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SIXTY-NINTH REPORT
PUBLIC ACCOUNTS COMMITTEE
(1993-94)

(TENTH LOK SABHA)

**UNION EXCISE DUTIES—NON-LEVY/SHORT
LEVY OF DUTY DUE TO INCORRECT GRANT
OF EXEMPTION—MOTOR VEHICLES**

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

*[Action Taken on 44th Report of Public Accounts Committee
(10th Lok Sabha)]*



Presented to Lok Sabha on 22.4.1994

Laid in Rajya Sabha on 21.4.1994

LOK SABHA SECRETARIAT
NEW DELHI

April, 1994/Chaitra, 1916 (Saka)



IIAS, Shimla

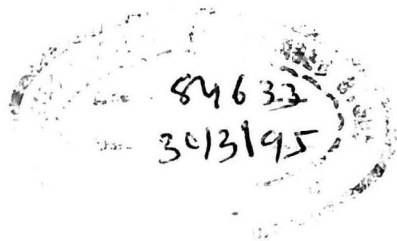


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PUBLIC ACCOUNTS COMMITTEE
(1993-94)

CHAIRMAN

Shri Bhagwan Shankar Rawat

MEMBERS

Lok Sabha

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3. Dr. K.V.R. Chowdary
4. Shri Bandaru Dattatraya
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6. Shri Jagat Veer Singh Drona
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- *19. Miss Saroj Khaparde
20. Shri Murasoli Maran
21. Smt. Jayanthi Natarajan
22. Shri Viren J. Shah

SECRETARIAT

1. Shri G.L. Batra — *Additional Secretary*
2. Shri S.C. Gupta — *Joint Secretary*
3. Shri R.K. Chatterjee — *Deputy Secretary*
4. Shri P. Sreedharan — *Under Secretary*

*Ceased to be a Member of the Committee on completion of her tenure in Rajya Sabha
w.e.f. 2 April, 1994.

INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Sixty-Ninth Report on Action Taken by Government on the recommendations of the Public Accounts Committee contained in their Forty-Fourth Report (10th Lok Sabha) on Union Excise Duties—Non Levy/Short Levy of duty due to incorrect grant of exemption—Motor Vehicles.

2. In their earlier Report the Committee had examined a case involving short levy of excise duty in the Collectorate of Indore amounting to Rs. 136.18 lakhs due to incorrect grant of exemption on motor vehicles in respect of the clearances made during May, 1986 to August, 1989. The Committee had also found similar cases involving a total outlay of Rs. 333 lakhs in Meerut and Chandigarh Collectrates. The Committee pointing out certain specific lacunae in the decision of the Board had recommended that the matter be reviewed after consultation with the Ministry of Law and appropriate action initiated. In this Report the Committee have observed with regret that despite the lapse of almost one year since the presentation of their Report and two years since the appeal filed in CEGAT by the Collector the dispute still remains unsettled. The Committee are unhappy about the manner in which the Ministry of Law instead of tendering their advice for initiating concrete action by CBEC, sought to pass on their responsibility to CEGAT. The Committee while reiterating their earlier recommendation have desired that all out effort should be made to resolve matter early and to protect the financial interest of Government.

3. This Report was considered and adopted by the Public Accounts Committee at their sitting held on 4 April, 1994. 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 to 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;
April 13, 1994

Chaitra 23, 1916 (Saka)

BHAGWAN SHANKAR RAWAT,
*Chairman,
Public Accounts Committee.*

CHAPTER I

REPORT

This Report of the Committee deals with the action taken by Government on the recommendations and observations of the Committee contained in their 44th Report (Tenth Lok Sabha) on "Union Excise Duties—Non Levy/Short Levy of Duty due to Incorrect Grant of Exemption".

2. The 44th Report which was presented to Lok Sabha on 28 April, 1993 contained 8 recommendations/observations. Action taken notes in respect of all these recommendations/observations have been received from the Ministry of Finance (Department of Revenue). Government have accepted all the recommendations/observations of the Committee. The Action Taken Notes have been reproduced in Chapter II of this Report.

3. The Committee will deal with in the succeeding paragraph the action taken by Government on the recommendations made by the Committee.

4. As per a notification No.162/86-CE issued on 1 March, 1986, Public transport passenger motor vehicles falling under heading 87.02 of the schedule to the Central Excise Tariff Act, 1985 were chargeable to concessional rate of Central Excise duty of Rs. 8000/- per motor vehicle upto 28 February, 1989 and Rs. 8400/- thereafter. This concession of duty were not applicable to a manufacturer of the chassis used in the manufacture of such motor vehicles. The motor vehicles including the light commercial motor vehicles of pay load not exceeding 4000 kgs. cleared in a complete shape inclusive of chassis fitted with engine and body built thereon were covered by another Notification No. 462/86-CE issued on 9 December, 1986 and were chargeable to duty at 10 per cent *ad valorem*.

5. In their earlier Report (44th Report of 10th Lok Sabha) while examining a case of the Collectorate of Central Excise Indore, the Committee had found that an assessee M/s. Eicher Motors Ltd. manufacturing Public transport type passenger motor vehicles, light commercial vehicles falling under heading 87.02 had manufactured engine fitted with chassis in the factory itself and the body was built elsewhere outside the factory by the body builders on job work basis. The mounted bus body on the cowl and chassis was then returned to the manufacturer by the body builder. Thereafter, the complete motor vehicles were cleared from the factory of the manufacturer to the customers. These motor vehicles on their clearance from the factory were chargeable to duty at 10 per cent *ad valorem*. The Committee found that these were allowed to be cleared on payment of duty of Rs. 8000/-, per vehicle. Thus, the incorrect

grant of exemption had resulted in short levy of concessional duty amounting to Rs. 136.18 lakhs on clearance of 402 numbers of such vehicles during the period from May, 1986 to August, 1989.

6. The department while confirming demand for Rs. 23.17 lakhs for the period 29.6.89 to 31.8.89 with a penalty of Rs.7 lakhs held the demand for the balance of Rs.113.01 lakhs as time barred. On the direction of Central Board of Excise and Customs (CBEC) dated 30.9.1991, the collector of Central Excise filed an appeal on 8 January, 1992 with the Customs, Central Excise and Gold Control Appellate Tribunal (CEGAT) seeking confirmation of entire demand including the time barred one which is pending for decision.

7. The Committee were surprised to find that Ministry of Finance after maintaining all along that the audit objection was accepted and taking necessary action in that direction had suddenly changed their stand through a letter written to audit on 27 August, 1992 that the audit objection was not admissible. This revised decision was stated to have been taken after consideration of matter by the full CBEC. In support of the Board's latest interpretation leading to non-acceptance of audit objection the Finance Secretary had also stated during evidence that basically the concession had been given to the body builder because he was a small manufacturer. Differing with the interpretation, the Committee had recommended review of the position by the Board.

8. The Committee in this connection, in para 43 of the Report had recommended as follows:

"As desired by the Committee, the Finance Secretary assured during evidence to place all the facts of the case before the Law Ministry for obtaining a legal opinion in the matter. The Committee desire that the lacunae highlighted in the preceding paragraph should be specifically brought out to the notice of the Ministry of Law and the CEGAT. The Committee would like to be informed of the legal opinion tendered by the Law Ministry and further action taken by the Department in the light of this advice. The Committee would also like to be apprised of the outcome of the case of the Department pending with CEGAT. They would urge upon the Government that, if necessary, suitable amendments in the notification and the Laws may be made at the earliest so as to avoid any loss of revenue to the exchequer in future."

9. While observing that similar cases had been reported from other Collectorates of Central Excise also, the Committee in para 45 of the Report had recommended:

"The Committee note that similar cases have been reported from the Collectorates of Central Excise Chandigarh and Meerut. In respect of M/s. DCM Toyota Limited in the Collectorate of Central Excise, Meerut the audit has raised objection alleging short levy of duty

amounting Rs. 61. lakhs during the period April, to September, 1989. According to the Department of Revenue, the audit has been requested to settle the objection as duty on the motor vehicles has been correctly discharged by the body builders. In respect of M/s. Swaraj Mazda Limited in the collectorate of Central Excise, Chandigarh the demand for the period from 1.3.86 to 31.3.92 amounting to Rs. 2.72 crores has been vacated by Assistant Collector by allowing the benefits in terms of Sl. No. 17 of Notification No. 162/86, dated 1.3.86. The representatives of the Central Board of Excise and Customs assured the Committee during evidence that these audit objections would be finally decided after the issue in the case of M/s. Eicher Motor Ltd. are finally resolved. The Committee desire that all remedial steps in both these cases should be expeditiously be taken to ensure that any part of duty amount do not get time barred. They would like to be apprised of the final outcome of the audit objections in both these cases.

10. In their Action Taken Notes furnished to the Committee in respect of the recommendations made in the Paras 43 and 45, the Ministry of Finance (Department of Revenue) have stated as follows:

Para 43

"As desired by the Committee, a tripartite meeting was held with the Law Ministry on 21.4.1993 for their opinion on this issue. The Law Ministry have opined that since similar matters are pending adjudication before the CEGAT, an authoritative verdict by the Tribunal may be awaited before taking a final view. This case is still pending before the CEGAT. However, efforts are being made to get the case listed for early hearing and an expeditious decisions."

Para 45

"The Collectors of Central Excise, Chandigarh and Meerut have reported that regular demands are being issued pending final decision to protect the Government revenue."

11. From the changes made in Central Excise duty in the Budget 1994 it was however, seen that the scope of exemption to body building of motor vehicles is being restricted. In cases, where a chassis manufacturer sends the chassis for body building to a body builder on his own account and such motor vehicles, after body building, is returned to the chassis manufacturer, or sold even from the premises of the body builder by the chassis owner on his own account, the exemption from excise duty to the body builders shall not be applicable and excise duty would be leviable on such body building. But in case where a chassis is purchased by a customer, who sends the chassis for body building on his own account to a body builder for fabrication of body, in such cases exemption from excise duty would be available. The proviso to notification No. 162/86-CE has been suitably amended for this purpose by notification No. 49/94-CE.

12. In their earlier Report the Committee had examined a case involving short levy of excise duty in the Collectorate of Indore amounting to Rs. 136.18 lakhs due to incorrect grant of exemptions on motor vehicles in respect of the clearances made during May 1986 to August, 1989. The dispute had arisen on the question of availing of concessional duty by the manufacturer on the body of the vehicles built outside the factory on job work basis. The Committee had found that after accepting the audit objection in respect of the case under examination initially and filling an appeal before CEGAT in January, 1992, the Central Excise Department at Board Level subsequently amended their position and maintain that the objections are not admissible. They had also found similar cases involving a total outlay of Rs. 333 lakhs in other Collectorates. Pointing out certain specific lacunae in the decision of the board, the Committee had recommended that the matter be reviewed after consultation with the Ministry of Law and appropriate action initiated for protecting revenue. In their action taken notes the Ministry of Finance while accepting the Committee's recommendation in this regard have stated that a tripartite meeting with the Ministry of Law was held on 21 April, 1993 and according to the Law Ministry since similar matter was pending for adjudication before the CEGAT authoritative verdict by the Tribunal be awaited before taking a final view. The Ministry of Finance have further stated that the efforts are being made to get the case listed for early hearing and expeditious decision. The Committee regret to note that despite the lapse of almost one year since the presentation of their Report and two years since the appeal filed in CEGAT by the Collector the dispute still remains unsettled. The Committee are particularly unhappy about the manner in which the Ministry of Law instead of tendering their advice for initiating concrete action by CBEC, sought to pass on their responsibility to CEGAT. The Committee reiterate their recommendation and desire that all out efforts should be made to resolve the matter early and to protect the financial interest of Government. The Committee would like to be informed of the further development in the matter.

13. As regard future cases, the Committee note that Ministry of Finance while effecting changes in the Central Excise duty in the Budget 1994 have since made amendments in the notification under reference making the position clearer. The Committee trust that these provisions will be scrupulously implemented so as to prevent occurrence of similar cases.

CHAPTER II

RECOMMENDATIONS AND OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendations

38. M/s. Eicher Motors Limited manufacturing transport passenger motor vehicles, light commercial vehicles etc. did not have facilities at their factory for fabrication of bus bodies. They therefore removed some chassis during May 1986 to August, 1989 on payment of duty under Notification No. 16286, dated 1.3.86 upto 8.12.86 @ 20 per cent *advalorem* and thereafter @ 10 per cent *advalorem* under Notification No. 46286, dated 9.12.1986 to body builder outside the factory on job work basis. The mounted bus body on such cowl & chassis was then returned to M/s. Eicher Motors Limited by the body builder after payment of concessional rate of duty @ Rs. 8,000 per vehicle upto 19.2.1990 and Rs. 8,400 per vehicle thereafter under Notification No. 16286 (as per item 17 thereof). During March, 1989 CERA audited the accounts of M/s. Eicher Motors Ltd, and in their Inspection Report issued on 16.5.89 contended that the assessee had not filed the classification list or price list for these motor vehicles which on their clearance from the factory were chargeable to duty @ 10 per cent and instead the assessee had cleared them through their job worker @ Rs. 8,000 per vehicle as specified under Notification No. 16286 dated 1.3.1986. This resulted in short levy of duty amounting to Rs. 1.57 lakhs on their clearance during the period from March, 1988 to January, 1989. The Committee are informed that although the internal audit party had conducted audit of the factory prior to the visit of Statutory audit, the irregularity was not observed by them. It was only in April, 1989 that when IAD party visited the factory the matter was brought to their notice. The matter was then investigated by the preventive Branch of the Headquarters which submitted an offence report to Collector of Central Excise, Indore on 22.11.1989. The offence report mentioned *inter alia* that there was no sale of cowl and chassis to the body builder; the complete bus remained the property of the party upto the time it was delivered to the buyer; the bus was manufactured under the party's brand name and to their directions/specifications and the party provided substantial financial assistance to the body builder by way of advances. The transaction entered into with the body builder was not on principal to principal basis. The offence report further pointed out that the party declared the same product (Bus) but meant for export in their classification lists No. 586 and 686 and discharged the duty liability. Similarly, they

should have declared the same product (Bus) meant for indigenous sale in their classification list filed to the Central Excise Department and discharged the duty liability on the said bus. The offence Report concluded that in terms of Section 2(f) of the Central Excise and the Salt Act, 1944 the party should be treated as a manufacturer of the bus and hence duty liability for bus was on the party which it failed to discharge. According to the offence report, the party during the period from May, 1986 to August, 1989 manufactured and subsequently sold 402 numbers of passenger buses (CANTER MODEL) valued Rs. 12.81 crores and the Central Excise duty worked out to Rs. 1.36 crores.

39. As a consequence of the offence report a show cause notice was issued to the assessee on 28.12.89 alleging contravention of the provision of rules 173-B, 173-C, 52, 53, 173-F, 173-G and 9(i) of the Central Excise Rules 1944 and proposed recovery of duty amounting to Rs. 1.36 crores on the removal of 402 chassis in terms of proviso 2 of Section 11-A(i) of the Central Excise and Salt Act, 1944. According to Department of Revenue, the case was adjudicated by Collector (Judicial) Central Excise, Indore vide his order dated 810 October, 1990 confirming the demand of duty amounting to Rs. 23.17 lakhs for the period 29.6.89 to 31.8.1989 and imposing a penalty of Rs. 8 lakhs. In adjudication, the Collector of Central Excise, Indore, however, held that though excise duty was not paid on buses there was no suppression of facts by M/s. Eicher Motors Ltd. who had disclosed the entire procedure of clearance of chassis and cowl to body builder manufacturing bus bodies and received back the same for storage and clearance to the customers and accordingly duty beyond six months was held time barred under Section 11A of the Central Excise and Salt Act, 1944 without invoking the proviso to Sub-section (I) thereto. Collector (Judicial)'s orders were reviewed by CBEC which directed on 30.9.1991 that an appeal be filed to CEGAT against the orders of Collector (Judicial) on the ground that entire duty amount demanded in the notice should have been confirmed since non-maintenance of statutory records and non filing of classification lists would tantamount to suppression of facts by the assessee. Against the adjudication order of Collector (Judicial) the assessee also filed an appeal in the CEGAT, New Delhi together with stay application against recovery of amount of duty and penalty. The CEGAT on 27.2.92 stayed recovery subject to deposit of Rs. 8 lakhs. The assessee filed a writ petition in the Hon'ble High Court of Delhi against CEGAT's order. The Hon'ble High Court passed an order on 7.4.1992 dispensing with pre-deposit. The appeal filed in CEGAT by the Collector on 8.1.1992 is stated to be pending decision on merits.

40. The Committee are also of the view that the payment of duty @ 10 per cent *ad valorem* on the chassis sent to body builder by M/s. E.M. Ltd. subsequent to 8.12.1986 under Notification No. 46286 dated 9.12.86 was not correct as the duty on chassis for motor vehicles of heading 87.02 was

chargeable to duty at 20 per cent *ad valorem* under Notification No. 162/86 dated 1.3.1986 as amended (Sl. No. 12) and not at 10 percent *ad valorem* under Notification No. 462/86 dated 9.12.1986 as this Notification (462/86 dated 9.12.1986) is applicable to complete fuel efficient motor vehicles. The Department's plea that Notification No. 462/86 dated 9.12.1986 will also apply to chassis is not correct, because chapter note 5 and heading 87.06 clearly recognise 'chassis for motor vehicles' and 'motor vehicles' as two different exciseable goods and separate duty rates are provided in the tariff. Chassis meant for fuel efficient motor vehicles are also not covered by explanation to notification No. 462/86 dated 9.12.1986.

41. The Committee are surprised to find that Ministry of Finance after maintaining all along that the audit objection was accepted and taking necessary action in that direction suddenly changed their stand *vide* their letter dated 27 August, 1992 to audit and stated that the audit objection was not admitted. This revised decision is stated to have been taken after consideration of the matter by the full Central Board of Excise and Customs. The Committee are not at all convinced with the efficacy of the factors adduced by the Department on consideration of which the Board have reversed their earlier decision. It has been asserted that the premise on which the Department's case for non levy based was not supported by facts since party's classification list 5/86 for buses was not restricted to exports only. Even if this view of the Department is accepted it is not clear why the audit objection for not assessing the motor vehicles cleared for indigenous sale by the Eicher Motors Limited for duty @ 10 per cent *ad valorem* is not being accepted particularly when Deptt. have admitted that the motor vehicles which are identical would be classified identically regardless of whether they are for export or domestic consumption. Another plea of the Department that the body building work was done in a decentralised manner by the independent body builder is also not so tenable as the ownership of the cowl and chassis was throughout vested with Eicher Motors Ltd. and the work of body building was assigned to the body builder on job work basis. The mounted bus body on the cowl and chassis had to be returned to the manufacturer and the very fact that the complete motor vehicles were cleared from the factory of the manufacturer to the customers entirely support the audit contention that these motor vehicles were chargeable to duty at 10 per cent *Ad valorem*. Another reason advanced by the Department is that the benefit of Sl. No. 17 of the Notification No. 162/86 is available to the body builder since he does not manufacture chassis. In this connection, it may be stated that as per Notification No. 162/86 dated 1 March, 1986, the Public transport passenger motor vehicles falling under heading 87.02 are chargeable to concessional rate of duty. Since the ownership of the vehicles were vested all along with the Eicher Motors Ltd. the body builder has no *locus standi* to avail of the concessions in respect of the complete vehicles as such not belonging to them and for the clearance of which they had absolutely no powers. The Department have also contended that taxable event in Central

Excise is manufacture and owner has no relevance to it and Collector of Central Excise's order do not satisfactorily establish the basis for holding EML as the manufacturer of buses. In this connection it may be pointed out that in terms of Section 2(f) of the Central Excise and Salt Act, 1944 EML is the manufacturer of these buses as the engines and chassis were manufactured by them and the body builder has got a limited role of building the body on a job work basis and thus cannot be termed as the manufacturer of the vehicles for the purpose of payment of duty. Moreover, the buses were manufactured under the party's brand name and to its directions/specifications.

42. The Committee note that the concessional rate of duty prescribed as per Notification No. 162/86 dated 1 March, 1986 was not applicable to a manufacturer of chassis used in the manufacture of the public transport motor vehicles falling under heading 87.02. The obvious underlying objective of extending this concession would appear that the person who manufactured the chassis and eventually sold the motor vehicles were not entitled to the concession. In support of the Board's latest interpretation leading to non-acceptance of the audit objection the Finance Secretary stated during evidence that basically the concession had been given to the body builder because he was a small manufacturer. But in the present case the benefit of the concession has not been actually derived by the body builder but the unintended benefit has been passed on to EML, the manufacturer of chassis by circumvention, which is highly deplorable. Under these circumstances the Committee differ with the final interpretation of the concessional provision by the Central Board of Excise and Customs and in principle the Committee fully support the audit view point. The Committee stress that the position should be reviewed by the Board in the light of this and also the view expressed in Para 41. The Committee also emphasize that greater care should be taken in drafting such notifications bringing out in the most explicit, lucid and unambiguous manner the underlying connotations, objectives and intentions leaving little scope for misinterpretation.

43. As desired by the Committee, the Finance Secretary assured during evidence to place all the fact of the case before the Law Ministry for obtaining a legal opinion in the matter. The Committee desire that the lacunae highlighted in the preceding paragraph should be specifically brought out to the notice of the Ministry of Law and the CEGAT. The Committee would like to be informed of the legal opinion tendered by the Law Ministry and further action taken by the Deptt. in the light of this advice. The Committee would also like to be apprised of the outcome of the case of the Deptt. pending with CEGAT. They would urge upon the Government that, if necessary, suitable amendments in the notification and the Laws may be made at the earliest so as to avoid any loss of revenue to the exchequer in future.

44. The Committee are constrained to observe that the internal audit failed to point out the irregularity of allowing the motor vehicles to be

cleared on payment of duty 8,000 per vehicle instead of @ 10 per cent *ad valorem* by the assessee prior to the audit conducted by CERA in March, 1989. It was only in April, 1989 when IAD party visited the factory the matter was brought to their notice and the investigations were carried out and the consequential show cause notice issued to the party. Had the internal audit noticed the irregularity earlier the point of time barred payment of duty in this case could not have arisen. The Committee would like the Deptt. to investigate the failure of internal audit to notice the irregularity earlier. The Committee cannot but emphasise the need for effective functioning of the internal audit machinery so that such mistakes are timely detected with a view to enable the Deptt. to take the necessary follow-up action to safeguard the revenue interests.

[Sl. Nos. 1 to 7 (paras 38 to 44) of Appendix IV to Forty-Fourth Report of PAC (10th Lok Sabha)]

Action Taken

As desired by the Committee, a tripartite meeting was held with the Law Ministry on 21.4.1993 for their opinion on this issue. The Law Ministry have opined that since similar matter are pending adjudication before the CEGAT, an authoritative verdict by the Tribunal may be awaited before taking a final view. The case is still pending before the CEGAT. However, efforts are being made to get the case listed for early hearing and an expeditious decision.

[Ministry of Finance (Department of Revenue) F. No. 234/293-CX 7 dt. 28.10.1993]

Recommendation

45. The Committee note that similar cases have been reported from the Collectorates of Central Excise, Chandigarh and Meerut. In respect of M/s. DCM Toyota Limited in the Collectorate of Central Excise, Meerut the audit has raised objection alleging short levy of duty amounting to Rs. 61 lakhs during the period April to September, 1989. According to Department of Revenue, the Audit has been requested to settle the objection as duty on the motor vehicle has been correctly discharged by the body builders. In respect of M/s. Swaraj Mazda Limited in the Collectorate of Central Excise, Chandigarh the demand for the period from 1.3.86 to 31.3.92 amounting to Rs. 2.72 crores has been vacated by Assistant Collector by allowing the benefits in terms of Sl. No. 17 of Notification No. 162/86, dated 1.3.86. The representative of the Central Board of Excise and Customs assured the Committee during evidence that these audit objections would be finally decided after the issues in the case of M/s. Eicher Motor Limited are finally resolved. The Committee desire that all remedial steps in both these cases should expeditiously be taken to ensure that any part of the duty

amount do not get time barred. They would like to be apprised of the final outcome of the audit objections in both these cases.

[Sl. No. 8 (Para 45) of Appendix IV, to Forty-Fourth Report of PAC
(10th Lok Sabha)]

Action Taken

Collectors of Central Excise, Chandigarh & Meerut have reported that regular demands are being issued pending final decision to protect Government revenue.

[Ministry of Finance (Department of Revenue) F. No. 234/2/93-CX 7
dt. 28.10.1993]

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**

—NIL—

CHAPTER V

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

—NIL—

NEW DELHI;
April 13, 1994

Chaitra 23, 1916 (*Saka*)

BHAGWAN SHANKAR RAWAT,
Chairman,
Public Accounts Committee.

PART II

MINUTES OF THE 20TH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON 4 APRIL, 1994

The Committee sat from 1500 hrs. to 1645 hrs. on 4 April, 1994 in Committee Room 'E', Parliament House Annexe.

PRESENT

CHAIRMAN

Shri Bhagwan Shankar Rawat

MEMBERS

2. Shri Nirmal Kanti Chatterjee
3. Dr. K.V.R. Chowdary
4. Shri Bandaru Dattatraya
5. Shri Jagat Veer Singh Drona
6. Shri Srikanta Jena
7. Smt. Krishnendra Kaur
8. Shri Mrutyunjaya Nayak
9. Shri Somappa R. Bommai

SECRETARIAT

1. Shri S.C. Gupta — *Joint Secretary*
2. Shri P. Sreedharan — *Under Secretary*

REPRESENTATIVES OF AUDIT

1. Shri N. Sivasubramanian — Dy. C & AG
2. Shri Vikram Chandra — Pr. Director, Reports (Central)
3. Shri T.N. Thakur — Pr. Director of Audit (Scientific Deptts.)
4. Smt. Anita Pattanayak — Director of Audit (Railways)
5. Shri Adya Prasad — Director of Audit (Excise)

2. The Committee considered the following Draft Reports and adopted the same subject to certain modifications and amendments as shown in Annexures I*, II*, III* & IV* respectively.

(i)	***	***	***
(ii)	***	***	***
(iii)	***	***	***
(iv)	***	***	***

* Not appended.

The Committee also adopted Draft Report on Union Excise Duties—Non-L Levy/Short-levy of duty due to incorrect grant of exemption—Motor Vehicles [Action Taken on 44th Report of PAC (10th Lok Sabha)] without any amendment.

3. *****

4. The Committee authorised the Chairman to finalise these draft Reports in the light of other verbal and consequential changes suggested by some Members and also those arising out of factual verification by Audit and present the same to Parliament.

The Committee then adjourned.

APPENDIX

Conclusions/Recommendations

S. No.	Para No.	Ministry/ Department Concerned	Conclusions/Recommendations
1	2	3	4
1	12	Ministry of Finance (Department of Revenue)	In their earlier Report the Committee had examined a case involving short levy of excise duty in the Collectorate of Indore amounting to Rs. 136.18 lakhs due to incorrect grant of exemptions on motor vehicles in respect of the clearances made during May 1986 to August, 1989. The dispute had arisen on the question of availing of concessional duty by the manufacturer on the body of the vehicles built outside the factory on job work basis. The Committee had found that after accepting the audit objection in respect of the case under examination initially and filing an appeal before CEGAT in January, 1992, the Central Excise Department at Board level subsequently amended their position and maintain that the objections are not admissible. They had also found similar cases involving a total outlay of Rs. 333 lakhs in other Collectorates. Pointing out certain specific lacunae in the decision of the board, the Committee had recommended that the matter be reviewed after consultation with the Ministry of Law and appropriate action initiated for protecting revenue. In their action taken notes the Ministry of Finance while accepting the Committee's recommendation in this regard have stated that a tripartite meeting with the Ministry of Law was held on 21 April, 1993 and according to the Law Ministry since similar matter was pending for adjudication before the CEGAT, authoritative verdict by the

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Tribunal be awaited before taking a final view. The Ministry of Finance have further stated that the efforts are being made to get the case listed for early hearing and expeditious decision. The Committee regret to note that despite the lapse of almost one year since the presentation of their Report and two years since the appeal filed in CEGAT by the Collector the dispute still remains unsettled. The Committee are particularly unhappy about the manner in which the Ministry of Law instead of tendering their advice for initiating concrete action by CBEC, sought to pass on their responsibility to CEGAT. The Committee reiterate their recommendation and desire that all out efforts should be made to resolve the matter early and to protect the financial interest of Government. The Committee would like to be informed of the further development in the matter.

2 13.

Ministry of Finance (Department of Revenue) As regards future cases, the Committee note that Ministry of Finance while effecting changes in the Central Excise duty in the Budget 1994 have since made amendments in the notification under reference making the position clearer. The Committee trust that these provisions will be scrupulously implemented so as to prevent occurrence of similar cases.