

SIXTH REPORT
PUBLIC ACCOUNTS COMMITTEE
(1980-81)

(SEVENTH LOK SABHA)

UNION EXCISE DUTIES

MINISTRY OF FINANCE
(Department of Revenue)

[Action taken by Government on the recommendations of the Public Accounts Committee contained in their 149th Report (Sixth Lok Sabha)]



Presented in Lok Sabha on 12.0 MAR 1981

Laid in Rajya Sabha on

LOK SABHA SECRETARIAT
NEW DELHI

November 1980/Agrahayana 1902 (S)

Price Rs : 0.90 P.

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CORRIGENDA TO 6TH REPORT OF THE PUBLIC ACCOUNTS
COMMITTEE PRESENTED TO LOK SABHA ON 20.3.1981.

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PUBLIC ACCOUNTS COMMITTEE
(1980-81)

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3. Shri Subhash Chandra Bose Alluri
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1. Shri H. G. Paranjpe—*Joint Secretary.*
2. Shri D. C. Pande—*Chief Financial Committee Officer.*
3. Shri T. R. Ghai—*Senior Financial Committee Officer.*

INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Sixth Report on action taken by the Government on the commendations of the Public Accounts Committee contained in their 149th Report (Sixth Lok Sabha) on Union Excise Duties relating to the Ministry of Finance (Department of Revenue). The 149th Report dealt with the evasion of duty by some processing units by taking advantage of the notification issued in April 1962 and amended from time to time prescribing lower rate of duty for processed woollen fabrics if woven in a factory other than a composite mill and processed by an independent processor. In their action taken note the Government have informed the Committee (1980-81) that action for reviewing the notification is under consideration. In this Action Taken Report, the Committee, while commenting upon the delay in amending the notification have observed that the necessary amendment should be issued without delay.

2. On 20 August, 1980 the following 'Action Taken Sub-Committee' was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the PAC in their earlier Reports:

- | | |
|---|-----------|
| 1. Shri Chandrajit Yadav— <i>Chairman</i> | |
| 2. Shri K. P. Unnikrishnan | } MEMBERS |
| 3. Shri K. P. Singh Deo | |
| 4. Shri V. N. Gadgil | |
| 5. Shri Satish Agarwal | |
| 6. Shri N. K. P. Salve | |

3. The Action Taken Sub-Committee of the Public Accounts Committee (1980-81) considered and adopted the Report at their sitting held on 3 March, 1981. The Report was finally adopted by the Public Accounts Committee (1980-81) on 11 March, 1981.

4. For reference facility and convenience, the recommendations and observations 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 the Appendix to the Report.

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

NEW DELHI;
11 March, 1981

20 Phalguna, 1902 (S).

CHANDRAJIT YADAV,
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

1.1. This Report of the Committee deals with the action taken by Government on the recommendations and observations of the Committee contained in their 149th Report (Sixth Lok Sabha) on Union Excise Duties which was presented to the Lok Sabha on 30 April, 1979.

1.2. Action Taken Notes on all the recommendations contained in the Report have been received from the Government and these have been categorised as follows:—

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

Sl. Nos 2, 3 and 5.

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

Sl. Nos. 4 and 6

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

Nil

- (iv) Recommendations or observations in respect of which Government have furnished interim replies.

Sl. No. 1

1.3. After presentation of 149th Report (Sixth Lok Sabha) to the Lok Sabha on 30 April, 1979, Government were requested to furnish Action Taken replies on all the recommendations contained in the above-mentioned Report by 29 October, 1979. The Department of Revenue furnished unvetted Action Taken replies in respect of all the recommendations by 26 December, 1979.

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

Avoidance of incidence on higher rate of excise duty levied on Composite Mills.

1.5. The Committee made the following recommendation in paragraphs 1.15 and 1.16 (S. No. 1) of their 149th Report (Sixth Lok Sabha) for taking rectificatory steps to plug the loopholes so that legal avoidance of excise duty by composite mills by separating their processing functions as independent units, is eliminated:

"1.15. The Committee note that under notification No. 50/62 dated 24th April, 1962 as amended from time to time woollen fabrics and woollen yarn processed by an independent processor are subjected to rate of excise duty lower than that leviable on such fabrics and woollen yarn processed by a composite mill. Six composite mills manufacturing woollen fabrics [Viz. (1) Lal Woollen & Silk Mills (P) Ltd. Amritsar, (2) Chakolas Spg. & Weaving Mills, Kalamassery, (3) Aryan Woollen Mills, Panipat, (4) Amba Woollen Mills, Panipat, (5) Swastik Woollen Mills, Panipat and (6) Haryana Woollen and General Mills Ltd., Panipat] separate their processing functions and formed independent processing units. While M/s. Chakolas Spg. & Weaving Mills, Kalamassery and M/s. Lal Woollen & Silk Mills (P) Ltd., Amritsar had established separate processing units almost simultaneously, in other cases the processing units came into existence several years after their own establishment."

"1.16. The Audit paragraph and the material made available to the Committee has abundantly brought out the fact that partners of the bifurcated processing units were members of the same family or close relatives and for all intents and purposes they had proprietary interest in the manufacturing units as well as factories. While the two units enumerated at S. Nos. 1 & 2 above came into existence much before the concession to processing units was announced in 1962, the remaining four units, Aryan, Amba, Swastik and Goels Finishers, all located at Panipat, came into existence in the years 1972 and 1973. Presumably this was done by those manufacturers with the sole objective of escaping the incidence of higher rate of duty levied on composite mills. The Ministry of Finance in their reply have also admitted that "this could have been one of the reasons." This impression of the Committee has been strengthened by the facts mentioned by Income

Tax Officer. Office of the Income Tax Officer, A ward, Panipat in his d.o. letter No. 257 dated 25th April, 1975 addressed to the Inspecting Assistant Commissioner of Income-Tax, Ambala Cantt. and the statement made by one of the partners of M/s Amba Finishers before the above said officer that "Composite units are to pay more excise duty than the non-composite units and as composite units cannot compete the non-composite units in the matter of supplies of barrack blankets to DGS&D because the rates quoted in the tenders are inclusive of excise duty and, therefore, this made the assessee to separate finishing units from the woollen mills." The separation of the 6 processing units had resulted in an escapement of duty of Rs. 30.42 lakhs during the period 1972-73 to 1973-74. The Committee, therefore, urge the Department of Revenue to examine the matter carefully and take urgent rectificatory steps to plug the loopholes for future so that legal avoidance of duty as has happened in the instant case does not recur."

1.6. In their action taken note dated 3 December, 1979 the Department of Revenue have stated:

"The Committee's observation has been noted. Necessary action for reviewing the notification is in progress and the final decision taken in the matter will be intimated to the Committee in due course."

1.7. In a further communication dated 12 November, 1980, the Ministry of Finance (Department of Revenue) have stated:

"...the matter regarding review of the circular No. 17 (Fabrics)/62 dated 25-7-1962 is still under active consideration. It is expected that action would be finalised soon."

1.8. The Committee fails to understand as to how the proposed review of the circular dated 25-7-1962 which contains an opinion of the Law Ministry on the definition of independent processor will help in plugging loophole in the notification. The Committee further regret to note that despite this legal loophole having been brought to the notice of the Department through the Audit Report (1978-79), no remedial steps were taken to amend the Notification in question. Not only this, even after the submission of the Committee's 149th Report in April, 1979, the Department did not care to amend the Notification. This did not involve any major policy

decision which should have consumed so much time. Once having accepted in principle the necessity for amending the Notification as back as December 1979 and having conveyed to the Committee their willingness to do so, it is unfortunate that so far the needful has not been done in the matter. The Committee hope that this lapse will not be allowed to continue further and necessary amendment would be issued without delay.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

1.33. The Committee note that M/s. Padam-shres Textile Industries Ltd. located at Kharar and falling under Chandigarh Collectorate started manufacture of Woollen Yarn and Woollen fabrics in September, 1972. The assessee evaded excise duty amounting to Rs. 3.33 lakhs by adopting the following procedure:—

- (1) The firm transferred the manufactured goods to the godown/sales offices by declaring the rates lower than those at which these goods were actually sold (Duty involved in under assessment of Rate Rs. 1.53 lakhs).
- (2) The manufactured goods were accounted for in lesser quantities in the stock register of production than actually cleared. (Duty involved in non-accountal of manufactured goods Rs. 1.80 lakhs.)

1.34. The evasion of duty by mis-declaration and under declaration of the value goods could not be detected till it was pointed out by Audit in March, 1976, i.e. 3½ years after the unit started manufacturing the yarn and fabrics. This happened inspite of the fact that specific provisions exist, in the Central Excise Rules to prevent such evasion of excise duty. Strangely, the Department was not even aware of the fact that the assessee had opened a godown outside factory premises and four sales offices at Chandigarh, Ludhiana, New Delhi and Calcutta till the Audit brought out the fact to the notice of the Department though the Department maintains a large contingent of field formation and a full fledged Directorate of Revenue Intelligence. This is a sad commentary on the functioning of Department of Revenue. The Committee would like the matter to be examined thoroughly and responsibility fixed for the lapses on the part of excise officials at all levels.

[S. No. 2, Paras 1.33 and 1.34 of 149th Report of P.A.C.
(Sixth Lok Sabha)]

Action taken

The matter has been investigated. It appears that there has been a lapse on the part of the officers of the range and the Inspection Group, in not detecting the evasion earlier. Suitable action is being initiated against the officers concerned for the lapses committed by them.

The matter could not have been detected by the Directorate of Revenue Intelligence as since its inception, this organisation has been confining its activities to the collection of intelligence on smuggling and not on evasion of Central Excise Duty. It is only lately that the Government have set up a Directorate of Anti-Evasion with the objective of preventing evasion of duty on the Central Excise side too.

It is however relevant to add here that during the relevant period, the assessee was working under the S.R.P. (Self Removal Procedure) Scheme of Central Excise Control whereunder visits by the jurisdictional Central Excise Officers to the factories was discouraged and the checks over the working of the excisable units were required to be exercised only through documents. This accounts for the lack of initiative on the part of the officers to go beyond the documentary checks, to cultivate intelligence etc. in the matter of investigating evasion of excise duty indulged in by the assessee in this case.

[Deptt. of Revenue No. 234/13/79-CX-7 dated 22-12-79]

Recommendation

The Committee are perturbed to note that Internal Audit did not visit the factory during the period from 1973 to 1976. The Inspection Groups visited the assessee to check the records during the years 1973 to 1976 only four times on 7th July, 1973, 10 January, 1974, July, 1974 and 17 January 1975. It is distressing that during these visits, Inspection Groups could not detect evasion of duty by the assessee nor did it conduct any reconciliation of records kept by the assessee and the Department. The Committee take a serious view of this lapse and would like the Department of revenue to take deterrent action against the erring officials.

[S. No. 3, Para 1.35 of 149th Report of P.A.C. (6th Lok Sabha)]

Action taken

As desired by the Committee, action has already been initiated against the erring officers. The matter will take some time for finalisation.

[Deptt. of Revenue No. F. 234/13/79-CX-7 dated 22-12-79]

Recommendation

The Committee are perturbed to note that the Department of Revenue had failed to detect that M/s. British India Corporation Ltd. (New Egerton Woollen Mills located at Dhariwal) were using more than 15 per cent of soft wool in the manufacture of yarn and got it cleared at the concessional rate of duty classifying it shoddy woollen yarn. The Collectorate noticed (May 1974) that the yarn manufactured and cleared during the period May 1973 February 1974 as shoddy yarn could not be classified as such. They therefore recovered duty amounting to Rs. 83,565 in respect the clearance made during the period May 1973 to February, 1974. But the department did not take any action, for the recovery of differential duty of Rs. 1,39,543.27 on the clearance of 2,71,748 Kgs. of yarn made during the period August, 1969 to April, 1973. The belated demand raised and confirmed by Assistant Collector in September, 1977 was set aside in appeal by the Appellate Collector on the ground that the demand was time barred. It is amazing how the department could not detect the misclassification during the earlier period viz August, 1969 to April, 1973. The Committee desire that responsibility for the lapse should be fixed to take action against the erring officials.

[S. No. 5, Para 1.47 of 149th Report of P.A.C. (6th Lok Sabha)]

Action taken

In pursuance of the observations made by the Committee, action has been initiated against officers responsible for the lapse.

[Deptt. of Revenue No. F. 234/14/79-CX-7 dated 22-8-79]

CHAPTER III

RECOMMENDATIONS\$OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN THE HIGHT OF THE REPLIES RECEIVED FROM GOVERNMENT

Recommendation

The Committee note that appeal filed by the assessee in the offence case booked against him for contravention of Rules, 9, 52-A and 173-F has been rejected by the Appellate Collector of Central Excise, New Delhi but the dues are still pending recovery.

The Committee desire that steps may be taken to recover the dues from the assessee.

[S. No. 4, Para 1.36 of 149th Report of P.A.C. (6th Lok Sabha)]

Action Taken

The assessee has since filed a revision petition, to the Government of India and has obtained a stay order from them against the recovery of the dues. The Revisionary authority has been requested to vacate the stay order and decide the case expeditiously.

[Deptt. of Revenue F. No. 234/13-79-CX-7 dated 22-12-79]

Recommendation

The Committee further note that Appellate Collector has accepted the plea made by the assessee that the Department had wrongly calculated the percentage of virgin wool contained in the yarn manufactured and cleared by him as being more than five per cent by taking into account the soft and hard wool wastes such as noils etc. which cannot be treated as virgin wool. The Committee further note that the Appellate Collector has remanded the case back to the Assistant Collector for *de-novo* adjudication and the matter is under examination afresh by the jurisdictional Assistant Collector. The Committee would wait for the decision of jurisdictional Act in this case and the views of the Department on that decision.

Action Taken

The matter has since been adjudicated. The demand for Rs. 22,996.59 has been confirmed and a penalty of Rupees Three lakhs has been imposed for misdeclaration on the assessee.

[Deptt. of Revenue F. No. 234/14/'79-CX-7 dated 22-12-79]

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

Q

CHAPTER V

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

Recommendation

The Committee note that under notification No. 50/62 dated 24th April, 1962 as amended from time to time woollen fabrics and woollen yarn processed by an independent processor are subjected to rate of excise duty lower than that leviable on such fabrics and woollen yarn processed by a composite mill. Six composite mills manufacturing woollen fabrics [Viz. (1) Lal Woollen & Silk Mills (P) Ltd. Amritsar, (2) Chakolas Spg. & Weaving Mills, Kalamassery, (3) Aryan Woollen Mills, Panipat, (4) Amba Woollen Mills Panipat, (5) Swastik Woollen Mills, Panipat, and (6) Haryana Woollen & General Mills, Ltd., Panipat] separate their processing functions and formed independent processing units. While M/s. Chakolas Spg. & Weaving Mills, Kalamassery and M/s. Lal Woollen & Silk Mills (P) Ltd., Amritsar had established separate processing units almost simultaneously, in other cases the processing units came into existence several years after their own establishment.

The Audit paragraph and the material made available to the Committee has abundantly brought out the fact that partners of the bifurcated processing units were members of the same family or close relatives and for all intents and purposes they had proprietary interest in the manufacturing units as well as factories. While the two units enumerated at Sl. Nos. 1 & 2 above came into existence much before the concession to processing units was announced in 1962, the remaining four units, Aryan, Amba, Swastik and Goels Finishers, all located at Panipat, came into existence in the years 1972 and 1973. Presumably this was done by those manufacturers with the sole objective of escaping the incidence of higher rate of duty levied on composite mills. The Ministry of Finance in their reply have also admitted that "this could have been one of the reasons." This impression of the Committee has been strengthened by the facts mentioned by Income Tax Officer, Office of the Income Tax Officer, Award, Panipat in his d.o. letter

No. 257 dated 25th April, 1975 addressed to the Inspecting Assistant Commissioner of Income-Tax, Ambala Cantt. and the statement made by one of the partners of M/s. Amba Finishers before the above said officer that "Composite units are to pay more excise duty than the non-composite units and as composite units cannot compete the non-composite units in the matter of supplies of barrack blankets to DGS&D because the rates quoted in the tenders are inclusive of excise duty and, therefore, this made the assessee to separate finishing units from the woollen mills." The separation of the 6 processing units had resulted in an escapement of duty of Rs. 30.42 lakhs during the period 1972-73 to 1973-74. The Committee, therefore, urge the Department of Revenue to examine the matter carefully and take urgent rectificatory steps to plug the loopholes for future so that legal avoidance of duty as has happened in the instant case does not recur.

[Sl. No. 1, Paras 1.15 and 1.16 of 149th Report of P.A.C.
(6th Lok Sabha)]

Action taken

The Committee's observation has been noted. Necessary action for reviewing the notification is in progress and the final decision taken in the matter will be intimated to the Committee in due course.

[Deptt. of Revenue No. F. 234/12/79-CX dated 3-12-79]

NEW DELHI;
March 11, 1981
Phalguna 20, 1902 (Saka).

CHANDRAJIT YADAV,
Chairman,
Public Accounts Committee.

APPENDIX **Conclusions/Recommendations**

S. No.	Para No.	Ministry / Deptt. Concerned.	Recommendations
1	2	3	4
1	1.8	Deptt. of Revenue	<p>The Committee fail to understand as to how the proposed review of the circular dated 25-7-1962 which contains an opinion of the Law Ministry on the definition of independent processor will help in plugging loophole in the notification. The Committee further regret to note that despite this legal loophole having been brought to the notice of the Department through the Audit Report (1978-79), no remedial steps were taken to amend the Notification in question. Not only this, even after the submission of the Committee's 149th Report in April, 1979, the Department did not care to amend the Notification. This did not involve any major policy decision which should have consumed so much time. Once having accepted in principle the necessity for amending the Notification as back as December 1979 and having conveyed to the Committee their willingness to do so, it is unfortunate that so far the needful has not been done in the matter. The Committee hope that this lapse will not be allowed to continue further and necessary amendment would be issued without delay.</p>

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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.

P. A. C. No. 726

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PUBLISHED UNDER RULE 382 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.