Chapter I: Indirect Taxes Administration

This chapter gives an overview of the indirect taxes administration, revenue trends in indirect tax collection and compliance verification mechanism under Goods and Services Tax.

1.1 Nature of Indirect Taxes

This Audit Report covers transactions involving levy and collection of Goods and Services Tax, Central Excise and legacy Service Tax. Audit findings on levy and collection of Customs duty are presented in a separate report. The indirect taxes covered in this report are discussed below:

a) **Goods and Services Tax:** Goods and Services Tax (GST) is a tax on supply of goods or services or both except taxes on the supply of alcoholic liquor for human consumption. GST came into effect from 1 July 2017[7]. Central Excise duty (except five Petroleum products), Service Tax, Countervailing duty (CVD), Special Additional duty (SAD) components of customs and most of the indirect taxes of states have been subsumed into GST. Central Excise duty is continued on five Petroleum products as these products are out of GST at present, and will be brought under GST later. Tobacco products are subject to Central Excise and GST both. GST is a consumption based tax i.e. tax is payable in the state where goods or services or both are finally consumed. In addition to GST, a cess named GST Compensation Cess is levied on some goods i.e. Tobacco products, Coal, Aerated water, Motor cars etc.

   There are three components of GST as follows:

   - **Central Goods and Services Tax (CGST):** payable to the Central Government on supply of goods and service within state/union territory.
   - **State/Union territory Goods and Services Tax (SGST/UTGST):** payable to the State/Union territory Government on supply of goods and service within state/Union territory.
   - **Integrated Goods and Services Tax (IGST):** In case of inter-state supply of goods and services, IGST is levied by Government of India. Equivalent IGST is also levied on imports into India. IGST shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

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7 With effect from 8 July 2017 in Jammu and Kashmir

b) **Central Excise duty:** Central Excise duty is levied on manufacture or production of goods in India. Parliament has powers to levy excise duties on tobacco and other goods manufactured or produced in India except alcoholic liquors for human consumption, opium, Indian hemp and other narcotic drugs and narcotics including medicinal and toilet preparations containing alcohol, opium etc. (Entry 84 of List 1 of the Seventh Schedule of the Constitution).

c) **Service Tax:** Service Tax was levied on services provided within the taxable territory (Entry 97 of List 1 of the Seventh Schedule of the Constitution). Service Tax was a tax on services rendered by one person to another. Section 66B of the Finance Act, 1994 envisaged that there shall be a tax levied at the rate of 14 *per cent* on the value of all services, other than those specified in the negative list, provided or agreed to be provided in the taxable territory by one person to another and collected in such manner as may be prescribed.[8] 'Service' had been defined in section 65B (44) of the Finance Act, 1994 to mean any activity for consideration (other than the items excluded therein) carried out by a person for another and to include a declared service.[9]

1.2 Organizational Structure

The Department of Revenue (DoR) of Ministry of Finance (MoF) functions under the overall direction and control of the Secretary (Revenue) and co-ordinates matters relating to all the Direct and Indirect Union Taxes through two statutory Boards namely, the Central Board of Indirect Taxes and Customs (CBIC[10]), and the Central Board of Direct Taxes (CBDT) constituted under the Central Board of Revenue Act, 1963. Matters relating to the levy and collection of GST are looked after by the CBIC.

Indirect Tax laws are administered by the CBIC through its field offices. In view of implementation of GST, CBIC restructured its field offices into 21 Zones of GST headed by the Principal Chief Commissioner/Chief Commissioner vide circular dated 16 June 2017. Under these 21 Zones of GST, there are 107 GST Taxpayer Services Commissionerates that deal with GST and Central Excise, headed by the Principal Commissioner/Commissioner. Divisions and Ranges are the subsequent formations, headed by Deputy/Assistant Commissioner and Superintendents, respectively. Apart from these Commissionerates, there are 49 GST Appeal Commissionerates, 48 GST Audit Commissionerates and 22 Directorates dealing with specific functions such as DG (Systems) for

8 Section 66B was inserted by the Finance Act, 2012 with effect from 1 July 2012; section 66D lists the items the negative list comprises of.

9 Section 66E of the Finance Act, 1994 lists the declared services.

10 Formerly Central Board of Excise and Customs (CBEC).

management of Information Technology projects and DG, National Academy of Customs, Indirect Taxes & Narcotics (NACIN)[11] for training needs.

1.3 Revenue Trend

1.3.1 Indirect Taxes revenue trend

Tax revenue of the Union Government consists of revenue receipts from Direct and Indirect Taxes. In the pre GST regime, Indirect Taxes comprised of Central Excise, Service Tax and Customs duties. After the implementation of GST, Service Tax and duties of Central Excise other than Petroleum products have been subsumed in GST. Central Excise continues to be levied on petroleum products, and tobacco has been subjected to both GST as well as Central Excise. The overall resources of Government of India and details of tax revenue of the Union Government from 2015-16 to 2019-20 have been given in table No.1.1 below: -

Table No. 1.1 : Resources of the Government of India

(₹ in crore)

Tax component	2019-20*	2018-19	2017-18	2016-17	2015-16
A. Total Revenue Receipts	25,98,705	25,67,917	23,64,148	22,23,988	19,42,353
i. Direct Tax Receipts	10,50,685	11,37,718	10,02,738	8,49,801	7,42,012
ii. Indirect Tax Receipts including other taxes	9,59,374	9,42,747	9,16,445	8,66,167	7,13,879
iii. Non-Tax Receipts	5,88,273	4,86,388	4,41,383	5,06,721	4,84,581
iv. Grants-in-aid & contributions	373	1,063	3,582	1,299	1,881
B. Miscellaneous Capital Receipts	50,349	94,979	1,00,049	47,743	42,132
C. Recovery of Loans and Advances	18,647	30,257	70,639	40,971	41,878
D. Public Debt Receipts	73,01,386	67,58,482	65,54,002	61,34,137	43,16,950
Receipts of Government of India (A+B+C+D)	**99,69,087**	**94,51,635**	**90,88,838**	**84,46,839**	**63,43,313**

Source: Union Finance Accounts of respective years.
* Figures for the year 2019-20 are provisional.

Although the Indirect Taxes collections increased by ₹ 16,627 crore during FY20 over FY19, the annual rate of growth of Indirect Taxes (Y-o-Y) declined from 21.33 *per cent* in FY17 to 1.76 *per cent* in FY20.

[11] Formerly National Academy of Customs Excise and Narcotics (NACEN)

Further, share of Indirect taxes in total revenue receipts declined from 38.95 *per cent* in FY17 to 36.92 *per cent* in FY20.

When pointed out (September 2020), the Ministry stated (November 2020) that relatively higher growth in indirect taxes in FY16 and FY17 was, *inter alia,* contributed by changes in tax policy/structure such as increase in service tax rate and introduction of new cesses like Swachh Bharat Cess, Clean Environment Cess and Krishi Kalyan Cess in the Union Budget, which were abolished with roll out of GST. As for FY20, Ministry attributed the decline in growth in indirect taxes to, *inter alia,* negative growth (Y-O-Y) in Index of Industrial Production (IIP) and imports. As for FY18 and FY19, Ministry did not mention any specific reasons for the decline in growth of indirect taxes. Ministry, however, mentioned that indirect tax collections and tax buoyancy in a particular year depends on various external factors such as GDP growth, level of domestic consumption of goods and services, change in tax policy, crude oil prices, change in tax rates etc.

1.3.2 Growth of Indirect Taxes - Trends and Composition

Table 1.2 depicts the relative growth of Indirect Taxes, during FY14 to FY20, with respect to GDP and Gross Tax Revenue.

Table No.1.2: Growth of Indirect Taxes

(₹ in crore)

Year	Indirect Taxes*	GDP	Indirect Taxes as *per cent* of GDP	Gross Tax revenue	Indirect Taxes as *per cent* of Gross Tax revenue
FY14	4,97,349	1,13,45,056	4.38	11,38,996	43.67
FY15	5,46,214	1,25,41,208	4.36	12,45,135	43.87
FY16	7,10,101	1,35,76,086	5.23	14,55,891	48.77
FY17	8,62,151	1,51,83,709	5.68	17,15,968	50.24
FY18	9,13,486	1,67,73,145	5.45	19,19,184	47.59
FY19	9,41,037	1,89,71,237	4.96	20,80,465	45.23
FY20**	9,57,710	2,03,39,849	4.71	20,10,058	47.65

Source: Tax revenue - Union Finance Accounts, GDP – Press note of CSO[12].
*Indirect Taxes includes, Revenue from CX, ST, GST, Customs and other taxes on commodity and services.
** The figures for the year are provisional.

Indirect Taxes as a percentage of GDP continued to decline every year since FY 17. Indirect taxes to GDP ratio declined from 5.68 *per cent* in FY17 to 4.71 *per cent* in FY 20.

Indirect Taxes as a percentage of gross tax revenue showed declining trend from FY17 to FY19. However, in FY 20, the percentage of Indirect Taxes to Gross Tax revenue increased to 47.65 *per cent* from 45.23 *per cent* in FY 19

[12] Press note on GDP released on 29 May 2020 by Central Statistical Office (CSO), Ministry of Statistics and Programme Implementation.

owing to less collections under direct taxes, which showed a negative growth of 7.65 *per cent* over the last year (FY 19).

When pointed out (September 2020), the Ministry attributed (November 2020) declining growth in Indirect Tax Revenue to macro-economic factors and other policy related decisions such as rate rationalisations by GST Council, reduction in duty rates on free trade agreements (FTA) imports, impact of export promotional schemes, impact on account of reduction in Basic Excise Duty on Petrol and Diesel (during 2017-18 and 2018-19) and impact of carry forward of input tax credits of legacy taxes to the GST regime (Transitional Credits).

1.3.2.1 Comparative growth of various components of Indirect Taxes

Table 1.3 depicts the relative growth of various components of Indirect Taxes during FY 19 and FY 20:

Table No.1.3: Comparative growth of various components of Indirect Taxes

(₹ in crore)

Tax component	2018-19	2019-20*
Central GST Taxes[13]	5,84,387[14]	6,01,784[15]
Customs	1,17,813	1,09,283
Central Excise	2,30,993	2,39,452
Service Tax	6,904	6,029
Other taxes and duties	990	1,162
Indirect Taxes	**9,41,037**	**9,57,710**

Source: Union Finance Account for the Year 2018-19.
*Figures for the year 2019-20 are provisional

As evident from the table above, Central GST tax revenue grew by 2.97 *per cent* during FY20 over FY19. Central GST tax revenue as percentage of GDP, however, declined from 3.08 *per cent* in FY 19 to 2.95 per in FY20. The share of GST remained constant at 62 *per cent* of the total indirect tax collections during the last two years (FY19 and FY 20)**.** There was a marginal increase of ₹ 8,459 crore in the collection of Central Excise duty during FY 20 compared to FY 19.

When pointed out (September 2020), the Ministry attributed (November 2020) GST rate rationalisations as one of the main reasons for decline in Central GST taxes to GDP ratio. Ministry stated that the GST rates were initially fixed on the basis of pre-GST tax incidence and revenue neutrality of the rates. As a result

[13] GST revenue included Central Goods and Services Tax, Integrated Goods and Services Tax, UT Goods and Services Tax and GST Compensation Cess.

[14] *₹ 13,944 crore was retained by the Centre from IGST account in contravention of IGST Act, which requires apportionment of IGST between Centre and States.

[15] ₹ 9,125 crore was retained by the Centre from IGST account in contravention of IGST Act, which requires apportionment of IGST between Centre and States.

of rate rationalisations by GST Council, GST rates have been reduced significantly resulting in relief of about ₹ 92,000 crore per year till July 2019.

It is pertinent to mention that the Report on the Revenue Neutral Rate and Structure of Rates for the Goods and Services Tax (GST)[16]recommended the range of 15 *per cent*- 15.5 *per cent* as the revenue neutral rate, in December 2015. However, the effective weighted average GST Rate as on July 2019 was 11.6 *per cent*[17]. In addition, GST Council revised the threshold turnover limits upwards for registration of taxpayers and composition levy scheme to ₹ 40 lakh and ₹ 1.5 crore, respectively, which affected GST collections.

1.3.3 GST revenue of Government of India: Budget Estimates vs actual receipts

Table 1.4 depicts a comparison of the Budget Estimates and the corresponding actuals for GST receipts.

Table No. 1.4 : Budget, Revised estimates and Actual receipts (GST)

(₹ in crore)

Year	Budget Estimates (BE)				Revised Estimates (RE)				Actual*			
	CGST	IGST	Cess	Total	CGST	IGST	Cess	Total	CGST	IGST	Cess	Total
2017-18	No BE only RE				2,21,400	1,61,900	61,331	**4,44,631**	2,03,261	1,76,688[18]	62,612	**4,42,561**
2018-19	6,03,900	50,000	90,000	**7,43,900**	5,03,900	50,000	90,000	**6,43,900**	4,57,534	28,945[19]	95,081	**5,81,560**
2019-20	5,26,000	28,000	1,09,343	**6,63,343**	5,14,000	--	98,327	**6,12,327**	4,94,070	9,125	95,553	**5,98,748**

Source: Union Finance Accounts and receipt budget documents of respective years.
*Figures for the Year 2019-20 are provisional

As could be seen from table 1.4 above, the CGST revenue was short of the budget estimates and the revised budget estimates during the financial years 2018-19 and 2019-20. The shortfall vis- à-vis budget estimates was 22 *per cent* and 10 *per cent* for the years 2018-19 and 2019-20, respectively.

Ministry replied (November 2020) that on the recommendations of the GST Council, rate rationalizations have been implemented from time to time by the Government and therefore, the actual indirect tax collections may vary with regard to the target set for a financial year.

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16 Report by the Committee appointed by the Government under the Chairmanship of Dr. Arvind Subramanian, Chief Economic Adviser, Ministry of Finance (Chairman).

17 Source: Para No.3.17 of report on State Finances: A study of budgets of 2019-20 by Reserve Bank of India, September 2019.

18 ₹ 67,998 crore was assigned to the States and balance ₹ 1,08,690 crore retained by the Centre

19 ₹ 15,001 crore was assigned to the States and balance ₹ 13,944 crore retained by the Centre

1.4 Compliance Verification Mechanism under GST

As per Section 59 of the Goods and Services Tax Act, 2017, every registered person shall self-assess the tax payable on supplies made during the tax period and file the return of each tax period. GST, therefore, continues to promote self-assessment just like the Central Excise, VAT and Service Tax.

The introduction of self-assessment underscored the need for an effective tax compliance verification mechanism. Such a mechanism typically has three important components—returns' scrutiny, internal audit and anti-evasion functions. The subsequent paras bring out the status of implementation of simplified GST return mechanism and department's performance with respect to the aforesaid compliance verification functions.

1.4.1 Status of implementation of simplified return mechanism

In the last Audit Report[20], we noted the landmark achievement of the Government and other stakeholders in roll out of Goods and Services Tax. We had further noted that an area where full potential of GST had not been achieved was the simplified tax compliance regime. The originally envisaged system validated Input Tax Credit (ITC) through "invoice matching" had not been implemented. The complexity of return mechanism and technical glitches had resulted in roll-back of invoice matching, rendering the system prone to ITC frauds. Accordingly, we had recommended to simplify tax compliance by introducing simplified invoice matching mechanism and simplified return forms duly using technological solutions.

We reviewed the progress made in this regard and noted that originally envisaged system-verified flow of ITC has yet not been implemented and simplified return mechanism is yet to be rolled out even after three years of GST roll out. The return mechanism in GST as envisaged originally and the implementation status of the same is discussed in the following paragraphs.

The basic feature of the return mechanism in GST envisaged electronic filing of returns, uploading of invoice level information, auto-population of information relating to ITC from returns of supplier to that of recipient, invoice level information matching and auto-reversal of input tax credit in case of mismatch.

The system-verified seamless flow of ITC was envisaged to be achieved through the returns GSTR 1, 2 & 3. It was originally envisaged that suppliers would file invoice-wise details of outward supplies made by them during the month through GSTR-1. The details of outward supplies so furnished by the supplier in GSTR-1 were to be made available electronically to the registered

[20] Audit Report No. 11 of 2019 (Indirect Taxes- Goods and Service Tax)

recipients through form GSTR-2A. Similarly, details of supplies relating to composition taxpayers, Input Service Distributors and Non-Resident taxpayers as well as Tax Deducted at Source (TDS) by Government departments / agencies and E-commerce operators also were to be made available electronically to the recipients. Thereafter, based on details available in form GSTR-2A, the taxpayer was supposed to furnish form GSTR-2 after including details of other inward supplies.

The details of inward supplies added, corrected or deleted by the recipient in his form GSTR-2 were to be made available to the supplier electronically in form GSTR-1A through the common portal. The supplier may either accept or reject the modifications made by the recipient and Form GSTR-1 furnished earlier by the supplier should stand amended to the extent of modifications accepted by him.

GSTR-3 is a monthly return with the details of sales and purchases during the month along with the amount of GST liability. Most of GSTR-3 was supposed to be auto-generated from GSTR-1 and GSTR-2 while the taxpayer had to include the details of discharge of liability of tax, interest, penalty, refund claimed from electronic cash ledger and debit entries in electronic cash/credit ledger while filing GSTR-3.

However, owing to unprepared GST ecosystem and complexity of return forms, the originally envisaged key returns were postponed and a new simpler temporary return, GSTR-3B, was introduced, initially for two months. GSTR-3B was designed as a self-assessed summary return which captured summary of outward supplies and inward supplies liable to reverse charge. As a result, ITC would now be settled based on these self-assessed summary returns filed by taxpayers. The originally envisaged system-verified flow of ITC was kept in abeyance rendering the system prone to ITC frauds.

New Return mechanism

The GST council in its 27th meeting (May 2018) approved the broad principles for the design of new simplified return filing system. In May 2019, a prototype of the offline tool was shared on the GST portal to give the look and feel of the new return forms to the taxpayers and from July, 2019 the taxpayers were able to upload invoices on trial basis for familiarisation.

Key Features of New Return Mechanism

(i) All taxpayers, excluding small taxpayers, Composition dealers, Input Service Distributors etc. shall file one monthly return. Small taxpayers, having turnover up to ₹ 1.5 crore, shall file quarterly return with monthly payment of taxes.

(ii) The main return will have two main tables, one for reporting supplies on which tax liability arises and one for availing input tax credit.

(iii) Taxpayers who have no output tax liability and no input tax credit to file return through SMS.

(iv) Continuous uploading and viewing facility for upload of invoices by the supplier and viewing by the recipient along with tax payment status of an invoice shall be available.

(v) Facility for locking of invoice by the recipient before filing of the return shall be available. Locked invoices cannot be amended.

(vi) No input tax credit can be availed by the recipient where goods or services have not been received before filing of a return by the supplier

(vii) There shall not be any automatic reversal of input tax credit at the recipient's end where tax has not been paid by the supplier. Revenue administration will first try to recover the tax from the seller and only in some exceptional cases like missing dealer, shell companies, closure of the business by the supplier, input tax credit will be recovered from the recipient by following the due process of serving of notice and personal hearing.

Further, it was proposed that simpler quarterly return would be available for small traders who make only Business to Consumer (B2C) supplies or Business to Business (B2B) and Business to Consumer (B2C) supplies. These returns were proposed to be called SAHAJ for B2C suppliers and SUGAM for B2B plus B2C suppliers.

Implementation Status of New Return mechanism

The GST Council in its 28th meeting (July 2018) decided that the new return mechanism would be implemented with effect from 1 January, 2019. Later, in its 31st meeting, GST Council (December 2018) extended the rollout date and decided to implement the new return forms in a phased manner so that from January 2020 onwards, all taxpayers would be filing returns as per the new return mechanism, and Form GSTR-3B would be completely phased out. The GST Council again extended the date of roll out of new return system in its 37th meeting (September 2019) and decided that the new return system shall be introduced from 1 April, 2020 onwards. In 39th GST council meeting (March 2020) the implementation of new return system was further deferred up to September 2020.

GST Council now, in its 42nd meeting (October 2020), has decided not to roll out the proposed new return system in one go. It has decided to incrementally incorporate the features of the new return system in the present familiar GSTR-1/GSTR-3B scheme. The new approach would allow the taxpayer to view

ITC available in his electronic credit ledger from all sources i.e. domestic supplies, imports and payments on reverse charge etc. prior to the due date for payment of tax, and enable the system to auto-populate return (GSTR-3B) through the data filed by the taxpayer and all his suppliers. The new provisions will be provided w.e.f 1 January 2021 for monthly filers and 1 April 2021 for quarterly filers. The present GSTR-1/3B filing system has been extended till 31 March 2021 and the GST laws would be amended to make the GSTR-1/3B return system as the default return filing system.

Owing to the above mentioned continuing extensions in the roll out of simplified return forms, and delay in decision making, the originally envisaged system-verified flow of ITC through "invoice matching" is yet to be implemented and a non-intrusive e-tax system still remains unimplemented. The GST return system is still a work in progress despite more than three years of GST roll out. In the absence of a stable and simplified return mechanism, one of the main objectives of roll out of GST i.e. simplified tax compliance system is yet to be achieved.

It is recommended that a definite time frame for roll out of simplified return forms may be fixed and implemented as frequent deferments are resulting in delay in stabilisation of return filing system and continued uncertainty in the GST eco-system.

We pointed this out in November 2020. Reply of the Ministry is awaited (December 2020).

1.4.2 Scrutiny of returns under GST

Section 61 of the Central Goods and Services Tax Act, 2017 stipulates that the proper officer may scrutinize the return and related particulars furnished by the taxpayers to verify the correctness of the returns and information. Under Rule 99 of the Central Goods and Services Tax Rules, 2017, discrepancies noticed if any, be communicated to the taxpayer for seeking his explanation. If the explanation offered is found acceptable by the proper officer, the proceeding shall be dropped, the taxpayer shall be informed and no further action in the matter shall be taken. If, however, the taxpayer

- does not furnish a satisfactory explanation within 30 days of being informed (extendable by the proper officer), or
- does not take any corrective action in his return in which discrepancy is accepted,

the proper officer may initiate appropriate actions including adjudication proceedings for determining the tax liability under section 73 or section 74.

We had requested the Board (March 2020) to provide the instructions or guidelines issued by it to its field formations for conducting returns' scrutiny including the criteria for selection of GST returns for scrutiny, under the aforesaid provisions of the Act.

However, as per the available information, CBIC has yet to put in place an effective system of scrutiny of returns based on detailed instructions/standard operating procedure/manual for the tax officers. As a result, an important compliance function of the department, as mandated by law, is yet to be effectively rolled out even after three years of GST implementation.

Further, the due date for filing Annual returns for FY 18 has already passed i.e. 5/7 February 2020[21] . As per section 73 of CGST Act, 2017, the proper officer shall issue the *adjudication* order within three years[22] from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund in normal cases, and shall issue the notice at least three months prior to the time limit specified for issuance of order.

In view of above, the issue needs to be addressed at the earliest as the time available for issuance of adjudication order and recovery of revenue, in cases of non/short payment of tax has already shrunk by more than nine months.

When pointed out (September 2020), the Ministry informed (October 2020) that a Committee of officers has been constituted to suggest guidelines for scrutiny of GST returns. Ministry also informed that based on the recommendations of the Committee, a mechanism for scrutiny/ verification of returns shall be standardized.

1.4.3 Internal audit under GST

1.4.3.1 Internal audit of GST units

Internal Audit helps to measure the level of compliance by taxpayers in light of the provisions of the Goods and Services Tax Act and rules made thereunder. The Board had issued detailed procedure of Internal Audit in the form of Goods and Services Tax Audit Manual (GSTAM) in July 2019. The internal audit provisions of the department envisaged selection of taxpayers based on risk assessment, using GST data, done by Director General of Analytics and Risk

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21 Due date for filing the Annual returns for 2017-18 was 5th and 7th February, 2020.

22 As per section 74 of CGST Act, 2017, the proper officer shall issue the adjudication order within five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund in extended period cases, and shall issue the notice at least six months prior to the time limit specified for issuance of order

Management (DGARM). The internal audit was to be commenced from 1 July 2019. The details of internal audit undertaken by the department during 2019-20 for the GST are as under: -

Table No.1.5: Total detection made vis-à-vis units audited by Internal Audit (GST)

Year	Category	Total units planned	Total units audited	Short levy detected (₹ in crore)	Total recovery (₹ in crore)	Recovery as % of Total detection
FY20	Large Units	17,172	244	66	9.42	14
	Medium Units	18,050	296	15	8.06	53
	Small Units	19,920	318	15	1.80	13
	Total	**55,142**	**858**	**96**	**19.28**	**20**

Source: Figures furnished by the Ministry.

As is evident from the above table, only 1.6 *per cent* of the planned units were audited up to FY20. The total recovery effected was 20 *per cent* of the amount detected in Internal Audit during FY20.

Ministry replied (October 2020) that the last date of filing GST annual returns kept on getting extended and therefore, not many taxpayers filed their annual returns. Thus, less number of taxpayers were available for audit. Ministry further stated that in the meanwhile the field formations continued to conduct legacy audits of Central Excise and Service tax assessees.

1.4.3.2 Internal audit of Central Excise and Service Tax units

The details of internal audit undertaken by the department during 2018-19 and 2019-20 for the Central Excise and Service Tax units are as under: -

Table No.1.6: Total detection made vis-à-vis units audited by Internal Audit (CX & ST)

(₹ in crore)

Year	Category	Total units planned	Total units audited	Short levy detected	Total recovery	Recovery as % of Total detection
FY19	Large Units	9,204	6,159	5,149	1,419	28
	Medium Units	16,991	12,191	2,120	721	34
	Small Units	40,756	26,441	1,517	638	42
	Total	**66,951**	**44,791**	**8,786**	**2,778**	**32**
FY20	Large Units	6,361	3,432	8,429	519	6
	Medium Units	12,075	6,678	1,698	364	21
	Small Units	35,383	21,649	1,210	433	36
	Total	**53,819**	**31,759**	**11,337**	**1,316**	**12**

Source: Figures furnished by the Ministry.

It is observed that the recovery in large units was only 28 *per cent* and 6 *per cent* of the amount detected in Internal Audit during FY 19 and FY 20, respectively. The total number of units audited, out of the planned units for large, medium and small unit was 67, 72, and 65 *per cent* during the year FY 19. The corresponding coverage during the FY20 reduced to 54, 55, and 61 *per cent*, respectively.

As regards low recovery rate in large units, Ministry stated (October 2020) that large taxpayers have their own dedicated department dealing with audit and they generally decide not to agree with the audit findings and contest the same. Further, Ministry cited shortage of officers in Audit Commissionerates (generally the working strength of officers is in the range of 40 to 50 *per cent* of the sanctioned strength), non-cooperation by the taxpayers in providing documents and conduct of legacy audit of only those cases that were left over from previous years as the reasons for shortfall in coverage of units.

Reply of the Ministry is not acceptable as internal audit is one of the main compliance verification function of the department in the self-assessment regime. Ministry needs to strengthen this function by providing sufficient manpower and taking measures to improve cooperation by the taxpayers.

1.4.4 Anti-evasion functioning

Directorate General of Goods and Service Tax Intelligence-DGGI (formerly Director General of Central Excise Intelligence (DGCEI)) as well as the Goods and Service Tax Commissionerates have well-defined roles in the task of detection of cases of evasion of Goods and Services Tax, Central Excise duty and Service Tax. While the Commissionerates, with their extensive database of units in their jurisdiction and presence in the field, are the first line of defence against duty evasion, DGGI specialises in collecting specific intelligence about evasion of substantial revenue. The intelligence so collected is shared with the Commissionerates. Investigations are also undertaken by DGGI in cases having all India ramifications. Table No.1.7 and Chart No. 1.1 below depict the performance of DGGI and GST Commissionerates during last five years.

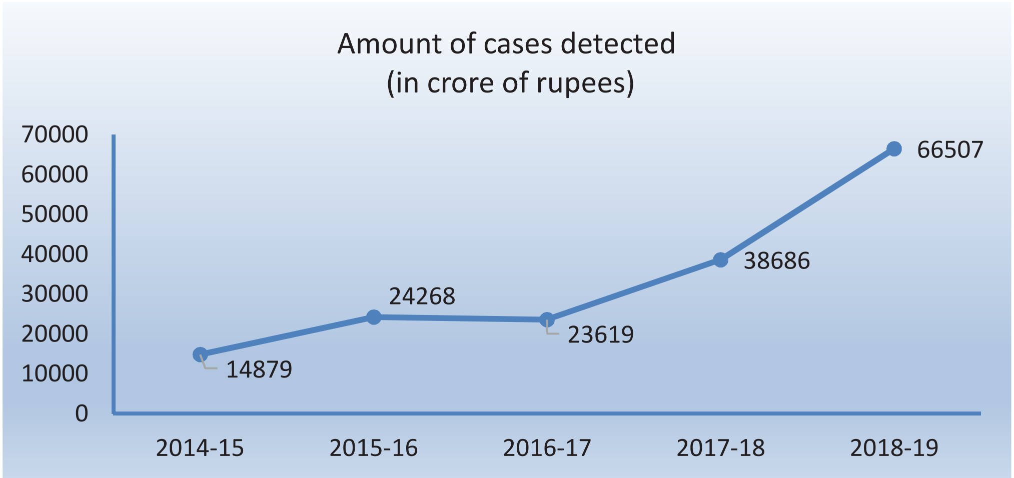
Table No.1.7 - Anti-evasion performance of DGGI and GST Commissionerates during last five years

(Rupees in crore)

Year	Central Excise			Service Tax			Goods and Services Tax			Total		
	No.	Amt.	VP*	No.	Amt.	VP*	No.	Amt.	VP*	No.	Amt.	VP*
2014-15	2123	4335	546	6719	10544	4448	--	--	--	8842	14879	4994
2015-16	2366	5297	804	7534	18971	4658	--	--	--	9900	24268	5462
2016-17	2122	5773	795	8085	17846	5313	--	--	--	10207	23619	6108
2017-18	894	6415	365	5299	24202	3571	233	8071	7592	6426	38686	11527
2018-19	1001	4282	458	5507	32902	4442	3046	29323	16488	9554	66507	21388
2019-20 (Upto Sep 2019)	210	7018	43	1577	9271	562	1580	8768	4733	3367	25056	5338

* Voluntary payment

Chart No. 1.1 Amount of cases detected through anti-evasion activities



Source: Figures furnished by the Ministry.

As is evident from Table No.1.7, for all indirect taxes other than Customs duty, there is an increase in detection of both the evasion cases and the amount to the extent of 49 *per cent* and 72 *per cent*, respectively, during 2018-19, in comparison to the year 2017-18.

Further, there was significant increase in detection of evasion cases during the last two years. Compared to the evasion amount of ₹ 23,619 crore detected in 2016-17, the amount detected in 2017-18 and 2018-19 increased to ₹ 38,686 crore and ₹ 66,505 crore i.e. annual growth of 64 and 72 *per cent*, respectively.

Similarly, compared to the voluntary payment of ₹ 6,108 crore in 2016-17, the voluntary payment in 2017-18 and 2018-19 increased to 11,526 and 21,388 crore i.e. annual growth of 89 and 86 *per cent*, respectively.

As regards Goods and Services Tax, the number of cases detected increased from 233 to 3,046 and tax involved increased from ₹ 8,071 crore to ₹ 29,323 crore during 2018-19 in comparison to 2017-18.

1.4.4.1 Nature of anti-evasion cases during April 2017 to September 2019

The nature of anti-evasion cases detected by DGGI involving Central Excise, Service Tax and GST during 2017-19 (Upto September) is highlighted in table 1.8: -

Table No.1.8

Sl. No.	Central Excise		Service Tax		GST	
	Nature	%	Nature	%	Nature	%
1	Clandestine Removal	29	Non Payment of Service Tax for providing taxable services	63	Non-payment of Tax on supply of taxable goods and services	40
2	Undervaluation	26	Service tax collected but not paid to government exchequer	8	Wrong availment / non-reversal of Input Tax Credit	24
3	Misuse Of Cenvat Scheme	20	Short Payment of service tax by undervaluing taxable service	6	Tax collected but not paid to government exchequer	12
4	Wrong Availment of Exemption Notification	9	Non Payment Of Service Tax under reverse charge mechanism	6	Short Payment of Tax by Undervaluing Taxable goods and services	3
5	Mis-Classification	3	Wrong Availment of exemption notification	1	Non-payment of Tax under Reverse charge mechanism	3
6	Others	13	Others	16	Others	18

As could be seen from Table 1.8, clandestine removal, undervaluation and misuse of Cenvat Scheme formed the major portion of evasion activities detected in Central Excise. As for service tax, non-payment of service tax for providing taxable services, service tax collected but not paid to government exchequer, and short payment of service tax by undervaluation of taxable services formed the major portion of evasion.

Non-payment of tax on supply of taxable goods and services, wrong availment/non-reversal of Input Tax Credit, and tax collected but not paid to Government exchequer were the major forms of evasion activity under GST.

When we pointed this out (June 2020), Ministry attributed (September 2020) the significant increase in the number and amount of cases detected through anti-evasion activities to increase in the tax base owing to GST implementation; issuance of fake invoices for passing on substantial amount of Input Tax credit by unscrupulous taxpayers; and setting up of Directorate General of Analytics and Risk Management (DGARM), which is entrusted with the functions of analysing big data, the outcomes of which were intermittently shared with the DGGI.

While the Departmental efforts in leveraging information technology for better generation of leads for anti-evasion activities are noteworthy, there is an urgent need to address the problem of fake invoices through the implementation of simplified return system based on a system-verified flow of input tax credits and by strengthening the GST registration process to keep a check on fake registrations.

1.5 Non-furnishing of Compensation Fund Account for the years 2017-18 and 2018-19

Goods and Services Tax (GST) compensation cess is to be levied on goods and services under Section 8 of the Goods and Services Tax (Compensation to States) Act, 2017 (the Act) to compensate the revenue losses occurred to the states because of the implementation of GST in the country. The compensation cess is to be levied for a period of five years in pursuance of the provisions of the Constitution (One Hundred and First Amendment) Act, 2016.

Section 10 (1) of the Act states that the proceeds of the cess leviable under section 8 and such other amounts as may be recommended by the Council, shall be credited to a non-lapsable Fund known as the Goods and Services Tax Compensation Fund (Compensation Fund) which shall form part of the Public Account of India and shall be utilised for purposes specified in the said section.

As per section 10 (4) of the Act, the accounts relating to the Compensation Fund shall be audited by the Comptroller and Auditor General of India (CAG) or any person appointed by him at such intervals as may be specified by him. Further, as per section 10 (5) of the Act ibid, the accounts of the Compensation Fund as certified by the CAG or any other person appointed by him in this behalf together with the audit report thereon shall be laid before each House of Parliament.

For performing auditing responsibilities under the Act, the Department of Revenue (DoR), Ministry of Finance, Government of India needs to furnish the Compensation Fund Accounts to the CAG indicating inflow and outflow of cess funds and other details, as necessary for certification. Despite repeated requests, Department of Revenue has not submitted Compensation Fund Accounts for the years ended 31 March 2018 and 31 March 2019 for certification.

As a result, Audit could not perform its statutory auditing responsibilities in respect of the years ended 31 March 2018 and 31 March 2019, as mandated under Section 10 (4) of the Act.

When pointed out in July 2020, the Ministry stated (November 2020) that Compensation Fund Accounts can be prepared only after receipt of Accountants General certified annual revenue collection figures from the States.

It is pertinent to mention that Accountants General have been experiencing delays in receipt of requisite information/records from many State Governments leading to delay in certification of the annual revenue figures under section 7(3)(b) of the Goods and Services Tax (Compensation to States) ACT, 2017. The details of certification, for the year 2017-18, are given in **Appendix I**.

While the matter is being taken up by the Accountants General, Ministry may also take up this issue with the State Governments to expedite production of requisite records/information to Accountants General for certification of annual revenue figures so that the Compensation Fund Account could be prepared and submitted to CAG for certification.