

CHAPTER I SERVICE TAX RECEIPTS

1.1 Tax administration

Service tax was introduced from 1 July 1994 through the Finance Act, 1994. Administration of service tax has been vested with the central excise department under the Ministry of Finance (the Ministry). The Central Board of Excise and Customs (the Board) has set up a separate apex authority headed by the Director General Service Tax (DGST) at Mumbai for the administration of service tax. Commissioners of central excise/service tax have been authorised to collect service tax within their jurisdiction.

1.2 Trend of receipts

Revenue projected through annual budget and actual receipts from service tax during the years 2004-05 to 2008-09 is exhibited in the following table and graph:-

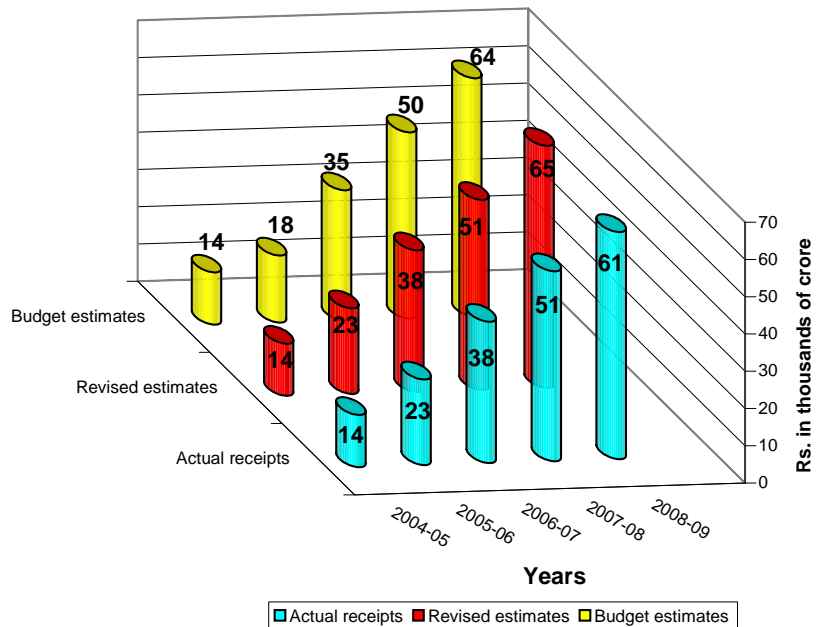
Table no. 1

(Amounts in crore of rupees)

Year	No. of services subjected to service tax	Budget estimates	Revised budget estimates	Actual receipts*	Difference between actual receipts and budget estimates	Percentage variation
2004-05	71	14,150	14,150	14,199	49	0.35
2005-06	81	17,500	23,000	23,055	5,555	31.73
2006-07	97	34,500	38,169	37,598	3,098	8.98
2007-08	104	50,200	50,603	51,301	1,101	2.19
2008-09	108	64,460	65,000	60,940	(-) 3,520	(-) 5.46

* Figures as per the Finance Accounts

Graph 1: Service Tax Receipts - Budget, Revised and Actual



During the period 2004-05 to 2008-09 the actual collections of service tax were fairly close to the budget estimates except for 2005-06 when these were 31.73 per cent higher than the budget estimates.

1.3 Outstanding demands

The number of cases and amount involved in demands for service tax outstanding* for adjudication/recovery as on 31 March 2009 are mentioned in the following table:-

Table no. 2

(Amounts in crore of rupees)

Pending decision with	As on 31 March 2008				As on 31 March 2009			
	Number of cases		Amount		Number of cases		Amount	
	More than five years	Less than five years	More than five years	Less than five years	More than five years	Less than five years	More than five years	Less than five years
Adjudicating officers	196	76,620	0.42	4,092.80	10,891	46,572	46.80	11,575.80
Appellate Commissioners	53	1,937	1.59	301.40	37	2,588	27.56	1,132.93
Board	0	6	0.00	0.04	0	3	0.00	1.97
Government	0	1	0.00	0.71	4	6	5.73	2.42
Tribunals	22	1,419	4.24	1,423.05	60	5,294	28.78	2,639.92
High Courts	8	155	1.37	66.56	24	173	7.56	110.18
Supreme Court	0	13	0.00	4.01	0	121	0.00	7.20
Pending for coercive recovery measures	5,056	14,414	11.17	456.66	4,117	18,396	9.95	6,836.11
Total	5,335	94,565	18.79	6,345.23	15,133	73,153	126.38	22,306.53

* Figures furnished by the Ministry

A total of 88,286 cases involving tax of Rs. 22,432.91 crore were pending as on 31 March 2009 with different authorities, of which 65 per cent in terms of number were with the adjudicating officers of the department. Pendency for recovery of demands had increased from 19,470 cases in 2007-08 to 22,513 cases in 2008-09 i.e. an increase of 15.63 per cent.

1.4 Fraud/presumptive fraud cases

The position of fraud/presumptive fraud cases* alongwith the action taken by the department against defaulting assesseees during the period 2006-07 to 2008-09 is depicted in the following table:-

Table no. 3

(Amounts in crore of rupees)

Year	Cases detected		Demand of duty raised	Penalty imposed		Duty collected	Penalty collected	
	Number	Amount		Number	Amount		Number	Amount
2006-07	2,466	591.50	287.29	413	56.24	235.65	90	2.77
2007-08	1,716	787.18	574.54	171	179.04	331.74	34	2.74
2008-09	2,330	3,770.64	2,236.07	156	170.20	429.26	20	0.48
Total	6,512	5,149.32	3,097.90	740	405.48	996.65	144	5.99

* Figures furnished by the Ministry

The above data indicates that while a total of 6,512 cases of fraud/presumptive fraud were detected during the years 2006-09 by the department involving tax of Rs. 5,149.32 crore, it raised demand of Rs. 3,097.90 crore only and recovered Rs. 996.65 crore (32.17 per cent). Similarly, out of the penalty of

Rs. 405.48 crore that was imposed, the department could recover only Rs. 5.99 crore (1.48 per cent).

1.5 Results of audit

This report contains 155 paragraphs featured individually or grouped together with a revenue implication of Rs. 375.55 crore. Of these, 73 paragraphs involving revenue of Rs. 358.24 crore have been reported individually and the remaining have been grouped under the heading "Other cases" appearing in each chapter. The Ministry/department has accepted (till January 2010) audit observations in 130 paragraphs involving Rs. 305.13 crore against which it has recovered Rs. 125.40 crore. In another audit paragraph, though the reply of the Ministry/department has not been received, the assessee has accepted the audit observations and paid the tax of Rs. 0.18 crore. In another case, though the department has not accepted the audit observation, yet the assessee has paid the tax of Rs. 1.91 crore. Therefore, the Ministry/department has effected a total recovery of Rs. 127.49 crore up to January 2010 including Rs. 124.11 crore where full recovery has been made at the instance of audit.

1.6 Impact of audit reports

1.6.1 Revenue impact

During the last five years (including the current years' report), audit through its audit reports had pointed out short levy and other deficiencies with revenue implication of Rs. 1,084.33 crore in 569 audit paragraphs. Of these, the Government had accepted audit observations in 456 audit paragraphs involving Rs. 508.91 crore and had since recovered Rs. 190.98 crore. The details are shown in the following table:-

Table no. 4

(Amounts in crore of rupees)

Year of Audit Report	Paragraphs included		Paragraphs accepted						Recoveries effected					
			Pre printing		Post printing		Total		Pre printing		Post printing		Total	
			No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
2004-05	48	86.57	42	35.59	Nil	Nil	42	35.59	8	5.41	14	3.00	22	8.41
2005-06	83	266.47	38	28.40	2	0.39	40	28.79	20	7.38	5	1.06	25	8.44
2006-07	125	79.02	117	65.49	1	1.74	118	67.23	60	18.19	34	5.23	94	23.42
2007-08	158	276.72	112	47.43	14	24.74	126	72.17	57	23.22	Nil	Nil	57	23.22
2008-09	155	375.55	130	305.13	Nil	Nil	130	305.13	90	127.49	Nil	Nil	90	127.49
Grand Total	569	1,084.33	439	482.04	17	26.87	456	508.91	235	181.69	53	9.29	288	190.98

1.6.2 Amendment to Act/Rules

The Government had amended Act/Rules addressing the concerns raised by audit through audit reports. An important change carried out during the year 2008-09 is shown in the following table:-

Table no. 5

Reference of audit report (AR) paragraph	Related issue raised in audit	Amendment to Act/Rules etc.
Paragraph 18.1 of AR no.7 of 2007	Exemption from 75 per cent of amount of taxable service on goods transport agency services	Services like clearing and forwarding agent services, manpower recruitment services, cargo handling services,

Reference of audit report (AR) paragraph	Related issue raised in audit	Amendment to Act/Rules etc.
	was available provided credit of duty paid on inputs or capital goods used for providing such taxable service is not taken. Exemption was availed in violation of the said condition.	warehousing services, business auxiliary services, packaging services, etc., provided to the goods transport agency have been exempted from service tax by notification No.1/2009-ST dated 5 January 2009 having retrospective effect from 1 January 2005.

1.7 Follow-up on audit reports

Public Accounts Committee, in their Ninth Report (Eleventh Lok Sabha) desired that remedial/corrective action taken notes (ATNs) on all paragraphs of the Reports of the Comptroller and Auditor General, duly vetted by audit, be submitted to them within a period of four months from the date of the laying of the audit report in Parliament.

Review of outstanding action taken notes on paragraphs relating to service tax contained in earlier audit reports on indirect taxes indicated that the Ministry had not submitted remedial action taken notes on 50 paragraphs relating to Report No. CA 20 of 2009-10. Summarised position of outstanding action taken notes is depicted in the following table:-

Table no. 6

No. of ATNs pending	Related audit paragraph and audit report	Name of the Ministry
50	10.1.1, 10.1.2, 10.1.3, 10.1.4, 10.1.5, 10.1.7, 10.1.8, 10.2 (DAP nos. 1, 38, 50, 56, 68, 89, 101, 128, 134, 156, 177, 194, 218, 225, 303, 339, 353, 361, 367), 10.3, 10.4.1, 10.4.2, 10.5.1, 10.5.2, 10.6.1 (DAP nos. 15, 157, 241, 343), 10.7 (DAP nos. 24, 121, 195, 253, 282), 10.8, 10.9, 10.10 (DAP nos. 23, 94, 187), 10.11, 10.12 (DAP nos. 44, 69, 83, 131, 158, 159, 173, 192, 193, 196, 198, 203, 344, 349), 11.1.1, 11.1.2.1, 11.1.2.2, 11.1.3.1, 11.1.5.1, 11.1.6, 11.1.7.2, 11.1.8, 11.1.9, 11.2.1 (DAP no. 357 part), 11.2.1.1, 11.2.2.1, 11.2.2.2, 11.2.2.4, 11.2.2.5, 11.2.2.6, 11.2.3, 11.2.4, 11.2.5, 11.3 (DAP nos. 10, 11, 12, 13, 71, 74, 78, 81, 86, 90, 97, 100, 115, 125, 135, 144, 148, 152, 153, 164, 165, 166, 174, 178, 199, 229, 246, 248, 250, 273, 340, 348, 357 part, 359), 12.1.1, 12.1.2, 12.1.3 (DAP nos. 312, 329, 154), 12.2, 12.3, 12.4, 12.5, 12.6, 12.7 (DAP nos. 40, 48, 52, 358) of CA 20 of 2009-10.	Ministry of Finance