P.A.C. No. 336

PUBLIC ACCOUNTS COMMITTEE

(1971-72)

(FIFTH LOK SABHA)

FORTY-FOURTH REPORT

[Chapter III of Audit Report (Civil), Revenue Receipts, 1970 and the Report of the Comptroller & Auditor General of India for 1969-70—Central Government (Civil)—Revenue Receipts relating to Union Excise]

LOK SABHA SECRETARIAT
NEW DELHI

April, 1972/Vaisakha, 1894 (Saka)

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23	1.80	13	Petrol	Patent
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28	1.97(2)	3	appea	appeal
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31	1.110	3	30.7.1972	30.7.1962
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PUBLIC ACCOUNTS COMMITTEE

(1971-72)

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Shri B. B. Tewari—*Deputy Secretary.*

Shri T. R. Krishnamachari—*Under Secretary.*

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*Declared elected to the Committee on 3-8-1971 *vice* Shri Niranjan Verma, resigned.

**Ceased to be Member of the Committee consequent on retirement from Rajya Sabha w.e.f. 2-4-1972.

INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Forty-Fourth Report of the Public Accounts Committee (Fifth Lok Sabha) on Chapter III of Audit Report (Civil), Revenue Receipts, 1970 and the Report of the Comptroller and Auditor General of India for the year 1969-70. Central Government (Civil)—Revenue Receipts.

2. Audit Report (Civil), Revenue Receipts, 1970 and the Report of the Comptroller and Auditor General of India for the year 1969-70—Central Government (Civil)—Revenue Receipts were laid on the Table of the House on the 19th May, 1970 and 7th June, 1971, respectively. The Committee examined the Reports at their sittings held on the 30th October and 1st November, 1971. The Committee considered and finalised this Report at their sitting held on the 25th April, 1972. Minutes of these sittings form Part II* of the Report.

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

4. The Committee place on record their appreciation of the assistance rendered to them in the examination of Audit Reports by the Comptroller & Auditor General of India.

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

ERA SEZHIYAN,
Chairman,
Public Accounts Committee.

NEW DELHI;
April 26, 1972.
Vaisakha 6, 1894 (*S*).

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

UNION EXCISE

Audit Paragraph

The receipts under Union Excise duties during the year 1968-69 were Rs. 1,320.67 crores registering an increase of Rs. 172.42 crores over that of the previous year.

1.2. The receipts during the year 1969-60 were Rs. 1524.31 crores. The receipts for the last five years together with the number of commodities subjected to excise levies are given below :

Year	Receipt under Union Excise duties (crores of rupees)	Number of commodities on which duties were leviable
1	2	3
1965-66	897.92	67
1966-67	1033.77	69
1967-68	1148.25	69
1968-69	1320.67	76
1969-70	1524.31	81

1.3. In the year 1969-70 the accounting of receipts under minor heads opened for each commodity was discontinued. Instead the commodities were grouped and total receipts groupwise shown.

[Paragraph 18 of Audit Report (Civil), 1970 on Revenue Receipts; and

Paragraph 16 of the Report of the Comptroller and Auditor General of India for the year 1969-70—Central Government (Civil)—Revenue Receipts.]

1.4. The Committee enquired how many commodities were brought under the excise levy. The Secretary stated that now there were "115 commodities". The Committee desired to know the commodities which yielded revenue less than Rs. 25 lakhs, between Rs. 25 to Rs. 50 lakhs, between Rs. 50 lakhs to Rs. 1 crore, between Rs. 1 crore to Rs. 10 crores, between Rs. 10 crores to Rs. 25 crores per annum during the three years ending 1970-71. The statement furnished by the Ministry is shown at Appendix I. It will

be seen from the data furnished that the following commodities have yielded revenue less than Rs. 1 crore during these three years:

S. No.	Commodity	Revenue		
		1968–69	1969–70	1970–71
				(In lakhs of rupees)
1.	Mechanical lighters	1	1	1
2.	Cigars and Cheroots	8	6	7
3.	Lead unwrought	12	10	7
4.	Slotted angles and channels	—	1	8
5.	Sparking plugs	—	Negligible	11
6.	Safety razor blades	—	-do-	14
7.	Gramophones	18	15	27
8.	Power driven pumps	16	28	—
9.	Safes, strong boxes	—	Negligible	39
10.	Optical bleaching agents	45	55	56
11.	Pilfer proof caps	4	60	62
12.	Glucose and dextrose	—	5	77
13.	Synthetic rubber	—	1	85
14.	Confectionery	106	47	57
15.	Glycerine	17	19	18

1.5. The Committee desired to know the cost of collection of the various commodities. The witness replied : "We will have to study and furnish the statistics. At the moment, we do not have any such figures which can indicate how much is the cost of collection in respect of each commodity separately." However, subsequently the Ministry stated in a note that "it is impracticable to work out the cost of collection commodity-wise."

1.6. In this connection the Central Excise Reorganisation Committee (1963) (Chanda Committee) have observed as under :

> "We had attempted to analyse the incidence of cost of collection of Central Excise duty commodity-wise but came up against a blank wall. The system of accounting is such that it is not possible to allocate costs to commodities with any degree of accuracy. We are unable, therefore, to say what economies, if any, are possible in the levy and collection of excise duties.... bearing the foregoing considerations in mind and also the fact that the revenue from excise duties is likely to expand enormously over the next twenty years, it seems to us that in the interests of efficiency and to avoid future waste, steps should now be taken to develop a fully integrated system of cost control. This suggestion is in harmony with the declared policy of Government to control and economise administrative costs."

1.7. The Committee then referred to an observation made by the Central Excise Re-organisation Committee (Chanda Committee) that "the

increase in yield has not been commensurate with the number of items which have been added to the list of excisable goods" and that the "cost of administering such levies would he disproportionate to the yield if the standard procedure were to be applied." They asked whether this observation had been studied. The witness replied : "A specific study as such has not been made." The Secretary added : "I note your point that when the amount to be collected is small in terms of the totality, it is desirable to make a study before deciding whether that item is to be retained or not, what are the administrative expenses and the procedure involved, whether they justify the effort. I think it is desirable that where the yield is less than 25 or 50 lakhs, there should be a specific study and a conscious decision taken to retain the item or not.".

1.8. The Committee enquired how a commodity was chosen for bringing under the excise levy and whether any guidelines were laid down for this purpose. The Secretary replied: "It is not *ad-hoc*. It is preceded by a very detailed study of different commodities, their likely yield, the impact on the economy, the number of units that would be affected and so on." He added : "I do not know whether it would be possible to list them. It is very difficult to codify a subject like this but I can tell you that all aspects are carefully studied before a decision is taken on any particular commodity. We do go into detailed studies. We have got tax research units which go on examining the trends of production, the impact they are having, the kind of value that they have and so on. They are examined commodity by commodity. Every year one examines them to see the level of tax which a commodity is bearing and whether it should be increased or reduced."

1.9. The Committee note that the number of excisable commodities has increased from 76 in 1965-66 to 115 at present. There are quite a few commodities which are not yielding substantial revenue. During the years 1968-69, 1969-70 and 1970-71, the number of commodities which yielded total revenue of less than Rs. 50 lakhs in each year was 8, 13 and 9 respectively. The Chanda Committee expressed the view as early as 1963 that "the increase in yield has not been commensurate with the number of items which have been added to the list of excisable goods." The Committee feel that taxing commodities with yields less than Rs. 50 lakhs a year particularly those produced by small units dispersed throughout the country is not worthwhile as they would involve disproportionate cost of collection.

1.10. The Committee deem it necessary that in order to formulate the taxation policy on a rational basis Government should develop a fully integrated system of costing so as to find out the cost of collection commodity-wise.

1.11. The Committee desired to know the percentage of cost of collection and how the cost of collection under the Self Removal Procedure compared with that under the normal procedure. The Ministry stated : The Self Removal Procedure scheme was introduced in respect of a few commodities with effect from 1-6-1968. It was later extended to all commodities with effect from 1-8-69 except unmanufactured tobacco. The cost of collection for earlier years (*viz.* 1966-67 and 1967-68) when the scheme was not

in force and the cost of collection during the years 1968-69 and 1969-70 when the scheme was in force are as follows :

Year	Receipts	Net expenditure	Cost of collection
1	2	3	4
		(In crores of rupees)	
1966-67	1033.77	11.53	1.1%
1967-68	1148.25	12.28	1.07%
1968-69	1320.67	12.84	0.97%
1969-70	1524.31	12.78	0.84%

1.12. It would be observed from above that the cost of collection has come down during the years 1968-69 and 1969-70 as compared to earlier years when the Self Removal Procedure was not in force. This fall in the percentage cost of collection is not solely attributable to the introduction of Self Removal Procedure but is the cumulative effect of various other factors also, such as progressive increase in revenue receipts, reduced expenditure in printing etc.

1.13. As the expenditure is not booked in the accounts on the basis of different excisable commodities, it is difficult to guess as to what exact effect Self Removal Procedure has had on the downward trend in the cost of collection.

1.14. With the extension of the Self Removal Procedure from 1-8-69 to all commodities except unmanufactured tobacco, the Self Inspection Unit was requested to suggest yardstick for redetermining the staff requirements for the various collectorates of Central Excise. On the basis of the reports received from Staff Inspection unit after prolonged and detailed study suggesting revised norms for the posts—Self Removal Procedure staffing set up, the following number of posts has been found surplus :

1. Sub-Inspectors	..	384
2. Sepoys	..	1715

1.15. On the basis of formula followed by the department in working out the cost of the posts, the estimated savings in this behalf come to Rs. 48.5 lakhs per annum. It would suggest that but for the introduction of Self Removal Procedure the actual expenditure, on collection of Central Excise revenue would have been up by further Rs. 48.5 lakhs.

1.16. The Committee note that the cost of collection has come down from 1.07% in 1967-68 to 0.97% in 1968-69 and to 0.84% in 1969-70 after the introduction of Self Removal Procedure. However, as admitted by the ministry, this fall is not solely attributable to the introduction of Self Removal Procedure but is the cumulative effect of various factors like progressive increase in revenue receipts, etc. Under the existing accounting system followed in the Excise Department it is difficult to bring out the actual impact of Self

Removal Procedure, on the cost of collection. After the introduction of Self Removal Procedure, the Staff Inspection Unit of the Ministry of Finance have after prolonged and detailed study found 384 posts of sub-inspectors and 1715 posts of sepoys surplus. The Committee suggest that the impact of the system of Self Removal Procedure on the cost of collection may be kept under watch.

1.17 The Committee enquired whether Government had studied the working of Self Removal Procedure which was in operation for more than three years. The Secretary replied : "We made a departmental internal study of that." The Member of the Board explained further : "We have not gone by revenue alone which may go up, as you said, either due to an upward revision of the rates of duty or due to some other causes. But we are conducting the studies in two ways. One is, we watch the production trends which have shown an increase in most of the commodities. We have also conducted in terms of revenue where we have tried to compare our revenue with our budget estimates and as you know the Budget Estimates always take into account the rate of growth, so that it provides for any expansion or any growth in respect of that particular industry. So, in the light of these two studies, as the Finance Secretary was explaining, there have been about eight to nine commodities where in the beginning there was a downward trend in production, but in the following year, it picked up." At the instance of the Committee the Ministry furnished a copy of the departmental study Report (Appendix II). About the increase in revenue after the introduction of Self Removal Procedure the Departmental Study Report says that "there has been an overall increase in the revenue realisation after introduction of Self Removal Procedure. These realisations by themselves may not, however, correctly reflect the effect of the new procedure, for the reason that increase in revenue could be due to a number of factors such as normal growth of the industry, increase in rates of duty etc. Therefore, a detailed commodity-wise analysis of fluctuations not only in revenue but also in production during the above mentioned years has also been undertaken." About the production aspect, the Departmental Study Report has stated : "It is found that during the year 1968-69, as compared to 1967-68, out of 59 commodities that were brought under the new procedure with effect from 1-6-1968 there was fall in production, when compared to the previous year 1967-68, in respect of cigars and cheroots, sodium silicate, cosmetics and toilet preparations, jute manufactures and lead. Taking into account those commodities also which were brought under Self Removal Procedure with effect from 1-8-1969, it is found that during the year 1969-70, when compared to the previous year 1968-69, there has been fall in production in respect of cigarettes, cigars and cheroots, V.N.E. oils, jute manufactures, steel ingots, footwear, matches, synthetic fibre and yarn, woollen yarn, steel furniture, confectionary, cotton fabrics and inner tubes of tyres." The Study Reprot further says that "in respect of cigarettes, V.N.E. oils, synthetic fibre and yarn, woollen yarn and cotton fibres, the fall in production during the year 1969-70 as compared to the previous year 1968-69 is marginal only. This may have been due to normal trade fluctuations, labour troubles or disturbed conditions particularly in West Bengal." Giving its assessment about the revenue, the Reports reveals that "during the year 1968-69 there was fall in revenue realisation as compared to the year 1967-68 in respect of sugar, cigars and cheroots, sodium silicate, iron in crude form, tin plates, wireless

receiving sets and cotton fabrics (produced on powerlooms under normal procedure). During the year 1969-70 on the other hand, revenue realisation has been found to be less than in the previous year 1968-69 in respect of tea, cigars and cheroots, copper and copper alloys, iron and steel products, zinc, motor vehicles, footwear, films, gramophones and parts thereof, matches lead, cotton yarn, woollen fabrics, woollen yarn, confectionary, cotton fabrics produced in mills and motor tubes." Analysing the offences detected during the Pre-self Removal Procedure year and thereafter the Study Reports says that "the number of offences detected, does not by itself indicate that introduction of Self Removal Procedure has led to evasion of duty. Position regarding production needs to be watched more closely for the reason that so long as all that is produced gets accounted for, the due amount of duty will no doubt get realised."

1.18 From the production figures given in the aforesaid Study Report following are some of the commodities wherein production has declined in 1969-70:

S. No.	Commodity	Production 1968-69	Production 1969-70	%age of decline
1	2	3	4	5
1.	Cigarettes (Mn. Nos.)	61411	61026	0.6
2.	V.N.E. Oil (000 tonne)	136	131	3.7
3.	Hair lotions (000 Kgs.)	612	516	18.6
4.	Steel ingots (000 tonne)	7162	6876	3.9
5.	Footwear (000 pairs)	76	67	11.8
6.	Flourescent tubes (000 metres)	6393+ 2873	3245+ 3068	49.2
7.	Matches (000 gross boxes of 50's)	64145	62298	3.0
8.	Rayon and synthetic fibre and yarn (000 mm. Kgs.)	193	192	0.5
9.	Woollen yarn (mm. Kgs.)	22.6	22.5	0.4
10.	Steel furniture (Nos. 000/000 kgs.)	2395/-	222/5	7.2
11.	Confectionery (000 Kgs.)	16172	14021	13.3
12.	Cotton fabrics (mm. metres)	4218	4189	0.7
13.	Meter tubes	3210	3042	5.2

1.19 During evidence it was pointed out that in respect of plastics (N.O.S.) the production and the quantity taxed during 1967-68 (not included in the Study Report) were 58,000 and 20,000 tonnes respectively, prior to the introduction of Self Removal Procedure but those during 1968-69 were 4,47,629 and 98,000 tonnes respectively under the Self Removal Procedure. The Committee desired to know why there had not been proportinate increase in the quantity taxed to match the rate of increase in production. The Secretary replied : "We will find out the reasons." Subsequently in a note the Ministry stated : "It is clear from the figures that both production and quantity under reference and both production and quantity cleared on payment of duty have registered significant increase after the introduction of Self Removal Procedure."

1.20 During evidence the Secretary stated that "in the Department we have made a study of the different individual commodities about the trends, of both production and yield. Generally we have made that study, but as you are mentioning, there has been a complaint that there is probably an evasion under Self Removal Procedure and the evasion has increased. It is in pursuance of that complaint that the Finance Minister desired that we should set up a Sub-committee to go into this matter to find out whether there has been an evasion and if so, to what extent or whether the compalints are justified or not. We have received some complaints on this kind of evasion from some other quarters. We are going into this matter." About the terms of reference of the sub-Committee, the Secretary stated: "The terms are fairly wide. They refer to the extent to which the objectives set out when the Self Removal Procedure scheme was introduced have been achieved; whether it has afforded a greater scope for evasion and if so, to assess the extent of evasion to recommend changes necessary in the rules or procedure for plugging the loopholes; to examine, other than tobacco, whether they are suited to S.R.P.; to examine the organisational and administrative set-up of the Central Excise Department for this purpose and to make any other recommendation.

1.21 When it was suggested that a representative of Audit might be invited to the meetings of the S. R. P. Review Committee, the Secretary stated that personally he saw no objection and added that the matter would be placed before the Committee.

1.22 The Committee note that Government have made a departmental study of the working of S.R.P. on certain commodities particularly with reference to their production and revenue. This study reveals that after the introduction of S.R.P. the production of some of the commodities like cigars, cigarettes, cheroots, V.N.E. oils, sodium silicate, cosmetics and toilet preparations, steel ingots, footwear, matches, synthetic fibre and yarn, woollen yarn, cotton fibre etc. has shown a perceptible decline. The study also reveals fall of revenue in respect of some other items. The Committee have been informed that Government have received complaints from different quarters about the possible evasion of duty and have set up a committee with wide terms of reference to go into the working of S.R.P. to find out whether the scheme has achieved its purpose and to what extent it has afforded scope for evasion, to recommend measures to plug loopholes and also to examine the organisational and administrative set up of the Excise Department. The Committee feel that it would be helpful if a representative of Audit is also associated with the Committee.

1.23 The Committee would like to be apprised of the findings of the Committee and action taken theron.

Treatment of Protinules as Food Product

Audit Paragraph

1.24 A product being sold under a brand name, manufactured by a pharmaceutical factory in a collectorate, was treated as medicine and charged to duty under tariff item 14E from April, 1961. On a representation

from the licensee, the department after consulting the Drugs Controller decided (March, 1963) that it was essentially a food product and hence not excisable and refunded Rs. 1.68 lakhs collected as duty on the products during April, 1961 to 16th May, 1963. The levy was discontinued from 17th May, 1963. In September, 1967, it was, however, held by the Government of India in consultation with the Drugs Controller that it was a medicinal preparation eligible for reimbursement under the Medical Attendance Rules applicable to Central Government servants. When asked how an item the cost of which is reimbursable as part of medical expenses is not a medicine for purposes of levy of duty, Government cited the opinion of the Drugs Controller that "it is essentially a food item and there is no justifiable reason to consider the products as excisable only on account of its being admissible for reimbursement of medical expenses."

[Paragraph 40 (iv) of Audit Report (Civil) 1970 on Revenue Receipts]

1.25 During evidence the Committee enquired whether protinules was an item of drug or food and why it had been differently interpreted at different times. The Secretary, Ministry of Finance explained: "There are some drugs which are not reimbursable and there are some food items which are reimbursible. I personally am not clear about the inter-connection between these two....I am not quite sure whether such a sharp distinction between 'drug' and 'food product' is possible." When the Committee sought the opinion of the Drugs Controller, his representative explained that "this product protinules is a kind of dual purpose item. It is primarily a food item. When the question came up in 1963, we had seen the composition and we felt that this preparation contained proteins, carbohydrate, milk, sugar, vitamins etc. and it was more a food item than a drug item."

1.26 At the instance of the Committee the Ministry furnished copies of the representation dated 28-7-1962 made by the manufacturing firm and the opinions of the Director, Drugs Control Administration, Gujarat State and also the Deputy Chief Chemist, Bombay obtained thereon. In his representation the firm claimed that protinules is a protein-carbohyderate—vitamin food of high biological value. It comprises of pre-digested milk proteins, carbohyderates derived from cane and milk sugars, various vitamins, Niacinamide B.P., Calcium Pantothenerte U.S.P., Inositol N.F. and Biotin. He also, in support of his claim, stated that Government had already declared Threptin granules of another company as exempted from duty from 1st February, 1962. In his report dated the 4th January, 1963, the Director, Drugs Control Administration, Gujarat had stated that "thereapeutic claims are made for the product protinules on its lable and the literature and therefore it is a drug within the meaning of section 3 (b) of the Drugs Act, 1940". But the Deputy Chief Chemist in his reprt dated the 8th April, 1963 declared that in view of the Board's letter No. F. 7/9/61-CXVII dated the 26th April, 1961, he was "of the view that protinules is exempted from Central Excise duty."

1.27 The Committee asked whether Government had ensured that Rs. 1.68 lakhs refunded to the party as excise duty collected from April, 1961 to May, 1963 had been passed on to the consumers. In a note the

Ministry stated: "The amount refunded has not been passed on to the consumers. The Central Excise Act and Rules, 1944 as they stand do not provide for enforcing such refund to the consumers."

1.28 The Committee enquired when protinules was considered a food item in 1963 how the Drugs Controller declared it as a medicinal item and reimbursable to Central Government employees in 1967. The Deputy Drugs Controller replied: "In 1967, the question was never referred to us. We have never given an opinion that it was a drug item. We have always held from the Drug Controller's point of view that this is a food item. The representative of the Directorate General of Health Services, however, added: "From the records I find that in 1967 the Assistant Director General of Health Services was consulted. We have here a list of inadmissible medicines and the case was referred to him for bringing these into the admissible category. From a perusal of the record I find that he declared this admissible in 1967." When asked whether a reference was made to the Drug Controller and whether his opinion was sought, the representative of the Directorate General of Health Services replied: "That is not available in the file." In a written note submitted subsequently the Ministry stated that "the then Assistant Director General (Medical) and the Drugs Controller (India) in the Directorate General of Health Services, New Delhi who had dealt with this case have since retired. It has, however, been found from the records available in the Directorate General of Health Services, New Delhi that the item 'Protinules was shown in the list of inadmissible medicines issued on 17-2-67. The decision was reach in July, 1967 to delete the item 'Protinules from the list of inadmissible medicines for the purpose of medical reimbursement. This decision was not taken in consultation with the Drugs Controller (India) in Directorate General of Health Services. However, it appears from the records of the Directorate General of Health Services that the item'Protinules' was made admissible on the basis that though the product contains proteins, carbohyderate and vitamins it has definite therapeutic value in certain disease conditions like malnutrition, chronic diarrhoea, burns etc,. when prescribed by a doctor as a medicine. It is very difficult to categorise an item and to draw a definite line whether that item be treated as food or medicine, as certain products like predigested foods act as a medicine and are prescribed to patients in disease conditions."

1.29 The Committee enquired how the decision taken in 1967 by the Assistant Director General (Medical) in the Directorate General of Health Services that protinules was admissible to Central Government employees, was reversed again in 1970. The representative of the DGHS replied during evidence: "Though it is primarily a food item, in certain conditions when protein is deficient (like liver enlargement and other conditions) it can be given to the patient. But in the case of reimbursement, we have to look to the overall picture also. Moreover, it was also pointed out to us that it was being excised and was considered as a food item. We then reconsidered the matter and we put it in the inadmissible category. Subsequently in a written note the Ministry stated that 'the item'Protinules' was deleted the from list of inadmissible medicines in the year 1967 itself *vide* amendment No.1 bearing No. 41-1/67-MG dated the 12th July, 1967. In 1970, when

the Ministry of Finance forwarded a draft Audit para on treatment of 'Protinules' as a food item the opinion of the Drugs Controller was sought for." The opinion given by the Drug Controller on 16-3-70 and agreed to by the Ministry of Health is reproduced below:

" 'Protinules' which is a protein—carbohyderate vitamin food cannot be considered as a drug item. Patients, under certain conditions, (where they are not able to digest normal food) may have to be prescribed the food supplement but this would not mean that the item should be considered a drug."

1.30 The Committee desired to know the expenditure incurred on reimbursement of cost of protinules to Central Government employees from September, 1967 to March, 1970. The Ministry stated in a note that "reimbursement of cost of medicines is being allowed to the claimants by their respective administrative offices/departments. Only cases involving Clarifications of technical nature and relaxation of rules are referred to the Ministry of Health and Family Planning, Department of Health for necessary action. Hence the information pertaining to estimated cost of expenditure for reimbursement to the Government servants for 'Protinules' from September, 1967 to March, 1970 is not available."

1.31 The Committee asked whether there was proper co-ordination between the Ministries of Finance and Health to avoid the manufacturer deriving double benefit by getting a product treated as food item not assessable to excise duty in the Ministry of Finance and also getting it included in the list of medicines reimbursable to Central Government employees in the Ministry of Health for increasing its sales. It was also pointed out that Audit para had gone to the Ministry long back and even now the facts had not been verified properly nor had the relevant references been gathered for proper examination by the Committee. The Secretary, Ministry of Finance said: "I accept this point that there has not been a proper examination of this case when it was received in the draft Audit para and there are many facts which are not clear and I am sorry that this situation has arisen...I will get the files from the Ministry of Health and Drug Controller also....I accept there is a mistake on our side....It is the organisation which is at fault."

1.32 The Committee referred to a letter dated 22nd March, 1963 written by the Drug Controller of India to the Central Excise Department in which he had stated that as the protinules product was similar to the other product (which had already been classified as food item and exempted from excise duty) the policy adopted for these two preparations should be same. They asked how 'complan' and 'protenex' were treated from time to time for the purpose of excise levy and reimbursement of cost of treatment to the Central Government employees. In a note the Ministry stated: "The list of inadmissible medicines acts as a guideline to Authorised Medical attendants and Ministries/Departments. The levying of excise duty on a particular product/item and the question of admissibility of that product to Central Government servants under the Central Services (Medical Attendance) Rules have different object in view. Ministry of Health are not concerned with the rules regarding excise levies. It may also be mentioned that such matters

as admissibility of a certain product as medicine for the purpose of reimbursement to the Central Government servants are considered by the Committee appointed by the Director General Health Services.'

1.33 " 'Complan' is treated principally as a food product and as such is not allowed for reimbursement purposes since its introduction in the market. It is not in the list of inadmissible medicines. It is assessed to duty under Tariff item No.1B prepared and preserved food. Appealable order had been issued by the Assistant Collector in September, 1971 confirm in the above classification."

1.34 "As far as Central Services (Medical Attendance) Rules are concerned, 'Protinex' was inadmissible in the original list published in February, 1967. It was made admissible *vide* amendment No. 2 dated 23rd August, 1968 and was made inadmissible again as it was a similar preparation like 'Protinules'. M/s... (manufacturer) have represented on 8th November, 1971 and 3rd December, 1971 to Directorate General of Health Services for making their product 'Protinex' admissible for reimbursement to the Central Government employees. 'Prontinex' is being assessed to duty as 'patent' or 'Proprietory medicines' under Tariff item No. 14E. AG's Audit party, however, have raised query *vide* their letter dated 9-11-71 as to why the said product is not being assessed under Tariff item 1B. The matter is presently under examination by the Assistant Collector."

1.35 The Committee find from the representation made by the manufacturer of Protinex that they demand this produuct to be included in the list of admissible medicines to Central Government Employees on the ground that Government have already included in such list the 'Provitex' which is an identical product.

1.36 The Committee regret to observe that there was lack of co-ordination between the Central Excise Department and the Ministry of Health in the classification of the product 'Protinules'. The product was treated as patent and proprietory medicine by the Ministry of Health and as 'food product' by the Excise Department. The product which was originally charged to duty as medicine from April, 1962 was on the representation from the licensee decided in March, 1963 to be essentially a food product and hence not excisable after consulting the Drugs Controller (India). An amount of Rs. 1.68 lakhs collected as duty was refunded to this party. Subsequently in July, 1967, the Director General of Health Services decided to treat it as a medicinal preparation eligible for reimbursement under Medical Attendence Rules applicable to Central Government Servants but without consulting the Drugs Controller (India). The Ministry of Health referred the matter to the Drugs Controller (India) only on receipt of a draft Audit para from the Ministry of Finance when it was decided not to treat this as drug. The failure of the Ministry of Health to consult the Drugs Controller (India) in 1967 when the preparation was included in reimbursable list of medicines, is regrettable. The Committee suggest that some procedure should be laid down whereby opinions of the Drugs Controller on various medicinal preparations in cases referred to by the Excise Department are made available to the Director General of Health Services and vice versa so that there is uniformity in treatment of products as drug or food products.

1.37 An unsatisfactory aspect of the case is that the manufacturer received a refund of Excise Duty amounting to Rs. 1.68 lakhs although he had already passed on the burden of duty to consumers. Elsewhere in this report the Committee have discussed the question of desirability of making refunds in such cases. The Committee desire that at the least the Income-tax authorities should be informed about the income of the manufacturers in this regard.

1.38 From the information given, the Committee understand that the products viz. Complan, Protinex and Provitex are being treated differently. Complan is being assessed to duty as preserved food under item 1B, Protinex is assessed as medicine under item 14E. Audit had raised a point that Protinex also should be assessed as preserved food under item 1B. While Protinex is included in the list of inadmissible medicines. Provitex is eligible for reimbursement under the Medical Attendance Scheme. The Committee desire that the treatment of these and similar other preparations like Protinules both for medical reimbursement and for excise levy should be carefully examined.

Short levy of duty on dispersed organic pigments

Audit paragraph

1.39 A factory was manufacturing dispersed carbon black used for textile printing. This was being assessed as "pigments, colours, paints and enamels, not otherwise specified". In September, 1964 the department decided that it should be assessed as 'dispersed organic pigments ordinarily used for printing of textiles' at the higher rate of duty; but in December, 1964 this decision was reversed and assessment was made at the lower rate applicable to the original category. It was pointed out (July, 1967) that since the product was used in printing of textiles and similar product manufactured by another factory was being assessed as dispersed organic pigment, the assessment should be at the higher rate as decided in September, 1964. Accepting this, orders were issued by the department in October, 1967 to assess such products as dispersed organic pigments. The under-assessment on account of incorrect classification of the goods from 1st March, 1964 to 18th October, 1967 amounted to Rs. 14,11,697. The Ministry have stated in February, 1970 that the question whether or not demand could be raised for the amount is under consideration of the department.

[Paragraph 21 of Audit Report (Civil), 1970 on Revenue Receipts.]

1.40 According to Audit "dispersed organic pigments ordinarily used for the printing of textiles, were proposed for assessment at Rs. 2.50 per Kg. by introducing a separate sub-item in the Central Excise Tariff by the Finance Act, 1964. Prior to this they were assessed to duty as 'Paints and Varnishes not otherwise specified."

The budget memorandum set out the object of the levy as under:—

"Certain types of dispersed organic pigments are being increasingly used for textile printing in place of some other organic dye-stuff which bear a higher incidence of duty (15% *ad valorem*). The proposal will remove the anomaly and also yield some additional revenue."

1.41 In another case, according to Audit, a similar product was analysed by the Chief Chemist and declared as organic pigment on the 9th March, 1966. The Committee asked during evidence how this incorrect assessment was continued even after the receipt of the Report of the Chief Chemist. The witness replied, "The Chief Chemists' report was re-test over the report given by the Chemical Examiner. In the first instance, three products of company were tested. At that time the Deputy Chief Chemist, Bombay, certified them to be inorganic products falling under 41 I(5). On that basis the Assistant Collector first took the decision to assess under 41 I(5) [(with lower rate of duty). But he made enquiries and found that this product was also used for textile printing." To a question as to why, after he took a decision, he made enquiries, "the witness replied, "In respect of another product of another firm described differently, a sample was drawn and tested by the Chemical Examiner who certified it to be an organic product. Accordingly, assessment was made of it under 14 I (4a) at the higher rate. They represented saying that a similar product of the other company (mentioned above) was being assessed at a lower rate under 14 I(5). This was the situation in which a sample of latter company was sent for re-test to the Chief Chemist by the Bombay Collectorate. The Board was not seized of the matter at all at that stage. The Chief Chemist on re-test confirmed the opinion of the Chemical Examiner with the result, so far as Bombay Collectorate was concerned, the Deputy Chief Chemists' opinion (given in the case of the products of the former company) was over-ruled. The Committee enquired why, when the Chief Chemist gave his opinion in March, 1966 , it took the Assistant Collector about one and a half year to issue demands in October 1967. The Secretary to the Ministry replied, "Apparently the Assistant Collector attempted to reconcile the views of the Deputy Chief Chemist and the Chemical Examiner. There was a very sharp difference of opinion between them. But when the audit para came (in July 1967) he immediately raised the demand (in October, 1967). The Committee asked what was the need of reconciling the two different views of the Chemical Examiner and the Deputy Chief Chemist when the Chief Chemist had given his opinion which should have been final. It was pointed out that "The Chief Chemist sent a copy of his report to the Deputy Chief Chemist at Bombay. The Deputy Chief Chemist then forwarded it to the Assistant Collector saying 'I have given this opinion in regard to the other company. But the Chief Chemical Examiner has expressed his views in regard to a similar product." The Committee desired to know why, after receiving a clear cut technical opinion from the Chief Chemist through the Deputy Chief Chemist, the Assistant Collector did not raise the Demand first and then start reconciliation, if at all necessary and why did he delay the raising of demand for another one and a half year. The Secretary replied, "I agree he should have followed that procedure immediately on getting the report of the Chief Chemist, he should have raised the demand and thereafter attempted the reconciliation." The Committee asked when the Assistant Collector received the findings of the Chief Examiner in March, 1966 and he wrote to the (latter) firm confirming the higher rate, why did he not raise a demand immediately for the differential duty. The Secretary replied, "Simultaneously, he should have done that."

1.42 The Committee desired to know the amount that could have been collected had the demand been issued immediately receipt of the Chief Chemists' opinion in March, 1966. In a note the Ministry stated, "The

Chief Chemists' opinion dated 9-3-66 was received by the Assistant Collector on 14-3-66. Had action been immediately taken the demand could have been issued for the three months prior to 14-3-66 (*i.e.* for the period from 15-12-65 to 14-3-66). The demand for differential duty for the period from 18-7-67 to 17-10-67 had already been raised. The demand for the differential duty that could have been raised from 15-12-65 to 17-7-67 would have been Rs. 7.01,275.30 including the demand already issued for the period from 18-7-67 to 17-10-67, the total amount of differential duty from 15-12-65 to 17-10-67 would have worked out to Rs. 8,26,437.54 including special excise duty."

1.43. The Committee enquired what demands have been raised so far. The Secretary replied, "Two demands have been raised, one for Rs. 1,25,000 for the period 17th July (1967) to 16th October (1967) and other demand for Rs. 14 lakhs for the period prior to 17th July (1967). The party has objected and has filed an application". Subsequently the Committee asked what was the present position of the demands raised. In a note the Ministry stated, "The ....demand for Rs. 1,25,162.22 had been issued for the period from 18-7-67 to 17-10-67. The amount has not yet been realised. The party has preferred an appeal against the demand which is under consideration. No demand was issued for the earlier period as the Branch Secretariat of Ministry of Law at Bombay opined that the demand for the earlier period would be time barred."

1.44. The Committee enquired whether there were any other manufacturers in the same as well as other Collectorates manufacturing similar products and if so, how were they assessed during the period 1964-67. The Ministry stated : "M/s....in Poona Collectorate stated production of Printamar Black R in January, 1965. The item was classified under 14-1 (4A). The party protested against the classification. The Deputy Chief Chemist reported that the sample was classifiable under Item No. 14-I(5). At the same time another product *viz.* Black Stainer ADC manufactured by the party was also tested by the Deputy Chief Chemist and was classified under item No. 14-I(5). Accordingly both the products were classified under Item 14-I(5). Subsequently on receipt of a Report from Assistant Collector, Central Excise, Bombay that the similar products were being classified under item 14-I(4A) in that Division, the items were reclassified under the sale Tariff item with effect from 15-11-1967."

1.45. The Committee asked what action had been taken against the Assistant Collector. The Secretary replied, "His explanation has been called for the delay. It was done in October, 1970." When asked when his explanation was received and what action had been taken on that, the Secretary replied, "The information I have got here is that the explanation of the Assistant Collector has been forwarded to us. But the Collector of Bombay has not been able to send his comments. I do not think that was a satisfactory position. But this file had been called for by the Board last year (1970) at the time of the P.A.C. meeting (which was cancelled because of dissolution of the House). They should have returned the file to the Collector alongwith the other tmaterial for taking further action." Subsequently the Committee asked wha was the present progress of the action taken or proposed to be

taken. In a note the Ministry stated that the "matter was under examination."

1.46. The Committee are perturbed over the lapses revealed in this case. The dispersed Carbon Black ordinarily used for printing of textiles which was assessable to higher rate of duty from March, 1964 continued to be assessed as pigments colours, paints and enamels. Not otherwise specified at lower rate upto 18th October, 1967 resulting in an under assessment of Rs.14.12 lakhs. Even after the Assistant Collector concerned received on the 14th March, 1966 the final opinion of the Chief Chemist that the product was an Organic pigment which over ruled the earlier opinion of Dy. Chief Chemist, the Assistant Collector did not take any action to raise a demand till the receipt of audit objection in July, 1967. The delay of 18 months in taking action resulted in raising the demand for only Rs. 1.25 lakhs from 18th July , 1967 to 17 th October, 1967. Had the Assistant Collector raised the demands immediately after the receipt of the final report of the Chief Chemist on the 14th March, 1966, a sum of Rs. 7.01 lakhs more could have been recovered. The Committee note that the explanation of the Assistant Collector has been obtained in October, 1970, but no further action has been taken as the file is stated to be lying with the Board for one year. The Committee are unhappy over the delay in taking action. They desire that the matter should be finalised expeditiously.

Loss of Revenue due to incorrect assessment of unmanufactured tobacco

Audit paragraph

1.47. Unmanufactured tobacco, other than flue cured and not actually used in the manufacture of biris, is assessable under tariff item 4 (1)-5(iv) at Rs. 1.75 per Kg plus 20 per cent thereof as special excise duty. If such tobacco is used in the manufacture of biris it will be assessable at a higher rate *viz.* Rs. 2.50 (plus 20 per cent as special excise duty) under sub-item (6) of tariff item 4-1. In terms of an Explanation inserted under tariff item 4(1)(5), Government could by issuing a notification, specify the varieties of tobacco which would attract higher rate of duty for their use in the manufacture of biris. Consequent on the deletion of this explanation with effect from 1st March, 1968 the reassessment of tobacco, initially assessed at lower rates but used for manufacture of biris, became obligatory from that date.

1.48. It was, however, noticed that no differential duty was charged on tobacco used in the manufacture of biris on or after 1st March, 1968 and they continued to bear the lower rates of central excise duty. The actual amount under assessed has yet to be intimated.

[Paragraph 18 of C&AG's Report for 1969-70 on Revenue Receipts.]

1.49. During the evidence, the Committee enquired as to how the differential duty was collected. The witness stated, "It can be classified into three categories. One catogory of tobacco is meant for hookah and the second category is meant for chewing purposes and the third category is meant for biris. The tobacco which is meant for chewing purposes that

is not generally used for manufacture of biri and it is on this type of tobacco that a lower rate of duty is paid. Sometimes it is used for manufacture of biri instead of being used for the purpose of hookah and chewing. We have to keep a watch on these biri manufacturers in different areas and we find out from their stocks what sort of tobacco they are getting. It is now duty paid except in small quantities which move under sale notes. Their premises are being continuously checked. We are able to find out whether there is any mixing going on."

1.50. As far back as 1967, the Committee had, in their 2nd Report (Fourth Lok Sabha) (Pages 67-68) reported that omission to levy higher duty on tobacco cured in whole leaf form but used in the manufacture of biris had resulted in a loss of revenue of Rs. 168 lakhs during the years 1963 and 1964. During the evidence then (December, 1966) the ministry admitted that in so far as operative part of the present item 4 (I) (5) was concerned, "the position was not far from doubt" and that they "should have taken the earliest opportunity to rectify legislation if it was not workable." The Committee desired to know the procedure that was laid down to detect and levy duty on tobacco used for biris when the Government decided to delete the 'Explanation' under T.I. 4 (I) (5) *w.e.f.* March 1968. The Ministry stated in a note: "Guidelines regarding the procedure for detection and levy of duty on tobacco used for biris were laid down in the instructions issued by the Ministry on the 5th March, 1968 which *inter alia*, enjoined them to keep a close watch on the tobacco used in the manufacture of biris and initiate action in cases where tobacco assessed at the lower rate, were actually used in the manufacture of biris." During the evidence the witness explained, "When we deleted the 'Explanation' we never anticipated that there would be a large scale diversion because by and large the tariff itself-even the physical form when it was framed- took into consideration the possible use and therefore while adopting the physical form we had framed it in such a way that the majority of what is really tobacco get excluded automatically from sub item (5) and assessed under sub item (6) (of 4-I of C. & E.Tariff) ; nevertheless we envisaged the possibility of deliberate curing of Tobacco in the whole form and getting it assessed at a lower rate and later divesting it for use as biris tobacco". The Secretary to the Ministry, however, stated, "In this particular case, we made enquiries from the Collectors and they confirmed that there has been no loss of revenue and that the tobacco is not being used for the purpose of making biris. Secondly, Sir, we addressed all Collectors and asked them to report whether there was any instance of such diversion for biris and all of them reported that there was no large scale diversion according to their knowledge; but they wanted that some procedure should be devised."

1.51. Explaining the background of the introduction of the new rule in Tariff, the Ministry stated in a note : "After the deletion of the 'Explanation' to the tariff item in 1968 budget the matter as to howa nd from whom the differential duty should be collected was examined in consultation with the Ministry of Law. In the absence of a specific rule to meet such a contingency it was decided to frame a new rule for levy of differential duty from the actual users under Notification No. 180/69 dated 12-7-1969 by inserting a new rule in Rule 40-A. Accordingly lower rated tobacco cleared at any time under item No. 4-I(5) of C.E. Tariff but actually used in the

manufacture of biris or smoking mixture of cigarrettes etc. on or after 12-7-69 attracts levy of differential duty under the said rule".

1.52. At the instance of the Committee the Ministry furnished a chronological statement of action taken from the date of deletion of the 'explanation' under T.I.4(1) (5) *viz.* 1-3-1968 to the introduction of new rule 40A in July 1969 with explanation for the delay at each stage.

1.53. From the aforesaid statement, it is, however, observed that it took the Ministry over 5 months to seek opinion from Collectors and approach the Law Ministry with their proposals. When the Law Ministry did not agree with their proposals it took the Ministry another 4 months to send a draft notification to the Law Ministry. After it was received back from the Ministry on 27-12-1968, the revised draft notification was sent to the Law Ministry on the 3rd June, 1969 after about 5 months during which the notification was pending for further discussion with the Chairman of the Board.

1.54. During evidence the Secretary to the Ministry added: "The main issue has been finalised by December but thereafter, unfortunately, there was a delay".

1.55. The Committee asked about the total loss of revenue in all the collectorates in respect of tobacco used in manufacture of biris on or after 1st March, 1968 till the introduction of new rule. The Ministry stated in their note, "Since there was no provision for reliasation of differential duty before 12-7-1969 no action could be taken for the earlier period and it was also not practicable to ascertain the quantity of such tobacco actually used in the manufacture of biris by licensees scattered in thousands all over the country." About the under-assessment after the 12th July 1969 when new rule (40-A) was notified the Ministry stated that "446 cases have been detected after the introduction of the rule, involving an amount of Rs. 79,873 out of which an amount of Rs. 36,843 has so far been realised. Subsequently, however, the Ministry stated that, "a further sum of Rs. (about) 12,000 has since been realised leaving a balance of Rs. 30,778 yet to be realised."

1.56. The Committee enquired how the differential duty was collected in cases of blending of lower rated tobacco with higher duty paid tobacco for manufacture of biris. In a note the Ministry stated, "Rule 40 (A) of the Central Excise Rules provides for recovery of differential duty from the actual users of the tobacco. Movement of duty-paid tobacco is regulated by transport documents in the form T.P.I. or Sale Notes, as the case may be. These documents give full details regarding the tariff item number, the quantity of tobacco and the rate of duty actually paid. Differential duty on the quantity of lower rated tobacco used in the manufacture of biris either exclusively or in admixture with higher rated tobacco is to be recovered from the actual users to the extent of the lower rated tobacco used therein". During evidence the witness explained further, "Wherever we find that any variety of tobacco which has paid the lower rate, is being mixed or bended with higher rated tobacco, we issue a demand after finding out this mixture and then we release the demand. The local officers—

our preventive organisation does go round these biris manufacturing premises, do find out their stocks and other things and check their accounts."

1.57. The Committee enquired in how many cases penal provisions of this new rule (40-A) were invoked during the past two years and what was the amount of penalty recovered. The Ministry stated in a note, "In 34 cases provisions under Rule 40-A were invoked during the past two years. The amount of penalty imposed and realised is Rs.245/-."

1.58. Inviting attention of the witness to the importance of tobacco in the country from the point of view of its revenue as well as its foreign exchange earning capacity the Committee asked whether there should not be a Commission, to go into the pattern of excise duty on it. The witness said, "On that point, I may mention that the Finance Minister announced the other day his decision to set up a Committee to go into the tobacco question in detail."

1.59. The Committee drew attention to the following percentage of tobacco used in the manufacture of its various products as in 1968-69 as reported in a leading journal:

Cigarettes	28.5%
Biris	29.5%
Chewing	22%
Hookah	11.1%
Cigars & Choorths	7%
Snuff	1.9%

The Committee asked whether this Rule 40-A provided satisfactory machinery to prevent diversion of tobacco for manufacture of biris. The Secretary to the Ministry stated: "the Committee which the Finance Minister has already announced to look into tobacco excise may look this point also. We will try and include (this) as a special terms of reference."

1.60. As far back as 1967 the Committee had drawn the attention of the Government to a loss of Rs. 468 lakhs in 1963 and 1964 alone as a result of omission to levy higher duty on tobacco cured in whole leaf form but used in manufacture of biris and Government had admitted then that the position was not free from doubt and they should have taken the earliest opportunity to rectify legislation if it was not workable. The Committee regret to note that Government did not rectify the position till July, 1969.

1.61. An explanation under Tariff Item No. 4(I)(5) was deleted w.e.f. March, 1968 without making a suitable provision under the Rules to levy differential duty on the tobacco assessed initially at lower rate but used for manufacture of biris, which attracted higher duty, on the plea that Government did not anticipate any large scale diversion. The mistake was realised and a new Rule 40-A was inserted to cover this diversion but only on 12th July, 1969 some 15 months after the deletion of the explanation. Unfortunately the loss of revenue during the period March 1968 to 11th July, 1969 could not be ascertained as according to Government there was no provision for assessment of differential duty prior to 12th July, 1969 and it was not practicable to determine the quality

of such tobacco actually diverted to biri manufacturer by licensees scattered in thousands all over the country. The delay in inserting new Rule 40-A has been admitted. It took for the Finance Ministry 5 months to seek opinion from the Collectorates and another 4 months to send a draft Notification to the Ministry of Law for vetting and finally this draft notification was pending with the Board for discussion with the Chairman for 4 months, the delay which is quite indefensible. The Committee need hardly stress the need to act with promptitude.

1.62. The Committee find that due to the importance of tobacco from the point of its revenue as well as its foreign exchange earning capacity Government has decided to set up a Committee to go into the question of levy on tobacco in detail. The Ministry agreed to the suggestion during the course of evidence that the question whether present Rule 40-A is adequate to check diversion of tobacco for biri manufacture would also be referred to the Committee. It is significant to point out that according to an unofficial estimate, tobacco consumption in 1968-69 for manufacture of biris constituted 29.5% of the total production in the country. The problem of evasion of excise duty on stocks of tobacco diverted to biri making merits serious consideration. The Committee hope that the proposed Committee will be set up soon. They would like to be informed of the findings of the Committee in due course.

1.63. In the meantime, the Committee hope that the new rule will be carefully applied by the Collectors and loss of revenue avoided.

1.64. The Committee note that out of under assessment of Rs. 79,873 detected after the introduction of Rule 40-A a sum of Rs 48,843 has been realised. The Committee desire that efforts should be made to relise the balance.

Non-realisation of duty on stock deficiencies

Audit paragraph

1.65. According to rule 223-A of the Central Excise Rules, if any shortage is detected during the course of annual stock-taking of excisable goods in a factory, the owner of such goods shall be liable to pay the full amount of duty chargeable on such goods as are found deficient and also a penalty which may extend to two thousand rupees.

1.66. It was noticed in a Central excise collectorate that in respect of deficiencies found during stock verification conducted in a steel plant during 1965 to 1968, Central Excise duty amounting to Rs. 63,16,955 remained unrealised (March, 1970).

The Ministry have stated (February, 1970) that adjudication proceedings have been instituted.

[Paragraph 40 (iii) of Audit Report (Civil), 1970 on Revenue Receipts.]

1.67. The Committee was informed by Audit that Durgapur Steel Plant was brought under Central Excise Control from 1962. Audit, in course of

their inspection during 1965-66 stressed upon the recovery of duty but no steps had been taken by Government.

1.68. The Committee desired to have a statement regarding duty involved for deficiencies for each of the years 1965 to 1968. The Ministry furnished following information:—

Year	STEEL INGOTS		STEEL PRODUCTS	
	Qty. detected short (MT)	Amount of duty involved (Rs.)	Qty. detected short (MT)	Amount of duty involved (Rs.)
1	2	3	4	5
1964-65	1201.000	72,060.00	21,731.000	22,81,755.00
1965-66	211.000	15,825.00	1,953.000	2,44,125.00
1966-67	161.280	12,096.00	1,767.000	2,20,875.00
1967-68	2064.625	1,54,846.88	6,966.000	8,70,750.00
		2,54,827.88		26,17,505.00

1.69. The total amount of duty involved thus works out to Rs. 38,72,332.88 and not Rs. 63,16,955 as reported in the Audit para.

1.70. The Committee desired to know the progress made in adjudication proceedings, the years and items in respect of which adjudication had been finalised so far and the duty realised. The Ministry stated in a note that, "Adjudication in respect of eight cases of Iron and Steel Products as well as Steel Ingots for the years 1964-65 to 1967-68 have been finalised. The licensee has not deposited duty and has come up in appeal against the Collector's order-in-original".

1.71. During evidence the Committee asked whether same procedure for stock verification was followed in the case of public as well as private sectors. The Secretary to the Ministry replied, "There has been some difficulty about the Durgapur Unit, but the procedure to be followed is the same, and we admit this audit para." The Committee asked what was the difficulty experienced ? The Ministry stated that the "main difficulty in Durgapur Steel Plant was the continuous labour trouble resulting in serious dislocation of work from time to time. Moreover, in this plant, different methods were being adopted to arrive at the weight of different products. This gave rise to variations during the annual stock taking." The Committee enquired about the position in this regard in Plants at Rourkela and Bhilai. The Ministry stated, "No stock-taking could be attempted in the Bhilai Steel Plant for the following reasons:—

(a) stocks were huge and spread over in various heaps and stocks at different sites and workshops;

(b) manifold methods were adopted to arrive at the weight of different products;

(c) the weight arrived at were theoretical as it was not possible to actually weight the goods;

(d) factory's programme of stock verification was spread over two months and a team of about 18 to 20 persons was engaged solely for this purpose;

(e) in Rourkela Plant also similar difficulties were experienced."

1.72. The Committee asked what was the position in respect of private units. The Ministry stated, "In the TISCO Plant, the stock taking done in the past years revealed wide variations and the causes for the variations were similar to those obtaining in other steel plants. In Burnpur Plant also the position was similar." Finally, the Ministry stated that "Considering the difficulties faced by almost all the Steel Plants in some form or the other, instructions have been issued on stock-taking in steel plants under Central Board of Excises & Customs, New Delhi's letter F. No. 1/73/70-CX-6 dated 12-4-71."

1.73. The Committee are concerned to note that after bringing Durgapur Steel Plant under excise control in 1962 Government have failed to recover so far Rs. 38.72 lakhs on account of shortages detected in annual stock taking of excisable goods during 1964-65 to 1967-68. The Committee have been informed that adjudication in respect of 8 cases of Iron & Steel products as well as steelingots for the year 1964-65 to 1967-68 have been finalised but the licensee has not deposited duty and has gone in appeal. The Committee desire that the remaining cases should be finalised expeditiously.

1.74. While wide variations have been revealed on stock verification in TISCO plant, no stock verification has been attempted so far in Rourkela and Bhilai Plants. It is significant that there is no systematic procedure evolved so for stock verification in respect of both public as well as private sector steel plants. The Committee, however, find that the Board have issued instructions on stock taking in steel in April, 1971. The Committee hope that there would now be no difficulty in getting the stock verification done in public and private sector plants. The Committee would like Government to keep this matter under constant watch and report the results to the Committee.

Clearance of duty free samples in excess of 5 per cent of duty paid patent or proprietary medicines

Audit Paragraph

1.75. According to a notification issued by Government of India in April, 1961 clinical samples issued by any manufacturer of patent or proprietary medicines were exempt from the whole of the duty of excise leviable thereon provided such clearances were limited to a quantity not exceeding five per cent by value of the total duty paid clearances of medicines during the preceding month. The restriction of five per cent limit was not correctly applied in the following case.

1.76. A principal manufacturer of patent or proprietary medicines was clearing duty-free samples of his medicines by reckoning the duty-paid

clearances of patent or proprietary medicines manufactured on his behalf by a loan-licensee as his own. Under the Finance Act, 1964 the term 'manufacturer' was amplified to include not only a person who employed hired labour in the production or manufacture of excisable goods but also any person engaged in production of manufacture on his own account. The loan-licensees were, therefore, to be treated as manufacturers, requiring separate Central Excise licences and the clearance of 5 percent duty-free clinical samples in their behalf had to be regulated separately with reference to the duty-paid clearances of medicines manufactured by them individually during the preceding month. The duty-paid clearances accountable to the loan-licensees was not to be added to the duty-paid clearances of the principal manufacturer for regulating the clearances of 5 per cent clinical samples of the latter. The principal manufacturer cleared samples valued at Rs. 11,15,650 from November, 1966 to December, 1968 in excess of the permissible limit. The loss of revenue amounted to Rs. 83,532. The Ministry have stated that loan-licensees were brought under Central Excise licensing purview with effect from the 18th October, 1968.

[Paragraph 22 (i) of Audit Report (Civil), 1970 on Revenue Receipts.]

1.77. During the evidence the Committee enquired whether the procedure had been revised. The Secretary stated that "after considering the Law Ministry's advice, revised instructions were issued by the Board in October, 1968 about the question of loan licensee." To a question whether instructions were now being followed correctly, the witness said, "Instructions have been issued and the correct procedure is now being followed." The Committee asked why it took more than 4½ years to determine the Central Excise status of loan licensee. In a note the Ministry stated, "In the year 1968 while reviewing the position with the Ministry of Law, in another case, it came to light that loan licensees were legally to be construed as manufacturers and the concessions which are being given to principal manufacturers regarding clearance of samples etc. could also be given to them. Accordingly, earlier instructions were revised and the loan licensees were brought under Central Excise Control with effect from 18-10-1968".

1.78. The Committee desired to know about the total amount of revenue foregone by Government due to exclusion of loan licensees from licensing purview during these 4½ years. The Ministry stated, "The total amount of revenue foregone by government due to exclusion of loan licensees from licensing purview during 4½ years as reported by the Collectors (except C.C.E. Delhi, Bombay and one Division in Baroda Collectorate) is Rs. 1,86,292·58 paise. The C.C.E. Bombay has, however, reported that revenue loss on account of licence fees from 1964 to 1967 would amount to Rs. 9,300 and revenue loss on account of clearance on duty free sample in excess of 5% quota for the period from Nov., 1966 to December, 1968 would amount to Rs. 1,38,562. He has, however, stated that the figures for the earlier period are not available."

1.79. The Committee asked whether the loan licensees of patent and proprietary medicines have been brought under licensing control and if so. from what date and whether Government have reviewed the effect of the revised definition of manufacturer on other commodities. The Ministry

replied, "Yes. All the loan licensees of P or P medicines have been brought under licensing control. No special review has been initiated to assess the effect of the revised definition of manufacture on other commodities." It is observed from the details furnished that after issuing the clear instructions in October, 1968, many loan licensees were brought under licensing control in 1969, 1970 and some were brought under its purview as late as in December, 1971.

1.80. The Committee consider it unfortunate that inspite of a clear provision introduced by Finance Act, 1964 amplifying the term 'manufacturers' to include not only any person who employed hired labours in the production or manufacture of excisable goods but also any person engaged in production or manufacture on his own account; loan licensees were not treated as manufacturers by the Central Excise Department requiring separate licenses. The mistake was found only when the Law Ministry gave a ruling in 1968. The result was that the duty paid clearances accountable to loan licensee were added to the duty paid clearances of the principal manufacturer for regulating the clearance of 5% clinical samples of the latter. The total loss of revenue on this account amounted to Rs. 3.34 lakhs. The Committee note that Government have now revised their earlier instructions and brought the loan licensees of Petrol Proprietary medicines under Licensing Control w.e.f. 18th October. 1968. From the data furnished to the Committee they find that loan licensees have been brought under licensing control by the collectors during the period from 1968 to 1971. The Committee hope that none of the loan manufacturer is now left out of excise control.

1.81. The Committee have been informed that Government have not so far reviewed the effect of the revised definition of the manufacturer on commodities other than patent and proprietary medicines. They would suggest that Government should consider whether there is need to undertake such a review.

Irregularities in the Personal Ledger Account

Audit Paragraph

1.82. Para 97 of the Basic Manual of Departmental Instructions on Excisable Manufactured products permits the operating of an account current with the Collector of Central Excise by any manufacturer of excisable goods. The amount credited by the manufacturer is directly credited to the head "II Union Excise Duties". The final withdrawal from the account current would arise only when the account current is closed, due to closure of the factory or, if the factory is exempted, from payment of duty on the excisable products. However, in a Collectorate withdrawals from Personal Ledger Accounts aggregating to Rs. 90,000 were allowed in two cases by debiting the payments to the head "II Union Excise Duties—Deduct Refunds" which was unauthorised.

[Paragraph 28 (II) (a) of Comptroller and Auditor General Report for 1969-70 on Revenue Receipts.]

1.83. The Committee enquired during the evidence why the withdrawals were allowed from the personal Ledger Account. The Secretary to the

Ministry replied : "There has been no loss of revenue. In this case a party puts certain money for being adjusted from time to time according to the dues that may arise against him. Either his production falls or something happens and the money became excess deposit. The withdrawal should be governed by the normal financial rule because after all the money is still his. Though it has been placed in the personal ledger account of the Collector of Central Excise, it has not been adjusted against demands due from him. It is not yet a demand on him, it is not money which has been assessed as due from him." When asked on what grounds this money was refunded, the witness stated that "In one case it was financial stringency, in other case they built a bigger factory and they wanted to transfer it." The Committee enquired whether there were any other similar cases in other Collectorates where money had been refunded from Personal Ledger Account. The Ministry stated in a note that "there were two similar cases in Baroda and Delhi". From the said note it appears that in Baroda a party was allowed withdrawal of Rs. 5040 out of Rs. 5,583.12 at their credit in the P.L. Account, and in Delhi another party was allowed withdrawal of Rs. 57,100 from Rs. 57,751.37 as balance in their Personal Ledger Account.

1.84. The Committee desired to know the revenue in the Budget month as compared to other months. The Ministry furnished following figures:

Year	Revenue realised in March ending with	Average monthly realisation for the preceding eleven months
1	2	3
	(Crores Rs.)	(Crores Rs.)
1968-69	118.64	109.82
1969-70	130.32	126.72
1970-71	159.11	147.59

1.85. The Committee enquired whether the credits in P.L.As in the budget months were unusually heavy. The Ministry replied in a note that "it is not possible to state whether credits to Personal Ledger Accounts in the Budget months are un-usually heavy generally unless detailed scrutiny of all Personal Ledger Accounts is made. It may take some time before the information is available from the Collectorates who would have to examine a large number of P.L.As."

1.86. The Committee asked whether it would not be desirable to regulate credits so as to limit the amount to probable clearance for a fortnight or so. In a note the Ministry replied, "Rule 173-G(i) requires an assessee to keep the balance in his account current sufficient amount to cover duty on the goods intended to be removed at any time. Apart from the fact that regulating deposits in Personal Ledger Accounts may not serve any useful purpose so far as the Department is concerned, it would not also be

possible to impose any restrictions on the amount to be credited in the Personal Ledger Accounts as in respect of certain commodities like air-conditioners, fans, electric heaters, etc.; the demand being seasonal, during certain months there are likely to be comparatively heavy clearances. Even otherwise, the clearances normally depend on the supply and demand position and manufacturers have to clear the goods at short notice. Restrictions on the amount that could be deposited in the Personal Ledger Accounts would, therefore, tend to hamper smooth clearance of goods."

1.87. The Committee find that in these two cases withdrawals from the Personal Ledger Account of Assessees were allowed by Government on the ground of financial stringency and transfer of funds for building another factory. As deposits made in the Personal Ledger Accounts are credited to Government account, withdrawals therefrom, if at all necessary, can be permitted only after making suitable provision in the Rules.

Results of Test Audit in General

Audit Paragraph

1.88. A test audit of the records maintained in the offices of the Chief Accounts Officers of the Central Excise Collectorates and in the Range Offices revealed the following types of irregularities involving under assessments and loss of revenue during the years 1968-69 and 1969-70.

(Amount in lakhs of rupees)

	1968-69	1969-70
Under assessment		
(i) Omission of levy duty	2.07	0.96
(ii) Incorrect classification and application of incorrect rates of duty	56.07	1.80
(iii) Incorrect determination of assessable value .	2.18	1.72
(iv) Irregular exemptions and concessions . .	62.42	1.71
(v) Irregular and unauthorised refund . . .	25.03	4.07
(vi) Other omissions or failures	82.94	39.03
	230.71	49.29

1.89. With effect from August, 1969, the system of assessment and collection under self removal procedure was extended to all commodities other than unmanufactured tobacco. The commodities coming under the Central Excise levy for the first time in the Finance Act, 1970 were assessed as per normal procedure.

[Para 19 of Audit Report (Civil), 1970 on Revenue Receipts. Para 17 of C&AG's Report for 1969-70 on Revenue Receipts].

1.90. The Committee enquired about the system of internal audit obtaining in Central Excise Department. In a note the Ministry stated as under :

"The scope of Internal Audit is confined mainly to text audit of revenue accounts. For this purpose, the duties of Audit Parties

have been outlined in standard schedules drawn up commodity-wise. Apart from seeing that the provision of Central Excise Act, Rules and Notifications and Boards, and Collectors rulings, orders are properly implemented, the Internal Audit has also to examine and comment upon the correctness, validity and legality of any ruling or instructions issued by the Collector, Board or the Government. All matters, including loopholes in the Rules or in any exemption Notification, or procedural Instructions which need to be plugged so as to prevent any possible evasion or unintended benefit, are required to be brought to the notice of the Collector, and if necessary through him to the Board, for remedial action. A half yearly programme of work is prepared in December and June every year detailing the formations to be taken up for audit month by month. While preparing the programme, the prescribed frequency of audit of various formations *i.e.* MOR s once in 2 years and isolated ranges once in 3 years is kept in view. The AC (Audit) has to ensure that the audit parties adhere to the schedule of work. All draft audit reports are personally studied by the AC and issued under his signatures. Serious irregularities including those having vigilance angle are brought to the notice of the Collector by AC (Audit) for necessary action. The Asstt. Collector (Audit) is also responsible for watching the receipt, disposal and pendency of all audit notes relating to revenue receipts, received from the Accountant General's audit parties. For this purpose, apart from looking into the objections at his personal level, he, under the direct and personal supervision of the Collector, coordinates and pursues the various points with the concerned officers of the Collectorate to ensure their expeditious disposal."

1.91. The Committee asked what are the percentage of audit checks prescribed in internal audit for various levels of officers. The Ministry stated :

"The main duties of internal audit parties after the introduction of Self Removal Procedure are:—

(i) audit of factories and ranges under physical control system (unmanufactured tobacco);

(ii) test audit of work of Inspection Groups in respect of selected factories;

(iii) dealing with major defects arising out of reports of Inspection groups;

(iv) Looking into reports of concurrent audit parties of Accountant general.

1.92. The internal audit parties are required to carry out checks in accordance with the general guide lines laid down in the Audit Manual. They are required to audit, if desired by Collector, factories where important defects/irregularities have been brought to light by Inspection Groups and where found necessary in regard to any important issue, they are required to

conduct a full inspection. Examiners of Accounts are also required to re-audit at least 2½% documents/ entries checked by the Audit parties while Assistant Collector (Audit) is required to carry out re-check ranging from 1% to 2½% depending upon the importance of the units visited.

1.93. The Committee asked whether internal audit looked into the undermentioned cases reported in Audit Report (Civil) Revenue Receipts, 1970 prior to the audit by C.A.Ss party and if so were the mistakes found by them.

(i) When the dimensions of the sieve in use was not tested by the Department (para 20 of Audit Report);

(ii) when the Assistant Collector changed his decision regarding correct classification of dispersed pigments (Para 21 of Audit Report) ;

(iii) when the excisable medicinal products were cleared as non-excisable (Para 24 of Audit Report);

(iv) when the manufacturer was deducting in his own way appreciable quantities of yarn from monthly production of cotton yarn every month on account of dryage during the period from 1961 to 1967 (Para 40-ii of Audit Report); and

(v) when revenue amounting to Rs. 0.98 lakhs was lost due to operation of time bar (para 29 of C.AGs Report for 1969-70 on Revenue Receipts).

1.94. The Ministry stated as under:

(i) The unit was inspected by the Internal Audit Party of the Collectorate Headquarters — but they did not raise any doubt about the dimensions of the sieve.

(ii) The internal audit party audited the records of the factory in 1966 but they did not go into this case presumably because the decision of the Assistant Collector to classify the product under item 14-I (5), on the basis of which assessments were being made during the period, was taken up after study of authoritative works on the subject and was supported by Deputy Chief Chemists report. The internal Audit party again audited the records of the factory in November, 1968. The matter being *subjudice* and review of other units in the Collectorate being already completed by the Assistant Collector no further action by the Internal Audit party seems to have been considered necessary.

(iii) Internal audit party audited records in August, 1965. Mistakes pointed out in Audit Para were not found by Internal audit party.

(iv) No.

(v) None of the case was detected by Internal Audit parties.

1.95. At the instance of the Committee the Ministry furnished a classified statement showing the nature and type of mistakes pointed out by internal audit, demands raised and recovered year-wise during

the three years 1966-67 to 1968-69. An abstract of the statement is given below :

Year	No. of demands raised	Amount involved	No. of demands realised	Amount realised
1	2	3	4	5
1966-67	1621	10,97,478	753	4,21,157
1967-68	2574	72,78,636	892	15,39,444
1968-69	1976	88,63,594	653	8,07,911

1.96. The nature and type of mistakes pointed out are as under:

(1) Short assessment.

(2) Incorrect valuation and classification of goods.

(3) Procedural irregularities.

(4) Wrong interpretation of law, notification and executive orders or instructions.

(5) Short accountal of production of excisable goods.

(6) Erroneous sanction of refunds.

(7) Incorrect credits afforded in R.G. 23 on returned goods.

(8) Short realisation of duty against loss cases.

(9) Short recovery of licence fees.

1.97. From the aforesaid statement it is observed that the demands realised are considerably lower than the demands raised in all the years. The Committee asked the reasons therefor. The Ministry stated as under:

"The information relating to demand raised and realised was collected from the various Collectors for the specific purpose of furnishing it to the PAC. Precise reasons for the wide variation between the demands raised and realised in the cases in question, were not furnished by the Collectors and are not readily available. This difference can be generally due to the following factors:—

(1) Demands were generally being issued on the basis of the observations made by the Audit. Concerned parties have the right to represent against the demand to the Assistant Collector. In some cases, the Assistant Collector might have found that the demand was untenable and consequently ordered its withdrawal.

(2) In those cases where the Assistant Collector had upheld the demand, the Party could have recourse to Appeal and Revision Petition and in the event of the order in appea and revision

being in favour of the Party, the demand would have been dropped. A number of the demands raised may be time-barred, though otherwise justified and hence these might have been withdrawn on appeal.

(3) Since the procedure relating to appeal and revision petition is necessarily time consuming, some of the demands might have been pending only for want of final decision.

(4) In some cases the party being aggrieved by the Departmental decision, might have approached the Courts of Law. Enforcements of such demands have to pend till the decision of the Courts.

(5) Some times the party does not have the resources to pay up the amount nor can the amount be recovered by attachment of the excisable goods belonging to him. In such cases, certificate action is taken under Section 11 of the Central Excise and Salt Act, 1944 requesting the Revenue Authorities of the State to realise the amount as arrears of land revenue. The State Revenue Authorities have their own difficulties in effecting the recovery with the result that the demand remains unrealised for very long period."

1.98. The Committee find that during the year 1969-70 as a result of mistakes pointed out by internal audit the Excise Department raised demands amounting to Rs. 88,63,594 as against Rs. 72,78,636 in 1967-68 and Rs. 10,97,-478 in 1966-67. But the recoveries made by the Department against these demands are not encouraging. Out of the demands amounting to Rs. 88,-63,594 raised during 1968-69. the amount realised is only Rs. 8,07,992. The Committee desire that necessary efforts should be made by the Department to recover expeditiously the amount under-assessed.

1.99. With the introduction of Self Removal Procedure the Committee feel that the responsibilities of the Internal Audit Department to check irregularities have become greater. The Committee suggest that it should be carefully examined by the Central Board of Excise & Customs to what extent the Internal Audit Department should be strengthened so that it should be more effective, in preventing loss of revenue to the Exchequer.

Loss of revenue due to belated revision of assessable Value

Audit paragraph

1.100. According to tariff item 29 A refrigrating and air conditioning appliances and machinery are assessable to Central excise duty with reference to their value, Section 4 of the Central Excise Act provides *inter alia* that the value shall be deemed to be the wholesale cash price for which an article of like kind and quality is sold in the nearest wholesale market. According to departmental instructions, the price paid by the sole selling agent to the manufacturer would not be acceptable as assessable value.

1.101. A firm manufacturing room air conditioners declared (April, 1962) the price charged by it to its sole selling agent as the value for levy of Central excise duty, which was approved by the department (May 1962). Subsequently, on verification the department found that the sole selling agent was selling the air conditioners in the nearest wholesale market at higher prices and raised supplementary demands for Rs. 1,40,332 in March, 1966 towards differential duty on the air conditioners cleared during April, 1964 to May, 1965. On an appeal by the firm, the High Court held that the demands could not be enforced as they had been raised more than three months after the date on which the duty was originally paid and were thus time barred under Rule 10 of the Central Excise Rules, 1944. Accordingly the demands were withdrawn. Rs. 7,033 collected from the firm earlier in respect of two other similar demands for the period April, 1962 to November, 1962 had also to be refunded. The loss of revenue of Rs. 1.47 lakhs could have been avoided, had the department ascertained the wholesale price of the air conditioners before accepting the value declared by the firm.

[Paragraph 38 of Audit Report (Civil). 1970 on Revenue Receipts.]

1.102. The Committee asked how the prices of the room air conditioners were intially approved contrary to Rules. The Ministry stated, "The Assistant Collector (Hyderabad) did not suspect correctness of the prices declared by the manufacturer and approved the price list. He, however, simultaneoulsy asked the Range Officer to get the price structure and market structure verified. This being the first price list submitted by the manufacturer, the Assistant Collector could have got the prices verified before according the approval." The Committee then asked when the Assistant Collector in Bombay was asked to verify the prices and when the report was received from him. From the note furnished by the Ministry it is observed that the Collector/Assistant Collector, Bombay was asked to verify prices/invoices in three cases on 16-5-1962, 28-3-1963 and 29-3-1965 and he sent the report of verification on 19-9-1962, 28-7-1963 and 12-4-1966.

1.103. According to Audit the factory concerned resisted in this case to have provisional assessments when told in November, 1963. The Committee asked whether the matter was brought to the notice of the Board for remedial measures. The Ministry state that the matter was "not brought" to their notice.

1.104. The Committee also learnt from Audit that the party concerned had been persistantly not cooperating with the Department in giving complete information for verification of prices. They asked as to what alterrnatives were open to Government in such a situation. The Ministry stated in their note:

> "With the amendment of Rule 173 C *vide* notification No. 175/71 dated 25th September, 1971, the goods can be cleared only after approval of price lists by the proper officer. In case the proper officer is of the opinion that on account of inquiry to be made in the matter or any other reasons to be recorded in writing, there is likely to be delay in according the approval, he is required, on a written request made by assessees to allow assessee to avail of the procedure under

Rule 9 (B) for provisional assessment of goods. Thus if the assessee does not cooperate, he will not be able to clear his goods."

1.105. The Committee regret to note a loss of revenue amounting to Rs. 1.47 lakhs on refrigerating and air-conditioning appliances assessable to excise duty with refrerence to their value, due to incorrect approval of prices initially and inordinate delay in follow-up measures to verfiy prices. The Assessing Officer in this case approved in May, 1962 the prices charged by the manufacturer to its sole selling agent as the value for assessment without verifying the actual sale price in the whole-sale market. While the Committee note that he simultaneously asked the Range Officers to get the market structure and price structure verified, the Committee feel that pending such verification the Assessing officer should have made provisional assessment. The failure of the Assessing Officer is reprehensible.

1.106. The Committee are surprised that it took four years for the Assessing Officer to fix the price. The Committee have already suggested elsewhere in this Report that some time limit should be prescribed for fixing of prices. The Committee suggest that responsibility may be fixed for lapses that occured in this case.

1.107. The Committee understand that the party had been adopting dilatory tactics in this case in giving information about the price to the Assessing Officer. The Committee would like the Board to examine whether any action can be taken against such parties.

Audit Paragraph

1.108. Electrical steel sheets are different from ordinary steel sheets and are liable to central excise duty at the tariff rate instead of at the concessional rate laid down for the ordinary steel sheets. In a collectorate, the electrical sheets were, however, assessed at the concessional rate during the period from 17th May, 1962 to 30th September, 1962. On realising the mistake the department raised demands for Rs. 1,44,287 on 9th November, 1962 for the entire period and the amount was recovered in full in May, 1963.

1.109. The Government of India, on revision application by the party, confirmed in June, 1966 the levy of duty at the tariff rate but an amount Rs.1,44.082 was refunded as the prescribed time limit for raising the demand was over.

(Para 37 of Audit Report (Civil) 1970 on Revenue Receipts)

1.110. The Committee asked when the Board came to know of the incorrect assessment. The Ministry replied:

> "30-7-1972". The Committee asked about the reasons for issuing clarification on 20-8-1962. The Ministry stated that "One of the importers of such sheets represented that whereas the excise duty on Electrical sheets was charged at the specific rates, countervailing duty was being charged on *ad valorem* basis. The correct position was, therefore, clarified on 20-8-1962".

1.111. The Committee asked why no demand was issued immediately on receipt of Board's instructions dated 20-8-1962. The Ministry stated,

"On receipt of the Board's instructions the Deputy Superintendent concerned immediately advised the factory to pay duty at 7½%. The factory objected to the decision and asked for a copy of the relevant notification. The demand on the goods already cleared was issued on 9-11-62, immediately after the necessary data were gathered." The Committee asked why provisional assessment was not made at least from the date of receipt of Board's order, if there had been any doubt. The Ministry replied: "On the goods already cleared assessment at the higher rate could be made only by raising demands, for which purpose the local officer waited for the full-data till 9-11-1962". When asked as to what would have been the amount of loss of revenue if demand had been issued on 24-8-1962 whent he Deputy Superintendent came to the conclusion that the product should be assessed at higher rates, the Ministry replied: "the amount of loss of revenue as a consequence of the demand not having been issued on 24-8-1962 is Rs. 17,528.31".

1.112. This case is indicative of defective drafting of notifications and delay in raising of demands which cost the Public Exchequer Rs. 1.44 lakhs. The electrical steel sheets to be charged at Tariff rate were charged concessional rate laid down for ordinary steel sheets from 17th May to 30th September, 1962 resulting in under-assessment of Rs. 1.44 lakhs in a collectorate. The mistake was notified by the Board only on the representation made about levy of countervailing duty by another manufacturer and a clarification was issued on the 20th August, 1962. The Committee have already suggested in para 1.209 of their 111th Report (Fourth Lok Sabha) that Government should ensure that the notifications precisely translate Government's intention.

1.113. The Superintendent concerned who received the clarification on the 24th August, 1962 raised the demands only on 9th November, 1962 taking about 3 months to collect data. Had he raised the demands immediately on receipt of clarification the duty amounting to Rs. 17,528.21 only for the period from 17th to 24th May, 1962 would have been lost instead of Rs. 1.44 lakhs for the period 17th May to 9th August, 1962 which was refunded by Government in in June, 1966 on account of time bar, on a revision petition preferred by the party. The Committee hope that such costly delays will be avoided in future and the officers responsible for these lapses will be dealt with suitably.

Incorrect determination of assessable value

Audit Paragraph

1.114. Central Excise duty on glass and glassware falling under tariff item 23-A of the Cental Excise Tariff Schedule is charged on the basis of value. According to instructions of the Central Board of Revenue issued in April, 1963 and September, 1963, if goods assessable on the basis of value are not marketed but are consumed by the manufacturer the assessable value for purposes of assessement should exhibit the total cost of poduction and that cost should also include a suitable margin of profit.

1.115. A glass factory in a collectorate started producing bottles for its own use in September, 1965. The assessable value of bottles did not include all the elements of total cost of production and suitable addition for margin of profit was not made to arrive at the assessable value.

1.116. On being pointed out in audit in November, 1968 the statement of cost of production of the manufacturer was revised in September, 1969 and in January, 1970 demand for central excise duty of Rs. 76,862 was raised by the Department to cover the differential duty for 1967-68.

[Para 25 of C.&AG's Report for 1969-70 on Revenue Receipts].

1.117. The Committee enquired why the collectorate did not take into consideration the instructions issued by the Board in 1963 for the addition of profit margin in the cost of production for determining the value for purposes of assessment. The Ministry replied in a note: "The assessments in this case, for all the items had been made at the beginning on the basis of the wholesale price of similar goods produced by other manufacturers. When a statement of cost of production indicating prime cost and debit price as received, assessments were made on the basis of debit price which was more than the cost price. On receipt of the audit objection, the statement of cost of production was called for and the question of addition of the margin of profit arose at that stage."

1.118. The Committee asked what factors were included in prime cost and debit cost and what are the Board's instructions for determining the cost. The Ministry replied: "There is no indication about the factors included in prime cost and debit price in the statement of the prime cost and debit price submitted by the party for the year 1966-67 duly certified by their Chartered Accountant. The party, however, submitted a revised cost statement for the year 1966-67 alongwith the cost of ingredients (copy attached.) The sale price shown in that cost statement is found to agree with the debit price shown in their statement of prime cost and debit price. There are no specific instructions of the Board for computing the cost."

1.119. The Committee desired to know the present position of the demand. The Ministry stated that "the demand is pending for realisation. The case is being examined *de novo*."

1.120. The Committee enquired about the remedial measures that existed if the products are under-cost by Company auditors. The Ministry stated that "the instructions in force requires that the costing duly certified by the Chartered Accoutants or Cost Accountants may be accepted. There has been no occassion to doubt the genuineness or correctness of the certificates issued by company auditors."

1.121. The Committee regret to note that although the factory in this case started producing bottles in September, 1965, the necessary statement of cost of production was not obtained by the Collectorate till the receipt of Audit objection in November, 1968. Earlier, the assessments were made on the basis of the debit price indicated by the factory which was more than the cost price. In view of the fact that instructions of the Board issued in 1963 provided inclusion of suitable marginal profit in the cost of production, the failure of Collectorate to initiate necessary action is regrettable.

1.122. The Committee have been informed that the demand raised by the Collectorate in this case is still pending and the case is being examined *de novo*. The Committee would like to be informed of the outcome.

1.123. The Committee suggest that the Board should examine whether some uniform percentage of marginal profit could be fixed so that this margin may not be left entirely to the discretion of the Collector and that it may not differ from factory to factory. It should also be examined whether it can be spelled out in clear terms as to what constitutes costed.

Under assessment due to application of lower rate of duty

Audit Report

1.124. According to a notification issued by Government in June, 1962, certain patent or proprietary medicines such as quinine and its salts were eligible for assessment at the concessional rate of 2½ per cent *ad valorem.* It was clarified by the Board in October, 1962 that preparations containing the notified drugs as principal active ingredients would also be eligible for the concession.

1.125. A certain medicine was being cleared by a factory on payment of duty at the concessional rate, as it was held by the department that the medicine contained quinine as active ingredient. According to the clinical pamphlet the addition of quinine was for intensifying the therapeutic effect of certain other basic ingredients in the medicine. As the concessional rate of assessment could be applied only if quinine in the drug was the principal active ingredient, the department was requested to re-examine this issue. On a reference from the department the Drug Control Administration held that quinine was not the principal active ingredient the case. Consequently a demand for Rs. 89,556 being the differential duty recoverable for the period from June, 1962 to June, 1968 was issued in March, 1969. The demand has not yet been realised.

[Para 19 of C&AG's Report for 1969-70 on Revenue Receipts].

1.126. The Committee enquired on what consideration was the medicine treated as eligible to concessional rate of duty and whether the Assistant Collector was not required to consult technical opinion, literature, etc. The Ministry replied: "The Assistant Collector seems to have formed his judgement based on the composition of the medicine. He was under the impression that the medicine was mainly meant for the treatment of malaria and, therefore, the quinine salt therein could be the active ingredient. The Assistant Collector could have obtained the technical opinion before classifying the medicine. He, however, referred the matter to the Deputy Drugs Controller on 16-9-1968".

1.127. The Committee enquired why, when the Audit objected to this assessment, in July, 1968 the demand was raised as late as in March, 1969. The Ministry replied: "The audit objection was received by the Assistant Collector on 8-7-1968. The Assistant Collector did not accept the audit contention and sent his reply to the audit on 22-7-1968. When the Audit reiterated their views on 21-8-1968, the Assistant Collector directed the Superintendent to raise demand for the differential duty on 10-9-1968 and simultaneously made a reference to the Deputy Drug Controller to ascertain if quinine was an active ingredient in the preparation. The Superintendent

concerned advised the factory on 25-9-1968 to supply the production and clearance figures to enable him to issue the demand. The factory was in a position to supply the information only on 5-2-1969 and the demand in question was raised on 14-3-1969." The Committee asked whether the Assistant Collector could not issue the demand immediately for a period of 3 months under Rule 10 so that that much amount could have been saved within the time limit. The Ministry replied: "Yes, he could have done so after getting the figures of clearance."

1.128. The Committee enquired how the instructions were interpreted in various collectorates and whether the Board was apprised of the practice at any stage. The Ministry stated: "Most of the Collectorates interpreted it as meaning the "main" ingredient though there were individual cases of disputed classification. The practice in all the Collectorates came up for review when the continuance of the concession in a modified form was taken up with the Ministry of Health and Drugs Controller."

1.129. The Committee enquired whether a review of all similar cases of claims of life saving drugs as principal active ingredients was undertaken and if so, with what results? The Ministry replied: "The entire concession relating to life saving drugs contained in notifications issued form time to time upto 8-10-66 came up for review in a comprehensive way on the basis of a detailed note recorded by the Drug Controller on 27-7-1967. The draft para in question was also circulated to all the Collectors for information and for submission of report on similar cases. The reports received from the Collectors revealed that there were only three similar cases in Calcutta & Orissa Collectorate where demands for an amount of Rs. 33,512.06 were raised. The demands have been disputed. As a result of review, the original notification was recast and made self-contained and fully explanatory wide notification No. 116/69 dated 3.5.69".

1.130. The Committee asked why it was not considered necessary to clarify the extent and scope of the term, 'Principal active ingredients' when instructions were issued in October, 1962. The Ministry replied: "In case of doubt local officers were expected to refer to the State Drugs Controller for clarification."

1.131. The Committee regret that although according to clinical pamphlet quinine was not the principal ingredient in the drug in this case a concession of duty was allowed in disregard of the notification issued in June 1962 and subsequent clarification issued in October, 1962. Even after Audit raised an objection in July, 1968 the Assistant Collector did not take any action to raise a provisional demand for differential duty. Only after Audit reiterated the objection that a reference was made to the Drugs Controller but the demand for differential duty was raised only in March, 1969. The Committee desire that in case of audit objection normal procedure of rasing demands immediately should be followed to avoid loss of revenue. The Committee would also like to know about the recovery of the demand of Rs. 89,556 raised in this case and three other demands amounting to Rs.33,512 in similar other cases.

Irregular set off allowed in respect of copper tubes

Audit Paragraph

1.132. Under a Notification issued by the Government of India in December, 1963 as subsequently amended, pipes and tubes of copper and copper alloys, if manufactured from duty paid copper or copper alloys in any crude form are exempt to the extent of the duty already paid on copper or copper alloys in crude form.

1.133. It was observed that a licensee, manufacturing pipes and tubes of copper alloys was allowed a set off of duty on the gross weight of the copper alloys. The alloy tubes contained besides copper other metals on which duty was paid at a lower rate (on nil) than that at which the final set off was allowed.

1.134. The excess set off allowed to the manufacturer on this account for the period from June 1968 to August 1970 is estimated at Rs. 4.07 lakhs. On being pointed out the Department raised a demand of Rs. 45,375 for the period from June, 1968 to September, 1969, which is pending realisation. For the remaining period the action taken has not yet been intimated (December, 1970). The Ministry while admitting the fact have stated that the legal implications of various notifications on this are being examined.

[Para 26 of C&AG's Report for 1969-70 on Revenue Receipts.]

1.135. According to Audit the procedure of getting set off of duty on copper content was changed to getting set off on the gross weight on the strength of Board's circular of 30th March, 1968. On inviting the Ministry's attention to it, they stated that "This circular did not authorise payment of set-off on the gross weight of the copper alloy irrsespective of the amount of crude stage excise duty (or countervailing duty) paid on the crude. The reference in para 2 of the said circular to the concept that duty liability in respect of crudes is to be limited to the copper content of the alloy was applied specifically only to those notifications in which this position was spelt out clearly — *viz.* Notifications Nos. 74/65, 118/66 and 119/66. This concept was never applied to the Notification No. 213/63 as amended. Even in respect of notification No. 74/65 this concept was specifically made inapplicable to ore-based manufacturers who could have virgin copper. It would thus appear that neither Notification No. 213/63, as amended nor this Ministry's circular letter F.No. 4/1/66-CX.III dated the 30th March, 1968 authorised any set-off of duty in excess of the duty actually paid on the virgin copper as in this case. It was a case of mis-interpretation of the instructions of the Ministry at the level of the field officers. The matter was clarified, after it came to Board's notice, by the issue of the letter F.No. 41/9/61-CX-4 dated 10th September, 1971.

1.136. The Committee enquired why, when the Conllector concerned made a reference to the Board in June, 1969, it took more than two years to issue the clarification in September, 1971. The Ministry stated: "In this letter dated the 13th June, 1969, the Collector of Central Excise, Delhi mentioned about the audit objection and expressed a view that *prima-facie* the audit objection appears valid. He had only indicated that the Ministry may consider amending notification No. 213/63 dated the 28th December,

1963. Whether it needs to be amended at all was taken up for examination promptly by the Board. Even if the notification needed an amendment, it would not have had any retrospective effect and would not have altered the position in so far as the audit objection is concerned. If the demands raised by the field officers pursuant to the audit objection were disputed by the affected parties, the dispute being quasi-judicial in character, it would have been an impropriety if any instructions were issued in this behalf to the adjudicating authority. The affected party also had referred its case to the Board in their letter dated the 6th December, 1969. It became necessary to secure some information from the Collector regarding the process of manufacture of pipes and tubes and as the factory was reported to be closed on account of a labour strike there was some delay in getting this information. Subsequently a critical analysis of several notifications issued in 1965 and 1966 referred to in the Board's earlier letter dated the 30th March, 1968 had to be undertaken to sort out the technical and legal issues involved. A stage by stage analysis had to be made to bring out the legal effect correctly. There is no denying the fact that there was some avoidable delay at one or two stages in the sections of the Board's office and these delays had been brought to the notice of the Branches and Sections concerned. It is also seen from the records that the Deputy Collector, Jaipur had rejected as early as 14-6-1971, an appeal filed by the party against one of the demands that had been raised pursuant to the audit objection. This would go to show that the clarification eventually issued by the Ministry was not really material for dealing with the audit objection. The delay is however regretted."

1.137. The Committee desired to know the total amount of under-assessment involved in this case, whether demands had been issued in all the cases and the present position of their realisation. The Ministry stated: "The total amount of under-assessment from June, 1968 to November, 1970 works out to Rs. 4,59,579.21. Demands have been issued in all the cases. The demands are pending realisation. The party has filed a Revision petion on 5th August, 1971 against the Deputy Collector's orders, which is pending."

1.138. The Committee regret to point out that this is yet another case where there was delay in issue of clarification of the Central Board of Excise & Customs on a reference made by the Collector in June, 1969. It took the Board more than two years to issue clarification in September, 1971. The delay in issue of clarification resulted in under assessment of Rs. 4.60 lakhs for the period June, 1968 to November, 1970. The demand have been raised but the party has filed revision petition against the Deputy Collector's orders which is pending. The Committee would like to be apprised of the outcome.

Delay in verification of proof of export

Audit Paragraph

1.139. According to the Central Excise Rules, 1944 and the orders issued the reunder; where any person who has removed excisable goods for

export under bond, fails to export or to furnish proof of such export to the satisfaction of the Collector within the maximum period of two years (including extensions) after the date of removal from the producing factory, he shall upon a written demand being made by the proper officer, forth with pay central excise duty leviable thereon.

1.140. In the course of audit it was noticed that though in many cases, the exporters had not submitted the necessary proof of export in respect of goods cleared under bonds during the years 1962, 1963, 1964, 1965 and 1966, no steps had been taken to realise duty leviable thereon by raising necessary demands. This resulted in non-realisation of duty to the extent of Rs. 30,06, 967 (upto 14th January, 1970).

[Para 28 (IV) of Comptroller & Auditor General's Report for 1969-70 on Revenue Receipts.]

1.141. The Committee desired to know the period allowed for exporters to export goods, when they are removed for export. The Ministry stated that "Notification No. 197/62 dated 17.11.62 (as amended) issued under rule 12 of Central Excise Rules, 1944, provides that the goods should be exported within 4 months from the date on which the goods were first cleared for export from the producing factory or within such extended period, as the Collector may in any particular case allow. Extension beyond 4 months permissible under notifications issued under Rule 12 may be permitted by the appropriate authority as a special case on the merits of each individual case upto a maximum period of two years." The Committee asked what action had been taken in the cases reported in the Audit Paragraph and when. The Ministry stated: "On receipt of the audit objection the Collector initiated a thorough scrutiny of the Running Bond Account to find out whether the goods removed for export had actually been exported or not. The report submitted by the Collector reveals that there has been no such case where goods were not exported. The cases were shown pending as the Running Bond Account could not be brought to date in the absence of the connected documents which were not readily available or had been misplaced."

1.142. The Committee desired to know the number of cases in all the Collectorates during the last three years ending 1970-71 in which there had been diversion for home consumption after having been removed under bond for exporting them. The Ministry stated that "2416 cases of diversions" had been noticed in all the Collectorates during these three years and "duties were demanded in respect of all the cases."

1.143. The Committee enquired about the state of Running Bond Accounts in the various Collectorates. The Ministry stated that "Reports of all the Collectorates indicate that in most of the cases, entries in the exporter's Running Bond Account have been kept upto date except in Bombay, Madras and Cochin Collectorates. About 25% entries against Running Bond Account maintained in Bombay are in arrears. 2286 entries in Madras and 3624 entries in Cochin are in arrears."

1.144. The Committee enquired whether the Running Bond Accounts were audited by the Internal Audit. The Ministry replied: "No, except in Ahmedabad Collectorate."

1.145. The Committee note from the information furnished that according to the Collector there has been no case where goods removed for export under bond were not exported. The cases were shown pending as the running bond account could not be brought up-to-date in the absence of connected documents which were not readily available or had been misplaced. The Committee are, however, surprised how in the absence of connected documents it has been claimed by the Collector that all exports have been made. The Committee hope that all documents which were not available or had been misplaced are now available.

1.146. The Committee, however, find that 25% entries against running bond accounts maintained in Bombay, 2286 entries in Madras and 3624 entries in Cochin are in arrears. The Committee desire that the reasons for the arrears may be looked into and necessary action taken to bring them up-to-date in these Collectorates.

1.147. The Committee have been informed that except in Ahmedabad Collectorate, Running Bond Accounts are not audited by the Internal Audit Department. The Committee suggest that the scope of Internal Audit Department should be extended to check the records in other Collectorates also.

1.148. The Committee have been informed that 2416 cases of diversions had been noticed in all the Collectorates during the three years ending 1970-71 and duties were demanded in respect of all the cases. The Committee trust that recoveries have been made in all these cases.

Loss of revenue due to incorrect interpretation

Audit Paragraph

1.149. A factory in a collectorate had two separate manufacturing units. In one unit it manufactured P.V.C. resins in powder form and in the other P.V.C. compounds out of duty paid P.V.C. resins. A portion of these compounds was internally used in the manufacture of finished plastic articles and the rest was sold in the market.

1.150. Till March, 1964 when the tariff item was amended, the compounds made out of duty-paid resins attracted further duty. This position was also clarified by the Board in May, 1965. Meanwhile, the compounds cleared from 1st March, 1961 to 29th February, 1964 were not charged to duty by the Department and demands for Rs. 25,02,899 raised after March, 1964 for recovering the duty on these clearances upto February, 1964 were also ordered by the Collector to be writhdrawn in March, 1965 as he held that the compounds made out of duty paid resins did not attract further duty. The case was reported in September 1969 to the Ministry whose reply is still awaited (March, 1970).

[Para 26 of Audit Report (Civil), 1970 on Revenue Receipts.]

1.151. The Ministry stated in a note, "Plastic all sorts were brought under excise control for the first time w.e.f. 1.3.1961. In the executive instructions issued (14.3.1961), the scope of the levy was clarified to the effect that all raw materials that went to make plastic articles should pay duty at

one stage, *i.e.* at the first stage when raw materials attract duty for the first time. When the tariff item was enlarged to include a residuary sub-item namely, 'plastics not otherwise specified' it was reiterated (28.11.1962) that all straight synthetic resins in the pure form being raw materials attract duty, but the other modified form being used as raw materials for plastic industry does not attract duty." As to whether the instructions issued in March, 1961 and November, 1962 were clear enough, the Ministry stated that they "were clear enough" and "no clarification was sought for from the Board in regard to the dutiability of PVC compound by any Collectorate before March, 1964." The Committee were informed that, "The question regarding the assessability of P.V.C. compounds was first decided by the Assistant Collector of Central Excise incharge of Bombay Division in March, 1964. The Party preferred an appeal to the Collector. The Collector, in his order-in-appeal dated 25th March, 1965, decided that P.V.C. compounds made out of duty paid on P.V.C. resins does not attract duty of excise again. He ordered the demand issued in respect of duty on P.V.C. compound made out of duty paid should be withdrawn. It has been reported that the Collector allowed the appeal in view of the Board's instructions of 17th February, 1965 after the tariff was amended. According to these instructions "Only PVC resins in its pure and straight form is to be assessed. Thereby, even in integrated factories producing PVC compound, duty will be leviable at the resin stage. PVC compounds made out of duty paid PVC resins would not attract duty again." These instructions superseded the earlier instructions issued after amendment of the tariff in March, 1964 that, "Differential Duty was also to be collected from manufacturers making PVC compound out of duty paid PVC resins." As regards the circumstances leading to the issue of instructions in may, 1965, the Ministry stated, "In 1964 Budget, the scope of item 15A, relating to plastics was changed considerably with effect from 1.3.1964. As already indicated.....Assistant Collector of Central Excise, Bombay Division V had taken a decision that PVC compounds are liable to excise duty. There were representations from the industry /trade. The matter was examined in consultation with the Ministry of Law and their opinion was communicated to the Collector of Central Excise, Bombay in Board's letter F. No. 10/9/64-CXVI dated 27.5.1965."

1.152. The Committee were informed by Audit that consequent to one of the clarifications by the Board in May, 1965, demands vacated earlier were reissued and the actual payment of refund involving Rs. 16.52 lakhs was withheld, in order to adjust the same against the outstanding demands for Rs. 25,02,899 for the earlier period. Under section 11 of the Central Excise Act the Government is empowered to realize Government dues by adjusting against money payable to the licencee. The party thereafter filed a petition, in June 1966 in the Bombay High Court praying for order for immediate refund of Rs. 16.52 lakhs. The Government were advised by the Law Ministry to settle the matter out of court in view of unambiguous order issued by the Collector in March, 1965.

1.153. The Committee enquired how far loss of Rs. 25 lakhs, which was justifiably due to Government is attributable to incorrect appeal order to defective drafting. The Ministry stated, "It was only when the Law Ministry gave their opinion on 27th May, 1965 leading to the issue of Board's letter dated 29th May, 1965 that the position was clear about the duty liability of PVC compound for the period prior to 1.3.1964. The order-in-appeal was

passed by the Collector on 25th March, 1965 long before the Law Ministry's opinion was communicated to him. It could not, therefore, be said that there was any defect in the order itself or in the drafting thereof."

1.154. The Committee enquired whether the consumers in the meantime would not have been charged duty in the intervening period. The Ministry replied, "No Central Excise duty on PVC compounds has been recovered from the manufacturers during the period from 1.3.61 to 29.2.1964. The demands issued for the period were withdrawn. Duty paid by the manufacturer on the clearances of PVC compounds during the period from 17.4.64 to 10.6.64 and from 23.7.64 to 23.2.65 was also refunded. However, during the period from 17.4.64 to 10.6.64 and from 23.7.64 to 23.2.65, it appears, that since the manufacturers had paid duty at the time of clearances of compounds during the periods they have passed on the incidence of duty to the consumers. This is only a presumption based on the letter dated 11.4.66 from the party in which they have claimed a refund of Rs. 10,730.16."

1.155. The Committee find that according to the opinion given by the Ministry of Law in May 1965, the P.V.C. compound was liable to payment of additional duty during the period 1st March, 1961 to 29th February, 1964 *i.e.* before the tariff was amended. There was failure to raise any demands for additional duty in this case during the period 1st March, 1961 to 29th February, 1964. The demands raised by the Assistant Collector after March 1964 were ordered by the Collector to be withdrawn in March 1965. When the clarification from Law Ministry on this point was received in May 1965, it was too late and it was not possible to enforce the demand. The net result was loss of duty amounting to Rs. 25 lakhs for the period prior to 1st March, 1964 which is regrettable.

1.156. The Committee feel that the instruction initially issued by the Board should have mentioned about the further duty payable on P.V.C. compounds. The Committee stress that the instructions of the Board should clearly bring out the intention of the Government.

Loss of revenue due to improper allowance of benefits of special procedure to power loom units

Audit Paragraph

1.157. According to Central Excise Rules a manufacturer who produced cotton fabrics on power looms without spinning units might be permitted to pay Central excise duty at compounded rate under the special procedure on fulfilment of conditions specified therein. The concession was not admissible to a manufacturer who commenced production for the first time on or after 1st December, 1960 by acquiring the power looms from any other person who was or had been a licensee.

1.158. It was, however, noticed in one collectorate that a factory had 220 looms, but in order to avail of the concession envisaged under the compounded levy scheme it reduced the looms to 49 in April 1962 and in 1963 distributed 171 looms to eight units under separate sales agreements. The units were granted separate Central excise licenses in February 1965 and May 1965 and allowed to pay Central excise duty at the concessional rates.

As these eight units commenced production after 1st December, 1960 and acquired the looms from a manufacturer who had been a licensee, the permission granted to them to avail themselves of the special procedure and pay Central Excise duty at the compounded rate instead of at the standard rate was irregular. The revenue lost was Rs. 7,47,092 during the period from 5th May, 1965 to 19th August, 1966.

[Paragraph 33 of Audit Report (Civil), 1970 on Revenue Receipts.]

1.159. During the evidence the Committee enquired whether the facts given in Audit para were accepted by the Government. The witness stated : "We have not admitted the objection raised in the para." The Committee asked whether Government had informed the Audit about it. The witness replied: "Even in the draft stage, we sent a reply stating that we are not admitting the objection nor the loss involved. The objection is based on the interpretation of a proviso to rule 96(I), which proviso was deleted on 20th August, 1966. As may be seen from the audit para, the loss has been computed upto the date of deletion starting from 5th May, 1965 when production commenced earliest. No doubt, strictly speaking this came within the purview of the proviso. But there is another point which unfortunately we had not brought to the notice of Audit. Before the notification was issued on 20th August, 1966, we had issued a letter dated 24th April, 1965 addressed to the Collector of Central Excise, Madras, who raised this very point, namely in such a case, in view of the proviso, can he allow such units to operate under the compounded levy scheme or not. We briefly replied to him...that in the context of the 1965 Budget get changes, the proviso to Rule 96(I)(i) of the Central Excise Rules, 1944, has been rendered inoperative and need not be acted upon. Action to amend the Rules suitably is being taken separately." To a question whether the Board was competent to issue a letter which had the effect of deleting a Rule without actually amending the Rule, the witness replied: "We said we were amending the Rules." When it was pointed out that the Rules were amended much later and until the Rule was formally amended the Board should not have prevented the levy which was in fact leviable, by executive instructions; the witness stated: "I would submit that this is a concious change made as a result of the Budget proposals. It is also related to the fact that we were very considerably reducing the incidence of duty on the fabrics produced in powerlooms by substantially transferring the duty burden on yarn. In this situation the application of the proviso to Rule 96 (I)(i) became of no material importance at all. When the compound levy rates were high, you naturally had to take all the precautions to ensure that there was no fragmentation, but when you have reduced the duty on the compounded levy itself to such a low level that it is not worthwhile going on policing it, it was more or less in the nature of a levy designed to maintain a sort of licensing control over the powerlooms rather than trying to collect by way of compounded levy duty on the fabric as such, when you have transferred a substantial burden to yarn. In the Budget itself suitable provision to this effect was made and it was in pursuance of that, in anticipation of the amendment of the Rules, that the instructions were issued." "I have already conceded that for the period from 5th May upto the date we formally amended the rule, they (the Audit) are technically correct." The Secretary to the Ministry added: "Between this date and 1966 when the Rule was formally amended, there is a technical violation, but the whole Budget scheme had been changed." When the Committeee pointed

out that this technical violation had resulted in a loss of Rs. 7.47 lakhs, the Secretary stated: "The Rule should have been amended immediately. I agree that the amendment of the rule should be made as quickly as possible. But there is a little time lag between the presentation of the Budget at the end of February and the final passing of the budget proposals by Parliament by May or June. In the present case till June the budget proposals were still being debated in Parliament and the final shape had not taken place. The amended rules were issued in August, 1965. I agree with the general proposition that the executive instructions, if at all should be replaced by a rule as quickly as possible and within a reasonable period, and one year is not a reasonable period."

1.160. At the instance of the Committee the Ministry furnished the following details regarding the persons to whom the looms were sold and their relation with the seller mill:

S. No.	Name of Purchaser	No. of looms purchased	Relationship with the seller.
1	2	3	4
1.	Shri.....	22 looms	Shareholder of (seller) Mills
2.	Shri.....	20 looms	Shareholder of (seller) Mills
3.	Shri.....	22 looms	Shareholder of (seller) Mills
4.	Shri.....	20 looms	An employee of the firm (seller mills) from Feb. 62 to Nov. 1965.
5.	Shri.....	10 looms	No relationship could be ascertained.
6.	Shri.....	22 Looms	-do-
7.	Shri.....	24 Looms	-do-
8.	Shri.....	22 Looms	-do-

1.161. The Committee desired to know the dates from which the 8 new units were granted Central Excise licence and the dates from which they were allowed to come under the compound levy scheme. The Ministry replied: "The eight new units were granted Central Excise licenses between 18.2.65 to 24.5.65. The new units sought permission for working under Compounded Levy Scheme on 29.5.65. Accordingly permission was given to them and they started production between 5.6.65 and 1.11.65 on payment of duty on the basis of the number of looms installed for the year 1965-66."

1.162. The Committee enquired whether the fact that the new units commenced production after 1st December, 1960 and acquired the looms from a manufacturer who had been a licensee was specifically considered by the Collector and if so, how permission was granted to them to avail themselves of the special procedure. The Ministry replied: "The note recorded by the Collector does not indicate that the point regarding the commencement of production after 1.12.1960 was specifically considered. However, the Collector was of the view that the lower rate of duty pertained to the rate of duty under the Compounded Levy Scheme."

1.163. The Committee asked whether it was not a deliberate move on the part of the manufacturer to reduce 220 powerlooms to less than 49 by distributing some of them to 8 different persons most of whom were either share holders or employees of the same firm and all operating in the same premises to get the benefit of the lower rate of duty. The witness replied: "I would agree that he had very cleverly thwarted his cleverness by changing the Budget scheme itself, by reducing the duty incidence on powerlooms to a negligible amount."

1.164. The Committee asked whether, after knowing that for enjoying concessional duty a ceiling of 49 powerlooms was prescribed and the manufacturer had reduced his 220 powerlooms to 49 looms, did the Collector not suspect that it was a deliberate move to evade tax and then how did he grant the licence to the new units. The Secretary replied: "Under the Licensing rules, Rule, 174 sub-Rule 2 says: 'Provided that with effect from January, 1961, no licence shall be granted to an applicant unless he holds written permission of the Textile Commissioner for the installing and working of powerlooms for the manufacture of cotton, rayon, artificial fabric.' So, the rules provide that he must obtain the written permission of the Textile Commissioner, and in this particular case, the written permission of the Textile Commissioner was given." The Committee observed that the permission of the Textile Commissioner was only an additional condition and referred to Rule 97(I)(i) which *inter alia* says that "Provided when a manufacturer who commences production etc., makes an application under this Rule, the Collector shall not grant permission unless it is proved to his satisfaction that the powerlooms in respect of which the application is made have not been acquired from any other person who is or has been a licensee with a view to paying duty at lower rates." The Committee asked whether an enquiry was made by the Collector in this regard. The Secretary replied: "In this particular case an enquiry was made by the Collector. The Collector was accompanied by a number of people, including the Secretary of the West Bengal Powerloom Factories Association. He went into all the records of sales of these parties and came to the conclusion that the transactions were *bona fide*. When a suspicion was created in the minds of the local officers they did make enquiries and they consulted the Textile Commissioner, who said 'no, this partition or division was *bona fide*; the sales on enquiries were found to be *bona fide*.' So, on that basis it was not possible for the Collector to refuse the licence."

1.165. At the instance of the Committee the Ministry furnished a copy of the letter dated 20th May, 1965 from the Textile Commissioner, Calcutta addressed to the Collector. The Committee find from this letter that the Textile Commissioner had written that his office had "no objection to instal those 171 looms by eight purchasers in the same loomshed of the seller alongwith the seller's 49 looms by erecting half partitioned wall for demarcation of separate units." The Committee also asked for a copy of the report of the Collector. The Ministry replied: "No report was received from the Collector but a note of his visit to the unit on 4.5.1965 was recorded in the Collectorate file. The Collector has recorded in his note that "the transactions are *bona fide* and this has been also accepted by the Textile Commissioner, who has consequently given permission to the 8 parties to operate their

looms. These 8 new units have also been satisfactorily walled from the premises of M/s.....As things stand, and in law, we cannot refuse to grant licences to these 8 parties who have applied for them."

1.166. The Committee note that the Board issued executive instructions in April, 1965 that the proviso to Rule 96(I) to Central Excise Rules, 1964 has been rendered inoperative and need not be acted upon by the Collectors. Accordingly, the Collectors could allow small size units producing cotton fabrics on power looms to be assessed under the compounded levy system even though these came into existence after 1st December, 1960. The Committee, however, regret that the formal amendment to this Rule deleting the Proviso was issued by the Board after about 16 months. In the meantime the concession to the manufacturers on the basis of the executive instructions was continued. The Committee have in their earlier reports (Para 3.16 of 24th Report, Fourth Lok Sabha) objected to making exemptions through executive instructions.

1.167. The Committee hope that the delay in issuing formal notification will be avoided in future.

Loss of revenue due to short-levy of additional excise duty on tobacco dust not confirming to specifications

Audit Paragraph

1.168. According to a notification issued by Government in March, 1963 dust of flue cured tobacco passing through a sieve conforming to the specifications prescribed therein is assessable to additional excise duty at a concessional rate of 6 paise per Kg. The sieve used by a cigarette factory in a collectorate was not, however, got tested by the proper technical authority and the department did not also maintain a master sieve to ensure that the dust cleared under the concessional rate conformed to specifications prescribed. When this was pointed out in audit in January, 1967, the sieve, then in use in the cigarette factory, was got tested by reference to National Test House, Alipore. It was found that the sieve did not conform to the specifications notified. The dust in question was, therefore, liable to the higher rate of duty @ 44 paise per Kg. Two supplementary demands for Rs. 8,-46,291 were accordingly issued in June, 1967 for the differential duty for the period from March, 1968 to 17th June, 1967. Out of this Rs. 29,070 were recovered. The balance demand of Rs. 8,17,221 was cancelled as the Collector held that it was not enforceable.

1.169. The Ministry have stated in February, 1970, that the matter is being looked into to ascertain how the omission occurred.

[Paragraph 20 of Audit Report (Civil), 1970 on Revenue Receipts.]

1.170. During the evidence, the Committee asked whether the Government had examined the full facts of the case and if so, how this omission involving a loss of revenue amounting Rs. 8,17,221 which had been declared as enforceable. The witness stated: "Whereas the facts stated in the paragraph are correct, the loss of revenue is not—we have now gone into it in greater detail—as much as has been indicated there. There has been some

misunderstanding at the earlier stage. We did not go into these details, but now that we have studied it, we found out the actual position."

1.171. The Committee asked when the Audit raised objection in January, 1967, what action was taken. The Secretary replied: "After the first Audit para was received, the Collectorate sent the sieve for examination to the Controller of Weights and Measures in Hyderabad who said this was all right. Then it was sent to the National Test House Laboratory where they said it was not all right." The Committee then pointed out that after considering all these facts the Collectorate raised demands for Rs. 8,46,291 and the Collector passed orders on January, 1969 saying that "The Report of the National Test House Alipore is conclusive." The Committee asked what were the reasons for revision of an earlier order passed by the appellate authority and whether the party had objected to these demands. The witness replied: "They had gone to the Collector earlier in appeal and whatever was not timebarred, the Collector admitted. The major portion of it had become time-barred. In respect of Rs. 29,000 which the factory has paid and which we have collected that was within the time. Two demands, as you have correctly stated, were issued; one related to the three months which had not become time-barred while the other related to more than 3 years old period. That appeal was admitted because the demand had become time-barred; the other was rejected". The Secretary added further "The Board has not reopened the questions. The demands realised by the Collectorate are there. The party has paid and they stand. The Collectorate has not pursued those that became time-barred; they could not do so. That point remains as it is and the audit para, to that extent has been fulfilled. The demand was realised and correction was made as far as the sieve was concerned to see that in future this kind of loss does not occur. When they examined otherwise as to what was the total loss on this particular matter and went into the whole manufacturing process of this company, it was felt that the loss would not come to this amount but would be much less because of the actual manufacturing programme of the company. There is no modification of the Collectorate's order. The Board has not passed any order on this matter. The demand has been collected. The party has not made any appeal."

1.172. The Committee asked what steps had been taken by the Board to see that such cases do not reoccur in future. The Secretary stated: "The other collectorates were asked to get their sieves in their charges tested by the examiner and they have all been found to be of correct specification. The audit objection has been brought to the notice of the collectorates."

1.173. The Committee asked what action could be taken if the manufacturer gave a wrong declaration. The witness replied: "He does not give a declaration. But he does declare that the dust conforms to the specification and if this is a wrong declaration, we can proceed against him under the rule, and we can also take him to the court for furnishing false information. Section 9 and rule 9 cover that." The Committee enquired whether any action was taken in this case. The witness replied: "No. They just raised the demand." The Secretary added "He should have taken action." When asked why no such action was taken against the manufacturer, the Ministry stated in a note: "The Collector has reported that all these clearances of

tobacco were offected under the supervision of the C.E., Officers. In the circumstances it was not possible to establish any charge under section 9 of the Central Excise and Salt Act, 1944 against the manufacturer.

1.174. The Committee are unhappy over the negligence of Customs and Excise officials who allowed a concessional rate of duty on flue cured tobacco without checking the correctness of the sieve through which it was required to pass for entitlement of concessional rate of duty. This practice continued for about 4 years from March, 1963 till January, 1967 when Audit pointed out the mistake. The mistake resulted in under-assessment amounting to Rs. 8.46 lakhs out of which only Rs. 29,000 could be recovered and the balance of Rs. 8.17 lakhs was irrecoverable being time-barred or unemforceable.

1.175. It is regretted that although the clearances were made under the supervision of the Central Excise officers they failed to check that the sieve used was not of prescribed specification. The Committee desire that necessary action should be taken against the officers concerned for their negligence.

1.176. The Committee note that the Board have issued instructions for checking the sieves. The Committee trust that the instructions will be followed by the collectors.

1.177. The Committee would also like Government to examine the feasibility of maintaining a master sieve in all the collectorates or ranges as might be convenient so as to facilitate testing.

Frauds and evasions

Audit Paragraph

1.178. The following statement gives the position relating to the number of cases prosecuted for offences under the Central Excise law for frauds and evasions together with the amount of penalties imposed and the value of goods confiscated during the year 1968-69 and 1969-70.

	1968-69*	1969-70**
1. Total number of offences under Central Excise law prosecuted in courts.	17	21
2. Total number of cases resulting in convictions. . . .	10	8
3. Total value of goods seized .	Rs. 85, 54, 788	Rs. 91, 71,000
4. Total value of goods confiscated	Rs. 33,18,191	Rs. 4,000
5. Total amount of penalties imposed	Rs. 5,35,847	Rs. 7,79,000
6. Total amount of duty assessed to be paid in respect of confiscated goods	Rs. 18,19,678	Rs. 37,36,000
7. Total amount of find adjudged in lieu of confiscation . .	Rs. 6,38,222	Rs. 9,38,000

	1968-69*	1969-70**
8. Total amount settled in composition	Rs. 54,092	Rs. 48,000
9. Total value of goods destroyed after confiscation . . .	Rs. 29,965	Rs. 24,000
10. Total value of goods sold after confiscation	Rs. 87,640	Rs. 62,000

[Paragraph 44 of Audit Report (Civil), 1970 on Revenue Receipts and Paragraph 32 of Comptroller & Auditor General's Report for 1969-70 on Revenue Receipts.]

1.179. Comperation figures regarding frauds and evasion ending 1969-70 are shown as under :—

	1967-68	1968-69	1969-70
1. Total number of offences prosecuted in courts . . .	10	17	30†
2. Total number of cases resulting in convictions. . . .	6	10	8
3. Total value of goods seized .	Rs. 79,23,564	Rs. 85,54,788	Rs. 91,71,000
4. Total value of goods confiscated	Rs. 16,662	Rs. 33.18,191	Rs. 4,000
5. Total amount of penalties imposed	Rs. 3,49,304	Rs. 5,35,847	Rs. 7,79,000
6. Total amount of duty assessed to be paid in respect of confiscated foods.	Rs. 53,50,886	Rs. 18,19,678	Rs. 37,36,000
7. Total amount of fine adjusted in lieu of confiscation . .	Rs. 4,47,386	Rs. 6,38,222	Rs. 9,38,000
8. Total amount settled in composition	Rs. 1,02,221	Rs. 54,092	Rs. 48,000
9. Total value of goods destroyed.	Rs. 37,366	Rs. 29,965	Rs. 24,000
10. Total value of goods sold after confiscation	Rs. 53,066	Rs. 87,640	Rs. 62,000

1.180. The Committee desired to know whether the amounts shown against item Nos. (5) to (8) above for the year 1968-69 had been realised as on 31.3.70. The Ministry furnished incomplete information and stated that "this information is interim as the information from certain field formations is still awaited" and on receipt of the information, a complete information will be furnished. However, the information has not been furnished by the Ministry for the last more than a year. The Committee desired to know the reasons for poor recovery, the Ministry stated: "The realisation reported

*Figures provisionally furnished by the Ministry of Finance.

**Figures furnished by the Ministry of Finance.

†The Ministry have revised the earlier figure of 21.

relate to the recovery within the year the amounts were adjudged. The Collectors have also reported the following reasons which have a bearing on the amount recovered.

(i) Parties are inclined to agitate the matter in departmental appeal/ revision and courts of law and await the final decision. In some cases the amount of penalty and fine is reduced in Appeal/Revision and in some cases Appeals/Revisions are admitted.

(ii) most of the cases relate to un-manufactured tobacco seized from parties who did not claim the goods subsequently.

(iii) amount of fine adjudged in lieu of confiscation and the amount of duty involved cannot be realised where the option given is not exercised. Where goods are not redeemed those are disposed of by auction or by destruction.

(iv) realisation of amount settled in composition is possible only in cases where parties avail of the offer of-compounding the offence."

1.181. The Committee also desired to know the value of goods which had been sold out of the goods valuing Rs. 33.18 lakhs confiscated during 1968-69, the disposal of the remaining goods, the value of goods fixed at the time of confiscation and the price actually fetched at the time of selling. In this case also complete information has not been furnished for the last over one year. From the limited information in respect of only a few collectorates furnished, it is observed that the actual sale proceeds are only 23% of their value fixed at the time of confiscation of goods as would be seen from the following table.

Collectorate	Value (Rs.) of goods at the time of	
	confiscation	*Sale (actual)*
1	2	3
Shillong	*46,295*	*5,133*
Hyderabad	*36,368*	*6,759*
Bangalore	12,692	6,254
Chandigarh	2,804	2,804
Baroda	2,092	1,730
Nagpur	1,327	1,198
Kanpur	267	124

1.182. The value of goods redeemed, destroyed and released is Rs. 1.58 lakhs, Rs. 1.07 lakhs and Rs. 0.87 lakhs respectively.

1.183. The Committee enquired about the reasons for fetching such a low price at the time of sale particularly in Hyderabad and Bangalore. The

Ministry stated: "The information furnished was provisional. The Collectors subsequently reported the correct figures regarding value of the goods at the time of confiscation and the amount of sale proceeds as under:—

	Value of the goods at the time of	
	Confiscation	Sale
Hyderabad	26,930	7,806
Bangalore	15,363	6,521

1.184. The reasons for the low price fetched have been reported by the Collectors' as under:

Hyderabad Collectorate: Difference between the value the time of confiscation and the price at which the goods were actually sold is due to low bids offered in auctions which necessarily have to take place long after the seizure and the extent of-deterioration of tobacco during the period intervening seizure and disposal by auction.

Bangalore Collectorate: In 90 cases the goods (tobacco) valued at Rs.7,508 at the time of confiscation were sold for Rs. 3,312 on account of dterioration in quality while in storage. In 3 cases the goods valued at Rs. 1,510 at the time of confiscation were sold for Rs. 516 as the goods (tobacco) were of inferior quality. No bidders came forward and goods had to be sold under private treaty for agricultural purposes. In 8 cases goods valued at Rs. 5,585 at the time of confiscation were sold for Rs. 1,836 on account of excess valuation at the time of seizure. In 11 cases goods valuedat Rs. 760 at the time of confiscation were sold for a higher price of Rs. 857."

1.185. The Committee desired to know the number of cases that relate to those under self Removal Procedure out of the 21 cases of offences prosecuted in courts in 1969-70. The Ministry replied in a note that "The number of prosecution cases reported in the Audit Para are 21. These figures were provisional. Subsequently some of the Collectors revised their earlier figures and the number of prosecution cases now comes to 30. Out of 30 cases, 25 cases relate to physical control and the remaining 5 cases relate to those under self Removal Procedure."

1.186. The Committee asked about the reasons for increase in the fine adjudged in lieu of confiscation from 1967-69. According to the Ministry following are the main reasons for this increase:

(i) Due to imposition of heavier fine.

(ii) Due to increase in the value of the goods confiscated.

(iii) Due to increase in the number of cases adjudicated.

(iv) soon after the introduction of Self Removal Procedure w.e.f. June, 1968 violations were viewed leniently and when the assessees had had sufficient time to familarise themselves with the scheme, offences were dealt with more severely."

1.187. The Committee find that during the year 1969-70, prosecutions were launched in 30 cases as against 17 in 1968-69 and 10 in 1967-68. Out of these 30 cases 25 related to the commodities which are under physical control and 5 to those under Self Removal Procedure. Although the number of offences prosecuted has increased the Committee are not satisfied with the figure for the whole country particularly considering that there are 115 commodities under excise control. The Committee are anxious that the Department should launch prosecutions in preference to imposing fines and penalties so that the Department's action acts as sufficient deterrent against evasion.

1.188. The value of goods confiscated during 1969-70 is stated as Rs. 4,000 as against Rs. 33,18,191 in 1968-69. The Committee desire that Department should look into the reasons for this low figure during the year.

1.189. From the figures given to the Committee, they find that the sale proceeds of confiscated goods represented only 27% of their value at the time of confiscation. One of the reasons stated by the Department is deterioration in goods and low bids offered by bidders. The Committee desire that necessary steps should be taken to dispose of the confiscated goods expeditiously and to improve their storage condition.

Incorrect assessment to duty

Audit Paragraph

1.190. Rayon yarn is assessable to central excise duty on the basis of its deniers declared by a manufacturer. In doubtful cases samples are drawn and tested by the Department. The Central Board of Excise and Customs clarified in their letter dated 28th November, 1968 that in the case of yarn found on chemical test of its sample to fall in a lower denier group, attracting higher rate of duty, not only the consignment in question (of which the sample formed part) but also the production from the date on which the sample was drawn should be subjected to the appropriate higher rate of duty till the date, a fresh sample was drawn for chemical analysis and was found to fall within the category declared by the manufacturer.

1.191. In a factory manufacturing rayon yarn three samples of rayon yarn were on analysis found to be of lower deniers and consequently higher rates of duty were leviable on such yarn. Differential duty was however, demanded only on the particular lots from which samples were drawn and that too only in respect of two cases. Even in those two cases differential duty was not demanded on the entire production between the dates of drawal of samples which were found on analysis to be of lower denier group and the dates of drawal of subsequent samples found on analysis to fall under the correct category declared by the manufacturer.

1.192. The department accepted the omission and raised demands for Rs. 2,10,450 (Rs. 300 in July, 1969 and Rs. 2,10,150 in December, 1969).

[Para 24 of C.&A.G.'s Report (1969-70) on Revenue Receipts]

1.193. During evidence the Secretary to the Ministry deposed: "We admit that there has been a mistake. I do not want to say anything on this

particular point because having found that the company was not reporting the correct denier and having charged them at the correct rate, then again accepting their own return was not satisfactory." The Committee enquired how did the department actually become aware of the omission. The witness replied: "We ourselves came to know of the omission. In that particular period samples were drawn every fortnight to check up whether the correct denier was declared by the factory or not. It was during these checks that we found that the correct denier was not being declared. They were declared as a coarser varitey of rayon, whereas it belonged to the next group and they should have paid a higher rate of duty. The internal audit also detected it, but they restricted the demand only to that particular lot. It was after the visit of the Audit and in the light of the instructions which were subsequently issued in 1968.....that the revised demand was issued subsequently." The Committee enquired when was the test made and omission detected, when the internal audit also found it, when were the demands issued and what was the time lag in between. The Secretary to the Ministry replied: "As I mentioned the wrong in this thing, has been actually this. Even when they detected it, they raised the demand only for a limited period or for a limited lot and did not correct it for subsequent assessments." When the Committee pointed out that the omission was not limited to a particular lot alone but the assessment at the higher rate had not been made till the date when next sample was drawn and found of the correct specification, the Secretary stated: "That is why we accept this point. We will go into this matter. We have called for the explanation of the officers concerned.

1.194. The Committee desired to know why the demand was confined to the particular lots only in the first instance. The Ministry stated in a note that "the local officers lost sight of the relevant instructions in this regard." The Committee asked whether this omission was a deliberate action on the part of the officers concerned. The witness replied: "That is what we have to investigate." To a question as to what action was being taken against the officers concerned, the Ministry stated in a note that, "the officers concerned have asked for perusal of the records. Further action will be taken on receipt of their replies."

1.195 The Committee enquired about the present position of demands. The Ministry stated in their note: "The demands are still outstanding. The party filed an appeal to the Deputy Collector, Kanpur, which was rejected in September, 1971. The party thereupon filed a Revision Application to the Government of India and the same is under consideration."

1.196. The Committee asked whether Government could prosecute the party concerned for mis-declarations. The Secretary stated: "We shall examine that possibility also. Subsequently, the Committee enquired whether the possibility of prosecuting the party had since been examined. The Ministry stated in a note that it was "examined by the Collector in consultation with the District Government Counsel (Civil), Kanpur. Further action is in progress."

1.197. The Committee enquired whether there was any machinery to check deliberate misdeclaration by the assessees. The Secretary to the Ministry stated: "Under the Self Removal Procedure the basic responsibility

of the Excise Staff is to make surprise checks and visits and inspections to the units and see whether everything is according to their declaration, according to their programme of manufacture. The whole purpose of withdrawing the staff from physical verification is that today we depute one man, another man tomorrow and so on, so that there can be no collusion and independently detailed inspections can be carried out and action can be taken against them. We draw samples from time to time, check their books of account and not leave it to only one person, but a whole party may go under the supervision of a senior officer. That is the intention under Self Removal Procedure." The Committee enquired whether there was any provision to remove a party from the Self-Removal Scheme as a punishment. The witness stated: "We cannot withdraw the Self-Removal Scheme, but the new Committee will probably go into this question. The scheme has become applicable to all the commodities except tobacco." The Secretary to the Ministry added further: "I am told by the Chairman that on the contrary several parties wish to go back to physical verification because then subsequently no blame can be put on them, whereas if they are retained in the Self-Removal Scheme and prosecuted for violation, that is probably a greater deterrent."

1.198. The Committee are surprised how the officers failed to follow the instructions of the Board that on detection of yarn to be in lower denier, the higher rate of duty was to be charged till a fresh sample was tested and found to fall within the category declared by the manufacturer. The Committee find the demands for differential duty (Rs. 2.10 lakhs) have been raised but the party has filed a revision application which is under the consideration of Government. The Committee would like to be informed about the outcome of the revision petition.

1.199. The Committee also understand that the question of prosecuting the assessee for misdeclaration is being examined by the Collector. The Committee would like to be informed about the action taken against the assessee.

Refund of Central excise duty resulting in fortuitous benefit to manufacturer

Audit Paragraph

1.200. According to tariff item 14E patent or proprietary medicines other than those which are exclusively ayurvedic, unani, sidha or homoeopathic, are liable to excise duty. The levy of duty on the medicines was introduced from 1st March 1961. In a collectorate a factory manufacturing unani preparations was brought under excise control from 1st March, 1961 and duty was levied on the medicines prepared. The licensee paid the duty under protest and the Collector decided (September 1966) that the medicine was not excisable and accordingly the entire amount of Rs. 6,61,471 collected towards Central excise duty from March, 1961 to September, 1966 was refunded in October, 1967. Meanwhile, the licensee was collecting duty from the consumers. It was stated by Government (January 1970) that the licensee had refunded Rs. 1.00 lakh to the customers.

[Para 23 of Audit Report (Civil), 1970 on Revenue Receipts]

1.201. During evidence the Committee enquired as to how the Party was required to pay duty even though the Tariff item was made clear even on 24-4-1962 that unani preparations are to be excluded and then when the party paid duty under protest continuously for 5 years why did the officer himself not take up the matter with higher authorities. The Secretary replied: "The officer was considering that what he was doing was right. Normally, these documents remain with the Assistant Collector. They leave it to the aggrieved party to file an appeal and it is only on an appeal that a decision can be taken at a higher level. If a man chooses not to file an appeal, what can be done ?" When asked how the party did not file an appeal, the Secretary stated : "With so many appeals coming and so many people coming, whether in the present circumstances, he should have felt he was harassed or not, but the number of assessment cases are so many, number of units are so many and so many appeals are filed before the Collector ; it becomes very difficult ." The Committee then asked how was the refund sanctioned. The Secretary replied : "He has not gone on appeal and it was when the Collector went again on a second tour that he happened to see this and got the matter clarified and issued instructions."

1.202. The Committee asked whether the Board was apprised of such disputed assessments either through periodical reports from the Collectorates or otherwise and what was the procedure followed in such cases. The Ministry replied : "Field officers of the rank of Assistant Collector and above are required to decide disputed assessments in exercise of their quasi-judicial functions and the Board/Ministry cannot interfere with or influence the decision in individual cases. For this reason details of the disputed assessments coming up for decision at the various levels in the Collectors are not called for by the Board/Ministry either through periodical statements or otherwise . The Board, however, comes to know of the disputed assessments when either the Trade makes a representation or the officers of the Department seek clarification or guidance from the Board on the general issues involved."

1.203. The Committee invited the attention of the Ministry to a note furnished by them to Audit that "there may yet be cases of diverse/erroneous assessment practices in respect of the same goods in the same Collectorate or in different Collectorates..... In order to ensure uniformity in assessment practice all over the country, it is proposed to set up a classification and valuation cell at the Headquarters." The Committee asked whether such a cell had been set up. The Ministry replied : "At the Combined Conference of Collectors of Customs and Central Excise held in December 1970, it was decided that in view of the increasing complexities of valuation and classification problems, a valuation cell should be set up at Collectorate Headquarter. In some of the Collectorates, such cells have already been set up."

1.204. The Committee asked whether out of a total refund of Rs. 6.61 lakhs made to the Party, Rs. 1 lakh reported in the Audit para to have been refunded by the Party to the customers had gone to the correct sources. The Secretary replied: "It has not gone to the individual consumers, but some of the principal customers have got back this money." About the balance of Rs. 5.61 lakhs, the Secretary stated: "Some amount is still

left with him which he says he cannot refund . Such a situation should not have been allowed to occur, but I do not want.....". When asked that was the procedure for distributing the refund to the customers, the Secretary stated that "if there are only a few customers, refund is possible, but where hundreds and thousands are there.....If they are identifiable, there is no problem but where they are not identifiable, it takes time to sanction the refund. Administratively I would find it feasible of the number of persons identifiable are not too large but if the number of persons who paid is very large, then there may be some administrative difficulty. For instance, cloth has been sold to millions of people, it will not be known. But if it is a motor car, we know exactly who are the purchasers of the motor car, etc. and in this case we can make the refund."

1.205. The Committee asked before making the refund did the Government make any study as to how the money is going to be distributed The Secretary stated: "We can ask the man what he has done with this one lakh, but I do not know whether there is any legal provision for making him tell us how he distributed it. We have asked him, and he has given us some distribution points, but I do not know whether we can force him to tell us the details." The Secretary added further : "I think it might solve the problem... in the new Central Excise Bill which we are proposing to submit before the Parliament we are providing a clause to permit the Collector to review *suo motu* in each case if this case is under the nature of protest."

1.206. The Committee invited the attention of the witness to their earlier recommendation in a similar case made in para 1.25 of their 95th Report (Fourth Lok Sabha) that Government should consider whether, as suggested by Audit, it would be possible to incorporate a suitable provision in the Central Excise Bill on the lines of section 37(1) of the Bombay Sales Tax Act, so that Trade does not get fortuitous benefit of excess collections of tax realised from the consumers. The Committee enquired what action had been taken on this suggestion. The witness replied: "That particular provision in the Bombay Sales Tax Act has, I think, been challenged and the Supreme Court has struck it down." The Secretary added: "And of course, the recommedation made by P.A.C. has been sent to the Select Committee by us for consideration." To a suggestion that it might have been struck down because of the form in which it was worded, the Secretary replied: "In the new bill we are proposing we placed this matter again before the Select Committee and suitable draft can be incorporated.

1.207. The Committee enquired whether Income-tax authorities had been informed of the facts of this case for necessary action. The Ministry replied : "Collector of Central Excise has stated that the Income-tax authorities are now being informed."

1.208. Evidently, in this case, the officer failed to make correct assessment of duty initially and then did not take due notice of the payments made under protest by the party for 5 long years. When the mistake was realised the whole amount of Rs. 6.61 lakhs was refunded to the party. The party

passed on only Rs. 1 lakh to some of the principal customers and got himself fortuitious benefit of Rs. 5.61 lakhs. Government have no power to ask the party to pass on entire amount to actual consumers who were overcharged. It is also not possible for the party to distributes the refund to thousands of customers after a lapse of so many years. The Committee are not happy over this position. The Committee trust that at least the Income Tax authorities have been informed about the refund of Rs. 5.61 lakhs to the manufacturer in this case.

1.209 In para 1.25 of their 95th Report (Fourth Lok Sabha) the Public Accounts Committee had recommended that Government should consider whether it would be possible to incorporate a suitable provision in Central Excise Bill on the lines of Section 37(1) of the Bombay Sales Tax Act so that trade does not get fortuitous benefit of excess collection of Tax realised from consumers. The Committee were given to understand during evidence that the relevant provision of the Bombay Sales Tax Act had been struck down by the Supreme Court. The Committee desire that the matter should be examined in the light of the judgement of the Supreme Court with a view to including a suitable provision in the Centarl Excise Bill when it is reintroduced in Parliament.

1.210 The Committee understand that in the new Central Excise Bill proposed to be submitted to Parliament, Government is going to provide a clause in the Bill to permit the Collector to review suo motu in each case if the payment is made under protest. In any case, the Committee hope that in future the payments under protest will not be ignored and suitable instructions will be issued for reporting such cases to the higher authorities for review.

Clearances of artificial leather cloth as pre-excise stock without payment of duty.

Audit Paragraph.

1.211 A new tariff item 22B "Textile fabrics impregnated or coated with preparations of collulose derivatives or of other artificial plastic materials" was introduced from 1st March, 1968 by the Finance Act, 1968. Artificial leather cloth which was hitherto assessable under tariff item 19 "Cotton fabrics" came under this now item from that date. On the basis of budget instructions issued by Government in February, 1968 artificial leather cloth lying with the manufacturers in fully manufactured condition at the midnight of 29th February, 1968/1st March, 1968 was treated as pre-excise stock and was allowed to be cleared without payment of Central Excise duty. Since such cloth did not become excisable for the first time on the 1st March, 1968 but was assessable as 'cotton fabrics' before that date, the exemption from payment of Central Excise duty allowed as on 'pre-excise stock' in respect of such cloth was not correct and had resulted in loss of duty amounting to Rs. 90,374 in two collectorates.

1.212. The Ministry have replied in February, 1970 that though the Ministry of Law have advised that enhanced duty was leviable on the pre-excise stock, the matter is proposed to be gone into in greater detail with that Ministry.

[Paragraph 36 of Audit Report (Civil), 1970 on Revenue Receipts]

1.213 The Committee desired to know the loss of revenue due to non-levy of duty on such stocks of leather cloth in respect of all the collectorates. The Ministry replied: "The amount of duty involved on such stocks which were permitted clearance without payment of duty in accordance with the budget instructions was Rs. 7,21.871.07".

1.214 The Committee asked what was the purpose of introducing new Tariff Item 22B. The Ministry stated that the object was to levy higher duty of 25% *ad valorem* on all textiles fabrics coated or impregnated with plastic material-commonly known as artificial leather.

1.215 During evidence, the Committee asked about the points for further discussions with the Ministry of Law. The Secretary to the Ministry replied: "There is a very small point in this particular case on which the Law Ministry have not advised. There has been a difficulty in interpretation whether the levy should be under item 19 or item 22(b) and it was not clear to us under what particular item it should be levied. We were proposing to sort it out but unfortunately the matter could not be finalised. I think we shall shortly be discussing this matter as demands have been raised by the Collectors." To an observation of the Committee that by having doubt over its inclusion either under item 19 or under item 22 (b) the result has been that it has not been included in either of the two, the Secretary replied: "There is doubt on that also, unfortunately, and I think we will have to make some amendment to our Rule because out Rule also gives scope for an interpretation whether it is leviable at all. We think this should be put beyond doubt and we have to take up a corresponding amendment to the Rule also." When the Committee pointed out that the Law Ministry had already agreed that the duty was leviable and that they had stated that "in this case, Audit is right". the Secretary replied: "There is a difference, because the duty should be under 19 but the Law Ministry thinks it should be under 22. In the note which they have given us, they have mentioned 22(B). Demands have been raised and unfortunately, in this case, since there is a dispute, some collectors raised the demand under 19 and some under 22(b). We will have to confirm, after we sort it out with Law."

1.216 Subsequently, the Committee enquired whether the dispute had since been resolved in consultation with the Law Ministry. The Ministry stated that "the matter is under consideration."

1.217 The Committee take a serious view of the lapse resulting in a total loss of revenue amounting to Rs. 7.22 lakhs. Artificial leather cloth which was assessed under Tariff Item. 19 upto February, 1968 was brought under higher levy under Tariff Item 22-B with effect from March, 1968. The stock in fully manufactured condition at the midnight of 29th February, 1st March, 1968 was treated as pre-excise stock and allowed free clearance as if the item had come under levy for the first time.

1.218 Another regrettable feature of this case is that even after about 4 years the Government are still in doubt whether it should be assessed under Tariff Item 19 or 22 B and in this confusion some collectorates are assessing it under Tariff Item 19 and others under 22B. The Committee desire that the question regarding classification of this item should be expeditiously decided

in consultation with the Ministry of Law so that there is uniformity in the assessment of duty. The Committee also suggest that any amendment necessitated in the Central Excise Rules may also be made.

Clearance of duty free samples in excess of 5 per cent of duty paid medicines

Audit Paragraph

1.219 In a few collectorates the quota of five per cent was worked out on the value of samples after deducting the prescribed *ad hoc* discount allowed for clearance of medicines on their list prices. The clinical samples meant free distribution among the medical profession are distinctly stamped 'Not for sale'. These were, therefore, not eligible for the *ad hoc* discount. The reckoning of discount in arriving at the quota of duty-free clearances resulted in the factories getting larger quota of duty-free clearances than they would be otherwise entitled to. The revenue lost to Government on this account was Rs. 9,65,583 during the period from May 1962 to August, 1967 in respect of eight collectorates.

[Para 22(ii) of Audit Report (Civil), 1970]

1.220 During evidence the witness stated: "The *ad hoc* discount has been given for the purpose of determining their value and the value so determined applies also to the limit of 5% for clearance of samples duty free". The Committee desired to know the considered view of the Ministry in this regard and whether they had consulted the Ministry of Law. The Ministry stated in a note : "The Ministry are of the view that for the purpose of determination of quota of 5% and for the purpose of assessment of samples in excess of this quota, the *aa hoc* discount prescribed in notification No. 161/66 dated 8-10-1966 should be taken into account. Once the manufacturer has exercised his option for one of the two modes of assessment prescribed under the said notification determination of value of all the clearances effected whether on payment of duty or otherwise, has to be with reference to mode of assessment opted for by him. Were it not so the very purpose of simplifying the assessment by the aforesaid notification would have been thwarted. Ministry of Law was not consulted."

1.221 During evidence the Committee asked whether the Ministry agreed with the Audit stand. The witness replied : "We have said while replying at the draft stage that we were not admitting the objection...." To a question when the draft audit para was received by the Ministry, the witness replied we received it on 6-11-67. We had requested that if (audit) was not inclined to agree with this Ministry's view, it was suggested that a joint discussion in this matter might be arranged with the Ministry of Law along with this Ministry". When asked who was to take initiative in arranging a joint meeting between the Ministries of Finance and Law and the Audit, the Secretary to the Ministry replied : "A joint discussion with the Ministry of Law was necessary to resolve this problem and the Board has to take the initiative in such cases". The Committee asked why this had not been done during these four years. The Secretary replied: "The Department seems to have been under the impression that after we get the 'go-ahead' from the Audit, we will arrange the consultations. They perhaps had the

impression that because it was dropped from 1968 report, the paragraph has been dropped. When it came again in 1970, our impression has been that after it had been included in the Audit Report, then the discussion with the Ministry can only be held after the meeting of the P.A.C. takes place. That is the impression, Sir. Further, Sir, there were several such paragraphs, when we were discussing the paragraphs relating to the Income-tax Department, when we wanted the discussions to await the meeting of the P.A.C. But at that time you ruled, as far as my recollection is, that we should not wait, but we should continue the discussions and if an agreement is reached, further report can come to the Public Accounts Committee. That was done only a fortnight ago. There are so many paragraphs where differences can be resolved if the discussion continues even if it has been included for Public Accounts Committee meeting. At the draft stages there is no difficulty. But sometimes delay occurs. Now that it has been clarified, for future we will do so".

1.222. The Committee find that according to the view held by Audit an ad-hoc discount allowed for clearance of medicines on their list price should not be allowed on clinical samples which are meant for free distribution among the medicinal profession and not for sale and are allowed duty free under Notification No. 161/66 dated 8-10-1966. Government, however, feel that for the determination of quota of 5% duty free clinical samples and also for the purpose of assessment of samples in excess of this quota the ad hoc discount should also be taken into account. This difference of opinion involves Rs. 9.66 lakhs of revenue from May, 1962 to August, 1967 in respect of eight Collectorates alone.

1.223. The Committee regret to note that the differences between the Ministry and audit have not been resolved for the last four years. The Committee desire that the matter should be examined in consultation with the Audit and the Ministry of Law expeditiously. They would like to await the outcome.

Delay in finalisation of Provisional Assessments

Audit Paragraph

1.224 Rule 9(b) of the Central Excise Rules provide for provisional assessment to central excise duty being made in certain circumstances as for examples, value pending determination on verification of the invoices, completion of any chemical or other test or verification of the end use of the product cleared. The Central Board of Excise and Customs issued instructions in August, 1964 for the speedy finalisation of all the provisional assessments. These require that :—

(i) cases of routine type should be finalised within three months.

(ii) cases which require chemical test reports from the Chemical Examiners should be finalised within 6 months.

(iii) verification of the prices should be carried out on priority basis so that the Assessing Officers can normally finalise assessment within a fortnight or so.

1.225. A review of the provisional assessments revealed that in three Collectorates provisional assessments were pending in 991 cases for more than 6 months on 30th September 1967. In another Collectorate on 31st December, 1967, 136 cases of provisional assessments were pending for verification of end uses. The Ministry have replied that the provisional cases have since been finalised. However, so long as there is no statutory time limit for regularisation of provisional cases such accumulations over long periods cannot be prevented.

[Paragraph 28(III) of the Report of the Comptroller and Auditor General of India for the year 1969-70-Central Government (Civil)-Revenue Receipts]

1.226. At the instance of the Committee the Ministry submitted a detailed statement showing the number of provisional assessments under Rule 9 (B) pending finalisation as on 31st December, 1971. Following is the abstract of the data furnished :

	No. of cases pending	Percentage of total
1	2	3
(i) Between 1 to 3 months	20,369	26
(ii) Between 3 to 6 months	18,280	23
(iii) Between 6 to 12 months	26,450	34
(iv) For more than one year	13,220	17
TOTAL . .	78,319	

From these 78, 319 cases 2, 0873 (27%) cases are pending for want of information from the licensees.

1.227. The Committee enquired whether the instructions issued by the Board in August, 1964 for speedy finalisation of provisional assessments were being followed in all the Collectorates. The Ministry stated that "The instructions issued in letter F. No. 2/3/64-CX-I dated August, 1964 and 9th September 1964 for speedy finalisation of the provisional assessments were to be followed in all the Collectorates. The time schedules prescribed in the instructions issued in August, 1964 could not, however be complied with in process of implementation." The Committee asked whether any review was conducted regarding the compliance of Board's instructions and if so with what results. The Ministry stated that the "review was conducted in this behalf in July and September, 1970. It was found that the number of cases of provisional assessments made under Rule 9B were rising. The Collectorates where numbers of cases were high were, therefore, asked for the reasons of such high pendency with a suggestion to discourage the tendency on the part of some of the officers freely resorting to the provisional assessments." The Ministry has assigned the following reasons for the pendency of provisional assessments :

"(a) delay in obtaining test reports from the Chemical Examiner;

(b) delay in getting the end-use verification report;

(c) delay on the part of manufacturers in production invoices etc. to enable the departmental officers to approve the price lists ;

(d) delay on the part of governmental agencies in respect of some commodities where price fixations are promptly reported.

(e) The assessees resorting to appeals against the orders of the primary assessing authorities quite often they agitate the matter with the higher departmental authorities and with court of law also."

1.228. The Committee asked whether Government contemplate any measures to reduce the number of provisional assessments. The Ministry replied : "The Government is always anxious to reduce the pending provisional assessments to the barest minimum. One of the measures taken has been the review of the pendency position and issue instructions to the Collectorate concerned to get provisional assessments finalised with expedition.

1.229. The Collectors have contended that more and more items are to be assessed on an *ad valorem* basis more cases of provisional assessments become inescapable. Some Collectors have pointed out that years ago while each A.R.I. was considered to be one case, after introduction of S.R.P., each gate pass on which goods are cleared under provisional assessment has begun to be considered as the unit with the result that the number of cases shows an apparent increase.

Rule 173C of Central Excise Rules was amended in October, 1971 to make prior approval of price list as a necessary condition before goods can be removed from the factory. But where the assessee does not agree, the option to the assessee to clear goods under provisional assessment could not be denied."

1.230. The Committee are concerned to note that there were more than 78 thousand cases of provisional [illegible] pending finalisation out of which more than 13 thousand (17%) were pending for more than a year at the end of 1971 inspite of the fact that according to existing instructions the minimum period for finalisation of such cases is 6 months only. The reasons for such pendency are stated to include delay in (i) obtaining test reports from the Chemical Examiner (ii) getting the end-use verification report (iii) getting price fixation through various Government agencies and (iv) production of invoices etc. by the assessees to approve the price list.

1.231. Provisional [illegible] carry a state of suspense with them. They are likely to affect the Budgetary forecasts. The lower assessments will postpone realisation of rightful dues to Government and higher assessment if refunded later will not pass on to the consumer. The Committee, therefore, feel that it is high time that provisional assessment is reduced to the absolute minimum particularly after the introduction of Self Removal Procedures under which approval of classification and prices is the pre-condition for clearance of goods. In this connection the Committee would suggest that—

(a) Provisional assessment should be resorted to as exception rather than rule ;

(b) It should be examined whether a limit can be provided in the Rules itself for finalisation of these assessments, with built in safeguards against dilatory tactics of assessees like delay in production of invoices and other required information.

(c) A strict time limit should be laid down for the chemical examiner and other such officers to furnish test reports and price lists and if necessary these organisations should be strengthened qualitatively as well as quantitatively; and

(d) A periodical review at the higher level should be prescribed to watch the progress.

Audit Paragraph

1.232. Rule 9 of the Central Excise Rules, 1944 stipulates that no excisable goods shall be removed until the excise duty leviable thereon has been paid. Where duty is paid through personal ledger account, the rule further requires that the account holder shall periodically make deposit therein sufficient to cover the duty due on the goods. In course of test-audit, the following irregularities due to non-observance of the rule were noticed :—

(i) In a Collectorate cheques paid in discharge of central excise duty on tea cleared from a factory during the period from August, 1966 to November, 1966 were not forwarded by the Central Excise Officer in-charge to the Chief Accounts Officer for onward transmission and encashment. Though the irregularity was pointed out in audit in November,1966 the practice continued upto December, 1967 by which time there was an accumulation of as many as 187 cheques representing a total duty liability for Rs.1,12,516 during the period from August, 1966 to December, 1967.

As the cheques had meanwhile been barred by limitation, the Central Excise Officer-in-Charge returned in March, 1968 all the 187 cheques to the factory for issue of fresh cheques. The factory issued 12 fresh cheques for the total where duty liability of Rs. 1,12,516 and these cheques were forwarded to the Chief Accounts Officer for encashment.

(ii) A cheque dated 25th November, 1967 for Rs. 50,000 presented by a mill in a Collectorate, credit for which was afforded in the personal ledger account was received by the Chief Accounts Officer, but was not presented to the Bank, as it was lost. The mill issued cheque in lieu thereof. In the result there was an overdrawal to the extent of Rs. 13,888 on 29th November, 1967 in the Personal Ledger Account.

(iii) Two cheques for the amount of Rs. 40,000 were stated to have been sent to the Chief Accounts Officer in a Collectorate and the credit was taken in Personal Ledger Account on 3rd May, 1968 by the Licensee. This credit was objected to by the Chief Accounts Officer as the cheques stated to have been sent to his office were not received by him. The licensee was directed to issue fresh

cheques in lieu of the earlier ones. Accordingly the Mill credited the amount by fresh cheques on 3rd August, 1968 which were cleared at the Bank on 8th August, 1968. This resulted in the overdrawal in the personal ledger account for Rs. 14093 for the period 3rd May, 1968 to 8th August, 1968 and for Rs. 3,471 for the period 3rd May, 1968 to 27th July, 1968.

[Para 28 (II) (b) of C&AG's Report for 1969-70 on Revenue Receipts.]

1.233. During evidence, the Committee referred to 187 cheques amounting to Rs. 1.13 lakhs that were collected as excise duty but not passed on to the Chief Accounts Officer for encashment for more than a year. The Secretary of the Ministry stated : "There can be no excuse for this and we have taken action against the inspector. His pay has been reduced for two years."

1.234. The Committee enquired whether Superintendents were required to check a percentage of the assessment every month and if so, did they notice non-cashment of cheques over a considerable period and whether the Superintendents checking assessments were required to verify duty payments also. The Ministry replied in a note : "Yes, but in the instant case the Superintendent failed to conduct the scrutiny of the monthly and periodical returns and A.R.I.s received in his office during the period in question. The Collector has reported that necessary action against the Superintendent is in progress."

1.235. The Committee referred to a case subsequently reported by Audit where a factory paid 32 cheques amounting to Rs. 1.88 lakhs which were not encashed for about a year. The Secretary stated: "That factory has issued fresh cheques. But we admit there has been a lapse on the part of office and we have taken action."

1.236. The Committee then referred to cases at (ii) and (iii) in the Audit Paragraph and enquired whether the departmental instructions that Range officers should take up the matter with the C.A.O. immediately if the final challan of credit was not received by them within 10 days, were followed in these cases. The Ministry stated in a note that "there was some delay in initiating action by the Range Officer in both the cases.

1.237. The Committee then invited the attention of the witness to another case reported by Audit subsequently where a manufacturer had cleared goods without sufficient balance in the Personal Ledger Account and this clearance without payment of duty from April, 1970 to May, 1971 had amounted to Rs. 4.58 lakhs in terms of excise duty. The Secretary replied : "This is a serious offence. We will pursue it."

1.238. The Committee enquired whether maintenance of P.L. Account was not a Government function and if so why this work was entrusted to licensees. The witness replied : " That is one of the basic aspects of Self Removal Procedure. Otherwise he (the licensee) will not be able to clear the goods by himself. We insist that he must have a sufficient amount of duty calculated by him. If he clears any goods when there is not sufficient deposit in Personal Ledger Account, it is a serious offence because

it is tantamount to clearing goods without payment of duty." When asked how Government could check whether the licensee had sufficient balance in the Personal Ledger Account and whether he was clearing goods after duly debiting the duty particularly when Government was not aware about the daily transactions and came to know about them only at the end of the month, the witness replied: "We get the return at the end of the month. We have separate valuation. Our Chief Accounts Officers have copies of Personal Ledger Accounts. Every consignment is adjusted against it,." To a question as to how the Chief Accounts Officer could not notice for about a year the non-encashment of cheques referred to in cases (i) of the Audit paragraph the Ministry stated in their note that, "the irregularity could not be detected by the Chief Accounts Officer due to the fact that the P.L.As. through T.R.3 returns for the period from December, 1966 to December, 1967 were not forwarded by the Inspector concerned." The witness further explained that "no consignment can be cleared unless he (licensee) has sufficient money in his Personal Ledger Account and, secondly, unless the goods that he wants to clear have already been classified in consultation with the Central Excise authorities thirdly, each consignment must be accompanied by a gate pass." The Committee asked how did the gate pass help when it was issued by the licensee himself. The witness replied: "The only thing I can submit is that in case of bigger factories where the stocks are high, concurrent inspection is going on from day to day and the gate passes are checked with the item No. of Personal Ledger Accounts to which it has been debited."

1.239. The cases brought out in the Audit paragraph indicate chaotic state of affairs so far as cheque transactions in the Excise Department are concerned. As many as 187 cheques involving the revenue collection of Rs. 1.13 lakhs remained uncashed for more than a year. Another 32 cheques amounting to Rs. 1.88 lakhs paid by a factory remained uncashed for about a year. In other two cases the cheques issued by the assessees were either lost or not received by the Chief Accounts Officer. In all these cases the assessees had already taken credit in their Personal Ledger Accounts and therefore it amounted to clearance of goods worth lakhs of rupees by them duty free till they issued fresh cheques and the same were encashed.

1.240. In yet another case a party cleared goods without sufficient balance in his Personal Ledger Account and this clearance without payment involved duty of Rs. 4.58 lakhs. The Finance Secretary admitted that "it was a serious offence....."

1.241. The Committee note that action has been taken against an inspector and that action against the Superintendent is in progress. The Committee would like to be apprised of the action taken against all the Officers concerned and also the penal action taken or proposed to be taken against the party for clearing goods without sufficient balance at credit in his P.L.A.

1.242. All these instances indicate that there is a serious laxity of control in clearance of cheques within the Excise Department. The Committee would

like the Government to devise a foolproof procedure to regulate collection and clearance of cheques to avoid recurrence of these lapses in future.

1.243. These cases raise doubts about the dependence on the present procedure of allowing the assessees themselves to maintain their own Personal Ledger Accounts particularly when under the Self Removal procedure the assessee can remove goods at his will without any on-the spot check. The Committee therefore desire that it should be examined whether the responsibility of maintaining Personal Ledger Account should not be undertaken by the Department.

Duty not recovered on clearance of acids

Audit Paragraph

1.244 Sulphuric acid is assessable under tariff item 14G but such portion of the acid as is used within the factory by a manufacturer for drying air in the air tower is exempt from excise duty. Sulphuric acid used internally for other purposes is not so exempt.

1.245. A factory manufacturing Zinc was also producing sulphuric acid as a by-product. A portion of the sulphuric acid produced by the licensee was being used for drying the acid tank and also for extraction of the mettalic compound. As such cases are not covered by the exemption orders, duty was payable but the licensee did not pay any duty thereon. The department raised a demand for duty in August, 1967 on the quantity of acid so consumed within the factory till that date. The demand has not so far been honoured by the licensee.

1.246. A scrutiny in audit of the connected records of the factory revealed that even after the issue of the demand in August, 1967 the licensee continued to use the acid internally for the same purpose. This remained undetected and resulted in non-levy of duty on the acid consumed within the factory from August, 1967. The duty involved in this case during the period August, 1967 to August, 1970 is Rs. 96,438.

[Paragraph 21 of Comptroller & Auditor General of India's Report for 1968-70 on Revenue Receipts.]

1.247. During evidence the Secretary to the Ministry deposed: "This is a somewhat complicated matter. They (the firm) started (production) in January, 1967.... We have checked from the reports of the Collector about the sulphuric acid which is flowing out of the storage tank that is paying duty. The duty is being collected from the party concerned. This is one part. Then there is a complicated internal production where some sulphuric acid goes from the storage tank to the leaching section. Some goes to the drying towers. In the drying tower, the concentration of sulphuric acid comes down. From the drying chamber, this diluted sulphuric acid goes to the leaching tank. From the leaching tank or partly from another it goes to the absorption tower where it increases in concentration. It is clear that in this internal process probably some additional sulphuric acid is also generated, in addition to the sulphuric acid that has got out of the storage tank after paying duty." When asked whether

generated acid was not put into the storage tank, the Secretary replied: "(It was) not put. It is a slightly difficult question. Assuming 100 litres of sulphuric acid at a particular concentration goes out of the storage tank and there is additional generation of sulphuric acid, how much of the additional sulphuric acid is generated and at concentration because the rates depend on the concentration of sulphuric acid and have to be determined. It is this additional thing internally generated that has to be worked out."

1.248. About payment of duty on the sulphuric acid, the Secretary stated, "The position after 7-8-1967 is that whatever releases were made to the drying acid tank from the main storage tank were only after payment of duty. That means the acid which is going out. What I submitted was that a portion of the acid in this company is paying duty. But the question at doubt is whether the total acid is paying duty or not. I accept the point that the total acid is perhaps not paying duty because some part of the sulphuric acid is not coming to the main tank.... it is a very complicated process and I would certainly advise the Board to send somebody, really competent on these matters to go into this thing carefully and give a special report about the working of this plant and not depend only on the local Collector.

1.249. The Committee asked whether there was any history of suspicion against the party concerned. The Secretary replied: "Not to my knowledge." The Committee enquired whether the Central Excise Officer was stationed in the factory prior to the introduction of Self Removal System and if so how was the acid allowed to be removed without payment of duty. In a note the Ministry stated that the Central Excise Officer was stationed in the factory but the "Assessment of Sulphuric Acid escaped assessment as the process of manufacturer was complicated and the staff could not appreciate the full facts. The Chemical examiner who visited this factory on 24-6-67 also could not give any clear advice."

1.250. After the Committee took evidence of the Ministry, the Deputy Director of Inspection visited the factory on 11th November, 1971 and the Chief Chemist visited it on the 17th and 18th November, 1971. A copy each of the report of the two officers was furnished to the Committee by the Ministry of Finance.

1.251. The Deputy Director of Inspection has made the following observations in his report:

"This factory started manufacturing Zinc from Imported zinc concentrate with effect from 1-1-67. The Sulphuric acid manufactured in this plant is a by-product, its sales to outsiders on payment of duty are of the order of about 15 M.T. per month only, almost all the sale are made to FACT duty free. They also use a portion of the Sulphuric Acid in the plant itself for circulation in the drying tower and for extraction of zinc in their leaching plant." "In addition to the quantity of sulphuric acid showing the R.G.I.M/S Cominco Binani Zinc Ltd. have it appears used 637.094 MT of acid during the period of 1-1-67 to 7-8-67 on which duty is payable."

"The factory did not show it their records the quantity of sulphuric acid consumed in the leaching plant for which they were maintaining separate log books. The log book or the stock register for the year 1967 had been suppressed and had not been produced. It was, however, able to recover it during the interrogation and due to insistent persuasion. There has been some correspondence between our Chemical Examiner and the factory and the factory have explained in their letter dated 25-10-71 to the Chemical Examiner that they have no log sheets or record for the period 1-1-67 to 31-12-67."

"The assessment of Sulphuric Acid whether consumed in the Drying Acid tank or in the leaching plant escaped assessment as process of manufacture was complicated and the staff could not appreciate what is the real issue and the Chemical Examiner who visited this factory on 24-6-67 also could not give any clear unambiguous advice and directions to the staff."

"Although the ratio of Sulphuric Acid consumed in the manufacture of Zinc for the period 1-1-67 to 7-3-67 is too high if 637.094 MT is also charged to duty in addition to 251-755 MT already assessed but this may be due to teething troubles and various shut downs etc. during the initial period. It is for the factory to explain this."

"The quantity of 54.387 MT has been short assessed in the demand already issued on 29-7-70 for Rs. 4320-63. The A.O. Ernakulam has already issued the show cause notices to the manufacturers asking them that demands should not be raised against them on the quantities mentioned above."

1.252. The Chief Chemist in his Report has observed, "The factory is using sulphuric acid for the drying of sulphur dioxide and not air. Hence, the acid used for this purpose is not eligible for exemption of duty. The qnantity of sulphuric acid drawn from the Drying acid circulation tank to the leaching plant is assessable to duty....the Chemical Examiner, Custom House, Cochin told me that he has recommended for the installation of an immediate calibrated tank between the drying acid circulation tank and leaching tanks. The acid issued to the leaching section can be arrived at from this new intermediate tank. The factory told me that they were not aware during their construction of the works that sulphuric acid would be dutiable. Had they known this, they would have put up an intermediate tank during the erection of the factory. They said they will consult the technical experts in Canada and would do the needful in erecting a new calibrated tank for measuring the acid taken to the leaching section."

1.253. The Committee asked whether the plan of the factory was required to be approved by the Department, if so who had approved it. In a written reply the Ministry stated that "The plan of the factory is approved by the licensing officer who is Assistant Collector."

1.254. In a note the Ministry have intimated that, "the total amount of duty involved is Rs. 1,64,807.17. It may be stated that a show-cause notice in respect of a further quantity of 637.094 M.T. and 54,387 M.T. of Sulphuric Acid has been issued consequent on investigation by the

Directorate of Inspection in the course of which some rough papers which can be taken to indicate further utilisation of acid without payment of duty were noticed in the factory.

The details of demands so far raised are as under:—

Sl. No.	Date of Demand	Period	Amount Involvement	Basis	Present position
1	2	3	4		5
1.	7-8-67	22-1-67 to 7-8-67	4,370.00		
2.	7-8-67	7-2-67	35.00		
			4,405.70		
3.	25-11-70	8-8-67 to 25-7-69 26-7-69 to 31-7-69	43,206.63		The demands have not yet been realised. The party has preferred a Revision Application before the Government of India.
4.	25-11-70	1-8-69 to 31-10-70	61,506.66		
			1,04,713.29*		
5.	6-7-71	1-11-70 to 31-5-70	15,027.75		
6.	17-7-71	1-6-71 to 30-6-71	3,185.00		
7.	6-8-71	8-8-71 to 30-6-71	15,980.88		
8.	26-8-71	1-1-71 to 31-7-71	6,467.76		
9.	24-9-71	1-8-71 to 31-8-71	8,114.83		
10.	23-10-71	1-9-71 to 30-9-71	6,912.46		
			55,688.18		

1.255. The Committee asked whether any penal proceedings were intended in this case. In a written reply, the Ministry have stated, "The matter is under examination."

1.256. The Committee regret to note that in this case the factory has been, since it started production, escaping excise duty on sulphuric acid [redacted] in the leaching plant and the drying acid tank. What is more serious is that while the Department were aware of the acid [redacted] in the drying acid tank they have no knowledge of the acid being diverted at an intermediary stage to the leaching plant.

1.257. Although the plan of the factory is required to be approved by the Assistant Collector, no notice seems to have been taken of the process of flow of the acid at an intermediary stage before it reached storage tank. The Chemical Examiner who visited the factory in 1967 also did not notice that the acid flowing to the leaching plant was not being accounted for in the production of the factory and he did not give any guidance on this point to the staff. The Committee regret that scrutiny of the original plan of the factory

*The assessments have been made on the basis of the private records maintained by the party for such clearance. The Deputy Director, Inspection in the course of his visit to the factory has, however observed that apart from the above amount, duty on 637.094 MT and 54.387 MT of Sulphuric Acid should have also been raised."

and the inspection by the Chemical Examiner were perfunctory. The Committee desire that this question should be examined and remedial steps taken for future.

1.258. The Committee note that demands for Rs. 1.65 lakhs have been raised but the party has filed a revision application before the Government. A show cause notice in respect of a further quantity of 637.094 MT and 54.387 M.T. of acid has been issued consequent on investigation by the Deputy Director of Inspection. The Committee would like to know about the recoveries made.

1.259 The Committee find that the Chief Chemist is of the view that sulphuric acid is used in drying sulphur dioxide and not air and hence not exempted from duty. The Committee would like Government to examine it and if the view is confirmed, to recover the duty on such acid expeditiously.

1.260 The Committee understand that the question regarding penal action against the party is under examination. The Committee desire the examination should be completed expeditiously. The Committee hope that Government will take serious note of the suppression of certain records regarding consumption of acid by the assessee.

Exemption in Respect of Special Duty of Excise Without Specific Orders

Audit Paragraph

1.261. The Government of India exempted by a notification issued in March, 1960 motor vehicles fitted with duty paid internal combustion engines from so much of the excise duty leviable thereon as was equivalent to the amount of duty already paid on such engines.

1.262. The duty referred to above is the basic duty (*i.e.* the duty specified in the First Schedule to the Central Excises Act). Special excise duty was introduced under special enactment under the Finance Act 1963. It was not covered by the exemption order mentioned above. Government of India on 11th March, 1967 issued a notification granting exemption of special excise duty also and the exemption is operative from that date only.

1.263. It was noticed in four factories manufacturing motor vehicles that exemption in respect of special excise duty was allowed on the duty paid internal combustion engines used even though there was no specific order in this regard. This resulted in loss of revenue to the extent of Rs. 14.30 lakhs during the period from the 1st March, 1963 to the 23rd July, 1965 in four collectorates.

[Paragraph 40(II) of Audit Report (Civil), 1970]

1.264. The Committee desired to have a note on the practice followed in different collectorates prior to 11th March, 1967 in respect of giving set off for proforma credits of special excise duty covering all similar commodities. From the reply furnished by the Ministry it is observed that no credits were allowed in Bangalore, Goa, Nagpur, Patna, West Bengal

and Shillong. Credits were allowed in Bombay, Cochin, Calcutta and Orissa, Hyderabad, Kanpur and Madras but the number of cases was not indicated. Credits were also allowed in respect of 1 case in Allahabad, 5 cases in Poona and 92 cases in Baroda but the other details particularly the amounts involved were not indicated.

1.265. The Committee learn from Audit that the problem of giving set off excise duty was referred to the Board on 27-7-1963 by the Collector of Central Excise, Bombay. The Committee asked when the issue was decided and the reasons for delay in arriving at a decision. In a note the Ministry stated: "Board's orders were issued on 4-3-1967. A certain amount of avoidable delay occurred in the course of obtaining complete reports from the various field formations concerned, discussions internally and with the Ministry of Law."

1.266. The Committee regret that the Board took 3½ years to give a decision on a reference made to them on the 27th July 1963 by the Bombay Collectorate regarding the problem of set off of special excise duty on internal combustion engines used in motor vehicles. It was only in March, 1967 that Government issued a notification granting exemption of special excise duty also. In the meantime different practices were followed by the Collectorates for allowing credit for special excise duty paid on engines. The Committee feel that a time limit of 3 to 4 months is reasonable for giving ruling in such matters. The Committee desire that a suitable time limit should be fixed for this purpose.

Short-Levy of Duty on Clearances of Cut-Pieces of Cotton and Art Silk Fabrics as Fents

Audit Paragraph

1.267. Cut-pieces of cotton fabrics known as 'fents' are assessable to concessional rates of excise duty based on the weight of the fabrics. Such cut-pieces of art silk fabrics which are also known as 'fents' and containing defects in the body of the fabrics are, however, completely exempt from duty. Government had also fixed the maximum length of such cut-pieces of cotton and art silk fabrics at 2.1 and 2.7 metres respectively.

1.268. With effect from the 20th March, 1968, Government by issue of notifications fixed the length of such fents of cotton and art silk fabrics as not to exceed 1.5 metres. Consequently, such cut-pieces exceeding 1.5 metres in length became ineligible for concessional/nil rates of assessment. On 18th April, 1968, notifications were issued by Government authorising clearances of fents of cotton and art silk fabrics not exceeding 2.1 metres or 2.7 metres in length respectively which were in a fully packed condition before the 20th March, 1968 at the same concessional/nil rates of duty.

1.269. It was noticed that in four units cut-pieces of cotton and/or art silk fabrics exceeding 1.5 metres of length were cleared even after the 20th March, 1968 at the concessional/nil rates of duty. As the notifications issued on the 18th April, 1968 had only prospective effect, the clearance of cut-pieces exceeding 1.5 metres in length from the 20th March, 1968

to 17th April, 1968, should have been assessed to duty at the rates applicable to standard fabrics. The demand notices for differential duty assessing them as standard fabrics raised in respect of two of the above units were withdrawn and in the case of remaining two units though written up, were not issued in view of the notifications issued on 18th April, 1968. The short-levy of duty in nine collectorates worked out to Rs. 4,11,537.

[Para 31 of Audit Report (Civil), 1970 on Revenue Receipts]

1.270. The Committee desired to know how Government regulated the assessment of fents packed prior to 20-3-1968 and cleared after 20-3-68 but before 18-4-68. The Ministry stated: "The clearance between 20-3-68 and 18-4-68 was covered by the executive instructions dated 14-10-68 based on the advice of the Ministry of Law".

1.271. The Committee asked as to why the question of packed fents on 20-3-68 was left out of consideration at the time of issue of Notification dated 20-3-68. The Ministry stated: "At the time of issue of notification dated 20-3-68 it was not possible to anticipate the extent of difficulties involved in regulating clearance of fents already packed before issue of notifications. Between the 23rd March 1968 and 6th April, 1968, 52 representations from the trade including Chambers of Commerce and Mercantile Association representing against the hardships involved in opening the already packed bales for the purpose of segregating the fents according to the revised definition were received."

1.272. The Committee asked why Government delayed issue of notification by a month if they did not intend to grant this concession. The Ministry stated: "The intention of the Government was all along to give the benefit of the concession to fents in fully packed condition before 20th March, 1968. This was made clear in the executive instructions issued. Since it was not possible to issue notifications with retrospective effect the executive instructions issued with the approval of the Minister were meant to cover such cases." However according to Audit the Attorney General of India has opined that under the Excise Law the Government of India has no power to allow any concession through executive instructions or notifications retrospectively.

1.273. The Committee asked whether there was any case when such fents packed prior to 20-3-68 were denied the benefit of lower rates and if so, how refunds have been allowed in all such cases. The Ministry stated: "In cases where demands had already been issued they were subsequently withdrawn. Where the demands had already been honoured, refunds were authorised. The benefit of lower rates was not, therefore, denied to any party."

1.274. The Committee consider it unfortunate that at the time of issue of notification of 20th March, 1968 reducing the length of fents for concessional duty/nil duty, the Board should not have considered about the possibility of existing fents conforming to the previous specifications already packed before the 20th March, 1968 and made suitable provision for their clearance. Lack of foresight is regrettable.

1.275. The Committee have in the past critically commented upon the practice of allowing exemptions retrospectively by executive instructions or notifications. The Attorney General of India has also opined that under the Excise Law the Government have no powers to allow concessions retrospectively through executive instructions or notifications' The Committee hope that such cases will be avoided in future.

Arrears of Union Excise Duties**

Audit Paragraphs

1.276. The total amount of demands outstanding without recovery on 31st March, 1969 in respect of Union Excise Duties was Rs. 2,347.87 lakhs as given below:—

(In lakhs of Rupees)

Commodity	Pending for more than one year	Pending for not more than a year	Total
1	2	3	4
Unmanufactured tobacco . .	238.74	78.77	317.51
Motor Spirit	85.43	78.78	164.21
Refined diesel oil and vaporising oil	3.25	62.90	66.15
Diesel oil N.O.S. . . .	120.20	25.69	145.89
Paper	30.70	16.42	47.12
Rayon Yarn	330.17	28.86	359.03
Cotton Fabrics	329.56	58.30	387.86
Iron or Steel Products . . .	60.24	96.40	156.64
Tin plates	141.34	107.92	249.26
Refrigerating and Air-conditioning machinery	42.30	7.43	49.73
All other commodities . . .	51.95	152.52	404.47
	1633.88	713.99	2,347.87

**Figures provisionally furnished by the Ministry of Finance.

1.277. The total amount of demands outstanding without recovery on 31st March, 1970 in respect of Union Excise duties was Rs. 3,773.86 lakhs as given below:

(In lakhs of Rupees)

Commodity	Pending for more than one year	Pending for not more than a year	Total
Unmanufactured tobacco . .	359.51	380.64	740.15
Motor Spirit	84.23	68.24	152.47
Refined Diesel Oil and vaporising oil	69.93	43.79	113.72
Diesel Oil N.O.S. . . .	122.82	24.49	147.31
Plastics, all sorts . . .	181.81	142.57	324.38
Paper	81.76	21.82	103.58
Rayon Yarn	328.36	5.13	333.49
Cotton Fabrics	285.20	95.62	380.82
Iron or Steel Products . . .	136.51	229.14	365.65
Tin Plates	175.07		175.07
Refrigeration and Air conditioning Machinery	56.51	9.30	65.81
All other commodities . . .	435.64	435.77	871.41
	2,317.35	1,456.51	3,773.86

*Figures furnished by the Ministry of Finance.

[Para 40 of Audit Report (Civil), 1970 on Revenue Receipts and Para 30 of S & AG's Report for 1969-70 on Revenue Receipts].

1.278. The Committee find that the arrears of Union Excise Duty are mounting year after year and in 1969-70 there has been an increase of about 80 per cent over the previous year as will be observed from the following table:

Arrears in Lakhs Rs.

As on 31-3-1967	1,606.68
As on 31-3-1968	2,129.45
As on 31-3-1969	2,347.87
As on 31-3-1970	*4,212.00

*Figures (Rs. 3,773.86) furnished by the Ministry of Finance and included in the Audit Paragraph have since been revised by the Ministry.

1.279. The Committee had desired to know the names of the assessees, period to which the arrears relate, the amount of arrears and reasons for the arrears in the case of Motor spirit and diesel oil (Rs. 376.25 lakhs), Rayon yarn (Rs. 359.03 lakhs), cotton fabrics (Rs. 387.86 lakhs) and Tin Plates (Rs. 249.26 lakhs) during the year 1968-69 in respect of those whose

arrears are Rs. 50,000 and above. The particulars furnished by the Ministry indicate that—

(1) In some cases the arrears relate to the year 1950.

(2) By far a large number of cases are held up in appeal at various stages, *i.e.* with the Assistant Collector, Collector, Board, Government of India.

(3) Thirty cases involving an amount of Rs. 234.92 lakhs (including 4 cases amounting to Rs. 10.31 lakhs pertaining to the year 1965-66) are pending for action at Board's level.

(4) A good number of cases are *sub-judice.*

(5) There are only a few cases where decision has been taken *i.e.* demands have been set aside or ordered to be enforced.

1.280. The Committee asked what steps have been taken to expedite the aforesaid cases. In reply the Ministry stated:

"Out of the 60 cases shown as pending in adjudication, appeal and revision application, 18 cases have since been disposed of. The authorities concerned have been asked to ensure speedy finalisation of other cases."

1.281. The Committee desired to know how much of the arrears at the end of March, 1970 are due from Government departments, statutory Corporations and Departmental Undertakings and Private persons. The Ministry replied:

"According to the revised figures received, the arrears of revenue as on 31-3-70 were Rs. 42.12 crores and not Rs. 37.73 crores as reported earlier.

The break up of the figures is as under:

(i) Government Department, Statutory Corporations and Deptt. Undertakings	Rs. 11.80 crores
(ii) Private persons	Rs. 30.32 crores
	Rs. 42.12 crores

1.282. The Committee desired to know whether the need for further revision in the existing instructions in respect of realising the arrears has been examined. The Ministry replied: "No revision as such, of the existing instructions regarding liquidating the arrears of revenue has been felt necessary. The position of arrears of revenue has always been under constant watch. Whenever necessary the inadequacy of the efforts put in, in realising the arrears of revenue are pointed out impressing on the need for organising special drives for realisation of arrears.

The following steps have lately been taken:—

(i) The Chairman, Central Board of Excise and Customs and the Member concerned have reiterated through D.O. letters to all the Collectors that it is imperative that the arrears are liquidated.

(ii) Special fortnightly reports have been prescribed to watch the progress made in the Collectorates.

(iii) The Divisional Officers, Deputy Collectors and the Collectors have been personally made responsible for individual items of different magnitude. They are to critically examine each such item, contact defaulters where necessary and take such other steps as are warranted to realise the arrears.

(iv) Arrear Collection Squads have been constituted in Collectorates to liquidate as large an amount as possible at an early date. The performance is reviewed in the monthly meetings held by the Finance Secretary.

(v) The Chief Secretaries to all the State Governments have been demi-officially addressed by the Joint Secretary in the Ministry to render all possible assistance in the liquidation of such arrears referred to them.

(vi) In relation to matters which are pending before the Courts of Law, Collectors have been asked to move the courts through Departmental Counsel for early finalisation.

(vii) In relation to cases pending on account of appeals/revision applications with the Departmental Adjudication Tribunals, the adjudicating authorities (including Joint Secretaries-in-charge of Revision Applications) have been impressed of the need to finalise the cases on a top priority basis giving attention to those involving high stakes.

It is expected that these measures are likely to go a long way in substantially liquidating the arrears."

1.283. It is a matter of regret that the arrears of excise duty are showing an over-increasing trend. In the year under Report alone, there has been an increase of about 80%. In their successive Reports the Committee have been expressing concern over the heavy accumulation of arrears but there appears to be no sign of improvement. The arrears which amounted to Rs. 16.07 crores in 1966-67 rose to Rs. 21.29 crores in 1967-68, Rs. 23.48 crores in 1968-69 and finally to Rs. 42.12 crores in 1969-70.

1.284. A part of the arrears relate to the periods as early as 1950 *i.e.* more than 12 years. There are thirty cases involving an amount of Rs. 234.92 lakhs which are pending for action at the Board level. These include four cases involving an amount of Rs. 10.31 lakhs pertaining to the year 1965-66, 5 years old. The reasons for pendency of these cases should be looked into and necessary action taken in the matter.

1.285. The Committee note that measures have been taken by Government to liquidate the arrears. The Committee desire that in view of mounting arrears vigorous and concerted efforts are required to clear the arrears. The Committee would watch the progress made in this regard through future Audit Reports.

1.286. The Committee find that a large number of cases of arrears are held up in appeal at various stages, *i.e.* with the Assistant Collector, Collector,

Board and Government of India. In this connection the Committee have already suggested in para 1.20 of their 31st Report (5th Lok Sabah) that Government should examine the feasibility of making payment of duty obligatory before filing an appeal in disputed assessments.

Loss of revenue due to the absence of legal provisions to rectify defects in appellate order

Audit Paragraph

1.287. Central excise duty on plywood and hardboards was introduced with effect from 24th April, 1962 under the Finance Act of 1962. Pre-excise stock which was in a fully manufactured and ready for delivery condition on the midnight of 23rd/24th April, 1962 was eligible for duty-free clearance. Stocks of plywoods and hardboards lying in an unpacked/uncrated condition on the crucial date with a manufacturer in one collectorate were, in the first instance, allowed to be cleared free of duty. Later from July, 1962, such stocks were permitted to be cleared only on payment of duty and demands for differential duty were also issued in respect of previous clearances. Aggrieved by this, the party filed a writ petition which was dismissed by the High Court. However, on the basis of a directive issued by the High Court the question was re-examined by the Collector who permitted in March, 1965 clearance of unpacked/uncrated stock without payment of duty, withdrew the demands already issued and refunded the duty amounting to Rs. 74,000 already paid.

1.288. On subsequent examination of the refund claim it was found that an amount of Rs. 10,608 alone was eligible for refund. The balance amount, *viz.* Rs. 63,392 represented excise duty paid on hardboards which were subjected to trimming and cutting operations after the crucial date. According to the instructions issued by the Central Board of Revenue in July, 1963, the stock of plywoods and hardboards on the crucial date, which required cutting and trimming before clearance, was not to be treated as pre-excise stock and was liable to levy of Central excise duty. The balance amount of Rs. 63,392 was not, therefore, refundable. But the entire amount had to be refunded in May, 1968 as the orders passed in appeal on the refund claim were final and could not be rectified.

[Paragraph 28 of Audit Report (Civil) on Revenue Receipts]

1.289. In a written note the Ministry stated that "in this case, as per the instructions of the Assistant Collector the factory officer issued the demands. On receipt of the demands the factory filed a writ petition in the High Court. The High Court while dismissing the writ petition, issued a direction to the Collector to consider afresh the various objections raised by the firm and take a decision after giving due opportunity to them to explain their stand. Thereupon, the case was decided by the Collector."

1.290. The Committee asked whether it is not the duty of the adjudicating authority to go into the details of the demand. The Ministry replied in affirmative. The Committee asked how then the adjudicating officer came to the conclusion that the demands should be withdrawn in full when he had decided that the plywoods and hardboards fully manufactured (cut into standard sizes) if they were uncrated or unpacked are not liable to duty.

The Ministry stated: "The Collector's orders for refund for the amount of Rs. 73,999.87 seems to have been passed under the impression that the plywoods and hardboards pertaining to that amount were ready for delivery after being cut and trimmed. The amount seems to have been based on a work sheet and figures forwarded by the factory through the Central Excise Officers concerned."

1.291. The Committee are informed that the Collector while passing the order for refund of duty did not go into the details of the claim and erroneously refunded duty paid on the stock of hardboard which were not fully manufactured and ready for delivery at the time of levy of duty and which could not be treated as pre-excise stock. This omission resulted in loss of Rs. 63,392. The Committee are, however, glad to note that in the Finance Bill, 1972, Government have proposed to make provision in the Central Excise and Salt Act to have a remedy against any erroneous orders passed.

Loss of revenue in respect of cellophane

Audit Paragraph

1.292. A variety of surface coated cellophane known as moisture proof cellophane manufactured by a factory was being assessed to duty on the weight of the anchored cellophane *i.e.* at a semi-finished stage before moisture proofing is done. The assessment should have been made on the weight of the final product after moisture proofing. The correct procedure was followed from 6th August, 1961 on the basis of a clarification issued by the Central Board of Revenue in July, 1961. No action was, however, taken to recover the duty shortlevied prior to 6th August, 1961. A demand for the differential duty amounting to Rs. 53,619 in respect of the past assessments was issued but, it could not be collected owing to time-bar.

[Paragraph 27 of Audit Report (Civil), 1970 on Revenue Receipts.]

1.293. According to the information furnished by the Ministry at the instance of the Committee the actual amount of revenue forgone in this case is Rs. 98,305 . "At the initial stage assessment of moisture proof and heat sealing cellophane (MST) was done at the enchoved stage by the local officers due to a misconception that the duty was leviable only on base film. The assessment prior to 7-8-1961 had been made on the basis of declared valued provisionally approved." According to Audit, however, the actual loss due to operation of time-bar is Rs. 1,32,412.

1.294. The Committee desired to know what would be the amount that could have been retrieved had action been taken to follow the correct procedure immediately on receipt of Board's clarification. The Ministry replied, "The amount of Rs. 33,617.61 could have been retrieved had action been taken immediately on receipt of Boards' clarification."

1.295. The Committee are unhappy over the loss of Rs. 1.32 lakhs owing to incorrect assessment of excise duty on Cellophane at anchored stage i.e. before application of surface—coating materials instead of assessing it after it was impregnated with surface coating. This practice continued till 5th August, 1961 even after the Board issued clarification in July, 1961. Had

the correct procedure been followed immediately after the receipt of Board's clarification an amount of Rs. 33,617.61 could still have been realised.

1.296 The Committee desire the Board to stress the need for taking prompt action on the rulings of the Board.

Loss of revenue due to Grant of Unintended concession in duty

Audit Paragraph

1.297. Under a notification issued by the Government of India on 8th September, 1967, the first 1000 metric tonnes of paper, all sorts, cleared by any manufacturer for home consumption during any financial year, a concessional rate of duty of 25 per cent of the standard rate was announced. The exemption, however, was not admissible for straw-board, mill board and some other specified varieties of paper. By a notification issued on 27th September, 1967 the words 'straw-board, mill board' were substituted by the words 'paper boards'. It was also clarified by the Board in November, 1967 that the term "paper-boards" included all types of boards including straw-board, mill board etc. Thus no type of paper board would be entitled to exemption under the aforesaid notification.

1.298. Government lost revenue to the extent of Rs. 1,70,835 for the period covering 8th September, 1967 to 26th September, 1967 in six Collectorates, by extending the unintended concession to certain categories of paper boards not covered by the original notification. Loss of revenue in respect of other Collectorates is being ascertained (January, 1971).

[Paragraph 23 of the Report of the Comptroller and Auditor General of India for the year 1969-70—Central Government (Civil)—Revenue Receipts]

1.299 The Committee enquired about the objective of issuing notification of 8th September, 1967 and whether Government realised that this object was defeated by the very wording of the notification. The Ministry stated that it "was mainly to give relief to the Small Scale operators manufacturing paper from pulp as opposed to manufacturers of paper Board of other convertors. The defect in the wording of the said Notification was rectified within a period of 20 days by issuing Notification No. 225/67 dated 27-9-1967." The Committee asked at what stage the defect was detected. The Ministry stated: "Within 10 days of issue of the notification No. 208/67 dated 8-9-67, the Ministry itself realised that the same needed further amendment in view of the fact that—

(i) In the case of a factory which was owned by different manufacturers at different times of a financial year, each manufacturer could claim the benefit of duty reduction in respect of the first 1000 M.T. removed by him; and

(ii) the duty reduction also became applicable to all corrugated boards and other paper conversions because none of the units manufacturing such boards had a bamboo pulp plant."

1.300 According to the figures furnished by the Ministry, the total amount of revenue lost is Rs. 1,73,731.

1.301 This is yet another case of lack of forethought in drafting the notification issued by the Board. Although Government intended to give relief to only small scale operators manufacturing paper from pulp, the defective wording in the notification dated 8th September, 1967 enlarged the scope of relief to others as well resulting in loss of revenue amounting to Rs. 1.73 lakhs. The Committee have been repeatedly urging Government that precision and clarity of expression being the very essence of all legal and statutory documents, drafting of notification should be given special care and lapses in this regard should be taken serious note of.

Under-assessment due to incorrect classification of electric wires and cables.

Audit Paragraph.

1.302. From 1st March, 1964 insulated copper wires and cables, any core of which has a sectional area of less than 8.0645 sq. m.m., are assessable at 15 per cent *ad valorem*. Wires and cables of other metals and alloys such as aluminium are to be classified by equating their conductivity to the copper wire.

1.303. The converted sectional area of aluminium wire in terms of that of the copper wire of equivalent conductivity is to be compared with standard copper conductor and the nearest copper conductor size as laid down in the specification of the Indian Standards Institute issued in 1964 was to be adopted for classification. This was clarified by the Central Board of Excise and Customs in an instruction issued in October, 1965. In one Collectorate the conversion was made on the basis of a specification of the Indian Standards Institute issued in 1960 resulting in certain categories of aluminium wires being assessed to duty at 5 per cent *ad valorem*.

1.304. This was pointed out in Audit in October, 1966. The Central Board of Excise and Customs in their letter of April, 1968 also agreed with the views of Audit. The department issued demands for Rs. 90,145 in respect of one unit in a Collectorate covering the period from March, 1964 to February, 1966. The particulars of realisation are awaited (January, 1971).

[Paragraph 27 of the Report of the Comptroller and Auditor General of India for the year 1969-70—Central Government (Civil) - Revenue Receipts]

1.305. The Committee enquired as to how this mistake occurred. In their reply the Ministry stated that "while assessing the wires in question the departmental officers made the conversion on the basis of the Indian Standards Institution specification determined in 1960 instead of 1964 specification of the Indian Standards Institution. They were under the impression that the Indian Standards Institution standard of 1960 should be taken into account for determining the nearest equivalent copper conductors, as the smallest size of a standard copper conductor in the 1964 ISI standard was too thick to be considered as a substitute for the aluminium standard conductors under reference." When asked whether this

mistake was noticed by Internal Audit or by supervising officers during their visits, inspections or checks of assessments, the Ministry stated that "the assessing and supervisory officers had been under the mistaken impression that the method adopted was in conformity with the instructions on the subject."

1.306. The Committee pointed out that the matter was first reported by Audit on October, 1966 but the Collector referred the matter to the Board only in December, 1967 and final clarification was issued by the Board in October, 1969. The Committee desired to know the reasons for delay at each stage. In their note, the Ministry furnished a chart of events indicating the action taken from time to time and stated: "It appears that on receipt of the reference from the Assistant Collector concerned, the matter was under examination of the Collector for some time. However, demands were issued on 15-11-66, 8-3-67 and on 12-4-67." From the chronological chart of events submitted by the Ministry it is observed that the Inspection Report was forwarded by the Audit on 11th January, 1967. The Assistant Collector referred the matter to the Collector on 1st March, 1967 for clarifying the points raised by Audit but the Collector referred the matter to the Board only on the 4th December, 1967, *i.e.* after nine months. Also, when the Board issued clarificatory orders on the 8th April, 1968, the Collector referred the matter back to the Board on 23rd June, 1969, *i.e.* 1¼ years after the Board issued clarification.

1.307. The Committee enquired the latest position in respect of the demands raised. The Ministry stated that the party has filed a revision application against the demands. The Government of India have stayed the recoveries pending decision of Revision Application. The case is pending decision.

1.308 The Committee regret that the aluminium wires were wrongly assessed to duty with reference to formula laid down under the Indian Standards Institution Table, 1960 Edition instead of assessing it on the basis of formula prescribed in their 1964 Edition as required under the instructions issued by the Central Board of Customs and Excise. This resulted in under-assessment of Rs. 90,145. What is more serious is the inordinate delay of about 3 years in issuing the clarification in October, 1969 after the Audit raised the objection in 1966. The Assistant Collector took 5 months to put up the Audit objection to the Collector. The Collector took 9 months to refer the matter to the Board, the Board took 4 months to give clarification and the Collector took 15 months to refer the matter back to the Board. The delay at all stages is regrettable.

1.309 The Committee note that the demands for Rs. 90,145 have been raised but the case is still pending in Revision Application. The Committee would like to know the outcome.

Loss of revenue arising from clearance of an excisable product as non-excisable

Audit Paragraph

1.310 A factory manufacturing patent or proprietary medicines declared a particular preparation as pharmacopoeial and consequently claimed that

the same was not covered by the item 14E of the Central Excise Tariff. The Assistant Collector of Central Excise after verification of the label, approved the medicines as non-excisable in October, 1962 and again in May, 1963. A scrutiny of the labels by Audit disclosed that the name declared by the manufacturer was different from the name of that preparation appearing in the various editions of the relevant pharmacopoeia. The name given to it by the manufacturer could, therefore, be considered as a trade name only and consequently appropriate Central excise duty should have been charged. When the department was apprised of this position, the labels were verified again and the Assistant Controller of Central Excise instructed the manufacturer that the medicine would be chargeable to Central excise duty at full effective rates. A demand for Rs. 49,027 being the Central excise duty on clearances from September, 1962 to December, 1966 was raised in February, 1968. On a representation from the manufacturer, the Assistant Collector reconsidered the issue and withdrew the demand in question in March, 1968.

1.311 Subsequently in May, 1968 the Central Board of Excise and Customs ruled that such products having names different from those given in official pharmacopoeia should be assessed to Central excise duty under the existing tariff item 14E. The withdrawal of demand by the Assistant Collector resulted in loss of revenue of Rs. 49,027.

[Paragraph 24 of Audit Report (Civil), 1970 on Revenue Receipts]

1.312 The Committee asked how this medicine escaped notice twice in October, 1962 and May, 1963 at the time of scrutiny of its labels. The Ministry stated that "the Superintendent who approved of the label in 1962 was misled by the appreviation 'I.P.' occurring after the name of the drug "Liver Extract crude" and accepted the declaration of the party as correct and treated the product as pharmacopoeial preparation. He should have verified whether the medicine was included in the I.P. The Assistant Collector concerned who subsequently reviewed the label did not go into the question as to whether the product was a pharmacopoeial preparation or not but only examined whether the particular label could be considered as high lighting the name of product. The Committee enquired whether the Board have come across any similar types of cases in the same or any other Collectorate. The Ministry stated that two similar cases have been reported in Calcutta and Orissa and Hyderabad Collectorates. The amount involved has been realised in respect of Hyderabad while the case in Calcutta and Orissa Collectorate is pending Appeal.

1.313 The Committee desired to know the types of checks exercised by the assessing officers before deciding a medicine to be non-excisable. The Ministry stated that the assessing officers are guided by the instructions laid down in para 2 to 4 of the Supplement to the Manual of Department Instructions on Excisable Product—"P or P medicines." An extract of the instructions issued on 27-12-1962 is reproduced below :

Criteria for deciding liability to duty :

This amended definition considerably widens the scope of the levy. Under the new definition any drug or medicinal preparation which is marketed under a brand name, or any name other than that specified in a monograph in a Pharmacopoeia. Formulary or other publication notified for the purpose

(*vide* Notification No. 47/63—Central Excise, dated 1-3-63) or with a trade mark, whether registered or not, or other direct or indirect indication in the preparation itself or its container, literature accompanying it, etc., by a symbol monogram, invented word, signature or other distinctive mark of the manufacturer *other than the mere name and address of the manufacturer* will be liable to duty. In other words, all non-pharmacopoeial preparations (*i.e.* preparations which have not been recognised in approved pharmacopoeia) as well as pharmacopoeial preparations marketed under brand names of marks including manufacturers special marks, symbols etc., have been made liable to duty. To illustrate, the following categories of drugs and medicinal preparations will *inter-alia* attract the duty :

(i) All non-pharmacopoeial preparations,

(ii) A pharmacopoeial preparation (*i.e.* a preparation recognised in an approved pharmacopoeia) if it is sold under a brand name or any other name besides the pharmacopoeial name (*e.g.* Aspro, Cibazol etc.),

(iii) Any preparation whether described under pharmacopoeial name or otherwise, which bears a distinguishing name, either preceding or following such name *e.g.* 'I.C.I. Sulphadiazine, Soda Mint Boots',

(iv) Any preparation whether described under a pharmacopoeial name or otherwise which bears on itself or on its container any mark or symbol which is a distinctive mark of the manufacturer, *e.g.* Cyclozine, Hydrochloride, manufactured by Burroughs Wellcome if it or its container bears the mark of 'Unicorn'; tablets Sulphadiazine bearing the distinguishing marked of May & Baker, *viz.*

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B & M

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1.314. This case involves a loss of Rs. 49,027 due to wrong withdrawal of the demand for duty under the orders of the Assistant Collector. It is surprising that the Assistant Collector applied his own interpretation which ran counter to the tariff and the instructions issued by the Board in December, 1962.

1.315. It has been reported that few such cases occured in other Collectorates. The Committee note that Board have issued a clarification in May, 1968 that such products having names different from those given in official pharmacopoeia should be assessed to duty. The Committee hope that such mistakes will not recur.

NEW DELHI;

April 26, 1972
Vaisakha, 1894 (S)

ERA SEZHIYAN

Chairman
Public Accounts Committee

APPENDIX I

(*Para* 1.4 of Report)

Statement showing the Commodity-wise break up of the Revenue realised for the period 1968-69, 1969-70 *and* 1970-71

Commodity	Revenue		
	1968-69	1969-70	1970-71
1	2	3	4
(i) *Less than Rs.* 25 *lakhs*			
P. & P. Foods	2	—	—
Aerated Water	—	24	—
Glucose & Dextrose	—	5	—
Cigars & Cheroots	8	6	7
Chemical	—	12	—
Glycerine	17	19	18
Lead Unwrought	12	10	7
Power Driven Pumps	16	—	—
Electrical Appliances	1	—	—
Office Machines	—	13	—
Gramophones	18	15	—
Mechanical Lighters	1	1	1
Pilfer Proof Caps	4	—	—
Wool Top	neg	—	—
Sparking plugs	—	neg	11
Safety Razor Blades	—	neg	14
Slotted Angles & Channels	—	1	8
Safes, strong boxes	—	neg	—
Synthetic Rubber	—	1	—
TOTAL	79	107	66
(ii) *More than Rs.* 25 *lakhs and less than Rs.* 50 *lakhs*			
Confectionery	—	47	—
Food Products	—	32	—
Optical Bleaching Agents	45	—	—
Coated Textile fabrics	—	38	—
Power Driven Pumps	—	28	—
Electrical Appliances	—	26	33
Gramophones	—	—	27
Safes, Strong boxes	—	—	39
TOTAL	45	171	99

1	2	3	4
(iii) *More than Rs. 50 lakhs but less than Rs. 1 crore*			
Confectionery	—	—	57
P. & P. Food	—	85	—
Glucose & Dextrose	—	—	77
V.N.E. Oils	100	100	—
Soda Ash	78	—	—
Optical Bleaching Agents	—	55	56
Acids	73	—	—
Fertilizers	83	—	—
Organic Surface Active Agents	72	91	—
Embroidery	97	—	—
Pilfer Proof Caps	—	60	62
Metal Containers	—	56	—
Synthetic Rubber	—	—	85
TOTAL	503	447	337
(iv) *More than Rs. 1 crore and less than Rs. 10 crores*			
Confectionery	106	—	—
P. & P. Food	—	—	305
Food Products	—	—	441
Aerated Water	—	—	286
Coffee	291	334	345
Asphalt & Bitumen & Tar	510	598	923
Petroleum Products N.O.S.	658	891	—
V.N.E. Oil	—	—	107
Vegetable Products	887	—	—
Paints & Varnishes	581	632	652
Soda Ash	—	102	197
Chemical	—	—	130
Caustic Soda	128	178	347
Sodium Silicate	124	161	189
Synthetic Organic Dye Stuff	439	540	612
Cosmetics	342	388	409
Gases	109	110	111
Acids	—	105	131
Soap	642	774	878
Organic Surface Active Agents	—	—	118
Cellolhane	141	142	156
Rubber products	558	735	768
Plywood	199	216	

1	2	3	4
Woollen Yarn	439	302	327
Woollen Fabrics	275	262	346
Art Silk Fabrics	364	492	—
Coated Textile Fabrics	202	—	198
Glass & Glass-ware	492	561	626
Chinawares & Porcelainwares	211	238	351
Asbestos Cement Products	140	199	253
Iron in crude form	384	495	430
Steel Ingots	104	208	145
Copper & Copper Alloys	420	405	449
Zinc	158	144	133
Tin Plates	196	203	257
I.C. Engines	128	138	158
Refrigerating & Air Conditioning machines	637	768	—
Electric Motors	413	531	658
Electric Batteries	654	725	742
Electric Bulbs	282	366	447
Electric Fans	222	264	376
Wireless Receiving sets	310	375	401
Parts of W. R. Sets	189	129	160
Electric Wires & cables	739	772	889
Office machines	—	—	131
Foot-wear	219	205	206
Cinematograph films	139	138	133
Steel Furniture	226	262	304
Crown corks	110	140	146
Wool tops	—	160	252
TOTAL	13368	14388	15985
(v) *More than Rs. 10 crores and less than Rs. 25 crores*			
Diesel oil N.O.S.	2203	2337	2250
Petroleum Products N.O.S.	—	—	1717
Vegetable products	—	1050	1383
P.P. Medicines	1073	1254	1324
Fertilizers	—	1701	1819
Plastics	1238	1900	2425
Paper	2147	2333	2411
Art Silk fabrics	—	—	2150
Jute Manufactures	1438	1955	2145
Aluminium	1272	1727	—
Refrigerating and Air Conditioning machines	—	—	1203
Motor Vehicles	—	2431	—
Metal container	—	—	1002
TOTAL	9371	16688	19829

1	2	3	4
(vi) *More than Rs. 25 Crores.*			
Sugar	6808	10412	13979
Tea	2668	2431	3852
Unmanufactured Tobacco	7613	7719	7818
Cigarettes	10821	12641	14783
Motor Spirit	12382	14277	17319
Kerosene	7638	9567	12131
Refined Diesel Oil & Vap. oil	20254	22044	23175
Furnance Oil	2699	2882	3319
Tyres	4898	5186	5489
Rayon & Synthetic fibre & yarn	6134	8316	8877
Cotton Yarn	3782	3396	3329
Cotton Fabrics	7430	7419	7348
Cement	3475	4246	4538
Iron & Steel Products	7146	7118	6931
Aluminium	—	—	3016
Motor Vehicles	2516	—	2798
Matches	2789	2738	2848
TOTAL	109053	120392	141550

APPENDIX II

(*Para* 1.17 of Report)

Self Removal Procedure—Note on the working of, during the years 1968-69 and 1969-70

I. INTRODUCTION

The Central Government took over the Central Excise Administration in 1938 and between 1938 and 1943 there was no physical supervision over factories producing excisable goods except match factories, where residential staff was posted. Assessments were made on the basis of monthly returns of issues furnished by the manufacturers. The returns and accounts maintained by the factories were checked by Inspectors of Central Excise by periodical visits to the factories. Physical control was introduced under the Central Excise Rules, 1944. The Rules envisage that excisable goods should first be assessed to duty by the proper Central Excise Officer and then the duty so assessed should be paid either in cash in a Treasury, or adjusted in the P.L.A. before the goods permitted to be cleared from the factory. At the time of clearance of excisable goods, the manufacturers are required to issue a Gate Pass, which should be signed by the owner of the factory and also counter-signed by the proper Central Excise Officer after verifying that the goods to be cleared tally with the description as given in the Gate Pass and the duty thereon is paid. In cases, where residential staff was actually available, checks were also exercised on production packing and storage of excisable goods.

2. In the year 1962 a partial reaxation of the above mentioned procedure was made by introducing Audit Type of Control for a few selected commodities like Iron & Steel Products, Cement etc. The essence of this scheme was that manufacturers could clear the excisable goods without prior assessment by the Central Excise Officers, and without countersignature on the gate pass. This procedure was, however optional and allowed to certain selected factories.

3. While introducing the Budget for 1968 in the Parliament the then Deputy Prime Minister announced that he had been exercised over the administrative burden on the excise Department and the complaints of abuse associated with the then existing system of physical control. He accordingly decided to extend the system of Self Assessment by the manufacturers to all manufacturers, big and small making exceptions in respect of a few excisable commodities only which presented complications in assessments or where there was substantial movement in bond. The assence of the system was to repose a large measure of trust in the manufacturers, their declarations and their accounts, Day to day verification of clearance by Central Excise Officers was to be dispensed with and replaced by periodical checks of the self assessed documents and accounts to ensure that the amounts due to the

Government have been properly assessed and paid. This procedure was introduced with effect from 1-6-1968 on a compulsory basis in respect of all excisable commodities except 14, namely,

1. Khandsari sugar.
2. Unmanufactured tobacco (except tobacco in Warehouses attached to Cigarette factories).
3. Motor Spirit.
4. Kerosene.
5. Refined Diesel Oil and Vaporising oil.
6. Diesel Oil N.O.S.
7. Furnace Oil.
8. Asphalt, Bitumen and Tar.
9. Petroleum Products N.O.S.
10. Paints and Varnishes.
11. Paper.
12. Cotton Yarn.
13. Cotton Fabrics.
14. Jute Manufacture.

4. The new scheme was also not extended to the following operations on which physical supervision by the Central Excise Officers was continued :

1. Removals for export whether under bond or under claim for rebate of duty;
2. Removals and receipts in bond;
3. Removals for destruction of goods unfit for consumption without payment of duty;
4. Removals of unmanufactured tobacco for agricultural use without payment of duty from warehouses attached to cigarette factories;
5. Receipt of duty paid damaged goods for re-processing or repairs; and
6. Receipts of duty paid raw materials or components for use in the manufacture of finished goods subject to proforma credit of the duty paid being given to the assessee.

5. As a result of experience gained in working of the scheme for about a year w.e.f. 1.6.1968, the procedure was extended from 1-8-69 to all excisable commodities except unmanufactured tobacco and to all the operations listed above and which earlier required physical supervision by Central Excise Officers. In short with effect from 1-8-1969, assessment and clearances of all the existing excisable commodities except unmanufactured

tobacco (but including tobacco in warehouses attached to cigarette factories') and all other operations listed above have been brought under the scope of the S.R.P. and the assessee is free to clear the goods from the factory receive them into the factory or warehouse without asking for physical supervision or verification at any stage from any Central Excise Officer, but subject to observance of formalities prescribed in Rules 1944 included in Chapter VII-A of the Central Excise Rules, 1944. All the Rules in connection with the S.R.P. and also general instructions regarding their implementation have been incorporated in a Hand Book on S.R.P., which has been issued for the guidance of the trade free of charge.

6. A study has revealed that out of total gross revenue collection of 1249 crores during 1968-69 from manufactured excisable goods nearly Rs. 749 crores, that is 60% was collected from 125 factories which individually paid more than Rs. 1 crore of revenue per year. The number of such factories during the year 1969-70 rose to 179 and the amount of revenue collected from them came to nearly Rs. 972 crores, that is, 67% of the total gross revenue collection of Rs. 1446 crores. Further breakup of these factories in respect of both the years is given below :

	Number		Revenue in Crores		Percentage to Total revenue	
Factories paying annual	1968-69	1969-70	1968-69	1969-70	1968-69	1969-70
(a) exceeding Rs. 10 crores . .	22	23	431.39	483.88	34.5	33.5
(b) exceeding Rs. 5 crores but not exceeding 10 crores . .	21	29	115.43	195.29	12.5	13.4
(c) exceeding Rs. 2 crores but not exceeding Rs. 5 crores . .	26	127	86.53	292.90	7.0	20.3
(d) exceeding Rs. 1 crore but not exceeding Rs. 2 crores . .	56		75.95		6.0	
TOTAL .	125	179	749.30	972.07	60.0	67.2

In this connection, it may be of interest to observe that the number of factories during the years 1968-69 and 1969-70 was about 20,600 and 22,800 respectively. This number is exclusive of those factories which work under simplified procedure for levy and collection of duty, commonly known as compounded levy scheme in respect of Khand Sari Sugar, cotton fabrics produced on powerlooms, parts of electric batteries, coarse grain plywood and embroidery.) As against such a large number of factories, the number of factories from which about 2/3rds of the total gross revenue gets realised is less than even 200.

7. The working of the scheme has been kept under constant review with a view to eliminate unnecessary documentary work on the part of the

assessee and keeping in view at the same time safety of revenue. In order to examine the problems and difficulties arising from the S.R.P., a small sub-committee consisting of trade representatives from the following four organisations was set up in the 13th Meeting of the Customs and Central Excise Advisory Council held in New Delhi in December, 1968.

(i) Federation of Indian Chambers of Commerce & Industry.

(ii) The Associated Chambers of Commerce & Industry of India.

(iii) The All India Manufacturers' Organisation.

(iv) Federation of Association of Small Industries of India.

A number of suggestions made by the Sub-committee for simplification of procedure or maintenance of accounts have been accepted and incorporated in the rules or instructions.

8. (i) The impact of the S.R.P. on revenue realisation is kept under close watch. Statistics of total revenue receipts from commodities which were within the purview of the new procedure with effect from 1st June, 1968 during the years 1967-68, 1968-69 and 1969-70 are as follows :

(In crores of rupees)

1967-68	1968-69	1969-70
543.00	629.33	736.44

(ii) Similarly with regard to the commodities brought under the new procedure with effect from 1-8-1969 the position is as under :—

(In Crores of rupees)

1967-68	1968-69	1969-70
539.32	618.75	685.18

(iii) The above statistics will show that there has been an overall increase in the revenue realisation after introduction of S.R.P. These realisations by themselves may not, however, correctly reflect the effect of the new procedure, for the reason that increase in revenue could be due to a number of factors such as normal growth of the industry, increase in rates of duty etc. Therefore, a detailed commodity-wise analysis of fluctuations not only in revenue but also in production during the above-mentioned years has also been undertaken and the results of which are given in paras 21 to 25 below :

(iv) It may be added in this context that at the time of formulating Sanctioned Budget Estimates the normal rate of growth expected in respect of different excisable commodities is duly taken into account. A comparison

of the figures of S.B.E. with revenue realisation may, therefore, provide a useful study. The position in this regard is as under :

(In Crores of rupees)

	1967-68	1968-69	1969-70
	(pre-S.R.P. Years)	(Years during which S.R.P. was introduced).	
S.B.E. . . .	586.13	677.87	736.48
R.B.E. . . .	546.97	615.35	756.41
Actual . . .	543.00	629.33	736.44
Realisation. . .	—7.4%	—7.3%	(almost nil

(b) *In respect of all those commodities that were under S.R.P. with effect from* 1-8-1969

	1967-68	1968-69	1969-70
S.R.E.	1128.28	1194.33	1426.12
R.B.E.	1083.45	1227.60	1432.73
Actual realisations	1082.32	1248.08	1421.62
	(—4.1%)	(+4.3%)	(—0.32%)

(c) *Gross total for all commodities*

S.B.E.	1194.73	1273.71	1508.39
R.B.E.	1152.61	1308.25	1512.75
Actual realisations	1153.76	1326.61	1523.17
	(—5.1%)	(+4%)	(+0.97%)

(v) It will be observed from the above comparison that the performance of actual realisations during the years 1968-69 and 1969-70 a compared to the Sanctioned Budget Estimates (please see figures in brackets) has been considerably better than what it was during the pre S.R.P. year 1967-68.

9. A study about trend of production in the various industries has revealed that out of these commodities, which were brought under S.R.P. from 1-6-1968, there has been substantial increase in production in a large number of industries, and although there was some short-fall in the case of some of the commodities the revenue realisation on those very commodities has exhibited an upward trend. The Board are fully alive to the need of studying the impact of S.R.P. on the production and trend of the revenue receipts and have for this purpose asked all Collectors to study the trend of production and revenue from all factories. This study is now being undertaken at different levels depending upon whether the factory is yielding a small or a sizeable amount of revenue.

10. (i) The position regarding offences detected during the pre-S.R.P. year and thereafter has also been studied. The position is as under :

Description	1967	1968	1969
I. In respect of commodities brought under S.R.P. with effect from 1-6-1968	2665	3022	4399
II. In respect of commodities under S.R.P. with effect from 1-8-1969	4853	4283	5562
III. Others (Unmanufactured products) . . .	16976	14072	13297
TOTAL of II & III	21829	10155	18859

(ii) Commodity-wise break up of the above figures (Statement I) is enclosed. These figures show that in respect of certain commodities the number of offences detected during the year 1968 is more than during the year 1967. Similarly, in respect of certain commodities the number of offences detected during the year 1969 is more than during the year 1968. There are, however, cases in which the number of offences has decreased. It has been found that in respect of coffee, cosmetics, woollen fabrics furnace oil, caustic soda, cotton yarn, cotton fabrics (powerlooms), art silk fabrics, iron and steel products, tin plates, wireless receiving sets, motor vehicles, iron in crude form and aluminium, the number of offences detected during 1969 was less than that detected during 1967, that is, before the introduction of S.R.P.

(iii) Statistically, there was an increase to the extent of 45% in respect of commodities mentioned at category I above, and 29% in respect of the commodities mentioned at II above during the year 1969. Some of this increase is accounted for in the first instance by those commodities which were brought under Central Excise net for the first time during 1969, and in the second instance by those commodities in respect of which there was no offence during the previous year 1968 (namely elophane, gramophone and parts, glycerine, caustic soda, soda ash and cigarettes). In this connection it may be added that apart from the normal supervision at the Range level, we have, in the new procedure, created inspection groups with the task of critically scrutinizing the accounts of assessees. We have also placed greater emphasis on preventive work. It is, therefore likely that, with the improved machinery for detecting offences, the number of offences detected has increased.

(iv) A study with reference to the amount of duty involved in respect of offences detected during the year 1969 has shown that the number of cases with revenue potential of more than Rs. 1,000 is round-about 280 only. In other words, the bulk of the offences are for petty amounts. A detailed study of these 280 or so offence cases has also indicated that about 23% are of procedural nature only, and that about 38% are those which pertain to incorrect maintenance of personal ledger account by the assessees, or not keeping adequate credit in their accounts in respect of goods cleared by them. The percentage of those offences which are of more serious type, involving unauthorised or illicit production, or clandestine removal are found to be of the order of about 39% only. Apart from this, the number of offences detected, does not, by itself indicate that introduction of S.R.P. has lead to

evasion of duty. Position regarding production needs to be watched more closely for the reason that so long as all that is produced gets accounted for, the due amount of duty will no doubt get realised (A study about the trend of production has been made elsewhere in para 22 of this note.)

11. All manufacturers are required to submit under Rule 173B classification lists of all excisable goods produced in their factories to the Superintendent of Central Excise incharge of their range for his prior approval. This classification list contains the description of each product alongwith the item No. of the Central Excise Tariff which applies to it, particulars of exemption notification applicable, if any, and the rate of duty leviable thereon. Similarly the manufacturers also file with the Superintendent incharge of their range for his prior approval a list of prices of goods, which are assessable to duty on *ad valorem* basis (Rule 173C). It has been decided that classification list in respect of certain complicated items should be approved by senior officers of the rank of Assistant Collectors. It has also been decided that Assistant Collectors should approve principles of valuation in case of each type of assessee. These changes will not only narrow the field of disputes and quicken the pace of disposal of the fairly important items of work, but will also ensure that initial determination of duty is done at a fairly senior level. With this end in view, the Divisional charge of Assistant Collectors is proposed to be made smaller so that he can personally attend to such work and also exercise more effective supervision over his charge.

12. After the classification and price lists have been approved as above, the manufacturer himself determines his liability under Rule 173F for the duty due on the excisable goods intended to be removed under each gate pass and cannot remove such goods unless he has paid the duty so determined. Procedure to be followed by an assessee for payment of duty and clearance of his goods is laid down in Rule. 173G. Every assessee pays duty compulsorily through a Personal Ledger Account, in which he periodically makes credit entries after cash payment of the amount into the Treasury or after sending a cheque or letter of authority to the Chief Accounts Officer of the Department so as to keep the balance in such account current sufficient to cover the duty due on the goods intended to be removed at any time. The assessee pays the duty determined by him for each consignment by debit to such account current before removal of the goods.

13. The manufacturer also submits a monthly return to the Superintendent-in-charge of his Range alongwith copies of gate passes and P. L.A. The range staff checks the accuracy of duty in respect of each gate pass and ensures that it has been correctly paid. The range staff also visits factories for drawing samples of goods for test, according to prescribed figures, where the rate of duty depends on the Chemical & Physical properties of the goods. The range staff can also visit factories for any other important investigations in connection with verification of classification/price lists clearing of returns etc.

14. In addition to the checks, which are exercised in the range as stated above, production, clearances, raw material accounts and other accounts of the manufacturers are checked periodically, once every half year or so by a party of Officers known as Inspection Groups.

These Officers visit the factories for examination of records. In addition to the half yearly visits mentioned above, inspection groups are also expected to pay a short surprise visit to each factory once a year for the purpose of authenticating their records and conducting stock challenges.

15. In addition to Assessment Ranges and Inspection Groups, which exercise documentary checks on the duty paid by the factories and on their production and clearances separate preventive and intelligence terms have been constituted, which work independently of the above units to exercise preventive and intelligence checks. As apart of the checks which they exercise, these teams pay surprise visits either to the factories or to the marketing centres to detect surreptitious removals. They also visit the Octroi Posts and Railway Stations to examine their records in order to see that movements of excisable goods are properly accounted for by assessees. They also exercise checks on goods in transit, visit factories by surprise to verify their accounts and stocks and also make surprise raids on suspected units.

16. Simultaneously, with the grant of a full freedom to the manufacturers to clear their goods at their convenience without any physical supervision by any Central Excise Officer whatsoever subject to observance of the prescribed procedure, penal provisions have been made more deterrent. The maximum penalty that can now be imposed has been raised from Rs. 2000 to an amount not exceeding three times the value of the excisable goods in respect of which any contravention under S.R.P. Rules has been committed or Rs. 5000, whichever is greater. Provision for confiscation of goods has also been made more stringent in so far as if now provides for confiscation of-

(i) any land, building, plant machinery, materials, conveyance, animal or any other thing used in connection with the manufacture, production, storage, removal or disposal of such goods, and

(ii) all excisable goods on such land or in such building or produced or manufactured with such plant, machinery, materials or thing.

17. In addition to the above provisions for imposing a deterrent punishment for deliberately evading payment of duty, Collectors of Central Excise have also been delegated powers under rule 173E to nominate an officer not below the rank of an Assistant Collector to determine the normal production of a factory. After taking into account all factors such as installed capacity of the factory, raw materials used, labour employed, power consumed etc., if a factory's production during any time is found to be below the 'norm' arrived at, the assessee may be called upon to explain any shortfall in production during any time as compared to the norm. If the shortfall is not accounted for to the satisfaction of the proper officer, the said officer may assess the duty thereon to the best of his judgement after giving the assessee an opportunity of being heard.

18. The production of a factory, which may once be determined in the manner indicated in the preceding paragraph may be revised later by the proper officer after further enquiry that may be considered necessary if reasonable grounds exist to show that any factor affecting the production of such factory has undergone a material change.

19. Physical supervision has been withdrawn w.e.f. 1.8.1969 from removals and receipts in bond, removal for destruction of goods unfit for consumption, receipts of duty paid on damaged goods for reprocessing or repair and receipts of duty paid on raw materials on components under proforma credit scheme. In place of physical supervision, selective checks by Central Excise Officers at random have been introduced and in order that they may be carried out, an obligation has been cast under Rules 173K, 173L and 173N on the assessee of informing the proper officer the particulars of the goods received and the date of receipt. This information is required to be furnished within 24 hours of the receipt of the goods. So far as destruction is concerned information about the quantity of goods and the proposed date of their destruction has to be supplied seven days in advance under Rule 56A as modified by Rule 173K, Rule 149 as amended by Rule 173N and Rule 195 as amended by Rule 173P. The period of 24 hours and seven days for giving prior information will enable necessary verification to be conducted by the proper officer in respect of goods received or proposed to be destroyed. Instructions have also been issued that all cases of destruction involving remission of revenue over Rs. 1,000 each should be personally verified and supervised by the Superintendent Incharge of the Range.

20. Physical Supervision in respect of exporters has been retained with the difference that an exporter has been given the option either to avail of the existing procedure of getting his goods examined and sealed by the Central Excise Officers as at present or alternatively he can despatch the goods directly to the port of export without any such supervision, in which case the goods for export will be examined by the Customs Officer at the port. Exporters, who intend to have the goods examined by the Central Excise Officer have to pay necessary supervision charges. A provision has been made in sub-rule (3) of Rule 185 amended by Rule 173-0 for authentication by the proper officer of export documents like the gate pass and AR4/AR4A.

21. Statement showing production, clearance and revenue realisation from those commodities which have been brought under Self Removal Procedure, for a period of 5 years from 1965-66 to 1969-70 is enclosed.

22. (i) Taking up the production aspect first, it is found that during the year 1968-69 as compared to 1967-68, out of 59 commodities that were brought under the new procedure with effect from 1.6.1968, there was fall in production, when compared to the previous year 1967-68, in respect of cigars and cheroots, sodium silicate, cosmetics and toilet preparations, jute manufactures and lead. Figures of production in respect of these commodities and the position in respect thereof during the years 1967-68, 1968-69 and 1969-70 are given below:-

	1967-68	1968-69	1969-70
1. Cigars and Cheroots (000 Nos.)	31512	24721	21811
2. Sodium Silicate (000 quintals)	2148	2033	2350
3. Cosmetics & Toilet Preparations (000 Kgs.)	2425	8142	9393
4. Jute manufactures (000 tonnes)	1186	1110	1045
5. Lead (000 tonnes)	2335	1854	1892

(ii) It will be observed that the production in respect of sodium silicate, cosmetics and toilet preparations and lead picked up during the year 1969-70. Cigars and cheroots and jute manufactures, however, continued to show downward trend.

(iii) Taking into account those commodities also which were brought under Self Removal Procedure with effect from 1.8.1969 it is found that during the year 1969-70, when compared to the previous year 1968-69, there has been fall in production in respect of cigarettes, cigars and cheroots, V.N.E. oils, jute manufactures, steel ingots, footwear, matches, synthetic fibre and yarn, woollen yarn, steel furniture, confectionery, cotton fabrics and inner tubes of tyres. Figures of production in respect of these commodities during the years 1967-68, 1968-69 and 1969-70 are given below:-

	1967-68	1968-69	1969-70
1. Cigarettes (Mn. Nos.)	53830	61411	61026(M)
2. Cigar and cheroots (Ob Nos.)	31512	24751	21811
3. V.N.E. Oils (000 tons)	133	136	131(M)
4. Jute manufactures (-do-)	1186	1110	1045
5. Steel Ingots (-do-)	4625	7172	6876
6. Footwear (000 pairs)	64	76	67
7. Matches (000 glass boxes)	58069	64145	62298
8. Synthetic fihre and yarn (Mn. Kgs.)	170	193	192(M)
9. Woollen yarn (-do-)	18.9	22.6	22.5(M)
10. Steel Furnitures (000 Nos.)	—	2395	2222
11. Confectionery (000 kgs.)	—	16172	14021
12. Cotton fabrics (Mn. L. Metres)	4072	4218	4189(M)
13. Tubes (000 Nos.)	2897	3210	3042

(iv) It will be observed from the above figures that in respect of commodities marked (M) the fall in production during the year 1969-70 as compared to the previous year 1968-69 is marginal only. This may have been due to normal trade fluctuations, labour troubles or disturbed conditions particularly in West Bengal. It will also be observed that there are several commodities in respect of which even though the production during the year 1969-70 is lesser than that of 1968-69 yet it is more than what it was during the year 1967-68, for instance, in repect of steel ingots, footwear, matches and also inner tubes of tyres.

23. (i) Taking up the revenue aspect, it is found that during the year 1968-69 there was fall in revenue realisation as compared to the year 1967-68 in respect of sugar, cigars and cheroots, sodium silicate, iron in crude form tin plates, wireless receiving sets and cotton fabrics (produced on power-looms under normal procedure). During the year 1969-70, on the other hand, revenue realisation has been found to be lesser than in the previous year 1968-69 in respect of tea, cigars and cheroots, copper and copper alloys, iron and steel products, zinc, motor vehicles, footwear, films, gramophones and parts thereof, matches, lead, cotton yarn, woollen fabrics, woollen yarn, confectionery, cotton fabrics produced in mills and motor tubes.

(ii) As stated elsewhere it is the production, the position regarding which needs to be watched more closely. However, comparative figures of revenue realisation in respect of commodities mentioned in sub-para (i) above during the years 1967-68, 1968-69 and 1969-70 are given below for informations.

(Rupees 100000)

	1967-68	1968-69	1969-70
1. Sugar	7396	6655	10219
2. Tea	2155	2160	1895
3. Cigars & Cheroots	8.3	7.6	6.5
4. Sodium silicate	128.4	124.3	159.0
5. Iron in crude form	531	384	495
6. Copper and copper alloys	399	420	405
7. Iron & Steel products	6811	7146	7130
8. Zinc	47.5	158.3	144.0
9. Tin plates	209	196	203
10. Motor vehicles	2180	2516	2434
11. Footwear	207	219	305
12. Films	124	139	128
13. Gramophone & parts thereof	12.3	17.6	15.5
14. Wireless Receiving Sets	316	310	375
15. Matches	2567	2788	2738
16. Lead	10.7	12.3	9.8
17. Cotton yarn	3701	3785	3396
18. Woollen fabrics	231	275	262
19. Woollen yarn	398	439	302
20. Confectionery	—	106	47
21. Cotton fabrics (C.M.)	6729	7382	7288
22. Cotton fabrics (PL-NP)	5	3	13
23. Motor tabes	—	208	294

24. Possible reasons for fluctuations in production and revenue realisation in respect of some of the commodities mentioned in paras 22 and 23 above are :

(a) *Cotton textiles*—The fall in production, clearance as well as revenue in respect of cotton fabrics during the year 1969-70 as compared to the previous year appears to have resulted from the communal disturbances during September, 1969 in Ahmedabad, which is an important cotton textile centre and where the production was considerably affected.

(b) *Jute Manufactures*—Labour trouble and industry-wise general strike during August, 1969 has resulted in fall in production. Further, fall in demand for carpet packing from U.S.A. is also considered to have affected adversely the production of these goods.

(c) *Tea*—Fall in revenue during the year 1969-70 as compared to the previous year may be accounted for by abolition on of special excise duty with effect from 13-5-1969.

(d) *Confectionery*—Considerable drop in revenue during 1969-70 as compared to the previous year 1968-69 could be party due to reduction in the rate of duty from 80 paise per Kg. to 30 paise per Kg. with effect from 1.3.69 and partly due to adverse effect in production during those months in which the price of sugar was quite high.

(e) *Cigars and Cheroots*—Re-imposition of duty with effect from 1.3.1968 may have, it seems, brought about consumer's resistance and affected production adversely.

(f) *Wireless Receiving Sets*—Fall in revenue is accounted for by changes in the rates of duty with effect from 1.3.1969.

(g) *Steel ingots and Iron Steel products*—Fall in production at TISCO and IISCO is the apparent reason for fall in production and revenue of these goods.

(h) *Footwear*—Change in the pattern of production of leather shoes as also disturbed conditions at some important centres of production of footwear appear to have resulted in fall in production and also in revenue.

(i) *Matches*—There was drop in production in the initial months of the year 1969-70 in respect of Wimco factory of Bareilly. Further about 600 factories remained idle in Sivakashi and Tirunalvelli, during the same period.

IV *Checks against duty evasions under the scheme*

25. As stated in the salient features of the scheme the penal provisions under the Self Removal Procedure have been made more stringent to provide for deterrent punishment for deliberate evasion of duty. The penal provisions are contained in Rule 173 Q of Chapter VIIA.

26. Again as already stated in the salient features of the scheme, a new rule namely 173E has been introduced empowering Collectors of Central Excise to nominate an officer (not below the rank of an Assistant Collector to prevent misuse of powers) to determine the normal production of a factory wherever there is a *prima facie* case of showing low production. In determining normal production, all factors such as installed capacity of the factory, raw materials used, labour employed, power consumed and other relevent factors should be taken into consideration.

If the short fall is not accounted for to the satisfaction of the proper officer, he may assess the duty to the best of his judgement after giving the assessee an opportunity of being heard. This is a new provision to check evasion of excise revenue.

27. The responsibility of checking whether or not the manufacturers have accounted for all the excisable goods that they have in fact manufactured

rests on the Inspection Groups, who carry out inspections of the factories once every half year or at more frequent intervals, if need be. In addition, preventive parties have been further strengthened. At divisional level one Superintendent is in direct charge of preventive work while in the circle, preventive work is directly under the Circle Officer. Instructions have been issued that in order to improve the quality of preventive control, personnel for preventive parties should be very carefully selected. A list of checks which should be exercised by the Preventive Parties has been drawn up and circulated. They may briefly be recapitulated below:

(i) Checking the removals made by the assessees with the help of octroi records, railway records and road transport agencies' records. Excisable goods found in transit should be traced back to the gate pass issued by the manufacturer. The removals actually made from the factories will be available from the range staff papers.

(ii) Pay surprise visits to the marketing centres, neighbourhood of factories and to the factories if necessary, for detecting surreptitious removal of goods and other serious breaches of law.

(iii) When visiting a factory by surprise, to physically verify (a) contents of packages and markings of goods in the packing and storeroom and (b) verification of actual stocks in the factories with book balance.

(iv) Surprise raids on suspected units.

Preventive Officers have been specially instructed to collect intelligence by recruiting informers and from competitors of assessees and distributive channels in the wholesale market. Senior Officers like the Assistant Collectors and Superintendents have instructions to pay their closest personal attention to the performance of Preventive Parties and Inspection Groups to ensure that their checks are fruitful and productive.

APPENDIX II (*contd.*)

STATEMENT I

No. of offence cases detected during 1967, 1968 *and* 1969 *in respect of commodities brought under S.R.P. w.e.f.* 1-6-1968.

Sl. No.	Commodity	1967	1968	1969	Remarks
1.	Sugar	43	41	89	
2.	Coffee	755	695	667	
3.	Tea (Loose & Package)	288	256	351	
4.	Cigars & Cheroots	1	3	4	
5.	Cigarettes	1	—	1	
6.	V.N.E. Oils	27	19	29	
7.	Veg. Products	4	7	8	
8.	Soda Ash	1	—	1	
9.	Caustic Soda	3	—	1	
10.	Sodium Silicate	78	105	122	
11.	Glycerine	—	—	1	
12.	Synth. Org. Dyestuff	5	5	19	
13.	Bleaching Agents (optical)	—	—	—	
14.	P. & P. Medicines	60	66	137	
15.	Cosmetics	48	18	26	
16.	Acids	6	9	10	
17.	Gases	3	10	13	
18.	Soap	6	6	11	
19.	Plastics	8	3	17	
20.	Org. Sur. Agents	—	—	13	
21.	Cellophane	—	—	4	
22.	Tyres & Tubes	6	5	19	
23.	Rubber Products	21	52	93	
24.	Plywood	30	32	51	
25.	Rayon Yarn	12	29	35	
26.	Woollen yarn	76	145	97	
27.	Silk fabrics	7	4	2	
28.	Woollen fabrics	53	53	38	
29.	Art Silk fabrics	73	55	43	
30.	Artificial Leather cloth	—	—	1	New 1968 Excise.
31.	Cement	10	10	33	
32.	Glassware	45	63	105	
33.	Chinaware	20	60	49	
34.	Asbestos Cement	29	27	48	
35.	Silver	—	—	—	

1	2	3	4	5	6
36.	Iron & Crude form (Pig. Iron)	8	10	2	
37.	Steel Ingots	3	11	13	
38.	Copper & Copper Alloys	85	117	222	
39.	Iron & Steel Products	122	145	118	
40.	Zinc	2	3	6	
41.	Aluminium	28	20	25	
42.	Lead	1	—	—	
43.	Tin Plates	8	2	—	
44.	I.C. Engines	85	56	132	
45.	Refrigerating Machinery	48	82	190	
46.	Elec. Motors	52	37	126	
47.	Elec. Batteries	17	22	40	
48.	Elec. Bulbs	30	25	75	
49.	Elec. Fans	7	10	29	
50.	W.R. Sets	150	152	145	
51.	Elec. Wires & Cables	40	53	85	
52.	Motor Vehicles	89	93	80	
53.	Cycles	—	—	—	
54.	Footwear	15	21	34	
55.	C. Films	2	2	2	
56.	Gramophones	1	—	4	
57.	Matches	141	136	398	
58.	Mech. Lighters	12	15	14	
59.	Confectionery	—	11	12	New 1968 Excise.
60.	Embroidery	—	5	6	-do-
61.	Certain Parts of W.R. Sets	—	—	—	-do-
62.	Steel Furniture	—	214	497	-do-
63.	Crown Corks	—	2	6	-do-
	TOTAL	2665	3022	4399	

II. *Number of offence cases detected during* 1967, 1968 *and* 1969 *in respect of commodities brought under S.R.P. w.e.f.* 1-8-1969

S. No.	Commodity	1967	1968	1969
1	2	3	4	5
(i)	*Pre*-1969 *Commodities :*			
1.	Khandsari	96	96	98
2.	Motor Spirit	11	11	9
3.	Kerosene	2	12	3
4.	Refined Diesel Oil	4	1	4

1	2	3	4	5
5.	Diesel Oil N.O.S.	1	6	7
6.	Furnace	8	3	1
7.	Asphalt, Bitumen & Tar	—	—	—
8.	Petroleum Products	1	—	—
9.	Paints & Varnishes	107	133	149
10.	Paper	66	60	90
11.	Cotton Yarn	166	119	98
12.	Cotton Fabrics	74	201	350
		1643	609	254
13.	Jute Manufacture	9	10	18
		2188	1261	1081
(ii)	*New* 1969 *Commodities :*			
14.	Fertilizers	—	—	18
15.	P & P Goods	—	—	35
16.	P.D. Pumps	—	—	13
17.	P.P. Caps	—	—	2
18.	D.E. appliances	—	—	11
19.	Wool Tops	—	—	3—82
	TOTAL OF I & II	2188	1266	1163
	TOTAL OF (i) & (ii)	4853	4283	5568

Number of offence cases detected during 1967, 1968 *and* 1969 *in respect of unmanufactured Tobacco.*

Commodity	1967	1968	1969
Un-manufactured Tobacco	16976	14872	13297
GRAND TOTAL OF I, II & III	21829	19155	18859

APPENDIX III

Summary of main Recommendations/Conclusions

Sr. No.	Para No. Report of	Ministry/Deptt. Concerned	Recommendations
1	2	3	4
1.	1.9	Finance (Deptt. of R & I)	The Committee note that the number of excisable commodities has increased from 76 in 1965-66 to 115 at present. There are quite a few commodities which are not yielding substantial revenue. During the years 1968-69, 1969-70 and 1970-71, the number of commodities which yielded total revenue of less than Rs. 50 lakhs in each year was 8, 13 and 9 respectively. The Chanda Committee expressed the view as early as 1963 that "the increased in yield has not been commensurate with the number of items which have been added to the list of excisable goods." The Committee feel that taxing commodities with yields less than Rs. 50 lakhs a year particularly those produced by small units dispersed throughout the country is not worth-while as they would involve disproportionate cost of collection.
2.	1.10	-do-	The Committee deem it necessary that in order to formulate the taxation policy on a rational basis Government should develop a fully integrated system of costing so as to find out the cost of collection commodity-wise.
3.	1.16	Finance (Deptt. of R & I)	The Committee note that the cost of collection has come down from 1.07% in 1967-68 to 0.97% in 1968-69 and to 0.84% in 1969-70

1	2	3	4
			after the introduction of Self Removal Procedure. However, as admitted by the Ministry, this fall is not solely attributable to the introduction of self Removal Procedure but is the cumulative effect of various factors like progressive increase in revenue receipts, etc. Under the existing accounting system followed in the Excise Department it is difficult to bring out the actual impact of Self Removal Procedure on the cost of collection. After the introduction of Self Removal Procedure, the Staff Inspection Unit of the Ministry of Finance have after prolonged and detailed study found 384 posts of sub-inspection and 1715 posts of sepoys surplus. The Committee suggest that the impact of the system of Self Removal Procedure on the cost of collection may be kept under watch.
4.	1.22	Finance (Deptt. of R &I)	The Committee note that Government have made a departmental study of the working of Self Removal Procedure on certain commodities particularly with reference to their production and revenue. This study reveals that after the introduction of Self Removal Procedure, the production of some of the commodities like cigars, cigarettes, cheroots, V.N.E. oils, sodium silicate, cosmetics and toilet preparations, steel ingots, footwear, matches, synthetic fibre and yarn, woollen yarn, cotton fibre etc. has shown a perceptible decline. The study also reveals fall of revenue in respect of some other items. The Committee have been informed that Government have received complaints from different quarters about the possible evasion of duty and have set up a committee with wide terms of reference to go into the

1	2	3	4
			working of Self Removal Procedure to find out whether the scheme has achieved its purpose and to what extent it has afforded scope for evasion, to recommend measures to plug loopholes and also to examine the organisational and administrative set up of the Excise Department. The Committee feel that it would be helpful if a representative of Audit is also associated with the Committee.
5.	1.23	-do-	The Committee would like to be apprised of the findings of the Committee and action taken thereon.
6.	1.36	Finance (Deptt. of R& I) Health	The Committee regret to observe that there was lack of co-ordination between the Central Excise Department and the Ministry of Health in the classification of the product 'Protinules'. The product was treated as patent and proprietory medicine by the Ministry of Health and as 'food product' by the Excise Department. The product which was originally charged to duty as medicine from April, 1962 was on the representation from the licensee decided in March, 1963 to be essentially a food product and hence not excisable after consulting the Drugs Controller (India). An amount of Rs. 1.68 lakhs collected as duty was refunded to this party. Subsequently in July, 1967, the Director General of Health Services decided to treat it as a medicinal preparation eligible for reimbursement under Medical Attendance Rules applicable to Central Government Servants but without consulting the Drugs Controller (India). The Ministry of Health referred the matter to the Drugs Controller

1.	2	3	4
			(India) only on receipt of a draft Audit para from the Ministry of Finance when it was decided not to treat this as drug. The failure of the Ministry of Health to consult the Drugs Controller (India) in 1967 when the preparation was included in reimbursable list of medicines, is regrettable. The Committee suggest that some procedure should be laid down whereby opinions of the Drugs Controller on various medicinal preparations in cases referred to by the Excise Department are made available to the Director General of Health Services and *vice-versa* so that there is uniformity in treatment of products as drug or food products.
7.	1.37	Finance (Deptt. of R&I)	An unsatisfactory aspect of the case is that the manufacturer received a refund of Excise Duty amounting to Rs. 1.68 lakhs although he had already passed on the burden of duty to consumers. Elsewhere in this report the Committee have discussed the question of desirability of making refunds in such cases. The Committee desire that at least the Income-tax authorities should be informed about the income of the manufacturers in this regard.
8.	1.38	Finance (Deptt. of R&I) Health	From the information given, the Committee understand that the products *viz.* Complan, Protinex and Provitex are being treated differently. Complan is being assessed to duty as preserved food under item 1B. Protinex is assessed as medicine under item 14E. Audit had raised a point that Protinex also should be assessed as preserved food under item 1B. While Protinex is included in the list of inadmissible medicines Provitex is eligible for reimbursement under the Medical

1	2	3	4
			Attendance Scheme. The Committee desire that the treatment of these and similar other preparations like Protinules both for medical reimbursement and for excise levy should be carefully examined.
9.	1.46	Finance (Deptt. of R &I)	The Committee are perturbed over the lapses revealed in this case. The dispersed Carbon Black ordinarily used for printing of textiles which was assessible to higher rate of duty from March, 1964 continued to be assessed as pigments colours, paints and enamels N.O.S. at lower rate upto 18th October, 1967 resulting in an under assessment of Rs. 14.12 lakhs. Even after the Assistant Collector concerned received on the 14th March, 1966 the final opinion of the Chief Chemist that the product was an Organic pigment which overruled the earlier opinion of Dy. Chief Chemist, the Assistant Collector did not take any action to raise a demand till the receipt of audit objection in July, 1967. The delay of 18 months in taking action resulted in raising the demand for only Rs. 1.25 lakhs from the 18th July, 1967 to 17th October, 1967. Had the Assistant Collector raised the demands immediately after the receipt of the final report of the Chief Chemist on the 14th March, 1966, a sum of Rs. 7.01 lakhs more could have been recovered. The Committee note that the explanation of the Assistant Collector has been obtained in October, 1970, but no further action has been taken as the file is stated to be lying with the Board for one year. The Committee are unhappy over the delay in taking action. They desire that the matter should be finalised expeditiously.
10.	1.60	-do-	As far back as 1967 the Committee had drawn the attention of the

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			Government to a loss of Rs. 168 lakhs in 1963 and 1964 alone as a result of omission to levy higher duty on tobacco cured in whole leaf form but used in manufacture of biris and Government had admitted then that the position was not free from doubt and they should have taken the earliest opportunity to rectify legislation if it was not workable. The Committee regret to note that Government did not rectify the position till July, 1969.
11.	1.61	Finance (Deptt. of R & I)	An explanation under Tariff Item No. 4(I) (5) was deleted *w.e.f.* March, 1968 without making a suitable provision under the Rules to levy differential duty on the tobacco assessed initially at lower rate but used for manufacture of biris, which attracted higher duty, on the plea that Government did not anticipate any large scale diversion. The mistake was realised and a new Rule 40-A was inserted to cover this diversion but only on 13th July, 1969 some 15 months after the deletion of the Explanation. Unfortunately the loss of revenue during the period March 1968 to 11th July, 1969 could not be ascertained as according to Government there was no provision for assessment of differential duty prior to 12th July, 1969 and it was not practicable to determine the quality of such tobacco actually diverted to biri manufacturer by licensees scattered in thousands all over the country. The delay in inserting new Rule 40 A has been admitted. It took for the Finance Ministry 5 months to seek opinion from the Collectorates and another 4 months to send a draft Notification to the Ministry of Law for vetting and finally this draft

1	2	3	4
			notification was pending with the Board for discussion with the Chairman for 4 months, the delay which is quite indefensible. The Committee need hardly stress the need to act with promptitude.
12.	1.62	Finance(Deptt. of R & I)	The Committee find that due to the importance of tobacco from the point of its revenue as well as its foreign exchange earning capacity Government has decided to set up a Committee to go into the question of levy on tobacco in detail. The Ministry agreed to the suggestion during the course of evidence that the question whether present Rule 40-A is adequate to check diversion of tobacco for biri manufacture would also be referred to the Committee. It is significant to point out that according to an unofficial estimate, tobacco consumption in 1968-69 for manufacture of biris constituted 29.5% of the total production in the country. The problem of evasion of excise duty on stocks of tobacco diverted to biri making merits serious consideration. The Committee hope that the proposed Committee will be set up soon. They would like to be informed of the findings of the Committee in due course.
13.	1.63	-do-	In the meantime, the Committee hope that the new rule will be carefully applied by the Collectors and loss of revenue avoided.
14.	1.64	-do-	The Committee note that out of under assessment of Rs. 79,873 detected after the introduction of Rule 40-A a sum of Rs. 48,843 has been realised. The Committee desire that efforts should be made to realise the balance.

1	2	3	4
15.	1.73	Finance (Deptt. of R & I)	The Committee are concerned to note that after bringing Durgapur Steel Plant under excise control in 1962 Government have failed to recover so far Rs. 38.72 lakhs on account of shortages detected and annual stock taking of excisable goods during 1964-65 to 1967-68. The Committee have been informed that adjudication in respect of 8 cases of Iron & Steel products as well as steel ingots for the year 1964-65 to 1967-68 have been finalised but the licensee has not deposited duty and has gone in appeal. The Committee desire that the remaining cases should be finalised expeditiously.
16.	1.74	-do-	While wide variations have been revealed on stock verification in Tisco plant, no stock verification has been attempted so far in Rourkela and Bhilai Plants. It is significant that there is no systematic procedure evolved so far for stock verification in respect of both public as well as private sector steel plants. The Committee, however, find that the Board have issued instructions on stock taking in steel in April, 1971. The Committee hope that there would now be no difficulty in getting the stock verification done in public and private sector plants. The Committee would like Government to keep this matter under constant watch and report the results to the Committee.
17.	1.80	-do-	The Committee consider it unfortunate that inspite of a clear provision introduced by Finance Act, 1964 amplifying the term 'manufacturers' to include not only any person who employed hired labours in the production or manufacture of excisable goods but also any person engaged in production or manufacture on

1	2	3	4
			his own account; loan licensees were not treated as manufacturers by the Customs & Excise Department requiring separate licenses. The mistake was found only when the Law Ministry gave a ruling in 1968. The result was that the duty paid clearances accountable to loan licensee were added to the duty paid clearances of the principal manufacturer for regulating the clearance of 5% clinical samples of the latter. The total loss of revenue on this account amounted to Rs. 3.34 lakhs. The Committee note that Government have now revised their earlier instructions and brought the loan licensees of Patent and proprietary medicines under licensing Control w.e.f. 18th October, 1968. From the data furnished to the Committee they find that loan licensees have been brought under licensing control by the collectors during the period from 1968 to 1971. The Committee hope that none of the loan manufacturer is now left out of excise control.
18.	1.81	Finance (Deptt. of R&I)	The Committee have been informed that Government have not so far reviewed the effect of the revised definition of the manufacturer on commodities other than patent and proprietary medicines. They would suggest that Government should consider whether there is need to undertake such a review.
19.	1.87	-do-	The Committee find that in these two cases withdrawals from the Personal Ledger Account of Assessees were allowed by Government on the ground of financial stringency and transfer of funds for building another factory. As deposits made in the Personal Ledger Accounts are credited to Government account,

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			withdrawals therefrom, if at all necessary, can be permitted only after making suitable provision in the Rules.
20.	1.98	Finance (Deptt. of R& I)	The Committee find that during the year 1969-70 as a result of mistakes pointed out by internal audit the Excise Department raised demands amounting to Rs. 88,63,594 as against Rs. 72,78,636 in 1967-68 and Rs. 10,97,478 in 1966-67. But the recoveries made by the department against these demands are not encouraging. Out of the demands amounting to Rs. 88,63,594 raised during 1968-69, the amount realised is only Rs. 8,07,992. The Committee desire that necessary efforts should be made by the Department to recover expeditiously the amount under-assessed.
21.	1.99	-do-	With the introduction of Self Removal Procedure the Committee feel that the responsibilities of the Internal Audit Department to check irregularities have become greater. The Committee suggest that it should be carefully examined by the Central Board of Excise & Customs as to what extent the Internal Audit Department should be strengthened so that it should be more effective, in preventing loss of revenue to the Exchequer.
22.	1.105	-do-	The Committee regret to note a loss of revenue amounting to Rs. 1.47 lakhs on refrigerating and air-conditioning appliances assessable to excise duty with reference to their value, due to incorrect approval of prices initially and inordinate delay in follow-up measures to verify prices. The Assessing Officer in this case approved in May, 1962 the prices charged by the manufacturer to its sole selling agent as the

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			value for assessment without verifying the actual sale price in the whole sale market. While the Committee note that he simultaneously asked the Range Officers to get the market structure and price structure verified, the Committee feel that pending such verification the Assessing Officer should have made provisional assessment. The failure of the Assessing Officer is reprehensible.
23.	1.106	Finance (Deptt. of R&I)	The Committe are surprised that it took four years for the Assessing Officer to fix the price. The Committee have already suggested elsewhere in this Report that some time limit should be prescribed for fixing of prices. The Committee suggest that responsibility may be fixed for lapses that occurred in this case.
24.	1.107	-do-	The Committee understand that the party had been adopting dilatory tactics in this case in giving information about the price to the Assessing Officer. The Committee would like the Board to examine whether any action can be taken against such parties.
25.	1.112	-do-	This case is indicative of defective drafting of notifications and delay in raising of demands which cost the Public Exchequer Rs. 1.44 lakhs. The electrical steel sheets to be charged at tariff rate were charged concessional rate laid down for ordinary steel sheets from 17th May to 30th September, 1962 resulting in under-assessment of Rs. 1.44 lakhs in a Collectorate. The mistake was noticed by the Board only on the representation made about levy of countervailing duty by another manufacturer and a clarification was issued on the

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			20th August, 1962. The Committee have already suggested in Para 1.209 of their 111th Report (Fourth Lok Sabha) that Government should ensure that the notifications precisely translate Government's intention.
26.	1.113	Finance (Deptt. of R&I)	The Superintendent concerned who received the clarification on the 24th August, 1962 raised the demands only on 9th November, 1962 taking about 3 months to collect data. Had he raised the demands immediately on receipt of clarification the duty amounting to Rs. 17,528.21 only for the period from 17th to 24th May, 1962 would have been lost instead of Rs. 1.44 lakhs for the period 17th May to 9th August, 1962 which was refunded by Government in June, 1966 on account of time bar, on a revision petition preferred by the party. The Committee hope that such costly delays will be avoided in future and the officers responsible for these lapses will be dealt with suitably.
27.	1.121	-do-	The Committee regret to note that although the factory in this case started producing bottles in September, 1965, the necessary statement of cost of production was not obtained by the Collectorate till the receipt of Audit objection in November, 1968. Earlier, the assessments were made on the basis of the debit price indicated by the factory which was more than the cost price. In view of the fact that instructions of the Board issued in 1963 provided inclusion of suitable marginal profit in the cost of production, the failure of Collectorate to initiate necessary action is regrettable.

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28.	1.122	Finance (Deptt. of R&I)	The Committee have been informed that the demand raised by the Collectorate in this case is still pending and the case is being examined *de novo*. The Committee would like to be informed of the outcome.
29.	1.123	-do-	The Committee suggest that the Board should examine whether some uniform percentage of marginal profit could be fixed so that this margin may not be left entirely to the discretion of the Collector and that it may not differ from factory to factory. It should also be examined whether it can be spelled out in clear terms as to what constitutes cost.
30.	1.131	-do-	The Committee regret that although according to clinical pamphlet quinine was not the principal ingredient in the drug in this case a concession of duty was allowed in disregard of the notification issued in June, 1962 and subsequent clarification issued in October, 1962. Even after Audit raised an objection in July, 1968 the Assistant Collector did not take any action to raise a provisional demand for differential duty. Only after Audit reiterated the objection that a reference was made to the Drugs Controller but the demand for differential duty was raised only in March, 1969. The Committee desire that in case of audit objection normal procedure of raising demands immediately should be followed to avoid loss of revenue. The Committee would also like to know about the recovery of the demand of Rs. 89,556 raised in this case and three other demands amounting to Rs. 33,512 in similar other cases.
31.	1.138	-do-	The Committee regret to point out that this is yet another case where

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			there was delay in issue of clarification of the C.B. C&E on a reference made by the Collector in June, 1969. It took the Board more than two years to issue clarification in September, 1971. The delay in issue of clarification resulted in under assessment of Rs. 4.60 lakhs for the period June, 1968 to November, 1970. The demands have been raised but the party has filed revision petition against the Deputy Collector's orders which is pending. The Committee would like to be apprised of the outcome.
32.	1.145	Finance (Deptt. of R&I)	The Committee note from the information furnished that according to the Collector there has been no case where goods removed for export under bond were not exported. The cases were shown pending as the running bond account could not be brought up-to-date in the absence of connected documents which were not readily available or had been misplaced. The Committee are, however, surprised how in the absence of connected documents it has been claimed by the Collector that all exports have been made. The Committee hope that all documents which were not available or had been misplaced are now available.
33.	1.146	-do-	The Committe, however, find that 25% entries against running bond accounts maintained in Bombay, 2286 entries in Madras and 3624 entries in Cochin are in arrears. The Committee desire that the reasons for the arrears may be looked into and necessary action taken to bring them up-to-date in these Collectorates.
34.	1.147	-do-	The Committee have been informed that except in Ahmedabad Collectorate, Running Bond Accounts are

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			not audited by the Internal Audit Department. The Committee suggest that the scope of Internal Audit Department should be extended to check the records in other Collectorates also.
35.	1.148	Finance (Deptt. of R&I)	The Committee have been informed that 2416 cases of diversions had been noticed in all the Collectorates during the three years ending 1970-71 and duties were demanded in respect of all the cases. The Committee trust that recoveries have been made in all these cases.
36.	1.155	-do-	The Committee find that according to the opinion given by the Ministry of Law in May 1965, the P.V.C. compound was liable to payment of additional duty during the period 1st March, 1961 to 29th February, 1964 *i.e.* before the tariff was amended. There was failure to raise any demands for additional duty in this case during the period 1st March, 1961 to 29th February, 1964. The demands raised by the Assistant Collector after March, 1964 were ordered by the Collector to be withdrawn in March, 1965. When the clarification from Law Ministry on this point was received in May, 1965 it was too late and it was not possible to enforce the demand. The net result was loss of duty amounting to Rs. 25 lakhs for the period prior to 1st March, 1964 which is regrettable.
37.	1.156	-do-	The Committee feel that the instruction initially issued by the Board should have mentioned about the further duty payable on P.V.C. compounds. The Committee stress that the instructions of the Board should clearly bring out the intention of the Government.

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38.	1.166	Finance (Deptt. of R&I)	The Committee note that the Board issued executive instructions in April, 1965 that the proviso to Rule 96(1) to Central Excise Rules, 1964 has been rendered inoperative and need not be acted upon by the Collectors. Accordingly, the Collectors could allow small size units producing cotton fabrics on power-looms to be assessed under the compounded levy system even though these came into existence after 1st December, 1960. The Committee, however, regret that the formal amendement to this Rule deleting the Proviso was issued by the Board after about 16 months. In the meantime the concession to the manufacturers on the basis of the executive instructions was continued. The Committee have in their earlier reports (Para 3.16 of 24th Report, Fourth Lok Sabha) objected to making exemptions through executive instructions.
39.	1.167	-do-	The Committee hope that the delay in issuing formal notification will be avoided in future.
40.	1.174	-do-	The Committee are unhappy over the negligence of Customs and Excise officials who allowed a concessional rate of duty on flue cured tobacco without checking the correctness of the sieve through which it was required to pass for entitlement of concessional rate of duty. This practice continued for about 4 years from March, 1963 till January, 1967 when Audit pointed out the mistake. The mistake resulted in under-assessment amounting to Rs. 8.46 lakhso ut of which only Rs.29000 could be recovered and the balance of Rs. 8.17 lakhs was irrecoverable being time-barred or unenforceable.

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41.	1.175	Finance (Deptt. of R & I)	It is regretted that although the clearances were made under the supervision of the Customs & Excise officers they failed to check that the sieve used was not of prescribed specification. The Committee desire that necessary action should be taken against the officers concerned for their negligence.
42.	1.176	-do-	The Committee note that the Board have issued instructions for checking the sieves. The Committee trust that the instructions will be followed by the Collectors.
43.	1.177	-do-	The Committee would also like Government to examine the feasibility of maintaining a master sieve in all the Collectorates or ranges as might be convenient so as to facilitate testing.
44.	1.187	-do-	The Committee find that during the year 1969-70, prosecutions were launched in 30 cases as against 17 in 1968-69 and 10 in 1967-68. Out of these 30 cases 25 related to the commodities which are under physical control and 5 to those under-Self Removal Procedure. Although the number of offences prosecuted has increased the Committee are not satisfied with the figure for the whole country particularly considering that there are 115 commodities under excise control. The Committee are anxious that the Department should launch prosecutions in preference to imposing fines and penalties so that the Department's action acts as sufficient deterrent against evasion.
45.	1.188	-do-	The value of goods confiscated during 1969-70 is stated as Rs. 4,000 as against Rs. 33,18,191 in 1968-69. The Committee desire that Department should look into the reasons for this low figure during the year.

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46.	1.189	Finance (Deptt. of R & I)	From the figures given to the Committee, they find that the sale proceeds of confiscated goods represented only 27% of their value at the time of confiscation. One of the reasons stated by the Department is deterioration in goods and low bids offered by bidders. The Committee desire that necessary steps should be taken to dispose of the confiscated goods expeditiously and to improve their storage condition.
47.	1.198	-do-	The Committee are surprised how the officers failed to follow the instructions of the Board that on detection of yarn to be in lower denier, the higher rate of duty was to be charged till a fresh sample was tested and found to fall within the category declared by the manufacturer. The Committee find the demands for differential duty (Rs. 2.10 lakhs) have been raised but the party has filed a revision application which is under the consideration of Government. The Committee would like to be informed about the outcome of the revision petition.
48.	1.199	-do-	The Committee also understand that the question of prosecuting the assessee for misdeclaration is being examined by the Collector. The Committee would like to be informed about the action taken against the assessee.
49.	1.208	-do-	Evidently, in this case, the officer failed to make correct assessment of duty initially and then did not take due notice of the payments made under protest by the party for 5 long years. When the mistake was realised the whole amount of Rs. 6.61 lakhs was refunded to the party. The party passed on only Rs. 1 lakh to some of the principal customers and got

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			himself fortuitous benefit of Rs. 5.61 lakhs. Government have no power to ask the party to pass on entire amount to actual consumers who were overcharged. It is also not possible for the party to distribute the refund to thousands of customers after a lapse of so many years. The Committee are not happy over this position. The Committee trust that at least the Income Tax authorities have been informed about the refund of Rs. 5.61 lakhs to the manufacturer in this case.
50.	1.209	Finance (Deptt. of R & I)	In para 1.25 of their 95th Report (Fourth Lok Sabha) the Public Accounts Committee had recommended that Government should consider whether it would be possible to incorporate a suitable provision in Central Excise Bill on the lines of Section 37 (1) of the Bombay Sales Tax Act so that trade does not get fortuitous benefit of excess collection of Tax realised from consumers. The Committee were given to understand during evidence that the relevant provision of the Bombay Sales Tax Act had been struck down by the Supreme Court. The Committee desire that the matter should be examined in the light of the judgement of the Supreme Court with a view to including a suitable provision in the Central Excise Bill when it is reintroduced in Parliament.
51.	1.210	-do-	The Committee understand that in the new Central Excise Bill proposed to be submitted to Parliament, Government is going to provide a clause in the Bill to permit the Collector to review *suo motu* in each case if the payment is made under protest. In any case, the Committee hope that in future the payments under protest will not be

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			ignored and suitable instructions will be issued for reporting such cases to the higher authorities for review.
52.	1.217	Finance (Deptt. of R & I)	The Committee take a serious view of the lapse resulting in a total loss of revenue amounting to Rs.7.22 lakhs. Artificial leather cloth which was assessed under Tariff item 19 upto February, 1968 was brought under higher levy under Tariff item 22-B with effect from March, 1968. The stock in fully manufactured condition at the mid-night of 29th February/1st March, 1968 was treated as pre-excise stock and allowed free clearance as if the item had come under levy for the first time.
53.	1.218	-do-	Another regrettable feature of this case is that even after about 4 years the Government are still in doubt whether it should be assessed under Tariff item 19 or 22 B and in this confusion some collectorates are assessing it under Tariff item 19 and others under 22B. The Committee desire that the question regarding classification of this item should be expeditiously decided in consultation with the Ministry of Law so that there is uniformity in the assessment of duty. The Committee also suggest that any amendment necessitated in the Central Excise Rules may also be made.
54.	1.222	-do-	The Committee find that according to the view held by Audit an *ad hoc* discount allowed for clearance of medicines on their list price should not be allowed on clinical samples which are meant for free distribution among the medicinal profession and not for sale and are allowed duty free under Notification No.161/66 dated 8.10.1966.

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			Government, however, feel that for the determination of quota of 5% duty free clinical samples and also for the purpose of assessment of samples in excess of this quota the *ad hoc* discount should also be taken into account. This difference of opinion involves Rs.9.66 lakhs of revenue from May, 1962 to August, 1967 in respect of eight Collectorates alone.
55.	1.223	Finance (Deptt. of R & I)	The Committee regret to note that the differences between the Ministry and audit have not been resolved for the last four years. The Committee desire that the matter should be examined in consultation with the Audit and the Ministry of Law expeditiously. They would like to await the outcome.
56.	1.230	-do-	The Committee are concerned to note that there were more than 78 thousand cases of provisional assessments pending finalisation out of which more than 13 thousand (17% were pending for more than a year at the end of 1971 inspite of the fact that according to existing instructions the maximum period for finalisation of such cases is 6 months only. The reasons for such pendency are stated to include delay in (i) obtaining test reports from the Chemical Examiner (ii) getting the end-use verification report (iii) getting price fixation through various Government agencies and (iv) production of invoices etc. by the assessees to approve the price list.
57.	1.231	-do-	Provisional assessments carry a state of suspense with them. They are likely to affect the Budgetary forecasts. The lower assessments will postpone realisation of rightful dues to Government and higher assessment if refunded later will not pass

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			on to the consumer. The Committee, therefore, feel that it is high time that provisional assessment is reduced to the absolute minimum particularly after the introduction of Self Removal Procedure under which approval of classification and prices is the pre-condition for clearance of goods. In this connection the Committee would suggest that— (a) Provisional assessment should be resorted to as exception rather than rule; (b) It should be examined whether a limit can be provided in the Rules itself for finalisation of these assessments, with built in safeguards against dilatory tactics of assessees like delay in production of invoices and other required information; (c) A strict time limit should be laid down for the chemical examiner and such officers to furnish test reports and price lists and if necessary these organisations should be strengthened qualitatively as well as quantitatively; and (d) A periodical review at the higher level should be prescribed to watch the progress.
58.	1.239	Finance (Deptt. of R & I)	The cases brought out in the Audit paragraph indicate chaotic state of affairs so far as cheque transactions in the Excise Department are concerned. As many as 187 cheques involving the revenue collection of Rs.1.13 lakhs remained uncashed for more than a year. Another 32 cheques amounting to Rs. 1.88 lakhs paid by a factory remained uncashed for about a year. In other two cases the cheques issued

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			by the assessees were either lost or not received by the Chief Accounts Officer. In all these cases the assessees had already taken credit in their personal Ledger Accounts and therefore it amounted to clearance of goods worth lakhs of rupees by them duty free till they issued fresh cheques and the same were encashed.
59.	1.240	Finance (Deptt. of R & I)	In yet another case a party cleared goods without sufficient balance in his personal Ledger Account and this clearance without payment involved duty of Rs.4.58 lakhs. The Finance Secretary admitted that "It was a serious offence..."
60.	1.241	-do-	The Committee note that action has been taken against an inspector and that action against the Superintendent is in progress. The Committee would like to be apprised of the action taken against all the officers concerned and also the penal action taken or proposed to be taken against the party for clearing goods without sufficient balance at credit in his personal Ledger Account.
61.	1.242	-do-	All these instances indicate that there is a serious laxity of control in clearance of cheques within the Excise Department. The Committee would like the Government to devise a fool proof procedure to regulate collection and clearance of cheques to avoid recurrence of these lapses in future.
62.	1.243	-do-	These cases raise doubts about the dependence on the present procedure of allowing the assessees themselves to maintain their own Personal Ledger Accounts particularly when under the Self Removal Procedure the assessee can remove goods at his will without any on-the-spot check. The Committee therefore

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			desire that it should be examined whether the responsibility of maintaining Personal Ledger Account should not be undertaken by the Department.
63.	1.256	Finance (Deptt. of R & I)	The Committee regret to note that in this case the factory has been since it started production, escaping excise duty on sulphuric acid consumed in the leaching plant and the drying acid tank. What is more serious is that while the Department were aware of the acid consumed in the drying acid tank they have no knowledge of the acid being diverted at an intermediary stage to the leaching plant.
64.	1.257	-do-	Although the plan of the factory is required to be approved by the Assistant Collector, no notice seems to have been taken of the process of flow of the acid at an intermediary stage before it reached storage tank. The Chemical Examiner who visited the factory in 1967 also did not notice that the acid flowing to the leaching plant was not being accounted for in the production of the factory and he did not give any guidance on this point to the staff. The Committee regret that scrutiny of the original plan of the factory and the inspection by the Chemical Examiner were perfunctory. The Committee desire that this question should be examined and remedial steps taken for future.
65.	1.258	-do-	The Committee note that demands for Rs.1.65 lakhs have been raised but the party has filed a revision application before the Government. A show cause notice in respect of a further quantity of 637.094 MT and 54.387 M.T. of acid has been issued consequent on investigation

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			by the Deputy Director of Inspection. The Committee would like to know about the recoveries made.
66.	1.259	Finance (Deptt. of R & I)	The Committee find that the Chief Chemist is of the view that sulphuric acid is used in drying sulpher dioxide and not air and hence not exempted from duty. The Committee would like Government to examine it and if the view is confirmed, to recover the duty on such acid expeditiously.
67.	1.260	-do-	The Committee understand that the question regarding penal action against the party is under examination. The Committee desire the examination should be completed expeditiously. The Committee hope that Government will take serious note of the suppression of certain records regarding consumption of acid by the assessee.
68.	1.266	-do-	The Committee regret that the Board took 3½ years to give a decision on a reference made to them on the 27th July, 1963 by the Bombay Collectorate regarding the problem of set off of special excise duty on internal combustion engines used in motor vehicles. It was only in March, 1967 that Government issued a notification granting exemption of special excise duty also. In the meantime different practices were followed by the Collectorates for allowing credit for special excise duty paid on engines. The Committee feel that a time limit of 3 to 4 months is reasonable for giving ruling in such matters. The Committee desire that a suitable time limit should be fixed for this purpose.
69.	1.274	-do-	The Committee consider it unfortunate that at the time of issue of

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			notification of 20th March, 1968 reducing the length of fents for concessional duty/nil duty, the Board should not have considered about the possibility of existing fents conforming to the previous specifications already packed before the 20th March, 1968 and made suitable provision for their clearance. Lack of foresight is regrettable.
70.	1.275	Finance (Deptt. of R & I)	The Committee have in the past critically commented upon the practice of allowing exemptions retrospectively by executive instructions or notifications. The Attorney General of India has also opined that under the Excise Law the Government have no powers to allow concessions retrospectively through executive instructions or notifications. The Committee hope that such cases will be avoided in future.
71.	1.283	-do-	It is a matter of regret that the arrears of excise duty are showing an over-increasing trend. In the year under Report alone, there has been an increase of about 80%. In their successive Reports the Committee have been expressing concern over the heavy accumulation of arrears but there appears to be no sign of improvement. The arrears which amounted to Rs. 16.07 crores in 1966-67 rose to Rs. 21.29 crores in 1967-68, Rs. 23.48 crores in 1968-69 and finally to Rs. 42.12 crores in 1969-70.
72.	1.284	-do-	A part of the arrears relate to the periods as early as 1950 i.e. more than 12 years. There are thirty cases involving an amount of Rs. 234.92 lakhs which are pending for action at the Board level. These include four cases involving an amount of Rs. 10.31 lakhs pertaining to the year 1965-66, 5 years

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			old. The reasons for pendency of these cases should be looked into and necessary action taken in the matter.
73.	1.285	Finance (Deptt. of R & I)	The Committee note that measures have been taken by Government to liquidate the arrears. The Committee desire that in view of mounting arrears vigorous and concerted efforts are required to clear the arrears. The Committee would watch the progress made in this regard through future Audit Reports.
74.	1.286	-do-	The Committee find that a large number of cases of arrears are held up in appeal at various stages, i.e. with the Assistant Collector, Collector, Board and Government of India. In this connection the Committee have already suggested in para 1.20 of their 31st Report (5th Lok Sabha) that Government should examine the feasibility of making payment of duty obligatory before filing an appeal in disputed assessments.
75.	1.291	-do-	The Committee are informed that the Collector while passing the order for refund of duty did not order for refund of duty did not go into the details of the claim and erroneously refunded duty paid on the stock of hard board which were not fully manufactured and ready for delivery at the time of levy of duty and which could not be treated as pre-excise stock. This omission resulted in loss of Rs. 63,392. The Committee are, however, glad to note that in the Finance Bill, 1972, Government have proposed to make provision in the Central Excise and Salt Act to have a remedy against any erroneous orders passed.

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76.	1.295	Finance (Deptt. of R & I)	The Committee are unhappy over the loss of Rs.1.32 lakhs owing to incorrect assessment of excise duty on Cellophane at anchored stage i.e. before application of surface-coating materials instead of assessing it after it was impregnated with surface coating. This practice continued till 5th August, 1961 even after the Board issued clarification in July, 1961. Had the correct procedure been followed immediately after the receipt of Board's clarification an amount of Rs. 33,617.61 could still have been realised.
77.	1.296	-do-	The Committee desire the Board to stress the need for taking prompt action on the rulings of the Board.
78.	1.301	-do-	This is yet another case of lack of forethought in drafting the notification issued by the Board. Although Government intended to give relief to only small scale operators manufacturing paper from pulp, the defective wording in the notification dated 8th September, 1967 enlarged the scope of relief to others as well resulting in loss of revenue amounting to Rs.1.73 lakhs. The Committee have been repeatedly urging Government that precision and clarity of expression being the very essence of all legal and statutory documents, drafting of notification should be given special care and lapses in this regard should be taken serious note of.
79.	1.308	-do-	The Committee regret that the aluminium wires were wrongly assessed to duty with reference to formula laid down under the Indian Standards Institution Table, 1960 Edition instead of assessing it on the

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			basis of formula prescribed in their 1964 Edition as required under the instructions issued by the Central Board of Customs and Excise. This resulted in under-assessment of Rs. 90,145. What is more serious is the inordinate delay of about 3 years in issuing the clarification in October, 1969 after the Audit raised the objection in 1966. The Assistant Collector took 5 months to put up the Audit objection to the Collector. The Collector took 9 months to refer the matter to the Board, the Board took 4 months to give clarification and the Collector took 15 months to refer the matter back to the Board. The delay at all stages is regrettable.
80.	1.309	Finance (Deptt. of R & I)	The Committee note that the demands for Rs. 90.145 have been raised but the case is still pending in Revision Application. The Committee would like to know the outcome.
81.	1.314	-do-	This case involves a loss of Rs. 49.027 due to wrong withdrawal of the demand for duty under the orders of the Assistant Collector. It is surprising that the Assistant Collector applied his own interpretation which ran counter to the tariff and the instructions issued by the Board in December, 1962.
82.	1.315	-do-	It has been reported that few such cases occurred in other Collectorates. The Committee note that Board have issued a clarification in May, 1968 that such products having names different from those given in official pharmacopoeia should be assessed to duty. The Committee hope that such mistakes will not recur.

MGIPRRND—Sec. 1st.—7 LSS/72—26-5-72—1,250