

## CHAPTER III - REGISTRATION

### 3.1 Introduction

Section 6 of the Central Excise Act, 1944, read with Rule 9 of the Central Excise Rules, 2002 provides that any person who is engaged in manufacture or production of any specified goods included in the first and second schedule to the Central Excise Tariff Act, 1985 shall get himself registered. The application for registration, in Form A1, has to be submitted in duplicate to the jurisdictional divisional officer.

Similarly, Section 69(1) of the Finance Act, 1994 and Rule 4 of the Service Tax Rules cover registration of service providers. The application for registration is required to be made in Form ST-1 to the jurisdictional superintendent of central excise/service tax within 30 days of levy of service tax on such service or in case of an existing taxable service, within 30 days of the commencement of provision of such service.

For both central excise and service tax, the registration certification has to be granted by the department within seven days of filing of an application. These processes are carried out through a centralised, web based software application known as Automation of Central Excise and Service Tax (ACES). This application is connected through MPLS<sup>14</sup> network which automates various processes of central excise and service tax and gives complete end to end solution under various modules. Any assessee can register with the Department online, can file online returns, claims, permissions & intimations. The system tracks its status and the assessee gets online messages.

Online applications for registration are processed by the divisions/ ranges and registration certificates are issued through the system. In the case of central excise registrations, the divisional officers (AC/DC) mark the cases on-line for post facto physical verification of premises and other details given in application, by the concerned Range Officers.

We scrutinised 2817 central excise registration cases in 69 divisions under 39 commissionerates and 7584 service tax registration cases in 58 divisions under 35 commissionerates.

We observed instances of delays in issuing registration certificates and conducting post-verification, non-conversion of temporary registration numbers and delays/ shortcomings in the processing of applications for surrender of registrations such as non-availability of verification reports and lack of monitoring. Detailed findings are given below: -

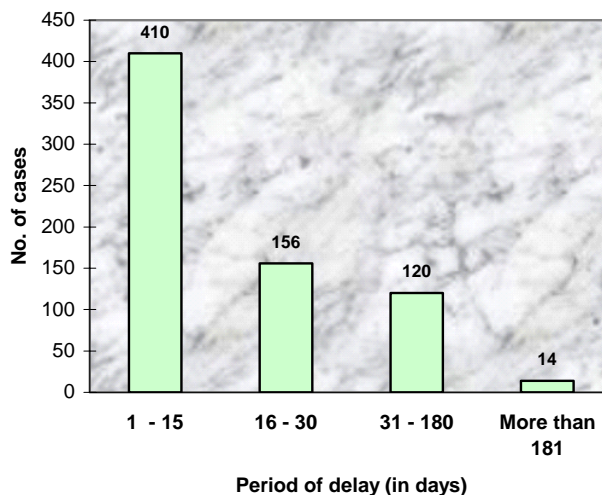
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<sup>14</sup> **Multiprotocol Label Switching (MPLS)** is a mechanism in high-performance telecommunications networks that directs data from one network node to the next based on short path labels rather than long network addresses, avoiding complex lookups in a routing table. The labels identify virtual links (*paths*) between distant nodes rather than endpoints. MPLS can encapsulate packets of various network protocols.

### 3.2 Delay in issuing registration certificates

We observed that in 700 (25 per cent) out of 2817 cases in 35 central excise commissionerates, there were delays in issuing registration certificates. The delays are depicted below: -

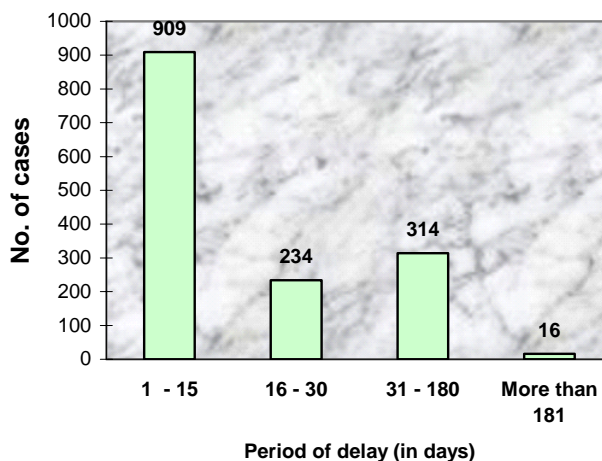
Delay in issue of Registration Certificate (CX)



The top five commissionerates where delays in grant of central excise registration certificates were noticed were Noida: 80 (out of 169), Indore: 74 (out of 159); Ludhiana: 63 (out of 200), Bhubaneshwar I: 33 (out of 93) and Pune III: 29 (out of 238).

We also observed delays in issue of service tax registration certificates in 1473 (19 per cent) out of 7583 in 28 commissionerates, as depicted below:

Delay in issue of Registration Certificate (ST)



The top five Commissionerates where delay in grant of service tax registration certificates were noticed were Chandigarh I: 477 (out of 739); Patna: 230 (out of 233); Raipur: 80 (out of 191); Bhubaneshwar II: 67 (out of 157) and Ahmedabad ST: 57 (out of 261).

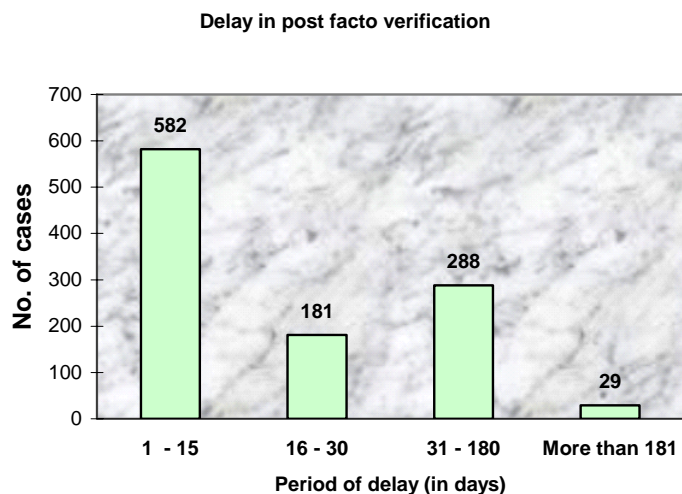
The department stated that delays occurred due to improper functioning of ACES system, non-submission/ delayed submission of complete records by the assesseees, delay in verification of assesseees’ premises, heavy workload, connectivity failures and other administrative reasons. While the administrative and operational constraints cited could cause some delays, they did not explain the cases where delays were in terms of months.

### 3.3 Post facto verification

In the case of central excise assesseees, after the issue of registration certificate, post facto verification is to be conducted by range officers to check that the premises mentioned in the application for registration are genuine and intended for purposes for which the application has been made. As per provisions, the range has to do the verification within five working days of the receipt of the duplicate copy of the application for registration.

#### 3.3.1 Delays and omissions

We observed that ACES was not generating a report showing the date of forwarding the duplicate copy of the application from the division to the range for post facto verification and date of receipt of verification report, which would enable the divisions to monitor delays. For our sample of 2817 cases, we ascertained the delays in post facto verification from the manual records. We found 1080 cases in 29 commissionerates where, there were delays in the post facto verifications. The details are depicted below:



The divisions stated that the delays were due to late submission of required documents by the assesseees, submission of illegible documents, documents not signed by the authorised persons and unavailability of assesseee to verify the premises when the range officers were visiting. While such operational problems would always cause some delays, they could not explain the substantial number of cases where the delays were in terms of months. We also observed that in 68 cases in nine commissionerates<sup>15</sup>, the post facto

<sup>15</sup> Guwahati-7, Raipur-6, Indore-1, Ludhiana-11, Jaipur I-8, Gurgaon-12, Patna-16, Lucknow-6 and Noida-1

verifications were not done. Another sixteen cases in three commissionerate<sup>16</sup> were not sent by the divisional officers to concerned ranges for post facto verification. The reasons for not conducting the post facto verifications had not been intimated (November 2011), though called for.

### **3.3.2 Negative verification reports**

We scrutinised the action taken by the divisional offices on the negative verification reports sent by the range offices.

**3.3.2.1** We found in one case in Balasore division under Bhubaneswar I commissionerate, the range Superintendent had stated in his verification report that the assessee was operating from two separate premises which were part of the same factory but separated by a public road. This required the approval of the Commissioner.

When we pointed this out (March 2011), the department replied that assessee resubmitted the ground plan which showed the factory premises as continuous and not separated by any road or canal. Thus, approval of Commissioner was not required.

The reply of the department is confusing. The resubmitted ground plan which was forwarded to us is only for plot 650, which was mentioned as one of the two premises separated by a road. Thus, plot 650 is continuous but the reply does not mention the other part of the factory which is separated from plot 650 by a road. The reply is not consistent with the verification report and the matter has to be examined further.

**3.3.2.2** In another case, the range officer stated in his post verification report that some machinery had not been installed and it was recorded that the registration certificate should be deferred. The division did not initiate any action on the negative verification report.

The Jaipur II Commissionerate replied (October 2011) that since the assessee started using its machinery later on, no action was taken regarding registration already generated by the system. The reply did not explain why the registration was not deferred initially, on receipt of negative report.

**3.3.2.3** In two cases in Division VIII under Delhi II Commissionerate, negative verification reports were submitted by the range offices and subsequently after issue of SCN, Registration Certificates were cancelled, on file. However, the cancelled registrations remained active in ACES. During the Exit Conference, the Department agreed that the cancellations had not been updated on ACES.

A suitable reporting mechanism may be developed to monitor whether action is taken on negative verification reports.

## **3.4 Conversion of temporary registration numbers to PAN based registration numbers**

We scrutinised whether the temporary registration numbers, allotted to registrants when they did not have PAN numbers, had been converted to 15

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<sup>16</sup> Patna: 9, Ahmedabad III: 1 and Jamshedpur: 6

digit PAN based registration numbers as per departmental instructions. We noticed from the database of registered service providers that in Patna Commissionerate 2283 (18 per cent) out of 12887 service providers were issued temporary registration, which were still to be converted into 15 digit PAN based Registration Numbers. In another four commissionerates<sup>17</sup>, 47 temporary central excise registrations were not converted to PAN based registration numbers. Similarly, 348 temporary service tax registration numbers were not converted to PAN based numbers in six commissionerates<sup>18</sup>.

Since most of the commissionerates had completed the process, the remaining cases were required to be converted to PAN based numbers, on priority.

### **3.5 Surrender of Registration Certificates**

As per notification No. 35/2001 (NT), dated 26 June 2001 and Rule 4 (7) of Service Tax Rules, 1994, every registered person, who ceases to carry on the operation for which he is registered, shall de-register himself by making a declaration in the specified form and deposit his registration certificate (RC) with the Superintendent of central excise. While applying for surrender of registration, a declaration has to be furnished by the registered person to the effect that there are no government dues or demands pending against him as on the date of surrendering the registration. The Superintendent of central excise has to ensure that the assessee has paid all amounts due to the Central Government under the provisions of the Act, and the rules and the notification issued there under, and thereupon cancel the registration. Our scrutiny of the applications for surrender of central excise and service tax registration certificates, revealed shortcomings which are detailed below:

#### **3.5.1 Central Excise**

**3.5.1.1** We found that in four certificates in Jalandhar division under Ludhiana Commissionerate, the verification reports on clearance of pending demands and/ or 'no dues certificates' were not found in the relevant files. Therefore, there was no assurance that certificates had been approved for surrender after verifying that the surrendering assessee had paid up all their dues.

The Ludhiana Commissionerate intimated (October 2011) that verification in one case was earlier conducted by range office but the report had been received now. As regards the other units, jurisdictional range officers have reported that verification had been done and no dues were pending against the units.

The reply did not explain whether such verification reports were available and if so, why were they not placed in the files concerned.

**3.5.1.2** In Bangalore III Commissionerate, we observed that all the applications submitted by assesseees for surrender of RCs under ACES, had been kept pending since November 2009. The department did not take any action for disposal of the applications. We also observed that although DC

<sup>17</sup> Patna, Pondicherry, J & K and Bangalore III

<sup>18</sup> Mysore, Raipur, Panchkula, Bhubaneshwar II, Chennai ST and Pondicherry

(Audit) was directed to take up the audit before cancellation of RC, the verifications had not been completed even after the expiry of 17 months.

**3.5.1.3** In Raipur division under Raipur Commissionerate, we could not ascertain the position of surrendered RCs as division was not able to produce any centralised record used by them to monitor such cases. In reply, the Divisional Officer stated that the position could not be ascertained as ACES system was not generating any MIS reports related to surrendered registrations. Same reply was given by the Deputy Commissioner of Rourkela II Division in Bhubaneswar II Commissionerate. These divisions were required to monitor surrendered cases, if necessary, manually, as done by other divisions till such time that the requisite MIS reports were provided in ACES.

### **3.5.2 Service Tax**

**3.5.2.1** Out of fourteen application of surrender of registration received in Service Tax Division, Jaipur in Jaipur I Commissionerate, ten surrender application received during April 2009 to January 2010 were still pending for verification even after lapse of two years and in remaining four applications, department stated that efforts were being made to trace the record (October 2011).

**3.5.2.2** In Division-III of Kolkata ST Commissionerate, applications for surrender of registration certificates were accepted in 180 cases during 2009-10 on the basis of reports from ranges. However, the range reports did not give any details of the extent and nature of the verification. In Division-I under the same commissionerate, no records relating to surrender of registration certificates were produced to us.

The department stated (June 2011) that as no in-depth verification of dues was possible, they only examined whether any SCN was pending against assesseees. Such a verification process was quite inadequate and there was risk that tax/duty could remain unpaid for business transactions carried out in the periods before and immediately after surrendering the certificates.

**3.5.2.3** In Delhi ST Commissionerate, 56 assesseees applied for surrender of Registration Certificates, with requisite documents, in their respective ranges between March 2009 and March 2010. However no action had been taken on these applications. Division III of Delhi ST Commissionerate stated that (February/March 2011) the applications had not been processed because the assesseees had not furnished the documents till date. It was also stated that the process of verification for any pending demand is carried out only after print out of the surrender application filed on line is received. During the Exit Conference, the department stated that the surrender applications were accepted, only if these were filed through ACES; the assesseees who had submitted applications manually, had to apply through ACES and e-mails had been sent to all the applicants whose surrender applications were pending in the ranges for acceptance. The replies were not acceptable. The applications were lying unprocessed for more than one year and could not be kept pending indefinitely. They had to be finalised so that recoveries, if any, could be made from the assesseees.



**3.5.2.4** In Pune III Commissionerate, the department had not accepted all the 1649 surrender applications received between 2008-09 and January 2011 for want of verification of pending demands. The department is required to carry out the requisite verifications and issue demands, if any. Further delays could lead to demands becoming time barred.

**3.5.2.5** In Bangalore ST and Mysore Commissionerates, we sought the number and details of assessees, who had applied for surrender of RCs during the period of audit. The commissionerates were unable to ascertain the figures from the ACES as MIS report had not yet been designed and they had not kept manual records either. Therefore, there was no monitoring mechanism for the receipts and disposals of the applications.

***Recommendation No. 4***

- *Suitable control mechanisms may be put in place so as to prevent delays in granting registration certificates and accepting surrender of registration certificates.*

The Board stated in the exit conference that it had instructed Commissioners for periodical monitoring of these areas of work and for the Chief Commissioners to take stock of the actions taken.

***Recommendation No. 5***

- *The department may monitor the time taken for post facto verification of registration applications. Appropriate MIS report may be generated in ACES.*

The Board stated in the exit conference that it would be instructing field formations for periodical monitoring of this area of work so that delay, if any, would not be on account of any slack in departmental actions/functioning. It also stated that a comprehensive MIS to assist senior officers was under development by Systems Directorate and would include appropriate reports.