

PUBLIC ACCOUNTS COMMITTEE **(1972-73)**

(FIFTH LOK SABHA)

EIGHTY-NINTH REPORT

**[Review of implementation by Government of the
recommendations of the Public Accounts Committee
relating to 'Customs' during 1962—72.]**



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CORRIGENDA TO THE EIGHTY NINTH REPORT OF THE
PUBLIC ACCOUNTS COMMITTEE PRESENTED TO THE
LOK SABHA ON THE 27TH APRIL, 1973.

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PUBLIC ACCOUNTS COMMITTEE

(1972-73)

CHAIRMAN

Shri Era Sezhiyan

MEMBERS

2. **Shri Bhagwat Jha Azad**
3. **Shri R. V. Bade**
4. **Shrimati Mukul Banerji**
5. **Shri Jyotirmoy Bosu**
6. **Shri K. G. Deshmukh**
7. **Shri Tayyab Husain**
8. **Shri Debendra Nath Mahata**
9. **Shri Mohammad Yusuf**
10. **Shri B. S. Murthy**
11. **Shri S. A. Muruganantham**
12. **Shri Ramsahai Pandey**
13. **Shri H. M. Patel**
14. **Shrimati Savitri Shyam**
15. **Shri Ram Chandra Vikal**
16. **Shri M. Anandam**
17. **Shri Golap Barbora**
18. **Shri Bipinpal Das**
19. **Shri P. S. Patil**
20. **Shri Kalyan Roy**
21. **Shri Sawaisingh Sisodia**
22. **Shri Shyam Lal Yadav**

SECRETARIAT

Shri Avtar Singh Rikhy—*Joint Secretary.*

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

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Eighty-Ninth Report of the Committee (Fifth Lok Sabha) on the "Review of implementation by Government of the recommendations of the Committee relating to Customs during 1962—72."

2. In pursuance of the decision of the Public Accounts Committee taken at their sitting held on the 17th August, 1972, a Review Sub-Committee was formed on the 18th August, 1972 to review the implementation by Government of the recommendations of the Committee relating to Customs during the period from 1962 to 1972. The Sub-Committee was constituted with the following Members:—

Shri Era Sezhiyan—*Chairman*

- | | | |
|---------------------------|---|----------------|
| 2. Shri B. S. Murthy | } | <i>Members</i> |
| 3. Shri M. Anandam | | |
| 4. Shri Bhagwat Jha Azad | | |
| 5. Shri Ramsahai Pandey | | |
| 6. Shrimati Savitri Shyam | | |
| 7. Shri Shyam Lal Yadav | | |
| 8. Shri H. M. Patel | | |

3. The Review Sub-Committee considered and adopted this Report at their sitting held on the 23rd April, 1973. The Report was finally adopted by the Public Accounts Committee on the 25th April, 1973.

The main observations/recommendations of the Committee are given in Chapter VI of this Report.

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

ERA SEZHIYAN,
Chairman,
Public Accounts Committee.

NEW DELHI;

April 26, 1973.

Vaisakha 6, 1895 (Saka)

CHAPTER I

NEED FOR A REVIEW

1.1. The effectiveness of Parliamentary control of Government finances through Public Accounts Committee depends upon the implementation of the recommendations of the Committee both in letter and spirit. With a view to watching whether Committee's recommendations are being followed by the executive and implemented promptly and in full measure, an Action Taken Sub-Committee of the Public Accounts Committee was appointed for the first time in 1967-68. The Action Taken Reports were designed *inter-alia* to categorise the recommendations under the following four groups:—

- (i) Recommendations|observations that have been accepted by Government.
- (ii) Recommendations|observations which the Committee do not desire to pursue in view of Government's replies considered to be satisfactory.
- (iii) Recommendations|observations replies to which have not been accepted by the Committee and which require reiteration.
- (iv) Recommendations|observations in respect of which Government have furnished interim replies.

1.2. It was hoped that this new procedure of watching the implementation of recommendations by Action Taken Sub-Committees would fill the gap arising from the lack of machinery to follow up the recommendations of the Committee.

1.3. However, this expectation has not been adequately realised. Only too often, the Committee has found that the Government contents itself with furnishing interim replies and even where Government accepts the recommendations, implementation of those recommendations either does not take place or takes place tardily. The Committee, therefore, came to the conclusion that if it were to achieve the objectives placed before them, a review of the action taken by Government in pursuance of the recommendations made by the Committee from time to time was essential. Accordingly, it was decided in the meeting held on 17th August, 1972 that a separate

Sub-Committee should be appointed to review the implementation by Government of the recommendations of the Committee in important areas of administration. To begin with, implementation of the recommendations of the Committee upto the year 1972 relating to the Customs Department by the Ministry of Finance has been taken up for such a review.

CHAPTER II

CUSTOMS

2.1. The Customs Receipts have been one of the earliest items to come under the scrutiny of Audit. Its importance both as a source of revenue and as an instrument of economic-development through adjustment of tariffs has been well recognised. Customs Administration also plays a vital role in enforcing the anti-smuggling regulations and observance of Licensing Procedures. Having regard to these aspects the Comptroller & Auditor General of India has been devoting a complete chapter in his Report on 'Revenue Receipts', to the systems and procedures relating to the levy, assessment and collection of Customs duties, pointing out wherever necessary the deficiencies noticed in audit which affect the efficiency of Customs Administration. The Public Accounts Committee have in turn been devoting considerable attention to the examination of the administration of the Customs laws and procedures with a view to finding out the causes for the deficiencies thrown up in the Audit Reports and the remedies required for the removal of those deficiencies. The Committee have presented the following Reports on the subjects relating to Customs:

Original

Action Taken Reports

THIRD LOK SABHA

6th Report, 1963 .	. 21st Report (Chapter V), 1964
21st Report, 1964 .	. 28th Report (Chapter III), 1964
27th Report, 1964 .	. 32nd Report (Volume IV), 1966
44th Report, 1966 .	. 7th Report (Fourth Lok Sabha), 1967.

FOURTH LOK SABHA

2nd Report, 1967 .	. 36th Report, 1969
24th Report, 1968 .	. 77th Report, 1969
56th Report, 1969 .	. 98th Report, 1970
72nd Report, 1969 .	. 95th Report, 1970
110th Report, 1970	. 22nd Report, 1971 (Fifth Lok Sabha)

FIFTH LOK SABHA

8th Report, 1971 .	. 56th Report, 1972
43rd Report, 1972	. 71st Report, 1973

2.2. The main problems which have been engaging the attention of the Committee in relation to the Customs levies and collections are as follows:

- (a) Marked variations between Revenue Estimates and Collections;
- (b) Irregularities noticed in the making of assessments and persistent omission to levy duty or discriminatory levy of duty either because of absence of instructions or incorrect instructions issued from the higher authorities or disregard of proper instructions;
- (c) Efficacy of internal audit.

2.3. In respect of all these matters the Public Accounts Committee have been making recommendations repeatedly and the Government have been giving assurances but as can be seen from the following chapters the assurances have largely remained assurances on paper. Unless the Government devises an adequate machinery to see that these assurances are translated into positive action not only at the higher levels in the Ministry but by all those engaged in some capacity or the other in administering the Customs Laws and Procedures, the labours of the Committee over the past decade shall have been in vain.

CHAPTER III

MARKED VARIATIONS BETWEEN BUDGET ESTIMATES AND ACTUALS

3.1. While framing the Budget for presentation to Parliament, it is the duty of the Administration to give as nearly as possible a correct forecast of Revenue Receipts from the various items of tax and non-tax sources. Any wide variation between the Budget as presented to Parliament and the subsequent realisation of the duties would have a wide repercussion in not only distorting the economy but also in imposing unjustified tax burden on the community. As pointedly observed by the Public Accounts Committee (*vide* 27th Report, 1964, para 4,) "it cannot be denied that the estimates of revenue, the estimates of expenditure and the fresh taxation proposals are closely inter-linked; and that the former two serve as some indicators for the quantum of fresh taxation effort necessary." As can be seen from the following table over the years 1961-62 to 1971-72, the Actuals exceeded the Budget Estimates in seven out of ten years, the excess reaching upto 30.28 per cent in 1971-72. In the remaining three years, namely, 1967-68 to 1969-70, the trend of variations was in the reverse direction and even there the variations touched 19.81 per cent:

(in crores of Rupees)

<i>Year</i>	<i>Budget Estimates</i>	<i>Actuals</i>	<i>Variation</i>	<i>Percentage</i>
1961-62	189.64	212.25	+22.61	11.9
1962-63	207.82	245.96	+38.14	18.3
1963-64	301.20	334.75	+33.55	11.14
1964-65	336.37	397.50	+61.13	18.7
1965-66	419.50	538.97	+119.47	28.48
1966-67	560.20	585.37	+25.17	4.49
1967-68	640.13	513.35	-126.78	-19.81
1968-69	539.27	446.50	-92.77	-17.20
1969-70	435.20	423.31	-11.89	-2.73
1970-71	465.00	524.02	+59.02	12.69
1971-72	534.00	695.67	+116.67	30.28

3.2. After an examination of the various materials placed before the Committee by the Audit and by the Ministry of Finance and after taking the oral evidence of the representatives of the Ministry, the Committee had made the recommendations as indicated in the succeeding paragraphs.

3.3. In their First Report, namely, Sixty Report, 1963 (Third Lok Sabha), relating to the Audit Report on Revenue Receipts, 1962, the Committee, noticing a persistent tendency to under-estimate revenue from customs, observed as follows:

“...More often than not the tendency is to under-estimate the revenue. The Committee are of the view that this tendency needs to be checked...The Committee suggest that the feasibility of basing new levies on adequate statistical data to avoid wide variations may be examined.”

3.4. In the very next year the variation between budget and actual rose to 11.9 per cent from 4.6 per cent in the preceding year and in justification for this variation the Ministry informed the Committee that factors like changes in import policy, uncertainty about the valuation of goods where prices in the international market varied and uncertainty about the goods imported against pending licences or incentive licences were the main causes for such variation. While the Committee appreciated that there might be uncertainty about the import of a few items like petroleum products, in respect of other items they felt that it should have been possible to frame realistic estimates of revenue from such items if the tendency to under-estimate had been avoided and estimates made on the basis of better statistical data. The Committee had expressed the hope that efforts would be made to improve the budget estimates of Customs revenue (21st Report, 1964, Third Lok Sabha).

3.5. The matter came up again in 1964-65 when the actuals were in excess of the budget estimates by 18.17 per cent. In reply to Committee's query as to why such large variations still persisted and what steps Government had taken to improve the budgeting technique, the Secretary of the Revenue Department had stated that the Public Accounts Committee's observation relating to the conservatism on the part of the officers in preparation of the estimates of revenue had been taken note of and the estimates received from the recovery officers were being rescrutinised and stepped up in the light of (i) past experience and (ii) information available from other sources, such as the Ministry of Industry, the Department of

Technical Development, the Chief Economic Adviser etc., and that the estimates were based not only on the rates of taxes but also on higher collections due to administrative efficiency and stricter enforcement of the provisions of law (27th Report, 1964, Third Lok Sabha, Para 2). The Committee felt that though the correctives as mentioned by the Secretary were not being applied, there was a deficiency in the collection of reliable statistics of economic growth and that unless the machinery for collecting statistics in the Ministry of Finance was strengthened, it would not be possible to assess accurately the growth of production and its impact on the collection of taxes. The Committee, after examination, observed that in a planned economy like ours, it should be possible with a certain amount of effort and vigilance to collect timely data. A question arose as to what should be considered as normal percentage of variation permissible. The Committee reiterated their view stated earlier in paragraphs 2 to 4 of their 9th Report, 1962 that variations exceeding 3 to 4 per cent should be regarded as a matter for concern requiring special remedial measures. They expressed the hope that this margin of variation would be constantly kept in view and continuous efforts made to reduce the variation to this limit.

3.6. Expressing concern at the rising trend of variation, the Committee observed:

"The percentage of variations has increased from 11.9 in 1961-62 to 18.35 in 1962-63... They feel that this persistent under-estimating of revenues is primarily due to defective budgeting which requires special remedial measures. The Committee desire that the Finance Ministry who are the guardians of the Centre's finances and on whom lies the overall responsibility for framing the Central Government's budget accurately, should supplement the statistical information with their own independent investigations and researches in order to be able to better assess the industrial and economic trends, movement of foreign exchange etc., and thereby to arrive at more precise estimates. The Committee hope that efforts will be made to improve the budget estimates of the customs revenue. The Committee would like to be informed of the steps, if any, taken already or proposed to be taken hereafter in this direction." [Vide 27th Report, 1964, Third Lok Sabha, para 10].

3.7. The Ministry in reply to this recommendation stated that the Department had issued instructions to the Collectors to make a closer scrutiny of the estimates as furnished by the lower formations before submitting them to the Department and to make estimates more realistic and that the Department had also emphasised to the various Ministries|Department the need to give as accurate data about the respective imports to be effected by them or by the organisations working under them as possible so that the budget estimate might be framed with similar accuracy. [Vide 52nd Report (Part IV), 1966, pafes 59-60].

3.8. In the year 1965-66 the position worsened still further. The excess of actuals over budget was 28.48 per cent. Naturally when the matter came before the Committee the very first question put to the representatives of the Ministry was as to what action was taken by the Ministry in respect of their earlier recommendations relating to the need to set up a machinery for obtaining a more accurate statistical data and devising ways and means for narrowing the variations. The Finance Ministry's representative stated that as a result of the recommendations of the Committee a specific provision had been made in the Financial Memorandum of Finance Bill No. 2 for strengthening the research unit of the Board of Excise and Customs. Since the Committee had already commented upon the subject of variation in the 27th and 28th Reports, they hoped that at least in future such wide variations would not occur and the Government would take every step to see that the variations do not exceed 3 to 4 per cent [Vide 44th Report, 1966, Third Lok Sabha, paras 1.3 to 1.1].

3.9. In spite of the assurance given to the Committee, in 1971-72 again the budget estimates fell far short of the actuals by 3.28 per cent. The Committee, therefore, had to go into the question all over again as to why such large variation should continue to occur and whether the remedial measures suggested by the Committee from time to time had been examined and implemented by the Government. The Ministry was particularly asked about the setting up of the research unit which they promised to the Committee. The Committee were surprised when they were told that the assurance given by Government in this regard was not implemented for nearly 5 years and that no convincing reasons were given at all for this abnormal delay. The other recommendations suggested by the Committee, namely, greater coordination among the Ministries, strengthening the machinery for collecting information of production and imports had also not been given due importance.

3.10. Therefore, the Committee felt constrained to observe in their 80th Report, 1973 (Fifth Lok Sabha) as follows:

“The variation between the Budget Estimates and the actuals of customs revenue ranged from —19.8 per cent to +28.48 per cent during the period 1961—71. The Committee have been repeatedly urging that there should be a closer estimation of revenue. In spite of the steps stated to have been taken in pursuance of the Committee’s recommendations it is regrettable that the variation is still large. The Ministry have assured the Committee that all attempts are now being made to prepare the budget estimates on a realistic basis as far as possible so as to reduce the gap between the estimates and the actuals. The Committee will watch with close interest the results of these further efforts through future Audit Reports and trust that they will indicate noticeable improvements.”

3.11. To sum up the position as it stands today, even after 10 years of repeated recommendations of the Committee, the Government have not taken adequate steps to implement the promises made from time to time regarding narrowing the variations between the Budget and the Actuals and the Committee can, therefore, only conclude that this inaction is due either to unwillingness to implement the assurances given or to inability to do so.

CHAPTER IV

MISTAKES IN ASSESSMENT, LEVY AND COLLECTION OF CUSTOMS DUTY.

4.1. The levy and realisation of Customs duties are subject to a cent-per-cent audit by the Internal Audit Department functioning under each Collector of Customs and before this check is exercised the bills of entry, the shipping bills and other revenue documents pass through several hands. The law relating to levy and realisation of customs duties is also fairly simple as compared to Central Excise and Income Tax. Normally mistakes involving substantial amounts of revenue or discriminatory levy as between one importer and another importing the same goods at the same time should not occur. However, Audit has had to point out from time to time various types of mistakes relating to assessment and collection of customs duties involving substantial amounts. These mistakes result from:

- (a) Incorrect determination of assessment value;
- (b) Wrong classification of goods for levy of customs tariff;
- (c) Application of lower rates of duties;
- (d) Over-assessment of customs duties;
- (e) excess refund of duty; and
- (f) delays in finalising decisions having vital bearing on assessment to duties.

4.2. Some of the mistakes, which keep recurring repeatedly in spite of the recommendations of the Committee to avoid them and assurances of the Government to implement the recommendations, are indicated in the following paragraphs.

4.3. In the Audit Report for the year 1964 a case was cited where a company which had an office in London, imported goods on behalf of a group of associated concerns in India through their London office. Buying commission was paid to the London office on the invoice value of the goods. This buying commission which should have been added to the assessable value of the goods was not so added by the Collector of Customs. On this being pointed out by

the Audit, the Central Board of Revenue reviewed the order passed by the Collector and decided that the invoice value of the imports should be enhanced by 2½ percent on account of the buying commission with effect from 19th April, 1960. In this case the point was raised by the Audit in March, 1957 and the Collector took 3 years to reply to Audit in July, 1960 that he was not convinced that the commission in question had to be so added. It was after this reply from the Collector that Audit took up the matter with the Board in 1961. The Board after examining the Audit point of view, passed orders in 1962 reviewing the Collector's decision but while so doing only revenue relating to the period of 3 months preceding the date of the Collector's order could be realised under the law. By the delay in complying with the Audit query the Government had to forego revenue to the extent of Rs. 6,000/-.

4.4. In the same Audit Report another case was reported where machinery imported for the manufacture of viscose filament rayon was assessed to duty under tariff item 72(3) on a net F.O.B. value of £ 26,154 plus freight and insurance and landing charges. It was noticed from the invoice that the real F.O.B. value was £ 29,060. The difference represented the payment made in advance to the supplier.

4.5. While in the former case the Ministry, admitting the mistake had stated that the party had gone to the Board with a revision petition in the latter case, the Ministry told the Committee that the assessing officer concerned had mistaken the advance payment for a cash-discount. The Committee expressed the hope that such mistakes would not occur in future and felt it regrettable that the mistake was not detected by the Internal Audit which conducted cent per cent audit. The Ministry gave assurance in April, 1966 that the recommendation of the Committee had been noted for compliance and the Collector had been instructed to take suitable steps to avoid recurrence of such mistakes. Instructions were also stated to have been issued to take notice of lapses in detecting obvious errors by the Internal Audit Department.

4.6. In spite of this assurance, in a case reported in the Audit Report, 1969 while computing the assessment value of certain export goods the freight charges paid in Canadian dollars were deducted from the C.I.F. value in terms of U.S. dollars resulting thereby in short levy of export duty. At the suggestion of Audit the Department conducted a review of all such short levy cases and it was found that the total short levy of customs duty was Rs. 59,376 out of which

471 LS—2.

Rs. 21,493 had been recovered. Here also the Internal Audit Department did not detect the mistake.

4.7. To a recommendation made by the Public Accounts Committee that the Internal Audit Department should be more vigilant in such cases the Ministry gave a routine reply in December, 1972 that the observation of the P.A.C. have been noted and circulated to all concerned Customs Houses and Collectorates for compliance.

4.8. That the same type of mistakes was, however, continuing to occur in spite of the assurances of the Ministry was evident from paragraph 12 of the Audit Report of Revenue Receipt (1970-71) in which there was under-assessment of Rs. 11,572 on account of the assessable value being worked out on the basis of the net weight of a consignment of "floor plates" as against the correct gross weight. This mistake could on no account be justified is clear from the fact that the net weight was only 18640 kgs. as against the gross weight of 41,060 kgs. Naturally the Public Accounts Committee in its 80th Report (Fifth Lok Sabha) observed as follows:—

"As the packing material could not have accounted for such difference in weight, the Committee are at a loss to understand why the discrepancy was not reconciled at the time of assessment. It is surprising that the Internal Audit also did not point out the omission."

4.9. The recommendations of the Committee in regard to mistakes in assessment have nowhere been more persistently honoured in breach than in observance as in the matter of failure to levy countervailing duty or in levying less than the prescribed rate.

4.10. In the Audit Report for 1963, three cases of non-levy of countervailing duty resulting in the total under-assessment of Rs. 93,200 was pointed out. The explanation offered to the Public Accounts Committee by the Ministry, was that in one case the non-levy was due to the Appraiser ignoring a ruling given by the Board to the Custom House and that the omission in the second case was a clear mistake. The mistake in the third case was attributed to a doubt in the minds of the officers in the Custom House whether the goods concerned (glass instruments, apparatus and appliances) were liable to countervailing duty. The Ministry gave an assurance to the Committee that measures would be taken to ensure that the Custom Houses are posted with up-to-date information in regard to the rulings of the Board. The Committee expressed the hope that such mistakes would not recur in future and that officers will be more careful. (Vide 21st Report, 1964, 3rd L.S. paras. II—13).

4.11. In their action taken report, the following categorical assurance was given by the Ministry of Finance in October, 1964:—

“It has again been impressed upon the Custom Houses that greater care should be exercised in dealing with documents both in the Appraising Department as well as in the Internal Audit Department so that the scope of such mistakes is eliminated. Further measures to improve the position are under consideration in consultation with the Collectors of Customs.

To eliminate mistakes as a result of wrong interpretation and implementation of the budget changes, the Collectors have been directed that at an appropriate time immediately after the presentation of the budget every year, Collectors should hold discussion with Assistant Collectors to discuss the budget instructions with a view to ascertain from them personally that all the relevant instructions have been received by them, that they have properly understood these instructions and also to discuss the problems which might have arisen. The Assistant Collectors in their turn should hold such discussions with the Principal Appraisers and Appraisers concerned. Arrangements have also been made to send to the Custom Houses monthly statements of notifications issued regarding changes in customs duties which would enable them to check that no notification has escaped notice.

It has also been decided to give serial numbers to the rulings on levy of counter-vailing duties and to inform the Custom Houses of the total number of rulings issued in each month which would enable them to check that no ruling has escaped notice.”

4.12. In spite of this assurance, in the next Audit Report for the year 1964, the Comptroller and Auditor General of India reported the failure on the part of the department to levy countervailing duty to the extent of Rs. 108,028. Commenting on this the Committee expressed its dissatisfaction as follows:

“Such mistakes of non-levy of countervailing duty were noticed last year and the Committee had expressed the hope that they would not arise in future. The Committee were informed during evidence that with a view to avoiding the non-levy of countervailing duty in future, the Government had introduced a Bill in February, 1963 remov-

ing all references to countervailing duties from the Indian Tariff Items and adding a new provision to the Indian Tariff Act, 1934 saying that wherever there was a countervailing duty leviable under the Central Excise Tariff, it would be automatically added to the item in the Indian Custom Tariff in respect of the Customs Duty."

The Committee were given to understand that this had led to another complication. The Committee desire that the matter should be re-examined and proper system should be devised to ensure that countervailing duty is invariably levied wherever due.

4.13. In the next year, i.e. the Audit Report for the year 1965, the non-levy of countervailing duty rose to Rs. 16,19,058. The non-levy here related to electric motors which were assessable to countervailing duty under item 30 of the Central Excise Tariff. The Government of India clarified first in April 1960 and again in May 1963 the procedure to be followed in this matter. However, in one custom house there was a failure to levy countervailing duty to the extent of Rs. 13,88,325 and in another custom house no action was taken to levy at all the countervailing duty even after the clarifications were received. The Committee expressed surprise at the failure to follow the instructions issued by the Ministry to Custom Houses and in their 44th Report, 1966, (Fourth Lok Sabha) observed as follows:

"The Committee are surprised how the Cochin and Madras Collectorates did not follow the instructions issued by the Government in April, 1960 while other collectorates understood them correctly, particularly when the instructions were clear to the Board and other Collectorates. But for the omission being brought to the notice of the Ministry by Audit the under-assessment would have continued in the two collectorates."

4.14. The practice of non-levy of countervailing duty continued even after these directions of Committee in 1967 when the total under-assessment and loss of revenue as a result of non-levy of countervailing duty was reported on test audit to be of the order of Rs. 3.21 lakhs in two cases and in 1968 further cases of non-levy of countervailing duty were pointed out. The under-assessment in two cases amounted to Rs. 2.47 lakhs as an explanation of the various cases of non levy of the countervailing duty, pointed out by Audit the Ministry stated that when Section 2A was introduced in the Indian Tariff Act, there was no intention to charge countervailing

duty on articles on which it was not being charged then. The Committee doubted the validity of this interpretation and pointed out that once a statutory provision had been introduced from a particular date, the executive instructions had no legal basis, whatever other considerations might have weighed for resorting to such a course of action. The executive decisions taken on different dates in several cases to levy the countervailing duty and that too only when they were brought to the notice of the Government of India by Audit had resulted in the provision of the law not being uniformly applied in all the cases wherever it was prescribed. The non-levy of countervailing duty till such time as the decisions were taken would only be taken as an unauthorised foregoing of revenue.

4.15. Even after this recommendation fresh cases of non-levy of countervailing duty were brought to the notice of the Public Accounts Committee through the Audit Report of 1970-71. In the Audit Report of 1970-71 the non-levy of countervailing duty was pointed out in 3 cases involving under assessment of Rs. 5,54,073.

4.16. The third type of mistakes which have been occurring with regular frequency relate to wrong classification of goods resulting in under-assessment and loss of revenue. (*Vide* 2nd Report—1967—P. 24 Fourth Lok Sabha). Such wrong classifications during the years 1962-63 to 1964-65 were as follows:

1962-63		Rs. 98,918
1963-64	..	Rs. 87,532
1964-65	..	Rs. 3,57,188.

4.17. As regards under-assessment in 1962-63, arising out of wrong classification, the Committee had observed as follows (*Vide* 21st Report—1964—P. 13):

“The Committee regret to point out that in both the above cases the rulings of the Central Board of Revenue were overlooked or ignored by the Appraising Department. What is worse is that although these assessments had been checked by the Internal Audit Department, they failed to detect the mistakes.”

The Government informed the Committee as follows:

“The Committee's observations have been noted. These have also been brought to the notice of Collectors of Customs for their information and guidance.”

4.18. In the Audit Report for the year 1964-65, there was again a mis-classification relating to import of "Michigan Tractors", which was originally assessed at a concessional rate of 15 per cent *ad valorem*, treating such tractors to be earth shifting machinery, whereas they should have been classified as conveyance. In the course of the examination of the witnesses in connection with the mistake, it was admitted that certain items had been classified differently in different Custom Houses. The witness also added that "we cannot avoid lack of uniformity." The Committee expressed the hope in their 2nd Report, 1967 (Fourth Lok Sabha) that an effort should be made to avoid such anomalies as far as possible and that when examination of the question of aligning of the Central Excise Tariff with the Customs Tariff, which was then under the consideration of the Tariff Revision Committee was completed, it would solve the problem.

4.19. In 1969, there was again a wrong classification of goods resulting in under-assessment of Rs. 1,00,260 as pointed out in the Audit Report of that year. In explaining the wrong classification, the witness stated that though there were clear instructions by the Board about the correct classification, it was perhaps not referred to by the assessing officer who committed the mistake. The Committee drew attention of the Board to the fact that similar instances of assessing officers overlooking Board's instructions had been pointed out earlier in their 21st Report (Third Lok Sabha) and 27th Report (Third Lok Sabha) and finally made the following comments:

"The Committee have from time to time commented upon similar cases in which specific rulings of the Board were overlooked by assessing officers. The persistence of such cases indicates that the measures taken by Government pursuant to the earlier recommendations of the Committee have not been adequate. The Customs Tariff is a fairly elaborate document with a plethora of rulings under each item. It might facilitate the work of assessing officers if suitable cross-references are given under each tariff item to various instructions relating to that item issued from time to time." [Vide 110th Report, 1970, Fourth Lok Sabha, para 1.42].

4.20. In their 8th Report (Fifth Lok Sabha), the Committee, while coming across another item where there was no uniformity of assessment of duty as between different custom houses, observed as follows:—

"The Committee were informed that in order to avoid different interpretations being given by the different custom houses to the notifications issued by the Board and to bring about uniformity in

assessment in all the custom houses certain measures were being taken by Government, such as introduction of indexing of commodities, setting up of a Central exchange of classification, adoption of Brussels Tariff Nomenclature. The Committee stress that the various measures proposed to achieve uniformity in classification of goods for the purpose of levy of customs duty in all the custom houses will be finalised without delay and put into effect." This report was presented to the Lok Sabha on 5th August, 1971.

4.21. Again the Audit Report for 1970-71, pointed out a loss of revenue of (Rs. 85,287+Rs. 8634) Rs. 93,921 and an under-assessment of (Rs. 1,49,871—Rs. 8634+Rs. 11,26,255) Rs. 12,67,492 on account of wrong classification of goods. Commenting on this mis-classification in respect of one of the items, the Committee made the following observation in their 80th Report (Fifth Lok Sabha):

"The Committee do not think that the procedure for classification of goods, examination etc. is satisfactory."

4.22. Another area where the exchequer has been put to loss of substantial revenue on account of the delay in conducting reviews by the Central Board of Excise and Customs for determining the value of goods for the purpose of assessment was reported in paragraph 15 of the 21st Report (Feb. 1964) of the Committee (Third Lok Sabha). In this para it was pointed out that landing charges formed part of the real value of goods under Section 30(b) of the Sea Customs Act and where the actual figures of landing charges were not ascertainable at the time of assessment, the amount was taken at a flat rate per tonne based on the average of the Port Trust's consolidated landing charges. In such cases, the Central Board of Revenue had issued instructions that the average rate should be re-examined periodically at least once in two years so as to keep in conformity with any changes that might be made in the Port Trust scale of rates. It was reported that in a particular Custom House that this was not done and a flat rate fixed at Rs. 4.50 per tonne in 1953 was not revised even when there had been a steep rise in the Port Trust rates from March, 1957. When this was pointed out by Audit, the Custom House revised the rate to Rs. 4.75 per tonne with effect from 1st May, 1960. Even this rate was not properly calculated and, on a further reference to the Custom House, it was again revised to Rs. 5.15 per metric tonne with effect from 20th November, 1961. It was estimated that on account of delay in the revision of the rates there was a loss of revenue to Government of over Rs. 3 lakhs for the years 1957-58, 1958-59, 1959-60, 1960-61 and

for the period from 1st April, 1961 to 30th October, 1961. Commenting on this, the Committee observed as follows:

"The Committee are perturbed at the failure in this case to comply with the Board's instructions to conduct a periodical review at least once in two years of the landing charges and to revise the flat rates accordingly. It is regrettable that the rates fixed in 1953 were not revised till May, 1960 (after it was pointed out by Audit) even though there had been a steep rise in the Port Trust rates from March, 1957. Further, even the revision of rates made in 1960 was not properly done and at the instance of Audit a further enhancement of the rate had to be made in November, 1961. The Committee are unhappy that the delay in the revision of rates has caused a loss of revenue amounting to over Rs. 3 lakhs. The Committee hope that the Board will ensure that the revised instructions issued by them for more frequent revision of the rates are complied with by all Custom Houses."

4.23. The hope of the Committee was belied when a similar lapse was reported to the Committee by Audit in its report for the year 1971-72 when a major Custom House did not revise till February, 1968, the rate of landing charges fixed in April, 1965, even though there had been a substantial rise in the Port Trust rates. In another Custom House the flat rate of landing charges of Rs. 5.85 per tonne fixed in 1960 was continued to be applied without any review, although there was an increase in the rate of landing charges from February, 1963 by way of surcharge of 20 per cent imposed by Port Trust authorities. In the first case the Ministry's reply was that though action was initiated to review landing charges in December, 1966, the actual revision could not be notified earlier than February, 1968 because of difficulty in collecting necessary statistics. For the second case the explanation was that though the Department tried to review the landing charges twice in 1964, "owing to opposition from trade the proposal was dropped." Though the exact figures of loss could not be determined, according to Audit, the delay on account of revision of landing charges resulted in a loss of a little over Rs. 1 crore. The Committee had again to reiterate what they stated earlier in their 21st Report, 1964. The Committee felt that there was no justification for the delay that had occurred in these two cases. They stated as follows:

"The delay has involved the Government in a loss of over a crore of rupees as worked out by Audit. The Ministry of Finance have not however furnished any calculations of their own. In the first case the Custom House did not revise the rates fixed in April, 1965 till February, 1968

even though there had been a substantial rise in the Port Trust rates. In the other case the rates fixed in 1960 were continued till March, 1966, even though there was an increase in the rates of landing charges from February, 1963 by way of surcharge of 20 per cent imposed by Port Trust authorities and this increase was brought to the notice of the Custom House by Audit in May, 1964. The Committee find that according to instructions issued by the Board, review of the landing charges is required to be undertaken by the Custom Houses once in two years and at shorter intervals if changes in the rates prescribed in the Port Trust authorities warrant such action. The Committee desire that the Board should take serious note of the cases where Collectors fail to review the landing charges within the period prescribed by the Board or at shorter interval, if necessary."

4.24. The Committee have been informed that the Board have issued instructions on 13th July, 1972 to all the Collectors of Customs that the rate of landing charges should be reviewed once every three years or at shorter intervals if substantial changes in the rates prescribed by the Port Trust authorities warrant the same and that the review should be initiated four to six months prior to the due date so that it should be completed and finalised within three years. The Committee can only hope that these instructions are followed.

Disregard of instructions

4.25. The Committee were compelled to make these observations because they came across many an instance where the Board's instructions were disregarded by the lower formations. In their 2nd Report, 1967 (Fourth Lok Sabha), the Committee noted that there was a loss of revenue to the extent of 89,796 on account of disregard of instructions of the Board. The Committee made the following recommendation in regard to this case:

"They hope that learning from this case, it would be enjoined upon all concerned to pay due regard to the procedure prescribed in such matters and the Board would also take serious view of similar deviations in future."

4.26. In 1969 a similar case, where disregard of the Board's instructions had resulted in a loss of Rs. 1.75 lakhs was reported by

Audit and the Committee, in their 110th Report, 1970 (Fourth Lok Sabha), were constrained to observe as follows:

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

4.27. The Government's reply to both these recommendations were that the observations have been noted. But such cases again turned up in the Audit Report, 1970 where as a result of not following the Board's instructions there was an excess levy of Rs. 32,047 in one Custom House. In their 8th Report, 1971 (Fifth Lok Sabha), the Committee observed as follows:

“The Committee are surprised that in spite of the clarificatory instructions issued by the Central Board of Excise and Customs in August, 1964, resistance wires which do not fall under the category of electric wires and cables were charged to additional (countervailing) duty applicable to electric wires in three Custom Houses.”

4.28. To this also the reply of the Government was that the observations were noted and the instructions were issued to the Custom Houses to ensure immediate refunds wherever it was not time-barred.

CHAPTER V

INTERNAL AUDIT

5.1. Recurrence of the mistakes in spite of repeated recommendations of the Committee to avoid them could only be attributed to the weakness in the Internal Audit system. Therefore, right from the beginning the Committee have been insisting on the Government to strengthen the Internal Audit Department attached to the Custom Houses. In their 21st Report, 1964 (Third Lok Sabha) the following recommendation was made by the Committee in regard to the Internal Audit Department:

‘The Committee take a serious view of the mistakes occurring in the levy of Customs Duty, especially because the Internal Audit Department conducts a cent per cent check of the assessments. While the Committee appreciate that the Custom Houses which have to work under a heavy pressure of work with emphasis on speedy clearance of goods are likely to make a few mistakes, they consider, it extremely unfortunate that such mistakes should escape notice of the Internal Audit Department which exercised a cent per cent check.

The Committee note that in a few cases mistakes arise from the difference of opinion between the Customs Department and Audit but these cases are few. Most of the mistakes arose from disregard of the rules and decisions of the Board and these mistakes should have been detected by the Internal Audit Department. It was urged before the Committee that the Appraising Department was understaffed and the Internal Audit Department needed strengthening and more intensive training. The Committee suggest that a proper review of the staff position may be carried out and deficiencies, if any, made up. In the opinion of the Committee revenue should not suffer for lack of adequate and properly trained staff. The Committee would like to be informed of the steps taken in this regard especially with a view to improving the quality of check by the Internal Audit Department. The Committee suggest that it should be examined whether in order to make the Internal Audit Department free from the influence of the Appraising Department, it should be reorganised and placed directly under the control of a member of the Board of Revenue.”

5.2. In regard to this recommendation the Government informed the Committee as follows (vide 28th Report, Chapter III), Third Lok Sabha:

"The Collectors of Customs were requested to examine the question of strengthening and improving the efficiency of the Internal Audit Department. The views of the Collectors have been received and are being studied in the light of the above two recommendations of the Public Accounts Committee. It will, however, be appreciated that these recommendations involve detailed examination and perhaps some workstudies. The reorganisation of the Appraising Department and the Internal Audit Department will, therefore, take some more time."

5.3. The matter relating to the deficiencies in the Internal Audit Department and the need to strengthen it come up again for consideration and comment in the 27th Report, 1964 (Third Lok Sabha) of the Committee. They observed as follows:—

"...The Committee regret that some mistakes in calculations have even gone undetected by the Internal Audit. This indicates that the nature of the check exercised by the Internal Audit is perfunctory. The Committee feel that Internal Audit should be more effective. Towards this and, the Committee suggest that there should be better supervision and the strength of the appraising staff and the Internal Audit staff should be reviewed and augmented, if necessary..."

5.4. In 1965 the matter again came up before the Committee, because during that year a short levy of customs duty, detected by the Revenue Audit rose to Rs. 22,29 lakhs from 4.23 lakhs in the year preceding it. The Committee, therefore, felt that "the deterioration in the position not only reflects on the work of the executive officers but also on the efficiency of the Internal Audit Department which conducts a cent per cent verification of the assessment documents." They further observed: "While the Committee appreciate that under the present set-up the Internal Audit Department is precluded from challenging the interpretations accepted by the Collector, they are unhappy to note that even mistakes in arithmaterial calculations remain undetected. All the same the Committee feel that to be effective in real sense, the Internal Audit Department should not merely confine itself to checking of arithmaterial calculations but also

independently go into the questions of interpretation and classification. The Committee have often tried to impress the need for reviewing the strength of both appraising and Internal Audit staff and making the Internal Audit Organisation more effective. They had also suggested that it should be examined whether in order to make the Internal Audit Department free from the influence of the Appraising Department it should be reorganised and placed directly under the control of the Board (c.f. paras 7-8 of 21st Report and 12 of 27th Report, Third Lok Sabha). The Committee are glad to learn that a scheme for strengthening the Internal Audit organisation has been drawn and it was also proposed to transfer it from the control of the Collectorate and place it under a Director of Audit in the Central Board of Excise and Customs. The Committee desire that this should be implemented without further delay."

5.5. The only response to this recommendation by Government was that "due to present financial stringency it has been decided to postpone for the present the proposal to set up the Directorate of Revenue Audit. The question of marginally augmenting the present set up of the Internal Audit Department of the Custom Houses so as to ensure greater qualitative performance is under examination."

5.6. In spite of the repeated recommendations of the Committee, the lapses on the part of the Internal Audit Department continued. In their 2nd Report (Fourth Lok Sabha), the Committee were compelled to observe as follows:

"The Committee regret that in spite of their observations in the 21st Report and the 27th Report (Third Lok Sabha) no improvement is visible in the working of the Internal Audit Organisation. They hope that the question of reorganisation be given immediate consideration and all necessary steps will be taken to improve the working of the Internal Audit Organisation. They would like to be informed of the decisions arrived at in this connection along with the progress made with their implementation."

5.7. The reply of the Government to this recommendation was that "A Study Team was set up in 1966 to go into the working of the Customs Department. That Team had submitted its final report in July, 1967. The recommendations made by the Study Team cover aspects relating to improvements in the working of the Internal Audit Department. In the light of the recommendations made by

that Team, this matter is being re-examined and pursued. It is expected that decision of the Government on this will be reached soon." (vide 36th Report, 1969, p. 138, Fourth Lok Sabha). The mistakes of under-assessment|over-assessment continued to occur in subsequent years so much so that in the subsequent Reports the Committee again reiterated as follows:

"It is nearly five years since that Public Accounts Committee urged Government to strengthen and improve the working of the Internal Audit Organisation. This has not yet been done. The Committee desire that the reorganisation scheme be finalised and implemented without further delay." (vide 72nd Report, Fourth Lok Sabha, para 1.113).

"In the opinion of the Committee the detection of a sizeable amount of under-assessments in Test Audit, after a 100 per cent check of Customs documents by Internal Audit, indicates that the working of the Internal Audit Department is deficient. The Committee note that on the recommendations of the Customs Study Team, a number of measures have recently been taken by Government to strengthen the Internal Audit Department. The Committee desire that after the new set-up has worked for some time, Government should make an appraisal of its working and examine whether its functions and procedures need to be streamlined any further." (vide 110th Report, 1970, para 1.8, Fourth Lok Sabha).

Both these recommendations the Government have noted and accepted.

5.8. The Committee were informed that as a result or reorganisation effected in March, 1969 the quality of work had improved in the Internal Audit Department. While noting the improvement the Committee felt that the performance of the Internal Audit Department in the Calcutta Custom House had not shown much improvement as compared to Bombay and Madras Custom Houses. The Committee were informed during evidence that the Directorate of Inspection had been asked to undertake a study of the working of the Internal Audit Department in Calcutta Custom House. They desired that this study should be completed as early as possible and necessary steps taken to improve the working of the Department. The Committee further recommended in their 43rd Report, 1971, para 1.44 (Fifth Lok Sabha) that the procedure evolved for 100 per cent

audit of bills of entry of certain values and a percentage of the rest by the Appraisers should be kept under watch with a view to increasing the percentage of bills to be audited by the appraisers and that the area of audit by the appraisers and auditors should be enlarged to cover all aspects which are at present being covered by the Revenue Audit.

5.9. Thus, after much prodding by the Committee the Department has tardily implemented the recommendations repeatedly made for strengthening the Internal Audit Department, and it is too early to say whether this reorganisation would be successful in eliminating the mistakes pointed out by Revenue Audit. The reorganisation, according to Government, came into effect in 1969, but still the type of mistakes which occurred earlier continue to be reported in all the cases reported in the Audit Report for 1970-71.

CHAPTER VI

REMEDIAL MEASURES

6.1. From the foregoing chapters it is apparent that even such a well-established revenue earning Department as the Customs, which is governed by a fairly unambiguous piece of legislation and well-established rules and procedures has not been in a position to free itself from the numerous errors and deficiencies pointed out repeatedly by Audit and the Committee. The Committee had been at pains not only to trace the reasons for the mistakes but have been suggesting remedial measures also. If the Government had accepted these recommendations and implemented them, both in letter and spirit, the efficiency of the Customs Department without a doubt would have been far greater than is the case today. On a review of the responses by the Government to the recommendations of the Committee in regard to the matters briefly summarised in the preceding chapters, the Committee feel that their efforts for improvement in the Department will still not have been in vain if the following steps are taken by Government:

- (1) The question of narrowing the gap between the Budget Estimates and Actuals is taken up seriously for study by a group of experts who should be drawn from not only the Customs Department but also from other concerned Ministries, such as, Ministries of Foreign Trade, steel and Mines, Industrial Development, Agriculture and Planning. It would be worthwhile to associate in this Committee some experts of statistical methods in public finance. This Committee should be constituted immediately to suggest ways and means of achieving a more accurate and scientific forecasting of resources, so that the variations remain within a range of 3 to 4 per cent. If unforeseen factors occur in the course of the year, such as a sudden spurt of imports, the Parliament should be immediately apprised of it by Government who should lay a statement on the table of both the Houses explaining the unforeseen variations in the estimates and the reasons for them, so as to satisfy the Parliament that the variations had occurred in spite of the best efforts of the Government to ensure accurate estimating.

- (2) As regards the mistakes in assessments, the best way to minimise them, if not to eliminate them altogether, would be (a) to improve the quality of scrutiny by Appraisers by giving them periodical training in the technical fields in which they are working and in classification matters and (b) to bring out, as speedily as possible, a book of Indian Customs Tariff giving up-to-date effective rates of duty levied under the Customs and allied Acts. At present the Indian Custom Tariff contains separate section for each type of levy and some of the columns have outlived their purpose. Serious thought should be given to modernise and redesign the information given in the Tariff schedule giving against each commodity all the duties leviable thereon, such as basic duty, additional (Countervailing) duty, Auxiliary duty and so on.

It would also be desirable to give cross reference to Board's rulings and instructions against each tariff item or if this is found cumbersome, reference may be given to the appropriate item in the Tariff guide.

- (3) The Tariff Guide issued by the Board should be brought out in loose-leaf form and kept upto-date by issuing supplements as soon as tariff advices are given by the Board. Every appraiser and Internal Auditor should be supplied with a copy of the Guide and supplements.
- (4) There should be no further delay in establishing the Central Exchange of valuation to ensure uniformity in classification.
- (5) The working of the Internal Audit Department should be gone into with a view to streamlining its procedures and functions and it should be placed under a separate Director of Internal Audit who will report directly to the Board. It is only then that it will be free from local influence and will perform its functions without fear or favour.

It should be examined whether the staff working in the Internal Audit should not be formed into a separate cadre with adequate career prospects within the Internal Audit Department so that the members working therein may really feel free to report on the mistakes found in the documents of Custom Houses. In this connec-

tion the Committee would commend the pattern adopted by the Railways for the internal check of their transactions.

6.2. The Committee's review in respect of a limited field has, to their mind, been fully worth the additional effort and time they have had to spend. Review has brought out clearly that Government has not been attaching to the Committee's recommendations the importance, they deserve. The Committee regret this because the ignoring of them has led to continued inefficiency. The public interest has not been served.

ERA SEZHIYAN,

Chairman,

Public Accounts Committee.

NEW DELHI;

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