

PUBLIC ACCOUNTS COMMITTEE
(1978-79)

(SIXTH LOK SABHA)

HUNDRED AND FORTIETH REPORT

CUSTOMS RECEIPTS

MINISTRY OF FINANCE
(Department Of Revenue)

**[Action taken by Government on the recommendations
of the Public Accounts Committee contained in
their 76th Report (Sixth Lok Sabha).]**

Presented in Lok Sabha on 24-4-1979
Laid in Rajya Sabha on 24-4-1979



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CORRIGENDA

Hundred and fortieth . Action Taken Report of
the Public Accounts Committee (1978-79)
(Sixth Lok Sabha) on Customs Receipts.

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PUBLIC ACCOUNTS COMMITTEE
(1978-79)

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CHAPTER I

REPORT

1.1. This Report of the Committee deals with the action taken by Government on the Committee's recommendations and observations contained in their 76th Report (Sixth Lok Sabha) on paragraphs 9, 10(i) and 17 included in the Report of the Comptroller and Auditor General of India for the year 1975-76, Union Government (Civil). Revenue Receipts, Volume I, Indirect Taxes which was presented to Lok Sabha on 20 April, 1978. The Report contains 26 recommendations.

1.2. Except in the case of Recommendation at Sl. No. 5, action taken notes in respect of the remaining 25 recommendations contained in the Report have been received from Government. These have been broadly categorised as follows:

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

Sl. Nos. 4, 8, 18, 20, 21, 22, 24 and 26.

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

Sl. Nos. 1, 11, 12, 13, 15, 16 and 17.

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

Sl. Nos. 2, 3, 7, 10 and 14.

- (iv) *Recommendations and observations in respect of which Government have furnished interim or no replies:*

Sl. Nos. 5, 6, 9, 19, 23 and 25.

1.3. The Committee hope that Action Taken Note in respect of Sl. No. 5 as also final replies to those recommendations in respect of which only interim replies have so far been furnished will be submitted to them expeditiously after getting them vetted by Audit.

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

Irregular payment of drawback (Paras 1.41 & 1.42—Sl. Nos. 2 & 3)

1.5. Commenting on the manner in which irregular payment of drawback was made on export of paper, the Committee had made the following observations:

"1.41. The Committee note that quite an elaborate and comprehensive procedure has been prescribed for the identification of goods on the export of which drawback is allowed. Physical examination is required to be done by the Dock staff with reference to declared description and other particulars in the Drawback Shipping Bill. Further, various appraisers are also available in the Custom House on the import side for advice in case of any doubt. If need arises, identification of goods is also done with the help of catalogues, literature, drawing, specifications, chemical laboratory tests, etc. Some of the goods on which drawback is admissible are also covered under pre-shipment inspection certificates issued by different agencies like Export Inspection Agency etc. In some cases, market enquiry is also resorted to. The Committee are surprised to note that despite such an elaborate and comprehensive procedure for identification of goods for scrutinising the admissibility of drawback claimed by a particular party, an irregular payment to the tune of Rs. 1,07,028/- as drawback was sanctioned and was made to Shegom Traders, Tuticorin and Bhaskaran and Co., Tuticorin in six cases of export of the paper from Tuticorin Port, relating to the period December, 1973 to October, 1974. A sum of Rs. 95,783.24 was paid to M/s. Shegom Traders and Bhaskaran and Co., Tuticorin, as drawback in respect of 5 consignments of export of airmail paper, classifying the item under sub-serial No. 2407 and another case export of white M.G. Poster Paper, a sum of Rs. 11,244.96 was paid to M/s. Shegom Traders, Tuticorin treating the item under sub-serial No. 2410 as articles made of packing and wrapping paper."

"1.42. The Secretary, Ministry of Finance conceded during evidence that there had been a lapse in the sense that the drawback was given technically and by the letter of the law it should not have been given. The Committee, however, do not agree with the contention of the representative of the Department that it was "a failure of judgment on the part of the officers". Viewed in the context that irregular payment was not confined

to the export of a single consignment but of six independent consignments spread over the period from December, 1973 to October, 1974, the Committee are inclined to take the view that there might be some attempt to defraud the national exchequer. The doubts of the Committee are strengthened by the reply given by the Chairman, Central Board of Excise and Customs, during the evidence while explaining as to how this mistake had occurred. "There can be no logical or rational answer to this because these were not the articles.....". The Committee would, therefore, recommend that the whole matter may be investigated thoroughly with a view to fixing responsibility and taking further remedial measures for the sake of obviating the changes of such recurrence in future."

1.6. In their Action Taken Note dated 19-10-78 furnished in respect of these recommendations, the Department of Revenue & Banking have stated:

"The Director of Inspection and Audit (Customs and Central Excise) has been asked to enquire into the matter whose report is awaited."

1.7. In their 76th Report (Sixth Lok Sabha) which was presented to the House in April 1978 the Committee had recommended for investigation so that responsibility could be fixed and action taken against the derelict officers for the irregular payment of drawback on export of paper. It is unfortunate that even after a lapse of about a year the results of the investigation have not been made available to the Committee. From the outcome of the various enquiries and investigations carried out by Government in a number of cases, the Committee have experienced that undue delays in initiation of action have tended to negate and defeat the very purpose of investigations. They have noted quite often that the persons ultimately found responsible were not available for one reason or the other at the time when action became ripe against them. The Committee desire that an enquiry should be completed expeditiously and the results intimated to them within the next three months, i.e. by July 1979.

Refund by exporters of irregular payment of drawback

(Paragraph 1.46—Sl. No. 7)

1.8. In their 76th Report the Committee were surprised to note that there were a large number of cases pertaining to payment of

irregular drawback of more than 10,000/- during each of the last 3 years in respect of Bombay and Calcutta Custom Houses. Some of the cases involved payment of more than Rs. 1 lacs. In this context the Committee had recommended that there should be a time limit for refund by exportees of the irregular payment of drawback made to them. The Committee had made the following recommendation:

“The Committee also note that at present there is no provision in the Drawback Rules for prescription of time-limit on the exporters for refunding the irregular payment made to them after the necessary claim therefor is made. Further, there is also no provision for penalty under these rules, in case the exporter fails to repay the amount. Judging from the number of cases of irregular payment and also the amount involved in each case, the Committee would recommend to the Department to consider the feasibility of making specific provisions for prescription of time-limit for making refund and levying of penalty alongwith penal interest in case the exporter failed to refund.”

1.9. In their Action Taken Note dated 28-9-78 the Ministry of Finance (Department of Revenue) have replied:

“The above recommendations made by the Committee in para 1.46 of the 76th Report (Sixth Lok Sabha) is of a general recommendatory nature. Provision for recovery of drawback amounts paid erroneously in excess of what the claimant is entitled to already exists under Rule 14 of the Customs and Central Excise Duties Drawback Rules, 1971. The Asstt. Collector of Customs passing an order under rule 14 aforesaid has to specify the time within which the exporter must repay the excess payment made to him. In the event of his failure to do so Rule 14 itself provides that action may be taken for recovering the amounts in the manner laid down under sub-section (1) of section 142 of the Customs Act, 1962. In the circumstances, no further provision in law in this regard is necessary.

As regards making provision for imposition of penalty for non-payment and interest in cases of delayed payment it may be stated that such cases are not many. It is therefore, felt it may not be necessary to provide for the same.”

1.10. The Committee are not convinced with the reply of the Ministry of Finance (Department of Revenue) that it is not necessary to

make any provision in law to specify the time limit within which the exporter may be required to repay the excess payment made to him. They feel that such a provision is warranted and would be more purposeful than the power at present exercised by the Assistant Collectors of Customs whereby they have the discretion to specify such time in every case on ad hoc basis. The Committee are dissatisfied to learn that it is not essential to make provisions for imposition of penalty in cases of non-payment and levy of interest in cases of delayed payment on the plea that such cases are not many. In the opinion of the Committee such provisions can act as deterrent in cases of non-payment and delayed payments. The Committee would therefore like the Department to reconsider the matter and apprise them of the action taken on their earlier recommendation.

Finalisation of cases of provisional assessment

(Paragraph 2.55—Sl. No. 10)

1.11. Referring to the cases where provisional assessment of duty is made, the Committee had made the following observation:

“The Committee have been informed that the authorities had not intimated in any of its communications to the Port Trust that the case would be decided *ex-parte* in the event of non-receipt of requisite information and documents in time. The Committee desire that such a mention should be made invariably by the Department in all the communications as it would have a definite and salutary effect on the parties concerned to furnish the documents in time.”

1.12. In their Action Taken Note dated 3-11-78 the Ministry of Finance (Department of Revenue) have intimated as under:—

“A copy of the Customs (Provisional Duty Assessment) Regulations, 1963 is enclosed (See Appendix I). It would be seen that there is a provision for collection of a sum, as provisional deposit, not exceeding twenty per cent of the provisional duty in addition to the bond. In this particular case the maximum deposit of 20 per cent was, in fact, taken by the Custom House. While in no way defending the delay on the part of the Custom Houses in finalising this case, it is submitted that having got their additional 20 per cent of the duty locked up with the Customs, the Port Trust themselves should have promptly submitted documents to get their funds released.

Even if the Department puts in a stipulation that in the absence of timely submission of documents the case would be decided *ex-parte* and does so decide the cases, there is nothing in Law to prevent the assessee from putting in a claim for refund, and if rejected, later to agitate the case in appeal. This would lead to avoidable work at the later stages."

1.13. The Committee are dissatisfied with the reply of the Government. It has been found that quite a good number of cases of provisional assessment remain pending due to non-submission of the required documents in time by the affected parties. If such parties are informed that their cases will be decided *ex-parte* in the event of non-submission by them of the requisite information and documents in time, it will have a definite and salutary effect which, in turn will result in reducing the number of pending cases of provisional assessment. The Committee, therefore, reiterate their earlier recommendation and desire Government to implement it as early as possible.

Ineffectiveness of Internal Audit in Custom Houses

(Paragraph 2.59—Sl. No. 14)

1.14. Commenting upon the failure of the Internal Audit Department in the Custom Houses to detect incorrect classification of imported goods, the Committee had observed as under:

"A distressing feature of this case is the complete failure of the Internal Audit in not detecting the incorrect classification. This would indicate that the scrutiny exercised by the Internal Audit had been rather perfunctory. It is regrettable that despite repeated observations by the Committee in regard to the ineffectiveness of Internal Audit in the Customs Department, there appears to be no perceptible improvement in the situation. The Committee would urge the Department of Revenue to examine whether the existing checks prescribed for the scrutiny of classifications are adequate in the Internal Audit and take such remedial steps as are necessary to avoid recurrence of similar mistakes in future."

1.15. The Action Taken Note dated 3-11-78 received from the Ministry of Finance (Department of Revenue) is reproduced below:

"As mentioned in the Department's reply to Paras 2.56 to 2.58 of this Report, the decision in this case to treat the Tug

as an 'Ocean-going vessel' was a considered one which had the concurrence of the Internal Audit Department also. Hence, if there was, in this case, any failure of the Internal Audit, it was a failure of judgment and no careless or default could be attributed to the internal audit."

1.16. The Committee are not inclined to agree that a wrong decision which had the concurrence of the Internal Audit could be a failure of judgment and not a default on the part of the Internal Audit. The misclassification in the instant case has aroused apprehensions in the mind of the Committee about the adequacy and effectiveness of the checks prescribed for the scrutiny of classifications by Internal Audit. The Committee would, therefore, like to be fully apprised of the precise position obtaining at present in this behalf and the remedial steps proposed to be taken to avoid recurrence of the type of mistake that has taken place in the instant case.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The Committee note that out of the total demand raised for recovery of Rs. 1,07,028, a sum of Rs. 31,349.43 is still outstanding. The Committee would urge that concrete efforts should be made to recover the amount expeditiously.

[S. No. 4 of Appendix VI of 76th Report—6th Lok Sabha]

Action taken

The remaining amount of Rs. 31,349.43 has been recovered on 23-3-1978.

[Min. of Finance, Deptt. of Revenue, O.M. F. No. 603/31/78, DBK.,
Dt. 20-9-78].

Recommendation

The Committee note that a second hand motor tug was imported by the Port Trust on the 20 November, 1970. The provisional assessment of duty amounting to Rs. 20.48 lakhs was made on the 25 November, 1970 and it was deposited by the Port Trust on the 26 November, 1970. The instructions at that time provided for the finalisation of the provisional assessment within a period of two to three months. The final assessment in the case was however made only after a period of two years on the 15 November, 1972 and after the Port Trust had applied for refund of 20 per cent additional deposit made by them. In the event of certain documents not being furnished by the party which led to provisional assessment initially, the Customs Department could have finalised the assessment; but that was not done. These documents also related to certain items on board the tug, the value of which was very small compared to the total value of the tug. The Committee strongly deplore the delay in finalising the assessment in this case.

[S. No. 8 of Appendix VI of 76th Report 6th Lok Sabha]

Action Taken

The observations of the Committee have been noted and communicated to the Collectors of Customs, for information and necessary remedial action. In this regard a copy of the Board's letter No. 512/1/78-Cus. VI dated 12-4-78, requiring the Collector's to expedite the finalisation of provisional assessment cases is enclosed for the information of the Committee. (Annexure)

[M/O Finance, Deptt. of Revenue O.M. F. No. 521/26/78-Cus
(T.U.) Dt. 3-11-78]

ANNEXURE

F. No. 512/1/78-Cus. VI

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

DEPARTMENT OF REVENUE

NEW DELHI, the 12th April, 1978.

To

All Collectors of Customs.
All Collectors of Central Excise.
Dy. Collector of Customs,
Visakhapatnam/Goa.
Asstt. Collector of Customs, New Kandla.

SUBJECT:—*Expeditious finalisation of provisional assessment cases—
Submission of Monthly Reports.*

Sir,

I am directed to refer to the above subject and to say that certain guidelines were laid down vide circular No. 5/1973 in F. No. 512/5/72-Cus.-VII dated 23-4-73 prescribing practical time limits for finalisation of different types of provisional assessment cases. A copy of the circular is enclosed.

2. In a recent review of the pendency of provisional assessment cases at the major Custom Houses, it has been observed that in spite of Board's instructions to finalise the case within 1 year, a large number of cases are pending over one year. What is further alarming is the pendency of very old cases. The Public Accounts Committee have time and again expressed concern over these pendencies. You

are, therefore, requested to initiate steps to finalise the over 1 year old provisional assessment cases.

3. In order to monitor the arrears positions it has also been decided that a monthly statement of provisional assessment cases as well as ITC bond and End Use Bond cases pending over 1 year may be sent to the Board and the Directorate of Statistics and Intelligence New Delhi with a view to enable the concerned authorities at the Custom Houses and the Board's office to keep a watch on the pendency position. The monthly statement of provisional assessment cases may be sent in the attached proforma so as to reach Board's office and S&I Branch by 10th of the following months. The report for April, 1978 may be sent by 10th May, 1978.

Receipts of this letter may be acknowledged.

Yours faithfully,

Sd/-

(A. BORDIA)

Under Secretary to the Govt. of India.

Encls: As above.

Monthly arrears statement of (a) Project import and Machinery contract cases ; (b) other provisional assessment cases and (c) ITC Bond and End Use Bond cases pending over 1 year (from date of last import in cases of contract cases) for the month of _____

Board's Reference : F. No. 512/1/78-Cus. VI dated 12-4-78. Custom House-

(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Opening Balance	Receipt	Disposal	Closing balance	Year-wise Break-up of Column (5)	Reasons for pendency

A. Project Import cases and Machinery contract cases.

B. Other Provisional Assessment cases.

C. I.T.C. Bond and End Use Bond cases.

Recommendation

The Committee find that 280 Kgs. of a drug known as "Frusemide" was seized on the 9th July, 1974 and the same was valued for Rs. 2,64,600 on the 24th August, 1974. Later on it was revalued at Rs. 2,80,000 by the Valuation Committee of the Bombay Custom House on the 19th October, 1974. However, as against those valuation the fair price of the drug was fixed at Rs. 40,000 only at the time of its disposal in a auction held on 13th March, 1975 as a result of which, the sale fetched only Rs. 33,100/- from an actual user. Explaining the position before the Committee, the Finance Secretary has stated "There was clear valuation of Rs. 2,80,000. When the fair price was fixed we can say, there is absolutely no reason, why price of Rs. 40,000/- should have been fixed." The Committee have been informed that the Appraiser of Bombay Custom House was held responsible for this lapse and disciplinary proceedings have been initiated against him. The Committee would like to have full particulars of the ultimate action taken against him.

[S. No. 18 of appendix VI of Seventy-sixth Report
(Sixth Lok Sabha)]

Action taken

The Disciplinary Authority has imposed the penalty of removal from service and accordingly Shri G. B. Gupta, the Appraiser concerned was removed from service with effect from 24th February, 1978.

[M/O Finance, Deptt. of Revenue, O.M. F. No. 545/24/78-LCI
Dt. 17-7-78]

Recommendation

The Committee find that the fair price of Rs. 40,000/- was fixed for the frusemide by the Appraiser of the Bombay Custom House and the same was accepted by the Valuation Committee consisting of two Assistant Collectors and a Warehousing inspector besides the Appraiser himself. The Valuation Committee accepted the price as fixed by the Appraiser as a matter of course without any effort to make independent enquiries about price which could be most advantageous to the Government. According to the Finance Secretary "had any elementary market enquiry been made they could never fix the price of Rs. 40,000/-". This has resulted in defrauding the National Exchequer to the tune of about Rs. 2.31 lakhs in a single case.

The Committee desire that suitable instructions may be issued forthwith to ensure that appraisers are not allowed to assume exces-

sive powers in order to obviate the recurrence of similar cases in future.

The Committee also feel that there is need to issue necessary guidelines regarding functioning of the valuation committee to safeguard against such lapses.

The Committee find that no guidelines have been prescribed for the valuation of canalised items. Also the representative of the State Trading Corporation does not participate in the deliberations of the Valuation Committee in respect of canalised items. The imports of canalised items are regulated only through canalising agencies like State Trading Corporation etc. who are the appropriate authorities which keep abreast of the latest price etc. of the canalised items. The Committee feel that in these circumstances it is very essential that a representative of the canalising agency should participate invariably in the deliberations of the Committee as and when the canalised items are to be valued by them. They accordingly recommend that suitable instructions for the purpose may be issued by the Board for compliance by the concerned authorities.

[S. Nos. 20, 21, 22, & 24 of Appendix VI of the 76th Report
(Sixth Lok Sabha)]

Action taken

The observations of the P.A.C. in the paras referred to above have been noted. A copy of the instructions to the Collectors of Customs and Central Excise issued in pursuance of the above recommendations is enclosed. (Annexure) Regarding action for lapses indicated in para 3.75 the matter is being looked into.

[M/O Finance, Deptt. of Revenue O.M. F. No. 545/24/78—L.C.I.
Dt. 22-12-78]

ANNEXURE

F. No. 545/1/78-LS.I

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE)

NEW DELHI

Dated the 21st December, 1978.

To

All Collectors of Customs and Central Excise.

SUBJECT:—P.A.C.—Recommendations contained in paragraphs. 3.70
3.71, 3.72, 3.74 and 3.75 of the 76th Report of the PAC (6th
Lok Sabha)—issue of instructions regarding.

Sir,

I am directed to enclose a copy of the paragraphs 3.70, 3.71, 3.72,

3.74 and 3.75 of the 76th Report of the Public Accounts Committee (6th Lok Sabha) regarding para 17 of the Audit Report for 1975-76 relating, *inter-alia*, to the loss of revenue to Government due to undervaluation of seized drug 'Frusemide' which was disposed of in auction sale.

2. In para 3.70, 3.71 and 3.72, the Public Accounts Committee have desired issue of (i) suitable instructions to ensure that appraisers are not allowed to assume excessive powers and (ii) necessary guidelines regarding functioning of the valuation Committee to safeguard against the lapses resulting in loss of revenue to Government due to undervaluation as was noticed in the disposal of the seized drug 'Frusemide'.

In para 3.74, the Committee have recommended issue of suitable instruction by the Board so that representatives of the canalising agencies invariably participate in the deliberations of the Valuation Committee as and when canalised items are to be valued by them.

In Para 3.75, the Committee have desired that responsibility should be fixed for the lapses in not consulting the Drugs Controller on the question whether the Drug "Frusemide" was damaged or not, and necessary instruction issued to ensure that a certificate of the competent authority is obtained invariably in such cases in future.

3. The Directorate of Inspection (Customs and Central Excise) were asked, *inter-alia*, to look into the above procedural lapses and suggest suitable recommendations on the general procedure for disposal of seized/confiscated goods. In the report submitted by them, the Directorate of Inspection (Customs and Central Excise) have observed that the instructions issued from time to time which are presently in force regarding fixation of "fair price", are clear and unambiguous and it was because these instructions were not properly followed while disposing of the confiscated drug referred to above that it became the subject matter of an Audit Para. They have particularly referred to the instructions contained in Board's letters No.

(i) F. No. 4/63/57-Cus.III/Cus. IV dated 7-9-1961;

(ii) F. No. 30/5/66—LCI dated 7-1-1967; and

(iii) F. No. 30/69/67—LCI dated 23-9-1967.

They have also stated that instructions contained in para 34 on pages 1493—1495 of the Central Manual of the Appraising Department, Volume IV, and in para 758 of the Manual of the Preventive Department of the Bombay Customs House (Extracts enclosed) relating to exercise of powers by various officers for fixation of fair prices and for acceptance of bids at auction should be reiterated for compliance. Accordingly, you are requested to issue suitable instructions to the formations under you for strict compliance of these instructions.

4. As regards seized medicines/drugs, it is necessary to impress upon the staff that the Assistant Drugs Controller should be consulted, without fail, at different stages from the time of seizure till disposal, particularly in regard to identification of the medicine/ drug, its physical condition and quality, and valuation. As observed by the Public Accounts Committee in Para 3.75 referred to above, before such items are disposed of, it is imperative that a certificate from the competent authority is obtained for ascertaining whether the medicine/drug in question was damaged or deteriorated and also whether it was fit for human consumption.

As medicines and drugs which are seized, are often found to have a limited period of potency or are likely to deteriorate on storage, their expeditious disposal may be considered in consultation with the Assistant Drugs Controller.

5. As observed by the PAC in para 3.74, it is also necessary to ensure that while making market enquiries in respect of canalised items, representatives of the concerned canalising agencies are also invariably consulted in regard to fixation of fair prices.

6. Receipt of this letter may please be acknowledged.

Yours faithfully,

(N. KRISHNAMURTHY)

Under Secretary to the Government of India.

Copy forwarded to:—

1. D.I.C.C.E., New Delhi/D.R.I., New Delhi.
2. Director (Anti-smuggling), New Delhi.

**Extract from Manual of the Preventive Department Customs House,
Bombay of para 758.**

758. Supervision of Auctions and limitation of discretion to accept lower bids by the Supervising Officer—Auctions held in the Customs Warehouses will be supervised by the Chief Inspector. Auctions held in the Port Trust Warehouses for sale of confiscated goods will be supervised by the Principal Dock Appraiser. If the overall book value of the goods offered in any single auction exceeds Rs. Ten Thousand, the auction must be attended by an Assistant Collector (Preventive). The supervising Officers will have the discretion to withdraw from sale, lot for which no satisfactory bids are received. Goods for which bids are lower than the reserve price should ordinarily be withdrawn from sale. But an important point to be borne ~~in~~ mind at the time of conducting the auction is whether withdrawal of the goods from the auction and re-offering them in subsequent auction is likely to fetch a better price. Experience has shown that usually the highest bid in the first auction is the best. Subsequent auctioning involves further storage and danger of deterioration. Having regard to all these considerations if the supervising officer thinks that the highest offer in any one case should be accepted even if it is less than the reserve price he should submit a seasoned note to the Additional Collector/Collector and should accept the highest offer provisionally subject to confirmation. Such a practice obtains in many of the major Custom Houses even now. Goods which cannot be sold in a manner prescribed above in two successive auctions will either be sold by tender or if put up for the third time in an auction, sold at the highest bid during the auction, provided of course that in the case of tariff rated goods or goods carrying specific duty, the Customs duty is at least covered fully. The decision whether to offer it for the third time in an open auction or by tender will be taken by the Additional Collector/Collector in each individual case after recording in the relative case file brief reasons for his decision.

Extracts from Central Manual of Appraising Department in the Custom House—Volume IV.

34. Fixation of Fair price for goods to be auctioned acceptance of bids lower than Fair Price.

The following instructions are issued for implementing the Board's Orders contained in their letter F. N. 4|63|57—Cus. III|Cus.IV dated 7-9-61 below.

If wholesale price appears to be Rs. 1000 or less the Examining Officer (or Appraiser) attached to the Sale Unit will determine the wholesale price of the goods.

Goods estimated to be of wholesale price above Rs. 1000 shall be valued by the respective Appraising Group. The main file should not be released but a part file should be started and sent to the Group for this purpose. The condition of the goods should be clearly indicated in the part file. If the goods have deteriorated, have been damaged, or are old, representative samples should be sent. The Appraiser concerned will make enquiries from reputed wholesale price of the goods. The Appraiser will record in the part file the names of the dealers from whom he has made the enquiries and any other relevant details. The file then be put to the Group Principal Appraiser. He will check up that the dealers from whom the enquiries have been made are reputed ones and the price fixed appears to be reasonable. In case of doubt and in all cases where the wholesale price is over Rs. 5000 the Principal Appraiser should himself make enquiry from at least one more reputed dealer, whose name he will record. After recording his observations and reasons he will indicate what should be the wholesale price. In cases where the wholesale price is above Rs. 5000 he will resubmit the papers to the assistant Collector for his countersignature. Where the wholesale price is above Rs. 20,000 Deputy Collector's countersignature will be required and where it is over Rs. 50,000 the Collector's countersignature should be obtained. The duty of the Assistant Collector and the higher officers is to ensure that considering the circumstances of the case the Appraiser and Principal Appraiser have made proper enquiries from enough number of reputed dealers and that any special aspects concerning the particular case have been properly dealt with. They are not technical officers conversant with the price of the goods.

The next steps is to fix the bidder's margin which should be done by an Auction Committee consisting of the Assistant Collector in-charge of the Sale, the Inspector (or Appraiser) in-charge of the sale, and the Principal Appraiser (or the Examining Officer attached to the Sales Unit) who has approved the wholesale price. The bidder's margin should be fixed at 10 per cent to 25 per cent of the wholesale price depending upon whether the goods are fast selling or slow moving and taking other relevant factors into account. The wholesale price less the bidder's discount will be the 'fair price' of the goods.

The Assistant Collector in-charge of the Sales should keep a watch whether the competition amongst the bidders is reasonable considering the nature of the goods. If in his opinion there has been reason-

- (a) In the case of small lots of which the fair price is less than 1000.
- (b) Where the highest bid is within 10 per cent of the fair price.
- (c) Where the highest bid falls short of the fair price by more than 10 per cent, he will be competent to accept the highest bid if it is within 20 per cent of the fair price provided the difference between the two does not exceed Rs. 1000.

The Committee learn that the drug can retain its suitability if it is stored in a well closed container protected from light and is not older than five years' at the time of ultimate consumption by the patient. In respect of the confiscated drug, frusemide, the Chairman, Central Board of Excise and Customs informed the Committee during evidence that "there was no date of manufacture on the containers". The Finance Secretary has also stated in evidence that there is no regard to show if any enquiry was made about the extent of damage to the containers. The drug was purchased by an actual user, Western India Pharmaceuticals, who hold a licence for manufacturing diuretic (a medicine which causes increased urination) wherein the drug frusemide is used. It is the responsibility of the manufacturers to test the efficacy of the raw material before its use. They are also required to test the finished products and maintain a record of these tests. The Committee would like the Board to verify from the records of the concern that the drug was usable at the time of its manufacture and that the finished products did not create any health hazard at all.

[S. No. 26 of Appendix VI of the Seventy-sixth Report
(Sixth Lok Sabha)]

The Collector of Customs, Bombay has reported that according to an affidavit filed by M/s. Western India Pharmaceutical Company Ltd. Bombay—54 and two other firms, the consignment of Frusemide bought in auction was found to be infested with fungi and whiteants and therefore, it was destroyed.

[M/o Finance, Deptt. of Revenue, O.M. F. No. 545|18|78—LCI
dt. 20-4-79]

CHAPTER III

RECOMMENDATIONS, OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES OF GOVERNMENT

Recommendation

Payment of drawback is a statutory operation for purposes of export promotion on the goods which are exported out of the country. Whereas articles made of paper were entitled to drawback as defined in sub-serial Nos. 2407 and 2410 of the Drawback Schedule for the period 1-6-1973 to 31-5-1974, paper as such was entitled for drawback in accordance with sub-serial No. 2401 of the same Drawback Schedule. The Committee note that paper products were brought under drawback scheme in December, 1957, *vide* Notification No. 304/F. No. 34/97/57—Cus. IV dated the 16th December, 1957 and since then no separate review for its continuance in the drawback scheme has been made. The Committee fail to understand as to why no separate review of the scheme for grant of drawback to paper products has been conducted since 1957 and they would like to know the reasons therefor as also the general procedure followed in regard to conducting reviews in respect of each and every item falling under the Drawback Scheme apart from conducting general review of the Draw back as such.

[Serial No. 1 of Appendix VI of 76th Report
(Sixth Lok Sabha)]

Action taken

The Commodities eligible for drawback are notified in the Schedule annexed to the Customs and Central Excise Duties Drawback Rules, 1971 [formerly Customs and Central Excise Duties Export Drawback (General) Rules, 1960]. This is only an enabling provision, and the exporters can get drawback only when drawback rates are fixed by the Government in respect of those commodities. The drawback rate for any particular commodity is fixed, either as All-industry rates (which are available to all exporters of that commodity) or as brand rate applicable to a particular manufacturer on the basis of data furnished by him.

The all industry rates are invariably reviewed every year immediately after the budget proposals are announced, and necessary modifications|additions|deletions are made. Mid-year revisions are also undertaken wherever necessary. The brand rates are limited to a specific period, or specific shipments, and these are also reviewed wherever the manufacturer has further exports, and therefore wants drawback for further period or shipments.

The above is the position not only in respect of paper, but all the commodities in the Drawback Schedule. The question of any regular review as to whether a particular commodity should continue to figure in the Drawback Schedule at all, would be more an academic exercise, which the Government has not considered necessary to undertake. As already mentioned, the notification of any commodity in the Schedule, is only an enabling provision its utility or relevance becomes material, only when drawback rates are fixed by the Government for that commodity. Once the rates are fixed, they are reviewed regularly in the manner already explained.

[M]o Finance, Deptt. of Revenue O.M. F. No. 603|29|78—DBK
dt. 23-10-78]

Recommendation

The Committee find that the Port Trust had in their claim on 19 March, 1971 requested for the refund only of Rs. 3.41 lakhs being the additional amount paid at 20 per cent on the assessed duty paid by them. Later in October 1972 they had merely stated that the tug was an ocean-going vessel but had not claimed the provisional duty paid earlier. Even as late as December, 1973, the Port Trust had only stated "the refund amount might be in the order of Rs. 20 lakhs." The Port Trust had at no stage, made a specific application for the refund of the entire amount of Rs. 20.48 lakhs on the ground that the tug was an ocean-going vessel and was eligible for exemption from duty. While explaining the reasons for the refund of the entire amount of Rs. 20.48 lakhs, the Finance Secretary had informed the Committee during evidence. "The Customs authorities took the decision *suo moto*... A view was taken that the item was not liable to duty at all".

It was only on an objection by the Customs Revenue Audit in December 1975 that the Department found that the duty refunded was not in order and the earlier decision taken by the Department was incorrect. The decision is stated to have been taken after ascertaining the practice obtaining in Cochin and Calcutta Customs

Houses where duty was charged on such imports. This was also confirmed by the Study Group of Public Accounts Committee during their visits to Madras and Cochin Ports where they inspected the tugs.

The Committee are perturbed over the erroneous assessment by the Custom House resulting in excess payment of Rs. 20.48 lakhs to the Port Trust. It is surprising that the tug should have initially subjected to duty under item 76(i) of the Indian Customs Tariff and treated subsequently as an ocean-going vessel eligible for exemption from payment of custom duty. It would appear that there had been undue haste on the part of the Custom House in taking the decision *suo moto* for the grant of exemption from duty. The Committee desire that in cases of this type there should be uniformity in the matter of classification by various Custom Houses. The Committee desire that an efficient machinery for the exchange of information, in a concrete, principal manner, on matters affecting revenue should be devised.

[Sl. Nos. 11, 12, and 13 Appendix VI of 16th Report
(Sixth Lok Sabha)]

Action taken

Vessels for Harbour and Inland Navigation were assessable to duty under item 76(1) of the ICT as in force upto 1-8-76. "Ocean-going vessels" were, however, exempt from the duty leviable thereon in terms of notification No. 262-Customs dated 11-10-1958. Tugs which are in the nature of vessels for inland or harbour navigation are dutiable and such Tugs (as stated by the Committee) had been assessed to duty both in Cochin and Calcutta Custom Houses.

2. The view taken in this case was that the 'Tug' under considerations had special features which made it an "Ocean-going vessel". This has already been mentioned in Paras 2.9, 2.10, 2.11 and 2.12 of the Report of the Committee itself. Madras Custom House took a considered decision in this case that the 'Tug' under consideration was eligible for exemption available to "Ocean-going vessels". The Custom House appeared to have, at the relevant time, no doubt that the 'Tug' was not liable to duty. Even later, it is seen that there were very strong opinions in favour of the view that the 'tug' was not dutiable. In a letter dated 5-12-77, the Collector of Customs, Bombay has also taken the view that a 'tug' of the type under consideration would be entitled to be treated as "Ocean-going vessel."

3. As far as the machinery for exchange of information is concerned, a procedure is already in existence for constant flow of information from one Custom House to another by the circulation of

Monthly Classification Bulletins. Any divergence in practice of assessment would generally come up for discussion at the periodical Tariff Conferences of Collectors of Customs. Decision taken in such conferences are brought to the notice of the staff by issue of Departmental Advices and are also communicated to the trade by way of public notices. With this arrangement, instances of the type that is seen in this case will be few and far between.

[Ministry of Finance, Deptt. of Revenue O.M. F. No. 521/26/78—Cus
(T.U.) dt. 3-11-78]

Recommendations

The Committee find that after the audit pointed out the error in assessment May, 1975 the Department has asked for the voluntary payment of Rs. 20.34 lakhs from the Madras Port Trust on 3 November, 1976 which the latter have not refunded so far. It is most reprehensible that even after the audit pointed out the irregularity, Government took more than one year to ask the Port Trust to repay the amount. The Committee desire that the Department of Revenue should persuade the Ministry of Shipping and Transport to assist in securing the refund of duty amount from the Madras Port Trust which has since become time-barred.

In this context the Committee would like to draw attention to their recommendation contained in paragraph 1.21 of their 67th Report (Sixth Lok Sabha) wherein they have reiterated their earlier recommendation made in paragraph 5 of the 6th Report (Third Lok Sabha) to the effect that in view of the Exchequer being common, the question of time-bar should not be raised in respect of Government dues recoverable by one Government Department from the other.

[Sl. Nos. 15 & 16 of Appendix VI of 76th Report
(6th Lok Sabha)]

Action Taken

The Audit had pointed out the mistake in assessment in December, 1975 and not in May, 1975 as mentioned in Para 2.60. When the Audit objection was raised in December, 1975 the recovery of the amount refunded had already become statutorily time-barred.

Efforts made by this Ministry through the Ministry of Shipping and Transport to persuade the Madras Port Trust to pay back the amount of duty on a voluntary basis, have not borne any fruit.

[Ministry of Finance, Deptt. of Revenue O.M. F. No. 521/26/78—Cus
(T.U.) dated 3-11-78]

Recommendation

The Committee would also like the Government to consider the feasibility of introducing some provision in the Act which may have a legal backing for the realisation of the voluntary payments.

[S. No. 17 of Appendix VI of 76th Report (6th Lok Sabha)]

Action taken

This issue was earlier examined in consultation with the Ministry of Law. The attention of the Committee is invited to the Ministry's reply to Para 1.94 of their 43rd Report (5th Lok Sabha). Alongwith the reply, a copy of the opinion given by the Ministry of Law in this regard was sent (copies enclosed for the information of the Committee).

[Ministry of Finance, Department of Revenue O.M. F. No. 521/26/78-Cus(T.U.) dated 3-11-78]

Recommendation

The Committee were informed that some parties have paid arrears amounting to Rs. 64,000/- voluntarily in cases where the regular demands became time-barred. The Department have withdrawn demands amounting to Rs. 6 lakhs leaving an amount of Rs. 10 lakhs for voluntary payment by the parties. While the Committee appreciate the efforts of the Department to realise the time-barred demands under the voluntary system of payment, they are anxious that such an action should not expose the Department to the charges of using undue pressure. The Committee, therefore, desire that it should be seriously considered whether the system of voluntary payment should not be abandoned or alternatively some legal provision made in the Act.

Action taken

It appears that no legal provision regarding recovery of time-barred demands can be made, since under law the time-limit within which demands can be made has been laid down. However, the Ministry of Law is being consulted to ascertain whether a legal provision of this type can be made in the Act. It may also not be advisable to completely abandon the system of asking for voluntary payments since in several cases parties willingly come forward and pay the amount of less charge. In order that there is no undue pressure on the parties for payment of such amounts, the Board have already instructed the Custom Houses that such

time-barred demands should not be kept pending for long periods and should be closed where voluntary payments demanded are not recovered within a few months. It will not be unreasonable for the Government to demand voluntary payments in suitable cases, since the Government also in deserving cases grants refunds to parties even where the refunds are time-barred. Hence on the basis of reciprocity, there is a case for retaining the system of demanding voluntary payments.

Sd/- (M.G. ABROL)

Joint Secretary to the Government of India.

F.No. 512|5|72-Cus.VI.

CHAPTER IV

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

Recommendations

The Committee note that quite an elaborate and comprehensive procedure has been prescribed for the identification of goods on the export of which drawback is allowed. Physical examination is required to be done by the Dock staff with reference to declared description and other particulars in the Drawback Shipping Bill. Further, various appraisers are also available in the Custom House on the import side for advice in case of any doubt. If need arises, identification of goods is also done with the help of catalogues, literature, drawing, specifications, chemical laboratory tests, etc. Some of the goods on which drawback is admissible are also covered under preshipment inspection certificates issued by different agencies like Export Inspection Agency etc. In some cases, market enquiry is also resorted to. The Committee are surprised to note that despite such an elaborate and comprehensive procedure for identification of goods for scrutinising the admissibility of drawback claimed by a particular party, an irregular payment to the tune of Rs. 1,07,028/- as drawback was sanctioned and was made to Shegom Traders, Tuticorin and Bhaskaran and Co., Tuticorin in six cases of export of paper from Tuticorin Port, relating to the period December, 1973 to October, 1974. A sum of Rs. 95,783.24 was paid to M/s Shegom Traders and Bhaskaran and Co., Tuticorin, as drawback in respect of 5 consignments of export of airmail paper, classifying the item under sub-serial No. 2407 and another case export of white M.G. Poster Paper, a sum of Rs. 11,244.96 was paid to M/s Shegom Traders, Tuticorin treating the item under sub-serial No. 2410 as articles made of packing and wrapping paper.

The Secretary, Ministry of Finance conceded during evidence that there had been a lapse in the sense that the drawback was given technically and by the letter of the law it should not have been given. The Committee, however, do not agree with the contention of the representative of the Department that it was "a failure of judgement on the part of the officers." Viewed in the

context that irregular payment was not confined to the export of a single consignment but of six independent consignments spread over the period from December, 1973 to October, 1974, the Committee are inclined to take the view that there might be some attempt to defraud the national exchequer. The doubts of the Committee are strengthened by the reply given by the Chairman, Central Board of Excise and Customs, during the evidence while explaining as to how this mistake had occurred: "There can be no logical or rational answer to this because these were not the articles....". The Committee would, therefore, recommend that the whole matter may be investigated thoroughly with a view to fixing responsibility and taking further remedial measures for the sake of obviating the changes of such recurrence in future.

[S. No. 2 and 3 of Appendix VI of 76th report (Sixth Lok Sabha)]

Action taken

The Director of Inspection and Audit (Customs and Central Excise) has been asked to enquire into the matter whose report is awaited.

[Mo of Finance, Department of Revenue, O.M. F. No. 603/80/78-
D.B.K. dt. 19-10-78]

Recommendation

The Committee also note that at present there is no provision in the Drawback Rules for prescription of time-limit on the exporters for refunding the irregular payment made to them after the necessary claim therefor is made. Further, there is also no provision for penalty under these rules, in case the exporters fails to repay the amount. Judging from the number of cases of irregular payment and also the amount involved in each case, the Committee would recommend to the Department to consider the feasibility of making specific provisions for prescription of time-limit for making refund and levying of penalty along with penal interest in case the exporter failed to refund.

[S. No. 7 of Appendix VI of 76th Report (6th Lok Sabha)]

Action taken

The above recommendation made by the Committee in para 1.46 of the 76th Report (Sixth Lok Sabha) is of a general recommendatory nature. Provision for recovery of drawback amounts paid erroneously in excess of what the claimant is entitled to already

exists under Rule 14 of the Customs and Central Excise Duties Drawback Rules, 1971. The Assistant Collector of Customs passing an order under rule 14 aforesaid has to specify the time within which the exporter must repay the excess payment made to him. In the event of his failure to do so Rule 14 itself provides that action may be taken for recovering the amounts in the manner laid down under sub-section (1) of section 142 of the Customs Act, 1962. In the circumstances, no further provision in law in this regard is necessary.

As regards making provision for imposition of penalty for non-payment and interest in cases of delayed payment it may be stated that such cases are not many. It is therefore felt it may not be necessary to provide for the same.

[Ministry of Finance, Deptt. of Revenue, O.M. F. No. 603/35/78-DBK., dated 28-9-1978]

Recommendation

The Committee have been informed that the authorities had not intimated in any of its communications to the Port Trust that the case would be decided ex-parte in the event of non-receipt of requisite information and documents in time. The Committee desire that such a mention should be made invariably by the Department in all the communications as it would have a definite and salutary effect on the parties concerned to furnish the documents in time.

[Sl. No. 10 of Appendix VI of 76th Report (6th Lok Sabha)]

Action taken

A copy of the Customs (Provisional Duty Assessment) Regulations, 1963 is enclosed. It would be seen that there is a provision for collection of a sum, as provisional deposit, not exceeding twenty per cent of the provisional duty in addition to the bond. In this particular case the maximum deposit of 20 per cent was, in fact, taken by the Custom House. While in no way defending the delay on the part of the Custom House in finalising this case, it is submitted that having got their additional 20 per cent of the duty locked up with the Customs, the Port Trust themselves should have promptly submitted documents to get their funds released.

Even if the Department puts in a stipulation that in the absence of timely submission of documents the case would be decided ex-parte and does so decide the cases, there is nothing in Law to prevent the assessee from putting in a claim for refund, and if rejected,

later to agitate the case in appeal. This would lead to avoidable work at the later stages.

[Ministry of Finance, Deptt. of Revenue, O.M. F. No.
521|26|78-Cus(T.U.) dated 3-11-1978]

ANNEXURE

Extracts from The Customs Manual—Vol. I (3rd Edition)—corrected upto 30-6-1972—pages 135-136.

NOTIFICATIONS UNDER SECTION 18 OF CUSTOMS (PROVISIONAL DUTY ASSESSMENT) REGULATIONS, 1963.

In exercise of the powers conferred by section 157 of the Customs Act, 1962 (52 of 1962) read with section 18 of the said Act, the Central Board of Revenue makes the following regulations, namely:

1. *Short title.*—These regulations may be called the Customs (Provisional Duty Assessment) Regulations, 1963.

2. *Conditions for allowing provisional assessment.*—Where the proper officer on account of any of the grounds specified in sub-section (I) of section 18 of the Customs Act, 1962 (52 of 1962), is not able to make a final assessment of the duty on the imported goods or the export goods, as the case may be, he shall make an estimate of the duty that is most likely to be levied hereinafter referred to as the provisional duty. If the importer or the exporter, as the case may be, executes a bond in an amount equal to the difference between the duty that may be finally assessed and the provisional duty and deposits with the proper officer such sum not exceeding twenty per cent of the provisional duty, as the proper officer may direct, the proper officer may assess the duty on the goods provisionally at an amount equal to the provisional duty.

3. *Terms of the bond.*—(a) Where provisional assessment is allowed pending the production of any document or furnishing of any information by the importer or the exporter, as the case may be, the terms of the bond shall be that such document shall be produced or such information shall be furnished within one month or within such extended period as the proper officer may allow, and the person executing the bond shall pay the deficiency, if any, between the duty finally assessed and the duty provisionally assessed.

(b) Where provisional assessment is allowed pending the completion of any test or enquiry, the terms of the bond shall be that the

person executing the bond shall pay the deficiency, if any, between the duty finally assessed and the duty provisionally assessed.

4. Surety or security of the bond—The proper officer may require that the bond to be executed under these regulations may be with such surety or security, or both, as he deems fit.

[M F. (D.R.) Notification No. 181-Cus., dated 13th July, 1963]

For Forms prescribed for adoption of above Rules, See Form Nos. 3 to 8 in Appendix C—(C.B.E. & C. No. 7|13|63-Cus., VII, dated 18th January, 1965.)

* * * * *

Recommendation

A distressing feature of this case is the complete failure of the Internal Audit in not detecting the incorrect classification. This would indicate that the scrutiny exercised by the Internal Audit had been rather perfunctory. It is regrettable that despite repeated observations by the Committee in regard to the ineffectiveness of Internal Audit in the Customs Department, there appears to be no perceptible improvement in the situation. The Committee would urge the Department of Revenue to examine whether the existing checks prescribed for the scrutiny of classifications are adequate in the Internal Audit and take such remedial steps as are necessary to avoid recurrence of similar mistakes in future.

[Sl. No. 14 of Appendix VI of 76th Report (6th Lok Sabha)]
Action taken

As mentioned in the Department's reply to Paras 2.56 to 2.58 of this Report, the decision in this case to treat the Tug as an 'Ocean-going vessel' was a considered one which had the concurrence of the Internal Audit Department also. Hence, if there was, in this case, any failure of the Internal Audit, it was a failure of judgment and no careless or default could be attributed to the internal audit.

[Ministry of Finance, Deptt. of Revenue, O.M. F. No. 521|26|78-Cus. (T.U.) dated 3-11-1978]

CHAPTER V

RECOMMENDATIONS|OBSERVATIONS IN RESPECT OF WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES

Recommendation

The Committee are surprised to note that there are quite a good number of cases pertaining to payment of irregular drawback of more than Rs. 10,000 each during the last three years in respect of Bombay and Calcutta Custom Houses. While according to Bombay Custom House compilation of a list of all such cases of over-payment will be extremely time consuming, they have furnished a list of 16 cases collected with reference to Customs Revenue Audit objections, records for which are stated to have been maintained. Out of these 16 cases, two cases involved the payment of more than Rs. 1 lakh each and two more cases of more than Rs. 50,000 each. The Committee would like to know the position of the recovery of amounts in all these cases. It is unfortunate that in spite of sufficient time that was given the Custom House has not found it possible to compile the list of all cases of irregular payment of over Rs. 10,000 during the last 3 years. It is a sad commentary on the type of records being maintained for huge financial transactions in the Custom House and the Committee would like to know the detailed reasons therefor. The Committee also note that there have been as many as 38 such cases in respect of Calcutta Custom House. Concerned over the large number of cases of irregular payment in respect of Bombay and Calcutta Custom Houses the Committee recommend that the existing procedure for checking and maintaining registers and accounts may further be examined thoroughly with a view to identifying and plugging the loopholes.

[S. No. 6 of Appendix VI of the 76th report (6th Lok Sabha)]

Action Taken

It has been reported by the Collector of Customs, Bombay that the excess amount of drawback in all the cases excepting the following two cases has been recovered:—

Name of the exporter.	Amount involved.
1. M/s. Janak Manufacturing Works.	Rs. 10,111.50
2. M/s. Allied Agencies.	Rs. 71,500.00

In respect of the above two cases the observations made by the Central Revenue Audit Department have not been accepted by the Custom House and the matter is under correspondence with the Audit.

Besides the 16 cases at Bombay reported earlier to the Committee, the Bombay Custom House has since reported that there were 5 more cases involving over-payment of Rs. 10,000/- or more which escaped their notice and in all these five cases recoveries have been made. The details of the cases are indicated below:—

Name of the exporter.	Amount involved.
1. M/s. Sujen India.	Rs. 26,556.45
2. M/s. Raubaq International	Rs. 18,502.40
3. M/s. Teksons (P) Ltd.	Rs. 14,917.50
4. M/s. Motor Industries Co. Ltd. (i)	Rs. 10,703.20
(ii)	Rs. 1,43,207.40
5. M/s. Universal Dycstuff (i)	Rs. 10,320.00
(ii)	Rs. 11,064.00

The Director of Inspection and Audit (Customs and Central Excise) has been asked to look into the existing procedure regarding checking and maintaining registers etc. with a view to identifying and plugging the loopholes. On receipt of the recommendations of the Director of Inspection and Audit the matter would be further examined by the Government.

(Ministry of Finance, Department of Revenue, O.M. F. No. 603/33/78-DBK dated 19-10-78)

Recommendation

The Committee note from the contents of the bond executed by the Port Trust that they were required to produce the said documents and information within one month or such extended period as was allowed to them. The Bond was executed on the 24 November, 1970 but neither any documents were submitted by the Port Trust within one month nor any extension of time was asked for by them. The Collector of Customs, Madras belatedly bestirred himself and took action only on 24-3-1971 for the refund of the deposit of additional amount of 20 per cent. The Department of Revenue have also confirmed that no correspondence was exchanged between the Customs House and Madras Port Trust prior to the receipt of that claim. The Committee would like that the responsibility for

this lapse should be fixed and appropriate action taken against the erring officers expeditiously.

[Sl. No. 9 of Appendix VI of 76th Report (Sixth Lok Sabha)]

Action Taken

The Director of Inspection (Customs & Central Excise) has been asked to enquire into the matter. The question whether any action is called for and should be taken against any of the officers who handled the case, will be examined after the report of the Director of Inspection (Customs & Central Excise) is received.

[Ministry of Finance, Department of Revenue O.M.
F. No. 52/26/78-Cus. (T.U. dated 3-11-78)]

Recommendation

The Committee are surprised to note that only the Appraiser has been held responsible for the wrong fixation of fair price of frusemide even though the valuation Committee as a whole had accepted that price. The Finance Secretary has admitted before the Committee that "it is the responsibility of the entire Committee". The Committee desire that the Department should also, in all fairness, conduct an enquiry against all those who were responsible for endorsing the undervaluation of the Appraiser without going into the merits of the case and take appropriate action against those found guilty of the lapse.

The Committee find that the Board has issued instructions in August, 1974 that the confiscated drug might be offered to the Government Undertakings in a discount of 10 per cent of the pooled price and they might also be paid the charges as fixed for actual testing and packaging done by them. The drug was offered to Indian Drugs and Pharmaceuticals Limited who declined to take a decision and consequently the same could not be sold to them. This offer was made when the drug was valued at Rs. 2,64,600 after seizure. Subsequently, the price of the drug was brought down to Rs. 40,000 at the time of its auction in March, 1975 but no offer was made to Indian Drugs and Pharmaceuticals Limited at the reduced price. This was in gross violation of the instructions issued by the Board. The Committee therefore desire that responsibility should be fixed for contravention of the categorical instructions of the Board. The Committee would like to make it clear that the entire valuation Committee—and not merely the Appraiser—should be fully answerable for the lapses which they had committed.

The Committee have been informed that at the time of the disposal of the drug the Appraiser had recorded in the register "container damaged". However, no certificate was obtained by the Department from the competent authority i.e. Drug Controller in regard to the damage of the drug. The evidence that was given before the Committee was quite vague and perfunctory and there can be doubt as to whether there was any serious damage at all. Explaining the reasons therefor the Department of Revenue have intimated that "it appears that it was an administrative failure". The Committee cannot view with equanimity the unconcern of the Customs in disposing of the drug which in this case was purchased by a manufacturer of drugs and could cause health hazard if it was really damaged. The Committee desire that responsibility for this lapse should be fixed and necessary instructions issued to ensure that certificate of the competent authority is obtained invariably in such cases in future.

[S. No. 19, 23 & 25 of the 76th report (Sixth Lok Sabha)]

Action Taken

Action to fix responsibility on other members of the Valuation Committee, particularly in regard to

- (i) fixation of the fair price at Rs. 40,000/- only (which was much lower than the actual market price etc.);
- (ii) not following Board's instructions that drugs should be sold to Government undertakings by selling the same to the actual users; and
- (iii) not obtaining a certificate from the Drug Controller in regard to damage of the drugs etc. has already been initiated. In this case, the responsibility of the Valuation Committee is to be adjudged *vis-a-vis* that of the Appraiser who has already been dismissed by the Collector and whose appeal has been referred to the Union Public Service Commission for advice. Action against other officials, in the light of PAC's recommendations contained in paragraphs 3.63, 3.69, 3.73 and 3.75 will be considered as soon as the advice of the Union Public Service Commission which is shortly expected, becomes available.

(Ministry of Finance, Department of Revenue. O.M.
F. No. 50/29/79-Ad II dated 7-4-79)

P. V. NARASIMHA RAO,
Chairman,

Public Accounts Committee.

NEW DELHI;
April 23, 1979
Vaisakha 3, 1901 (S)

APPENDIX

Conclusions/Recommendations

Serial No.	Para No.	Ministry/Deptt. Concerned	Conclusions/Recommendations
1	2	3	4
1	1.7	M/o Finance (Deptt. of Revenue)	<p>In their 76th Report (Sixth Lok Sabha) which was presented to the House in April, 1978 the Committee had recommended for investigation so that responsibility could be fixed and action taken against the derelict officers for the irregular payment of drawback on export of paper. It is unfortunate that even after a lapse of about a year the results of the investigation have not been made available to the Committee. From the outcome of the various enquiries and investigations carried out by Government in a number of cases. The Committee have experienced that undue delays in initiation of action have tended to negate and defeat the very purpose of investigations. The have noted quite often that the persons ultimately found responsible were not available for one reason or the other at the time when action became ripe against them. The Committee desire that an enquiry should be completed expeditiously and the results intimated to them within the next three months, i.e. by July, 1979.</p> <p>The Committee are not convinced with the reply of the Ministry of Finance (Department of Revenue) that it is not necessary to make</p>
2	1.10	-do-	

any provision in law to specify the time limit within which the exporter may be required to repay the excess payment made to him. They feel that such a provision is warranted and would be more purposeful than the power at present exercised by the Assistant Collectors of Customs whereby they have the discretion to specify such time in every case on *ad hoc* basis. The Committee are dissatisfied to learn that it is not essential to make provisions for imposition of penalty in cases of non-payment and levy of interest in cases of delayed payment on the plea that such cases are not many. In the opinion of the Committee such provisions can act as deterrent in cases of non-payment and delayed payments. The Committee would therefore like the Department to reconsider the matter and apprise them of the action taken on their earlier recommendation.

The Committee are dissatisfied with the reply of the Government. It has been found that quite a good number of cases of provisional assessment remain pending due to non-submission of the required documents in time by the affected parties. If such parties are informed that their cases will be decided *ex-parte* in the event of non-submission by them of the requisite information and documents in time, it will have a definite and salutary effect which, in turn will result in reducing the number of pending cases of provisional assessment. The Committee, therefore, reiterate their earlier recommendation and desire Government to implement it as early as possible.

The Committee are not inclined to agree that a wrong decision which had the concurrence of the Internal Audit could be a failure

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of judgment and not a default on the part of the Internal Audit. The misclassification in the instant case has aroused apprehensions in the mind of the Committee about the adequacy and effectiveness of the checks prescribed for the scrutiny of classifications by Internal Audit. The Committee would, therefore, like to be fully apprised of the precise position obtaining at present in this behalf and the remedial steps proposed to be taken to avoid recurrence of the type of mistake that has taken place in the instant case.