

HUNDRED AND NINETEENTH REPORT PUBLIC ACCOUNTS COMMITTEE (1995-96)

(TENTH LOK SABHA)

DRAWBACK OF DUTIES—FRAUDULENT DRAWBACK

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

[Action Taken on 91st Report of Public Accounts Committee (10th Lok Sabha)]



*Presented to Lok Sabha on 8 Mar 1996
Laid in Rajya Sabha on 8 Mar 1996*

LOK SABHA SECRETARIAT
NEW DELHI

March, 1996/Phalguna, 1917 (Saka)

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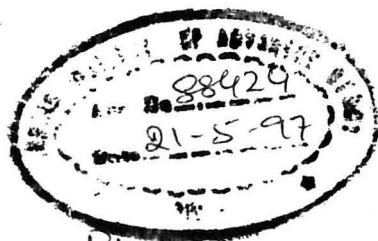
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Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Eighth Edition) and Printed by the Manager, P.L. Unit, Government of India Press, Minto Road, New Delhi.

CORRIGENDA TO HUNDRED AND NINETEENTH REPORT OF PUBLIC
ACCOUNTS COMMITTEE RELATING TO DRAWBACK OF DUTIES -
FRAUDULENT DRAWBACK

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CONTENTS

	PAGE
COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE (1995-96).....	(iii)
INTRODUCTION.....	(v)
CHAPTER I Report.....	1
CHAPTER II* Recommendations/Observations which have been accepted by Government.....	5
CHAPTER III* Recommendations/Observations which the Committee do not desire to pursue in the light of the replies received from Government.....	10
CHAPTER IV* Recommendations/Observations replies to which have not been accepted by the Committee and which require reiteration.....	11
CHAPTER V* Recommendations/Observations in respect of which Government have furnished interim replies.....	12
APPENDIX	
Conclusions and Recommendations	16
PART II	
Minutes of the Sitting of Public Accounts Committee held on 26.2.1996	18

* Not appended to the cyclostyled copy of the Report.

COMPOSITION OF PUBLIC ACCOUNTS COMMITTEE
(1995-96)

Shri Ram Naik

— *Chairman*

MEMBERS

Lok Sabha

2. Dr. F. Azam
3. Kumari Mamta Banerjee
4. Shri Anil Basu
5. Shri Dileep Singh Bhuria
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Rajya Sabha

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18. Shri Misa R. Ganesan
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20. Shri Ajit P.K. Jogi
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1. Shri G. C. Malhotra
2. Smt. P. K. Sandhu
3. Shri P. Sreedharan

— *Joint Secretary*
— *Director*
— *Under Secretary*

*Expired on 1 December, 1995.

INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Hundred and Nineteenth Report on Action Taken by Government on the recommendations of the Public Accounts Committee contained in their Ninety First Report (10th Lok Sabha) on Drawback of Duties—Fraudulent Drawback.

2. In their earlier Report, the Committee had examined two cases involving fraudulent/irregular payment/claim of duty drawback by a Delhi based exporter amounting to Rs. 13.33 lakhs and Rs. 9.99 lakhs respectively. Expressing their unhappiness over the slow pace of progress in the recovery/punitive proceedings against the exporter as well as the disciplinary proceedings initiated against the departmental officers, the Committee have in this Report observed that it was matter of deep concern to them that people responsible for such economic offences committed and detected as far back as 1989 and 1990 are yet to be punished effectively. They have, therefore, recommended that the proceedings initiated against the exporter and the departmental officers should be completed within a period of three months.

3. The Committee, in their earlier Report, had further found that the Directorate of Revenue Intelligence had unearthed certain cases where the same exporter alongwith the associate concerns were stated to have attempted to defraud Government by indulging in alleged fraudulent exports in 1991 involving a total amount of Rs. 118 crores. The Committee, in this Report, have expressed their total dissatisfaction with the pace of progress in this case also particularly considering the gravity of offences stated to have been committed by the party. Deploing the lack of seriousness on the part of the Ministry of Finance in bringing to book the guilty in the matter, the Committee have recommended that all necessary action should be taken to book the parties concerned for the offences committed under various laws within a period of three months and the cases vigorously pursued to their logical conclusions so as to recover the Government dues and to penalise the parties concerned for the offences committed. The Committee have also recommended that the proceedings initiated against the departmental officers should also be expeditiously completed.

4. This Report was considered and adopted by the Public Accounts Committee at their sitting held on 26 February, 1996. Minutes of the sitting form Part II of the Report.

5. 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 to the Report.

6. 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;
February 29, 1996
Phalguna 10, 1917 (Saka)

RAM NAIK,
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

This Report of the Committee deals with the action taken by Government on the recommendations and observations contained in the Committee's 91st Report (Tenth Lok Sabha) on Paragraph 1.22(i) of the Report of the Comptroller and Auditor General of India for the year ended 31 March, 1993, No. 4 of 1994, Union Government (Revenue Receipts—Indirect Taxes) relating to "Drawback of Duties—Fraudulent Drawback".

2. The 91st Report which was presented to Lok Sabha on 30 March, 1995 contained nine observations/recommendations. Action Taken Notes have been received in respect of all the observations/recommendations and these have been broadly categorised as follows:

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

Sl. Nos. 1, 2, 3, 6 and 7

- (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:

Nil

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

Sl. Nos. 4, 5, 8 and 9

3. The Committee desire that final replies in respect of the recommendations on which interim replies have so far been furnished should be furnished expeditiously after getting them duly vetted by Audit.

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

Irregularities in Duty Drawback Claims/Payments

5. In their 91st Report (10th Lok Sabha), the Committee had examined a case of payment of irregular drawback of duty by a Delhi based exporter [Badriprasad & Sons (P) Ltd]. The exporter was sanctioned an amount of Rs. 13.33 lakhs by Government as duty drawback on account of export of 112 metric tonnes of Zinc Oxide of US \$ 224000 to a consignee in Hongkong. On subsequent examination of samples, it was revealed that the item exported composed of carbonites of calcium and magnesium and

was free from Zinc Oxide. The Committee had observed that the drawback claim was sanctioned without obtaining samples of the consignment with a view to getting them subjected to chemical test/verification. The Committee had found that neither the system of verification prescribed for examination of the item, viz., Zinc Oxide was satisfactory nor did the officers who sanctioned the irregular claim discharge their functions with the responsibility expected from them. The Committee's examination had revealed that in another case also involving duty drawback of Rs. 999 lakhs, the same party (and also the same officers) had allegedly made another attempt to export 84 metric tonnes of goods declared to be the same product, viz., Zinc Oxide but which was actually nothing but Dolomite Powder to the same Hongkong based consignee. The Committee had noted with distress that in spite of the serious nature of the offences stated to have been committed/attempted, the departmental response had been somewhat casual. Although the irregularities were detected in 1989 itself, a show-cause-notice was issued to the party on 31 January 1991 only for recovery of Rs. 13.33 lakhs in the first case. Similarly, there was delay in issuing notice in the other case also. Deprecating the inordinate delay in deciding cases involving such serious offence, the Committee had desired them to be vigorously pursued, got decided expeditiously and stern action taken against the party for the offences committed. They had also desired that necessary criminal proceedings should be initiated for the alleged frauds. Expressing their dissatisfaction over the laxity shown in initiating action against the departmental officers, the Committee had recommended that necessary action should be taken against all the officers concerned found responsible for their various omissions and commissions. In the light of the irregularities reported in the present case, the Committee had desired that the Ministry should undertake a review in respect of the nature of examination to be conducted particularly with regard to other chemical items also where mere visual examination may not be sufficient with a view to ensuring that the malpractices resorted to by the unscrupulous elements are effectively checked..

6. From the action taken notes furnished to the Committee by the Ministry of Finance (Department of Revenue) it was seen that the adjudication of the cases was yet to be completed and that the recovery of the Government dues was, therefore, still to be effected. As regards initiating of criminal proceedings, the Ministry stated that sanction of the Chief Commissioner of Customs for prosecuting the Managing Director, Director etc. of the company had been obtained and that further action in the matter was being taken. The Ministry's reply also indicated that the inquiry proceedings against the departmental officers were yet to be concluded. Intimating the remedial/corrective action taken, the Ministry in their note stated:

"Ministry has issued instructions *vide* Circular No. 82/95-Customs

dated the 20th July, 1995 to the field formations to ensure that drawal of samples in all cases of doubtful nature of goods or exporter is ensured so that such irregularities are avoided. It has also been provided that such cases should be brought to the notice of the Central Board of Excise & Customs immediately on detection and major Custom houses alerted so that Board may examine the matter further and issue necessary instructions for remedial action to be taken in all Customs formations”.

7. The Committee note that in pursuance of their recommendations, the Ministry of Finance (Department of Revenue) have now issued instructions to the field formations so as to prevent irregular and fraudulent payments of duty drawback. The Committee hope that the Central Board of Excise and Customs will keep a close and continuous watch in the matter with a view to ensuring that the malpractices resorted to by the unscrupulous elements are effectively checked.

8. The Committee are extremely unhappy over the slow pace of progress in the recovery/punitive proceedings against the exporter as well as the disciplinary proceedings initiated against the departmental officers. It is a matter of deep concern to the Committee that people responsible for such economic offences committed and detected as far back as 1989 and 1990 are yet to be punished effectively. The Committee, therefore, desire that the proceedings initiated against the exporter and the departmental officers should be completed within a period of three months. They would like to be informed of the outcome of the adjudication proceedings, progress in the prosecution case against the exporter and the recovery of Government dues as well as the final outcome in the action initiated against the departmental officers.

Action Taken on Cases of Fraudulent Exports

In their earlier report, the Committee had further found that the Directorate of revenue Intelligence had unearthed certain cases where the party involved in the case of alleged fraudulent drawback (discussed earlier) alongwith its associate concerns were stated to have attempted to defraud Government by indulging in alleged fraudulent exports in 1991 involving a total amount of Rs. 118 crores. Briefly, the cases involved alleged malpractices committed under the Duty Exemption Entitlement Scheme including obtaining of the advance licences on the basis of false and incorrect statements, failure to discharge the stipulated export obligation, utilising the duty free raw material imported against the licences for purposes other than for which the same were imported etc. Eventhough the Secretary, Department of Revenue had stated before the Committee that it was a serious matter and action should have been taken against the parties under the most stringent provisions including criminal action as well as under COFEPOSA, the Committee in their Report had observed that the Department were yet to act on those lines. The

Committee had also observed that the case had been referred to CBI on 18 March, 1993 which was still under examination. The Committee had recommended that all necessary action should be taken to book the party for the violations/offences committed under all the relevant laws of the country, the cases should be vigorously pursued to their logical conclusions and effective action taken to recover the governmental dues as also to penalise the party for the various offences committed under the different laws. They had also recommended that the extent of involvement of officers in perpetrating the alleged fraud in collusion with the parties should be thoroughly inquired into and action taken against all the officers found responsible.

10. In their action taken note, the Ministry of Finance (Department of Revenue) *inter alia* stated that the CBI have registered seven cases and were investigating the cases vigorously and were awaiting reply of N.C.B. of Nepal, Hongkong, U.K. and U.S.A. to whom a Questionnaire for conducting part investigations had been sent through interpol. According to them, on receipt of reply further action in accordance with law would be taken. The Ministry also stated that show cause notices have been issued in all cases by Commissioners of Customs, Bombay, Calcutta and Madras. the adjudication process was under progress and that the Commissioners have also been directed to consider prosecution. As regards action against departmental officers, the Ministry stated that the Central Vigilance Commission (CVC) had advised major penalty proceedings against three officers and that the CVC had advised the matter to be referred to CBI in view of the wider ramifications involving private parties and non-residents. According to the Ministry, the CBI have already been advised to the matter and the concerned authorities directed to expedite issuance of charge sheet to the officers concerned.

11. The Committee are totally dissatisfied with the pace of progress in this case also particularly considering the gravity of the offences stated to have been committed by the party. The action taken note furnished by the Ministry of Finance is clearly indicative of the fact that no concrete action has so far been initiated either under COFEPOSA or to lodge prosecution against the parties. This speaks volumes of the lack of seriousness on the part of the Ministry of Finance in bringing to book the guilty. The Committee deplore the same and desire that all necessary action should be taken to book the parties concerned for the offences committed by them under various laws within a period of three months and the cases vigorously pursued to their logical conclusions so as to recover the government dues and to penalise the parties concerned for the offences committed. Proceedings initiated against the departmental officers should also be expeditiously completed. The Committee would like to be furnished with a detailed report on the progress of the case on all the aspects.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The Duty Drawback Scheme provides the mechanism for reimbursement of Customs and Central Excise Duties suffered in relation to any imported materials or excisable materials used in the manufacture of export goods. The Scheme is governed by the provisions of the Customs & Central Excise Duties Drawback Rules, 1971 framed under Section 75 of the Customs Act, 1962 and Section 37 of the Central Excises & Salt Act, 1944. The rate of drawback in relation to export goods is determined by the Directorate of Drawback of the Department of Revenue under the Ministry of Finance, having regard to the average quantity or value of each class or description of duty paid raw materials/components from which a particular class of goods is ordinarily manufactured in India. The drawback claims submitted by the exporters are granted by the Customs authorities after satisfying themselves that the exporters fulfilled the stipulated conditions thereon. Before sanction of the drawback claims, the Customs officers are among other things expected to ensure that the identity of goods with specifications relevant for the purpose of drawback, as declared have been confirmed by the examination report and test report, wherever necessary. The Audit paragraph under examination, reported a case of irregular payment of drawback to an exporter based on an alleged fraudulent export. The Committee's examination of the paragraph has revealed certain disquieting fact which are dealt with in the succeeding paragraphs.

[Sl. No. 1 of Appendix, Para 57 of 91st Report of PAC (10th L.S)]

Action Taken

Observation of the Committee have been noted. The Paragraph does not call for any specification.

[Ministry of Finance (Department of Revenue) F. No. 603/5/93/DBK
(Part) dated 27 September 1995]

The Committee find that a Delhi based exporter was sanctioned an amount of Rs. 13.33 lakhs by the Government based on his claim made on 14.9.1989 as duty drawback on account of export of 112 metric tonnes of Zinc Oxide of US \$ 224000 to a consignee in Hongkong. However, the Directorate of Revenue Intelligence (DRI) received information that the goods for export by the said exporter contained in the four containers and declared as Zinc Oxide was actually not Zinc Oxide and that there was a

deliberate misdeclaration on the part of the exporter. The consignments, by then, had already left India. Accordingly, the DRI contacted relevant authorities at Hongkong and obtained representative samples from the containers and subjected them for chemical test/examination at the Central Revenue Control Laboratory, New Delhi. The Chemical test revealed that the samples composed of carbonites of Calcium and Magnesium and were free from Zinc Oxide. Meanwhile, the Drawback claim was cleared by the Delhi Customs House and the amount of Rs. 13.33 lakhs was paid to the party by cheque on 8.12.1989. Evidently, while sanctioning the Drawback claim the authorities concerned had failed to exercise the necessary checks adequately in order to ensure that the item exported actually confirmed to its declared description in the documents submitted. The Committee are surprised to note that before sanctioning the Drawback claim, the authorities did not obtain samples of the consignment with a view to getting them subjected to chemical test/verification. However, in the examination report on the reverse of the Shipping Bill, the officers concerned had recorded that they had inspected 10% of the packages and had found them to contain the declared item, namely Zinc Oxide. During evidence, the Committee were informed that the officers concerned had sanctioned the Drawback claim on the basis of visual examination only and that there was no list in existence at the relevant time indicating the items which were to be subjected to tests. The Ministry of Finance stated that instructions seeking to lay down the general principles governing the requirement of testing of samples of products specified in the drawback schedule was issued in November 1990 only. They however, maintained that in cases where goods were not capable of identification by visual inspection and where no record of any previous valid test report of similar goods exported by the same exporter was available, the officers could be expected, as a reasonable precaution to draw samples for ascertaining the correctness of the declared description of the goods. The Committee therefore, regret to conclude from the above that neither the system of verification prescribed for examination of the item namely Zinc Oxide was satisfactory nor did the officers who sanctioned the irregular claim discharge their functions with the responsibility expected from them.

[Sl. No. 2 of Appendix, Para 58 of 91st Report of PAC (10th L.S)]

Action Taken Note

The observations of the Committee have been noted. The system of the verification prescribed for examination of the item namely Zinc Oxide has already been strengthened by issue of Circular No. 993 dated 1st June, 1993, as referred to in para 26 of the report. Action against the officers responsible has also been initiated.

[Ministry of Finance (Department of Revenue) F.No. 603593DBK
(Part) Dated 27 September 1995]

Recommendation

In this connection the Committee find that in another case also, the same exporter attempted to export 84 metric tonnes of goods declared to be the same product, viz., Zinc Oxide, in three containers to the same Hongkong based consignee and had submitted claim for drawback amounting to Rs. 9.99 lakhs on 13.9.1989. The containers were intercepted in Bombay by the Directorate of Revenue Intelligence. On test, the representative samples of this consignment were also found free from Zinc Oxide and it was revealed that the material under shipment was nothing but Dolomite Powder. This consignment was also reported to have been cleared by the same officers in the Delhi Customs referred to in the case mentioned by Audit without drawing any sample. However, the DRI asked Delhi Customs not to sanction the claim submitted by the party. This clearly indicates that the alleged fraud perpetuated by the party in the case mentioned in the Audit Paragraph was not an isolated one and the role of the departmental officers concerned who had sanctioned the claim in that case needed to be probed further.

[Sl. No. 3 of Appendix, Para 59 of 91st Report of PAC (10th L.S)]

Action Taken

As the two cases pertain to the same period of time and the goods were examined by the same officers in both the cases, action against the officers, as stated in reply to Para 58, has been initiated.

[Ministry of Finance (Department of Revenue) F.No. 603/5/93/DBK
(Part) Dated 27 September 1995]

Recommendation

Another disquieting aspect observed by the Committee was that although the inadequacies in the processing of drawback claims on export of Zinc Oxide were known to the Department by December, 1989 and in any case by early 1990 when the chemical examiner report was available, no action was taken to prescribe suitable checks for the examination of the item specifically when instructions regarding testing of samples of products specified in the Drawback Schedule were issued on 26.11.1990. Instructions were issued only in June 1993 directing the authorities concerned for drawal of samples in each and every case of export of Zinc Oxide for the purpose of verification of the drawback claim. The Committee are unhappy over the delay and desire that the Central Board of Excise and Customs should look into the matter and ensure that necessary remedial/corrective action in such cases are initiated in time.

[Sl. No. 6 of Appendix, Para 62 of 91st Report of PAC (10th L.S)]

Action Taken

Ministry has issued instructions *vide* Circular No. 8295-Customs dated the 20th July, 1995 to the field formations to ensure that drawal of samples in all cases of doubtful nature of goods or exporter is ensured so that such

irregularities are avoided. It has also been provided that such cases should be brought to the notice of the Central Board of Excise & Customs immediately on detection and major Custom Houses alerted so that Board may examine the matter further and issue necessary instructions for remedial action to be taken in all Customs formations.

[Ministry of Finance (Department of Revenue, F.No. 603/5/93/DBK (Part) dated 27 September, 1995]

Recommendation

What has further concerned the Committee is that no attempt seems to have been made by the Ministry to examine the adequacy of visual examination of other similar chemical items where mere visual examination was in-sufficient to identify a commodity for the purpose of verifying the drawback claims. The Ministry of Finance have stated that in view of the large number of Shipping Bills filed for export under claim for drawback in the Customs Houses it was not possible to test sample in each and every consignment. According to the Ministry, since no case of fraudulent export of any other commodity has been noticed it has not been considered necessary to prescribe similar procedure in case of other goods which are not identifiable by visual inspection. The Ministry of further stated that the principles prescribed by them are by way of general guidelines and actual discretion for drawal of samples is to be exercised by the officers processing the Shipping Bills to check against exploitation of the system. The Committee do not agree with this view. They feel that in the light of the irregularities reported in the present case, the Ministry should undertake a review in respect of the nature of examination to be conducted particularly with regard to other chemical items also where mere visual examination may not be sufficient with a view to ensuring that the malpractices resorted to by the unscrupulous elements are effectively checked.

[Sl. No. 7 of Appendix, Para 63 of 91st Report of PAC (10th L.S)]

Action Taken

The Ministry issued Circular No. 44/94 dated 12.10.94 based on the report of a Committee constituted to look into the drawal of samples for drawback purpose. The said Circular provides that in case of Organic & Chemicals and Inorganic Chemicals (Entry No. 1101 of the erstwhile Drawback Table), where Brand Rates are fixed with reference to a particular manufacturer, samples may be drawn once in six months for individual manufacturer. If the products are sold by the brand name, sample may be drawn once in a year. For Entry No. 1102 to 1106 of the Drawback Table pertaining to Inorganic Chemicals and Chemical products, it has been provided that samples should be

drawn from each consignment. Accordingly, recommendations of the Committee to review the nature of examination to be conducted particularly with regard to other chemical items where mere Visual examination may not be sufficient have been implemented.

[Ministry of Finance (Department of Revenue, F.No. 603/5/93/DBK
(Part) dated 27 September, 1995]

CHAPTER III

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

—NIL—

CHAPTER IV

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

—NIL—

CHAPTER V

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

Recommendation

The Committee are distressed to note that in spite of the serious nature of the offences stated to have been committed/attempted the departmental response thereof had been somewhat casual. Although the irregularities were detected in 1989 itself, a notice was issued to the party to show cause as to why the amount of Rs. 13.33 lakhs should not be recovered and as to why penal action should not be initiated against them under Section 114 of the Customs Act, 1962 on 31.1.1991 only. Similarly, in the other case also show cause notice to the party was issued only on 12.9.1990 as to why drawback claim of Rs. 9.99 lakhs should not be disallowed and as to why the goods should not be confiscated under Section 113(i) of the Customs Act, 1962. Further a chronology of the progress made in the adjudication proceedings obtained by the Committee revealed that there had been several adjournments of both the cases due to reasons like "no reply received from the party, party's advocate wanted to inspect the adjudication file without specifying the reasons nobody turned up for personal hearing. Party's advocate expressed his inability to appear transfer of the adjudicating authority" etc.

Astonishingly, the cases have now further been held up on account of the objection raised by the party on the question of jurisdiction of the adjudicating officer being sustained by the Principal Collector and pending appointment of another officer. The Committee deprecate the inordinate delay in deciding these cases involving such serious offences. They desire that the cases should be vigorously pursued, got decided expeditiously and stern action taken against the party for the offences committed. They also desire that necessary criminal proceedings should also be initiated for the alleged frauds. The Committee would like to this regard and also the position in respect of the recovery of the Governmental dues.

[Sl.No.4 of Appendix, Para 60 of 91st Report of PAC (10th LS)]

Action Taken

Adjudication of the cases has not yet been completed and the Commissioner of Customs, Delhi has been directed to ensure that the adjudication process is completed within two months, followed by recovery of Government dues. Sanction of the Chief Commissioner of Customs for prosecuting Shri Narender Rastogi, Managing Director and Shri Subhash

- Rastogi, Director and the Company M/s Badri Prasad & Sons has been obtained and further action in this regard is being taken.

[Ministry of Finance (Department of Revenue) F.No. 603/5/93-DBK(Part) dated 27 September, 1995]

Recommendation

The Committee regret to note that although the malpractices were detected in 1989 and the Vigilance Wing of the Directorate of Inspection had reported complaints against some officers in the present case on 24.9.1990, the chargesheet was served on one officer on 13.9.1993 and on another on 11.3.1994 only. Also, no action has been taken against the officers higher up in the hierarchy including those who had sanctioned the claims submitted to them. The Committee desire that the matter should be further looked into and necessary action taken against all the officers concerned found responsible for their various omissions and commissions. The Committee would like to be informed of the further action taken in the matter.

[Sl. No.5 of Appendix, Para 61 of 91st Report of PAC (10th Lok Sabha)]

Action Taken

Chargesheets have been issued to Shri R.S. Jain, Superintendent (retired) and Commissioner of Central Excise, Delhi has appointed Shri S.K. Pande, Assistant Commissioner of Customs as Enquiry Officer in the case. Enquiry proceedings against Shri Hardwarilal, Inspector are also in progress and the Enquiry Officer has been requested to conclude the enquiry at an early date. Central Vigilance Commission in their final opinion has recommended no action against Shri Mahender Singh, the then Assistant Collector of Customs, who was concerned with the case.

[Ministry of Finance (Deptt. of Revenue) F.No. 603/5/93-DBK (Part) dated 27 September, 1995]

Recommendation

During the course of evidence the Committee were informed that the Directorate of Revenue Intelligence had unearthed certain cases where the party involved in this case alongwith its associate concerns were stated to have attempted to defraud Government by indulging in alleged fraudulent exports in 1991 involving a total amount of Rs. 118 crores. The details of the cases have been given elsewhere in the report. Briefly, the cases involved alleged malpractices committed under the Duty Exemption Entitlement Scheme including obtaining of the advance licences on the basis of false and incorrect statements, failure to discharge the stipulated export obligation utilising the duty free material imported against the

licences for purposes other than for which the same were imported etc. The Committee have been informed that both the Ministries of Finance (Customs Department) and Commerce (Directorate General of Foreign Trade) had issued show cause notices to the importers concerned for the offences/violations under the relevant Laws. While the Customs Deptt. are stated to have issued show cause notices against the violations in respect of DEEC books/advance licences registered with Calcutta and Bombay Custom Houses and the show cause notice in respect of Madras Custom House was under issue, the Directorate General of Foreign Trade are stated to have adjudicated the cases. The show cause notices issued against the violations of the Custom Act were pending adjudication. The adjudicating authority in respect of the Directorate General of Foreign Trade is stated to have imposed penalties against the party for the offences committed under the Imports and Exports (Control) Act, 1947 and have also debarred all the eight licensees and four supporting manufacturers under the Imports/Control Order, 1955 from obtaining the advance licences. During evidence, the Secretary, Department of Revenue stated that it was a serious matter and action should have been taken against the parties under the most stringent provisions including criminal action as well as under COFEPOSA. Unfortunately, the Department are yet to act on those lines. The Committee have been informed that the case has also been referred by the Directorate General of Foreign Trade to the Central Bureau of Investigation on 18.3.93 and the same was still under their examination. The Committee desire that all necessary action should be taken to book the party for the violations/offences committed under the relevant laws of the country, the cases should be vigorously pursued to their logical conclusions and effective action taken to recover the Government dues as also to penalise the party for the various offences committed under the different laws. The Committee would like to be informed of the action taken in the matter and they would also like to be apprised of the outcome of the CBI investigation.

[Sl. No. 8 of Appendix, Para 64 of 91st Report of PAC(10th Lok Sabha)]

Action Taken

The C.B.I. has informed that out of 8 cases reported to them by the Director General, Foreign Trade, 7 cases have been registered since in the 8th case against M/s. Manohar Metal Bhandar, no import have taken place. The C.B.I. is investigating the case vigorously and are awaiting reply of N.C.B. of Nepal, Hongkong, U.K. and U.S.A. to whom a Questionnaire for conducting part investigations have been sent through interpolate. On receipt of reply further action in accordance with law will be taken.

2. The Show Cause Notices in all cases have been issued by Commissioner of Customs, Bombay, Calcutta and Madras and the Commissioners have been directed to complete the process of adjudication

within a period of two months followed by recovery of Government dues and also consider prosecution.

[Ministry of Finance (Deptt. of Revenue) F.No. 603/5/93-DBK(Part)
dated 27 September, 1995]

Recommendation

The Committee were further informed that certain department officers were suspected to have been involved in perpetuating the alleged fraud in collusion with the parties. Although an officer was initially stated to have been suspended in February 1992 but the suspension order was stated to have been revoked subsequently in August, 1993. The Committee are surprised to know that no chargesheet has been issued to the officers concerned as yet. The Committee desire that the extent of involvement of the officers in committing the offences by the party should thoroughly be enquired into and action taken against all the officers found responsible. The Committee would like to be informed of the action taken thereon.

[Sl. No. 9 of Appendix, Para 65 of 91st Report of PAC (10th Lok Sabha)]

Action Taken

Central Vigilance Commission has advised major penalty proceedings against all three officers found responsible i.e. SShri S.B. Misra, Assistant Collector; S.C. Gupta, Superintendent and R.K. Singh, then Inspector (Customs) at Land Customs Station Tikonja. The C.V.C. has also advised that in view of the wider ramification involving private parties and non-residents, the matter may be referred to C.B.I. The C.B.I. have already been advised of the matter and the concerned authorities have been directed to expedite issuance of chargesheet to the aforesaid three officers.

[Ministry of Finance (Department of Revenue) F.No. 603/5/93-DBK
(Part) dated 27 September, 1995]

NEW DELHI;
29 February, 1996

10 Phalgun, 1917 (Saka)

RAM NAIK.
Chairman,
Public Accounts Committee.

APPENDIX

CONCLUSIONS AND RECOMMENDATIONS

Sl. No.	Para No.	Ministry/ Deptt. Concerned	Conclusions/Recommendations
1	2	3	4
1.	6.	Min. of Finance (Deptt. of Revenue)	The Committee desire that final replies in respect of the recommendations on which interim replies have so far been furnished should be furnished expeditiously after getting them duly vetted by Audit.
2.	7.	-do-	The Committee note that in pursuance of their recommendations, the Ministry of Finance (Department of Revenue) have now issued instructions to the field formations so as to prevent irregular and fraudulent payments of duty drawback. The Committee hope that the Central Board of Excise and Customs will keep a close and continuous watch in the matter with a view to ensuring that the malpractices resorted to by the unscrupulous elements are effectively checked.
3.	8.	-do-	The Committee are extremely unhappy over the slow pace of progress in the recovery of punitive proceedings against the exporter as well as the disciplinary proceedings initiated against the departmental officers. It is a matter of deep concern to the Committee that people responsible for such economic offences committed and detected as far back as 1989 and 1990 are yet to be punished effectively. The Committee, therefore, desire that the proceedings initiated against the exporter and the departmental officers should be completed within a period of three months. They would like to be informed of the outcome of the adjudication proceedings, progress in the prosecution case against the exporter and the

1	2	3	4
			recovery of Government dues as well as the final outcome in the action initiated against the departmental officers.
4.	11.	Min. of Finance (Deptt. of Revenue)	<p>The Committee are totally dissatisfied with the pace of progress in this case also particularly considering the gravity of the offences stated to have been committed by the party. The action taken note furnished by the Ministry of Finance is clearly indicative of the fact that no concrete action has so far been initiated either under COFEPOSA or to lodge prosecution against the parties. This speaks volumes of the lack of seriousness on the part of the Ministry of Finance in bringing to book the guilty. The Committee deplore the same and desire that all necessary action should be taken to book the parties concerned for the offences committed by them under various laws within a period of three months and the cases vigorously pursued to their logical conclusions so as to recover the Government dues and to penalise the parties concerned for the offences committed. Proceedings initiated against the departmental officers should also be expeditiously completed. The Committee would like to be furnished with a detailed report on the progress of the case on all the aspects.</p>

PART II

MINUTES OF THE TWENTY-SECOND SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON 26 FEBRUARY, 1996.

(1995-96)

The Committee sat from 1530 hrs. to 1630 hrs. on 26 February, 1996 in Room No. 51, Parliament House Annex, New Delhi.

PRESENT

Shri Ram Naik

—Chairman

Members

Lok Sabha

2. Kumari Mamata Banerjee
3. Shri Anil Basu
4. Shri Dilceep Singh Bhuria
5. Shrimati Maragatham Chandrasekhar
6. Dr. K.D. Jeswani
7. Maj. Gen. (Retired) Bhuwan Chandra Khanduri
8. Shri Peter G. Marbaniang
9. Shri Shravan Kumar Patel

Rajya Sabha

10. Shri Triloki Nath Chaturvedi
11. Shri Misa R. Ganesan
12. Shri Rajubhai A. Parmar
13. Shri G. G. Gwell

SECRETARIAT

1. Shri G. C. Malhotra — *Joint Secretary*
2. Smt. P. K. Sandhu — *Director*
3. Shri P. Sreedharan — *Under Secretary*

REPRESENTATIVES OF THE OFFICE OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

1. Shri A. K. Thakur — *Pr. Director*
(Reports-Central)
2. Shri Vikram Chandra — *Pr. Director*
(Indirect Taxes)
3. Smt. S. Ghosh — *Director (Customs)*

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

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|------|-----|-----|-----|
| (i) | *** | *** | *** |
| (ii) | *** | *** | *** |
- (iii) Customs Receipts — Drawback of duties Fraudulent drawback
[Action taken on 91st Report (10th Lok Sabha)].

The Committee adopted the draft Reports at Sl. No. (i) and (iii) above without any amendments. The Committee adopted the draft Report at Serial No. (ii) above with certain modifications as shown in Annexure. The Committee also authorised the Chairman to finalise these draft Reports in the light of the comments of Audit arising out of factual verification and to present these Reports to the House.

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| | *** | *** | *** |
| 4. | *** | *** | *** |
| 5. | *** | *** | *** |

The Committee then adjourned.

