



सत्यमेव जयते

Report of the Comptroller and Auditor General of India



Union Government
(Department of Revenue – Customs)
(Compliance Audit)
No.41 of 2017

**Report of the
Comptroller and Auditor General
of India**

for the year ended March 2017

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(Department of Revenue – Customs)
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Laid on the table of Lok Sabha and Rajya Sabha on

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PREFACE

This Report for the year ended March 2017 has been prepared for submission to the President of India under the Article 151 of the Constitution of India.

The Report contains significant results of the compliance audit of the Department of Revenue – Customs under the Ministry of Finance, and Director General of Foreign Trade under Ministry of Commerce and Industry.

The instances mentioned in this Report are those, which came to notice in the course of test audit for the period 2016-17 as well as those which came to notice in earlier years, but could not be reported in the previous Audit Reports. Instances relating to the period subsequent to 2016-17 have also been included, wherever necessary.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

EXECUTIVE SUMMARY

During the financial year 2016-17 the Customs receipts grew by seven percent over the previous financial year and stood at ₹ 2,25,370 crore. The ratio of Customs duty collected to GDP was 1.48 percent. Duty foregone on account of export promotion schemes and on commodities was ₹ 3,87,539 crore in the financial year 2016-17.

This report contains 99 paragraphs with revenue implication of ₹ 85 crore. In 77 paragraphs involving money value of ₹ 30 crore rectificatory action has been taken by the department/Ministry in the form of issuing show cause notices, adjudicating of show cause notices and recovery of ₹ 19 crore has been effected till date.

The report is divided into five chapters. Chapter one of the report provides, on one hand, an overview of nature and growth trends of Customs receipts and on the other hand, a brief description of the administrative structure and functions of Ministries involved in implementation of the Customs Act and Rules and Foreign Trade Policy (FTP) of India. Chapters two to five contain paragraphs highlighting important audit findings under the broad categories, namely, irregularities in duty exemption/remission schemes, incorrect application of general exemption notifications, short/non-recovery of applicable levies and charges and misclassification of goods. All cases where the Ministry has accepted the audit findings and has initiated rectificatory action are listed in the Annexure.

There are seven annexures in the report.

Chapter I: Customs Revenue

- Imports registered growth of 3.5 percent while Exports registered a growth of 7.92 percent during FY 17. Customs receipts grew at seven percent during the same period.
{Paragraph 1.6}
- Customs receipts as a ratio of GDP, Gross Tax Revenue and Gross Indirect Taxes declined in FY 17 as compared to FY 16.
{Paragraph 1.8}
- The Revenue forgone as a percentage of Customs receipts was 172 percent in FY 17. Six export promotion and remission schemes accounted for 96 percent of total revenue foregone under the Schemes.
{Paragraphs 1.10 and 1.11}

Chapter II: Irregularities in Duty exemption/Remission schemes

➤ *Audit noticed mis-utilization of duty credit in respect of test checked instruments issued under Chapter 3 of Foreign Trade Policy (FTP) through various methods of manipulating registration of scrip/use of scrip indicating potential fraud. The money value involved in mis-utilisation of licences amounted to ₹ 4.97 crore.*

{Paragraphs 2.1.1 to 2.1.3}

➤ Revenue of ₹ 41.53 crore was due from exporters/importers who had availed the benefits of the duty exemption schemes but had not fulfilled the prescribed obligations/conditions.

{Paragraphs 2.2.1 to 2.7.1}

Chapter III: Incorrect application of General exemption notifications

➤ *In four cases test checked, audit noticed refund of additional duty of Customs (SAD) on the basis of fabricated documents involving revenue of ₹ 57 lakh.*

{Paragraphs 3.1.1 to 3.1.4}

➤ Audit noticed 13 cases of incorrect application of exemption notifications having total revenue implication of ₹ 16.78 crore. Of these, the department had accepted ten cases with revenue implication of ₹ 4.20 crore and reported recovery of ₹ 2.15 crore in seven cases.

{Paragraphs 3.2 to 3.5}

Chapter IV: Short/non-recovery of applicable levies and other charges

➤ Audit noticed 22 cases of short/non-recovery of applicable levies and other charges having total revenue implication of ₹ 15.03 crore. Of these, the department had accepted 20 cases with revenue implication of ₹ 12.20 crore and reported recovery of ₹ 7.97 crore in 14 cases. These cases arose mainly due to short levy of Basic Customs duty, imports cleared without levying applicable anti dumping duty, short levy of duty due to undervaluation and non realisation of cost recovery charges.

{Paragraphs 4.1 to 4.4.1}

Chapter V: Mis-classification of goods

➤ In 21 cases assessing officers mis-classified various imported goods which caused short levy/non levy of Customs duties of ₹ 6.12 crore. Out of these, the department had accepted 17 cases with revenue implication of ₹ 2.80 crore and reported recovery of ₹ 67 lakh in nine cases.

{Paragraphs 5.1 to 5.7}

CHAPTER I CUSTOMS REVENUE

I Overview

The chapter presents an overview of nature and growth trend of Customs receipts, imports and exports and duty foregone as a result of export promotion schemes. The chapter also describes organisational structure and functions of the ministries involved along with their internal control mechanisms and internal audit findings. The information presented in this chapter is primarily based on statistics from the Union Finance Accounts of 2015-16 and 2016-17, statistical information provided by the Central Board of Excise and Customs (CBEC), Director General of Foreign Trade (DGFT), Department of Commerce and data available in public domain.

1.1 Resources of the Union Government

Government of India's tax and non-tax 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) 17 and FY 16.

Table 1.1: Resources of the Union Government

	2016-17	2015-16
A. Total Revenue Receipts	22,23,988	19,42,353
<i>i. Direct Taxes Receipts</i>	8,49,801	7,42,012
<i>ii. Indirect Taxes Receipts including other taxes¹</i>	8,66,167	7,13,879
<i>iii. Non-Tax Receipts</i>	5,06,721	4,84,581
<i>iv. Grants-in-aid & Contributions</i>	1,299	1,881
B. Miscellaneous Capital Receipts ²	47,743	42,132
C. Recovery of Loan & Advances ³	40,971	41,878
D. Public Debt Receipts ⁴	61,34,137	43,16,950
Receipts of Government of India (A+B+C+D)	84,46,839	63,43,313

Note: Total Revenue Receipts include ₹ 5,06,193 crore in FY 16 and ₹ 6,08,000 crore in FY 17, share of net proceeds of direct and indirect taxes directly assigned to states.

Source: Union Finance Accounts of 2015-16 and 2016-17.

Figures for 2016-17 are provisional

¹ Indirect taxes levied on goods and services such as customs duty, excise duty, service tax etc;

² This comprises of value of bonus share, disinvestment of public sector and other undertakings and other receipts;

³ Recovery of loans and advances made by the Union Government;

⁴ Borrowing by the Government of India internally as well as externally;

The total receipts of the Union Government increased by 33 percent to ₹ 84,46,839 crore in FY 17 from ₹ 63,43,313 crore in FY 16. In FY 17, its own receipts were ₹ 22,23,988 crore including Gross tax receipts of ₹ 17,15,968 crore, of which Indirect Taxes accounted for ₹ 8,66,167 crore.

1.2 Nature of Indirect Taxes

Indirect taxes are levied on the cost of the supply of goods/services and are, in this sense, transaction-specific rather than person-specific. Major indirect taxes/duties levied under Acts of Parliament are Customs duty, Central Excise duty and Service Tax. This report is devoted to Customs duty.

1.3 Trends of growth of Indirect Taxes

The relative growth of indirect taxes during FY 13 to FY 17 is given in **Table 1.2** below. The percentage share of indirect taxes to GDP⁵ was between 4.4 to 5.7 percent during last five years.

Table 1.2: Growth of Indirect Taxes

Year	Gross Indirect Taxes	GDP	Indirect Taxes as percent of GDP	Gross Tax Revenue	Indirect Taxes as percent of Gross Tax revenue
FY 13	4,74,728	99,88,540	4.75	10,36,460	45.80
FY 14	4,97,349	1,13,45,056	4.38	11,38,996	43.67
FY 15	5,46,214	1,25,41,208	4.36	12,45,135	43.87
FY 16	7,10,101	1,35,76,078	5.23	14,55,891	48.77
FY 17	8,62,151	1,51,83,709	5.68	17,15,968	50.24

Cr. ₹

Source: Finance Accounts of respective years.
Figures for FY 17 are provisional

The share of Indirect Taxes in Gross Tax revenue and GDP has marginally increased in FY 17 as compared to FY 16.

II Organisational Structure and functions

1.4 The Comptroller and Auditor General's audit of Customs duty and Foreign Trade Policy (FTP) principally involves Ministry of Finance (MoF) and Ministry of Commerce and Industry (MOCI). The organisational structure and functions of the two ministries is briefly described below.

The Department of Revenue (DoR) of 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. Policy matters relating to the levy and collection of Customs duties are looked after by the CBEC.

⁵ Source: Union Finance Accounts of respective years, Figures of GDP provided by Central Statistical Organisation.

During 2016-17 there were 103 Customs Commissionerates spread over 29 zones across India, out of which 33 Commissionerates were combined Commissionerates of Customs and Central Excise and Service tax, now GST.

The overall sanctioned staff strength of the CBEC and Customs field formations is 86,812⁶ (as on 1 January 2017). The organizational structure of CBEC is shown in **Annexure 1**.

The Department of Commerce (DoC) under Ministry of Commerce and Industry, through Director General of Foreign Trade (DGFT) formulates, implements and monitors the FTP which provides the basic framework of policy and strategy to be followed for promoting exports and trade. The FTP is periodically reviewed to incorporate changes necessary to take care of emerging economic scenarios both in the domestic and international economy. Besides, the Department is also entrusted with responsibilities relating to multilateral and bilateral commercial relations, Special Economic Zones (SEZ), state trading, export promotion and trade facilitation, and development and regulation of certain export oriented industries and commodities.

The FTP is implemented through the Regional Licensing Authorities (RLAs) who are responsible for providing Importer Exporter Codes (IEC)⁷ and granting licenses under various schemes of export promotion. During 2016-17 there were 37 RLAs across India.

1.5 Customs revenue base

The Customs revenue base comprises of the Importers and Exporters issued with IEC by the DGFT. As on March 2016⁸ there are 7,24,434 active IECs. During 2016-17, ₹ 18.52 lakh crore of exports (69,83,970 transactions) and ₹ 25.77 lakh crore worth of imports (42,32,309 transactions) took place. Thirty four agreements⁹ providing tariff concession were active during FY 17. Customs receipts (₹ 2,25,370 crore) along with revenue forgone (₹ 3,87,539 crore) forms the basis of the Customs receipts audit.

III Analysis of Customs receipts and Revenue foregone

1.6 India's export and import and Customs receipts during FY 13 to FY 17

During FY 17 in terms of value, exports have shown positive growth as compared to negative growth percentage during last two previous years (FY 15 and FY 16). In FY 17 the value of export earnings had risen by ₹ 1,35,962 crore (7.92 percent) over FY 16.

⁶ Figures furnished by the Directorate General of HRD (Customs, Central Ex. & STax as on 1 January 2017.

⁷ IEC is issued by DGFT, Delhi to every importer/Exporter.

⁸ Source: DGFT, Udyog Bhawan, New Delhi.

⁹ <http://commerce.nic.in/trade/international>

In value terms imports during FY 17 increased by 4 percent which was mainly due to growth in import of cereals, Meat and edible meal offal, cotton, zinc and articles thereof and other base metals.

Table 1.3: India's Import and Export

Cr. ₹									
Year	Imports	Percent growth over previous year	Customs receipts	Percent growth over previous year	Custom receipts as percentage of Imports	Exports	Percent growth over previous year	Trade Imbalance	Trade imbalance as percentage of Imports
FY 13	26,69,162	14	1,65,346	11	6.2	16,34,319	11	-10,34,843	38
FY 14	27,15,434	2	1,72,085	4	6.3	19,05,011	17	-8,10,423	30
FY 15	27,37,087	0.80	1,88,016	9	6.9	18,96,348	(-)0.45	-8,40,739	31
FY 16	24,90,298	(-)9.02	2,10,338	12	8.4	17,16,378	(-)9.49	-7,73,920	31
FY 17	25,77,422	3.50	2,25,370	7	8.7	18,52,340	7.92	-7,25,082	28

Source: EXIM data, Department of Commerce, Finance Accounts of respective years.
Figures for FY 17 are provisional.

Customs receipts to percentage of total imports were 8.7 percent in FY 17 as compared to 8.4 percent of FY 16.

Trade imbalance as percentage of imports came down from 38 percent in FY 13 to 28 percent in FY 17.

1.7 Performance of exports from Special Economic Zones

Under the SEZ Act 2005, there are 424 approvals given for establishing SEZs, of which 354 have been notified and 222 are operational as on 7 September 2017 (**Annexure 2**). There are 4643 units approved as on 30 June 2017. A total of ₹ 4.33 lakh crore has been invested resulting in generation of employment for 17.79 lakh persons.

Exports from SEZ in 2016-17 have shown a growth of 12 percent over 2015-16 with exports of ₹ 5.24 lakh crore.

Table 1.4: Performance of SEZs in FY 13 TO FY 17

Year	Exports ₹ in crore	Percent growth over previous year
2012-13	4,76,159	31 %
2013-14	4,94,077	4%
2014-15	4,63,770	(-) 6%
2015-16	4,67,337	0.77 %
2016-17	5,23,637	12 %

Source: www.sezindia.nic.in

1.8 Growth of Customs receipts vis-a-vis GDP, Gross tax revenue and Indirect Taxes

The growth trends of Customs receipts vis-a-vis GDP and Indirect Taxes during FY 13 to FY 17 are given in **Table 1.5**.

Table 1.5: Growth of Customs receipts

Cr. ₹

Year	Customs receipts	GDP	Customs receipts as % of GDP	Gross Tax Revenue	Customs receipts as % of Gross tax	Gross Indirect Taxes	Customs receipts as % of Indirect taxes
FY 13	1,65,346	99,88,540	1.66	10,36,460	15.95	4,74,728	34.83
FY 14	1,72,085	1,13,45,056	1.52	11,38,996	15.10	4,97,349	34.59
FY 15	1,88,016	1,25,41,208	1.50	12,45,135	15.10	5,46,214	34.42
FY 16	2,10,338	1,35,76,086	1.55	14,55,891	14.45	7,10,101	29.62
FY 17	2,25,370	1,51,83,709	1.48	17,15,968	13.13	8,62,151	26.14

Source: Finance Accounts of respective years.
Figures for FY 17 are provisional.

The Customs receipts as a ratio of GDP, Gross Tax Revenue and Gross Indirect Taxes has shown decline in the FY 17 as compared to FY 16.

1.9 Variation in Budget and Actual Customs receipts

Budget and Revised estimates vis-a vis actual Customs receipts during FY 13 to FY 17 are given in **Table 1.6** below.

Table 1.6: Budget and Revised estimates, Actual receipts

Cr. ₹

Year	Budget estimates	Revised estimates	Actual receipts	Diff. between actual and BE	Percent variation between actual and BE	Percent variation between actual and RE
FY 13	1,86,694	1,64,853	1,65,346	(-)21,348	(-)11.43	(+)0.30
FY 14	1,87,308	1,75,056	1,72,085	(-)15,275	(-)8.16	(-)1.73
FY 15	2,01,819	1,88,713	1,88,016	(-)13,803	(-)6.84	(-)0.37
FY 16	2,08,336	2,09,500	2,10,338	(+)2,002	(+)0.96	(+)0.40
FY 17	2,30,000	2,17,000	2,25,370	(-)4,630	(-)2.01	(+)3.85

Source: Union Budgets and Finance Accounts for respective years, Department of Revenue.
Figures for FY 17 are provisional.

The percentage variation during FY 17 between budget estimates and actual collections was (-) 2.01 percent. The revised estimates to actual receipts have also varied by (+) 3.85 percent.

1.10 Customs revenue forgone under Customs Act, 1962

The Central Government has been delegated powers of duty exemption under Section 25(1) of the Customs Act, 1962 to issue notifications in public interest so as to prescribe duty rates lower than the tariff rates prescribed in the Schedule

to the Customs Tariff Act. These rates prescribed by notification are known as the “effective rates”.

The revenue forgone is thus defined by Ministry of Finance to be the difference between duty that would have been payable but for the issue of the exemption notification and the actual duty paid in terms of the relevant notification.

In other words,

$$\text{Revenue forgone} = \text{Value} \times (\text{Tariff rate of duty} - \text{Effective rate of duty})$$

Table 1.7: Customs receipts and total Customs revenue forgone

Cr.₹

Year	Customs receipts	Revenue forgone on commodities including Schemes	Refunds	Drawback paid	Rev. forgone +Refunds+ Drawback	Revenue forgone as percentage of Customs receipts
FY 13	1,65,346	2,98,094	3,031	17,355	3,18,480	193
FY 14	1,72,085	3,26,365	4,501	18,539	3,49,405	203
FY 15	1,88,016	4,65,618	5,051	27,276	4,97,945	265
FY 16	2,10,338	2,98,704	6,346	35,370	3,40,420	162
FY 17	2,25,370	3,47,179	6,963	33,397	3,87,539	172

Source: Union Receipts Budget, DG Systems & Data Management, CBEC, Drawback cell, CBEC.
Figures for FY 17 are provisional.

The revenue forgone as a percentage of Customs receipts was 172 percent in FY 17 (**Table 1.7**). Revenue foregone on commodities and Refunds had shown upward trend in the FY 17 as compared to FY 16. However, Drawbacks paid have declined by 6 percent (₹ 1,973 crore) in FY 17 over FY 16.

During the FY 17, 63 percent of the revenue forgone was on Natural or cultured pearls, precious metals and articles thereof, Television image and sound recorders/reproducers and parts/articles thereof, Animal or vegetable fats/oil and Man- made filaments etc.

1.11 Revenue forgone under Export Promotion Schemes

The revenue forgone under Export Promotion schemes stood at 41 percent of the Customs receipts during the FY 17 as compared to 39 percent during FY 16. During FY 17 top five schemes on which duty was foregone were Advance license scheme, EOU/EHT/STP, SEZ, EPCG, MEIS and Focus Product Scheme.

Advance license scheme allows duty free imports of raw materials used in the manufacture of resultant products subject to fulfilment of prescribed Export obligation (EO) within 36 months from the date of issue of licence.

Units in Special Economic Zones (SEZ)/ Exports Processing Zones (EPZ)/ Export Oriented units (EOU) are allowed duty free imports of inputs to export goods and services.

Export Promotion Capital Goods (EPCG) scheme allows import of capital goods at concessional rate of Customs duty subject to EO equivalent to eight times of duty saved on capital goods imported to be fulfilled over a period of eight years from the date of issue of license.

Merchandise Exports from India Scheme (MEIS) provides reward in the form of duty credit scrip for exports of notified goods/products to notified markets on realised Free on Board (FOB) value of exports in free foreign exchange.

Focus Product Scheme (FPS) provides for duty credit equivalent to 2/5 percent of Free on Board (FOB) value of exports realized in free foreign exchange for export of specified products.

The six major schemes which accounted for 96 percent (₹ 87,732 crore) of total revenue foregone (₹ 91,336 crore) during FY 17 are shown below.

Table 1.8: Revenue foregone under major Export promotion Schemes

Scheme	Amount foregone (Cr.₹)	Percentage of total revenue foregone	FY 17	
			Amount foregone (Cr.₹)	Percentage of total revenue foregone
			FY 16	
Advance Licence	25,633	31	29,356	32
EOU/EHT/STP	14,849	18	18,497	20
SEZ	13,595	17	13,003	14
*Merchandise Exports from India Scheme (MEIS)	0		12,826	14
EPCG	10,145	12	10,986	12
Focus Product Scheme(FPS)	7,495	9	3,064	3
Sub Total	71,717	88	87,732	96
Others **	10,065	12	3,604	4
TOTAL	81,782		91,336	
Customs receipts	2,10,338		2,25,370	
Revenue foregone as percent of Customs receipts		39		41

Source: Directorate of Data Management, CBEC, Ministry of Finance

*Merchandise Exports from India Scheme (MEIS) replaced FMS/FPS and VKGUY schemes in Foreign Trade Policy 2015-20.

**Others include DEPB, DFRC, DFEC Schemes, Target plus scheme, Vishesh Krishi and Gram Udyog Yojana (VKGUY), Served from India Scheme (SFIS), DFIA Scheme, Status Holder Incentive scrip Scheme (SHIS), Focus Market Scheme (FMS) etc.

During FY 17 revenue foregone under Advance license Scheme was the highest among the different Export Promotion Schemes. The revenue foregone under Advance license scheme, EOU/EHT/STP and EPCG Scheme had shown an increase in FY 17 vis-à-vis FY 16 except SEZ and Focus Product Scheme.

1.12 Cost of Collection for the FY 13 to FY 17

The cost of collection is the cost incurred on collection of Customs duties and comprises of expenditure on Import/Export Trade Control functions, Preventive functions, transfers to reserve fund/deposit account and other expenditure.

The cost of collection of Customs receipts for 2016-17 was 1.47 percent of Customs receipts. The cost of collection of Customs receipts for the five year financial period from 2013-14 to 2016-17 is given below.

Table 1.9: Cost of Collection during FY 13 to FY 17

Cr.₹

Year	Expenditure on Revenue-cum Import /export and trade control functions	Expenditure on preventive and other functions	Transfer to Res. Fund, Deposit A/c and other expdr.	Total	Customs receipts	Cost of collection as percentage of Customs receipts
FY 13	315	1,653	10	1,979	1,65,346	1.20
FY 14	333	1,804	5	2,142	1,72,085	1.25
FY 15	382	2,094	20	2,496	1,88,016	1.33
FY 16	412	2,351	36	2,799	2,10,338	1.33
FY 17	544	2,771	7	3,322	2,25,370	1.47

Source: Finance Accounts of the Union Government for respective years.
Figures for FY 17 are provisional.

Expressed in terms of percentage of Customs receipts, cost of collection ranged between 1.20 percent (FY 13) to 1.47 percent (FY17).

1.13 Internal Controls and Internal Audit

1.13.1 Risk Management System (RMS)

Customs assessments procedures are largely computerised to facilitate trade by quicker process of imports and exports and minimize irregularities in assessments. RMS, an electronic system, interdicts import declarations (goods) on the basis of pre-defined risk parameters which are then subject to assessment or examination or both.

Efficiency of RMS hinges on the precision of the outliers highlighted and increasing the coverage of system based assessments in all air cargo, sea port and land ports, SEZ / EOU except non-EDI ports. Out of total import transactions in FY 17, 21 percent transactions were flagged by RMS for detailed assessments as against 20 percent in the previous year (**Table 1.10**). Similarly, in FY 17, export transactions flagged by RMS for detailed assessments were 30 percent of total transactions as against 24 percent in FY 16.

Table 1.10: Transactions flagged by the RMS

No. of transactions flagged by RMS	FY 16	FY 17
Imports	16,06,930 (20 %)	9,04,928 (21%)
Exports	23,81,803 (24 %)	17,81,457 (30%)
Total transactions (Imports)	80,15,856	42,32,309
Total transactions (Exports)	97,41,229	69,83,970

Source: Directorate of Analytics and Risk Management, CBEC

1.13.2 Internal Audit and Investigation

Directorate General of Audit has its Headquarter located in Delhi, headed by Director General (Audit) with seven zonal units at Ahmedabad, Bangalore, Chennai, Delhi, Hyderabad, Kolkata and Mumbai each headed by Addl. Director Generals under its ambit. Every zonal unit of DGA has area wise jurisdictional control over zonal units of Chief Commissioner and Commissionerates there under.

1.13.3 Technical audit by DG (Audit), CBEC

Departmental audit is an important instrument of internal control which detects non compliance and inefficiencies and initiates remedial action on shortcomings. CBEC did not furnish information on technical audits planned and conducted for FY 16 and FY 17. Audit is therefore unable to comment on effectiveness.

1.13.4 On Site Post Clearance Audit (OSPCA)

CBEC has introduced the scheme of 'On Site Post Clearance Audit' or OSPCA at premises of importers and exporters' vide Notification No. 72/2011-Cus. (N.T.) dated 4-10-2011.

OSPCA allows verification of self-assessment on periodic basis by scrutiny of all import/export transactions including those under the export promotion schemes at the premises of Importer or Exporter. Thus, an importer or exporter can benefit from reduced clearance time and can deal with the goods promptly, saving on insurance, warehouse and storage charges. On the other hand, the Customs can do a comprehensive company oriented check to ensure that imports or exports conform to the declarations. Board has operationalized OSPCA w.e.f. 1-10-2011 only for importers registered under the Accredited Client Programme (ACP). In 2016-17 the CBEC merged the ACP scheme and Authorized Economic Operator (AEO) scheme as a combined three-tier AEO programme (Circular no.33/2016-cus dated 22 July 2016).

The AEO programme aims to provide further benefits to the entities who have demonstrated strong internal control system and willingness to comply with

the laws administered by the Central Board of Excise and Customs. Under the programme the importer shall be subject to audit once each financial year.

During FY 17 only 17 percent of units planned for audit under OSPCA have been audited which resulted in detection of miniscule total short levy of ₹ 8.60 crore, of which ₹ 5.02 crore was recovered (**Table 1.11**).

Table 1.11: Audit conducted under OSPCA

FY	Audit planned for no. of units	Audit conducted	Duty detected ₹ in crore	Duty recovered ₹ in crore
FY 16	330	80 (24 %)	3.73	3.51
FY 17	561	93 (17%)	8.60	5.02

Source: Directorate General of Audit, Customs, Central Excise and Service Tax

1.13.5 Tax Evasion and Seizures

According to information furnished by Directorate of Revenue Intelligence (DRI) the number of duty evasion cases moved up from 631 in FY 16 to 667 in FY 17 but the value came down from ₹ 6,623 crore to ₹ 1,422 crore (**Annexure 3**). Major commodities involved in evasion cases were Gold and Gold jewellery, Red Sanders, Alcoholic Beverages, Iron ore, Mobiles and Pharma products.

1.13.6 Internal Audit irregularities

Principal Chief Controller of Accounts (Pr.CCA), CBEC audits different payment and accounting functions of CBEC. Though internal audit is an integral part of the internal control system, the internal audit reports of Pr.CCA indicated pendency to the tune of 338 internal audit paras with gross value of ₹ 57,121 crore¹⁰.

Pr.CCA audit comments comprised the following irregularities apart from points of establishment audit till FY 17:

- a) Non recovery of dues from Govt. Department/State Government Bodies/ Private parties/ Autonomous bodies; ₹ 47,556 crore;
- b) Blocking of government money; ₹ 1,144 crore.

1.14 Comptroller and Auditor General of India's (CAG) audit

The CAG's audit of Customs receipts is performed under Section 16 of the Comptroller and Auditor General of India (Duties, Powers and Conditions of Service) Act, 1971. The compliance audit is carried out in accordance with Compliance Audit Guidelines 2015, CAG's Manual of Standing Orders (Audit) 2002 and as per the provisions of Regulations on Audit and Accounts 2007. The audit is managed through nine field offices headed by Director Generals (DGs)/ Principal Directors (PDs).

¹⁰ Pr.CCA D.O.No.IA /NZ/HQ/CAG/Information/2016-17/74 dated 28 August 2017

1.14.1 Compliance Audit Report

The current report has 99 paragraphs with revenue implication of ₹ 85 crore. There were generally five kinds of observations viz. incorrect classification; incorrect application of exemption notification; conditions of notification not fulfilled; incorrect provision of Scheme-based exemptions and incorrect assessment of Customs duties. The department/Ministry has taken rectificatory action involving money value of ₹ 30 crore in case of 77 paragraphs in the form of issue of show cause notices, adjudication of show cause notices and has reported recovery of ₹ 19 crore in 50 cases.

1.14.2 Access to information /Records

Single Sign On (SSO id)¹¹ based access of ICES 1.5 was used along with examination of basic Records/ documents in DoR, CBEC, Department of Commerce (DoC) and their field formations. MIS, MTRs of CBEC along with other stake holder reports were used. In addition DGFT (EDI) data, SEZ online data, DoC, Annual Import/Export Data of Customs (CBEC), the Union Finance Accounts and Exim Data of DoC, were also used.

Risk assessment for comprehensive audit planning, and macro analysis of Customs transactions, however, have not been possible since 2012-13 as the transaction level data of ICES 1.5 for imports and exports as per the data directory has not been provided by Director General (System), CBEC despite protracted correspondence and several meetings between the Audit and the Board, including at the highest level. The CRA module of ICES does not cater to the Audit's requirement of data for macro analysis of the transaction data.

1.14.3 Response to CAG's audit, revenue Impact/follow-up of Audit Reports

In the last five audit reports (including current year's report) we had included 617 audit paragraphs (Table 1.12) involving ₹ 6,570 crore. Government had accepted observations in 495 audit paragraphs involving ₹ 275 crore and had recovered ₹ 105 crore in 334 paragraphs.

Table 1.12: Follow up of Audit Reports

Year	Paragraphs included		Paragraphs accepted		Recoveries effected		Cr. ₹
	No.	Amt.(Cr. ₹)	No.	Amt. (Cr. ₹)	No.	Amt.(Cr. ₹)	
FY 13	139	1,832	120	95	85	31	
FY14	154	2,428	137	46	78	17	
FY 15	122	1,162	91	85	67	23	
FY 16	103	1,063	70	19	54	15	
FY 17	99	85	77	30	50	19	
Total	617	6,570	495	275	334	105	

Source: CAG Audit reports for respective years.

¹¹ SSO id is the protocol for individual secure access to the Customs EDI system.

CHAPTER II

IRREGULARITIES IN DUTY EXEMPTION/REMISSION SCHEMES

Directorate General of Foreign Trade (DGFT), under Ministry of Commerce and Industry is responsible for formulating and implementing the FTP with the main objective of promoting India's exports. The DGFT issues scrips/authorisation to exporters under various export promotion schemes and monitors their corresponding obligations through a network of 37 regional license offices (RLAs). All 37 RLAs are computerised and connected to the DGFT Central server.

To regulate imports under scrips/authorisation issued by DGFT under Customs notifications are issued by CBEC and these scrips has to be registered by the exporter concerned in the Customs house under the Commissionerates. Import of inputs and capital goods under export promotion schemes are exempt, wholly or partly from Customs duties. Importers of such exempted goods undertake to fulfill prescribed export obligations (EO) as well as to comply with specified conditions, failing which the full rate of duty becomes leviable.

During test check of records (July 2014 to February 2017), Audit noticed 39 persistent irregularities regarding non fulfillment of export obligation, short levy of duty on Domestic Tariff Area (DTA) clearances, non-achievement of minimum value addition, non-recovery of drawback where exports proceeds have not been realized, mis-utilization of duty credit scrips because of improper registration of scrips etc. These persistent irregularities indicate weak coordinating mechanism between DGFT and CBEC despite computerization of transactional data. Total revenue implication involved in these 39 cases was ₹ 46.50 crore where duty exemptions were availed of without fulfilling EOs/conditions. Out of these, 12 cases are discussed in the following paragraphs and 27 cases which have been accepted by the department and recoveries made/ recovery proceedings initiated are mentioned in **Annexure 4**.

2.1 Reward/Incentive schemes under chapter 3 and 4 of Foreign Trade Policy

In terms of chapter 3 of FTP 2009-14, the DGFT issues Status Holders Incentive Scheme (SHIS) duty credit scrips and Vishesh Krishi and Gram Udyog Yojana (VKGUY) scrips through various Regional Joint Director General of Foreign Trade offices (JDGFT). The scrip numbers printed on the scrips issued by DGFT offices is a system generated unique 10 digit number. scrips are freely transferable and can be utilized for importing goods without payment of duty to the extent credit is available. The export benefits for the schemes are determined as a percentage of Free on Board (FOB) value of shipping bills. For utilizing the duty credit, the scrip (issued in the form of a certificate by JDGFT office) has to be

registered at the port of registration by the exporter concerned manually in the Customs house.

As per section 28 AAA of the Customs Act, 1962, where an instrument issued to a person was obtained by collusion or wilful mis-statement or suppression of facts for the purpose of the Act or the Foreign Trade (Development and Regulation) Act, 1992 by any person and such instrument is utilized under the provisions of Act, rules or notification issued there under, by a person other than to whom the licence was issued, the duty relatable to utilization of such as instrument shall be deemed never to have been exempted or debited and the duty should be recoverable from the person to whom the said instrument was issued. This recovery action on the person to whom the scrip was issued is without prejudice to the action taken on the actual importer under section 28 of the Act.

Audit carried out an analysis of DGFT data (as on 31st March 2015) and the licence debit details maintained by Customs Department (ICES) (as on 31st March 2015) which revealed excess utilization of duty credit in respect of instruments issued under Chapter 3 of FTP through manipulation of registration of scrip/use of scrip by deploying following methods e.g. improper registration of scrips having single/double/three digits instead of mandatory 10 digit number, registering licences for imports which were not allowed (without Standard Input Output Norms (SION)), excess utilization of duty credit scrip at different ports.

The cases are discussed below:

Similar cases were also reported in Audit Report No. 1 of 2017 (Paragraphs nos. 4.1.1 to 4.1.5).

2.1.1 Mis-utilization of duty credit scrips because of improper registration of scrips

An analysis of licence debit details maintained by Customs Department (ICES) (up to March 2015) revealed that in 70 cases scrip number having single/double/three digits were registered at Chennai Sea port and utilized for importing goods for a duty foregone amount of ₹ 4.17 crore.

As these scrip numbers were not issued by any of the JDGFT offices as seen from the DGFT dump data, the matter was pointed (March 2016/March 2017) to Chennai Sea Customs authorities to check the genuineness of the scrips and if warranted, to take action as contemplated under the provisions cited.

Lack of appropriate validation controls, lacunae in the ICES system and manual transmission of licences details by DGFT to Customs made the system vulnerable to continued misuse which allowed registration of fake licences.

Assistant Commissioner (AC), Custom House, Chennai stated (April 2017) that importers have been directed to produce the scrip copy for verification and alerts have been raised against all the importers to expedite the matter.

As regards mis-utilisation of the scrips AC further stated that no such evidence have been placed before the department. However, on verification of the scrips the facts will be reported and progress will be intimated.

CBEC and DGFT may investigate the matter and take protective action to avoid recurrence of such cases and protect revenue.

2.1.2 Irregular registration of licence for imports without Standard Input Output (SION) norms and more than 10 digit scrip number

Test check of ICES EDI data (upto March 2015) revealed that licence number 04101011388 dated 9 February 2010 having more than 10 digit number and therefore not a valid licence, was wrongly registered at Chennai Sea port and duty of ₹ 29.41 lakh was foregone on imports. Audit verified from DGFT, EDI licence data that the licence number was not issued by the any of the JDGFT offices. Further audit noticed that this licence was utilized for duty free import of inputs such as lactose, orange juice and red grape concentrate which are otherwise not allowed because there is no SION available to these inputs in FTP Vol.II. Thus, not only was an invalid licence registered with the Chennai Sea Port, duty of ₹ 29.41 lakh was incorrectly foregone on an invalid licence, which was recoverable along with action under section 28 of the Act.

The matter was communicated (April 2016) to Chennai Sea Customs for checking the genuineness of the licence and if warranted, to take action as contemplated under the aforesaid provisions. Reply of Customs department is awaited (September 2017).

2.1.3 Excess utilisation of a duty credit scrip at different Ports

The DGFT Mumbai had issued licence number 03110582246 dated 7 July 2010 under Duty Exemption Pass Book (DEPB) post export (transferable) with c.i.f. value ₹ 50.45 lakh with port of Registration INLDH6 (Ludhiana). It was observed that the DEPB scrip was registered and mis-utilized twice vide licence registration no.310582246 dated 7 July 2010 at port/site INLDH6 and no.785193/09/2010 at port INNSA1 (Nhava Sheva Sea) in Customs data system. This has resulted in excess utilization/mis-utilization of scrip to the tune of ₹ 50.45 lakh.

This was pointed to the department in November 2016/March 2017, their reply is awaited (September 2017).

DGFT, New Delhi, Department of Commerce in their reply to similar cases mentioned in last year Audit Report (AR No. 1 of 2017) stated (June 2017) that these issues fall in the domain of Department of Revenue, Ministry of Finance and Customs' system should be upgraded to prevent misuse due to fraudulent registration of duty credit scrips. DGFT has already provided the data dump of all Chapter 3 scrips to Directorate of Revenue Intelligence (DRI) in March 2017 as they are investigating the matter.

CBEC in respect of last year similar cases stated (July 2017) that ICES 1.5 has been suitably changed (December 2016) to allow registration of only 10 digits numerical as the license number and also ensure that such 10 digit numeric number is unique (July 2017). However, the reply is silent about excess utilization/mis-utilisation of scrips.

CBEC further stated that all duty credit scrips under FTP 2015-20 are being received electronically thereby totally eliminating any chance for incorrect data, forgery etc. as none of the parameters of the duty credit scrip could be changed manually in such electronically transmitted scrips.

CBEC may intimate to Audit results of investigation done by DRI and action taken in the matter.

As regards CBEC reply about changes made in ICES 1.5 to eliminate forgery etc., CBEC may provide the relevant ICES 1.5 data to audit for verification.

2.2 Advance Authorization Scheme

2.2.1 Non fulfilment of export obligation

As per paragraph 4.1.3 of the FTP, 2004-09, and paragraph 4.22 of Handbook of Procedure (HBP) 2004-09, Vol-I, an Advance Authorization (AA) is issued for import of duty free inputs against which prescribed export obligation (EO) was to be fulfilled within a period of 36 months from the date of issue of the authorization. In case of failure to fulfil EO or to submit relevant information/documents in support of EO fulfilment within prescribed period of two months, RLA shall refuse further authorization to the importer and enforce conditions of authorization and undertaking for recovery of Customs duty on unutilized imported materials with interest, along with penal action as per law (paragraph 4.24.1 & 4.28 of HBP).

M/s Himadri Chemicals & Industries Limited, Kolkata was issued two AA (both in July 2011) for duty free import of 26625 MT of 'Coal Tar Pitch (Hard pitch)' with an obligation to export 23300 MT of 'Coal Tar Pitch (Binder pitch)' within a period of 36 months, i.e. by July 2014. The firm imported total 16625 MT of duty free inputs in 30 consignments through Kolkata (Sea) port between August

2011 and January 2012 availing the concession of Customs duty aggregating ₹ 12.48 crore but failed to furnish any document in support of fulfilment of EO even eight months after expiry of the specified EO period, as noticed in audit in March 2015. In the absence of proof of exports, the duty concession availed along with interest amounting to ₹ 18.92 crore was recoverable from the licensee.

On this being pointed out (March 2015/March 2017), the RLA Kolkata furnished (February 2017) the Export obligation discharge certificate (EODC) in one licence stating that the exporter has fulfilled the EO quantity wise. For shortfall in achieving prescribed value addition, composition fee of ₹ 0.09 lakh was levied.

RLA further stated that in respect of second licence shortfall in EO was regularised by payment of duty (₹ 25.43 lakh) and interest (₹ 34.19 lakh). However on verification of records Audit noticed short recovery of duty of ₹ 20.70 lakh and interest of ₹ 14.32 lakh because of incorrect computation. On being intimated (April 2017) RLA, Kolkata reported (July 2017) that the firm has been informed (June 2017) about outstanding duty amount of ₹ 20.70 lakh and interest of ₹ 14.32 lakh.

However, no action has been taken for delay in submission of documents towards fulfilment of EO in both authorisations. Such instances not only indicate failure of the Scheme to promote the desired exports, they also highlight weak monitoring system within the Commissionerates resulting in non-realisation of the Government revenue due along with interest even after three years of expiry of the EO period.

2.3 Export oriented units (EOUs)

2.3.1 Short levy of duty on DTA clearances

As per paragraph 6.8 (a) of FTP 2009-14, units, other than Gems and Jewellery units, may sell goods up to 50 percent of Free on Board (FOB) value of exports, subject to fulfilment of positive Net Foreign Exchange¹² (NFE), on payment of concessional duties. Within entitlement of DTA sale, unit may sell in DTA, its products similar to goods which are exported or expected to be exported from units. Units which are manufacturing and exporting more than one product can sell any of these products into DTA, up to 90 percent of FOB value of export of the specific products, subject to the condition that total DTA sale does not exceed overall entitlement of 50 percent of FOB.

¹² Net Foreign exchange is the difference between total outflow of foreign exchange on imports and foreign exchange earned on exports.

M/s Pentair Water India Private Limited, a 100 percent EOU, in Verna, Goa, was issued letter of permission (LOP) in May 2003 for manufacture and export of component for Industrial Water Treatment Plant/Apparatus (Pressure Vessels). The unit manufactured water pumps Customs Tariff Heading (CTH) (84137070), Components (CTH 84212190), Filter valves (CTH 84818030) and HRO membranes (CTH 84219900).

Audit scrutiny revealed that every year during 2012-13 to 2014-15, the EOU had violated the condition prescribed under paragraph 6.8 (a) of FTP, that total DTA sale should not exceed over all entitlement of 50 percent of FOB value of export. The unit had exported products with FOB value of ₹ 382.52 crore during the above period and had made DTA sales of ₹ 326.83 crore which was more than prescribed 50 percent FOB value of export products. Thus, there was an excess clearance in DTA to the tune of ₹ 135.58 crore involving short levy of duty of ₹ 5.56 crore.

This was pointed out to the department in January 2016/June 2017, their reply is awaited (September 2017).

2.3.2 Non-achievement of minimum value addition

As per FTP 2009-14, 100% Export oriented units (EOUs) are to achieve positive NFE earning cumulatively in blocks of five years, starting from commencement of production, except for sector specific provision where a higher value addition will be required. The minimum value addition for 100% EOUs in the tea sector has been specified as 50 percent (Appendix 14-1-c of HBP, Vol-I). In case of failure to achieve NFE, duty in the same proportion as the unachieved portion of NFE bears to the positive NFE to be achieved, is recoverable along with applicable interest, in terms of notification no.52/2003-cus dated 31 March 2003.

M/s Swiss Singapore India Private Limited, Kolkata (Formerly M/s BGH Exim Limited) a 100% EOU under office of the Development Commissioner, Falta SEZ, holding letter of permission for manufacture and export of 'Bulk tea, tea bags and tea packets' had during the third block year period 2010-11 to 2014-15 used imports worth ₹ 887.37 lakh for which goods valued at ₹ 1331.06 lakh needed to be exported to achieve 50 percent value addition. Against the prescribed export obligation, the unit exported goods worth ₹ 1192.71 lakh at the end of block year period upto 2014-15. Accordingly, there was shortfall of 10.39 percent in value addition for which proportionate duty foregone amounting to ₹ 50.14 lakh along with interest was recoverable from the EOU.

On this being pointed out (December 2015), Assistant Development Commissioner, Falta SEZ forwarded (March 2017) a copy of reply received from M/s Swiss Singapore India Pvt. Ltd. wherein the firm while accepting non-

achievement of value addition of 50 percent stated that as per Statute it is not mandatory to achieve minimum value addition of 50 percent rather it is only “insisted upon” which means it is not a mandatory requirement.

The reply of the firm is not acceptable in view of provisions of Appendix 14-1-c of HBP, Vol-I.

Development Commissioner, Falta SEZ accepting audit contention subsequently issued (August 2017) a show cause notice to the firm. Further progress is awaited (September 2017).

2.4 Deemed Exports drawback/ Duty Drawback Scheme

2.4.1 Irregular grant of deemed export drawback on imported goods

As per paragraph 8.1 of FTP, 2009-14, “Deemed exports” refer to those transactions in which goods supplied does not leave country and payment for such supplies is received either in Indian rupees or in free foreign exchange. Further, as per paragraph 8.2 of FTP 2009-14, supply of goods by main/subcontractors shall be regarded as “Deemed exports” under FTP, provided goods are manufactured in India.

DGFT vide their circular no.50/2009-2014 (RE-2010) dated 28 December 2011 cleared that in case the capital goods have been imported by the contractor/sub-contractor and supplied as such to project authorities, Customs duties paid on such imports cannot be refunded as deemed export duty drawback under paragraph 8.3 (b) of FTP.

Audit scrutiny of refund records of Terminal Excise Duty /Drawback finalized by Jt. DGFT, Ahmedabad for the period from 2012-13 to 2014-15 revealed that M/s L & T (contractor), imported various items such as couplers, FLRS cables, Gaskets etc. and supplied as such to the project authority (Chennai Metro Rail Limited) and was allowed deemed export benefit under paragraph 8.2 (d) of the FTP. As per the provision *ibid*, supply of goods by main/subcontractors shall be regarded as “Deemed Exports” under FTP, provided goods are manufactured in India. As the subject goods were not manufactured in India, grant of drawback of ₹ 3.62 crore was incorrect.

Further, it was also noticed that the project authority vide certificate (Appendix 22-C) dated 3 February 2015, had allowed imports valued at ₹ 12 crore only. However, the contractor had imported goods worth ₹ 12.75 crore. This has resulted in excess import of ₹ 74.73 lakh involving drawback amount of ₹ 19.32 lakh included in total drawback of ₹ 3.62 crore paid.

On this being pointed out (March 2016), the department without furnishing any evidence stated (April 2017) that firm had not supplied goods as such and

value addition was done using various inputs either procured domestically or imported.

Department reply is not acceptable as the contractor had shown in its drawback claim that the imported goods were supplied as inputs to the project. Hence, no further processing appears to have been done on the imported inputs before supply to the project. Therefore no value addition was made and goods were supplied as such. This was communicated to the department in May 2017 with a request to furnish evidence in support of their reply. Department response is awaited (September 2017).

2.4.2 Non recovery of drawback on failure to realize export proceeds

As per Rule 16A of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, where an amount of drawback has been paid to an exporter but the export proceeds have not been realized within the specified time as per Regulation 9 of the Foreign Exchange Management (Export of Goods and Services) Regulation, 2000, the drawback amount so paid should be recovered. Customs officer should initiate action for recovery viz issuance of notice, passing the order for recovery, if no evidence of realization of export proceeds is produced within 30 days of notice, and effect recovery within 30 days of such order.

Scrutiny of Export Outstanding Statement (XOS) for the half year ended 30 June 2015, received from RBI, Kolkata, together with the online information available on Indian Customs EDI System (ICES) revealed that the sale proceeds were not realized even after expiry of stipulated/extended period in respect of 147 consignments exported between January and April, 2014, for which duty drawback of ₹ 1.84 crore had been sanctioned by Commissionerate of Customs (Port), Kolkata. Audit noticed that no action for recovery was initiated for period ranging between 44 days to 660 days after expiry of stipulated period of realization as per XOS.

On this being pointed out (January 2016), the department intimated (February/March 2017) that in 112 shipping bills drawback amounting to ₹ 1.49 crore was recoverable apart from applicable interest, out of which ₹ 2.55 lakh in 25 cases were recovered, while in seven cases involving ₹ 27.10 lakh demands were confirmed and remaining 80 cases involving ₹ 1.20 crore were under adjudication. In 35 cases, Bank realization certificates (BRCs) were furnished by the exporters and hence they were either dropped or not pursued.

Further progress is awaited (September 2017).

2.5 Served from India Scheme (SFIS)

2.5.1 Incorrect grant of SFIS duty credit

In terms of paragraph 3.12.4 of the FTP, 2009-14, Service Providers of services listed in Appendix 41 of HBP Vol-I, are entitled to Duty Credit Scrip equivalent to 10 percent of free foreign exchange (FFE) earned during current financial year, under the Served from India Scheme (SFIS). As per paragraph 9.53 (ii) FTP, “Service Provider’ means a person providing supply of a ‘service’ from India to service consumer of any other country in India. Therefore, while allowing SFIS duty credit to service providers in terms of paragraph 9.5.3 (ii), it is necessary to ensure that the services had been supplied to the service consumers of any country other than India.

M/s SASTRA University, Thanjavur was issued (September 2014) duty credit scrips under SFIS for the “Higher education services” which is covered vide serial number 4 C of Appendix 41 of HBP, Vol-I. Audit scrutiny indicated that the charges were collected towards “Tuition fees” by the University from the students. However, the list of students from whom the tuition fees were received was scrutinized and it was observed that most of them were Indians.

As the university had claimed SFIS duty credit in terms of paragraph 9.53 (ii), the grant of duty credit without ensuring whether the service consumers belong to a country other than India, was not in order. This had resulted in incorrect grant of duty credit under SFIS to the tune of ₹ 1.02 crore which was recoverable with interest.

On this being pointed out (January 2016/June 2017), DGFT, New Delhi stated (Aug 2017) that firm has been asked to furnish details of students for verification of their eligibility or to remit the entire duty credit of ₹ 1.02 crore with interest. Further progress is awaited (September 2017).

2.5.2 Non/short imposition of late cut

Paragraph 3.6 (b) of HBP, Vol-I, 2009-14 stipulates that an application for grant of duty scrip for foreign exchange earned under SFIS during current financial year shall be filed on monthly/quarterly/half yearly/annual basis along with prescribed documents at the option of the applicant to be exercised along with first application for the current financial year. The last date for filing application shall be 12 months from the end of relevant month/quarter/half year/year. In case of failure to submit the applications after the due date, licensing authorities shall impose late cut as provided in paragraph 9.3 of HBP, Vol-1.

Audit scrutiny revealed that M/s John Energy Limited was issued (October 2013 to March 2014) three SFIS licences by JDGFT Ahmedabad for total duty credit amount of ₹ 6.13 crore for foreign exchange earned. Audit noticed that

licencee had filed the applications after expiry of more than one year from the due date, however, the RLA had not applied late cut on two licencees while in one case late cut was applied at five percent instead of applicable 10 percent. This resulted in non/short imposition of late cut of ₹ 51.06 lakh which is recoverable.

This was pointed out to the department in January 2017, their response is awaited (September 2017).

2.6 Incremental exports incentivisation scheme (IEIS)

2.6.1 Grant of excess duty credit due to non-verification of export details

As per paragraph 3.14.5 of FTP, 2009-14, an exporter is entitled for duty credit scrip at the rate of two percent of the growth in FOB value of exports achieved during the year 2013-14 over the previous year 2012-13 under Incremental exports incentivisation scheme (IEIS). Certain ineligible exports for this purpose were enlisted in paragraph 3.14.5 (d) of FTP.

In Audit, cross verification of details of exports, as claimed by M/s SSK Exports Ltd and two other exporters, with ICES exports data obtained from the Customs authority relating to these exporters for the year 2012-13 revealed that the exporters did not include exports worth ₹ 17.02 crore made under 62 shipping bills, for calculating incremental export growth for the year 2013-14 over previous year (2012-13). Accordingly, there was overstatement of exports growth in 2013-14 over 2012-13 which resulted in grant of excess duty credit of ₹ 31.48 lakh. The office of the Additional Director General of Foreign Trade, Kolkata failed to verify the exports declared by exporters in their claims.

On this being pointed out (March 2016), the ADGFT, Kolkata asked (May/June 2016) exporters to refund the excess duty credit amount. Later, the department furnished (August 2016) a reply of an exporter (M/s SSK Exports Limited) in which it was stated that undeclared exports pointed out by audit were made under Advance Authorization.

The reply of the department was not tenable as exports under Advance Authorization were not ineligible exports for the purpose of IEIS, therefore, they should be included in exports for computation of growth in exports.

In case of another exporter (M/s Milsha Agro Exports Private), department further intimated (August 2016) that the exporter admitted in case of only two exports that were made by them out of nine pointed out by Audit. However, on further verification at www.icegate.gov.in, a Customs website for online filling and checking status of shipping bills etc, we found that all the nine shipping bills were pertaining to the exporters. Hence, the reply was not tenable.

This was intimated (April 2017) to the department, however, their reply is awaited (September 2017).

Department's failure to verify all exports of the exporter even after being pointed by audit reinforces the audit observation about weak monitoring and scrutiny.

2.7 Merchandise Exports from India Scheme (MEIS)

2.7.1 Grant of excess duty credit due to incorrect adoption of exchange rate

Merchandise Exports from India Scheme (MEIS) is one of the schemes introduced in the FTP, 2015-20, to offset infrastructural inefficiencies and associated costs involved in export of goods/products which are produced/ manufactured in India, especially those having high export intensity, employment potential and thereby enhancing India's export competitiveness.

As per paragraph 3.04 of FTP 2015-20, export of notified goods/products, to notified markets as listed in Appendix 3B, shall be rewarded under MEIS. The basis of calculation of reward is on FOB value of exports realized in free foreign exchange or on FOB value of exports as given in the shipping bills in free foreign exchange, whichever is less, unless otherwise specified. Paragraph 1.15 (a) of the HBP, 2015-20 also stipulates that the foreign exchange realized (as mentioned by bank in the electronic Bank Reconciliation Certificate) is converted to Indian Rupee using the monthly exchange rates published by CBEC as on the date of Let export order (LEO)¹³ for the purpose of calculating the duty credit.

Test check of the exchange rates adopted for calculating the FOB value in rupee terms for the export proceeds realized and the corresponding sanction of duty credit under MEIS by JDGFT, Chennai, for the period from 1 April 2015 to 31 March 2016, disclosed that in 184 shipping bills, the exchange rate for Euro currency (LEO between 2 October 2015 to 15 October 2015) was incorrectly adopted at ₹ 74 as against the correct rate of ₹ 72.30 which was prevailing on the LEO date for calculation of FOB value. This had resulted in excess sanction of MEIS credit aggregating to ₹ 13.90 lakh.

This was pointed to the department in January 2017, their reply is awaited (September 2017).

¹³ Let Export Order is the final export legal procedure to move goods out of India under export shipment.

CHAPTER III

INCORRECT APPLICATION OF GENERAL EXEMPTION NOTIFICATIONS

Government under section 25 (1) of the Customs Act, 1962 is empowered to exempt either fully or subject to such conditions as may be stipulated in the notification, goods of any specified description, from the whole or any part of duty of Customs leviable thereon. Customs authorities are tasked with implementing the exemption notifications by ensuring that the condition prescribed in the said notification are fully met before exemptions could be granted. During test check of records (May 2015 to April 2017), 17 cases of incorrect grant of exemption have been noticed involving total revenue implication of ₹ 17.35 crore. Out of these, 13 cases are discussed in the following paragraphs and four cases which have been accepted by the department and recoveries made/ recovery proceedings initiated are mentioned in **Annexure 5**.

3.1 Irregular refund of special additional duty (SAD) under notification no.102/2007-cus dated 14 September 2007

In terms of notification no.102/2007-cus dated 14 September 2007, imported goods intended for subsequent sale are exempted from SAD leviable under section 3(5) of the Customs Tariff Act, 1975, by way of refund of same, subject to payment of appropriate sales tax on sale of the said goods, and providing copies of invoices of sales of such imported goods along with the refund claim. Further, as per section 8 of the Central Sales Tax Act (CST) 1956, if the dealer sold the goods to another registered dealer, in course of inter-state trade, he shall be liable to pay CST at two percent or at the rate applicable on such goods under State Value added tax (VAT) Act, whichever is lower, along with submission of a declaration in the Form-C, obtained from the prescribed authority, duly filed in and signed by the registered dealer to whom the goods are sold.

Audit noticed cases of irregular refund of SAD by deploying various methods discussed below:

Refund of SAD on the goods transferred/sold without requisite return or payment of CST/VAT

3.1.1 The SAD refund under aforesaid notification is subject to the conditions that the importers provide copies of (i) Document evidencing payment of the said additional duty; (ii) Invoices of sale of the imported goods in respect of which refund of the said additional duty is claimed and (iii) Documents evidencing payment of appropriate sales tax or value added tax, as the case may be on sale of such imported goods.

Under the CST, Act 1956, transfer of goods from a head office to branch/agent does not amount to sale and sales tax is not leviable on such transactions. In such cases, as per section 6A (1) of CST Act 1956, the burden to prove that the transfer of goods is otherwise than by way of sale lies on the dealer for which he shall have to furnish declaration (in form F) containing the prescribed particulars duly supported by evidence of transportation of such goods.

Commissionerate of Customs (Port), Kolkata sanctioned refund of SAD of ₹ 22.25 lakh to M/s Shree Ambica Iron Industries, Kolkata in June 2014 against import of five consignments of “Power Tiller” effected between May and August 2013. The imported goods were said to be moved to the state of Odisha by way of transfer. However, neither the mandatory certificates in Form F for stock transfer nor Form C for payment of CST at lower rate were furnished with the refund claim.

Audit also noticed other irregularities/mis-declaration of Tax Identification Number (TIN) in the invoices,

- i. Tax Information Number (TIN) No.19292692005 mentioned by M/s Shree Ambica Iron Industries in its challan cum tax invoices issued to consignment agent (Assam SAI Pvt. Ltd., Odisha), was actually pertaining to M/s Assam SAI Motors Pvt. Ltd., Nanda Mullick lane Kolkata-700006, West Bengal as verified from website of the Department of Commercial Tax of the Government of West Bengal.**
- ii. The goods were stated to be sold by the consignment agent to M/s New Royal Motors having TIN No.2177650030, but the said TIN was not found at the website of Odisha Government’s Commercial tax department.**
- iii. Certificate issued by M/s Ritesh Shah and Associates (Membership No.063069), Chartered Accountant was undated.**

As the importer did not satisfy the condition 2 (d) of aforesaid notification by not furnishing evidence for payment of appropriate sales tax or VAT, refund of SAD amounting to ₹ 22.25 lakh was irregular.

The matter was pointed to the department in May 2015, their reply has not been received (September 2017).

Refund of SAD against invalid sales invoices

3.1.2 Commissionerate of Customs (Port), Kolkata sanctioned refund of SAD ₹ 11.64 lakh to M/s Puyang Refractories Group Company Private Limited in November 2014 against sale of imported goods between November 2013 and March 2014. Audit scrutiny revealed that no evidence for appropriate tax

was submitted because sales made at concessional CST rate of two percent were not supported by mandatory declaration in Form –C. Therefore, goods were supposed to be sold at higher rate of sales tax/VAT rate of five percent, which was not done.

Moreover, out of the above six, in five cases sales invoices produced in support of the claim were unreliable because the names of buyers and selling date were found to be different in sale invoices vis-a-vis CST return furnished with the claim.

Thus, veracity of documents on which department had allowed refund could not be fully substantiated by Audit. Therefore, refund of ₹ 11.64 lakh was irregular. The matter was brought to the notice of the department in April 2016/February 2017, their reply has not been received (September 2017).

Refund of SAD on the basis of bogus invoices

3.1.3 M/s Daffodils India Private Limited had been allowed (April/May 2014) two refund claims of SAD totalling ₹ 10.26 lakh by Kolkata Port Commissionerate in respect of imported goods stated to be sold through branch transfer. However, it was observed that the stock transfer was neither supported by prescribed Form 'F' nor mentioned in the tax return (part 1: list of stock transfer consignments received from other states) for the relevant period thereby implying that there was no stock transfer. Further, in the Annexure submitted along with the refund claim, the quantity sold through consignment agent/stockist was also shown as nil. Thus, in the absence of evidence regarding stock transfer the inter-state movement of the instant goods shall be deemed, as per the CST Act, 1956 to have been occasioned as a result of sale and which are liable to sale tax. Accordingly, evidence of payment of appropriate sales tax/vat for refund of SAD in the instant case would be the documents pertaining to the inter-State sales and not those pertaining to the sales by the branch/agent, as was submitted.

It was also observed that the sale invoices submitted against the two refund claims, though issued in the same financial year to different buyers, bore same serial numbers indicating the possibility of the invoices being bogus/fictitious and unrelated to the VAT/CST challans showing payment of appropriate sales tax/VAT.

Thus, refund of SAD amounting to ₹ 10.26 lakh claimed on the basis of apparently bogus invoices was irregular and not in compliance to the conditions of the aforesaid notification.

On this being pointed out (October 2015), Commissioner of Customs, Kolkata Port informed (February 2017) that demand cum show cause notices have

been issued for recovery of the amount refunded. Further progress is awaited (September 2017).

Refund of SAD on the basis of forged CA certificate

3.1.4 Customs Commissionerate, Kolkata Port sanctioned ₹ 10.78 lakh for refund of SAD to M/s Jagruti Componics Private Limited and M/s S.K. Timber & Company between May and November 2014 in three cases. In support of their claim the importers submitted certificates from a CA named Shri P.K. Agarwal, (membership number 056186) proprietor of the firm Agarwal & Company (firm registration no.322280E) with two different addresses of Kolkata in their certificates submitted for the aforesaid two firms. During audit scrutiny, details of the firm were verified from the website of Institute of Chartered Accountants of India {(ICIA) www.icag.org} and it was noticed that CA membership number 056186 was registered in the name of “Agarwal Pawan Kumar” and not “P.K. Agarwal” mentioned in the papers submitted. Similarly, firm registration number 322280E was registered in the name of “Agarwal Pawan & Co.” and not “Agarwal & Co,” as stated in respect of certificates furnished for aforesaid two firms. The address of the firm registered with registration number 322280E on the ICAI website was given as “Century Plaza 81 Netaji Subhash Road, 3rd Floor, Room No.303, Kolkata” which differed from the address mentioned in respect of papers submitted by M/s Jagruti Componics Private Limited i.e. Mukherjee Building, 3 No., Central Avenue 3rd floor, Kolkata. Further audit verified the signatures and seal of Shri Pawan K. Agarwal available on records of the of department with those of Shri P.K. Agarwal in the certificate submitted by the M/s Jagruti Componics Private Limited and noticed a mismatch of signature and seal.

In view of different firm names, different addresses and mismatched signatures the veracity of the claims could not be fully substantiated.

In light of the foregoing, the CA certificates submitted in the above three cases of M/s Jagruti Componics Private Limited and M/s S.K. Timber & Company purportedly issued in the name of Shri P.K. Agarwal of the firm Agarwal & Company didn't seem to be genuine, hence, unacceptable to audit. Therefore, not only the refund of SAD amounting to ₹ 10.78 lakh was irregular and needs to be recovered along with interest thereon amounting to ₹ 2.25 lakh but also claims made by exporter on the basis of forged documents need proper investigation.

This was pointed to the department in October 2015 and to the Commissioner of Customs, Kolkata port in January 2017, but no reply has been received (September 2017).

Audit had reported similar cases in the previous year's Audit Report No. 1 of 2017 (Paragraphs 7.1 and 7.2 refers), in response to which the Ministry had informed that the concerned Commissionerates had reported the matter to the vigilance branch. Though, action has been initiated in respect of cases pointed out by Audit, persistent occurrence of such cases is indicative of larger systemic lacunae which need to be addressed through stricter scrutiny of the CA certificates and other documents that are relied upon by the Commissionerates for granting refunds. Ministry's response falls short of assurance on this account.

3.2 Non levy of countervailing duty (CVD) due to incorrect exemption under notification no.39/1996-cus

3.2.1 Imports made by a person authorized by Government of India or the contractors of Government of India, Public Sector Undertakings of Central/State Government or the sub-contractors of such undertakings are not exempted from the whole of additional duties of Customs in terms of notification no.39/1996-cus (serial nos. 9 and 10) dated 23 July 1996 as amended by notification no.29/2015-cus dated 30 April 2015, (paragraph 2 serial no. ix) w.e.f. June 2015, read with notification no.30/2012-cus dated 8 May 2012. Accordingly, imports by contractors/sub-contractors are assessed under serial no.9A/10A of the notification and attract additional duties of Customs at 12.5 percent.

Several consignments of goods relating to Defence and Internal Security Forces imported (June 2015 to March 2016) through Chennai (Sea & Air) Commissionerates by contractors of Government of India, Public Sector Undertakings of Central Government and sub-contractors of Government Undertakings, were incorrectly exempted from additional duties of Customs under serial nos. 9 and 10 of notification no.39/1996-cus dated 23 July 1996 instead of levying additional duties of Customs at 12.5 percent.

This has resulted in non-levy of CVD amounting to ₹ 7.24 crore in 118 consignments.

On this being pointed out (May/July 2016), the department reported (June 2017) recovery of duty amounting to ₹ 21.19 lakh which included interest of ₹ 3.26 lakh in five consignments and issued demand notice to 8 importers. Further progress is awaited (September 2017).

3.2.2 Online test audit of Bill of entry (BE) at Sea Port Cochin, Air Cargo Complex (ACC), Nedumbassery and ACC, Thiruvananthapuram for the period from 1 June 2015 to 19 March 2016 revealed that 113 consignments cleared by various importers other than Government of India/State Government were exempted from CVD/SAD assessed under serial no.9 & 10 of notification

no.39/1996-cus dated 23 July 1996 although the exemption was withdrawn vide notification no.29/2015-cus dated 30 April 2015. This resulted in non levy of duty of ₹ 2.39 crore.

On this being pointed out (March/April 2016), the department intimated (February 2017) recovery of ₹ 56.91 lakh along with interest in respect of 29 consignments cleared by importers through ACC, Nedumbassery. Central Excise and Customs Commissionerate, Trivandrum intimated (February 2017) recovery of ₹ 0.46 lakh in one consignment and issued show cause notice in remaining 47 consignments. While, Customs House, Kochi intimated (August 2016) that demand notices have been issued to the importers. Further progress is awaited (September 2017).

3.3 Short levy of Basic Customs duty (BCD) on import of non edible grade vegetable fats and oils under notification no. 12/2012-cus

Import of edible grade refined groundnut oil (CTH 1508)/Sunflower oil (CTH 1512) and edible grade refined other vegetable oils (CTH 1515) are eligible for concessional rate of BCD under notification no.12/2012-cus (serial no.58) dated 17 March 2012. However, import of these refined oils for industrial use is not eligible for concessional rate of BCD.

Audit paragraph on incorrect application of notification benefits in similar imports has already been included in CAG's Audit Report No.12 of 2014 (para No.5.10), where the Ministry had admitted the para. Nevertheless similar cases continue being noticed in Audit, indicating that Board has not initiated corrective measures to address classification issues resulting in short levy of BCD. Ministry's comments are awaited (September 2017).

The cases are discussed below:

3.3.1 M/s Suru Chemicals and 13 others imported (April 2015 to December 2016) 27 consignments of 'refined peanut oil/olive oil/almond base oil/sunflower oil and walnut oil/Vegetable oils' through JNCH, Nhava Sheva, Mumbai. The imported goods were classified under CTH 1508/1509/1515/1512 and levied concessional rate of BCD allowing benefit of notification no.12/2012 serial no.58. Audit noticed that the goods imported are for industrial use and not for edible purpose as such not eligible for aforesaid notification benefit. The misclassification and incorrect grant of exemption resulted in short levy of duty amounting to ₹ 3.77 crore.

On this being pointed out (March/April 2017), the Assistant Commissioner, Gr.II, JNCH, Nhava Sheva stated (April 2017) that a show cause notice is being issued. Reply in respect of remaining 13 importers is awaited (September 2017).

3.3.2 M/s Scope Ingredients Private Limited imported (August 2014/October 2015) four consignments of ‘Refined Shea Butter’ through Sea Customs, Chennai. These goods were assessed at concessional rates of duty as applicable to edible grades of oils. Audit scrutiny revealed that the goods imported are for cosmetic uses as described, in the item description of the goods and as verified from the supplier’s website (www.olvea.com). Accordingly, the imported goods are not fit for edible purposes; as such the exemption allowed was incorrect. This resulted in short levy of duty of ₹ 54.70 lakh.

On this being pointed out (February 2016), the department stated (May 2017) that importer has been directed to pay the short levy failing which appropriate action will be initiated under Customs Act 1962. Further progress is awaited (September 2017).

3.4 Non levy of CVD on import of casting for wind operated electricity generators

In terms of notification no.1/2016-cus (CVD) dated 19 January 2016, castings for wind operated electricity generators (WOEG) whether or not machined, in raw, finished or sub-assembled form or as a part of a sub-assembly or a part of an equipment/component meant for WOEG, falling under CTH 84834000, 85030090 originating from People’s Republic of China and exported by any exporter, are leviable to CVD at 13.44 percent of landed value.

M/s Gamesa Renewable Private Limited and three others imported (January to March 2016) various machined casting parts of WOEG such as main axle, hollow shaft, machined hub etc. from People’s Republic China through Chennai (Sea)/JNCH, Mumbai Customs. The goods were classified under CTH 85030090 but cleared without levying the CVD on the landed value under aforesaid notification. This resulted in non levy of duty of ₹ 1.53 crore.

On this being pointed out (March 2016/ January 2017), the department reported (November 2016) recovery of ₹ 0.40 crore from M/s Suzlon Energy and issued (March 2017) show cause notices to two importers (M/s Leit Wind Shriram Manufacturing Ltd., and M/s Regen Powertech Pvt. Ltd.). Further progress is awaited (September 2017).

3.5 Incorrect exemption of CVD on Mono Ammonium Phosphate imports

“Mono Ammonium Phosphate a water soluble fertilizer” is classifiable under CTH 31054000 and leviable to CVD at the rate of one percent under notification no.12/2012-CE serial no.128 dated 17 March 2012.

M/s Vedant Fertilizers (India) Private Limited and 16 others imported (January 2015 to December 2016) 37 consignments of ‘Mono Ammonium Phosphate’

from China through JNCH, Nhava Sheva, Mumbai. The goods were classified under CTH 31054000 but cleared without levying CVD under aforesaid notification serial no.127 treating imported Mono Ammonium Phosphate as input used in the manufacture of other fertilizers. Mono ammonium phosphate is a water soluble fertilizer and not an input for manufacture of fertilizers as evident from Customs notification 12/2012-cus serial no.202 dated 17 March 2012, accordingly leviable to one percent CVD under serial no.128 of CE notification. This resulted in short levy of duty to the extent of ₹ 17.01 lakh.

On this being pointed out (March 2017), the department stated (March/May 2017) that the concerned importers have been issued letters for production of relevant documents, while one importer (M/s Sneh Corporation) has paid ₹ 0.09 lakh. Further progress is awaited (September 2017).

CHAPTER IV

SHORT/NON-RECOVERY OF APPLICABLE LEVIES AND OTHER CHARGES

This chapter presents cases where government revenue has been blocked or short/non-levied due to incorrect assessments, under valuation of imported goods and non-levy of applicable charges. The cases are found on test check of records (August 2015 to March 2017) and have a total revenue implication of ₹ 15.03 crore. Out of these, 9 cases are discussed in the following paragraphs and 13 cases which have been accepted by the department and recoveries have either been effected or initiated are shown in **Annexure 6**.

4.1 Short levy of BCD on coal imports

As per sub heading notes (2) of chapter 27 of Customs tariff Act, 1975, bituminous coal means coal having a volatile matter limit (on a dry, mineral, matter free basis) exceeding 14 percent and a calorific value limit (on a moist, mineral, matter free basis) equal to or greater than 5833 K cal/kg. Bituminous coal is classified under CTH 27011200 and leviable to BCD at five percent vide notification no.12/2012-cus (serial no.124) dated 17 March 2012. However, steam coal falling under CTH 27011920 has been exempted from five percent BCD but CVD at one percent is leviable as per serial no.123 of the said notification. No definition of steam coal has been prescribed in the Customs tariff Act.

4.1.1 Audit scrutiny of assessment of files of Dhamra Customs Division, Dhamra revealed that eight consignments of coal imported by different importers were provisionally assessed levying BCD at nil rate and CVD at the rate of one percent considering those as steam coal (non coking) though the description in the BEs clearly indicated that imported coal had the characteristics of Bituminous coal. Further, test reports received in March 2013 from Customs laboratory also confirmed the characteristics of bituminous coal in the imported coal. Accordingly, as per the provisions of Customs manual, the final assessment should have been made for the additional duty demand at the rate of five percent within stipulated period of six months on receipt of the original documents of the said BEs as well as test reports which were received between January and April 2013. Provisional assessments exempting BCD instead of levying applicable rate of five percent resulted in short realization of revenue of ₹ 1.59 crore. Non-finalization of provisional assessments within the stipulated period after receipt of all test reports tantamounts to extension of undue benefit to the assesses.

On this being pointed out (March 2016), the department while admitting the observation stated (March 2017) that demand letters have been issued to the

eight assesses to pay the differential duty of ₹ 1.60 crore along with interest. Further progress is awaited (September 2017).

4.2 Imports cleared without levying applicable anti dumping duty

As per section 9A of the Customs Tariff Act, 1975, where any article is exported from any country to India at less than its normal value, then upon the import of such article into India, the Central Government may, by a notification, impose an anti dumping duty (ADD). Accordingly, ADD was imposed from time to time on goods like 'Vitamin C', 'float glass of thickness 2 mm to 12 mm of clear as well as tinted variety (other than green glass)', and 'Morpholine' when these were imported from specified countries like China and Germany.

4.2.1 Assessing officers cleared 66 consignments of 'Vitamin C', 'Sodium Ascorbate', 'float glass' and 'Morpholine' imported through JNCH, Nhava Sheva, Mumbai and Chennai (Sea) Customs by M/s Pfizer and 12 others from these specified countries without levying applicable ADD amounting to ₹ 3.02 crore.

The JNCH, Mumbai authorities in respect of import of 'float glass' and 'Morpholine' reported (July 2016/ May 2017) recovery of ₹ 22.47 lakh from two importers (M/s Sapphire Glass solutions and M/s Hindustan Specialty Chemicals) and issued (March 2017) a show cause notice (SCN) to M/s Bhanwarlal Jhanwar and Sons.

Deputy Commissioner of Customs (Chennai, Sea) in respect of import of Sodium Ascorbate stated (June 2017) that as per the notification ADD is leviable on Vitamin C and its synonyms under entry no.867 of Merck¹⁴ Index, while Sodium Ascorbate imported has a specific entry at serial no.8525 of Merck Index therefore not leviable to ADD.

Reply of the department is not tenable because as per notification No. 38/2015-ADD, the ADD is applicable to all synonyms of Vitamin C **including** the most commonly used synonyms of Vitamin C as described under entry number 867 of Merck Index, meaning thereby, that ADD is leviable on import of all forms of Vitamin C and it is not restricted to those mentioned under entry no.867 of Merck Index.

Moreover, sodium ascorbate is one of the minerals salts of ascorbic acid (Vitamin C) and Department of Revenue in a similar case of AR No. 8 of 2015 (sub para 4.9) has admitted (December 2014) the audit observation and issued less charge cum demand SCN to the importer (M/s Bajaj Healthcare Ltd.).

¹⁴ Merck Index is the internationally recognised encyclopedia of chemical substances

Reply in respect of imports made by remaining nine importers is awaited (September 2017).

4.3 Short levy of duty due to undervaluation

As per Rule 12 of the Customs valuation (Determination of value of Imported Goods) Rules, 2007 read with clause (iii) of sub-section 1 of the section 14 of the Customs Act 1962, when the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidences and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined and declared value could be rejected.

4.3.1 Under-valuation of Polyester Chips and ‘Stainless steel melting scrap’ imports

M/s Garden Silk Mills limited and M/s Viraj Profiles imported (May to August 2016) ‘Polyester Chips Super Bright’ and “Stainless steel melting scrap grade 211” respectively through JNCH, Nhava Sheva, Mumbai.

Audit observed that in May/ August 2016 imports of ‘Polyester Chips Super Bright’ and “Stainless steel melting scrap grade 211” were assessed at JNCH based on the contemporaneous imports relying on Rule 5 of the Customs Valuation Rules 2007 at re-determined value of USD 1050 and 631 PMT respectively.

The omission on the part of the department to adopt the same re-determined assessment value of the goods imported by the two importers mentioned above in May to August 2016 resulted in undervaluation of goods and consequent short levy of duty amounting to ₹ 77.04 lakh.

On this being pointed out (December 2016/January 2017), the department issued (January/March 2017) show cause notices to the importers. Further progress is awaited (September 2017).

4.3.2 Under-valuation of goods imported by related party

Special Valuation Branch, Mumbai (SVB) vide order no.313/AC/SVD/VMD 2015-16 dated 25 May 2015 in the case of DFS India Private Limited (importer) held that goods imported by them from M/s DFS Venture Singapore (Pte) Limited (Supplier) were covered under definition of related party transactions under Rule 2 (2) of the Customs Valuation Rules (CVR), 2007 and therefore the invoice value of goods imported after 1 August 2014 be accepted under section 14 (1) read with rule 3 (3) of the CVR 2007. SVB also ordered that in all imports prior

to 1 August 2014 and pending for final assessment the value shall be enhanced by six percent in addition to freight element reimbursed by the importer to the supplier from time to time.

Audit scrutiny revealed that six percent loading as directed by SVB was not done on the imports prior to 1 August 2014. Audit pointed out (October/November 2015) short levy of duty of ₹ 7.47 lakh on the details made available and requested department to work out the total duty on all applicable imports.

The importer on being directed by the department (November 2015) paid duty of ₹ 17.21 lakh in January 2016.

4.4 Non-realization of cost recovery charges for officers posted to SEZ

As per Government of India, Department of Commerce (SEZ Division) – circular F.No.A-1/3/2008-SEZ dated 16 September 2010, all expenses towards pay and allowances like including Leave Salary Contribution and Pension contribution (in case of employees covered under new pension scheme) of officers posted to SEZs shall be borne by the developers as per actuals in the applicable pay band and the grade pay. According to the circular, Development Commissioner of concerned zone is responsible for effecting cost recovery charges on account of the pay and allowance expenses as per the procedure laid down

4.4.1 Audit scrutiny of office of the Development Commissioner, VSEZ, Duvvada, Visakhapatnam revealed that an amount of ₹ 4.70 crore for the period April 2015 to March 2016 and previous years was pending realization towards cost recovery charges from 53 units.

On this being pointed out (March/June 2016), DGFT, New Delhi reported (September 2017) recovery of ₹ 4.18 crore by Visakhapatnam SEZ authorities (July 2016/January/September 2017) and stated that efforts are being made to realize the remaining dues from the unit.

Non-recovery of cost charges in a timely fashion resulted in undue financial accommodation to the Developer.

CHAPTER V

MIS-CLASSIFICATION OF GOODS

This Chapter describes cases wherein assessing officers allowed imports of various goods that were misclassified. During test check of records (March 2014 to March 2016), Audit noticed 21 cases of short levy/non levy of Customs duties of ₹ 6.12 crore due to misclassification of imported goods. Out of these seven cases are discussed in the following paragraphs and 14 cases which have been accepted by the department and recoveries are made/recovery proceeding initiated are mentioned in **Annexure 7**.

5.1 Short levy of duty due to misclassification of Palmester 3595 -Medium chain triglycerides (MCT) imports

Palmester 3595/Palmester 3585 also known as MCT Oil consist of medium chain triglycerides including caprylic/capric triglycerides that are re-esterified fatty acid triglycerides derived from Palm oil and Palm kernel oil. As per the Harmonized System of Nomenclature (HSN) explanatory notes vegetable fats and oils and their fractions wholly or partly re-esterified, whether or not refined, but not further prepared are classifiable under CTH 151620 and leviable to BCD (BCD) at the rate of 80 percent (notification no.12/2012-cus dated 12 March 2012, serial no.68).

M/s K.P. Manish Global Ingredients Private Limited imported (November 2015 to March 2016) six consignments of “Palmester 3595 – acrylic/capric triglycerides” through Chennai (Sea) Customs. The goods were incorrectly classified under CTH 38249090 as ‘Other chemical products and preparations of Chemical or allied Industries including those consisting of mixture of natural products’ and exempted from BCD under serial no.449 (1) of notification no.46/2011-cus dated 1 June 2011.

Audit observed that the products are correctly classifiable under CTH 15162099 in terms of aforesaid HSN explanatory notes and also as supported by U.S. Customs Rulings Online Search System (CROSS) ruling number N252004 and accordingly leviable to BCD at 80 percent. Thus, misclassification and incorrect extension of notification benefit had resulted in short levy of duty of ₹ 1.94 crore.

This was pointed out to the department in April 2016, their reply is awaited (September 2017).

5.2 Short levy of duty due to misclassification of Pepper seeds imports

Chilly seeds of genus capsicum are classifiable under CTH 09042212 and attract BCD at the rate of 70 percent.

M/s Royal Seeds Corporation and six others imported (July to November 2016) 21 consignments of 'Pepper seeds of the genus capsicum' through NCH, New Delhi. The goods were classified under CTH 12099190 – Other vegetable seeds and assessed to BCD at the rate of five percent.

Audit noticed that pepper seeds of the genus capsicum are chilly seeds and merit classification under CTH 09042212 as chilly seeds of the genus capsicum and leviable to BCD at the BCD rate of 70 percent instead of five percent levied. The misclassification resulted in short levy of duty of ₹ 90.76 lakh.

On this being pointed out (December 2016/March 2017), the department intimated (March 2017) that demand cum show cause notices have been issued to the importers. Further progress is awaited (September 2017).

5.3 Short levy of duty due to misclassification of 'mobile concrete mixer' imports

CTH 8705 covers a range of Motor Vehicle specifically constructed or adapted, equipped with various devices that enable them to perform certain non-transport function. As per the Harmonised System of Nomenclature (HSN) notes given under CTH 8474, Concrete mixer when permanently mounted on a railway wagon or on a lorry chassis are excluded from CTH 8474 and are to be classified under CTH 8604 or 8705 respectively. Further, serial no.10 of the HSN notes for CTH 8705 clearly specifies that Concrete mixer Lorries consisting of a cab and a motor vehicle chassis, on which is permanently mounted a concrete mixer capable of use for making and transporting concrete falls under CTH 8705. Accordingly, concrete mixer lorries are classified under CTH 87054000 and Parts and accessories of the motor vehicles of CTH 8701 to 8705 are classifiable under CTH 8708 and leviable to BCD at the rate of 10 percent.

M/s Ajax Fiori Engineering (India) Private Limited imported (between September 2014 and January 2015) components of mobile concrete mixer like 'Steering Axle, Steering Axle with Gear Box, Dana Axle with Gear Box, Valve for negative brake, hand brake etc' through Chennai (Sea) Customs,. The goods were classified under CTH 84836090/84818090 as 'Clutches and shaft couplings' and assessed to BCD (BCD) at the rate of 7.5 percent instead of applicable rate of 10 percent. The incorrect classification had resulted in short collection of duty of ₹ 51.48 lakh.

On this being pointed out (March 2015/October 2016), the department reported (February 2017) that the importer has filed an appeal before the CESTAT, Chennai against the order in Original confirming short levy of ₹ 51.48 lakh. Accordingly, recovery proceedings could be initiated only after the outcome of appeal is known. Further progress is awaited (September 2017).

5.4 Short levy of duty due to misclassification of seaweed extract imports

As per Harmonized System of Nomenclature (HSN), explanatory notes under chapter heading 3808 'Plant growth regulators' are applied to alter the life process of a plant so as to accelerate or retard growth, enhance yield, improve quality or facilitate harvesting etc. and are classifiable under CTH 38089340. 'Seaweed extract liquid' and 'synthetic organic chemicals' used as plant growth regulators are, therefore, classifiable under CTH 38089340 and attract BCD at the rate of 10 percent and CVD at the rate of 12.5 percent.

M/s Mangalore Chemicals and Fertilizers Limited imported (October to December 2016) three consignments of 'Kelpak seaweed extract' from South Africa through JNCH, Nhava Sheva, Mumbai. The department incorrectly classified imported goods under CTH 31010099 as 'Animal and vegetable fertilizers'/Other fertilizers/Organic chemicals' and levied BCD at the rate of 7.5 percent and exempted from CVD instead of levying BCD at a rate of 10 percent and CVD at 12.5 percent. 'Kelpak seaweed extract' is a natural seaweed for accelerating root development and improving plant health and used as plant growth promoter for all kinds of plants. Therefore, these merit classification under CTH 38089340 and attract BCD at 10 percent. The misclassification resulted in short levy of duty of ₹ 43.81 lakh.

On this being pointed out (April 2017), department stated (May 2017) that a show cause notice has been issued to the importer. Further progress is awaited (September 2017).

5.5 Short levy of duty due to misclassification of 'Rubber band/Hair Rubber band' imports

Rubber band is classifiable under CTH 40169920 as other articles of vulcanized rubber other than hard rubber and attracts CVD at the rate of 12.5 percent.

M/s Mera Baba International and 65 others imported (January 2016 to January) 302 consignments of 'Rubber band/Hair Rubber band' through ICD, Tughlakabad, New Delhi. The imported goods were classified under CTH 96159000 as 'Other' combs, hair slides and the like hair pins, curling pins, curling grips, hair curlers and cleared after levying CVD at 'nil' rate.

Audit noticed that imported goods were declared as rubber bands and hence classifiable under CTH 40169920 as 'rubber band' attracting CVD at the rate 12.5 percent. The misclassification resulted in short levy of duty amounting to ₹ 32.75 lakh.

On this being pointed out (January/February/March 2017), the department reported (April 2017) that two importers (M/s Atlantic sales and M/s United

sales) deposited ₹ 0.18 lakh along with interest in respect of three consignments. Reply in respect of remaining consignments is awaited (September 2017).

5.6 Short levy of duty due to misclassification of tea filter paper imports

Filter paper and paperboard are classifiable under CTH 48232000 and attract CVD at the rate of 12.5 percent.

M/s Hindustan Unilever Limited imported (May to November 2016) six consignments of 'Dynapore tea filter paper of width 94 mm' through ICD, Tughlakabad, New Delhi. The imported goods were classified under CTH 48054000 as filter paper and paperboard and assessed to CVD at the rate of six percent.

Audit noticed that as per note 8 to chapter 48, CTH 4805 includes papers in strips or rolls having width exceeding 3 cm. As the width of imported filter paper is 94 mm it merit classification under CTH 4823000 as filter paper and paperboard and attract CVD at the rate of 12.5 percent instead of at the rate of six percent levied. Thus misclassification resulted in short levy of duty of ₹ 19.26 lakh.

On this being pointed out (December 2016/March 2017), department stated (February 2017) that a demand notice has been issued to the importer. Further progress is awaited (September 2017).

5.7 Short levy of duty due to misclassification of 'Chromo Paper 80 GSM' imports

'Chromo Paper 80 GSM' is classifiable under CTH 48119012 as chromo and art paper, coated and leviable to CVD at the rate of 12.5 percent.


Commissioner of Customs, JNCH, Maharashtra in his order-in-original dated October 2015 in similar imports held "Chromo Paper 80 GSM" classification under CTH 48119012 leviable to CVD at the rate of 12.5 percent beside other duties.

M/s Mudrika Lables Private Limited and four others imported (February 2013 to February 2016) 36 consignments of 'Chromo Paper GSM 80' through JNCH, Nhava Sheva, Mumbai. The imported goods were mis-classified under CTH 48101330/48101390/48103200/48101990 as 'Chrome paper or paper board'/'Other paper'/'bleached paper and cleared after levying CVD at six percent instead of the applicable rate of 12.5 percent.

The misclassification resulted in short levy of duty of ₹ 14.40 lakh which is recoverable.

The matter was communicated to the department in March/April 2017, their reply is awaited (September 2017).

New Delhi
Dated: 21 November 2017


(SHEFALI S. ANDALEEB)
Principal Director (Customs)

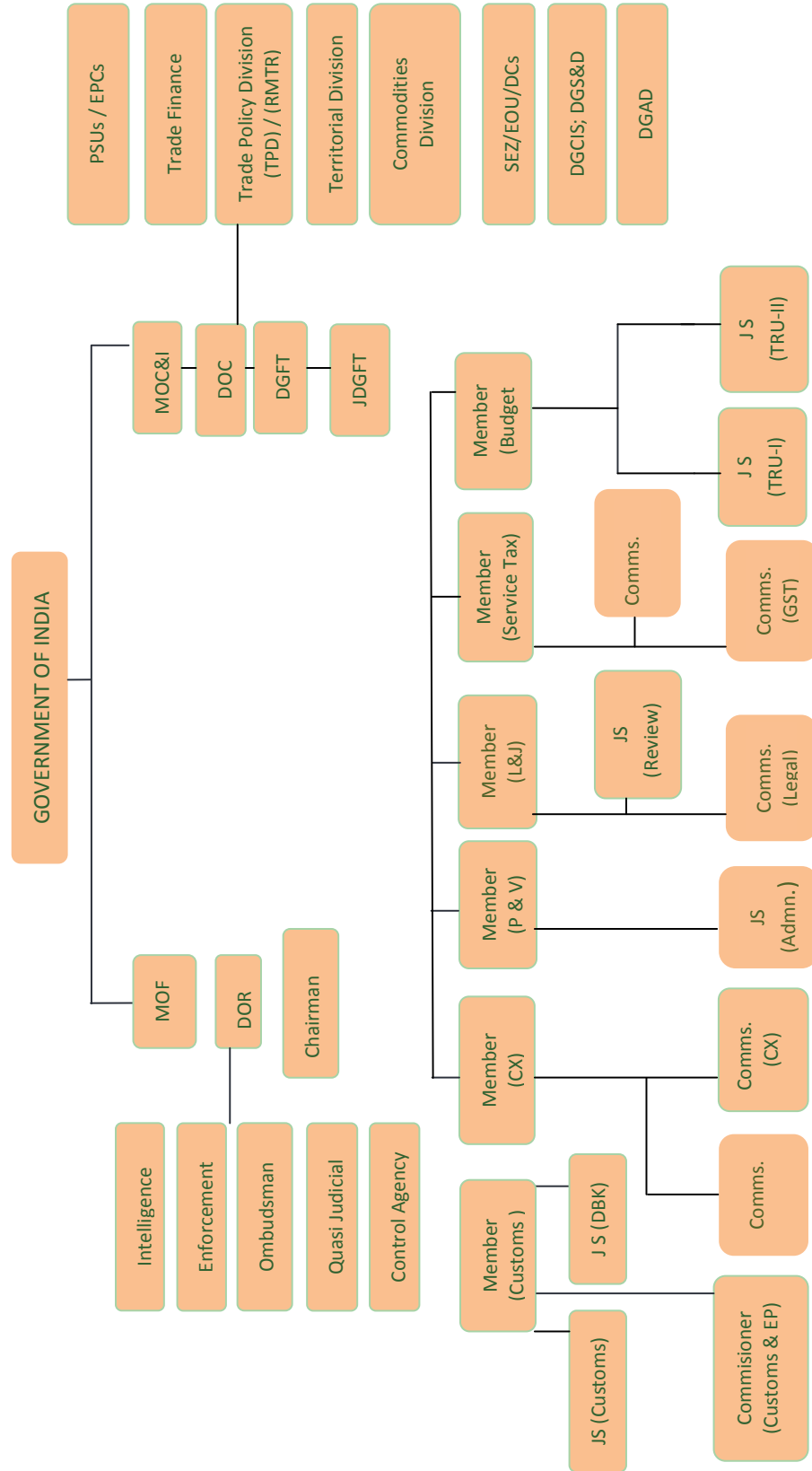
Countersigned

New Delhi
Dated: 22 November 2017


(RAJIV MEHRISHI)
Comptroller and Auditor General of India

ANNEXURES

Annexure 1 (Refer paragraph 1.4)
Organisational Chart



Annexure 2**Fact Sheet on Special Economic Zones (As on 7.9.2017)****(Refer paragraph 1.7)**

Number of Formal approvals	424		
Number of notified SEZs	354 plus 7 Central Govt. plus 11 State/Pvt. SEZs		
Operational SEZs	222		
Units approved in SEZs	4,643		
Investment			
	Investment (As on February 2006)	Incremental Investment	Total Investment (As on 30 June 2017)
Central Government SEZs	₹ 2,279 Cr.	₹ 13,695 Cr.	₹ 15,974 Cr.
State/Pvt. SEZs set up before 2006	₹ 1,756 Cr.	₹ 9,722 Cr.	₹ 11,478 Cr.
SEZs notified under the Act	-	₹ 4,05,690 Cr.	₹ 4,05,690 Cr.
Total	₹ 4,035 Cr.	₹ 4,29,107 Cr.	₹ 4,33,142 Cr.
Employment			
	Employment (As on February 2006)	Incremental Employment	Total Employment (As on 30th June 2017)
Central Government SEZs	1,22,236 persons	1,12,625 persons	2,34,861 persons
State/Pvt. SEZs set up before 2006	12,468 persons	83,502 persons	95,970 persons
SEZs notified under the Act	-	14,48,020 persons	14,48,020 persons
Total	1,34,704 persons	16,44,147 persons	17,78,851 persons
Exports in 2015-16		₹ 4,67,337 Crore	
Exports in 2016-17		₹ 5,23,637 Crore	

Source: www.sezindia.nic.in

Annexure 3
Duty evasion cases detected by DRI (Scheme-wise)
(Refer Paragraph 1.13.5)

Sl. No	Scheme	FY 13	FY 14	FY 15	FY 16	FY 17
		No. of cases	No. of cases	No. of cases	No. of cases	No. of cases
		Duty (Cr. ₹)	Duty (Cr. ₹)	Duty (Cr. ₹)	Duty (Cr. ₹)	Duty (Cr. ₹)
1	Misuse of End-Use & Other Notification conditions.	39	38	18	69	29
		67.79	1211.67	110.18	770.48	15.91
2	Misuse of EPCG	13	22	49	64	53
		179.55	583.08	289.11	454.92	311.96
3	Undervaluation	210	140	85	92	154
		282.43	432.71	285.64	254.37	184.89
4	Mis-declaration	298	102	52	112	167
		2392.26	224.22	172.42	1187.61	309.09
5	Drawback	71	17		94	58
		1590.14	80.50		1150.46	99.70
6	Misuse of EOU/EPZ/SEZ	7	3	6	18	6
		39.07	6.90	37.50	9.54	37.34
7	Misuse of DEPB	16	5			
		22.77	3.09			
8	Misuse of DEEC/ Advance licence	6	1	11	12	55
		139.73	0	1077.15	15.21	265.21
9	Others	49	366	186	170	145
		28.92	570.55	953.54	2780.73	198.08
Total		709	694	407	631	667
		4742.66	3112.72	2925.54	6623.32	1422.18

Source: DRI Anti smuggling performance report (ASPR).

Annexure 4**Details of test checked cases of 'Irregularities in Duty Exemption/Remission Schemes' accepted and recovered by the department****(Refer Chapter II)**

Sl. No.	Draft Audit Paragraph Brief subject	Field office	Amount. Objected (₹ in lakh)	Amount Accepted (₹ in lakh)	Amount Recovered (₹ In lakh)	Name of the Commissionerate DGFT/DC
1	DAP 5 Incorrect grant of exemption	Ahmedabad	97.00	97.00		Kandla
2	DAP 8 Incorrect utilization of SHIS scrips for import of second hand capital goods	Chennai	49.71	49.71		Chennai (Sea)
3	DAP 10 Non recovery of drawback where export proceeds are not realized	Kochi	28.95	28.95	26.86	Kochi
4	DAP 11 Short recovery of composite fee on non fulfilment of export obligation	Kochi	17.31	17.31	17.31	JDGFT, Kochi
5	DAP 12 Incorrect grant of SHIS scrip for time barred claims	Kochi	14.40	14.40	16.29	JDGFT, Kochi
6	DAP 15 Incorrect grant of SFIS duty credit	Chennai	101.00	101.00	155.00	JDGFT, Chennai
7	DAP24 Excess grant of duty credit under FPS on ineligible exports	Chennai	93.13	93.13	115.00	JDGFT, Coimbatore
8	DAP 27 Non enforcement of Bond/Bank guarantee to recover the duty and interest consequent on non fulfilment of export obligation	Chennai	13.76	13.76	20.83	Chennai (Sea)
9	DAP 45 Grant of excess duty credit entitlement under SFIS	Kolkata	15.14	15.14	5.41	ADGFT, Kolkata
10	DAP 49 Non enforcement of Bond/Bank guarantee to recover the duty and interest consequent on non-fulfilment of export obligation	Chennai	50.22	50.22	130.00	Chennai (Sea)
11	DAP 50 Excess duty credit under SFIS	Bengaluru	14.26	14.26	13.23	ADGFT, Bengaluru

Sl. No.	Draft Audit Paragraph Brief subject	Field office	Amount. Objected (₹ in lakh)	Amount Accepted (₹ in lakh)	Amount Recovered (₹ In lakh)	Name of the Commissionerate DGFT/DC
12	DAP 51 Incorrect reimbursement of Central sales tax on procurements from SEZ/EOU	Chennai	57.35	57.35	57.35	Development Commissionerate, MEPZ, SEZ Chennai
13	DAP 52 Excess grant of duty credit under Focus product scheme	Chennai	18.39	18.39	15.13	JDGFT, Coimbatore
14	DAP 54 Non application of late cut on belated applications resulting in excess grant of duty credit	Chennai	10.38	10.38	10.81	JDGFT, Coimbatore
15	DAP 57 Excess sanction of duty free credit entitlement under VKGUY scheme	Hyderabad	10.03	10.03	12.47	JDGFT, Visakhapatnam
16	DAP 58 Non fulfilment of export obligation	Bengaluru	12.41	12.41	12.41	Commissioner of Customs, New Customs House, Panambur, Mangaluru
17	DAP 59 Non fulfilment of export obligation	Bengaluru	17.51	17.51		ICD, Whitefield, Bengaluru
18	DAP 60 Non fulfilment of export obligation	Bengaluru	36.82	36.82		Regional JDGFT, Bengaluru
19	DAP 66 Non levy of late cut on entitlement	Mumbai	15.48	15.48		DGFT, Mumbai
20	DAP 71 Irregular debiting of clean environment cess to MEIS and FPS schemes on import of coal	Hyderabad	19.49	19.49	19.49	Commissioner of Customs (Preventive), Kakinada
21	DAP 73 Irregular issue of advance licence for supplies made prior to the application	Chennai	80.00	80.00	80.00	Assistant Commissioner of Central Excise, Dindigul
22	DAP 74 Non fulfilment of export obligation	Bengaluru	22.82	22.82		RLA, Bengaluru
23	DAP 75 Non fulfilment of export obligation	Bengaluru	16.60	16.60		RLA, Bengaluru
24	DAP 76 Non fulfilment of export obligation	Bengaluru	60.56	60.56		RLA, Bengaluru

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Sl. No.	Draft Audit Paragraph Brief subject	Field office	Amount. Objected (₹ in lakh)	Amount Accepted (₹ in lakh)	Amount Recovered (₹ In lakh)	Name of the Commissionerate DGFT/DC
25	DAP 78 Reimbursement of inadmissible CST	Bengaluru	13.67	13.67	11.01	Director, Software Technology Parks of India, Bengaluru
26	DAP 85 Non payment of education cess on DTA clearance by an EOU	Chandigarh	10.11	10.11	16.36	Central Excise, Faridabad-II
27	DAP 87 Non fulfilment of export obligation	Benagluru	14.25	14.25		RLA, Bengaluru
Total			910.75	910.75	734.96	

Annexure 5**Details of test checked cases of 'Incorrect Application of General Exemption Notifications' accepted and recovered by the department****(Refer Chapter III)**

Sl. No.	Draft Audit Paragraph Brief subject	Field office name	Amt. Objected (₹ in lakh)	Amt. Accepted (₹ in lakh)	Amt. Recovered (₹ In lakh)	Name of the Commissionerate/ DGFT/DC
1	DAP 1 Short levy of duty due to incorrect grant of exemption of SAD	Kochi	69.26	69.26	72.64	Cochin
2	DAP 20 Short levy of duty due to application of incorrect rate of abatement from RSP	Kolkata	22.21	22.21	-	Petrapole LCS (West Bengal Preventive)
3	DAP 22 Incorrect grant of notification benefits to pasta imports put up in unit containers.	Delhi	10.12	10.12	11.20	ICD, Tughlakabad
4	DAP 32 Incorrect grant of notification benefit to ready-made garments imports	Delhi	11.86	11.86	12.95	ICD, Tughlakabad
Total			113.45	113.45	96.79	

Annexure 6

Details of test checked cases of 'Short/Non-recovery of applicable levies and other charges' accepted and recovered by the department

(Refer Chapter IV)

Sl. No.	Draft Audit Paragraph Brief subject	Field office name	Amt. Objected (₹ in lakh)	Amt. Accepted (₹ in lakh)	Amt. Recovered (₹ In lakh)	Name of the Commissionerate/ DGFT/DC
1	DAP 6 Non recovery of merchant overtime fee	Jaipur	14.49	14.49	14.49	Preventive, Jodhpur
2	DAP 13 Failure to detect undervaluation under project imports	Ahmedabad	34.87	34.87		Jamnagar
3	DAP 14 Short levy of anti dumping duty	Delhi	25.61	25.61	15.40	ICD, Tughlakabad (Import & Export)
4	DAP 16 Short levy of duty due to non recovery of education cess and cement/paper cess	Kolkata	21.60	24.04	24.04	Karimganj, Customs Division (Shillong Commissionerate)
5	DAP 26 Non levy of anti dumping duty	Chennai	49.85	49.85		Customs (Sea)
6	DAP 28 Non recovery of revenue tax arrears due to absence of co-ordination between refund section and recovery cell	Chennai	27.81	27.81	62.68	Tuticorin Sea (Customs)
7	DAP 34 Non levy of anti dumping duty	Delhi and Mumbai	40.13	40.13	33.95	ICD, Rewari, Haryana/JNCH, Nhava Sheva, Mumbai
8	DAP36 Non levy of anti dumping duty	Mumbai	83.76	83.76		JNCH, Nhava Sheva, Mumbai
9	DAP 41 Non levy of anti dumping duty	Mumbai	46.52	46.52	47.46	JNCH, Nhava Sheva, Mumbai
10	DAP 48 Short levy due to incorrect adoption of high sea sale value	Delhi	31.22	31.22	33.62	ICD, Patparganj
11	DAP 55 Short levy due to incorrect adoption of transaction value	Delhi	10.26	10.26	6.29	NCH, New Delhi
12	DAP 79 Short recovery of Customs cost recovery charges	Mumbai	71.09	71.09	71.09	NCH, Mumbai
13	DAP 97 Non collection of duty on Aviation turbine fuel (ATF)	Kochi	20.52	20.52	30.69	Customs House, Kochi
		Total	477.73	480.17	339.71	

Annexure 7**Details of test checked cases of 'Misclassification of Goods' accepted and recovered by the department****(Refer Chapter V)**

Sl. No.	Draft Audit Paragraph Brief subject	Field office	Amt. Objected (₹ in lakh)	Amt. Accepted (₹ in lakh)	Amt. Recovered (₹ In lakh)	Name of the Commissionerate/ DGFT/DC
1	DAP 3 Misclassification of Mens' Polyester jackets imports	Delhi	13.89	13.89	14.16	ICD, Tughlakabad, New Delhi
2	DAP 4 Misclassification of man-made fabric of polyester imports	Delhi	11.98	11.98	12.88	NCH, New Delhi
3	DAP 7 Misclassification of Digital Inkjet printer imports	Chennai	13.98	13.98		Chennai (Sea)
4	DAP 17 Short levy of duty due to misclassification	Delhi	11.54	11.54	10.36	ICD, Tughlakabad, New Delhi
5	DAP 18 Misclassification of Rice Mill Rubber Roller imports	Delhi	9.95	9.95	0.98	ICD, Tughlakabad, New Delhi
6	DAP 30 Misclassification of brass coated steel wire	Delhi	14.01	14.01		ICD, Tughlakabad, New Delhi
7	DAP31 Short levy of duty due to misclassification	Delhi	12.10	12.10	1.03	ICD, Tughlakabad & Patparganj New Delhi
8	DAP 40 Short levy of duty due to misclassification	Mumbai	12.42	12.42		JNCH, Nhava Sheva, Mumbai
9	DAP 42 Misclassification of woven blazers, ladies padded coat imports	Delhi	10.21	10.21	10.80	ICD, Tughlakabad, New Delhi
10	DAP 43 Excess sanction of duty drawback due to misclassification of girls suit, men cotton T-shirts etc.	Delhi	10.26	10.26	4.02	ICD, Tughlakabad & Patparganj New Delhi
11	DAP 44 Misclassification of Nitrogen Evaporator, Oxygen/Nitrogen Elemental analyser.	Hyderabad	11.22	11.22	12.36	ACC, Shamshabad

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Sl. No.	Draft Audit Paragraph Brief subject	Field office	Amt. Objected (₹ in lakh)	Amt. Accepted (₹ in lakh)	Amt. Recovered (₹ In lakh)	Name of the Commissionerate/ DGFT/DC
12	DAP 84 Misclassification of Parts and accessories of Motor Vehicles imports.	Mumbai	10.67	10.67		JNCH, Mumbai
13	DAP 89 Misclassification of 'Plant growth regulators' imports.	Mumbai	13.12	13.12		JNCH, Mumbai
14	DAP 94 Misclassification of 'Digital thermometer' and wooden sticks imports.	Delhi	10.40	10.40		ICD, Tughlakabad, New Delhi
		Total	165.75	165.75	66.59	

Glossary of terms and abbreviations

Expanded form	Abbreviation
Accredited Client Programme	ACP
Advance authorization	AA
Authorised Economic Operator	AEO
Advance release order	ARO
Anti Dumping Duty	ADD
Basic Customs duty	BCD
Bill of entry	BE
Central Board of Excise and Customs	CBEC
Central Excise tariff heading	CETH
Central Statistical organization	CSO
Central Sales Tax	CST
Cost Insurance Freight	c.i.f.
Commissionerate of Customs	Commissionerate
Countervailing duty	CVD
Customs tariff heading	CTH
Directorate of Data Management	DDM
Department of Revenue	DoR
Department of Commerce	DoC
Director General of Foreign Trade	DGFT
Development Commissioner	DC
Director General of Anti Dumping	DGAD
Domestic tariff area	DTA
Duty Entitlement Pass Book	DEPB
Duty Exemption Entitlement Certificate	DEEC
Duty Free Entitlement Credit Certificate	DFECC
Duty Free Replenishment Certificate	DFRC
Electronic Data Interchange	EDI
Export obligation	EO
Export obligation discharge certificate	EODC
Export Oriented Unit	EOU
Export Promotion Capital Goods	EPCG
Export and Import	EXIM
Financial year	FY
Fiscal Responsibility and Budget Management Act	FRBM
Free on Board	FOB
Foreign Trade Policy	FTP
Gross Domestic product	GDP

Expanded form	Abbreviation
Goods and Services Tax	GST
Hand Book of Procedures	HBP
Harmonised system of nomenclature	HSN
Importer Exporter Code	IEC
Indian Customs Electronic Data Interchange system	ICES
Inland Container Depot	ICD
International Tariff Classification (Harmonised System)	ITC(HS)
Joint Director General of Foreign Trade	JDGFT
Letter of permission	LOP
On Site Post Clearance Audit	OSPCA
Public Accounts Committee	PAC
Principal Chief Controller of Accounts	Pr.CCA
Regional licensing authority	RLA
Risk Management System	RMS
Rupees	₹
Special additional duty of Customs	SAD
Special Economic Zone	SEZ
Served from India Scheme	SFIS
Software Technology Park	STP
Standard input output norms	SION
Vishesh Krishi and Gram Udyog Yojana	VKGUY

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