सत्यमेव जयते

Report of the Comptroller and Auditor General of India

भारतीय लेखा एवं लेखा परीक्षा विभाग ✦ INDIAN AUDIT AND ACCOUNTS DEPARTMENT

'Deemed Export Drawback Scheme' and 'Reimbursement of Central Sales Tax (CST) to EOU/STP/EHTP units'

Union Government
Department of Revenue - Indirect Taxes - Customs
No. 8 of 2013

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For the year 2011-12

Deemed Export Drawback Scheme and Reimbursement of Central Sales Tax (CST) to EOU/STP/EHTP units

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Preface

The Report for the year ended March 2012 containing the results of two performance audits on 'Deemed Export Drawback Scheme' and 'Reimbursement of Central Sales Tax (CST) to EOU/STP/EHTP units' has been prepared for submission to the President under Article 151 (1) of the Constitution of India.

The audit of Revenue Receipts – Indirect Taxes of the Union Government is conducted under the Section 16 of the Comptroller and Auditor General of India (Duties, Powers and Conditions of Service) Act, 1971.

The observations included in this Report were from the findings of the test audit conducted during the year 2012-13.

Executive Summary

1. This report contains results of two performance audits – one on 'Deemed Export Drawback Scheme' and another on 'Reimbursement of Central Sales Tax (CST) to EOU[1]/STP[2]/EHTP[3] units'. Both the export promotion measures emanate from the Chapters Eight and Six of the Foreign Trade Policy (FTP) under the Foreign Trade (Development and Regulation) Act, 1992 (FTD&R, Act), administered by Department of Commerce (DoC).

Deemed Export Drawback Scheme

2. DoC has the mandate to facilitate the creation of an enabling environment for accelerated growth of trade, with a view to double India's export of goods and services by 2014, and to double India's share in global trade by 2020. FTP, announced every five years and implemented by Director General of Foreign Trade (DGFT), provides the basic policy framework for translating departmental objectives of promoting Indian exports and import substitution into specific strategies. FTP includes various duty neutralization schemes such as Advance Authorization, Duty Free Import Authorization (DFIA), Duty Entitlement Passbook (DEPB), Deemed Export Duty Drawback (DBK) and Terminal Excise Duty (TED) refund, Export Promotion Capital Goods (EPCG) and other incentive schemes.

3. In pursuance to the Fiscal Responsibility and Budget Management Act, 2003 (FRBM) the Government started showing estimates of major tax expenditure under the Central Tax System duty from the Receipt Budget 2006-07 onwards. The statements of revenue foregone under the Central Tax System in the Receipts Budgets of the Union Government do not show drawback remissions and deemed export drawback. During the four year period from FY08 to FY11, those concessions (DBK remissions: ₹ 33,430 crore; deemed export drawback: ₹ 7,679 crore) constituted 18 per cent of the total tax expenditure of ₹ 2,25,284 crore.

4. DoC's Results Framework Document (RFD) objectives and outcome budget did not mention any quantifiable deliverables against the corresponding budget outlays for export subsidies. FTP also does not include any provision for the review of the outcome of export promotion schemes.

5. DGFT and DoC need to strengthen their internal control procedures and internal audit systems as regards budgeting, accounting, payment and outcome measurement of the schemes. Some of the areas of weaknesses noticed in audit were as follows:

[1] Export oriented Unit
[2] Software Technology Park
[3] Electronic Hardware Technology Park

a. The principal tax collecting authority (DoR)[4] and authority to reimburse deemed export benefits (DoC/DGFT) are different. There is no mechanism to correlate the tax collection on inputs with the deemed export benefits reimbursed, to assess the efficacy of the tax expenditure or export promotion measures.

b. Integrated Finance Department (IFD) and Chief Controller of Accounts (CCA) of DoC have not done any internal audit of the scheme.

c. Electronic data interchange (EDI) system of DGFT is not fully linked with ICES[5]/ACES[6] for online verification of the declarations made by claimants with customs and central excise department for better monitoring the processing of claims.

d. Development Commissioner of Special Economic Zones (DC-SEZs) and Regional Authorities of DGFT (RAs) did not or improperly maintained mandatory records - such as claim receipt register, cheque payment register, brand rate letter register, monthly technical reports and post audit reports.

6. We observed the following shortcomings in the scheme.

a. DGFT did not prescribe any time limit for the applicant to comply with deficiency letters (DL) under the scheme. The applicant could take unintended advantage of the absence of time limit to avoid imposition of late cut on claim or its time barring.

b. The procedure for claiming deemed export benefits (in case of refund of TED/ DBK) do not impose any restrictions on the recipient, where the duty has not actually been borne by the recipient.

c. There are inconsistencies in provisions of FTP and policy circular for granting benefits for supply against invalidation and Advance Release Order (ARO) and claiming of interest on delayed payment. Similarly, there was no provision in the policy to levy interest on erroneous payment of DBK/TED.

d. DC-SEZ and RAs in certain cases sanctioned deemed export benefit outside their jurisdiction.

e. FTP allows fixation of brand rate of DBK by RAs and DC-SEZs, not consistent with the provisions of Customs, Central Excise Duties and Service Tax (Amendment) Rules, 2006.

7. Implementation of the scheme was deficient on following counts.

a. DCs and RAs paid DBK to the suppliers for supplying imported goods to the projects.

b. DGFT had not fixed any time frame to recover the amounts paid in cases of supplies of ineligible goods to non-mega power projects as

[4] Department of Revenue
[5] Indian Custom EDI System
[6] Automation of Central Excise and Service Tax

deemed export benefit. RAs and DCs did not act proactively to issue show cause notices in such cases.

c. RAs refunded TED though the duty incidence had not been borne by the claimants. Deemed export benefits were reimbursed without the mandatory certificates.

d. There were other cases of operational malfunction: TED paid on invoices inclusive of excise duty; invoices of goods supplied not endorsed with EPCG details; supply of goods not mentioned in invalidation letter; incorrect refund of TED/DBK on HSD[7] procured from dealers; excess payment of DBK/TED due to incorrect application of rate.

Reimbursement of Central Sales Tax to EOU/STP/EHTP units

8. Chapter Six of FTP entitles the EOU/STP/EHTP units for reimbursement of CST paid by them on purchases made from Domestic Tariff Area (DTA) for production of goods/services.

9. In pursuance to FRBM, the Government started showing estimates of major tax expenditure under the Central Tax System from the Receipt Budget 2006-07 onwards. The statements of revenue foregone under the Central Tax System in the Receipts Budgets of the Union Government do not show CST in the statement. During the four year period from FY08 to FY11, DoC and Department of Electronics and Information Technology (DeitY) reimbursed ₹ 1,049 crore to the suppliers under the scheme. No specific head of accounts was there for the interest payout.

10. DeitY and DoC need to strengthen their internal control procedures and internal audit systems as regards budgeting, accounting, payments, and outcome measurement of the schemes.

11. Audit noticed the following deficiencies in implementation of the scheme:

a. DCs made refunds of CST on imported good and on goods procured from EOU/SEZs.

b. DC-SEZs sanctioned refund of CST outside their jurisdiction.

c. DC-SEZs and Director STPIs, sanctioned refund of CST for goods utilised in production of exportable commodity.

d. DC-SEZs and Director, STPIs did not apply late cut fee on delayed submission of CST claims.

e. CST was reimbursed by DC-SEZs and Director, STPIs without proper certificates from Chartered Accountant.

12. We acknowledge the co-operation extended by DoC, DGFT, DeitY, RAs, Zonal DC-SEZs and designated officers of STPI in analysing the information

[7] High Speed Diesel

provided for the performance management review. We discussed the objectives, scope and audit methodology for the review in the entry conference held on 21st March 2012 with Department of Revenue, DoC, DGFT, DeitY and representatives of STPI; issued the draft report on 24th September 2012 and 31st January 2013; and discussed the findings and recommendations in an exit conference held on 8 th February 2013. Responses to the recommendations furnished by DoC, DGFT and DeitY have been incorporated in this report.

Recommendations

Deemed Export Drawback Scheme

With reference to the internal control procedures and internal audit system

(Paragraphs 2.1 to 2.13)

1. Internal control procedures and internal audit system of DoC need strengthening for efficient budgeting, accounting, payment and internal audit, aligned to its RFD objectives. Budget estimation, fund allocation and demand utilisation needs close monitoring.

With reference to scheme interpretation

(Paragraphs 3.1 to 3.15)

2. DoC may consider aligning its policy/procedure to prevent ambiguity.

With reference to scheme administration

(Paragraphs 3.16 to 3.93)

3. DoC may consider suitable mechanism to levy interest on erroneous payment of DBK/TED.

4. The existing EDI system of DGFT needs to be linked to the customs and excise department's EDI system to reduce the incidence of fraud, while processing of claims.

5. DoC may consider introducing a provision in FTP for the claimant to certify that burden of duty has been borne by them and not been passed on to others.

6. DoC needs to make an outcome assessment of the efficacy of the scheme with regard to its performance strategy or, the revenue impact assessment done before implementing the scheme on deemed exports, import substitution, taxes neutralised and financial benefits accrued to the beneficiaries etc.

Reimbursement of CST to EOU/STP/EHTP units

With reference to the internal control procedures and internal audit system

(Paragraphs 2.6 to 2.12)

1. Internal control procedures and internal audit system of DeitY and DoC need strengthening for efficient budgeting, accounting, payment and internal audit, aligned to its RFD objectives. Budget estimation, fund allocation and demand utilisation needs close monitoring.

2. DGFT and Deity may prescribe time limits for intermediate steps along with Counter Assistance, to avoid any interest payment on delays.

With reference to scheme interpretation and administration

(Paragraphs 2.13 to 2.35)

3. DoC and DeitY need to resolve the inadequacies in the system as well as in the procedure to prevent erroneous refunds of CST on imported goods.

4. Appendix 14-I-I may suitably incorporate a provision to produce a specific certificate from the applicants that the goods procured were manufactured in India and were not sourced from any EOU or SEZ units.

5. DeitY needs to make an outcome assessment of the efficacy of the scheme with regard to its performance strategy or, the revenue impact assessment done before implementing the scheme, import substitution, taxes neutralised and financial benefits accrued to the beneficiaries etc.

Deemed Exports Drawback Scheme

Deemed Exports Drawback Scheme

Chapter I: Introduction

1.1 The business of DoC is to regulate, develop and promote India's international trade and commerce. It is implemented through formulation of appropriate trade and commercial policy. DGFT an attached office of DoC, formulates FTP, setting the annual targets of exports and implementation of programmes for increasing exports and substituting imports. FTP is meant to implement provisions of FTD&R Act, Rules and orders made there under, by laying down simple, transparent and EDI compatible procedures, which are easy to comply with and administer.

1.2 The key objectives of the current FTP are to arrest the declining exports and to reverse the trend. It also aims to bolster import substitution, however, analysis of Central Excise receipt of the Union Government vis-a-vis additional duty of customs (CVD)[8] levied on imports revealed that the Central excise receipt has increased to ₹ 1,38,372 crore in FY11 from ₹ 72,555 crore in FY01 at an annualized rate of 8.20 per cent, correspondingly, CVD collection has also increased to ₹ 51,065 crore in FY11 from ₹ 16,582 crore in FY01 at an annualized rate of 18.9 per cent as detailed in Annexure B. Decadal Average of ratio of CVD to excise duty has been 27 per cent ranging between 16.51 per cent in FY04 to 44.68 per cent in FY 09 with an increasing trend.

1.3 FTP 2004-09 and 2009-14 provides for the Scheme of Deemed Exports (Chapter 8), which refers to the supply of domestically manufactured goods in which the indigenous manufacturers supply goods to certain prescribed categories of receivers and the taxes paid by the domestic manufacturers for those categories of supplies (as detailed in Annexure C) are reimbursed which provides a level playing field (to domestic manufacturers vis-à-vis importers) to compete for International Competitive Biddings (ICBs).

1.4 Deemed Exports are eligible for the benefits, such as (a) refund of DBK, (b) exemption or refund of TED and (c) advance authorization/Advance authorization for annual requirement, DFIA, subject to terms and conditions as in Hand Book of Procedures (HBP) vol.

1.5 FRBM requires that the Central Government shall take suitable measures to ensure greater transparency in its fiscal operation in public interest and minimise secrecy in the preparation of annual financial statement and demand for grants. The Government started showing estimates of major tax expenditure under the Central Tax System from the Receipt Budget 2006-07 onwards. The statements of revenue foregone under the Central Tax System in the

[8] Additional Customs Duty is a duty equivalent to the excise duty for the time being leviable on a like article had it been produced or manufactured in India.

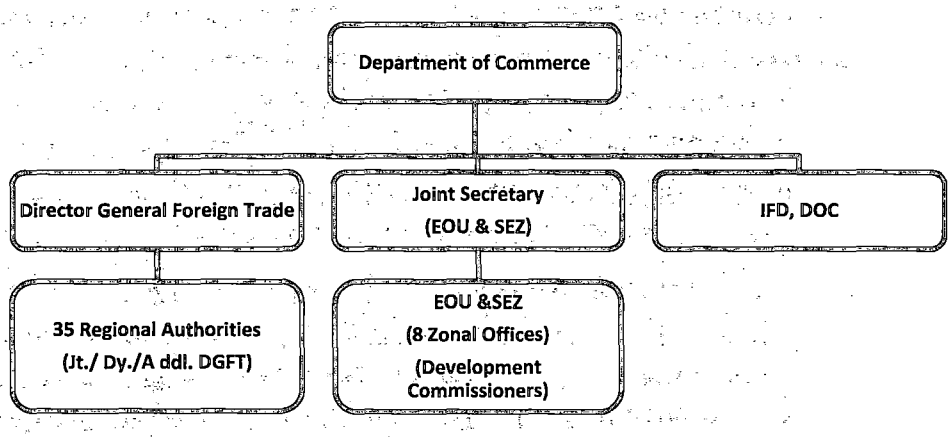
Receipts Budgets of the Union Government do not show drawback remissions and deemed export drawback. During the four year period from FY08 to FY11, those concessions (DBK remissions: ₹ 33,430 crore; deemed export drawback: ₹ 7,679 crore) constituted atleast 18 per cent of the total tax expenditure of ₹ 2,25,284 crore shown in the revenue foregone statements (Annexure A, A1). Deemed export drawback and drawback components taken together, is the third largest tax expenditure under custom duties.

1.6 The pattern of change in the deemed export drawback and drawback has been similar though with varying intensity. Total duty foregone on all export promotion schemes similarly showed the same overall trend between FY08 to FY11.

Organisational set up

1.7 DGFT through its thirty five RAs and by DoC through the eight Zonal DC-SEZ implements the scheme as shown below:

Chart 1: Organogram of DoC



1.8 DGFT collects and compiles information for requirement of funds from its RAs. Policy and Drawback wing submits the demand for approval of IFD, DoC. After the approval and allotment of funds, DGFT issues sanction for payments. Pay & Accounts office (PAO), Commerce & Textile, issues advice to the authorised bank for opening of letter of credit (LC) in respective banks for different RAs. RAs then, issues cheques to the bank with list of beneficiaries to transfer the amounts to the accounts of the beneficiaries online. After issuing the cheques, RAs reconcile the figure of expenditure with concerned regional PAO. Similarly, SEZ-EOU wing of DoC collects and compiles information of requirement of funds from the regional SEZs and obtain the approval of JS (SEZ-EOU) with the concurrence of AS & FA. The concerned CCA/PAO accounts for the expenditure by DCs.

Audit Objectives

1.9 The objectives of the performance audit of Deemed Export Drawback Scheme are to seek an assurance on the following:

a. Effectiveness of the internal control procedures and internal audit system for management of the scheme;

b. Compliance with the extant provision to guard against loss of revenue or any irregular payment of DBK;

c. Fixation of the brand rates;

d. Timely disposal of deemed exports cases;

e. Implementation of the Policy Interpretation Committee (PIC)'s clarifications and outcome assessment of the scheme.

Audit scope and coverage

1.10 We examined, the eligibility, criteria, procedure for claiming DBK and refund of TED as laid down in FTP (2004-09 and 2009-14) and the internal control procedures and internal audit system of the Ministry and the field formations to monitor the scheme as per DoCs own RFD, strategy and outcome reporting. Cases of refund of DBK and TED made during 2007-08 to 2010-11 were audited in the field offices of DGFT and DoC (EOU & SEZ) located all over the country during March 2012 to June 2012.

Audit methodology

1.11 The audit was managed as per the C&AG's Audit Quality Management Framework, 2009 employing professional Auditing Standards, 2nd Edition, 2002 and Performance Auditing Guidelines, 2004.

Audit sample

1.12 Audit scrutinised the cases of refund of DBK and TED in a sampled population in 25 RAs[9] out of 35 RAs of DGFT and 7 DC-SEZ[10] out of eight SEZs of DoC. In these 25 RAs, refund of DBK and TED involving an amount of ₹ 5,941 crore were made in 18,843 cases during 2007-08 to 2010-11 out of which 3,725 cases (20 percent) were scrutinised. Similarly, in the seven SEZs, 5,151 claims involving refund of ₹ 640 crore were made, out of those cases 984 cases (18 per cent) were selected for audit scrutiny. Sample for the performance audit was selected based on the volume of transactions in the field formations of DGFT and DoC using stratified random sampling with strata as tabulated below:

Table 1: Stratified Sample

Category	Cases selected for audit
Claims of ₹ Two crore and above	100 per cent
Claims between ₹ 50 lakh and ₹ 2 crore	50 per cent
Claims less than ₹ 50 lakh	20 per cent

[9] Ahmedabad, Amritsar, Bangaluru, Chandigarh, Chennai, Coimbatore, Cuttack, Gandhidham, Hyderabad, Jaipur, Kanpur, Kochi, Kolkata, Ludhiana, Madurai, Moradabad, Mumbai, New Delhi, Puduchery, Pune, Rajkot, Surat, Varanasi, Vadodara and Vishakhapatnam

[10] Cochin, Chennai, Gandhidham, Mumbai, Noida, Kolkata and Vishakhapatnam

Chapter 2: Internal Control Procedures and Internal Audit System

Internal Control procedures and internal audit system of DoC and DGFT need strengthening.

2.1 DoC and DGFT spend from one budget head on scheme related remissions. The fund management under the budget head is not proper as there was regular savings or excess spending over the four years audited. EOU division of DoC was continuously surrendering the funds whereas DGFT overspent in FY09 and FY10. *DGFT maintained that allocation of funds between DGFT and DoC is in accordance with projected expenditure of RAs and DC-SEZs.*

2.2 The principal tax collecting authority (DoR) and the authority to reimburse deemed export benefits (DoC) are different. There is no mechanism to correlate the tax collection on inputs with the deemed export benefits reimbursed, to assess the efficacy of the tax expenditure or export promotion measures. *DGFT admitted that there is no mechanism to co-relate the tax collection on inputs with deemed export benefits reimbursed.*

2.3 The objectives of the scheme have not been specifically defined though it derives its basic concept from FTP. The scheme is very old and has been operating for nearly three decades, however, its outcome has not been assessed. Committees were set up in the past by the Government to see the original intention and rationale for providing deemed export benefit and criteria for availing the benefits etc.

2.4 DoR, DoC or its CCA have not conducted any internal audit of the field units of DGFT or DoC. *According to DGFT, an inspection unit of DGFT, New Delhi, headed by an officer of the rank of Additional Director General, carries out inspection of offices of RAs from time to time including the 'Deemed Export Scheme'. Controller Aid Accounts and Audit, Department of Economic Affairs informed that for various Export Promotion Licences issued by DGFT were to be audited by them but they have not conducted any such audit for the 'Deemed Export Scheme'.*

2.5 DGFT in their policy circular dated January 2000 and October 2003 on licences and brand rates, circulated to RAs, stated that about five to ten per cent of the cases, selected on random basis, may be subjected to post audit by Internal Audit Unit and initiate requisite follow-up action immediately to review the case at appropriate level. This required RAs to create an Internal Audit Wing in their respective jurisdiction for audit activities in respect of the office. Audit found that the internal audit wings are not functional in the regional offices of DGFT. RAs are required to maintain all registers/records i.e. claim receipt register, cheque payment register, monthly technical reports and post audit

register etc., for proper monitoring of the receipt and disposal of claims under the scheme and for subsequent reference and auditing.

2.6 Audit scrutiny of the records at RAs, Ahmedabad, Amritsar, Bangaluru, Chennai, Chandigarh, Coimbatore, Cuttack, Hyderabad, Jaipur, Kanpur, Kochi, Kolkata, Ludhiana, Madurai, Moradabad, New Delhi, Pune, Rajkot, Surat, Puduchery, Vadodara, Varanasi and Vishakhapatnam and at DC-SEZ, Falta, Noida and Bangaluru, revealed the following:

a. The scheme is not being adequately monitored. The demands were not consolidated and put up in time for timely release of funds. *DGFT in their reply stated (February 2013) that the procedure of allocation disbursement and monitoring of funds has been streamlined and strengthened last year by introduction of payment through electronic clearance system of Banks (ECS), booking and monitoring of expenditure through e-lekha*[11] *and regular compilation by Policy division of DGFT.*

b. Internal audit of the performance of the scheme has not been done by DGFT to analyse whether the objectives were achieved and the checks were adequate to guard against erroneous payments. *DGFT stated that Inspection team of DGFT (Hqrs) are inspecting various work being done by RAs which included the scheme also* but to the contrary, audit found that the role of inspection team in respect of the scheme is limited to the disposal of claims only.

c. DGFT has not been made any effort to correlate the reimbursement with the amount collected by DoR as input tax. *DGFT admitted the fact and stated that there is no mechanism in the Department to correlate the tax collected and the export benefits reimbursed.*

d. DGFT have not linked their system with EDI System (of customs and central excise department) to check the correctness of the declaration made by claimants. *DGFT in their reply (February 2013) stated that online filing of claims of deemed export benefit may not be possible, because, it is reimbursement of duties and not issue of any type of Authorisation like Advance Authorisation. Further, a number of documents are prescribed to decide about the eligibility and veracity of the claim and regarding checking of veracity of claims by Customs and Central Excise Departments, invoices/statement of invoices attested by Central Excise is called for and since March 2011, a copy of declaration of non availing of cenvat is sent to Excise authority.* Reply of DGFT is not acceptable as DGFT is already

[11] Accounting package of PAO

connected with Customs through 'icegate'[12] and needs only to augment the software for verification purposes.

2.7 RAs were required to maintain records such as claim receipt register; ripe register; cheque payment register, brand rate letter register, monthly technical reports, data base of the claims submitted, claims sanctioned, interest paid, payment made and post audit reports. Audit found that either these records were not maintained or maintained by not closing the registers regularly and submitting these to higher authorities. In absence of proper records and non-functioning of the Internal Audit wing there are high inherent and detection risks. A case is highlighted below to indicate the effect of weak monitoring of the scheme by the Department.

2.8 In RA, Hyderabad, a firm applied for fixation of Brand rate (₹ 14.67 crore) on supplies made to 330 MW Srinagar Hydro Electric Project, Uttarakhand. The claims were made under paragraphs 8.2 (g) and 8.4.4(iv) of FTP and it was restricted to ₹ 4.76 crore as the amounts pertaining to supplies of cements and steels were disallowed.

2.9 Audit found that ₹ 13.18 crore was sought from DGFT, New Delhi, for payment to the claimant which was released by DGFT, New Delhi, even though the claim was approved for ₹ 4.76 crore. Eventually the approved amount of ₹ 4.76 crore was paid to the claimant and the excess fund released amounting to ₹ 8.42 crore was diverted for other claims which did not form part of the list of approved cases where funds were sought from DGFT, New Delhi. Improper maintenance of ripe register led to seeking of amount in excess of approved amount.

2.10 Audit also observed that the total fund sought by RA, in April 2011 was ₹ 41.33 crore in respect of 31 cases and the same was released but the actual payment of ₹ 41.33 crore were made to 65 cases. Thus, it can be seen that due to weak monitoring by the competent authorities and suo moto diversion of fund to other cases for which amounts were never sought or released without intimating the Headquarter can lead to excess/fraudulent payments. This contradicts stand of DGFT as mentioned in paragraph 2.6 (d) above.

Regional authorities and Zonal DC-SEZ

2.11 RAs and DCs do not check the mandatory documents submitted with the claims. Mandatory records were either not maintained or maintained improperly and no internal audit wings have been set up by RAs and DC-SEZs.

2.12 *DGFT in their reply (February 2013) stated that a number of steps such as (a) they have started reimbursement of funds under deemed export scheme to all of its RAs through RTGS[13], (b) issued instruction to RAs to ensure that expenditure*

[12] Indian Customs EDI gateway
[13] Real time gross settlement

is booked on the e- lekha system of accounting as soon as expenditure was incurred, (c) Policy division of DGFT is monitoring reports from RAs regarding pending claims, claims approved, projected expenditure and submits proposal for release of funds to IFD of DoC, (d) PAO of DoC in consultation with Central Bank of India developed a scheme wherein expenditure incurred by any RA individually or by all RAs of DGFT collectively can be viewed at any point of time on real time basis and (e) from Financial Year 2012-13, funds for SEZs of DoC and RAs of DGFT are being allocated separately to streamline the mechanism of fund allocation, utilization and monitoring of the same.

2.13 The steps taken by DGFT, as stated above, are subject to verification in subsequent audit. However, perusal of demands for grant of DoC for the financial year 2012-13 revealed that a consolidated amount of ₹ 2,656 crore was again allocated to DGFT against major Head-3453.

Recommendation 1: Internal control procedures and internal audit system of DoC need strengthening for efficient budgeting, accounting, payment and internal audit, aligned to its RFD objectives. Budget estimation, fund allocation and demand utilisation needs close monitoring.

Chapter 3: Audit Findings and recommendations

Statement of Revenue forgone did not include tax expenditure on drawback, deemed export drawback and TED. There was no separate head of accounts for interest payment.

3.1 DoC and DGFT spend from one budget head on scheme related remissions. The tax expenditure on reimbursement of DBK and refund of TED is made under the 'Major Head-3453 – Foreign Trade and Export Promotion-194-Assistance for export promotion and market Development (Minor Head)-03-Assistance to Export Promotion and Market Development Organisation-00-33-subsidies' of DoC. The budget allotment and expenditure during the period FY08 to FY11 by DoC (EOU/SEZ) and DGFT are given below. No pattern is exhibited over the period of audit in case of BE, RE and actual. No suitable explanation through pre budget analysis of budget was adduced by DoC/DGFT to address the variation.

Table 2: Budget allocation under Major Head 3453

Cr ₹

Year		BE*	RE*	Actual**	Actual as per Appropriation accounts	Savings/Excess as per Department
FY08	EOU/SEZ	581.10	581.10	575.36	Appropriation Accounts only indicates consolidated figures of spending under Major Head 3453-Foreign Trade and Export Promotion	5.74 (S)
	DGFT	112.90	1012.90	1011.75		1.15 (S)
FY09	EOU/SEZ	551.63	551.63	525.76		25.87 (S)
	DGFT	742.37	1842.37	1858.34		15.97 (E)
FY10	EOU/SEZ	312.78	312.78	281.52		31.26 (S)
	DGFT	1229.94	1229.97	1246.75		16.76 (E)
FY11	EOU/SEZ	316.51	316.51	310.86		5.65 (S)
	DGFT	1211.04	3211.04	1868.64		***1342.40 (S)

*As per expenditure Budget of Union Government for FY08 to FY11

** Figures furnished by DOC/DGFT

*** The saving of ₹ 1342 crore in the FY11 was due to the decision of PIC to disallow the benefits for some specific supplies to the projects notified under the scheme

3.2 Audit observed that tax expenditure of ₹ 7,679 crore (Deemed Export benefit- Annexure A1) was not included in the statements of revenue foregone under the Central Tax System in the Receipts Budgets of the Union Government. No separate head of accounts for interest was operated under the budgetary grant of DoC or as a head under interest payments.

DGFT needs to streamline the policy, procedures and circulars on implementation of the scheme.

Absence of time limit in policy regarding compliance with deficiency letter

3.3 Paragraph 9.10 of HBP provides that RAs should issue a formal receipt indicating file number for further reference in case of a complete claim

application received from the claimant. Then the dealing assistant examines with reference to the check list and various documents submitted by applicant and the case then submitted to the concerned RA through Foreign Trade Development Officer (FTDO). FTDO issues a DL to the applicant to rectify deficiency, if any, in his claim and resubmit the claim for processing.

3.4 RA, New Delhi and Ahmedabad refunded ₹ 3.09 crore, against four claims of refund of TED in March 2007 and March 2011 respectively. Audit scrutiny revealed that that RA, New Delhi issued DL to the applicant in April 2007 and September 2007. The applicant responded to the DL in September 2009. Similarly, RA, Ahmedabad issued DLs on 20 March 2011, the applicants responded to the DLs after more than two years. RAs processed the resubmitted claim and granted a refund.

3.5 Since DGFT did not prescribe any time limit for the applicant to comply with DL under the scheme. The applicant could take unintended advantage of the absence of time limit to avoid imposition of late cut on claim or its time barring. *DGFT in their reply (February 2013) stated that prescribing of time limit will be examined.*

Loopholes in the prescribed procedure

3.6 Policy/Procedure for claiming deemed export benefits does not prescribe any restriction in the case of refund of TED/ DBK where the duty has not actually been borne by the recipient but by the supplier and the recipient applies for the refund of TED/DBK.

3.7 An EPCG license holder under RA, Kochi, claimed refund of TED (as recipient-applicant) of ₹ 32.52 lakh paid on purchase of goods made against EPCG authorisation. RA allowed ₹ 30.90 lakh after applying late cut for delay in submission of application. Audit scrutiny revealed that the claimant had not paid central excise duty amounting to ₹ 4.42 lakh in respect of three invoices to the supplier.

3.8 *DGFT in their reply (February 2013) stated that it is not material whether the invoice is inclusive of excise duty or not, the real point is whether excise duty has been paid or not.* The reply is not acceptable because the policy is opaque and the procedure missing.

Inconsistency in provisions of FTP, HBP and policy circular

3.9 Paragraph 8.4.1(i) of FTP 2009-14 allows supply of goods against Advance authorisation for annual requirement/DFIA as deemed export and suppliers shall be entitled for advance authorisation/DFIA for intermediate supplies as a benefit against deemed export. Whereas, paragraph 8.4.1(ii) of FTP stipulates that in case of supply against ARO or back to back letter of credit (LOC) against Advance Authorisation/DFIA, benefits of both DBK and TED would be available. DGFT in their Policy Circular dated 1st October 2009 clarified that in case of supply against invalidation, both Advance licence for intermediate supply and TED are available

while for supply against ARO, only DBK is available. As such, this policy circular has allowed the benefits which was not available as per FTP (for supply against invalidation) and disallowed the benefits which is available in FTP.

3.10 RA, Ahmedabad, availed deemed export benefits of TED and Advance authorisation for intermediate supply amounting to ₹ 7.59 crore for supply of goods against Advance Authorisation/DFIA (Invalidation letter), whereas in terms paragraph 8.4.1(i) of FTP ibid, supplier shall be entitled only for availing advance authorisation/DFIA for intermediate supplies and not TED. Similarly, in four cases, sanctioned by RA, Vadodara and Rajkot, the suppliers availed the deemed export benefits of TED of ₹ 99.51 lakh against supply of Advance Authorisations (ARO/LOC) in terms of paragraph 8.4.1 (ii) of FTP, whereas in terms of the circular dated 1st October 2009, supplier shall be entitled to DBK only.

3.11 In our opinion, there is inconsistency between provision of FTP and policy circular and the circular needs to be amended as a policy circular can neither allow benefits not originally contemplated in the FTP nor disallow the benefits available in the FTP. *DGFT in their reply (February 2013) stated that Policy Circular dated 01st October2009 has been revised.*

3.12 FTP provision for filing claims for interest arising out of delayed payment of deemed export benefits within 90 days of payment of claim was amended on 6th August 2008, whereby the interest, if any, arising out of delay in payment beyond 30 days from application is to be paid along with the main claim, without having to apply for it. However, as per HBP interest on delayed payment could be claimed within 90 days of the date of issue of cheque towards settlement of claim. Provision of HBP is not in consonance with the provision of FTP and thus, may be amended in line with the provision of FTP.

3.13 *DGFT in their reply stated (February 2013) stated that as per paragraph 8.5, the interest is to be paid along with the main claim. Policy Circular dated 01st October 2009 is being revised. However, if by mistake, RA does not make the payment of interest and if it is due then, the option has been provided to the applicant to make a claim for interest in ANF-8A.* Reply of the DGFT is not acceptable as it appears that, the provision was made in HBP by overriding the existing provision of FTP as an after thought.

Inconsistency in provisions of FTP and Drawback Rules with respect to fixation of brand rate of DBK

3.14 Paragraph 8.3.3 of HBP stipulates that an application in ANF 8 along with prescribed documents may be submitted to RA or DC for fixation of brand rate of DBK against deemed export supplies. However, Rule 7 of the Customs, Central Excise Duties and Service Tax (Amendment) Rules, 2006 provides that brand rate of DBK is to be fixed by the jurisdictional central excise officer under which the manufacturing unit of the claimant falls after due verifications of duty paying documents and defacing the duty paying documents. Secondly, the claimant

was to certify that all conditions of the Customs and Central Excise Duties and Service Tax Drawback Rules, 1995 have been complied with inter alia non availment of cenvat credit. Thus the provision of FTP/HBP contradicts the provisions of the Customs, Central Excise Duties and Service Tax (Amendment) Rules, 2006. Further, the declaration regarding availing facility of cenvat credit should not only be for input components but also for input services under the Cenvat Credit Rules, 2004, and thus have an impact on fixation of the brand rate. Therefore, RA or DC needs to review all past cases of brand rate fixation of DBK and recover the excess DBK paid, if any.

3.15 Audit found that that in 12 cases (in 11 cases by RAs and in one case by DC-SEZ), RAs, Chennai, Jaipur, Kolkata, New Delhi and DC-VSEZ paid excess DBK of ₹ 17.36 crore due to incorrect fixation of brand rate of DBK. Excess paid DBK need to be recovered. RA, Jaipur, Kolkata and Delhi have initiated action accepting audit's finding.

Recommendation 2: DoC may consider aligning its policy/procedure to prevent ambiguity.

DGFT needs to efficiently process demands, release funds, finalise claims and assign time limits for intermediate steps along with Counter assistance.

Payment of interest for delay in payment of DBK/TED

3.16 Paragraph 8.5.1 of FTP provides for payment of interest at the rate of six per cent per annum on delayed payment of refund of DBK and TED under in respect of reimbursement/refunds that have become due on or after 1st April 2007 but have not been settled within 30 days of its final approval for payment by RAs. In respect of applications of DBK and TED refund submitted on or after 6th August 2008, the period of 30 days is to be counted from the date of receipt of complete application.

3.17 Audit found that there was delay in payment deemed export benefits in 29 per cent cases (6,739 claims out of 22,921 scrutinised in RAs and DCs office) of deemed DBK/refund of TED. An interest of ₹ 52.71 crore was paid (₹ 51.95 crore by the RAs and ₹ 0.76 crore by DCs) in 5,001 claims of deemed DBK/refund of TED. In the remaining cases either the interest was not claimed by the parties or not paid by the department, the interest liability in these 1,738 cases was ₹ 17.48 crore. The delay up to 2,161 days was observed in settlement of the claims.

3.18 Few illustrations are given below:

a. RA, New Delhi paid ₹ 26.27 crore on account of interest in 1,116 claims of DBK and refund of TED.

b. In RA, Hyderabad, out of 1440 cases processed during 2007-08 to 2010-11 an interest of ₹ 6.99 crore was not claimed in 298 claims of

DBK/TED submitted in 81 cases interest of ₹ 6.43 crore was paid on account of delayed payment.

c. RAs, Mumbai, Pune and DC-SEEPZ, Mumbai paid an interest of ₹ 4.04 crore in 518 cases and in 81 cases amount of ₹ 0.78 crore interest was not claimed by the claimants.

d. Five RAs[14] had made interest payment of ₹ 3.60 crore for delayed payment DBK and TED in 941 cases and in 200 cases interest of ₹ 0.25 crore was not claimed by claimants.

3.19 *DGFT in their reply (February 2013) stated that shortage of funds was the main reason for payment of interest liability.* Reply of the DGFT is not acceptable since sufficient delays were noticed in finalisation of claims resulting in payment of avoidable interest.

3.20 *DoC in their reply (February 2013) accepted the observation and stated that the prescribed procedures in terms of paragraphs 9.10 and 9.11 of HBP will be reiterated and strengthened.*

There is no provision in the FTP to levy interest on erroneous payment of DBK/TED.

3.21 Simple interest at the rate of six per cent per annum is payable on delay in refund of DBK and TED under deemed export scheme, however, there is no provision in the scheme to levy interest on the refund of amount paid erroneously on account of payment of DBK/TED.

3.22 Scrutiny of the records of RAs, Ahmedabad, Hyderabad and DC-SEEPZ, Mumbai revealed that in 18 cases RAs made erroneous payments, however, while raising demand letters for recovery of the erroneous payment RAs could not charge any interest on the amount due to absence of such provision.

3.23 *DGFT in their reply stated (February 2013) that they will examine the proposal to levy interest on excess payment of DBK and TED if it is wrongly claimed by applicants, while DoC in their reply stated (February 2013) that they will consider the proposal to levy interest on erroneous payments.*

Recommendation 3: DoC may consider suitable mechanism to levy interest on erroneous payment of DBK/TED.

The existing EDI system does not provide for settlement of claims. It is not connected to ICES/ACES system.

Absence of online EDI system

3.24 DBK and refund of TED is subject to the condition that the applicant firm, while claiming the benefits, furnishes disclaimer certificates to the effect that they have not claimed refund of DBK/TED and will not make any claim in future

[14] Ahmedabad, Gandhidham , Rajkot, Surat and Vadodara

besides the claim involved. The applicant also declares that they will not claim benefits from any of the offices of DGFT /DC-SEZ in future.

3.25 During the audit, it was observed that RAs merely rely upon the disclaimer certificate submitted along with the application. They have no centralized data system/online EDI system to check the correctness of the certificate. In the absence of such system, the possibility of double payment/fraudulent payment cannot be ruled out. For greater transparency, reduction in transaction time and cost and minimizing the incidence of fraudulent claims, EDI system features needs to be augmented.

3.26 *DGFT in their reply (February 2013) stated that on line filing of claims of deemed export benefit may not be possible, because, it is reimbursement of duties and not issue of any type of authorisation like Advance Authorisation. Further a number of documents are prescribed to decide about the eligibility and veracity of the claim and regarding checking of veracity of claims by Customs and Central Excise Departments, invoices/statement of invoices attested by Central Excise is called for and since March 2011, a copy of declaration of non availing of cenvat is required to be sent to excise authority.*

3.27 Reply of the DGFT is not acceptable as DGFT has already connected with Customs and vice versa through 'icegate' and need to upgrade the software for verification. DGFT could make similar link with excise department check the veracity of the declarations made by the claimants.

3.28 *DoC in their reply stated (February 2013) that the process to streamline the claims by units must be more robust. They will examine the issue to further strengthen the existing system of reimbursement of duties and checking the veracity of the claims filed.*

Recommendation 4: The existing EDI system of DGFT needs to be linked to the customs and excise department's EDI system, to reduce the incidence of fraud, while processing of claims.

In a self declaration regime, RAs and DCs are not cross checking the veracity of the declaration made by the claimants.

Absence of system to check the declaration regarding availing of cenvat credit

3.29 Paragraph 8.3.1(i) of HBP stipulates that the recipient of goods may claim DBK/refund of TED subject to the condition that cenvat facility has not been availed by the supplier and a disclaimer certificate from the supplier is furnished. Subsequent to February 2011, the supplier has to furnish the declaration in duplicate, with complete address of the Jurisdictional Assistant/ Deputy Commissioner of the Central Excise Division. DC/ RA would forward the second copy of the declaration, duly stamped, to the addressed Assistant/ Deputy Commissioner of Central Excise.

3.30 Audit observed that no mechanism existed in the office of DC-SEZ and RAs to verify the declarations furnished by the claimants. All RAs except Mumbai and DC-SEEPZ accepted that there is no system to verify the declarations. In RA, Mumbai and DC-SEEPZ, Mumbai the system of cross verification in respect of TED claims with the central excise department was in existence from 2007-08. RA/DC referred five per cent cases to central excise authorities for post confirmation. Audit noticed that the RA Jaipur gave refunds of TED on the supply of the capital goods without the declaration regarding non-availing of cenvat credit as detailed below.

3.31 RA, Jaipur allowed refund of TED of ₹ 18.94 crore in 161 cases to three[15] EPCG license holders during the period 2007-08 to 2010-11. The license holders purchased machinery and spare parts from the indigenous manufacturers (suppliers) after getting release of ARO. In such cases, the manufacturer first paid excise duty to the Government through cenvat credit and/or personal ledger account (PLA) and claimed the same from the EPCG license holders. Thereafter, the EPCG license holders got refund of this duty as TED from the RA. Similarly, scrutiny of records of RA, Kanpur, revealed that a supplier had supplied capital goods (five cases) to various firms and claimed refund of TED amounting to ₹ 5.18 crore without the certificate of non availing of cenvat credit.

3.32 In the above case, the claimant had not furnished disclaimer certificate of non availing the cenvat credit. Moreover, audit found that the supplier paid the duty utilizing cenvat credit. *DGFT in their reply stated (November 2012) that it had issued a PN on 8th May 2011 wherein the declaration required to be given along with ANF 8 have been revised. Copy of such declaration is required to be forwarded by RA to concerned CE Department. DGFT also agreed to send certain percentage of cases to Excise and Customs Department for post verification.*

Availing of cenvat

3.33 As per paragraph 8.3.1(i) of HBP stipulates that recipient of goods may claim benefits of deemed exports on production of a suitable disclaimer from supplier along with a self declaration in the format given in Annexure II of ANF 8, regarding non-availing of cenvat credit. Further, as per paragraph 8.5 of FTP, supply of goods will be eligible for refund of TED in terms of paragraph 8.3(c) of FTP, provided recipient of good does not avail cenvat credit/rebate on such goods.

3.34 In RAs Ahmedabad, Cuttack, Hyderabad, Gandhidham, Jaipur, Kolkata, Kanpur, Mumbai, Pune, Rajkot, Surat, and SEZs at Cochin, Chennai and Vishakhapatnam refund of DBK/TED amounting to ₹ 57.47 crore (₹ 56.10 crore by RAs and ₹ 1.37 crore by DC-SEZs) in 110 cases were made without the disclaimer certificate of the supplier or the self declaration certificate in

[15] M/s Sangam India Pvt. Ltd, M/s Ginni International and M/s Shree Rajasthan Syntex Ltd

Annexure II of ANF 8. *DGFT in their reply (February 2013) stated that RAs have initiated action to obtain disclaimer certificates/cenvat declarations. In case of non compliance recovery would be made.*

3.35 We are of the opinion that to make the entire process of claiming, sanctioning and payment of deemed export benefits transparent, online connectivity of the stakeholders is necessary. DGFT needs to connect itself with EDI of Customs and Central Excise Department.

TED payments made without mandatory documentation.

Grant of TED without proper installation certificates/RCMC

3.36 Paragraph 2.44 of FTP stipulates that to avail any benefit or concession under FTP, the claimant is required to furnish a valid registration cum membership certificate (RCMC) from concerned Export Promotion Council. Similarly in terms of paragraph 8.2.3 of HBP, for supply of capital goods under paragraph 8.2 (c) of FTP, supplier shall produce a certificate from EPCG Authorisation holder evidencing supplies/receipt of capital goods. Further as per paragraph 5.3.1.of HBP, for EPCG holder registered with central excise authorities, installation certificate of excise authority is required to be given and where licence holder is not registered with excise authority, installation certificate from independent Chartered Engineer is required confirming the installation of capital goods.

3.37 Audit scrutiny of refund of TED by RAs Chandigarh, Coimbatore, Kanpur Kolkata, Surat, and DC-Falta revealed that 42 applicants (37 applicants in RAs and 5 applicants in SEZ) were granted refund of TED amounting to ₹ 19.89 crore for supply of capital and other goods. However, the applicants in 18 cases had not submitted any installation certificate for capital goods and in the remaining 19 cases, the RCMC was not produced. Thus, grant of TED in these cases was not in order. *DGFT in their reply (February 2013) stated that RA Kolkata has started recovery process. RAs, Chandigarh and Kanpur have obtained the requisite certificate.*

Refund of TED without the certificate from Directorate General of Hydro carbon (DGHC)

3.38 Paragraph 8.2 (f) of FTP provides for supply of goods to any project in which the MOF, by a notification, permits import of such goods at zero customs duty, shall be considered as deemed exports provided the goods are manufactured in India. In terms of Sr.No.214 to 217 of custom notification dated 1st March 2002, specified goods required in connection with petroleum operations undertaken under specified contracts under the New Exploration Licensing Policy are exempted subject to importer producing a certificate from a duly authorized officer of DGHC, in the Ministry of Petroleum and Natural Gas, Government of India (GoI), to the effect that the imported goods are required for petroleum operations or coal bed methane operations, as the case may be

and have been imported under a contract signed under the New Exploration Licensing Policy or the Coal Bed Methane Policy.

3.39 RAs Mumbai, Cuttack and Ludhiana refunded TED of ₹ 46.79 crore in 26 cases to three applicants for procurement of HSD from IOCL[16]/BPCL[17]. Audit scrutiny of the claims revealed that the claims were not supported by the certificate from the authorized officer of DGHC to the effect that the procured goods, i.e., HSD was required for petroleum operations as stipulated by the condition of the notification dated 1st March 2002. *DGFT in their reply (February 2013) stated that RA, Mumbai has asked the firms to submit the requisite certificates.*

Refund of DBK/TED on supplies not included in the certificate of Department of Atomic Energy (DAE)

3.40 Suppliers of goods to Nuclear Power Projects are entitled for deemed export benefit on supply of goods required for setting up any Nuclear Power Project having a capacity of 440 MW or more as certified by an officer not below rank of Joint Secretary to GoI in DEA.

3.41 RA, Mumbai, sanctioned three DBK claim of ₹ 15.55 crore to a firm against supply of reinforcement steel, structural steel, cement etc., to Kaiga and Kalpakkam Atomic Power Project. Different vendors supplied these goods to the firm for the construction of these projects. Audit found that the supplied goods are not been mentioned in the certificate issued by the Joint Secretary of DAE. Further, the supplier did not produce the disclaimer certificate of non availment of cenvat from the vendors. As the goods supplied were not certified by the competent authority, the sanction of DBK of ₹ 15.55 crore was irregular and need to be recovered. *DGFT in their reply (February 2013) stated that RA, Mumbai has issued SCNs in all cases. The firm has filed a writ petition in the Hon'ble High Court.*

Audit noticed other cases of operational malfunction such as sanctioning of claims by in-appropriate authorities; benefit allowed on ineligible supplies; absence of proof of realization of deemed export supplies etc.

Sanction of deemed export benefit by in-appropriate authority

3.42 Application for deemed export benefits in respect of supplies to EOUs under paragraph 8.2(b) of the FTP shall be submitted to the DC or RA concerned as stipulated in paragraph 8.2.2 of HBP. Further, Policy circular dated 21st October 2003 provides that in respect of supplies made to EOUs under paragraph 8.2(b) of the FTP, one copy of the application for claiming the DBK would have to be filed with the respective RA who would arrange payment based on the brand rate fixed. Paragraph 8.3.1(i) of HBP provides that for

[16] Indian Oil Corporation Ltd.
[17] Bharat Petrolium Corporation Ltd.

claiming benefits under paragraphs 8.3(b) and (c) of FTP, an application along with prescribed documents, shall be made to the concerned RA by the supplier.

3.43 Audit found cases of sanctioning of DBK by authority other than the competent authority. Few cases are illustrated below:

a. DC, MEPZ, Chennai sanctioned DBK of ₹ 13.60 crore in respect of 108 cases involving 21 DTA suppliers, whereas the appropriate sanctioning authority were RA, Chennai and RA, Bangaluru in these cases.

b. In nine cases, RA, Kolkata sanctioned refund of TED of ₹ 2.49 crore for supply of capital goods to EPCG authorization holders under paragraph 8.2 (c), although the concerned RAs were Cuttack, Patna, New Delhi or Mumbai.

c. DC-SEZ, Kandla, sanctioned deemed export benefits of ₹ 61.94 lakh to 23 DTA units for supply of goods to the EOUs. The appropriate claim sanctioning authority in these cases were the concerned RAs. In another instance, RA, Rajkot paid DBK of ₹ 1.03 lakh to DTA unit for the supply of goods to SEZ units. Since supply of goods to SEZ is physical export and not deemed export, grant of DBK by RA was irregular and recoverable from the DTA units.

d. In Cochin-SEZ, DTA suppliers were sanctioned DBK of ₹ 31.34 lakh for supplies made to EOUs by DC, SEZ and not by the concerned RA.

e. DC- SEZ, Falta, sanctioned ₹ 4.94 crore as TED refund to EOUs in four cases and in one case to a DTA supplier, although the claim was for refund of unutilized cenvat credit, which could be sanctioned only by the Jurisdictional central excise authority.

f. In DC- SEEPZ, Mumbai, in six cases, DTA suppliers were sanctioned DBK of ₹ 0.83 crore for supplies made to EOUs by the DC and not by concerned RA.

3.44 Audit also noticed that no efforts were made by the sanctioning authority to verify the claim with the appropriate sanctioning authorities to check the veracity of the claims to avoid double claim etc. Under the circumstances, in the absence of any online EDI monitoring system, the possibility of duplicate claims by the DTA suppliers could not be ruled out.

3.45 Paragraph 8.3(c) of FTP stipulates that deemed exports shall be eligible for exemption from TED where supplies are made against ICB. Accordingly, paragraph 8.3.2 of HBP, provides that for claiming exemption from payment of excise duty, procedure prescribed by the central excise authority shall be followed. Thus, for supplies against contracts awarded through ICB, exemption from payment of central excise duty is to be availed.

3.46 In RAs, Chennai, Cuttack, Jaipur and Kolkata, refund of TED aggregating ₹ 88.80 crore were granted in 59 cases for supplies to projects against contract awarded through ICB. The claimant should have availed exemption as stipulated

in paragraph cited above instead of refund of TED. Refund was thus irregular and recoverable. *DGFT in their reply (February 2013) stated that RAs, Jaipur and Kolkata started recovery proceedings and RA, Cuttack is being asked to initiate recovery proceedings.*

Deemed export DBK for imported goods

3.47 DGFT's Policy circular dated 28th December 2011 clarified that, in case the capital goods have been imported by the contractor/sub-contractor and supplied as such to project authorities, customs duties paid on such imports cannot be refunded as DBK.

3.48 Scrutiny of records of RAs, Jaipur, Delhi, Ahmedabad, Hyderabad and SEZ, Kandla revealed that DBK/TED amounting to ₹ 1,046.11 crore was paid in 56 cases (₹ 1,045.36 crore in 53 cases by RAs and ₹ 0.75 crore by DC-SEZ in three cases) on the supplies of imported goods to the project authorities or they were imported by the project authorities themselves. RA, New Delhi issued recovery letter to 42 claimants involving DBK of ₹ 975.48 crore alongwith interest of ₹ 7.97 crore during May 2011 to April 2012. However, no recovery has yet been reported. *DGFT in their reply (February 2013) stated that RAs have started recovery process however many firms have approached various high courts against such notices as well as PIC clarification.*

Non realisation of deemed export supply

3.49 As a proof of supplies made, the applicant claiming DBK under paragraphs 8.2 (a), (b) and (c) of FTP is required to produce realisation certificate from the Bank in the form given in Appendix 22B of HBP and for supplies made under sub-paragraphs (d), (e), (f), (g) (h) and (j) of FTP, the realisation certificate shall be as per Appendix 22C of HBP. Further, in terms of paragraph 8.3.1 (iv), grant of DBK shall be restricted to the extent of payment realised on the supplies made. In case of refund of TED, no refund is to be sanctioned unless 90 per cent of the total amount is realised.

3.50 Scrutiny of records of RAs, Ahmedabad, Bangaluru, Hyderabad, Jaipur, Kanpur Mumbai, New Delhi, Pune, Surat, Vishakhapatnam and DC-SEZ at Mumbai and Noida revealed that in 65 cases of DBK/TED amounting to ₹ 9.63 crore (₹ 9.27 crore by RAs and ₹ 0.36 crore by DC-SEZs) were paid without realisation certificate/payment certificate or in cases where 90 per cent payment was not realised on the supplies made. *DGFT in their reply (February 2013) stated that RAs, Jaipur and Kanpur have started the recovery process. RA, Ahmedabad has reported the recovery. RA, Surat has now received realisation certificates and other RAs have also started recovery proceedings.*

Incorrect payment of DBK

3.51 The basic purpose of granting DBK is to neutralise the import/excise duty suffered by the manufacturer on inputs used in their export products. As per paragraph 8.3.6 of HBP, 'Customs and Central Excise Duty Drawback Rules, 1995'

shall apply *mutatis mutandis* to deemed exports and according to rule 3(ii) of the Rules ibid, no DBK shall be allowed if the said goods are produced or manufactured, using imported materials or excisable materials in respect of which duties have not been paid.

3.52 In RAs, Ahmadabad, Rajkot, Surat, and SEZ, Kandla, DBK of ₹ 1.63 crore was paid in 18 cases (ten cases in RAs and eight cases in DC-SEZ). Audit scrutiny revealed that the goods supplied are produced or manufactured, using imported materials or excisable materials in respect of which duties have not been paid. *DC-KASEZ accepted the objection and stated (June 2012) that recovery would be made from the unit and RA Ahmedabad informed (July 2012) that the party has asked to submit evidence of supply/receipts of goods from excise authority and RA, Rajkot stated (September 2012) that the party has been asked to refund the excess amount as pointed out by Audit.*

Application of late-cut fee on delayed submission of application

3.53 Paragraph 9.3 of HBP stipulates that wherever any application for claim is received after expiry of last date for submission of such application, the application may be considered after imposing a late cut at the prescribed rate. DGFT clarified on 30th August 2007 that all time barred; pending or rejected applications which were filed after six months from the expiry of prescribed last date of submission, but are within 12 months of the expiry of last date of submission of application should be processed with five per cent late cut.

3.54 Scrutiny of records of RAs, Ahmedabad, Bangaluru, Coimbatore, Gandhidham, Hyderabad, Jaipur, Kanpur, Kolkata, Mumbai, New Delhi, Pune, Surat, Vadodara, Varanasi, and Vishakhapatnam and DC- SEZ at Mumbai, Chennai, Kandla and Noida revealed that in 134 cases (19 cases in SEZs and 115 cases in RAs) of DBK/TED, late cut fee amounting to ₹ 5.35 crore were not levied. *DGFT in their reply (February 2013) stated that RAs Surat and Ahmedabad have recovered the amount of late cut. RAs, Jaipur, Kolkata, Pune, Vishakhapatnam, Bangaluru, Coimbatore, Hyderabad, Mumbai and New Delhi have started recovery process.*

Time barred claims allowed

3.55 Scrutiny of records of RAs, Chennai, Mumbai, New Delhi, Pune and DC-SEZ, Falta, revealed that refund of TED amounting to ₹ 3.22 crore were made against nine (six cases in RAs and three cases in SEZs) time barred claims. These claims were submitted beyond the time period allowed in filing of claims. *DGFT in their reply (February 2013) stated that RAs, Pune and Delhi have initiated recovery proceedings.*

Supplies of goods to non mega power project

3.56 PIC in its meeting dated 15th March 2011 clarified that paragraph 8.4.4(iv) of FTP stipulates that the benefit of refund of TED under paragraph 8.3(c) of the FTP is not available for supplies to non-mega power projects. DGFT

in their letter dated 27th April 2011 instructed all RAs to effect recovery in such cases. PIC once again reiterated (9th September 2011) recoveries in all such cases. *DoR also opined that DGFT has to initiate recovery process.*

3.57 Based on the above clarification department has been reviewing the claims of DBK/refund of TED and issuing demand letter for recovery to various firms. Scrutiny of such cases at RAs, Bangaluru, Hyderabad, Kanpur, Mumbai, New Delhi and Pune revealed that directions of the DGFT letter dated 27th April 2011 have not been carried out by the RAs in letter and spirit. Few instances have been narrated below:

3.58 In RA New Delhi, the review work has not been completed upto May 2012, till then, RA issued 269 demand letters involving amount of ₹ 1,361.54 crore to various firms. Audit scrutiny of the demand letters issued revealed that in 12 cases, RA issued short demand amounting to ₹ 17.77 crore and in one case and excess demand of ₹ 7.63 crore. No recovery has been reported yet.

3.59 In RAs Bangaluru, Jaipur, Hyderabad, Pune and Kanpur, audit noticed that in 95 cases DBK amounting to ₹ 118.25 crore were paid to the claimants for supply of ineligible goods to non mega power projects. However, no recovery was reported till date except in one case at Kanpur involving ₹ 0.37 crore.

3.60 PIC also clarified on 15th March 2011 that supply of fuel, steel and cement would not be eligible for deemed export benefits, except for supply to projects as provided for under paragraph 8.2(d) of FTP. DGFT in their letter dated 27th April 2011 instructed all RAs to effect recovery in such cases. PIC once again reiterated (9th September 2011) recoveries in all such cases.

3.61 In 16 cases, the RA Kolkata refunded TED amounting to ₹ 40.66 crore including interest of ₹ 0.44 crore for supplies of cement and steel to power projects. RA has not initiated action for recovery.

3.62 In three cases, RA, Ahmedabad, granted brand rate of DBK to a contractor for supply of fuel to projects under paragraph 8.2(d) of FTP. However, Show Cause Notice was issued (August 2011) to the party demanding refund of excess DBK of ₹ 2.60 crore in accordance with the DGFT's instructions dated 27th April 2011. However, even after completion of one year the recovery has yet not been affected.

3.63 RA, Hyderabad, allowed TED of ₹ 21.16 crore in 97 cases on supply of cement and steel to a supplier for supplies to non mega Power Projects. These suppliers were not eligible for deemed export benefit therefore, the amount so paid has to be recovered.

3.64 *DGFT in their reply (February 2013) stated that RAs have started recovery process however many firms have approached various high court against such recovery notices as well as PIC clarifications.*

3.65 Audit observed that the department neither fixed any time frame to recover the amounts from the beneficiaries nor they have acted proactively to issue show cause notices, etc. under FTD&R Act.

Refund of TED where burden of duty passed on to EPCG/Advance licence holders

3.66 In terms of paragraph 8.2(c) of FTP, supply against EPCG authorisation is treated as deemed exports for which advance authorization/reimbursement of TED/DBK is available. Further, section 11B of the Central Excise Act, 1944, stipulates that refund will be granted to the assessee only if he has not passed on the incidence of duty to the buyer of his goods; otherwise, the refund due would be sanctioned and credited to the 'Consumer Welfare Fund'.

3.67 In 26 TED refunds of ₹ 4.36 crore sanctioned by four RAs[18], suppliers claimed TED on the supplies (against EPCG/Advance authorizations) for which the suppliers had collected excise duty (as seen from BRCs) involved from the licence holders and thus the burden of duty had not been borne by the suppliers but passed on to the buyers. As per the provisions ibid, the sanctioned amount has to be credited to the consumer welfare Fund instead of paying it to the suppliers of goods.

3.68 *DoC in their reply stated (February 2013) that they will examine the issue. DGFT in their reply (February 2013) stated that the deemed export benefit is given based on actual duty paid. The Government only once refunds the duty. Hence, it is not material whether the supplier in its pricing has included the duty component or not. It is for the supplier and recipient to decide, for the sake of convenience, as to who shall claim the refund.*

3.69 The fact remains that the benefit of deemed export in these cases have been extended to the supplier of goods though the burden of duty had been passed onto the buyers of the goods resulting in undue enrichment to the suppliers, which further indicated the gaps between the existing provisions of FTP/HBP and the section 11B of the Central Excise Act, 1944.

Recommendation 5: DoC may consider introducing a provision in FTP for the claimant to certify that burden of duty has been borne by them and not been passed on to others.

Irregular sanction of TED on supply of 'railway wagons'

3.70 DGFT Policy circular dated 19th December 2008 clarified that supply of 'railway wagons' are not permitted under EPCG scheme and hence refund of TED on supply of such Wagons are not to be made under paragraph 8.2 (c) of FTP. Further, Capital goods as defined under Cenvat Credit Rules 2004 do not include 'Railway Wagons' and hence the same could not be treated as capital goods.

[18] Ahmedabad, Rajkot, Surat and Vadodara

3.71 PIC on 4th September 2009 relaxed the provision of the circular dated 19th December 2008 by making it prospective in effect and allowed the refund of TED where supplies of railway wagons were affected prior to 19th December 2008.

3.72 RA Kolkata and Hyderabad allowed refund of TED aggregating ₹ 135.33 crore, between June 2007 and March 2011, to EPCG authorization holders or their indigenous suppliers for supply of 'railway wagons' against EPCG authorizations. These authorisations were invalidated for procurement from indigenous suppliers. These wagons were leased to the Indian Railways under the Wagon Investment Scheme (WIS), Wagon Leasing Scheme (WLS), etc.

3.73 As 'railway wagons' does not confirm to the definition of capital goods which was reiterated in circular 19th December 2008, thus, refund of TED of ₹ 135.34 crore by RA, Kolkata and Hyderabad respectively, was not in order. Relaxation given by PIC was not in conformity with the said circular or with the definition of capital goods as laid down under Cenvat Credit Rules, 2004.

3.74 *DGFT in their reply (February 2013) stated that payments were made as per Policy Relaxation Committee's (PRC) decision and powers of relaxation vest with DGFT under paragraph 2.5 of FTP after considering recommendation of PRC.* DGFT's reply is not acceptable as the decision of the PRC is not in conformity with the definition of capital goods as well as its own circular dated 19th December 2008.

Irregular refund of TED in respect of supplies made to EOUs

3.75 Paragraph 8.2(b) of FTP stipulates that the supply of goods made to EOUs will be treated as deemed exports and the benefits as envisaged in the paragraphs 8.3 (a) to (c) will accrue to them provided the claim is made in accordance to procedures laid in HBP. Custom circular dated 25th February 2009 stipulates that the goods specified in central excise notification dated 31st March 2003 read with paragraph 6.6.1 of HBP are allowed to be procured without payment of duty against CT-3 form (certificate for removal of excisable goods). Thus, no excise duty is to be paid on supplies made to EOUs against CT-3 forms.

3.76 In RA, Hyderabad, it was observed that the supplies were made against CT-3 forms in respect of 20 claims and TED of ₹ 1.56 crore was refunded. As excise duty was not required to be paid in the first instance as the supplies were against CT-3, refund of TED of was not in order. Further, it was observed that the EOU in their purchase order had mentioned that duty is not to be paid as the supplies are against CT-3. The supplier in their sales invoices added the duty part and then deducted the same and the EOU unit paid only the invoice value and not the duty part. It was also seen that all the payments were made from cenvat account and later on TED was refunded in cash. Thus, the unit was encashing its cenvat account even though duty was not required to be paid.

3.77 *DGFT in their reply (February 2013) stated that duty has been paid by the supplier without using CT-3 exemption and therefore TED was refunded correctly.* Reply of the DGFT is not acceptable as the supplier was not required to pay the duty ab-initio. Moreover DGFT's reply was silent about the unit encashing its cenvat account.

Excess payment of DBK/TED due to incorrect application of rate

3.78 Scrutiny of records of RA, Kochi, Bangaluru, Chandigarh, Chennai, Jaipur, Kolkata, Mumbai, New Delhi and Vishakhapatnam revealed that DBK/TED amounting to ₹ 17.61 crore was paid in 41 cases due to incorrect application of DBK rate.

3.79 *DGFT in their reply (February 2013) stated that RAs, Kochi, Kolkata, Jaipur, Chandigarh and New Delhi have started recovery process. RA, Vishakhapatnam and Bangaluru have already recovered the amount.*

TED paid on invoices inclusive of excise duty

3.80 Grievance Committee in their meeting dated 25th September 2006 decided that refund of TED is not to be allowed in cases where the invoices are inclusive of excise duty. Scrutiny of the records of the RA Hyderabad, Mumbai, Puduchery, Kolkata and Pune, revealed that refund of TED were allowed in 20 cases involving ₹ 6.07 crore against invoices inclusive of excise duty.

3.81 *DGFT in their reply (February 2013) stated that it is not material whether the invoice is inclusive of excise duty or not, the real point is whether excise duty has been paid or not.* Reply of the DGFT is not acceptable because section 11B of the Central Excise Act, 1944, stipulates that refund will be granted to the assessee only if he has not passed on the incidence of duty to the buyer of his goods; otherwise, the refund due would be sanctioned and credited to the 'Consumer Welfare Fund'. Further, reply of DGFT was not in consonance with Grievance Committee decision dated 25th September 2006.

Invoices without EPCG details of goods supplied

3.82 Paragraph 5.5 of HBP states that an EPCG Authorization holder intending to source capital goods indigenously, shall request to RA for invalidation of EPCG authorization for direct import/issue of ARO, alongwith name and address of source person of the capital goods.

3.83 During the Scrutiny of TED claims of RA, Hyderabad it was observed that refund of TED of ₹ 2.38 crore was made in respect of five claims even though the 14 invoices out of total 132 invoices were not endorsed with EPCG details thereby resulting in irregular refund of TED of ₹14.22 lakh. Duplicate/fraudulent claims cannot be ruled out in the absence of proper endorsement of EPCG details on supply invoices as the claim can be made on copies of invoice and hence can be utilized more than once in other claim. Similarly, in RA, Vishakhapatnam, refund of ₹ 0.57 lakh was made, wherein the EPCG licence

number endorsed in the invoice did not tally with the actual licence on which the claim was made. Further, the EPCG licence endorsed in invoice does not pertain to DGFT, Vishakhapatnam and hence the sanction is not in order. *DGFT in their reply (February 2013) stated that RA, Vishakhapatnam has effected recovery and RA, Hyderabad has issued recovery notices.*

Supply of goods not mentioned in invalidation

3.84 RAs Hyderabad, Ludhiana and Vishakhapatnam refunded TED of ₹ 86.58 lakh in respect of 22 TED claims even though the details of the item supplied did not tally with that of invalidation. On being pointed out by audit, *RAs Hyderabad and Vishakhapatnam replied that the cases would be re-examined and appropriate action would be taken. RA, Ludhiana stated that the concerned EPCG authorizations were being called back with advice to the party to get ITC HS code of the item supplied duly corrected as per classification code appearing on the invoices.*

Incorrect refund of TED/DBK on HSD procured from dealers

3.85 Paragraph 6.11(c) (iii) of FTP allows reimbursement of duty paid on fuel procured from domestic oil companies/depots of domestic Public Sector Undertakings at DBK rate notified by DGFT from time to time. Reimbursement of additional duty of excise levied on fuel under the Finance Act would also be admissible.

3.86 RA Mumbai sanctioned three refund claims of DBK of ₹ 7.20 crore in November, 2009. Audit scrutiny of the claims revealed that the goods included HSD procured from dealers. As HSD procured only from depots/companies directly were eligible for deemed export benefits, duty of ₹ 1.60 crore involved on the HSD procured from dealers was not eligible for refund. Besides, it was observed that the claim files contain only statement of invoices. In the absence of the copies of supporting invoices the correctness of the sanction of refund claims of ₹ 7.20 crore in other cases could not be confirmed. *DGFT in their reply (February 2013) stated that RA Mumbai has issued SCN to the firm. The firm filed a writ petition before the Hon'ble High Court of Bombay.*

3.87 RA, Kolkata and DC-FSEZ, Falta sanctioned 34 cases (two cases by RA Kolkata and 32 cases by DC-SEZ) of refund of TED amounting to ₹ 12.15 crore, where the claimants did not produce RT12[19]/ER1[20] and original invoices along with their claims. Therefore, the sanction of refund of TED without the requisite documents, were irregular and thus recoverable. Replies from the concerned RA and DC-SEZ are awaited.

[19] Return filed under Central excise Rules

[20] Monthly return for production and removal of goods and cenvat credit

3.88 In RAs Ludhiana, Chandigarh, Mumbai, Pune, Kolkata, New Delhi, Jaipur, and DC, SEZ- Falta and Vishakhapatnam 32 cases of irregular payment of DBK/TED to the tune of ₹ 2.14 crore were noticed as tabulated below:

Table 3: Other cases of operational malfunction

RAs	Particular	Cases	Amount Lakh ₹	Response of the RA
Ludhiana	Refund of TED on invoice without chapter heading	2	4.40	Not accepted
Ludhiana & Chandigarh	Refund of TED without invoice	4	10.40	Accepted
Mumbai	Refund of excess TED	1	29.99	Reply awaited
Pune	Copy of EPCG authorisation not available	1	9.02	Accepted
Kolkata	DBK paid without test report of the goods supplied	8	73.02	Reply awaited
FSEZ, Falta	Excess refund of TED due to misclassification	1	6.12	Reply awaited
New Delhi	Refund of TED on traders/dealers invoices	8	73.30	Reply awaited
Jaipur	Excess payment due to monitoring failure	1	1.65	Accepted
SEZ, Vishakhapatnam	DBK granted on intermediate goods	1	3.17	Accepted
SEZ, Vishakhapatnam	TED on Furnace Oil	5	3.29	Accepted

No revenue impact assessment prior to the implementation of the deemed export scheme was made available to audit. Outcome assessment of the scheme was also not available.

Scheme development and monitoring

3.89 One of the objectives in the RFD of DoC was implementation of trade facilitating measures to improve trade environment for accelerating growth of exports. DoC has not assigned priority to the review of the outcome of the export promotion schemes under FTP. According to Outcome Budget of DoC, the department had not fixed any quantifiable deliverables against the budget outlay for the export subsidy which mainly consisted of payment on account of DBK, refund of TED and central sales tax. No documentation was made available to show if the scheme was assessed for revenue impact prior to its implementation.

3.90 To achieve the RFD objectives of DoC, as per paragraph 3.1 (XIII) of the Strategic Plan of DoC, DGFT is responsible for implementation of various provisions and schemes under FTP and is the main interface between the Government and the trading community. Accordingly, a comprehensive review

of the various export promotion schemes was to be undertaken and the schemes restructured to make them more effective but the schemes has not been reviewed by DoC, as such, the achievements claimed needs to be substantiated.

3.91 *DGFT in their reply (February 2013) stated that a comprehensive review of the scheme was undertaken by High Level Inter Departmental Committee. Another departmental committee was set up in 2011 to review the scheme. DGFT also stated (February 2013) that deemed export benefits are given for supplies effected within the country and not for physical exports. Hence, there is no co-relation between deemed export benefits and export augmentation. Deemed export benefits on the contrary, results in saving of foreign exchange as domestic manufactures are enable to make supplies for specified categories. Since duty refunds are given to the domestic manufactures, it definitely leads to strengthening of domestic industry and their taxes are neutralized. The amount of actual duty reimbursed/taxes neutralized under deemed export scheme to the domestic manufactures is available with the DGFT.*

3.92 Reply of the DGFT is misleading because the committee set up in 1999 was to see the original intention and rationale for providing deemed export benefit and criteria for availing the benefits etc., and the committee set up in 2011 was yet to make its recommendations, also reply of DGFT evades the issue of outcome assessment of FTP schemes according to the DoC's performance strategy and the deliverables as per the impact assessment done before rolling out the scheme.

3.93 Review of the Deemed Export Drawback scheme by audit indicates that there are deficiencies in the scheme. Its implementation needs to be monitored closely and the Internal controls procedures and internal audit system beefed up.

Recommendation 6: DoC needs to make an outcome assessment of the efficacy of the scheme with regard to its performance strategy or, the revenue impact assessment done before implementing the scheme on deemed exports, import substitution, taxes neutralised and financial benefits accrued to the beneficiaries etc.

Reimbursement of Central Sales Tax (CST) to EOU/STP/EHTP units

Reimbursement of Central Sales Tax (CST) to EOU/STP/EHTP units

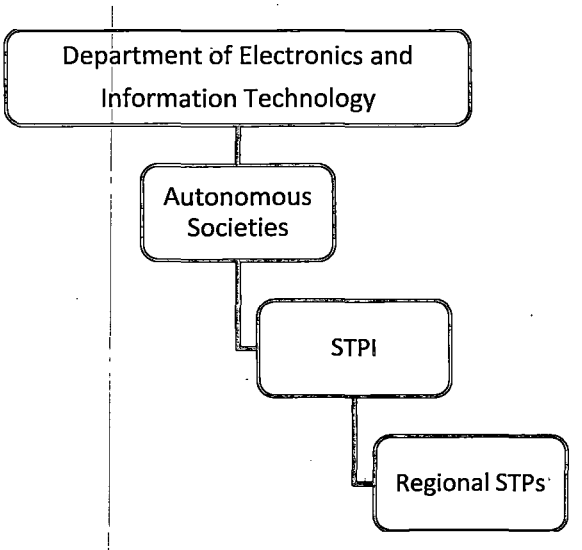
Chapter 1: Introduction

1.1 STPIs was registered as an Autonomous Society under the Societies Registration Act 1860, established under DeitY, Ministry of Communications and Information Technology, Government of India on 5th June 1991 with an objective to implement STP/ EHTP Scheme, set-up and manage infrastructure facilities and provide technology services.

1.2 According to paragraph 6.11 (c)(i) of FTP (2004-09 and 2009-14), EOU/STP/EHTP units are entitled for reimbursement CST paid by them on purchases made from DTA for production of goods/services. The supplies from DTA to EOU/STP/EHTP units must be utilised by the units for production of goods/services export (except permissible sales in DTA). According to the procedure laid down in HBP, vol I, the unit is required to present its claim for reimbursement of CST to jurisdictional Directors, STPI for supplies made to STP/EHTP and jurisdictional DC–SEZ for supplies made to EOU.

1.3 Reimbursement of CST to EOU/STP/EHTP units is made as per the procedure contained in Appendix – 14-I-I of HBP by the designated officers of DeitY and DoC (jurisdictional DC-SEZ in case of EOU units).

1.4 **Chart 4: Organogram of DeitY**



1.5 Approval of the officer designated by DeitY and the Inter Ministerial Standing Committee (IMSC) is required for units to be set up under STP/EHTP schemes.

1.6 Objectives of DeitY, inter alia, are to promote e-industry for delivery of e-services and manufacturing in electronic hardware and IT-ITes industry by setting up STPI centres in Tier II and Tier III locations and performance review of

STP/EHTP schemes as per its RFD 2012-13. One of the mandatory success indicators in its RFD is to ensure compliance to financial accountability framework.

1.7 While dealing with the claims for reimbursement of CST, the designated officer of STP/EHTP verifies that the purchases are essential for production of goods/services by the units. STPI Headquarter submits the consolidated list of beneficiaries centre-wise with amount of CST claims to Programme Division of DeitY for release of funds from the budget allocated for the purpose of reimbursement of CST by STPI centre. The Programme Division of DeitY further processes the demands for approval of Secretary and concurrence of Integrated Finance Division of DeitY.

Audit Objectives

1.8 The objectives of the performance Audit of reimbursement of CST are to seek an assurance on the following:

a. Effectiveness of Internal controls procedures and internal audit system for management of the scheme;

b. Compliance with the extant provisions to guard against loss of revenue or any irregular and erroneous refund of CST;

c. Reimbursement only to eligible applicants;

d. Outcome assessment of the scheme;

Audit scope & coverage

1.9 We examined, the eligibility, criteria, procedure for claiming refund of CST as laid down in the FTP 2004-09 and 2009-14 and the internal controls procedures and internal audit system of the department and field formations to monitor the scheme as per DeitY's own RFD, strategy and outcome reporting. Cases of refund of CST to EOU/STP/EHTP, made during 2007-08 and 2010-11 were audited in the headquarters and field offices of DeitY and DoC located all over the country, during March 2012 to June 2012.

Audit Methodology

1.10 The audit was managed as per the C&AG's Audit Quality Management Framework, 2009 employing professional Auditing Standards, 2nd Edition, 2002 and Performance Auditing Guidelines, 2004.

Audit sample

1.11 Audit scrutinised the cases of refund of CST in a sampled population of the field offices DC-SEZs and STPs in seven SEZs[21] and six STPs[22] out of eight SEZs and 10 STPs located all over the country. In these seven SEZs reimbursement of CST involving an amount of ₹ 992 crore were made in 15,406 cases during 2007-08 to 2010-11 out of which 6,068 cases involving ₹ 687 crore were scrutinised.

[21] Cochin, Chennai, Kandla, Mumbai, Noida, Kolkata and Vishakhapatnam

[22] Mumbai, Bangaluru, Gandhinagar, Noida, Bhubneswar and Kolkata

Similarly, in the six STPs, 443 claims involving refund of ₹ 57 crore were made, out of those cases 246 cases involving ₹ 34 crore were selected for audit scrutiny. Sample for the performance audit was selected based on the volume of transactions in the field formations of DeitY and DoC using stratified random sampling with strata as tabulated below:

Table 4: Stratified Sample

Category	Cases selected for audit
Claims of ₹ 50 lakh and above	100 per cent
Claims below ₹ 50 lakh.	50 per cent

Chapter 2: Audit Findings and recommendations

Statement of Revenue forgone did not include tax expenditure on refund of CST. There was no separate head of accounts for interest on delayed payments.

2.1 The tax expenditure on STP/EHTPs is made under the Major Head '3453 – Foreign Trade and Export Promotion; 800 Other Expenditure; 18 Expenditure Incurred departmentally; 00.50 Other Charges' of DeitY, whereas, for reimbursement to EOU, expenditure is met out from the Major Head-3453 – Foreign Trade and Export Promotion-194- Assistance for export promotion and market Development (Minor Head)-03- Assistance to Export Promotion and Market Development Organisation-00-33-subsidies' of DoC. The Budget allotment and expenditure during the period FY08 to FY11 by DeitY and DoC are given below:

Table 5: Budget allocation under Major Head 3453

Cr ₹

Year		BE*	RE*	Actual**	Actual as per Appropriation Accounts	Savings/Excess as per department
FY08	EOU/SEZ	581.10	581.10	575.36	#	5.74 (S)
	DeitY	3.10	13.10	13.10	13.10	Nil
FY09	EOU/SEZ	551.63	551.63	525.76	#	25.87 (S)
	DeitY	3.10	2.95	2.95	Nil	0.15 (S)
FY10	EOU/SEZ	312.78	312.78	281.52	#	31.26 (S)
	DeitY	3.10	Nil	Nil	0.36	--
FY11	EOU/SEZ	316.51	316.51	310.86	#	5.65 (S)
	DeitY	3.10	63.70	51.61	63.64	--

*As per expenditure Budget of Union Government for FY08 to FY11

** Figures furnished by DoC and DeitY, Figures furnished by DoC also includes expenditure on DBK payments,

2.2 Reasons for saving by DoC and DeitY have not been furnished. There was difference in actual expenditure reported by the department and the expenditure reported in Appropriation Accounts of the Government. The actual expenditure both by DoC and DeitY reveals no trend since the tax expenditure by DoC is concealed under the overall expenditure under MH 3453. No suitable explanation through pre budget analysis of budget proposals was adduced to address the variation.

2.3 FRBM requires that the Central Government shall take suitable measures to ensure greater transparency in its fiscal operation in public interest and minimise secrecy in the preparation of annual financial statement and demand for grants. The Government started showing estimates of major tax expenditure under the Central Tax System duty from the Receipt Budget 2006-07 onwards.

The statements of revenue foregone under the Central Tax System in the Receipts Budgets of the Union Government do not show CST in the statement. During the four year period from FY08 to FY11, DOC and DeitY reimbursed ₹ 1,049 crore to the suppliers under the scheme. The statements of revenue foregone under the Central Tax System in the Receipts Budgets of the Union Government do not show CST remissions.

2.4 One of the objectives of the Export schemes is to help in import substitution, however, analysis of expenditure on CST of the Union Government vis-a-vis Special additional duty of customs (SAD)[23] levied on imports revealed that the CST has increased to ₹ 19,230 crore in FY11 from ₹ 8,371 crore in FY01 at an annualized rate of 11.79 per cent, correspondingly, SAD collection has also increased to ₹ 18,288 crore in FY11 from ₹ 2,442 in FY01 at an annualized rate of 58.99 per cent as detailed in Annexure D. Decadal Average of ratio of CST to SAD has been 20 per cent ranging from 95.10 per cent in FY11 to 28.62 per cent in FY 02 with a highly increasing trend.

2.5 Audit observed that the interest paid out by DoC for delayed payment on reimbursement of CST to the claimants was made out from the Major Head-3453 – Foreign Trade and Export Promotion. No separate head of accounts for interest was operated under the budgetary grant of DoC or as a head under interest payments. Similarly, DeitY was also not operating a separate head under interest payment.

Internal control procedures and Internal Audit System of DeitY and DoC need strengthening.

Weak internal controls procedures and internal audit system

2.6 Paragraph 3 (xi) of Appendix 14-I-I of HBP vol II stipulates that, all claims for CST reimbursement shall be subjected to post audit. Further, offices of the DC-SEZ/Director, STPI should maintain Claim Receipt Register, Cheque Payment Register, Monthly Technical Reports and Post Audit Register etc. for the purpose of CST Refund.

2.7 On verification of records for the period 2007-08 to 2010-11, we noticed that internal audit unit/Post audit unit has not been set up by any of the offices where the review was conducted. Random checking or post audit was being carried out in CST Refund cases only in Cochin where it has been completed upto 2006-07 and for the period 2007-08, it is under process. CST reimbursement procedure has not been computerised in any of the locations. The department relies on the declaration given by the claimants and there is no system to verify the correctness of the claim. *DeitY in their reply stated (February 2013) that STPI is being advised to maintain Claim Receipt Register, Cheque Payment Register,*

[23] Special additional duty is leviable on all imported goods to counterbalance sales tax, VAT, local tax or otherwise

Monthly Technical Reports and set up an internal Audit unit and to follow FTP for random checking.

Recommendation 1: Internal control procedures and internal audit system of DeitY and DoC need strengthening for efficient budgeting, accounting, payment and internal audit, aligned to its RFD objectives. Budget estimation, fund allocation and demand utilisation needs close monitoring.

There were lacunae in reimbursement procedures.

Payment of interest for delay in reimbursement of CST by DoC

2.8 Paragraph 6.11(c) (i) of FTP provides for simple interest at the rate of six per cent payable on delay in refund of CST in respect of reimbursements/refunds that had become due on or after 1st April 2007 but had not been settled within 30 days of their final approval for payment by the authority. Claims for interest were to be filed within 90 days of receipt of CST reimbursement. This provision was amended vide PN dated 6th August 2008, whereby the period of 30 days is to be counted from the date of receipt of complete application and the interest, if any, arising out of delayed payment of CST claim is to be paid along with the main claim, without applying for it.

2.9 While dealing with the applications for reimbursement of CST, the STPI Headquarter submits the consolidated list of beneficiaries (centre-wise) with CST claims, after verifying that goods supplied were essential for production of goods by the units, to DeitY for release of fund from budget allotted for the purpose to STPI for reimbursement of CST to STP/EHTP units by various STPI centres. According to DeitY, STPI is supposed to do two level verification of all reimbursement cases firstly by Exim Division and then by Finance Division. Whereas, in DoC, CCA/PAO, monitors the expenditure incurred by DC-SEZs. The concerned DDOs also send information of expenditure booked to CPAO, DoC.

2.10 During the scrutiny of records of SEZs at Cochin, Mumbai, Chennai, Kolkata and Noida, and STPIs at Gandhinagar, Noida, Kolkata and Bangaluru, out of total 15,849 claims of refund of CST sanctioned. Delay was observed in 2,409 (37 per cent) cases out of 6314 cases reviewed. An interest of ₹ 29.92 lakh was paid by DC-SEZs in 542 cases and in the remaining 1178 cases (890 cases in SEZs and 288 cases in STPI), interest of ₹ 8.02 crore (₹ 0.60 lakh and ₹ 7.44 crore in respect of SEZs and STPIs respectively) was due, the interest has neither been claimed by the claimants nor been paid by the department on their own. The delay is mainly due to delayed release of funds from STPI Headquarters.

2.11 Though provision to dispose application within stipulated time exists in HBP vol I, audit observed delays in disposing the refund of CST claims prompting payment of interest for delayed reimbursement. Thus, entire process of refund of CST needs streamlining to minimise the payment of interest.

2.12 *DoC in their reply stated (February 2013) that the time limit has been prescribed under FTP and the same are required to be adhered to strictly. DeitY, while accepting the observation stated that (February 2013) adhering to the timeline is important. STPI needs to coordinate with the centres on periodically basis to verify the claims and ascertain the requirement of funds for CST reimbursement. Intermediate time limits may be prescribed by DGFT to release the payments in time.*

Recommendation 2: DoC and DeitY may prescribe time limits for intermediate steps along with Counter Assistance, to avoid any interest payment on delays.

Procedural gaps resulted in irregular refunds of CST.

Refund of CST on supply of imported goods

2.13 Paragraph 6.11(c) (i) of FTP stipulates that EOUs/EHTPs/STPs are entitled to reimbursement of CST on the goods manufactured in India. However, audit observed that the application for claiming reimbursement of CST against 'C' Form for the goods brought into the bonded premises of the EOU/EHTP/STP does not bear information whether those were manufactured in DTA or imported, country of origin of goods, tariff number, etc. and the copies of invoices are not mandatory with the application nor there is any mechanism in the department to verify the correctness of the claim.

2.14 DC-SEZ, Cochin, Mumbai, Falta, Gandhidham and Director, STPI Mumbai and Kolkata, in 104 cases, reimbursed CST against supply of imported goods by dealers. The irregular refund made in this regard worked out to ₹ 62.29 lakh (₹ 34.69 lakh by SEZs and ₹ 27.60 lakh by STPIs).

2.15 On being pointed out by audit, *DC-KASEZ, Gandhidham accepted the observation and replied (June 2012) that recovery would be made from the concerned unit. Replies from others are awaited. DeitY in their reply stated (February 2013) that origins of goods are being sought for by STPI for further action.*

Sanction of CST by in-appropriate authority

2.16 Paragraph 6.11 (c) (i) of FTP read with paragraph 3.1 of the Appendix 14–I–I to the HBP provides that EOUs shall be entitled to reimbursement of CST on goods manufactured in India and the unit shall present its claim for reimbursement of CST in the prescribed form to concerned DC-SEZ or the designated officer of the EHTP/STP.

2.17 Audit observed that DC-MEPZ, Chennai, reimbursed ₹ 0.30 crore against reimbursement of CST to an EOU at Bangaluru. Since EOU is located in Bangaluru, under the administrative control of DC-SEZ, Cochin and accordingly, DC, SEZ, Cochin is the appropriate authority for reimbursement of CST for the purchases made by the unit. However, while sanctioning the claim, no efforts

were made to cross verify the same with the DC-SEZ, Cochin that similar claim was not preferred at their end also.

Refund of CST on goods for domestic clearances

2.18 Paragraph 6.11(c) of FTP provides that STP/EHTP units are entitled to full refund of CST on purchases made from DTA for production of goods. In terms of clause 2(a) of Appendix 14-I-I of the HBP, reimbursement is subject to the condition that the supplies from DTA has to be utilised by EOU for production of goods meant for export and/or utilized for export products. However, the provision to export has been withdrawn by amendment dated 16th September 2008. Thus, before 16th September 2008, reimbursement of CST was to be limited to CST payments on goods utilised in production of goods for exports.

2.19 Scrutiny of records of the DC-SEZs, Falta, Kandla, Mumbai, Kochi, Chennai and STPIs, Noida and Bangaluru revealed that reimbursement of CST was made in cases of supplies which were either utilised in manufacture of goods meant for export as well as domestic sale or not relevant for manufacture of exported goods. Cases observed in audit are highlighted below:

a. In 56 cases of CST reimbursement sanctioned by the DC-SEZ, Kandla, prior to September 2008, CST reimbursement was granted on entire purchases of goods which were utilized in production of goods meant for export as well as clearance in DTA. Hence, CST reimbursement of ₹ 6.78 crore on goods utilized in DTA clearance was irregular. *On being pointed out, the department stated (June 2012) that the matter had already been referred to the DoC for suitable clarification.*

b. An EOU, under the jurisdiction of the DC-FSEZ, made regular DTA sales of their manufactured goods besides exports. Out of supplies on which CST reimbursements were claimed upto June 2008, however, the reimbursements were not proportionately restricted to their use in exports. This resulted in excess CST reimbursement of ₹ 24.41 lakh.

c. In STPI, Bangaluru, between 2003-04 and 2008-09, CST was reimbursed in 23 cases taking into account both exports and the DTA sales. The proportionate CST on the goods used in DTA sales work out to ₹ 3.11 crore, which needs to be recovered.

d. DC- SEEPZ, Mumbai, reimbursed ₹ 18.70 crore to 63 EOUs during 2007-08 and 2008-09 for inputs used for production of goods meant for DTA sales. Similarly, DC- CSEZ and STPI, Chennai, reimbursed ₹ 6.23 crore (₹ 3.79 crore by STPIs and ₹ 2.44 crore by SEZs) to 73 EOUs (240 claims) for inputs used for production of goods meant for DTA sales.

Application of late cut by DeitY/DoC on delayed submission of applications

2.20 In terms of Appendix 14-I-I to the HBP, reimbursement of CST claims should be filed within six months from the date of the completion of the quarter in which the claim has arisen. Whenever application is received after expiry of

the last date of submission of such application, it may be considered after imposing the late cut at the rate prescribed in paragraph 9.3 of HBP.

2.21 In SEZs Cochin, Mumbai, Falta, Noida, Kandla and Director STPIs at Bhubaneswar, Bangaluru and Noida, there was a delay of submission of application in 132 claims but late cut fee was either not imposed or incorrect rate was applied while admitting the application for reimbursement resulting in excess payment of ₹ 1.20 crore (₹ 25 lakh by SEZs and ₹ 95 lakh by STPIs). Similarly, DC-FSEZ, in 14 cases, reimbursed CST amounting to ₹ 5.46 lakh against time barred claims. *DeitY accepted the observation and stated (February 2013) those STPIs are instructed to recover the amount from the STPI units.*

Irregular reimbursement of CST to EOU

2.22 Appendix 14-I-I to the HBP provides that supplies from DTA to EOU/EHTP/STP units must be utilised by the units for production of goods/services on which CST has been actually paid. Besides, it is prescribed that the DC or the designated officer of EHTP/STP shall see, inter alia, that the purchases are essential for the production of goods/services by the units. Further, the application (Sl. No. 3 (a) & (b) to Annexure I) also seeks to confirm whether the unit had a valid Letter of Approval on the date of application for reimbursement of CST.

2.23 An EOU in Coimbatore under the jurisdiction of DC-SEZ was granted 'in principle exit' from EOU scheme in May 2008. The Green card which authorised the import and procurement of goods by the unit was validated till January 2009. However the unit was incorrectly granted reimbursement of CST amounting to ₹ 0.22 crore on purchases made after January 2009, which requires to be recovered, along with interest.

2.24 *DoC in their reply stated (February 2013) that they will examine the procedure in greater detail to plug any loopholes which may possibly allow irregular and erroneous refund of CST on imported goods.*

Recommendation 3: DoC and DeitY need to resolve the inadequacies in the system as well as in the procedure to prevent erroneous refunds of CST on imported goods.

Reimbursement of CST allowed on supplies by DTA on incorrect authentication by CA.

CST reimbursement on goods procured from EOU/SEZ units

2.25 According to paragraph 6.11 (c) (i) of FTP read with paragraph 2 of the Appendix 14–I–I to the HBP provides that EOUs shall be entitled to reimbursement of CST on goods manufactured in India and the EOUs units would be entitled to full reimbursement of CST paid by them on purchases made from DTA, for production of goods and services as per EOU scheme.

2.26 DC-SEZs, Chennai, Gandhidham, Mumbai and Cochin, reimbursed CST amounting to ₹ 2.38 crore to 22 EOUs (47 cases) on purchases made from other EOUs or SEZ unit and not from DTA unit. Audit also observed that in all claims the prescribed certificate of the Chartered Accountant obtained to the effect that the payments had been made by the unit to DTA suppliers in respect of goods received against the original invoice bills and the payments had been made through normal banking channel and had been credited to the accounts of the DTA suppliers. Acceptance of factually incorrect certificates reveals inadequacy in monitoring by DCs.

2.27 Similarly in seven cases, CST claims submitted by three claimants, DC, SEEPZ, Mumbai, allowed reimbursement of CST of ₹ 3.18 crore against improper CA certificate submitted with the claims. In four cases the CA certified that "all the items shown in the table are 'not' admissible for reimbursement of CST under provision of EOU scheme" and in the remaining three claims the CA has not certified that "all the items shown in the table are admissible for reimbursement of CST under provision of EOU scheme".

Reimbursement of CST without proper CA's certificate

2.28 As per procedure prescribed for reimbursement of CST under sub-paragraph (a) of paragraph (v) of Appendix 14-I-I of HBP, the CA's certificate enclosed with the claim should fulfil, inter alia, the following criteria:

a. In States of J&K, Orissa, NER, ANI and Lakshadweep, the CA firm should be at least a sole proprietorship firm who should be an FCA and engaged full time with the firm and for partnership CA firm, the firm should have at least two full time partners, one of whom should be an FCA.

b. In case of units located in other regions, the partnership CA firms should have at least one full time partner, who should be an FCA.

2.29 In 54 cases, CA's certificates submitted with CST claims in DC-FSEZ, audit observed that cases pertaining to regions other than (a) mentioned above, involving CST reimbursement amount of ₹ 3.79 crore, the certificates were issued either by a Proprietorship firm or Associate Chartered Accountant. Although instructions for verifying the status of the certifying CA firms from the Institute of Chartered Accountants of India (ICAI) website were issued by DGFT in February 2010, in two cases the certifying CA firms were not registered with the ICAI. In another three cases, STPI, Kolkata, reimbursed CST amounting to ₹ 2.28 lakh pertaining to regions other than (a) mentioned above, the CA certificates enclosed with the claims were issued from a Proprietorships firm. *DeitY accepted the audit observation.*

Grant of CST reimbursement without cancellation of C-Form

2.30 In terms of paragraph (v) (b) of Appendix 14-I-I of HBP, claim for reimbursement of CST is to be submitted along with photocopy of Form-C issued

by the EOU/EHTP/STP units to the supplier in the DTA. The counterfoil of C form will be returned to the unit after making suitable endorsement like 'cancelled/ CST reimbursed'. The items for which CST has been reimbursed should be indicated as cancelled and the photocopies are to be retained by the office for keeping in respective file. In the event of the same 'C' form being used again, the verification could be done at the time of scrutiny from the self-attested photocopies. The firm must indicate the file number on which the original was submitted.

a. In six cases at DC, SEEPZ, Mumbai, CST reimbursement amounting ₹ 9.75 crore were made without cancelling or endorsing the counterfoil of C-Form. Similarly, in 70 cases, CST reimbursement of ₹ 3.12 crore were made by DC-FSEZ without cancelling/endorsing copy of 'C'-Forms.

b. DC-VSEZ reimbursed ₹ 1.04 crore in 10 cases without cancelling or endorsing copy of 'C'-Forms. *The department accepted the observation and noted it for future compliance.*

c. In another 15 cases of CST reimbursement amounting to ₹ 21.69 lakh at the office of the DC, FSEZ, neither photocopies of original 'C' Form, nor copies of cancelled counterfoil of Form-'C', were available in the CST reimbursement files, which is in violation of the provisions discussed above. In such cases there was a possibility of double sanction of CST reimbursement against same C-Form.

2.31 *DGFT in their reply (February 2013) stated that condition of manufacture in India for CST reimbursement is not required as CST reimbursement does not fall under deemed export category. It is special dispensation provided for EOUs/STPs/EHTPs./BTPs. If goods procured by EOU/STP/EHTP/BTPs, passes from one state to another state and CST is incurred then for such interstate supply of goods, CST has to be reimbursed. DoC in their reply stated (February 2013) that CST refund is provided only if it is actually paid.*

2.32 Reply of DFGT and DoC is not acceptable because paragraph 6.11 (c) (i), stipulates that 'EOU/EHTP/STP/BTP units are entitled for reimbursement of CST on goods manufactured in India.

Recommendation *4: Appendix 14-I-I may suitably incorporate a provision to produce a specific certificate from the applicants that the goods procured were manufactured in India and were not sourced from any EOU or SEZ units.*

Other cases of operational malfunction

2.33 In SEZ, Gandhidham, Cochin, Vishakhapatnam, Kolkata, Bangaluru, and STPI Gandhinagar and Kolkata 198 cases of irregular reimbursement of CST to the tune of ₹ 6.56 crore were noticed as tabulated below. *DeitY in their reply stated (February 2013) that STPI has proposed to set up internal control unit to check up irregularity.*

Table 6: Other cases of operational malfunction

SEZ/STPI	Particular	Cases	Amount Lakh ₹	Department. Reply
SEZ, Cochin	Goods not specified in CST registration certificate	45	74.08	Awaited
SEZ, Cochin	Claims received after stipulated period	2	25.29	Awaited
SEZ, Cochin	CST reimbursed prior to making full/actual payment	46	34.73	Awaited
SEZ, Cochin	Non-routing of payments through Normal Banking Channel	5	3.74	Awaited
SEZ, Cochin	Supplementary claims not in prescribed form	12	34.52	Awaited
SEZ, Gandhidham,	CST reimbursement made on the basis of supply instead of payment made	5	62.63	Not accepted
SEZ, Gandhidham	Reimbursement of CST on ineligible goods	1	92.29	Accepted
SEZ, Vishakhapatnam	CST reimbursed prior to making full/actual payment	24	229.30	Awaited
SEZ, Vishakhapatnam	CST on intra-state sales	8	6.57	Awaited
SEZ, Vishakhapatnam	Non-recovery of Lease Rent amount from CST reimbursement	1	4.50	Awaited
SEZ, Falta	Reimbursement of CST claims pertaining to different periods	22	4.82	Awaited
SEZ, Falta	Goods not included in Sales Tax Registration	17	7.87	Awaited
SEZ, Falta	Goods not mentioned in 'C' Form	1	21.00	Awaited
SEZ, Bangaluru	C form not submitted	1	50.09	Awaited
STPI, Gandhinagar	C form not submitted	3	0.49	Awaited
STPI, Kolkata	Goods not specified in CST registration certificate	5	3.84	Awaited
Total		198	655.76	

No revenue impact assessment prior to the implementation of the reimbursement of CST scheme was made available to audit. Outcome assessment of the scheme was also not available.

Scheme development and monitoring

2.34 In terms of paragraph 6.20 of FTP, performance of EOU/STP/EHTP units shall be monitored by Units Approval Committee as per guidelines laid down in Appendix-14-I-G of HBP vol I. In the RFD of DeitY, no clear target and its success indicator has been set for the key objective on setting up of STPI and performance review of STP/EHTP scheme. Outcome/impact of the specific activities have not been outlined either. No records were made available to indicate that the scheme was assessed for its revenue impact prior to its implementation. Similarly, the outcome of the scheme also has not been assessed and reported.

2.35 *DeitY while accepting all our observations stated (February 2013) that in RFD the targets for various deliverables are set and reviewed as per the same.*

However, finding of this performance audit indicates that the scheme was not reviewed by the department to monitor the efficacy and effectiveness of the scheme and there are deficiencies in the scheme. Its implementation is tardy and the Internal controls procedures and internal audit system lax.

Recommendation 5: DeitY needs to make an outcome assessment of the efficacy of the scheme with regard to its performance strategy or, the revenue impact assessment done before implementing the scheme, import substitution, taxes neutralised and financial benefits accrued to the beneficiaries etc.

New Delhi
Dated: 01 May 2013

(NILOTPAL GOSWAMI)
Principal Director (Customs)

Countersigned

New Delhi
Dated: 01 May 2013

(VINOD RAI)
Comptroller and Auditor General of India

Annexure

Annexure A

Total duty foregone on various export promotion schemes during FY08 to FY11

Sl. No.	Name of the Scheme	Duty forgone				(Crore₹)
		FY08	FY09	FY10	FY11	Total
1	Advance License	17928.00	17654.00	12389.00	19355.28	**67326.28**
2	Special Economic Zone (SEZ)	2194.00	1804.00	2324.00	8630.16	**14952.16**
3	EOU/EHT/STP	14386.00	18978.00	13401.00	8579.87	**55344.87**
4	Export Promotion capital Good scheme (EPCG)	9152.00	10521.00	7833.00	10621.24	**38127.24**
5	Duty Drawback (DBK)	3236.00	12116.00	9219.00	8859.00	**33430.00**
6	Duty Entitlement Pass Book Scheme (DEPB)	4842.00	5341.00	7092.00	8756.55	**26031.55**
7	Duty Free Replenishment Certificate (DFRC)	845.00	607.00	111.00	43.53	**1606.53**
8	Duty Free Entitlement Credit Certificate (DFECC) Schemes to status holder	1416.00	740.00	418.00	156.39	**2730.39**
9	Target plus schemes (TPS)	2619.00	923.00	1220.00	373.99	**5135.99**
10	Vishesh Krishi and Gram Udyog Yojna (VKGUY)	548.00	538.00	2059.00	1788.48	**4933.48**
11	Served from India Scheme (SFIS)	444.00	642.00	531.00	542.18	**2159.18**
12	Duty Free Import Authorisation (DFIA) Schemes	699.00	1359.00	1268.00	1403.99	**4729.99**
13	Focus Market Scheme		41.00	408.00	548.12	**997.12**
14	Focus Product Scheme				1209.46	**1209.46**
15	Deemed Export	1587.00	2384.00	1528.00	2180.00	**7679.00**
	TOTAL	**59891.00**	**73648.00**	**59801.00**	**73048.24**	**266393.20**

Source: Receipt Budget and CBEC

Annexure A1

Duty foregone on various export promotion schemes during FY08 to FY11 as per Union Receipt Budget

Sl. No.	Name of the Scheme	Duty forgone				(Crore₹)
		FY08	FY09	FY10	FY11	Total
1	Advance License	17928.00	17654.00	12389.00	19355.28	**67326.23**
2	Special Economic Zone (SEZ)	2194.00	1804.00	2324.00	8630.16	**14952.16**
3	EOU/EHT/STP	14386.00	18978.00	13401.00	8579.87	**55344.87**
4	Export Promotion capital Good scheme (EPCG)	9152.00	10521.00	7833.00	10621.24	**38127.24**
5	Duty Entitlement Pass Book Scheme (DEPB)	4842.00	5341.00	7092.00	8756.55	**26031.55**
6	Duty Free Replenishment Certificate (DFRC)	845.00	607.00	111.00	43.53	**1606.53**
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8	Target plus schemes (TPS)	2619.00	923.00	1220.00	373.99	**5135.99**
9	Vishesh Krishi and Gram Udyog Yojna (VKGUY)	548.00	538.00	2059.00	1788.48	**4933.48**
10	Served from India Scheme (SFIS)	444.00	642.00	531.00	542.18	**2159.18**
11	Duty Free Import Authorisation (DFIA) Schemes	699.00	1359.00	1268.00	1403.99	**4729.99**
12	Focus Market /ProductScheme	-	41.00	408.00	1757.50	**2206.50**
	TOTAL	**55073.00**	**59148.00**	**49054.00**	**62009.16**	**225284.20**

Source: Receipt Budget of Union Government

Annexure B

Central Excise receipt vis-a-vis Additional Duty of Customs receipts

Cr ₹

	FY01	FY02	FY03	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11
Excise Duty	72555	82310	90774	99125	111226	117613	123611	108613	102991	132000	138372
Addl. Duty of Customs (CVD)	16582	14409	15936	16368	22110	29750	38035	46935	46015	33435	51065
CVD as % of Excise duty	22.85	17.51	17.56	16.51	19.88	25.29	30.77	43.21	44.68	25.33	36.90

Average of CVD 27% ranging from 16.51% (FY04) to 44.68 (FY09)

Median of CVD value: 25%

Modal of (iii) value: 25%

Range: 28.17%

Average Annualised growth: 8.1%

Average Decadal Industrial growth: 8%

Annexure C

a. Supply of goods against Advance Authorisation/Advance Authorisation for annual requirement/ Duty Free Import Authorisation (DFIA);

b. Supply of goods to Export EOUs or STPs or EHTPs or Biotechnology Parks (BTPs);

c. Supply of capital goods to Export Promotion Capital Goods (Authorisation holders;

d. Supply of goods to projects financed by multilateral or bilateral agencies / Funds as notified by DEA, Ministry of Finance (MoF) under International Competitive Bidding (ICB) in accordance with procedures of those agencies/Funds, where legal agreements provide for tender evaluation without including customs duty;

e. Supply and installation of goods and equipment (single responsibility of turnkey contracts) to projects financed by multilateral or bilateral agencies/Funds as notified by DEA, MoF under ICB, in accordance with procedures of those agencies / Funds, which bids may have been invited and evaluated on the basis of Delivered Duty Paid (DDP) prices for goods manufactured abroad;

f. Supply of capital goods, including in unassembled/disassembled condition, as well as plants, machinery, accessories, tools, dies and such goods which are used for installation purposes till stage of commercial production, and spares to extent of 10% of FOR value to fertilizer plants;

g. Supply of goods to any project or purpose in respect of which the MoF, by a notification, permits import of such goods at zero customs duty;

h. Supply of goods to power projects and refineries not covered in paragraph 8.2 (f) of FTP;

i. Supply of marine freight containers by EOU (Domestic freight containers-manufacturers) provided said containers are exported out of India within 6 months or such further period as permitted by customs;

j. Supply to projects funded by UN agencies; and

k. Supply of goods to nuclear power projects through competitive bidding as opposed to ICB (international competitive bidding).

Benefits of deemed exports shall be available under paragraphs 8.2 (d), (e), (f) and (g) of FTP only if the supply is made under procedure of ICB. However, in regard to mega power projects, the requirement of ICB would not be mandatory, if the requisite quantum power has been tied up with through tariff based competitive bidding or if the project has been awarded through tariff based competitive bidding.

Annexure D

Central Sales Tax and Special Additional Duty of Customs receipts

Cr ₹

	FY01	FY02	FY03	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11
CST	8371	11424	11730	10457	13037	13968	16200	18613	18389	17048	19230
SAD	2442	3269	NA	3595	4083	NA	NA	10595	13165	14095	18288
SAD as % of CST	29.17	28.62	NA	34.38	31.32	NA	NA	56.92	71.59	82.68	95.10

CST: {(FY11-FY01)/FY01)}*100 =129.72

Average Decadal Growth of CST = 129.72/11 = 11.79

SAD: {(FY11-FY01)/FY01)}*100 = 648.89

Average Decadal Growth of SAD = 648.89/11 = 58.99

Range = 95.10 in FY11 – 28.62 in FY02 = 66.48

Average annualised growth in CST/SAD ratio: (FY11-FY01)/(11xFY01) = 0.20.