

FIFTY-FIFTH REPORT
PUBLIC ACCOUNTS COMMITTEE
(1986-87)

(EIGHTH LOK SABHA)

**CUSTOMS RECEIPTS-SHORT LEVY DUE TO MISCLASSIFICATION-
WOOLLEN WASTE OR WOOL**

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)



सत्यमेव जयते

Presented in Lok Sabha on 13.8.1986

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LOK SABHA SECRETARIAT
NEW DELHI

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Corrigenda to 55th Report of the Public Accounts
Committee (8th Lok Sabha)

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8-10-1985

1- 8-1986

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

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(1986-87)

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INTRODUCTION

1. The Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Fifty-Fifth Report on Paragraph 1.22 of the Report of the Comptroller and Auditor General of India for the year 1983-84—Union Government (Civil)—Revenue Receipts Vol. I—Indirect Taxes, relating to Customs Receipts—Short levy due to misclassification—Woollen Waste or Wool.

2. The Report of the C&AG of India for the year 1983-84, Union Government (Civil) Revenue Receipts, Vol I—Indirect Taxes, was laid on the Table of the House on 10 May, 1985.

3. The report brings out *inter alia* the cases of sister concerns of M/s. Clawal Woollen Mills, Ludhiana importing woollen consignments only through Madras port since 1979 and even before despite wide difference (Rs. 30 per quintal) of railway freight rate between Madras to Ludhiana and Bombay to Ludhiana. The bonafides of imports through Madras were thus open to question. These firms attempted import of acrylic fibre in the guise of wool waste by adopting unscrupulous packaging techniques during this period. The Committee have observed that the authorities failed to exercise proper vigilance and care. The report also deals with a case of Deputy Chief Chemist having revised his earlier decision after discussions with the representative of the importer by agreeing to treat a sample as 'wool waste' which was earlier categorised as 'wool'. The Committee have expressed grave doubts on his revised decision without recording his reasons for revising his opinion. They have desired a thorough probe into the functioning of the Madras Customs during his tenure. The Committee have also desired that clear guidelines should be issued in regard to 'lengths' of yarn to distinguish between 'woollen waste' from 'raw wool'/'woolen fabrics' and to eliminate possibility of arriving at different interpretation to avoid duty.

4. The Public Accounts Committee 1985-86 examined the Audit Paragraph at their sitting held on 8 October, 1985.

5. The Committee considered and finalised this Report at their sitting held on 1 August, 1986, based on the evidence already taken and written information furnished by the Ministry of Finance (De-

partment of Revenue) and Commerce (Chief Controller of Imports) and Exports). The Minutes of the sittings form Part II* of the Report.

6. For reference, facility and convenience, the observations and recommendations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in a consolidated form in Appendix II to the Report.

7. The Committee place on record their appreciation of the commendable work done by the Public Accounts Committee (1985-86) in taking evidence and obtaining information for the Report.

8. The Committee would like to express their thanks to the officers of the Ministries of Finance (Department of Revenue) and Commerce (Chief Controller of Imports and Exports) for the cooperation extended by them in giving information to the Committee.

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

NEW DELHI;
August 11, 1986
Bhadra 20, 1908 (S).

E. AYYAPU REDDY,
Chairman,
Public Accounts Committee.

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REPORT

WOOLLEN WASTE OR WOOL

Audit Paragraph

As per notifications issued on 2 August, 1976 and 1 March, 1979 woollen waste was exempted from basic customs duty and the additional (countervailing) duty. Only auxiliary duty of Customs was leviable on woollen waste.

2. The Central Board of Excise and Customs had laid down in 1960 that the woollen waste should not consist of long lengths of yarn or rovings or slivers. What was meant by long length was not quantified.

3. Six consignments of wool waste were imported by two firms in October 1979. On test the goods were found to be multi-coloured mass of fibre and yarn with wool content ranging from 83 per cent to 99 per cent. It was classified as woollen waste. Another consignment of wool waste imported by one of the firms in November 1979 was not classified as wool waste, after test and inspection in the laboratory of the Custom House. But after taking into account the views of the appraiser and the price of the goods they were considered to be wool waste. Another consignment imported by the same firm was found, on test in the laboratory, to be slightly soiled wool and not wool waste at all. But on retest after testing a fresh sample it was classified as waste of wool but not woollen waste. But, duty, on the goods imported in November 1979 and after, was levied at the rates applicable to woollen waste.

4. Three more consignments of woollen waste imported by another firm in February 1981 through the same port were, on test, found not to satisfy the definition of wool waste. On adjudication it was held to be wool fibre misdeclared as wool waste and basic customs duty was levied at 40 per cent *ad valorem* and also auxiliary duty at 5 per cent *ad valorem* as applicable to raw wool. Penalty was also levied. This decision was based on the test report, which stated that the major portion of the sample did not satisfy the definition of wool waste.

5. On five more imports made during the months of October and November 1981 of same description, at same price and from same

foreign seller, by the same importer, as the above three consignments, duty was levied at rates applicable to woollen waste because the test reports declared the goods to be wool waste.

6. The inconsistencies in classification of goods similarly described and prices was pointed out in audit in February 1983.

7. The Custom House stated (March 1983) that the assessment of the three imports in February 1981 was based on test reports but assessment was being re-examined on the basis of orders passed by the Board on a revision petition. The price for wool waste was found acceptable for the purpose of assessment as raw wool, in view of its inferior quality.

8. However, the following inconsistencies were noticed in audit:—

- (i) In the six cases where the goods were assessed as woollen waste based on the Board's instructions of 1960, the test reports did not specify the length of the fibres.
- (ii) In none of the cases where the goods were assessed as wool waste was the description of the goods amplified in terms of description in Chapter 53 of the Customs Tariff covering wool.
- (iii) Goods identical in description and price, involving same seller and buyer were differently assessed and differing rates of customs duty were levied based on differing test reports.
- (iv) Though the Custom House found similarity of price in goods which were assessed as raw wool and as woollen waste, they had earlier on record that the price of greasy wool or raw wool was more than twice that of wool waste and that this was one of the factors which influenced their decision in treating the goods as wool waste.

9. The possible loss of duty by misclassification of wool other than woollen waste (stated to be contained in two of the six consignments) imported in October 1979 and in the five consignments imported in October and November 1981 would amount to Rs. 11.92 lakhs.

10. The objection was reported to Ministry of Finance (October 1984); their reply is awaited.

[Paragraph 1.22 of the Report of the Comptroller and Auditor General of India for the year 1983-84—Union Government (Civil) Revenue Receipts—Indirect Taxes relating to Customs Receipts].

11. Raw wool as it is obtained from Sheep/Lamb would be greasy wool and it would contain wool grease, suint, excretion and other extraneous matters. The wool as it is obtained is to be cleared first and then combing and carding operations are to be done. The waste obtained at this stage, which would be in the form of a fibre is known as 'soft waste'.

12. Subsequently, the clean wool are woven into yarn. The waste obtained at this stage is known as hard waste and hard waste would contain yarn in entangled condition not fit for weaving, or knitting, multicoloured heterogenous and short in length. In other words, the length of the yarn waste would be such that the same cannot be used either for weaving or knitting. In view of the above the expressions woollen waste, wool waste or waste of wool used by Government in their exemption notifications would refer to one or the other referred to above.

13. On import, wool and wool waste are assessable to following rates of duty:—

	Customs notification	Duty rate	Auxiliary Notification	duty rate	Counter vailing notification	duty rate
Wool		40%	102-Cus. 1-3-79	5%		Nil
Wool waste	240-Cus. dt. 2-8-76	Nil	102-Cus. 10-3-79	5%	149-Cus. 1-3-79	Nil"

14. Giving the details of the cases of import referred to in the Audit paragraph, Audit has stated that six consignments of goods described as wool waste were imported from United Kingdom by two up country importers viz. Oswal Woollen Mills Ludhiana, (five consignments) and Swastik Enterprises, Ludhiana, (one consignment) in October 1979 through Madras port. Test reports in respect

of these consignments indicated that the goods were multicoloured mass of fibre and yarn. It did not declare specifically whether the imported goods were wool waste and required the assessing officer to decide the classification in accordance with Board's letter F. 25/14/60-Cus. III dated 4-2-1960.

15. Two out of these six cases where the wool content was expressed as 60.8 per cent were however on retest found to contain 99 and 98 per cent wool respectively. In two other cases where wool content was not expressed/declared in the initial test report a test of the remnant sample disclosed the wool content to be 96 per cent. The test reports did not specifically indicate whether the imported goods were woollen waste but stated that the classification of the goods might be decided in the light of the guidelines contained in Board's instructions of 1960. The goods were treated as woollen waste an assessed free of basic customs duty and additional duty and subjected to auxiliary duty only at 5 per cent ad valorem.

16. Another consignment of goods described as wool waste imported in October 1979 by M/s OSWAL Woollen Mills, Ludhiana, was after test by the laboratory inspected by the Deputy Chief Chemist who stated that the sample consisted of freefibres of wool, agglomerated and untwisted and that he was not inclined to classify them as wool waste. As a question of interpretation of Board's instructions was involved, the Deputy Chief Chemist suggested that practice regarding classification at other ports might be ascertained. The appraising group of the Custom House went on record that goods were known as soft waste in the trade and these were imported primarily for spinning coarse counts for the manufacture of heavy fabrics. Taking into account the views of the appraising group, the price factor and after discussion with the representatives of importers the Deputy Chief Chemist agreed that the goods in question were soft wastes and that the sample should be considered as wool waste *vide* Custom House file S. Misc. 113/79. The goods thereupon were assessed to auxiliary duty at 5 per cent *ad valorem* applicable to wool waste.

17. The sixth consignment of goods described as wool waste which was also imported by M/s. Oswal Woollen Mills, Ludhiana in October 1979 was on test opined as slightly soiled wool and not as wool waste by the chemical Examiner. However, at the instance of Deputy Chief Chemist, a fresh representative sample was drawn

and on retest the sample was stated as agglomerated mass of fibres along with out lengths of rovings and small amount of dull white fibres. Based on the decision taken in the earlier case (S-Misc. 113/79) it was decided that the goods might be classified as soft waste of wool and the goods were assessed to duty as woollen waste accordingly.

18. Three more consignments of goods described as wool waste which were imported from United Kingdom were cleared in February 1981 by another up country firm M/s Punjab Processors, New Delhi. On test, the fibre portion was found to be composed of 99.7 per cent of wool. In the annexure to test report, it was stated that the major portion of the sample did not satisfy the definition of wool waste as given in the customs co-operation council Nomenclature. The case was adjudicated by Collector and it was decided that the subject goods were wool fibre misdeclared as wool waste. These were accordingly levied to customs duty at 40 per cent *ad valorem* plus auxiliary duty at 5 per cent as applicable to raw wool.

19. Five other consignments of wool waste identical as regards description, price, foreign seller with three cases mentioned above, were imported by M/s. Punjab Processors in October 1981 and November 1981. In all these cases, the wool content ranged from 84.8 per cent of wool and in the test report it was stated that they were wool waste. Goods were accordingly assessed as woollen waste.

20. The Committee wanted to know the reaction of the Government in regard to the points raised in the Audit Paragraph. In reply, the Secretary, Ministry of Finance (Department of Expenditure) stated during evidence:—

“There is a temptation to import genuine fibre or genuine wool as wool waste because of the difference in import duties. The duty at that time, in 1981, was 45 per cent on wool and five per cent on waste. So, that is conceded. This particular case deals with six consignments of 1979, two consignments of November 1979, three consignments of February, 1981, and five consignments of October 1981. Three types of doubts have been cast on the handling of these consignments at the hands of the Customs. First, it has been suggested that in one particular case, that is, three consignments of February, 1981, the finding of the

Collector was that it was raw wool and not wool waste. If this was not wool waste, then there is a suspicion that the other consignments were also not of wool waste. The second type of doubt which has been cast is about the price. It has been suggested that the price of the consignments which were judged to be of wool waste was also 100. If this was raw wool, then there is every reason to believe that the other thing also would have been raw wool. Now I will come to the facts. In this case of February 1981, as you know, there was an appeal to the Board. There was an examination by the Chief Chemist and the Chief Chemist finally gave the opinion that this was a wool waste, though of the soft variety. Finally, this case has also been judged as wool waste.

The second point to be noted is that there was a difference in the finding of the Chemical Examiner at the Collectorate stage with respect to these three cases—different from that in the case of other ones.”

21. The Committee wanted to know the procedure followed for testing of textile samples and in particular the samples of raw wool, woollen waste, wool waste and woollen fabrics. In a written note the Ministry of Finance (Department of Revenue) have furnished the following information:

“The sample is visually examined to see the state of fibres in respect of its dimension, physical state, presence of any extraneous matter, colour (i.e. dyed or undyed) and the form in which the fibres are present (i.e. tow, silver, roving, yarn/filament, whether entangled or otherwise, etc.)

2. The sample is examined under the micro-scope if it consists of uniform type of fibre or other textile fibre as well. The type of fibre present i.e. wool, cotton, synthetic, etc. etc. are vetted and their presence is further established by dissolving in their respective solvent/solvent mixture.

Before determination of composition, the representative sample is taken on the basis of weighted average in case the sample is in the form of heterogeneous mixture of fibre/yarn. The composite sample is designed, even dried and

weighed and it is treated with different solvents according to the presence of different fibre under specified conditions.

In case of wool and woollen waste, etc., the sample after desizing is treated with 2 per cent KOH solution where the entire wool fibres got dissolved. The residue left is washed and even dried and weighed and the weight of woollen fibres dissolved is determined. The residue left is subjected to further treatment simultaneously with different solvents according to the fibre present. Then the weight of fibres is determined and their percentage is calculated after applying the solubility factor and regain as specified for respective fibres.

For distinguishing between woollen waste and raw wool/woollen fabrics, the guidelines given in Board's instructions in CBR No. 25/14/60-Cus- III dated 4-2-1960, as amended, are followed. As per these guidelines, wool waste may consist of free fibres, clippings and cuttings etc. They should not consist of long length of yarns or of rovings or slivers. The wool content expressed as a percentage of the total fibre content should not be less than 80 per cent."

22. The Committee wanted to know how the woollen samples were tested by the chemist. In reply the Chief Chemist, C.R.C.L. stated in evidence:—

"The chemist finds out whether it is a woollen waste or good wool fibre. In woollen waste, there is entangled mass of different fibres or yarns. As soon as the sample come in, the chemist finds out the physical condition of the material. Then we find out the actual percentage of each constituent of the mass. They may be a mixture of synthetic and vegetable fibres and yarns along with the wool. In case of wool or woollen waste, we have clear instructions that the wool content should not be less than 80 per cent. Later on it is reduced to 60 per cent. It should not contain less than 60 per cent wool and the fibre would be of different colour."

23. Asked when was this percentage reduced, the witness informed that it was reduced to 60 per cent in 1977.

24. Asked if the function of the chemist was only to analyse the sample and leave the rest to the authorities, the witness explained:

"The function of the chemical examiner is to give the composition and whatever data is required and the assessment is the duty of the Administrative Office on the basis of our report."

25. Enquired if only the composition of wool and wool waste was given, the witness stated:

"I give constituents of every fibre, whatever is present there and give the full data: and now it is for the assessing authority to decide whether it will go as a wool or waste."

26. Asked in regard to the percentage of synthetics and other material, the witness informed:

"That depends upon the declaration, it can be 60:40. 60 per cent wool and 40 per cent terylene fibre. This wool waste is used for rough cloth material."

27. The Committee wanted to know whether the terylene fibre could be used for terywool production, the Secretary of the Ministry of Finance (Department of Revenue) stated in evidence:

"Terywool has a different procedure."

28. Asked in regard to the characteristics that are to be determined and indicated in the test reports of woollen waste *vis-a-vis* raw wool, the Ministry of Finance (Department of Revenue) have stated in a written note as under:

"In analysing samples of woollen waste, the definition of woollen waste given in the Board's order is kept as the basis.

The determination will be made as in the case of regular fabrics and yarns, on the decreased and desized material and the accepted moisture content for wool will be allowed. The other 20 per cent may consist of any other fibres, natural and synthetic. (CBE No. 25/14/60-Cus. III dated 4-2-1960 as amended).

As stated above, first the nature of the sample is noted, whether it is heterogeneous mixture, or whether it contains long length yarns, clippings, slivers, etc. Then the percentage of wool is determined by solubility test.

Raw wool is nothing but greasy wool as obtained from the animals. It would contain wool grease, suint, excretions and other impurities. Before making it fit for combing and carding operations, same are to be sorted and cleaned."

29. Asked if the source of material was indicated in the test report in respect of wool waste, the Ministry of Finance (Department of Revenue) have replied to the negative.

30. Enquired about the rationale for the issue of instructions in 1960, the Ministry of Finance (Department of Revenue) have stated in a written note as under:

"Raw wool as it is obtained would be greasy wool and it would contain wool grease, suint, excretion and other extraneous matters. The wool as it is obtained is to be cleared first and then combing and carding operations are done. The waste obtained at this stage, which would be in the form of fibre is known as soft waste. Subsequently, the clean wool are woven into yarn. At this stage, the waste obtained is known as hard waste and hard waste would contain yarn in entangled condition not fit for weaving or knitting, multi-coloured, heterogenous and mostly in short lengths. In other words, the length of the yarn waste would be such that the same cannot be used either for weaving or knitting.

As the entire process is done in one factory, the waste collected are taken as sweepings and as such the woollen waste can consist of both hard and soft waste. However, in respect of the cases, where the sweepings are collected only from combing or carding stage, they may contain only soft waste.

All woollen wastes were classified under Item 49(4) in the First Schedule to the Indian Customs Tariff Act, 1934.

In view of different types of waste, classifiable under Item 49(4) ICT, the Board clarified the issue by executive instructions and the ruling was issued in 1960."

31. Enquired as to why the long length of yarn/fabrics mentioned in the instructions was not quantified specifically so as to avoid

ambiguity in interpretation, the Ministry of Finance have stated as under in a written note:

"In the Executive instructions, the relevant words are 'they should not consist of long lengths of yarn or of rovings or slivers'. The intention of mentioning "should not consist of long length of yarn" means that the yarn should not be fit for weaving or knitting. As such in the light of the instructions given, it was felt that it is not necessary to quantify the length, as length of the yarn content in the waste may vary in different types of waste, it was left to the Assessing Officers' judgment".

32. Clarifying in this connection, the Secretary, Ministry of Finance (Department of Revenue) stated during evidence:

"The BTN classification is more exhaustive and clear. The point is that it should not be of a long length. If you take a wool thread, it will be a whole bobbin length. In pieces like this which are of entangled mass, though it is unhappily worded, it is necessary to specify that it should be 6" or 7" long or not more than 100" and so on".

33. Since it was not possible to specify the length, the Committee wanted to know the purpose for the mention of 'long length' in the instructions. The Member (Customs) stated in evidence:

"It should not be capable of being used directly either for weaving or knitting."

34. The Committee desired to know as to why this definition was not specified since it was not possible to mention the length of waste wool. In a written note, the Ministry of Finance (Department of Revenue) have stated as under:

"The instructions of 1960 lay down guidelines for determining what would constitute woollen waste. These guidelines defined the nature of the article rather than use. However, the question of issuing guidelines for the purpose of classification of wool waste is being looked into. The matter is under consideration of the Board and decision in this respect will be taken as soon as possible."

35. The Committee desired to know the standards applied for determination of wool waste and wool in different Custom Houses and whether there was uniformity of practice everywhere. In reply

the Additional Secretary, Ministry of Finance (Department of Revenue) stated during evidence:

"We have ascertained from Bombay and Calcutta. They are going by BTN taking into account the guideline of 1960."

36. Enquired if any guidelines on the subject were issued recently, the Secretary, Ministry of Finance (Department of Revenue) replied during evidence:

"We will be issuing them very shortly."

37. The Committee desired to know the instructions governing the testing and retesting of samples of wool by the Customs House Laboratory. In a written note the Ministry of Finance (Department of Revenue) have furnished the following information:

"As regards the instructions given governing the testing of samples, representative samples are drawn by the Appraising Department and sent to the laboratory with a test memo indicating the test to be performed. On receipt of the Test Memo with the samples, the samples are tested and the test memo is forwarded to the Appraising Department with the Test Report indicating the nature of the goods to enable the Appraising Department to classify the goods.

Whenever the concerned importer is not in agreement with the test report given by the local laboratory, he can apply for re-testing of samples on depositing the prescribed fee. The re-testing is done by the Chief Chemist, C.R.C.L. on the remnant sample or on a fresh sample if the consignments are still under customs custody. Re-testing of samples can also be done if the Department is not in agreement with the original test.

"The above instructions are equally applicable for testing/re-testing samples of wool."

38. Asked the level at which the test reports were certified by the laboratory, the Ministry of Finance (Department of Revenue) stated in a written note:

"The test reports are certified by the Chemical Examiner. If the party is aggrieved, or if the Appraising Department

seeks a clarification or a second opinion, the matter is referred to the Deputy Chief Chemist."

39. Enquired about the action taken in the event of difference of opinion between the Customs House Laboratory and the assessing officer over the analysis and composition of the sample tested by the laboratory, the Ministry of Finance (Department of Revenue) have informed as under in a written note:

"The samples are sent to the Chief Chemist, Central Revenue Control Laboratory, New Delhi for his opinion."

40. Asked about the circumstances under which samples are sent to the C.R.C.L., New Delhi for testing, the Ministry of Finance (Department of Revenue) have stated as under in a written note:

"When in any particular case, the Custom House wants the opinion of the Chief Chemist or when the Importer disputes the findings of the local laboratory, the matter is referred to the Chief Chemist. The samples are also sent to the Chief Chemist, when the local laboratory is not able to give a categorical opinion to arrive at the classification."

41. Enquired as to why were the samples in the cases referred to in the Audit paragraph not sent to the Central Revenue Control Laboratory at the initial stage when there was difference of opinion between the Chemical Examiner, the Deputy Chief Chemist and assessing Officer, the Ministry of Finance (Department of Revenue) have in a written note informed as under:

"The Test Reports are signed by the Chemical Examiner and if the Assessing Officer has any doubt regarding the same, the report is referred to the Deputy Chief Chemist for his opinion. It is up to the Deputy Chief Chemist to either re-test the sample or give his opinion without re-testing the same on the basis of the report already given by the Chemical Examiner. Only in respect of the cases where the Deputy Chief Chemist is unable to give any opinion or if the Appraising Departments do not agree with his opinion, the issue is referred to the Chief Chemist for his opinion.

In this particular case, since the Custom House Laboratory gave a categorical opinion, the matter was not referred to the Chief Chemist, CRCL."

42. The Committee desired to know why the suggestion of Deputy Chief Chemist given in respect of the sample covered by import of the consignment in No. 1979 to ascertain the practice at other points disregarded. The Ministry of Finance (Department of Revenue) have in a written note stated as under:

"The Deputy Chief Chemist had initially suggested ascertaining the practice at other ports. However, subsequently the matter was re-examined by the Deputy Chief Chemist in the light of technical books and the discussion held by him with the concerned Assistant Collector of Customs and Textile Expert. Accordingly the Dy. Chief Chemist had come to the conclusion that the sample may be considered as wool waste. Hence, no reference was made to other ports."

43. The Committee wanted to know the circumstances in which the Dy. Chief Chemist could refuse to re-test the samples once the samples were tested by him and test reports sent. In a written note the Ministry of Finance (Department of Revenue) have informed as under:

"When the Deputy Chief Chemist is satisfied of the report issued by the Laboratory or the stand taken by the laboratory regarding composition, he may refuse to re-test the sample."

44. The Committee desired to know whether there were any guidelines for taking out samples of the consignments. In reply the Secretary, Ministry of Finance (Department of Revenue) stated during evidence:

"Yes, there are guidelines in the form of surface sampling, deep sampling etc."

45. Enquired if there was any violation in taking out samples in the cases referred to in the Audit paragraph, the witness stated:

"There is no hint or suggestion that there was any hanky panky in taking samples."

46. The Committee wanted to know the procedure for taking out samples from different packings and whether these were taken out

properly in the cases referred to in the Audit Paragraph. In reply the Ministry of Finance (Department of Revenue) have stated in a written note as under:

"Instructions on the subject provide that samples drawn for examination/test should be representative of the goods imported. There is nothing on record to indicate that the samples of the consignments under audit objection were not representative of the consignment."

47. Asked if the prescribed procedure to take out samples not only from the outer periphery of the package but also from various portions of each consignment including the core portion in the package was not followed in these cases and the samples were drawn either from the outer periphery of the package or from only one point of each package accounting for differences in the test reporting at various levels, the Ministry of Finance (Department of Revenue) have intimated as under in a written note:

"It is not known whether samples were drawn from other periphery or from one point only. In the circumstances, at this point of time, the view expressed in this para cannot be confirmed or denied."

48. The Committee wanted to know whether a correct sample was taken only after suspicion was raised. In reply, the Chairman, C.B.E.C. stated during evidence:

"That is a speculation."

49. Asked whether the sample taken out from the outer core of the consignment was different from the one in the inner core, the witness stated:

"But there must be something which suggest that this hypothesis should require full exercise. I said that in 1961 similar situation was there and then it was discovered. The details in this case suggest that this kind of malpractices took place. Unless we face such cases how can we know?"

50. Asked as to why imports were made only from Madras, the witness replied:

"As far as Oswal is concerned, there is reason why they were importing from Madras. Oswal has a unit of edible

oil in Madras. They have an office and they have a clearing agent also. They have the necessary infrastructure."

51. Asked the period, since when these companies had been making imports from Madras, the witness replied:

"This has been reported in 1979 and 1980. We have checked up our records, it was certainly much before 1979."

52. The Committee desired to know whether any investigations were made to find out if there was a collusion in the Customs Department at Madras. In reply, the witness stated during evidence:

"I do not find anything against the determinations made either in the three cases of February 1981 or the Collector's findings. There was a complaint that sufficient opportunity is not given to the accused regarding the chemical reports which led to a complete examination by the higher authorities. We have the Chief Chemist. He reconciled the issue. While the first lot was graded as such that it is wool waste, but not of the type of wool waste suspected."

53. The Committee wanted to know the price of wool waste containing 100 per cent wool, 80—90 per cent wool and greasy wool during the years 1979, 1980 and 1981. In reply, the Ministry of Finance (Department of Revenue) have furnished the following information in a written note:

"During the period 1979-80, as wool waste containing 100 per cent wool were not noticed, no price is available.

From the price list available, there is no appreciable difference in the price of these commodities during the years 1979—81. The prices of wool waste containing 80 to 99 per cent wool are as follows:

Wool waste containing both fibres & yarn Rs. 8 to 10 per kg.

Wool waste containing only waste fibre Rs. 16 to 18 per kg.

Greasy wool of yield content 60 to 70% Rs. 30 to 34 per kg.

54. Asked as to why the rate of import duty on wool waste was low when its price was less, the witness stated:

"The rationale is the blankets made from wool waste go to the army and the hospitals and their price should be lower."

55. Asked if the entire project was *ad hoc* rather than being based on scientific lines, the witness replied:

"There is no doubt about it."

56. The Committee wanted to know the details of the freight on shipment from London to Bombay and London to Madras Ports as also of freight from Madras to Ludhiana and Bombay to Ludhiana. In a written note, the Ministry of Finance (Department of Revenue) have furnished the following information:

"The freight rates from London to Bombay and from London to Madras are almost the same, around US \$1475 per full container load. The freight rate by road from Bombay to Ludhiana is around by Rs. 65 per quintal and that from Madras to Ludhiana is around Rs. 95 per quintal."

57. The Committee pointed out that higher freight was involved for imports from London through Madras Port. They, therefore, wanted to know whether was it not unusual for the importer to incur extra expenditure. The Ministry of Finance (Deptt. of Revenue) have in a written note informed as under:—

"Under the Import Policy, the importer has an option to import goods at any port of his choice and unless there is a cause for suspicion, the question of enquiring into the port of import selected by him would not arise. In the present case, the importer has a representative at Madras and as there was no cause for suspicion, the import through Madras port was not questioned."

58. The Committee wanted to know whether the contracts entered into between the importers and foreign suppliers were looked into and if so what were the specifications prescribed for woollen waste covered by each consignment. In a written note, the Ministry of Finance (Deptt. of Revenue) have informed as under:—

"The 16 consignments referred to in the Audit Para were cleared during the period 1979-81. From the notings into Bs/E, it is not possible to ascertain at this stage as to whether the Assessing Officer examined the contracts entered into between the importers and the foreign suppliers at the time of assessment."

59. The Committee wanted to know whether the goods imported and declared as wool waste in 1982 were found later to be acrylic

fibre. In reply the Secretary, Ministry of Finance (Department of Revenue) stated during evidence:—

“In 1982 the same parties, that is Punjab Processor etc. were found by the same Madras Customs House to be offering goods as wool waste which was later on proved to be acrylic fibre. The deception was discovered in 1982. The modus operandi discovered was that the hard care inside the container was acrylic waste while it was covered and surrounded by wool waste. Thereafter they were black-listed. At the end of 1982, the Ludhiana parties, the Oswal Company and Punjab Processors, stopped importation of wool waste or whatever they were importing from Madras Port.”

60. Enquired about the action taken in these cases, the witness stated during evidence:—

“About the 1982 cases in Madras they are under investigation. Adjudication has been completed in 16 cases. They have appealed in some of the cases in the High Court and some other cases are in the Tribunal.”

61. Subsequently, in a written note the Ministry of Finance (Department of Revenue) have furnished the following further details:—

“During the period October, 1981 to March 1982, M/s. Punjab Processors Pvt. Ltd. and M/s. Ghandharv Trading Co. P. Ltd. New Delhi who were both reported to be sister concerns of M/s. Oswal Woollen Mills Ltd., New Delhi had filed 16 Bills of Entry for clearance of goods declared as wool waste. As per the practice then existing, 7 of the bills were assessed accepting the declaration with open order given in the duplicate bills of entry for drawal of samples for test. It was also ordered that 50 per cent of the consignments were to be released pending receipt of test results. 2 of the bills were presented for examination at Docks on 23-1-82 after importers had paid the duty as wool waste. At that time of examination it was found that the goods were packed in such a way that they contained synthetic material in the core covered by a padding of wool waste. Based on this, the Asstt. Collector (Docks) detained the goods for detailed examination to

be carried out in the presence of the importers and the clearing agents. This was done on 10-2-1982 and it came to light that the bales were packed with loose layers of wool waste with press packed synthetic fibres material inside. Samples were drawn by the department both from the outer padding and the inner core. The Laboratory test confirmed that the core of the bales which consisted of 80 per cent of the weight of the consignments was acrylic fibre while the outer padding was wool waste.

The importers attempted to manipulate clearance of Acrylic fibre in the guise of wool waste. The Madras Custom House also alerted the Collectors of Customs, Bombay and Calcutta and the D.R.I. and ordered the search of the premises of the offices of M/s. Oswal Woollen Mills and related concerns at Delhi and Ludhiana, Bombay and Calcutta.

The Collectors of Customs, Calcutta and Bombay reported that no incriminating documents were found connected with the import of wool waste from these premises.

The D.R.I. recovered certain documents in its search conducted at Delhi and Ludhiana and forwarded them to Madras Custom House and on scrutiny they also did not yield anything incriminating with reference to the importation of wool waste.

In view of this, the Custom House, Madras launched adjudication proceedings in the normal course and issued show cause notices in respect of 2 consignments which were originally produced and 14 other consignments which were subsequently produced for examination. In all these cases redemption fine of 10 per cent of CIF value and personal penalty totalling Rs. 1,50,000/- were imposed.

The importers however filed Writ Petitions in the Madras High Court against the order of the Collector of Customs confiscating the goods and levying fine and penalty. The importers' contention is that the goods found in the bales were only synthetic waste and not synthetic fibre as contended by the department. According to them the price of synthetic waste is only half that of synthetic fibre and wool waste and accordingly they should get a remission of

50 per cent of the invoice value and disputed the Central Excise classification of the Custom House under Item 18(1) of Central Excise Tariff. They also produced in this regard a letter from the suppliers which stated that they were ready to remit 50 per cent of the value of these goods. The importers have also contended that the goods which were discovered by the department to be synthetic fibre was not ordered by them and have been wrongly despatched by the supplier. The department has however filed its counter contending that the goods are only synthetic fibre concealed under a padding of wool waste and the whole theory of wrong shipment is an after thought, which cannot be taken seriously. The Court has completed the hearing but has reserved the judgement. Once the judgement is pronounced, the department would also take up the issue of prosecution of the importers."

62. The Committee desired to know the percentage of acrylic fibre and waste wool found in the bales and the difference in the Customs duty in the import of these two items. The Ministry of Finance (Department of Revenue) have furnished the following information in a written note:—

"As per the test results, the following is the percentage of acrylic fibre and wool contained in the consignments:—

S. I.M. No. No.	Line No.	Text Memo No.	Percentage of non-wool fibre (mainly acrylic)	Percentage of Wool
1	2	3	4	5
<i>Punjab processors limited</i>				
1	819/81	13	<u>S33/135/82 I</u> Lab. No. 6170	86.4 13.6
2	819/81	12	<u>S33/133/82 I</u> Lab. No. 6904	96.3 3.7
3	892/81	33	<u>S33/130/82 I</u> Lab. No. 6901	88.4 11.6

1	2	3	4	5	6
4	813/81	14	<u>S33/134/82 I</u> Lab. No. 6909	93.2	6.8
5	884/81	40	<u>S33/551/82 I</u> Lab. No. 356	90.2	9.8
6	884/81	38	<u>S33/548/82 I</u> Lab. No. 350	95.5	4.5
7	884/81	39	<u>S33/550/82 I</u> Lab. No. 353	69.8	30.2
8	884/81	36	<u>S33/549/82 I</u> Lab. No. 359	99.0	9.1
9	745/81	255	<u>S33/132/82 I</u> Lab. No. 6171	80.9	19.1

Gandharv Trading & Investment Corporation Private Limited

1	813/81	11	<u>S33/133/82 I</u> Lab No. 6975	97	3
2	892/81 ¹	32	<u>S33/159/82 I</u> Lab No. 6974	95.6	3.4
3	884/81	37	<u>S33/552/82 I</u> Lab No. 153 B	92.2	7.8
4	103/82	5	<u>S33/599/82 I</u> Lab No. 309	79.1	20.9
5	106/82	28	<u>S33/602/82 I</u> Lab No. 319	92.8	7.2
6	166/82	29	<u>S33/600/82 I</u> Lab N. 318	65.0	35.0
7	166/82	30	<u>S33/601/82 I</u> Lab No. 320	89.8	10.2

Rates of duty : Woolen Waste—53.01/05
 Notification 240/76
 Nil+5% Aux. +Nil CVD.
 Acrylic Fibre—56.01/04
 100% +25%Rs. 30/- Kg. CVD."

63. Asked in regard to the action taken against each firm involved in these imports, the Ministry of Finance (Department of Revenue) have informed as under in a written note:—

The details of goods adjudicated and fine/penalty imposed are given below:—

I.G.M. No.	L. No.	No. of bales	Value in Rs.	*RF AND PP@ in Rs.		
(1)	(2)	(3)	(4)	(5)		
<i>M/s. Punjab Processors Ltd.</i>						
745/81	255	151	8,27,297	82,730	}	
892/81	33	102	6,43,081	64,508		3000
884/81	36	89	6,21,165	62,117		
884/81	39	72	3,89,844	38,984		
884/81	38	85	6,24,249	62,405	}	
884/81	40	71	3,90,959	39,096		75000
813/81	14	64	3,48,874	34,887		
813/81	12	127	7,42,304	74,230		
892/81	33	102	7,04,033	70,403		
<i>M/s. Gandharv Trading and Investment Co. Ltd.</i>						
166/82	28	71	5,13,474	51,347	}	
166/82	29	34	2,44,264	24,426		}
166/82	30	72	4,76,265	47,267		
884/81	37	12	94,642	9,464		
103/82	5	75	6,04,238	60,423	}	
813/81	11	34	2,61,745	26,174		
892/81	32	18	1,45,479	14,547		

*RF—Redemption fine

@PP—Personal Penalty

64. The Committee wanted to know whether Customs Houses examine correspondence between the importer and exporter to find out the nature of the material imported and whether it was done in the cases detected by the Department. In reply, the Secretary, Ministry of Finance (Department of Revenue) stated during evidence:

“When there is an action taken against a firm, then we will certainly look into all correspondence... We will have to look into the file.”

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

“Soon after the detection of the fact that the importers attempted to clear acrylic fibre in the guise of wool waste, the connected premises at Bombay, Ludhiana and Calcutta were searched for incriminating documents. As a result of the search certain documents were seized under Mahazar from their Ludhiana Office by DRI which *inter alia* contained the correspondence between the importers and exporters. The entire documents were examined in detail and these did not contain any incriminating evidence. However, certain documents indicating the nature of the materials contained in the imported bales were recovered from an executive of the importers. These documents were relied upon in the adjudication proceedings.”

66. Enquired about the difference in the rate of import duty on wool waste and acrylic fibre, the witness replied that there was lot of difference as acrylic fibre was very costly.

67. The Committee wanted to know whether because of the big difference in duty, the import of acrylic fibre in the guise of wool waste were made through Madras Port. In reply the witness stated:

“This type of imports have not only taken place from Madras but also from Bombay and Delhi where the consignments have been confiscated. If duty at 10% instead of 140 per cent is to be paid, then imports can be made from any port.”

68. Asked about the action taken against those conniving in the matter, the witness stated:—

“Action has been taken where connivance was there. Action has been taken in the earlier case.”

69. The Committee pointed out that if something imported is costlier but is declared to be inferior then it will amount to over-invoicing and more payment in foreign exchange. They wanted to know how the payment in excess of the declared one was made in the cases detected by the Department. In reply, the Secretary, Ministry of Finance (Department of Revenue) stated during evidence:

“That will require investigation..... There would be some arrangement for making payment.”

70. Asked about the result of the investigation, the *Ministry of Finance* (Department of Revenue) have in a written note stated as under:—

“It has been seen from the Invoice-value register maintained in the Custom House that the price of Acrylic Fibre in the international market was around US\$ 1.25 per Kg. This on the basis of the exchange rate then in existence worked out to Rs. 10.07. The price of Wool Waste noticed at the relevant time was 70 pence per Kg. (U.K) or Rs. 12.20 per Kg. The question of possible violation of exchange control regulations is being investigated.”

71. The Committee referred to the news item appearing in the Times of India of 13 August, 1985 and wanted to know the details of the cases in which the racket of importing synthetic fibres and wastes by misdeclaring it as woollen waste was unearthed by the Directorate of Revenue Intelligence. In a written note, the Ministry of Finance (Department of Revenue) have furnished the following information:—

“Pursuant to an intelligence received by the Directorate of Revenue Intelligence, 31 consignments declared as wool waste/shoddy wool imported by different parties in July, 1985 at the port of Bombay were examined. Two of these consignments imported by M/s. Deepak Woollen (P) Ltd. Devas and M/s. Oriental Carpet Manufacturers India Limited, Amritsar were found to be wool waste as declared and were subsequently released. 27 consignments have been found not to tally with the description given by the importers. Particulars are furnished in the Annexure (Appendix I). In respect of the remaining two consignments, samples are being re-tested by Bombay Custom House. Adjudication proceedings have already been initiated in respect of the aforesaid 27 consignments.”

72. The Committee find that Oswal Woollen Mills, Ludhiana and Swastik Enterprises, Ludhiana had imported 6 consignments of goods, described as wool waste, in October 1979 through Madras port. The test reports in respect of these consignments indicated that the goods were multi-coloured mass of fibre and yarn but did not declare specifically whether the same were wool waste. Two out of these six cases where the wool content was expressed as 60.8% were however, on retest found to contain 99% and 98% wool respectively. In two other cases where wool content was not expressed/declared in the initial test report, a test of the remnant sample disclosed the wool content to be 96%. The test reports did not specifically indicate whether the imported goods were woollen waste but stated that the classification of goods might be decided in the light of the guidelines contained in Board's instructions of 1960. The goods were treated as woollen waste and subjected to auxiliary duty at 5% ad valorem. Another consignment of goods described as wool waste imported in October 1979 by M/s. Oswal Woollen Mills, Ludhiana was subjected to Laboratory test by the Deputy Chief Chemist who reported that the sample consisted of free fibres of wool, agglomerated and untwisted. He, however, did not categorise it as wool waste. He suggested that the practice regarding classification at other ports might be ascertained, which was not done. On the other hand later the Deputy Chief Chemist, after taking into account the views of the appraising group, the price factor and after discussions with the representatives of importers, agreed that the goods in question were soft waste and that the samples should be considered as wool waste. The Sixth consignment of goods described as wool waste which was also imported by M/s. Oswal Woollen Mills, Ludhiana in October 1979 was on test opined as slightly soiled wool and not as wool waste by the Chemical Examiner. However, at the instance of Deputy Chief Chemist, a fresh representative sample was drawn and on retest the sample was stated as agglomerated mass of fibres alongwith out lengths of rovings and small amount of dull white fibres. It was, therefore, decided to classify the goods as soft waste of wool and to assess it to duty as woollen waste.

73. Three more consignments of goods described as wool waste which were imported in February 1981 by M/s. Punjab Processors, New Delhi were, on test, found to be composed of 99.7% of wool which did not satisfy the definition of wool waste. The case was adjudicated by Collector and it was decided that the goods may be treated as wool fibre and subjected to customs duty at 40% ad

valorem plus auxiliary duty at 5% as applicable to raw wool. The importers, however, filed a revision application to the Board and on their instructions the goods were examined by the Chief Chemist. On the report of Chief Chemist it was finally decided to classify it as wool waste. Five other consignments of wool waste identical as regards description, price, foreign seller with the aforesaid 3 cases of February 1981 were imported by M/s. Punjab Processors in October and November 1981. In all these cases the wool content ranged from 84.8% of wool and these were treated as wool waste for the purpose of duty assessment.

74. The Committee were informed that the raw wool obtained from sheep/lamb contains wool grease, suint, excretion and other extraneous matters. The raw wool is cleaned first and then combing and carding operations are done. The waste obtained at this stage which is in the form of a fibre is known as soft waste. Subsequently the clean wool is woven into yarn. The waste obtained at this stage is known as hard waste and hard waste contains yarn in entangled condition not fit for weaving or knitting, multicoloured heterogeneous and short in length.

75. The aforesaid type of waste on import is referred to as woollen waste, wool waste or waste of wool by the Government for the purpose of levy of customs duty. While customs duty @40% and auxiliary duty @5% are levied on wool, on customs duty except auxiliary duty @5% is levied on woollen waste, wool waste or waste of wool on imports. According to the criteria laid down by the Central Board of Excise & Customs and enunciated in their instructions issued in the year 1960, the material imported will be assessed as woollen waste at the concessional rate only when it consists of free fibres, clippings, cuttings etc. and not long lengths of yarn or rovings and slivers. The wool content expressed as a percentage of the total fibre content should not be less than 60%.

76. The Committee find that the various companies stationed at Ludhiana were importing woollen consignments only through Madras port, not only from the year 1979 onwards but much before that also. The freight rates from London to Bombay and London to Madras are almost the same around US \$1475 per full container load, but there is a wide difference in the Railway freight rates between Madras to Ludhiana and Bombay to Ludhiana which are around Rs. 95/- and Rs. 65/- per quintal respectively. Even though the import policy permits the importers to make imports through any port in India and certain companies are reported to be having

infrastructure facilities for clearance at Madras port, the reasons for incurring additional expenditure to the tune of about Rs. 30 per quintal on imports from Madras are not comprehensible to the Committee. The cases of imports made by the sister concerns of M/s. Oswal Woollen Mills through Madras port during the period October 1981 to March 1982 wherein they had attempted to manipulate clearance of acrylic fibre in the guise of wool waste confirms the apprehension of the Committee that imports made earlier also in the name of wool waste were not without ulterior motivations. The fact of consistent imports by the parties of Ludhiana from Madras port by incurring avoidable extra expenditure on freight should have created a doubt justifying further enquiries by Customs authorities and made them to put the consignments to thorough test as was done in the case of imports made during the period October 1981 to March 1982 when the parties were found to have packed the goods in such a way that they contained synthetic material in the core covered by a padding of wool waste. The intentions of making imports through Madras port only would have then not remained a matter of speculation; the real intentions were to import wool as wool waste and avoid paying the higher rate of duty. The Committee cannot help recording their displeasure at the laxity on the part of the Customs authorities in not exercising the degree of vigilance and care expected of them in the discharge of their duties.

77. The Committee find that the Deputy Chief Chemist who initially suggested that the practice regarding classification at other ports might be ascertained, discussed the case with the appraiser and the representatives of the importers and revised his opinion by agreeing to consider the sample as wool waste. His earlier suggestion to ascertain the practice of classification at the other ports was not acted upon. That the sample which was initially found on test as raw wool was treated as wool waste subsequently by the Dy. Chief Chemist simply on the basis of his discussion with the importers and the appraiser cannot but arouse grave doubts as to the correctness of the classification. In the opinion of the Committee the Dy. Chief Chemist had no justification for reversing his opinion based on the test report of the laboratory. In the event of any doubt arising in his mind after discussion with importers and the appraiser he should have referred the matter to the Chief Chemist. The Committee would like the Ministry to state categorically whether the action of the Dy. Chief Chemist in revising his opinion in this manner without recording his reasons for so doing was justified. The

Committee recommend that functioning of the Madras Customs House during the period when these transactions took place should be thoroughly examined with a view to fix responsibility for various acts of omission and commission committed by the officers during this period and disciplinary action taken against them.

They would also like to be informed whether as suggested by the Dy. Chief Chemist efforts were made to ascertain the practice at other ports, and if so what were the practice prevailing at other ports.

78. The Committee find that at present there appears to be no system whereby the data about classification of goods described identically at different ports is available at each port and at the Central Board. The establishment of such a data bank at every port would clearly be of great value. It would certainly act as a check on malpractice besides ensuring uniformity of practice. The Committee would like to be informed of the action taken by Government on this suggestion.

79. The Committee note that definite contracts are executed between the importers and exporters and the details in regard to the specifications of the goods, price and period etc. are contained therein. In regard to the 16 consignments of import referred to by the Audit, the Ministry of Finance (Deptt. of Revenue) have expressed their inability to ascertain from the Bills of Entry whether the contracts entered into between the importers and the foreign suppliers were examined by the assessing officer at the time of importation. The Committee feel that such contracts should invariably be examined by the assessing officer at the time of classification of goods on the Bills of Entry filed by the importers for the clearance of the goods to ensure that the goods imported tally with the specifications detailed therein and this fact should be recorded in the Bills of Entry. This will eliminate the chances of import of goods other than those contracted for. The Committee, recommend that suitable instructions in this regard may be issued as early as possible.

80. The Committee find that the Central Board of Excise and Customs issued instructions on 4 February 1960 laying down the guidelines for distinguishing woolen waste from raw wool/woollen fabrics. These guidelines for determination of wool waste provide that it should consist of fibres, clippings and cuttings etc. but not long length of yarns or of rovings or slivers and that the percentage of wool content in the total fibre should not be less than 60 per cent. The words 'long length' have, however, not been clarified anywhere to specify the limit upto which the length of the fibres can be allowed as 'waste' and the limit beyond which it should be treated as

wool. The Secretary, Ministry of Finance (Deptt. of Revenue) contended during evidence that it was not possible to quantify the length as the yarn content in the waste can vary in different types of waste and clarified that the intention of mention of 'long length' in the instructions was to signify that it should not be capable of being used directly either for weaving or knitting. The Committee are unable to accept this explanation for Governments inability to indicate the precise meaning to be attached to the expression "long length". The Committee desires that further efforts be made by Government so as to eliminate different interpretations to be placed on long length'. The Secretary, Ministry of Finance (Department of Revenue) had in fact promised during evidence before the Committee in October 1985 to issue the necessary guidelines. The Committee regret to find that no such guidelines have been issued so far.

81. The Committee find that according to the prescribed procedure for taking out samples from different packings the samples are required to be drawn not only from the outer periphery of the package but also from various portions of each consignment including the core portion in each package so as to be truly representative samples of the goods imported.

Having regard to different results obtained on testing and re-testing of the samples the Committee inquired if the samples in respect of the consignments imported in the years 1979 and 1981 had been drawn according to the prescribed procedure, the Ministry of Finance (Deptt. of Revenue) replied that "it is not known whether samples were drawn from outer periphery or from one point only". The Committee was astonished at this reply. When a procedure has been specifically prescribed, it is but assumed that it is scrupulously followed. The indefiniteness of the reply can only mean that the correct procedure for drawal of samples was not followed. The Committee suggest that when representative samples are sent by the Appraising Deptt. to the laboratory, the method of drawal of the sample should invariably be recorded on the test memo.

82. The Committee recommend that hereinafter the test reports on the samples of wool should specify the nature of the waste and the products from which the wastes have arisen so as to enable the Assessing Officers to classify the wool waste correctly.

83. The Committee find that M/s Punjab Processors Ltd. and M/s.Ghandhary Trading Co. (P) Ltd., New Delhi, sister concerns of M/s. Oswal Woollen Mills Ltd. had filed 16 Bills of Entry for clear-

ance of goods from Madras port declared as wool waste during the period October 1981 to March 1982. The examination of the goods revealed that the goods were packed in such a way that they contained synthetic material in the core covered by a padding of wool waste. The goods were detained and subsequent detailed examination in the presence of the importers and the clearing agents revealed that the bales were packed with loose layers of wool waste with press packed synthetic fibre material inside. The laboratory test of the samples drawn both from the outer padding and the inner core confirmed the weight of 80 per cent acrylic fibre in the core and 20 per cent of wool waste in the outer padding. The adjudication proceedings were launched against the importer and redemption fine of 10 per cent of the CIF value and personal penalty totalling Rs. 1,50,000 were imposed. The importers filed writ petitions in the Madras High Court against the order of the Collector of Customs, judgement on which has been reserved by the Court after completing the hearing. The Committee would like to be apprised of the order of the Court and the action taken thereafter by the Government.

84. The Committee observe that there is a wide difference between the rates of duties on import of wool and wool waste which are 45 per cent and 5 per cent respectively. The Secretary, Ministry of Finance (Deptt. of Revenue) admitted during evidence that "there is a temptation to import genuine fibres or genuine wool as wool waste because of the difference in import duties". He also admitted that this duty structure is ad hoc and is not based on any scientific analysis. The Committee, therefore recommend that the Government should take great care in specifying accurately the description of the item liable for customs duty so that the importer does not get a chance to substituting other items of a similar description under the guise of the item which is subject to the lowest customs duty. The Committee, therefore, recommend that the Government should explore the possibility of restructuring the duties in such a way that the temptation to evade higher duty is reduced to a minimum if not eliminated altogether.

NEW DELHI;

August 11, 1986

Sravana 20, 1908 (S).

E. AYYAPU REDDY,

Chairman,

Public Accounts Committee.

Note: The Committee note with satisfaction that in the last Budget of 1986-87, Government have increased the rates of customs duty on wool waste to 20 per cent ad valorem.

APPENDIX I

Details of imports declared as wool waste/shoddy wool at the port of Bombay in July, 1985

Sl. No.	Importer's Name	Declared			Ascertained			Duty sought to be evaded
		Description	Qty in Kgs.	C.I.F. Value in Ru.	Description	Qty. in Kgs.	C.I.F. Value in Ru.	
1		3	4	5	6	7	8	9
1	M/s. Novamod Trading Co. (P) Ltd, Reham Bhavan, 7th Floor Veer Nariman Road, Bombay-20.	Wool Waste	25000	3,20,431.73	(1) Wool waste (2) Synthetic soft waste	7012 18192	89,874.69 2,18,304.00	
2	M/s. Suraj Bhan & Sons, Jain Street, Panipat, Pin 132103.	Wool Waste	10000	1,24,799.73	Synthetic hard waste	25204 10053	3,08,178.69 1,00,530.00	11,18,960.68 4,71,327.57
3	M/s. Wool & Fibre Traders, A-15, Kirti Nagar, New Delhi 110015, 163A, Hastal Road, Uttam Nagar, N. Delhi, 59.	Wool Waste	10999	1,58,302.55	(1) Wool waste (2) Synthetic soft waste	5463 6566	78,625.85 78,720.00	
4	M/s. Sri Girmar Woollen Mills, 9, Industrial Area, Panipat-132104.	Wool Waste	11000	1,69,150.85	(1) Wool waste (2) Synthetic soft waste	4033.50 7037.00	62,024.54 84,444.00	4,05,331.29
5	M/s. Sharma Wool Agencies 169-A, Hastal Road, Uttam Nagar, N. Delhi-59.	Wool Waste	8399	1,08,178.40	(1) Wool waste (2) Synthetic soft waste	11070.50 3012.00 5320.00	1,46,468.54 38,793.49 63,640.00	4,32,374.97 3,28,933.51

6	M/s. Swastika Woollen Mills, G.T. Road, Panipat. j	Wool Waste	12000	2,43,865.41	(1) Wool waste (2) Synthetic soft waste j	1959.00 - 10056.00	39,811.11 1,20,672.00	6,13,090.19
7	M/s. Puranchandra & Co. T. Road, Panipat	Wool Waste	26000	3,59,555.14	(1) Wool waste (2) Synthetic Hard waste	804.00 2,5359.00	11,118.64 2,53,590.00	11,55,550.19
8	M/s. Ocean Woollen Textiles 17, Shastri Market, Amritsar, 143,001.	Wool Waste	20000	2,69,837.25	(1) Wool waste (2) Synthetic soft waste	5442.00 14453.00	73,422.72 1,73,076.00	8,89,378.77
9	M/s. Ram Handloom Industries, Near Hanuman Mandir, Jain St., Panipat.	Wool Waste	10866	1,63,995.37	(1) Wool waste (2) Synthetic Hard waste	901.00 9997.00	13,523.74 99,970.00	4,06,136.26
10	M/s. Suraj Woollen Mills, Industrial Area, Panipat (Haryana)	Wool Waste	11800	1,79,104.47	(1) Wool waste (2) Synthetic soft waste	5,931.00 5,774.00	90,326.33 69,888.00	3,54,886.89
11	M/s. Dhani Parkash & Co. 697, Model Town, Panipat, (Haryana)	Wool Waste	22500	3,14,350.67	(1) Wool waste (2) Synthetic soft waste	11,725.00	1,59,614.33	10,85,281.38
12	M/s. B.L.T. International L-10, Gopal Towers 23, Raj- endra Palace, New Delhi-6.	Wool Waste	20000	2,24,302.21	(1) Wool waste (2) Synthetic soft waste	5054.00 17,598.00	70,744.92 2,11,176.00	9,77,531.86
						22,652.00	2,81,920.92	
						4,242.70	47,582.01	
						15,796.00	1,89,535.60	
						10,038.70	2,37,137.61	

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13	M/s. Sriyambh Woollen Mills, Pvt. Ltd. B-XXI-1610, G.T. Road, Ludhiana-141003.	47870	56,62,008.76	(1) Wool waste (2) Synthetic soft waste	12,319.50	1,70,368.32		
14	M/s. Ambar Woollen Mills, Sadar bazar, Amrit Market, Delhi-110006.	19932	2,72,281.90	(1) Shoddy Wool (2) Synthetic waste	3734.920	51,020.00		21,70,758.05
15	Do.	15801	2,39,893.03	(1) Shoddy Wool (2) Synthetic soft waste	7822.980	1,18,739.89		9,84,959.11
16	Do.	19892	5,71,734.88	(1) Shoddy Wool (2) Synthetic waste	12561.070	1,50,732.84		7,79,318.00
17	M/s Coronation Spinning India B-44, Greater Kailash New Delhi-110048	22994	6,28,219.58	(1) Scoured Wool (2) Polyester Fibre	20984.090	2,69,472.73		4,87,460.67
18	M/s Swastika Woollen Industries (P) Ltd., G-395, New Friends Colony, New Delhi-110065	22652	6,74,754.96	(1) Scoured Wool (2) Polyester Fibre	6489.965	88,301.06		16,22,609.55
					8029.290	96,851.48		
					14,493.255	1,84,652.54		
					4,927.00	1,34,610.67		
					17,955.00	6,99,709.08		16,45,220.11
					122,882.00	8,34,819.75		
					5369.000	1,57,552.23		
					17627.00	6,93,599.37		

19	M/s. Eastend Knitwears Rai Bahadur Road, Ludhiana.	Wool Waste	19000	2,30,710.85	1) Wool Waste 2) Synthetic soft waste	4239.5 14,346.5 <hr/> 18,586.0	51,478.88 1,72,158.00 <hr/> 2,23,636.88	8,85,944.04
20	Do.	Wool Waste	19000	2,30,710.85	1) Wool Waste 2) Synthetic Soft Waste	3578.00 14,974.00 <hr/> 18,552.000	43,446.50 1,79,682.00 <hr/> 2,23,134.50	9,24,674.79
21	M/s. Vijayanand Industries Deep Nagar, Ludhiana.	Wool Waste	19000	2,30,710.85	1) Wool waste 2) synthetic soft waste	3965.00 14628.00 <hr/> 18593.00	48,145.71 1,75,536.00 <hr/> 2,23,681.71	9,03,346.10
22	Do.]	Wool Waste	19000	12,30,710.85	1) Wool waste 2) Synthetic soft waste	4014.00 14733.00 <hr/> 18747.00	48,740.70 1,76,796.00 <hr/> 2,25,536.70	9,10,022.30
23	M/s. Wooltex Associates, 71/77, Champa Gali, 3rd Floor, Basm-bay-400002.	Wool Waste	8914	1,15,756.47	1) Wool waste 2) Synthetic soft waste	2682.200 6187.950 <hr/> 1,09,086.16	34,830.76 74,255.40 <hr/> 1,22,300.00	3,81,761.89 5,76,478.55
24	M/s. Dhani Parkash & Co. 637 Model Towan Panipat - 132103 (Haryana)	Wool Waste	12500	1,21,215.95	1) Synthetic Hard Waste	12230	1,22,300.00	3,81,761.89 5,76,478.55
25	M/s. Shanti Sons Near Bali Woolen Mills, Batala Road, Amritsar	Wool Waste	10009	1,51,980.06	1) Wool waste 2) Synthetic soft waste	2896.00 6588.00 <hr/> 1,23,012.49	43,956.49 79,056.00 <hr/> 1,23,012.49	4,04,245.72

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26	M/s. Woolex International 21 Panchsheel, off Vira Desai Road, Aasheri (WEST) Bom- bay-38	Wool Waste	9939	1,30,857.57	1) Wool waste 2) Synthetic Soft waste	2099.00 8981.00	31,859.34 1,00,572.00	5,14,756.77
							1,32,431.34	
27	M/s. Jagota Woolen Mills (P) Ltd. Kailash Cinema Road, Ludhiana	Wool Waste	22289	1,50,360.06	1) Wool waste 2) Synthetic soft waste	6854.00 15409.00	46,236.61 1,84,908.00	9,50,461.46
							2,31,144.61	

APPENDIX II

Statement of Observations and Recommendations

Sl. No.	Para No.	Ministry concerned	Observations/Recommendations
1	2	3	4
1	72-76	Finance (Department of Revenue)	<p>The Committee find that Oswal Woollen Mills, Ludhiana and Swastik Enterprises, Ludhiana had imported 6 consignments of goods, described as wool waste, in October 1979 through Madras port. The test reports in respect of these consignments indicated that the goods were multi-coloured mass of fibre and yarn but did not declare specifically whether the same were wool waste. Two out of these six cases where the wool content was expressed as 60.8 per cent were, however, on retest found to contain 99 per cent and 98 per cent wool respectively. In two other cases where wool content was not expressed/declared in the initial test report, a test of the remnant sample disclosed the wool content to be 96 per cent. The test reports did not specifically indicate whether the imported goods were woollen waste but stated that the classification of goods might be decided in the light of the guidelines contained in Board's instructions of 1960. The goods were treated as woollen waste and subjected to auxiliary duty at 5 per cent <i>ad valorem</i>. Another consignment of goods described as wool waste imported in October 1979, by M/s. Oswal Woollen Mills, Ludhiana was subjected to laboratory test by the Deputy Chief Chemist who reported that the sample</p>

consisted of free fibres of wool, agglomerated and untwisted. He, however, did not categorise it as wool waste. He suggested that the practice regarding classification at other ports might be ascertained, which was not done. On the other hand later the Deputy Chief Chemist, after taking into account the views of the appraisers group, the price factor and after discussions with the representatives of importers, agreed that the goods in question were soft waste and that the samples should be considered as wool waste. The Sixth consignment of goods described as wool waste which was also imported by M/s. Osal Woollen Mills, Ludhiana in October 1979 was on test opined as slightly soiled wool and not as wool waste by the Chemical Examiner. However, at the instance of Deputy Chief Chemist, a fresh representative sample was drawn and on retest the sample was stated as agglomerated mass of fibres alongwith out lengths of rovings and small amount of dull white fibres. It was, therefore, decided to classify the goods as soft waste of wool and to assess it to duty as woollen waste.

Three more consignments of goods described as wool waste which were imported in February 1981 by M/s. Punjab Processors, New Delhi were, on test, found to be composed of 99.7 per cent of wool which did not satisfy the definition of wool waste. The case was adjudicated by Collector and it was decided that the goods may be treated as wool fibre and subjected to customs duty at 40 per cent *ad valorem* plus auxiliary duty at 5 per cent as applicable to

raw wool. The importers, however, filed a revision application to the Board and on their instructions the goods were examined by the Chief Chemist. On the report of Chief Chemist it was finally decided to classify it as wool waste. Five other consignments of wool waste identical as regards description, price, foreign seller with the aforesaid 3 cases of February 1981 were imported by M/s. Punjab Processors in October and November 1981. In all these cases the wool content ranged from 84.8 per cent of wool and these were treated as wool waste for the purpose of duty assessment.

The Committee were informed that the raw wool obtained from sheep/lamb contains wool grease, suint, excretion and other extraneous matters. The raw wool is cleaned first and then combing and carding operations are done. The waste obtained at this stage which is in the form of a fibre is known as soft waste. Subsequently the clean wool is woven into yarn. The waste obtained at this stage is known as hard waste and hard waste contains yarn in entangled condition not fit for weaving or knitting, multicoloured heterogeneous and short in length.

The aforesaid type of waste on import is referred to as woollen waste, wool waste or waste of wool by the Government for the purpose of levy of customs duty. While customs duty @40 per cent and auxiliary duty @5 per cent are levied on wool, no customs duty except auxiliary duty @5 per cent is levied on woollen waste, wool waste or waste of wool on imports. According to the criteria laid down by the Central Board of Excise & Customs and enunciated in their instructions issued in the year 1960, the material imported will

be assessed as woollen waste at the concessional rate only when it consists of free fibres, clippings, cuttings etc. and not long lengths of yarn or rovings and slivers. The wool content expressed as a percentage of the total fibre content should not be less than 60 per cent.

The Committee find that the various companies stationed at Ludhiana were importing woollen consignments only through Madras port, not only from the year 1979 onwards but much before that also. The freight rates from London to Bombay and London to Madras are almost the same around US \$ 1475 per full container load, but there is a wide difference in the Railway freight rates between Madras to Ludhiana and Bombay to Ludhiana which are around Rs. 95 and Rs. 65 per quintal respectively. Even though the import policy permits the importers to make imports through any port in India and certain companies are reported to be having infrastructure facilities for clearance at Madras port, the reasons for incurring additional expenditure to the tune of about Rs. 30 per quintal on imports from Madras are not comprehensible to the Committee. The cases of imports made by the sister concerns of M/s. Oswal Woollen Mills through Madras port during the period October 1981 to March 1982 wherein they had attempted to manipulate clearance of acrylic fibre in the guise of wool waste, confirms the apprehension of the Committee that imports made earlier also in

the name of wool waste were not without ulterior motivations. The fact of consistent imports by the parties of Ludhiana from Madras port by incurring avoidable extra expenditure on freight should have created a doubt justifying further enquiries by Customs authorities and made them to put the consignments to thorough test as was done in the case of imports made during the period October 1981 to March 1982 when the parties were found to have packed the goods in such a way that they contained synthetic material in the core covered by a padding of wool waste. The intentions of making imports through Madras port only would have then not remained a matter of speculation; the real intentions were to import wool as wool waste and avoid paying the higher rate of duty. The Committee cannot help recording their displeasure at the laxity on the part of the Customs authorities in not exercising the degree of vigilance and care expected of them in the discharge of their duties.

The Committee find that the Deputy Chief Chemist who initially suggested that the practice regarding classification at other ports might be ascertained, discussed the case with the appraiser and the representatives of the importers and revised his opinion by agreeing to consider the sample as wool waste. His earlier suggestion to ascertain the practice of classification at the other ports was not acted upon. That the sample which was initially found on test as raw wool was treated as wool waste subsequently by the Dy. Chief Chemist simply on the basis of his discussion with the importers and the appraiser cannot but arouse grave doubts as to the correctness of the classification. In the opinion of the Committee the Dy.

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Chief Chemist had no justification for reversing his opinion based on the test report of the laboratory. In the event of any doubt arising in his mind after discussion with importers and the appraiser he should have referred the matter to the Chief Chemist. The Committee would like the Ministry to state categorically whether the action of the Dy. Chief Chemist in revising his opinion in this manner without recording his reasons for so doing was justified. The Committee recommend that functioning of the Madras Customs House during the period when these transactions took place should be thoroughly examined with a view to fix responsibility for various acts of omission and commission committed by the officers during this period and disciplinary action taken against them.

They would also like to be informed whether as suggested by the Dy. Chief Chemist efforts were made to ascertain the practice at other ports, and if so what were the practice prevailing at other ports.

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The Committee find that at present there appears to be no system whereby the data about classification of goods described identically at different ports is available at each port and at the Central Board. The establishment of such a data bank at every port would clearly be of great value. It would certainly act as a check on malpractice besides ensuring uniformity of practice. The Committee would like

to be informed of the action taken by Government on this suggestion.

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The Committee note that definite contracts are executed between the importers and exporters and the details in regard to the specifications of the goods, price and period etc. are contained therein. In regard to the 16 consignments of import referred to by the Audit, the Ministry of Finance (Deptt. of Revenue) have expressed their inability to ascertain from the Bills of Entry whether the contracts entered into between the importers and the foreign suppliers were examined by the assessing officer at the time of importation. The Committee feel that such contracts should invariably be examined by the assessing officer at the time of classification of goods on the Bills of Entry field by the importers for the clearance of the goods to ensure that the goods imported tally with the specifications detailed therein and this fact should be recorded in the Bills of Entry. This will eliminate the chances of import of goods other than those contracted for. The Committee, recommend that suitable instructions in this regard may be issued as early as possible.

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The Committee find that the Central Board of Excise and Customs issued instructions on 4 February 1960 laying down the guidelines for distinguishing woollen waste from raw wool/woollen fabrics. These guidelines for determination of wool waste provide that it should consist of fibres, clippings and cuttings etc. but not long length of yarns or of rovings or slivers and that the percentage of wool content in the total fibre should not be less than 60 per cent.

The words 'long length' have, however, not been clarified anywhere to specify the limit upto which the length of the fibres can be allowed as 'waste' and the limit beyond which it should be treated as wool. The Secretary, Ministry of Finance (Deptt. of Revenue) contended during evidence that it was not possible to quantify the length as the yarn content in the waste can vary in different types of waste and clarified that the intention of mention of 'long length' in the instructions was to signify that it should not be capable of being used directly either for weaving or knitting. The Committee are unable to accept this explanation for Governments inability to indicate the precise meaning to be attached to the expression "long length". The Committee desires that further efforts be made by Government so as to eliminate different interpretations to be placed on 'long length'. The Secretary, Ministry of Finance (Department of Revenue) had in fact promised during evidence before the Committee in October 1985 to issue the necessary guidelines. The Committee regret to find that no such guidelines have been issued so far.

The Committee find that according to the prescribed procedure for taking out samples from different packings the samples are required to be drawn not only from the outer periphery of the package but also from various portions of each consignment including the core portion in each package so as to be truly representative samples of

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the goods imported. Having regard to different results obtained on testing and retesting of the samples the Committee inquired if the samples in respect of the consignments imported in the years 1979 and 1981 had been drawn according to the prescribed procedure, the Ministry of Finance (Deptt. of Revenue) replied that "it is not known whether samples were drawn from outer periphery or from one point only". The Committee was astonished at this reply. When a procedure has been specifically prescribed, it is but assumed that it is scrupulously followed. The indefiniteness of the reply can only mean that the correct procedure for drawal of samples was not followed. The Committee suggest that when representative samples are sent by the Appraising Deptt. to the laboratory, the method of drawal of the sample should invariably be recorded on the test memo.

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The Committee recommend that hereinafter the test reports on the samples of wool should specify the nature of the waste and the products from which the wastes have arisen so as to enable the Assessing Officers to classify the wool waste correctly.

The Committee find that M/s Punjab Processors Ltd. and M/s Ghandhary Trading Co. (P) Ltd., New Delhi, sister concerns of M/s Oswal Woollen Mills Ltd. had filed 16 Bills of Entry for clearance of goods from Madras port declared as wool waste during the period October 1981 to March 1982. The examination of the goods revealed that the goods were packed in such a way that they contained synthetic material in the core covered by a padding

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of wool waste. The goods were detained and subsequent detailed examination in the presence of the importers and the clearing agents revealed that the bales were paked with loose layers of wool waste with press packed synthetic fibre material inside. The laboratory test of the samples drawn both from the outer padding and the inner core confirmed the weight of 80 per cent acrylic fibre in the core and 20 per cent of wool waste in the outer padding. The adjudication proceedings were launched against the importer and redemption fine of 10 per cent of the CIF value and personal penalty totalling Rs. 1,50,000 were imposed. The importers filed writ petitions in the Madras High Court against the order of the Collector of Customs, judgement on which has been reserved by the Court after completing the hearing. The Committee would like to be apprised of the order of the Court and the action taken thereafter by the Government.

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The Committee observe that there is a wide difference between the rates of duties on import of wool and wool waste which are 45 per cent and 5 per cent respectively. The Secretary, Ministry of Finance (Deptt. of Revenue) admitted during evidence that "there is a temptation to import genuine fibres or genuine wool as wool waste because of the difference in import duties". He also admitted that this duty structure is *ad hoc* and is not based on any scientific analysis. The Committee, therefor recommend that the Government should take great care in specifying accurately the description

of the item liable for customs duty so that the importer does not get a chance to substituting other items of a similar description under the guise of the item which is subject to the lowest customs duty. The Committee, therefore, recommend that the Government should explore the possibility of restructuring the duties in such a way that the temptation to evade higher duty is reduced to a minimum if not eliminated altogether.
