

**Report of the
Comptroller and Auditor General
of India**

for the year ended March 1999

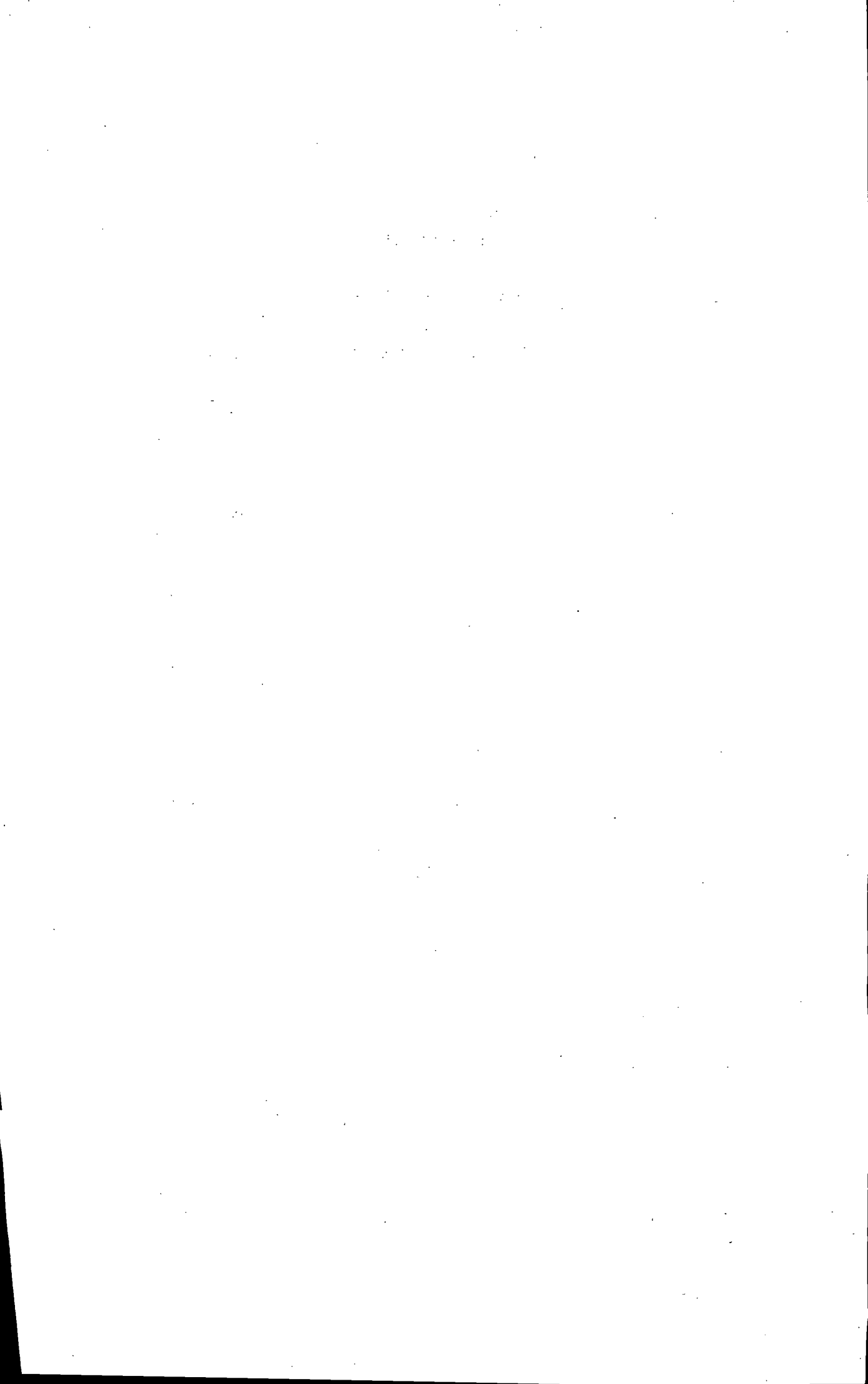
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Lok Sabha and Rajya Sabha
ON

05 MAY 2000

Union Government

(Indirect Taxes - Customs)

No.10 of 2000



CONTENTS

	Chapter	Page
Prefatory remarks		iii
Overview		v
Analysis of Receipts	1	1
Export Promotion Capital Goods Scheme	2	7
Short levy of duty due to undervaluation	3	24
Short levy due to incorrect classification	4	26
Short levy due to incorrect grant of exemption	5	28
Non levy/short levy of additional duty	6	32
Non levy of Special additional duty of customs	7	35
Duty Exemption Scheme	8	38
Other topics of interest	9	43



PREFATORY REMARKS

This Report for the year ended 31 March 1999 has been prepared for submission to the President under Article 151 of the Constitution based on the audit of Customs Receipts of the Union of India in terms of Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

The cases mentioned in the Report are among those which came to notice in the course of audit during 1998-99 as well as those which came to notice in earlier years but could not be reported earlier.



OVERVIEW

This report contains one review and 231 paragraphs involving non levy/short levy of customs duty of Rs.768.49 crore. Some of the important audit findings included in the Report are highlighted below:

I. General

Net receipts of Rs.38,278 crore collected from customs duties during 1998-99 fell short of the Budget Estimates by 20 per cent and Revised Estimates by 10 per cent.

(Paragraph 1.1)

The total amount of duty foregone under export promotion schemes during the year was Rs.15492 crore which was 40 per cent of the total customs receipts.

(Paragraph 1.5)

II. Review on Export Promotion Capital Goods (EPCG) Scheme

A comprehensive appraisal of the EPCG scheme in respect of licences where the export obligation period was over viz. those issued during 1990-91 to 1993-94 revealed that :

➤ At the aggregate level, 2932 licences could achieve only 77 per cent of the total export obligation to be realised by April 1998. This rendered customs duty concession of Rs.247 crore unproductive.

(Paragraph 2.5)

➤ The Ministry of Commerce notified a blanket amnesty in April 1999 to all defaulting firms by extending the period of export obligation to March 2001 even though the Law Ministry had held such action as beyond the ambit of subordinate legislation. The Finance Ministry has not yet issued any corresponding customs notification, and are going ahead with recovery of duty and interest.

(Paragraph 2.6)

➤ Licensing/Customs authorities failed to recover dues aggregating Rs.355.90 crore from 109 defaulting licencees.

(Paragraph 2.7)

➤ Some of the export consignments of 20 licencees who had reported fulfilment of export obligation were not eligible to be so reckoned. Customs duty of Rs.9.20 crore and interest of Rs.12.13 crore were recoverable from these licencees.

(Paragraph 2.8)

- Failure of the licensing authority to detect misleading export statements by 2 exporters/licencees led to non recovery of customs duty of Rs.11.28 crore and interest of Rs.16.64 crore from the licencees. Penalty of Rs.113.48 crore was also leviable on these units.

(Paragraph 2.9)

- Incorrect fixation of average performance in 3 cases enabled the exporters to claim fulfilment of export obligation even though only partial was attained. Duty and interest of Rs.1.47 crore was recoverable. In 2 of these cases the incorrect fixation was due to misdeclaration of past performance by the licencees. They were also liable to penal action.

(Paragraph 2.10)

- Contrary to the policy, one licencee was permitted to discharge the additional liability by export of products not manufactured by imported capital goods. Rs.12.84 crore was recoverable on account of duty concession and interest.

(Paragraph 2.11)

- Duty concession was extended to capital goods imported prior to the issue of licence in 3 cases Rs.1.99 crore is recoverable on account of duty and interest.

(Paragraph 2.12)

- Revenue aggregating Rs.21.32 crore was exposed to high risk in respect of 44 default cases due to failure to ensure renewal of bank guarantee.

(Paragraph 2.13)

- While recovering duty, interest of Rs.2.16 crore was not recovered in 7 cases.

(Paragraph 2.14)

- Action was not initiated to recover Rs.6.52 crore from 2 licencees who failed to fulfil the conditions of their licence.

(Paragraph 2.15)

- The scheme was not supported by effective monitoring of the export performance, thereby reducing its efficacy and enabling misuse.

(Paragraph 2.17)

III Irregularities in assessments

- Incorrect adoption/computation of assessable value resulted in undervaluation of goods liable for customs duty and short collection of Rs.92 lakh in 4 cases.

(Paragraph 3.1 to 3.2)

- In 29 cases dutiable imported goods were incorrectly classified and assessed to duty at lesser rates leading to short levy of Rs.1.59 crore.

(Paragraph 4.1 to 4.3)

- Extending the benefit of exemption notifications to dutiable goods not covered by them resulted in short collection of duty of Rs.35.82 crore in 25 cases.

(Paragraph 5.1 to 5.4)

- Additional duty leviable under Section 3 of the Tariff Act amounting to Rs.1.66 crore was not levied/short levied in 48 cases.

(Paragraph 6.1 to 6.5)

- Special Additional duty leviable under section 3A of Tariff Act amounting to Rs.4.33 crore was not levied/short levied in 15 cases.

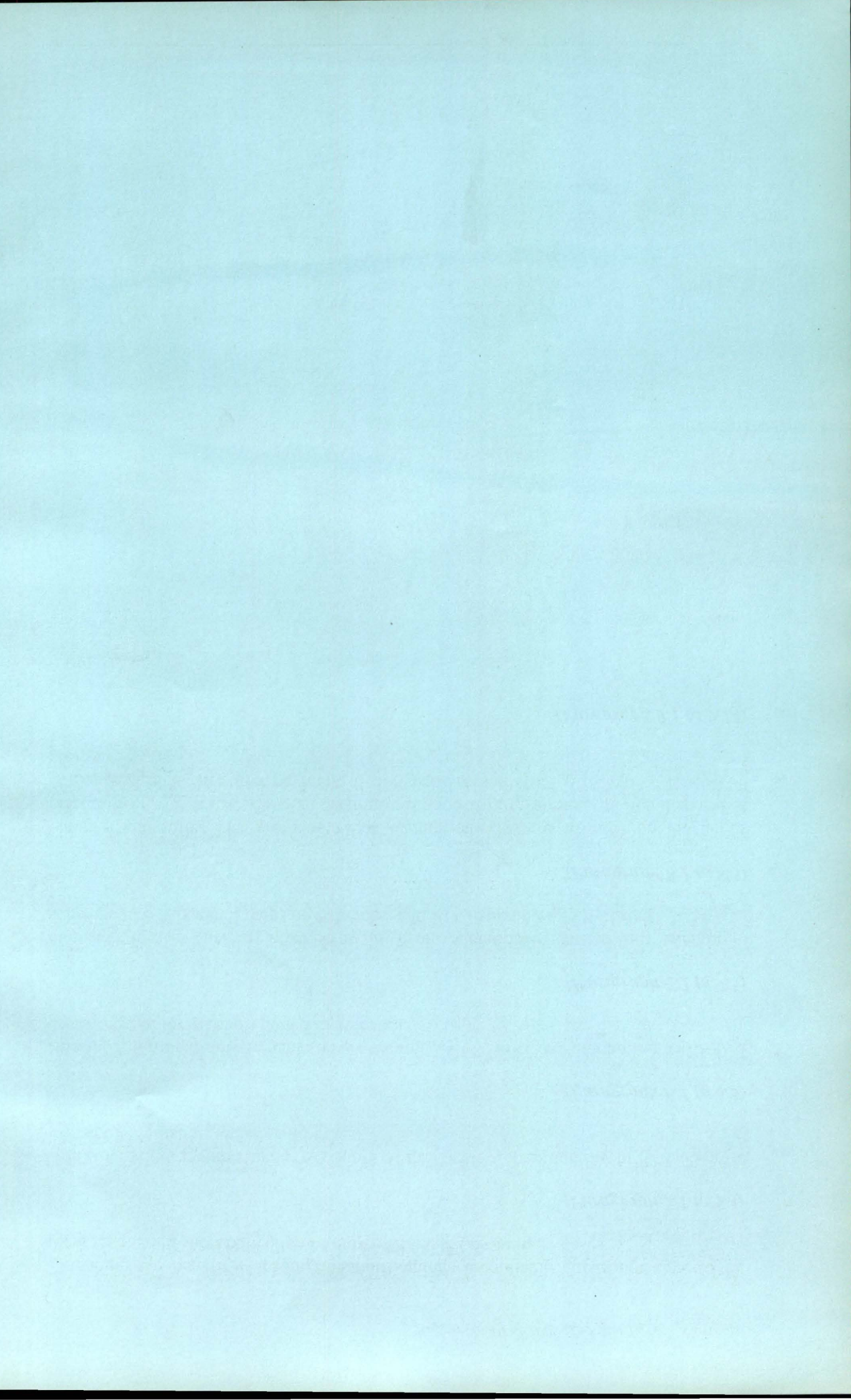
(Paragraph 7.1 to 7.5)

- Non levy/loss of customs revenue arising from operation of certain duty exemption schemes like Advance Licensing Schemes, and EOU amounted to Rs.159.91 crore

(Paragraph 8.1 to 8.5)

- Other irregularities like grant of adhoc exemptions, loss of revenue on the goods cleared from warehouse, delay in clearance of goods from warehoused, non disposal of confiscated goods, irregular payment of drawback refund etc. led to loss of Rs.136.87 crore in 98 cases.

(Paragraph 9.1 to 9.13)



CHAPTER 1 - ANALYSIS OF RECEIPTS

1.1 Customs Receipts

Receipts from customs duties during the years 1997-98 and 1998-99, along with the budget estimates and the revised estimates for 1998-99 are presented in the table below :

Net Customs Receipts from	(Rupees in crore)			
	Actual Receipts 1997-98	Budget estimates 1998-99	Revised estimates 1998-99	Actual Receipts 1998-99
Imports	39441	47684	42271	37849
Exports	66	03	03	58
Cess on exports	198	141	118	212
Sale proceeds of confiscated goods	83	60	21	76
Other receipts	405	260	235	83
Net receipt	40193	48148	42648	38278

(N.B. (i) The figures shown have been arrived at after deducting refunds and drawback paid)

(ii) Collection from import duties are inclusive of Special additional duty and Special customs duty.

Source : Principal CCA, CBEC, New Delhi

Customs receipts fell short of the Budget Estimates by Rs.9870 crore or 20 per cent. They fell short of even the Revised Estimates by Rs.4370 crore or 10 per cent.

1.2 Trend of Receipts

A comparison of total year-wise imports with the corresponding net customs duties collected during 1994-95 to 1998-99 has been shown in the table below :

VALUE OF IMPORTS AND IMPORT DUTY COLLECTED 1994-95 TO 1998-99 (YEAR-WISE)

Year	(Rupees in crore)		
	Value of Imports	Import duties*	Import duty as percentage of value of imports
1994-95	88705	26003	29.31
1995-96	121647	34717	28.54
1996-97	138920	42110	30.31
1997-98	154176	41480	26.90
1998-99	176099	42110	23.91

*including refund and drawback

1.3 Trend in imports vis a vis index of industrial production

The percentage change in index of industrial production vis a vis imports during 1994-95 to 1998-99 are given overleaf along with projected figures of 1999-2000.

Year	Percentage change in index of industrial production	Percentage change in imports in US \$	Percentage change in collections from import duty
1994-95	8.4	23.0	20.0
1995-96	12.7	28.1	33.5
1996-97	5.6	6.6	21.3
1997-98	6.6	6.0	-1.5
1998-99	4.0	0.8	1.5
1999-2000	6.0*	10.6*	0.7**

*Projected ** Budgeted

Source: Monthly Review of the Indian Economy by Centre for Monitoring Indian Economy

1.4 Commoditywise details of Customs Receipts

Major commodity wise value of imports and exports and the gross duty realised therefrom during the financial year 1998-99 and the previous year 1997-98 are given below in the table.

a) Imports

Sl. No.	Commodities	(Rupees in crore)					
		Value of imports*		Import duties**		Percentage share in total import duties collection	
		97-98	98-99	97-98	98-99	97-98	98-99
1.	Food and live animals chiefly for food	2901	3167	965	1456	2.33	3.46
2.	Mineral, fuels and related materials	30341	27064	5359	5070	12.92	12.04
3.	Crude materials inedible except fuel	5451	5217	4867	3230	11.73	7.67
4.	Chemicals and related product	18812	19769	3768	3475	9.08	8.25
5.	Manufactured goods	24379	27854	3658	4078	8.82	9.68
6.	Machinery and transport equipment	18773	17520	8410	9403	20.27	22.33
7.	Professional instruments etc.	2771	3418	2353	2486	5.67	5.90
8.	Others	50748	72090	12100	12912	29.18	30.67
	Total	154176	176099	41480	42110		

b) Exports

Sl. No.	Commodities	(Rupees in crore)			
		Value of exports		Export duty and cess	
		1997-98	1998-99	1997-98	1998-99
1.	Food items	19464	21250	08	09
2.	Beverages and tobacco	1070	779	14	16
3.	Crude materials inedible except fuels (including mica)	4928	4035	02	02
4.	Mineral, fuels, lubricant and related material	1252	989	--	--
5.	Chemicals and related products	2194	2291	--	--
6.	Manufactured goods except pearls, precious, semi precious stones and carpets, hand made leather and leather manufactures including readymade garments and clothing accessories	17898	17759	--	--
7.	Miscellaneous manufactured articles including handicrafts, gems and jewellery	28814	35287	--	--
8.	Others	54480	59213	110	88
	Total of exports and re-exports	130100	141603	134	115

Source - *Ministry of Commerce, New Delhi.

**Directorate of Statistics and Intelligence, New Delhi.

1.5 Duty forgone**1.5.1 Under export promotion schemes**

a) The break-up of the duty forgone in respect of export promotion schemes viz., Advance Licence, DEPB, EPCG, EPZ, EOU, refund of duty under the drawback and other schemes for the period from 1995-96 to 1998-99 are shown in the table below:

**CUSTOMS DUTY FORGONE UNDER EXPORT PROMOTION SCHEMES
AND DUTY DRAWBACK SCHEME**

(Rupees in crore)

Year	Advance licence	DEPB	EPCG	EPZ	EOU	Duty Drawback	Others	Total
1995-96	3843	--	1022	1214	1944	2664	567	11254
1996-97	3430	--	2421	1269	2067	2927	847	12961
1997-98	3547	469	1385	1200	2004	3661	891	13157
1998-99	3615	2631	1343	974	2178	4081	670	15492

Duty exemption schemes have been regularly reviewed in audit and short comings including revenue loss were commented in the Audit Reports for earlier years. An appraisal of the 'Export Promotion of Capital Goods Scheme' is included in Chapter 2 of this Report.

b) The total duty forgone under various export promotion schemes for the period 1995-96 to 1998-99 are shown in the table below :

CUSTOMS DUTY FORGONE

(Rupees in crore)

Year	Customs duty collected	Total duty forgone under export promotion schemes	Duty forgone as a percentage of customs receipts
1995-96	35728	11254	31
1996-97	42851	12961	30
1997-98	40193	13157	33
1998-99	38278	15492	40

Duty forgone under export promotion schemes has gone up from 31 per cent of customs duty receipts in 1995-96 to 40 per cent of customs receipts in 1998-99.

c) The basic objective of forgoing duty on imports made under the export promotion schemes, was to enhance foreign exchange earnings and thereby reduce the deficit in the Balance of Trade. Audit enquiries and scrutiny of records revealed that duty exemptions were allowed at the time of import based on a commitment of export obligation and drawback is allowed on the basis of shipping documents of export. The prevalent monitoring mechanism in the Custom Houses and the offices of Director General of Foreign Trade did not, however, enable them to ensure that the full amount of foreign exchange due against the export value declared on the shipping bills presented by export houses were actually realised. Cases of non realisation of foreign exchange against exports made has been reported in chapter 9 of this Report.

1.5.2 Other duty forgone

Duty forgone under Section 25 (1) and (2) of the Customs Act, 1962 {other than in respect of export promotion schemes vide para 1.5 (b)} during 1995-96 to 1998-99 are shown in the table below:

(Rupees in crore)						
Year	No. of notifications issued under 25(1)	No. of total notifications issued under 25(2)	Total No. of notifications issued	Duty forgone under 25(1)	Duty forgone under 25(2)	Duty forgone
1995-96	55	258	313	1467.17	552.21	2019.38
1996-97	63	159	222	934.50	178.90	1113.40
1997-98	76	136	212	2624.00	16.80	2640.80
1998-99	57	NA	NA	4184.85	NA	NA

Section 25(1) General exemption

Section 25(2) Adhoc exemption

1.6 Cost of collection of Customs Receipts

The expenditure incurred on collection of customs duty during the year 1998-99 alongwith the figures for the previous year are given below :

(Rupees in crore)		
Cost of collection	1997-98	1998-99
Revenue cum import export and trade control functions	91.34	108.98
Preventive and other functions	340.09	356.55
Total	431.42	465.53
Cost of collection as percentage of Customs receipts	1.07	1.21

There is a fall of 5 per cent in the collection of customs receipts, the percentage of cost of collection has increased to the extent of 14 per cent during 1998-99 with respect to previous year.

1.7 Searches and Seizures

The details of searches conducted and seizures effected by the Customs officers as given by Ministry are indicated below :

SEARCHES AND SEIZURES

Sl. No.	Description	1997-98	*1998-99
1.	Number of searches	1207	312
2.	Value of goods seized (Rupees in crore)	92.03	346.01
3.	Number of seizure cases adjudicated	**1497	310

* Figures pertain to Cochin, Calcutta, Goa, Kandla, Mumbai and Chennai (Sea) Commissionerates.

** Includes seizures made in previous years.

1.8 Arrears of Customs Duty for recovery

The amount of customs duty assessed upto 31 March 1999 which was still to be realised as on 30 June 1999 was Rs.224.90 crore in 21 Custom Houses and Commissionerates.

1.9 Demands of duty barred by limitation

Demands raised by the department up to 31 March 1999 which were pending realisation as on 30 June 1999 and where recovery was barred by limitation amounted to Rs.0.31 crore in 21 Custom Houses and Commissionerates.

1.10 Duty written off

Customs duties written off, penalties waived and exgratia payments made during the year 1998-99 and the preceding two years are given below :

(Rupees in lakh)	
Year	Amount
1998-99	7.90
1997-98	21.13
1996-97	4.87

1.11 Number of pending audit objections

The number of audit objections raised in audit upto 31 March 1999 and the number pending settlement as on 30 September 1999 in the various Custom Houses and combined Commissionerates of Customs are given below :

OUTSTANDING OBJECTIONS AND AMOUNT INVOLVED

(Rupees in crore)			
Sl. No	Commissionerate	Number	Amount
1.	Ahmedabad	23	10.25
2.	Ahmedabad (Prev.)	57	15.54
3	Bhubaneshwar	31	80.78
4	Calcutta	971	394.04
5	Chennai (Sea)	1096	89.51
6	Chennai (Air)	836	3.11
7	Cochin	90	12.76
8	Delhi	831	20.40
9	Hyderabad	239	36.18
10	Karnataka	730	23.14
11	Mumbai(Air)	143	12.12
12	Mumbai(Sea)	247	236.30
13	Tiruchirapalli	119	68.04
14	West Bengal (prev)	181	28.38
15	Others	930	458.61
	Total	6524	1489.16

1.12 Categories of outstanding audit objections

(Rupees in crore)

Sl. No.	Categories of objections	No. of objections	Amount
1.	Short levy due to misclassification	1525	51.61
2.	Short levy due to incorrect grant of exemption	978	94.70
3.	Non levy of import duties	706	16.39
4.	Short levy due to undervaluation	287	50.32
5.	Irregularities in grant of drawback	475	22.16
6.	Irregularities in grant of refunds	43	17.50
7.	Irregularities in levy and collection of export duty	94	13.85
8.	Other irregularities	2416	1222.63
	Total	6524	1489.16

1.13 Contents of the report

The Report includes 231 paragraphs and a review on 'EPCG Scheme' having a total revenue effect of Rs.768.49 crore. As of December 1999, the Ministry have replied to 111 paragraphs out of 237 paragraphs referred to them and reported recovery of Rs.8.36 crore.

CHAPTER 2 : EXPORT PROMOTION CAPITAL GOODS SCHEME

2.1 Highlights

- In aggregate, 2932 licencees could achieve only 77 per cent of the total export obligation to be realised. This rendered customs duty concessions of Rs.247 crore infructuous.

(Paragraph 2.5)

- The Ministry of Commerce notified a blanket amnesty in April 1999 to all defaulting firms by extending the period of export obligation to March 2001 even though the Law Ministry had held such action as beyond the ambit of subordinate legislation. The Finance Ministry has not yet issued any corresponding Customs notification and are going ahead with effecting recovery of duty and interest.

(Paragraph 2.6)

- Licensing/Customs authorities failed to recover dues aggregating Rs.355.90 crore from 109 defaulting licencees.

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- Part of the export consignments of 20 licencees who had reported fulfilment of export obligation were not eligible to be so reckoned. Customs duty of Rs.9.20 crore and interest of Rs.12.13 crore were recoverable from these licencees.

(Paragraph 2.8)

- Failure of the licensing authority to detect misleading export statements by 2 exporters/licencee led to non recovery of customs duty of Rs.11.28 crore and interest of Rs.16.64 crore from the licencees. Penalty of Rs.113.48 crore was also leviable on these units.

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- Incorrect fixation of average performance in 3 cases enabled the exporters to claim fulfilment of export obligation even though only partial was attained. Duty and interest of Rs.1.47 crore was recoverable. In 2 of these cases the incorrect fixation was due to misdeclaration of past performance by the licencees. They were also liable to penal action.

(Paragraph 2.10)

- Contrary to the policy, one licencee was permitted to discharge the additional liability by export of products not manufactured by imported capital goods. Rs.12.84 crore was recoverable on account of duty concession and interest.

(Paragraph 2.11)

➤ **Duty concession was extended to capital goods imported prior to the issue of licence in 3 cases. Rs.1.99 crore is recoverable on account of duty and interest.**

(Paragraph 2.12)

➤ **Revenue aggregating Rs.21.32 crore was exposed to high risk in respect of 44 default cases due to failure to ensure renewal of bank guarantee.**

(Paragraph 2.13)

➤ **While recovering duty, interest of Rs.2.16 crore was not recovered in 7 cases.**

(Paragraph 2.14)

➤ **Action was not initiated to recover Rs.6.52 crore from 2 licencees who failed to fulfil the conditions of their licence.**

(Paragraph 2.15)

➤ **The scheme was not supported by effective monitoring of the export performance, thereby reducing its efficacy and enabling misuse.**

(Paragraph 2.17)

2.2 Introduction

The Export Promotion Capital Goods Scheme (EPCG Scheme) was introduced by the Government of India with effect from April 1990, under the Import Export Policy 1990-93. The Scheme allowed import of capital goods at a concessional rate of 25 per cent customs duty with an export obligation of three times the CIF value of imports to be completed within four years from the date of import. Under Exim Policy 1992-97, the concessional rate of duty was reduced to 15 per cent and the export obligation raised to four times, to be discharged within five years. In respect of licences issued after 1 April 1993, the obligation period was reckoned from the date of issue of the licence.

The export obligation was required to be fulfilled by the export of goods manufactured by use of the capital goods imported under the scheme and independent of any other obligation undertaken by the importer. It was also to be in addition to the annual average value of exports during the best two years in the preceding three licensing years.

In the event of failure to comply with the conditions of the licence including export obligation the scheme envisaged payment of customs duty along with 24 per cent interest per annum from the date of import of first consignment.

2.3 Scope of Audit

A comprehensive appraisal of the scheme was undertaken in audit during November 1998 to August 1999 in respect of licences where the export obligation period was over viz. those issued during 1990-91 to 1993-94. Records maintained in the office of the DGFT

New Delhi, regional licencing authorities and selected units and the concerned commissionerates were scrutinised for this purpose.

Out of a total of 3878 licences involving duty concession of Rs.1074.00 crore issued under this scheme between 1990-91 and 1993-94, 703 licences with duty concession of Rs.695.24 crore were test checked in audit.

2.4 Organisational set up

The Import-Export Trade Control Organisation, headed by the Director General of Foreign Trade (DGFT) is responsible for the execution of the scheme. Applications under the scheme are considered by a committee headed by the DGFT. Cases of import of CIF value of more than Rs.10 crore are considered by a committee headed by the Commerce Secretary. As per the policy of 1990-93, the importer was required to execute an indemnity cum-surety bond/bank guarantee for full amount of duty with the Licencing Authority concerned prior to import of Capital Goods. This was reduced to 50 per cent of the duty saved under Exim policy 1992-97. Proof of having executed a Bank guarantee was required to be produced to the Custom Authorities at the time of importation. In addition, the importer is to make a declaration to the customs authorities that in case conditions specified in the licence were not complied with he would pay on demand an amount equivalent to the duty leviable on such goods but for the exemption. The licence holder shall be entitled to redemption of legal undertaking/Bank guarantee on completion of Export obligation prescribed in the licence.

2.5 Aggregate performance

The overall export performance in respect of the licences issued upto 1993-94 as furnished by the Ministry is as under :

(Rupees in crore)

Period	No. of licences issued	CIF value	Customs duty forgone	EO imposed	EO fulfilled	Percentage of EO fulfilled (upto 30 April 1998)
1990-91	270	289.39	37.00	868.45	806.36	92.85
1991-92	310	403.91	128.00	1211.73	1116.73	92.16
1992-93	1650	2219.90	571.00	9946.24	7233.08	72.72
1993-94	1648	1934.28	338.00	8685.17	3762.80	43.32
Total	3878	4847.48	1074.00	20711.59	12918.97	62.37

Ministry of Commerce stated (January 2000) that only 2932 licences were utilised out of the 3878 licences issued. The updated export obligation imposed was Rs.18740 crore against which export obligation fulfilled was Rs.14450 crore. Thus, Rs.4290 crore (23 per cent) of exports anticipated under the scheme failed to fructify during the period of export obligation. To that extent an amount of Rs.247 crore (23 per cent) of the duty foregone did not yield the desired export promotion rendering it infructuous.

The details of the export performance of the 1371 defaulting firms as furnished by the Ministry of Commerce is as below:

Year	No. of licences issued	No. of defaulters	Percentage of licences in default	EO prescribed for defaulters US\$ Mn.	EO fulfilled by defaulters US\$ Mn.	Percentage of EO fulfilled
1990-91	270	22	08	29.5	4.4	15
1991-92	310	53	17	207.4	53.8	26
1992-93	1650	582	35	887.1	274.8	31
1993-94	1648	714	43	1727.3	340.9	20
Total	3878	1371	35	2851.3	673.9	24

It may be seen that 1 out of 3 licences had failed to fulfil their export obligation and that the average export performance of these 1371 defaulters was a mere 24 per cent.

Detailed scrutiny of the relevant records pertaining to 703 licences entailing duty concession of Rs.695.24 crore revealed several deficiencies in the implementation of the scheme. An overview of these deficiencies is presented below :

	No. of licences	Amount of duty (Rupees in crore)
Nil exports	31	35.57
Partial exports	78	112.75
Incorrect fulfilment of export obligation including misleading export statements	27	20.48
Incorrect fixation of export obligation/product	5	5.38
Incorrect exemption on imports of capital goods made prior to issue of licence	3	0.67
Non fulfilment of conditions of the licence	3	2.51
Other irregularities	7	2.94
Total	154	180.30

The details of these cases are narrated in paragraphs 2.7 to 2.16.

2.6 Amnesty scheme April, 1999

Neither the Exim policy nor any of the Customs notifications issued till June 1995 (110/95 dated 5 June 1995) had envisaged any provision for giving extension in the Export obligation period. Yet the Ministry of Commerce under a Public Notice (No.5 dated 6 April 1999) allowed all the defaulting exporters time upto 31 March 2001 for fulfilment of the Export obligation.

Export obligation is a contractual agreement between an exporter and the government and any waiver thereof has legal as well as revenue implications. Further, as the recovery of

duties/waiver thereof is enacted only under the provisions of the Customs Act, this waiver could become operational only after the same was notified by the revenue department.

On a reference made in this regard to the Ministry of Finance by Audit, they stated (August 1999) that the Public Notice was issued by the Ministry of Commerce without the consent of the Ministry of Finance and the Attorney General. The latter had specifically stated in November 1997 that if a liability has already accrued under an existing notification, it cannot be waived and that no extension in the export obligation period could be permitted if no provision in this regard existed in the original notification. This was premised on the logic that only the legislature can legislate retrospectively and subordinate legislation can only be prospective. The Attorney General was consulted a second time by the Department of Revenue, after issue of the Public Notice by the Commerce Ministry. Their earlier opinion was confirmed. Accordingly no corresponding notification was issued by the Finance Ministry. They reported (August 1999) having initiated action for recovery of government dues in all cases of default.

In December 1999 the Ministry of Finance stated that subsequent to a clarification given by the Union Minister of Law (D.O. NO. MLJ & CA/VIP/99/541 dated 1 October 1999 in response to the then Minister of Commerce D.O. dated 30 September 1999) that in his opinion the notification of 6 April 1999 was perfectly valid, a draft amendment to the Customs notification Nos.169/90, 160/92 & 307/92 had been submitted to the Ministry of Law. The aforesaid amended Customs notification had not been issued, even though five months had elapsed.

In January 2000, Ministry of Commerce stated that out of 1371 defaulting licencees only 108 have requested for grant of extension under Public Notice No.5 dated 6 April 1999. The poor response to the Amnesty Scheme is indicative that 92 per cent of the defaulting licencees were not hopeful of discharging their export obligation even in the extended period. Moreover duty alongwith interest from the remaining licencees is to be recovered immediately. Further information is awaited.

2.7 Non fulfilment/partial fulfilment of export obligation

In terms of the Legal agreement executed by the licencee, in the event of his default in meeting the export obligations/conditions, the customs duty concession alongwith interest at the rate of 24 per cent per annum have to be paid from the date of import of the first consignment till the date of payment.

Test check of the records of 703 units in eleven commissionerates showed that 109 units could not discharge the Export obligation prescribed within the stipulated time and an amount of Rs.148.32 crore as duty and Rs.207.58 crore as interest was recoverable from them, as on 31 March 1999.

a) Nil export cases

Audit scrutiny revealed that 31 licencees had failed to make any exports during the period of obligation. Commissionerate wise details are as overleaf :

Commissionerate	No. of cases	Total export obligation prescribed (US\$ Mn)	Amount of duty recoverable (Rs. in lakh)	Interest till 31.3.99 @ 24% (Rs.in lakh)
Mumbai	1	2.36	69.15	135.54
Calcutta	1	20.13	327.14	295.22
Mumbai	1	1.11	49.42	81.05
Chennai (Sea)	3	5.33	266.70	366.54
Chennai (Air)	1	0.17	10.64	14.65
Hyderabad (I)	3	9.61	224.56	339.30
Hyderabad (III)	1	1.14	76.35	112.58
Calcutta	5	46.32	1343.75	1685.41
Delhi	5	207.26	256.73	319.90
Mumbai	6	34.38	608.48	837.27
Chennai	3	63.32	322.93	464.68
Cochin	1	0.04	1.04	1.25
Total	31	391.17	3556.89	4653.39

Licence wise details are at Annexure-I of this report. Even though the period of obligation was over by 31 March 1998, action had not been initiated to recover duty concession alongwith interest.

b) Partial export cases

Audit scrutiny revealed that 78 licencees had not fulfilled the export obligation within the specified period as per details below :

Commissionerate	No. of cases	Total export obligation prescribed (US\$ Mn)	Total value of export actually effected (US\$ Mn)	Percentage of export obligation fulfilled	Amount of duty recoverable (Rs. in lakh)	Interest till 31.3.99 @ 24% (Rs. in lakh)
Cochin	4	14.77	4.46	30.19	455.66	677.09
Mumbai	10	22.08	8.12	36.77	557.70	886.68
Calcutta	1	43.13	1.18	2.73	1180.88	1417.05
Mumbai	17	181.15	80.29	44.32	2850.93	3669.70
Chennai	1	7.35	4.93	67.07	157.86	202.06
Chennai (Sea)	11	65.59	31.46	47.96	876.53	1436.67
Coimbatore	2	30.69	24.08	78.46	413.52	595.85
Trichy	1	14.79	5.93	40.09	103.28	121.77
Hyderabad (I)	2	0.67	0.14	20.89	15.99	23.70
Hyderabad (III)	1	13.48	2.40	17.80	183.29	264.67
Guntur	2	3.58	0.64	17.87	96.76	138.62
Visakhapatnam	3	27.74	3.05	10.99	1891.02	3076.39
Calcutta	8	44.70	17.67	39.53	779.77	1062.83
Delhi	8	178.36	15.72	8.81	1207.09	1828.01
Mumbai	6	73.24	21.91	29.91	449.87	626.28
Chennai	1	16.23	15.65	96.42	54.64	77.59
Total	78	737.55	237.63	32.21	11274.79	16104.96

Licence wise details are at Annexure-II of this report.

In reply the customs department stated that show cause notices have been issued to 33 licencees. DGFT accepted objections in six cases of Nil Export cases, seven cases of Partial Export cases and reported recovery of Rs.2.00 crore. The Ministry also stated

(January 2000) that of the 78 cases of partial fulfilment reported by Audit, 20 had applied for extension under the Public Notice No.5 dated 6 April 1999. An amount of Rs.292.54 crore is immediately recoverable from 89 licensees who have not applied for amnesty.

2.8 Incorrect fulfilment of export obligation

Paras 197 of Import-Export policy 1990-93 and 41(1) of Exim policy 1992-97, stipulate that export obligation shall be fulfilled by the export of goods manufactured by use of the capital goods imported under the EPCG scheme. Moreover deemed exports were not eligible for discharge of export obligation prior to 1 April 1995.

(a) Exports prior to importation

In respect of 13 licences issued to seven units located in Hyderabad, Ahmedabad, Calcutta, Cochin and New Delhi Commissionerates, exports, either entirely or partly were made prior to import of Capital goods. The export obligations were therefore, not correctly fulfilled. As such the duty concessions of Rs.6.51 crore together with interest Rs.8.30 crore were recoverable. The details of 13 licences are given in annexure III. Some of the large value cases are illustrated below :

i) An EPCG licence was issued to a firm in April 1993 in Hyderabad III Commissionerate with Export obligation of US \$ 1.94 Mn. They imported Capital goods worth Rs.1.37 crore in September 1993. The licensee submitted the statement of exports worth US \$ 1.94 Mn. made between June 1993 to January 1998 and claimed redemption of licence. Audit scrutiny of the statement of exports revealed that exports worth US \$ 0.18 Mn. (9.2%) were made prior to importation of the capital goods. Thus such ineligible exports resulted in short fulfilment of the prescribed export obligation within the specified period, entailing recovery of duty together with interest of Rs.2.65 crore. On this being pointed out in April 1999, the Customs department (Mumbai Customs House) replied that demand notice was issued in July 1999. Reply from the DGFT is awaited.

ii) In Calcutta Customs House four licences were issued to an importer from July 1992 to October 1993. Audit scrutiny of the exports statement revealed that exports worth US\$ 0.40 Mn. were made prior to importation of capital goods. Such ineligible exports resulted in short fulfilment of export obligation. Duty foregone on import alongwith interest amounting to Rs.1.79 crore stands recoverable. This was pointed out to the Department in September 1999. Their reply is awaited

iii) Four licences were issued to an unit in Delhi during November 1993 for a CIF value of Rs.12.29 crore. Audit scrutiny of the statement of export submitted for redemption of licences during June 1998 revealed that exports of US \$ 8.87 Mn. against the prescribed export obligation of US \$ 15.12 Mn. made prior to importation of the capital goods were not eligible for fulfilment of export obligation. The department has not taken any action on the export statement furnished by the licensee. The licensee was liable to pay custom duty together with interest amounting to Rs.5.84 crore. This was pointed out to the Department in August 1999. DGFT while accepting the objection (December 1999) asked the firm to deposit the amount.

(b) Export other than of specified products

In respect of six licences issued to five units, entire goods exported or a part thereof were different from that specified in their licences. This resulted in non fulfilment/partial fulfilment of export obligation imposed thereon. The duty concession amounting to Rs.2.50 crore and interest Rs.3.59 crore was required to be recovered. A few cases are illustrated below:

- i) In Guntur Commissionerate an EPCG licence was issued in July 1991 for CIF value of Rs.4.89 lakh. The Export obligation was fixed at US\$ 0.08 Mn. to export sugar confectionery as its export product. The licence was redeemed in April 1997. Audit scrutiny of the licensee's records revealed that export of US \$ 0.02 Mn. consisted of mango fruit bars which are a product different from sugar confectionery and the imported machinery was not used in their manufacture. This resulted in only partial fulfilment of export obligation. The amount of duty saved on imports of capital goods alongwith interest aggregating Rs.15.87 lakh was required to be recovered. This was pointed out in March 1999 and results of reconciliation are awaited.
- ii) An EPCG licence holder (Mumbai Custom House) fulfilled the export obligation by exporting "Stainless Steel bright wire rods angles" instead of "light structural flats and bars" which was specified as export product in the licence. Fulfilment of export obligation other than by specified product resulted in short fulfilment of export obligation. The duty forgone together with interest worked out to Rs.1.36 crore which is required to be recovered. This was pointed out to the Department in June 1999. Their reply is awaited.
- iii) Another EPCG licence holder in Mumbai exported Brass wire bars and refills of US \$ 0.55 Mn. against the licenced export product Brass ball point tips worth US \$ 1.34 Mn. Partial fulfilment of exports by exporting other than specified product resulted in non fulfilment of export obligation with duty liability to the extent of Rs.58.95 lakh including interest amounting to Rs.36.45 lakh which is required to be recovered. This was pointed out to the Department in June 1999. Their reply is awaited.
- iv) An EPCG licence in Ahmedabad Commissionerate fulfilled the export obligation by exporting polyster yarn fabrics instead of polyster yarn fibre as specified in the licence issued in January 1993. This resulted in irregular availment of duty concession which is required to be recovered together with interest amounting to Rs.1.88 crore. Out of this customs department stated that demand notice for duty amounting to Rs.83.29 lakh has been issued, recovery particulars are awaited.
- v) In Chennai Commissionerate an EPCG. licensee fulfilled the export obligation partially to the extent of US \$ 0.42 Mn. till February 1998 against the licence issued in October 1992 by exporting 100 per cent cotton knitted mens pull-over, Sweaters/ shirts (other than the licenced export product) instead of woollen garments worth US \$ 0.63 Mn. as specified in the licence. This resulted in non fulfilment of export obligation. Duty concession together with interest amounting to Rs.50.31 lakh is to be recovered. Custom department intimated (September 1999) that a show cause notice was issued in July 1999 and that the importer had approached the DGFT for amendment of export product. Further reply from DGFT is awaited.

vi) An EPCG licence was issued to a firm in Ludhiana in July 1993 for CIF value of Rs.4.80 crore with export obligation of US \$ 5.90 Mn. alongwith average export of US \$ 1.17 Mn. per year. The export statement submitted for US \$ 5.90 Mn. and average export of US \$ 2.35 Mn. revealed that an export of US \$ 0.23 Mn. was included therein which was prior to import of capital goods and the entire export was of yarn instead of cotton blended yarn as specified in the licence. The department accepted the clarification of the unit without further verification of the proper specification and released the legal undertaking (LUT). The unit as such was liable to duty alongwith interest amounting to Rs.1.59 crore for violating the conditions of the licence. This was pointed out to the Department in August 1999. Their reply is awaited.

(c) Ineligible deemed exports

In Calcutta, Commissionerate a licence was issued in June 1993 with prescribed export obligation of US \$ 1.18 Mn. The licensee exported goods to the extent of US \$ 1.28 Mn. which included deemed exports of US \$ 0.20 Mn. made prior to 1 April 1995. Since deemed exports were not eligible for fulfilment of export obligation prior to 1 April 1995 the export obligation was fulfilled short to the extent of 8.7 per cent and the licensee was liable to duty amounting to Rs.42.97 lakh including interest of Rs.24.24 lakh. This was pointed out to the Department in September 1999. Their reply is awaited.

2.9 Submission of misleading export statements

In terms of Clause V and VI of the declaration under appendix XV, the licensee is bound to furnish certified export statements for releasing a licence. Furnishing of incorrect information makes a licensee liable to penal proceedings specified in condition VIII of LUT and Para 11(2) of FT (D&R) Act 1992.

a) A firm (Delhi Commissionerate) was issued five EPCG licences during November 1991 to July 1993 for import of Capital goods aggregating Rs.21.94 crore with additional export obligation of US \$ 33.13 Mn. alongwith average export obligation of US \$ 251.27 Mn. LUTs in respect of 4 licences were released by the department (July 1995/June 1997). Scrutiny of export statements submitted for fulfilment of export obligation of US \$ 182.14 Mn. (additional plus average) revealed :

i) That 75 shipping bills (March to July 1994) for FOB value of US \$ 3.43 Mn. appeared in the list of additional exports furnished by the exporter for both licence No.2100251 dated 10 July 1992 and 2130501 dated 19 April 1993. The same 75 shipping bills featured in the export statements for fulfilment of average exports against licence No.2130748 dated 27 July 1993.

ii) 92 shipping bills for FOB value of US \$ 2.98 Mn. appeared in the export statement for additional export as well as average exports against licence No.2128951 dated 10 December 1991.

iii) An export of US \$ 3.85 Mn., 0.06 Mn. and US \$ 7.42 Mn. included in the export statements for licence No.2100251 dated 10 July 1992, No.2130748 dated 27 July 1993

and No.2128519 dated 7 November 1991 respectively were effected prior to issue of the licence. As such these do not qualify for fulfilment of export obligation.

The department had therefore released the LUT in four licences without proper verification of details of shipping bills. Moreover the action of the licensee to repeatedly and on a very large scale use the same shipping bills to substantiate discharge of export obligation for more than one licence is with fraudulent intent. The entire benefits of duty concession of Rs.10.99 crore alongwith interest of Rs.16.20 crore is recoverable. In addition he is liable to penalty in terms of declaration under appendix XV of Hand Book of Procedure (Volume-I) read with para 11(2) of FT (D&R) Act 1992 for submitting misleading statements to the extent of five times of the value of Capital goods imported aggregating Rs.109.70 crore.

The reply of the licensing authority (15 October 1999) that shipping bills for fulfilment of additional export obligation against licence No.2100251 have not been repeated in the export statement for fulfilment of additional export obligation against licence No.2130501 is not based on an examination of the export statements furnished by the licensee. On the matter being pursued by Audit the Department once again directed (March 2000) the firm to furnish revised export statements.

b) In Delhi Commissionerate two EPCG licences were issued to a firm during January 1992/ February 1993 for CIF value of Rs.54.76 lakh and Rs.20.27 lakh, with export obligation of US \$ 0.84 Mn. and US \$ 0.29 Mn. respectively, in addition to US \$ 1.49 Mn. per annum as average export obligation. The exporter has fulfilled export obligation of US \$ 1.56 Mn. leaving short fall in export obligation of US \$ 1.06 Mn. Scrutiny of statement of exports revealed that the licensee had submitted the same set of export statements for fulfilment of export obligation for each of these two licences. It was observed in Audit that the export statement were fraudulently used for obtaining concessional rate of duty. The department had not initiated action to enforce bank guarantee against any of the licensees for recovery of duty amounting to Rs.28.77 lakh with interest of Rs.43.90 lakh for non-fulfilment of export obligation. In addition he was liable to penalty in terms of declaration under appendix XV of handbook of procedure (Vol-I) read with para 11(2) of FT(D&R) Act 1992 for submitting misleading statements to the extent of five times of the value of imports aggregating Rs. 3.78 crore.

2.10 Incorrect fixation of export obligation

Under para 197 of the Import-Export Policy 1990-93 and para 41 of Exim policy 1992-97, an importer was required to maintain the average level of exports based on past three years export performance as specified in the Licence during the export obligation period and the export obligation prescribed was to be achieved in addition to the average performance. In the event of misdeclaration of facts while applying for a licence, the importer is liable to face penal action under para 11(2) of FT (D&R) Act 1992 and Customs Act 1962 apart from the licence being made ineffective as per Appendix XV of Handbook of Procedures Vol.I.

a) In Calcutta Custom House, two licences were issued to a manufacturer of Jute products in September 1991. Based on the average export performance depicted in the Chartered Accountant's certificate for the year 1989-90 to 1991-92, the export obligation

was fixed as US \$ 0.30 Mn. (same for the two licences). Verification of annual accounts of the firm in audit revealed that the FOB value of the exports for the said year 1989-90 was Rs.94.11 lakh as per notes on accounts furnished under Companies Act 1956 as against Rs.0.94 lakh shown in the certificate furnished by the licensee for the proposed fixation of average level of exports. Hence the average export performance was fixed incorrectly as US \$ 0.30 Mn. instead of US \$ 0.56 Mn.

b) A Bulk drug manufacturer in Hyderabad I Commissionerate was issued an EPCG Licence in March 1993 for CIF value of Rs.21.51 lakh with an export obligation of US\$ 0.24 Mn. by 14 March 1998. The licensee was required to maintain an average export performance of US \$ 0.54 Mn. as per the application. Audit scrutiny of the Annual Accounts of the Licensee for the years 1989-90 to 1991-92 revealed that the average performance was actually US \$ 0.66 Mn. The average export past performance was therefore, incorrectly fixed by the licencing authority. Even otherwise the export performance of the licensee was US \$ 0.81 Mn. against export obligation of US \$ 0.90 Mn. leaving the balance US \$ 0.09 Mn. as unfulfilled.

c) In respect of a licence issued to a firm in March 1992 in Mumbai Commissionerate, it was noticed that the average export obligation was erroneously fixed at the same level as the additional exports to be made i.e. US \$ 1.08 Mn. As per the Chartered Accountants certificate filed by the importer their annual average exports were Rs.6.63 crore or US \$ 2.54 Mn. They should therefore, have had to maintain a total of US \$ 12.75 Mn. over five years over and above the additional exports of US \$ 1.08 Mn. As against this the firm exported only US\$ 2.14 Mn., the net shortfall in export earnings being US \$ 11.69 Mn.

In these three cases, the importers were able to avail benefits of the scheme without discharging full export obligation. The amount of duty saved alongwith interest of Rs.58.76 lakh, Rs.16.38 lakh and Rs.72.39 lakh respectively is to be recovered. The importers at sub-para a & b are also liable to penal action for misdeclaration of past performance.

These were pointed out to the Department during February-August 1999 and their replies are awaited (December 1999).

2.11 Incorrect fixation of export product

Under para 197(2) of Import-export policy 1990-93 only direct export of the product manufactured through the capital goods permitted for import shall be counted for fulfilment of the export obligation.

An EPCG licence was issued to a firm in Delhi Commissionerate in December 1990 for CIF value of Rs.7.37 crore with an export obligation of Rs.22.12 crore. It was noticed in audit that while the capital goods to be imported was a glass plant the licence specified paper and paper products in addition to glassware as export products. Since the machinery imported was for manufacture of glass and glassware allowing paper and paper products as export product were in violation of the Policy provisions. The licensee fulfilled the entire additional export obligation of Rs.22.12 crore by including paper and paper products worth

Rs.4.17 crore. Therefore, the export obligation was not discharged in accordance with the Exim Policy and the proforma submitted for redemption of LUT was incorrect since the exports were not made from the imported capital goods. Therefore, the amount of duty exempted together with interest amounting to Rs.12.84 crore was to be recovered. While the LUT was not redeemed, the BG which had already lapsed was not renewed and the Government informed by the Bankers accordingly. This was pointed out to the Department in August 1999. Their reply is awaited.

2.12 Incorrect exemption on import of capital goods prior to issue of licence

As per notification 169/90 Customs dated 3 May 1990 read with para 197 of Import export policy 1990-93 and para 37 of Exim policy 1992-97 import of capital goods at concessional rate of duty is allowed only against a valid licence issued under the EPCG Scheme.

a) In Cochin Custom House, two EPCG licences were issued to two different importers on 26 November 1990 and 3 May 1991 respectively under import-export policy 1990-93. The Capital goods were imported on 19 July 1990 and 5 February 1991 respectively i.e. much before the grant of EPCG licence. As the goods were cleared from the Custom House before issue of EPCG licence, availment of concessional rate of duty at the time of clearance of goods was irregular and stands recoverable. The amount of duty together with interest worked out to Rs.1.36 crore.

This was pointed out to the Department in June 1999. Their reply is awaited.

b) An EPCG licence was issued to an unit in Mumbai in May 1991 against which import of capital goods worth Rs.22.44 lakh was allowed clearance in March 1991 i.e. before the grant of licence at concessional rate of duty of 25 per cent.

As per the condition of the licence concessional rate on the goods to be imported was allowed within 24 months from the date of its issue. The imports prior to the issue of licence was not in order and resulted in irregular grant of concession amounting to Rs.62.90 lakh including interest of Rs.41.36 lakh. This was pointed out to the Department in January 1999. Their reply is awaited.

2.13 Non renewal and insufficient coverage of bond/bank guarantee

According to para 314 (4) and para 102 of Hand book of procedures 1990-93 and 1992-97 respectively, before clearance of Capital goods through Customs, the importer is required to execute an Indemnity-Cum-Surety bond backed by bank guarantee with the licensing authority for fulfilment of export obligation. The amount of the Bank guarantee should be equivalent to the full value of duty saved under the scheme.

The amount of bank guarantee was reduced to 50 percent of the duty saved and should be executed for a period of 3 years w.e.f April 1993. If at least 50 percent of export obligation was not fulfilled within the period of two and half years from the date of issue of licence,

the Bank guarantee should be enforced and forfeited unless the same was renewed for another 3 years before the expiry of the bank guarantee.

Audit scrutiny of records revealed that bank guarantees had either lapsed or were not sufficient in 44 cases in 4 Commissionerates resulting in exposing Rs.21.32 crore of revenue to risk. Commissionerate wise details are given below :

a) Non renewal/lapsed bank guarantees

Commissionerate	No. of cases	Value of Guarantee (Rs. in crore)
Calcutta	24	7.11
Chennai	12	12.11
Hyderabad	1	0.08
Delhi	1	1.10

In one case of Hyderabad commissionerate DGFT has accepted (October 1999) the objection.

b) Insufficient bank guarantee

Commissionerate	No. of cases	Shortfall in value of Guarantee (Rs. in crore)
Calcutta	6	0.92
Total (a) & (b)	44	21.32

2.14 Non recovery of interest on recovery of custom duty

As per para 314 (A) (8) and para 106 of Handbook of procedures for 1990-93 and 1992-97, in case of failure to fulfil the prescribed export obligation within the specified period or on violation of any condition of the licence, the indemnity cum surety bond/legal undertaking should be invoked and bank guarantee forfeited. In addition the licensee was liable to pay interest @ 24 per cent per annum on the amount of duty saved from the date of first import to the date of payment. Apart from the above, penal action was required to be taken under the Foreign Trade (Development & Regulation) Act 1992, its orders, rules and Custom Act 1962.

Audit scrutiny revealed non recovery of interest aggregating Rs.2.16 crore as per following details :

(Rupees in lakh)				
Sl. No.	Licence number and date	Custom House	Duty recovered	Interest not recovered
1.	2127936 dated 13.6.1991	Calcutta	13.32	16.43
2.	2130626 dated 4.6.1993	-do-	28.60	28.26
3.	2129181 dated 22.1.1992	-do-	18.00	24.49
4.	2127105 dated 22.2.1991	Hyderabad	51.70	71.57
5.	2131271 dated 5.11.1993	-do-	7.17	12.20
6.	2100404 dated 5.8.1992	Chennai	131.97	1.19
7.	2130606 dated 27.5.1993	-do-	31.09	61.40
	Total		281.85	215.54

In case of Sl. No. 4, DGFT accepted (October 1999) the objection and stated that demand notice has already been issued to the party for payment of interest, recovery particulars are awaited.

2.15 Non-fulfilment of conditions of the licence

One of the undertakings given by the exporter while applying for an EPCG licence is that he shall fulfill any conditions imposed by the Government (Appendix XV of the Handbook of Procedures Vol.I).

a) An unit in Hyderabad I Commissionerate was issued two import licences in November 1992 and March 1993 to manufacture and export Rubber compound. After importation of the Capital goods worth Rs.81.40 lakh, the licensee requested the DGFT to change the export products from Rubber compound to Bicycle tyres and tubes. While acceding to this request the DGFT imposed a condition that the licensee should export 75 per cent of their annual production of bicycle tyres and tubes. The LUT was redeemed in November 1998 on fulfilment of export obligation.

A scrutiny of the licences/records revealed that against the prescribed number of 216.37 lakh of tyres and tubes (75 percent of annual products of 1996-97 and 1997-98) the licensee exported only 39.90 lakh leaving a short fall of 176.47 lakh. On being pointed out the DGFT New Delhi replied that the condition for export of 75 percent of the annual production of bicycle tyres and tubes was waived as the unit was a small scale unit. The reply of the department is not tenable as the unit was not a small scale Industry as the annual turn over for 1996-97 and 1997-98 was Rs.53.39 crore and Rs.68.79 crore and the assets of the unit were more than Rs.5 crore. Duty and interest aggregating Rs.70.82 lakh are therefore, recoverable.

b) In Delhi Commissionerate an EPCG licence was issued to a firm in December 1991 and endorsed in July 1992 for CIF value of Rs.3.38 crore with an export obligation of US \$ 5.20 Mn. In addition a foreign collaboration condition was imposed that the firm should earn foreign exchange by exporting not less than US \$ 2.24 Mn. over a period of five years. Against the total export obligation of US \$7.44 Mn, the licensee exported goods worth Rs.21.99 crore equivalent to US \$ 6.97 Mn. calculated at the exchange rate prevalent on the date of last shipment. Since the company failed to discharge its export obligation, it was liable to repay the duty concession alongwith interest amounting to Rs.5.81 crore. However, the bank guarantee of Rs.1.18 crore was released on 22 November 1996 without effecting recovery.

On this being pointed out (August, 1999) DGFT stated (January 2000) that the licensee fulfilled export obligation of Rs.21.99 crore against the export obligation of Rs.18.53 crore. The export obligation of Rs.18.53 crore was worked out by taking the exchange rate of Rs.24.90 as prevalent at the time of issue of licence. In rupee terms the export obligation based on exchange rate prevalent at the time of shipment of last consignment in terms of Ministry of Commerce circular NO.3/91 dated 17 June 1991 comes to Rs.23.48 crore against which the licensee could only export Rs.21.99 crore. The DGFT has

attempted to pass on the benefit of devaluation of the rupee to the exporter thereby reducing his export obligation in dollar terms.

The Customs authorities also pointed out that the export products were not exclusively manufactured by their unit at Malanpur where the capital goods were installed as required under para 41(1) of EXIM Policy 1992-97. This unit has exported between 1994-95 and 1999-2000 goods aggregating US \$ 5.43 Mn. from the Malanpur unit against the aggregate export obligation of US \$ 7.44 Mn. resulting in shortfall to the extent of US \$ 2.01 Mn. The extension in export obligation period has not been regularised.

The firm has therefore failed to discharge its export obligation and is liable to repay Rs.5.81 crore including interest.

2.16 Other irregularities

a) Irregular conversion of DTA unit into EPZ unit

In Calcutta Custom House, an EPCG licence was issued on 11 May 1993 under Exim policy 1992-97 for CIF value of Rs.95.20 lakh. The licensee had not fulfilled the export obligation within the specified period. However, the EPZ unit where the Capital goods were installed had made exports of Rs 1.62 crore upto 31 March 1999 against the prescribed export obligation of US \$ 4.85 Mn. including average level of export of US \$ 3.49 Mn. under EPCG scheme. As the licensee failed to fulfill the prescribed export obligation in full, the amount of duty together with interest amounting to Rs 48.72 lakh was required to be recovered.

This was pointed out to the Department in September 1999. Their reply is awaited.

b) Settlement of the case under KVSS

In Surat Comissionerate an EPCG licence was issued to a firm in May 1991 with an Export obligation of US \$ 1.03 Mn. Though the licensee fulfilled export obligation to the extent of US \$ 0.55 Mn, exports worth only US \$ 0.16 Mn. were made during the prescribed period (May 1995). The licensee had executed Bank guarantee for Rs.40.00 lakh against duty forgone Rs.36.36 lakh. Due to non-fulfilment of prescribed export obligation the licensee was required to pay duty alongwith interest amounting to Rs.1.05 crore. No action was taken by the licensing authority to forfeit the Bank guarantee and enforce recovery instead SCN was issued on 3 February 1998. Subsequently the licensee had opted for Kar Vivad Samadhan Scheme and paid 50 per cent of duty liability amounting to Rs.18.18 lakh.

Since the amount of duty under the EPCG scheme is not a matter of dispute, its settlement under Kar Vivad Samadhan Scheme was not covered under the provisions thereof. Delay in taking timely action for realisation of duty by forfeiting the Bank guarantee resulted in short realisation of Rs.86.56 lakh (Rs.104.74 lakh - Rs.18.18 lakh) and extending undue favour to the licensee.

c) *Incorrect issue of licence on the negative list of export goods.*

In Mumbai Commissionerate, two EPCG licences were issued to a firm (June 1990 & July 1991) for export of 'Hydro generation nickel catalyst' for FOB value of US \$ 0.56 Mn. The licensee could not fulfil the export obligation during the obligation period of five years as the export product was placed under negative list. Later based on a special licence issued by the licensing authorities, the licensee made partial exports of US \$ 0.06 Mn. (March 1999). The importer is liable to pay duty concession and interest aggregating Rs.1 crore due to failure to discharge export obligation. This was pointed out to the department in February 1999. Their reply is awaited.

d) *Acceptance of incorrect export statement*

A manufacture of Video software under Delhi commissionerate was issued two licences in April 1993 with export obligation of US \$ 0.98 Mn. and 3.85 Mn. respectively. During March 1998, the licensee filed his export statement in Singapore Dollars for \$ 0.68 Mn. and \$ 0.44 Mn. (S \$ 1.12 Mn.) and the department accepted the same as in US \$ which resulted in short fulfilment of export obligation of US \$ 0.34 Mn. on account of difference in the converted value of S \$ into US \$ with overall shortfall of US \$ 4.05 Mn. (83.9 per cent). The importer is therefore, liable to pay duty concession and interest aggregating Rs.2.30 crore.

This was pointed out to the Department in September 1999. Their reply is awaited.

e) *Irregular amendment of licence*

An EPCG licence was issued to a unit in Mumbai for CIF value of Rs.1.46 crore with an export obligation of US \$ 2.39 Mn. for export of PILC/XLPE power cables upto 132 KV. Average export obligation was also fixed as US \$ 24.66 Mn. The export obligation period ended in February 1996. While amending the licence in June 1996, average export obligation fixed was reduced to 'nil' excluding the Rupee Payment Area exports. The firm submitted export statement for Rs.2.71 crore effected during the period October 1990 to February 1991 and deemed exports for Rs.1.67 crore made during October 1996. Out of these, direct export for only Rs.11.43 lakh qualify for fulfillment of export obligation as the other exports pertain either to the period prior to the importation of capital goods or are deemed exports made after expiry of export obligation period. These direct exports when converted into US \$ as on the date of last shipment as laid down in ALC circular No.3/91 dated 17 June 1991 worked out to US \$ 0.37 Mn. which is only 1.5 per cent of the export obligation fixed.

The amendment of licence after completion of export obligation period was also not in order since the provision for exclusion of Rupee Payment Area exports for determining the average export obligation came into force only in March 1999 (Exim policy amended as on 31, March 1999). The action of the department in considering the extension of export obligation period by asking the licensee to extend the bank guarantee upto September 2000 is not in order, and for non fulfilment of export obligation the licensee was liable to duty amounting to Rs.1.24 crore alongwith interest of Rs.2.11 crore.

This was pointed out to the Department in August, 1999. Their reply is awaited.

2.17 Ineffective monitoring of the EPCG scheme

Effective monitoring of the actual value of imports and export realisations is crucial to the success of this scheme. Moreover since the exports could take place from ports other than those of importation it would be difficult for the customs authorities to establish a nexus and monitor export performance.

According to para 314 (A) of Hand book of Procedures 1990-93 and para 104/105 of Hand Book Procedures 1992-97, the licence holder shall submit a six monthly progress report of exports made duly certified by the Chartered Accountant regularly to the export obligation cell in the O/o the Director General of Foreign Trade New Delhi. In terms of para 197 of import and export policy 1990-93 read with customs notification 169/90 dated 3 May 1990, the bond and bank guarantee given by the importer, should be transferred to the export obligation cell of the Director General of Foreign Trade who will monitor export obligation being fulfilled.

Scrutiny of the records of the office of the Director General of Foreign Trade revealed that out of 304 cases test checked in Calcutta, Mumbai, Chennai, Hyderabad and Delhi Commissionerates half yearly statements were not received in 89 cases (30 per cent). In 141 cases the statements were not received regularly and only in respect of 74 cases (24 per cent) the statements were being received regularly.

Para 106 of Hand book of procedure 1992-97 Vol-I provides that in case of failure to fulfil the export obligation or any condition of the licence within stipulated period, LUT and Bank Guarantee shall be enforced. At the same time an intimation shall be sent to Customs for forfeiture of bond with surety and security besides other actions, that may be taken under FT(D&R) Act 1992, its orders, Rules and the Customs Act, 1962.

2.18 Dual control without adequate co-ordination

Implementation of the EPCG Scheme required co-ordinated functioning of the two authorities i.e. DGFT and the Customs. However, the licencing authority (DGFT) responsible to monitor export obligation and enforce B.G/LUT for recovery of duty did not have any mechanism to know the import/export details unless documents were submitted by the users of the Scheme. Obligations were discharged based on secondary information received from licencees and not directly from the Customs department. Customs authority, on the other hand, cleared the goods imported/exported but did not devise any system to ascertain the actual fulfilment of obligation although non-fulfilment of export obligation rendered the importer liable for payment of differential duty as per Customs Notifications. There was also no formalised system of exchange of information regarding defaulting exporter between the licencing and the customs Authorities. Consequently even though an amount of Rs.438.14 crore was recoverable from defaulting exporters only an amount of Rs.2.00 crore was actually recovered.

The review report was forwarded to Ministry of Finance and Ministry of Commerce in November 1999. In their reply to para 2.6 Ministry of Finance stated that they are proposing amendment to the basic notifications No.169/90, 160/92 and 307/92-cus. Outcome of the proposal and final reply is awaited.

CHAPTER 3 : SHORT LEVY OF DUTY DUE TO UNDERVALUATION

3.1. Incorrect adoption of assessable value

a) Section 65(2)(b) of the Customs Act, 1962 provides that if in the course of any operations permissible in relation to any warehoused goods under sub section (1), there is any waste or refuse and if the whole or any part of the goods resulting from such operations are cleared for home consumption, import duty shall be charged on the value in respect of quantity of warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods cleared for home consumption.

Duty on 1200 tonne of M.S scrap generated from ship building activity and cleared from the customs bonded warehouse of a shipyard in Cochin Commissionerate was levied based on the sale value and not on the proportionate CIF value of the imported MS plates contained in the scrap. The value of scrap adopted for assessment of duty ranged between Rs.6200 per tonne and Rs.6500 per tonne instead of proportionate average value of MS plates (warehoused goods contained in waste) imported during 1998. The undervaluation resulted in short levy of customs duty of Rs.76.71 lakh on clearances against 5 Bills of Entries between January 1998 and February 1999.

On this being pointed out (March 1999), the department stated (August 1998) that clearance of ship building scrap is only provisional pending determination of duty liability and that the objection raised by audit is premature. The provisional assessments have not been finalised even though the BEs were filed during 1997-98 leading to locking up of Government revenue.

b) The assessable value of consignment of 'Transmission equipments' imported in October 1998, and classifiable under sub heading 8525.20 was adopted based on the value given in an unauthenticated invoice resulting in undervaluation and short levy of Rs.2.37 lakh. Besides, a part of the goods were assessed as part of transmission equipments under sub heading 8525.90 instead of under sub heading 8525.20 of Customs Tariff resulting in short levy of Rs.0.23 lakh. The total short levy amounted to Rs.2.60 lakh on goods imported in October 1998.

The irregularity was pointed out by Audit in March 1999; reply of the department has not been received (December 1999).

c) A hundred per cent export oriented undertaking in Mangalore Commissionerate, cleared worn out and used tyres in June 1995 through a Custom House. The goods were assessed adopting value lower than the one at which goods were actually sold resulting the short levy of Rs.4.25 lakh during June 1995.

On being pointed out in audit (September 1997) the department raised demand in June 1998 which was confirmed in April 1999.

3.2 Non inclusion of service charges in the assessable value

As per rule 3(i) of the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988, the value of the imported goods shall be the transaction value. The transaction value of goods bought on high Seas shall include commission charges incurred by the importer in addition to the transaction value paid by the original buyer.

10,500 tonne of 'Fully refined paraffin wax type II' imported in Chennai-I, Sea Commissionerate were sold on High Sea Sales Basis. The service charges paid by the ultimate buyer were omitted to be reckoned for computing the assessable value. This resulted in short levy of duty of Rs.8.44 lakh.

On this being pointed out (October 1996), the department admitted the objection and recovered Rs.1.48 lakh. Recovery of the balance amount is awaited (December 1999).

CHAPTER 4 : SHORT LEVY DUE TO INCORRECT CLASSIFICATION

Some illustrative cases of short levy of customs duty arising from incorrect classification of goods are briefly narrated below :

4.1 Electrical/Electronic machineries

Electrical insulator

As per note 2(p) under chapter 39, 'Electrical insulator' of any material merits classification under heading 85.46 of the Custom Tariff. This classification was also upheld by Supreme Court in the case of CCE, Hyderabad Vs Bakelite Hylam Ltd {1997 (69) ECR 193 SC}.

33 consignments of laminated press board sheets cleared from a Bonded warehouse during the period July 1995 to February 1997 were assessed under sub heading 4811.90 instead of sub heading 8546.90. This resulted in short levy of Rs.6.46 lakh.

On this being pointed out (December 1997), the Ministry stated (September 1999) that steps are being taken to realise the short levy

4.2 Machineries and parts

Plotters

'Plotter' being output units of data processing machines transforming the data of computer aided designing/drawing into written/visual form are classifiable under heading 84.71.

Three consignments of 'Graphic/pen plotter' imported through air cargo complex, Bangalore, during 1995-96 and 1997-98 were assessed under heading 90.17 as 'Automatic drafting machines'. This resulted in short levy of Rs.13.13 lakh.

On the misclassification being pointed out (June to September 1997), the Ministry admitted the objection and reported (December 1999) recovery of Rs.8.84 lakh from one importer. Recovery particulars of balance amount is awaited.

4.3 Other cases

In 19 other cases of incorrect classification reported to the Ministry involved short levy of customs duty of Rs.1.39 crore of which 12 cases involving Rs.1.26 crore were admitted and recovery of Rs.1.18 crore made in 8 cases by the Ministry/department as per details overleaf :

(Rupees in lakh)

Sl. No.	Details of product	No. of importers	Heading where classifiable	Heading where classified	Amount short levied	Amount admitted	Amount recovered
1.	Satellite modems	1	8525.20	8529.90	46.86	46.86	46.86
2.	Pagers	1	85.27	8525.20	44.85	44.85	44.85
3.	Transmission equipments	1	84.83	8483.90	18.02	18.02	18.02
4.	Polyol	1	3801.90	3907.20	4.23	4.23	--
5.	Instrument Clusture	1	87.08	9029.90	3.27	--	--
6.	Installation software for optical time domain reflectometer	1	9030.40	8524.99	3.05	3.05	3.05
7.	Electronic recorder	1	9030.81	9031.80	2.10	--	--
8.	Wave guide	1	83.07	8529.90	1.67	1.67	--
9.	Suction valves	1	8414.90	8481.80	1.55	--	--
10.	Video camera	1	8525.40	8525.20	1.45	1.45	1.45
11.	Rods, rolls of sintered tugston carbide	1	8455.90	8455.30	1.36	--	--
12.	Cartrige drives	1	8473.30	8471.99	1.35	1.35	1.35
13.	Automatic data processing machines	1	84.71	8473.30	1.34	1.34	--
14.	Spacer rings made of carbon	1	68.15	8413.90	1.19	1.19	1.19
15.	Surface active preparation of silicon	1	3402.90	39.10	1.18	--	--
16.	Microprocessor for automatic data processing machine	1	8473.30	8542.19	1.13	--	--
17.	Master alloy colour	1	71.06	74.05	1.08	1.08	1.08
18.	Cases for watches	1	91.12	9114.90	0.82	0.82	--
19.	Receipt printer	2	84.70	84.71	2.76	--	--
	Total				139.26	125.91	117.85

CHAPTER 5 : SHORT LEVY DUE TO INCORRECT GRANT OF EXEMPTION

Short levy of duties aggregating Rs.35.73 crore on account of incorrect grant of exemptions were pointed out to the Ministry. Some illustrative cases are narrated below :-

5.1 Non verification of end use

Notification No.83/90-cus dated 20 March 1990 and 36/96-cus dated 23 July 1996 prescribe concessional rate of duty on import of 'Melting scrap of iron and steel' required for use or for supply to a unit for use in 'Electric arc furnace or induction furnace or melting in hot blast cupola' subject to production of end use certificate within 6 months of importation.

Audit scrutiny revealed that end use certificates as required in the notification were not produced in 188 cases in two Commissionerates till the date of audit (September 1996/November 1998) for the imports made by the importers during March to August 1995. This irregular exemption resulted in short levy of customs duty amounting to Rs.26.13 crore.

On this being pointed out (September 1996/November 1998), the Ministry/department on verification of the cases, reported (September 1997, October 1998 and June/September 1999) that in 153 cases, the required certificates had since been obtained. The department also reported that in the remaining 35 cases involving duty effect of Rs.1.38 crore, show cause notices for short levy were under issue/issued and in one case, the importer requested for extension of time. Delay in issue of demand notices and determination of differential duty resulted in loss of interest of Rs.85.19 lakh (upto February 1999) in the aforesaid 35 cases.

5.2 Incorrect grant of exemption to EOUs

Notification No.13/81-cus dated 9 February 1981, 95/93-cus dated 2 March 1993, 123/81-CE dated 2 June 1981 and 1/95-CE dated 4 January 1995, exempts an 100 per cent export oriented unit (EOU) from duty on imports/indigenous procurement of goods subject to the condition that such goods are used in connection with the manufacture/production of goods for export between January 1991 to December 1995.

a) Various dutiable goods were imported/procured by four EOUs for manufacture of goods meant for export. Audit scrutiny revealed (January to July 1998) that they have failed to commence any manufacturing activity or make any exports till date. Duty amounting to Rs.6.85 crore exempted on the goods under the aforesaid notification was recoverable with interest.

On this being pointed out (January to July 1998), the department stated (May to July 1999) that a demand for Rs.73.99 lakh was issued in August 1998 in one case and penalty of

Rs.1 lakh was imposed on second unit where debonding was in progress. In the third case the unit has sought extension of 6 months. Reply in the fourth case has not been received (December 1999).

b) Three EOUs imported/procured building materials/ fittings/ furnitures/ surveillance system/ building automation equipments/fire fighting equipments during April 1996 to June 1997 through Bangalore Commissionerate. These goods were assessed duty free by extending the benefit of the aforesaid notifications even though these goods were not used in manufacture of the goods for export. The duty foregone was Rs.1.25 crore.

On being pointed out (April to October 1998), the department/Ministry reported (October 1998 to September 1999) confirmation of demand for Rs.1.23 crore to two importers and recovery of Rs.1.55 lakh from the third importer.

5.3 Incorrect application of exemption notification

a) As per notification No.11/97-cus dated 1 March 1997 import of computer software was exempted from whole of the duty of Customs and Additional duty of Customs. The exemption notification does not cover import of right to use 'information technology software'.

Twelve consignments of 'Software licences' imported through an Air Cargo Complex between June and November 1997 by six importers were cleared duty free by extending the benefit of the notification *ibid*. This resulted in short levy of duty amounting to Rs.73.32 lakh. This was pointed out between July 1998 to November 1998.

The department in reply to a similar objection raised stated that since software cannot be used without the licence, the benefit of the notification was extendable even to the licence.

Reply is not tenable as :

- i) the licence having been imported separately and not along with software, needed assessment as 'other recorded magnetic media'; and
- ii) the corresponding item 'software' has been substituted in the Custom Tariff 1999-2000 as two separate items i.e. (a) Information Technology Software and (b) document of title conveying right to use Information Technology software, thus substantiating the audit stand that the latter item cannot be treated as 'software'.

b) As per notification No.63/88-cus dated 1 March 1998, medical equipments imported by Government hospitals and Government controlled hospitals were exempt from payment of basic and additional excise duty of customs subject to the production of certificates from the DGHS.

An importer engaged in trading of medical equipments was allowed to import (January 1997) 'Endoscopic instruments' duty free under the notification dated 1 March 1998. The prescribed certificate from the DGHS was, however, not produced. The irregular exemption resulted in short levy of duty of Rs.19.68 lakh.

The irregularity was pointed out (June 1997). Reply of the department has not been received (December 1999).

c) 'Computer software' were exempted from duty under notification No.23/98-cus dated 2 June 1998. However, computer software does not include software required for operation of any machine performing a specific function other than data processing and incorporating or working in conjunction with an automatic data processing machine.

Software for use with the shuttleless label weaving machine imported through Delhi Commissionerate in August 1998 by an importer were cleared duty free as 'computer software' under the notification dated 2 June 1998. The imported goods being a consignment of software for MUCAD machine for use with shuttleless label weaving machine was not eligible for the exemption, this resulted in short levy of duty of Rs.8.03 lakh.

The irregularity was pointed out to the department in March 1999. Reply has not been received (December 1999).

d) In terms of a notification No.64/95-cus dated 16 March 1995, 'Toughened glass with low iron content and transmissivity of minimum 90 per cent' was eligible to concessional rate of duty.

A consignment of "Solar glass" imported (March 1996) through Chennai (Sea) Customs Commissionerate by an importer was assessed under the notification dated 16 March 1995. 'Solar glass' not being 'Toughened glass with low iron content', the exemption allowed was incorrect resulting in short levy of duty of Rs.7.15 lakh.

On this being pointed out (August 1996), the department admitted the objection and stated (May 1999) that efforts were being made to recover the short levy. Recovery details are awaited (December 1999).

e) Parts of 'Transmission apparatus' were eligible for concessional rate of duty under exemption notification No.79/94-cus dated 1 March 1994.

A consignment of 8000 metres of feeder cable imported through Calcutta Custom House by an importer in March 1995 was cleared at concessional rate of duty under notification dated 1 March 1994. Since cable of running length could not be termed as parts of telecommunications equipment, the incorrect grant of exemption resulted in short levy of Rs.6.85 lakh.

On this being pointed out (July 1995), the department stated that the exemption was granted as specified in the notification on the basis of a certificate issued by the DOT that the imported goods were parts.

The reply of the department is not tenable as 'cable in running length' cannot be treated as 'parts'. 'Part' would denote only a constituent of the main machinery/system which can be fitted therein as such. Classification of the goods depends on the condition in which it is imported and has to be assessed as such. This view is also supported by a Tribunal's decision in the case of Hydranautics Membrane (India) Ltd {1994(71) ELT 711 (Tribunal)}.

5.4 Other cases

Eight other cases, where objections were issued to the Ministry on incorrect grant of exemption involving short levy of Rs.32.32 lakh of which seven cases involving Rs.30.76 lakh were admitted and recovery of Rs.27.35 lakh in six cases made by the Ministry/department as per table below :

(Rupees in lakh)

Sl. No.	Products on which exemption granted	Amount of short levy	Amount accepted	Amount recovered
1.	Components of wrist watches	10.07	10.07	10.07
2.	Telegraphic switching apparatus	9.81	9.81	9.81
3.	Nylon tricot flock fabric	3.12	3.12	--
4.	Parts of compressors used in refrigerators	2.66	2.66	2.66
5.	Medical equipment's	2.14	2.14	2.14
6.	Nickel cadmium batteries	1.56	--	--
7.	Triac/Diac	1.50	1.50	1.21
8.	Analyzer	1.46	1.46	1.46
	Total	32.32	30.76	27.35

CHAPTER 6 : NON LEVY/SHORT LEVY OF ADDITIONAL DUTY

As per section 3 of the Customs Tariff Act, 1975, any article which is imported into India shall also be liable to 'Additional duty' equal to the Central Excise duty for the time being leviable on a like article produced in India.

Short levy of additional duties amounting to Rs.1.66 crore were reported to the Ministry in 48 cases, as narrated below:

6.1 Non levy of additional duty due to incorrect grant of exemption

Notification No.11/97-cus dated 1 March 1997 allowed concessional rate of customs duty and 'nil' rate of additional duty to medical equipments, parts and spare parts for maintenance of such equipments. The notification does not include consumables for grant of this benefit.

Eighteen consignments of various consumable goods used in dental care such as impression materials, dental filling and crown and waxes for dental use etc., imported by an assessee through two Custom Houses between May 1997 and March 1998 were assessed to concessional rate of basic customs duty and 'nil' rate of additional duty instead of Tariff rates applicable, under the notification dated 1 March 1997.

Since these items were consumables and did not qualify for exemption available under the notification, there was short levy of duty of Rs.33.93 lakh.

On this being pointed out (November 1997 to December 1998), the department in one case admitted the mistake (June 1997), but in other cases stated (February and September 1998) that extension of benefit under notification was in order as the goods imported were listed in the Schedule to the notification.

The department's reply is not tenable as the goods imported were neither parts or spare parts of medical equipments. Moreover, the Commissioner's conference held at Mumbai in November 1996 had also concluded that the benefit of the existing notification could not be extended to 'Consumables' unless specifically provided for in the notification. The notification has not been amended so far.

Reply of the Ministry has not been received (December 1999).

6.2 Short levy of additional duty due to misclassification

Incorrect classification of 35 consignments of various dutiable goods imported by 23 assesseees through four Custom Houses/Commissionerates resulted in short levy of additional duty of Rs.26.92 lakh. On these being reported, the Ministry/department admitted mistake in cases of 31 consignments involving Rs.21.73 lakh and reported

recovery of Rs.18.62 lakh. Reply in the remaining four cases have not been received (December 1999).

6.3 Short levy of additional duty of excise

a) Notification No.30/97-cus dated 1 April 1997, exempts raw material from levy of customs and additional duty of excise (leviable under section 3 of Customs Tariff Act 1975) under Actual User Duty Exemption Entitlement Certificate (DEEC) scheme. However, the additional duty of excise leviable under the Additional Duties of Excise (Goods of Special Importance) Act 1957 is not covered under this exemption.

'Tyre cord fabric', imported by four assesseees during July 1997 to March 1998 under DEEC scheme, were cleared without payment of customs and countervailing duty. However, additional duty of excise leviable under Additional Duties of Excise (Goods of Special Importance) Act, 1957 was not levied. This has resulted in short levy of additional duty of excise amounting to Rs.13.68 lakh.

On this being pointed out (September 1998) the department stated that the matter will be examined. Further report is awaited (December 1999).

b) In addition to basic excise duty, additional duty of excise as specified under 'Additional duty of Excise (Goods of Special importance) Act, 1957' is leviable on goods assessable under Chapters 51, 52, 54, 55 and 59 of the Central Excise Tariff.

22 consignments of different dutiable goods classifiable under chapter 51, 52, 54, 55 and 59 of the Central Excise Tariff were imported by 16 assesseees through five major Custom Houses during October 1996 to February 1998 were assessed without levying the additional duty of excise or levied at rates other than those applicable. This resulted in short levy of additional duty of Rs.19.28 lakh.

On being pointed out (December 1997 to August 1998), the department/Ministry reported recovery of Rs.5.26 lakh in 10 cases and demand for Rs.11.38 lakh was confirmed in other eight cases. Reply in the remaining four cases have not been received (December 1999).

6.4 Short levy of additional duty due to application of incorrect rates

Fifteen consignments of dutiable goods imported by ten assesseees through four Custom Houses during January 1996 and August 1998 were assessed without levying additional duty or were levied at the rates lower than those applicable. This resulted in short levy of additional duty amounting to Rs.19.75 lakh.

On this being pointed out (June 1996 to January 1999), the Ministry/department admitted the objection in 12 cases and reported (May 1998 to September 1999) recovery of Rs.15.75 lakh (11 cases) and issue of demand of Rs.0.59 lakh (one case). Replies in the remaining three cases have not been received (December 1999).

6.5 Other cases

In 14 other cases, incorrect grant of exemption or incorrect classification resulted in short levy of additional duty of Rs.52.92 lakh reported to the Ministry, of which 12 cases involving Rs.49.06 lakh were admitted and recovery of Rs.33.44 lakh was made in 10 cases by the Ministry/department, as per details below :

(Rupees in lakh)

Sl. No.	Goods on which duty short levied	Irregularity	Amount short levied	Amount accepted	Amount recovered
1.	Rolls of rolling mills	Misclassification	13.07	13.07	13.07
2.	Textile machinery	Exemption	11.88	11.88	11.88
3.	Pagers/radio receivers	Misclassification	5.26	5.26	5.26
4.	Centrifugal pumps	Misclassification	5.22	5.22	5.22
5.	Copper clad laminates	Exemption	2.83	2.83	2.83
6.	Steel band conveyor	Exemption	2.33	2.33	--
7.	Snap buttons	Misclassification	2.12	2.12	0.23
8.	Hand woven tweed cloth	Exemption	2.07	--	--
9.	Flexible connection	Misclassification	1.79	--	--
10.	Bulk drug	Exemption	1.76	1.76	1.76
11.	Non alloy steel billets	Exemption	1.33	1.33	1.33
12.	Spare parts of Medical	Exemption	1.25	1.25	1.25
13.	Bulk drug	Exemption	1.21	1.21	0.61
14.	Batteries	Exemption	0.80	0.80	--
	Total		52.92	49.06	43.44

CHAPTER 7 : NON LEVY OF SPECIAL ADDITIONAL DUTY OF CUSTOMS

As per Section 3A of the Customs Tariff Act, 1975, inserted with effect from 2 June 1998, any article which is imported into India shall be liable to special additional duty of customs (SAD), which shall be levied at a rate specified by the Government having regard to sales tax and local levies for the time being leviable on the article on its sale or purchase in India.

7.1 Inadmissible benefit of an exemption notification

Notification No.28/98-cus dated 2 June 1998 granted exemption from levy of Special additional duty (SAD) to all goods which were exempted from duty of Customs and additional duty of Customs (equivalent to excise duty on indigenous goods under Central Excise Tariff). The notification was superseded by another notification on 13 June 1998 to include goods specified with 'Free rates' in the Customs Tariff and also exempted from additional duty. Goods specified with 'Free rates of Custom duty' in the Customs Tariff and which were not excisable in the Central Excise Tariff for reasons other than exemption, were exempted from levy of Special additional duty only vide notification No. 56/98-cus dated 1 August 1998.

52 consignments of dried fish meal, raw cashewnut, prawn feed, liquid ammonia, wood pulp, rock phosphate, raw cotton etc. with Free rates of duty under Customs and Nil rates under Central Excise Tariff imported during June and July 1998, i.e. prior to effect of the aforesaid notification through Cochin and Calcutta Commissionerates were cleared without payment of the special additional duty of customs. This resulted in short collection of duty amounting to Rs.2.33 crore.

On this being pointed out (November/December 1998 and March 1999), the Cochin Commissionerate on review of similar imports reported (May 1999) issue of demand notices for a total amount of Rs.3.69 crore in 129 cases. However, the Calcutta Commissionerate stated (March 1999) that since the imported goods attracted 'Free rates of duty' statutorily, they were exempted from SAD.

The reply of the Calcutta Commissionerate is not tenable as exemption from leviable duty cannot be equated with 'Free'/'Nil' duty given in the Tariffs. The issue of an amendment to the notification on 1 August 1998 separately adding "or on which no amount of said additional duty of customs is payable for any reason" substantiates the audit contention.

7.2 Misuse of exemption for trading

As per notification No.29/98-cus dated 2 June 1998, special additional duty of customs was leviable on all goods imported other than those imported for trading.

164 consignments of different goods imported during May to September 1998 through Sea/Air customs, Mumbai, were allowed exemption from levy of special additional duty of customs on the declaration filed by the importers that the goods were for trading. However, the importers availed Modvat credit under rule 57 A of Central Excise Rules, 1944, on these consignments, denoting that the goods were not for trading. This resulted in non levy of 'SAD' amounting to Rs.1.37 crore.

On this being pointed out (October/December 1998), the Ministry/department reported (March/September 1999) recovery of Rs.12.56 lakh in respect of 4 consignments and raising of demands for Rs.1.24 crore covering others.

7.3 Exemption without corresponding debit to DEPB

In terms of notification No.34/98-cus dated 13 June 1998 read with notification No.34/97-cus dated 7 April 1997 a 'DEPB' licence holder could import goods free of customs, additional & special additional duty of customs provided the duties payable thereof were debited in the 'DEPB' book.

41 Consignments of different goods imported in June-July 1998, through Calcutta and Hyderabad Commissionerates, were granted exemption from payment of 'SAD' without debiting the same to the 'DEPB'. This resulted in non levy of SAD of Rs.42.28 lakh.

On being pointed out (October 1998 and March 1999), the department admitted (April 1999) the irregularity in 28 cases of which recovery of Rs.3.89 lakh was made in two cases. Reply in respect of remaining 13 cases was not received (December 1999).

7.4 Inadmissible exemption for imports by way of high sea sale

Notification No.34/98-cus dated 13 June 1998 granted exemption from levy of Special additional duty of customs (SAD) to all goods which were imported for sale as such, other than by way of 'high sea sale'.

Five consignments of goods imported by four importers on high sea sale basis were incorrectly allowed exemption under notification dated 13 June 1998, resulting in non levy of SAD amounting to Rs.7.07 lakh.

On this being pointed out (November/December 1998 and January/February 1999), the department recovered Rs.2.80 lakh in respect of two consignments and issued demand for Rs.0.32 lakh for the third consignment. For the remaining two consignments the department stated (July 1999) that the import was made for sale as such, hence the goods were exempted from SAD.

The reply of the department is not tenable as the goods were procured through 'high sea sale'.

7.5 Others

Similarly in respect of 6 other consignments of goods imported during May to October 1998 through Mumbai(Sea) Delhi and Chennai Commissionerates, Special additional duty of Rs.14.08 lakh was not levied.

On being pointed out (November 1998 to January 1999), the Ministry/department reported (between December 1998 and August 1999) recovery of the amount.

CHAPTER 8 : DUTY EXEMPTION SCHEME

8.1 Short levy of duty on incorrect assessment of goods at the time of debonding of EOU

As per notification No.13/81-cus dated 9 February 1981 and notification No.123/81-CE dated 2 June 1981, a hundred per cent export oriented unit (EOU) could be allowed to import and procure indigenously, without payment of duty, capital goods and raw materials for the manufacture of export products subject to the conditions prescribed therein. Failure to fulfill export obligation within the prescribed period would attract recovery of duty and interest.

a) An EOU under Cochin Commissionerate imported capital goods and procured indigenous capital goods valued at Rs.9.20 crore during 1988 to 1990 without payment of duty with a condition to export 100% of their product for a period of ten years. As the unit could not fulfil the export obligation, it applied for debonding which was accepted by the Ministry subject to the condition of payment of duties on imported and indigenous goods. On 18 June 1998 the department issued a demand of Rs.1.12 crore based on 'depreciated value' of capital goods imported and interest upto 30 June 1998. The unit paid an amount of Rs.90 lakh as duty on 31 March 1997 on the depreciated value of capital goods and the same was adjusted towards the demand made in June 1998. The firm was not entitled to benefit of depreciation while debonding since it had failed to discharge the export obligation. Therefore, duty and interest had been short realized to the extent of Rs.19.82 crore.

On this being pointed out (July 1998), the department stated (December 1998) that duty calculated on the depreciated value seemed to be correct in view of the Board instructions dated 5 June 1992 which gives same treatment for a unit fulfilling export obligation and a unit not fulfilling export obligation.

This is not tenable because the instruction of the Board *ibid* were consequent to the promulgation of the EXIM policy 1992-97 and could not be applicable to imports made prior to the policy.

b) Another EOU under Cochin Commissionerate was permitted to import capital goods worth Rs.67.81 lakh and raw materials worth Rs.31.74 lakh, free of duty as per the above notification with an obligation to manufacture and export 100% of their product for a period of ten years.

The unit started production in September 1984 and made exports worth Rs.30.82 lakh from November 1986. The unit was closed in February 1989 and was allowed to be debonded (April 1995) on collection of duty of Rs.16.02 lakh on raw materials and finished goods and depreciated value of capital goods. The unit did not fulfil the export obligation and the value addition achieved was (-) 216.7 per cent against the stipulated value addition of 40 per cent for which a penalty of Rs.10 lakh was imposed in November 1996. The unit was not entitled to benefit of depreciation while debonding since it had

failed to discharge the export obligation. Therefore, duty and interest had been short realized to the extent of Rs.4.77 crore after adjustment of duty of Rs.16.02 lakh.

On being pointed out (June 1997), the department stated (June/July 1997) that the notification clearly specified that clearance of capital goods was to be allowed on payment of duty on the depreciated value.

The reply of the department is not tenable as the exemption granted under the Customs notification was conditional and the non fulfillment of the post importation conditions entail recovery of customs duty from the date of importation, on the value prevailing on the date of importation.

8.2 Excess imports by inflating the unit price of imports

In terms of Para 109(D) and 110 of Handbook of Procedures 1992-97, an applicant exporter, for a Value Based Advance Licence (VABAL), was required to declare in the application form (Appendix XVII of the HBP) the quantity of each item required to be imported and its CIF value, based on the prevailing international price. Corrective action was required to be taken by the concerned Customs/Licensing authority in terms of Ministry of Finance Circular No.23/96 dated 19 April 1996 in such cases where the importer failed to justify variations in prices of actual imports greater than 20 per cent of the amount filed in the application.

a) Six VABALs were issued to four exporters by the Jt. DGFT, Hyderabad during January 1994 to June 1996. The licences were redeemed and legal undertakings (LUT) discharged during February 1998 to September 1998. Audit scrutiny revealed that the unit price of inputs as declared in the application varied from 36 to 132 per cent with respect to actual unit price of inputs leading to excess import of raw material to the tune of Rs.4.24 crore. The departmental authorities failed to detect this during discharge of LUT and failed to take corrective action. The customs duty of Rs.2.96 crore on the excess import made by them was recoverable, besides interest of Rs.1.16 crore upto 31 March 1999.

This was pointed out in May 1999. Reply of the department is yet to be received (December 1999).

b) Two VABALs were issued to two exporters by the licensing authority at Ahmedabad and Visakhapatnam in March 1994 and February 1996. By declaring the inflated unit price (61 to 2284 per cent), the licensee could import excess raw material worth Rs.98.66 lakh with duty liability of Rs.43.10 lakh which is recoverable from the exporters along with interest of Rs.35.71 lakh upto 31 March 1998.

On being pointed out (January/September 1998), the Ministry of Commerce reported (January 2000) that there was no independent source available with DGFT to verify the cost of inputs and cost of finished products.

c) In respect of nine VABALs issued during June 1991 and March 1996 by Jt. DGFT Chennai and New Delhi five exporters were allowed to import excess raw material to the tune of Rs.91.93 lakh due to non restriction of sensitive items and incorrect computation of

imports. This resulted in non levy of customs duty of Rs.26.38 lakh along with interest of Rs.14.05 lakh.

On this being pointed out (January 1997, November 1998 and April 1999), the department/licensing authority admitted the mistakes and reported (November 1997 to October 1999) recovery of Rs.30.98 lakh (including interest of Rs.14.05 lakh, surrender of 'Special Import Licence' (SIL) amounting to Rs.6.14 lakh.

8.3 Non fulfilment of export obligation

a) Advance licensing Scheme

In terms of Para 128 of Handbook of Procedures 1992-97 Vol.I, if the export obligation is not fulfilled both in terms of quantity and value, the licence holder of both Value Based Advance Licence (VABAL) and Quantity Based Advance Licence (QBAL) shall, for regularisation, pay :

- i) to the customs authority, customs duty on the unutilised imported material along with interest at the rate of 24 per cent per annum thereon;
- ii) to the licensing authority a sum which is equivalent to the CIF value of unutilised material imported and a sum equivalent to the short fall in export obligation.

In addition, if the holder of a duty free licence under the scheme violates any conditions of the licence, a penalty in terms of Section 11(2) of F.T.(D&R) Act, 1992 was also leviable.

Six advance licences (QBAL) were issued between January and December 1995 by the licensing authority at Mumbai and Bhopal for duty free imports of goods valued Rs.8.93 crore, against prescribed export obligation of Rs.14.52 crore. Against the import of goods worth Rs.8.63 crore, the licensee could export goods worth Rs.4.26 crore within the validity period of the licences, resulting in shortfall of Rs.8.70 crore in export obligation. The licensees were liable to pay; (i) Rs.1.77 crore towards the customs duty on the unutilised imported materials and interest of Rs.1.55 crore thereon. (ii) Rs.5.58 crore as the sum equivalent to the unutilised imports and Rs.8.70 crore equivalent to the shortfall in export obligation.

These cases were pointed out to the concerned licensing authority/Custom Houses during September 1998 to January 1999. The licensing authority at Bhopal reported (October 1999) that a show cause notice had been issued to the licensees. Replies in the remaining cases have not been received (December 1999).

b) EOU Scheme

Para 98 of the EXIM Policy 1992-97 read with para 178 of the Handbook of procedures requires a 100% EOU unit to execute a legal undertaking (LUT) with the Development Commissioner in the form as given in the appendix XXXI of the Handbook of procedures. In the event of failure to fulfil the export obligation, the unit is liable to pay :

- i) The amount of Customs duty that would be leviable at the relevant time on the items of plant, machinery, equipment, raw materials components and consumables allowed for import by the unit;
- ii) liquidated damages as decided by the Development Commissioner and
- iii) interest at the rate of 18 per cent on the amount of customs and central excise duty.

In addition, according to section 11(2) of the Foreign Trade (Development Regulation) Act 1992, penalty is also leviable.

I) A hundred per cent Export Oriented unit in Chennai, which had completed five years of commercial production in January 1993 could achieve value addition of 14.12 per cent as against 30 per cent prescribed. The FOB value of exports realised was Rs.92.27 crore as against prescribed FOB of Rs.109.03 crore resulting in a shortfall of Rs.16.76 crore in export obligation. The unit is liable to pay customs duty and central excise duty of Rs.48.45 crore along with interest (upto October 1998) on the goods imported and procured indigenously upto January 1998. In addition, penalty was also leviable under the Foreign Trade (Development and Regulation) Act, 1992.

On this being pointed out (November 1998), the department contended that the unit achieved value addition of 36.67 per cent, the question of demanding duty, interest and imposing penalty did not arise.

The reply of the department was not acceptable as the value addition and shortfall in export obligation worked out in audit based on the Annual performance report (1991-92 to 1996-97), Chartered Accountant's certificate dated 24 December 1997, is correct. The department was informed accordingly (May 1999). No reply has been received (December 1999).

II) Another EOU unit in Mumbai had to fulfill an export obligation of US \$ 83.93 million within 5 years, had commenced commercial production in September 1994. The value addition was fixed at 38.90 per cent. The unit could achieve value addition of 24 per cent upto January 1998 and there after it ceased to operate.

As the unit could not fulfil the value addition prescribed, the customs and central excise duty exempted on the imports/indigenous goods amounting to Rs.31.41 crore along with interest of Rs.22.79 crore upto 31 March 1999 was recoverable from the unit. Further, exports proceeds amounting to Rs.25.79 crore made between February 1996 to October 1996 remained unrealised (February 1999).

The facts were brought to the notice of Development Commissioner and Customs and Central Excise department during January-March 1999. Their replies have not been received (December 1999).

III) A 100% EOU in Cochin commenced its commercial production in January 1986 and exported goods valued only Rs.5.51 crore upto March 1997 and could achieve value addition of 20 per cent as against 78 per cent prescribed over a period of 10 years. The unit imported duty free capital goods and raw materials worth Rs.8.64 crore. The non

achievement of value addition called for recovery of duty of Rs.4.47 crore forgone on the capital goods and raw material besides levy of penalty.

On being pointed out (January 1998), the Development Commissioner, CEPZ stated (June 1999) that the DGFT imposed a penalty of Rs.25 lakh on the licensee for non fulfilment of value addition and the department stated (July 1999) that the unit is being debonded and duty alongwith interest would be recovered from the unit.

8.4 Irregular sale in Domestic Tariff Area (DTA)

Sale in Domestic Tariff Area (DTA) by EOUs is post export entitlement and all DTA clearances are subject to payment of central excise duty at the rates prescribed in terms of Section 3 of Central Excise Tariff Act.

a) A 100 per cent Export Oriented Unit sold a part of the finished product manufactured from imported raw material in DTA paying duty at the concessional rate under Notification 8/97-CE dated 1 March 1997. The benefit of the notification was available only for goods produced wholly from indigenous raw materials its application in the instant case resulted in non levy of excise duty.

The department issued a show cause notice (September 1998) for Rs.2.50 crore to the assessee for the period 1 March to 30 September 1998. No demand was raised for short levy of Rs.1.93 crore for the period 1 March 1997 to 28 February 1998.

This was communicated to the department in September 1998. No reply has been received (December 1999).

b) Another 100% EOU cleared finished goods to the DTA during 1994-95 without payment of duty by misdeclaring the clearances as 'Deemed exports' under para 121 of the Policy.

On the non levy of duty on these goods being pointed out (May 1996), the department accepted the irregular clearances and reported (March 1999) issue of a show cause notice for a Rs.31.05 lakh. Recovery particulars are awaited (December 1999).

8.5 Excess credit under DEPB Scheme

The rate of credit allowable under Duty Entitlement Pass Book (DEPB) Scheme in respect of Ferro Chrome and Ferro Manganese was enhanced with effect from 26 August 1997 vide public notice No.35(PN) 1997-2002.

A DEPB licence holder exported 'High carbon ferro chrome and high carbon ferro manganese' of FOB value of Rs.6.12 crore during April and May 1997, on which a credit of Rs.79.60 lakh was allowed. The exporter was, however, eligible for a credit of Rs.24.49 lakh at the pre-revised rate prevailing at the time of export. This resulted in excess credit of Rs.55.11 lakh.

On this being pointed out (August-September 1998), the department reported (December 1998) recovery of the amount.

CHAPTER 9 : OTHER TOPICS OF INTEREST

9.1 Grant of adhoc exemption order

a) Imports not covered by policy guidelines

Section 25(2) of the Customs Act, 1962, empowers the Central Government, if it is satisfied that it is necessary in the Public interest so to do, by special order in each case, to exempt from payment of duty, under circumstances of an exceptional nature to be stated in such order, any goods on which duty is leviable. An October 1996 order of the Ministry specified the following category of imports approved by the Hon'ble Finance Minister which would be considered for customs duty exemption under Section 25(2) of the Customs Act, 1962.

- i) Imports for India's defence needs relating only to military hardware and software or for R&D units under the Defence Research Development Organisation.
- ii) Imports by Central/State Police organisation for equipping their forces.
- iii) Imports by Charitable institutions which are providing all their services free and the imports are required for use in the hospitals, educational institutions etc.
- iv) Imports by organisation which are in the nature of gifts and which are to be issued for public purposes for providing any service free of charge.
- v) Imports required by individuals for treatment or assistance to people who are suffering from dreaded diseases.

Approval under Section 25(2) of the Customs Act, 1962 for adhoc exemption from payment of basic customs duty, special duty and additional duty in excess of 10 per cent on import of Capital goods, raw materials, components etc. valuing Rs.54 crore required for setting up a Petro Chemical unit in Arunachal Pradesh by a private firm was accorded by the Ministry in November 1997. A State Government undertaking was also stated to be associated with the project. The revenue forgone on this account was worked out by the Ministry as Rs.12 crore.

Scrutiny of the relevant files of the Ministry revealed that an exception to the guidelines approved for granting adhoc exemptions was made citing the following reasons.

- i) The project is being set up in North East.
- ii) It would generate gainful employment in backward areas.
- iii) The project will use natural gas which is being flared at present.
- iv) Since the project is entitled to the benefits extended in notification No.55/97-cus dated 13 June 1997, imports made prior to its issue could be granted the concessions through issue of an adhoc exemption order.

However, audit enquiries from Arunachal Pradesh Government revealed that (i) the unit had not been established till date. None of the objectives for granting the exemption had therefore been realised. (ii) Contrary to the claims made by the Company while seeking duty exemption and as indicated in the exemption order, the State undertaking also clarified that they did not have any equity participation or association with the project. It was only a private commercial unit.

The validity of the reasons cited while making an exception were therefore, doubtful. Moreover, extending the benefit of a general exemption to imports taking place prior to its introduction through issue of an adhoc exemption (Para (iv) above) is fraught with serious implications.

A part exemption in this regard was also granted by the Ministry vide adhoc exemption order in November 1997 for goods valued at US \$ 32,60,000/- already imported in July 1996. Audit enquiries revealed that the validity of the order which was initially upto 30 November 1998 was extended upto 30 June 1999. The consignment had however not yet been cleared and the firm had applied for further extension upto 30 November 1999.

Ministry in their reply stated (February 2000) that they have sought clarification from the Government of Arunachal Pradesh. They also intimated that the importer's request for the extension upto 30 November 1999 has been regretted by the Ministry.

b) Imports intended for a commercial event

Section 25(2) of the Customs Act, 1965 states that if the Government is satisfied that it is necessary in the public interest to do so, it may, by a special order in each case, exempt from the payment of duty, any goods on which duty is leviable. Government policy envisages use of this power for imports made for Defence needs, imports by charitable institutions which provide free services and imports providing services free of charge.

The Government approved (November 1995) grant of adhoc exemption from payment of customs duties in respect of flood lighting equipment imported by the Cricket Associations of Punjab, Madhya Pradesh and Tamil Nadu aggregating US\$ 1.51 Mn. The duty involved was Rs.4.26 crore as per details below:

Name of the organisation	Adhoc exemption order No. & date	Value of equipment imported (US\$ in Mn.)	Duty involved (Rupees in lakh)
Punjab Cricket Association	303 dated 16.11.95	0.34	94.00
Madhya Pradesh Cricket Association	311 dated 27.11.95	0.36	104.00
Tamil Nadu Cricket Association	338 dated 21.12.95	0.80	228.00
Total		1.51	426.00

The equipment was required for hosting the day-night matches of Wills World Cup 1996. The request was received from the Board of Control of Cricket in India. The ground cited for the adhoc exemption was promotion of sports. One of the Clauses of the exemption orders stipulated that the equipment shall not be used for any commercial purposes whatsoever.

Audit scrutiny of the records of the Ministry revealed the following:

i) The Government did not take into account that the World Cup tournament was being hosted along commercial lines, the principal sponsor being a cigarette manufacturer. Audit inquiries revealed that the Pak-Indo-Lanka Joint Management Committee (PILCOM) had collected atleast Rs.84.35 crore as sponsorship fee and telecast rights. In fact, the right to host the event was obtained by making a payment of 5 million pound sterling to the International Cricket Committee. The Income Tax Authorities had estimated total receipts from the World Cup tournament at Rs.300 crore.

ii) Another request from BCCI for duty exemption on import of equipment in connection with the World Cup by the Bengal and Punjab Cricket Associations was turned down (February and March 1996) on the ground that the BCCI was not short of funds and that no public interest was served. It was decided that the request could be accepted only if the BCCI could establish the contrary with the help of its Accounts.

It emerges that the exemption from payment of customs duty aggregating Rs.4.26 crore granted in November 1995 was not in consonance with Government policy resulting in loss of revenue to that extent. Moreover, the Cricket Associations used the imported equipment for hosting a commercial tournament there by violating one of the conditions of the sanction. They were therefore liable to pay the exempted customs duty.

9.2 Irregular/non clearances of warehoused goods

In terms of Section 72 of the Customs Act, 1962, where any warehoused goods have not been removed from a warehouse at the expiry of the period during which such goods are permitted under section 61 to remain in a warehouse, the owner of such goods shall pay the full amount of duty chargeable on such goods together with all penalties, rent, interest and other charges payable in respect of such goods. It has been judicially held by the Supreme Court in the case of M/s. Kesoram Rayon Vs. Collector of Customs, Calcutta {1996(86) ELT 464(SC)} that "where the goods have been allowed to be cleared after expiry of the warehousing period, the removal of such goods should be treated as 'Improper removal' and the rate of customs duty payable should be at the rate applicable on the date on which the permitted warehousing period came to an end". If the owner fails to pay the amount so demanded, the warehoused goods can be detained and sold by the proper officer.

a) 322 consignments of various goods, viz, machinery, components and spares thereof, chemicals, electronic items, batteries, printed circuit boards, etc., with revenue implication of Rs.65.57 crore warehoused during 1987 to 1997 remained uncleared after the expiry of the warehousing period as per detail overleaf :

(Rupees in crore)

Sl. No.	Commissionerate	No. of importers	No. of consignments	Year of warehousing	Revenue involved
1.	Chennai	--	57	1987 to 1997	59.42
2.	Visakhapatnam	01	130	1992 to 1994	2.59
3.	Hyderabad	33	135	1979 to 1996	3.56
	Total		322		65.57

The unit under Visakhapatnam Commissionerate was declared sick on 18 March 1996 and came under the purview of Bureau of Industrial Financial Reconstruction (BIFR). The department preferred a claim with the official liquidator for settlement of dues amounting to Rs.2.59 crore representing customs duties and interest payable by the importer.

On these being pointed out (May to July 1999), the Hyderabad Commissionerate stated that action was being taken by issue of notices and by constituting a Committee for the disposal of the goods lying in the warehouse.

Further report is awaited (December 1999).

b) Eleven consignments of various dutiable goods were allowed to be cleared from a warehouse under Calcutta Commissionerate on payment of duties at the rates in force on the dates of clearances instead of at the rate prevailing on dates of expiry of the warehousing periods leading to loss of revenue of Rs.1.18 crore (including interest of Rs.73.33 lakh).

On this being pointed out (May and September 1998), the department admitted (January 1999) the objection for Rs.0.60 lakh in respect of one consignment. In respect of two consignments, the department stated that the goods were cleared within the extended period. However, audit scrutiny revealed that the period of warehousing was not extended by the competent authority.

Reply in respect of eight consignments was not received (December 1999).

9.3 Uncleared goods not disposed off

Under section 48 of the Customs Act, 1962, if imported goods are not cleared for home consumption, warehousing or for transshipment within 30 days of the date of import, such uncleared goods are to be disposed off after notice to the importers.

Goods worth Rs.4.32 crore and Rs.1.27 crore unloaded during 1986 to 1997 in two major ports under Ahmedabad and Cochin Commissionerates respectively were lying uncleared without disposal, resulting in blockage of revenue.

On the matter being pointed out (April 1998 and January 1999) to the custodians and the department, the department (Cochin Commissionerate) stated (August 1998) that goods worth Rs.2.35 lakh have been disposed off and goods worth Rs.61.75 lakh were pending in appeal. Further verification with the Port Trust revealed that goods worth Rs.62.74 lakh (excluding appeal cases) were pending disposal with the custodian (May 1999) Ahmedabad Commissionerate stated (August 1999) that in the auction held on 23 March 1999, one bid of Rs.1 crore was received which was under consideration.

9.4 Delay in disposal of confiscated goods

As per Board's order dated 6 December 1968, any conveyance which is seized for use as a means of transport of smuggled goods can be released provisionally under bond with proper securities pending adjudication. Further, as per Section 115(2) of the Customs Act, 1962 where the vehicle is used for the carriage of goods or passengers for hire, the owner may be given an option to pay in lieu of the confiscation of the conveyance. On confiscation, the conveyance as per Section 126 *ibid*, shall vest in the Central Government.

a) Twenty four vehicles seized by Calcutta Commissionerates between May 1990 and October 1996 were released provisionally after obtaining bonds for Rs.54.45 lakh with cash securities for Rs.2.31 lakh. Subsequently, on adjudications between December 1994 and January 1998, the owners of the vehicles were given options to redeem the vehicles on payment of fines aggregating to Rs.7.99 lakh in lieu of confiscation. Neither the owners paid the fines nor the department enforced the bonds or took any action to hold possession of the released vehicles till September 1998. This resulted in loss of revenue of Rs.52.14 lakh.

The irregularity was pointed out to the Department in September 1998. Their reply has not been received (December 1999).

b) 28 vehicles valued at Rs.29.15 lakh were seized between August 1972 and October 1994 by Calcutta Commissionerate. The disposal orders of the vehicles were passed in December 1988 and November 1995. The sale of these vehicles could fetch only Rs.7 lakh. The delay in disposal of these vehicles thus resulted in revenue of Rs.22.15 lakh not being realised.

On being pointed out (September and October 1998), the department stated (July 1999) that it takes a long time to complete the formalities including protracted litigation before the ultimate disposal of the vehicle resulting in deterioration of the vehicle.

9.5 Non-disposal of seized goods

In terms of Section 110(1)(A) of the Customs Act, 1962, Central Government is empowered to dispose off the seized goods as listed in notification No.31/86-cus dated 5 February 1986 having regard to their perishable or hazardous nature, depreciation in the value with passage of time, constraints of storage space and valuable nature etc.

174 consignments of various goods of perishable or hazardous nature like electronic goods, medicine chemicals etc. were seized/confiscated between July 1989 and September 1998 in Calcutta, Ahmedabad and Chennai Commissionerates, remained unclaimed. Most of the goods had become obsolete and non saleable. The non-disposal of goods resulted in blockage of revenue of Rs.24.16 crore.

On this being pointed out (between May 1995 to April 1999), the department stated (February/July 1999) that goods valued for Rs.1.09 lakh were disposed off for Rs.0.11 lakh and electronic goods could not be sold due to the high prices fixed by JPC and the items had become obsolete for long storage and disposal proceedings of other goods was in progress.

9.6 Non realisation of duty on ships stores

As per Board's instruction dated 22 January 1985 regarding collection of duty on ships' stores on board a vessel on its conversion to coastal run, the processes of filing bill of entry, assessment of duty and its payment should be completed within a period of 15 days from the date of inventory of the stores by the Customs officers.

23 vessels on being converted to coastal run between May 1990 and January 1993 under Calcutta and Cochin Commissionerates were subjected to belated assessment of duty in contravention to the Board's instructions dated 22 January 1985. The duty so assessed remained unrealised till March 1999. This resulted in non realisation of duty of Rs.76.64 lakh alongwith interest of Rs.1.35 crore till March 1999.

On this being pointed out (June 1993 and March 1999), the Ministry reported (September 1999) recovery of Rs.26.86 lakh in three cases and stated that realisation in 20 cases were pending as these were subjudice.

9.7 Non levy of special customs duty

Application of incorrect rates resulted in short levy of special customs duty on 23 consignments of goods aggregating to Rs.1.21 crore in Bangalore, Calcutta and Mumbai Commissionerates.

On being pointed out, the department reported recovery of Rs.1.20 crore in 12 cases. Reply in the remaining cases was not received (December 1999).

9.8 Non recovery of demand

Several consignments of various dutiable goods imported through a Custom House and warehoused between 1977 and 1981 by an EOU remained in the warehouse beyond the maximum permissible period. Though a demand for duty amounting to Rs.23.10 lakh was raised on the importer (June 1987), the department failed to recover the same till date.

On the non recovery being pointed out (July 1998), the department admitted (October 1998) that an amount of Rs.1.15 crore was due from the party on account of duty and interest upto September 1998.

9.9 Non recovery of drawback despite non realisation of sale proceeds of exported goods

Rule 16-A of Customs and Central Excise Duties Drawback Rules, 1995 provides that where an amount of drawback is paid to an exporter but the sale proceeds in respect of such export goods are not realised within the period (six months) allowed under the Foreign Exchange Regulation Act 1973, drawback shall be recovered.

574 consignments of various goods were exported by 97 exporters between October 1992 and November 1997 through Calcutta, Cochin, Chennai, Gujarat (Prev.) and Mumbai

Commissionerates and drawback was paid as admissible. As the sale proceeds of exports were not realised within time, the drawback paid to the exporters was recoverable alongwith interest. This resulted in non realisation of Rs.4.07 crore including interest.

On this being pointed out (November 1998 to July 1999), the Ministry/department stated (December 1998 to September 1999) that bank realisation certificates for Rs.34.43 lakh were received followed by recovery of Rs.5.68 lakh and issue of demand for Rs.2.43 crore.

9.10 Loss of revenue due to theft of goods

As per provisions of Section 45(3) of the Customs Act, 1962, if any imported goods are pilfered after unloading thereof in a Customs area, the person having custody of the imported goods shall be liable to pay duty on such goods.

Seized/confiscated goods valued Rs.28.79 lakh were lost by theft on several occasions between 1994 and 1998 from a customs godown under Calcutta Commissionerate. No action to make the custodian liable for payment of the duty was under taken, resulting in loss of Rs.28.79 lakh to the revenue.

On this being pointed out (February 1999), the department stated that all the losses were theft related for which FIRs were lodged with the Police department.

9.11 Other cases

In 17 cases, Audit pointed out irregularities involving Rs.2.55 crore as detailed below. The department/Ministry accepted objection in 16 cases (duty effect of Rs.2.37 crore) and reported recovery of Rs.1.45 crore in 11 of these cases.

(Rupees in lakh)				
Sl. No.	Subject	Amount objected	Amount accepted	Amount recovered
1.	Short realisation of duty due to delay in disposal of warehoused goods	50.76	50.76	--
2.	Excess payment of drawback due to incorrect rate	32.90	31.12	27.51
3.	Non levy of 'antidumping duty'	22.94	22.94	14.39
4.	Non levy of custom duty and interest	22.30	22.30	22.30
5.	Non levy of interest due to delayed clearance of goods	22.18	22.18	22.18
6.	Non levy of interest for delayed payment of duty	20.91	14.71	9.78
7.	Excess payment of drawback due to misclassification	16.66	16.66	14.69
8.	Incorrect rate of exchange	11.74	10.33	7.95
9.	Non levy of cess	9.73	7.19	4.78
10.	Short recovery of cost for services	7.24	7.24	16.47*
11.	Pilferage of bonded goods	7.20	7.20	--
12.	Non validation of bank guarantees	6.91	6.91	--
13.	Non raising of demand	6.35	6.35	--
14.	Non levy of duty on re-import of goods	6.00	--	--
15.	Loss of interest due to delay in assessment	5.48	5.48	--
16.	Irregular clearance of warehoused goods	3.56	3.56	2.77
17.	Incorrect grant of refund	2.41	2.41	2.41
	Total	255.27	237.34	145.23

* Includes recoveries in respect of similar cases reviewed by the department.

9.12 Miscellaneous

632 other objections involving duty of Rs.1.34 crore were also pointed out. The Department has accepted all the objections and reported recovery of an amount of Rs.96.87 lakh.

New Delhi
Date

S.K. Bahri

(S.K. BAHRI)

Principal Director (Indirect Taxes)

03 APR 2000

Countersigned

New Delhi
Date

V. K. Shunglu

(V.K. SHUNGLU)

Comptroller and Auditor General of India

03 APR 2000

Annexure-I

Non fulfilment of Export Obligation

NIL EXPORT'

(Refer para 2.7.a)

Sl No	Customs House/ Commissionerate	EPCG Licence No. & date	Export obligation prescribed (US\$ Mn.)	Amount of Duty recoverable (Rs. in lakh)	Interest (Rs. in lakh)
1	2	3	4	5	6
1	Mumbai	2126277 Dt 21.6.90 amended on 5.6.91	2.36	69.15	135.54
2.	Calcutta	2131002 Dt. 15.9.93	20.13	327.14	295.22
3.	Mumbai	2128047 Dt. 28.6.91 endorsed on 3.7.92	1.11	49.42	81.05
4.	Hyderabad I through Mumbai	2045174 Dt 23.4.90	3.75	74.58	109.63
5	Hyderabad I through Mumbai	2045529 Dt 16.4.91	4.16	136.21	210.38
6	Hyderabad I through Calcutta	2101345 Dt 12.3.93	1.70	13.78	19.29
7.	Hyderabad III through Chennai	2100248 Dt 4.7.92 amended on 21.7.92	1.15	76.35	112.58
8.	Chennai (Sea)	2100700 Dt 27.8.92	0.82	62.72	91.71
9.	Chennai (Sea)	2130614 Dt 1.6.93	3.59	187.55	255.03
10	Chennai (Air)	2130400 Dt 19.4.93	0.17	10.64	14.65
11.	Chennai (Sea)	2135091 Dt 17.3.94	0.92	16.43	19.80
12	Calcutta	2133276 Dt 15.6.94	0.51	37.17	39.03
13	-do-	2132777 Dt 25.2.94	1.99	112.10	121.47
14	-do-	2129448 Dt 29.4.92	*4.35	1.58	2.60
15	-do-	2130768 Dt 30.6.93	10.46	163.60	195.78
16	-do-	2130769 Dt 30.6.93	29.01	1029.30	1326.53
17	Mumbai	2124982 Dt 3.4.89	2.26	110.00	191.40
18	-do-	2100996 Dt 28.10.92	1.99	14.52	20.33
19	Chennai	2130243 Dt 17.2.93	8.50	149.70	218.56
20	New Delhi	2131306 Dt 28.1.93	2.52	39.70	50.82
21	Mumbai	2134877 Dt 28.12.93	4.75	42.12	53.08

Report No.10 of 2000 (Indirect Taxes - Customs)

22	-do-	2130174 Dt 11.2.93	2.29	51.83	69.44
23	New Delhi	2101266 Dt 17.12.92	108.09	120.79	166.68
24	-do-	2130371 Dt 29.3.93	95.26	12.57	17.34
25	Mumbai	2101125 Dt 6.11.92	2.45	64.51	92.89
26	New Delhi	2100868 Dt 21.9.92	0.13	8.44	12.83
27	Chennai	210092 Dt 25.8.93	11.66	1.20	1.84
28	-do-	2130462 Dt 3.5.93	43.16	172.03	244.28
29	Mumbai	2131441 Dt 1.12.93	20.63	325.50	410.13
30	New Delhi	2131345 Dt 6.12.93	1.26	75.23	72.23
31	Cochin	2130464 Dt.4.5.93	0.04	1.04	1.25
		Total	391.17	3556.89	4653.39

* Includes average level of exports US \$ 4.31 Mn.

Annexure-II

Statement showing the details of cases where in export obligation have not been fulfilled within specified period from the date of imports/issue of licence

(Partial export cases)

(Refer para 2.7.b)

Sl. No	Name of Customs Houses/Commissionerate	Licence No. & date	Total export obligation prescribed (US\$ Mn)	Total value of exports actually effected till the prescribed period of export obligation (US\$ Mn)	Percentage of export obligation fulfilled	Amount of duty recoverable (Rs. in lakh)	Interest (Rs. in lakh)
1	2	3	4	5	6	7	8
1	Cochin	2100249 Dt.21.7.92	1.56	0.34	21.86	27.87	32.26
2	-do-	2127297 Dt.25.4.91	0.51	0.41	81.46	23.81	39.52
3	-do-	2127628 Dt. 8.3.91	4.94	2.57	51.99	27.08	44.88
4	-do-	2131490 Dt.23.12.93	7.76	1.14	14.67	376.90	560.43
5	Mumbai	2126740 Dt.24.9.90	0.82	0.76	92.00	120.72	241.44
6	-do-	2130428 Dt.21.4.93	8.13	1.79	22.00	140.75	143.75
7	Mumbai	213470 Dt 6.7.92	1.17	0.78	66.72	54.16	81.23
8	-do-	2134646 Dt 29.6.92	2.64	0.47	12.67	52.81	71.83
9	-do-	2130420 Dt 20.4.93	3.65	2.34	64.15	42.75	45.32
10	-do-	2101224 Dt 4.2.93	0.53	0.45	83.86	29.48	44.22
11	-do-	2130380 Dt 30.3.93	1.66	1.05	63.00	16.50	22.77
12	-do-	2131192 Dt 15.10.93	0.36	0.17	46.00	13.17	17.64
13	-do-	2100699 Dt 27.8.92	1.69	0.08	4.61	47.90	74.73
14	Mumbai	2134747 Dt.9.7.92	1.43	0.23	15.84	39.46	143.74
15	Calcutta	2044881 Dt 13.9.89 endorsed on 16.9.92	43.13	1.18	2.74	1180.88	1417.05
16	Mumbai	2126259 Dt 24.5.90	3.41	0.14	4.10	118.03	205.37
17	Mumbai	2129228 Dt 11.3.92	6.37	6.14	96.34	114.86	167.69
18	-do-	2129459 Dt 1.5.92	4.87	0.85	17.50	69.06	93.93
19	Mumbai	2134627 Dt 23.6.92	8.42	3.45	41.01	123.88	165.99
20	-do-	2100406 Dt 5.8.92	4.00	0.24	6.02	67.10	96.61
21	-do-	2101307 Dt 23.12.92	4.03	3.15	78.03	81.09	118.38

Report No.10 of 2000 (Indirect Taxes - Customs)

22	-do-	2130353 Dt 24.3.93	17.65	11.28	63.89	313.69	432.89
23	-do-	2130355 Dt 24.3.93	29.52	4.18	14.15	406.00	519.68
24	-do-	2130202 Dt 12.2.93	2.47	0.85	34.26	50.65	60.78
25	-do-	2130055 Dt 7.1.93	15.62	5.63	36.05	197.58	288.47
26	Mumbai	2134803 Dt 22.12.93	21.15	15.85	74.95	170.09	204.11
27	-do-	2130936 Dt 28.8.93	5.67	4.69	82.71	59.96	73.16
28	-do-	2130902 Dt 16.8.93	13.07	8.98	68.70	359.57	388.34
29	-do-	2134873 Dt 28.1.94	30.47	3.64	11.93	497.08	576.62
30	-do-	2132860 Dt 28.3.94	2.71	1.45	53.64	44.22	54.83
31	-do-	2134827 Dt 3.1.94	11.34	9.46	83.40	163.33	199.27
32	-do-	2128507 Dt 25.10.91	0.38	0.31	81.57	14.74	23.58
33	Chennai	2129103 Dt 6.11.92	7.35	4.93	67.05	157.86	202.06
34	Chennai	2127651 Dt 14.3.91	5.01	1.51	30.14	132.15	225.14
35	-do-	2127949 Dt 26.6.91	31.88	20.65	64.76	55.61	95.22
36	Chennai (Sea)	2127294 Dt 22.4.91	8.59	4.35	49.31	372.64	681.40
37	Coimbatore	2129190 Dt 28.1.92	29.62	23.86	80.57	394.53	574.60
38	Chennai (Sea)	2134675 Dt 2.7.92	2.30	1.42	61.84	37.70	54.86
39	Chennai	2100954 Dt 12.10.92	5.73	1.00	17.40	159.93	238.39
40	Chennai (Sea)	2130627 Dt 4.6.93	0.75	0.15	20.52	12.25	13.42
41	Chennai	2130735 Dt 16.7.93	1.87	0.62	33.26	57.02	62.54
42	Trichy	2131404 Dt 19.11.93	14.79	5.93	40.12	103.28	121.77
43	Chennai (Sea)	2131304 Dt 22.11.93	1.02	0.26	25.82	10.83	13.31
44	Coimbatore	2135011 Dt 2.2.94	1.07	0.22	20.40	18.99	21.25
45	Chennai (Sea)	2132756 Dt 16.2.94	2.09	0.76	36.35	12.26	14.51
46	Chennai (Sea)	2100383 Dt 31.7.92	1.30	0.13	9.69	19.22	27.88
47	-do-	2101315 Dt 24.12.92	5.05	0.61	12.01	6.92	10.00
48	Hyderabad-I	2130235 Dt 15.2.93	0.57	0.13	22.99	8.36	11.36
49	Hyderabad-I	2129182 Dt.27.1.92	0.10	0.01	12.62	7.63	12.34
50	Guntur	2129211 Dt 14.2.92	1.20	0.24	20.30	30.83	47.63

51	Guntur	2100998 Dt 23.10.92	2.38	0.40	16.56	65.93	90.99
52	Visakhapatnam	2126601 Dt 31.7.90	20.97	2.32	11.03	1144.18	1922.23
53	-do-	2126741 Dt 24.9.92	5.24	0.50	9.53	668.98	1059.22
54	-do-	2131068 Dt 30.8.93	1.53	0.23	14.99	77.86	94.93
55	Hyderabad III	2130154 Dt.9.2.93	13.48	2.40	17.81	183.29	264.67
56	Calcutta	2130811 Dt 28.7.93	0.19	0.03	13.51	9.89	12.56
57	-do-	2131337 Dt 2.12.93	0.60	0.39	64.33	9.56	11.97
58	-do-	2130598 Dt 13.5.93	5.03	2.38	47.23	28.04	38.36
59	-do-	2134609 Dt 19.6.92	1.28	1.20	93.45	130.33	197.96
60	Calcutta	2129151 Dt 26.12.91	2.72	2.60	95.73	140.99	195.89
61	-do-	2134655 Dt 29.6.92	23.54	2.20	9.33	160.36	210.26
62	-do-	2134780 Dt 10.12.93	1.19	0.41	34.39	5.99	6.46
63	-do-	2130853 Dt 27.7.93	10.15	8.46	83.32	294.61	389.37
64	New Delhi	2101032 Dt 30.10.92	2.68	0.09	3.43	134.06	198.40
65	-do-	213035 Dt 30.9.93	2.91	1.38	47.56	140.07	176.49
66	Mumbai	2135098 Dt 21.3.94	3.70	2.61	70.5	58.34	60.67
67	New Delhi	2134856 Dt 14.1.94	7.59	0.26	3.5	134.69	167.02
68	-do-	2134691 Dt 3.7.92	1.61	0.66	41.0	82.00	121.36
69	Chennai	2130175 Dt 11.2.93	16.23	15.65	96.5	54.64	77.59
70	New Delhi	2130985 Dt 13.9.93	145.99	2.01	1.37	31.24	36.24
71	Mumbai	2127984 Dt 9.5.91	20.96	1.78	8.48	137.49	225.49
72	-do-	2129206 Dt 13.2.92	22.65	7.48	33.03	39.52	67.18
73	-do-	2131145 Dt 15.6.92	10.63	5.78	54.42	74.27	90.61
74	New Delhi	2130231 Dt 15.2.93	2.33	1.28	54.91	74.55	56.66
75	Mumbai	2134516 Dt.1.6.92	6.33	4.26	27.81	140.25	182.33
76	-do-	2100682 Dt.26.8.92	8.97				
77	New Delhi	2127854 Dt 18.3.91	11.60	7.22	62.25	531.01	955.81
78	-do-	2101129 Dt 6.11.92	3.65	2.82	77.43	79.47	116.03
		Total	737.55	237.63	32.21	11274.79	16104.96

Annexure-III

**Partial fulfilment of Export obligation:
Export prior to import of Capital goods not eligible**

Refer para 2.8 (a)

Sl No.	Commissionerate	EPCG Licence No. & date	Export obligation projected (US\$ Mn)	Export obligation achieved (US\$ Mn)	Amount of Duty recoverable (Rs. in lakh)	Interest (Rs.in lakh)
1	Hyderabad-III through Mumbai	2130530 Dt 20.4.93	1.94	1.77	113.78	151.02
2	Hyderabad-II ACC Hyderabad	2131175 Dt 15.10.93	0.16	0.17	10.95	13.81
3	Mumbai	2130987 Dt 14.9.93	4.33	3.14	71.20	88.30
4	Mumbai	2129177 Dt 20.1.92	2.10	1.94	27.64	35.38
5	-do-	2128945 Dt 6.12.91	1.99	*1.99	80.93	124.63
6	Calcutta	2134717 Dt 7.7.92 2100225 Dt 16.7.92 2100229 Dt 17.7.92 2131202 Dt 19.10.93	6.15	5.79	74.04	104.88
7	NewDelhi	2131421 Dt.25.11.93	2.89	6.26	46.95	53.52
	Mumbai	2131423 Dt.26.11.93	7.30		118.81	147.32
	New Delhi	2131422 Dt.26.11.93	4.60		84.09	85.78
	New Kandla	2131425 Dt.26.11.93	0.32		22.04	25.57
	Total		31.78	21.06	650.43	830.21

* The party has not made any exports w.r.t. Capital Goods worth Rs.25.77 lakh imported on 27.12.94.