

**PUBLIC ACCOUNTS COMMITTEE
(1978-79)**

TH LOK SABHA)

HUNDRED & THIRTY-SECOND REPORT

CUSTOMS RECEIPTS

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

**Paragraphs 8, 14 and 17 of the Report of the Comptroller
and Auditor General of India for the year 1976-77,
Union Government (Civil), Volume I, Indirect Taxes]**



सत्यमेव जयते

Presented in Lok Sabha on 25-4-79

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**LOK SABHA SECRETARIAT
NEW DELHI**

April, 1979/Chaitra, 1901 (Saka)

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PART II

* Minutes of sittings of the Public Accounts Committee held on :

21-8-1978
22-8-1978
23-8-1978
29-4-1979

*Not attached.

PUBLIC ACCOUNTS COMMITTEE
(1978-79)

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INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Hundred and Thirty-Second Report of the Public Accounts Committee (Sixth Lok Sabha) on Paragraphs 8, 14 and 17 of the Report of the Comptroller & Auditor General of India for the year 1976-77, Union Government (Civil)—Revenue Receipts—Vol. I—Indirect Taxes.

2. The Report of the Comptroller and Auditor General of India for the year 1976-77, Union Government (Civil)—Revenue Receipts—Vol. I—Indirect Taxes was laid on the Table of the House on 12 April, 1978. The Public Accounts Committee examined paragraphs 8 & 14 at their sittings held on 21, 22 and 23 August, 1978 and considered and finalised this Report at their sitting held on 23 April, 1979.

3. A statement containing main conclusions or recommendations of the Committee is appended to this Report (Appendix). For facility of reference these have been printed in thick type in the body of the Report.

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

5. The Committee would also like to express their thanks to the Ministries of Finance (Deptt. of Revenue), External Affairs, Finance (Department of Economic Affairs) and State Trading Corporation of India for the cooperation extended by them in giving information to the Committee.

NEW DELHI;
April 23, 1979.
Vaisakha 3, 1901 (S).

P. V. NARASIMHA RAO,
Chairman,
Public Accounts Committee.

REPORT

CHAPTER I

DELAY IN THE INVESTIGATION OF BOOKS OF ACCOUNT OF IMPORTERS

1.1. When the importers have special relationship with the suppliers as agents, collaborators, distributors, etc., Section 14(1) (b) of the Customs Act, 1962 provides for determination of assessable value of imported goods in accordance with the Customs Valuation Rules, 1963 by loading the invoice values suitably. The loading factor is determined after examination of the books of account of the importers and the decisions are to be reviewed whenever there is a change in their relationship and in the method of invoicing. In any case, such a review has to be taken up and completed well within a period of five years of the earlier review so that any claim that might arise against the importers could be preferred before the time-bar becomes operative.

1.2. Non-compliance with these provisions resulting in incorrect values being adopted and consequential under-assessment was noticed in a major Custom House in the case of an importer having collaboration arrangement with a foreign supplier. The relevant facts in this connection are indicated below:—

- (a) The Custom House issued an Investigation Circular in 1964 after an examination of the books of account of the importer. Although this circular itself indicated that the pattern of invoicing of the foreign supplier was likely to undergo a change after sometime, the Custom House did not conduct a review of the books of account until as late as 1971—after an enquiry from Audit in October 1969.
- (b) The Investigation Circular, as a result of the review commenced in 1971, was issued in December 1972, i.e., over eight years after the previous circular.
- (c) The changed pattern of invoicing came into effect on 20 October 1965 itself, but was not known to the Custom House until the review of the books of account of the importer was taken up in 1971. The reasons for the Custom House not being able to notice the changed pattern of invoicing on its own, right from 1965, are not clear.
- (d) A review of the assessment of the bills of entry relating to the invoices made out on or after 20 October 1965 was

initiated by the Custom House only in December 1974, when Audit raised a query regarding the revised pattern of invoicing. The reasons for the Custom House, not taking prompt action to review the assessments from 1965 onwards and for not resorting to the precaution of making provisional assessments from 1971 are not clear—though the revised pattern was noticed even in 1971.

1.3. The Customs House declined to supply to Audit the files leading to the issue of the Investigation Circular of 1972.

1.4. In reply, the Ministry of Finance stated (February 1978) that the total short levy so far noticed as a result of review by the Custom House amounted to Rs. 2,43,832. They have added that the party deposited an amount of Rs. 1,98,908 to be kept in revenue deposit pending the decision of the Court on a writ petition filed by the party against the Investigation Circular of 1972. The Ministry has also endorsed the opinion of the Collector that "such investigation circulars constitute appealable adjudication orders and were self-contained speaking orders which were adequate for purposes of the audit."

[Paragraph 8 of the Report of the Comptroller and Auditor General of India for the year 1976-77, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes.]

1.5. M/s. Ashok Leyland Ltd., to whom the Audit para relates, became a subsidiary of M/s. Leyland Motors Ltd. England w.e.f. 1-4-62 by virtue of the latter holding more than 50 per cent of the equity shares of the Indian Company. By an agreement dated the 5 December 1955, the Indian Company had been authorised to manufacture motor vehicles of the type manufactured in the U.K. by the English Company. The Indian firm had also been appointed as sole agent for spare parts manufactured by M/s. Leyland Motors Ltd., Albion Motors Ltd., and Cape Asbestos Co. Ltd., U. K. The last mentioned firm had not, however, entered into a formal agency agreement with the Indian firm.

1.6. The Madras Custom House issued an Investigation Circular (26/64 dated 5-9-1964) prescribing the loading factors in respect of value of spares imported by M/s. Ashok Leyland, Motors from their principals etc. in England. According to this Circular, the invoice values of spare parts of Commercial Vehicles were to be loaded by 10 per cent on c.i.f. value in the case of Leyland and Comet spares and by 7.5 per cent of export value in case of Leyland Heavy duty spares. The Circular was in vogue till the Customs House revised

the loading factors after a fresh investigation and issued a revised Investigation Circular No. 73/72 on 21 December 1972, i.e., eight years after the issue of the previous circular.

1.7. The Committee wanted to know the nature and contents of an Investigation Circular. The Ministry of Finance (Department of Revenue) have in a written note furnished the following information:

“Whenever value for Customs purposes is determined under Section 14(1) (b) of the Customs Act, 1962, for the reason that the buyer and the seller have interest in the business of each other or that the price is not the sole consideration for the sale, an enquiry/investigation is made into the nature of relationship, the extent to which the sale price has been vitiated by the special relationship, the price of the goods of like kind and quality imported by independent importers, if available, etc. The decision which is arrived at after such enquiry/investigation is communicated to the assessing officer in the form of what is sometimes called an ‘investigation circular’ or sometimes ‘valuation circular’. On occasions this is referred to merely as a ‘Circular’.

This is issued from a special cell which operates in each major Custom House and which is generally called ‘Special Valuation Branch’.

The present practice in the Custom Houses is that the investigation is made by the Examiners and the Appraisers posted in the Branch and the decision that is finally taken is at the level of an Assistant Collector of Customs. Sometimes, the decision is taken at the Deputy Collector’s level also.”

1.8. Subsequently the Ministry of Finance furnished copies of the Investigation Circulars issued by the Madras Custom House in the case of M/s. Ashok Leyland in 1964 and 1972 (Appendices I & II).

1.9. The Committee wanted to know the periodicity for the review of the accounts of the importers who have special relationship with foreign suppliers. The Ministry of Finance (Department of Revenue) have in a written note intimated as under:

“In terms of Board’s letter F. No. 3|20|70-Cus. VI dated the 3rd November 1970, the examination of the books of accounts of importers having special relationship with foreign suppliers, should be conducted at least once in

four years. These reviews are required to be conducted with this periodicity even if no special information is available calling for a review."

1.10. Asked for the reasons of prescribing this periodicity and also about its efficiency, the Ministry of Finance (Department of Revenue) have further stated:

"The periodicity for review of books of accounts once in four years has been laid down keeping in view proviso to Section 28 of the Customs Act, 1962, in terms of which demand for short recovery can be issued within 5 years where any duty has been short levied by reason of collusion or any wilful mis-statement or suppression of facts by the importer or exporter.

This periodicity has been found to be satisfactory and the custom Houses have by and large, been observing it. What appears to be wrong is not the adequacy of this frequency but the occasional default in its observance as has happened in Madras Custom House."

1.11. When enquired about the procedure in vogue for review in the case of Ashok Leyland Madras, the Member (Customs) replied:

"Arrangements between two firms which are in a situation of the type we have seen in this case have got to be reviewed periodically. Whenever there is this kind of a principal/subsidiary arrangement or a Sole Agency arrangement, the contract between the two or the collaboration agreement between the two firms and their books of accounts are supposed to be examined periodically to find out to what extent the prices are acceptable for the purpose of Section 14 and, if they are not acceptable, what should be the percentage of variation that should be added or the loading that should be added to the invoices."

1.12. Asked in regard to the quantum of loading, the witness has added:

"If there is an independent importer who is paying a certain price, then the loading will be of the order of the difference between the price of the independent importer and the price of the firm."

1.13. The Committee wanted to know whether in case of any change in the pricing pattern, the concerned company was required

to intimate the change to the Department. The Member (Customs) has replied:

"They are supposed to; on every bill of entry, they have to give a declaration. In respect of every single importation they make, on the document pertaining to that importation, which is called the bill of entry, they have to make a declaration."

1.14. Asked when did the change take place in the case of Ashok Leyland Madras, the witness has stated:

"The pattern of invoicing changed on 20 October 1965."

1.15. Enquired if the change in this case was reported to the Department, the witness has stated:

"No; they never reported. They went on giving the declaration that there has been no change in the pattern of invoicing or their arrangement with the foreign suppliers."

1.16. The Committee wanted to know the mechanism available with the Department to detect the change in the pattern in case the same is not reported by the importer. The Ministry of Finance (Department of Revenue) have in a written note intimated as under:

"Whenever there is a change in the method of invoicing the assessing officers, who are dealing with repeated imports, should be able to detect the change. Changes in the pattern of invoicing which escape detection by the assessing officer, should normally come to the notice at the time of review of the books of accounts of the importers which is required to be undertaken once in four years by the Valuation Section of the Custom House in terms of Board's letter F. No. 3|12|70-Cus.VI dated 3-11-1970."

1.17. The Committee wanted to know the reasons for the inordinate delay in the review of the Circular No. 26/64. The Ministry of Finance (Department of Revenue) have in a written note stated as under:

"The questionnaire for review of the Investigation Circular No. 26/64 was issued on 4-11-1969. Reminders calling for the reply from the importers were sent. There was, however, admittedly a long delay in pursuing the matter. It may, however, be stated that during this period, the importers declared in all the bills of entry filed by them that there was no change in the method of invoicing. The

Customs also failed to detect changed pattern of invoicing until the appraiser of the Special Valuation Branch noticed this at the time of scrutiny of the documents in the year 1972. The provisional assessment was also not resorted to. There were also delays in not processing the demands in time."

1.18. Supplementing in this connection, the Finance Secretary has stated in evidence:

"In this particular case there was a serious omission in that he failed to make a provisional assessment even at the time of issuing a questionnaire or when he found that the party was delaying reply to the questionnaire. The Customs House should have resorted to provisional assessment in which case the limitation could have been saved. "They failed to do that."

1.19. Explaining the reasons for the lapse, the Chairman, Central Board of Excise & Customs has stated:

"This is technically a failure, but all that can be said is that the firm was giving day in and day out on every document a declaration that their arrangements have not altered at all since the circular of 1964. This certificate must have been responsible for a sense of complacency amongst the staff, but the other factor was that there were no instructions in the Government at that time about this periodicity of the review. Every Custom House had its own arrangement. In 1970 after the PAC* pointed out, some instructions were issued to be applied uniformly everywhere that these reviews should be started at the end of the four years and completed by the end of five years so that this period of limitation would be taken care of. After these instructions were issued, uniformity should have been there, but in this particular case, this lapse was there."

1.20. The Committee pointed out that in the Circular issued in 1964 it was clearly stipulated that the pattern of import by M/s. Ashok Leyland Ltd. would change and that firm would become the sole importers necessitating a review of that Circular. They wanted to know whether there was any deliberate attempt to delay

*Vide para 1.72 of 110th Report (Fourth Lok Sabha)

the review until 1972. The Chairman, Central Board of Excise & Customs has stated:

"I do not think there is any excuse. This is an administrative lapse and we are going into that. This is not the only failure. There are one or two other failures."

1.21. Summarising the causes for the lapse, the Ministry of Finance (Department of Revenue) have in a written note intimated as under:

"The only thing that can be pleaded as a possible reason (though not fully acceptable) for not taking the timely review of Investigation Circular of 1964 was that the importer did not inform the Custom House about the change in pattern of invoicing. In fact, they continued to give a declaration on the reverse of the Bill of Entry that there had been no change in the pattern of invoicing after the examination of their books of accounts by the Custom House.

In Board's letter F. No. 3|12|70-Cus. VI dated 20-6-1970, Custom Houses were asked to ensure that the books of accounts of importers having special relationship with the foreign suppliers are examined well within a period of 5 years. Subsequently, the Board's letter F. No. 3|12|70-Cus. VI dated 3-11-1970 it was prescribed that the books of accounts should be reviewed at least once in four years.

The Custom House had initiated review of the books of accounts of M/s. Ashok Leyland in 1969. However, the requirements laid down in Board's letter dated 20-6-1970 and 3-11-1970 were not kept in view and the review was delayed."

1.22. Enquired in regard to the action taken to fix responsibility, the Ministry of Finance (Department of Revenue) have in a written note stated:

"The Directorate of Investigation as well as the Chief Vigilance Officer of the Central Board of Excise & Customs have been asked to enquire into the matter and fix responsibility for the lapses."

1.23. The Committee wanted to know the penal provisions under the rules against the firms who failed to report the change. The Member (Customs) has replied during evidence:

"We have the powers under the Customs Act, Sections 111 and 112 of the Customs Act would be relevant in this respect."

Section 111 says that 'the following goods brought from a place outside India shall be liable to confiscation'. Then there are number of clauses, and the Clause relevant for our purposes is Clause (m). Clause (m) says: 'Any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under Section 77 in respect thereof are liable to confiscation'."

1.24. Asked what could be confiscated in case the transactions were detected after 8 years as in the instant case, the witness has stated:

"For that we have the provision in Section 112 which says that 'any person who, in relation to any goods, does or omits to do any act which act or omision would render such goods liable for confiscation, shall be liable in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding five times the value of the goods or Rs. 1,000, whichever is greater'. In the case of dutiable goods, other than prohibited goods, the penalty is five times the duty sought to be evaded on such goods or Rs. 1,000 whichever is greater."

1.25. The Department in reply to draft Audit para had stated (February 1978) that the total short levy so far noticed as a result of review by the Customs House amounted to Rs. 2,43,832. The Committee wanted to know the details of this short-levy and the steps taken for its recovery. The Ministry of Finance (Department of Revenue) have in a written note stated as under:

"The actual amount is Rs. 2,79,417.19 and not Rs. 2.43 lakhs as reported in this Department's reply to the draft Audit para. Out of this, demands were confirmed for Rs. 54,814.17 and this amount has been already recovered. In respect of the balance of Rs. 2,24,603.02, demand under Section 28(1) proviso had been issued. A sum of Rs. 1,98,908.56 had already been deposited by the firm. The entire amount of Rs. 2,79,417.19 relates to period December 1972 to September 1973.

The party has contested the demands on the ground that the proviso to Section 28(1) of Customs Act 1962 was not applicable in their case. They also moved the Madras High Court in certain matters concerning the Investigation

Circular. Against the decision of the Madras High Court the Department has filed a Writ Appeal which is pending decision.

The entire amount of Rs. 2,79,417.19 is covered by Customs demands. This amount pertains to imports subsequent to the issue of investigation circular No. 73/72. As regards the earlier period, the short levy is estimated to be approximately Rs. 5.3 lakhs. The demand for this is time-barred."

1.26. Subsequently, the Ministry of Finance (Department of Revenue) have in a written note stated as under:

"Party has been requested to make voluntary payments of Rs. 5.3 lakhs for which demands issued under Section 28 are time-barred. Action under Sections 111 and 112 of the Customs Act, 1962 is also being taken."

1.27. Enquired about the fate of the Writ Appeal filed by the Department, the Ministry of Finance (Department of Revenue) have stated that it has yet to be listed for hearing.

1.28. The Committee wanted to know the names of other firms, if any, who were having relationship with the foreign suppliers and whose declarations were not checked within a period of four years. The Ministry of Finance (Department of Revenue) have in a written note stated as under:

"In the last three years, books of accounts of the following firms were not reviewed within a period of four years:

Name of the firm	Concerned Custom House
1. M/s. Hegde & Golay, Bangalore	Madras
2. Standard Printing Machinery Company	Madras
3. M/s. O.E.N. India Limited	Cochin."

1.29. Asked for the reasons, the Ministry of Finance (Department of Revenue) have stated:

"The precise reasons why this was not done are being ascertained from the two respective Customs Houses."

1.30. The Committee noted from the Audit paragraph that the Custom House declined to supply to Audit the file leading to the issue of Investigation Circular of 1972. When asked for the reasons there-

for, the Ministry of Finance (Department of Revenue) have in a written note stated as under:

"The Collector of Customs, Madras had, in his letter dated 8 July 1977 to Senior Deputy Accountant General, Office of Accountant General, Madras, intimated to the latter that investigation circulars constituted record of adjudication proceedings and were appealable orders. He had, therefore, regretted that such files relevant to adjudication proceedings could not be made available to Central Revenue Audit."

1.31. Asked if there were any instructions of the Board on the subject, the Ministry of Finance (Department of Revenue) have replied:

"Board issued instructions to the Collectors in 1976 that certain categories of files need not be made available to the Audit, but had, at the same time, said that there should be no objection to show to Audit files containing orders-in-adjudication, appeals, etc. relating to question of assessment to duty including tariff classification and valuation. The Board had asked the Collectors to examine each case personally and decide."

1.32. Enquired if the matter was referred to the Board by the Collector of Customs before issuing the letter to A.G., Madras, the Ministry of Finance (Department of Revenue) have replied in the negative.

1.33. On being pointed out by the Committee that the investigation in this case was a sort of judicial enquiry and as such the file could have been made available to Audit, the Finance Secretary has replied in evidence:

"That file ought to have been made available to Audit. That Customs House misinterpreted the instructions given by the Central Board of Revenue. They ought to have made this file available to the audit."

Procedure for the valuation of goods for levy of Customs Duty.

1.34. The Committee wanted to know the details of the arrangements which existed in the Customs Houses for the valuation of goods on import. The Ministry of Finance (Department of Revenue) have, in a written note stated as under:

"(i) Under Section 14(1) of the Customs Act, 1962, the basis of valuation is the price for delivery at the time and place of

importation in the course of International trade where the seller and the buyer have no interest in each other's business. Therefore, unless there is an indication that the importer and the supplier are connected with each other or where it appears to the appraiser that the invoice does not indicate the true price in the course of international trade, the assessment is made on the basis of the price declared in the invoice. The bank certified invoice which is generally filed with the Bill of Entry is also checked in order to verify the payment involved.

- (ii) The value of imported goods is verified with reference to value of similar goods imported earlier and kept in the record maintained by the assessing officers.
- (iii) In cases where is a doubt about the correctness of the invoice value, the prices are checked with reference to the indent, acceptance the correspondence exchanged between the buyer and the seller of credit. Market enquiries are also made to ascertain the correctness of the declared value. Prices are also compared with the supplier's price list, if any, in such cases.
- (iv) Where the importers and the suppliers are connected with each other, the Special Valuation Branch of the Custom Houses examines the case to determine the valuation of the goods under Section 14(1)(b) of the Customs Act, 1962, read with Valuation Rules, 1963.
- (v) With a view to provide check on assessments in suitable cases by Assistant Collectors, instructions have been issued prescribing that the Bills of Entry in the following cases are to be checked by the Assistant Collector after these are passed by Appraisers:
 - (a) Where value of goods exceeds Rs. 20,000 but excluding machinery, bulk products and imports by Government Departments and Public Undertakings;
 - (b) Where the product is imported for the first time;
 - (c) Where there is a doubt felt by the Appraiser; and
 - (d) 20 to 25 per cent of the remaining Bills of Entry selected at random."

1.35. The Committee wanted to know how the Customs Houses knew about the relationship between the seller and the buyers and

the price in the seller's countries. The Ministry of Finance (Department of Revenue) have furnished the following information:

"The following arrangements exist in the Custom Houses for collection of information regarding the relationship between the buyers and sellers; the basis of price in the supplying countries, and for correlating information between different Custom Houses, Reserve Bank of India and other Ministries:

- (1) The importer is required to affirm a declaration in the bill of entry as regards his relationship with the supplier. The Special Valuation Branch in Custom Houses examines the books of accounts, the relevant agency agreements or the collaboration agreements, to determine the valuation of goods under Section 14(1)(b) of the Custom Act, 1962, in cases where the importer is connected with the suppliers.
- (2) The relevant price under the Customs Act is the one prevailing in the course of international trade and not that prevailing in the supplying countries. It is only in rare cases that prices in the supplying countries become relevant and where necessary these are attempted to be ascertained by making references to Indian Missions in foreign countries.
- (3) Wherever assistance of another Ministry, Reserve Bank, other Custom Houses etc. is considered useful, a reference is made with regard to the consignment under doubt. Similarly, information that is likely to be useful to other Ministries, Custom Houses etc. is passed on to them."

1.36. The Committee wanted to know if the Department had powers to call for files from the countries whose companies had made the supplies to India. The Member (Customs) has replied in evidence:

"We do not have any legal hold. We cannot requisition that legally from the person supplying the goods in a foreign country. Legally we cannot requisition that. But certainly we can come to know of it."

1.37. The Committee wanted to know the strategy adopted in cases where the buyer and seller did not appear to have any apparent common financial interest but could have some dubious relationship. The witness has stated:

"Where there are imports by independent persons... the rules provide that if the price available to importers is ascertain-

able regardless of the relationship between this firm and the foreign firm, we can take the price which is quoted to the independent importer."

1.38. When pointed out that apparently there might not be any relationship, but the price itself might give an indication that there was something, the witness has stated:

"That is true; because, if an independent importer pays a higher price than the price of this particular firm, then there is a *prima facie* presumption that there is some kind of a relationship."

1.39. Enquired in regard to the rules in this regard, the witness has explained:

"These Rules have been framed under Section 156 of the Customs Act and they are called the Customs Valuation Rules, 1963. Very broadly, what they say is that wherever the value is not ascertainable under Clause (a) of Section 14, the value of a thing imported shall, for the purpose of Clause (b) of sub-section (1) of Section 14, be determined by the appropriate officer in accordance with the provisions contained in Rules 3 to 6."

1.40. The Committee wanted to know how was it ensured that the invoices were correct and did not represent arranged prices. The Member (Customs) has replied:

"If there is a special relationship between the supplier and the buyer locally, then, if I may use this phrase, the invoice is *prima facie* suspect until we have gone into their arrangements and come to the conclusion that either the invoice is acceptable for the reason that the independent importers also had it at the same price or that the invoices are not acceptable. Whenever there is a collaboration arrangement or a sole agency arrangement or a principal-subsidary arrangement, then *prima facie*, we have got to go behind the invoices and to find out and see whether they represent the correct prices or not. In every such case wherever there is such an arrangement, we are supposed to go and find out exactly what would be the correct price. . . . In the Customs Houses we have got what are called Special Valuation Branches. Wherever there is a principal-subsidary relationship, they are supposed to go into this question of examining their books of accounts and invoice arrangements or the contracts they have with their principals. After

examination of all this, they say whether there should be a loading or there should not be a loading and to what extent the loading should be etc.”

1.41. Enquired about the expertise available for checking the correctness of the valuation declared, the Ministry of Finance (Department of Revenue) have in a written note intimated as under:

“The Custom Houses check the value of goods imported or exported. This responsibility is discharged by the Appraising Department of the Custom House where Appraisers with requisite experience and expertise for valuation and other aspects of assessments are posted. For specialised items, there are expert appraisers, such as Jewellery Experts, Textile Experts, Chemical, Electrical and Mechanical Engineers etc.”

1.42. Asked if there was any expert accountant in the valuation cell, the Finance Secretary has replied in evidence:

“There are some accounts people but there is need for strengthening the organisation with professional competence, which is available through recruitment of qualified accountants.”

1.43. Adding in this connection, the Chairman, Central Board of Excise and Customs has stated:

“In Bombay and Calcutta offices there are appraisers to look into these matters. We have got them there. We have got some qualified Accountants also. We recruit some appraisers directly through U.P.S.C. for specialised disciplines. One of these disciplines is also accounting. So, Bombay Customs House and Calcutta Customs House have got some appraisers with accounting knowledge. One or two people also are under recruitment through the U.P.S.C. The U.P.S.C. is ready to interview more candidates for that purpose”

1.44. Asked about the availability of the legal experts in the valuation cells, the witness stated:

“These people whom we recruit, over a period of time, become seasoned fellows. The seasoned type of men who have proved their mettle are posted to the Valuation Cells.”

1.45. The Committee wanted to know the agency available with the Valuation Cell to get intelligence about the real price from outside the country. The Member (Customs) has replied:

“We have our officers stationed abroad who feed us with the information.”

1.46. Subsequently the Ministry of Finance (Department of Revenue) have in a written note furnished the following information:

“A Custom Officer of the level of a Counsellor has been posted in the Indian High Commission, London. He is assisted by a Custom Officer of the level of Second Secretary. The latter has had a fairly long experience as Appraiser in the Custom House. No motor vehicle expert has, however, been posted in this unit. These officers attend to various enquiries, received from the Custom Houses and other Enforcement Agencies. No references in respect to supplies made by Leyland Motors, U.K., to Ashok Leyland, Madras were made to them by the Madras Custom House.”

1.47. The Committee wanted to know how uniformity in the valuation was ensured in the different Custom Houses. The Chairman, Central Board of Excise and Customs replied during evidence:

“Uniformity of classification is one of the basic things which is absolutely essential in the realm of indirect taxation. Otherwise incidence of taxation will be different and the trade will object to this. We have a machinery to deal with it. The first safety gadget is the trade. The trade is the first to know the difference. If there is any difference in valuation between one port and another the trade will immediately bring it to the notice of the Collector of Customs. Thereafter, in periodical quarterly meeting of the Collectors, these things are discussed.”

1.48. Asked as to the manner in which coordination was maintained between the different Valuation Cells to eliminate chances of differences in valuation, the witness has stated:

“So far as this category of people with whom we deal, is concerned today, that is, those who have inter-relationship, the valuation is done only by that particular Customs House where the headquarters of the branch is situated.

Whatever the valuation they do for this Head Office, it is applied all over the country. Other branches do not do it independently. The same price which is determined at one place is applicable all over the country, for all the other branches."

In reply to a query the Ministry have stated that "there is no cell at the Centre for settling the differences in valuation between one port and another."

1.49. Enquired if different norms had been applied by different Custom Houses in regard to the loading of invoices relating to imports by the same company, the Ministry of Finance (Department of Revenue) have in a written note stated as under:

"This question should not arise because the scrutiny of books of accounts in undertaken by the Custom House nearest to the Registered Head Office of the firm. Copies of the investigation circulars issued by a Custom House are endorsed to other Custom Houses."

Under-invoicing and over-invoicing of goods.

1.50. During evidence it transpired that over-invoicing and under-invoicing had assumed huge proportions in foreign trade. The committee wanted to know the reasons for resorting to under-invoicing and over-invoicing and the provisions under the rules to curb such mal-practices. The Ministry of Finance (Department of Revenue) have stated as under:

"Under -invoicing and over-invoicing of goods is resorted to both for imports and exports. Under-invoicing of imports results in payment of less import duty and importation of larger quantities than would have been otherwise allowed under the ITC Licence. Over-invoicing of imports is attempted with a view to remit excess foreign exchange

Under-invoicing of exports is mainly made with a view to accumulating the difference in undisclosed foreign exchange holdings abroad since there are hardly any duties on exports. Over-invoicing of exports is directly linked with export entitlement schemes under which import licences are granted on the basis of export values.

To curb such under-invoicing and over-invoicing in respect of exports|imports, the Customs Act, 1962 and Foreign Exchange Regulation Act have specific provisions. In addition to the confiscation of goods under Sections 111 and 113 and imposition of penalties under Sections 112 and 114 of the Customs Act, 1962, read with Section 18(1) (a) of the Foreign Exchange Regulation Act, prosecutions can also be launched against the persons concerned under Section 132 and Section 135 of the Customs Act, 1962."

1.51. The Ministry of Finance have also given the following details of amendments made in 1973 to the Customs Act 1962 to plug the loopholes in the law on the basis of the recommendations of the Study Team on Leakage of Foreign Exchange (through Invoice Manipulation:

- "(a) In Clause (m) of Section 111, for the words 'any dutiable or prohibited goods which do not correspond in any material particular', the words 'any goods which do not correspond in respect of value or any other particular' were substituted. This amendment was considered necessary because by over-invoicing the imports a person can arrange to remit a larger amount than the value of the goods imported by him with a view to illegally secreting the excess foreign exchange abroad.
- (b) A new clause (iii) was added to Section 112 of the Customs Act, 1962 to provide that in case of goods in respect of which the entry made under the Act is in an amount higher than the value of the goods, the person concerned would be liable to a penalty not exceeding five times the difference between the value declared and the actual value of the goods."

1.52. The Committee wanted to know if the mechanism available with the Custom Houses for detection of over-invoicing and under-invoicing was adequate and fool-proof. The Ministry of Finance, (Department of Revenue) have in a written note stated:

"The mechanism available with the Custom Houses for detection of over-invoicing and under-invoicing appears to require improvement mainly in regard to the systems for collection of internal and external commercial intelligence. At present no arrangements for obtaining syste-

matic information|intelligence regarding prices of various commodities exist. In this regard, both the Customs Study Team and the Study team on Leakage of Foreign Exchange through Invoice manipulation had observed that the existing machinery for collection of intelligence in respect of under-invoicing and over-invoicing and about the activities of specific exporters and importers from sources in foreign countries needs to be strengthened."

Dilution of foreign equity.

1.53. The Committee wanted to know the position in regard to Indianisation of the foreign companies under the Foreign Exchange Regulation Act. The representative of the Ministry of Finance (Department of Economic Affairs) has stated in evidence:

"The provisions of Section 29 of the Foreign Exchange Regulation Act apply to the companies which were operating in India as on 1 January 1974 when the Act came into force. According to the guidelines issued under Section 29 of the Act, foreign companies operating in India have to reduce their foreign equity either to 74 per cent or to 51 per cent or to 40 per cent depending on their activities. In addition, tea companies were given the right of retaining 74 per cent of foreign shareholding after converting themselves into Indian Companies. In all, about 880 companies were issued notices under Section 29 of the FERA but some of them were already winding up their activities in India or had been dormant for long. So, the number of companies which were really active and to which the Act applied were roughly 500 to 600. Out of these, about 200 to 250 were entitled to retain their foreign equity as they were, because they were operating in high priority areas and their foreign equity was below the level permitted under the Act. The number of companies which had to reduce their foreign equity—I am talking from memory—was roughly 350 to 400. The Indianisation scheme of most of these companies has been approved and it is expected that within three or four months all of them will bring down their foreign equity. All the Companies have to comply with the FERA directives because these are statutory in character. If there is any company which is unable to comply with them, it has no alternative but to close down its activities in India."

1.54. Asked in this regard about Ashok Leyland, the witness has replied:

“So far as Ashok Leyland is concerned, this company has been operating in India with 60 per cent foreign equity. The equity holding of the company, British Leyland Holdings Ltd., is now of the order of 59 per cent in this company. Production of commercial vehicles is one of the items listed in Appendix I of the Industrial Licensing Policy of 1973 and the foreign companies which are operating in industries specified in Appendix I of the Industrial Licensing Policy are entitled to retain foreign equity upto 74 per cent. So, so far as Ashok Leyland is concerned, it is not under any FERA obligation as such because its foreign equity was only of the order of 60 per cent, while under the FERA, it is entitled to retain its equity upto 74 per cent. But in December 1973, this company was given an industrial licence for expansion of its activities, from 5400 to 10,000 trucks. There is another formula, called the Dilution Formula, which is in force from 1972 onwards and under that formula, foreign companies which are operating with more than 51 per cent of foreign equity have to necessarily issue a certain percentage of their equity to Indian residents in their expansion projects. That is to say, companies which are having up to 60 per cent foreign equity have to finance at least 25 per cent of their expansion by issue of fresh equity to Indian residents. Under that formula, when Ashok Leyland were permitted to expand, they were asked to reduce their equity from 60 to 51 per cent in accordance with the formula of 1972. This is not because of FERA guidelines because under FERA they are entitled to retain up to 74 per cent.”

1.55. Enquired about the consequences if the company in question did not expand, the witness has added:

“If it is not expanded, then they would be entitled to carry on with foreign equity of 60 per cent.”

1.56. In regard to the transfer of any assets etc. by non-residents, the witness has stated:

“So far as the transfer of assets or transfer of shares is concerned, under Section 19(5) of the Foreign Exchange Regulation Act, no non-resident can transfer his assets or

his shares without the prior permission of the Reserve Bank of India. So, even between two non-residents, that is to say, between one foreign shareholder and another foreign shareholder, no assets or shares can be transferred without the prior permission of the Reserve Bank of India."

1.57. The Committee desired to know as to when the notice was issued to Ashok Leyland for the dilution of their foreign share holding. The witness has stated in evidence:

"The Reserve Bank issued a notice to Ashok Leyland on the 22 December 1976, asking them to dilute foreign shareholding from 60 to 51 per cent by 22 December 1978."

1.58. Asked how the dilution was to be brought about, the witness has stated:

"The manner in which this dilution is to be brought about is by the issue of additional equity of the order of about Rs. 2.35 crores by Ashok Leyland on its present capital base of Rs. 9.35 crores. The issue of shares to the public and the determination of the premium are under discussion with the company."

1.59. Subsequently the Ministry of Finance (Department of Economic Affairs) have in a written note furnished the following latest position of dilution in respect of this company:

"The Reserve Bank of India, as the statutory agency to enforce the provisions of Section 29, has been pursuing the matter with the company. The Ministry of Industry, which had issued the licence, was also keeping a watch on the fulfilment of the conditions imposed under the Industrial Licence. The company has since submitted a scheme seeking to dilute non-resident interest to 5 per cent. This scheme is currently under discussion between the Controller of Capital Issues and the Company's representatives."

1.60. The Committee find that the valuation of goods is determined under Section 14(1)(b) of the Customs Act, 1962, read with Valuation Rules, 1963 in cases where the buyer and the seller have interest in the business of each other or that the price is not the sole consideration for the sale. Before the value is determined for levy of customs duty in such cases, an enquiry/investigation is made by the Special Valuation Branch which operates in each major Customs

House, into the nature of relationship, the extent to which the sale price has been vitiated by the special relationship, the price of the goods of like kind and quality imported by independent importers, if available, etc. After such enquiry/investigation, the decision is communicated by the said Branch to the assessing officer in the form of what is sometimes called an "investigation circular" or sometimes "valuation circular" indicating the percentage of variation that should be added or the loading that should be added to the invoices. This loading is of the order of the difference between the price of the independent importer and the price of the firm. The extent of such loading of the invoice value calls for a detailed examination of the books of account of the importers and necessitates a review whenever there is a change in the pattern of their relationship with their principal and/or in the mode of invoicing. According to the instructions issued by the Central Board of Excise and Customs in 1970, such review is to be conducted once in four years and this periodicity is to be adhered to even if no special information is available to call for a review.

1.61. M/s Ashok Leyland Ltd., Madras became a subsidiary of M/s. Leyland Motors Ltd., England w.e.f. 1-4-1962 by virtue of the latter holding more than 50 per cent shares of the Indian company. The Indian firm had been appointed as sole agent for spare parts manufactured by M/s. Leyland Motors Ltd., Albion Motors Ltd. and Cape Asbestos Co. Ltd., U.K. The Madras Customs House issued an Investigation Circular on 5-9-1964 prescribing the loading factors in respect of values of spares imported by M/s. Ashok Leyland, Madras from their principals etc. in England. According to this circular the invoice value of spare parts of commercial vehicles was to be loaded by 10 per cent on c.i.f. value in the case of Leyland and Comet spares and by 7.5 per cent of export value in case of Leyland Heavy duty spares. This circular, inter alia, also clarified that the pattern of imports was to change after sometime and that M/s Ashok Leyland Ltd. would become the sole importers of the agency products necessitating the review of the circular for determination of the assessable value. The pattern of imports by M/s Ashok Leyland Ltd. changed on 20 October 1965. The next circular, as a result of the review which commenced in 1971, was, however, issued only in December 1972, i.e., over a period of 8 years after the previous circular.

1.62. The Committee regret to note that the inordinate delay in the issue of the circular has resulted in short-levy to the tune of Rs. 5.3 lakhs for the period prior to the issue of circular in 1972. The demand for this amount has become time-barred and the party

has been asked to make voluntary payment. The Committee regret that the amount has been allowed to become time-barred and the Department has been driven to the necessity of asking the party to make voluntary payment. The Committee would like that responsibility may be fixed for the delay in issue of circular which has led to loss of revenue.

1.63. Besides the short-levy of Rs. 5.3 lakhs, there was also an under-assessment of about Rs. 2.79 lakhs for the period from December 1972 to September 1973 after the issue of circular in 1972. Of this, a sum of Rs. 54,184 is reported to have been realised. The party moved the Madras High Court in certain matters concerning the Investigation Circular and the Department has filed a Writ Appeal against the decision of the High Court. The Committee would like to be informed of the decision.

1.64. The Committee are surprised to note that when the questionnaire for review of the investigation circular of 1964 was issued to the importers on 4 November 1969 no effort was made to pursue the matter vigorously. They also regret that when it was found that the party was delaying the reply to the questionnaire, no action was taken to resort to provisional assessment in which case the limitation could have been saved. Admitting the lapse, the Chairman, Central Board of Excise and Customs has stated during evidence: "I do not think there is any excuse. . . . This is not the only failure. There are one or two other failures." The Committee have been informed that the Directorate of Investigation as well as the Chief Vigilance Officer of the Central Board of Excise & Customs have been asked to make enquiries into the matter and fix responsibility for the lapses. The Committee desire that the investigations should be completed on a priority basis and stern action taken against those found guilty of the lapse.

1.65. Each importer is required to give a declaration in respect of every single importation on the document which is called a Bill of Entry. Though the pattern of invoicing had changed in this case w.e.f. 20 October 1965, the firm had been giving false declarations on every document that there had been no change. Even though according to existing procedure, the assessing officers who are dealing with repeated imports should be able to detect the change in the event of failure on the part of the party to fulfil this obligation, the change was not detected until the appraiser of the Special Valuation Branch noticed it at the time of scrutiny of the documents in the year 1972. The lapse in this case has given rise to apprehensions in the mind of the Committee about the adequacy of the procedure

and instructions on the subject which do not appear to be fool-proof. The Committee suggest that the Board should review the procedure immediately and devise some methodology whereby all the loopholes can be plugged and the departmental officers can come to know of the change immediately in the event of the party failing to discharge their obligation.

1.66. The Committee understand that action under Sections 111 and 112 of the Customs Act has been initiated against the firm for giving false declaration in respect of the imports made by them. They would like to be apprised of the conclusive action taken against the party.

1.67. The Committee find that besides Ashok Leyland Ltd., the declarations of M/s. Hegde and Golay, Bangalore, Standard Printing Machinery Co., Madras and O.E.N. India Ltd., Cochin were not checked within the prescribed period of four years as required under the instructions of the Board. The reasons for this omission have not been intimated to the Committee. The Committee would like the Department to investigate the precise reasons for this lapse. They would also like to know if there are other cases of similar nature and the action taken or proposed to be taken against the officers found guilty of the lapse and the firms responsible for contravening the provisions of the rules.

1.68. The Committee regret to note that the Collector of Customs, Madras had declined to supply to Audit the file leading to the issue of Investigation Circular of 1972. The Finance Secretary has admitted during evidence that the Customs House misinterpreted the instructions given by the Board and they ought to have made this file available to the Audit. The Committee desire that suitable instructions should be issued by the Board to ensure that instances of the type as have occurred in this case do not recur.

1.69. The Committee are perturbed to note that there was no uniformity until the year 1970 in the periodicity for the review of the Investigation Circulars in the various Custom Houses. It was only in compliance with the recommendations of the PAC contained in paragraph 1.72 of their 110th Report (Fourth Lok Sabha) that the Department had issued instructions in June and November 1970 for such reviews to be started at the end of four years and completed well before the end of five years so that the period of limitation under the Customs Act could be taken care of. These instructions were meant to be applied uniformly everywhere in all the Customs Houses. Despite these instructions in force there was a long delay

of 8 years in the Madras Customs House who reviewed their Circular of 1964 in respect of Ashok Leyland Ltd. only in the year 1972. Admitting the fact the Chairman, Central Board of Excise & Customs stated during evidence: "After these instructions were issued uniformity should have been there, but in this particular case, this lapse was there." The fact that the implementation of the instructions in letter and spirit is more important for the attainment of the desired objectives than the mere issuance of the instructions needs hardly any emphasis. The Department felt contented after issuing the instructions and do not appear to have kept any check or track on their implementation from time to time. The Committee strongly deprecate this laxity on the part of the Department and desire that a probe should be made immediately to locate the causes for this lapse and remedial steps, as are warranted, should be taken to ensure that there is no failure of the type as has occurred in this case. Action taken in this direction may be intimated to the Committee in due course.

1.70. The Committee find that the responsibility for the valuation of goods imported or exported is discharged by the Appraising Departments of the Customs Houses where Appraisers with requisite experience and expertise for valuation and other aspects of assessments are posted. They have been informed that there are some accounts people in these departments but there is still need for strengthening the organisation with professional competence. The Committee would like the Board to take suitable steps to ensure that the Appraising Departments of all Customs Houses are manned with qualified and competent accountants so as to equip them with the requisite expertise.

1.71. The Committee find that there are at present no arrangements for obtaining systematic information or intelligence in regard to the prices of different commodities in the various Customs Houses. In the absence of such facilities, the detection of cases of under-invoicing and over-invoicing become a distant reality and result in heavy losses to the National Exchequer. The Committee need hardly point out that both the Customs Study Team and the Study Team on Leakage of Foreign Exchange through Invoice Manipulation had observed that the existing machinery for collection of intelligence in respect of under-invoicing and over-invoicing and about the activities of specific exporters and importers from sources in foreign countries needs to be strengthened. The Committee, therefore, desire that the systems for collection of internal and external commercial intelligence should be improved and strengthened in the national interest so as to make them fool-proof and capable of curb-

ing the loopholes existing at present for resort to under-invoicing and over-invoicing by unscrupulous traders.

1.72. The Committee learn that M/s. Ashok Leyland is operating in India with 60 per cent foreign equity and the equity holding of the holding company, British Leyland Holdings, is at present of the order of 59 per cent in this company. Production of commercial vehicles is one of the items listed in Appendix I of the Industrial Licensing Policy of 1973 and the foreign companies which are operating in that field are entitled to retain foreign equity upto 74 per cent. Ashok Leyland is therefore not to reduce its foreign equity under Foreign Exchange Regulation Act. They have, however, been given an industrial licence for expansion of its activities from 5400 to 10,000 trucks and under Dilution Formula in force from 1972 onwards, they will be required to finance at least 25 per cent of their expansion by issue of fresh equity to Indian residents. The scheme seeking to dilute non-resident interest to 51 per cent on expansion is stated to have been submitted by the company to the Government. The Committee would like the Government to pursue the matter vigorously so that the foreign equity of the company is reduced at the earliest.

CHAPTER II

DELAY IN RECOVERY OF DUTY ON THE SALE OF IMPORTED CARS BY THE STATE TRADING CORPORATION

Audit Paragraph

2.1. Motor vehicles imported free of customs duty by privileged persons/organisations and sold within three years from the date of import are subject to levy of customs duty. Where such vehicles are acquired and sold by the State Trading Corporation of India, the Corporation is liable to pay the customs duty leviable thereon. The Customs authorities are required to intimate the exact amount of duty-payable on receipt of information of the sale.

(a) In respect of such sales at one of their branch offices, a sum of Rs 21.19 lakhs representing the customs duty payable as on 31st March, 1975 in respect of the sales from 1970-71 onwards was lying with the Corporation for want of confirmation regarding the exact duty payable.

No consolidated record or register to watch the prompt realisation of such dues is maintained by the Custom House.

The Ministry of Finance stated in reply (February 1978) that according to the data submitted by the State Trading Corporation for the period upto 31st March, 1974 an amount of Rs. 8.16 lakhs was pending realisation as on 31st March, 1975 and that this has been realised. The Ministry further stated that action was being taken to recover duty in respect of another six cases for the years 1974-75 and 1976-77 recently reported by the State Trading Corporation.

(b) In another major Custom House, the duty recoverable on the sale of 32 cars amounting to Rs. 8,63,776 remained unrealised from 1971-72 onwards. The Custom House did not maintain any register of demands for watching the realisation of the duty on such sales till the necessity thereof was pointed out by Audit in December, 1975. Subsequently, in January 1976, the Custom House issued demands amounting to Rs. 8.63 lakhs on the State Trading Corporation in respect of 27 cases.

The Ministry of Finance have stated that the amount has since been realised.

(c) In a third major Custom House, it was ascertained by Audit in July, 1977 that a sum of Rs. 10.05 lakhs collected towards customs

duty on the sale of cars during the period 1965-66 to 1976-77 was lying with the State Trading Corporation. The action taken by the Custom House to realise the duty payable is not known as no document in this respect was produced to Audit. No registers were maintained in this Custom House also.

Action to realise the dues was not taken till pointed out by Audit.

2.2. The Ministry of Finance stated in reply (February, 1978) that for the period 1965-66 to 1976-77, the amount of duty yet to be realised in respect of the cars sold by the State Trading Corporation was Rs. 1.32 lakhs in 31 cases and that efforts were being made to expedite realisation of this amount.

[Paragraph 14 of the Report of the Comptroller and Auditor General of India for the year 1976-77—Union Government (Civil) Revenue Receipts—Vol. I, Indirect Taxes]

2.3. Motor Vehicles imported by foreign privileged persons, organisations etc. are regulated for customs duty assessment under the Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957. Motor cars imported by foreign privileged persons are cleared without payment of duty on the basis of these rules read with the exemption notification No 3 of 8th January, 1957. The privileged persons could sell these imported cars normally after a period of three years from the date of import without payment of duty. The Government of India allows sales of such vehicles even before the completion of three years at the time of transfer or relinquishment of post in India in the case of privileged persons and for some special reasons in the case of privileged organisations. In either case, the cars have to be offered for sale to the State Trading Corporation. Where the State Trading Corporation declines such offers, then the privileged persons or organisations can sell the vehicles to any other non-privileged person. When the privileged persons or organisations sell their cars under proper permission of Government within three years to any non-privileged person, duty is payable by the importing privileged person or organisation on such sale. However, in the case of sale to the State Trading Corporation, the liability to pay the customs duty is cast on the Corporation and the duty is payable by it only after it sells the car in question.

2.4. The Committee wanted to know the conditions prescribed for grant of duty free concessions for import of cars to privileged persons. The Member (Customs) stated in evidence:

“There is a notification dated 8th of January, 1957. There are certain exemptions provided for diplomats and other pri-

certain exemptions provided for diplomats and other privileged persons in respect of certain goods including motor cars. At the same time, there are certain rules made under the Customs Act which determine the conditions subject to which this exemption would be available or would be availed of. These are called: Foreign Privileged Persons (Regulations of Privileges) Rules of 1957. These are the two relevant notifications on this subject."

2.5. Notification No. 3 Customs dated 8-1-1957, referred to above, provides for the exemption from payment of customs duties in respect of motor vehicles imported or purchased for the personal use by the following foreign privileged persons who are members of the Diplomatic Missions in India and their families or on their behalf:—

Ambassadors, High Commissioners, Envoys—Extraordinary and Ministers Plenipotentiary, Charge d'Affairs, Counsellors, Secretaries, Attaches and Advisers.

The exemption is subject to the conditions that—

- (a) a corresponding exemption is allowed to Indian Officers of the same status by the Government of the Diplomatic Mission concerned; and
- (b) the exemption of goods imported or purchased from bond, under this concession is also subject to the Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957.

2.6. Rule 4A of the Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957 provides that—

- (1) No privileged person shall sell or otherwise dispose of any motor vehicle in respect of which exemption from Customs duty was given at the time of its importation or clearance from bond except in accordance with sub-rule (2).
- (2) Any privileged persons—
 - (a) may sell or otherwise dispose of any motor vehicle referred to in sub-rule (1) to another privileged person;
 - (b) without prejudice to his rights under clause (a), may, on relinquishing his post or on his transfer out of India, sell or otherwise dispose of any such motor vehicle only to the State Trading Corporation of India Limited:

Provided that he may sell or otherwise dispose of the motor vehicle to any other non-privileged person on the State Trading Corporation declining the offer so made.

With the permission of—

- (i) the Central Board of Excise and Customs, if he sells or otherwise disposes of the motor vehicle to any person other than the State Trading Corporation;
- (ii) The Government of India in the Ministry of External Affairs, if he sells or otherwise disposes of the motor vehicle to the State Trading Corporation.

According to Rule 5 of the Rules *ibid*—

- (1) Where goods are cleared free of Customs duty by a privileged person and they are sold or otherwise disposed of by him to a non-privileged person, within three years from the date of their importation, Customs duty shall be recovered from such privileged person by the Collector of Customs nearest to the headquarters of the privileged person concerned except when a motor vehicle is sold or otherwise disposed of to the State Trading Corporation under clause (b) of sub-rule (2) of Rule 4A. The duty to be recovered shall be assessed in consultation with the Collector of Customs of the port at which the goods were imported at the rates of duty in force, and on the basis of the value at the time of importation of the goods."

2.7. Asked whether persons other than privileged persons were also granted such exemption, the witness stated:

"Apart from this, there is an Act called 'United Nations Privilege and Immunities Act' which entitles the officials of the United Nations who are posted here to get certain exemptions."

2.8. Asked if any individual exemption was also granted, the witness stated:

"Yes. On an *ad hoc* basis, we do give exemption, whenever a request is received for exemption."

2.9. When asked in regard to the details of such individuals granted exemption on *ad hoc* basis, the witness stated:

"We have given exemptions to charitable organisations, missions and hospitals. We have given exemptions to disabled Army officers in respect of certain cars imported by them. We have given exemptions to Rama Krishna Mission in respect of cars imported by them. These are instances."

2.10. The Ministry of Finance (Department of Revenue) were asked to furnish the details of such cases and criteria adopted in each case for grant of such exemption during the last 3 years. In a written note, they have stated:

"The details of exemptions granted in respect of Saloon cars imported by individuals/organisations during the last 3 years are given in the enclosed lists. (Appendices III and IV).

Exemptions granted to individuals pertain to import of cars with special adaptations, by handicapped/disabled persons. Under the practice followed till recently, exemption to the extent of 50 per cent of the duty leviable, was granted on such specially adapted cars, when imported by the handicapped persons for their use. However, the exemption from duty was full when such cars were imported by Defence personnel handicapped/disable while in active service.

Duty exemptions in regard to cars imported by organisations, have been given having regard to the fact that the car has been received as a donation and that the donee organisation is a hospital or a religious and/or Charitable Organisation."

2.11. Enquired about the criteria adopted in case of Charitable institutions, the Member (Customs) stated:

"If there is a hospital or a dispensary and free treatment is given to the poor and the needy. That would be the determining factor; when the vehicle is to be imported for that purpose."

2.12. The Committee wanted to know whether cars imported free of duty by the charitable institutions could be sold by them later to a private party. The witness replied in evidence:

"We are normally putting the condition that, whenever cars are imported which will be given exemption for the use of the charitable institution, they shall not sell them; and they shall continue to use them for the purpose for which they have imported them."

2.13. The Committee were informed that the privileged persons, viz., Ambassadors, High Commissioners, Ministers, Charge d'Affairs, Secretaries, Attache and Advisers were all foreign. They wanted

to know if any Indian National also fell in this category. The Member (Customs) replied:

"If he is working for United Nations in India, then 'yes'. Under United Nations Privileges and Immunities Act the representatives posted in any country, including India, to the various official organisations of the United Nations enjoy exemption. An Indian Doctor posted in W.H.O. and employee of the United Nations Organisation gets exemption."

2.14 The Committee were further informed that no Indian could be called 'diplomatic staff'. Elucidating the position in this connection, the representative of the Ministry of External Affairs, stated in evidence:

"We are signatories to the Vienna Convention of Diplomatic Relations held in 1961 which lays down a few conditions. One of the Articles clearly says that members of the diplomatic staff of a mission should not belong to the nationality of the receiving State and that members of the diplomatic staff of a Mission may not be appointed from among persons who have the nationality of the receiving State except with the consent of the State, which may be withdrawn at any time. So, this makes it quite clear that Indians cannot be appointed to such posts unless the Ministry of External Affairs decides otherwise."

2.15. The witness further informed the Committee that the President of India and the Governors of the State were also allowed such exemption. Elucidating the position about grant of exemption to Indians, the Ministry of Finance (Department of Revenue) have in a note stated as under:

"It is confirmed that only the President of India, the Vice-President of India, the Governors of States and Indian nationals employed in the United Nations and its specialised agencies are entitled to import cars without payment of import duty. Apart from this, however, there are inter-Governmental organisations like Afro-Asian Rural Reconstruction Organisation, League of Arab States Mission, who are not strictly specialised agencies of United Nations but enjoy the privileges admissible to the officials of the United Nations by virtue of the provisions of the United Nations (Privileges and Immunities) Act having extended to them under the said Act. Indian nationals employed in such organisations, other than those recruited locally, are also entitled to the privileges (including im-

port of motor vehicle free of duty). Further, the question of availability of customs privileges under notification No. 3-Cus., dated the 8th January, 1957, to Indian nationals working in foreign missions in India, has been examined in consultation with the Ministry of External Affairs. It is noticed that except for certain categories of officials like Trade Commissioners etc., the grant of customs privileges has already been subjected to the condition that the claimants should be of the nationality of the concerned States. Since the intention is to extend the Customs privileges only to such diplomatic/consular officers and the non-diplomatic employees of foreign missions as are of the nationality of the concerned State, necessary amendment to the Notification No. 3-Customs, is under consideration."

2.16. The Committee wanted to know how the various types of charitable institutions were distinguished for grant of exemption from payment of duty. The Member (Customs) replied:

"It should be a well known organisation. And those who are not well known, in respect of those there would invariably by a certification by the concerned State Government at a fairly high level."

2.17. Asked whether the person who donated the car is also taken into consideration, the witness has stated:—

"In case where CCP has been given and no foreign exchange is involved, we accept the person's statement that it is a donation. When it is political, that will be known by the activities. If it is charitable work and treating patients or training persons without charge, then whether the donation has been given for political consideration, we do not go into that."

2.18. The Committee wanted to know how the handicap of a person was assessed for the grant of exemption from payment of duty for the import of a car. The Member (Customs) replied:—

"We have now, as a policy decision, stopped giving concession to any of the handicapped persons for importing the cars from abroad."

2.19. In reply to a query the witness stated that this concession was stopped 2 months' back. When enquired about the reasons therefor, the witness stated:

"Because we understood that some of these gadgets imported can probably be fitted now to Ambassadors and Premier

cars also. The new policy is that we would allow the gadgets to be imported to be fitted into the indigenous cars rather than cars being imported. We have been advised by the manufacturers of Indian cars here that they would be able to fit the gadget here if it is imported from abroad."

2.20. The Committee wanted to know whether Indians who were outside India for 3 to 5 years were allowed to import the car. The Additional Chief Controller of Imports & Exports stated in evidence:

"The following qualifications are required for the purpose of allowing importation of cars by Indian nationals returning to India for good:

- (i) Continuous stay abroad for at least one year; (ii) vehicle to be purchased of his own savings; (iii) affidavit sworn before appropriate authority that he is returning good; (iv) the vehicle to be a part of his or his family personal baggage."

2.21. The Committee wanted to know if a diplomat was allowed to import more than one car. The representative of the Ministry of External Affairs stated:

"It is permitted. It is based on the Vienna Convention of 1961 to which we are a signatory. It is not strict reciprocity, but it is based on reciprocity in general. The concession varies slightly from country to country."

2.22. The Committee pointed out that the exemption notification did not make distinction between an Indian and a foreigner. They, therefore, wanted to know if it was capable of being extended to persons coming within the description of being citizens of India. The Member (Customs) stated in evidence:

"Our understanding is, of course, subject to confirmation by the External Affairs Ministry, that no Indian will be Ambassador or High Commissioner in India of a foreign country. Therefore, it will always be a foreign person. But when we come to clause (3), which talks of Counsellor Officers, he can be a career counsellor officer, there are honorary Counsellor Officers, there are at least some honorary counsellor officers of the foreign countries. We have used the words "career Counsellor Officers of foreign status and their families."

2.23. Clarifying the position in this connection, the Secretary Ministry of External Affairs stated:

“We are signatories to the Vienna Convention of Diplomatic Relations held in 1961 which lays down a few conditions. One of the Articles clearly says that members of the diplomatic staff of a Mission should not belong to the nationality of the receiving State and that members of the diplomatic staff of a Mission may not be appointed from among persons who have the nationality of the receiving State except with the consent of the State, which may be withdrawn at any time. So, this makes it quite clear that Indians cannot be appointed to such posts unless the Ministry of External Affairs decides otherwise.”

Sale of cars imported without payment of Custom Duty

2.24. The Committee desired to know the rationale behind the three year limit prescribed for sale of cars imported duty free by privileged persons or organisations and whether it was not considered necessary to fix a higher time-limit. The Ministry of Finance (Department of Revenue) have in a note stated:

“The three year limit was fixed keeping view the normal tenure of posting in diplomatic posts and also the international practice prevailing in other countries. The Ministry of External Affairs who were requested to examine whether the time limit of three year would require any change in view of fact that imported vehicles fetch very high prices in India even after 3 years of their importation, have indicated that they are not in favour of any change in the existing arrangement.”

2.25. The Committee further wanted to know how the sale of cars imported without payment of duty was regulated. The Member (Customs) stated in evidence:

“All the cars imported under the ‘privileges’ without payment of duty, those are supposed to be sold through the STC. But there are situations where the STC does not find it feasible or a practical proposition to acquire those cars because of their being damaged or having met with an accident.

The privileged person can sell the car to whomsoever he wants. But Board's permission in every specific case is necessary.”

2.26. Asked under what circumstances the STC refused to purchase or acquire the car, the representative of STC stated:

“The STC can refuse on the following considerations; if the car is accidented or damaged or if the car is uneconomic, i.e., if the price payable to the privileged person or organisation, plus customs duty is found to be much in excess of the estimated market price of the car plus sales-tax thereon. However, in order to minimise rejection of cars, the Corporation has taken a decision to the effect that if the loss anticipated is upto 10 per cent, no car will be rejected.”

2.27. When enquired about the criteria for the determination of the damage because of which the car is not acquired, the witness replied:

“We have our own mechanics to assess the damage and we also get external assistance from the ITDC and sometimes from the Delhi Transport Corporation.”

2.28. The Committee pointed out that the moment a car got damaged, insurance claim was preferred by the owner on the Insurance Company. To the question whether any verification was made to ascertain about such claim before the STC refused to purchase such car, the witness replied in the negative. Subsequently, in a note, the STC have furnished the following information:

“STC has been effecting purchases and sales of imported vehicles on ‘as is where is basis’. In the case of an accidented vehicle, the purchase is rejected if the vehicle is found to be badly damaged and the selling party expresses its inability to offer the same to STC after putting the vehicle in normal working condition and if the price offered by STC for the vehicle in its damaged condition is declined by the selling party. This being the practice in regard to rejection of accidented vehicles, the question of verifying whether the selling party has made the claim, if any, against the Insurance Company does not arise.”

2.29. Asked if in the absence of such verification, there was any chance of irregularity taking place, the witness replied:

“In this connection, we have now taken up the matter with the External Affairs Ministry that under no circumstances will we reject a car. The External Affairs Ministry will

give a clearance and whatever price is fixed for the car under the formula will be given to the privileged person."

2.30. About the basis for the estimation of the price for the purchase of the car, the witness stated:

"The price is paid to a privileged person according to the formula laid down by the Ministry of External Affairs. We take into account the c.i.f. value of the car, i.e., the local price at which it will be sold in the foreign country. ... we go by the c.i.f. value as per the Bill of Entry."

2.31. Asked about the method adopted for the disposal of such cars by STC, the witness informed the Committee that it was sold by tender. He added:

"We get the tenders and tabulate them and, if the highest one is reasonable and we are not likely to get a still higher price, we accept it."

2.32. To a query whether any undertaking was obtained from privileged persons or organisations at the time of import of the car and whether the same was complied with, the Ministry of Finance (Department of Revenue) have, in a note, replied in the affirmative. Adding further, they have stated:

"There is an arrangement under which the vehicle registration authorities insist on the production of copies of the letter conveying permission for sale of the vehicle and of the receipt indicating payment of duty, before registering a car sold by a privileged person to a non-privileged person."

2.33. Asked what restrictions were imposed on the sale of cars by the institutions after exemption from duty, the Ministry of Finance (Department of Revenue) have stated:

"A condition is stipulated in the exemption order that the car exempted will not be sold or otherwise disposed of without prior permission of the Government of India (Ministry of Finance, Department of Revenue). Non-observance of this condition will render the goods liable to confiscation under Section 111(c) of the Customs Act, 1962 and the persons concerned liable to penalty under Section 112, *ibid.*"

2.34. About the checks exercised on the sale of cars by any private individual or party, the Ministry of Finance (Department of Revenue) have intimated as under:

“Normally the exemptions are given in the case of well-known and recognised institutions who are expected to have their own in-built arrangements against abuse. In any case where the violation of the condition comes to notice action under the Laws is taken as in the case of Aparna Ashram or the Maharishi Institute of Creative Intelligence.”

2.35. Enquired whether the Transport Department of the concerned State Governments were furnished with the lists of such cars to prevent their sale in an unauthorised manner, the Ministry of Finance (Department of Revenue) have replied in the negative.

2.36. Asked if the unauthorised sale of car by an institution could be stopped by the Department, the Member (Customs) replied:

“Hundred per cent check is not possible.”

2.37. The Committee were informed that the institutions which were granted exemption were just a handful and could be counted on fingers. They desired to know if it was not possible to furnish a list of the cars imported by such institutions to the State Governments to prevent their sale without permission. The Finance Secretary replied:

“This is a good suggestion. We shall follow it up.

Determination of price for assessment of duty

2.38. The Committee wanted to know whether the valuation for assessment of duty was done on the actual sale price as per the highest tender or on the calculated price. The Member (Customs) replied:

“It is on the c.i.f. price as per the Bill of Entry. We charge the same duty after three years—if it is sold after three years—as we would have charged had the duty been collected initially at the time of importation.”

2.39. Enquired if any depreciation was allowed on the c.i.f. value, the witness stated:

“For charging duty, we do not give any depreciation; whatever he should have paid at the time of importation but for the privilege, would be charged.”

2.40. The Committee desired to know whether the formula for the assessment of duty on the c.i.f. price of the car as per the Bill of Entry was not on the lower side. The Chairman, Central Board of Excise & Customs replied:

“So far as the valuation of goods for the purpose of levy of duty is concerned, it is on the basis of c.i.f. price. Suppose this exemption for diplomates did not exist but they were allowed to import the car, duty would have been levied at the price that he declared at the time of import of the car. That is the rationale behind it.”

2.41. Asked about the duty paid if the car was sold before three years, the witness stated:

“The wording of the notification itself says that if he sells the car within three years, duty will have to be paid and that duty will have to be paid which he would have paid at the time of import.”

2.42. Enquired if the market price of the car was not much than the formula price, the witness stated:

“After the car has been sold, there may be 100 per cent or 200 per cent profit. That is the precise reason why we have brought in this system that when a diplomat wants to sell a car, he will not be allowed to sell it to ‘A’ or ‘B’ or ‘C’, but he will sell it to the STC so that he gets the price that he declared at the time of the import and the profit is made by the STC.”

2.43. The Committee pointed out that according to Section 15 of the Customs Act, the rate of duty and tariff valuation was the rate of valuation in imports (a) in the case of goods entering for home consumption on the date on which the Bill of Entry was passed, (b) in the case of goods from the warehouse under Section 68 on the date of goods actually removed from the warehouse and (c) in the case of other goods on the date of payment of duties. They wanted to know why the rate of duty was not determined under Clause (c).

The Member (Customs) explained:

“Section application here is Clause (a) and not Clause (c) because he would have entered it if it was for home consumption under Section 46 of the Customs Act and thereafter he would have been given an exemption. But the entry of this car under Section 46 of the Customs Act has been made under the Bill of Entry, the certificate of

exemption was given. So, it is Clause (a) and not Clause (b) or (c)."

2.44. The Committee desired to know whether it would not be desirable to examine the question of determination of the value under Clause (c) in view of the fact that the price of the cars at the time of sale was two or three times that of its original price. The Member (Customs) replied:

"I appreciate the point. It can be taken care by this arrangement that we have arrived at. Any profit that would accrue to the STC would again go to the Consolidated Fund of India. Therefore, this has been taken care because the excessive profit is not allowed to be retained by the owner of the car."

2.45. Subsequently in a note, the Ministry of Finance (Department of Revenue) have furnished the following information:

"The matter was referred to the Ministry of Law, who have suggested that a tripartite meeting between the Ministry of Law, the representative of Comptroller and Auditor General of India and the Department of Revenue, may be convened to discuss the issue. The audit has been written to for the proposed meeting."

Procedure for the realisation of duty

2.46. The Committee wanted to know the procedure followed in various Custom Houses for the realisation of duty from privileged persons etc. and State Trading Corporation. The Ministry of Finance (Department of Revenue) have, in a note, furnished the following information:

"Under the Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957, the State Trading Corporation is required to pay the customs duty leviable on motor vehicles purchased by the Corporation from privileged persons, within 3 years from the date of importation. Duty leviable on the motor vehicle purchased from privileged persons is required to be paid after the Corporation sells the vehicles. The STC is required to make a reference to the Custom House through which the vehicle was imported for ascertaining the amount of duty payable and on receipt of the information regarding the duty leviable, the amount is deposited by the STC in the concerned Custom House. In respect of the vehicles to be sold by privileged persons

to non-privileged persons, on receipt of the permission for sale from the CBEC, and after the privileged person contacts the concerned Custom House, the amount of duty leviable is worked out to enable the privileged person to make the payment."

2.47. Supplementing the information, the Member (Customs) stated in evidence:

"The relevant notification says that whenever cars are sold, at the time of their sale, STC shall pay custom duty. Now what the STC was doing was that they were writing to the customs house to find out what would be the amount of duty which would be leviable in a particular case. There have been certain cases where the delay occurred, where the customs house did not intimate in time to the STC the amount of duty leviable. The result, of course, has been that these funds have been lying in the suspense account of the STC awaiting this kind of intimation from the customs house."

2.48. Asked about the action taken by STC to pay the dues, the representative of STC replied:

"We have been reminding them about it, but unfortunately, we have not received any demand from them."

2.49. Enquired if the non-receipt of demands from the Customs was brought to the notice of the Ministry of Finance, the witness replied that they did not do so.

2.50. Having noted that the Custom House did not send the demand and the State Trading Corporation did not bring it to the notice of the Ministry of Finance, the Committee wanted to know how in these circumstances the existing procedure would be treated as perfect. The Chairman, Central Board of Excise & Customs explained:

"As soon as a man wants to sell his car, he approaches the Ministry of External Affairs. The Ministry of External Affairs then refers him to the STC. When the Ministry of External Affairs refers to the STC, they endorse one copy to the Collector of Custom and another to the Intelligence Revenue. STC is requested to intimate whether they are interested in its sale or not. They reject one per cent cases. Unfortunately, the wording of the notification was that the STC will pay duty after they had

sold the car. There is a lacuna here. There is a time-lag of 8-9 months."

2.51. Asked if no action was taken by the Custom House on the copy endorsed to them by STC, the witness stated:

"They do not know when the car was actually sold. We have tightened up the procedure."

2.52. When asked as to why no consolidated record or register was maintained in the Custom Houses to watch the prompt recoveries of the dues from STC, the Ministry of Finance have, in a note, stated:

"During the period covered by the Audit Report, there was no control register for watching the progress of the recoveries in each case. The duty became payable only after the car was sold by the STC. There was considerable time-lag between the date on which the Ministry of External Affairs give permission to the privileged persons to sell the car through the STC and the date on which STC in their turn sold the car (after purchasing the same from the privileged persons). The Customs House could only come to know about the sale of cars by the STC as and when the STC took up the matter with the Customs for ascertaining the duty amount after the sale of the car by the STC."

2.53. The Committee desired to know the reasons for the delay in the payment by STC of Customs dues. The Chairman, Central Board of Excise & Customs stated:

"There were two reasons for this delay. First, STC did not always find it possible to come to know the duty leviable. Therefore, they had to sometimes refer back the matter to the Customs House to find out the quantum of duty. According to the rules, the STC was called upon to pay duty not after their purchase of car from the diplomat but after they had sold the car to a third person. So, between the time that STC purchased the car from the diplomat and the time it was able to sell the car, there was always a time lag. After the STC had sold the car, they took sometime in making a reference to the Customs House asking for the quantum of duty. Thereafter the Customs House took lot of time in giving a reply. Now the reason for all that was that this was not treated as an item where the revenue was in danger. The source-

was STC and the revenue was safe. Therefore, very strict procedure in that regard had not been followed and the Customs House had not been pursuing the matter as vigorously as it might have."

2.54. Asked regarding the action taken to obviate such delays in future, the witness replied:

"We have now issued fresh instructions. It will have two effects. Firstly, as soon as the car is imported by the diplomat, in the Bill of Entry which is a customs document and which is necessary for the importation of car, the classification of the car, the value of the car as also the duty leviable will be clearly indicated in the document even though no duty is going to be levied. Once that is done, the duty figure would exist in that document itself. When the diplomat gets permission from the External Affairs to sell the car to STC, he just presents that document. The second thing is that we have revised the rules in such a manner that the duty becomes payable under the law as soon as the diplomat has sold the car to the STC."

2.55. Subsequently, the Ministry of Finance (Department of Revenue) furnished to the Committee copies of the instructions dated 4-8-78, 11-8-78 and 18-8-78 to expedite the realisation of custom duty by the Custom Houses on sale of imported cars. These instructions *inter alia* provide that—

- (i) An extra copy of the Bill of Entry will be prepared and sent to the Head Office of the STC in New Delhi. This will obviate the necessity of making a reference by the STC to the Custom House to ascertain the amount of duty.
- (ii) The assessable value of the car and correct amount of duty leviable at the time of clearance of the vehicles imported by privileged persons will be indicated in all the Bills of Entry.
- (iii) The Custom House will endorse a copy of the letter of the Ministry of External Affairs according permission to the privileged person to sell the car to the STC who will link it with the Bill of Entry received from the Custom House.
- (iv) The Central Office of STC will transmit a photostat copy of the relevant Bill of Entry indicating the amount of

Customs duty payable to the Regional Office where the car will be sold.

- (v) The cases where the STC refuses to purchase cars belonging to privileged person and the same are permitted to be sold to non-privileged persons by the Central Board of Excise and Customs, the Board's office will also endorse copies of the letters permitting the sale to the Collector of Customs incharge of the Custom House through which the vehicles were imported, the Collector of Customs nearest to the Headquarter of the privileged person, the Ministry of External Affairs and the Director of Revenue Intelligence.
- (vi) The Custom House through which vehicles are imported by privileged persons will maintain registers for recording the details of cars in respect of which permission is granted to privileged persons by the Ministry of External Affairs for sale to the STC. The details of cases in which the permission for sale is accorded to non-privileged persons will be recorded in separate registers to be maintained for this purpose. These registers will be audited once a month.
- (vii) A remark will be made against the relevant entry in the register in respect of cases in which permission for sale is granted after 3 years from the date of importation and in which duty is not leviable. Cases in which duty is recoverable are to be pursued by the concerned Custom House until duty is paid.
- (viii) Each Custom House will prepare every month a list of cases in which the fact regarding the recovery of duty is not known and forward such lists to all the concerned regional offices of the STC.
- (ix) The STC will be required to pay the customs duty leviable immediately after the motor car is purchased or otherwise acquired by the Corporation. In order to avoid delay in the recovery of duty, the concerned Custom House would immediately on receipt of the copy of the permission granted by the Ministry of External Affairs, work out the duty leviable on the vehicle and inform the concerned offices of the STC to enable them to pay the duty.

2.56. The Committee wanted to know what prevented the Government from introducing the revised procedure right from the inception of this concession. The Ministry of Finance (Department of Revenue) have furnished the following information:

“The STC was brought into the picture in 1962 with the amendment introduced in the Foreign Privileged Persons’ (Regulation of Customs Privileges) Rules, 1957 under which the STC was required to pay the customs duty leviable in respect of cars purchased by the STC from the Privileged persons when the Corporation sells the motor vehicles. At that time, the STC was not a big organisation as it is today. With the growth of the Corporation into a big Trading Organisation, it would now be possible for them to deposit the customs duty leviable on motor vehicles immediately after their purchase from the Privileged Persons.”

Delay in payment of Customs duty by State Trading Corporation.

2.57. The Committee learnt from Audit that a sum of Rs. 21.19 lakhs was due from the STC to the Madras Custom House and a sum of Rs. 8,63,775 to the Bombay Custom House till the end of March 1975 on account of the sale of cars. In Calcutta Custom House a further sum of Rs. 10.05 lakhs was lying with the STC on that account for the period from 1965-66 to 1976-77. The Committee wanted to know the factual position in regard to the recovery from STC. The Ministry of Finance (Department of Revenue) have, in a note, stated as under:

“It has been ascertained from the Regional Office of the State Trading Corporation of India, Madras that the sum of Rs. 21.19 lakhs lying with them as on 31-3-75 was on account of the duty payable to Customs and also of the reimbursement due to Ministries/Projects who offer motor vehicles to the STC for sale. Out of the total sum of Rs. 21.19 lakhs, the amount due to the Custom Houses on account of the duty payable on cars acquired from privileged persons was only Rs. 10.7 lakhs. As on 16-8-1978, out of this amount of Rs. 10.47 lakhs due to the Customs, a sum of Rs. 9.13 lakhs had been paid. Recovery of the balance amount due to customs is being made... It has been ascertained from the Regional Office of the STC, Calcutta that the sum of Rs. 10,06,345.85 lying with them as on 1-7-77 was on account of duty payable to the Customs and also of the reimbursement due:

to the other Ministries/Projects, who offer motor vehicles to the State Trading Corporation for sale. Out of Rs. 10,06,345.85, the amount due to the Customs on account of the duty payable on cars acquired from privileged persons was Rs. 9,01,722.69. As on 18-8-78, out of this amount of Rs. 9,01,722.69 due to the Custom House, a sum of Rs. 6,00,342.53 had been paid by the STC. Recovery of the balance amount due to Customs is being made."

2.58. The Committee desired to know the efforts made from time to time for the recovery of the arrears and the dates when the amount was paid by the STC. The Ministry of Finance (Department of Revenue) have in a note furnished the following information:

"Prior to the issue of Ministry's instructions dated 4.8.78 11-8-78 and 18-8-78 under which a uniform procedure was laid down regarding the Custom Houses to keep a watch over the realisation of customs duty on motor vehicles acquired by STC from privileged persons, responsibility for payment of duty wherever leviable on motor vehicles acquired by STC from privileged persons had been left to the STC. However, after the receipt of the Audit paras all out efforts, like deputing officers to the Office of STC by Custom Houses, were made in order to recover the amount payable by STC. Statements indicating the various dates on which deposits on account of sums due to the Custom Houses were made by the STC are enclosed (Appendices, II, III and IV)."

2.59. The information furnished by the Ministry of Finance shows that the Calcutta Custom House has realised the entire duty arrears but the amount of duty still pending realisation by the Madras and Bombay Customs Houses from STC is respectively about Rs. 82,000 and Rs. 8.16 lakhs.

2.60. The Committee referred to page 354 of the C&AG's Report on Commercial Audit on STC for the year 1974 wherein a sum of Rs. 99.09 lakhs was shown as amounts due in respect of 168 cars sold during 1965-66 to 1973-74 and wanted to know the reasons for the accumulation of such huge arrears. The Chairman, Central Board of Excise and Customs explained:

"The procedure before was, firstly, the exact amount of duty was not available to the STC. What we have now pres-

cribed is that at the time when the car is imported by the diplomats, even though it is being from duty, the customs officials who are assessing the car will indicate the amount of duty in the document. That document is always with the diplomat. It goes to STC when he wants to sell the car. We have made that compulsory and the customs officers will have to show the duty figure.

The second thing is that we have amended these rules so that the duty which only a few days ago was payable only when the STC sold the cars themselves to a third person will now be payable immediately after the diplomat has sold the car to them so that the duty liability will arise immediately after that, that is, as soon as the diplomat comes to them and they accept the offer. The External Affairs Ministry simultaneously sends the copy of that document to the Customs House as also to the Board in Delhi. Immediately, STC will issue directions to their concerned office. Simultaneously the customs house will check the records and see that the duty is paid."

2.61. Asked about the realisation position of this amount, the Member (Customs) replied:

"This figure of Rs. 99.09 lakhs shown in the STC books as on 31st March, 1974 obviously had come down in the subsequent year. It came down to Rs. 21.90 lakhs."

2.62. Adding in this connection the representative of STC stated:—

"It was due to customs on 31-3-74. As and when demands come we pay them. On 31-3-78 the outstanding was Rs. 35 lakhs."

2.63. The Committee wanted to know when were the payments made. The Member (Customs) replied:

"There were arrears as shown in STC's books on 31-3-74. This went on changing as some amounts were paid and new liabilities arose. This is a continuous process. It is not done in one lumpsum."

2.64. The Committee pointed out that the STC in their accounts had claimed the duty pending on the sale of cars as deductible expenditure. They, therefore, wanted to know why did they not remit the amount to the Customs Department without waiting for

any notice from them. In a written note, the STC has furnished the following information:

“STC’s accounts are maintained on commercial basis. Therefore, liabilities are provided for in the accounts in respect of payments due by STC to other authorities, parties, etc. Under the procedure prescribed by the Customs, STC was liable to pay the customs duty in respect of imported vehicles after sales were effected and demands were received. Accordingly, liabilities were provided for in the accounts in respect of cars sold. However, the liabilities so created had to be carried due to non-receipt of demands from the custom houses concerned. It has also not been possible to make payments to custom houses in the absence of the demand since the liabilities were created on estimated duty payable and do not represent the precise amounts of duty payable to the custom houses. Since the liabilities are created and accounted for in the accounts naturally to the extent of liabilities created the profits stand reduced and the expenses become deductible. Immediately after the receipt of the demand payments due are made and liabilities liquidated. The excess and short provision of liabilities based on actual demands are also adjusted in the subsequent years’ account.”

2.65. Explaining the reasons for the delay in the payment of the arrears, the Finance Secretary stated in evidence:

“We do not certainly defend the delay, either on our part in raising the demand against STC, or the delays on the part of STC in remitting the money when they were sure that they owed amounts to us. But in extenuation I will say that we will see that in future there can be no delay on our part or on the part of the STC. We are going to collect the customs duty as and when STC buys the vehicle from the privileged person. We will take into account the exact amount payable towards customs duty. The Audit para relates to the delay which had occurred earlier. Secondly, may be since STC is a big public sector trading organisation, this fact had led, in the past, to some complacency in realising the tax promptly.”

2.66. The Committee find that motor vehicles imported by foreign privileged persons and organisations are regulated for customs duty

assessment under the Foreign Privileged Persons' (Regulation of Customs Privileges) Rules, 1957. Motor cars imported by foreign privileged persons are cleared without payment of duty on the basis of these rules read with the exemption notification No. 3-Cus. of 8 January 1957. Such persons can sell the imported cars normally after a period of three years from the date of import without payment of duty. The sale of such vehicles is allowed even before the completion of three years at the time of transfer or relinquishment of post in India in the case of privileged persons and for some special reasons in the case of privileged organisations. The cars have to be offered for sale in either case to the State Trading Corporation. The liability for the payment of duty to the Custom houses is cast on the STC when the cars are purchased or acquired by STC.

2.67. Where the State Trading Corporation declines such offers, the privileged persons or organisations are allowed to sell the vehicles to any other non-privileged person. The privileged persons or organisations are required to pay customs duty when they sell cars under proper permission of Government within three years to any non-privileged person.

2.68. The Committee are distressed to find that huge sums on account of Customs duty were pending realisation by the various Custom Houses from the State Trading Corporation of India on account of the sale of imported cars. A sum of Rs. 10.47 lakhs representing the Customs duty payable as on 31.3-1975 in respect of sales from 1970-71 onwards was lying unrealised from the STC by the Madras Custom House. Another sum of Rs. 8.33 lakhs was due to the Bombay Custom House from the STC for the period from 1971-72 to end of March 1975. The STC also owed a customs duty of Rs. 6.61 lakhs to the Calcutta Custom House on similar account for the period from 1965-66 to 1976-77. The actual payment of these duty arrears by the STC to the Madras, Bombay and Calcutta Custom Houses started as late as September 1976, January 1977, and June 1978 respectively. While the Calcutta Custom House has realised the entire duty arrears, the amount of duty still pending realisation by the Madras and Bombay Custom Houses from STC is respectively about Rs. 82,000 and Rs. 8.16 lakhs.

2.69. The Member (Customs) conceded during evidence that "them have been certain cases where the delay occurred because the Custom House did not intimate in time to the STC the amount of duty leviable. . . ." The Committee take a serious view of the slackness displayed by the various Custom Houses in realising duty amount from the STC. The primary reason for failure to realise the dues was that the Custom Houses did not maintain any control

or demand registers to watch the realisation of the customs dues on such sales till the necessity thereof was pointed out by Audit in December 1975. When the STC wrote to them to find out the amount of duty leviable in a particular case, they failed to intimate to the STC in time. This resulted in accumulation of huge arrears on account of the Customs duty spread over a long period (ranging from 4 to 12 years). The Committee deprecate this apathy on the part of the concerned Customs Houses which led to avoidable and inordinate delays in the realisation of Government dues. The Committee would urge the Department to probe into these huge accumulations with a view to find out as to how far these were due to procedural lacuna and/or lapse on the part of certain officials.

2.70. The Committee are perturbed to note that it was only after the Audit had pointed out and the Committee had selected the Audit para for examination that suitable instructions were issued in August 1978 for maintenance of control registers by the Custom Houses for recording the particulars of vehicles in respect of which permission for sale to the STC was received from the Ministry of External Affairs. The Committee do not see any plausible reason which prevented the Government from issuing such instructions earlier so as to obviate the heavy accumulation of such duty arrears in the past. They would now like to be informed whether the revised instructions have been followed by the concerned departments. The latest position regarding realisation of past arrears may also be intimated to the Committee.

2.71. The Committee find that all the cars imported without payment of customs duty are acquired by the STC from the privileged persons or organisations for sale on 'as-is-where-is' basis. In the case of an accidented vehicle, however, the purchase is rejected if the vehicle is found to be badly damaged and the selling party expresses its inability to offer the same to STC after putting the vehicle in normal working condition or if the price offered by STC for the vehicle in its damaged condition is declined by the selling party. The assessment of the damage is made by the mechanics either of the STC or of outside agencies. Though the vehicles are compulsorily insured under the Motor Vehicles Act, no verification is made to ascertain whether the owner had made any claim against the Insurance Company for the damage in accident. The Committee feel that in the absence of such verification the possibility of misrepresentation of damage in accident cannot be ruled out. They, therefore, recommend that such verification should be made invariably in each case of damaged cars.

2.72. The Committee also understand that a proposal is under consideration in consultation with the Ministry of External Affairs to the effect that STC will not reject the purchase of such cars under any circumstances. The Committee would like to be apprised of the final decision in that regard.

2.73. The Committee note that cars which are imported without payment of duty by privileged persons are valued for assessment of duty at the time of sale after three years on the basis of the c.i.f. price as per the bills of entry. In other words, the amount of duty charged from STC is the same which the privileged person would have paid at the time of importation of the car but for the exemption granted from payment of duty. The price fetched by the cars at the time of sale is, however, much higher than the original price. In view of such appreciation in the price of the cars, the question whether the cars should be valued for assessment of duty with reference to their sale price is stated to be under consideration of the Government. The Committee understand that a tripartite meeting is to be convened between the Ministry of Law, Audit and the Department of Revenue to consider this matter. They would like to be apprised of the deliberations of that meeting and of the final decision arrived at.

2.74. The Committee find that certain types of institutions are allowed to import cars without payment of customs duty on the condition that the vehicle will not be sold or otherwise disposed of without prior permission of the prescribed authority. Non-observance of this condition can render the car liable to confiscation and the importer liable to penalty under the Customs Act. Despite these prohibitory and penal provisions, the imported cars exempted from duty have been sold in an unauthorised manner in a number of cases as stated in para 2.34. Depositing before the Committee in regard to prevention of such sales, the Member (Customs) stated during evidence: "Hundred per cent check is not possible." The Committee understand that transport departments of the State Governments are not furnished at present with the lists of the institutions who are granted exemptions from payment of duty on imported cars. They feel that if this is done the transport departments can be better equipped to exercise effective check on the unauthorised sale or transfer of imported vehicle. They, therefore, desire the Government to issue suitable instructions in order to ensure that lists of such institutions are furnished to the State Transport Departments invariably as and when exemption from payment of customs duty on import of car is granted to them.

CHAPTER III

FRAUDULENT IMPORTS THROUGH FOREIGN POST

Audit Paragraph:

3.1. (i) A fraud in a Foreign Post Office by which large quantities of dutiable and restricted goods of considerable value were being smuggled into the country came to the notice of a major Custom House. The *modus operandi* was to bring in illegally, by post, expensive goods such as fountain pens, electronic watches, chemicals and drugs, calculating machines and precious stones from Dubai, Hongkong and Singapore declaring them as spare parts of machinery and surgical instruments.

The procedure followed in dealing with such goods by the customs authorities is to issue notices to the consignees to furnish the necessary details while retaining the parcels in the strong room of the post office.

Facts of one case involving 26 parcels are:—

- (a) that the file containing the office copies of the call memos was alleged to have been stolen from the Postal Appraising Section;
- (b) that the detained goods were surreptitiously removed from the post office with the alleged connivance of postal employees, and
- (c) that the records of the Custom House showed all the 26 parcels as detained while the strong room records of the Foreign Post Office indicated all the 26 parcels as cleared.

Custom House records also revealed a similar case of attempted fraud involving 38 parcels, the market value of which was estimated at Rs. 10 lakhs.

These frauds took place in February/March 1974 but have not been reported to Audit as required under the General Financial Rules. The quantum of loss of revenue could not also be determined in the absence of full details.

The Ministry of Finance stated in reply (February 1978) that the 26 parcels referred to above were cleared fraudulently but added

that, the matter being under investigation, it would be pre-mature for them to give any purposeful comments.

(ii) In another major Custom House, a post parcel containing twenty electronic mini-calculators valued at Rs. 10,000 was detained by the assessing officer in the Postal Appraising Department on 13th March, 1974. But this parcel was released free of duty on 15th March, 1974. The goods could not be recovered nor the duty realised. Further developments in the case have not been made known.

The Ministry of Finance have confirmed the facts.

[Paragraph 17(i) of the Report of the Comptroller and Auditor General of India for the year 1976-77—Union Government (Civil), Vol. I—Indirect Taxes]

3.2. The Customs Revenue Audit noticed that 26 air mail insured parcels received in February 1974 mostly from Singapore, Hong Kong were removed surreptitiously without examination. These 26 parcels were suspected to contain costly goods as electronic calculators, watches, fountain pens, T.C. Cameras, radio, tape recorders etc. The c.i.f. value as per Customs declaration in respect of 20 parcels worked out to Rs. 20776/-. In the case of other 6 parcels, c.i.f. value could not be converted into Indian Rupees for want of information regarding actual dates of imports and other particulars.

3.3. The Ministry of Finance, Department of Revenue have in a written note (Appendix V) spelt out the procedure followed in regard to postal appraisalment in foreign post offices.

3.4. Enquired if the aforesaid procedure came under review at any time, the Ministry of Finance (Deptt. of Revenue) have in a written note intimated as under:

“A Two Man Committee was appointed in December 1975 to study the functioning of the Foreign Post Offices to suggest suitable measures for improvement.”

3.5. While furnishing a summary of the recommendations made by the Committee (Appendix VI), the Ministry of Finance (Deptt. of Revenue) have intimated the progress regarding implementation of the recommendations as under:

“Instructions have already been issued for implementation of the recommendations Nos. 8, 9, 10(a), (b) & (c), 11a, 11b, 11c, 12, 13, 14a, 18, 20, 21, 23, 24, 25, 26, 31 and 63. Recommendations 22, 27, 33, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 52, 57, 62, 64 and 66 are under consideration.”

3.6. The Committee wanted to know how was it ensured that the post office presented all parcels for assessment and that only bona-fide permissible goods were cleared free of duty. The Ministry of Finance, Department of Revenue, have in a written note stated:

“It is the duty of the postal authorities to present to the customs a Way Bill duly filled, containing all the details about the parcels in the prescribed form and they are to account for all the parcels in terms of the clearance given by the customs and on payment of customs duty indicated therein.”

3.7. Asked if independent records were maintained on the Customs and the Postal sides, the Ministry of Finance (Department of Revenue) have stated in a written note:

“Way Bills are prepared by the Postal Department and these are used both by the Customs and the Postal Department and are, therefore, common. Customs maintain a separate register (CBR 113) of detained parcels and packets wherein the parcels/packets in respect of which some documents also called for are entered. The register is maintained and used by the custom side alone.”

3.8. Giving the details of the records maintained on the postal side, the DGP&T have in a written note stated:

“Independent record is maintained by the Foreign Post and the Customs, except way bills. Way bills are prepared in triplicate by the Foreign Post, one copy for Audit, one for Customs and one for F.P. Records. Following documents are maintained in Foreign Post, Bombay:—

- (a) Opening sheet showing the date of presentation of parcels, weight, remarks passed, *viz.*, call issued, released, detained etc.
- (b) Strong room registers, showing the movement of articles detained, confiscated, abandoned etc.
- (c) Files of documents received along with the parcels, *viz.*, D Notes, etc.
- (d) Files of mail lists & parcel lists.
- (e) Register showing the articles received for reassessment, re-examination, and returned to office of origin.”

3.9. The Committee desired to know in regard to custody of the Strong Room, the procedure followed for verification of the articles

stocked therein and the action taken in the event of discrepancies found in the stocks. The DGP & T have intimated:—

“Lower selection grade supervisor is the custodian of the strong room in Foreign Post Office. Rule 81(10) of Foreign Post Manual, 1972 lays down that physical verification of articles in stock, as compared with the detained statement should be carried out by a responsible officer attached to the office of exchange on the last day of each month. LSG supervisor is physically verifying the articles with the register maintained for the purpose every day. Moreover, an Inspector of Post Offices has to visit the strong room of the Foreign Post Office every month and physically verify the articles with the register. The supervisor/IPO on verifying the stock and finding any discrepancy brings the matter to the notice of the head of the office.”

3.10. The Committee wanted to know how the fraud was committed. The Ministry of Finance (Deptt. of Revenue) have in a written note stated:

“Postal authorities are the custodian of the goods. It appears that with the connivance of certain postal employees twenty six parcels were cleared fraudulently without the knowledge of the customs by making unauthorised endorsement in the postal copy of the Way Bills.”

3.11. Giving the factual position in this regard, the DGP&T have intimated:

“The fraud did take place with the connivance of the postal clerks. The parcels were called for from the strong room is the normal course for presenting them for customs examination but instead of being given over to the customs they were given to the delivery counter for delivery. Thus the parcels were delivered without proper customs examination and assessment. There is no endorsement of assessment on the customs copy of the way bill, but on the postal copy, there are endorsements of assessment data in the case of 25 parcels, and duty of Rs. 2510 has been recovered by the postal department. In the case of one parcel there is no endorsement. The entries of the duty assessed are alleged to have made of their own accord by the postal clerks involved in the above case.”

3.12. Asked about the steps taken to prevent such frauds, the DGP&T have stated:—

“Previously parcels were delivered by the counter clerk. Now parcels are delivered only after the necessary permission for delivery is granted by the Asstt. Superintendent. General supervision over the customs examination table and delivery sections was tightened up. The delivery counter clerk is changed every month so that such instances do not recur.”

3.13. As to how the fraud was detected, the Ministry of Finance, (Department of Revenue) have intimated:

“Directorate of Revenue Intelligence, Bombay got information about the activities of a group of smugglers indulging in smuggling of dutiable and restricted goods into India from Dubai, Hongkong and Singapore in Air Mail Post Parcels addressed to various fictitious firms and persons in Bombay. The fraud was detected while working on the above information.”

3.14. Giving further details, the DGP&T have stated:

“The parcels were delivered on 5th, 8th 25th, 26th, 27th Feb. 74 and 1st and 2nd March 74. The matter was detected by the Directorate of Revenue Intelligence, Bombay on 10-4-74 and CBI on 31-5-74. The department knew about the fraud only after the CBI gave its report to the Department in Dec. 77. Since there was no complaint from either the addressee or the sender about the non-delivery of parcels the foreign post office did not know about the case for a long time. The CBI conducted confidential investigations and the case came to light only after the CBI gave its report in Dec. 77.”

3.15. In regard to the responsibility of Customs Department *vis-a-vis* Postal authorities for the release of the parcels, the Ministry of Finance, Department of Revenue have stated:

“Being the custodian of the goods, the postal authorities should not have released the good without getting proper clearance from the Customs.”

3.16. The Committee desired to know whether the fraud became possible due to lack of co-ordination between the Customs and the

Postal Departments. The Ministry of Finance, Department of Revenue have in a written note intimated:

“So far as this particular fraud is concerned it is not because of any lack of co-ordination. It is a case of theft of parcels from the postal custody and possibly also of forging certain endorsements. Precise details can come out only after C.B.I. report is available.”

3.17. The Committee wanted to know whether the fraud was intimated to the Audit. The Ministry of Finance, Department of Revenue have in a written note stated:

“The whole incident was regarded more as an instance of fraud and smuggling with the connivance of certain postal employees rather than a case of fraud involving customs revenue. The case was handed over to the C.B.I. for investigation. Hence the matter was not reported to the audit. The Customs Manual does not contain any provision requiring such cases to be reported to the audit.”

3.18. The Committee wanted to know the functions of the internal audit and whether the fraudulent practice was noticed by them in any of the cases reported in the Audit Para. The Ministry of Finance, Department of Revenue, have in a written note stated:

“The function of the auditor in the Postal Appraising Section is to check the conversion of Foreign currency into rupees and whether the total duty assessed and recoverable is correctly assessed and recovered. Internal audit department had not noticed any of the cases reported in the audit para.”

3.19. The file containing the office copies of the call memo was alleged to have been stolen from the Postal Appraising Section. The Committee desired to know when the loss of file from the Postal Appraising Section was detected and what action was taken thereafter. The Ministry of Finance, Department of Revenue, have intimated:

“The loss of the file was noticed when the D.R.I. (Directorate of Revenue Intelligence) got the information and investigation was launched in the light of the same. The department requested the CBI to investigate into the fraud and to fix the responsibility because of the involvement of the employees of the Postal Department.”

3.20. Giving further information in regard to the case, the Ministry of Finance, Department of Revenue have stated:

“Some copies of call notices in respect of the 26 parcels were recovered on 10-4-1974 from one Jaffar Ali Mohd. Ali, a retired Jamadar of Postal Department. The case papers are with the C.B.I. for conducted necessary investigations. Precise details are not known whether any or all of these 26 cases were received back undelivered.”

3.21. Asked in regard to the stage of investigation by C.B.I., the Ministry of Finance, Department of Revenue have stated:

“The C.B.I. has informed the Customs House that Departmental proceedings are being initiated against three employees of the Foreign Post Office on the advice of Central Vigilance Commission. However, as the matter is under investigation by the C.B.I. to fix up responsibility etc. no further comments can be offered at this stage.”

3.22. Supplementing in this connection, the DGP&T have stated:

“Charge sheets under Rule 14 of the CCS(CCA) Rules for major penalty have been issued against the three postal clerks involved in the racket. The inquiry officer has been appointed and the first hearing of the case is to take place on 6-4-79.”

3.23. The Committee wanted to know the approximate amount of revenue lost as a consequence of the fraud. The Ministry of Finance, Department of Revenue have stated:—

“In respect of the 26 parcels actual loss of revenue cannot be ascertained as the parcels were not examined by the customs and the same had been fraudulently delivered.”

3.24. Asked if the importers of the goods could be located, the Ministry of Finance, Department of Revenue have intimated in a written note:—

“Preliminary investigations revealed that the names of the importers were fictitious.”

3.25. Enquired about the consignor of these parcels, the Ministry of Finance, Department of Revenue have in a written note stated:—

“The 26 parcels in question have come from different consignors from Hong Kong and Dubai.”

3.26. The Committee wanted to know whether anything could be done for the recovery of goods and duty. The Ministry of Finance, Department of Revenue have in a written note stated:—

“The goods could not be recovered and nothing could be done for the recovery of duty.”

3.27. The Committee desired to know whether the loss of the goods was reported to the Accountant General as provided for in the General Financial Rules. The DGP & T have in a written note stated:—

“The parcels were delivered without presenting them to Customs. Thus there is no loss of goods. Since the parcels were released without assessment, ‘there can be only loss of Customs’ revenue (Customs duty) which cannot be ascertained unless the value of the contents is assessed. The case was not reported to the Accountant General.”

3.28. The Committee wanted to know the description given in respect of the contents of the 26 parcels and of the c.i.f. value declared. The Ministry of Finance, Department of Revenue have in a written note stated:—

“The parcels were declared to contain meter parts, industrial sewing machine parts, tapes, machine parts, drilling machine parts, spare parts cut pieces, electrical parts etc. Value was not declared in some cases and in other cases shown as of no commercial value.”

3.29. Asked for similar details in regard to the 38 parcels, the Ministry of Finance, Department of Revenue have stated:—

“They were declared to contain samples of machine parts, textiles and spare parts, sample of stationery, cutpiece, surgical instruments, auto parts, drilling instrument, engineering tools etc. Total value declared comes approximately to Hongkong dollars 16240, Dutch Marks 3890 and Dutch Kroners 380.”

3.30. The Committee wanted to know the names of the senders of these 38 parcels. The Ministry of Finance, Department of Revenue, have furnished the following information:

“The names of the senders were different. Some of the names are as follows:—

Daya Land Company, Kowloon, Hongkong; Radha Swamy and Company Kowloon, Pyralal Corporation; Jeevanlal

Commercial Traders, Kowloon; Hiralal and Company, Kowloon, Bhatnagar Vani, Dubai, Murlidhar Corporation, Kowloon, Boco Impex, Kowloon; Rex Impex, Hong Kong; Natvarlal, Dubai; Patel N. V., Dubai, Mustang Trade Corporation Dubai; Green Textorium, Hong Kong; C. Hand, Kowloon etc. On some of the parcels, names of the senders were not shown. The names of the senders also appear to be fictitious."

3.31. Asked if the call notices issued to the importers of these parcels were delivered, the Ministry of Finance, Department of Revenue, have stated in a written note:

"The Show Cause Notices were returned undelivered with the remarks 'not known returned to the sender'."

3.32. The Committee desired to know how the attempted fraud of 38 post parcels was noticed. The Ministry of Finance, Department of Revenue, have in a written note intimated that the same were intercepted on the basis of information collected by the Directorate of Revenue Intelligence, Bombay in April, 1974.

3.33. The Ministry of Finance, Department of Revenue have further informed that these parcels contained wrist watches, electronic calculators, chemicals, fountain pens, textiles, precious stones etc. and the same were confiscated absolutely.

3.34. Enquired in regard to the fate of this confiscated parcels, the Ministry of Finance, Department of Revenue have intimated that the same were allowed to be disposed of after retaining representative samples and original wrappers under panchnama and that the manner of disposal as being ascertained.

3.35. The Committee wanted to know how the post-parcel containing twenty electronic mini-calculators valued at Rs. 10,000 detained on 13-3-1974 was released free of duty on 15-3-1974. The Ministry of Finance (Department of Revenue) have, in a written note, furnished the following details:

"A post-parcel addressed to one H. M. Hussain, Whannels Road, Madras-8 was received in the Foreign Post Office. On examination at Table No. 5, the said parcel was found to contain Electronic Calculators. Thereupon the parcel was detained and transferred to the Postal Strong Room and the addressee was directed to produce documents such as Licence, Invoice, etc. This happened on 13-3-1974. On 28-3-1974, another parcel, identical in outward appearance and also containing calculators and wrist watches was

received. At this time, for checking up the identity of the addressees/consignees and/or to detect any common features of *modus operandi*, the earlier parcel detained on 13-3-1974 was called for, when it came to light that the said detained parcel had been released on 15-3-1974 without collection of any duty and with a declaration in departmental documents postal and/or Customs, that the contents were clothing. It was further ascertained that the said parcel was, in fact, delivered to the said consignee, through a person authorised by him, on the following day, namely, 16-3-1974. It is established that the release of this post parcel was effected through Table No. 1 and not through Table No. 5 where it was originally detained. The charged officer Shri K. Govindarajulu was the Customs Clerk at Table No. 1 on 15-3-1974. The charge briefly was that Shri K. Govindrajulu took all the initiative and steps to have this parcel released through Table No. 1 and without charging any duty thereon."

It has been further stated:

"This is mere a case of smuggling by means of fraud committed through collusion of a customs employee working in the Postal Appraising Department."

3.36. Asked who took the delivery of the parcel and whether he could be identified, the Ministry of Finance (Department of Revenue) have replied:

"The person who took delivery of the parcel, namely, K. M. A. Razak on behalf of Hussain could not be identified."

3.37. The Ministry of Finance (Department of Revenue) have also intimated that a revenue of Rs. 10,125 was lost as a consequence of the fraud. Enquired about the action taken for the recovery of the loss, the Ministry of Finance (Department of Revenue) have intimated:

"A demand for the duty of Rs. 10,125 was issued and it was confirmed by A.C. (PAO). The addressee of the parcel has preferred an appeal to the Appellate Collector of Customs, Madras and the same is pending."

3.38. The Committee are distressed to note of a fraud in a Foreign Post Office by which large quantities of dutiable and restricted goods of considerable value were being smuggled into the country. The modus operandi was to bring in illegally by post, expensive goods such as fountain pens, electronic watches, chemicals and drugs, calcu-

lating machines and precious stones from Dubai, Hongkong and Singapore, declaring them as spare parts of machinery and surgical instruments. The fraud was committed in February|March, 1974 but was detected only when the Directorate of Revenue Intelligence, Bombay gave information in April 1974 in regard to the activities of a group of smugglers who were smuggling these goods into India in Air Mail Post parcels addressed to various fictitious firms and persons in Bombay. This is a sad reflection on the functioning of both the Customs and the Postal Departments in the Foreign Post Offices. There is if not collusion at least lacunae in the functions and procedures of the Customs and Postal Departments in the Foreign Post Offices and inadequate checks and supervision at various levels. The Committee are constrained to point out that but for this external alertness and vigilance, both these Departments would not have perhaps come to know of the fraud suo moto. It also cannot be ruled out that many frauds of similar type might have gone unnoticed. The Committee desire Government to make an indepth study into the causes which permit the committal of such frauds and introduce in consultation with the Ministry of Law and other Ministries concerned such remedial measures as are called for to plug all possible loopholes in the rules and procedure in handling parcels in the foreign post offices both by postal and custom authorities so that the entire system becomes fool-proof. Action taken in this behalf should be intimated to the Committee in due course.

3.39. The Committee find that the internal audit in the Postal Appraising Section is entrusted with the work of ensuring correct assessment and total recovery of the duty levied on the various articles imported by post. Besides they are also required to convert the value of goods declared in foreign currency into Indian rupees. They do not seem to be charged with the responsibility of either exercising any check on the records maintained by the Customs as well as Postal Departments in the Foreign Post Offices or on the detained, confiscated or abandoned goods. The Committee desire Government to examine whether the sphere of the internal audit could be suitably extended so as to arm them with the powers of exercise effective control on the records of Customs and Postal Departments as also on the goods stored in the Strong Room of Foreign Post Offices.

3.40. The Committee find that there is no provision in the Customs Manual whereby the Audit should be intimated when such fraud is committed in the Foreign Post Office. The Committee desire that Government should introduce a suitable provision in the Customs Manual, in this regard.

3.41. The Committee find that provision exists in the General Financial Rules for the intimation of loss of goods to the Accountant General. The DGP & T has however informed that the loss in this case was not reported by them. The Committee would like to know the reasons for the violation of this requirement and for not fixation of responsibility against those responsible for this lapse.

3.42. The Committee have been informed that the matter is still under investigation by the C.B.I. They would like Government to have the same expedited. The follow up action that may be taken by the Government on the report of the C.B.I. should be intimated to the Committee.

3.42. The Committee have been informed that the master is still proceedings have been initiated and charge sheets for imposition of major penalty have been issued against three postal clerks involved in the racket. The Committee would like to be apprised of the final action taken against the derelict officials by the Government.

3.44. The Committee note that a parcel containing electronic calculators was detained and transferred to the Postal Strong Room of the Foreign Post Office, Madras on 13-3-1974. The detained parcel was, however, released on 15-3-1974 without collection of any duty and with a declaration in departmental documents that indicated that the contents were clothing. The release of the parcel is stated to have been effected with the connivance of a customs officer. The Committee would like to know the action taken or proposed to be taken against the derelict officer.

3.45. The Committee have been informed that a demand for Rs. 10,125 has been raised against the party who has preferred an appeal to the Appellate Collector of Customs, Madras. The decision taken on the appeal and the ultimate position in regard to the recovery of the demand money may be intimated to the Committee.

NEW DELHI;
April 23, 1979
Vaisakha 3, 1901 (S).

P. V. NARASIMHA RAO,
Chairman,
Public Accounts Committee.

APPENDIX I
(Vide para 1.8)

ANNEXURE

INVESTIGATION CIRCULAR No. 26|64

(Secret and for Departmental use only)

SUBJECT:—*Assessable value of imports by M|s. Ashok Leyland, Limited, Ennore, Madras—Section 14(1), Customs Act, 1962.*

Attention is invited to this Custom House Investigation Circulars No. 22|60 and 29|62. The question of acceptability of invoice values of the above firm's imports has since been re-examined with reference to Section 14(1), Custom Act, 1962 and the Customs Valuation Rules, 1963.

2. M|s. Ashok Leyland Limited, has become a subsidiary of M|s. Leyland Motors Limited, England, w.e.f. 1-4-1962 by virtue of the latter holding more than 50 per cent of the equity shares of the Indian Company. By an agreement dated the 5th December, 1955, the Indian Company has been authorised to manufacture motor vehicles of the type manufactured in the U.K. by the English Co., The Indian Firm has also been appointed as sole agent for spare parts manufactured by M|s. Leyland Motors Limited, Albion Motors Ltd., and Cape Asbestos Co. Ltd., U.K. The last mentioned firm has not, however, entered into a formal agency agreement with the Indian firm.

3. As far as items imported for manufacture are concerned, the invoice values of imports of C. K. D. packs and capital equipments, have been found to be acceptable for assessment. In the case of semi-finished components also, the invoice value has been found to be in accordance with the provisions of Rules 3 and 4, Customs Valuation Rules and are therefore, acceptable for assessment to duty.

4. As regards spare parts, imports are effected by M|s. Ashok Leyland Ltd., and by other independent parties, viz., Dealers, State Transports, Jobbers and others. The suppliers invoice the goods to all the parties on the same basis, viz., at gross prices as shown in the Master Price List less the discounts shown in the Annexure hereto.

This is done with the concurrence of the Indian firm, who is the sole agent and has the sole right to import the agency goods into India, and as the discounts are special to the Indian firm. In consideration of third parties being allowed to import the agency goods at the prices and discounts applicable to the sole agent, the latter collects locally from independent importers the commission detailed under the second para of the Investigation Circular No. 29 of 1962. Hence the cost of the goods to independent parties is the invoice C.I.F. value plus the commission payable to M|s. Ashok Leyland Ltd., Madras. In view of the Central Board of Revenue decision (F. No. 3|28|63-Cus. VI, dated 13-12-1963), to continue to recognise varying independent importer's prices the assessable value under Section 14(1) (a) of Customs Act, 1962, of M|s. Ashok Leyland's imports should be worked out by applying the following loading:—

- (1) 10 per cent of the c.i.f. value in the case of Leyland comet spares.
- (2) 7½ per cent of the ex-works values in the case of Leyland Heavy duty spares and Albion spares, and
- (3) 5 per cent of the c.i.f. values in the case of Capasco clutch liners and brake liners.

5. As regards the loading applicable to independent imports, the decisions contained in the Investigation Circular No. 21|62 will continue to hold good.

6. It is understood that this pattern of imports will change after sometime and M|s. Ashok Leyland Ltd., will become the sole importers of the agency products. The above decision will require to be reviewed and the question of determination of the assessable value with reference to Rule 5 of the Customs Valuation Rules will have to be taken up then.

7. The above decisions have the approval of the Collector.

S. 50|17|63-Ap.
 Custom House, Madras,
 Dated 5-9-1964.

Sd|-
 (A. H. TAYLOR)
 Asstt. Collector of Customs.

APPENDIX II

(Vide Para 1.8)

INVESTIGATION CIRCULAR NO. 73|72

(Secret and for Departmental use only)

SUBJECT:—Value of goods imported from abroad by M|s. Ashok Leyland Ltd., Madras—Determination of under Section 14(1) (a) or the Rules made under Section 14(1) (b) of Customs Act, 1962—Review of

Attention is invited to this Custom House Investigation Circular No. 26|64.

The question of acceptability of invoice values of imports by M|s. Ashok Leyland Ltd., Madras, from their parent firm M|s. Leyland Motors Ltd., England, has been re-examined. The English firm M|s. Leyland Motors Ltd., which has been holding about 62 per cent of the shares in the Indian firm, has now merged with M|s. British Leyland Motor Corporation Ltd., U.K. which has become the holding company. A division for this Company, viz., British Leyland Truck and Bus Division Ltd., U.K., supplies the goods required by the Indian firm. The terms of the Indian firms' agreement dated 5-12-1955 with M|s. Leyland Motors Limited, U.K., are still in force.

The Indian firm imports chassis production materials such as components and semi finished articles for manufacture of 'Comet' vehicles and heavy duty vehicles Type 'Bearer' 'Hippo' and 'Titan' spare parts of such vehicles and a few items of machinery, equipment and maintenance spares from the English principals.

(1) Components for manufacture:

Only 18 items of finished components are being imported for the production of 'Comet' type vehicles which is the main item of the Indian firms' manufacturing programme. The imported content in such vehicles is only 4 per cent. As regards heavy duty vehicles, the components required for production are imported in C.K.D. packs (less deletions). The imported content in these vehicles is about 45 to 50 per cent. The transactions relating to imports of these components appear to be in the normal course of trade and the agreement does not provide for any consideration to the suppliers which can be related to the prices imported goods. The royalty of

1-3|4 per cent paid by the Indian firm is calculated on the indigenous content of the products manufactured here and has no bearing on the assessable value of the imports. The invoice values may, therefore, continue to be accepted for assessment after usual check.

(2) *Spare parts for motor vehicles:*

The manner of invoicing and pattern of direct imports of motor vehicles spares have since changed. The parts are invoiced at the prices shown in the supplier's Master Price list less discounts shown in the Annexure hereto for certain coded items. For parts of Leyland's own manufacture (which do not bear any code) a discount of 30 per cent is allowed to M|s. Ashok Leyland Ltd., Madras. All these discounts are described as trade discounts. The Calcutta State Transport Corporation which also imports such spare parts gets the same discounts as M|s. Ashok Leyland Ltd., on the Coded items and a discount of 25 per cent on Leyland spares (uncoded items), and pays a local agency commission of 7½ per cent on the net ex-works invoice value to M|s. Ashok Leyland Ltd., Madras.

In view of the above mentioned changes in invoicing, it has been decided to revise the loading factors applicable to imports by M|s. Ashok Leyland Ltd., Madras as follows:—

- (a) The net ex-works invoice values of Leyland spare parts (uncoded items on which discount of 30 per cent is at present being allowed to M|s. Ashok Leyland Ltd.) may be increased to in the ratio of 70 : 75 and loaded by 7½ per cent, and
- (b) The net ex-works invoice value of other spares may be loaded by 7½ per cent.

This loading may applied for purposes of assessment irrespective of whether the spares are imported by Ashok Leyland against their own quota licences or against actual users licences with letters of authority in their favour, as the basis of invoicing is the same. The net invoice values are, however, acceptable for debit to import licences (as before) as there is no extra remittance in excess of invoice values.

(3) *Machinery and equipment and maintenance spares:*

There are occasional imports of such items through the English principals. None of the goods is made by the English firm which procures them and invoices to the Indian firm—after adding a handling charge of 2½ per cent (not separately shown in the invoices) in accordance with Clause 14 of the agreement. This position has

been verified with reference to manufacturer's quotations which are made available to the Indian firm by the suppliers. The invoices may, therefore, continue to be accepted for assessment purposes.

(4) *Semi finished materials:*

This matter is still under examination. The decision in this Custom House Circular No. 26|64 may continue to be followed till a fresh circular is issued.

Sd|- (C. K. GOPALAKRISHNAN)
Dy. Collector of Customs.

S.50|12.69—Res.

Custom House: Madras.

Dated: 21-12-1972.

(Attested)

Sd|- (V. P. GULATI)
Asstt. Collector of Customs.

ANNEXURE TO INVESTIGATION CIRCULAR NO. 73/72
LEYLAND MOTORS LTD., U.K.

Discounts applicable to coded items of spare parts.

PB	32.50% .	. PG	50%
PC	72.50% .	. PH	43%
PD	55% PK	40%
PE	30% EC	15%
PF	40% .	. Net—No discount.	

APPENDIX III

(Vide Para 2.10)

List of Exemptions Granted/availed of the import of cars during the year 1975-76 to 1977-78

Sl. No.	Exemption Order No. and date	File No.	Name of Importer	Details of Car	Criteria
1	2	3	4	5	6
INDIVIDUALS					
				1975-76	
1	459/12-11-75	459/58/75—Cus. V	Mr. G. Surendran, Madras.	Moris Marina Car with adaptations for handicapped.	
2	477/27-11-75	459/70/85—Cus. V	Sh. M. Ram Chandra Reddy, Hyderabad.	Toyota Carona with adaptations for handicapped.	
				1976-77	
3	678/27-11-72	459/139/72—Cus. V	Maj. J. S. Sethi, New Delhi	Moris Marina Car with adaptations for handicapped.	All disabled persons
4	427/24-10-75	459/61/75—Cus. V	Maj. TAS Bedi, New Delhi	Toyota Corolla Car with adaptations for handicapped.	
5	54/2-2-76	459/10/75—Cus. V	Col. Y. N. Sharma, Secunderabad	Moris Marina with adaptations for handicapped.	
6	245/31-5-76	459/36/76—Cus. V	Capt. S. S. Bedi, New Delhi	Moris Marina Car with adaptations for handicapped.	
7	348/7-8-76	459/55/76—Cus. V	Capt. Mahinder Kumar, Delhi Cantt.	Moris Marina Car with adaptations for handicapped.	

8	567/24-11-87	459/111/76—Cus. V	Maj. Rajinder Lal Grover, New Delhi.	Escort with adaptations for handicapped.	All disabled persons
			1977-78		
9	476/30-8-77	459/83/77—Cus. V	Sh. S. B. Sonawadekar, Kolhapur	Inva Car for handicapped	
10	566/4-10-77	459/123/77—Cus. V	Maj. H. K. Bakshi, New Delhi	Car with adaptations for handicapped.	
11	567/11-10-77	459/124/77—Cus. V	Maj. S. D. Goswami	Volkswagon with adaptation for handicapped.	

APPENDIX IV

(vide Para 2.10)

List of Exemption Granted/Availed of on the import of cars during the years 1975-76 to 1977-78

INSTITUTIONS

Sl. No. and date	Exemption Order No.	File No.	Name of Importer	Details of car	Criteria
			1975-76		
			NIL		
			1976-77		
1	198/25-3-76	460/198/75—Cus. V	Mitraniketan, Trivandrum	Volkswagon Car with spares	Mitra Niketan, Trivandrum is said to be engaged in rural health and family welfare programme.
2	295/7-7-76	460/168/76—Cus. V	Sher i-Kashmir, National Medical Instt. Trust, MA Rd., Srinagar.	Volvo Car	Sher-i-Kashmir National Medical Instt. Trust, Srinagar runs a free hospital and is engaged in relief, welfare and Family Planning activities.
3	549/20-11-76	460/168/76—Cus. V	Do.	Peugeot 104	
4	159/12-3-77	460/44/77—Cus. V	Sri Nanabhar Asram, Distt. Ludhiana.	Mercedes Benz Car with spares	The Instt. was stated to be engaged in social service in rural areas having a number of schools and hospitals. The car was to be used to facilitate supervision of the various activities of the Inst spread over the State of Punjab.

1977-78

5 642/14-12-77 460/235/77-Cus. V

Sant Darbara Singh Ek-On-Kar Volvo Car
Trust, Loapon, Tech. Moga,
Dist. Faridkot.

The Car imported by Sant Darbara Singh, Ek-On-Kar Trust, Loapon was to be used by the workers of the Trust to manage various social and religious places in order to organise them to the benefit of the poor.

N.B.—1975-76 and 1976-77 cover exemption orders availed of while 1977-78 cover cases of exemption orders issued.

APPENDIX V

(Vide Page 3.3)

NOTE ON THE PROCEDURE OF POSTAL APPRAISEMENT IN FOREIGN POST OFFICES

In the foreign post office two Departments of Central Government namely, Customs and Postal authorities function side-by-side and by virtue of long standing association they have developed a system of working that has by and large stood the test of time. The foreign post offices have the responsibility of receiving inward foreign mails whether by surface or by air and of forwarding them to the local post offices for delivery to the addressees. The Customs on their part are responsible for the levy of the Customs duty on all items imported and also for prevention of entry of unauthorised or otherwise prohibited goods. The post office acting on behalf of the public is only responsible for the contents and the packing of the parcels and no claim for compensation from the public lies to the Customs department on account of the shortage, pilferage, damage or defective packings. The Post Offices are also responsible for the translation of description shown in declaration in foreign languages, before presentation to the Customs.

2. At present there are four offices of exchange at Bombay, Madras, Calcutta and Delhi. In addition, there are sub-foreign post offices at Bangalore, Ahmedabad, Cochin, Jaipur and Srinagar which is only for export.

3. Mail bags containing post parcels are received by the Postal authorities either by air or by sea.

CLEARANCE OF SEA MAIL PARCELS

Bags containing surface mail parcels are opened in the Import section of the Foreign Post Office. The Postal staff collects the despatch notes/customs declarations and presents them to the Sheet Assessment Appraiser after arranging them in an alphabetical order. The despatch notes/customs declarations so presented are scrutinised by the Sheet Assessment Officers. They are categories into four groups namely—

(a) 'R' for release of parcels on sheet assessment.

- (b) 'D' parcels to be detained for examination and release, and
- (c) 'C-1' for trade parcels for which call-cum show cause notices are to be issued.
- (d) 'C-2' for other parcels for which call-cum show notices are to be issued.

After categorisation of the despatch notes/customs declarations, the despatch notes/customs declarations are returned to the Postal authorities. Separate way bills are prepared by them for each of these categories of parcels. Category 'R' way bill is presented to the Sheet Assessment Appraiser who completes the assessment on way bill itself and passes the parcels for release.

'D' and 'C' categories of parcels alongwith the respective way bills are presented to the Assessing Officers|Examiners. After examination, if the value of the parcel is less than the value upto which no import licence is required or is less than the duty free limit, they are released with or without customs duty. In all other cases namely, where an import licence or invoice etc., are required for the release, a call-cum-show cause notice is issued to the addressee asking him to produce the necessary documents within 10 days in case of local addressees and 15 days in the case of outstation addressees. In respect of this category, decription/quantity and value of the goods as assessed are recorded in the case file and the relevant columns of the way bills are filled in.

Clearance of air parcels.

The parcels alongwith the way bills are presented to the Sheet Assessment Officer for sheet assessment. In case of parcels that can be released on the basis of declaration, they are released after making 'R' against the entries in the way bills. For other entries marking of 'C' or 'D' according to the nature of the parcels are indicated. After release of the 'R' parcels, the way bills alongwith the parcels are presented for examination and released or for issue of call-cum-show cause notices.

All call-cum-show cause notices issued for trade goods or in those cases calling for further documents are entered in a register known as Register for detained post parcels, in Form CBR-Cus-113. This register indicates the particulars of parcels. The running serial No. for the year is given for each call-cum-show cause notices. The movement of the case file and final disposal of the same are entered in this register.

In respect of those parcels which, after examination, are found to contain prohibited or banned goods, Show cause notices are issued. A separate register is maintained for recording the show cause notices in the form CBR-Cus-304. All adjudication particulars of such cases are recorded in this register. Internal Audit Department audits all assessments and releases regularly.

Letter mail section.

Letter-mails and Letter-mail article/packets are intercepted at the time of receipt of mail bags at the sorting section(s) at General Post Office and Airport sorting office. The mail-bags containing letters and articles are presented to the customs for elimination work. Letters and letter-mail articles are scrutinised superficially by the customs. Articles and letters bearing green "Doune" lable or which are bulky or which from the nature, size or manner of packing, are suspected to contain dutiable or prohibited articles, are detained for further scruting. Those articles/letters released by the assessing officer(s) are despatched with necessary stamp "Passed Customs" impressed upon them. The detained letter-mail articles are accounted and baged with the seals of both the departments for despatch to customs examination department of the foreign Post Office. In the Customs examination department, the bags are then opened and examined one-by-one for further elimination and numbering of the detained articles for assessment. The Post Office then prepares in respect of each packet detained for examination an assessment memo indicating the particulars regarding the serial number stamped on the packet, country of origin, the date of receipt and the name and address of the addressee and also the way-bill in triplicate. The packet/Letter Mail Articles are then submitted without delay for examination and assessment to the Customs Officer(s) who fills the remaining particulars regarding the contents, value rate and amount of duty, both on the way bills and as well as assessment memos. After audit, the way bill Assessment Memos are handed over to the Post office for delivery of the packet to the addressees. Packets suspected to contain diamonds are opened and assessed to duty only in the presence of the owners or his duly authorised representative. If the packets cannot be released on assessment for want of documents like import licence etc., a call-cum-notice is issued. When the documents are received, the packet is released after assessment, if other-wise, in order.

Reassessment.

If the addressee does not agree with the assessment made on the parcel, he has the option to send the parcel/letter mail packet back to the foreign post office for re-assessment, giving the reasons for such request. The parcels received for re-assessment are presented by the Postal authorities to the customs who will either confirm or revise the assessment, depending upon the merits of each case and the reasons furnished by the addressee.

Reconciliation of duty bills.

The Postal Department collects the duty assessed at the time of delivery of parcels/packets. The Postal Department sends the duty bills every month to the Postal Appraising Section showing the details of duty assessed by the Customs in the previous month. In case the parcels/packets that are not delivered to the addressee or released after re-assessment of the parcel with duty lesser than the one originally assessed, the Post Office also prepares and sends a separate statement called "Write back" statement separately for parcels and packets. These statements are checked with the Customs copies of way bills, case papers, write back register and detention registers etc., and are passed, if found in order, or otherwise the discrepancies, if any, are indicated. After audit check the statements are returned to the Accounts Department.

APPENDIX VI

(Vide Para 3.5)

SUMMARY OF RECOMMENDATIONS FROM THE REPORT OF THE TWO MAN COMMITTEE ON FOREIGN POST OFFICES AND POSTAL APPRAISING DEPARTMENT

1. Mails should, as far as possible, be arranged to be carried by vessels sailing directly which operate with regular and sufficient frequencies.
2. Mails should be unloaded expeditiously, even beyond normal working hours and quickly transported to postal godowns.
3. At points nearest to wharves, there should be separate transit sheds for mails.
4. To facilitate quick and safe handling of mails mechanical aids like conveyors, electric hoists and lifts should be provided.
5. All forward foreign mails should be transported expeditiously by rail from ports of landing.
6. For quicker handling and customs processing of air mails, separate, direct air parcel bags should be closed for four metropolitan cities of Bombay, Delhi, Calcutta and Madras.
7. In the offices and sub-offices of Exchange, mail bags should be stored systematically in the order of their receipt; the opening of the bags should also be in that order.
8. Mail bags should, upon receipt in the offices or sub-offices of Exchange, be opened as early as possible only in the presence of Customs Officers, separate arrangements for opening mail bags countrywise being not necessary.
9. Immediately on opening of the mail bags (or earlier in the case of parcels from U.K.) the Customs declarations and despatch notes should be sorted out and arranged alphabetically with reference to the principal letter of the names of the addressees.

10. Separate sets of way bills should be prepared after the sheet assessment officer has categorised the alphabetically arranged Customs Declarations and despatch notes into:—
- (a) 'R' for release of parcels on sheet assessment,
 - (b) 'D' for parcels to be detained for passing after examination,
 - (c) 'C-1' for trade parcels for issue of call-cum-show-cause notices, and
 - (d) 'C-2' for other parcels for issue of call-cum-showcause notices.
11. (a) On the same day the way bills are prepared, 'R' way bill sheets should be presented to the sheet-assessment officer for completion of Sheet assessment and return of the way bill sheets.
- (b) On the following day 'D', 'C-1' and 'C-2' categories way bills together with the parcels should be presented to assessing officers and examiners for—
- (i) examination and (ii) passing of parcels/issue of call-cum-show cause notices.
- (c) In the case of parcels of small bulk and high value containing precious stones, jewellery, industrial-diamonds etc. call notices should initially be issued and the parcels thereafter examined in the presence of addressees.
12. There should be a separate section in the postal appraising department to register and despatch call-cum-show cause notices and to receive documents in response thereto and to process such case files. There should be another section to deal with all cases requiring to be adjudicated.
13. On the submission of case files after placement of documents received in response to call-cum-show cause notices, a separate set of assessing officers should deal with such cases comprehensively, without having to take recourse to re-examination of parcels except where considered essential. Endorsement of postal as well as Customs copies of the way bills with particulars of assessment will however, be done by a separate officer called "A.O. (Endorsement)".
- 14 (a) Where adjudication proceedings are involved, copies of orders of adjudication should also accompany when pos-

tal copies of way bills (duly assessed) are returned to the foreign post offices for arranging delivery of the parcels on collection of both duty and fine.

- (b) In the case of parcels whose absolute confiscation has been adjudged, the Foreign Post Office should record the number and date of the orders-in-original on the parcels as well as against the relevant entries in the detailed statements. They should also keep such parcels separately either in the same room where detained parcels are stored or preferably in a separate strong-room.
15. Foreign post offices should arrange despatch of customs cleared parcels directly from their godowns, without having to bring them to assessment tables.
 16. The postal department should also recover from the addressees, fines if any, levied. To facilitate this the suggested revised Form of RP-14 should be adopted
 17. When mail bags containing parcels intended for other offices or sub-offices of Exchange are opened for sorting and re-packing and preparation of extract way bills, the occasion should be utilised for release straightaway (without having to route through the jurisdictional offices/sub-offices of Exchange) of all parcels which could be completely processed on sheet assessment; only the remaining parcels should be listed in the extract way bills.
 18. To avoid prolonged detentions, the time allowed in call-cum-show cause notices for production of documents, licence etc. should be reduced from 28 days to (i) 10 days in the case of local addressees and (ii) 15 days in the case of outstations addressees.
 19. To ensure maximum flow of work during regular office hours of the postal appraising department, the working hours of the different categories of postal staff should be suitably staggered.
 20. Experienced assessing officers should be posted for sheet assessment work.
 21. While a judicial mix of assessing officers and Examiners would be appropriate for examination of 'D' and 'C-2' categories of parcels, senior as well as experienced appraisers should handle 'C-1' category of parcels.

22. (a) Each examination table dealing with 'D' or 'C-2' category of parcels should be provided with two clerks and two packers on the postal side; on the other side, one clerk for every two such tables for calculation of duty etc. should suffice.
- (b) In the case of examination tables dealing with 'C-1' category parcels, each table should be provided with one clerk and one packer on the postal side and one clerk on the other side for calculation of duty etc.
23. Separate auditors should be posted either on a whole-time or part-time basis, for spot audit where way bill sheets are assessed to duty.
24. Prompt follow-up of all call-cum-show cause cases should be ensured.
25. With a view to taking appropriate action in respect of detained parcels, the Assistant Collector of Customs should visit the strong rooms at least once every week.
26. Examination and assessment of detained letter mail articles should be taken up immediately after the process of elimination.
27. In the Letter Mail Section, each examination table should be manned by one Customs Examiner for assessment and calculation of duty, one postal clerk for preparation of way bills, a second postal clerk for preparation of Form FP-53 and one packer for opening and sealing of and for affixing FP 53 Forms on the article. For spot audit, one auditor for every 2-3 tables should be adequate.
28. Export parcels detained at the time of examination should be processed expeditiously.
29. "Drawback" parcels should be transmitted in separate bags suitably labelled. There should be a separate cell in Foreign Post Office in the Export Parcel Department to deal with them.
30. Drawback should be paid by the Postal Appraising Department of the Foreign Post Office of Exchange wherefrom a parcel was actually exported out of India.
31. Through wide publicity, it should be ensured that all trade parcels are accompanied by invoices.

32. Clearance of parcels/packages containing medicines and life saving drugs should be given very high priority. There should be cold storage facilities for their storage. Clearance from drug control should be facilitated by visits to the postal appraising department units, everyday, by Assistant Drugs Controller.
33. To facilitate clearance/delivery of parcels addressed to Diplomatic missions, charitable institutions etc. there should be arrangement for advance receipt of exemption certificates etc.
34. Collectors of Customs should have powers to sanction, on a temporary basis, the additional staff needed for handling mails during Christmas, Diwali etc.
35. Clearance of imported parcels/packages should be against separate licences/customs clearance-permit.
36. The present value limits for import of gift parcels without a licence should be enhanced to Rs. 300/- for all gift parcels regardless of the country of origin.
37. The limits of duty exemption should be enhanced as follows:

Food & medicines—	from Rs. 80/- to Rs. 200/-
Others	—from Rs. 40/- to Rs. 100/-
38. The present powers of assessing officer, for completing assessments involving duty upto Rs. 500/- should be enhanced to Rs. 1000/-
39. The layout of the Examination Halls should be such that the public can only come into contact with the Customs assessing officers but not with other members of the staff.
40. Parcels confiscated absolutely or parcels not cleared within six months from the date of their detention should be stored by the Postal Appraising Department. For this strong room facilities should be provided on rent by the postal authorities.
41. For separate storage and disposal of parcels ripe for disposal, facility of a separate godown should be available to the customs authorities.
42. The Postal Department should be entitled to collect godown rent when delivery of parcels is after 6 months from their detention.

43. There should be adequate supply of calculators and ready reckoners for facilitating calculation of value, duty etc.
44. The following should be the norms of assessing officers:
- (1) for sheet assessment all work should be completed on the same day.
 - (2) for 'D' and 'C-2' parcels—80 parcels per day.
 - (3) for 'C-1' and other trade parcels—40 parcels per day. Completion of assessment—25 cases per day.
 - (4) for letter mail—80 packets per day per A.O.
45. Issue by the postal appraising department at Madras, of orders in original in respect of reassessment cases should be discontinued.
46. In the postal Appraising department, countrywise distribution of work should be discontinued.
47. Modern Steel Furniture should be provided for the staff of Customs and Postal Departments; Assessing Officers should in addition, be provided with steel cabinets with locking arrangements.
48. One Electrical Sealing Wax dispenser should be installed for every two examination tables.
49. Stapling outfits should be provided for facilitating repacking of packets.
50. There should be adequate facilities for delivery of parcels at offices of Exchange and sub-offices of Exchange.
51. For facilitating identification of persons claiming delivery postal identity cards should be issued.
52. Miniature foreign post offices should be set up at international airports.
53. Additional sub-offices of Exchange should be opened at Hyderabad, Ludhiana and Kanpur.
54. There should be four copies of way bills—the fourth copy serving the Postal Department for dealing with enquiries and references.
55. Strong-rooms for storing serial number-wise/categorywise 'D', 'C-1' and 'C-2' parcels should be located to Customs Examination Centres.

56. To facilitate collection of fines/penalties (besides duties and other charges) the suggested revised form of RP-14 should be adopted.
57. The present form FP-53 and assessment memo No. M/S-9(A) should be replaced by the suggested revised Form FP 53.
58. The practice at Bombay Foreign Post of Weighing all un-insured parcels should be discontinued.
59. Preparation by the Calcutta Office of Exchange of re-entry way bills should be discontinued.
60. Postal Staff should be encouraged to learn foreign languages.
61. There should be adequate arrangements in the office of Exchange for Fire Fighting and Post Control.
62. There should be co-ordination meetings between Customs and Postal departments, at periodical intervals.
63. At the all India level there should be a standing committee, to resolve outstanding organisational problems effecting the smooth functioning of the two departments.
64. Collectors of Customs should examine the feasibility of installing fluoroscopes in the Postal-Appraising Department.
65. There should be adequate publicity about receipts and despatches of foreign mail.
66. (a) All inward parcels should be handled within one week of the receipt of mail.
- (b) At any part of time, the number of parcels remaining detained should not ordinarily exceed the average total number of parcels detained for a period of 3 weeks.
- (c) The number of fresh parcels under processing, should not, at any time, exceed half a week's receipt.
- (d) No parcel or packet should remain in postal custody beyond a period of 6 months.

APPENDIX VII

Conclusions/Recommendations

S. No.	Para No.	Ministry Concerned	Recommendation
1	2	3	4
1	1.6)	M/O Finance (Deptt. of Revenue)	<p>The Committee find that the valuation of goods is determined under Section 14 (a) (b) of the Customs Act, 1962, read with Valuation Rules, 1963 in cases where the buyer and the seller have interest in the business of each other or that the price is not the sole consideration for the sale. Before the value is determined for levy of customs duty in such cases, an enquiry/investigation is made by the Special Valuation Branch which operates in each major Customs House, into the nature of relationship, the extent to which the sale price has been vitiated by the special relationship, the price of the goods of like kind and quality imported by independent importers, if available, etc. After such enquiry/investigation, the decision is communicated by the said Branch to the assessing officer in</p>

the form of what is sometimes called an "investigation circular" or sometime "valuation circular" indicating the percentage of variation that should be added or the loading that should be added to the invoices. This loading is of the order of the difference between the price of the independent importer and the price of the firm. The extent of such loading of the invoice value calls for a detailed examination of the books of account of the importers and necessitates a review whenever there is a change in the pattern of their relationship with their principal and/or in the mode of invoicing. According to the instructions issued by the Central Board of Excise and Customs in 1970, such review is to be conducted once in four years and this periodicity is to be adhered to even if no special information is available to call for a review.

2 1.61 M/o Finance: (Deptt. of Revenue)

M/s. Ashok Leyland Ltd., Madras became a subsidiary of M/s. Leyland Motors Ltd. England, w.e.f. 1-4-1962 by virtue of the latter holding more than 50 per cent shares of the Indian company. The Indian firm had been appointed as sole agent for spare parts manufactured by M/s. Leyland Motors Ltd., Albion Motors Ltd. and Cape Asbestos Co. Ltd., U.K. The Madras Customs House issued an Investigation Circular on 5-9-1964 prescribing the loading factors in respect of values of spares imported by M/s. Ashok Leyland, Madras from their principals etc. in England.

According to this circular the invoice value of spare parts of commercial vehicles was to be loaded by 10 per cent on c.i.f. value in the case of Leyland and Comet spares and by 7.5 per cent of export value in case of Leyland Heavy duty spares. This circular, *inter alia*, also clarified that the pattern of imports was to change after sometime and that M/s Ashok Leyland Ltd. would become the sole importers of the agency products necessitating the review of the circular for determination of the assessable value. The pattern of imports by M/s. Ashok Leyland Ltd. changed on 20 October, 1965. The next circular, as a result of the review which commenced in 1971, was, however, issued only in December 1972 i.e. over a period of 8 years after the previous circular.

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The Committee regret to note that the inordinate delay in the issue of the circular has resulted in short levy to the tune of Rs. 5.3 lakhs for the period prior to the issue of circular in 1972. The demand for this amount has become time barred and the party has been asked to make voluntary payment. The Committee regret that the amount has been allowed to become time barred and the Department has been driven to the necessity of asking the party to make voluntary payment. The Committee would like that responsibility may be fixed for the delay in issue of circular which has led to loss of revenue.

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Besides the short-levy of Rs. 5.3 lakhs there was also an under-assessment of about Rs. 2.79 lakhs for the period from December, 1972 to September, 1973 after the issue of circular in 1972. Of this,

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a sum of Rs. 54,184 is reported to have been realised. The party moved the Madras High Court in certain matters concerning the Investigation Circular and the Department has filed a Writ Appeal against the decision of the High Court. The Committee would like to be informed of the decision.

1.64 M/o Finance
(Deptt. of Revenue)

The Committee are surprised to note that when the questionnaire for review of the investigation circular of 1964 was issued to the importers on 4 November 1969 no effort was made to pursue the matter vigorously. They also regret that when it was found that the party was delaying the reply to the questionnaire, no action was taken to resort to provisional assessment in which case the limitation could have been saved. Admitting the lapse, the Chairman, Central Board of Excise and Customs has stated during evidence: "I do not think there is any excuse.... This is not the only failure. There are one or two other failures." The Committee have been informed that the Directorate of Investigation as well as the Chief Vigilance officer of the Central Board of Excise & Customs have been asked to make enquiries into the matter and fix responsibility for the lapses. The Committee desire that the investigations could be completed on a priority basis and stern action taken against those found guilty of the lapse.

Each importer is required to give a declaration in respect of every single importation on the document which is called a Bill of Entry. Though the pattern of invoicing had been in this case w.e.f. 20 October 1965, the firm had been giving false declarations on every document that there had been no change. Even though according to existing procedure, the assessing officers who are dealing with repeated imports should be able to detect the change in the event of failure on the part of the party to fulfil this obligation, the change was not detected until the appraiser of the Special Valuation Branch noticed it at the time of scrutiny of the documents in the year 1972. The lapse in this case has given rise to apprehensions in the mind of the Committee about the adequacy of the procedure and instructions on the subject which do not appear to be fool-proof. The Committee suggest that the Board should review the procedure immediately and devise some methodology whereby all the loopholes can be plugged and the departmental officers can come to know of the change immediately in the event of the party failing to discharge their obligation.

The Committee understand that action under Sections 111 and 112 of the Customs Act has been initiated against the firm for giving false declaration in respect of the imports made by them. They would like to be apprised of the conclusive action taken against the party.

The Committee find that besides Ashok Leyland Ltd., the declarations of M/s Hegde and Golay, Bangalore. Standard Printing Mach-

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inery Co., Madras and O.E.N. India Ltd, Cochin were not checked within the prescribed period of four years as required under the instructions of the Board. The reasons for this omission have not been intimated to the Committee. The Committee would like the Department to investigate the precise reasons for this lapse. They would also like to know if there are other cases of similar nature and the action taken or proposed to be taken against the officers found guilty of the lapse and the firms responsible for contravening the provisions of the rules.

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M/o Finance
(Deptt. of Revenue)

The Committee regret to note that the Collector of Customs, Madras had declined to supply to Audit the file leading to the issue of Investigation Circular of 1972. The Finance Secretary has admitted during evidence that the Customs House misinterpreted the instructions given by the Board and they ought to have made this file available to the Audit. The Committee desire that suitable instructions should be issued by the Board to ensure that instances of the type as have occurred in this case do not recur.

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The Committee are perturbed to note that there was no uniformity until the year 1970 in the periodicity for the review of the Investigation Circulars in the various Custom Houses. It was only in compliance with the recommendations of the PAC contained in paragraph 1.72 of their 110th Report (Fourth Lok Sabha) that the Department had issued instructions in June and November 1970 for

such reviews to be started at the end of four years and completed well before the end of five years so that the period of limitation under the Customs Act could be taken care of. These instructions were meant to be applied uniformly everywhere in all the Customs Houses. Despite these instructions in force there was a long delay of 8 years in the Madras Customs House who reviewed their Circular of 1964 in respect of Ashok Leyland Ltd. only in the year 1972. Admitting the fact the Chairman, Central Board of Excise & Customs stated during evidence: "After these instructions were issued uniformity should have been there, but in this particular case, this lapse was there." The fact that the implementation of the instructions in letter and spirit is more important for the attainment of the desired objectives than the mere issuance of the instructions needs hardly any emphasis. The Department felt contented after issuing the instructions and do not appear to have kept any check or track on their implementation from time to time. The Committee strongly deprecate this laxity on the part of the Department and desire that a probe should be made immediately to locate the causes or this lapse and remedial steps, as are warranted, should be taken to ensure that there is no failure of the type as has occurred in this case. Action taken in this direction may be intimated to the Committee in due course.

The Committee find that the responsibility for the valuation of goods imported or exported is discharged by the Appraising Departments of the Customs Houses where Appraisers with requisite ex-

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perience and expertise for valuation and other aspects of assessments are posted. They have been informed that there are some accounts people in these departments but there is still need for strengthening the organisation with professional competence. The Committee would like the Board to take suitable steps to ensure that the Appraising Departments of all Customs Houses are manned with qualified and competent accountants so as to equip them with the requisite expertise.

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Ministry of Finance
(Deptt. of Revenue)

The Committee find that there are at present no arrangements for obtaining systematic information or intelligence in regard to the prices of different commodities in the various Customs Houses. In the absence of such facilities, the detection of cases of under-invoicing and over-invoicing become a distant reality and result in heavy losses to the National Exchequer. The Committee need hardly point out that both the Customs Study Team and the Study Team on Leakage of Foreign Exchange through Invoice Manipulation had observed that the existing machinery for collection of intelligence in respect of under-invoicing and over-invoicing and about the activities of specific exporters and importers from sources

in foreign countries needs to be strengthened. The Committee, therefore, desire that the system for collection of internal and external commercial intelligence should be improved and strengthened in the national interest so as to make them fool-proof and capable of curbing the loopholes existing at present for resort to under-invoicing and over-invoicing by unscrupulous traders.

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The Committee learn that M/s. Ashok Leyland is operating in India with 60 per cent foreign equity and the equity holding of the holding company, British Leyland Holdings, is at present of the order of 59 per cent in this company. Production of commercial vehicles is one of the items listed in Appendix I of the Industrial Licensing Policy of 1973 and the foreign companies which are operating in that field are entitled to retain foreign equity upto 74 per cent. Ashok Leyland is therefore not to reduce its foreign equity under Foreign Exchange Regulation Act. They have, however, been given an industrial licence for expansion of its activities from 5400 to 10,000 trucks and under Dilution Formula in force from 1972 onwards, they will be required to finance at least 25 per cent of their expansion by issue of fresh equity to Indian residents. The scheme seeking to dilute non-resident interest to 51 per cent on expansion is stated to have been submitted by the Company to the Government. The Committee would like the Government to pursue the matter vigorously so that the foreign equity of the company is reduced at the earliest.

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2.66 Ministry of Finance
(Deptt. of Revenue)

The Committee find that motor vehicles imported by foreign privileged persons and organisation are regulated for customs duty assessment under the Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957. Motor cars imported by foreign privileged persons are cleared without payment of duty on the basis of these rules read with the exemption notification No. 3-Cus. on 8 January, 1957. Such persons can sell the imported car normally after a period of three years from the date of import without payment of duty. The sale of such vehicles is allowed even before the completion of three years at the time of transfer or relinquishment of post in India in the case of privileged persons and for some special reasons in the case of privileged organisations. The cars have to be offered for sale in either case to the State Trading Corporation. The liability for the payment of duty to the Custom Houses is cast on the STC when the cars are purchased or acquired by STC.

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Where the State Trading Corporation declines such offers, the privileged persons or organisations are allowed to sell the vehicles to any other non-privileged persons. The privileged person or organisations are required to pay customs duty when they sell cars under proper permission of Government within three years to any non-privileged person.

The Committee are distressed to find that huge sums on account of Customs duty were pending realisation by the various Custom Houses from the State Trading Corporation of India on account of the sale of imported cars. A sum of Rs. 10.47 lakhs representing the Customs duty payable as on 31-3-1975 in respect of sales from 1970-71 onwards was lying unrealised from the STC by the Madras Custom House. Another sum of Rs. 8.33 lakhs was due to the Bombay Custom House from the STC for the period from 1971-72 to end of March, 1975. The STC also owed a customs duty of Rs. 6.61 lakhs to the Calcutta Custom House on similar account for the period from 1965-66 to 1976-77. The actual payment of these duty arrears by the STC to the Madras, Bombay and Calcutta Custom Houses started as late as September, 1976, January, 1977, and June, 1978 respectively. While the Calcutta Custom House has realised and entire duty arrears, the amount of duty still pending realisation by the Madras and Bombay Custom Houses from STC is respectively about Rs. 82,000 and Rs. 8.16 lakhs.

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The Member (Customs) conceded during evidence that "there have been certain cases where the delay occurred because the Custom House did not intimate in time to the STC the amount of duty leviable..." The Committee take a serious view of the slackness displayed by the various Custom Houses in realising duty amount from the STC. The primary reason for failure to realise the dues was that the Custom Houses did not maintain any control or demand registers to watch the realisation of the customs dues on such sales

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till the necessity there of was pointed out by the Audit in December, 1975. When the STC wrote to them to find out the amount of duty leviable in a particular case, they failed to intimate to the STC in time. This resulted in accumulation of huge arrears on account of the Customs duty spread over a long period (ranging from 4 to 12 years). The Committee deprecate this apathy on the part of the concerned Customs Houses which led to avoidable and inordinate delays in the realisation of Government dues. The Committee would urge the Department to probe into these huge accumulations with a view to find out as to how far these were due to procedural lacuna and/or lapse on the part of certain officials.

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2.70 Ministry of Finance
(Deptt. of Revenue)

The Committee are perturbed to note that it was only after the Audit had pointed out and the Committee had selected the Audit para for examination that suitable instructions were issued in August, 1978 for maintenance of control registers by the Customs Houses for recording the particulars of vehicles in respect of which permission for sale to the STC was received from the Ministry of External Affairs. The Committee do not see any plausible reason which prevented the Government from issuing such instructions earlier so as to obviate the heavy accumulation of such due arrears in the past. They would now like to be informed whether the revised instructions have been followed by the concerned departments. The latest position

regarding realisation of past arrears may also be intimated to the Committee.

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The Committee find that all the cars imported without payment of customs duty are acquired by the STC from the privileged persons or organisations for sale on 'as-is-where-is' basis. In the case of an accident vehicle, however, the purchase is rejected if the vehicle is found to be badly damaged and the selling party expresses its inability to offer the same to STC after putting the vehicle in normal working condition or if the price offered by STC for the vehicle in its damaged condition is declined by the selling party. The assessment of the damage is made by the mechanics either of the STC or of outside agencies. Though the vehicles are compulsorily insured under the Motor Vehicle Act, no verification is made to ascertain whether the owner had made any claim against the Insurance Company for the damage in accident. The Committee feel that in the absence of such verification the possibility of misrepresentation of damage in accident cannot be ruled out. They, therefore, recommend that such verification should be made invariably in each case of damaged cars.

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The Committee also understand that a proposal is under consideration in consultation with the Ministry of External Affairs to the effect that STC will not reject the purchase of such cars under any circumstances. The Committee would like to be apprised of the final decision in that regard.

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3.73 1911, Finance (Dept.
of Revenue)

The Committee note that cars which are imported without payment of duty by privileged persons are valued for assessment of duty at the time of sale after three years on the basis of the c.i.f. price as per the bills of entry. In other words, the amount of duty charged from STC is the same which the privileged person would have paid at the time of importation of the car but for the exemption granted from payment of duty. The price fetched by the cars at the time of sale is, however, much higher than the original price. In view of such appreciation in the price of the cars, the question whether the cars should be valued for assessment of duty with reference to their sale price is stated to be under consideration of the Government. The Committee understand that a tripartite meeting is to be convened between the Ministry of Law, Audit and the Department of Revenue to consider this matter. They would like to be apprised of the deliberations of that meeting and of the final decision arrived at.

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The Committee find that certain types of institutions are allowed to import cars without payment of customs duty on the condition that the vehicle will not be sold or otherwise disposed of without prior permission of the prescribed authority. Non-observance of this condition can render the car liable to confiscation and the importer liable to penalty under the Customs Act. Despite these prohibitory and penal provisions, the imported cars exempted from duty have been sold in an unauthorised manner in a number of cases as stated in

para 2.34. Depositing before the Committee in regard to prevention of such sales, the Member (Customs) stated during evidence: "Hundred per cent check is not possible." The Committee understand that transport departments of the State Governments are not furnished at present with the lists of the institutions who are granted exemptions from payment of duty on imported cars. They feel that if this is done the transport departments can be better equipped to exercise effective check on the unauthorised sale or transfer of imported vehicle. They, therefore, desire the Government to issue suitable instructions in order to ensure that lists of such institutions are furnished to the State Transport Departments invariably as and when exemption from payment of customs duty on import of car is granted to them.

The Committee are distressed to note of a fraud in a Foreign Post Office by which large quantities of *dutiable* and restricted goods of considerable value were being smuggled into the country. The *modus operandi* was to bring in illegally by post, expensive goods such as fountain pens, electronic watches, chemicals and drugs, calculating machines and precious stones from Dubai, Hongkong and Singapore, declaring them as spare parts of machinery and surgical instruments. The fraud was committed in February/March, 1974 but was detected only when the Directorate of Revenue Intelligence, Bombay gave information in April, 1974 in regard to the activities of a group of smugglers who were smuggling these goods into India in Air Mail Post parcels addressed to various fictitious firms and persons in

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Bombay. This is a sad reflection on the functioning of both the Customs and the Postal Departments in the Foreign Post Offices. There is if not collusion at least lacunae in the functions and procedures of the Customs and Postal Departments in the Foreign Post Offices and inadequate checks and supervision at various levels. The Committee are constrained to point out that but for this external alertness and vigilance, both these Departments would not have perhaps come to know of the *faud suomoto*. It also cannot be ruled out that many frauds of similar type might have gone unnoticed. The Committee desire Government to make an indepth study into the causes which permit the committal of such frauds and introduce in consultation with the Ministry of Law and other Ministries concerned such remedial measures as are called for to plug all possible loopholes in the rules and procedure in handling parcels in the foreign post offices both by postal and customs authorities so that the entire system becomes fool-proof. Action taken in this behalf should be intimated to the Committee in due course.

The Committee find that the internal audit in the Postal Appraising Section is entrusted with the work of ensuring correct assessment and total recovery of the duty levied on the various articles imported by post. Besides they are also required to convert the value of goods declared in foreign currency into Indian Rupees. They do not seem to be charged with the responsibility of either exercising

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M/o Finance (Deptt. of Revenue)

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any check on the records maintained by the Customs as well as Postal Departments in the Foreign Post Offices or on the detained, confiscated or abandoned goods. The Committee desire Government to examine whether the sphere of the internal audit could be suitably extended so as to arm them with the powers to exercise effective control on the records of Customs and Postal Departments as also on the goods stored in the Strong Room of Foreign Post Offices.

25 3.40 Do.

The Committee find that there is no provision in the Customs Manual whereby the Audit should be intimated when such fraud is committed in the Foreign Post Office. The Committee desire that Government should introduce a suitable provision in the Customs Manual, in this regard.

26 3.41 M/o Communications

The Committee find that provision exists in the General Financial Rules for the intimation of loss of goods to the Accountant General. The DG P&T has however informed that the loss in this case was not reported by them. The Committee would like to know the reasons for the violation of this requirement and for not fixation of responsibility against those responsible for this lapse.

27 3.42 M/o Finance (Deptt. of Revenue)

The Committee have been informed that the matter is still under investigation by the C.B.I. They would like Government to have the same expedited. The follow up action that may be taken by the Government on the report of the C.B.I. should be intimated to the Committee.

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28 3.43 M/o Finance (Deptt. of Revenue) The Committee have been informed that departmental proceedings have been initiated and charge sheets for imposition of major penalty have been issued against three postal clerks involved in the racket. The Committee would like to be apprised of the final action taken against the derelict officials by the Government.

29 3.44 Do. The Committee note that a parcel containing electronic calculators was detained and transferred to the Postal Strong Room of the Foreign Post Office, Madras on 13-3-1974. The detained parcel was, however, released on 15-3-1974 without collection of any duty and with a declaration in departmental documents that indicated that the contents were clothing. The release of the parcel is stated to have been effected with the connivance of a customs officer. The Committee would like to know the action taken or proposed to be taken against the derelict officer.

30 3.45 Do. The Committee have been informed that a demand for Rs. 10,125 has been raised against the party who has preferred an appeal to the Appellate Collector of Customs, Madras. The decision taken on the appeal and the ultimate position in regard to the recovery of the demand money may be intimated to the Committee.