

Executive Summary

1. This report contains results of two performance audits – one on 'Deemed Export Drawback Scheme' and another on 'Reimbursement of Central Sales Tax (CST) to EOU¹/STP²/EHTP³ units'. Both the export promotion measures emanate from the Chapters Eight and Six of the Foreign Trade Policy (FTP) under the Foreign Trade (Development and Regulation) Act, 1992 (FTD&R, Act), administered by Department of Commerce (DoC).

Deemed Export Drawback Scheme

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

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

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

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

¹ Export oriented Unit

² Software Technology Park

³ Electronic Hardware Technology Park

- a. The principal tax collecting authority (DoR)⁴ and authority to reimburse deemed export benefits (DoC/DGFT) are different. There is no mechanism to correlate the tax collection on inputs with the deemed export benefits reimbursed, to assess the efficacy of the tax expenditure or export promotion measures.
 - b. Integrated Finance Department (IFD) and Chief Controller of Accounts (CCA) of DoC have not done any internal audit of the scheme.
 - c. Electronic data interchange (EDI) system of DGFT is not fully linked with ICES⁵/ACES⁶ for online verification of the declarations made by claimants with customs and central excise department for better monitoring the processing of claims.
 - d. Development Commissioner of Special Economic Zones (DC-SEZs) and Regional Authorities of DGFT (RAs) did not or improperly maintained mandatory records - such as claim receipt register, cheque payment register, brand rate letter register, monthly technical reports and post audit reports.
6. We observed the following shortcomings in the scheme.
- a. DGFT did not prescribe any time limit for the applicant to comply with deficiency letters (DL) under the scheme. The applicant could take unintended advantage of the absence of time limit to avoid imposition of late cut on claim or its time barring.
 - b. The procedure for claiming deemed export benefits (in case of refund of TED/ DBK) do not impose any restrictions on the recipient, where the duty has not actually been borne by the recipient.
 - c. There are inconsistencies in provisions of FTP and policy circular for granting benefits for supply against invalidation and Advance Release Order (ARO) and claiming of interest on delayed payment. Similarly, there was no provision in the policy to levy interest on erroneous payment of DBK/TED.
 - d. DC-SEZ and RAs in certain cases sanctioned deemed export benefit outside their jurisdiction.
 - e. FTP allows fixation of brand rate of DBK by RAs and DC-SEZs, not consistent with the provisions of Customs, Central Excise Duties and Service Tax (Amendment) Rules, 2006.
7. Implementation of the scheme was deficient on following counts.
- a. DCs and RAs paid DBK to the suppliers for supplying imported goods to the projects.
 - b. DGFT had not fixed any time frame to recover the amounts paid in cases of supplies of ineligible goods to non-mega power projects as

⁴ Department of Revenue

⁵ Indian Custom EDI System

⁶ Automation of Central Excise and Service Tax

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

- c. RAs refunded TED though the duty incidence had not been borne by the claimants. Deemed export benefits were reimbursed without the mandatory certificates.
- d. There were other cases of operational malfunction: TED paid on invoices inclusive of excise duty; invoices of goods supplied not endorsed with EPCG details; supply of goods not mentioned in invalidation letter; incorrect refund of TED/DBK on HSD⁷ procured from dealers; excess payment of DBK/TED due to incorrect application of rate.

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

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

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

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

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

- a. DCs made refunds of CST on imported good and on goods procured from EOU/SEZs.
- b. DC-SEZs sanctioned refund of CST outside their jurisdiction.
- c. DC-SEZs and Director STPIs, sanctioned refund of CST for goods utilised in production of exportable commodity.
- d. DC-SEZs and Director, STPIs did not apply late cut fee on delayed submission of CST claims.
- e. CST was reimbursed by DC-SEZs and Director, STPIs without proper certificates from Chartered Accountant.

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

⁷ High Speed Diesel

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