

CUSTOMS RECEIPTS—NON-VERIFICATION OF END-USE

**MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)**

**PUBLIC ACCOUNTS
COMMITTEE
1991-92**

TENTH LOK SABHA



**LOK SABHA SECRETARIAT
NEW DELHI**

FIFTH REPORT PUBLIC ACCOUNTS COMMITTEE (1991-92)

(TENTH LOK SABHA)

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**MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)**



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PART II*

Minutes of the sittings of Public Accounts Committee held on
10.12.1990 (AN)
15.11.1990 (AN)

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

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(1991-92)

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INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Fifth Report on paragraph 2.71 of the Report of the Comptroller & Auditor General of India for the year ended 31 March 1989, No. 5 of 1990 (Revenue Receipts—Indirect Taxes—Union Government) relating to Custom Receipts—Non-verification of end use.

2. The Report of the Comptroller & Auditor General of India for the year ended 31 March 1989, No. 5 of 1990, Union Government (Revenue Receipts—Indirect Taxes) was laid on the Table of the House on 15 May 1990.

3. The Audit paragraph has highlighted two cases of exemption notifications allowing concessional rates of import duty under Section 25 of Customs Act, 1962 involving non-verification of end use and absence of a clear-cut monitoring mechanism by the Customs authorities after allowing the clearance of goods imported at concessional rates for specified purposes. In fact, the administration of the provisions of Section 25 of the Customs Act which enables the Ministry of Finance to grant exemption without prior approval of Parliament under delegated legislation has constantly engaged the attention of PAC for more than 20 years.

4. In this Report the Committee have pointed out that despite the repeated concern expressed by the Committee the administration of the grant of exemptions under the Customs Act continues to suffer from serious shortcomings. It has come to notice that the field officers of the customs department presently monitor the end use exemptions and according to the Ministry of Finance it is the responsibility of the administrative ministry to see whether or not the objectives behind issue of a given notification have been obtained. The Committee have noted with regret that the Ministry of Finance have not so far evolved any effective monitoring mechanism for watching the fulfilment of objectives behind the grant of exemption despite recommendation to this effect made by the Committee on several occasions in the past. The Committee have, therefore, reiterated their earlier recommendation that a monitoring system should be evolved to review periodically how far the objectives behind the grant of exemptions have been achieved and there was no misuse of the concessions.

The Committee have noted that all notifications issued under sub-section 1 of Section 25 of the Customs Act granting exemption from custom duties in general are laid before Parliament but it is not obligatory on the part of Govt. to lay copies of exemption orders issued under sub-section 2 of Section 25 of the Act *ibid* before Parliament granting *ad hoc* exemptions. The Committee strongly feel that in the interest of financial accountability of the Govt. to Parliament this is highly imperative and therefore, have

recommended suitable amendments to be brought out in the statute so as to make the laying of *ad hoc* exemption orders on the table of the House mandatory as practised in the case of notifications issued under Section 25(1).

6. In pursuance of the earlier recommendations of the Committee in their 195th Report (7th Lok Sabha 1983-84) the Ministry of Finance had been indicating the major exemptions issued during the year alongwith the total number of exemptions and revenue foregone thereon under Section 25(2) in their annual reports for the years 1986-87 and 1988-89. This information however, was not incorporated in the annual reports for the years 1988-89 and 1989-90. Taking serious note of this lapse, the Committee have desired that this should not recur and in future the Ministry of Finance should incorporate a separate Section in their annual reports on exemptions granted under customs and central excise laws and the information so incorporated should indicate the total number of exemption notifications in force during the year, the number of notifications under various descriptions/chapters in the tariff and the estimated revenue foregone on account of the notifications.

7. The Committee (1990-91) examined the above paragraph at their sitting held on 10.12.1990. The Committee (1991-92) considered and finalised this report at their sitting held on 15.11.1991. Minutes of the sittings form Part II* of the Report.

8. For facility of reference 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 of the Report.

9. The Committee place on record their appreciation of the commendable work done by the Public Accounts Committee (1990-91) in taking evidence and obtaining information for the report.

10. The Committee would like to express their thanks to the officers of the Ministry of Finance (Department of Revenue) for the cooperation extended by them in giving information and tendering evidence before Committee.

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

New Delhi;
December, 1991

Agrahayana, 1913(S)

ATAL BIHARI VAJPAYEE,
Chairman
Public Accounts Committee

*Not printed. (One cyclostyled copy laid on the table of the House and 5 copies placed in Parliamentary library).

CUSTOMS RECEIPTS—NON-VERIFICATION OF END-USE

Audit Paragraph

1.1 This Report is based on paragraph 2.71 of the Report of the Comptroller and Auditor General of India for the year ended 31st March 1989 (No. 5 of 1990—Revenue Receipts-Indirect Taxes-Union Government) which is shown as Appendix-I.

Introductory

1.2 Grant of exemptions from Customs Duty is governed by Section 25 of the Customs Act, 1962, which reads as under:—

“Section 25—Power to grant exemption from duty—

- (1) If the Central Government is satisfied that it is necessary in the public interest so to do, it may by notification in the official Gazette, exempt generally either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification goods of any specified description from the whole or any part of duty of customs leviable thereon.
- (2) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt from the payment of duty, under circumstances of an exceptional nature to be stated in such order, any goods on which duty is leviable.”

1.3 It will be seen from the above that exemption under sub-section (1) of Section 25 is granted by the Central Government by way of a notification which is published in the Official Gazette, on being satisfied that such an exemption is in the public interest. The exemption could be either unconditional or with certain conditions to be fulfilled before or after clearance of the goods by the Customs authorities. Similarly, exemptions under sub-section (2) of Section 25 are granted by the Central Government by a special order in each case after having satisfied that such an exemption is in public interest. The exemption under sub-section (2) of Section 25 could be partial or whole and granted under the circumstances of exceptional nature which are to be mentioned in the order granting such an exemption.

1.4 The Committee have been informed that there were 752 notifications issued under Section 25(1) of the Customs Act, 1962, in operation as on 30th November, 1990. The amount of revenue foregone on account of exemptions under sub-section 25(2) in respect of commercial and non-

commercial imports during the last 3 years as forwarded by the Ministry are given below:—

Year	Revenue foregone in Rs. crores	
	Non Commercial	Commercial
1987-88	39.27	674.76
1988-89	47.55	1351.64
1989-90	41.35	661.05

1.5 In respect of revenue foregone by the grant of exemptions under section 25(1) the Ministry informed the Committee that no data was maintained. However, when the Committee pointed out that such figures were maintained by the Ministry on the central excise side and reflected in the Audit Reports of the C&AG, the Ministry of Finance in a note furnished after evidence, stated as follows:

“It is true that the figures of revenue foregone in respect of excise notifications are being maintained by the Department. It is possible to collect similar figures of customs revenue foregone for each notification, though this would require certain adjustments in the feeding of the data and it's retrieval from the computers installed in the Custom Houses. This may not be immediately possible. However, the matter will be examined in consultation with the Collectors and action in this regard would be initiated as soon as possible so that this data could be available with the Department”.

1.6 In terms of provision of Section 159 of the Customs Act, 1962 notifications issued under sub-section 1 of Section 25 are to be laid before Parliament. The mode of obtaining approval from Parliament as given by the Ministry of Finance in their note is as follows:

“In respect of exemptions proposed to be issued under Section 25(1) involving a revenue loss of Rs. 50 lakhs and above when Parliament is in Session, the notifications giving effect to such an exemption are laid in Parliament on the same day. Other notifications under Section 25(1) involving revenue loss less than Rs. 50 lakhs are also laid but in due course. In case the notifications are issued when Parliament is not in session, all such notifications are to be laid in Parliament soon after the commencement of the next Session. As regards notifications under Section 25(2) which are ad hoc in nature, the same are not laid in Parliament”.

Highlights of the Audit Para

1.7 The Audit Para under examination contains two cases relating to import of components at concessional rate of customs duty in terms of notifications issued under Section 25(1) of the the Customs Act, 1962.

(i) In one case Maruti Udyog Ltd. imported components for use in the manufacture of fuel efficient motor cars after paying customs duty in terms of notification number 29/83-Cus. dated 25.2.1983 as amended which stipulates that the components required for the manufacture of fuel efficient motor cars of engine capacity not exceeding thousand CC were assessable to customs duty at the rate of 25% ad valorem and nil additional duty subject to the conditions mentioned therein. During the period August 1983 to December 1985 such components valued at Rs. 54,45,221 were found damaged and were, therefore, not used in the manufacture of fuel efficient motor cars. Further compensation for such damaged components was received from the insurance companies. Since the components were not used for the manufacture of fuel efficient motor cars, exemptions granted in the notification was not applicable and a differential duty of Rs. 77.86 lakhs on the said components was not recovered.

(ii) In the second case, Karnataka Scooters Ltd. also imported internal combustion engine components for the manufacture of fuel efficient two wheeled motor vehicles which were assessed to the concessional rate of customs duty as per notification no. 30/83 customs dated 25.2.1983, after executing end use bonds in April 1985 towards differential duty. The end use bonds were cancelled in January, 1986 and May 1986 based on a certificate given by a Chartered Accountant though the law required an end use certificate from the Assistant Collector, Central Excise in whose jurisdiction, the factory manufacturing such motor vehicles was located. The incorrect closure of bonds without verification of end use resulted in duty of Rs. 5.03 lakhs not being recovered from the importers.

Follow-up action

1.8 The Ministry of Finance have admitted the Audit objections and informed the Committee that necessary follow-up action had been taken. In the case of Maruti Udyog Ltd. a differential duty of Rs. 72,84,714 has been recovered, while regarding clearances effected at Bombay and Kandla, the report on the recovery action is awaited. As regards Karnataka Scooters Ltd., the certificates from the Central Excise authorities have since been produced on 14.8.90.

Earlier recommendations of PAC

1.9 The Audit Para brings to the fore the inadequate scrutiny of the grant of exemptions given by the Central Government from time to time . In fact the issue of grant of exemptions had engaged the attention of the Committee on several earlier occasions. The Committee had time and again emphasised the need to exercise this delegated power sparingly by

the executive. The matter was commented upon by the Public Accounts Committee among others in their 111th Report (Fourth Lok Sabha); 31st, 172nd and 177th Reports (all Fifth Lok Sabha); 13th, 68th and 146th Reports (all Sixth Lok Sabha). 105th, 149th, 195th and 213th Reports (Seventh-Lok Sabha). Some of the important recommendations by the Committee on this topic were (i) well-defined criteria should be laid down for regulating the grant of exemptions; (ii) all exemptions involving a revenue effect of Rs. 1 crore and more in each individual case should be given with the prior approval of Parliament; (iii) the financial implications of all exemption notifications in operation should be brought specifically to the notice of Parliament by the Government at the time of presentation of the budget; (iv) a Monitoring Cell should be established in the Ministry of Finance to review how far the objectives behind the grant of exemptions were achieved; (v) the details of ad-hoc exemptions under Section 25(2) of the Customs Act granted in any financial year together with the reasons for granting the same may be mentioned in the Annual Report of the Ministry of Finance; (vi) Public Accounts Committee for "Expenditure" and "Revenue Receipts" should be set up separately.

Such a Committee could also monitor and review the exercise of the delegated powers of the Executive in the matter of grant of exemption under the Customs and Central Excise Laws besides examining the Reports of the Comptroller and Auditor General of India on Revenue Receipts. Most of these recommendations were, however, not accepted by the Government.

1.10 The recommendations made by the earlier Committees were referred to the Government. Reacting to these, Secretary (Revenue) during evidence deposed that exemptions under Section 25(1) are generally exemptions in the nature of fixing appropriate tariff for certain items. While the Customs Tariff Act only authorises the maximum duty that can be levied on a particular item, the duties require to be re-adjusted to suit the dynamics of the situation and this is accomplished through issue of various notifications. Further, while direct taxes are normally decided once at the time of the Budget, Customs and Excise undergo changes with changes in economic situation. The Department in his view had however tried to exercise self-restraint by issuing the minimum possible exemption orders and incorporated end use conditions only where they were absolutely unavoidable. He felt that monitoring by the Finance Ministry was extremely difficult and cumbersome in view of the large number of cases and inadequate staff. This also results in duplication of work and overlapping of functions. Expressing difficulty in laying down guidelines to define public interest, he stated: "Considering the variety of exemptions and variety of purposes for which they are granted and the differing conditions which apply to them I don't think it is possible to have a guideline. This is my considered judgement". Calculations of the loss of revenue on the basis of the tariff rate, according to Secretary (Revenue) was really not realistic as this constitutes the ceiling rate and not the effective rate for computational purposes.

Verification of end use conditions

1.11 The cases highlighted by the Audit para involve non-verification of end use by the customs authorities after allowing the clearance of goods imported at concessional rates for specified purposes. The Committee were informed that there were 239 notifications relating to commercial imports in force as on 1.4.1990 having end use conditions. In a written reply furnished after evidence the Ministry stated as follows:

“The review of all notifications, customs as well as excise, is an on going process. This applies not only to end use based notifications but also to all other notifications. Exhaustive review of all notifications (Cus. and Central Excise) is also undertaken as a part of preparatory work for the Budget. In the process, all the end use based notifications have also been reviewed”

1.12 As regards ad hoc exemption orders the Ministry further clarified:

“The exact number of cases of ad hoc exemption orders having end use condition in respect of commercial imports is being compiled... In respect of some ad hoc exemption orders conditions are prescribed for verification of end use. The check in respect of these orders is generally provided by way of taking an end use bond which the importer has to discharge on production of certificate for use of the imported goods by the appropriate authority. In a few cases a test check, action was initiated for end use verification in one of the Customs Houses”.

1.13 Commenting on the above aspects, during evidence Secretary, Revenue stated:

“Our first attempt would be to reduce the number of end use conditions to the barest minimum in the notification. We will put them where it is absolutely unavoidable”.

In 1986, we had rationalised the system and had divided the end use notification exemptions into a number of categories. The first category was where there were no possible chances of misuse and the item could be used only for a single purpose we would only take an undertaking from the importer and it was proposed that the use would be according to the Undertaking.

The second case was where the beneficiary was asked to maintain accounts and submit these accounts to the Assistant Collector (Customs) for his satisfaction.

The third was where we used to take an end use bond some time backed by a bank guarantee so that it could be regularly monitored. I may say that the end use bonds are being monitored and regular progress is watched by the Board whether these bonds are being fulfilled and whether these are being disposed of

promptly in time. But, even so, it imposes a very heavy burden on the very scarce resources of the Customs Department. We would request the Ministry or the Department which recommends such an end use condition to report to us after a certain period, may be after one year when the item is expected to be utilised about the proper utilisation of that item for the purpose for which the exemption was granted. We will put this burden on the Ministry, or the Department concerned in future. That is exactly what we are thinking. With our own resources, it will be very difficult to shoulder the entire responsibility”.

1.14 Member, Customs during evidence indicated that verification of proper utilisation of customs duty exemptions with end use conditions was presently carried out through the cancellation of end use bonds executed by the importers. He stated “I do want to especially bring to the notice of the Hon. Committee that thousands of bonds are being executed and thousands of bonds are being closed also every year. These are being closed after due verification.”

1.15 In reply to a question on the present system of monitoring both at the Collector’s level as well as the Board level in respect of customs duty exemption notifications, the Ministry stated,

“The importers furnish end-use bonds or undertakings depending upon the conditions prescribed in the notification.

Review of the pendency of end use bonds based on exemption, notifications is being done at the Collectors level. There is no other monitoring of bonds/undertaking submitted in respect of end use based exemption notifications.”

1.16 In the above context, the Committee desired to be furnished with the details of the total number of end use bonds pending cancellation beyond the validity period as on 30.11.1990 at the all-India level. In a note subsequently furnished the Ministry have stated:

“The Custom House-wise figure of the number of end use bonds pending cancellation beyond their validity period as on 30.11.1990 are as follows:

1.	Bombay (Sea) Customs	1527
2.	Bombay (Air) Customs	558
3.	Cochin	10
4.	Kandla	26
5.	Madras	2019
6.	Calcutta	225
7.	Bangalore	702
8.	Delhi	2219
9.	Visakhapatnam	51”

Coordination with the Administrative Ministries

1.17 On a query from the Committee regarding the present system of coordination between the Customs Department and the Administrative Ministries in respect of monitoring the duty exemptions, the Ministry of Finance in a note indicated as follows:—

“Apart from the feedback received from the administrative Ministries about the operation of various notifications concerning them, there is no other system of coordination. Whenever, a notification requires a particular certification from the administrative Ministry, the field officers of the Customs and Excise Department correspond with the concerned officials for sorting out case to case difficulties. The field officers may refer a matter to this Ministry where the existing provisions of a Notification need amendments in certain respect, and appropriate action, wherever necessary, is taken in all such cases.”

1.18 During evidence, Member, Customs further clarified that:

“So far as the objective behind the notification is concerned, i.e. something that essentially is being left to the administrative Ministries. And we will have to be guided by the view taken by this Hon’ble Committee.”

Monitoring and review.

1.19 Commenting on the aspect of monitoring of the grant of exemptions under the Customs Act, 1962, the Public Accounts Committee in Para 2.37 of their 105th Report (Seventh Lok Sabha) had observed as follows:

“The Committee observed that after the grant of exemption by the Ministry of Finance, on the recommendation of the administrative Ministry, the Ministry of Finance has no feed-back from the latter to evaluate whether the exemption has served the purpose for which it was granted. It is left to the administrative Ministry to evaluate whether the condition laid down in the exemption notification have actually been fulfilled. The Committee consider this arrangement to be totally unsatisfactory because except for assessment of public interest at the time of grant or renewal of the exemption, the Ministry of Finance does not get any information from the administrative Ministry nor the Finance Ministry cares to find out from the administrative Ministry as to whether the purpose for which an exemption has been granted has actually been achieved. The Committee therefore recommend that the Ministry of Finance should evolve some mechanism to establish a monitoring system to review periodically how far the objectives behind the grant of exemption have been achieved. On the basis of the requisite data obtained from the administrative Ministry in regard to each exemption granted under section 25(1) or 25(2) of Customs Act and after ensuring that the intended public interest

has been served and the revenue foregone by grant of exemption has not been misused, the Ministry of Finance should decide whether the exemption should be allowed to continue."

1.20 In their action taken note dated 2nd June, 1983, the Ministry of Finance had stated that:—

"The exemption notifications are generally issued without any validity period, when sufficient justification exists for their continuance on a long term basis. It is the responsibility of the Administrative Ministry to ensure that the purpose for which a customs duty exemption has been obtained is actually achieved. They are equipped to monitor the progress, being the Ministry responsible to administer the problems relating to the goods in question. Establishment of a separate mechanism by the Ministry of Finance will not only amount to duplication of work but also overlapping of the functions of the administrative Ministry, which is another wing of the Government."

1.21 The Committee enquired as to whether it was not possible to evolve a monitoring mechanism to review periodically the achievement of objectives behind the grant of exemptions. In this context Secretary, Revenue during evidence deposed:—

"I concede the point that the existing system of monitoring requires improvement and it is capable of improvement....certainly we want to improve the system of monitoring. Therefore, I have a package which will consist of 3 or 4 steps. One is to reduce the number of such notifications to the barest minimum so that the volume to be monitored is reduced to a managerial proportion. We must have a regular system of monitoring at the level of collectors. Since most of the enduse notifications have been issued with the recommendations of the concerned Ministries, DGTD, DGHS etc. We will request them to give us a certificate about the proper utilisation of the material imported for which exemption was given after a specified period. That means, depending upon the nature of product, they will give us a certificate stating that the material has been utilised for the purpose for which it is meant."

1.22 Expressing his views on the subject at the time of evidence, the C&AG observed:—

"The initial reluctance of the Department to tackle this idea of monitoring which the Financial committees have been advocating for the last 20 years seemed to have been overcome."

1.23 Reacting to the views of the C&AG, Secretary, Revenue stated:

"I think if you give us some time you feel reasonable, we will give

a considered response, to this..... Now that the C&AG has given us sometime we will have a meeting with our colleagues in the other Ministries and devise a system to decide upon some institutional improvement."

The Chairman desired that Secretary (Revenue) may furnish a note devising a suitable monitoring mechanism within a period of one month.

1.24 When asked to furnish a consolidated note on the subject, the Ministry in a written note subsequently indicated that the same will be made available to the Committee after individual suggestions are received.

1.25 In a written note on monitoring the Ministry have indicated as under:—

The field officers are presently monitoring the end use exemption only where the notification prescribes execution of end use bonds or where monitoring is provided through furnishing of consumption certificates through central excise field formations. Where there are merely 'undertakings' executed by the importers, the concerned Administrative Ministries have been requested to furnish their suggestions as desired by the Committee.

1.26 During evidence on a query from the Committee as to whether any proposal casting responsibility on the beneficiaries of the exemption to furnish monthly reports to both the Administrative Ministries as well as Customs Departments was under consideration, the Ministry in a note clarified that "no such proposal appears to have been processed in the Department".

Laying down of adhoc exemption orders before Parliament

1.27 Section 159 of the Customs Act, 1962 provides *inter alia* only for laying copies of notifications issued under Section 25(1) on the table of both the Houses of Parliament. It is, therefore, not obligatory on the part of the Government to lay copies of *ad hoc* exemption orders issued under Section 25(2).

1.28 The Committee desired to know whether the Government could consider making it obligatory to lay copies of such orders as well before Parliament. Secretary, Revenue stated during evidence:

"The order issued under Section 25(2) are not notifications; they are only orders. Section 159 of the Customs Act only provides for laying all notifications which is a term used only for the notifications under Section 25(1) and not 'notifications under Section 25(2)."

1.29 In a subsequent note the Ministry have indicated that the Government would have no objection to the suggestion to lay such exemption orders also on the table of both the Houses.

Annual Report-Chapter on Exemptions:

1.30 The Public Accounts Committee in para 1.6 of their 195th Report (Seventh Lok Sabha) had *inter alia* recommended:—

The Committee further recommend that details of *ad hoc* exemptions under Section 25(2) granted in any financial year together with the reasons for granting the same may be mentioned in the Annual Report of the Ministry of Finance. However, special imports made by Govt. for their use or imports of less than Rs. 10,000 need not be mentioned.

1.31 In their action taken note dated 15.11.1984, on the above recommendation, the Ministry stated that the revenue effect, in terms of Customs duty of *ad hoc* orders issued under Section 25(2) of the Customs Act, 1962 (excluding special imports made by the Government for their own use or imports less than Rs. 1,000) will be included in the Annual Report as recommended by the Committee. However, it was further stated that it might not be practicable either to furnish details of *ad hoc* orders or reasons in respect of each case.

1.32 The Committee desired to know whether the above accepted recommendation was being strictly, implemented by the Ministry. In a note furnished subsequently, the Ministry have clarified that:

“In the Annual Report of the Ministry of Finance a paragraph is generally incorporated indicating the major exemptions issued during the year along with the total number of exemptions and revenue foregone thereon. It is, however, observed that during the last two years this information had not been included in the Annual Report of the Ministry mentioning therein important/major cases of grant of customs duty exemptions through *ad hoc* exemption orders.”

1.33 As regards making available data about the financial implications of all exemption notifications in operation before Parliament at the time of presentation of Budget, the Ministry in a written note have indicated as follows:

“The revenue implications of each notification is generally indicated in the Explanatory Memorandum, which along with a copy of the notification, is placed on the Table of both the Houses of Parliament soon after the issue of the notification. Similarly, the financial implication of all exemption notifications issued as a part of the Budget, are also brought to the notice of Parliament by the Government at the time of

presenting the Budget. These are contained in the Explanatory Memorandum to the provisions of the Finance Bill."

In fact, during evidence Secretary (Revenue) on the question of inclusion of details on Exemptions in the Annual Report of the Ministry stated: "We will try to give a chapter on Exemptions."

1.35 Exemptions from customs duty are granted by the Central Government under sub-sections (1) & (2) of Section 25 of the Customs Act, 1962. Exemption under sub-section (1) of Section 25 is granted by the Central Government by way of a notification which is published in the Official Gazette, on being satisfied that such an exemption is in public interest. The exemption could be either unconditional or with certain conditions to be fulfilled before or after clearance of the goods by the customs authorities. Similarly, exemptions under sub-section (2) of Section 25 are granted by the Central Government by a special order in each case after having satisfied that such an exemption is in public interest. The exemption under sub-section (2) of Section 25 could be partial or whole and granted under the circumstances of exceptional nature which are to be mentioned in the order granting such an exemption.

The issue of grant of exemption under the Customs and Central Excise Laws had constantly engaged the attention of the Public Accounts Committee for more than 20 years. The Committee have time and again emphasised the need to exercise this delegated power sparingly by the Executive.

1.36 The Audit Paragraph under examination highlights two cases relating to import of components at concessional rate of customs duty in terms of notifications issued under Section 25(1) of the Customs Act, 1962. In one case Maruti Udyog Limited imported components for use in the manufacture of fuel efficient motor car of engine capacity not exceeding 1000 cu cms valued at Rs. 54.45 lakhs but these components were found damaged and were therefore not put to the desired use and compensation for such damaged components was received from the insurance company. In the second case, Karnataka Scooters Limited also imported components required for manufacture of fuel efficient two wheeled motor vehicles and was assessed to concessional rate of customs duty on the certificate given by a Chartered Accountant though the law required end-use certificate from the Assistant Collector, Central Excise in whose jurisdiction the factory manufacturing such motor vehicles was located. The differential duty on the said components amounting to Rs. 77.86 lakhs (Maruti Udyog Ltd.) and Rs. 5.03 lakhs (Karnataka Scooters Ltd.) was not recovered even though the conditions specified in the notifications were not fulfilled. The Ministry of Finance have admitted the audit objection and informed the Committee that necessary follow up action had been taken.

1.37 The examination of the Audit paragraph has revealed that despite the repeated concern expressed by the Committee the administration of the

grant of exemptions under the Customs Act continues to suffer from serious shortcomings.

The cases highlighted in the Audit Paragraph involved non-verification of end use and absence of a clear cut monitoring mechanism by the Customs authorities after allowing the clearance of goods imported at concessional rates for specified purposes. During evidence, the representative of the Ministry of Finance stated that the verification of proper utilisation of Customs Duty Exemption with end use was presently carried out through the cancellation of end use bonds executed by the importers. End use bonds are executed in those cases where the imported goods are exempted from payment of customs duty partially or fully, provided those goods are used for specific purpose. From the information made available to the Committee after evidence, it is seen that 7337 such bonds in nine Customs Houses were pending cancellation beyond their validity period as on 30th November, 1990. The heavy pendency of end-use bonds beyond their validity period clearly shows that the Customs authorities have not in reality reviewed the bonds in time and taken steps to cancel them or realise the differential duty.

1.38 The Committee are informed that the field officers of the Customs department presently monitor the end use exemption. According to the Ministry of Finance, it is the responsibility of the administrative Ministry to see whether or not the objectives behind issue of a given notification have been obtained.

1.39 The Committee regret to note that the Ministry of Finance have not so far evolved an effective monitoring mechanism for watching the fulfilment of objectives behind the grant of exemptions despite recommendations to this effect made by the Committee on several occasions in the past. Even the limited monitoring of end-use bonds prescribed at Collector's level only is far from satisfactory. In fact, during evidence Secretary (Revenue) admitted that the existing system of monitoring required improvement and it was capable of improvement. After due deliberations, he promised to send a note after evolving a suitable system in consultation with the administrative Ministries. However, nothing concrete has emerged so far. The Committee reiterate their earlier recommendation and are of the firm view that a monitoring system should be evolved to review periodically how far the objectives behind the grant of exemptions have been achieved and there was no misuse of the concession. The Committee feel that though the administrative Ministry cannot be absolved of its responsibility in this regard the ultimate responsibility lies with the Ministry of Finance.

1.40 The Committee would also like the Ministry of Finance to consider a proposal whereby the beneficiaries of the exemptions are required to send periodical reports regarding utilisation of material imported at concession rates to both the Ministry of Finance and the administrative Ministry so as to enable a better monitoring.

1.41 The Committee also note that an amount of Rs. 702.40 crores was granted during the year 1989-90 as *ad hoc* exemptions from customs duty under Section 25(2) of the Customs Act, 1962. The corresponding figures for the preceding two years were Rs. 1399.19 crores and Rs. 714.03 crores respectively. The Committee further note that in terms of provision of Section 159 of the Customs Act, 1962, all the notifications issued under sub-Section 1 of Section 25 of the Customs Act, 1962, granting exemption from Customs duty in general are to be laid before Parliament. However, it is not obligatory on the part of Government to lay copies of exemption orders issued under sub-section 25(2) before Parliament granting *ad hoc* exemptions. Thus, Parliament is presently not kept contemporaneously informed of the *ad hoc* exemptions granted by Government. The Committee strongly feel that in the interest of financial accountability of the Government to Parliament placing of notifications granting *ad hoc* exemption is highly imperative. They, therefore, recommend that suitable amendments should be brought out in the Statute so as to make the laying of *ad hoc* exemption orders on the Table of the House mandatory as practised in the case of notifications issued under Section 25(1).

1.42 The Committee find that 752 notifications issued under Section 25(1) of the Customs Act 1962 were in operation as on 30th November, 1990. However, no data was maintained for revenue foregone in respect of imports effected during a year in terms of these notifications issued under Section 25(1) of the Customs Act though such figures are maintained by the Ministry in the case of Central Excise. The Ministry of Finance have indicated that it is feasible to collect similar figures of customs revenue foregone for each notification with the help of the computers. The Committee recommend that necessary steps be taken to compile such data in order to make a periodical assessment of revenue foregone through grant of such exemptions.

1.43 The Committee note that in response to the recommendation made in their 195th Report (Seventh Lok Sabha 1983-84), the Ministry of Finance had been indicating the major exemptions issued during the year alongwith the total number of exemptions and revenue foregone there on under Section 25(2) in their annual reports of years 1986-87 and 1987-88. However, it is noticed that during the years 1988-89 and 1989-90, this information had not been included. The Committee take a serious note of this and desire that such lapses should not recur in future.

1.44 The Committee further desire that the Ministry of Finance should in future incorporate a separate Section in their Annual Reports on Exemptions granted under Customs and Central Excise Laws. Apart from the details of exemptions granted through *ad hoc* exemption orders, the Annual Report should also indicate the total number of exemption notifications in force during the year, the number of notifications under various Descrip-

tions/Chapters in the Tariff and the estimated revenue foregone on account of the notifications.

NEW DELHI;
December, 1991

Agrahayana, 1913 (Saka)

ATAL BIHARI VAJPAYEE
Chairman
Public Accounts Committee

APPENDIX I

2.71 Non verification of end use

- (i) As per notification 29 dated 25 February 1983 as amended, the components (including the components of fuel efficient motor cars in semi-knocked down packs and completely knocked down packs) required for the manufacture of fuel efficient motor cars of engine capacity not exceeding 1000 cubic centimetres were assessable to customs duty at the rate of 25 per cent ad valorem and nil additional duty subject to the conditions mentioned therein.

A manufacturer imported components for use in the manufacture of fuel efficient motor cars, after paying customs duty in terms of the aforesaid notification. During the period August 1983 to December 1985 such components valued at Rs. 54,45,221 were found damaged and were therefore not used in the manufacture of fuel efficient motor cars. Compensation for such damaged components was received from the insurance company. Since the components were not used in the manufacture of fuel efficient motor cars, exemption granted in the notification was not applicable to these components and thus an amount of Rs. 77.86 lakhs, being the differential duty on the said components, was not recovered.

The omission was pointed out (June 1988) to the department; no reply was received (June 1989). The matter was reported to the Ministry of Finance in August 1989; their reply has not been received (November 1989).

- (ii) Notification 30-Cus. dated 25 February 1983 stipulates concessional assessments to components required for the manufacture of fuel efficient two wheeled motor vehicles falling under heading 8709/12 of erstwhile Customs Tariff Schedule with levy of basic customs duty at 25 per cent ad valorem, auxiliary duty at 15 per cent ad valorem and without additional duty as against the standard rate of basic duty at 100 per cent ad valorem, auxiliary duty at 40 per cent ad valorem and additional duty at 12 per cent under item 68 of Central Excise Tariff subject to the condition that certificate is produced from the Assistant Collector, Central Excise in whose jurisdiction the factory manufacturing such motor vehicles is situated to the effect that such imported components have been used in the manufacture of fuel efficient two wheeled motor vehicles.

In the case of imports (March 1985) of internal combustion engine components for the manufacture of fuel efficient two wheeled motor vehicles through a major Custom House, concessional assessment was

made under the aforesaid notification after executing three end use bonds in April 1985 for the payment of differential duty (i.e.) the difference in duty as per the standard rate and concessional rate. The end use bonds were cancelled in January 1986 and May 1986 based on a certificate given by chartered accountant and notarised.

On the incorrect acceptance of the certificate being pointed out in audit (June 1986 and February 1987), the Custom House stated (July 1987) that though the utilisation certificate had to be obtained from the Central Excise department in the present case, the lapse was condoned by the Assistant Collector, Customs.

The reply is not acceptable since the notification stipulates the end use certificate only from the central excise authorities and no provision for condonational of such lapse is prescribed.

Further, the suggestion of audit to obtain an end use certificate from the competent Central Excise authorities to regularise the concessional assessment had not been complied with.

The incorrect closure of bonds without verification of end use resulted in duty of Rs. 5,02,831 in respect of three cases, not being recovered from the importers.

The matter was reported to the Ministry of Finance in August 1989; their reply has not been received (November 1989).

APPENDIX II

Statements of Observations and Recommendations

S.No.	Para No.	Ministry/ Deptt. Concerned	Observations/Recommendations
1	2	3	4
1	1.35	Ministry of Finance (Deptt. of Revenue)	Exemptions from customs duty are granted by the Central Government under sub-sections (1) & (2) of Section 25 of the Customs Act, 1962. Exemption under sub-section (1) of Section 25 is granted by the Central Government by way of a notification which is published in the Official Gazette, on being satisfied that such an exemption is in public interest. The exemption could be either unconditional or with certain conditions to be fulfilled before or after clearance of the good by the customs authorities. Similarly, exemptions under sub-section (2) of Section 25 are granted by the Central Government by a special order in each case after having satisfied that such an exemption is in public interest. The exemption under sub-section (2) of Section 25 could be partial or whole and granted under the circumstances of exceptional nature which are to be mentioned in the order granting such an exemption. The issue of grant of exemption under the Customs and Central Excise Law shad constantly engaged the attention of the Public Accounts Committee for more than 20 years. The Committee have time and again emphasised the need to exercise this delegated power sparingly by the Executive.

1	2	3	4
2	1.36	Ministry of Finance (Deptt. of Revenue)	<p>The Audit Paragraph under examination highlights two cases relating to import of components at concessional rate of Customs duty in terms of notifications issued under section 25 (1) of the Customs Act, 1962. In one case Maruti Udyog Limited imported Components for use in the manufacture of fuel efficient motor car of engine capacity not exceeding 1000 cu cms valued at Rs. 54.45 lakhs but these components were found damaged and were therefore not put to the desired use and compensation for such damaged components was received from the insurance company. In the second case, Karnataka Scooters Limited also imported components required for manufacture of fuel efficient two wheeled motor vehicles and was assessed to concessional rate of customs duty on the certificate given by a Chartered Accountant though the law required end-use certificate from the Assistant Collector, Central Excise in whose jurisdiction the factory manufacturing such motor vehicles was located. The differential duty on the said components amounting to Rs. 77.86 lakhs (Maruti Udyog Ltd.) and Rs. 5.03 lakhs (Karnataka Scooters Ltd.) was not recovered even though the conditions specified in the notifications were not fulfilled. The Ministry of Finance have admitted the audit objection and informed the Committee that necessary follow up action had been taken.</p>
3	1.37	Ministry of Finance (Deptt. of Revenue)	<p>The examination of the Audit paragraph has revealed that despite the repeated concern expressed by the Committee the administration of the grant of exemptions under the Customs Act continues to suffer from serious shortcomings.</p> <p>The cases highlighted in the Audit Paragraph involved non-verification of end use and absence of a clear cut monitoring mechanism by the Customs authorities after allowing the clearance of goods imported at concessional rates for specified purposes. During evidence, the representative of the Ministry of Finance stated that the verification of proper utilisation of Customs Duty Exemption with end use was presently carried out through the cancellation of</p>

1	2	3	4
			<p>end use bonds executed by the importers. End use bonds are executed in those cases where the imported goods are exempted from payment of customs duty partially or fully, provided those goods are used for specific purpose. From the information made available to the Committee after evidence, it is seen that 7337 such bonds in nine Customs Houses were pending cancellation beyond their validity period as on 30th November, 1990. The heavy pendency of end-use bonds beyond their validity period clearly shows that the Customs authorities have not in reality reviewed the bonds in time and taken steps to cancel them or realise the differential duty.</p>
4	1.38	Ministry of Finance (Deptt. of Revenue)	<p>The Committee are informed that the field officers of the Customs department presently monitor the end use exemption. According to the Ministry of Finance, it is the responsibility of the administrative Ministry to see whether or not the objective behind issue of a given notification have been obtained.</p>
5	1.39	-do-	<p>The Committee regret to note that the Ministry of Finance have not so far evolved an effective monitoring mechanism for watching the fulfilment of objectives behind the grant of exemption despite recommendations to this effect made by the Committee on several occasions in the past. Even the limited monitoring of end-use bonds prescribed at Collector's level only is far from satisfactory. In fact, during evidence Secretary (Revenue admitted that the existing system of monitoring required improvement and it was capable of improvement. After due deliberations, he promised to send a note after evolving a suitable system in consultation with the administrative Ministries. However, nothing concrete has emerged so far. The Committee reiterate their earlier recommendation and are of the firm view that a monitoring system should be evolved to review periodically how far the objectives behind the grant of</p>

1	2	3	4
			exemptions have been achieved and there was no misuse of the concession. The Committee feel that though the administrative Ministry cannot be absolved of its responsibility in this regard the ultimate responsibility lies with the Ministry of Finance.
6	1.40	Ministry of Finance (Deptt. of Revenue)	The Committee would also like the Ministry of Finance to consider a proposal whereby the beneficiaries of the exemptions are required to periodical reports regarding utilisation of material imported at concession rates to both the Ministry of Finance and the administrative Ministry so as to enable a better monitoring.
7	1.41	Ministry of Finance (Deptt. of Revenue)	The Committee also note that an amount of Rs. 702.40 crores was granted during the year 1989-90 as <i>ad hoc</i> exemptions from customs duty under Section 25 (2) of the Customs Act, 1962. The corresponding figures for the preceding two years were Rs. 1399.19 crores and Rs. 714.03 crores respectively. The Committee further note that in terms of provision of Section 159 of the Customs Act, 1962, all the notifications issued under sub-Section 1 of Section 25 of the Customs Act, 1962, granting exemption from Customs duty in general are to be laid before Parliament. However, it is not obligatory on the part of Government to lay copies of exemption orders issued under sub-section 25 (2) before Parliament granting <i>ad hoc</i> exemptions. Thus, Parliament is presently not kept contemporaneously informed of the <i>ad hoc</i> exemptions granted by Government. The Committee strongly feel that in the interest of financial accountability of the Government to Parliament placing of notifications granting <i>adhoc</i> exemption is highly imperative. They, therefore, recommend that suitable amendments should be brought out in the Statute so as to make the laying of <i>ad hoc</i> exemption orders on the Table of the House mandatory as practised in the case of notifications issued under Section 25(1).

1	2	3	4
8	1.42	Ministry of Finance (Deptt. of Revenue)	The Committee find that 752 notifications issued under Section 25(1) of the Customs Act 1962 were in operation as on 30th November, 1990. However, no data was maintained for revenue foregone in respect of imports effected during a year in terms of these notifications issued under Section 25(1) of the Customs Act though such figures are maintained by the Ministry in the case of Central Excise. The Ministry of Finance have indicated that it is feasible to collect similar figures of customs revenue foregone for each notification with the help of the computers. The Committee recommend that necessary steps be taken to compile such data in order to make a periodical assessment of revenue foregone through grant of such exemptions.
9	1.43	Ministry of Finance (Deptt. of Revenue)	The Committee note that in response to the recommendation made in their 195th Report (Seventh Lok Sabha 1983-84), the Ministry of Finance had been indicating the major exemptions issued during the year alongwith the total number of exemptions and revenue foregone there on under Section 25(2) in their annual reports of years 1986-87 and 1987-88. However, it is noticed that during the years 1988-89 and 1989-90, this information had not been included. The Committee take a serious note of this and desire that such lapses should not recur in future.
10	1.44	Ministry of Finance (Deptt. of Revenue)	The Committee further desire that the Ministry of Finance should in future incorporate a separate Section in their Annual Reports on Exemptions granted under Customs and Central Excise Laws. Apart from the details of exemptions granted through <i>ad hoc</i> exemption orders, the Annual Report should also indicate the total number of exemption notifications in force during the year, the number of notifications under various Descriptions/Chapters in the Tariff and the estimated revenue foregone on account of the notifications.