

Chapter I

Service Tax Administration

1.1 Resources of the Union Government

The Government of India's 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 for the financial year (FY) 15 and FY14.

Table 1.1: Resources of the Union Government

	(₹ in crore)	
	FY15	FY14
A. Total Revenue Receipts	16,66,717	15,36,024
<i>i. Direct Tax Receipts</i>	6,95,792	6,38,596
<i>ii. Indirect Tax Receipts including other taxes</i>	5,49,343	5,00,400
<i>iii. Non-Tax Receipts</i>	4,19,982	3,93,410
<i>iv. Grants-in-aid and contributions</i>	1,600	3,618
B. Miscellaneous Capital Receipts ¹	37,740	29,368
C. Recovery of Loans and Advances ²	26,547	24,549
D. Public Debt Receipts ³	42,18,196	39,94,966
Receipts of Government of India (A+B+C+D)	59,49,200	55,84,907

Source: Union Finance Accounts of respective years.

Note: Total Revenue Receipts include ₹ 3,37,808 crore in FY15 and ₹ 3,18,230 crore in FY14, share of net proceeds of Direct and Indirect Taxes directly assigned to states.

The total receipts of the Union Government increased to ₹ 59,49,200 crore in FY15 from ₹ 55,84,907 crore in FY14. In FY15, its own receipts were ₹ 16,66,717 crore including Gross Tax receipts of ₹ 12,45,135 crore.

1.2 Nature of Indirect Taxes

Indirect Taxes attach themselves to the cost of the supply of goods/services and are, in this sense, transaction-specific rather than person-specific. The major Indirect Taxes/duties levied under Acts of Parliament are:

- a) **Service Tax:** Service Tax is levied on services provided within the taxable territory (Entry 97 of List 1 of the Seventh Schedule of the Constitution). Service Tax is a tax on services rendered by one person

¹ This comprises of value of bonus share, disinvestment of public sector and other undertakings and other receipts

² Recovery of Loans and advances made by the Union Government

³ Borrowing by the Government of India internally as well as externally

to another. Section 66B of the Finance Act, 1994 envisages that there shall be a tax levied at the rate of 12 percent 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.⁴ 'Service' has 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.⁵

- 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 but including medicinal and toilet preparations containing alcohol, opium etc (Entry 84 of List 1 of the Seventh Schedule of the Constitution).
- c) Customs duty:** Customs duty is levied on import of goods into India and on export of certain goods out of India (Entry 83 of List 1 of the Seventh Schedule of the Constitution).

1.3 Organisational structure

The Department of Revenue (DoR) of Ministry of Finance (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. Matters relating to the levy and collection of Service Tax are looked after by the CBEC.

Indirect Tax laws are administered by the CBEC through its field offices, the executive commissionerates. For this purpose, the country is divided into 27 zones of Central Excise and Service Tax headed by the Chief Commissioner. Restructuring and re-organisation of field formations of CBEC has taken place in August 2014. Under 27 zones of Central Excise and Service Tax, there are 83 composite executive commissionerates, 36 exclusive Central Excise executive commissionerates and 22 exclusive Service Tax executive commissionerates headed by the Commissioner. Division and ranges are the subsequent formations, headed by Deputy/Assistant Commissioner and Superintendents respectively. Apart from these executive commissionerates,

⁴ 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.

⁵ Section 66E of the Finance Act, 1994 lists the declared services.

there are eight Large Tax Payer Units (LTU) commissionerates, 60 Appeal commissionerates, 45 Audit commissionerates and 20 Directorates General/Directorates dealing with specific function.

The overall sanctioned staff strength of the CBEC is 86,828 as on 31 March 2015. The organisational structure of CBEC is shown in Appendix I.

This chapter discusses trends, composition and systemic issues in Service Tax using data from finance accounts, departmental accounts and relevant data available in public domain.

1.4 Growth of Indirect Taxes - trends and composition

Table 1.2 depicts the relative growth of Indirect Taxes during FY11 to FY15.

Table 1.2: Growth of Indirect Taxes

(₹ in crore)					
Year	Indirect Taxes	GDP	Indirect Taxes as % of GDP	Gross Tax revenue	Indirect Taxes as % of Gross Tax revenue
FY11	3,45,371	77,95,314	4.43	7,93,307	43.54
FY12	3,92,674	90,09,722	4.36	8,89,118	44.16
FY13	4,74,728	99,88,540	4.75	10,36,460	45.80
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

Source: Union Finance Accounts

It is observed that Indirect tax collection has decreased as a ratio of GDP in FY15 vis-à-vis FY14, while as a ratio of Gross Tax revenue it has increased.

1.5 Indirect Taxes – relative contribution

Table 1.3 depicts the trajectory of the various Indirect Tax components in GDP terms for the period FY11 to FY15.

Table 1.3: Indirect Taxes – percentage of GDP

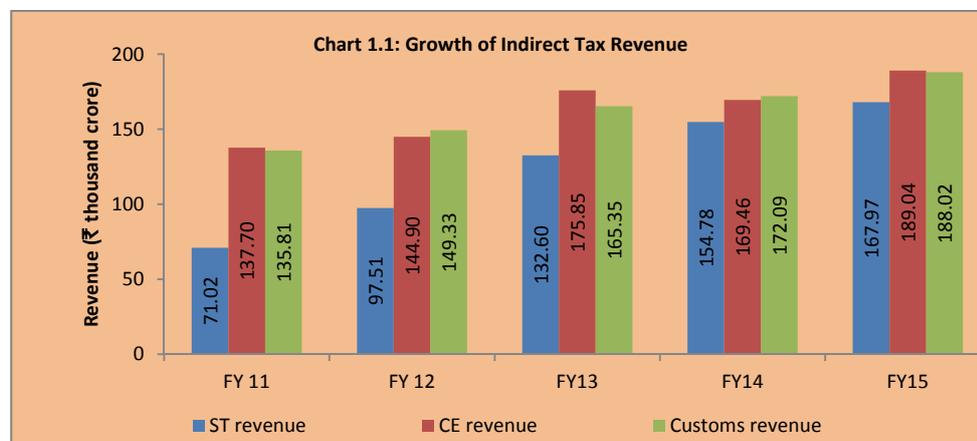
(₹ in crore)							
Year	GDP	ST revenue	ST revenue as % of GDP	CE revenue	CE revenue as % of GDP	Custom revenue	Custom revenue as % of GDP
FY11	77,95,314	71,016	0.91	1,37,701	1.77	1,35,813	1.74
FY12	90,09,722	97,509	1.08	1,44,901	1.61	1,49,328	1.66
FY13	99,88,540	1,32,601	1.33	1,75,845	1.76	1,65,346	1.66
FY14	1,13,45,056	1,54,780	1.36	1,69,455	1.49	1,72,085	1.52
FY15	1,25,41,208	1,67,969	1.34	1,89,038	1.51	1,88,016	1.50

Source: Figures of tax receipts are as per Union Finance Accounts of respective years

Among the indirect taxes, the Service Tax revenue as a percentage of GDP has been increasing every year during last four years, though it declined marginally during FY15. During the same period Central Excise and Customs

revenue as a percentage of GDP showed declining trend, with Central Excise registering a slight improvement in FY15 as compared to FY 14.

The relative revenue contribution of the major Indirect Taxes is depicted in **Chart 1.1**.



1.6 Growth of Service Tax - trends and composition

Table 1.4 depicts the growth trends of Service Tax in absolute and GDP terms during FY 11 to FY15.

Table 1.4: Growth of Service Tax

Year	GDP	Gross Tax revenue	Gross Indirect Taxes	Service Tax	₹ in crore)		
					Service Tax as % of GDP	Service Tax as % of Gross Tax revenue	Service Tax as % of Indirect Taxes
FY11	77,95,314	7,93,307	3,45,371	71,016	0.91	8.95	20.56
FY12	90,09,722	8,89,118	3,92,674	97,509	1.08	10.97	24.83
FY13	99,88,540	10,36,460	4,74,728	1,32,601	1.33	12.79	27.93
FY14	1,13,45,056	11,38,996	4,97,349	1,54,780	1.36	13.59	31.12
FY15	1,25,41,208	12,45,135	5,46,214	1,67,969	1.34	13.49	30.75

Source: Figures of tax receipts are as per Union Finance Accounts of respective years

The Service Tax Revenue as a percentage of GDP has shown an increasing trend during the period except FY15. Overall Service Tax has contributed 13.49 percent of Gross Tax revenue during FY15. Share of service tax in gross tax revenue and total indirect taxes has been steadily increasing. Growth of services sector accelerated to 10.6 percent in 2014-15 where as it was 9.1 percent in 2013-14⁶. This is mainly due to growth acceleration in financial, real estate, and professional services to 13.7 percent from 7.9 percent.

⁶ Para 7.11 of Economic Survey 2014-15

1.7 Service Tax from major service categories

Table 1.5 depicts Service Tax collected from top five category of services.

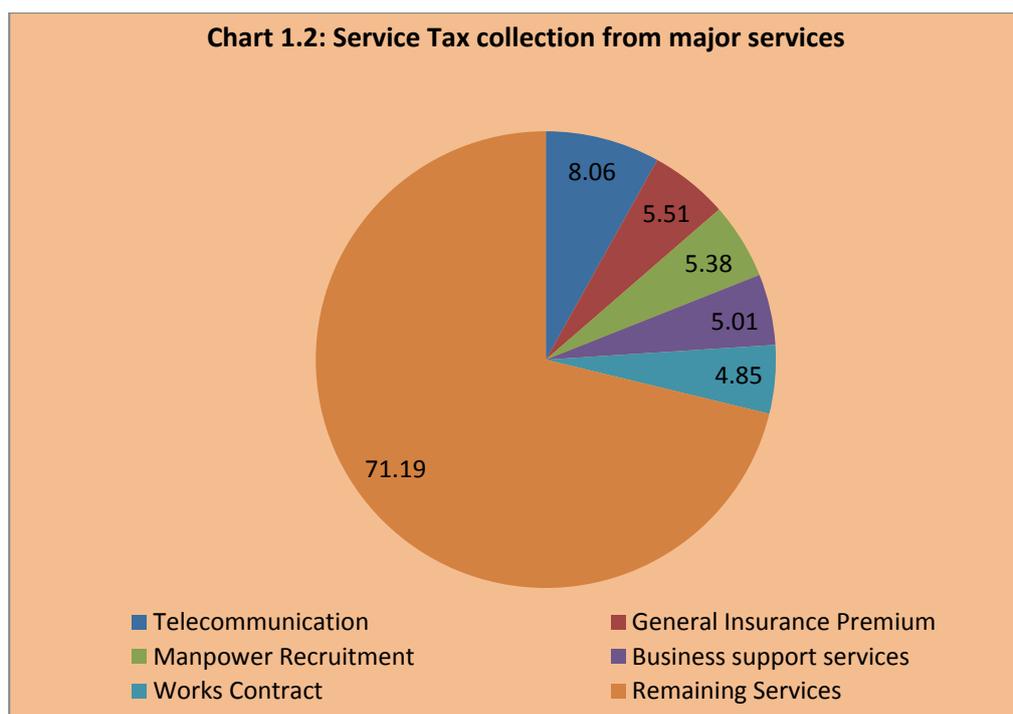
Table 1.5: Service Tax from major service categories

Year	FY15				
	FY11	FY12	FY13	FY14	FY15
Telecommunication	3,902	5,402	7,538	12,643	13,531
General Insurance Premium	3,877	5,234	6,321	8,834	9,263
Manpower Recruitment	2,870	3,847	4,432	7,335	9,045
Business Support Services	2,689	4,345	4,368	7,118	8,415
Works Contract	3,092	4,179	4,455	7,434	8,139

Source: Union Finance Accounts of respective years

It is observed that Telecommunication and General Insurance Premium services continue to be on top for Service Tax collection. It is also observed that Manpower Recruitment and Business Support Service had moved to third and fourth positions in FY15 among top revenue contributing services.

The pie chart 1.2 depicts the overall contribution of the major services during the year FY15.



It is observed that top five category of services contributed about 29 percent of the gross Service Tax collection.

1.8 Tax base

"Assessee" means any person who is liable to pay Service Tax and includes his agent as per definition in Section 65(7) of the Finance Act, 1994 (as amended). Table 1.6 depicts the data (pertaining to FY11 to FY15) of the

number of persons registered with the Service Tax department under Section 69 of the Finance Act, 1994.

Table 1.6: Tax base in Service Tax

Year	No of taxable services	No. of ST registrations	% growth over previous year	No. of assessees who filed returns	% of Registrants who filed returns
FY11	117	15,52,521		1,90,410	12.26
FY12	119	17,52,479	12.88	7,29,129	41.61
FY13	All*	19,82,297	13.11	8,54,831	43.12
FY14	All*	22,58,599	13.94	9,83,969	43.57
FY15	All*	25,11,728	11.21	10,50,760	41.83

Source: Figures furnished by the Ministry. Comment on data discrepancy in Para 1.21

*Other than negative list

It is observed that number of registered persons as also the number of assesses filing returns is increasing steadily. However the percent of the registered assesses filing returns has remained almost constant around 41 to 43 per cent. The Ministry needs to look into the reasons for the same.

Voluntary Compliance Encouragement Scheme, 2013:

The Honourable Finance Minister in his Budget 2013 Speech stated that there were nearly 17,00,000 registered assessees under service tax, only about 7,00,000 file returns and many have simply stopped filing returns. Stating so, he proposed to introduce a one-time scheme called 'Voluntary Compliance Encouragement Scheme, 2013' (VCES) in order to motivate the registered assesses who had stopped filing returns to file returns and pay the tax dues. The scheme was effective from 10 May 2013 and was open up to 31 December 2013. A sum of ₹ 7,750.30 crore was declared under VCES by 66,072 assesses. But as could be seen from Table 1.6, there is no improvement in percentage of registered assesses who filed returns. On the contrary, the percent of registrants who filed returns decreased from 43.12 percent and 43.57 percent in FY13 and FY14 respectively to 41.83 percent in FY15.

1.9 Budgeting issues in Service Tax

Table 1.7 depicts a comparison of the Budget Estimates and the corresponding actuals for service tax receipts.

Table 1.7: Budget, Revised estimates and Actual receipts

(₹ in crore)						
Year	Budget estimates (BE)	Revised budget estimates	Actual receipts	Diff. between actuals and BE	%age variation between actuals and BE	%age variation between actuals and RE
FY11	68,000	69,400	71,016	3,016	4.44	2.33
FY12	82,000	95,000	97,509	15,509	18.91	2.64
FY13	1,24,000	1,32,697	1,32,601	8,601	6.94	(-)0.07
FY14	1,80,141	1,64,927	1,54,780	(-)25,361	(-)14.08	(-)6.15
FY15	2,15,973	1,68,132	1,67,969	(-)48,004	(-)22.23	(-)0.10

Source: Union Finance Accounts and receipt budget documents of respective years

It is observed that actual collection of Service Tax fell short of budget estimates by 22.23 percent during FY15. It is also observed that actual collection of Service Tax was almost equal to revised budget estimates in FY15 registering a shortfall of only 0.10 percent as compared to 6.15 percent last year.

1.10 Service Tax forgone under Finance Act, 1994

A perusal of the budget documents revealed that details of revenue foregone for Direct Taxes and other Indirect Taxes such as central excise and customs have been laid before Parliament each year during the respective budget commencing with the budget of 2006-07. However, the revenue foregone in respect of Service Tax is not available in the budget documents. In reply to the similar issue pointed out in paragraph No. 1.12 of Audit Report No. 6 of 2014 the Ministry replied that the figure is not being maintained due to absence of adequate data.

The same issue was examined by the Tax Administration Reform Commission, in its third report it was mentioned that for Service Tax, the department should consider ways to estimate revenue foregone figures and do a gap analysis.

Consequent upon mandatory e-filing of Service Tax return with effect from October 2011, the department may consider preparation of revenue foregone statement in respect of Service Tax.

1.11 Trade facilitation

1.11.1 Creation of Large Taxpayer Units (LTUs)

For the trade facility LTUs have been set up by the Department. An LTU is self-contained tax office under the Department of Revenue acting as a single window clearance point for all matters relating to Central Excise, Service Tax, Income Tax and Corporate Tax. Eligible Tax Payers who opt for assessment in LTU shall be able to file their excise return, direct taxes returns and service

tax return at such LTUs and for all practical purposes will be assessed to all these taxes there under. These units are being equipped with modern facilities and trained manpower to assist the tax payers in all matters relating direct and indirect tax/duty payments, filing of documents and returns, claim of rebates/refunds, settlement of disputes etc. For trade facilitation eight LTUs have been established.

1.11.2 Automation of Central Excise and Service Tax

Automation of Central Excise and Service Tax (ACES) is the e-governance initiative by Central Board of Excise and Customs (CBEC), Department of Revenue, Ministry of Finance. It is one of the Mission Mode Projects (MMP) of the Govt. of India under National e-Governance Plan (NeGP). It is a software application which aims at improving tax-payer services, transparency, accountability and efficiency in the Indirect Tax administration in India. This application is a web-based and workflow-based system that has automated all major procedures in Central Excise and Service Tax.

1.12 Arrears of Service Tax

The law provides for various methods of recovery of revenues raised but not realised. These include adjusting against amounts, if any, payable to the person from whom revenue is recoverable, recovery by attachment and sale of excisable goods and recovery through the district revenue authority.

Table 1.8 depicts the performance of the department in respect of recovery of revenue arrears.

Table 1.8: Arrears realisation – Service Tax

(₹ in crore)			
Year	Amount in arrears at the commencement of the year	Collection during the year	Collection as % of arrears at the commencement of the year
FY13	45,609	5,836	12.80
FY14	69,863	7,311	10.46
FY15	76,928	901	1.17

Source: Figures furnished by the Ministry. Comment on data discrepancy in Para 1.21

It is matter of concern that the collection as ratio of arrears during FY15 has fallen drastically to 1.17 percent compared to 10.46 percent in FY14. Although, falling ratio of collection of arrears have been repeatedly pointed out by audit, there is no sign of improvement. There is a need to strengthen the recovery mechanism of the department.

1.13 Additional revenue realised because of Anti evasion measures

Director General of Central Excise (Intelligence) (DGCEI) as well as the Central Excise and Service Tax Commissionerates have well-defined roles in the task of detection of cases of evasion of Service Tax. While the Commissionerates, with their extensive database about units in their jurisdiction and presence in the field are the first line of defence against duty evasion, DGCEI specialises in collecting specific intelligence about evasion of substantial revenue. The intelligence so collected is shared with the Commissionerates. Investigations are also undertaken by DGCEI in cases having all India ramifications. Tables 1.9(a) depict the performance of DGCEI during last three years.

Table 1.9(a): Anti-evasion performance of DGCEI during last three years

(₹ in crore)

Year	Detections		Voluntary Payments during Investigation
	No. of cases	Amount	
FY13	835	5,131	880
FY14	1,191	8,032	1,489
FY15	806	5,703	1,420

Source: Figures furnished by the Ministry.

It is observed that the number of Service Tax cases and the amounts detected by DGCEI is significantly lower during FY15 compared to FY14.

Tables 1.9(b) depict the performance of Commissionerates during last three years.

Table 1.9(b): Anti-evasion performance of Commissionerates during last three years

(₹ in crore)

Year	Detections		Voluntary Payments during Investigation
	No. of cases	Amount	
FY13	5,875	7,827	2,819
FY14	8,024	6,810	3,614
FY15	5,648	4,138	3,132

Source: Figures furnished by the Ministry

It is observed that the number of Service Tax cases and the amounts detected by Commissionerates is significantly lower during FY15 compared to FY14.

Tax administration in Service Tax

1.14 Scrutiny of returns

CBEC introduced the concept of self-assessment in respect of Service Tax in 2001. With the introduction of self-assessment, the department also envisaged the provision of a strong compliance verification mechanism, inter alia, through scrutiny of returns. Even in the self-assessment era, the primary

function of departmental officers continues to be assessment or confirmation of assessment as it is they who have a statutory liability to ensure correctness of tax payment.⁷ This is undertaken through scrutiny of Service Tax returns, which in turn are to be selected on the basis of risk parameters. The Manual for Scrutiny of Service Tax Returns, 2009 envisages that scrutiny is to be carried out in two stages i.e. preliminary scrutiny of the return which is to be carried out by ACES application and detailed scrutiny of assessment which is to be carried out manually on the returns marked by ACES or otherwise.

1.14.1 Preliminary scrutiny of returns

The purpose of preliminary scrutiny is to ensure completeness of information, timely submission of the return, timely payment of duty, arithmetical accuracy of the amount computed as duty and identification of non-filers and stop-filers.⁸

Table 1.10 depicts the performance of the department in carrying out preliminary scrutiny of returns.

Table 1.10: Preliminary scrutiny of Service Tax returns

Year	No of returns filed in ACES	No. of returns marked for R&C	% of returns marked for R&C	No. of returns cleared after R&C	No. of returns pending for R&C	% of marked returns pending correction
FY13	21,75,169	11,20,695	51.52	3,17,383	8,03,312	71.68
FY14	17,98,773	6,28,512	34.94	70,146	5,58,366	88.84
FY15	19,57,446	5,90,250	30.15	81,307	5,08,943	86.22

Source: Figures furnished by the Ministry. Comments on data discrepancy in Para 1.21

*R & C means review and correction

The percentage of returns marked for review and correction (R & C) by ACES has come down drastically to 30.15 percent in FY15 which is a healthy sign and indicates stabilisation of ACES and it needs to be taken further.

It is also observed that the number of returns filed on ACES has reduced in FY15 in comparison to FY13 whereas the number of registered assessee⁹ has increased. The Ministry may look into the reasons for the same.

It is also observed that 86.22 percent of returns marked for R & C were pending as on 31 October 2015, despite drastic reduction in number and percent of returns marked for R & C as compared to FY13. One of the main intentions behind introducing preliminary scrutiny online was to release manpower for detailed manual scrutiny, which could then become the core

⁷ Manual for Scrutiny of Service Tax Returns, 2009, Para 1.2.1A

⁸ Manual for Scrutiny of Service Tax Returns, 2009, Para 1.2.1

⁹ Data in Table 1.6

function of the Range/Group;¹⁰ the high figures of pendency for correction after R & C identification indicates that the same is far from being achieved.

Completion of R & C of returns in ACES is the prerequisite for scrutiny of subsequent returns submitted by the assessee. Large numbers of returns were pending for scrutiny, risking the correctness of Service Tax collection.

1.14.2 Detailed scrutiny of returns

The purpose of detailed scrutiny is to establish the validity of information furnished in the tax return and to ensure correctness of valuation, availing of CENVAT credit, classification and effective rate of tax applied after taking into consideration the admissibility of exemption notification availed etc.¹¹ Unlike preliminary scrutiny, detailed scrutiny is to cover only certain selected returns, identified on the basis of risk parameters, developed from the information furnished in the returns submitted by the taxpayers.¹²

Table 1.11 depicts the performance of the department in carrying out detailed scrutiny of returns.

Table 1.11: Detailed Scrutiny of Service Tax returns

Year	No. of returns marked for detailed scrutiny	No. of returns where detailed scrutiny was carried out	No. of returns where detailed scrutiny was pending	Age-wise analysis of pendency		
				Between six month to one year	between one and two years	Over 2 years
FY13	23,838	2,743	21,095	19,791	934	370
FY14	44,045	16,201	27,844	12,974	5,174	17,636
FY15	*					

Source: *Figures for FY15 furnished by the Ministry does not pertain to detailed scrutiny

As per prescribed norms, only two percent of returns need to be examined in detailed scrutiny.¹³ Hence, the total number of returns to be scrutinised in a whole year would be very low in respect of any range as total number of cases marked for detailed scrutiny were only 44,045 across all ranges (2,272) as on 31 March 2014.

It is cause of concern the large number (27,844) of returns marked for detailed scrutiny were pending as on 31 March 2014 as other than cases of fraud, there is no scope for issue of a demand notice to an assessee beyond

¹⁰ Manual for Scrutiny of Service Tax Returns, 2009, Para 1.2B

¹¹ Manual for Scrutiny of Service Tax Returns, 2009, Para 1.2.1

¹² CBEC Circular 113/7/2009-ST dated 23 April 2009

¹³ Manual for Scrutiny of Service Tax Returns 2009, Para 4.2A

18 months from the date of filing of returns by assessee.¹⁴ It is essential that the department takes steps to analyse the reasons for long pendency so as to ensure revenue due to the Government is adequately safeguarded. It was further observed that a huge number of returns were pending for more than two years for detailed scrutiny.

It also appears that the data of age wise analysis of pendency furnished by Ministry is not correct for FY14.

1.15 Adjudication

Adjudication is the process through which departmental officers determine issues relating to tax liability of assessees. Such process may involve consideration of aspects relating to, inter alia, CENVAT credit, valuation, refund claims, provisional assessment etc. A decision of the adjudicatory authority may be challenged in an appellate forum as per the prescribed procedures.

Table 1.12 depicts age-wise analysis of Service Tax adjudication.

Table 1.12: Cases pending for adjudication with departmental authorities

(₹ in crore)

Year	Cases pending as on 31 March		No. of Cases Pending for more than 1 year
	No.	Amount	
FY13	22,690	64,599	4,478
FY14	19,925	31,790	4,383
FY15	33,122	77,463	12,668

Source: Figures furnished by Ministry

It is observed that adjudications involving revenue implication of ₹ 77,463 crore were pending finalisation as on 31 March 2015. Of these, 12,668 cases were pending for more than one year. While the number of pending adjudication cases increased by 66 percent in FY15 as compared to FY14, the amount involved in these cases increased by 143 percent. The number of cases pending for more than one year almost tripled in FY15 as compared to FY14. *Our observations on “Issue of SCN and Adjudication process” are detailed in Chapter II of this report.*

¹⁴ ‘18 months’ in section 73(1) of the Finance Act substituted for ‘1 year’ by Finance Act, 2012 with effect from 28 May 2012

1.16 Appeal Cases

Besides the adjudicating authorities, there are several other authorities including departmental appellate authorities, courts of law etc., where issues of law, interpretations etc. are considered. Besides, the department also resorts to coercive recovery measures in many instances. Huge amounts of revenue thus remain outside the Consolidated Fund of India for substantial periods of time. Based on data furnished by CBEC, we have tabulated the pendency of cases at various forums in Table 1.14 (a).

Table 1.13 (a): Pendency of Appeal (CX and ST)

Year	Forum	Appeals pending at the end of the year					
		Details of party's appeals		Details of departmental appeals		Total	
		No. of Appeals	Amount involved (Cr. ₹)	No. of Appeals	Amount involved (Cr. ₹)	No. of Appeals	Amount involved (Cr. ₹)
FY 13	Supreme Court	760	1,429	1,632	5,743	2,392	7,172
	High Court	5,631	6,844	5,430	5,527	11,061	12,371
	CESTAT	35,964	63,278	15,832	12,010	51,796	75,288
	Settlement Commission	70	103	3	0	73	103
	Commissioner (Appeals)	23,233	7,103	2,965	558	26,198	7,661
	Total	65,658	78,757	25,862	23,838	91,520	1,02,595
FY 14	Supreme Court	855	1,835	1,702	6,078	2,557	7,913
	High Court	5,856	9,359	5,505	6,764	11,361	16,123
	CESTAT	41,257	90,447	16,685	14,806	57,942	1,05,253
	Settlement Commission	109	230	4	1	113	231
	Commissioner (Appeals)	23,783	7,054	3,225	669	27,008	7,723
	Total	71,860	1,08,926	27,121	28,318	98,981	1,37,244
FY 15	Supreme Court	815	2,202	1,754	6,428	2,569	8,630
	High Court	5,577	10,206	5,408	9,231	10,985	19,437
	CESTAT	44,710	1,05,905	16,719	14,240	61,429	1,20,145
	Settlement Commission	155	349	2	1	157	350
	Commissioner (Appeals)	25,617	6,272	3,676	655	29,293	6,927
	Total	76,874	1,24,935	27,559	30,554	1,04,433	1,55,489

Source: Figures furnished by the Ministry

The Table indicates that cases involving revenue of ₹ 1,55,489 crore were pending in appeals. As no action can be initiated for recovery of revenue till the appeal is pending, locking up of revenue of ₹ 1,55,489 crore is a matter of concern.

The Ministry has provided the data regarding pendency of appeal in respect of Service Tax exclusively for FY15. The data is tabulated below:

Table 1.13 (b): Pendency of Appeal (ST)

Year	Forum	Appeals pending at the end of the year					
		Details of party's appeals		Details of departmental appeals		Total	
		No. of Appeals	Amount involved (Cr. ₹)	No. of Appeals	Amount involved (Cr. ₹)	No. of Appeals	Amount involved (Cr. ₹)
FY 15	Supreme Court	179	450	359	1,762	538	2,211
	High Court	1,837	4,663	877	1,717	2,714	6,380
	CESTAT	16,245	54,654	5,585	6,762	21,830	61,416
	Settlement Commission	73	214	0	0	73	214
	Commissioner (Appeals)	15,112	3,373	1,925	357	17,037	3,730
	Total	33,446	63,354	8,746	10,597	42,192	73,951

Source: Figures furnished by the Ministry

The Ministry has provided the details of disposal of appeal cases for FY13 to FY15. The data is tabulated below:

Table No. 1.13 (c): Breakup of cases decided during the year

Year	Forum	Department's Appeal				% of Successful appeal (Deptt.)	Party's Appeal			% of successful appeal (Party)
		Decided in Favour of Deptt.	Decided against the Deptt.	Remanded	Decided in favour of party		Decided against party	Remanded		
FY13	Supreme Court	15	75	9	15.15	16	23	7	34.78	
	High Court	102	486	97	14.89	473	1,007	269	27.04	
	CESTAT	346	955	271	22.01	1,805	2,447	1,380	32.05	
	Comm. (Appeals)	1,162	1,198	139	46.50	6,432	13,221	1,575	30.30	
	Total	1,625	2,714	516	33.47	8,726	16,698	3,231	30.45	
FY14	Supreme Court	21	82	5	19.44	14	33	3	28.00	
	High Court	193	355	22	33.86	379	1,247	223	20.50	
	CESTAT	248	1,407	151	13.73	2,314	2,125	1,574	38.48	
	Comm. (Appeals)	1,141	1,248	31	47.15	7,064	12,888	697	34.21	
	Total	1,603	3,092	209	32.69	9,771	16,293	2,497	34.21	
FY15	Supreme Court	24	149	16	12.70	16	52	29	16.49	
	High Court	230	712	130	21.46	447	1,397	206	21.80	
	CESTAT	216	1,121	218	13.89	2,255	1,987	1,874	36.87	
	Comm. (Appeals)	717	869	87	42.86	4,202	9,151	931	29.42	
	Total	1,187	2,851	451	26.44	6,920	12,587	3,040	30.69	

Source: Figures furnished by the Ministry

It is observed that success ratio of department's appeal against adjudication order has decreased from 33.47 percent in FY13 to 26.44 percent in FY15. The success ratio of departmental appeals is around 43 percent when

decided by Commissioner (Appeal) but in extra-departmental higher forums it ranges from 13 percent to 21 percent in FY15. Appeals filed by the assesseees have better success rate in extra-departmental higher forums. There is a need to analyse the reasons of low success rate and to take effective measures to improve the success rate as well as to reduce the pendency of appeals.

1.17 Disposal of refund claims

Section 11B of the Central Excise Act, 1944 provides the legal authority for claim and grant of refund. Further, section 11BB of the Act stipulates that interest is to be paid on refund amount if it is not refunded within three months of the date of application of refund.

Table 1.13(a) depicts the status of disposal of refund claims by the department. The delay depicted is in terms of time taken from the date of receipt of refund application along with all details required for processing the claims.

Table 1.14(a): Disposal of refund claims in Service Tax

(₹ in crore)

Year	OB plus claims received during the year	No of claims disposed during the year				Interest payments	
		Total number of disposals	Within 3 months and % of disposals	Claims disposed of with delay		No of cases	Interest paid
				< 1 year	> 1 year		
FY13	26,672	15,897	12,328 (77%)	1,880 (12%)	1,689 (11%)	1	0.12
FY14	23,145	13,979	11,445 (81.87%)	1,494 (10.69%)	1,040 (7.44%)	0	0
FY15	*	13,381	*	*	*	14	5.58

Source: Figures furnished by the Ministry

*The Ministry did not provide the data for FY15

It is observed that approximately 80 percent of the Service Tax related refund claim disposals are carried out within the prescribed period of three months.¹⁵ Despite the fact that there is a liability on department to pay interest on delayed refunds, department is not paying interest to the assesseees in most of the cases. Board must ensure that the provisions regarding payment of interest on delayed refund are implemented in right earnest.

As the Ministry did not furnish the data related to cases received and breakup of disposal of cases during FY15, the same could not be analysed.

Table 1.13(b) depicts an age-wise analysis of pendency of refund claims during last three years.

¹⁵ Section 11BB of the Central Excise Act made applicable to Service Tax by section 83 of the Finance Act 1994 (as amended)

Table 1.14(b): Age-wise pendency of Service Tax refund cases as on 31 March
(₹ in crore)

Year	OB plus claims received in the year	Total number of refund claims pending as on 31 March		Refund claims pending for			
				Less than one year		Over 1 year	
		Number	Amount	Number	Amount	Number	Amount
FY13	23,803	7,906	41,874	5,824	30,018	2,082	11,856
FY14	23,145	8,154	4,487	6,391	3,582	1,763	905
FY15	*	13,913	8,390	10,848	5,642	3,065	2,747

Source: Figures furnished by the Ministry * The Ministry did not furnish the data for FY15

It is observed that while number of cases has been increasing, the amount involved has drastically reduced as compared to FY13, though it increased as compared to FY14.

The complete data for FY15 is not provided by the Ministry despite our repeated reminders.

1.18 Cost of collection

Table 1.15 depicts the cost of collection vis-a-vis the revenue collection.

Table 1.15: Central Excise and Service Tax receipts and cost of collection
(₹ in crore)

Year	Receipts from Service Tax	Receipts from Central Excise	Total Receipts	Cost of collection	Cost of collection as % of total Receipts
FY11	71,016	1,37,901	2,08,917	2,072	0.99
FY12	97,356	1,44,540	2,41,896	2,227	0.92
FY13	1,32,601	1,75,845	3,08,446	2,439	0.79
FY14	1,54,780	1,69,455	3,24,235	2,635	0.81
FY15	1,67,969	1,89,038	3,57,007	2,950	0.83

Source: Union Finance Accounts of respective years

It is observed that despite automation and extensive use of Information Technology, cost of collection started showing a rising trend from FY13 onwards.

1.19 Internal Audit

Modernisation of Indirect Tax administration in India is based on the Canadian model. The new audit system EA 2000 has four distinct features: scientific selection after risk analysis, emphasis on pre-preparation, scrutinising of business records against statutory records and monitoring of audit points.

Audit processes include preliminary review, gathering and documenting systems' information, evaluating internal controls, analysing risks to revenue and trends, developing audit plan, actual audit, preparation of audit findings, reviewing the results with the assessee/Range Officer/Divisional Assistant Commissioner and finalisation of the report.

The Audit framework consists of three parts. Directorate General of Audit and the field Commissionerates share the responsibility of administration of Audit. While the Directorate is responsible for collection, compilation and analysis of audit results and its feedback to CBEC to improve tax compliance and to gauge levels of client satisfaction, audit parties from Commissionerates undertake audit in terms of EA 2000 audit protocol. In order to improve audit quality, CBEC took the assistance of Asian Development Bank in developing audit manuals, risk management manuals and manuals to train auditors in EA 2000 and CAATs, which prescribe detailed processes for conduct of audit. Table 1.16 (a) depicts details of Service Tax units due for audit during FY15 by audit parties of the Commissionerates vis-à-vis units audited.

Table 1.16(a): Audits of assesseees conducted during FY15

Slab of annual duty (PLA+CENVAT)	Periodicity	Number of units due	Number of units planned	Number of units audited	Shortfall in audit (%)	Shortfall in audit in FY 14 ¹⁶ (%)
Units paying ST >₹ 3 crore (Category A)	Annual	5,702	5,702	2,183	61.72	46.71
Units paying ST between ₹ 1 and 3 crore (Category B)	Biennial	4,695	4,695	1,321	71.86	51.07
Units paying ST between ₹ 25 lakh and ₹ 1 crore (Category C)	Once in five years	6,710	6,710	1,340	80.03	49.19
Units paying ST <₹ 25 lakh (Category D)	2 % every year	14,088	14,088	2,860	79.70	49.20

Source: Figures furnished by the Ministry

It is observed that during FY15, not only there was a huge shortfall in the Service Tax audits conducted across all categories of units but the short fall increased substantially as compared to FY14.

The result of the audit conducted by the department is tabulated in table 1.16 (b).

Table 1.16(b): Amount objected and recovered during the year

(₹ in crore)

Slab of annual duty (PLA+CENVAT)	Amount of short levy detected	Amount of total recovery
Category A	4,695	1,025
Category B	1,457	255
Category C	513	190
Category D	253	121
Total	6,918	1,591

Source: Figures furnished by the Ministry

¹⁶ Reported in Table 1.15(a) of C&AG Report No.4 of 2015 (Indirect Taxes-Service Tax)

It is observed that the amount of short levy detected and recovered in Category 'A' units is significantly higher than the non-mandatory units. The Ministry needs to ensure carrying out of internal audit of all Category 'A' (mandatory) units.

1.20 Revenue Collection due to Departmental Efforts

Besides, the voluntary payment of Service Tax by the tax payers there are various methods by which the department collects the revenue due but not paid by the taxpayers. These methods include Scrutiny of Returns, Internal Audit, Anti-Evasion, Adjudication etc.

The result of departmental efforts is tabulated in Table 1.17

Table 1.17 : Revenue recovered by Departmental Efforts

(₹ in crore)			
Sl. No.	Departmental Action	Recovery during FY14	Recovery during FY15
1	Internal audit	1,760.29	632.15
2	Anti-Evasion	2,865.53	2,765.57
3	Confirmed Demands	454.06	437.10
4	Pre Deposit	213.42	352.94
5	Scrutiny of Returns	188.66	139.04
6	Recovery from Defaulters	619.48	735.09
7	Provisional Assessment	6.85	8.37
8	VCES	3,301.73	2,741.94
9	ITR/TDS	58.00	306.30
10	Others	65.68	196.38
	Total	9,533.70	8,314.88

Source: Figures furnished by the Ministry

Total Service Tax collection during FY15 is ₹ 1,67,969 crore out of which only ₹ 8314.88 crore is collected due to departmental efforts. Further, it is noticed that revenue collection shown under Internal Audit and Anti-evasion in Table 1.17 does not tally with the amount shown in Table 1.16 and 1.9 respectively. In fact, the recoveries reflected in table 1.17 are far less than spot recoveries reported in Tables 1.16 and 1.9. The Ministry needs to examine this data.

1.21 Non-furnishing of Data and Discrepancy in data furnished by the Ministry

The Ministry could not provide data related to detailed scrutiny of returns and disposal of refund cases for FY15 as format of data and responsibility to maintain the data were revised from November 2014. This indicates that continuity of maintenance of critical data is not ensured during change management in CBEC. Further, CBEC provided data relating to various performance parameters such as scrutiny of returns, refunds, arrears

realisation, internal audit etc. However, we observed in respect of registered assesseees, preliminary scrutiny of returns and arrears realization¹⁷, data furnished did not tally with information furnished for last Audit Report no. 4 of 2015. There is an urgent need to improve the quality of data maintenance in respect of Service Tax.

1.22 Audit effort and Service Tax audit products - Compliance Audit Report

Compliance audit was managed as per the Comptroller and Auditor General's (CAG) Audit Quality Management Framework, 2014 employing professional auditing standards of the Auditing Standards, 2nd Edition, 2002.

1.23 Sources of information and the process of consultation

Data from the Union Finance Account, along with examination of basic Records/ documents in DoR, CBEC, and their field formations, MIS and MTRs of CBEC along with other stake holder reports were used. We have nine field offices headed by Director Generals (DGs)/Principal Directors (PDs) of Audit, who managed audit of 781 units (CX and ST) in FY15.

1.24 Report overview

The current report has 166 paragraphs having financial implication of ₹ 386.35 crore. There were generally three kinds of observations: non-payment of Service Tax, short payment of Service Tax, irregular availing and utilisation of CENVAT credit etc. The department/Ministry has already taken rectificatory action involving money value of ₹ 373.58 crore in case of 162 paragraphs in the form of issue of show cause notices, adjudication of show cause notices and reported recovery of ₹ 53.77 crore.

1.25 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 846 audit paragraphs (Table 1.17) having financial implication of ₹ 2,129.15 crore.

¹⁷ Table 1.6, 1.8 and 1.10

Table 1.17: Follow up of Audit Reports

(₹ in crore)

Year		FY 11	FY 12	FY 13	FY 14	FY 15	Total	
Paragraphs included	Number	199	152	151	178	166	846	
	Amount	204.74	500.23	265.75	772.08	386.35	2,129.15	
Paragraphs accepted	Pre printing	Number	184	150	147	171	162	814
		Amount	185.69	498.65	262.29	477.22	373.58	1,797.43
	Post printing	Number	11	1	4	--	--	16
		Amount	17.79	0.52	1.81	--	--	20.12
	Total	Number	195	151	151	171	162	830
		Amount	203.48	499.17	264.1	477.22	373.58	1,817.55
Recoveries effected	Pre printing	Number	122	88	95	92	109	506
		Amount	78.76	84.58	65.28	130.29	53.77	412.68
	Post printing	Number	9	4	9	9	--	31
		Amount	2.24	0.85	2.07	33.80	--	38.96
	Total	Number	131	92	104	101	109	537
		Amount	81	85.43	67.35	164.09	53.77	451.64

Source: CAG Audit Reports

It is observed that the Ministry had accepted audit observations in 830 audit paragraphs having financial implication of ₹ 1817.55 crore and had recovered ₹ 451.64 crore.