

OVERVIEW

This report is presented in two sections :

Section 1	Chapters I to XII	Central Excise
Section 2	Chapters XIII to XV	Service Tax

Some of the significant findings are highlighted below :-

SECTION 1 - CENTRAL EXCISE

This section contains 217 paragraphs featured individually or grouped together and two reviews with a financial implication of Rs.2,542.38 crore. Some of the significant findings included in this section are indicated below :-

A. General

The actual collections fell short of the budget estimates as well as the revised estimates year after year. Despite this, the government continued to make optimistic projections during presentation of the annual budget. The budget estimate 2003-04 was pitched at Rs.96,396 crore, an increase of 5.76 per cent over budget estimates, 10.8 per cent over revised estimate and 17.50 per cent over actuals of 2002-03. The collections fell short of the budget estimates by Rs.6,006 crore or 6.23 per cent and short of revised estimates by Rs.1,460 crore or 1.58 per cent.

(Paragraph 1.1)

A total of 54,560 cases involving duty of Rs.23,275.77 crore were pending finalisation on 31 March 2004 with different authorities.

(Paragraph 1.5)

B. Reviews

Excise duty on motor vehicles for transport of persons and goods

➤ Benefit of reduction in excise duty was not fully passed on to consumers resulting in about 38 per cent of revenue foregone being retained by the manufacturers particularly in middle and luxury segments.

(Paragraph 2.6.1)

- **Payment of excise duty on ‘agreed price’ instead of on normal transaction value by the ‘related person’ resulted in revenue loss of Rs.11.21 crore.**

(Paragraph 2.7.1)

- **Non-payment of excise duty on the amount representing additional consideration flowing from buyers to assessee resulted in revenue loss of Rs.9.98 crore.**

(Paragraph 2.7.4)

- **Irregular availment of Cenvat credit resulted in revenue loss of Rs.32.80 crore.**

(Paragraph 2.8)

- **Non-recovery of confirmed demands and non-adjudication of demands resulted in blockage of revenue of Rs.545.32 crore.**

(Paragraphs 2.10.1 & 2.10.2)

Working of excise audit-2000

- **Creation of database of assessee’s profile was completed only in 34 per cent of the total units in 40 Commissionerates of Central Excise. In five Commissionerates, the work was not taken up at all.**

(Paragraph 3.6.1)

- **Non-mandatory units were taken up for audit at the cost of mandatory units. Absence of proper risk analysis led to lopsided selection of units resulting in ineffective audit results.**

(Paragraphs 3.7.1 & 3.7.2)

- **Audit of multi-locational units in a coordinated manner as envisaged in the scheme was not achieved and 82 per cent of the multi locational units in 21 Commissionerates of Central Excise remained unaudited under excise audit-2000.**

(Paragraph 3.7.3)

- **Thirty four per cent of objections issued under EA-2000 involving revenue of Rs.853.61 crore were pending in 44 Commissionerates of Central Excise as on 30 September 2003.**

(Paragraph 3.11)

C. Non-levy/short levy of duty

Short levy/under assessment of central excise duty involving revenue implication of Rs.1,897.94 crore were noticed. The more significant of these findings are as follows :

- Adoption of lower mutually agreed price for payment of duty by 12 terminals and 2 refineries of four petroleum companies led to short payment of duty of Rs.206.75 crore.

(Paragraph 4.1)

- Under Modvat/Cenvat credit rules as existed till March 2003, credit earned in respect of additional duty of excise was admissible only for payment of additional duty of excise leviable on final products. Utilisation of credit of additional duty of excise earned between April 1995 and March 2003 towards payment of basic excise duty, special excise duty, etc. by 32 assesseees resulted in incorrect availment of credit of Rs.196.71 crore, which was recoverable with interest of Rs.17.60 crore and penalty of Rs.196.71 crore.

(Paragraph 4.2)

- Continued retention of exclusion clause relating to branded and export goods for purpose of reckoning eligibility limit of Rs.3 crore in the exemption notifications relating to general small scale scheme enabled 278 large manufacturers to derive unintended benefit of duty exemption amounting to Rs.40.41 crore during the year 1999-2000 to 2003-04.

(Paragraph 4.3)

- The Supreme Court decided in 1989 that drawing of wire from wire rods would not amount to manufacture. Contrary to this the Board clarified in February 2001 that the process of drawing of wire from wire rods tantamounted to manufacture. The Board withdrew the circular in May 2003. Delay in withdrawal resulted in loss of revenue of Rs.38.12 crore during April 2000 to March 2003 in respect of 20 assesseees.

(Paragraph 4.4)

- On discontinuance of deemed credit scheme on textile and textile articles with effect from 1 April 2003, eight assesseees transferred their unutilised balance of deemed credit to Cenvat credit account though the relevant inputs or finished goods were not in stock. This led to incorrect availment of credit of Rs.5.75 crore.

(Paragraph 4.5)

- Absence of appropriate provisions in the Cenvat Credit Rules providing for lapsing of surplus credit balance on the date of opting out to maintain separate accounts for the use of common inputs (molasses) in the manufacture of both dutiable (ethyl alcohol) and non-dutiable outputs (rectified spirit) led to unintended benefit to seven assesseees to the tune of Rs.5.73 crore.

(Paragraph 4.6)

➤ **Interest not demanded or realized or penalty not imposed in cases of delayed payment of duty amounted to Rs.485.95 crore.**

(Paragraph 5)

➤ **Incorrect availment of Modvat/Cenvat credit amounted to Rs.312.49 crore.**

(Paragraph 6)

➤ **Demands for duty not raised or raised with delay or dropped incorrectly or adjudicated with delay resulted in revenue of Rs.164.47 crore remaining unrealised.**

(Paragraph 7)

➤ **Duty or additional duty not levied on goods exported, lost in transit, not recorded in the production accounts, consumed captively and also on sample goods amounted to Rs.84.62 crore.**

(Paragraph 8)

➤ **Instances of incorrect adoption of assessable value of goods manufactured by export oriented units/job work or incorrect adoption/non-adoption of assessable value on the basis of MRP or incorrect adoption of transaction value etc. were noticed. Duty levied short amounted to Rs.68.65 crore.**

(Paragraph 9)

➤ **Duty amounting to Rs.35.25 crore was short levied because of incorrect grant of exemption relating to final products or relating to goods manufactured on job works or exemption granted without notification under the Central Excise Act.**

(Paragraph 10)

➤ **Cess amounting to Rs.15.35 crore was not realised from producers of natural rubber, processed textile fabrics and automobiles.**

(Paragraph 11)

SECTION 2 - SERVICE TAX

This section contains a review, “Service tax on consulting engineers, architects and interior decorators services” and 20 paragraphs with revenue implication of Rs.536.19 crore. The significant findings of audit included in this section are mentioned below :-

A. General

➤ Except for the year 2000-01, the actual collections had been lower than the budget estimates all through the five years period. Short fall ranged from Rs.110 crore to Rs.1,904 crore or 1.38 to 31.60 per cent over budget estimates during these years. In three of the five years, the budget estimates had to be scaled down of which during 2002-03 and 2003-04, the collections failed to match even the reduced estimates.

➤ A total of 35,809 cases involving tax of Rs.944.21 crore were pending as on 31 March 2004 with different authorities. The pendency with the adjudicating officers has increased from 15,196 in 2002-03 to 28,991 cases in 2003-04 i.e. an increase of about 91 per cent.

B. Review

Service tax on consulting engineers services, architects services and interior decorators services

➤ Measures taken by Department to bring unregistered service providers into tax net proved ineffective and inadequate. Audit identified 376 active but unregistered service providers in 41 Commissionerates of Central Excise, with loss of revenue of Rs.95.21 crore.

(Paragraph 14.7)

➤ Service tax of Rs.10.40 crore was not paid by Government undertakings providing consultancy services.

(Paragraph 14.8)

➤ Service tax of Rs.52.17 crore on services rendered by foreign service providers in India was not paid by 89 assesseees receiving taxable services in 37 Commissionerates of Central Excise.

(Paragraph 14.9)

- Service tax of Rs.22.29 crore was not levied by the Department on technical consultancy services, erection and commissioning activities, designing and development charges.

(Paragraph 14.10 to 14.12)

- In 64 Commissionerates around 22 per cent of the returns due were not submitted by assesseees while 12 per cent were received late.

(Paragraph 14.13)

- Inadequate assessment/verification of service tax returns by the Department led to short payment of Rs.27.42 crore on account of suppression of taxable value by assesseees in 31 Commissionerates.

(Paragraph 14.16)

C. Non-levy/short levy of service tax

Non-levy/short levy of service tax amounting to Rs.17.56 crore were noticed. Some of the significant findings are as follows :-

- Service tax of Rs.8.35 crore was not paid on services provided by financial companies, clearing and forwarding agents.

(Paragraph 15.1 & 15.7)

- Three assesseees providing management and technical assistance services escaped payment of service tax amount to Rs.5.28 crore.

(Paragraph 15.2)

- Non-collection of service tax on the services rendered by foreign consultants providing engineering and management consultancy in India amounted to Rs.1.40 crore.

(Paragraph 15.3)

- Interest of Rs.1.76 crore was not realised on delayed payment of service tax.

(Paragraph 15.5)