

THIRTIETH REPORT

PUBLIC ACCOUNTS COMMITTEE (1991-92)

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UNION EXCISE DUTIES—PRICE LISTS

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

*[Action taken on the 145th Report of Public Accounts Committee
(8th Lok Sabha)]*



*Presented to Lok Sabha on 30-4-1992
Laid in Rajya Sabha on 30-4-1992*

LOK SABHA SECRETARIAT
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PUBLIC ACCOUNTS COMMITTEE
(1991-92)

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2. **Shri S.C. Gupta** — ***Joint Secretary***
3. **Smt. Ganga Murthy** — ***Deputy Secretary***
4. **Shri K.C. Shekhar** — ***Under Secretary***

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Thirtieth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their 145th Report (Eighth Lok Sabha) on Union Excise Duties—Price Lists.

2. Expressing their dissatisfaction with the position of finalisation of ad valorem assessments with reference to submission and approval of price lists, the Committee in their earlier Report had recommended that the Ministry of Finance should look into the administrative lapses/ failures and establish a regular, methodical and more effective system of monitoring in order to ensure that the price lists are approved within the prescribed time limits, for taking suitable action against the officers for their lapses and also to adequately deal with the offences as provided in the law. In this Report, the Committee have noted that in pursuance of their recommendations, the Ministry of Finance have asked the Director General of Inspection to carry out 100 per cent checks of pending price lists and provisional assessments in a few selected Divisions of a few Central Excise Collectorates and analyse delayed cases for arriving at the reasons for the delay in their finalisation. According to the Ministry, on receipt of the requisite report appropriate measures would be considered keeping in view the recommendations of the Committee. Expressing their strong displeasure over the inordinate delay on the part of the Ministry to obtain the report from the Director General of Inspection with a view to evaluating the effectiveness of the monitoring and initiating appropriate follow-up action, the Committee have recommended that the work should be expeditiously completed so as to ensure timely finalisation of price lists and take effective measures against defaulters and offenders.

3. In their earlier report the Committee emphasised the need for incorporating suitable amendments to Section 4 of the Central Excises and Salt Act, 1944 so as to remove the ambiguities and making it simpler without waiting for the judgement of the Supreme Court in a pending case keeping in view the practical requirements and experience, modern conditions of production and sale of production and sale of manufactured goods. In this Report, the Committee have noted with regret that even after a period of three years of presentation of their report, the Ministry of Finance have not been able to initiate any concrete steps in the matter. Pointing out that application of the varying judgements of the courts to individual cases about the interpretation of Section 4 of the Central Excise and Salt Act, 1944 regarding determination of assessable

value was one of the main reasons causing delay in finalisation of *ad valorem* assessments, the Committee have reiterated their earlier recommendation and have desired that early steps should be taken to remove ambiguities and to make the law simpler.

4. In their earlier report, while examining a case of alleged evasion of duty of Rs. 2.94 crores by a cigarette manufacturer where retail prices were higher than the printed prices, the Committee had observed that about Rs. 1200 crores of revenue on account of central excise duty on cigarettes were locked up in courts/departmental adjudication on account of similar alleged evasion by another 10 manufacturers of cigarettes. The Committee had recommended that action initiated against the concerned manufacturers for the alleged evasion of duty on cigarettes should be vigorously pursued to its logical conclusion and no efforts should be spared to realise the legitimate dues of the Government. In this Report, the Committee have noted that adjudication proceedings were still in progress in all the 10 cases with the Director General of Inspection. Deploring the inordinate delay in pursuing these cases to their logical conclusions and expressing their severe displeasure over the matter, the Committee have reiterated their earlier recommendation and desired to be furnished with a detailed account of the progress in all these cases of adjudication right from the beginning to the latest stage in a chronological order.

5. The Report was considered and adopted by the Public Accounts Committee at their sitting held on 28 April, 1992. Minutes of the sitting form Part II* of the Report.

6. For facility of reference and convenience, the recommendations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in a consolidated form in Appendix I* of the Report.

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

NEW DELHI;

April 28, 1992

Vaisakha 8, 1914 (S)

ATAL BIHARI VAJPAYEE

*Chairman,
Public Accounts Committee.*

*Not appended with the cyclostyled copy.

CHAPTER I

REPORT

1.1 This Report of the Committee deals with the action taken by Government on the recommendations and observations contained in the Committees' 145th Report (Eighth Lok Sabha) on Paragraph 2.04 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 1987, No. 5 of 1988, Union Government (Revenue Receipts — Indirect Taxes) relating to Union Excise Duties — Price Lists.

1.2 The 145th Report which was presented to Lok Sabha on 2 April, 1989 contained 14 recommendations. Action taken notes have been received in respect of all the recommendations and these have been broadly categorised as follows:

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

Sl. Nos. 1 to 7, 10 and 14

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

Sl. Nos. 11 and 12

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

Sl. Nos. 8, 9 and 13

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

—Nil—

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

Irregularities in submission and approval of Price Lists

1.4 The Central Excise Rules, 1944 prescribe the manner of collection of duty and such duties mainly fell into two broad categories, viz., specific rates of duties and *ad valorem* rates of duties. Specific rates of duties are those where the rate of duty is fixed per unit, namely, number, weight, volume area. *Ad valorem* rates of duty are levied on the basis of the value of the article.

1.5 As per provisions of the Central Excise Rules, every manufacturer who manufacture excisable goods chargeable to duty *ad valorem* has to file

with the proper officer a price list in the prescribed form showing the price of each such goods and the trade discount, if any, allowed in respect thereof to the buyers alongwith such other particulars as the Central Board of Excise and Customs or the Collector may specify. Prior approval of the price list is required in certain specific cases only. The price lists submitted by the assesseees are required to be approved by the department within a period ranging from 15 days to three months. These time limits have been prescribed by executive instructions issued in 1976 which were reiterated on various subsequent occasions.

1.6 The 145th Report of the Public Accounts Committee (Eighth Lok Sabha) had revealed several procedural and other deficiencies/irregularities in respect of Central Excise *ad valorem* assessments with reference to the submission and approval of price lists. Broadly, the nature of the procedural and other deficiencies/irregularities were, delay in approval of price lists, clearance of excisable goods without filing of price list (duty involved Rs. 34.20 crores) clearance of excisable goods without getting price lists approved (duty involved Rs. 89.90 crores), delay in finalisation of provisional assessments (duty involved Rs. 349.08 crores), non-finalisation of cases where duty was paid under protest (duty involved Rs. 210.07 crores), non-filing of revised price lists/declarations (duty involved Rs. 3.40 crores), irregular permission granted for filing of price lists every month after the removal of excisable goods, sale of goods through related persons, non-filing of the price lists in the proper form (duty involved Rs. 27.48 lakhs) and a case of alleged evasion of duty by a cigarette manufacturer amounting to Rs. 2.94 crores.

1.7 Expressing their dissatisfaction with the present position of finalisation of the Central Excise *ad valorem* assessments, the Committee in paragraphs 21, 22, 29 and 44 of their 145th Report (Eighth Lok Sabha) had *inter alia* recommended that—

(1) the Ministry of Finance should look into the administrative lapses/failures and establish a regular, methodical and more effective system of monitoring in order to ensure that the price lists are approved within the prescribed time limits and take suitable action against the officers for their lapses;

(2) because the existing time limit of three months for approval of price lists is considered adequate by the Ministry, the monitoring mechanism should also review progress with reference to that period only and not six months as at present;

(3) the offences of clearance of excisable goods without filing of price lists and without getting prior approval, wherever necessary, should be dealt with adequately in accordance with the provisions of the Law and methodically monitored on a regular basis at a central level in the Board/Ministry;

(4) the reasons for the inefficient functioning of the valuation cells

should be analysed and corrective steps taken so that they can make meaningful contributions in the valuation of excisable commodities and thereby prompt finalisation of assessments.

1.8 In their action taken reply, the Ministry of Finance (Department of Revenue) *inter alia* stated :

“To ensure vigorous monitoring of the system, as desired by the Committee the Directorate General of Inspection has started calling for pendency reports with reference to period of three months instead of six months as earlier.

Director General of Inspection has been asked to carry out 100% checks of pending price lists and provisional assessments in a few selected Divisions of a few Central Excise Collectorates and analyse delayed cases for arriving at the reasons for the delay in their finalisation. On receipt of the requisite report appropriate measures would be considered keeping in view the above recommendations of the Committee”.

The Ministry added that the Director General of Inspection has also been asked to conduct a study for making the functioning of the valuation cells more effective and adequate remedial measures would be considered after receipt of the Report. The full reply of the Ministry is reproduced in Chapter II of the report.

1.9 Expressing their dissatisfaction with the position of finalisation of *ad valorem* assessments with reference to submission and approval of price lists, the Committee in their 145th Report (Eighth Lok Sabha) had recommended that the Ministry of Finance should look into the administrative lapses/failures and establish a regular, methodical and more effective system of monitoring in order to ensure that the price lists are approved within the prescribed time limits and for taking suitable action against the officers for the lapses. The Committee had also desired it to be ensured that the offences relating to the clearance of excisable goods without filing of price lists and without getting prior approval, wherever necessary, should be dealt with adequately in accordance with the provisions of the Law and monitored methodically on a regular basis, at a central level in the Board/Ministry. They had also recommended that the reasons for the inefficient functioning of the valuation cells should be analysed and corrective steps taken so that they can make meaningful contributions in the valuation of excisable commodities and thereby prompt finalisation of assessments. The Committee note that in pursuance of their recommendations, the Directorate General of Inspection has started calling for pendency reports with reference to a period of three months instead of six months as was done earlier. The Ministry of Finance have stated that the Director General of Inspection has been asked to carry out 100 per cent checks of pending price lists and provisional assessments in a few selected Divisions of a few Central Excise Collectorates and analyse delayed cases for

arriving at the reasons for the delay in their finalisation and also to conduct a study for making the functioning of the Valuation Cells more effective. According to the Ministry, on receipt of the requisite report, appropriate measures would be considered keeping in view the recommendations of the Committee. The Committee are surprised to note that even after the lapse of a considerable length of time, the Ministry of Finance have not able to obtain the report from the Director General of Inspection with a view to evaluating the effectiveness of the monitoring and initiating appropriate follow-up action. In the opinion of the Committee, a period of three years should have been more than sufficient for the job. Evidently, the Ministry have not taken up the task in right earnest. The Committee cannot but express their strong displeasure over the matter. They desire that the work should be expeditiously completed so as to ensure timely finalisation of price lists to be able to take effective measures against defaulters and offenders. The Committee would like to be informed of the conclusive action taken in the matter within a period of six months.

Valuation of Excisable Commodities

(Sl. Nos. 8 & 9, Paragraph 47 & 48)

1.10 Section 4 of the Central Excises and Salt Act, 1944 deals with the valuation of excisable goods for the purposes of charging the duty of excise in *ad valorem* assessments. The provisions of Section 4 have been interpreted by the Supreme Court in a series of judgements. Even now the issue has not been settled. A review petition filed by the department against the judgement of Supreme Court in one case (Madras Rubber Factory) is still pending.

1.11 Emphasising the need for removing the ambiguities and making the provisions of the Central Excise Law simpler in this behalf, the Committee in paragraphs 47 and 48 of the Report had recommended :

“The Committee take note of the situation arising out of the different judgements of the Supreme Court on the interpretation of Section 4 of the Central Excises and Salt Act, 1944 relating to valuation of excisable commodities. They, however, are not inclined to agree with the Ministry’s decision to wait till the final judicial pronouncement for removing the ambiguities and simplifying the law. The Committee would like the Ministry to examine the feasibility of incorporating suitable amendments to Section 4 so as to remove the ambiguities and make it simpler without waiting for the judgement of the Supreme Court in the pending case, keeping in view the practical requirements and experience, modern conditions of production and sale of manufactured goods.

The Committee would like to be informed of the outcome in the MRF Review Petition.”

1.12 In their action taken note the Ministry of Finance (Department of Revenue) stated :

“The matter is under examination of the Board.”

1.13 In their communication dated 1 April 1992, the Ministry stated that action in respect of the recommendation was being pursued.

1.14 Taking note of the situation arising out of the different judgements of the Supreme Court on the interpretation of Section 4 of the Central Excises and Salt Act, 1944 relating to valuation of excisable commodities, the Committee in their earlier report had emphasised the need for incorporating suitable amendments to Section 4 of the Central Excises and Salt Act, 1944 so as to remove the ambiguities and making it simpler without waiting for the judgement of the Supreme Court in a pending case. The Committee had desired it to be done keeping in view the practical requirements and experience, modern conditions of production and sale of manufactured goods. In their action taken note, the Ministry of Finance have merely stated that the matter was under the examination of the Board. The Committee regret to note that even after a period of three years of presentation of their report, the Ministry of Finance have not been able to initiate any concrete steps in the matter. As application of the varying judgements of the courts to individual cases about the interpretation of Section 4 of the Central Excises and Salt Act, 1944 regarding determination of assessable value was one of the main reasons causing delay in finalisation of *ad valorem* assessments, the Committee had emphasised the need for incorporating suitable amendments to Section 4. Unfortunately, Government have not appreciated the seriousness of the delay in finalisation of *ad valorem* assessments. The Committee, therefore, reiterate their earlier recommendation and desire that early steps should be taken to remove ambiguities and to make the law simpler.

Evasion of Excise duty on cigarettes

(Sl. No. 13, Paragraph 65)

1.15 While reviewing Central Excise *ad valorem* assessments with reference to submission and approval of price lists, in their 145th Report (Eighth Lok Sabha), the Committee had also examined a case of alleged evasion of duty of Rs. 2.94 crores by a cigarette manufacturer where retail prices were higher than the printed prices during the period March 1986 to February 1987. In that context, the Committee had noted that the department was expecting to collect about Rs. 1,200/- crores on account of similar alleged evasion of duty by 10 other cigarette manufacturers. The

matter was reported to be pending before Courts/adjudicating authorities. In this connection, the Committee in paragraph 65 of the Report recommended as follows :

"The Committee trust that the action initiated against the alleged evasion of excise duty on cigarettes, will be vigorously pursued to their logical conclusions and no efforts would be spared to realise the legitimate dues of the Government. The Committee would like to be apprised of further developments in each of these cases."

1.16 In their action taken note, the Ministry of Finance (Department of Revenue) stated as follows:

The requisite information is as under:

1. M/s. ITC Ltd , Calcutta
2. M/s. J.K. Cigarette Co., Jammu
3. M/s. G.T.C. Ltd., Bombay
4. Shri Chandra Tobacco Co.,
Hyderabad
5. M/s. G.T.C., Baroda
6. M/s. G.T.C., Baroda
7. M/s. Godfrey Phillips India
Bombay
8. M/s. Hilton Tobacco Co.,
Hyderabad
9. M/s. International Tobacco Co.
Ghaziabad
10. M/s. G.T.C. Ltd., Baroda
11. M/s. North East Tobacco Co.,
Gauhati.

Adjudication proceedings are in progress in all these cases with the Director General of Inspection

The Department has filed counter affidavit to the writ petition on 23.6.88 for vacation of stay order. No decision has yet been taken by the Court.

1.17 When asked to indicate the latest position in respect of the action taken, the Ministry of Finance in a communication No. 234/1/89-ex. 7 dated 1 April 1992 stated that action was being pursued.

1.18 In their earlier report, while examining a case of alleged evasion of duty of Rs. 2.94 crores by a cigarette manufacturer where retail prices were higher than the printed prices, the Committee had observed that about Rs. 1200 crores of revenue on account of central excise duty on cigarettes were locked up in courts/departmental adjudications on account of similar

alleged evasion by another 10 manufacturers of cigarettes. The Committee had recommended that action initiated against the concerned manufacturers for the alleged evasion of duty on cigarettes should be vigorously pursued to its logical conclusion and no efforts should be spared to realise the legitimate dues of the Government. In their action taken note, the Ministry of Finance have merely stated that adjudication proceedings were in progress in all the 10 cases with the Director General of Inspection. From the reply of the Ministry it is clear that even after the lapse of a period of three years since the matter was reported by the Committee, no head-way has so far been made in adjudicating those cases. Evidently, the matter is not being pursued in a manner in which cases of such alleged offences with their high revenue implications ought to be pursued which is a matter of great concern to the Committee. The Committee deplore, the inordinate delay in pursuing these cases to their logical conclusions and express their severe displeasure over the matter. They reiterate their earlier recommendation and desire to be furnished with a detailed account of the progress in all these cases of adjudication right from the beginning to the latest stage in a chronological order.

CHAPTER II

RECOMMENDATIONS AND OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendations

PARA 21: The Committee are not satisfied with the present position of finalisation of the Central Excise *ad valorem* assessments. The reasons of non-receipt of further details, chemical examiners report, invoices etc., attributed to the delays in approval of price lists, are not convincing because the existing time limits already taken into account such contingencies and sets of circumstances. The fact that the present time limits are found adequate enough by the Ministry and despite their repeated instructions to adhere to the prescribed lengths of time, a large number of Central Excise *ad valorem* assessments are pending beyond their stipulated periods, would clearly indicate that the quality of monitoring presently done at the levels of the Central Board of Excise and Customs/Collectors leaves a lot to be desired. The Committee need hardly point out that such administrative delays not only generate corruption but also lead to harrassment of assesseees. The Committee, therefore, recommend that the Ministry of Finance should look into the administrative lapses/failures and establish a regular, methodical and more effective system of monitoring in order to ensure that the price lists are approved within the prescribed time limits and take suitable action against the officers for their lapses. The Committee would like to have a detailed report on the systems improvement instituted and the latest position of finalisation of price lists.

PARA 22: The Committee also recommend that because the existing time limit of three months for approval of price lists is considered adequate by the Ministry, the monitoring mechanism should also review progress with reference to that period only and not six months as at present.

PARA 29: From the facts stated above it is abundantly clear that the offences of removal of excisable goods without filing price lists and clearances without getting prior approval of the price lists, wherever necessary, are, presently, not dealt with by the department in a manner as envisaged in the Central Excise Law. The explanation offered by the Ministry for not initiating adequate penal action in such cases by seeking to draw a distinction between cases with intention to defraud and without such intention has not been supported by relevant facts. Apparently, the existing system of records prevailing neither in the Collectoratees nor in the Board keep track of either such offences or the consequent penal action, if any, is launched and its results. The Committee are constrained to observe

that this is a highly unsatisfactory state of affairs which needs to be remedied. They recommend that the Ministry of Finance would look into the same and take suitable steps to ensure that the offences of clearance of excisable goods without filing price lists and without getting prior approval, wherever necessary, would be dealt with adequately in accordance with the provisions of the Law and it should be methodically monitored on a regular basis at a central level in the Board/Ministry.

[S. Nos. 1 to 3 of Appendix II (Paras 21, 22 and 29) to 145th Report of PAC (Eight Lok Sabha)]

Action Taken

To ensure vigorous monitoring of the system, as desired by the Committee the Directorate General of Inspection has started calling for pendency reports with reference to period of three months instead of six months as earlier.

Director General of Inspection has been asked to carry out 100% checks of pending price lists and provisional assessments in a few selected Divisions of a few Central Excise Collectorates and analyse delayed cases for arriving at the reasons for the delay in their finalisation. On receipt of the requisite report appropriate measures would be considered keeping in view the above recommendations of the Committee.

Information received so far relating to present tendency position of price lists, from Collectorates is enclosed at Annexure 'A'.

[Ministry of Finance (Department of Revenue) letter No. 234/1/89—ex. 7 dated 13/17 October 1989]

**PENDENCY POSITION OF PRICE LISTS WITH BREAK-UP
AS ON 31.3.89 & 31.7.89**

Sl. No.	Name of the Collectorate	31.3.1989					31.7.1989				
		0-3 months	3-6 months	6-12 months	over one year	Total	0-3 months	3-6 months	6-12 months	over one year	Total
1.	New Delhi	942	27	—	—	969	1533	12	—	—	1545
2.	Nagpur	30	20	Nil	Nil	50	64	—	—	—	64
3.	Indore	331	40	6	—	377	252	13	6	—	271
4.	Madras	853	48	Nil	Nil	901	758	71	Nil	Nil	829
5.	Bangalore	1447	Nil	Nil	Nil	1447	1259	Nil	Nil	Nil	1259
6.	Belgaum	92	—	—	—	92	Not given				
7.	Coimbatore	276	2	—	—	278	437	—	—	—	437
8.	Aurangabad	No price list pending approval for more than 3 months									
9.	Rajkot	—do—									
10.	Ahmedabad	625	19	190	478	1312	700	14	205	478	1397
11.	Chandigarh	71	2	—	—	73	100	—	—	—	100
12.	Cochin	114	—	—	—	114	30	—	—	—	30
13.	Vadodara	95	—	—	—	95	95	—	—	—	95
14.	Trichy	204	—	—	—	204	106	—	—	—	106
15.	Madurai	15	5	—	—	20	22	—	1	—	23
16.	Jaipur	527	104	—	—	631	881	569	—	—	1450
17.	Allahabad	44	34	59	47	184	98	50	17	10	175
18.	Bombay-I	1892	87	—	—	1979	—	68	price lists were pending approval for more than 3 months.		
19.	Goa	46	—	2	—	48	39	—	—	—	39
20.	Kanpur	76	12	1	—	83	100	3	—	—	103
21.	Patna	493	257	69	24	843	713	227	131	13	1084
22.	Hyderabad.	525	1	—	19	545	446	3	—	14	463
23.	Pune	358	—	—	—	358	259	7	Nil	Nil	266
24.	Shillong	106	91	55	22	274	123	72	32	1	228

1	2	3	4	5	6	7	8	9	10	11	12
25.	Calcutta-II	2631	1272	Nil	Nil	3903	—————	Not given	—————		
26.	Bombay-II	3157	—	—	—	3157	4266	69	—	—	4331
27.	Bhubaneswar	332	1	—	—	333	375	236	—	—	611
28.	Meerut	2095	29	—	2	2126	2468	—	—	—	2468

Recommendation

The Committee would further like to have a detailed report on the penal action taken and penalties imposed on cases of violations reported in the Report of C&A.G. in respect of clearances of excisable goods without filing price lists and clearances without getting prior approval of price lists. The Committee consider it unfortunate in this connection that steps were not taken by the Ministry to collect details of cases commented by the C&A.G. until the Committee inquired and called for clarification. The Committee consider such reluctant action as quite inconsistent with the responsibility that the Ministry is expected to discharge on the findings of Audit.

[S. No. 4 of Appendix II (para 30) to 145th Report of PAC (Eighth Lok Sabha)]

Action Taken

Prior to the receipt of this P.A.C. Report in April, 1989, the Office of C&A.G was requested in January 1989 and subsequently reminded in March, 1989 to furnish Collectorate-wise details of 6678 cases of removal of excisable goods without filing the price lists as mentioned in para 2.04(iii) of the audit Report for the year ended 31.3.1987. As no information was received, on receipt of the P.A.C. report, the matter was again taken up with the office of the C&A.G. in April, 1989. So far details of cases in respect of 7 Central Excise Collectorates have been received. The requisite information was called for on these cases from the concerned collectorates. The information so far has been received in respect of 6 Collectorates and it is enclosed at Annexure - 'B'.

[Ministry of Finance (Department of Revenue) letter No. 234/1/89—ex. 7 dated 13/17 October 1989]

Details of cases of removal of Excisable Goods without approval of price lists as mentioned in para 2.04(iii) of the Audit Report for the year ended 31.3.1987

Sl. No.	Name of Collectorate.	No. of Offence cases.	No. of offence cases booked	No. of cases where penalty was imposed	Amount of penalty	Reasons for not booking the offence cases
1	2	3	4	5	6	7
1.	Cochin	9	2	1	Rs. 100/-	Out of 9 cases, in 2 cases offence cases were booked. In remaining cases there was no <i>prima facie</i> case to book offence case.
2.	Bhubaneswar	5	—	—	—	There was no <i>prima facie</i> case to book offence in these cases.
3.	Coimbatore	6	3	3	400/-	In remaining 3 cases, there was no <i>prima facie</i> case to book offence cases.
4.	Madras	4	1	1	50/-	In three cases the price lists were filed by the assesses in time. These cases have also been settled by CERA.
5.	Madurai	2	—	—	—	Demand was raised and recovered and no separate offence case was booked.
6.	Jaipur	67	53	—	—	Out of the 67 cases, 53 pertain to one assessee and the offence case has been booked against the assessee. In two cases, the price list was filed in time. In remaining cases, no offence case was booked as the units were not in habit of removing goods without prior approval of price lists and as there was no change in the prices claimed by the assessee and approved by the Department.

Recommendation

The Committee have time and again emphasised the need for prompt finalisation of cases of provisional assessments. They regret to note that even now a large number of cases involving substantial revenue are pending finalisation beyond the stipulated period. The Ministry of Finance have attributed the pendency mainly to the linking of issues with the Court cases or appeals filed in Tribunal. However, on a scrutiny of the break-up of the total 799 cases outstanding for more than six months, it is seen that only 239 cases are pending with Courts and Tribunal etc. Evidently, majority of the cases are held up due to the departmental delays only. Obviously, the instructions issued by the Board to the Collectorates have not made any perceptible impact. The Committee deplore this. They desire that the Ministry of Finance should adopt a serious attitude and enquire into the reasons for the delay and take effective steps in order to ensure timely finalisation of provisional assessments.

[S. No. 5 of Appendix II (para 39) to 145th Report of PAC (Eighth Lok Sabha)]

Action Taken

The policy is that recourse to provisional assessments is to be had only in exceptional situations.

To reduce the pendency of provisional assessment cases by vigorous monitoring of the pendency, the Director General of Inspection will now be calling for pendency reports with reference to period of three months instead of six months as earlier.

In addition to above as mentioned in reply to recommendations contained in para 21, 22 and 29 Director General of Inspection has been asked to carry out 100% checks of pending price lists and provisional assessments in a few selected divisions of a few Central Excise Collectorates and analyse delayed cases for arriving at the reasons for the delay in their finalisation. On receipt of the requisite report appropriate measures would be taken to liquidate any avoidable pendency noticed in provisional assessment cases.

[Ministry of Finance (Department of Revenue) letter No. 234/1/89—ex. 7 dated 13/17 October 1989]

Recommendation

The Audit paragraph also highlights, certain other irregularities relating to filing and approval of price lists. They are non-finalisation of cases where duty was paid under protest (duty involved Rs. 210.07 crores), non-filing of revised price lists/declarations' (duty involved Rs. 3.40 crores), irregular permission granted for filing of price lists every month after the

removal of excisable goods, sale of goods through related persons and non-filing of the price list in the proper form (duty involved Rs. 27.43 lakhs).

The Committee would like to have a further report indicating the latest position and the system improvement effected in the above mentioned areas of deficiencies.

[S. No. 6 of Appendix II (para 41) to 145th Report of PAC (Eighth Lok Sabha)]

Action Taken

Ministry's reply to the recommendation contained in para 21, 22 & 29 may please be seen.

The present position of these cases is given at Annexure 'C'.

[Ministry of Finance (Department of Revenue) letter No. 234/1/89—ex. 7
dated 13/17 October 1989]

Latest position of non-finalisation of cases where —

Sl. No.	Collectorate	Duty paid under protest.	Non-filing of revised price lists.	Irregular permission granted for filing price lists after removal of excisable goods.	Sale of goods through related persons and non-filing of price lists in proper form
1.	Bangalore	Nil	Nil	Nil	—
2.	Nagpur	Nil	Nil	Nil	Nil
3.	Indore	Nil	Nil	Nil	Nil
4.	Vadodara	3	Nil	Nil	Nil
5.	Belgaum	Nil	Nil	Nil	Nil
6.	Chandigarh	3	Nil	Nil	Nil
7.	Bombay-III	6	Nil	Nil	Nil
8.	Cochin	Nil	—	—	—
9.	Coimbatore	Nil	Nil	—	1
10.	Rajkot	Nil	—	—	—
11.	Guntur				
12.	Bolpur	11	—	—	—
13.	Trichy	4	—	—	—
14.	Pune	Nil	Nil	Nil	Nil
15.	Calcutta-II				
16.	Aurangabad	4	—	—	—
17.	Madurai				
18.	Ahmedabad	1	—	—	—
19.	Bombay-II				
20.	Goa	—	—	Nil	—
21.	Jaipur	Nil	Nil	Nil	Nil
22.	Delhi				
23.	Bhubaneswar	5	—	—	—
24.	Bombay-I	Nil	Nil	Nil	Nil
25.	Madras	2	—	—	—
26.	Kanpur	—	—	—	—
27.	Patna				
28.	Hyderabad	1	Nil	Nil	1
29.	Shillong	3			
30.	Calcutta-I	Nil	Nil	Nil	Nil
31.	Meerut				
32.	Allahabad	Nil	Nil	Nil	Nil

Recommendation

The Committee are unhappy about the dismal performance of the Valuation Cells. Evidently, the Cells have not produced tangible results commensurate with the expenditure incurred on them. The Committee, therefore, recommend that the Ministry of Finance should analyse the reasons for the inefficient functioning of the Valuation Cells and take corrective steps so that they make meaningful contributions in the Valuation of excisable commodities and thereby prompt finalisation of assessments.

[S. No. 7 of Appendix II (para 44) to 145th Report of PAC (Eighth Lok Sabha)]

Action Taken

The purpose of having the Valuation Cells is to provide a second level checking of all the Price Lists approved at the Divisional level and suggest rectificatory measures. To make the function of the Cell more meaningful the Director General of Inspection has been asked to conduct a study and after receipt of the report adequate remedial measures would be considered.

[Ministry of Finance (Department of Revenue) letter No. 234/1/89—cx. 7
dated 13/17 October 1989]

Recommendation

The Committee further note that 70% of the Central Excise revenue is currently being earned in terms of specific rates of duty. It has also been brought to the notice of the Committee that administration was simpler and less complicated in the case of specific rates of duty. The Committee trust that shifting from *ad valorem* rates to specific rates will be carried out with utmost caution so that the all important consideration of revenue is not lost sight of in the process.

[S. No. 10 of Appendix II (Para 49) to 145th Report of PAC (Eight Lok Sabha)]

Action Taken

The recommendation of the Committee has been noted.

[Ministry of Finance (Department of Revenue) letter No. 234/1/89-ex. 7 dated 13/17 October 1989]

Recommendation

The Committee hope that Government would come forward with legislation at the earliest to check accrual of unintended/fortuitous benefits to manufacturers of excisable commodities arising out of refund of excise duty. They desire to be informed of the further action taken in the matter,

[S. No. 14 of Appendix II (Para 69) to 145th Report of PAC (Eighth Lok Sabha)]

Action Taken

The proposed legislation covering, *inter-alia*, the subject point relating to unintended/fortuitous benefits to manufacturer of excisable goods arising out of refund of excise duty, is under process. Some discussions have already been held with the Ministry of Law.

[Ministry of Finance (Department of Revenue) letter No. 234/1/89-ex. 7 dated 13/17 October 1989]

Further Action taken

In this regard a Bill has been introduced in the Parliament on 22nd August, 1991.

[Ministry of Finance (Department of Revenue) O.M. No. 234/1/89-ex. 7 dated 21/24 October 1991]

CHAPTER III

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

Recommendation

The Committee recommend that the inquiry be completed and action initiated expeditiously to realise the duty and other dues. They trust that even though the factory is not operating now, necessary steps would be taken to recover the governmental dues from the main company on whose behalf they were operating and/or otherwise concerned. The Committee would like to be apprised of the further developments.

[S. No. 11 of Appendix II (Para 55) to 145th Report of PAC (Eighth Lok Sabha)]

Action Taken

As already reported Director General (Anti-Evasion) was asked to conduct further investigation in the matter. The Directorate of Anti-Evasion and the position which is self-explanatory reported by the Directorate is reproduced below:—

- (i) The NETCO manufactured 'Panama Virginia' brand of cigarette as job work for G.T.C. It did not market the cigarette, the same being done by G.T.C's marketing arrangements. Therefore, the assessee has not sold the cigarettes at prices higher than printed on the packet, as alleged in the audit para. Sales at higher prices were made by the retail trade.
- (ii) We have enquired whether the manufacturer had a hand in and was involved in retail sale at prices higher than the printed prices. Enquiries have not brought out any material to substantiate such a charge.
- (iii) It has been ascertained from the Collector, Central Excise, Shillong that they had searched the assessee and its dealers in 1985 (during which period also the cigarettes were being assessed on the declared prices on packets). The Collectorate has confirmed that subsequently also records of the assessee have been checked from time to time, the last such check was done on January, 1989. These checks have not unearthed materials which substantiate the charge that the assessee caused the sale of the cigarettes at prices higher than the printed price.

- (iv) G.T.C., whose brand of cigarette, namely 'Panama Virginia' was being manufactured by the assessee had been searched by this Directorate in January 1986 but no materials to substantiate the charge mentioned in the audit para had been found. Show cause notice on other charges have been found. Show cause notice on other charges have been issued to G.T.C. and several other parties.

In view of the above said report no further action is considered necessary.

[Ministry of Finance (Department of Revenue) letter No. 234/1/89-ex. 7 dated 13/17 October 1989]

Recommendation

The Committee cannot but observe that irrespective of its outcome in the court of law, the amount of penalty imposed by the adjudicating authority in the present case was not proportionate with the extent of the alleged evasion of duty. The Ministry of Finance have justified the adequacy of the amount of penalty on the ground that it was the maximum that could be awarded under the existing provisions of the Central Excise Law. The Committee are greatly surprised over this. They are constrained to observe that imposition of such minor penalties would in no way act as a deterrent to evasion of duty. The Committee would, therefore, like Government to define a more meaningful relationship in the Central Excise law between the quantum of penalty and the extent of violation so that it acts as a strong deterrent to evasion of central excise duty.

[S. No. 12 of Appendix II (Para 62) to 145th Report of PAC (Eighth Lok Sabha)]

Action Taken

The Committee had already been informed in reply to Question No. 15(d) of the list of questions arising out of evidence on paragraph 2.04 of the C&A G report for the year ending 31.3.87, that necessary provisions have already been made in the Central Excise law by adding rule 209A in the Central Excise Rules, 1944. Rule 209A is reproduced below:—

Rule 209A: Penalty for certain offences.—Any person who acquires possession of, or is in any way concerned in transporting, removing, depositing, keeping, concealing, selling or purchasing, or in any other manner deals, with, any excisable goods which he knows or has reasons to believe are liable to confiscation under the Act or these rules, shall be liable to a penalty not exceeding three times the value of such goods or five thousand rupees, whichever is, greater.

[Ministry of Finance (Department of Revenue) letter No. 234/1/89-ex. 7 dated 13/17 October 1989]

CHAPTER IV

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

Recommendation

The Committee take note of the situation arising out of the different judgements of the Supreme Court on the interpretation of Section 4 of the Central Excises and Salt Act, 1944 relating to valuation of excisable commodities. They, however, are not inclined to agree with the Ministry's decision to wait till the final judicial pronouncement for removing the ambiguities and simplifying the law. The committee would like the Ministry to examine the feasibility of incorporating suitable amendments to Section 4 as to remove the ambiguities and make it simpler without waiting for the judgement of the Supreme Court in the pending case, keeping in view the practical requirements and experience, modern conditions of production and sale of manufactured goods.

The Committee would like to be informed of the outcome in the M.R.F. Review Petition.

[S.Nos. 8 & 9 of Appendix II (Paras 47 & 48) to 145th Report of PAC
(Eight Lok Sabha)]

Action Taken

The matter is under examination of the Board.

[Ministry of Finance (Department of Revenue) letter No. 234/1/89-cx. 7
dated 13/17 October 1989]

Recommendation

The Committee trust that the action initiated against the alleged evasion of excise duty on cigarettes will be vigorously pursued to their logical conclusions and no efforts would be spared to realise the legitimate dues of the Government. The Committee would like to be apprised of further developments in each of these cases.

[S.No. 13 of Appendix II (Para 65) to 145th Report of PAC (Eight Lok
Sabha)]

Action Taken

The requisite information is as under:—

1. M/s ITC Ltd., Calcutta
2. M/s J.K. Cigarette Co., Jammu
3. M/s G.T.C. Ltd., Bombay
4. Shri Chandra Tobacco Co., Hyderabad
5. M/s G.T.C., Baroda
6. M/s G.T.C., Baroda
7. M/s Godfrey Philips India, Bombay
8. M/s Hilton Tobacco Co., Hyderabad
9. M/s International Tobacco Co.,
Ghaziabad.
10. M/s G.T.C. Ltd., Baroda.
11. M/s North East Tobacco Co., Gauhati.

Adjudication proceedings are in progress in all these cases with the Director General of Inspection.

The Department has filled counter affidavit to the writ petition on 23.6.88 for vacation of stay order. No decision has yet been taken by the Court.

[Ministry of Finance (Department of Revenue) letter No. 234/1/89-ex. 7 dated 13/17 October 1989]

CHAPTER V

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

-NIL-

NEW DELHI;
April 28, 1992

Vaisakha 8, 1914(S)

ATAL BIHARI VAJPAYEE
Chairman

Public Accounts Committee

PART II

MINUTES OF THE 21ST SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON 28 APRIL, 1992

The Committee sat from 1000 hrs. to 1100 hrs. on 28 April, 1992.

PRESENT

CHAIRMAN

Shri Atal Bihari Vajpayee

MEMBERS

Lok Sabha

2. Shri Girdhari Lal Bhargava
3. Shri Nirmal Kanti Chatterjee
4. Shri Arvind Netam
5. Shri Kashiram Rana
6. Shri R. Surender Reddy
7. Shrimati Krishna Sahi
8. Shri Pratap Singh

Rajya Sabha

9. Shri Dipen Ghosh
10. Shri H. Hanumanthappa
11. Shri Vishvjit P. Singh
12. Shri Ish Dut Yadav

SECRETARIAT

1. Shri G.L. Batra — *Additional Secretary*
2. Shri S.C. Gupta — *Joint Secretary*
3. Smt. Ganga Murthy— *Deputy Secretary*
4. Shri K.C. Shekhar — *Under Secretary*

REPRESENTATIVES OF AUDIT

1. Shri N. Sivasubramaniam - ADAI (Reports)
2. Shri A.K. Menon - ADAI (Air Force & Navy and Ordnance Factories)
3. Shri A.K. Banerjee - Pr. Director (Reports)
4. Shri P.K. Bandhopadhyay - Pr. Director (Indirect Taxes)
5. Shri S.C. Anand - Director General of Audit (P&T)
6. Shrimati Sudershana Talpatra - Director of Audit, Defence Services.

2. The Committee took up for consideration the following draft Reports:

(i) xx xx xx xx

(ii) xx xx xx xx

(iii) Union Excise Duties - Price Lists Action Taken on the 145th Report of Public Accounts Committee (8th Lok Sabha).

(iv) xx xx xx xx

(v) xx xx xx xx

3. The Committee adopted the draft Reports at (i), (iii) and (iv) above with certain modifications as shown in Annexures I*, II and III* respectively. xx xx xx

4. The Committee authorised the Chairman to present the Reports to the House after incorporating therein modifications/amendments arising out of factual verification by Audit

The Committee then adjourned.

ANNEXURE II

AMENDMENTS/MODIFICATIONS MADE BY THE PUBLIC ACCOUNTS COMMITTEE IN THE DRAFT REPORT ON ACTION TAKEN ON 145TH REPORT (8TH LOK SABHA) RELATING TO UNION EXCISE DUTIES — PRICE LISTS AT THEIR SITTING HELD ON 28 APRIL, 1992 .

Page	Para	Line	Amendments/Modifications
1	2	3	4
3	1.7	2 from bottom	<i>Substitute</i> “and 29” by “29 and 44”
4	1.7		<i>Add</i> the following above para 1.8 “(4) the reasons for the inefficient functioning of the valuation cells should be analysed and corrective steps taken so that they can make meaningful contribution in the valuation of excisable commodities and thereby prompt finalisations of assessments”
4	1.8	2 from bottom	<i>Add</i> “The Ministry added that the Director General of Inspection has also been asked to conduct a study for making the functioning of the valuation cells more effective and adequate remedial measures would be considered after receipt of the Report” before “The fully reply”
5	1.9	17	<i>Add</i> “They had also recommended that the reasons for the inefficient functioning of the valuations cells should be analysed and corrective steps taken so that they can make meaningful contributions in the valuation of excisable commodities and thereby prompt finalisation of assessments” before “The Committee”
6	1.9	2	<i>Add</i> “and also to conduct a study for making the functioning of the valuation cells more effective” after “finalisation”

1	2	3	4
6	1.9	13	<i>Delete</i> "its"
6	1.9	17	<i>Substitute</i> "and" by "to be able to"
6	1.9	1-3 from bottom	<i>Delete</i> "They also price lists"
11	1.18	12	<i>Substitute</i> "their logical conclusions" by "its logical conclusion"

APPENDIX

Conclusions/Recommendations

S. No.	Para No.	Ministry/ Deptt. Concerned	Conclusions/Recommendations
1	2	3	4
1	1.9	Ministry of Finance (Deptt. of Revenue)	Expressing their dissatisfaction with the position of finalisation of <i>ad valorem</i> assessments with reference to submission and approval of price lists, the Committee in their 145th Report (Eighth Lok Sabha) had recommended that the Ministry of Finance should look into the administrative lapses/failures and establish a regular, methodical and more effective system of monitoring in order to ensure that the price lists are approved within the prescribed time limits and for taking suitable action against the officers for the lapses. The Committee had also desired it to be ensured that the offences relating to the clearance of excisable goods without filing of price lists and without getting prior approval, wherever necessary, should be dealt with adequately in accordance with the provisions of the Law and monitored methodically on a regular basis at a central level in the Board/Ministry. They had also recommended that the reasons for the inefficient functioning of the valuation cells should be analysed and corrective steps taken so that they can make meaningful contributions in the valuation of excisable commodities and thereby prompt finalisation of assessments. The Committee note that in pursuance of their recommendations, the Directorate General of Inspection has started calling for pendency reports with reference to a

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period of three months instead of six months as was done earlier. The Ministry of Finance have stated that the Director General of Inspection has been asked to carry out 100 per cent checks of pending price list and provisional assessments in a few selected Divisions of a few Central Excise Collectorates and analyse delayed cases for arriving at the reasons for the delay in their finalisation and also to conduct a study for making the functioning of the Valuation Cells more effective. According to the Ministry, on receipt of the requisite report, appropriate measures would be considered keeping in view the recommendations of the Committee. The Committee are surprised to note that even after the lapse of a considerable length of time, the Ministry of Finance have not able to obtain the report from the Director General of Inspection with a view to evaluating the effectiveness of the monitoring and initiating appropriate follow-up action. In the opinion of the Committee, a period of three years should have been more than sufficient for the job. Evidently, the Ministry have not taken up the task in right earnest. The Committee cannot but express their strong displeasure over the matter. They desire that the work should be expeditiously completed so as to ensure timely finalisation of price lists to be able to take effective measures against defaulters and offenders. The Committee would like to be informed of the conclusive action taken in the matter within a period of six months.

2 1.14 Ministry
of
Finance
Deptt. of
Revenue)

Taking note of the situation arising out of the different judgements of the Supreme Court on the interpretation of Section 4 of the Central Excises and Salt Act, 1944 relating to valuation of excisable commodities, the Committee in their earlier report had emphasised the need for incorporating suitable amendments to Section 4 of the Central Excises and Salt Act, 1944 so as to remove the ambiguities and making it simpler

1	2	3	4
			<p>without waiting for the judgement of the Supreme Court in a pending case. The Committee had desired it to be done keeping in view the practical requirements and experience, modern conditions of production and sale of manufactured goods. In their action taken note, the Ministry of Finance have merely stated that the matter was under the examination of the Board. The Committee regret to note that even after a period of three years presentation of their report, the Ministry of Finance have not been able to initiate any concrete steps in the matter. As application of the varying judgements of the courts to individual cases about the interpretation of Section 4 of the Central Excises and Salt Act, 1944 regarding determination of assessable value was one of the main reasons causing delay in finalisation of <i>ad valorem</i> assessments, the Committee had emphasised the need for incorporating suitable amendments to Section 4. Unfortunately, Government have not appreciated the seriousness of the delay in finalisation of <i>ad valorem</i> assessments. The Committee, therefore, reiterate their earlier recommendation and desire that early steps should be taken to remove ambiguities and to make the law simpler.</p>
3	1.18	Ministry of Finance Deptt. of Revenue)	<p>In their earlier report, while examining a case of alleged evasion of duty of Rs. 2.94 crores by a cigarette manufacturer where retail prices were higher than the printed prices, the Committee had observed that about Rs. 1200 crores of revenue on account of central excise duty on cigarettes were locked up in courts/departmental adjudications on account of similar alleged evasion by another 10 manufacturers of cigarettes. The Committee had recommended that action initiated against the concerned manufacturers for the alleged evasion of duty on cigarettes should be vigorously pursued to its logical conclusion and no efforts should be spared to realise the legitimate dues</p>

1	2	3	4
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of the Government. In their action taken note, the Ministry of Finance have merely stated that adjudication proceedings were in progress in all the 10 cases with the Director General of Inspection. From the reply of the Ministry it is clear that even after the lapse of a period of three years since the matter was reported by the Committee, no headway has so far been made in adjudicating those cases. Evidently, the matter is not being pursued in a manner in which cases of such alleged offences with their high revenue implications ought to be pursued which is a matter of great concern to the Committee. The Committee deplore, the inordinate delay in pursuing these cases to their logical conclusions and express their severe displeasure over the matter. They reiterate their earlier recommendation and desire to be furnished with a detailed account of the progress in all these cases of adjudication right from the beginning to the latest stage in a chronological order.