

Chapter 5 : Conclusion and Recommendations

5.1 Conclusion

The performance audit revealed that the Scheme was drafted with a number of ambiguities and deficiencies which could have been removed through use of Section 113 and by issuing appropriate clarifications. Instead clarifications were issued contrary to the spirit of the scheme.

The responses of the department revealed that their intention was only to rake in whatever revenue they could and not to use this as an opportunity to improve tax administration. Even elementary checks and balances were not put in place to ensure filing of truthful declarations by the declarants and for department to rely on the “truthfulness” of the declarations. Provision to preempt untruthful declarations and provisions to check substantially false declarations were as good as redundant. Further, the scheme was introduced with undue haste as the department responded with ‘lack of time’ to several audit observations.

The hope that the one time amnesty scheme will motivate defaulters to come back into the tax fold has had a limited impact as a considerable number of declarants under the scheme have reverted to being non-filers.

5.2 Recommendations

VCES stipulates that after issuance of VCES-3, no action in any manner can be taken against the declarants. As per the statistical information received from the Ministry, from the total processed declarations, the discharge certificates (VCES-3) were issued in 71 per cent cases. Keeping this in view, the recommendations for this Performance Audit are given in two parts viz., recommendations that should be considered while framing any amnesty Schemes in future and recommendations relating to areas where corrective action is feasible post VCES period.

Part-1 Recommendations for future reference

1. The use of IT platforms, integrated with the existing automated systems, for self declarations as well as scrutiny and follow up by the department for such Schemes may be considered.
2. Defining checklists for verifying the truthfulness of declaration filed by the declarants.
3. Identification of challans related to such schemes must be ensured by use of IT Platforms.
4. Provisions/clarification issued should not dilute the safeguards prescribed in the existing provisions as well as the express intention of the Scheme.

The Ministry accepted the first three recommendations and, in respect of recommendation No.4, stated that it must be noted that the purpose of this Scheme was to cover as many defaulters as possible and that there should not be any attempt to defeat the purpose of the Scheme.

Audit opines that the section 113 of Finance Act, 2013 gives powers to remove difficulties but without being inconsistent with the provisions of this Scheme.

Part-2 Recommendations for corrective action Post VCES

5. Cenvat credit should be allowed in respect of only those service tax payment under this Scheme for which documents prescribed in rule 9 of Cenvat Credit Rules, 2004 are available.
6. The amnesty Scheme should be followed by an extensive drive to bring evaders to tax net through departmental investigation and vigilance wings, so as to send a strong message to the defaulters who did not come clean despite the Scheme, to have effective deterrent effect and also to boost morale of regular tax payers.
7. A rigorous follow-up procedure through monitoring of filing of returns and scrutiny of such returns should be ensured to facilitate success as well as impact assessment of the Scheme.

The Ministry accepted all the above recommendations and stated that an instruction had been issued for follow up action regarding declarants as well as sectors which had given rise to a lot of declarations.

New Delhi
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