

HUNDRED AND FORTIETH REPORT

PUBLIC ACCOUNTS COMMITTEE (1982-83)

(SEVENTH LOK SABHA)

UNION EXCISE DUTIES

**SEMI-FINISHED STEEL PRODUCTS AND BEEDI
WORKERS WELFARE CESS**

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

[Action Taken on 67th Report (Seventh Lok Sabha)]



Presented in Lok Sabha on.....
Laid in Rajya Sabha on.....

**LOK SABHA SECRETARIAT
NEW DELHI**

April, 1983/Chaitra, 1904(S)
Price : Rs. 1.85

LIST OF AUTHORISED AGENTS FOR THE SALE OF LOK SABHA SECRETARIAT PUBLICATIONS

Sl. No.	Name of Agent	Agency No.	Sl. No.	Name of Agent	Agency No.
ANDHRA PRADESH			12.	Charles Lambert & Company, 101, Mahatma Gandhi Road, Opposite Clock Tower, Fort, Bombay.	30
1.	Andhra University General Cooperative Stores Ltd., Waltair (Visakhapatnam)	8	13.	The Current Book House, Maruti Lane, Raghunath Dadaji Street, Bombay-1.	60
2.	G.R. Lakshminpathy Chetty and Sons, General Merchants and News Agents, Newpet, Chandragiri, Chittoor District.	94	14.	Deccan Book Stall, Ferguson College Road, Poona-4.	65
ASSAM			15.	M/s. Usha Book Depot, 585/A, Chira Bazar Khan House, Girgaum Road, Bombay-2 B.R.	5
3.	Western Book Depot, Pan Bazar, Gauhati.	7	MYSORE		
BIHAR			16.	M/s. Peoples Book House, Opp. Jaganmohan Palace, Mysore-1	16
4.	Amar Kitab Ghar, Post Box 78, Diagonal Road, Jamshedpur.	37	RAJASTHAN		
GUJARAT			17.	Information Centre Government of Rajasthan Tripolia, Jaipur City	11
5.	Vijay Stores, Station Road, Anand.	35	UTTAR PRADESH		
6.	The New Order Book Company Ellis Bridge, Ahmedabad-6.	63	18.	Swastik Industrial Works 59, Holi Street Meerut City	
HARYANA			19.	Law Book Company, Sardar Patel Marg, Allahabad-1	48
7.	M/s. Prabhu Book Service, Nai Subzimandi, Gurgaon, (Haryana).	14	WEST BENGAL		
MADHYA PRADESH			20.	Granthaloka, 5/1, Ambica Mookherjee Road, Belgharia, 24 Parganas	10
8.	Modern Book House, Shiv Vilas Palace, Indore City.	13	21.	W. Newman & Company Ltd. 3, Old Court House Street, Calcutta	44
MAHARASHTRA			22.	Firma K.L. Mukhopadhyay, 6/1A, Banchharam Akrur Lane, Calcutta 12	83
9.	M/s. Sunderdas Gianchand 601, Girgaum Road, Near Princess Street, Bombay-2	6	23.	M.J. Mukherji Book House, 8B, Duff Lane, Calcutta-6	4
10.	The International Book House (Private) Limited 9 Ash Lane, Mahatma Gandhi Road, Bombay-1	22			
11.	The International Book Service, Deccan Gymkhana Poona-4	26			

CORRIGENDA TO 140TH REPORT OF THE PAC
(7TH LOK SABHA)

<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
6	1.11	9	there in	therein
8	1.15	3	on	no
33	Col.3	1	M/G	M/o
33	Col.2	3	108	1.8
34	Col.4	1	dutis	duties
34	Col.4	5	case	care
35	Col.4	14	General	Central
36	Col.2	1	1.6	1.16

CONTENTS

	PAGE
COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE	(iii)
INTRODUCTION	(v)
CHAPTER I Report	1
CHAPTER II Recommendations and observations that have been accepted by Government.	9
CHAPTER III Recommendations and observations which the Committee do not desire to pursue in the light of the replies received from Government.	23
CHAPTER IV Recommendations and observations replies to which have not been accepted by the Committee and which require reiteration.	29
CHAPTER V Recommendations and observations in respect of which Government have furnished interim replies.	32
APPENDIX Conclusions and Recommendations.	33
PART II	
Minutes of the sitting of the Public Accounts Committee held on 31 March, 1983.	37

**PUBLIC ACCOUNTS COMMITTEE
(1982-83)**

CHAIRMAN

Shri Satish Agarwal

MEMBERS

LOK SABHA

2. **Shri Chitta Basu**
3. **Smt. Vidyavati Chaturvedi**
4. **Shri C. T. Dhandapani**
5. **Shri G. L. Dogra**
6. **Shri Bhiku Ram Jain**
7. **Shri K. Lakkappa**
8. **Shri Mahavir Prasad**
9. **Shri Sunil Maitra**
10. **Shri Dhanik Lal Mandal**
11. **Shri Jamilur Rahman**
12. **Shri Uttam Rathod**
13. **Shri Harish Rawat**
14. **Shri G. Narsimha Reddy**
15. **Shri Ram Singh Yadav**

RAJYA SABHA

16. **Dr. Sankata Prasad**
17. **Smt. Pratibha Singh**
18. **Shri Syed Rehmat Ali**
19. **Shri B. Satyanarayan Reddy**
20. **Shri Kalyan Roy**
21. **Shri Nirmal Chatterjee**
22. **Shri A. P. Janardhanam**

SECRETARIAT

1. **Shri T. R. Krishnamachari—*Joint Secretary***
2. **Shri K. C. Rastogi—*Chief Financial Officer***
3. **Shri K. K. Sharma—*Senior Financial Committee Officer***

INTRODUCTION

I, the Chairman of Public Accounts Committee, do present on their behalf this Hundred and Fortieth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their Sixty-Seventh Report (Seventh Lok Sabha) on Union Excise Duties relating to Semi-finished Steel Products and Beedi Workers Welfare Cess.

2. In their 67th Report, the Committee had observed that consequent upon the abolition of duty on unmanufactured tobacco w.e.f. 1 March, 1979 no alternate arrangements were made for collecting the cess leviable on unmanufactured tobacco under the Beedi Workers Welfare Cess Act, 1976 which resulted in the non-collection of revenue to the tune of about Rs. 5 crores in the years 1979-80, 1980-81 and 1981-82 (upto December, 1981) meant for the benefit of nearly 30 lakh workers employed in the Beedi industry. There has been inordinate/avoidable delay at various stages in finalising this proposal with the result that the amendment could be made effective only from 1 January, 1982. It has been stated by the Ministry of Labour in their reply that a decision was to be taken for imposing a fresh levy on beedi and this was under the consideration of the Government. The Committee have deprecated the apathy of the Government and the leisurely manner in which they have proceeded to amend such a vital legislation meant for the welfare of a vulnerable section of society and have desired that a suitable procedure should be evolved for expeditious disposal of such cases in future so as to obviate recurrence of delays of this type.

3. Commenting upon the practice of issuing frequent amendments to various notifications which lead to lot of confusion and misunderstanding both to field formations and the assesseees, the Committee had recommended that a revised notification in its full form should be re-issued instead of piecemeal amendments in short form. Government have informed the Committee that it may not be expedient to issue fresh notification invariably in all cases but have agreed to issue fresh notifications in cases where original notification is very old and several amendments have already been made therein or where the amendment sought to be made is very substantial. Besides, they have also taken a decision to add an explanatory note to each amending notification to bring out the effect of the notification.

4. In pursuance of the Committee's recommendations in the 67th Report, the Ministry of Finance as well as the Ministry of Law have

(vi)

issued necessary instructions to all the concerned officers and field formations enjoining upon them to exercise extreme care and scrutinise critically all exemption notifications to avoid any ambiguity or chances of misinterpretation. The Committee have emphasised the need for a system of regular feed-back from the Collectors to remove the lacunae, if any, found in actual implementation.

5. The Committee considered and adopted this Report at their sitting held on 31 March, 1983. Minutes of the sitting form Part II of the Report.

6. For facility of reference and convenience, the recommendations and observations 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 the Appendix to the Report.

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

NEW DELHI;
April 5, 1983
Chaitra 15, 1905 (S)

SATISH AGARWAL
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

1.1 This Report of the Committee deals with the action taken by Government on the Committee's recommendations and observations contained in their Sixty-Seventh Report (Seventh Lok Sabha) on Paragraphs 2.12 and 2.41 of the Report of the Comptroller and Auditor General of India for the year 1979-80, Union Government (Civil) Revenue Receipts, Volume I, Indirect Taxes relating to Semi-finished Steel Products and Beedi Workers Welfare Cess respectively.

1.2 The Sixty-Seventh Report, which was presented to Lok Sabha on 24 December, 1981, contained 22 recommendations. Action taken notes in respect of all the recommendations/observations have been received from Government. These have been categorised as follows:—

- (i) Recommendations and observations that have been accepted by Government.

S. Nos. 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19 and 22.

- (ii) Recommendations and observations which the Committee do not desire to pursue in the light of the replies received from Government.

S. Nos. 1, 2, 3, 4, 5 and 20.

- (iii) Recommendations and observations replies to which have not been accepted by the Committee and require reiteration.

S. No. 21.

- (iv) Recommendations and observations in respect of which Government have furnished interim replies.

S. Nos. 17 & 18.

Delay in submission of action taken notes

1.3 With regard to the Committee's recommendations at Serial Nos. 17 and 18 (Paras 1.51 and 1.52), the Ministry have stated (18 March, 1983):—

"The matter is still under consideration."

1.4 The 67th Report of the Public Accounts Committee was presented to the House on 24 December, 1981. The Committee find that the Ministry of Finance have, even after a lapse of as many as 14 months,

failed to furnish final replies to two recommendations (S. Nos. 17 and 18). The Committee expect that the Ministry would endeavour, in future to furnish the action taken notes within the stipulated period of six months.

The Committee will now deal with action taken by Government on some of their recommendations.

Drafting and scrutiny of notifications

(S. Nos. 6 & 7—*Paras* 1.23 & 1.24)

1.5 Commenting on the lack of care in the drafting and scrutiny of notifications for duty exemption from Central Excise duties, the Committee in paras 1.23 and 1.24 of their 67th Report observed:—

“1.23 The present case brings into focus the weaknesses in the system existing in the Ministries of Finance and Law for drafting and scrutiny of notifications. Although the Ministry of Finance have tried to explain that the notifications are drafted and checked at various levels in that Ministry as well as in the Ministry of Law, the instant case clearly shows that the scrutiny is not done with adequate care. The Committee, therefore, desire that the Ministry of Finance should devise an effective system for drafting and scrutiny of notifications particularly in the case of exemption notifications which are issued under the extraordinary powers which vest in the executive for grant of exemption from the levy of duties specified and approved by Parliament.

1.24 Out of the four notifications referred to in the Audit Para under examination the Committee find that one notification, i.e. No. 235/77 dated 15-7-1977 was not free from ambiguity. Under this amending notification a set-off of duty of Rs. 330 per metric tonne was allowed on semi-finished steel products (tariff item 26AA) against the effective rates of duty of Rs. 175 per metric tone for “rails and sleeper bars” and Rs. 200 per metric tonne for “steel castings”. This notification did not make it clear whether in the case of “rails and sleeper bars” and “steel castings” the set-off would be limited to the effective rates of duty or would be allowed at the rate of Rs. 330 per metric tonne. The Committee are not satisfied with the reply of the Ministry that “since the amount of duty reduction spent out in this proviso (as amended on 15-7-77) was more than or equal to the rates of duty specified in the Table annexed to notification No. 152/77-CE the effect was to grant full duty exemption to the products in question.” Equally unsatisfactory is the reply that the reduction in duty was so specified to make it applicable to the semi/products

manufactured by integrated steel plants and mini-steel plants "as a matter of convenience." This again shows that adequate care was not exercised at various levels in the Ministry of Finance as well as the Ministry of Law in the drafting of notifications. The Committee would like these observations to be brought to the notice of all concerned so that issue of faulty or ambiguous notifications as has happened in the present case is obviated."

1.6 In their Action Taken Note dated 29 October, 1982, the Ministry of Finance (Department of Revenue) have stated:—

"In para 1.23 and 1.24 of the said report, the PAC had desired the Ministry of Finance to devise an effective system for drafting and scrutiny of notification, particularly in the case of exemption notifications, with a view to avoiding faulty and ambiguous notifications. The Board have considered the system of drafting and scrutiny of notifications and suitable instructions have been issued to the various officers in the Technical sections of the Board's office and also the field officers including Directors of Inspection, Director of Audit and Director of Publication. The Officers in the Technical Section have been impressed upon to see that necessary care is exercised at the appropriate level, before the notification is sent to the Law Ministry and after it is received back from the Law Ministry. The field officers have also been advised to subject each notification issued by the Ministry to critical scrutiny and, if any discrepancy is found, it should be brought to the notice of the Ministry so that corrective action is taken immediately. Copies of instructions to the Collectors/Directors and various Technical sections of the Board's office are enclosed. (Appendix I and II)".

1.7 The Ministry of Law, Justice & Company Affairs, Legislative Department in their Action Taken Note dated 16 December, 1982 have intimated:

"As desired the observations of the Committee contained in the above paragraphs have been brought to the notice of all concerned. Besides, suitable instructions in the matter have been issued for further guidance to all the Legislative Counsels and other concerned Officers and Sections in the Legislative Department including the Official Languages Wing vide Circular No. F. 34(2)/82-WSU dated 21st September, 1982 (Appendix III)."

1.8 The Committee had in their 67th Report (December 1981) taken a serious view of the fact that adequate care was not exercised at various

levels in the Ministry of Finance as well as the Ministry of Law in the drafting of a notification regarding set-off of duty on semi-finished steel products issued on 20 January 1979 resulting in grant of duty exemption without any valid legal sanction during the period 20 January 1979 to 8 April 1979. The Committee had desired that an effective system should be devised for drafting and scrutiny of notifications particularly in the case of exemption notifications which are issued under the extra-ordinary powers vested in the executive for grant of exemption from levy of duties specified and approved by Parliament. The Committee note that the Ministries of Finance and Law, Justice and Company Affairs (Legislative Department) have since issued necessary instructions to all the concerned officers and field formations enjoining them to exercise extreme care and scrutinise critically all exemption notifications to avoid any ambiguity or chances of misinterpretation. The Committee would like to emphasise that while it is essential for both the Ministries to exercise extreme care at the time of drafting and vetting of such notifications, it is equally necessary that a system of regular feedback from the Collectorates is encouraged so that the lacunae, if any, still found in actual implementation, could be quickly removed. The Committee, therefore, desire that this aspect of administration of the Excise Act should be constantly watched at the Board level.

Frequent amendments to various notifications

(S. No. 8—Para 1.25)

1.9 Commenting upon the practice of issuing frequent amendments to various notifications, the Committee had in para 1.25 recommended as follows:—

“It was brought to notice in the course of discussions held with the Customs and Central Excise authorities during study tours of the Committee that frequent amendments to the various notifications lead to lot of confusion and misunderstanding both to the field formations and the assesseees. It was suggested that it would be in the interest of both if a revised notification in its full form is re-issued instead of piece-meal amendments in short form. The Committee express their agreement with this approach and desire that this course may hereafter be adopted so as to avoid confusion and ambiguity.”

1.10 In their Action Taken Note dated 9-7-1982, the Ministry of Finance (Department of Revenue) have stated:—

“Government have given considerable thought to the recommendation that when a notification has to be amended, a revised notification in its full form should be issued instead of making “piecemeal amendments”.

Government feel that it is not always necessary, or even advisable to issue revised notifications in their full form, whenever an amendment is to be made, without reference, to the nature of the amendment. In many cases, the original notification could be a lengthy one, whereas the amendment may be quite simple. For example, the object of the amendment may be to modify the rate of duty previously notified; the amendment may seek to modify or replace a proviso or an entry in the schedule to a notification; or the amendment may seek to extend the validity of a notification beyond the previously notified date of validity.

In the instance cited above (which are illustrative), it would appear that there is no particular advantage to be gained by issuing the revised notification in its full form. Issuing an amendment would obviate avoidable scriptory and printing work, particularly in cases where the original notifications are lengthy and the amendment simple. Secondly, there is a possibility of errors creeping in if a lengthy notification is re-issued on every occasion when some provision in it has to be changed. Thirdly, if a lengthy notification is re-issued with some amendment, the particular amendments being made, would not get highlighted.

It may be mentioned in this context that with a view to assisting the public to understand the effect of amending notifications Government now seek to add an explanatory note to amending notifications, to bring out the effect of the amendments.

There would certainly be cases where issue of the revised notifications in their entirety would be desirable and necessary; for instance, where the original notification is very old and several amendments have already been made; or where the amendment sought to be made is very substantial. In such cases, it would obviously be more advantageous to issue a fresh notification incorporating all the amendments, including the one being notified at that point of time.

Government consider that it would be expedient and convenient to follow the above guidelines in deciding when a fresh notification should be issued and when it would be preferable to issue an amendment."

1.11 The Committee had in their earlier Report observed that since frequent amendments to the various notifications lead to lot of confusion and misunderstanding both among the field formations and the assesseees, it would be in the interest of both the parties if a revised notification in its

full form is re-issued instead of piece-meal amendments in short-form. The Ministry of Finance (Department of Revenue) have expressed the view that it would not be advisable to issue revised notification invariably in all cases at all times when amendments thereto are issued, e.g. where the notification itself is very lengthy and the amendment simply seeks to modify the rate of duty etc. Government consider that it would be expedient and convenient to follow certain guidelines in deciding when a fresh notification should be issued, i.e. where the original notification is very old and several amendments have already been made there in or where the amendment sought to be made is very substantial. Besides, with a view to assisting the public in understanding the effect of amending notification, it has been decided to add an explanatory note to the amending notification to bring out the effect of the notification. The Committee trust that these guidelines will be followed henceforth in letter and spirit.

Collection of cess under the Beedi Workers Welfare Cess Act.

(S. No. 21—Paragraph 2.24)

1.12 Commenting upon the inordinate delay in making alternate arrangements for the collection of cess under the Beedi Workers Welfare Cess Act, the Committee had in their earlier Report observed:—

“The collection of cess under the Beedi Workers Welfare Cess Act was Rs. 223.50 lakhs in 1977-78 and Rs. 225.00 lakhs in 1978-79. If timely action had been taken to amend the afore-said Act soon after the abolition of excise duty on unmanufactured tobacco with effect from 1st March, 1979, the revenue on this account during the years 1979-80, 1980-81 and 1981-82 (till date) would have been around Rs. 5 crores on the basis of figures of collection during the previous years. The in-action on the part of the Ministry of Labour in making alternative arrangements for the collection of cess meant for the benefit of nearly 30 lakh workers employed in the beedi industry in the country has thus resulted in loss of revenue to that extent. The Committee, therefore, desire that the Ministries of Labour and Finance should give full information indicating chronologically the steps taken and why a final decision on simple legislative measure could not be taken during a period of two and a half years. The Committee would also like to know at what levels the case was held up in the Ministries, for what periods, the dates on which proposals were considered by the Cabinet and the view taken, and who were the persons responsible for this delay which has resulted in considerable loss of revenue to the Government.”

1.13 In their Action Taken Note dated 29-5-1982, the Ministry of Labour have stated:—

“It is not correct to say that inaction on the part of Ministry of Labour resulted in loss of revenue. A decision was to be taken for imposing a fresh levy on beedi and this was under the consideration of the Government. The Committee has sought information with regard to the steps taken, the level at which the case was held up and the dates on which proposals were considered by the Cabinet and other details.

Final decision with regard to questions of legislation are taken by the Cabinet and the furnishing of information sought by the Committee would be prejudicial to the interests of the State and the proper functioning of public service. Hence in terms of the second proviso to Rule 270 of the Rules of Procedure Government regrettably declines to supply necessary information.

As regards the fixation of responsibility, the matter was under consideration of Government and as such no responsibility can be fixed on any individual or Department.”

1.14 The Ministry of Finance (Department of Revenue) in their Action Taken Note dated 22-10-1982 have stated:—

“A chart is enclosed indicating chronologically the steps taken in the Ministry of Finance in connection with finalisation of alternative means to collect a cess for the purposes of Beedi Workers Welfare Fund consequent on the abolition of Central Excise duty on unmanufactured tobacco.

The question of making alternative arrangements was taken up by this Ministry with the Ministry of Labour soon after the presentation of the 1979 Budget, as may be seen from the enclosed chart. Before arriving at the decision to impose a fresh levy on manufactured beedis in lieu of the erstwhile cess on unmanufactured tobacco, the Ministry of Labour had to consult the other agencies concerned in Government including the Ministry of Finance. After the said decision was taken by the Ministry of Labour they had to seek Cabinet approval for the levy and for undertaking legislation for this purpose.”

1.15. The Committee had in their 67th Report (Seventh Lok Sabha) observed that consequent on the abolition of duty on unmanufactured tobacco w.e.f. 1 March, 1979, the cess leviable on unmanufactured tobacco under the Beedi Workers Welfare Cess Act, 1976 could not be collected by the Central Excise Department after that date. At the time-

of abolition of the said duty in the Budget for 1979-80, it was specifically provided that alternative arrangements would be made for the collection of cess leviable under the aforesaid Act. However, on such arrangements were made until the date of presentation of the Report in December, 1981 resulting in non-collection of revenue to the tune of about Rs. 5 crores in the years 1979-80, 1980-81, 1981-82 (upto December, 1981) meant for the benefit of nearly 30 lakh workers employed in the beedi industry. It has been stated by the Ministry of Labour in their reply that a decision was to be taken for imposing a fresh levy on beedi and this was under the consideration of Government.

The Committee are not satisfied with the reply of Government. There is apparently no reason why it should have taken three years for Government to take a decision in the matter particularly when substantial revenue loss was involved.

1.16 From the chart furnished by the Ministry of Finance (Department of Revenue) indicating chronologically the steps taken to make alternative arrangements for the collection of cess, the Committee find that there has been inordinate/avoidable delay at various stages. The Ministry of Labour took about 10 months to forward to the Ministry of Finance its proposals for making provision in the Finance Bill (No. 2) 1980 after it had received the concurrence of the Ministry of Finance in this regard on 22 June, 1979. It took another year and a quarter for the Ministry of Labour to forward the draft Bill to the Ministry of Finance after the latter had communicated its decision not to link up the proposal for levy of the cess with the Finance Bill, 1980. As a result of these delays, the amendment could be made effective only from 1 January, 1982. The Committee cannot help deprecate the apathy of the Government and the leisurely manner in which they have proceeded to amend such a vital legislation meant for the welfare of a vulnerable section of the society. They desire that a suitable procedure should be evolved for expeditious disposal of such cases in future so as to obviate recurrence of delays of the type that have occurred in the instant case.

CHAPTER-II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

1.23. The present case brings into focus the weaknesses in the system existing in the Ministries of Finance and Law for drafting and scrutiny of notifications. Although the Ministry of Finance have tried to explain that the notifications are drafted and checked at various levels in that Ministry as well as in the Ministry of Law, the instant case clearly shows that the scrutiny is not done with adequate care. The Committee therefore, desire that the Ministry of Finance should devise an effective system for drafting and scrutiny of notifications particularly in the case of exemption notifications which are issued under the extraordinary powers which vest in the executive for grant of exemption from the levy of duties specified and approved by Parliament.

1.24 Out of the four notifications referred to in the Audit para under examination the Committee find that one notification, i.e. No. 235/77 dated 15-7-77 was not free from ambiguity. Under this amending notification a set-off of duty of Rs. 330/- per metric tonne was allowed on semi-finished steel products (tariff item 26AA) against the effective rates of duty of Rs. 175 per metric tonne for "rails and sleeper bars" and Rs. 200 per metric tonne for "steel castings". This notification did not make it clear whether in the case of "rails and sleeper bars" and "steel castings" the set-off would be limited to the effective rates of duty or would be allowed at the rate of Rs. 330 per metric tonne. The Committee are not satisfied with the reply of the Ministry that "since the amount of duty reduction spelt out in this proviso (as amended on 15-7-77) was more than or equal to the rates of duty specified in the Table annexed to notification No. 152/77-CE the effect was to grant full duty exemption to the products in question." Equally unsatisfactory is the reply that the reduction in duty was so specified to make it applicable to the semi/products manufactured by integrated steel plants and mini steel plants "as a matter of convenience". This again shows that adequate care was not exercised at various levels in the Ministry of Finance as well as the Ministry of Law in the drafting of notifications. The Committee would like these observations to be brought to the notice of all concerned so that issue of faulty or ambiguous notifications as has happened in the present case is obviated.

**[S. Nos. 6 & 7 of Appendix XI—Paras 1.23 & 1.24 of 67th Report of
PAC (7th Lok Sabha).]**

Action Taken

In para 1.23 and 1.24 of the said report, the PAC had desired the Ministry of Finance to devise an effective system for drafting and scrutiny of notification, particularly in the case of exemption notifications, with a view to avoiding faulty and ambiguous notifications. The Board have considered the system of drafting and scrutiny of notifications and suitable instructions have been issued to the various officers in the Technical sections of the Board's office and also the field officers including Directors of Inspection, Director of Audit and Director of Publication. The Officers in the Technical sections have been impressed upon to see that necessary care is exercised at the appropriate level before the notification is sent to the Law Ministry and after it is received back from the Law Ministry. The field officers have also been advised to subject each notification issued by the Ministry to critical scrutiny and, if any discrepancy is found, it should be brought to the notice of the Ministry so that corrective action is taken immediately. Copies of instructions to the Collectors/Directors and various technical sections of the Board's office are enclosed. (Annexure, A and B).

[Min. of Finance (Deptt. of Revenue) O.M. No. 234/IA/82-CX7
Dated 29-10-82)]

ANNEXURE A

A. K. BANDYOPADHYAY
MEMBER (CX)

D.O. F. No. 139/5/82-CX-4

GOVERNMENT OF INDIA
Ministry of Finance
(Department of Revenue)

New Delhi, the 11th August, 1982

My dear

In my different letter to you I have been emphasising the need for feedback of information so that appropriate action can be taken by us before hand. Nevertheless, it has generally been seen that the Collectors have not been supplying the feedback information to the Ministry/Board on the various instructions/notifications issued by the Ministry/Board. This is particularly so in the case of notifications which grant exemption of concessional rate of duty. The PAC has also noticed in the case of one notification that none of the Collectors had pointed out to the Board the omission or discrepancy in the notification. It is emphasised that each and every notification/instruction issued by the Ministry/Board should be critically examined by the Collectors/Directors with a view to ensuring that there is no mistake, omission or discrepancy in the notification. I, would, therefore, like you to examine all notifications/instructions issued by the Board critically and if any mistake, omission or discrepancy is found it should immediately be brought to the notice of the Board so that corrective action, if any could be taken in time. I am confident, you will realise the importance of the matter and evolve a machinery in your charge for such scrutiny.

Please acknowledge receipt of the letter.

Yours sincerely,

Sd/- A. K. Bandyopadhyay

Shri

Collector of Central Excise

Shri

Director of Audit (Cus. & C.E.)

Shri

Director of Inspection (Cus. & C.E.)

Shri

Director of Publication (Cus. & C.E.)

ANNEXURE B

F. No. 139/5/82-CX-4

GOVERNMENT OF INDIA

Ministry of Finance

(Department of Revenue)

New Delhi, the 11th August, 1982.

OFFICE MEMORANDUM

The PAC in their 67th Report (1981-82) had occasion to observe that the present system of drafting and checking the notifications bring into focus the weaknesses in the system existing in the Ministries of Finance and Law for drafting and scrutiny of notifications. The Committee had also desired the Ministry of Finance to devise an effective system for drafting and scrutiny of the notifications, particularly in the case of exemption notifications which are issued under the extra-ordinary powers vesting in the executive for grant of exemption from levy of duties specified and approved by Parliament. The system of drafting and scrutiny of notifications has since been reviewed with a view to ensuring that the notifications truly reflect the intentions behind them. All concerned are, therefore, requested to follow the following procedure laid down, apart from other precautions already being taken:—

- (1) The notifications should normally be seen at the level of Deputy Secretary before it is sent to Law Ministry for vetting.
- (2) Even where notifications have to be issued as a matter of urgency, every care should be taken in drafting the notification and the related papers to avoid any possibility of error.
- (3) After receiving the notification from the Law Ministry, particularly where the draft has undergone amendment in the process of vetting, it may be fully checked again by the officer over whose signature the notification is issued before being sent for publication.

Sd/- J. R. Nebhoria

Under Secretary to Govt of India.

To,

All Dy, Secretaries, Under Secretaries,
Section Officers in technical sections of the Board's Office.

Recommendation

It was brought to notice in the course of discussions held with the Customs and Central Excise authorities during study tours of the Committee that frequent amendments to the various notifications lead to lot of confusion and misunderstanding both to the field formations and the assesseees. It was suggested that it would be in the interest of both if a revised notification in its full form is re-issued instead of piecemeal amendments in short form. The Committee expresses their agreement with this approach and desire that this course may hereafter be adopted so as to avoid confusion and ambiguity.

[S. No. 8 of Appendix XI—Para 1.25 of 67th Report of PAC
(7th Lok Sabha)].

Action Taken

Government have given considerable thought to the recommendation that when a notification has to be amended, a revised notification in its full form should be issued instead of making "piecemeal amendments".

2. Government feel that it is not always necessary or even advisable to issue revised notifications in their full form whenever an amendment is to be made, without reference, to the nature of the amendment. In many cases, the original notification could be a lengthy one, whereas the amendment may be quite simple. For example, the object of the amendment may be to modify the rate of duty previously notified; the amendment may seek to modify or replace a proviso or an entry in the schedule to a notification; or the amendment may seek to extend the validity of a notification beyond the previously notified date of validity.

In the instance cited above (which are illustrative), it would appear that there is no particular advantage to be gained by issuing the revised notification in its full form. Issuing an amendment would obviate avoidable scriptory and printing work, particularly in cases where the original notifications are lengthy and the amendment simple. Secondly, there is a possibility of errors creeping in if a lengthy notification is re-issued on every occasion when some provision in it has to be changed. Thirdly, if a lengthy notification is re-issued with some amendment, the particular amendments being made, would not get highlighted.

It may be mentioned in this context that with a view to assisting the public to understand the effect of amending notifications Government now seek to add an explanatory note to amending notifications, to bring out the effect of the amendments.

There would certainly be cases where issue of the revised notifications in their entirety would be desirable and necessary; for instance,

where the original notification is very old and several amendments have already been made; or where the amendment sought to be made is very substantial. In such cases, it would obviously be more advantageous to issue a fresh notification incorporating all the amendments, including the one being notified at that point of time.

5. Government consider that it would be expedient and convenient to follow the above guidelines in deciding when a fresh notification should be issued and when it would be preferable to issue an amendment.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 234/1A/82-CX7
dated 9-7-82]

Recommendation

1.39. As early as in 1946, on the recommendation of the Public Accounts Committee, the Government had vide their O.M. dated 26-4-46 prescribed a time limit of six weeks for the Departments to send replies to Audit in respect of the draft paragraphs proposed for inclusion in the Reports of the Comptroller and Auditor General of India which are laid before Parliament every year. The instructions contained in the O.M. dated 26-4-1946 were reiterated in a Ministry of Finance (Department of Expenditure) O.M. dated 3-6-1960. In spite of these instructions, the Ministry of Finance (Deptt. of Revenue) erroneously informed the Committee that "No time limit appears to have been prescribed by the Government." The Chairman, Central Board of Excise and Customs and Member (Excise), however, conceded during evidence that "in the replies that we had sent to the Committee earlier we were not aware of these instructions issued by the Ministry of Finance which is rather an omission on our part". and that "It is very unfortunate that when this reply was sent by our office, the person concerned completely lost sight of the instructions issued by the Finance Ministry, which prescribed a time-limit of six weeks."

1.40. The Committee must express their displeasure over the fact that the officers of the Central Board of Excise and Customs at the time of sending reply to the Committee, were unaware of the aforesaid instructions issued by the Ministry of Finance itself and this resulted in supply of totally incorrect information to the Committee. The conclusion is inevitable that adequate care is not being exercised by the officers at various levels in the Ministry of Finance in scrutinising the replies before submission to the Committee. The Committee would like suitable instructions to be issued to all concerned emphasising upon them the need for exercising utmost care while furnishing information to the Committee.

1.41. The Committee find that out of 285 draft Audit paras relating to the Central Excise Department which had been sent to the Ministry of Finance between 17-5-1980 and 1-10-1980 and were proposed for inclusion in the Audit Report for 1979-80, reply to only one para was supplied within the prescribed time-limit of six weeks. Replies to as many as 68 paras were sent after more than six months and replies to 92 paras had not been sent at all till 24-10-1981 i.e. the date on which officials of the Ministry appeared before the Committee to give evidence. This reflects badly on the functioning of the Ministry.

1.42. The Committee have considered at some length the submissions made by the Chairman, CBE&C, and the Member (Excise) while explaining the reasons for such delays. It was stated that in most of the cases information was required to be collected from more than one Collectorate who in turn had to get detailed particulars from their field offices. The statement containing the particulars for 33 cases furnished to the Committee indicates that the replies from the Collectorate were in most cases received by the Board between 2 to 4 months. In this connection the Committee would like to point out that draft Audit paras do not emerge suddenly but are based on the information gathered during test audit and therefore all the papers and correspondence are readily available with the Collectorates or their field offices. There is therefore, no reason why report regarding facts mentioned in the draft paras cannot be sent to the Board immediately after the receipt of draft paras. It is obvious that adequate importance is not given by the Collectorates for expediting replies to draft paras referred to them. The Committee desire that the Board should while sending the draft paras to the Collectorates give a definite date by which replies should be received by the Board and it should be the responsibility of the Collector concerned to ensure that the requisite information is actually collected and furnished to the Board by the due date.

1.43. The particulars of 33 cases furnished to the Committee also indicate that on receipt of information from the Collectorates the time taken in processing the cases in the Board's office and in sending replies to Audit generally varies between 3 to 6 months and even more in some cases. It is therefore, clear that considerable delays take place in the office of the Board itself in processing the cases. The Committee do not consider such delays as unavoidable. What is evident is that some neglect has been shown by the officers responsible for processing the cases. The Committee recommend that there should be a proper management and monitoring system in the Department so that delays occurring in the office of the Board as also in the Collectorates are eliminated.

1.44. A submission was made before the Committee that sometimes on receipt of replies from the Collectorates, it became necessary to call for expert technical opinion and in certain cases involving legal issues the opinion of the Ministry of Law was called for. From a perusal of the statement of 33 cases furnished to the Committee it is seen that technical opinion was called for in two cases and legal opinion in one case only. In such cases, if the required technical or legal opinion was not received within the prescribed time limit, the proper course would have been to inform the Audit of this fact instead of withholding the reply. The Committee desire that suitable instructions should be issued in this regard.

1.45. At present the draft Audit paras are invariably sent by the Board to the Collector or Collector concerned for furnished the required information. There is usually some correspondence between the Collectorates and the Audit offices before any draft para is finalised by the Comptroller and Auditor General of India for inclusion in the Audit Report but such correspondence is not passed on to the Board. As a result, it may not often be possible for the Board to reply to Audit without first collecting the relevant information from the Collectorates. The Committee would suggest that a system should be evolved requiring the Collectorates to furnish copies of correspondence with the Audit offices to the Board concurrently. When a draft para is received, it should be possible for the Board to finalise its reply as far as possible on the basis of such correspondence and reference to the Collectorates should be necessary only in unavoidable cases. It should also be possible to reduce inter-departmental references within the Board's office or references to the Collectorates in cases where the issues could be conveniently sorted out during periodical meetings between the Members of the Board and the Collectors.

1.46. The Reports of the Comptroller and Auditor General of India are laid before Parliament during Budget Session every year. These Reports are therefore finalised by the Office of the C&AG and got printed according to a prescribed time schedule. The Chairman of the Central Board of Excise and Customs stated during evidence before the Committee that the prescribed time limit of six weeks for sending replies to draft Audit paras is not enough. In this connection, the Committee would like to point out that the office of the C&AG takes into account the replies received from the Board even in there are marginal delays. However, there can be no justification for inordinate delays as have been brought out in the foregoing paragraphs and it is in the interest of the Central Excise Department itself to ensure that replies are

sent in time and the Department's views as also verified facts are invariably incorporated in the Audit Report before it is finalised for presentation to Parliament and for consideration by the Committee there-

[S. No. 9 to 16 of (Appendix XI) Paras 1.39 to 1.44 and 1.46 of 67th Report of PAC (7th Lok Sabha)].

Action Taken

With reference to the aforesaid recommendations/observations, it may be stated that action to send the replies to the DAPs expeditiously has already been taken. The DAPs are taken up for discussions at the Tariff Conferences some of which were attended by the representatives of the C&AG's office. As far as possible references to other sections are avoided. In so far as it becomes necessary to obtain opinion of the technical experts or of the Ministry of Law, in such cases Audit is suitably informed and reply is not with-held. While furnishing the DAPs to the concerned Collectors, they are asked to submit their replies by due date so fixed. Indeed as a result of all these steps, it has been possible to furnish replies to nearly all the DAPs featured in the Audit Report for the year 1980-81 of the C&AG of India on the Central Excise side.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 234/1A/82-CX7 dated 24-6-82]

Recommendation

Prior to 1st March, 1979 cess leviable on unmanufactured tobacco under the Beedi Workers Welfare Cess Act, 1976 was being collected by the Customs and Central Excise Department with effect from 1st March 1979, Central Excise Duty on such tobacco was abolished and according to the budget instructions, alternative arrangement was to be made for the collection of cess leviable under the aforesaid Act. As would be seen from the foregoing Act. As would be seen from the foregoing paragraph, there has been inordinate delay by Government in making alternative arrangements for collection of this cess, so such so that no arrangement have been made so far.

[S. No. 19 of Appendix XI Para 19 of 67th Report of PAC (7th Lok Sabha)]

Action Taken

In so far as Ministry of Finance is concerned, the matter is under active consideration and a reply will follow shortly.

[M. of Finance (Deptt. of Revenue) O.M. F. No. 234/1/82-CX-7 dated 24-6-82].

Action Taken

The Beedi Workers Welfare Cess Amendment Act, 1981 has since been enacted and a cess has been levied on manufactured beedis at 10 paise per thousand beedis with effect from 1st January, 1982. Copies of the Act and Notifications (Annexures I & II) issued thereunder are enclosed. The alternative arrangement as envisaged in the Act and Notification has to undergo the process of decision making in the Government.

[Ministry of Labour O.M. No. FS-23011/1/79-MV. Dated 29-5-82]

ANNEXURE I

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 16th December, 1981|Agrahayana 25, 1903 (Saka)

The following Act of Parliament received the assent of the President on the 15th December, 1981, and is hereby published for general information:—

**THE BEEDI WORKERS WELFARE CESS (AMENDMENT) ACT,
1981**

No. 47 of 1981

(15th December, 1981)

An Act to amend the Beedi Workers Welfare Cess Act, 1976

BE it enacted by Parliament in the Thirty-second Year of the Republic of India as follows:—

1. **Short title and commencement**—(1) This Act may be called the Beedi Workers Welfare Cess (Amendment) Act, 1981.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. **Amendment of long title**.—In the Beedi Workers Welfare Cess Act, 1976 (56 of 1976) (hereinafter referred to as the principal Act), in the long title, for the words “tobacco issued for the manufacture of beedi”, the words “manufactured beedis” shall be substituted.

3. **Amendment of section 2**.—In section 2 of the principal Act, after clause (b), the following clause shall be inserted, namely:—

“(c) words and expressions used but not defined in this Act and defined in the Central Excises and Salt Act, 1944 (1 of 1944), shall have the meanings respectively assigned to them in that Act.”

4. **Substitution of new section for Section 3**.—For section 3 of the principal Act, the following section shall be substituted, namely:—

“3. *Levy and collection of cess on manufactured beedis*.—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied

and collected by way of cess for the purpose of the Beedi Workers Welfare Fund Act, 1976 (62 of 1976), a duty of excise on manufactured beedis at such rate which shall not be less than ten paise or more than fifty paise per thousand manufactured beedis, as the Central Government, may, from time to time, fix by notification in the Official Gazette.

- (2) The duty of excise levied under sub-section (1) shall be in addition to any cess or duty leviable on manufactured beedis (whether spelt as such or as biris or in any other manner) under any law for the time being in force”.

5. Insertion of new section 3A.—After section 3 of the principal Act, the following section shall be inserted, namely:—

“3A. *Application of Act 1 of 1944 to cess.*—The provisions of the Central Excise and Salt Act, 1944 or the rules thereunder, including those relating to refunds and exemption from duty, as in force from time to time, shall, so far as may be, apply in relation to the levy, collection and refund of, or exemption from, cess under this Act, as they apply in relation to the levy, collection and refund of, or exemption from, duties of excise in respect of manufactured biris under that Act”.

6. Amendment of Section 7.—In section 7 of the principal Act, in sub-section (2), clause (a) shall be omitted.

R. V. S. PERI SASTRI
Secy. to the Govt. of India.

ANNEXURE II
MINISTRY OF LABOUR
NOTIFICATIONS

New Delhi, the 19th December, 1981

G.S.R. 669(E).—In exercise of the powers conferred by section 3A of the Beedi Workers Cess Act, 1976 (56 of 1976) the Central Government hereby exempts, from the levy and collection of cess under section 3 of the said Act, manufactured beedis which are wholly exempt from the duty of excise leviable thereon under the Central Excises and Salt Act, 1944 (1 of 1944), vide notification of the Government of India in the Ministry of Finance No. 83/80-CE dated 19th June, 1980 published at page 611 of the Gazette of India, Extraordinary GSR 330(E), dated 19th June, 1980 in Part II-Sec. 3—Sub-section (i).

(No. S-23011|1|79-M.V.)

G.S.R. 670(E).—In exercise of the powers conferred by sub-section (1) of section 3 of the Beedi Workers Welfare Cess Act, 1976 (56 of 1976), the Central Government hereby fixes the rate of 10 paise per thousand of manufactured beedis, as the rate at which the duty of excise shall be levied and collected by way of cess for the purposes of the Beedi Workers Welfare Fund Act, 1976 (62 of 1976) with effect from 1st January, 1982.

(No. S-23011|1|79-M.V.)

G.S.R. 671(E).—In exercise of the powers conferred by sub-section (1) of section 1 of the Beedi Workers Welfare Cess (Amendment) Act, 1981 (47 of 1981), the Central Government hereby appoints the 1st day of January, 1982 as the date on which the said Act shall come into force.

(No. S-23011|1|79-M.V.)

R. K. A. SUBRAHMANYA, Addl. Secy.

Recommendation

In this connection it is seen that in April, 1980, the Comptroller and Auditor General of India had asked the Ministry of Finance to intimate whether any alternative arrangements had been made for the collection of cess after the abolition of excise duty on unmanufactured tobacco with effect from 1 March, 1979. No reply was sent to Audit for over one

year and it was only in May, 1981 i.e. after the Audit Report for 1979-80 was laid before Parliament that the Ministry of Finance replied to Audit that the Ministry of Labour was examining the possibility of collection of cess through alternative means. The Committee fail to understand why the Ministry of Finance dealt with the audit enquiry of April, 1980 in such a casual manner. The Committee would like the Ministry to evolve a system so as to ensure that audit enquiries are replied to promptly.

[S.O. 22 of Appendix XI—Para 2.25 of 67th Report of PAC (7th L.S.)]

Action Taken

A procedure by which audit queries are replied to promptly is being evolved and will be shown to the audit before the same is finalised.

[M. of Finance (Deptt. of Revenue) O.M. F. No. 234/1/82|CX7
dt. 24-6-82].

CHAPTER III

RECOMMENDATIONS AND OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN THE LIGHT OF THE REPLIES RECEIVED FROM GOVERNMENT

Recommendation

1.18 Under notification No. 152/77-CE dated 18-6-1977 certain iron or steel products falling under tariff item 26AA of the Central Excise Tariff were allowed duty exemption at the prescribed rate. Under the fourth proviso to this notification, a further duty exemption was allowed to certain specified products manufactured with the aid of electric furnace. The fourth proviso was amended by another notification No. 235/77 dated 15-7-1977 which had the effect of giving full duty exemption to those products. By another notification No. 15/79 dated 20-1-1979, one more category of raw materials was added to the fourth proviso but the substantive part of the notification regarding rate of exemption from duty was omitted. Thus, legally no duty exemption was permissible with effect from 20-1-1979.

1.22. The Committee have been informed that 58 units in 20 Collectorates availed of duty exemptions amounting to Rs. 4.11 crores although in the eye of law the notification dated 20 January, 1979 did not confer any duty exemption. Although all the Collectorates were aware of the notification dated 20-1-1979 it is surprising that no Collectorate disallowed the duty exemption or cared to draw the attention of the Board at any point of time to the missing operative part of the notification at any time between 20-1-1979 and 8-4-1979 during which period duty exemption was allowed although there was no legal sanction for it. The Committee must point out that there was a failure on the part of the Collectors also who allowed duty exemption without noticing the actual provisions of the notification.

[S. Nos. 1 & 5 of Appendix XI—Para 1.18 & 1.22 of 67th Report of P.A.C. (7th L.S.)].

Action Taken

Vide Ministry's letter F.No. 139/2/78-CX. 4 dated 19-2-1979 (Appendix VI of the Report) the implications of notification No. 15/79-CE and 16/79-CE both dated 20-1-79 were explained to the Collectors. In para 3 of the aforesaid letter, it has been explained that notifications No. 237/75

dated 9-12-75, 148/77-CE, 149/77-CE, 152/77-CE and 153/77-CE all dated 18-6-77 have been amended vide notification No. 15/79-CE dated 20-1-79 in order to extend the duty concession thereunder in respect of steel ingots and iron and steel products mentioned in the respective notifications and manufactured from skull scrap and cunners and risers arising in the course of manufacture of steel ingots with aid of electric furnace in combination with the other materials already specified in the said notifications. It appears that the Collectors were guided by the above instructions while allowing exemption in respect of steel ingots and iron and steel products specified in the above notifications, although the substantive provision relating to duty exemption were missing in notification No. 15/79-CE.

[M. of Finance (Deptt. of Revenue) O.M. F. No. 234/1A/82-CX 7
dated 14-3-83]

Recommendation

1.19. When Audit pointed out this glaring omission, the Ministry of Finance did not admit the audit objection and took the plea that the substantive part of the notification appears to have been in-advertently omitted while substituting the fourth proviso by notification No. 15/79 dated 20-1-1979, and since otherwise the substituted proviso will have no meaning and will become redundant, it has to be harmoniously construed in the light of the intention of the Government. In the opinion of the Committee, the arguments given by the Ministry do not hold good as in such matters one has to go by the wording used in the notification. As per judgements given by the various courts in interpreting a taxing statute one has to look merely at what is clearly said. There is no presumption as to tax. Nothing is to be read in, nothing is to be implied. There are several cases where the licences have taken advantage of the plain meaning of the notifications and the Courts have given pronounced judgements in their favour overlooking the intentions of the Government.

1.20. The representative of the Ministry of Law admitted during evidence before the Committee that "If you go on by the literal interpretation then the proviso has no meaning; it has no legal validity." Taking also into consideration the case law regarding interpretation of taxing statutes, the Committee are not persuaded with the plea now put forward by the Ministry that the intention of the Government was to give exemption or that the notification dated 20-1-1979 has to be harmoniously construed in the light of the intention of the Government. In a note dated 3rd December, 1981, subsequently submitted to the Committee, the Ministry of law also referred to certain case law to the effect that the Courts have some times used Parliamentary debates as external aids to interpretation of statutes. This case law is also clear on the point that in interpreting a taxing statute the intention of the legislature has to be gathered primarily

from the language of the statute itself and no external evidence such as parliamentary debates. Reports of the Committee of the legislature, or even the statement made by the Minister on the introduction of the measure, or by the framers of the Act, is admissible to construe those words. It is only when the language used is capable of more than one meaning that external aids could be used to resolve the ambiguity; it is not for the Court to supply the language which is not there. In any event in the present case the subject of interpretation is not a statute, but a notification issued in exercise of the delegated powers of the executive, and the Ministry of Finance have not pointed out any particular contemporaneous external evidence like the Ministers, statement of parliamentary debate, which could be used to ascertain what is now stated to have been the true intention of the Government. In fact the subject proviso was totally deleted within a very short period thereafter, i.e. on 9-4-1979, formally withdrawing the concession.

[S. No. 2 & 3 of Appendix XI Para 1.19 & 1.20 of 67th Report of PAC
(7th L.S.)]

Action Taken

The intention of the Government was to allow the existing duty concession in respect of the iron and Steel products mentioned in the notifications No. 148/77-CE, 149/77-CE, 152/77-CE and 153/77-CE all dated 18-6-77, if such iron and steel products are manufactured from skull scrap and runners and risers in the course of manufacture of steel ingots with the aid of electric furnace in combination with materials mentioned in the said notifications. In the Ministry's letter F. No. 139/2/78-CX-4 dated 19th Feb., 1979, this intention of the Government has been explained.

2. The Ministry of Law was consulted and a copy of the advice received is enclosed (Annexure).

3. The matter, as suggested by the Law Ministry, has been examined with reference to the provisions of Section 11 of the Central Excises and Salt Act, 1944. From reports received from the Collectors it appears that the practice generally prevalent during the period 20-1-79 and 8-4-79 was to continue to give the benefit of the exemption and not to recover the duty on the effective statutory rate. Accordingly, having regard to the aforesaid generally prevalent practice, Government have decided to make an appropriate direction in exercise of their powers under the aforesaid section 11-C.

[M. of Finance (Deptt. of Revenue) O.M.F. No. 234/1/82/CX7
dated 14-3-83]

ANNEXURE

F. No. 139|2|78-CX-4

NOTES IN THE MINISTRY OF LAW

(Department of Legal Affairs)

Advice (B) Section

The defect in the Notification is that the proviso is incomplete. The portion which should have provided for the exemption is not there in the proviso. There has thus been an inadvertent omission. The question is as to what is the effect of this defect.

2. A literal interpretation of the proviso, as it has appeared in the notification, would be that it conveys no meaning and that it is, therefore, ambiguous.

3. Where a statutory provision has ambiguity, the court will endeavour to remove the ambiguity. In the case of the present proviso, as the operative portion relating to the exemption is missing, *prima facie*, it would be difficult for the Court to remove the ambiguity. The Courts may take the view that the purpose of the proviso is to provide for some exception or exemption as is clear from the word "provided" occurring at the beginning of the proviso. The Court may require the Government to remove the ambiguity. In the present case since the proviso has been operated upon and understood both the Department and the trade as providing for a particular type of exemption, the Court may, following the practice adopted by the Department and the trade, remove the ambiguity by holding that the proviso is intended to and has the effect of providing for a type of exemption which has actually been given by the Department and enjoyed by the trade. The court would be disinclined to uphold the Department's claim for recovering the duty on the technical basis that the proviso is incomplete. An alternative course which the court may adopt would be to draw the attention of the Government to the provisions of Section 11C of the Central Excises and Salt Act, 1944 and suggest to the Department to regularise the matter. Our conclusion, therefore, is that in the unlikely event of the proviso coming up for construction before the court, the court would endeavour to construe it in accordance with the uniform practice followed as to its scope.

Sd/- (P.K. KARTHA)

Joint Secretary & Legal Adviser

M. of Finance (Deptt. of Revenue) (CX-4 Section)

M|Law U.O.No. 25523|81-Ad. B Section dt. 15-10-1981.

Recommendation

What is most surprising is the fact that although the notification issued on 20-1-1979 did not provide for any duty exemption to the specified products, the Central Board of Excise and Customs wrote to its field offices saying that the exemption was to be allowed to those products. From the evidence on record, it is evident that the Board at no time considered the question of rectification of the omission. The Committee would therefore like the Ministry to give full information as to how the mistake occurred, when and at what levels it came to notice in the Board's office if, at all and why no action was taken to rectify the omission.

[S. No. 4 of Appendix XI Para 1.21 of 67th Report of PAC
(7th Lok Sabha)]

Action Taken

It appears that at the time of drafting of the amending notification No. 15/79 dated 20-1-79 the substantive part of the fourth proviso in notification No. 152/77-CE dated 18-6-77 was missed due to the oversight of all concerned.

2. In the wake of Government's decision on the policies of Iron and Steel Products, certain changes were made in the excise duties. In this context it was decided to withdraw the full exemption from excise duty applicable till then to steel ingots and semi-finished steel products manufactured by mini steel (electric furnace) plants. Accordingly notification No. 161/79 on 9-4-79 was issued omitting the fourth proviso in notification No. 152/77-CE dated 18th June, 1977.

3. The omission relating to the proviso in Notification No. 152/77 dated 18-6-77 was pointed out by some of the Collectors of Central Excise. The first such reference was received from Collector of Central Excise Ahmedabad in May, 1979. By that time, the proviso in question in notification No. 152/77-CE dated 18-6-1977 had already been omitted, as mentioned above.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 234/1A/82-CX-7
dated 14-3-83]

Recommendation

The Committee find that on 9 March, 1979 the Legal Adviser to the Ministry of Labour had advise that no cess as contemplated under the provisions of the Beedi Workers Welfare Cess Act, 1976 could be levied or collected with effect from 1 March, 1979 consequent on the abolition of excise duty on unmanufactured tobacco with effect from 1 March, 1979. Explaining the delay since March, 1979 in making alternative arrangements for collection of the cess, the Secretary, Ministry of Labour

stated before the Committee during evidence that the Ministry was advised to wait till the Finance Bill was enacted and later the Lok Sabha was dissolved and the Cabinet Secretariat had advised that no policy decision should be taken, pending general election. He further stated that Government was thinking whether there should be cess on beedi or grant-in-aid could be given to the Beedi Workers Welfare Fund. The reasons put forwarded by the Ministry for the delay are not satisfactory. General election to Lok Sabha was held in January, 1980. If nothing was decided till then, the Committee see no reason, why a decision could not be taken soon after the election in January, 1980. The responsibility for this delay must squarely lie on the Ministry of Labour which, in the view of the Committee, showed little concern in a matter where revenue worth crores of rupees per annum was involved. It is also evident that only after the Audit para was selected by the Committee for examination, the Ministry of Labour took steps to expedite the matter and introduce an amending Bill in Parliament in September, 1981 for levying and collection of cess on manufactured beedis.

[S. No. 20 of Appendix XI Para 2.23 of 67th Report of PAC
(7th Lok Sabha)]

Action Taken

In so far as Ministry of Finance is concerned, the matter is under active consideration and a reply will follow shortly.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 234/1/82-CX-7
dated 24-6-82].

Action Taken

Levy of the cess on beedi being a matter of policy was not left entirely to the Ministry of Labour to decide. The Ministry of Labour has initiated action to levy cess on beedi soon after it was decided to discontinue the excise duty on tobacco which made it impossible to collect the cess on tobacco under the existing legal provisions. The matter was under consideration of the Government since then. It is not correct to say that the Ministry of Labour took steps to expedite the matter only after the audit para was selected by the Committee.

[Ministry of Labour O.M. No. F.S.—23011/1/79-MV dated 29-5-82]

CHAPTER IV

RECOMMENDATIONS AND OBSERVATIONS WHICH HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

Recommendation

The collection of cess under the Beedi Workers Welfare Cess Act was Rs. 223.50 lakhs in 1977-78 and Rs. 225.00 lakhs in 1978-79. If timely action had been taken to amend the aforesaid Act soon after the abolition of excise duty on unmanufactured tobacco with effect from 1st March, 1979, the revenue on this accounts during the years 1979-80, 1980-81 and 1981-82 (till date) would have been around Rs. 5 crores, on the basis of figures of collection during the previous years. The in-action on the part of the Ministry of Labour in making alternative arrangements for the collection of cess meant for the benefit of nearly 30 lakh workers employed in the beedi industry in the country has thus resulted in loss of revenue to that extent. The Committee therefore, desires that the Ministries of Labour and Finance should give full information indicating chronologically the steps taken and why a final decision on a simple legislative measure could not be taken during a period of two and a half year. The Committee would also like to know at what levels the case was held up in the Ministries, for what periods, the dates on which proposals were considered by the Cabinet and the view taken, and who were the persons responsible for this delay which has resulted in considerable loss of revenue to the Government.

[S. No. 21 of Appendix XI—Para 2.24 of the 67th Report of PAC (7th Lok Sabha)]

Action Taken

A chart is enclosed (Annexure) indicating chronologically the steps taken in the Ministry of Finance in connection with finalisation of alternative means to collect a cess for the purposes of Beedi Workers Welfare Fund consequent on the abolition of Central Excise duty on manufactured tobacco.

The question of making alternative arrangements was taken up by this Ministry with the Ministry of Labour soon after the presentation of the 1979 Budget, as may be seen from the enclosed chart. Before arriving at the decision to impose a fresh levy on manufactured beedis in

lieu of the erstwhile cess on unmanufactured tobacco, the Ministry of labour had to consult the other agencies concerned in Government including the Ministry of Finance. After the said decision was taken by the Ministry of Labour they had to seek Cabinet approval for the levy and for undertaking legislation for this purpose.

[Ministry of Finance Deptt. of Revenue O.M. No. 234/1/82-CX7 dated 22-10-82].

Action Taken

It is not correct to say that inaction on the part of Ministry of Labour resulted in loss of revenue. A decision was to be taken for imposing a fresh levy on beedi and this was under the consideration of the Government.

The Committee has sought information with regard to the steps taken, the level at which the case was held up and the dates on which proposals were considered by the Cabinet and other details.

Final decision with regard to questions of legislation are taken by the Cabinet and the furnishing of information sought by the Committee would be prejudicial to the interests of the State and the proper functioning of public service. Hence in terms of the second proviso to Rule 270 of the Rules of Procedure, Government regrettably declines to supply necessary information. As regards the fixation of responsibility, the matter was under consideration of Government and as such no responsibility can be fixed on any individual or Department.

[Ministry of Labour O.M. No. F.S. 23011/1/79-MV dated 29-5-82].

Annexure

Chart indicating shronologically steps taken in the Ministry of Finance (Department of Revenue) for finatising alernative measures to collect a cess for the pruposes of Biri Worker's Welfare Fund.

- | | |
|-----------|--|
| 28-2-1979 | Finance Bill, 1979 was introduced in the Lok Sabha. Unmanufactured tobacco was exempted from the levy of excise duty with effect from 1-3-1979. |
| 28-2-1979 | Ministry of Labour were infomed of the decision of Government to exempt unmanufactured tobacco and requested to make alternative arrangements for the levy and collection of a cess or a suitable alternative for the welfare of biri workers. |
| 3-3-1979 | A meeting was held under the Chairmanship of Minister of state for Labour & Parliamentary Affairs to discuss the implications of the Budget proposals on the welfare set up for biri workers. |
| 2-4-1979 | A draft note for the Cabinet regarding alternative arrangements for financing the welfare fund for biri workers was received from the Ministry of Labour. |
| 18-4-79 | Ministry of Labour were requested to defer the proposals contained in the draft cabinet note till the enactment of the Finance Bill, 1979. |
| 1-6-1979 | Concurrence of the Ministry of Finance to the draft Cabinet note was conveyed to the Ministry of Labour. |
| 8-6-1979 | A revised draft Cabinet note was received from Ministry of Labour for concurrence by the Ministry of Finance. |
| 22-6-1979 | Concurrence of the Ministry of Finance to the revised draft Cabinet note was conveyed to the Ministry of Labour. |
| 3-4-1980 | A meeting was held between the officials of the Ministry of Finance and Ministry of Labour to discuss allocation of funds for the Biri Workers Welfare Fund. |
| 24-4-1980 | A proposal was received from Ministry of Labour to make a provision in the Finance Bill (No. 2) 1980 to enable collection of cess for financing the Biri Worker's Welfare Fund. |
| 15-5-1980 | It was decided in the Ministry of Finance not to link up the proposals for a levy of a cess for the Biri Worker's Welfare fund with the Finance Bill (2), 1980. This decision was communicated to the Ministry of Labour in June, 1980. |
| 5-9-1981 | Draft bill for amending the Biri Workers Welfare Cess Act, 1976 was received from Ministry of Labour for concurrence. |
| 11-9-1981 | Comments of the Department of Revenue on the draft Bill were sent to the Ministry of Labour. |

CHAPTER V

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES.

Recommendation

1.51. As per instructions issued by the Ministry of Finance (Department of Revenue and Expenditure) in a letter dated 6-1-1955, files required by Audit Officers are to be readily made available to them and "secret" or "top secret" files should be sent personally to the Accountant General or the head of the Audit Office who would then deal with it in accordance with the standing instructions for the handling and custody of such documents. These instructions were reiterated in a letter dated 23-9-1978 issued by the Ministry of Finance (Department of Economic Affairs).

1.52. Budget files are as per practice treated as secret till the time of presentation of the budget but whether such files continue to remain "secret" even after the presentation of budget is a matter which needs to be reviewed. The Chairman, Central Board of Excise and Customs seemed to suggest during evidence that such files may contain information which continues to be secret even after the presentation of the budget. The instructions issued on 6-1-1955 as also on 23-9-78 apply to all files including "secret" and "top secret" files and do not thus exclude budget files. Therefore, after the presentation of the budget even such files cannot be withheld from Audit in cases where Audit specifically requires their production. The Committee would strongly urge upon the Ministry of Finance that these instructions should be observed in letter as well as in spirit.

[S. Nos. 17 & 18 of Appendix XI Paras 1.51 and 1.52 of 67th Report of
PAC (7th Lok Sabha)]

Action Taken

The matter is under consideration and the reply will follow later.

Further Action Taken

The matter is still under consideration.

[Ministry of Finance (Deptt. of Revenue) O.M. F. No. 234/1A/82-
CX7 dated 18-3-1983].

NEW DELHI;

April 5, 1983

Chaitra 15, 1905 (S)

SATISH AGARWAL

Chairman,

Public Accounts Committee.

Appendix

Conclusions/Recommendations

S. No.	Para No.	Ministry/Department Concerned	Conclusions/Recommendations
1	2	3	4
1.	1.4	M/G Finance (Department of Revenue)	The 67th Report of the Public Accounts Committee was presented to the House on 24 December, 1981. The Committee find that the Ministry of Finance have, even after a lapse of as many as 14 months, failed to furnish final replies to two recommendations (S. Nos. 17 and 18). The Committee expect that the Ministry would endeavour in future to furnish the action taken notes within the stipulated period of six months.
2.	108 (i)	M/G Finance (Department of Revenue, (ii) M/o Law, Justice and company Affairs Legislative Department)	The Committee had in their 67th Report (December 1981) taken a serious view of the fact that adequate care was not exercised at various levels in the Ministry of Finance as well as the Ministry of Law in the drafting of a notification regarding set off of duty on semi-finished steel products issued on 20 January 1979 resulting in grant of duty exemption without any valid legal sanction during the period 20 January 1979 to 8 April, 1979. The Committee had desired that an effective system should be devised for drafting and scrutiny of notifications particularly in the case of exemption notifications which are issued under the extraordinary powers vested in the executive for grant of exemption from levy

of duties specified and approved by Parliament. The Committee note that the Ministries of Finance and Law, Justice and Company Affairs (Legislative Department) have since issued necessary instructions to all the concerned officers and field formations enjoining them to exercise extreme care and scrutinise critically all exemption notifications to avoid any ambiguity or chances of misinterpretation. The Committee would like to emphasise that while it is essential for both the Ministries to exercise extreme care at the time of drafting and vetting of such notifications, it is equally necessary that a system of regular feedback from the Collectors is encouraged so that the lacunae, if any, still found in actual implementation, could be quickly removed. The Committee, therefore, desire that this aspect of administration of the Excise Act should be constantly watched at the Board level.

34

3. 1.11 M/o Finance (Department of Revenue)

The Committee had in their earlier Report observed that since frequent amendments to the various notifications lead to lot of confusion and misunderstanding both among the field formations and the assesseees, it would be in the interest of both the parties if a revised notification in its full form is re-issued instead of piece-meal amendments in short-form. The Ministry of Finance (Department of Revenue) have expressed the view that it would not be advisable to issue revised notification invariably in all cases at all times when amendments thereto are issued, e.g. where the notification itself is very lengthy and the amendment simply seeks to modify the rate of duty etc. Government consider that it would be ex-

pedient and convenient to follow certain guidelines in deciding when a fresh notification should be issued, i.e. where the original notification is very old and several amendments have already been made therein or where the amendment sought to be made is very substantial. Besides, with a view to assisting the public in understanding the effect of amending notification, it has been decided to add an explanatory note to the amending notification to bring out the effect of the notification. The Committee trust that these guidelines will be followed henceforth in letter and spirit.

4. 1.15 M/o Finance (Department of Revenue)

The Committee had in their 67th Report (Seventh Lok Sabha) observed that consequent on the abolition of duty on unmanufactured tobacco w.e.f. 1 March, 1979, the cess leviable on unmanufactured tobacco under the Beedi Workers Welfare Cess Act, 1976 could not be collected by the General Excise Department after that date. At the time of abolition of the said duty in the Budget for 1979-80, it was specifically provided that alternative arrangements would be made for the collection of cess leviable under the aforesaid Act. However, no such arrangements were made until the date of presentation of the Report in December, 1981 resulting in non-collection of revenue to the tune of about Rs. 5 crores in the years 1979-80, 1980-81, 1981-82 (upto December, 1981 meant for the benefit of nearly 30 lakh workers employed in the beedi industry. It has been stated by the Ministry of Labour in their reply that a decision was to be taken for imposing a fresh levy on beedi and this was under the consideration of Government.

35

1

2

3

4

The Committee are not satisfied with the reply of Government. There is apparently no reason why it should have taken three years for Government to take a decision in the matter particularly when substantial revenue loss was involved.

5. 1.6 M/o Finance (Department of Revenue)

From the chart furnished by the Ministry of Finance (Department of Revenue) indicating chronologically the steps taken to make alternate arrangements for the collection of cess the Committee find that there has been inordinate/avoidable delay at various stages. The Ministry of Labour took about 10 months to forward to the ministry of Finance its proposals for making provision in the Finance Bill (No. 2) 1980 after it had received the concurrence of the Ministry of Finance in this regard on 22 June, 1979. It took another year and a quarter for the Ministry of Labour to forward the draft Bill to the Ministry of Finance after the latter had communicated its decision not to link up the proposal for levy of the cess with the Finance Bill, 1980. As a result of these delays, the amendment could be made effective only from 1 January, 1982. The Committee cannot help deprecate the apathy of the Government and the leisurely manner in which they have proceeded to amend such a vital legislation meant for the welfare of a vulnerable section of the society. They desire that a suitable procedure should be evolved for expeditious disposal of such cases in future so as to obviate recurrence of delays of the type that have occurred in the instant case.

PART II

MINUTES OF THE 69TH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE (1982-83) HELD ON 31-3-83.

The Committee sat from 1500 to 1800 hrs. in Committee Room No. 50, Parliament House, New Delhi.

PRESENT

Shri Satish Agarwal—*Chairman*

MEMBERS

2. Shri Bhiku Ram Jain
3. Shri Sunil Maitra
4. Shri Dhanik Lal Mandal
5. Shri Uttam Rathod
6. Shri G. Narsimha Reddy
7. Shri Ram Singh Yadav
8. Dr. Sankata Prasad
9. Smt. Pratibha Singh
10. Shri Syed Rahmat Ali
11. Shri B. Satyanarayan Reddy
12. Shri Nirmal Chatterjee

REPRESENTATIVE OF THE OFFICE OF C&AG

1. Shri R. K. Chandrasekharan—*ADAI (Reports)*
2. Shri G. N. Pathak—*DADS*
3. Shri S. R. Mukherji—*DACWM*
4. Shri N. Sivasubramaniam—*Director Receipt Audit*
5. Shri R. S. Gupta—*Joint Director of Audit (Defence Services)*

SECRETARIAT

1. Shri T. R. Krishnamachari—*Joint Secretary*
2. Shri K. C. Rastogi—*Chief Financial Committee Officer.*
3. Shri K. K. Sharma—*Senior Financial Committee Officer.*

3. The Committee then considered and adopted the following draft Reports without any modifications:—

* * * * *

(ii) Draft Report on action taken on the 67th Report of PAC (7th Lok Sabha) — Union Excise Duties — Semi finished steel products and Beedi Workers Welfare Cess.

4. The Committee authorised the Chairman to incorporate such modifications as may be necessary, in the light of factual verification of the aforesaid Reports by Audit.

The Committee then adjourned.

Sl. No.	Name of Agent	Agency No.	Sl. No.	Name of Agent	Agency No.
DELHI.			33.	Oxford Book & Stationery Company, Scindia House, Connaught Place, New Delhi—1.	68
24.	Jain Book Agency, Connaught Place, New Delhi.	11			
25.	Sat Narain & Sons, 3141, Mohd. Ali Bazar, Mori Gate, Delhi.	3	34.	People's Publishing House, Rani Jhansi Road, New Delhi.	76
26.	Atma Ram & Sons, Kashmere Gate, Delhi-6.	9	35.	The United Book Agency, 48, Anurit Kaur Market, Pahar Ganj, New Delhi.	88
27.	J. M. Jaina & Brothers, Mori Gate, Delhi.	11	36.	Hird Book House, 82, Janpath, New Delhi.	95
28.	The Central News Agency, 23/90, Connaught Place, New Delhi.	15	37.	Bookwell, 4, Sant Narakari Colony, Kingsway Camp, Delhi-9.	96
29.	The English Book Store, 7-L, Connaught Circus, New Delhi.	20	MANIPUR		
30.	Lakshmi Book Store, 42, Municipal Market, Janpath, New Delhi.	23	38.	Shri N. Chaoba Singh, News Agent, Ramlal Paul High School Annexe, Imphal.	77
31.	Bahree Brothers, 188 Lajpatrai Market, Delhi-6.	27	AGENTS IN FOREIGN COUNTRIES		
32.	Jayana Book Depot, Chaparwala Kuan, Karol-Bagh, New Delhi.	66	39.	The Secretary, Establishment Department, The High Commission of India India House, Aldwych, LONDON, W. C.—2	59

P.A.C. No.940

© 1983 BY LOK SABHA SECRETARIAT

Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Sixth Edition) and printed by the General Manager, Government of India Press, Minto Road, New Delhi.

