

**Report of the  
Comptroller and Auditor General  
of India**

**for the year ended March 2012**

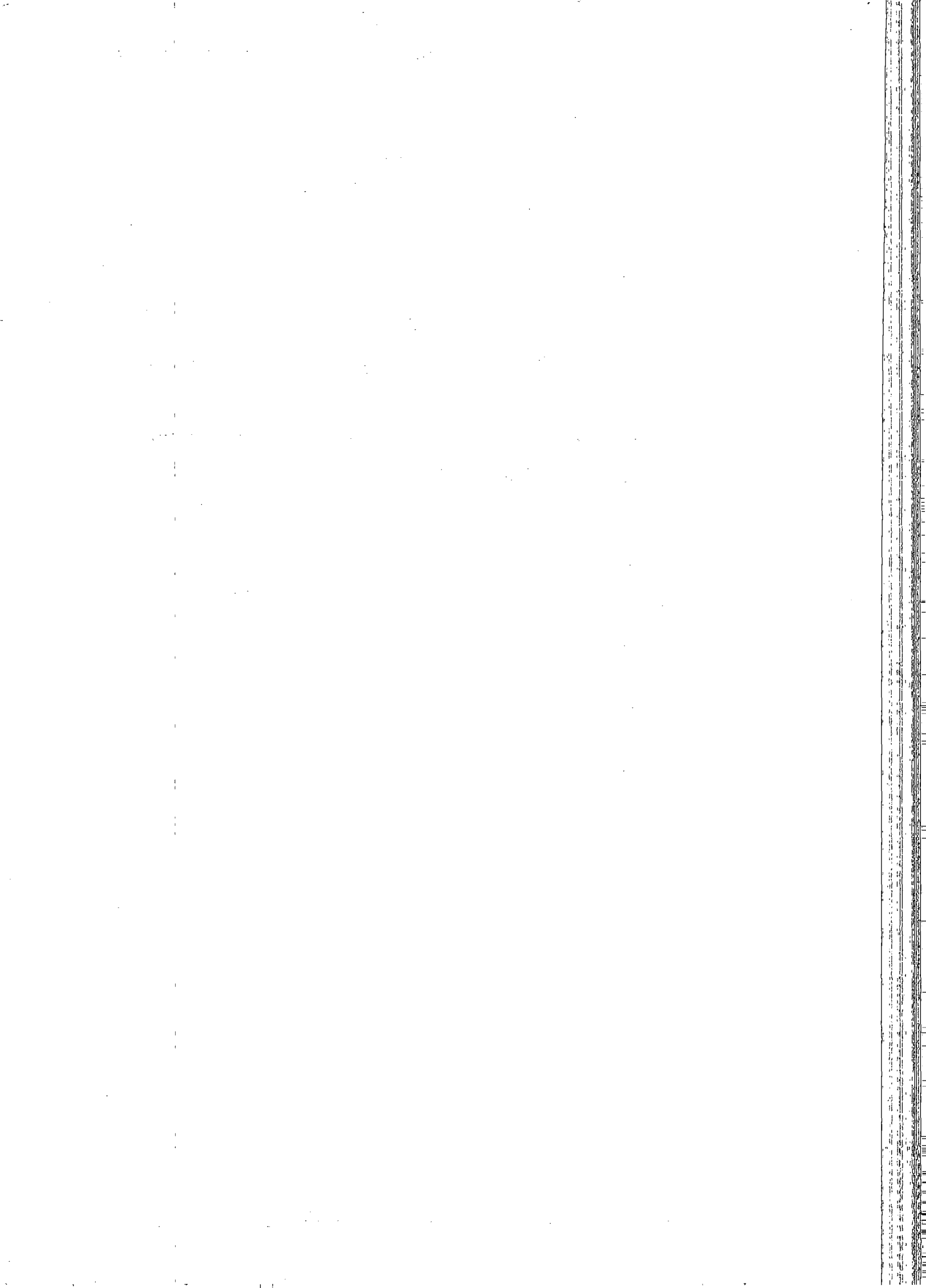
**Union Government**  
Department of Revenue – Customs  
(Compliance Audit)  
**No.14 of 2013**

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PREFACE

This Report for the year ended March 2012 has been prepared for submission to the President of India under the Article 151 (1) of the Constitution of India.

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

This Report presents the results of audit of receipts of customs duties.

The observations included in this Report have been selected from the findings of the test check conducted during 2011-12, as well as those which came to notice in earlier years but were not included in the previous Reports.



## EXECUTIVE SUMMARY

The Report has a total revenue implication of ₹ 31.48 crore covering 31 paragraphs. We had issued another 90 paragraphs involving money value of ₹ 30.80 crore on which rectificatory action was taken by the Department/Ministry in the form of issuing show cause notices, adjudicating show cause notices and recovery of ₹ 27.76 crore. A few significant findings included in this Report are mentioned in the following paragraphs.

### Chapter I: Customs revenue-Trends, composition and systemic issues

- Customs revenue as a ratio of GDP has been stagnant at around 1.7 percent.  
*{Paragraphs 1.8 to 1.9}*
- Department of Revenue does not have a results framework document with objectives, activities, performance and success indicators in line with the subjects of its business allocation, for clearer performance monitoring and evaluation.  
*{Paragraph 1.18}*
- Fluctuating gap between Revised Estimates/ Budget Estimates suggests that the department did not adopt any rational method for pre budget analysis and forecasting.  
*{Paragraph 1.19}*
- The Customs Revenue forgone is increasing exponentially without commensurate increase in the exports.  
*{Paragraphs 1.27 to 1.33}*
- There was no outcome analysis of the SEZ Scheme at the macroeconomic level.  
*{Paragraphs 1.34}*
- ICT based solutions (ICES) and self assessment were not extended to all customs transactions.  
*{Paragraphs 1.39 to 1.41}*
- In the last ten audit reports, we had included 1709 audit paragraphs involving ₹ 2129.73 crore. Of these, the Government had accepted audit observations in 1390 audit paragraphs involving ₹ 1177.03 crore and had recovered ₹ 156.89 crore.  
*{Paragraph 1.79}*

## Chapter II: Duty exemption/Remission schemes

- Revenue of ₹ 20.48 crore was due from exporters/importers who had availed of the benefits of the duty exemption schemes but had not fulfilled the prescribed conditions.

*{Paragraphs 2.1 to 2.47}*

## Chapter III: Incorrect assessment of customs duties

- We detected incorrect assessment of customs duty totalling ₹ 6.11 crore. These arose mainly due to non levy of applicable duty on left over fuel in the tank of aircrafts/ ships during domestic run, non levy of anti dumping duty, non realisation of cost recovery charges and incorrect levy of education cess on exports etc.

*{Paragraphs 3.1 to 3.31}*

## Chapter IV: Incorrect application of General exemption notifications

- Duty of ₹ 2.85 crore was short levied due to incorrect application of exemption notifications.

*{Paragraphs 4.1 to 4.10}*

## Chapter V: Mis-classification of goods

- Duty of ₹ 2.04 crore was short levied due to misclassification of goods.

*{Paragraphs 5.1 to 5.17}*



### Glossary of terms and abbreviations

Expanded form	Abbreviated form
Accredited Client Programme	ACP
Advance authorization	AA
Authorised Economic Operator	AEO
Advance release order	ARO
Anti Dumping Duty	ADD
Basic customs duty	BCD
Bill of entry	BE
Comprehensive Payment and Accounting Package	COMPACT
Customs tariff heading	CTH
Central Board of Excise and Custom	CBEC
Central Excise tariff heading	CETH
Central Statistical organization	CSO
Central Sales Tax	CST
Cost Insurance Freight	c.i.f.
Commissionerate of custom	Commissionerate
Countervailing duty	CVD
Directorate of Data Management	DDM
Department of Revenue	DoR
Department of Commerce	DoC
Director General of Foreign Trade	DGFT
Development Commissioner	DC
Director General of Anti Dumping	DGAD
Directorate General of Valuation	DGOV
Domestic tariff area	DTA
Duty Entitlement Pass Book	DEPB
Duty Exemption Entitlement Certificate	DEEC
Duty Free Entitlement Credit Certificate	DFECC
Duty Free Replenishment Certificate	DFRC
Electronic Data Interchange	EDI
Export obligation	EO
Export obligation discharge certificate	EODC
Export Oriented Unit	EOU
Export Performance	EP
Export Promotion Capital Goods	EPCG
Export Processing Zone	EPZ
Export and Import	EXIM
Financial year	FY
Fiscal Responsibility and Budget Management Act	FRBM

Expanded form	Abbreviated form
Free on Board	FOB
Foreign Trade Policy	FTP
Gross Domestic product	GDP
Hand Book of Procedures	HBP
High speed diesel	HSD
Harmonised system of nomenclature	HSN
High sea sale	HSS
Information and Communication Technology	ICT
Importer Exporter Code	IEC
Indian Customs Electronic Data Interchange system	ICES
Inland Container Depot	ICD
International Tariff Classification(Harmonised System)	ITC(HS)
Joint Director General of Foreign Trade	JDGFT
Letter of permission	LOP
On Site Post Clearance Audit	OSPCA
Public Accounts Committee	PAC
Performance monitoring and Evaluation system	PMES
Principal Chief Controller of Accounts	Pr.CCA
Regional licensing authority	RLA
Result Framework Document	RFD
Real effective exchange rate	REER
Risk Management System	RMS
Rupees	₹
Special additional duty of customs	SAD
Special Economic Zone	SEZ
Served from India Scheme	SFIS
Software Technology Park	STP
Trend growth rates	TGR
Vishesh Krishi and Gram Udyog Yojana	VKGUY

## Chapter I

### Department of Revenue -Customs Revenue

#### Resources of the Union Government- Trends, composition and systemic issues

**1.1** The Government of India's resources includes all revenue received by the Union Government, all loans raised by issue of treasury bills, internal and external loans and all money received by the Government in repayment of loans. Tax revenue resources of the Union Government consist of revenue receipts from direct and indirect taxes. **Table 1.1** presents a summary of total receipts of the Union Government, which amounted to ₹ 5284052 crore<sup>1</sup> for FY 12. Union Government's own receipts were ₹1220875 crore, constituting only 23.10 percent of the total receipts. The remaining 76.90 percent receipts came through borrowings. Out of its own receipts, ₹ 889397 crore (72.85 percent) is the gross tax receipts.

**Table 1.1: Resources of the Union Government**

	Cr.₹
Direct Tax Receipts	493988
Indirect Tax Receipts	395409
Non-Tax receipts	276573
A. Total Revenue receipts	1165970
B. Capital receipts	18088
C. Loan & Advances	36817
D. Debt Receipts	4063177
Total Receipts of Government of India	5284052

Note: Tax receipts include ₹ 255414 crore, share of net proceeds of direct and indirect taxes directly assigned to states.

Source: Finance Accounts

#### Revenue Receipts: Movement of Major Aggregates

Indirect Taxes have fallen on three year average basis during the beginning and end of the foregoing decade of second generation reforms, owing largely to the diminishing indirect tax- GDP ratio.

**1.2** Revenue receipts come from both tax and non-tax sources. Tax revenue comprises proceeds of taxes and duties levied by the Union Government, viz. taxes on income and expenditure, customs, union excise duties, etc. Gross tax revenue receipts of the Union Government were 9.91 percent of the GDP in FY 12 (**Table 1.2**). The highest level was attained in FY 08. Gross tax revenues fell to their lowest level in FY 03 to 8.55 percent of the GDP. As percentage of the GDP, gross revenue receipts had shown positive growth of 0.94 percentage points if one compares the three year average for FY 10 to FY 12 with the corresponding figure for FY 03 to FY 05. Tax revenues of the Union Government, net of the share of states, fell a little from 7.36 percent of the GDP in FY 11 to 7.06 percent in FY 12.

<sup>1</sup>Figures are provisional. Source: Finance Accounts

**Box 1 : Reporting Parameters**

Fiscal aggregates like tax and non-tax revenues have been presented as percentage to the GDP at current market prices. The New GDP series with 2004-05 as base as published by the Central Statistical Organisation has been used. Data up to FY 11 are actuals. For FY 12 provisional figures have been used.

Trend growth rates (TGR) have been indicated for relevant variables. The TGR indicates average annual percentage growth over a period. The present analysis has a reference period of ten years from FY 03 to FY 12.

For most series annual changes have also been indicated. This refers to percentage change of an observation with reference to its value in the previous year.

Three year averages or measures of central tendencies are used wherever relevant for indicating compositional changes with a view to ironing out random influences.

Average tariff is the simple average of all applied tariff rates at 6 digit level.

TWA- Trade weighted average or simply the collection rate which is obtained by dividing the total revenue by the total value of imports. Revenue from basic customs duties alone has been taken into account.

**1.3** The Trend Growth Rates (TGR) of gross revenue receipts of the Union Government was 17.07 percent per annum over the last decade (**Table 1.2**). Growth in 2011-12 over the previous year was 12.11 percent, which was below the TGR.

**Table 1.2: Revenue receipts: Gross and Net**

Year	Gross Tax Revenues	Share of States	Net Tax Revenues	Gross Direct Tax	Cr.₹
					Gross Indirect Taxes
FY 03	216266	56122	160144	83089	132542
FY 04	254350	65768	188582	105091	148534
FY 05	305047	78685	226363	132776	171273
FY 06	366172	94406	271766	165222	199702
FY 07	473534	120351	353182	230101	241906
FY 08	593161	151814	441347	312219	279497
FY 09	605309	160190	445119	333859	269989
FY 10	624527	164832	459696	377594	245374
FY 11	793308	219303	574005	445995	345371
FY 12	889397	255414	633983	493987	392674
TGR	17.07	18.2	16.66	22	12.26

Year	As percent to GDP				
	Gross Tax Revenues	Share of States	Net Tax Revenues	Gross Direct Tax	Gross Indirect Taxes
FY 03	8.55	2.22	6.33	3.28	5.24
FY 04	8.96	2.32	6.65	3.7	5.23
FY 05	9.41	2.43	6.98	4.1	5.28
FY 06	9.91	2.56	7.36	4.47	5.41
FY 07	11.03	2.8	8.22	5.36	5.63
FY 08	11.89	3.04	8.85	6.26	5.60
FY 09	10.75	2.85	7.91	5.93	4.80
FY 10	9.64	2.54	7.1	5.83	3.79
FY 11	10.18	2.81	7.36	5.72	4.43
<b>FY 12</b>	<b>9.91</b>	<b>2.85</b>	<b>7.06</b>	<b>5.5</b>	<b>4.38</b>
A:Avg (FY 03-05)	8.97	2.32	6.65	3.69	5.25
B: Avg (FY 10-12)	9.91	2.73	7.17	5.68	4.20
C:B-A	0.94	0.41	0.52	1.99	-1.05

Source: Finance Accounts

**1.4** This chapter discusses trends, composition and systemic issues in indirect taxes using data from Finance accounts, departmental accounts and relevant data available in public domain, departmental MIS and compliance and performance audit findings in the last decade.

**1.5 Appendix 1 and 2** give role and responsibilities of Department of Revenue (DoR)/Central Board of Excise and Customs (CBEC), brief background of the key processes in indirect taxation, business and tax environment in the last decade, for better appreciation of trends and issues in fiscal aggregates of customs receipts.

**1.6** The overall sanctioned staff strength of the CBEC is 73806. The organizational structure of CBEC is shown in **Appendix 3**.

#### Growth of Indirect Taxes - Trends and composition

Year	Indirect Taxes	Table 1.3: Growth of indirect Taxes			Indirect Taxes as % of Gross Tax Revenue	Cr. ₹
		GDP	Indirect Taxes as % of GDP	Gross Tax Revenue		
FY 03	132542	2530663	5.24	216266	61.29	
FY 04	148534	2837900	5.23	254350	54.80	
FY 05	171273	3242209	5.28	305047	51.38	
FY 06	199702	3693369	5.41	366172	48.14	
FY 07	241906	4294706	5.63	473534	43.07	
FY 08	279497	4987090	5.60	593161	38.39	
FY 09	269989	5630062	4.80	605309	34.44	
FY 10	245374	6477827	3.79	624527	29.83	
FY 11	345371	7795314	4.43	793308	34.48	
<b>FY 12</b>	<b>392674</b>	<b>8974947</b>	<b>4.38</b>	<b>889397</b>	<b>33.14</b>	
<b>TGR</b>	<b>12.26</b>	<b>15.20</b>	-	<b>17.07</b>	-	

Source: Finance Accounts

**1.7** Table 1.3 above gives the relative growth of indirect taxes during FY 03 to FY 12. The share of indirect taxes to gross tax revenues<sup>2</sup> has decreased from 61.29 percent to 33.14 percent during the period. Indirect taxes exhibited a trend growth rate (TGR) of 12.26 percent during FY 03 to FY 12. In contrast, GDP has grown by 15.20 percent and gross tax revenue by 17.07 percent during this period. GDP increased from ₹ 25.31 lakh crore in FY 03 to ₹ 89.75 lakh crore in FY 12 whereas Indirect Taxes increased from ₹ 1.33 lakh crore in FY 03 to ₹ 3.93 lakh crore in FY 12.

#### Growth of Customs Receipts - Trends and composition

Customs revenue as a ratio of GDP has been stagnant at around 1.7 percent.

**1.8** Table 1.4 below gives the growth trends of Customs Revenue in absolute and GDP terms during FY 03 to FY 12. The table 1.3 shows that indirect tax revenues as a percentage of the GDP declined during the period FY 10 to FY 12, after achieving highest percentage of 5.63 in FY 07. Though, the Customs Revenue as a percentage of Indirect taxes shows marginal increase from 33.89 percent in FY 03 to 38.17 in FY 12, it was stagnant at an average of 1.7 percent of GDP. This was largely due to increase in imports of Petroleum products, Gold and Precious stones, Gems and jewellery (Appendix 7 & 8).

Year	GDP	Gross Tax Revenues	Gross Indirect Taxes	Customs Receipts	Customs Revenue as % of GDP	Customs Revenue as % of Gross tax	Cr. ₹ Customs as % of Indirect taxes
FY 03	2530663	216266	132542	44912	1.77	20.77	33.89
FY 04	2837900	254350	148534	48613	1.71	19.11	32.73
FY 05	3242209	305047	171273	57610	1.78	18.89	33.64
FY 06	3693369	366172	199702	65067	1.76	17.77	32.58
FY 07	4294706	473534	241906	86327	2.01	18.23	35.69
FY 08	4987090	593161	279497	104119	2.09	17.55	37.25
FY 09	5630062	605309	269989	99879	1.77	16.50	36.99
FY 10	6477827	624527	245374	83324	1.29	13.34	33.96
FY 11	7795314	793308	345371	135813	1.74	17.12	39.32
FY 12	8974947	889397	392674	149876	1.67	16.85	38.17

Source: Finance Accounts

#### India's export and import for FY 03 to FY 12

**1.9** Exports have recorded a growth of 27.68 percent (₹ 316359 crore) during FY 12 as compared to 35.17 percent (₹ 297388 crore) in FY 11 (Table 1.6). Imports too have registered a growth of 39.28 percent (₹ 661305 crore) from 23.45 percent (₹ 319731 crore) during the same period. This was mainly on account of higher imports of Petroleum, Oil and Lubricants (POL), gold and silver. With imports, exceeding exports in FY 12, the trade deficit had widened to 9.87

<sup>2</sup>Source: Union Finance Accounts of respective years, GDP – Figures of GDP provided by Central Statistical Organisation in February 2013.

percent of GDP as against 6.93 percent of GDP in FY 11, showing a year on year increase of 42.28 percent. The significant depreciation in the value of rupee, rise in crude oil prices in the international markets, enhanced import of gold and silver along with the import of coal, fertilizer and edible oils have contributed to the trade deficit. Though there has been faster deceleration of imports than exports in the first quarter of FY 13, the exports have registered the sharpest fall in the last three years in July by 14.8 percent owing to falling demand from Europe and US.

**1.10** The top five major imports during the last decade were; Petroleum products, Gold, Electronic goods, Pearls-Precious and Semi precious stones, Machinery. The Petroleum products have shown a growth of 54 percent in FY 12 than previous year, while Gold has shown growth of 46 percent during the same period. These commodities accounted for almost 63 percent of total imports during FY 12. Similarly, the top five major Export commodities during the last decade were Petroleum (Crude and Products), Gems and Jewelry, Transport equipments, Machinery and instruments and Drugs- Pharmaceuticals and Fine Chemicals. The Petroleum (Crude and Products) has shown growth of 41 percent during FY 12 than previous year, while transport equipments have shown growth of 37 percent during this period. These commodities accounted for almost 50 percent of total exports during FY 12.

**1.11** Top five exporting countries to India during the FY 12 were China, United Arab Emirates, Switzerland, Saudi Arabia and United States of America. Similarly top five importing countries during FY 12 were United Arab Emirates, United States of America, China, Singapore and Hongkong.

#### **Tax base**

**1.12** The customs revenue base comprised 9,64,791 Importer Exporter Code (IEC)<sup>3</sup> issued, of which 6,79,177 are valid. There are 328 active ports at present; 105 EDI, 68 Non-EDI, 49 Manual and 106 SEZ. During 2011-12, ₹ 67.79 lakh exports and ₹ 62.33 lakh imports transactions took place.

#### **Growth in Imports and Customs Receipts**

The customs revenue collected has not grown in tandem with the value of imports.

**1.13** The value of imports during the FY 12 had shown growth of 39.28 percent (**Table 1.5**) over the previous years. The growth of the Customs revenue was 10.35 percent in FY 12. The TGR of Imports during FY 03 to FY 12 was 25.96 percent, while TGR of Customs Receipts was 17.83 percent during the same period. During FY 08 to FY 12 the value of imports had shown growth of 132 percent, while customs receipts have increased only by 44 percent, although, the peak rate (**Appendix 4**) remained unchanged at 10 percent during this period.

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<sup>3</sup> IEC is issued by DGFT, Delhi to every importer/Exporter.

Table 1.5: Growth in Imports and Customs Receipts				Cr.₹
YEAR	Imports	Growth %	Customs Receipts	Growth %
FY 03	297206	21.21	44912	12.01
FY 04	359108	20.83	48613	8.24
FY 05	501065	39.53	57610	18.51
FY 06	660409	31.8	65067	12.94
FY 07	840506	27.27	86327	32.67
FY 08	1012312	20.44	104119	20.61
FY 09	1374436	35.77	99879	(-)4.07
FY 10	1363736	(-)0.78	83324	(-)16.58
FY 11	1683467	23.45	135813	62.99
FY 12	2344772	39.28	149876	10.35
<b>TGR</b>		<b>25.96</b>		<b>17.83</b>

Source: Union Budget, Exim Data- Department of Commerce

**Increase in the SAD / CVD components of the customs duty do not correlate with the desired trends in the excise duty and central sales tax.**

#### **Additional Customs duties and its relation to domestic production and sale**

**1.14** Customs duty beside the Basic duty involves components of Special additional duty of customs (SAD)<sup>4</sup> and additional duty of customs (CVD). The objectives of the Export promotion schemes and trade agreements are welfare gains and increasing import substitution involving both production and sale functions. However, analysis of expenditure on Central Sales Tax of the Union Government vis-a-vis SAD levied on imports revealed that the CST collection has increased to ₹ 19230 crore in FY 11 from ₹ 8371 crore in FY 01 at an annualized rate of 11.79 percent, correspondingly, SAD collection has also increased to ₹18288 crore in FY 11 from ₹ 2442 in FY 01 at an annualized rate of 58.99 percent as detailed in **Appendix 5**. The annualized increase of CST as compared to that of SAD implied that the imports had not supposedly brought desired influence on the manufacturing activity. Decadal average ratio of CST to SAD shows a growth of 20 percent ranging from 28.62 percent in FY 02 to 95.10 percent in FY 11 with an increasing trend.

**1.15** Similarly, analysis of Central Excise receipt of the union Government vis-a-vis additional duty of customs (CVD)<sup>5</sup> levied on imports revealed that the Central excise receipt has increased to ₹ 138372 crore in FY 11 from ₹ 72555 crore in FY 01 at an annualized rate of 8.24 percent, correspondingly, CVD collection has also increased to ₹ 51065 crore in FY 11 from ₹16582 in FY 01 at an annualized rate of 18.90 percent as detailed in **Appendix 6**. Decadal average of ratio of CVD to excise duty has been 27 percent ranging from 16.51 percent in FY 04 to 44.68 percent in FY 09 with an increasing trend.

<sup>4</sup> Special Additional duty is leviable on all imported goods to counterbalance sales tax, VAT, local tax or otherwise

<sup>5</sup> CVD 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.



**1.16** In addition, the inverted duty structure in certain commodities reportedly impacted the domestic production value chain. The above is further substantiated by the manufacturing trade deficit having worsened since the early 2000s, which changed the structure of demand in favour of capital goods and did not help the domestic manufacturing of these goods.

#### Increase in overall Trade Imbalance during the decade FY 03 to FY 12

**Balance of Payment and other key economic factors influence the Customs revenue.**

**1.17** The trade imbalance in FY 12 had increased to ₹8.85 lakh crore from ₹0.42 lakh crore in FY 03 (**Table 1.6**) largely due to net imports of oil & petroleum products (**Appendix 7**) and gold (**Appendix 8**). Similarly, FDI<sup>6</sup> (**Appendix 9**) inflow and impact of REER<sup>7</sup> (**Appendix 10**) and inflation have significantly impacted the balance of payment in the burgeoning current account deficit. The trade imbalance in Gold, Precious stones, Gems and Jewellery (Chapter 71 of the Customs Tariff) had increased from ₹ 6693.47crore in FY 03 to ₹ 208307.52 crore in FY 12 (**Appendix 8**).

**Table 1.6: Overall Trade imbalance**

YEAR	Imports	Trade Imbalance				Exports	Growth %	Cr.₹ Trade Imbalance
		Growth %	Customs Receipts	Growth %				
FY 03	297206	21.21	44912	12.01	255137	22.06	-42069	
FY 04	359108	20.83	48613	8.24	293367	40.35	-65741	
FY 05	501065	39.53	57610	18.51	375340	27.94	-125725	
FY 06	660409	31.80	65067	12.94	456418	21.60	-203991	
FY 07	840506	27.27	86327	32.67	571779	25.28	-268727	
FY 08	1012312	20.44	104119	20.61	655864	14.71	-356448	
FY 09	1374436	35.77	99879	-4.07	840755	28.19	-533681	
FY 10	1363736	-0.78	83324	-16.58	845534	0.57	-518202	
FY 11	1683467	23.45	135813	62.99	1142922	35.17	-540545	
FY 12	2344772	39.28	149876	10.35	1459281	27.68	-885492	

Source: EXIM data, Department of commerce

#### Monitoring of Departmental performance

**Department of Revenue does not have a results framework document with objectives, activities, performance and success indicators in line with the subjects of its business allocation, for clearer performance monitoring and evaluation.**

**1.18** Though Business rules prescribe the subjects allocated to DoR but because of absence of measurable performance indicator as required in Result

<sup>6</sup> Foreign direct investment inflow helps long term fiscal aggregates.

<sup>7</sup> Real effective exchange rate.

Framework Document (RFD)<sup>8</sup> its revenue policy strategy and methodology of gauging its performance is not known. Department of Revenue does not prepare the results framework document (RFD) as is done by 74 other ministries and departments of Government of India with responsibility centers (RC) though, there is one annual report and outcome budget for the entire Ministry of Finance with five big departments and numerous RCs.

### Budgeting issues in Customs receipts

Fluctuating gap between Revised Estimates/ Budget Estimates suggests that the department did not adopt any rational method for pre budget analysis and forecasting.

**1.19** Despite the actual collections falling short of the budget estimates year after year, the Government continued to make optimistic projections during presentation of the Annual Budget. The percentage variation during the last decade between budget estimates and actual collections was in the range of (-) 16.02 percent to (+) 22.35 percent as shown in **Table 1.7** below. The revised estimates to actual receipts also varied from (-) 7.52 percent to (+) 5.43 percent.

**Table 1.7: Budget and Revised estimates, Actual receipts**

Year	Budget estimates	Revised budget estimates	Actual receipts	Diff. between actuals and BE	%age variation between actuals and BE	%age variation between actuals and RE
FY 03	45193	45500	44912	(-) 281	(-)0.62	(-)1.29
FY 04	49350	49350	48613	-737	(-)1.49	(-)1.49
FY 05	54250	56745	57610	3360	6.19	1.52
FY 06	53182	64215	65067	11885	22.35	1.33
FY 07	77066	81880	86327	9261	12.02	5.43
FY 08	98770	100766	104119	5349	5.42	3.33
FY 09	118930	108000	99879	(-)19051	(-)16.02	(-)7.52
FY 10	98000	84477	83324	(-)14676	(-)14.98	(-)1.36
FY 11	115000	131800	135813	(+)20813	18.10	3.04
FY 12	151700	153000	149876	(-)1824	(-)1.20	(-)2.04

Source: Union Budget and Finance Accounts

### Accounting by Principal Chief Controller of Accounts (Pr CCA)

**1.20** The Principal Chief Controller of Accounts (Pr CCA) is the Head of the Payment and Accounting Organization in the Central Board of Excise and Customs. Secretary (Revenue) is the Chief Accounting Authority for CBEC. The indirect taxes are accounted for by Pay and Accounts Offices (PAOs) which are under the administrative control of the Office of the Principal Chief Controller of Accounts (O/o Pr CCA), CBEC.

**1.21** Pr CCA equipped all its PAOs to perform their functions of accounting and reporting through an automated process. It replaced physical instruments

<sup>8</sup> RFD is required to be prepared under the "Performance Monitoring and Evaluation System (PMES) of Cabinet Secretariat.

and processes with electronic means. This IT initiative is named as "P-CBEC (Principal Chief Controller of Accounts, CBEC)".

1.22 Pr.CCA has deployed "elekha and COMPACT" as ICT solution for maintaining both revenue and expenditure accounts of CBEC and its field formations and is developing appropriate MIS for the user Ministry. Pr CCA, CBEC do not have basic reconciliation features for reconciliation between Pay and Account Offices (PAOs) of different related ministries (Excise, DoC, DGFT) and line offices. The existing accounting classification does not capture interest payment separately (e.g. DBK / CST interest payment). Refunds made from regular expenditure heads are not reflected under tax expenditure.

#### Tax expenditure and Customs revenues

1.23 The main objective of any tax system is to raise revenues to fund Government expenditures. The amount of revenue raised is determined to a large extent by tax bases and tax rates. It is also a function of a range of measures – special tax rates, exemptions, deductions, rebates, deferrals and credits – that affect the level and distribution of tax. These measures are sometimes called "tax preferences". They have an impact on Government revenue (i.e. they have a cost) and reflect the policy choices of the Government.

1.24 Tax preferences may be viewed as subsidy payments to preferred taxpayers. Such implicit payments are referred to as "tax expenditures" and it is often argued that they should appear as expenditure items in the Budget. In this context, the basic issue is not one of tax policy but one of efficiency and transparency – programme planning requires that the policy objectives be addressed explicitly; and programme budgeting calls for the inclusion of such outlays under their respective programme headings. Tax expenditures are spending programmes embedded in the tax statute.

1.25 The Fiscal responsibility and Budget Management Act 2003, requires that the Central Government shall take suitable measures to ensure greater transparency in its fiscal operations in public interest and minimize secrecy in the preparation of the annual financial statement and demand for grants. It also stipulates that the Central Government shall at the time of the preparation of annual financial statement and demand for grants make such disclosure and in such forms as may be prescribed. Further the Rule 6 of the FRBM Rules 2004 provides that in order to ensure greater transparency in its fiscal operation in the public interest, the Central Government shall at the time of presenting the annual financial statement and demands for grants, make disclosures of any significant change in accounting standard, policies and practices affecting or likely to effect the computation of prescribed fiscal indicators. It further states that these provisions shall be complied, along with the presentation of the annual financial statement and demand for grants for the FY 07.

**1.26** The Department of Revenue uses revenue forgone method. The situation has not changed since recommendation of the FC-XIII for more transparent methodology and its disclosure in calculating tax expenditure.

#### Customs Revenue forgone under Customs Act, 1962

**The Customs Revenue forgone is increasing exponentially without commensurate increase in the exports.**

**1.27** The Central Government has been delegated powers of duty exemption under Section 25(1) of the Customs Act, 1962 to issue notifications in public interest so as to prescribe duty rates lower than the tariff rates prescribed in the Schedule to the Customs Tariff Act. These rates prescribed by notification are known as the “effective rates”.

**1.28** The revenue forgone is thus defined to be the difference between duty that would have been payable but for the issue of the exemption notification and the actual duty paid in terms of the relevant notification. In other words,

$$\text{Revenue foregone} = \text{Value} \times (\text{Tariff rate of duty} - \text{Effective rate of duty})$$

**1.29** The Revenue foregone as percentage of Customs Receipts during the last five years has shown increase from 162 percent in FY 07 to 191 percent in FY 12 (**Table 1.8**). During the FY 12, 88 percent of the Revenue foregone was on the commodities, Crude and mineral oils, Diamond and Gold, Machinery, vegetable oils and cereals, chemicals and plastics. The Revenue forgone under Export Promotion schemes accounts for 46 percent of the Customs Receipts during the FY 12 (**Table 1.9**).

**Table 1.8: Customs Receipts and Total Customs Revenue foregone** Cr.₹

YEAR	Customs Receipts	Revenue foregone on commodities including Schemes	Refunds	Drawback paid	Rev. foregone +Refunds+ DBK	Revenue foregone as % of Customs Receipts
FY 07	86327	137105	479.71	2654.55	140239.26	162.45
FY 08	104119	153593	440.69	3236.25	157269.94	151.05
FY 09	99879	225752	912.14	12116	238780.14	239.07
FY 10	83324	233950	2309.32	9219	245478.32	294.61
FY 11	135813	230131	3474.05	8859	242464.05	178.53
<b>FY 12</b>	<b>149876</b>	<b>270693</b>	<b>3020.14</b>	<b>12331</b>	<b>286044.14</b>	<b>190.85</b>

\*Note: Data for previous years is not available. Under FRBM Act the Revenue foregone figures were placed first time in the Union Budget in 2006-07.

Source: Union Budget, CBECDDM, CBEC.

**Table 1.9: Revenue foregone under various Export promotion schemes**

Scheme	Amount foregone/disbursed				Cr.₹
	FY 08	FY 09	FY 10	FY 11	FY 12
1. Advance Licence	17654.13	12389	10089.21	19355.28	18306.12
2. SEZ	1803.95	2324.29	3987.06	8630.16	4559.87
3. EOU/EHT/STP	18978.46	13400.65	8076.46	8579.87	4554.64
4. EPCG	10521.39	7832.71	7020.25	10621.24	9672.28
5. Duty Drawback (excluding at Sl.No. 8 below)	9015.77	12116.07	9218.96	9001.39	12513.55
6. DEPB (excluding at 7 below)	5311.5	7087.49	8008.45	8736.4	10404.37
7. DEPB benefits availed by SEZ units	29.29	4.52	19.51	20.15	4.52
8. Drawback benefits availed by SEZ units	14.84	4.45	12.28	17.85	2.55
9. DFRC	607.13	110.61	62.3	43.53	39.93
10. DFEC Schemes to status holder (NTN.53/03- Cus)	471.62	342.32	179.74	96.6	69.93
11. DFEC Schemes to Status holder (NTN.54/03- Cus)	267.95	75.4	54.16	59.79	120.42
12. Target plus schemes- Notification No. 32/2005-Cus and 73/2006- Cus.	923.32	1220.12	267.28	373.99	436.31
13. Vishesh Krishi and Gram Udyog Yojana Notification No. 41-2005-Cus.	537.97	2059.11	2868.68	1788.48	2263.34
14. Served from India Scheme Notification No. 92/2004-Cus.	641.7	530.53	514.86	542.18	555.46
15. DFIA Schemes Notification No. 40/2006-Cus.	1359.14	1267.6	1398.55	1403.99	1224.33
16. Focus Market Scheme – Notification No. 90/2006-Cus.	8.3	264.05	432.38	548.12	894.46
17. Focus Product Scheme – Notification No. 91/2006-Cus.	32.77	144.16	396.26	1209.46	3056.31
<b>TOTAL</b>	<b>68179.23</b>	<b>61173.08</b>	<b>52606.39</b>	<b>71028.48</b>	<b>68678.39</b>
<b>% of Customs Receipts</b>	<b>65.48</b>	<b>61.25</b>	<b>63.13</b>	<b>52.30</b>	<b>45.82</b>

Source: CBEC, Ministry of Finance

**1.30** Scheme wise duty foregone ranged from 65 percent to 46 percent between FY 08 to FY 12 (**Table 1.9**). The statement of Revenue foregone would serve the purpose better, if the Revenue outcome assessments of the various promotional schemes, trade agreements and general exemptions are made available as a part of the budget document.

**1.31** Receipt Budget of Union has been giving statement<sup>9</sup> of tax expenditure since FY 05. We examined the completeness of these disclosures and found them to be incomplete. Revenue Budget does not take into account drawback refunds and certain scheme based refunds including the refunds made from regular expenditure heads by administrative ministries as indicated in **Table 1.8**.

**1.32** CBEC (Customs) in its reply stated that TRU unit of the Ministry which prepares Revenue Budget may examine inclusion of such disclosures in the Revenue Budget.

**1.33** The first five commodities contributing to majority of revenue foregone are:

- a. Crude oil and mineral oils
- b. Machinery
- c. Diamond and gold
- d. Edible oils
- e. Chemicals and Plastics

Similarly, the country wise duty foregone indicates around 63 exporting countries involved in 98 percent transactions.

#### **Performance of Special Economic Zone in FY 11 to FY 12**

**There was no outcome analysis of the Scheme at the macroeconomic level.**

**1.34** Under the SEZ Act 2005, there are 579 approvals given for establishing SEZs, of which 384 have been notified, in addition, there are about 49 in-principle approvals for SEZ (**Appendix 11**). There are 3622 units approved. A total of ₹ 218795 crore has been invested resulting in generation of employment for 945990 persons. It has shown a growth of 15.39 percent over 2010-11 with exports of ₹ 364478 crore (**Table 1.10 below**). Despite a huge growth in exports from SEZ after the Act came into force there is still no revenue outcome analysis at the economic and the Government levels. Most of the quoted performance figures when de-trended may indicate exogenous influences including changes in taxation policy with respect to SEZ and SEZ units. PAC has also discussed the CAG Performance audit report on SEZ at length.

**Table 1.10 : Performance of SEZs in FY 11 TO FY 12**

Exports in 2010-11	₹315867.85 crore (Growth of 43.11% over 2009-10)
DTA Sale (Counted for +ve NFE)	₹29093.02 crore (8.11% of total production)
DTA Sale (Not counted for +ve NFE)	₹13881.20 crore (3.87% of total production)
Exports in 2011-12	₹364477.73 crore (Growth of 15.39% over 2010-11)
DTA Sale (Counted for +ve NFE)	₹32472.70 crore (8% of total production)
DTA Sale (Not counted for +ve NFE)	₹29664.83 crore (7% of total production)

Source: www.sezindia.nic.in

<sup>9</sup> As Annex-15 of the Receipt Budget of Union since 2004-05

**1.35** CBEC stated (April 2013) that a Study group headed by Director General (DRI) had in their interim report recommended that;

- a. Introduction of system of Revenue audit of the units and developers operating within the SEZ on periodical basis;
- b. Application of provisions of Customs Act including those relating to enforcement, prosecution and recovery of dues to detect cases of mis-declaration, import-export of prohibited or hazardous materials instead of relying on self certification with minimal checks;
- c. The powers of supervision and control over the officials performing customs functions in SEZ be vested with the jurisdictional Commissioner of Customs.

**1.36** CBEC further stated that as the Department of Commerce administered the scheme of SEZ and they would submit the final report of the Study Group.

**1.37** DRI unit (CEC) found that some SEZ units were involved in export of junk items having no commercial value, undervaluing imports and clearing them into Domestic Area and replacing goods declared in shipping bills after customs stuffing. This further necessitates an outcome assessment of SEZ and such a report be made available as a part of the budget document.

**1.38** CBEC replied (April 2013) that the amount of duty foregone on the imported goods was approximately ₹45 crore and the Director of the firm was arrested and remanded under judicial custody. The reply did not address the audit observation that there was a need for an outcome assessment of SEZ by DoR factoring in the DRI inputs.

#### **Customs procedure and Trade facilitation**

**ICT based solutions (ICES) and self assessment were not extended to all customs transactions.**

**1.39** The Government continued to streamline customs procedures and implement various trade facilitation measures (**Appendix 12**). Self Assessment is a major trade facilitation measure that could result in significant reduction in the time taken for clearance of imported/export goods through Customs as witnessed in case of the Excise and Service tax department. Some of the initiatives taken include the introduction of EDI, "self assessment" for imports as well as exports and increased coverage of the risk management system (RMS) to carry out assessment on randomly selected bills of entry based on risk parameters and On Site Post Clearance Audit (OSPCA) . The level of customs intervention in the clearance of import and export cargos is intended to progressively reduce. In addition AEO (Authorized Economic Operator) and large taxpayer unit (LTU) have been introduced for international and national facilitation. For expeditious sanction and refund of 4% SAD, the procedures applied in general and especially for ACP importers have been simplified for sanction of refund without pre-audit within a fixed time of 30 days. Further, the

utilization of refund of 4% SAD paid through different scrips such as DEPB/Reward Schemes has been relaxed by allowing manual registration of such scrips.

#### **Risk Management system (RMS)**

**1.40** Efficiency of RMS is hinged on the precision of the outliers highlighted and increasing the coverage of the ICT application to all air cargo, sea port and land ports, SEZ / EOU. All Non-EDI ports may be included while EDI ports may necessarily do all fillings through the system. *CBEC concurred with the views of audit.*

#### **On Site Post Clearance Audit (OSPCA) Scheme**

**1.41** After introduction of OSPCA, on one hand Customs department had effectively stopped the audit of ACP clients, while on the other the OSPCA scheme had not fully picked up. We found that during FY 12, only 51 out of 260 ACP clients against 6.81 lakh importers/ exporters were audited. The present level of ICT application (ICES) needs to be augmented and self assessment needs to be extended to all official customs transactions for an effective facilitation.

**1.42** *CBEC stated that as per guidelines issued, all ACP importers are required to be mandatorily audited once in the year, 51 ACP were audited during FY 12 after the scheme was made operational from October 2011.*

**1.43** The reply did not address the audit observation that self assessment enabled by ICES and RMS had not been extended to all the exporters/importers (paragraphs 1.39 – 1.41).

#### **Reduction in the Transaction cost**

**1.44** Trade facilitation and issues of efficiency in tax administration intrinsically point at reduction in the transaction cost of exports which could also help in making exports competitive. Ministry of Commerce and Industry in October 2009 constituted a Task force on transaction cost. The mandate of the Task force was to look into various issues affecting the competitiveness of Indian exports, provide recommendations to the Government and initiate a set of 'executable' remedial measures towards reducing latencies and costs associated with trading across borders. Task force report (January 2011) on Transaction cost analysis, acknowledged the estimates of US \$ 13 billion (8-10 percent of the cost) made by World Bank's Doing business report. It considered the costs associated with enforcement of the legislation, regulation and administration of trade policies involving seven Ministries and identified 44 issues and estimated a benefit of ₹ 2100 crore "in perpetuity" on amelioration of 23 issues.

**1.45** *CBEC stated (April 2013) that instructions were issued to field formations on recommendations relating to Customs. CBEC further added that they had introduced various maintenance initiatives like 24x7 clearance operations at selected ports and air ports, expansion of coverage of ACP scheme, introduction of common bond facilities in respect of export promotion schemes besides*



principally agreeing to integrations of ACES and ICES, EDI and SEZ automation software. Audit maintained that there should be a periodic analysis of the reduction in transaction cost.

#### **Human Resources management objectives in CBEC**

**1.46** Director General of Human Resource Development formed in November 2008 has specific roles with respect to Cadre management, Performance management (of group and individual levels), capacity building, strategic vision development and welfare and Infrastructure divisions for a 73806 strong work force. Inputs for CBEC's five year strategic plan was sought by DG Inspection on 1 Feb 2013 so that;

- a. Indirect tax to GDP ratio could be improved;
- b. A robust RMS covering all ports and transactions could be in place;
- c. Officials and officers are trained to use ICES proficiently;
- d. Technical audit procedures is strengthened;

**1.47** The RFD FY 13 already covers the important activities mentioned above. The measurement and success indicators are not correlated with the policy decisions already taken by Government in case of self assessment, OSPCA, RMS and use of ICT, ICES. Since Customs duty is intertwined with other tax and foreign policies of Government, there is a need to look at the systemic level for restructuring and re-allocation of human resources after honing appropriate skills and filling the capacity gaps.

**1.48** CBEC concurred (April 2013) with the audit that there was a need to look at the systemic level for restructuring and relocation of human resources. It however, added that fixing benchmark in terms of RFD parameters for recently initiated measures such as self assessment and OSPCA may be a premature step on account of initial constraints associated with implementation of these schemes.

**1.49** Audit maintains that measurement methodology defining the success indicators would be necessary for a precise RFD reporting of CBEC (Customs)/DoR.

#### **Arrears of customs duties**

**There is a need to strengthen the recovery mechanism of the department.**

**1.50** The amount of customs duty assessed up to 31 March 2012 which was to be realised as on 31 December 2012, was ₹ 10506 crore. Customs revenue of ₹ 7420.42 crore demanded up to March 2012, was not realised by the department at the end of the FY 12 (**Table 1.11**). Of this, ₹ 2709.59 crore was undisputed. However, ₹ 1039.88 crore (38 percent) of the undisputed amount had not been recovered for a period of over five years.

**1.51** CBEC replied (April 2013) that directions were issued for a multi pronged action for realization/liquidation of revenue arrears. Chief Commissioner (Tax

Arrear Revenue) circulated an action plan to all field formations, which includes creation of computerized database; special monitoring of cases under Section of 142 of the Customs Act etc. for obtaining time bound results in this direction. CBEC further added that Chief Commissioners were to take steps to publish the names of defaulters and also offer reward to informers. To monitor the progress of arrears recovery, inspection of the Zones was undertaken. During the 26 March 2013 meeting DoR informed that the tax recovery mechanism was very elaborate with a dedicated Director General. A target of Rs 9000 crore had been set for recovery and the department had fared well against this target. CBEC also agreed to provide recovery details of the last two years.

**1.52** Audit maintains that there is a need to strengthen the recovery mechanism of the department.

**1.53** Another interesting trend emerged from the customs revenue collection figures wherein the same was mostly the highest in the month of February/March and subsequently the refunds (including Drawback) was the highest in the following months from April-June. It indicates the measures adopted by Government to meet the ad hoc revenue targets. **Table 1.11** below gives information on the arrears.

Zone	Amount under dispute				Amount not under dispute				Grand Total (Col.5+9)
	< five years	five years but < ten years	> ten years	Total (Col.2+3+4)	< five years	five years but < ten years	>ten years	Total (Col. 6+7+8)	
1	2	3	4	5	6	7	8	9	10
1. Delhi	222.38	40.68	34.29	297.35	210.04	93.69	27.64	331.37	628.72
2. Delhi-Prev	16.96	3.99	0.74	21.69	4.90	2.65	6.00	13.55	35.24
3. Delhi-CX	54.41	1.66	0.00	56.07	1.51	14.50	0.00	16.01	72.08
4. Jaipur	4.58	6.33	21.21	32.12	0.00	1.62	6.14	7.76	39.88
5. Chandigarh	17.11	3.99	1.26	22.36	4.90	2.65	6.00	13.55	35.91
6. Lucknow	0.31	0.00	0.00	0.31	3.95	0.00	0.00	3.95	4.26
7. Meerut	42.59	1.72	12.38	56.69	284.63	96.00	0.43	381.06	437.75
8. Nagpur	196.87	23.60	0.82	221.29	0.32	0.32	0.14	0.78	222.07
9. Pune	57.40	40.27	6.81	104.48	4.85	19.42	7.51	31.78	136.26
10. Mumbai – 1	283.83	74.20	18.28	376.31	114.07	128.27	51.6	293.94	670.25
11. Mumbai-ICX	29.75	12.49	81.52	123.76	25.17	6.64	0.00	31.81	155.57
12. Mumbai – 2	46.42	3.08	0.00	49.50	413.14	13.80	0.00	426.94	476.44
13. Mumbai-II CX	16.92	39.55	12.18	68.65	0.00	0.00	0.00	0.00	68.65
14. Mumbai – III	135.15	150.87	63.97	349.99	81.57	40.00	102.20	223.77	573.76
15. Mumbai LTU	67.12	0.00	0.00	67.12	0.00	0.00	0.00	0.00	67.12
16. Vadodara	86.44	11.78	0.92	99.14	5.98	3.59	0.34	9.91	109.05
17. Ahmedabad	654.84	228.21	59.49	942.54	4.71	4.69	33.30	42.70	985.24
18. Ahmedabad-CX	54.25	1.32	0.00	55.57	3.98	0.00	0.50	4.48	60.05
19. Bhopal - CX	0.00	0.00	0.02	0.02	0.00	12.15	0.00	12.15	12.17
20. Chennai – Cus	101.43	128.31	23.00	252.74	266.83	176.47	25.09	468.39	721.13
21. Chennai -CX	160.58	0.01	0.56	161.15	3.41	0.28	0.14	3.83	164.98
22. Chennai – Prev.	76.26	4.00	0.84	81.10	59.30	2.76	0.75	62.81	143.91

Zone	Amount under dispute				Amount not under dispute				Grand Total (Col.5+9)
	< five years	five years but < ten years	> ten years	Total (Col.2+3+4)	< five years	five years but < ten years	>ten years	Total (Col. 6+7+8)	
23. Bangalore- Cus	224.58	8.92	13.4	246.90	43.23	6.13	7.85	57.21	304.11
24. Bangalore - CX	16.92	2.67	0.26	19.85	1.19	31.32	4.06	36.57	56.42
25. Hyderabad	91.33	13.72	9.93	114.98	3.61	27.95	8.5	40.06	155.04
26. Cochin	11.11	5.16	8.27	24.54	28.75	6.22	2.51	37.48	62.02
27. Coimbatore	108.19	2.79	27.87	138.85	10.42	1.02	0	11.44	150.29
28. Mysore	9.63	0	9.68	19.31	1.03	2.34	0.00	3.37	22.68
29. Visakhapatnam	159.59	25.09	9.31	193.99	19.98	37.46	1.85	59.29	253.28
30. Kolkata - Cus	385.28	46.13	55.85	487.26	62.40	11.37	0.32	74.09	561.35
31. Kolkata -CX	2.06	0	0	2.06	2.60	0	0	2.60	4.66
32. Bhubneshwar -CX	0.00	18.25	2.27	20.52	2.05	0.48	0.51	3.04	23.56
33. Patna - Cus (P)	0.00	0.05	0.00	0.05	0.00	2.71	0.00	2.71	2.76
34. Shillong -CX	2.57	0.00	0.00	2.57	1.19	0.00	0.00	1.19	3.76
<b>Total</b>	<b>3336.86</b>	<b>898.84</b>	<b>475.13</b>	<b>4710.83</b>	<b>1669.71</b>	<b>746.50</b>	<b>293.38</b>	<b>2709.59</b>	<b>7420.42</b>

Source: Departmental MIS, CBEC, CAG Audit reports

#### Additional revenue realized because of Directorate General of Valuation

**1.54** As a result of inputs given by the Directorate General of Valuation (DGOV), additional revenue realized during last five years is as shown in **Table 1.12** below. The ratio of realized amount to the Customs revenue collected is insignificant (0.76 percent). With the reduced tariff, greater depth of classification and enhanced ICT application, valuation could be leveraged for a greater significance.

**Table 1.12: Additional revenue realized because of DGOV**

Financial Year	Amount realized Cr. ₹	% increase/decrease over last year
FY 08	735	+17.22%
FY 09	727	-1.09%
FY 10	790	+8.67%
FY 11	930	+17.70%
FY 12	1096	+17.86%

Source: Annual Reports, Ministry of Finance

#### Trade remedial duties due to Safeguards, Antidumping and Anti Subsidy measures

**1.55** The Director General of safeguards is required under Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 to investigate the existence of 'serious injury' or 'threat of serious injury' to the domestic industry as a result of increased imports of an article into India and submit his findings to the Central Government. The Directorate General of safeguards has carried out 25 investigations shown in **Appendix 13**. Since 2010, Safeguard measures could also take form of quantitative restriction.

### **Anti Dumping Duties**

**1.56** Director General of Antidumping initiated first anti-dumping investigation in 1992. During this period the DGAD received large number of applications for initiating anti-dumping investigations. After examination of these applications, anti-dumping investigations initiated in 281 cases involving 35 countries/territories (considering 25 EU countries as a single territory).

**1.57** The countries prominently figuring in anti-dumping investigations are China PR, EU, Chinese Taipei, Korea RP, Japan, USA, Singapore, Indonesia, Thailand, Russia etc.

**1.58** The major product categories on which anti-dumping duty was levied are chemicals & petrochemicals, pharmaceuticals, fibers /yarns, steel and other metals and consumer goods. The duties collected due to the remedial measures are nominal compared to total Customs duty. The duties form an insignificant portion (0.020 percent in 2011) of the total customs duties. However, CAG's Compliance Audit reports have reported ways adopted by importers to evade of the Anti dumping duties.

### **Tax Evasion, Investigation and Seizures**

There has been an increasing trend in duty evasion cases. Recent trends in duty evasion were in the case of Gold, Flora and fauna, Fake Indian Currency Notes, Memory cards, Rough diamonds.

**1.59** We noticed during the analysis of duty evasion cases under the various schemes that there was an increasing trend in evasion of cases both in terms of numbers and in terms of amount as well during the last 5 years (2007-08 to 2011-12) as shown in the **Appendix 14**. The duty evasion cases rose from 434 to 527 and from ₹ 726 crore to ₹ 1842 crore during the period of five years referred to above. Interestingly, this was also the period when various ICT solutions were introduced and Self assessment, RMS based PCA and intelligence was embarked on with a gradual shift towards OSPCA.

### **Increasing Trend in Seizures of Specified Commodities**

**1.60** Scrutiny of Seizures of Specified Commodities during FY 07 to FY 11 (**Appendix 15**) reveals that there was an increasing trend in seizures of specified commodities in terms of All India as well as DRI level.

**1.61** It was seen that total amount of Seizures at All India and DRI levels rose from ₹ 689.16 crore to ₹ 2475.70 crore and from ₹ 377.40 crore to ₹ 813.26 crore respectively. Maximum rise was in Machinery/Parts, Fabrics/Silk Yarn etc., Electronic Items, Narcotic Drugs and Vehicles/Vessel/Air Crafts etc. This was despite tariff rationalization, increasing trade openness, facilitation and surveillance.

**Cost of Collection for the FY 03 to FY 12**

**Despite automation and extensive use of ICT, the cost of collection has not come down appreciably**

**1.62** The cost of collection ranged from 0.89 percent to 1.84 percent with average decadal cost of 1.19 percent (**Table 1.13**). The average cost of collection during the period FY 10 to 12 as compared to FY 03 to 05 had increased by 0.29 percent, despite automation and extensive use of ICT.

Year	Table: 1.13: Cost of Collection during FY 03 TO FY 12					Cr.₹
	Expdtr. on Revenue, Import /export and trade control functions	Transfer to Res. Fund, Deposit A/c and other expenditure	Expenditure on preventive and other functions	Total	Customs receipt	Cost of collection as percentage of customs receipts
FY 03	131.61	270.33	0.00	401.94	44912	0.89
FY 04	155.56	514.58	0.00	670.14	48613	1.38
FY 05	145.42	573.10	0.00	718.52	57610	1.25
FY 06	159.45	646.60	11.55	817.60	65067	1.26
FY 07	152.55	687.06	10.71	850.32	86327	0.98
FY 08	165.40	759.71	13.91	939.02	104119	0.90
FY 09	234.56	989.28	11.65	1235.49	99879	1.24
FY 10	304.38	1217.85	9.83	1532.06	83324	1.84
FY 11	292.89	1420.71	4.76	1718.36	135813	1.27
<b>FY 12</b>	<b>306.05</b>	<b>1577.31</b>	<b>5.02</b>	<b>1888.38</b>	<b>149876</b>	<b>1.26</b>
A: Avg (FY 03-05)						1.17
B: Avg (FY 10-12)						1.46
C: B-A						0.29

Source: Figures from Finance Accounts

**1.63** DoR in its reply agreed to analyze the reason for the rising cost of collection which adversely impacts the net divisible share apportionable to the States. It stated that -prima facie- it appeared to be on account of ICT costs.

**Accounting based Internal Audit irregularities.**

**The internal audit report does not provide a control based assurance in line with its risk assessment.**

**1.64** Internal audit done by the Principal Chief Controller of Accounts (Pr.CCA), CBEC is aimed at audit of different payment and accounting functions of CBEC. Though internal audit is an integral part of the internal control system, the internal audit reports of Pr.CCA indicated pendency to the tune of 13,942 internal audit paras.

**1.65** Irregularities apart from points of establishment audit indicated by Pr. CCA till FY 12;

- a. Cases pending adjudication in 29 offices of ₹ 692 crore.
- b. Non-disposal and delay in disposal of confiscated goods of ₹ 13.25 crore.

- c. Non-realisation of custom revenue of ₹ 22 crore.
- d. Non recovery of arrears.
- e. Non reconciliation of revenue credit (₹ 2219.42 crore).
- f. Non reconciliation of refund, rebate, drawback.
- g. Non recovery of dues from Private parties/ Autonomous bodies (₹ 21.74 crore.)

1.66 CBEC stated (April 2013) that PAO will look into the matter.

**Effectiveness of Technical audit by DG (Audit), CBEC**

1.67 Departmental audit is an important instrument of internal control which detects non compliance and inefficiencies and initiates remedial action on shortcomings. To ensure effective inspection system CBEC issued instructions on the subject recently. Table below gives quantitative achievements in this area during FY 05 to FY 10. The ratio of percentage of duty detected/recovered to Customs Receipts was insignificant.

**Table 1.14: Departmental audit during FY 05 to FY 10**

FY	Audits conducted	Duty detected	Duty recovered	Duty detected to Customs Receipts %	Duty recovered to Detected %	Cr.₹ Duty recovered to Customs Receipts %
FY 05	25938	2094	280	3.63	13.37	0.49
FY 06	28596	3846	581	5.91	15.11	0.89
FY 07	64060	5046.89	894.94	5.85	17.73	1.04
FY 08	71903	7503.72	1522.49	7.21	20.29	1.46
FY 09	1147	260	74	0.26	28.46	0.07
FY 10	2486	1025	232	1.23	22.63	0.28

Source: Annual Reports, Ministry of Finance

**Quality of EDI assessments**

1.68 The Indian Customs Electronic Data Interchange System (ICES) envisages acceptance of customs documents electronically and exchange of information electronically in centralized/structured formats, integrating customs with other agencies and was developed to implement the various provisions of the Customs Act 1962, Customs Tariff Act 1975 (CTA) and Central Excise Tariff Act 1985 (CETA). The system was designed to transact customs clearance electronically using Electronic Data Interchange (EDI).

1.69 A review of the ICES was conducted (C&AG's Performance Audit Report No. 24 of 2009-10) where the salient observations were; (i) deficiencies in the system design which led to incomplete capture of data leading to manual interventions and consequently incorrect levy of customs duty, (ii) incorrect mapping of the business rules which enabled excess sanction of drawback/DEPB credits and (iii) inadequate change management controls led to non-updating of notification master tables and incorrect updating of 'drawback schedule'.

### **Audit effort and Customs Audit Products**

The accounts based internal audit by Pr.CCA and technical audit (PCA or OSPCA) by DG Audit, CBEC, do not provide an assurance on the adequacy of the internal controls.

**1.70** Custom department has been computerized by introducing ICES in 1994 and further upgraded to ICES 1.5 version also introduces Risk Management System (RMS) by flagging various risk factors on valuation, classification, notification etc. in the system. Computerization seeks to improve the assessment process of imported goods as well as exported goods and minimizes irregularities of incorrect calculation of duty, application of tariff rates, application of exemption notifications, mis-classification of goods in general.

**1.71** However, we have found during test check that in number of cases ineligible exemptions, deductions and concessions were given to the licensees and importers. Audit report for the period FY 03 to FY 12 indicated that there were generally six kinds of observation involving ₹2129.73 crore in 1709 paragraphs (**Table 1.16**).

- a. Incorrect classification;
- b. Incorrect application of exemption notification;
- c. Condition of notification not fulfilled;
- d. Incorrect exemption due to miscalculation;
- e. Scheme based exemption;
- f. Incorrect assessment of customs duties

**1.72** During the FY 07 to FY 12, audit observations were noticed in respect of top five commodities imported namely Petrol, Oil, Polymers, Electronics, Yarns and Fibres. Similarly, most observations were made in respect of promotion and exemption schemes in the Export Oriented Units/EPZ/SEZ units, Export Promotion Capital Goods Scheme, Advance authorisations and Vishesh Krishi Upaj Yojana during the same period.

### **Compliance Audit Report**

**1.73** Compliance audit was managed as per to the Comptroller and Auditor General's (CAG) Audit Quality Management Framework, 2009 employing professional auditing standards of the Auditing Standards, 2<sup>nd</sup> Edition, 2002.

### **Sources of information and the process of consultation**

**1.74** Data from the Union Finance Account, Annual Data Dump of Customs (CBEC), Single Sign On (SSO id) based access of ICES 1.5 was used along with examination of basic Records/ documents in DoR, CBEC, Department of Commerce and their field formations. MIS, MTRs of CBEC along with other stake holder reports were used. We have nine field offices headed by Director Generals (DGs)/ Principal Directors (PDs) of audit, who managed audit of 532 units in FY 12, issued 12461 Audit observations valued at ₹ 10824 crore.

**1.75** Chapter one of the current Compliance audit report analyses the customs revenue framework its fiscal size and significance, relative to the gross Union Revenue aggregates. The resultant issue area has been audited and presented in Chapter two, which reports the observations on scheme based duty exemption or remission, while Chapter three highlights the cases of incorrect assessment, Chapter four reports cases of incorrect application of general exemption and Chapter five highlights the cases of misclassification of goods. The current report has 31 paragraphs of ₹31.48 crore. We had issued another 90 paragraphs for the audit conducted upto March 2012 (Annexure-I). The department/Ministry has already taken rectificatory action involving money value of ₹ 30.80 crore in these 90 paragraphs in the form of issue of show cause notices, adjudication of show cause notices and reported recovery of ₹ 27.76 crore.

**1.76** Remedial action taken on the compliance audit report and their status as of March 2013 is given in **Table 1.15** below.

Report No.	CBEC, Customs		DoC	
	ATNs pending	ATNs not received	ATNs pending	ATNs not received
CA 10 of 1998 (CUS)	1	-	-	-
CA 10 of 2005 (CUS)	-	-	-	-
CA 7 of 2006 (Cus,CX,ST)	1	-	5	-
CA 7 of 2007 (Cus,CX,ST)	3	-	1	-
CA 7 of 2008 (Cus,CX,ST)	3	-	1	-
CA 20 of 2009-10 (Cus, CX, ST)	-	-	5	-
CA 14 of 2009-10	1	-	1	1
CA 24 of 2010-11	1	-	3	-
CA 31 of 2011-12	6	1	7	5
<b>Total</b>	<b>16</b>	<b>1</b>	<b>23</b>	<b>6</b>

Source: CBEC, Ministry of Finance

#### **Performance Audit Report**

**1.77** Performance audit with the aim to highlight the outcome of the schemes on certain specific procedures revealed that the outcome was difficult to gauge because of a lack of specific performance indicator and success measurements. 2004-05 onwards the reports started giving recommendations, 74 recommendations were given, of which 44 were accepted by Government. Generally, a period of five years is taken for performance audit of the Scheme employing professional auditing standards and Performance Auditing Guidelines, 2004. **Appendix 16** gives details of Performance Reviews carried out during the period FY 02 to FY 12

#### **Public Accounts Committee (PAC):**

**1.78** PAC has taken up 10 reviews (Part or complete) for discussion, of which, Action Taken Report of three reviews have been prepared. Of all the topics, PAC extensively discussed SEZ, on which ATR has been received. PAC



recommendations have been broad based at the levels of tax policy, administration and implementation. It has also observed on issues of inter ministerial coordination, scheme outcome as well as inadequate monitoring.

### Response to CAG's audit, revenue Impact/follow-up of Audit Reports

**1.79** In the last ten audit reports (including current year's report); we had included 1709 audit paragraphs (Table 1.16) involving ₹ 2129.73 crore. Of these, the Government had accepted audit observations in 1390 audit paragraphs involving ₹ 1177.03 crore and had recovered ₹ 156.89 crore.

**Table 1.16: Follow up of Audit Reports**

Cr. ₹

Year	Paragraphs included		Paragraphs accepted						Recoveries effected					
			Pre printing		Post printing		Total		Pre printing		Post printing		Total	
	No.	Amt	No.	Amt	No.	Amt	No.	Amt	No.	Amt	No.	Amt	No.	Amt
FY 03	252	222.42	165	132.23	16	0.6	181	132.83	106	8.70	16	0.60	122	9.30
FY 04	251	941.10	177	94.44	11	494.84	188	589.28	128	10.06	23	1.59	151	11.65
FY 05	256	355.79	178	45.41	5	0.87	183	46.28	122	4.13	5	0.87	127	5.00
FY 06	139	63.22	74	25.92	38	6.84	112	25.92	49	11.69	36	5.93	85	17.62
FY 07	133	121.99	94	105.18	25	8.15	119	113.33	57	7.32	25	2.31	82	9.63
FY 08	182	96.50	137	37.83	27	5.51	164	43.34	80	9.85	22	4.08	102	13.93
FY 09	133	56.20	101	33.75	23	10.89	124	44.64	68	16.54	18	3.30	86	19.84
FY 10	124	79.62	102	32.71	7	2.35	109	35.06	63	18.01	3	0.37	66	18.38
FY 11	118	130.61	102	98.68	14	11.81	102	98.68	56	17.81	3	4.07	59	21.88
FY 12	121	62.28	108	47.67	Not Applicable		108	47.67	79	29.66	Not Applicable		79	29.66
<b>Total</b>	<b>1709</b>	<b>2129.73</b>	<b>1238</b>	<b>653.82</b>	<b>166</b>	<b>541.86</b>	<b>1390</b>	<b>1177.03</b>	<b>808</b>	<b>133.77</b>	<b>151</b>	<b>23.12</b>	<b>959</b>	<b>156.89</b>

Source: CAG Audit reports

## CHAPTER II

### DUTY EXEMPTION/REMISSION SCHEMES

**2.1** The Government may exempt wholly or part of customs duties for import of inputs and capital goods under an export promotion scheme through a notification. Importers of such exempted goods undertake to fulfill certain export obligations (EO) as well as comply with specified conditions, failing which the full rate of duty becomes leviable. During test check (July 2010 to February 2012) of records pertaining to the period July 2007 to November 2011, a few illustrative cases noticed where duty exemptions were availed of without fulfilling EOs/conditions are discussed in the following paragraphs. The total revenue implication in these cases is ₹ 20.48 crore.

#### **Advance licensing Scheme**

**Regional Licensing Authority (RLA), Bangalore issued license for non-Standard Input Output norm (SION) item which benefitted the licensee to the tune of ₹ 6.40 crore.**

**2.2** Paragraph 4.1.3 of the Foreign Trade Policy (FTP) 2004-09, while permitting the issue of advance license based on Standard input and output (SION) norms for free import of inputs which are physically incorporated in the export product also empowers the Director General of Foreign Trade (DGFT) to exclude any product (s) from the purview of Advance Authorization by means of Public Notice. DGFT's Public notice no. 31 dated 14 December 2004 deleted SION norm appearing at serial number E90 in the Product Group-Food Products. The DGFT by the same Public notice also amended paragraph 4.7 of the Handbook of Procedures (HBP), Vol-1. 2004-09 to the effect that advance license (based on self-declaration) for the import of pepper should not be issued under paragraph 4.7 of HBP either. Thus, both the possible options for issue of Advance Authorization for import of pepper were excluded. The Joint Director General of Foreign Trade reiterated deletion of Serial number E90 of SION norms vide Policy circular no.03/2005-09 dated 21 April 2005.

**2.3** The Regional Licensing Authority (RLA), Bangalore issued (March 2007) an Advance authorization (AA) to M/s S.A. Rawther Spices Pvt Ltd., Bangalore authorizing import of black pepper against the export of processed pepper. The licensee imported (March and July 2007) 23 consignments of unprocessed black pepper falling under CTH 09041140 valued at ₹ 80.99 crore through Custom House, Kochi and availed exemption of customs duties of ₹ 6.40 crore. The issue of licence by the RLA and subsequent import of black pepper was irregular as ban on import of pepper using 'AA' was in force at the time of issue of license and also on the date of import. Accordingly, duty of ₹ 6.40 crore alongwith interest was recoverable from the importer.

**2.4** The Assistant Commissioner of Customs, Kochi stated (May 2011) that the import had been permitted as per the condition sheet attached to the advance license issued by the RLA, Bangalore.

**2.5** The RLA , Bangalore, stated (February 2012) that the licence was issued as per paragraph 4.7 of HBP, 2009-14 read with public notice no.63 dated 28 March 2005, wherein it was prescribed that issue of licences against export of spices under paragraph 4.7 of HBP 2009-14, should have not been allowed only if there are no norms available. But in the instant case, there are norms available vide SION E-90 for import of Black Pepper against export of processed one and therefore, the above authorization was issued.

**2.6** The reply of the RLA, Bangalore is to be viewed in the context of the fact that the SION norm E90 had already been deleted vide DGFT public notice no.31 dated 14 December 2004i.e before issue of licence in March 2007 and actual imports made in 2007, as well. Further, the department reply is also contrary to what was envisaged in the public notice no.63 dated 28 March 2005, wherein it was categorically stated that no license should be issued for import of spices classified under chapter 9 & 12 of ITC (HS) having a duty of more than 30 percent and the imported item 'Black Pepper' falls in such banned category.

**2.7** *Ministry of Finance, Drawback Division authorities stated (December 2012) that Commissioner of Customs, Cochin has permitted imports as per license issued by JDGFT, Bangalore. The DEEC Bond under which clearances were made had not been closed in view of the audit objection and matter was referred to JDGFT, Bangalore.*

**2.8** *DGFT, Delhi stated (December 2012) that policy relaxation committee in its meeting held in June 2012 (NOC/13 dated 12 June 2012) had regularized the case as the firm had undertaken exports in accordance with authorisation issued by the RA, Bangalore. The committee noted that at the time of issue of licence RA overlooked the fact that norms were already been deleted/suspended.*

**2.9** *The DGFT, Delhi reply has to be viewed in the context of the fact that action of the RA in overlooking the norms which were in existence at the time of issue of licence resulted in unintended benefit to the licensee. The responsibility for this lapse needs to be fixed.*

**Regional Licensing Authority (RLA), Chennai irregularly clubbed advance authorizations which caused duty benefit of ₹ 43.72 lakh to the licensee.**

**2.10** Paragraph 4.20.3 of Handbook of Procedures (HBP) Vol-I, (2009-14) envisage that the AA holder has the facility of clubbing of the authorizations for redemption/regularization without further utilization for import or export. This facility is available only for AA(s), where there is shortfall in export obligation and which is sought to be clubbed with an AA (s) which is valid for import.

**2.11** The Zonal Joint Director General of Foreign Trade (RLA), Chennai issued (September 2006) an advance authorization to M/s Virgo Polymer (India) Ltd., for duty free import of 2,65,785 Kg of 'Polypropylene (PP) Granules' for export of Flexible Intermediate Bulk Containers. The authorization holder for regularization of shortfall in export obligation against the license issued

(September 2006) applied for (April 2009) clubbing of this authorization with three other AAs issued in July and October 2006 in which both imports and matching or excess exports were made. The RLA correctly rejected the application stating that the three authorizations sought to be clubbed with the authorization issued in September 2006 with EO shortfall, were expired and not valid for import on the date of application. The RLA also rejected (August 2010) subsequent request (July 2010) of the authorization holder for clubbing for the same reasons. The authorization holder once again applied (November 2010) for clubbing of aforesaid four AAs (issued in July/September/October 2006) with one AA issued in April 2010 which was valid for import. On this occasion, the RLA first rejected (November 2010) the clubbing on the similar earlier grounds but subsequently on representation from the licensee incorrectly clubbed all the five authorizations and redeemed (January 2011) them instead of restricting the clubbing of AA issued in September 2006 with that issued in April 2010 as there was no shortfall in other three authorizations issued in July and October 2006.

**2.12** The action of the RLA in clubbing all the 5 AAs including the 3 AAs issued in July / October 2006, with no shortfall in export obligation and rightly rejected at the first instance, resulted in non-payment of duty of ₹ 43.72 lakh on the excess import of 2,43,265 Kgs.

**2.13** DGFT, Delhi stated (December 2012) that the four authorizations were clubbed with the authorisation issued in April 2010 which was valid for import under paragraph 4.20.3 of HBP.

*The reply of DGFT, Delhi has to be viewed in the context of the fact that clubbing for Advance Authorisation (s) is available where there was shortfall in fulfillment of export obligation. But in the instant case, the three out of four Advance Authorisation (s) clubbed have no shortfall in fulfillment of export obligation. Accordingly, these three licences were not eligible for clubbing.*

**Regional licensing authority (RLA), Bangalore counted exports made after expiry of obligation period for fulfillment of export obligation.**

**2.14** According to paragraph 4.1.3 of Foreign Trade Policy (FTP) 2004-09, Advance licenses are issued to allow duty free import of inputs, which are physically incorporated in the export product' subject to fulfillment of specified export obligation (EO). Further, as per paragraph 4.28 of the Handbook of Procedure (HBP), Vol-I, in the event of failure to fulfill EO, the licensee was liable to pay customs duty plus interest and penalty on unutilized imported raw materials.

**2.15** The Regional licensing authority (RLA), Bangalore issued (December 2007) two advance licenses to M/s Khoday Silk Twisting Factory, Bangalore for duty free import of 21600 kgs of 'Mulberry Raw silk (MRS) of any grade (other than Dupion yarn) and 7500 kgs of 'Dupion Silk Yarn' worth ₹ 3.16crore with a stipulation to export 8093.25 kgs of 100 percent 'Natural silk fabrics/Mulberry

raw silk yarn' worth ₹ 1.59 crore and 13165 kgs of 100 percent 'Natural silk fabrics' worth ₹ 1.95 crore within 36 months from the date of issue of license (i.e. upto December 2010).

**2.16** The licensee had imported raw materials valued at ₹ 3.62 crore between October 2008 to May 2010 through Chennai Custom House and duty of ₹ 1.05 crore was foregone. We found that out of total export of 20474.09kgs of fabrics/yarn, the licensee had exported only 9628.52kgs of fabrics during obligation period i.e. upto December 2010 and the remaining 10845.57kgs of fabrics/yarn was exported on 29 June / 7 July 2011 i.e. after expiry of the export obligation period (December 2010).

**2.17** As the licensee failed to fulfill the prescribed EO, he was liable to pay proportionate customs duty of ₹ 55.97 lakh alongwith interest.

**2.18** *DGFT, Delhi accepted that the firm had achieved partial exports and been directed to regularize the case.*

#### **Served From India Scheme (SFIS)**

**RLA, Chennai considered earnings from ineligible services for grant of duty credit.**

**2.19** The Supreme Court, in the case of Tata Consultancy Services Vs the State of Andhra Pradesh (STC Vol.137 of 2004) and in the case of BSNL Vs the Union of India and others (STC Vol. 145 of 2006) judicially held that Copyright or right to use the title are termed as 'goods' under the Sale of Goods Act. Accordingly, remittance from Copyright or right to use the title is not to be considered for duty credit under SFIS.

**2.20** Regional licensing authority (RLA), Chennai granted (May 2010) duty credit of ₹4.70 crore and ₹ 0.35 crore to M/s Sun TV Network Ltd., and M/s Kalaingar TV Pvt. Ltd., respectively under SFIS at 10 percent of the free foreign exchange of ₹ 46.98 crore and ₹ 3.55 crore earned by them during the year 2009-10. The duty credit was granted for the license fee earned by them from various television channels abroad. The earnings could not be reckoned for duty credit under SFIS because they were on account of transfer of right to use the title or copy right and not on account of rendering of any service. This had resulted in irregular grant of duty credit of ₹5.05 crore which was recoverable with interest. Ministry response had not been received (March 2013).

**2.21** *DGFT, Delhi stated (December 2012) that there is no stipulation in the FTP/HBP that while calculating the SFIS entitlement, the copy right component is to be equated as 'goods' and excluded. DGFT, Delhi further added that that parties concerned being TV channels claimed SFIS for the services originated from India.*

**2.22** *The reply may be viewed in the context of the fact that exports of 'goods' shall not be considered for calculation of SFIS entitlement. While, copy right has*

*been termed as 'goods' by the Apex court. Further, Foreign Inward Remittance Certificates (FIRCs) issued by the bank indicated realization of FE on account of licensing fee for supply of video programmes in the form of media and not through direct transmission of programmes.*

**JDGFT, Chennai did not review sanctioned telecom sector SFIS cases despite directions from DGFT, New Delhi.**

**2.23** Director General of Foreign Trade, Department of Commerce, New Delhi vide their policy circular no.38/2009-10 dated 15 July 2010 directed all the Regional Licensing Authorities (RLA) to review all previously sanctioned telecom sector SFIS cases within six months for re-computing their entitlements in terms of the decision of Policy interpretation committee (PIC) meeting of July 2010 by calling for the desired information from the licensee and to recover the excess grant if any. This review exercise was to be completed within six months from the date of policy circular issued in July 2010. The progress of review exercise for each telecom sector applicant was required to be reported on a monthly basis to the DGFT Headquarters.

**2.24** The Joint Director General of Foreign Trade, Chennai granted (June 2010) duty credit of ₹ 2.14 crore to M/s Dishnet Wireless Ltd., a Telecom service provider under SFIS at 10 percent of the foreign exchange earned during April to August 2009. We found that although the duty scrip was issued prior to aforesaid policy circular and required to be reviewed by the RLA, Chennai upto January 2011, but no action had been taken till May 2011. Thus, inaction by the RLA resulted in deferment of revenue payment, if any, in case excess grant of SFIS credit was established.

**2.25** DGFT, Delhi stated (February 2013) that M/s Dishnet Wireless Ltd., in their response had cited High Court, Bangalore judgment (Writ Petition No.2357 of 2010) filed by M/s Vodafone Essar Ltd., striking down the DGFT policy circular dated 15 July 2010 as 'ultra-vires' to the FTP 2004-09. The firm had also stated that an appeal filed by the Government in Supreme Court (civil appeal No.10117 of 2011) against the High Court judgment to grant interim relief was not entertained. Further progress is awaited (March 2013).

#### **Vishesh Krishi and Gram Udyog Yojana (VKGUY)**

**Regional Licensing Authority (RLA), Chennai allowed credit under VKGUY without verifying status of the Exporter.**

**2.26** As per paragraph 3.8.2 of the FTP 2004-09, exporters of notified products are entitled for Duty Credit scrip equivalent to 5 percent of FOB value of exports under Vishesh Krishi and Gram Udyog Yojana (VKGUY). Further, for exports of flowers, fruits and vegetables made w.e.f. 1 April 2008, additional duty credit scrip for 2.5 percent of FOB value of exports; over and above the 5 percent was allowed. Export oriented units (EOU) which do not avail Direct tax benefits/exemption are also eligible for VKGUY duty credit in terms of paragraph 3.8.2.1 of the FTP, provided they produce necessary evidence of change of

exemption status from the jurisdictional Income Tax authorities to the effect that they would not be claiming direct tax exemption henceforth (DGFT circular No 56(RE-2008)/2004-09 dated 21 January 2009).

**2.27** The Regional Licensing Authority (RLA), Chennai issued (May 2009) two VKGUY scrips to M/s Sudershan Overseas Ltd., a 100 percent EOU at the rate of 7.5 percent of FOB value for export of 51 consignments (June 2008 to March 2009) of 'Dates, Figs, Pineapples, Mangoes & Mangoes teens Fresh or dried' (Sl. No.13.10, Table 13 of Appendix 37 A). The total duty credit of ₹ 92.66 lakh was allowed in these two scrips. The shipping bills filed by the exporter were under EOU status as evident from the export scheme code '21' indicated therein, but the unit failed to furnish prescribed Direct tax evidence regarding change of exemption status from the jurisdictional Income Tax authorities. The RLA, Chennai also failed to ascertain the status of the exporter by calling for such evidence which is a pre-requisite for claiming the duty under VKGUY scheme by EOUs. The lapse has resulted in irregular grant of duty credit of ₹ 92.66 lakh, which is recoverable from the unit.

**2.28** When we pointed this out (May/June 2011/March 2012), there was no response from the department. However, on subsequent audit verification it was noticed that several letters issued by the RLA, Chennai to the unit for depositing the requisite Direct tax exemption certificate were returned undelivered. The department consequently, suspended (September 2011) the Importer Exporter Code (IEC) of the exporter.

**2.29** The Assistant Director General of Foreign Trade, Chennai meanwhile, in October 2011, found that the erstwhile company had formed a new company under the name of M/s Rayalseema Commodities Ltd, Chennai and requested for changing their postal address. Accordingly, the licensing authority called for the direct tax exemption certificate from the new company in respect of already issued two VKGUY scrips. The Assistant Director General of Foreign Trade, Chennai directed (January 2012) the unit to refund the duty credit of ₹ 92.66 lakh because it failed to produce the requisite certificate. There has been no response from the unit (December 2012).

**2.30** The fact remains that because of the delay in taking timely action by the department, either for recovery of irregularly granted duty credit of ₹ 92.66 lakh or for cancellation of the VKGUY scrips issued, there is every likelihood of loss to the Government.

**2.31** DGFT, Delhi stated (February 2013) that recovery action was initiated.

#### **Export Promotion Capital Goods (EPCG) Scheme**

**Regional Licensing Authority (RLA), Ahmedabad counted ineligible exports for export obligation fulfillment.**

**2.32** As per paragraph 5.5(iv) of the FTP, 2009-14, exports under EPCG scheme shall be physical exports. However, deemed exports as specified in paragraphs

8.2 (a), (b), (d), (f), (g) & (j) shall be counted towards fulfillment of export obligation. This implies that 'supply of capital goods to EPCG authorization holders' as provided under paragraph 8.2 (c) viz supply of capital goods to EPCG authorization holders, could not be considered towards fulfillment of export obligation.

**2.33** Regional Licensing Authority (RLA), Ahmadabad issued (March to June 2006) three EPCG authorization to M/s Alpha Nippon Innovative Ltd., Authorization holder applied (August 2009) for clubbing of these three EPCG authorization<sup>10</sup> for redemption and accordingly the RLA allowed (August 2009) the clubbing and fixed new specific export obligation of ₹ 9.64 crore and Average export performance (AEP) of ₹ 50.77 lakh for clubbed EPCG authorization. On submission of export documents by the authorization holder, Export obligation discharge certificate (EODC) was issued by RLA in May 2010. We found from scrutiny of the CA certificate attached to the application for redemption that authorization holder had effected deemed exports of ₹ 6.59 crore in 2006-07 by supplying goods to other EPCG authorization holders<sup>11</sup>. However, an amount of ₹ 3.75 crore out of the value of goods (₹ 6.59 crore) supplied to other EPCG authorization holders was claimed towards fulfillment of specific export obligation against authorization of March 2006 by authorization holder. This resulted in short fulfillment of export obligation of ₹ 3.75 crore and proportionate customs duty was required to be recovered.

**2.34** DGFT, Delhi stated (December 2012) that EODC granted was cancelled. However, the licensee could fulfill export obligation upto March-June 2014 ie the validity period of three licences. The fact remains that EODC was cancelled only after audit intervention.

### **Special Economic Zones (SEZ)/Export Oriented Units (EOUs)**

**Deputy Commissioner of Customs, Falta SEZ allowed duty exemption against expired DFIA license.**

**2.35** As per Section 30 of SEZ Act, 2005, read with Rule 47 (1) of SEZ Rules, 2006, any goods removed from an SEZ to the DTA are chargeable to duties of customs as leviable on such goods when imported subject to submission of import license, under the provisions of the Foreign Trade Policy (FTP). Further, for a Duty Free Import Authorization (DFIA), the validity period for imports is 24 months (paragraph 2.12 (i) of Handbook of Procedure (HPB) Vol-I) and the export obligation period (EOP), which was 24 months earlier, is now 36 months from the date of issue {(Paragraph 4.22 of HPB Vol-I, read with Public Notice (PN) 151 dated 26 February 2009 and Policy circular Nos. 80 and 86 (RE-2008)/2004-2009)}. The licensing authority (RA) may grant one revalidation for imports for 6

<sup>10</sup> Authorisation Nos.0830001219 dated 7.3.2006, 0830001273 dated 17.4.2006 and 0830001353 dated 13.6.2006

<sup>11</sup> M/s Electrotherm (India) Ltd. 7 others



months from expiry date, on the request of the original authorization holder (paragraphs 4.23 and 4.65 of HBP).

**2.36** M/s Exotica International, Kolkata, a DTA unit, cleared (between August 2010 and March 2011) 10 consignments of 'Silk fabrics' valuing ₹ 3.17 crore, from two Falta SEZ units, namely, M/s Roto India and M/s S.R. Enterprises. The Deputy Commissioner of Customs, Falta SEZ allowed full duty exemption amounting to ₹ 72.70 lakh against a DFIA license issued in March 2008 by the Joint Director General of Foreign Trade, Kolkata (RLA). However, validity of the DFIA license for imports being 24 months from the date of issue had expired in March 2010 before clearances made in August 2010/March 2011 and its validity was not extended. The license was amended (July 2010) by RLA only for extending the EO period from 24 to 36 months, in pursuance of the aforementioned policy circulars. But the customs authority apparently mistook the extension of EO period of 36 months as extension of validity for imports which remained at 24 months (i.e. upto March 2010) only.

**2.37** Thus duty exemption availed against the expired DFIA license amounting to ₹ 72.70 lakh was irregular and recoverable from the DTA unit along with interest.

**2.38** The Superintendent of Customs, Falta SEZ intimated (June 2012) that they had written to the firm asking why the duty forgone amount should not be recovered from them, as they had not submitted export obligation discharge certificate (EODC) from the RLA as proof of validity of the said license.

**2.39** The Falta SEZ authorities' action in response to the audit observation has to be viewed in the context of the fact that submission of EODC from the RLA is of no consequence in the instant case, as submission thereof will not absolve the firm from its liability of paying duty and interest on imports against the expired license. Therefore, the department should immediately initiate recovery measures instead of waiting for the EODC from the RLA, as its submission will not render the exemption valid. Audit response was conveyed to the department in August 2012, their response had not been received (March 2013).

**Central Excise, Pune III Commissionerate allowed excess DTA clearances of the export product.**

**2.40** Paragraph 6.8 (a) of Foreign Trade Policy (FTP), 2008-09, as amended, stipulates that an EOU may sell goods in the Domestic Tariff Area (DTA), upto 50 percent of the value of its exports at concessional rate of duties subject to fulfillment of positive Net foreign exchange (NFE). It further stipulates that units which are manufacturing and exporting more than one product can sell any of these products into DTA, upto 75 percent (90 percent from 2009-10) of FOB value of export of the specific products, subject to the condition that total DTA sale does not exceed the overall entitlement of 50 percent of FOB value of exports.

**2.41** The Development Commissioner, SEEPZ, SEZ issued letter of permission (LOP) in February 2004 (as amended) to M/s Cipla Ltd., (Unit-I), in Pune III Commissionerate, for manufacture and export of 'Bulk drugs'. Unit had cleared two bulk drugs namely, 'Fluconazole' worth ₹ 3.34 crore and 'Glatiramer Acetate' valued at ₹ 6.76 lakh during the year 2009-10 in DTA at concessional rate of duty under notification no.23/2003-CE dated 31 March 2003. Audit found that FOB value of Fluconazole and Glatiramer exported in the year 2009-10 was ₹ 93.55 lakh and ₹ 6.75 lakh respectively. As per aforesaid provisions, DTA clearance of said products should be restricted to 90 percent of FOB value of export of these items. Since the unit had cleared more than 90 percent of FOB value of these goods in DTA, clearance at concessional rate of duty was irregular. This had resulted in short levy of duty of ₹ 10.20 lakh.

**2.42** The Central Excise, Pune III Commissionerate authorities contested the observation and stated (March 2012) that these bulk drugs were manufactured as per the LOP issued and assessee is a status holder and had intimated the Development Commissioner (DC) for clearances of DTA sales at concessional rate of duty. The excise authorities further stated that the total value of DTA sales of these specific products during 2009-10 and 2010-11 was within the stipulated limit of 50 percent of FOB value of bulk drugs. However, the department added that differential duty to be recovered, for the period 2009-10 to 2011-12 was ₹ 42.90 lakh and a protective demand notice is under process for issue.

**2.43** The department reply is to be viewed in the context of the fact that audit is not objecting to the clearances of these drugs in DTA within 50 percent of their FOB value but to clearances of specific drugs in excess of prescribed limit of 90 percent of FOB value of export of specific products.

**2.44** The matter was reported (October 2012) to Ministry; their response had not been received (March 2013).

**2.45** The Development Commissioner, SEEPZ, Mumbai granted (November 2006) a letter of permission (LOP) to M/s Privi Organic Ltd. for manufacture and export of Chemicals namely 'Alpha/Beta ionone, Citranellol, Citronellal etc'. The unit made DTA sales of items Citranellol and citronellal worth ₹ 5.74 crore (2008-09) and ₹ 6.62 crore (2009-10) at concessional rate of duty. Audit found that FOB value of exports of these items during the year 2008-09 and 2009-10 was ₹ 2.23 crore and ₹ 2.60 crore respectively. Accordingly, the unit was entitled to DTA sales upto 75 percent and 90 percent of FOB value of export of these items in respective years but they exported upto 257 to 255 percent. Non restriction of DTA sales resulted in short levy of duty of ₹ 35.89 lakh.

**2.46** The Central Excise Authorities, Mahad Division stated (August 2011) that citronellol belongs to the group of alcohols while citronellal belongs to the group of aldehydes and since the unit was manufacturing alcohols and aldehydes of similar nature, the eligibility for DTA clearances is required to be taken under the

one group. The Central Excise Authorities also stated that the product like citronellol is one of the several alcohols manufactured by them which is similar in characteristics and use and should therefore be grouped together and to be considered as similar goods. The department further added that under alcohols, DTA sale percentage was 49.66 percent and under aldehydes, the DTA sale percentage was 88.20 percent during 2007-08 to 2009-10 and the same was within the prescribed norms.

**2.47** The department reply has to be viewed in the context of the fact that the LOP specified the products to be manufactured and exported, wherein 'Citronellol and Citronellal' were specified as separate products. Audit is not objecting to the clearances of these similar chemicals in DTA within 50 percent of FOB value but to clearance of specific chemicals in excess of prescribed limit of 75/90 percent of FOB value of export of these specific products. Ministry response had not been received (March 2013).

### CHAPTER III INCORRECT ASSESSMENT OF CUSTOMS DUTIES

**3.1** We found from test check (March 2009 to Jan 2012) of records for the period February 2009 to September 2011, a few cases of incorrect assessment of customs duties having revenue implication of ₹ 6.11 crore. They are described in the following paragraphs.

**Assessing officer Kolkata airport did not levy applicable duty on left over fuel in the tank of aircrafts run on domestic routes.**

**3.2** Any stores on board a vessel or aircraft imported without payment of duty be consumed thereon as stores during the period such vessel or aircraft is a foreign going vessel or aircraft (Section 87 of the Customs Act, 1962). When such a vessel or aircraft is converted to coastal run at the end of its foreign run, the aforesaid provision of section 87 is no longer applicable and the stores on domestic run attract customs duty.

**3.3** High speed diesel oil (HSD) classifiable under Customs tariff heading (CTH) 2710 19 30, attracts an additional duty of customs at the rate of ₹ 2 per litre (w.e.f. 1 March 2005) vide section 116 of the Finance Act, 1999 besides BCD and other duties. Notification no.4/2006-CE dated 1 March 2006 as amended provides for levy of CVD at the rate of ₹ 2.60 per litre, if the HSD is intended for sale without a brand name {serial no.19 (i)} and otherwise at the rate of ₹ 3.75 per litre (w.e.f. 27 February 2010), {serial no.19 (ii)}.

**3.4** Further, notification no.151/1994-cus dated 13 July 1994, as amended provides for exemption from customs duty including additional duty under section 3 of the Customs Tariff Act, 1975, to Fuel and lubricating oil in tanks of aircrafts of Indian Airlines equal to the quantity of the same type of fuel which was taken out of India in the tanks of the same aircraft subject to following conditions that;

- a. the duty of customs or central excise had been paid on the fuel taken out of India;
- b. rate of duty of customs including additional duty on fuel is the same at the time of arrival and departure of the aircraft ;
- c. no drawback of duty of customs or rebate of duty of central excise was allowed on such fuel at the time of departure.

**3.5** M/s NACIL (Indian Airlines), while commencing international flights from Kolkata airport, lifted Aviation Turbine Fuel (ATF) without payment of duty from M/s IOCL and other oil companies, in addition to duty paid stock lying in the fuel tank of the aircraft. Similarly, on return journeys, the Airline regularly lifted ATF from Bangkok, Yangon and Kathmandu. On termination of foreign run of these flights at Kolkata airport, they were converted into domestic flights. However, the customs authority at Kolkata airport did not levy duty on imported ATF left

on board at the time of conversion from international flight to domestic flight, and the Airline also did not pay duty thereon. The omission resulted in non levy of duty of ₹ 1.24 crore during January 2009 to March 2010 on import of 3375.779 Kilolitres of ATF.

**3.6** The Commissioner of Customs, Kolkata authorities while accepting the observation reported (June 2012) issue of demand notice (February 2012) to the Airline for the period January 2009 to December 2011 for duty of ₹ 2.93 crore. Ministry response was not received (March 2013).

**Assessing officer Kolkata (Port) did not levy additional duty on High speed diesel.**

**3.7** M/s J.M. Baksi & Co., Kolkata and nine others filed (between November 2009 and February 2011) 21 Bills of Entry (BEs) at Kolkata (Port) Commissionerate for payment of duties on imported ship's stores, including HSD, upon their conversion from foreign run to coastal run. While assessing these BEs, the assessing officer did not levy the additional duty at the rate of ₹ 2 per litre on the imported HSD. Moreover, in 19 out of 21 cases, CVD was levied by the assessing officer at the rate of ₹ 2.60 per litre as per serial no.19 (i) of notification no.4/2006-CE. As the imported HSD consumed during coastal run did not answer to the description 'intended for sale without a brand name', it was not covered under serial no.19 (i) of the said notification, and attract CVD at the rate of ₹ 3.75 per litre. Incorrect assessment on the above two counts resulted in short levy of duty of ₹ 7.77 lakh.

**3.8** The Commissionerate authorities stated (July 2012), that prima facie the audit observation appeared to be correct and that necessary action would be taken at the time of finalization of the respective bills of entry. Ministry response was not received (March 2013).

**Assessing officer did not levy finalized anti dumping duty on imports despite having provision of such levy in the notification.**

**3.9** As per section 9A of the Customs Tariff Act, 1975 read with Rules 13 and 20 (2) (a) of Customs Tariff (Identification, Assessment and Collection of Anti dumping duty on Dumped Articles and for Determination for injury) Rules, 1995 (ADD Rules), where provisional duty has been levied and the designated authority has recorded a final finding of injury, anti dumping duty (ADD) will be levied from the date of imposition of provisional duty.

**3.10** 'Sodium Tripoly Phosphate (STPP)' falling under CTH 28353100, originating in or exported from People's Republic of China (China PR) and imported into India attract provisional anti dumping duty at the prescribed rates under notification no.96/2010-cus dated 21 September 2010. Subsequently, based on final findings by the designated authority, definitive ADD on such imports was imposed vide notification no.58/2011-cus dated 8 July 2011, with retrospective effect from the date of imposition of the provisional ADD i.e 21 September 2010.

**3.11** M/s Ardor International Pvt Ltd., and three others imported from China (April/June 2011) 11 consignments of 'Sodium Tripoly Phosphate (STPP)' (1369 MT) through JNCH Commissionerate, Mumbai. However, provisional anti dumping duty on these imports was not levied by the department under provisional notification no.96/2010 considered as effective upto March 2011 only. We found that on imposition of final ADD duty under notification 58/2011-cus, the aforementioned imports became liable to ADD at the prescribed rate retrospectively from the date of imposition of the provisional anti dumping duty i.e. 21 September 2010. Accordingly, these imports were liable to ADD amounting to ₹ 3.41 crore. The amount was required to be recovered from the importers.

**3.12** The Commissioner of Customs (Export), JNCH authorities reported (July 2012) issue of less charge demand notices to the four importers. No response was received from Ministry (March 2013).

**3.13** 'Polypropylene' falling under CTH 39021000, originating in or exported from Oman, Saudi Arabia and Singapore attract provisional anti dumping duty at the prescribed rates under notification no.82/2009-cus dated 30 July 2009. Subsequently, based on final findings by the designated authority, definitive ADD on such imports was imposed vide notification no.119/2010 dated 19 November 2010, with retrospective effect from the date of imposition of the provisional ADD i.e. 30 July 2009.

**3.14** M/s Supreme Industries Ltd., and 11 others imported (February to November 2010) 38 consignments of 'Polypropylene' through JNCH, Mumbai Commissionerate. Out of these 38 consignments, 33 consignments supplied by M/s Oman Polypropylene LLC, Oman and five consignments were imported from Singapore. The assessing officer does not levy provisional anti dumping on these imports under provisional notification no.82/2009 because the anti dumping duty was considered as 'nil' at that point of time. We found that on imposition of final anti dumping duty under notification no.119/2010-cus dated 19 November 2010, the aforementioned imports became liable to anti dumping duty at the prescribed rates retrospectively from the date of imposition of the provisional anti dumping duty i.e. 30 July 2009. Accordingly, these imports were leviable to ADD amounting to ₹ 75.18 lakh. This amount was required to be recovered from the importers.

**3.15** The Commissioner of Customs (Import), JNCH authorities in respect of 33 consignments (8 importers) stated (March 2012) that during the provisional findings M/s Oman Polypropylene LLC was the interested party to the ADD investigation by the designated authority and is liable to 'nil' rate of ADD. The department added that the ADD rate was enhanced vide notification no.119/2010 from USD 'nil' to ₹ 67.68 PMT retrospectively and could not be collected in view of provisions of Rule 21 of customs Tariff (ADD) Rules, 1995,

which prescribed that if the ADD imposed by the Central Government on the basis of the final findings of the investigation conducted by the designated authority is higher than the provisional duty imposed and collected, the differential duty shall not be collected from the importer.

**3.16** The reply of Commissionerate authorities has to be viewed in the context of the fact that in the 33 consignments under reference, provisional anti dumping was neither levied nor collected; accordingly Rule 21 is not applicable and ADD has to be levied and collected at rates specified in the final notification of November 2010.

**3.17** However, the JNCH Commissionerate authorities in respect of remaining five consignments took a diametrically different stand and reported (June/August 2012) recovery of ₹ 19.83 lakh from four importers in respect of five consignments.

**3.18** Ministry stated (December 2012) that Rule 21 is based on Article 10.3 of 'Agreement on Implementation of Article VI of the General Agreement on Tariff & Trade 1994'. Ministry further added that 'nil' Anti dumping duty (ADD) was levied vide notification no.82/2009, while final ADD at the rate of US\$ 67.68 per MT was imposed vide notification no.119/2010, hence could not be recovered.

*The Ministry reply may be viewed in the context of the fact that notification no.119/2010 specially provides for levy of ADD at US\$ 67.68 from the date of imposition of provisional ADD under notification no.82/2009 and Article VI of the GATT, 1994 does not prohibits such levy. The Ministry may like to elucidate how provisions of notification no.119/2010 be implemented, if final ADD could not be collected.*

**Assessing officer cleared Imports without levying the applicable anti dumping duty.**

**3.19** As per section 9A of the Customs Tariff Act, 1975, where any article is exported from any country to India at less than its normal value, then upon the import of such article into India, the Central Government may, by a notification, impose an anti dumping duty. Accordingly, anti dumping duty was imposed from time to time on goods like 'Polytetra fluoroethylene (PTFE), and polypropylene etc. when these were imported from specified countries like China, Oman, Singapore.

**3.20** We found that assessing officers cleared nine consignments of such goods imported by M/s Genext Fluoropolymers and six others from these specified countries without levying applicable anti dumping duty of ₹ 27.57 lakh.

**3.21** The Commissioner of Customs (Import), JNCH, Mumbai authorities accepted the short levy and reported recovery of ₹ 24.45 lakh from two importers (M/s Genext Fluoropolymers & M/s Gaba Overseas Pvt. Ltd.) and issued demand notices to the remaining five importers.

**3.22** Ministry reported (January/February 2013) that efforts were made to recover balance duty and interest.

**Kolkata Commissionerate failed to realize cost recovery charges for Customs staff posted in warehouses.**

**3.23** As per Regulation 4 (v) of the Manufacture and other operations in warehouse regulations, 1966, the owner of any warehoused goods shall bear the cost of customs staff posted in the warehouse for supervision and control of the manufacturing or other operations in the warehouse. Further, as per Ministry of Finance instructions issued vide letter F.No.A-11018/9/91-AD.IV dated 1 April 1991; the cost of the posts created on cost recovery basis is to be fixed at 1.85 times of monthly average cost of the post plus DA, CCA etc.

**3.24** M/s Bharti Shipyard Ltd., M/s Air India Ltd., and M/s Air India Charters Ltd., had obtained the services of customs officers for performing customs supervision work in their bonded warehouses in Kolkata. Although the rates of cost recovery fees for the officers stood enhanced from August 2008 due to implementation of the 6th Central Pay Commission Report w.e.f. 1 January 2006, the department recovered supervision charges for the services rendered to these parties by its officers at old rates even after August 2008. This, together with non-realisation of arrears of enhanced cost recovery fees w.e.f. 1 January 2006 from M/s Air India Ltd., resulted in short realization of supervision charges amounting to ₹ 10 lakh for the period from January 2006 to June 2010.

**3.25** The import Bond department authorities of the Kolkata Commissionerate stated (October 2011) that these charges were calculated by the Accounts department of the Commissionerate and accordingly the audit observation is being got verified from them (Accounts Department). Ministry response was not received (March 2013).

**Assessing officer levied Education cess on exports.**

**3.26** Education cess of two percent imposed from 9 July 2004 vide sections 91, 92 and 94 of the Finance Act, 2004, and Secondary and Higher Education cess of one percent imposed from 1 March 2007 vide sections 136, 137 and 139 of the Finance Act, 2007, are both leviable on goods specified in the First Schedule to the Customs Tariff Act, 1975, when imported into India. Goods for export are specified in the Second Schedule to the customs Tariff and therefore not leviable to such duties.

**3.27** The Ministry of Finance in their Action Taken Note (ATN) on incorrect levy and collection of such cess on exports from Paradeep Port (Paragraph 3.9 of Compliance Audit Report No.14 of 2009-10) admitted the audit observation and also stated that refund claims filed by the exporters concerned would be decided in terms of Section 27 of Customs Act, 1962 provisions, and in cases where refund was granted, the amount of refund would be reduced from the gross



revenue collected. Notwithstanding the Ministry's ATN the levy is still being continued as narrated below:-

3.28 We found that the assessing officers at Custom House, Paradeep, under the Bhubaneswar-I Commissionerate, Mahadipur and Hili Land Customs Stations and at Malda Customs Division under the West Bengal (Preventive) Commissionerate collected Education cess and higher education cess not only on imports, but on all exports too, although export goods are specified in the Second Schedule to the Customs Tariff, and hence do not attract such levies. Incorrect levy and collection of such cess on export goods during the period from February 2009 to September 2011 amounted to ₹ 25.32 lakh.

3.29 The Commissioner of customs (Preventive), Kolkata authorities while admitting to the inadvertent levy of education cess on export goods stated (October 2011/July 2012) that henceforth the procedure as per the Finance Act would be strictly followed. The department, however, contended that the exporters had paid such cess voluntarily and none of them had ever raised any objection to such levy or claimed any refund for the same. The authorities further added that there was no chance of any refund claim (as it was already time barred) and the Government had not suffered any loss of revenue.

3.30 *Ministry accepted (December 2012) the observation and reiterated comments made by Commissioner of Customs (Preventive) West Bengal, Kolkata.*

3.31 *Audit maintained that there was a need to extend ICES/RMS to all exporters/importers and also to strengthen post audit measures.*

## **CHAPTER IV INCORRECT APPLICATION OF GENERAL EXEMPTION NOTIFICATIONS**

**4.1** The Government under section 25 (1) of the Customs Act, 1962 is empowered to exempt either absolutely or subject to such conditions as may be specified in the notification, goods of any specified description from the whole or any part of duty of customs leviable thereon. Some illustrative cases of non-levy/short levy of duties aggregating ₹ 2.85 crore due to incorrect grant of exemptions noticed (July 2011 to June 2012) from scrutiny of records for the period April 2011 to January 2012 are discussed in the following paragraphs.

*Assessing officer allowed incorrect exemption from Additional duty of excise on textiles articles and Embroidery fabrics.*

**4.2** In the Finance Act, 2011, effective from 8 April 2011, all the goods specified in the First Schedule of the Additional duty of excise (Goods of Special Importance) Act, 1957 were deleted from the purview of said Act. Consequently, these goods which were exempted under serial no. 50 of notification no. 20/2006-cus dated 1 March 2006 from the levy of special additional duty of customs will be liable to duty at four percent in terms of notification no. 19/2006-cus dated 1 March 2006.

**4.3** M/s ARC Enterprises and various others imported (April to November 2011) several consignments of 'Textiles fabrics/Nylon tyre cord fabrics through Chennai (Sea/Air) and Tuticorin Ports. The assessing officer classified imported items under Chapter 50 to 60 of the Customs Tariff and incorrectly allowed exemption from additional duty of customs under serial no. 50 of the aforesaid notification, even though were deleted from the aforesaid First schedule w.e.f. April 2011. This resulted in short levy of duty totaling ₹ 2.33 crore (Chennai–Sea/Air Commissionerats-₹ 1.20 crore and Tuticorin Commissionerate-₹ 1.13 crore).

**4.4** The Tuticorin and Chennai (Sea/Air) Commissionerates reported (November 2011 to July 2012) recovery of ₹ 82.63 lakh and ₹ 28.25 lakh respectively which includes interest of ₹ 8.79 lakh and ₹ 2.79 lakh respectively. Ministry response had not been received (March 2013).

*Assessing officer incorrectly allowed exemption to PVC coated fabrics, Processed Embroidery fabrics and Jacquard curtain fabrics.*

**4.5** M/s Ambicalmpex and 96 others imported 214 consignments of 'PVC coated fabrics, Processed Embroidery fabrics, Jacquard curtain fabrics' etc', worth ₹ 8.32 crore through Mumbai Air Cargo Complex, Mumbai New Customs House, and Mumbai ICD Commissionerate during April to November 2011. These goods were classified under the CTH specified in the first schedule of the AED (GSI) Act, 1957.

**4.6** We found from scrutiny of ICES dump data that the assessing officers incorrectly allowed exemption from additional duty of customs under serial no. 50 of notification no. 20/2006-cus dated 1 March 2006 though these items were deleted from the aforesaid First schedule w.e.f. April 2011. This resulted in non levy of additional duty of ₹ 40.61 lakh.

**4.7** Ministry reported (December 2012) recovery of ₹ 19.24 lakh from five importers (M/s Padmavati Textiles, M/s D Decor Exports, M/s Pizza Impex, M/s Zodiac clothing Co. Ltd., and M/s Plastic Cottage Trading Co.).

Assessing officer incorrectly allowed exemption to PVC coated fabric considering them as goods made of cotton.

**4.8** As per notification No. 29/2004-CE dated 9 July 2004(as amended), all goods of cotton not containing any other Textile material classifiable under Customs Tariff Act, 1975 chapters 56/59 are assessable to countervailing duty (CVD) at the rate of concessional rate of 5 percent .

**4.9** We found from scrutiny of Dump data that M/s Padmini Industries Ltd. and ten others imported (April to November 2011) 15 consignments of PVC coated fabric, synthetic fibres, bed sheets of polyester etc. through ICD, Tughlakabad, New Delhi. The assessing officer classified imported goods under Customs Tariff Act, 1975 chapters 56/59 and levied CVD at the concessional rate of 5 percent under aforesaid notification. As the imported goods were not made of 100 percent cotton they were not eligible for notification benefit and leviable to CVD at the rate of 10 percent . This resulted in short levy of duty of ₹ 11.40 lakh.

**4.10** Ministry reported (February 2013) recovery of ₹ 3.32 lakh and interest of ₹ 0.47 lakh in 11 consignments. Adjudication proceedings are under progress in remaining four consignments.

## CHAPTER V MIS-CLASSIFICATION OF GOODS

**5.1** During test check (July 2010 to April 2012) of records for the period January 2010 to November 2011, we noticed that assessing officers mis-classified various imported goods which caused short-levy/non-levy of customs duties of ₹ 2.04crore. They are discussed in the following paragraphs.

### **Assessing officer mis-classified flanges as parts of wind operated electricity generators.**

**5.2** Note 1 (g) to Section XVI of the Customs Tariff excludes “parts of general use” as defined under note 2 (a) to Section XV. Accordingly, articles of Customs tariff heading (CTH) 7307, 7312, 7315, 7317 or 7318 and similar articles of base metal are not covered under the section. ‘Flanges’ made of steel, are classifiable under CTH 7307 of the Customs tariff and leviable to Basic customs duty (BCD) at the rate of 10 percent .

**5.3** M/s Gamesa Wind Turbines Pvt. Ltd., and four others imported (January to May 2010 and April to November 2011) 28 consignments of ‘Flanges’ through Chennai (Sea) Commissionerate. The assessing officer classified imported goods under CTH 85030010/85030090 of the Customs tariff as parts of wind operated electricity generators and levied basic customs duty at the rate of 7.5 percent . ‘Flanges’ fall under the category of ‘parts of general use’, as per the aforesaid provisions and merit classification under CTH 73072100 leviable to BCD at the rate of 10 percent . The incorrect classification led to short levy of duty of ₹ 72 lakh.

**5.4** The Deputy of Commissioner of Customs (Sea Port),Chennai did not accept Audit’s contention in respect of observation issued in July 2010 with tax effect of ₹ 53.07 lakh and citing importers’ responses stated (December 2010) that CTH 73072100 covers only articles of general use and not specific use articles such as imported ‘flanges’. The customs authorities further stated that flanges are specifically designed for use in the manufacturing of the windmills and they are an integral part of the towers of windmills. As towers form a part of the windmills, accordingly flanges too are a part of the towers.

**5.5** The reply of Commissionerate authorities has to be viewed in the context of the fact that in the case of M/s G.B. Engineering Enterprises Pvt. Ltd., Versus Commissionerate of Central Excise, Trichy {2010 (251) ELT, 298 (Tribunal) Chennai}, the Tribunal held that windmills’ towers are classifiable specifically under CTH 7308 as general articles of iron or steel. On the same analogy, flanges are general use articles specifically covered under CTH 730791.

**5.6** Further, contrary to their stand, the Deputy Commissioner of customs, Chennai accepted a similar observation pointed in February 2012 with revenue implication of ₹ 18.93 lakh and reportedly issued show cause notices to the importers. Ministry response was not received (March 2013).

**Assessing officer mis-classified Projectors as articles used in automatic data processing system.**

**5.7** 'Projectors' capable of working with an Automatic Data Processing Machine (ADPM) as well as with television and videos are classifiable under CTH 85286900 assessable to BCD at the rate of 10 percent . The Central Board of Excise and Customs in circular no. 33/2007-cus dated 10 September 2007, had issued clarifications incorporating the technical features of the computer monitors and other type of monitors for use with TV/Video in order to distinguish them for the purpose of assessment, which are equally applicable to Projectors also.

**5.8** M/s. Epson India Limited and M/s Acer India Ltd., imported (March to July 2011) 11 consignments of 'Projectors' of various models through Chennai (Air) Commissionerate. The assessing officer classified imported goods under CTH 85286100 and assessed BCD at 'nil' rate under Customs notification no.24/2005 (serial no.17) dated 1 March 2005, considering those models as principally used with Automatic Data Processing Machine.

**5.9** The technical features of those models available in the website indicated that they could be used with an automatic processing system as well as with Television/Videos meriting classification under tariff item 85286900 and leviable to basic customs duty at 10 percent. The incorrect classification had resulted in short collection of duty of ₹ 54.80 lakh.

**5.10** The Deputy Commissioner of Customs (Airport), Chennai confirmed (February/April 2012) a demand of ₹ 14.34 lakh in respect of M/s Acer India Ltd. However, reply in respect of M/s Epson India Limited involving duty of ₹40.46 lakh was awaited (March 2013).

**Assessing officer incorrectly classified Animal feed preparations as Fish meal unfit for human consumption.**

**5.11** 'Preparations of a kind used in animal feeding' are classifiable under CTH 2309 and leviable to BCD at the rate of 30 percent and CVD at nil rate. According to explanatory note provided in chapter 23, CTH 2309 includes products of a kind used in animal feeding, not elsewhere specified in the chapter which are obtained by processing vegetable or animal materials to such an extent that they have lost the essential characteristics of the original material.

**5.12** Further, Harmonized system of nomenclature (HSN) note under CTH 2301 provides that this heading covers products obtained by processing either the whole animal or animal products.

**5.13** M/s Avanti Feeds Ltd. had imported (February to September 2011) nine consignments of 'Squid Liver Powder' through Chennai (Sea) Commissionerate. The assessing officer classified these goods under CTH 23012090 as 'other fish meal unfit for human consumption' and levied BCD at concessional rate of 5 percent under notification 21/2002 (serial no.53). Audit noticed from the website (<http://milaeml.com/products/>) of the suppliers that "Squid Liver Powder" either consists 50 percent of squid liver paste and well fined soybean

meal 50 percent or pure squid liver paste and 60 percent oil added with soybean meal 40 percent. The imported item being a mixture of soya meal and squid liver paste merited classification under CTH 2309 rather than under CTH 2301 and leviable to BCD at the rate of 30 percent instead of 5 percent levied. The misclassification had resulted in short levy of duty of ₹ 52.53 lakh

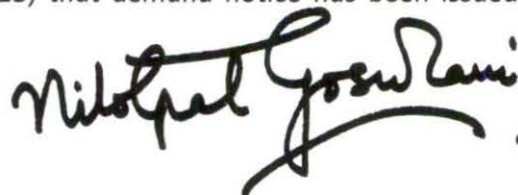
**5.14** Ministry reported (December 2012) initiation of adjudication proceedings to recover short levy.

**Assessing officer mis-classified Food/dietary supplements as medicaments of Ayurvedic system.**

**5.15** Miscellaneous edible preparations are covered under chapter 21 of the Customs Tariff. Further, food preparation not elsewhere specified or included are to be classified under CTH 2106 and assessable to BCD at the rate of 30 percent and CVD at the rate of 10 percent of RSP after allowing abatement of 35 percent. As per note 1 (a) of chapter 30, the chapter does not cover food supplements. Further, dietary/food supplement is a preparation intended to supplement the diet and provide nutrients.

**5.16** M/s Daxen Agritech (India) Pvt. Ltd. imported 1200 Kilogram of 'Reishi Gano Powder' and 2000 Kilogram of 'Ganocelium Powder' through ICD, Tughlakabad, New Delhi. The assessing officer incorrectly classified imported goods under CTH 30039011 as 'Medicaments of Ayurvedic system' and levied BCD/ CVD at the rate of 5/10 percent respectively. The imported items were actually food/dietary supplements which merit classification under CTH 21069099 as 'other food preparation not elsewhere specified', attracting BCD/ CVD at the rate of 30/10 percent respectively. Thus, misclassification of imported goods caused short levy of duty by ₹ 24.49 lakh.

**5.17** Ministry reported (February 2013) that demand notice has been issued for recovery.



(NILOTPAL GOSWAMI)  
Principal Director (Customs)

New Delhi  
Dated: 15 May 2013

Countersigned



(VINOD RAI)  
Comptroller and Auditor General of India

New Delhi  
Dated: 15 May 2013

**Annexure - I**  
**(Reference: Paragraph 1.75)**

Lakh ₹

	Draft Audit Para	Field office name	Brief subject	Amount objected	Amount Accepted	Amount recovered	Name of the Commissionerate/DGFT/DC
1	B1	Delhi	Short levy of duty due to misclassification	7.85	7.85	8.80	ICD, Tughlakabad, New Customs House, New Delhi
2	B2	Delhi	Short levy of anti dumping duty on Opal Glassware	8.91	8.91	10.09	ICD, Tughlakabad, Delhi
3	B3	Delhi	Short levy of duty due to misclassification	21.90	21.90	113.10	NCH, IGI, Airport, New Delhi
4	B4	AP	Irregular availment of SAD exemption	12.88	12.88	13.67	Hyderabad-II
5	B5	AP	Short levy due to incorrect grant of exemption	26.39	26.39	26.39	Customs House, Vishakapatnam
6	B6	Mumbai	Non levy of anti dumping duty	7.61	7.61	7.70	JNCH, Mumbai
7	B7	Ahmedabad	Non levy of anti dumping duty	21.97	21.97	24.71	Kandla Customs
8	B8	AP	Non fulfillment of export obligation	33.21	33.21	33.21	JDGFT, Visakhapatnam
9	B9	Kochi	Short levy of duty due to grant of ineligible exemption	89.27	89.27	93.75	Customs House, Kochi
10	B10	Chennai	Short levy of anti dumping duty on import of carbon black	9.73	9.73	9.73	ICD, Tuticorin
11	B11	Chennai	Irregular grant of duty credit under VKGUY scheme	12.49	12.49	11.84	JDGFT, Chennai
12	B12	Chennai	Short levy of duty due to incorrect classification of steel articles for automobiles	8.36	8.36	7.44	Chennai (Sea)
13	B13	Mumbai	Short levy of duty due to incorrect grant of exemption	8.58	8.58	10.63	JNCH, Mumbai
14	B14	Mumbai	Non levy of duty on capital goods at the time of debonding of EOU	7.51	7.51	10.34	Pune-II
15	B15	Kochi	Ineligible credit in Served from India Scheme (SFIS) scrip	67.89	67.89	86.51	JDGFT, Kochi
16	B16	Bangalore	Short levy of duty due to misclassification	14.71	14.71	14.80	Bangalore Commissionerate
17	B17	Bangalore	Short levy of duty due to misclassification	7.79	7.79	7.05	Bangalore (Air)
18	B18	Chennai	Irregular grant of DEPB credit on export of cotton yarn	14.88	14.88	18.01	JDGFT, Madurai

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19	B19	Chennai	Non levy of anti dumping duty on import of barium carbonate	32.67	32.67		Chennai (Sea)
20	B20	Chennai	Non-fulfillment of conditions of exemption notification thereby attracting levy of duty	35.18	35.18	12.61	LTU Chennai
21	B21	Mumbai	Incorrect application of rate of duty	8.13	8.13	4.28	JNCH, Mumbai
22	B22	Bangalore	Non-fulfillment of export obligation under Advance Licence Scheme	17.04	17.04	29.78	JDGFT, Bangalore
23	B23	Chennai	Non levy of anti dumping duty on Glass fiber and articles thereof	15.98	15.98	15.77	Chennai (Sea)
24	B24	Chennai	Short levy of duty due to incorrect classification of screw conveyors	24.98	24.98	24.98	Chennai (Sea)
25	B26	Delhi	Short levy of duty due to incorrect grant of notification benefit	20.64	20.64	22.02	ICD, Tughlakabad, Delhi
26	B27	AP	Non-collection of interest on duty amount short collected	14.89	14.89	14.89	Customs House, Vishakapatnam
27	B28	Delhi	Short levy of duty due to non-assessment of assessable value on the basis of high sea sale price	7.64	7.64	8.08	ICD Tughlakabad
28	B29	Delhi	Short levy of duty due to incorrect grant of notification benefit	7.79	7.79	7.93	NCH, New Delhi
29	B30	Delhi	Short levy of duty due to incorrect grant of notification benefit	8.07	8.07	6.01	ICD, Tughlakabad, New Delhi, ICD Patparganj, Delhi
30	B31	Delhi	Short levy of duty due to incorrect calculation of assessable value	7.70	7.70	7.71	ICD, Tughlakabad, Customs House, New Delhi
31	B32	Delhi	Short levy of duty due to adoption of incorrect currency	7.66	7.66	7.96	New Customs House, ICD Tughlakabad & ICD Patparganj
32	B33	Ahmedabad	Incorrect issue of zero duty EPCG authorisations for ineligible products	7.40	7.40	7.40	ICD, Sabarmati Ahmedabad
33	B34	Chennai	Short levy of duty due to incorrect classification of 'Peeling machine'	7.14	7.14	8.22	Chennai (Sea)
34	B35	Chennai	Short collection of duty due to misclassification of shaft assembly drive	17.73	17.73	17.73	Chennai (Sea)
35	B36	Delhi	Short levy of duty due to application of incorrect assessable value	8.56	8.56	5.05	ICD, Tughlakabad & Patparganj, Delhi & New Delhi
36	B37	Delhi	Short levy of duty due to application of incorrect assessable value	7.84	7.84	8.49	ICD, Tughlakabad & Patparganj, Delhi & New Delhi
37	B38	Ahmedabad	Short levy of duty due to incorrect application of rate of foreign exchange	21.3	21.38		Central Excise Commissionerate, Rajkot
38	B39	Ahmedabad	Incorrect exemption of special additional duty of customs	22.56	22.56	22.56	Customs House, MP & SEZ, Mundra



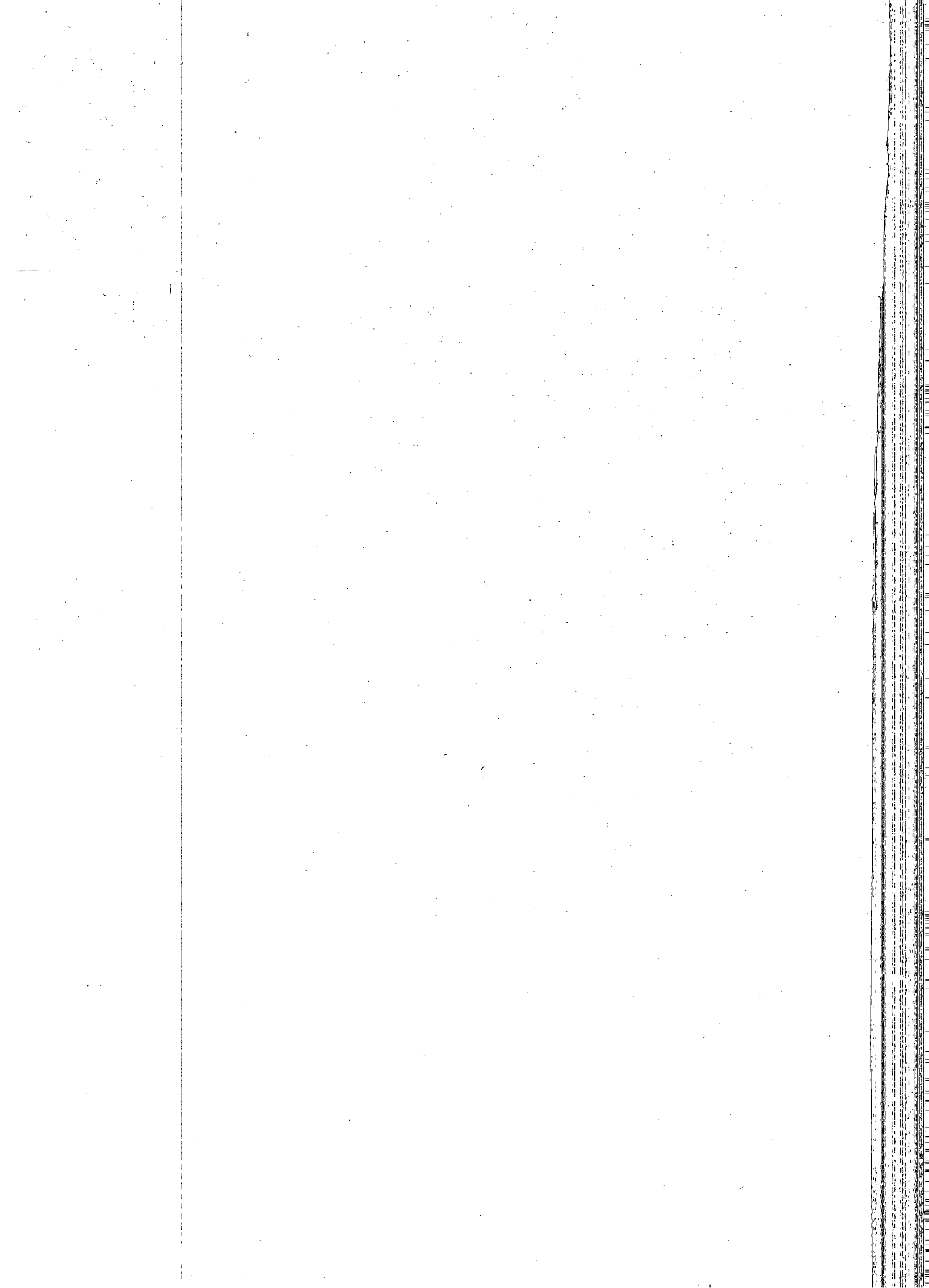
39	B40	Delhi	Short/non levy of anti dumping duty	7.99	7.99	8.31	ICD, Tughlakabad, New Delhi , ICD Patparganj, Delhi
40	B41	Ahmedabad	Short levy of excise duty due to incorrect computation	43.38	43.38	44.79	Central Excise, Vadodara-I
41	B42	Ahmedabad	Incorrect availment of exemption on inputs utilised in excess of SION	9.41	9.41	15.98	Central Excise, Ahmedabad-I
42	B43	Kolkata	Non levy of duty despite violation of condition of notification	37.98	37.98	75.96	Kolkata (Port)
43	B44	Delhi	Short levy of duty due to misclassification of goods	7.71	7.71	8.14	ICD Tughlakabad, NCH, New Delhi
44	B45	Kolkata	Non fulfillment of export obligation due to irregular third party exports	17.24	17.24	30.01	RLA, Kolkata
45	B46	Mumbai	Non levy of anti dumping duty on polypropylene	21.35	21.35	21.35	JNCH, Mumbai
46	B47	Chennai	Short levy of duty due to misclassification	15.04	15.04		Chennai (Sea)
47	B48	Kolkata	Inadmissible payment of drawback	28.85	28.85	23.49	Kolkata (Port)
48	B49	Kolkata	Short levy due to incorrect classification	11.36	11.36		Kolkata (Port)
49	B50	Mumbai	Non levy of anti dumping duty	10.10	10.10	6.83	JNCH, Mumbai
50	B51	Mumbai	Non levy of anti dumping duty on STPP	31.73	31.73		JNCH, Mumbai
51	B52	Mumbai	Short levy of duty due to misclassification	39.47	39.47		JNCH, Mumbai
52	B53	Kolkata	Short debit of duty in EPCG licence due to misclassification	32.88	32.88	32.88	Custom House, Paradeep, Bhubaneswar-I
53	B54	Chennai	Grant of duty credit under SFIS on ineligible earnings	8.00	8.00	10.39	JDGFT, Chennai
54	B55	Bangalore	Short levy of duty due to misclassification	7.28	7.28	5.96	ACC, Bangalore
55	B56	Chennai	Short levy of duty due to misclassification	31.41	31.41	31.42	Chennai (Sea)
56	B57	Chennai	Short collection of duty due to non adoption of specific rate	10.3	10.30	11.59	Chennai (Sea)
57	B58	Bangalore	Non fulfillment of export obligation under advance authorisation scheme	8.30	8.30	8.30	RLA Bangalore
58	B59	Chennai	Short levy of duty due to misclassification of feeder cables	17.74	17.74	22.62	Chennai (Sea)

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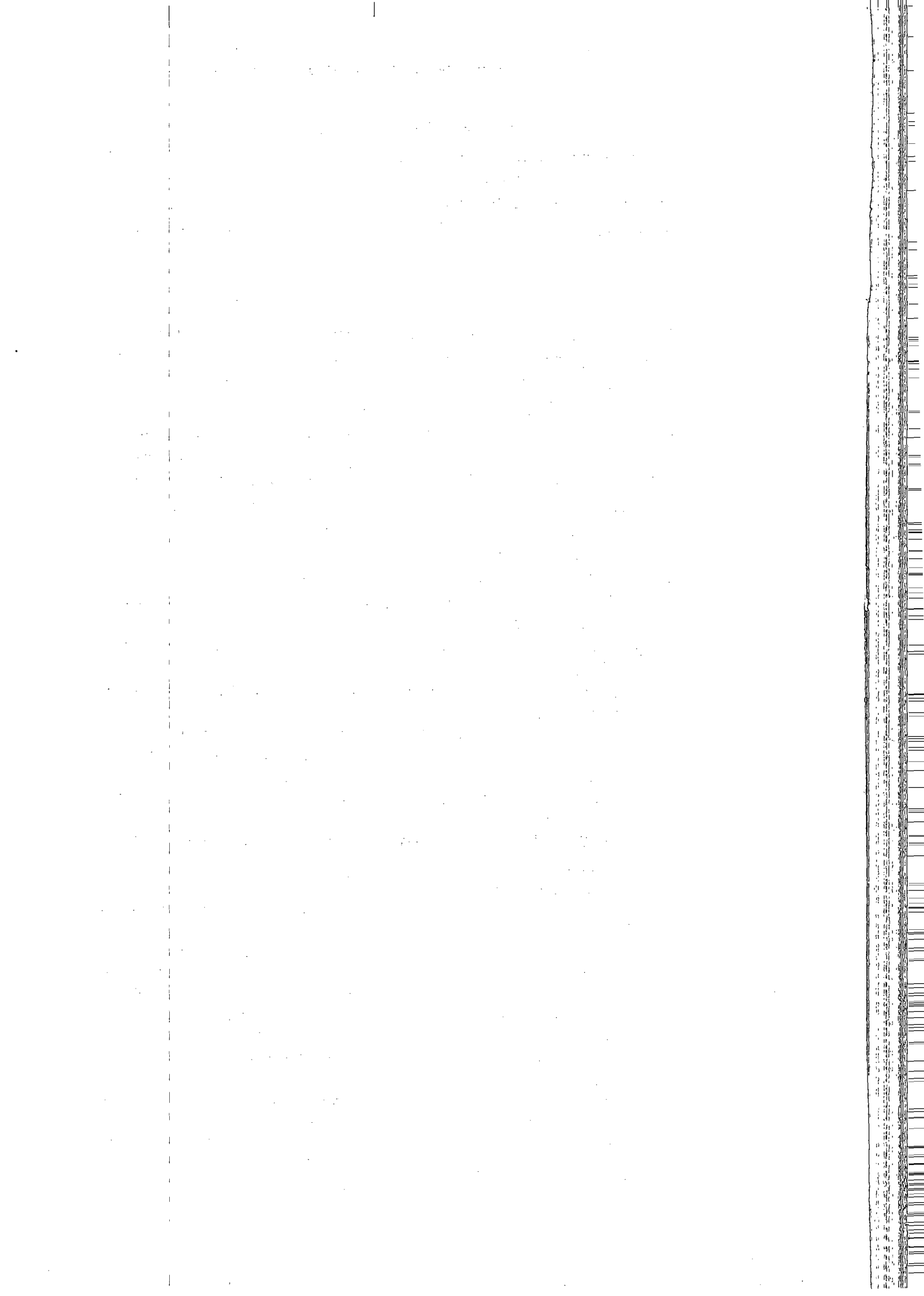
59	B60	Kochi	Non achievement of export obligation	9.89	9.89	10.12	RLA, Thiruvananthapuram
60	B61	Mumbai	Excess payment of duty drawback dues to inclusion of agency commission in excess	15.16	15.16		ACC, Mumbai
61	B62	Mumbai	Short levy of duty due to misclassification	12.27	12.27		JNCH, Mumbai
62	B63	Mumbai	Irregular DTA sales	49.18	49.18		SEEPZ, SEZ Authorities Mumbai
63	B64	Mumbai	Non recovery of interest on delayed payment of duties	13.84	13.84	13.84	Pune-III
64	B65	Mumbai	Excess grant of duty free credit under TPS	11.90	11.90	10.73	ZJDGFT, Mumbai
65	B66	Mumbai	Incorrect calculation of eligible exports	31.42	31.42	68.07	RLA, Mumbai
66	B67	Hyderabad	Short levy of duty due to non levy of CVD	8.12	8.12	8.12	Customs House, Visakhapatnam
67	B68	Chennai	Short collection of duty due to misclassification of Aluminum tubes	12.63	12.63		Chennai (Sea)
68	B69	Delhi	Short levy of duty due to misclassification of goods	56.18	56.18	58.01	ICD, Tughlakabad, New Delhi
69	B70	Ahmedabad	Incorrect grant of exemption	438.00	438.00	438.00	Jamnagar Customs
70	B71	Bangalore	Non-fulfillment of export obligation under Advance Licence Scheme	16.59	16.59		RLA, Bangalore
71	B72	Chennai	Non fulfillment of conditions of exemptions notification for jobbing	144.93	144.93		Chennai (Air)
72	B73	Kochi	Non levy of additional duty of customs on import of mobile handset	26.20	26.20	11.21	CE, Cus& ST, Calicut
73	B74	Delhi	Short levy of duty due to non levy of CVD on RSP/MRP basis	7.63	7.63	7.89	ICD, Tughlakabad & New Customs House
74	B75	Chennai	Excess duty credit allowed under SFIS	7.95	7.95	20.19	JDGFT, Chennai
75	B76	Kolkata	Non fulfillment of export obligation against EPCG licence	123.00	123.00		RLA, Guwahati
76	B77	Kolkata	Non realisation of duty forgone against cancelled EPCG licence	20.70	20.70	36.43	RLA, Kolkata
77	B78	Jaipur	Non recovery of DEPB benefits and interest	18.94	18.94		RLA Jaipur
78	B79	Mumbai	Short levy of excise duty on DTA clearances	29.21	29.21	26.03	CE, Thane-I
79	B80	Chennai	Incorrect application of central excise exemption notification resulting in short levy of duty	11.87	11.87	11.87	Chennai (Sea)
80	B81	Kolkata	Short levy due to incorrect grant of exemption on betel nuts	9.61	9.61		Siliguri
81	B82	Kolkata	Short levy due to incorrect assessment of motor spirit/High speed diesel	634.00	634.00	788.00	Bhubaneshwar-I
82	B83	Kolkata	Non imposition of safeguard duty	58.19	58.19		Kolkata (Port)
83	B84	Chennai	Short collection of duty due to incorrect levy of ad valorem rate of duty instead of specific rate	12.23	12.23	4.01	Chennai (Sea)
84	B85	Chennai	Short levy of duty due to misclassification of 'transmission	115.00	115.00	126.24	Chennai (Sea)

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85	B86	Chennai	Misclassification of 'Sensor assembly Airbags' leading to short levy of customs duty	35.36	35.36		Chennai (Sea)
86	B87	Chennai	Short collection of duty due to misclassification of Low Noise Block converters	25.36	25.36		Chennai (Sea)
87	B88	Delhi	Short levy of duty due to misclassification of goods	17.18	17.18	20.42	ICD, Tughlakabad, New Delhi
88	B89	Chennai	Short levy of duty due to misclassification of Santoprene	11.98	11.98	11.98	Chennai (Sea)
89	B90	Bangalore	Short levy of duty due to misclassification	7.22	7.22		ACC, ICD Bangalore
90	B91	Chennai	Grant of VKGUY duty credit on ineligible items	7.69	7.69	7.69	JDGFT, Chennai
			<b>Total</b>	<b>3079.86</b>	<b>3079.86</b>	<b>2776.17</b>	



# APPENDICES



Appendix 1 (Reference paragraph 1.5)

Organisational Structure of Audited entity

1. The Department of Revenue (DoR) of MOF functions under the overall direction and control of the Secretary (Revenue), coordinates matters relating to all the Direct and Indirect Union Taxes through two statutory Boards namely, the Central Board of Excise and Customs (CBEC) and the Central Board of Direct Taxes (CBDT) constituted under the Central Board of Revenue Act, 1963. Matters relating to the levy and collection of Customs are looked after by the CBEC.

2. In addition, DoR is also responsible for the Indian Stamp Act 1899 (to the extent falling within the jurisdiction of the Union), the Central Sales Tax Act 1956, the Narcotic Drugs and Psychotropic Substances Act 1985 (NDPSA), the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (SAFEM (FOP) A), the Foreign Exchange Management Act, 1999 (FEMA) and the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPOSA), the Prevention of Money Laundering Act, 2002 (PMLA) and the attached/ subordinate offices for intelligence, enforcement, ombudsman and quasi judicial functions.

Central Board of Excise and Customs.

3. Central Board of Excise & Customs (CBEC) deals with the tasks of formulation and implementation of Customs, Central Excise and Service Tax laws and procedures aimed at:

- a. realizing the revenues in a fair, equitable, transparent and efficient manner
- b. administering the Government's economic, taxation and trade policies in a pragmatic manner
- c. facilitating trade and industry by streamlining and simplifying Customs, Central Excise and Service Tax processes and helping Indian business to enhance its competitiveness
- d. ensuring control on cross border movement of goods, services and intellectual property
- e. creating a climate for voluntary compliance by providing information and guidance

Department of Commerce

4. The basic role of the Department is to facilitate the creation of an enabling environment and infrastructure for accelerated growth of international trade. The Department formulates implements and monitors the Foreign Trade Policy (FTP) which provides the basic framework and a strategy to be followed for promoting trade which is measured as per its RFD. The Trade Policy is periodically reviewed to incorporate changes necessary to take care of emerging economic scenarios both in the domestic and international economy. Besides, the department is also entrusted with the responsibility of Trade Agreements, commercial relations, Special Economic Zones, state trading, export promotion and trade facilitation, development and regulation of certain export oriented industries and commodities. The

Department has various attached Offices, subordinate Offices/ organizations under its administrative control i.e. Directorate General of Foreign Trade (DGFT), Directorate General of Anti-Dumping & Allied Duties (DGAD) and Office of Development Commissioner of Special Economic Zones (SEZs).



## Appendix-2 (Paragraph Reference 1.5)

### Tariff policy and environment in last one decade

1 In the mid-1980, the tariff rates of Customs duties were very high and the structure was complex. The Government in its Long-Term Fiscal Policy (LTFP-1985-86) emphasized the need to reduce tariffs, apply fewer and more uniform rates, reduce and eventually eliminate quantitative restrictions on imports. This was applied selectively by rationalising the rates for specific industries such as capital goods, drug intermediates, and electronic goods. However, contrary to the LTFP recommendations, tariffs continued to be raised for revenue reasons, the weighted average rate increasing from 38 percent in 1980-81 to 87 percent in 1989-90. By 1990-91, the tariff structure ranged from 0 to 400 percent. More than 10 percent of imports were subject to tariffs of 120 percent or more. Wide-ranging exemptions were granted outside the budgetary process, further complicating the system and rendering it ad hoc.

#### Box 2: Summary of Tariff policy changes in India

##### FY 90-FY 97

QRs replaced by tariffs. Maximum tariffs reduced from 400% in 1990/91 to 65% in 1994, 50% in 1995; average duty from 50% to 27% during the same period.

##### FY 98-FY 05

Maximum tariff rate reduced from 355% in FY 90 to 45% in FY 97, 40% in FY 99, 35% in FY 2000 (38.5% with 10% surcharge).

Quantitative restrictions on imports removed in stages beginning FY 92, finally abolished in FY 01

Tariff rates for industrial goods reduced from a weighted average of 80% in FY 92 to around 20% in FY 05; converged to ASEAN levels (10%) by FY 09.

- 2 The focus on customs duty is mainly for the following reasons:
- a. The need to increase overall tax revenues.
  - b. Increase in Exports to earn foreign exchange to pay for countries critical inputs.
  - c. Consumer protection.
  - d. Import substitution and protection to the domestic industry.
  - e. Controlling illegal trade of restricted items.

3 The reform of import duties in earnest began in FY 92 when all duties on non agricultural goods above 150 percent were reduced to this level. This "peak" rate was lowered over the next four years to 50 percent, and then to 40 percent in FY 98, 30 percent in FY 03, 25 percent in FY 04, 20 percent in FY 05 (January 2004), 15 percent in FY 06, 12.5 percent in FY 07 and finally to 10 percent in FY 08. It is important to note that these reductions were not mandated by any WTO requirements as India's applied rates are considerably below the bound rates. And the duty reductions were made even for unbound items. Table below gives a broad view as to where we stand in terms of tariffs.

**Cross-Country Tariff Rates (not including CVD, countervailing duty)**

Country	Average	TWA	Binding coverage
India	13	6.9	73.8
Argentina	12.6	12.2	100
Australia	2.8	3.9	97.1
Brazil	13.7	10	100
Canada	3.7	3.4	99.7
Malaysia	8.0	5.1	84.3
Pakistan	13.9	9.8	98.7
Singapore	0	0	100
United States of America	3.5	2.0	2.1

Source: WTO world tariff profile 2011. (All figures are in %)

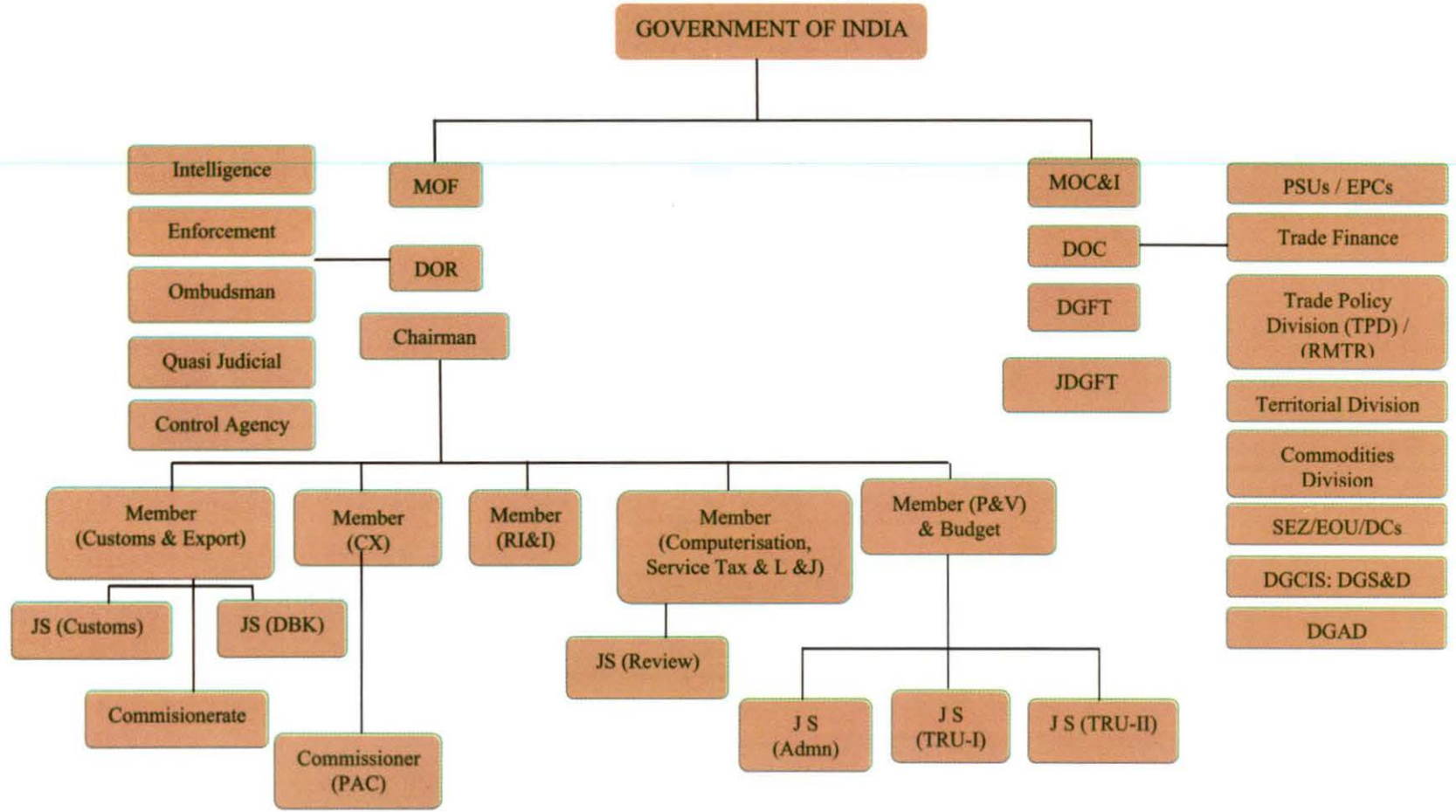
4 With a peak non-agriculture tariff of 10% and a simple average (at 8 digits) of 9.1% we have now reached the tariffs prevailing in ASEAN countries with relatively higher tariff levels in this category. Gains in efficiency and competitiveness in industry and services could be maximized by providing a level playing field to producers competing with imports as well as to exporters.

5 Agricultural tariffs, at a simple (8 digit) average of 36.8%, remain relatively high. This is apparently due to livelihood issues that are present in India, but not in middle income or higher income OECD countries.

**Customs Tariff rates and value of imports**

6 Trade agreements (bi lateral, regional and multilateral) have further reduced tariffs. Though peak rate of customs duty for Non Agricultural products remained static at 10% during FY 08 TO FY 12, however, Customs revenue growth is not commensurate with the growth of value of imports during the same period.

Appendix -3 (Paragraph Reference 1.6)



**Appendix 4: (Reference Paragraph 1.13)**

<b>Appendix : Peak rate of Customs Duty, Value of imports and Customs Duties collected</b>						
Year	Peak Duty rate	Reduction %age	Customs Receipts (₹ Cr.)	Growth rate %	value of Imports	Growth rate %
FY 03	30.00	5.00	44912	12.01	297206	21.21
FY 04	25.00	5.00	48613	8.42	359108	20.83
FY05	20.00	5.00	57610	18.47	501065	39.53
FY 06	15.00	5.00	65067	12.94	660409	31.80
FY 07	12.50	2.50	86327	32.67	840506	27.27
FY 08	10.00	No change	104119	20.61	1012312	20.44
FY 09	10.00	No change	99879	-4.07	1374436	35.77
FY 10	10.00	No change	83324	-16.58	1363736	(-)0.78
FY 11	10.00	No change	135813	62.99	1683467	23.45
FY 12	10.00	No change	149876	10.35	2344772	39.28

Source: Union Budget, Finance Accounts, Audit Reports

**APPENDIX 5: (Reference Paragraph 1.14)**

**Central Sales Tax**

(Cr.₹)

Sr. No.		FY 01	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11
(i)	CST	8371	11424	11730	10457	13037	13968	16200	18613	18389	17048	19230
(ii)	SAD	2442	3269	NA	3595	4083	NA	NA	10595	13165	14095	18288
(iii)	SAD as % of CST	29.17	28.62	NA	34.38	31.32	NA	NA	56.92	71.59	82.68	95.10

CST:  $\{(FY\ 011-FY\ 01)/FY\ 01\} * 100 = 129.72$       Average Decadal Growth of CST =  $129.72/11 = 11.79$

SAD:  $\{(FY\ 11-FY\ 01)/FY\ 01\} * 100 = 648.89$ ;      Average Decadal Growth of SAD =  $648.89/11 = 58.99$

Range = 95.10 in FY 11 – 28.62 in FY 02 = 66.48

Average annualised growth in CST/SAD ratio:

$FY\ 11-FY\ 01)/11 \times FY\ 01 = 0.20$ .

**Appendix 6: (Paragraph Reference 1.15)**  
**Central Excise receipt vis-a-vis Additional Duty of Customs receipts during FY 01 to FY 11**  
**(Cr.₹)**

Sr. No.		FY 01	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11
(i)	Excise Duty	72555	82310	90774	99125	111226	117613	123611	108613	102991	132000	138372
(ii)	Addl. Duty of Customs(CVD)	16582	14409	15936	16368	22110	29750	38035	46935	46015	33435	51065
(iii)	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 (iii): 27% ranging from 16.51% (FY 04) to 44.68 (FY 09)

Median of (iii) value: 25%; Modal of (iii) value: 25%

Range: 28.17%

Average Annualised growth: 8.24 %

Average Decadal Industrial growth: 8%

CVD growth:=(51065-16582)/(11X16582)X100 = 18.90 %

**Appendix 7: (Paragraph Reference 1.17)**

**Balance of Payments- Petroleum Products**

	Imports	Exports	Bal. of Payment
YEAR	VALUE	VALUE	Cr.₹
FY 01	71,496.52	8,645.47	-62851.05
FY 02	66,769.86	10,106.58	-56663.28
FY 03	85,367.00	12,469.22	-72897.78
FY 04	94,520.00	16,397.44	-78122.56
FY 05	134,094.00	31,404.15	-102689.85
FY 06	194,640.00	51,532.80	-143107.20
FY 07	258,571.76	84,520.15	-174051.61
FY 08	258,571.76	114,191.68	-144380.08
FY 09	419,945.62	123,397.91	-296547.71
FY 10	411,649.06	132,899.02	-278750.04
FY 11	482,281.69	188,778.97	-293502.72
FY 12(P)	742,762.47	265,818.71	-476943.76

Source: EXIM DATA, Ministry of Commerce, DGCIS-Kolkata

**Appendix 8: (Reference Paragraph: 1.17)**

**Trade balance - Gold, Silver, Gems and Pearls, precious stones etc lakh ₹**

Sl No.	Year	Value of import (Gold silver etc)	Value of export (Gold silver etc)	Trade balance (Col.4-Col.3)	Total import (All products)	Total export (All products)
1	FY 03	5069572	4400225	-669347	29720587	25513718
2	FY 04	6504451	4945106	-1559344	35910766	29336675
3	FY 05	9338735	6486410	-2852325	50106454	37533953
4	FY 06	9160414	7020873	-2139541	66040890	45641788
5	FY 07	10224988	7278416	-2946572	84050613	57177929
6	FY 08	10645199	7976309	-2668890	101231169	65586352
7	FY 09	19701503	12882692	-6818811	137443555	84075506
8	FY 10	21824846	13814830	-8010017	136373555	84553364
9	FY 11	35039643	19890767	-15148876	168346696	114292192
10	FY 12	43459846	22629094	-20830752	234546324	146595940
	Total	175429119	110825285	-64603834	1068290583	711209214

Source: EXIM DATA, Ministry of Commerce, DGCIS-Kolkata

**Appendix 9: (Reference Paragraph 1.17)**

YEAR	FDI Million US \$	As % of GDP
FY 01	5477.64	0.66
FY 02	5629.67	0.90
FY 03	4321.08	0.74
FY 04	5777.81	0.78
FY 05	7621.77	0.78
FY 06	20327.76	1.39
FY 07	25505.59	1.29
FY 08	43406.30	2.42
FY 09	35595.90	2.97
FY 10	24159.20	1.85
FY 11	31554.03	2.07

**Appendix 10 (Reference Paragraph 1.17)**

**Exchange rate of the Indian rupee vis-à-vis the SDR, US dollar, Pound, Sterling, D.M. / Euro and Japanese Yen  
(Calendar Year – Annual Average)**

Year	(Rupees per unit of foreign currency)				
	SDR	US Dollar	Pound Sterling	Deutsche Mark/Euro	Japanese Yen
FY 01	60.0782	47.1857	67.9826	42.2869	38.8674
FY 02	62.9532	48.5993	73.0028	45.9261	38.8722
FY 03	65.2192	46.5818	76.0974	52.6603	40.2047
FY 04	67.1053	45.3165	82.9983	56.3259	41.8941
FY 05	65.1404	44.1000	80.2530	54.8993	40.1020

FY 06	66.6775	45.3070	83.5115	56.9279	38.9752
FY 07	63.2756	41.3485	82.7218	56.6019	35.1348
FY 08	68.6477	43.5049	80.1362	63.7403	42.3079
FY 09	74.5880	48.4049	75.7282	67.3928	51.8119
FY 10	69.7509	45.7262	70.6912	60.6683	52.1669
FY 11	73.6424	46.6723	74.7736	64.8794	58.6244

Note: 1) The exchange rate for Japanese Yen is in Rupees per 100 Yen.  
2) The Euro replaced the Deutsche Mark w.e.f. January 1, 1999.  
source: RBI

## Appendix 11: (Paragraph Reference 1.34)

Number of Formal approvals	579	
Number of notified SEZs (As on 17.01.2013)	384 (out of 579) + (7 Central Govt. +12 State/Pvt. SEZs)	
No. of valid in Principle Approvals	49	
Operational SEZs (As on 30 <sup>th</sup> September 2012)	160 (Break up: 17 are multi product SEZs, remaining are IT/ITES, Engineering, electronic hardware, textiles, Biotechnology, Gem & Jewellery and other sector specific Special Economic Zones)	
Units approved in SEZs (As on 30 <sup>th</sup> September 2012)	3,622	
Land for SEZs	Notified SEZs	Formally Approved (FA) incl. notified SEZs
	45,378 Hectare	66,882 Hectare
	Land is a state subject land for SEZs is procured as per the policy and procedures of the respective State Governments.	
INVESTMENT (As on 30 <sup>th</sup> September 2012)	Incremental Investment	Total Investment
SEZs Notified under the Act	₹1,99,332.54 Cr.	₹1,99,332.54 Cr.
State/Pvt. SEZs set up before 2006	₹6,487.52 Cr.	₹8,243.83 Cr.
Central Government SEZs	₹8,939.84 Cr.	₹11,219.04 Cr.
Total	₹2,14,759.90 Cr.	₹2,18,795.41 Cr.
EMPLOYMENT (As on 30 <sup>th</sup> September 2012)	Incremental Employment	Total Employment
SEZs Notified under the Act	6,44,000 persons	6,44,000 persons
State/Pvt. SEZs set up before 2006	71,466 persons	83,934 persons
Central Government SEZs	95,820 persons	2,18,056 persons
Total	8,11,286 persons	9,45,990 persons

Source: www.sezindia.nic.in

Appendix 12 (Reference Paragraph 1.39)

Recent facilitation Measures in Customs

1 ICEGATE: E-Commerce Portal of Central Board of Excise & Customs  
ICEGATE (Indian Customs EDI Gateway) is an e-commerce portal of the Indian Customs which offers services such as e-filing of Bills of Entry (Import Goods Declaration); Shipping Bills (Export Goods Declaration); and EDI between Customs and its Trade Partners for IGM, EGM, Customs Duty Payment and Drawback Disbursal through electronic messages.

The Indian Customs EDI system (ICES)

2 The Indian Customs EDI system (ICES 1.5) is a workflow automation system which facilitates paperless processing of documents for import and export consignments through the computer system. Under the system, the documents move from one officer to another electronically through the Computer System to eliminate paperwork, facilitate faster processing and simplify the whole procedure, thereby, consuming less time.

3 The Indian Customs EDI system (ICES) designed and developed by National Informatics Centre (NIC) for Central Board of Excise and Customs (CBEC) for facilitating better management of Custom Activities. The application was created with the intention of facilitating paperless trade in the country.

Accredited Client Program (ACP)

4 An ACP (Accredited Client Program) was introduced in 2005 concurrently with introduction of Risk Management System (RMS). The objective of the program is to provide assured facilitation to importers who show good track record and compliance. Presently, there are nearly 280 ACP importers at present covering 13% of the total imports. The imports by ACP clients are normally exempt from assessment of duty and examination of goods. Recently, the coverage of the Program has been expanded by recognizing status holders, star trading houses under the Foreign Trade Policy as an eligible category for grant of ACP status. The assured facilitation needs extension to all importers with some cost benefit analysis on Self assessment.

Authorized Economic Operator

5 An Authorised Economic Operator (AEO) programme has been developed pursuant to guidelines of the World Customs Organisation's (WCO) ADOPTION OF safe FoS (Framework of Standard) in 2005. The Indian AEO programme launched by the CBEC in August 2011 and DGICCE was designed as the Nodal Office for implementation of the programme. ADG (DGICCE) HWQ Delhi is the programme implementation Manager. This programme provides businesses with an internationally recognized quality mark that will indicate their secure role in the international supply chain, Efficiency of procedures and record keeping and their compliant nature.



An entity with an AEO status therefore, be considered a secure trader and a reliable trading partner by Indian Customs as per the guidelines. The AEO programme is for different categories of economic operators such as Importers, Exporters, Customs House agents etc.

The benefits provided to AEO clients are:

- a. Importers:
  - I. Reduced examination and inspection with higher facilitation that that available to ACP clients
  - II. Acceptance of pre-arrival import declarations;
  - III. Reduced bank guarantee not exceeding 5 percent of the bond amount.
- b. Exporters
  - I. Reduced percentage of examination;
  - II. Acceptance of export declarations without bringing goods into Customs area.
- c. Warehouse Owners:
  - I. Faster approvals for new warehouse;
  - II. Reduced bank guarantee to the extent of 5 percent of duty liability;
  - III. Reduced audit.
- d. Custom House Agents:
  - I. Benefit of extended validity period of licences granted under regulation 2009 till the time hold valid AEO authorization;
  - II. Exemption from renewal fee ;
  - III. Acceptance of pre-arrival import declarations for client importers.
- e. Logistics Providers (Carriers/ Forwarders):
  - I. Transit of goods without case by case permissions;
  - II. Transit of goods without Customs escort;
  - III. Benefits of waiver of bank guarantee in case of transshipment of goods under Goods Imported Regulations 1995. Facility of execution of a single running bond.

#### Self Assessment

6 Self Assessment of Customs duty by importers or exporters was introduced vide Finance Act, 2011. This is paradigm shift away from assessment by Departmental officers to a trust based system of self- assessment. The objective is to expedite release of imported / export goods. An electronic Risk Management System (RMS) that identifies risky consignments for assessment or examination or both ensures the interest of revenue in terms of ensuring correct declarations and duty payment. This is supported by a comprehensive audit at the premises of an importer or exporter. An immediate result of the shift to Self Assessment is the decision to increase the facilitation level of consignments imported through Air, Sea and Inland Container Depots (ICDs) from the present 60%, 50% and 40% to 80%, 70% and 60%, respectively. Thus, ordinarily majority of imported goods would be cleared without Customs intervention. Self Assessment is a major trade facilitation measures that would result in significant

reduction in the time taken for clearance of imported/export goods through Customs and associated transaction costs.

#### **On Site Post Clearance Audit (OSPCA) Scheme**

**7** In accordance with the legal provisions introduced vide the Finance Act, 2011 a scheme of 'On Site Post Clearance Audit' (OSPCA) has been implemented w.e.f. 1 October, 2011 in case of the importers registered under the Customs. After introduction of OSPCA, on one hand Customs Department had effectively stopped the audit of ACP clients, while on the other the OSPCA scheme had not picked up. During FY 12, audit of only 51 out of 260 ACP clients was done. This may lead to leakage of revenue, in case of under assessments of imports.

#### **Risk Management System (RMS)**

**8** RMS, an electronic system, interdicts import declarations (goods) on the basis of pre-defined risk parameters, which are then subject to assessment or examination or both. Other declarations (goods) are allowed clearance without examination and assessment. The present version of RMS (RMS 3.1) compatible with ICES 1.5 was launched on 4 June, 2010 and it provides the following benefits to the trade:

- a. Encourage voluntary compliance;
- b. Reduced dwell time;
- c. Reduces transaction costs; and
- d. Facilitates just-in-time operations and improves supply chain management.

Broad basing RMS to include all air, sea and land ports is important and achievable with the present level of technology. It is important because it can take care of the modus operandi of system violators.

#### **Refund of 4% SAD**

**9** For expeditious sanction and refund of 4% SAD, the procedures applied in general and especially for ACP importers have been simplified for sanction of refund without pre-audit within a fixed time of 30 days. Further, the utilization of refund of 4% SAD paid through different scrips such as DEPBR/Reward Schemes has been relaxed by allowing manual registration of such scrips.

#### **Transactions Valuation methods**

**10** The Customs valuation (Determination of Value of Imported Goods) Rules, 2007, based on WTO Valuation Agreement, consist of rules providing six methods of valuation ultimately to highlight the outliers.

The methods of valuation for customs methods are as follows:

- a. Transaction value of imported goods
- b. Transaction value of identical goods.
- c. Transaction value of similar goods.
- d. Deductive value which is based on identical or similar imported goods sold in India.
- e. Computed value which is based on cost of manufacture of goods plus profits.
- f. Residual method based on reasonable means and data available.

**Appendix 13: Investigations done by Dte. General of Safeguards  
(Reference Paragraph 1.55)**

Year	FY 01	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12	TOTAL
No. of cases	2	3	1	1	0	0	0	1	4	2	1	4	19
No. of active SGs									1		1	4	6

**APPENDIX 14: DUTY-EVASION CASES DETECTED BY DRI (SCHEME-WISE)  
(Reference Paragraph 1.59)**

(Cr.₹)

S. No	SCHEME	FY 08		FY 09		FY 10		FY 11		FY 12	
		NO. OF CASES	DUTY	NO. OF CASES	DUTY	NO. OF CASES	DUTY	NO. OF CASES	DUTY	NO. OF CASES	DUTY
1	Undervaluation	207	192.6	144	509.33	105	166.18	197	132.12	186	496.20
2	Mis-declaration	63	31.26	66	100.76	100	215.24	91	110.19	129	861.93
3	Misuse of DEEC/ Advance licence	10	93.14	5	22.71	10	5.66	18	264.62	1	0.10
4	Mis-use of DEPB	9	16.20	12	7.60	21	7.40	34	3.80	26	23.93
5	Mis-use of EPCG	1	3.65	23	67.20	3	0.90	10	3.33	6	25.72
6	Mis-use of EOU/EPZ/SEZ	6	83.35	7	34.75	9	3.28	4	0.04	6	9.66
7	Mis-use of End- Use & Other Notn .	29	84.44	17	145.16	15	24.60	26	100.55	56	309.20
8	Drawback	37	12.82	7	21.80	38	91.76	102	81.42	13	25.93
9	Others	72	209.00	59	619.28	90	100.21	99	130.4	104	88.85
	Total	434	726.46	340	1528.59	391	615.23	581	826.47	527	1841.52

## APPENDIX 15: SEIZURES OF SPECIFIED COMMODITIES (Reference Paragraph 1.60)

Cr.₹

S. NO	Commodity	FY 07		FY 08		FY 09		FY 10		FY 11	
		ALL INDIA	DRI	ALL INDIA	DRI	ALL INDIA	DRI	ALL INDIA	DRI	ALL INDIA	DRI
I	GOLD	2.44	0.28	2.99	0.59	5.39	2.50	27.46	13.95	9.34	0.25
II	FOREIGN CURRENCY	14.02	0.80	11.16	0.01	8.32	1.09	3.79	0.39	3.83	1.36
III	NARCOTIC DRUGS	62.00	16.35	65.32	12.1	64.69	14.11	116.23	37.52	58.33	16.72
IV	ELECTRONIC ITEMS	30.36	6.36	64.71	22.1	31.69	14.12	120.03	13.94	167.04	21.49
V	COMPUTERS/PARTS	32.04	5.92	6.92	1.55	127.40	117.60	15.95	7.28	5.29	2.26
VI	FABRIC/SILKY YARN ETC	12.05	11.10	193.10	30.1	435.14	19.20	71.95	30.74	187.70	36.45
VII	BEARINGS	1.25	0	0.39	0.38	0.64	0	0.66	0	0.14	0
VIII	DIAMONDS	17.36	6.12	12.26	1.83	9.09	3.85	13.83	7.77	11.52	1.00
IX	INDIAN CURRENCY	40.19	31.37	1.65	0.34	4.30	1.67	3.95	2.06	2.11	1.16
X	WATCHES/PARTS	4.43	3.27	2.47	0.53	2.07	0.35	0.82	0	4.31	3.06
XI	MACHINERY/PARTS	48.41	33.47	230.00	176.00	86.51	78.51	480.20	9.58	249.76	106.61
XII	VEH./VESS./AIRCRAFTS	42.32	16.81	41.05	22.30	72.04	10.63	69.98	39.78	24.89	1.13
XIII	INDIAN CURRENCY FAKE	1.59	1.42	1.50	1.55	2.00	1.87	0.65	0.55	1.81	1.50
XIV	MISC./OTHER	380.70	244.10	387.60	366.00	707.52	480.89	1231.00	516.61	1749.63	620.27
	<b>TOTAL</b>	<b>689.16</b>	<b>377.40</b>	<b>1021.00</b>	<b>635.00</b>	<b>1556.80</b>	<b>746.39</b>	<b>2156.50</b>	<b>680.17</b>	<b>2475.70</b>	<b>813.26</b>

Appendix 16 (Reference paragraph 1.77)

Performance Reviews carried out during the period FY 02 to FY 12.

- I. Indian Customs Electronic Data Interchange Systems (ICES)
- II. Non realisation of Foreign Exchange
- III. Non disposal/delay in disposal of seized, confiscated and detailed goods
- IV. End use exemption notifications issued under Section 25(1) of Customs Act, 1962.
- V. Software technology parks (STP) scheme
- VI. Working of inland customs bonded (public/private) warehouses.
- VII. Import general manifest (IGM)/export general manifest (EGM)
- VIII. Inland container depots (ICD)
- IX. Recovery of arrears of revenue
- X. Provisional Assessment
- XI. Advance licensing scheme/Duty exemption entitlement certificate (DEEC)
- XII. Hundred percent Export oriented units (EOUs)
- XIII. Adjudication and appeal cases
- XIV. Promotional measures
- XV. Target plus scheme
- XVI. Special economic zones (SEZs)
- XVII. Indian customs electronic data interchange system (ICES)
- XVIII. Project imports
- XIX. Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof, imitation jewellery, coin (Ch. 71 of CTH)
- XX. Duty Drawback Scheme
- XXI. Export Promotion Capital Goods Scheme
- XXII. Deemed Export and reimbursement of Central Sales Tax (CST) to STP/EHTP units.

