

PERFORMANCE OF 100% EXPORT ORIENTED UNIT SCHEME

[Action Taken by the Government on the Observations/Recommendations of the Committee contained in their 45th Report (16th Lok Sabha)]

**MINISTRY OF COMMERCE AND INDUSTRY
(DEPARTMENT OF COMMERCE) AND MINISTRY OF
FINANCE (DEPARTMENT OF REVENUE)**

**PUBLIC ACCOUNTS COMMITTEE
(2017-18)**

EIGHTY-SECOND REPORT

SIXTEENTH LOK SABHA



**LOK SABHA SECRETARIAT
NEW DELHI**

EIGHTY-SECOND REPORT

PUBLIC ACCOUNTS COMMITTEE (2017-18)

(SIXTEENTH LOK SABHA)

PERFORMANCE OF 100% EXPORT ORIENTED UNIT SCHEME

[Action Taken by the Government on the Observations/Recommendations of the Committee contained in their Forty-fifth Report (16th Lok Sabha)]

**MINISTRY OF COMMERCE AND INDUSTRY
(DEPARTMENT OF COMMERCE) AND MINISTRY OF
FINANCE (DEPARTMENT OF REVENUE)**



Presented to Lok Sabha on: 18/12/2017

Laid in Rajya Sabha on: 18/12/2017

**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2017/Agrahayana, 1939 (Saka)

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- I Minutes of the 9th Sitting of Public Accounts Committee (2017-18) held on 8th September, 2017.
- II Analysis of the Action Taken by the Government on the Observations/Recommendations of the Public Accounts Committee contained in their Forty-fifth Report (Sixteenth Lok Sabha)

*Not appended to the cyclostyled copy of the Report

COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE
(2017-18)

Shri Mallikarjun Kharge

Chairperson

MEMBERS

LOK SABHA

2. Shri Sudip Bandyopadhyay
3. Shri Subhash Chandra Baheria
4. Shri Prem Singh Chandumajra
5. Shri Nishikant Dubey
6. Shri Gajanan Chandrakant Kirtikar
7. Shri Bhartruhari Mahtab
8. Smt. Riti Pathak
9. Shri Neelphiu Riwat
10. Shri Abhishek Singh
11. Prof. Ram Shanker
12. Dr. Kirit Somaiya
13. Shri Anurag Singh Thakur
14. Shri Shivkumar C. Udasi
15. Dr. P. Venugopal

RAJYA SABHA

16. Shri Naresh Agrawal
17. Shri Satyavrat Chaturvedi
18. Shri Bhubaneswar Kalita
19. Shri Shantaram Naik
20. Shri Sukhendu Sekhar Roy^f
21. Shri Ajay Sancheti
22. Shri Bhupender Yadav

SECRETARIAT

1. Shri A.K. Singh - Additional Secretary
2. Shri T. Jayakumar - Director
3. Smt. Anju Kukreja - Under Secretary

^{*} Ceased to be a Member of Committee consequent upon his retirement from Rajya Sabha on 28 July, 2017.

^t Ceased to be a Member of Committee consequent upon his retirement from Rajya Sabha on 18 August, 2017.

INTRODUCTION

1. the Chairperson, Public Accounts Committee (2017-18), having been authorised by the Committee, do present this Eighty-second Report (Sixteenth Lok Sabha) on Action Taken by the Government on the Observations/Recommendations of the Committee contained in their Forty-fifth Report (Sixteenth Lok Sabha) on 'Performance of 100% Export Oriented Unit Scheme" relating to Ministry of Commerce and Industry (Department of Commerce) and Ministry of Finance (Department of Revenue).
2. The Forty-fifth Report was presented to Lok Sabha/laid in Rajya Sabha on 28 April, 2016. Replies of the Government to all the Observations/Recommendations contained in the Report were received. The Public Accounts Committee considered and adopted the Eighty-second Report at their sitting held on 8 September, 2017. Minutes of the sitting are given at Appendix I.
3. For facility of reference and convenience, the Observations and Recommendations of the Committee have been printed in thick type in the body of the Report.
4. The Committee place on record their appreciation of the assistance rendered to them in the matter by the Office of the Comptroller and Auditor General of India.
5. An analysis of the action taken by the Government on the Observations/Recommendations contained in the Forty-fifth Report (Sixteenth Lok Sabha) is given at Appendix-II.

NEW DELHI;
4 December, 2017
12 Agrayana, 1939 (Saka)

SHRI MALLIKARJUN KHARGE
Chairperson,
Public Accounts Committee

REPORT
PART - I

This Report of the Committee deals with the Action Taken by the Government on the Observations and Recommendations contained in their 45th Report (16th Lok Sabha) on the subject "Performance of 100% Export Oriented Unit Scheme" based on C&AG Report No. 9 of 2015 related to Ministry of Commerce and Industry (Department of Commerce) and Ministry of Finance (Department of Revenue).

2. In their 45th Report which was presented to Lok Sabha on 28th April, 2016, the Committee had dealt with the various issues such as non-availability of the Data in EOU's Dedicated Websites, Declining trend of EOU's, lack of structured internal audit mechanism in the Ministry of Commerce and Industry to assist in oversight of the functioning of EOU's, Non-filing/delay in filing of Annual Progress Report (APR), cases of non-compliance and Policy Mis-representation etc.
3. The Action Taken Notes in respect of all the 17 observations/Recommendations have been received from the Ministry of Commerce and Industry (Department of Commerce and Ministry of Finance (Department of Revenue) and these have been categorized as follows:

(i) Observations/Recommendations which have been accepted by the Government:

Para Nos. 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16 & 17

Total: 16
Chapter - II

(ii) Observations/Recommendations which the Committee do not desire to pursue in view of the replies received from the Government:

Para Nos. 9

Total: 1
Chapter - III

(iii) Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration:

Para Nos. NIL

Total: NIL
Chapter -IV

(iv) Observations/Recommendations in respect of which Government have furnished interim replies/no replies:

Para No. NIL

Total: NIL
Chapter -V

Gist of observations/Recommendations contained in 45th Report (16th Lok Sabha)

4. The Committee in their 45th Report (16th Lok Sabha) on the subject had made the following important observations/recommendations:

- (i) The Committee recommended that both the DGFT and Department of Revenue should strive for an efficient coordination and integration in maintaining periodically reconciled data about the EOU's with a view to ensuring proper monitoring and evaluation of the 100% EOU Scheme.
- (ii) The Committee desired that in addition to inclusion of Panda Committee recommendations in FTP on 01-04-2015, necessary corrective measures be initiated to arrest the declining number of EOU's while prescribing specific timelines and measure outcomes so that the basic objective of export growth is achieved.
- (iii) Specific analysis of the benefits accrued to the SEZ units and EOU's be done so as to avoid shifting of EOU's to SEZs. Suitable strategy should be evolved for attracting EOU's into the 100% EOU scheme and all necessary steps should be taken to remove the constraints/impediments in their successful operation. The successful experience of foreign countries can be dovetailed so as to accelerate the pace of development of EOU's.

- (iv) Extension of any incentive or concession, should be followed up with a detailed evaluation to enable the Ministry to assess the efficacy of such incentives in terms of growth of the sector. Export targets must be fixed for each zone and each unit by the Development Commissioners alongwith approval of incentives and facilities to them. In case of non-achievement of export target, incentives may be stopped.
- (v) A high powered independent inquiry should be ordered with a view to finding out the unscrupulous elements responsible for the rampant abuse of the scheme and also to fix responsibility of the officers for their various acts of omissions and commissions. The Department of Commerce and Department of Revenue should conduct a comparative study of the benefits accrued to SEZ units and EOUs so as to find out the reasons for shifting of EOUs to SEZ sector.

5. The Action Taken Notes furnished by the Ministry of Commerce and Industry (Department of Commerce) and Ministry of Finance (Department of Revenue) have been reproduced in the relevant Chapters of this Report. In the succeeding Paragraphs, the Committee will deal with the action taken by the government on some of their observations/Recommendations made in the original Report, which need reiteration or merit comments.

A. Non-availability of Data in EOUs Dedicated Website

(Recommendation Para No. 5)

6. The Committee found that neither DGFT nor DCs had put up year-wise details in their websites viz. number of EOUs functioning, number of new entrants, number of units opting out of the scheme, their exports/imports etc. Consequently this data was not available in the website of Ministry of Commerce/DGFT. The Committee in their 45th Report (16th Lok Sabha) had, therefore, recommended that monitoring of updating such data must be strengthened and concerned officers responsible in the defaulting zones inflicted with deterrent punishment. The Committee further recommended that both the DGFT and Department of Revenue should strive for an efficient coordination and integration in maintaining periodically reconciled data with a view to ensure proper monitoring and evaluation of the 100% EOU scheme.

7. The Ministry of Commerce and Industry (Department of Commerce) in their Action Taken Note on the aforementioned recommendation have stated as under:

- (i) All Development Commissioners (DCs) have been instructed to ensure regular updation of data relating to Export Oriented Units (EOUs) in their respective Zones and all DCs have complied with the instructions issued. EOUs data is available on their respective websites.
- (ii) DoC is also in process of creating centralized website for EOUs with a hyperlink from SEZ website.
- (iii) DoC has issued instructions to all Zones to regularly carry out Joint Monitoring meeting of EOUs as per para 7 (a) of Appendix 6 F and instructions to DGEP and DGFT have also been issued to instruct their field formations to regularly attend Joint Monitoring meeting of EOUs so that data is regularly reconciled between office of Development Commissioner and Jurisdictional Central Excise."

8. The Committee note that in pursuance of their recommendation, the Ministry of Commerce and Industry (Department of Commerce) have issued instructions to all Development Commissioners to ensure regular updation of data relating to Export Oriented Units. The Committee note the measures initiated by the Ministry in this regard but they are of the view that mere issuance of instructions will be of little help unless there is proper monitoring to ensure effective implementation of those instructions. Further, the Committee have been informed that Department of Commerce is in the process of creating centralized website for EOUs with a hyperlink from SEZ website. However, the Department failed to intimate the Committee the precise date by which it would be completed. The Committee, therefore, desire the Department to take all necessary and effective measures to ensure that centralized website is created at the earliest. The Committee would like to be informed of the present status of this work within a period of one month of the presentation of this Report.

B. Declining trend of functional EOUs

(Recommendation Para No. 7)

9. In their 45th Report, the Committee had observed that the total number of EOUs had gone down from 3109 in 2009-10 to 2608 in 2013-14. While the number of functional units had come down from 2279 to 2095 during the same period, the percentage of functional units to total units had declined from 83 percent in 2010-11 to 80 percent in 2013-14 with corresponding increase in percentage of non-functional and

debonded units. Further, there was a gradual reduction in EOUs after the SEZ Act came into force in 2006-07. The Committee were also constrained to observe that the share of EOUs in overall exports had been declining during last five years barring a marginal improvement in 2010-11. In addition the growth rate of EOU exports was not commensurate with growth rate of overall exports of the country except in 2013-14 and it turned negative during 2011-12. While disapproving the failure on the part of the Ministry in dealing with the matter with firmness and promptitude it deserved, the Committee recommended that necessary corrective measures be initiated to arrest the declining number of EOUs while prescribing specific timelines and measure outcomes so that the basic objective of export growth is achieved.

10. The Ministry of Commerce and Industry (Department of Commerce) in their Action Taken Note on the aforementioned recommendation have stated as under:

"Apart from inclusion of Panda Committee recommendations in FTP on 01.04.2015, the following corrective measures have already been taken:

1. DGEP/DoR had issued enabling notification in respect of changes that have been incorporated in FTP 2015-20.
2. In Union Budget 2016-17 provision has been made for extending warehousing period for all EOUs. Warehousing period for 100% EOUs, EHTPs and STPs having permission to carry manufacturing or other operations for inputs and capital goods has now been extended till their clearance from the said premises (which was earlier limited to 3 and 5 years respectively) from the date of warehousing thereof.
3. CBEC vide circular No. 35/2016-Customs dated 29.07.2016 has done away with mandatory warehousing requirements for EOUs. Earlier warehousing provisions in Customs legislation are substituted with new provisions wherein customs control over public and private warehousing shall be document based rather than through customs personnel, which is expected to lower transaction cost and aid faster clearance of consignments.

Department of Commerce has also initiated the following:-

1. DoC has recommended to DoR to do away with Cost recovery charges.
2. DoC has recommended to DoR to explore the possibility of expanding the scope of pre-authenticated procurement certificate."

11. In their original Report, the Committee had recommended the Ministry to initiate corrective measures so as to arrest the declining number of EOUs. From the Action Taken Notes the Committee find that a number of steps such as issuing notification in respect of changes that have been incorporated in FTP

2015-20, making provision in Union Budget 2016-17 for extending warehousing period for all EOU's and doing away with mandatory warehousing requirements for EOU's etc. However, the Committee find that the Action Taken Note of the Ministry is silent about the result achieved after taking such steps. The Committee would like to be apprised of the same. Further, Department of Commerce had recommended to Department of Revenue to do away with cost recovery charges, and to explore the possibility of expanding the scope of pre-authenticated procurement certificate, but they have not apprised the Committee as to when such recommendations were made and whether the Department of Revenue have implemented the same or not. The Committee, therefore, exhort the Department of Commerce to apprise them about the present status of implementation of those recommendations by the Department of Revenue and the outcome thereof in regard to the declining number of EOU's. The Committee also desire the Department of Commerce to improve upon their coordination with Department of Revenue by periodical joint meetings to speed up the implementation of the measures to boost the growth of EOU's.

C. Analysis of the Scheme

(Recommendation Para No. 8)

12. The Committee found that owing to their flexibility and unique position, EOU Scheme flourished in 1980s, 1990s and upto mid 2000 but over a period of time the export from SEZs had increased as against the exports from EOU's as several EOU's and STPI's had closed and shifted their base to SEZs after partial fulfillment of their growth obligations. The Committee were anguished to note that a detailed study of comparison of benefits between SEZ, EOU and DTA units had not been conducted by the Department of Revenue or Department of Commerce. However, from the comparison of benefits given to SEZ units and EOU's the Committee noticed that while the SEZ units were entitled for duty free imports for setting up unit, no duty free benefits were extended for setting up EOU. Similarly, SEZ units were given IT Exemption on the export profits as per section 10AA of Income Tax Act, no such Income Tax exemptions on export profits since April, 2011 were given to EOU units. Further, in regard to SEZ units DTA Sale is on payment of full duty, while for EOU's it was on payment of

concessional duty. In case of SEZ units, supply of goods from DTA to SEZ stated as physical exports, while in case of EOU's it was stated as deemed exports. The Committee also, found that a detailed study about the experience of other countries in the field had also not been made. They had, therefore, desired that specific analysis of the benefits accrue to the SEZ units and EOU's be done so as to avoid shifting of EOU's to SEZs. Thereafter, a suitable strategy be evolved for attracting EOU's into the 100% EOU's Scheme and all necessary steps should be taken to remove the constraints/impediments in their successful operation. The successful experience of foreign countries can be dovetailed so as to accelerate the pace of development of EOU's.

13. In their Action Taken Note on the aforesaid recommendation, the Ministry of Commerce and Industry (Department of Commerce) have stated as under:

"Comparative analysis of SEZs and EOU's are reproduced below:

Similarities:

| S.No. | SEZ | EOU |
|-------|--|--|
| 1. | Exemption from payment of Central Excise duty/Custom duty on domestic procurement / import | Exemption from payment of Central Excise duty / Custom duty on domestic procurement / import |
| 2. | Shall be Net foreign exchange earner | Shall be Net foreign exchange earner |
| 3. | 100% FDI through automatic route | 100% FDI through automatic route |
| 4. | No license for import including second hand machineries. | No license for import including second hand machineries. |
| 5. | Availability of MEIS | Availability of MEIS |

Differences:

| S.No. | SEZ | EOU |
|-------|---|---|
| 1. | A SEZ unit can only be set up in the demarcated custom bonded areas notified under Section 76A of the Custom's Act, 1962 where documentation & assessment can be done in the zone itself. | A 100 percent EOU Scheme specially offers flexibility in location as unit can be established in any industrial or Commercial areas. |
| 2. | In SEZ conversion of existing unit is not allowed. | Conversion of existing unit into 100% EOU is permissible. |
| 3 | No investment criterion is prescribed under the SEZ scheme. | Minimum investment of Rs. 1 crore in plant and machinery is prescribed except for certain sectors. |

| | | |
|-----|---|---|
| 4 | DTA Sale is permissible on payment of applicable rate of duty. | Concessional duty exemption extended for DTA sale by an EOU. |
| 5 | No cost recovery charges are payable by a SEZ unit. | Cost recovery charges are recoverable from EOUs. |
| 6 | Units are entitled to exemption from payment of CST on supplies from the DTA. | Units need to obtain reimbursement of CST. |
| 7 | Supplies from DTA to SEZ units are treated as exports. | The supplies from DTA to 100% EOU is treated as Deemed Exports. |
| 8 | Trading unit can be set up under the Scheme. | Trading unit cannot be set up under the Scheme. |
| 9. | Duty Free Benefit is available for setting up of SEZ Units. | No such benefit is available for EOUs. |
| 10. | 100% Income Tax exemption on export income for SEZ units under Section 10AA of the Income Tax Act for first 5 years, 50% for next 5 years thereafter and 50% of the ploughed back export profit for next 5 years. | No such benefit is available for EOUs. |

Following steps have been taken by DoC to make the EOU scheme more attractive:

DoR has been requested:

- i. To consider the proposal of exemption of EOUs from payment of CST.
- ii. To consider the availment of facility of availing duty free inputs for setting up unit under EOU scheme.
- iii. To examine the possibility of providing investment linked IT exemption for EOUs."

14. Upon noticing that the export from SEZs had increased as against the exports from EOUs as several EOUs and STPIs had closed and shifted their base to SEZs, the Committee in their Original Report had desired the Ministry to do specific analysis of benefits accrue to the SEZ units and EOUs so as to avoid shifting of EOUs to SEZs. A suitable strategy should be evolved making 100 percent EOUs scheme attractive and necessary steps be taken to remove the constraints/impediments in their successful operation. Further, the Committee desired that successful experience of foreign countries can be dovetailed so as to accelerate the pace of development of EOUs. From the Action Taken Notes, the Committee observe that though the Ministry of Commerce and Industry

(Department of Commerce) have done comparative analysis of SEZs and EOUs, they have neither initiated any steps towards evolving any strategy to attract EOUs into 100 percent EOUs Scheme, nor they have taken any steps to remove the constraints/impediments for their successful operation. Action Taken Notes are also silent about the study of successful experience of foreign countries. The Committee are shocked that while they recommended new steps and suitable strategy to remove their impediments and constraints for successful functioning of EOUs, the Ministry of Commerce have merely requested Department of Revenue for certain relaxations. However, the Committee have also not been apprised as to whether those proposals have been considered by the Department of Revenue or not. The Committee while reiterating their earlier recommendation desire the Department of Commerce as well as the Department of Revenue to take urgent and effective measures to avoid shifting of EOUs to SEZs and bring them into the 100 percent EOUs scheme.

**D. Revision in Annual Progress Report
(Recommendation Para No. 13)**

15. The Committee observed that the domestic procurements made by EOUs have not been reported in the Annual Progress Reports (APRs). Further, the duty foregone in import and domestic procurements made by the units were also not captured in the QPRs/APRs. In 13 cases, procurement of indigenous inputs from DTA amounting to ₹ 549.50 crore where suppliers claimed deemed export benefit for the supplies made to EOUs has not been reported by EOUs in APRs. Apprising the Committee about the number of APRs not received till December, 2015, the Ministry of Commerce and Industry submitted that 360 units have not submitted their APRs and Show Cause Notices (SCNs) have been issued to them for delayed/non-submission of the same. The Committee had desired to be apprised of the final outcome of the SCNs issued. As regards the issue of revising APR format to include a column on duty forgone data, the Ministry stated that it will be examined in consultation with the concerned Ministries/Departments. The Committee desired that the Department may initiate measures urgently to ensure that the proforma APRs are modified to the extent to include domestic purchases and corresponding duty foregone.

16. In their ATN to the aforesaid recommendation, the Ministry of Commerce and Industry (Department of Commerce) have submitted as under:

"Instructions have been issued to the zones to ensure timely filing of APRs by the EOUs. It may be noted that proforma of APR already includes domestic purchases at column 29 to 34. Further DoC has recommended DGFT for revision in APR proforma to include corresponding duty forgone in APR proforma and include domestic purchases and corresponding duty forgone in QPR."

17. The Committee are constrained to observe that in response to their recommendation regarding including of domestic purchases and corresponding duty foregone into APR Proforma, the Department of Commerce have merely recommended the DGFT for revision of APR proforma to include the same. However, ATN does not reflect any concrete action taken either by Department of Commerce or DGFT in this regard. The Committee view with disapproval the failure on the part of both the Department of Commerce as well as DGFT in dealing with matter with firmness and promptitude it deserved. The Committee would like to be informed of the final outcome of the SCNs issued consequent upon failure of 360 units in filing APRs.

F. Cases of Non-Compliance and Policy Mis-Representation
(Recommendation Para No. 15)

18. In their Original Report the Committee found cases of short/nonlevy of duty of, irregular availing of concessions on clearance of finished goods into DTA, clearance/sale of marble in DTA in violation of provisions of FTP, short payment of duty on sale of scrap in DTA, non-payment of proportionate Anti-Dumping Duty (ADD) on DTA clearance, irregular DAT sale by 100 percent EOU despite negative NFE and non reversal of cenvat credit on clearance of goods without payment of duty etc. The Committee also observed the cases of non-availability of data of cases received for fixation of *ad hoc* norms and finalization thereof, Non-levy of duty on consumption of imported inputs/raw materials/consumables etc. other than those allowed under SION, Non-recovery of duty forgone on excess consumed imported inputs/raw materials, Violation of conditions in LoP, Non-realisation of Foreign exchange, Applicability of central excise exemption notifications issued under section 5A of the Central Excise Act, 1944 of EOU, ambiguity in the FTP and CE notification etc. In this regard the

Committee were informed that in case of admitted Audit observations, Show Cause Notices have been issued, some cases were under process of adjudication, in some other cases penalty alongwith interest had been recovered and instructions had also been issued to field formations for taking remedial action as per specified procedure in several other cases. The Committee strongly urged that the matter should be earnestly pursued with the judicial authorities with a view to securing early finalisation of these cases and the final outcome in each case be reported to them. The Committee also desired that details of the cases where SCNs have been issued be provided to them alongwith recovery of dues.

19. The Ministry of Finance (Department of Revenue) in their Action Taken Note on the aforesaid Recommendation have submitted as under:

"All the Commissionerates have been requested to adjudicate the SCN as early as possible and made recovery. The current status of SCNs issued is as under:

| S.No | Name of the Unit | Nature of irregularity | Short levy of duty (Rs, in lakhs) | SCN No. & Date |
|------|---|--|-----------------------------------|---|
| 1 | GKB RX Lens Pvt Ltd | Non-levy of duty on consumption of imported inputs/raw materials/consumables etc. other than those allowed under SION. | — | Two SCNs issued to M/s GKB Rx Pvt. Ltd. on similar issue based on para 2 of SoF on "PA-100% EOU" are kept at call book and pending for adjudication |
| 2 | M/s Kemrock Industries and Export Ltd. | Incorrect availing of Cenvat credit | 68.83 | The Tribunal has decided the case in favour of another assessee on the same subject matter. Order not accepted, Department in Appeal to the High Court, as per current instructions the cases cannot be decided and so has been transferred to the Call Book, pending the decision of the Hon'ble High Court. |
| 3 | M/s Kemrock Industries and Export Ltd. | Non-payment of SAD on clearance made to DTA | 94.94 | |
| 4 | M/s Sun Pharmaceutic al Industries Ltd. | Wrongly availed Cenvat credit on payments towards sales commissions. | 63.45 | |
| 5 | M/s Aishwarya Plast Export Pvt Ltd | Non-payment of SAD on clearance made to DTA | 152.24 | |

| | | | | |
|----|---|---|---------------|--|
| 6 | M/s KEI Industries | Depreciation was not computed proportionately. | 6.01 | Show Cause Notice issued vide C. No. V(85)80/Dem./KEI/ BHD-I/2015/4525-26 dated 03.12.2015 for the amount of Rs. 3,26,644/-. |
| 7 | M/s Skipper Electricals (India) Ltd Unit-II, Bhiwadi. | | | Show Cause Notice issued vide C. No. V(85)81/Dem./BHD-I/2015/9355 dated 27.01.16 for the amount of Rs. 84,255/- |
| 8 | M/s Skipper Electricals (India) Ltd Unit-II, Bhiwadi. | Indigenous capital goods were taken under EPCG licence. | 4.59 | SCN issued vide C. No. V(85)82/Dem./BHD-I/2015/9351 dated 27.01.2016 for the amount of Rs. 4,58,746/-. |
| 9 | M/s Getrag Hi-Tech Gears (India) Pvt. Ltd., Bhiwadi | Rate of duty wrongly applied on rejects. | 1.66 | |
| 10 | M/s Chaitanya Minerals, Jaipur | Under Rule 2(a) of the CENVAT Credit Rules, 2004 Capital Goods do not include Motor Vehicles. | 4.23 | SCN issued vide C.No. V-87(15)11/CCR/CM/JPR/2015/1140-1141 dated 24.06.2015 amounting to Rs. 4.23 lakhs. |
| 11 | M/s Smruthi Organics, Solapur | Finished goods cleared at concessional rate | 19.11 | Show Cause Notice F.No. V/15-56/Adj/ ADC/15-16 dated 15.02.16 |
| 12 | M/s Virgo Valves & Controls Ltd., Pune | Duty paid at concessional rate on stock of finished goods | 4.75 63.15 | The party had filed an appeal in CESTAT against the OIO No.PUN-EXCUS-001-PR.COM-007-16-17 dt.23.06.2016 on 22.09.2016 vide appeal No.E/87205/2016 |
| 13 | M/s BAG Electronics (India) Pvt Ltd., Pune-III | Clearance of products into DTA in excess of permitted limits | 18.68 | SCN issued |
| 14 | Cipla Ltd. (unit II) | Clearance of products into DTA in excess of permitted limits | 18.87 | 4 SCNs involving total differential duty of Rs. 5.12 cr. had been issued. The unit had paid under protest the amount of Rs. 3.04 lakhs as the differential of Central Excise duty for the period 2009-10, Rs. 31.17 |

| | | | |
|----|------------------------------|---|--|
| | | | lakhs for the period 2010-11 and Rs. 36.65 lakhs for the period 2011-12. SCN have been taken up for adjudication and PH had been held on 11.01.2016. |
| 15 | M/s VVF Limited | Clearance of products into DTA in excess of permitted limits | SCN of Rs.564.50 Lakhs has been issued vide No.V/Adj(SCN)15-171/ Commt/2014/BEL dated 17.04.14 and confirmed vide O-I-O No. 33 dated 28.01.2015. The assessee has filed an appeal in CESTAT and paid the mandatory pre deposit of Rs.1,62,42,303/- The matter is still pending in CESTAT. |
| 16 | M/s VVF Ltd | Irregular availing of concessions on clearance of finished goods into DTA | SCN amounting to Rs.18.87 lakhs dated 19.03.14 issued which was confirmed vide OIO No.Belapur/Tal/R-VI/ADC/TKS/2014-15 dated 30.12.14 alongwith interest and penalty. The assessee has filed an appeal in CESTAT and paid the mandatory pre deposit of Rs.1,88,780/- The matter is still pending in CESTAT. |
| 17 | M/s Arzo Plastics Ltd | Clearance of products into DTA in excess of permitted limits | SCN vide F.No.V/Adj(SCN)15-106/ADC/213/Bel dated 21.04.2014 had been issued amounting to Rs.33.90 lakhs, The said SCN had been confirmed vide OIO No.Belapur/Bel-I/R-V/44/ADC/TKS/14-15 dt.20.01.2015. The assessee has filed an appeal in CESTAT and paid the mandatory pre deposit of Rs.3,39,000/- The matter is still pending in CESTAT. |
| 18 | M/s A R sulphonates Pvt Ltd; | Irregular availing of concessions on clearance of finished goods into DTA | Show cause cum demand notice had been issued for RS. 53.94 lakhs on 13.3.2014. |

| | | | | |
|----|--|--|--------|---|
| 19 | M/s Gala Precision | Irregular availing of concessions on clearance of finished goods into DTA | | Show cause notice bearing no. V/Adj(SCN) 15-57/Gala Precision/KI/Th-I/2014/495 dated 02.05.2014 for an amount of Rs. 15,40,152/- had been issued. |
| 20 | M/s Orchid Chemicals & Pharmaceuticals Ltd | Non-payment of SAD on clearance made to DTA | 126.52 | SCN for Rs.3.89 lakhs has already been adjudicated vide O-I-O No.04/2015 dt.18.05.2015. The party has gone in appeal to Commissioner (A) vide appeal No.227/2015 dt.07.08.15. SCN for Rs.16.41 lakhs, the SCN had been transferred to Call Book as in a similar case in respect of M/s Micro Ink(2014{303}ELT99(Tri. Ahmd)), the Department has gone in appeal to High Court. |
| 21 | M/s Mylan Laboratories Limited, (Unit-III) | Service Tax not paid on sale of Dossier for the period July 2012 to March 2014 | 91.11 | SCNs NO.116/2015-ADJN(ST) (Commr) dt 20.10.2015 had been issued for the period 2012-13 to 2014-15 for an amount of Rs.138.14 crore. The case is pending for adjudication. |
| 22 | M/s Aurobindo Pharma Limited | | 4.53 | SCN No.117/2015-ADJN(ST) (Commr) dt 20.10.2015 had been issued for the period July, 2012 to March 2014 for an amount of Rs.9.64 crore, in which an amount of Rs.4.53 crores pertains to Dossier Sales i.e for the subject audit. The case is pending for adjudication. |
| 23 | M/s Sun Pharmaceutical Industries Ltd. | Wrongly availed Cenvat credit on payments towards sales commissions. | 33.62 | A show cause notice of Rs.33.61 lakhs has been issued on 21.10.2015. The SCN has been transferred to call book in view of the pendency of appeal in Hon'ble Gujarat High Court in the case of M/s Essaar Logistics Ltd., Surat. |
| 24 | M/s KLJ Organic Ltd. | | 2.09 | SCN F.No.V(CH.38)3-15/DIV.II/ADC/2014-15 |

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| | | | dt.28.11.2014 had been adjudicated & confirmed vide OIO No.41-42/ADJ/DEM/ADC-MS/15-16 dt.27.10.2015. The party had filed appeal before the Commissioner, Appeals, Vadodara-II. The Commissioner(Appeals), has set aside the impugned OIO vide OIA No.CCESA-VAD(APP-II)MM-140 to 150/2016-17 dt.30.06.2016. Now the Department has filed an appeal before CESTAT and the same is pending in CESTAT Ahmedabad. |
| 25 | M/s Cadila Health Care Ltd. | Wrongly availed Cenvat credit on payments towards sales commissions. | 15.97 SCN no. V.ch.26/15-10/OA/Cadila /ADC/ Div.II/2014 dt. 17.09.2014 for Rs. 15,96,969/- issued. The same had been confirmed vide Adjudication order No.VAD-CXCUS-JC-038-15-16 dt.15.10.2015. The assessee had filed an appeal in CESTAT and paid the mandatory pre deposit of Rs.1,59,697/-. The matter is still pending in CESTAT. |
| 26 | M/s Cadila Health Care Ltd. | Incorrect availing of Cenvat credit (work contract) | 14.90 SCN no. V.ch.29/15-11/OA/Cadila /IC/2015 dt. 14.05.2015 had been issued. The same had been confirmed vide Adjudication order No.VAD-CXCUS-001-JTC-080-15-16 dt.30.11.2015. Appeal filed in Commissioner (Appeal) on 07.01.2016 with 7.5% pre-deposit. |
| 27 | M/s GEA Pharma Ltd. | Non levy of Service Tax | 18 SCN dated 09.10.2014 for Rs. 31,73,099/- for the period from March 2010 to March 2014 was issued. The same had been confirmed vide Adjudication order No.VAD-CXCUS-001-JTC-048-15-16 dt.29.10.2015. The assessee had filed an appeal against |

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| | | | | the said OIO in Commissioner (Appeal). |
| 28 | M/s MESCO Ltd., Jajpur, Odisha | Non payment of SAL on clearance made to DTA | 162.25 | SCN issued vide C. No. V(26)15/Adjn/B-II/54/ 2015/501-503A dated 13.01.16. for Rs. 1,28,68,702/-. |
| 29 | M/s AVT McCormick Ingredients Pvt. Ltd | Duty not paid on goods destroyed though insurance claim was received. | 19.85 | SCN No. 17/2016 CE dated 15.02.2016 for Rs. 14,47,646/-. |
| 30 | M/s Sun Pharma Ltd. | Excess DTA clearance beyond 90% of exports | 591.18 | Show Cause Notice under F.No. V(29)15-07/Commr/Adj. /Sun/2015-16 dated 05.11.2015. As per para 6.2 of CBEC Circular No.1023/11/2016-CX dt.08.04.2016 the case was transferred to call book. |
| 31 | M/s Bellota Agrisolutions and Tools Pvt Ltd | Irregular availing of concessions on clearance of finished goods into DTA | 10.57 | The party had filed appeal against the OIO No.91/CEX/2016 dt.28.06.2016. |
| 32 | M/s Synthite Industries Ltd | Unit paid commission to foreign agents under Section 66A. However, no service tax was levied. | 7.51 | SCN no. 103/2015-ST dt. 17.06.2015 issued for an amount of Rs. 7.51 lakhs covering the period from 2010-11 to 2013-14. |
| 33 | M/s Goodricke Group Ltd., (Instant Tea Plant), Jalpaiguri | Non-recovery of duty forgone on excess consumed imported inputs/raw materials | 709.00 along with interest of Rs. 340.00 | The assessee had filed appeal before the Hon'ble CESTAT Kolkata on 29.04.2016 against the OIO passed by the Commissioner, Customs, C.Ex & ST, Siliguri with a pre-deposit of Rs.80,65,000/- (7.5% of the confirmed amount vide CIN No.0510004150201600132 dt.15.03.2016. |
| 34 | M/s Fairfield Atlas Ltd | F. No. V(84)15-267/ADJ/COMMR /KOP/14 dated 27.11.2014 | 98.41 | Demand had been dropped vide OIO No.KLH-EXCUS-000-COM-050-15-16 dt.25.02.2016 passed by Commissioner |
| 35 | M/s Fairfield Atlas Ltd | F. No. V(84)15-252/ADJ/COMMR /KOP/14 dated 03.09.14 | 2412.00 | Commissioner vide OIO No.KLH-EXCUS-000-COM-022-15-16 dt.11.01.2016 had confirmed Rs.13,20,54,527/- and dropped. |

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| | | | | Rs.10,91,75,736/- |
| 36 | M/s Abhishek Corporation Ltd, Kolhapur | F. No. V(52)15-242/ADJ/COMM/R/KOP/14 dated 04.09.2014 | 997.87 | Commissioner vide OIO No.KLH-EXCUS-000-COM-026-15-16 dt.11.01.2016 had confirmed Rs.4,80,44,348/- and dropped Rs.5,17,43,065/-. |
| 37 | M/s International Packaging Products Pvt. Ltd. | Incorrect availing of Cenvat credit. | 19.58 | Party had filed appeal on 12.04.2016. The assessee has paid pre-deposite of Rs.2,19,455/- vide RG 23A Part II dt.15.03.2016. The authorized signatory Shri-Ramniwas Saini, also paid pre-deposite of Rs.21,570/- vide challan No.00256(SBI) dt.16.03.2016. |
| 38 | M/s Santec Exim Pvt Ltd | unit has not obtained permission for job work from jurisdictional Division office | — | SCN has been adjudicated vide OIO No.52/ADC/D-1/2016 dt.31.08.2016. |
| 39 | M/s Mizoram Venus Bamboo Product (P) Ltd., Aizawl | Irregular availing of concessions on clearance of finished goods into DTA | — | SCN has been adjudicated vide OIO No.05/AC/CE/SIL/2015 dt.04.01.2016 confirming the demand duty of Rs.2,65,965/-. |
| 40 | M/s Axiom Cordages Ltd | Clearance of products into DTA in excess of permitted limits | — | Two SCNs issued to M/s Axiom Cordages Ltd. have been adjudicated vide OIO No.13-14/SJB/COMM/R/TII-II/2016 dt.16.03.2016. The Assessee has made pre-deposit of Rs.22,94,760/- as pre-condition for filing appeal before CESTAT Mumbai Bench. |
| 41 | M/s Naffar Chandra Jute Mills Limited, Nadia | Depreciation was not computed proportionately | 13.06 | SCN has not yet been adjudicated as the SCN reply has not been submitted by the assessee. |
| 42 | M/s Galaxy Surfactant, Navi Mumbai | Credit on duty paid on capital goods 100% instead of 50%. | 76.30 | The SCN issued to M/s Galaxy Surfactants Ltd, Taloja, Navi Mumbai has not been adjudicated yet. |

26. The Committee find that out of 42 cases in which Show Cause Notices were issued to the concerned units for various omissions committed by them, some cases are very old and involve huge financial loss to the exchequer for want of adequate follow up. The Committee are constrained to observe that Show Cause Notices issued are pending for adjudication at various levels, thereby resulting in non-recovery of dues of crores of rupees. The Committee are unhappy to note that the Department of Revenue have merely requested all the commissionerate to adjudicate the SCNs as early as possible and made recovery. However, no concrete steps have been taken in this regard. Since a large amount of duty arrear is involved in these cases resulting in huge financial loss to the Government, the Committee emphasize that a special cell may be constituted in the Department of Revenue to keep constant watch over the pending cases and take prompt action to expedite the same at the earliest. The Committee would like to be informed of the action taken in the matter within two months of the presentation of this report.

E. Shortcomings in the implementation of 100 percent EOU Scheme (Recommendation Para No. 17)

21. Keeping in view several shortcomings in the implementation of 100 per cent EOU Scheme resulting in drastic decline in the number of units as well as revenue under the scheme, the Committee recommended that a high powered independent inquiry should be ordered in the light of the facts contained in the Report with a view to finding out the unscrupulous elements responsible for the rampant abuse of the Scheme and also to fix responsibility of the officers for their various acts of omissions and commissions. The Committee had further desired that the Department of Commerce and Department of Revenue should conduct a comparative study of the benefits accrued to SEZ units and EOUs so as to find out the reasons for shifting of EOUs to SEZ sector.

22. In their Action Taken Note to the aforesaid recommendation, the Ministry of Commerce and Industry (Department of Commerce) have submitted as under:

DoC is of the view that the number of EOUs has come down because of withdrawal of Income tax benefit. Some of the steps already taken by DoC and DOR such as regular Internal Audit of EOUs carried out by Central Excise and instructions to all DCs to regularly carry out Joint Monitoring and engage

Chartered Accountants for carrying out financial scrutiny of the system have already been implemented."

23. In their vetting comments to the aforesaid Action Taken Note, Audit have stated that Department of Revenue may furnish their comments.

24. In response thereto, the Ministry of Commerce and Industry (Department of Commerce) have stated that Department of Revenue has been requested on 27.03.2017 to furnish comments.

25. The Committee find that the Ministry of Commerce has submitted a comparative analysis of EOU and SEZ Scheme, which reflected similarities and difference in operation of both the schemes though it is not clear whether any comprehensive study as desired by the Committee was conducted to arrive at these conclusions. The Committee are also unhappy that their recommendation for high powered independent inquiry to find out elements responsible for rampant abuse of this scheme and fix responsibility of officials was completely ignored. The Committee reiterate that the Ministry should conduct a comprehensive study to identify the shortcomings in the EOU scheme and take remedial action in a time bound manner so as to avoid shifting of EOUs to SEZ sector. Further, as the EOU Scheme is neither able to attract Entrepreneurs nor contribute to the export growth, the Committee once again emphasise the Ministry of Commerce to conduct a comprehensive study so as to modify the EOU scheme to make it more attractive. The Committee also reiterate that a high powered Committee be set up as recommended by them earlier. Further as suggested by Audit during the course of vetting, Department of Commerce have requested to Department of Revenue on 27.03.2017 to furnish their comments. The Committee would like to apprised of the comments of the Department of Revenue, in this regard.

NEW DELHI;
4 December, 2017
13 Agrahayana, 1939 (Saka)

SHRI MALLIKARJUN KHARGE
Chairperson,
Public Accounts Committee