

## Executive Summary

Section 16 of Comptroller & Auditor General's Duties, Power and Conditions of Service Act, 1971 mandates CAG to audit receipts payable into Consolidated Fund of India and to satisfy that the rules and procedures are designed to secure an effective check on the assessment, collection and proper allocation of revenue and are being duly observed. We examined functions of Central Excise and Service Tax Department relating to scrutiny, internal audit etc. and verified records of assessees, which form the basis for tax calculation, to examine the extent of effectiveness of the systems in place in ensuring that assessees comply with extant rules and procedures in this era of self-assessment.

This Report has 263 audit paragraphs containing 369 audit observations on Central Excise and Service Tax, having financial implication of ₹ 465.55 crore. The Ministry/Department had, till November 2018, accepted 230 paragraphs involving revenue of ₹ 345.22 crore and reported recovery of ₹ 68.15 crore in 122 cases. Highlights of some significant observations and findings are as follows: -

### Chapter I: Central Excise and Service Tax Administration

Total revenue collection of Central Excise, Service Tax and Goods and Service Tax (with effect from 1 July 2017) has increased by ₹ 1,49,068 crore (23.48 per cent) in FY18 as compared to FY17. However, after excluding GST Compensation Cess amounting ₹ 62,612 crore from the GST revenue, as GST Compensation Cess is not part of the Consolidated Fund of India, total indirect tax (Central Excise, Service Tax, GSTT and Customs) decreased by ₹ 11,277 crore in FY18 from FY17. One of the reasons for decrease in the indirect tax revenue during FY18 may be attributed to the fact that the GST amount of ₹ 32,179 crore for the month of March 2018 was collected in the subsequent month of April 2018, unlike Central Excise and Service Tax.

(Paragraph 1.5)

After the implementation of GST, the number of registered assessees had increased to 1,05,05,913. Further, as on 31 March 2018, the total number of GST registrants under CBIC administration were 32,11,352 of whom 10,54,859 were migrated from the old tax regime and 21,56,493 were new registrants.

(Paragraph 1.11)

## Chapter II: Audit Mandate, Audit Universe and Extent of Audit

Audit Universe consisted of 4,898 departmental units (27 Zones, 141 Commissionerates, 737 Divisions, 3,530 Ranges and 463 other departmental units which accounted for a revenue of ₹ 6,34,994<sup>1</sup> crore (₹ 3,80,495 crore Central Excise and ₹ 2,54,499 crore Service Tax). Audit Sample consisted of 22 Zones (81 per cent), 68 Commissionerates (48 per cent), 216 Divisions (29 per cent), 744 Ranges (21 per cent) and 90 other departmental units (19 per cent). In the audited 744 Ranges, we examined 69,610 returns submitted by 2,772 assesseees, out of a total of 62,295 assesses with revenue of more than ₹ 1 crore, during FY18.

(Paragraph 2.2, 2.3 & 2.4)

During the last five years we raised 33,205 observations through Local Audit Reports, of that the Department accepted 16,010 observations (48.22 per cent). The Department did not furnish even the first reply in a large number of cases. Such cases increased from 1,300 cases (18.40 per cent) in FY14 to 3,067 cases (47.71 per cent) in FY18 resulting in accumulation of 8,497 cases awaiting first reply as on 31 March 2018.

(Paragraph 2.5.2)

## Chapter III: Monitoring Mechanism for Appeal Cases in CBIC

We examined and found shortcomings in monitoring mechanism for Appeal Cases in CBIC. Major observations are as under:

In Central Excise, 45,749 cases involving revenue of ₹ 1,04,718 crore were pending in Appeals at the end of FY18 registering a marginal decrease of 3.5 per cent over the amount pending at the end of FY17. In Service Tax, 43,718 cases involving Service Tax revenue of ₹ 1,20,907 crore were pending in Appeals at the end of FY18 registering one per cent decrease over the amount pending at the end of FY17.

(Paragraph 3.5.1)

The mechanism to monitor the performance of field formations in respect of cases pending in Appeals was deficient as Zone/Commissionerate-wise data was not maintained at Board level. Also, accuracy of data maintained at Board and field formations level was not ensured as discrepancies were noticed in data maintained at Directorate of Legal Affairs and data reported in Monthly Performance Reports (MPRs).

(Paragraph 3.5.3.1 to 3.5.3.4 and 3.5.4.1)

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<sup>1</sup> For FY17

In 28 Commissionerates, out of total 4,286 Appeal cases disposed, we examined 1,833 cases and observed that in 60 cases (3 per cent) pertaining to 13 Commissionerates, involving revenue of ₹ 126.33 crore, Appeals were dismissed due to lapses on part of the Department.

(Paragraph 3.5.5)

Instructions of the Board for early disposal of high revenue cases were not complied with as out of 3,047 appeal cases involving revenue of ₹10 crore and above in each case, proactive action for filing early hearing applications, getting the stay vacated by filing Interlocutory Applications etc. were taken only in 260 cases (8.53 per cent). Further, in 41 cases (5 per cent) involving revenue of ₹ 1,110 crore, test checked at field formations, early hearing applications were not filed while in 145 cases (48 per cent of test checked cases) involving revenue of ₹ 211.85 crore, bunching of similar cases was not done.

(Paragraph 3.5.3.5, 3.5.6.2 and 3.5.6.3)

#### **Chapter IV: Monitoring mechanism for Recovery of Arrears in CBIC**

We examined and found shortcomings in monitoring mechanism for recovery of arrears in CBIC. Major observations are as under:

In the selected 20 Commissionerates, out of total pending 5,672 arrear cases involving money value of ₹ 6,816.77 crore in Central Excise as on 31 March 2018, we examined 119 case files (2 per cent) involving money value of ₹ 1,217.29 crore. Similarly, out of total pending 12,046 arrear cases involving money value of ₹ 13,549.19 crore in Service Tax as on 31 March 2018, we examined 154 case files (1 per cent) involving money value of ₹ 6,317.34 crore.

(Paragraph 4.4)

Total arrears had increased from ₹ 1,17,904 crore in FY17 to ₹ 1,66,553 crore in FY18 in respect of Service Tax. Similarly, total arrears had increased from ₹ 84,200 crore in FY17 to ₹ 96,496 crore in FY18 in respect of Central Excise. Further, recovery as per cent of gross arrears had reduced from 1.19 per cent in FY17 to 1.02 per cent in FY18 for Service Tax. Similarly, recovery as per cent of gross arrears had reduced from 1.85 per cent in FY17 to 1.27 per cent in FY18 for Central Excise.

The closing balance of gross arrears was ₹ 1,66,553 crore and ₹ 96,496 crore for Service Tax and Central Excise, respectively, as on 31 March 2018. However, the closing balance of arrears as per Tax Arrear Recovery reports for March 2018 was ₹ 1,27,809 crore and ₹ 85,158 crore for Service Tax and Central Excise, respectively. One of the reasons for difference was that

closing balance of Tax Arrear Recovery reports of June 2017 was not taken correctly in the opening balance of July 2017.

(Paragraph 4.5.1.1)

There were discrepancies in figures of arrear amount in litigation as reported by Directorate of Legal Affairs and Tax Arrear Recovery reports for FY18. Total pending arrears in litigation as per Tax Arrear Recovery reports was ₹ 66,604 crore in 32,100 cases whereas as per Directorate of Legal Affairs report, the figure was ₹ 74,406 crore in 35,199 cases in respect of Central Excise. Similarly, total pending arrears in litigation as per Tax Arrears Recovery reports was ₹ 1,11,851 crore in 36,367 cases whereas as per Directorate of Legal Affairs report, the figure was ₹ 94,825 crore in 35,163 cases in respect of Service Tax.

(Paragraph 4.5.1.2)

16 Zones did not achieve their recovery targets and six Zones achieved less than 50 per cent of recovery targets.

(Paragraph 4.5.1.3)

No time limit was prescribed for communication of Orders-in-Original to Range Offices. We noticed that the delay in communication of Order-in-Original to Range Offices ranged from one day to 20 months in 148 cases in nine Commissionerates.

(Paragraph 4.5.2)

In 115 cases (47 per cent of test checked cases) under 16 Commissionerates, action for recovery under section 11 of Central Excise Act, 1944, section 142 of Customs Act, 1962 and section 87 of the Finance Act, 1994 was not initiated, which resulted in non-recovery of ₹ 1,202.33 crore.

(Paragraph 4.5.3)

Inadequate/non-pursuance of the case with Official Liquidator resulted in non-recovery of ₹ 15.61 crore.

(Paragraph 4.5.4)

In 10 Commissionerates, no cases were transferred to Recovery Cell during FY17 and FY18.

(Paragraph 4.5.5 (i))

## **Chapter V: Effectiveness of Tax Administration and Internal Controls (Service Tax)**

We examined 18,000 ST-3 returns submitted by the assesseees in the audited 744 ranges in FY18. We observed significant deficiencies in broadening of tax base, scrutiny of returns, internal audit, sanctioning of refund claims etc. by the departmental officials in 104 cases having financial implication of

₹ 206.54 crore. Further, we observed instances of non-payment/short payment of Service Tax, incorrect availing/utilisation of CENVAT credit and non-payment of interest by the assessee in 63 cases having financial implication of ₹ 52.00 crore.

Apart from above, we also observed deficiencies in working of the Department in 109 instances during our audit in FY18 in areas of third party data verification, scrutiny of returns, anti-evasion etc.

(Paragraph 5.2)

**Chapter VI: Effectiveness of Tax Administration and Internal Controls  
(Central Excise)**

We examined 51,610 Central Excise returns submitted by the assesseees in the audited 744 ranges in FY18. We observed 67 instances of serious lapse of the departmental officials in Scrutiny of returns, Internal Audit, Show Cause Notice and Adjudication, maintenance of Call Book etc. having financial implication of ₹ 45.65 crore.

We also observed 26 instances of non-compliance by the assesseees on issues of non/short payment of Central Excise duty/interest and irregular availing/utilization of CENVAT credit etc. having financial implication of ₹ 129.65 crore.

(Paragraph 6.2)