

CHAPTER II

CAG's Audit mandate and extent of Audit

2.1 Authority of the CAG for audit of receipts

2.1.1 Section 16 of the CAG's DPC Act, 1971 authorizes CAG to audit all receipts (both revenue and capital) of the Government of India and of the Government of each State and of each Union Territory having a legislative assembly and to satisfy himself 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. Regulations on Audit & Accounts, 2007⁶, lay down the principles for Receipt Audit.

2.1.2 Compliance audit of Customs revenue covers transactions involving levy and collection of Customs Duties, any other levies of Customs, transactions of imports and exports undertaken under various schemes implemented under the FTP and specific compliance areas reviewed by audit from time to time. The transactions covered in this report pertain to Financial Year (FY) 20, but in some cases, prior period transactions have also been reviewed for getting a holistic picture.

2.2 Scope of Audit

2.2.1 CAG examines the records, selected on a risk based sample by the Audit team (in the absence of holistic pan-India data), of the various functional wings of the Central Board of Indirect Taxes and Customs (CBIC), along with the sample of transactional records of Customs field formations relating to imports, exports and refunds. CAG also examines records relating to departmental functions like adjudication and recovery of arrears and preventive functions.

2.2.2 Further, records of the concerned Regional Authorities (RAs) of Directorate General of Foreign Trade (DGFT) under the Ministry of Commerce and Industries (MoCI) in respect of Customs exemption benefits availed by importers/exporters under FTP are examined. Similarly, CAG conducts audit of the Development Commissioners (DCs) of Special Economic Zones (SEZs)/Export Oriented Units (EOUs) and Software Technology Parks (STPs), including certification of accounts of Central government owned SEZs⁷.

⁶ Regulations on Audit & Accounts, 2007 have been amended w.e.f. August 2020.

⁷ Santacruz Electronics Export Processing Zone (SEEPZ), Kandla SEZ, Madras SEZ, Cochin SEZ, Visakhapatnam SEZ, Noida SEZ and Falta SEZ

2.3 Audit Universe

2.3.1 Audit universe for Customs receipt audit includes CBIC, its Customs field formations and the ports (both Electronic Data Interchange (EDI) linked and non-EDI) and transactions executed there under i.e Bills of Entry (BsE) and Shipping Bills (SBs).

2.3.2 Customs field formations are divided into 11 Customs Zones and 09 Combined {Customs and Goods and Service Taxes (GST)} Zones with 70 Principal Commissioners / Commissioners in 20 Zones headed by one Chief Commissioner each. As on 1 April 2020, there were 44 Customs Executive Commissionerates, 13 Customs Preventive Commissionerates, nine Customs Appeal Commissionerates and four Customs Audit Commissionerates.

2.3.3 For the audit of Export Promotion schemes, the audit universe comprises of the DGFT, its RAs and DCs of SEZ/EOU/STP. DGFT is an attached office of the MoCI and is headed by the Director General of Foreign Trade. DGFT is responsible for formulating and implementing the FTP with the main objective of promoting India's exports. The DGFT issues scrips/ authorizations to exporters and monitors their corresponding obligations through a network of 24 regional offices.

2.3.4 The schemes which are implemented through SEZs and EOUs, are audited at the offices of the respective DCs of SEZs/EOUs. .

2.4 Access to Auditee data

Audit relies on Customs transaction data to draw assurance that laws have been applied correctly to prevent loss of revenue. Lack of full access to pan-India data limits the audit scrutiny to test check of transactions selected at the individual Customs field formations and a limited assurance in certifying revenue receipts.

Pan India import and export transactions data for the period FY 18 to FY 20 requisitioned (June 2019/July/September 2020) by audit in terms of a MoU signed in March 2015 was not received despite repeated requests. In the absence of pan-India transactional data, audit was conducted by physically visiting 41 out of 70 Commissionerates, and using the Customs Receipt Audit (CRA) Module and Import Customs Receipt Audit (ICRA) Module interface of Indian Customs EDI System (ICES), which had their limitations.

Audit has, to the extent possible based on the findings in test check, quantified the total number of transactions at risk, through the limited access provided in CRA Module and ICRA Module by the Department.

The instances mentioned in this Report are those which came to notice in the course of test audit conducted during the period FY 20 and in some cases earlier year also.

2.5 Audit sample

During FY 20, a test check of transactions was carried out in 41 out of 70 (59 *per cent*) Commissionerates. The audit of Commissionerates of Customs covered 29 out of 44 Executive Commissionerates, 11 out of 13 Preventive Commissionerates and one out of nine Appeal Commissionerates. In addition, Audit of licenses/authorisations under various schemes of FTP granted by the DGFT through its RAs was done in 21 out of 24⁸ RAs (Table 2.1).

Table 2.1: Audit Universe and Sample

Ministry	Audited Entity	Audit Universe	Audit Sample
Department of Revenue (Ministry of Finance)	Audited Entity	Total	
	Chief Commissionerates Customs & Preventive	11 ⁹	8 (73 %)
	Principal Commissionerate/ Commissionerate	70	41(59 %)
	Executive Commissionerate	44	29 (66%)
	Exclusive Preventive Commissionerate	13	11 (85%)
	Appeal Commissionerate	9	1 (11%)
	Audit Commissionerate	4	0
Department of Commerce (Ministry of Commerce)	Regional Authority	24	21 (88%)
	Development Commissioner	8 ¹⁰	8 (100%)

2.6 Audit efforts

2.6.1 During FY 20, 299 Inspection Reports were issued to the respective Commissionerates/ RAs/DCs containing 2,266 observations and carrying a total revenue implication of ₹2,186 crore.

2.6.2 Significant and high value cases noticed during audit were issued to the Ministries (MoF/ MoCI) for comments before inclusion in the Audit Report. This report covers 137 audit observations involving revenue

⁸ During FY 20, there were 38 RAs across India till October 2019, 14 RAs were merged in November 2019, and accordingly, 24 RAs remained in existence as on March 2020.

⁹ Customs Zones-11 (Ahmedabad Cus., Bangaluru Cus., Chennai Cus., Trichi Prev., Delhi Customs, Delhi Prev., Kolkata Customs, Patna Prev., Mumbai-I, Mumbai-II, Mumbai-III).

¹⁰ Santacruz Electronics Export Processing Zone (SEEPZ), Kandla SEZ, Madras SEZ, Cochin SEZ, Visakhapatnam SEZ, Noida SEZ, Falta SEZ and SEZ-Indore

implication of ₹143 crore noticed during FY 20. The audit observations were issued to the Ministry during December 2020 to July 2021.

2.6.3 The Ministries have responded in 74 out of 137 cases issued. Additionally, in 57 cases, responses were received from the local Customs Commissionerates/RAs. The Ministries/ Departments have accepted 130 paragraphs and taken rectificatory action involving money value of ₹127.38 crore in the form of issue of SCNs, adjudication of SCNs and have reported recovery of ₹39.68 crore in 93 cases of incorrect assessment of Customs Duties.

2.6.4 In Chapter III, Audit reported significant findings noticed during test check of Bills of Entry (BsE) and other records at selected Commissionerates with a revenue implication of ₹122.37 crore. The audit findings generally pertained to “Misclassification of imports (Paragraphs 3.7.1 to 3.7.11)”, “Incorrect application of notifications (Paragraphs 3.8.1 to 3.8.8)” and “Other irregularities (Paragraph 3.9). Audit findings also flagged certain systemic issues and persistent irregularities.

(A) Systemic issues

Audit noticed systemic issues in a few import cases wherein the RMS allowed clearance even though the prescribed import conditions were not fulfilled. The RMS needs to address such issues so that the prescribed import conditions are complied with and applicable duties are automatically charged once the BE passes through the system.

A few cases are mentioned below and also discussed in Chapter III of the Report.

- (i) Short levy of BCD on I phones (Smart phones) imports due to incorrect application of the notification (Para 3.8.5).
- (ii) Incorrect application of IGST rate on ‘Lithium Ion Cell’ imports (Para 3.8.4).

(B) Persistent irregularities

Similar instances of non-realisation of cost recovery (establishment) charges from the units in the SEZ and misclassification of imports flagged to the Ministry in the previous Audit Reports continue to be reported in the Customs field formations, notwithstanding assurances of the CBIC that their field formations have been sensitised to check similar issues cautiously.

A few cases are mentioned below:

- (i) Misclassification of Transmission network interface devices (Paras 3.7.3 and 3.7.4).

- (ii) Misclassification of Automobile parts/ Shock absorbers /Gear boxes/ Gear shift assembly (Para 3.7.7).
- (iii) Non-recovery of drawback in cases of un-realised export proceeds (Para 4.2.5).
- (iv) Non-realisation of cost recovery charges from the developers (Para 4.2.6).

2.6.5 In Chapter IV, Audit reported irregularities with a revenue implication of ₹21 crore, particularly the issue of non-fulfilment of export obligation and other non-fulfilment of conditions by exporters/importers as per FTP.

2.7 Revenue Impact of Audit Reports

In the five reports pertaining to FY 16 to FY 20, Audit has covered 545 audit paragraphs (**Table 2.2**) involving ₹16,995 crore. Government has accepted observations in 507 audit paragraphs involving ₹990 crore and has recovered ₹164 crore in 352 paragraphs as on October 2021.

Table 2.2: Revenue Impact of Audit Reports

Year	Paragraphs included		Paragraphs accepted		Recoveries effected	
	No.	Amt. (₹ in Cr.)	No.	Amt. (₹ in Cr.)	No.	Amt. (₹ in Cr.)
FY 16	103	1,063	97	491	57	15
FY 17	99	85	91	78	63	37
FY 18	92	4,795	85	225	56	31
FY 19	114	10,909	104	69	83	41
FY 20	137	143	130	127	93	40
Total	545	16,995	507	990	352	164

(Source: Previous year's Audit Reports and ATNs)

