

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

(SIXTH LOK SABHA)

HUNDRED AND FORTY-NINTH REPORT

UNION EXCISE DUTIES

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

[Paragraph 38 of the Report of the Comptroller and Auditor General of India for the year 1976-77, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes].



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

**LOK SABHA SECRETARIAT
NEW DELHI**

April, 1979/Vaisakha, 1901 (S)

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28-4-1979

CORRIGENDA TO 149TH REPORT OF THE PUBLIC ACCOUNTS
COMMITTEE PRESENTED TO LOK SABHA ON 30.4.1979.

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PUBLIC ACCOUNTS COMMITTEE
(1978-79)

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1. Shri H.G. Paranjpe—*Joint Secretary.*
2. Shri D.C. Pande—*Chief Financial Committee Officer.*
3. Shri T. R. Ghai—*Senior Financial Committee Officer.*

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Hundred and Forty-ninth Report of the Public Accounts Committee (Sixth Lok Sabha) on paragraph 38 of the Report of the Comptroller and Auditor General of India for the year 1976-77, Union Government (Civil), Revenue Receipts, Vol. I Indirect Taxes.

2. The Report of the Comptroller and Auditor General of India for the year 1976-77, Union Government (Civil), Revenue Receipts, Vol. I, Indirect Taxes was laid on the Table of the House on 12 April, 1978. The Public Accounts Committee considered and finalised this Report at their sitting held on 28 April, 1979.

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

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

5. The Committee would also like to express their thanks to the Ministry of Finance for the cooperation extended by them in giving information to the Committee.

NEW DELHI :
April 30, 1979

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

Vaisakha 10, 1901 (S)

REPORT

PROCESSED WOOLLEN FABRICS AND WOOLLEN YARN

Audit Paragraph

1.1. By a notification issued in April 1962 as amended, processed woollen fabrics falling under tariff item 21, if woven in a factory other than a composite mill and processed by an independent processor are dutiable at rates lower than those applicable to other processed fabrics. The term 'independent processor' means a manufacturer who is engaged exclusively in the processing of woollen fabrics with the aid of power and who has no proprietary interest in any factory engaged in the spinning of yarn or weaving of cloth.

1.2. During the course of examination of cases of concessional rates of duty enjoyed by private limited concerns, it was noticed that, in two collectorates, six manufacturing units processing woollen fabrics were assessed at lower concessional rates of duty applicable to fabrics processed by independent processors even though each one of these units has proprietary interest in other factories engaged in the spinning of yarn and weaving of woollen fabrics as well. In these cases, the shareholders of each of the units were the members of the same family and also the Directors of the corresponding factories.

1.3. Owing to the separate legal existence of these six units and the corresponding factories, the duty was levied at the lower concessional rates on processed woollen fabrics.

1.4. This was not appropriate because separate constitution of the respective units in such cases would tantamount to avoidance of duty which would otherwise be leviable at higher rates as for composite mills. This resulted in an escapement of duty of Rs. 30.42 lakhs during the period 1972-73 to 1973-74 in respect of the six units mentioned above.

1.5. The paragraph was sent to the Ministry of Finance in October, 1977; reply is awaited (January 1978).

[Paragraph 38 (a) of the Report of Comptroller and Auditor General of India for the year 1976-77, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes]

1.6. Under Notification No. 50/62, dated 24-4-1962 as amended from time to time, the rate of duty leviable on woollen fabrics and woollen yarn processed by an independent processor is lower than that leviable on such fabrics and woollen yarn processed by a composite mill. The terms "Independent Processor" and "Composite Mill" have been specifically defined under notification No. 115/62-CE and 116/62-CE both dated 13 June, 1962 as under :

"Independent Processor means a manufacturer who is engaged exclusively in the processing of woollen fabrics with the aid of power and who has no proprietary/interest in many factory engaged in the spinning of woollen yarn or weaving of woollen fabrics.

“Composite Mill” means a manufacturer who is engaged in the spinning of woollen yarn all sorts or weaving or processing of woollen fabrics with the aid of power and has proprietary interest in at least two of such manufacturing activities”.

1.7. The effective rates of duty leviable on woollen fabrics processed by an independent processor and a composite mill from time to time are given below :

Period	Rate of Duty			
	Independent Processor		Composite Mill	
	Basic Excise Duty	Addl. Excise Duty (ad-valorem)	Basic Excise Duty (ad-valorem)	Addl. Excise Duty
(i) 13-6-62—16-3-72 . . .	3-1/3%	3-1/3%	5%	5%
(ii) 17-3-72—20-7-73 . . .	4%	4%	6%	5%
(iii) 21-7-73—29-8-76 . . .	1.5% to 4%	1.5% to 4%	6%	5%
(iv) 30-8-76—12-11-76 . . .	3% to 5%	3% to 4%	6%	5%
(v) 13-11-76 to date . . .	2% to 2.5%	2% to 2.5%	4%	5%

1.8. The Committee desired to know the reasons for prescribing lower rates of duty in respect of woollen fabrics processed by an independent processor as compared to composite mills. The Department of Revenue in a written note have stated :

“Independent processors normally belong to the weaker section of the Textile industry when compared to composite mills. They mostly process fabrics manufactured in the decentralised sector (*i.e.*, on power looms and handlooms) and therefore need some protection in the matter of levy of processing duty as against the composite mills. Otherwise the bulk of the woollen fabrics produced in the decentralised sector is likely to be diverted to the composite mills for purposes of processing. Hence lower rates of duty have been prescribed for the processing units”.

1.9. The Committee desired to know the particulars of composite mills and their corresponding processing units referred to in the Audit paragraph. The Department of Revenue in a written note have furnished the following details :

Sl. No.	Name of the Collectorate	Name of the composite mills referred to in the Audit para	Year in which it was established	Name of the corresponding processing unit referred to in the Audit para	Year in which it was established
1	Chandigarh	Lal Woollen & Silk Mills(P) Ltd., Amritsar.	1949	Lal Textile Finishing Mills (P) Ltd., Amritsar.	1956
2	Cochin	Chakolas Spg. & Weaving Mills, Kalamassery.	1938	Shri Chitra Mills	1938
3	Formerly Chandigarh New Delhi.	Aryan Woollen Mills, Panipat.	1960	Aryan Finishers, Panipat.	1973
		Amba Woollen Mills, Panipat.	1971	Amba Finishers, Panipat.	1972
		Swastik Woollen Mills, Panipat.	1959	Swastik Finishers, Panipat.	1973
		(a) Goela Engg. & Woollen Works, Panipat.	1964	Goela Finishers, Panipat.	1972
		(b) Haryana Woollen & General Mills Ltd., Panipat.	1961		

1.10. The Committee desired to know the necessity of separating these processing units and enquired whether it was done with a view to availing of the concessional rate of duty. The Committee further asked if it was so, why such a situation leading to legal avoidance could not be foreseen at the time of the issue of the notification. The Department of Revenue in a note have stated :

“Processing duty on woollen fabrics was imposed in the year 1958. The scheme of granting concession to independent processors came into effect in the year 1962. It will be seen from the above Table (Para 1.9) that whereas the processing units mentioned at Sl. Nos. 1 and 2 of the Table, came into existence long before the concession to processing units was announced, the remaining four units mentioned against Sl. No. 3 to 6 of the Table were established only in the year 1972-73, i.e., ten years after the said concession was evolved. It cannot, therefore, be construed that the segregation of the processing units from composite mills took place only with a view to taking advantage of the lower rates of duty prescribed for independent processors. There is no conclusive evidence available to show legal avoidance of payment of duty at higher rates was the sole consideration that motivated these composite mills to set up separate independent processing units, although this could have been one of the reasons.

From the reports received from the Collectors it is seen that setting up of such independent processing units by segregating the processing operation from the composite woollen mills was only in six instances, *i.e.*, those reported in the Audit para. This itself would show that Government's policy in prescribing slightly lower rate of duty to woollen fabrics processed by independent processors vis-a-vis composite mills (with a view to affording protection to the weaker sector of the industry against competition from the organised sector) has not been working unsatisfactorily and that there has been no widespread, large-scale or deliberate evasion (avoidance) of duty resorted to by composite mills by way of disintegration or segregation".

1.11 The Committee desired to know if the partners/directors of these composite mills had any relationship with the partners/directors of the manufacturing units. In reply, the Department of Revenue have furnished a note which is placed at (Appendix I). It will be seen from the Annexure that (1) M/s. Lal Woollen & Silk Mills (P) Ltd., Amritsar, (2) M/s. Chakolas Spinning and Weaving Mills, Kalamassery (3) M/s. Aryan Woollen Mills, Panipat, (4) M/s. Swastik Woollen Mills, Panipat, (5) M/s. Amba Woollen Mills, Panipat, (6) M/s. Goela Engineering and Woollen Works, Panipat, and (7) M/s. Haryana Woollen and General Mills (P) Ltd., Panipat separated the functions of processing of woollen fabrics by creating new units having partners as themselves, their close relations such as husbands, wives, sons, daughters etc. They declared these processing units as independent units and having legal entity presumably with the objective of availing of the benefit of the concessional rate of duty on processed woollen fabrics admissible to independent processing units. This bifurcation seems to have been effected to circumvent the provisions of law and to avoid duty at higher rates applicable to composite mills as has been collaborated by the statement of the partners of M/s. Amba Furnishers, Panipat recorded by Income-tax Officer, A Ward, Panipat reproduced at Annexure II.

1.12 In reply to another query the Department of Revenue have stated that these composite mills supplied the goods after spinning and weaving to their respective processing units as shown in the Table (Para 1.9).

1.13 The Committee asked if any enquiry had been conducted by the Department into the status and working of these manufacturing units and the composite mills and if so what were the findings. In reply, the Department of Revenue in a note have stated as under :

"Detailed enquiries were conducted into the status of the working of the four composite woollen mills vis-a-vis the corresponding processing factories, in Panipat as far back as 1972-73 when these composite mills applied for separate licences (L4) as independent processors. The partnership deals of both the processing and weaving units were also duly scrutinised.

The matter was examined from the income-tax angle also.

Detailed investigations were caused to be made regarding the constitution of the respective units. The result of these enquiries/investigations was that the processing units were separate entities, and that they had no ostensible proprietary interest in the corresponding weaving and spinning units.

Even the Audit has conceded the separate legal existence of these units. The enquiries did not reveal any evidence to show that the finishing (processing) units were not independent of the corresponding weaving units and therefore there was no reason to deny the concessional rate applicable to the independent processors.

There has therefore been no loss of revenue in the cases cited in the Audit para."

1.14 The Committee desired to know the steps taken or proposed to be taken by the Government to plug such loop holes so as to avoid the recurrence of such legal avoidance of duty in future. The Department of Revenue in a note have stated :

"Before granting concessions on excisable commodities the various practical aspects governing these concessions are carefully examined by the Government. Care and due precaution are invariably taken based on the detailed studies made to ensure that these concessions actually go to those sectors for whom they are intended.

However, in the very nature of things when Budgetary Exercises have to be undertaken with the utmost secrecy, it is (and can) not always (be) possible to foresee the possible legal avoidance that might be resorted to later by sharp characters. However, if and when any deliberate, widespread and large-scale cases of legal avoidance comes to light, necessary rectificatory steps (wherever possible) are taken by the Government.

Stray and isolated instances of legal avoidance (evasion) of duty in the scheme of commodity taxation, cannot always perhaps be avoided. But these instances may not be justification enough for the withdrawal of a concession itself, which is granted after a good degree of careful consideration, and in view of the larger interests of the weaker sectors of the industry".

1.15 The Committee note that under notification No. 50/62 dated 24 April, 1962 as amended from time to time woollen fabrics and woollen yarn processed by an independent processor are subjected to rate of excise duty lower than that leviable on such fabrics and woollen yarn processed by a composite mill. Six composite mills manufacturing woollen fabrics. viz., (1) Mrs. Lal Woollen & Silk Mills (P) Ltd., Amritsar, (2) Chakolas Spg & Weaving Mills Kalamassery, (3) Aryan Woollen Mills, Panipat, (4) Amba Woollen Mills, Panipat, (5) Swastik Woollen Mills, Panipat, (6) (a) Goela Engg. & Woollen Works, Panipat and (b) Haryana Woollen & General Mills Ltd., Panipat separate their processing functions and formed independent processing units. While M/s. Chakolas

Spg. & Weaving Mills, Kalamassery and M/s. Lal Woollen & Silk Mills (P) Ltd., Amritsar had established separate processing units almost simultaneously, in other cases the processing units came into existence several years after their own establishment.

1.16 The audit paragraph and the material made available to the Committee had abundantly brought out the fact that partners of the bifurcated processing units were members of the same family or close relatives and for all intents and purposes they had proprietary interest in the manufacturing units as well as factories. While the two units enumerated at Sl. No. 1 and 2 above came into existence much before the concession to processing units was announced in 1962, the remaining four units, Aryan, Amba, Swastik, and Goela Finishers, all located at Panipat, came into existence in the years 1972 and 1973. Presumably this was done by those manufacturers with the sole objective of escaping the incidence of higher rate of duty levied on composite mills. The Ministry of Finance in their reply have also admitted that "this could have been one of the reasons". This impression of the Committee has been strengthened by the facts mentioned by Income-tax Officer, Office of the Income-tax Officer, A ward, Panipat in his d.o. letter No. 257 dated 25 April, 1975 addressed to the Inspecting Assistant Commissioner of Income-tax, Ambala Cantt. and the statement made by one of the partners M/s. Amba Finishers before the above said officer that "Composite units are to pay more excise duty than the non-composite units and as composite units cannot compete the non-composite units in the matter of supplies of barrack blankets to DGS&D because the rates quoted in the tenders are inclusive of excise duty and, therefore, this made the assessee to separate finishing units from the woollen mills". This separation of the 6 processing units had resulted in an escapement of duty of Rs. 30.42 lakhs during the period 1972-73 to 1973-74. The Committee, therefore, urge the Department of Revenue to examine the matter carefully and take urgent rectificatory steps to plug the loopholes for future so that legal avoidance of duty as has happened in the instant case does not recur.

Audit Paragraph

1.17 A unit in a collectorate started manufacturing woollen yarn and woollen fabrics in September 1972. The unit opened a godown outside the factory and four sale offices at different stations to promote sales. A test check of records of the units (February 1976) revealed that the following *modus operandi* was adopted by the unit for clearance of fabrics to avoid duty :—

- (i) The unit transferred the manufactured goods to the godown/sale offices by declaring the rates lower than those at which these goods were actually sold.
- (ii) The manufactured goods were accounted for in lesser quantities in the stock register of production than actually cleared.

1.18 This irregular procedure resulted in evasion of duty of Rs. 3.33 lakhs—Rs. 1.53 lakhs (understatement of rates) and Rs. 1.80 lakhs (non-accountal of manufactured goods) during the period November 1972 to February 1976.

1.19 On this being pointed out by Audit (March 1976), the Assistant Collector intimated (August 1976) that two show cause notices for the recovery of differential duty of Rs. 1.53 lakhs were issued in June 1976 and an offence case for Rs. 1.80 lakhs relating to evasion of duty had been registered against the assessee.

1.20 The paragraph was sent to the Ministry of Finance in June 1977; reply is awaited (January 1978). [Paragraph 38(b) of the Report of the Comptroller & Auditor General of India for the year 1976-77, Union Government (Civil), Revenue Receipts, Vol. I, Indirect Taxes].

1.21 M/s. Padamshree Textile Industries Ltd. Kharar (Assessee) situated at Kharar and falling under Chandigarh collectrate started manufacture of yarn and fabrics in September, 1972. The assessee opened a duty-paid godown outside the factory premises and four sales offices located at Chandigarh, Ludhiana, New Delhi and Calcutta to promote sales. The Committee enquired if this fact was known to the Department before it was pointed out by Audit. The Department of Revenue in a note have stated:—

“This fact does not seem to have been within the knowledge of the Department before it has pointed out by Audit.”

1.22 The Committee desired to know the articles/goods manufactured by the assessee. The Department of Revenue in a note have stated:

“The assessee was manufacturing woollen yarn, yarn N.E.S. and woollen fabrics viz., (Blankets Barrack, Hospital, check and Diplomat), Tweed Cloth, Toosh Shalws, Ladies Shawls, Serge Battle Dress, Cloth Drob Mixture, Cloth Twill Khaki, Cloth Blanket Blazer, Suing Cloth and Cloth Woollen Lining Brown. In addition, the assessee was also manufacturing cotton yarn.”

1.23 The Audit para states that a test check of records of the assessee in February 1976 revealed that the unit evaded duty of Rs. 3.33 lakhs by adopting the following procedure :—

- (i) the Unit transferred the manufactured goods to the godown/sales offices by declaring the rates lower than those at which these goods were actually sold.
(Rs. 1.53 lakhs)
- (ii) The manufactured goods were accounted for in lesser quantities in the stock register of production than actually cleared.
(Rs. 1.80 lakhs)

1.24 In this connection the Committee desired to know the checks exercised by the Department at the time of approval of the price list. In reply, the Department of Revenue have stated that broadly, the following checks are exercised at the time of approval of the price lists:

- “(i) Whether information furnished by the assessee is complete in all respects?

- (ii) Whether the tariff description/classification of the exciseable goods, shown in the price lists conform to that in the approval classification list?
- (iii) Whether the particulars of trade discount, sales tax and other taxes are correctly furnished?
- (iv) Whether the discounts are in accordance with the normal practice of the trade?
- (v) Whether the pattern of sale *vis*; through sole selling agents, distributor, dealer etc. is indicated?
- (vi) Whether deductions on account of freight charges, cost of packing are also indicated in the price lists?
- (vii) Whether the class of buyers or class of related persons has been indicated correctly."

1.25 The Committee inquired if such checks are fool proof and if it was so then how the Department could not detect the undervaluation in the instant case at the time of approval of the price list. The Department of Revenue in a note have stated:

"Before according approval to the price lists, the declaration furnished by the assessee regarding price, discount etc. are verified with reference to the current invoices selected at random. At the initial stage, when the price list is approved by the Department it is not possible to verify whether the assessee has mis-declared or under-declared the value of the goods. It is only subsequently when the prices declared and duly approved by the Department are verified with reference to the actual sales transactions over a period of time, that it will be known whether the assessee had mis-declared or under-declared the value.

In the instant case, the price were approved initially, on the basis of rate contracts. Since no sales invoices were available at the time of approval of the prices, no checks could be exercised at that stage, with the result that the under-valuation could not be detected."

1.26 The Committee enquired about the raw material used by the assessee in the production of woollen yarn. In reply the Department stated that the raw material used by the assessee were Indian wool, wool tops, viscose tops and nylon tops.

1.27 Asked if any input-output ratio had been laid down between such raw material and woollen yarn *vis-a-vis* woollen fabrics. The Department of Revenue in a note have replied:

"The input-output ratio between the raw material and woollen yarn and between woollen fabrics have been laid down by the Directorate of Inspection (Customs and Central Excise) *vide* its letters F. No. 503/52/69 dated 24-4-1971 and 24-4-1972.

The ratios laid down in these letters were only intended to serve as broad guidelines. According to these the ratio in respect of wool top and worsted woollen yarn was fixed at 90% with tolerance of 10% and between raw wool and other yarns as 80%, with tolerance of 20%.

As regards woollen fabrics, the ratio between yarn and woollen fabrics was fixed at 95% to 99% and for grey fabrics to finished fabrics (for processing units) as 100% with no tolerance."

1.28 The Committee desired to know as to how many times the factory had been visited by the Internal Audit and Inspection Group of the Department to check the records of the assessee during the period 1973 to 1976. The Department of Revenue replied:

"The Internal Audit Party did not visit this Unit during the years 1973—76. The details of the visits by Inspection Groups were as follows:

1. 7-7-1973
2. 10-1-1974
3. July, 1974
4. 27-1-1975."

1.29 The Committee enquired if they conducted any reconciliation of the records kept by the assessee and the Central Excise records maintained by the Department. The Department in a note have stated:

"The Inspection Group does not appear to have compared the prices duly approved with the relevant sole invoices. The explanations of the officers concerned have already been called for and action will be taken on their receipt and processing."

1.30 The Committee enquired about the provisions in the Act or Rules to prevent clandestine removal of goods by an assessee. The Department of Revenue in a written note have stated:

"The entire scheme of the Rules is framed to collect appropriate duty and prevent its evasion thereof. The following rules can, however, be mentioned as containing specific provisions for preventing clandestine removal of goods by an assessee:—

- (i) Rule 52-A which required that goods would be delivered only on gate pass;
- (ii) Rule 51 regarding packing and weightment of goods;
- (iii) Rule 53 regarding maintenance of daily stock account;
- (iv) Rule 173-G regarding procedure to be followed by the assessee;
- (v) Rule 173-GG regarding storage of duty paid goods near the factory premises;

- (vi) Rule 173-FF regarding removal of goods during hours fixed by the Collector;
- (vii) Rules 197, 198, 199, 200; 201 and 202 regarding powers of Central Excise Officers to visit and inspect premises, detain persons, stop and search conveyances.
- (viii) Rule 226 regarding proper maintenance of account books/ registers."

1.31. The Committee learnt that the Collectorate issued two demand cum-show-cause notices to the party in June 1976—one for Rs. 1,52,237.91 under Rule 10A of the Central Excise Rules 1944 in respect of the period upto May 1975 and the other for Rs. 420.90 under Rule 10 in respect of the period from June 1975 to February 1976. These demands were confirmed by the Collectorate on 14th January, 1977.

1.32 The Committee further learnt that the Collectorate also booked in June 1976 an offence case against the assessee for evasion of duty amounting to Rs. 1,80,146.21 due to nonaccountal of woollen fabrics and yarn used in statutory records—subsequently, a show cause memo dated 28th December, 1976 was issued. The demand has been confirmed and a Personal panalty of Rs. 250/- was also imposed on 4th April, 1977. In this connection the Committee desired to know the present position of the demand and whether the amount had been recorvered. The Department of Revenue in a note have stated:

"An offence case sas booked against the assessee for contravention of rules 9, 52-A, 173-F. The case was decided by the Assistant Collector, Central Excise, Ludhiana *vide* his order-in-original No. 31/CE/77 issued *vide* C. No. 5115-18 dated 4-4-1977. The assessee went in appeal against the decision of Assistant Collector to the Appellate Collector of Central Excise, New Delhi who rejected the appeal as being time barred. The dues are still pending recovery.

A demand-cum-show cause notice for Rs. 1,52,237.91 was issued on 14-6-76. This was confirmed by the Assistant Collector, Central Excise, Ludhiana *vide* his order-in-original No. 1-CE Demands/77-issued under his C. No. V(21)(21) 1/76/684 dated 14-1-1977. The assessee went in appeal against this decision of the Assistant Collector to the Appellate Collector of Central Excise, New Delhi, who accepted the appeal of the party and set-aside the order in-original.

A demand-cum-show cause notice for Rs. 420.90 was issued on 14-6-1976. This was confirmed by the Assistant Collector, Central Excise, Ludhiana *vide* order-in-original No. 2-CE/Demands/77 under his C. No. V(21)(21) 2/76/698 dated 14-1-1977. The demand is still pending recovery."

1.33 The Committee note that M/s. Padamshree Textile Industries Ltd. located at Kharar and falling under Chandigarh Collectorate started manufacture of woollen yarn and woollen fabrics in September 1972. The assessee evaded excise duty amounting to Rs. 3.33 lakhs by adopting the following procedure :

- (1) The firm transferred the manufactured goods to the godown/sales offices by declaring the rates lower than those at which these goods were actually sold. (Duty involved in under-assessment of rate—Rs. 1.53 lakhs).
- (2) The manufactured goods were accounted for in lesser quantities in the stock register of production than actually cleared. (Duty involved in non-accountal of manufactured good—Rs. 1.80 lakhs).

1.34 The evasion of duty by mis-declaration and under-declaration of the value of goods could not be detected till it was pointed out by Audit in March 1976, i.e., 31 years after the unit started manufacturing the yarn and fabrics. This happened in spite of the fact that specific provisions exist in the Central Excise Rules to prevent such evasion of excise duty. Strangely, the Department was not even aware of the fact that the assessee had opened a godown outside factory premises and four sales offices at Chandigarh, Ludhiana, New Delhi and Calcutta till the Audit brought out the fact to the notice of the Department though the Department maintains a large contingent of field formation and a full fledged Directorate of Revenue Intelligence. This is a commentary on the functioning of the Department of Revenue. The Committee would like the matter to be examined thoroughly and responsibility fixed for the lapses on the part of excise officials at all levels.

1.35 The Committee are perturbed to note that Internal Audit did not visit the factory during the period from 1973 to 1976. The Inspection Groups visited the assessee to check the records during the years 1973 to 1976 only four times on 7 July 1973, 10 January 1974, July 1974 and 17 January 1975. It is distressing that during these visits Inspection Groups could not detect evasion of duty by the assessee nor did it conduct any reconciliation of records kept by the assessee and the Department. The Committee take a serious view of this lapse and would like the Department of Revenue to take deterrent action against the erring officials.

1.36 The Committee note that appeal filed by the assessee in the offence case booked against him for contravention of rules 9, 52-A and 173-F has been rejected by the Appellate Collector of Central Excise, New Delhi but the dues are still pending recovery.

The Committee desire that steps may be taken to recover the dues from the assessee.

Audit Pragraph

1.37 Woollen yarn containing not less than sixty per cent of wool and not more than five per cent of virgin wool, commonly known as shoddy, is assessable to duty at a concessional rate. The Central Board of Excise and Customs clarified in August 1969 that admixture of soft wool wastes in shoddy wool should not be more than 15 per cent to qualify as shoddy woollen yarn.

1.38 A unit manufacturing woollen yarn cleared it at the concessional rate of duty classifying it as shoddy woollen yarn. The collectorate noticed (May 1974) that the yarn manufactured and cleared during the period May 1973 to February 1974 as shoddy yarn could not be classified as such since it did not conform to the composition of shoddy yarn and recovered a differential duty of Rs. 83,565 during the period May 1974 to April 1975. It was noticed in audit (January 1976) that 2,71,748 kilograms of woollen yarn manufactured and cleared during August 1969 to April 1973 as shoddy woollen yarn also did not conform to the composition of shoddy yarn, which resulted in an under-assessment of Rs. 1,39,543. The collectorate intimated that a show cause notice for the recovery of the above amount had been issued (December 1976).

1.39 The paragraph was sent to the Ministry of Finance in August 1977 reply is awaited (January 1978).

[Paragraph 39(c) of the Report of the Comptroller and Auditor General of India for the year 1976-77, Union Government (Civil), Revenue Receipts, Vol. I, Indirect Taxes].

1.40 The Audit para states that 'shoddy' yarn was assessable to duty at a concessional rate of duty. The Committee desired to know as to how the shoddy yarn was defined for the purpose of levy of excise duty.

The Department of Revenue in a note have stated :

"Prior to 1977 Budget, for the purpose of levy of excise duty 'shoddy yarn' was defined as 'woollen yarn' containing not less than 60% of wool and not more than 5% of virgin wool, commonly known as 'shoddy'. Since 18th June 1977, i.e., after the 1977 Budget, any woollen yarn containing not more than 5% of virgin wool, is treated as 'shoddy yarn'."

1.41 The concessional rates of excise duty applicable to shoddy yarn and all other yarns from August 1969 onwards is given below :

Sl. No.	Period	Notification No.	Concessional rate of duty (shoddy yarn)	Concessional rate of duty applicable (All-others) N.O.S.
1.	August 69 to May '71	194/66 dt. 9-12-66 as amended	BED 0.40 per Kg. SED 33-1/3 of Basic Excise Duty	BED 0.60 per Kg. SED 33-1/3% of BED
2.	May '71 to March '72	76/71 dt. 29-5-71	BED 5.5% of Tariff value SED 233-1/3% of BED	BED 7.5% of Tariff value SED 33-1/3% of BED
3.	March '72 to April '73	54/72 dt. 17-3-72 as amended	BED 7.5% of Tariff value SED 33-1/3% of BED;	BED 10% of Tariff value SED 33-1/3% of BED

Tariff values were fixed at Rs. 7.50 per Kg. in respect of 'shoddy yarn' and at Rs. 13.50 per Kg. in respect of 'all others not otherwise specified' vide notification No. 77/71 dated 29-5-71.

1.42. The Central Board of Excise and Customs in their letter F. No. 10/1/69—CX—III dated 1 August, 1969 (Annexure IV) clarified that soft wool wastes could not be termed as shoddy wool, but in case admixture of soft wool wastes in shoddy wool was below 15 per cent the yarn produced out of such admixture could be termed as shoddy yarn.

1.43. It is learnt from Audit that M/s. British Indian Corporation Ltd. New Egerton Woollen Mills located at Dharwal in the jurisdiction of the Collectorate of Central Excise, Chandigarh used more than 15% of soft wool waste or more than 5 per cent of virgin wool in the manufacture of yarn and cleared it at the concessional rate of duty classifying it as shoddy woollen yarn. The Committee learn that at the instance of Audit the Department recovered differential duty amounting to Rs. 83,565 in respect of the clearances made during the period May 1973 to February 1974. However no action was taken by the Department of Revenue for the recovery of differential duty of Rs. 1,39,543.27 on the clearance of 2,71,748 kgs. of yarn by the assessee during the period August 1969 to April 1973, till it was pointed out by Audit.

1.44 The Committee have further learnt that a demand for the aforesaid amount of Rs. 1,39,543.27 issued in December 1976 was confirmed by the Assistant Collector in September 1977.

1.45. Asked about the present position of the demand the Department of Revenue in a note have stated:

“The demand was confirmed by an order passed by the Assistant Collector on 7.9.1977 but this order was later set aside by an order passed in appeal by the Appellate Collector of Central Excise, on the ground that the demand was time barred.”

1.46. In another note the Department of Revenue have stated:

“In his appeal filed before the Appellate Collector, the assessee had disputed the decision of the Assistant Collector confirming the demand, that the yarn manufactured and cleared by him during the relevant period contained more than 5% of virgin wool. The assessee had argued that the Department had wrongly calculated the percentage of virgin wool contained in the yarn manufactured and cleared by him, as being more than 5%. by taking into account the soft and hard wool wastes such as noils etc., which cannot be treated as virgin wool. In his order in appeal the Appellate Collector had accepted this contention of the assessee, that the wool wastes could not be regarded as virgin wool. He had accordingly set aside the order of the Assistant Collector and remanded the case back to him for *de-novo* adjudication. Since the matter is under examination afresh by the jurisdictional Assistant Collector, it will be premature to hold the view that the assessee had actually evaded the duty. The final replies on these points can be furnished only after detailed examination of the matter.”

1.47. The Committee are perturbed to note that the Department of Revenue had failed to detect that M/s. British India Corporation Ltd. (New Egaxton Woollen Mills located at Dhariwal) were using more than 15 percent of soft wool waste or more than 5 per cent of virgin wool in the manufacture of yarns and got it cleared at the concessional rate of duty classifying it shoddy woollen yarn. The Collectorate noticed (May 1974) that the yarn manufactured and cleared during the period May 1973 to February 1974 as shoddy yarn could not be classified as such. They therefore recovered duty amounting to Rs. 83,565 in respect of the clearance made during the period May 1973 to February 1974. But the Department did not take any action, for the recovery of differential duty of Rs. 1,39,543.27 on the clearance of 2,71,748 Kgs. of yarn made during the period August 1969 to April 1973. The related demand raised and confirmed by Assistant Collector in September 1977 was set aside in appeal by the Appellate Collector on the ground that the demand was time barred. It is amazing how the Department could not detect the misclassification during the earlier period, VIZ., August 1969 to April 1973. The Committee desire that responsibility for the lapse should be fixed to take action against the erring officials.

1.48. The Committee further note that Appellate Collector has accepted the plea made by the assessee that the Department had wrongly calculated the percentage of virgin wool contained in the yarn manufactured and cleared by him as being more than five percent by taking into account the soft and hard wool wastes such as noils etc. which cannot be treated as virgin wool. The Committee further note that the Appellate Collector has remanded the case back to the Assistant Collector for *de-novo* adjudication and the matter is under examination afresh by the jurisdictional Assistant Collector. The Committee would wait for the decision of the Jurisdictional Assistant Collector in this case and the views of the Department on that decision.

NEW DELHI ;

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

April 30, 1979

Vaisakha 10, 1901 (S)

Appendix I

(vide Para I.II)

I. Lal Woollen & Silk Mills Ltd., Amritsar

Established in the year 1949 as a partnership concern for weaving of woollen fabrics only. Later, merged with Lal Worsted Spinning Mill, Chheharata under the name and style of "Lal Woollen & Silk Mills (P) Ltd." with the following Directors and shareholders for spinning and weaving of woollen yarn /fabrics:—

1. Shri Madan Lal Mehra s/o Shri Durga Dass Mehra
2. Shri Hira Lal Mehra s/o -do-
3. Shri Harbans Lal Mehra s/o -do-
4. Shri Ravi Kumar Mehra s/o -do-

The Directors and Partners of Lal Textile Finishing Mills which came into existence in 1956, as a private Ltd. company, was exclusively engaged in the processing of fabrics, are as follows:

Directors:

1. Shri Durga Dass Mehra Father
2. Shri Hira Lal Mehra Son
3. Shri Madan Lal Mehra Son
4. Charan Dai Mother of S/Shri Hira Lal and Madan Lal Mehra (Sl. Nos. 2 & 3)

Shareholders

S/Shri

1. Smt. Usha Rani w/o Hira Lal Mehra
2. Smt. Nirmal Mehra w/o Madan Lal Mehra
3. Harbans Lal Mehra s/o Durga Dass Mehra
4. Ravi Kumar Mehra s/o Durga Dass Mehra
5. V.P. Vij (not related)
6. Om Prakash Aggarwal (not related)

Thus two of the Directors of Lal Woollen & Silk Mills are also Directors of Lal Textile Finishing Mills. Four of the shareholders of Lal Textile Finishing Mills P. Ltd., Amritsar are related to the Directors of Lal Woollen and Silk Mills.

2. *Chakkola Spinning & Weaving Mills* : This Unit came into existence in the year 1956. As per the Annual Report of the Company for the year 1976-77 the following are the Directors:

1. Shri Chakkola Lonappan Lona
2. Shri C.K. Devassy
3. Shri John J. Chakkola
4. Shri Thommy P. Chakkola
5. Shri John P. Chakkola

The partners of Shri Chitra Mills, Kalamassery are the following:

1. Shri Chakkola Lonappan Lona
2. Shri John P. Chakkola
3. Shri John J. Chakkola
4. Shri Thommy P. Chakkola
5. Shri Joseph J. Chakkola

Four of the partners are common to both Chakkola Weaving & Spinning Mills and Shri Chitra Mills.

3. *Aryan Woollen Mills, Panipat*

This Unit was established in the year 1960 as a partnership concern for the manufacture of woollen yarn. The following are the partners of this firm:

1. Shri Ganga Ram s/o Shri Brij Nath
2. Shri Bhan Prakash s/o Shri Jiyalal
3. Shri Ramesh Chand s/o Shri Sumer Chand

5. *Swastik Woollen Mills, Panipat*

Established in the year 1959 as partnership concern. The following are the partners :

1. Shri Ram Lal s/o Shri Bali Ram
2. Shri Madan Mohan s/o Shri Ram Lal
3. Shri Gurcharan Dass s/o Shri Ram Lal
4. Shri Dilbagh Rai s/o Shri Kailash Chand

Swastika Finishers established in 1973 for processing of woollen fabrics has a partner Smt. Nirmal Kanta who is the wife of Shri Gur Charan Dass, a partner in Swastik Woollen Mills.

6. *Goel Engineering & Woollen Works*

Established as a partnership concern in the year 1964 for spinning of woollen yarn. The following remained the partners at one time or the other :

1. Shri Sumar Chand s/o Shri Jai Narain Goel
2. Shri Rajinder Kumar s/o Shri Jai Narain Goel
3. Shri Ashok Kumar s/o Shri Jai Narain Goel
4. (Three sons of Shri Sumar Chand)
5. Wife of Shri Sumar Chand

The partners in both the firms were related, thus:

Shri Rajinder Kumar Goel, a partner in Goel Woollen & Engg. Works has his wife, Smt. Darshna Devi as a partner in Goel Finishers. Shri Ashok Kumar Goel, a partner in Goel Engg. & Woollen Mills has his wife Smt. Sushila Goel as a partner in Goel Finishers. Shri Sumar Chand

had his one son as a partner in Goel Engg. and Woollen Works. His other son is a partner in Goel Finishers. The wife of Shri Sumar Chand is a partner in Goel Engg. & Woollen Works. Her son Master Parveen is a partner in Goel Finishers.

Two of the partners of Aryan Finishers are related to the partners of Aryan Woollen Mills. (1) Pushpa, Wati, Partner of Aryan Finishers is the wife of Shri Bhan Prakash partner of Aryan Woollen Mills, (2) Asha Rani partner of Aryan Finishers is the niece of Shri Ganga Ram partner of Aryan Woollen Mills.

4. Amba Woollen Mills, Panipat

Amba Woollen Mills came into existence in 1968 as a partnership concern. The following are the partners of this firm:

1. Shri Ravinder Garg s/o Shri Lal Chand Garg
2. Shri Pawan Garg s/o Shri Lal Chand Garg
3. Shri Sudesh Kumar s/o Shri Devi Dayal
4. Shri Siri Chand s/o Shri Telu Ram
5. Shri Jatinder Kishore s/o Shri Munna Lal
6. Smt. Ravinder Sodhi w/o Surinder Singh

Some of the partners of this firm are related to the partners of Amba Finishers. For instance Smt. Ravinder Sodhi a partner in Amba Woollen Mills has her husband Shri Surinder Singh as a partner in Amba Finishers. Shri Siri Chand partner of Amba Woollen Mills has his wife Smt. Shanti Devi as partner in Amba Finishers. Shri Pawan Garg, partner in Amba Woollen Mills has a son Gaurava Garg as partner in Amba Finishers. Shri Ravinder Garg partner in Amba Woollen Mills has a son Aunit Garg as partner in Amba Finishers.

APPENDIX II

(vide para I.11)

Copy of D.O. letter No. 25 dated 25th April, 1975 from Shri G. D. Arora, Income Tax Officer, Office of the Income Tax Officer, A. Ward, Panipat to Shri Balwant Singh IRS, Inspecting Asstt. Commissioner of Income Tax, Ambala Cantt.

SUBJECT: —CE Processed Woollen Fabrics bifurcation of composite units to avail concessions granted under notification No. 50/62 CE dated 24-2-62. Legal position of the new segregated units. Question regarding.

The enquiries entrusted to me pertain to the following concerns :

1. M/s. Haryana Woollen Mills M/s. Goela Finishers.	(Parent Unit) (Finishing Unit)	Bifurcated in June, 1972
2. M/s. Swastika Woollen Mills M/s. Swastika Finishers.	(Parent Unit) (Finishing Unit)	Bifurcated in July 1973.
3. M/s. Ashoka Woollen Mills M/s. Ashoka Finishers.	(Parent Unit) (Finishing Unit)	Bifurcated in July 1972.
4. M/s. Amba Woollen Mills M/s. Amba Finishers.	(Parent Unit) (Finishing Unit)	Bifurcated in July 1972.
5. M/s. Aryan Woollen Mills M/s. Aryan Finishers.	(Parent Unit) (Finishing Unit)	Bifurcated in September 1973.

There are two types of units functioning in Panipat:

- (i) Composite units having process of manufacturing of woollen fabrics *i.e.* Barrack Blankets and also having an arrangement for finishing the same.
- (ii) Finishers *i.e.* only doing finishing of woollen fabrics (Barrack Blankets etc.)

There has been disparity between the incidence of excise duty borne by composite units and finishers where as processed woollen fabrics woven by a factory other than a composite unit and processed by an independent finishers were entitled to a concessional rate of duty at an aggregate of 8% of tariff value but the same fabrics if processed by a composite unit, were chargeable to duty at higher rate *i.e.* at an aggregate rate of 11%. The excise duty payable by composite unit works out to Rs. 4.47 p. per blanket where as the excise duty per blanket, if the same is finished by a Finishing Mill works out to Rs. 2/- only.

2. The whole supplies of Barrack Blankets are made through the Director General, Supplies and Disposal, New Delhi as per tenders invited by them. While Panipat Mills meet 1/2 of the demand of Government with

regard to supplies of Barracks Blankers, the rest of the supplies are made by:—

1. M/s. Everest Woollen Mills, Ludhiana.
2. M/s. Shafton, Mirzapur.
3. Khadi Sansthas.

3. In view of the disparity in the payment of Excise duty by Composite Units and Finishing Mills, composite units stopped finishing their product and instead of getting their products finished from Finishing Mills, they established their independent finishing units.

4. As directed action under section 133A was taken in the above noted cases and my report in respect of each group as under:—

- (i) M/s. Haryana Woollen & General Mills (Pvt.) Ltd. with their registered office at Asaf Ali Road, New Delhi.

The firm M/s. Goela Finishers, Panipat was constituted under instrument of partnership deed dated 1-6-72 with the following constitution:—

	Share of profit	Share in case of loss
1. Smt. Urmila Devi	1/3	2/3
2. Sh. Suraj Bhan Gupta.	1/3	1/3
3. Sh. Ajay Kumar minor son of Shri Rajinder Kumar	1/6	..
4. Sh. Sanjay Kumar, minor son of Sh. Rajinder Kumar.	1/6	..

Shri Suraj Bhan Gupta and Smt. Urmila Devi were examined. It appears that Shri Suraj Bhan and Urmila Devi are not genuine partners and in turn deed of partnership dated 1-6-72 did not bring a genuine firm into existence. Further the case of M/s. Haryana Woollen and General Mills (Pvt.) Ltd. Panipat having their registered office at Asaf Ali Road, New Delhi is assessed by ITO, Delhi and similarly the case of M/s. Goela Engg. & Finishing Works, E-553, Industrial Area, Panipat with their Regd. office at Timarpur, Delhi is also assessed by ITO, Delhi. Enquiries are accordingly required to be made from the ITO's concerned. The information gathered through examination of Shri Tara Chand, Manager, and s/o Shri Suraj Bhan, partner, Shri Suraj Bhan, partner & Smt. Urmila Devi will be utilised in the completion of assessment of M/s. Goela Finishers, Panipat.

- (ii) M/s. Swastika Woollen, Mill, Panipat & M/s. Swastika Finishing Mills, Panipat.

The firm M/s. Swastika Finishing Mills was constituted under partnership deed dated 2-7-73 with the following constitution.

1. Sh. Sunil Kumar, S/O Shri Kundan Lal 1/3
2. Smt. Kanta Mahajan W/o Shri Tek Raj. 1/3
3. Smt. Nirmal Kumari W/o Shri Gurcharan Dass 1/3

Shri Sunil Kumar was examined while applying provisions of Section 133A.

Shri Kundan Lal (father of Shri Sunil Kumar, Partner) is reported to be doing some contract work on a small scale at Pathankot. Shri Kundan Lal is brother-in-law of Smt. Nirmal Kanta, Partner.

M/s. Swastika Finishing Mill did not have an independent electric connection and had been using electric connection of Swastika Woollen Mills, although Swastika Woollen Mills charged Rs. 1500/- per month, but basis of this charge could not furnished by the assessee.

Shri Sunil Kumar partner has no experience. He was an Agent of LIC and has only been enjoying some commission from LIC. He was paid salary at the rate of Rs. 300/- per month for 9 months and Rs. 14,447/ as his share of profit. Apparently because he has no experience he has been paid much more than his work. This find support from the fact that w.e.f. 31-3-74 Smt. Kanta Mahajan is shown to have been retired and the share of Shri Sunil Kumar reduced from 1/3 to 15%.

Smt. Kanta Devi partner did not invest any amount as her share on investment upto 4-3-74 and the investment of Rs. 10,000/- on 5-3-74 has again been made after withdrawing the same from her account with M/s. Swastika Woollen Mills. It needs consideration how Smt. Kanta Devi could enjoy share of profit to the tune of Rs. 14,747 when she did not join as working partner and did not make any investment for practically the whole of the previous year and invested Rs. 10,000/- only for 27 days. Smt. Kanta Mahajan need be examined so as to come to the conclusion whether she is a genuine partner.

The above evidence is to be strengthened by some further evidence to be collected in the course of assessment proceeding of M/s. Swastika Woollen Mills and Swastika Finishing Mills.

- (iii) My report in respect of M/s. Althoke Woollen Industries (Ashoka Finishers), Amba Finishers and Aryan Finishers, is attached. It appear that the aforesaid firm have been legally constituted.

5. To sum up, you will kindly find from the above that although it is very difficult to hold that the finishing units have not been legally constituted but still efforts can be made in the case of M/s. Goela Finishers and Swastika Finishing Mills to hold that these are not genuine firms and efforts can also be made to hold that there is diversion of profit from Goela Engineering & Woollen Works, Panipat and Swastika Woollen Mills to Goela Finishers and Swastika Finishing Mills.

Report regarding

- (i) M/s. Ashoka Finishers, Panipat
- (ii) M/s. Amba Finishers, Panipat
- (iii) M/s. Aryan Finishers, Panipat.

I. *M/s. Ashoka Finishers*

The firm *M/s. Ashoka Woollen India*, Panipat was constituted as under:—

Shri Himat Rai	32%
Shri Vishnu Dutt	12%
Shri Uttam Chand	32%
Shri Jiwanada Ram.	13%
Shri Kesho Ram.	11%

The said firm was dissolved on 31-12-73 due to losses. The assets and liabilities were also divided amongst the partners. The firm with two partners i.e. S/Shri Himat Rai & Uttam Chand were allowed to retain the same name and to carry on the business till June, 1974, as per terms of dissolution deed dated 31-8-74. The firm constituted with two partners was dissolved on 30-6-74. While Shri Himat Rai retired from the business all togetherd Shri Uttam Chand joined his son Shri Ashoka Kumar and started a new firm under the name and style of Nagpal Textile Mills.

2. Shri Kesho Ram joined *M/s. Ashoka Finishers*. The capital of Shri Kesho Ram was given in the form of Land & Building, which fell to his share on dissolution of the firm *M/s. Ashoka Woollen India*. *M/s. Ashoka Finishers* came into existence w.e.f. 1-4-74, prior to which Shri Hira Nand s/o Shri Kesho Ram was proprietor of this concern in his individual capacity. S/Shri Vishnu Dutt and Jiwanda Ram started their independent business under the name and style of *M/s. Yashoda Woollen Mills*.

3. As you will kindly find from the above, *M/s. Ashoka Woollen Mills* have completely been dissolved and the assets including land and building have been divided amongst the partners and they have started their independent business. The firm *M/s. Ashoka Finishers* has been legally constituted and there does not appear to be diversion of profit from *M/s. Ashoka Woollen Mills* have been completely wound up.

II. *M/s. Amba Finishers*

This firm came into existence w.e.f. June 1974. While the machinery was purchased from *M/s. Amba Woollen Mills* for Rs. 35000/- the building was taken on lease from *M/s. Amba Woollen Mills* at Rs. 1000/-per

month. The partners made the following investments with their shares of profit noted against each.

Name	Investment Rs.	Share of profit;	Share in case of loss.
S/Shri S. S. Sodhi	10,000	19%	23%
Vipin Kumar	10,000	19%	23%
Ashan Garg.	6,000	12%	15%
Kiran Garg.	6,000	12%	16%
Raj Rani	10,000	19%	23%
Prem Kumar (M)	10,000	19%	..

2. The building owned by M/s. Amba Woollen Mills has been completely partitioned into two portions and Amba Finishers are having their independent entrance. The business is looked after by Shri S. S. Sodhi, partner. During the course of action under section 133—it was also examined whether Amba Finishers are doing finishing job of M/s. Amba Woollen Mills only or others also and it came to notice that M/s. Amba Finishers had been during Finishing job of M/s. Sawhney Woollen Mills, Firner Woollen Mills and M/s. Raj Woollen Mills and the rates charged for finishing are the same for all including Amba Woollen Mills. During the course of examination it was also enquired as to what was the object of separating the finishing unit from M/s. Amba Woollen Mills, to which the assessee immediately replied that composite units are pay more excise duty than the non-composite units and as composite units cannot compete the non-composite units in the matter of supplies of barrack blankets to D.G.S. & D. because rates quoted in the tenders are inclusive of excise duty and therefore, this made the assessee to separate finishing unit from the woollen mills.

3. From the above it appears that the firm M/s. Amba Finishers has been legally constituted.

III. M/s. Aryan Finishers

The firm M/s. Aryan finishers was constituted vide partner ship deed executed in September, 1972, with the following constitution:

Kumari Asha d/o Sh. Ramawshar Dass	1/2
Smt. Pupsha Wati w/o Sh. Bhanu Parkash	1/2

2. The firm M/s. Aryan Finishers has taken land and building with machinery on lease from M/s. Aryan Woollen Mills, at Rs. 1000/- per month. The building owned by the parent firm has been completely partitioned into two portions and M/s. Aryan Finishers are having their independent gate for entrance. The business is looked after by Shri Mukehs Kumar s/o Shri Bhanu Parkash, who has been appointed at Rs. 400/- per month.

The facts are the same as stated in respect of M/s. Amba Finishers. It appears that the firm M/s. Aryan Finishers has been legally constituted.

* * * *

Copy of the D.O.No. JBJ/UD/75-76/665 dated 7-5-1975 from Balwant Singh, Inspecting Asstt. Commissioner, Office of the Inspecting Asstt. Commissioner of Income Tax, Ambala Range, Ambala Cantt. addressed to Shri Seth, Collector, Central Excise Collectorate, Chandigarh and copy to the Commissioner of Income Tax, Patiala, along with a copy of the report from I.T.O. for his information, with reference to D. O. letter No. 2044 dated 28-4-75.

Sub.— C.E. processed Woollen Fabrics—bifurcation of composite units to avail concessions granted under Notification No. 50/62-CE dated 24-4-1962 Legal position of the new segregated units—question—regarding.

Kindly refer to your D.O. letter No. 26296 dated 21-4-75. The delay in sending the report of the Income Tax Officer after examining the books of accounts as well as recording the statements of the persons under section 133A of the Income Tax Act, 1961 is regretted. The report alongwith the annexures is being submitted for your kind perusal.

2. I have gone through the report and to the view that it is fairly detailed and has touched the important issue of real ownership after bifurcation of the original mills. I shall be grateful if you could kindly get the same examined from the point of excise duty and inform me if any suitable action is required in the matter.

APPENDIX III

(*vide* para 1.42)

WOOLLEN YARN—YARN MADE OUT OF SHODDY WOOL— ASSESSMENT OF—INSTRUCTIONS REGARDING

As per instructions contained in the Board's letter F.No. 32/6/62-CX II dated the 23rd June, 1962, 'shoddy wool' has been defined to mean wool retrieved from woollen rags, cuttings etc. A doubt has been raised as to whether or not the wool retrieved from various types of wool wastes such as 'sweeping waste, soft waste, roving waste etc.', is also classifiable as shoddy wool for the purpose of determination of duty liability of shoddy yarn.

2. The matter has been examined in consultation with the Chief Chemist and the Textile Commissioner and the Board is advised that—

- (1) Wool retrieved from various types of wastes (other than soft wastes) obtained during spinning, weaving, knitting etc., operations by subjecting the wastes to the process of pulling or garnetting is classifiable as shoddy wool.
- (2) Soft wool wastes do not require any pulling and as such cannot be termed as shoddy wool. But in case admixture of soft wool wastes in shoddy wool is below 15% the yarn produced out of such admixture can be termed as 'shoddy yarn'.

[Central Board of Excise & Customs F. No. 10/1/69-CX.II dated 1-8-1969) (Circular letter No. Yarn/7/79).]

APPENDIX IV

Statement of Conclusions/Recommendations

Sl. No.	Para No.	Ministry/Department Concerned	Recommendations
1	2	3	4
1.	1.15 and 1.16	Department of Revenue	<p>The Committee note that under notification No. 50/62 dated 24 April 1962 as amended from time to time woollen fabrics and woollen yarn processed by an independent processor are subjected to rate of excise duty lower than that leviable on such fabrics and woollen yarn processed by a composite mill. Six composite mills manufacturing woollen fabrics [viz., (1) Lal Woollen & Silk Mills (P) Ltd., Amritsar, (2) Chakolas Spg. Weaving Mills, Kalamassery, (3) Aryan Woollen Mills, Panipat, (4) Amba Woollen Mills, Panipat, (5) Swastik Woollen Mills, Panipat, (6)(a) Goela Engg. & Woollen Works, Panipat, and (b) Haryana Woollen & General Mills Ltd., Panipat] separate their processing functions and formed independent processing units. While M/s. Chakolas Spg. & Weaving Mills, Kalamassery and M/s. Lal. Woollen & Silk Mills (P) Ltd., Amritsar had established separate processing units almost simultaneously, in other cases the processing units came into existence several years after their own establishment.</p> <p>The audit paragraph and the material made available to the Committee has abundantly brought out the fact that partners of the bifurcated processing units were members of the same family or close relatives and for all intents and purposes they had proprietary interest in the manufacturing units as well as factories. While the two units enumerated at Sl. Nos. 1 and 2 above came into existence much before the concession to processing units was announced in 1962, the remaining four units,</p>

Aryan, Amba, Swastik and Goela Finishers, all located at Panipat, came into existence in the years 1972 and 1973. Presumably this was done by those manufacturers with the sole objectives of escaping the incidence of higher rate of duty levied on composite mills. The Ministry of Finance in their reply have also admitted that "this could have been one of the reasons." This impression of the Committee has been strengthened by the facts mentioned by Income-tax Officer, Office of the Income-tax Officer, A ward, Panipat in his d.o. letter No. 257 dated 25 April 1975 addressed to the Inspecting Assistant Commissioner of Income-tax, Ambala Cantt. and the statement made by one of the partners of M/s. Amba Finishers before the above said officer that "Composite units are to pay more excise duty than the non-composite units and as composite units cannot compete the non-composite units in the matter of supplies of barrack blankets to DGS&D because the rates quoted in the tenders are inclusive of excise duty and, therefore, this made the assessee to separate finishing units from the woollen mills." This separation of the 6 processing units had resulted in an escapement of duty of Rs. 30.42 lakhs during the period 1972-73 to 1973-74. The Committee, therefore, urge the Department of Revenue to examine the matter carefully and take urgent rectificatory steps.

To plug the loopholes for future so that legal avoidance of duty as has happened in the instant case does not recur.

I 1.33 and
I.34

Department of Revenue

The Committee note that M/s. Padamshree Textile Industries Ltd. located at Kharar and falling under Chandigarh Collectorate started manufacture of woollen yarn and woollen fabrics in September 1972. The assessee evaded excise duty amounting to Rs. 3.33 lakhs by adopting the following procedure:

- (1) The firm transferred the manufactured goods to the godown/sales offices by declaring the rates lower than those at which these

goods were actually sold. (Duty involved in under-assessment of rate:—Rs. 1.53 lakhs).

- (2) The manufactured goods were accounted for in lesser quantities in the stock register of production than actually cleared. (Duty involved in non-accountal of manufactured good—Rs. 1.80 lakhs).

The evasion of duty by mis-declaration and under-declaration of the value of goods could not be detected till it was pointed out by Audit in March 1976, i.e. 3 1/2 years after the unit started manufacturing the yarn and fabrics. This happened in spite of the fact that specific provisions exist in the Central Excise Rules to prevent such evasion of excise duty. Strangely, the Department was not even aware of the fact that the assessee had opened a godown outside factory premises and four sales offices at Chandigarh, Ludhiana, New Delhi and Calcutta till the Audit brought out the fact to the notice of the Department though the Department maintains a large contingent of field formation and a full-fledged Directorate of Revenue Intelligence. This is a sad commentary on the functioning of the Department of Revenue. The Committee would like the matter to be examined thoroughly and responsibility fixed for the lapses on the part of excise officials at all levels.

3 1.35

Department of Revenue

The Committee are perturbed to note that Internal Audit did not visit the factory during the period from 1973 to 1976. The Inspection Groups visited the assessee to check the records during the years 1973 to 1976 only four times on 7 July 1973, 10 January 1974, July 1974 and 17 January 1975. It is distressing that during these visits Inspection Groups could not detect evasion of duty by the assessee nor did it conduct any reconciliation of records kept by the assessee and the Department. The Committee take a serious view of this lapse and would like the Department of Revenue to take deterrent action against the erring officials.

1	2	3	4
4. I.36	Department of Revenue		<p>The Committee note that appeal filed by the assessee in the offence case booked against him for contravention of rules 9, 52-A and 173-F has been rejected by the Appellate Collector of Central Excise, New Delhi but the dues are still pending recovery.</p> <p>The Committee desire that steps may be taken to recover the dues from the assessee.</p>
5. I.47	Do.		<p>The Committee are perturbed to note that the Department of Revenue had failed to detect that M/s British India Corporation Ltd. (New Egerton Woollen Mills located at Dhariwal) were using more than 15 per cent of soft wool waste or more than 5 percent of virgin wool in the manufacture of yarn and got it cleared at the concessional rate of duty classifying it shoddy woollen yarn. The Collectorate noticed (May 1974) that the yarn manufactured and cleared during the period May 1973 to February 1974 as shoddy yarn could not be classified as such. They therefore recovered duty amounting to Rs. 83,565 in respect of the clearance made during the period May 1973 to February 1974. But the Department did not take any action, for the recovery of differential duty of Rs. 1,39,543.27 on the clearance of 2,71,48 Kgs. of yarn made during the period August 1969 to April 1973. The belated demand raised and confirmed by Assistant Collector in September 1977 was set aside in appeal by the Appellate Collector on the ground that the demand was time barred. It is amazing how the Department could not detect the misclassification during the earlier period, viz. August 1969 to April 1973. The Committee desire that responsibility for the lapse should be fixed to take action against the erring officials.</p>

6 1.48 Department of Revenue The Committee further note that Appellate Collector has accepted the plea made by the assessee that the Department had wrongly calculated the percentage of virgin wool contains in the yarn manufactured and cleared by him as being more than five percent by taking into account the soft and hard wool wastes such as noils etc. which cannot be treated as virgin wool. The Committee further note that the Appellate Collector has remanded the case back to the Assistant Collector for *de-novo* adjudication and the matter is under examination afresh by the jurisdictional Assistant Collector. The Committee would wait for the decision of the jurisdictional Assistant Collector in this case and the views of the Department on that decision.

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