

CHAPTER V : MINISTRY OF COMMERCE AND INDUSTRIES

Agricultural and Processed Food Products Export Development Authority

5.1 Avoidable expenditure due to non-collection of service tax

Non-collection of service tax by Agricultural and Processed Food Products Export Development Authority from exporters of scheduled products and lawyers, from whom legal services were availed by it, resulted in avoidable expenditure of ₹ 6.15 crore.

Agricultural and Processed Food Products Export Development Authority (APEDA) was established on 13 February 1986 by Government of India under section 4 of 'The Agricultural and Processed Food Products Export Development Authority Act, 1985' (the Act). APEDA was constituted for development and promotion of export of scheduled products (consisting of certain agriculture and processed food products). In furtherance to its objectives, APEDA has been rendering various services to exporters of scheduled products viz. registration of exporters, technical inspection and certification, business exhibition services, banking & other financial services, in exchange of certain fees.

In October 2014, the Service Tax authorities raised a demand of ₹ 12.02 crore on APEDA as service tax liability in respect of above mentioned services, for the period 2009-10 to 2013-14. APEDA, in response to the service tax authority's demand, deposited ₹ 3.17 crore as service tax for the period July 2012 to March 2014, without collecting the same from recipients/providers of services.

Audit observed (May 2015) that as per Finance Act, 1994, as amended vide Finance Act 2012, APEDA was liable to collect service tax on the abovementioned services extended to exporters and also on expenses incurred by it for availing legal and professional services from lawyers. APEDA, however, did not collect the service tax from recipients/providers of the services taxable under the Act. Consequently, it had to deposit the service tax of ₹ 3.17 crore from its own sources. The remaining balance of ₹ 8.85 crore of the demand raised by Service Tax Authorities has been recognized as contingent liability in the books of accounts of APEDA for year 2014-15. APEDA has further made a provision for service tax liability of ₹ 2.98 crore for the period

2014-15 and 2015-16 (up to 28 June 2015) in their accounts. Subsequently, as per decision taken in 84th meeting of the APEDA Authority held on 2 June, 2015, APEDA has started collecting service tax from exporters with effect from 29 June, 2015 and deposited ₹ 0.74 crore, till 30 September, 2015, with the Service Tax authorities.

The Management in its reply (September 2015) admitted the audit observation and stated that the amount of ₹ 3.17 crore has been paid to Service Tax authorities, from its own resources. APEDA also informed that, in order to get the services being extended by APEDA to exporters exempted from service tax, Ministry of Commerce (Administrative Ministry of APEDA) has requested (September 2014) Ministry of Finance (MoF) to include activities rendered by APEDA in the negative list introduced by Finance Act, 2012; however, there is no response from MoF so far (September 2015).

The fact remains that services rendered by APEDA were liable to service tax under Finance Act 1994 as amended vide Finance Act 2012, but APEDA did not collect service tax till 28 June 2015. Thus, non-collection of service tax by APEDA from exporters of scheduled products and lawyers from whom legal services were availed by it, resulted in avoidable expenditure of ₹ 6.15 crore¹. Besides, there is possibility of further avoidable expenditure of ₹ 8.85 crore for which contingent liability has already been recognized by APEDA in its accounts.

¹ ₹ 3.17 crore deposited *plus* ₹ 2.98 crore provided in books of accounts.