

Executive summary

The Performance Audit on Service Tax Voluntary Compliance Encouragement Scheme, 2013 (VCES) was conducted in 35 selected Commissionerates to study whether the Scheme achieved its intended goals through seeking assurance regarding mechanism devised by the department for its implementation, addressing of the systemic failures that necessitated the VCES and monitoring of post-VCES compliance by the declarants.

The key aims of the scheme viz. encouraging non-filers or stop filers to file returns and tax base broadening were not achieved as only 66,072 existing as well as new registrants declared tax dues amounting to ₹ 7,750 crore under VCES as against 10,00,000 non/stop filers when the Scheme was announced and only around 22 per cent of the declarations filed related to new registrations. The Performance Audit revealed deficiencies in the design and enabling provisions of the Scheme, non-compliance to provisions prescribed in various stages and inadequacies in tax administration as detailed below:

- a. The Scheme envisaged grant of immunity for truthful declaration of service tax dues. No basic documents in support of tax liability declared were prescribed and verification of correctness of declaration was restricted only to mere check of arithmetic accuracy. Even basic facts apparent on the face of the declaration were not verified.

(Paragraph 2.1.1)

- b. Clarifications given by Board regarding pending demand notice, inquiry, audit or investigation, which would make the declarant ineligible for the scheme, were contradictory to the provisions and the intention of the scheme. This resulted in extension of unintended benefit amounting to ₹ 129.84 crore in 332 cases.

(Paragraphs 2.2.1, 2.2.2 and 2.2.3)

- c. Deficient design of VCES application form and non-prescription of proper database by Board deprived department the benefit of having valuable data for post-Scheme analysis and monitoring.

(Paragraphs 2.3.1 and 2.3.3)

- d. The safeguards prescribed in Cenvat Credit Rules, 2004, to avail Cenvat (input) credit were not given due consideration while making payments under VCES admissible for availing Cenvat credit in future.

(Paragraph 2.3.5)

- e. In 444 cases in 20 Commissionerates, involving tax dues of ₹ 85.97 crore, we found deficiencies in verification of eligibility criteria.

(Paragraph 3.4)

- f. We noticed in 169 cases, involving tax dues of ₹ 20.96 crore, that though the declarants had not paid the declared tax dues as per due dates prescribed, the declarations were not made ineligible for the scheme.

(Paragraphs 3.7 and 3.8)

- g. Audit attempted to examine truthfulness of declarations made by cross-verification of declared tax dues in two commissionerates with details available with other authorities (viz. Income Tax Department, Commercial Taxes Department and Registrar of Companies) and found short declaration of tax dues to the extent of ₹ 4.35 crore in eight cases.

(Paragraph 4.2)

- h. One time amnesty Scheme like VCES can be a real one time solution for the problem it sought to redress only if the tax systems are strengthened and follow up mechanism is made stringent. In 15 Commissionerates where data was made available to audit, we observed that only 62 per cent of the returns due for filing were actually filed post-VCES and no action was taken by the department against non-filers.

(Paragraph 4.3.1)

- i. The department did not initiate any action to recover the balance of the declared tax dues or to levy applicable interest and penalty in respect of 78 rejected cases involving an amount of ₹ 23.02 crore.

(Paragraph 4.3.2)

- j. The scheme was introduced with undue haste as the department responded with 'lack of time' to several audit observations.

(Paragraph 5.1)

Summary of Recommendations

Part-1 Recommendations to be considered while framing any amnesty Schemes in future

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.

Part-2 Recommendations for corrective action Post VCES

5. Cenvat credit should be allowed in respect of only those service tax payments 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.