

HUNDRED AND TWENTY-FOURTH REPORT

PUBLIC ACCOUNTS COMMITTEE (1987-88)

EIGHTH LOK SABHA)

**CUSTOMS RECEIPTS—WORKING OF INLAND
CUSTOMS BONDED WAREHOUSES**

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

Presented to Lok Sabha on 18-4-1988

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**LOK SABHA SECRETARIAT
NEW DELHI**

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PART-II*

Minutes of the Sitting of the Public Accounts Committee (1987-88) held on :

23-9-1987

5-4-1988

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

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(1987-88)

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*Ceased to be a Member of the Committee consequent on his retirement from Rajya Sabha w. e. f. 2-4-1988.

INTRODUCTION

1. The Chairman of the Public Accounts Committee, as authorised by the Committee do present on their behalf this Hundred and Twenty Fourth Report on Paragraph 1·41 of the Report of the Comptroller and Auditor General of India for the year 1985-86—Union Government (Civil), Revenue Receipts, Vol. I, Indirect Taxes, relating to Customs Receipts—Working of inland customs bonded warehouses.

2. The Report of the C&AG of India for the year 1985-86, Union Government (Civil) Revenue Receipts, Vol., I, Indirect Taxes, was laid on the Table of the House on 8 May, 1987.

3. This report reveals several irregularities in the working of inland customs bonded warehouses. The Committee have recommended that the Ministry of Finance should vigorously pursue all the cases referred to in the report to their logical finalities and safeguard governmental revenues. The Committee, have also recommended that the Ministry should thoroughly enquire into the departmental failures/lapses which eventually had resulted in the occurrence of those irregularities, establish a system of regular monitoring of the working of the system according to the prescribed method and take suitable action against the officers responsible for their various illegal/irregular acts of omission and commission.

4. The Committee have expressed their severe displeasure over the inadequate manner in which the question, whether the right of the owner of the imported goods to relinquish his title to the warehoused goods under Section 23(2) of the Customs Act, 1962, at any time can be exercised even after the issue of demand notice under Section 72, was considered by the Ministry of Law while tendering their advice on the issue in 1972. They have also commented adversely on the delay on the part of Ministry of Finance to initiate action to check loss of revenue which the opinion expressed by the Ministry of Law in 1972, entailed.

5. The Committee have expressed their view that the importers should not have an unfettered right to abandon ownership to the goods under Section 23(2) of the Customs Act. They have pointed out that in a large number of cases the importers of warehoused goods chose to relinquish their title to imported goods depending on the internal market situation and this clearly indicates that the facility is indeed being misused for speculative purposes to the detriment of indigenous industry. Moreover, the inadequate realisation made on sale of

such relinquished goods would undoubtedly show that Government is clearly put to a loss of revenue besides loss of foreign exchange on account of avoidable imports. The Committee have, therefore, recommended that Government should make necessary amendments in the Customs Act whereby the owners of the imported goods who avail of the warehousing facility shall not be given the right to relinquish such imported goods after proceedings are initiated under Section 72 for recovery of dues so that financial interests of the Government are securely protected. Further, Government should prescribe a time limit under Section 23(2) of the Customs Act within which only the owners shall be allowed to relinquish their title to the imported goods, in all cases.

6. The Committee have noted with surprise while on the one hand, the Ministry of Finance have been expressing their helplessness due to legal constraints in invoking Section 72 of the Customs Act for recovering governmental dues in cases where the importers resort to relinquishment of title to imported goods in exercise of the provisions of Section 23(2) of the Act, on the other hand, goods valuing Rs. 53 crores on which duty of about Rs. 16 crores are due to Government are lying uncleared beyond the warehousing period for want of effective departmental action. Pointing out that the present system of monitoring is totally inadequate and ineffective the Committee have recommended that the Ministry of Finance should take effective measures for improving upon the system of monitoring of the warehousing bonds in order to ensure that a continuous watch is kept and prompt action taken on expiry of warehousing period in respect of every consignment so that governmental revenues are adequately protected. The procedure, practice and organisation involved in the field, Collectorate and the Board/Ministry need to be suitably streamlined.

7. After identifying several areas of shortcomings relating to the working of the customs bonded warehouses which require immediate attention of Government, the Committee have recommended that the Ministry of Finance should undertake a comprehensive review of the working of the customs bonded warehouses keeping in view these facts and take effective steps for streamlining the working of such warehouses. Further, as a measure of abundant caution, Government should make it obligatory that the owners of the imported goods support their warehousing bonds by furnishing adequate bank guarantees. The Committee are of the opinion that wherever extensions are granted beyond the initially permitted period of warehousing, provisions should be made in the law that the owners of the imported goods are required to pay customs duty at the rates prevailing at the time of import or actual clearance from the warehouses, whichever is higher. The Committee are also satisfied that the above measures, would in no way, affect the genuine users

adversely, but on the other hand, would help Government in restricting avoidable imports besides checking misuse of the facility.

8. The Public Accounts Committee (1987-88) examined the Audit Paragraph at their sitting held on 23 September, 1987.

9. The Committee considered and finalised this report at their sitting held on 5 April, 1988. The Minutes of the sitting form Part II* of the Report.

10. 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 VII to the Report.

11. The Committee would like to express their thanks to the officers of the Ministry of Finance (Department of Revenue) and Ministry of Law and Justice for the cooperation extended by them in giving information to the Committee.

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

AMAL DATTA

Chairman,

Public Accounts Committee

NEW DELHI;

April 8, 1988

Chaitra 19, 1910 (S)

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

REPORT
CUSTOMS RECEIPTS—WORKING OF INLAND CUSTOMS
BONDED WAREHOUSES

Introductory

The scheme of customs warehousing is governed by Sections 57 to 73 appearing in Chapter IX of the Customs Act, 1962 (hereinafter referred to as the Act). The object of warehousing is to allow the trade the facility of deferred payment of customs duty on the imported goods for a period permissible under the Act or for a reduced period or period extended by the Collector of Customs, as the case may be, till their actual clearance for home consumption on payment of appropriate duty or their re-export without payment of duty to any foreign port. The facility is given only at the place declared as warehousing station under Section 9 of the Act. Section 57 of the Act provides that at any warehousing station, the Assistant Collector of Customs may appoint public warehouses wherein dutiable goods may be deposited without payment of duty.

2. As per Section 59(1) of the Act, the importer/owner of the goods before depositing the goods in the warehouse is required to execute a bond binding himself in a sum equal to twice the amount of duty assessed on such goods and to observe all provisions of the Act and Rules and Regulations in respect of such goods.

Warehousing Procedure

3. When imported goods are entered on importation for warehousing and have been assessed to duty and bonds executed under Section 59 of the Act, they are first warehoused at the port of importation. After permission is obtained by the importer for transfer of goods to inland customs bonded warehouses, they are transferred under transit bonds. Into-bond bills of entry are filed by the importer again at the time of re-warehousing at inland station. After the goods are examined, re-warehousing is permitted and warehousing certificate is issued to the original port of entry.

Period of Warehousing

4. Under Section 61(1) of the Act, the period for which goods (other than non-consumable stores) may remain warehoused, is only three months from the date on which the proper officer makes an order under Section 60 permitting the deposit of the goods in a warehouse. Consumable stores are for use in a vessel or aircraft and include fuel, food articles etc. Spares and articles of equipment meant for vessels or aircraft are

not included in consumable stores. In the case of non-consumable stores, the goods may remain warehoused for a period of one year. Plants and machinery fall in this category. Goods which are likely to deteriorate shall, at the discretion of the Collector of Customs, be allowed to be warehoused for even shorter periods. Goods which are not likely to deteriorate may be allowed to be warehoused by the Collector for a further period not exceeding six months and by the Central Board of Excise and Customs for such further period as it may deem fit. Customs duty is not to be realised as long as the goods remain warehoused under bond and duty is realised only when goods are cleared for home consumption.

Penal Provisions

5. Section 72 of the Act stipulates that where any such warehoused goods have not been removed from a warehouse at the expiration of the prescribed period, the proper officer is empowered to demand the full amount of duty chargeable together with all penalties, rent, interest etc. in respect of such goods. If the demand is not discharged within three days by the importer owner of such goods, the Assistant Collector may immediately proceed to detain the goods and take action for recovery of duty by auctioning the goods. Further, interest at 12% per cent is payable on the amount of duty on warehoused goods for the periods from the date of expiry of three months, during which warehousing has been permitted, to the date of clearance of goods from the warehouse.

Revenue from warehouses

6. There are 486 inland bonded warehouses in India. This figure does not include the warehouses situated in port cities because they are not inland bonded warehouses. Out of 486 inland bonded warehouses, 337 are private bonded warehouses, the remaining 149 being public bonded warehouses. The public bonded warehouses in inland stations are managed and controlled by the Central Warehousing Corporation.

7. The following Table indicates the total amount of customs duty realised from all customs bonded warehouses and also from the inland bonded warehouses during the years 1984-85, 85-86 and 86-87 :

Year	Customs duty realised (in crores)	
	From all warehouses together	From in land bond- ed ware- houses only
	Rs.	Rs.
1984-85	1,454	564
1985-86	1,854	816
1986-87	2,471	1,045

Irregularities in the working of warehouses

8. This report is based on paragraph 1.41 of the Report of the C&AG for the year 1985-86, Union Government (Civil), Revenue Receipts, Volume I, indirect Taxes. Audit have pointed out various irregularities in the working of several inland customs bonded warehouses which were detected as a result of a test check of such warehouses situated within the jurisdiction of Ahmedabad, Baroda, Jaipur, Allahabad, Kanpur and Meerut Collectorates of Central Excise and also the Cochin Custom House. The Audit paragraph has been reproduced as Appendix-I.

9. The Committee have examined the cases of irregularities in some depth and the position of the individual cases is shown in Appendices II to V. Broadly, the nature of irregularities were omission or delay in demanding duty, interest and other charges from defaulters under Section 72(1) of the Customs Act, 1962, omission or delay in issuing notice under Section 72(2) of the Act for detention of goods sufficient to cover the amount due to Government, long delay in auctioning the detained goods resulting in accumulation of uncleared goods in the warehouses, sale proceeds of goods not adequate to cover the duty and interest, irregular acceptance by the department of relinquishment of goods under Section 23(2) of the Act by the defaulters liable to action under Section 72 of the Act leading to loss of revenue to Government, grant of permission by lower formations for piecemeal clearance of goods from the warehouses even after refusal by the Board to grant further extension, grant of irregular permission by the Board for relinquishing the goods and to clear the relinquished goods after expiry of six months from the date of acceptance of the relinquishment, irregular procedure followed for recovery of amount on the withdrawal of stay order and non-levy of interest.

10. The Committee desire that the Ministry of Finance should vigorously pursue all the cases referred to above to their logical finalities and safeguard governmental revenues. The Ministry should thoroughly enquire into the departmental failures/lapses which eventually had resulted in the occurrence of those irregularities, establish a system of regular monitoring of the working of the system according to the prescribed method and take suitable action against the officers responsible for their various illegal/irregular acts of omission and commission. The committee would like to have a detailed report on the follow-up action taken in respect of the system improvement instituted, as well as on all the individual cases of illegalities and irregularities pointed out by audit and also those detected by the department itself and would like to be apprised of the present position of recovery on account of duty and other dues.

11. The Committee will now deal with some of the more disquieting aspects relating to the working of the inland customs bonded warehouses which require serious attention.

Warehousing and Relinquishment of title to imported goods

12. Section 23 appearing in Chapter V of the Act deals with remission of duty on lost, destroyed or abandoned goods. Sub-section (2) of Section 23 provides that the owner of any imported goods may, at any time, before an order for clearance of the goods for home consumption has been made, relinquish his title to the goods and thereupon he shall not be liable to pay the duty thereon.

13. On examination of the cases reported in the Audit paragraph it was seen that in respect of several consignments, the owners of warehouse goods relinquished their title to the imported goods, mostly polyester yarn, after the Customs department had initiated action against the defaulting owners under Section 72 of the Act for non-clearance of goods from the warehouses even after the expiry of the permitted period of warehousing. Pertinently, during the time of relinquishment, the prices of such goods had reportedly fallen in the domestic market. Against this background, the Committee sought to make an analysis of the extent of relinquishment of title in respect of warehoused imported goods at all India level.

14. From the information furnished by the Ministry of Finance (Department of Revenue), at the instance of the Committee, it was seen that the total value of relinquished goods for the period of five years from 1932-83 to 1986-87 amounted to Rs. 7.39 crores. The total duty liability involved on such goods amounted to Rs. 6.8 crores. Out of goods worth Rs. 7.39 crores, the Customs department were able to sell goods valuing Rs. 3.61 crores which had fetched Rs. 2.95 crores only. Thus, apart from the loss in auction, the proceeds from sale of the relinquished goods are, apparently insufficient to meet the liability on account of duty, interest and other charges. The rest of the goods were reported by the Ministry as lying unsold. In certain cases, the goods after relinquishment were found unfit by the department for human consumption and, therefore, not sold. During evidence, the Chairman, Central Board of Excise and Customs admitted that the market prices had gone down in respect of certain cases and, therefore, realisation through sale was found difficult. According to the Ministry, the nature of goods relinquished were mostly, polyester filament yarn, synthetic waste, video cassettes without tape or part etc. The importers who relinquished title to goods included some major companies as well. Among others, they included Garden Silk Mills, Vareli Weavers, Ambica Silk Mills, Vareli Exports, K. T. Woollen Mills etc.

15. Commenting on the present state of affairs in respect of relinquishment of title of the warehoused goods, the Chairman, Central Board of Excise and Customs opined during evidence that this indiscriminate facility should be curtailed. In a written note, the Ministry of Finance (Depart-

ment of Revenue) expressed their view that the right under Section 23(2) should not accrue where proceedings have been initiated under Section 72. However, the Ministry of Finance sought to express their helplessness in terms of the present legal position, as clarified by the Ministry of Law in their advice tendered in 1972 that no duty can be recovered from owners in respect of goods which have been abandoned under Section 23(2) even though the goods may have been warehoused. As per the opinion of the Ministry of Law expressed in 1972, notwithstanding the obligations under Section 72, the owner is entitled to relinquish his title to goods in terms of Section 23(2) even after the expiry of the warehousing period.

16. In this context, the Committee enquired about the circumstances under which the reference was made to the Ministry of Law in 1972 and called for copies of the relevant papers. On examination of the copies of the relevant correspondence furnished to the Committee after evidence, it was seen that on 5 April, 1972, the Ministry of Finance (Department of Revenue) made a reference to the Ministry of Law in pursuance of a clarification sought by the Collector of Customs, Bombay. In reply, the Ministry of Law on 29 April, 1972 opined that the language of sub-section (2) of Section 23 of the Act seem to presuppose that the individual is the owner of the goods. If the title thereto has been relinquished under section 23 (2), there would be no owner. In the circumstances the Ministry of Law opined that it would be difficult to sustain the claim for duty and recover the duty in terms of the bonds. The advice as tendered by the Ministry of Law at the level of an Assistant Legal Advisor. In reply to a pointed clarification sought by the Ministry of Finance again on 8 June, 1972 arising out of the Ministry of Law's opinion, the Assistant Legal Advisor reconfirmed his opinion on 28 June 1972 that no duty was chargeable on relinquished goods despite the provisions of the warehousing bond.

17. During the course of the evidence tendered before the Committee on 23 September 1987, the Law Secretary stated that the issue has not been re-examined by the Ministry of Law and the views of the Attorney-General on the subject has also been obtained.

18. From the information furnished to the Committee in this regard, after evidence, it was seen that on 15 July, 1987, the Ministry of Finance made a reference seeking the views of the Ministry of Law on the scope of Section 23(2) vis-a-vis warehoused goods. The reference made was obviously only because the subject matter was due to be discussed during the course of the oral evidence to be tendered before the Public Accounts Committee. In contrast to their earlier views, the Ministry of Law, in their note dated 21 September 1987, felt that two alternative views may flow on an interpretation of Section 23 and Section 72. The Ministry, therefore, sought the opinion of the Attorney-General on the issue in a note

dated 21 September 1987 and the statement of the case was prepared at the level of Additional Secretary. In his opinion given on 23 September, 1987, the Attorney-General stated that in any taxing statute if two interpretations were possible of the statutory provision, the one that is favourable to the tax-payer and is against the Revenue should be adopted. Further, on the basis of the Ministry of Law's advice given in 1972, the practice of relinquishment without payment of duty was being allowed by the Customs department for over 15 years. Since all persons concerned have uniformly acted on this footing for over 15 years, this is a case to which the legal maxim *communis error acit jus*, i. e. common error sometimes passes as current law, will be applicable. The Attorney-General further opined that the proper course would be to amend the provisions of the Customs Act and to make the intention of Parliament clear by appropriate enactment if the Revenue wants to make the importer liable in such situations.

19. Offering their views arising out of the Attorney-General's opinion, the Ministry of Finance have in a subsequent note furnished to the Committee after evidence stated that the Ministry would consider necessary amendments in the law alongwith other amendments, if required, on receipt of the report of the Public Accounts Committee on this subject.

20. From the facts stated in the foregoing paragraphs it is abundantly clear that the question whether the right of the owner of the imported goods to relinquish his title to the warehoused goods, under Section 23 (2) of the Customs Act, 1962, at any time can be exercised after the issue of demand notice under Section 72, was not at all adequately considered by the Ministry of Law while tendering their advice on the issue in 1972. What is really disquieting is that such a vital issue having an important bearing on revenue was disposed of by an Assistant Legal Advisor without even referring the matter for consideration of legal experts higher up in the official hierarchy. The fact that even after getting a repeated reference from the Administrative Ministry in quick succession seeking a pointed confirmation on the controversial issue, the Assistant Legal Advisor did not choose to refer the matter to senior authorities, is indicative of the utter casualness with which such a serious matter was dealt with in the Ministry of Law. The Committee cannot but express their severe displeasure over this. They recommend that the Ministry of Law should issue proper instructions and ensure that in future such vital issues are adequately examined by appropriate legal experts at higher levels before the Ministry communicate their considered views.

21. The Committee are surprised over the equally casual manner in which the Ministry of Finance reacted to situation [arising out of the advice tendered by the Ministry of Law in 1972. The circumstances had clearly warranted either the matter to be taken up at a higher

level to thrash out the doubts over the legal validity or to initiate action for incorporating necessary amendments in the Customs Act in order to protect revenue. Strangely enough, the Ministry of Finance did not choose to do so. Lamentably, it was after over a period of 15 years that too when the subject matter was selected by the Public Accounts Committee for detailed examination, that the Ministry reverted to the matter again. They had not done so even after the Report of the C & AG had been submitted to Parliament although as per practice the draft Audit paragraph had been sent to the Ministry for their comments. The Committee are constrained to observe that the inaction on the part of the Ministry of Finance enabled owners of the warehoused goods to increasingly resort to relinquishment of title to the imported goods as and when it subserved their interests. This is unfortunate, to say the least and is indicative of their lack of concern of loss of revenue occurring over long periods of time.

22. The Committee are convinced that the importers should not have an unfettered right to abandon ownership to the goods under Section 23(2) of the Customs Act. The fact that in a large number of cases the importers of warehoused goods chose to relinquish their title to imported goods depending on the internal market situation would clearly indicate that the facility is indeed being misused for speculative purposes to the detriment of indigenous industry. Moreover, the inadequate realisation made on sale of such relinquished goods would undoubtedly show that Government is clearly put to a loss of revenue besides loss of foreign exchange on account of avoidable imports. The Committee, therefore recommend that Government should make necessary amendments in the Customs Act whereby the owners of the imported goods who avail of the warehousing facility shall not be given the right to relinquish such imported goods after proceedings are initiated under Section 72 for recovery of dues so that financial interests of the Government are securely protected. Further, Government should prescribe a time limit under Section 23(2) of the Customs Act within which only the owners shall be allowed to relinquish their title to the imported goods, in all cases.

Monitoring of Bonds in warehouses

23. From the facts furnished to the Committee relating to the cases reported in the Audit paragraph, it was seen that in many cases demand notices were issued by the department under Section 72 of the Act much after the expiry of the warehousing period. In certain cases, it was observed that while the bond period expired in January 1983, demand notices were issued as late as April 1986. While extensions were granted in certain cases, no convincing reasons were adduced for granting/rejecting requests for extensions. Demand notices were found to have been issued in certain cases even after the owners had relinquished title to the imported

goods. Against this backdrop, the Committee attempted a review of the system of monitoring of bonds in respect of inland customs bonded warehouses at all India level.

24. At the instance of the Committee, the Ministry of Finance (Department of Revenue) have furnished the details of the warehoused goods remaining uncleared as on 31 March 1986 beyond the warehousing period. From the details, it was seen that goods valuing about Rs. 53 crores were lying uncleared as on 31 March, 1986 beyond their warehousing period. The available break-up indicated the yearwise pendency as follows —

Year	Value of goods (Rs. in crores)
1981-82	0.79
1982-83	1.97
1983-84	0.95
1984-85	11.45
1985-86	23.60
1986-87	1.79

The amount of duty involved in respect of the above mentioned goods was calculated by the Ministry at approximately Rs. 15.97 crores.

25. It would be relevant to note, in this connection, as indicated in an earlier section of this Report that the maximum period for which goods can be permitted to remain warehoused in the normal circumstances is one year. The Ministry of Finance have neither been able to advance any convincing explanation for this level of pendency nor to enumerate the steps proposed to be taken for disposing of these goods. Admitting the delay in monitoring, the Chairman, Central Board of Excise and Customs stated during evidence that the present system of monitoring suffered from some deficiencies and added that the department would be able to ensure timely monitoring of every consignment in future.

26. The Committee are surprised to note that while on the one hand, the Ministry of Finance have been expressing their helplessness due to legal constraints in invoking Section 72 of the Customs Act, for recovering Governmental dues in cases where the importers resort to relinquishment of title to imported goods in exercise of the provisions of Section 23(2) of the Act, on the other hand, goods valuing Rs. 53 crores on which duty of about Rs. 16 crores are due to Government are lying uncleared beyond the warehousing period for want of effective departmental action. What is further perturbing is the fact that some of the goods pending clearance related even to the period 1981-82 and before. Since the maximum period for which goods are

permitted to remain warehoused is normally one year and even assuming that extensions were granted in exceptional cases for justifiable lengths of time, the Committee find no reasons why goods relating to such past periods should still remain uncleared. This clearly shows that notwithstanding the legal limitations as contended by the Ministry, the present system of monitoring is totally inadequate and ineffective. The Committee recommend that the Ministry of Finance should take effective measures for improving upon the system of monitoring of the warehousing bonds in order to ensure that a continuous watch is kept and prompt action taken on expiry of warehousing period in respect of every consignment so that governmental revenues are adequately protected. The procedure, practice and organisation involved in the field, Collectorate and the Board/Ministry need to be suitably streamlined.

Delay in disposal of goods

27. The Committee's attention has been drawn to various cases of delay in disposal of confiscated goods in respect of certain inland customs bonded warehouses. The reasons for the delay were found to be *inter alia* delay in fixation of reserve prices, delay in deputing supervisory officer (Assistant Collector) for auction, bids in auction too low compared to the reserve prices etc. The Ministry of Finance admitted that the auctions were admittedly not conducted in time.

28. In reply to the question of the Committee, the Ministry of Finance stated that although there is no law debarring the very same importer to take part in the auction, one case had come to the notice of the Department where such an importer took part in the auction for sale of the very same goods abandoned by him. However, no specific enquiries were made by the Department in this regard. There is also no prescribed procedure for the sale of such goods outside the jurisdiction of a particular Collectorate.

29. The Committee would like the Ministry of Finance to make a thorough enquiry into the reasons for the delay for the disposal of the relinquished/confiscated goods lying uncleared in the warehouses. A prescribed procedure should be laid down so as to enable the Collectorates to explore the market outside their jurisdiction if the goods fail to fetch, at least the reserve price at repeated auctions. A constant and continuous monitoring is also considered imperative at a central level in the Board/Ministry, in order to ensure that the uncleared warehoused goods are timely disposed of and the financial interest of the Government is adequately protected.

Classification of perishable goods

30. As per proviso(i) to Section 61(1) of the Act, in the case of any goods which are likely to deteriorate, the Collector of Customs is empowered to

reduce the warehousing period of one year or three months, as the case may be, to such shorter period as he may deem fit. However, presently there are no specific instructions of the Central Board of Excise and Customs for the classification of the perishable goods or the "ones likely to deteriorate" This is left to the judgement of the concerned Collector.

31. The Committee recommend that the Central Board of Excise and Customs should issue suitable instructions to ensure uniformity in applying the proviso (i) to Section 61(1) of the Customs Act, 1962 for the classification of the goods which are likely to deteriorate so as to check misuse of the discretionary power and to safeguard governmental revenues. The Committee would like to be apprised of further developments in this regard.

Need for streamlining the working of customs bonded warehouses

32. On enquiry by the Committee about the steps being taken to improve upon the working of the customs bonded warehouses, the Ministry of Finance (Department of Revenue) in a note furnished after evidence stated that the Directorate-General of Inspection (Customs and Central Excise) was specifically asked to carry out a review of the working of customs bonded warehouses with a view to identifying the deficiencies in the present system consequent to the discussions during the course of the oral evidence tendered before the Committee. A copy of the report of the Directorate as furnished by the Ministry is shown as Appendix VI.

33. The facts stated in the preceding paragraphs have identified several areas of shortcomings relating to the working of the customs bonded warehouses which require immediate attention of Government. The Committee desire that the Ministry of Finance should undertake a comprehensive review of the working of the customs bonded warehouses keeping in view those facts and take effective steps for streamlining the working of such warehouses.

34. The Committee are of the considered view that apart from the administrative measures and the suggestions made by the Committee elsewhere in the Report, certain basic changes in the law relating to warehousing are also essential not only for streamlining the working of the customs bonded warehouses, but also in the overall interests of the economy. As a measure of abundant caution, Government should make it obligatory that the owners of the imported goods support their warehousing bonds by furnishing adequate bank guarantees. The present practice of acceding to the requests of the importers for extension of time beyond the warehousing period in an apparently routine and casual manner need to be effectively curbed. The Committee are of the opinion that wherever extensions are granted beyond the initially permitted period of warehousing, provisions should be made

in the law that the owners of the imported goods are required to pay customs duty at the rates prevailing at the time of import or actual clearance from the warehouses, whichever is higher. The Committee are also satisfied that the above measures would, in no way, affect the genuine users adversely, but on the other hand, would help Government in restricting avoidable imports besides checking misuse of the facility.

NEW DELHI;

8 April, 1988
19 Chaitra, 1910(S)

AMAL DATTA
Chairman,
Public Accounts Committee.

APPENDIX I

(Vide Para. 8)

Paragraph 1.41 of the Report of the C&AG of India for the year 1985-86, Union Govt. (Civil), Revenue Receipts Volume-I, Indirect Taxes—Relating to Customs Receipts—Working of Inland Customs Bonded Warehouses.

As per Section 57 of the Customs Act, 1962, at any warehousing station, the Assistant Collector of Customs may appoint public warehouses wherein dutiable goods may be deposited without payment of duty. The object of warehousing is to allow the trade the facility of deferred payment of duty on the imported goods for a period permissible under Section 61 *ibid* or for a reduced period or period extended by the Collector, as the case may be, till their actual clearance for home consumption on payment of appropriate duty or their re-export without payment of duty to any foreign port. The facility is given only at the place declared as warehousing station under Section 9 *ibid*. Such public bonded warehouses in inland area are managed and controlled by the Central Warehousing Corporation.

The importer/owner of the goods before depositing the goods in the warehouse is required to execute a bond as per Section 59(1) *ibid* binding himself in a sum equal to twice the amount of duty assessed on such goods and to observe all provisions of the Customs Act, 1962 and Rules and Regulations in respect of such goods. Under Section 61(1) of the Customs Act, 1962, the period for which goods (other than non-consumable stores) may remain warehoused, is only three months from the date on which the proper officer made an order under Section 60 permitting the deposit of the goods in a warehouse. In the case of non-consumable stores the goods may remain warehoused for a period of one year. Goods which are likely to deteriorate shall, at the discretion of the Collector of Customs, be allowed to be warehoused for even shorter periods. Customs duty is not to be realised so long as the goods remain warehoused under bond and duty is realised only when goods are cleared for home consumption.

Section 72 of the Act also provides that where any such warehoused goods have not been removed from a warehouse at the expiration of the stipulated period, the proper officer is empowered to demand the full amount of duty chargeable on account of such goods together with all penalties, rent, interest etc., in respect of such goods. If the demand made as aforesaid is not discharged within three days by the importer/owner of the goods, the Assistant Collector will immediately proceed to detain the goods and take action for recovery of duty by auctioning the goods.

As per the amended provision of Section 61 with effect from 13 May, 1983, interest at 12 per cent is payable on the amount of duty on warehoused goods for the period from the date of expiry of three months during which warehousing has been permitted to the date of clearance of the goods from the warehouses.

1. In respect of the warehouses of Baroda and Ahmedabad Collectorates, the following irregularities were noticed in audit :

(a) In Surat public bonded warehouses, 20 importers relinquished their title to their goods (mostly polyester yarns) lying in the warehouses beyond the permitted period and requested the department under Section 23 (2) of the Customs Act, 1962 to accede to their request to relieve them of their liability towards duty and other charges and to cancel the bond executed under Section 59 *ibid.* The relinquishment covered 43 consignments imported/warehoused in 1981-82 (10), 1982-83(11) and 1983-84 (22). The application letters for relinquishments were received in 1983-84 (31) and 1984-85(12) commencing with June 1983 and ending with January 1985. In 30 out of 43 cases, the relinquishments were accepted though action under Section 72 against the defaulting owners of warehoused goods had been initiated earlier. In 10 cases, there was either delay or omission in initiating action under Section 72. Customs duty leviable in respect of 43 consignments amounted to Rs. 4.80 crores, out of which Rs. 0.51 crore was realised on clearances in lots permitted by the Board in November 1984 in respect of one consignment nearly one year after the relinquishment.

The relinquishments were accepted by the Assistant Collector of Customs, imposing the following general conditions :—

1. Goods are to be delivered to the Customs godown, Surat under Customs escort after weighment and examination of goods in the warehouse.
2. Warehousing charges are to be paid by the importer.
3. Importer is liable to pay duty on shortage, if noticed, during the examination.
4. If goods delivered are found to be "substituted goods", the importer is liable for such action as may be considered fit.

In the auctions conducted subsequently in 21 cases, response was poor and the bids were too low. In the remaining cases auction has not been conducted so far. The duty involved in respect of 2-5 cases for which either auction was not conducted or goods were not lifted after auction, amounted to Rs. 1.75 crores.

Out of 21 consignments auctioned, 4 consignments were not lifted by the highest bidders. The earnest money deposited by one of the bidders was forfeited. The sale proceeds in respect of the remaining 17 consignments were inadequate to meet the duty liability of nearly Rs. 94.41 lakhs.

Sub section (2) of Section 23 of the Act in chapter V reads as under :—

“The owner of any imported goods may, at any time, before an order for clearance of the goods for home consumption has been made, relinquish his title to the goods and thereupon he shall not be liable to pay the duty thereon.”

This Section does not appear in the chapter IX on warehousing in the Customs Act 1962. Further, in the bonds executed by the importer warehousing the goods there is no express provision permitting relinquishment of goods, particularly when action under section 72 becomes ripe. The acceptance of relinquishment of warehoused goods particularly from defaulters against whom action has already been initiated or action is warranted under section 72 vitiates against the broader intention behind the warehousing provisions in the Act and is also against the interest of Government revenue. It was obvious that the importers were abusing the warehousing facility afforded to them by relinquishing goods warehoused which suited to their convenience. It is also not clear as to how far the general provisions of section 23(2) of the Customs Act, 1962 regarding right of relinquishment could be deemed to override the specific rights and conditions imposed in the bond executed for warehousing the goods by the importers.

In 2 cases of imports made, in August 1983 auctions were held in April 1986. The short fall in duty worked out to Rs. 23 lakhs (approximately). Interest leviable as per bond provisions amounted to Rs. 16 lakhs (approximately). There was wide gap of thirty two months between the date of import and the date of sale. In one case while the importer's request of 31 January 1984 addressed to the Board for extension was pending, permission for clearance of all the warehoused goods in 3 lots on payment of duty and interest was prematurely rejected by the Collector. There was nothing on record to indicate whether the board rejected the demand. In the second case, the importers offered in January 1985 to clear all the goods within 3 months on payment of duty after the abortive attempt by the department to auction the goods (April 1984). Although, the Assistant Collector recommended the case for permission with payment of interest in March 1985, auction was held in April 1986. There was no letter of the Board rejecting the request of the importer. The very same importer was permitted to clear some other consignment (Bond 146) of relinquished goods in instalments between November

1984 and February 1985 and the department realised Rs. 51 lakhs as duty, apart from the interest, whereas in the present case (Bond No. 147) there was shortfall in realisation of duty (Rs. 6.45 lakhs) besides non-levy of interest (Rs. 8 lakhs).

(b) In the warehouses of Baroda collectorate there were two cases of uncleared goods (H. D. Moulding powder and Resin Synthetic Polyolefin). An importer who had deposited goods in the warehouses of Baroda collectorate in November 1982 and July 1984 involving duty of Rs. 8,98,350 (Rs. 70, 219 + Rs. 8,28,131) did not clear them by 31 March, 1986. In respect of November 1982 import, auctions were held in February and June 1986, but the sale could not be effected as the response was poor, inspite of fixing the reserve price at Rs. 90, 830.

In the auction held in June 1986 for the goods imported in July 1984 the highest bid was for Rs. 12.71 per kilogram as against the reserve price of Rs. 15.72 per kilogram.

Sale proceeds (approximately Rs. 8,22,400) were not adequate to meet the duty liability of Rs. 8,28,131 and interest payment of approximately Rs. 1,56,200. No decision has been taken by the department to accept the bid (July 1986) so far.

(c) (i) In Ahmedabad public bonded warehouses there were 9 cases of uncleared goods remaining in the warehouse as on 31 March, 1986. Notices were issued under Section 72 (1) in November 1984 was only in 7 cases involving duty of the Customs Act, 1962 but there was no response from the importers for clearance of these goods. Even though notice for detention of goods for auctioning was issued in November, 1984 and September 1985, no auction was conducted in respect of these cases.

(ii) Piecemeal clearances of goods is not permissible after the expiry of the extension granted by the Board. One importer of electronic goods who warehoused 1500 transformers in November 1984 was granted extension upto 30 November, 1985 by the Board. The importer was, however, allowed part clearances of 120 pieces in January 1986 and 200 pieces in March 1986 out of 1140 pieces outstanding as on 30 November, 1985 by the local collectorate. The balance of 820 pieces involving duty of Rs. 90,507 still remained to be cleared (31 July, 1986).

(iii) In respect of electronic goods warehoused in August 1983 for which notices under Section 72(2) were issued on 22 May, 1986, one importer relinquished under Section 23 of the Customs Act 1962 the title to the goods under his letter dated 18 July, 1986 absolving himself of the liability in respect of the duty (Rs. 4,98,519) and interest under Section 61 in respect of the uncleared goods.

(iv) In the case of the goods (hot rolled seamless steel tubes) warehoused in June 1982, extension was granted by the Collector upto 24 October 1983 and further extension was rejected by the Board in September 1984. No notice was issued by the department under Section 72(1) demanding payment of duty in respect of uncleared goods. The Collectorate, however, allowed further time till 10 June 1985 for clearance in one lot, rejecting the importer's request for clearance in four lots. The duty involved was Rs. 2,15,250 on the goods with assessable value of Rs. 1.89 lakhs. Dues to the Warehousing Corporation amounted to Rs. 29,820. Interest at the rate of 12 per cent per annum was also due on Rs. 2,15,177 from 25 October 1983 upto the date of payment. In the first auction held in November 1985, the highest bid was for Rs. 1.51 lakhs. In the second auction conducted in January 1986, the highest bid of Rs. 2,87,000 was accepted and earnest money deposit of Rs. 71,750 was also received. However, the department had not realised full auction proceeds and the goods remained unlifted (July 1986).

(v) An importer of polyester filament yarn who had agreed to pay basic duty, auxiliary duty and additional duty according to the bond executed under Section 59 in March 1982, effected part clearances in May and July 1982 and then obtained stay order from Delhi High Court on 29 July 1982 for not enforcing recovery of auxiliary duty and additional duty.

According to the terms of the stay order a bond for Rs. 40,58,151 (equal to the duty recoverable stayed by the court) was executed by the importer; bank guarantee dated 16 August 1982 for 50 per cent of that amount was also furnished by the importer. The remaining goods were cleared in August 1982, itself on payment of basic duty of Rs. 29,00,223 out of total duty of Rs. 69,58,374. The order dated 5 October 1982 vacating the stay was received by the department on 16 October 1982. Instead of asking the importer to pay up the balance amount of Rs. 40,58,151 a show cause notice was incorrectly issued in October 1982 under section 28 of the Customs Act which was meant for cases of non-levy or short levy of demand. There was consequent protracted correspondence between the department and the importer. The department also failed to invoke the bank guarantee for realising the amount for which the bond was executed.

On 26 April 1983, the department intimated the importer that action for recovery under Section 142 would be taken and endorsed a copy of the letter to the bank. The bank paid Rs. 20,29,076 on 1 August 1983 and the importer paid the remaining amount in 13 instalments from July 1983 to February 1985.

Incorrect procedure followed by the department resulted in postponement of collection of duty over a period of two years. Interest was also not

levied on the delayed payments. Non implementation of the procedure required under Section 59 and non enforcement of the terms of the bond resulted in loss of interest of Rs. 3.85 lakhs (approximately).

The matter was reported to Ministry of Finance (October 1986) their reply is awaited (January 1987).

2. In respect of public and private customs bonded warehouses under the jurisdiction of Jaipur collectorate the number of consignments of imported goods warehoused and their clearances made together with the amount of duty paid during the years 1983-84 to 1985-86 were as under :—

Year	No. of warehouses	No. of into bondbills of entry for warehousing	No. of exbond bills of entry for clearance	Customs duty paid
			(Rs. in crores)	
1983-84	8	148	702	14.20
1984-85	11	337	1992	44.61
1985-86	13	387	2156	67.73

Test check of assessment records and other connected document sat these warehouses conducted during June 1985 to August 1986 revealed the irregularities as under :

(i) *Non-levy of penalty*

In 4 bonded warehouses, the imported goods remained warehoused in 29 cases beyond the period permitted by the Collector or Central Board of Excise and Customs without obtaining sanction for extending the period of warehousing. In none of these cases, neither any penal action or action for detention nor sale of the goods was initiated under section 72(2). The maximum amount of penalty which could have been levied in these cases worked out to Rs. 29,000.

(ii) (a) *Short levy of interest on the warehoused goods*

In six warehouses where the goods were removed after expiry of normal period of warehousing, interest was short levied totalling Rs. 36,976 in 162 cases during the years 1984-85 and 1985-86. On this being reported in audit, the department intimated that recovery of Rs. 18,176 was made (September 1986) Report on recovery of balance is awaited (November 1986).

(b) *Incorrect grant of exemption and incorrect application of rate of duty*

According to section 15(1) (b) of the Customs Act, 1962, customs duty in case of imported goods stored under bond in a warehouse is leviable at the rate in force on the date on which the goods are actually removed from the warehouse.

In the following two cases short levy of duty amounting to Rs. 32,509⁸ was pointed out in audit.

(i) A consignment of nylon yarn imported by a unit was warehoused at a public bonded warehouse during February 1986. While working out the assessable value of the goods on their clearance for home consumption on 7 March, 1986, the importer claimed deduction of the cost of packing material from the assessable value under exemption notification 184/76 dated 2 August, 1976 which was allowed reducing the assessable value by Rs. 10,051. As this exemption notification was already rescinded vide notification 127/86 dated 17 February, 1986, its benefit was not available on 7 March 1986. The incorrect grant of exemption resulted in duty being short levied by Rs. 14,071, out of which demand for Rs. 10,613 had already been confirmed. For the balance, final reply from the department is awaited.

(ii) Under Section 3(1) of the Customs Tariff Act, 1975 additional duty equal to the duty of central excise leviable on like goods produced or manufactured in India is leviable on all imported goods.

Three consignments of chemicals imported by a unit during June 1985 January 1986 were classified under item 68 of Central Excise Tariff for the purpose of levy of additional duty and duty was levied at 12 per cent *ad valorem* for the clearances made during March and April 1986. But from 1 March, 1986, under the Central Excise Tariff Act, 1985 these goods were classifiable under heading 29.13 attracting duty at the rate of 15 per cent *ad valorem*. This resulted in short levy of duty of Rs. 18,438 which was recovered in July 1986.

(c) *Misclassification of goods for purposes of levy of additional duty*

In cases where the imported goods subjected to the aforesaid additional duty are used as inputs for manufacture of other finished excisable goods, under Rule 56A of the Central Excise Rules, 1944, no proforma credit of additional duty is permissible if the same has been paid respect of materials falling under tariff item 68.

A consignment of Santgard P.V.I. (Rubber Chemical) imported by a unit was stored under bond in its private bonded warehouse during February 1986. In the into bond bill of entry for warehousing presented at the port of importation, the goods for the purpose of levy of additional duty were classified under item 68 of Central Excise Tariff and duty was assessed at 12 per cent *ad valorem*. While taking clearance of the goods from the warehouse on 18 February, 1986, in the ex-bond bill of entry, the goods were misclassified under item 65 *ibid* and charged to duty at 15 per cent *ad valorem* amounting to Rs. 58,299, instead of correctly classifying from under item 68 and levying duty of Rs. 46,639 at the rate of 12 per cent *ad valorem*. The misclassification of goods under tariff item 65 instead

of item 68 resulted in an irregular grant of proforma credit to the extent of Rs. 46,639 as no proforma credit was admissible for goods falling under item 68 of Central Excise Tariff. The department, in reply, stated (October 1986) that the irregular proforma credit had since been reversed.

(d) *Incorrect determination of assessable value of the warehoused goods*

(i) A consignment of synthetic rubber weighing 50400 kilograms imported by a unit was stored under bond at its private bonded warehouse during May 1985. As per invoice dated 29, April 1985, the C.I.F. value of the goods was U.S. dollars 51,912 but, in the into bond bill of entry for warehousing, the same was shown as U.S. dollars 50,400 which actually represented the weight of the consignment and the assessable value was worked out accordingly. The adoption of incorrect value resulted in goods being undervalued by Rs. 19,006 and consequential short levy of duty of Rs. 16,859 on their clearance for home consumption in June 1985.

(ii) A consignment of synthetic rubber, weighing 1,05,893 kilograms was imported by a unit during November 1985 and its private bonded warehouse. Its C.I.F. value as per invoice dated 10 October, 1985 was U.S. dollars 114364.44. But, while working out the assessable value, it was taken as U.S. dollars 110975.86. The assessable value was incorrectly computed less by Rs. 41,257 resulting in duty being levied short by Rs. 36,595 on its clearance for home consumption during December 1985 and February 1986. Reply from the Department is awaited.

(e) *Application of incorrect rate of exchange*

As per proviso to Section 14 (1) (a) of the Customs Act, 1962, the rate of exchange applicable to any imported goods is the rate in force on the date on which a bill of entry in respect of such goods is presented.

On a consignment of acrylic fibre imported by a unit, the bill of entry was presented at the port of importation on 4 October, 1985. The goods were stored under bond at the public bonded warehouse during November 1985. The correct rate of exchange in force on the date of presentation of bill of entry was Yen 1797=Rs. 100. Against this, the rate of exchange of Yen 1993=Rs. 100, which was in force upto 30 September, 1985, was applied for computing the assessable value in rupees. This resulted in duty being levied short by Rs. 59,436 at the time of their removal in January 1986. Reply from the department is awaited.

(f) *Non accountal of shortage during transit of the warehoused goods*

The imported goods which have been entered for warehousing, after being bonded at the port of importation by executing a proper bond under

Section 57 of the Customs Act, 1962 and after grant of permission by the proper officer under Section 60 are transported by the importer from the warehouse at the place of importation to the inland bonded warehouse. On receipt at the inland warehouse; the goods are examined by the customs staff and a certificate of rewarehousing in the prescribed form is issued by the Superintendent-in-charge showing *inter alia* the shortage or discrepancy if any noticed in the goods.

It was noticed that, in respect of goods deposited in 1983-84 to 1985-86 in three warehousing units, rewarehousing certificates were not being issued. Shortage noticed in the bonded goods at the time of their deposit in one unit in 8 cases pertaining to 1983-84 and 1984-85 were not reported to Assistant Collector (Bonds) who permitted transportation of the goods to the inland bonded warehouse.

The above objections were pointed out in August 1986; the reply of the department is awaited.

The matter was reported to Ministry of Finance (October 1986); their reply is awaited (January 1987).

3. A review of the working of some inland Customs bonded public warehouses within the jurisdiction of Meerut, Kanpur and Allahabad Collectorate revealed the following :—

- (a) In respect of 10 consignments of goods which were warehoused under bonds during the year 1984-85, balance of goods valued at Rs. 18.56 lakhs approximately continued to be warehoused, even though the respective bond periods/extended periods had expired. Out of these, 2 consignments valued at Rs. 6.27 lakhs involving duty of Rs. 1.82 lakhs are glass bulbs for television picture tubes and 8 consignments valued at Rs. 12.27 lakhs are D.M.T., Polyesterchips, Ferro Silicon, C.R. sheets and carburettors etc., on which duty payable is Rs. 12.23 lakhs.

On the matter being pointed out in audit, the department stated (July 1986) that demand notices had been issued to the importers of such goods. Report on action taken with regard to the recovery of duty together with penalties, interest etc. is awaited.

(b) *Delay in disposal of Confiscated goods and adjudication of seized goods*

As per instructions issued by the Central Board of Excise and Customs in July 1968, goods seized or confiscated by the department should be examined periodically and when any deterioration is noticed in respect of goods awaiting adjudication the matter should be brought to the notice of the adjudicating officer for an expeditious decision. The seized goods may be

confiscated and disposed of to the benefit of Government revenue or they may be released after realising duty and redemption fine imposed in lieu of confiscation. Confiscated goods are to be disposed of without delay.

In four inland custom warehouses, the number and value of goods which were seized (due to receipt of goods in excess as compared to the quantity mentioned in bills of entries) but had not been adjudicated for two years and goods confiscated which were not disposed of for two years (as seen in audit) are given below :

	No. of cases	Value (in lakhs of rupees)
(i) Seized goods pending adjudication for 2 years	9	0.82
(ii) Confiscated goods pending disposal for 2 years	20	2.72

The seized goods of substantial value were awaiting disposal due to delay in adjudication of the cases. Similarly in 17 cases of confiscation of goods adjudicated in 1984-85 and 3 cases in 1985-86 involving duty of Rs. 7.75 lakhs goods were not disposed of even after a lapse of 2 years because the Assistant Collector of Customs required for supervising auction could not be deputed by the department.

Report on action taken for adjudication of seized goods and disposal of confiscated goods is awaited in audit (August 1986).

(c) *Short levy of additional duty*

'Diode-Assembly' is classifiable under item 68 of Central Excise Tariff attracting additional duty at the rate of 10 per cent *ad valorem*. On 'Diode Assembly' valuing Rs. 2,31,002 (inclusive of basic customs duty and auxiliary duty) cleared from an inland custom bonded warehouse on 15 March 1985 for home consumption by a Public Sector Undertaking, the additional duty of Rs. 10.50 only was levied classifying the goods under item 33AA of Central Excise Tariff instead of under item 68. The mistake resulted in duty being levied short by Rs. 23,089.

On the mistake being pointed out (November 1985) in audit, the department stated that the matter was under examination (August 1986).

The matter was reported to Ministry of Finance (October 1986) ; their reply is awaited (December 1986).

4. A review of the accounts and registers of some interior warehouses in Kerala and Karnataka have disclosed the following irregularities :—

(i) A manufacturer was accorded sanction to manufacture under bond luxury yachts, exclusively for export, using imported materials. Scrutiny of the records of bonded warehouses showed that a number of goods imported during the period 1977 to 1983 were not cleared till January 1986 whereas the bond period had expired long ago. Yearwise details are as follows :—

Year to which the bond pertains	No. of cases	Year in which the period expired
1977	3	1982
1979	11	1982
1980	9	1983
1981	5	2 cases in 1983 and 3 cases in 1984
1982	5	1984

When this was pointed out in audit in March 1986 the department replied that extension had been applied for but was not granted so far.

The matter was reported to Ministry of Finance (October 1986); their reply is awaited (January 1987).

(ii) A private limited company was regularly importing Zinc concentrate for the production of zinc ingots and zinc sheets and keeping the material in its bonded warehouse. On clearance of 10020.53 tonnes of zinc concentrate from March 1985 to July 1985 it paid interest upto the date of payment of duty only and not upto the date of clearance of goods from the warehouse.

The irregularity was pointed out in audit in January 1986. Short levy of interest of Rs. 52,824 was made good in May 1986.

The Ministry of Finance confirmed the facts.

(iii) Section 62 of the Customs Act, 1962 stipulates that (1) all warehoused goods shall be subject to the control of the proper officer, (2) no person shall enter a warehouse or remove any goods therefrom without the permission of the proper officer, and (3) the proper officer may cause any warehouse to be locked with the lock of the Customs department and no person shall remove or break such lock. Paragraph 11 of the Maintenance and Other Operations in Warehouse Regulations, 1966 requires that the keys are to be kept by the proper officer.

A Public Sector Undertaking engaged in ship building activity imported a large number of items from 1975 onwards and kept them in a bonded warehouse pending use or fitment in ships built by them. The bonded

materials like steel plates and flat bars were kept in an open steel yard and other materials were kept inside the out-fitting warehouse.

It was noticed that, in 117 cases, goods were removed by the shipyard authorities without submitting issue applications and obtaining the permission of Customs Officer. The steel materials were lying in open area and no physical control by customs officers was possible. The value of goods involved and the duty effect could not be worked out as the issue applications showing full particulars of goods cleared were not available for reference in audit. Since several items were removed without the knowledge of Customs Officers, proper entries were not made in the Road Register and consequently the correct stock balance could not be arrived at. Physical verification of stock of bonded goods has also not been conducted in recent years to locate shortages, if any.

In a number of cases the Customs Officers have not satisfied themselves that the goods issued from the warehouse were actually used/fitted in the ship. In 56 cases of issues of bonded materials valuing Rs. 4.85 lakhs during the period 1977 to 1981 for fitment/use in the ship, the building of which was completed in 1981, the fitment certificates have not been received by the customs officers. The duty involved in these cases was Rs. 2.44 lakhs. In 122 crores of such issues, the fitment certificates were issued by the shipyard authorities, but there is no sign of their having been checked and accepted by Customs Officers. The value of the goods and duty involved in these 122 cases were Rs. 3.85 crores and Rs. 2.51 crores respectively.

Therefore the total value of goods involved in these 178 cases of issues amounted to Rs. 3.89 crores with duty effect of Rs. 2.54 crores.

The Ministry of Finance stated (December 1986) that in the case of shipyards carrying out manufacturing operations under bond, it was not practicable to store all heavy materials, such as, steel plates, plate bars etc. in a close area and hence the heavy material was permitted storage in the open area. The Ministry added that the entire area was well protected by the security guards and the customs control was exercised to ensure that the bonded material was not unauthorisedly removed out of the yard area. The Ministry also stated that necessary action was being taken to obtain fitment certificates and verify the use of the material wherever fitment certificates had been received.

The Ministry's reply is silent about the fact that even when the goods are kept in open yard, the customs authorities have not ensured that the issue applications were obtained before the removal of the goods from the storage yard as per the prescribed procedure. The fact remains that the prescribed procedure has not been followed with the result that

the goods were being removed without the knowledge of customs officers leading to discrepancy between physical stock and book balance in bond register and the department failed to verify the correctness of fitment certificates.

Summing up

1. Omission or delay in demanding duty, interest and other charges from defaulters under Section 72(1) of the Act.
2. Omission or delay in issuing notice under Section 72(2) of the Act for detention of goods sufficient to cover the amount due to Government.
3. Long delay in auctioning the detained goods resulting in accumulation of uncleared goods in the warehouse.
4. Sale proceeds of goods not adequate to cover the duty and interest.
5. Irregular acceptance by the department of relinquishment of goods under Section 23(2) of the Act by the defaulters liable to action section 72 of the Act leading to loss of revenue to Government.
6. Grant of permission by lower formations for piecemeal clearance of goods from the warehouse even after refusal by the Board to grant further extension.
7. Grant of irregular permission by the Board for relinquishing the goods and to clear the relinquished goods after the expiry of 6 months from the date of acceptance of the relinquishment.
8. Irregular procedure followed for recovery of amount on removal of stay order and non-levy of interest.

APPENDIX II

(Vide Para 9)

Consolidated Statement Showing position of Individual cases referred to in Audit Para

S. No. of the objection	Subject	Party's name	Date of expiry of bond	Name of the Collectorate	Action taken	Present position
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Sub -para 1(a)	Relinquishment of title to the warehoused goods in 43 cases.	Details given in Appendices III and IV.		B.roda Central Excise Collectorate	20 cases—goods disposed of. Total sale proceeds Rs. 164 lakhs as against duty liability of Rs. 260 lakhs. No shortage in relaxation as compared to duty—Rs. 96 lakhs. Two cases permitted clearance on payment of duty and interest.	21 cases pending for auction (details given in Appendix IV)
1(b)	Sale proceeds in two cases not sufficient to meet the duty liability	M/s. Climax Extrusion Ltd.	20-5-85 31-12-85 respectively	Do.	Uncleared goods disposed of in auction on 8-1-87 Total realisation Rs. 9.9 lakhs as against duty liability of Rs. 8.9 lakhs.	Goods disposed of.
1(c)(i)	Auction not conducted in 9 cases of uncleared goods	Details given in Appendix V.		Ahmedabad Central Excise Collectorate	Cases -goods cleared on payment of duty and interest. 5 cases—goods disposed of in auction.	Two cases pending for auction.

(1)	(2)	(3)	(4)
1(c)(ii)	Goods allowed clearance piecemeal after expiry of warehousing period	M/s. Simplex Electronics, Ahmedabad.	30-11-85
1(c)(iii)	Relinquishment of title resulting in loss of duty amounting to Rs. 4.98 lakhs.	M/s. Cine Sound Laboratories, Ahmedabad	30-3-86
1(c)(iv)	No notice issued under section 72(1) and goods not disposed of.	M/s. Auto Textile Industries	24-10-83
1(c)(v)	Incorrect procedure followed in demanding differential duty in respect of warehoused goods.	M/s. Sanand Textiles Ind. (P) Ltd., Sanand	March, 83

(5)	(6)	(7)
Ahmedabad Central Excise Collectorate.	Out of 1500 pcs ware- housed, 360 pcs. cleared during extended period of warehousing 320 pcs. before issue of demand notice under section 72(1). Remaining 820 pcs. in July, 86 after getting the warehousing period extended.	All goods cleared by 26-9-86
Do.	Goods disposed of in public auction on 20-8-87 for Rs. 4.81 lakhs as against duty liability of Rs. 7.25 lakhs.	Goods disposed of.
Do.	Demand notice issued on 24-10-83. Goods were put up for auction in Nov. 85 and again in Jan. 86.	Goods put up for auc- tion on 30-9-87.
Do.	Bond with a bank gua- rantee for differential duty was obtained in terms of interim order of Delhi High Court. On vaca- tion of the interim order on 5-10-82, initially the demand notice was issued	All dues for auction on 30-9-87.

- 2(i)** **No penalty levied in 29 cases of warehousing goods remaining uncleared beyond permissible period.**
- 2(a)** **Short levy of interest in 162 cases.**
- 2(b)** **Incorrect grant of exemption resulting in short levy.**
- 2(b)(ii)** **Short levy due to incorrect classification of imported chemicals for levy of additional duty.**
-

under section 28, instead of enforcing the bond and bank guarantee. When the importers did not pay the amount, bank guarantee was enforced in Aug. 83 and remaining half of the disputed amount covered by the bond recovered in 13 instalments.

Jaipur
Central Ex-
cise Collecto-
rate.

Collector did not consider it necessary to levy any penalty under section 117. Goods already cleared on payment of duty and interest.

27

- Do. Short levy of interest of Rs. 36,976- had been recovered. Short levy recovered.
- Do. Short levy had been noticed by the Deptt. before receipt of Audit Objection. Amount of short levy since recovered. Short levy recovered.
- Do. Short levy since recovered. Short levy since recovered.
-

(1)	(2)	(3)	(4)
2(c)	Irregular grant of proforma credit of additional duty under rule 56.		
2(d)	Short levy due to incorrect determination of assessable value.		
2(d)(ii)	Do.		
2(e)	Short levy on account of adoption of incorrect rate of exchange.		
2(f)	Non accountal of shortage during transit of warehoused goods.		

(5)

(6)

(7)

Jaipur Central
Excise Collec-
torate.

Irregular grant of proforma
credit has since been
made good.

Irregular grant of
proforma credit
has since been
made good.

Do.

On verification the Audit's
contention was not found
correct. The assessable
value adopted of US
as 50,400 has been cor-
rectly taken.

No short levy.

On verification the Audit
contention was not found
correct. Assessable value
adopted has been cor-
rectly worked out.

No short levy.

22

Do.

Demand notice for the
duty short levied has been
issued.

Recovery proceed-
ings are in
progress.

Do.

Out of 7 cases in 4 cases
short payment of duty re-
covered. In 3 cases, veri-
fication of shortages is
in progress.

3 cases of shortages
are under verifica-
tion with Asstt.
Collector of
Customs, Bombay.

3(a)	Goods valued at Rs. 18.5 lakhs continued to be warehoused even after expiry of the permissible period.	(i) M/s. Uptron Anand.	BBE 1/84 expired on 13-5-1984 and BBE 2/84 expired on 13-5-84.	Kanpur Central Excise Collectorate	Goods put up for auction on 29-9-87 could not be disposed of as the highest bid was lower than the reserved price.
		(ii) M/s. Scooters India	7 cases	Allahabad Central Excise Collectorate	Detention order issued on 4-8-87 for action under section 72(2).
		(iii) Modipon Ltd. Modinagar	13 bags of DMT/ Polyester chips consisting of 6 bonds. The dates of expiry are 5-1-83. 24-1-83. 9-2-83. 17-9-83. 10-84. 8-2-84	Meerut Central Excise Collectorate	Goods put up for auction on 13-10-87. Could not be disposed of as the highest bid was less than the reserved price.
3(b)	Delay in Disposal of warehoused goods and in adjudication.	(i) HAL Kanpur		Kanpur Central Excise Collectorate.	All 9 cases have been adjudicated. Confiscated goods deposited in C.W. C., Mohan Nagar and C. W. C., Ghaziabad were put up for auction on 13-10-87 Highest bid was lower than the reserved price.
	(ii) C. W. C. Mohan Nagar		Meerut Central Excise Collectorate.		
	(iii) C.W. C. Ghaziabad.		Do.		

(1)	(2)	(3)	(4)
3(c)	Short levy of additional duty on account of mis-classification. (DIODE ASSEMBLY)		
4(i)	Goods remaining in warehouse without extension of warehousing period.	Cochin Shipyard, Cochin,	
4(ii)	Short levy in charging interest.		
4(iii)	Non-accountal of warehoused goods by M/s. Cochin Shipyard.	Cochin Shipyard, Cochin.	

(5)	(6)	(7)
Allahabad Central Excise Collectorate.	Entire amount of short levy has been recovered on 6-8-87.	
Cochin Custom House.	Warehousing period since extended up to 30-6-87	Importer has relinqui- shed title to the goods. Their manufacturing in-bond is being cancel- led.
Cochin Custom House.	Short levy of Rs. 52,824/- since recovered.	Short levy recovered.
Do.	Out of 117 cases of non- accountal, only 12 cases were remained to be ac- counted for	12 cases are in the pro- cess of being accounted for.

APPENDIX III

(Vide Para 9)

Statement showing position of 43 Cases of Yarn where Title to the goods has been relinquished and where Goods have been disposed of in Baroda Collectorate

Sl. No.	Name of the Importer	Surat CWC Bond No.	Date of expiry of W/H period	Extension granted upto	Date of relinquishment	Customs duty (Rs. in lakhs)	Amount realised in auction (Rs. in lakhs)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Vareli Weaves Pvt. Ltd., Surat	765/82 dt. 20-3-83	24-2-83	—	1-6-83	18.92	11.35
2.	Do.	6/82 dt. 1-4-82	15-2-83	—	1-6-83	4.47	2.68
3.	Do.	7/82 dt. 1-4-82	23-3-83	—	1-6-83	9.16	5.66
4.	Do.	12/7-4-82	30-3-83	—	1-6-83'	9.61	2.71 (Part realisation)
5.	Starlight Silk Mills, Pvt. Ltd., Surat	146/11-6-82	24-5-83	—	12-10-83	8.46	3.11
6.	Do.	150/15-6-82	24-5-83	—	12-10-83	8.19	3.01
7.	Do.	151/15-6--82	24-5-83	—	12-10-83	7.83	2.88
8.	Do.	49/15-5-83	5-8-83	—	12-10-83	29.84	8.94 (part realisation)
9.	Gar Mills Pvt. Ltd., Surat	339/28-8-81	19-8-82	—	1-6-82	3.61	3.30
10.	IC. Gandhi Crimping Pvt. Ltd., Surat	37/2-5-83	19-7-83	—	28-8-83	17.13	12.48

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
11. I. C. Gandhi Crimping Pvt. Ltd., Surat		71/28-5-83	20-8-83	—	28-8-83	14.33	10.56
12. I. C. G. Texturising Industries, Surat		50/11 5-83	19-7-83	—	29-10-83	2.40	1.94
13. Gujarat Fibre, Broach		147/3-8-83	27-10-83	—	4-1-84	50.04	43.58
14. Himson Textiles, Surat		111/27-6-83	21-9-83	—	21-12-83	9.79	7.96
15. Do.		125/15-7-83	22-9-83	—	21-12-83	15.22	12.37
16. Tex Print Eng. Pvt. Ltd., Surat		155/16-8-83	3-11-83	3-2-84	30-8-84	26.37	13.55
17. Starlight Silk Mills, Surat		411/13-2-84	27-4-84	26-7-84	30-8-84	14.81	7.53
18. Shri Dharmesh Silk Mills, Surat		392/16-1-84	11-3-84	11-6-84	28-1-85	5.30	5.28
19. Shri Ram Silk Mills, Surat		396/18-1-84	11-3-84	11-6-84	28-1-85	2.65	2.64
20. Do.		314/9-12-83	27-2-84	27-5-84	28-1-85	2.65	2.64
Grand total						260.78	164.27

Where goods cleared on payment of duty and interest

S. No.	Name of the importer	Surat CWC Bond No.	Date of expiry of W/H period	Extension granted upto	Date of relinquishment	Customs duty	Amount of duty/interest released
1	2	3	4	5	6	7	8
(Rs. in lakhs)							
1.	M/s. Gujarat Fibre, Broach	146/3-8-83	27-10-83		9-1-84		51.67
					4-6-84		7.43
2.	Do.	233/14-10-83	10-1-84	10-7-84	25-12-84		1.74
							0.28
							Cleared on 12-5-85

APPENDIX IV*(Vide Para 9)*

Statement showing position of 43 cases of yarn where title to the goods has been relinquished and where goods are pending for disposal in Baroda Collectorate

S. No.	Name of the importer	Surat C. W. C. Bond No.	Date of expiry of W/H period	Extension granted up	Date of relinquishment of goods	Custom duty involved	Date of auction
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
						(Rs. in lakhs)	
1.	Special Weaves Ltd., Surat	757/17-3-82	7-3-83		1-6-83	2.34	
2.	Do.	143/10-6-82	30-5-83	—	1-6-83	3.06	
3.	Do.	155/16-6-82	29-4-83	—	1-6-83	18.45	
4.	Do.	160/18-6-82	30-5-83	—	1-6-83	3.10	
5.	Vareli Weavers Pvt. Ltd., Surat	641/18-2-82	10-2-83	—	1-6-83	7.79	
6.	Do.	83/11-5-82	30-4-83	—	1-6-83	4.58	
7.	Starlight Silk Mills Pvt. Ltd., Surat	96/13-6-83	3-9-83	—	28-1-84	30.40	
8.	Vareli Exports Pvt. Ltd., Surat	11/8-4-83	3-7-83	—	28-1-84	4.67	
9.	Do.	17/18-4-83	10-7-83	—	28-1-84	5.01	
10.	Do.	119/7-7-83	3-10-83	3-1-84	28-1-84	32.73	
11.	I. C. Gandhi Silk Mills Ltd., Surat	289/29-10-82	20-10-83	—	25-6-84	1.97	
12.	Do.	290/29-10-82	20-10-83	—	25-6-84	1.66	
13.	Do.	241/30-8-82	11-8-83	—	25-6-84	1.83	

1	2	3	4
14. Shri Ganesh Knitting Works, Surat	4/1-4-82	26-3-83	
15. Shri Ambica Silk Mills, Surat	104/22-5-82	28-3-83	
16. Hans Lal H. Corporation, Surat	426/15-2-84	1-5-84	
17. Meghna Textiles, Surat	425/15-2-84	30-4-84	
18. Alok Textile Industries, Surat	145-A/10-8-83	15-10-83	
19. Kamla Weaving Factory	153/10-8-83	15-10-83	
20. J. N. Industries, Surat	310/28-11-82	9-11-83	
21. Raja Shilandra and Co. Surat	683/2-3-82	24-2-83	

5	6	7	8
—	5-12-83	4.02	
—	5-12-83	3.77	
1-8-84	14-11-84	0.79	
30-7-84	25-12-84	1.28	
—	10-3-84	0.84	
—	10-3-84	1.01	
—	13-12-84	0.58	
—	13-12-84	0.55	
		141.53	

APPENDIX V

(Vide Para 9)

Statement showing portion of goods remaining uncleared after expiry of warehousing period in Ahmedabad Collectorate

S. No.	Importer	Nature of goods	Date of warehousing	Period extended upto	Notice under section 72/(1) 72/(2)	Customs duty on uncleared goods	Date of Auction	Realisation in sale
1	2	3	4	5	6	7	8	9
						(Rs. in lakhs)		
1.	Auto Textile Industries, Ahmedabad	Steel Tubes	25-6-82	24-10-83	24-10-83 7-1-84	2.15	28-11-85 22-1-86	
2.	M/s. Cine Sound laboratories	Electronic goods	24-8-83	30-3-86	8-5-86 22-5-86	7.25	11-2-87	
3.	M/s. Abhay Mills, Ahmedabad Closed 1-4-84	P. S. Fibre	21-10-83	11-12-84	24-7-84 31-5-85	0.70	10-2-87	
4.	Nationalised 8-11-85	Do.	18-11-83	17-8-84	7-11-84 15-11-84	3.69	10-2-87	3.18
5.	Do.	Do.	22-12-83	21-9-84	7-11-84 15-11-84	3.69	10-2-87	
6.	Do.	Do.	13-2-84	30-6-85	12-3-85	0.65	10-2-87	

1	2	3
7. M/s. Simplex Electronics	. . .	Electronics goods
8.	Do.	Do.
9. M/s Tube Tech. Engineers Pvt. Ltd.	.	Steel Tubes

4	5	6	7	8	9
16-11-84	26-9-86	<u>14-4-86</u>	—	10-2-87	Cleared the goods on 26-9-86 on payment of duty and interest
—		—			
7-2-85	6-8-85	<u>11-10-85</u> 21-7-85	0·16	Do.	
14-2-85	25-2-87	<u>17-11-86</u>	1·07	12-2-87	Goods cleared on payment of duty and interest on 25-2-87.

APPENDIX VI

(Vide para 32)

*Copy of report received from Directorate General of Inspection
(Customs & Central Excise)*

SUBJECT :—*Inland bonded warehouse Review of Procedures*

Consequent to the discussions in the meeting of the Public Accounts Committee, a review of the Procedure followed in respect of inland bonded warehouses was undertaken. In order to undertake a comprehensive study and Procedures on the inland bonded warehouses, Collectors of Customs and Central Excise were requested to state the existing procedures followed and to furnish Public Notices issued by them along with forms and registers maintained by them etc. The reports of the Collectors of Customs and Central Excise have been received and the following Procedure is being followed in the Collectorate :—

- (1) Most of the inland bonded warehouses are under the jurisdictional control of Central Excise Collectorate. Although a few of the Collectorates have set out a procedure in the form of a Public Notice in respect of inland bonded warehouse many of the Collectorates have not issued any Public Notice setting out the procedure.
- (2) Some of the Collectorates are not treating the assessments made at the port of entry as final and the goods are re-assessed at the time of clearance from the inland bonded warehouse. Since the officers posted at the inland bonded warehouses do not possess Customs expertise, it would not be proper to continue with the practice of re-assessment as it may result in erroneous assessment. It is necessary that the Tariff classifications made at the port of entry at the time of first warehousing should be treated as final and re-assessment only in respect of rate of duty on the date of the clearance of goods should be allowed. While transferring the goods from the port of import to the inland bonded warehouses the assessment to be made on the W. R. bill of entry should be final and verification like chemical test report, valuation, documents etc. should be made so that there will be no need to further draw sample for chemical test and verification of other documents at the inland bonded warehouse.
- (3) Collectorates are not following any system of periodic verification of stocks in the warehouses. Such verifications are necessary in order to check any misuse of the facility.

- (4) As per the present procedure there is no obligation on the part of the warehouse keeper to furnish monthly reports of consignments where the bonding period has expired and also quarterly statements showing the stock position in the warehouse. Such monthly statements and quarterly statements are necessary for taking action against the importers who have failed to clear the goods on the expiry of the bonding period.
- (5) The Collectorates are not following the instructions issued by the Board under letter F. No. 473/147/79-Cus-VII dated 28-7-79 regarding need for carrying out immediate audit of all ex-bond bills of entry relating to inland bonded warehouse. In order to avoid time-bar in issuing demand notices it is necessary that the time schedule prescribed by the Board in the said letter should be followed.
- (6) Board's attention is also drawn to the Director (Audit) letter No. 1210/30/84 dated 11-11-1985 wherein it was recommended that in order to avoid delay in Auditing of Bills of entry an independent IAD unit may be set up at Bangalore under the Karnataka Collectorate and also IAD unit of Kandla Custom House be suitably augmented with experienced appraisers and staff so that unit may take up the work of Audit of Documents from all Customs formations in Ahmedabad, Baroda and Rajkot Collectorates.

APPENDIX VII

Conclusions/Recommendations

S. No.	Para No.	Ministry /Department concerned	Conclusion /Recommendations
1	2	3	4
1	10	Ministry of Finance (Department of Revenue)	<p>The Committee desire that the Ministry of Finance should vigorously pursue all the cases referred to above to their logical finalities and safeguard governmental revenues. The Ministry should thoroughly enquire into the departmental failures/lapses which eventually had resulted in the occurrence of those irregularities, establish a system of regular monitoring of the working of the system according to the prescribed method and take suitable action against the officers responsible for their various illegal/irregular acts of omission and commission. The Committee would like to have a detailed report on the follow-up action taken in respect of the system improvement instituted, as well as on all the individual cases of illegalities and irregularities pointed out by audit and also those detected by the department itself and would like to be apprised of the present position of recovery on account of duty and other dues.</p>
2	20	Ministry of Law and Justice	<p>From the facts stated in the foregoing paragraphs it is abundantly clear that the question whether the right of the owner of the imported goods to relinquish his title to the warehoused goods, under Section 23(2) of the Customs Act, 1962, at any time can be exercised after the issue of demand notice under Section 72, was not at all adequately considered by the Ministry of Law while tendering their advice on the issue in 1972. What is really disquieting is that such a vital issue having an important bearing on revenue was disposed of by an Assistant Legal Advisor without even referring the matter for consideration of legal experts higher up in the official hierarchy. The fact that even after getting a repeated reference from the administrative Ministry in quick succession seeking a pointed confirmation on the controversial issue, the Assistant Legal Advisor did not choose to refer the matter to senior authorities, is indicative of the utter</p>

casualness with which such a serious matter was dealt with in the Ministry of Law. The Committee cannot but express their severe displeasure over this. They recommend that the Ministry of Law should issue proper instructions and ensure that in future such vital issues are adequately examined by appropriate legal experts at higher levels before the Ministry communicate their considered views.

3 21 Ministry of Finance (Department of Revenue)

The Committee are surprised over the equally casual manner in which the Ministry of Finance reacted to situation arising out of the advice tendered by the Ministry of Law in 1972. The circumstances had clearly warranted either the matter to be taken up at a higher level to thrash out the doubts over the legal validity or to initiate action for incorporating necessary amendments in the Customs Act in order to protect revenue. Strangely enough, the Ministry of Finance did not choose to do so. Lamentably, it was after over a period of 15 years that too when the subject matter was selected by the Public Accounts Committee for detailed examination, that the Ministry reverted to the matter again. They had not done so even after the Report of the C&AG had been submitted to Parliament although as per practice the draft Audit paragraph had been sent to the Ministry for their comments. The Committee are constrained to observe that the inaction on the part of the Ministry of Finance enabled owners of the warehoused goods to increasingly resort to relinquishment of title to the imported goods as and when it subserved their interests. This is unfortunate, to say the least and is indicative of their lack of concern of loss of revenue occurring over long periods of time.

4 22 Do.

The Committee are convinced that the importers should not have an unfettered right to abandon ownership to the goods under Section 23 (2) of the Customs Act. The fact that in a large number of cases the importers of warehoused goods chose to relinquish their title to imported goods depending on the internal market situation would clearly indicate that the facility is indeed being misused for speculative purposes to the detriment of indigenous industry. Moreover, the inadequate realisation made on sale of such relinquished goods would undoubtedly show that Government is clearly put to a loss of revenue besides loss of foreign exchange on account of avoidable imports. The Committee, therefore, recom

mend that Government should make necessary amendments in the Customs Act whereby the owners of the imported goods who avail of the warehousing facility shall not be given the right to relinquish such imported goods after proceedings are initiated under Section 72 for recovery of dues so that financial interests of the Government are securely protected. Further, Government should prescribe a time limit under Section 23 (2) of the Customs Act within which only the owners shall be allowed to relinquish their title to the imported goods, in all cases.

5 26

Do.

The Committee are surprised to note that while on the one hand, the Ministry of Finance have been expressing their helplessness due to legal constraints in invoking Section 72 of the Customs Act for recovering governmental dues in cases where the importers resort to relinquishment of title to imported goods in exercise of the provisions of Section 23(2) of the Act, on the other hand, goods valuing Rs. 53 crores on which duty of about Rs. 16 crores are due to Government are lying uncleared beyond the warehousing period for want of effective departmental action. What is further perturbing is the fact that some of the goods pending clearance related even to the period 1981-82 and before. Since the maximum period for which goods are permitted to remain warehoused is normally one year and even assuming that extensions were granted in exceptional cases for justifiable lengths of time, the Committee find no reasons why goods relating to such past periods should still remain uncleared. This clearly shows that notwithstanding the legal limitations as contended by the Ministry, the present system of monitoring is totally inadequate and ineffective. The Committee recommend that the Ministry of Finance should take effective measures for improving upon the system of monitoring of the warehousing bonds in order to ensure that a continuous watch is kept and prompt action taken on expiry of warehousing period in respect of every consignment so that governmental revenues are adequately protected. The procedure, practice and organisation involved in the field, Collectorate and the Board/Ministry need to be suitably streamlined.

11

6 29

Do.

The Committee would like the Ministry of Finance to make a thorough enquiry into the reasons for the delay for the disposal of the relinquished/confiscated goods lying uncleared in the warehouses. A prescribed procedure should be laid down so as to enable the Collectorates to explore the market outside their jurisdiction if the goods fail to fetch at least the reserve price at repeated auctions. A constant and continuous monitoring is

1	2	3	4
			also considered imperative at a central level in the Board/Ministry, in order to ensure that the uncleared warehoused goods are timely disposed of and the financial interest of the Government is adequately protected.
7	31	Ministry of Finance (Deptt. of Revenue)	The Committee recommend that the Central Board of Excise and Customs should issue suitable instructions to ensure uniformity in applying the proviso (i) to Section 61 (1) of the Customs Act, 1962 for the classification of the goods which are likely to deteriorate so as to check misuse of the discretionary power and to safeguard governmental revenues. The Committee would like to be apprised of further developments in this regard.
8	33	Do.	The facts stated in the preceding paragraphs have identified several areas of shortcomings relating to the working of the customs bonded warehouses which require immediate attention of Government. The Committee desire that the Ministry of Finance should undertake a comprehensive review of the working of the customs bonded warehouses keeping in view those facts and take effective steps for streamlining the working of such warehouses.
9	34	Do.	The Committee are of the considered view that apart from the administrative measures and the suggestions made by the Committee elsewhere in the Report, certain basic changes in the law relating to warehousing are also essential not only for streamlining the working of the customs bonded warehouses, but also in the overall interests of the economy. As a measure of abundant caution, Government should make it obligatory that the owners of the imported goods support their warehousing bonds by furnishing adequate bank guarantees. The present practice of acceding to the requests of the importers for extension of time beyond the warehousing period in an apparently routine and casual manner need to be effectively curbed. The Committee are of the opinion that wherever extensions are granted beyond the initially permitted period of warehousing, provisions should be made in the law that the owners of the imported goods are required to pay customs duty at the rates prevailing at the time of import or actual clearance from the warehouses, whichever is higher. The Committee are also satisfied that the above measures would, in no way, affect the genuine users adversely, but on the otherhand, would help Government in restricting avoidable imports besides checking misuse of the facility.

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