

# CHAPTER I

## SERVICE TAX RECEIPTS

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## CHAPTER I SERVICE TAX RECEIPTS

### 1.1 Tax administration

Service tax was introduced from 1 July 1994 through the Finance Act, 1994. Administration of service tax has been vested with the Central Board of Excise and Customs under the department of Revenue in the Ministry of Finance (the Ministry). The Board had created seven exclusive service tax Commissionerates and the Commissioners of central excise had also been authorised to collect service tax within their jurisdiction.

### 1.2 Results of audit

This Report contains 24 paragraphs, featured individually or grouped together, arising from test check of records maintained in departmental offices and premises of the service providers. The revenue implication of these paragraphs is ₹ 49.48 crore, out of which ₹ 3.21 crore had been recovered. In nine out of these 24 paragraphs, involving revenue of ₹ 30.43 crore, the department/Ministry had accepted the contention of audit but the rectificatory action was pending. In addition to these, we had also issued another 175 paragraphs involving money value of ₹ 155.26 crore, on which the department/Ministry had already taken rectificatory action in the form of issue of show cause notices, adjudicating show cause notices and recovery of ₹ 75.55 crore.

A case involving substantial revenue, where the department had taken rectificatory action on the basis of audit objection, is given below by way of illustration.

M/s Krishna Patnam Port Company Ltd., Nellore in Guntur Commissionerate, engaged in providing of Port services, paid service tax of ₹ 3 crore as against ₹ 12.99 crore payable on the provision of services valued ₹ 139.05 crore for the months August 2010 and September 2010. This resulted in short payment of service tax of ₹ 9.99 crore which needed to be recovered along with interest of ₹ 20.99 lakh. Further the assessee did not pay service tax by due dates for the half year ending September 2010. The delay in payment ranged from 2 to 10 days. These belated payments attracted interest which worked out to ₹ 0.81 lakh. The total amount of service tax together with interest recoverable thereof, worked out to ₹ 10.20 crore.

When we pointed this out (November 2010), the Commissionerate accepted the audit observation and reported (February 2011) recovery of ₹ 17.72 crore towards short payment of service tax and interest on delayed payments, covering the period upto November 2010.

### 1.3 Trend of receipts

Revenue projected through annual budget and actual receipts from service tax during the years 2006-07 to 2010-11 is exhibited in the following table and graph:-

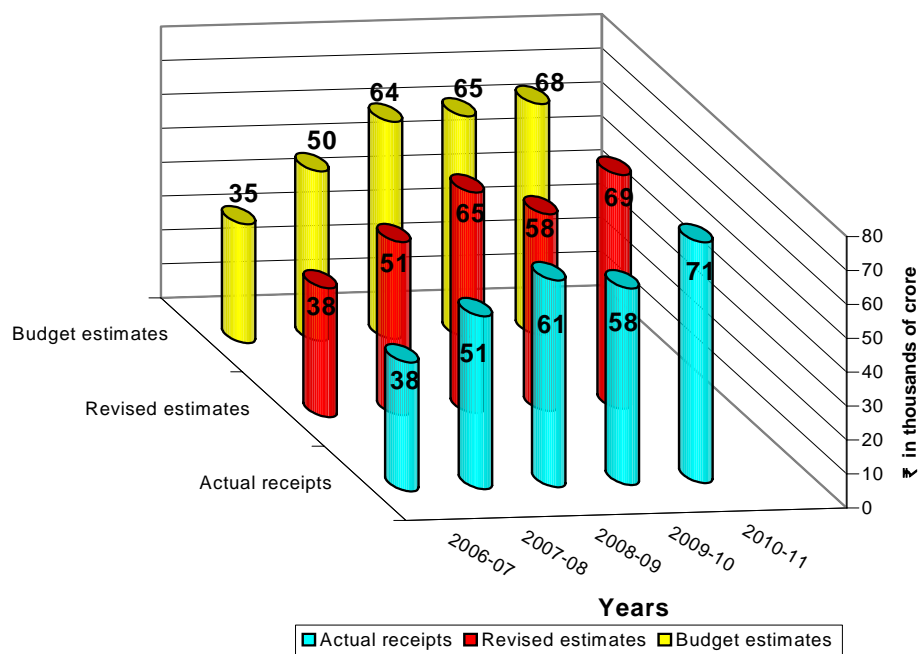
Table no. 1

(Amounts in crore of ₹)

Year	No. of services subjected to service tax	Budget estimates	Revised estimates	Actual receipts*	Difference between actual receipts and budget estimates	Percentage variation
2006-07	97	34,500	38,169	37,598	3,098	8.98
2007-08	104	50,200	50,603	51,301	1,101	2.19
2008-09	108	64,460	65,000	60,940	(-) 3,520	(-) 5.46
2009-10	115	65,000	58,000	58,422	(-) 6,578	(-) 10.11
2010-11	121	68,000	69,400	71,016	3,016	4.43

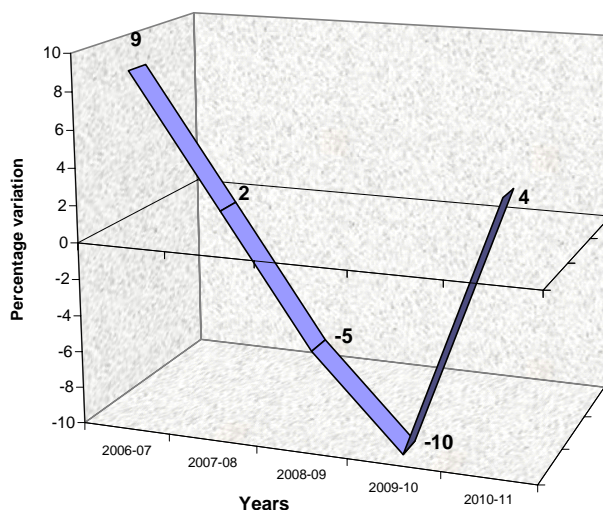
\* Figures as per the Finance Accounts

Graph 1: Service Tax Receipts - Budget, Revised and Actual



During the period 2006-07 to 2010-11, the actual collections of service tax were fairly close to the budget estimates except for 2009-10 when these were 10.11 per cent lower than the budget estimates. There was a substantial increase of ₹ 12,594 crore (21.55 per cent) in service tax collection in the year 2010-11 as compared to the year 2009-10. The percentage variation between the actual receipts and budget estimates during the years 2006-07 to 2010-11 is depicted in the following graph:-

**Graph 2 : Percentage variation of actual receipts over budget estimates**



#### 1.4 Service tax receipts vis-à-vis cenvat credit utilised

A comparative statement showing the details of service tax paid in cash through personal ledger account (PLA) and through cenvat credit account during the years 2009-10 to 2010-11 is given in the following table :

**Table no. 2**

(Amounts in crore of ₹)

Year	Service tax paid through PLA	Service tax paid through cenvat credit*	Percentage of cenvat to duty paid through PLA
2009-10	58,422	5,316	9.10
2010-11	71,016	5,349	7.53

\* Figures furnished by the Ministry

The figures indicated that the actual service tax receipts (in cash) had gone up substantially in the year 2010-11. The duty payment through cenvat during the same period had increased marginally.

#### 1.5 Refund of service tax

A comparative statement showing the details of refund of service tax\* during the years 2009-10 and 2010-11 is given in the table below:

**Table no.3**

(Amounts in crore of ₹)

Year	Refund		Interest on refund	
	Number of cases	Amount	Number of cases	Amount
2009-10	9,852	1,409.68	29	0.38
2010-11	14,320	2,153.00	4	0.15

\* Figures furnished by the Ministry

The figures indicated that interest was paid on refunds in very few cases.

## 1.6 Outstanding demands

The number of cases and amount involved in demands for service tax outstanding for adjudication/recovery as on 31 March 2011 are mentioned in the following table:

Table no. 4

(Amounts in crore of ₹)

Pending decision with	As on 31 March 2010				As on 31 March 2011			
	Number of cases		Amount		Number of cases		Amount	
	More than five years	Less than five years	More than five years	Less than five years	More than five years	Less than five years	More than five years	Less than five years
Adjudicating officers	774	30,896	1,369.13	14,849.99	143	26,325	17.39	30,248.66
Appellate Commissioners	66	3,987	7.74	483.40	26	5,843	1.53	4,792.90
Board	0	5	0.00	5.07	0	17	0.00	2.27
Government	5	2	0.27	0.10	1	70	0.04	7.82
Tribunals	154	3,161	147.98	35,641.07	176	4,465	1,218.48	9,756.18
High Courts	49	597	18.22	561.19	115	1,044	53.94	672.12
Supreme Court	3	31	0.67	20.26	1	77	0.03	183.12
Pending for coercive recovery measures	3,306	24,770	26.94	1,416.40	2531	22,191	24.65	1,279.58
<b>Total</b>	<b>4,357</b>	<b>63,449</b>	<b>1,570.95</b>	<b>52,977.48</b>	<b>2,993</b>	<b>60,032</b>	<b>1,316.06</b>	<b>46,942.65</b>

Figures furnished by the Ministry

A total of 63,025 cases involving tax of ₹ 48,258.71 crore were pending as on 31 March 2011 with different authorities, of which 42 per cent in terms of number were with the adjudicating officers of the department.

## 1.7 Fraud/presumptive fraud cases

The position of fraud/presumptive fraud cases alongwith the action taken by the department against defaulting assesseees during the period 2008-09 to 2010-11 is depicted in the following table:-

Table no. 5

(Amounts in crore of ₹)

Year	Cases detected		Demand of tax raised	Penalty imposed		Tax collected	Penalty collected	
	Number	Amount		Number	Amount		Number	Amount
2008-09	2,330	3,770.64	2,236.07	156	170.20	429.26	20	0.48
2009-10	2,046	3,041.60	2,510.77	110	19.41	456.84	27	0.76
2010-11	2,279	3,850.00	5,159.00	299	300.00	1,820.00	38	1.16
<b>Total</b>	<b>6,655</b>	<b>10,662.24</b>	<b>9,905.84</b>	<b>495</b>	<b>489.61</b>	<b>2,706.10</b>	<b>85</b>	<b>2.40</b>

Figures furnished by the Ministry

The foregoing table indicates that while a total of 6,655 cases of fraud/presumptive fraud were detected during the years 2008-11 by the department involving tax of ₹ 10,662.24 crore, it raised demand of ₹ 9,905.84 crore only and recovered ₹ 2,706.10 crore (27.32 per cent). Similarly, out of the penalty of ₹ 489.61 crore that was imposed, the department could recover only ₹ 2.40 crore (0.49 per cent).

## 1.8 Services contributing major revenue

Services which yielded revenue of more than ₹ 1,000 crore during 2010-11 alongwith corresponding figures for 2009-10 are mentioned in the following table:-

Table no. 6

(Amounts in crore of ₹)

Sl. No.	Service code	Name of the service	2009-10 (Actual)	2010-11 (Actual)	Percentage variation of actual over previous year	Percentage share in total collection
1.	BFN	Banking and Financial Services	4,014.63	4,283.77	6.70	6.04
2.	TES	Telecommunication service	3,389.92	4,252.59	25.45	6.00
3.	GIB	General Insurance Service	3,399.30	4,250.44	25.04	5.99
4.	BAS	Business Auxiliary services	3,385.41	3,901.43	15.24	5.50
5.	IMP	Services provided in relation to renting of immovable property, other than residential properties and vacant land, for use in the course or furtherance of business or commerce	2,023.09	3,001.24	48.35	4.23
6.	MRA	Manpower recruiting agency	2,052.05	2,705.64	31.85	3.82
7.	EWC	Services provided in relation to the execution of works contract	1,569.04	2,670.67	70.21	3.77
8.	BSS	Business support services	1,781.93	2,563.02	43.83	3.61
9.	IAX	Insurance auxiliary services	2,567.87	2,557.14	(-) 0.42	3.61
10.	MRS	Maintenance and repair	2,107.60	2,447.87	16.14	3.45
11.	GTA	Goods transport agency	1,884.01	2,157.83	14.53	3.04
12.	CER	Consulting engineer	2,084.63	2,132.79	2.31	3.01
13.	CAI	Commissioning and installation	1,494.11	1,823.18	22.02	2.57
14.	MIN	Services outsourced for mining of mineral, oil or gas	1,180.45	1,801.18	52.58	2.54
15.	MGC	Management consultant	1,585.57	1,769.41	11.59	2.50
16.	CCS	Construction services	1,319.81	1,544.53	17.03	2.18
17.	ISS	Information technology software	1,378.02	1,495.80	8.55	2.11
18.	SEA	Security Agency	1,059.84	1,314.03	23.98	1.85
19.	CON	Construction of residential complexes	542.83	1,226.06	125.86	1.73
20.	PRT	Port services	940.46	1,115.07	18.57	1.57

\* Figures furnished by the Ministry.

## 1.9 Impact of audit reports

### 1.9.1 Revenue impact

During the last five years (including the current year's report), we reported 831 audit paragraphs involving service tax of ₹ 1,098.21 crore. Of these, the Government had accepted audit observations in 750 audit paragraphs involving ₹ 759.05 crore and had recovered ₹ 290.45 crore. The details are shown in the following table:

Table no. 7

(Amounts in crore of ₹)

Year of Audit Report	Paragraphs included		Paragraphs accepted						Recoveries effected					
			Pre printing		Post printing		Total		Pre printing		Post printing		Total	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
2006-07	125	79.02	117	65.49	1	1.74	118	67.23	60	18.19	34	5.23	94	23.42
2007-08	158	276.72	112	47.43	14	24.74	126	72.17	57	23.22	11	1.67	68	24.89
2008-09	155	375.55	130	305.13	8	4.92	138	310.05	90	127.49	1	0.24	91	127.73
2009-10	194	162.18	175	121.31	9	2.60	184	123.91	112	33.05	9	2.60	121	35.65
2010-11	199	204.74	184*	185.69	--	--	184	185.69	122	78.76	--	--	122	78.76
<b>Grand Total</b>	<b>831</b>	<b>1,098.21</b>	<b>718</b>	<b>725.05</b>	<b>32</b>	<b>34.00</b>	<b>750</b>	<b>759.05</b>	<b>441</b>	<b>280.71</b>	<b>55</b>	<b>9.74</b>	<b>496</b>	<b>290.45</b>

\* In 175 out of the 184 accepted cases, rectificatory action has been taken by the department by way of issue of show cause notices, adjudication or recoveries.

### 1.9.2 Amendment to Act/Rules

Table no.8

Reference of audit report (AR) paragraph	Issue raised by audit	Amendment to Act/Rules etc.
Paragraph 2.2 of AR 30 of 2010-11	Absence of provisions for reversal of Cenvat credit on input services used for written off output services	This requirement has been addressed in the Point of Taxation Rules, 2011. Now, the payment of service tax is linked with raising of invoice, providing of output service or receipt of payment for output service, whichever is earlier.
Paragraph 1.2.6 of AR 15 of 2011-12	Avoidance of tax on Foreign Exchange broking services.	In the Budget 2011-12, the relevant rules have been amended <sup>1</sup> . Now the service tax is payable as a transaction graded percentage depending on the value of turnover of currency exchange. Alternatively, the value of service may be determined as the difference between the transaction value and the RBI reference rate.
Paragraph 1.2.7 of AR 15 of 2011-12	Inconsistent treatment for availing cenvat credit on interest income by banks and financial institution.	In the Budget 2011-12 amendment had been made in the Cenvat Credit Rules, 2004 requiring a banking company and a financial institution including a non-banking financial company providing taxable service to pay, for every month, an amount equal to fifty per cent of the cenvat credit availed on inputs and input services in that month. Thus effectively, only 50 per cent of the cenvat credit availed is allowed to be utilised towards payment of tax or duty.

### 1.10 Follow-up on audit reports

Public Accounts Committee, in their Ninth Report (Eleventh Lok Sabha) desired that remedial/corrective action taken notes (ATNs) on all paragraphs of the Reports of the Comptroller and Auditor General, duly vetted by audit, be submitted to them within a period of four months from the date of the laying of the audit report in Parliament.

The Ministry of Finance had submitted remedial action taken notes on all Audit Report paragraphs relating to Service Tax.

<sup>1</sup> Vide Notification No.3/2011 – ST, dated 1 March 2011 and Notification No.24/2011 – ST and 26/2011 – ST, both dated 31 March 2011.