

Chapter 4: Co-ordination, internal control and monitoring

This chapter focuses on the appropriateness adequacy of the internal audit function; coordination between the different ministries and their field formations; internal control mechanism like reports, returns, information, communication; and monitoring by the DoC, DGFT, DoR, CBEC of its field formations. The observations below highlight if the procedures, documentations and mechanisms in place are enabling performance of the objectives and outcome based actions of the Government.

4.1 Audit of Nominated agencies by Customs

Board's circular dated 14 October 2009 and 4 September 2013 suggested jurisdictional Commissioner to devise a system of random technical audit of Nominated Agencies.

Audit observed that no such system of technical audit was in place in Air Cargo Complexes, Mumbai, Ahmadabad and Custom House, Kolkata. In absence of such a system monitoring the utilization of gold imported by nominated agencies could not be ascertained.

CBEC in its reply (December 2015) stated that since the 20:80 scheme has been withdrawn, the notification dated 04.09.2013 is not in force now.

Department's stand that after withdrawal of 20:80 scheme such audit/check is not required now is not correct because prior to commencement of the 20:80 scheme, the aforementioned technical audit was prescribed for Nominated Agencies at Para 3(viii) of Circular No. 28/2009-Cus dated 14.10.2009 which is applicable even after the withdrawal of the 20:80 Scheme.

4.2 Lack of coordination between DoC, DoR and DGFT

(a) As per the Foreign Trade (Regulation) Rules, 1993 the Director General or Licensing Authority may refuse to grant or renew a license subject to reasons specified therein which includes contravention of any law relating to customs or foreign exchange for which DGFT maintains a 'Denied Entities List' (DEL).

DC, CSEZ, on verification of import and export documents relating to M/s Ashwin Gold (P) Ltd, noticed that there was short accountal of 48.785 Kg of Gold. Since no permission was granted to the unit for undertaking job work outside the SEZ premises, DC concluded that the unit had removed gold illegally from its premises and accordingly, DC suspended (August 2014) the LoA and issued an OIO imposing penalty of ₹ 11.32 crore under FT (D&R) Act, 1992 for failure to realize export proceeds, illegal removal of imported gold after availing duty exemption and personal penalty of ₹ 11.30 lakh for illegal activities. In addition, the importer was liable to be placed under 'DEL'.

Audit observed that the DC had not referred the case to the RLA for inclusion in the DEL, as such the unit was not put under DEL. Lack of coordination between the DC, CSEZ and RLA led to contravening of the provisions of FTDR Act, 1992.

DGFT in their reply (December 2015) stated that DoC will be requested to send instructions to all the DCs to send information to the concerned RLAs and DGFT would advise all the RLAs to inform the concerned DCs if any violation by an EoU/SEZ unit comes to its notice.

Final outcome may be intimated to audit.

(b) According to HBP, if an IEC holder does not wish to use the allotted IEC number, he may surrender the same by informing the issuing authority. On receipt of such intimation, issuing authority shall immediately cancel it and electronically transmit it to DGFT and the Customs authorities. According to FT (DR) Act, 1992, no person shall make any import or export except with an IEC Number granted by the DGFT.

M/s Malabar Gold Ornaments Makers Pvt. Ltd. was issued (May 2004) a IEC number and consequent to the merger of this company with M/s Malabar Gold Pvt. Ltd. the above IEC was cancelled (February 2015). From the DGFT database it was observed that M/s Malabar Gold Ornaments Makers Pvt. Ltd had exported a consignment under the cancelled IEC on 19 March 2015 through Sahar Air Cargo, Mumbai.

In this case, the party had exported using a cancelled IEC in violation of the provisions of the FT (D&R) Act, 1992 and hence was liable to penal action under the Act. This was another case requiring need for strengthening the controls in DGFT (EDI) and coordination between DGFT and the Customs department.

DGFT in their reply (December 2015) stated that IEC cancellation details were electronically transmitted to the Customs Authorities. Since the cancellation details were available in the website of ICEGATE, the Customs department could verify the IEC before allowing the export/import consignment.

Reply from DoR is awaited.

(c) In terms of SEZ Rules, 2006, units may import Gold as personal baggage through an authorized passenger subject to (i) the acknowledged copy of the intimation submitted to the Authorised Officer needs to be handed over to the Customs Officer in charge at the Airport and (ii) the authorized passenger carrying the goods shall hand over the goods duly packed indicating the name and address of the consignee unit accompanied by invoice and packaging list to the customs Authorities at Airport and obtain

Detention Receipt for detaining the goods in Warehouse before taking it to the unit.

The officials of Air Intelligence Unit, Chennai detained (August 2014) 12 kg of gold from two passengers which they stated that the gold was advance supply to the SEZ unit M/s Prakash Gold Palace (P) Ltd for manufacture of jewellery. Proper documents were not produced to the officials in support of their claim that the consignment was meant for the SEZ unit as it did not have the consignee's name and was without any mark and numbers. The company has represented for release of the Gold which is still pending.

The unit ought to have intimated the Authorized Officer at MEPZ-Customs prior to import of gold which was not done in the instant case. Despite a clear procedure in place for import of gold through hand carriage provided in the SEZ Rules, violation of the rules led to irregular import involving duty of ₹ 32.56 lakh.

Reply from DoC is awaited (January 2016).

(d) M/s Abhilasha Jewellers (EoU) was issued LoA on 28 August 2003 for manufacture of plain and studded 21ct and 22ct Gold jewellery. The LoA was extended in 2008 for another five year period till 31 October 2013.

The unit opted (August 2010) for de-bonding and in-principle order for exit was granted on 14 December 2010. Due to non-production of 'No due certificate' from the Central Excise authorities within six months of issue of in-principle order, the unit continues to hold the status of 100 per cent EoU. The company stated that the operations of unit ceased on 14 December 2010 itself with no stock.

Central Excise department found that the unit was in possession of some Capital Goods and arrived at the duty amount payable of ₹ 43.22 lakh, however, no SCN for non-payment of duty on the Capital Goods on account of de-bonding was issued.

In view of the above, the NOC from Central Excise was not issued and the Unit continues as EoU and have filed 'Nil' Annual Performance Reports for the year 2011-12, 2012-13 and 2013-14. Despite the lapse of more than 4 years, the unit still continues as EoU without any export performance. Non issue of SCN till date and adjudication thereof caused blockage of revenue and resources.

CBEC in their reply (December 2015) stated that they will reiterate the instruction to the field formations with a copy to the DC.

(e) LoP was issued to M/s P&S GoldClads (EoU unit), Bangalore on 18 April 2005 for the manufacture and export of Gold plated Imitation Jewellery. LoP was extended for further period of 5 years from 11 May 2010. As per

APR for the year 2009-10, the unit had achieved positive NFE and the value of unused raw materials (closing balance) was ₹ 9.96 lakh.

The unit closed its business operations with effect from 1 April 2011 and the Department issued In-Principle de-bonding permission on 6 April 2011 and issued SCN (14 August 2012) for non filing of APR for the year 2010-11 for which the unit replied that they had applied for NOC with the Excise Department which they had not received.

The unit did not file Annual Performance Reports for the years from 2010-11 to 2014-15. Despite the lapse of more than four years, the unit still continues in the status of EoU without any export performance. Absence of specific time limit for issuance of NOC by the Excise authorities is causing undue delay in the units getting exit from EoU Scheme hampering the trade facilitation process.

Reply of the department is awaited (January 2016).

(f) From the records of DC, SurSEZ, nineteen units of Gem and Jewellery Sector had applied for exit between 2011-12 and 2014-15, but their application was pending as of April 2015. Similarly, there were forty six units which remained non-functional for two or more years.

Reply of DoC is awaited (January 2016).

(g) The performance of EoUs is to be jointly reviewed by the Development Commissioner and Customs/Central Excise Officer concerned, on the basis of quarterly and annual progress report furnished by the EoUs on a six monthly basis. Based on the joint review, DC concerned would prepare a report for information of DoC and CBEC and suggest corrective measures to enable the defaulting units to fulfil their obligations. Further, vide circular dated 15 June, 2001 such a report on the joint review was to be submitted to the CBEC within 7 days.

When details of the minutes of the joint reviews of EoUs conducted during the period 2010-11 to 2014-15 was called for, the department furnished the copy of the minute of one joint review meeting of EoUs held on 16 August 2012 against a total of ten meetings to be conducted in that period. In the absence of joint review meetings on regular basis, the department could not monitor and identify the problems, reason for poor performance/short fall and suggest possible solutions to the EoUs. It similarly affected interest of the department to safeguard revenue and to propose export promotion strategy as well as tentative targets for the next year.

CBEC in their reply (December 2015) stated that the Board will reiterate the instructions to the field formations with a copy to DC.

Final outcome may be intimated to audit.

4.3 Cases of improper monitoring

(A) Incomplete format of Annual Performance Report (APR)

Review of the APRs submitted by EoU/SEZ units to the DCs for monitoring their performance revealed that the present format of APRs did not include the information regarding purchase of raw materials from DTA and duty foregone on imports of raw materials and capital goods. Further, although the manufacturing process of jewellery included both imported and indigenous raw materials, the information regarding them was not being captured in APRs. In absence of this information, the department was not able to ascertain value addition to export goods as required under the provisions of FTP.

The Customs department agreed with the audit observation and stated that they have no details regarding indigenous raw materials used in manufacturing process by units.

Reply of DoC is awaited (January 2016).

(B) Discrepancy in APRs and stocks maintained and certified by the Chartered Accountant of exporters

SEZ Rules 2006 provides for, every unit in a SEZ to maintain proper accounts financial year-wise clearly indicating the value of goods imported, consumption and utilization of goods, production of goods, disposal of goods by way of exports and the balance in stock and furnish APR in the prescribed format to DC duly certified by a Chartered Accountant (CA).

Audit correlated the data furnished by the units in their certified APRs, with data available in the stock register, sale register and customs records and found discrepancies in four SEEPZ-SEZ units.

Similarly, HBP provides that an EoU shall maintain proper accounts for the entire quantity of each category of goods imported/procured duty free and cleared by way of exports, sales/supplies in DTA or transfer to other SEZ/EoU/EHTP/STP/BTP units and balance in stock.

The APR data forms the basis for verifying whether the units have indeed achieved the required positive NFE and also as a monitoring mechanism to ensure that the units are functioning within the ambit of the applicable rules. Thus, the discrepancies in the data can distort the NFE. Some illustrative cases are detailed in Appendix 15.

Reply of DoC is awaited (January 2016).

(C) Non/Delayed filing of APR

Scrutiny of APRs filed in the office DC, Surat SEZ, Jaipur SEZ, NSEZ, Noida, EPIP, Sitapura, Jaipur, Indore SEZ, Manikanchan, FALTA SEZ and CSEZ,

Cochin revealed that there was non/delay/incorrect filing of APR by the units as detailed in (Appendix 15A).

CBEC in their reply (December 2015) while admitting the delay in filing of APR by M/s World Wide small diamonds manufacturing Pvt. Ltd., Hoshangabad Road, Bhopal stated that the unit has been warned.

Reply of CBEC in the remaining cases is awaited (January 2016).

Recommendation No. 9: *A suitable control mechanism may be established by Department of Commerce to get assurance and reliability of the data furnished in APR by SEZs/EOUs.*

(D) Incorrect data of export in Daily Trade Return (DTR)

SBs and BEs are the source document for preparation of 'Daily Trade Returns' (DTR) by the Customs Authority which are sent to Directorate General of Commercial Intelligence and Statistics (DGCIS) for processing and statistical presentation of foreign trade data.

Records of FPO, Jaipur revealed that in eight cases FOB value in DTR and DOB value in export invoice does not match during 2012-13 and 2013-14. There was excess reporting of export value amounting to ₹ 7.28 crore in the DTR. This indicates that export import database of DGCIS needs to be corrected to give the actual import/export figures.

CBEC in their reply (December 2015) stated that the work of reconciliation of data is in progress.

Final outcome may be intimated to audit.

(E) Inefficient system for identification of dutiable goods etc.

System for identification of dutiable goods, computerized billing system for duty collection, maintenance of day to day item wise database of duty collection and periodical reporting system as part of MIS are the yardstick for a good internal control mechanism for customs duty administration.

On examination of procedure followed and systems in place at Mumbai International Airport for collection of Customs duty and maintenance of records of duty collection, following short comings were noticed in audit.

1. Baggage Receipts were prepared and calculated manually for each and every item for all the customs duty receipts using pencil carbon.
2. No standard procedure was adopted for issuing and bringing back of baggage receipt books for gold Duty Debit Registers (DDRs) for day to day use. Some of the DDRs did not contain date. In some cases period of stay abroad was not specified without which applicable duty was not ascertainable. In few cases, the third copy of DDR which was supposed to be

a carbon copy was written in pen. Further DDRs were used in haphazard manner.

3. Database for customs duty collection had not been maintained. Administration (Tech) was having only monthly figures of duty collection for reporting purpose.

4. Analysis of quantity and value of Gold seized by Air Intelligence Unit (AIU) and Batch/Uniform section (Appendix 16) in the last four years revealed that gold seizure by AIU has increased substantially over the years, however, the increase in quantity of seizure by Batch (Uniform) section was not substantial though Batch Section has higher working strength than AIU wing and have direct control over baggage clearance.

CBEC in their reply (December 2015) has admitted that the computerization process at passenger terminal has not been undertaken. It may not be a wise investment vis-a-vis benefits entailed. Regarding computerization of assessment procedure, the aspects has been looked into and feasibility study is being undertaken, the necessary steps would be taken on top-priority.

Department's reply is not acceptable with regard to the cost benefit analysis since audit noticed serious lapses, as stated above. All these lapses/lacuna may lead to serious risk of duty evasion. Hence audit is of the opinion that these lapses can be eradicated if the process is linked to the EDI system. Reply of the department is not tenable as the primary objective of deployment of customs officers at Airport is to ensure that no dutiable goods pass the custom barrier without levy of applicable customs duty while facilitating passenger's movement. Computerisation of duty collection system at Airport would not only speed up baggage clearance process but also make available valuable man power for important work of detection of duty evasion in addition to creating a permanent database of all transactions for the RMS/DGoV.

(F) Improper maintenance of register

As per Circular dated 4 September 2013 read with RBI's circular dated 14 August 2013, the Customs officer shall permit clearance of the gold for export production under the relevant exemption notification after submission of the documents stated in the circular and shall make necessary entries in the register in the form prescribed. This register was to be maintained by the Customs officer separately for each of the nominated agency importing gold under its jurisdiction.

In ACC, Mumbai it was observed that registers were not being properly maintained by Customs in terms of the circular. Entries regarding quantity of gold issued to various exporters were not recorded. Entries in the register

were not authenticated by the competent officer and in some registers quantity permitted for import in subsequent lot had not been calculated.

CBEC, while admitting the observation stated (December 2015) that the registers will be properly updated and maintained.

(G) Non Maintenance of the records by units under SEZ

All units in Gem and Jewellery Sector are required to maintain register for import, use and issue, used or broken jewellery imported for remaking, re melting, repairing etc. Further the register should have serially numbered pages and should be maintained for each financial year and balance should be struck at the closing of each month to facilitate the concerned authorities to inspect and verify the account maintained. Further such goods have to be stored separately and the quantities in stock as per the requirement prescribed here in above should tally with the stock challan/ stock taken by the proper officer.

Three SurSEZ, Surat units namely M/s Solar Export, M/s Kavya Jewels and M/s Firestar International Pvt. imported used jewellery of value ₹ 537.58 crore, however, the record as mentioned above was not maintained by units.

On this being pointed out (June 2015), department replied (June 2015) that remedial action would be taken.

Final outcome may be intimated to audit.

(H) Non-monitoring of Job works of EoU

As per circular dated 1 April, 2003, before allowing subcontracting of production in DTA, the jurisdictional Assistant Commissioner/Deputy Commissioner shall satisfy himself of the necessity of such sub-contracting of production in DTA. This facility was not to be allowed in routine manner to the EoU units. The intention of the Government was to allow the unit to assign the manufacturing to DTA or to other EoU to overcome the genuine difficulties and to enable units to meet the sudden demand of goods for export.

Audit scrutiny of records relating to permission for job work revealed that the Excise department had been permitting M/s Lodha jewellery Export India Pvt. Ltd, a 100 percent EoU under NSEZ for sub-contracting of production process in DTA for the period from 2010-11 to 2014-15 in a routine manner. It was also observed that the advance permission for sub-contracting of production process in DTA for the period for 2015-16 was granted without ascertaining the difficulties and sudden demand necessitating such sub contracting.

Reply of DoC is awaited (January 2016).

(I) Late filing of ER-2 return

As per Central Excise Rules 2002, every assessee shall submit to the Superintendent of Central Excise a monthly return, in the form specified by a notification, of production and removal of goods and other relevant particulars, within ten days after the close of the month to which the return relates.

During test check of records in Jaipur, we observed that two 100 percent EoU units¹⁹ filed their ER-2 returns belatedly ranging from 3 to 120 days. In reply department stated that SCN has been issued to both assesses.

Final outcome may be intimated to audit.

(J) Locking up of Government revenue

Based on audit observation regarding ambiguity in the notification dated 12 May 2004 with regard to levy of duty on Gold coins, SCNs were issued and the issue was referred to the Board seeking clarification on the effective rate of duty on imported Gold coins. Since no response was received from the Board the cases were transferred to Call Book and are still pending adjudication involving duty of ₹ 3.29 crore. The Board clarified on 17 March 2012 that Gold coins of purity 995 and above are to be levied at lower rate of duty and other Gold coins of less purity are to be levied at higher rate of duty and the assessments after March 2012 are being done accordingly. However, Board did not issue any instruction for assessment of the cases lying in the Call Book resulting in locking up of ₹ 3.29 crore revenue.

CBEC in their reply (December 2015) stated that from the beginning, gold coins were extended with concessional rate of customs duty from time to time.

It is also stated that it is quite likely that a commodity may be covered under more than one notification attracting different rates of duties. In such cases, the benefit of lower rate of duty cannot be denied to the assessee as per various judicial pronouncements on the subject.

Reply of CBEC is not tenable because based on its own policy the board has not issued any clarification on this matter even after referral to them by the Coimbatore Commissionerate with the cases pending in Call Book for more than 5 years.

(K) Short accounting of gold stock in the department

Any goods which do not correspond in respect of the value or with the declaration made under the Customs Act, is liable to confiscation and penalty

¹⁹ M/s Millennium Jewels, (100% EOU), Jaipur, M/s A.K. Exports (100%EoU), Jaipur

under the Act and the importer/passenger has the option to pay fine and redeem the goods in lieu of confiscation. The confiscated goods are to be disposed off in accordance with the procedure prescribed in circular dated 8 August 2005.

In Mumbai Airport, the stock of gold as on 31 March 2015 was 725.08 Kg as per the MTR (Appendix 17).

Audit observed that Gold shown as disposed included gold bullion 14516.80 gms of ₹ 3.63 crore and gold in other forms 4517 gms of ₹ 1.12 crore under the head 'transfer to confiscation/ripe goods' handed over to AIU for valuation was considered as disposal. This being an internal transfer could not be considered as disposed. Further no records were maintained by the issuing authority (strong room) to track return of gold issued for valuation. Further in stock account of Gold, there was difference of 13337.80 gms of gold between gold issued from strong room and stock of gold as shown in DS-1 section (section where gold is cleared for valuation and other seized goods are kept temporarily) was observed. DS-1 section does not prepare any MTR and hence no Management Information System (MIS) was available to monitor the stock of gold and other articles lying in stock at DS-1 section.

The closing stock of 725.08 Kgs reported by the Commissionerate did not include 31.274 Kgs of Gold shown under 'ripe for disposal' in the MTR for March 2015.

Against the quantity of 330.545 Kgs of gold shown as disposed in MTR for the year 2014-15 under the head 'transfer to confiscation and Ripe goods', the corresponding receipt under the head 'before ripe/ripe for disposal was only 91.437 Kgs of gold showing non reconciliation of gold disposal of 239.108 Kgs. The difference observed in accounting of gold stock as stated above, needed reconciliation.

No system was in place for reconciling gold issued from strong room for valuation purpose to AIU/DS-1 and its return. A reconciliation of stock of gold as on 31 March 2015 in respect of gold shown as disposed from strong room during last 5 years was called for and the same was not made available to audit.

CBEC in their reply (December 2015) stated that the entire gold has been returned to the Strong Room and gave one month reconciliation. Further, it stated that the apparent difference in reconciliation with DS1 is only due to lack of suitable head in the MTR column where such movements of gold can be accounted for.

Reply of the department is not acceptable because the department has not furnished reconciliation for the entire audit period and it shows lack of a

proper monitoring system. Department also stated that quantity shown as cleared from strong room will never tally with DS1 balance as the clearance from DS1 is shown as fresh receipts in strong room. This corroborates audit contention of a lack of tracking system for the gold cleared from strong room.

4.4 Lack of internal control

(A) Non-initiation of action under section 110(1A) of the Customs Act

The Central Government may, having regard to the nature of any goods, depreciation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations, by notification in the Official Gazette, specify the goods or class of goods which shall, as soon as may be after its seizure be disposed of by the proper officer in such manner from time to time, after following the procedure.

Further, where any goods have been seized by a proper officer shall prepare an inventory of goods containing such details relating to their description, quality, quantity, mark, numbers, country of origin and other particulars as the proper officer may consider relevant to the identity of the goods in any proceedings under the Act and shall make an application to a Magistrate for the purpose of certifying the correctness of the inventory so prepared and shall take photograph of such goods in the presence of Magistrate and get it certified as true and the Magistrate shall, as soon as may be, allow the application.

Audit observed that in Mumbai Airport out of total 262 cases disposed (Book value ₹ 41.84 crore), 69 cases (Book value ₹ 16.45 crore) were disposed without following proper procedure for seizure and disposal of the goods. Further in 157 cases (Book value ₹ 6.84 crore), disposed during 2013-14, department could not produce any records to confirm whether proper procedure had been followed or not.

CBEC in their reply (December 2015) stated that as far as the goods under seizure are concerned all the procedure stipulated has been properly followed without any deviation.

The reply is not acceptable since in light of the case as mentioned above, no supporting evidence was produced for verification and department was silent about the 69 cases which were disposed without taking action under section 110(1A).

(B) Non disposal of seized/confiscated goods

The Customs Act, 1962 provides for recovery of sums due to the Government after disposal of seized goods. The CBECE in their instructions (dated 22 July 2010) directed that each Customs formation will constitute a 'Task Force' for

a one time comprehensive review for expeditious disposal of all uncleared/unclaimed cargo and asked for progress made in disposal along with age-wise breakup of pending cargo that was ripe for disposal. CBEC in their instructions also reiterated that in cases where consignments are detained by Customs, all pending actions such as investigation, adjudication and related court proceedings should be taken up for completion without delay. As per the instructions it was responsibility of the Commissioners to ensure the expeditious disposal of such cargo on regular basis.

(i) In Mumbai Airport, audit observed that Gold, Diamond & Precious stones are lying un-disposed to the extent of ₹ 177.64 crore upto March 2015. Out of these, 95 cases valuing of ₹ 26.90 crore were pending for more than one year and 27 cases valuing of ₹ 5.26 crore, were pending for more than three years.

Similarly, in the office of the Dy. Commissioner (Customs) JGSE and Air Cargo Complex, Sanganer, Jaipur, imported articles/goods weighing 319.87 Kgs (falling under CTH 71) were lying unclaimed and pending for disposal ranging from 1 year to 24 years period.

(ii) In Customs Intelligence Unit of Coimbatore Commissionerate, 11 consignments of Gold involving value of ₹ 5.01 crore were seized and confiscated during 2013-14 and 2014-15. Out of these, nine cases have been adjudicated and orders have been passed by the adjudicating authority for absolute confiscation of goods valued at ₹ 2.91 crore and also fines and penalty amounting to ₹ 65 lakh and ₹ 51 lakh respectively were imposed. However, in six cases, though the appeal period of 60 days had expired but no action was initiated to recover the fines and penalties amounting to ₹ 57 lakh and ₹ 42 lakh respectively. Moreover, the seized goods are ripe for disposal as the adjudication orders have been passed for absolute confiscation involving value of ₹ 2.34 crore.

Similarly, in Chennai Air Customs, five cases pertaining to Chennai Airport were adjudicated during February and March 2014 involving value of ₹ 68.93 lakh, on the quantum of 2.516 Kgs seized/confiscated and redemption fine of ₹ 18 lakh and penalty amount of ₹ 7.55 lakh were imposed which is pending realization for more than a year.

CBEC in their reply (December 2015) stated that instructions have been issued to Mumbai-III Commissionerate reviews all the activities for expeditious disposal of all uncleared/unclaimed/ripe for disposal goods.

In case of Jaipur, the auction was held on 07.02.2015 to clear all the uncleared/ unclaimed cargo. Only one consignment remained un-auctioned due to lower bids in comparison to reserve price

In case of Coimbatore ACC, instructions have been issued to Tax Recovery Cell, Coimbatore Commissionerate to take necessary action to recover the same. With regard to disposal cases, action has already been taken in all the adjudicated cases.

Final outcome in these cases may be intimated to audit.

(C) Procedural lapses in transfer to disposal unit

As per the agreement signed between Central Warehousing Corporation (CWC) and Commissioner of Customs (General) in 2001 regarding management of warehouse at IGI Airport, New Delhi “the goods not cleared within 30 days by the airlines or the passenger concerned shall be liable to be removed by the Customs to their Disposal Units and to this, CWC shall provide necessary details to Customs as and when such goods become ripe for disposal”.

As per disposal manual, whenever any goods are detained/seized, a detailed inventory of these goods containing details like description of goods, quantity, condition of goods, country of origin, total estimated market value etc. should be prepared by the seizing officer at the time of detention/seizure.

During test check of records, audit noticed that during the period from April 2010 to March 2015, a total number of 179 valuable goods/items (Gold bar/rod/rounds, gold jewellery/silver/artificial jewellery) were lying in the warehouse of CWC without valuation and resultant non disposal in contravention of the above provisions.

Department may initiate action to dispose these goods at the earliest to prevent any damage or pilferage of the goods and to mitigate the risk of loss of seized/confiscated precious goods.

In response to the recommendation that disposal system should be built into the ICES System, CBEC stated that disposal is a local function and has no effect on working in other Commissionerates. Hence, developing module for centralized processing may not add to much value. However, a policy decision may be taken in this regard.

Department's reply is not acceptable as audit noticed instances where action was not taken under section 110(1A) of Customs Act, 1962. It is evident from the age wise position of the un-disposed goods that disposal was not done in time bound manner. Audit is of the opinion that if it is linked to EDI, it would help in monitoring timely disposal of the confiscated goods, ruling out blockage of revenue and Government resources and by generating MIS for CBEC and its field formation and would be value adding rather than a burden on the existing system.

5. Conclusion

The Gems and Jewellery industry occupies an important position in the Indian economy and contributes to around 15 per cent of the export basket. Gems and Jewellery sector which was pushing the overall export growth of India reduced to a meagre annual growth of only 0.7 per cent in 2014-15 whereas imports grew by 10.5 per cent, thereby contributing to the trade deficit. Since India did not produce gold and given the currency and asset demand of gold in tandem with a strong socio-cultural dimension of gold jewellery, the change in gold price, import regulation and export promotion schemes did not have material impact on the gold trade. This had led to India becoming the largest gold importer. Simultaneously, trade in rough diamond and CPD grew with insufficient value addition.

DoC was mandated to facilitate creation of an enabling environment and infrastructure for growth of Gems and Jewellery sector through accelerated growth in exports and to earn the precious foreign currency. Higher domestic value addition led exports could have reduced the trade deficit in this sector and consequently eased the Current Account Deficit (CAD). FTP 2015-20, however, did not make any defining provision for the G&J sector despite withdrawal of 20:80 Scheme in 2014 and climb down from the set target of the DoC's Strategy, after its Mid-term review.

Role of RBI was to regulate the external sector by regulating the foreign exchange. Audit found that Gems and Jewellery sector alone contributed to around 13 per cent of the total foreign exchange outgo. RBI in consultation with the government introduced 20:80 scheme in August 2013 to reduce Current Account Deficit and to discourage consumption of gold in the domestic market. As a result the import of gold moderated, till the scheme was modified by DEA and in May 2014, RBI allowed Star/Premier trading houses to import gold.

Similarly, CBEC/DoR was mandated to provide improved tax payer services, implement export promotion measures and effectively collect the tax revenue. Total Customs duty forgone was ₹ 12,26,033 crore for the period 2010-11 to 2014-15 whereas the share of gems and jewellery sector in the above was 25 per cent (₹ 3,01,042 crore) for the same period. Gaps in the valuation database management and Customs electronic data application allowed gradual increase in trade mis-invoicing over the period leading to foreign exchange/capital outflow.

G&J sector was last audited in 2008 however most of the improvements recommended by audit were not achieved.

Lack of an impact assessment of the scheme prior to its implementation and an outcome assessment after implementation, or on exit, rendered the

policies ineffective due to insufficient coordination, control and monitoring; cases of operational malfunction, non compliance; inadequate ICT infrastructure for tax administrations; border control, facilities and certification.

DoR, CBEC and DoC, DGFT need to improve coordination; implement the EDI systems with full functionality; reduce transaction cost; regulate related party transactions, tariff and re-export, for a growth led licit Gems and Jewellery trade to avoid inflated export figures through mere trade accounting.

This performance audit has revenue implication of ₹ 1,003.37 crore in addition to systemic issues worth ₹ 19,522.67 crore and internal control matters which could not be quantified.

New Delhi

Dated: 16 March 2016



(Dr. Nilotpal Goswami)

Principal Director (Customs)

Countersigned

New Delhi

Dated: 16 March 2016



(Shashi Kant Sharma)

Comptroller and Auditor General of India