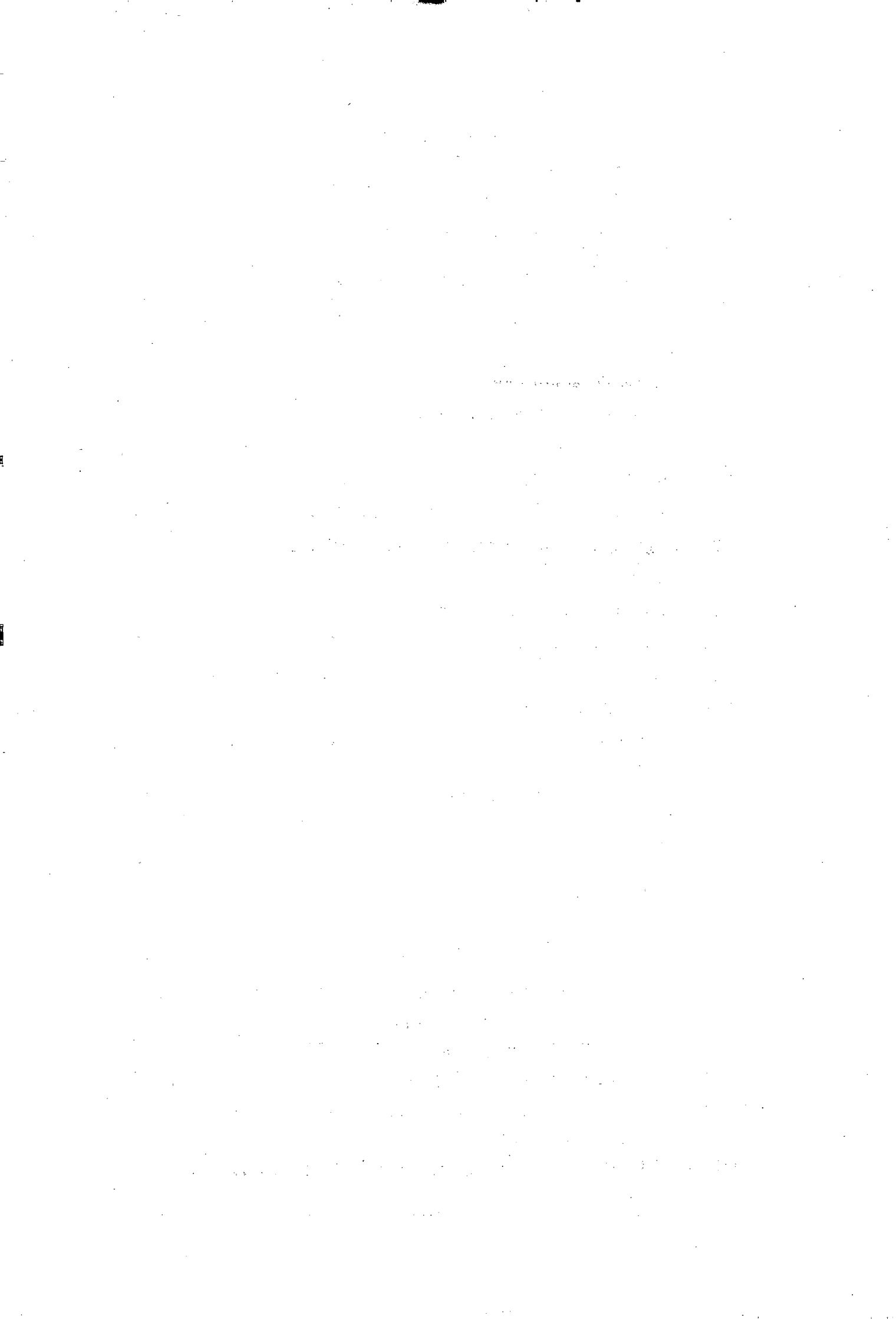


**Report of the  
Comptroller and Auditor General  
of India**

**for the year ended March 2014**

**Union Government  
Department of Revenue  
(Indirect taxes – Central Excise)  
Report No. 7 of 2015**

Laid on the table of Lok Sabha/Rajya Sabha on 05 मई 2015  
MAY 2015

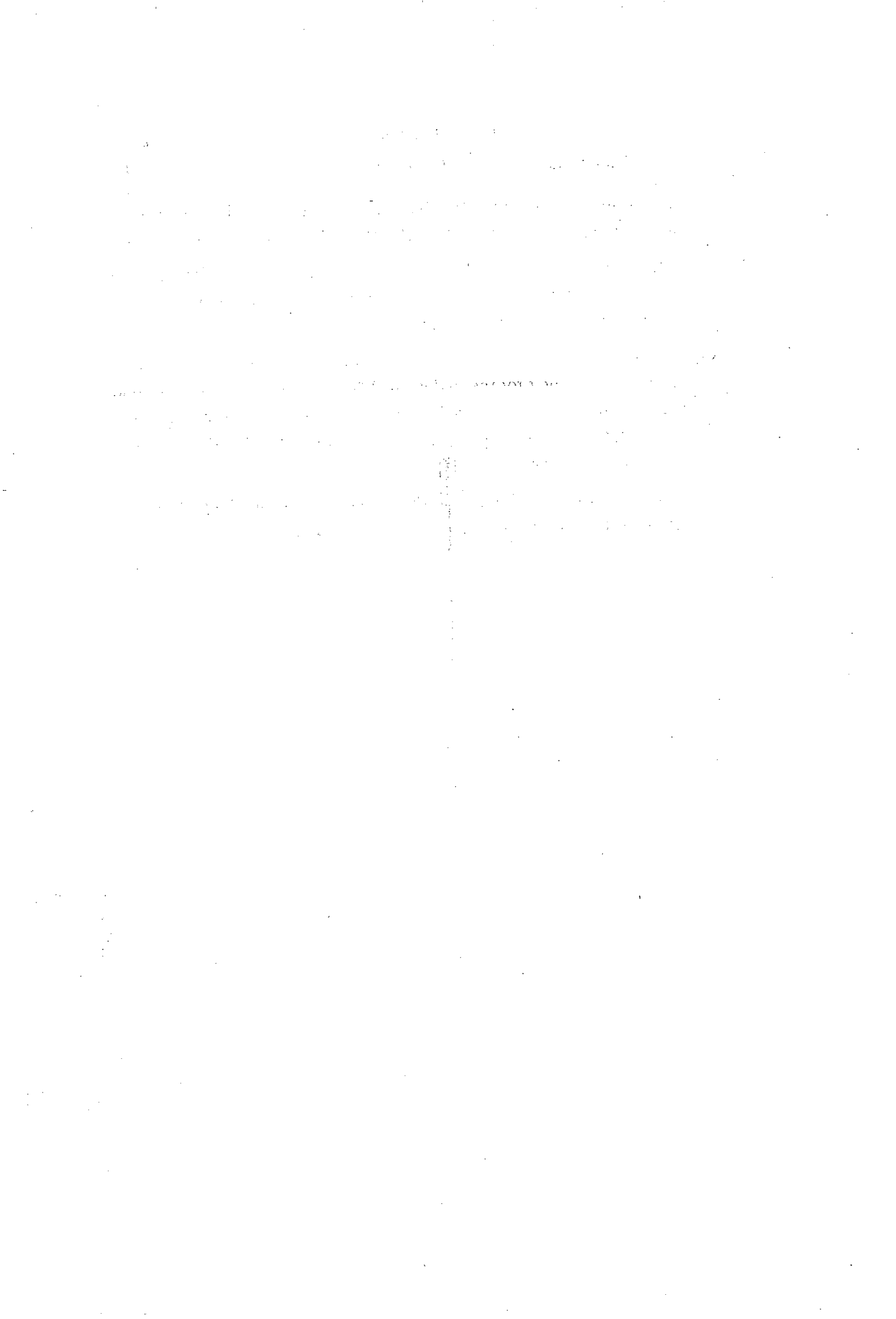


## Table of Contents

Contents	Pages
<b>Preface</b>	<i>(i)</i>
<b>Executive summary</b>	<i>(iii)</i>
<b>Chapter I : Department of Revenue – Central Excise</b>	<b>1-18</b>
1.1 Resources of the Union Government	1
1.2 Nature of Indirect Taxes	1
1.3 Organisational structure	2
1.4 Growth of Indirect Taxes - trends and composition	3
1.5 Indirect Taxes – relative contribution	3
1.6 Growth of Central Excise receipts - trends and composition	4
1.7 Central Excise receipts vis-à-vis Cenvat credit utilised	4
1.8 Central Excise revenue from major commodities	6
1.9 Tax base	7
1.10 Budgeting issues in Central Excise	7
1.11 Central Excise revenue forgone under Central Excise Act	8
1.12 Trade facilitation	9
1.13 Arrears of Central Excise duties	10
1.14 Additional revenue realised because of Anti-evasion measures	10
1.15 Scrutiny of Central Excise returns	11
1.16 Adjudication	13
1.17 Refunds	14
1.18 Call book	14
1.19 Cost of collection	15
1.20 Internal Audit	15
1.21 Audit efforts and Central Excise audit products - Compliance Audit Report	17
1.22 Sources of information and the process of consultation	17
1.23 Report overview	17
1.24 Remedial action taken on the Compliance Audit Report	17
1.25 Performance Audit Reports	17
1.26 Response to CAG's audit, revenue impact/follow-up of Audit Reports	18

<b>Contents</b>		<b>Pages</b>
<b>Chapter II : Central Excise Duty on Iron and Steel Products and articles thereof</b>		<b>19-29</b>
2.1	Introduction	19
2.2	Audit objectives	19
2.3	Audit coverage	19
2.4	Recovery of arrears	20
2.5	Exemption	21
2.6	Valuation	24
2.7	Cenvat	25
2.8	Non-payment/short payment of duty	27
2.9	Service Tax related issues	28
<b>Chapter III : Central Excise duty on Petroleum, Oil and Lubricant products</b>		<b>30-39</b>
3.1	Introduction	30
3.2	Duty Structure on petroleum products	30
3.3	Pricing of petroleum products	30
3.4	Audit objectives	31
3.5	Scope of Audit and coverage	31
3.6	Non-payment/short payment of duty	32
3.7	Availing of Cenvat credit	34
3.8	Non-levy of interest	39
<b>Chapter IV : Scrutiny of Central Excise returns</b>		<b>40-47</b>
4.1	Introduction	40
4.2	Audit objectives	40
4.3	Audit coverage	40
4.4	Audit findings	40
4.5	Non-compliance by assesseees	44
<b>Chapter V : Non-Compliance with Rules and Regulations</b>		<b>48-55</b>
5.1	Introduction	48
5.2	Non-payment/Short payment of Central Excise duty	48
5.3	Cenvat credit	51
5.4	Other issues	54

<b>Contents</b>		<b>Pages</b>
<b>Chapter VI : Effectiveness of internal controls</b>		<b>56-62</b>
6.1	Introduction	56
6.2	Audit findings	56
6.3	Internal Audit	56
6.4	Other issues	59
<b>Appendix I</b>		<b>63</b>
<b>Appendix II</b>		<b>64</b>
<b>Appendix III</b>		<b>67</b>
<b>Glossary</b>		<b>68</b>



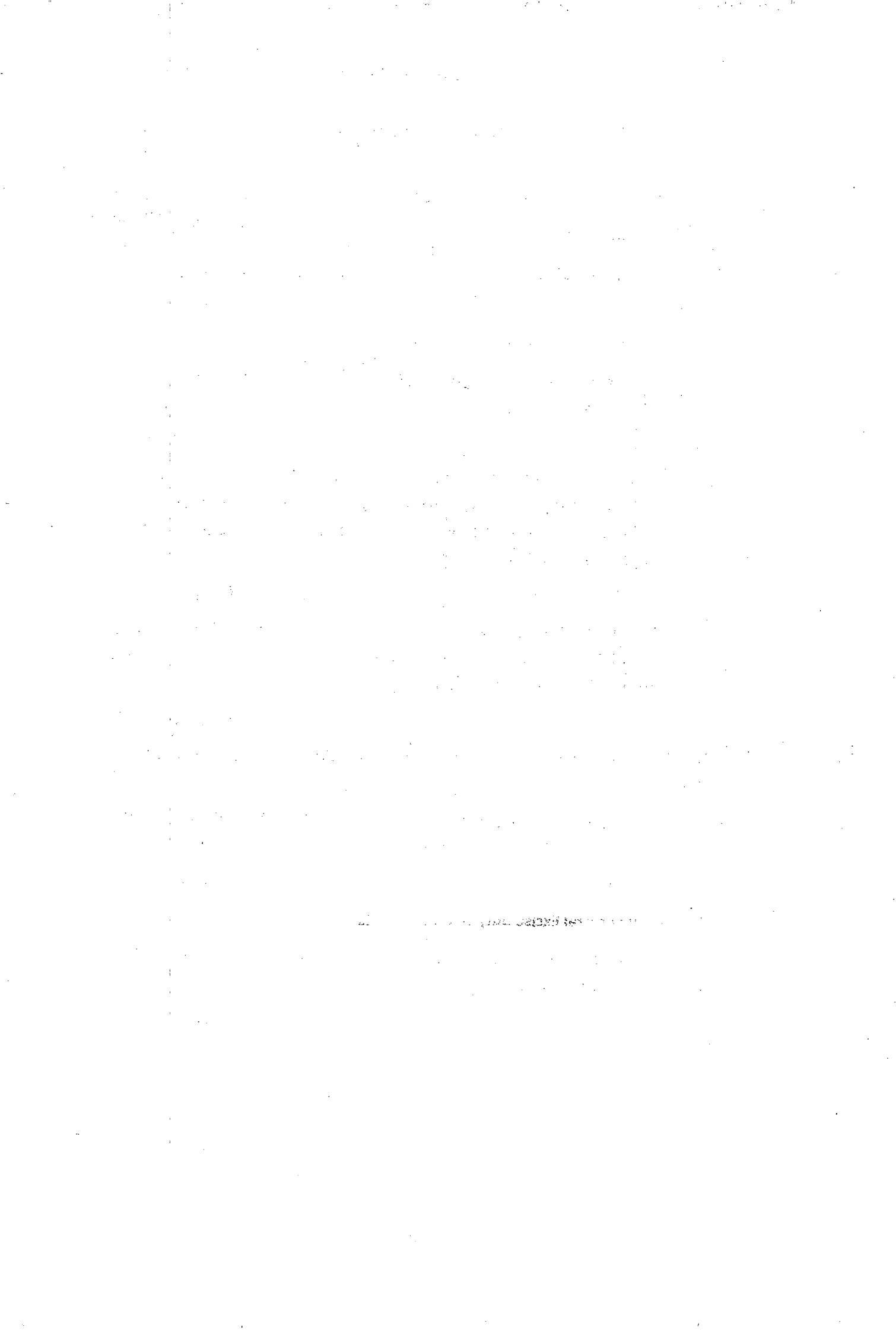
## Preface

This Report for the year ended March 2014 has been prepared for submission to the President of India under Article 151 of the Constitution of India.

The Report contains significant results of the compliance audit of the Central Board of Excise and Customs under the Department of Revenue – Indirect Taxes (Central Excise) of the Union Government.

The instances mentioned in this Report are those, which came to notice in the course of test audit for the period 2013-14; as well as those which came to notice in earlier years but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2013-14 have also been included, wherever necessary.

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





## Executive Summary

This Report has 68 audit observations on Central Excise duties, having financial implication of ₹ 125.11 crore. The Ministry/Department had, till December 2014, accepted audit observations involving revenue of ₹ 90.71 crore and reported recovery of ₹ 27.44 crore. Some significant findings are as follows:

### Chapter I: Department of Revenue – Central Excise

- Central Excise revenue has shown negative growth during FY 14 and it has reduced by ₹ 6,390 crore over FY 13.

(Paragraphs 1.5)

- Revenues forgone on account of Central Excise exemptions was ₹ 1,95,679 crore (₹ 1,77,680 crore as general exemptions and ₹ 17,999 crore as area based exemptions) which is 115 per cent of the revenues from Central Excise.

(Paragraph 1.11)

- Arrears pending for recovery have increased from ₹ 45,463 crore in FY 13 to ₹ 59,309 crore in FY 14 while collection has fallen sharply from ₹ 1,560 crore in FY 13 to ₹ 1,178 crore in FY 14.

(Paragraph 1.13)

### Chapter II: Central Excise Duty on Iron and Steel Products and Articles Thereof

- Non-recovery of Government revenue of ₹ 88.26 lakh despite the final order dated 7 February 2012 in favour of the department.

(Paragraph 2.4.2)

### Chapter III : Central Excise Duty on POL Products

- Short payment of Excise duty of ₹ 3.57 crore on Interface SKO in pipeline transfers

(Paragraph 3.6.2)

#### **Chapter IV: Adequacy of scrutiny of Central Excise returns**

- Out of 73,487 returns received in selected Commissionerates, 57,348 (78 per cent) of returns were scrutinised within three months, 8345 (11 per cent) of returns were scrutinised belatedly and 7,794 (11 per cent) returns were yet to be scrutinised.

(Paragraph 4.4.3)

- ACES did not list out returns for detailed scrutiny. Further, only 320 returns which is 0.44 per cent of the total returns received were subjected to detailed scrutiny in selected Commissionerates.

(Paragraph 4.4.6)

#### **Chapter V: Non-compliance with Rules and Regulations**

- We noticed cases of irregular availing and utilisation of Cenvat credit, non/short payment of Central Excise duty involving revenue of ₹ 66.74 crore.

(Paragraph 5.1)

#### **Chapter VI: Effectiveness of Internal Control**

- We observed instances of deficiencies in internal audit carried out by departmental officials and ineffective functioning of Anti-evasion and Preventive units etc. Duty/tax involved was ₹ 15.47 crore.

(Paragraph 6.2)

## Chapter I

### Department of Revenue – Central Excise

#### 1.1 Resources of the Union Government

The Government of India's resources include all revenues received by the Union Government, all loans raised by issue of treasury bills, internal and external loans and all moneys received by the Government in repayment of loans. Tax revenue resources of the Union Government consist of revenue receipts from Direct and Indirect Taxes. Table 1.1 depicts a summary of receipts of the Union Government, which amounted to ₹ 55,83,092 crore<sup>1</sup> for FY 14. Out of this, its own receipts were ₹ 15,36,024 crore including Gross Tax receipts of ₹ 11,38,996 crore.

Table 1.1: Resources of the Union Government

	(₹ in crore)
A. Total Revenue Receipts	15,36,024
i. Direct Tax Receipts	6,38,596
ii. Indirect Tax Receipts including other taxes	5,00,400
iii. Non-Tax Receipts including Grants-in-aid & contributions	3,97,028
B. Miscellaneous Capital Receipts	27,553
C. Recovery of Loans and Advances	24,549
D. Public Debt Receipts	39,94,966
<b>Receipts of Government of India (A+B+C+D)</b>	<b>55,83,092</b>
Note: Total Revenue Receipts include ₹ 3,18,230 crore, share of net proceeds of direct and Indirect Taxes directly assigned to states.	

#### 1.2 Nature of Indirect Taxes

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

- a) **Customs duty:** Customs duty is levied on import of goods into India and on export of certain goods out of India (Entry 83 of List 1 of the Seventh Schedule of the Constitution).
- b) **Central Excise duty:** Central Excise duty is levied on manufacture or production of goods in India. Parliament has powers to levy excise duties on tobacco and other goods manufactured or produced in India except alcoholic liquors for human consumption, opium, Indian hemp and other narcotic drugs and narcotics but including medicinal and

<sup>1</sup> Source: Union Finance Accounts of FY 14. The figures are provisional. Direct Tax Receipts and Indirect Tax Receipts including other taxes have been worked out from the Union Finance Accounts of FY 14.

toilet preparations containing alcohol, opium etc (Entry 84 of List 1 of the Seventh Schedule of the Constitution).

- c) **Service Tax:** Service Tax is levied on services provided within the taxable territory (Entry 97 of List 1 of the Seventh Schedule of the Constitution). Service Tax is a tax on services rendered by one person to another. Section 66B of the Finance Act, 1994 envisages that there shall be a tax levied at the rate of 12 per cent on the value of all services, other than those specified in the negative list, provided or agreed to be provided in the taxable territory by one person to another and collected in such manner as may be prescribed.<sup>2</sup> 'Service' has been defined in section 65B (44) of the Act to mean any activity for consideration (other than the items excluded therein) carried out by a person for another and to include a declared service.<sup>3</sup>

This chapter discusses trends, composition and systemic issues in Central Excise using data from Finance Accounts, departmental accounts and relevant data available in public domain.

### 1.3 Organisational structure

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

The Central Excise law is administered by the CBEC through its field offices, the Central Excise Commissionerates. For this purpose, the country is divided into 23 zones and a Chief Commissioner of Central Excise heads each zone. There are 93 Commissionerates headed by the Commissioner of Central Excise and 4 Large Taxpayer Units (LTU) Commissionerates in these zones. Division and Ranges are the subsequent formations, headed by Deputy/Assistant Commissioner of Central Excise and Superintendents of Central Excise respectively.

The overall sanctioned staff strength of the CBEC is 68,793 as on 31 March 2014. The organisational structure of CBEC is shown in **Appendix I**.

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<sup>2</sup> Section 66B was inserted by the Finance Act, 2012 with effect from 1 July 2012; section 66D lists the items the negative list comprises of.

<sup>3</sup> Section 66E of the Finance Act lists the declared services.

## 1.4 Growth of Indirect Taxes - trends and composition

Table 1.2 depicts the relative growth of Indirect Taxes during FY 10 to FY 14.

Table 1.2: Growth of Indirect Taxes

(₹ in crore)					
Year	Indirect Taxes	GDP	Indirect Taxes as % of GDP	Gross Tax revenue	Indirect Taxes as % of Gross Tax revenue
FY 10	2,45,373	64,77,827	3.79	6,24,527	39.29
FY 11	3,45,371	77,95,314	4.43	7,93,307	43.54
FY 12	3,92,674	90,09,722	4.36	8,89,118	44.16
FY 13	4,74,728	1,01,13,281	4.69	10,36,460	45.80
FY 14	5,00,400	1,13,55,073	4.41	11,38,996	43.93

Source: Finance Accounts.

Figures for FY 14 are provisional.

It is seen that Indirect Taxes collection as ratio of GDP and Gross Tax revenue have fallen in FY 14 vis-à-vis FY 13 though it has increased in absolute terms.

## 1.5 Indirect Taxes – relative contribution

Table 1.3 depicts the trajectory of the various Indirect Tax components in GDP terms for the period FY 10 to FY 14. The relative revenue contribution of the major Indirect Taxes is depicted in **Chart 1.1**.

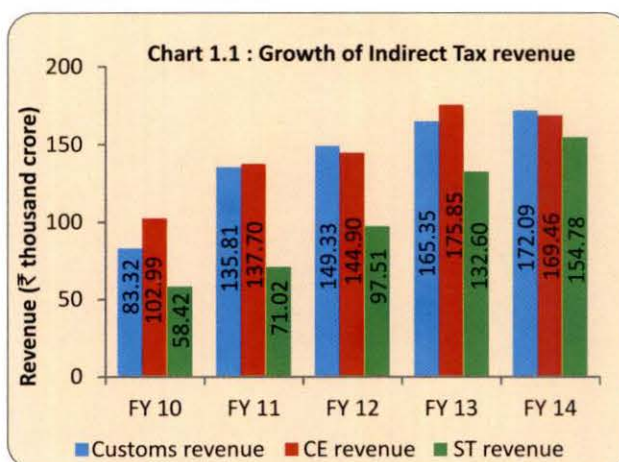


Table 1.3: Indirect Taxes - percentage of GDP

(₹ in crore)							
Year	GDP	Customs revenue	Customs revenue as % of GDP	CE revenue	CE revenue as % of GDP	ST revenue	ST revenue as % of GDP
FY 10	64,77,827	83,324	1.29	1,02,991	1.59	58,422	0.90
FY 11	77,95,314	1,35,813	1.74	1,37,701	1.77	71,016	0.91
FY 12	90,09,722	1,49,328	1.66	1,44,901	1.61	97,509	1.08
FY 13	101,13,281	1,65,346	1.63	1,75,845	1.74	1,32,601	1.31
FY 14	113,55,073	1,72,085	1.52	1,69,455	1.49	1,54,780	1.36

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

Figures for FY 14 are provisional.

The share in respect of Central Excise and Customs revenue as a percentage of GDP has suffered decline whereas share of Service Tax has increased during FY 14.

### 1.6 Growth of Central Excise receipts - trends and composition

Table 1.4 depicts the trends of Central Excise revenue in absolute and GDP terms during FY 10 to FY 14.

**Table 1.4: Growth of Central Excise revenue**

Year	GDP	Gross Tax revenue	Gross Indirect Taxes	Central Excise revenue	(₹ in crore)		
					Central Excise Revenue as % of GDP	Central Excise Revenue as % of Gross tax revenue	Central Excise as % of Indirect taxes
FY 10	64,77,827	6,24,527	2,45,373	1,02,991	1.59	16.49	41.97
FY 11	77,95,314	7,93,307	3,45,371	1,37,701	1.77	17.36	39.87
FY 12	90,09,722	8,89,118	3,92,674	1,44,901	1.61	16.30	36.90
FY 13	1,01,13,281	10,36,460	4,74,728	1,75,845	1.74	16.97	37.04
FY 14	1,13,55,073	11,38,996	5,00,400	1,69,455	1.49	14.88	33.86

Source: Finance Accounts

FY 14 figures are provisional

It is observed that Central Excise as a ratio of GDP, Gross Tax Revenue and Indirect Taxes have fallen over last five years. Central Excise receipts constituted approximately 15 per cent of Gross Tax revenue in FY 14.

### 1.7 Central Excise receipts vis-à-vis Cenvat credit utilised

A manufacturer can avail credit of duty of Central Excise paid on inputs or capital goods as well as Service Tax paid on input services related to his manufacturing activity and can utilise credit so availed in payment of Central Excise duty.

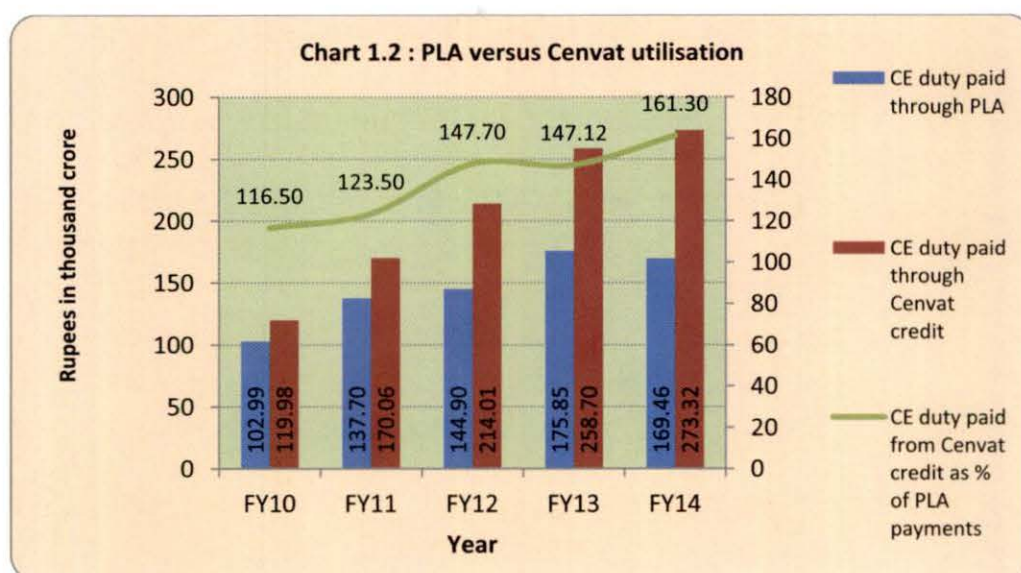
Table 1.5 and chart 1.2 depict growth of Central Excise collections through cash (PLA) and Cenvat credit during FY 10 to FY 14.

**Table 1.5: Central Excise Receipts: PLA and Cenvat utilisation**

(₹ in crore)

Year	CE duty paid through PLA		CE duty paid through Cenvat credit		CE duty paid from Cenvat credit as % of PLA payments
	Amount	% increase from previous year	Amount	% increase from previous year	
FY 10	1,02,991	-	1,19,982	-	116.50
FY 11	1,37,701	33.70	1,70,058	41.74	123.50
FY 12	1,44,901	5.23	2,14,014	25.85	147.70
FY 13	1,75,845	21.36	2,58,697	20.88	147.12
FY 14	1,69,455	-3.63	2,73,323	5.65	161.30

Source: Figures furnished by the Ministry

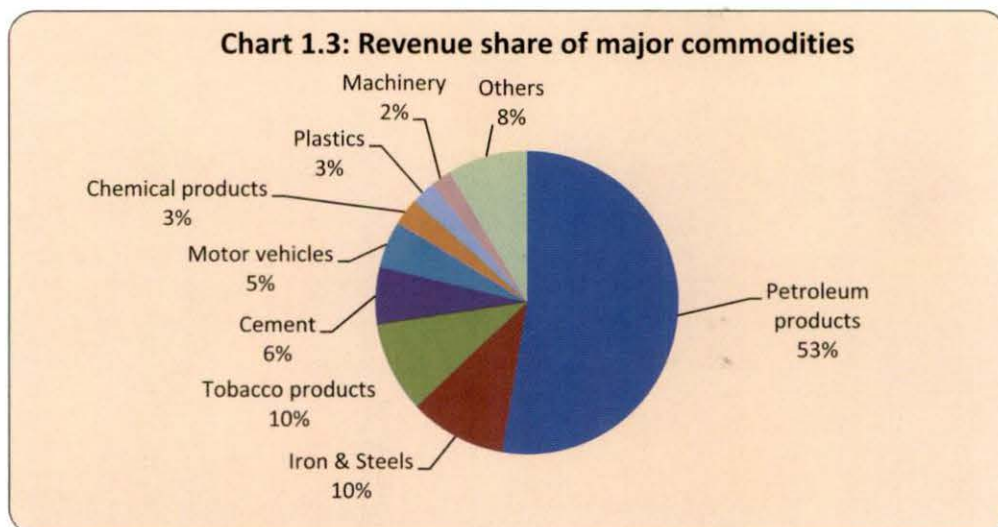


Source: Figures provided by the Ministry

It is observed that payment from Cenvat credit have increased over last five years from 117 per cent of PLA in FY 10 to 161 per cent in FY 14.

## 1.8 Central Excise revenue from major commodities

Chart 1.3 depicts the share of commodity groups in the Central Excise revenues (FY 14).



Source: Figures provided by the Ministry

It is observed that Petroleum (53 per cent), Iron and Steel (10 per cent), Tobacco products (10 per cent), Cement (6 per cent), Motor vehicles (5 per cent), Chemical products (3 per cent), Plastic (3 per cent) and Machinery products (2 per cent) were the eight highest revenue earners and altogether, contributed 92 per cent of the total Central Excise revenue in FY 14.

Table 1.6 depicts revenue from these commodities during last five years.

**Table 1.6 : Revenue from top yielding commodities during last five years**

(₹ in crore)

Commodities	FY 10	FY 11	FY 12	FY 13	FY 14
Petroleum products	63,600	76,023	74,112	84,188	88,065
Iron & Steels	9,786	14,483	13,813	17,603	17,342
Tobacco products	12,302	13,977	15,682	17,991	16,050
Cement	5,185	7,458	8,952	10,712	10,308
Motor vehicles	5,176	7,024	7,447	10,038	8,363
Chemical products	1,618	2,802	3,443	4,872	4,845
Plastics	1,355	2,368	2,931	4,259	4,298
Machinery	1,876	2,799	3,452	4,559	3,761
Others	8,239	9,529	12,841	19,176	14,267

Source: Figures provided by the Ministry

It is observed that except Petroleum products and Plastics, all other commodities showed negative growth during FY 14.



## 1.9 Tax base

"Assessee" means any person who is liable for payment of duty assessed or a producer or manufacturer of excisable goods or a registered person of a private warehouse in which excisable goods are stored and includes an authorised agent of such person. A single legal entity (company or individual) can have multiple assessee identities depending upon location of manufacturing units. Table 1.7 depicts the number of Central Excise assessees during the last five years:

**Table 1.7: Tax base in Central Excise**

Year	No. of registered assessees	% growth over previous year
FY 10	3,19,588	-
FY 11	3,51,293	9.92
FY 12	3,82,218	8.80
FY 13	4,09,707	7.19
FY 14	4,35,668	6.34

Source: Figures furnished by the Ministry,

It is observed that there is a steady growth in number of registered assessees.

## 1.10 Budgeting issues in Central Excise

Table 1.8 depicts a comparison of the Budget Estimates and the corresponding actuals for Central Excise receipts.

**Table 1.8: Budget, Revised estimates and Actual receipts**

(₹ in crore)						
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 10	1,06,477	1,02,000	1,02,991	(-)3,486	(-)3.27	(+)0.97
FY 11	1,32,000	1,37,778	1,37,701	(+)5,701	(+)4.32	(-)0.06
FY 12	1,64,116	1,50,696	1,44,901	(-)19,215	(-)11.71	(-)3.85
FY 13	1,94,350	1,71,996	1,75,845	(-)18,505	(-)9.52	(+)2.24
FY 14	1,97,554	1,79,537	1,69,455	(-)28,099	(-)14.22	(-)5.62

Source: Union Budget and Finance Accounts.

Figure for FY 14 are provisional.

It is observed that actual receipt of Central Excise have fallen short of Budget estimates by 14.22 per cent during FY 14.

### 1.11 Central Excise revenue forgone under Central Excise Act

Central Government has been granted powers under Section 5A(1) of the Central Excise Act, 1944 to issue exemption notifications in public interest so as to prescribe duty rates lower than the tariff rates prescribed in the Schedules. The rates prescribed by exemption notifications are known as the “effective rates”. Revenue forgone is defined to be the difference between the duty that would have been payable but for the exemption notification and the actual duty paid in terms of the said notification –

- In cases where the tariff and effective rates of duty are specified as ad valorem rates - **Revenue forgone = Value of goods X (Tariff rate of duty - Effective rate of duty)**
- In cases where the tariff rate is on ad valorem basis but the effective duty is levied at specific rates in terms of the exemption notification, then – **Revenue forgone = ( Value of goods X Tariff rate of duty) - (Quantity of goods X Effective rate of specific duty)**
- In cases where the tariff rates and effective rates are a combination of ad valorem and specific rates, revenue forgone is calculated accordingly
- In all cases, where the tariff rate of duty equals the effective rate, revenue forgone will be zero.

Besides the powers to issue general exemption notifications under Section 5A(1) *ibid*, the Central Government also has the powers to issue special orders for granting excise duty exemption on a case to case basis under circumstances of an exceptional nature, *vide* Section 5A(2) of the Central Excise Act. However, unlike general exemptions which form part and parcel of fiscal policy of the Central Government, the main object behind issue of exemption orders is to deal with circumstances of exceptional nature. As such, the duty forgone on account of issue of special exemption orders is not being calculated towards revenue forgone figures.

Table 1.9 depicts figures of Central Excise related revenue forgone during last five years as reported in budget documents of the Union Government.

**Table 1.9: Central Excise receipts and total Revenue forgone**

(₹ in crore)			
Year	Central Excise receipts	Revenue forgone	Revenue forgone as % of Central Excise receipts
FY 10	1,02,991	1,69,121	164.21
FY 11	1,37,701	1,92,227	139.60
FY 12	1,44,901	1,95,590	134.98
FY 13	1,75,845	2,09,940	119.39
FY 14	1,69,455	1,95,679	115.48

Source: Union Receipts Budget, Finance Accounts

It is observed that the Revenue forgone for FY 14 in respect of Excise duties was ₹ 1,95,679 crore (₹ 1,77,680 crore as general exemptions and ₹ 17,999 crore as area based exemptions) which is 115 per cent of revenue from Central Excise.

## 1.12 Trade facilitation

### 1.12.1 Creation of Large Taxpayer Units (LTUs)

For the trade facility LTUs have been set up by the Department. An LTU is self-contained tax office under the Department of Revenue acting as a single window clearance point for all matters relating to Central Excise, Service Tax, Income Tax and Corporate Tax. Eligible Tax Payers who opt for assessment in LTUs shall be able to file their Excise return, Direct Taxes returns and Service Tax return at such LTUs and for all practical purposes will be assessed to all these taxes there under. These units are being equipped with modern facilities and trained manpower to assist the tax payers in all matters relating Direct and Indirect Tax/duty payments, filing of documents and returns, claim of rebates/refunds, settlement of disputes etc. For trade facilitation four LTUs have been established in Delhi, Mumbai, Bengaluru and Chennai.

### 1.12.2 Automation of Central Excise and Service Tax

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

### 1.13 Arrears of Central Excise duties

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

Table 1.10 depicts performance of department in respect of recovery of revenue arrears.

**Table 1.10: Arrear realisation in Central Excise**

Year	Amount in arrears at the commencement of the year	Collection during the year	Arrears pending recovery at the end of the year	(₹ in crore)	
				Collection as % of arrears at the commencement of the year	
FY 12	34,945	1,125	35,964	3.22	
FY 13	35,964	1,560	45,463	4.34	
FY 14	45,463	1,178	59,309	2.59	

Source: Figures furnished by the Ministry

It is observed that the collection during FY 14 has fallen drastically to 2.59 per cent compared to 4.34 per cent in FY 13. There is a need to strengthen the recovery mechanism of the department.

### 1.14 Additional revenue realised because of Anti-evasion measures

Both DGCEI as well as the Central Excise and Service Tax Commissionerates have well-defined roles in the task of detection of cases of evasion of Central Excise duty. While the Commissionerates, with their extensive database about units in their jurisdiction and presence in the field, are the first line of defense against duty evasion, DGCEI specialises in collecting specific intelligence about evasion of substantial revenue. The intelligence so collected is shared with the Commissionerates. Investigations are also undertaken by DGCEI in cases having all India ramifications.

Tables 1.11 and 1.12 depict the performance of DGCEI and the Commissionerates pertaining to the past three years.

**Table 1.11: Anti-evasion performance of DGCEI during last three years**

Year	Detection		Voluntary payment during Investigation
	No. of cases	Amount	Amount
FY 12	450	1,140	255
FY 13	458	2,940	1,019
FY 14	384	1,947	363

Source: Figures furnished by the Ministry.

It is observed that number of cases detected by DGCEI and voluntary payment during investigation have fallen drastically during FY 14 compared to FY 13.

**Table 1.12 : Anti-evasion performance of Commissionerates during the last three years**

(₹ in crore)

Year	Detection		Voluntary Payment during Investigation
	No. of Cases	Amount	Amount
FY 12	2,877	2,788	965
FY 13	2,150	3,415	482
FY 14	2,222	2,790	450

Source: Figures furnished by the Ministry.

At the Commissionerates level, though the number of cases detected increased but voluntary payment during investigation have reduced in FY 14, compared to FY 13.

## Tax administration in Central Excise

### 1.15 Scrutiny of Central Excise returns

CBEC introduced self-assessment in respect of Central Excise in 1996. With the introduction of self-assessment, the department also provided for a strong compliance verification mechanism with scrutiny of returns. Assessment is the primary function of Central Excise officers who are to scrutinise the Central Excise returns to ensure correctness of duty payment. As per the manual for the Scrutiny of Central Excise Returns, a monthly report is to be submitted by the Range Officer to the jurisdictional Assistant/Deputy Commissioner of the Division regarding the number of returns received and scrutinised. Scrutiny is done in two stages i.e. preliminary scrutiny by ACES and detailed scrutiny, which is carried out manually on the returns marked by ACES or otherwise.

#### 1.15.1 Preliminary scrutiny of returns

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

Table 1.13 depicts the performance of department in respect of preliminary scrutiny of Central Excise returns.

**Table 1.13: Preliminary scrutiny of Central Excise returns**

Year	No of returns filed in ACES	No. of returns marked for R&C	% of returns marked for R&C	No. of returns cleared after R&C	No. of returns pending for R&C	% of marked returns pending correction
FY 12	17,00,773	16,39,176	96.38	6,95,098	9,44,078	57.59
FY 13	29,08,856	27,78,012	95.50	19,67,536	8,10,476	29.17
FY 14	14,67,149	11,86,384	80.86	7,33,141	4,53,243	38.20

Source : Figures furnished by the Ministry

It is observed that a very high percentage of cases, scrutinised by ACES were marked for review and correction. It is also observed that number of returns filed in ACES has come down drastically in FY 14 compared to FY 13 which needs an examination.

Considering the fact that mandatory electronic filing of Central Excise returns had been introduced with effect from 1 October 2011 and hence returns scrutiny through ACES should have stabilised at least by 2013-14. One of the main intentions behind introducing preliminary scrutiny online was to release manpower for detailed scrutiny, which could then become the core function of the Range/Group.

The very high percentage of scrutinised returns being thrown up for R & C and resultant high number of returns pending corrective action are indicative of deficiencies in the ACES system which the department needs to address urgently. Completion of Review and correction of returns in ACES is the prerequisite for scrutiny of subsequent returns submitted by the assesseees.

### **1.15.2 Detailed scrutiny of returns**

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

Table 1.14 depicts the performance of the department in carrying out detailed scrutiny of Central Excise returns.

Table 1.14: Detailed scrutiny of Central Excise returns

Year	No. of returns marked for detailed scrutiny	No. of returns where detailed scrutiny was carried out	Number of returns where detailed scrutiny was pending	Age-wise breakup of pendency		
				Returns pending for between 6 months to 1 year	Returns pending for between 1 to 2 year	Returns pending for over 2 years
FY 12	27,404	13,055	14,142	13,701	452	20
FY 13	50,039	38,900	10,144	8,108	1,684	240
FY 14	10,665	6,894	3,771	3,787	796	116

Source: Figures furnished by the Ministry,

The number of returns marked for detailed scrutiny for FY 14 has come down significantly compared to FY 12 and FY 13. The ministry needs to examine the drastic reduction in number of detailed scrutiny carried out in FY 14.

It is further noticed that data for FY 14 supplied by the Ministry was not only arithmetically incorrect but also supplied to audit after obtaining the same from their field formations which led to considerable delays. Audit is of the view that in the age of IT, such type of key statistics should be available with the Board.

### 1.16 Adjudication

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

Table 1.15 depicts an age-wise analysis of Central Excise adjudication.

Table 1.15: Cases pending for adjudication with departmental authority

(₹ in crore)

Year	Cases pending as on 31 March		Age-wise breakup of cases		
			Cases pending for less than a year	Cases pending for over one year but less than three years	Cases pending for over three years
	No. of cases	Amount	No. of cases	No. of cases	No. of cases
FY 12	17,418	16,637	16,227	883	308
FY 13	16,801	16,020	15,712	909	184
FY 14	20,428	21,734	17,286	2,625	517

Source: Figures furnished by the Ministry

It is observed that cases involving duty of ₹ 21,734 crore were pending as on 31 March 2014 for adjudication. It was also observed that 517 cases were

pending for more than three years. Overall there was increase in number of pending cases in FY 14.

### 1.17 Refunds

Section 11B of the Central Excise Act, 1944 provides the legal authority for claim and grant of refund of any Central Excise duty. The term refund includes rebate of excise duty paid on excisable goods exported out of India as well as of excise duty paid on material used in the manufacture of goods exported out of India.

Table 1.16 depicts the details of refund related performance of the department during last three years.

**Table 1.16: Refunds in respect of Central Excise during the last three years**

(₹ in crore)

Year	OB plus claims received during the year		Disposals during the Year						Closing Balance	
			Refunds sanctioned during the year		Cases disposed of within 90 days	Delayed disposal	Cases where interest has been paid			
	No. of Cases	Amt.	No. of Cases	Amt.	No. of Cases	No of cases	No. of Cases	Interest paid	No. of Cases	Amt.
FY 12	2,04,473	32,215	1,65,229	27,138	1,58,538	6,691	18	7	39,244	5,077
FY 13	2,15,146	26,873	1,70,797	21,139	1,64,669	6,128	20	15	44,349	5,734
FY 14	2,70,321	28,461	2,09,549	11,875	1,98,256	64,215	241	91	60,754	4,714

Source: Figures furnished by the Ministry

It is observed on the basis of data available that despite the fact that there is a liability on department to pay interest on delayed refunds, department is not paying interest to the assesseees in most of the cases. Board may consider to issue instructions to its field formations to pay interest on delayed refunds suo-moto, similar to Direct Taxes.

It is further noticed that data for FY 14 supplied by the Ministry was not only arithmetically incorrect but also supplied to audit after obtaining the same from their field formations which led to considerable delays. Audit is of the view that in the age of IT, such type of key statistics should be available with the Board.

### 1.18 Call book

Extant circulars on the subject envisage that cases that cannot be adjudicated due to certain reasons such as the department having gone in appeal, injunction from courts, contesting of CERA audit objections etc may be entered into the call book. Member (CX), vide his D.O.F. No. 101/2/2003-CX-3, dated 3 January 2005, had emphasised that call book cases should be reviewed every month. Director General of Inspection (Customs and Central



Excise) has reiterated the need for monthly review in his letter dated 29 December 2005 stating that review of call book may result in substantial reduction in the number of unconfirmed demands in call book.

Table 1.17 depicts the performance of the department in respect of call book clearance in Central Excise during recent years.

**Table 1.17: Call book cases pending on 31 March**

Year	New Cases transferred to call book during the year	Disposals during the year	Closing balance at the end of year	Revenue involved (₹ in Cr)	Age-wise break up of pendency at the end of the year		
					Less than 6 months	6-12 months	Over 1 year
FY 12	7,927	4,867	30,542	46,586	5,702	2,874	21,966
FY 13	6,502	5,966	29,143	45,267	4,609	2,958	21,576
FY 14	7,278	4,126	36,464	64,356	6,179	3,419	26,866

Source : Figures furnished by the Ministry

It is observed that the pendency of cases in the call book is still very high indicating the need for close monitoring of the process of review of call book items. During FY 14, the number of cases pending in call book had reached 36,464.

### 1.19 Cost of collection

Table 1.18 depicts the cost of collection vis-a-vis the revenue collection.

**Table 1.18: Central Excise and Service Tax receipts and cost of collection**

Year	Receipts from Central Excise	Receipts from Service Tax	Total receipts	Cost of collection	(₹ in crore)
					Cost of collection as % of total receipts
FY 10	1,02,991	58,422	1,61,413	2,127	1.32
FY 11	1,37,901	71,016	2,08,917	2,072	0.99
FY 12	1,44,540	97,356	2,41,896	2,227	0.92
FY 13	1,75,845	1,32,601	3,08,446	2,439	0.79
FY 14	1,69,455	1,54,780	3,24,235	2,635	0.81

Source: Union Finance Accounts of respective years.

Figures for FY 14 are provisional

It is observed that despite automation and extensive use of ICT, cost of collection continues to show a rising trend.

### 1.20 Internal Audit

Modernisation of Indirect Tax administration in India is based on the Canadian model. The new audit system EA 2000 has four distinct features:

scientific selection after risk analysis, emphasis on pre-preparation, scrutinising of business records against statutory records and monitoring of audit points.

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

The Audit framework consists of three parts. Directorate General of Audit and the field Commissionerates share the responsibility of administration of Audit. While the Directorate is responsible for collection, compilation and analysis of audit results and its feedback to CBEC to improve tax compliance and to gauge levels of client satisfaction, audit parties from Commissionerates undertake audit in terms of EA 2000 audit protocol. In order to improve audit quality, CBEC took the assistance of Asian Development Bank in developing audit manuals, risk management manuals and manuals to train auditors in EA 2000 and CAATs, which prescribe detailed processes for conduct of audit. Table 1.19 depicts details of Central Excise units due for audit (during FY 14) by audit parties of the Commissionerates vis-à-vis units audited.

**Table 1.19: Audits of assessees conducted during FY 14**

Slab of annual duty (PLA+Cenvat)	Periodicity	Number of units due	Number of units planned	Number of units audited	Shortfall in audit (%)
Units paying CX duty > ₹ 3 crore (Category A)	Annual	12,502	12,110	10,647	12.08
Units paying CX duty between ₹ 1 and 3 crore (Category B)	Biennial	6,734	6,773	5,613	17.13
Units paying CX duty between ₹ 50 lakh and ₹ 1 crore (Category C)	Once in five years	2,688	2,897	2,537	12.43
Units paying CX duty < ₹ 50 lakh (Category D)	10 % every year	8,319	7,193	5,639	21.60

Source: Figures furnished by the Ministry.

It is observed that there was shortfall in coverage of 'category A' and 'category B' units (mandatory units and high revenue non-mandatory units).

### 1.21 Audit efforts and Central Excise audit products - Compliance Audit Report

Compliance audit was managed as per 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.

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

Data from the Union Finance Account, along with examination of basic records/documents in DoR, CBEC, and their field formations. MIS, 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 1,086 (CX and ST) units in FY 14.

### 1.23 Report overview

The current report has 68 paragraphs of ₹ 125.11 crore. There were generally four kinds of observations: incorrect availing/utilisation of Cenvat credit, non/short payment of Central Excise duty, effectiveness of internal control and other issues. The department/Ministry has already taken rectificatory action involving money value of ₹ 90.71 crore in case of 60 paragraphs in the form of issue of show cause notices, adjudication of show cause notices and reported recovery of ₹ 27.44 crore in 28 cases.

### 1.24 Remedial action taken on the Compliance Audit Report

Table 1.20 depicts remedial action taken on the compliance audit report and their status as of March 2014.

**Table No 1.20: Remedial action taken on the compliance audit report**

Report No.	CBEC	
	ATNs pending	ATNs not received
CA 12 of 2009-10(CX)	2	-
CA 17 of 2013 (CX & ST)	2	-
<b>Total</b>	<b>4</b>	<b>-</b>

### 1.25 Performance Audit Reports

Performance audit with the aim to seek an assurance that the systems and procedures were adequate and adhered to by the CBEC, was conducted. This year we have covered Performance audit on Administration of Prosecution and Penalties in Central Excise and Service Tax and Central Excise Administration in Automotive Sector. These reports were laid in the Parliament on 28 November 2014 and 19 December 2014, respectively.

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

In the last five audit reports (including current year's report) we had included 526 audit paragraphs (Table 1.21) involving ₹ 863.10 crore.

**Table 1.21: Follow up of Audit Reports**

(₹ in crore)

Year		FY 10	FY 11	FY 12	FY 13	FY 14	Total	
Paragraphs included	No.	150	159	87	62	68	526	
	Amt	327.77	158.00	69.32	182.90	125.11	863.10	
Paragraphs accepted	Pre printing	No.	91	133	85	58	60	427
		Amt	62.07	117.64	67.07	179.44	90.71	516.93
	Post printing	No.	7	15	6	-	-	28
		Amt	9.58	34.76	8.34	-	-	52.68
	Total	No.	98	148	91	58	60	455
		Amt	71.65	152.40	75.41	179.44	90.71	569.61
Recoveries effected	Pre printing	No.	55	67	48	36	28	234
		Amt	29.12	46.60	24.72	21.29	27.44	149.17
	Post printing	No.	6	3	1	-	-	10
		Amt	7.50	0.19	0.04	-	-	7.73
	Total	No.	61	70	49	36	28	244
		Amt	36.62	46.79	24.76	21.29	27.44	156.90

Source: CAG Audit reports

It is observed that the Ministry had accepted audit observations in 455 audit paragraphs involving ₹ 569.61 crore and had recovered ₹ 156.90 crore.

## Chapter II

### Central Excise Duty on Iron and Steel Products and articles thereof

#### 2.1 Introduction

India is the fourth largest steel producer in the world and Iron and steel was among the top three revenue yielding commodities during the year 2012-13. Central Excise Tariff Act, 1985 classifies Iron & Steel under Chapter 72 of the Schedule to the Act, *ibid*. The products of Iron & steel have been classified separately under Chapter 73. Central Excise Duty at the rate of 12 per cent was leviable on Iron and steel and its articles with effect from 19 March, 2012. In addition, Education Cess (with effect from 9 July 2004) at the rate of 2 per cent of the duty and Secondary and Higher Education Cess (with effect from 1 March 2007) at the rate of 1 per cent of the duty is also leviable.

Iron & Steel and its products are generally manufactured in four types of units (i) Integrated steel plants, (ii) Mini steel plants, (iii) Re-rolling mills and (iv) Units manufacturing miscellaneous engineering goods.

#### 2.2 Audit objectives

The audit objectives were to ensure;

- i. the adequacy and compliance with rules, regulations, notifications, circulars/instructions/trade notices etc. issued from time to time in relation to levy, assessment and collection of excise duty relating to Iron and Steel sector;
- ii. whether the extant provisions of law are being complied with adequately;
- iii. whether there was an effective monitoring and internal control mechanism.

#### 2.3 Audit coverage

For conducting audit, we selected 35 Commissionerates and subordinate offices functioning under those Commissionerates. Audit examined whether the internal control mechanisms were in place and functioned effectively at the selected Commissionerates, Division and Range offices.

Effectiveness of compliance verification mechanism was test checked at the Range office level through the scrutiny of Excise returns filed by the

assesseees. Compliance with rules and regulations designed for proper assessments and levy and collection of duty was test checked both at the departmental offices and at the premises of some selected assesseees.

The period covered was 2010-11 to 2012-13. We issued the draft report to the Ministry in August 2014.

### Audit findings

We noticed cases of irregular availing of exemption, non-recovery of arrears, non-payment/short payment of duty, irregular availing of Cenvat credit etc. involving revenue of ₹ 24.60 crore. The department accepted (November 2014) the audit observations involving revenue of ₹ 1.39 crore and recovered the same. The major findings are discussed below:

### Department centric issues

#### 2.4 Recovery of arrears

The law provides for various methods of recovery of revenue due to the Government. These include adjusting recoveries against amounts, if any payable to the person from whom revenue is recoverable, recovery by attachment and sale of excisable goods and recovery through the district revenue authority. Recovery of arrears constitutes one of the basic duties of the Central Excise Officers.

Board vide circular dated 1 January 2013 instructed that recovery proceeding shall be initiated against a confirmed demand as prescribed therein.

##### 2.4.1 Non-recovery of unrestrained arrears

In three Commissionerates as per following table, Audit observed that recovery of ₹ 7.94 crore had not been made in 21 cases even after passage of many years from the date of issue of Order-in-Original after adjudication. Audit noticed that only correspondences were being made with assesseees for deposit of the dues, but no coercive actions like identifying the movable or immovable property and their attachment and recovery through district revenue officers were taken to recover the government dues.

Table 2.1

Sl. No.	Commissionerate	No of cases	Unrestrained arrears	Date of Adjudication order
1.	Patna	06	32.02	12/2000 to 12/2010
2.	Kanpur	03	213.32	6/2007 to 01/2009
3.	Jaipur	12	548.78	8/2011 to 12/2012
	<b>Total</b>	<b>21</b>	<b>794.12</b>	

(₹ in lakh)

We have pointed this out in January 2014 (Jaipur) and in March 2014 (Patna and Kanpur). The Jaipur Commissionerate in its reply (April 2014) reported

recovery in two cases of ₹ 1.17 lakh and stated that in other cases assessee are being persuaded to pay the dues. The replies of the other two Commissionerates had not been received (December 2014).

We await the reply of the Ministry (December 2014).

#### ***2.4.2 Non recovery of Government revenue despite the final order in favour of the Department***

During scrutiny of records of division-II in Kanpur Commissionerate, it was noticed that the Department had confirmed a demand of ₹ 88.26 lakh against M/s Raj Ratan Industries (now M/s Jai Jagdamba Metalloys Ltd.), Unnao in Kanpur Commissionerate (Uttar Pradesh) in December 2008. The assessee moved to CESTAT which decided the case in favour of the department vide its final Orders dated 7 February 2012. But no action was taken by the department to recover the outstanding amount from the assessee. It had been further noticed that the department on one hand could not recover the above amount; on the other hand they have deleted the above case from their list of pending arrears as the TAR prepared by the division for the month September 2013 was not bearing the above case as pending.

When we pointed this out (October 2013), the Division replied (October 2013) that the party had further filed rectification of mistake application before CESTAT as per judgement of Honourable High Court, Allahabad which has been rejected by the CESTAT vide order dated 21 June 2013. Therefore, the recovery proceedings against the party were being initiated.

The reply of the division confirmed that despite the rejection of the appeal of the assessee for second time by the CESTAT, recovery proceedings against the assessee could not be completed even after the lapse of four months. Further, reply of the Ministry/Commissionerate was awaited (December 2014).

### **Compliance issues**

#### **2.5 Exemption**

Rule 6(1) of Cenvat Credit Rules, 2004 envisages that Cenvat credit shall not be allowed on such quantity of input or input service which is used in the manufacture of exempted goods or for provision of exempted services.

In case the service provider fails to maintain separate accounts relating to taxable and exempted services, then as per rule 6(3), the assessee shall follow either of the following options, as applicable to him, namely:-

- (i) the manufacturer of goods or the provider of output service shall pay an amount equal to six per cent of value of the exempted goods and exempted services; or
- (ii) the manufacturer of goods or the provider of output service shall pay an amount equivalent to the Cenvat credit attributable to inputs and input services used in, or in relation to, the manufacture of exempted goods or for provision of exempted services.

**2.5.1** M/s Singhal Enterprises Pvt. Ltd., Raigarh, in Raipur Commissionerate, for the period 2012-13 manufactured both excisable and non-excisable goods (electricity). The electricity produced was used for captive production, sold to Chhattisgarh State Electricity Board (CSEB) and also used in the township of the assessee. The assessee had not maintained separate accounts for electricity used in the factory and electricity sold outside. As the assessee had not maintained separate accounts, he was liable to pay an amount of ₹ 57.68 lakh (six per cent of exempted sale value). The same was recoverable from the assessee along with interest and penalty as applicable under the rules.

We have pointed this out in February 2014, the reply of the Ministry/Commissionerate had not been received (December 2014).

**2.5.2** M/s Prakash Industries Limited, Champa, in Raipur Commissionerate for the period 2012-13, had sold electricity (exempted goods) aggregating to ₹ 22.34 crore. The assessee had not maintained separate accounts for electricity used in the factory and electricity sold outside and had debited ₹ 58.60 lakh towards reversal of Cenvat credit attributable to exempted sale of goods. In this regard, it is stated that in 2012-13, total sale was ₹ 2215.10 crore, total exempted sale was ₹ 22.34 crore and total credit availed was ₹ 107.57 crore. When value of exempted goods sold divided by total goods sold multiplied by total Cenvat credit taken in the year, amount of reversal stand at ₹ 1.08 crore. Hence, there was short reversal of ₹ 49.87 lakh. The same was recoverable from the assessee along with interest and penalty as applicable under the rules.

We have pointed this out in February 2014, the reply of the Commissionerate had not been received (December 2014).

**2.5.3 Incorrect availing of exemption notification**

As per Notification dated 16 March 1995, the intermediate product manufactured within the factory is exempt from duty, if it is consumed captively for manufacture of (a) Capital goods as defined in Cenvat Credit Rules, 2004 e.g, those which are eligible for Cenvat credit or (b) used for in or



in relation to manufacture of excisable final products made from inputs which are eligible for Cenvat credit.

M/s Prakash Industries Ltd., Champa in Raipur Commissionerate, engaged in manufacturing of products of Iron & Steel and Articles thereof, Fly Ash Bricks and Coal Tar, had cleared 14,43,850 Nos. Fly Ash Bricks/Blocks for captive consumption valuing ₹ 45.91 lakh (assessable value is based on prevailing market rate) during 2012-13. Further scrutiny of records revealed that the assessee had not paid Central Excise duty on cleared quantity taking benefit of above notification. As the ash bricks/blocks had not been used in manufacture of final products sponge iron, iron billets and silicon manganese, the benefit taken under the notification was irregular. This resulted in short payment of duty of ₹ 5.68 lakh during the said period. The same was recoverable from the assessee along with interest and penalty as required under the Rules/Act *ibid*.

We have pointed this out in February 2014, the Ministry/Commissionerate's reply was awaited (December 2014).

#### **2.5.4 Wrong availing of exemption notification resulting in non-levy of duty**

Notification 16 March 1995 provides for exemption of duty of Excise and additional duty of Excise on goods supplied for defence and other specified purpose, specified in column (2) and subject to the condition specified in column (3) of the table annexed to the said notification. At serial number 21 of the notification, condition specified is that the said goods are supplied for use in construction of warships of the Indian Navy or Coast Guard.

During test check of records for the year 2012-13 of M/s Shah Alloys Ltd., Kalol falling under Ahmedabad III Commissionerate (Gujarat), it was observed that the assessee supplied 80 Metric Tons Armour Steel Plates at the rate of ₹ 1,40,000 per tonne to M/s WWW Defence, Delhi against the Purchase Order. The said supply, based on the Excise Duty Exemption Certificate dated 21 March, 2012 issued by Central Air Command, Allahabad, was made at NIL rate of duty of excise. Further, the assessee, as per Rule 6(3) of Cenvat Credit Rules, 2004 also reversed Cenvat credit at the rate of 6 per cent of the value of supply made.

However, as per the condition stipulated under Sl. No. 21 of the Notification 64/95, the goods have to be supplied for use in the construction of a warship of the Indian Navy or Coast Guard. In this case, the goods were being supplied for construction of Bullet Proof Guard Rooms of Central Air Command, IAF. It was also observed that the kind of supply made and the organisation to which the supply was made, was not mentioned under any

serial number of the Notification mentioned *ibid*. The value of supply made was ₹ 1.12 crore involving duty liability of ₹ 7.12 lakh after deducting the amount of ₹ 6.72 lakh which had already been reversed.

When we pointed this out (October 2013), the Commissionerate replied (December 2013) that differential duty of ₹ 7.11 lakh had been debited by the assessee and interest amount of ₹ 2 lakh remained to be recovered.

We await the reply of the Ministry (December 2014).

## **2.6 Valuation**

### **2.6.1 Non-maintenance of CAS 4 record**

Rule 8 read with proviso to rule 9 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 envisages that where excisable goods are not sold by the assessee but are consumed by it or by a related person of the assessee in the manufacture of other articles, the assessable value of such goods shall be one hundred and ten per cent of the cost of production or manufacture of such goods. Further, the Board had clarified (13 February 2003) that the value of goods consumed captively should be determined in accordance with the Cost Accounting Standard(CAS-4) method only.

Scrutiny of records of M/s Greatweld Steel Grating Private Ltd. in Pune-III Commissionerate for the year 2012-13, revealed that the assessee was clearing goods to its related unit. However, no costing records to determine cost of production had been maintained by the assessee. The assessee was required to determine the cost of production as per CAS-4 for preceding five years and pay differential duty. No SCN had been issued on this issue by the department till the date of audit.

When we pointed this out (January 2014), the Commissionerate issued a show cause notice (May 2014) to the assessee for differential duty of ₹ 44.67 lakh covering the period 2009-10 to 2012-13 along with interest and penalty.

### **2.6.2 Non inclusion of freight charges**

As per section 4(3)(d) of the Central Excise Act, 1944 the term 'transaction value' for the purpose of levy of duty means the price actually paid or payable for the goods when sold and includes any amount that the buyer is liable to pay to the assessee in connection with sale whether payable at the time of sale or at any other time, including the transport insurance charges etc.

The amended Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000, further clarifies that if the factory is not the place of removal, the cost of transportation from the factory to the place of removal such as depot, consignment agent's premises etc cannot be excluded for the purpose of determining the value of the excisable goods.

**2.6.2.1** A test check of the records for the period 2010-2013 of M/s AGR Steel Strips Private Limited in Gurgaon Commissionerate revealed that the assessee had transferred stock to their consignment agents with the freight charges amounting to ₹ 1.61 crore.

The freight charges incurred upto the point of sale viz; the place of consignment premises was to be included in the value of the goods. Exclusion of such charges from the assessable value resulted in short levy of duty of ₹ 17.36 lakh.

We have pointed this out in January 2014, the Ministry/Commissionerate's reply was awaited (December 2014).

**2.6.2.2** We noticed that M/s Rimjhim Stainless Limited, in Kanpur Commissionerate, engaged in the manufacture of M. S. Wire Rod and M.S. Wire, M.S. Bars, Stainless Steel Rods, Shapes and Sections etc, cleared finished products from their depots and paid freight and carriage charges of ₹ 5.25 crore during 2010-13. Non-inclusion of these charges in assessable value resulted in short payment of excise duty to the tune of ₹ 64.84 lakh, which was recoverable along with interest.

We have pointed this out in January 2014, The Ministry/Commissionerate's reply was awaited (December 2014).

## **2.7 Cenvat**

### **2.7.1 Irregular availing of Cenvat credit on Custom's cess**

Rule 3 of Cenvat Credit Rules, 2004 does not permit availing of Cenvat credit of education cess and Secondary and Higher Education cess charged on the Basic Customs Duty.

Audit scrutiny of the records of 14 assesseees for the year 2012-13, revealed that they had availed and utilised Cenvat credit of education cess and SHE cess levied on Basic Custom Duty, which was ineligible. The ineligible credit amounting to ₹ 54.88 lakh was recoverable with applicable interest and penalty as detailed below:-

Table 2.2

Sl. No	Number of assessee	Commissionerate	Edu. Cess availed	(₹ in lakh)	
				Secondary and Higher Edu. cess availed	Total Cess availed
1	4	Calicut	12.96	6.48	19.44
2	2	Cochin	14.71	7.36	22.07
3	1	Trivandrum	3.56	1.78	5.34
4	2	Bolpur	2.44		2.44
5	3	Kolkata IV	1.82		1.72
6	2	Delhi I	3.77		3.77
<b>TOTAL</b>			<b>39.26</b>	<b>15.62</b>	<b>54.88</b>

We have pointed this out in January 2014, the Ministry/Commissionerate's reply was awaited (December 2014).

### 2.7.2 Irregular availing of Cenvat credit

Rule 2 (l) of Cenvat Credit Rules, 2004, excludes services as specified in (sub-clause (p), (zn), (ztl), (ztlm), (ztlq), (ztlzh), (ztlzza) of clause (105) of section 65 of the Finance Act, 1994) from the ambit of input service in so far as they are used for construction of a building or a civil structure or a part thereof and laying of foundation or making of structures for support of capital goods.

**2.7.2.1** M/s Bhushan Power & Steel Limited, Mouzabanjihati in Kolkata-IV Commissionerate (West Bengal) had taken credit on input services used for civil construction works, contravening the provision of the above stated rule.

This resulted in irregular availing of Cenvat credit of ₹ 34.81 lakh (including Education Cess & SHE Cess) for the year 2012-13.

We have pointed this out in November 2013, the Ministry/Commissionerate's reply was awaited (December 2014).

**2.7.2.2** Similarly, three assesseees in Bolpur Commissionerate, namely, M/S. VSP Udyog Pvt Ltd. Durgapur, M/s Shakambhari Ispat & Power Ltd. Madamdih, M/s Sova Ispat Ltd. Bankura and one assessee in Kolkata IV Commissionerate, namely, M/S. Arcvac Forgecast Ltd. Panchghara, availed Cenvat credit of ₹ 16.93 lakh incorrectly contravening the above rule provisions in 2011-13. On this being pointed out M/s VSP Udyog Pvt. Ltd. Durgapur reversed the Cenvat credit of ₹ 11.78 lakh alongwith interest of ₹ 3.07 lakh.

We have pointed this out in November 2013, the Ministry/Commissionerate's reply was awaited (December 2014).

Further, Rule 2 (a) of Cenvat Credit Rules, 2004, excludes some equipment or appliances from the ambit of capital goods which are used in an office.

**2.7.2.3** M/s SAIL IISCO Steel Plant Burnpur in Bolpur Commissionerate had taken credit on tables, chairs etc as capital goods during the period 2012-13 which were used as office furniture, contravening the above mentioned rule. This resulted in irregular availing of Cenvat credit on capital goods amounting to ₹ 5.59 lakh, including cess.

We have pointed this out in November 2013, the Ministry/Commissionerate's reply was awaited (December 2014).

### **2.7.3 Irregular availing/non-reversal of Cenvat credit**

Rule 3(5) of the Cenvat Credit Rules, 2004 stipulates that when inputs or capital goods on which Cenvat credit has been taken, are removed 'as such' from the factory, the manufacturer or output service provider shall pay an amount equal to the credit availed on such input or capital goods.

Irregular availing of Cenvat credit of ₹ 16.56 lakh in respect of input/capital goods was noticed in nine cases out of 40 assesseees selected for examination of records in Jaipur-I, Indore and Ahmedabad – III Commissionerate for the year 2012-13 as detailed below:-

Table 2.3

(₹ in lakh)				
Sl. No.	Number of assessee	Commissionerate	Duty Involved	Amount recovered
1	7	Jaipur - I	12.83	9.73
2	1	Ahmedabad - III	1.75	0.00
3	1	Indore	1.98	1.98
<b>TOTAL</b>			<b>16.56</b>	<b>11.71</b>

When we pointed this out (November/December 2013), an amount of ₹ 11.71 lakh was recovered in five cases and it was stated that matter would be examined for the remaining cases.

We await the reply of the Ministry (December 2014).

## **2.8 Non-payment/short payment of duty**

Rule 8(3A) of Central Excise Rules, 2002 stipulates that if the assessee defaults in payment of duty beyond thirty days from the due date, as prescribed in sub rule (1), then notwithstanding anything contained in said sub rule (1) and sub rule (4) of rule 3 of Cenvat Credit Rules, 2004, the assessee shall, pay excise duty for each consignment at the time of removal, without utilizing the Cenvat credit till the date the assessee pays the outstanding amount including interest thereon; and in the event of any failure, it shall be deemed that such goods have been cleared without payment of duty and the consequences and penalties as provided in these rules shall follow.

In case of M/s Shaifali Steel Ltd., Kalol in Ahmedabad-III Commissionerate for the period of 2010-11 to 2012-13, it was found that total duty liability as per RG-I Register of the assessee for the months of February 2011, September 2011 and October 2011 was higher than the duty actually paid by him. Duty liabilities as shown in the ER-I returns were also shown less as compared to the RG-I registers. Thus, the returns for the above periods submitted by the assessee were not correct to the extent.

On further scrutiny of records of the assessee, it was found that the duties short paid in the above months were not yet recovered. This resulted in short payment of duty to the tune of ₹ 12.44 lakh as under: -

Table 2.4

(₹ in lakh)			
Month	Duty payable as per RG-I	Duty paid as per ER-I returns	Short payment
February, 2011	59.76	53.81	5.95
September, 2011	83.29	77.90	5.39
October, 2011	32.27	31.17	1.1
<b>Total</b>	<b>175.32</b>	<b>162.88</b>	<b>12.44</b>

When we pointed this out (November 2013), the Commissionerate stated (December 2013) that an amount of ₹ 16.63 lakh, including interest for the month of February 2011 and September 2011 was recovered from the assessee.

## 2.9 Service Tax related issues

### 2.9.1 Non-registration under services on which Service Tax is payable under reverse charge mechanism

“Reverse Charge” of Service Tax was introduced under Rule 2 (1) (d) of the Service Tax Rules, 1994 read with Section 68(2) of the Finance Act, 1994. As per Notification dated 20 June 2012, effective from 1 July 2012, services of security agency service repair and maintenance under works contract, legal services by individual lawyers etc. were brought under the reverse charge. The recipient of service was required to obtain registration and pay Service Tax under the reverse charge as prescribed in the above referred notification. The exemption limit of ₹ 10 lakh was not available for the assessee liable for payment of Service Tax under the reverse charge mechanism.

In respect of five of the 31 cases of assesseees whose records were checked in the Raipur and Bolpur Commissionerate for the year 2012-13, engaged in the manufacturing of Iron & Steel Product falling under Ch. 72 & 73, Audit observed that these assesseees had paid remuneration/commission aggregating to ₹ 89.35 crore to their Directors during the year 2012-13.

However, they had not paid any Service Tax under Reverse Charge Mechanism aggregating to ₹ 10.98 crore as detailed below:-

Table 2.5

				(₹ in lakh)
Sl. No.	Name of the assessee	Name of Commissionerate	Total remuneration paid	Service Tax payable
1.	M/s Jindal Steel & Power Ltd.	Raipur	8,287.00	1,024.23
2.	M/s Prakash Industries Ltd.	Raipur	438.58	54.21
3.	M/s Star Alloy	Raipur	35.00	4.33
4.	M/s Raigarh Ispat & Power Ltd.	Raipur	18.00	2.22
5	M/s. Maithan Alloys Ltd.	Bolpur	156.17	12.53
	<b>Total</b>		<b>8,934.75</b>	<b>1,097.52</b>

We have pointed this out in November 2013 and January 2014, the Ministry/Commissionerate's reply was awaited (December 2014).

### 2.9.2 Non-payment of Service Tax on GTA

As per Rule 2 (1) (d) (i) (B) of Service Tax Rules, 1994, person liable to pay Service Tax in relation to service provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road, is any person who pays or is liable to pay freight either himself or through his agent for the transportation of such goods by road in a goods carriage .

Vide notification dated 1 March 2008 unconditional exemption from tax is provided on 75 per cent of the gross amount charged by the goods transport agency for providing the service.

Scrutiny of Service Tax records for the year 2012-13 of M/s CONCAST Steel and Power Ltd., Jharsuguda in Bhubaneswar-II Commissionerate, registered under GTA (Goods Transport Agency), revealed that transportation charges of ₹ 23.41 crore relating to transportation of inward materials, outward dispatch of finished goods/product etc. were paid by the assessee to the transporters during the period October, 2012 to March, 2013. However, the Service Tax amounting to ₹ 72.32 lakh (12.36 per cent of 25 per cent of ₹ 23.41 crore) had not been paid by the assessee which was recoverable alongwith interest.

When we pointed this out (September 2013), the Commissionerate accepted the audit observation (June 2014) and reported recovery of objected amount alongwith interest of ₹ 12.80 lakh.

## Chapter III

### Central Excise duty on Petroleum, Oil and Lubricant products

#### 3.1 Introduction

The Mineral fuels, Mineral Oils and products of their distillation, bituminous substances and mineral waxes covered under Petroleum sector are classified under Chapter 27 of Central Excise Tariff Act, 1985. These products are broadly categorised as, (i) Crude Oil, (ii) Liquefied Natural Gas (LNG) & (iii) Petroleum, Oil & Lubricants (POL) Products. While Crude oil and LNG are naturally obtained, the POL products are obtained by way of refining/manufacture. During FY 14, out of total net revenue receipts from Central Excise duties, the share of petroleum sector was more than 50 per cent.

#### 3.2 Duty structure on petroleum products

In the Finance Bill 2005, the duty structure with regard to MS and HSD was changed to a combination of specific and ad valorem rates of duties in lieu of earlier ad valorem rate of duties. With effect from March 2008, excise duty rates on petrol and diesel were made specific. Products like Naphtha, Furnace Oil, Low Sulphur Heavy Stock etc. are both dutiable and exempted depending upon the end use. Duties levied by Central Government on major petroleum products as on 31 March 2014 are given as under:

**Table - 3.1**

Sl. No.	Name of the Product	Custom Duty	Excise Duty
1	Crude Oil	Nil + ₹ 50/MT as NCCD	Nil + ₹ 50/MT as NCCD and ₹ 4,500/MT as Cess
2	Petrol	2.5 per cent	₹ 9.48/Litre
3	Diesel	2.5 per cent	₹ 3.56/Litre
4	Superior Kerosene Oil (PDS)	Nil	Nil
5	Superior Kerosene Oil (Non PDS)	5 per cent	14 per cent
6	Domestic LPG	Nil	Nil
7	Non Domestic LPG	5 per cent	8 per cent
8	Furnace Oil	5 per cent	14 per cent
9	Naphtha	5 per cent	14 per cent
10	ATF	Nil	8 per cent

#### 3.3 Pricing of petroleum products

Central government regulates the prices of sensitive petroleum products (diesel, domestic Liquefied Petroleum Gas (LPG) and Public Distribution System (PDS) kerosene). With effect from June 2006, based on the



Rangarajan Committee Report, the price of diesel is fixed according to the Trade Parity Price (TPP), which is 80 per cent of Import Parity Price (IPP) and 20 per cent of Export Parity Price (EPP). With effect from June 2010 as per the recommendation of Parikh committee, price of petrol is market determined. Further, with effect from 19 October 2014, the price of diesel is also market determined. The Government fixes the price of natural gas produced by national Oil Companies. The respective producers and sellers fix the prices of the remaining products other than sensitive products and natural gas under Administered Price Mechanism.

### **3.4 Audit objectives**

The audit objectives were to ensure

- i. the adequacy and compliance with rules, regulations, notifications, circulars/instructions/trade notices etc. issued from time to time in relation to levy, assessment and collection of excise duty relating to Petroleum sector;
- ii. whether the extant provisions of law are being complied with adequately;
- iii. whether there was an effective monitoring and internal control mechanism.

### **3.5 Scope of Audit and coverage**

For conducting audit, we selected 35 Commissionerates and some subordinate offices functioning under those Commissionerates. Audit examined whether the internal control mechanisms were in place and functioned effectively at the selected Commissionerates, Division and Range offices.

Effectiveness of compliance verification mechanism was test checked at the Range office level through the scrutiny of excise returns filed by the assesseees. Compliance with rules and regulations designed for proper assessments and levy and collection of duty was test checked both at the departmental offices and at the premises of some selected assesseees.

The period covered was 2010-11 to 2012-13. We issued the draft report to the Ministry in August 2014.

## **Audit findings**

We noticed cases of irregular availing of exemption, non-recovery of arrears, non-payment/short payment of duty, irregular availing of Cenvat credit etc. involving revenue of ₹ 7.12 crore. The department accepted (December 2014) the audit observations involving revenue of ₹ 4.44 crore and recovered the same. The major findings are discussed below:

### **3.6 Non-payment/short payment of duty**

#### **3.6.1 Levy of National Calamity Contingency Duty (NCCD) on crude oil at different points**

We observed that the quantum on which NCCD is levied is not uniform across the Commissionerates. In the case of M/s Cairn India Limited, in Jaipur II Commissionerate, NCCD was paid on the gross quantity dispatched from processing terminal whereas in the case of M/s ONGC in Tiruchirapalli Commissionerate, NCCD was paid on the net quantity received by the refineries and not on the gross quantity dispatched by the assessee from the oil field. This inconsistent practice of levy of NCCD at different point had resulted in excess/short levy of NCCD.

The inconsistency in levy of NCCD at different points in different Commissionerates was brought to the notice of the department for corrective measures.

We await the reply of the Ministry (December 2014).

#### **3.6.2 Excise duty on interface SKO in pipeline transfers**

Supply of petroleum products through pipelines is carried out by product to product method of pumping and in such an event, co-mingling of one product with another is inevitable. However, in the scheme of accounting of one product, the duty payable on the interface product (co-mingled products) will be different. The Board, therefore, in Circular No. 636/27/2002-CX dated 22 April 2002 clarified that in the event of intermixing of the products while pipeline transfer, the higher of the two duties i.e. duty payable on Superior Kerosene Oil (SKO) not used for intended purpose and duty payable on surge/gain in Motor Spirit or High Speed Diesel shall be payable for the intermixed/interface quantity. In other words, the duty of intermixed part of SKO and HSD or MS and Naphtha, as the case may be must be quantified and higher of the two values remitted.

**3.6.2.1** M/s. BPCL-Kochi Refinery furnished data relating to variation in quantities of dispatch and receipt of SKO (PDS) at the three installations (for

the period from July 2008 to December 2012 in respect of BPCL installation and from January 2008 in respect of IOCL and HPCL installations).

Audit noticed from the show cause notice dated 29 July 2013 that it pertained to interface quantities of SKO (PDS) dispatched from BPCL- Kochi Refinery to HPCL and IOCL installations for the period from July 2008. However, the same issue in respect of BPCL installations for the period from April 2010 to December 2012 involving ₹ 68.81 lakh was not taken into account in the show cause notice indicating non-raising of demand.

Further, the show cause notice was issued to M/s. BPCL-KR, relying on the assessee's calculation sheet in which the duty in respect of intermixed quantity was calculated based on HSD alone instead of quantifying the higher of the two duties with respect to HSD and SKO. This resulted in short demand of ₹ 14.55 lakh for the period from July 2008 to December 2012.

Due to belated identification by the Department, SCNs were issued for the period from July 2008 only to IOCL and HPCL installations. Duty, time barred for the six months from January 2008 to June 2008, in respect of IOCL and HPCL amounted to ₹ 7.91 lakh. Further, higher duty on interface Naphtha during pipeline transfer of Naphtha and MS, in respect of BPCL installation, was also not taken into consideration by the Commissionerate. Thus duty could not be demanded due to inaction on the part of the Commissionerate.

We had pointed these out in October 2013, the reply of the Ministry/Commissionerate's was awaited (December 2014).

**3.6.2.2** Scrutiny of records of M/s. Indian Oil Corporation Ltd. (IOCL), in Guwahati Commissionerate, revealed that at the time of intermingling of products MS and HSD, the SKO passes in between the two products as interface through pipeline delivery for different locations. Further, the SKO so used for interface purpose came through pipeline as PDS Kerosene from the different IOCL refineries situated at Haldia, Gujarat, Panipat, Mathura and Barauni.

Audit noticed that as the PDS Kerosene was used for non-PDS purpose, the assessee had paid duty for interface kerosene after availing the benefit of exemption notification dated 13 May 2002 (i.e. North East region exemption of payment of Central Excise duty of 50 per cent of normal rate) and paid duty at the rate of 7 per cent ad valorem (the prevalent rate) as non PDS kerosene.

Audit observed that as the kerosene was manufactured and cleared from different IOCL refineries situated outside North East region, the excise duty at full prevalent rate which was 12 per cent was to be paid by the said refineries

from where the kerosene was cleared as "NIL" rate of duty for use as PDS purpose but ultimately used as Non-PDS purpose.

When we pointed this out (January 2013), the Commissionerate replied (November 2013) that the said five refineries, from where SKO was initially cleared, paid Central Excise duty along with interest (in April – May 2013) amounting to ₹ 3.42 crore for the clearance made during 2011-12.

### **3.6.3 Duty on clearance of scrap**

Scrap generated from capital goods after use attracts duty. The fact that on import, the Cenvat on such goods was not availed does not alter the position as regards the levy of duty on scrap generated from the use of such capital goods.

M/s Oil and Natural Gas (ONGC) in Trichy Commissionerate, sold Miscellaneous Steel scrap (chapter 72) and waste Oil (chapter 27) during the period from 2010-11 to 2012-13 for a sum of ₹ 3.75 crore. However, duty amounting to ₹ 41.88 lakh, payable on such removals, was not paid as verified from the ER 1 returns for the three years. This amount needs to be levied and collected along with interest.

We had pointed this out in December 2013, the reply of the Ministry/Commissionerate's was awaited (December 2014).

## **3.7 Availing of Cenvat credit**

**3.7.1** Rule 2(l) of Cenvat Credit Rules, 2004 defines input service as:-

"(a) used by a provider of output service for providing an output service and (b) Used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products up to the place of removal" but excludes services such as those provided in relation to outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance etc.

M/s Indian Oil Corporation Limited, Panipat Refinery in Rohtak Commissionerate, availed and utilised Cenvat credit amounting to ₹ 11.39 lakh in 2012-13 on services like Hotel, Club, Guest house service, Running of canteen and General Housekeeping services which did not fall under the ambit of input services as per rule ibid. Hence, Cenvat credit availed/utilised on above services was irregular and should be reversed along with interest.

We had pointed this out in October 2013, the reply of the Ministry/Commissionerate's was awaited (December 2014).

**3.7.2** Rule 2 (l) of Cenvat Credit Rules 2004, excludes from the ambit of 'input service', services as specified in sub-clause (p), (zn), (znl), (znm), (znp), (zzh), (zzza) of clause (105) of section 65 of the Finance Act, 1994 so far as they are used for construction of a building or a civil structure or a part thereof and laying of foundation or making of structures for support of capital goods.

According to Rule 2(1)(ii)(A) of Cenvat Credit Rules, 2004 service portion in the execution of a works contract and construction services including service listed under clause (b) of section 66E of the Finance Act, 1994 do not qualify as input service, in so far as they are used for (a) construction or execution of works contract of a building or a civil structure or a part thereof or (b) laying of foundation or making of structures for support of capital goods.

**3.7.2.1** M/s Indian Oil Corporation Ltd., Haldia Refinery in Haldia Commissionerate, had taken credit on input services used for civil construction works, contravening the above rule provision. This resulted in irregular availing of Cenvat credit to the tune of ₹ 41.83 lakh (including Education Cess & Secondary & Higher Education Cess) for the year 2012-13.

When we pointed this out (August 2013), the assessee, while admitting the fact, reversed ₹ 1.15 lakh only. The balance amount of ₹ 40.68 lakh payable by the assessee had not been recovered. The assessee was also liable to pay interest under Rule 14 of Cenvat Credit Rules, 2004 for such irregular availing of Cenvat credit.

The issue was pointed out (August 2013). Reply of the Ministry/Commissionerate's was awaited (December 2014).

**3.7.2.2** M/s. BPCL-KR in Cochin Commissionerate, during the years 2011-12 and 2012-13 had availed and utilised Cenvat credit amounting to ₹ 20.48 lakh on Service Tax paid for input services contravening Cenvat Credit (Amendment) Rules, modified with effect from 01 April 2011.

When we pointed this out (October 2013), the Commissionerate replied (March 2014) that Cenvat credit is eligible for civil jobs which are of repairs/renovation, modification category. It was also stated that out of the total amount ₹ 13.95 lakh was eligible and ₹ 0.83 lakh was reversed under rule 6 (3) of Cenvat Credit Rules, 2004. The Commissionerate further stated that an amount of ₹ 5.68 lakh was reversed in November 2013 and payment of interest was awaited.

We await the reply of the Ministry (December 2014).

**3.7.2.3** M/s. BPCL-KR in Cochin Commissionerate, availed and utilised Cenvat credit of ₹ 14.29 lakh for Services in relation to transport facilities given to employees, Insurance coverage to employees, housekeeping and repair works at Canteen, Welfare activities to employees, Amenities given to CISF staff, repair works at Jwalagiri and CR School etc in contravention to Cenvat Credit (Amendment) Rules, modified with effect from 01 April 2011.

When we pointed this out (October 2013), the Commissionerate replied (March 2014) that the assessee had reversed ₹ 8.97 lakh for the year 2010-11 and 2011-12 and an amount of ₹ 5.31 lakh was eligible for availing Cenvat credit for the year 2011-12 as the same is taken on AMC on water coolers which were directly in relation to manufacture and on canteen facilities which was mandatory as per Factory Act.

The reply of the Commissionerate is not acceptable as with effect from 1 April 2011 input services shall not include services used primarily for personal use or consumption of an employee.

We await the reply of the Ministry (December 2014).

**3.7.3** According to Notification dated 1 March 2011, works contract services, construction services and architectural consultancy services used for the construction of a building or a civil structure or a part thereof, or laying of foundations or making of structures for support of capital goods shall not come under the definition of input service and hence were not eligible for Cenvat credit from 1 April 2011.

Integrated Refinery Expansion Project (IREP) is carried out by M/s. BPCL-KR, by engaging Works Contract and Construction Service firms. A test check of 10 major project works revealed that in respect of 2 Works contract projects – (Project 4503490792 Site grading, roads, drains and other miscellaneous works for IREP. Contractor: Bridge and Roof Co (I) Ltd. & Piling works for IREP site-Contractor: DBM Geotechnics and Construction Private Limited) the assessee availed and utilised Cenvat credit on ineligible input services relating to Civil structural and architectural works for an amount of ₹ 39.88 lakh and Piling works for an amount of ₹ 46.59 lakh during 2012-13 contrary to the provisions of Cenvat Credit (Amendment) Rules, 2011.

When we pointed this out (October 2013), the Commissionerate replied (March 2014) that the assessee are eligible for availing and utilizing the Cenvat credit on the Service Tax paid on the works of Dismantling of quarters/water tanks, cutting of trees, construction of drains and retaining walls, RR masonry walls for security purposes. The Commissionerate further accepted the audit observation regarding piling work and reported recovery of ₹ 46.59 lakh.

The reply of the Commissionerate is not acceptable as all the activities mentioned above will come under civil construction hence not eligible for input service credit with effect from 1 April 2011.

We await the reply of the Ministry (December 2014).

**3.7.4** As per Rule 4(2)(a) of Cenvat Credit Rules, 2004 the Cenvat credit in respect of capital goods received in a factory at any point of time in a given financial year shall be taken only for an amount not exceeding fifty per cent of the duty paid on such capital goods in the same financial year.

M/s Indian Oil Petronas Pvt. Ltd. in Haldia Commissionerate had taken 100 per cent credit on capital goods (spares of machinery) in the same financial year (2012-13) in which it was received in the factory as against the admissible credit at 50 per cent of the value of capital goods. This resulted in irregular availing of Cenvat credit of ₹ 9.64 lakh for the period 2012-13. The assessee was also liable to pay interest under Rule 14 *ibid* for such irregularity.

The issue was pointed out (September 2013), the reply of the Ministry/Commissionerate's was awaited (December 2014).

**3.7.5** Rule 6(5) of the Cenvat Credit Rules, 2004 provides that notwithstanding anything contained in sub-rules (1), (2) and (3), credit of the whole of Service Tax paid on taxable service as specified in sub-clause (g), (p), (q), (r), (v), (w), (za), (zm), (zp), (zy), (zsd), (zsg), (zsh), (zzi), (zzk), (zzq) and (zzr) of clause (105) of section 65 of the Finance Act, 1994 shall be allowed unless such service is used exclusively in or in relation to the manufacture of exempted goods or providing exempted services.

Above sub-rule (5) was omitted vide Notification dated 01 March 2011 with effect from 01 April 2011.

M/s. Indian Oil Corporation Ltd. in Vadodara-I Commissionerate was clearing both dutiable and exempted finished goods. Test check of RG-23 of Cenvat credit of input services and invoices for the years 2011-12 and 2012-13 of the assessee revealed that the assessee availed 100 per cent Cenvat credit during the year 2011-12 in respect of services specified in Rule 6 (5) of Cenvat Credit Rules, 2004 as the period of providing service was prior to 01 April 2011. It was further noticed that in addition to above services, the assessee availed 100 per cent Cenvat credit in respect of services viz. Man Power Recruitment & Supply Agency service (k), Rent-a-Cab Scheme Operator's Service (o), Business Auxiliary Service (zsb), Services in relation to execution of Works Contracts (zzza) and Supply of Tangible goods service (zzzj) on the same ground. However, these services were not covered under Rule 6(5) of Cenvat

Credit Rules, 2004. Hence, the assessee was required to avail Cenvat credit attributable to the duty paid clearance of the finished goods only. As certified by the Chartered Accountant, the assessee was eligible for availing Cenvat credit at the rate of 91 per cent of the total Cenvat credit of input services during 2011-12.

We further noticed that during September and October 2012, the assessee availed 100 per cent Cenvat credit in case of three entries as against Cenvat credit of 91 per cent attributable to the duty paid clearance of finished goods. In addition, the assessee availed one more per cent Cenvat credit of same input service as if he had availed 91 per cent Cenvat credit (As certified by the Chartered Accountant, the assessee was eligible for availing Cenvat credit at the rate of 92 per cent of the total Cenvat credit of input services during 2012-13, hence, assessee was eligible to avail difference of Cenvat credit of one per cent in cases where he had availed 91 per cent credit). Total 101 per cent credit was availed as against correct credit of 92 per cent.

This resulted in excess availing of Cenvat credit of Service Tax of ₹ 16.12 lakh (including Cess). In addition, interest under section 11AB of the Central Excise Act, 1944 is also leviable.

When we pointed this out (August 2013), the Commissionerate accepted (February 2014) the audit observation and intimated that the assessee reversed ₹ 16.81 lakh along with interest of ₹ 5.69 lakh.

**3.7.6** In view of the decision of the Larger Bench in the case of CCE, New Delhi v/s Avis Electronics Pvt. Ltd., credit on the basis of the photocopy was impermissible.

The CBEC circular (Para 10(d)) dated 13 February 1995 also stipulated that in no circumstances photocopy shall be accepted.

We noticed that the Indian Oil Corporation Ltd, Barauni, in the Patna Commissionerate availed Cenvat credit of ₹ 13.52 lakh during the period 2010-11 to 2012-13 on the basis of photocopy of tax invoices which are ineligible documents. This resulted in availing and utilisation of Cenvat credit of ₹ 13.52 lakh on ineligible documents.

We have pointed this out in September 2013, the reply of the Ministry/Commissionerate's was awaited (December 2014).

**3.7.7** Rule 6(1) of the Cenvat Credit Rules, 2004 stipulates that no credit of specified duty shall be allowed on input/input services used in the manufacturing of final product which are exempt or chargeable to 'nil' rate of duty.



M/s IOCL, Panipat, in Rohtak Commissionerate, engaged in the manufacturing of mineral oils/fuels, had generated electricity. This was partly sold to M/s Air Liquide Industries Belgium and Brussels, who had built and operated a Naphtha Cracker plant for IOCL and partly used in the plant but the assessee did not maintain separate account for electricity consumed in the factory and sold outside. M/s IOCL recovered power charges amounting to ₹ 302.89 crore during the years from 2010-11 to 2012-13. The Cenvat credit availed for the same was recoverable from the assessee along with interest and penalty as applicable under the rules.

We had pointed this out in October 2013, the reply of Ministry/Commissionerate's was awaited (December 2014).

### **3.8 Non-levy of interest**

According to Section 11AB of the Central Excise Act, 1944, where any person, liable to pay duty of excise had not paid or had made belated payment thereof, in addition to the duty, are liable to pay interest at the rate prevailing from time to time. Interest is payable for the period from the date next to the due date till the date of payment of such duty. The effective rate of interest is 13 per cent per annum up to 13 March 2011 and 18 per cent per from 1 April 2011 onwards.

Further, the Board vide circular dated 28 July 2003 clarified that where supplementary invoices on account of revision of prices raised and differential duty on the value of such supplementary invoices raised, interest is also payable under section 11AB on the differential duty.

Four assessees- M/s. Essar Oil Ltd., Vadinar (Rajkot Commissionerate), M/s. Tiki Tar Ind.(Baroda) Ltd. (Vadodara-II Commissionerate) M/s IOCL, Koyali (Vadodara-I Commissionerate) & M/s. Anamica Oil Pvt. Ltd., Jaipur (Jaipur Commissionerate) did not pay interest amounting to ₹ 16.78 lakh on the excise duty paid late/paid through Cenvat credit availed irregularly during the period 2010-11 to 2012-13.

When we pointed this out (August 2013 to October 2013), the Commissionerate reported (October 2013 & February 2014) recovery of ₹ 15.93 lakh in two cases relating to M/s. Essar Oil Ltd. and M/s IOCL and in remaining cases the Ministry/Commissionerate's reply was awaited (December 2014).

## Chapter IV

### Scrutiny of Central Excise returns

#### 4.1 Introduction

CBEC introduced self-assessment in respect of Central Excise in 1996. With the introduction of self-assessment, the department also provided for a strong compliance verification mechanism with Scrutiny of Returns. As assessment is now the responsibility of the assessee, the main function of the department is to scrutinize the tax return submitted by assessee to ensure the correctness of duty assessed in terms of the effective rate of duty claimed, the taxable value declared, and the Cenvat credit availed. E-filing of returns through ACES was made mandatory with effect from October 2011. As per the manual for the scrutiny of Central Excise returns, 2008, a monthly report is to be submitted by the Range Officer to the jurisdictional Assistant/Deputy Commissioner of the Division regarding the number of returns received and scrutinised. Scrutiny is done in two stages i.e. preliminary scrutiny by ACES and detailed scrutiny, which is carried out manually on the returns marked by ACES or otherwise.

#### 4.2 Audit objectives

The objective of the audit examination is to assess if the department is carrying out scrutiny of assessment in an efficient and effective manner.

#### 4.3 Audit coverage

To assess the effectiveness of the scrutiny of returns, carried out by the department, Audit selected 127 Ranges under 30 different Commissionerates for examination. Audit test checked the scrutiny of returns carried out in FY 13. Wherever required, depending upon the issues involved, we also incorporated data for the period FY 11 and FY 12.

#### 4.4 Audit findings

Scrutiny of assessee records in the audited units revealed certain compliance related as well as other issues involving revenue of ₹ 11.18 crore. The Ministry/Department accepted (December 2014) the audit observations involving revenue of ₹ 4.15 crore and recovered ₹ 3.81 crore. The major findings are illustrated:

## **A. Preliminary scrutiny**

As per the provisions under Rule 12 of the Central Excise Rules 2002, every person liable to pay Central Excise Duty has to submit monthly/quarterly returns, as the case may be, by 10<sup>th</sup> day of the following month/quarter to which it relates. Filing of returns by the assesseees as well as preliminary scrutiny of returns by Range Officers is carried out online through ACES.

As per the provisions under Para 2.1 of the Manual for Scrutiny of Central Excise Returns, 2008 preliminary scrutiny of all the returns is to be conducted within three months from the date of receiving the returns.

We discuss below our audit findings relating to preliminary scrutiny as seen during the course of examination in selected ranges.

### **4.4.1 Submission of returns**

We observed that out of 82,204 returns receivable during 2012-13 only 73,487 (89 per cent) returns were received in the selected Commissionerates. Out of the total returns received, 1,835 (two per cent) returns were received belatedly and 8,717 (11 per cent) returns were not received at all. Identification of non-filers/stop-filers has also been listed as one of the purposes of Preliminary scrutiny in Para 1.1.1 of the Manual for Scrutiny of Central Excise Returns, 2008. However, the department did not identify non-filers/stop-filers. We also observed that no action was taken by the department in cases of delayed filing of return.

When we pointed this out (September 2013), the Ministry intimated (December 2014) that action has been initiated against the stop-filers/non-filers.

### **4.4.2 Review and correction**

Under ACES, preliminary scrutiny of returns is carried out by the system and returns with discrepancies are identified by the system for review and correction. The returns marked for review are to be validated in consultation with the assessee and re-entered into the system.

We observed that out of 32,706 returns marked for Review and Correction by the ACES, the department could correct only 20,622 (63 per cent) returns within the stipulated three months. Some of the cases are illustrated:

i) In Chennai-III, Puducherry and Salem Commissionerates, the department completed 198 cases marked for review and correction well after three months with delays ranging from 5 to 325 days. Out of above 198 cases, in 103 cases (52 per cent) the review and correction was pending for more than 100 days.

When we pointed this out (August 2014), the Ministry intimated that delay was due to technical problem in ACES.

ii) As per the provisions under Para 2.1 of the Manual for Scrutiny of Central Excise Returns, 2008 preliminary scrutiny of all the returns is to be conducted within three months from the date of receiving the returns. In Range II B under Puducherry II Division of Puducherry Commissionerate, check of returns pending for Review and Correction revealed that the department could have possibly demanded an additional revenue of ₹ 70.25 lakh had the returns been scrutinised in time.

When we pointed this out (August 2014), the Ministry intimated (December 2014) recovery of ₹ 1.90 crore and issued SCN for ₹ 3.70 crore. It further stated that Review and Correction has no relevance to safeguard the revenue once the preliminary scrutiny is completed.

Reply of the Ministry regarding Review and Correction having no relevance to safeguard the revenue is not acceptable as Review and Correction in ACES is one of the prerequisite for scrutiny of subsequent returns.

iii) In Range II under Trivandrum Division of Trivandrum Commissionerate, the Range Officer did not identify that M/s. AERO Rubber Corporation (ECC No. ACZPR6487MXM002) had paid ₹ 3.11 lakh against the incorrect ECC No. ACZPR6487MXM001 not belonging to the assessee.

When we pointed this out (August 2014), the Ministry intimated (December 2014) that the assessee paid the amount afresh in correct ECC number.

iv) In Range II under Trivandrum Division of Trivandrum Commissionerate M/s. Ammini Energy System had remitted the duty under wrong head of accounts and the department did not take any action to rectify the mismatch pointed out by ACES.

When we pointed this out (August 2014), the Ministry intimated (December 2014) that the assessee regularised the payment by paying difference in respective heads with applicable interest.

#### **4.4.3 Conduct of scrutiny**

We observed that out of 73,487 returns received, 57,348 (78 per cent) of returns received in selected ranges were scrutinised within three months, 8,345 (11 per cent) of returns were scrutinised belatedly and 7,794 (11 per cent) returns were yet to be scrutinised.

When we pointed this out (August 2014), the Ministry intimated (December 2014) that Range Officers are taking necessary action to reduce the pendency and the pendency had been cleared in most of the Commissionerates. It

further stated that the returns could not be scrutinised in time due to technical problems in ACES.

#### **4.4.4 Non-payment of interest**

Where any duty of excise has not been levied or paid or short levied or short paid or erroneously refunded, the person liable to pay duty as determined under section 11A of Central Excise Act, 1944, is in addition to the duty, liable to pay interest at such rate not below ten per cent and not exceeding thirty-six per cent per annum, as the Central Government may fix by notification from time to time.

We noted several instances in the units under selected Commissionerates where action was yet to be taken in respect of the returns filed belatedly. Interest due in 22 such instances worked out to ₹ 1.12 crore.

When we pointed this out (September 2013), the Commissionerates intimated recovery of ₹ 4.77 lakh in 13 cases and stated that some ranges had initiated action to recover interest. One of the cases is illustrated.

M/s Jindal Steel & Power in Bhubaneswar II Commissionerate, cleared goods in 2010-11 to its sister units at a lower price and paid the differential duty of ₹ 408.46 lakh in 2011-12 by issuing supplementary invoices. However, interest amounting to ₹ 106.36 lakh on the differential duty was not paid. We pointed this out in August 2014. Reply from the Ministry was awaited (December 2014).

#### **4.4.5 Non-conversion of temporary registration to permanent registration**

The CBEC vide its letter F.No.201/06/2013-CX.6 (Pt) dated 01.07.2013 proposed periodical review of the pendency of temporary registration and fixed dead line (01 September 2013) for NIL balance of temporary registration converting them to permanent registration.

Audit observed in Salem I Division under the Salem Commissionerate that out of 605 assesseees (CX) holding temporary registration, only one was converted into permanent registration (September 2013).

When we pointed this out (September 2013), the Ministry intimated (December 2014) that most of the textile manufacturers who got registered with the department failed to apply for cancellation of the registration after being exempted from Central Excise. As a result of the efforts made in this regard, one Registration Certificate was converted into a permanent one and 97 assesseees surrendered the Registration Certificate. Reply of the Ministry in remaining 507 cases is still awaited (December 2014).

## **B. Detailed scrutiny of assessment:**

The purpose of the detailed scrutiny is to ascertain the correct reason for abnormal trends exhibited for the risk parameters identified in the Board's guidelines. Besides establishing the validity of the information furnished in the tax return, the other major purpose of detailed scrutiny is to establish the correctness of self-assessment by ensuring correctness of valuation, dutiability in respect of products which may have escaped assessment, correctness of Cenvat availment etc.

The Board's guidelines provide for the selection of a small portion (normally not more than 5 per cent) of ER1 and ER3 returns for detailed scrutiny.

Both the preliminary and detailed scrutiny must be completed within three months from the date of receipt of the return. Every six months the Deputy/Assistant commissioner will scrutinise the returns of the units paying duties from PLA between ₹ one to five crore and Addl./Joint Commissioner will scrutinize the returns of the units paying duties from PLA more than ₹ five crore with reference to the relevant documents.

### **4.4.6 Non-conducting of detailed scrutiny**

We observed that the Deputy/Assistant and Addl./Joint Commissioners in the selected Commissionerates did not conduct any detailed scrutiny though there were returns of assessees who had paid duty of ₹ 1 crore or more during 2012-13. It was further observed that

- a) ACES did not list out returns for detailed scrutiny.
- b) Out of 73,487 returns received in 2012-13 only 320 returns were scrutinised by the selected Commissionerates which is only 0.44 per cent of the total returns received.

We pointed this out in August 2014. Ministry's reply is still awaited (December 2014).

### **4.5 Non-compliance by assessees**

We attempted scrutiny of a few returns where the department had conducted the detailed scrutiny and also where the department had not conducted the detailed scrutiny to assess the efficiency of the scrutiny process and to curtail revenue leakage.

We observed that in several instances, there were lapses in self-assessment by assessees involving revenue implication. The non-compliance by assessee was not detected until CERA pointed out the same. A few of these lapses that escaped the compliance verification mechanism of the department, but

observed during our examination of the assessee returns and other records, are illustrated:

#### **4.5.1 Incorrect valuation of goods cleared**

Rule 8 read with proviso to rule 9 of the Central Excise Valuation (Determination of Price of excisable Goods) Rules, 2000, stipulates that where excisable goods are not sold by the assessee but are consumed by the assessee or on behalf of the assessee by a related person for manufacture of other articles, the assessable value of such goods shall be 110 per cent of the cost of production or manufacture of such goods. Further, the Board had clarified that the value of goods consumed captively should be determined in accordance with the Cost Accounting Standards (CAS-4) method only. Further, section 11AB of Central Excise Act 1944, requires payment of interest on delayed payment of duty.

M/s S K Steel Tech Unit II in Bengaluru-III Commissionerate removed the finished goods to his own factory for captive consumption on stock transfer. Hence, the assessee was liable to pay duty on 110 per cent of the cost of production, determined as per CAS-4, which was not done in this case. This resulted in short payment of duty of ₹ 35.02 lakh.

When we pointed this out (August 2013), the Commissionerate reported recovery of ₹ 35.02 lakh.

#### **4.5.2 Incorrect availing of abatement**

As per section 4A of the Central Excise Act, 1944, the Central Government may, by notification in the Official Gazette, specify any excisable goods, chargeable to duty of excise with reference to value, then, notwithstanding anything contained in section 4 of the Act *ibid*, such value shall be deemed to be the retail sale price declared on such goods less such amount of abatement, if any, from such retail sale price.

As per notification dated 17 March 2012, 35 per cent of abatement from retail sale price was given in respect of all footwear.

M/s Blak The Shoe Store, in Bengaluru-III Commissionerate, had manufactured various types of leather footwear which were valued at MRP and availed abatement of 40 per cent of value. The abatement available for all footwear was 35 per cent for the FY 2012-13. Hence, availing of excess abatement of 5 per cent resulted in undervaluation of the goods to the tune of ₹ 75.82 lakh and consequent short levy of duty of ₹ 9.37 lakh, including cess.

When we pointed this out (September 2013), the Ministry intimated (December 2014) that the assessee had paid an amount of ₹ 9.37 lakh and ₹ 2.03 lakh as interest.

#### **4.5.3 Incorrect availing of exemption**

Notification dated 1 March 2003 provided small scale industry (SSI) exemption to a manufacturer, on the clearance of goods for home consumption upto the aggregate value of ₹ 1.5 crore during the current financial year subject to the condition that aggregate value of all excisable goods for home consumption not exceed ₹ four crore in the preceding financial year provided Cenvat credit is not availed.

i) M/s Arihant Industries. Ltd. in Shillong Commissionerate availed the benefit of exemption from payment of Excise Duty up to the clearance value of ₹ 1.50 crore during 2012-13. However, it had also availed the CENVAT credit on inputs in violation of condition cited above. This resulted in availing of exemption irregularly and non-payment of duty of ₹ 18.54 lakh.

When we pointed this out (September 2013), the Ministry intimated (December 2014) that the action had been initiated for recovery of duty alongwith interest.

ii) Total sales of M/s Super Meter Manufacturing Company in Pune III Commissionerate was ₹ 7.40 crore during 2010-11. The assessee was, therefore, not entitled for SSI exemption for the year 2011-12. However, the assessee had availed SSI exemption and cleared goods of ₹ 1.50 crore without payment of duty during the year 2011-12, resulting in short payment of duty of ₹ 15.45 lakh.

When we pointed this out (September 2013), the Ministry (December 2014) informed that SCN to the assessee was under process.

#### **4.5.4 Non-payment/short-payment of duty**

We observed non-payment/short-payment of duty of ₹ 34.20 lakh in 18 cases. The department accepted the audit observations in twelve cases and recovered ₹ 25.89 lakh. One case is illustrated:

M/s Indo-Furnace Pvt. Ltd. in Rohtak Commissionerate did not pay duty amounting to ₹ 12.49 lakh for the goods cleared during March 2013.

When we pointed this out (September 2013), the Ministry while admitting the observation intimated (December 2014) that the assessee had paid ₹ 12.45 lakh alongwith interest of ₹ 1.19 lakh.



#### 4.5.5 Other cases

Besides the instance discussed above, we also noticed 98 other cases of involving short payment of duty, irregular availing/utilisation of Cenvat credit of ₹ 7.01 crore. Ministry/Department accepted the observations in 55 cases and intimated recovery of ₹ 1.14 crore.

Though CBEC's expectation was that with the introduction of online automated scrutiny of returns, efficiency would increase and manpower would be released for detailed scrutiny which would become the core function of the ranges, the actual situation in field leaves much to be desired. A lot more needs to be done before scrutiny of assessments can claim its place as the core function of the Ranges.

## Chapter V

### Non-Compliance with Rules and Regulations

#### 5.1 Introduction

We examined the records maintained by the assesseees in relation to the payment of Central Excise duty and checked the correctness of duty payment and availing of Cenvat credit. We noticed cases of incorrect availing/utilisation of Cenvat credit, non/short payment of Central Excise duty and other issues having financial implication of ₹ 66.74 crore. We communicated these observations to the Ministry through 56 draft audit paragraphs. The Ministry/Department accepted (December 2014) the audit observations in 52 draft audit paragraphs having financial implication of ₹ 65.75 crore of which ₹ 15.70 crore have been recovered. Out of above 52 cases, the Ministry/Department in 45 cases, initiated/completed corrective action having financial implication of ₹ 61.66 crore. We have furnished the details of these 45 paragraphs in Appendix II. The objections are covered under three major headings :

#### **Non-payment/short payment of Central Excise duty**

##### **Cenvat credit**

##### **Other issues**

#### 5.2 Non-payment/short payment of Central Excise duty

##### 5.2.1 Short levy of Excise duty

As per Rule 10A (i) of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000, where the excisable goods are produced or manufactured by a job worker, then, in case where the goods are sold by the principal manufacturer for delivery at the time of removal of goods from the factory of job worker, where the principal manufacturer and the buyer of the goods are not related and the price is the sole consideration for the sale, the value of the excisable goods shall be the transaction value of the said goods sold by the principal manufacturer.

M/s Durgapur Projects Ltd., in Bolpur Commissionerate, cleared coke as job worker during 2011-12 on payment of excise duty on assessable value arrived at on the basis of cost of production instead of at the transaction value of the goods sold by the principal manufacturer (required by the Rule cited above). This resulted in undervaluation of ₹ 2.78 crore for the year 2011-12 and consequent short levy of duty of ₹ 14.33 lakh which is recoverable alongwith applicable interest.

We pointed this out in March 2013.

The Ministry accepted the audit observation (October 2014) and intimated that show cause notice was under preparation.

### **5.2.2 Short levy of duty due to undervaluation**

As per Section 4(3)(d) of the Central Excise Act, 1944, 'transaction value' means the price actually paid or payable for the goods, when sold, and includes any amount that the buyer is liable to pay to, or on behalf of the assessee, by reason of, or in connection with the sale, whether payable at the time of the sale or at any other time.

In the case of Richardson and Cruddas (1972) Ltd. Vs Collector of C.E. Nagpur, tribunal Delhi<sup>4</sup> and in case of Sukalp Agencies Vs CCE, Lucknow, the High Court of Allahabad, while upholding the department's view, held that testing charges were includable in the assessable value<sup>5</sup>.

M/s Nampa Electricals Pvt. Ltd. (Division Nampa Steel), in Haldia Commissionerate, had cleared G.I. Structures, MS structures etc. and components thereof to different customers during 2010-11. The assessee had reflected 'Proto Test Charges' of ₹ 2.48 crore as collected/recoverable from buyers in connection with the sale of G.I./M.S. Structures etc. Such charges ought to have been added to the assessable value of the said goods for charging duty. Failure to do so, resulted in undervaluation of the said goods of ₹ 2.48 crore and consequent short levy of duty of ₹ 25.58 lakh which is recoverable with interest.

We pointed this out in January 2013.

We await the Department's/Ministry's response (December 2014).

### **5.2.3 Non-levy of duty on additional consideration**

As per Section 4(1)(a) of the Central Excise Act, 1944, when the duty of excise is chargeable on any excisable goods with reference to their value, then such value shall be the transaction value. Transaction value means the price actually paid or payable for the goods, when sold, and includes in addition to the amount charged as price, any amount that the buyer is liable to pay to or on behalf of, the assessee, in connection with the sale, but does not include the amount of duty of excise, sales tax and other taxes, if any, actually paid or actually payable on such goods.

Government of Maharashtra introduced the Package Incentive Scheme for deferred payment of Sales Tax whereby the assessee was allowed to collect

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<sup>4</sup> 1999(110) E.L.T.874 (Tribunal-Delhi)

<sup>5</sup> 2013(298) E.L.T. 38 (Allahabad)

Sales Tax from the buyer and retain it and repay it after prescribed period. The Government of Maharashtra thereupon amended the provisions of Sales Tax Act and issued a Notification in November 2002 providing further incentive for premature repayment of Sales Tax liability. As the Sales Tax was not actually payable, it was includible in transaction value. Supreme Court in the case of Commissioner of Central Excise, Jaipur II Vs M/s Super Synotex (India) on similar issue while upholding department's view, held that additional consideration of sales tax is to be considered as transaction value.<sup>6</sup> We came across three instances where the additional consideration had not been included by the assessee in the transaction value.

i) M/s Fairfield Atlas Ltd., in Kolhapur Commissionerate, engaged in the manufacture of parts and accessories of the motor vehicles, opted for premature repayment of Sales Tax deferred liability during the years 2009-10 under the above mentioned scheme. Audit observed that the assessee received discount of ₹ 3.42 crore due to premature prepayment of sales tax liability accrued at Net Present Value (NPV). The difference between the actual sales tax collected from customers and the payment made at NPV was shown as other income in the accounts. Sales Tax amount collected but not paid to the Government was liable to be added as additional income in the assessable value. Non-inclusion of the additional income resulted in undervaluation of goods to the extent of ₹ 3.42 crore with consequential short levy of excise duty of ₹ 28.18 lakh which was recoverable with interest.

When we pointed this out (July 2013), the Ministry admitted the objection (December 2014) and stated that SCN for ₹ 55.71 lakh was issued to the assessee. Ministry further stated that instructions had been issued to field formations, vide letter dated 17 September 2014, to follow the judgment of Supreme Court in case of M/s Super Syncotex.

ii) M/s. JSW Steel Coated Products Ltd., in Nagpur Commissionerate, opted for premature repayment of Sales Tax deferred liability during the years 2011-12 and 2012-13 under the above mentioned scheme. During the scrutiny of the financial records of the assessee, Audit observed that the assessee received discount of ₹ 3.56 crore and ₹ 10.26 crore during the years 2011-12 and 2012-13 respectively due to premature prepayment of Sales Tax liability accrued at Net Present Value (NPV). The difference between the actual Sales Tax collected from customers and the payment made at NPV was shown as other income in the accounts. Sales Tax amount collected but not paid to the Government was liable to be added as additional income in the assessable value. Non-inclusion of the additional income resulted in

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<sup>6</sup> 2014-TIOL-19-SC-CX

undervaluation of goods to the extent of ₹ 13.82 crore with consequential short levy of excise duty of ₹ 1.71 crore.

We pointed this out in January 2014.

We await the Department's/Ministry's response (December 2014).

iii) M/s. Tata Metaliks Ltd., in Kolhapur Commissionerate, opted for premature repayment of Sales Tax deferred liability during the years 2010-11 under the above mentioned scheme. The assessee had received discount of ₹ 3.48 crore during the year 2010-11 due to premature prepayment of sales tax liability accrued at Net Present Value (NPV). The difference between the actual sales tax collected from customers and the payment made at NPV was shown as other income in the accounts. Sales Tax amount collected but not paid to the Government was liable to be added as additional income in the assessable value. Non-inclusion of the additional income resulted in undervaluation of goods to the extent of ₹ 3.48 crore with consequential short levy of excise duty of ₹ 35.81 lakh.

When we pointed this out (January 2013), the Ministry admitted the objection and intimated (October 2014) that SCN was issued to the assessee demanding duty of ₹ 35.81 lakh alongwith interest.

### **5.3 Cenvat credit**

#### **5.3.1 Non-reversal of Cenvat credit**

Rule 6(3) of the Cenvat Credit Rules, 2004 prescribes that where an assessee, engaged in the manufacture of dutiable and exempted final products, takes credit of duty paid on inputs/input services used in both dutiable and exempted final products, without maintaining separate account for inputs/input services used in the exempted products, then he shall pay an amount equal to ten per cent upto 6 July 2009 and five per cent thereafter of the total price of the exempted goods, at the time of their clearance from factory.

M/s Steel Authority of India Ltd.-IISCO Steel Plant, in Bolpur Commissionerate cleared iron and steel products on payment of excise duty. We observed that 'molten slag' was also produced in course of manufacture of iron and steel. Molten slag is exempt from duty. The assessee cleared molten slag without reversing the proportional credit or paying ten/five per cent, as applicable, of the total value of the slag cleared during 2008-09 and 2009-10. This resulted in non-payment of ₹ 28.36 lakh which is recoverable along with interest at applicable rates.

When we pointed this out (December 2010), the Commissionerate accepted the observation (October 2012) and informed (April 2013) that the assessee

had reversed an amount ₹ 2.52 lakh along with interest of ₹ 1.95 lakh. Further, a show cause notice had been issued (November 2013) for ₹ 22.21 lakh along with interest and applicable penalty covering the period from December 2008 to January 2010. Demand for the balance amount of ₹ 3.70 lakh is yet to be raised.

We await the Ministry's response (December 2014).

### **5.3.2 Absence of provision for reversal of Cenvat credit of input services**

As per rule 3(5) of the Cenvat Credit Rules, 2004, when input or capital goods on which Cenvat credit has been taken, are removed as such from the factory, the manufacturer of final products shall pay an amount equal to the credit availed in respect of such inputs or capital goods and such removal shall be made under the cover of an invoice referred to in rule 9. However, there is no provision for reversal of proportionate Cenvat credit of input services at the time of clearance of inputs/capital goods as such.

M/s Jindal Steel and Power Ltd., Raigarh in Raipur Commissionerate, engaged in the manufacture of articles of Chapters 25, 26, 27, 28, 68, 72, 73, 74 and 84 of the Central Excise Tariff Act, 1985, cleared inputs and capital goods as such during the period 2009-10 and 2010-11. The attributable Cenvat credit availed on these inputs and capital goods was also reversed by the assessee but the Cenvat credit amounting to ₹ 13.10 lakh availed on Service Tax on GTA service attributable to these inputs and capital goods was not reversed by the assessee. This resulted in non-reversal of Cenvat credit of ₹ 13.10 lakh.

When we pointed this out (February 2013), the Ministry did not admit the objection (December 2014) and stated that there is no provision in rule 3 (5) requiring reversal of credit of Service Tax paid on GTA service.

#### **Recommendation No. 1**

- Board may consider incorporating suitable provisions in Cenvat Credit Rules, 2004 requiring reversal of proportionate credit attributable to input services at the time of clearance of inputs or capital goods as such.

### **5.3.3 Non-reversal of Cenvat credit on obsolete inputs**

Sub-rule 5(B) of rule 3 of the Cenvat Credit Rules, 2004 provides that, if the value of any, input or capital goods before being put to use on which credit has been taken is written off fully or partially or where any provision to write off fully or partially has been made in the books of account, then the manufacturer or service provider, as the case may be, shall pay an amount equivalent to the Cenvat credit taken in respect of the said input or capital goods.

M/s DCM Shriram Consolidated Ltd., in Jaipur-I Commissionerate, made a provision for obsolete inputs valuing ₹ 1.21 crore in the books of accounts for the year ended March 2013. Since the provision for obsolete inputs was made before being their put to use, the assessee was required to pay an amount of ₹ 17.48 lakh equal to the Cenvat credit taken in respect of the said inputs.

When we pointed this out (March 2014), the Ministry admitted the observation (October 2014) and stated that the actual duty payable was ₹ 19.77 lakh and show cause notice was being issued to the assessee for ₹ 19.77 lakh.

#### **5.3.4 Incorrect availing of Cenvat credit**

As per notifications dated 1 March 2011 read with notification dated 17 March 2012 for specified goods thereunder, the effective rate of duty of one per cent was prescribed with the condition that no Cenvat credit on inputs or input services is availed and that the same should be treated as exempted goods.

M/s. Seshasayee Paper and Boards Ltd., in Salem Commissionerate imported coal (TSH 2701 19 20) by paying countervailing duty at the rate of one per cent under the Notification. The assessee, however, availed Cenvat credit of ₹ 89.83 lakh on the countervailing duty paid, which was in violation of condition prescribed in the notification. The ineligible credit was required to be reversed along with interest.

When we pointed this out (October 2013), the Ministry admitted the observation (October 2014) and stated that the actual ineligible Cenvat credit availed was ₹ 89.83 lakh and show cause notice for ₹ 89.83 lakh was being issued.

#### **5.3.5 Irregular availment of Cenvat credit of education cess on Basic Custom Duty**

The Government of India vide notification No. 13/2012-Customs and 14/2012-Customs, dated 17 March 2012, exempted all the goods falling within the First Schedule of the Custom Tariff Act 1975 from whole of Education Cess and Secondary Higher Education (SHE) Cess collected as a part of Countervailing Duty, when goods imported in India. Further, rule 3(1) of Cenvat credit Rules 2004, allows credit of Education Cess and SHE Cess levied on CVD only, but not levied as part of Basic Custom Duty (BCD).

Scrutiny of the records of the 18 assesseees under jurisdiction of Meerut-I, Meerut-II, Lucknow and Kanpur Commissionerates revealed that these assesseees availed Cenvat credit of ₹ 35.83 lakh of Education Cess and SHE

Cess paid as part of Customs duty during 2012-13 which was incorrect and hence, recoverable along with interest.

We pointed this out between January and June 2014.

We await the Department's/Ministry's response (December 2014).

## 5.4 Other issues

### 5.4.1 *Absence of provision requiring assessee to intimate department for destruction of excisable goods by him or goods destroyed by natural cause*

Section 5 of the Central Excise Act, 1944 and rule 21 of the Central Excise Rules, 2002 contain provisions for remission of duty if the excisable goods is found unfit for consumption or marketing. However, there is no provision in Act/Rules requiring the assessee to intimate department prior to the destruction of goods by him or goods destroyed by natural cause and claiming remission of duty. Chapter 18 of CBEC's Excise Manual of Supplementary Instructions, 2005 contain instructions and procedure to be followed by the assessee for destruction of goods and claiming remission of duty which requires that the assessee should intimate department about goods to be destroyed along with reasons and all goods will be destroyed under the supervision of the department. However, these instructions are binding only on the departmental officers. Though there are legal pronouncements which also confirm that prior permission is essential for remission, there is nothing in the rules which prevent destruction of goods suo-moto.

M/s Dow Agro Sciences India Pvt. Ltd. in Kolhapur Commissionerate, engaged in the manufacture of various types of pesticides classifiable under Chapter 38 of CETA, 1985, disposed off 32.11 MT Chloropyrifos Tech, a pesticide during the period 2011-12 to 2012-13. The assessee neither took permission for the destruction of goods nor paid the duty on removal of goods for destruction which was recoverable with interest.

When we pointed this out (May 2013), the department stated (August 2013) that the assessee had not sold the finished goods but sent it for incineration. Therefore, the amount to be reversed was worked out on the basis of the value of the inputs used in the finished goods. The assessee reversed an amount of ₹ 9.81 lakh in June 2013 and paid interest of ₹ 1.67 lakh in July 2013. The department further intimated (July 2014) that the assessee also reversed credit of Service Tax of ₹ 5.69 lakh with interest of ₹ 1.16 lakh. The department also intimated that the assessee neither filed any application for



remission of duty nor sought any permission from the department for destroying the unfit goods. The assessee destroyed goods, on their own.

As the assessee did not take permission from the department for destruction of goods, he was required to pay full excise duty on the manufactured goods. Reversing of Cenvat credit, arise only when a remission is granted. As the assessee destroyed goods without permission of the department and actual destruction was also not supervised, possibility of clandestine removal of goods cannot be ruled out. Instead of demanding full duty, the department accepted the activities relating to destruction of goods and reversal of Cenvat credit. This was not in accordance with the Board's supplementary instructions to its officers.

**Recommendation No. 2**

- *CBEC may consider inclusion of suitable provisions in the Rules for proper procedure to be followed by the assessee before destruction of excisable goods and for intimating department for goods destroyed by natural cause and claim remission of duty.*

We await the Ministry's response (December 2014).

## Chapter VI

### Effectiveness of Internal Controls

#### 6.1 Introduction

Internal control is an integral process carried out by an entity's management and personnel which is designed to address risks and provides reasonable assurance that in pursuit of the entity's mission, the entity is achieving the following general objectives:

- executing orderly, ethical, economical, efficient and effective operations;
- fulfilling accountability obligations;
- complying with applicable laws and regulations;
- safeguarding resources against loss, misuse and damage.<sup>7</sup>

#### 6.2 Audit findings

During the course of examination of records, we observed nine cases where due processes were not followed by departmental officers. We communicated these observations to the Ministry through nine draft audit paragraphs having financial of ₹ 15.47 crore. The Ministry/Department accepted (December 2014) the audit observations in eight draft audit paragraphs having financial implication of ₹ 14.98 crore of which ₹ 2.10 crore have been recovered. Out of above eight draft audit paragraphs, the Ministry/Department in three cases, initiated/completed corrective action having financial implication of ₹ 0.40 crore. We have furnished the details of these three paragraphs in Appendix III. The objection are covered under two major headings i.e. Internal Audit and other issues.

#### 6.3 Internal Audit

Internal audit is one of the main compliance verification mechanisms in the department. Internal audit teams carry out audit at assessee premises by following prescribed procedures for examination of records of the assessee to ascertain the level of compliance with the prescribed rules and regulations. Internal audit is authorised under the Central Excise Rules, 2002 to access the records of assessees at their registered premises. The Directorate General of Audit with its seven zonal units at Ahmedabad, Mumbai, Delhi, Bengaluru, Kolkata, Chennai and Hyderabad is to provide a focal link between the

<sup>7</sup> INTOSAI GOV 9100 – Guidelines for Internal Control Standard for Public Sector.

Commissionerates (who actually implement the audit process) and the Board on all audit-related matters. On the one hand, it aids and advises the Board in policy formulation and on the other, it guides and provides functional direction in planning, co-ordination, supervision and conduct of audits at the local level. Every Commissionerate has an Audit cell, manned by an Assistant/Deputy Commissioner and auditors and headed by an Additional/Joint Commissioner. Internal audit parties consisting of Superintendents and Inspectors carry out the audits.

We sought to get an assurance on the quality of actual audit done by Internal audit parties by verifying some assessee records already audited by Internal audit parties. We came across certain instances of non-detection by internal audit teams of assessee's lapses. A few cases are illustrated in the following paragraphs.

**6.3.1 Non-detection of incorrect availing of Cenvat credit on common input services**

As per Annexure E of the Central Excise Audit Manual 2008, the departmental auditors are required to verify the Cost Audit Report with a view to ascertain, inter alia, whether any related party transaction is made so as to unearth undervaluation of excisable products transferred within group companies/related parties. Rule 8 read with proviso to rule 9 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 envisages that where excisable goods are not sold by the assessee but are consumed by it or by a related person of the assessee in the manufacture of other articles, the assessable value of such goods shall be one hundred and ten per cent of the cost of production or manufacture of such goods. Further, the Board had clarified (13 February 2003) that the value of goods consumed captively should be determined in accordance with the Cost Accounting Standard (CAS-4) method only.

M/s Savita Oil Technologies Ltd. in Belapur Commissionerate, engaged in manufacture of goods falling under Chapter 27 of CETA, 1985, made clearances valued at ₹ 31.00 crore during the period 2011-12 to its sister unit located at Mhape by adopting valuation under CAS-4. However, the assessee increased the value by adding 30 per cent to the cost instead of 10 per cent. The assessee utilised Cenvat credit for payment of excise duty. Thus, there was over-assessment of ₹ 4.77 crore in the value of goods and excess payment of duty of ₹ 49.12 lakh in order to inflate the assessable value and transfer the surplus unutilised credit to its other units. Irregular adoption of cost in contravention to the provisions of the said rules resulted in excess utilisation and transfer of credit of ₹ 49.12 lakh between the assessee and sister units.

When we pointed this out (March 2013), the Commissionerate admitted the objection (September 2013) and intimated (June 2014) that the matter was referred to Joint Director (Cost).

We await the Ministry's response (December 2014).

### **6.3.2 Non-detection of non-compliance with Rule 6(3) of Cenvat Credit Rules**

According to Rule 6 (2) of Cenvat Credit Rules, 2004, manufacturers of final products manufacturing goods chargeable to duty as well as exempted goods or services, shall maintain separate accounts for receipt, consumption and inventory of inputs and input services and take Cenvat credit only on that quantity of input or input service which are intended for use in the manufacture of dutiable goods or in providing output service on which Service Tax is payable. Rule 6(3) stated that the manufacturer opting not to maintain separate accounts shall either pay an amount equal to five per cent (6 per cent upto 6 July 2009) of value of exempted goods and services or pay an amount as determined under sub-rule 6 (3A). As per explanation under Clause 2(iii) of Notification dated 1 March 2011, exempted services include trading.

M/s. FCI OEN Connectors Ltd., in Cochin Commissionerate, was engaged in trading of goods in addition to manufacturing activity. Even though the assessee was discharging duty liability through Cenvat credit and availed credit of inputs and input services, no separate accounts were maintained for receipt, issue and inventory of inputs and input services. An amount of ₹ 42.77 lakh or an amount equal to the proportionate credit involved in trading activities was payable as per Rule 6(3), for non-maintenance of separate accounts during the period April 2011 to March 2012.

When we pointed this out (October 2012), the department intimated (March 2014) that the assessee reversed credit of ₹ 1.03 crore towards amount payable under Rule 6(3) for the period 1 April 2008 to 31 December 2012 and paid interest of ₹ 21.61 lakh on 4 January 2013 and ₹ 0.56 lakh on 8 April 2013.

We await the Ministry's response (December 2014).

We observed that though Internal Audit was carried out by the Internal Audit Party of the Commissionerate in all the above cases, the lapse remained undetected until pointed out by the CERA.

## 6.4 Other issues

### 6.4.1 Ineffective functioning of Anti-evasion and Preventive unit

Enhancing the tax revenue by enlarging the tax base is an important function of any tax administration department. In Central Excise, Anti-Evasion is one of the identified key performance areas. The Anti-Evasion and preventive branch of the department is responsible for collection of intelligence about evasion of duties by keeping secret track of duty payment records of individual assesseees, engaging informers, collecting information through market and other sources, making surprise visit to the factories, whether registered or not and take effective steps to thwart any attempt for evasion.

According to Section 6 of Central Excise Act 1944, any prescribed person who is engaged in the production or manufacture or any process of production or manufacture of any specified goods included in the first schedule and the second schedule to the Central Excise Tariff Act (CETA) 1985, shall get himself registered. As per rule 25 (C) of Central Excise Rules, 2002, any producer, manufacturer, registered person of a warehouse or a registered dealer engaged in the manufacture, production or storage of any excisable goods without having applied for the registration certificate required under section 6 of the Act, shall be liable to a penalty not exceeding the duty on the excisable goods or rupees two thousand, whichever is greater.

Audit collected information regarding manufacturers of medicaments falling under Chapter 30 of CETA from Sales Tax/VAT returns filed in Office of the Commercial Taxes Department in Kozhikode District and observed that two major manufacturers viz. Sidhasamajam Sivananda Vijayam Oushadhasala and Kerala Ayurvedic Co-op Society under the jurisdiction of Calicut Commissionerate, were neither registered with the Central Excise Department even after crossing the small scale exemption limit of ₹ 150 lakh nor submitted any declaration after crossing the small scale exemption limit of ₹ 90 lakh which is mandatory for SSI unit. The Commissionerate failed to detect these cases through its preventive and other wings despite the fact that Kerala state is well known for alternative medical tourism.

When we pointed this out (May 2013), the Ministry admitted the objection (December 2014) and intimated that recovery of ₹ 29.84 lakh alongwith interest of ₹ 8.73 lakh and penalty of ₹ 6.03 lakh had been made from M/s Sidhasamajam and SCN was under process of issue to M/s Kerala Ayurvedic Co-op Society.

#### 6.4.2 Absence of departmental action to recover dues

As per Rule 8 (1) of the Central Excise Rules, 2002, Central Excise duty on goods removed from the factory during a month shall be paid by 5<sup>th</sup>/6<sup>th</sup> of the following month. Further, as per rule 8(4), the provisions of Section 11 of the Central Excise Act shall be applicable for recovery of duty with interest. The instructions for action to recover the dues were reiterated by Board's circulars dated 15 December 1997 and 15 December 2003. Board vide its letter F. No. 224/37/2005-CX-6, dated 24 December 2008, specified the duties of Range Officer, also mandates initiation of action by the Range Officer to recover the defaulted amount.

M/s Sree Mataliks Ltd. and M/s Jay Jagannath Castings (P) Ltd., in Bhubaneswar-I Commissionerate defaulted and paid duty of ₹ 35.16 lakh and ₹ 41.02 lakh out of a total duty liability of ₹ 91.58 lakh and ₹ 52.08 lakh resulting in short payment of Central Excise duty of ₹ 56.42 lakh and ₹ 11.06 lakh during 2010-11 and 2011-12. However, the department did not initiate any action to recover the defaulted amount except including the unpaid amount in respect of M/s Sree Mataliks Ltd. in 'Tax Arrear Report'. As both the units have since closed down, possibility of recovery of dues is remote.

When we pointed this out (February 2013), the Commissionerate intimated (October 2013) issue of Show Cause Notices in both the cases.

We await the Ministry's response (December 2014).

#### 6.4.3 Non-transfer of amount to Consumer Welfare Fund

Section 11B of Central Excise Act provides for grant of refund if duty relating to refund claim was paid by manufacturer and the incidence of such duty had not been passed on by him to any other person. In case the duty incidence had been passed on to any other person, the amount of refund shall be credited to the Consumer Welfare Fund (CWF).

Scrutiny of records in Belapur Commissionerate revealed a long pending refund claim of M/s. New Reshma Dyeing Ltd. was decided in favour of the assessee in November 2003 and was remanded back to adjudicating authority to ensure whether the refund was to be provided to the assessee or credited to Consumer Welfare Fund. The case was adjudicated by the Assistant Commissioner who ordered (February 2005) the transfer of the amount of refund to the CWF after verifying the correctness of the amount of refund. However, no action had been taken by the Department to credit the amount of ₹ 59.53 lakh to the Consumer Welfare Fund till August 2009 even after a lapse of more than 4 years.

When we pointed this out (August 2009), the department intimated (January 2014), that the amount of ₹ 59.53 lakh was transferred to the Consumer Welfare Fund in January 2014.

We observe that even after the lapse was pointed out by CERA in August 2009, there was a delay of more than four years in transferring the amount to the Consumer Welfare Fund.

We await the Ministry's response (December 2014).

#### **6.4.4 Irregular payment of Central Excise duty by wrong utilisation of Cenvat credit**

As per Rule 8(3A) of the Central Excise Rules, 2002, if the assessee defaults in payment of duty beyond thirty days from the due date, as prescribed in sub-rule (1), then notwithstanding anything contained in said sub-rule (1) and sub-rule (4) of rule 3 of Cenvat Credit Rules, 2004, the assessee shall, pay excise duty for each consignment at the time of removal, without utilizing the Cenvat credit till the date the assessee pays the outstanding amount including interest thereon; and in the event of any failure, it shall be deemed that such goods have been cleared without payment of duty and the consequences and penalties as provided in these rules shall follow.

M/s Gangotri Iron and Steel Co. Ltd., in Patna Commissionerate, paid ₹ 55.17 lakh through Cenvat credit out of the total duty liability of ₹ 74.42 lakh for the month of June 2008 and ₹ 15.09 lakh was paid along with interest on 6 August 2008 (32 days after the due date). Further, ₹ 4.14 lakh was paid on 5 December 2008 and balance ₹ 1,493 was paid on 3 December 2012 after 1,612 days from due date along with interest. As the assessee delayed payment of duty beyond 30 days, the department should have restricted assessee from utilisation of Cenvat credit under Rule 8(3A) of Central Excise Rules, 2002. The department, however, did not restrict utilisation of Cenvat credit and the assessee utilised Cenvat credit of ₹ 10.65 crore irregularly during August 2008 to March 2011. Such payment from Cenvat credit was irregular and recoverable with interest.

When we pointed this out (March 2012), the department stated (October 2013) that the assessee had defaulted in payment of duty beyond 30 days and rule 8 (3A) was applicable in the facts and circumstances of the case. The assessee was required to pay Central Excise duty for each consignment without utilizing Cenvat credit till the payment of outstanding amount of duty. The department also added that as the duty was paid along with interest after 1,612 days of default, utilisation of Cenvat credit during the default period had been made good.

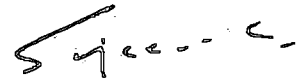
*Report No. 7 of 2015 (Indirect Taxes-Central Excise)*

The reply of the department is not tenable and is contrary to the provisions prescribed in rule 8(3A). The assessee is required to pay interest on the entire amount paid through Cenvat credit during the default period which is not considered as payment of duty. The reply did not explain as to why no action was taken by the department to restrict utilisation of Cenvat credit in this case.

We await the Ministry's response (December 2014).

New Delhi

Dated: 20 March 2015



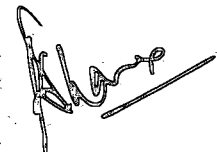
(SANJEEV GOYAL)

Principal Director (Central Excise)

Countersigned

New Delhi

Dated: 21 March 2015



(SHASHI KANT SHARMA)

Comptroller and Auditor General of India



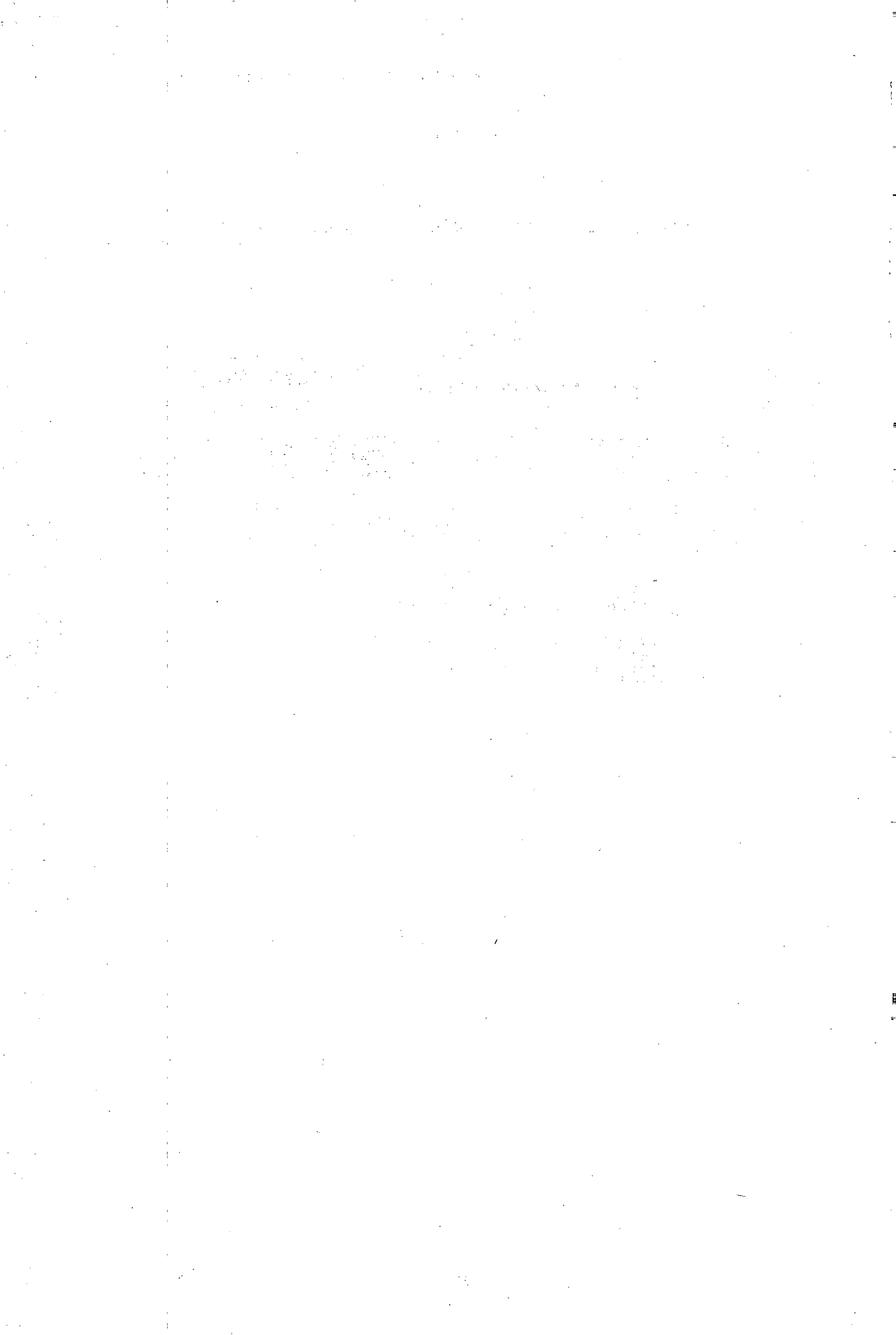
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# APPENDICES

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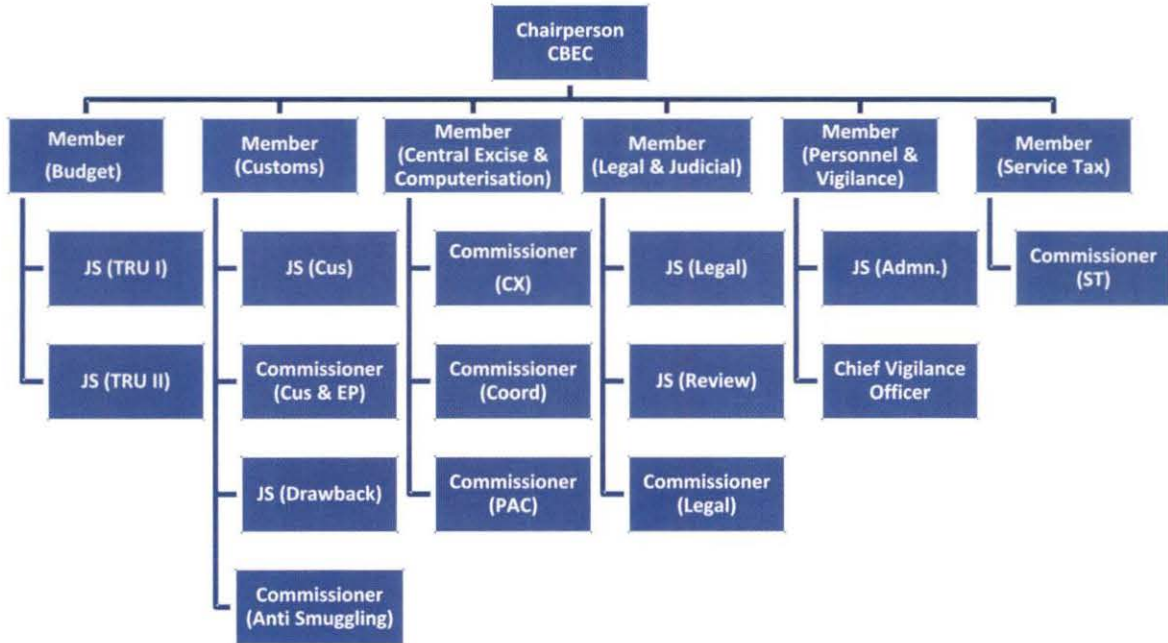
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## Appendix I

(Reference: Paragraph 1.3)

### Organisational Chart of Central Board of Excise and Customs



**Appendix II**  
**(Reference: Paragraph 5.1)**

(₹ in lakh)

Sl. No.	DAP No.	Brief Subject	Amount objected	Amount Admitted	Amount recovered	Commissionerate
1	1B	Non-payment of duty	13.41	13.41	13.41	Kolkata - II
2	2B	Short payment of Central Excise duty	15.77	15.77	11.59	Ranchi
3	4B	Incorrect availing of Cenvat credit on common input services	472.00	472.00		Belapur
4	5B	Irregular availing of Cenvat credit	528.38	528.38		Bolpur
5	7B	Short payment of duty on capital goods removed after use	30.87	30.87	30.87	Jaipur - I
6	8B	Irregular availing of Cenvat credit	60.56	60.56	60.56	Bolpur
7	9B	Incorrect availing of Cenvat credit on Capital Goods	253.17	253.17		Bhubaneswar-I
8	10B	Short payment of duty on clearance of processed raw material to sister unit	13.70	13.70	13.70	Ahmedabad - III
9	11B	Short levy of duty due to undervaluation	72.42	72.42	72.42	Jamshedpur
10	12B	Non-payment of Excise Duty due to non-compliance with notification	23.56	23.56	23.56	Daman
11	13B	Irregular availment of Cenvat credit	29.91	29.91	29.91	Bengaluru-I
12	14B	Short payment of duty	751.63	751.63		Bolpur
13	15B	Irregular availing of Cenvat credit on ineligible capital goods and input services	67.45	67.45		Hyderabad - II
14	16B	Non-payment of interest on differential duty paid	17.49	17.49	17.49	Hyderabad - I
15	17B	Short levy of duty due to non-inclusion of freight and insurance charges	84.35	84.35		Hyderabad - III
16	19B	Non-reversal of Cenvat credit of additional duties of excise on textile and textile article	53.63	53.63	53.63	Ahmedabad - III
17	20B	Non-reversal of Cenvat credit	15.00	15.00	15.00	Pune - I
18	21B	Non reversal of CENVAT credit on provision made for obsolete stock	13.24	13.24	13.24	Kolhapur

Report No. 7 of 2015 (Indirect Taxes-Central Excise)

Sl. No.	DAP No.	Brief Subject	Amount objected	Amount Admitted	Amount recovered	Commissionerate
19	22B	Incorrect availing of Cenvat credit on common input services used in both trading and dutiable goods	50.83	50.83		Raigad
20	23B	Wrong availing of Cenvat credit on inadmissible input services	41.53	41.53	38.43	Kolhapur
21	24B	Incorrect determination of cost of excisable goods resulting in short payment of excise duty	55.35	55.35	55.35	Kolhapur
22	25B	Non-payment of interest on differential duty	12.47	12.47	12.47	Delhi – III
23	26B	Non-reversal of Cenvat credit taken on rejected goods which were not subjected to further process	14.04	14.04	14.04	Chennai – I
24	27B	Irregular availing of Cenvat credit on ineligible input service	45.74	45.74	45.74	Patna
25	29B	Irregular availing of Cenvat credit on ineligible capital goods	86.73	86.73	9.65	Hyderabad - II
26	30B	Irregular availing and utilisation of Cenvat credit on input services	9.68	9.68	9.68	Calicut
27	31B	Short payment of duty due to irregular availing of Exemption Notification	317.57	317.57		Bolpur
28	1A	Short Reversal of Cenvat credit	143.58	143.58		Bolpur
29	2A	Short reversal of cenvat credit	159.87	159.87		Bolpur
30	3A	Irregular availing of Cenvat credit	58.53	58.53		Kanpur
31	4A	Irregular availment of Cenvat credit on ineligible capital goods	19.68	19.68		Allahabad
32	5A	Short payment of duty	234.14	234.14		Bhubaneswar-I
33	6A	Non-reversal of Cenvat credit	191.63	191.63	44.29	Bhubaneswar-I
34	7A	Short payment of duty	33.81	33.81		Bhubaneswar-I
35	9A	Short reversal of cenvat credit	15.64	15.64		Bolpur
36	11A	Non-reversal of Cenvat credit	130.07	130.07		Bolpur
37	12A	Short levy of duty due to undervaluation	126.76	126.76		Bolpur
38	14A	Short levy of duty	412.42	412.42		Bolpur
39	15A	Short-payment of duty	17.69	17.69	7.40	Bolpur
40	16A	Irregular availment of Cenvat credit	90.65	90.65	18.76	Bolpur
41	17A	Short-payment of duty	34.44	34.44		Guwahati
42	19A	Non-levy of Excise duty	69.29	69.29		Bhavnagar

Report No. 7 of 2015 (Indirect Taxes-Central Excise)

Sl. No.	DAP No.	Brief Subject	Amount objected	Amount Admitted	Amount recovered	Commissionerate
43	23A	Wrong availing of Service Tax credit on inadmissible service	132.43	132.43		Delhi - III
44	24A	Suo-moto availing of Cenvat credit	23.33	23.33		Chandigarh - II
45	29A	Irregular payment of Central Excise duty by wrong utilisation of Cenvat credit	184.64	184.64		Gurgaon
46		Small money value observations which were accepted by the department and rectificatory action taken but not converted into Draft Audit Paragraphs	937.02	937.02	935.65	
		<b>Total</b>	<b>6166.10</b>	<b>6166.10</b>	<b>1546.84</b>	

**Appendix III**  
**(Reference: Paragraph 6.2)**

(₹ in lakh)

Sl. No.	DAP No.	Brief subject	Amount objected	Amount admitted	Amount recovered	Commissionerate
1	1D	Irregular Cenvat credit Availed by assessee	10.97	10.97	10.97	Bengaluru-I
2	5D	Non-detection of inadmissible Cenvat credit on construction services	29.21	29.21	29.21	Kanpur
3	8D	Wrong retaining of cases in the call book registers	NMV*	NMV*		Patna
		<b>Total</b>	<b>40.18</b>	<b>40.18</b>	<b>40.18</b>	

\*NMV Non Money Value

## Glossary

AC	Assistant Commissioner
ACES	Automation of Central Excise and Service Tax
ADB	Asian Development Bank
ADG	Additional Director General
BCD	Basic Customs Duty
BE	Budget Estimate
Board	Central Board of Excise and Customs
CAAT	Computer Assisted Audit Techniques
CAS	Cost Accounting Standards
CBDT	Central Board of Direct Taxes
CBEC	Central Board of Excise and Customs
Cenvat	Central Value Added Tax
CERA	Central Excise Receipts Audit
CESTAT	Customs, Excise and Service Tax Appellate Tribunal
CETA	Central Excise Tariff Act
CNG	Compressed Natural Gas
CSEB	Chhattisgarh State Electricity Board
CVD	Countervailing duty
CWF	Consumer Welfare Fund
CX	Central Excise
DC	Deputy Commissioner
DG	Director General
DGCEI	Directorate General of Central Excise Intelligence



DoR	Department of Revenue
EA 2000	Excise Audit 2000
ELT	Excise Law Times
FY	Financial Year
GDP	Gross Domestic Product
GTA	Goods Transport Agency
HSD	High Speed Diesel
ICT	Information and Communication Technology
INTOSAI	International Organisational of Supreme Audit Institution
INTOSAI GOV	INTOSAI Guidance of Good Governance
IREP	Integrated Refinery Expansion Project
KSTP	Kerala State Transport Project
LTU	Large Taxpayer Unit
MIS	Management Information System
MMP	Mission Mode Projects
MOF	Ministry of Finance
MS	Motor Spirit
MT	Metric Tonne
MTR	Monthly Technical Report
NCCD	National Calamity Contingent Duty
NeGP	National e-Governance Plan
NPV	Net Present Value
PD	Principal Director
PDS	Public Distribution System

POL	Petroleum Oil Lubricants
PLA	Personal Ledger Account
R&C	Review and Correction
RE	Revised Estimates
SCN	Show Cause Notice
SHE	Secondary and Higher Education
ST	Service Tax
TSH	Tariff Schedule Heading
VAT	Value Added Tax

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