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**Union Excise Duties—Taking Irregular
Credit of Duty of Rs. 1.17 crores on Base
Yarn and its Utilisation for Payment of
Duty on Textured Yarn**

Ministry of Finance

**PUBLIC ACCOUNTS
COMMITTEE
1992-93**

FORTY-SECOND REPORT

TENTH LOK SABHA

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A SECRETARIAT



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FORTY-SECOND REPORT

PUBLIC ACCOUNTS COMMITTEE (1992-93)

(TENTH LOK SABHA)

**Union Excise Duties—Taking Irregular Credit
of Duty of Rs. 1.17 Crores on Base Yarn and
its Utilisation for Payment of Duty on
Textured Yarn**

MINISTRY OF FINANCE

*[Action taken on 155th Report of Public Accounts Committee
(8th Lok Sabha)]*



*Presented in Lok Sabha on 3 March, 1993
Laid in Rajya Sabha on 3 March, 1993*

LOK SABHA SECRETARIAT
NEW DELHI

February, 1993/Phalguna, 1914 (Saka)

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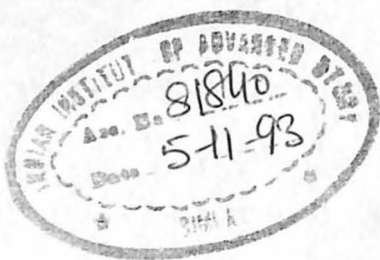


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Price: Rs. 11.00



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Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Seventh Edition) and printed by the Manager, Photo-Litho Unit, Govt. of India Press, Minto Road, New Delhi.

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THE COMMITTEE ON PUBLIC ACCOUNTS
(1992-93)

CHAIRMAN

Shri Atal Bihari Vajpayee

MEMBERS

Lok Sabha

2. Shri Girdhari Lal Bhargava
3. Shri Nirmal Kanti Chatterjee
4. Shri Z.M. Kahandole
5. Shri Vilas Muttemwar
6. Shri D.K. Naikar
- £7. Shri Arvind Netam
8. Shri Kashiram Rana
9. Shri R. Surender Reddy
10. Shri Pratap Singh
11. Shri Ramashray Prasad Singh
12. Shri N. Sundararaj
- *\$ 13. Shri K.V. Thangka Balu
14. Kumari Uma Bharati
15. Prof. (Dr.) Sripal Singh Yadav

Rajya Sabha

- £16. Dr. Abrar Ahmed
17. Shri R.K. Dhawan
18. Shri J.P. Javali
19. Shri Murasoli Maran
20. Shri Viren J. Shah
21. Shri Ish Dutt Yadav
22. Shri Ram Naresh Yadav

SECRETARIAT

1. Shri G.L. Batra—*Additional Secretary*
2. Smt. Ganga Murthy—*Deputy Secretary*
3. Shri K.C. Shckhar—*Under Secretary*

* Elected w.e.f. 23 July, 1992 *vide* Shrimati Krishna Sahi ceased to be a member of the Committee on her appointment as a Minister.

£ Ceased to be Members of the Committee consequent upon their appointment as Ministers w.e.f. 18 January, 1992.

\$ Ceased to be a Member of the Committee consequent upon his appointment as Minister w.e.f. 19 January, 1993.

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Forty-second Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their 155th Report (Eighth Lok Sabha) on Union Excise Duties—Taking irregular credit of duty of Rs. 1.17 crores on base yarn and its utilisation for payment of duty on textured yarn.

2. In their earlier report the Committee had expressed their dismay over the fact that the irregularity of incorrectly crediting the amount of Rs. 1.17 crores twice by an assessee had gone undetected for a period of about four years by the prescribed departmental mechanisms. The Committee had desired that the proceedings initiated against the officers responsible for the lapses should be expeditiously completed and stern action taken against the guilty. In this Report the Committee have strongly deplored that the action initiated against the Group 'A' officer was still pending with UPSC even after a lapse of more than three and a half year since the presentation of their original Report. The Committee have emphasised that the matter should be taken up with the UPSC at the highest level and proceedings against this officer be finalised expeditiously and the outcome thereof intimated to them within a period of three months.

3. The Committee have also expressed their surprise over the fact that out of 122 cases of alleged evasion of excise duty involving Rs. 1 crore and above relating to the years 1986-87 and 1988 (upto August), only 79 cases have been adjudicated so far. Of the remaining 43 cases as many as 22 cases are still under adjudication and in the other 21 cases proceedings are stated to have been stayed by the Courts. The Committee have strongly urged that the matter should be earnestly pursued both with the judicial and quasi-judicial authorities with a view to securing early finalisation of these cases and the final outcome in each case be reported to them within a period of six months. The Committee have also desired that details of similar cases concerning evasion of excise duty involving Rs. 1 crore and above detected after August, 1988 may be furnished to them.

4. The Report was considered and adopted by the Public Accounts Committee at their sitting held on 23 January, 1993. 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 the Appendix to the Report.

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

NEW DELHI:
24 February, 1993
5 Phalguna, 1914 (Saka)

ATAL BIHARI VAJPAYEE
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

This Report of the Committee deals with the action taken by Government on the Committee's observations/recommendations contained in their 155th Report (8th Lok Sabha) on Paragraph 4.58 of the Report of the Comptroller and Auditor General of India for the year ended 31 March, 1987 Union Government (Revenue Receipts) Indirect Taxes relating to Union Excise Duties—Taking irregular credit of duty of Rs. 1.17 crores on base yarn and its utilisation for payment of duty on Textured Yarn.

2. The 155th Report, which was presented to Lok Sabha on 25 April, 1989 contained 9 recommendations. Action taken notes have been received in respect of all the 9 recommendations. The replies received from the Ministry of Finance (Department of Revenue) have been broadly categorised as under:

- (i) Recommendations and observations that have been accepted by Government:
Sl. Nos. 2,3,5
- (ii) Recommendations and observations that the Committee do not desire to pursue in the light of replies received from Government:
Sl. No. 4
- (iii) Recommendations and observations replies to which have not been accepted by Government and which require reiteration:
—Nil—
- (iv) Recommendations and observations in respect of which Government have furnished interim replies:
Sl. Nos. 1, 6, 7, 8, 9

3. The Committee will now deal with action taken by Government on some of their recommendations/observations:

Failure of Departmental Mechanism to ensure the collection of correct amount of duty
(Sl. No. 1—Para 20)

4. Emphasizing the need for expeditious finalization of the action against the officers found responsible for the lapse, the Committee in paragraph 20 of their 155th Report had recommended as follows:

“The Committee are dismayed to note that such a patent irregularity went undetected for a period of about four years by both the prescribed departmental mechanisms of internal audit and the

scrutiny of the monthly returns (RT-12 returns) enabling the assessee to make use of the amount of Rs. 1.17 crores incorrectly credited twice. The Committee cannot accept the mistakes committed by both the functionaries simultaneously as a mere coincidence. During evidence, the representatives of the Ministry of Finance (Deptt. of Revenue) admitted that it was a human failure—intentional or otherwise. The Committee were informed that action has been initiated against the officers responsible for the lapse, which are yet to be fully completed against two such officers. The Committee desire that the proceedings should be expeditiously completed and stern action taken against the guilty. The Committee would like to be informed of the findings of the inquiry and the follow up action taken."

5. In their Action Taken Note, the Ministry of Finance (Deptt. of Revenue) have stated:

"As had already been reported, the proceedings against Shri V.C. Shah and Shri D.P. Ramachandani had been concluded and the officers were penalised. Major penalty proceedings had been initiated against Shri I.R. Patel by the Ministry. Major penalty proceedings have also been initiated against Shri J.J. Tekwani. Inquiry Officer has now submitted his report in this case and it is pending for final decision."

In their subsequent reply on 29.10.90, the Ministry have intimated as under:

"Disciplinary proceedings against Shri J.J. Tekwani, now Superintendent, have been finalised and his pay reduced to Rs. 2450/- from Rs. 2675/- in the scale of pay of Rs. 2000-60-2300-EB-75-3200-100-3500. The reduction will not have effect of postponing his future increment of pay.

Shri I.R. Patel is a Group 'A' officer and the UPSC has also to be consulted for taking disciplinary action against him. The appropriate action is being taken in the matter."

6. In their latest reply dated 13th August, 1992, the Ministry of Finance (Department of Revenue) have stated as follows:

"The case regarding taking disciplinary action against Shri I.R. Patel, A.C. is still pending with UPSC."

7. The Committee note that disciplinary proceedings against 3 officers found guilty have been finalised and the officers concerned penalised. Disciplinary action against the Group 'A' officer is stated to be still pending with UPSC. The Committee strongly deplore that no action has been taken against this officer even after a lapse of more than 3½ years since the presentation of the Original Report. Obviously, such delays vitiate the

administration of timely justice and has a demoralising effect on administration. They emphasize that the matter should be taken up with the UPSC at the highest level and proceedings against this officer be finalised expeditiously and the outcome thereof intimated to them within a period of three months.

Position of criminal Proceedings
(Sl. Nos. 6 and 7—Paras 28 & 30)

8. While dealing with a case of criminal prosecution launched against a manufacturer and others, the Committee in paragraph 23 of their 155th Report had recommended as follows:

“The Committee hope that the criminal prosecution case launched against the assessee and others will be vigorously pursued and brought to expeditious completion. The Committee would like to be apprised of the outcome of the case.”

9. In their action taken reply, Ministry of Finance (Deptt. of Revenue) have stated:

“Progress was not achieved in this case because M/s. Reliance Industries Ltd., has filed an appeal in the High Court of Gujarat against the order of the Lower Court about the retrospective effect of Section 9AA of Central Excises and Salt act, 1944. High Court had granted a stay in the proceedings pending in the lower court. The stay has recently been vacated.”

Case in the lower court is posted for hearing on 27.10.1989.”

10. In their subsequent reply on 29.10.90, the Ministry have intimated as under:

“The Collector of Central Excise, Ahmedabad has reported that the case is not yet posted for hearing in the High Court. Till disposal of this case, prosecution case in lower court is stayed.”

11. As per the Ministry's further replies dated 10.2.1992 and 13.8.1992, the matter is still pending in the Gujarat High Court.

12. Commenting on the six other adjudication/criminal prosecution cases involving duty of about 30 crores launched against the same manufacturer for violation of the Central Excise Law. The Committee in paragraph 30 of their 155th Report had recommended:

“The Committee note that six other adjudication/criminal prosecution cases involving duty of about Rs. 30 crores have been launched against the same manufacturer for violation of the provision of the Central Excise Law during the past three years. The Department is yet to recover duty in any of the said cases. The Committee desire that the cases should be earnestly followed up and action taken to realise the legitimate dues of the Government. The Committee would like to be informed of the progress made in each of the cases.”

13. The Ministry of Finance in their action taken note have stated:

"The position of the cases reported in Para 29 of the report is given below:

In respect of the first case in which demand of Rs. 4166758.11 was confirmed, Rs. 3869327.40 has been paid by the party and they have also filed an appeal in this case. For the remaining amount of Rs. 297430.71, the CEGAT has granted stay against the Collectors' order vide their order dated 27.8.87.

As regards the 2nd case involving Rs. 27.23 crores the restrain of Bombay High Court to pass any adjudication order still continues. Similar issues as raised in cases reported at Serial No. 3 and 6 involving duty of Rs. 46,000/- and Rs. 1.90 crores respectively have been challenged in Bombay High Court in writ petition No. 3540/86 in which the Collector has been restrained from passing the order.

In remaining two cases reported at Sl. No.4 and 5 involving duty of Rs. 3.42 lakhs and Rs. 2.93 lakhs, the adjudication proceedings are in progress".

In their subsequent reply on 1.4.1992, the Ministry of Finance have intimated as under:

"The cases mentioned at Sl. No. 4 & 5 of the list have been adjudicated and demand of Rs. 2.93 and Rs. 3.42 lakhs have been confirmed. The other three cases are pending adjudication as per Bombay High Court's interim order".

14. The Ministry of Finance (Department of Revenue) in their latest reply dated 13.8.1992, have stated that the matter is pending in the Bombay High Court.

15. The Committee strongly urge that all the five pending adjudication/criminal prosecution cases involving duty of about Rs. 30 crores should be effectively pursued for securing the early fixation of hearings in these cases in the interest of realisation of the legitimate due of the Government. The Committee would like to be apprised of the progress made in all these cases. The Committee would also like to know the position about the recovery of the duty amounts of Rs. 2.93 lakhs and Rs. 3.42 lakhs, demands for which were confirmed on adjudication.

Evasion of Central Excise Duty
(Sl. No. 8, 9,—Para 32, 33)

16. Dealing with cases of evasion of the Central Excise Duty of Rs. 1 crore and above, the Committee in paragraphs 32 and 33 of their 155th Report had recommended as follows:

"The Committee note that the Central Excise Department have detected 122 cases of alleged evasion of duty involving Rs. 1 crore and above during the year 1986-87, & 88 (upto August). The total amount of duty involved in all the cases together has been reported to be Rs. 1,825 crores. The Committee are aware that these cases indicate only a tip of the iceberg. Even so, the figures confirm that

the attempts to defraud Government on this score are indeed widespread.

The Ministry of Finance have in their note merely indicated only the dates of issue of the show cause notices in such cases. Evidently, action has not been conclusive in any of them. The position emerging therefrom is, therefore, totally unsatisfactory. It is common knowledge that while the small manufacturers are quite often subjected to avoidable harrasments, the "big fish" more often than not successfully manage to go scot free. It is, therefore, the responsibility of the Department of allay these apprehensions. The Committee are of the considered view that the Ministry of Finance should deal with these alleged cases of major evasion of excise duty sternly, expeditiously and with more zeal. The Committee would like to be informed of the progress made in each of the 122 cases reported to them through a six montly report."

17. In their action taken reply, Ministry of Finance have stated:
 "Out of 122 cases 29 cases have since been finalised. The position of these cases which have been finalised is given in enclosed statement at Annexure-I.
 In remaining case adjudication proceedings are yet to be completed."

18. The Ministry of Finance in their subsequent replies dated 29.10.1990 13-2-1992 and 13.8.1992 have furnished the latest position about the progress of adjudication of 122 cases as under:

Cases Adjudicated	79
Cases where proceedings have been stayed by the Courts	21
Cases under Adjudication	: 22

19. The Committee are surprised to find that out of 122 cases of alleged evasion of excise duty involving Rs. 1 crore and above during the years 1986-87 and 1988 (upto August), only 79 cases have been adjudicated so far. Of the remaining 43 cases as many as 22 cases are still under adjudication and in the other 21 cases proceedings are stated to have been stayed by the Courts. A large number of pendencies on account of delays in adjudication and grant of stays by Courts have engaged the attention of the Committee from time to time and the Committee have repeatedly emphasized the need for devising suitable ways and means to eliminate delays and take expeditious action for vacation of stay orders. But the Committee are deeply concerned to note that this matter has not been effectively tackled so far. Consequently, huge sums of money remain indefinitely locked up which should rightly have accrued to the exchequer and contributed to the ways and means resources of the Government of India. The Committee may be apprised of the amount of duty actually recovered in respect of the 79 adjudicated cases. As regards the pending 43 cases, the Committee strongly urge that the matter should be earnestly pursued both with the judicial and quasi-judicial authorities with a view to securing early finalisation of these cases and the final outcome in each case be reported to them within a period of six months. The Committee also desire that details of similar cases concerning evasion of excise duty involving Rs. 1 crore and above detected after August, 1988 may be furnished to them.

CHAPTER II

RECOMMENDATIONS AND OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

From the information made available to the Committee it is seen that action has so far been initiated against the officers at the lower level only. The Ministry have not offered any explanation on the role of the various officers higher up in the hierarchy. The Committee are unable to understand why the Ministry have not chosen to seek explanation from the senior officers for their failure to exercise the required supervision. The Committee desire that the Ministry should initiate and take suitable action against the senior officers connected with the lapse so that the principles of accountability and responsibility are applied in true letter and spirit. The Committee would like to be informed of the action taken by the Ministry in this regard.

[Sl. No. 2 (Para 21) of Appendix II to 155th Report of PAC (8th LS)]

Action Taken

The Officers found responsible for the lapse had already been reported to the Committee. No other senior officer has been found responsible for the lapse.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 2342/89-CX. 7
dated 30.11.1989]

Recommendation

The Committee do take note of the good work done by the preventive staff in this case. In the opinion of the Committee, much of the malpractices and attempted evasions can be effectively checked by the efficient and honest observance of the prescribed departmental mechanisms. The Self Removal Procedure reposes a fair amount of trust on the manufacturers of excisable items. It is, therefore, imperative that the mechanisms of internal audit and the systems of scrutiny of the monthly assessment are effectively operated so as to ensure that the liberalisation is not misused. Unfortunately that has not been the case, as it happened in the one under examination. During evidence, the representative of the Ministry of Finance contended that the staff all over the country have now been alerted to avoid occurrence of similar irregularities. The Committee are not inclined to be unduly optimistic about the effectiveness of the alert. In their view, mere issue of instructions cannot be expected to yield the desired results. The Committee are convinced that the facts of the case

including complicity of the officers, if any, should be thoroughly analysed and effective steps taken so as to check recurrence of similar cases and to protect revenue. The Central Board of Excise & Customs should also direct the Collectors specifically to keep a constant watch over the performance of the internal audit and monthly scrutiny of the returns with a view to making excise surveillance more effective and checking malpractices resorted to by unscrupulous elements.

[Sl. No. 3 (Para 22) of Appendix II to 155th Report of PAC (8th LS)]

Action Taken

As already submitted to the Committee the wrong credit taken in this case should have been detected in normal course under the existing procedure. However, all the Central Excise Collectorates were alerted in this regard to prevent occurrence of such cases vide Board circular No. 77/88-CX.6 (F.No. 207/159/88-CX.6) dated 2.11.88. These instructions have been reiterated vide Board's Circular No. 3289-CX.6 (F. No. 2246/89-CX.6) dated 30.6.89 and the Collectors have specifically been asked to keep a watch over the performance of Internal Audit so that such cases do not escape detection in the future.

Copies of the said instructions are enclosed at Annexure I & II.

As regards scrutiny of monthly assessments is concerned, the Ministry has already initiated programme of computerisation of all Central Excise divisions where all the data regarding RT 12 returns will be computer checked.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 2342/89-CX. 7
dated 30.11.1989]

ANNEXURE I

CIRCULAR No. 7788-CX. 6

F. No. 207/15988-CX. 6

Government of India

Central Board of Excise and Customs

New Delhi, dated 2nd November, 1988.

To

- (i) All Principal Collectors of Central Excise and Customs.
- (ii) All Collectors of Central Excise & Customs.
- (iii) All Collectors of Central Excise.
- (iv) All Collectors of Customs.
- (v) All Collectors of Customs & Central Excise (Appeals).

SUBJECT:— *Evasion of duty through fraudulent credit modus operandi-regarding-*

Sir,

I am directed to say that a case has come to the notice of the Board where a unit working under proforma credit procedure had taken credit amounting to Rs. 1.17 crores in the RG. 23 Part II Register. The modus operandi adopted by the company was as follows:

The company was allowed fresh credit of Rs. 1.17 crores in their RG. 23 Part II Register in the month of July, 1987. The said amount was credited by the company to their credit in balance on 8.7.1983. The company used to write the progressive total of fresh credit allowed during a particular month at the bottom of Col. 6 of each page of the RG. 23 Part II Register. This progressive total was not to be credited to the balance. However, on 12.7.1983, this progressive total amounting to Rs. 1.17 crore was credited by the company to the balance. Thus the amount of Rs. 1.17 crore was credited twice by the company resulting in taking excess fraudulent credit to the tune of Rs. 1.17 crore.

2. The above fraudulent credit could not be detected by the Range officers at the time of assessment of the RT. 12 Returns for the corresponding month. The unit of the company was visited by both the Internal Audit Party and the A.G. (Audit) parties, but they also failed to detect the irregularities. The evasion was eventually detected on the basis of information supplied by an informer in the year 1987.

3. The above irregularity would not have gone undetected for such a long time had the Range Supdt. and the Audit Parties carried out the prescribed checks. The importance of carrying out the prescribed checks at the time of assessment of RT. 12 Returns by the Range Supdt. cannot therefore be over emphasized. In this context your attention is also invited to entries of serial Nos. 17, 22 and 26 to the check list for RT. 12 assessment re-iterated under Board's Instructions F. No. 202/1588-CX. 6 dated 4.4.88.

4. The above facts are brought to the notice of the field formations for taking suitable necessary action in the matter.

5. Particulars of any case of the type mentioned above and detected in your Collectorate may be intimated to the Board in due course.

Sd-

(A.K. Prasad)

Under Secretary to the Government of India.

ANNEXURE II

CIRCULAR No. 3289-CX. 6

F. No. 224689-CX. 6

Government of India

Central Board of Excise and Customs

New Delhi, dated 30.06.89.

To

- (i) All Principal Collectors of Central Excise and Customs.
- (ii) All Collectors of Central Excise & Customs.
- (iii) All Collectors of Central Excise.
- (iv) All Collectors of Customs.
- (v) All Collectors of Central Excise & Customs (Appeals).

SUBJECT:—Evasion of duty through fraudulent credit—*Modus operandi*—regarding.

Sir,

I am directed to invite your attention to Board's instructions F. No. 224/689-CX. 6 dated the 2nd November, 1988 on the above subject and to reiterate the contents thereof.

2. The Board further desires that the Collectors should keep a watch over the performance of the Internal Audit parties so that such cases do not escape detection in the future.

3. Field formations may be suitably advised.

4. The receipt of these instructions may kindly be acknowledged.

Yours faithfully,

Sd/-

(A.K. Prasad)

Under Secretary

Central Board of Excise & Customs.

Recommendation

The Committee are unhappy to note that the Departmental adjudicating authority has not yet passed orders on the case so far. The Committee do not find any justification over the delay in this particularly when the show cause notice was issued as far back as July, 1987. The Committee desire that the proceedings be expeditiously completed particularly since the party has admitted the mistake and has already made the payment of duty. The Committee would like to be informed of the outcome.

[Sl. No. 5 (Para 26) of Appendix II to 155th Report of PAC (8th L.S.)]

Action Taken

The case has since been finalised by the Collector, Central Excise, Ahmedabad vide his order dated 28.9.89. He has confirmed the duty demanded and further imposed a penalty of Rs. 1 crore on the manufacturer.

[Ministry of Finance (Department of Revenue) O.M. No. 234/2/89-CX-7
dated 6.11.1989]

CHAPTER III

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

Recommendation

The Committee recommend that the Ministry of Finance should enact suitable provisions in the Central Excise Law so as to enable Government to collect penal interest from manufacturers of excisable commodities for such delayed payments of duty as in the case under examination and to withdraw the advantage of getting credit in respect of duty paid on raw materials/component parts etc. under rule 56A procedure and Modvat Scheme from assessee's committing offence of taking credit falsely.

[Sl. No. 4 (Para 24) of Appendix II to 155th Report of PAC (8th LS)]

Action Taken

Incorporation of provisions relating to penal interest and withdrawal of credit facility in respect of duty paid on inputs in such cases may not be necessary as suitable provision for imposing heavy penalty in such case already exist. In this context attention is invited to Rule 209 (bb) and 173Q (bb) (inserted in the year 1986) of the Central Excise Rules, 1944.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 234289-CX-7 dated
6.11.1989]

CHAPTER IV

**RECOMMENDATIONS AND OBSERVATIONS REPLIES TO
WHICH HAVE NOT BEEN ACCEPTED BY GOVERNMENT AND
WHICH REQUIRE REITERATION**

—NIL—

CHAPTER V

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

Recommendation

The Committee are dismayed to note that such a patent irregularity went undetected for a period of about four years by both the prescribed departmental mechanisms of internal audit and the scrutiny of the monthly returns (RT-12 returns) enabling the assessee to make use of the amount of Rs. 1.17 crores incorrectly credited twice. The Committee cannot accept the mistake committed by both the functionaries simultaneously as a mere coincidence. During evidence, the representative of the Ministry of Finance (Department of Revenue) admitted that it was a human failure intentional or otherwise. The Committee were informed that action has been initiated against the officers responsible for the lapses, which are yet to be fully completed against two such officers. The Committee desire that the proceedings should be expeditiously completed and stern action taken against the guilty. The Committee would like to be informed of the findings of the inquiry and the follow up action taken.

[Sl. No. 1 (Para 20) of Appendix II to 155th Report of PAC (8th LS)]

Action Taken

As had already been reported, the proceedings against Shri V.C. Shah and Shri D.R. Ramchandani had been concluded and the officers were penalised. Major penalty proceedings had been initiated against Shri I.R. Patel by the Ministry. Major penalty proceedings have also been initiated against Shri J.J. Tekwani, Inquiry officer has now submitted his report in this case and it is pending for final decision.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 234289-CX-7
dated 6.11.1989]

Present Position/Action Taken by the Ministry

Disciplinary proceedings against Shri J.J. Tekwani, now Superintendent, have been finalised and his pay reduced to Rs. 2450/- from Rs. 2675/- in the scale of pay of Rs. 2000-60-2300-ED-75-3200-100-3500. The reduction will not have effect of postponing his further increment of pay.

Shri I.R. Patel is a group 'A' Officer and the UPSC has also to be consulted for taking disciplinary action against him. The appropriate action is being taken in the matter.

[Ministry of Finance, Department of Revenue, F. No. 234/2/89-CX-7,
dated, 29th October, 1990.]

Latest Position

The case regarding taking disciplinary action against Shri I. R. Patel, A.C. is still pending with UPSC.

[Ministry of Finance, Department of Revenue, F. No. 234/2/89-CX-7,
dated 13th August, 1992.]

Recommendation

The Committee hope that the criminal prosecution case launched against the assessee and others will be vigorously pursued and brought to expeditious completion. The Committee would like to be apprised of the outcome of the case.

[Sl. No. 6 (Para 28) of Appendix II to the 155th Report of PAC(8th LS)]

Action Taken

Progress was not achieved in this case because M/s. Reliance Industries Ltd., has filed an appeal in the High Court of Gujarat against the order of the Lower Court about the retrospective effect of Section 9AA of the Central Excises and Salt Act, 1944. High Court had granted a stay in the proceeding pending in the lower court. The stay has recently been vacated.

Case in the lower court is posted for hearing on 27.10.89.

[Ministry of Finance (Department of Revenue) O.M. No. 234/2/89-CX-7
dated 6.10.1989]

Present Position/Action Taken by the Ministry

The Collector of Central Excise, Ahmedabad has reported that the case is not yet posted for hearing in the High Court. Till disposal of this case, prosecution case in lower court is stayed.

[Ministry of Finance (Department of Revenue) O.M. No. 234/2/89-CX-7
dated 29.10.1989]

Latest Position

The Collector of Central Excise, Ahmedabad has reported that the matter is pending in the Gujarat High Court.

[Ministry of Finance (Department of Revenue) O.M. No. 234/2/89-CX-7
dated 12 February, 1992 and 13 August, 1992]

Recommendation

The Committee note that six other adjudication/criminal prosecution cases involving duty of about Rs. 30 crores have been launched against the

same manufacturer for violation of the provisions of the Central Excise Law during the past three years. The Department is yet to recover duty in any of the said cases. The Committee desire that the cases should be earnestly followed up and action taken to realise the legitimate dues of the Government. The Committee would like to be informed of the progress made in each of the cases.

[Sl. No. 7 (Para 30) of Appendix II to the 155th Report of PAC (8th LS)]

Action Taken

The position of the cases reported in para 29 of the report is given below.

In respect of the first case in which demand of Rs. 4166758.11 was confirmed, Rs. 3869327.40 has been paid by the party and they have also filed an appeal in this case. For the remaining amount of Rs. 297430.71, the CEGAT has granted stay against the Collector's order vide their order dated 27.8.87.

As regards the 2nd case involving Rs. 27.23 crores, the restrain of Bombay High Court to pass any adjudication order still continues.

Similar issues as raised in cases reported at Serial Nos. 3 & 6 involving duty of Rs. 46,000/- and Rs. 1.90 crores respectively have been challenged in Bombay High Court in writ petition No. 3540/86 in which the Collector has been restrained from passing the order.

In remaining two cases reported at Serial Nos. 4 & 5 involving duty of Rs. 3.42 lakhs and Rs. 2.93 lakhs, the adjudication proceedings are in progress.

[Ministry of Finance (Department of Revenue) O.M. No. 234/2/89-CX-7
dated 6.11.1989]

Latest Position/Action Taken by the Ministry

The matter is pending in the Bombay High Court.

[Ministry of Finance (Department of Revenue) F. No. 234/2/89-CX-7
dated 13th August, 1992]

Recommendation

The Committee note that the Central Excise Department have detected 122 cases of alleged evasion of duty involving Rs. 1 crore and above during the years 1986, 87 & 88 (upto August). The total amount of duty involved in all the cases together has been reported to be Rs. 1,825 crores. The Committee are aware that these cases indicate only a tip of the iceberg. Even so, the figures confirm that the attempts to defraud Government on this score are indeed widespread.

The Ministry of Finance have in their note merely indicated only the dates of issue of the show cause notices in such cases. Evidently, action has not been conclusive in any of them. The position emerging therefrom is,

therefore, totally unsatisfactory. It is common knowledge that while the small manufacturers are quite often subjected to avoidable harassments, the "big fish" more often than not successfully manage to go scot free. It is, therefore, the responsibility of the Department to allay these apprehensions. The Committee are of the considered view that the Ministry of Finance should deal with these alleged cases of major evasion of excise duty sternly, expeditiously and with more zeal. The Committee would like to be informed of the progress made in each of the 122 cases reported to them through a six monthly report.

[Sl. Nos. 8 & 9 (Paras 32 & 33) of Appendix II to the 155th Report of PAC(8th LS)]

Action Taken

Out of 122 cases, 29 cases have since been finalised. The position of these cases which have been finalised is given in enclosed statement at Annexure III.

In remaining cases, adjudication proceedings are yet to be completed.
[Ministry of Finance (Department of Revenue) O.M. No. 234/2/89-CX-7
dated 6.11.1989]

ANNEXURE III

Sl. No.	Name of the party	Date of issue of show cause notice	Present position of the case
1	2	3	4
1.	M/s. Diesel Locomotive Works, Varanasi	6.7.87	The case has been decided by the Collector on 13.12.88. The party preferred an appeal before the CEGAT at New Delhi. The CEGAT <i>vide</i> its order dated 17.3.89 stayed the deposit of penalty. No prosecution has been launched.
2.	M/s. Mohindra & Mohindra Ltd.	2.7.88	The case was decided by Collector of Central Excise, Aurangabad on 31.5.89. The assessee has filed W.P. of 1989 Bombay challenging Collector's order-in-original confirming the duty and imposing penalty of Rs. 1 crore. The prosecution has been launched in the Court of JMFC Nasik on 10.3.89.
3.	M/s. V.I.P. Industries Ltd.	23.4.87	The case was adjudicated by the Collector on 12.7.88. The party has filed an appeal against the order-in-original passed by the Collector to CEGAT on 10.10.88. The prosecution in this case has been launched in the Court of JMFC Nasik on 3.3.89.
4.	M/s. Spare Equipment	31.12.87	The case adjudicated on 26.8.88 demanding duty of Rs. 1,02,06,922.99 and imposing penalty of Rs. 11 lakhs. The party has filed appeal with CEGAT.
5.	M/s. B.N. Thakkar and Co.	23.10.87	Charged for illicit manufacture & removal of polypropylene filled and reinforce thermoplastic granules T.I. 15A(1) and Chapter sub-heading 3902.10 show cause notices

1	2	3	4
			dated 19.3.87 and 23.10.87 discharged under order dated 28.6.88 by the Collector. No prosecution to be filed.
6.	M/s. I.P.C.L.	25.11.87	Charged by wrongful availment of concessional rate of duty by misdeclaring/misdescribing products. Adjudicated under order dated 23.6.88 by the Collector. Demand for duty treated as time-barred as no willful mis-statement or suppression noticed. No prosecution.
7.	M/s. Gujarat Narmada Valley Fertiliser Co. Ltd., Baroach	23.11.87	Adjudicated under Collector's order dated 25.4.89. The details of duty and penalty demanded are: (1) Duty Rs. 1,16,47,534.70, (2) Penalty Rs. 15,00,000.
8.	M/s. Petofils Co-op. Ltd., Baroda.	25.2.87	Hearing this case has been concluded on 4.4.89. The case was adjudicated on 14.6.89.
9.	M/s. Cantreads Pvt. Ltd., Mangalore		The Collector has adjudicated the case on 22.8.88 demanding duty Rs. 1,45,71,182.64 and imposing fine Rs. 20 lakhs in lieu of confiscation of land building, plant etc. and imposing penalty Rs. 1,20,05,000 on the party under various rules and penalty of Rs. 20,000/- each on 13 exempted units. The party filed appeal to CEGAT, Madras. Prosecution has been launched against the party on 31.12.88.
10.	M/s. Hindustan Petroleum Corpn. Ltd., Bombay	8.8.86 to Dec., 87	CERA dropped objection. Demands withdrawn in pursuance to Board's letter dated 1.6.88.
11.	M/s. Mira Silk Mills.	2.5.86	The case has been decided by the Collector vide order dated 12.9.88 confirming demand of Rs. 10271439/- and imposing a penalty of Rs. 10 lakhs. On appeal the Bombay High

1	2	3	4
			Court has set aside the above order and directed the Collector to decide the case after furnishing copies of all documents to the party and granting them personal hearing. The case is under <i>de-novo</i> adjudication.
12.	M/s. Voltas Ltd.	23.4.87	As per the Supreme Court's order a fresh show cause notice has been issued on 31.3.89 and the case is under the process of adjudication.
13.	M/s. Bata India Ltd., Batanagar	19.1.88	Adjudicated on 30.3.89. Case dropped.
14.	M/s. Bata India Ltd., Batanagar	1.11.88	Adjudicated on 28.3.89. Duty confirmed Rs. 1,02,13,128.52. The amount has not yet been realised. Appeal period is not over.
15.	M/s. I.O.C./ I.O.B.L., Calcutta.	27.1.88	Adjudicated on 19.9.88. Duty demanded Rs. 1,37,42,526.01, Duty confirmed Rs. 91,363.55, Penalty Rs. 75,000/-. The assessee paid the amount vide PLA Entry S.L. No. 316 dated 3.12.88.
16.	M/s. Dunlop India Ltd.	1.7.88	The case has been adjudicated by the Collector of Central Excise, Calcutta II on 29.5.89. The duty of Rs. 70,09,702 has been confirmed and penalty of Rs. 2,000/- imposed in the above order. No prosecution has been sanctioned/launched by the Department.
17.	M/s. Lipton India Ltd.	23.4.86	This case has been adjudicated and proceedings dropped by the Collector.
18.	M/s. M.T.I. Mohali	4.5.87	The Collector adjudicated the case and confirmed the demand for duty of Rs. 1,01,25,986/- and confiscated the seized goods, apart from imposing penalties of Rs. 40/- lakhs, 1 lakh and 50,000/- on M/s. M.T.I. Ltd., Shri C. S. Bains,

1	2	3	4
			Managing Director of M/s. M.T.I. Shri R. Walia, Sales Manager, MTI and Shri Sukhbir Shergill respectively. No prosecution has been sanctioned in the case. The appeals are pending before CEGAT.
19.	M/s. Bharat Plywood & Timber Products Pvt. Ltd., Cannore	6.2.87	Adjudicated on 22.12.88 confirming the demand of Rs. 65.89 lakhs and imposing a penalty of Rs. 12.2 lakhs. The party has filed an appeal in the CEGAT which is pending. An amount of Rs. 0.25 lakhs (R.F.) remitted by the party. Further prosecution was sanctioned against the firm, Managing Director and Chairman.
20.	M/s. Narasus Coffee Works, Salem	24.11.87	Proceedings initiated were dropped in the order-in-original dated 10.10.88 in view of exemption Notification No. 15/88 dated 27.5.88 issued under Sec.11-C of the Act.
21.	M/s. Fedder Llyod Co., Delhi.	23.6.86	Case adjudicated on 21.3.89. Duty confirmed Rs. 1,11,29, 087/- P.P. Rs. 10 lakhs.
22.	M/s. Kalvinator of India, Faridabad	13.7.86	Case adjudicated on 21.4.89. Demand of Rs. 10,79,01,772.65 dropped.
23.	M/s. Hindustan Steel Works	17.3.88	The case adjudicated on 8.2.89. Duty demanded Rs. 194.45 lakhs. Party preferred an appeal.
24.	M/s. Upper India Polymers, Kanpur	31.7.86	The case has been decided vide OIO dated 1.6.88. Duty of Rs. 2,06,26,126.12 has been demanded and a penalty of Rs. 27 lakhs has been imposed. The party has gone in appeal.
25.	M/s. Southern Structural Ltd., Madras	31.8.88	Case has been adjudicated on 7.2.89. Duty of Rs. 2,00,10,516/- has been demanded and the entire amount has been realised. Penalty of Rs. 25,000/- has been imposed. The appeal has been lodged with

1	2	3	4
			CEGAT. It has been decided that this is not fit case for prosecution as the assessee is an undertaking of Govt. of Tamil Nadu.
26.	M/s. Swastik House-hold & Industrial Pro- ducts and Others	13.3.87	The case has been adjudicated vide order dated 31.5.89. Demand has been restricted to six months and the jurisdictional Assistant Collectors have been asked to raise the demand of short levy.
27.	M/s. Viru- dhunagar Textiles Mills, Virudhunagar	28.12.87	The case has been adjudicated by the Collector vide his order dated 26.7.88. Duty demanded Rs. 4.81 lakhs. Appeal filed by the party before CEGAT, New Delhi is pending. Collection of duty has been stayed in CEGAT's order dated 1.12.88.
28.	M/s. Elpro Inter- national Ltd., Pune	18.11.87	Case decided in the month of May, 1988. Duty confirmed Rs. 41,62,560/- Penalty Rs. 25,000/-. Case disposed off.
29.	M/s. Punjab National Fertilisers & Chemicals Ltd., Naya Nangal	6.7.89	Collector confirmed under order dated 13.6.88 the demand and penalty of Rs. 10,000/- was also imposed. the appeal against the above order is pending before CEGAT. The prosecution is under consideration.

Present Position/Action Taken by the Ministry

Out of 122 cases, information in respect of 29 cases had already been furnished.

In addition to that, the present position of 14 cases which have been finalised is given in Statement-I (enclosed). The position of 12 cases pending due to court cases is also given in Statement-II (enclosed).

Ministry of Finance
Department of Revenue
F.No. 234/2/89-CX. 7
Dated 29th October, 1990

Latest Position

The progress of adjudication of 122 cases is as under:

- (a) Cases Adjudicated : 79
- (b) Cases where proceedings have been stayed : 21
by the Courts
- (c) Cases under adjudication : 22

Ministry of Finance
Department of Revenue
F. No. 234/2/89-CX.
Dated 13th August 1992

NEW DELHI;
24 February 1993
5 Phalguna, 1914 (Saka)

ATAL BIHARI VAJPAYEE
Chairman
Public Accounts Committee

STATEMENT-I

Present Position of Cases Involving Duty Evasion of Rs. One Crore and Above as reported by the Field Formations.

Sl. No.	Name of the Party	Date of issue of Show Cause Notice	Present position of the cases
1.	M/s Air Control & Chemical Engg. Co., Ahmedabad.	30.9.86	Adjudicated Duty of Rs. 1,55,22,150.60 confirmed and personal penalty of Rs. 40 Lakhs imposed.
2.	M/s Reliance Industries Ltd.	23.7.87	Adjudicated Amount of Rs. 1.17 crores confirmed and recovered penalty of Rs. 1 crore imposed.
3.	M/s U.P. State Cement Corpn. Delhi.	30.10.86	Case adjudicated.
4.	M/s Bremels Rubber Industries (P) Ltd., Bangalore & others.	22.7.88 & 26.7.88	Adjudicated confirming duty of Rs. 1,65,44,190.29 and imposing penalty of Rs. 25 lakhs on licence & Rs. 10 lakhs on its Chairman. Party obtained stay from Karnataka High Court.
5.	M/s Mahalaxmi Glass.	1.3.88	Adjudicated.
6.	M/s Mahalaxmi Glass & Western India Glass Works	1.3.88	-do-
7.	M/s V.S.T. Industries, Hyderabad.	28.12.87	Adjudicated confirming the demand of Rs. 2.23 crores. Party has paid under protest. Case pending before Tribunal.
8.	M/s Bajaj Auto Ltd., Pune	3.7.87	Adjudicated.

1	2	3	4
9.	M/s. Patheja Forgings & Auto Parts Mfg.	4.9.87	Adjudicated.
10.	M/s. Picco Electronics & Electricals, Pune.	11.4.88	Adjudicated.
11.	M/s. Pudumjee Pulp & Paper Mills, Pune	2.11.88	Adjudicated.
12.	M/s. Trinity Engincers, Pune.	11.9.87	Adjudicated.
13.	M/s. Eachjay Industries (P) Ltd., Rajkot.	20.3.87	Adjudicated.
14.	M/s. Bute Cosmetics & Others, Cuddalore.	27.6.86	Adjudicated. Duty confirmed Rs. 49,88,790/86. P.P. imposed Rs. 4,78,000/-.

STATEMENT II

Present position of cases involving duty evasion of Rs. 1 crore & above pending in Courts

.....

Sl. No.	Name of the Party	Date of issue of show cause Notice	Present position of the case
1	2	3	4
1.	M/s. Kirloskar Computer Service Ltd., Bangalore	25.2.88	Writ petition by the Party. Karnataka High Court has granted unconditional stay against further proceedings of Show Cause Notice
2.	M/s. Novers Pvt. Ltd., Bangalore	30.3.88	-do-
3.	M/s. Mysore Paper Mills, Bhadravathi	23.9.88/ 15.11.88	Karnataka High Court stayed further proceedings in the matter. An interlocutory application filed for vacation of stay has not come up for hearing, therefore, an interlocutory application-II for early vacation of stay was sent to Addl. Central Govt. Standing Counsel, Bangalore on 23.5.90.
4.	M/s. Sandoz (India) Ltd.	17.8.87	Decision regarding stage of collection of duty on S.O. Dyes is pending before Supreme Court.
5.	M/s. Duncan Tabacco Company	30.9.86	Stay granted by Calcutta High Court.

1	2	3	4
6.	M/s. Jayant Vitamins Ltd., Ratlam	24.2.88	In writ petition, High Court has quashed the Show Cause Notice. Action to file SLP in Supreme Court of India is being taken.
7.	M/s. Madhu Milan Synthetics (P) Ltd.	13.6.86	SLP filed in the Supreme Court against judgement of High Court is pending decision.
8.	M/s. Lohia Machines Ltd., Kanpur	20.8.87	Adjudication pending as a SLP has been filed by CBE & C in a similar case of scooter valuation.
9.	M/s. Saurashtra Cement & Chem Indus. Ltd. Ranavav.	25.4.86	Case is not being finalised as cases of dutiability of Plant & Machinery are pending in Supreme Court for decision.
10.	M/s. Sharda Plywood Industries (P) Ltd.	29.1.87	Case pending because of the stay granted by Gauhati High Court. Counter affidavits have been filed.
11.	M/s. -do-	30.11.87	
12.	M/s. Wood Craft, Assam	30.1.87	

APPENDIX

Observations and Recommendations

Sl. No.	Para No.	Ministry/ Department/ Concerned	Observations and Recommendations
1	2		3
1	7	Ministry of Finance (Department of Revenue)	The Committee note that disciplinary proceedings against 3 officers found guilty have been finalised and the officers concerned penalised. Disciplinary action against the Group 'A' officer is stated to be still pending with UPSC. The Committee strongly deplore that no action has been taken against this officer even after a lapse of more than 3½ years since the presentation of the Original Report. Obviously, such delays vitiate the administration of timely justice and has a demoralising effect on administration. They emphasize that the matter should be taken up with the UPSC at the highest level and proceedings against this officer be finalised expeditiously and the outcome thereof intimated to them within a period of three months.
2	15	-do-	The Committee strongly urge that all the five pending adjudication/criminal prosecution cases involving duty of about Rs. 30 crores should be effectively pursued for securing the early fixation of hearings in these cases in the interest of realisation of the legitimate dues of the Government. The Committee would like to be apprised of the progress made in all these cases. The Committee would also like to know the position about the

1	2	3
3	19	-do-
		recovery of the duty amounts of Rs. 2.93 lakhs and Rs. 3.42 lakhs, demands for which were confirmed on adjudication. The Committee are surprised to find that out of 122 cases of alleged evasion of excise duty involving Rs. 1 crore and above during the years 1986-87 and 1988 (upto August), only 79 cases have been adjudicated so far. Of the remaining 43 cases as many as 22 cases are still under adjudication and in the other 21 cases proceedings are stated to have been stayed by the Courts. A large number of pendencies on account of delays in adjudication and grant of stays by Courts have engaged the attention of the Committee from time to time and the Committee have repeatedly emphasized the need for devising suitable ways and means to eliminate delays and take expeditious action for vacation of stay orders. But the Committee are deeply concerned to note that this matter has not been effectively tackled so far. Consequently, huge sums of money remain indefinitely locked up which should rightly have accrued to the exchequer and contributed to the ways and means resources of the Government of India. The Committee may be apprised of the amount of duty actually recovered in respect of the 79 adjudicated cases. As regards the pending 43 cases, the Committee strongly urge that the matter should be earnestly pursued both with the judicial and quasi-judicial authorities with a view to securing early finalisation of these cases and the final outcome in each case be reported to them within a period of six months. The Committee also desire that details of similar cases concerning evasion of excise duty involving Rs. 1 crore and above detected after August, 1988 may be furnished to them.

PART II

MINUTES OF THE 20TH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON 28 JANUARY, 1993

The Committee sat from 1100 hrs. to 1200 hrs. on 28 January, 1993

PRESENT

CHAIRMAN

Shri Atal Bihari Vajpayee

MEMBERS

Lok Sabha

2. Shri Girdhari Lal Bhargava
3. Shri Pratap Singh

Rajya Sabha

4. Shri R.K. Dhawan
5. Shri J.P. Javali
6. Shri Viren J. Shah
7. Shri Ish Dutt Yadav

SECRETARIAT

1. Shri G.L. Batra — *Additional Secretary*
2. Smt. Ganga Murthy — *Deputy Secretary*
3. Shri K.C. Shekhar — *Under Secretary*

REPRESENTATIVES OF AUDIT

1. Shri P.K. Bandopadhyay — Pr. Director (Indirect Taxes)
2. Shri A.K. Banerjee — Pr. Director (Reports)
3. Shri T.N. Thakur — Pr. Director
4. Shri Kulvinder Singh — Director (DT)
5. Shri Aditya Prasad — Director (Indirect Taxes)

2. The Committee considered the following draft Action Taken Reports:

(i) *** *** *** ***

(ii) Union Excise Duties—Taking irregular credit of duty of Rs. 1.17 crores on base yarn and its utilisation for payment of duty on textured yarn [Action taken on 155th Report of the PAC (8th Lok Sabha)].

(iii) *** *** *** ***

3. The Committee adopted the draft Action Taken Report at Serial No. (ii) above with certain modifications as shown in Annexure-I.

4. The Committee authorised the Chairman to finalise the draft Action Taken Reports in the light of the verbal consequential changes arising out of factual verification by Audit and represent the same to Parliament.

5. *** *** *** ***

The Committee then adjourned.

ANNEXURE I

AMENDMENTS/MODIFICATIONS MADE BY THE PUBLIC ACCOUNTS COMMITTEE IN THE DRAFT REPORT ON ACTION TAKEN ON THEIR 155TH REPORT (8TH LOK SABHA) RELATING TO UNION EXCISE DUTIES—TAKING IRREGULAR CREDIT OF DUTY OF RS. 1.17 CRORES ON BASE YARN AND ITS UTILISATION FOR PAYMENT OF DUTY ON TEXTURED YARN

Page	Para	Line	Amendments/Modifications
3	7	7	<i>Add</i> the following after the words 'Original Report'— "Obviously, such delays vitiate the administration of timely justice and has a demoralising effect on administration".
6	15	3-4	<i>Substitute</i> "earnestly pursued for securing their early finalisation" <i>by</i> the following: "effectively pursued for securing the early fixation of hearings in these cases".
9	19	4-5	<i>Substitute</i> "effective follow up action" <i>by</i> the following: "that the matter should be earnestly pursued both with the judicial and quasi-judicial authorities with a view to securing early finalisation of these cases".