

**PUBLIC ACCOUNTS COMMITTEE  
(1971-72)**

( FIFTH LOK SABHA )

**EIGHTH REPORT**

**[Chapter II of Audit Report (Civil) on Revenue  
Receipts, 1970 relating to Customs]**



**LOK SABHA SECRETARIAT  
NEW DELHI**

*July, 1971/Asadha, 1893 (Saha)*

*Price : 0.85 Paise*

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## PUBLIC ACCOUNTS COMMITTEE

(1971-72)

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Shri B. B. Tewari—*Deputy Secretary.*

Shri T. R. Krishnamachari—*Under Secretary*

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\*Since resigned from the Committee w. e. f. 17-6-1971.

## INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Eighth Report of the Public Accounts Committee (Fifth Lok Sabha) on Chapter II of Audit Report (Civil) on Revenue Receipts, 1970 relating to Customs.

2. The Audit Report (Civil) on Revenue Receipts, 1970 was laid on the Table of the House on 19th May, 1970. The Committee of 1970-71 examined the paragraphs relating to Customs at their sitting held on 25th September, 1970 (F.N.) Consequent on the dissolution of the Lok Sabha on 27th December, 1970, the Public Accounts Committee (1970-71) ceased to exist with effect from that date. The Committee of 1971-72 considered and finalised this Report at their sitting held on 6th July, 1971 (A.N.) based on the evidence taken and the further information furnished by the Ministries of Finance and Food, Agriculture, Community Development and Cooperation. Minutes of these sittings form part II\* of the Report.

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

4. The Committee place on record their appreciation of the commendable work done by the Chairman and the Members of the Public Accounts Committee (1970-71) in taking evidence and obtaining information for this Report which could not be finalised by them because of the sudden dissolution of the Fourth Lok Sabha.

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

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

6. The Committee would like to express their thanks to the officers of the Ministries of Finance and Food, Agriculture, Community Development and Cooperation for the co-operation extended by them in giving information to the Committee.

NEW DELHI;  
*July 8, 1971.*  
*Asadha 17, 1893 (Saka).*

ERA SEZHIYAN,  
Chairman,  
*Public Accounts Committee.*

## AUDIT REPORT (CIVIL) ON REVENUE RECEIPTS, 1970 CUSTOMS

### Receipts

#### Audit paragraph

1.1. The total receipts from Customs Revenue during the years 1967-68 and 1968-69 are given below:—

	1967-68	1968-69
	Rs.	Rs.
(a) Customs imports . . . . .	4,08,07,54,401	3,73,96,87,797
(b) Customs exports . . . . .	1,30,42,28,225	1,01,92,34,128
(c) Miscellaneous . . . . .	6,87,52,748	6,59,24,413
Gross Revenue . . . . .	5,45,37,35,974	4,82,48,46,338
Deduct-Refunds and Drawbacks . . . . .	32,03,59,101	35,98,67,754
Net Revenue . . . . .	5,13,34,77,873	4,46,49,78,584

1.2. The bulk of the customs revenue is collected from imports. Compared to 1967-68 the receipts from imports fell by Rs. 34.11 crores during 1968-69. Refunds and drawback increased by Rs. 3.96 crores over the corresponding figure of last year.

[Paragraph 8 of Audit Report (Civil) on Revenue Receipts, 1970.]

1.3. The Committee observed that as against the budget estimates of Rs. 539.27 crores, the actual revenues collected under customs during the year under report (1968-69) amounted only to Rs. 446.50 crores, the shortfall being Rs. 92.77 crores. Further the actual receipts for 1968-69 were less than those for 1967-68 by Rs. 66.85 crores. The Committee wanted to know the reasons for the shortfall in the collections during 1968-69. The Secretary, Ministry of Finance stated that the shortfall was primarily due to reduction in imports of items particularly machinery, metals like iron and steel and others and industrial raw materials. At the time of framing the budget estimates, the Department were rather over-optimistic about the pace of industrial recovery in the year 1968-69. The exemptions accounted for about Rs. 4 to 5 crores.

1.4. The Committee enquired about the commodities in which reduction in receipts took place during 1968-69 as compared to the preceding year. The Chairman, Central Board of Excise and Customs mentioned the following major items:

	Collections		Drop
	1967-68	1968-69 crores	
Kerosene Oil . . . . .	11.67	10.27	1.40
Iron and Steel . . . . .	46.84	37.91	8.93
Metals other than Iron and Steel . . . . .	6.01	1.64	4.37
Wood, pulp, paper and stationery . . . . .	8.30	5.05	3.25
Artificial silk yarn . . . . .	10.09	6.99	3.1

1.5. The Committee desired to know the shortfall in imports which were liable to import duty during 1968-69 as compared to the estimates. In a written reply, the Ministry stated that the "exact extent of the shortfall due to reduction in imports only is not ascertainable. However, the main commodities under which there was reduction in imports were spices, motor spirit, iron and steel, artificial silk yarn, machinery, and allied materials." The Ministry furnished the following statement showing the import duty estimates and actuals for 1968-69 for these and other items:

(Rupees in Lakhs)

S. No.	Sub-Head	Budget Estimates	Actuals (Accounts)	Variation
1.	Spices . . . . .	2.32	15	(—) 2.17
2.	Motor spirit . . . . .	4.30	3.41	(—) .89
3.	Machinery . . . . .	127.24	109.34	(—) 17.90
4.	Iron and Steel . . . . .	45.50	37.1	(—) 7.59
5.	Metals other than iron and steel . . . . .	20.30	14.32	(—) 5.98
6.	Wood, pulp, paper & stationery . . . . .	6.50	5.05	(—) 2.45
7.	Artificial silk yarn & thread . . . . .	17.00	6.99	(—) 10.01
8.	Chemicals, drugs & medicines . . . . .	28.20	25.15	(—) 3.05
9.	All other articles . . . . .	141.75	110.44	(—) 31.31
				(—) 81.35
	<b>TOTAL IMPORT DUTIES (gross)</b> . . . . .	<b>455.56</b>	<b>373.97</b>	<b>(—) 81.59</b>



1.6. The Committee desired to be furnished with details regarding exemptions from duty on imports granted under Sections 25(1) and 25(2) of the Customs Act, 1962 during 1968-69, the number of cases where cent per cent exemptions were given and the exemptions notified earlier which were current during 1968-69 with details, *inter alia* of the number of cases of cent per cent exemptions. From the information furnished by the Ministry in this regard, the Committee find that during the year 1968-69 exemptions under Section 25(1) of the Act were given in 65 cases out of which cent per cent exemptions were given in 28 cases. Exemptions under Section 25(2) during the year were given in 665 cases. Out of these, cent per cent exemptions were given in 664 cases. The number of exemptions notified earlier which were current during 1968-69 were 326 and out of these the number of cases of cent per cent exemptions were 103.

1.7. The Committee pointed out that there was also fall in receipts from exports during the year 1968-69 by Rs. 28.50 crores as compared to the previous year in spite of the fact that one of the objects of devaluation was to boost exports. The Committee enquired if the position regarding decline in exports had been reviewed. In a written reply the Department of Revenue stated:

"The Ministry have reviewed the position. There has been boost up in exports of De-oiled groundnut meal, hides, skins and leather, coir and coir manufactures, iron ore and manganese ore during the year under review (1968-69) as compared to exports of these items during 1967-68. In spite of this, however, revenue collections from exports duty, during 1968-69 have shown a shortfall, as compared to collections during 1967-68, for the following two reasons:

- (a) reduction in the effective rates of export duty on jute manufactures, tea, lumpy iron ore, hides, skins and leather, coir, raw wool and mica during 1968-69; and
- (b) reduction in the quantity of exports, in the main, of jute manufactures, raw cotton, tea, black pepper, raw wool and mica during 1968-69 as compared to those during the preceding year (1967-68)."

1.8. The Ministry have furnished the following data about the exports of dutiable items during 1967-68 and 1968-69:

Page No. 10

S. No.	Item	1967-68		1968-69		
		Quantity	Value (Rs. lakhs)	Quantity	Value (Rs. lakhs)	
1.	Jute manufactures . . .	'000 Tnes.	753	234.09	653	218.01
2.	Raw Cotton . . . . .	'000Tnes.	48.5	15.69	2.3	12.44
3.	Cotton waste . . . . .	'000Tnes.	24.5	3.52	23.2	3.30
4.	Tea . . . . .	Lakh Kg.	2033	180.20	2008	156.51
5.	Manganese Ore . . . . .	'000Tnes.	1047	11.10	1314	13.46
6.	Black pepper . . . . .	Lakh Kg.	24	12.98	189	9.71
7.	Raw wool . . . . .		—	5.65	—	4.87
8.	Coffee . . . . .	lakh Kg.	340	18.18	287	17.96
9.	Ground oilcake . . . . .	} '000Tnes.	587	37.21	682	41.96
10.	De-oiled groundnut meal					
11.	Tobacco un-manufactured	Lakh Kg.	554	34.45	527	33.16
12.	Mica . . . . .	Lakh Kg.	229	15.04	208	13.46
13.	Hides, skins and leather .		—	60.80	—	77.36
14.	Coir and coir manufactures		..	12.93	..	14.04
15.	Lumpy iron ore . . . . .	} Mill Tnes.	13.74	74.78	15.75	88.40
16.	Iron ore fines . . . . .					
17.	Manganese dioxide . . . . .		NOT AVAILABLE			
18.	Sillimanite . . . . .	'000Tnes.	2.5	14	2.1	15
19.	Steatite (Talc) . . . . .	'000Tnes.	10.6	33	18.7	54
20.	Kyanite . . . . .	'000Tnes.	44.9	1.67	45.2	1.78
21.	Chrome concentrates . . . . .	'000Tnes.	67	1.32	110	1.96

SOURCE: Monthly Statistics of the Foreign Trade of India Volume II—Exports and Re-Exports for March, 1968 and March, 1969.

1.9. At the instance of the Committee the Ministry have also furnished budget estimates and actuals of receipts from Export Duty for the year 1967-68 and 1968-69 as shown in the following table:

Sl. No.	Item	(Rupees in Lakhs)				
		1967-68		1968-69		
		Budget Estimates	Actuals (Accounts)	Budget Estimates	*Actuals Accounts	
1	2	3	4	5	6	7
1.	Jute manufactures . . . . .	52,83	51,50	34,58	31,57	31,57
2.	Raw Cotton . . . . .	2,40	3,34	3,00	2,10	12,10
3.	Cotton waste . . . . .	60	71	64	71	71
4.	Tea . . . . .	24,73	28,28	28,50	21,08	21,08
5.	Manganese Ore . . . . .	1,62	1,13	1,11	1,65	1,03
6.	Black pepper . . . . .	2,10	3,18	2,35	2,34	2,16
7.	Raw wool . . . . .	1,00	62	52	41	41
8.	Coffee . . . . .	1,20	1 68	1,70	1,66	1,82
9.	Groundnut oilcake . . . . .	1,10	60	55	84	1
10.	De oiled groundnut meal . . . . .	6,00	7,31	5,70	8,48	2,46
11.	Tobacco unmanufactured . . . . .	1,50	3,62	3,90	3,31	29
12.	Mica . . . . .	4,50	4,69	4,30	4,41	4,41
13.	Hindes, skins and leather . . . . .	4,50	5,84	5,25	6,82	1,45
14.	Coir & Coir manufactures. . . . .	1,75	1,92	50	1,23	1,27
15.	Lumpy iron ore Iron ore-fines, Manganese Dioxide Sillimanite, Steatite, Ky-anite and Chrome concentraes. . . . .	12,65	13,98	12,00	12,89	29,37
16.	Cesses on Exports . . . . .	3,36	1,72	1,50	2,08	1,79
TOTAL EXPORT DUTIES		121,84	130,42	106,11	101,58	101,93
(Gross)						

\*It was stated during evidence that the Departmental and Accounts figures of actuals were under reconciliation.

1.10. During evidence the Chairman of the Central Board of Excise and Cutoms stated: "It is true that overall 1968-69 was a good year for our exports; but the increase was primarily on engineering items, which are new. As for the traditional items, our export is

not very elastic; the fall is due to saturation in certain of our markets abroad."

1.11. The Committee desired to know the reasons for the steady increase in the payment of drawback and refunds from Rs. 13.78 crores in 1964-65 to Rs. 35.99 crores in 1968-69. (Out of the sum of Rs. 35.99 crores for 1968-69, refunds accounted for Rs. 27.59 crores and the balance of Rs. 8.40 crores related to drawback). According to a note furnished by the Ministry the main factors that led to increase in payment of drawback and refunds from year to year are:

- (i) upward revision in the rates of import duties especially after rationalisation of Tariff in August, 1965;
- (ii) short-shipment refunds as and when concessions in levy of export duties are given—exporters, in order to avail of the reduction in the rates of duty, get the consignments short-shipped and entire amounts of duty already paid are refunded;
- (iii) higher rates of drawback fixed due to upward revision of import duties and increase in value of imports following devaluation;
- (iv) more items brought under the purview of the Customs and Central Duties Drawback (General) Rules, 1960;
- (v) increase in the number of rates fixed; and
- (vi) increased and sustained drive to dispose of old and larger number of claims.

1.12. The Committee note that the receipts from Customs Revenue have fallen in the years 1967-68 and 1968-69. The receipts during 1968-69 decreased to Rs. 446.50 crores from Rs. 513.35 crores in 1967-68 and Rs. 585.37 crores in 1966-67. The actual receipts during 1968-69 (Rs. 446.50 crores) fell short of the budget estimates (Rs. 539.27 crores) by Rs. 92.77 crores (17.20 per cent). The percentage of short-fall in actuals as compared to budget estimates during the year 1967-68 was 19.81. The Committee were informed that the shortfall in revenue collections was mainly due to reduction in import duties particularly of machinery, metals and industrial raw materials. The Department, it has been stated, were rather over-

optimistic at the time of framing budget estimates for 1968-69 about the pace of industrial recovery in 1968-69. The Committee desire that in view of the current trend of decrease in imports and the policy of Government to encourage import substitution, the Department of Revenue should prepare their budget estimates more realistically. The Department should also keep closer liaison with the industry so as to collect reliable statistical data about actual and likely imports.

1.13. The Committee find that the gross receipts from exports have fallen from Rs. 130 crores in 1967-68 to Rs. 102 crores in 1968-69. The decrease in the collection of export duty during 1968-69 has been stated to be due partly to reduction in effective rates in duty on certain items (jute manufactures, tea, iron ore, hides and skins, leather, coir, raw wool and mica) and partly to reduction in the quantity of exports of jute manufactures, raw cotton, tea, black pepper, raw wool and mica. The Committee are particularly concerned over the reduction in the quantity of exports of jute manufactures (100,000 tonnes), tea (25,00,000 Kg.) black pepper (59,00,000 kg.). The Committee desire that Government should go into the reasons for the decrease in the export of these items and pay serious attention to check the declining trend in their export.

1.14. The Committee are concerned over the extent of exemptions from duty on imports granted under Sections 25(1) and 25(2) of the Customs Act, 1962. During the year 1968-69 exemptions under Section 25(1) were granted in 65 cases, 28 of them being cent per cent exemptions, while under Section 25(2) out of 665 exemptions given, as many as 664 were cent per cent exemptions. In addition there was another lot of 326 cases of exemptions notified earlier which were current during 1968-69, 103 of them being cent per cent exemptions. Cent per cent exemptions account for 43 per cent of the exemptions granted under Section 25(1) during 1968-69, while they form as much as 99.8 per cent of the exemptions granted under Section 25(2). In paragraph 1.25 of their 111th Report (Fourth Lok Sabha) the Committee had made certain suggestions to regulate the issue of exemption notifications with regard to Central Excise. In their reply the Ministry of Finance have stated that the "observations/recommendations are being examined by Government in greater detail." The Committee desire that the exemptions made on Custom side should also be examined in the light of these recommendations.

## Cost of Collection

### Audit Paragraph

1.15. The expenditure during 1965-66 to 1968-69 on collection of customs duty is shown below:

	Gross collections	Expenditure on Collections
	(in crores of rupees)	
1965 . . . . .	538.97	5.05
1966-67 . . . . .	555.37	5.48
1967-68 . . . . .	513.45	5.61
1968-69 . . . . .	446.50	6.78

(Paragraph 7, Audit Report (Civil) on Revenue Receipts, 1970)

1.16. The Committee pointed out that while the collections of customs revenue had fallen during the years 1967-68 and 1968-69 there was an increase in the expenditure incurred on the collections of revenue. In a written reply the Ministry have stated:

“The expenditure relating to Customs Department is reviewed first at the time of framing the Budget estimates and again at the time of framing the Revised Estimates. At the time of framing these estimates, the ends of economy are strictly kept in view. However, the cost of Customs Establishment has relation not only to the collection of Customs revenue but also to the work of prevention of smuggling of goods. The collection of Customs duties is a variable factor depending on several reasons, which may not lead to increase in the revenue, but which, nevertheless, have to be reckoned with. However, it will be observed that the cost of collection of customs revenue came down from 2.4 per cent in 1958-59 to .9 per cent in 1966-67. It rose to 1.09 per cent in the year 1967-68 and to 1.5 per cent in 1968-69, which is much less than what it was in the year 1958-59.

“The increase in the cost of collection in 1968-69 over the year

1966-67 is largely due to increase in expenditure during the year 1968-69, which is explained below in detail:—

(in crores of Rupees)

	Expenditure			Receipts		
	1966-67	1968-69	in crease	1966-67	1968-69	De- crease
(i) B-Sea Customs charges at the ports . . .	3.17	3.76	+ .59			
(ii) Charges paid to the Excise Department ( For Out Ports and Land Customs) .	2.31	3.02	+ .71			
<b>TOTAL . . .</b>	<b>5.48</b>	<b>6.78</b>	<b>1.30</b>	<b>585.37</b>	<b>446.50</b>	<b>(—)138.8</b>

“As compared to 1966-67, there is an increase of Rs. 1.30 crores in expenditure during 1968-69, while on the other hand the customs revenue registered a decrease of Rs. 138.87 crores during the corresponding period. The decrease in revenue is attributable to reduction of the quantity of actual imports due to general recession in industry and import substitution because of higher cost of imports due to devaluation....”

1.17. The increase in the cost of collection was mainly attributable, among other factors, to the following reasons:—

- (i) Increase in pay and allowances of the staff (Rs. 36 lakhs) due to reorganisation of Customs Department consequent on the implementation of the recommendations of the Customs Study Team resulting in creation of new posts, upgrading of existing posts including those in the ministerial cadre, etc. etc.
- (ii) Debits amounting to Rs. 16 lakhs pertaining to the year 1967-68 on account of (i) operation and maintenance charges of C.B.R. launches and (i) appraised value of 3 confiscated launches (4.25 lakhs).
- (iii) Increase in payment of rewards to informers in gold seizure cases.

1.18. The Committee desired to know the break up of the increase in the cost of collections during 1968-69 amounting to Rs. 1.17 crores as between (i) performance of normal assessment and collection of duties and (ii) preventive and punitive steps for anti-smuggling. In a written reply the Ministry have stated that "since the expenditure is not separately booked in the accounts on functional basis, it is not practicable to furnish the split up of the increase of 1.17 crores in the cost of collection between 1967-68 and 1968-69 separately, on (i) performance of normal assessment and collection duties and (ii) preventive and punitive steps for anti-smuggling."

1.19. The Committee desired to know the original cost of the launches, the actual amount attributable to repair charges and whether the charges were not heavy considering the cost of the launches. The Ministry have furnished the following details:

(1) The original cost of 6 C.B.R. craft	=	Rs. 33,75,000
(2) Actual amount attributable to maintenance charges :—		
(i) Operation charges	=	Rs. 11,90,000
(ii) Maintenance charges	=	Rs. 4,74,618
(iii) Repairs	=	Rs. 6,95,423
(iv) Purchase of spare parts	=	Rs. 6,59,000

1.20. It has been stated that "the maintenance charges, though heavy are necessary at this stage as we have no appropriate alternative craft. The question of equipping us with adequate number of fast launches and other craft is already under consideration of the Government where the question of disposing of these six crafts will also be considered."

1.21. The Committee find the cost of collection of customs revenue has increased from Rs. 5.48 crores in 1966-67 to Rs. 5.61 crores in 1967-68 and to Rs. 6.78 crores in 1968-69, although the gross collections decreased from Rs. 585.37 crores in 1966-67 to Rs. 513.35 crores in 1967-68 and to Rs. 446.50 crores in 1968-69. The percentage of cost of collection has risen from 0.9 in 1966-67 to 1.00 in 1967-68 and to 1.5 in 1968-69. The increase in the cost of collections has been attributed to reduction in the quantity of actual imports due to general recession in industry and import substitution because of higher cost of imports owing to devaluation. While the Committee appreciate that the expenditure on collections is relatable both to the collection of customs revenues and prevention of smuggling of goods, the Committee are unable to know the break up of the increase in expenditure on the performance of normal assessment and collection of duties and preventive and punitive steps for anti-smuggling as the expenditure is not booked in the accounts on functional basis.



CORRIGENDA TO THE EIGHTH REPORT OF P.A.C. (1971-72)  
PRESENTED TO LOK SABHA ON 5.8.1971.

<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
v		2-3	authorise	authorised
1	1.1	9(Col.2)	32,03,59,101	32,02,58,101
2	1.5	18 (Col.3)	6,50	7,50
4	1.8	3	<u>Delete</u>	"Page No. 10"
		8(Col.5)	15,99	15,89
		8(Col.6)	2.3	32.3
		15(Col2)	Ground oilcake	Groundnut oilcake
	1.9	8(Col.6)	<u>Insert</u>	"Deptt"
		11(S.No.2) (Col.7)	12,10	2,10
		16 (S.No.7) (Col.5)	52	53
		22 (S.No.13) (Col2)	Hindes	Hides
6	1.11	19	Central Duties	Central Excise Duties
8	Statement	Col.1	1965	1965-66
		Against 1967-68		
		Col.2	513.45	513.35
	Statement	Against Total		
		last Col.	(-)138.8	(-)138.87
	1.17	11	(i)	(ii)
0.	1.21	6	1.00	1.09
3	1.31	2	Custom	Custom
4.	1.32	2	of Board	of the Board
		7	fine	find
	1.33	8	in he	in the
5		16	drawings	Drawings
		27	he	the
7	1.41	15	effects	effect
	1.42	3	Tariff	Tariff

P.T.O.

<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
18	1.45	4	Civil Receipts	Revenue Receipts
19	1.49	23	it supposed	it is supposed
23	1.61	7	should	would
24		4	lodge	judge
25	1.65	6	took	look
		18	under 15(1)(c)	Under Section 15(1)(c)
31		1	imports	importers
		10	Committee should	Committee would, however, suggest that Government should
32	1.84	6	linking	lining
		11	fixed	fixes
		20	whenever,	whenever necessary,
37	1.98	11	prescribed	prescribed time
38		11	1.00	1.100
		12	Rs 41,403	Rs 41,408
		21	Delete "round and the"	1963-64
41	1.111	2	1968-64	
	(statement)	5	Delete 2	
42	1.115	4	arrear	arrears
43	1.117	2	3 lakhs	31 lakhs
55	Col.4	8	issued	issue

the expenditure is not booked in the accounts on functional basis.

The Committee suggest that the Ministry should examine in consultation with Audit the desirability of maintaining separate accounts for these activities to enable appraisal of expenditure on them separately. In view of the fact that there is a reduction in the actual imports, it should also be examined as to what extent economy on staff employed on assessment and collection of duties could be effected with a view to having a proportionate reduction in the cost of collection.

### Results of Test Audit

#### *Audit Paragraph*

1.22. Test Audit of the documents in various Customs Stations revealed under assessment|loss of revenue of Rs. 13.66 lakhs. In some cases, as indicated in the succeeding paragraphs, the full amount of short-levy of duty has not yet been intimated. Some instances of irregularities or other points of interest are mentioned in the subsequent part of the Report.

1.23. The test audit also brought to light cases of over-assessments, some of which are mentioned in para 15\*.

[Paragraph 9 of Audit Report (Civil) on Revenue Receipts, 1970.]

1.24. The Committee had been informed last year that on the recommendations of Customs Study Team a number of measures had recently been taken to strengthen the Internal Audit Department. Pointing out that under-assessment|loss of revenue and over assessment still persisted, the Committee enquired whether the re-organisation of the Internal Audit Department had been completed. The Chairman, Central Board of Excise and Customs, replied that "the final instalment was done five or six months ago." Asked whether the working of the Internal Audit Department showed any improvement after completion of its re-organisation, the witness stated: "It is too early to say, but the quality of audit will certainly improve because we put officers of a senior level and also people who have spent their life time in classifying goods."

1.25. The Committee note that the under-assessments/loss of revenue brought to notice by test audit has decreased from Rs. 32.36 lakhs in 1967-68 to Rs. 13.66 lakhs in 1968-69. The Committee hope that with the reorganisation of the Internal Audit Department, the quality of audit will improve and the amount of under-assessments pointed out by the Revenue Audit will decrease further.

\*Audit Report (Civil) on Revenue Receipts, 1970.

### Assessment at lower rates than prescribed

#### *Audit Paragraph*

1.26. Under an exemption notification issued by the Government of India in March, 1961 component parts of paper making machinery are chargeable to customs duty at the concessional rate of 10 per cent *ad valorem*. Imports of "cross cutter knives" for use in cutting and sizing paper from reels to sheets were being charged to duty by a Custom House at the concessional rate of 10 per cent *ad valorem* treating them as component parts of paper making machinery. As the sizing of papers from reels did not form part of paper making, it was pointed out in August, 1963 that the knives should have been assessed at the standard rate under item 72(3) of the Indian Customs Tariff instead of at the concessional rate of 10 per cent *ad valorem*. The Custom House maintained that the function of a composite paper making unit did not end with the making of paper in reels but included the sizing of paper for ready marketing; however while levying duty the Custom House did not follow a regular method of assessment. While assessments were continued to be made up to June, 1967 at concessional rates, some consignments were assessed at standard rates of duty between June and August, 1967. From August 1967, the Custom House ordered that future assessments might be made provisionally at the concessional rates and security deposits taken for the difference between the standard duty and the concessional rate.

1.27. On the matter being referred to the Board in March, 1966 by Audit, it was clarified in August, 1968 that the articles in question should not be assessed at concessional rates of duty. The incorrect practice of the Custom House in assessing the cross cutter knives at lower rates resulted in a short-levy of Rs. 19,685 between August, 1967 and August, 1968 and Rs. 546 in July, 1963. The total short assessments in this Custom House for the other periods since August 1963, and in other Custom Houses have not yet been ascertained.

[Paragraph 10 of Audit Report (Civil) on Revenue Receipts, 1970]

1.28. During evidence the Committee enquired how the same Custom House happened to assess the Goods "Cross Cutter Knives", at different rates at different times. The Chairman, Central Board of Excise and Customs stated in reply that "It shows a lacuna and we have been thinking how to set it right. But human beings are made differently and sometimes give different interpretations to the same facts. So we are trying to introduce some kind of indexing

of these commodities in the customs house and we are also thinking of having a central exchange to bring about uniformity in assessment. We are shifting towards what is called Brussels Tariff Nomen—clature and a Bill is already before Parliament. I understand that they have already prepared a classification index of 40,000 items and this kind of different interpretations will become less and less when the new enactment comes into force though it will not be eliminated altogether as different people may sometimes interpret the same language differently. The man who assessed it in 1967 did not know that in 1963 it had been assessed differently. We are trying to see what could be done to remedy that sort of things."

1.29. Asked about the position in other Custom Houses, the witness replied: ".....in Bombay and Cochin, they had been assessing at the standard rate of duty. There were few assessments in Madras; in Madras and Calcutta they assessed at concessional rates."

1.30. The Committee asked why the goods were not provisionally assessed at standard rate of duty after receipt of Audit objection. The Chairman, Central Board of Excise and Customs replied: "When there are a large number of objections received from Audit, if in all the cases we immediately rush to put in claims, it will disturb the trade, because this is an indirect taxation and is passed on to the consumer. A very large number of Audit objections are ultimately settled to the satisfaction of Audit. In other words no ultimate action is due because we had been able to explain our point of view to the audit to their satisfaction. It is only a small number of cases that remain unresolved where the difference of opinion is strong and they form the subject of Audit paras. Where we accept the Audit view the claim is put in quickly." The witness added that, "It is the easiest thing for the officer to assess at the higher rate of duty but it will do harm to the trade. If we assess something at a higher rate and on appeal from the private party the duty is reduced and the excess is refunded, the harm is already done. The trader would have sold it to the consumer at a higher price and he will not refund the amount of excess when he gets the refund from the Government. He will get fortuitous profit. He will not pass it on to the consumer."

1.31. The Committee pointed out that in this case even after Audit pointed out to the Custom House that the higher rate of duty was charged in other Custom Houses, the Collector adhered to his original view and did not refer the matter to the Board. The Secretary, Department of Revenue *inter alia* stated: "We propose to

go into the question and see if we can instruct the Collectors. . . . . where we find that inspite of the Collector answering the Audit, the Audit continues to hold its point of view, it obviously means that there is something to be said for the other side and, therefore, it would be safer for the Collector to put in a provisional demand in such cases."

1.32. The Committee asked whether it was not the duty of the Custom Houses to bring the matter to the notice of Board when they themselves were in doubt about classification of any goods, the Chairman of the Board stated. "When the Collector himself feels a doubt about any classification, irrespective of whether an Audit objection has been raised or not. (even in the normal course of work, he may fine that he has a doubt about the classification particularly if he is told that in some other Custom House a different practice is taking place), what he normally does is that he will either write to the other Collectors asking them what their practice is, and why they are adopting a particular practice and after collecting their views, refer the matter to the Board, or, if the matter is urgent, he himself will refer the matter to the Board straightaway with copies of the reference to the other Collectors, requesting them to send their views directly to the Board. When the paper comes to the Board, and when there is a difference of opinion among the Collectors, it is for the Board to resolve that difference of opinion, and then the Board, after taking into consideration the technical aspects and consulting such technical "pandits" as it considers necessary—the DGTD, ISI Chief Chemist etc.—issues what is called a tariff advice explaining why the Board thinks that that article should be assessed under this item or that item. That brings about a uniformity, and after that, in all the Custom Houses that article is assessed uniformly. . . . Here, the Collector could have done it, but apparently, in this case, he must have felt that he was very sure of the ground."

1.33. Referring to the present case, the witness stated: "In the first instance, when the Audit memo was referred to the Custom House, it was dealt with by the Assistant Collector in charge, and he sent a reply supporting the Custom House practice, that is, holding the view that it should be charged at the concessional rate. The Audit did not accept that view, and again referred the case back to the Custom House. At that stage, the paper went up to the Deputy Collector who is the next higher authority in he hierarchy. . . . When the papers came to the Deputy Collector it was he who said, "Let us put in the demand.'"

1.34. The Committee drew attention to the fact that the question of rate of duty applicable to "Cross Cutter Knives" was referred by

Audit to the Central Board of Excise and Customs in March, 1966 but it was only in August, 1968 that the Board clarified the matter. The Committee asked for reasons for the delay of 2½ years on the part of the Board to give their decision. The Chairman, Central Board of Excise & Customs replied: "The delay is certainly there. I will give the catalogue of events. The Comptroller and Auditor General took up the matter with the Board on 9th March, 1966. There he had referred to certain catalogues he had seen. So the Board's office asked the Comptroller Auditor General's office to send those catalogues so that they might be sure of the facts. Then the Customs Revenue Audit wrote to the Custom House on 3rd August, 1966. The Custom House wrote to the party. The party submitted the pamphlets to Custom House on 11th October, 1966. The party submitted the drawings which the Custom House sent to the Customs Revenue Audit on 16th November, 1966. Drawings and pamphlets were forwarded by the Comptroller Auditor General's office to the Board on 9th January, 1967. After that, there was a reminder on 25th April, 1967 a second reminder in December, 67 and a third reminder on 29th February, 1968. After that things started moving quickly. By that time we had also evolved a procedure to speed up the decisions in tariff classification cases. It had been decided that the Member of the Board concerned should meet the collectors off and on and settle the tariff classifications by personal discussion. This ultimately came to be done in May and the final ruling was issued in August. I must admit that after the drawings had been received from the Customs Revenue Audit's office on 9th January 1967, there is no justification for the Board's office to take so long till 29th February, 1968. This is a human failure. We have already called for the explanation of the officer concerned. His explanation has been received and we will proceed against him."

1.35. The Committee desired to know the action taken to expedite the disposal of Audit objections. The Chairman of the Board stated: "We are doing our very best. But the delay is partly due to inadequacy of the staff and partly due to the nature of the problem. Sometimes some technical details are wanted in which case we may have to refer say to the DGTD. Or if any question of standards is involved, we may have to refer to the Chief Chemist. Such references take time. Sometimes references have to be made to more than one organisation. But there are no two opinions that we should try to do our best to see that it is done as quickly as possible. We will apply our mind still further to the assurance which we have already given to the PAC."

1.36. The Chairman of the Board also agreed to discuss the problem with Audit.

1.37. The Committee desired to know the loss of revenue incurred by way of short levy as a result of the delay. In a written reply subsequently furnished, the Ministry informed the Committee: "As complete records are not available, the exact quantum of loss cannot be ascertained. However, from records traced so far and from enquiries in the trade, Calcutta Custom House has reported that from 1964 to 1968 the loss was about Rs. 4689.96. A short levy of Rs. 294.53 has been reported by the Madras Custom House. No short levy has taken place at Bombay and Cochin ports." From the information collected from records which could be traced and furnished by the major Custom Houses, the total amount of short levy involved was Rs. 25064.—"

1.38. The Committee are constrained to observe that the objection raised by Audit in August, 1963 regarding assessment of "cross cutter knives" at the concessional rate of 10 per cent ad valorem was dealt with in a casual manner. In spite of the fact that Audit pointed out that the goods were being assessed in other Custom Houses at the standard rate of duty, no action was taken to discontinue the assessment at the lower rate till August, 1967. Only when the matter came to the notice of the Deputy Collector, he ordered the future assessments to be made provisionally at the concessional rate. The Committee were informed that the Ministry were examining the question of instructing the Collectors to issue provisional demands in cases where Audit continued to firmly hold the objection in spite of the Collectorate's explanation. The Committee suggest that it should also be laid down that if the Audit objections are not resolved at a lower level, the matter should be dealt with at the level of Deputy Collector/Collector. In case Audit objection is still unresolved, the question should be referred to the Customs Board for a ruling without delay.

1.39. The Central Board of Excise and Customs themselves took about 2½ years in issuing the clarification after the matter had been referred to them by Audit in March, 1966. Admitting the failure on the part of the Board, the Chairman during evidence informed the Committee that the officer concerned would be suitably dealt with. The Committee feel that the Department should take a serious notice of such lapses.

1.40. The Committee have already in para 1.22 of their 110th Report (1969-70) suggested that the objection raised by Audit should be resolved within 3 months or so. In a note furnished by the Ministry



it has been stated that the matter is to be discussed with Comptroller and Auditor General with a view to evolving a suitable procedure for expediting the Board's ruling. The Committee desire that the procedure of dealing with the Audit objection in the Custom Houses should be discussed with Audit with a view to avoiding delay in disposal.

1.41. Another unsatisfactory feature of the case is that there was no uniformity in assessment of duty in the different Custom Houses. What is worse is that in the same Custom House while there was short levy of custom on the one hand, certain other consignments were correctly assessed at the standard rate of duty. The Committee were informed that in order to avoid different interpretations being given by the different Custom Houses to the notifications issued by the Board and to bring about uniformity in assessment in all the Custom Houses certain measures were being taken by Government, such as introduction of indexing of commodities, setting up of a Central exchange of classification, adoption of Brussels Tariff Nomenclature. The Committee stress that the various measures proposed to achieve uniformity in classification of goods for the purpose of levy of duty in all the Custom Houses will be finalised without delay and put into effects.

#### Non-levy of additional duty

##### *Audit Paragraph*

1.42. According to a notification issued by Government in April, 1962 and amended in August, 1965 the rate of excise duty leviable under item 8 of the Central Excise Tariff was reduced to 5 per cent *ad valorem*. In respect of mineral oils which fall under item 8 of the tariff, in addition to basic excise duty levied under the Central Excise and Salt Act, 1944 additional duty of excise is leviable under the Mineral products (Additional Duties of Excise and Customs) Act, 1958.

1.43. In a major Custom House, countervailing duty equivalent to additional excise duty was not being levied on imported transformer oil on the assumption that the excise duty referred to in the exemption notifications of April, 1962 and August, 1965 included the excise duty leviable under both the Central Excise and Salt Act, 1944 and the Mineral products (Additional Duties of Excise and Customs) Act, 1958. Since the additional levy imposed under the latter Act is different from the excise duty leviable under the Central Excise and Salt Act, it was pointed out in May, 1966 that the non-levy of

additional excise duty on a consignment of transformer oil imported in April, 1966 was not in order. The Custom House justified the non-levy on the ground of established practice and continued to assess imports subsequent to May, 1966 also without levying the additional excise duty. While the matter was under correspondence with the Custom House, the Central Board of Excise and Customs clarified in November, 1966 on a reference from another Customs Collectorate that the transformer oil was chargeable to the additional excise duty.

1.44. Even after receipt of the Board's clarification of November, 1966 the Custom House did not recover the differential duty in the cases of imports prior to November, 1966 falling within the time limit prescribed under Section 28 of the Custom Act, 1962. The incorrect practice followed by the Custom House in not levying additional excise duty on imported transformer oil had resulted in a loss of revenue of Rs. 1,32,815 in 40 cases of imports during March, 1965 to November, 1966. The full extent of the loss of revenue due to the non-levy from 24th April, 1962 to 24th November, 1966 is still to be worked out and reported by the department.

1.45. The Ministry stated in January, 1970 that "it appears that the decision given by the Board in November, 1966 may have to be reconsidered."

(Paragraph 11 of Audit Report (Civil) on Civil Receipts, 1970.)

1.46. The Committee desired to know the total loss of revenue incurred on account of non-levy of additional duty on transformer oil by the various Custom Houses since 1962. In a written reply the Ministry of Finance informed the Committee that "No short-levy has occurred at Madras and Cochin. At Calcutta port, from the records traced so far, the short-levy is Rs. 4,81,803. At Bombay port, from records traced so far, it is found that an amount of Rs. 37,669.68 had been short-levied but this amount was recovered subsequently."

1.47. During evidence, the Committee enquired whether the objection raised by Audit in May, 1966 about the non-levy of additional excise duty on transformer oil was brought to the notice of the Central Board of Excise and Customs by the Custom House concerned. The Secretary, Ministry of Finance replied, "The Calcutta audit objection was brought to the notice of the Board in October, 1966. The Audit objection in Calcutta was received in May, 1966. There was a certain amount of discussion between Audit and the other party and the Collector referred the matter to the Board in October, 1965."

1.48. It was further stated that "this matter was already in correspondence, because the Collector of Customs, Madras, had even earlier felt a doubt and made a reference to the Board. On the 6th September, 1965 the Collector of Customs, Madras wrote to the Board expressing a doubt about the levy of additional duty of customs on transformer oil arising out of the notification."

1.49. The Committee enquired whether, after the issue of the clarification by the Board in November, 1966 regarding levy of additional excise duty on transformer oil, the Custom House re-opened past cases of under-assessment and recovered the amounts short levied. The Chairman of the Board replied in the negative and added: "It has been applied prospectively only and not retrospectively. There has been no attempt to reopen old cases and realise the short levies in the past. It has been a very long standing practice for the convenience of the trade." He further stated that "it is for this reason that all Customs Houses are provided with an internal audit department which go into all the bills of entry and other documents and pass them. In a very large number of cases, the mistakes are detected by them. In fact, they detect many more cases than Central Revenue Audit and bring them to the notice of the executive so that a claim can be put in quickly. This is broadly the picture. Then there are certain cases which are referred by the Central Revenue Audit to Comptroller & Auditor General where there is discussion with the Custom House. Very often it happens that by the time an ultimate decision is reached on an objection the six months period is over. But such cases, where objections are raised, and ultimately goods are found to be either over-assessed or under-assessed, are very few. In those cases a *via media* has been found. When Government takes a decision it supposed to be interpretation of the law as it stands. So, we say that the law is now interpreted this way and therefore in future it will have that effect."

1.50. The Committee asked how the practice of non-recovery in respect of past cases of under-assessment could be justified in law. In reply the witness stated: "Broadly, the practice is that if the ruling raises the rate of duty, it should be given effect to only prospectively and not retrospectively. The reason for that is that it is only the lower rate of duty which must have been passed on by the parties to the consumers and it will be very harsh on the trade and disturbing if we started realising the short levies from all parties in the last six months or so. On the other hand, if the ruling is such that it reduces the rate of duty, if any person comes to us within six months of his payment of duty, in law we are bound to reoper-

the case. That is the broad policy that has been followed for nearly 50 years. This certainly is administrative policy. It has at the moment no legal backing. Whether we should give it a legal backing or whether we should start, in such cases, charging duty or putting a claim for the last six months, is under consideration. Where the so-called established practice was on account of mistaken facts of a thing, it must stop immediately and claims should be put in within six months....".

1.51. Pointing out that a reference in regard to levy of duty on transformer oil had already been received by the Board from another Custom House (Madras Custom House) as early as in September, 1965, whereas the Board clarified the matter only in November, 1966, the Committee asked why it took the Board more than one year to come to a decision. The Chairman of the Board replied. "In such cases the Board writes to the Collectors at Bombay, Cochin, Madras and Calcutta for their comments. The opinion of the Cochin Collector came in December, 1965 and that of Bombay in January, 1966. The opinion of Collector of Customs, Calcutta came in October, 1966 because in between discussions were going on between the Customs House and the Central Revenue Audit. The Board issued a clarification on 26-11-66."

1.52. The Committee wanted to know whether the Board could not have taken a decision on their own as the question involved was one of interpretation of the notifications issued by them and whether the law required consultation by the Board with the various Custom Houses. In reply, the Secretary, Ministry of Finance stated: "In law the Board can take such a decision without consulting the Custom Houses. But I would like to submit one point. There are only four Custom Houses. It is not as though we have a large number of Custom Houses. I think it is a salutary practice that before the Board takes a decision in a vacuum, so to speak, it gets the experience of Collectors who are dealing with assessment. I think it is a useful practice. The Board should know what is obtaining in the three or four Custom Houses before it takes a decision. The Collectors may give their arguments why it should be so or it should not be so and that will help the Board in taking a decision."

1.53. The Committee pointed out that in this case the question was not one of ascertaining the traditional practice of classification but of the intention of Board in issuing the notification. The Secretary, Ministry of Finance stated: "In the present case the interpretation taken by the Collector was as to what would constitute the words 'excise duty' in the notification. He took this to mean that it would mean not only the normal excise duty but also the additional excise

duty. It was not merely in Calcutta that this interpretation had been taken but in Bombay also, we understand, the same interpretation had been taken. So, it was primarily a question of interpretation of a certain notification of the Board because a doubt was raised as to what should be the interpretation of the notification. On that the Board is the authority to give a ruling. An established practice in normal parlance can mean that a certain Custom House follows the practice of saying that a certain item falls under a particular tariff item which may fall under another tariff item. But I am not sure whether the interpretation of a notification can be equated completely to, what is called an established practice."

1.54. The Committee are surprised how the Calcutta Custom House misconstrued the exemption notification issued by the Board in April, 1962 and amended in August, 1965 reducing the rate of basic excise duty to mean that the additional duty under the Mineral Products (Additional Duties of Excise and Customs) Act, 1958 was not leviable on imported Transformer oil. This was justified by the Custom House on the ground of established practice. The Committee dealt with another case in paragraphs 1.28 and 1.29 of their 72nd Report (1968-69) where the Calcutta Custom House had not levied countervailing duty on spirit and oil soluble coal tar colours on the ground of established practice. In that connection the Committee observed as follows: "It is hardly necessary for the Committee to say that every established practice, whatever its basis, has to be in conformity with the law, and should cease as soon as it becomes inconsistent with any legal provision". It is regrettable that although suitable instructions in the matter have been issued by the Ministry of Finance to the Collectors of Customs in this regard, cases of under-assessment of duty on the ground of established practice continue to occur. In the present case, according to the information supplied to the Committee, there is a short levy of duty amounting to Rs. 4,81,803 at the Calcutta Port. At the Bombay port there was short levy amounting to Rs. 37,669.68 which was subsequently recovered. The Committee urge that the Board should ensure cases of short levy of duty on the ground of established practice which is not in conformity with the law do not occur.

1.55. It is regrettable that the Board took more than a year to issue clarification regarding levy of additional duty on the reference from the Custom House at Madras received in September, 1965. The Committee were informed that the Board wrote to the different Custom Houses in order to obtain their comments in the matter. It is surprising that the Board should have referred the matter to other

Custom Houses even though the question was not one of ascertaining the traditional practice in respect of classification of goods but one of clarifying intentions of the Board in issuing the notification. Even so, the Committee feel that the time taken for ascertaining the views of the Custom Houses was unduly long. The Committee hope that rulings on matters which involve only interpretation of the notifications issued by the Board will be given by them expeditiously in future.

1.56. The Committee find that after the clarification of the Board in November, 1966 no action was taken by the Custom House to reopen the cases which fell within the time-limit of six months for recovering the additional duty. The Committee were informed that broadly the practice was that if a ruling raises the rate of duty, it should be given effect to only prospectively as it would be harsh on the trade if the duty is recovered from them in respect of the past cases. If this is so, it is not clear how the duty amounting to Rs. 37,669.68 short levied in the Bombay Custom House was recovered subsequently in respect of the same commodity.

1.57. It was pointed out to the Committee that the practice of non-recovery of duty short-levied in the past cases had no legal basis. While the Committee appreciate that from the point of administrative convenience it may be justifiable in some cases not to recover the duty under assessed after issue of the ruling of the Board, they suggest that necessary provision may be made in the Act to give legal backing to such administrative actions in appropriate cases.

#### Assessment of goods imported and kept in unapproved warehouse

#### Audit Report

1.58. A consignment of 8418 tonnes of Zinc Concentrate valued at Rs. 45,01,934 imported at a major Custom House in May, 1968 and assessable to duty at 15 per cent *ad valorem* was permitted to be cleared without payment of duty for the purpose of warehousing at the importer's factory site. The factory site, however, was not declared as a warehousing station by the Central Board of Excise and Customs, as their policy was to provide warehousing facilities in the interior towns only for predominantly export-oriented industries. Out of 8418 tonnes, the importers cleared a quantity of 1,000 tonnes on 16th July 1968 on payment of duty of Rs. 80,220. A further quantity of 2,000 tonnes was cleared in August and September, 1968 on payment of duty of Rs. 1,60,438.

1.59. On 17th July, 1968 the Government of India exempted Zinc

Concentrate from Customs duty. Holding that in this case the provisions of section 15(1) (c) of the Customs Act, 1962, under which the rate of duty is laid down as the rate in force on the date of payment of duty was applicable, the department refunded Rs. 1,60,438 collected subsequent to the date of notification and the balance quantity of 5,418 tonnes was permitted to be cleared duty-free. As the imports in May, 1968 were not cleared to an approved warehouse the import should have been treated as entered for home consumption and duty recovered under Section 15(1) (a) of the Customs Act, 1962.

[Paragraph 12 of Audit Report (Civil), on Revenue Receipts, 1970]

1.60. The Committee desired to know the circumstances under which the consignments of Zinc Concentrate were allowed to be cleared by the party without payment of duty to their factory site which had not been declared as a warehousing station. The Chairman, Central Board of Excise and Customs stated "...even before the goods arrived in May, 1968 the party wrote to the Collector of Customs (on 18-4-1968) that they were expecting about 8000 tonnes of Zinc Concentrate and that they had taken up the matter with the Government for exemption of duty. Naturally, therefore, they would like to defer the payment of duty. The only way to do this was to put it in a bonded warehouse." The party sought the permission of the Collector to clear the goods to their factory site. The Collector thought that the request of the party was reasonable but since their request could be met only if the place was declared as a warehousing station by the Board, he referred the matter to the Board. The Board replied on the 30th May, 1968 stating that they were of the view that the warehousing facilities in interior towns should be given only to predominantly export-oriented industries. Subsequently after obtaining the desired clarification from the Collector, the Board gave their final reply on 22nd July, 1968 declining to comply with the request. Meanwhile, anticipating the Board's agreement to this request the Collector allowed the party to clear the goods to their factory site on 8th May, 1968 for warehousing.

1.61. The Committee asked how far it was proper on the part of the Collector to have allowed clearance of the goods to a private warehousing anticipating that the place would be declared as a warehousing station. The Secretary, Ministry of Finance stated: "He should have awaited Government orders before he allowed the goods to be taken to the warehouse. He was faced with a situation that the goods were arriving. He evidently anticipated that there should be no difficulty and he took the step in anticipation of that. That is what can be said in defence of the Collector. I would not say that

he acted wrongly." Explaining further the Chairman of the Board said: "Certainly, technically one can say he was not quite correct but administratively when in the field in urgent cases the senior officers have to make up their mind and lodge whether it is a routine thing which is likely to be upheld by the Board. *Ex post facto* sanction is quite common when a man on the spot takes a decision and then submits to the higher authorities and here he was so sure that what he was doing was quite correct." The Chairman added that the case was dealt with in the Board at the Under Secretary's level. Had it come to higher level, it was quite likely this might have been approved for two reasons *viz.*, that this place was very near to the port itself and this kind of concession had been allowed all over without bothering about export-orientation."

1.62. The Committee enquired when the party cleared the goods from the private warehouse. The witness informed, "In various batches. On 12-7-1968 he put the *ex-bond* bill of entry for clearance from the warehouse; he paid duty on 16-7-1968 and he actually cleared the goods (10000 tonnes) from the warehouse on 17-7-1968."

1.63. The Committee asked why immediately on receipt of the Board's letter dated 30th May, 1968 wherein the Board had expressed the view that the warehousing facilities in interior towns could be granted only to predominantly export-oriented industries the Collector did not ask the party to pay duty on the entire consignment which had been stored in an unauthorised warehouse. The Chairman, Central Board of Excise and Customs stated "There are two aspects. The letter merely says this is the policy of the Board; but it does not mean to say that it is so inflexible that it cannot be changed if the circumstances of the case justify it."

1.64. The Committee asked whether in view of the fact that the party's warehouse was not recognised as bonded, it was not proper technically to regularise the non-payment of duty by an exemption notification. The Chairman of the Board stated: "The position as was understood by the Board after they refused to declare it as bonded warehouse was as to what will be the effective date for the rate of duty. If it had been a bonded warehouse then the effective date will be the physical removal date of the goods. In this case for instance 1000 tons had been paid duty on 16th July. The complete exemption from duty came on the 17th July. If the goods were cleared on the 17th July then they would have been exempted if it had really been a bonded warehouse; but after the Government said we cannot treat it as a bonded warehouse it will be seen that the duty which had been paid on the 16th July has not been returned on the



ground that in such a case the date of payment of duty is the vital date."

1.65. The Committee asked what the basis was on which Section 15(1) (c) of the Customs Act, 1962 was applied in this case for assessing duty and what sort of cases would come under this Section. The witness replied: "15 (1) (c) to our way of thinking is the residual clause. What does not come under 15(1) (a) or 15(1) (b) automatically comes under this clause. That is how we took at it". As to the question why in this case assessment was made under Section 15(1) (c), the witness stated: "The view taken by the Board was that the working of the Customs Act is different from the wording of Sea Customs Act, and if this case had happened before this Customs Act came into force in 1963, then what you are saying, Sir, would have been correct. That is also the policy that we had been following then, because there was no such provision in the old Sea Customs Act corresponding to Section 15(1)(c) of the Customs Act". Therefore, previously under the Sea Customs Act, what ultimately was not for warehousing, automatically became for home consumption. The view taken in the Board was that this case will fall under 15(1)(c) of the Customs Act. Whether this view is absolutely legally correct, I cannot say, but it appeared to the Board that that was the proper legal interpretation." The witness added: "We can sort out this in a meeting with the representative of the Auditor General, Ministry of Law and ourselves and then take any consequential action so that if there is any danger implicit in the present scheme of things, that may be set right."

1.66. The Committee wanted to know the consideration on which Zinc Concentrate was exempted from customs duty. The Chairman, Central Board of Excise & Customs stated "The public policy is to encourage the manufacture of finished goods in India rather than to import them from abroad. It so happened that if zinc is imported as such, there is no basic customs duty on this because this is exempted under our commitment under G.A.T.T. Now Zinc Concentrate is the raw material for manufacturing zinc. It is obviously Government's policy to encourage the import of zinc concentrate rather than to import zinc. There is another organisation known as Hindustan Zinc Ltd. which also produces zinc from zinc concentrate produced indigenously. The factory of this party had been licensed by the Government of India, but since there was no sufficient indigenous raw material, they were permitted the import of zinc concentrate. The manufacturer in zinc has to compete with two kinds of zinc, one the zinc produced from the indigenous zinc concentrate and other the zinc imported from outside. After comparison of various factors, it was considered that the reduction of duty would improve things

and it was done so in February, 1968. The prices at that time of zinc continued to fall and it was found that unless zinc concentrate was given complete exemption, zinc produced by this company just could not compete with the zinc for which a lot of licenses had been issued. We were told by the Ministry concerned that the Hindustan Zinc Ltd. (which is a Government of India undertaking) itself was finding it difficult to get sufficient indigenous zinc concentrate for them also."

1.67. Asked whether the decision to exempt zinc concentrate from customs duty was taken by Government *suo motu* or on representation by any private parties and at what level the decision was taken, the Committee were informed: "...This party was the only one producing Zinc Concentrate and so there is no question of anybody else being interested; and as they were importing this on a fairly large scale they made representations at various times for complete abolition of the duty even in the earlier stages. This request of the party was, I believe, strongly backed at that time (I think in February, 1968) by the then Chief Minister of Kerala. It was mentioned that the factory would be running into such losses that they may have to close down unless such a concession was given. Then the question was examined in detail and it was felt that a reduction of 25 per cent would be sufficient and accordingly orders were issued. But the party made an appeal to the then Deputy Prime Minister and the Ministry of Mines & Metals which is the administrative Department concerned strongly supported the party's request and said that, in the public interest, there should be this exemption. On that, a decision was taken for abolishing the duty."

1.68. The Committee consider that it was wrong on the part of the Collector to allow zinc concentrate in this case to be removed to the factory site without payment of customs duty in anticipation of the Board's approval to the site being treated as a bonded warehouse. In view of the fact that the Board did not ultimately declare the site as a warehousing station, the Committee desire that it should be considered in consultation with the Ministry of Law whether it was correct to apply the provisions of Section 15(1)(c) of the Customs Act 1962, in allowing the refund of the duty and the Committee informed of the position.

1.69. The Committee are unhappy that it took the Board about three months in finally declining the request of the party to declare the factory site as a bonded warehouse. In view of the fact that the party had approached the Custom House about three weeks before the arrival of goods, to be allowed to remove goods to the factory

site, the decision of the Board on this question should have been expedited. Had the officer concerned in the Central Board shown a little foresight and acted with greater promptitude having regard to the urgency of the matter, these complications would not have arisen. The Committee trust that steps will be taken by Government to avoid such situations in future.

**Exemption from additional duty on copper content of  
imported electric wires and cables**

*Audit paragraph*

1.70. The Central Excise duty on indigenous crude copper was raised from Rs. 1,000 to Rs. 1,500 per tonne from 20th August, 1965. As a result, the cumulative excise duty on wires and cables having conductors of copper manufactured out of indigenous crude copper increased. In order to off-set this increase, the Government of India reduced, by exemption Notification issued in October, 1965, the excise duty on all electric wires and cables having conductors made of copper by 50 paise per Kg. of the copper content of the wires and cables.

1.71. Exemption notifications issued under the Central Excise Act being applicable where countervailing duty is levied by the Customs authorities on imported articles, the reduced rate of duty under the October, 1965 notification was levied in respect of 54 items of wires and cables imported at a major Custom House.

1.72. As the reduction in excise duty authorised by the notification of October, 1965 was in respect of indigenous crude copper going into copper manufactures and as the copper content of imported wires and cables did not bear any duty, the extension of the concession of reduction of duty to imported wires and cables gave an unintended benefit to such importer. In the 54 cases mentioned, the concession granted was Rs. 3,01,360.

1.73. The Ministry have stated in December, 1969 that they are examining whether there would be any case for attracting the excise duty payable on the copper content of wires and cables in the case of imported wires and cables.

[Paragraph 13 of Audit Report (Civil) on Revenue Receipts, 1970.]

1.74. The Committee desired to know the circumstances which led to the issue of the Exemption Notification dated 6th October, 1965 reducing the excise duty on all electric wires and cables having

conductors made of copper. The Member (Tariff), Central Board of Excise and Customs explained: "In August, 1965 the excise duty on copper was increased from Rs. 1,000 to Rs. 1,500 per ton. In other words, there was an increase of Rs. 500 per ton. In the course of the debate in Parliament several Members had urged that this steep enhancement of copper duty would increase the manufacturing cost of vital industrial end products which utilise copper as raw material or as component parts. While replying to this criticism, the then Finance Minister had given an assurance in the Lok Sabha that he would consider the possibility of giving some duty relief to industries using copper. In pursuance of that assurance the matter was examined, and it was finally decided that exemption to this extent should be given on copper winding wires and copper insulated wires and cables which are by and large industrial raw materials."

1.75. Asked why the concession in duty was made applicable to the imported electric wires and cable, of which copper content did not bear any duty, the witness stated that "such a duty reduction is automatically applied to the imported product by virtue of Section 2(a) of the Indian Tariff Act."

1.76. The Committee wanted to know the total amount of unintended benefit which accrued to importers of wires and cables in all the Custom Houses as a result of application of exemption to the imported goods. The Ministry informed that the unintended benefit accrued to importers of these articles in Madras Custom House amounted to Rs. 3,74,618.85, while in Bombay Custom House there had been no case where such benefit accrued to importers. The informations about the position obtaining in this regard in Calcutta and Cochin Customs Houses could not be had "in the absence of records."

1.77. The Committee pointed out whether automatic application of this exemption to imported articles did not result in an anomaly in-as-much as certain items of wires and cables had to be levied at the reduced rate of duty even though the copper content of these imported articles did not bear any duty and thus placing the importers of these articles at an advantageous position *vis-a-vis* indigenous producers. The Secretary, Ministry of Finance stated: "I think there are two methods which are open to us. One is that we have now a provision in the Act by which we can also take into account whether we can counterbalance the effect of whatever is the duty on the raw material in the indigenous product. In order to counterbalance that, we have also to take into account countervailing duties on imported items. In other words, if the excise duty on this

product was, say, 5 per cent, the countervailing duty was 5 per cent on the imports. But we have not taken this into account in our finished products nor have we considered anything of the raw material content. Under the Act amended recently i.e. in 1969, we can increase the countervailing duties on imported items. This can be done and perhaps will be done in the public interest. We are now in consultation with the Industrial Development Department as to what measures have to be taken in this regard and whether, as far as the imported items are concerned, it will be necessary to give the benefit of the concession. We are examining this at present. The other remedy, of course, is that we can, if necessary, increase and if that countervailing duty does not give sufficient protection, of course, obvious remedy is to increase the basic customs duty and this is always a remedy which is open to us."

1.78. Pointing out that this anomalous position came to the notice of the Government in 1966, the Committee asked what action was taken to rectify the position. The Member (Tariff) replied: "...the matter was first raised in the form of an objection by the Audit in May, 1966. At that time, the issue raised was one of interpretation of the law. That is the correct rate of countervailing duty applicable; whether the exemption should apply only in the case of indigenous products or whether it has to be extended also to imported products. This was mainly a legal issue to be clarified by the Law Ministry and the matter was referred to them. Later in 1969 the C&AG pursued the matter further and it came to us as an audit para. We are going further into the policy matter arising out of the Audit para".

1.79. When the Committee pointed out the delay would result in loss of revenue, the Chairman of the Board stated: "This thing had been considered by the Government some time ago and it considered that the law should be amplified to make it possible in appropriate cases to add an element of central excise duty on raw materials used in the manufacture of a finished product as countervailing duty on the imported finished product also. The Indian Tariff Act has been amended accordingly, the latest amendment being in 1969. The present position in law is that where it is necessary in the public interest to add an element of the excise duty on raw materials as countervailing duty on the finished imported product, it can be done. This addition of the raw material excise duty on the imported finished articles is not automatic. The question whether this raw material excise duty should be added and what its quantum should be, has to be decided in the light of the public interest. For instance, it may be necessary to keep the imported finished articles

as cheap as possible because normally only such articles are allowed to be imported into India which are either not produced in India or whose production is not sufficient. If it is found that it is in the public interest that the finished indigenous product should be protected against similar imported finished product by adding an element of raw material excise duty also, the concerned Ministry, will no doubt, bring the matter to our notice. Then we can, in addition to excise duty on the finished indigenous product, add a countervailing element of the raw material excise duty also on the imported finished article. The quantum of this raw material excise duty that should be passed on to the finished imported product has to be judged by the Government in public interest. In this case, for instance, whether anything should be added as countervailing duty for the raw material used in the imported finished electric wire is a matter which has to be considered. We do not start considering every such case automatically. This may not be administratively possible. The earlier Audit objection had raised the question as to whether the exemption contemplated in our notification applied only to goods manufactured indigenously or to imported goods also and after consulting the Ministry of Law a decision had been given in 1966 that it automatically applied to imported goods also. However, when the present draft Audit para came and the question of intention was raised, we took up the case with the Ministry concerned to consider whether it will be in the public interest to load the imported finished cables and wires with an element of countervailing duty on the raw material (Copper content) used therein and the matter at present is under consideration in consultation with the Ministry of Industrial Development”.

1.80. In a written reply the Department of Revenue stated that “the matter is being actively pursued with the Ministry of Industrial Development and the Ministry’s views on the desirability or otherwise of withdrawing the exemption to the extent of 50 paise per kilogram of the copper content of wires and cables is awaited. The final decision will be communicated to the Committee as soon as taken.” In a further note, the Ministry stated that “as a part of the Budget proposals of 1971, notification No. 164/65 Central Excises dated 6-10-1965 has been rescinded and the concession given in respect of certain wires and cables at the rate of 50 paise per Kg. of the copper content of such wires and cables has been removed.”

**1.81. The Committee note that the extension of the concession of duty allowed on the copper content in the electric wires and cables manufactured internally to imported wires and cables as well placed**

the imports of these wires at an advantageous position vis-a-vis indigenous producers. It has been stated that the unintended benefit accrued to the importers of these articles in Madras Custom House alone amounted to Rs. 3,74,618. However, as a part of the Budget proposals for 1971, the notification in question has been rescinded and the concession given in respect of certain wires and cables at the rate of 50 paise per kg. of copper content of such wires and cables removed. This would result in the withdrawal of the concession in the case of both indigenously manufactured and imported wires and cables. The Committee should in future take prompt decision as to whether a concession in Central Excise duty allowed on an indigenous raw material used in a finished product should be extended to countervailing duty on imported finished products in order to obviate any unintended benefit accruing to the importers.

#### Short-levy of Agricultural Produce Cess on the export of unmanufactured tobacco

##### *Audit Paragraph*

1.82. Unmanufactured tobacco when exported is chargeable to cess under the Agricultural Produce Cess Act, 1966 at the rate of 12 per cent on the basis of tariff values fixed by the Government of India from time to time for the different classes and grades of tobacco. Upto 30th June, 1967 flue cured virginia unmanufactured tobacco of Grade C (1—4) was placed in Class I and was charged to cess on the tariff value of Rs. 6 per kg. When the tariff values for the various commodities were revised on 1st July, 1967 the flue cured unmanufactured tobacco of Grade C (1—4) was erroneously included under Class III carrying a lower tariff value of Rs. 3 per kg. instead of under Class I carrying revised tariff value of Rs. 9 per kg. The error was rectified on 30th April, 1968. The error in classification resulted in a loss of revenue of Rs. 27,863 in 21 cases of exports from 4th March 1968 to 15th April 1968. Full particulars of the loss of revenue on all such exports during the period from 1st July 1967 to 29th April 1968 have been called for from the department.

[Paragraph 14 of Audit Report (Civil) on Revenue Receipts, 1970].

1.83. During evidence, the Additional Secretary, Ministry of Food and Agriculture stated:

“These tariff values are fixed annually. The Directorate of Marketing which is concerned with some of the commodities is called upon every year to suggest changes, if any,

in the Schedule. These changes are incorporated in the notifications received by the Economics and Statistics Directorate. The Schedule gives certain categories of commodities, and against each item an indication of tariff value is given. . . . In the case of Tobacco, it is the Marketing Directorate which, after consulting other organisations like the Tobacco Development Council makes these suggestions. In this particular case, it was a *bona-fide* mistake, on the part of the Economics & Statistics Directorate in the interpretation of the change suggested by Marketing Directorate. . . . Under class I there is a number of grades. Likewise, there is a number of grades against Class II and Class III. What the Marketing Directorate had proposed was that under Class I, this Grade C (1—4) should be indicated after Grade 3. There was a mis-interpretation in the Directorate, because they thought that by Grade 3 was meant Class III grade as they thought that there was no particular point in a change if it was only meant to be placed after Grade 3 under Class I. So they placed it under Class III. This was wrong interpretation. And I would frankly say that we realise that this was a mistake.”

1.84. The witness further submitted that with a view to avoid errors of this kind, Government “have issued instructions not only to the Marketing Directorate, but also to other reporting organisations, saying that whenever they have to suggest any changes, they should produce a fresh proforma indicating the changes by under-linking them. These instructions have been issued.” The instructions which were issued on 24th September, 1970 are reproduced below:—

“For the purpose of levying Cess on the export of certain agricultural commodities from India, this Directorate every year fixed tariff values in respect of scheduled items under the A.P. Cess Act, 1940. Before drawing a final schedule of tariff value heads, suggestions for changes in the heads etc., are invited from official and non-official bodies. It has been observed that some times amendments proposed by certain authorities for changes in the classifications of items are not very clear and specific. In order to avoid any possibility of a suggestion/amendment being misinterpreted at this end, it is suggested that in future instead of proposing merely a change, whenever, in the



classification of any of the scheduled items, the concerned S. No. in the Schedule to the Act together with the articles proposed to be included thereunder should be reproduced in full and amendments desired may be underlined.

"It is requested that the above procedure may kindly be adhered to while furnishing suggestions for changes in the classifications of the articles listed in the Schedule."

1.85. The Committee were further informed that "It has been decided that in the Ministry also (The Ministry of Food, Agriculture, Community Development and Cooperation) the tariff values proposed will be examined more critically to ensure that no wrong classifications take place in the categorisation of the commodities and whenever any change in the classification of heads/sub-heads of any article in the tariff schedule is accepted, the final form in which such change is effected in the tariff schedule, will be got confirmed from the agency suggesting that change."

1.86. Asked when this mistake came to be noticed, the witness replied: "It was detected by the Customs Office at Madras. And as soon as they reported to us in April, 1968 and made enquiries about it, we immediately made a reference to the Economic Directorate and the Marketing Officer. They pointed out that their instruction has been mis-interpreted. Within a month, we issued instructions. This was done within a month."

1.87. Pointing out that while the mistake was brought to the notice of Government in April 1968, it was only in September, 1970 that instructions were issued to the concerned authorities about the procedure to be followed in the matter of changes in the classification of the commodities, the Committee enquired about the reasons for the delay of 2 years and 5 months in issuing these instructions. The witness replied: "This was issued only very recently, because we found that there was prolonged correspondence between our Economics Directorate and the Marketing Directorate over this business of fixation of responsibility."

1.88. The Committee enquired whether any action was taken against the persons who were responsible for this mistake. In reply the witness stated: "We feel, Sir, that this is a kind of *bona fide* mis-interpretation for which no severe action is warranted."

1.89. The Committee wanted to know the tariff value adopted in respect of flue-cured virginia tobacco of Grade C (1-4) in other

ports and the total loss of revenue on exports of this tobacco during 1-7-1967 to 29-4-1968 due to the wrong classification. The Department of Agriculture informed the Committee in a note as under:

“The tariff value adopted in respect of Virginia flue-cured tobacco of Grade C (1—4) is the same for all ports of exports in the country under the Agricultural Produce Cess Act, 1940. The tariff value for this grade of tobacco was declared at Rs. 3.00 per kg. for the period 1-7-1967 to 29-4-68. From 30th April, 1968 to 30th June, 1968, the tariff value of this grade of tobacco at all ports was revised at Rs. 9.00 per kg.

“The total loss of revenue on export of unmanufactured tobacco of C (1—4) grade of tobacco during 1-7-67 to 29-4 68 due to erroneous classification was Rs. 27,868.95 as reported by the Collector of Customs, Madras. The Collectors of Customs at Bombay, Calcutta and Cochin intimated that no exports of unmanufactured Virginia flue-cured tobacco of this grade had taken place during the period under reference from their ports.”

1.90. The Committee consider it unfortunate that the erroneous interpretation on the part of the Economics and Statistics Directorate (Department of Agriculture) of the amendment suggested by the Marketing Directorate in the classification of scheduled items in the Agricultural Produce Cess Act, 1940 resulted in a loss of revenue to the tune of Rs. 27,863 in the export of a particular grade of unmanufactured Virginia flue-cured tobacco from 1st July, 1967 to 29th April, 1968. Instead of classifying the flue-cured Virginia Tobacco of Grade C (1—4) under class I carrying tariff value of Rs. 9 per kg. it was classified under class III at Rs. 3 per kg. with effect from 1st July, 1967. In the Committee's opinion the initial mistake was committed by the Marketing Directorate as the change proposed by them in the classification of items listed in the schedule had not been expressed in clear, specific and unambiguous terms. The Committee note that the Directorate of Economics and Statistics have issued scheduled lists on the 24th September, 1970 regarding the procedure to be followed for suggesting a change in the Schedule to the Agricultural Produce Cess Act, 1940 with a view to avoid a recurrence of cases of this nature. The Committee hope that the instructions will be faithfully observed in future.

### Excess levy of Customs duty

#### *Audit Paragraph*

1.91. With effect from 1st March, 1964 there were certain changes in the tariff description of Electric wires and cables falling under item 33 (B) (i) of Central Excise Tariff. As a consequence, resistance wires did not fall within this item. This was further clarified by the Central Board of Excise and Customs in August, 1964. Even after the receipt of the Board's clarification the practice in a Custom House was to levy countervailing duty on certain categories of resistance wires under item 33(B) of the Central Excise Tariff. Accordingly, three consignments of "single silk enamelled resistance wires" imported in April, 1965 were charged to countervailing duty under item 33 (B) (i) of the Central Excise Tariff by the Custom House. In September, 1965, the Board again clarified that resistance wires should not be charged to duty under item 33 (B) of Central Excise Tariff. The Custom House did not take any action to refund the countervailing duty levied on the three imports of resistance wires in April, 1965 even though they were within the time limit, at the time of the receipt of the Board's second clarification. This resulted in an excess-levy of Rs. 18,994 which has not so far been refunded.

[Paragraph 15(i) of Audit Report (Civil) on Revenue Receipts, 1970]

1.92. The Committee enquired why the Custom House concerned continued to levy countervailing duty on certain categories of resistance wires even after the issue of a clarification by the Central Board of Excise and Customs in August, 1964. In reply, the Member (Customs), Central Board of Excise and Customs stated that the first clarification which was issued by the Board on 29th August, 1964, read: "the board is advised that only copper and aluminium of electrolytic quality grade are ordinarily used in the manufacture of electric conductors and no other metals or alloys." The witness added that the use of the word 'ordinarily' had suggested to the Customs House that there could be certain situations possible where certain other types of wires were still liable to countervailing duty. When these doubts came to the Board's notice again, the Board issued a further clarification on 2nd September, 1965 in which it was clearly specified that in so far as resistance wires were concerned, they were not liable to countervailing duty. In this particular case, the mistake had actually been committed in April, 1965, but not after the final clarification that resistance wires were not subject to duty.

1.93. The Committee pointed out that the second clarification was issued by the Board in September, 1965, when it was possible to refund the countervailing duty levied on the three imports in question as these cases came within the time-limit of six months. The witness stated: "I must admit that it was a mistake on the part of the Custom House. It should have granted *suo motu* refund and when the matter came to our notice, we directed the Custom House to give *suo motu* refund."

1.94. In a note furnished to the Committee subsequently, the Ministry of Finance informed that "refund has been granted in all the three cases covered by the Audit para." Asked about the amounts involved in these three cases the witness stated that there were three bills of entry pertaining to the Indian Telephone Industries, the total amount being about Rs. 19,000.

1.95. The Committee wanted to know the position in other ports with regard to levy of countervailing duty on resistance wires. In a written reply, the Ministry have stated:

"In Bombay and Cochin Custom Houses. Electrical resistance wires were being charged to additional (countervailing) duty from 1st March, 1964 till the date Board's instruction of 2nd September, 1965 (that excise duty under item 33 C.E.T. was not leviable on resistance wires) was received in the Custom House. The practice in Calcutta, however, was not to charge countervailing duty on resistance wires during this period.

"In addition to the cases covered by the Audit para, certain other cases of over-assessment have since come to light in Madras Custom House. There has been a total excess levy of Rs. 32,047/- between 1st March, 1964 and 2nd September, 1965. In Bombay Custom House the Collector has reported the records have been destroyed and that therefore the information is not available. In Cochin Custom House records in respect of eight cases have been traced out and these reveal that there has been an excess levy of Rs. 10,508/-.

"In Madras Custom House an amount of Rs. 22,330/- has been refunded in six cases out of which three are covered by the Audit para."

1.96. According to Audit, the clarificatory orders of the Board dated 2nd September, 1965 were circulated in the Custom House only on 5th November, 1965. The Committee asked why it took

the custom house more than two months to circulate the orders. The witness replied: "It has to be admitted that there was failure on the part of the Madras Custom House to have delayed it for that long. Normally it should take place within a few days, because these are important rulings, and there is no point in issuing a ruling if it is not immediately implemented. This matter had earlier come to the notice of the PAC and we had last time given an assurance that we would evolve a procedure. We have already evolved a procedure and we had issued instructions towards the beginning of this year in this regard. There are two or three stages at which action is to be taken. The moment the Board's ruling is received in the Custom House, the officers who have to implement, the appraising officers who may be three or four, the Audit and other concerned officers are immediately given typed copies of the ruling within about 48 hours. Sometimes, it may not be done in 48 hours, but it may take a few days. But we hope that these things will not get repeated after the new procedure."

1.97. The Committee are surprised that in spite of the clarificatory instructions issued by the Central Board of Excise and Customs in August, 1964, resistance wires which do not fall under the category of electric wires and cables were charged to additional (countervailing) duty applicable to electric wires in three Custom Houses (Bombay, Cochin and Madras). Evidently the clarifications issued by the Board in August, 1964 were not understood by the Custom Houses. It was only after the Board issued a further clarification in September, 1965 that the resistance wires were not subjected to the additional duty. The Committee desire that the clarifications to be issued by the Board should be in clear and unambiguous terms so that there is no scope of misinterpretation of the intention of the Board.

1.98. The Committee note that as a result of misclassification of resistance wires an excess levy of Rs. 32047 occurred in Madras Custom House alone out of which an amount of Rs. 22330 has been refunded in six cases (including three cases covered by the audit para). The Committee regret that although the three cases referred to in the audit para fell within the prescribed time limit of six months, the collectorate did not take action to refund the duty *suo motu* until the Central Board of Excise and Customs issued directions to the Custom House. The Committee desire that the Board should ensure that in all cases of over assessment which fall within the prescribed limit, the Custom Houses should issue refunds *suo motu* and at their earliest convenience.

1.99. Another unsatisfactory feature of the case is that the Board's order of 2nd September 1965 was circulated in the Custom House

only on 5th November, 1965 i.e. after more than two months. The Committee had in paragraph 1.20 of their 72nd Report stressed that "a fool-proof procedure should be evolved whereby important instructions are brought early to the notice of all those entrusted with the duty of appraising goods for customs duty." The Committee desire that, the Board should ensure that the instructions issued by them in pursuance of their earlier recommendation of the Committee are strictly followed. ..

### Excess levy of Customs duty

#### *Audit Paragraph*

1.00. Two consignments of "Image Orthicon Tubes" (Television Camera tubes) valued at Rs. 41,403 and Rs. 67, 125 imported in May and August, 1968 respectively were assessed to duty in a Custom House under item 73, Indian Customs Tariff as "Electrical instruments, apparatus and appliances, not otherwise specified" at the preferential rate of 50 per cent *ad valorem*. When the classification under this item was questioned, the Custom House reviewed it and held them as classifiable under item 73(13) as wireless transmission apparatus. The total excess-levy of duty due to incorrect classification of these consignments was Rs. 10,853 out of which a sum of Rs. 6,713 was sanctioned for round and the refund and the refund of the balance was held to be time-barred.

[Paragraph 15(ii) of Audit Report (Civil), on Revenue Receipts, 1970].

1.101. The Committee desired to know how the internal audit wing failed to point out the over-assessment in these cases. The Secretary, Ministry of Finance explained that "this is really a question of the classification of this particular item. It may be that it is not a question really of the over-assessment on an arithmetical calculation so that the duty was higher. . . . I would say that this is probably not a matter on which internal audit could come very much into picture and go into the details because it is a matter for the Custom House to decide under which item a particular commodity would fall."

1.102. Asked if the internal audit wing were not concerned with classification, the witness replied, "They should certainly consider that point of view, Obviously they did not pay attention to it."

1.103. Pointing out that the internal audit department have been strengthened in the Custom Houses in Bombay, Calcutta and Madras, the Committee enquired whether its strength in the Customs House in Delhi had also been increased. The Ministry of Finance have in a written reply stated:

“The Internal Audit of the Delhi Custom House was also strengthened by sanctioning the following additional posts *vide* this Ministry’s letter F. No. 3-D 12 69-Ad.-IV, dated 4th August, 1969:—

Appraiser	1
Dy. Supdt. (Ministerial)	2
Upper Division Clerks	7

“Steps are also being taken for acquiring a calculating machine for the use of the department for checking calculations.”

1.104. The Committee desired to know why it had taken more than six months for Government to reply to the audit objection, the representative of the Board stated that this was one of those items in which there was always conflict between the exact scientific definition and the trade definition. Under the normal trade terminology, wireless transmission apparatus was considered to be wireless broadcast receivers like transistors and other table radios etc. TV in the market was known by a completely different name. But if one were to go by the very scientific analysis of it, TV was also a kind of wireless and therefore, the Custom House officers were obviously in some doubt as to whether it should be classified under the trade practice or by the scientific definition. The witness admitted that they should not have taken so much time, and should have replied earlier.

1.105. The Committee asked why the entire amount of duty over-assessed had not been refunded. The witness stated that there were two bills of entry in this case. The party did not put in a claim in any of these cases. However, on receipt of Audit objection, refund was sanctioned in one case, in the other case *suo motu* refund could not be given as it became time-barred by them.

1.106. The Committee enquired whether in the case of the second bill also refund could not have been granted as the party in these cases happened to be a Government institution and as such there was no risk of the party having passed on the burden of duty to anybody else. The Chairman, Central Board of Excise and Customs replying stated: “If we waive the time-limit in every case, the purpose of the

time-limits laid down in the Customs Act will be nullified. But where there is some justification for that, for the man not having put it in within time, we will certainly be prepared to consider; but where the man has not even bothered to come to us saying we have over-charged, we cannot do it. If we go out of the way like that, they may become more lax."

1.107. The Committee regret to observe that in this case the over assessment of duty resulted from insufficient scrutiny at the stage of assessment. The consignment was wrongly assessed as the electrical instruments etc. at 50 per cent ad valorem instead of as wireless transmission apparatus at 40 per cent ad valorem. The over assessment was also not pointed out by the internal audit wing of the collectorate. The Committee feel that with the strengthening of the internal audit wing, they should not only confine their scrutiny to arithmetical calculations but also check the classifications.

1.108. The Committee are also not satisfied with the delay of six months in sending a reply to Audit objection by the Custom House. Elsewhere in this report, the Committee have already pointed out the need for chalking out a procedure for expeditious disposal of Audit objections.

### **Arrears of Customs Duty**

#### *Audit Report*

1.109. The total amount of customs duty remaining unrealised for the period upto 31st March, 1969 was Rs. 59.75 lakhs on 31st October, 1969 as against Rs. 88.52 lakhs for the corresponding period in the previous year. Out of the sum of Rs. 59.75 lakhs, Rs. 56.18 lakhs have been outstanding for more than one year.

1.110. In addition, the department have requested for voluntary payments of customs duty amounting to Rs. 23.76 lakhs in cases where regular demands have become time-barred. This amount is also pending realisation.

[Paragraph 17 of Audit Report (Civil), on Revenue Receipts ,1970]



1.111. In a written note, the Ministry furnished the following year-wise break-up of the unconfirmed arrears of duty:

1962-63 . . . . .	Rs. 1,98,564
1968-64 . . . . .	Rs. 1,70,828
1964-65 . . . . .	Rs. 15,52,604
1965-66 2 . . . . .	Rs. 58,80,208
1966-67 . . . . .	Rs. 37,20,830
1967-68 . . . . .	Rs. 47,82,552
1968-69 . . . . .	Rs. 47,11,741
Total . . . . .	Rs. 2,10,17,627

1.112. The Committee wanted to know the reasons for the non-confirmation of the arrears over a period of 8 years. The representative of the Board stated: "There are various kinds of reasons. We have what is known as machinery contract procedures. What happens here is that as soon as anybody is going to import things for a project, the value of articles imported in the project is not known exactly at the time of each importation; at the time the final things arrive, the importers send what is called reconciliation statements on the basis of which you reappraise the values. When we are passing the items, we do not know whether ultimately we may not have to get something more. So we give show cause notice lest it become time barred. Everybody knows that ultimately there will be a reconciliation statement and things will become all right.

"Then there are certain clearances by government departments. Before we give these exemptions, they have to produce certain types of certificates. The production of these certificates is again dependent upon efficiency in another government department. We do not want to penalise them straightway. We give enough time.

"Then there are charitable imports. Whatever imports come from UNICEF and certain other world bodies as charities, we allow them to be cleared provisionally without payment of duty on condition that ultimately they have to produce a certificate from the District Magistrate that the charities have been properly distributed. The distribution takes a long time, sometimes six months and one year. After that they go to the D.M., his office checks up. They have to go to the Tehsildar for confirmation.

"These are not all mistakes of assessment, though they may also be there; but the big part is really pertaining to multifarious types of things where we want to avoid the time-limit."

1.113. The Committee asked whether under the law any demand could be called an unconfirmed demand and desired the Ministry to examine whether they should use some other description in the accounts. The Chairman of the Board agreed to examine the question in consultation with Audit.

1.114. Asked how the "unconfirmed" demands were raised and how these demands figured in Government accounts, the Ministry in a note subsequently furnished have stated: "Unconfirmed demands are not raised separately from show cause notices. In the show cause notice itself the parties are required to show cause why the alleged amount of short levy should not be recovered from them. The total of such amounts at a given time represents the unconfirmed amounts outstanding. These notices are issued as a safeguard in cases of dispute or doubt so that they do not become time-barred under Customs Act if it is ultimately decided that duty is chargeable at a higher rate than the one at which assessment had been made. Unconfirmed demands i.e. the amounts shown in show cause notices, do not figure in Government accounts. They are entered in a Register at the time of issue of the notice."

1.115. Pointing out that out of the confirmed arrears of Rs. 59.75 lakhs, a sum of Rs. 56.18 lakhs was outstanding for more than a year, the Committee asked what action was taken to realise these arrears. The representative of the Board stated that the total arrear as on 31st August, 1970 were to the tune of Rs. 41 lakhs only out of which Rs. 10 lakhs were less than one year old and Rs. 31 lakhs were more than one year old. Out of this, nearly Rs. 32 lakhs were outstanding because of court cases, one for Rs. 24 lakhs and the other for Rs. 8 lakhs. So, the real arrears were only Rs. 9.4 lakhs, out of which Rs. 4.2 lakhs was less than one year old and Rs. 5.2 lakhs was more than one year old. The witness urged that considering that Custom Houses collected about Rs. 500 crores, Rs. 9 lakhs was not a big sum.

1.116. Referring to the question of voluntary payments of customs duty amounting to Rs. 23.76 lakhs in cases where regular demands had become time-barred, the Committee enquired whether the appeal for voluntary payment had any effect. The witness stated: "This question keeps on coming up perennially and the Auditor-General and the PAC tell us that we should pay in cases where incidence of duty has not been passed though it is time-barred. Similarly, in

many cases we also approach the parties that in all fairness they should pay us. Out of Rs. 23 lakhs time-barred, we have already recovered Rs. 6.7 lakhs, and Rs. 17 lakhs is yet outstanding.”

1.117. The Committee note that the total arrears of customs duty amounting to Rs. 41 lakhs as on 31st August, 1970 include Rs. 3 lakhs outstanding for more than one year and Rs. 10 lakhs less than one year old. Out of the arrears, an amount of Rs. 32 lakhs is stated to be outstanding because of court cases. The Committee desire that vigorous efforts should be made to realise the balance of arrears amounting to Rs. 9 lakhs.

1.118. The Committee are concerned over unconfirmed arrears amounting to Rs. 210 lakhs outstanding for recovery as on 31st March, 1969. The unconfirmed arrears include amounts pertaining to the period as far back as 1962-63. The Committee desire that necessary steps should be taken to finalise these cases expeditiously.

1.119. The Committee have not been shown any authority for keeping demands outside the Government accounts. It is surprising that demands are raised under a fiscal law and not entered in Government accounts. The Committee are not satisfied with the explanation of Government that the demands merely represent amounts shown in show cause notices.

1.120. The Committee enquired during evidence about the legal implications of the term “unconfirmed demand” and whether some other descriptions for such demands should be used. The Committee desire that examination of this aspect should be completed expeditiously in consultation with the Ministry of Law. The Committee would like to be informed of the outcome of the examination.

ERA SEZHIYAN,  
Chairman,  
Public Accounts Committee

NEW DELHI:

July 8, 1971.

Asadha 17, 1893 (Saka).

## APPENDIX

### Summary of Main Conclusions/Recommendations

S. No.	Para No.	Ministry/Department concerned	Conclusions/Recommendations
1	2	3	4
1	1.12	Ministry of Finance	<p>The Committee note that the receipts from Customs Revenue have fallen in the years 1967-68 and 1968-69. The receipts during 1968-69 decreased to Rs. 446.50 crores from Rs. 513.35 crores in 1967-68 and Rs. 585.37 crores in 1966-67. The actual receipts during 1968-69 (Rs. 446.50 crores) fell short of the budget estimates (Rs. 539.27 crores) by Rs. 92.77 crores (17.20 per cent). The percentage of short-fall in actuals as compared to budget estimates during the year 1967-68 was 19.81. The Committee were informed that the shortfall in revenue collections was mainly due to reduction in import duties particularly of machinery, metals and industrial raw materials. The Department, it has been stated, were rather over-optimistic at the time of framing budget estimates for 1968-69 about the pace of industrial recovery in 1968-69. The Committee desire that in view of the current trend of decrease in imports and the policy of Government to encourage import substitution, the Department of Revenue should prepare their budget estimates more realistically. The Department should also keep closer liaison with the industry so as to collect reliable statistical data about actual and likely imports.</p>

2            1.13            -do-

The Committee find that the gross receipts from exports have fallen from Rs. 130 crores in 1967-68 to Rs. 102 crores in 1968-69. The decrease in the collection of export duty during 1968-69 has been stated to be due partly to reduction in effective rates in duty on certain items (jute manufactures, tea, iron ore, hides and skins, leather, coir, raw wool and mica) and partly to reduction in the quantity of exports of jute manufactures, raw cotton, tea, black pepper, raw wool and mica. The Committee are particularly concerned over the reduction in the quantity of exports of jute manufactures (1,00,000 tonnes), tea (25,00,000 Kg.) black pepper (59,00,000 kg.). The Committee desire that Government should go into the reasons for the decrease in the export of these items and pay serious attention to check the declining trend in their export.

3            1.14            -do-

The Committee are concerned over the extent of exemptions from duty on imports granted under Sections 25(1) and 25(2) of the Customs Act, 1962. During the year 1968-69 exemptions under Section 25(1) were granted in 65 cases, 28 of them being cent per cent exemptions while under Section 25(2) out of 665 exemptions given, as many as 664 were cent per cent exemptions. In addition there was another lot of 326 cases of exemptions notified earlier which were current during 1968-69, 103 of them being cent per cent exemptions. Cent per cent exemptions account for 43 per cent of the exemptions granted under Section 25(1) during 1968-69, while they form as much as 99.8 per cent of the exemptions granted under Section 25(2). In paragraph 1.25 of their 111th Report (Fourth Lok Sabha) the Committee had made certain suggestions to regulate

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the issue of exemption notifications with regard to Central Excise. In their reply the Ministry of Finance have stated that the "observations/recommendations are being examined by Government in greater detail." The Committee desire that the exemptions made on Custom side should also be examined in the light of these recommendations.

4

1.21

Ministry of Finance

The Committee find the cost of collection of customs revenue has increased from Rs. 5.48 crores in 1966-67 to Rs. 5.61 crores in 1967-68 and to Rs. 6.78 crores in 1968-69, although the gross collections decreased from Rs. 585.37 crores in 1966-67 to Rs. 513.35 crores in 1967-68 and to Rs. 446.50 crores in 1968-69. The percentage of cost of collection has risen from 0.9 in 1966-67 to 1.09 in 1967-68 and to 1.5 in 1968-69. The increase in the cost of collections has been attributed to reduction in the quantity of actual imports due to general recession in industry and import substitution because of higher cost of imports owing to devaluation. While the Committee appreciate that the expenditure on collections is relatable both to the collection of customs revenues and prevention of smuggling of goods, the Committee are unable to know the break up of the increase in expenditure on the performance of normal assessment and collection of duties and preventive and punitive steps for anti-smuggling as the expenditure is not booked in the accounts on functional basis. The Committee suggest that the Ministry should examine in consultation with Audit the desirability of maintaining separate accounts

for these activities to enable appraisal of expenditure on them separately. In view of the fact that there is a reduction in the actual imports, it should also be examined as to what extent economy on staff employed on assessment and collection of duties could be effected with a view to having a proportionate reduction in the cost of collection.

5            1.25            -do-

The Committee note that the underassessments/loss of revenue brought to notice by test audit has decreased from Rs. 32.36 lakhs in 1967-68 to Rs. 13.66 lakhs in 1968-69. The Committee hope that with the reorganisation of the Internal Audit Department, the quality of audit will improve and the amount of under-assessments pointed out by the Revenue Audit will decrease further.

6            1.38            -do-

The Committee are constrained to observe that the objection raised by Audit in August, 1963 regarding assessment of "cross cutter knives" at the concessional rate of 10 per cent *ad valorem* was dealt with in a casual manner. In spite of the fact that Audit pointed out that the goods were being assessed in other Custom Houses at the standard rate of duty, no action was taken to discontinue the assessment at the lower rate till August, 1967. Only when the matter came to the notice of the Deputy Collector, he ordered the future assessments to be made provisionally at the concessional rate. The Committee were informed that the Ministry were examining the question of instructing the Collectors to issue provisional demands in cases where Audit continued to firmly hold the objection in spite of the Collectorate's explanation. The Committee suggest that it should also be laid down that if the Audit objections are not resolved at a lower level, the matter should be dealt with at the level of

1	2	3	4
			Deputy Collector/Collector. In case Audit objection is still unresolved, the question should be referred to the Customs Board for a ruling without delay.
7	1.39	Ministry of Finance	The Central Board of Excise and Customs themselves took about 2½ years in issuing the clarification after the matter had been referred to them by Audit in March, 1966. Admitting the failure on the part of the Board, the Chairman during evidence informed the Committee that the officer concerned would be suitably dealt with. The Committee feel that the Department should take a serious notice of such lapses.
8	1.40	-do-	The Committee have already in para 1.22 of their 110th Report (1969-70) suggested that the objection raised by Audit should be resolved within 3 months or so. In a note furnished by the Ministry it has been stated that the matter is to be discussed with Comptroller and Auditor General with a view to evolving a suitable procedure for expediting the Board's ruling. The Committee desire that the procedure of dealing with the Audit objection in the Custom Houses should be discussed with Audit with a view to avoiding delay in disposal.
9	1.41	-do-	Another unsatisfactory feature of the case is that there was no uniformity in assessment of duty in the different Custom Houses. What is worse is that in the same Custom House while there was



short levy of custom on the one hand, certain other consignments were correctly assessed at the standard rate of duty. The Committee were informed that in order to avoid different interpretations being given by the different Custom Houses to the notifications issued by the Board and to bring about uniformity in assessment in all the Custom Houses certain measures were being taken by Government, such as introduction of indexing of commodities, setting up of a Central exchange of classification, adoption of Brussels Tariff Nomenclature. The Committee stress that the various measures proposed to achieve uniformity in classification of goods for the purpose of levy of duty in all the Custom Houses will be finalised without delay and put into effect.

10

1.54

-do-

The Committee are surprised how the Calcutta Custom House misconstrued the exemption notification issued by the Board in April, 1962 and amended in August, 1965 reducing the rate of basic excise duty to mean that the additional duty under the Mineral Products (Additional Duties of Excise and Customs) Act, 1958 was not leviable on imported Transformer oil. This was justified by the Custom House on the ground of established practice. The Committee dealt with another case in paragraphs 1.28 and 1.29 of their 72nd Report (1968-69) where the Calcutta Custom House had not levied countervailing duty on spirit and oil soluble coal tar colours on the ground of established practice. In that connection the Committee observed as follows: "It is hardly necessary for the Committee to say that every established practice, whatever its basis, has to be in conformity with the law, and should cease as soon as it becomes in-

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consistent with any legal provision". It is regrettable that although suitable instructions in the matter have been issued by the Ministry of Finance to the Collectors of Customs in this regard, cases of under-assessment of duty on the ground of established practice continue to occur. In the present case, according to the information supplied to the Committee, there is a short levy of duty amounting to Rs. 4,81,803 at the Calcutta Port. At the Bombay port there was short levy amounting to Rs. 37,669.68 which was subsequently recovered. The Committee urge that the Board should ensure cases of short levy of duty on the ground of established practice which is not in conformity with the law do not occur.

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1.55

Ministry of Finance

It is regrettable that the Board took more than a year to issue clarification regarding levy of additional duty on the reference from the Custom House at Madras received in September, 1965. The Committee were informed that the Board wrote to the different Custom Houses in order to obtain their comments in the matter. It is surprising that the Board should have referred the matter to other Custom Houses even though the question was not one of ascertaining the traditional practice in respect of classification of goods but one of clarifying intentions of the Board in issuing the notification. Even so, the Committee feel that the time taken for ascertaining the views of the Custom Houses was unduly long. The Committee hope that rulings on matters which involve only interpretation of the

notifications issued by the Board will be given by them expeditiously in future.

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|----|------|------|--|
| 12 | 1.56 | -do- | The Committee find that after the clarification of the Board in November, 1966 no action was taken by the Custom House to reopen the cases which fell within the time-limit of six months for recovering the additional duty. The Committee were informed that broadly the practice was that if a ruling raises the rate of duty, it should be given effect to only prospectively as it would be harsh on the trade if the duty is recovered from them in respect of the past cases. If this is so, it is not clear how the duty amounting to Rs. 37,669.68 short levied in the Bombay Custom House was recovered subsequently in respect of the same commodity. |
| 13 | 1.57 | -do- | It was pointed out to the Committee that the practice of non-recovery of duty short-levied in the past cases had no legal basis. While the Committee appreciate that from the point of administrative convenience it may be justifiable in some cases not to recover the duty under-assessed after issue of the ruling of the Board, they suggest that necessary provision may be made in the Act to give legal backing to such administrative actions in appropriate cases.   |
| 14 | 1.68 | -do- | The Committee consider that it was wrong on the part of the Collector to allow zinc concentrate in this case to be removed to the factory site without payment of customs duty in anticipation of the Board's approval to the site being treated as a bonded warehouse. In view of the fact that the Board did not ultimately declare the site   |
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as a warehousing station, the Committee desire that it should be considered in consultation with the Ministry of Law whether it was correct to apply the provisions of Section 15 (i) (c) of the Customs Act 1962 in allowing the refund of the duty and the Committee informed of the position.

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1.69

Ministry of Finance

The Committee are unhappy that it took the Board about three months in finally declining the request of the party to declare the factory site as a bonded warehouse. In view of the fact that the party had approached the Custom House about three weeks before the arrival of goods, to be allowed to remove goods to the factory site, the decision of the Board on this question should have been expedited. Had the officer concerned in the Central Board shown a little foresight and acted with greater promptitude having regard to the urgency of the matter, these complications would not have arisen. The Committee trust that steps will be taken by Government to avoid such situations in future.

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16

1.81

-do-

The Committee note that the extension of the concession of duty allowed on the copper content in the electric wires and cables manufactured internally to imported wires and cables as well placed the importers of these wires at an advantageous position *vis-a-vis* indigenous producers. It has been stated that the unintended benefit accrued to the importers of these articles in Madras Custom House

alone amounted to Rs. 3,74,618. However, as a part of the Budget proposals for 1971, the notification in question has been rescinded and the concession given in respect of certain wires and cables at the rate of 50 paise per Kg. of copper content of such wires and cables removed. This would result in the withdrawal of the concession in the case of both indigenously manufactured and imported wires and cables. The Committee would, however, suggest that Government should in future take a prompt decision as to whether a concession in Central Excise duty allowed on an indigenous raw material used in a finished product should be extended to counter-vailing duty on imported finished products in order to obviate any unintended benefit accruing to the importers.

17

1.90

Ministry of Food,  
Agriculture, Commu-  
nity Development &  
Cooperation, (Depart-  
ment of Agriculture)

The Committee consider it unfortunate that the erroneous interpretation on the part of the Economics and Statistics Directorate (Department of Agriculture) of the amendment suggested by the Marketing Directorate in the classification of scheduled items in the Agricultural Produce Cess Act, 1940 resulted in a loss of revenue to the tune of Rs. 27,863 in the export of a particular grade of unmanufactured Virginia flue-cured tobacco from 1st July, 1967 to 29th April, 1968. Instead of classifying the flue-cured Virginia Tobacco of grade C (1-4) under class I carrying tariff value of Rs. 9 per kg. it was classified under class III at Rs. 3 per kg. with effect from 1st July, 1967. In the Committee's opinion the initial mistake was committed by the Marketing Directorate as the change proposed by them in the classification of items listed in the schedule had not been ex-

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1	2	3	4
			<p>pressed in clear, specific and unambiguous terms. The Committee note that the Directorate of Economics and Statistics have issued scheduled lists on the 24th September, 1970 regarding the procedure to be followed for suggesting a change in the Schedule to the Agricultural Produce Cess Act, 1940 with a view to avoid a recurrence of cases of this nature. The Committee hope that the instructions will be faithfully observed in future.</p>
18	1.97	Ministry of Finance	<p>The Committee are surprised that in spite of the clarificatory instructions issued by the Central Board of Excise and Customs in August, 1964, resistance wires which do not fall under the category of electric wires and cables were charged to additional (countervailing) duty applicable to electric wires in three Custom Houses (Bombay, Cochin and Madras). Evidently the clarifications issued by the Board in August, 1964 were not understood by the Custom Houses. It was only after the Board issued a further clarification in September, 1965 that the resistance wires were not subjected to the additional duty. The Committee desire that the clarifications to be issued by the Board should be in clear and unambiguous terms so that there is no scope of misinterpretation of the intention of the Board.</p>
19	1.98	do.	<p>The Committee note that as a result of misclassification of resistance wires an excess levy of Rs. 32047 occurred in Madras Custom House alone out of which an amount of Rs. 22330 has been</p>

refunded in six cases (including three cases covered by the audit para). The Committee regret that although the three cases referred to in the audit para fell within the prescribed time limit of six months, the collectorate did not take action to refund the duty *suo motu* until the Central Board of Excise and Customs issued directions to the Custom House. The Committee desire that the Board should ensure that in all cases of over assessment which fall within the prescribed time-limit, the Custom Houses should issued refunds *suo motu* and at their earliest convenience.

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1.99

do.

Another unsatisfactory feature of the case is that the Board's order of 2nd September 1965 was circulated in the Custom House only on 5th November, 1965 i.e. after more than two months. The Committee had in paragraph 1.20 of their 72nd Report stressed that "a fool-proof procedure should be evolved whereby important instructions are brought early to the notice of all those entrusted with the duty of appraising goods for customs duty." The Committee desire that the Board should ensure that the instructions issued by them in pursuance of their earlier recommendation of the Committee are strictly followed.

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1.107

do.

The Committee regret to observe that in this case the over assessment of duty resulted from insufficient scrutiny at the stage of assessment. The consignment was wrongly assessed as electrical instruments etc. at 50 per cent *ad valorem* instead of as wireless transmission apparatus at 40 per cent *ad valorem*. The over as-

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1	2	3	4
			<p>assessment was also not pointed out by the internal audit wing of the collectorate. The Committee feel that with the strengthening of the internal audit wing, they should not only confine their scrutiny to arithmetical calculations but also check the classifications.</p>
22	I.108	Ministry of Finance	<p>The Committee are also not satisfied with the delay of six months in sending a reply to Audit objection by the Custom House. Elsewhere in this report, the Committee have already pointed out the need for chalking out a procedure for expeditious disposal of Audit objections.</p>
23	I.117	do.	<p>The Committee note that the total arrears of customs duty amounting to Rs. 41 lakhs as on 31st August, 1970 include Rs. 31 lakhs outstanding for more than one year and Rs. 10 lakhs less than one year old. Out of the arrears, an amount of Rs. 32 lakhs is stated to be outstanding because of court cases. The Committee desire that vigorous efforts should be made to realise the balance of arrears amounting to Rs. 9 lakhs.</p>
24	I.118	do.	<p>The Committee are concerned over unconfirmed arrears amounting to Rs. 210 lakhs outstanding for recovery as on 31st March, 1969. The unconfirmed arrears include amounts pertaining to the period as far back as 1962-63. The Committee desire that necessary steps should be taken to finalise these cases expeditiously.</p>



25            I.119            -do-

The Committee have not been shown any authority for keeping demands outside the Government accounts. It is surprising that demands are raised under the fiscal law and not entered in Government accounts. The Committee are not satisfied with the explanation of Government that the demands merely represent amounts shown in show cause notices.

26            I.120            -do-

The Committee enquired during evidence about the legal implications of the term "unconfirmed demand" and whether some other descriptions for such demands should be used. The Committee desire that examination of this aspect should be completed expeditiously in consultation with the Ministry of Law. The Committee would like to be informed of the outcome of the examination.

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Sl. No.	Name of Agent	Agency No.	Sl. No.	Name of Agent	Agency No.
<b>DELHI</b>					
24.	Jain Book Agency, Connaught Place, New Delhi.	11	33.	Oxford Book & Stationary Company, Scindia House, Connaught Place, New Delhi-1.	58
25.	Sat Narain & Sons, 3141, Mohd. Ali Bazar, Mori Gate, Delhi.	3	34.	People's Publishing House, Rani Jhansi Road, New Delhi.	76
26.	Atma Ram & Sons, Basmore Gate, Delhi-6.	9	35.	The United Book Agency 48, Amrit Kaur Market, Pahar Ganj, New Delhi.	88
27.	J. M. Jaina & Brothers, Mori Gate, Delhi.	11	36.	Hind Book House, 82, Janpath, New Delhi.	95
28.	The Central News Agency, 23/90, Connaught Place, New Delhi.	15	37.	Bookwall, 4, Sant Narayari Colony, Kingsway Camp, Delhi-9.]	96
29.	The English Book Store, 7-L, Connaught Circle, New Delhi.	20	<b>MANIPUR</b>		
30.	Lakshmi Book Store, 42, Municipal Market, Janpath, New Delhi.	23	38.	Shri N. Chaohe Singh, News Agent, Ramtal Poul High School Annex, Imphal.	77
31.	Bahree Brothers, 188 Lajpatrai Market, Delhi-6.	27	<b>AGENTS IN FOREIGN COUNTRIES</b>		
32.	Jayana Book Depot, Chapparwala Kuan, Karol Bagh, New Delhi.	66	39.	The Secretary, Establishment Department, The High Commission of India, India House, Aldwych, LONDON W.C.-2.	59

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