KARTIKAYE MATHUR

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Report of the Comptroller and Auditor General of India

SUPREME AUDIT INSTITUTION OF INDIA

लोकहितार्थ सत्यनिष्ठा

Dedicated to Truth in Public Interest

Union Government

(Department of Revenue –Customs)

(Compliance Audit)

No. 30 of 2022

Report of the
Comptroller and Auditor General
of India

for the year ended March 2021

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Laid on the table of Lok Sabha and Rajya Sabha on ………………..

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PREFACE

This Report for the year ended March 2021 has been prepared for submission to the President of India under Article 151 of the Constitution of India.

The Report contains significant results of the compliance audit of the Department of Revenue – Customs under the Ministry of Finance, and Director General of Foreign Trade under Ministry of Commerce and Industry.

The Government has made significant investment in Indian Customs EDI System (ICES) which has resulted in comprehensive, paperless, fully automated Customs clearance system and availability of transactional information in the form of electronic data. This would provide a good opportunity to Audit to conduct hundred *per cent* review of data, instead of test check of transactions in a few locations, and would provide a high level of assurance to the Government and the Parliament on the correctness of application of tax law across all Customs Commissionerates. The availability of complete data would also reduce the requirement of physical visits of Audit to the Customs premises for test check of transactions. However, since the Department did not provide complete data for pan-India transactions, Audit was carried out in 32 out of 70 Customs Commissionerates.

The instances mentioned in this Report are those, which came to notice in the course of test audit for the period 2020-21 as well as those which came to notice in earlier years, but could not be reported in the previous Audit Reports.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

EXECUTIVE SUMMARY

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). Customs receipts form part of the indirect tax revenue of the Government.

Duties of Customs are levied under the Customs Act 1962, and the rates of duties are governed under the Customs Tariff Act and notifications issued from time to time.

Customs receipts before the introduction of Goods and Service Tax (GST) comprised of the Basic Customs Duty (BCD), Countervailing Duty (CVD) and Special Additional Duties (SAD) of Customs. After introduction of GST w.e.f. 1 July 2017, the CVD and SAD on import of all commodities, except petroleum products and spirits, have been subsumed and replaced by integrated tax (IGST).

Department of Revenue under Ministry of Finance is responsible for administration of Direct and Indirect Union Taxes, through two statutory Boards namely, the Central Board of Indirect Taxes and Customs (CBIC) and the Central Board of Direct Taxes (CBDT) constituted under the Central Board of Revenue Act, 1963.

The levy and collection of Customs duty and cross-border preventive functions are administered by the CBIC through 70 Customs Commissionerates across the country.

The Department of Commerce under Ministry of Commerce and Industry, through Director General of Foreign Trade (DGFT) formulates, implements and monitors the Foreign Trade Policy (FTP) which provides the basic framework of policy and strategy to be followed for promoting exports and trade.

During FY 21, exports worth ₹21.59 lakh crore (1.25 crore transactions) through 405 Customs ports (203 EDI, 44 Non-EDI, 2 Manual & 156 SEZ ports) and ₹29.15 lakh crore worth of imports (1 crore transactions) through 437 Customs ports (183 EDI, 29 Non-EDI, 2 Manual & 223 SEZ ports) took place.

During FY 21, the Customs receipts to GDP ratio was 0.68 *per cent* while Customs receipts as a percentage of gross tax receipts was 6.65 *per cent*. Customs receipts as a percentage of Indirect taxes was 12.51 *per cent.*

The 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 Foreign Trade Policy and specific compliance areas reviewed by audit from time to time.

The sample of Commissionerates selected for test check included 32 out of total of 70 Customs Commissionerates. The audit was based on the examination of Bills of Entry (BsE) and Shipping Bills (SBs) filed electronically into the Indian Customs EDI System (ICES) through a Customs House Service Centre or web based ICEGATE. In non-EDI Customs locations, the BsE and SBs are physically filed and assessed. The ICES uses Risk Management System (RMS) to processes the data through a series of automated steps and results in an electronic assessment. This assessment determines whether the BE will be taken-up for action, i.e. manual appraisal by assessing officer or examination of goods, or both, or be cleared after payment of duty and Out of Charge directly, without any assessment and examination. We audited BsE and SBs cleared by both the RMS and manual appraisal system.

Audit of incentives provided under Foreign Trade policy was carried out in 17 Regional Authorities under the DGFT through test check of license files under various schemes of the FTP.

This report is divided into four chapters. Chapter I provides a brief description of functions of Department of Revenue and Department of Commerce and an overview of high level statistical information regarding Customs receipts, India's Imports and Exports, performance of Special Economic Zones, arrears of Customs receipts and results of the Department's internal audit. Chapter II describes the CAG's audit mandate, scope and results of audit efforts. Chapters III, and IV contain significant audit findings. There are 105 paragraphs with revenue implication of ₹86 crore in this report. The Ministry of Finance and Ministry of Commerce have responded in 50 out of 105 cases issued. In 93 paragraphs involving money value of ₹71 crore, rectificatory action has been taken by the Department/Ministry in the form of issuing Show Cause Notices, adjudicating of Show Cause Notices and recovery of ₹65 crore in 59 cases has been effected till date.

Responses received from the Department of Commerce and the Department of Revenue have been included at appropriate places.

Chapter I: Overview- Customs Revenue

During FY21, Customs receipts realised were ₹1,34,750 crore as against ₹1,09,283 crore realised in FY 20. One of the reasons for increase in the Customs receipts during FY 21 may be attributed to the fact that Customs exemption and scrip outgo have been rationalised and a large number of exemptions have been removed in order to promote Make in India and reduce import dependence.

{Paragraphs 1.6.1 and 1.6.2}

Imports registered decline of (-)13.24 *per cent* in FY 21, while Exports also registered a fall of (-)2.74 *per cent* during the same period.

India's imports decreased in value to ₹29.15 lakh crore during FY 21 from ₹33.60 lakh crore in FY 20, and exports also decreased to ₹21.59 lakh crore in FY 21 from ₹22.19 lakh crore in FY 20.

{Paragraphs 1.7.1 and 1.7.2}

During the last five years (FY 17 to FY 21) India's major trading partners were China, USA, UAE, Hong Kong, Saudi Arabia, Singapore, Germany, Switzerland, Indonesia and Korea. Of these, the share of imports in FY 21 of nine trading partners except Saudi Arabia have increased as compared to FY 17.

During FY 21, India's trade imbalance with its top 10 trading partners was 87 *per cent* {(-) ₹7,56,914 crore} of the total trade imbalance.

{Paragraph 1.7.3}

Imports in FY 21 was led by five major commodity groups namely, (i) Mineral fuels, Mineral oils and products, (ii) Natural or Cultured Pearls/Precious or semi-precious stones, Gold and articles thereof, (iii) Electrical machinery and equipment and parts, (iv) Machinery and appliances and (v) Organic chemicals. These commodities accounted for 65 *per cent* share of the total imports made during FY 21.

{Paragraph 1.8.1}

The top five commodity groups exported during FY 21 were (i) Mineral fuels, Mineral oils and products, (ii) Natural or Cultured Pearls, Precious or semi-precious stones, Precious metal and articles thereof (iii) Pharmaceutical Products (iv) Machinery and Mechanical appliances and parts thereof and (v) Organic chemicals in their respective order. The share of the five major commodities in exports during FY 21 was 37 *per cent* of the total exports.

{Paragraph 1.8.2}

Overall vacancies of 12,329 (as on January 2021), Customs officers/officials posts have increased to 12,512 (as on July 2021). These vacant posts constituted 46.90 *per cent* of the total sanctioned strength (26,677).

{Paragraph 1.14.1}

Chapter II: CAG's audit mandate and extent of Audit

During FY 21, audit issued 198 inspection reports to the respective Commissionerates/ Regional Licensing Authorities containing 1,424 observations and carrying a total revenue implication of ₹441 crore. Out of these, 105 audit observations with revenue implication of ₹86 crore noticed during FY 21 have been covered in this report. The remaining cases are being pursued by the respective field formations. The Ministry of Finance and Ministry of Commerce have responded in 50 out of 105 cases issued. Additionally, in 43 cases, responses were received from the local Customs Commissionerates/Regional Authorities. The Ministries/ Departments have accepted 93 paragraphs and taken rectificatory action involving money value of ₹71 crore in the form of issue of SCNs, adjudication of SCNs and have reported recovery of ₹65 crore in 59 cases of incorrect assessment of Customs Duties.

{Paragraph 2.6}

Chapter III: Non-compliance to provisions of Customs Act, Customs Tariff Act and Tariff notifications

Pan India data requisitioned by Audit for import and export transactions for the FY 19, 20 and 21 was not received, despite repeated requests. In the absence of Pan India transactional data, audit was conducted through CRA Module interface of ICES, which had its limitations. The limitations in the CRA and ICRA modules were also communicated to the CBIC. Accordingly, the conclusions in this Chapter on Compliance Audit were based on limited audits carried out by physically visiting the 32 Commissionerates.

The samples were selected at the level of individual field formations in the absence of Pan- India data, which is sub-optimal. Significant Audit observations with revenue implication of ₹10 lakh or more noticed during test check of import/export documents in the Customs Commissionerates have been covered in this Report. Minor observations were issued to the respective Commissionerates through Inspection Reports for corrective action.

The cases of non-compliance noticed during audit could be broadly categorized as follows:

- Misclassification of imports (Paragraphs 3.6.1 to 3.6.15)
- Incorrect application of notifications (Paragraphs 3.7.1 to 3.7.5).
- Other irregularities (Paragraph 3.8).

Audit noticed 88 cases of under assessments of applicable Customs Duties due to, misclassification of imported goods, incorrect application of notifications and incorrect levy of applicable levies and other charges, as result of which revenue of ₹75 crore was at risk.

{Paragraphs 3.6 to 3.8}

Chapter IV: Non-compliance to provisions of various Export Promotion Schemes of Foreign Trade Policy

Irregularities in Export promotion schemes of Foreign Trade Policy

Test audit of 17 Regional Authorities and eight Development Commissioners revealed instances of violations of prescribed rules, procedures framed to give effect to the provisions of the Foreign Trade Policy and procedures regarding fulfilment of export obligations and awarding export incentives. Revenue of ₹11 crore was due from exporters/importers who had availed the benefits of the duty under Export promotion schemes but have not fulfilled the prescribed obligations/ conditions.

{Paragraphs 4.2.1 to 4.2.2}

General Recommendations

Though the Ministry has taken corrective action to recover duty in many cases, it may be pointed out that audit paragraphs in this Report are only a few illustrative cases. There is a likelihood that such errors of omission and commission, whether in RMS based assessments or manual assessments, may exist in many more cases. It is pertinent to note that several BsE examined by audit in test check had been assessed through the RMS, which indicated that the assessment rules mapped into the RMS to facilitate system based assessments were inadequate. The process of mapping and updating of risk parameters in the RMS also needs to be reviewed.

{Paragraph 3.9}

Glossary of terms and abbreviations

Abbreviation	Expanded form
AA	Advance Authorization
ACC	Air Cargo Complex
ADD	Anti Dumping Duty
ADGFT	Additional Director General of Foreign Trade
AO	Assessing Officer
BCD	Basic Customs Duty
BE	Bill of Entry
BE	Budget Estimates
BRC	Bank Realisation Certificate
CBDT	Central Board of Direct Taxes
CBIC	Central Board of Indirect Taxes and Customs
Commissionerate	Commissionerate of Customs
CRA	Customs Receipt Audit
CRC	Cost Recovery Charge
CSEZ	Cochin Special Economic Zone
CTH	Customs Tariff Heading
CVD	Countervailing Duty
DC	Development Commissioner
DC	Deputy Commissioner of Customs
DGFT	Directorate General of Foreign Trade
DGOV	Directorate General of Valuation
DoC	Department of Commerce
DoR	Department of Revenue
DRI	Directorate of Revenue Intelligence
DTA	Domestic Tariff Area
e-BRC	Electronic Bank Realisation Certificate
EDI	Electronic Data Interchange
EO	Export Obligation
EODC	Export Obligation Discharge Certificate
EOU	Export Oriented Unit
EPCG	Export Promotion Capital Goods
EXIM	Export and Import
FEMA	Foreign Exchange Management Act
FOB	Free on Board
FTP	Foreign Trade Policy
FTDR Act	Foreign Trade (Development and Regulation) Act
FY	Financial Year
GDP	Gross Domestic Product
GST	Goods and Services Tax
GTR	Gross Tax Revenue

Abbreviation	Expanded form
HBP	Hand Book of Procedures
ICD	Inland Container Depot
ICEGATE	Indian Customs Electronic Commerce Gateway
ICES	Indian Customs Electronic Data Interchange System
IEC	Importer Exporter Code
IGST	Integrated Goods and Service Tax
JDGFT	Joint Director General of Foreign Trade
KASEZ	Kandla Special Economic Zone
LEO	Let Export Order
LOP	Letter of Permission
MEIS	Merchandise Exports from India Scheme
MoCI	Ministry of Commerce and Industry
MoF	Ministry of Finance
MOU	Memorandum of Understanding
MPR	Monthly Performance Report
MTR	Monthly Technical Report
NFE	Net Foreign Exchange
NIC	National Informatics Centre
NSEZ	Noida Special Economic Zone
OIO	Order in Original
OM	Office Memorandum
PH	Personal Hearing
PNC	Pre Notice Consultation
Pr.CCA	Principal Chief Controller of Accounts
₹	Rupee
RA	Regional Authority
RC	Recovery Cell
RE	Revised Estimates
RMS	Risk Management System
SAD	Special Additional Duty of Customs
SB	Shipping Bill
SEEPZ	Santacruz Electronic Export Processing Zone
SEIS	Service Exports from India Scheme
SEZ	Special Economic Zone
VSEZ	Visakhapatnam Special Economic Zone
YOY	Year on Year

CHAPTER I

Customs Revenue

1.1 Nature of Customs Duties

1.1.1 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). Customs Receipts form part of the indirect tax revenue of the Government.

1.1.2 Duties of Customs are levied under the Customs Act, 1962, and the rates of duties are governed under the Customs Tariff Act, 1975 and notifications issued from time to time.

1.2 Customs Revenue Base

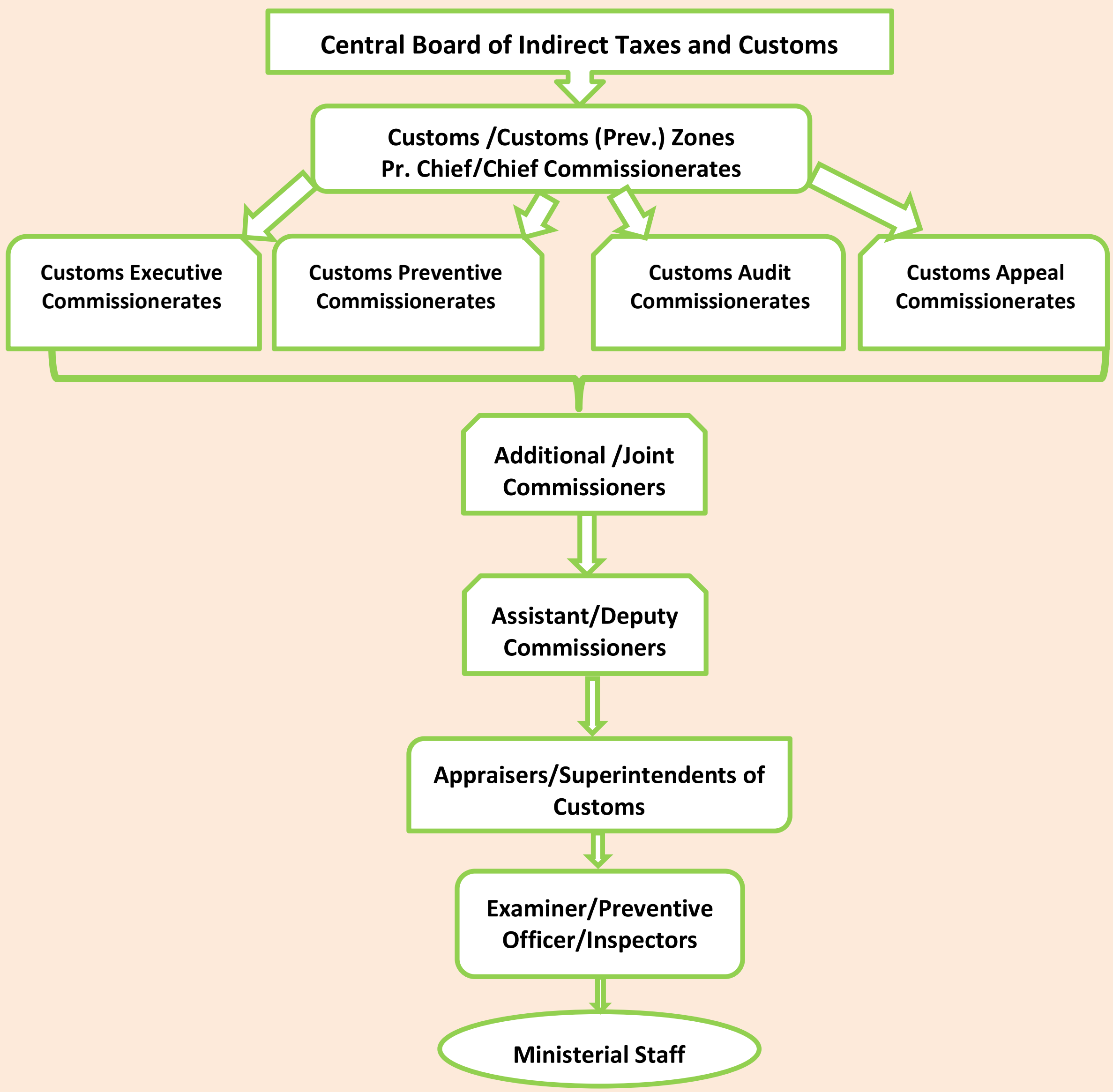
1.2.1 The Customs revenue base comprises of the Importers and Exporters issued with Importer Exporter Code (IEC) by the Directorate General of Foreign Trade (DGFT). As on March 2021, there are 16,67,347 active IECs[1]. During FY 21, exports worth ₹21.59 lakh crore (1.25 crore transactions) through 405 Customs ports (203 EDI, 44 Non-EDI, 2 Manual and 156 SEZ ports) and imports worth ₹29.15 lakh crore worth of imports (1 crore transactions) through 437 Customs ports (183 EDI, 29 Non-EDI, 2 Manual and 223 SEZ ports) took place.

1.3 Organisation and Functions of Administrative Departments

1.3.1 The Department of Revenue (DoR) under Ministry of Finance (MoF) is the apex Department of Government of India responsible for administration of the Direct and Indirect Union Taxes, through two statutory Boards namely, the Central Board of Indirect Taxes and Customs (CBIC) and the Central Board of Direct Taxes (CBDT) constituted under the Central Board of Revenue Act, 1963.

[1]IEC is issued by DGFT, Delhi to every Importer/Exporter.

Chart 1: Organogram of Customs Field Formation -CBIC



1.3.2 The levy and collection of Customs Duty, IGST on imports and cross-border preventive functions are administered by the CBIC through 11 Zones headed by Chief Commissioners across the country.

There are 11 Zones of Customs and Customs (Preventive) and nine combined Goods and Services Tax (GST) Zones, with Customs Commissionerates spread across the country. These Zones are headed by the Principal Chief Commissioners/Chief Commissioners. There are 70 Commissionerates exclusively of Customs, Customs (Preventive), Customs (Appeals) and Customs (Audit).

1.3.3 The Department of Commerce (DoC) under Ministry of Commerce and Industry (MoCI), through the Directorate General of Foreign Trade (DGFT) formulates, implements and monitors the Foreign Trade Policy (FTP) which provides the basic framework of policy and strategy to be followed for promoting exports and trade. Besides, the DoC is also entrusted with responsibilities relating to multilateral and bilateral commercial relations, Special Economic Zones (SEZs), State trading, export promotion and trade facilitation, and development and regulation of certain export oriented Industries and commodities.

1.3.4 The FTP is implemented through the Regional Authorities (RAs) who are responsible for providing IECs and granting licenses under various schemes of export promotion. During FY 21, there were 24 RAs across India. However, the execution/implementation of such licences is done through the Customs Commissionerates.

1.4 Customs Receipts

1.4.1 Customs receipts, before the introduction of Goods and Service Tax (GST), comprised of Basic Customs Duty (BCD), Additional Duty[2] and Special Additional Duty (SAD). All imports are also subjected to Social Welfare Surcharge (SWS) in place of Education Cess and Secondary and Higher Education Cess w.e.f. February 2018[3]. In addition, Anti-Dumping Duty (ADD) and Safeguard Duty (SD) are leviable wherever applicable.

1.4.2 After introduction of GST w.e.f. 1 July 2017, the CVD and SAD on import of all commodities, except five petroleum products and alcoholic liquor for human consumption, have been subsumed and replaced by Integrated Goods and Service Tax (IGST). Tobacco products are subject to both Central Excise and IGST. The IGST is in addition to the applicable BCD, which is levied as per the Customs Tariff Act. In addition, GST Compensation Cess is also leviable on certain luxury and demerit goods under the GST (Compensation to States) Cess Act, 2017. Levy of Education Cess as well as ADD and Safeguard Duty remains unchanged.

1.5 Budget Estimates and actual Receipts

1.5.1 The Revenue Budget of the Union Government provides budget estimates of tax and non-tax revenues of the Government. Comparison of budget estimates with actual receipts is an indicator of quality of fiscal

[2] Additional duty of Customs levied under Section 3(1) of the Customs Tariff Act 1975 equal to Excise Duty, Sales Tax, Local Taxes and other charges, commonly known as Countervailing Duty.

[3] SWS is an additional charge on import of goods being levied under clause 108 of the Finance Bill (Act), 2018.

management. The actuals may differ from the estimates either due to unexpected events or due to unrealistic assumptions.

1.5.2 Budget Estimates (BE), Revised Estimates (RE) and actual Customs Receipts during FY 17 to FY 21 are given in **Table 1.1** below:

Table 1.1: Budget and Revised Estimates, actual receipts

Year	Budget estimates ₹ in Cr.	Revised estimates ₹ in Cr.	Actual receipts ₹ in Cr.	Difference between Actual and BE ₹ in Cr.	*Per cent* variation between Actual and BE	Difference between Actual and RE ₹ in Cr.	*Per cent* variation between Actual and RE
FY 17	2,30,000	2,17,000	2,25,370	(-)4,630	(-)2.01	(+)8,370	(+)3.86
FY 18	2,45,000	1,35,242	1,29,030	(-)1,15,970	(-)47.33	(-)6,212	(-)4.59
FY 19	1,12,500	1,30,038	1,17,813	(+) 5,313	(+)4.72	(-)12,225	(-)9.40
FY 20	1,55,904	1,25,000	1,09,283	(-)46,621	(-)29.90	(-)15,717	(-)12.57
FY 21	1,38,000	1,12,000	1,34,750	(-)3,250	(-)2.36	(+)22,750	(+)20.31

Source: Union Budget and Finance Accounts for respective years.

1.5.3 The variation between RE and actual receipts ranged between (-)12.57 *per cent* to 20.31 *per cent* during FY 17 to FY 21. Variation between BE and actuals was in the range of (-)47.33 *per cent* to 4.72 *per cent* during the same period.

1.5.4 Actual Customs receipts during FY 20 were short by (-)29.90 *per cent* (₹46,621 crore), while during FY 21, they were short by (-)2.36 *per cent (*by ₹3,250 crore) in comparison to their BE. The actual receipts during FY 21 have exceeded the RE because Customs Duty target was revised downwards at the RE stage taking into account the COVID pandemic impact and prevailing macro-economic conditions during the first half of FY 21. However, revival of economic activities during the second half of the year was helpful in additional collection of revenue.

DoR, for variation in RE/BE, stated (March 2021), that Customs Duty inter-alia depends on various economic factors such as GDP growth, import volume, rate of exchange of leading international currencies against Indian Rupee (INR), global economic conditions etc. along with tax policy, tax rates and tax base. Customs Duty target for BE 2020-21 was set at the time of presentation of the budget in February 2020 under various assumptions based on the prevailing macro-economic conditions and past revenue trends. However, the first half (H1) of FY 21 was severely hit by the unprecedented COVID pandemic which then led to limited economic activities and international trades has also slowed down.

DoR attributed the increase in Customs receipts compared to RE during FY 21 also to the fact that Customs exemption and scrip outgo have been rationalised and a large number of exemptions have been removed in order to promote Make in India and reduce import dependence. Further, policy changes like introduction of Customs (Administration of Rules of Origin under Trade Agreements) (CAROTAR)[4] Rules, 2020, extensive application of Risk Management System (RMS), institutional mechanism of audits in Customs etc., have been helpful in garnering additional revenue.

1.6 Growth of Customs Receipts

1.6.1 **Table 1.2** below gives the relative growth of Customs receipts with reference to Gross Domestic Product (GDP), Gross Tax Revenue (GTR) receipts and Gross Indirect Tax receipts during FY 17 to FY 21.

Table 1.2: Growth of Customs Receipts

Year	Customs Receipts ₹ in Cr.	Year on year growth *per cent*	GDP ₹ in Cr.	Customs Receipts as % of GDP	Gross Tax Revenue (GTR) ₹ in Cr.	Customs Receipts as % of GTR	Gross Indirect Taxes ₹ in Cr.	Customs Receipts as % of Indirect Taxes
FY 17	2,25,370	7	1,51,83,709	1.48	17,15,968	13.13	8,62,151	26.14
FY 18	1,29,030	(-)43	1,67,73,145	0.76	19,19,183	6.72	9,16,445	14.07
FY 19	1,17,813	(-)09	1,90,10,164	0.62	19,68,456	5.99	8,43,177	13.97
FY 20	1,09,283	(-)07	2,03,39,849	0.54	20,10,059	5.44	8,59,122	12.72
FY 21	1,34,750	23	1,97,45,670	0.68	20,27,102	6.65	10,76,891	12.51

Source: Finance Accounts for respective years

1.6.2 Customs Receipts have gradually declined from FY 18 to FY 20. This is partly because, after introduction of GST (July 2017), CVD and SAD on imports, except petroleum products and alcohol, have been subsumed and replaced by IGST. IGST is being collected under a different Accounting Head (Major Head 0008).

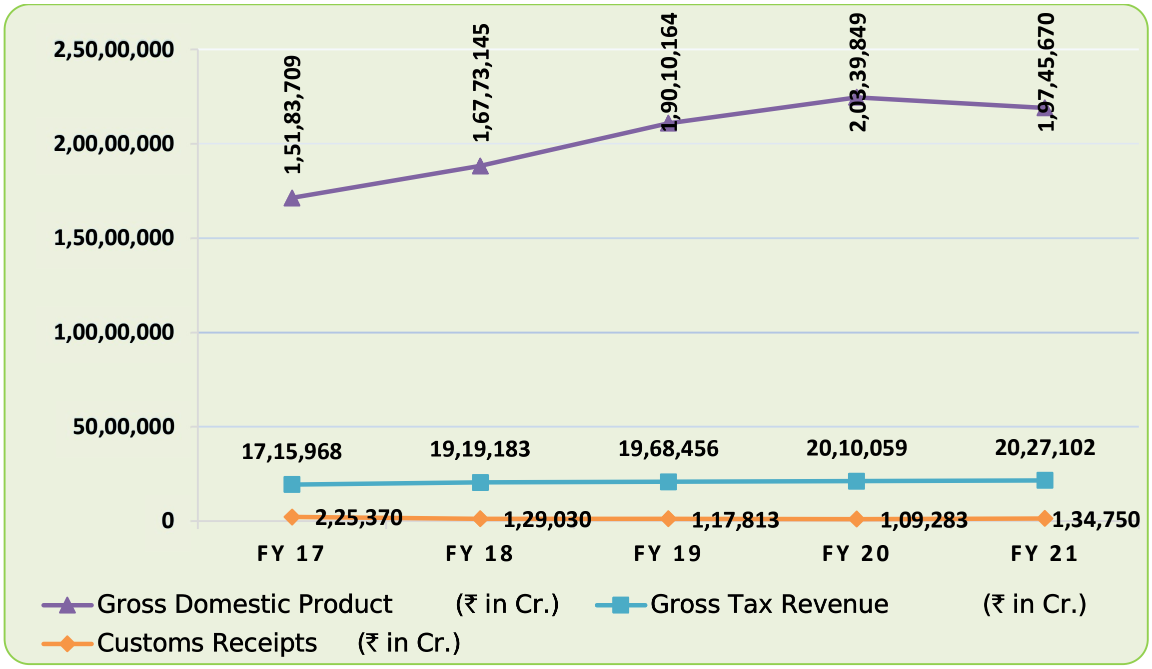
However, Customs receipts growth rate, on Year on Year (YoY) basis has increased by 23 *per cent* during FY 21. According to DoR, customs exemption and scrip outgo have been rationalised and a large number of exemptions have been removed in order to promote Make in India and reduce import dependence.

1.6.3 During FY 21, the percentage of Customs receipts to GDP had slightly increased to 0.68 *per cent* as compared to 0.54 *per cent* in FY 20. Customs receipts as a percentage of GTR had increased to 6.65 *per cent* in FY 21 as compared to 5.44 *per cent* in FY 20. The decrease in percentage of Customs receipts as compared to GDP/GTR during FY 18 to FY 20 was mainly because

[4] CAROTAR, Rules 2020- It applies to the import of goods into India where the importer makes a claim of a preferential rate of duty in terms of a trade agreement. The importer is required to make a declaration in the bill of entry that the imported products qualify as originating goods for a preferential rate of duty under that agreement, in addition to producing the Certificate of Origin (CoO). It implements the commitment to protect the domestic industry from misuse of Free Trade Agreements (FTAs).

after introduction of GST, IGST is being collected under a different Accounting Head (Major Head 0008).

Chart 2: Trend in GTR and Customs Receipts against GDP



Source: Finance Accounts for respective years

1.6.4 During FY 21, the Customs receipts to GDP ratio was less than one *per cent* (0.68 *per cent*) while Customs receipts as a percentage of GTR were 6.65 *per cent*. Customs receipts as a percentage of Indirect taxes were 12.51 *per cent*.

1.7 India's Imports and Exports

1.7.1 **Table 1.3** depicts trend of growth of India's imports and exports during FY 17 to FY 21.

Table 1.3: India's Import and Export

Year	Imports ₹ in Cr.	% growth over previous year	Exports ₹ in Cr.	% growth over previous year	Trade Imbalance ₹ in Cr.
FY 17	25,77,422	3.49	18,52,340	7.92	(-)7,25,082
FY 18	30,01,033	16.44	19,56,515	5.62	(-)10,44,518
FY 19	35,94,675	19.78	23,07,726	17.95	(-)12,86,949
FY 20	33,60,954	(-)6.50	22,19,854	(-)3.81	(-)11,41,100
FY 21	29,15,958	(-)13.24	21,59,043	(-)2.74	(-)7,56,915

Source: EXIM Data, Ministry of Commerce & Industry

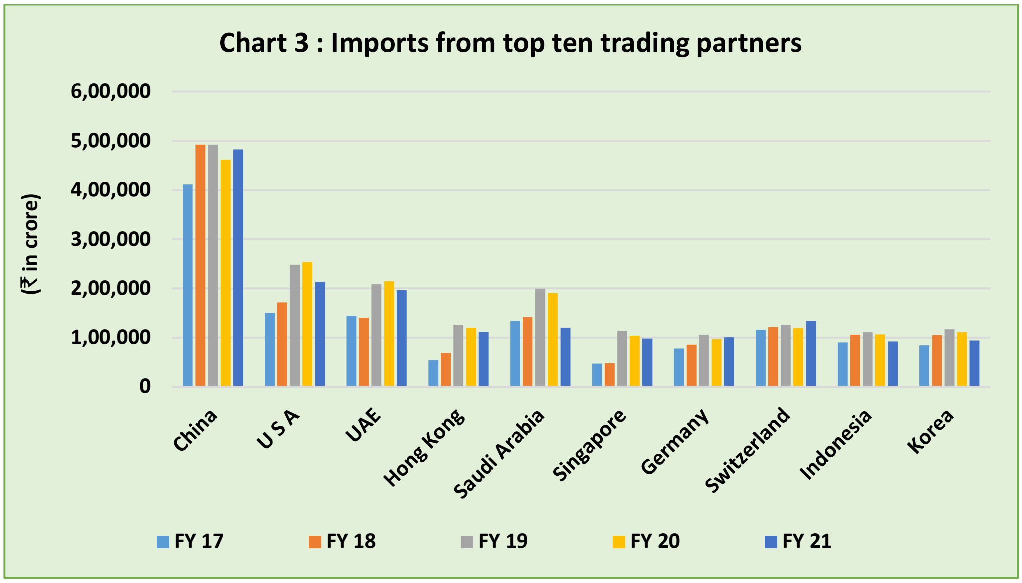
1.7.2 India's imports decreased in value to ₹29.15 lakh crore during FY 21 from ₹33.60 lakh crore in FY 20, and the exports also decreased to ₹21.59 lakh crore in FY 21 from ₹22.19 lakh crore in FY 20.

YoY growth rate of imports increased during FY 17 to FY 19 from 3.49 *per cent* to 19.78 *per cent*. The growth rate in exports also increased from

5.62 *per cent* in FY 18 to 17.95 *per cent* in FY 19. Imports dropped by (-)13.24 *per cent* in FY 21 over FY 20, while exports also declined by (-)2.74 *per cent* during the same period.

1.7.3 Trade with top 10 trading partners

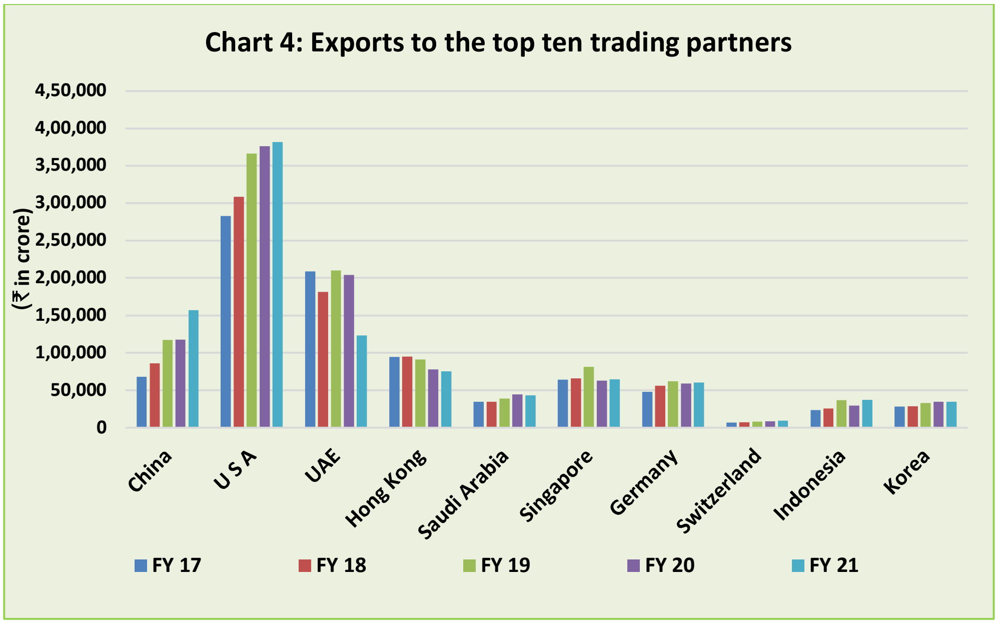
During the last five years (FY 17 to FY 21) India's major trading partners were China, USA, UAE, Hong Kong, Saudi Arabia, Singapore, Germany, Switzerland, Indonesia and Korea. Of these, the share of imports in FY 21 of nine trading partners except Saudi Arabia have increased as compared to FY 17. **Chart 3** depicts the import share of the top trading partners during the last five years.



Source: EXIM Data, Ministry of Commerce & Industry

In terms of YoY growth of FY 21 over FY 20, imports from three countries (China, Switzerland and Germany) out of 10 countries, have increased and imports from the remaining seven countries have declined. The commodity groups imported from China, Switzerland and Germany having major import share were Live animals, Ores, Fish and Crustaceans, Molluscs and Other aquatic invertebrates, Miscellaneous Edible preparations, Pharmaceutical products, Miscellaneous chemical Products, Fertilizers, Oil seeds and olea fruits, Miscellaneous grains and fruits, Coffee, Tea, Mate and spices, Animal or vegetable fats and Oils and their products, Railway or Tramway locomotives, Locomotives Rolling-stock and parts thereof, Aircraft, Spacecraft, and Parts, Slag and Ash, etc.

Of these, exports in FY 21 as compared to exports in FY 17 to one country (China), have doubled, there was moderate to significant export growth with six partners (Saudi Arabia, Germany, Korea, USA, Switzerland and Indonesia,) and exports to two partners have declined (Hong Kong and UAE). Exports to the top ten trading partners is depicted in **Chart 4**.



Source: EXIM Data, Ministry of Commerce and Industry

During FY 21 India's trade imbalance with its top 10 trading partners was 87 *per cent* {(-) ₹7,56,914 crore} of the total trade imbalance. The details of imports and exports from the top ten trading partners during FY 21 are depicted in **Table 1.4** below.

Table 1.4: India's top 10 trading partners for FY 21

	FY 21	Values: ₹ in crore			
Rank	**Country**	**Export**	**Import**	**Total Trade**	**Trade Balance**
1	China	1,57,202	4,82,496	6,39,697	-3,25,294
2	U S A	3,81,845	2,13,725	5,95,569	1,68,120
3	UAE	1,23,334	1,96,351	3,19,684	-73,017
4	Hong Kong	75,201	1,12,218	1,87,420	-37,017
5	Saudi Arabia	43,359	1,19,759	1,63,118	-76,400
6	Singapore	64,382	98,220	1,62,602	-33,837
7	Germany	60,113	1,01,105	1,61,218	-40,992
8	Switzerland	9,341	1,33,868	1,43,208	-1,24,527
9	Indonesia	37157	92,325	1,29,482	-55,169
10	Korea	34,694	94,476	1,29,170	-597,82
	Total of 10 Top countries	9,86,627	16,44,541	26,31,168	-6,57,915
	India's Total	**21,59,043**	**29,15,958**	**50,74,987**	**-7,56,914**
	% Share of Top 10 countries	**45.70**	**56.40**	**51.85**	**86.92**

Source: EXIM Data, Ministry of Commerce and Industry

Of the top ten trading partners, India ran a significant trade surplus with the United States (₹1,68,120 crore in FY 21), while it ran trade deficits with all its other major partners with China being the largest {(-)₹3,25,294} crore in FY 21).

Imports from the top 10 trading partners during FY 20 and 21 accounted for about half of the total imports made during the period **(Table 1.5).** Imports from seven out of ten major trading partners during FY 21 had shown a declining trend as compared with imports made during FY 20. The major decline of (-)37.05 *per cent* was in imports from Saudi Arabia during FY 21. Imports from three out of ten major trading partners had increased during the same period.

Table1.5: Imports from top 10 trading partners' year on year growth FY 21 over FY 20

Sl. No.	Name	FY 20 (₹ in crore)	% Share of total imports in FY 20	FY 21 (₹ in crore)	% Share of total imports in FY 21	Growth % FY 21 over FY 20
1	China	4,61,525	13.73	4,82,496	16.55	4.54
2	U S A	2,53,363	7.54	2,13,725	7.33	-15.65
3	UAE	2,14,447	6.38	1,96,351	6.73	-8.44
4	Hong Kong	1,19,999	3.57	1,12,218	3.85	-6.48
5	Saudi Arabia	1,90,245	5.66	1,19,759	4.11	-37.05
6	Singapore	1,04,394	3.11	98,220	3.37	-5.91
7	Germany	96,928	2.88	1,01,105	3.47	4.31
8	Switzerland	1,19,239	3.55	1,33,868	4.59	12.27
9	Indonesia	1,06,727	3.18	92,325	3.17	-13.49
10	Korea	1,10,883	3.30	94,476	3.24	-14.80
	Sub Total	17,77,752		16,44,541		
	Percentage		**52.89**		**56.40**	
	India's Total Imports	**33,60,954**	**100.00**	**29,15,958**	**100.00**	**-13.24**

Source: EXIM Data, Ministry of Commerce and Industry

1.8 Share of top five Commodity groups in Imports and Exports during FY 21

1.8.1 Growth of imports in FY 21 was led by five major commodity groups, namely,

(i) Mineral fuels and products of their Distillation (Chapter 27 of Customs Tariff)

(ii) Natural or Cultured Pearls, Precious or semi-precious stones, Gold and articles thereof (Chapter 71 of Customs Tariff)

(iii) Electrical machinery and equipment and parts (Chapter 85 of Customs Tariff)

(iv) Machinery and appliances and parts (Chapter 84 of Customs Tariff) and

(v) Organic chemicals (Chapter 29 of Customs Tariff)

These commodity groups accounted for 65 *per cent* share of the total imports made during FY 21 as depicted in **Table 1.6** below.

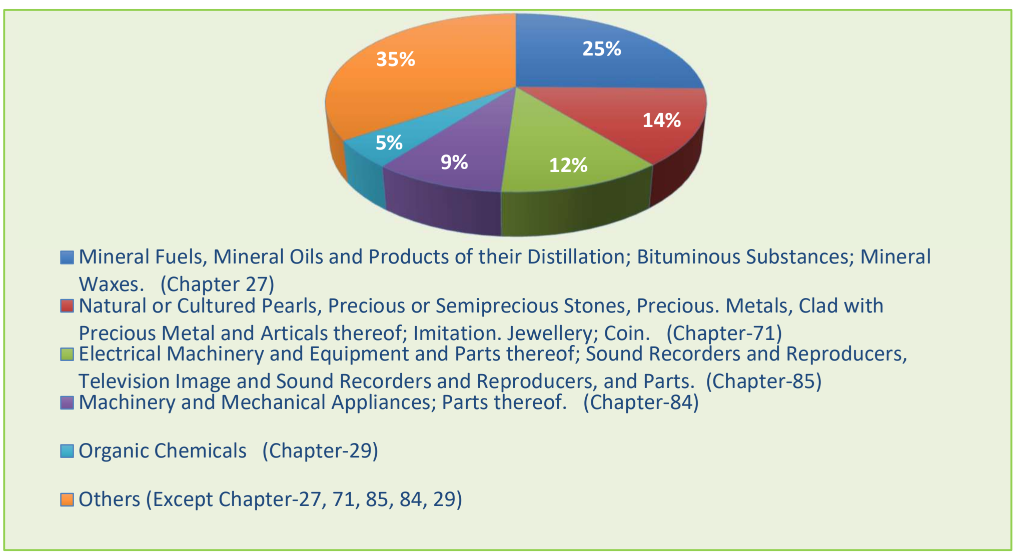
Table 1.6: Share of top five commodity groups in Imports during FY 21

Sl. No.	Name of the Commodity	Import Value (₹ in crore)	*Per Cent* in total Import
1	Mineral Fuels, Mineral Oils and Products of their Distillation; Bituminous Substances; Mineral Waxes. (Chapter 27)	7,37,396	25
2	Natural or Cultured Pearls, Precious or Semiprecious Stones, Precious Metals, Clad With Precious Metal and Articles thereof; Imitation Jewellery; Coin. (Chapter-71)	4,06,038	14
3	Electrical Machinery and Equipment and Parts thereof; Sound Recorders And Reproducers, Television Image and Sound Recorders and Reproducers, and Parts. (Chapter-85)	3,45,118	12
4	Machinery and Mechanical Appliances; Parts thereof. (Chapter-84)	2,74,025	9
5	Organic Chemicals (Chapter-29)	1,45,830	5
6	Others (Except Chapter-27, 71, 85, 84, 29)	10,07,550	35
	Total	**29,15,958**	100

Source: EXIM Data, Ministry of Commerce & Industry

The share of the top five commodity groups in imports during FY 21 is pictorially depicted in **Chart 5** below.

Chart 5: Share of top five commodity groups in imports during FY 21



Source: EXIM Data, Ministry of Commerce & Industry

1.8.2 The top five commodity groups exported during FY 21 were:

(i) Mineral fuels and products of their Distillation (Chapter 27 of Customs tariff)

(ii) Natural or Cultured Pearls, Precious or semi-precious stones, Gold and articles thereof (Chapter 71 of Customs tariff)

(iii) Pharmaceutical Products (Chapter-30 of Customs tariff))

(iv) Machinery and appliances and parts thereof (Chapter 84 of Customs tariff) and

(v) Organic chemicals (Chapter 29 of Customs tariff) in their respective order.

The share of the five major commodity groups in exports during FY 21 was 37 *per cent* of the total exports as depicted in **Table 1.7** below.

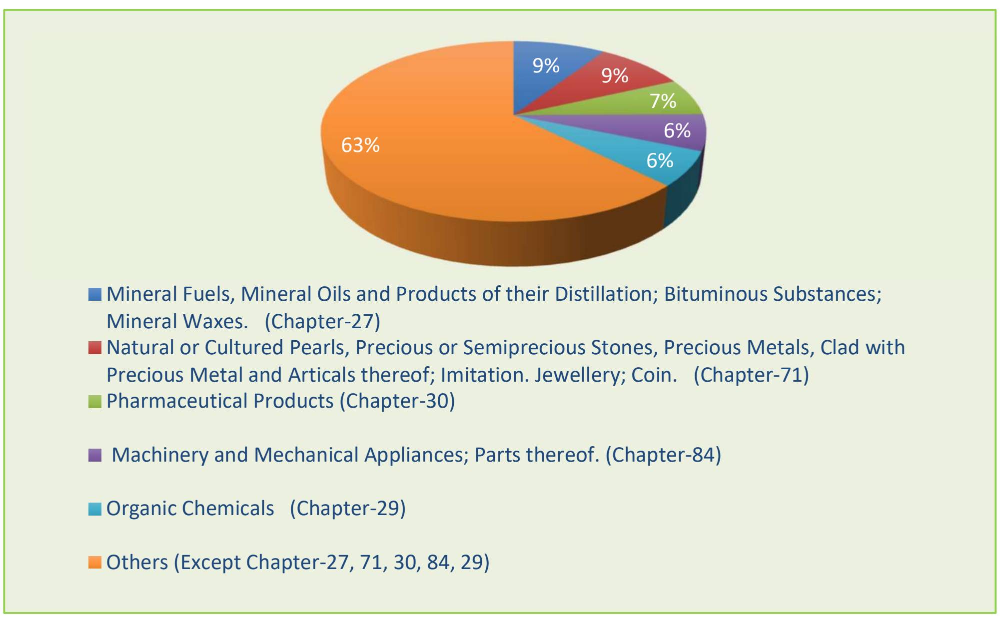
Table 1.7: Share of top five commodity groups in exports during FY 21

Sl. No.	Name Of The Commodity	Export Value (₹In Crore)	*Per Cent* To Total Export
1	Mineral Fuels, Mineral Oils and Products of their Distillation; Bituminous Substances; Mineral Waxes. (Chapter-27)	1,99,073	9
2	Natural or Cultured Pearls, Precious or Semiprecious Stones, Precious Metals, Clad With Precious Metal and Articles thereof; Imitation Jewellery; Coin. (Chapter-71)	1,92,969	9
3	Pharmaceutical Products (Chapter-30)	1,43,738	7
4	Machinery and Mechanical Appliances; Parts thereof. (Chapter-84)	1,40,162	6
5	Organic Chemicals (Chapter-29)	1,33,140	6
6	Others (Except Chapter-27, 71, 30, 84, 29)	13,49,959	63
	Total	**21,59,043**	**100**

Source: EXIM Data, Ministry of Commerce & Industry

The share of top five commodity groups in exports during FY 21 is pictorially depicted in **Chart 6** below.

Chart 6: Share of top five commodity groups in exports during FY 21



Source: EXIM Data, Ministry of Commerce & Industry

1.9 Performance of Special Economic Zones

1.9.1 The SEZ Act, 2005, supported by SEZ Rules, came into effect on 10 February, 2006, providing for simplification of procedures and for single window clearance on matters relating to Central as well as State Governments. In terms of the SEZ Act, 2005, an SEZ may be set up either jointly or severally by the Central Government, State Government or any person for manufacture of goods or rendering services or for both or as a Free Trade Warehousing Zone (FTWZ). Such proposals duly recommended by the concerned State Government are considered by the Board of Approval (BoA) for SEZs.

The main objectives of the SEZ Act are:

- generation of additional economic activity
- promotion of exports of goods and services
- promotion of investment from domestic and foreign sources
- creation of employment opportunities
- development of infrastructure facilities

While 427 SEZs were formally approved, 378[5] were notified as on 1 April 2021, of which only 265 SEZs were operational **(Annexure 1)** i.e. 62.06 *per cent* of the total approved SEZs**.**

1.9.2 The three parameters of SEZ performance (i) Export performance, (ii) Investment, and (iii) Employment for the period FY 17 to FY 21 are given in **Table1.8** below.

Table 1.8: Performance of SEZs

	FY 17	FY 18	FY 19	FY 20	FY 21
Export performance (₹ in crore)	5,23,637 (12%)	5,81,033 (11%)*	7,01,179 (21%)*	7,96,669 (14%)	7,59,524 (-4.66%)
Investment (₹ in crore)	4,33,142 (15%)	4,92,312 (14%)	5,07,644 (3%)	5,71,735 (13%)	6,17,499 (8%)
Employment (in person)	17,78,851 (12%)	19,96,610 (12%)	20,61,055 (3%)	22,38,305 (8%)	23,58,136 (5%)

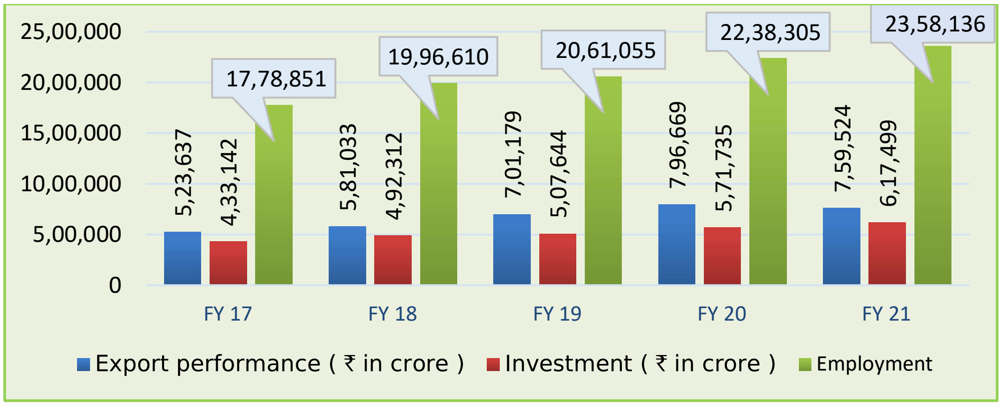
Source: Ministry of Commerce & Industry *Figures in bracket indicate YoY growth

Exports from SEZ, which stood at ₹7.59 lakh crore in FY 21, had overall growth of 45 *per cent* (₹2.36 lakh crore) over exports made in FY 17. The exports growth percentage had declined to (-)4.66 *per cent* in FY 21 over FY 20 with exports of ₹7.59 lakh crore. The decline during FY 21 may be attributed to the slowdown of the economic activities internationally because of the Corona pandemic. The YoY growth in exports had decreased

[5] 378 (including 7 Central Government and 12 State Government/Private Sector SEZs set up prior to the enactment of SEZ ACT 2005)

from 12 *per cent* in FY 17 to (-)4 *per cent* in FY 21 as compared to previous years **(Table 1.8, Chart 7 and Annexure 1).** The exports growth exhibit declining trend since FY 19 (21 *per cent*) to (-)4 *per cent* in FY 21.

Chart 7: Performance of SEZs



Source: Ministry of Commerce & Industry

1.9.3 A total of ₹6.17 lakh crore had been invested in SEZs during FY 21 which resulted in generation of employment for 23.58 lakh persons. Investment had registered a growth of 43 *per cent* in FY 21 over investment of ₹4.33 lakh crore made in FY 17. During the same period, employment generated had registered growth of 33 *per cent* **(Chart 7, Table 1.8).**

1.9.4 However, despite increasing trend in investment and employment generation in SEZ during FY 21, export performance had shown a decreasing trend.

1.10 Cost of Collection of Customs Receipts during FY 17 to FY 21

1.10.1 Cost of collection is the cost incurred on collection of Customs Duties and comprises of expenditure on Import/Export Trade control functions, preventive functions, transfers to reserve fund/deposit account and other expenditure.

1.10.2 The cost of collection of Customs receipts for FY 21 was 3.42 *per cent* of Customs receipts. The cost of collection of Customs receipts for the period from FY 17 to FY 21 is given in **Table 1.9** below.

Table 1.9: Cost of Collection during FY 17 to FY 21

Year	Expenditure on Revenue-cum Import /export and trade control functions (₹ in Cr.)	Expenditure on preventive and other functions (₹ in Cr.)	Transfer to Reserve, Fund, Deposit A/c and other expenditure (₹ in Cr.)	Total Expenditure (₹ in Cr.)	Customs receipts (₹ in Cr.)	Cost of collection as percentage of Customs Receipts
FY 17	544	2,771	7	3,322	2,25,370	1.47
FY 18	640	3,262	39	3,941	1,29,030	3.05
FY 19	743	3,667	9	4,419	1,17,813	3.75
FY 20	753	3,871	0	4,419	1,09,283	3.75
FY 21	783	3,809	21	4,613	1,34,750	3.42

Source: Finance Accounts of the Union Government for respective years

1.10.3 Expressed in terms of percentage of Customs receipts, cost of collection ranged between 1.47 *per cent* (FY 17) to 3.75 *per cent* (FY 19). The cost of collection had decreased to 3.42 *per cent* in FY 21 compared to FY 20 (3.75 *per cent*). The cost of collection is showing a decreased trend from FY 20.

1.11 Arrears of Customs Duties

1.11.1 Recovery of arrears is the overall responsibility of the jurisdictional Commissioners. They are required to review and monitor the functions of recovery cell functioning within the Commissionerates. As per Ministry of Finance circular dated 15 December 1997, a "Recovery Cell (RC)" should be created in each Customs Commissionerate for the purpose of making recovery of Government dues. Every year, recovery targets are fixed for each Commissionerate.

Board has issued instructions/Circulars relating to recovery of arrears under Central Excise, Service Tax and Customs from time to time. Considering the changes that have taken place, especially after the introduction of GST in July 2017, it has become imperative to update and revamp the procedure for recovery of arrears of Indirect Taxes and Customs.

1.11.2 The arrears of Customs Duty are duties which have been raised by the Department but have not been recovered due to various reasons like pendency of adjudication, disputed claims, and provisional assessments. Total Customs arrears amounted to ₹42,601 crore as on 31 March 2021. The Customs revenue arrears for FY 17 to FY 21 are depicted in the **Table 1.10** below:

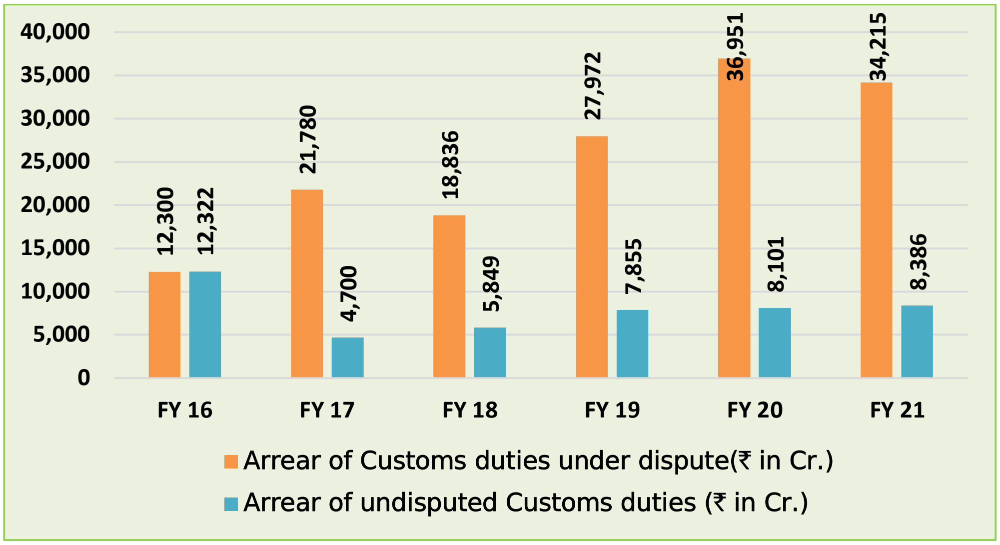
Table 1.10: Arrears of Customs Duties

Year	Arrear of Customs Duties under dispute (₹ in Cr.)	Arrear of undisputed Customs Duties (₹ in Cr.)	Total (₹ in Cr.)	Percentage of disputed arrears to total arrears	Percentage of undisputed arrears to total arrears
FY 17	21,780	4,700	26,480	82.25	17.75
FY 18	18,836	5,849	24,685	76.31	23.69
FY 19	27,972	7,855	35,827	78.08	21.92
FY 20	36,951	8,101	45,052	82.02	17.98
FY 21	34,215	8,386	42,601	80.32	19.68

Source: DG Performance Management (TAR), Customs, Central Excise & Services

1.11.3 The arrears of Customs Duties had risen steadily during FY 17 to FY 20 except in FY 18. The total arrear of Customs revenue pending as on March 2021 (₹42,601 crore) had decreased by (-)5.44 *per cent* in comparison to pendency as on March 2020 (₹45,052 crore). The overall arrears in Customs Duties have grown by 60 *per cent* in FY 21 compared to FY 17.

Chart 8: Arrears of Customs Duties



Source: DG Performance Management (TAR), Customs, Central Excise & Services

1.11.4 Amount of arrears under dispute as a proportion to total arrears fell slightly from 82.25 *per cent* in FY 17 to 80.32 *per cent* for the FY 21 and stood at ₹42,601 crore.

1.11.5 Details of target fixed and achievement for Recovery of Customs Duties arrears during FY 17 to FY 21 are depicted in the **Table 1.11** below:

Table 1.11: Recovery Target fixed and Achieved during FY 17 to FY 21

Year	Arrear Target (₹ in Cr.)	Target Achieved (₹ in Cr.)	Target Shortfall (₹ in Cr.)	Target Excess achieved (₹ in Cr.)	Percentage of Shortfall	Percentage of Excess achieved
FY 17	1,000	1,284	-	284	-	28.44
FY 18	1,000	1,092	-	92	-	9.25
FY 19	4,315	2,159	(-)2,156	-	(-)49.97	-
FY 20	4,044	1,952	(-)2,092	-	(-)51.73	-
FY 21	4,108	1,128	(-)2,980	-	(-)72.54	-

Source: DDM Portal, CBIC

The above table depicted that the targets fixed by CBIC to recover Customs Duties Arrears were not being achieved by the Department. The shortfall in target was (-)72.54 *per cent* in FY 21. There was continuous shortfall in achieving the targets fixed to recover Customs Duties arrears since the last three years.

1.11.6 Out of total 20 Zones {11 Customs Zones and Nine combined (Customs and GST Zones)}, 10 Zones accounted for 83.51 *per cent* (₹35,578 crore) of total arrears pending (₹42,601 crore) during FY 21 as shown in **Table 1.12** overleaf.

Table 1.12: Zone wise Arrears of Customs revenue as on 31 March 2021

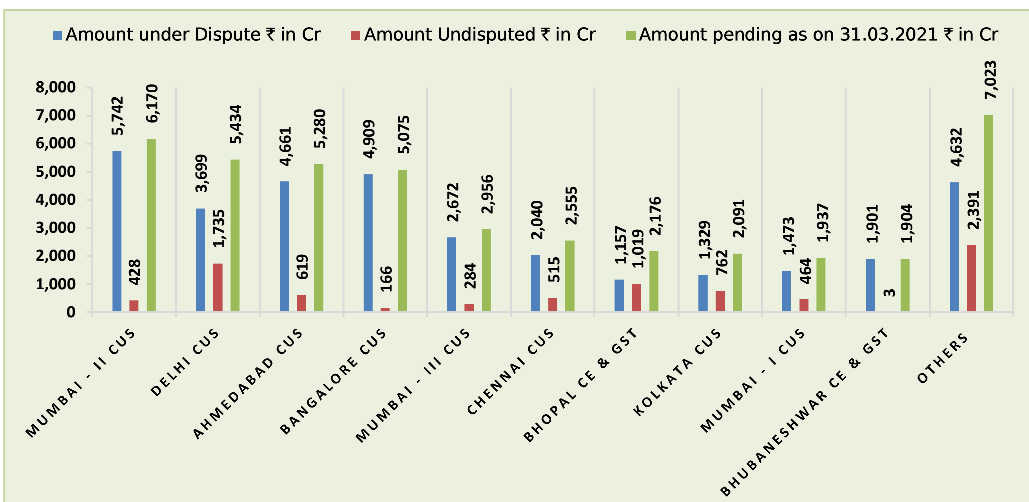
Sl. No.	CC Zones	Amount under Dispute ₹ in Cr	Amount Undisputed ₹ in Cr	Amount pending as on 31.03.2021 ₹ in Cr
1	Mumbai - II Customs	5,742	428	6,170
2	Delhi Customs	3,699	1,735	5,434
3	Ahmedabad Customs	4,661	619	5,280
4	Bangalore Customs	4,909	166	5,075
5	Mumbai - III Customs	2,672	284	2,956
6	Chennai Customs	2,040	515	2,555
7	Bhopal CE & GST	1,157	1,019	2,176
8	Kolkata Customs	1,329	762	2,091
9	Mumbai - I Customs	1,473	464	1,937
10	Bhubaneshwar CE & GST	1,901	3	1,904
	Sub-total	**29,582**	**5,996**	**35,578**
11	**Others**	**4,632**	**2,391**	**7,023**
	Grand Total	**34,215**	**8,386**	**42,601**

Source: DG Performance Management (Tax Arrears Recovery), Customs, Central Excise & Services

1.11.7 Chief Commissionerates of Customs, Mumbai-II had the highest quantum of arrears of Customs Duty in FY 21, followed by Delhi, Ahmedabad, Bengaluru, Mumbai-III, Chennai and Bhopal Customs/CE-GST Zones in that order.

1.11.8 Undisputed arrears (₹8,386 crore) pending as on 31 March 2021 were 19.68 *per cent* of total arrears (₹42,601 crore).

Chart 9: Zone wise Arrears of Customs revenue as on 31 March 2021



Source: DG Performance Management (Tax Arrears Recovery), Customs, Central Excise & Services

1.11.9 Age wise Arrears of Customs revenue for FY 17 to FY 21 are depicted in the **Table 1.13** overleaf.

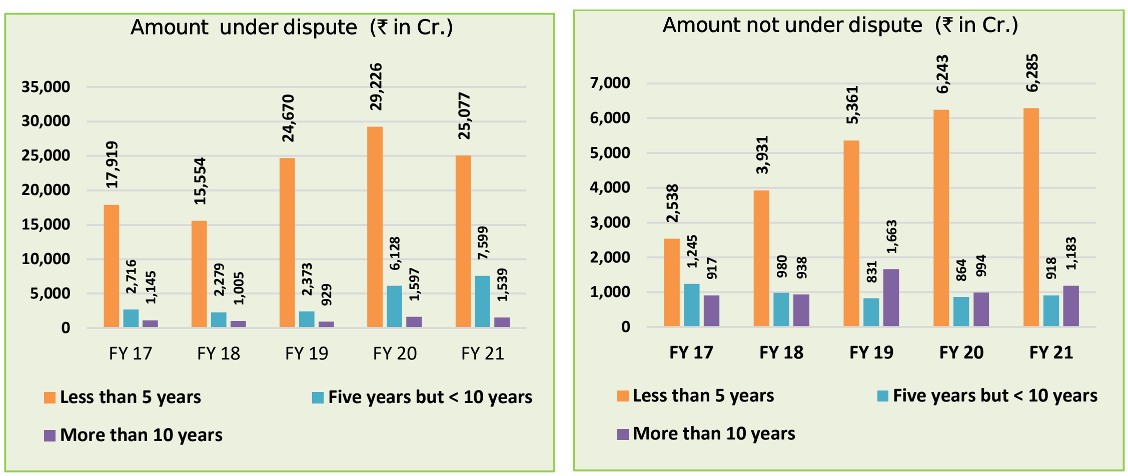
Table 1.13: Age wise pendency of Arrears of Customs Revenue for FY 17 to FY 21

Year	Amount under dispute (₹ in Cr.)				Amount not under dispute (₹ in Cr.)				Grand total (col.5+9)
	Less than 5 years	Five years but < 10 years	More than 10 years	Total (Col.2+3+4)	Less than 5 years	Five years but < 10 years	More than 10 years	Total (Col.6+7+8)	
1	2	3	4	5	6	7	8	9	10
FY 17	17,919	2,716	1,145	**21,780**	2,538	1,245	917	**4,700**	**26,480**
FY 18	15,554	2,279	1,005	**18,836**	3,931	980	938	**5,849**	**24,685**
FY 19	24,670	2,373	929	**27,972**	5,361	831	1,663	**7,855**	**35,827**
FY 20	29,226	6,128	1,597	**36,951**	6,243	864	994	**8,101**	**45,052**
FY 21	25,077	7,599	1,539	**34,215**	6,285	918	1,183	**8,386**	**42,601**

Source: DG Performance Management (Tax Arrears Recovery), Customs, Central Excise & Services

Age analysis of undisputed arrears revealed that out of total ₹8,386 crore, ₹2,101 crore (25 *per cent*) were lying unrecovered for more than five years. An amount of ₹1,183 crore was pending for recovery for more than ten years.

Chart 10: **Age wise pendency of disputed vis-à-vis undisputed arrears**



Source: DG Performance management (Tax Arrears Recovery), Customs, Central Excise & Services

1.11.10 Further, in the beginning of FY 21 (as on April 2020), there were 8,916 defaulters in 20 Zones from whom Customs revenue of ₹3,866 crore was due for recovery. During FY 21, an addition of 2,995 new defaulters (Revenue due of ₹1,564 crore) was made. Therefore, as on March 2021, there were 10,920 defaulters and a total amount of ₹5,104 crore was at risk. The Ministry needs to take effective steps for strengthening the Department's recovery mechanism.

1.12 Internal Audit

1.12.1 The internal audit of CBIC and its field formations comprises of technical audits conducted by Directorate General of Audit {DG (Audit)} and audit of payments and accounts conducted by the Principal Chief Controller of Accounts (Pr. CCA). DG (Audit) has its Headquarters located in Delhi, headed by Director General (Audit) with seven zonal units at Ahmedabad, Bangalore, Chennai, Delhi, Hyderabad, Kolkata and Mumbai, each headed by an Additional Director General. Every zonal unit of DGA has area wise jurisdictional control over zonal units of the Chief Commissioner and Commissionerates there under.

1.12.2 During FY 21, DG (Audit) had planned two types of audit i.e. Transaction Based Audit (TBA)-PCA and Premises Based Audit (PBA). For TBA, a total of 3,10,495 BsE were planned to be audited. Out of these, audit was conducted for 3,36,019 BsE which were more than the audit planned as it included some BsE from the previous year. Out of duty of ₹324 crore detected by Audit, duty of ₹59.92 crore has been recovered.

1.12.3 For PBA, a total of 176 units were planned for audit. Out of these, audit was conducted for 75 units which were less than the audit planned. Duty of ₹354 crore was detected by DG (Audit) during PBA. Out of that, duty of ₹82.51 crore had been recovered.

1.12.4 Pr. CCA conducts internal audit of payments and accounts of CBIC and its field formations. According to information given by CBIC of the audit comments raised by Pr. CCA during 2020-21, 23 observations amounting to ₹3,335 crore[6] were pending as on 31 March 2021. These mainly consisted of the following irregularities:

a) Non recovery of dues from Government Department/State Government bodies/Private parties/ Autonomous bodies- ₹396.32 crore;

b) Blocking of Government revenue- ₹16.08 crore

c) Other irregularities-₹2,922.70 crore

There was a decreasing trend in the pending amount in FY 21 (₹3,335.10 crore) over FY 20 (₹18,067 crore).

1.13 Tax Evasion and Seizures

1.13.1 According to information furnished by DRI, the number of duty evasion cases moved up from 667 in FY 17 to 805 in FY 21 while the value increased from ₹1,422 crore to ₹3,488 crore during the same period (**Annexure 2)**. However, details of recoveries made during FY 21 in cases detected were not provided.

1.13.2 According to the profile of seizures by value of specified major commodities during FY 21, as per DRI , New Delhi, the major commodities

[6] Pr. CCA No. IA /NZ/HQ/CAG/Information/2021-22/828 dated 03 June 2022

involved are Iron Ore Fines, Ready Made Garments, Denatured Ethyl Alcohol, Tunnel Boring Machines and its backup system, grab type ship unloader, Self-Adhesive Printed films etc. The major precious commodity seized by DRI was gold valued at ₹450.42 crore.

1.14 Human Resource

1.14.1 Reorganisation of Human Resource at all level for Customs formations in CBIC was last done in the year 2017-18. Overall vacancies of 12,329 (as on January 2021), Customs officers/officials posts have increased to 12,512 (as on July 2021). These vacant posts constituted 46.90 *per cent* of the total sanctioned strength (26,677).

Table 1.14: Human Resource in CBIC

As on date	Sanctioned Strength				Working Strength				Vacancy							
	Gr. A	Gr. B	Gr. C	Total Gr. A, B & C	Gr. A	Gr. B	Gr. C	Total Gr. A, B & C	Gr. A	%	Gr. B	%	Gr. C	%	Total Gr. A, B & C	Overall %
01.01.2021	1,278	16,811	8,588	**26,677**	856	9,652	3,840	**14,348**	422	**33.02**	7,159	**42.59**	4,748	**55.29**	**12,329**	**46.22**
01.07.2021	1,278	16,811	8,588	**26,677**	806	9,592	3,767	**14,165**	472	**36.93**	7,219	**42.94**	4,821	**56.14**	**12,512**	**46.90**

Source: Directorate General of Human Resources Development, CBIC

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, 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 Foreign Trade Policy (FTP) and specific compliance areas reviewed by audit from time to time. The transactions covered in this report pertain to Financial Year (FY) 21, 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 the 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 SEZs[7].

[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 (Electronic Data Interchange (EDI) linked, non-EDI and SEZ) 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 nine 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 2021, 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. 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 21 requisitioned (June 2019/July/September 2020) by Audit in terms of a Memorandum of Undertaking (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 32 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 21 and in some cases the earlier year also.

2.5 Audit sample

During FY 21, a test check of transactions was carried out in 32 out of 70 (46 *per cent*) Commissionerates. The audit of Commissionerates of Customs covered 22 out of 44 Executive Commissionerates, 07 out of 13 Preventive Commissionerates, one out of nine Appeal Commissionerates and two out of four Audit Commissionerates. In addition, Audit of licenses/authorisations under various schemes of FTP granted by the DGFT through its RAs was done in 17 out of 24 RAs.

Table 2.1: Audit Universe and Sample

Ministry	Audited Entity	Audit Universe	Audit Sample
Ministry of Finance (CBIC, Department of Revenue)	Chief Commissionerates Customs & Preventive	11[8]	6 (55 %)
	Principal Commissionerate/ Commissionerate	70	32(46 %)
	Executive Commissionerate	44	22 (50%)
	Exclusive Preventive Commissionerate	13	7 (54%)
	Appeal Commissionerate	9	1 (11%)
	Audit Commissionerate	4	2 (50%)
Ministry of Commerce and Industry (DGFT, Department of Commerce)	Regional Authority	24	17 (71%)
	Development Commissioner	8[9]	6 (75%)

2.6 Audit efforts

2.6.1 During FY 21, 198 Inspection Reports were issued to the respective Commissionerates/RAs/DCs containing 1,424 observations and carrying a total revenue implication of ₹441 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 105 audit observations involving revenue

[8]Customs Zones-11 (Ahmedabad Customs, Bangaluru Customs, Chennai Customs, Trichy Preventive, Delhi Customs, Delhi Preventive, Kolkata Customs, Patna Preventive, Mumbai-I, Mumbai-II, Mumbai-III).

[9]Santacruz Electronics Export Processing Zone (SEEPZ*)*, Kandla SEZ, Madras SEZ, Cochin SEZ, Visakhapatnam SEZ, Noida SEZ, Falta SEZ and SEZ-Indore

implication of ₹86 crore noticed during FY 21. The audit observations were issued to the Ministry during April 2021 to September 2022.

2.6.3 The Ministries have responded in 50 out of 105 cases issued. Additionally, in 43 cases, responses were received from the local Customs Commissionerates/RAs. The Ministries/ Departments have accepted 93 paragraphs and taken rectificatory action involving money value of ₹71 crore in the form of issue of SCNs, adjudication of SCNs and have reported recovery of ₹65 crore in 59 cases of incorrect assessment of Customs Duties.

2.6.4 In Chapter III, Audit reported significant findings noticed during test check of BsE and other records at selected Commissionerates with a revenue implication of ₹75 crore. The audit findings generally pertained to "Misclassification of imports (Paragraphs 3.6.1 to 3.6.15)", "Incorrect application of notifications (Paragraphs 3.7.1 to 3.7.5)" and "Other irregularities (Paragraphs 3.8.1 to 3.8.3)". 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) Misclassification of "Mandarin (kinow) juice" as "Orange juice" (Para 3.6.1)

(ii) Misclassification of Machines for the reception, conversion and transmission or re-generation of voice, images or other data, including switching and routing apparatus (Paragraphs 3.6.3 and 3.6.6)

(iii) Incorrect application of IGST rate on parts of Diesel engines imports (Para 3.7.1)

(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 'Network Interface Cards' (Para 3.6.4).

(ii) Misclassification of "Smart watches" (Para 3.6.5)

(iii) Non-recovery of drawback in cases of un-realised export proceeds (Para 3.8.1).

2.6.5 In Chapter IV, Audit reported irregularities with a revenue implication of ₹10.86 crore, particularly the improper issue of MEIS and SEIS duty scrips to exporters for ineligible exports and services as per FTP.

2.7 Revenue Impact of Audit Reports

In the five reports pertaining to FY 17 to FY 21, Audit has covered 547 audit paragraphs (**Table 2.2**) involving ₹16,018 crore. Government has accepted observations in 503 audit paragraphs involving ₹713 crore and has recovered ₹214 crore in 362 paragraphs as on September 2022.

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 17	99	85	91	78	63	37
FY 18	92	4,795	85	368	56	31
FY 19	114	10,909	104	69	83	41
FY 20	137	143	130	127	101	40
FY 21	105	86	93	71	59	65
Total	**547**	**16,018**	**503**	**713**	**362**	**214**

Source: Previous year's Audit Reports and Action Taken Notes

CHAPTER III

Non- compliance to provisions of Customs Act, Customs Tariff Act and Tariff notifications

3.1 Goods imported in a vessel/aircraft into India attract Customs Duty and unless these are not meant for Customs clearance at the port/airport of arrival and are intended for transit to another Customs station or to any place outside India, detailed Customs clearance formalities of the landed goods have to be followed by the importers. The importer is required to file a Bill of Entry (BE) giving details of the cargo, imported tariff classification and applicable duty, and other required information. Under self-assessment, the BE can be filed electronically through ICEGATE[10] into the Indian Customs Electronic Data Interchange (EDI) system, referred to as ICES[11]. In the non-EDI system, the BE is filed manually by the importer along with a prescribed set of documents.

3.2 The assessment function of the Customs Authorities is to determine the duty liability, taking due note of any exemptions or benefits claimed under different export promotion schemes. They also have to check whether there are any restrictions or prohibitions on the goods imported and if they require any permission/license/permit etc., and if so, whether these requirements have been met. Assessment of duty essentially involves proper classification of the goods imported in the Customs Tariff, having due regard to the rules of interpretations, chapter and sections notes etc., and determining the duty liability. It also involves correct determination of value where the goods are assessable on ad valorem basis.

3.3 Bills of Entry (BsE) filed electronically into ICES through a Customs House Service Centre or web based ICEGATE are transmitted by ICES to the RMS[12]. The RMS processes the data through a series of

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[10]ICEGATE stands for the Indian Customs Electronic Commerce/Electronic Data interchange (EC/EDI) Gateway. ICEGATE is a web based portal through which the Department offers a host of services, including electronic filing of the BE (import goods declaration), Shipping Bills (export goods declaration), e-payment, on-line registration and other data and links to various other important websites/information pertaining to the Customs business

[11]The Indian Customs EDI System (ICES)has two aspects: (i) Internal Automation of the Custom House for a comprehensive, paperless, fully automated Customs clearance system (ii) Online, real-time electronic interface with the trade, transport, banks and regulatory agencies concerned with Customs clearance of import and export cargo through ICEGATE.

[12]Risk Management System is an IT driven system with the primary objective to strike an optimal balance between facilitation and enforcement and to promote a culture of self-compliance in Customs clearances. It uses an automated solution to identify the relevant criteria for assessing the risk associated with trade transactions and applies criteria in a

automated steps and results in an electronic assessment. This assessment determines whether the BE will be taken-up for action, i.e. manual appraisal by assessing officer or examination of goods, or both, or be cleared after payment of duty and Out of Charge directly, without any assessment and examination. Where necessary, RMS will provide instructions for the Appraising Officer, Examining Officer or the Out-of-Charge Officer. Additionally, the Local Risk Management (LRM) committee may decide to put additional interventions in place at the local level for interdiction of imports. The system of clearances of imports through RMS based ICES and/ or assessment by Customs Authorities should ensure that the conditions prescribed in the applicable notifications are fully met before exemptions could be granted.

3.4 Audit product

Pan India data requisitioned by audit for import and export transactions for the FY 19, 20 and 21 was not received, despite repeated requests. In the absence of Pan India transactional data, audit was conducted through the CRA Module interface of ICES, which had its limitations. The limitations in the CRA and ICRA modules were also communicated to the CBIC. Accordingly, the conclusions in this chapter on compliance audit were based on limited audits carried out by physically visiting the 32 Commissionerates.

Significant audit observations of non-compliance to provisions of the Customs Act and Tariff notifications with revenue implication of ₹10 lakh or more noticed during test check of documents in the Customs Commissionerates are covered in this Chapter. These observations (88 cases) involving revenue of ₹75 crore were issued to the Ministry during June to September 2022. Minor observations were issued to the respective Commissionerates through Inspection Reports for corrective action.

The Ministry/ Department furnished replies in 82 cases, accepting observations in 80 cases (₹65 crore) and reported recovery of ₹62 crore in 48 cases.

3.5 The cases of non-compliance noticed during audit could be broadly categorized as follows:

I. Misclassification of imports (Paragraphs 3.6.1 to 3.6.15).

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systematic manner to determine the level of risk for each transaction and assigns the level of Customs intervention according to the level of risk and available resources.

II. Incorrect application of notifications (Paragraphs 3.7.1 to 3.7.5).

III. Other irregularities (Paragraph 3.8).

The findings are discussed in the subsequent paragraphs in details.

3.6 Misclassification of Imports

Classification of commodities imported is governed under the provisions of the Customs Tariff Act 1975. Levy of applicable duties is dependent on classification applied to the imported commodity.

During test check of records, Audit noticed short levy of duty due to misclassification in 45 cases. These 45 cases of misclassification, each involving revenue implication of ₹10 lakh or more, having total revenue implication of ₹58 crore, have been covered in this chapter. Individual cases of misclassification of imports with money value less than ₹10 lakh have been reported to the local Commissionerates through field Inspection reports.

Out of the 45 cases of misclassification noticed in 21 Commissionerates, 15 cases involving total revenue implication of ₹53 crore are discussed in the following paragraphs and the remaining cases involving total revenue implication of ₹5.14 crore are listed in **Annexure 3**. The Department had accepted 40 cases involving revenue implication of ₹52.48 crore and reported recovery of ₹53.40 crore in 20 cases.

3.6.1 Misclassification of "Mandarin (kinow) juice" as "Orange juice"

Juice of any other single citrus fruit e.g. "Mandarin (kinow) juice" is classifiable under CTH 20093900 and attract BCD at the rate of 50 *per cent*.

For import of "Mandarin (kinow) juice" valued at ₹30.83 crore (February 2018 to February 2021) through JNCH Commissionerate Mumbai Zone-II under 58 BsE, Audit test checked 58 BsE and pointed out short levy of duty amounting to ₹3.04 crore in all 58 BsE.

Analysis of BsE revealed that M/s. A Beverage Ltd., and six others imported (February 2018 to February 2021) 58 consignments of "Mandarin (kinow) juice" from Belgium through JNCH Commissionerate, Mumbai. The imported goods were incorrectly classified under CTH 20091100/20091900 as 'orange juice' instead of under CTH 20093900- "Juice of any other single citrus fruit". The Department cleared imported juice levying BCD at the rate of 35 *per cent* instead of applicable 50 *per cent*. Audit noticed that in Customs Tariff, “Orange fruit (CTH 08051000)” and “Mandarin fruit (CTH 08052100)” are classified under different CTHs and accordingly, their juice should also be classified under two different tariff headings and could not be treated as the same. The misclassification resulted in short levy of duty to the tune of ₹3.05 crore.

On this being pointed out (March 2021), the Department accepted (August 2021) the audit observation and issued demand notices to the importers for payment of duty. Further progress is awaited (September 2022).

3.6.2 Organic chemicals misclassified as ‘Animal fodder’

‘Organic Chemicals’ are classified under Chapter 29 of the Customs Tariff Act. Accordingly, amino acids are classifiable under HS code 2922, Butanoic acid and its salt, esters are classifiable under HS code 29156010, Methionine is classifiable under HS code 29304000, Nicarbazine is classifiable under HS code 29335990 as Other Heterocyclic compounds with nitrogen hetero – atom(s) and Folic acid is classifiable under HS code 29362910. All these organic chemicals are leviable to BCD at the rate of 7.5 *per cent* and IGST at the rate of 18 *per cent*. However, a preparations of the kind used in animal feeding are classifiable under CTH 2309 and attract BCD at the rate of 20 *per cent* and exempted from IGST {Notification No.02/2017-Integrated Tax (Rate) dated 28 June 2017, Sl. No.2}.

For imports of goods under CTH 2309 during October 2019 to September 2020, total 365 BsE had been filed involving imports worth ₹108.99 crore through ICD, Sanathnagar, Hyderabad. Audit test checked 131 BsE involving imports worth ₹59.98 crore and pointed out short levy of duty amounting to ₹2.56 crore in 65 BsE.

M/s. B Farms Pvt. Ltd. and three others had imported (October 2019 to September 2020) 65 consignments of the goods ‘L-arginine feed grade/Rhodimet AT 88/L-Valine & others-’ under CTH 2309 through Commissionerate of Customs (Import), ICD, Sanathnagar, Hyderabad. The Department cleared the goods misclassifying them under Chapter 23 (CTH 23099090 as Animal fodder) and levied BCD at the rate of 20 *per cent* and exempted IGST under Notification No.02/2017-Integrated Tax (Rate) dated 28 June 2017.

Audit scrutiny of BsE revealed that the imported goods being ‘Organic Compounds’, merit classification under chapter 29 and not under Chapter 23 of the Customs Tariff. Accordingly, BCD was leviable at the rate of 7.5 *per cent* and IGST at the rate of 18 *per cent*. The misclassification resulted in short levy of duty amounting to ₹2.56 crore which was recoverable from the importers along with applicable interest.

On this being pointed out (August 2020), the Department reported (September 2020/May 2021) recovery of ₹12.06 lakh along with interest from one importer (M/s. C Therapeutics Pvt. Ltd.) and issued pre-notice consultation to the remaining three importers. Further progress was awaited (September 2022).

3.6.3 'Optical transponder' misclassified as parts of machines for the reception, conversion and transmission or re-generation of voice, images or other data

'Optical transponder' being "switching and routing apparatus" merits classification under CTH 85176290-as other machines for the reception, conversion and transmission or re-generation of voice, images and are leviable to BCD at the rate of 20 *per cent*. 'Parts' of these machines are classified under CTH 85177090 and exempted from BCD under Notification No. 57/2017-Customs (Sl. No. 5) dated 30 June 2017.

During the period 2019-20, a total of 121 BsE were filed for import of 'OSN-10GTX-PONDER 1550NM 192 2T HZLC/PC-A worth ₹95.44 crore through Commissionerate of Customs (Port), Kolkata. Audit test checked 50 BsE worth ₹57.12 crore and pointed out short-levy of duty amounting to ₹1.89 crore in five BsE due to misclassification.

M/s. D Ltd. imported (December 2019 to January 2020) five consignments of 'OSN-10GTX-PONDER 1550NM 192 2T HZLC/PC-A' through Commissionerate of Customs (Port), Kolkata. The Department cleared the imported goods misclassifying them under CTH 85177090 as parts of telecommunication/networking equipment and exempted from BCD under Notification No. 57/2017-Customs dated 30 June 2017.

Audit scrutiny revealed that the imported goods being "switching and routing apparatus" in itself having a distinct function rather than being a 'part' of any equipment, which merit classification under CTH 85176290 instead of under CTH 85177090. Accordingly, BCD was leviable at the rate of 20 *per cent* instead of 'Nil'. As substantiating evidence, it was also observed that M/s. E India, Hong Kong, in the supporting invoices for two BsE had classified transponder under CTH 85176290. Similarly, M/s. D Ltd. imported a similar item i.e., transceiver, during the same period through Kolkata (Sea) INCCU1 under CTH 85176290.

The misclassification resulted in short levy of the duty amounting to ₹1.89 crore which was recoverable from the importer along with applicable interest.

This was pointed out to the Ministry in July 2022; their reply was awaited (September 2022).

3.6.4 'Network Interface Cards' misclassified as 'Parts of Machines for reception, transmission of voice, images or data'

'Network Interface Cards' for transmission or reception, conversion of voice, images or other data, including apparatus for communication in a wired or wireless network (Network Interface Cards -Internal Part of Modem) are classifiable under CTH 85176290 and attracted BCD at the rate of 20 *per cent*.

During the period December 2018 to January 2019, a total of 6,371 BsE had been filed for import of 'Network Interface Cards & other' under CTH 85177090 involving import worth ₹4,896 crore through Commissionerate of Customs (Import), ACC, New Delhi. Audit filtered the whole data for import of 'Network Interface Cards' and pointed out short levy of duty amounting to ₹89.39 lakh due to misclassification of goods in five BsE.

M/s. F Meters Ltd. and M/s. G Communications India Pvt. Ltd. imported (December 2018 to January 2019) five consignments of 'Network Interface Cards' under CTH 85177090 through Commissionerate of Customs (Import), ACC, New Delhi. The Department cleared the goods accepting the declaration of importer and allowed exemption from BCD under Notification No.57/2017-Customs -Sl.No.5 dated 30 June 2017 as 'Parts of Machines for the reception, conversion and transmission of voice, images or data including switching and routing apparatus'.

Audit scrutiny revealed that the imported goods were 'switching and routing apparatus' and not parts which merit classification under CTH 85176290 instead of under CTH 85177090. Accordingly, the imported goods were leviable to BCD at the rate of 20 *per cent* and would not be eligible for exemption to the aforesaid notification. The misclassification resulted in short levy of duty amounting to ₹89.39 lakh which was recoverable from the importers along with applicable interest.

On this being pointed (February/May 2019), the Department intimated (July 2021) that the case was adjudicated, confirming a demand of ₹89.91 lakh. Further progress is awaited (September2022).

3.6.5 "Smart watches" misclassified as "Other wrist watches"

"Wrist Wearable Devices" with many functions other than those related to time keeping like calling, BP monitor, Heart pulse rate etc. (commonly known as smart watches) are classifiable under CTH 85176290 and attract BCD at the rate of 20 *per cent* and IGST at the rate of 18 *per cent*.

Imports under CTH 91021900 valued at ₹33.78 crore were made during the period February to March 2019 through ACC Import Commissionerate, Delhi under 156 BsE. Audit filtered the whole data for import of "G Watch (Smart Watch)" and noticed short levy of duty by ₹86.63 lakh in two BsE involving imports valued at ₹3.33 crore.

M/s. H India Pvt. Ltd. imported (March 2019), two consignment of "G Watch (Smart Watch)" valued at ₹3.33 crore through ACC Import Commissionerate, Delhi. The goods were misclassified under CTH 91021900 as "Other wrist watches not having functions other those related to time keeping" and exempted from BCD under Notification No. 152/2009, Sl. No. 955 dated 31 December 2009.

Audit scrutiny revealed that imported items are "Smart Watches' which are classifiable under CTH 85176290. The imported goods are not eligible for benefit under Notification No. 152/2009 because the exemption was for simple wrist watches and not for "smart watches" which can perform many functions beside those related to time keeping. Thus, mis-classification of imported goods resulted in short levy of duty by ₹86.63 lakh.

On this being pointed out (March 2019) the Department adjudicated the case and confirmed (October 2020) a demand of ₹86.63 lakh along with interest and penalty of ₹8 lakh.

3.6.6 'Apparatus for transmission or reception of voice images or data' misclassified as "Automatic data processing units other than those of Microcomputer/large frame computer"

'N Port Device Server/Device Server/Switches being "switching and routing apparatus" meant for communication in Ethernet LAN' merits classification under CTH 85176990 as "Other apparatus for the transmission or reception of voice, images or other data" and are leviable to BCD at 10 *per cent* (till 10 October 2018) and at 20 *per cent* subsequently.

(A) During the period 2018-19, a total of 18 BsE had been filed for import of goods 'Ethernet switch, items meant for communication in Ethernet LAN, Serial to fibre optical converter etc.' valuing at ₹4.43 crore under CTH 84715000/85365090 through Commissionerate of Customs (ACC & Airport), Bengaluru. Audit test checked 14 BsE and pointed out short levy of duty amounting to ₹70.98 lakh in all the 14 BsE involving imports worth ₹3.99 crore as described in the subsequent paragraphs.

M/s. I Pvt Ltd, Bengaluru imported (March 2018 to July 2019) 13 consignments of 'NPort Device Server/Device Server' through Commissionerate of Customs (ACC & Airport), Bengaluru. The importer declared the goods under CTH 84715000 as "Automatic data processing units other than those of Micro-computer (CTH 847141)/ large frame computer (CTH 847149)". The Department accepted the declaration of the importer and cleared the goods under CTH 84715000 levying BCD at the rate of 'Zero' *per cent* under Notification No. 24/2005 (Sl. No. 8), allowing benefit of exemption to specified goods.

Audit scrutiny revealed that the goods 'NPort Device Server/Device Server being items meant for communication in Ethernet LAN' merits classification under CTH 85176990 and were not eligible for exemption benefit under Notification No.24/2005 as CTH 85176990 was not covered. The misclassification resulted in short levy of duty amounting to ₹53.50 lakh which was required to be recovered from the importer along with applicable interest.

(B) In a similar case, M/s. J Limited, Bengaluru imported (January 2019) one consignment of the goods 'Switch 7210-SAS Card Sys-72-ALMP-10067-HF' with assessable value of ₹1.64 crore through Commissionerate of Customs (ACC & Airport), Bengaluru. The importer declared the goods under CTH 85365090 as "Other switches for use in electrical circuits". The Department accepted the declaration of importer and assessed and cleared the goods under CTH 85365090 levying BCD at the rate of 10 *per cent*. Audit scrutiny revealed that the goods 'Switch 7210-SAS Card Sys-72-ALMP-10067-HF' merit classification under CTH 85176990 as "Other machines for the reception, conversion and transmission or regeneration of voice, images or other data" and are leviable to BCD at the rate of 20 *per cent*. The misclassification resulted in short levy of duty of ₹17.48 lakh.

Thus, total short levy of duty of ₹70.98 lakh was required to be recovered from the importers along with applicable interest.

On this being pointed out (January/August/September 2020/March and October 2021), the Department stated (June 2021) that an amount of ₹3.43 lakh had been recovered along with applicable interest from M/s. I Pvt Ltd, Bengaluru in one BE out of 13 BsE and confirmed (December 2021) a demand of ₹21.37 lakh against M/s. J. Limited, Bengaluru. Further progress is awaited (September 2022).

3.6.7 Life vest made of material other than cotton misclassified as 'Ships, Boats and floating structures' of Chapter 89

"Life jackets of material other than cotton" are classifiable under CTH 63072090 and attract BCD at the rate of 10 *per cent* and IGST at the rate of 12 *per cent* (Sl. No.171 of Schedule II of Notification No.1/2017 Integrated Tax (Rate) dated 28 June 2017).

For imports under CTH 89071000 valued at ₹24.06 crore made during the period March 2019 to March 2021 through NCH, New Delhi (Import Commissionerate) under 85 BsE, Audit filtered the whole data for import of 'Life Vest' and noticed short payment of duty amounting to ₹96.81 lakh in two BsE involving imports valued at ₹5.01 crore.

M/s. K Control Unit imported (August 2020) two consignments of 'Life Vests' valued at ₹5.01 crore. The goods were misclassified under CTH 89071000 "Other floating structures – inflatable rafts" and assessed to BCD at the rate of 'NIL' and IGST at the rate of 5 *per cent* {Sl. No.251 of Schedule I of Notification No. 1/2017 Integrated Tax (Rate) dated 28 June 2017}.

Audit scrutiny revealed (March 2021) that imported items were "Life Vests" which is a type of life jacket and worn to keep a person afloat when in danger of drowning in water. As per HSN notes to the CTH 8907, life jackets are excluded from Chapter 89-'Ships, Boats and floating structures' and should be classified according to the material. On the other hand, CTH-63072090 covers life jackets made up of material other than cotton. Hence, the imported item merits classification under CTH 63072090 and attract BCD at the rate of 10 *per cent* and IGST at the rate of 12 *per cent*. Thus, misclassification of imported goods resulted in short levy of duty amounting to ₹96.81 lakh.

On this being pointed (March 2021), the Department informed (September 2021) that a Pre Notice Consultation has been issued

(August 2021) to the importer. Further progress is awaited (September 2022).

3.6.8 Parts of Automatic regulating and controlling equipment - 'Throttle Actuator test set' misclassified as 'Parts of aircrafts'

Parts of Automatic regulating and controlling equipment are classified under CTH 90329000 and attract BCD and IGST at the rate of 2.5 *per cent* and 18 *per cent* respectively {Notification No. 1/2017-IT (Rate) Schedule III, Sl. No.422 dated 28 June 2017}.

'Throttle Actuator test set' and 'Fuel computer test set' work in unison in controlling an engine's power by regulating the amount of fuel or air entering the engine of an Aircraft/Helicopter and are hence classifiable under CTH 90329000 as "Parts and accessories of automotive" regulating or controlling equipment.

During 2018-19, a total of 198 BsE with Assessable value of ₹39.66 crore for import of goods under CTH 88033000 were filed in ACC, Nedumbassery. Audit test checked 30 BsE with Assessable value of ₹33.14 crore and noticed short levy of ₹86.10 lakh in one BE. According to Note 2 of Section XVII of the Customs Tariff Act 1975, the expression "Parts" and "Parts and accessories" do not apply to articles of Chapter 90.

M/s. L Base, Kochi had imported (November 2018) one consignment of "Throttle Actuator test set (4 Nos)" and "Fuel computer test set (4 Nos)" through ACC, Nedumbassery. The Department misclassified the imported goods under CTH 88033000 as 'Parts of aircrafts' and cleared them; levying BCD at the rate of three *per cent* and IGST at the rate of five *per cent* {Schedule I, Sl. No.245 of Notification No.1/2017-IT (Rate) dated 28 June 2017}.

Audit noticed from the import documents that the foreign supplier in its invoice had classified the imported goods under CTH 90329000 as 'Parts and accessories of automatic regulating or controlling equipment' which, by the rationale of note 2 of Section XVII of the Customs Tariff Act 1975, are excluded to be considered as parts of aircrafts/ helicopters under CTH 8803.

The misclassification of imported goods and application of incorrect rate of BCD/IGST had resulted in short levy of ₹86.10 lakh.

On this being pointed out (March 2019), the Department intimated (February 2020) recovery of short levied duty of ₹86.10 lakh with applicable interest of ₹12.63 lakh.

3.6.9 'Wrought Titanium' misclassified as 'Articles of Titanium'

"Titanium wrought" classifiable under CTH 81089010 attract BCD at the rate 5 *per cent;* while, 'Articles of Titanium' are classifiable under CTH 81089090 and attract BCD at rate of 10 *per cent*.

Titanium is broadly classified in three different forms. They are -

a) Unwrought - Titanium in raw form, where no process has been done on the Titanium;

b) Wrought - Titanium is beaten to shapes viz., plates, bars, tubes, rods, billets etc., and

c) Finished products or Articles of titanium - Pressure vessel, Heat Exchangers, machined components etc.,

Wrought Titanium is classifiable under CTH 81089010, if such imported products are in the form of beaten shapes such as plates, bars, tubes, rods, billets etc. For manufacturing the final Product, one of the pre-requisites is that the titanium should be in wrought form so that it is further processed by processes like cutting, forming, machining and joining and made into necessary shape and dimension as may be required. Such final product becomes an 'Article of Titanium' and hence classifiable under CTH 81089090.

Out of 28 BsE filed in Chennai Sea Customs during April 2018 to March 2019, audit checked all the BsE and noticed short levy of BCD/IGST amounting to ₹68.09 lakh in 10 BsE.

M/s. M Manufacturing Company Ltd'. Chennai, imported (July 2018 to February 2019) under 10 BsE Titanium articles with description such as Titanium Seamless U-tubes, Titanium Bend U- tubes, Titanium Bars, Titanium Rods and Titanium Plates with an assessable value of ₹10.49 crore through Chennai (Sea) Commissionerate. The Department classified the imported goods under the CTH 81089010 as "Titanium wrought" and levied BCD at five *per cent*.

Audit noticed that the items imported are final Titanium products such as Titanium Seamless U-tubes, Titanium Bend U-tubes, Titanium Plates, etc., due to the reason that they had undergone further processing like cutting, forming, machining and joining and made into necessary shape and dimension. Accordingly, the imported goods are rightly classifiable under CTH 81089090-Articles of Titanium and are leviable to BCD at 10 *per cent* and IGST at 18 *per cent*. Thus, misclassification has resulted in short levy of BCD and IGST amounting to ₹68.09 lakh.

On this being pointed out (December 2019), the Department confirmed (January 2021) a demand for ₹67.86 lakh. Further progress is awaited (September 2022).

3.6.10 'Inorganic or organic compounds of palladium' misclassified as miscellaneous chemical product not elsewhere specified

'Inorganic or organic compounds of palladium' are classified under CTH 28439019 and attract BCD at the rate of 10 *per cent*.

Imports under CTH 38249900 valued at ₹128.04 crore were made during the period June 2019 to June 2021 through NCH, New Delhi (Import Commissionerate) under 2,011 BsE. Audit filtered the whole data for import of 'Palladium Sulphate Solution four *per cent* PD' and noticed short payment of duty amounting to ₹53.69 lakh in 10 BsE involving imports valued at ₹16.55 crore.

M/s. N India Private Limited imported (period June 2020 to May 2021) "Palladium Sulphate Solution four *per cent* PD" worth ₹16.55 crore under 10 BsE through NCH (Import Commissionerate), Delhi and paid duty amounting to ₹3.93 crore. The imported items were classified under CTH 38249900 as 'Other prepared binders for foundry moulds; chemical products or preparations of Chemical or allied industries not elsewhere specified' and levied BCD at the rate of 7.5 *per cent*/ foregone BCD.

Audit scrutiny revealed that imported goods compound of Palladium, merit classification under CTH 28439019- as 'other compounds of palladium' which attract BCD at the rate of 10 *per cent* instead of 7.5 *per cent*. Thus, misclassification of imported goods resulted in short levy of duty amounting to ₹53.69 lakh.

On this being pointed out (June 2021), the Department intimated (August 2021) full recovery of ₹53.69 lakh along with interest of ₹4.81 lakh.

3.6.11 Nutralys pea protein misclassified as "Other protein substances"

As per HSN Explanatory Notes of CTH 3504, protein isolates obtained by extraction from a vegetable substance and consisting of a mixture of protein, wherein the protein content is not less than 90 *per cent,* would merit classification under this heading.

However, as per HSN Explanatory notes under CTH 2106 'Food preparations not elsewhere specified or included – Protein concentrates and textured protein substances' are classifiable under

CTH 21061000 and attract BCD at the rate of 30 *per cent* and IGST at the rate of 28 *per cent*/18 *per cent* [28 *per cent* from 1 July 2017 to 14 November 2017 and at 18 *per cent* from 15 November 2017 {as per amendment Notification No.43/2017-Integrated Tax (Rate) dated 14 November 2017}].

During the period 1 July 2017 to 30 April 2018, 25 BsE with an Assessable Value (AV) of ₹8.02 crore were filed in Chennai Sea Customs under CTH 3504 and all the bills were examined. Audit scrutiny revealed misclassification of imports in six consignments which resulted in short levy of duty to the tune of ₹41.62 lakh.

M/s. O Agencies Pvt. Ltd. imported six consignments of 'Nutralys –Pea protein' through Chennai Sea Customs. The goods were classified under CTH 35040099 as "Peptones and their derivatives; other protein substances and their derivatives not elsewhere specified or included - Others" and BCD/IGST was levied at the rate of 20 *per cent* and 18 *per cent* respectively.

As the protein content in imported 'Nutralys -Pea Protein' is less than 90 *per cent* and is not a mixture of proteins, (which is a mandatory requirement for classification under CTH 3504), the imported goods merit classification under CTH 21061000. This fact about protein content less than 90 *per cent* was confirmed by the Department from the test reports submitted by the Importer. Accordingly, the imported 'Nutralys-Pea Protein' merit levy of BCD at 30 *per cent* and IGST at 28/18 *per cent*. The misclassification had resulted in short levy of duty of ₹41.62 lakh.

On this being pointed out (July 2019), the Department confirmed (February 2021) a demand for ₹44.20 lakh. The Importer had filed an appeal against the demand. Further progress is awaited (September 2022).

3.6.12 Food preparations not elsewhere specified- "Vizyon Stella concentrated vanilla whipping/whipped Cream" misclassified as 'Other Sugar confectionery'

"Vizyon Stella concentrated vanilla whipping/whipped Cream" is classifiable under CTH 21069099 as 'Food preparations not elsewhere specified or included- Other' attracting BCD at the rate of 50 *per cent* (Serial No.103 of Notification No.50/2017-Customs dated 30 June 2017 as amended vide Notification No.06/2018-Customs dated 2 February 2018).

For import of “Vizyon Stella concentrated vanilla whipped Cream” under CTH 17049090 valued at ₹1.48 crore made during August 2018 to December 2020 through the JNCH Commissionerate, Mumbai under nine BsE, Audit test checked all BsE and pointed out short levy of duty amounting to ₹38.57 lakh.

M/s. P India Pvt. Ltd. imported (October 2018 to December 2020) nine consignments of “Vizyon Stella concentrated vanilla whipped/whipped cream” through JNCH Commissionerate, Mumbai Zone-II. Audit scrutiny revealed that the imported goods were misclassified under CTH 17049090 {Sugar Confectionery (including white chocolate), not containing cocoa – Other} and cleared levying BCD at the rate of 30 *per cent*. Since the imported goods were not Sugar Confectionary, hence they were classifiable under CTH 20169090 as ‘Food preparations not elsewhere specified or included - Other’ and attract BCD at the rate of 50 *per cent*. The misclassification resulted in short levy of duty of ₹38.57 lakh.

On this being pointed out (February 2021), the Department issued (August 2021) a less charge cum demand notice to the importer. Further progress is awaited (September 2022).

3.6.13 ‘Flying simulators and parts thereof’ misclassified as ‘Other parts of aeroplanes or helicopters’

“Air combat simulators and parts thereof” are classified under CTH 88052100 and attract BCD at the rate of 10 *per cent* and IGST at the rate of 18 *per cent* (Notification No.1/2017-Integrated Tax (Rate) dated 28 June 2017, Schedule III, Sl. No.406).

For import of parts of goods of CTH 8801 or 8802 valued at ₹174.78 crore made during March 2019 to April 2020 through NCH Commissionerate, Mumbai under four BsE. Audit test checked all the four BsE and pointed out short levy of duty amounting to ₹38.66 crore in the case of one BE involving imports worth ₹171.74 crore.

M/s. Q Headquarters imported (January 2019) one consignment of “Simulator” through NCH Commissionerate, Mumbai Zone-I. The imported goods were misclassified under CTH 88033000 as “Other parts of aeroplanes or helicopters” and cleared levying BCD at the rate of three *per cent* and IGST at the rate of five *per cent* (aforesaid Notification dated 28 June 2017, Schedule I, Sl. No.245). The imported goods were not ‘Other parts of Airplanes or Helicopters’ CTH 88033000) but were ‘Ground flying trainers and parts thereof’ i.e. an independent equipment/components which were used for training and research purpose on ground and merit classification under CTH 88052100, attracting BCD at the rate of 10 *per cent* and IGST at the rate of 18 *per cent*. Thus, misclassification resulted in short levy of duty to the tune of ₹38.66 crore which is recoverable along with applicable interest.

On this being pointed out (November 2020), the Department reported (December 2020) recovery of ₹49.87 crore which included interest.

3.6.14 'Part of Engine for Motor Vehicles-Crankshaft bearing etc' misclassified as "Bearing housings, not incorporating ball or roller bearings"

"Parts suitable for use solely or principally with 'Spark ignition internal combustion engine' (CTH 8407) or 'Compression ignition internal combustion engine' (CTH 8408)" are to be classified under heading 8409. These goods attract BCD at the rate of 15 *per cent* and IGST at the rate of 28 *per cent* {Sl. No.116, Schedule IV of Notification No.1/2017-Intergrated Tax (Rate) dated 28 June 2017}.

"Crankshaft Bearing Half", being a part of Engine for motor vehicle, is rightly classifiable under CTH 8409 - "Parts suitable for use solely or principally with the 'Spark ignition internal combustion engine' (CTH 8407) or 'Compression ignition internal combustion engine' (CTH 8408) and attract BCD at the rate of 15 *per cent* and IGST at the rate of 28 *per cent* {Sl. No.116, Schedule IV of Notification No.1/2017-Intergrated Tax (Rate) dated 28 June 2017}.

During the period from 1 June 2018 to 31 March 2019, 1,068 consignments (172 BsE) were filed in ICD, Irungattukottai under CTH 84833000 (Assessable value of ₹15.37 crore). Audit checked all the BsE and noticed misclassification in 235 consignments (32 BsE) with an Assessable value of ₹2.20 crore which resulted in short levy of duty amounting to ₹36.80 lakh.

M/s. R Commercial vehicles Pvt. Ltd., imported (32 BsE) "Crankshaft Bearing Half" (being a Part of Engine) through ICD Irungattukottai and classified these under CTH 84833000 as "Bearing housings, not incorporating ball or roller bearings, plain shaft bearings". The imported goods were cleared levying BCD at the rate of 7.5 *per cent* and IGST at the rate of 28 *per cent* up to 31 December 2018 and at the rate of 18 *per cent* thereafter.

Audit observed that the imported goods "Crankshaft Bearing Half" being an indispensable part of the Engine for motor vehicle is rightly classifiable under CTH 8409 as "Parts suitable for use solely or principally with ‘Spark ignition internal combustion engine’ (CTH 8407) or ‘Compression ignition internal combustion engine’ (CTH 8408) and attract BCD at the rate of 15 *per cent* and IGST at the rate of 28 *per cent*. Thus, the misclassification of imported goods had resulted in short levy of duty ₹36.80 lakh.

On this being pointed out (May 2020), the Department intimated (April 2021) that a demand for differential duty of ₹36.80 lakh has been confirmed. Further progress is awaited (September 2022).

3.6.15 Plasma LED TV screen size exceeding 74 cm’ misclassified as Parts for television/television set of screen size not exceeding 68 cm

‘Plasma LED TV screen size exceeding 74 cm’ merit classification under CTH 852872 and leviable to BCD at the rate of 20 *per cent* and IGST at the rate of 28 *per cent* {Notification No. 1/2017-Integrated Taxes (Rate) dated 28 June 2017, Sl. No.154, Schedule-IV, as amended}.

For imports of ‘Sony Plasma LED TV’ under CTH 8529, total four BsE valued at ₹2.16 crore had been filed during April 2018 to March 2019 through ICD Ankleshwar under Commissionerate of Customs, Customs House, Ahmedabad. Audit test checked all the BsE and pointed out short-levy of IGST amounting to ₹36.76 lakh in three BsE.

M/s. S Traders had imported (August 2018) three consignments of ‘‘Sony Plasma LED TV screen size exceeding 74 cm’’ through ICD Ankleshwar under Commissionerate of Customs, Customs House, Ahmedabad. The Department misclassified the imported LEDs under CTH 85299090 as “parts for Radio/ Television “and cleared them levying BCD at the rate of 15 *per cent* and IGST at the rate of 18/28 *per cent* (Sl. No.384A, Schedule-III)/ 28 *per cent* (Sl. No.154, Schedule-IV) respectively under aforesaid notification.

Audit scrutiny revealed that the imported goods are ‘‘Sony Plasma LED TV screen size exceeding 74 cm’’ (screen 32 inches to 55 inches) and correctly classifiable under CTH 852872 as ‘Reception apparatus for television’ and not under CTH 8529 as ‘parts for Radio/ Television’. Accordingly, BCD at the rate of 20 *per cent* and IGST at the rate of 28 *per cent* would be applicable to these goods. The misclassification resulted in short levy of duty amounting to ₹36.76 lakh which was recoverable from the importers along with interest.

On this being pointed out (August 2019), the Department intimated (April 2021) that SCN had been issued to the importer demanding differential duty. Further progress was awaited (September 2022).

3.7 Incorrect application of notifications

Test check revealed improper application of various notifications in 33 cases, each involving revenue of ₹10 lakh or more. The total revenue implication was ₹9.07 crore. Individual cases of improper application of notifications of value less than ₹10 lakh have been reported to the local Commissionerates through field inspection reports. The Department accepted 30 cases involving total revenue implication of ₹7.91 crore and intimated recovery of ₹8.28 crore in 23 cases which included interest. Five cases involving revenue implication of ₹3.86 crore have been discussed in the succeeding paragraphs and the remaining 28 cases involving revenue implication of ₹5.21 crore are included in **Annexure 4 (19 cases) and Annexure 5 (9 cases).**

3.7.1 Short/ Non-levy under IGST notifications

Short levy of IGST on parts of Diesel engines because of incorrect application of IGST rates

'Parts suitable for use solely or principally with the Engines of heading 8407(Spark-ignition /rotary internal combustion engines or 8408 (diesel or semi-diesel engines)' merit classification under CTH 8409 and attract IGST at the rate of 28 *per cent* {Sl.No.116, Schedule IV of Notification No.01/2017- Integrated Tax (Rate) dated 28 June 2017}.

Out of 110 BsE filed during July to October 2017 with the key words "Diesel Engine" with an Assessable Value of ₹89.39 crore under CTH 8409 through Commissioner of Customs (Sea), Chennai, data analysis of all the BsE revealed short levy of duty of ₹1.31 crore in four BsE involving imports valued at ₹20.19 crore.

M/s. Q Headquarters, Chennai and two others had imported (August to October 2017) four consignments of "Parts of Diesel Engine/Spare for Diesel Engines" through Commissioner of Customs (Sea), Chennai. The importers had classified the imported goods under various CTH 84212900/84818090 as 'Other filter or purifying machinery and apparatus for liquids'/ 'Other valves for machinery' and cleared levying IGST at 18 *per cent* under IGST Notification No.01/2017-Integrated Tax dated 28 June 2017 (Schedule III/Sl. No. 322, 369 and 371) instead of applicable IGST rate of 28 *per cent*.

Audit scrutiny revealed that the imported goods being "Parts of Diesel Engine" are rightly classifiable under CTH 8409 and attract IGST at the rate of 28 *per cent* (Sl.No.116 Schedule IV of Notification No.01/2017-Integrated Tax (Rate) dated 28 June 2017). The misclassification resulted in short levy of duty amounting to ₹1.31 crore which was recoverable from the importers along with applicable interest.

On this being pointed out (February 2019), the Department stated (January 2021) that an amount of ₹3.30 crore has been recovered for the differential duty along with interest and penalty in the case of M/s. Q Headquarters. The other two importers (M/s. T Heavy Industries and M/s. U Agriculture Machinery India Pvt. Ltd.,) have paid an amount of ₹1.21 lakh plus interest. Further progress was awaited (September 2022).

3.7.2 Short levy of IGST on 'Steel Grinding Balls and Metallic Sheets'

"Steel Grinding balls and Metallic Sheets" are classifiable under CTH 7326 and assessable to IGST at the rate of 18 *per cent* vide Sl. No. 238 of Schedule III of Notification No. 01/2017-Integrated Tax (Rate) dated 28 June 2017–"Other articles of iron and steel, forged or stamped, but not further worked; such as Grinding balls, articles for automobiles and Earth moving implements and Articles of clad metal etc.".

Audit test checked 185 BsE with an aggregate Assessable value of ₹32.01 crore filed under CTH 73261990/73261100 during the period April 2019 to March 2020 at Chennai Sea Customs, Chennai. It was observed that M/s. V Steel Limited had imported four consignments of 'Steel Grinding Balls and Metallic Sheets' with an assessable value of ₹15.70 crore and the goods were rightly classified under CTH 73261100/73261990. However, the imported goods were cleared as Mathematical boxes, Geometry boxes and Colour boxes, Pencil sharpeners levying IGST at the rate of 12 *per cent* by applying Serial No.180, Schedule II of IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28 June 2017 instead of the applicable rate of 18 *per cent* under Serial No.238, Schedule III.

This resulted in short levy of Integrated Tax of ₹1.05 crore.

On this being pointed out (September 2020), the Department reported (April 2021) recovery of the entire short levy of ₹1.05 crore plus interest of ₹0.27 crore.

3.7.3 Short levy of IGST on imports of 'Computer Monitors exceeding 20 inches'

'Computer Monitors exceeding 20 inches' merit classification under CTH 8528 and are leviable to IGST at the rate of 28 *per cent* (Sl. No.154, Sch-IV, Notification No. 1/2017-Integrated Taxes (Rate) 28 June 2017 as amended).

For imports under CTH 8528, total 585 BsE valued at ₹719 crore had been filed during October to December 2018 through Commissionerate of Customs, Customs House, MP & SEZ (Mundra), Gujarat, audit test checked 20 BsE involving import worth ₹9.62 crore for import of "LCD/LED Monitor" and pointed out short-levy of integrated tax (IGST) amounting to ₹34.60 lakh in seven BsE.

M/s. W Technical Pvt. Ltd and five others had imported (October to December 2018) 'LED/LCD Monitor without main board of screen more than 20 inches' under CTH 8528 5900 through Commissionerate of Customs, Customs House, MP&SEZ (Mundra), Gujarat. The Department cleared the goods levying IGST at the rate of 18 *per cent* under Sl. No. 383C/384, Sch-III of the aforesaid notification applicable to Television set including LCD or LED television of Screen size not exceeding 68 cm/computer monitor not exceeding 20 inches.

Audit scrutiny revealed that the imported goods are 'LED/LCD Monitors of size exceeding 20 inches' under CTH 8528 5900 and attract IGST at the rate of 28 *per cent* instead of 18 *per cent* applied. This resulted in short levy of IGST amounting to ₹34.60 lakh which was recoverable from the importers along with applicable interest.

On being pointed out (April 2019), the Department reported (February and May 2021/June 2022) that an amount of ₹50.28 lakh has been recovered in six cases. Recovery in the remaining case was pending. (September 2022).

3.7.4 Incorrect grant of notification benefit to importers

Short levy of BCD because of incorrect grant of notification benefit on "Medical Grade Coated/ Uncoated Kraft paper" imports

"Coated/ Uncoated paper" merits classification under CTH-48116000/ 48043800 respectively and leviable to BCD at the rate of 10 *per cent*.

For imports of "Medical Grade Coated/ Uncoated kraft paper" made under CTH 48043900/48116000/48119099, total 5,645 BsE valued at ₹289.72 crore had been filed during March 2019 to February 2021 through Commissionerate of Customs, ICD Tughlakabad, New Delhi. Audit test checked 22 BsE for import of “Medical Grade Coated/ Uncoated Kraft paper” involving import worth ₹6.49 crore and pointed out short-levy of duty amounting to ₹61.06 lakh in 22 BsE.

M/s. X Products Pvt. Ltd. and two others imported (March 2019 to February 2021) 22 consignments of “Medical Grade Coated/ Uncoated Kraft paper” through Commissionerate of Customs, ICD Tughlakabad, New Delhi. The Department cleared the goods granting BCD exemption under Sl. No.564 of Notification No. 50/2017-Customs dated 30 June 2017 applicable to “Raw materials, parts or accessories for use in manufacture of goods falling under headings 9018, 9019, 9020, 9021 or 9022” (Instruments and appliances used in medical sciences, Mechano therapy appliances, breathing appliances, orthopaedic appliances and apparatus on the use of X-rays whether or not for medical, surgical, dental or veterinary uses).

The imported goods being “Medical Coated/Uncoated Kraft paper” are packing material used to cover various medical devices/product and not the raw material/parts or accessories for manufacturing the specified goods under CTH 9018/9019/9020/9021 or 9022, while manufacturing is the process of making finished product from raw material with the help of different machines and processes. Thus, the benefit under the aforesaid Customs Notification was not extendable to the imported items and BCD was applicable at the rate of 10 *per cent* instead of 2.5 *per cent* applied. Therefore, the incorrect grant of notification benefit to imported goods resulted in short levy of duty amounting to ₹61.06 Lakh which was recoverable from the importers along with interest.

On this being pointed out (June/July 2021), the Department intimated (September 2021/ May 2022) that demands of ₹61.06 Lakh have been confirmed against all the three importers. Further progress was awaited (September 2022).

3.7.5 Incorrect grant of notification benefit to Chickpeas imports for exempting BCD

Chickpeas classified under CTH 071320 attract BCD at the rate of 60 *per cent* w.e.f 20 June 2018 under Notification No.50/2017-Customs as amended by Notification No.49/2018-Customs dated 20 June 2018.

During the period 2019-20, a total of 180 BsE had been filed for import of goods ‘Chick peas/pulses’ worth ₹172 crore under CTH 0713 through Commissionerate of Customs (Port), Kolkata. Audit test checked 50 BsE involving import worth ₹31.80 crore and pointed out short levy of BCD amounting to ₹53.97 lakh in two BsE.

M/s. Y Private Limited imported (June/July 2019) two consignments of ‘Desi Chickpeas’ through Commissionerate of Customs (Port), Kolkata. The goods were cleared and exempted from levying BCD under Notification No. 50/2017-Customs dated 30 June 2017 (Sl. No. 20). Audit scrutiny revealed that the imported goods attract BCD at the rate of 60 *per cent* w.e.f. 20 June 2018 after an amendment was made to Notification No. 50/2017-Customs. This resulted in short levy of duty of ₹53.97 lakh due to incorrect grant of notification benefit which was recoverable from the importer along with applicable interest.

This was pointed out to the Ministry in June 2022, their reply was awaited (September 2022).

In addition to response to the above case, the Ministry is also requested to examine the reasons for non-updation of the revised BCD rate in the ICES system even after expiry of one year and offer comments on the reasons for lapses. Similar imports made after 20 June 2018 may also be examined for incorrect assessment of BCD.

3.8 Other irregularities

Audit noticed 10 other irregularities regarding ‘Non-recovery of drawback where export proceeds are not realised’, Excess grant of Duty Drawback, Non-levy of Health Cess’, Non-levy of Safeguard Duty, Non-levy of Anti-Dumping Duty in nine Commissionerates involving revenue of ₹7.52 crore. The Ministry/Department accepted all the observations and reported recovery of ₹55.64 lakh in five cases.

Out of these, three cases are discussed in the following paragraphs. The remaining cases are mentioned in **Annexure 6.**

3.8.1 Non- recovery of duty drawback -₹5.30 crore on unrealized export proceeds

Section 75(1) of the Customs Act, 1962 read with sub Rule 18 of the Customs & Central Excise Duties Drawback Rules, 2017 (erstwhile sub-rule 16 A (1) of the Drawback Rules, 1995) provided that where an amount of drawback has been paid to an exporter but the sale proceeds in respect of such export goods have not been realized within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, such drawback shall be recovered.

Shipping Bills (3,880 numbers) with FOB value of ₹1,551 crore were filed for duty drawback claim of ₹29.73 crore during 2018-19 under (i) Commissionerate of Customs-New Customs House, Mangaluru , (ii) Air Cargo Complex, Bengaluru and (iii) ICD, Bengaluru. Audit test checked 1,477 SBs with export proceeds of ₹592 crore and noticed non-realization of export proceeds of ₹276.25 crore involving duty drawback of ₹5.30 crore in 697 SBs.

M/s. Z Engineering and 232 exporters had claimed (2012 to 2019) duty drawback of ₹5.30 crore in 697 SBs involving export proceeds of ₹276 crore through three units {(i) Commissionerate of Customs-New Customs House, Mangaluru , (ii) Air Cargo Complex, Bengaluru and (iii) ICD, Bengaluru}. Analysis of RBI's Foreign Exchange Outstanding (RBI_XOS) statement as on 31 December 2019 pertaining to drawback sanctioned for more than ₹25,000/-during the year through the aforesaid three units, when paired with export proceeds realized information available on DGFT website (e-BRC Details for Trade) revealed non-realization of export proceeds of ₹276 crore involving duty drawback of ₹5.30 crore in respect of 697 SBs. The proceeds have not been realized even after expiry of three months to 81 months from the time allowed as per RBI guidelines and FEMA provisions. The Department had not initiated action to recover drawback amount of ₹5.30 crore for unrealized export proceeds.

On this being pointed out (April/November 2020), the NCH, Mangaluru authorities intimated (December 2020) recovery of ₹5.73 lakh and interest of ₹1.14 lakh from eight exporters. ACC, Bengaluru reported (April 2022) issue of SCNs to 126 exporters. Reply from ICD, Bengaluru has not been received (September 2022).

3.8.2 Excess grant of duty drawback due to incorrect application of rate

As per drawback schedule, 'Shawls, scarves, mufflers, mantillas, veils and the like' are classified under drawback head 6214; under this, 'Shawls, scarves, mufflers, mantillas and veils' are classified under heading 621401 and **'**Other- ladies garments of Man-made fibres**'** are classified under 621402. Accordingly, dupatta of man-made fibre is correctly classifiable under drawback Serial No.62140203B and drawback is allowed at the rate of 2.5 *per cent* of FOB value with a cap of ₹25 *per* Kilogram (kg).

During the period February 2019 to January 2020, exports valued at ₹10,377 crore were made vide 31,931 SBs through ICD, Tughlakabad

(Export Commissionerate), New Delhi. Audit filtered the whole data (31,931 SBs) for export of “Readymade Garments Ladies Dupatta of Man-made fibres and 100 *per cent* poly, Printed dupatta of man-made fibres (printed dupatta)” and noticed excess payment of drawback amounting to ₹48.78 lakh in seven SBs involving export valued ₹27.45 crore.

M/s. AA Enterprises and three other exporters exported ‘Readymade Garments Ladies Fancy Dupatta of man-made fibres and 100 *per cent* poly printed dupatta of Man-made fibres (printed dupatta)’ under seven SBs at combined assessable value of ₹27.45 crore. The exported goods were classified under drawback Serial No.62140103B- “Shawls, scarves, mufflers, mantillas, of Man-made fibres” with drawback at the rate of 2.5 *per cent* of FOB value with a cap of ₹8 *per* piece.

Audit scrutiny revealed (February 2020) that the item dupatta made of Man-made fibres is rightly covered under drawback serial No.62140203B- “Other-ladies garments of Man-made fibres” and not under Serial No.62140103B applied. Accordingly, drawback is payable at the rate of 2.5 *per cent* of FOB value with a cap of ₹25 *per* kg whichever is lower instead of at the rate of 2.5 *per cent* of FOB value with a cap of ₹8 *per* piece. Thus, application of incorrect rate of drawback resulted in excess payment of drawback amounting to ₹48.78 lakh.

On this being pointed out (February 2020), the Department confirmed (July 2022 a demand of ₹48.78 lakh against the exporters. Further progress is awaited (September 2022).

3.8.3 Imports of Paracetamol cleared without levying applicable Anti-Dumping Duty (ADD)

As per Section 9A of the Customs Tariff Act, 1975, where any article is exported from any country to India at less than its normal value, then upon the import of such article into India, the Central Government may, by a notification, impose ADD. Accordingly, ADD was imposed on commodities like Paracetamol, Digital Versatile Recordable Discs (DVD-R). Notification No.26/2013-Customs (ADD) dated 28 October 2013 provides that “Paracetamol” falling under CTH 29222933, originating in or exported from China and imported to India would attract ADD as prescribed in the notification. The aforesaid notification which was earlier rescinded vide Notification No.19/2019-Customs (ADD) dated 16 April 2019 was however, extended upto 9 July 2019 {Notification No.26/2019-Customs (ADD) dated 24 June 2019} on Gujarat High

Court's direction in the matter of SCA No.5278/2019 vide order dated 3 July 2019.

For import of "Paracetamol IP BP" valued at ₹15.01 crore made during 1 May to 24 June 2019 through the JNCH Commissionerate under 39 BsE, Audit test checked two BsE involving imports valued at ₹2.65 crore and pointed out non levy of ADD amounting to ₹47.03 lakh in case of two BsE involving imports worth ₹2.65 crore.

M/s. AB & Co. and M/s. AC Pharmie Ltd., had imported (May 2019) two consignments of "Paracetamol IP BP" from China through JNCH, Mumbai Zone-II. Audit scrutiny of records revealed that the Department cleared these consignments without levying ADD. This resulted in non-levy of ₹47.04 lakh.

On this being pointed, the Ministry reported confirmation of demands against both the importers.

3.9 Conclusion

This Chapter highlights 88 cases of non-compliance to the extant notifications, applicable Customs Tariff Duties and Levies, noticed by Audit in the assessments of imports. Revenue of ₹75 crore was at risk due to either non/short levy of duty because of misclassification of imported items, incorrect application of exemption notifications or non-levy of other duties.

The Ministry/ Department has accepted 80 cases and has effected recovery of ₹65 crore at the time of finalization of this report. Ministry's/ Department's response was awaited in nine cases at the time of finalization of the Report.

Though the Ministry has taken corrective action to recover duty in many cases, it may be pointed out that these are only a few illustrative cases. There is every possibility that such error of omission and commission, whether in RMS based assessments or manual assessments, may exist in many more cases.

It is pertinent to note that several BsE examined by audit in test check had been assessed through the RMS, which indicated that the assessment rules mapped into the RMS to facilitate system based assessments were inadequate. The process of mapping and updating of risk parameters in the RMS needs to be reviewed.

Non- provision of Pan India transactional data since 2017-18 was highlighted in the previous years' Audit Reports. Consequently, audit could provide limited assurance for import and export assessments made by the Department based on limited audits carried out by physically visiting the 32 Commissionerates. Central Board of Indirect Taxes and Customs is required to review and crosscheck all the interrelated import – export transactions which may be at risk.

CHAPTER IV

Non- Compliance to provisions of various Export Promotion Schemes of Foreign Trade Policy

4.1 Introduction

The Foreign Trade Policy (FTP) provides a framework for increasing exports of goods and services with a focus on improving trade facilitation and ease of doing business. The FTP 2015-2020 has been notified by the Central Government in exercise of powers conferred under Section 5 of the Foreign Trade (Development and Regulation) {FTDR} Act 1992, as amended. Directorate General of Foreign Trade (DGFT), under Ministry of Commerce and Industry (MoCI) is responsible for formulating the FTP, which is implemented jointly by DGFT and Department of Revenue.

4.1.1 The Export Promotion Schemes under FTP can be categorised as:

(I) Reward/Incentive Schemes: These aim to provide rewards to exporters to offset infrastructural inefficiencies and associated costs involved in exports of goods and to provide exporters a level playing field. The two main schemes under this category are Merchandise Exports from India Scheme (MEIS) and Service Exports from India Scheme (SEIS).

MEIS was withdrawn with effect from 1 January 2021. Subsequently restrictive provisions were brought wherein, the total reward under MEIS was limited to ₹2 crore per IEC on exports made during the period 1 September 2020 to 31 December 2020. Any IEC holder who has not made any exports during 1 September 2019 to 31 August 2020 or any new IEC obtained on or after 1 September 2020 would not be eligible for submitting any claim for benefits under MEIS for exports made w.e.f. 1 September 2020.

The last date for submission for MEIS benefits has been fixed as 31 August 2022 (DGFT, Notification No 15/2015-20 dated 1 July 2022). No further applications would be allowed to be submitted after the prescribed last date of 31 August 2022 and late cut provisions shall also not be available for submitting the application.

The details of issuance of MEIS, SEIS scrips along with value of scrips and FOB value of exports during FY 2018-19 to FY 2020-21 are given in the following **Table 4.1** overleaf:

Table 4.1: Issuance of authorizations under Reward/ Incentive Schemes

Scheme		2018-19	2019-20	2020-21
MEIS	Number of Scrips	2,98,350	2,88,023	1,15,413
	Value of Imports (₹ in crore)	39,298	39,045	14,404
	FOB Value of Exports (₹ in crore)	12,46,771	12,02,958	5,04,536
SEIS	Number of Authorization	6,371	8,280	6,098
	CIF Value of Imports (₹ in crore)	4,262	7,114	4,739
	FOB Value of Exports (₹ in crore)	13,72,212	27,64,376	10,08,970

Source: DGFT, MIS Report on Export Promotion Schemes 2022

An amount of ₹56,027 crore (Ministry of Commerce, Annual Report 21-22) has been sanctioned for pending arrears of various Duty credit Schemes for Financial Year 2021-22 in order to disburse all pending export incentives due to exporters. The Scheme wise break up for ₹56,027 crore sanctioned was:

(i) MEIS -₹33,010 crore, (ii) SEIS- ₹10,002 crore, (iii) Scheme for Rebate of State and Central Taxes and Levies (RoSCTL) - ₹5,286 crore, (iv) Rebate of State Levies under scrip mechanism (RoSL) - ₹330 crore and (v) Other legacy Schemes like Target plus etc. - ₹4,831 crore.

(II) Duty Exemption and Remission Schemes: These enable duty free imports or imports at concessional rates, of capital goods and other inputs for export production or duty remission to provide relief of taxes and duties suffered by the exporters in course of producing exported goods.

(a) The Duty Exemption Schemes allows duty free import of inputs, which are physically incorporated in an export product. In addition to any inputs, packaging material, fuel, oil, catalyst which is consumed/utilized in the process of export product is also allowed. The Scheme covers manufacturer exporters or merchant exporters tied to supporting manufacturer(s). The Duty Exemption Schemes are:

(i) Advance Authorisation (AA) Scheme: AA is issued before exports are made and is subject to actual user condition.

(ii) Duty Free Import Authorisation (DFIA) Scheme: DFIA is issued on post export basis for products for which for which

Standard Input Output Norms have been notified and is transferable.

(b) Duty Remission Scheme: Duty Drawback Scheme administered by the Department of Revenue is the scheme under this category.

(III) Export Promotion Capital Goods (EPCG) scheme which facilitates import of capital goods under zero/ concessional rates for producing export goods and services at competitive prices.

Authorizations and Scrips issued under Duty Exemption/Remission Schemes during FY 2018-19 to FY 2020-21 with details of CIF value of imports and FOB value of exports are given in the following **Table 4.2** below:

Table 4.2: Issuance of authorizations under Duty Remission Schemes

Scheme		2018-19	2019-20	2020-21
AA	Number of Authorization	23,042	22,113	20,703
	CIF Value of Imports (₹ in crore)	2,05,060	1,67,567	1,84,601
	FOB Value of Exports (₹ in crore)	3,78,808	3,19,346	3,24,053
DFIA	Number of Authorization	1,321	1,718	1,075
	CIF Value of Imports (₹ in crore)	3,253	3,070	1,986
	FOB Value of Exports (₹ in Crore)	5,183	5,157	2,896
EPCG	Number of Authorization	13,175	11,535	10,067
	Duty Foregone (₹ in crore)	15,901	14,329	12,483
	FOB Value of Exports (₹ in crore)	96,257	84,356	68,523

Source: DGFT, MIS Report on Export Promotion Schemes 2022

DGFT issues scrips/licences to exporters under various export promotion schemes and monitors their corresponding obligations through a network of 24 Regional Authorities (RAs). All 24 RAs are computerised and connected to the DGFT Central server. To regulate imports under scrips issued by DGFT, Customs notifications are issued by CBIC and these scrips have to be registered by the importer/ exporter concerned in the Customs House under the Commissionerates. Import of inputs and capital goods under export promotion schemes are exempt, wholly or partly from Customs Duties. Importers of such exempted goods undertake to fulfil prescribed Export Obligation (EO) as well as to comply with other specified conditions, failing which the duty exempted becomes recoverable by the Customs Department under the Act. In addition to action by the Customs Department, the licencee is liable to penal action by DGFT under the FTDR Act 1992, for not fulfilling the conditions of the licence issued.

In respect of certain other schemes, under Chapter 3 of FTP there is a provision for providing incentives as a certain percentage of Free on Board (FOB) value of exports as a reward to offset infrastructural inefficiencies and associated costs.

4.2 Non-compliance to provisions of Export Promotion Schemes

Total revenue implication involved in the 17 high value cases featured in this Chapter was ₹11 crore where export incentives as duty credit scrips were irregularly issued and exemptions were availed of without fulfilling the provisions of FTP and Hand Book of Procedures (HBP). Of the 17 cases reported, two cases pertain to MEIS**,** 14 cases are of SEIS and one case relates to Advance Authorization Scheme. The Ministry/Department accepted 13 cases involving ₹5.57 crore and reported recovery of ₹3.10 crore in 11 cases.

Out of 17 cases, seven cases are discussed in the following paragraphs. The remaining ten cases involving total revenue implication of ₹1.81 crore are summarized in **Annexure 7.**

4.2.1 Merchandise Exports from India Scheme (MEIS)

(A) Ineligible sanction of MEIS on export of marigold flower meal in pellet form

Merchandise Exports from India Scheme (MEIS), an export promotion scheme under Chapter 3 of the FTP, 2015-20 provided for duty credit at the rates prescribed in Appendix 3B HBP, Volume-I. The calculation of reward would be on realized FOB value of exports in free foreign exchange or on FOB value of exports as given in the Shipping Bills whichever is less, unless otherwise specified. DGFT vide Public Notice (PN) No.32/2015-20 dated 22 September 2016 extended MEIS benefit on export of parts of various specified plants classifiable under CTH 12119029. But it did not include the 'Marigold plant scientific name Tagetes' classified under CTH 12119029. The rate of MEIS credit was seven *per cent* w.e.f. 1 November 2017 (Sl. No. 488, DGFT PN 44/2015-20 dated 5 December 2017).

DGFT, with the objective of simplifying the procedures for processing the MEIS incentive manual claims of exporters, had directed {Public Notice (PN) No.62/2015-20 dated 16 February 2018} that in respect of

Indian Trade Classification Harmonized System ITC (HS) code for export products specified in the Annexure attached to the PN, the RA shall process the application for MEIS claim in manual mode after matching the description as in the Shipping Bill with export product description as in Table 2 of Appendix 3B of HBP.

Plants and parts of plants of a kind used primarily in perfumery, in pharmacy (ITC HS Code 12119029) has been included as one of the export products in the said Annexure to the PN 62. Thus, the claim would be processed by matching the description of the export product with the description in Appendix 3B of HBP.

Development Commissioner (DC), Cochin, SEZ issued 22 MEIS licences during September 2017 to September 2019 for exports of goods under CTH 12119029 which involved specified 'Plants and parts of plants of a kind used primarily, in perfumery, in pharmacy or for fungicidal or similar purpose'. Total value of MEIS licences issued was ₹3.32 crore involving exports worth ₹52.49 crore. Audit test checked all 22 licences issued and noticed irregular issue of 21 MEIS licences worth ₹3.32 crore for ineligible export product "Marigold flower meal in pellet form".

M/s. AD Products (100% EOU) filed MEIS claim for exports worth ₹52.49 crore of "marigold meal in pellet form" (produced from marigold flowers) classified under CTH 12119029. The exports were made under 49 Shipping Bills through Cochin Sea Port during the period November 2016 to July 2019.

Audit observed that Marigold was not a plant specified against serial No.488 of Appendix 3B and hence not eligible for MEIS benefits under CTH 12119029. However, DC, CSEZ did not verify and match the item description mentioned in the Shipping Bills with the item description against Serial No.5071/488 mentioned in Table 2 of Appendix 3B as required in PN No.62/2015-20 dated 16 February 2018 and issued MEIS licences involving value of ₹3.32 crore. This resulted in sanction of ineligible export benefit under MEIS amounting to ₹3.32 crore.

On this being pointed out (June 2020), the DC, CSEZ requested (February 2021) the unit to remit the ineligible amount sanctioned along with interest. The unit (M/s. AD Products) in response to the DC, CSEZ letter justified (March 2021) that the MEIS credit was sanctioned on the grounds that PN No.62 dated 16 February 2018 read with PN No.26 dated 23 March 2018 prescribe that eligibility was to be decided on the basis of classification specified in the Shipping Bill.

The reply of the unit is not tenable because entitlement of MEIS benefit would be regulated by the export products mentioned in the Appendix 3B of the HBP. The export product "Marigold" plant does not feature against Serial No.5071/488 of the Appendix 3B to be eligible for MEIS benefits.

Secondly, PN No.62 dated 16 February 2018 and Trade notice No.26/2018 dated 23 March 2018 explicitly prescribed for processing the MEIS claims after matching the descriptions in the Shipping Bills with export product description in Table 2 of Appendix 3B. The instant case was not about matching description but about export products not listed in Appendix 3B, and thus ineligible for MEIS benefits.

This was communicated to the Ministry in June 2022, their response was awaited (September 2022).

4.2.2 Service Exports from India Scheme (SEIS)

Under Service Exports from India Scheme (SEIS) of FTP 2015-20, service providers located in India providing notified services shall be rewarded at rates specified in Appendix 3D. The description of eligible services has been aligned/codified based on Provisional Central Product Classification (CPC) of the United Nations Statistics Division (UNSD), Management Consultancy Service including Financial Management consulting services falling under CPC 865. But Advisory Services supply of information and analysis on portfolio investment constitute services of financial intermediary classified under CPC 813. Furthermore, these services are not specified in Appendix 3D and are hence not eligible for SEIS benefit.

Audit noticed irregularities in issuance of SEIS scrips by ADFGT-Mumbai, Zonal DGFT- Chennai and Additional DGFT- Bengaluru involving duty credit of ₹7.30 crore in 14 cases. The Ministry/ Department accepted 11 cases (₹5.33 crore) and recovered ₹2.79 crore in nine cases. Reply in the remaining three cases is awaited. Out of these, six cases are discussed in the following paragraphs and the remaining eight cases are summarized in **Annexure 7 (Sl. Nos 2 to 9).**

(A) Issue of SEIS licence for ineligible services provided

M/s. AE Pvt. Ltd., provided the following services to investment manager (foreign party) as stated below:

(a) Providing reports and analysis from time to time, assisting in research and providing recommendations for purchasing or selling portfolio investments.

(b) Providing factual information, research reports and investment proposals in relation to each investment opportunity as the investment manager may require from time to time.

(c) Providing written investment reports and analysis.

(d) Providing additional descriptive information with respect to any investment as the investment manager may require.

The applicant for the year 2016-17 had declared net foreign exchange of US$60,97,118 under Management Consulting service under the head CPC 865 and claimed incentive at the rate of three *per cent* amounting to US$1,82,913[13]. After deduction of late cut at the rate of two *per cent*, the net benefit granted was ₹1.16 crore.

The nature of services of the applicant entailed supplying reports and analysis and recommendations on portfolio investments, investment reports and analysis. CPC 8132 covers services related to security markets, which also cover portfolio management services and other related services[14] whereas, CPC 8133 covers services auxiliary to financial intermediation[15]. Hence, services of the applicant should fall under either CPC 8132 or 8133 as these are not specified in Appendix 3D and hence not eligible for incentive under SEIS.

Further, the service tax registration suggested that the applicant had not registered as Management Consultant and the foreign inward remittance certificate also suggested that the amount was received towards advisory fee.

Thus, the services provided by the assesse were incorrectly classified under CPC 865[16] and SEIS reward was claimed. This resulted in grant of benefit of ₹1.15 crore for ineligible service. Similarly, for FY 18, the applicant claimed ₹1.73 crore for financial advisory services related to securities/ portfolio investments and the same was incorrectly granted vide authorization dated 10 February 2019. Therefore, a total SEIS benefit worth ₹2.88 crore was incorrectly granted for ineligible service to the applicant.

On this being pointed out (February 2021), the Department informed (March 2021) that two demand letters for the amount of ₹1.15 crore and ₹1.73 crore have been issued to the applicant. Further progress is awaited (September 2022).

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[13] Equivalent to ₹1,17,97,923.33, 1$=₹64.50

[14] Information stock quotations, and services related to security markets

[15] Financial advisory services on stock exchange investments etc.

[16] Financial management consulting services

(B) Incorrect grant of SEIS benefits on services rendered prior to 1 April 2015

Foreign Trade Policy (FTP) 2015-20 provides that service providers located in India providing notified services shall be rewarded under SEIS at rates specified in Appendix 3D of HBP. FTP also specifies that the rewards shall be admissible for services rendered on or after the date of notification of the policy i.e. after 1 April 2015.

M/s. AF India Pvt. Ltd., claimed (2015-16) rewards at the rate of five *per cent* against the Net Foreign Exchange (NFE) earnings (US$1,20,34,491.25) from Services auxiliary to all modes of transport (Freight Transport agency (748) of Appendix 3D) and at the rate of three *per cent* against the net foreign exchange (US$16,31,446.19) from other business services (Management consulting service 865 of Appendix 3D) for the period FY 2015-16. The Department imposed late cut of five *per cent* and the net reward granted was ₹4.10 crore.

Audit scrutiny of export service invoices in DGFT, Mumbai, revealed that the company had earned foreign exchange (US$22,82,884.02) against 31 invoices for services rendered from February 2015 to March 2015 i.e. prior to notification date 1 April 2015 for export incentives. As services rendered were prior to the notification date, they were not eligible for SEIS provisions. The Department, however in contravention of the aforesaid, granted the SEIS scrips on the total claim without excluding the ineligible services exported. This resulted in grant of incorrect incentive amounting to ₹92.84 lakh after deduction of late cut of five *per cent*.

The audit observation was communicated to the Department (February 2021) and to the Ministry (August 2022); their response is awaited (September 2022).

(C) SEIS incentives granted on services exported prior to introduction of the Scheme

M/s. AG Pvt. Ltd., a service exporter, submitted a revised application on 28 March 2018 and declared NFE earnings of ₹46.49 crore from Research and development services {Serial No. IB (C) Interdisciplinary R&D services (853) of Appendix 3D} for the period FY 2015-16. The service exporter claimed and was granted reward at five *per cent* amounting to ₹4.41 crore after imposing late cut of five *per cent*.

Audit scrutiny of export service invoices revealed that in one of the invoices considered for SEIS benefits, the service exporter had claimed

SEIS benefits for service rendered prior to the introduction of the scheme i.e. prior to 1 April 2015. The Department had granted SEIS benefit for the services amounting to ₹7.79 crore exported during 21 February to 31 March 2015 which were ineligible as being exported prior to 1 April 2015. This resulted in incorrect issue of SEIS benefit of ₹38.92 lakh.

On this being pointed out (September 2020), the Department reported (May 2021) recovery of excess SEIS benefit of ₹38.92 lakh plus interest of ₹16.60 lakh.

(D) Excess grant of SEIS scrips due to non-imposition of late cut for delay submission of claim

Paragraph 3.15 of HBP Vol-I 2015-20 provides that application, seeking duty credit scrips under SEIS, shall be filed within 12 months from the end of the relevant financial year of claims period and provides for imposition of late cut[17].

M/s. AH Ltd. declared foreign exchange earnings of $1,17,57,895 during FY 16 out of notified services of travel agencies and tour operators services[18] and claimed reward at five *per cent* of NFE amounting to ₹39.03 lakh. The Department granted the reward for the same amount.

Audit scrutiny of DGFT, Mumbai records revealed that the application (due in March 2017) was filed after a delay of 12 months (April 2018) and late cut at the rate of 10 *per cent* was applicable on the same. Department granted (September 2018) the claim without imposing any late cut. This resulted in excess grant of SEIS scrip by ₹39.03 lakh. This was pointed to the Department (September 2020) and to the Ministry (June 2022); their reply is awaited (September 2022).

(E) Incorrect computation of SEIS duty credit

Rewards shall be granted at a specified percentage of NFE earned during the previous year. NFE was defined to mean gross earnings in foreign exchange minus total expenses/payment/remittances of foreign exchange by the applicant relating to service sector in the financial year. However, for services specified in Appendix 3E, which are rendered in port areas, the receipts in INR are also eligible to SEIS

[17] Para 9.02 of HBP Vol-I, 2015-20 -late cut at the rate of two *per cent*, if application is received after due date but within six months from due date, five *per cent* if received from six months to within one year, and ten *per cent* if received after 12 months from due date but not later than two years from due date

[18] Falling at Sl.No.7B of Appendix 3D

as per paragraph 3.08 (c) of FTP 2015-20 (Public Notice 7/2015-20 dated 4 May 2016).

M/s. AI Port Ltd., was operating multipurpose cargo handling berths under a licence agreement with Mormugao Trust Goa. Under this scheme, incentive of $2.20 lakh at the rate of five *per cent* up to October 2017 and incentive of $1.72 lakh at seven *per cent* for subsequent period (November 2017 to March 2018) of FY 2017-18 was claimed towards “Maritime Transport Services {supporting services of maritime transport (745)} for “Berth Hire charges recovered from vessels” docked at berth.

Audit noticed that the firm had not declared any expenses in rendering the services and claimed incentive on total gross earnings during FY 2017-18. The Department granted (January 2019) SEIS scrips for ₹2.52 crore against total gross earnings of ₹43.99 crore without excluding expenses. However, as per the financial accounts for the year 2017-18 expenses to the tune of ₹54.50 crore was booked.

The aforesaid expenses were neither specified in the CA certificate, nor declared in the application of the beneficiary. Since the expenses incurred towards capital goods, technical services in foreign exchange and payments to spare parts, royalty and licence fee in INR related to port services, these expenses proportionate to receipts declared for SEIS benefit should have been deducted to arrive at NFE. Omission to do so resulted in total excess grant of SEIS of ₹48.77 lakh (₹27,36,046[19] and ₹21,41,413[20]).

On this being pointed out (January 2021), the Department issued (February 2021) a deficiency cum demand letter to the firm. Further progress is awaited (September 2022).

(F) Incorrect grant of SEIS duty credit to ineligible services

M/s. AJ Ltd. had claimed SEIS scrip (October 2018) for ₹65.69 lakh at the rate of 5 *per cent* and 7 *per cent* duty credit under Appendix 3D- 8A for ‘Performance Fee of music composer Shri AK for live programmes in various countries’ during 2015 to 2018. The ZDGFT, Chennai had accepted the claim of the firm and granted (November 2018) SEIS duty credit for ₹65.69 lakh calculating credit at the rate of 5/7 *per cent* under Appendix 3D- 8A Entertainment services 9619 – (including theatre, live bands and circus services).

[19] 5 *per cent* of ₹5,47,20,914
[20] 7 *per cent* of ₹3,05,91,614

Scrutiny of the export service invoices revealed that Shri AK, (a renowned Musician) had performed 'Live Entertainment Programmes' during 2015-16 in foreign countries such as United Kingdom, Dubai, Canada, Oman and Malaysia for which payments were received by M/s. AJ, Chennai in foreign currency. Since the Musician was physically present in the foreign countries and had performed the Entertainment Programmes, the services rendered abroad falls under Mode-4 category i.e. Supply of a 'Service' from India through the presence of natural person in any other country – commercial) which is ineligible for grant of SEIS benefits in terms of Para 9.51 of the FTP. As per para 3.08(a) of FTP, Services rendered in the manner as per aforesaid Para 9.51 (i) Mode-1 and Para 9.51(ii) Mode-2, of this policy shall only be eligible for reward under SEIS Scheme. Therefore, services rendered under Mode-4 are ineligible for grant of duty credit under SEIS scheme.

Thus, the duty credit granted to M/s. AJ for ₹65.69 lakh was incorrect which was recoverable from the firm along with applicable interest.

On this being pointed out (September 2019), the Department stated (October 2019) that the objection would be examined and demand notice will be issued to the concerned party to refund the excess/ineligible benefits granted. Further progress is awaited (September 2022).

के माथुर

New Delhi **(Kartikaye Mathur)**
Dated: 09 December 2022 **Principal Director (Customs)**

Countersigned

New Delhi **(Girish Chandra Murmu)**
Dated: 09 December 2022 **Comptroller and Auditor General of India**

ANNEXURE

ANNEXURE 1

Fact Sheet on Special Economic Zones

As on 1 April 2021 **(Refer paragraph 1.9)**

Number of Formal approvals (As on 31 March 2021)	**427**		
Number of notified SEZs (As on 31 March 2021)	378 including 7 Central Govt. plus 12 State/Pvt. SEZs		
Operational SEZs	265		
Units approved in SEZs (As on 31 March 2021)	5,563		
Investment	**Investment (As on February 2006)**	**Incremental Investment**	**Total Investment (As on 1 April 2021)**
Central Government SEZs	₹2,279 Cr.	₹19,225.44 Cr.	₹21,504.64 Cr.
State/Pvt. SEZs set up before 2006	₹1,756 Cr.	₹13,438.13 Cr.	₹15,194.44 Cr.
SEZs notified under the Act	-	₹5,80,799.92 Cr.	₹5,80,799.92 Cr.
Total	**₹4,035 Cr.**	**₹6,13,463.49 Cr.**	**₹6,17,499.00 Cr.**
Employment	**Employment (As on February 2006)**	**Incremental Employment**	**Total Employment (As on 1 April 2021)**
Central Government SEZs	1,22,236 persons	65,643 persons	1,87,879 persons
State/Pvt. SEZs set up before 2006	12,468 persons	94,085 persons	1,06,553 persons
SEZs notified under the Act	0	20,63,704 persons	20,63,704 persons
Total	**1,34,704 persons**	**22,23,432 persons**	**23,58,136 persons**
Export performance			
Year	**Exports (₹ in crore)**		**Growth percentage**
FY 17	5,23,637		12
FY 18	5,81,033		11
FY 19	7,01,179		21
FY 20	7,96,669		14
FY 21	7,59,524		(-)4.66

Total Investment	**2016-17 ₹ in crore**	**2017-18 ₹ in crore**	**2018-19 ₹ in crore**	**2019-20 ₹ in crore**	**2020-21 ₹ in crore**
Central Government SEZs	15,974	19,381	18,677	20,557	21,505
State/Pvt. SEZs set up before 2006	11,478	12,952	13,274	13,534	15,194
SEZs notified under the Act	4,05,690	4,59,979	4,75,693	5,37,644	5,80,800
Total	**4,33,142**	**4,92,312**	**5,07,644**	**5,71,735**	**6,17,499**
Employment (in person)	**2016-17**	**2017-18**	**2018-19**	**2019-20**	**2020-21**
Central Government SEZs	2,34,861	2,39,870	2,28,037	1,97,777	1,87,879
State/Pvt. SEZs set up before 2006	95,970	1,00,669	1,03,052	1,09,124	1,06,553
SEZs notified under the Act	14,48,020	16,56,071	17,29,966	19,31,404	20,63,704
Total	**17,78,851**	**19,96,610**	**20,61,055**	**22,38,305**	**23,58,136**

Source: www.sezindia.nic.in

ANNEXURE 2

Duty evasion cases detected by DRI (Scheme-wise)

(Refer Paragraph 1.13.1)

Sl. No	Scheme		FY 17	FY 18	FY 19	FY 20	FY 21
		No. of cases / Duty (₹ in Cr.)	No. of cases / Duty (₹ in Cr.)	No. of cases / Duty (₹ in Cr.)	No. of cases / Duty (₹ in Cr.)	No. of cases / Duty (₹ in Cr.)	
1	Misuse of End-Use & Other Notification conditions.	No. of cases	29	48	60	17	39
		Duty	15.91	117.5	539.47	117.90	691.29
2	Misuse of EPCG	No. of cases	53	37	32	77	45
		Duty	311.96	237.47	72.90	389.42	161.60
3	Undervaluation	No. of cases	154	346	80	45	34
		Duty	184.89	1,825.42	301.01	106.85	201.33
4	Mis-declaration	No. of cases	167	163	211	179	425
		Duty	309.09	184.72	791.89	349.45	1,419.30
5	Misuse of Drawback Scheme	No. of cases	58	146	21	83	53
		Duty	99.70	40.22	6.87	257.71	66.64
6	Misuse of EOU/EPZ/SEZ	No. of cases	6	3	3	2	5
		Duty	37.34	1.05	4.95	1.57	7.05
7	Misuse of DEEC/ Advance licence	No. of cases	55	79	178	70	34
		Duty	265.21	293.54	3,433.40	335.73	220.28
8	Others	No. of cases	145	118	167	288	170
		Duty	198.08	364.74	1,077.70	624.80	720.69
	Total	No. of cases	**667**	**940**	**752**	**761**	**805**
		Duty	**1,422.18**	**3,064.65**	**6,228.19**	**2,183.43**	**3,488.19**

Source: Anti-Smuggling Performance Report (ASPR)

ANNEXURE 3
Misclassification of imports

(Refer paragraph 3.6)

Sl. No.	DAP No.	Subject	Amount Objected (₹ In lakh)	Amount Accepted (₹ In lakh)	Amount Recovered (₹ In lakh)	Commissionerate	Commodity
1	1	Short levy due to misclassification	12.79	12.79	0	ACC and Airport, Bengaluru	Chocolate flavour Mixture
2	2	Short levy of duty due to misclassification	18.98	18.98	0	ACC and Airport, Bengaluru	L-Glutamine with berries
3	3	Short levy of duty due to misclassification	24.85	24.85	0	ICD, Sanathnagar	Phytase
4	5	Short levy of duty due to misclassification	15.71	15.71	15.71	ACC, Shamshabad	Transmission apparatus-Video conference camera
5	6	Short levy of duty due to misclassification	10.60	10.60	12.58	Hyderabad Customs Commissionerate	Thermal battery components-P130
6	11	Short levy of duty due to misclassification	19.62	19.62	0	ACC, Meenambakkam, Chennai	CCTV camera
7	12	Short levy of duty due to misclassification	15.74	15.74	20.58	New Customs House, Delhi	Header pin for manufacturing Spark plug
8	16	Short levy of duty due to misclassification	25.14	25.14	7.53	ICD, Tughlakabad	Mask making machines
9	18	Short levy of duty due to misclassification	10.84	10.84	0	ICD, Tughlakabad, Delhi	Motion activated night light
10	19	Short levy of duty due to misclassification	15.24	15.24	16.65	NCH, Import, Delhi	IPPBX 32 FX 64-SIP
11	27	Short levy of duty due to misclassification	18.13	0	0	Comm. Customs (Port) Kolkata	Monocalcium Phosphate, Methionine, Betaine HCL95%
12	34	Short levy due to misclassification	11.27	11.27	11.27	Customs House, Kochi	Compressor spares-Seal Diaphragm
13	37	Short levy of duty due to misclassification	24.52	24.52	3.07	JNCH, Mumbai	Preparation of cultivated Blueberries
14	45	Short levy of duty due to misclassification	17.23	17.23	0.15	ICD, Tughlakabad	Photographic studio light mini
15	47	Short levy of duty due to misclassification	12.48	12.48	12.50	ICD, Garhi Harsaru	Parts of motorcycles

Sl. No.	DAP No.	Subject	Amount Objected (₹ In lakh)	Amount Accepted (₹ In lakh)	Amount Recovered (₹ In lakh)	Commissionerate	Commodity
16	50	Short levy of duty due to misclassification	15.89	15.89	0	ICD, Tughlakabad, Delhi	Search light
17	51	Short levy of duty due to misclassification	12.92	12.92	0	ICD, Irungattukottai	Headlamps, Tail lamps, Stop lamps and Blinkers
18	52	Short levy of duty due to misclassification	11.39	11.39	9.66	ICD, Irungattukottai	Boundary microphone
19	53	Short levy of duty due to misclassification	28.87	28.87	16.50	ICD, Tughlakabad, Delhi	Machine made Polyester carpet
20	56	Short levy of duty due to misclassification	16.73	16.73	5.53	ACC-Import, New Delhi	fingertip oximeter/ Pulse oximeter
21	61	Short levy of duty due to misclassification	22.97	0	0	NCH, Mumbai	Imitation jewellery-Catcher
22	62	Short levy of duty due to misclassification	19.58	19.58	4.38	Chennai (Sea) Customs	Inflatable toys
23	67	Short levy of duty due to misclassification	23.33	23.33	27.23	ICD, Rewari	Argon oil wax, green apples wax, gold wax, pearl wax
24	68	Short levy of duty due to misclassification	16.78	16.78	0	ICD, Patparganj, Delhi	Molybdenum mirror/ Shields
25	72	Short levy of duty due to misclassification	12.49	12.49	16.82	NCH, Mumbai	Transformer 1500 KVA
26	94	Short levy of duty due to misclassification	11.43	11.43	0	JNCH, Mumbai	Filter paper 75 mm/82 mm rolls
27	99	Short levy of duty due to misclassification	18.96	18.96	0	ICD, Tughlakabad, Delhi	Kodak LED light/ RGB light panel
28	100	Short levy of duty due to misclassification	10.05	0	0	JNCH, Mumbai	Parts of Motor vehicles-sensor module
29	104	Short levy of duty due to misclassification	22.14	15.43	0	ACC (Import) New Delhi	PCB and Display PCB of Air conditioner
30	111	Short levy of duty due to misclassification	16.84	16.84	0	Chennai (Sea) Customs	Parts of motor vehicles-sensor module
		Total	**513.51**	**455.65**	**180.16**		

ANNEXURE 4
Incorrect application of IGST notification

(Refer paragraph 3.7)

Sl. No.	DAP No.	Subject	Amount Objected (₹ In lakh)	Amount Accepted (₹ In lakh)	Amount Recovered (₹ In lakh)	Commissionerate	Commodity
1	4	Short levy of IGST on imports	18.79	18.79	21.77	ICD, Sanathnagar	Paper bags
2	10	Short levy of duty due to incorrect adoption of IGST rate	10.41	10.41	12.74	NCH (Import), Delhi	Nickel Cadmium battery
3	14	Incorrect application of IGST rate	20.86	20.86	22.62	Custom House, Kandla	Lifting tools
4	20	Incorrect application of IGST rate	11.28	11.28	11.56	Customs (Port), Kolkata	Dipped nylon/Polyester/rayon tyre cord
5	23	Short levy of IGST due to misclassification	22.82	22.82	29.82	ACC, Mumbai III	Pro BioTec LGG stick - Compound for making non-alcoholic beverages
6	24	Short levy of duty due to incorrect adoption of IGST rate	14.00	14.00	17.48	ICD, Whitefield Bengaluru	Cisco IE switches
7	29	Incorrect application of IGST rate	15.36	15.36	23.41	NCH, Mumbai	Tractor parts other than specified
8	35	Incorrect exemption of IGST	24.56	24.56	0	Custom House, Kochi	Fish pellet Frozen-Branded product
9	48	Incorrect application of IGST rate	15.12	15.12	0.82	ACC, Meenambakkam, Chennai	Oil pump motor, flexi pump, fuel injection pump, water pump
10	58	Incorrect application of IGST rate	26.26	26.26	19.99	JNCH, Mumbai	Flexible intermediate bulk containers
11	63	Incorrect application of IGST rate	18.27	0	0	ICD, Garhi Harsaru, Haryana	Tyre assembly
12	65	Incorrect application of IGST rate	17.08	17.08	1.24	ACC (Import), New Delhi	Machine parts
13	69	Incorrect application of IGST rate	19.02	19.02	14.29	ICD-Tughlakabad, Delhi	Nylon/Wool Polyester/ Viscose carpets
14	71	Incorrect application of IGST rate	14.95	14.95	18.48	ACC (Import), New Delhi	Nickel Cadmium battery
15	73	Incorrect application of IGST rate	25.91	0	0	JNCH, Mumbai	Quilts made of Polyester
16	76	Incorrect application of IGST rate	13.28	13.28	17.24	JNCH, Mumbai	White Chocolate callets- Sugar confectionery
17	80	Incorrect application of IGST rate	26.14	26.15	26.15	NCH, Mumbai	Cup fitted Rhinestone-Imitation precious or semi-precious stones
18	89	Incorrect application of IGST rate	22.82	6.06	0	Custom House, MP & SEZ, Mundra, Gujarat	Broomsticks

Sl. No.	DAP No.	Subject	Amount Objected (₹ In lakh)	Amount Accepted (₹ In lakh)	Amount Recovered (₹ In lakh)	Commissionerate	Commodity
19	96	Incorrect application of IGST rate	11.37	11.37	14.95	ICD, Patparganj	Air bag Cushion
		Total	**348.30**	**287.36**	**252.56**		

ANNEXURE 5

Incorrect application of Exemption notification

(Refer paragraph 3.7)

S.No.	DAP No.	Subject	Amount Objected (₹ In lakh)	Amount Accepted (₹ In lakh)	Amount Recovered (₹ In lakh)	Commissionerate	Commodity
1	8	Short levy due to incorrect application of notification	25.56	25.47	0	ICD, Tughlakabad	Grid Lacquer coated medical paper-unprinted
2	26	Short levy of BCD due incorrect application of notification	14.25	14.25	15.27	Customs (Port) Kolkata	Parts of railway wagons
3	43	Short levy of BCD due to incorrect application of notification	29.38	29.38	28.90	ICD, Tughlakabad	Primary forms of Poly Vinyl Chloride
4	55	Short levy of BCD due incorrect application of notification	15.85	15.85	15.85	Customs (Port) Kolkata	Flint Buttons for Ophthalmic use
5	59	Short levy due to incorrect application of notification	33.33	33.06	0	ICD, Tughlakabad	Aseptic packaging paper
6	74	Short levy due to incorrect application of notification	11.39	11.39	11.39	ICD, Tughlakabad	Parts of motorcycles engines
7	75	Short levy due to incorrect application of notification	11.00	11.00	0	ICD, Tughlakabad	Grid Lacquer coated medical paper-unprinted
8	84	Short levy due to incorrect application of exemption notification	15.97	15.97	18.12	Customs House, Mundra	Steering gears-Car components
9	87	Short levy due to incorrect application of notification	15.94	15.94	0	ICD, Tughlakabad	Grid Lacquer coated medical paper-unprinted
		Total	**172.67**	**172.31**	**89.53**		

ANNEXURE 6
Other irregularities

(Refer paragraph 3.8)

S.No.	DAP No.	Subject	Amount Objected (₹ In lakh)	Amount Accepted (₹ In lakh)	Amount Recovered (₹ In lakh)	Commissionerate	Commodity
1	15	Non levy of Health Cess	16.60	16.60	13.36	ICD, Tughlakabad	Bed sore prevention kit, Air bed mattress, Electro magnetic therapy simulator
2	21	Non levy of Safeguard duty	10.70	10.70	2.92	Customs (Port) Kolkata	Solar panel with plastic frame, Solar photovoltaic module
3	64	Non levy of Health Cess	11.34	11.34	9.13	NCH (Import) New Delhi	Mechano Therapy appliances
4	92	Excess grant of duty drawback	11.59	11.59	0	ICD, Tughlakabad	Polyester knitted ladies fancy dupatta
5	93	Excess grant of duty drawback	17.95	17.95	0	ICD, Tughlakabad	Grey Fabric/100% Polyester Grey Fabric
6	101	Excess payment of duty drawback	34.29	34.29	0	Chennai (Sea) Customs	Motor cars of cylinder capacity 1500 CC
7	105	Non levy of Anti-Dumping Duty	23.36	32.83	23.36	Customs House, Mundra, Gujarat	Blank DVD-R
		Total	**125.83**	**135.30**	**48.77**		

ANNEXURE: 7

Non-compliance to provisions of Export promotion schemes of FTP

(Refer paragraph 4.2)

Sl. No.	DAP No.	Subject	Amount Objected (₹ In lakh)	Amount Accepted (₹ In lakh)	Amount Recovered (₹ In lakh)	Commissionerate	Commodity/ Service
1	33	MEIS benefits availed not recovered at the time of re-import	12.41	12.41	19.29	Customs House, Kochi	Re-import of Oleoresin Paprika, Frozen Squid
2	78	SEIS incentives granted on services prior to 1 April 2015	20.24	20.24	28.44	DGFT, Mumbai	Management consulting services
3	82	Incorrect grant of SEIS scrip on Service Tax and GST receipts	25.08	25.08	35.70	DGFT, Mumbai	Cargo handling services
4	88	Excess grant of SEIS scrips due to non-imposition of late cut	11.28	11.28	16.28	DGFT, Mumbai	Storage and Warehouse services
5	107	Incorrect grant of SEIS benefits	12.59	12.59	20.64	DGFT, Mumbai	Advertisement Services
6	108	Incorrect grant of SEIS benefits	19.90	19.90	33.20	DGFT, Mumbai	Cargo handling services
7	7	Excess grant of SEIS scrips due to application of incorrect incentive rate	26.71	26.71	31.71	Zonal DGFT, Chennai	Management consulting services, Testing Development services
8	70	Incorrect grant of SEIS scrip for ineligible services	12.41	12.41	12.30	Zonal DGFT, Chennai	Professional services (Engineering services)
9	112	Grant of SEIS scrip for ineligible services	28.75	28.75	45.16	ADGFT, Bengaluru	Engineering services- Thermal Power plants
10	102	Non fulfilment of Export obligation under Advance authorisation Scheme	11.70	11.70	11.70	Zonal DGFT, Kolkata	Synthetic rubber, Natural rubber, Carbon black, Rubber chemical
		Total	**181.07**	**181.07**	**254.42**		

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