs during 1976-77, any substantial step up in exports in this field is considered difficult for the following reasons:

(i) International trade in manufactured tobacco products is comparatively small. It is mostly confined to cigarettes, cigars and cigarillos. The International trade in other types of manufactured tobacco products is extremely limited.

(ii) The cigarette industry in the world and export trade thereon is basically controlled by international cartels. The British companies such as Gallaher Ltd., Imperial Group Ltd., British American Tobacco Company Ltd., Rothmans International Group and the American companies such as Lorillard, R. J. Reynolds, Liggett & Myers; Phillip Morris etc. have established a net work of cigarette factories in a number of countries either directly or through interconnecting interests and these companies with their vast resources and technological know-how are able to command the world trade in cigarettes.

(iii) Export trade in cigarettes depends to a considerable extent on brand images which need wide publicity and the Indian companies with limited resources find it very difficult to compete with powerful international cartels.

(iv) There are a numbear of tariff and non-tariff barriers which give protection to indigenous cigarette industry.

(v) The international export trade in cigarettes is mostly in the form of blended cigarettes in the manufacture of which highly flavourful American tobacco is used alongwith tobacco from other sources.

2. Government shares the concern of the Committee about the low proportion of manufactured tobacco in our tobacco exports and of the

need to consider ways and means for increasing this proportin. As a first step in this direction, as indicated in reply to para 1.43 of the Report, it is propose to send a Study Team of the Tobacco Board to Wtst Asian and West European countries for studying the market situation in those countries and for recommending a plan of action aimed at full exploitation of the potential for increasing exports of our tobacco products in those markets.

[Ministry of Commerce Civil Supplies and Co-operation (Department of Commerce) letter No. 4/16/77-EP (Agri.vi) dated 27-4-78]

**Recommendation**

The Committee note that the Tobacco Industry has a very large installed capacity for the manufacture of cigarettes and had also the requisite expertise. What is necessary is to closely study the consumers' preference and the tariff structure of the chief consumers of manufacture tobacco, particularly for cigarettes, cigars and cheroots, export quality bidis, smoking mixtures etc. so that the potential for larger exports of manufactured tobacco could be located and developed.

[Sl. No. 8 (Para 1.45) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha]

**Action Taken**

The Government accept the recommendation of the Committee in regard to the need for a study of the consumers' preferences, tariff structures and other related matters with a view to locating and developing potential for larger exports of manufactured tobacco. As already indicated in the Action Taken Note on the recommendation contained in para. 1.43 of the report, it is proposed to send a study team of the Tobacco Board to West Asian and West European countries for studying the market situation including consumer preferences, tariff structures, etc. in those countries for various tobacco products and for recommending a detailed plan of action aimed at full exploitation of the potential that the study may reveal. The Tobacco Board has been advised to prepare a detailed programme for the proposed study in consultation with the Indian Institute of Foreign Trade.

[Ministry of Commerce, Civil Supplies and Co-operation (Department of Commerce) letter No. 4/16/77-EP (Agri.vi) dated 27-4-1978]

**Recommendations**

The Committee would like the Tobacco Board, set up earlier last year, to study the export problem in depth and take concerted measures in consultation with Government and the manufacturers so that exports could be stepped up and larger foreign exchange and also higher unit value could be earned. The Committee stress that in stepping up exports, Indian-owned companies should be given preference and all requisite facilities so that their share in the export market could increase.

[Sl. No. 9 (Para 1.46) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action taken**

The recommendation has been brought to the notice of the Chairman, Tobacco Board who has stated that the Board in the first instance wants to concentrae its efforts on export of bidis for which it proposed to hold discussions with exporters of bidis to find out ways and means of steping up exports of this product. The results of the proposed study mentioned in the Action Taken Note relating to the recommendation contained in para 1.45 of the Report will also help in identifying the problem faced by tobacco products and in taking concerted measures in stepping up their exports. As regards the recommendation of the Committee that in stepping up exports, Indian owned companies should be given preference and all requisite facilities so that their share in the export market could increase, it may be submitted that after reduction of foreign share holdings to less than 40 per cent by M/s. ITC Ltd. and M/s. Vazir Sultan Tobacco Co. Ltd., the only foreign company left in the field is now Godfrey Phillips. The latter company has also been directed by the Reserve Bank of India to reduce the foreign equity to a level not exceeding 40 per cent.

[Ministry of Commerce, Civil Supplies and Co-operation (Department of Commerce) letter No. 4/16/77-EP (Agri vi) dated 27-4-1978]

**Recommendations**

The Committee note that the unit value realised for Indian tobacco was only 40 pence per pound in 1974 as compared to 55—69 pence per pound fetched by tobacco originating from USA, Canada, Zambia and Malawi. This difference has been explained by the Ministry to be due to the higher equality of tobacco supplied by these other countries. The Committee understand that the National Commission

on Agriculture have cited the 'common knowledge' that India's exported VFC varieties rank among the best in the world and compare favourably with those supplied by USA and other developed tobacco producing countries. The Committee would like Government/Tobacco Board to redouble their efforts to realise higher unit value for Indian exports of tobacco. The Committee also feel that it should have been possible for our country with experience of scores of years of growing tobacco and the expertise developed in recent years in the agricultural field to encourage cultivation and production of export quality tobacco in soil and climatic conditions best suited to it. The Committee stress that there should be closer co-ordination between the Tobacco Board and the State Departments of Agriculture, agricultural institutions, extension agencies etc. so as to disseminate the information to the agriculturists and encourage them, to take to the cultivation of export quality tobacco. Now that the Tobacco Board has been established and combines in itself the responsibility for export of tobacco as well as encouraging production of tobacco indigenously, it should be possible to evolve the requisite strategy, field practices and package of services which would bring about the desired change. The Committee would like the Tobacco Board and the Ministry to specifically mention in their Annual Report the progress made in augmenting the cultivation of export-quality tobacco and the success achieved in realising higher unit value therefor.

[Sl. No. 10 (Para 1.47) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action taken**

The unit value realisation of Indian tobacco has been progressively showing a healthy trend as will be evident from the fact that it increased by 88.7 per cent from Rs. 3·19 per kg. in 1960-61 to Rs. 6.02 per kg. in 1969-70. From Rs. 6·02 per kg. in 1969-70 it went up by 100 per cent at Rs. 12.04 during 1976-77 or by 277.4 per cent when compared to 1960-61. On the basis of provisional export figures compiled by the Tobacco Board for the period April, 1977 to February, 1978, the average unit value realised by our tobacco during this period works out to Rs. 14.80 per kg. showing sizeable further gain.

2. Through the mechanism of minimum export prices, the Government and the Tobacco Board are making every effort to ensure that Indian tobacco realises higher unit value. These prices are reviewed every year by the Government on the recommendation of the Tobacco Board and enhanced suitably when necessary. After the establish-

ment of the Board in 1976, these prices have been enhanced twice during 1977 and 1978.

3. Our tobacco may be comparable in certain respects to best tobacco produced elsewhere but not necessarily in all respects. The foreign customer perhaps prefers and puts a high value on tobacco produced in USA or in some other countries because of some special characteristics of that tobacco. Efforts will however continue to improve further the quality of our own tobacco to the extent possible under the available soil and climatic conditions. Necessary effort to increase production of such varieties as have a better export demand and fetch better prices, are already being made by the Government. For increasing the production of exportable quality tobacco in soil and climatic conditions best suited to it, Government of India have already taken up a Centrally Sponsored Scheme to extend the cultivation of VFC tobacco in new light soil areas of Andhra Pradesh, Karnataka, Gujarat and Uttar Pradesh, as this tobacco is prepared by the export trade. VFC tobacco produced in light soil is considered ripe, open grained, full bodied and matured in quality with leaf nicotine and sugar percentages within acceptable limits. During 1976-77, 58220 hectares or about 40 per cent of the total acreage under VFC tobacco in the country was in light soils. Tobacco produced in light soil areas is preferred by the export trade due to quality characteristics mentioned above. It is proposed to increase further the VFC tobacco acreage in light soil area gradually during the coming years. The total coverage under this scheme during 1977-78 is estimated to have been 79,422 hectares with an estimated production of 58710 tonnes.

4. Necessary co-ordination already exsits between the Tobacco Board, Directorate of Tobacco Development (under the Ministry of Agriculture and Irrigation), State Agriculture Departments; ,Agricultural Institutions, extension services, etc. Director, Tobacco Development, Madras, Director, Central Tobacco Research Institute, Rajahmundry, Agricultural Departments of State Governments of Andhra Pradesh and Karnataka as well as, two other State Government (at present Maharashtra and Orissa), are represented on the Tobacco Board as its Members and they contribute to the formulation of policies of the Tobacco Board.

5. The recommendation of the Committee for indicating the progress made in augmenting the cultivatioin of export quality tobacco and the success achieved in realising higher unit value therefor, has been already commenced. The Annual Administrative Report of this

Ministry for the year 1977-78 mentions the progress made in this regard during that year.

[Ministry of Commerce, Civil Supplies and Co-operation (Department of Co-operation) letter No. 4/16/77 EP (Agri. vi) dated 27-4-1978]

**Recommendation**

The Committee are concerned to note that even though there are 16 cigarette manufacturing companies in the country, 78 per cent of the country's total cigarette production is still controlled by just three foreign major companies. There are also reports that the foreign companies indulge in restrictive trade practices like price cutting of its brands of cigarettes, thereby unfairly harming the rival Indian manufacturing units. A complaint against M/s. ITC Ltd. in this behalf is at present under investigation by the MRTP Commission.

The Committee also learnt during evidence that the foreign companies are more interested in the domestic market and whatever exports of manufactured tobacco they do appear to be virtually under compulsion. The committee would like to draw the pointed attention of Government to the above facts and stress the need for taking effective action under the law particularly the Foreign Exchange Regulation Act etc. to check and eliminate the dominant position of the foreign owned companies. Government should see that the Indian manufacturing units are given their rightful place both in the internal and external trade.

[Sr. No. 11 (Para 1.48) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action taken**

The observations contained in this Para were brought to the notice of the Deptt. of Economic Affairs (Ministry of Finance), the Deptt. of Industrial Development (Ministry of Industry) and the Deptt. of Commerce, (Ministry of Commerce, Civil Supplies and Co-operation) for their information and views.

It has been reported that in terms of the guidelines laid down for administration of Section 29 of the FERA, the three foreign Companies manufacturing cigarettes namely I. T. C., Wazir Sultan and Godfrey Phillips were directed to reduce their non-resident interest to 40 per cent. I. T. C. and Wazir Sultan have already complied with the requirement by reducing the foreign share holding to less than 40 per cent. Godfrey Phillips is yet to comply with this

direction. However, the Reserve Bank of India have directed Messrs. Godfrey Phillips to reduce the foreign equity to a level not exceeding 40 per cent within a period of one year with effect from the date of receipt of the letter dated 18-2-1977 and is vigorously pursuing the matter with them. This dilution would have the effect of restricting the foreign exchange out-go substantially.

The Department of Industrial Development, Ministry of Industry have also furnished a table as indicated below which gives the position of production of cigarette on the basis of the records obtained in D.G.T.D. in respect of these three Companies.

| Name of the Company | Production (in million pieces) | | | Percentage of total production of 1977 |
|---|---|---|---|---|
| | 1975 | 1976 | 1977 | |
| (i) ITC Ltd. (5 units) . . . | 29831 | 33153 | 36516 (estimated) | 53·3 |
| (ii) Wazir Sultan Tobacco Co. Ltd. Hyderabad . . . . . | 12578 | 13366 | 13228 | 19·3 |
| (iii) Godfrey Phillips . . . . | 3632 | 4046 | 3427 | 5·0 |
| (iv) Total production of cigarette industry in the country . . . | 59374 | 67563 | 68500 | |

It has been further stated by the Deptt. of Industrial Development that "Even though the position as pointed out by the PAC would have been correct earlier from the statement of production given above it will be seen that there is a definite change in the position during the year 1977. It will be observed that M/s. Godfrey Phillips, the only foreign owned company has accounted for a production of 3,427 million pieces of cigarettes as against the total estimated production of 68,500 million pieces of cigarettes during the year 1977 which works out to roughly 5 per cent of the total estimated production for 1977. As regards the recommendation of the Committee that the Indian manufacturing units should be given their rightful place in the internal and external trade, this recommendation would be kept in view whenever requests either for the import of machinery or for other forms of assistance are received from the Indian firms."

The Ministry of Commerce have indicated that they do not have any comments in this regard.

**[Ministry of Finance (Department of Revenue) letter No. 234/23/78-ex. 7 dated 26-6-1978]**

**Recommendation**

The Committee are greatly concerned to find that even in exports of unmanufactured tobacco it is the Indian Leaf Tobacco Development Co. Ltd., a multinational concern which occupies a dominant position accounting for export of the manufactured tobacco to the tune of Rs. 198 million (Approximately) out of the total exports for Rs. 684 million during 1973-74. As already earlier stressed the Committee would like the Tabocco Board to take a leading role to increase exports of tobacco so that foreign owned companies do not continue to dominate this field.

[Sl. No. 12 (Para 1.49) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action taken**

It is true that bulk of the exports of unmanufactured tobacco is handled at present by a small number of big exporters. The export of tobacco is permitted freely subject to observance of minimum export price and registration of the exporters with the Tobacco Board. The Government have also been feeling the need for reducing the dominant influence enjoyed by the large exporters in this field and for this purpose the State Trading Corporation is already being encouraged to progressively increase its involvement in the tobacco export trade. Against a quantity of about 2,400 metric tonnes exported by S. T. C. during 1977-78, they plan to export 5,000 metric tonnes during 1978-79. The present policy of the Government is that the Tobacco Board should primarily play a regulatory and promotional role rather than involving itself directly in commercial operations and STC should in course of time emerge as a leading tobacco exporter in the public sector.

[Ministry of Commerce, Civil Supplies and Co-operation letter No. 4/16/77-EP (Agri-vi) dated 27 4-1978]

**Recommendations**

The Committee note that there was a perceptible increase in the import of tobacco from 28,000 kgs. in 1970-71 valued at Rs. 39,000 and 98,000 kgs. in 1974-75 valued at Rs. 2,79,000. The Committee also observe that the unit value of imported tobacco has increased from Rs. 1.44 per kg. in 1970-71 to Rs. 21.27 per kg. in 1974-75 as against the increase in the unit value of tobacco exported from Rs. 6.61 per kg. to Rs. 10.72 per kg. over the corresponding period. The Committee have earlier stressed the need for developing quality tobacco within the country. They see no reason

why it should not be possible to grow the quality of tobacco which is at present being imported so that it can serve the purpose of blending in the manufacture of tobacco, cigarettes etc. The Committee would like the Tobacco Board and the Government to take concerted measures in this behalf so that self-reliance is attained at the earliest. The Committee also stress that before permitting import of any tobacco, Government should satisfy itself that the quality of tobacco which is desired to be imported is not produced and available in the country. Secondly, if some special quality tobacco is permitted to be imported, then care should be taken to see that it is procured at the most competitive rates and that it is used for the purpose for which it is imported.

[Sl. No. 13 (Para 1.50) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action taken**

The tobacco imports into the country constitute a very small proportion of our total exports of tobacco. The quantity of 98,000 kgs. imported during 1974-75 constituted only 0.13 per cent of our exports. The import is being permitted for blending purposes against exports of cigarettes and cigars only. The small quantities of imports for blending purposes so as to cater to the needs of the foreign buyers of our manufactured tobacco products need not affect the question of self-reliance. Even GRA the largest producer of tobacco which exported 256 mil. kgs. of tobacco during 1975, had imported 146 mil. kgs. during that year constituting 57 per cent of its exports. Similarly other major producers and exporters of tobocco do import considerable quantities of tobacco from other countries including India. However, the recommendations of the Committee were duly kept in view in formulating the new import policy for the year 1978-79 and apart from including unmanufactured tobacco, including wrapper tobacco, in the list of banned items, so as to emphasise that the import of this item is not ordinarily permissible, the rate of import replenishment under the Policy for Registered Exporters has been reduced in the case of cigarettes, which constitutes the major item of export of tobacco products eligible for import of tobacco, from 10 per cent to 5 per cent.

[Ministry of Commerce, Civil Supplies and Cooperation (Department of Cooperation) letter No. 4/16/77-EP (Agri.-vi) dated 27-4-1978.]

**Recommendations**

A complaint was made by the producers of tobacco for not having been paid their dues in time by the exporting companies in Andhra Pradesh. The enquiry conducted by the State Government, at the instance of Ministry of Commerce, revealed that there was some delay on the part of the exporter, an Indian company in settling the dues of the farmers in respect of purchase of tobacco. The Committee have been assured that through a scheme of registration of exporters and dealers of tobacco, the Tobacco Board intends to keep a watch on the timely payments being made to the growers for the tobacco purchased from them by the exporters and dealers registered with the Board. The Committee also recommend that Government should ensure that the producers get remunerative and fair prices for their produce so as to give them incentive for the cultivation of quality tobacco.

[Sl. No. 14 (Para 1.51) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)].

**Action taken**

In order to ensure accelerated payments to the growers of virginia tobacco, the Tobacco Board introduced with effect from 1st January, 1978 a scheme known as the tobacco leaf purchase voucher scheme. This scheme provided for payment of 50 per cent of the price by the buyers to the growers within 7 days from the date of sale and the balance 50 per cent in two instalments within a period of 90 days. Because of certain difficulties pointed out by the trade, the implementation of the scheme during the current season was modified by allowing payments in cash also instead of by cheques alone as originally stipulated, and by extending the period for payments of the balance purchase consideration after the initial payment of 50 per cent, from 90 days to 150 days. For ensuring remunerative prices to the growers, the Tobacco Board has been announcing indicative prices. There are, however, at present no statutory minimum prices for the growers. The Government consider that suitable grading at farmers' level and setting up of auction platforms for sale of virginia tobacco will constitute important steps in the direction of ensuring remunerative prices for the growers. The Tobacco Board has evolved 8 standard farm grades which it will try to popularies among the farmers in the coming months. As regards the establishment of auction platforms by the Tobacco Board, the Tobacco Board Act, 1975 has been amended on 30-8-1978 vide Tobacco Board (Amendment) Act, 1978

(Act No. 36 of 1978) which *inter-alia* provides for establishment of auction platforms by the Tobacco Board.

[Ministry of Commerce, Civil Supplies and Cooperation (Department of Commerce) O. M. No. 4/16/77 CP (Agri, VI) dated 25-9-1978].

**Recommendations**

*Para* 2.49.—The least that can be done is to learn the lesson from this costly lapse. It should be obligatory for the Department of Revenue to thoroughly review the collection of excise duty in respect of major commodities in consultation and in coordination with all other Government agencies concerned so as to pin point the constraints or difficulties which are coming in the way of recovery of the duty and to suggest concrete remedial measures for overcoming them. The Committee would like to be informed of the measures taken, or proposed to be taken by Government to obviate recurrence of such costly lapses.

*Para* 2.53.—The Committee stress that Government should take a lesson from this grave lapse and see that in future concerted measures are taken to plug all loopholes while changing the incidence/Rate of excise duty.

[Sl. Nos. 21 and 26 (Paras 2.49 and 2.53) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)].

**Action taken**

*Para* 2.49.—The review contemplated by the PAC in observations made in this para, is a continuous process and, in the light of contemporary facts and experience gained from time to time, changes are effected in respect of levy and collection of indirect taxes. As and when need arises, other Government agencies are also consulted before action is taken. In the recent past, the Central Excise (SRP) Review Committee, the Tobacco Excise Tariff Committee and the Indirect Taxation Enquiry Committee have gone into the question of levy and collection of Central Excise Duties. A number of steps have already been taken to improve the collection of Central Excise duties. Further, the report of the ITEC is presently under consideration of the Government and decisions on the recommendations made by the Committee will be announced in due course.

*Paras* 2.52 *and* 2.53.—Changes in the Central Excise Tariff are made after taking all Relevant factors and considerations into account. Remedial measures to take care of emerging situations at particular points of time are taken without any avoidable delay,

in the light of fresh facts that may come to notice. This is a continuing process.

[Ministry of Finance (Department of Revenue) letter No. 234/18/78-CX. 7 dated 4-7-78].

**Recommendations**

*Para* 2.51.—The recommendation/observation has been noted for changing the point/basis of levy of excise duty, the practical implications thereof should be gone into fully, so that no loopholes are left for evasion of duty.

*Para* 2.58.—The Committee's recommendation regarding the re- high and these prices are subject to fluctuations due to various reasons including international prices of import, the cost of production in the country, demand and supply etc. The Committee would like the Department of Revenue to have standing arrangements with the Textile Commissioner and all organisations concerned so as to keep under continuous review the prices of art silk yarn, art silk fabrics, etc. so that *ad valorem* duty could be suitably revised in time in the interest of safeguarding revenue interest. The Committee stress that at any rate there should be an arrangement whereby in all major cases of levy of excise duty on *ad valorem* rate, tariff values are reviewed at least once a year at a high level in consultation with all concerned.

[Sl. Nos. 23 & 30 (Paras 2.51 and 2.58) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)].

**Action taken**

*Para No.* 2.51.—The Committee desire that in future while future guidance.

*Para* 2.58.—The prices of art silk yarn/art silk fabrics are view of prices of art silk yarn and art silk fabrics so as to enable suitable revision of the *ad valorem* duty has been noted.

Regarding timely review and fixation of tariff values, it may be mentioned that instructions have already been issued to all the Collectors to furnish necessary data to the Directorate of Statistics & Intelligence. There is also a prescribed time schedule for submission of tariff value statements by the field formations to the Directorate of Statistics & Intelligence and by the latter to the Board.

[Ministry of Finance (Department of Revenue) letter No. 234/18/78 CX. 7 dated 11-8-79].

**Recommendations**

The Committee note that additional excise duty in lieu of sales tax continues to be levied on fabrics. The amount realised from the additional excise duty is disbursed to the State Governments in lieu of sales tax. The Finance Secretary conceded during evidence that evasion from the incidence of additional excise duty could not be ruled out. The Committee feel that the Central Government is duty bound to take effective measures to see that additional excise duty is realised in full and the amount disbursed to State Governments who have entrusted this responsibility to the centre.

[Sl. No. 26 (Para 2.54) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)].

**Action taken**

It is true that there is an obligation on the part of the Central Government and the Excise Department to ensure that additional excise duty is realised in full, so that the correct amount may be disbursed to the State Governments. It is respectfully submitted that the Central Excise Department has an equal responsibility in regard to all excise duties, whether the proceeds accrue wholly to the State Governments as in the case of the Additional Excise duty or partly to the State Governments and partly to the Central Government as in the case of the basic excise duty, and it is considered as one of the basic function of the Department to take all possible measures to realise the correct amount of excise duty. Several instructions have been issued to field formations from time to time in regard to checking evasion of duty. The Collectors were also addressed by F. No. 224/7/75-CX-6 dated 24-3-1975, drawing their attention to the possibility of evasion of duty and directing them to corelate the total grey production of art silk fabrics with the quantity process without the aid of machines (taking into consideration the capacity and the total number of such units) plus the quantity exported under bound in grey form and the processed production reported in the Central Excise returns. The necessity to maintain constant vigilance in areas with a concentration of processing units by paying surprise visits at different times and at odd hours etc. to detect any attempts at evasion of duty was also impressed upon them.

[Ministry of Finance (Department of Revenue) letter No. 234/18/78-CX-7 dated 29-5-1978].

**Recommendations**

Para 3.37. With regard to ensuring compliance with the Budgetary instructions and consequential changes, the Committee learn that it is the responsibility of field formation to implement the instruction and the Collectors are responsible for ensuring compliance. The Ministry of Finance is required to keep itself posted with the latestp osition through the Directorate of Inspection and Statistics and Intelligence and the Ministry is also required to resolve the practical difficulties which may be experienced by the field formation during the implementation of the Budgetary instruction. The Committee have also been assured by the Ministry that the Director of Inspection conducts sample surveys to see that generally Budgetary instructions are correctly implemented. It is surprising and disturbing that in spite of such elaborate arrangements, evasion of duty by Binny Mills, a powerfull and prosperous mill, should have remained undetected.

Para 3.38. The Committee learnt that according to the Board's orders, units coming under Assessment-cum-Inspections Groups are to be visited by Internal Audit Party once a year. The unit was visited by Internal Audit Party between 8 March, 1973 to 17 March but they did not have the opportunity to find out the irregularity since the classification list was filed on 15 March, 1973, and approved on 19 March, 1973 after the completion of the audit by the Internal Audit Party. The Committee are unhappy that during the period from March, 1973 to June, 1974 there was no other visit by the Internal Audit Party or Assessment-cum-Inspection Groups. The plea cannot be accepted that the excise officers dealing with the group of Binny Mills are greatly overworked. It is, indeed, incumbent on the authorities concerned to see that appropriate staff is deployed for exercising effective check on mills, particularly the bigger mills that have the resources often to get away. The Committee are not satisfied with the belated steps, now claimed to have been taken by the Central Board of Excise & Customs, to strengthen the excise machinery for the Binny Mills. They urge that no efforts should be spared to ensure that Binny and other such big mills are brought under effective excise surveillance in the larger public interest.

Para 3.39. According to audit the duty evaded in the present case was of the order of Rs. 27,800. A show cause notice was also issued by the Collectorate of Excise and Customs to Binny Mills, Madras, in Feb., 1974. It was, however, stated that no further verification it had been found that the short levy in fact worked out to Rs. 65,564 and

this demand had been confirmed to the party on 8 May, 1975. The Mill had paid Rs. 65,564 under protest.

Para 3.40. During the course of evidence a point was raised whe ther the short levy covered all the varieties which had escaped correct assessment. The information of audit was that there were as many as 4 varieties involved. The Ministry have, intimated that there were only three varieties, Tosca, Neptune and Jupiter. However, on further investigation, it has been found by the Ministry that the Mills had not paid the appropriate excise duty on fents having regard to the contents of fabrics falling under tariff item 19-I (IA) for the period from 1 March, 1973 to 30 November, 1973 and on this account a further amount of Rs. 6,897 had been raised and recovered.

Para 3.41. The Committee would like the Central Board of Excise and Customs to make sure that at least now, excise duty at appropriate rates has been levied for all the varieties of fabrics falling within the ambit of tariff item 19-I(IA) and the amounts recovered. The Committee would like to be specifically informed in the matter.

Para 3.43. The sequence of events with regard to the issue of the clarification indicates that there was undue and avoidable delay at the various stages. For instance, on receipt of the duplicate copy of the original letter from the Collector of Central Excise, Baroda in the Board's office on 30 October, 1973, its initial examination in that office continued upto 12 March, 1974. Thereafter making of a reference to the Ministry of Law for advice took more than two months. The advice of the Ministry of Law was received in the Board's office on 9 April, 1974 and it remained under examination for two months. Similarly the other stages of examination of the case took quite a lot of time delaying the matter considerably. The Committee are not hapyy over such a state of affairs and desire that clarifications, sought by the Collectorates from the Board should be disposed of expeditiously. The Committee need hardly point out that such clarifications are not only applicable to the Collectorate seeking direction but to the other Collectorates and as the present case of Binny Mills, Madras has shown delay in clarification means non-realisation of correct levy for a long time.

Para No. 3.44. The Committee are greatly concerned to find that Binny Mills, Madras filed a wrong classification list with the excise officials in 1973 after item 19-I(1A) was included in the tariff with effect from 1 March, 1973. The construction details of the fabrics were not given. It had also not been indicated whether the Mills had paid the yarn duty. The Mill had also not clearly stated the extent of pure cotton being used in the fabrics.

Para 3.45. Apart from this instance there has been another similar case concerning this very mill in Bangalore Collectorate, where sample varieties of cotton suitings with a blend of more than 30 per cent of terene and which fell within the ambit of 19-I(IA) were wrongly cleared under 19-I(1A). Though the short levy in that case amounted only to Rs. 54 this is indicative of the fact that Binny Mills consistently adopted incorrect classification for the purpose of tariff duty for their cotton fabrics.

Para 3.47. The Committee have already pointed out earlier that the excise surveillance machinery should be adequate to the requirements and had this been the case the excise duty would have been recovered *abinitio* at the appropriate rates and the mils not allowed to clear them in the manner they have done.

Para 3.48. The Committee are deeply concerned to learn from the Ministry that in one of the cases: "The mills cleared the goods without filing the classification list and by alleged wilful suppression of material facts while submitting classification list with the intent to evade payment of legitimate excise duty thereon." The Committee would like the Central Board of Excise and Customs to take a clue from this case and alert their field organisations so as to ensure that no loop-holes are left in the matter of scrutiny of the classification list and levy and collection of excise duty and deterrent action is taken as admissible under the rules for any suppression of material facts or wilful evasion of duty. The Committee would like to be informed of the concrete measures taken in pursuance of their recommendations.

[Serial Nos. 34 to 38, 40 to 42 and 44-45 (Paras 3.37 to 3.41, 3.43 to 3.45 and 3.47-3.48) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

Action Taken

Para No. 3.37. In this regard, the Collector of Central Excise, Madras has already issued suitable instructions to the field formations to ensure that the budget instructions are properly and correctly implemented.

The Directorate of Inspection has confirmed that the officers of its South Regional Unit did conduct a post budget survey of the various commodities affected by the 1973 including the new sub-item (1A) introduced under tariff item 19-I. During the survey M/s. Binny Mills were also visited. It is further reported that in regard to the classification of fabrics under the new sub-item 19-(1A) there was no difficulty as the budget instructions by themselves were clear on the subject. M/s. Binny Mills had however raised a point regarding the

assessment of yarn used in the manufacture of such goods in their letter dated 22-3-1973 addressed to the Collector of Central Excise, Madras. As the Collectorate was already seized of the matter it was felt that it might not be proper to go into the subject any further. The assessee had represented for relief in excise duty on yarn used in the manufacture of this new item on the plea that it was paying duty at the spindle stage as well as at the final stage of fabrics 12.5 per cent *ad valorem* which included the element of yarn duty. This representation indicated that it was paying duty at the spindle stage and, therefore, its South Regional Unit did not think of any other practice being actually followed by the assessee. As already explained in reply to point 51 of the list of points arising out of evidence tendered before the Committee *vide* this Department's letter F. No. 234/29/76-CX-7 dated 26-3-1976 since the classification list did not contain the fabrics construction details including the use of fibre cotton yarn in the fabrics, the irregularity had not come to the notice of the officer while approving the classification list. It has also been mentioned in reply to Paras 3.34 to 3.36 above, the Assessment-cum-Inspection Group did not visit the unit due to heavy pressure of work and inadequecy of staff and hence this had not come to their notice also.

Point No. 3.38. The Committee's observation contained in this para that no efforts should be spared to ensure that Binny and such other big mills are brought under effective excise surveillance have been noted and suitable instructions (copy enclosed as Annexure-1) have again been issued to the Collectors.

Paras 3.39 to 3.41. On receipt of the Audit report from the Comptroller & Auditor General of India for the year 1973-74 it was verified with all the Collectors of Central Excise and noticed that besides the case referred to in the audit para which occurred in M/s. Binny Ltd., Madras, there was one more case of such arroneous assessment. This had occurred in the factory of M/s. Binny Ltd. in the Bangalore Central Excise Collectorate. It has now been reported by the Collectorates of Central Excise, Madras and Bangalore that on verification it has been ascertained that duty at the appropriate rates on all varieties of cotton fabrics under tariff item 19-I(1A) has been levied. It is also reported by the Collector of Central Excise, Bangalore that the duty amounting to Rs. 54.85 had since been realised on 24-2-1976.

Para 3.43. The Committee's observation/recommendations contained in this para that the clarification sought by the Collectorates from the Board should be disposed of expeditiously have been noted for future guidance.

Paras 3.44 & 3.45. While it is true that the Mills had not given detailed constructional particulars of fabrics in the classification list filed by them, as already pointed out in reply to Para 3.37 above, the Collectors of Central Excise, Madras and Bangalore have reported on verification that duty at appropriate rate has been levied. It has also been reported by the Collector of Madras that construction details, are now being given in the classification lists filed by the assessee (M/s. Binny Mills).

Paras 3.47 & 3.48. In persuance of the Committee's recommendations in this regard suitable instructions have been issued to Collectors of a copy which is enclosed as Annexure-I.

[Ministry of Finance (Department of Revenue) letter No. 234/6/78/CX-7 dated 1-6-1978]

ANNEXURE-I

Circular No. 7/78-CX-6

F. No. 202/6(M)/78-CX-6

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPTT. OF REVENUE)

*New Delhi, the 17th March*, 1978.

To

All Collectors of Central Excise

Sir,

SUB: *Recommendations of PAC made in the 13th Report (1977-78) on Audit Para 72/73-74 relating to classification lists and effective surveillance of bigger units.*

The Public Accounts Committee while commenting on the aforesaid audit para in their 13th Report had in paras 3.38 and 3.47 to 3.48 desired that there should be a greater degree of surveillance over the bigger units and that great care should be taken while approving classification lists so that loss to Government revenue could be avoided.

2. As regards proper approval of classification lists a number of instructions have been issued reiterating the need for great care and scrutiny at the time of approval of such lists to ensure their correct

approval. In this connection your attention is invited to the following instructions issued by the Board:—

| | |
|---|---|
| F. No. 202/60/M/77-CX-6 . . . . . | dt. 15-12-77 |
| F. No. 202/26/M/77-CX-6 . . . . . | dt. 22-7-1977 |
| F. No. 202/35/75-CX-6 . . . . . | dt. 21-6-76 |
| F. No. 202/22/74/CX-6 . . . . . | dt. 15-6-75 |
| F. No. 223/16/71-CX-6 . . . . . | dt. 17-1-73 |
| F. No. 223/16/71-CX-6 . . . . . | dt. 20-10-72 |
| F. No. 223/16/71-CX-6 . . . . . | dt. 26-7-72 |

3. It is again reiterated that in the case of complicated items the Assistant Collector must continue to be the Proper Officer for approving the classification lists and specially in the case of textile this authority should under no circumstances be delegated to the Superintendent of Central Excise. Classification lists should in such cases be approved after careful verification of the facts stated therein by the manufacturer, to ensure that no mis-declaration having an adverce effect on the revenue has been made therein.

4. As regards exercising greater suveillance on the bigger units your attention is drawn to the recent instructions issued by the Board on the RBC/PBC pattern of contol. Textiles would be cover under the PBC pattern of control and due care should be taken by the field officers to ensure proper checks. The officers should regularly visit the units for supervision of production at various stages and at this time also take care to see that the goods being produced conform to the classification lists.

5. Internal Audit Parties when visiting these units should also take due care and ensure that the classification lists have in fact been correctly approved by the Central Excise Officers. AC (Audit)/Valuation are also required to undertake necessary checks on receipts of the classification lists duly approved from the field formations to ensure that the same have been approved correctly. There should be no let up on checks in this regard and great care should continue to be taken so that risk to revenue minimised to the greatest extent possible.

Yours faithfully,
Sd/-
K. D. TAYAD,

Copy forwarded to:—

1. The Dir. of Inspection Customs and Central Excise, New Delhi.
2. Dir. of Statistics & Intelligence, New Delhi.
3. All Appellate Collectors of Customs and Central Excise.
4. Director of Training, New Delhi.
5. Joint Director of Central Excise, D.L.F. Cinema, Complex, Greater Kailash-II, New Delhi.
6. Director of Revenue Intelligence.
7. Comptroller & Auditor General of India, New Delhi.
8. Director (O & M) Services Customs and Central Excise, 406/8, Rajendra Place, New Delhi.

Sd/-K. D. TAYAL

*Under Secretary to the Govt. of India.*

*Internal distribution as usual*

**Recommendation**

Para 3.42. In the first instance, the duty payable on the cotton yarn in this case was assessed by the Department at Rs. 56,007 at the compounded rates. Subsequently when the Ministry of Law advised in another case, referred to by the Collector of Central Excise, Baroda that the compounded rate was not applicable to the fabrics falling under item 19-I (1A) the demand was revised to Rs. 65,564 and later on to Rs. 72,461 to include the excise duty due on rents.

Para 3.49. The present duty structure is stated to be unfavourable to the industry as well as the agricutural producers. It is understood that the Ministry of Finance have taken some initiative in the matter and started a dialogue with the industry to bring about some rationalisation in the tariff rates. The Committee desire that Govt. should consider this matter in all its aspects and rationalise the excise structure on textiles in a manner which would serve the larger public interest, particularly of the weaker sections of the society by making cloth available at a price within their reach.

[Sl. Nos. 39 and 46 (Paras 3.42 and 3.49) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action taken**

Para 3.42. As admitted had been during oral evidence, certain doubts had been expressed about the applicability of rates of yarn duty on fabrics falling under the (then) newly introduced item No. 19-I(1A). The matter was examined in consultation with the Ministry of Law and a clarification was issued to the effect that compounded duty rates were not applicable to such fabrics.

Para 3.49. A major reform of the textile tariff was attempted in the 1976 Budget by switching oevr from specific rates to *ad valorem* rates of duty in the case of cotton fabrics. The relevant extracts from the Finance Minister's Budget Speech are reproduced below:—

> "2.3. I shall now deal with specific proposals relating to excise duties. At present excise duties on cotton fabrics are specific and their incidence does not depend on the price of the fabric. Though the present rates are highly complex and are graded both on the basis of average counts, and according to the various processes to which cotton fabrics can be subjected, the burden of excise duties has not been equitably distributed. There are also considerable difficulties in administering these tariffs in an industry with many varietal differences. A reform of this system has, therefore, been long overdue and I have now decided to switch over to a system of *ad valorem* duties on cotton fabrics. This will give relief to the weaker and more vulnerable sections of society who consume lower priced varieties of cloth and will shift the burden to those who have the ability to pay the higher prices for superior varieties of cloth. I have also made changes in the definition of superfine, fine and medium A fabrics to stimulate the use of long staple cotton the production of which has risen substantially in recent years. Certain changes have also been made in the duty rates on cotton yarn, and relief has been given to the handloom and powerloom sectors. At the same time, handlooms are facing serious competition from powerlooms resulting in a large accumulation of unsold handloom cloth. We have to provide a measure of protection to the handloom industry against the competition from powerlooms. I, therefore, propose to increase the rates of compounded levy on powerlooms. I have taken care to ensure that small powerloom owners are not affected. The rate on the first two looms in each unit will therefore remain unchanged. On the next two looms the rate will be raised from Rs. 100 to Rs. 125 per loom per year, and on the remaining looms from Rs. 200 to Rs. 250 per loom per year. The net result of the rationalisation scheme will be a marginal gain in revenue of Rs. 2 crores."

Further rationalisation was attempted in the 1977 Budget when hand processing was exempted from the whole of the duty and powerlooms were exempted from the compounded levy also. Except for the fine and superfine fabrics, in respect of which categorisation

has been retained in the interest of the decentralised sector, the rest of the fabrics are assessed now on a graded scale of duties depending upon the value of the fabrics. It is hoped that these measures will be in the interests of cotton growers, the industry and the consumers.

[Ministry of Finance (Department of Revenue) letter No. 234/6/78 CX 7 dated 1-8-1978]

**Recommendation**

4.17. In this connection, the Committee recall that in paragraph 1.287 of their 111th Report (1969-70) they had observed that for effective control over the fabric from the grey stage to the final stage of processing and finishing, it was not only necessary but also desirable that production records in respect of cotton fabrics are maintained at the "off-loom" stage. In pursuance of the said observation, the Ministry issued instructions on 24th October, 1970, that in respect of cotton fabrics in textile mills the daily account of production should be maintained at the "of loom" stage that is when the grey fabric is removed from the loom. The Committee learn that there was a year's timelag in the implementation of these instructions as several mills were finding it difficult to follow this procedure. The present case is one of this type wherein "off-loom" stage recording of production and accounting for excise duty were defective and there was evasion of duty. The Committee are anxious that the instructions issued by the Board should be meticulously observed by all the units producing cotton fabrics because if grey fabrics are not accounted for at the stage of production, these would get left out in the Central Excise records at all stages of processing and result in evasion of duty. The Ministry have stated that the reports received from the Director of Inspection indicated that the revised procedure was being generally observed, the only exception being that of the Bockingham and Carnatic Mills Ltd. who were not maintaining accounts according to the revised procedure, but on further instructions issued to the Collector, also started following the instructions. Judging from the case of evasion of excise duty by the powerful Group of the Binny Mills dealt with in the earlier paragraphs in this report, the Committee feel that greater vigilance is called for in dealing with such units. The Committee are of the view that the records and accounts should be strictly and properly maintained by all units at the "off-Loom" stage and the Board should impress on the Collectorates that careful compliance with the instructions by the units concerned has to be invariably ensured.

4.19. The Committee were informed that the irregularity of the type detected in the present case i.e. short accounting of cotton fabrics, was not wide-spread. Although it was not possible with the present strength of staff to undertake a 100 percent check of all the units producing cotton fabrics. The organisation works on the assumption that there will be a fairly large percentage of honest and law abiding people. It is more on the basis of random checks and general supervision that the machinery is being run. Although Government was going full steam ahead in tightening up the machinery, it was argued that Government had to judge whether it was worthwhile to live with the comparatively low level of evasion or to increase staff at heavy cost to exercise more extensive checks. According to the Finance Secretary, the additional expenditure on more staff and supervision would have to be commensurate with the revenue expected to be realised. While it may not be practicable to undertake 100 percent check of various production accounts of excisable goods, the Committee are worried about the big manufacturers deliberately evading large amounts of excise duty. The Committee wish that the Department should pay special attention to these elements, particularly the known offenders and exercise closer watch on them. The Committee learn that so far as the indirect taxes side is concerned the Department of Revenue have by and large gone by the S.R.P. Committee Report. The Department further proposes to practically go on to a compounded levy system so far as the smaller units are concerned, in certain specified industries and to utilise the manpower thus spare to attend to other cases as also to ensure that the accounts etc. are properly maintained. The Committee need hardly point out that it is incumbent on the authorities concerned to see that the loopholes in the collection of revenue are plugged and the mills are brought under effective excise surveillance and collection. The Committee would like to be apprised of the detailed steps taken by the Department to ensure effective check, conclusive follow-up action and award of deterrent punishment to delinquent parties.

[Sl. Nos. 48 & 50 (Paras 4.17 and 4.19) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action taken**

Para 4.17. The need for ensuring that all the units producing cotton fabrics maintain proper account of production of cotton fabrics at "off loom" stage has been further impressed upon the Collectors vide Ministry's F. No. 268/5/78-CX-8 dated 7 6-1978,

Para 419. With effect from 1st February, 1978 a selective pattern of control incorporating in it two types of control (a) Record Based and

(b) Production Based, has been introduced. While this Pattern takes into account the basic principles of the S.R.P. under the production Based Control which covers textile mills the field officers have been instructed to visit the units frequently to ensure that all goods produced have been properely accounted for. Further more, under production Based Control it has been stipulated that duty paid goods that are received should be physically verified to ensure that there is no loss to Government revenue.

In order to ensure that proper checks on the records of the assessee are exercised by the Internal Audit Parties detailed instructions have been issued with regard to the scope and nature of checks that have to be exercised by them *vide* Board's F. No. 206/5/78-CX-6 dated 11-6-78. The Audit Departments Organisation has been strengthened by the creation of a Directorate of Internal Audit at the Centre and posting 11 Deputy Collectors (Audit) in the Collectorates and increasing the number of Internal Audit Parties in them.

Power of adjudication of various officers have been revised under Board's letter F. No. 208/8-M/76-CX-6 dated 29-11-77 (Annexure).

Moreover in view of the recommendations of the S.R.P. Committee the following additional staff has been sanctioned:—

| | |
|---|---|
| Deputy Collectors (Audit) | 11 |
| Superintendent grade 'B' | 545 |
| Examiners of Accounts | 13 |
| D.O.S. Level I & II | 213 |

Apart from these additional posts a decision has also been taken to recruit experts in various fields (e.g. cost accountants) so that they can help the Internal Audit Parties in exercising scientific checks on the records maintained by the assessee.

[Ministry of Finance (Department of Revenue) letter No. 234/25/78-CX-7 dated 27-11-1978]

ANNEXURE

Circular No. 27/77-CX-6
F. No. 208/8 M/76-CX-6
GOVERNMENT OF INDIA
CENTRAL BOARD OF EXCISE & CUSTOMS
New Delhi, the 29th Nov., 1977

To
All Collectors of Central Excise
Sir,

SUBJECT: Central Excises—Enhancement of power of adjudication of Deputy Collectors/Assistant Collectors/Supdt. of Central Excise

As you are aware, all Deputy Collectors, Assistant Collectors and Superintendents of Central Excise have been conferred the powers

of adjudication exercisable by Collectors under section 33 of the Central Excises and Salt Act, 1944. However, under para 45 of the Adjudication Manual read with the Board's letter F. No. 35/4/67-CX-1 dated 25-7-1967, these powers have been limited as under; depending on the rank of the officer:—

| | Value of goods liable to confiscation | Penalty |
|---|---|---|
| | Rs. | Rs. |
| Deputy Collector | 50,000 | 750 |
| Assistant Collector | 5,000 | 250 |
| Superintendent | 1,000 | 100 |

2. Prior to the introduction of the Self Removal Procedure, the maximum penalty prescribed for offences under the rules was only Rs. 2,000 and hence the above limits were workable. However, with the introduction of S.R.P. the maximum penalty prescribed under the rules is Rs. 5,000 or three times of the value of goods in respect of which contravention has been committed, whichever is higher. The penalty can therefore be much over Rs. 2,000/-. Therefore in a large number of cases the Collector only can impose the appropriate penalty in terms of rule 173Q of the Central Excise rules, 1944. The result has been that comparatively petty cases have to be adjudicated by senior officers, thus unnecessarily increasing the administrative burden on them, particularly on Collectors.

3. The S.R.P. Review Committee also went into this aspect and was of the opinion that the present structure of delegation of powers based on the nature of goods which can be confiscated and the limits upto which penalties can be imposed is inherently defective in as much as the jurisdiction of the officers is related not to the prima facie nature of the offence but to the degree of the punishment which might eventually be imposed. They had also desired that the powers of adjudication would be suitably enhanced. Their recommendations in the matter were accepted by Government with some modifications.

4. After careful consideration, the Board has decided that the powers of adjudication of officers other than Collectors should be based on the amount of duty involved where there is alleged or potential evasion of duty, and on the likely amount of penalty in other cases.

5. Where evasion of duty is alleged or where there is potential evasion of duty (as in a case where goods are found in excess of what have been entered in the statutory records, but the excess goods have not actually been removed) the powers of adjudication will be determined by the amount of duty envolved in the alleged or potential evasion. The powers will be the same whether or not

any goods have been seized. Adjudication of cases falling within this category will be decided as follows:—

| Rank of Officer | Amount of duty involved |
|---|---|
| Deputy Collector | Upto Rs. 25,000 |
| Assistant Collector | Upto Rs. 5,000 |
| Superintendent | Upto Rs. 1,000 |

Note: (i) Jurisdiction to decide a case will be based on the amount of duty involved. Once that is decided, the power to adjudge penalty and confiscation of goods will be limited only by the statutory limit.

(ii) Where there are a series or set of connected cases, the amount of duty involved for determining the jurisdiction will be calculated with reference to the entire series or set of connected cases.

6. Where there is no alleged or potential evasion of duty, the criterion for determining the jurisdiction will be the penalty likely to be imposed, on a *prima facie* consideration of the facts and circumstances of the case. The jurisdiction of different officers will be exercised on the basis of the following criteria:—

| Rank of Officer | Likely amount of penalty |
|---|---|
| Deputy Collector | Rs. 25,000 |
| Assistant Collector | Rs. 5,000 |
| Superintendent | Rs. 1,000 |

Note: (i) The principle applicable to a series or set of connected cases with reference to para 5(ii) above will be equally applicable to cases falling under this category.

(ii) Where an officer feels, on a *prima facie* consideration, that a case calls for a penalty higher than the limit applicable to him, he should transmit the case to the next higher officer, who will in turn follow the same procedure.

(iii) It may happen in rare cases that after initiating adudication proceedings on the basis that the penalty is not likely to exceed a certain figure falling within his jurisdiction, the adjudicating officer

may feel that a higher penalty (beyond his jurisdiction) is called for. In such rare cases he should refer the case to the next higher authority, who may complete the adjudication proceedings after complying with the principles of natural justice.

7. These instructions will be applicable also to pending cases. However, where hearings have already been given, such cases may be dealt with by the officers who are already seized of the matter, in order to avoid delays in concluding the adjudication proceedings and inconvenience to assessees.

8. Please acknowledge receipt of this letter

Yours faithfully,

Sd./- K. D. TAYAL,
Under Secy. Central Board of Excise and Customs

**Recommendation**

Para 5.36: The Committee are also perturbed over the fact that the Department did not seem to exercise effective control over the transfer and disposal of such goods under the special procedure. The Committee were informed that various checks provided in the Rules originally framed at the time of physical control of factories got diluted with the introduction of the Self Removal Procedure. In the light of the Report of the S.R.P. Committee, the Central Board of Excise and Customs were examining the question of introducing a more rational system of control. The Committee stress the imperative need for removing all lacunae in the present procedure so as to ensure that there are adequate safeguards against the abuse of the concession by diverting the goods elsewhere or putting them to any unauthorised use. The Committee hope that while finalising the remedial steps, measures like the conducting of adequate and strict checks by the Inspection Groups the inscription of some identification markings on the parts meant for original use, and periodic stock taking of such parts in the custody of different units, would be kept in view.

[Sl. No. 54 (Para 5.36) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

In the light of the Report of the S.R.P. (Review) Committee a new selective pattern of control having as its basic twin ingredients

the Record Based Control (R.B.C.) and the Production Based Control (PBC) has been introduced with effect from 1-2-78.

However, even under these new system of control, it has not been felt necessary to change either the rules or the procedure relating to Chapter X.

Firstly, there are no serious lacunae in the rules as such relating to this procedure that would need be rectified.

Secondly, adequate safeguards, as explained below, already exist in the rules against the abuse of the concession by L—6 licencees:—

(i) Necessary permission to obtain the goods for availing of the concession is granted by the Collector, only if he is satisfied that the applicant is a person to whom the concession can be granted without danger to revenue and if he is also further satisfied that the premises are otherwise suitable for the storage of the goods.

(ii) The applicant is also required to execute a bond backed by suitable security. The Collector is empowered to demand a fresh bond or additional security where necessary.

(iii) The goods which are obtained by an applicant under the permission granted to him under rule 192, can be transported only under cover of bond.

(iv) The Collector is also empowered to regulate the manner in which the goods should be packed, and the markings in such packages in order to ensure that there is no mix-up.

(v) The goods on receipt have to be kept in the duly approved store room. Each consignment of excisable goods has to the stored separately and goods of distinct varieties have to be kept in distinct lots and distinctly marked and the principle of 'first-in and first out' should be followed.

(vi) In addition the licensee is required to maintain detailed accounts of the goods received, quantity used in the industrial process and such other particulars as may be prescribed.

Apart from the above safeguards certain other safeguards with regard to disposal of surplus excisable goods and refuse of excisable goods have also been provided for in Rules 195 and 196A.

Under Rule 196, powers have been given to demand duty on goods that have not been duly accounted for and the Collector has been empowered to withdraw the concession granted under Rule 192, in case of the breach of the rules by the applicant or his agent or any person employed by him. Also, in the event of such a breach the Collector may order for the forfeiture of the security deposited with the bond which the applicant has furnished under rule 192. The Collector may also confiscate not only the excisable goods but all other goods manufactured from such goods and in stock at the factory.

In addition to the above built in safeguards, provided under the rules, instructions have been issued asking the field formations to exercise preventive checks over the Units to whom this concession has been granted. It has also been stipulated that these Units should be treated at par with the duty paying units in the matter of checks and inspection and that the control should be more rigorous on Units in the unorganised sector.

Further instructions have been issued asking Internal Audit Parties to conduct various checks in order to ensure proper use of this facility.

Regarding the Committee's observation about inscription of some identification markings on the parts meant for original use, instructions already exist under the rules *vide* clause (d) read with the 3rd Proviso of Rule 51 of the Central Excise Rules, 1944. However, suitable instructions have been issued recently, inviting the attention of the Collectors to this Rule (Copy enclosed).

As regards the need for periodical stock taking, suitable provision already exists under rule 194 of Central Excise Rules, 1944 which provide for storage and accountal of such goods received. These provisins, it is felt are sufficient to ensure a proper accountal of the goods received and utilised. In case of need the Central Excise Officers can also visit the Unit to verify stocks.

Instructions asking the Collector to ensure effective checks over L—6 licensees have already been issued *vide* Board's letter F. No. 213/62/76-CX-6 (M) dated 9-12-76. Checks including stock challanges exercised over duty paying L—4 licensees, are to be exercised in respect of L—6 licensees also.

[Ministry of Finance (Department of Revenue) letter No. 234/10/78—CX.7 Dated 27-11-1978]

**Recommendation**

The Committee are surprised that even prior approval of the Department of Revenue had not been obtained with regard to the agreement involving payment of duty of considerable amount between IOC and Burmah Srell. It is certainly the responsibility of the Central Board of Excise and Customs to examine the pros and cons before an agreement of the sort can be entered into.

(S. No. 60 (Para 6.41) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)

**Action Taken**

In the light of observation of the Public Accounts Committee, instructions have been issued by the Ministry of Petroleum, Chemicals and Fertilizers (Department of Petroleum) in consultation with the Ministry of Finance (Department of Revenue) advising the oil companies to obtain prior approval of the Department of Revenue in similar cases. The oil companies have been asked to ensure that before any such transfer of facilities is effected, the Collector concerned can indicate and the oil companies can mutually agree to observe all the steps needed to safeguard revenue interests and to meet the requirements of the Excise Law.

(Ministry of Petroleum, Chemicals and Fertilizers (Department of Petroleum) letter No. 33042/2/78—Mkt. Dated 14-7-1978

**Recommendation**

In case of commodities to which Self Removal Procedure applied under Rule 162A, the Central Board of Excise and Customs has been empowered to relax day of the provisions of the Warehousing Chapter in respect of excisable goods falling under item 6 to 11A of the First Schedule to the Act. Mineral Oil products are clearly covered by this exemption. Even so, the Collector concerned appears to have allowed the exemption without referring the matter to the Board. The violation of the rule continued till October, 1974, when the Board issued a general relaxation in this regard. The Committee cannot help the view that the general relaxation was only an after thought. Besides, the Committee doubt also the power of the Board to permit relaxations so that they go against the basic features of the entire system of levy of excise duty since the owner alone should be responsible for the goods stored. The prime intention of the Act and the Rules is to prevent leakage of revenue by substitution or clandestine removal. The Committee would like Government to examine

how far such relaxation was in keeping with the scheme of the Act and the Rules, particularly when the so called relaxation was only by a letter addressed to the Collector.

[Sl. No. 62 (Para 6.43) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha]

**Action Taken**

The instructions under letter F. No. 261/11(A)/9/73-CX 8, dated 5-10-74 allowing receipt of mineral oil products belonging to one Company into a storage tank of another at port installations/refinery by the Assistant Collector subject to Collector's post-facto approval, were issued after taking into account the frequency of the requests received from the oil industry for such storage facilities and the recommendations of the Ministry of Petroleum. These instructions were necessary in view of the common practice among oil companies of giving mutual accommodation for storage of oil in their storage facilities. The relaxtions given by the Collector and the orders issued by the Board have to be viewed in the light of the general practice in the oil industry. The Board's orders were not issued as an after-thought to regularise the Collector's action.

Now that the oil industry has been nationalised, the said instructions are all the more needed in public interest. The issue of said instructions by a letter is in order since rule 162(A) does not stipulate that instructions should be issued either by a notification or in any other specified manner.

[Ministry of Finance (Department of Revenue) letter No. 234/21]78–CX 7, Dated 12-12-1978.]

**Recommendation**

7.29. The Committee note that ever since the Industry (Development and Regulation) Act 1951, came into force in May, 1952, till 1968 the capacity of the vanaspati industry already available was in excess of the demand for vanaspati. However, with the passage of time, the overall installed capacity in the industry had become marginally higher than the assessed requirements by 1968, and for affecting suitable increase in the capacity of the vanaspati industry, the industry was brought within the purview of de-licensing in September, 1968. At the time of de-licensing, there were 52 vanaspati units in the country. The industry was again relicensed in February, 1970, when it was found that 49 additional units were proposed to be set up by promoters. Out of these 49, 31 units with a production capacity of 3.65 lakh tonnes have been set up so far.

7.30. Between 1964-65 and 1968-69, the requirement of permitted oils for the vanaspati industry varied from 24.3 per cent to 41.3 per cent of indigenous production. There had been occasional shortages of raw vegetable oils in the manufacture of vanaspati due to the consumption of a major portion of vegetable oils in raw from in the country. Substantial imports of soyabean oil have been effected since 1965. The production and utilisation of cotton seed oil was also being encouraged.

7.31. The Committee find that despite these efforts, the production of vanaspati has fallen short of the actual demand. The actual demand for vanaspati in thte country was about 5.5 lakh tonnes in 1974 whereas the production was only 3.54 lakh tonnes. On the other hand the Committee observe that the licensed capacity was still higher *viz.*, 17.5 lakh tonnes. This excess licensed capacity may well be responsible for higher cost of processing, a demand for imports of edible oils and even pressing for concessions in excise duty. The Committee feel that Government should not have delicensed the Vanaspati industry between September, 1968 and February, 1970 when the capacity was already in excess of the requirements; if new units were required to be set up in areas where the demand outstripped production, and the installation was justified on economic grounds, applications could be invited by issuing public notice etc. A lesson should be learnt from this costly lapse.

[Sl. Nos. 65, 66 and 67 (Paras 7.29 to 7.81) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha]

**Action Taken**

1. The reasons for the particularly low level of production of vanaspati in 1974 have already been explained to the Public Accounts Committee *viz.*, acute shortage of edible oils during that year in the whole country, the consequent severe restraints on the availability of indigenous raw material for the production of vanaspati and the fact even imports also proved to be problematic in that year considering the high levels at which the prices of edible oils were ruling then in the international market. As of 1 April 1974, the annual licensed capacity of all the vanaspati units was 17.31 lakh tonnes, which was reduced to 13.90 lakh tonnes, as a number of unimplemented licences were revoked.

2. As of today, there are 85 vanaspati manufacturing units in the country with an annual installed capacity of 12.91 lakh tonnes. Spatial distribution of the vanaspati units, however, shows distinct regional imbalances. Bulk of the capacity *i.e.* upto 75 per cent is concentrated in six States *viz.* Maharashtra (21.1 per cent), U.P. (14.7 per cent), West Bengal (9.8 per cent), Punjab (9.7 per cent), Rajasthan

(8.7 per cent) and Gujarat (8 per cent). Although 12.91 lakh tonnes is the total annual installed capacity, the net capacity available for the production of vanaspati is only 8.23 lakh tonnes as indicated below:

| | (*in lakh tonnes*) |
|---|---|
| Installed capacity . . . | 12·91 |
| Capacity of units in actual production . . | 11·04 |
| Capacity utilised for hydrogen ation of non-edible oils. . | 0·75 |
| Capacity available for vanaspati manufacture.. . . . | 10·29 |
| Reduction in capacity utilisation owing to usage of soyabean and palm oils | 2·06 |
| Net capacity available. . | 8·23 |

3. This is on account of the following reasons :

(a) The installed capacity quoted was originally calculated on the basis of groundnut oil as fat base. This is now no longer valid, as the use of groundnut oil in vanaspati manufacture has been totally banned since March 1, 1977 and vanaspati industry is relying more and more on non-traditional oils and imported oils.

(b) The Government have been providing imported oils for use in vanaspati manufacture since 1976. For the oil year 1977-78 commencing from November 1977, the imported oil component consisting of soyabean, rapeseed and palm oils is 75 per cent. Since vanaspati capacity is based on groundnut oil, the capacity on account of use of imported oils would get reduced as the hydrogen gas requirements for hydrogenating these oils is much higher than that of groundnut oil.

(c) The industry apart from producing vanaspati, is also using part of its capacity for production of industrial hard oils for use in soap manufacture etc.

(d) Vanaspati industry also uses part of its refining facility for refining of imported oils under the O.G.L. for meeting the demands of direct domestic consumption.

4. Thus, as against a net capacity of 8.23 lakh tonnes, the industry had produced around 5.72 lakh tonnes of vanaspati during 1977-78 indicating a capacity utilisation of 69.5 per cent. This is in addition to refining imported oils for direct consumption as stated

above, and in the face of constraints like power cuts, scarcity of coal and tin plates, unexpected mass labour unrest and the like.

5. In the context of the present demand for vanaspati at around 6.00 lakh tonnes in relation to the net available capacity of 8.23 lakh tonnes and a capacity of 7.41 lakh tonnes based on the utilisation factor of 90 per cent, the cost of processing would well be within the limits. In so far as greater demand for imports of edible oils for the manufacture of vanaspati, it may be stated that as a matter of policy Government have decided to supply 75 per cent of their requirements by imported crude oils (which cannot be consumed without refining) to release the directly consumable local traditional oils like groundnut oil and mustard oil to the consuming public with a view to containing their prices and improving their availability.

6. The National Commission on Agriculture in its Report has estimated the demands of vanaspati during the years 1980, 1985 and 2000 AD as under:

| *Year* | *Demand for vanaspati in million tonnes* | |
|---|---|---|
| | *Low* | *High* |
| 1980 . | 0·85 | 1·03 |
| 1985 . | 1·03 | 1·40 |
| 2000 . | 1·73 | 2·30 |

These demand projections may undergo some changes. It is, however, clear that the existing capacity would not be adequate to meet the projected demand of vanaspati and this new capacity would have to be created in a rationalised manner. In this context, the recommendations of the Public Accounts Committee, in the light of their findings on the experience during the partial delicensing period September 1968—February 1970, for a rationalised development of the industry would be kept in view.

[Directorate of Vanaspati, Vegetable Oil and Fats (Department of Civil Supplies and Co-operation) O.M. No. 9-VP (4) D/75, Dated 2-6-1978]

**Recommendation**

The Committee note that during 1971—75 Government have granted rebate to the tune of about Rs. 285,05,538 to only 10 top manufacturers of Vanaspati. The Committee also learnt from Audit that in Bombay two leading manufacturers were using cotton seed oil to

the extent of 35.41 per cent in the years 1969-70 and 1970-71. It would thus appear that the scheme gave unintended benefit to the big manufacturers. The Committee would like Government to closely scrutinise the performance of the rebate scheme from this angle so that unintended benefits are not conferrred on the vanaspati manufacturers.

[S. No. 75 (Para 7.39) of Appendix XV, to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

The scheme for rebate of Central Excise duty related to the use of cotton seed oil in the manufacture of Vegetable Product prescribed under Notification No. 209/76-CE dated 1-7-1976 has since been reviewed and withdrawn *vide* notification No. 9/78-C.E. dated 28th January, 1978 (Annexure).

[Ministry of Finance (Department of Revenue) letter No. 234/28/78-CX-7, dated 7-4-1978]

ANNEXURE

TO BE PUBLISHED IN PART-II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA, DATED THE 28TH JANUARY, 1978
8 MAGHA 1899 (Saka)

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

*New Delhi, the 28th January, 1978*
8 Magha 1899 (Saka)

*NOTIFICATION*

CENTRAL EXCISES

G.S.R. 179.—In exercise of the powers conferred by sub-rule (1) of rule 8 of the Central Excise Rules, 1944, the Central Government hereby rescinds the notification of the Government of India, Department of Revenue and Banking No. 209/76-Central Excises, dated the 1st July, 1976.

**(No. 9/78)**

**Sd/- N. RAJA,**
***Under Secretary to the Govt. of India***

**Notification No. 9/78-CE/F. No. 91/4/77—CX3**

**Recommendations**

*Para* 8.28.—The Committee note that Tariff item 18 of the Central Excise Tariff covers rayon and synthetic fibres and yarn and item 22 of the tariff covers rayon or artificial silk fabrics. By virtue of an exemption notification, however, unprocessed rayon or artificial silk fabrics are totally exempted from duty. According to the instructions issued by the Central Board of Excise and Customs on 11 July, 1972, strips of synthetic material such as matalised polyester, high density polythelene not exceeding 5 mm in width including fabrics woven from such strips would fall within the purview of the Central Excise and as such these strips were excisable under item 22 of the tariff. On 10 July, 1972, Government issued two notifications exempting the HDPE yarn and fabrics if these were intended for making sacks. Prior to the date of issue of the exemption notification excise duty was leviable on such strips yarn and woven fabrics in the normal course.

*Para* 8,29.—The Committee find that the main considerations for issuing exemption notifications on 10 July, 1972 exempting from excise duty high density polyethelene tapes used for art silk fabrics and high density polyethelene woven fabrics used for making sacks were that the so called fabrics is woven out of high density polyethelene tape and is not in any way comparable to the art silk fabrics commonly in use as wearable or non-wearable fabrics. Such fabric is essentially a packing material and a substitute for what is commonly known as gunny or jute bags in their end use. The exemption had been granted to make its and price competitive with the corresponding jute bags or jute products. Further the industry was in the nascent stage and in the small sector run by engineer entrepreneurs. The Committee, however, understood during evidence that at least one unit was connected with big industrial houses. The Committee observe that this aspect should have been gone into before granting the exemption.

**[Sl. No. 76-77 (Paras 8.28 and 8.29) of Appendix-XV to 13th Report of PAC (Sixth Lok Sabha)]**

**Action Taken**

**The observations of the Committee have been noted.**

**[Ministry of Finance (Department of Revenue) letter No. 234/32/78-CX. 7 dated 11-1-1979]**

## Recommendations

*Point* 8.32.—The Committee note that exemption which was originally given for two years has been subsequently extended upto October, 1976. Though the exemption from excise duty on High Density Polyethelene Woven Fabrics lapsed on 10th October, 1976, yet it has been restored with effect from 16 November, 1976 for a period of one year upto 15th November, 1977 on reconsideration of the matter in the context of representations from the trade. It was also urged before the Committee that the impact of synthetic bagging on the jute industry was only marginal in as much as the synthetic bags would meet the demand of the sector where jute bagging was found slightly deficient like fertiliser and chemical industries. The Committee would like to observe that synthetic bagging industry have already enjoyed the exemption from excise duty for about four years and cannot be said to be in nascent stage any more. Besides the crisis of demand for jute goods and sacking underlines the need for ensuring that substitute materials which would depress the demand further should not be encouraged, least of all by providing exemptions from excise duty etc.

*Para* 8.33.—The Committee note that the units in Chandigarh Collectorate and a unit in the Madras Collectorate were not licensed for Central Excise purposes. The Committee are concerned to find that the units in Chandigarh Collectorate were not licensed as these had not come to the notice of the Department till then. These were not licensed thereafter under the impression that the goods manufactured by them being fully exempt from duty, the units were not required to be licensed. The Committee have, however, subsequently been informed by the Department of Revenue and Banking on 26th March, 1977 that these units have since been brought under licensing control. The Committee need hardly emphasise the need for surveillance by the Collectorates to bring all such units under licensing net without delay and take conclusive action against erring units so as to act as a deterrent to others.

[Sl. Nos. 80 and 81 (Paras 8.32 and 8.33) of Appendix XV, 13th Report of PAC (Sixth Lok Sabha)]

## Action Taken

*Para* 8.32—The Committee's observation have been noted for future guidance.

*Para* 8.33.—The Committee's recommendation has been brought to the notice of Collectors for strict compliance. A copy of the instructions issued in this regard is enclosed for information.

As recommended by the Committee, action was instituted against the assessee in Madras Collectorate for not obtaining a licence, but as the factory was manufacturing only exempted goods and was under lay off from November, 1975 to March, 1976, while adjudicating the case a lenient view was taken by cautioning the factory to be more careful in future.

The Collector of Central Excise, Chandigarh has reported that the concerned Range Officer has been asked to initiate penal proceedings against the party.

[Ministry of Finance (Department of Revenue) letter No. 234/32/78-CX. 7 dated 21-9-1978]

**Recommendations**

*Para* 9.12.—The Committee note that due to growing diversification in the pattern of man made fabrics and yarn, the existing tariff descriptions in the textile yarn, tariff led to difficulties in the assessment of yarn made of blended fibres. Disputes had arisen in the classification of mixed yarn, as rayon and synthetic fibres and yarn. Executive instructions issued by the Government from time to time lacked clear legal authority and the assessments were challenged very often either before the departmental authorities or before the law courts. With a view to resolve these difficulties, the tariff items relating to textiles yarns were reclassified in March, 1979. Yarn containing 90 per cent or more of an individual fibre (whether man-made fibre or fibres, cotton, wool, silk or jute) became classifiable as yarn of that description (as rayon or synthetic yarn, cotton yarn, woollen yarn, silk yarn, and jute yarn). For the blended yarn i.e., yarn in which an individual fibre was less than 90 per cent, a new tariff item No. 18E was introduced. Even though the statutory rate for the newly created item no. 18E was Rs. 50 per kg. different effective rates of duty were prescribed for various categories of blended yarn with effect from 17 March, 1972.

*Para* 9.13—Originally the compounded levy scheme was introduced for cotton yarn used in the manufacture of cotton fabrics within the factory. Compounded levy system of duty on a cotton yarn which is used in the manufacture of cotton fabrics in Composite Mills envisages collection of yarn duty at fabrics clearance stage on the basis of the area of the fabrics produced therefrom. The compounded levy procedure for payment of duty was extended to the yarn falling under item 18E vide the notification issued on the 17 March, 1972. The Committee are distressed to note that the

system of compounded levy extended to blended yarn resulted in loss of revenue because the rates of compounded levy were low compared to the effective rate prevailing for the same yarn, if removed outside, and used in the manufacture of art silk fabric. The Committee feel concerned that the continuance of compounded levy procedure to blended yarn used by the cotton composite mills for manufacture of cotton fabrics tilt the balance against the art silk fabrics. The cumulative incidence of duty on comparably valued cotton fabrics was lower than the art silk fabrics. Further due to this, incidence of duty on identical yarn consumed by cotton fabrics powerlooms became more as they were not entitled to compounded levy procedure either before or after 1972 Budget. From 24 July, 1972 the scope of compounded levy procedure was restricted to varn containing any two or more of cellulosic staple fibre cotton and less than 50 per cent of jute. According to audit, the revenue foregone on account of collection of duty due to fixation of low compounded rates in the types of yarn to which the procedure applied earlier but was withdrawn from 24 July, 1972 amounted to Rs. 30,63,454 in respect of 21 units in 3 Collectorates for the period from 17 March, 1972 to 23 July, 1972. The total revenue lost on this account in all the Collectorates would be manifold according to this indication.

*Para* 9.14.—The Committee regret to note that some glaring anomalies had resulted consequent on the revision of tariff. For example, in the case of yarn containing more than 50 per cent but not more than 55 percent of non-cellulosic fibre, rate prescribed was Rs. 75.0 per kg. whereas it contained 50 per cent of such fibre, duty was Rs. 10.00 per kg. Thus duty for the former bended yarn was less than that for the later though non-cellulosic fibre contents were a little higher. Similarly, for 55 per cent polyester and 45 percent wool blended yarn (a very common blend) duty incidence would jump from Rs. 7.50 to 15.00 per kg. even if there was a marginal increase of polyester fibre content. These anomalies were rectified with effect from 24 July, 1972. According to the Ministry of Finance, the major exercise in 1972 Budget in relation to yarn was to prescribe precise definitions to classify different yarns and as such no detailed exercise was undertaken to assess the relative incidence of duty on different fibres at the time of issue of the notification. The Committee strougly stress the need of making detailed examination of all such aspects arising out of tariff proposals before giving effect to them.

**[Sl. Nos. 82,83 and 84 (Para 9.12 to 9.14) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]**

**Action Taken**

The Committee's observations, especially those contained in Para 9.14 namely "the need for making detailed examination of all aspects arising out of tariff proposals before giving effect to them." have been noted. It may be stated that generally, subject to the limitations placed by the need for utmost secrecy in framing Budget proposals all the relevant aspects are gone into, in detail, before finalisation of the Budget Proposals. Whatever, enquiries cannot be made in view of the secrecy of the Budget, are undertaken just after the announcement of the Budget Proposals and whatever changes are considered necessary, are done either during the pendency of the Finance Bill before the Parliament, or as soon as possible thereafter.

[Ministry of Finance (Department of Revenue) letter No. 234/20/78-CX-7 dated 4-12-1978]

**Recommendation**

The Committee note that on 1st June, 1970 Government issued a notification fixing concessional rates of excise duty on electric wires and cables produced by small scale units if initial investment in plant and machinery only installed therein was not more than Rs. 7.5 lakhs. Before the issue of this notification, similar concession was available to Small Scale Units but the criterion to distinguish small scale units for the purpose of concessional rate was different. Under the earlier notification of 14th September, 1968, units to which the industries (Development and Regulation) Act, 1951 did not apply were being treated as small scale units for the purpose of this concession. According to the Ministry of Finance necessary change had to be effected because no small scale unit was able to avail of the concession. The Committee are distressed to note that some small scale units in whose case value of plant and machinery, initially installed was less than Rs. 7.5 lakhs continued to enjoy the concession in excise duty even after augmentation of their plant and machinery which raised the investments on these accounts beyond the limit of Rs. 7.5 lakhs. It is regrettable that the notification which put the initial limit of Rs. 7.5 lakhs on the value of plant and machinery for qualifying for the concession of duty was defective inasmuch as that the subsequent investment in plant and machinery was not taken into account. According to the information furnished to the Committee from 1970 onwards 7 units enjoyed a gratuitous concession of as much as Rs. 13,98,461 even after the investment of each unit on plant and machinery exceeded the limit of Rs. 7.5 lakhs. The Committee are unhappy over this avoidable loss

to the Exchequer which could have been avoided if the Government had taken action without loss of time to rectify the lacuna in the notification.

[Sl. No. 88 (Para 11.27) of (Appendix XV) to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

The observations of the Committee are noted.

[Ministry of Finance (Department of Revenue) letter No. 234/31/78-CX-7 dated 30-12-1978]

**Recommendation**

The Committee have been given to understand that action is being taken to revise other notifications which have similar defects regarding the scope of the expression "initial installation in plant and machinery in respect of small scale sector." The Committee desire that the revision of all such notifications which suffer from this defect should be completed on a priority basis and the Committee informed of the progress made in this behalf.

[Sl. No. 90 (Para 11.9) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

As part of the 1978 Budget, 8 notifications (Nos. 216/77, 223/77, 238|77, 239|77, 240|77, 241|77, 242|77 and 282|77) which provide exemption to small scale sector units based on the criterion of investment on plant and machinery have been rescinded. Similarly notifications Nos. 42/76 and 199/75 have also been amended by notifications No. 73/78 and 72/78 so as to delete the exemption to certain goods, dependent, *inter-alia* on the criterion of investment on plant and machinery etc., A consolidated notification (71/78 dated 1-3-78) has been issued exempting the specified excisable goods (including those covered by the notifications referred to above) upto a value of Rs. 5 lakhs in a year. The eligibility condition for availing of this exemption by a unit has been prescribed on the basis of the previous year's clearances. To this extent, the Committee's recommendations, as contained in this para have been complied with.

[Ministry of Finance (Department of Revenue) letter No. 234/31/78-CX-7 dated 27-6-1978]

**Recommendation**

The Audit paragraph reveals that a unit which came out of the small scale sector in September, 1970 and had been since registered with the Director General of Technical Development continued to enjoy this gratuitous concession till 31st March, 1974, reaping an unintended benefit of Rs. 7.14.706. This indicates that the Excise authorities had not maintained effective liaison with other concerned Govt. agencies to make sure that it was a small scale unit before letting the concession in excise duty to continue. The representative of the Ministry of Finance pleaded, during evidence, that if the unit was already registered with the Directorate General of Technical Development, the Director of Industries should also have alerted the Collector before issuing the certificate in a routine way. While the Committee do not absolve the Collectorate of Excise of their primary responsibility in this regard, they consider that the Director of Industries should have also informed the excise authorities on his own after the unit ceased to be a small scale unit and thus became ineligible for concession in excise duty. The Committee stress the need for closer and more effective coordination between the different Govt. organisations in the interest of safeguarding public interest.

The self Removal Procedure Review Committee have in their Report (April 1975) pointed out cases where the small scale units in the first instance paid duty at the full standard rates and recovered the same from the customers but subsequently, by manipulating the accounts towards the end of the year, secured refund of the duty on the ground that their actual production or clearance during the year did not exceed the prescribed limit. The duty refunded is appropriated entirely by such producers while the consumers who have already paid the duty are not benefited in any way.

Keeping in view the seriousness of the problem, the S.R.P. Committee have recommended that exemption should be related not to the producer's performance in the current financial year but to the financial year which has preceded. Government have yet to take final decision on this general recommendation of S.R.P. Committee. The Committee desire that conclusive action on this recommendation should be taken at an early date.

The Committee are distressed to note that there have been some cases pertaining to large scale industries where the contractors after obtaining reimbursement of full amount of excise duty paid by them have secured refunds from excise

authorities without intimating the DGS&D. Difficulties are stated to have been faced in some such cases in claiming back this refund from the contractors. The Committee have been informed that the question of suitably revising the certificates to be obtained from the contractors before reimbursement of excise duty as also the question of obtaining certain guarantees from the contractors in this regard is being examined. The Committee stress that the question of suitably revising the certificates to be obtained from the contractors before the reimbursement of excise duty as also the question of obtaining certain guarantees from the contractors should be conclusively pursued and finalised without any further loss of time to safeguard public interest.

[Sl. Nos. 91, 93, 94 and 97 (Paras No. 11.30, 11.32, 11.33 and 11.36) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

As regards the Committee's observation that the Director of Industries should have also informed the Excise authorities on his own after the unit ceased to be a small scale unit and thus became ineligible for the concession in excise duty, the Ministry of Industry have informed that the office of the Development Commissioner (Small Scale Industries) had issued letters to all Directors of Industries in the State to evolve a regular system whereby the names of small scale units are communicated to the concerned Collector of Central Excise as soon as they grow out of the small scale sector as to prevent them from availing of the concessions not intended for them. A copy of the letter issued is enclosed (Annexure). The Ministry of Industry have also brought this to the notice of Lok Sabha Secretariat *vide* their O.M. No. G. 25015 (4)-B&A/78 dated 9th June, 1978.

The Committee's general observation regarding the need for closer and more effective co-ordination between the different Government organisations in the interest of safeguarding public interest has been noted and also brought to the notice of the Collectors of Central Excise for necessary action.

The recommendation of the Central Excise (SRP) Review Committee as contained in Chapter 16(10) with regard to basing duty exemptions not on the producer's performance in the current financial year but on the financial year that had preceded, has already implemented.

As a result, of the 1978 Budget proposals, it was decided to rationalise a number of exemptions applicable to small manufacturers which were based on different criteria like number of workers, value of clearances, horse power etc., for the purpose of granting exemption to small manufacturers. According to Notification No. 71/78-CE dated 1-3-1978 the eligibility of the small manufacturer, for the exemption is now determined on the basis of his clearances during the preceding financial year.

As the recommendations/observations contained in this para call for action on the part of the Directorate General of Supplies & Disposals, they have been addressed by this Department's U.O. F. No. 234/31/78-CX-7 dated 4-2-1978 a copy of which has been endorsed to Lok Sabha Secretariat for examining them and furnishing a suitable Action Taken Note directly to the Lok Sabha Secretariat.

[Ministry of Finance (Department of Revenue) letter No. 234/31/78-CX-7 dated 11-8-1978]

*ANNEXURE*

No. E12 (71)/77

GOVERNMENT OF INDIA

OFFICE OF THE DEVELOPMENT COMMISSIONER

(Small Scale Industries)

Nirman Bhavan, 7th floor

New Delhi, the 21st/23rd Feb., 1978.

To

The Director of Industries,

All States

SUBJECT.—13*th Report of Public Accounts Committee* (6*th Lok Sabha*) *Union Excise Duties* (*On paragraphs of the Report of Comptroller and Auditor General of India for the year* 1973-74, *Union Government* (*Civil*) *Revenue Receipts Vol-I-Indirect Taxes relating to the Union Excise Duties.*

Sir,

Please find enclosed an extract of the recommendations of the Public Accounts Committee (6th Lok Sabha), 13th Report, Indirect Taxes relating to Union Excise Duties. The Audit paragraph reveals that a unit which came out of the small scale sector in September, 1970 and had been since registered with the Directorate General of Technical Development continued to enjoy excise concession till 31st March, 1974 thereby reaping unintended benefits of over Rs. 7 lakhs.

You will appreciate that it is necessary to establish close and effective coordination between the different Government organisations for the purpose of safeguarding public interest. You are requested, therefore, to kindly evolve a regular system whereby the names of erstwhile small scale units are communicated to the concerned Collector of Excise as soon as they grow out of the small scale sector so as to prevent them from availing of concessions not intended for them. Kindly give this matter the most urgent attention and intimate this office the action taken in this regard because we are required to submit the *action taken note* in this respect to the Lok Sabha Secretariat at an early date.

Your faithfully,

Sd./- A. K. BANERJI,

*Director (EI)*

*for DC(SSI)*

**Recommendation**

The Committee are distressed to note that there have been some cases pertaining to large scale industries where the contractors after obtaining reimbursement of full amount of excise duty paid by them have secured refunds from excise athorities without intimating the D.G.S.&D. Difficulties are stated to have been faced in some such cases in claiming back this refund from the contractors. The Committee have been informed that the question of suitably revising the certificates to be obtained from the contractors before reimbursement of excise duty as also the question of obtaining certain guarantees from the contractors in this regard is being examined. The Committee stress that the question of suitably revising the certificates to be obtained from he contractors befor the reimbursement of excise duty as also the question of obtaining guarantees from the contractors before the reimbursement of excise duty as also the question of obtaining guarantees from the contractors should be conclusively pursued and finalised without any further loss of time to safeguard public interest.

[Sl. No. 97 (Para 11.26) of Appendix XV. 13th Report of PAC (6th Lok Sabha)]

**Action Taken**

It came to the notice of DGS&D in 1974, on receipt of copies of some refund orders, that some contractors had obtained refund of Excise Duty but failed to pass on the same to the DGS&D. A

reference was made to the Chairman, Central Board of Excise and Customs, New Delhi on 20-2-1975 asking whether it was appropriate for the concerned Asstt. Collector of Central Excise to issue the refund orders to the firm when he knew that the firm had obtained excess payment from the DGS&D on account of Excise Duty. The Department of Supply felt that in the interest of safegaurding Government's dues, a more appropriate procedure would have been for the Asstt. Collector to withhold the issue of refund orders and to inform the DGS&D. Alternatively, he could have issued paper orders not encashable without D.G.S.&D.'s clearance. It was also suggested that the existing instructions might be amended suitably, if necessary, in the interest of safeguarding Government's dues. Central Board of Excise and Customs replied on 9-7-1975 that since refund of the Central Excise Duty was to be paid to the party from whom it was originally realised, it would not be appropriate for the Board to withhold the issue of refund orders till the customers (which includes DGS&D in some cases) had been informed about the refund. It was also stated that though a copy of the refund orders had been issued to the DGS&D, the Asstt. Collector was normally not expected to do so, as per the then existing instructions. The Board also expressed inability to amend the existing instructions, in such a way that the DGS&D or other interested customers were first informed about the refund, whenever any such refund was sanctioned. It was further stated that it was also not practicable to find out in each and every case of refund whether the DGS&D or any other Government Deptt., or Organisation was interested in the refund. The Board, however, agreed to issue instructions that in each and every case of refund involving Rs. 50,000 and above a copy of the refund order would be endorsed to the DGS&D, supplemented by a quarterly statement of such refunds. Necessary instructions to all Collctors/Deputy Collectors of Central Excise were accordingly issued by the Board on 15-7-1975, On DGSD's request, further instructions were issued by the Board on 22-9-1975 that the exact description of the goods in respect of each refund might be shown in the statement invariably. The Board, however, added that it would not be feasible to indicate the particulars of DGS&D's contract number and date in the statements because this information would not be available with the concerned Collectorates of Central Excise.

The refund orders exceeding Rs. 50,000 and also the quarterly statements are being monitored by DGS&D to find out as to whether the refund orders pertain to the contracts placed by the DGS&D. For this purpose, a standard form of letter to be issued to the firms

has been got vetted by the Law Ministry and a copy of the same is attached (Annexure I).

The Excise Duty clause to be stipulated in the DGS&D's tender enquiry and the resultant contract has been suitably revised, in consulation with Law Ministry, in respect of the certificates and the undertaking to be obtained from the contractor before reimbursement of the Excise Duty. A copy of office order No. 14(A) dated 17-12-77 embodying a new Excise Duty Clause is enclosed (Annexure II). This office order, *inter-alia,* provides for incorporation of the following clause in the tender enquiry and the resultant contract.

> "An UNDERTAKING to the effect that in case it is detected by the Government that any refund from Excise Authorities was obtained by the firm/Mills after obtaining reimbursement from the Controller of Accounts and if the same is not immediately refunded by the firm/Mills to the Controller of Accounts giving details and particulars of the transaction, the Controller of Accounts will have full authority to recover such amounts from firm's/Mill's outstanding bills against that particular contract or any other pending Government contracts and that no dispute on this account would be raised by the supplier."

The incorporation of the above Clause will enable the DGS&D to deduct the amount of excise duty refund obtained by the supplier, from the pending bills, if any, of the same supplier.

In order to make the Excise Deptt.'s statement of refunds as fully informative as possible, detailed discussions have been held between the DGS&D and the Central Board of Excise and Customs. The quarterly statements now being furnished by the Collectors of Central Excise will contain all the informations relevant to DGS&D's purposes, and to the extent such information is available with the Excise Deptt. Making use of this information, and operating the clause in the contract above mentioned, DGS&D will take all possible steps to ensure that the benefit of such excise refunds accrues to Government.

[Department of Supply O.M. No. PIII-17 (6)/77 dated 30-5-1978]

ANNEXURE I

*BY REGISTERED POST A/D*

No. CDN-2/18(43)/III/77

GOVERNMENT OF INDIA

DIRECTORATE GENERAL OF SUPPLIES AND DISPOSAL

Jeevan Tara Building, Parliament Street,

New Delhi ..

To, DATED: 197

M/S———————————

———————————

———————————

SUBJECT:—Excise Duty—Refund of.

Ref: Refund Order No.————————

dated———————————— issued by

———————————

Dear Sirs,

It has been intimated by the Excise authorities that under the Refund Order(s) cited above you have been granted refund of Rs.———— on account of Excise Duty in respect of stores of the undermentioned description for the period———— You are requested to let this office know immediately whether or not the said refund of Excise Duty or a portion thereof pertains to the items of stores supplies against D.G.S.&D. contracts. If so, please furnish a list duly certified by your Internal Auditor indicating the Contract No. and date with a brief description of stores supplies against each, the total amount of Excise Duty refund obtained by you from the Excise authorities and the total amount of Excise Duty reimbursed to you by the concerned Controller of Accounts. If the refund claim does not pertain to supplies made against DGS&D's contracts, a nil statement should be furnished duly certified by your Internal Auditor.

2. In case the refund relates to any contracts placed by the DGS&D you are requested to furnish a list duly certified by the Internal Auditor indicating the details of the refund of Excise Duty and also take immediate steps to refund the said amount to the Controller of Accounts within 15 days of the receipt of this communication.

3. Your reply should reach the undersigned by————

Yours faithfully,

(R. R RATHORE)
*Deputy Director (CDN. Supplies-I)*
*for Director General of Supplies and Disposals*

| S. No. | Refund order No. and date | Brief description of Stores | Refund of E.D. amount obtained |
|---|---|---|---|

Copy for information to:—
Director of Supplies.

## ANNEXURE II

GOVERNMENT OF INDIA

DIRECTORATE GENERAL OF SUPPLIES AND DISPOSALS
(CO-ORDINATION SECTION-2)

Jeevan Tara Building, Parliament Stereet, New Delhi.

OFFICE ORDER NO. 14(A) DATED: 17-12-1977

SUB:—*Excise duty reimbursement—Partial modifications to the Clauses.*

REF:—*O.O. No.* 15 *dated* 1-1-1976
O.O. No. 14 dated 1-1-1976

Instances have come to notice that in some cases firms/Mills have obtained refund of the excise duty from the Excise Authority and have failed to pass on the credit to DGS&D. In order to prevent recurrence of such instances it has been decided in consultation with the Deptt. of Supply and Ministry of Law to incorporate a provision in the Tender Enquiry and the resultant contract reserving the Government's right to recover such amounts of refund obtained, from the pending bills of the suppliers and also revise the existing clauses/certificates prescribed for the reimbursement of excise duty. In this connection extracts of legal opinion given by JS & LA Law are reproduced below:—

> "It was held by the Supreme Court in the Air Foam case that the Department would not be in a position to recover or appropriate any amount claimed by them on account of damages for breach of the contract unless the claim is adjudicated by the Civil Court or the Arbitrator, as the case may be. In cases where excise duty has already been paid to the firm by the Deptt. and subsequently the excise authorities grant a refund of the amounts so paid in whole or in part, the Deptt. is entitled to recover the same from the firm. Such recovery not being in the nature of damages, there appears no legal impediment to the insertion of a clause, as proposed hereinunder in the T/E and in the A/T which is placed on the firm pursuant there to provided the firm does not object to it in their tender."

2. It has also been decided to dispense with the 'Quarterly Certificate' and in its place individual certificate against each bill has been prescribed.

3. According the excise duty clauses appearing under para 2 of Office Order No. 15 dated 1-1-1976 for T/E and A/T may be replaced by the following clauses:—

EXICISE DUTY:

I. CAUSES TO BE INCLUDED IN THE INVITATION TO TENDER:—

"(i) If it is desired to ask for excise duty or any other charges as extra, the same must be specifically stated. In the absence of any such statement no claim for the same will be entertained. (Where the excise duty is leviable on ad-valorem basis, the tenderer should submit along with the tender, the Form I and the Manufacturer's Price List showing the actual assessable value of the stores, as approved by the Excise authorities).

(ii) Please note that in case any refund of excise duty is granted to you by Excise Authorities in respect of stores supplied under the contract you will pass on the credit to the purchaser immediately along with a certificate from your Director/Manager/Proprietor/Accountant that the credit so passed on relates to the excise duty originally paid for the stores supplied under the contract. In case of your failure to do so within 10 days of the issue of the excise duty refund orders to you by the excise authorities the purchaser would be empowered to deduct a sum equivalent to the amount refunded by the Excise Authorities without any further reference to you from any of your outstanding bills against this or any other pending Government Contracts and that no disputs on this account would be raised by you.

(iii) The tender is also required to furnished to the Controller of Accounts the following Certificates:—

1. Certificate with each bill to the effect that no refund has been obtained in respect of the reimbursement of Excise Duty made to the contractor during three months immediately proceding the date of the claim covered by the relevant bill.

2. Firm's/Mills' Statutory Auditor's certificate as to whether any refunds have been obtained or applied for by them or not in the preceding financial year after, the annual audit of their accounts also indicating detils of such refunds/application, if any. This

certificate should contain reference to all ad-hoc A.Ts|Rate Contracts/Running Contracts held by the firm/Mills.

3. A certificate ALONG WITH THE FINAL PAYMENT BILLS of the firm/Mills to the effect whether or not they have any pending appeal/protest for refund or partial refund of Excise Duties already reimbursed to the firm/Mills by the Government pending with the Excise Authorities and if so, the nature, the amount involved and the position of such appeals. This certificate should be signed by the firm's|Mills' Managing Director|Manager|Accountant.

4. AN UNDERTAKING to the effect that in case it is detected by the Government that any refund from Excise Authorities was obtained by the firm/Mills after obtaining reimbursement from the Controller of Accounts and if the same is not immediately refunded by the firm/Mills to the Controller of Accounts giving details and particulars of the transaction, Controller of Accounts will have full authority to recover such amounts from the firm's/Mill's outstanding bills against that particular contract or any other pending Government contracts and that no dispute on this account would be raised by the suppliers."

II. CLAUSE TO BE INCORPORATED IN THE CONTRACTS:

(i) *When the rate of duty is on fixed amount basis:*

"The prices are based on the current rates of Excise Duty *viz*.....and in the event of any statutory variation in this rate the prices will be adjusted accordingly."

(ii) *When the duty is on percentage advalorem basis:*

"The rate of Excise Duty is————per cent advalorem. The Excise Duty at present leviable in this case is————per cent on Rs. X. X being the unit value of the stores as assessed by the Collector of Excise,————area."

(iii) *In both the types of cases covered by (i) and (ii) above:*

"The supplier while submitting the Excise Duty Bills will furnish the following certificates on the Bills itself:—

(i) Certified that the Excise Duty charges on this/these Bills is/are not more than what is/are payable under the provision of the relevant Act or the Rules made thereunder.

(ii) Certified that the amount of Rs.———claimed as Excise Duty in this Bill is an accordance with the provisions of the Rules in all respect and that the same has been paid to the Excise Authorities in respect of stores covered by the Bill.

The Supplier shall submit to the concerned Controller of Accounts the following certificates:

(1) Certificate with each bill to the effect that no refund has been obtained in respect of the reimbursement of Excise Duty made to the contractor during three months immediately preceding the date of the claim covered by the relevant Bill.

(2) Firm's|Mills Statutory Auditor"s Certificate as to whether any refunds have been obtained or applied for by the firm/Mills or not in the precedent financial year, after the annual audit of their accounts, also indicating details of such refunds/application, if any. This certificate should contain reference to all *ad-hoc* A/Ts/Rate Contracts/ Running Contracts held by the firm/Mills.

(3) A certificate ALONG WITH THE FINAL PAYMENT BILLS of the firm/Mils to the effect whether or not they have any pending appeal/protest for refund or partial refund of excise duties already reimbursed to the firm/ Mills by the Government pending with the Excise Authorities and if so, the nature, the amount involved, and the position of such appeals. This certificate should be signed by the firm's/Mills' Managing Director/Manager/Accounttant.

(4) AN UNDERTAKING to the effect that in case it is detected by the Government that any refund from Excise Authorities was obtained by the firm/Mills after obtaining reimbursement from the Controller of Accounts and if the same is not immediately refunded by the firm/Mills to the Controller of Accounts giving details and particulars of the transaction, the Controller of Accounts will have full authority to recover such amounts from firm's/Mills' outstanding bills against that particular contract or any other pending Government contracts and that no dispuute on this account would be raised by the suppliers."

4. The "Additional Clause" for incorporation in the A/T where the tenderer desired statutory variation from the date of the tender appearing at the end of para 2 of O.O. No. 15/1-1-1976, would remain unchanged.

5. Paragraph 5.7 of O.O. No. 14/1-1-1976 will also stand amended/ modified to the above extent.

6. In case firm intimates that any appeal regarding excise duty is pending under the clause prescribed in Para II(3) above then the final payment against the contract should not be released be by the Controller of Accounts and necessary instructions should be sent to him by the Purchase Officer concerned. The Purchase Officer should follow the above instructions in all future contracts.

Sd/-
(R. R. RATHORE,
*Deputy Director (CDN Supplies I)*

STANDARD DISTRIBUTION

(ON FILE NO. CDN-2/18(38)/II/76).

## CHAPTER III

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

### Recommendations

1.38. The Committee note that out of the excise duty of Rs. 2602 crores realized during 1973-74 the excise duty on tobacco accounts for a sizeable amount of Rs. 94 crores. This underline the importance of ensuring that excise duty on tobacco is recovered efficiently. They are greatly concerned to note the critical observations made by the Tobacco Excise Tariff Committee in their Report (April 1975) that on account of inadequacy of the strength of the excise staff, "the intensemal adminstration of even the limited staff", "scriptory work had tended to overshadow other types of executive functions entrusted to the primary field formations". There was leakage of revenue to the extent of 25-30 per cent On this recokoning Government appear to be losing revenue to the extent of Rs. 20.25 crores a year. The Tariff Committee had also suggested the introduction of a two tier tariff with a low specific rate applicable to the raw product (unmanfactured tobacco) and a second point tax on the value added end product to reduce the anomalies in the tariff and the inequities in the existing tariff which unwttngly acted as an incentive for evasion.

1.39. The Committee cannot view with equanimity the delay of over one and a half years in taking a decision on a basic issue like the rationalisation of triff on tobacco and other related issues. The Committee desire that Government should take a decision in this matter well before the end of the current financial year so that necessary rationalisation could be effected at least from the next financial year. The Committee see no reason why the administrative machinery for collection of the excise duty in the field cannot be tightened so that they effectively discharge their responsibilities and plug all leakages of revenue. In view of the importance of the matter the Committee would like to be informed of the concrete measures taken in pursuance of these recommendations within six months.

**[Sl. Nos. 1 and 2 (Paras 1.38 and 1.39) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]**

**Action Taken**

Para 1.38 Excise Control over unmanufactured tobacco is quite elaborate covering almost all the operations involved in its growing, production, preparation and marketing. There are detailed accountal and physical checks. However, tobacco being an agricultural produce, grown and cured largely by illiterate (or semi-literate) and poor cultivators, excise checks have to be so tailored as to minimise hardship and harassment.

Realising the difficulties in the administration of tax on unmanufactured tobacco the Tobacco Excise Tariff Committee had indicated that, in the long run, from both the fiscal and administrative angles, the ideal would be to move away from 'a tax on unmanufactured tobacco to one on the finished manufactured products. The Committee was however, conscious that it might not be practicable to make such a drastic change all at once in one of the oldest and well established excise systems involving a very large number of assesses.

The Government have taken decisions on all the recommendations of the Tobacco Excise Tariff Committee. Recommendations regarding physical weightment of tobacco produced in the presence of Central Excise Officers, tightening of control on transport of non-duty paid unmanufactured tobacco from the curers premises to the ware-houses under cover of transport documents prescribed under the Central Excise retention of tobacco in licensed warehouses, tightening of the machinery for collection of excise duty so as to plug leakage of revenue have all been accepted by the Government. The decisions taken thereon are indicated as under:—

(i) *Weightment of Tobacco in the presence of Central Excise Officers*:—

The Committee had recommended that at least 70 to 75 per cent of tobacco should be physically weighed. Instructions were issued (under Board's letter No. 261|4|38|76-CX-8 dated 11-5-1976—Copy enclosed as Annexure 'A') that while it may not be possible to weigh this percentage *i.e.* 70 to 75 per cent of the tobaico produced, cent per cent weighment in at least some selected pockets of heavy cultivation should be attempted. Hnwever, as a result of representations from the Trade and difficulties pointed out by the Collectors of Central Excise) the rigour of the above instructions had to be later relaxed (by instructions dated 25-4-77—copy enclosed as Annexure 'B').

(ii) *Period of warehousing of tobacco without payment of duty*:

The Committee had recommended that the normal period allowed for storage in a warehouse which previously was three years, with a provision for further extension by the Collector should be reduced to two years in the normal course, with a provision for further extension by one year by the Collector and beyond that by the Central Board of Excise and Customs itself.

Government have accepted and implemented this recommendation, with the modification that the Cellector can permite extension of the warehousing period by one year in the case of all varieties of tobacco except VFC (Virginia Flue Cured) tobacco and by two years in the case of VFC tobacco. Extensions beyond the period of 3 years in case of all varieties of unmanufactured tobacco except V.F.C. and 4 years in the case of V.F.C. tobacco are to be granted by the Board (vide F. No. 316.A|1|76-CX-10 dated 27-12-1976—copy enclostd as Annexure 'C'.)

(iii) *Movement of non-duty paid tobacco from one warehouse to another*:

The Committee had recommended that such inter-warehouse movements should be restricted to two after the initial warehousing.

Government had accepted this recommendation. But this again had to be modified in view of the representations from the trade and the experience gained in the working of the revised system. The Government after careful consideration of the hardship faced by the Trade, removed the restrictions on inter-warehouse movements as the reduced period of warehousing was itself a curb on the movement. [A notification No. 82|77-CE dated 4-5-1977 was issued accordingly (copy enclosed) as Annexure 'D').

(iv) *Use of Transport certificate for transport of tobacco from curers premises to the warehouses*:

The Committee had recommended the reduction of the period of validity of the transport certificate to sunset of the day of issue in cases of transport by mechanised vehicle (as against 2 days previously) and until sunset of the following day in other cases (as against the sunset of the fourth day previously).

The Government had accepted the recommendation. But in the light of experience, it was considered necessary that the period of validity should be different for a transport certificate for flue cured

tobacco and for other varieties of tobacco, and where transport is wholly or partly by mechanised vehicles and wholly by non mechanised vehicles. [A notification No. 81|77-CE dated 4-5-1977 fixing different periods of validity was issued accordingly (copy enclosed) as Annexure 'E'.]

(v) *Tightening of control*:

Action in the matter of tightening of control on issue of sales note by way of use of double sided carbon, indication of the actual time of removal from the curing premises and receipt in the warehouse etc. has been taken.

The quantity of duty paid tobacco permitted to be transported under a Sale note has also been reduced from 10 quintals (1000 kgs) to 5 quintals (500 kg.).

(vi) *Staff requirements*:

As regards the critical observations made by the Tobacco Excise Tariff Committee in their Report regarding inadequacy of the strength of Excise Staff, necessary sanction for increase in the number of posts of Supdts. and Inspectors of Central Excise has been issued (vide F. No. 11019'3|M|78-Ad-IV dated 31-1-1978—copy enclosed as Annexure 'F').

The Committee in its Interim Report submitted to the Govt. on 9th January, 1975 had recommended that.—

(a) Our equitous consideration a uniform tariff rate of rupees three per kilogram should be applicable to all forms of unmanufactured tobacco other than that used for the manufacture of cigarettes with a relief of rupee one per kg. to stalks; and

(b) A low rate of excise duty should be levied on certain specified tobacco products, namely hand made branded biris, branded chewing tobacco and snuff.

The Committee's above recommendations were accepted by the Govt. with some minor adjustments and implemented in the 1975 Budget. It will thus be seen that there was no delay in implementing the major recommendations of the Committee.

[Ministry of Finance (Department of Revenue) letter No. 234|23|78-CX—7 dated 26-9-1978].

*ANNEXURE—'A'*

**S. VENKATESAN**
**MEMBER**

D. O. F. No. 261|4|38|76-CX-8

Central Board of Excise & Customs
New Delhi, the 11th May, 1976

My Dear,

The report of the Tobacco Excise Tariff Committee has now been with you for quite sometime and you must have gone through it. What strikes one rather forcefully is the Committee's observation that the burden of evidence even though circumstantial in nature, in their totality, leads to the enescapable conclusion that substantial quantities of dutiable tobacco are in fact escaping payment of duty altogether. The extent of leakage has been estimated by the Committee at about 25—30 per cent of the total unmanufactured tobacco. It goes on to say that the basic point of leakage is the presence of unaccounted for tobacco which directly follows underestimation of area or of yield particularly in heavily concentrated and highly commercialised areas of production, first assembly and initial marketing.

2. It has recommended, *inter alia*, that atleast 70 to 75 per cent of the tobacco produced should be physically weighed. While it may not be possible to do so in all the important tobacco growing areas, cent per cent weighment in certain selected pockets of heavy cultivation, with the aid of the Central and Divisional Preventive Staff should be possible. In this connection, it is interesting to note that as a result of a special drive launched in one of the Collectorates to ascertain, by full actual weighment, the total produce in a few selected M.O. Rs., the quantity verified by actual weighment was found to be about 35 per cent more than the quantity as per curers' declarations (1.44 mn kgs. verified as against 0.846 mn kgs. as per curers' declarations).

3. I would, therefore, suggest that you may organise special squads for verifying the curers' declaration by actual weighment in the more important growing areas in your charge. A detailed report on the action taken in this respect and the result thereof may be sent to the Board in due course.

4. The Committee has also observed that shortcomings are noticeable in practically every department of Tobacco Excise Administration. Primary as well as secondary checks have lost in their intensity as well as quality. It has recommended that it must

be ensured by the supervisory officers that the prescribed frequencies of visits to wholesale dealers' premises and scale of checks on transport documents are strictly adhered to.

5. You may issue instruction on the above lines for being followed by the field officers. Supervisory officers during their tours of inspection, or other visits must make it a point to examine the relevant records to satisfy themselves that the prescribed frequencies of visits and scale of checks laid down for officers of different grades are being complied with and that the prescribed checks are being exercised intelligently and in detail and not merely as a matter of routine in a perfunctory way.

6. Preventive officers, belonging to the Central Unit at the Collectorate headquarters as also the Divisional Units should be direct to intensify surprise checks on excisable goods, including unmanufactured tobacco, in transit. They should also make it a point to visit the premises of wholesale dealers dealing in unmanufactured, tobacco, check their reports and resume some of the cancelled transport documents with the licensees with a view firstly to see that these have been correctly filled in without any omissions and to get these verified from the range of origin, personally if it falls within the same Division, or through the Superintendent (Preventive) of the Division concerned in other cases.

7. The result of these checks should be reported to the Assistant Collector (Preventive) who should bring to your notice any discrepancies noticed at any stage.

Sd/

(S. Venkatesan)

*ANNEXURE 'B'*

F. No. 261/4/20/77-CX-8(S)

Central Board of Excise & Customs
New Delhi, the 25th April, 1977.

From

Shri S. K. Bharadwaj,
Under Secretary.

To

All Collectors of Central Excise

Sir,

SUB: Central Excise—Unmanufactured to tobacco Intensification of control over curers—Certain practical difficulties encountered in the implementation of instructions.

Reference is invited to Board's F. O. F. No. 261/4/38/76-CX-8 dated 11th May, 1976 addressed to all Collectors regarding cent per

cent weighment of unmanufactured tobacco in certain selected pockets of heavy cultivation areas with the aid of Central and Divisional Preventive staff. The said instructions were issued for the implementation of the recommendations of Tobacco Excise Tariff Committee. Difficulties have been pointed out to the Board that in the absence of sanction of the additional staff, or for any other reason, it may not be practical to carry out hundred per cent weighment of tobacco as desired by the Board. On re-examination of the matter Board desires that where due to practical difficulties or for lack of staff it is not possible to actually weigh the entire quantity of tobacco cured without undue delay, weigh of whole lot may be estimated on pro-rate basis as was being done hitherto. For example where cured tobacco is stored in the form of bundles or judies or strings etc. the numbers may be counted and a small number of the actually weighed to ascertain the total weight.

Yours faithfully
Sd/

(S. K. BHARADWAJ)
*Under Secretary.*

*ANNEXURE 'C'*

F. No. 316A/1/76-CX-10

GOVERNMENT OF INDIA
Central Board of Excise & Customs
New Delhi, the 27th December, 1976.

**To**

All Collectors of Central Excise.

Sir,

SUBJECT:—Stricter control over transport and ware-housing of unmanufactured tobacco—Recommendations of Tobacco Excise Tariff Committee.

I am directed to invite your attention to notification Nos. 291|76-CE 292|76-CE, 293|76-CE, and 294|76-CE all dated 21-12-1976. which give effect to the Government's decisions on recommendations of Tobacco Excise Tariff Committee, relating to movement and ware-housing of tobacco. These are aimed at tightening up the warehous-

ing facilities available at present. Similarly the concessions granted to curers, warehouse owners, brokers and wholesale dealers in unmanufactured tobacco to issue transport certificates in form T.P.3 and sale-notes respectively have also been modified. Some of the important features of the changes effected, are detailed below for the guidance of officers and trade.

2. Under Rule 145 of Central Excise Rules, 1944 any goods to which warehousing provisions are applicable, are permitted to be warehoused till the expiry of three years from the date on which such goods were first warehoused, subject to further extensions being granted by the Collector and the Board. This rule has been amended to curtail the period of warehousing in respect of tobacco from the existing three years to two years. Collectors, will not be empowered to grant a further extension of one year only after the expiry of the initial two year period. The Board will be empowered to grant further extensions in deserving cases in addition to the normal warehousing period and period of extension granted by the Collector. In case of flue cured tobacco the power to grant one year's extension addition to the normal period of two years, may be delegated to the Assistant Collectors. The Collectors have been empowered to grant further extension beyond the period of three years in the case of flue cured tobacco. However, this power should, for the present, be restricted to granting not more than one year extention beyond the extended three year period. If many genuine cases for extension beyond the total period of four years (including the one Year's extension granted by the Collector) in case of flue cured tobacco, come to notice, the matter may be reported to the Board. These provisions are intended to be brought into effect from 1-4-1977. It is, therefore, necessary that suitable action be initiated by you straight away to ensure that all tobacco in respect of which the warehousing period is to expire by 1-4-1977, is cleared on payment of duty or suitable steps are taken for grant of further extensions, wherever permissible under the amended rule.

3. There may be the following types of cases which may required specific action on the part of officers:—

(a) Consignments which will have remained warehoused for a period of more than two years on 1-4-1977, should be cleared on payment of duty, except the consignments where collectors may like to grant extensions in their discretion, on applications being made;

(b) Consignments which have already been warehoused for a period of more than three years and which had been allowed to remain in the warehouse under clause (a) and/ or (b) of the first proviso to rule 145 of Central Excise Rules, before its amendment by notification No. 291/76-CE either by the Assistant Collector or by the Collector, will require to be cleared on payment of duty, unless an extension is granted by the Board in suitable cases.

(c) wherever the extension has already been granted by the Board the consignments may be allowed to remain in the warehouse for the period of extension already granted by the Board. On expiry of such period these consignments are required to be cleared on payment of duty.

4. It should, therefore, be ensure that after 1-4-77 no consignments are allowed to remain in the warehouse beyond a period of two years unless an extension of warehousing period has already been granted, either by the Collector or by the Board.

5. Another important aspect of the changes in warehousing provision relates to the restrictions on the number of in bond removals. Notification No. 293|76-CE dated 21-12-1967, restricts the number of removals of tobacco from one warehouse to another to two, after the first warehousing. In case of flue cured and air cured varieties, normally used in the manufacture of cigarettes, the number of removals will be counted for this purpose only after the stage of re-drying. The Government have also accepted the recommendation of the Committee that only those brokers and commission agents who hold a warehouse licence or who are specifically authorised by warehouse licensee for this purpose, should be allowed to sign a transport certificate. Rules 31 and 32 of Central Excise Rules, 1944 have been amended for this purpose through notification No. 291/76-CE dated 21-12-1976.

6. All entries in the transport certificate are required to be made by using indeliable pencil and double-sided carbon. The actual time of removal of the tobacco from the curer's premises must be recorded in all the three copies of the transport certificate. The actual time of receipt at the warehouse of destination, will also be required to be shown on the copy of the transport certificate accompanying the consignment. The period of valtdity of the transport certificate has also been curtailed and shall now be till the sunset of the day of issues, if the transport is by means of a mechanised vehicles, and in other cases, till the sunset of the day following the day of issue.

7. With a view to crub the reported misuse of the sale note concession, notification No. 292/76-CE dated 21-12-76 has been issued, prescribing a few more conditions and limitations in addition to those already perscribed, for the transport of duty paid unmanufactured tobacco under cover of sale notes. Only such wholesale dealers shall now be allowed to avail of this concession who apply for it in writing and execute a bond. The sale-note will not be permitted to be issued in respect of a consignment exceeding 2.5 quintals of duty paid tobacco. A wholesale dealers issuing a sale note will also be required to indicate on such sale note the name, address and licence number of the wholesale dealer from whom the dealer issuing the sale note received the tobacco. A sale-note shall be valid as a transport document for carrying tobacco upto a distance of 100 Kms. or such further distance, not exceeding 25 Kms as may be extended by the Collector. The intention behind authorising the Collectors to relax marginally the distance of 100 Kms. is to avoid undue hardship in genuine cases. The amount of bond to be executed by the wholesale dealer before he is allowed to avail of the concession of issuing sale notes should normally be equivalent to the duty amount on the quantity transacted in any one month, having maximum transactions, during the last twelve months. In case of new wholesale dealers the amount of bond should be based on the estimation of his average monthly transactionas. The amount of security may be fixed at 10 per cent of the bond amount or the duty amount on 2.5 quintals of tobacco, whichever is less. The form of bond will be communicated separately. It has also been decided that hence forth verification of premises in case of applications for licence to deal in duty paid unmanufactured tobacco should precede and not follow granting of such licence. Under notification No. 294|76-CE dated 21-12-76 the period of validity of a sale-note has also been curtailed, if transport is by a mechanised vehicle till the sun set of the day of issue and in other cases, till sun-set of the day following the day of issue. A sale note will now require to be prepared in triplicate; original will be given to the buyer as substitute transport permit and duplicate shall be sent by the licensee, issuing the sale note to the range officer, having jurisdiction over him at fortnightly intervals and the triplicate will be retained by the seller. The range officer, receiving the duplicate will sent the same to the range officer at destination. The changes in respect of transport certificates and sale notes are intended to be brought into effect from 1-2-77.

8. You are requested to issue necessary trade notices for the information of trade and issue necessary instructions to the offi-

cers to properly educate the tobacco traders about the aforesaid changes.

Yours faithfully,

Sd/-

KRISHAN KANT,

*Under Secretary to the Government of India.*

*ANNEXURE 'D'*

TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION(i) GAZETTE OF INDIA EXTRAORDINARY DATED THE 4TH MAY 1977

GOVERNMENT OF INDIA

DEPARTMENT OF REVENUE AND BANKING

*New Delhi, the 4th May,* 1977

**NOTIFICATION**

CENTRAL EXCISES

G. S. R. In exercise of the powers conferred under rule 139 of the Central Excise Rules, 1944, and in supersession of the notification of the Government of India, Department of Revenue and Banking No. 63/77—Central Excises, dated the 13th April, 1977, the Central Government hereby directs that the provisions of Chapter VII of the said rules including the provisions relating to the removal of goods from one warehouse to another, shall apply to unmanufactured tobacco falling under sub-item I of item 4 of the First Schedule to the Central Excises and Salt Act, 1944 (I of 1944).

(No. 82/77) Sd/- N. C. JAIN

*Under Secretary to the Govt. of India.*

Notification No. 82|77—CE F. No. 316A|1|176—CX-10|CX-8

*ANNEXURE 'E'*

TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA EXTRAORDINARY

DATED THE 4TH MAY 1977

GOVERNMENT OF INDIA

CENTRAL BOARD OF EXCISE AND CUSTOMS

***New Delhi, the 4th May,* 1977**

## NOTIFICATION

## CENTRAL EXCISE

G.S.R. In pursuance of rule 34 of the Central Excise Rules, 1944 and in supersession of notification of the Central Board of Excise and Customs No. 60/77—Central Excise dated the 12th April, 1977, the Central Board of Excise and Customs hereby directs that in respect of unmanufactured tobacco specified in column 1 of the Table hereto annexed and transported in the manner specified in the corresponding entry in column 2 thereof, the transport certificate shall be valid for the period specified in the corresponding entry in column 3 thereof and shall be subject to the conditions, if any, specified in the corresponding entry in column 4 of the said Table.

**Table**

| Description of unmanufactured tobacco. | Mode of transport | Period of validity | Conditions, if any. |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| (1) Virginia or Indian Air-cured 'string' tobacco. | (a) wholly or partly by mechanised vehicle. | (i) 12 hours from time of issue. | If the distance to be covered is 250 kms. or less ; |
| | | (ii) 24 hours from time of issue. | If the distance to be covered is more than 250 kms. |
| | (b) wholly by non-mechanised vehicle. | (i) upto 6 A.M. of the day following the date of issue. | If the distance to be covered is 30 kms. or les ; |
| | | (ii) upto 6 A.M. of second day following the date of issue. | If the distance to be covered is more than 30 kms. |
| (2) All others . . | (a) wholly or partly by mechanised a vehicle. | (i) 12 hours from the time of issue, excluding the night hours during which ferries, if any on the way do not operate. | if the distance to be covered is 250 kms. or less. |

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| | | (ii) 24 hours from the time of issue, excluding the night hours during which ferries, if any, on the way do not operate. | If the distance to be covered is more than 250 kms. |
| | (b) wholly by non-mechanised vehicles. | Upto sunset of the day following the date of issue. | |

Sd/-N. C. JAIN.
*Under Secretary, Central Board of Excise & Customs*

*Notification No. 81/77—C.E. F.N. 316.4/1/76/-CC-10/CC-8.*

Annexure. F

F. No. A.11019/3/78-Adv.IV
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
*New Delhi, the 31st January, 1978*

To

All Collectors of Central Excise

SUB:—*Implementation of recommendations of Tobacco Excise Tariff Committee.*

Sir,

I am directed to say that the implemental action on the following recommendations of Tobacco Excise Tariff Committee as accepted by the Govt. has been pending for being dependant on creation of additional posts of Superintendents of Central Excise:

(i) Cross check and re-check of the out door work performed by the Inspectors e.g. weighment of produce, check measurement of area under tobacco cultivation etc.

(ii) Delimitation of range charges on the basis of work load, spread of area etc. to make them more compact and manageable.

2. Posts of Superintendents of Central Excise to bring the over all ratio of existing strength of Inspectors and Superintendents generally to 5:1 have been recently sanctioned. This also covers the Inspectors employed on tobacco work. The Central Board of Excise

& Customs, therefore, feels that it should now be possible with the increased number of Superintendents to implement the above recommendations of the Tobacco Excise Tariff Committee.

3. Please acknowledge receipt.

Yours faithfully,

Sd/- V. AIYASWAMY,
*Under Secretary to the Govt. of India*

Copy to CX-8 Section with reference to their F. No. 261|4|2|76 CX-8 dated 6-1-78.

Copy to Ad. V Section

Sd/- V. AIYASWAMY,
*Under Secretary to the Govt. of India*

Recommendations

1.40. The Committee are unhappy to note that Rs. 37 crores on account of excise duty on unmanufactured tobacco for the year 1969-75 remains outstanding. According to the Ministry these arrears are on account of demand raised for improper removal of tobacco from warehouses and time barred consignments lying uncleared in warehouses or the tobacco not being properly accounted for in terms of the Central Excise Rules etc. Pending appeals or revision applications and grant of stay orders by civil courts are some other contributory factors for these arrears.

1.42. Apart from plugging the loop-holes which make it possible for the parties to run up these outstanding, the Committee suggest that penal interest should be invariably recovered and penalties as admissible under the rules levied so that these act as a deterrent to others from wilfully refraining from paying Govt. dues.

[Serial Nos. 3 & 5 (Paras 1 40 and 1.42) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

1.40. The Committee's observation that Rs. 37 crores are outstanding towards excise duty on unmanufactured tobacco for the years 1969 to 1975 appears to know from the reply submitted *vide* Ministry's letter F. No. 234/34/76-CX 7 dated 21-4-1976 on point 18 of the list of points arising out of the evidence given before the PAC. However, the assumption that the outstanding arrear amounted to Rs. 37 crores is not correct in as much as the Deptt.'s reply only

listed the amounts of revenue pertaining to unmanufactured tobacco outstanding for realisation at the end of March of each of the seven calendar yearly namely 1969 to 1975. Since the figures pertained to arrear at the end of each particular period, they cannot be totalled up to arrive at the arrear outstanding at the end of March of the last year quoted in Deptt.'s reply, namely 1975. At the end of March, 1975 the arrears of revenue on unmanufactured tobacco pending for realisation were only Rs. 6.01 crores. Out of which an amount of Rs. 1.39 crores had already been realised.

1.41 & 1.42. The observations of the Committee in these Paras have been brought to the notice of the Collectors to take suitable and concerted action for bringing down the arrears and to guard against accural of any further arrears.

In regard to collection of penal interest on arrears or to levy penalty on the parties because of pending arrears, it is submitted that there are no legal provisions in the Central Excise Law. In this connection reference is invited to this Ministry's 'action taken note' submitted under F. No. 234/17/76-CX-7 dt. 28-7 1976 on Para 20.19 (Sl. No. 74) of PAC's 177th (1975-76) (5th Lok Sabha). The Department had indicated therein that the suggestion for amending the Central Excise Laws to provide for levy of interest if the duty was not paid on the due date at the time of clearance of excisable goods or recovery of duties have been stayed by Courts of Law was not feasible in view of the reasons given therein. Subsequently in the 68th Report (1977-78) (6th Lok Sabha) which is a review report on action taken by Govt. on the 177th Report, the Committee had indicated that they did not intend to pursue the recommendations contained in Para 20.19 (Serial No. 74) in view of the reply furnished by the Department. As this also covers the suggestion made in Para 1.42 above, the PAC may not wish this suggestion to be further pursued.

[Ministry of Finance (Department of Revenue) letter No. 234/23/78-CX 7 dated 24-5-1978]

**Recommendations**

2.44. The Committee are unhappy to note that this change in the stage of levy of duty led to substantial quantities of art silk fabrics processed with the aid of power and steam escaping levy of excise duty as a result of unscrupulous practices adopted by the manufacturers/processors. According to the Self Removal Procedure Review Committee art silk fabric was a notorious item far large scale

evasion of duty. The Review Committee had found substance in the allegations that several producers were in fact processing such fabric with the aid of power but were showing them as processed without such aid in collusion with hand processors. Some idea of the magnitude of such evasion can be had from the instance given in the Audit Report according to which in a Collectorate 22 mills manufactured art silk fabrics and cleared them free of duty as unprocessed fabrics although processing was being done with the aid of steam The less to document revenue was reckened at Rs. 13·60 lakhs.

2.45. Several explanations have been offered for the failure to prevent evasion of duty. It has been pleaded that under the then existing excise duty the Department of Revenue had no control over the units producing art silk fabrics upto the loom stage. Second ly, the leakage of revenue on processed art silk fabrics became more feasibile them in other sectors because of the highly decentralised nature of the processing units which could operate the machines at any time. Thirdly, the introduction of Self Revenual Procedure which relaxed physical control of the units also contributed to the vasion of duty.

2.46. According to the calculations made by Audit and which have been based upon the estimates of Textile Commissioner, during the period 1970-71 to 1872-73 (April to October, 1972) the difference between the production of grey fabrics and actual clearance of processed fabrics was of the order of 1192 million sq. metres. Taking the average minimum tariff value and the rate of duty as provided in the tariff the revenue evaded during the years 1970-71 to 1972-73, would according to the Audit amount to Rs. 7.60 crores. The aforementioned figure of 1192 million square metres has been disputed by the Ministry of Finance. According to the Ministry of Finance, these estimates of production have been arrived at by audit on the basis of the availablity for the decentralised sector of handlooms and powerlooms. The estimated production includes the production of grey art silk fabrics in the handloom sector as also the grey art silk fabrics which are produced in the non-power operated sector in respect of both of which there was no excise duty. Further, some quantities of art silk yarn were used in the manufacture of blended fabrics or hosiers, goods. There was also export of art silk fabrics in gray form.

2.47. It has been contended by the Department of Revenue that the quantum of art silk fabrics should be calculated at the rate of 8.86 metres per kilogram of yarn as per formula adopted by the Task Force instead of 9.79 metres taken by the Textile Commissioner.

The Department, accordingly calculated that the unaccounted quantum of fabrics comes to 244 million sq. metre instead of 1192 million sq. metres as mentioned in the Audit paragraph.

2.48. The Committee would have liked the Department of Revenue to have the revised figure as worked out as per the Task force formula (Appendix VIII) checked by audit so that the Committee had verified data before it. The Committee would defer their final observations till the date duly vetted by Audit becomes available. In the meantime, even if for the sake of argument, the figures now advanced by the Department of Revenue are accepted as correct. It is noticed that as much as 12.68 per cent of the total grey fabrics are not accounted for. The Department of Revnue while arguing that some of the art silk fabrics may have been processed without the aid of power and some consumed in the grey stage itself, have conceded that some fabrics had escaped duty. The Committee feel that it was incumbent on the Department of Revenue, Textile Commissioner etc. to work in close co-ordination with one another in order to see how much of art silk fabrics, was being produced in the country, how much out of it was being actually processed with the help of steam, power etc., so as to ensure recovery of excise duty. The Committee are convinced that if a critical review of the position was made contemporaneously by all the Govt. agencies concerned, discrepancies in the quantum of fabrics not accounted for and the quantum of fabrics escaping duty in the terms of exemption order or removed surreptitiously would have come to notice and Govt. would have been enabled to take action much earlier than 1975 to shift the excise duty from the fabric stage to the yarn stage.

2.55. The Committee are amazed to find that wholesale exemption was given to fabrics manufactured on circular knitting machines in terms of notification of 6 July 1957, even though it was well known for years that new circular knitting machines had been brought into use to manufacture very costly fabrics with the use of nylon textured yarn. The prices of the fabrics knitted oved circular machines as per statement furnished by the Department vary from Rs. 20 to Rs. 92 per metre. The Committee can see no justification whatever for allowing this concession to continue for 17 long years till it was withdrawn in 1975. The Committee feel that in 1970 when Govt. switched over from specific to *ad valorem* rate for determining excise duty, it was incumbent on them to review also the question of bringing into the excise not the costly art silk fabrics manufactured on circular knitting machines.

2.56. According to the statement furnished by the Department the total amount involved by way of exemption on excise duty on art silk fabrics manufactured on circular knitting machines till March 1975 for leading mills, as per data so far available works out to Rs. 45.5 lakhs (Approximately).

2.57. The Committee would like this matter to be investigated thoroughly at a high level to determine how the fabrics manufactured on circular knitting machines continued to remain exempted between 1970 and 1975 and fix responsibility and inform the Committee of the Action Taken.

[Sl. No. 16 to 20 and 27 to 29 (Paras 2.44 to 2.48 and 2.55 to 2.57) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

2.44 to 2.47. The Committee's observations have been noted.

2.48. The revised figures on un-accounted fabrics worked out on the basis of the formula evolved by the Task Force have been duly vetted by the Audit *vide* their letter No. 1120.Rec. A. I|241-73/CE IV dated 5-8-1977.

2.55. to 2.57. The reasons for granting the exemption initially to art-silk fabrics (hosiery) manufacture on circular knitting machines were:

(i) The units manufacturing fabrics on such machines were in the cottage and small scale sector;

(ii) the number of such units was relatively small;

(iii) the capacity of these units was underutilised; and

(iv) it was administratively not worth while to collect duty from such small units whose number was also not significant.

The aforesaid concession was granted in consultation with the then Ministry of Commerce and Industry.

It was only from 1971 onwards that the Department undertook the job of general review of all exemption notifications, in a systematic manner. The first general review was made in October-November, 1973 and a number of notifications which had outlived their purposes, were rescinded in 1974. It was however, not possible to complete the review of all the existing notifications by that time. In the nature of things, the work of review of exemption notifications,

apart from being a time consuming one, is a continuous process. It just happened that the notification in question was taken up for review in 1975 and not earlier.

In view of the position explained above, no lapse or failure could be attributed to any one for not reviewing the notification earlier.

[Ministry of Finance (Department of Revenue) letter No. 234/18/78-CX-7, dated 20-12-1978]

**Recommendations**

The Committee are concerned to note yet another instance of evasion of duty by resorting to willful malpratices by the art silk manufacturers by packing sound art silk fabrics in rolls and clearing them as fents and cutting sound fabrics into cut-pieces so as to fit the definition of rags to escape the appropriate rate of duty. The Committee have been given to understand that this tendency to resort to malpractice was accentuated from 1970 onwards when the duty was changed to *ad valorem* rates raising the incidence of duty sharply. The Committee deplore the lack of urgency on the part of Government in taking timely remedial measures to check this malpractice in spite of the fact that the percentage of terrycotton suiting fents removed without payment of duty in a few mills were as high as 71. The corrective measures were taken only in 1973, when the definitions of the fents and rags were revised by reducing the length and by increasing the rate of duty on fents. The Committee feel that if Government had carefully considered the full implications of switching over in 1970 from specific duty to *ad valorem* duly on art silk fabrics, they would have taken in time the requisite preventive measure *ab initio* to plug these loopholes.

[Serial No. 25 (Para 2.52) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

Changes in the Central Excise Tariff are made after taking all relevant factors and considerations into account. Remedial measures to take care of emerging situations at particular points of time are taken without any avoidable delay, in the light of fresh facts that may come to notice. This is a continuing process.

[Ministry of Finance (Department of Revenue) letter No. 234/18/78-CX-7 dated 4-7-1978]

**Recommendation**

The Committee are anxious that in order to have effective control over the fabrics there should be a proper correlation of grey

fabrics from offloom stages of processing and packing to their ultimate removel from the factory. According to the Ministry the exact correlation in this behalf would not be possible since during the course of processing the fabrics might elongate or shrink, depending upon the specific process carried out, and some rags, chindies, and fents might also be produced. While noting these difficulties, the Committee suggest that the Board should examine whether some standard guidelines should be laid down fixing the permissible percentage of shrinkages, rags and chindies etc.

[Sl. No. 49 (Para 4.18) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

The need for laying down standard guidelines fixing the permissible percentage of Shrinkage, rags and chindies etc. has been examined. There is considerable variation between a fabric at the grey ('off-loom') stage and when it is ultimately cleared after processing. This is mainly on account of the fabric being subjected to number of processes, in the course of which it undergoes alongation, shinkage etc.

Besides, on account of weaving and processing defects, a fabric running length may have to be cut at apporpriate places to remove the defects so that it may become of marketable condition. As a result of such cutting of a fabric in running length, fents, rags and chindies arise. The percentage of such shrinkage as also of the resulting fents, rags and chindies varies from fabric and mill to mill, may also depend on the type of processing which the fabric undergoes. In the case of mills which have modernised machinery like automatic looms and latest processing machines, the percentage of resultant fents, rags and chindies will be considerably small, whereas in the case of mills which are using old and dated machines like some of the mills owned by the N.T.C. (National Textile Corporation) the percentage is bound to be high.

It will therefore, not be practical to prescribe any standard guidelines for fixing permissible percentages of shrinkage of rags, chindies etc.

[Ministry of Finance (Department of Revenue) Letter No. .. 234/25/78-CX. 7 dated 14-12-1978]

**Recommendation**

6.39. The Committee are surprised to find that in this case in spite of the transfer of the installation facilities by Burmah Shell—a multi National—the Indian Oil Corporation continued to

provide Burmah Shell with storagt facilities for their stock of mineral oil products in the bonded storage tanks held on the date of purchase. Even after the date of purchase the mineral products of the seller continued to be brought and stored in the bonded storage tanks of the purchaser in the space reserved for the seller there. The Burmah Shell thus save expenditure on the establishment for maintenance of the storage tank also absolved themselves of the responsibility for the payment of excise duty and any offences therewith.

6.40. According to the audit paragraph, Burmah Shell by continuing to keep it stock of mineral oil products in the bonded storage tanks of the purchaser in contravention of rule 172 of Central Excise Rules avoided payment of duty according to the extent of Rs. 21,60,029 on 31st March, 1969. The representative of the Ministry of Petroleum, during evidence, admitted the fact but tried to explain that "as far as revenue aspect is concerned, there is no detriment to the revenue of the Government; whatever amount was there, it was deferred and paid." The Committee feel, however, that apart from the principle involved, even deferment of the payment of duty amounting to Rs. 21,60,029 on 31 March, 1969 to the actual clearance of the mineral oil on future dates connoted loss of revenue, since the duty, except when relayed with legal sanction, required to be realised at the appropriate time.

6.44. The Committee would like to express their concern once again about the manner in which the discretionary powers under the rules are exercised by the Executive. In this case, as has been pointed out, without there being any such orders from the Board which were issued in October, 1974, the Collector concerned had himself given the exemption as back as in 1969. Obviously, by issuing a letter in October 1974, the Board could not regularise or legalise the lapse on the part of the Collector with retrospective effect. This appears to be a very very casual manner of dealing with the rules to the detriment of the national exchequer.

[Sl. No. 58, 69 and 63 (Paras 6.39, 6.40 and 6.44) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

6.39. Indian Corporation was in need of some oil installations to take care of their increasing marketing responsibilities and negotiated the purchase of installations from Burmah-Shell to avoid duplication of facilities at the same station. Under the package deal that was entered into between Burmah-Shell and Indian Oil Corporation at the time of purchase of these installations, IOC had to continue to provide Burmah-Shell, storage facilities for the latter's stock

of mineral oil products in the bonded storage tanks, not only on the date of purchase but even thereafter. It is common practice in the oil industry to pool or to exchange facilities to avoid cross-haulage of products or duplication of storage facilities and to enter into arrangements therefor on mutually acceptable terms. Since IOC were maintaining the installations taken over from Burmah Shell the duty payment on the products owned by Burmah-Shell and stored in them as also compliance with the Central Excise Rules became the responsibility of IOC. At the same time, in terms of the arrangement agreed to between IOC and Burmah-Shell, Burmah-Shell were to reimburse to IOC all such duty payments (including interest where due).

Though Burmah-Shell were no longer required to spend on the maintenance of the installations, they were paying to the IOC the agreed charges for the facilities enjoyed by them. Moreover, at some other point of time and place, IOC have also been likewise accommodated for similar facilities by Burmah-Shell who had similarly discharged the duty obligation of IOC.

6.40. Burmah Shell continued to keep the stock of mineral oil products in the bonded storage tanks which were sold by them to IOC, in terms of the permission granted to them. This permission granted by the field officers was regularised by the Board, in 1974.

6.44. The facility to store the oil belonging to Burmah-Shell in the storage tanks which were transferred to IOC was allowed in view of the storage of storage facility for mineral oil and the general practice among oil companies of mutually accommodating the storage problems of one another. This action of the field officers was regularised by the Board, which is the competent authority to issue such relaxations under rule 162(A). The relaxation was allowed only in view of the special circumstances in the oil industry and this has not led to any loss of revenue.

[Ministry of Finance (Department of Revenue) letter No. 234/21/78-CX-7 dated 12-12-1978]

**Recommendation**

According to Rule 172 of the Central Excise Rules a private warehouse could be used only for warehousing excisable goods belonging to the licensee himself or held by him as a broker or a commission agent. In the present case, the Indian Oil Corporation was neither a commission agent nor a broker, and the rule thus was transgressed. Burmah Shell had also violated rule 145-A which

specifically provided that where the licence for a private warehouse was cancelled the licensee had the obligation to remove the unwarehoused goods to a public warehouse or to another private warehouse or at any rate to clear them for home consumption after payment of duty.

[Sl. No. 61 (Para 6.42) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

Under Rule 162(A) of the Central Excise Rules, 1944 Board has power to relax any of the provisions of the Warehousing Chapter (Chapter VII) by an order in writing in respect of excisable goods falling under tariff item Nos. 6 to 11-A of the First Schedule to the Act. The local officers could be said to have slipped up in not obtaining prior permission from the competent authority before allowing to Oil belonging to Burmah Shell facilities for storage the warehouse of I.O.C. The Collector had undertaken to issue instructions to the Assistant Collector to avoid such lapses. In view of the special circumstances created by the limited storage facilities for mineral oil products, the Board subsequently issued instructions *vide* F. No. 261|11A|9|73-CX-8 dated 5-10-1974, authorising the Assistant Collector having jurisdiction of the bonded storage tanks subject to the condition that each such case was reported to the Collector for *post facto* approval.

[Ministry of Finance (Department of Revenue) Letter No. 23A|2|78-CX-7 dated 14-4-1978]

**Recommendation**

The Committee note that for the purpose of maximising the use of non-traditional oils, the excise incentive lever was used by the Government from 1960 onwards to encourage the use of cotton seed oil in the manufacture of vanaspati. The original scheme of 1960 was revised with effect from 1st March, 1962 under which the manufacturers were entitled to the rebate of Central Excise duty in respect of hydrogenated oil at the level of above 7 per cent. The scope of this rebate scheme was restricted to indigenous cotton seed oil from 22nd July, 1967.

[Sl. No. 68 (Para 7.32) of Appendix XV to 13th Report of PAC Sixth Lok Sabha)]

**Action Taken**

This para merely gives out the factual position.

[Ministry of Finance (Department of Revenue) letter No. 234/28/78-CX-7 dated 7-4-1978]

7.32. The Committee note that for the purpose of maximising the use of non-traditional oils, the excise incentive lever was used by the Government from 1960 onwards to encourage the use of cotton seed oil in the manufacture of vanaspati. The original scheme of 1960 was revised with effect from 1 March, 1962, under which the manufacturers were entitled to the rebate of Central Excise duty in respect of hydrogenated oil at the level of above 7 per cent. The scope of this rebate scheme was restricted to indigenous cotton seed oil from 22 July, 1967.

7.33. The Tariff Commission which enquired into the cost structure of and fair price payable to the Vanaspati Industry in their Report submitted on 2 March, 1971 had *inter alia* recommended 'The time has now come for raising the minimum qualifying level of incorporation of cotton seed oil into Vanaspati from the present figure of 7 per cent to something akin to double that figure, namely, 15 per cent so as to enable it to earn the Excise duty rebate'.

7.34. According to the 'Vegetable Oil Products (Standard of Quality) Order' issued on 19 February, 1972 compulsory usage of cotton seed oil, at a minimum of 10 per cent, was prescribed to take effect from 1 April, 1972. On subsequent reviews; the level of minimum usage was progressively increased to 15 per cent with effect from 1 December, 1972 and to 30 per cent from 1 January, 1975.

7.35. The actual percentage of cotton seed oil used in the manufacture of vanaspati was of the order of 8 per cent in 1963, 10.8 per cent in 1964, 9.4 per cent in 1965, 15.9 per cent in 1966, 16.5 per cent in 1967, 14.9 per cent in 1968, 18.3 per cent in 1969, 17.8 per cent in 1970 and 12.8 per cent in 1971. It will thus be seen that the percentage of cotton seed oil used by the Industry in the manufacture of vanaspati was in excess of the minimum limit of 7 per cent when it was so fixed in 1962 for the purpose of earning rebate. It also indicates that there was a case for review of the rebate scheme with a view to increasing the minimum percentage between the period 1962 to 1972. It is regrettable that the Ministry did not take action to increase the minimum limit during his period.

[Serial Nos. 68 to 71 (Paras 7.32 to 7.35) of Appendix XV to 12th Report of PAC (Sixth Lok Sabha)]

**Recommendations**

It is a fact that the Ministry did maintain a minimum level of 7 per cent usage of cotton seed oil in vanaspati manufacture over the period 1962-1972. The possibility of review of the rebate scheme

with a view to increasing a minimum percentage of cotton seed oil up to 1965 did not arise as the level of usage of cotton seed oil in vanaspati manufacture ranged between a minimum of 5.9 per cent in 1962 to a maximum of 10.6 per cent in 1964. The usage of cotton seed oil in vanaspati manufacture did pick up to a level of 15.9 per cent for the first time in 1966 and 18.3 per cent in the year 1969 and showed a dip again to 12.8 per cent in 1971. An examination of the amount of cotton seed oil used by the vanaspati units showed that there were many small units which did not use any cotton seed oil.

Inspite of the overall usage of cotton seed oil by the vanaspati industry, the performance of individual units in this regard varied all the way from a nil usage to a consumption of over 50 per cent with some units. Thus, during the years 1969—71, 23 out of 52 units in 1969, 31 out of 61 units in 1970 and 44 out of 74 units in 1971 either used no cotton seed oil at all or used at a level below 10 per cent in the manufacture of vanaspati. Thus, raising the limit above 7 per cent at that juncture would adversely affected the production of cotton seed oil as it was feared that it might lead to serious difficulties in the smooth functioning of the industry without any commensurate advantage. The above factors were responsible in maintaining the minimum level of usage of cotton seed oil in vanaspati manufacture at 7 per cent without revision up to 1 April, 1972, when it was considered expedient to raise the minimum level of cotton seed oil usage in vanaspati manufacture to 10 per cent.

During the oil year 1977-78, it was decided to provide vanaspati industry 75 per cent of imported oil. Consequently, the percentage usage of cotton seed oil was reduced correspondingly, especially because usage of til oil at 5 per cent is obligatory. Accordingly, the rebate scheme in respect of usage of cotton seed oil was withdrawn with effect from 28 January, 1978.

[Directorate of Vanaspati, Vegetable oil and Fats (Department of Civil Supplies and Cooperation) O.M. No. 9-VP (4) D/75 Dated 2-6-1978]

**Recommendation**

It was only in April, 1972 that the rebate scheme was reviewed allowing the rebate on slab basis for the use of cotton seed oil in excess of 10 per cent. This review was undertaken consequent on the issue of Vegetable Oil (Standard of Quality) Order by the Directorate of Sugar and Vanaspati on 19th February, 1972 fixing the compulsory limit for the use of cotton seed oil at 10 per cent. As already indicated above, the industry was actually using cotton seed oil in excess of 10 per cent before 1972. The Tariff Commission had also recommended the fixation of the minimum limit of the use of cotton seed oil at 15 per cent. The Committee feel that there was no justifica-

tion for keeping the minimum limit of the use of cotton seed oil at 10 per cent in the Order issued by the Vanaspati and Sugar Directorate on 19th February, 1972 and for fixing the same minimum percentage for the purpose of rebate of excise duty in April, 1972.

[Sl. No. 72 (Para 7.36) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

1. It was a fact that the actual percentage use of cotton seed oil in the manufacture of vanaspati by the industry as a whole in the country was of the order of 8 per cent in 1963, 10.6 per cent in 1964, 9.4 per cent in 1965, 15.9 per cent in 1966, 16.5 per cent in 1967, 14.9 per cent in 1968, 18.3 per cent in 1969, 17.8 per cent in 1970 and 12.8 per cent in 1971.

2. An examination in January 1972 of the unitwise consumption of cotton seed oil in the manufacture of vanaspati showed that although the overall usage of cotton seed oil by the industry in preceding years of 1972, was well in excess of 10 per cent, a sizeable number of units numbering 44 out of 71(57.8 per cent) either used no cotton seed oil at all in 1971 or used it at a level below 10 per cent. The position in the years 1969 and 1970 was similar to that obtaining in 1971. The relevant data are given below:—

| Level of usage | Number of factories. | | |
|---|---|---|---|
| | 1969 | 1970 | 1971 (Up to Nov.) |
| Nil | 7 | 11 | 13 |
| Below 10 per cent | 16 | 20 | 31 |
| 10—20 per cent | 12 | 15 | 18 |
| 20—30 per cent | 11 | 8 | 4 |
| 30—40 per cent | 3 | 1 | 3 |
| Above 40 per cent | 3 | 6 | 2 |
| | 52 | 61 | 71 |
| Average . . . . . | 18·9% | 17·8% | 12·50 |

Most of the high-consumption factories were those situated in cotton seed growing areas. Their performance, did not, therefore reflect the general level of utilisation of cotton seed oil by the industry as a whole.

3. Thus while reviewing the position of usage of cotton seed oil in vanaspati in January, 1972, the Government was of the view that

the level of prescription of compulsory minimum usage of cottonseed oil by the vanaspati industry should be such that the compliance with it would not create difficulties for the bulk of the factories to maintain uninterrupted production of vanaspati and the appropriate level of compulsory usage of cottonseed oil was then determined to be not more than 10 per cent. It was felt that prescription of compulsory usage at a higher level might lead to difficulties in the smooth functioning of the industry without any commensurate advantage being gained this way. This was in view of the uneven distribution of cottonseed production in the country, which is considerable in three or four States.

4. The Notification of 19th February, 1972 fixing the minimum percentage use of cottonseed oil at 10 per cent thus took into account the practical constraints obtaining in the cottonseed crushing and vanaspati sectors at that time. The Government did review the position later in the light of performance of the two industries and raised the minimum level of cottonseed oil usage to 15 per cent by a Notification in December, 1972 and later to 30 per cent in January, 1975.

[Directorate of Vanaspati Vegetable Oils and Fats (Department of Civil Supplies and Co-operation) O.M. No. 9-VP(4)D/75 dated 2-6-1978]

**Recommendations**

The Secretary, Ministry of Finance stated during evidence that the limit of 10 per cent was prescribed under Excise Rebate Scheme to synchronise with an Order issued under the Essential Commodities Act which had said that the vegetable oil products would be prepared by hydrogenation of not less than 10 per cent of cottonseed oil. The representative of the Ministry of Food seemed to give an impression that there was a link between the actual use and the percentage prescribed because the excess quantity actually used might be the result of incentive given at that time. The Committee are not convinced with these arguments and feel that rebate was not granted on rational basis. Even the Ministry of Civil Supplies and Cooperation have themselves informed the Committee on 8 June, 1977 that the increased percentage usage of cottonseed oil in the manufacture of vanaspati after 1971 was attributed to the constant upward trend in the production and availability of cottonseed oil from 1971 onwards. Similarly, the fall in the percentage usage of cottonseed oil in the year 1971 was due to a decline in indigenous production of cottonseed oil.

**[Serial No. 73 (Para 7.37) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]**

**Action Taken**

While it is true that in a year, the usage of particular oil in the manufacture of vanaspati depended upon the trend in production and availability of that oil during the year, factors like price of the oil in relation to other competing oils available for manufacture of vanaspati as also the oil usage policy determined by the Government from time to time are also relevant factors to be reckoned with. In the case of cottonseed oil, the oil availability despite a good production year for cottonseed, would depend on the parity in crushing which in turn depended on the cash incentives offered by the Government to the organised sector on export of decorticated cottonseed extractions/cakes. Thus, during the year 1971-72, despite a good production of 23.63 lakh tonnes of cottonseed, the production of cottonseed oil was only 0.75 lakh tonnes. Another major factor which was responsible for the fall of percentage usage of cottonseed oil in the year 1971 was the ready availability of groundnut oil, as during that year, the production of groundnut oil registered a peak level of 14.29 lakh tonnes. Besides, processing of cottonseed oil required additional chemicals and is time consuming, involving higher processing charges, and therefore excise duty rebate was a lever to promote increased percentage usage of cottonseed oil in vanaspati manufacture.

[Directorate of Vanaspati, Vegetable oils and Fats (Department of Civil Supplies and Co-operation) No. 9-VP(4)D/75 Dated 2-6-1978]

**Recommendation**

It is also disturbing that although the final Report of the Tariff Commission was received by the Government on 2 March, 1971, the Order fixing the minimum limit for the use of cottonseed oil was issued by the Sugar and Vanaspati Directorate after more than a year in April, 1972. The Committee consider that there was unconscionable delay in taking action on the Report of the Tariff Commission.

[SL No. 74 (Para 7.38) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

In January, 1969, the Tariff Commission was requested by the Government of India, under Section 12(d) of the Tariff Commission Act, 1951, to enquire into the cost structure of vanaspati industry, the fair price payable to the industry and the commission allowable to the wholesalers and retailers of vanaspati and other associated matters. The Tariff Commission submitted its interim report on 19th October, 1970 and this was followed by the final report on the 2nd March, 1971. The resolution embodying the Government deci-

sions on the main recommendations of the Commission was published in the Gazette of India, Extraordinary on the 27th July, 1972.

2. The delay of a little over a year in announcing the Government decision on the recommendations of the Tariff Commission was due to the fact that the Report was a very complicated nature and required careful and detailed examination in consultation with other concerned Ministries of the Government of India and the Tariff Commission itself.

3. Apart from the decision of the Government on the main recommendations, the said Resolution published other recommendations of general nature which the commission had made aimed *inter-alia* at augmenting oil supplies to the industry, restricting further licensing capacity, establishment of buffer stocks as a means of stabilisation of prices, increased production of cottonseed oil and rice bran oil and incentives for their use in vanaspati manufacture and the development of soyabean and sunflower cultivation, were taken note of by Government for giving due consideration at the appropriate time.

4. While the Government was examining the final report of the Tariff Commission submitted in March, 1971, the Department of Food in the then Ministry of Agriculture charged with the development of the vanaspati industry, independently decided on the constitution of a working group in January, 1972 to go into the question of incentives that might need to be given for promoting increased production of cottonseed oil. The working group in its report submitted in February, 1972, while considering the decision to impose a compulsory minimum usage at 10 per cent of the cottonseed oil in the manufacture of vanaspati, recommended *inter-alia*.

(a) to encourage greater usage of cottonseed oil at levels higher than the prescribed limit of 10 per cent, rebates at the proposed attractive levels on a slab-wise system be allowed.

(b) the slab-wise system of rebates proposed, be computed on the basis of the average level of cottonseed oil usage during a specified period i.e. on a quarterly basis.

5. The recommendations of the working group were given effect to from 1st April, 1972, which was well in advance of the publication of the resolution embodying the Government's decisions on the various recommendations of the Tariff Commission. As a sequel to the publication of the resolutions embodying the Government's decisions on the various recommendations of the Tariff Commission in July, 1972, the Government further raised the minimum limit of cottonseed oil usage to 15 per cent from December, 1972.

[Directorate of Vanaspati, Vegetable Oils and Fats (Department of Civil Supplies and Cooperation) O.M. No. 9-VP (4) D/75 Dated 2-6-1978]

**Recommendation**

The duty exemption was subsequently extended on 11th December, 1972, to cover yarn/fabrics used for certain purpose other than making sacks which included making aprons, tarpaulins bags, baggage bags, table cloth etc. Although the duty on yarn and processed woven fabrics used for these purposes was legally leviable for the intervening period from 10 July 1972 to 10 December, 1972, the Committee are perturbed to note that except the Hyderabad Collectorate where the demand for Rs. 70,735 was issued for the period in question, the reports received from other Collectorate revealed that no duty was demanded for this period in their jurisdiction. Even the demand for Rs. 70,735 issued by the Hyderabad Collectorate was subsequently withdrawn by the Asstt. Collector The Committee fail to appreciate the contention of Department that no duty was leviable during the period 10 July 1972 to 10th December, 1972 as the manufacture of high density polyethlene yarn fabrics was covered by exemption notification Nos. 164/72 and 165/72 dated 10th July, 1972. It may be stated that Notification Nos. 164/72 dated 10th July, 1972, exempted high density polyethelene tapes if used in the manufacture of art silk fabrics intended for making sacks. Similarly notification No. 165/72 dated 10th July 1972 sought to exempt high density polyethlene woven fabrics intended for making sacks. Further this duty exemption was extended on 11th December, 1972 to cover the yarn and fabrics used for other purposes which included making aprons, tarpaulins, bags, baggage bags, table, cloth etc. Which implies that the yarn and fabrics used for these purposes during the period 10 July, 1972 to 10 December, 1972 were leviable for duty. The Committee would seek specific clarification on this point together with the justification for not demanding the relevant duty and subsequently withdrawing the demand for Rs. 70,735 in respect of Hyderabad Collectorate.

[Sl. No. 79 (Para 8.31) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action taken**

The question of collection of duty on H.D.P. tapes/woven fabrics during the period 10-7-1972 to 10-12-1972 before the issue of Notification on 11-12-1972 was examined further by referring to all the Collectors of Central Excise and the reports received have been tabulated and enclosed an Annexure I. While explaining the reasons for not demanding the duty for the relevent period the said Annexure also clarifieds the reasons for withdrawal of the demand for Rs. 70.735

in respect of Hyderabad Collectorate. (This Annexure does not contain the position of Bombay and Bhubaneswar Collectorates from the reports are awaited.).

[Ministry of Finance (Department of Revenue letter No. 234/32/78-C.E. 7, dated 24-8-1978]

**Further action taken**

Information in respect of the remaining two Collectorates of Central Excise *viz.*, Bombay and Bhubaneswar is furnished in the enclosed statement/Annexure II).

[Ministry of Finance (Department of Revenue) letter No. 234/32/78-C.E. 7, dated 21-9-1978]

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ANNEXURE I

| Collectorate | Para. 8·31 |
|---|---|
| Ahmedabad | All clearances of HDP tapes after 10-7-1972 were intended for manufacture of sacks which were exempted under Notification No. 164/72, dated 10-7-1972. Hence no question of raising demand. |
| Allahabad | All the units were covered by Notifications 164 and 165 of 1972 dated 10-7-1972. |
| Baroda | H. D. P. tapes manufactured during the period 10-7-1972 to 10-12-1972 were used in the manufacture of art silk fabrics intended for use in the manufacture of sacks. Hence they were exempted under notification 164/72 dated 10-7-1972. |
| Bangalore | All the units manufactured only sacks out of H.D.P. tapes which are exempted under Notification 164/72. |
| Chandigarh | The unit was manufacturing H.D.P. tapes and using it in the manufacture of man made fabrics. Such fabrics were furrher used for making sacks and hence no duty leviable under Notifications 164/72 and 165/72 dated 10-7-72. |
| Cochin | No such units functioning in the Collectorate. |
| Calcutta | There was neither any stock nor any manufacture of both H.D.P. yarn and woven fabrics after 9th July, 1972. |
| Delhi | The units were covered by exemption Notifications 164/72 and 165/72. |
| Guntur | The only unit manufacturing Cellulosic spun yarn did not manufacture such goods which attract duty either prior to issue of Notification 164/72 or thereafter and hence there is no question of issue of demands for the period 10-7-1972 to 10-12-1972. |

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| | |
|---|---|
| Hyderabad . . . | The demand for Rs. 70,735 was raised as the details of test results of the H.D.P.E. tape were awaited from the Chemical Examiner. When the position became clear the demand was withdrawn on 11-4-1974. The unit was engaged in the manu facture of sacks from the tape after weaving into fabrics within the factory thus attracting the provisions of Notification Nos. 164/72 and 165/72 dated 10-7-72. Hence there was no loss of revenue due to withdrawal of the demand. |
| Madras . . . | The units manufacturing H.D.P.E. yarn/fabrics use such yarn/fabrics only for the purpose of manufacturing sacks and were, therefore, covered by exemption Notifications 164/72 and 165/72 dated 10-7-72. Hence no question of raising demands for the period 10-7-1972 to 10-12-1972. |
| Madurai . . . | The subject goods are not being manufactured. |
| Kanpur . . . | There was no case where the duty exemption admissible under Notifications 164 and 165/72 was availed before 10-12-72 in respect of yarn and fabrics used for purposes other than those covered under the exemption upto the said dates. |
| Nagpur . | During the period 10-7-1972 to 10-12-72 H.D.P. tapes/ H.D.P. woven fabrics used for making sacks were only cleared without payment of duty and there were no clearances of the tapes and fabrics without payment of duty for other purposes. |
| Patna . . . . . | No such manufacture. |
| West Bengal . | There was no unit manufacturing H. D. P. tapes not exceeding 5 mm. in width or any fabrics woven from such strips. |
| Poona . | Three units manufacturing H.D.P. tapes use same in the manufacture of H.D.P. woven fabrics for making sacks therefrom and were thus covered by exemption Notifications 164/72 and 165/72. |
| Shillong . . . . | No manufacture of the tariff item referred to in the Audit Para. |
| Goa . . . . . | No manufacture of rayon and synthetic fibres and rayon artificial silk fabrics during 1973-74 and hence information nil. |
| Jaipur . . . . | The only unit who manufactured H.D.P. tapes used it in the manufacture of H.D.P. woven fabrics for making sacks and hence exempted under Notification 164/ 72 and 165/72. |
| Indore . . | During the period 10-7-1972 to 24-8-1972, 5903·5 kgs. of H.D.P. Tapes were cleared for other than making sacks and hence demands were raised. On chemical examination these were said to be monofilament yarn of 1000 deniers. Monofilament yarn of 60 denier and the above was exempted by Notification 195/72 dated 25-8-1972 and according to Ministry's order F. No 50/8/72-CX-2, dated 7-5-1973 demands raised on such yarn cleared prior to the issue of Notification 194/72 dated 25-8-1972 was to be withdrawn and accordingly the demand was withdrawn. |

N. B.—Reports of C.C.E. Bombay and Bhubaneswar awaited.

*ANNEXURE—II*

*Para No.* 8.31

*Collectorate*

**Bombay.**—During the intervening period (i.e. 10|7|72 to 10|12|72) the units manufacturing H.D.P. woven fabrics had not availed of exemption for purposes other than those envisaged in the Notification Nos. 164|72-C.E. and 165|72-C.E. Hence no duty was demanded for the said period.

**Bhubhaneswar.**—There was no manufacture of H.D.P. tapes involved in the Audit Para. Hence the Notification 164/72-CE and 165/72-CE did not apply. There was no question of demanding duty also.

**Recommendation**

Hot Heavy Stock (HHS) a petroleum product was classified for excise assessment under item 10 of the Central Excise Tariff as Furnace Oil, another petroleum products. Consequent on production in prices of petroleum products agreed to by Oil Companies. Additional Duties (Mineral Products) Act, 1958 was passed levying additional duty on petroleum products to mop up adventitious gains to Oil Companies. By an Order issued by the Central Board of Revenue on 29 July, 1969 exemption from whole of the additional excise duty was granted in respect of Hot Heavy Stock. The main consideration for exempting the product from additional duty is stated to be the fact that there was only one supplier and one consumer (M/s. Stanvac, supplier and Trombay Power Station consumer) and the price of the product was governed under an Agreement which envisaged that the variations in imported cost, freight etc., would be reflected in the sale price. Secondly, this product could be chemically distinguished from Furnace Oil. It is evident that while Government mopped up the gain accruing to the Oil Companies in the case of Furnance Oil and other products by levy of additional excise duty, the Hot Heavy Stock was granted the exemption and the benefits accrued to firms in the private sector only.

[Sl. No. 86 (Para 10.29) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

The main considerations mentioned above are only factors which made it possible for the exemption to be administered. The fact

that the price of the product was governed under an agreement which envisaged that the variations in imported cost freight etc., would be reflected in the sale price was only an additional factor. The main consideration was given in the evidence of the representative of the Ministry of Petroleum (*vide* para 10.5) *viz.*, that this product was not included among the products on which the oil companies agreed for *ad hoc* reductions in basic ceiling selling prices *w.e.f.* 20-5-58. Therefore, if exemption had not been granted it would have amounted to the repudiation to the understanding given to the oil companies under the *ad-hoc* agreement. The grant of exemption, therefore, does not amount to any concession to the oil companies.

[Ministry of Petroleum, Chemicals and Fertilizers (Department of Petroleum) letter No. P-200-29/2/78-PP Dated 16-8-1978]

**Recommendation**

At the time of devaluation in June 1966, the Government overlooked the distinction that they had all along made in earlier years between the Hot Heavy Stock and the Furnance Oil and allowed as a matter of course the benefit of reduction in basic excise duty to the tune of Rs. 36.95 per metric tonne, the same rate at which this was given to Furnance Oil. This adventitious exemption was enjoyed by the Hot Heavy Stock for the period from 6 June, 1966 to 27 April, 1967 resulting in a loss of public revenue of Rs. 44 lakhs. It was only as a result of subsequent review in April 1967 that it was decided to levy additional excise duty on Hot Heavy Stock at the rate of Rs. 30.70 per metric tonne (revised to volumetric basis at Rs. 28.95 per kilometre at 15°C from 1 March, 1968). The Committee are not able to appreciate how the additional excise duty was levied at a lesser rate than the reduction in basic excise duty of Rs. 36.95 per metric tonne that had been earlier given. The Committee were informed at one time that it was apparently to compensate the Refinery for the increase in the cost of production of Hot Heavy Stock subsequent to devaluation. Subsequently, they were informed that a detailed analysis in the matter had been done by the Government before deciding to allow a margin of Rs. 6.25 per metric tonne on account of ascalation in processing cost etc., and fixing the additional excise duty at the reduced rate of Rs. 30.70 per metric tonne. The Committee feel that it was but appropriate for the Government to have undertaken in-depth study about the effect of devaluation on Hot Heavy Stock in June 1966 or soon thereafter before extending to it any concession from the levy of basic excise duty which had been allowed to the furnance oil on account of diffe-

rent circumstances. If the Government's plea of 1959 that there was a direct agreement between the supplier and the consumer which governed the price of the product and therefore did not call for any levy being made under the Additional Duties (Mineral Products) Act, 1958 is accepted, then in 1966 there would have been no question of even considering the grant of such a concession. In any case the Committee are unable to appreciate the rationale of recovering the duty at the reduced rate of Rs. 30.70 per metric tonne (as compared to Rs. 36.95 on the furnance oil) from 27 April, 1968 to September 1973, when this was given up and the duty was levied on part with that on the Furnance Oil. The Committee feel that grant of this adventitious benefit over such a prolonged period was uncalled for and the matter should be enquired into thoroughly in order to ascertain the circumstances under which such a concession was given and whether it was authorised by the competent authority which in this case appropriately should not have been less than the Minister. The Committee would like Government to make sure and inform the Committee in specific terms that the adventitious benefit enjoyed by the foreign company over this prolonged period from June 1966 to September 1973 was duly taken into account for the purpose of Corporation Tax and other taxes and was also specifically taken into account at the time of settling the amount of compensation to be paid to the foreign company on its take over by Government in March 1974.

[Sl. No. 87 (Para 10.30) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

For the purpose of levy of excise-duty, both FO and HHS fell under the same classification and in the absence of any special treatment to HHS, it would automatically attract the same rates and basic and additional duties which apply to FO. For very valid reasons, HHS was given a different treatment by a specific exemption of additional (Non-recoverable) duty thereon *w.e.f.* 29-7-1959. Consequent on devaluation, the basic excise duty on FO was reduced by Rs. 36.95 per MT also. This did not mean that any distinction between these two products was over-looked. It was, of course, felt that the reduction in basic excise duty on HHS had to be mopped up. The only course open was to levy additional non-recoverable duty. It is reiterated that the levy of additional (non-recoverable) duty was done to mop-up mainly the gains due to reduction of basic excise duty. It did not compromise the principle of a separate treatment for HHS or the justification for exemption of additional (non-recoverable) duty granted in July, 1959.

The levy of Rs. 30.70 per MT on HHS was made *w.e.f.* 27-4-1967. It could not possibly have been made on 6-6-1966 since a number of studies had to be undertaken. The work on formula products itself was completed in November/December 1966. The case of HHS was linked to IOC's LSHS producted in Barauni Refinery. The recommendation to CBEC was made on 1-3-1967. It has been already mentioned in para 10.28 of the report, that the shortfall from 6-6-66 to 26-4-1967 (about Rs. 44 lakhs) was compensated several times by the extra recovery of excise duty.

A suitable relief had to be given by way of extra cost as result of devaluation. There was a study by the Cost Accounts Branch of the Ministry of Finance for formula products. It was also necessary to provide some incentive for the continued production of HHS which was used for power generation. Government's bargaining position with the private sector oil companies at that time was not so strong. It may also be mentioned that with the production of one tonne of HHS an extra 0.3 tonnes of HSDO is produced and there is a net duty gain of about Rs. 86 per MT in the production of one MT of HHS. It is reiterated that no concession was granted to HHS at that time.

The main reason for the exemption of additional duty on HHS in July 1959 was that it was excluded from the products covered under the items of Agreement of 1959. As stated, no compromise was made on this principle and the levy of duty additional (non recoverable) following devaluation was not a concession but was done in a different context. The reason for a reduced levy of Rs. 30.70 per MT as compared to Rs. 36.95 per MT has been already given.

As already stated, it did not result in any adventitious benefit to the company except for the period 6-6-1966 to 26-4-1967 (*vide* para 10.28). Why it could not be done on 6-6-1966 itself, kindly see reply to item (iii)above. Regarding the authorisation of the levy of duty, it is presumed that the Minister of Finance must have agreed.

It is submitted that there was no adventitious benefit to the foreign company except for the period from 6-6-1966 to 26-4-1967. There has, in fact, been a considerable gain to exchequer (*vide* para 10.28). The company must have paid corporation tax and other tax on their profits in the normal manner. Regarding settling any gains in the terms of settlement are arrived at by negotiations taking into account various factors. Levy/exemption of excise duty is in pursuance of a Government Notification under the relevant legislation

i.e. under statutory provisions. This operates independently and cannot influence the course of negotiations and agreements mutually arrived at and contracted.

[Ministry of Petroleum, Chemicals and Fertilizers (Department of Petroleum) letter No. P-20029/2/78-PPD dated 16-8-1978]

**Recommendation**

The Ministry of Finance have admitted that they had realised this defect when the Directorate of Inspection, Customs and Central Excise, had raised a doubt in 1972 as to whether the benefit of exemption given in the impugned notification should continue after the financial limit of Rs. 7.5 lakhs on plant and machinery was subsequently exceeded. The Development Commissioner (Small Scale Industries) who was consulted by the Ministry of Finance had also felt that there was scope for ambiguity in interpretation. The Committee were given to understand that since then the matter had been under consideration in consultation with the Ministry of Industrial Development, Development Commissioner, Small Scale Industries and ultimately the corrective action, *inter alia*, enhancing the limit to Rs. 10 lakhs for the purpose of eligibility to the concessional excise duty was taken with effect from 8th September, 1975. The Committee are perturbed that it should take the Government nearly three years to take a decision in the matter which involved large amounts of revenue. The Committee deprecate such a dilatory approach in a matter involving large financial implications and would urge the Government to investigate into the reasons for delay with a view to fixing responsibility and avoiding its recurrence.

[Sl. No. 89 (Para 11.28) of (Appendix XV) to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

There was delay in taking decision in this particular case. However, the delay was not intentional and no malafide could be attributed to anyone who dealt with the matter; the matter also needed consultations with the Ministry of Industry.

It is constantly being impressed on the officers of the Board to avoid delays. The observations of the Committee are being brought to the notice of the various officers of the Board once again to avoid recurrence of such cases in future.

[Ministry of Finance (Department of Revenue) letter No. 234/31/78-CX-7 Dated 3-12-1978]

**Recommendations**

It would be recalled that the Committee in paragraph 1.25 of their 95th Report (Fourth Lok Sabha—1969-70) impressed upon the Governmtnt to consider whether "it would be possible to incorporate a suitable provision in the Central Excise Bill on the lines of Section 37(1) of the Bombay Sales Tax Act, so that Trade does not get fortuitous benefit of excess collections of tax realised from the consumers." Unfortunately, the Government had then in consultation with the Ministry of Law not found it feasible to modify the Central Excise Law on these lines. The Committee would like Government to re-examine the position in the light of subsequent developments so that the benefit of excise duty already recovered from the consumers is not fortuitously misappropriated by the producers due to deficiencies in law, rules and regulations etc. etc.

[Sl. No. 98 (Para 11.37) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)].

**Action Taken**

The difficulties pointed by the Ministry of Law in their advice contained in their note dated 30-10-1970 and 4-2-1971, copies of which were forwarded as enclosure to this Ministry's Office Memorandum F. No. 11/34/70-CX-10 dated 26th June, 1971 sent in reply to the Recommendations contained in Para 1.25 of tht 95th Report of the Committee are still valid. Since the position between 1971 and now has not changed materially, it may not be possible to incorporate in the Central Excise Law, provisions analogous to Section 37 of the Bombay Sales Tax Act.

[Ministry of Finance (Department of Revenue) letter No. 234/31/78-CX-7 dated 12-12-1978]

Recommendations

Para 11.34. The Committee note that in the meantime, as per another recommendation of the S.R.P. Committee a scheme known as "Simplified Procedure" has been introduced with effect from 1st March, 1976 for payment of duty by small manufacturers who produce certain specified excisable goods the annual value of which, in the precednig period, did not exceed Rs. 5 lakhs. The scheme has been extended to 46 commodities so far.

Para 11.35. The S.R.P. Committee have further expressed the view that all existing schemes on duty concession applicable to small scale sector based *inter alia*, on the value of quantity of production or

clearance should cease to operate after the promulgation of the scheme of "Simplified Procedure". It has been stated by the Ministry that action for identifying and rescinding such notification has been initiated. The Committee would like the work to be completed expeditiously and the Committee informed of the progress made and the experience gained of the working of the scheme and its extension to other commodities.

Para 11.41. The Committee also note with concern the wide extent of powers enjoyed by the Executive in granting fiscal relief through issue of notifications. In this report alone a number of such instances have been dealt with. For instance, as pointed out in paragraph 5.33 of this report, by a notification issued in May 1971, motor vehicle parts, which are excisable, were exempted from excise duty if they were intended to be used as original equipment parts. Further as pointed out in paragraph 8.28 Government issued two notifications on 10th July, 1972 exempting the HDPE yarn and fabrics if these were intended for making socks. Again as highlighted in paragraph 8.30 demands of duty amounting to Rs. 1.48 crores on the clearances of high density polythelene yarn/fabrics for the period preceding the issue of the said notifications were withdrawn merely through an exemption order. Yet another similar instance has been pointed out in paragraph 11.7 in which case on 1 June, 1970, Government issued a notification fixing concessional rates of excise duty on electric wires and cables produced by small scale units if initial investment in plant and mechinery only installed therein was not more than Rs. 7.5 lakhs.

Para 11.42. The Committee in paragraph 1.25 of their 111th Report (Fourth Lok Sabha—1969-70) has recommended, inter alia, that the power given to the Executive to modify the effect of the statutory tariff should be regulated by well defined criteria and all exemptions involving a cent percent relief from duty should require prior Parliamentary approval. The Government had expressed their inability to accept the recommendation. It was reiterated by the Committee in paragraph 1.13 of their 31st Report (Fifth Lok Sabha) 1971-72. Again the Committee in paragraph 4.20 of their 172nd Report (Fifth Lok Sabha) 1974-75 regarding imports of Ethyl Alcohol, had pointed out that the executive enjoys the unfettered right to grant exemptions from duty. The Committee had given the instance where a staggeringly large lose of customs revenue to the tune of Rs. 1015.49 crores had been caused between 1968 and 1974 in a short span of 6 years, under an executive order of grant of exemption and no approval of the Parliament was sought. They had, therefore, reiterated their earlier recommendation of para 1.25 of 111th Report

that all notifications involving cent percent relief from duty should have the prior approval of Parliament. They had further suggested that individual exemptions under section 25(2) of the Customs Act 1962 in which the revenue foregone exceeds Rs. 10 crores in each individual case should be given only with the prior approval of Parliament. In their Action Taken Note to his recommendation, the Ministry of Finance had indicated their reluctance to accept the recommendations. But the Committee in paragraph 1.25 of their 214th Report (Fifth Lok Sabha) (1975-76) had reiterated their earlier recommendation and had desired that since the number of individual cases where the revenue effect of exemptions would be Rs. 10 crores or more was not likely to be large, it should not pose any problem to obtain prior Parliamentary approval in such cases.

Para 11.43. The Committee further in paragraph 15.15 and 15.16 of their 177th Report (Fifth Lok Sabha) (1975-76) on Union Excise Duties had recommended that well defined criteria should be laid own to regulate the grant of exemptions and that the position should be re-examined in detail by Government and specific guidelines prescribed in this regard. They had further desired that all exemptions involving a revenue effect of Rs. 1 crores and more in each individual case should be given only with the prior approval of Parliament. Also the financial implications of all exemption notifications in operation should be brought specifically to the notice of Parliament by Government at the time of presentation of the Budget. The Government in their Action Taken Note, have intimated that they have not found it possible to accept it. They have further intimated that the approval of the Minister of Revenue and Banking has been obtained for the non-acceptance of the recommendations.

Para 11:44. As has been pointed out above, this matter has been receiving attention of the Committee for quite some years since 1969-70. The fact that the power given to the Executive to grant fiscal relief through issue of notificatoin have been often executed to the serious detriment of the revenue has been pointed out to the Government and the Ministry of Finance repeatedly by the Committee in its previous reports. The Committee has also given instances wherein loss of revenue to the tune of hundred of crores of rupees has been caused due to such executive orders, for example, Rs. 364:98 crores pertaining to 149 notifications in one year *i.e.* 1973-74 in excise duties alone.

Para 11.45. The Committee have noted the continued reluctance on the part of the Finance Ministry to accept any of the suggestions made by the Committee earlier. The Committee had *inter alia* sug-

gested (a) the power given to the executive to modify the effect of the statutory tariff should be regulated by well defined criteria and all exemptions involving a cent percent relief from duty should require prior/Parliamentary approval, (b) individual exemptions under section 25(2) of the Customs Act, 1962 in which the revenue foregone exceeds Rs. 10 crores in each individual case should be given only with the prior approval of Parliament and (c) all exemptions involving a revenue effect of Rs. One crores and more in excise duty in each individual case should be given only with the prior approval of Parliament. This was suggested with a view to have some monetary or Parliamentary control where the question of substantial loss of revenue to the exchequer is involved. The resistance shown by the Government to these proposals is beyond comprehension of the Committee. The Committee would therefore wish to invite the attention of Parliament to the serious matter on which only the Parliament as a whole can take a final decision.

[Sl. No. 95, 96, 102 to 106 (Paras 11.34, 11.35, 11.41 to 11.45) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)].

**Action Taken**

*Para* 11.34 *and* 11.35

Consequent upon the introduction of simplified procedure with effect from 1st March, 1976 covering within its scope 46 commodities, the position with regard to various exemption notifications issued from time to time, used on different criteria, was reviewed with a view to rescinding these notifications. As a result of this review, as part of 1978 Budget proposals, 42 such exemption notifications were rescinded. However, the scope of the scheme of simplified procedure itself became restrictive in its application, as a result of the scheme of general exemption from excise duty on first clearances upto a value of Rs. 5 lakhs during a financial year, announced as part of 1978 Budget proposals, covering as many as 69 commodities, of which 35 commodities were already covered under the Simplified Procedure. As a result of this exemption, these thirty five commodities alongwith five others were taken out of the scope of simplified procedure with effect from 1st April, 1978. The Simplified Procedure is now applicable only to 6 commodities. In view of this position, the question of further extending this procedure to other commodities does not arise.

*Paras* 11.41 *to* 11.45.

No action would appear to lie with this Department.

[Ministry of Finance (Department of Revenue) letter No. 234/31/7-CX-7 dated 1-12-1978]

Para 11.46. For lack of time the Committee have not been able to examine some of the paragraphs relating to Union Excise duties included in the Report of the Comptroller and Auditor General of India for the year 1973-74, Union Government (Civil) Revenue Receipts, Vol-I, Indirect Taxes. The Committee expect, however, that the Department of Revenue and Banking and the Central Board of Excise and Customs will in consultation with statutory Audit take such remedial action as is called for, in those cases.

[S. No. 107 (Para 11.46) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

In this connection it is submitted that the Department's Comments on the draft paragraphs corresponding to the paragraphs figuring in the Report of the Comptroller and Auditor General of India for the year 1973-74 have already been furnished. Even after the publication of the Report, wherever the C.&A.G. have felt it necessary to further refer any points to this Department, they have so referred them. These are also being examined and answered by the Department for the purpose of setting the objections.

[Ministry of Finance (Department of Revenue) letter No. 234/31/78-CX-7 Dated 11-8-1978]

## CHAPTER IV

## RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES HAVE NOT BEEN ACCEPTED BY COMMITTEE AND WHICH REQUIRE REITERATION

### Recommendations

Prior to 24th April, 1962 art silk fabrics/hosiery items manufactured in the powerlooms sector were subjected to Central Excise duty. With effect from 24 April 1962 unprocessed fabrics whether manufactured in the handloom/powerlooms or in a composite mill were granted exemption from basic and additional duty as also handlooms cess and only those manufacturers who processed art silk fabrics with the aid of power were required to take out a licence and pay duty on the processed fabrics. This is an instance which brings out a serious lacuna by an executive action by issuing of a notification making power, cutting at the very roots of the substantive provisions of the Act of Parliament, thus rendering the object of taxing a particular item nugatory and without the Parliament being informed of this change which results in loss of revenue. The Committee would therefore like to reiterate their earlier recommendation made in paragraph 1.25 of their 111th Report (Fourth Lok Sabha) (1969-70) that whenever any notification or order has an adverse fiscal effect, previous sanction of Parliament must be obtained before giving effect to any such notification or order.

[Sl. No. 15 (Para 2.43) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

### Action Taken

Section 25(1) of the Customs Act, 1962 empowers the Central Government by issue of notification in the Official Gazette, to exempt generally, either absolutely or subject to such conditions as may be prescribed, goods of any specified description from the whole or any part of the duty of customs leviable thereon. Sub-Section (2) bid empowers the Central Government to exempt from payment of duty, under circumstances of exceptional nature, any goods on which duty is leviable, by special order in each case. Likewise, provisions for duty exemptions exist on the Central Excise side in terms or rule

8(1) and rule 8(2), respectively, of the Central Excise Rules, 1944. On the Customs side, there is provision (Section 159) for laying copies of every notification before each House of Parliament within stipulated time limits and it further provides that if both the Houses agree to make any modification in the notification or agree that the notification should not be issued, such a notification would have effect only in such modified form, or be of no effect, as the case may be, but without prejudice to the validity of anything previously done under that notification. Similar statutory provisions do not exist on the Central Excise side. However, copies of all Central Excise notifications involving duty exemptions are laid before both the Houses of Parliament soon after their issue, if the Parliament is in session, or soon after the next session begins. To that extent, the provisions under the Customs Act, 1962 and the Central Excises and Salt Act, 1944 (including the rules made there under) are somewhat different but, in either case, there is no requirement of prior sanction of the Parliament before issue of exemption notifications.

The Government have, in the past considered the recommendation of the PAC for obtaining prior sanction of Parliament before giving effect to exemption notifications or orders. However, the implementation of the recommendation involve practical difficulties, as indicated below:—

(i) Prior sanction of the Parliament before giving effect to duty exemption under section 25(1) of the Customs Act or Rule 8(1) of the Central Excise Rules, 1944 would imply giving publicity to the duty exemption even before it is brought into operation and this is likely to give rise to speculations in the trade which may have adverse repercussions on the supplies of goods to the markets and on the level of prices.

(ii) The bulk of the exemptions issued under section 25(1) of the Customs Act and Rule 8(1) of the Central Excise Rules form part of the budget proposals which are fully discussed in the Parliament. These are brought into force from the mid-night of the day the Finance Minister announces such proposals in the Parliament. Any modification that may be found necessary as a result of discussion in the Parliament is carried out by fresh notifications. It is only in those cases where exemption may become necessary during the course of a financial year that these are issued during mid-year and they do not form

part of budget proposals. Although there is no provision either in the Central Excises and Salt Act, 1944 or in the Central Excise Rules, 1944 for placing such notifications before the Parliament, neverthless such notifications, together with covering Memorandum indicating the implications of such notifications, continue to be placed on the Table of both Houses of Parliament soon after their issue. The procedure thus followed provides for in effect ratification by Parliament of every such notification.

(iii) Difficulty would also arise in obtaining prior sanction of the Parliament before issuing a notification when Parliament is not in session. As exemption from duty are authorised in special circumstances, it may not be in public interest to postpone decision to a future date when circumstances warrant immediate action.

For reasons stated above, it is not possible to accept the recommendations of the PAC contained in Para 2.43 of their 13th Report.

[Ministry of Finance (Department of Revenue) letter No. 234/18/78-CX-7 Dated 4-7-1978]

**Recommendation**

It has been further stated that the licences issued to the processing Units did not specifically mention the capacity. The Committee feel that had the Department of Excise taken timely action to identify 'these constraints and difficulties' and initiated action to survey the processing units and noted down their capacity and tightended up the field organisation, it should have been possible to excercise proper excise surveillance over these processing units and plugged all loopholes for evasion of duty. The Committee also stress that the capacity should invariably be mentioned in specific terms in the licence itself so that difficulties of the nature experienced in the instant case do not arise.

[Sl. No. 22 (Para 2.50) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

The Committee's attention is invited to the evidence tendered by the Finance Secretary before the PAC on Para 2.17 of the Audit Report for the year 1973-74 (Page 30 of the PAC Report). It was explained by the Finance Secretary as to how merely going on the capacity criterian may not be a very satisfactory and reliable check on the processing units. In any case, a specific mention of the

capacity of the unit on the licence is not necessary in view of the fact that a provision already exists for indicating the quantity of excisable goods which a factory is capable of producing in the AL—4 application (application for a licence for manufacture of goods). The information is required to be furnished by the applicant both at the time of initial application for, as well as at the time of renewal of the licence. Consequently the Department is already aware as to what the capacity of each unit is.

[Ministry of Finance (Department of Revenue) letter No. 234/18/78/CX-7 Dated 11-8-1978]

**Recommendations**

Para 3.34: From March 1st, 1973, a new sub-item (1A) was introduced under tariff item 19-I (cotton fabrics) through the Finance Act, 1973 to cover cotton fabrics containing 30 percent or more by weight of fibre or yarn or both, of non-cellulosic origin. Though these fabrics are assessable to duty and *ad valorem*, Govt. issued specific instructions in March 1973 that cotton yarn used in the manufacture of these fabrics should be subjected to duty.

Para 3.35: It was however, only after audit had pointed out to the Department in Feb., 1974 that duty on cotton yarn used in the manufacture of Tosca, Neptune and Jupitor had not been paid by Binny Mills, Madras that a show cause notice was issued to the Mills. The short levy of Rs. 72461 for the period 1st March, 1973 to 30th November, 1973 has been finally paid by the assessees.

Para 3.26: The Committee are concerned over the failure of the Department to detect the evasion which might have continued but for scrutiny by audit. As admitted by the Finance Secretary, it was obviously a case of non-observance of budgetary instructions by the field staff. The Committee would like responsibility to be fixed for the lapse and suitable follow up action taken.

[Sl. No. 31 to 33 (Paras 3.34 to 3.36) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

It has been reported by the Collector of Central Excise, Madras that M/S Binny Ltd. were under the charge of an Assessment-cum-Inspection group during the period from 1-3-73 to 31-3-74. The

Collector who studied in depth the work load had noticed that the assessment-cum-Inspection Group covering M/S Binny Ltd., was perhaps the heaviest group with extremely heavy work load. Even according to the norms prescribed by S.I.U. the group (having only one supdt. and 6 Inspectors) required 5 Supdts. and 29 Inspectors, it had five times the work load of a normal range. Hence the Supdt. and the omission to detect the short levy was bonafide and in such pressure could not inspect the unit after 17-3-73 and the short levy of duty was therefore not detected by them. He has therefore reported that no malafide was suspected on the part of local staff and the mission to detect the short levy was bonafide and in such circumstances disciplinary proceedings are not warranted.

[Ministry of Finance (Department of Revenue) letter No. 234/6/78-CX-7 Dated 1-6-1978]

**Recommendation**

The Committee are concerned to note that besides the short levy of excise duty in the cases pointed out in the Audit Paragraph there are three other cases involving Binny Mills with excise implications of Rs. 19.6 lakhs covering a period from 1st March, 1969 to 30th Setember, 1973. Among these cases, two of them with an excise implication of Rs. 15:8 lakhs relate to the declaration of certain variety of fabrics wrongly under item number 19(1)(2) though these should have been assessed appropriately on advalorem basis under tariff item 19(1)(1). In the third case, with a tax implication of Rs. 3.8 lakhs, it is understood that the mills deliberately out certain variety of terry cotton fabrics into fents in order to fraudulently avail of lower excise duty. The Committee desire that all these cases should be thoroughly gone into and conclusive action taken to recover not only the excise duty of Rs. 19.6 lakhs which is due but also to impose penalties as admissible under the rules, so as to act as a deterrent to others. The Committee would like to be specifically informed within three months of the action taken by the Government in the matter.

[Sl. No. 43 (Para 3.46) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

The Collector of Madras has reported that three offence cases for evasion of duty were registered against M/S. Binny and Co. Ltd., manufacturing cotton fabrics in the Buckingham and Carnetic

Mills situated at Madras. After thorough investigation and detailed examination and scrutiny of several documents and records, show cause notices for the above offence cases were issued on 29-9-1973 and 11-4-1974, 27-2-1974 and 28-2-1974 respectively to the said assessee for contravention of provisions of Central Excise Rules. The assessee submitted the replies to show cause notice pertaining to each case on 10-5-1974, 9-7-74., 30-4-1974 and 31-8-74 respectively. They at the same time requested for personal hearing and also permission to cross examine all the witnesses in each of three cases during personal hearing.

The Collector has further reported that adjudication of three cases has not been completed so far. It is stated that as these cases are of highly technical and complicated nature involving a very substantial revenue and the manufacturers have also desired to cross examine a large number of witnesses, it has been felt by the Collector to engage an independent counsel to assist the Department during the adjudication proceedings. The Collector has therefore sought for Government's permission to engage the Central Govt. Junior Standing Counsel for this purpose. The adjudicating authority will decide the cases in a quasijudicial capacity taking into consideration of all facts and circumstances including evidences to be recorded during the adjudication proceeding. The observations of the Public Accounts Committee in this para (3.46) have however been brought to the notice of the Collector.

[Ministry of Finance (Department of Revenue) letter No. 234/6/78-CX-7 Dated 4-4-1978]

**Recommendation**

The Committee are unhappy over the evasion of excise duty by M/S Mahadtva Textile Hubli, by short accounting of certain quantities of fabrics in the registers prescribed for recording daily production. What worries the Committee more is that departmental machinery does not appear to be effective in dttecting such omissions. In this case, the malpractice of short accounting adopted by the Mill could not be detected by the Inspection Group when they visited the Mill in October, 1970. The short accounting was detected only when the audit party visited the Mill later, in October, 1971. From this, the Committee are inclined to believe that the Department did not exercise any effective check of the records of daily production maintained by the mills. On the advice of audit, further investigations were made and short levy of duty amounting to Rs. 12,864 on account of short accounting of production over the period 28th August, 1970 to 31st March, 1972 was found. 6 more cases of short

accounting non-accounting of fabrics involving evasion of duty for Rs. 14,933 were also noticed subsequently in this unit. The Committee learn that the Collectorate have initiated penal proceedings against the party in these cases. The cases regarding demand of Rs. 12,864 is to be re-adjudicated according to the Appellate Collector's orders. The Collector is benig advised by the Board to consider adjudicating the cases himself, if these have not been adjudicated/re-adjudicated by the Assistant Collector. The Committee desire that these cases should be adjudicated expeditiously and the Committee informed about the penalties imposed on the party. The Committee would also like to know the action taken against the departmental officers for their failure to check on their own the records and accounts properly.

[Sl. No. 47, (Para 4.16) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

As regards the case of short levy of Rs. 12,864.00 which was to be re-adjudicated denovo by the Assistant Collector on the basis of the Appellate Collector's order and in respect of other cases which, according to the Ministry's reply on Point 61 of the list of points called for Additional Information *vide* F. No. 234/30/76-CX-7 dated 3-4-1976, were to be taken over by the Collector himself for adjudication, if the Assistant Collector had not re-adjudicated/adjudicated the cases till then, it is now reported by the Collector that on 1-6-1976 in pursuance of Board's letter dated 8-4-76 he directed the Assistant Collector concerned to send all relevant files relating to these cases to the Collectorate's headquarters for adjudication by him. The cases had however been adjudicated by the Assistant Collector himself in regard to short levy of duty due to non/short accountal of cotton fabrics in the RG-1 register but he had on 1-9-75 forwarded the case records pertaining to show cause notice for penalisation of the assessee for incorrect maintenance of the account in RG-1 to Collectorate Headquarters. The position of the cases adjudicated by Assistant Collector is as follows:

(a) The case relating to short levy of duty amounting to Rs. 12864.37 has since been re-adjudicated by the Assistant Collector who has confirmed the duty to the extent of Rs. 8,138.37 only against Rs. 12,864.37 as reported earlier. Since the assessee had already paid the original demand for Rs. 12,864.37, the excess amount of Rs. 4,726 was refunded to the party.

(b) Besides, regarding the cases of short/non accounting of cotton fabrics reported on Point 60(c) of the list of points calling for additional information *vide* Ministry's reply F. No. 234/30/76-CX-7 dated 6-3-1976 it has been reported that due to wrong quotation of the Rules invoked in the original show cause notices, revised Show Cause Notices for six cases were issued on 14-5-1976. Morever, by this time one more case was registered and therefore another show cause notice was issued. The particulars of the seven show cause notices issued to the assessee are stated below:—

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(1) C. No. V/19/3/152/75 dated 14-5-76 for Rs. 39.60.
(2) C. No. V/19/3/151/75 dated 14-5-76 for Rs. 1315.00.
(3) C. No. V/18A/3/89/74 dated 14-5-76 for Rs. 2978.50.
(4) C. No. V/18A/3/126/74 dated 14-5-76 for Rs. 4326.77.
(5) C. No. V/19/3/18/74 dated 14-5-1976 for Rs. 6432.56.
(6) C. No. V/19/3/97/75 dated 14-5-1976 for Rs. 155.91.
(7) C. No. V/19/3/153/75 dated 14-5-1976 for Rs. 274.13.

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All these seven cases had also been adjudicated by the Assistant Collector and finally a sum of Rs. 8,435.88 was demanded in his order dated 16-7-1976 and the amount was also paid by the assessee on 6-10-1976.

In regard to penalising the party it has been reported that on 28-8-75 instructions were issued to the Assistant Collector for submitting the case records to the Collector. The Assistant Collector had sent the case files to Collectorate Headquarter on 1-9-75 but after that the matter was not properly pursued in the Collectorate office till 15-1-77 when the Assistant Collector of Division was Directed to send a revised show cause notice. The Collector has reported that he is calling for the explanation of the concerned Assistant Collector for adjudication of the cases referred to above and also the officers in the Collectorate office responsible for the failure to follow up the case properly. In order to expedite the matter the Collector is taking action to call for all the relevant files, some of which are with the Appellate Collector and to issue a revised Show Cause Notice, if necessary, for imposition of penalties. The Collector has regretted the lapse and has also reported that he is taking suitable action to avoid the recurrence of such delays.

As regards disciplinary proceedings against the Department Officers, the Collector asked the Assistant Collector to obtain explanation for the lapses on the part of the officers of Inspection Group

who inspected the records of the assessee covering the period from August, 1970 to April, 1971. The Assistant Collector forwarded the explanation of the Superintendent of the Inspection Group who gave his reason for not having noticed the irregularity. However, it is reported that though the irregularities of short/non-accountal of production referred to in the audit para were not noticed by the Inspection Group, several similar irregularities had been noticed by the Officers of the same Inspection Group While inspecting the records of the mill for subsequent periods. Hence the view was taken that there was no malafide intention on the part of the officers of the Inspection Group and consequently the officers concerned were warned.

[Ministry of Finance (Department of Revenue) letter No. 234/25/78/CX-7 dated 24-5-1978]

**Recommendation**

The Committee are not satisfied with the withdrawal of demands of duty amounting to Rs. 1.48 crores on the clearance of high density polyethelene yarn/fabrics for the period preceding the issue of notifications exempting payment of excise duty on high density polythelene tapes, if used for manufacture of art silk fabrics and high density polyethlene woven fabrics, if intended for making sacks, through an exemption order. In their earlier Reports, the Committee have been emphasizing from time to time that the power given to the executive to modify the effect of the statutory tariff should be regulated by well defined criteria. This was last reiterated by the Committee in Paragraph 15.15 of their 177th Report (5th Lok Sabha) 1975-76. The Committee have been informed by the Ministry of Finance in the Action Taken note, that it was not possible to accept the recommendation. The Committee are still of the view that it should be possible to lay down well-defined criteria to regulate the grant of exemptions. The Committee accordingly desire that this should be once again re-examined in detail by Govt. and specify guidelines prescribed in this regard.

[Sl. No. 78 (Para 8.30) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

The Committee's attention is invited to the Action Taken Note furnished by the Department *vide* F. No. 234/40/78-CX-7 dated the 24th January, 1979, on para 1.38 of their 68th Report (Sixth Lok Sabha) 1977-78.

[Ministry of Finance (Department of Revenue) letter No. 234/32/78-CX. 7 dated 30-3-1979]

**Recommendation**

As a result of the amending notification issued on 24th July, 1972 certain varieties of blended yarn were taken out of the compounded levy scheme. Yarn being a separate commodity is excisable before it is converted to fabrics and therefore duty is payable before such yarn is taken to the weaving shed. The yarn on which compounded levy was withdrawn from 24 July, 1972 and which was already cleared without payment of duty for use in weaving of fabrics became leviable to duty in the normal course at effective rates. According to the information furnished by the Ministry the total amount of differential duty of Rs. 84,13,376 was recoverable in respect of yarn in stock or used in fibres lying in stock on 24th July, 1972 and cleared thereafter. Out of this, an amount of Rs. 45,39,827 is still unrealised due to pending adjudications, appeals and revision applications. The Committee desire that vigorous efforts should be made to finalise the pending cases and recover the outstanding amounts expeditiously. The Committee would like to know the progress made in the realisation of the outstanding amount.

[Sl. No. 85 (Para 9.15) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

On reverification, it is reported that there is a slight difference in the total amount of differential duty recoverable in respect of yarn in stock or used in fabrics lying in stock on 24th July, 1972 and cleared thereafter which works out to Rs. 84,14,386.26 as against Rs. 84,13,376 reported earlier and brought out in this para. (The difference between the figures then reported and now is due to the change in the amount indicated by Collector of Central Excise, Bangalore, who had earlier reported a figure of Rs. 2,46,914 but on verification revised it to Rs. 2,47,924).

Out of this total amount of Rs. 84,14,386.26 the amount still pending realisation is only 29,28,841.16. Out of this amounts of Rs. 15,68,087.72 and Rs. 3,37,714.80 pertaining to Baroda and Bombay Collectorates respectively are pending recovery since the parties have gone in revision to the Govt. An amount of Rs. 7,28,798.64 is pending in Bombay Collectorate on account of writ petition filed in High Court of Bombay. An amount of Rs. 2,98,240 pertaining to West Bengal Collectorate is pending realisation since the party's appeal against *de novo* adjudication has been rejected by the Appellate Collector on 1-11-1977.

[Ministry of Finance (Department of Revenue) letter No. 234/20/78-CX. 7 dated 11-8-1978].

**Recommendation**

The Committee have been informed on 16th May 1977 that the unit in question had filed the revised classification list, claiming an assessment of excisable goods on concessional rate under the amended notification of 8th September, 1975. The matter is stated to be under the consideration of the Assistant Collector. The Committee would like to know the decision taken on this classification list.

[Sl. No. 92 (Para 11.31) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

It has since been reported by the Collector of Central Excise, Baroda that the classification lists filed by the unit have not yet been approved. However, the assessments are being done at the concessional rate of 4 per cent *ad valorem* on the basis of the earlier approved classification lists. The assessments on the RT-12's are also being accordingly finalised but show cause notices for the differential amount of duty are being issued periodically. Six such show cause notices covering the period from 1-3-1972 to 30-11-77 for a total amount of Rs. 16,78,171.52 are reported to have been issued.

It has been further reported that the Audit Party of the Local Accountant General during their visit in January 1976 have again raised an objection in respect of this unit regarding the exclusion of certain items in the calculation of total investment, thus holding that the manufacturer was not entitled for the concessional rate under Notification No. 199/75 dated 8-9-75. The objection has not been accepted by the Collectorate and the issue is reported to be pending with office of the Accountant General, Gujarat. It has therefore not been possible to finalise the classification lists submitted by the unit after issue of the amended Notification dated 8-9-75.

[Ministry of Finance (Department of Revenue) letter No. 234/31/78-CX. 7 dated 11-8-1978]

**Recommendations**

Para 11.38: The Committee note that the excise revenue foregone during the year 1973-74, on account of exemption from duty granted under rule 8(i) of the Central Excise Rules amounted to as much as Rs. 364.98 crores pertaining to 149 notifications in force during the year (excluding the exemptions which represent specific rates of duty announced as a part of Budget Supplementary

Budget proposals and exemptions intended to avoid double taxation under the same tariff Item). Further the revenue foregone on account of exemptions issued under rule 8(ii) of the Central Excise Rules during the same year amounted to Rs. 2.83 crores. The Committee have been expressing their anxiety from time to time in their earlier Reports on the revenue foregone due to exemption notifications and stressing the need for undertaking a review of all the existing notifications from time to time.

Para 11.39: In paragraph 15.14 of their 177th Report (Fifth Lok Sabha 1975-76) the Committee had *inter alia*, urged the Ministry of Finance to fulfil their assurance earlier given to the Committee that a review of all exemptions would be made to determine the reasons for the exemptions and to withdraw them if they were found to be unjustified. In their Action Taken Note, the Department of Revenue and Banking have informed the Committee that the last such review was made in October-November, 1973. The Committee understand that on this review most of the exemptions were continued as a measure of fiscal relief to small scale sector. Another comprehensive review of all the exemption notifications according to the Ministry is proposed to be undertaken shortly.

Para 11.40: The Committee need hardly stress that such a review should be critically undertaken at least one every year before finalising the proposals for the next Budget so as to obviate continuation of any unintended benefits which have ceased to serve Public interest or in respect of which serious deficiencies have come to notice.

[Sl. Nos. 90, 99, 100 & 101 (Paras 11.38 to 11.40) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action taken**

Paras 11.38 to 11.40: As a result of review of the exemption notifications undertaken in 1976, 27 notifications had been rescinded In addition to this, a list of notifications which have ceased to be in force either by efflux of time or otherwise and which, according to the Ministry of Law, need no formal rescission have also been forwarded to the field formations for considering them as rescinded

As a part of the 1978 Budget, a number of individual exemption notifications applicable to small scale units manufacturing specified commodities were rescinded and a single notification applicable to 69 commodities was issued. Further, as a part of the 1978 Budget, two important exemption notifications relating to tea waste and

vegetable products [No. 32/51-CX dt. 6-10-1951 and No. CER 3(3) 56-CE dated 14-1-1956] were also reviewed. While the exemption relating to tea waste was modified, that relating to vegetable product was rescinded. In this connection it is submitted that it is not possible to undertake a complete review of all the existing notifications every year prior to the formulation of budget proposals but a review on a limited scale is invariably being done every year before the budget and also in the course of year to rescind the notifications which have ceased to serve public interest or in respect of which deficiencies in regard to revenue have come to notice.

[Ministry of Finance (Department of Revenue) letter No. 234/31/78 CX 7 dated 27-6-1978]

## CHAPTER V

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

### Recommendations

Para 5.33: Chapter X of the Central Excise Rules refers, *inter alia,* to excisable raw materials and component parts used in the manufacture of finished excisable goods either at concessional rates or without payment of duty. If any such parts/components are found surplus at the receiving factory, they can be removed on payment of duty, the rate and valuation being that in force on the date of actual removal of the goods. By a notification issued in May, 1971, motor vehicle parts (which are excisable) were exempted from excise duty if they were intended to be used as original equipment parts.

Para 5.34: This Committee regret to observe that M/s. Kirloskar Oil Engines who were allowed this concession for the manufacture of internal combustion engine disregarded the Central Excise Rules in the instant case by transferring component parts worth Rs. 3,72,134 during the period October--December, 1972 which had been recived by the factory duty free, without prior intimation to the Central Excise Authorities and payment of duty. According to the Department the lapse on the part of the factory was not deliberate, as the party themselves had reported this fact in their monthly returns submitted to the Department. The Committee however find that the returns for the months of October and November, 1972 were submitted on 12 January, 1973 while the fact of removal of the goods was formally intimated by the party to the Department more than a month later on 21 February, 1973. The Committee are of the view that the party committed a lapse in removing the excisable goods without prior intimation to the excise authorities and without payment of excise duty as required under the Rules.

Para 5.35: Another important point which emerges in this case is the question of imposition of penalty for violation of the excise rules. In view of the fact that there was delay in the submission of monthly returns for the months of October and November, 1972 on 12 January, 1973. The Committee would like the Department

to examine whether any penal action was required to be taken against the firm and if so, to intimate the action taken in this behalf.

[S. Nos. 51, 52 & 53 (Paras 5.33 to 5.35) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

The Collector of Central Excise, Chandigarh has reported that an offence case was registered against the party for the contravention of the Central Excise Rules and is pending adjudication with the Deputy Collector of Central Excise, Faridabad.

For late submission of the monthly return in form RT-11 for excisable goods used without payment of duty for special industrial purposes and of commodities manufactured therefrom for the months of October & November, 1972, an offence case has already been booked on 22-3-78 against the licence. The case is pending adjudication with the Asstt. Collector, Faridabad.

[Ministry of Finance (Department of Revenue) letter No. 234|10|78-CX dated 24-6-1978].

**Recommendations**

Para 5.37. In the present case, the excise duty on goods transferred by the party was first recovered in July 1973 by the Department at the rate of 10 per cent prevailing at the time of their removal. Subsequently, at the instance of audit, the duty was realised in May, 1974 at the rate of 20 per cent which was Applicable on the date of payment under general rule 9A of the Central Excise Rules.

Para 5.38: During evidence, the Finance Secretary expressed the view that rule 9A was not applicable, as the case was covered by Chapter X and that the relevant rule was 196A under which duty was payable at the rate applicable on the date of actual removal of the goods. The Committee are surprised at the shift in the stand of the Ministry who had earlier accepted the Audit Objection and raised a demand for increased duty accordingly. The Committee desire that it should be examined whether in cases where the parties fail to pay duty at the time of removal of goods in accordance with rule 196A, the general rule 9A would not apply for charging duty at the rate and value prevailing on the date of payment. In case the general rule is not applicable in such cases, the Committee suggest that the question of making suitable amendment to the rules should be considered. The Committee desire that

this matter should be examined in consultation with the Ministry of Law expeditiously and a report sent to the Committee.

5.39. In paragraph 19 of Chapter X of their Report, the Self-Removal Procedure Committee have observed that there are many exemptions, total and partial, based on the end use of goods produced which not only present serious difficulties of administration but are grossly abused. In paragraph 11 of chapter 16 of the Report, the S.R.P. Committee have urged that all such exemptions relating to the end use of goods should be reviewed and drastically curtailed unless there are very strong reasons to the contrary. The Committee have been informed that the recommendation has been examined by the Board and the decision of Government is awaited. The Committee are unhappy over the delay in taking final decision on such important recommendations of the S.R.P. Committee and desire that the matter should be expedited. A report in this regard should be sent early to the Committee.

[Sl. Nos. 55—57 (Para Nos. 5.37 to 5.39) of Appendix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action Taken**

5.37 and 5.38. The issue was referred to the Ministry ow Law for their opinion. That Ministry have suggested that the matter may be discussed in a tripartite meeting in which the representatives of their Ministry, of the Department of Revenue and of C&A.G. could take part. The decision in the matter will be communicated in due course.

5.39. The recommendations made by the S.R.P. Review Committee regarding review of all exemtions relating to end use and drastid curtailment thereof was referred to the Indirect Texation Enquiry Committee. Their report has since been received and the recommemndations pertaining to this specific matter are under examination.

[Ministry of Finance (Department of Revenue) letter No. 234/10/78-cx. 7 dated 27-11-1978]

**Recommendations**

According to the Audit paragraph Indian Oil Corporation had paid duty amounting to Rs. 38,01,89,425 on behalf of Burmah Shell in respect of the clearances of the mineral oil products made by Burmah Shell from April 1969 to December 1973. But according to the information furnished by the Ministry of Finance, Burmah Shell reimbursed to Indian Oil Corporation a sum of Rs. 37,84,04,379,28 the gap between the two amounts being Rs. 17,85,046. The Committee were informed that Indian Oil Corporation are not in a position to reconcile the two sets of figures without reference to the product-wise details of the quantities referred to by Audit. Such discrepancies cannot be taken for granted and the Committee urge that the position is thoroughly checked and the figures reconciled; particularly when some likely detriment to Indian Oil Corporation's revenue appears involved.

[Sl. No. 64 (Para 6.45) of Appedix XV to 13th Report of PAC (Sixth Lok Sabha)]

**Action taken**

As desired by the Committee, I.O.C. were requested to reconcile the difference between the two sets of figures. They have, however, requested for some more time to do so.

[Ministry of Finance (Department of Revenue) letter No. 234/21|78-cx-7 dated 12-12-78].

NEW DELHI;
*April* 28, 1979
*Vaisakha* 8, 1901 (*Saka*).

P. V. NARASIMHARAO,
*Chairman*,
*Public Accounts Committee*.

## APPENDIX

## CONCLUSIONS OR RECOMMENDATIONS

| Sl. No. | | nistry/Deptt. concerned | Conclusion or Recommendation |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| 1 | 1.3 | Ministry of Finance (Department of Revenue) | The Committee require that final replies duly vetted by Audit to those recommendations or observations in respect of which interim replies have so far been furnished, should be submitted expeditiously. |
| 2 | 1.9 | -do- | According to the Ministry of Finance, Section 25(1) (2) of the Customs Act, 1962 and Rule 8(1) (2) of the Central Excise Rules, 1944 empower the Government to issue exemption notifications etc. As the action taken note itself reveals, these powers are required to be exercised under circumstances of exceptional nature, but the Committee are distressed to find that in actual practice, Government takes recourse to these provisions very frequently, virtually rendering the levy of the duties authorised by Parliament nugatory. The Committe agree that in some exceptional circumstances it might not be possible for Government to obtain prior sanction of Parliament but that should not be the general rule. In this connection, the Estimates Committee of Parliament have expressed similar views, on the subject, in paragraphs 3.125 and 3.126 of their 28th Report (Sixth Lok Sabha), *inter alia*, observing: "The Committee feel that if at all necessary, Government should exercise the power to grant exemptions very sparingly and in extreme cases only. The Committee would also |

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| | | | like that the notifications of exemption should be subject to modification or annulment by Parliament within a stipulated period and a suitable provision to this effect should be made in the parent Act." |
| 3 | 1.10 | -do- | The Committee note that under Section 159 of the Customs Act, copies of every notification are required to be laid in each House of Parliament within stipulated time-limits and further if both the Houses agree to make any modification in the notification or agree that the notification should not be issued, such a notification would have effect only in such modified form or be of no effect, as the case may be. Such statutory provisions, however, do not exist on the Central Excise side. The Committee would like the Government to examine the question of making similar statutory provisions on the Excise side as well. |
| 4 | 1.11 | -do- | The Committee also firmly believe that the power given to the executive to modify the effect of the statutory tariff should be regulated by a well-defined criteria in consultation with the Comptroller and Auditor General of India, keeping in view all the earlier recommendations made by the Committee in this regard. |
| 5 | 1.14 | -do- | The Committee do not appreciate the reply of the Department that as recommended by them, it is not possible to undertake complete review of all the existing notifications every year prior to the finalisation of Budget proposals. The Committee feel that such an annual review prior to the finalisation of the Budget proposals is very necessary so as to obviate continuation of any unintended benefits which have |

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| | | | ceased to serve public interest. The Committee would like the Department to examine once again the need for introduction of such an annual review on regular basis. |
| 6 | 1.17 | Ministry of Finance (Department of Revenue) | As one of the measures for controlling the evasion of duty on Art Silk Fabrics, the Committee had earlier recommended that the capacity of the Processing Units should invariably be mentioned in specific terms in the licences issued to such units. The Committee are surprised that even after the omissions in the existing procedure noticed in the case in question the Department of Revenue has still pleaded that it is not necessary to mention the capacity of the unit because the same is required to be given by the applicant at the time of applying as well as renewal of the licence. This procedure does not appear to be effective, as inspite of such a mention in the application the Collectorate could not detect the evasion. The Committee believe that for exercising proper excise surveillance over the processing units, it is necessary to mention the capacity of the unit in the licence itself. The Committee, therefore, reiterate that an indication about the capacity of the factory in the licence itself, is very necessary. |
| 7 | 1.22 | -do- | The Committee are not convinced of the explanations now offered of heavy work-load with the concerned Assessment-*cum*-Inspection Group, for the non-detection of evasion of duty for Rs. 72,461 by Binny Mills, Madras. If, according to the Department, the Assessment-*cum*-Inspection Group needed 5 Superintendents and 29 Inspectors against the working strength of 1 Superintendent and 6 Inspectors, the Committee believe that the Department should have taken timely steps to reinforce the then existing staff in accordance with the norms prescribed by the Staff Inspection Unit rather than finding an excuse now that the Assessment-*cum*-Inspection Group was under-staffed. |

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| | | | Evidently, but for scrutiny by Audit, the evasion might have remained undetected. |
| 8 | 1.23 | -do- | The Committee are also not convinced of the opinion of the Collector of Central Excise, Madras that "no *malafide* was suspected on the part of local staff and the omission to detect the short levy was *bonafide* and in such circumstances disciplinary proceedings are not warranted". The Committee desire that a probe should be ordered in the matter through CBI. |
| 9 | 1.24 | -do- | The Committee also deprecate the practice of merely communicating the opinions of individual Collectors on the recommendation of the Committee without the Government (*i.e.* Ministry of Finance) having given its considered opinion. |
| 10 | 1.27 | -do- | The Committee are deeply concerned to note that the three cases involving Binny Mills with excise implications of Rs. 19.6 lakhs, are pending adjudication for such a long time when replies to show cause notices pertaining to these cases were submitted by the assessees by 31-8-1974. While desiring to know the reasons for very long pendency of adjudication proceedings in these cases, the Committee would emphasise that concerted efforts should be made to secure early adjudication on these cases. |
| 11 | 1.30 | -do- | The Committee note that on 1-9-1975 the Assistant Collector forwarded the case records pertaining to show cause notice to Collectorate |

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| | | | Headquarters, for examining the question of imposing penalties on the assessee for incorrect maintenance of the accounts in RG-1. The Committee are distressed to find that the Collectorate office slept over the case till 15-1-1977 when the Assistant Collectorate was again directed by that office to send a revised show cause notice. The Committee take a very serious view of this delay of 1½ years in the Collectorate office. They suspect that it was done with a view to benefit the assessee. The Committee would like the matter to be investigated with a view to fixing responsibility. The Committee also stress that the question of imposition of penalties on the assessee for short accounting of quantities of fabrics and consequential evasion of excise duty should now be finalised urgently. |
| 12 | 1.34 | Ministry of Finance (Department of Revenue) | The Committee are unhappy to note that out of total recoverable amount of Rs. 84,14,386.26 on account of differential duty quite a substantial amount of Rs. 29,28,841.16 is still pending realization. While deprecating the lack of serious approach on the part of the authorities to expedite the realization of these huge amounts, the Committee would once again stress that vigorous efforts should be made to secure early finalization of the pending cases and consequential recovery of the amounts involved. |
| 13 | 1.38 | -do- | The Committee are concerned to note that the revised classification list submitted by a unit on issue of the amended Notification of 8th September, 1975 has not been finalised so far although about 3 years have passed. The Department has issued six show cause notices covering the period from 1-3-1972 to 30-11-1977 for payment of |

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| | | differential amount of duty for Rs. 16,78,171.52. The Committee would emphasize that the Department should take final decision on the revised classification list submitted by the Unit, otherwise the realization of differential duty may become difficult. The Committee would also like to know whether the Department have since realised the amount of Rs. 16,78,171.52 on account of differential duty. | |



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