



We conducted a performance audit to evaluate the adequacy of provisions of the Finance Act, 1994, Service Tax Rules and related instructions in ensuring proper levy, assessment and collection of service tax on three construction services viz. Commercial or industrial construction services, Construction of complex (residential) services and Works contract services.

We found procedural deficiencies in registration of assesseees, receipt of returns, scrutiny of returns, ambiguities/inadequacy in rule provisions and compliance weaknesses. While the total financial implication of this audit intervention was ₹ 1477.19 crore, the direct additional revenue which could come to the Government was ₹ 766.95 crore. Observations with money value of ₹ 66.97 crore had been accepted by the department and ₹ 9.73 crore recovered.

The key findings and related recommendations were: -

- We found that commissionerates had not fixed any target for surveys by its ranges to identify unregistered service providers. Where some surveys had taken place, the outcome was not monitored as prescribed in DGST circular dated 26 May 2003.
- We identified 3535 service providers who had provided these three services and were liable to pay service tax but were not available on the departmental registration lists. We found that 2234 of these potential assesseees were liable to pay service tax of ₹ 181.54 crore.
- We recommended that the department needed to take up various measures prescribed by the DGST and work in close liaison with Departments of the State Governments who regularly availed construction services and other services.

(Paragraph 2.1)

- The information furnished by the department showed that 12 per cent of service tax returns were received late and 31 per cent of the returns were not received at all. We found 145 assesseees in 10 commissionerates, who had not filed their service tax returns and not paid service tax of ₹ 14.73 crore.

(Paragraphs 2.3.1 and 2.3.2)

- We found 158 cases in 32 commissionerates where the departmental officers had scrutinised the returns but failed to detect irregularities which had led to short levy of service tax totalling ₹ 17.48 crore.

(Paragraph 2.4.2)

- We found, through cross verification of service tax returns with income tax returns and other records maintained by assesseees, that 255 assesseees had evaded service tax of ₹ 110.08 crore by suppression of assessable value.

(Paragraph 2.4.3)

- We recommended that mechanisms for monitoring the receipt of returns and scrutiny of returns were required to be streamlined so that timely action was taken to pursue and resolve exceptions and deviations.

(Paragraph 2.4)

- We found that very expensive and large residential units were constructed without payment of tax because of the condition that service tax was payable on construction of complex (residential) service only when the construction involved more than 12 residential units.
- We recommended that the Government could consider supplementing the single criterion of 'more than 12 units' with additional criterion so that expensive constructions with less than 12 units were also brought into the service tax net.

(Paragraph 2.6)

- We found that cenvat credit of duty on capital goods and service tax on input services could be availed for WCS composition scheme whereas those were disallowed for CCS/CON abatement scheme.
- We recommended that the Government could consider inserting a clause in the WCS composition scheme to disallow the availing of cenvat credit on capital goods and input services.

(Paragraph 2.7)

- We found instances of non compliance to rules and provisions on irregular availing of abatement and exemption, non-payment of service tax on advance payment, land owner share of the apartment, import of service, incorrect classification, non-remittance of service tax, incorrect/excess availing and utilisation of cenvat credit resulting in revenue impact of ₹ 766.95 crore.

(Chapters III to X)