CHAPTER VI

EXPERT OPINION ON THE OCTROI ISSUE

6.1 - OCTROI ABOLITION MOVEMENT

MOVEMENT for Octroi Abolition in India emanated from 1908 under the British Rule. There has been a clamouring demand for octroi abolition since 1925. However in the post independence period the demand continued and it became the most deputable issue for theoretician, trading and business community and tax administrator. During 1920 to 1991 the Government of India and the State Government have appointed about 30 Experts' Committees, Commissions and Study Groups, which conducted studies on the impact of octroi on the economy in general and trade, industry and transport in particular, felt that it was an obnoxious levy and hence strongly and unanimously recommended its withdrawal. Though these Committees recommended octroi abolition, the policies adopted by dirty politics in different States were not unanimous. Also the experiences of octroi abolition in different States were varied and
did not lead to a concrete and logical conclusion on octroi abolition or retention.

The octroi - its continuation or abolition, has been the most disputable issue having theoretical and practical complications. As a result, historically octroi has passed through various transitions - introduction, implementation, recommendation for abolition. Yet inspite of recommendation for abolition from the experts and from trading and business community, octroi continues to retain its existence - may be as a necessary evil. The implications of octroi are studied by Experts' Committee in the context of various laws before and after independence. The following is the list of stages through which the octroi issue has passed.

6.1.1. - Universal Condemnation -

The universal disapproval resulted into the appointment of number of Committees, Commissions and Study Groups by the Central Government of India and State Government, for abolition of octroi and to find out an alternative substitute for octroi. They expressed
their views that the collection of octroi is working dead against the national interest. The historical development in respect of octroi abolition can be summarised, with their recommendations along with their original views, as follows:

Before Independence:

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<th>Year</th>
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<td>1908</td>
<td>Among the Provincial Governments, U.P. was perhaps the first to have initiated enquiry into octroi by appointing The U.P. Municipal Taxation Committee in 1908 - In its report the Committee was unanimous in proposing total abolition of octroi and introducing in its place a terminal tax.</td>
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<td>1925</td>
<td>The world has changed beyond recognition and two whole generations have flourished and perished since The Indian Taxation Enquiry Committee, 1925 declared, &quot;No country can be progressive that...</td>
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relies to any extent upon octroi which has nearly every vice."

1939 The Local Self Government Committee, Bombay, 1939 appointed by The Bombay Government, on examining the various aspects of octroi, suggested careful implementation of octroi in the system of local taxation.

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<td>1949</td>
<td>The Local Finance Enquiry Committee, 1949 condemned octroi as most regressive tax which deserves to be eliminated from local taxation.</td>
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| 1950    | The Dalal Committee on Motor Vehicles Taxation Enquiry, 1950 noted the highly deteriorating effects of octroi on trade and commerce and remarked, "Evidence before the present Committee indicated that in some areas the ill-effects on
trade of local octroi, terminal tolls and similar taxes on goods in transit are today perhaps even greater than they were when the 1924-25 Committee commented so adversely on this form of taxation."

1951 The Local Finance Enquiry Committee, 1951, suggested that the two taxes be placed in the State list. The Committee also recommended, as an alternative to octroi, that the Union Government entrusted such States that are willing with the levy and collection of terminal tax.

1953 The Taxation Enquiry Committee, 1953 explained the defects in octroi administration and recommended octroi abolition, provided a good substitute is found out for octroi. The Committee was against imposing Wealth Tax as a substitute for octroi.

1959 The State Transport Reorganisation Committee, 1959 under the Chairmanship of Mr. M.R. Masani, commented that the system of octroi duties was a "national waste" and strongly recommended its immediate abolition.
1966 The Planning Commission appointed The Committee on Transport Policy and Coordination in 1966 presided over by Mr. Tarlok Singh, a member of the Planning Commission. The Committee observed, "There has been general agreement on the vexatious and inhibitory nature of octroi duties and the abuses to which they are prone. From the point of view of intra-state movement, the first recommendation we would reiterate concerns the need to do away with octroi duties."

1966 The Rural Urban Relationship Committee, 1966, under the Chairmanship of Mr. A.P. Jain, pointed out the difficulties created by octroi in the movement of goods and creates obstacles in the smooth flow of industrial business and trading transactions. It strongly recommended abolition of octroi and terminal tax in the national interest.

1967 The Keskar Committee on Road Transport Enquiry, 1967 analysed in detail the difficulties created by octroi. The Committee made a comprehensive
study of different alternatives like the municipal tax on turnover, municipal surcharge on sales tax and other complementary levies in substitution of octroi and recommended municipal tax on turnover as a perfect substitute. The Committee estimated that there was a wastage of Rs.225 lakhs of truck miles per day due to detention of trucks at check post and an annual loss of Rs.500 crores by wastage of fuel. It was estimated that while the total tax collection from octroi in the country was about Rs.250 crores, the loss on account of detention of truck transport worked about Rs.350 crores. The trade had to absorb this additional cost which was finally passed on to the consumer. The Committee observed: "Octroi is one of the greatest hindrances in the way of commercial and economical development of the country." The Committee condemned the "Canker of Octroi" which had spread through the body politic of local administration and called it a "grave danger to the civic life of the community."
The Bhoothalingam Committee, 1969 appointed by the Karnataka State Government was clearly in favour of abolishing octroi.

The Octroi Enquiry Committee, Gujarat, 1970 has suggested abolition of Octroi.

In 1963 Maharashtra State Government has set up a Study Group on Octroi, under the Chairmanship of Mr. S.K. Wankhede, the former Finance Minister, which submitted its report in 1970, recommending Multi-point Turnover Tax in lieu of octroi. The Maharashtra Study Group on octroi had the state levy in mind when it proposed some alternatives. It observed as under: "In view of the various defects in the system of octroi, the Study Group has come to the conclusion that the present system should be abolished and the local bodies may be compensated by raising the necessary amount by some alternative scheme. In this respect the Study Group considered the following alternatives: 1) Restricting the scope of the question
of abolition of octroi to village panchayats only. 2) Whether the rates of other taxes presently levied by the local bodies could be increased to meet the needs of the local bodies to the extent of their loss due to abolition of octroi. 3) An additional one point sales tax at a flat rate. 4) Proportionate surcharge on the present sales tax. 5) Licence fee at a graded scale on the dealers registered under the State Sales Tax Act who at present are dealing in the tax-free goods. 6) Multi-point turnover tax at a flat rate.

Had the tax been abolished in 1970 the Committee recommended that Rs.50 crores would be enough for paying compensation to the municipal institutions as a result of abolition of tax. Today Rs.450 crores are needed to compensate them for the loss of this revenue and in 1990 Rs.900 crores will be required. If matters are delayed further, this will be an impossible task. Since
the situation is "now or never" the State Government needs to act quickly on this issue.

1974 The Indirect Taxation Enquiry Committee, 1974, studied the octroi system and unanimously concluded that despite of its substantial share in local finance, octroi should be abolished. However the Committee recommended that those States which are keen on octroi abolition should find out the adequate substitutes by themselves.

1975 The Estimates Committee of the Lok Sabha, 1975 renewed the plea for the abolition of octroi and stated, "one of the main obstacles in the way of quick and rapid movement of road transport in the country is the multiplicity of check posts and payment of octroi duties at these check posts."

1975 The Municipal Finance Enquiry Committee, 1975 of the Government of Karnataka observes: "Such abolition will not help holding price line or giving stability to the economy. Any
alternative tax will have a cumulative burden on
the large section of the people. Replacing oc­
troi by other taxes will not remove corruption,
evasion or trade difficulties. After some time
if people are educated, both traders and consu­
mers will realise that they are paying much than
what they are used to pay on octroi."

1978 The Jha Committee on Indirect Taxation, 1978,
reported strongly against octroi and thought it
should be given its quits. The Committee report
said that octroi should be abolished in stages,
starting from small localities and towns and
cities situated on the national highway. The
Committee pointed out, "Its administration is
cumbersome and vexatious. Wide discretionary
powers vested in low paid staff have led to
corrupt practices." The Committee suggested that
small traders and others should be saved from
unnecessary botheration. It also observed, "As
the levy is often collected as a specific duty in
terms of weight, the incidence of the tax is
regressive. Watches get taxed at lower rates ad valorem than cloth." The Committee observed, "The cost of collection of the tax is disappropriately high in relation to the revenue derived therefrom." The Committee also remarks, "It immobilises a large number of transport vehicles for unconsciously long period of time."

1980 The National Transport Policy Committee, 1980 under the Chairmanship of Mr. Pande opined, "There are no two opinions that octroi is harmful, obnoxious and inhibits efficiency of road transport and that the socio-economic cost of octroi is much more than the revenue yielded by it."

1980 The Congress (I) election manifesto, 1980 specifically pledged to abolish octroi. First it was to be abolished in towns with a population of less than two lakhs. As a consequence the State Government of Maharashtra set up a Resource Mobilisation Committee in September, 1980 under the Chairmanship of Dr. M. Q. Dalvi. The Committee
made strong recommendations in regard to abolition of octroi. The Committee examined the subject of finances for local bodies in detail.

1981 The Study Group of the National Council of Applied Economic Research, New Delhi, 1981 observed, "83 paise is the cost of collection of one rupee octroi i.e. net octroi revenue is 17 paise per rupee." This means a social cost of Rs.6.27 per rupee from octroi. They strongly recommended for abolition of octroi in their study of The Resources of Municipal Bodies, 1982.

The Shipping and the Transport Ministry conducted a study to find the operational costs of collection of octroi. Of every single rupee of net revenue from octroi, the net burden on the community was over rupees five.

1981 The Karnataka Taxation Review Committee, 1981, has recommended both enlarging the list of commodities subject to Entry Tax and raising the rates
of tax and the implementation of the same has considerably widened the scope of entry tax.

1983 The Local Finance Commission, of the State Government of Karnataka, 1983 opined that the abolition of octroi was a hasty step and said, "Octroi was really a flexible source of income and if this is reintroduced, to a very great extent, the Government will be able to reduce the grant from the general revenues. However if the Government is not agreeable for introduction of octroi, we recommend that the growth rate for releasing octroi compensation grant may be raised to 20%.

1987 Mr. P.C. Patankar Planning Group on Road Transport, 1987 appointed by the Government has recommended the abolition of octroi duty. The Group has described octroi as the "most obnoxious form of taxation", the removal of which, according to it, would reduce fuel consumption by 10% to 15% and eliminate flourishing corruption.
1987 Maharashtra Committee on Substitution of Octroi under the Chairmanship of Mr. P.D. Kasbekar, 1987, the Committee keeping in view the liquidity, flexibility and growth associated with octroi, discarded other alternatives and favoured 'Entry Tax' as the substitute levy for octroi. It observed that though entry tax is close to octroi in terms of incidence, it causes much less interference with the transport system than octroi.

1988 The Bombay Municipal Corporation has set up a Committee in May, 1988 under the Chairmanship of Mr. J.B. D'Souza, former Chief Secretary, to identify irritating features of octroi and suggest remedial measures. The Committee which drafted the Bombay Development Plan, had indicated that if octroi was abolished and not replaced by an equally buoyant resource, the hope of implementing the plan would be largely illusory.
6.1.2 - Political Schizophrenia -

Political schizophrenia is also an important stage through which octroi issue has passed. Men in power, time and again talk of the urgent need to abolish octroi and express their firm conviction that octroi should no longer be allowed to hinder trade and commerce inter-state or intra-state, and then have a spell of convenient amnesia which makes them forget to act upon their own pronouncements. However consistent thinking and logical follow-up is absent as there is no commitment made to solve the problem but it is the height of highest shameless hypocracy that problem is never to be solved - only an insensible talk which is the result of 'political power hang over' is to be made. The historical development in respect of octroi abolition, under political schizophrenia can be summarised as follows:
After Independence:

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<td>1965</td>
<td>The Committee of Ministers on Augmentation of Financial Resources of Urban Local Bodies, 1965, under the Chairmanship of Dr. Zakeria including ministers for Local Government in the States of West Bengal, Punjab, Maharashtra, Andhra Pradesh and Madras, pointed out the consequences of octroi on the economy of the country and the complications in the implementation of octroi and thus pleaded for the abolition of octroi. The Committee also recommended that the abolition of octroi should be gradual and by introducing an alternative substitute like Turnover Tax, Surcharge on Sales Tax etc. In their words, the impost &quot;constitutes a restriction on through trade&quot;. The National economy should be safeguarded as an entity by facilitating the smooth flow of trade and commerce among States and also</td>
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among different parts of the same State and preventing the raising of bottlenecks through Local Government regulations."

1970 In February 1970, Mr. K. Raghuramaiah, the former Minister of Parliamentary Affairs and Transport, while inaugurating the Eighth meeting of the Transport Development Council emphasized the necessity of abolishing octroi. The Meeting "reiterated the necessity of abolishing octroi and its replacement by other duties".

1974 In January 1974, the Maharashtra State Cabinet promised in principle that octroi would be abolished. One hopes there will be no further hitch in the fulfilment of the promise after 17 years.

1976 The Committee of Five Chief Ministers in 1976 re-endorsed the suggestion for discontinuing octroi.

1977 Abolition of octroi was in the election manifesto of Janata Party in 1977.
1980 The Congress (I) election manifesto of 1980 specifically pledged to abolish octroi.

But our political leaders are so lacking in courage and intellectual integrity that they know what is right but will still do what is wrong. It is a case of paralysis of political will, the incapacity of the party in power to relate action to words.

1980 The Conference of Chief Ministers and State Ministers in charge of Sales Tax in New Delhi in September 1980, took a decision in principle to abolish octroi. Addressing the conference, Mrs. Indira Gandhi, the then Prime Minister called octroi a regressive and retrogressive levy.

The then Union Finance Minister Mr. R. Venkataraman also said that abolition of octroi was in the interest of the States and should be undertaken in progressive steps. He, however, did not favour the suggestion that the Centre should compensate the loss to the local bodies.
1984 At the All India Businessmen's Convention held in New Delhi in January 1984, Mr. Rajiv Gandhi, the then General Secretary of the Congress (I) Party, welcomed the promise of Congress (I) Chief Ministers in the States to abolish octroi.

1986 Mr. Rajiv Gandhi, the then Prime Minister expressed in April 1986 strong views in favour of scrapping the levy and directed the States to take prompt action in the matter.

1987 The then Union Minister of State for Surface Transport Mr. Rajesh Pilot, participating in the discussions with some industrialist at the recent Federation of the Indian Chambers of Commerce and Industries annual meeting said that he was in favour of abolition of octroi levy. He clearly repeated the Prime Minister's desire that octroi levy should be removed without any further delay.

1990 The various election manifestos of the Bhartiya Janata Party, Shiv-sena, Congress (I)
Party, Janata Dal etc. for the Maharashtra State Assembly Elections, 1990 has given assurances about octroi abolition. However one can understand these manifestos make octroi abolition a political strategy which cannot give theoretical justification to the action on octroi abolition.

The Prime Minister Mr. Chandrashekhar suggested in Chief Minister's Conference held in New Delhi on 17th January, 1991 that for smooth transportation and to save petrol, oil and diesel as well, the octroi should be abolished. The Conference was held to delegate the consequences of Gulf-Crisis. A considerable amount is wasted for intermittent barricades for octroi collection. "The Octroi should be abolished to avoid this 'knot',' said Prime Minister. He further added that decision has been taken to reduce the petrol and diesel consumption of Government Department.
6.2 - CRITICISM ON OCTROI AND THE CONSENSUS

The local finance reveals its revenue parameter mainly comprised of octroi, yet attracts an evil eye at general levels. Various Committees, Commissions and Study-Groups mentioned at the beginning, have suggested improvements, modifications and finally recommended its abolition by replacing it with suitable alternative form of taxation. If these reports are viewed in a historic perspective, it will be noticed that in recent years informed opinions have crystallized in favour of abolition of octroi. The system of octroi is criticised by the Committees as being regressive, vexatious, wasteful and anachronistic tax having major drawbacks as follows -

i) Interrupts free flow of goods traffic causing considerable loss of operational time of vehicles and waste of fuel

ii) Susceptible to large scale corruption and large scope for malpractices.
iii) Harassment to taxpayers, gives wide discretionary powers to the low paid staff.
iv) Refunds are difficult to obtain due to cumbersome procedures causing delays.
v) Lack of qualified and trained staff.
vi) Adds to the prices of goods recoverable from consumers
vii) Tax has to be paid in advance. There goes long time for its recovery from consumer.
viii) Regressive in incidence.

Various statistics have been put forward to show the colossal national wastage and corruption involved:

i) The delay at octroi posts ranges from 30% to 73% of the travelling time of commercial vehicles.
ii) Results in 15% of fuel consumption being wasted.
iii) The time lost in hold-up of vehicles is equivalent to 80,000 trucks remaining idle.
iv) The national loss is as much as Rs. 1,500 crores per annum.
v) For every rupee earned from octroi, the net burden on the nation is as high as Rs.6.27.

vi) There is a rampant corruption at the check naskas to such an extent that the local body gets only a fraction of what it ought to, etc.

With a view to minimising or avoid the above drawbacks, suggested modifications and improvements have been given trial at various levels by the local authorities themselves and by State Governments. But by and large, the results have not been satisfactory for the concerned sections of the society. Earlier Committees and Commissions though recommended the octroi to be abolished, had to tolerate and suggest continuation till suitable alternatives were found, satisfying productivity, elasticity and other advantages of octroi.

Any action plan based on a change in policy decision has to respect the expert opinion which is sought by the Government. However appointing a Committee of experts to analyse a problem and recommend
measures as a prelude to policy change and later on not acting upon them has been the characteristic of Government administration. The issue instead of being solved by taking concrete step is postponed and "procrastination strategy" has been experienced in the case of octroi abolition also. As a result the only action taken by Government may amount to appointment of another expert committee just to postpone the crisis. Needless to say therefore that Government of Maharashtra appointed another Committee - Kasbekar Committee, to reconsider the issue of octroi abolition as if the Committees previously appointed did not give adequate thought to the various dimensions of the problem while making recommendation.

6.3 - THE KASBEKAR COMMITTEE, 1987

6.3.1 - Formation -

The problem of abolishing octroi and finding a liquid and elastic substitute like octroi is being tackled by the State Government of Maharashtra under the pressure of demand for octroi abolition from the various
sectors of the economy. Till 31st May, 1987, the State Government, as a matter of principle, theoretically accepted the proposition regarding octroi abolition. However in view of the great revenue potential of octroi, Government delegated the issue to the expert committee to consider the pros and cons of octroi abolition. The Maharashtra Committee on Substitution of Octroi was appointed under the Chairmanship of Mr. P.D. Kasbekar, former State Chief Secretary and Finance Secretary, with representation for trade, commerce and industry as well as municipal corporations and councils. This is as it should be and it is a mark of seriousness attached to the issue that the Committee will give its proposals in three months on which the Maharashtra Government promises to act promptly.

6.3.2 - Terms of Reference -

The terms of reference of the Committee were as follows:

(a) To examine and recommend to Government the measures to be adopted for making up the loss of revenue
arising out of the replacement of the existing system of levy and collection of octroi consistent with the liquidity, flexibility and growth available at present to the local bodies in respect of octroi.

(b) To examine and recommend the modalities of implementation of alternative measures indicated in (a) above with a view to preserving the autonomy of the local bodies. To this end, the Committee will examine and suggest ways and means by virtue of which the local bodies could be incharge of the alternative measures indicated at (a) above.

(c) To examine and recommend measures to be adopted to secure an even and systematic flow of revenue to the local bodies similar to the present system of recovery of octroi as far as possible.

(d) To recommend measures for absorption and utilisation of the staff likely to be rendered surplus on the abolition of octroi.

(e) To recommend a legal framework to give effect to the recommendations keeping in view the need
to provide safeguards in the event of unforeseen difficulties, and

(f) To make such other recommendations as may be complementary and germane to the above terms of reference.

6.3.3 - Findings -

Kasbekar Committee while searching for a perfectly liquid, elastic and revenue oriented substitute for octroi, could not find Toll (Path Kar) as a pragmatic substitute in view of its specific nature and low revenue potential. The Turnover Tax also could not be considered as a perfect substitute in view of the fact that the present rate of turnover-tax should be increased and such increase should have created legal and administrative difficulties. Moreover this turnover tax has no scope for operation in the area outside Bombay, Pune and Thane. The turnover tax is not simple, liquid, elastic and revenue oriented as octroi. The development plans of local municipal bodies could not
have been implemented if octroi, having greatest revenue potential would have been substituted by the turnover tax.

The other alternatives, viz. multiple turnover tax and the entry tax could have been considered as near-substitutes for octroi. However Multiple Turnover Tax in spite of its simplicity could have adversely affected the sources of income (revenue to the State Government). Moreover Entry Tax can be introduced in place of octroi, without encroaching upon the other sources of revenue and inspite of being collected like octroi, Entry Tax can be collected by doing away with octroi check post (octroi nakas). The entry tax can be implemented to some extent by the municipal local bodies and the rate of entry tax can be moderate and therefore the Kasbekar Committee recommended entry tax as a substitute for octroi.

The Kasbekar Committee was however unanimous about the feasibility of octroi administration by local municipal bodies and therefore recommended implementation of Entry Tax by Government administration and more
specifically by the Sales Tax Department. This recommendation in respect of small size local self government implies total loss of autonomy to the small local municipal bodies. The Committee however felt that big size local municipal bodies could implement Entry Tax collection and the present staff in octroi administration can handle Entry Tax collection when the training is provided. Entry tax collection can be managed by additional employment of the staff which is not beyond the reach of local municipal corporations. The Committee recorded that the big local municipal bodies are keen to administer entry tax collection.

The Committee concluded that in all the States, if the entry tax collection is administered by the Sales Tax Department certain visible and concrete benefits can accrue to the business and trading community in the form of increased convenience and lower cost of collection.

The fundamental issue in octroi abolition is the loss of revenue and autonomy to the local self
government bodies which can not be adequately compensated by financial help (grant-in-aid) from the Government. The Committee therefore suggested that the bigger local government bodies should implement entry tax collection on its own. The Committee recommended that it should be made very clear to the autonomous local municipal bodies (corporations) that they should shoulder complete responsibility of collecting revenue from entry tax in respect of which their would not be any constitutional or financial accountability for the State Government. In respect of B and C local municipal bodies of small size, entry tax collection should be done by the Government or by the sales tax department.

6.3.4 - Assumptions -

The recommendations of the Kasbekar Committee were based on the following assumptions -

A) Like Octroi the Entry Tax revenue would be adequate and consistent in view of entry tax collection made by the Municipal Corporations by themselves.
B) In the transitional period Government undertakes the responsibility of providing financial support to the extent of net octroi revenue of the base year and revenue to the extent of 8% per annum and also the expenditure in tax collection in the base year at a gradually diminishing rate to be compensated for by the State Government.

C) The Committee assumed that the expenditure on personnel (tax collection staff) would get reduced gradually as a result of retrenchment of the staff.

D) The maximum rate of entry tax should be 5% but the State Government should be empowered to increase the (double) maximum rate of entry tax for meeting emergency expenditure.

E) Entry Tax being a statutory tax the tax administration should be empowered to demand and audit accounts, inspect and forfeit

F) The responsibility for adequate, accurate and genuine documentation should be assigned to the transporters or forwarding agents. The check post would examine these documents.
The assumptions made by the Kasbekar Committee were not reasonable and realistic and hence the report was not approved in toto, 7 of the 13 members approved it in toto, whereas 6 other members penning minutes of dissent. Unfortunately the report was not unanimous, the task of the Government, therefore, becomes onerous.

6.3.5 - Minute of Dissent -

Minute of Dissent as against the Kasbekar Committee Report:

The opinions contrary to Committee's recommendations have been recorded by six other members of the Kasbekar Committee viz.

i) Dr. Ramesh Prabhu,
   Former Mayor, Bombay Municipal Corporation, Bombay.

ii) Dr. D.R. Pendse,
   Economic Advisor, Tata Group of Companies, Bombay.

iii) Mr. R.V. Fatel,
   Advocate, Bombay High Court, Bombay.
iv) Mr. P.K. Dhamdhere,
President, Maharashtra Chamber of Commerce,
Bombay.

v) Dr. Madhav Godbole,
State Finance Secretary, Bombay

vi) Mr. Narayan Vallure,
Sales Tax Commissioner, Bombay.

Dr. Ramesh Prabhu, has recorded a different note to Kasbekar Committee's recommendation of octroi abolition and introduction of entry tax as a substitute for octroi. He pointed out, octroi must not be abolished and replaced by the entry tax, which is essentially account based and hence it cannot yield revenue - of the order of Rs. 80 lakhs daily. Entry tax is not free from the elements of arrears. About 60% of the total municipal revenue is coming from octroi. If municipal expenditure increases, the same can be met by increasing the rates of octroi. The Committee has also failed to specify the manner in which the entry tax would be collected. No specific rate structure is evolved for commodity-wise taxation. Maharashtra may
refer the example of the Gujrat where the proposal of introducing the entry tax, is still pending since last five years on account of opposition of Elected members, Trade Associations etc.

Dr. D.R. Pendse while suggesting Toll (Path Kar) as a substitute for octroi, considered major problems in octroi administration viz. the loss of oil and fuel resulting from detainment of the vehicles and loss of revenue to the local municipal bodies owing to corrup­tive malpractices. Revenue potential of a tax which is regarded as a substitute was also considered. Which institution collects the tax is not an important issue so long as revenue is assured to the local municipal bodies. If the local municipal bodies are relieved of the botheration of collecting taxes, Dr. Pendse feels that local municipal bodies can concentrate more on local capital formation and social welfare programme. He also feels that business and trading class is not basically against imposition of tax but against the in­conveniences, harassment leading to losses because of loopholes in octroi administration. He feels that while
recommending substitute for octroi suitable legal changes are also necessary. A substitute should not be rejected on the issue of its jurisdiction. Dr. Pendse is optimistic about the procedural improvement in respect of documentation, forfeiture of documents, construction of temporary check post for documents and goods and supervision over tax collection. He feels that entry tax would be more cumbersome and its incidence would be high and would therefore be objected to by all the strata of the tax payers' community. The experience in the State of Gujrat is self-explanatory. He has suggested turnover composition scheme consisting of a Turnover Tax of 2% to be collected by the sales tax department. This scheme has a revenue potential with a ratio of 30:100 (revenue from Octroi : revenue from Sales Tax). The revenue from sales tax increases every year and therefore the income from substitute for octroi tax would also increase. The distribution of tax revenue to local municipal bodies would also be possible with pre-determined ratios.
Dr. Pendse has suggested the other scheme viz. octroi-composition scheme. It is based on the assumption that transport of goods through roads has been increasing. Therefore the present system of octroi collection should be retained. For big transport companies an ad-hoc payment of Rs. 1,000 against octroi to be calculated would increase convenience of these companies and in case of others the present rate of octroi should be increased. Dr. Pendse feels that if the other alternative is accepted, octroi check post would only be Toll Nakas and detention of vehicles can be avoided if there are two channels for collecting Toll Tax.

The most important suggestion made by Dr. Pendse is that if Entry Tax is imposed as a substitute for octroi and if revenue from Entry Tax is less than present revenue, octroi the difference should be compensated by the State Government to the local municipal bodies. However one can not be very optimistic about this arrangement and retention of financial autonomy should receive prominence.
Mr. R.V. Patel and Mr. P.K. Dhamdhere have recorded a different note to Kasbekar Committee's recommendation of octroi abolition and introduction of Entry Tax as a substitute for octroi. They have pointed out that right from 1925 many Committees were appointed for finding out substitute for octroi, but only Wankhede Committee (1970) suggested multi-point turnover tax as a substitute for octroi. However the recommendations of the Wankhede Committee were not implemented. According to Mr. R.V. Patel and Mr. P.K. Dhamdhere multi-point turnover tax can be a better proposition than introduction of Entry Tax. However multi-point turnover tax was considered incompetent with single point turnover tax administered by the Sales Tax Department of the State from July 1986 for resource mobilisation in the State. Therefore, they opined that Entry Tax appears to be only substitute for octroi. However they do not agree with the suggestion that Entry Tax administration should be done by many administrators. They recommend that Entry Tax should be imposed centrally and administered by the sales tax department of the State. Moreover, Entry Tax in addition to octroi would lead to
double incidence on a single taxable event i.e. entry of goods into an area under the jurisdiction of the State and also of the local municipal body.

In contrast to Dr. Pendse's lofty remarks, the dissenting note by the State Finance Secretary Dr. Madhav Godbole and the Sales-tax Commissioner Mr. Narsayan Vallure are detailed and stringent being in effect a parallel report to the main one. Their main contention is that entry tax should be entirely administered by the sales tax department and that the tax should only be levied once in the State on the goods entering any one of the municipal corporations.

Though the two very senior representatives of the State Government insist that they agree with the view of the majority in the 13 member Committee, they appear to do somewhat gingerly. "Even now though its abolition, in principle, has been announced by the Government, it is with some trepidation that the Government is approaching the question of the substitute levy fail to yield the desired revenue, the State
Government would be stuck with making good the deficit to the local bodies. In these circumstances, it would be helpful if the Government of India were to share at least part of the financial burden."

It is obvious that they are not convinced about the efficacy of Entry Tax in the form in which it has been approved by the Committee. And, in their note of dissent, they have taken care to mention, "a provision should be made that, if for any reason, the operation of Entry Tax is stayed by the courts, then octroi would be restored forthwith."

6.3.6 - Shortcomings of the proposed Entry Tax -

In view of the recommendations made by the Kasbekar Committee it is felt that the following shortcomings in the proposed tax deserve serious attention:

1) It is suggested that the Entry Tax Act would be applicable to "all the local areas". It ignores the fact that out of 25,000 Village Panchayats in the State, only 106 are levying octroi at present and as a result
of the applicability to all areas remaining villages
would be additionally brought under the tax, which will
be more regressive step.

2) The Committee has recommended 2.5% to 5%
Entry Tax on all such commodities which bear octroi at
present. The comparison of the present octroi and
proposed entry tax shows a larger burden of the new tax
which may have 'cascading' effects and inflationary
repercussions.

3) The system of monthly returns and payment of
Entry Tax has been suggested by the Committee, however
it will definitely prove to be difficult for dealers
as also for the administration.

4) The returns to be filled in are to be commod-
dity-wise. One can only imagine the 'papordone'.

5) New machinery has to be evolved for settle-
ment of disputes.

6) The administration of the tax suggested by
the Committee is discriminatory.
7) The Committee has recommended that the local governments should be guaranteed of their octroi revenue in the base year with a provision for 8% annual growth rate in the subsequent five year period. The scientific estimation of 8% growth rate expressed by the Committee is doubtful because the actual growth rate of some of the municipal corporations is at a very high rate ranging between 34% to 70%.

8) The really serious flaw in the entry tax suggestion is its failure to use the tax system for progress towards social objectives.

Thus the substitute recommended by the Kasbekar Committee i.e. Entry Tax is regressive, burdensome, inconvenient, anti-autonomy. It is not adequate to bridge the revenue gap arising from the abolition of octroi. The alternative suggested will cause adverse effects on both adequacy and liquidity of the local body finances very seriously.

A 40 member delegation of Mayors and municipal Presidents all over Maharashtra led by Mayor of Pune
Municipal Corporation Mr. Chandrakant Chhajed met the Chief Minister Mr. S.B. Chavan in January, 1988 and conveyed their aversion to the Entry Tax proposal recommended by Kasbekar Committee. The delegation presented a memorandum totally rejecting the Kasbekar Committee's recommendation for replacing octroi duty with the Entry Tax. The Chief Minister assured that he would consider the issue in the light of their studied opinion on the report. He also assured the delegation that the Entry Tax proposal would neither result in a big chunk of civic bodies' revenue getting slashed nor would it amount to erosion of municipal organisations' autonomy of raising their own funds.

6.4 - ACTION COMMITTEE FOR ABOLITION OF OCTROI

*The Action Committee for Abolition of Octroi after ascertaining the reaction of various affected interests in the neighbouring States where the Entry Tax is or proposed to be in operation, views this tax with gravest apprehension and has concluded that:

* Ref: Memorandum on Alternatives to Octroi in Maharashtra submitted to Kasbekar Committee by Action Committee for Abolition of Octroi on 10-8-87, appended.
a) The administrative procedures would require maintenance of check-posts with resultant delays in free movement of transport (including obtaining transit passes).

b) The procedures would require transport operators to carry detailed particulars of quantity and value of goods for hundreds of consignments and this would give rise to scope for harassment, seizure and corruption.

c) From the viewpoint of the dealers, the administration of entry tax would be a nightmare for the following reasons:

i) It would require on a daily basis separation of goods produced, grown and brought in from outside the local area.

ii) It would cast a negative burden on the dealers to prove that the goods held by them at any time are not those which have entered from outside local areas. Even inadvertent errors in the stamping of local bills to the effect that they
are locally produced would result in heavy penalties, thereby providing the greatest scope for harassment and corruption.

iii) It would create tremendous additional work through maintenance of records because of the multiplicity of rates for different commodities.

iv) It would give rise to innumerable disputes in the matter of classification of goods as in the case of octroi) and provide scope for harassment.

v) It would involve considerable additional expenditure for maintenance of records as against practically no expenditure for octroi.

vi) It would give rise to blockage of funds due to the sluggish procedure for refunds, with its attendant disputes, corruption, etc.

d) As regards transport operators and clearing & forwarding agents, they too would be required to maintain voluminous records and prepare detailed
statements for tens of thousands of consignments and tally the figures. They would, therefore, be required to incur heavy administrative cost whereas presently they have no such cost for octroi.

e) From the viewpoint of the local bodies/Government, the collection cost would be even higher than for octroi because of the requirement to carry out sample inspections at various places located throughout local areas.

f) As compared to octroi, the rates of entry tax as operating in Madhya Pradesh as also those provided in Gujarat Ordinance are very high. With minor exceptions, the maximum permissible rates of octroi throughout Maharashtra is 4% ad valorem. If these rates are further increased under an Entry Tax Scheme, the present burden of cascading impact of octroi (which is already excessive and is even today crushing to many sectors) would be further increased with adverse consequences on the health of the concerned units.
In its Supplementary Memorandum the Action Committee for Abolition of Octroi devised an Entry Tax system which would avoid all-round harassment, corruption and wastage and at the same time give adequate revenue to the local municipal bodies. The Action Committee has requested the Kasbekar Committee that if it were to recommend the State Government that Entry Tax is the only viable alternative to octroi in Maharashtra, the suggestions contained in the Supplementary Memorandum should be incorporated.

The supplementary note by the Action Committee for Abolition of Octroi has referred to the Constitutional aspect of the problem and has suggested that *entry tax should be collected by the local bodies and even otherwise, the collection for each local area should be allocated to the concerned local area. However, the following wording in Entry 52 of the 7th

* Ref: Supplementary Memorandum on Alternatives to Octroi in Maharashtra submitted to Kasbekar Committee on 21-8-87.
Schedule of the Constitution makes it clear that the taxes (whether called octroi or entry tax) are, taxes leviable by the States and it is only by way of legislative action that the local bodies are allowed to collect the same for themselves as also to utilise the same:

"Entry 52 - Taxes on the entry of goods into a local area for consumption, use or sale therein."

The Action Committee for Abolition of Octroi has mentioned in its Supplementary Memorandum that it is in favour of Multi-point Turnover Tax levied at low rates.

Mr. Nani A. Palkhiwala, eminent jurist and economist said that, the octroi was the tax on time and energy of the nation and had the dubious distinction of having been condemned by all, including the Government. He said that there was no levy so "repressive and retrogressive" as octroi and the failure to abolish it immediately would bring tragedy to its people. He further said - "While the need for more transport is pressing the trucks are being forced to idle at octroi check"
post - saving of their time means making 80,000 more
trucks available to the economy." He further said -
"the halting of the trucks at the check-posts was
costing the trucks 30% to 73% more journey time and 15% 
more fuel worth Rs.1,000 crores in foreign exchange."
He added - "this is a crime against the nation and you
can not go with this non-sense any longer. It is not
the question of octroi alone but of slighting of strong-
ly mobilising public opinion by the Government." He
also clarified that no State Government need consulta-
tion with the Central Government to move a bill on abo-
lation of octroi. He suggested that by merely changing
the name of the tax and calling it by some other name
like 'fee' no problem can be solved. A fee can be
charged only as a value of the services rendered by the
tax collecting authority. If the charge on the whole-
saler and retailer is to be treated as a tax on the
calling of a wholesaler or of a retailer. He stated 
that -
*"It would, to my mind, clearly fall under Entry 60 of the State List of the Seventh Schedule which deals with taxes on "trades, callings", and such a tax cannot exceed Rs.250 per annum (Article 276 of the Constitution).

In the above circumstances, in my opinion, there is only one way out of the difficulty and that is as follows. The State should levy an Entry Tax which would be covered by Entry 52 in the State List. Provisions may be made for such a tax in the usual way. However, there should be one additional section in the Entry Tax Act. The section should provide that notwithstanding anything contained in the Act, if a wholesaler at his option pays a specified amount or a retailer at his option pays a lower specified amount, the amount so paid would be deemed to be in full and final settlement of the liability of the trader under the Act. Such a "Composition Scheme" used to prevail under the Income-tax law of British India prior to 1922. I think such a provision would be perfectly constitutional, clearly enforceable and would solve the entire

* Vide Appendix A to the Supplementary Memorandum on Alternative to Octroi in Maharashtra submitted to Kasbekar Committee by Action Committee for Abolition of Octroi, appended.
difficulty of the trade. It would avoid the corruption which is bound to prevail otherwise in the administration of any ordinary Entry Tax law. It would avoid needless harassment of the citizen which is today so rampant in different parts of India."

6.5 - AN ALTERNATIVE TO OCTROI

The gap between the prereceived needs for services and the financial resources to provide them in local self governments is widening continuously and it is for this reason the civic bodies all over the State oppose the demand of trade, industry and transport sector for the abolition of octroi. The year 1987 have witnessed unprecedented agitations throughout the State by the Trade and Industry for the abolition of octroi on the one hand and by the Mayors, Corporators and Municipal Employees for the retention of octroi on the other. It is true that all the Committees appointed in the past to study octroi have recommended abolition of octroi mainly on the ground that it is regressive in nature. It is also true that about 10% to 15% of
diesel consumption by the transport sector is on account of stoppages at octroi check posts. It is also an open secret that there is a lot of corruption involved in octroi collection machinery.

Any alternative system for octroi should in fact help to redress the present gap instead of widening it. It should also be an economic alternative. Besides, it should maintain the autonomy of the local bodies in addition to being progressive, flexible and elastic. There is no doubt that octroi should be abolished. But while doing away the devil we should not land ourselves in the deep sea. Giving up altogether a salient, well established source of revenue having high potential is uncalled for. For a city like Bombay, especially octroi is the mainstay of its revenues (Rs.392.07 crores out of Rs.1274.43 crores in 1989-90)* and its outright abolition without locating equally buoyant alternatives can, therefore, lead to a crisis.

It is observed that in many cases the local municipal bodies are not undertaking proper and regular maintenance of the water supply, sewerage and drainage systems and other essential services such as roads, medical relief, street lighting and so on resulting in the widening of the gaps between the actual and desired levels of services year after year. These shortcomings are mainly due to shortage of funds, though some of the deficiencies can be traced to indifference or inefficiency of service personnel engaged in carrying out civic functions.

What is, therefore, urgently needed is to balance the gap by matching the obligations of local municipal bodies with the resources available to them. This gap can be bridged successfully by finding out a perfect substitute for octroi which should have the following characteristics:

1) the revenue should be adequate to make up the loss from abolition of octroi,
ii) the levy should be free from some of the undesirable characteristics of octroi,

iii) it should be capable of being administered by local bodies, to the extent feasible.

iv) a scheme should be evolved to ensure that if any transfer of revenue was necessary from the State to the local body, it did not compromise the autonomy of the local body and took proper care of liquidity.

v) the burden of the tax, as far as possible, should fall broadly on the same set of people as that of octroi.

6.6 - APPENDICES


II) Supplementary Memorandum on Alternatives to Octroi in Maharashtra submitted to Kasbekar

III) Appendix A to the Supplementary Memorandum on Alternative to Octroi in Maharashtra submitted to Kasbekar Committee by Action Committee for Abolition of Octroi.

APPENDIX - I

Ref. No. P/164


Shri P. D. Kasbekar
Chairman
Committee Relating to Abolition of Octroi
Urban Development Department
Government of Maharashtra
Mantralaya
Bombay 400 032

Dear Sir:

Sub: Memorandum on Alternatives to Octroi in Maharashtra

At the outset, we apologise for the delay in submitting the attached Memorandum incorporating our suggestions. We were in the process of obtaining and evaluating the suggestions from various constituent-members as also studying the entry tax provisions in neighbouring States.

The Action Committee hopes that the Kasbekar Committee will consider the suggestions given in this Memorandum in the proper perspective before making its recommendations to the Government about a suitable and viable alternative to octroi in Maharashtra.

Thanking you,

Yours faithfully,

Nalin K. Vissanji
Chairman.
Dear Shri Kasbekar:

Supplementary Memorandum on Alternatives to Octroi in Maharashtra

In continuation of our letter No. P/173 dated the 14th August, 1987 on the above subject, we submit herewith a supplementary memorandum incorporating our constructive suggestions re. Entry Tax in response to your request made at our meeting with the members of your Committee held on 13th August, 1987. The suggestions made in the supplementary memorandum aim at devising an entry tax system which will avoid all-round harassment, corruption and wastage, and at the same time give adequate revenues to the municipal bodies.

The Action Committee submits that if the Kasbekar Committee were to recommend to the State Government that entry tax is the only viable alternative to octroi in Maharashtra, the suggestions contained in our supplementary memorandum should be incorporated. We may, however, emphasise that the Action Committee, as submitted in our earlier memorandum, is in favour of the multi-point turnover tax, levied at low rates, as the most suitable alternative to octroi.

In case the Kasbekar Committee requires any further clarifications on our viewpoints, representatives of the Action Committee will be too happy to call on them.

With kind regards,

Yours sincerely,

Nalin K. Vissanji
Chairman.
OPINION

I have discussed the matter fully in Conference. The question is how would it be possible for the State Government to levy a tax of a fixed amount per annum on a wholesaler and a lower fixed amount per annum on a retailer.

The suggestions placed before me seem to me to be unconstitutional. By merely calling it a fee instead of a tax, no problem would be solved because the well established law is that a fee must have some relation to the value of the services rendered. If it is to be treated as a tax on the calling of the wholesaler or of the retailer, it would, to my mind, clearly fall under Entry 60 of the State List of the Seventh Schedule which deals with taxes on "trades, callings", and such a tax cannot exceed Rs. 250 per annum (Article 276 of the Constitution).

In the above circumstances, in my opinion, there is only one way out of the difficulty and that is as follows. The State should levy an Entry Tax which would be covered by Entry 52 in the State List. Provisions may be made for such a tax in the usual way. However, additional there should be one section in the Entry Tax Act. The section should provide that notwithstanding anything contained in the Act, if a wholesaler at his option pays a specified amount or a retailer at his option pays a lower specified amount, the amount so paid would be deemed to be in full and final settlement of the liability of the trader under the Act. Such a "Composition Scheme" used to prevail under the Income-tax law of British India prior to 1922. I think such a provision would be perfectly constitutional, clearly enforceable and would solve the entire difficulty of the trade. It would avoid the corruption which is bound to prevail otherwise in the administration of any ordinary Entry Tax law. It would avoid needless harassment of the citizen which is today so rampant in different parts of India.

Bombay

N. A. Palkhivala
August 17, 1987
APPENDIX - IV

मुंबई महानगर पालिकेद्वारा प्रश्नावली उत्तरे.

महाराष्ट्रातील जकात बर निर्मलताचे प्रश्न आणि अौळीत.

यांचा सूचिपत्रातमक संबंध अभाव.

नगरपालिकेचे नाव व कर्न:— 

बुधनंदन महानगरपालिका.

कर्न "A".

शहराची लोकसंख्या:—

[१९९१ या जनगणनासारखे महानगरपालिकेत
प्रतिवर्षील तीनेच्या १ कोटी २५ लाख].

स्वतंत्र जकात विभाग आहे/नाही: ५ स्वतंत्र जकात विभाग आहे.

जकात विभागातील कर्मचारी संख्येची विभागणी.

अ] वरिष्ठ अधिकारी : १२१

ब] जकात तपासणी अधिकारी : ६९२

क] कार्यालयीन अधिकारी : -

ड] नाका कारकुन : ३६

[जकात नाकी/चुकूनी केंद्रावर
व घुस नामकरणी / वा]

ढ] नाका शिफाई : ३६६

एकुण तडक्या : १२४२

जकात नाक्याची तडक्या : ६२

रोज जकात भरणा-याची
अॅडवर संख्या : १००००

जकातीचे दैनिक उत्पन्न [सरासरी] : ५३०५ कोटी.

एकुण वार्षिक उत्पन्नातील—
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जकात कर्दार्थात नावथावर फिरते वाहनांचे लागतं?

किमान वेळ : तास १५ मिनीटे.
कमान वेळ : तास ३० मिनीटे.

वाहनातून आणण्यां जाणा-या जकात-कर-पावर वस्तूंची मूल्यांकन व फरवरी टी.वी. वाहनातून वाहन नेल्या जाणा-या वाहनांवर एकूण अभिप्रेक व अभिप्रे के [(अनेक) आपल्यांनी तात्क्रिया] आणण्यां जाणा-या वस्तूवर अभिवाध्य उद्घात वेळ कमी/अभिप्रे के होऊ शकतो.

आपल्या/२६.४०.२१।