P.A.C. No. 268

PUBLIC ACCOUNTS COMMITTEE (1969-70)

(FOURTH LOK SABHA)

HUNDRED AND TENTH REPORT

[Chapter II of Audit Report (Civil) on Revenue Receipts, 1969 relating to Customs]

LOK SABHA SECRETARIAT
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31-3-70 (FN)

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I

AUDIT REPORT (CIVIL) ON REVENUE RECEIPTS, 1969

CUSTOMS

Result of Test Audit

Audit Paragraph

1.1. As result of the test audit of various customs stations, short levy of customs duty amounting to Rs. 32.36 lakhs and excess levy of cutoms duty amounting to Rs. 3:32 lakhs were brought to light.

The short levy of Rs. 32.36 lakhs has been categorised as under:—

	Rs.
(*i*) Assessment at rates lower than those prescribed	27,01,846
(*ii*) Non-levy of additional duty	79,454
(*iii*) Wrong classification of goods under the Tariff	1,00,260
(*iv*) Excess refund of duty	79,593
(*v*) Other reasons	2,74,985
	32,36,138

[Paragraph 8 of Audit Report (Civil) on Revenue Receipts, 1969]

1.2. The following table shows the under-assessments of customs duty year-wise since 1962-63 indicating also the under-assessments on account of assessment at rates lower than those prescribed as noticed in Test Audit during the years 1962-63 to 1967-68:—

Year	Total amount of under-assessment (Rupees)	Amount of under-assessments on account of assessment at rates lower than those prescribed (Rupees)
1962-63	4,23,414	72,669
1963-64	8,41,202	34,929
1964-65	8,11,172	71,788
1965-66	9,46,786	1,10,616
1966-67	7,23,976	2,47,104
1967-68	32,36,138	27,01,846

1.3. Explaining the reasons for the short levy of Rs. 32·36 lakhs disclosed in Test Audit during 1967-68, the representative of the Central Board of Excise and Customs stated that on account of a very large number of dutiable bills of entry—about 2 to 4 lakhs per year—and the limited time available for their scrutiny, the Department had to work under great pressure and strain. The bills had to be speedily cleared, as any delay on their part would result in detention of ships or goods. To obviate mistakes in classification and calculation, checks had been prescribed at various levels. Apart from a 100 per cent check of Customs documents by the Internal Audit Department, a 20 per cent check was exercised by supervising officers. A further check was exercised by the Assistant Collector of Audit. Quite a number of mistakes—major and minor—were being detected by the Internal Audit Department. The number of objections raised by Internal Audit in Bombay, Calcutta and Madras during 1967-68 was 2939, 1361 and 1601 respectively. In spite of the best efforts of the Department some mistakes did escape notice but the number of such mistakes was not large. As against the total Customs revenue of about Rs. 500 crores, the total amount of short-levy mentioned in the Audit Report was about Rs. 32 lakhs, of which about Rs. 25 lakhs was accounted for by an error in the classification of a single item (dealt with later in this Report).

1.4. As to the improvements effected in the working of the Internal Audit Department, the representative of the Board stated that a number of steps had been taken by the Department to this end. These were as follows:—

(i) In order to check tax calculations, compto-meters had been introduced. This had resulted in reducing the number of calculation mistakes.

(ii) On the recommendation of the Customs Study Team, a re-appraisal of the strength of the Internal Audit Department was made and the number of Auditors increased.

(iii) Audit had been entrusted to a higher level of primary workers (Upper Division Clerks) and for this purpose, a number of posts of Lower Division Clerks had been up-graded to that of Upper Division Clerks.

(iv) Appraisers had been inducted at the technical supervisory level. 13 Audit groups, each comprising 3 to 4 Upper Division Clerks with an appraiser at the head, had been created. The appraisers not only provided technical guidance to the primary workers but in case of consignments of large value themselves conducted Audit.

(v) In the major Cutom Houses of Bombay and Calcutta (and may be Madras), the Department proposed to appoint Deputy Collectors—Class I Officers—to head the Internal Audit Department. The proposal had not so far been implemented because of a dispute regarding *inter se* seniority of Class I officers of the Central Excise and Customs Departments.

The witness expressed the hope that with these steps the quality of Internal Audit would greatly improve.

1.5. Asked whether an appraisal of the working of the new set up of the Internal Audit Department had been made, the representative of the Board stated, "We have not made it yet. But we will do so".

1.6. The Committee enquired whether the Internal Audit Department, as at present organised, functioned as an independent organisation. The representative of the Board stated, "Each Custom House is divided into various wings..... All of them so far as their own work is concerned are independent of each other..... .....All of them then converge and at the head is Collector. Even now, the system is the executive side cannot over-rule the Audit. If there is any difference of opinion between Assistant or Deputy Collector of the Audit and Assistant or Deputy Collector of the Executive Department it can be resolved only by the Collector. If the Collector has any doubt he refers the matter to the Board and to other Collectors. Each Department is equally dear to the Collector because it is the reputation of the Collector and Custom House that is at stake. I have never found any Collector taking any sides. He gives an independent judgement."

1.7. The Committee note that there has been a rise in under-assessments of customs duty as noticed in Test Audit. The amount of under-assessments has risen from about Rs. 4·23 lakhs in 1962-63 to over Rs. 32·36 lakhs in 1967-68. The Committee would like Government to analyse the causes for this rise and apply necessary correctives.

1.8. In the opinion of the Committee, the detection of a sizeable amount of under-assessment in Test Audit, after a 100 per cent check of Customs documents by Internal Audit, indicates that the working of the Internal Audit Department is deficient. The Committee note that, on the recommendations of the Customs Study Team, a number of measures have recently been taken by Government to strengthen the Internal Audit Department. The Committee desire that, after the new set-up has worked for some time, Government

should make an appraisal of its working and examine whether its functions and procedures need to be streamlined any further. .

Assessment at rates lower than those prescribed

Audit Paragraph

1.9. Two dumpers imported in May, 1965 were assessed to basic customs duty by a Custom House at the concessional rate of 30 per cent *ad valorem* under the foot-note to item 75 Indian Customs Tariff together with surcharge on customs duty, regulatory duty and countervailing duty. The dumpers were correctly chargeable to basic customs duty at the standard rate of 50 per cent under the main item 75 Indian Customs Tariff together with surcharge, regulatory duty etc, The consequent short levy of Rs. 28,424 was pointed out in August, 1965. The Customs House have replied (September, 1968) that they have, following this, scrutinised similar cases and in all a total demand for a short levy of Rs. 24,98,817 in 23 cases including the two cases pointed out in August, 1965 has been raised and the amount is pending recovery. This has been confirmed by the Ministry (January, 1969).

[Paragraph 9 of Audit Report (Civil) on Revenue Recepits, 1969]

1.10. The Committee were given to understand by Audit that the imports of dumpers on which there was a short levy took place between April 1965 and January, 1968. During evidence, the representative of the Central Board of Excise and Customs stated that all the 23 cases of short levy referred to in the Audit paragraph pertained to the Goa Custom House. Dumpers, which, in the opinion of the Board, should have been charged to basic Customs duty at the standard rate of 50 per cent under the main tariff item 75 plus surcharge, regulatory duty and countervailing duty, were assessed at the concessional rate of 30 per cent under a foot-note to that tariff item. This was done on the understanding that these would come within the purview of an exemption notification of 15th October, 1955. The Board had however agreed with the Audit view that the duty was leviable at the standard rate.

1.11. The Committee desired to know the latest position regarding recovery. In a note, the Department of Revenue have stated:

> "Out of 23 cases, as writs filed in 22 cases in the Bombay High Court are still pending, the short levy has not so far been recovered except in one case where, though the appeal is still pending with the Appellate Collector of Customs, Bombay, as against the amount of short levy of Rs. 89,220—18P, an amount of Rs. 45,000 was realised on 23rd Septem-

ber, 1969, from the Union Bank of India, in terms of the guarantee executed."

1.12. The Committee desired to know the date on which the Audit objection was received by the Custom House and the date on which it was replied to. In a note, the Department of Revenue have stated:

> "A reply to the A.G.'s communication dated 17th September, 1965, forwarding the audit objection was issued on 8th December, 1965 wherein it was indicated that the less charge demands had been issued and that an inter-port reference had been made. After the views of the other Collectors of Customs were received a final view was taken on the assessment of the dumpers in question and the final reply to audit was issued on 18th June, 1968".

1.13. During evidence, the Committee desired to know why a period of nearly three years was taken by the Custom House to give their final reply to the Audit objection. The representative of the Board stated ".....they had no business to wait for 3 years and I would have no doubt that they should have replied much earlier."

1.14. The Committee enquired whether after the receipt of the Audit objection, the Custom House assessed the subsequent imports at the proper rate of duty. In a written reply, the Ministry of Finance have stated:

> "From 1963 onwards Marmagoa Custom House had been assessing dumpers in terms of foot-note to item 75 I.C.T. and this practice was continued till a final decision in this regard was taken in 1968. In view of the practice that prevailed at the time the audit objection was issued, while assessments in terms of the foot-note were continued to be made, demands were issued for the differential duties involved in the light of the audit objection which was under consideration."

1.15. During evidence, the Committee enquired why, pending the clearance of doubts about the proper classification of dumpers, the Collector did not charge the subsequent imports to the standard rate of 50 per cent. The representative of the Board stated, "There are two ways of recovering duty. When audit objection is raised, either Customs House agrees with it or not. Correspondence follows..... .....In all cases simply because there is audit objection it does not automatically mean that we at once start charging duty at the higher rate because that will be very disturbing to the trade. Qui'

often this matter is settled and we are able to satisfy Audit that the assessment made originally was the correct one."

1.16. In reply to a question, the Finance Secretary added, "The Collector did not think that this objection was quite valid..... But I would say that where the Collector feels that the Audit objection is not valid, the course followed should be that he should safeguard the revenue position."

1.17. The Committee desired to know whether there were any provisions in the Customs tariff which were overlapping. The representative of the Board stated, "As far as we are aware, there is no provision which is overlapping, in the sense that you can always say that this item is more specific than the other item, but if by overlapping you mean that an item can fall under this particular item or that particular item of the tariff, then yes, certainly there are overlappings. But in any case, in any tariff of the world, in any country in the world, such overlapping is present; no country has ever been able to evolve a tariff in which the lakhs of commodities which are produced in the world could be classified in a few hundred items in such a way that an article will not fall under two generic items". Elucidating his point, the witness stated that there were so many articles of rubber which were also stationery items. But 'stationery' and 'rubber' were distinct tariff items. The aforesaid articles would fall under both the tariff heads.

1.18. The Committee enquired how it was being ensured that where there was a possibility of a particular article being classified under different tariff items, a uniform practice was followed in all the Custom Houses. The representative of the Board stated that whenever a doubt about the tariff classification of any commodity arose in the mind of the Collector, he made a reference to his counterparts in other Collectorates to ascertain the position obtaining there. References were also made to the Board. Then there were periodic Conferences of Collectors at which questions regarding tariff classification of particular items were discussed. Where there were differences of opinion between different Collectors, the Member (Customs) (who presided over the Conference) indicated the Board's views which were treated as the Board's ruling on the particular question. The effort of the Board was to hold such Conferences as often as possible. Another measure under consideration of the Board was to set up a kind of Central Exchange of Classifications and Evaluations which would evolve suitable procedures to find out diverse practices in regard to classification in various Customs Houses and bring about a uniformity as far as possible, in consultation with technical experts. Further, the Indian tariff was being revised. A Bill had already been

introduced in Parliament to replace the existing tariff by a much more exhaustive tariff based on the pattern of the Brussels Nomenclature.

1.19. Drawing attention to the fact that it took the Collector concerned nearly three years to come to a final decision, the Committee enquired whether some procedure could not be evolved whereby doubts regarding proper tariff classification of particular items could be resolved within a few months. The representative of the Board stated, "That it should be done very quickly admits of not doubt at all". But he added, "There are items where a number of technical experts like the Director General, Technical Development, the Textile Commissioner, the Indian Standards Institution and sometimes our own Chief Chemist have to be consulted." Asked whether a three month period was not adequate for the clearance of doubts in such cases, the Finance Secretary stated, "I would say that that should normally be enough. Of course, there would be cases where the matter may have gone to a court of law and in those cases it would be beyond our ability to settle the question." In reply to a further question, the representative of the Board stated, "On the Customs and Central Excise side, it is very seldom that we go to the court.... .....Cases that go to the court are very very few; their sum total will not go beyond a few lakhs."

1.20. As all the 23 cases of short levy referred to in the Audit Report pertained to Goa, the Committee enquired whether the officers manning the Goa Customs House were sufficiently experienced. The representative of the Board stated, "This kind of (mistake) was possible in any Custom House." In reply to another question he added that the number of bills of entry dealt with in Goa was very small and the expertise available there was much less than in big ports like Calcutta and Bombay. Orders have been passed that Audit of Goa Custom House should be transferred to the Bombay Customs House.

1.21. The Committee observe that dumpers, which have been held by Government to attract basic customs duty at the standard rate of 50 per cent, were assessed by the Goa Customs House at the concessional rate of 30 per cent, resulting in short levy of nearly Rs. 25 lakhs. As the matter is at present pending before the Bombay High Court, the Committee would like to reserve their comments at this stage.

1.22. The Committee, however, cannot help expressing uneasiness over the casual manner in which this case was handled. After the assessment was finalised on the first consignment of dumpers imported in April 1965, Audit pointed out in September, 1965 that there had

been an under-assessment. It took Government nearly three years thereafter to come to a final decision on the question as to how these dumpers should be assessed. It is hardly necessary for the Committee to say that decisions should be taken promptly in all matters having a financial bearing. The representative of the Ministry of Finance himself agreed in evidence that it should normally be possible to settle doubts of this nature within a period of three months. The Committee expect that objections about under-assessment raised by the Audit will be resolved within three months or so in future.

The Committee note that some steps have been taken by Government to rationalise the classification of goods for purpose of levy of customs duty. A Bill to replace the existing tariff by a much more comprehensive tariff on the pattern of the Brussels Nomenclature has been introduced in Parliament. There is also a proposal to have a set up of a kind of Central Exchange of Classifications and Evaluations. The Committee trust that the question of tariff classification will be kept continuously under review in the interest of correct and speedy assessment of duties.

Non-levy of additional duty. .. ..

Audit Paragraph

1.23. Stereoflong, a special type of paper board for printing machinery was chargeable to customs duty under item 72(2) Indian Customs tariff and also to additional duty under item 17(4) Central Excise Tariff. In a Custom House imports of stereflong were not subjected to levy of the additional duty even though this irregularity was pointed out in February, 1966. However, when the Central Board of Excise and Customs to whom the matter of levy of additional duty on imported stereoflong was referred by another Custom House in April, 1965 gave a ruling in January, 1967 that additional duty was leviable, the Custom House raised demands for Rs. 17.119 only on 28 consignments imported from January, 1966, the recovery in relation to which was within the time limit. The loss to revenue due to non-levy of additional duty on imports prior to January, 1966 has not been intimated.

The Ministry in reply have stated that the correct position is that though stereoflong was classifiable under item 17(4) Central Excise Tariff, no countervailing duty was leviable on them in view of an exemption notification of 10th May, 1958. The exemption notification of 10th May, 1958 was issued at a time when no countervailing duty was leviable on stereoflong and all the effect of the notification was to reduce the basic customs duty on stereoflong to that leviable on

printing and lithographic material under item 72(2) of the Indian Customs Tariff. Having therefore correctly decided in January, 1967 that countervailing duty is leviable on stereoflong under item 17(4) of the Central Excise Tariff, it is not understood how it is now contended that no countervailing duty is leviable thereon.

[Paragraph 10 of Audit Report (Civil) on Revenue Receipts, 1969.]

1.24. The Committee desired to know the circumstances in which countervailing duty was not levied on stereoflong in the Custom House in question. In a note, the Department of Revenue have stated:

"Stereoflongs were being assessed to duty under item 87 Indian Customs Tariff read with notification No. 138-Customs dated 10th May, 1958 and not as paper or paper board. With the introduction of Section 2A of the Indian Tariff Act, 1934 (with effect from 2nd February, 1963), countervailing duty at the rate equal to the excise duty on any goods of like kind manufactured in India was automatically leviable. However, in terms of Ministy's executive instructions dated 30th January 1963 it had been clarified that intention was not to levy countervailing duty on any article which was not liable to such duty prior to 2nd February, 1963. These instructions were cancelled on 25th September, 1965 (when it was stated that countervailing duty would be leviable unless special exemption was given). Even after this date, countervailing duty was not charged in Calcutta Custom House as stereoflongs were held to be exempt from payment of duty in excess of (basic) duty leviable under item 72(2) Indian Customs Tariff by virtue of the wording in (exemption) Notification dated 10th May, 1958".

1.25. During evidence, the Finance Secretary clarified that the Calcutta Custom House had originally taken the view that the wording 'duty of Customs' occurring in the exemption notification would cover all Customs duties—basic Customs duty which was in force before the issue of the exemption notification, as also the countervailing duty which came into force later on. Accordingly, they did not initially charge countervailing duty on stereoflong. The Bombay and the Madras Collectorates, however, took a different view. When the matter came to the notice of Government in 1965-66, they took the view, not from the legal aspect, but from the revenue aspect that the countervailing duty would be applicable to stereoflong. The

decision was "taken by the end of 1966 that we should remove most of these exemptions". The letter issued by the Board in January, 1967 reflected this decision of Government. Subsequently, the Board itself felt doubtful about the legality of a letter over-riding an exemption notification which had not been annulled. The Board, therefore, issued in May, 1969 a specific notification superseding the original (exemption) notification of May, 1958, and making it clear that the exemption would cover only the customs duty and not countervailing duty (which should be charged).

1.26. The Committee enquired why the Ministry having decided in January, 1967 that countervailing duty was leviable on stereoflong subsequently stated in reply to the Audit Paragraph that, though stereoflong was classifiable under item 17(4) of the Central Excise Tariff, no countervailing duty was leviable on it in view of exemption Notification of May, 1958. In a written reply, the Ministry of Finance stated:

> "Notification dated 10th May, 1958 exempted stereoflong from so much of the duty of customs as is in excess of the duty leviable on printing and lithographic material, [Item No. 72(2)]. In view of the wording in the Notification, in strict law, no countervailing duty could be levied on Stereoflong in spite of the fact that the material was classifiable under item 17(4) of the Central Excise Tariff. When it was noticed that exemption from countervailing duty was not warranted, the notification was amended to restrict the exemption to basic customs duty only".

1.27. The Committee pointed out that clarification regarding the levy of countervailing duty was sought by another Custom House (Madras Custom House) in April, 1965 but it was issued by the Board in January, 1967. The Committee enquired why the Board had taken one year and nine months to issue the clarification. In a written reply, the Ministry of Finance stated:

> "Delay in issue of the ruling by the Board was due to the fact that the matter had to be examined in all its aspects including whether an exemption from payment of countervailing duty was to be given on stereoflongs."

1.28. During evidence the representative of the Board stated ".....there is no doubt that we could decide all this early".

1.29. As regards the total loss to revenue in the various Custom Houses due to non-levy of the countervailing duty, the Ministry of

Finance have stated in a written note as follows:

"Upto 25th September, 1965, no countervailing duty was leviable on Stereoflong in view of the Ministry's Executive Instructions dated 30th January, 1963. After 25th September, 1965, the practice in three major Custom Houses, Bombay, Madras and Cochin was to levy countervailing duty. Total amount of countervailing duty not levied in Calcutta Custom House works out to Rs. 22175. Out of this a sum of Rs. 17119 had been subsequently realised".

1.30. In reply to another question, the Ministry have stated that after the issue of letter of 24th January, 1967, the practice in all the Custom Houses was to levy countervailing duty on stereoflong.

1.31. The Committee note that, due to a failure on the part of Government to observe the correct procedures, Government had to forgo some revenue in this case (Rs. 5056) by way of countervailing duty on stereoflong. By virtue of an exemption notification issued in May, 1958, stereoflong enjoyed exemption from countervailing duty, which became leviable from 2nd February, 1963. In September, 1965, Government decided, in the interest of revenue, to charge countervailing duty on stereoflong. At that stage, Government should have amended their notification of May, 1958. This, however, was not done. Instead, they issued executive instructions on the subject. The result was that, while three major Custom Houses at Bombay, Madras and Cochin charged countervailing duty on stereoflong, another major Custom House, at Calcutta, did not charge duty on the ground that the notification of May, 1958 had not been amended and therefore continued to be in force. Even later, when references were made by the Madras and Calcutta Custom Houses, the Board gave a ruling that countervailing duty should be charged but failed to amend their original notification. It was only subsequently that Government began to entertain doubts about the legality of their action. In May, 1969, Government issued a specific notification superseding the original notification of May, 1958 and making it clear that countervailing duty should be charged.

1.32. The Committee regret that it took Government nearly four years after a decision was taken to charge countervailing duty to issue a notification which gave the necessary legal backing to this decision. While the revenue loss in this case was not significant, the Committee hope that Government will appreciate that omissions of this nature could have serious repercussions.

1.33. The Committee are distressed that the Central Board of Excise and Customs, who are expected to give a lead to lower formations in the matter of prompt decisions, should have taken one year and nine months to issue a clarification sought by the Madras Custom House. The Committee hope that delays of this order will not recur. The period normally available to Government for reopening assessments relating to customs duty is only six months. It is therefore, imperative that decisions on questions of tax liability in this field are promptly taken.

1.34. The Committee would like to draw attention to an important point arising out of this case which has a bearing on the revenue interests of Government. In terms of para 1(iii) of the Indian Customs Tariff Guide-Departmental Supplement, an assessing officer when in doubt about the duty leviable, has to make a reference to the Board. If he is unable to come to a conclusion, he is required to assess the goods at the rate most favourable to Government since Government have no right of appeal whereas the assessee has a redress. In this case, the Committee observe that the Board had clarified on 25-9-1965 that countervailing duty would be leviable in all cases unless a special exemption was given in any particular case. In view of this clarification, the Committee feel that the Custom House should have safeguarded Government revenues by levying countervailing duty on stereoflong, and if it had any doubt—as the Collector's subsequent Telex Message* of 14-7-1966 would indicate that it had—It should have made a reference to the Board. Unfortunately, the Custom House took neither of these steps till Audit pointed out the omission. Even then some months were allowed to elapse before this was done. The Committee consider this failure on the part of the Custom House regrettable.

Wrong classification of goods under the Indian Customs Tariff.

Audit Paragraph

1.35. In a Custom House, a consignment of "stainless steel clad plates of 3/8" (stainless coated)" imported in September, 1967 was assessed to duty at the concessional rate of 15 per cent *ad valorem* applicable to stainless steel plates under item 63(20A) Indian Customs Tariff. It was pointed out that according to instructions issued by the Board in May, 1957, stainless steel clad plates should be assessed to duty at 50 per cent *ad valorem* under term 63(28) of the Indian Customs Tariff. The short levy of Rs. 64,248 on this account is pending recovery by the Custom House. The Ministry have replied that if an over-assessment on account of additional duty of

*Appendix I.

Rs. 4595 is taken into account, the net under-assessment is Rs. 59,653 only.

[Paragraph 11(i) of Audit Report (Civil) on Revenue Receipts, 1969].

1.36. During evidence, the representative of the Board stated that in this case the Assessing Officer obviously made a mistake. In 1957, the Board had issued a ruling that stainless steel clad plates should be assessed to duty under Item 63(28) of the Indian Customs Tariff—steel manufactures not otherwise specified. The explanation of the office was that no doubt arose in his mind that stainless steel clad plates were not assessable as stainless steel plates. He, therefore, did not go through the relevant literature to find out under what item these were assessable. The witness emphasised that the Board's ruling was quite clear on the point but it was not referred to. The witness further stated that previously also when stainless steel plates were assessable to a much higher rate of duty than stainless steel clad plates, the officer concerned had assessed a consignment of clad plates imported by the very company mentioned in the Audit paragraph as stainless steel plates. This indicated that there were perhaps no mala *fides*. He also added that "The Board's ruling book was a thick book and was not referred to (by Assessing Officers) as a matter of routine in each and every case". Asked whether the Board was satisfied with the explanation of the Assessing Officer, the witness stated that they had not taken a final decision in the matter. They had, however, stressed that the Board had given a ruling on the point and it should have been followed.

The Committee enquired how the Internal Audit Department failed to notice the wrong classification. The representative of the Board stated that the Internal Audit Department should have been able to notice the mistake as they exercise a 100 per cent check of Customs documents. In reply to a question, the witness stated that the Collector was going into the question of omission on the part of the Audit officer concerned.

1.37. As to the recovery of the short levy, the Ministry have stated as follows :

> "Short levy of Rs. 64,248 less excess levy on account of over-assessment of additional duty of Rs. 4595 was recovered on 5th January, 1969."

1.38. The Committee drew attention to the fact that similar instances of assessing officers overlooking Board's instructions had been

pointed out [*e.g.* para. 9 of 21st Report (Third Lok Sabha) and para. 17 of 27th Report (Third Lok Sabha)]. They enquired whether the Board had evolved any procedure to ensure that their rulings did not get overlooked by Assessing Officers. The representative of the Board stated that the following steps had been taken by the Board :

(i) Every tariff ruling was serially numbered so that when a Custom House found that an intervening ruling had not been received, it could ask for a copy of it;

(ii) Detailed instructions had been issued by the Director of Inspection that as soon as a copy of ruling or an order of the Board was received in a Custom House, it should be brought to the notice of all concerned;

(iii) A monthly statement of tariff position was issued by the Board and circulated to Custom Houses;

(iv) The Board issued from time to time up-to-date editions of the 'Indian Customs Tariff Guide'. This publication was in the nature of a procedural manual with the rulings of the Board under the relevant tariff items. Correction slips were issued every quarter and supplied to Custom Houses.

1.39. In reply to a question, the Finance Secretary and the representative of the Board stated that the current edition of the Custom manual had been corrected up-to 30-6-1966. The next edition corrected upto March, 1968 was in print. A new edition was brought out every few years.

1.40. Asked as to the feasibility of giving cross references in the manual as an additional precaution, the Finance Secretary stated, "we should certainly like to have cross references in order that these things can be managed quickly."

1.41. The Committee observe that 'stainless steel clad plates', which should have been assessed to duty at the rate of 50 per cent under tariff item 63(28), were wrongly assessed by a Custom House in 1967 at the concessional rate of 15 per cent. applicable to stainless steel plates' under Tariff item 63(20A). There was a specific ruling of the Board to the effect that these plates attract duty under Tariff item 63(28), but this was over-looked, with the result that there was a short-levy to the tune of Rs. 64,248.

1.42. The Committee have from time to time commented upon similar cases in which specific rulings of the Board were overlooked

by assessing officers. The persistence of such cases indicates that the measures taken by Government pursuant to the earlier recommendations of the Committee have not been adequate. The Customs Tariff is a fairly elaborate one with a plethora of rulings under each item. It might facilitate the work of asessing officers if suitable cross-references are given under each tariff item to various instructions relating to that item issued from time to time.

1.43. The Committee observe that the current edition of the Custom Manual has been corrected only upto 30th June, 1966. Considering the large number of amendments that are issued year after year, the Manual, with its numerous corrections, has become cumbersome as a book of reference for assessing officers. Government should take speedy steps to revise and up-date the manual. The periodicity of such revisions should also be more frequent in order to facilitate reference in customs houses.

Wrong classification of goods under the Indian Customs Tariff.

Audit Paragraph

1.44. "Repairing tools" and "Dielectric strength testing equipment" imported in a consignment with other articles in October, 1966 were assessed to duty under item 71(b) Indian Customs Tariff at 100 per cent *ad valorem* and under item 77 Indian Customs Tariff at 50 per cent *ad valorem* respectively by a Custom House. It was pointed out that the repairing tools were correctly assessable to duty at 50 per cent *ad valorem* under item 71(a) and the testing equipment if operated by electricity, at 60 per cent *ad valorem* under item 73 Indian Customs Tariff. The Custom House admitted the excess levy of Rs. 9268 and the short levy of Rs. 618 respectively on the said articles. They, however, found on a re-examination of the documents pertaining to the consignment that apart from the item "Dielectric strength testing equipment" there were 8 other items in the consignment correctly assessable to duty at 60 per cent *ad valorem* under item 73 Indian Customs Tariff instead of under item 77 Indian Customs Tariff as assessed earlier by them. The short levy on account of the reclassification of these 8 items worked out to Rs. 23,026.

All the items in question were reassessed accordingly and a sum of Rs. 14,376 recovered in June, 1968 after adjusting the excess levy of Rs. 9,268.

[Paragraph 11(ii), Audit Report (Civil) on Revenue Receipts, 1969].

1.45. The Committee desired to know the circumstances in which the Customs Officers failed to classify the goods correctly. In a written reply, the Ministry of Finance have stated :

> "The relative invoice contained as many as 82 items to be assessed. Testing instruments are generally classified under item 77 Indian Customs Tariff unless these are operated by electricity. There was neither any indication in the invoice nor information was furnished, at the time of import by the importers—Embarkation Headquarters— that the instruments in question were operated by electricity and hence the omission to classify the goods correctly."

1.46. As to how the erroneous classifications were lost sight of in the Internal Audit Department, the Ministry have stated :

> "Erroneous classifications were lost sight of in the Internal Audit Department due to the factors mentioned in the preceding paragraph and the fact that the concerned clerk was new to the job of auditing bills of entry".

1.47. The Committee enquired whether any review was made to ascertain that there had been no omission of a similar nature in the Custom House. In their reply, the Ministry have stated :

> "Auditing of bills of entry, after assessment by the Assessing Officers, is a continuous process. Suitable action is taken as and when mistakes in assessments are noticed. A second time auditing of all bills of entry not being practicable, was not done."

1.48. In the Committee's opinion, the wrong classification of as many as 9 items in a single invoice indicates that the appraising staff were lax in their work. The fact that this escaped the notice of the Internal Audit Department also shows that that Department did not exercise due care. The Committee trust that the Board will impress upon the officers concerned the need to exercise greater care in making assessments.

Excess Refund of Duty .. ..

Audit Paragraph

1.49. The rate of duty applicable to imported goods is the rate in force on the date on which the bill of entry is presented but where a bill of entry is presented prior to the date on which the vessel enters the port, the date of presentation of the bill of entry is deemed under the Act to be the date on which the entry inwards order is given to the vessel.

In the case of a vessel for which bills of entry had been delivered in a Custom House prior to its entry, the entry inwards order was granted by the Assistant Collector on 2nd March, 1964. The goods covered by the bills of entry filed prior to this date were assessed correctly by the Customs House at the rates prevailing on 2nd March, 1964. However, on a representation from two importers that the goods concerned should have been assessed at the rates in force prior to 1st March, 1964 on the ground that the vessel was allowed by the Preventive Officer on Board the ship to unload the goods on 29th February, 1964 itself, the Custom House refunded two sums of Rs. 29,445 and Rs. 6,127 to the parties. It was pointed out that the refund was irregular because the date of the order of entry inwards was given only on 2nd March, 1964 and that the permission given to the vessel to unload the goods on 29th February, 1964 itself was not in order and accordingly duty was leviable only at the rate in force on 2nd March, 1964. A demand for recovery of the excess refund of Rs. 29,445 has been issued and for the excess refund of Rs. 6,127 a request for voluntary repayment has been made but the particulars of recovery have not been intimated (March, 1969). Particulars of other goods imported by the same vessel which were assessed at the rate of duty prevalent on 29th February, 1964 are awaited from the Custom House.

[Paragraph 12 of Audit Report (Civil) on Revenue Receipts, 1969].

1.50. Under section 31(1) of the Customs Act, 1962 the master of a vessel is debarred from permitting unloading of the imported goods unless an order is given by the Customs authorities granting final entry inwards to the vessel. According to Section 15 ibid, the rate of duty will be that in force on the date on which a bill of entry is presented under Section 46, but if the bill of entry is presented before the date of entry inwards of the vessel, the bill of entry is to be deemed to have been presented on the date of such entry inwards.

1.51. The Committee were informed that during the period immediately preceding the presentation of the Budget, all entry inwards to vessels are granted by the Assistant Collector in-charge of Import Department. For other times the proper officer to grant entry inwards under Section 31(1) is the senior-most UDC in the Import Department. In the present case the Assistant Collector in the Import Department was the competent officer to grant entry inwards to the vessel. The Preventive Officer was not empowered to grant entry inwards. However, as a general guarantee for all the vessels of the company had been given by the Steamer Agent, the Preventive Officer allowed the vessel to discharge the goods.

1.52. Regarding the circumstances in which refund was allowed to the importers mentioned in the Audit Paragraph, the Committee were apprised of the following position. The goods were imported by the first importer by the ship arrived in Customs Port on 27th February, 1964, but was granted entry inwards on 2-3-1964. The goods were assessed to duty at the enhanced rate prevailing on the 2nd March, 1964 and the party paid the duty accordingly. The importer being aggrieved by assessment made at the enhanced rate represented to the Additional Collector of Customs, Bombay that the Steamer Agents had applied for entry inwards by submitting the required papers (Import Manifest) to the Import Department on 28-2-1964, particularly as the vessel had discharged cargo on 29-2-1964 itself. The Additional Collector of Customs examined the request of the party and, having regard to the documentary evidence produced by the party and the circumstances of the case, passed orders that the discharge of the goods in question might be deemed to have taken place on 29-2-1964. The party was advised on 15-12-1964 to follow the normal procedure for claiming refund. When they came to the Assistant Collector, the Assistant Collector admitted the refund claim. The Assistant Collector took the Additional Collector's decision to mean that it revised the date of entry from 2-3-1964 to 28-2-1964. Consequently he allowed refund amounting to Rs. 29,445 on 15th April, 1965.

1.53. In the other case, the importer filed a bill of entry for a consignment of Nylon Yarn *ex.* the same vessel, which was also assessed to duty at the enhanced rate prevailing on 2nd March, 1964. The party paid the duty, but applied for refund on the same grounds as the first importer. The claim was rejected by another Assistant Collector of Customs on 5th October, 1964 in view of the fact that the date of entry inwards was 2nd March, 1964. The party went in appeal. The appellate Collector took into consideration the decision of the Additional Collector of Customs referred to earlier, and admitted the appeal. Consequently, refund of Rs. 6127/- was granted in this case.

1.54. The Committee enquired whether, apart from the two cases mentioned in the Audit paragraph, there were other similar cases. They were informed that in another identical case of a consignment imported by the same vessel, a refund of Rs. 10,484 was granted on appellate orders by the appellate Collector on the same grounds. The Bombay Custom House had reported that "there has been no case of this nature on consignments imported by the vessel in question."

In reply to a question, the Ministry have stated that the two parties mentioned in the Audit paragraph had filed applications for refund of customs duty on 11th September, 1964 and 20th August, 1964 respectively.

1.55. During evidence, the representative of the Board stated that for purpose of levy of duty "one has to go by the date of entry inwards". But for the orders passed by the Additional Collector, the Assistant Collector would not have admitted the refunds.

1.56. The Finance Secretary stated that this sort of problem could arise always by the end of February when the new Finance Bill is introduced. Since the rates in the Bill come into effect from 1st March, the time element would be crucial during the last few days of February. To obviate the recurrence of cases of this type, instructions had been issued by the Board asking the Collectors to "ensure that orders granting an entry are issued by the 28th February, in all cases which qualify so that entry is not required to be granted subsequent to the 28th in case of vessels which start loading or unloading by the 28th February."

1.57. The Committee desired to know the latest position regarding recovery of excess refund granted in the above cases. In a note, the Ministry of Finance have stated :

> "Out of the less charge amount of Rs. 29,445/- a sum of Rs. 22,234/- has since been recovered from the first importer and the remaining sum of Rs. 7,211/- is yet to be recovered. As regards the recovery of the amount of refunds from second importer since the refunds were granted to him on the basis of the orders passed by the Appellate Collector on the appeals of the parties, no less charge demands could be issued to them. The parties were, however, requested for voluntary payment, but they have not complied with the requests."

1.58. The Committee are unable to understand how refund was permitted in this case. In law, the rate of duty applicable is to be reckoned with reference to the date on which 'entry inwards' of a vessel is permitted. As in this case the 'entry inwards' was given on 2nd March, 1964, the goods should have been charged to duty on the basis of the rates in force as on 2nd March, 1964, and not with reference to the rates of duty in force as on 29th February, 1964, when the vessel actually discharged the goods.

1.59. The Committee note that out of a refund of Rs. 45,654 allowed in three cases, refund amounting to Rs. 16,609 is not susceptible to recovery, unless the assessees choose voluntarily to refund the money, as refunds were allowed in the course of appellate proceedings of the balance of Rs. 29,445, a sum of Rs. 22,234 has been recovered. The Committee would like to be apprised of the outcome of efforts to recover the balance, as also of the attempts to obtain voluntary refunds from the other two parties.

1.60. There is one other point in this case which the Committee would like to mention. The vessel was obviously ready to discharge goods on 28th February, 1964 and had applied to the Import Department with all relevant documents for grant of entry inwards on that day. There was, therefore, no justification to have delayed grant of entry inwards till 2nd March, 1964 particularly when it should have been apparent that this was a crucial period, when delay could affect duty liability of goods to be discharged. The Committee hope that Government will issue strict instructions to ensure that there is no repetition of a case of this kind.

1.61. The Committee note that the Preventive Officer in this case allowed the discharge of goods before entry inwards was granted by the Assistant Collector of Customs. This was legally not permissible. The Committee would like the case to be investigated to pinpoint responsibility for the various failures.

Loss of Revenue due to wrong admission of agency commission.

Audit Paragraph

1.62. According to instructions issued in September, 1955 and August 1956 for valuation of goods for assessment to customs duty the agency commission allowed to sole importers of agency products should be excluded from the assessable value of goods imported by the sole agent. The deduction on account of agency commission is not, however, admissible if the imports by independent parties exceed 10 per cent of the value of imports made by the agents. For this purpose, the books of accounts of the agents should be examined at periodic intervals and a watch also kept on importation by third parties to see that the exclusion of the agency commission from the assessable value continued to be admissible.

In March, 1963, it was observed that the valuation of imports made by a particular firm in December, 1962 had been arrived at by a Custom House after deducting the agency commission from the gross invoice values. The admissibility of the deduction was decided after examination of their books of accounts conducted in December, 1955. The next revision initiated in 1961 was completed in March, 1963. The failure to conduct the investigation at earlier intervals as prescribed had resulted in loss of revenue of Rs. 1,74,456 from 1959 to 1962 as the agency commission allowed to this firm during the period was found to be inadmissible.

The Ministry have stated that it was only from 1959 onwards that imports by independent parties exceeded 10 per cent of the value of the imports made by the agents and therefore, the review

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if it was undertaken during 1958, when it was actually due, would not have disclosed the change in the channel of imports and there would have been no occasion to disallow the agency commission. The next review which was undertaken in March, 1961 could not be completed till December, 1962 as the Custom House had to enter into lengthy correspondence with the firm. As the importers were delaying the submission of the information, an *ad hoc* decision was taken in March, 1963 to disallow the agency commission. They have added that if the scrutiny had been completed after the usual few months near about the end of 1961, the only loss that would have averted would have been in respect of the year, 1962.

The periodicity for reviewing the books of importers in India having special relationship with suppliers abroad has been fixed under executive instructions as a matter of convenience having no statutory backing. A review conducted in 1959 would have revealed that the sole agency commission was inadmissible and the further loss of revenue would have been avoided.

[Paragraph 13(i) of Audit Report (Civil) on Revenue Receipts, 1969].

1.63. The Committee desired to know the periodicity prescribed for examination of books of sole agents to determine whether the deduction of agency commission from gross invoice values for purpose of assessment of customs duty was admissible. In a note, the Ministry of Finance have stated as follows :

> "The periodicity for reviewing or examination of the books of importers has been prescribed as within two months of the lapse of two years from the date of last decision (*vide* Chapter IIA of Customs House Appraisers' Standing Orders). (However), there are no specific instructions or orders of the Board on the subject."

1.64. Explaining why the periodicity prescribed could not be observed in this case, the Ministry have stated :

> "Till 1959 imports by independent parties did not exceed 10% of the value of the imports made by the agents and the next review due in early 1961 was actually undertaken by the Custom House, when they had to enter into lengthy correspondence with the firm who sought several clarifications and adopted dilatory tactics where-upon the Department took an *ad hoc* decision in March, 1963, to disallow the Agency Commission."

1.65. Taking note of the fact that the review of the books of the importers undertaken by the Custom House in March, 1961 could not

be completed till December, 1962, as the importers were delaying the submission of the requisite information, the Committee desired to know whether any time-limit for completing scrutiny of books of importers had been prescribed by the Ministry of Finance. They were informed by the Ministry that no time-limit for this purpose had been prescribed.

1.66. The Committee desired to know why, pending the scrutiny of accounts of the firm by the Custom House, the imports of the firm were not assessed provisionally. In their reply, the Ministry of Finance have stated :

> "Provisional assessments in such cases are oridinarily not resorted to avoid uncertainty in the field of indirect taxes, the incidence of which is normally transferred to the consumers."

1.67. The Committee enquired whether there were any provisions for safe-guarding revenue in the event of the examination revealing that more duty was leviable than that collected. In a note, the Ministry of Finance have stated as follows :

> "Under Section 28 Customs Act, 1962, it is now possible to cover cases of short levy etc. upto a period of 5 years provided the short levy was caused by collusion, wilful mis-statement or suppression of facts by the importer."

> "In the form of bill of entry introduced in 1964, the importer is required to make a declaration whether he has any relationship with the foreign supplier of the goods. All cases of sole selling agents which come to notice by this means are listed in the Custom House and the commission payable is ascertained."

1.68. The Committee desired to know whether any step had been taken by the Department to ensure that cases of this type did not recur. The Ministry of Finance have stated as follows :

> "With the coming into force of Valuation Rules, 1963, it is no longer relevant or necessary to ascertain the percentage of imports by the sole agent as compared to the total imports of that article. Hence, there would be no instances of this kind of duty loss, where percentage of imports by parties other than the sole agent was less in a particular period and later such percentage increased."

*1.69. In reply to another question, the Ministry have stated that no other case of loss of revenue on account of delay in examination of importers' books of accounts had come to notice.

1.70. The Committee regret that due to the dilatory procedure adopted by the importer, Government suffered a loss of Rs. 1·75 lakhs in this case. The Department also failed to take steps to safeguard Government revenue.

1.71. For determining whether a rebate towards agency commission claimed by the importer was admissible, the Department had, according to the standing orders, to examine their books at intervals of two years. This examination was required under the Rules to be completed in two months. The review of the accounts of the of the importer in this case which, according to these orders, was due in 1958 was not taken up till March, 1961. The investigations dragged on till March, 1963, due to the tactics adopted by the importer. Ultimately an ad hoc decision was taken to disallow the agency commission. During the intervening period, nothing was done by the Department to safeguard revenue by making a provisional assessment with the result that by the time the Department took the ad hoc decision to disallow the commission, it had already lost revenue to the tune of Rs. 1,74,456. The Committee are hardly convinced by the explanation of Government that provisional assessments would have created uncertainty regarding incidence of duty to the importer. As the uncertainty was created by the importer himself, the Committee feel that Government should have taken steps to raise a demand on the basis of provisional assessments.

1.72. For the future, the Committee trust that examination of books of importers for purpose of determining admissibility of agency commission will be made well in time. The revised procedure prescribed in 1963 no doubt casts on the importer the duty of making a declaration. If the declaration is found to be false or incorrect, a period of five years is available to correct any assessment made on the basis of that declaration. However, it will be necessary for the Customs Department to take steps to examine the books well within this period of five years, so that any claims that might arise against the importers could be preferred before the time-bar becomes operative.

Loss of Revenue due to wrong interpretation of Over-time Rules

Audit Paragraph

1.73. According to the overtime rules applicable at the ports under the Central Excise Collectorates of Cochin and Bangalore

merchants requiring the services of Customs Officers on holidays and beyond free hours on working days, should pay fees at the prescribed hourly rates subject to a minimum fee fixed for the different grades of officials posted for duty. It was noticed that though overtime fees were being recovered at hourly rates, the prescribed minimum fees where necessary were not being recovered by these ports. The short recovery on this account during the period from April, 1964 to June, 1966 in the two Collectorates has been intimated as Rs. 50,591 of which a sum of Rs. 6,851 has been recovered. These do not include particulars for eleven months in the period April, 1964 to June, 1966 in respect of ports in the Alleppey Circle of Cochin Collectorate which are reported to be not available.

[Paragraph 13(ii) of Audit Report (Civil) on Revenue Receipts, 1969]

1.74. The Committee called for information on the following points:

"(i) Whether there was any short recovery of overtime fees from merchants in the two Collectorates mentioned in the Audit Paragraph prior to 1.4.1964;

(ii) Whether the Department had ascertained the total loss of revenue for the period from 1.4.1964 to 30.6.1966 from lower formations;

(iii) Whether the Department had also ascertained that there had been no loss of revenue in other Customs Houses on account of incorrect interpretation of overtime rules."

1.75. The information furnished by the Ministry is reproduced seriatim:

"(i) The amounts short recovered in the two Collectorates mentioned in the Audit para prior to 1.4.64 are as follows:—

	Amount	Period
	Rs.	
Collectorate of Central Excise, Cochin . . .	14,528	5-10-63 to 31-3-64
Collectorate of Central Excise, Bangalore . . .	2,787	1-1-64 to 31-3-64

(ii) The Collector of Central Excise, Cochin, who was asked to ascertain the full figure in this regard has reported that no particulars relating to Alleppey Circle of Cochin Collectorate could be gathered due to non-availability of con-

nected records even in the Accountant General's Office in respect of the months of April 1964, January, 1965, February 1965, October 1965, November 1965, December 1965 and January 1966. The total for the entire period from 1.4.1964 to 30.6.1966 (excluding the above 7 months) is Rs. 24,584/-.

(iii) The Department has ascertained that there has been no alleged loss of revenue in other Custom Houses on account of interpretation of over-time rules in question."

1.76. In their reply, the Ministry of Finance have added:

"It has been clarified in this Ministry's Letter dated 3.1.1970 to the Additional Deputy Comptroller and Auditor General of India that, on reconsideration of the issue involved, this department is of the view that there has not been any loss of revenue." This view is based on the following premises:

(i) Rule 4(c) of Overtime Rules clearly stated that "overtime fees levied under the above rules shall be paid in full to the officers concerned".

(ii) Rule 5 provides that where overtime work is done in continuation of duty hours, payment to the officer as well as recovery from the merchants will be at the hourly rate and not at the minimum rates.

1.77. The Ministry of Finance have however stated that "the wording of Rule 5 unfortunately leaves room for doubt" and it is possible to interpret it, as Audit have done, to mean that the minimum rate should be recovered.

1.78. The Committee note that, according to the view held by Audit, merchants requiring the services of Customs Officers on holidays and beyond free hours on working days are required to pay, under the Overtime Rules applicable to Ports under the Central Excise Collectorates, fees at stipulated hourly rates subject to prescribed minima. On this basis there was a short-recovery in the Central Excise Collectorates of Cochin and Bangalore amounting to about Rs. 68,000 due to the failure to enforce the minimum rates of recovery from merchants. A sum of about Rs. 7,000, has been since recovered from the merchants on this account. Government have however now contended that there has been no loss of revenue, as it was not their intention to recover the minimum fees, except under certain circumstances which did not hold good in these cases. They, have, however, added that the wording of rules on the subject unfortunately leaves room for doubt.

1.79. The Committee desire that the Ministry of Finance should examine the whole matter, in consultation with the Audit, including the question of amendment of rules so that they spell out the intention of Government in unmistakable terms.

Excess levy of Customs Duty

Audit Paragraph

1.80. (i) 540.056 kilo litres of Transformer Oil imported in April, 1966 were charged to customs duty by a Custom House at 40 per cent on the basis of value of Rs. 4,72,650 determined by them as the assessable value of the consignment. The consignment was correctly chargeable to duty on a tariff value of Rs. 640 per kilo litre at 27 per cent *ad valorem* only. The resultant excess levy of Rs. 1,31,985 was refunded to the party in July, 1968 when the error was pointed out.

[Paragraph 14(i) of Audit Report (Civil) on Revenue Receipts, 1969].

1.81. The Committee were given to understand by Audit that there was a change in the rate of duty on transformer oil with effect from 1.3.1966.

1.82. The Committee desired to know the circumstances in which the Custom House applied a rate of duty obtaining prior to 1.3.1966 on an import made subsequently. In a written reply, the Ministry of Finance have stated: "The application of incorrect rate of duty in this case was an omission."

1.83. In reply to another question as to how the Internal Audit Department failed to notice the mistake, the Ministry have stated that there was an omission on their part also.

1.84. In reply to a further question, the Ministry have stated that there were no other cases of similar over-assessment.

1.85. The Committee observe that the Department assessed transformer oil on the basis of a valuation, which was at variance with the tariff value fixed by Government, while making the assessment. There was also an omission to take note of a change in the rate of duty which had been effected from 1.3.1966. The omissions also escaped the notice of Internal Audit which checked the assessment. While the Committee note that the excess levy has been refunded to the importers, they cannot help observing that this was done two years after the date of import. The Committee will like to stress the need for extreme care in initial assessments. As pointed out in paragraph 2.91 of their 72nd Report (Fourth Lok Sabha), the incidence

of duty by and large devolves on the consumer whom it may not always be possible to locate, if, following an over-[illegible], Government decide to refund the amounts recovered in excess. It is therefore imperative that over-assessments are corrected as speedily as possible, so that the consumer is not inequitably burdened and a dealer does not get a fortuitous benefit.

Excess levy of Customs Duty

Audit Paragraph

1.86. According to a tariff ruling issued by the Government of India in April, 1965 "Fork-lift trucks" are not liable to Central Excise duty being considered outside the purview of item 34 of the Central Excise Tariff (Motor Vehicles). In September, 1965, the Central Board of Revenue clarified that 'platform trucks' like 'fork-lift trucks' were also outside the purview of item 34 *ibid*. But in a major Custom House, the above rulings were given effect to only in February, 1967 on the ground that the Board's orders of April, 1965 and September, 1965 were not endorsed to the Custom House. This resulted in an excess collection of countervailing duty amounting to Rs. 56,917 on consignments of seven fork-lift trucks and two platform trucks imported in June, 1965, and January, 1966 respectively.

The incorrect levy was detected by the department in December, 1966 and April, 1967 by which time the refund had become time barred.

[Paragraph 14(iii) of Audit Report (Civil) on Revenue Receipts, 1969]

1.87. The Committee desired to know the reasons for non-endorsement to the Custom Houses of the orders issued by the Board in April and September, 1965 regarding levy of countervailing duty on Fork Lift Trucks and Platform Trucks. In a note, the Ministry of Finance have stated as follows:

> "The orders issued by the Board in April and September, 1965 regarding the levy of excise duty on Fork Lift Trucks and Platform Trucks were not endorsed to the Custom Houses due to an omission. Necessary action has been taken to ensure that all notifications, tariff rulings and clarificatory instructions and general orders relating to the levy of central excise duty are invariably sent to the Collectors of Customs."

1.88. The Committee desired to be apprised of the arrangements obtaining in the matter of communication of Government of India

orders regarding levy of countervailing duty to Custom Houses. In their written reply, the Ministry have stated:

> "At present instructions regarding levy of countervailing duty are being issued as Tariff Rulings which are addressed to all Collectors of Customs. Instructions regarding levy of excise duty, which have a bearing on levy of countervailing duty, are now invariably endorsed to all Collectors of Customs also."

1.89. In reply to another question, the Ministry have stated that there were six other cases in which the excess levy of countervailing duty on imports of such trucks could not be refunded due to time-bar. The excess levy involved in these cases was Rs. 1,25,586.

1.90. In paragraph 1.37 of their 72nd Report (Fourth Lok Sabha), the Public Accounts Committee (1968-69) commented upon a similar case in which there was a short levy to the tune of Rs. 1.43 lakhs on account of non-endorsement of instructions having a bearing on levy of countervailing duty by the Central Excise Wing of the Ministry to all the Custom Houses.

1.91. The Committee regret to observe that there was a failure on the part of the Central Excise Wing of the Ministry of Finance both in April, 1965 and in September, 1965 to endorse copies of tariff rulings on the question of levy of countervailing duty to all the Custom Houses. The result was that there was an excess levy of duty to the tune of Rs. 1.82 lakhs in seven cases. A similar omission on the part of the Central Excise Wing of the Ministry was adversely commented upon by the Committee in paragraph 1.37 of their 72nd Report (Fourth Lok Sabha). The Committee desire that the Board should take a serious view of such lapses.

1.92. The Committee note that the excess levy has not been refunded in any of these seven cases because of limitation. The Committee would in this connection like to reiterate their recommendation in paragraph 1.12 of their 95th Report (Fourth Lok Sabha). Government should in cases of this kind refund excess collections suo motu **under section 131(3) of the Customs Act, without waiting for the parties to come up before them with a revision petition. The failure of a party to seek legal remedies either through inadvertence or ignorance should not preclude Government from exercising their powers under the law.**

1.93. The Committee need hardly re-stress that undue delays in making refunds in such cases can result in inequitous burden or a fortuitous benefit which should be avoided.

Non-realisation of Customs duty on motor vehicles imported under Triptyque system.

Audit Paragraph

1.94. Motor vehicles imported by members of an automobile club or association belonging to the Federation Internationale De L' Automobile or the Alliance Internationale de Tourisme visiting India for a temporary stay are exempted from the payment of customs duty provided (1) they are covered by a Triptyque or Carnet issued by the automobile association concerned in the approved form and duly guaranteed by the Western India Automobile Association and (2) they are re-exported out of India within six months from the date of import. The period of retention of the vehicles in India can be extended for a further period not exceeding six months by the Collectors of Customs under certain circumstances. Where the vehicles are not re-exported within the period so allowed, the Customs duty leviable thereon becomes recoverable from the importers or from the guaranteeing associations by the issue of a demand for the duty within a year of the date of expiry of the period upto which retention of the vehicles has been allowed.

It was noticed that even though six motor vehicles imported under the system during 1950 to 1956 were not re-exported within the specified period, the duty leviable thereon was not recovered by a Custom House. The guaranteeing associations did not also pay the duty as the Custom House failed to demand the same from them within the stipulated period.

Particulars of similar other cases in the Custom Houses where the cars imported under the Triptyque/Carnet system have not been re-exported within the period allowed and the duty leviable thereon due to such non-reexport have been called for from the department and are awaited (March, 1969).

[Paragraph 15 of Audit Report (Civil) on Revenue Receipts, 1969]

1.95. The Committee desired to know the latest position of the cases mentioned in the Audit paragraph. In a written reply, the Ministry of Finance have stated as follows:

> "It has been ascertained from all the motor vehicle registration authorities that none of the six vehicles in question was registered in the States or Union Territories. *Evidently all these vehicles had been re-exported out of India.*"

1.96. Taking note of the fact that the Western India Automobile Association had stood guarantee for the cars imported under Tripty-

que, the Committee enquired whether guarantee in any of the cases mentioned in the Audit paragraph had been invoked. In their written reply, the Ministry have stated as follows:

> "The demands for the payment of duty were raised against the Western India Automobile Association, the guaranteeing Association in these cases, but they did not accept the responsibility for payment of duty as the claim against them was made after the expiry of one year's period of the validity of the carnet papers, as laid down in article 26 of "Customs Convention on temporary importation of private road vehicles".

1.97. The Committee desired to know whether consolidated information about the cars allowed inside the country under Triptyque was available. They also wanted to know whether any instances had come to notice where cars allowed under Triptyque had been used as carriers for smuggled goods. In their written reply, the Ministry have stated as follows:—

> "No consolidated information is available. However, each field formation through which such cars enter, maintains registers wherein all relevant information about cars imported under triptyque is maintained. Five instances have come to notice where cars brought under triptyque system have been found to have been involved in smuggling of goods. The following precautions are observed by the Staff at the points of entry and export to prevent smuggling of goods in cars imported under the triptyque procedure".
>
> "(a) all cars brought under triptyque are examined both at the time of import and export to detect whether the vehicles have any secret cavities etc. for concealing goods;
>
> (b) cars allowed under triptyque are searched thoroughly by customs officers whenever suspicion arises and in case where an advance information is received about the use of the cars for the purpose of concealment of contraband."

1.98. The Committee were apprised of the following position regarding cars imported under Triptyques in other ccstom offices :

> (1) *Kerala*: In two cases where re-exports did not take place within the stipulated period, vehicles were seized and necessary action taken.

(2) *Calcutta*: One motor-cycle imported under Triptyque was re-exported.

(3) *Delhi*:

13 *cases*:—Vehicles have been seized and adjudication is pending.

12 *cases*:—Demands aggregating Rs. 1,50,846 were raised against the Automobile Association and are pending realisations.

5 *cases*:—Pending for want of particulars of exports.

(4) *Bombay*: Out of 41 cases demands have been stated to have been issued promptly as and when cases became ripe for enforcement action.

1.99. The Committee note that six vehicles imported by various parties under the Triptyque/Carnet system, on the guarantee of Automobile Associations/Clubs, were not re-exported within the specified period and therefore attracted customs duty. The duty could not however be recovered, as the claims against the guarantors were preferred long after the expiry of the prescribed time-limit of one year for raising such claims. Government have stated that "evidently all these vehicles had been re-exported" but this must be deemed to be only a conjecture, since it has not been substantiated with reference to relevant customs records. The fact that in Delhi Circle 5 similar cases of imports under the Triptyque have been reported by Audit as pending for want of particulars of exports suggests that the Customs Department has not been alert in taking follow-up action. In any case, the fact remains that in regard to the foregoing six cases, the Department did raise a demand for duty which they could not enforce. The Committee would like it to be investigated why the demands were belatedly raised.

1.100. The Committee also note that five other instances had come to notice where cars brought under the Triptyque system were found to have been involved in smuggling of goods. The Committee desire that Government should exercise due vigilance on the vehicles imported under the Triptyque/Carnet system and take every possible precaution to ensure that these are not used for smuggling or concealment of contraband.

1.101. The Committee would also like Government speedily to finalise adjudication proceedings in Delhi Circle in respect of 13 other cars imported under the Triptyque scheme.

Arrears of Customs Duty

Audit Paragraph

1.102. The total amount of customs duty remaining unrealised for the period upto 31st March, 1968 was Rs. 88·52 lakhs on 31st October, 1968 as against Rs. 71·52 lakhs for the corresponding period in the previous year. Out of the sum of Rs. 88·52 lakhs, Rs. 51·24 lakhs have been outstanding for more than one year.

In addition, the department have requested for voluntary payments of Customs duty amounting to Rs. 30·84 lakhs in cases where regular demands have become time barred. This amount is also pending realisation.

[Paragraph 16—Audit Report (Civil) on Revenue Receipts, 1969].

1.103. In a note furnished to the Committee, the Ministry of Finance have stated :

> "According to para. 16 of the Audit Report (Civil) on Revenue Receipts, 1969, the total amount of Customs Duty remaining unrealised for the period upto 31st March, 1968 was Rs. 88·52 lakhs on 31st October, 1968 as against Rs. 71·52 lakhs for the corresponding period in the previous year, thus showing an increase of Rs. 17 lakhs. Before incorporating these figures in the Audit Report, the Comptroller and Auditor General of India had asked for confirmation of the Custom House-wise figures. While confirming the figures in this Ministry's letter F. No. 8/2/69-Cus.VI dated 23rd May, 1969, it was clarified that the actual figures relating to confirmed demands in respect of the Delhi Central Excise Collectorate were Rs. 11.37 lakhs as agaist Rs. 19.11 lakhs given in the draft Audit Para by the Comptroller and Auditor General. The latter figure includes both confirmed as well as unconfirmed demands of duty while the Audit Para confines itself to confirmed demands only. Thus, there is an increase of Rs. 8.04 lakhs in the figure on account of the inclusion of the unconfirmed demands.
>
> Again, while the draft para showed an amount of Rs. 3.33 lakhs against the Baroda Central Excise Collectorate, the Collector of Central Excise, Baroda had intimated the Accountant General, Maharashtra, Bombay that the correct amount was Rs. 1.78 lakhs. Similarly, the correct amount against the Cochin Central Excise Collectorate should be Rs. 5.35 lakhs instead of Rs. 11.56 lakhs because demands for Rs. 6.22 lakhs were not confirmed and had incorrectly been included in the figure furnished by the Collector of Customs

and Central Excise, Cochin. This position was clarified in this Ministry's letter F. No. 8|2|69-Cus. VI dated 31st December, 1969. It will appear that a total amount of Rs. 15.81 lakhs has, therefore, to be excluded from the amount of Rs. 88.52 lakhs shown in the para, thereby bringing down the figures of arrears to Rs. 72.71 lakhs which, when compared with the previous years figures of 71.52 lakhs, shows only a negligible increase.

A sum of Rs. 17.50 lakhs out of this amount is outstanding in cases which are pending in courts."

1.104. As regards the time-barred demands for Rs. 30.84 lakhs mentioned in the Audit paragraphs, the Ministry have indicated the latest position as follows:

(i) Amount collected	—	Rs. 3.96 lakhs
(ii) Demands withdrawn	—	Rs. 14.97 lakhs
(iii) Amount pending	—	Rs. 11.89 lakhs

1.105. The Committee have from time to time been drawing attention to the accumulation of arrears of customs duty. They regret to observe that there has not been any improvement. As against the arrears of Rs. 71:52 lakhs as on 31st October, 1967, the amount of arrears as on 31st October, 1968 was Rs. 72:71 lakhs, of which arrears pending for more than one year accounted for nearly three-fifths. This is on the basis of 'confirmed' demands alone, but if the total demands raised are taken into account, the figure of arrears add up to Rs. 88:52 lakhs as on 31st October, 1968. In addition, the Department have initiated steps for voluntary payment of customs duty amounting to Rs. 30:84 lakhs in cases where the demands have become time-barred. The Committee desire that vigorous steps should be taken to realise the outstandings. They would would like to watch the position in this respect through future Audit Reports.

ATAL BIHARI VAJPAYEE,
Chairman,
Public Accounts Committee.

NEW DELHI;
April 4, 1970.
Chaitra 14, 1892 (*SAKA*)

APPENDIX I

(*See* para 1.34)

Copy of Telex No. 125 dated 14-7-1966 from ABROL CUSTOMS CALCUTTA TO LAL FINREV NEW DELHI

REFERENCE YOUR TELEX NO. 125 DATED 12-7-66. THE ESTABLISHED PRACTICE OF THIS CUSTOM HOUSE HAD BEEN NOT TO CHARGE COUNTERVAILING DUTY ON STEREOFLONGS BECAUSE PRIOR TO 2-2-63 COUNTERVAILING DUTY WAS LEVIABLE ONLY ON ITEMS 44 AND 44(4) WHEREAS STEREOFLONGS, WAS ASSESSED UNDER ITEM 87 AS THE EXEMPTION NOTIFICATION APPEARED UNDER FOOTNOTE TO THAT ITEM. EVEN WHEN SECTION 2(A) OF INDIAN TARIFF ACT WAS INTRODUCED ON 2-2-1963 MINISTRY'S INSTRUCTIONS WERE THAT DE-FACTO POSITION PREVAILING BEFORE 2-2-63 SHOULD CONTINUE UNDER MINISTRY'S LETTER NO. F 15|3|65-CUS. I DATED 25TH SEPTEMBER 1965 THE EARLIER INSTRUCTIONS WERE RESCINDED AND COUNTERVZ+COUNTERVAILING DUTY BECAME LEVIABLE UNLESS SPECIALLY EXEMPTED. EVEN THEN IT WAS FELT THAT COUNTERVAILING DUTY WOULD NOT BE LEVIABLE BECAUSE THE WORDING OF THE EXEMPTION NOTIFICATION WAS NOT AMENDED TO COVER CUSTOMS DUTY LEVIABLE UNDER FIRST SCHEDULE ONLY THOUGH SIMILAR AMENDMENT WAS DONE IN A NUMBER OF OTHER NOTIFICATIONS. A DOUBT WAS HOWEVER FELT AND LAST MONTH LESS CHARGE DEMANDS WHERE ISSUED UNDER THE DIRECTION OF THE ASSISTANT COLLECTOR FOR CONSIGNMENT IMPORTED DURING THE EARLIER SIX MONTHS. I HAVE EXAMINED THE POSITION AND IT APPEARS TO ME THAT EVEN THOUGH WORDING OF THE EXEMPTION NOTIFICATION WAS NOT AMENDED THE WORDING AS IT IS DOES NOT MEAN THAT COUNTERVAILING DUTY IS EXEMPTED BECAUSE THE EXEMPTION IS ONLY FROM SO MUCH OF THE CUSTOMS DUTY AS IS IN EXCESS OF THAT LEVIABLE ON PRINTING AND LITHOGRAPHIC MATERIAL. MOST OF THE PRINTING AND LITHOGRAPHIC MATERIAL OF COURSE DOES NOT PAY ANY COUNTERVAILING DUTY BUT ONE OF THE ARTICLES MENTIONED UNDER PRINTING AND LITHOGRA-

RHIC MATERIAL IS 'PAPER ROLLS WITH SLIGHT PERFORATIONS TO BE USED AFTER FURTHER PERFORATION FOR TYPE CASTNG'. THIS ARTICLE IS LIABLE TO COUNTERVAILING DUTY AND I THEREFORE CONSIDER THAT DUTY LEVIABLE ON PRINTING AND LITHOGRAPHIC MATERIAL IS NOT ONLY THE BASIC CUSTOMS DUTY MENTIONED UNDER ITEM 72(2) BUT ALSO THE COUNTERVAILING DUTY WHICH MAY BE LEVIABLE ON ANY SIMILAR PRINTING AND LITHOGRAPHIC MATERIAL FOR EXAMPLE ON PAPER IN ROLLS WITH SLIGHT PERFORATIONS. IN THE CIRCUMSTANCES MY VIEW IS THAT COUNTERVAILING DUTY SHOULD BE LEVIED.

AS REGARDS THE ARGUMENTS GIVEN IN C. C., MADRAS'S LETTER TO THE BOARD DATED 27TH APRIL, 1965 LOADING WITH CHINA CLAY TO THE EXTENT OF 21.5 PER CENT DOES NOT NECESSARILY MEAN THAT AN ARTICLE IS NOT CLASSIFIABLE AS PAPER OR BOARD BECAUSE EVEN ART PAPER OR ART BOARD CONTAINS AS MUCH AS 20-30 PER CENT OF CHINA CLAY. THE ARGUMENT THAT STEREOFLONG IS NOT STOCKED BY PAPER AND BOARD MERCHANTS IS ALSO NOT SOUND BECAUSE THERE ARE VARIOUS SPECIALISED TYPES OF PAPER AND BOARD WHICH MAY NOT BE STOCKED BY PAPER AND BOARD MERCHANTS BUT THEY ARE ALL THE SAME PAPER OR BOARD. I ALSO DO NOT AGREE THAT THESE ARE ARTICLES MADE OF PAPER. STEREOFLONG IS ONLY A SPECIAL TYPE OF BOARD AND IT CANNOT BE CALLED AN ARTICLE MADE OF PAPER.

APPENDIX II

Summary of Main Conclusions/Recommendations

S. No.	Para. No.	Ministry/Deptt. concerned	Conclusion/Recommendation
1	2	3	4
1	1.7	Finance	The Committee note that there has been a rise in under-assessments of customs duty as noticed in Test Audit. The amount of under-assessments has risen from about Rs. 4·23 lakhs in 1962-63 to over Rs. 32·36 lakhs in 1967-68. The Committee would like Government to analyse the causes for this rise and apply necessary correctives.
2	1.8	—do.—	In the opinion of the Committee, the detection of a sizeable amount of under-assessments in Test Audit, after a 100 per cent check of Customs documents by Internal Audit, indicates that the working of the Internal Audit Department is deficient. The Committee note that, on the recommendations of the Customs Study Team, a number of measures have recently been taken by Government to strengthen the Internal Audit Department. The Committee desire that, after the new set-up has worked for some time, Government should make an appraisal of its working and examine whether its functions and procedures need to be streamlined any further.

1	2	3	4
3	1.21	Finance	The Committee observe that dumpers, which have been held by Government to attract basic customs duty at the standard rate of 50 per cent., were assessed by the Goa Custom House at the concessional rate of 30 per cent, resulting in short-levy of nearly Rs. 25 lakhs. As the matter is at present pending before the Bombay High Court, the Committee would like to reserve their comments at this stage.
4	1.22	—do.—	The Committee, however, cannot help expressing uneasiness over the casual manner in which this case was handled. After the assessment was finalised on the first consignment of dumpers imported in April 1965, Audit pointed out in September, 1965 that there had been an under-assessment. It took Government nearly three years thereafter to come to a final decision on the question as to how these dumpers should be assessed. It is hardly necessary for the Committee to say that decisions should be taken promptly in all matters having a financial bearing. The representative of the Ministry of Finance himself agreed in evidence that it should normally be possible to settle doubts of this nature within a period of three months. The Committee expect that objections about under-assessment raised by the Audit will be resolved within 3 months or so in future. The Committee note that some steps have been taken by Government to rationalise the classification of goods for purpose of levy of customs duty. A Bill to replace the existing tariff by a much more

			comprehensive tariff on the pattern of the Brussels Nomenclature has been introduced in Parliament. There is also a proposal to have a set up of a kind of Central Exchange of Classifications and Evaluations. The Committee trust that the question of tariff classification will be kept continuously under review in the interest of correct and speedy assessment of duties.
5	1.31	—do—	The Committee note that, due to a failure on the part of Government to observe the correct procedures, Government had to forgo some revenue in this case (Rs. 5,056) by way of countervailing duty on stereoflong. By virtue of an exemption notification issued in May, 1958, stereoflong enjoyed exemption from countervailing duty, which became leviable from 2nd February, 1963. In September, 1965, Government decided, in the interest of revenue, to charge countervailing duty on stereoflong. At that stage, Government should have amended their notification of May, 1958. This, however, was not done. Instead, they issued executive instructions on the subject. The result was that, while three major Custom Houses at Bombay, Madras and Cochin charged countervailing duty on stereoflong, another major Custom House, at Calcutta, did not charge duty on the ground that the notification of May, 1958 had not been amended and therefore continued to be in force. Even later, when references were made by the Madras and Calcutta Custom Houses, the Board gave a ruling that countervailing duty should be charged but failed to amend their original notification. It was only subsequently that Government began to entertain doubts about the legality of their action. In May, 1969, Government issued a specific notification superseding the origi-

1	2	3	4
			nal notification of May, 1958 and making it clear that countervailing duty should be charged.
6	1 32	Finance	(i) The Committee regret that it took Government nearly four years after a decision was taken to charge countervailing duty to issue a notification which gave the necessary legal backing to this decision. While the revenue loss in this case was not significant, the Committee hope that Government will appreciate that omissions of this nature could have serious repercussions.
7	1.33	—do.—	(ii) The Committee are distressed that the Central Board of Excise and Customs, who are expected to give a lead to lower formations in the matter of prompt decisions, should have taken one year and nine months to issue a clarification sought by the Madras Custom House. The Committee hope that delays of this order will not recur. The period normally available to Government for reopening assessments relating to customs duty is only six months. It is therefore imperative that decisions on questions of tax liability in this field are promptly taken.
8	1.34	—do.—	The Committee would like to draw attention to an important point arising out of this case which has a bearing on the revenue interests of Government. In terms of para 1(iii) of the Indian Customs Tariff Guide-Departmental Supplement, an assessing officer

			the officers concerned the need to exercise greater care in making assessments.
1	1.58	—do.—	The Committee are unable to understand how refund was permitted in this case. In law, the rate of duty applicable is to be reckoned with reference to the date on which 'entry inwards' of a vessel is permitted. As in this case the 'entry inwards' was given on 2nd March, 1964, the goods should have been charged to duty on the basis of the rates in force as on 2nd March, 1964, and not with reference to the rates of duty in force as on 29th February, 1964, when the vessel actually discharged the goods.
	1.59	—do.—	The Committee note that out of a refund of Rs. 45,654 allowed in three cases, refund amounting to Rs. 16,609 is not susceptible to recovery, unless the assessees choose voluntarily to refund the money, as refunds were allowed in the course of appellate proceedings. Of the balance of Rs. 29,445, a sum of Rs. 22,234 has been recovered. The Committee would like to be apprised of the outcome of efforts to recover the balance, as also of the attempts to obtain voluntary refunds from the other two parties.
14	1.60	—do.—	There is one other point in this case which the Committee would like to mention. The vessel was obviously ready to discharge goods on 28th February, 1964 and had applied to the Import Department with all relevant documents for grant of entry inwards on that day. There was, therefore, no justification to have delayed grant of entry inwards till 2nd March, 1964 particularly when it should have been

			apparent that this was a crucial period, when delay could affect duty liability of goods to be discharged. The Committee hope that Government will issue strict instructions to ensure that there is no repetition of a case of this kind.
15	1.61	—do—	The Committee note that the Preventive Officer in this case allowed the discharge of goods before entry inwards was granted by the Assistant Collector of Customs. This was legally not permissible. The Committee would like the case to be investigated to pinpoint responsibility for the various failures.
16	1.70	—do—	The Committee regret that due to the dilatory procedure adopted by the importer, Government suffered a loss of Rs. 1.74 lakhs in this case. The Department also failed to take steps to safeguard Government revenue.
17	1.71	—do—	For determining whether a rebate towards agency commission claimed by the importer was admissible, the Department had, according to the standing orders, to examine their books at intervals of two years. This examination was required under the Rules to be completed in two months. The review of the accounts of the importer in this case which, according to these orders, was due in 1958 was not taken up till March, 1961. The investigations dragged on till March, 1963, due to the tactics adopted by the importer. Ultimately an *ad hoc* decision was taken to disallow the agency commission. During the intervening period, nothing was done by the Department to safeguard revenue by making a provisional assessment with the result that by the time the Department took the *ad hoc* decision to

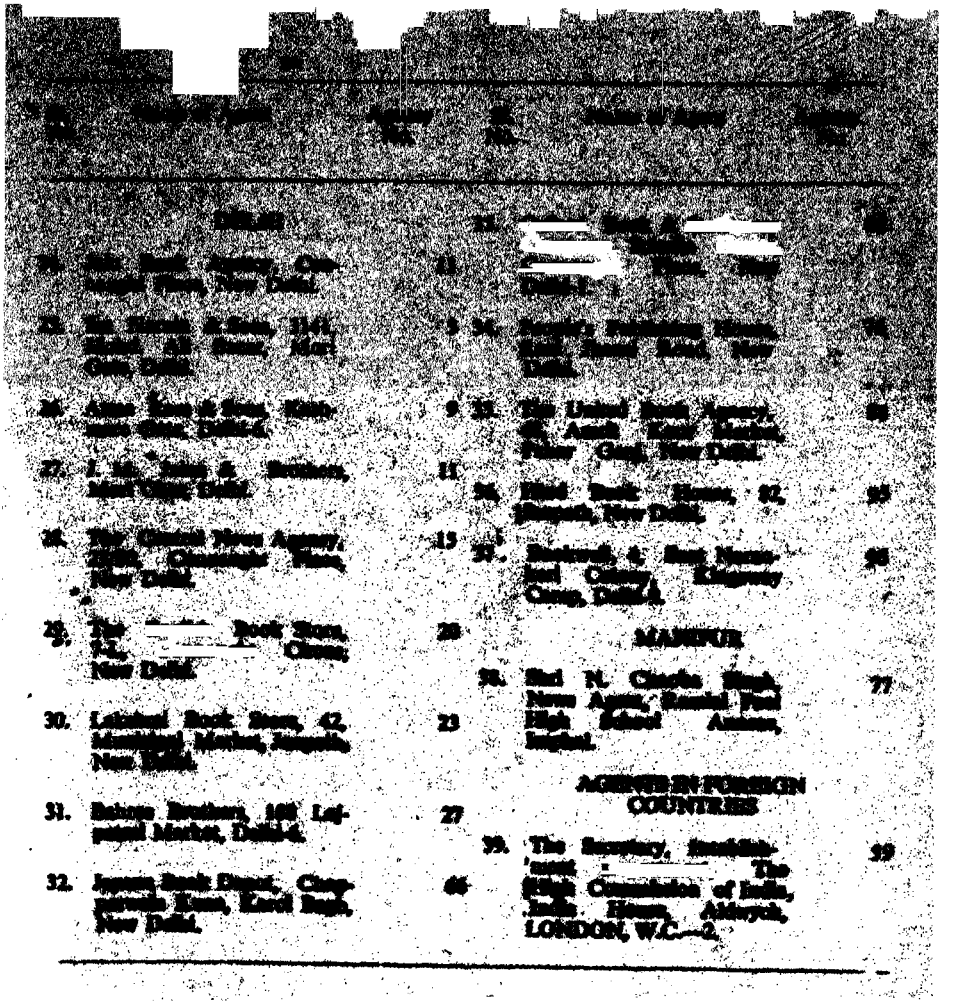
1	2	3	4
			disallow the commission, it had already lost revenue to the tune of Rs. 1,74,456. The Committee are hardly convinced by the explanation of Government that provisional assessments would have created uncertainty regarding incidence of duty to the importer. As the uncertainty was created by the importer himself, the Committee feel that Government should have taken steps to raise a demand on the basis of provisional assessments.
18	1.72	Finance	For the future, the Committee trust that examinations of books of importers for purpose of determining admissibility of agency commission will be made well in time. The revised procedure prescribed in 1963 no doubt casts on the importer the duty of making a declaration. If the declaration is found to be false or incorrect, a period of five years is available to correct any assessment made on the basis of that declaration. However, it will be necessary for the Customs Department to take steps to examine the books well within this period of five years, so that any claims that might arise against the importers could be preferred before the time-bar becomes operative.
19	1.78	—do—	The Committee note that, according to the view held by Audit, merchants requiring the services of Customs Officers on holidays and beyond free hours on working days are required to pay, under the Overtime Rules applicable to Ports under the Central Excise Collectorates, fees at stipulated hourly rates subject to prescribed minima.

			On this basis there was a short-recovery in the Central Excise Collectorates of Cochin and Bangalore amounting to about Rs. 68,000 due to the failure to enforce the minimum rates of recovery from merchants. A sum of about Rs. 7,000, has been since recovered from the merchants on this account. Government have however now contended that there has been no loss of revenue, as it was not their intention to recover the minimum fees, except under certain circumstances which did not hold good in these cases. They, have, however, added that the wording of rules on the subject unfortunately leaves room for doubt.
20	1 79	—do—	The Committee desire that the Ministry of Finance should examine the whole matter, in consultation with the Audit, including the question of amendment of rules so that they spell out the intention of Government in unmistakable terms.
21	1 85	—do—	The Committee observe that the Department assessed transformer oil on the basis of a valuation, which was at variance with the tariff value fixed by Government, while making the assessment. There was also an omission to take note of a change in the rate of duty which had been effected from 1st March 1966. The omissions also escaped the notice of Internal Audit which checked the assessment. While the Committee note that the excess levy has been refunded to the importers, they cannot help observing that this was done two years after the date of import. The Committee will like to stress the need for extreme care in initial assessments As pointed out in para-

1	2	3	4
			graph 2.91 of their 72nd Report (Fourth Lok Sabha), the incidence of duty by and large devolves on the consumer whom it may not always be possible to locate, if, following, an over-assessment, Government decide to refund the amounts recovered in excess. It is therefore imperative that over-assessments are corrected as speedily as possible, so that the consumer is not inequitably burdened and a dealer does not get a fortuitous benefit.
22	1.91	Finance	The Committee regret to observe that there was a failure on the part of the Central Excise Wing of the Ministry of Finance both in April, 1966 and in September, 1965 to endorse copies of tariff rulings on the question of levy of countervailing duty to all the Custom Houses. The result was that there was an excess levy of duty to the tune of Rs. 1·82 lakhs in seven cases. A similar omission on the part of the Central Excise Wing of the Ministry was adversely commented upon by the Committee in paragraph 1.37 of their 72nd Report (Fourth Lok Sabha). The Committee desire that the Board should take a serious view of such lapses.
23	1.92	—do—	The Committee note that the excess levy has not been refunded in any of these seven cases because of limitation. The Committee would in this connection like to reiterate their recommendation in paragraph 1.12 of their 95th Report (Fourth Lok Sabha). Government should in cases of this kind refund excess collections *suo motu* under section 131(3) of the Customs Act, without waiting for the

			parties to come up before them with a revision petition. The failure of a party to seek legal remedies either through inadvertence or ignorance should not preclude Government from exercising their powers under the law.
24	1.93	—do—	The Committee need hardly re-stress that undue delays in making refunds in such cases can result in inequitous burden or a fortuitous benefit which should be avoided.
25	1.99	—do—	The Committee note that six vehicles imported by various parties under the Triptyque/Carnet system, on the guarantee of Automobile Associations/Clubs, were not re-exported within the specified period and therefore attracted customs duty. The duty could not however be recovered, as the claims against the guaran ors were preferred long after the expiry of the prescribed time-limit of one year for raising such claims. Government have stated that "evidently all these vehicles had been re-exported" but this must be deemed to be only a conjecture, since it has not been substantiated with reference to relevant customs records. The fact that in Delhi circle 5 similar cases of imports under the Triptyque have been reported by Audit as pending for want of particulars of exports suggest that the Customs Department has not been alert in taking follow-up action. In any case, the fact remains that in regard to the foregoing six cases, the Department did raise a demand for duty which they could not enforce. The Committee would like it to be investigated why the demands were belatedly raised.
26	1.100	—do—	The Committee also note that five other instances had come to notice where cars brought under the Triptyque system were found to

Sl. No.	Name of Agent	Agency No.
	DELHI	
24.	Jain Book Agency, Connaught Place, New Delhi.	11
25.	Sat Narain & Sons, 3141, Mohd. Ali Bazar, Mori Gate, Delhi.	3
26.	Atma Ram & Sons, Kashmere Gate, Delhi-6.	9
27.	J. M. Jaina & Brothers, Mori Gate, Delhi.	11
28.	The Central News Agency, 23/90, Connaught Place, New Delhi.	13
29.	The English Book Store, 7-L, Connaught Circus, New Delhi.	20
30.	Lakshmi Book Store, 42, Municipal Market, Janpath, New Delhi.	23
31.	Bahree Brothers, 188 Lajpatrai Market, Delhi-6.	27
32.	Jayana Book Depot, Chapparwala Kuan, Karol Bagh, New Delhi.	66
33.	Oxford Book & Stationery Company, Scindia House, Connaught Place, New Delhi-1.	68
34.	People's Publishing House, Rani Jhansi Road, New Delhi.	76
35.	The United Book Agency, 48, Amrit Kaur Market, Pahar Ganj, New Delhi.	89
36.	Hind Book House, 82, Janpath, New Delhi.	93
37.	Bookwell, 4, Sant Narankari Colony, Kingsway Camp, Delhi-9.	96
	MANIPUR	
38.	Shri N. Chaoba Singh, News Agent, Ramlal Paul High School Annexe, Imphal.	—
	AGENTS IN FOREIGN COUNTRIES	
39.	The Secretary, Establishment Department, The High Commission of India India House, Aldwych, LONDON, W.C.—2	61



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