

Chapter I

Central Excise Administration

1.1 Resources of the Union Government

The resources of Government of India include all revenues received by the Union Government, all loans raised by issue of treasury bills, internal and external loans and all moneys received by the Government in repayment of loans. Tax revenue resources of the Union Government consist of revenue receipts from Direct and Indirect Taxes. Table 1.1 below shows the summary of resources for the financial year 2016-17 (FY17) and FY16.

Table 1.1: Resources of the Union Government

	(₹ in crore)	
	FY17	FY16
A. Total Revenue Receipts	22,23,988	19,42,353
i. Direct Tax Receipts	8,49,801	7,42,012
ii. Indirect Tax Receipts including other taxes	8,66,167	7,13,879
iii. Non-Tax Receipts	5,06,721	4,84,581
iv. Grants-in-aid & contributions	1,299	1,881
B. Miscellaneous Capital Receipts ¹	47,743	42,132
C. Recovery of Loans and Advances ²	40,971	41,878
D. Public Debt Receipts ³	61,34,137	43,16,950
Receipts of Government of India (A+B+C+D)	84,46,839	63,43,313

Source: Union Finance Accounts of respective years. Figures of FY17 are provisional.

Note: Direct Tax receipts and Indirect Tax receipts including other taxes have been worked out from the Union Finance Accounts. Total Revenue Receipts include ₹ 6,08,000 crore in FY17 and ₹ 5,06,193 crore in FY16, share of net proceeds of Direct and Indirect Taxes directly assigned to states.

The total receipts of the Union Government increased to ₹ 84,46,839 crore in FY17 from ₹ 63,43,313 crore in FY16. In FY17, its own receipts were ₹ 22,23,988 crore, an increase of ₹ 2,81,635 crore which is an increase of 14.50 per cent over the previous year. This included Gross Tax receipts of ₹ 17,15,968 crore of which Indirect Tax receipts including other taxes accounted for ₹ 8,66,167 crore.

1.2 Nature of Indirect Taxes

The Audit Report is based on the audit conducted up to the FY17 and covers transactions involving levy and collection of Central Excise up to FY16. The major indirect taxes in vogue as on that date are discussed below:

¹ This comprises of value of bonus share, disinvestment of public sector and other undertakings and other receipts;

² Recovery of loans and advances made by the Union Government;

³ Borrowing by the Government of India internally as well as externally.

- a) **Central Excise duty:** Central Excise duty is levied on manufacture or production of goods in India. Parliament has powers to levy excise duties on tobacco and other goods manufactured or produced in India except alcoholic liquors for human consumption, opium, Indian hemp and other narcotic drugs and narcotics but including medicinal and toilet preparations containing alcohol, opium etc (Entry 84 of List 1 of the Seventh Schedule of the Constitution).
- b) **Service Tax:** Service Tax is levied on services provided within the taxable territory (Entry 97 of List 1 of the Seventh Schedule of the Constitution). Service Tax is a tax on services rendered by one person to another. Section 66B of the Finance Act, 1994 envisaged that there shall be a tax levied at the rate of 14 per cent on the value of all services, other than those specified in the negative list, provided or agreed to be provided in the taxable territory by one person to another and collected in such manner as may be prescribed.⁴ 'Service' has been defined in section 65B (44) of the Finance Act, 1994 to mean any activity for consideration (other than the items excluded therein) carried out by a person for another and to include a declared service.⁵
- c) **Customs duty:** Customs duty is levied on import of goods into India and on export of certain goods out of India (Entry 83 of List 1 of the Seventh Schedule of the Constitution).

It may be noted that from 1 July 2017, Central Excise (except petroleum and some tobacco products), Service Tax and most of the state indirect taxes besides Countervailing Duty (CVD) and Special Additional Duty (SAD) components of Customs have been subsumed into Goods and Services Tax (GST).

This chapter discusses trends, composition and systemic issues in Central Excise using data from finance accounts, departmental accounts and relevant data available in public domain.

1.3 Organisational Structure

The Department of Revenue (DoR) of Ministry of Finance (MOF) functions under the overall direction and control of the Secretary (Revenue) and coordinates matters relating to all the Direct and Indirect Union Taxes through two statutory Boards namely, the Central Board of Excise and Customs (CBEC) and the Central Board of Direct Taxes (CBDT) constituted

⁴ Section 66B was inserted by the Finance Act, 2012 with effect from 1 July 2012; section 66D lists the items the negative list comprises of.

⁵ Section 66E of the Finance Act, 1994 lists the declared services.

under the Central Board of Revenue Act, 1963. Matters relating to the levy and collection of Central Excise are looked after by the CBEC.

Indirect Tax laws are administered by the CBEC through its field offices, the Commissionerates. For this purpose, prior to restructuring in view of implementation of GST, the country was divided into 27 zones of Central Excise and Service Tax headed by the Chief Commissioner. Under these 27 zones, there were 83 composite executive Commissionerates that deal with Central Excise and Service Tax, 36 exclusive Central Excise executive Commissionerates and 22 exclusive Service Tax executive Commissionerates headed by the Principal Commissioner/Commissioner. Divisions and Ranges are the subsequent formations, headed by Deputy/ Assistant Commissioner and Superintendents respectively. Apart from these executive Commissionerates, there were eight Large Tax Payer Units (LTU) Commissionerates, 60 Appeal Commissionerates, 45 Audit Commissionerates and 20 Directorates General/ Directorates dealing with specific function.

The overall sanctioned staff strength of the CBEC was 84,875 as on 1 January 2017. The organisational structure of CBEC is shown in Appendix I.

1.4 Growth of Indirect Taxes - trends and composition

Table 1.2 depicts the relative growth of Indirect Taxes during FY13 to FY17.

Table 1.2: Growth of Indirect Taxes

(₹ in crore)					
Year	Indirect Taxes	GDP	Indirect Taxes as per cent of GDP	Gross Tax revenue	Indirect Taxes as per cent of Gross Tax revenue
FY13	4,74,728	99,88,540	4.75	10,36,460	45.80
FY14	4,97,349	1,13,45,056	4.38	11,38,996	43.67
FY15	5,46,214	1,25,41,208	4.36	12,45,135	43.87
FY16	7,10,101	1,35,76,086	5.23	14,55,891	48.77
FY17	8,62,151	1,51,83,709	5.68	17,15,968	50.24

Source: Tax revenue - Union Finance Accounts (FY17 Provisional), GDP – Press note of CSO⁶

It is observed that Indirect tax collection as a per cent of GDP registered a slight increase in FY17 vis-à-vis FY16 and its share in Gross Tax revenue also raised by 1.5 per cent in FY17 as compared to FY16.

⁶ Press note on GDP released on 31 May 2017 by Central Statistical Office (CSO), Ministry of Statistics and Programme Implementation. This indicates that the figures for GDP for FY14 and FY15 are based on New Series Estimates; and figure for FY17 are based on provisional estimates at current prices. The figures of GDP for FY13 are based on current market price with base year 2004-05. Figures are being continually revised by CSO and this data is meant for an indicative comparison of fiscal performance with macro economic performance

1.5 Indirect Taxes – relative contribution

Table 1.3 depicts the trajectory of the various Indirect Tax components in GDP terms for the period FY13 to FY17.

Table 1.3: Indirect Taxes – percentage of GDP

(₹ in crore)

Year	GDP	CE revenue	CE revenue as per cent of GDP	ST revenue	ST revenue as per cent of GDP	Custom revenue	Custom revenue as per cent of GDP
FY13	99,88,540	1,75,845	1.76	1,32,601	1.33	1,65,346	1.66
FY14	1,13,45,056	1,69,455	1.49	1,54,780	1.36	1,72,085	1.52
FY15	1,25,41,208	1,89,038	1.51	1,67,969	1.34	1,88,016	1.50
FY16	1,35,76,086	2,87,149	2.12	2,11,415	1.56	2,10,338	1.55
FY17	1,51,83,709	3,80,495	2.51	2,54,499	1.68	2,25,370	1.48

Source: Figures of tax receipts are as per Union Finance Accounts of respective years. Figures of FY17 are provisional.

Among the Indirect Taxes, the Central Excise and Service Tax revenue as a percentage of GDP continued their increasing trend during last three years, while Custom revenue as a percentage of GDP decreased during FY17, though in monetary terms all the three taxes have shown positive growth.

1.6 Growth of Central Excise Receipts - trends and composition

Table 1.4 depicts the trends of Central Excise revenue in absolute and GDP terms during FY13 to FY17.

Table 1.4: Growth of Central Excise revenue

(₹ in crore)

Year	GDP	Gross Tax revenue	Gross Indirect Taxes	Central Excise revenue	Central Excise revenue as per cent of GDP	Central Excise revenue as per cent of Gross Tax revenue	Central Excise as per cent of Indirect Taxes
FY13	99,88,540	10,36,460	4,74,728	1,75,845	1.76	16.97	37.04
FY14	1,13,45,056	11,38,996	4,97,349	1,69,455	1.49	14.88	34.07
FY15	1,25,41,208	12,45,135	5,46,214	1,89,038	1.51	15.18	34.61
FY16	1,35,76,086	14,55,891	7,10,101	2,87,149	2.12	19.72	40.44
FY17	1,51,83,709	17,15,968	8,62,151	3,80,495	2.51	22.17	44.13

Source: Figures of tax receipts are as per Union Finance Accounts of respective years. Figures of FY17 are provisional.

Central Excise accounted for 22.17 per cent of Gross Tax revenue and 44.13 per cent of Indirect Taxes revenue during FY17. Share of Central Excise in Gross Tax revenue as well as in Indirect Taxes has been steadily increasing

from FY14. Central Excise revenue increased by ₹ 93,346 crore (32.51 per cent) in FY17 which was mainly due to increased revenue from petroleum sector.

1.7 Central Excise Receipts vis-à-vis CENVAT Credit utilised

A manufacturer can avail credit of duty of Central Excise paid on inputs or capital goods as well as Service Tax paid on input services related to his manufacturing activity and can utilise credit so availed in payment of Central Excise duty.

Table 1.5 depicts the growth of Central Excise collections through Personal Ledger Account (PLA) i.e. cash and CENVAT credit during FY13 to FY17.

Table 1.5: Central Excise receipts: PLA and CENVAT utilisation

(₹ in crore)

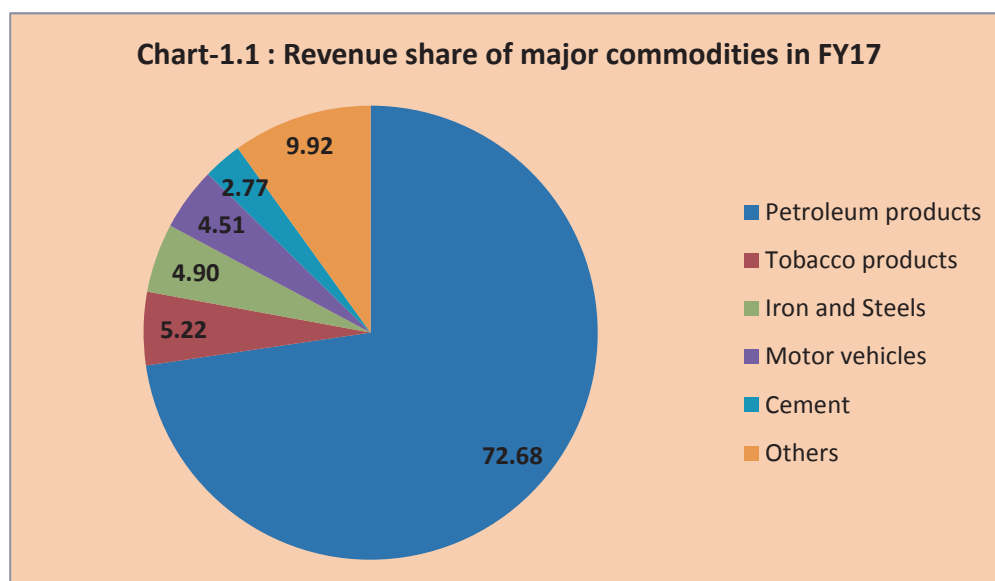
Year	CE duty paid through PLA		CE duty paid through CENVAT credit		CE duty paid from CENVAT credit as per cent of PLA payments
	Amount#	Per cent increase from previous year	Amount*	Per cent increase from previous year	
FY13	1,75,845	21.36	2,58,697	20.88	147.12
FY14	1,69,455	-3.63	2,73,323	5.65	161.30
FY15	1,89,038	11.56	2,91,694	6.72	154.30
FY16	2,87,149	51.90	3,10,335	6.39	108.07
FY17	3,80,495	32.51	3,39,274	9.33	89.17

Source: # Union Finance Accounts of respective years. Figures of FY17 are provisional. * Figures furnished by the Ministry

It is observed that Central Excise revenue paid through PLA showed negative growth in FY14 and thereafter showed positive growth during all subsequent years. Central Excise duty payment through CENVAT credit account as a percentage of payment through PLA decreased continuously and came down from 161.30 per cent in FY14 to 89.17 per cent in FY17, which signifies more payment of Central Excise duty by cash.

1.8 Central Excise Revenue from major Commodities

The top five categories of commodities contributed 90.07 per cent of the total Central Excise duty collection during FY17 which is depicted in pie chart 1.1.



Source: Figures provided by the Ministry

The Central Excise duty collection from these top five commodities during FY13 to FY17 is shown in table 1.6.

Table 1.6 : Revenue from top five commodities

Commodities	(₹ in crore)				
	FY13	FY14	FY15	FY16	FY17
Petroleum products	84,188	88,065	1,06,653	1,98,793	2,76,551
Tobacco products	17,991	16,050	16,676	21,463	19,846
Iron and Steel	17,603	17,342	15,970	16,632	18,627
Motor vehicles	10,038	8,363	8,546	14,220	17,166
Cement	10,712	10,308	9,572	10,544	10,522

Source: Figures provided by the Ministry

It is observed that during FY16, there was large increase of ₹ 92,140 crore (86.39 per cent) in Central Excise revenue from petroleum sector which further increased by ₹ 77,758 crore (39.12 per cent) in FY17, as Central Excise duty on petrol increased from ₹ 9.20 per litre to ₹ 21.48 per litre and on high speed diesel from ₹ 3.46 per litre to ₹ 17.33 per litre during the last three years. Apart from Petroleum products Iron and Steel and Motor Vehicles showed positive growth, while Tobacco products and Cement showed negative growth.

1.9 Tax Base

"Assessee" means any person who is liable for payment of Central Excise duty as a producer or manufacturer of excisable goods or a registered person of a private warehouse in which excisable goods are stored and includes an authorised agent of such person. A single legal entity (company or individual) can have multiple assessee identities depending upon location of

manufacturing units. Table 1.7 depicts the data of the number of persons registered with the Central Excise Department.

Table 1.7: Tax base in Central Excise

Year	No. of registered assessees	Per cent growth over previous year	No. of assessees who filed return	Per cent growth over previous year	Percentage of assessees who filed return
FY13	4,09,139	-	1,61,617	-	39.50
FY14	4,35,213	6.37	1,65,755	2.56	38.09
FY15	4,67,286	7.37	1,72,776	4.24	36.97
FY16	4,98,273	6.63	1,83,501	6.21	36.83
FY17	5,27,534	5.87	1,91,197	4.19	36.24

Source: Figures furnished by the Ministry

It is observed that number of registered assessees increased during all five years. However, the growth in number of assessee filing returns was not commensurate with the growth in number of registered assessees. Further, only 36.24 per cent assessee filed return in FY17. In this context it is pertinent to point out that the data related to registered assessees and returns filed for FY13 to FY16 furnished by the Ministry this year does not tally with the data furnished last year by the Ministry and reported in CAG's Report No. 3 of 2017. The accuracy of data relating to assessees and returns and the high percentage of assessees not filing returns should be a matter of concern to the Ministry.

1.10 Budget estimate Vs actual receipts

Table 1.8 depicts a comparison of the Budget Estimates and the corresponding actuals for Central Excise receipts.

Table 1.8: Budget, Revised estimates and Actual receipts

Year	Budget estimates	Revised budget estimates	Actual receipts	Diff. between actuals and BE	Percentage variation	
					between actuals and BE	between actuals and RE
FY13	1,94,350	1,71,996	1,75,845	(-)18,505	(-)9.52	(+)2.24
FY14	1,97,554	1,79,537	1,69,455	(-)28,099	(-)14.22	(-)5.62
FY15	2,07,110	1,85,480	1,89,038	(-)18,072	(-)8.73	(+)1.92
FY16	2,29,809	2,84,142	2,87,149	57,340	24.95	(+)1.06
FY17	3,18,670	3,87,369	3,80,495	61,825	19.40	(-)1.77

Source: Union Finance Accounts and receipt budget documents of respective years. Figures of actual receipts of FY17 are provisional.

It is observed that actual collection of Central Excise duty was about 19 per cent above the budget estimates, however about 2 per cent below the revised budget estimates during FY17.

1.11 Central Excise revenue forgone under Central Excise Act

Central Government has been granted powers under Section 5A(1) of the Central Excise Act, 1944 to issue exemption notifications in public interest so as to prescribe duty rates lower than the tariff rates prescribed in the Schedules. The rates prescribed by exemption notifications are known as the “effective rates”. Revenue forgone is defined to be the difference between the duty that would have been payable but for the exemption notification and the actual duty paid in terms of the said notification and till budget for 2016-17 was calculated in the following manner:

- In cases where the tariff and effective rates of duty are specified as ad valorem rates - **Revenue forgone= Value of goods X (Tariff rate of duty - Effective rate of duty)**
- In cases where the tariff rate is on ad valorem basis but the effective duty is levied at specific rates in terms of the exemption notification, then – **Revenue forgone = (Value of goods X Tariff rate of duty) - (Quantity of goods X Effective rate of specific duty)**
- In cases where the tariff rates and effective rates are a combination of ad valorem and specific rates, revenue forgone is calculated accordingly
- In all cases, where the tariff rate of duty equals the effective rate, revenue forgone will be zero.

From budget for 2017-18, the methodology to calculate the revenue impact of tax incentives on the Central Excise has been modified. The rates imposed by unconditional notifications have been considered as *de facto* tariff rates and excluded from calculation of revenue forgone. The revenue forgone is now only on account of conditional exemptions which allow reduced rates vis-a-vis the tariff rates or the *de facto* tariff rate.

Table 1.9 depicts figures of Central Excise related revenue forgone during last five years as reported in budget documents of the Union Government.

Table 1.9: Central Excise receipts and total revenue forgone

(₹ in crore)

Year	Central Excise receipts [§]	Revenue forgone*	Revenue forgone as per cent of Central Excise receipts
FY13	1,75,845	2,09,940	119.39
FY14	1,69,455	1,96,223	115.80
FY15	1,89,038	1,96,789	104.10
FY16	2,87,149	79,183	27.58
FY17	3,80,495	76,844	20.20

Source: §Union Finance Accounts, figures for FY 17 are provisional. *Union Receipts Budget. FY16 and FY17 figures as recast and reflected in Budget document of 2017-18.

The drastic reduction in revenue forgone figures for year FY16 and FY17 as compared to previous years is on account of change in the methodology as explained earlier.

1.12 Arrears of Central Excise

The law provides for various methods of recovery of revenues raised but not realised. These include adjusting against amounts, if any, payable to the person from whom revenue is recoverable, recovery by attachment and sale of excisable goods and recovery through the district revenue authority.

Table 1.10 depicts the performance of the Department in respect of recovery of revenue arrears.

Table 1.10: Arrears realisation – Central Excise

(₹ in crore)

	FY17	
	Gross Arrears ⁷	Recoverable Arrears ⁸
Opening Balance	74939.64	7750.62
Addition during the year	37591.35	5314.21
Total Arrears	112530.99	13064.83
Disposal of Demands ⁹	26252.21	2755.62
Arrears Realised	2079.09	1233.79
Arrears Realised as per cent of Total Arrears	1.85	9.44
Closing Balance	84199.69	9075.42

Source: Figures furnished by the Ministry. Figures of closing balance provided by the Ministry have marginal difference.

⁷ Gross arrears include stayed, restrained (BIFR cases, pending stay applications etc.) and recoverable arrears.

⁸ Arrears relating to cases in which demand is confirmed but no appeal is filed within prescribed time, units closed/defaulters not traceable, cases decided by Settlement Commission, etc.

⁹ Disposal of demands includes confirmation of demand in favour of Department/ against the Department, order for denovo adjudication.

It can be seen that only 9.44 per cent of recoverable arrears could be recovered by the Department during FY17. Given the significant amounts of arrears to be recovered, it is essential that the tax Department specifically focuses on legacy issues even after the transition to GST.

1.13 Additional revenue realised because of Anti-evasion measures

Both, Director General of Central Excise Intelligence (DGCEI) as well as the Central Excise and Service Tax Commissionerates have well-defined roles in the task of detection of cases of evasion of Central Excise duty. While the Commissionerates, with their extensive database about units in their jurisdiction and presence in the field, are the first line of defence against duty evasion, DGCEI specialises in collecting specific intelligence about evasion of substantial revenue. The intelligence so collected is shared with the Commissionerates. Investigations are also undertaken by DGCEI in cases having all India ramifications. Table 1.11 depicts the performance of DGCEI during last three years.

Table 1.11: Anti-evasion performance of DGCEI during last three years

Year	Detection		Voluntary payment during Investigation
	No. of cases	Amount	Amount
FY15	2,123	4,335	546
FY16	2,366	5,297	804
FY17	2,122	5,773	795

Source: Figures furnished by the Ministry.

It is observed that number of cases detected by DGCEI in FY17 decreased though amount involved has increased as compared to FY16. Voluntary payment during investigation has, however, decreased.

Tax administration in Central Excise

1.14 Scrutiny of Central Excise returns

CBEC introduced self-assessment in respect of Central Excise in 1996. With the introduction of self-assessment, the Department also envisaged the provision of a strong compliance verification mechanism, inter alia, through scrutiny of returns.

The Department had not furnished the information of scrutiny of returns for FY17 despite our repeated reminders. The Department had stated that due to reorganisation of the Department for GST, it was not feasible to collect the data from various new field formations. This increases the concern that legacy issues may be ignored. The Department should, in fact, focus on assigning legacy records to new offices systematically and keep track of movement of legacy records from previous offices to new offices.

1.15 Adjudication

Adjudication is the process through which departmental officers determine issues relating to tax liability of assessees. Such process may involve consideration of aspects relating to, inter alia, CENVAT credit, valuation, refund claims, provisional assessment etc. A decision of the adjudicating authority may be challenged in an appellate forum as per the prescribed procedures.

Table 1.12 depicts age-wise analysis of Central Excise adjudication.

Table 1.12: Cases pending for adjudication with departmental authorities

Year	Cases pending as on 31 March		No. of cases Pending for more than one year
	No.	Amount	
FY15	27,425	23,765	4,984
FY16	23,014	29,355	3,637
FY17	10,347	20,474	2,093

Source: Figures furnished by the Ministry

The number of adjudication cases including cases pending for more than one year had decreased substantially in FY17 in comparison to FY16 but the amount involved in these cases had not decreased in same ratio.

1.16 Disposal of refunds claims

Section 11B of the Central Excise Act, 1944 provides the legal authority for claim and grant of refund. The term refund includes rebate of excise duty paid on excisable goods exported out of India as well as of excise duty paid on material used in the manufacture of goods exported out of India. Further, section 11BB of the Act stipulates that interest is to be paid on refund amount if it is not refunded within three months from the date of application of refund. The Central Excise Manual prescribed that the Department should accept refund claims only when accompanied with all supporting documents as refund claims without requisite documents may lead to delay in sanction of refunds.

Table 1.13 depicts the status of disposal of refund claims by the Department. The delay depicted is in terms of time taken from the date of receipt of refund application till the final processing of the claims.

Table 1.13: Disposal of refund claims in Central Excise

Year	Opening Balance		Receipts (during the year)		Disposal (during the year)				No. of cases disposed within 3 months	Cases where interest has been paid	
	No. of Cases	Amt.	No. of Cases	Amt.	Refunds sanctioned		Refunds rejected			No. of Cases	Amt.
					No. of Cases	Amt.	No. of Cases	Amt.			
FY16	82,146	7,878	3,36,614	27,829	3,65,485	27,593	7,577	1,763	3,24,340	3	0.01
FY17	45,719 [#]	6,356 [#]	3,18,462	27,903	3,13,487	25,874	6,471	2,342	17,957	3	0.09

Source: Figures furnished by the Ministry. [#]Closing balance of FY16 does not match with opening balance of FY17.

It is observed that both number of cases as well as amount involved in disposal of refund cases had decreased in FY17 as compared to FY16. Out of a total of 3,19,958 cases disposed in FY17, only 17,957 cases (5.61 per cent) were processed within the stipulated three months period. There is a steep decline as compared to disposal of 86.94 per cent cases within three months in FY16. Further, the Department had paid interest only in three cases. Thus there was a delay in around 94 per cent of disposals and also non-payment of interest in almost all the cases of delayed refunds, both of which were in violation of provisions of the Act.

Table 1.14 depicts an age-wise analysis of pendency of refund claims during the last two years.

Table 1.14: Age-wise pendency of Central Excise refund cases as on 31 March

Year	Total number of Refund claims pending as on 31 March		Refund claims pending for			
	No. of Cases	Amt.	Less than one year		Over one year	
			No. of Cases	Amt.	No. of Cases	Amt.
FY16	45,719 [#]	6,356 [#]	45,592	6,273	127	83
FY17	44,223	6,043	44,211	6,039	12	3

Source: Figures furnished by the Ministry. [#]Difference in figures of closing balance of FY16, provided by the Ministry.

It is observed that both number of refund claims pending as well as amount involved has decreased marginally in FY17 as compared to FY16.

1.17 Call Book

Board Circular No. 162/73/95-CX.3 dated 14 December 1995 read with Circular Nos. 992/16/2014-CX, dated 26 December 2014 and 1023/11/2016-CX dated 8 April 2016, on the subject envisage that cases that cannot be adjudicated due to certain reasons such as the Department having gone in appeal, injunction from courts etc. may be entered into the Call Book. Member (CX), vide his D.O.F.No. 101/2/2003-CX-3, dated 3 January 2005 had emphasised that Call Book cases should be reviewed every month. Director General of Inspection (Customs and Central Excise) had reiterated the need for monthly review in his letter dated 29 December 2005 stating that review

of Call Book may result in substantial reduction in the number of unconfirmed demands in Call Book.

Table 1.15 depicts the performance of the Department in respect of Call Book clearance in Central Excise during the last three years.

Table 1.15: Call Book cases pending on 31 March

Year	Opening balance	New Cases transferred to Call Book during the year	Disposals during the year	Closing balance at the end of year	Revenue involved (₹ in Cr)	Age-wise break up of pendency at the end of the year		
						Less than 6 months	6-12 months	Over 1 year
FY15	35,617	9,552	8,846	36,323	65,765	4,841	2,276	29,206
FY16	37,018	7,437	7,994	36,461	64,260	5,157	2,479	28,394
FY17	36,030	13,418	19,768	29,682 ¹⁰	58,648	5,601	2,457	21,624

Source : Figures furnished by the Ministry

It is observed that the pendency of cases in the Call Book has reduced substantially in FY 17 though it is still high indicating the need for close monitoring and review of Call Book items. It is further observed that the opening balance does not match with closing balance of previous years.

1.18 Appeal cases

Besides the adjudicating authorities, there are several other authorities including departmental appellate authorities, courts of law etc., where issues of law, interpretations etc. are considered. Besides, the Department also resorts to coercive recovery measures in many instances. Large amounts of revenue thus remain unrealised for substantial periods of time. Based on data furnished by CBEC, we have shown the pendency of appeal cases at various forums in table 1.16.

¹⁰ Difference in figures of closing balance provided by the Ministry

Table 1.16: Pendency of Appeals in Central Excise

Year	Forum	Appeals pending at the end of the year					
		Details of party's appeals		Details of departmental appeals		Total	
		No. of Appeals	Amount Involved (Cr. ₹)	No. of Appeals	Amount Involved (Cr. ₹)	No. of Appeals	Amount Involved (Cr. ₹)
FY15	Supreme Court	636	1,752	1395	4,666	2,031	6,418
	High Court	3,740	5,543	4,531	7,514	8,271	13,057
	CESTAT	28,465	51,252	11,134	7,477	39,599	58,729
	Settlement Commission	82	135	2	1	84	136
	Commissioner (Appeals)	10,505	2,899	1,751	298	12,256	3,197
	Total	43,428	61,581	18,813	19,956	62,241	81,537
FY16	Supreme Court	570	2,153	1,102	4,360	1,672	6,513
	High Court	3,548	7,207	4,041	8,855	7,589	16,062
	CESTAT	29,443	57,035	9,613	8,571	39,056	65,606
	Settlement Commission	77	98	0	0	77	98
	Commissioner (Appeals)	11,835	3,494	1,915	389	13,750	3,883
	Total	45,473	69,987	16,671	22,175	62,144	92,162
FY17	Supreme Court	581	2,267	977	5,804	1,558	8,071
	High Court	3,528	9,005	3,170	10,329	6,698	19,334
	CESTAT	30,201	65,760	7,120	11,915	37,321	77,675
	Settlement Commission	71	77	0	0	71	77
	Commissioner (Appeals)	12,711	3,047	2,243	359	14,954	3,406
	Total	47,092	80,156	13,510	28,407	60,602	1,08,563

Source: Figures furnished by the Ministry

The Table indicates that cases involving revenue of ₹ 1,08,563 crore were pending in appeals at the end of FY17 registering a 18 per cent increase over the amount pending at the end of FY16. As no action can be initiated for recovery of revenue till the appeal is pending, early disposal by the various authorities to bring in possible revenue of ₹ 1,08,563 crore to the Government coffers, is important.

The Ministry has provided the details of disposal of appeal cases of Central Excise for FY16 and FY17. The data is tabulated below:

Table No. 1.17: Breakup of cases decided during the last two years (CX)

Year	Forum	Department's Appeal				Party's Appeal			
		Decided In favour of Deptt.	Decided against the Deptt.	Remanded	% of Successful appeal of Deptt.	Decided in favour of party	Decided against party	Remanded	% of Successful appeal of party
FY16	Supreme Court	64	465	29	11.47	110	77	16	54.19
	High Court	216	926	56	18.03	289	456	123	33.29
	CESTAT	666	1,619	165	27.18	2,415	856	742	60.18
	Settlement Commission	2	1	0	66.67	8	44	2	14.81
	Commissioner (Appeals)	443	525	12	45.20	3,561	3,311	219	50.22
	Total	1,391	3,536	262	26.81	6,383	4,744	1,102	52.20
FY17	Supreme Court	27	204	8	11.30	21	36	8	32.31
	High Court	165	1,212	26	11.76	296	359	80	40.27
	CESTAT	422	3,179	275	10.89	4,260	1,056	1,199	65.39
	Settlement Commission	0	0	0	NA	13	45	4	20.97
	Commissioner (Appeals)	395	573	51	38.76	4,759	3,328	383	56.19
	Total	1,009	5,168	360	15.44	9,349	4,824	1,674	59.00

Source: Figures furnished by the Ministry

The table indicates that success ratio of Department's appeal against adjudication order has decreased from 26.81 per cent in FY16 to 15.44 per cent in FY17. The success ratio ranges between 11 per cent and 12 per cent when the Department went in appeal in CESTAT and above.

1.19 Cost of collection

Table 1.18 depicts the cost of collection vis-a-vis the revenue collection.

Table 1.18: Central Excise and Service Tax receipts and cost of collection

Year	Receipts from Central Excise	Receipts from Service Tax	Total receipts	Cost of collection	
				Cost of collection	Cost of collection as % of total receipts
FY13	1,75,845	1,32,601	3,08,446	2,439	0.79
FY14	1,69,455	1,54,780	3,24,235	2,635	0.81
FY15	1,89,038	1,67,969	3,57,007	2,950	0.83
FY16	2,87,149	2,11,415	4,98,564	3,162	0.63
FY17	3,80,495	2,54,499	6,34,994	4,056	0.64

Source: Union Finance Accounts of respective years. Figures of FY17 are provisional.

The cost of collection increased substantially in FY17 in comparison to previous year. However, as there has been significant increase in receipts

from Central Excise in FY17 in comparison to the previous year, cost of collection as per cent of total receipts has shown only a marginal increase.

1.20 Internal Audit

The Department had been categorizing units into A, B, C and D categories based on annual revenue, with all 'A' category units considered as annual units for audit purpose while 'B' category represented biennial units. Audit cell located within each Commissionerate was responsible for internal audit. After the restructuring of the Department in October 2014, new Audit Commissionerates came into existence, following which the Department has reorganised the auditable units into three categories i.e. Large, Medium and Small units based on centralized risk assessment carried out by DG(Audit). The manpower available with the Audit Commissionerate is allocated in 40:25:15 among large, medium and small units and remaining 20 per cent manpower is to be utilised for planning, coordination and follow up

Table 1.19 depicts details of Central Excise units due for audit during FY17 by audit parties of the Commissionerates vis-à-vis units audited.

Table 1.19: Audits of assessees conducted during FY17

Year	Category	Number of units due	Number of units audited	Shortfall in Audit (No.)	Shortfall in audit (%)
FY17	Large Units	7,510	4,271	3,239	43.13
	Medium Units	10,919	6,256	4,663	42.71
	Small Units	17,205	10,571	6,634	38.56

Source: Figures furnished by the Ministry

The Department had shifted from revenue based selection of units due for audit to risk based selection by factoring in the available manpower in the audit Commissionerates. Despite the change of methodology in selection of assessees for audit, the shortfall in audit is still more than 40 per cent in the large units and medium units. The shortfall in number of units audited, which was 29 per cent in mandatory units in pre-restructuring era (as commented in Audit Report No. 2 of 2016), has increased to 43 per cent, though, units due for audit were 12,048 in FY15 as compared to 7,510 in FY17. Thus, shortfall in conduct of audit has increased despite formation of separate audit Commissionerates and revised method of selection.

The results of the audit, conducted by the Department, is shown in table 1.20.

Table 1.20: Amount objected and recovered during the year

(₹ in crore)			
FY	Category	Amount of short levy detected	Amount of total recovery
FY17	Large	1,760	591
	Medium	412	218
	Small	256	151
Total		2,428	960

Source: Figures furnished by the Ministry

It is observed that amount of short levy detected and recovered in Large units is significantly higher than other units indicating the need to allocate more resources for carrying out internal audit of Large units.

1.21 Revenue collection due to departmental efforts

There are various methods by which the Department collects the revenue due but not paid by the taxpayers. These methods include Scrutiny of Returns, Internal Audit, Anti-Evasion, Adjudication etc.

The result of departmental efforts is shown in Table 1.21.

Table 1.21: Revenue recovered by departmental efforts

(₹ in crore)			
Sl. No.	Departmental action	Recovery during FY16	Recovery during FY17
1	Internal audit	369	304
2	Anti-Evasion	373	382
3	Confirmed Demands	792	1,043
4	Pre-deposits	579	368
5	Scrutiny of Returns	297	291
6	Recovery from Defaulters	2,874	3,486
7	Provisional Assessment	67	64
8	Others	324	174
	Total	5,675	6,112

Source: Figures furnished by the Ministry

Total Central Excise collection during FY17 is ₹ 3,80,495 crore, out of which only ₹ 6,112 crore, representing 1.61 per cent, is collected due to departmental efforts. Further, it is noticed that revenue collection shown under internal audit and anti-evasion does not tally with amount relating to same category shown in tables 1.20 and 1.11 respectively. In fact, the recoveries reflected in table 1.21 (₹ 382 crore) are far less than the spot recovery of anti-evasion reported in table 1.11 (₹ 795 crore). Even though similar data discrepancy regarding data provided by Ministry during FY15 and FY16 was brought to the notice of Ministry through Audit Reports on Central

Excise last year (Report No. 2 of 2016 and Report No. 3 of 2017), the Ministry sent similar data without proper verification again in 2017.

The reliability of data provided is questionable as the data furnished by the Ministry this year relating to revenue recovered by departmental efforts does not tally with the data furnished last year by the Ministry and reported in CAG's Report No. 3 of 2017.

1.22 Audit efforts and Central Excise Audit products - Compliance Audit Report

Compliance audit was conducted by nine field offices headed by Directors General (DGs)/Principal Directors (PDs) of audit, who audited 1055 (CX and ST) units in FY17 as per Regulations on Audit and Accounts, 2007 (as amended) and in conformity with the Auditing Standards, issued by the Comptroller and Auditor General of India.

Data from the Union Finance Account, along with examination of basic records/documents in DoR, CBEC, and their field formations, MIS, MTRs of CBEC along with other stakeholder reports were used.

1.23 Report Overview

The current report has 104 paragraphs having financial implication of ₹ 665.93 crore. There were generally four kinds of observations: non/short payment of Central Excise duty, incorrect availing/utilisation of CENVAT credit, effectiveness of internal control and other issues. The Department/Ministry has already taken rectificatory action involving money value of ₹ 343.30 crore in 93 paragraphs in the form of issue of SCNs, adjudication of SCNs and reported recovery of ₹ 271.45 crore.

1.24 Response to CAG's Audit, revenue impact/follow-up of Audit Reports

In the last five audit reports (including current year's report) we had included 391 audit paragraphs (Table 1.22) involving ₹ 1300.49 crore.

Table 1.22: Follow-up of Audit Reports

(₹ in crore)

Year		FY13	FY14	FY15	FY16	FY17	Total	
Paragraphs included	No.	62	68	64	93	104	391	
	Amt.	182.90	125.11	147.87	178.68	665.93	1300.49	
Paragraphs accepted	Pre printing	No.	58	60	47	79	93	337
		Amt.	179.44	90.71	135.85	132.13	343.30	881.43
	Post printing	No.	-	1	2	-	-	3
		Amt.	-	0.36	1.20	-	-	1.56
	Total	No.	58	61	49	79	93	340
		Amt.	179.44	91.07	137.05	132.13	343.30	882.99
Recoveries effected	Pre printing	No.	36	28	30	48	44	186
		Amt.	21.29	27.44	27.95	30.44	271.45	378.57
	Post printing	No.	1	3	2	8	-	14
		Amt.	0.56	3.09	1.20	2.06	-	6.91
	Total	No.	37	31	32	56	44	200
		Amt.	21.85	30.53	29.15	32.50	271.45	385.48

Source: CAG Audit Reports

Ministry had accepted audit observations in 340 audit paragraphs involving ₹ 882.99 crore and had recovered ₹ 385.48 crore.