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**CUSTOMS RECEIPTS—WORKING
OF INLAND CUSTOMS BONDED
WAREHOUSES**

**MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)**

**PUBLIC ACCOUNTS
COMMITTEE
1990-91
SEVENTH REPORT**

NINTH LOK SABHA



**LOK SABHA SECRETARIAT
NEW DELHI**

SEVENTH REPORT
PUBLIC ACCOUNTS COMMITTEE
(1990-91)

(NINTH LOK SABHA)

CUSTOMS RECEIPTS—WORKING
OF INLAND CUSTOMS BONDED
WAREHOUSES

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

[Action Taken on 124th Report of Public
Accounts Committee (8th Lok Sabha)]



सत्यमेव जयते

*Presented to Lok Sabha on 6 Sept., 90
Laid in Rajya Sabha on 6 Sept., 90*

LOK SABHA SECRETARIAT
NEW DELHI

August, 1990/Bhadra, 1912(Sakla)

P.A.C. No. 1296

PUBLIC ACCOUNTS COMMITTEE

(1990-91)

(NINTH LOK SABHA)

CUSTOMS RECEIPTS—WORKING
OF INLAND CUSTOMS BONDED
WAREHOUSES

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Price : Rs. 9.00

[Action Taken on 13th Report of Public
Accounts Committee (Lok Sabha)]



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INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Seventh Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their 124th Report (Eighth Lok Sabha) on Customs Receipts—Working of inland customs bonded warehouses.

2. The Committee have desired that early steps should be taken to incorporate amendments in the Customs Act whereby the owners of the imported goods who avail of the warehousing facility shall not be given the right to relinquish such imported goods after proceedings are initiated under Section 72 for recovery of dues so that financial interests of the Government are securely protected. Further, Government should prescribe a time limit under Section 23(2) of the Customs Act within which only the owners shall be allowed to relinquish their title to the imported goods, in all cases.

3. The Report was considered and adopted by the Public Accounts Committee at their sitting held on 24 August, 1990. Minutes of the sitting form Part II of the Report.

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

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

NEW DELHI;
August 24, 1990
2 Bhadra, 1912 (S)

SONTOSH MOHAN DEV,
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

This Report of the Committee deals with the action taken by Government on the Committee's recommendations/observations contained in their 124th Report on Customs Receipts—Working of inland customs bonded warehouses on Paragraph 1.41 of the Report of the Comptroller and Auditor General of India for the year 1985-86, Union Government (Civil), Revenue Receipts, Volume I Indirect Taxes.

2. The 124th Report which was presented to Lok Sabha on 18 April 1988 contained nine recommendations/observations. Action Taken Notes on all these recommendations/observations have been received from the Ministry of Finance (Department of Revenue). The action taken notes have been broadly divided into four categories as indicated in Appendix-I.

3. In the succeeding paragraphs the Committee will deal with action taken on some of their recommendations/observations.

Warehousing and Relinquishment of title to imported goods

(S. No. 4, Paragraph 22)

4. The 124th Report of the Committee (Eighth Lok Sabha) had revealed several irregularities in the working of inland customs bonded warehouses.

5. The object of warehousing is to allow the trade the facility of deferred payment of customs duty on the imported goods for a period permissible under the Act or for a reduced period or period extended by the Collector of Customs, as the case may be, till their actual clearance for home consumption on payment of appropriate duty or their re-export without payment of duty to any foreign port. Section 61(1) of the Customs Act, 1962 prescribes the period for which the goods may remain warehoused. Section 72 of the Act lays down the penal provisions for the failure to remove such warehoused goods from the warehouses after the prescribed warehousing period. Section 23(2) of the Customs Act provides that the owner of any imported goods may, at any time, before an order for clearance of the goods for home consumption has been made, relinquish his title to the goods and thereupon he shall not be liable to pay the duty thereon.

6. In their 124th Report (Eighth Lok Sabha) the Committee had found that in respect of several consignments the owners of warehoused goods relinquished their title to the imported goods after the Customs department had initiated action against the defaulting owners under Section 72 for non-clearance of goods from the warehouses even after the expiry of the permitted period of warehousing. Pertinently, during the time of

relinquishment, the prices of such goods had reportedly fallen in the domestic market. In this context, the Committee in paragraph 22 of their report had recommended:

“The Committee are convinced that the importers should not have an unfettered right to abandon ownership to the goods under Section 23(2) of the Customs Act. The fact that in a large number of cases the importers of warehoused goods chose to relinquish their title to imported goods depending on the internal market situation would clearly indicate that the facility is indeed being misused for speculative purposes to the detriment of indigenous industry. Moreover, the inadequate realisation made on sale of such relinquished goods would undoubtedly show that Government is clearly put to a loss of revenue besides loss of foreign exchange on account of avoidable imports. The Committee, therefore, recommend that Government should make necessary amendments in the Customs Act whereby the owners of the imported goods who avail of the warehousing facility shall not be given the right to relinquish such imported goods after proceedings are initiated under Section 72 for recovery of dues so that financial interests of the government are securely protected. Further, Government should prescribe a time limit under Section 23(2) of the Customs Act within which only the owners shall be allowed to relinquish their title to the imported goods, in all cases”.

7. The Ministry of Finance (Department of Revenue) have in their action taken note stated as follows:

“The recommendation of the Committee for amendment in Section 23(2) of the Customs Act, 1962 has been examined in consultation with the Ministry of Law. On receipt of Law Ministry's advice, action has been initiated by the Department for amendment of Section 23(2) of the Customs Act, 1962 to deny the facility of relinquishing the title of goods cleared for warehousing the title of goods cleared for warehousing. The proposed Bill is under discussion with the Ministry of Law and it is likely to take some time”.

8. In their earlier report, the Committee had recommended that Government should make necessary amendments in the Customs Act whereby the owners of the imported goods who avail of the warehousing facility shall not be given the right to relinquish such imported goods after proceedings were initiated under Section 72 for recovery of dues. The Committee had also recommended that Government should prescribe a time limit under Section 23(2) of the Customs Act within which only the owners shall be allowed to relinquish their title to the imported goods, in all cases. In their action taken reply, the Ministry of Finance have stated that action has been initiated for amendment to Section 23(2) of the Customs Act to deny the

facility of relinquishing the title of goods cleared for warehousing and that the proposed Bill was under discussion with the Ministry of Law. The Committee regret to point out that the action taken note is silent on the Committee's recommendation for prescribing a time limit under Section 23(2) within which only the owners shall be allowed to relinquish their title to the imported goods, in all cases. The Committee desire that amendments to the above effect should also be incorporated in the proposed Bill and brought before Parliament at the earliest.

Need for streamlining the working of customs bonded warehouses
(S. No. 9, Paragraph 34)

9. Emphasising the need for streamlining the working of customs bonded warehouses, the Committee in paragraph 34 of their Report had recommended as follows:

"The Committee are of the considered view that apart from the administrative measures and the suggestions made by the Committee elsewhere in the Report, certain basic changes in the law relating to warehousing are also essential not only for streamlining the working of the customs bonded warehouses, but also in the overall interests of the economy. As a measure of abundant caution, Government should make it obligatory that the owners of the imported goods support their warehousing bonds by furnishing adequate bank guarantees. The present practice of acceding to the requests of the importers for extension of time beyond the warehousing period in an apparently routine and casual manner need to be effectively curbed. The Committee are of the opinion that whatever extensions are granted beyond the initially permitted period of warehousing, provisions should be made in the law that the owners of the imported goods are required to pay customs duty at the rates prevailing at the time of import or actual clearance from the warehouses, whichever is higher. The Committee are also satisfied that the above measures would, in no way, affect the genuine users adversely, but on the other hand, would help Government in restricting avoidable imports besides checking misuse of the facility".

10. In their action taken note, the Ministry of Finance (Department of Revenue) have stated as under:

"Bank Guarantee is a usually insisted on for goods which are cleared out of customs control. Warehoused goods continue to be under customs control and the customs duty is secured by the warehousing bond executed by the importer. Bank Guarantee is, therefore, not considered necessary for warehoused goods. Extension of warehousing period is granted only in deserving cases and not as matter of routine. Necessary guidelines in this regard have been issued to field formations".

Rate of duty on warehoused goods is that rate which is applicable on the date of clearance of the goods from the warehouse. This is because the warehoused goods enter the general stream of the economy only on their physical clearance from the warehouse. Rate of duty should, therefore, be at par with goods directly imported contemporaneously for home consumption. Laying higher of the two rates will not be consistent with the principle of warehousing and would create distortions in the market *vis-a-vis* goods directly imported contemporaneously. The recommendation of the Committee is, therefore, not accepted”.

11. In their earlier report, the Committee had recommended to Government to make it obligatory that the owners of the imported goods support their warehousing bonds by furnishing adequate bank guarantees. The Committee had also recommended that wherever extensions were granted beyond the initially permitted period of warehousing, provisions should be made in the law that the owners of the imported goods were required to pay customs duty at the rates prevailing at the time of import or actual clearance from the warehouses, whichever was higher. The Ministry of Finance have in their action taken note stated that bank guarantee is not considered necessary for warehoused goods as it is usually insisted for goods which are cleared out of customs control whereas warehoused goods continue to be under customs control. The Ministry have also not accepted the Committee's recommendation for levying higher of the two rates of duty (i. e. those prevailing at the time of import and actual clearance) in cases where extensions are granted beyond the initial period of warehousing on the plea that it would not be consistent with the principle of warehousing and would create distortions in the market *vis-a-vis* goods directly imported contemporaneously. The Committee are not convinced with the arguments adduced by the Ministry for not accepting the recommendations. As the Committee's earlier report had clearly indicated that the facility of warehousing was indeed being misused for speculative purposes, it is essential that such misuses are effectively checked and the avoidable imports are restricted in the overall interests of the economy. The fact that in many cases even with the disposal of warehoused goods, the Department has not been able to realise the demand clearly shows the need for taking further measures to protect Government revenue. The Committee therefore reiterate their earlier recommendation and would like to be informed of the concrete action taken in the matter.

CHAPTER II

RECOMMENDATIONS AND OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The Committee desire that the Ministry of Finance should vigorously pursue all the cases referred to above to their logical finalities and safeguard governmental revenues. The Ministry should thoroughly enquire into the departmental failures/lapses which eventually had resulted in the occurrence of those irregularities, establish a system of regular monitoring of the working of the system according to the prescribed method and take suitable action against the officers responsible for their various illegal/irregular acts of omission and commission. The Committee would like to have a detailed report on the follow-up action taken in respect of the system improvement instituted, as well as on all the individual cases of illegalities and irregularities pointed out by audit and also those detected by the department itself and would like to be apprised of the present position of recovery on account of duty and other dues.

[S. No. 1 (para 10) of Appendix-VII to Hundred and Twenty Fourth Report of PAC (1987-88) (Eighth Lok Sabha)]

Action taken

Detailed report on the follow-up action taken in respect of the individual cases of irregularities pointed out by Audit is placed in the annexure.

2. Necessary instructions have been issued to the field officer to tightened up the system with a view to ensuring effective control over warehouse goods and thereby protecting the revenue involved in the goods.

Ministry of Finance (Department of Revenue) [O.M.No. 483/15/88—Cus VII dated 13 July 1989]

Action taken in respect of individual cases referred to in para 1.41

S.No. of the objection	Subject	Name of the Collector	Action taken
(1)	(2)	(3)	(4)
1 (a) & (d)	Relinquishment or title to the warehoused goods in 43 cases.	Baroda	All the goods have been disposed of.
1 (c) (i)	Auction not conducted in 9 cases of uncleared goods	Ahmedabad	Present position of 9 cases is given in the Annexure—'A'.
1 (c) (ii)	Goods allowed in piecemeal after expiry of warehousing period.	Ahmedabad	All goods cleared by the party on payment of duty.
1 (c) (iii)	Relinquishment of title resulting on loss of duty amounting to Rs. 4.98 lakhs (M/s Cine Sound Laboratory)	—do—	Goods disposed of in public auction 20.8.87 for Rs.4.81 lakhs.
1 (c) (iv)	No notice issued under section 72 (1) and goods not disposed of	—do—	The case relates to M/s. Auto Textiles Industries. The amount recoverable was Rs. 3,90,569.65. Amount realised in public auction is Rs. 2,80,000.00 on 30.9.87. Demand for remaining Rs.1,10,569.55 has been issued. Party did not reply to show-cause notice/Demand Notice.

1(c) (v)	Incorrect procedure followed in demanding differential duty in respect of warehoused goods.	Ahmedabad	The case relates to M/s, Sanand Textiles Industries (P) Ltd. Disputed amount has since been recovered.
2 (i)	No penalty levied in 29 cases of warehousing goods remaining uncleared beyond permissible period.	Jaipur	Goods already cleared on payment on duty and interest, hence there were no contraventions of the Act and detention of goods under section 72(2) was not considered necessary.
2(ii) (a)	Short levy of interest in warehouse goods.	—do—	Short levy recovered.
2(ii) (b)(i)	Incorrect grant of exemption.	—do—	The correct amount of short levy of Rs. 10,613.40 has since been recovered.
2(ii) (b)(ii)	Short levy due to incorrect classification of imported chemicals for levy of addl. duty.	—do—	Short levy since recovered.
2(c)	Irregular grant of proforma credit under Rule 56-A.	—do—	The mistake has been rectified by making reverse entry (debit entry).
2(d)	Short levy due to incorrect determination of assessable value.	—do—	No short levy of duty occurred in this case since the rate of exchange adopted for valuation of the imported goods was as in force on the date of presentation of B/E in accordance with the provisions of proviso to Section 14(1)(a). The relevant B/E was presented in the instant case on 19.9.85 and not 4.10.85 as stated by the audit. The Department correctly applied the rate of exchange in force upto 30.9.85.

(1)	(2)	(3)	(4)
2(f)	Non-accountal of shortage during transit of warehoused goods.	Jaipur	Out of 7 cases, in 4 cases no shortage was noticed. In 3 cases duty has been recovered for goods short levied.
3 (a)	Goods valued at Rs.18.5 lakhs continued to be warehoused even after expiry of the permissible period (10 cases)	Kanpur (2 cases)	The cases relates to M/s. Uptron Anand Pvt. Ltd., Kanpur. The goods were taken up for sale through public auction on 29.9.87. The highest bid was Rs. 80,000/- which was far below the reserved price and hence not accepted. However, the warehousing period has been extended by the Board upto 30.4.88 as per the direction of the Allahabad High Court. Subsequent requests of the party for extension upto 30.9.88 was refused by the Board, steps are being taken to enforce the bond conditions and raise demand\$. The case relates to M/s. Scooters India Ltd. In respect of two bonds, M/s. SIL has cleared the goods on payment of duty and interest. In respect of other 6 bonds involving duty of Rs.8,09,950/-, Party has asked for further extension in warehousing period upto 31.12.88. Earlier extension was granted by the Board upto 30.8.88.
	—db—	Allahabad (1 case)	

3 (b) Adjudication of seized goods.

Meerut Case relates to M/s. Modipon Ltd. Goods (1 case) put up for auction on 13.10.87. Only Polyester chips valued at Rs.4103/- are lying in the warehouse as no bid covering the reserved price was offered.

Kanpur Case has been adjudicated.

(1 case)

Meerut Cases were adjudicated and goods were (7 cases) put to auction on 13.10.87. 3 cases has relating since been sold in public auction. No bid to Mohan- covering reserved price was offered in (nagar) respect of other 4 cases.

Meerut De-novo adjudication has been done and (1 case of the goods confiscated. Goods are in the Modipuram) private bonded warehouse and ready for auction.

Delay in disposal of confiscated goods

Meerut Out of 20 cases, the goods were sold in 3 (20 cases) cases. 17 cases are under auction (see Annx. 3.

3 (c) Short levy of additional duty on account of misclassification (Diod-Assembly)

Allahabad Entire amount of short levy has since been recovered.

(1)	(2)	(3)	(4)
4 (i)	Goods remaining in warehouse without extension of warehousing period.	Cochin	Importer has relinquished title to the goods.
4 (ii)	Short-levy in charging interest.	—do—	Short levy of Rs.52,824/- since recovered.
4 (iii)	Non-accountal of warehoused goods by M/s. Cochin Shipyard.	—do—	Out of 117 cases of non-accountal, only 12 cases remained to be accounted for.

Annexure 'A' to serial No. 1(c)(i)

Sr. No.	Name of the Importer	Duty & recovery particulars	Present position and the warehoused goods	Remarks
1	2	3	4	5
1.	M/s. Auto Textile Ind. Ahmedabad.	Amount recoverable — Rs. 3,90,569.65 Amount realised — Rs. 2,80,000/- Demand issued for Rs. 1,10,569.65/-	Goods disposed of on 16.10.87	Demand not decided. Personal hearing fixed on 18.10.88.
2.	M/s. Cinesound Laboratories.	Amount recoverable — Rs. 7,25,118/- Amount realised — Rs. 4,81,000/- Interest Rs. 3,25,171/- not recovered as the importer has relinquished his title over the goods.	Goods disposed of on 15.5.87	
3.	M/s. Abhay Mills A'bad. closed 1.4.84	Amount recoverable — Rs. 1,47,111.55 Amount realised — Rs. 79,500.00 Demand issued — Rs. 67,611.55	Goods disposed of on 6.7.87	Demand confirmed by AC on 30.6.88. Recovery still pending.

1	2	3	4	5
4.	M/s. Abhay Mills A'bad. Closed 1.4.84	Amount recoverable — Rs. 5,32,661.90 Amount realised — Rs. 3,18,000.00 Demand issued — Rs. 2,14,661.90	Goods disposed of on 4.3.87	Demand confirmed by AC on 30-6-1988. Re- covery still pending.
5.	M/s. Abhay Mills. A'bad. closed 1.4.84	Amount recoverable — Rs. 5,54,780.55 Amount realised — Rs. 3,20,000.00. Demand issued — Rs. 2,34,780	Goods disposed of on 6.7.87	Demand confirmed by AC on 30.6.88. Recov- ery still pending.
6.	-do-	Amount recoverable — Rs. 1,26,250 Amount realised — Rs. 1,40,000	Goods have been dis- posed of by auction held on 20.8.87	Amount realised by auction is more and hence no demand is- sued.
7.	M/s. Simplex Electronic.	—	Goods cleared by im- porter on 26.9.86 on payment of duty and in- terest	—

1	2	3	4	5
8.	M/s. Simplex Electronic	Amount recoverable Rs. 17,076. Amount realised — Rs. 17,076	Goods cleared by im- porter on payment of duty, interest and ware- house charges.	
9.	M/s. Tubetech Engineers Pvt. Ltd.	Amount recoverable — Rs. 1,07,085.65/- Amount realised — Rs. 1,07,085.65	Goods cleared on pay- ment of duty and inter- est on 25.2.87	

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Sl. No.	Name of the Importer	Date of Auction	Result Auction	Remarks
1	2	3	4	5
1.	M/s. Swadeshi Polyetex Ltd. Ghaziabad	13.10.87	No bid	
2.	M/s. Allied Motors (P) Ltd. Sahibabad.	-do-	-do-	
3.	M/s. Leatherite Industry Ltd. Sahibabad.	-do-	-do-	
4.	M/s. Modi Pon Ltd. Modinagar	-do-	-do-	
5.	-do-	-do-	-do-	
6.	-do-	-do-	-do-	
7.	-do-	-do-	-do-	
8.	-do-	-do-	-do-	
9.	-do-	-do-	-do-	
10.	-do-	-do-	-do-	
11.	M/s. Brahmie Suri (P) Sahibabad.	-do-	-do-	
12.	M/s. Modi Rubber Ltd. Modipuram	-do-	Sold	However not listed Earnest money amounting to Rs. 850.00 forfeited.
13.	M/s. Leatherits Industry Ltd. Sahibabad.	-do-	Sold	
14.	M/s. Modi Pon Ltd. Modinagar.	-do-	No bid	
15.	M/s. Sonia International Modinagar	-do-	-do-	

1	2	3	4	5
16.	M/s. Swadeshi Polyester Ltd. Ghaziabad.	—	—	
17.	-do-	-do-	-do-	
18.	M/s. Modi Pon Ltd., Modinagar	-do-	-do-	
19.	M/s. Jindal Paper and Plastic Ltd. Ghaziabad	-do-	Sold	
20.	M/s. Modi Pon Ltd., Modinagar	-do-	No bid	

Recommendation

From the facts stated in the foregoing paragraphs it is abundantly clear that the question whether the right of the owner of the imported goods to relinquish his title to the warehoused goods, under Section 23(2) of the Customs Act, 1962, at any time can be exercised after the issue of demand notice under Section 72, was not at all adequately considered by the Ministry of Law while tendering their advice on the issue in 1972. What is really disquieting is that such a vital issue having an important bearing on revenue was disposed of by an Assistant Legal Adviser without even referring the matter for consideration of legal experts higher up in the official hierarchy. The fact that even after getting a repeated reference from the administrative Ministry in quick succession seeking a pointed confirmation on the controversial issue, the Assistant Legal Adviser did not choose to refer the matter to senior authorities, is indicative of the utter casualness with which such a serious matter was dealt with in the Ministry of law. The Committee cannot but express their severe displeasure over this. They recommend that the Ministry of Law should issue proper instructions and ensure that in future such vital issues are adequately examined by appropriate legal experts at higher levels before the Ministry communicate their considered views.

[S.No. 2 (Para 20) of Appendix VII to 124th Report of PAC
(Eighth Lok Sabha)]

Action Taken

The following is the text of the Officer Order No. G25012(1)/88-B&A dated the 5th May, 1988, circulated to all officers in the Department of Legal Affairs and the Legislative Department, the Branch Secretariats at Bombay, Calcutta, Madras and Bangalore, and the Sections concerned —

‘In its 124th Report (Eighth Lok Sabha) the Public Accounts Committee has made the following observations:—

“The fact that even after getting a repeated reference from the administrative Ministry in quick succession seeking a pointed confirmation on the controversial issue the Assistant Legal Adviser did not choose to refer the matter to senior authorities, is indicative of the utter casualness with which such a serious matter was dealt with in the Ministry of Law. The committee cannot but express their severe displeasure over this. They recommend that the Ministry of Law should issue proper instructions and ensure that in future such vital issues are adequately examined by appropriate legal experts at higher levels before the Ministry indicate their considered views.”

Law Secretary has directed that in future all officers in this Ministry

should keep in mind the above observations of Public Accounts committee while giving their opinions.'

[Ministry of Law & Justice, Legislative Department O.M. No. G-25012(1)
88-B&A dated 30th August, 1988]

Recommendation

The Committee are surprised over the equally casual manner in which the Ministry of Finance reacted to situation arising out of the advice tendered by the Ministry of Law in 1972. The circumstances had clearly warranted either the matter to be taken up at a higher level to thrash out the doubts over the legal validity or to initiate action for incorporating necessary amendments in the Customs Act in order to protect revenue. Strangely enough, the Ministry of Finance did not choose to do so. Lamentably, it was after over a period of 15 years that too when the subject matter was selected by the Public Accounts committee for detailed examination, that the Ministry reverted to the matter again. They had not done so even after the Report of the C&AG had been submitted to Parliament although as per practice the draft Audit paragraph had been sent to the Ministry for their comments. The Committee are constrained to observe that the inaction on the part of the Ministry of Finance enabled of the warehoused goods to increasingly resort to relinquishment of title to the imported goods as and when it subserved their interests. This is unfortunate, to say the least and is indicative of their lack of concern of loss of revenue occurring over long periods of time.

[S.No. 3, (Para 21) of Appendix VII to Hundred Twenty Fourth Report
of PAC (1987-88) (Eighth Lok Sabha)]

Action Taken

The observations of the Committee have been noted for future guidance.

[Ministry of Finance, (Department of revenue) O.M. No. 483/15/88-Cus.
VII dated 13th July, 1989]

F.No. 483/11/88-cus.VII

Recommendation

The Committee are surprised to note that while on the one hand, the Ministry of Finance have been expressing their helplessness due to legal constraints in invoking Section 72 of the Customs Act for recovering governmental dues in cases where the importers resort to relinquishment of title to imported goods in exercise of the provisions of Section 23(2) of the Act, on the other hand, goods valuing Rs. 53 crores on which duty of about Rs. 16 crores are due to Government are lying uncleared beyond the warehousing 'period' for want of effective departmental action. What is

further perturbing is the fact that some of the goods pending clearance related even to the period 1981-82 and before. Since the Maximum period for which goods are permitted to remain in warehouse is normally one year and even assuming that extensions were granted in exceptional cases for justifiable lengths of time. The Committee find no reasons why goods relating to such past periods should still remain uncleared. This clearly shows that notwithstanding the legal limitations as contended by the Ministry, the present system of monitoring is totally inadequate and ineffective. The Committee recommend that the Ministry of Finance should take effective measures for improving upon the system of monitoring of the warehousing bonds in order to ensure that a continuous watch is kept and prompt action taken on expiry of warehousing period in respect of every consignment so that governmental revenues are adequately protected. The procedure, practice and organisation involved in the field, Collectorate and the Board/Ministry need to be suitably streamlined.

[S.No. 5 (Para 26) of Appendix VII to 124th Report of PAC (1987-88)
(Eighth Lok Sabha)]

Action Taken

Necessary instructions have been issued to the field formations to keep close watch on the warehoused goods and to take prompt action under section 72 of the Customs Act on the expiry of the warehoused periods. Reports on recovery of duties on time expired warehoused goods are obtained by the Board on a quarterly basis for close monitoring and appropriate corrective action.

[Ministry of Finance, (Department of Revenue) O.M. No. 483/15/88-Cus.
VII dated 13th July, 1989]

F.No. 483/12/88-Cus. VII

Recommendation

The Committee would like the Ministry of Finance to make a thorough enquiry into the reasons for the delay for the disposal of the relinquished / confiscated goods lying uncleared in the warehouses. A prescribed procedure should be laid down so as to enable the Collectorates to explore the market outside their jurisdiction if the goods fail to fetch at least the reserve price at repeated auctions. A constant and continuous monitoring is also considered imperative at a central level in the Board / Ministry, in order to ensure that the uncleared warehoused goods are timely disposed of and the financial interest of the Government is adequately protected.

[S. No. 6 (Para 29) of Appendix VII to Hundred Twenty Fourth Report
of PAC (1987-88) (Eighth Lok Sabha)]

Action Taken

The delay in the disposal of goods lying uncleared in bonded warehouses is mainly on account of poor demand. Wide publicity through the media is given regarding disposal of goods through auctions or tenders. Buyers

outside the jurisdiction of the Collectorate are also allowed to take part in such auctions / tenders.

Continuous monitoring on progress of disposal of uncleared goods is done by the Board through the monthly and quarterly reports prescribed for the purpose.

[Ministry of Finance, (Department of Revenue) O.M. No. 483/15/88-Cus.
VII dated 13 July, 1989]
F.No. 483/13/88 Cus-VII

Recommendation

The Committee recommend that the Central Board of Excise and Customs should issue suitable instructions to ensure uniformity in applying the proviso (i) to Section 61(1) of the Customs Act, 1962 for the classification of the goods which are likely to deteriorate so as to check misuse of the discretionary power and to safeguard governmental revenues. The Committee would like to be apprised of further developments in this regard.

[S. No. 7 (Para 31) of Appendix VII to Hundred Twenty Fourth Report
of PAC (1987-88) (Eighth Lok Sabha)]

Action Taken

Recommendation of the Committee has been accepted.

The Board has prescribed the type of goods which should be regarded as perishables for the purpose of proviso (i) of Section 61(1) of the Customs Act, 1962. The initial warehousing period of such goods has been reduced to 45 days.

[Ministry of Finance, (Department of Revenue) O.M. No. 483/15/88-Cus.
VII dated 13 July, 1989]
F.No. 483/14/88 Cus-VII

Recommendation

The fact stated in the preceding paragraphs have identified several areas of shortcomings relating to the working of the customs bonded warehouses which require immediate attention of Government. The Committee desire that the Ministry of Finance should undertake a comprehensive review of the working of the customs bonded warehouses keeping in view those facts and take effective steps for streamlining the working of such warehouses.

[S. No. 8 (Para 33) of Appendix VII to Hundred and Twenty Fourth
Report of the PAC (1987-88) (Eighth Lok Sabha)]

Action Taken

Instructions have been issued to field formations to ensure effective control of warehoused goods and to take prompt action as required by law on expiry of the warehousing period. Compliance with these instructions will be monitored through monthly and quarterly reports prescribed for the purpose.

[Ministry of Finance, (Department of Revenue) O.M. No. 483/15/88-Cus.
VII dated 13 July, 1989]
F.No. 483/15/88 Cus-VII

CHAPTER III

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

NIL

CHAPTER IV

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

Recommendation

The Committee are convinced that the importers should not have an unfettered right to abandon ownership to the goods under Section 23(2) of the Customs Act. The fact that in a large number of cases the importers of warehoused goods chose to relinquish their title to imported goods depending on the internal market situation would clearly indicate that the facility is indeed being misused for speculative purposes to the detriment of indigenous industry. Moreover, the inadequate realisation made on sale of such relinquished goods would undoubtedly show that Government is clearly put to a loss of revenue besides loss of foreign exchange on account of avoidable imports. The Committee, therefore, recommend that Government should make necessary amendments in the Customs Act whereby the owners of the imported goods who avail of the warehousing facility shall not be given the right to relinquish such imported goods after proceedings are initiated under Section 72 for recovery of dues so that financial interests of the Government are securely protected. Further, Government should prescribe a time limit under Section 23(2) of the Customs Act within which only the owners shall be allowed to relinquish their title to the imported goods, in all cases.

[S. No. 4, (Para 22) of Appendix VII to Hundred Twenty Fourth Report
of PAC (1987-88) (Eighth Lok Sabha)]

Action Taken

The Recommendation of the Committee for amendment in section 23(2) of the Customs Act, 1962 has been examined in consultation with the Ministry of Law. On receipt of Law Ministry's advice, action has been initiated by the Department for amendment of Section 23(2) of the Customs Act, 1962 to deny the facility of relinquishing the title of goods cleared for warehousing. The proposed Bill is under discussion with the Ministry of Law and it is likely to take some time.

[Ministry of Finance (Department of Revenue) O.M. No. 483/15/88-cus
VII dated 4 October 1989]
F. No. 483/15/88-cus VII

Recommendation

The Committee are of the considered view that apart from the administrative measures and the suggestions made by the Committee elsewhere in the Report, certain basic changes in the law relating to

warehousing are also essential not only for streamlining the working of the customs bonded warehouses, but also in the overall interests of the economy. As a measure of abundant caution, Government should make it obligatory that the owners of the imported goods support their warehousing bonds by furnishing adequate bank guarantees. The present practice of acceding to the requests of the importers for extension of time beyond the warehousing period in an apparently routine and casual manner need to be effectively curbed. The Committee are of the opinion that wherever extensions are granted beyond the initially permitted period of warehousing, provisions should be made in the law that the owners of the imported goods are required to pay customs duty at the rates prevailing at the time of import or actual clearance from the warehouses, whichever is higher. The Committee are also satisfied that the above measures would, in no way, affect the genuine users adversely, but on the otherhand, would help Government in restricting avoidable imports besides checking misuse of the facility.

[S.No. 9 (Para 34) of Appendix VII to Hundred Twenty Fourth Report of PAC (1987-88) (Eighth Lok Sabha)]

Action Taken

Bank Guarantee is usually insisted on for goods which are cleared out of customs control. Warehoused goods continue to be under customs control and the customs duty is secured by the warehousing bond executed by the importer. Bank Guarantee is, therefore, not considered necessary for warehoused goods.

Extension of warehousing period is granted only in deserving cases and not as matter of routine. Necessary guidelines in this regard have been issued to field formations.

Rate of duty on warehoused goods is that rate which is applicable on the date of clearance of the goods from the warehouse. This is because the warehoused goods enter the general stream of the economy only on their physical clearance from the warehouse. Rate of duty should, therefore, be at par with goods directly imported contemporaneously for home consumption. Levying higher of the two rates will not be consistent with the principle of warehousing and would create distortions in the market *vis-a-vis* goods directly imported contemporaneously. The Recommendation of the Committee is, therefore, not accepted.

[Ministry of Finance (Department of Revenue) O.M. No. 483/15/88-Cus. VII dated 13 July 1989]
F. No. 483/34/88-cus. VII

CHAPTER V

**RECOMMENDATIONS AND OBSERVATIONS IN RESPECT OF
WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES**

NIL

NEW DELHI;
24 August, 1990

2 Bhadra, 1912(S)

SONTOSH MOHAN DEV
Chairman,
Public Accounts Committee.

PART II

MINUTES OF THE 7TH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON 24 AUGUST, 1990 IN COMMITTEE ROOM NO. 50, PARLIAMENT HOUSE

The Committee sat from 1500 hrs. to 1645 hrs.

PRESENT

Shri Sontosh Mohan Dev—*Chairman*

MEMBERS

2. Shri G.M. Banatwalla
3. Shri Nirmal Kanti Chatterjee
4. Shri Bhabani Shankar Hota
5. Shri Manjay Lal
6. Shri M.S. Pal
7. Shri Kamal Morarka
8. Shri Sunil Basu Ray
9. Shri Vishvjit P. Singh
10. Shri Rameshwar Thakur

SECRETARIAT

Shri G.L. Batra — *Joint Secretary*
Shri G.S. Bhasin — *Deputy Secretary*

REPRESENTATIVES OF AUDIT

1. Shri R. Parameswar, Dy. C&AG
2. Shri S. Sounderrajan, Addl. Dy. C&AG
3. Shri S.B. Krishnan, Pr. Director (Reports)
4. Shri V.A. Mahajan, Director General of Audit, P&T
5. Shri K. Jayaraman, Dy. Director (Rlys)
6. Shri A.K. Menon, Director General of Audit,
Defence Services
7. Shri Baldev Rai, Pr. Director of Audit,
Air Force & Navy
8. Mrs. Ajanta Day-
alau, Director of Audit (P&T)
9. Shri Dharam Vir, Pr. Director, Central Revenues-I
10. Shri R. Ramanathan, Pr. Director (Indirect Taxes)

2: The Committee considered the following draft Reports and adopted the same subject to ascertain modifications and amendments as indicated in

*Annexures I, II, III, IV, V and VI:—

- | | | | |
|----|----|----|----|
| 3. | ** | ** | ** |
| 4. | ** | ** | ** |
| 5. | ** | ** | ** |
6. Draft Report on action taken on 124th Report (8th LS) re: Customs Receipts — Working of Inland Customs Bonded Warehouses.
- | | | |
|----|----|----|
| ** | ** | ** |
|----|----|----|
7. The Committee authorised the Chairman to finalise these Reports in the light of verbal changes and minor modifications/amendments arising out of factual verification by the audit and present the Reports to the House.

The Committee then adjourned.

APPENDIX I

(Vide para 2)

Statement showing classification of action taken notes received from Government.

I. Recommendations and observations which have been accepted by Government:

Sl. Nos. 1 to 3 and 5 to 8

II. Recommendations and observations which the Committee do not desire to pursue in the light of the replies received from Government:

-Nil-

III. Recommendations and observations replies to which have not been accepted by the Committee and which require reiteration:

Sl. Nos. 4 and 9

IV. Recommendations and observations in respect of which Government have furnished interim replies:

-Nil-

APPENDIX II

Conclusions/Recommendations

S. No.	Para No.	Ministry/ Department concerned	Recommendation
1	2	3	4
1	8	Ministry of Finance (Department of Revenue)	In their earlier report, the Committee had recommended that Government should make necessary amendments in the Customs Act whereby the owners of the imported goods who avail of the warehousing facility shall not be given the right to relinquish such imported goods after proceedings were initiated under Section 72 for recovery of dues. The Committee had also recommended that Government should prescribe a time limit under Section 23(2) of the Customs Act within which only the owners shall be allowed to relinquish their title to the imported goods, in all cases. In their action taken reply, the Ministry of Finance have stated that action has been initiated for amendment to Section 23(2) of the Customs Act to deny the facility of relinquishing the title of goods cleared for warehousing and that the proposed Bill was under discussion with the Ministry of Law. The Committee regret to point out that the action taken note is silent on the Committee's recommendation for prescribing a time limit under Section 23(2) within which only the owners shall be allowed the relinquish their title to the imported goods, in all cases. The Committee desire that amendments to the above effect should also be incorporated in the proposed Bill and brought before Parliament at the earliest.
2	11	—do—	In their earlier report, the Committee had recommended to Government to make it obligatory that the owners of the imported goods support their warehousing bonds by furnishing adequate bank guarantees. The Committee had also recommended that wherever extensions were granted beyond the

1 2 3

4

initially permitted period of warehousing, provisions should be made in the law that the owners of the imported goods were required to pay customs duty at the rates prevailing at the time of import or actual clearance from the warehouses, whichever was higher. The Ministry of Finance have in their action taken note stated that bank guarantee is not considered necessary for warehoused goods as it is usually insisted for goods which are cleared out of customs control whereas warehoused goods continue to be under customs control. The Ministry have also not accepted the Committee recommendation for levying higher of the two rates of duty (i.e. those prevailing at the time of import and actual clearance) in cases where extensions are granted beyond the initial period of warehousing on the plea that it would not be consistent with the principle of warehousing and would create distortions in the market vis-a-vis goods directly imported contemporaneously. The Committee are not convinced with the arguments adduced by the Ministry for not accepting the recommendations. As the Committee's earlier report had clearly indicated that the facility of warehousing was indeed being misused for speculative purposes, it is essential that such misuses are effectively checked and the avoidable imports are restricted in the overall interests of the economy. The fact that in many cases even with the disposal of warehoused goods, the Department had not been able to realise the demand clearly shows the need for taking further measures to protect Government revenue. The Committee therefore reiterate their earlier recommendation and would like to be informed of the concrete action taken in the matter.

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

Sl. No.	Name of Agent	Sl. No.	Name of Agent
ANDHRA PRADESH		UTTAR PRADESH	
1.	M/s. Vijay Book Agency, 11-1-477, Mylargadda, Secunderabad-500 361.	12.	Law Publishers, Sardar Patel Marg, P.B. No. 77, Allahabad, U.P.
BIHAR		WEST BENGAL	
2.	M/s. Crown Book Depot., Upper Bazar, Ranchi (Bihar).	13.	M/s. Madimala, Buys & Sells, 123, Bow Bazar Street, Calcutta-1.
GUJARAT		DELHI	
3.	The New Order Book Company, Ellis Bridge, Ahmedabad-380 006. (T. No. 79065)	14.	M/s. Jain Book Agency, C-9, Connaught Place, New Delhi, (T. No. 351663 & 350806)
MADHYA PRADESH		15.	M/s. J.M. Jaina & Brothers, P. Box 1020, Mori Gate, Delhi-110006 (T. No. 2915064 & 230936).
4.	Modern Book House, Shiv Vilas Place, Indore City. (T. No. 35289).	16.	M/s. Oxford Book & Stationery Co., Scindia House, Connaught Place, New Delhi-110001. (T. No. 3315308 & 45896)
MAHARASHTRA		17.	M/s. Bookwell, 2/72, Sant Nirankari Colony, Kingsway Camp, Delhi-110 009. (T. No. 7112309).
5.	M/s. Sunderdas Gian Chand, 601, Girgaum Road, Near Princes Street, Bombay-400 002.	18.	M/s. Rajendra Book Agency, IV-DR59, Lajpat Nagar, Old Double Storey, New Delhi-110 024. (T. No. 6412362 & 6412131).
6.	The International Book Service, Deccan Gymkhana, Poona-4.	19.	M/s. Ashok Book Agency, BH-82, Poorvi Shalimar Bagh, Delhi-110 033.
7.	The Current Book House, Maruti Lane, Raghunath Dadaji Street, Bombay-400 001.	20.	M/s. Venus Enterprises, B-2/85, Phase-II, Ashok Vihar, Delhi.
8.	M/s. Usha Book Depot, 'Law Book Seller and Publishers' Agents Govt. Publications, 585, Chira Bazar, Khan House, Bombay-400 002.	21.	M/s. Central News Agency Pvt. Ltd., 23/90, Connaught Circus, New Delhi-110 001. (T. No. 344448, 322705, 344478 & 344508).
9.	M & J Services, Publishers, Rep- resentative Accounts & Law Book Sellers, Mohan Kunj, Ground Floor, 68, Jyotiba Fuele Road Nalgaum, Dadar, Bombay-400 014.	22.	M/s. Amrit Book Co., N-21, Connaught Circus, New Delhi.
10.	Subscribers Subscription Services India, 21, Raghunath Dadaji Street, 2nd Floor, Bombay-400 001.	23.	M/s. Books India Corporation Pub- lishers, Importers & Exporters, L-27, Shastri Nagar, Delhi-110 052. (T. No. 269631 & 714465).
TAMIL NADU		24.	M/s. Sangam Book Depot, 4378/4B, Murari Lal Street, Ansari Road, Darya Ganj, New Delhi-110 002.
11.	M/s. M. M. Subscription Agencies, 14th Murali Street (1st Floor), Mahalingapuram, Nungambakkam, Madras-600 034. (T. No. 476558)		