

## Chapter I

### Department of Revenue – Central Excise

#### 1.1 Resources of the Union Government

The Government of India's resources include all revenues received by the Union Government, all loans raised by issue of treasury bills, internal and external loans and all moneys received by the Government in repayment of loans. Tax revenue resources of the Union Government consist of revenue receipts from direct and indirect taxes. Table 1.1 below shows the summary of resources of the Union Government for the Financial Year (FY) 16 and FY15.

**Table 1.1: Resources of the Union Government**

	(₹ in crore)	
	FY 16	FY 15
A. Total Revenue Receipts	19,42,200	16,66,717
<i>i. Direct Taxes Receipts</i>	7,42,012	6,95,792
<i>ii. Indirect Tax Receipts including other taxes</i>	7,13,879	5,49,343
<i>iii. Non-Tax Receipts</i>	4,84,428	4,19,982
<i>iv. Grants-in-aid and contributions</i>	1,881	1,600
B. Miscellaneous Capital Receipts <sup>1</sup>	42,132	37,740
C. Recovery of Loan and Advances <sup>2</sup>	41,878	26,547
D. Public Debt Receipts <sup>3</sup>	43,16,950	42,18,196
<b>Receipts of Government of India (A+B+C+D)</b>	<b>63,43,160</b>	<b>59,49,200</b>

Source: Union Finance Accounts of respective years. Direct Tax receipts and Indirect tax receipts including other taxes have been worked out from the Union Finance Accounts. Total Revenue Receipts include ₹ 3,37,808 crore in FY15 and ₹ 5,06,193 crore in FY16, share of net proceeds of direct and indirect taxes directly assigned to states.

The total receipts of the Union Government increased to ₹ 63,43,160 crore in FY16 from ₹ 59,49,200 crore in FY15. In FY16, its own receipts were ₹ 19,42,200 crore including Gross Tax receipts of ₹ 14,55,891 crore of which Indirect Tax receipts including other taxes accounted for ₹ 7,13,879 crore.

<sup>1</sup> This comprises of value of bonus share, disinvestment of public sector and other undertakings and other receipts

<sup>2</sup> Recovery of loans and advances made by the Union Government

<sup>3</sup> Borrowing by the Government of India internally as well as externally

## 1.2 Nature of Indirect Taxes

Indirect Taxes attach themselves to the cost of the supply of goods/services and are, in this sense, transaction-specific rather than person-specific. The major Indirect Taxes/duties levied under Acts of Parliament are:

- a) **Central Excise duty:** Central Excise duty is levied on manufacture or production of goods in India. Parliament has powers to levy excise duties on tobacco and other goods manufactured or produced in India except alcoholic liquors for human consumption, opium, Indian hemp and other narcotic drugs and narcotics but including medicinal and toilet preparations containing alcohol, opium etc. (Entry 84 of List 1 of the Seventh Schedule of the Constitution).
- b) **Service Tax:** Service Tax is levied on services provided within the taxable territory (Entry 97 of List 1 of the Seventh Schedule of the Constitution). Service Tax is a tax on services rendered by one person to another. Section 66B of the Finance Act, 1994 envisages that there shall be a tax levied at the rate of 15 per cent (which includes 0.5 per cent of Swachh Bharat Cess and 0.5 per cent of Krishi Kalyan Cess) on the value of all services, other than those specified in the negative list, provided or agreed to be provided in the taxable territory by one person to another and collected in such manner as may be prescribed.<sup>4</sup> 'Service' has been defined in section 65B (44) of the Act to mean any activity for consideration (other than the items excluded therein) carried out by a person for another and to include a declared service.<sup>5</sup>
- c) **Customs duty:** Customs duty is levied on import of goods into India and on export of certain goods out of India (Entry 83 of List 1 of the Seventh Schedule of the Constitution).

## 1.3 Organisational Structure

The Department of Revenue (DoR) of Ministry of Finance (MOF) functions under the overall direction and control of the Secretary (Revenue) and coordinates matters relating to all the Direct and Indirect Union Taxes through two statutory Boards namely, the Central Board of Excise and Customs (CBEC) and the Central Board of Direct Taxes (CBDT) constituted under the Central Board of Revenue Act, 1963. Matters relating to the levy and collection of Service Tax are looked after by the CBEC.

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<sup>4</sup> Section 66B was inserted by the Finance Act, 2012 with effect from 1 July 2012; section 66D lists the items the negative list comprises of

<sup>5</sup> Section 66E of the Finance Act lists the declared services

Indirect Tax laws are administered by the CBEC through its field offices, the Commissionerates. For this purpose, the country is divided into 27 zones of Central Excise and Service Tax headed by the Chief Commissioner. Under these 27 zones of Central Excise and Service Tax, there are 83 composite executive Commissionerates that deal with both Central Excise and Service Tax, 36 exclusive Central Excise executive Commissionerates and 22 exclusive Service Tax executive Commissionerates headed by the Commissioner. Divisions and ranges are the subsequent formations, headed by Deputy/ Assistant Commissioner and Superintendents respectively. Apart from these executive Commissionerates, there are eight Large Tax Payer Units (LTU) Commissionerates, 60 Appeal Commissionerates, 45 Audit Commissionerates and 20 Directorates General/Directorates dealing with specific function.

The overall sanctioned staff strength of the CBEC is 91,756<sup>6</sup> as on 1 January 2016. The organisational structure of CBEC is shown in Appendix I.

#### 1.4 Growth of Indirect Taxes - Trends and Composition

Table 1.2 depicts the relative growth of Indirect Taxes during FY12 to FY16.

**Table 1.2: Growth of Indirect Taxes**

(₹ in crore)					
Year	Indirect Tax revenue	GDP	Indirect Taxes as % of GDP	Gross Tax revenue	Indirect Taxes as % of Gross Tax revenue
FY12	3,92,674	90,09,722	4.36	8,89,118	44.16
FY13	4,74,728	99,88,540	4.75	10,36,460	45.80
FY14	4,97,349	1,13,45,056	4.38	11,38,996	43.67
FY15	5,46,214	1,25,41,208	4.36	12,45,135	43.87
FY16	7,10,101	1,35,76,086	5.23	14,55,891	48.77

Source: Tax revenue - Union Finance Accounts, GDP – Press note of CSO<sup>7</sup>

It is observed that Indirect tax collection have risen in FY16 vis a vis FY15 as a ratio of GDP and as a ratio of Gross Tax revenue.

<sup>6</sup> Figures provided by the Ministry

<sup>7</sup> Press note on GDP released on 31 May 2016 by Central Statistical Office (CSO), Ministry of Statistics and Programme Implementation. This indicates that the figures for GDP for FY14 and FY15 are based on New Series Estimates; and figure for FY16 are based on provisional estimates at current prices. The figures of GDP for FY12 and FY13 are based on current market price with base year 2004-05. Figures are being continually revised by CSO and this data is meant for an indicative comparison of fiscal performance with macro economic performance

## 1.5 Indirect Taxes – Relative Contribution

Table 1.3 depicts the trajectory of the various Indirect Tax components in GDP terms for the period FY12 to FY16.

**Table 1.3: Indirect Taxes – percentage of GDP**

(₹ in crore)							
Year	GDP	CE revenue	CE revenue as % of GDP	ST revenue	ST revenue as % of GDP	Customs revenue	Customs revenue as % of GDP
FY12	90,09,722	1,44,901	1.61	97,509	1.08	1,49,328	1.66
FY13	99,88,540	1,75,845	1.76	1,32,601	1.33	1,65,346	1.66
FY14	1,13,45,056	1,69,455	1.49	1,54,780	1.36	1,72,085	1.52
FY15	1,25,41,208	1,89,038	1.51	1,67,969	1.34	1,88,016	1.50
FY16	1,35,76,086	2,87,149	2.12	2,11,415	1.56	2,10,338	1.55

Source: Figures of tax receipts are as per Union Finance Accounts of respective years.

The share of Central Excise, service Tax and Customs revenue as a percentage of GDP has increased during FY16.

## 1.6 Growth of Central Excise Receipts - Trends and Composition

Table 1.4 depicts the trends of Central Excise revenue in absolute and GDP terms during FY12 to FY16.

**Table 1.4: Growth of Central Excise revenue**

(₹ in crore)							
Year	GDP	Gross Tax revenue	Gross Indirect Taxes	Central Excise revenue	Central Excise Revenue as % of GDP	Central Excise Revenue as % of Gross tax revenue	Central Excise as % of Indirect taxes
FY12	90,09,722	8,89,118	3,92,674	1,44,901	1.61	16.30	36.90
FY13	99,88,540	10,36,460	4,74,728	1,75,845	1.76	16.97	37.04
FY14	1,13,45,056	11,38,996	4,97,349	1,69,455	1.49	14.88	34.07
FY15	1,25,41,208	12,45,135	5,46,214	1,89,038	1.51	15.18	34.61
FY16	1,35,76,086	14,55,891	7,10,101	2,87,149	2.12	19.72	40.44

Source: Figures of tax receipts are as per Union Finance Accounts of respective years.

It is observed that Central Excise as a ratio of GDP, Gross Tax Revenue and Indirect Taxes has increased during FY16 and it constituted approximately 20 per cent of Gross Tax revenue in FY16.

## 1.7 Central Excise Receipts vis-à-vis CENVAT Credit Utilised

A manufacturer can avail credit of duty of Central Excise paid on inputs or capital goods as well as Service Tax paid on input services related to his manufacturing activity and can utilise credit so availed in payment of Central Excise duty.

Table 1.5 growth of Central Excise collections through cash (PLA) and CENVAT credit during FY12 to FY16.

Table 1.5: Central Excise Receipts: PLA and CENVAT utilisation

(₹ in crore)

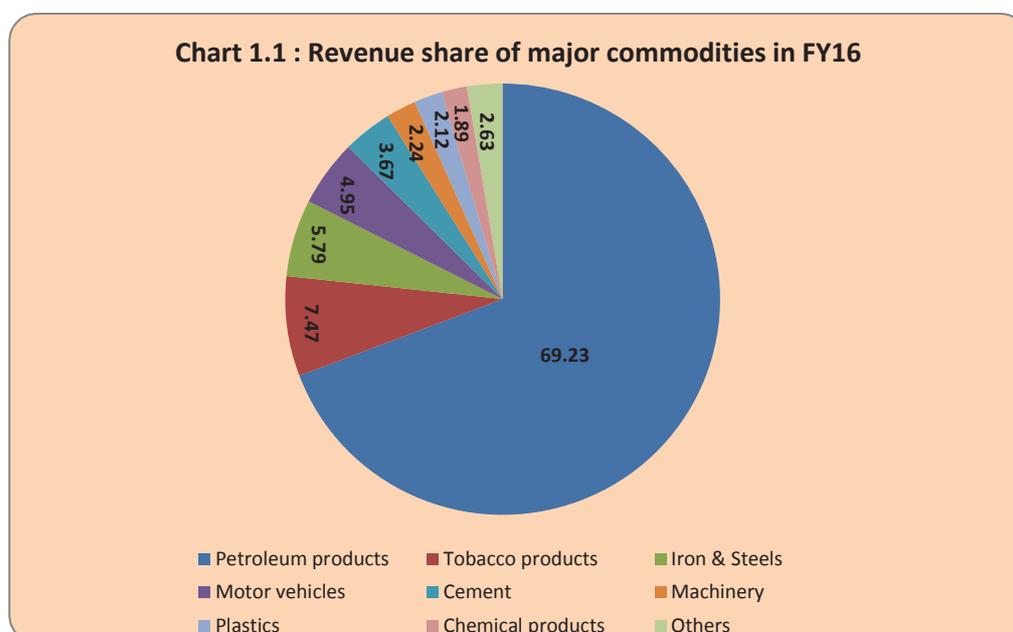
Year	CE duty paid through PLA		CE duty paid through CENVAT credit		CE duty paid from CENVAT credit as % of PLA payments
	Amount#	% increase from previous year	Amount*	% increase from previous year	
FY12	1,44,901	5.23	2,14,014	25.85	147.70
FY13	1,75,845	21.36	2,58,697	20.88	147.12
FY14	1,69,455	-3.63	2,73,323	5.65	161.30
FY15	1,89,038	11.56	2,91,694	6.72	154.30
FY16	2,87,149	51.90	3,10,335	6.01	108.07

Source: # Union Finance Accounts, \* Figures furnished by the Ministry

It is observed that Central Excise revenue (PLA) has shown 51.90 per cent growth in FY16 compared to FY15. Payment from CENVAT credit, has increased over last five years from 148 per cent of PLA in FY12 to 154 per cent in FY15 and decreased to 108 per cent in FY16 which is mainly due to increase in duty on petroleum products.

## 1.8 Central Excise Revenue from Major Commodities

Chart 1.1 depicts the share of commodity groups in the Central Excise revenues (FY16).



Source: Figures provided by the Ministry

It is observed that Petroleum products (69.23 per cent), Tobacco products (7.47 per cent), Iron and Steel (5.79 per cent), Motor vehicles (4.95 per cent),

Cement (3.67 per cent), Machinery products (2.24 per cent) Plastic (2.12 per cent) and Chemical products (1.89 per cent) were the highest revenue earners and altogether, contributed 97.37 per cent of the total Central Excise revenue in FY16.

Table 1.6 depicts revenue from these commodities during last five years.

**Table 1.6 : Revenue from top yielding commodities during last five years**

(₹ in crore)					
Commodities	FY12	FY13	FY14	FY15	FY16
Petroleum products	74,112	84,188	88,065	1,06,653	1,98,793
Tobacco products	15,682	17,991	16,050	16,676	21,463
Iron and Steels	13,813	17,603	17,342	15,970	16,632
Motor vehicles	7,447	10,038	8,363	8,546	14,220
Cement	8,952	10,712	10,308	9,572	10,544
Machinery	3,452	4,559	3,761	3,707	6,421
Plastics	2,931	4,259	4,298	5,150	6,092
Chemical products	3,443	4,872	4,845	5,103	5,419

Source: Figures provided by the Ministry

It is observed that during FY16, there is huge increase in Central Excise collection from petroleum sector as specific Central Excise duty on petrol and high speed diesel increased from ₹ 1.2 per litre and ₹ 1.46 per litre to ₹ 8.95 per litre and ₹ 7.96 per litre during the last two years.

## 1.9 Tax Base

"Assessee" means any person who is liable for payment of duty assessed or a producer or manufacturer of excisable goods or a registered person of a private warehouse in which excisable goods are stored and includes an authorised agent of such person. A single legal entity (company or individual) can have multiple assessee identities depending upon location of manufacturing units.

Table 1.7 depicts the number of Central Excise assessees during the last five years:

**Table 1.7: Tax base in Central Excise**

Year	No. of registered assessees	% growth over previous year	No. of assessees who filed return	% age of assessees who filed return
FY12	3,81,439	-	1,45,667	38
FY13	4,09,139	7.26	1,61,617	40
FY14	4,35,213	6.37	1,65,755	38
FY15	4,67,286	7.37	1,72,776	37
FY16	4,98,273	6.63	1,83,501	37

Source: Figures furnished by the Ministry

It is observed that there is a steady growth in number of registered assesseees. However, only 37 per cent assesseees are filing returns. Ministry needs to look into the reasons for the same.

The data furnished by the Ministry this year related to registered assesseees does not tally with the data furnished last year by the Ministry and reported in CAG's report no. 2 of 2016.

### 1.10 Budgeting Issues in Central Excise

Table 1.8 depicts a comparison of the Budget Estimates and the corresponding actuals for Central Excise receipts.

**Table 1.8: Budget, Revised estimates and Actual receipts**

(₹ in crore)

Year	Budget estimates*	Revised budget estimates*	Actual receipts#	Diff. between actuals and BE	%age variation between actuals and BE	%age variation between actuals and RE
FY12	1,64,116	1,50,696	1,44,901	(-)19,215	(-)11.71	(-)3.85
FY13	1,94,350	1,71,996	1,75,845	(-)18,505	(-)9.52	(+)2.24
FY14	1,97,554	1,79,537	1,69,455	(-)28,099	(-)14.22	(-)5.62
FY15	2,07,110	1,85,480	1,89,038	(-)18,072	(-)8.73	(-)1.92
FY16	2,29,809	2,84,142	2,87,149	57,340	24.95	(+)1.06

Source: \*Union Receipts Budget and # Union Finance Accounts.

It is observed that in FY16, actual receipt of Central Excise have risen of Budget estimates by 24.95 per cent and variation increased to 1.06 per cent in comparison of revised estimate.

### 1.11 Central Excise Revenue Forgone Under Central Excise Act

Central Government has been granted powers under Section 5A(1) of the Central Excise Act, 1944 to issue exemption notifications in public interest so as to prescribe duty rates lower than the tariff rates prescribed in the Schedules. The rates prescribed by exemption notifications are known as the "effective rates". Revenue forgone is defined to be the difference between the duty that would have been payable but for the exemption notification and the actual duty paid in terms of the said notification –

- In cases where the tariff and effective rates of duty are specified as ad valorem rates - **Revenue forgone= Value of goods X (Tariff rate of duty - Effective rate of duty)**
- In cases where the tariff rate is on ad valorem basis but the effective duty is levied at specific rates in terms of the exemption notification,

then – **Revenue forgone = ( Value of goods X Tariff rate of duty) - (Quantity of goods X Effective rate of specific duty)**

- In cases where the tariff rates and effective rates are a combination of ad valorem and specific rates, revenue forgone is calculated accordingly
- In all cases, where the tariff rate of duty equals the effective rate, revenue forgone will be zero.

Besides the powers to issue general exemption notifications under Section 5A(1) *ibid*, the Central Government also has the powers to issue special orders for granting excise duty exemption on a case to case basis under circumstances of an exceptional nature, *vide* Section 5A(2) of the Central Excise Act. However, unlike general exemptions which form part and parcel of fiscal policy of the Central Government, the main object behind issue of exemption orders is to deal with circumstances of exceptional nature. As such, the duty forgone on account of issue of special exemption orders is not being calculated towards revenue forgone figures.

Table 1.9 depicts figures of Central Excise related revenue forgone during last five years as reported in budget documents of the Union Government.

**Table 1.9: Central Excise receipts and total revenue forgone**

(₹ in crore)			
Year	Central Excise receipts#	Revenue forgone*	Revenue forgone as % of Central Excise receipts
FY12	1,44,901	1,95,590	134.98
FY13	1,75,845	2,09,940	119.39
FY14	1,69,455	1,96,223	115.80
FY15	1,89,038	1,96,789	104.10
FY16	2,87,149	2,24,940	78.34

Source: Union Receipts Budget and #Union Finance Accounts.

It is observed that the revenue forgone for FY16 in respect of Excise duties was ₹ 2,24,940 crore (₹ 2,05,940 crore as general exemptions and ₹ 19,000 crore as area based exemptions) which is 78.34 per cent of revenue from Central Excise.

## Tax administration in Central Excise

### 1.12 Scrutiny of Central Excise Returns

CBEC introduced self-assessment in respect of Central Excise in 1996. With the introduction of self-assessment, the department also provided for a strong compliance verification mechanism with scrutiny of returns.

Assessment is the primary function of Central Excise officers who are to scrutinise the Central Excise returns to ensure correctness of duty payment. As per the manual for the Scrutiny of Central Excise Returns, a monthly report is to be submitted by the Range Officer to the jurisdictional Assistant/Deputy Commissioner of the Division regarding the number of returns received and scrutinised. Scrutiny is done in two stages i.e. preliminary scrutiny by ACES and detailed scrutiny, which is carried out manually on the returns marked by ACES or otherwise.

### 1.12.1 Preliminary Scrutiny of Returns

The purpose of preliminary scrutiny is to ensure completeness of information, timely submission of the return, timely payment of duty, arithmetical accuracy of the amount computed as duty and identification of non-filers and stop-filers.

Considering the fact that mandatory electronic filing of Central Excise returns had been introduced with effect from 1 October 2011, returns scrutiny through ACES should have stabilised at least by 2014-15. One of the main intentions behind introducing preliminary scrutiny online was to release manpower for detailed scrutiny, which could then become the core function of the Range/Group.

Table 1.10 depicts the performance of department in respect of preliminary scrutiny of Central Excise returns.

**Table 1.10: Preliminary scrutiny of Central Excise returns**

Year	No of returns filed in ACES	No. of returns marked for R&C*	% of returns marked for R&C	No. of returns cleared after R&C	No. of returns pending for R&C	% of marked returns pending correction
FY14	12,65,913	11,79,583	93.18	10,03,789	2,81,686	23.88
FY15	13,18,880	12,31,714	93.39	9,57,712	2,74,002	22.24
FY16	13,88,572	12,93,987	93.19	8,36,728	4,57,259	35.34

Source : Figures furnished by the Ministry

\*R&C – Review and correction

Data relating to FY14 and FY15 does not tally with similar data provided by the Ministry last year. The very high percentage of scrutinised returns being thrown up for R&C and resultant high number of returns pending corrective action are indicative of deficiencies in the ACES system. Marking so many returns for R&C would increase the workload of departmental officer though online system was aimed to reduce it. This is evident from the pendency of

35 per cent returns at the end of FY16 which is almost one and a half times of pendency at FY15. As R&C is carried out at range level and there are 2,518 ranges dealing with Central Excise, on an average, only 514 (FY16) R&C are to be carried out by a range in a year. Instructions may be issued to ranges to carry out R&C in all cases.

### 1.12.2 Detailed Scrutiny of Returns

The purpose of detailed scrutiny is to establish the validity of information furnished in the tax return and to ensure correctness of valuation, availing of CENVAT credit, classification and effective rate of tax applied after taking into consideration the admissibility of exemption notification availed etc. Unlike preliminary scrutiny, detailed scrutiny is to cover only certain selected returns, identified on the basis of risk parameters, developed from the information furnished in the returns submitted by the taxpayers.

Table 1.11 depicts the performance of the department in carrying out detailed scrutiny of Central Excise returns.

**Table 1.11: Detailed scrutiny of Central Excise returns**

Year	No. of returns marked for detailed scrutiny	No. of returns where detailed scrutiny was carried out	Number of returns where detailed scrutiny was pending	Age-wise breakup of pendency		
				Returns pending for between 6 months to 1 year	Returns pending for between 1 to 2 year	Returns pending for over 2 years
FY14	6,379	4,914	1,465	1,022	254	205
FY15	9,132	6,728	2,404	2,239	267	208
FY16	DNP*	DNP	DNP	DNP	DNP	DNP

Source: Figures furnished by the Ministry

\*DNP - Data for FY16 was provided only for five months

It is noticed that data for FY14 and FY15 supplied by the Ministry was not only arithmetically incorrect but was also supplied to audit after obtaining the same from their field formations which led to considerable delays.

Further data relating to FY16 provided is relating to only five months i.e., from November 2015 to March 2016 with a detail of number of Central Excise returns where detailed scrutiny is carried out without the details of number of returns marked for scrutiny and without any age-wise analysis. Hence, due to part information, the Audit is not in a position to comment on detailed scrutiny.

### 1.13 Refunds

Section 11B of the Central Excise Act, 1944 provides the legal authority for claim and grant of refund of any Central Excise duty. The term refund includes rebate of excise duty paid on excisable goods exported out of India as well as of excise duty paid on material used in the manufacture of goods exported out of India. Further, section 11BB of the Act stipulates that interest is to be paid on refund amount if it is not refunded within three months of the date of application of refund.

Table 1.12 depicts the details of refund related performance of the department during last three years.

**Table 1.12: Refunds in respect of Central Excise during the last three years**

(₹ in crore)

Year	OB plus claims received during the year		Disposals during the Year						Closing Balance	
			Refunds sanctioned/rejected during the year		Cases disposed of within 90 days	Delayed disposal	Cases where interest has been paid			
	No. of Cases	Amt.	No. of Cases	Amt.	No. of Cases	No of cases	No. of Cases	Interest paid	No. of Cases	Amt.
FY14	2,70,321	28,461	2,09,549	11,875	1,98,256	64,215	241	91	60,754	4,714
FY15	2,47,196	DNP*	2,04,353	DNP	DNP	DNP	DNP	DNP	42,843	30,714
FY16	4,18,760	35,707	3,73,062	29,356	3,24,340	DNP	3	0.01	45,698	6,351

Source: Figures furnished by the Ministry

\*DNP - Data not provided

It is observed on the basis of data available that despite the fact that there is a liability on department to pay interest on delayed refunds, department is not paying interest to the assesseees in most of the cases. Board must ensure that the provisions regarding payment of interest on delayed refunds are implemented in right earnest.

Despite best pursuance of Audit, Ministry failed to provide certain figures as shown in table above. Data provided also seems incorrect as number of cases in closing balance for FY16 has increased from FY15 but amount has reduced by 80 per cent.

### 1.14 Internal Audit

Modernisation of Indirect Tax administration in India is based on the Canadian model. The new audit system EA 2000 has four distinct features: scientific selection after risk analysis, emphasis on pre-preparation, scrutinising of business records against statutory records and monitoring of audit points.

Audit processes include preliminary review, gathering and documenting systems' information, evaluating internal controls, analysing risks to revenue and trends, developing audit plan, actual audit, preparation of audit findings, reviewing the results with the assessee/Range Officer/Divisional Assistant Commissioner and finalisation of the report.

The Audit framework consists of three parts. Directorate General of Audit and the field Commissionerates share the responsibility of administration of Audit. While the Directorate is responsible for collection, compilation and analysis of audit results and its feedback to CBEC to improve tax compliance and to gauge levels of client satisfaction, audit parties from Commissionerates undertake audit in terms of EA 2000 audit protocol. In order to improve audit quality, CBEC took the assistance of Asian Development Bank in developing audit manuals, risk management manuals and manuals to train auditors in EA 2000 and CAATs, which prescribe detailed processes for conduct of audit.

Table 1.13 depicts details of Central Excise units due for audit (during FY16) by audit parties of the Commissionerates vis-à-vis units audited.

**Table 1.13: Audits of assessees conducted during FY16**

Slab of annual duty (PLA+CENVAT)	Number of units due	Number of units audited	Shortfall in audit (%)
Large	4,874	2,720	44.19
Medium	7,204	3,777	47.57
Small	11,442	4,739	58.58

Source: Figures furnished by the Ministry

The Ministry furnished the figures from October 2015 to March 2016 i.e., only for six months. It is observed that during the above six months, there was a huge shortfall in the Internal audits conducted, as compared with audits due, across all categories of units.

The results of the audit, conducted by the department, is tabulated in table 1.14.

**Table 1.14: Amount objected and recovered during the year**

Category	(₹ in crore)	
	Amount of short levy detected	Amount of total recovery
Large	2,084	605
Medium	564	249
Small	257	133
<b>Total</b>	<b>2,905</b>	<b>987</b>

Source: Figures furnished by the Ministry

It is observed that amount of short levy detected and recovered in large units are significantly higher than the medium and small units. The Ministry needs to ensure internal audit of all large units. This year a subject specific audit has been done on "Effectiveness of Internal Audit", which have been included in chapter III.

### 1.15 Call Book

Extant circulars on the subject envisage that cases that cannot be adjudicated due to certain reasons such as the department having gone in appeal, injunction from courts, contesting CAG audit objection etc. may be entered into the call book. Member (CX), vide his D.O.F.No. 101/2/2003-CX-3, dated 3 January 2005, had emphasised that call book cases should be reviewed every month. Director General of Inspection (Customs and Central Excise) has reiterated the need for monthly review in his letter dated 29 December 2005 stating that review of call book may result in substantial reduction in the number of unconfirmed demands in call book.

Table 1.15 depicts the performance of the department in respect of call book clearance in Central Excise during recent years.

**Table 1.15: Call book cases pending on 31 March**

Year	Opening balance	New Cases transferred to call book during the year	Disposals during the year	Closing balance at the end of year	Revenue involved (₹ in Cr)	Age-wise break up of pendency at the end of the year		
						Less than 6 months	6-12 months	Over 1 year
FY14	30,966	9,624	4,126	36,464	64,356	6,179	3,419	26,866
FY15	35,617	9,552	8,846	36,323	65,765	4,841	2,276	29,206
FY16	37,018	7,437	7,994	36,461	64,260	5,157	2,479	28,394

Source : Figures furnished by the Ministry

It is observed that the pendency of cases in the call book is very high indicating the need for close monitoring of the process of review of call book items. During FY16, the number of cases pending in call book had reached 36,461 involving revenue of 64,260 crore. It is further observed that the opening balance does not match with closing balance of previous years.

### 1.16 Arrears of Central Excise Duties

Every year we comment on arrears of service tax on the basis of data received from the Ministry in chapter I. However, this year a subject specific audit has been done on this subject and all the findings have been included in chapter II.

### 1.17 Additional Revenue Realised Because of Anti-Evasion Measures

Both, Director General of Central Excise Intelligence (DGCEI) as well as the Central Excise and Service Tax Commissionerates have well-defined roles in the task of detection of cases of evasion of Central Excise duty. While the Commissionerates, with their extensive database about units in their jurisdiction and presence in the field, are the first line of defense against duty evasion, DGCEI specialises in collecting specific intelligence about evasion of substantial revenue. The intelligence so collected is shared with the Commissionerates. Investigations are also undertaken by DGCEI in cases having all India ramifications.

Tables 1.16 depict the performance of Anti-evasion wing of the department during last three years.

**Table 1.16: Anti-evasion performance of DGCEI during last three years**

Year	Detection		Voluntary payment during Investigation
	No. of cases	Amount	Amount
FY14	2,606	4,737	813
FY15	2,123	4,335	546
FY16	2,366	5,297	804

Source: Figures furnished by the Ministry.

It is observed that number of cases detected and voluntary payment during investigation by DGCEI in FY16 increased as compared to FY15.

### 1.18 Revenue Collection Due to Departmental Efforts

Besides, the voluntary payment of Central Excise by the tax payers, there are various methods by which the department collects the revenue due but not paid by the taxpayers. These methods include Scrutiny of Returns, Internal Audit, Anti-Evasion, Adjudication etc.

The result of departmental efforts is tabulated in Table 1.17.

**Table 1.17: Revenue recovered by departmental efforts**

Sl. No.	Departmental Action	Recovery during	
		FY15	FY16
1	Internal audit	569	368
2	Anti-Evasion	357	376
3	Confirmed Demands*	1,262	791
4	Scrutiny of Returns	447	297
5	Recovery from Defaulters**	1,244	2,871
6	Others***	198	324
	<b>Total</b>	<b>4,077</b>	<b>5,027</b>

Source: Figures furnished by the Ministry

\* After adjudication of SCN

\*\* Recovery from defaulters is after issue of SCN and adjudication thereof.

\*\*\* Interests/late filing fee etc.

Total Central Excise collection during FY16 is ₹ 2,87,149 crore out of which only ₹ 5,027 crore is collected due to departmental efforts which is only 1.75 per cent of total revenue. Further, it is noticed that revenue collection shown above under Internal Audit (₹ 368 crore) does not tally with amount shown in table 1.14 (₹ 987 crore). Similarly, recovery shown above under anti-evasion (₹ 376 crore) does not tally with amount shown in tables 1.16 (₹ 804 crore).

### 1.19 Cost of Collection

Table below depicts the cost of collection vis-a-vis the revenue collection.

**Table 1.18: Central Excise and Service Tax receipts and cost of collection**

Year	Receipts from Central Excise	Receipts from Service Tax	Total receipts	Cost of collection	(₹ in crore)
					Cost of collection as % of total receipts
FY12	1,44,540	97,356	2,41,896	2,227	0.92
FY13	1,75,845	1,32,601	3,08,446	2,439	0.79
FY14	1,69,455	1,54,780	3,24,235	2,635	0.81
FY15	1,89,038	1,67,969	3,57,007	2,950	0.83
FY16	2,87,149	2,11,415	4,98,564	3,162	0.63

Source: Union Finance Accounts of respective years

It is observed that cost of collection is less than one per cent of the total receipt.

### 1.20 Adjudication

Adjudication is the process through which departmental officers determine issues relating to tax liability of assessee. Such process may involve consideration of aspects relating to, inter alia, CENVAT credit, valuation, refund claims, provisional assessment etc. A decision of the adjudicatory authority may be challenged in an appellate forum as per the prescribed procedures.

Table 1.19 depicts an age-wise analysis of Central Excise adjudication.

**Table 1.19: Cases pending for adjudication with departmental authority**

Year	Cases pending as on 31 March		No. of Cases Pending for more than 1 year
	No.	Amount	
	FY14	20,428	21,734
FY15	27,425	23,765	4,984
FY16	23,014	29,355	3,637

Source: Figures furnished by the Ministry

It is observed that cases involving duty of ₹ 29,355 crore were pending as on 31 March 2016 for adjudication. It was also observed that 3,637 cases were

pending for more than one year. Ministry may initiate measures for adjudication of pending cases as large amount of revenue is blocked.

## 1.21 Appeal Cases

Besides the adjudicating authorities, there are several other authorities including departmental appellate authorities, courts of law etc. where issues of law, interpretations etc. are considered. Besides, the department also resorts to coercive recovery measures in many instances. Huge amounts of revenue thus remain outside the Consolidated Fund of India for substantial periods of time. Based on data furnished by CBEC, we have tabulated the pendency of cases at various forums in Table 1.20.

**Table 1.20: Pendency of Appeal in CX and ST**

Year	Forum	Appeals pending at the end of the year					
		Details of party's appeals		Details of departmental appeals		Total	
		No. of Appeals	Amount Involved (Cr. ₹)	No. of Appeals	Amount Involved (Cr. ₹)	No. of Appeals	Amount Involved (Cr. ₹)
FY14	Supreme Court	855	1,835	1,702	6,078	2,557	7,913
	High Court	5,856	9,359	5,505	6,764	11,361	16,123
	CESTAT	41,257	90,447	16,685	14,806	57,942	1,05,253
	Settlement Commission	109	230	4	1	113	231
	Commissioner (Appeals)	23,783	7,054	3,225	669	27,008	7,723
	<b>Total</b>	<b>71,860</b>	<b>108,926</b>	<b>27,121</b>	<b>28,318</b>	<b>98,981</b>	<b>1,37,244</b>
FY15	Supreme Court	815	2,202	1,754	6,428	2,569	8,630
	High Court	5,577	10,206	5,408	9,231	10,985	19,437
	CESTAT	44,710	1,05,905	16,719	14,240	61,429	1,20,145
	Settlement Commission	155	349	2	1	157	350
	Commissioner (Appeals)	25,617	6,272	3,676	655	29,293	6,927
	<b>Total</b>	<b>76,874</b>	<b>1,24,935</b>	<b>27,559</b>	<b>30,554</b>	<b>1,04,433</b>	<b>1,55,489</b>
FY16	Supreme Court	766	3,112	1,525	7,437	2,291	10,549
	High Court	5,663	13,507	4,900	11,073	10,563	24,580
	CESTAT	48,071	1,20,689	15,159	24,396	63,230	1,45,085
	Settlement Commission	129	192	0	0	129	192
	Commissioner (Appeals)	26,821	7,814	4,534	766	31,355	8,580
	<b>Total</b>	<b>81,450</b>	<b>1,45,314</b>	<b>26,118</b>	<b>43,672</b>	<b>1,07,568</b>	<b>1,88,986</b>

Source: Figures furnished by the Ministry

It is observed that cases involving revenue of ₹ 1,88,986 crore were pending in appeals at various levels out of which ₹ 92,162 crore pertained to Central Excise. The amount is increasing every year.

Disposal of appeal cases relating to Central Excise and Service Tax in various forum is depicted below in Table 1.21:

**Table No. 1.21: Breakup of cases decided during the year**

Year	Forum	Department's Appeal				Party's Appeal			
		Decided In favour of Deptt.	Decided Against the Deptt.	Remanded	% of Successful appeal of Deptt.	Decided in favour of party	Decided against party	Remanded	% of Successful appeal of party
FY14	Supreme Court	21	82	5	19.44	14	33	3	28.00
	High Court	193	355	22	33.86	379	1,247	223	20.50
	CESTAT	248	1,407	151	13.73	2,314	2,125	1,574	38.48
	Comm. (Appeals)	1,141	1,248	31	47.15	7,064	12,888	697	34.21
	<b>Total</b>	<b>1,603</b>	<b>3,092</b>	<b>209</b>	<b>32.69</b>	<b>9,771</b>	<b>16,293</b>	<b>2,497</b>	<b>34.21</b>
FY15	Supreme Court	24	149	16	12.70	16	52	29	16.49
	High Court	230	712	130	21.46	447	1,397	206	21.80
	CESTAT	216	1,121	218	13.89	2,255	1,987	1,874	36.87
	Comm. (Appeals)	717	869	87	42.86	4,202	9,151	931	29.42
	<b>Total</b>	<b>1,187</b>	<b>2,851</b>	<b>451</b>	<b>26.44</b>	<b>6,920</b>	<b>12,587</b>	<b>3,040</b>	<b>30.69</b>
FY16	Supreme Court	64	465	29	11.47	110	77	16	54.19
	High Court	216	926	56	18.03	289	456	123	33.29
	CESTAT	666	1,619	165	27.18	2,415	856	742	60.18
	Comm. (Appeals)	443	525	12	45.20	3,561	3,311	219	50.22
	<b>Total</b>	<b>1,389</b>	<b>3,535</b>	<b>262</b>	<b>26.81</b>	<b>6,375</b>	<b>4,700</b>	<b>1,100</b>	<b>52.20</b>

Source: Figures furnished by the Ministry

It is observed that success ratio of department's appeal against adjudication order has decreased from 32.69 per cent in FY14 to 26.81 per cent in FY16. The success ratio registered a steep decline when the department went in appeal to High Court (from 34 per cent in FY14 to 18 per cent in FY16) and to Supreme Court (from 19 per cent in FY14 to 11 per cent in FY16).

## 1.22 Non-furnishing of Data and Discrepancy in Data Furnished by the Ministry

We have compiled this chapter based on data mainly obtained through CBEC. The Ministry could not provide data related to detailed scrutiny of returns

(refer paragraph 1.12.2) and disposal of refund cases (paragraph 1.13) for FY15 as format of data and responsibility to maintain the data were revised from November 2014. This indicates that continuity of maintenance of critical data is not ensured during change management in CBEC. Further, it is observed that same data obtained from different sources did not tally (paragraph 1.18) and in some instances, data furnished this year did not tally with data furnished for last Audit Report no. 2 of 2016 (Para 1.9, 1.12.1 and 1.12.2). There is a need to improve the quality of data maintenance in respect of Central Excise.

### **1.23 Audit Efforts and Central Excise Audit Products - Compliance Audit Report**

Compliance audit was conducted as per Regulations on Audit and Accounts, 2007 (as amended) and in conformity with the Auditing Standards, 2<sup>nd</sup> Edition, 2002 issued by the Comptroller and Auditor General of India.

### **1.24 Sources of Information and the Process of Consultation**

Data from the Union Finance Account, along with examination of basic records/documents in DoR, CBEC, and their field formations, MIS, MTRs of CBEC along with other stake holder reports were used. We have nine field offices headed by Directors General (DGs)/Principal Directors (PDs) of audit, who managed audit of 1,082 (CX and ST) units in FY16.

### **1.25 Report Overview**

The current report has 93 paragraphs involving money value of ₹ 178.68 crore. There were generally four kinds of observations: incorrect availing/utilisation of CENVAT credit, non/short payment of Central Excise duty, effectiveness of internal control and other issues. The department/Ministry admitted audit observations in case of 79 paragraphs involving money value of ₹ 132.13 crore and reported recovery of ₹ 30.44 crore in 48 cases.

## 1.26 Revenue Impact of Audit Reports

In the last five audit reports (including current year's report) we had included 374 audit paragraphs (Table 1.22) involving ₹ 703.88 crore.

Table 1.22: Follow up of Audit Reports

Year		(₹ in crore)						
		FY12	FY13	FY14	FY15	FY16	Total	
Paragraphs included	No.	87	62	68	64	93	374	
	Amt.	69.32	182.90	125.11	147.87	178.68	703.88	
Paragraphs accepted	Pre printing	No.	85	58	60	47	79	329
		Amt.	67.07	179.44	90.71	135.85	132.13	605.20
	Post printing	No.	2	-	1	2	-	5
		Amt.	8.34	-	0.36	1.20	-	9.90
	Total	No.	87	58	61	49	79	334
		Amt.	75.41	179.44	91.07	137.05	132.13	615.10
Recoveries effected	Pre printing	No.	48	36	28	30	48	190
		Amt.	24.72	21.29	27.44	27.95	30.44	131.84
	Post printing	No.	1	1	3	2	-	7
		Amt.	0.04	0.56	3.09	1.20	-	4.89
	Total	No.	49	37	31	32	48	197
		Amt.	24.76	21.85	30.53	29.15	30.44	136.73

Source: CAG Audit reports

Ministry had accepted audit observations in 334 audit paragraphs involving ₹ 615.10 crore and had recovered ₹ 136.73 crore.