

**SIXTY-SEVENTH REPORT**  
**PUBLIC ACCOUNTS COMMITTEE**  
**(1981-82)**  
  
**(SEVENTH LOK SABHA)**

UNION EXCISE DUTIES—SEMI FINISHED STEEL  
PRODUCTS AND DEEDI WORKERS' WELFARE CESS

**MINISTRY OF FINANCE**  
**(DEPTT. OF REVENUE)**



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

**LOK SABHA SECRETARIAT**  
**NEW DELHI**

*December, 1981/Agrahavana, 1983 (Saka)*  
*Price : Rs. 3.00*

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

### ANDHRA PRADESH

1. Andhra University General Co-operative Stores Ltd., Waltair (Visakhapatnam).

### BIHAR

2. M/s. Crown Book Depot, Upper Bazar, Ranchi (Bihar).

### GUJARAT

3. Vijay Stores, Station Road, Anard.

### MADHYA PRADESH

4. Modern Book House, Shiv Volas Palace, Indore City.

### MAHARASHTRA

5. M/s. Sunderdas Gianchand, 601, Girgaum Road, near Princess Street, Bombay-2.
6. The International Book House Pvt., 9, Ash Lane, Mahatma Gandhi Road, Bombay-1.
7. The International Book Service, Deccan Gymkhana, Poona-4.
8. The Current Book House, Maruti Lane, Raghunath Dadaji Street, Bombay-1.
9. M/s. Usha Book Depot, 585/A, Chira Bazar Khan House, Girgaum Road, Bombay-2.

10. M & J Services, Publishers, Representatives Accounts & Law Book Sellers, Bahri Road, Bombay-15.

11. Popular Book Depot, Dr. Bhadkamkar Road, Bombay-400001.

### mysore

12. M/s. Peoples Book House, Opp. Jaganmohan Palace, Mysore-1.

### UTTAR PRADESH

13. Law Book Company, Sardar Patel Marg, Allahabad-1.

14. Law Publishers, Sardar Patel Marg, P.B. No. 77, Allahabad—U.P.

### WEST BENGAL

15. Granthaloka, 5/1, Ambica Mookherjee Road, Belgharia, 24-Parganas.

16. W. Newman & Company Ltd., 3, Old Court House Street, Calcutta.

17. Mrs. Manimala, Buys & Sells, 128, Bow Bazar Street, Calcutta-12.

### DELHI

18. Jain Book Agency, Connaught Place, New Delhi.

19. M/s. Sat Narain & Sons, 3141, Mohd. Ali Bazar, Mori Gate, Delhi

20. Atma Ram & Sons,  
Kashmere Gate,  
Delhi-6.
21. J. M. Jaina & Brothers,  
Mori Gate, Delhi.
22. The English Book Store,  
7-L, Connaught Circus,  
New Delhi.
23. Bahree Brothers,  
188, Lajpatrai Market,  
Delhi-6.
24. Oxford Book & Stationery  
Company, Scindia House,  
Connaught Place,  
New Delhi-1.
25. Bookwell,  
4, Sant Narankari Colony,  
Kingsway Camp,  
Delhi-9.
26. The Central News Agency,  
23/90, Connaught Place,  
New Delhi.
27. M/s. D. K. Book Organisations,  
74-D, Anand Nagar (Inder Lok),  
P.B. No. 2141,  
Delhi-110035.
28. M/s. Rajendra Book Agency,  
IV-D/50, Lajpat Nagar,  
Old Double Storey,  
Delhi-110024.
29. M/s. Ashoka Book Agency,  
2/27, Roop Nagar,  
Delhi.
30. Books India Corporation,  
B-967, Shastri Nagar,  
New Delhi.

CORRIGENDA TO 67TH REPORT OF THE PUBLIC  
ACCOUNTS COMMITTEE (7TH LOK SABHA).

<u>Page</u>	<u>Para No</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
(vi)	8	25	II	XI
(vi)	8	27	.	,
3	1.6	5	and	add
5	1.11	17	them	then
6	1.13	8	the	are
7	1.18	28	allowed	allowed
7	1.18	31	txemption	exemption
7	1.18	32	categoryy	category
7	1.19	43	tht	the
8	1.19	3	notification	notification
8	1.19	7	licenses	licensees
8	1.20	32	o	a
8	1.20	32	exerciset	exercise
9	1.22	8	Committet	Committee
9	1.22	12	surprilsing	surprising
9	1.22	19	actuol	actual
10	1.24	1	2.00	200
10	1.24	7	owended	amended
19	1.47	10	Fanance	Finance
20	1.49	12	Gobernment	Government
20	1.49	24	Subscuently	Subsequently
20	1.49	29	jolicies	policies
20	1.50	2	secre	secret
21	1.51	1	nstructions	instructions
21	1.52	12	committree	Committee
23	2.7	12	war-house	warehouse
24	2.9	3	state	stated
57	-	1	APPENDIV	APPENDIX
57	Col.2	1	1.15	1.18
58	Col.4	2	licences	licensees
62	Col.4	1	semi	semis
68	Col.4	6	dtal	deal
71	Col. 1 & 2		212.25	21 in Col.1 & 2.25 in Col 2

## CONTENTS

	PAGE
COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE . . . . .	(iii)
INTRODUCTION . . . . .	(v)
REPORT . . . . .	I
<b>APPENDICES</b>	
I. Ministry of Finance, Department of Revenue & Banking Notification No. 152/77-CE dated 18-6-77 . . . . .	32
II. Ministry of Finance Department of Revenue & Banking Notification No. 235/77-CE dated 15-7-77 . . . . .	34
III. Ministry of Finance (Department of Revenue) Notification No. 15/79 dated 20-1-1979 . . . . .	35
IV. Ministry of Finance (Department of Revenue) Notification No. 161/79-CE dated 9-4-1979 . . . . .	39
V. Ministry of Finance (Department of Revenue) Telex F. No. 139/2/78-CX4 dated 22-1-1979 . . . . .	40
VI. Ministry of Finance (Department of Revenue) letter No. 139/2/7-8-CX4 dated 19-2-1981 . . . . .	42
VII. Ministry of Law, Justice & Company Affairs (Department of Legal Affairs) Note dated 3-12-1981 . . . . .	44
VIII. Statement showing the details of cases where the assessee availed of the benefit of exemption under notification dated 20-1-79 . . . . .	49
IX. Statement showing the receipt and disposal of draft Audit Paragraphs . . . . .	52
X. Ministry of Finance (Department of Expenditure) (O.M. No. 32(9)-EGI/60 dated 3-6-60 . . . . .	56
XI. Conclusions and Recommendations . . . . .	57

### PART II\*

Minutes of the sittings of the Committee held on the 22nd, 24th October, 1981 (AN) and 10th December, 1981 (AN)

---

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

# **PUBLIC ACCOUNTS COMMITTEE**

**(1981-82)**

## **CHAIRMAN**

**Shri Satish Agarwal**

## **MEMBERS**

### *Lok Sabha*

2. Shri Subhash Chandra Bose Alluri
3. Shri Tridib Chaudhuri
4. Shri K. P. Singh Deo
5. Shri George Fernandes
6. Shri Mahavir Prasad
7. Shri Ashok Gehlot
8. Shri Sunil Maitra
9. Shri Gargi Shankar Mishra
10. Shri M. V. Chandrashekara Murthy
11. Shri Ahmed Mohammed Patel
12. Shri Hari Krishna Shastri
13. Shri Satish Prasad Singh
14. Shri Jagdish Tytler
15. Shri K. P. Unnikrishnan

### *Rajya Sabha*

16. Smt. Purabi Mukhopadhyay
17. Shri N. K. P. Salve
18. Shri Tirath Ram Amla
19. Smt. Maimoona Sultan
20. Shri Patitpaban Pradhan
21. Prof. Rasheeduddin Khan
22. Shri Indradeep Sinha.

## **SECRETARIAT**

1. Shri H. G. Paranjpe—*Joint Secretary.*
2. Shri D. C. Pande—*Chief Financial Committee Officer.*
3. Shri K. K. Sharma—*Senior Financial Committee Officer.*

## INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf, this 67th Report on Paragraphs 2.12 and 2.41 of the Report of the Comptroller & Auditor General of India for the year 1979-80, Union Government (Civil), Revenue Receipts, Vol. I, Indirect Taxes relating to (i) Semi-finished Steel Products and (ii) Beedi Workers Welfare Cess.

2. The Report of the Comptroller & Auditor General of India for the year 1979-80, Union Government (Civil), Revenue Receipts, Vol. I, Indirect Taxes was laid on the Table of the House on 17th March, 1981.

3. With regard to Audit Paragraph 2.12, the Committee have drawn attention to a Notification (No. 15/79-CE) dated 20-1-1979 issued by the Ministry of Finance wherein the operative part of the Notification intended to give exemption from excise duty on certain iron and steel products falling under tariff item 26AA was omitted with the result that there was no valid legal sanction for duty exemption on the specified products with effect from 20-1-1979. Even then, duty exemption was allowed to 58 units in 20 Collectortates involving a duty of Rs. 4.11 crores. The Committee have pointed out that the Central Board of Excise and Customs at no time considered the question of rectification of the omission nor did any Collectorate bring this omission to the notice of the Board during the relevant period (20-1-1979 to 8-4-1979). The Committee have suggested that the Ministry of Finance should devise an effective system for drafting and scrutiny of notifications particularly those involving exemptions from duty.

4. Under instructions issued by the Ministry of Finance, a time-limit of six weeks has been prescribed for the Ministries to send replies to Audit in respect of the draft paragraphs proposed for inclusion in the Reports of the Comptroller and Auditor General of India. Commenting upon the inordinate delays by the Ministry of Finance in sending replies to draft Audit paragraphs pertaining to the Central Excise Department, the Committee have suggested that the Collectors concerned should be made responsible for sending replies within a specified date. Disposal of draft Audit Paragraphs in the Office of the Board itself instead of making references to Collectorates in each and every case has also been suggested.

5. Dealing with a case in which a budget file was not produced to Audit on the ground of its being "Secret", the Committee have pointed out that the instructions issued by Government on 23-9-1978 on the subject do not exclude such files and therefore these instructions should be observed in letter as well as in spirit.

6. Audit paragraph 2.41 deals with Beedi Workers Welfare Cess. With effect from 1 March, 1979, Central Excise duty on unmanufactured tobacco was abolished and alternative arrangements were required to be made for the collection of cess leviable under the Beedi Workers Welfare Cess Act, 1978. The Committee have observed that there has been an inordinate delay by Government in making alternative arrangements for the collection of this cess which is meant for the benefit of out 30 lakh workers employed in the beedi industry in the country. The delay has resulted in a potential loss of revenue of about Rs. 5 crores for the years 1979-80, 1980-81 and 1981-82 so far.

7. The Committee (1981-82) examined paragraphs 2.12 and 2.41 at their sittings held on 22 and 24 October, 1981. The Committee considered and finalised the Report at their sitting held on 10-12-1981. Minutes of these sittings of the Committee form Part II\* of the Report.

8. For reference facility and convenience the observations and 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 II to the Report.

9. The Committee would like to express their thanks to the officers of the Ministries of Finance Labour & Law for the cooperation extended by them in giving information to the Committee.

10. The Committee also place on record their appreciation of the assistance rendered by the Office of the Comptroller & Auditor General of India in the examination of these Paragraphs.

SATISH AGARWAL

NEW DELHI;  
December 14, 1981  
Agrahayana 23, 1983 (S)

Chairman  
Public Accounts Committee.

## REPORT

### Audit Paragraph

#### Semi Finished Steel Products

1.1. Under the fourth proviso to a notification dated 18th June, 1977 as amended on 15th July 1977, a set off of duty of Rs. 330 per metric tonne was allowed on semi finished steel products (tariff item 26AA) manufactured with the aid of power from the specified raw materials as against the following effective rates of duty:—

Sr. N.	Description	Rate of duty Rs.
1	All forms of semi finished steel falling under sub-item (i) of item 26AA	300
2	All products falling under sub item (ia) of item 26AA (other than rails and sleeper bars specified in serial no. 3)	330
3	Rails and sleeper bars	175
4	Steel castings	200

1.2. By another notification dated 20th January 1979, the aforesaid fourth proviso was amended whereby, *inter alia*, the substantive portion namely, "the duty specified against the corresponding entries in column (3) of the table shall be reduced by three hundred and thirty rupees per metric tonne" was omitted. Subsequently, the said proviso was deleted by virtue of a notification dated 9th April, 1979. Thus, during the period 20th January 1979 to 8th April 1979, there was no valid legal sanction for the set off of duty. It was noticed in test audit that 28 units in 18 collectorates were nevertheless allowed reduction of Rs. 1.49 crores in duty during the said period.

1.3. The paragraph was sent to the Ministry of Finance in September 1980; reply is awaited (December 1980).

[Paragraph 2.12 of the Report of the Comptroller and Auditor General of India for the year 1979-80, Union Government (Civil), Revenue Receipts, Volume I—Indirect Taxes].

1.4. Under budget notification No. 152/77-CE dated 18-6-1977 (Appendix I), iron or steel products falling under tariff 26 AA and specified in column 2 of the table below were exempted from so much duty of excise leviable thereon as was in excess of the duty specified in the corresponding entries in column 3:

THE TABLE

S.No.	Description	Rate of duty
		Rupees per metric tonnes
(1)	(2)	(3)*
1	All forms of semi-finished steel falling under sub-item (i) of item 25 AA . . . . .	330.00
2	All products falling under sub-item (ia) of item 26 AA (other than rails and sleeper bars specified in serial No. 3) . . . . .	330.00
3	Rails and Sleeper bars . . . . .	175.00
4	Steel castings . . . . .	200.00

1.5. There were four provisos to the aforesaid notification of 18 June, 1977. Against the effective rates of duty of Rs. 175 per metric tonne for "rails and sleeper bars" and Rs. 200 per metric tonne for "steel castings", the duty was reduced by Rs. 150 per metric tonne subject to fulfilment of the conditions laid down in the fourth proviso to the above notification. On 15-7-1977 the aforesaid 4th proviso was amended raising the reduction in effective rate of duty from Rs. 150 to Rs. 330 per metric tonne vide notification No. 235/77 dated 15-7-1977 (Appendix II). The fourth proviso before the amendment on 20-1-1979 by notification No. 15/79 (Appendix III) read as under:—

"Provided also that in the case of the products mentioned in the table and manufactured with the aid of electric furnace from any of the following materials, namely:—

- (i) old iron and steel melting scrap;
- (ii) a combination of material referred to at (i) above with fresh unused steel melting scrap on which the appropriate duty of excise has been paid;
- iii) iron in any crude form falling under item 25 on which the appropriate amount of duty of excise has been paid, in combination with the materials referred to (i) or (ii),

The duty specified against the corresponding entries in column (3) of the Table shall be reduced by three hundred and thirty rupees per metric tonne."

1.6. The above notification was further amended by notification No. 15/79-CE issued on 20-1-1979. Its effect was to add one more category of raw materials and to omit the above underlined portion. Subsequently, the fourth proviso in question was deleted by issue of another notification No. 161/79-CE dated 9-4-1979 (Appendix IV).

1.7. The words "The duty specified against the corresponding entries in column (3) of the Table shall be reduced by three hundred and thirty rupees per metric tonne" occurring in the fourth proviso to notification No. 152/77 dated 18-6-1977 as amended by notification No. 235/77 dated 15-7-1977 indicated the reduction of duty by Rs. 330 per metric tonne. The omission of the aforesaid words in the amending notification No. 15/79 dated 20-1-1979 in effect meant that the reduction of duty by Rs. 330 per metric tonne could not be allowed with effect from 20-1-1979 and duty at full rates was chargeable with effect from 20-1-1979 to 8-4-1979, i.e. the date prior to the date of deletion of fourth proviso by notification No. 161/79 dated 9-4-1979.

1.8. According to the Audit paragraph, exemption was allowed in 33 cases involving duty effect of Rs. 1.49 crores in 12 collectorates. When the Audit raised an objection as to how the exemption was allowed from 20-1-1979 to 8-4-1979 if there was no legal sanction for giving such exemption, the Ministry of Finance while not admitting the objection, stated in their reply dated 4 May, 1981 to Audit that the notification No. 15/79 dated 20 January, 1979 seeks to add one more category to the specified raw materials and does not intend to alter the extent of exemption. Thus, the substantive part of the 4th proviso to the notification No. 152/77 dated 18-6-1977 as amended by notification No. 235/77 dated 15-7-1977 namely "the duty specified against the corresponding entries in Column 3 of the table shall be reduced by Rs. 330 per metric tonne" remained unchanged. The Ministry further stated that this substantive part appears to have been inadvertently omitted while substituting the 4th proviso by notification No. 15/79 dated 20-1-1979. Since otherwise the substituted proviso will have no meaning and will become redundant, it has to be harmoniously construed in the light of the intention of the Government and the earlier proviso of notification No. 152/77 as amended by notification No. 235/77 dated 15-7-1977. The Ministry added that the intention of the Government was clear from the explanatory memorandum attached to notification No. 161/79 dated 9-4-1979 wherein it was made clear

that in view of the Government's recent decision it was decided to withdraw the full exemption from excise duty hitherto applicable to steel ingots and semi-finished products manufactured by mini steel (electric furnace) plants.

1.9 When the Committee desired to know during evidence as to why the exemption was allowed in the absence of a proper legal sanction, the Member (Excise) stated:

"Alongwith the notification, a telex was issued to the Collecto-  
rates mentioning that the intention was to give exemption  
to products manufactured from such and such raw mate-  
rial. Subsequently there were letters from here on  
10.2.1979 where it was made clear that the exemption had  
to be extended to products manufactured from certain raw  
material."

Copies of Eelex F. No. 139/2/78-CX-4 dated 22-1-1979 and letter No. 139/2/7-CX-4 dated 19.2.1981 issued by the Ministry of Finance (Department of Revenue) to all Collectors of Central Excise are enclosed at Appendices V and VI.

1.10 The Committee desired to know whether the question of deletion of the 4th proviso or all the provisos of notificatin No. 152/77 dated 18.6.1977 as amended by notification No. 235/77 dated 15.7.1977 was considered at the time of issue of amending notification No. 15/79 dated 20.1.1979. In a note the Ministry of Finance (Department of Revenue) have stated as under:

"In notification No. 152/77-CE dated 18.6.77 (as amended), Iron & Steel Products were exempted from the whole of the duty of excise manufactured by electric are furnace units and made from raw materials specified in the said notiflcation. The Government decided to insert skull scrap and runners and arising in the course of manufacture of steel ingots as one of the raw materials in addition to the existing raw materials in notification No. 152/77 CE dated 18.6.77 (as amended). Therefore, notification No. 15/79-CE dated 20.1.79 was issued to give effect to this decision. Hence the question of deletion of the fourth proviso in the notification No. 152/77-CE dated 18.6.77 (as amended) did not arise in January, 1979. The excise duty changes in respect of Iron and Steel products effected in April, 1979 were made in the wake of Government's decision on the prices of Iron & Steel products. In this context it was decided to withdraw the full exemption from excise duty

8

applicable till then to steel ingots and semi-finished steel products manufactured by mini-steel (electric furnace) plants."

1.11. It is seen from the above that a serious omission in the relevant notification was sought to be covered up by the Central Board of Excise and Customs by issuing letters stating that "the intention was to give exemption" to the specified products. As the Ministry of Finance had tried to justify the exemption on the ground that the substituted proviso had to be harmoniously construed in the light of the intention of the Government, the Committee desired to know whether there was any ambiguity in the amending notification (No. 15/79) dated 20 January, 1979. To this, the representative of the Ministry of Law stated:

"There is an ambiguity in the sense that it is incomplete.... According to the literal interpretation of the proviso, as it stands, no exemption can be granted. ....If you go by the literal interpretation then the proviso has no meaning, it has no legal validity."

1.12. A point was raised during evidence before the Committee whether the intention of the Government or a speech made by a Minister in Parliament could be relied upon to interpret a specific statutory provision. The Committee in this context desired to know what would be the legal position of a particular section whose language on its simple reading gives one interpretation while the speech made by the Minister on the floor of the House as distinguished from the intention of the legislature gives another interpretation. To this, the representative of the Ministry of Law stated in evidence:

"Normally, it is the language of the section, but in the event of any ambiguity, the speech made by the Minister will also form one of the relevant factors....There are cases where the speeches made by the Minister have also been referred to remove ambiguities."

To substantiate the above view, the Ministry of Law have furnished a note dated 3rd Dec. 1961 (Appendix VII) giving instances where the assurances given as well as the speeches made by the Finance Minister in Parliament have been relied upon by the Supreme Court.

1.13. With reference to the reply of the Ministry of Finance that the substantive part of the notification appears to have been inadvertently omitted while substituting the fourth proviso by notification

tion No. 15/79 dated 20.1.1979, the Committee asked during evidence as to how notifications regarding levy or exemption of duty are processed in the Board. In this connection, the Member (Customs) stated that the commodity branches in the Board deal with such notifications. The notification is drafted at the level of the Under Secretary and checked by the Deputy Secretary. It is then sent to the Ministry of Law which returns it after vetting. Thereafter it is sent for publication. For files which are processed in the Tax Research Unit, the action is taken by the officers in the Unit, checked by the Deputy Secretary or the Commissioner and then sent to the Ministry of Law for vetting. A particular Joint Secretary in the Ministry of Law deals with references made by the Board.

1.14. The Committee asked for the details of cases where the assessees availed of the benefit of exemption under the notification dated 20.1.1979 which according to the Law Ministry did not confer any exemption in the eye of law. The Member Excise replied that 23 units in 9 Collectorates availed of duty exemption amounting to Rs. 1.32 crores. The nine Collectorates are Patna, Madras, Indore, Cochin, Baroda, Nagpur, Kanpur, Guntur and Madurai. The requisite information from other Collectorates had not been received by the Board upto the date of evidence given before the Committee.

1.15. After the evidence was over, the Ministry have informed the Committee that the concession availed of during the period 20.1.79 to 8.4.79 by 58 units in 20 Collectorates was Rs. 4.11 crores. A statement giving the names of units together with the amount of duty involved in each case is at Appendix VIII.

1.16. Asked whether any Collectorate had allowed for exemption on the ground that there was no provision for such exemption, the Member Excise replied: "Nowhere was it disallowed". The Committee wanted to know whether any of the Collectorates draw the attention of the Board to the missing operative part in the notification dated 20.1.1979. The Member (Excise) replied that references were received from three Collectorates but after the rectification of the omission. These three Collectorates were Ahmedabad, Bangalore and Chandigarh and references from them were received on 18.5.1979, 20.8.1979 and 20.9.1979 respectively.

1.17. Not only was there a glaring omission in the notification dated 20.1.1979, even the notification No. 235/77 dated 15.7.1977 was not free from ambiguity. As per notification No. 152/77 dated 18.6.1977 as amended on 15.7.1977, a set-off of duty of Rs. 330 per metric tonne was allowed on semi-finished steel products (tariff item 26 AA) against the effective rates of duty of Rs. 175 per metric tonne for

"rails and sleeper bars" and Rs. 200 per metric tonne for steel castings". The Committee therefore wanted to know whether it was the intention of the Government to limit the set-off to the effective rates of duty or to allow it at the rate of Rs. 330 per metric tonne in all cases. To this, the Ministry of Finance have in a note stated:

"The fourth proviso to notification No. 152/77-CE did not grant any set-off of excise duty but it was in the nature of a mechanism to describe the actual rate of excise duty applicable to the products falling under sub-items(i) and (ia) of Item No. 26 AA-CET in case they were produced with the aid of electric furnace from the specified raw materials. Since the amount of duty reduction spelt out in this proviso (as amended on 15-7-1977) was more than or equal to the rates of duty specified in the Table annexed to notification No. 152/77-CE the effect was to grant full duty exemption to the products in question when manufactured with the aid of electric furnace from the specified raw materials. As the notification stands, it incorporates both the rates of duties-as applicable to semis/products manufactured by integrated steel plants and mini steel plants-in the same exemption notification as a matter of convenience".

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

1.19. When Audit pointed out this glaring omission, the Ministry of Finance did not admit the audit objection and took the plea that the substantive part of the notification appears to have been inadvertently omitted while substituting the fourth proviso by notification No. 15/79 dated 20-1-1979, and since otherwise the substituted proviso will have no meaning and will become redundant, it has to be harmoniously construed in the light of the intention of the Govern-

ment. In the opinion of the Committee, the arguments given by the Ministry do not hold good as in such matters one has to go by the wording used in the notification. As per judgments given by the various courts in interpreting a taxing statute one has to look merely at what is clearly said. There is no presumption as to tax. Nothing is to be read in, nothing is to be implied. There are several cases where the licenses have taken advantage of the plain meaning of the notification and the courts have given/pronounced judgments in their favour overlooking the intentions of the Government.

1.20. The representative of the Ministry of Law admitted during evidence before the Committee that "If you go by the literal interpretation then the proviso has no meaning; it has no legal validity." Taking also into consideration the case law regarding interpretation of taxing statutes, the Committee are not persuaded with the plea now put forward by the Ministry that the intention of the Government was to give exemption or that the notification dated 20-1-1979 has to be harmoniously construed in the light of the intention of the Government. In a note dated 3rd December, 1981, subsequently submitted to the Committee, the Ministry of Law also referred to certain case law to the effect that the Courts have some times used Parliamentary debates as external aids to interpretation of statutes. This case law is also clear on the point that in interpreting a taxing statute the intention of the legislature has to be gathered primarily from the language of the statute itself and no external evidence, such as Parliamentary debates. Reports of the Committee of the legislature, or even the statement made by the Minister on the introduction of the measure, or by the framers of the Act, is admissible to construe those words. It is only when the language used is capable of more than one meaning that external aids could be used to resolve the ambiguity; it is not for the Court to supply the language which is not there.. In any event, in the present case the subject of interpretation is not a statute, but a notification issued in exercise of the delegated powers of the executive, and the Ministry of Finance have not pointed out any particular contemporaneous external evidence, like the Ministers' statement of Parliamentary debate, which could be used to ascertain what is now stated to have been the true intention of the Government. In fact the subject proviso was totally deleted within a very short period thereafter, i.e. on 9-4-1979, formally withdrawing the concession.

1.21. What is most surprising is the fact that although the notification issued on 20-1-1979 did not provide for any duty exemption to the specified products, the Central Board of Excise and Customs

wrote to its field offices saying that the exemption was to be allowed to those products. From the evidence on record, it is evident that the Board at no time considered the question of rectification of the omission. The Committee would therefore like the Ministry to give full information as to how the mistake occurred, when and at what levels it came to notice in the Board's office if at all and why no action was taken to rectify the omission.

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

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

1.24. Out of the four notifications referred to in the Audit para under examination, the Committee find that one notification, i.e. No. 235/77 dated v5-7-1977 was not free from ambiguity. Under this amending notification a set-off of duty of Rs. 330 per metric tonne was allowed on semi-finished steel products (tariff item 26AA) against the effective rates of duty of Rs. 175 per metric tonne for

"rails and sleeper bars" and Rs. 2.00 per metric tonne for "steel castings". This notification did not make it clear whether in the case of "rails and sleeper bars" and 'steel castings the set-off would be limited to the effective rates of duty or would be allowed at the rate of Rs. 330 per metric tonne. The Committee are not satisfied with the reply of the Ministry that "since the amount of duty reduction spelt out in this proviso (as amended on 15-7-1977) was more than or equal to the rates of duty specified in the Table annexed to notification No. 152/77-CE the effect was to grant full duty exemption to the products in question". Equally unsatisfactory is the reply that the reduction in duty was so specified to make it applicable to the semis|products manufactured by integrated steel plants and mini steel plans" as a matter of convenience. This again shows that adequate care was not exercised at various levels in the Ministry of Finance as well as the Ministry of Law in the drafting of notifications. The Committee would like these observations to be brought to the notice of all concerned so that issue of faulty or ambiguous notifications as has happened in the present case is obviated.

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

#### **Delay in sending replies to draft Audit Paragraphs**

1.26. From the Audit Report it is seen that draft Audit paragraph (included as para 2.12 in the Audit Report for 1979-80) was sent to the M nistry of Finance in September, 1980 but no reply was received till December, 1980. The Committee desired to know whether any time limit has been prescribed by the Government for furnishing replies to the draft Audit paras. To this, the Ministry stated in a note:

....

"No time limit appears to have been prescribed by the Government. Comptroller and Auditor General however insists that the reply should be furnished within six weeks of the date of receipt of the draft para by the Ministry.

1.27. When asked why reply was not sent within six weeks in this case, as also in several other cases the Ministry stated in a note:

"In this draft para 12 Collectorates were involved and factual information was being ascertained from them. The reports on the draft para are to be called from the concerned Collectors who in turn have to obtain the same from the concerned Assistant Collectors, Jurisdictional Superintendents and the Sector Officers. It happens that the Office of the Collector, Assistant Collector, Jurisdictional Superintendents and the Sector Officers are at different Stations and are even not connected by telephone/telex. Considerable time is taken in despatch and receipt of information. Besides, reports have to be examined and scrutinised with reference to relevant orders on the subject and this therefore, takes time. Efforts are, however, made to furnish the comments as soon as possible."

1.28. The Committee desired to have information regarding the time taken in sending replies to Audit in respect of the draft paras relating to the Central Excise Department sent to the Ministry for the Audit Report, 1979-80. The information furnished by the Ministry is given below:—

Sl. No.	No. of paras	Date of receipt	Replies furnished			More than 3 months	Numbers of paras included in the Audit Report
			Within 6 weeks	Within 2 months	Within 3 months		
1	33	17-5-1980	.		2	21	13
2	47	19-7-1980	.	..	..	25	20
3	35	14-8-1980	.	..	1	4	17
4	30	10-9-1980	.		..	1	16
5	1	57	17-9-1980	.		10	33
6	56	24-9-1980		..		20	15
7	34	1-10-1980		1		5	12
Total			292.	.	1	43	124

Paras withdrawn by C&AE - ( = ) 7

1.29. It is seen from the above statement that out of 285 draft paras, reply in respect of one para was sent within 6 weeks and reply to another para was sent within 2 months; replies to 43 paras were sent within 3 months.

Replies to 140 paras were sent after more than 3 months. According to the information furnished to the Committee by Audit, out of these 140 paras, replies to 72 paras were sent within 6 months and to 68 paras after more than 6 months. No reply was sent in respect of the remaining 100 paras. The Member (Excise) giving latest information during evidence admitted that the number of paras in respect of which replies had not been sent was still 92.

1.30. In this connection, a statement furnished by the Central Board of Excise and Customs showing the receipt and disposal of the first batch of draft Audit paras No. 1 to 33 proposed for inclusion in the Audit Report for 1979-80 on Indirect Taxes, is enclosed at Appendix IX.

1.31. The question of expeditious disposal of draft Audit paras by the Departments of the Government of India had engaged the attention of the Public Accounts Committee while examining the accounts for the year 1943-44. In pursuance of the recommendation of that Committee, the Government of India (Finance Department) had issued instructions on 26 April, 1946 to all the Departments prescribing a time limit of six weeks for sending replies to Audit. The relevant office Memorandum No. F. 11(8).F. II/46 dated 26-4-1946 is reproduced below:

"In para 12 of the report on the accounts for 1943-44 the Public Accounts Committee commented on the delay on the part of some departments in returning draft paragraphs for Audit Reports sent to them for acceptance and suggested that a maximum period of six weeks should be allowed to the Departments to accept or modify the terms of the paragraphs failing which Audit should be at liberty to consider its draft as final. The Government of India in consultation with the Auditor General, have accepted the Committee's suggestion. The undersigned is accordingly directed to invite the attention of all Departments to the need for the expeditious disposal of the draft paras received from the Audit Officers. Steps should be taken to secure that these are returned as early as possible and, in any case, within the period of six weeks suggested by the Committee."

132. The Ministry of Finance (Department of Expenditure) had, in their O.M. No. F. 32(9)-EG-1/60 dated 3 June, 1960 (Appendix X) to all the Ministries, reiterated that the prescribed time limit of six weeks for furnishing their comments to Audit should be adhered to in all future cases of draft audit paragraphs.

133. Regarding the time limit prescribed for sending replies to Audit, the Member (Excise) conceded during evidence:

"I would say and I must say that in the replies that we had sent to the Committee earlier we were not aware of these instructions issued by the Ministry of Finance, which is rather an omission on our part... Instructions are there about the replies to be sent and they have to be sent within six weeks also."

Chairman, CBEC further added:

"It is very unfortunate that when this reply was sent by our office, the person concerned completely lost sight of the instructions issued by the Finance Ministry, which prescribed a time limit of six weeks."

134. When asked why the prescribed time limit of six weeks was not adhered to and in fact only one out of 285 draft paras relating to Central Excise Department proposed for inclusion in the Audit Report for 1979-80 was sent to Audit, the Chairman, Central Board of Excise and Customs stated during evidence:

"So far as the facts are concerned, they are clear. We cannot contest the facts. We will only, with your indulgence, try to explain why we have not been able to send replies within time. In a substantial number of cases, we had managed to send replies though after a period of 6 weeks. In this connection, I would like to say that in most of these cases, we were not in a position to send the replies because the information was not available within the Ministry or the Board's office. Most of the paragraphs, in fact almost all the paragraphs were concerned with one or the other field office. There are about 24 Central Excise Collectories. Not all of them but many paras relate to more than one Collectorate. In most of the cases we have to check up the position with the Collectories with regard to the factual position because we cannot take chances here. A Collectorate is also divided into Divisions. There is sometimes delay in transit. This has been one of the reasons why some time had been lost in giving a proper

reply."

The witness further added:

"We are to make references to the various field formations and get facts from them. We have to verify facts before the facts are admitted. Unfortunately all these paragraphs will have to be seen at the level of a senior officer. Many people are there to assist, but the responsibility rests with the senior officer in the Board and the Collectorate. It is the combination of the circumstances which makes it difficult to comply with six weeks limit."

1.35. Another reason for the delay, according to the Chairman, Central Board of Excise and Customs, was that the Department had to deal with an increasing number of draft audit paras. The number of such paras was 63 in 1969-70, 111 in 1972-73, 255 in 1975-76 and 318 in 1976-77. In 1980-81, as on 15 October, 343 draft paras had been received. The witness added that there was a five-fold increase in the work for which a corresponding increase in staff had not been provided.

1.36. Asked about the procedure followed in dealing with the draft Audit paras, the Chairman, CBEC explained during evidence:

"We normally get a batch of 30,40 or 50 paras addressed to the Finance Secretary with a covering letter drawing attention to one or two of those paragraphs. From the Finance Secretary it comes down to the Board. On the Central Excise side we have a Section—PAC Section, which coordinates and deals with these draft audit paragraphs. We have got a Deputy Secretary, Under Secretary and some ministerial staff. They make a preliminary scrutiny of all these paragraphs which come with the letter. They open a separate file for each of them. In practically every case a reference is made to the Collectorate or Collectorates concerned to find out the facts and observations.

In order to confirm the facts or to give reply we need to have fairly comprehensive view of what the facts were, whether the view taken by the Collectorate can be justified. We get reply from the Collectorate or Collectorates as the case may be and on the basis of that a scrutiny is done in the PAC Section.

In some cases reference may have to be made to other sections for particular aspects of the matter or things which they

have dealt with and their views are obtained. After this is done, a reply is drafted and that reply is submitted for approval at the level of the Member and, with the approval of the Member, the reply is sent. Ideally, this process should be completed in six weeks. But, in practice, we find that it is not possible to complete the process in six weeks.

The Chairman, CBEC further stated:

"It is not as if every paragraph has to be referred to every Collectorate. It depends on the nature of it. It may not pertain to only one Collectorate. Again, there has been some correspondence between the Collectorates and the Audit. These draft paragraphs may have been revised in the light of the correspondence that took place. That correspondence is not available with us here. If the correspondence that was exchanged could be made available to us by the AG's office, then instead of going to the Collectorates, we could know the original point raised and we can have that information. That would save time and we can furnish the information quickly."

1.37. The staff in the PAC Section of the Central Board of Excise and Customs consists of a Deputy Secretary, an Under Secretary, a Section Officer, 3 Assistants and 1 UDC. The Committee were informed during evidence that in May-June, 1978 the Staff Inspection Unit of the Ministry of Finance had examined the staff position of PAC Section and had recommended three additional posts of Assistants and the abolition of one post of UDC. A final view was taken in August, 1981 that this could not be sanctioned due to the need for economy.

1.38. The submission made by the Ministry of Finance while explaining the reasons for delay in sending to Audit the replies to draft Audit paras proposed for inclusion in the Report of the Comptroller and Auditor General of India may be summed up as follows:

- (i) The reports on draft paras are called for by the Central Board of Excise and Customs from the Collectors of Central Excise who in turn have to get particulars from their subordinate officials, such as, Assistant Collectors, Jurisdictional Superintendents and the Sector Officers.
- (ii) There are about 24 Collectorates and many of the draft paras relate to more than one Collectorate.
- (iii) The information received from the Collectors is required to be verified and the reply to Audit got approved at the level of the Member of the Board.

- (iv) Sometimes reference is required to be made for obtaining expert opinion on technical matters or to Ministry of Law for opinion on legal issues.
- (v) Time is taken in transit in the course of correspondence between the Board the Collectorates and the field formations.
- (vi) The number of draft paras received from Audit has increased over the years. As there is no increase in the strength of PAC Section of the Central Board of Excise and Customs which co-ordinates and processes all work relating to the Public Accounts Committee, this section is not able to cope up with the increase in the work load.

1.39. As early as in 1946, on the recommendation of the Public Accounts Committee, the Government had vide their O. M. dated 26-4-1946 prescribed a time limit of six weeks for the Departments to send replies to Audit in respect of the draft paragraphs proposed for inclusion in the Reports of the Comptroller and Auditor General of India which are laid before Parliament every year. The instructions contained in the O.M. dated 26-4-1936 were reiterated in a Ministry of Finance (Department of Expenditure) O.M. dated 3-6-1960. Inspite of these instructions, the Ministry of Finance (Department of Revenue erroneously informed the Committee that "No time limit appears to have been prescribed by the Government." The Chairman, Central Board of Excise and Customs and Member (Excise), however, conceded during evidence that "in the replies that we had sent to the Committee earlier we were not aware of these instructions issued by the Ministry of Finance which is rather an omission on our part" and that "It is very unfortunate that when this reply was sent by our office, the person concerned completely lost sight of the instructions issued by the Finance Ministry, which prescribed a time-limit of six weeks."

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

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

1.42. The Committee have considered at some length the submissions made by the Chairman, CBE & C, and the Member (Excise) while explaining the reasons for such delays. It was stated that in most of the cases information was required to be collected from more than one Collectorate who in turn had to get detailed particulars from their field officers. The statement containing the particulars of 23 cases furnished to the Committee indicates that the replies from the Collectortates were in most cases received by the Board between 2 to 4 months. In this connection the Committee would like to point out that draft Audit paras do not emerge suddenly but are based on the information gathered during test audit and therefore all the paras and correspondence are readily available with the Collectortates or their field offices. There is therefore no reason why report regarding facts mentioned in the draft paras cannot be sent to the Board immediately after the receipt of draft paras. It is obvious that adequate importance is not given by the Collectortates for expediting replies to draft paras referred to them. The Committee desire that the Board should while sending the draft paras to the Collectortates give a definite date by which replies should be received by the Board and it should be the responsibility of the Collector concerned to ensure that the requisite information is actually collected and furnished to the Board by the due date.

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

that there should be a proper management and monitoring system in the Department so that delays occurring in the office of the Board as also in the Collectorates are eliminated.

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

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

1.46. The Reports of the Comptroller and Auditor General of India are laid before Parliament during Budget Session every year. These Reports are therefore finalised by the Office of the C & AG and got printed according to a prescribed time schedule. The Chairman of the Central Board of Excise and Customs stated during evidence before the Committee that the prescribed time limit of six weeks for sending replies to draft Audit paras is not enough. In this connection, the Committee would like to point out that the

office of the C & AG takes into account the replies received from the Board even if there are marginal delays. However, there can be no justification for inordinate delays as have been brought out in the foregoing paragraphs and it is in the interest of the Central Excise Department itself to ensure that replies are sent in time and the Department's views as also verified facts are invariably incorporated in the Audit Report before it is finalised for presentation to Parliament and for consideration by the Committee thereafter.

#### Production of files to Audit

1.47. On 31 March, 1980, a letter was sent by the Director of Receipt Audit to the Chairman, Central Board of Excise and Customs in which he had asked for files relating to the issue of notification No. 152/77-CE dated 18-6-1977 (Appendix I) and No. 161/79-CE dated 9-4-1979 (Appendix IV). File relating to issue of notification No. 152/77-CE is a budget file. This file was not shown to Audit. Asked about the reasons, the Chairman, Central Board of Excise and Customs stated:

"I think there were some discussions afterwards in which the Finance Secretary was associated. I would not be able to answer this fully from recollection."

1.48. One of the two files asked for by Audit related to Budget Notification No. 152/77/CE dated 18-6-1977. The Committee wanted to know whether Audit was prohibited from looking into the file even after presentation of the budget. In this connection, Chairman, Central Board of Excise & Customs stated during evidence:—

"It may not be assumed that what is called a budget proposal, all the discussions and material get exhausted or out of date as soon as that budget is over. Because, in the course of presentation and discussion, various aspects are put forward and it is possible that the Government take a decision "we will do one part this year and the other part will be reserved for next year." So it is difficult to conclude that immediately after the budget is presented, nothing in the budget file is confidential. Therefore we have been following the practice that the budget files as a class are treated as confidential. Whether in a particular instance a file can be furnished or not has to be seen in reference to that file and, if necessary, we will have to obtain the orders of the Minister."

1.49. The Committee drew attention of the witness to the Ministry of Finance (Department of Economic Affairs) letter No. F. 1(43)-B/78 dated 23 September, 1978 which reiterated the instructions issued earlier on 6 January, 1955 that files required by Audit Officers should be readily made available to them and that "secret" or "top secret" files should be sent personally to the Accountant General or the head of the Audit Office. The aforesaid letter is reproduced below:—

"In D. O. letter No. F. 26/SF/55 dated 6th January, 1955 from Secretary, Department of Revenue and Expenditure, Ministry of Finance addressed to all the Secretaries to the Government of India, it was *inter alia* stated that files required by Audit Officers should be readily made available to them without any apprehension that objections may be taken in audit merely based on contradictions in the views expressed in note by subordinate officials and higher authorities. If the contents of the files or any parts of it are "Secret" or "Top Secret" the file may be sent personally to the Accountant General or the head of the Audit Office specifying this fact, who will then deal with it in accordance with the standing instructions for the handling and custody of such documents.

2. Subsequently, the Ministry of Finance informed all Ministries/Departments, etc. vide Department of Economic Affairs O. M. No. F. 1(44)-B/75 dated 25th September, 1976 that confidential files containing the views of the Government Officers at different levels, Cabinet notes and decisions etc. in the course of Governmental policies fall outside the scope of the instructions mentioned in paragraph 1 above and need not be shown to Audit.
3. The matter has since been examined further and it has been decided to withdraw the instructions contained in the O. M. dated 25th September, 1976 referred to above and restore the *status quo ante*. Accordingly all Ministries/Departments etc. are requested to observe the procedure referred to in paragraph 1 above in the matter of making files available to Audit Officers."

1.50. It will thus be observed that under the instructions issued on 23-9-1978, even "secret" or "top secre" files have to be made

available to Audit and if there is some sensitivity about some file, that has to be made available personally to the Head of the Audit Office Concerned.

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

1.52. Budget files are as per practice treated as secret till the time of presentation of the budget but whether such files continue to remain "secret" even after the presentation of budget is a matter which needs to be reviewed. The Chairman, Central Board of Excise and Customs seemed to suggest during evidence that such files may contain information which continues to be secret even after the presentation of the budget. The instruction issued on 6-1-1955 as also on 23-9-1978 apply to all files including "secret" and "top secret" files and do not thus exclude budget files. Therefore, after the presentation of the budget even such files cannot be withheld from Audit in cases where Audit specifically requires their production. The committee would strongly urge upon the Ministry of Finance that these instructions should be observed in letter as well as in spirit.

#### *Audit Paragraph*

#### **Bidi Workers Welfare Cess**

2.1. Under Bidi Workers Welfare Cess Act 1976 unmanufactured tobacco issued from a warehouse for the manufacture of bidis is liable to cess at the rate of twenty five paise per kilogram. The responsibility for collecting the cess was with the Central Excise Department till 28th February 1979. On the abolition of duty on unmanufactured tobacco with effect from 1st March 1979, it was no more possible for that department to collect this cess. Accordingly, in the Budget Instructions 1979 it was stated that the concerned Ministry was being requested to make alternative arrangements for its collection.

2.2. On 29th April 1980, Ministry of Finance was asked to intimate whether any alternative arrangements by the concerned

effect from 1 March, 1979 central excise duty on such tobacco was abolished and the Ministry concerned (Ministry of Labour) was required to make alternative arrangements for the collection of cess leviable under the aforesaid Act. Relevant extracts from the 1979 Budget instructions relating to collection of cess on biri tobacco are reproduced below:—

“At present, cesses leviable on unmanufactured tobacco under the Bidi Workers Welfare Cess Act, 1976 and the Tobacco Cesses Act, 1975 are being collected by the Customs and Central Excise Department. In view of the changes proposed in the structure of excise duty on tobacco it may not be possible for the Department to collect these cesses. The concerned Ministries are, therefore, being requested to make alternative arrangements for collection of these cesses which are in the nature of duties of excise. While no cess may be collected in respect of such unmanufactured tobacco cleared on or after 1-3-1979, the licencees who are required to pay this cess should be asked to maintain separate accounts of such removals to take care of any possible measures which the Ministries concerned with the administration of these cesses, may decide to undertake. In so far as Cess on export of tobacco under the Tobacco Cess Act, 1975 is concerned (which is in the nature of a duty of customs), it will continue to be collected by the Customs Department as at present.”

2.7. Asked why alternative arrangements for the collection of cess as contemplated in the Budget instructions could not be made since March, 1979, the Ministry of Labour have stated that the question was dependent on whether the cess could be legally levied and collected after 1-3-1979. In this connection, the advice of the Legal Adviser to the Ministry of Labour was as follows:—

“Under Section 3(1) of the Beedi Workers Welfare Cess Act, 1976, the cess is levied and collected on so much of the tobacco as is issued to any person from a warehouse for any purpose in connection with the manufacture of Beedi. The explanation to the said provision defines a “war-house” as any place or premises appointed or licensed under rule 140 of the Central Excise Rules, 1944. In view of the fact that the licensing of the warehouse has come to an end w.e.f. 1-3-1979, the question of issue of any tobacco to any person from a licensed warehouse as

Ministry for the administration and collection of the cess after the abolition of duty on unmanufactured tobacco had been made. The Ministry was reminded in the matter in July 1980; reply is still awaited (December 1980).

2.3. It was noticed in audit that cess amounting to Rs. 52.33 lakhs had not been collected from 121 units in seven collectorates during the period 1st March 1979 to 31st July 1980. Accordingly to the figures booked in accounts by the Controller General of Accounts, the amount collected on account of this cess during the year 1979-80 came only to Rs. 20,743 against Rs. 1,86,81,767 in the immediately preceding year 1978-79.

2.4. The paragraph was sent to the Ministry of Finance in September 1980; reply is awaited (December 1980).

[Paragraph 2.41 of the Report of the Comptroller and Auditor General of India for the year 1979-80, Union Government (Civil), Revenue Receipts, Volume I—Indirect Taxes.]

2.5. The Beedi Workers Welfare Cess Act, 1976 and the Beedi Workers Welfare Fund Act, 1976 came into force on 15 February, 1977. Under the Beedi Workers Welfare Cess Act, cess was levied at the rate of 25 paise per kg of tobacco issued from warehouse for the manufacture of beedis. Relevant Section 3(1) of this Act provides as follows:—

“With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied and collected by way of cess for the purposes of the Beedi Workers Welfare Fund Act, 1976, on so much of the tobacco as is issued to any person from a warehouse for any purpose in connection with the manufacture of beedi, a duty of excise at such rate not exceeding one rupee per kilogram on such tobacco as the Central Government may, from time to time, fix by notification in the Official Gazette.

*Explanation:* In this sub-section, “warehouse” means any place or premises appointed or licensed under rule 140 of the Central Excise Rules, 1944, made under the Central Excises and Salt Act, 1944.”

2.6. Prior to 1 March, 1979, cess leviable on unmanufactured tobacco under the Beedi Workers Welfare Cess Act 1976, was being collected by the Customs and Central Excise Department. With

contemplated under section 3(1) of the aforesaid Act does not simply arise. Accordingly, no cess as contemplated under the provisions of the Act can be levied or collected w.e.f. 1-3-1979."

2.8. The Comptroller & Auditor General of India had asked the Ministry of Finance on 29 April, 1980 to intimate whether any alternative arrangements had been made for the administration and collection of cess after the exemption of duty on unmanufactured tobacco with effect from 1 March, 1979. No reply was sent to Audit inspite of a reminder issued to the Ministry in July 1980. A draft Audit Para was sent to the Ministry of Finance on 30 September, 1980. The reply to the draft para was sent by the Ministry to Audit on 4 May, 1981. The reply of the Ministry reads as under:—

"Consequent upon the abolition of excise duty on unmanufactured tobacco with effect from 1-3-1979, the Department of Revenue had requested the administrative Ministry for making alternative arrangements for the levy and collection of cess under the Bidi Workers Welfare Cess Act, 1976 or any other suitable arrangements in this regard. It is understood that the Ministry of Labour is examining the possibility of collection of a cess through alternative means. Further comments on the draft para would be sent on receiving the views of the said Ministry in the matter."

2.9. Subsequently, the Finance Secretary in his D.O. letter dated 13 May, 1981 addressed to the Comptroller and Auditor General state:

"In the Budget of 1979, a deliberate policy decision was taken to abolish the Central Excise duty on unmanufactured tobacco in order to remove excise control over a million small tobacco growers/curers/brokers/warehouse keepers etc. The loss of revenue on this account was sought to be recouped through appropriate upward adjustments in the duty rates on manufactured tobacco products..... Consequent on the abolition of Central Excise duty on unmanufactured tobacco with effect from 1st March, 1979 the Central Excise control over tobacco warehouses was also withdrawn. Therefore there was no question of collecting any cess under the Beedi Workers Welfare Cess Act as and from 1st March, 1979. You will agree with me that having abolished the Central Excise duty

on unmanufactured tobacco continuing with the collection of cess on unmanufactured tobacco issued from warehouses would have been anomalous.

When the decision to abolish excise duty on unmanufactured tobacco was taken, a decision was also taken, in principle, with the approval of the then Deputy Prime Minister and Finance Minister that, if necessary, the activities of the Beedi Workers Welfare Fund could be supported by budgetary grants to the extent of the loss of Beedi Workers Welfare Cess consequent on the abolition of excise duty on unmanufactured tobacco. Simultaneously, the possibility of legislating for replacement of the cess leviable (till 28-2-1979) on unmanufactured tobacco under the Beedi Workers Welfare Cess Act by levy of a cess on manufactured beedis was explored with the Labour Ministry. This legislation could not, however, be undertaken by the Labour Ministry in the 1979 budget session of Parliament since the budget proposals including the one of abolition of excise duty on unmanufactured tobacco were yet to get the approval of Parliament. The matter could not be subsequently pursued in 1979 owing to the dissolution of the Lok Sabha. A note has now been taken to the Cabinet by the Ministry of Labour for undertaking suitable legislation. After obtaining Cabinet's orders in this behalf, further action would be taken by that Ministry."

2.10. As regards delay of over one year on the part of the Ministry of Finance in sending reply to Audit enquiry, the Ministry of Finance have stated as under:

"The question of making alternative arrangements for levy and collection of cess was actively under consideration of the Department of Revenue at the time when the aforesaid reference from Audit was received. It was felt that the reply could be sent to the Audit after the alternative arrangements were finalised."

2.11. The Budget notification No. 41/79-CE dated 1 March, 1979 allows residual control by the Central Excise Department over persons trading in unmanufactured tobacco of a quantity exceeding 200 quintals per annum. Asked about the control exercised by the Department after 1 March, 1979, the Ministry of Finance have in a note stated:

"After the exemption of unmanufactured tobacco from excise duty w.e.f. 1-3-79 and consequent removal of excise control on tobacco curing, transport, storage etc. it was no longer felt that it was necessary for persons dealing in tobacco to obtain licences or to maintain accounts as hitherto. Accordingly, with the proposed changes it was decided that licensing for curers, dealers, brokers and warehouse keepers be abolished except for storage of tobacco by persons who purchase or store not less than 200 quintals of unmanufactured tobacco in a year. Categorisation based on nature of profession such as, dealers, brokers, warehouse keepers, etc. was abolished. The intention was that such licensees will be subject to only a nominal form of control. This was proposed to be an interim measure. Such persons were required to maintain accounts in the form EB3 indicating the quantity of tobacco received, the persons from whom received, the manner in which the tobacco is disposed of and the persons to whom it is issued alongwith date of receipt and issue.

While persons purchasing or storing tobacco not less than 200 quintals in a year were required to obtain licences and maintain accounts, persons who store tobacco for the purpose of manufacture of tobacco products and who are required to pay excise duty on such tobacco products, are required to obtain a licence in the form 12 irrespective of the quantity stored by them and maintain accounts in proper form ( EB3 register). The licensing of such persons and maintenance of accounts thereof was prescribed in order to exercise proper control over the raw materials and to ensure due accountal of the tobacco products manufactured therefrom..... Accordingly, all manufacturers of biris, on which duty of excise is payable are required to obtain a licence in the form 12 and maintain proper accounts."

2.12. The Committee were informed during evidence that the Legal Adviser to the Ministry of Labour had advised on 9 March, 1979 that no cess as contemplated under the provisions of the Beedi Workers Welfare Cess Act, 1976 could be levied or collected with effect from 1 March, 1979. Asked what effective steps were taken to realise the cess, the Secretary, Ministry of Labour stated in evidence:

"The exercise started in April 1979 itself. We were then advised that we could not introduce the Bill till the Finance Bill was enacted. When we circulated the draft Cabinet note and it was almost finalised, there was a change in Government in July 1979. From then on till January 1980, nothing could be done..... We realised that the cess had got to be recovered but it could not be done because arrangements had not been made for collecting the cess. When we started examining we also finalised some proposals of having alternative source of the cess. In 1979, unfortunately we could not take action in amending the legislation. In 1980 again we started examining and we took some time to decide this. After examination was complete, we have recently introduced a Bill in Parliament."

2.13. Explaining further the reasons for the delay in finalising the proposals, during 1979 and 1980, the witness stated:

"In 1979, we drafted a note for circulation to the Cabinet and it was sent on 2nd April 1979. Immediately thereafter, when the note was being finalised, we wanted to go to the Cabinet but we could not go to the Cabinet.... When the proposal was examined, Government was thinking whether there should be a cess or some other method should be found for giving grant-in-aid for the fund. So Government took some time and this decision was taken by the Government in 1981."

2.14. The witness stated that after Lok Sabha was dissolved (August 1979) the Cabinet Secretariat had advised that no policy decision should be taken, pending elections. He added that there was no decision then as to how the new cess should be raised—whether it should be on bedi or it can be by a grant-in-aid.

2.15. A Bill to amend the Biri Workers Welfare Cess Act, 1976 was introduced in Lok Sabha on 14 September, 1981. It provides for levy of cess on manufactured beedis. This cess will be collected by the Central Excise Department. A collection charge of one per cent is proposed to be paid to the Central Excise Department. For the present the rate of cess is proposed to be fixed at 10 paise per thousand manufactured beedis and on this basis, the estimated collection of cess per year is likely to be between Rs. 2.5 crores and Rs. 3.00 crores and the collection charges that would be payable will be between Rs. 2.5 lakhs and Rs. 3 lakhs.

### Beedi Workers Welfare Fund

2.16. The beedi industry is mainly concentrated in the States of Andhra Pradesh, Bihar, Gujarat, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. It provides employment to nearly 30 lakhs workers.

2.17. Biri Workers Welfare Fund has been constituted under the Biri Workers Welfare Fund Act, 1976 to provide welfare facilities. For providing various welfare measures to beedi workers, the following schemes have been introduced:

- (i) Setting up mobile medical units;
- (ii) Build Your Own House Scheme;
- (iii) Housing Scheme for economically weaker section of beedi workers;
- (iv) Grant of scholarships to children of beedi workers; and
- (v) Reservation of beds in T. B. Hospitals.

2.18. A note given by the Ministry of Labour indicating the activities undertaken and financed from Beedi Workers Welfare Fund is at Appendix.

2.19. The receipts into the Beedi Workers Welfare Fund and the expenditure incurred therefrom during the year 1977-78 to 1979-80 were as follows:

(Rs. in lakhs)

	1977-78	1978-79	1979-80	1980-81
Opening Balance . . . .	10.38	230.21	428.59	429.01
Receipts during the years .	223.50	225.00	67.50*	
Expenditure during the year . . . .	3.67	26.62	67.07	..
	230.21	428.59	429.02	

(Actual : Rs. 429.01 lakhs Variation is due to rounding)

2.20. The Secretary, Ministry of Labour stated during evidence that the expenditure during the year 1980-81 was Rs. 90 lakhs and for the year 1981-82 a provision of Rs. 1.98 crores had been made.

\* arrears for the previous year.

When asked about the extent to which the welfare of bidi workers suffered due to non-collection of cess from the year 1979-80, the witness stated:

"The Welfare of the bidi workers did not suffer because a decision was also taken in principle with the approval of the then Deputy Prime Minister and the Finance Minister that if necessary the activities of the bidi workers could be supported by a budgetary grant to the extent of loss of the cess."

2.21. When asked whether the welfare activities for the bidi workers could have been expanded if cess had continued to be collected, the witness stated:

"I do admit it. You can justifiably blame the Labour Ministry for not improving the spending capacity. There was no financial constraint on the activities to be undertaken by the Labour Ministry."

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

2.23. The Committee find that on 9 March, 1979 the Legal Adviser to the Ministry of Labour had advised that no cess as contemplated under the provisions of the Beedi Workers Welfare Cess Act, 1976 could be levied or collected with effect from 1 March, 1979 consequent on the abolition of excise duty on unmanufactured tobacco with effect from 1 March, 1979. Explaining the delay since March, 1979 in making alternative arrangements for collection of the cess, the Secretary, Ministry of Labour stated before the Committee during evidence that the Ministry was advised to wait till the Finance Bill was enacted and later the Lok Sabha was dissolved and the Cabinet Secretariat had advised that no policy decision should be taken.

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

\* \* \*

2.24. The collection of cess under the Beedi Workers Welfare Cess Act was Rs. 223.50 lakhs in 1977-78 and Rs. 225.00 lakhs in 1978-79. If timely action had been taken to amend the aforesaid Act soon after the abolition of excise duty on unmanufactured tobacco with effect from 1 March, 1979, the revenue on this account during the years 1979-80, 1980-81 and 1981-82 (till date) would have been around Rs. 5 crores, on the basis of figures of collection during the previous years. The inaction on the part of the Ministry of Labour in making alternative arrangements for the collection of cess meant for the benefit of nearly 30 lakh workers employed in the beedi industry in the country has thus resulted in loss of revenue to that extent. The Committee therefore desire that the Ministries of Labour and Finance should give full information indicating chronologically the steps taken and why a final decision on a simple legislative measure could not be taken during a period of 2½ years. The Committee would also like to know at what levels the case was held up in the Ministries, for what periods, the dates on which proposals were considered by the Cabinet and the view taken, and who were the persons responsible for this delay which has resulted in considerable loss of revenue to the Government.

2.25. In this connection it is seen that in April, 1980, the Comptroller & Auditor General of India had asked the Ministry of Finance to intimate whether any alternative arrangements had been made for the collection of cess after the abolition of excise duty on unmanufactured tobacco with effect from 1 March, 1979. No reply was sent to Audit for over one year and it was only in May, 1981

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

NEW DELHI;  
December 14, 1981  
Agrahayana 23, 1903 (S).

SATISH AGARWAL  
Chairman  
Public Accounts Committee.

## APPENDIX I

(Vide Para 1.4)

GOVERNMENT OF INDIA

### DEPARTMENT OF REVENUE & BANKING

New Delhi, the 18th June, 1977.  
28th Jyaistha, 1899 (Saka)

#### NOTIFICATION

#### CENTRAL EXCISE

GSR. In exercise of the powers conferred by sub-rule (1) of rule 8 of the Central Rules, 1944, the Central Government hereby exempts iron or steel products, falling under item No. 26AA of the First Schedule to the Central Excises and Salt Act, 1944 (1 of 1944) and specified in column (2) of the Table hereto annexed, from so much of the duty of excise leviable thereon as is in excess of the duty specified in the corresponding entries in column (3) of the said table, subject to the conditions laid down in the corresponding entries in column (4) thereof.

#### THE TABLE

S.No.	Description	Rate of duty	Conditions
<i>Rupees per metric tonne</i>			
1	All forms of semi-finished steel falling under sub-item (i) of item 26A.	330.00	....
2	All products falling under sub-item (ia) of item 26AA (other than rails and sleeper bars specified in Serial No. 3)	330.00	—
3	Rails and sleeper bars	175.0a	If it is proved to the satisfaction of an officer not below the rank of an Asstt. Collector of Central Excise that the rails or sleeper bars, as the case may be, are actually used for railway track, and the procedure set out in Chapter X of the Central Excise Rules, 1944, has been followed.
4	Steel castings	200.00	

Provided that where the products mentioned in the Table are made from steel ingots, falling under item No. 26 of the aforesaid schedule, which have been cleared from the factory, prior to the 18th day of June, 1977, on payment of duty at the appropriate rate, the duty specified in the corresponding entries in column (3) of the table shall be reduced by two hundred rupees per metric tonne;

Provided further that where the products mentioned in the table are made from semi-finished steel on which duty at the appropriate rate has already been paid, or from steel ingots falling under item No. 26 of the aforesaid schedule which are cleared from the factory on or after the 18th day of June, 1977 on payment of duty, the duty specified in the corresponding entries in column (3) of the table shall be reduced by three hundred and thirty rupees per metric tonne;

Provided also that where the duty paid on steel ingots or semi-finished steel, as the case may be, used in the manufacture of any quantity of the products mentioned in the table is in excess of the duty leviable on such products, the amount eligible for adjustment towards the exemption shall be restricted to the amount of duty leviable on the quantity of the said products;

Provided also that in the case of the products mentioned in the table and manufactured with the aid of electric furnace from any of the following materials, namely:—

- (i) old iron or steel melting scrap;
- (ii) a combination of the material referred at (i) with fresh unused steel melting scrap on which the appropriate duty of excise has been paid; and
- (iii) Iron in any crude from falling under item No. 25 of the said First Schedule on which the appropriate duty of excise has been paid, in combination with the materials referred to at (i) and (ii),

the duty specified against the corresponding entries in column (3) of the Table shall be reduced by one hundred and fifty rupees per metric tonne.

Sd/-

(R. K. CHANDRA)

Under Secretary to the Govt. of India.

## APPENDIX II

(Vide Para 1.5)  
New Delhi, the 15th July, 1977.

### NOTIFICATION

#### CENTRAL EXCISES

**GSR** In exercise of the powers conferred by sub-rule (1) of rule 8 of the Central Excise, Rules, 1944, the Central Government of hereby directs that the notifications of the Government of India in the Ministry of Finance, Department of Revenue and Insurance, or Department of Revenue and Banking, as the case may be, specified in column (2) of the table hereto annexed shall be amended or further amended, as the case may be, in the manner specified in the corresponding entry in column (3) of the said table.

#### THE TABLE

Sl. No.	Notification No. & Date	Amendment
*	*	*
4	152/77 Central Excises dated 18th June, 1977.	In the fourth proviso to the said notification for the word "one hundred and fifty rupees", the words "three hundred and thirty rupees" shall be substituted

(235/77)

Sd/- (R. K. CHANDRA)  
Under Secretary to the Govt. of India

**APPENDIX III**  
**(Vide Para 1.5)**  
**GOVERNMENT OF INDIA**  
**MINISTRY OF FINANCE**  
**(DEPARTMENT OF REVENUE)**

New Delhi, the dated 20th January, 1979  
 30 Pausa, 1900 (Saka)

**NOTIFICATION**  
**CENTRAL EXCISE**

GSR. In exercise of the powers conferred by sub-rule (1) of rule 8 of the Central Excise Rules, 1944, the Central Government hereby directs that the notifications of the Govt. of India, in the Ministry of Finance, Department of Revenue and Insurance, or Department of Revenue and Banking, as the case may be, specified in column (2) of the Table hereto annexed shall be further amended in the manner specified in the corresponding entries in column (3) of the said table.

**THE TABLE**

Sl. No	Notification No. and Date	Amendment
1	2	3
1	237/75 Central Excises, dated the 9th December, 1975	<p>In the said notification, for the proviso, the following proviso shall be substituted, namely:</p> <p>“Provided that such steel ingots are manufactured from any of the following materials namely:—</p> <ul style="list-style-type: none"> <li>(a) old iron or steel melting scrap ;</li> <li>(b) a combination of the material referred to at (a) above with fresh unused steel melting scrap on which the appropriate duty of excise has been paid ;</li> <li>(c) iron in any crude form falling under item No. 25 of the said First Schedule on which the appropriate amount of duty of excise has been paid in combination with the materials referred to at (a) or (b) above ;</li> </ul>

- (d) Skull scrap and runners and risers arising in the course of manufacture of steel ingots with the aid of electric furnace, in combination with the materials referred to at (a), (b) or (c) above; and
- (e) imported melting scrap of iron and steel (other than heavy melting scrap of iron and steel) in combination with the materials referred to at (a), (b), (c) or (d) above "

2 148/77 Central Excise, dated the 18th June, 1977

In the said notification, for the second proviso, the following shall be substituted, namely:—

"Provided further that where such ingots are manufactured with the aid of electric furnace from any of the following materials, namely:—

- (a) old iron or steel melting scrap;
- (b) a combination of the material referred to at (a) above with fresh unused steel melting scrap on which the appropriate duty of excise has been paid;
- (c) iron in any crude form falling under item No 25 of the said First Schedule on which the appropriate amount of duty of excise has been paid, in combination with the materials referred to at (a) or (b) above ; and
- (d) Skull scrap and runners and risers arising in the course of manufacture of steel ingots with the aid of electric furnace in combination with the materials referred to at (a), (b) or (c) above "

3 149/77 Central Excises dated the 18th June, 1977

In the said notification, for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that where such ingots are manufactured with the aid of electric furnace from any of the following materials, namely:—

- (a) old iron or steel melting scrap;
- (b) a combination of the material referred to at (a) above with fresh unused steel melting scrap on which the appropriate duty of excise has been paid;
- (c) iron in any crude form falling under item No 25 of the said First Schedule on which the appropriate amount of duty of excise has been paid, in combination with the materials referred to at (a) or (b) above ; and

(d) skull scrap and runners and risers arising in the course of manufacture of steel ingots with the aid of electric furnace, in combination with the materials referred to at (a), (b) or (c) above.

4. 152/77.—Central Excises dated the 18th June, 1977

In the said notification, for the fourth proviso, the following proviso shall be substituted, namely:—

“Provided also that in the case of the products mentioned in the Table and manufactured with the aid of electric furnace from any of the following materials, namely:—

- (a) old iron or steel melting scrap;
- (b) a combination of the material referred to at (a) above with fresh unused steel melting scrap on which the appropriate duty of excise has been paid;
- (c) iron in any crude form falling under item No. 25 of the said First Schedule on which the appropriate amount of duty of excise has been paid, in combination with the materials referred to at (a) or (b) above; and
- (d) skull scrap and runners and risers arising in the course of manufacture of steel ingots with the aid of electric furnace, in combination with the materials referred to at (a), (b) or (c) above.”

5. 153/77.—Central Excises dated the 18th June, 1977.

In the said notification for the fourth proviso, the following proviso shall be substituted, namely:—

“Provided also that in the case of the products mentioned in the table manufactured with the aid of electric furnace from any of the following materials, namely:—

- (a) old iron or steel melting scrap;
- (b) a combination of the material referred to at (a) above with fresh unused steel melting scrap on which the appropriate duty of excise has been paid;
- (c) iron in any crude form falling under item No. 25 of the said First Schedule on which the appropriate amount of duty of excise has been paid, in combination with the materials referred to at (a) or (b) above; and

1

2

3

(d) skull scrap and runners and risers arising in the course of manufacture of steel ingots with the aid of electric furnace, in combination with the materials referred to at (a), (b) or (c) above."

[15/79]

Sd/- (S.N. BUSI)  
*Under Secretary to the Govt. of India*

No. 15/79—CE. F. No. 139/2/78—CX—4

## **APPENDIX IV**

(Vide para 1.6)

### **NOTIFICATION**

#### **CENTRAL EXCISES**

GSR. In exercise of the powers conferred by sub-rule (1) or rule 8 of the Central Excise Rules, 1944, the Central Government hereby make the following further amendment in the notification of the Government of India in the Department of Revenue and Banking No. 152/77-Central Excises, dated the 18th June, 1977, namely:—

In the said notification, the fourth proviso shall be omitted.

[161/79]

Sd/-

T. R. RUSTAGI,

*Under Secretary to the Govt. of India.*

F. No. 335/3/79-TRU

## APPENDIX V

(Vide para 109)

To      CENTRAL EXCISE      BOMBAY  
FM      BUSI      FINREV      NEW DELHI

F. No. 139/2/78-CX-4 (.) 22-1-79

Notification Nos. 15/79 Central Excises & 16/79 Central Excises both dated 20th January, 1979 have been issued for publication in the Gazette of India Extraordinary dated 20th January, 1979 (.) Notification No. 15/79 seeks to amend the following Notifications (A) 273/75-CE dated 9-12-75 (B) 148/77-CE dated 18-6-77 (U) 149/77-CE dated 18-6-77 (D) 152/77-CE dated 18-6-77 and (E) 153/77-CE dated 18-6-79.0 (.)

The effect of the amendment in Notification 237/75 is that the existing duty exemption is extended to the Steel Ingots Manufactured with the aid of Electric Furnace from the following materials namely (I) skull scrap and runners and risers arising in the course of steel ingots with the aid of electric furnace in combination with the materials already mentioned in Notification 237/75-CE dated 9-12-75 and (II) imported melting scrap of iron and steel (other than heavy melting scrap of iron and steel) in combination with the other materials referred to in the said Notification (.) The Existing Duty concession is extended to iron and steel products mentioned in Notification No. 148/77, 149/77, 152/77 and 153/77 all dated 18-6-77 if such iron and steel products are manufactured from skull scrap and runners and risers arising in the course of manufacture of steel ingots with the aid of electric furnace in combination with the materials mentioned in the said Notifications (.) By Notification No. 16/79 dated 20-1-78 skull scrap and runners and risers arising in the course of manufacture of steel ingots with the aid of electric furnace are completely exempt from excise duty if they are used in the manufacture of steel ingots in the factory of production if such skull scrap and runners and risers are cleared for use in the manufacture of steel ingots with the aid of electric furnace else-where than in the factory or production the procedure set out in chapter X of the Central Excise Rules, 1944 shall be followed (.)

Copies of the above notification are being sent separately.

**BT**

TOO 1200

TH 1215

CF No. 139/2/78-CX-4

CL 8 WA 153/77-CE dated 18-6-77

SD-BY SHARMA AT 1235/22

RB BY NAIR AT 123b/22

## APPENDIX VI

(Vide para 1.9)

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

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 19th Feb., 1981.

To

All Collectors of Central Excise,

**SUBJECT.—Central Excise-Tariff items Nos. 26 and 26AA** *Skull scrap, runners and risers (steel melting scrap) steel ingots and iron or steel products, exemption from excise duty-Notification regarding.*

I am directed to enclose a copy (both English & Hindi versions) of each of Notification No. 15/77-Central Excises and No. 16/79-Central Excises, both dated 20th January, 1979. .

2. The question of classification of runner and risers, arising in the course of manufacture of steel ingots in electric furnace, was discussed in the East Zone Central Excise Tariff Conference held at Patna on 23rd December, 1977. The Conference was of the view that runners and risers are a variety of steel melting scrap and liable to duty under item No. 26 of the Central Excise Tariff. However, it was felt that it could not be the intention of the Government to levy duty on such runners and risers and skull scrap arising in the course of manufacture of steel ingots in the electric furnace in the factory of production and captively consumed in the further manufacture of the ingots. In order to give legal backing to the said intention Notification No. 16/79-CE dated 20-1-79 has been issued fully exempting excise duty on such scrap. Where such is used else where than in the factory of production for manufacture of such ingots with the aid of electric furnace, the exemption is subject to observance of Chapter X procedure.

3. Simultaneously, Notification No. 237/75-CE dated 9-12-75 Notification 148/77-CE, 149/77-CE, 152/77-CE, 153/77-CE all dated

18-6-77 have also been amended by notification No. 15/79 Central Excises dated 20-1-1979, in order to extend the duty concessions thereunder in respect of steel ingots and iron and steel products mentioned in the respective notifications and manufactured from skull scrap and runners and risers arising in the course of manufacture of steel ingots with the aid of electric furnace in combination with the other materials already specified in the said notifications.

4. Vide Notification No. 2/79-Customs dated 1-1-79 melting scrap of iron and steel (other than heavy melting scrap of iron and steel), falling within chapter 73 of the First Schedule to the Customs Tariff Act, 1975, has been exempted from whole of the additional duty (countervailing duty) at the time of importation. By issue of Notification No. 15/79-CE dated 20-1-79, the scope of notification No. 15/79-CE dated 20-1-79, the scope of notification No. 237/75-CE dated 9-12-75 has been enlarged providing exemption to steel ingots manufactured in electric furnace out of imported melting scrap of iron and steel (other than heavy melting scrap of iron and steel).

5. Necessary instructions regarding the above concessions may be issued immediately to all the lower formations for their information and guidance. The trade concerned may also be suitably informed in this regard.

6. Receipt of this letter (with enclosures) may please be acknowledged early.

Yours faithfully,

Sd/-

S. N. BUSI

*Under Secretary to the Govt. of India.*

## APPENDIX VII

(para 1.12)

### MINISTRY OF LAW, JUSTICE & CO. AFFAIRS (DEPARTMENT OF LEGAL AFFAIRS)

#### NOTE ON DECISIONS OF COURTS WERE IN SPEECHES MADE BY A MINISTER IN PARLIAMENT HAVE BEEN RELIED ON FOR INTERPRETATION OF AN ACT OF PARLIAMENT

Point 15 is as to whether there have been cases in which courts have relied on the speeches made by a Minister in Parliament for interpretation of an act of Parliament.

2. In this context, it may be pointed out that assurances as well as the speeches made by the Finance Minister in Parliament have been relied upon by the Supreme Court in some cases which are discussed below.

3. In the case of Navnit Lal C. Jhaveri vs. K. K. Sen, A.A.C. of Income Tax (56 ITR 198 at 202, 203), the constitutional validity of section 2(6A) (e) and section 12(1B) of the Income Tax Act, 1922 came up for consideration of the Supreme Court. These provisions were introduced in the Act by the Finance Act, 1955 which came into operation on the 1st of April, 1955. The combined effect of these two provisions is that three kinds of payments made to the shareholder of a company, to which the said provisions apply, are treated as taxable dividend to the extent of the accumulated profits held by the company. These three kinds of payments are—

- (1) Payments made to the shareholder by way of advance or loan;
- (2) Payments on his behalf; and
- (3) Payments made for his individual benefit.

There are five conditions which must be satisfied before section 12(1B) can be invoked against a shareholder. One such condition was that the loan must have remained outstanding at the commencement of the shareholder's previous year in relation to the

assessment year 1955-56. The Supreme Court observed that there is a material circumstance which cannot be ignored. That was the assurance given by the Finance Minister at the time of introduction of the amendment in Parliament. In the words of Gajendragadkar, C.J.—

461

"It appears that when these amendments were introduced in Parliament, the Hon'ble Minister for Revenue and Civil Expenditure gave an assurance that outstanding loans and advances which are otherwise liable to be taxed as dividends in the assessment year 1955-56 will not be subjected to tax if it is shown that they had been genuinely refunded to the respective companies before the 30th June, 1955. It was realised by the Government that unless such a step was taken, the operation of section 12(1B) would lead to extreme hardship..... In order that the assurance given by the Minister in Parliament should be carried out, a circular [No. 20 XXI-(6)/55] was issued by the Central Board of Revenue on the 10th May, 1955. It is clear that the circular of the kind which was issued by the Board would be binding on all officers and persons employed in the execution of the act under section 5(8) of the act."

4. It will be seen from the above decision that the Supreme Court took into account the assurance given by the Finance Minister at the time of the introduction of the amendments to the Income Tax Act, 1922 for the purpose of interpretation.

5. The question whether the speech made by the Finance Minister in Parliament could be relied upon for the purpose of interpreting the provisions of a statute also came up for consideration of the Supreme Court in *Anandji Haridas and Company vs. Engineering Mazdoor Sang* [1975 (3) SCC 862] and *Lok Sihkshana Trust vs. CIT* [1976 (1) SCC 254].

6. In the case of *Anandji Haridas and Company*, the question arose whether the difference of 10 per cent between an industrial company and other companies in the levy of income-tax provided in the Finance Act, 1966, is to be construed as a 'rebate' or 'relief' in the payment of any direct tax, for the development of an industry, for the purposes of section 7(e) of the Payment of Bonus Act, 1965.

7. Section 7(e) of the Payment of Bonus Act provided that "no account shall be taken of any 'rebate' (other than development rebate or development allowance) or credit or relief or deduction in the

payment of any direct tax allowed under any law for the time being in force, relating to direct taxes or under the relevant annual Finance Act, for the development of any industry."

8. During the arguments, it was urged that the 10 per cent concession in the tax rate was given to industrial companies with a view to promote development of industry and, as such, must be deemed to be a 'relief' or "rebate" in the payment of direct taxes of the kind contemplated by section 7(e) of the Act. Reliance for this contention was placed on the speech of the Finance Minister on the Budget of 1966-67 wherein he proposed to provide "certain reliefs" which he considered "necessary for providing suitable climate of growth" and in that context, described the rate of 55 per cent tax on industrial companies as a "concessional rate."

9. With regard to the above contention, the Supreme Court held that what the Finance Minister said in his speech cannot be imported into this case and used for the construction of clause (e) of section 7. The language of that provision was manifestedly clear and unequivocal. It had to be construed as it stood, according to its plain grammatical sense without addition or deletion of any words.

10. However, the court proceeded to state that in the event of ambiguity, the statement made by the Minister on the introduction of the measure in Parliament would be relevant for purposes of interpretation. In the words of Sarkaria J.:—

"As a general principle of interpretation, where the words of a statute are plain, precise and unambiguous, the intention of the Legislature is to be gathered from the language of the statute itself and no external evidence such as parliamentary debates, Reports of the Committees of the Legislature, or even the statement made by the Minister on the introduction of the measure or by the framers of the act is admissible to construe those words. It is only where statute is not exhaustive or where its language is ambiguous, uncertain, clouded or susceptible of more than one meaning or shades of meaning, that external evidence as to evils, if any, which the statute was intended to remedy, or of the circumstances which led to the passing of the statute, may be looked into for the purpose of ascertaining the object which the Legislature had in view in using the words in question." (p. 885).

11. In the case of *Lok Shikshana Trust*, the question arose whether the income of the Trust was entitled to exemption under section 11 of the Income Tax Act, read with section 2(15) of the act for the assessment year 1962-63.

12. In the above case, it was contended that as the meaning of the words used in section 2(15) was very clear, there was no justification in referring to the speech made by the Finance Minister in Parliament. Beg, J. observed that he was not able to accept this over-simplification of the problem before him. He observed:—

“To say that the concept of a charitable purpose, either before or after the amendment we are considering, was at all clear or free from considerable ambiguity and difficulty would be to ignore the plethora of not always consistent case law which one can find on the subject and to minimise the difficulties of courts. ‘Charitable purpose’ has never been at all clearly defined or exhaustively illustrated. We have, therefore, to discover the mischief aimed at by the amendment.” (p. 271).

13. The learned Judge observed that it is true that it is dangerous and may be misleading to gather the meaning of the words used in an enactment merely from what was stated by any speaker in the course of a debate in Parliament on the subject. Such a speech cannot be used to defect or detract from a meaning which clearly emerges from a consideration of the enacting words actually used. But, “in the case before us, the real meaning and purpose of the words used cannot be understood at all satisfactorily without referring to explain what defect in the law the amendment had sought to remove of the amendment who was, undoubtedly, in the best position to explain what defect in the law the amendment had sought to remove. It was not just the speech of any member in Parliament. It was the considered statement of the Finance Minister who was proposing the amendment for a particular reason which he clearly indicated. If the reason given by him only elucidates what is also deducible from the words used in the amended provision, we do not see why we should refuse to take it into consideration as an aid to a correct interpretation.” (p. 272).

14. In the case before the Court, a reference was made merely to the fact that a certain reason was given by the Finance Minister, who proposed in amendment, for making the amendment. The Court observed that “what we can take judicial notice of, is the fact that

such a statement of the reason was given in the course of such a speech. The question whether the object stated was properly expressed by the language of section 2(15) of the Act is a matter which we have to decide for ourselves as a question of law. Interpretation of a statutory provision is always a question of law on which the reasons stated by the mover of the Amendment can only be used as an aid in interpretation if we think, as I do in the instant case, that it help us considerably in undertaking the meaning of the amended law. We find no bar against such a use of the speech." (p. 272).

15. It would appear from the aforesaid decisions of the Supreme Court that in the event of ambiguity, the speech made by a Minister on the Floor of the House would be an aid for the interpretation of any statutory provision.

(P. K. KARTHA)  
*Joint Secretary & Legal Advisor.*  
3-12-1981.

## APPENDIX VIII

(Vide para 1-15)

Statement showing the exemption allowed during the period from 20-1-79 to 8-4-79 under Notification 152/77 Dated 18-6-77 as amended vide Notification No. 15/79 CE Dated 20-1-1979.

Sr. No.	Collectorate	Name of the unit	Amount of duty involved from the period from 20-1-79 to 8-4-79.
1	2	3	4 (Rs.)
1. Guntur		Andhra Steel Corporation Ltd. Visakhapatnam . . . . .	15,07,730.65
2. Guntur		A.K. Corporation Ltd., Vizak. . . . .	8,14,338.05
3. Kanpur		Singh Engineering Works, Kanpur . . . . .	11,657.10
4. Do.		J.K. Iron and Steel, Kanpur. . . . .	30,679.95
5. Do.		Steel Complex Ltd., Feroke . . . . .	15,38,341.86
6. Indore		Beco Steel Castings, Bhilai . . . . .	83,489.00
7. Do.		Himmat Steel Foundry, Kumhari . . . . .	71,804.00
8. Do.		BHEL, Bhopal . . . . .	28,892.00
9. Nagpur		Fifth India Steel Ltd., Nagpur . . . . .	1,98,423.22
10. Do.		Paramount Furnace Co., Nagpur . . . . .	22,724.52
11. Do.		Ferro Alloys Corp. . . . .	5,56,533.05
12. Baroda		Kanisha Steel Inds., Anand . . . . .	26,613.51
13. Baroda		Shree Ji Steel Indus., Ahmedabad . . . . .	1,10,193.59
14. Patna		Telco, Jamshedpur . . . . .	1,40,764.26
15. Do.		Toyo Jamshedpur . . . . .	81,215.40
16. Patna		Usha, Alloys Ltd. . . . .	20,30,351.41
17. Patna		Electric Furnace Shop, Jamshedpur. (Tisco) . . . . .	42,685.33
18. Patna		Jemco Steel Casting, Jamshedpur . . . . .	16,237.58
19. Patna		Bihar Alloy Steel Ltd., Ranchi . . . . .	26,97,695.67

1	2	3	4
20.	Patna	Kumar Duboi Engg. Works., Dhanbad	6,76,992.75
21.	Madras	Tamil Nadu Steel, Arkonam	24,66,766.39
2.	Madras	Arkonom Castings & Forgings	26,513.55
23.	Madurai	Trichy Steel Rolling Mills	9,968.20
24.	Pune	Kirloskar Bros, Kirloskarwadi	9,062.76
25.	Hyderabad	A.P. Steels, Polvancha	18,10,713.71
26.	Calcutta	Indo Japan Steel Pvt. Ltd., Calcutta	66,399.20
27.	Do.	Hindustan Iron & Steel Co. Ltd.	41,441.40
28.	Do.	Steel Rolling Mills of Hindustan Ltd.	17,777.20
29.	Do.	Texmaco Ltd.	64,706.5
30.	Do.	Gounterman PipersInd a Ltd.	10,161.90
31.	Do.	Bhartia Electrical Steel Co. Ltd.	2,13,007.55
32.	Ahmedabad	Steel Cast Pvt. Ltd., Bhavnagar	86,598.12
33.	Do.	Northern Alloys & Foundary, Chavnagar	21,545.16
34.	Do.	Investment Precision Castings	990.36
35.	Do.	Vikram Steel Pvt. Ltd., Rajkot	19,027.05
36.	Do.	Glow Tech. Pvt.gLtd, Rajkot	11,397.44
37.	Bombay-II	Sanghavr Steels Ltd., Bombay-74	2,54,902.72
38.	Do.	Achvee Iron & Steel Works, Bombay	2,081.62
39.	Do.	Mukund Iron and Steel Works.Bombay	1,09,16,159.00
40.	Do.	Ram Steel Rolling & Forg ng Mill Bombay	57,210.62
41.	Do.	National Indus. Cor., Bombay	2,07,272.82
42.	Do.	Shree Nityanand Steel , Nerul	1,44,467.63
43.	Do.	Taloja Rolling Mills	2,67,730.65
44.	Bangalore	Andhra Steel Corp. Ltd., Bangalore	14,15,581.10
45.	Do.	Bhorkula Steel Ltd.	38,84,209.56
46.	Jaipur	National Eng. Industry	75,511.60
47.	Do.	Man Industrial Corpn. Jaipur.	9,975.50
48.	Do.	R.G. Ispat Jaipur	2,06,349.60
49.	Chandigarh	Apeejay Steel Ltd., Jallundur	22,9234
50.	Do.	Punjab Iron and Steel Co., Jullunder.	12,908.80

1	2	3	4
51.	Do.	Paratap Steel Rolling Mill, Chehreta	14,23,174.00
52.	Allahabad	Precision Tool Castings Ltd., Lucknow	3,326.20
53.	West Bengal	K.R. Steel Union (P) Ltd., Kalyani	3,32,295.23
54.	Do.	Alloy Steel Plant, Durgapur	38,67,245.23
55.	Do.	IISCO Kulti, Asansol	48,403.95
56.	Do.	Hindustan Motors Ltd, Hoogly	2,28,853.35
57.	Bhubaneswar	Utkal Machinery Ltd., Kansbahal	27,688.50
58.	Delhi	Haryana Concel Hissar	20,74,928.64
Total			4,10,82,746.46

**APPENDIX IX**

(Vide Para 1-30)

*Statement showing the receipt and disposal of the first Batch of Draft Audit  
Paras No. 1 to 33 from the C. & A.G. for 1979-80*

*Received in the office of the  
F.S. Chairman  
17-5-80 19-5-80*

**M(B)/M(CX)  
20-5-80/24-5-80**

D.A.P. No.	Date of receipt of DAPs in CX7 (PSC) Sec.	Date of despatch of DAPs in CX7 to Col/	Date of reminders if any	Date of receipt of Report from the Collector/	Date of ref. to Tech. Section if any.	Date of receipt of Report from concerned Tech. Sec.	Date of receipt of file comments or not, if so, A.C.		Whether features in the Audit Report/ comments or not, if so, A.C.	Remarks							
							1	2	3	4	5	6	7	8	9	10	
1. 24-5-80	26-5-80	12-8-80	27-9-80	5-12-80/CX 4	.....	6-12-80	10-12-80	10-12-80	10-12-80	No							
2. 24-5-80	26-5-80	Do.	14-8-80	16-10-80/CX 3	.....	31-10-80/ 24-2-81	17-3-81	17-3-81	17-3-81	Yes/2-19							
				12-2-81													
3. Do.	Do.	Do.	27-9-80	.....	.....	.....	—	9-12-80	9-12-80	Yes/2-65(a)(ii)							
4. Do.	Do.	Do.	14-7-80	29-10-80/CX 3	3-2-81/CX 3	31-10-80/ 11-3-81	17-3-81	17-3-81	17-3-81	No							

5.	Do.	Do.	5-12-80 10-12-80	1-8-80/ 10-12-80	6-10-80/CXV/A	10-10-80	9-12-80	No	Certain clarifications were sought from Collr. on 12-11-80.
6.	Do.	Do.	26-5-80	29-7-80	27-8-80/requisitioned file 6-12-80/CX 3	20-12-80	29-12-80	No	File leading to Notification-181/78 could not be made available by CX 3 and hence delay.
7.	Do.	Do.	Do.	28-7-80			24-9-80	No	Comments prepared after consulting Techn. section.
8.	Do.	Do.	Do.	10-7-80	....	..	19-8-80	No	
9.	Do.	Do.	Do.	..	22-7-80		11-11-80	No	
10.	Do.	Do.	Do.	..	..	..			Para withdrawn by Audit.
11.	Do.	Do.	..	10-7-80	5-12-80/CX 2	10-12-80	11-12-80	Yes/2-65(ii)(c)(i)	
12.	24-5-80	Do.	—	14-7-80	....	..	9-12-80	Yes/2-49(a)	
13.	Do.	Do.	..	10-7-80	6-10-80/CX 2, CX 5 CX 6, CX 8	3-6-81	—	No	Reply not furnished as the para was not included in the A.R.
14.	Do.	Do.	..	14-7-80	....	—	23-10-80	No	
15.	Do.	Do.	..	17-7-80		..	—	No	Reply not furnished as the para was not included in the A.R.
16.	Do.	Do.	..	17-9-80				22-12-80 Yes/2-11(3)	
17.	Do.	Do.	14-8-80	3-9-80				23-10-80 Yes/2-58 (a)	
18.	Do.	Do.	..	23-12-80			No	Reply not furnished as the para was not included in the A.R.	

1	2	3	4	5	6	7	8	9	10
---	---	---	---	---	---	---	---	---	----

27. 5-80 19. 26-5-80 10-7-80 10-12-80/CX 4 5-2-81 16-2-81 No The matter was under consideration with Law Ministry as reported by US-CX 4.

20. Do. Do. 28-7-80 .... 22-12-80 Yes/2-65(ii)(a) Sometime was taken in tracing similar case in the past.

21. Do. Do. 14-8-80 20-12-80 .. No Reply not furnished as the para was not included in the A.R.

22. Do. Do. 14-9-80 .. .. Not persisted as the DP was not included in the Audit Report.

23. Do. Do. 11-12-80 23-1-81/ 18-7-80/ 20-3-81/CX 4 25-8-81 3-9-81 Yes/2-20 Expert technical opinion was obtained by Colkr. Matter was referred by Board to DCTD.

24. Do. Do. 14-8-80 10-9-80 5-12-80 8-12-80 10-12-80 No

25. Do. Do. 11-8-80/ 2-8-80 (2 Colkr.) .. 6-1-81 Yes/2-11(a)(iii)

26. Do. Do. 11-8-80 .. 21-10-80 No

27. Do. Do. 23-8-80 .. No Reply not furnished as the para was not included in the A.R.

28. Do. Do. .. 23-7-80 .. 30-7-80 Yes/2-51 Para has been selected for oral evidence.

	1	2	3	4	5	6	7	8	9	10
29.	24-5-80	25-5-80	12-8-80	23-8-80			..	24-9-80	Yes/2-11/(a)(iv)	
30.	Do.	Do.	24-7-80				..	28-7-80	No	
31.	Do.	Do.	12-8-80	20-8-80/ 3-9-80/ 31-1-81/ 17-3-81	21-11-80/XC 2	27-12-80/ 7-3-81 4-4-81		No		
32.	Do.	Do.	..	14-7-80	26-7-80/CX 3	28-10-81		No		
33.	Do.	Do.	12-8-80	15-11-80			5-2-81	No		

N.B. Explanatory notes may please be seen at P. 3.

## APPENDIX X

(Vide Para 1.32)

### ANNEXURE 'C'

Ministry of Finance (Department of Expenditure) No. F. 32(9)—  
EG.I/60 dated the 3rd June, 1960 to all the Ministries:

Subject : Draft Audit paragraphs—verification of facts contained therein and furnishing the requisite information to Audit.

The undersigned is directed to forward a copy of paragraph 6 (Introduction) of Volume I of the twenty fifth report of the Public Accounts Committee (1959-60) for information and guidance of all Ministries.

2. The necessary of furnishing full facts to Audit, when Draft Audit Paragraphs (for inclusion in the Audit Report) are referred for approval to Ministries and the necessity of furnishing their comments to Audit within the prescribed period of six weeks requires no special emphasis. The Ministry of Home Affairs etc. may kindly ensure that this time-schedule is adhered to in all future cases of draft audit paragraphs.

3. Government have already accepted the view of the Public Accounts Committee that if the requisite information is not furnished within the prescribed time limit the paragraph as prepared by Audit on the basis of facts placed before the Audit will be treated as final and included in the Audit Report vide late Finance Department No. 11(8)F.II/46 dated the 28th April, 46 (Annexure B). If in exceptional cases it is not possible to do so, the correct position may kindly be furnished to the Public Accounts Committee through Audit, as recommended by them without much further delay.

4. The undersigned is directed to request the Ministry of Home Affairs etc. to kindly issue necessary instructions to all concerned in this regard.

APPENDIX XI

CONCLUSIONS & RECOMMENDATIONS

S. No.	Para No.	Ministry concerned	Recommendations
1	2	3.	4
1	1.15	M/o Finance (Deptt. of Revenue)	<p>Under notification No. 152/77-CE dated 18-6-1977 certain iron or steel products falling under tariff item 26AA of the Central Excise Tariff were allowed duty exemption at the prescribed rate. Under the fourth proviso to this notification, a further duty exemption was allowed to certain specified products manufactured with the aid of electric furnace. The fourth proviso was amended by another notification No. 235/77 dated 15-7-1977 which had the effect of giving full duty exemption to those products. By another notification No. 15/79 dated 20-1-1979, one more category of raw materials was added to the fourth proviso but the substantive part of the notification regarding rate of exemption from duty was omitted. Thus, legally no duty exemption was permissible with effect from 20-1-1979.</p>
2	1.19	-do-	When Audit pointed out this glaring omission, the Ministry of Finance did not admit the audit objection and took the plea that

1      2      3      4

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

58

The representative of the Ministry of Law admitted during evidence before the Committee that "If you go by the literal interpretation then the proviso has no meaning; it has no legal validity." Taking also into consideration the case law regarding interpretation of taxing statutes, the Committee are not persuaded with the plea now put forward by the Ministry that the intention of the Government was to give exemption or that the notification dated 20-1-1979 has to be harmoniously construed in the light of the intention of the Government. In a note dated 3rd December, 1981,

3      1.20

- (i) M/o Finance (Dept. of Revenue)
- (ii) M/o Law, Justice & Company Affairs (Dept. of Legal Affairs)

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

1      2      3      4

wrote to its field offices saying that the exemption was to be allowed to those products. From the evidence on record, it is evident that the Board at no time considered the question of rectification of the omission. The Committee would therefore like the Ministry to give full information as to how the mistake occurred, when and at what levels it came to notice in the Board's office if, at all and why no action was taken to rectify the omission.

5      1.22      M/o.Finance (Deptt. of Revenue)

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

(i) -d-o-

(ii) M/o Law, Justice & Company Affairs (Dept. of System existing in the Ministries of Finance and Law for drafting Legal Affairs) and scrutiny of notifications. Although the Ministry of Finance

6      1.23

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

7 1.24

(i) M/o. Finance (Deptt. of Revenue) (ii) M/o. Law (Deptt. of Legal Affairs) (iii) M/o. Justice & Company Affairs (Dept. of Legal Affairs)

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

1 2 3

4

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

8. 1.25 M/o. Finance  
(Deptt. of Revenue)

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

9. 1.39 M/o. Finance (Deptt. of  
Revenue)

As early as in 1946, on the recommendation of the Public Accounts Committee, the Government had vide their O.M. dated 26-4-1946 prescribed a time limit of six weeks for the Departments to send replies to Audit in respect of the draft paragraphs proposed for inclusion in the Reports of the Comptroller and Auditor General of India which are laid before Parliament every year. The

instructions contained in the O.M. dated 26-4-1946 were reiterated in a Ministry of Finance (Department of Expenditure) O.M. dated 3-6-1960. In spite of these instructions, the Ministry of Finance (Department of Revenue) erroneously informed the Committee that "No time limit appears to have been prescribed by the Government." The Chairman, Central Board of Excise and Customs and Member (Excise), however, conceded during evidence that "in the replies that we had sent to the Committee earlier we were not aware of these instructions issued by the Ministry of Finance which is rather an omission on our part" and that "It is very unfortunate that when this reply was sent by our office, the person concerned completely lost sight of the instructions issued by the Finance Ministry, which prescribed a time-limit of six weeks."

63

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

10 1.40

M/o Finance (Dept.  
of Revenue)

1 2 3

4

11 1.41 M/o Finance (Dept. of Revenue) The Committee find that out of 285 draft Audit paras relating to the Central Excise Department which had been sent to the Ministry of Finance between 17-5-1980 and 1-10-1980 and were proposed for inclusion in the Audit Report for 1979-80, reply to only one para was supplied within the prescribed time-limit of six weeks. Replies to as many as 68 paras were sent after more than six months and replies to 92 paras had not been sent at all till 24-10-1981 i.e. the date on which officials of the Ministry appeared before the Committee to give evidence. This reflects badly on the functioning of the Ministry.

12 1.42 M/o Finance Dept. (of Revenue)

12

64

The Committee have considered at some length the submissions made by the Chairman, CBE&C, and the Member (Excise) while explaining the reasons for such delays. It was stated that in most of the cases information was required to be collected from more than one Collectorate who in turn had to get detailed particulars from their field offices. The statement containing the particulars of 33 cases furnished to the Committee indicates that the replies from the Collectorate were in most cases received by the Board between 2 to 4 months. In this connection the Committee would like to point out that draft Audit paras do not emerge suddenly but are based on the information gathered during test audit and therefore all the papers and correspondence are readily available with the Collectors or their field offices. There is therefore no reason why report regarding facts mentioned in the draft paras cannot be sent to the

Board immediately after the receipt of draft paras. It is obvious that adequate importance is not given by the Collectorates for expediting replies to draft paras referred to them. The Committee desire that the Board should while sending the draft paras to the Collectorates give a definite date by which replies should be received by the Board and it should be the responsibility of the Collector concerned to ensure that the requisite information is actually collected and furnished to the Board by the due date.

13 1.43

M/o. Finance (Dept.  
of Revenue)

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

1      2      3      4

14      1.44      Ministry of Finance  
(Dept. of Revenue)

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

At present the draft Audit paras are invariably sent by the Board to the Collector or Collectors concerned for furnishing the required information. There is usually some correspondence between the Collectortates and the Audit offices before any draft para is finalised by the Comptroller and Auditor General of India for inclusion in the Audit Report but such correspondence is not passed on to the Board. As a result, it may not often be possible for the Board to reply to Audit without first collecting the relevant information from the Collectortates. The Committee would suggest that a system should be evolved requiring the Collectortates to furnish copies of correspondence with the Audit offices to the Board concurrently. When a draft para is received, it should be possible for the Board to finalise

its reply as far as possible on the basis of such correspondence and reference to the Collectortates should be necessary only in unavoidable cases. It should also be possible to reduce inter-departmental references within the Board's office or references to the Collectortates in cases where the issues could be conveniently sorted out during periodical meetings between the Members of the Board and the Collectors.

-do-

16 1.46

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

1 2 3 4

17 1.51 M/F (Dept. of Revenue)

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

18 1.52 -do-

-do-

68

Budget files are as per practice treated as secret till the time of presentation of the budget but whether such files continue to remain "secret" even after the presentation of budget is a matter which needs to be reviewed. The Chairman, Central Board of Excise and Customs seemed to suggest during evidence that such files may contain information which continues to be secret even after the presentation of the budget. The instructions issued on 6-1-1955 as also on 23-9-1978 apply to all files including "secret" and "top secret" files and do not thus exclude budget files. Therefore, after the presentation of the budget even such files cannot be withheld from Audit in cases where Audit specifically requires their production. The Committee would strongly urge upon the Ministry of Finance that these instructions should be observed in letter as well as in spirit.

18 2.22 -do-

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

69

19 2.23 -do-

The Committee find that on 9 March, 1979 the Legal Adviser to the Ministry of Labour had advised that no cess as contemplated under the provisions of the Beedi Workers Welfare Cess Act, 1976 could be levied or collected with effect from 1 March, 1979 consequent on the abolition of excise duty on unmanufactured tobacco with effect from 1 March, 1979. Explaining the delay since March, 1979 in making alternative arrangements for collection of the cess, the Secretary, Ministry of Labour stated before the Committee during evidence that the Ministry was advised to wait till the Finance Bill was enacted and later the Lok Sabha was dissolved and the Cabinet Secretariat had advised that no policy decision should be taken, pending general election. He further stated that Government was thinking whether there should be cess on beedi or grant-in-aid could be given to the Beedi Workers Welfare Fund. The reasons put

1      2      3      4

forward by the Ministry for the delay are not satisfactory. General election to Lok Sabha was held in January, 1980. If nothing was decided till then, the Committee see no reason why a decision could not be taken soon after the election in January, 1980. The responsibility for this delay must squarely lie on the Ministry of Labour which, in the view of the Committee, showed little concern in a matter where revenue worth crores of rupees per annum was involved. It is also evident that only after the Audit para was selected by the Committee for examination, the Ministry of Labour took steps to expedite the matter and introduce an amending Bill in Parliament in September, 1981 for levying and collection of cess on manufactured beedis.

70

20. 2.24 (i) M/o Labour [ ]  
(ii) M/o Finance (Dept. of Revenue) The collection of cess under the Beedi Workers Welfare Cess Act was Rs. 223.50 lakhs in 1977-78 and Rs. 225.00 lakhs in 1978-79. If timely action had been taken to amend the aforesaid Act soon after the abolition of excise duty on unmanufactured tobacco with effect from 1 March, 1979, the revenue on this account during the years 1979-80, 1980-81 and 1981-82 (till date) would have been around Rs. 5 crores, on the basis of figures of collection during the previous years. The inaction on the part of the Ministry of Labour in making alternative arrangements for the collection of cess meant for the benefit of nearly 30 lakh workers employed in the beedi industry in the country has thus resulted in loss of revenue to that extent. The

Committee therefore desire that the Ministries of Labour and Finance should give full information indicating chronologically the steps taken and why a final decision on a simple legislative measure could not be taken during a period of 2½ years. The Committee would also like to know at what levels the case was held up in the Ministries, for what periods, the dates on which proposals were considered by the Cabinet and the view taken, and who were the persons responsible for this delay which has resulted in considerable loss of revenue to the Government.

212.25

-do-

In this connection it is seen that in April, 1980, the Comptroller and Auditor General of India had asked the Ministry of Finance to intimate whether any alternative arrangements had been made for the collection of cess after the abolition of excise duty on unmanufactured tobacco with effect from 1 March, 1979. No reply was sent to Audit for over one year and it was only in May, 1981 i.e. after the Audit Report for 1979-80 was laid before Parliament that the Ministry of Finance replied to Audit that the Ministry of Labour was examining the possibility of collection of cess through alternative means. The Committee fail to understand why the Ministry of Finance dealt with the audit enquiry of April, 1980 in such a casual manner. The Committee would like the Ministry to evolve a system so as to ensure that audit enquiries are replied to promptly.

© 1991 by Lok Sabha SECRETARIAT

Published under Rule 232 of the Rules of Procedure and Conduct of  
Business in Lok Sabha (Sixth Edition) and Printed by the  
General Manager, Government of India Press,  
Minto Road, New Delhi-110002.