

# **HUNDRED AND FIFTY-FIFTH REPORT**

## **PUBLIC ACCOUNTS COMMITTEE (1988-89)**

**(EIGHTH LOK SABHA)**

**UNION EXCISE DUTIES—TAKING IRREGULAR  
CREDIT OF DUTY OF RS. 1.17 CRORES ON BASE  
YARN AND ITS UTILISATION FOR PAYMENT OF  
DUTY ON TEXTURED YARN**

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



*Presented to Lok Sabha on 25 April, 1989  
Laid in Rajya Sabha on 26 April, 1989*

**LOK SABHA SECRETARIAT  
NEW DELHI**

*April 1989/Vaisakha, 1911 (Saka)*

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### PART II\*

Minutes of the sittings of Public Accounts Committee (1988-89) held on.

6-12-1988(AN)

21-4-1989(AN)

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

**PUBLIC ACCOUNTS COMMITTEE**

**(1988-89)**

**CHAIRMAN**

**\*Shri Amal Datta**

**MEMBERS**

*Lok Sabha*

2. Shri Abdul Hannan Ansari
3. Shri Chhitubhai Gamit
4. Shri M. Y. Ghorpade
5. Shri Dinesh Goswami
6. Shri Mohd. Ayub Khan
7. Shri Y. S. Mahajan
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10. Shri Pratap Bhanu Sharma
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*Rajya Sabha*

- @16. Shri Jagesh Desai
17. Shri M. S. Gurupadaswamy
18. Shri Kailash Pati Mishra
19. Shrimati Manorama Pandey
20. Shri Yalla Sesi Bhushana Rao

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\*Appointed as Chairman w.e.f. 5-9-1988 *vice* Shri C. Madhav Reddy resigned from Chairmanship of the Committee.

@Appointed w.e.f. 7-12-1988 *vice* Shri Kalpnath Rai ceased to be a member of the Committee on his appointment as a Minister of State.

21. Shri T. Chandrasekhar Reddy
22. Shri Surender Singh

**SECRETARIAT**

1. Shri G. L. Batra—*Joint Secretary*
2. Shri B. D. Duggal—*Director (PAC)*
3. Shri A. Subramanian—*Senior Financial Committee Officer*

## INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee do present on their behalf this Hundred and Fifty-Fifth Report on Paragraph 4.58 of the Report of the Comptroller and Auditor General of India for the year ended 31 March, 1987, No. 5 of 1988, Union Government (Revenue Receipts—Indirect Taxes) relating to Union Excise Duties—Taking irregular credit of duty of Rs. 1.17 crores on base yarn and its utilisation for payment of duty on textured yarn.

2. The Report of the C&AG of India for the year ended 31 March, 1987, No. 5 of 1988, Union Government (Revenue Receipts—Indirect Taxes) was laid on the Table of the House on 10 May, 1988.

3. This Report of the Committee deals with a case of availing of irregular credit of central excise duty of Rs. 1.17 crores on base yarn and its utilisation for payment of duty on textured yarn by a big textiles manufacturer (Reliance Industries Ltd.). The alleged offence was committed by the party in July 1983 and detected in May 1987. The Committee have expressed their dismay that such a patent irregularity went undetected for a period of about four years by the prescribed departmental mechanisms enabling the assessee to make use of the amount of Rs. 1.17 crores incorrectly credited twice. The Committee have recommended stern action against the guilty and also that the facts of the case including complicity of the officers, if any, should be thoroughly analysed and effective steps taken so as to check recurrence of similar cases and to protect revenue.

4. The Committee have recommended that the Ministry of Finance should enact suitable provisions in the Central Excise Law so as to enable Government to collect penal interest from manufacturers of excisable commodities for such delayed payments of duty as in the case under examination and to withdraw the advantage of getting credit in respect of duty paid on raw materials/component parts etc. under Rule 56A procedure and Modvat Scheme from assessees committing offence of taking credit falsely.

5. The Committee have expressed their unhappiness that the departmental adjudicating authority has not yet passed orders on the case so far. They did not find any justification over the delay particularly when the show cause notice was issued as far back as

July 1987. The Committee have recommended that the proceedings be expeditiously completed particularly since the party has admitted the mistake and has already made the payment of duty.

6. The Committee have noted that the Central Excise department have detected 122 cases of alleged evasion of duty involving Rs. 1 crores and above during the years 1986, 1987 and 1988 (upto August). The total amount of duty involved in all the cases together has been reported to be Rs. 1,825 crores. The Committee have found that action has not been conclusive in any of those cases. Expressing their dissatisfaction over this, the Committee have recommended that the Ministry of Finance should deal with those alleged cases of major evasion of excise duty sternly, expeditiously and with more zeal.

7. The Public Accounts Committee (1988-89) examined the Audit Paragraph at their sitting held on 6 December, 1988.

8. The Committee considered and finalised this report at their sitting held on 21 April, 1989. The Minutes of the sitting form Part II\* of the Report.

9. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in a consolidated form in Appendix II to the Report.

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

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

NEW DELHI;  
21 April, 1989  
1 Vaisakha, 1911 (S)

AMAL DATTA  
Chairman  
Public Accounts Committee.

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

## REPORT

### UNION EXCISE DUTIES—TAKING OF IRREGULAR CREDIT OF DUTY OF RS. 1.17 CRORES ON BASE YARN AND ITS UTILISATION FOR PAYMENT OF DUTY ON TEXTURED YARN

#### *Introductory*

Under the Self Removal Procedure in the Central Excise set up, the assessees are permitted to remove consignments of excisable commodities on payment of appropriate duty, without physical supervision by the departmental staff. Manufacturers of excisable commodities maintain two types of accounts, viz., Personal Ledger Account (PLA) and Proforma Credit Account (PCA) for accounting the payment of duty. Under PLA, assessees will have to deposit money in the bank and maintain a register. They can, on the strength of the bank receipt, remove the goods by debiting the excise duty payable. Under PCA, the assessees can remove finished goods after taking credit for the duty already paid on raw materials.

2. The procedure for availing of the credit of the duty paid on the inputs is now governed either by the Modified System of Value Added Tax (Modvat- or, the provisions contained in Rule 56A of the Central Excise Rules, 1944, as the case may be.

3. As per Rule 56A of the Central Excise Rules, 1944 credit for the duty paid on raw materials and components is allowed to be utilised towards payment of duty on finished products in the manufacture of which the raw materials and components are utilised provided the raw material and finished products fall under the same tariff item or the utilisation of duty paid on raw materials and components towards duty payable on a finished product has been specifically permitted by the Central Government by issue of a notification.

4. Section 'AA' of Chapter V of the Central Excise Rules, 1944 consisting of Rule 57A to Rule 57J prescribe the procedure for availing of the credit of the duty paid on the inputs under the Modvat Scheme.

5. Both Modvat and Rule 56A procedure, which are schemes to give relief of the duty paid on the inputs, have been kept on the Statute simultaneously. The modvat scheme covers 76 Chapters of the Central Excise Tariff while Rule 56A covers 11 commodities mentioned in notification No. 84/87-CE dated 1 March, 1987. According to the Ministry of Finance (Department of Revenue), the Government did not find it suitable to extend Modvat scheme to all the chapters of the Central Excise Tariff. The scheme has been extended in stages and since it incorporates several features which are more liberal than the proforma credit scheme, a cautious approach has been adopted by the Government in the matter of gradual extension of Modvat.

*Audit Para* . . .

6. This Report is based on paragraph 4.58 of the Report of the C&AG of India for the year ended 31 March 1987, No. 5 of 1988, Union Government (Revenue Receipts—Indirect Taxes) which is reproduced and shown as Appendix I.

7. The Audit paragraph deals with a case of availing of irregular credit of central excise duty of Rs. 1.17 crores on base yarn and its utilisation for payment of duty on texturised yarn by a big textile manufacturer.

*Facts of the case*

8. The provisions of Rule 56A were extended to textured yarn with effect from 1 March, 1983 by virtue of which an assessee could take credit of duty paid on base yarn received by him on or after that date and utilise the same for payment of duty on textured yarn produced from such base yarn. Subsequently, the aforesaid facility was withdrawn from 16 July, 1983 through a notification dated 1 July, 1983.

9. Reliance Industries Ltd., Ahmedabad made an unserialised credit entry of Rs. 1.17 crores between 10 and 12 July, 1983 in the proforma credit account, viz. RG 23, maintained under Rule 56A. This entry was not supported by any document showing payment of duty on base yarn. Hence the entry artificially inflated the credit balance by Rs. 1.17 crores. The assessee utilised this balance towards payment of duty on textured yarn till 15 July, 1983. The mistake was detected by the Preventive Officers of the Ahmedabad Collectorate who visited the unit on 23 May, 1987. The assessee paid Rs. 1.17 crores on 3 June, 1987.

### *Failure of departmental mechanisms*

10. The Committee were informed during evidence that the offence was detected on the basis of a tip off. Enquired why the irregularity could not be unearthed by the departmental officers in the normal course of discharge of their duties, the Ministry of Finance (Department of Revenue) in a note stated that the wrong credit taken should have been detected in the normal course at the time of RT-12 assessment or at the time of internal audit. In the instant case, however, concerned officers failed to detect the same.

11. In this context, the Committee examined the mechanisms of RT-12 assessment and internal audit and their operation in the present case.

12. RT-12 is a monthly return showing the quantity of excisable goods manufactured or received under bond during the month, the quantity used within the factory for the manufacture of another commodity, the quantity removed from the factory on payment of duty, duty paid, particulars of Gate Passes and the particulars of goods removed in bond for export or otherwise. This return is submitted in quadruplicate to the Range Officer alongwith the duplicate copy of each of the Gate Passes, treasury challan, extracts of Personal Ledger Account, extract of RG-23 Parts I and II, RG-23A Parts I and II and other prescribed returns. The return is submitted to the Range Officer. The Superintendent in charge of the Range is the Assessing Officer and signs the assessment memorandum with RT-12. The Central Excise officers carry out checks about the correctness of RT-12. The Gate Passes issued during the month are checked thoroughly in respect of classification, rate of duty, assessable value and the total amount of duty calculated on the Gate Pass. The officers also check debits and credits in the PLA in respect of the Gate Passes. The credit entries in PLA are checked with the treasury challans and the total of credits, total of debits and opening and closing balance in respect of PLA are also checked. The amount of duty shown in RT-12 is checked with the total debits in PLA. Similar checks are carried out in respect of duty paid from RG-23A Part II and RG-23 Part II accounts. The ultimate purpose of all the checks is to ensure that the correct amount of duty has been collected on all the goods removed from the factory during a particular month.

13. In the case under examination, the assessee filed the RT-12 returns for the month of July 1983 on 1 August 1983 and the same was finalised on 27 October 1983. The departmental scrutiny did not detect the wrong credit and no remarks were made on the same.

14. The Self Removal Procedure in the Central Excise set up envisages an extensive role by internal audit to prevent leakage of revenues so that the liberalisation introduced in permitting assessees to clear consignments without physical supervision is not misused. The internal audit party conducts audit of the unit to ensure (i) correct quantum of production, (ii) accurate assessment and (iii) observance of the prescribed procedures so as to detect all leakages and evasion of revenue. For that purpose, the audit parties are required to check *inter alia*, raw-material account, production, classification lists, price lists, clearances, duty paid goods received for further manufacture or repair, reprocessing etc. and their accountal, Personal Ledger Accounts etc. Internal audit is required to exercise following checks with regard to checking of RG-23 required under Rule 56A:—

- (i) Whether notice of receipt of duty paid goods, as required under the rules/instructions issued by the Collector has been given by the assessee.
- (ii) Whether verification of receipt of duty paid goods has been carried out by local officers properly, sufficiently and promptly and whether there were any defaults.
- (iii) Whether there are any cases where duty paid goods received have been consumed within the period of 24/48 hours, as the case may be, before verification by departmental officers and whether that appeared suspicious.
- (iv) Compare entries, selectively in the relevant accounts such as RG-23 Part I and II, Form V etc. as the case may be with the duty paying documents such as Gate Passes, Bills of Entry etc.
- (v) In case of goods received under Rule 56A whether any such goods have been used for manufacture of finished goods which are exempted from payment of duty or carry nil rate of duty and if so whether follow up action had been taken.
- (vi) Also whether the goods have been used for the purpose for which they have been received in the factory and there is proper correlation between the quantity issued and that actually used in the finished products, keeping in view the resultant wastage and its disposal.

15. The unit of the assessee, in the present case was audited by the internal audit from 27 to 31 October 1983 in respect of audit period 1 March 1983 to 31 August 1983.

16. Asked why the irregularity was not pointed out by the internal audit, the Ministry of Finance (Department of Revenue) in a note stated that the Audit party had checked RG-23 of cotton fabrics only and not of partially oriented yarn, as, according to the Inspector's reply in the disciplinary proceedings initiated against the Audit staff, RG-23 of partially oriented yarn was not produced by the assessee.

17. However, on scrutiny of the copy of the report of the internal audit by the Committee, it was seen that Part I of the report did not indicate whether RG-23 account was checked at all. The report also did not indicate that RG-23 account was not produced by the assessee.

18. On being enquired about the officers responsible for the non-detection of the fraud, the Ministry of Finance (Department of Revenue) in a note stated that four officers—one Superintendent and three inspectors were found to be responsible for the lapses. Departmental disciplinary proceedings were initiated against all the four officers. The proceedings against two have been completed and they have been penalised. The proceedings against the rest two are yet to be completed. During evidence the Member, Central Board of Excise and Customs in this connection stated:

"We would have charge sheeted the Assistant Collector but he had retired. Everything possible that we could do, we have done."

19. The Committee pointed out that but for the tip off, the whole case would have been hushed up as the departmental mechanism had failed in this case. They wanted to know how other similar offences could be unravelled in the normal course if the prescribed mechanisms operated in such an ineffective way. The Member, Central Board of Excise and Customs stated that in the present case, "it was a question of human failure, the procedures were laid out, none of them was followed. If ever anybody does this, it is a human failure—intentional or otherwise." The witness claimed that after the present case as observed, staff all over the country were alerted so as to prevent occurrence of such cases. He opined that computerization was the ultimate remedy to check occurrence of such cases.

20. The Committee are dismayed to note that such a patent irregularity went undetected for a period of about four years by both the prescribed departmental mechanisms of internal audit and the scrutiny of the monthly returns (RT-12 returns) enabling the

assessee to make use of the amount of Rs. 1.17 crores incorrectly credited twice. The Committee cannot accept the mistake committed by both the functionaries simultaneously as a mere coincidence. During evidence, the representative of the Ministry of Finance (Department of Revenue) admitted that it was a human failure—intentional or otherwise. The Committee were informed that action has been initiated against the officers responsible for the lapses, which are yet to be fully completed against two such officers. The Committee desire that the proceedings should be expeditiously completed and stern action taken against the guilty. The Committee would like to be informed of the findings of the inquiry and the follow-up action taken.

21. From the information made available to the Committee it is seen that action has so far been initiated against the officers at the lower level only. The Ministry have not offered any explanation on the role of the various officers higher up in the hierarchy. The Committee are unable to understand why the Ministry have not chosen to seek explanation from the senior officers for their failure to exercise the required supervision. The Committee desire that the Ministry should initiate and take suitable action against the senior officers connected with the lapse so that the principles of accountability and responsibility are applied in true letter and spirit. The Committee would like to be informed of the action taken by the Ministry in this regard.

22. The Committee do take note of the good work done by the preventive staff in this case. In the opinion of the Committee, much of the malpractices and attempted evasions can be effectively checked by the efficient and honest observance of the prescribed departmental mechanisms. The Self Removal Procedure reposes a fair amount of trust on the manufacturers of excisable items. It is, therefore, imperative that the mechanisms of internal audit and the systems of scrutiny of the monthly assessment are effectively operated so as to ensure that the liberalisation is not misused. Unfortunately that has not been the case, as it happened in the one under examination. During evidence, the representative of the Ministry of Finance contended that the staff all over the country have now been alerted to avoid occurrence of similar irregularities. The Committee are not inclined to be unduly optimistic about the effectiveness of the alert. In their view, mere issue of instructions cannot be expected to yield the desired results. The Committee are convinced that the facts of the case including complicity of the officers, if any, should be thoroughly analysed and effective steps taken so as to check recurr-

ence of similar cases and to protect revenue, The Central Board of Excise and Customs should also direct the Collectors specifically to keep a constant watch over the performance of the internal audit and monthly scrutiny of the returns with a view to making excise surveillance more effective and checking malpractices resorted to by unscrupulous elements.

*Chargeability of interest*

23. In the case under examination, the wrong credit entry was made by the assessee in July 1983. The manufacturer made the payment of Rs. 1.17 crores in June 1987 after the irregularity was detected by the preventive staff. During evidence the Committee pointed out that the manufacturer utilised the irregular credit to their advantage at the cost of the Government for a period of four years and saved interest thereby since there are no existing provisions which enable Government to collect interest from the assessees on such delayed payments.

24. The Committee recommend that the Ministry of Finance should enact suitable provisions in the Central Excise Law so as to enable Government to collect penal interest from manufacturers of excisable commodities for such delayed payments of duty as in the case under examination and to withdraw the advantage of getting credit in respect of duty paid on raw materials/component parts etc. under Rule 56A procedure and Modvat Scheme from assessees committing offence of taking credit falsely.

*Delay in departmental adjudication*

25. A show cause notice was issued by the department on 23 July 1987 calling upon the manufacturer to state why a penalty should not be imposed on him for the contravention of the provisions of Central Excise Rules. When asked about the penalty imposed, the Ministry of Finance (Department of Revenue) in a note furnished on 14 March 1989 stated that the case was still under adjudication and the imposition of penalty, if any, will be examined by the adjudicating authority.

26. The Committee are unhappy to note that the departmental adjudicating authority has not yet passed orders on the case so far. The Committee do not find any justification over the delay in this particu-

larly when the show cause notice was issued as far back as July, 1987. The Committee desire that the proceedings be expeditiously completed particularly since the party has admitted the mistake and has already made the payment of duty. The Committee would like to be informed of the outcome.

*Position of criminal proceedings*

27. The departmental launched a criminal prosecution case against the manufacturer and eight others on 4 August 1987. In an initial note, the Ministry of Finance (Department of Revenue) stated that the last hearing was on 17 September 1988 and that the proceedings have not been finalised. When asked for the reasons for the delay in finalisation, the Ministry stated that prosecutions take considerable time dependent on various factors beyond the control of the department. On being enquired about the latest position, the Ministry in a note furnished on 14 March 1989 stated that the Chief Metropolitan Magistrate has allowed department's application for insertion of Section 9AA of the Central Excise and Salt Act, 1944 and Section 12OA of the Indian Penal Code in the complaint. However, the company has gone to Gujarat High Court and obtained a stay of further proceedings.

28. The Committee hope that the criminal prosecution case launched against the assessee and others will be vigorously pursued and brought to expeditious completion. The Committee would like to be apprised of the outcome of the case.

*Other cases against the same assessee for Central Excise Offences*

29. The Committee desired to know the details of other adjudication/criminal prosecution cases launched against the same manufacturer, if any, for violation of the provisions of the Central Excise Law during the past three years and the present status of these cases. The information furnished by the Ministry has been tabulated in the following form:

S. No.	Collectorate concerned	Particular of the case
1	Ahmedabad	Duty on waste arising from texturising of partially oriented yarn (POY) received under Rule 56-B
2	Bombay	Suppression of production & removal without payment of duty
3	Do.	Duty payable on 549 kg. of POY cleared for Laboratory test during 5/85 to 8/85.
4	Do.	Duty on POY condensation waste
5	Do.	Set off of duty on Antimony Trioxide during 10-3-83 to 30-8-84
6	Do.	Duty of POY strips from bobbings having less than 1 kg. POY.

Amount Rs.	Date of issue of show- cause notice	Date of confirma- tion of demand	Amount recovered, if any	Remarks, if any
41.87 (Lakhs)	..	1-4-87	..	..
27.23 (Crores)	..	..	..	The case is subju- dice in Bombay High Court.
46 (thousand)	4-11-85	..	..	Proceedings completed
3.42 (lakhs)	21-5-86	..	..	Do.
2.93 (lakhs)	11-7-86	..	..	Do.
1.90 (Crores)	25-8-86	..	..	Do.

30. The Committee note that six other adjudication/criminal prosecution cases involving duty of about Rs. 30 crores have been launched against the same manufacturer for violation of the provisions of the Central Excise Law during the past three years. The department is yet to recover duty in any of the said cases. The Committee desire that the cases should be earnestly followed up and action taken to realise the legitimate dues of the Government. The Committee would like to be informed of the progress made in each of the cases.

*Further cases of evasion of central excise duty*

31. Against the background of the present case the Committee attempted an evaluation of the extent of the evasion of central excise duty involving major cases. At the instance of the Committee, the Ministry of Finance (Department of Revenue) furnished a list of assessees against whom cases for evasion of central excise duty of Rs. 1 crore and above have been launched during the years 1986-87 and 1987-88. In all, the list contained 122 cases involving a total of Rs. 1,824.54 crores. An analysis of the list showed as follows:

- (i) 34 cases involving duty of Rs. 319.89 crores in which show cause notices were issued in the year 1986;
- (ii) 52 cases involving duty of Rs. 1,249.27 crores in which show cause notices were issued in the year 1987;
- (iii) 26 cases involving duty of Rs. 186.39 crores in which show cause notices were issued in the year 1988 (upto August); and
- (iv) 10 cases involving duty of Rs. 69.99 crores in which the show cause notices have either not been issued or the date of issue of such notices has not been indicated by the Ministry.

32. The Committee note that the Central Excise department have detected 122 cases of alleged evasion of duty involving Rs. 1 crore and above during the years 1986, 87 and 88 (upto August). The total amount of duty involved in all the cases together has been reported to be Rs. 1,825 crores. The Committee are aware that these cases indicate only a tip of the iceberg. Even so, the figures confirm that the attempts to defraud Government on this score are indeed widespread.

33. The Ministry of Finance have in their note merely indicated only the dates of issue of the show-cause notices in such cases. Evidently, action has not been conclusive in any of them. The position emerging therefrom is, therefore, totally unsatisfactory. It is common knowledge that while the small manufacturers are quite often subjected to avoidable harassments, the "big fish" more often than not successfully manage to go scot free. It is, therefore, the responsibility of the department to allay these apprehensions. The Committee are of the considered view that the Ministry of Finance should deal with these alleged cases of major evasion of excise duty sternly, expeditiously and with more zeal. The Committee would like to be informed of the progress made in each of the 122 cases reported to them through a six monthly report.

NEW DELHI;

21 April, 1989

1 Vaisakha, 1911 (S)

AMAL DATTA

*Chairman,*

*Public Accounts Committee.*

## APPENDIX I

### PARAGRAPH 4.58 OF THE REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA FOR THE YEAR ENDED 31 MARCH 1987, NO. 5 OF 1988, UNION GOVERNMENT (REVENUE RECEIPTS—INDIRECT TAXES)

*Union Excise Duties—Taking of irregular credit of duty of Rs. 1.17 crores on base yarn and its utilisation for payment of duty on textured yarn.*

The provisions of Rule 56A of the Central Excise Rules 1944, were extended to textured yarn with effect from 1 March 1983 by virtue of which an assessee could take credit of duty paid on base yarn received by him on or after that date and utilise the same for payment of duty on textured yarn produced from such base yarn. Subsequently the aforesaid facility was withdrawn from 16 July, 1983 through a notification dated 1 July, 1983.

A big manufacturer of textured yarn in Ahmedabad Collectorate made an unserialled credit entry of Rs. 1.17 crores in his account maintained under Rule 56A (RG 23) between 10 and 12 July 1983. This entry was not supported by any document showing payment of duty on base yarn and artificially inflated the credit balance by Rs. 1.17 crores. The assessee utilised this balance towards payment of duty on a textured yarn till 15 July 1983. The mistake was detected by the Preventive Officers of the Collectorate who visited the unit on 23 July 1987. The fact, however, remains that the irregular credit of Rs. 1.17 crores taken by the assessee could neither be detected by the department in the course of checking of monthly return of the assessee relating to July 1983 (RT 12) in the Range nor by the Internal Audit Parties visiting the factory.

A show cause notice issued on 23 July 1987 calling upon the manufacturer to state why a penalty should not be imposed on him for the contravention of the provisions of Central Excise Rules was pending adjudication (December 1987).

The case was reported to the Ministry of Finance in December, 1987.

## APPENDIX II

### *Conclusions, recommendations*

S. No.	Para No.	Ministry/Department concerned	Conclusion/Recomm endation
1	2	3	4
1	20	Ministry & Finance (Department of Revenue)	<p>The Committee are dismayed to note that such a patent irregularity went undetected for a period of about four years by both the prescribed departmental mechanisms of internal audit and the scrutiny of the monthly returns (RT-12 returns) enabling the assessee to make use of the amount of Rs. 1.17 crores incorrectly credited twice. The Committee cannot accept the mistakes committed by both the functionaries simultaneously as a mere coincidence. During evidence, the representative of the Ministry of Finance (Department of Revenue) admitted that it was a human failure—intentional or otherwise. The Committee were informed that action has been initiated against the officers responsible for the lapses, which are yet to be fully completed against two such officers. The Committee desire that the proceedings should be expeditiously completed and stern action taken against the guilty. The Committee would like to be informed of the findings of the inquiry and the follow up action taken.</p>

1	2	3	4
2	21	Ministry of Finance (Department of Revenue)	<p>From the information made available to the Committee it is seen that action has so far been initiated against the officers at the lower level only. The Ministry have not offered any explanation on the role of the various officers higher up in the hierarchy. The Committee are unable to understand why the Ministry have not chosen to seek explanation from the senior officers for their failure to exercise the required supervision. The Committee desire that the Ministry should initiate and take suitable action against the senior officers connected with the lapse so that the principles of accountability and responsibility are applied in true letter and spirit. The Committee would like to be informed of the action taken by the Ministry in this regard.</p>
3	22	-Do-	<p>The Committee do take note of the good work done by the preventive staff in this case. In the opinion of the Committee, much of the malpractices and attempted evasions can be effectively checked by the efficient and honest observance of the prescribed departmental mechanisms. The Self Removal Procedure reposes a fair amount of trust on the manufacturers of excisable items. It is, therefore, imperative that the mechanisms of internal audit and the systems of scrutiny of the monthly assessment are effectively operated so as to ensure that the liberalisation is not misused. Unfortunately that has not been the case, as it happened in the one</p>

under examination. During evidence, the representative of the Ministry of Finance contended that the staff all over the country have now been alerted to avoid occurrence of similar irregularities. The Committee are not inclined to be unduly optimistic about the effectiveness of the alert. In their view, mere issue of instructions cannot be expected to yield the desired results. The Committee are convinced that the facts of the case including complicity of the officers, if any, should be thoroughly analysed and effective steps taken so as to check recurrence of similar cases and to protect revenue. The Central Board of Excise and Customs should also direct the Collectors specifically to keep a constant watch over the performance of the internal audit and monthly scrutiny of the returns with a view to making excise surveillance more effective and checking malpractices resorted to by unscrupulous elements.

51

4 24

-Do-

The Committee recommend that the Ministry of Finance should enact suitable provisions in the Central Excise Law so as to enable Government to collect penal interest from manufacturers of excisable commodities for such delayed payments of duty as in the case under examination and to withdraw the advantage of getting credit in respect of duty paid on raw materials/component parts etc. under Rule 56A procedure and Modvat Scheme from assessees committing offence of taking credit falsely.

5 26

-Do-

The Committee are unhappy to note that the departmental adjudicating authority has not yet passed orders on the case so far. The Committee do not find any justification over the delay in this

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particularly when the show cause notice was issued as far back as July, 1987. The Committee desire that the proceedings be expeditiously completed particularly since the party has admitted the mistake and has already made the payment of duty. The Committee would like to be informed of the outcome.

6 28 Ministry of Finance  
(Department of Revenue)

The Committee hope that the criminal prosecution case launched against the assessee and others will be vigorously pursued and brought to expeditious completion. The Committee would like to be apprised of the outcome of the case.

7 30 -Do-

The Committee note that six other adjudication/criminal prosecution cases involving duty of about Rs. 30 crores have been launched against the same manufacturer for violation of the provisions of the Central Excise Law during the past three years. The department is yet to recover duty in any of the said cases. The Committee desire that the cases should be earnestly followed up and action taken to realise the legitimate dues of the Government. The Committee would like to be informed of the progress made in each of the cases.

8 32 -Do-

The Committee note that the Central Excise department have detected 122 cases of alleged evasion of duty involving Rs. 1 crore and above during the years 1986 87 and 1988 (upto August). The total amount of duty involved in all the cases together has been

reported to be Rs. 1,825 crores. The Committee are aware that these cases indicate only a tip of the iceberg. Even so, the figures confirm that the attempts to defraud Government on this score are indeed widespread.

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-Do-

The Ministry of Finance have in their note merely indicated only the dates of issue of the show-cause notices in such cases. Evidently, action has not been conclusive in any of them. The position emerging therefrom is, therefore, totally unsatisfactory. It is common knowledge that while the small manufacturers are quite often subjected to avoidable harassments, the "big fish" more often than not successfully manage to go scot free. It is, therefore, the responsibility of the department to allay these apprehensions. The Committee are of the considered view that the Ministry of Finance should deal with these alleged cases of major evasion of excise duty sternly, expeditiously and with more zeal. The Committee would like to be informed of the progress made in each of the 122 cases reported to them through a six monthly report.

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