

## CHAPTER III

### Working of Directorate General of Valuation

#### 3.1 Introduction

The Directorate of Valuation (DOV) was established in the year 1997<sup>11</sup> and upgraded as Directorate General of Valuation (DGOV) in December 2002. The main function of the DGOV is to assist the Central Board of Excise & Customs in Policy matters concerning valuation of Imported, exported and excisable items; developing valuation tools and best practices for the effective and uniform application of valuation law; monitoring valuation trends of sensitive commodities; carrying out valuation inspections at Customs stations; coordinating with relevant international organizations; providing data for Risk Management System(RMS); monitoring and examining quality of orders passed by Special Valuation Branches (SVBs) of the Customs Commissionerates, etc. DGOV in its website ([www.dov.gov.in](http://www.dov.gov.in)) hosts the National Import Database (NIDB), Central Excise Valuation Data base (CEDB), Central Registry of Special Valuation cases (SVB), Export Commodity Database, alerts and monthly Valuation Bulletin "Customs Valuation Bulletin" as well as "Central Excise Valuation Bulletin" are published and disseminated. The website also shows the organizational structure of DGOV. From December 2012, the functional control of Special Valuation Branches at Mumbai, Delhi, Chennai, Kolkata and Bangalore were delegated to DGOV.

#### 3.2 Audit Scope and Methodology

Audit covered the functioning of Directorate General of Valuation, Mumbai for the period 2011-12 to 2013-14 involving audit of manpower deployment, Information Technology (IT) system (IS) and database maintained by DGOV; internal control mechanism in place, monitoring of functioning of Special Valuation Branches, etc.

The report has been prepared on the basis of entry conference, exit conference, interviews, system data navigation, websites of DGOV, CBEC, MOC and reply/information received against the audit memos issued to the department.

##### 3.2.1 National Import Data Base (NIDB)

An electronic data base of imported goods has been developed in June 2004 which involves compilation of import data on weekly basis from all Customs stations in the country and its analysis by specially developed software (Mulyaankan) to determine outliers<sup>12</sup>; unit values, weighted average values

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<sup>11</sup> vide CBEC letter under F. No. A 11013/34/96-Ad-IV/pt-II dated 2.6.1997

<sup>12</sup> Outliers means entries whose unit prices are more than 10% lower than the weeks average.

of identical goods, percentage deviations and outliers, supplemented with international price information.

### 3.2.2 Export Commodity Data Base (ECDB)

It is a export valuation data base, developed in the year 2005 with a view to check over/under valuation and misuse of export incentive schemes. This involves capturing of export data from the Customs Stations, consolidation and analysis of this data with the help of a specially designed software for providing results (viz. weighted averages, standard deviations, outliers), leading to detection of potential cases of valuation fraud.

### 3.2.3 Central Registry Database (CRD)

CRD is maintained by DGOV on its website which contains details of Special Valuation Branch (SVB) cases pertaining to related party imports, payment of royalties, license fees, supply of materials and services by the importer, etc. registered in the five major Custom Houses at Mumbai, Chennai, Delhi, Kolkata and Bangalore. Each case registered under SVB has to be uploaded in the CRD by the respective Custom House. DGOV has been vested with functional control over the SVBs with effect from 1 January 2013<sup>13</sup>.

### 3.2.4 Central Excise Valuation Database (CEDB)

Central Excise Valuation database has been developed<sup>14</sup> in respect of 9 sensitive commodities are being received from the central excise zones with effect from July 2008 and being analyzed. A monthly report is generated containing the average, maximum and minimum assessable values for different commodities.

## 3.3 Additional revenue generated

Additional revenue generated by Customs Department because of DGOV databases as reported by DGOV is as follows:

**Table 3.1: Additional revenue generated**

Year	Amount realised (Cr. ₹)	Remarks
2009-10	790	DGOV stated that commodity wise data is not available. DGOV also stated that Number of import/export items valued and import/export transactions flagged may be treated as nil as the data comes to DGOV only after assessment by the field formations
2010-11	930	
2011-12	1096	
2012-13	1411	
2013-14	1711	
<b>Total</b>	<b>5938</b>	

### Audit observations

Observations made by audit on examination of the systems, databases and records maintained in the office of DGOV are discussed below:

<sup>13</sup> vide Circular No.29/2012-Customs dated 7 December 2012

<sup>14</sup> As per CBEC letter No.F.No.224/23/2005/CX-6 dated 16.10.2007

### **3.4 Performance of IT systems deployed by DGOV**

Audit did not get direct access to the IT systems deployed by the DGOV and therefore various databases maintained by DGOV could not be examined for their control objectives. The following audit findings are made based on system navigation and the results of analysis of the documents and replies provided by DGOV. It was observed that DGOV:

- a) does not have any IS Strategic Plan for Database Management System of DGOV.
- b) It has not conducted the audit of its software.
- c) It does not capture the number of hits in the system.
- d) It does not have the exact number of outliers generated for the commodities at a point of time (at eight digit level)

DGOV's IS organisation with a critical application and databases linked to the RMS, has significant revenue implication which creates a risk of undetected non-compliance if uncontrolled. The following is therefore recommended:

- i. Independent third party evaluation/assessment.
- ii. An IS organization within DGOV with the right skilled persons.
- iii. Audit of the database, operating system, networking, Infrastructure, hardware configuration, IS security, change management etc.

### **3.5 Non integration of DGOV databases with Indian Customs EDI System (ICES) 1.5**

DGOV data base is not integrated with ICES 1.5. Assessing officer has to log in to the DGOV website and separately search for the required information. CBEC had directed its field formations on 28<sup>th</sup> November 2009 to use of DGOV databases while assessing import bill of entries or shipping bills by integrating it with ICES 1.5.

However, in reply to audit, DGOV stated that the issue of integration of DGOV databases with ICES was discussed with the officers of DG Systems as well as software developers in January 2010 and it was found that such integration of databases with ICES was not feasible. This defies the objective of real-time utilization of DGOV database by the assessing officers.

### **3.6 Incomplete database of imported and exported goods**

Audit of the value of imports and exports of all commodities from DGOV, compared with the data reported by MOCI indicated that total value of imports in DGOV database was less to the extent indicated that total value of imports in DGOV database was less to the extent of 35.58 percent, 39.06 percent and 33.53 percent for the year 2011-12, 2012-13 and 2013-14 respectively (Table 3.2) in comparison to value of imports as published by MOCI which also relies on the ICES 1.5 data. Similarly total value of exports in

DGOV database was less to the extent of 27.53 percent in the year 2012-13 and 34.06 percent in the year 2013-14.

The main reasons for the difference appear to be non-inclusion of data of imports/exports made by Special Economic Zones (SEZs/EOUs) in DGOV database and non-existence of any mechanism with DGOV to ensure that data receipt in DGOV is complete.

**Table 3.2: Comparison of import/export figures**

Year	Ministry of Commerce data*		DGOV data		Difference (%)	
	Value of imports	Value of exports	Value of imports	Value of exports	Imports	Exports
2011-12	23,45,463	14,65,959	15,10,872	#	8,34,592 (35.58%)	#
2012-13	26,69,162	16,34,319	16,26,423	11,84,350	10,42,739 (39.06%)	4,49,969 (27.53%)
2013-14	27,15,434	19,05,011	18,04,849	12,56,121	9,10,585 (33.53%)	6,48,890 (34.06%)

\*source: www.commerce.nic.in

# Data not furnished to audit. It was stated that data was not available for 2011-12 due to technical reasons.

DGOV also informed that assessments of imports and exports in SEZs are handled by MOCI and their system was not connected with Customs EDI systems. It was observed that alerts issued by the DGOV are not being marked by DGOV to the Development Commissioners of SEZs which was confirmed by Development Commissioner, SEEPZ.

### 3.7 Effectiveness of National Import Database (NIDB)

The revenue realised by the customs department due to use of valuation tools in comparison with total customs revenue and revenue realised by DRI on account of undervaluation is tabulated below.

**Table 3.3: Revenue realised using valuation tools**

Year	Customs Revenue(*)	Total Revenue realised by customs department by using DGOV valuation tools	% of revenue realised by DGOV to total customs revenue	Total revenue realised by DRI on account of undervaluation	% of revenue realised by DRI on valuation issues compared to total customs revenue
2009-10	83324	790	0.95	166	0.20
2010-11	135813	930	0.68	132	0.10
2011-12	149328	1096	0.73	466	0.31
2012-13	165346	1411	0.85	282	0.17
2013-14	17033	1711	0.99	433	0.25

(\*) Union Receipts Budget, CBEC- DDM

From above it can be observed that additional revenue realised because of DGOV inputs is not commensurate to the total customs receipts. DGOV in its response stated that as per the information received by them from DG Systems, the total revenue realised by Customs Department on account of

usage of alerts issued by DGOV was only ₹ 251.71 crore in 2012-13 and ₹ 351.71 crore in the year 2013-14 which is less than the revenue realised by DRI on undervaluation based on information inputs.

The DGOV did not share the methodology in which list of sensitive commodities are prepared and given to Risk Management Division (RMD) of DG system. The constituent factors comprising the sensitive list were not known to audit. Against a specific query by audit it was informed that DGOV did not have commodity wise data of transactions. Since outliers are flagged commodity wise in the NIDB, audit could not find any reason as to why commodity wise data could not be generated.

In response to the recent unearthing of ₹ 29000 crore scam on coal imports by DRIs, DGOV stated (December 2014) that no alert has been issued during the period 2011 to 2014. It was also not known to audit why coal was not part of the sensitive list.

### **3.8 Ineffective use of Export Commodity Data Base (ECDB)**

DGOV had identified 13 commodities at eight digit levels as most sensitive with facility of flagging outliers in the software. DGOV felt it did not give meaningful result as analysis of export data showed that for the identical description of the goods, there was huge variation in values. It was stated that the description declared in shipping bills do not capture attributes which may help distinguishing the product from other similar products. DGOV also stated that exports from India take place under various export promotion schemes and exporters quote the rates for exports keeping in view the export incentives available, thus making every transaction unique. DGOV further stated that unlike imports, no reference from Board or trade/industry had been received for examination of export valuation of any commodity.

It was observed during audit that no alert has been issued in last the 10 years in respect of any commodity included in ECDB, although, DRI has continuously flagged issues regarding over valuation of the exports. It was also observed that the list of sensitive commodities remained static at 13 commodities, since commencement of the ECDB indicating ineffective analysis and use of data contained in ECDB.

Ministry of Finance report of March 2012, also exhorted proper analysis of import/export data and its dissemination in the field formation for use during assessment. However ECDB, one of the major databases maintained by DGOV, has been prepared in an adhoc manner which failed to achieve the intended purpose of identifying and detecting cases of overvaluation in exports as was indicated ( January 2015) in an export over valuation case of 'Carpets and floor covering' exposed by DRI.

### **3.9 Observation on Central Excise Valuation Data Base (CEDB)**

CEDB is compiled monthly on the basis of information supplied by 23 Central Excise Zones and 4 Large Tax Payer Units (LTUs) and uploaded on the website.

Nine commodities were identified as sensitive by the Central Board of Excise Customs at the time of notifying creation of Central Excise Valuation Division under DGOV. This remained stagnant with no addition or modification in the last seven years out of around 1200 odd 4 digit level headings, 180 headings, accounting for 94 per cent of the total central excise revenue. It indicates that there is no regular risk/sensitivity analysis of commodities included in CEDB as the product profiling as well as manufacturing practices may have undergone various changes since 2007.

It was also seen from the DGOV website, that CEDB database was updated beyond March 2019. Examination of records maintained by DGOV for 2013-14 & 2014-15 (up to September 2014) showed that required information was not submitted by the field formations in time.

### **3.10 Delay in sending CRD database to RMD**

As per CBEC Circular once a case is registered with any Special Valuation Branch (SVB), detailed information regarding the same along with PAN of the importer should be furnished to DGOV to update the Central Registry Database (CRD).

Audit observed that CRD cases were not circulated through monthly valuation bulletins as required in CBEC Circular 11/2001-Cus dated 23.02.2001. It was also observed that additions made to CRD during the months from December 2013 to June 2014 were forwarded to RMD only on 16<sup>th</sup> August 2014. We test checked a few cases of imports made by the importers included in the list of SVB cases for the period December 2013 to June 2014 sent to RMD in August 2014. It was noticed that in 13 cases pertaining to two importers (M/s Fronius India Pvt Ltd and Swiss Singapore India Pvt Ltd), imports made by the importers from related parties valued at ₹ 8.58 crore (registered with SVB) were not subjected to the prescribed provisional assessment during April –May 2014 in violation of the Board's instructions.

In response to audit query DGOV replied that no mechanism exists to ensure that all SVB cases have been timely uploaded into CRD through monthly valuation bulletins, and the case of non-assessment on provisional basis as listed above, were being taken up with the concerned commissioners to ascertain the factual position.

It is imperative that details of cases added in CRD is communicated properly to RMD at regular intervals so that such cases of related party import are not facilitated without assessment and delay are not cleared in assessing imports made by related parties registered with SVB without recourse to provisional assessment.

### **3.11 Inspection of Customs stations by DGOV**

The audit system EA 2000 based on the Canadian Model had four distinct features: scientific selection after risk analysis, emphasis on pre-preparation, scrutinising of records and monitoring of audit points. As per the information furnished to audit 27, 21, 12 & 7 inspections were conducted by DGOV in the last four years respectively.

Five Inspection reports were test checked. The number of inspections conducted has declined from 27 in the year 2010-11 to 7 in the year 2013-14. It was observed that there was no plan or targets set for inspection of custom stations and there was no system of risk analysis of customs stations while selecting the customs stations to be inspected. DGOV also do not have any records of total customs stations to be inspected, necessary for proper planning and inspection.

### **3.12 Deficiencies in follow up of inspection reports**

Valuation inspection is an important mechanism to monitor implementation of various valuation tools developed by DGOV at all Customs stations. It was noticed that in none of the test checked cases, the respective Customs stations have forwarded any compliance report till date (October 2014).

Department in its reply stated (November 2014) that lower number of inspections were due to shortage of working strength in the Directorate reminders were being sent to all the five Customs station for submission of compliance reports at the earliest. Reduction in number of inspections has consequential impact on effective utilisation of alerts issued by DGOV and the training of the field formation on DGOV databases/software.

### **3.13 Pendency of cases in Special Valuation Branch (SVB)**

CBEC delegated functional control of SVBs to the office of the DGOV in December 2012<sup>15</sup> to closely monitor the pendency of cases in SVBs, approve the initiation of SVB enquiries and supervise investigations. The investigations<sup>16</sup> and finalisation of the assessments are to be completed within four months from the date of reply to the questionnaire issued by the SVB.

The pendency position of cases as on 1.10.2014 is shown in table 3.4.

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<sup>15</sup>Vide Circular No. 24/2012 CUS dated 7.12.2012.

<sup>16</sup>No.11./2001-cus dated 23.2.2001



Table 3.4: Pendency of cases in SVB

SVB Unit	Closing Balance as on 30.09.2014	Age wise break up				
		Up to 3 month	3-6 month	6-12 month	1-3 years	More than 3 years
Mumbai	1084	13	37	143	647	244
Delhi	555	43	30	128	272	82
Chennai	421	25	31	41	141	183
Bangalore	388	72	61	40	26	189
Kolkata	85	06	0	08	19	52
<b>Total</b>	<b>2533</b>	<b>159</b>	<b>159</b>	<b>360</b>	<b>1105</b>	<b>750</b>

In the above table, 360 cases (14 percent) are pending for more than six months, 1105 cases (44 per cent) are pending for period 1 to 3 years and 750 cases (30 per cent) are pending for more than 3 years. During exit conference, Commissioner (Valuation) stated that DGOV do not have details of the amount of the involved cases pending with SVB and also the values of SVB cases under litigation. DGOV further stated that SVB registration is done on receipt of reference from field formations when first import from related party takes place and subsequently all the imports of such importer are assessed on provisional basis and field formations don't send report of such subsequent imports to SVB. DGOV stated that though functional control of SVBs was given to DGOV with intention to strengthen SVBs, it remained only on paper in the absence of any administrative instructions in this regard from the Board. It was observed that though all SVBs send report of pendency to DGOV on quarterly basis, DGOV did not take any action on such reports.

In reply to audit, DGOV stated that issue of pendency was being followed up with respective commissioners and necessary instructions were being issued from time to time. DGOV further stated that all SVBs are under administrative control of Customs Commissionerate and DGOV did not have any control over posting, leave, APAR, etc. of the officers working in SVBs. DGOV also stated that there was acute shortage of officers in SVBs.

Delay in finalising cases registered with SVB also defeats the purpose for which SVBs are established and also leads to accumulation of provisional assessment cases in the department delaying collection of government revenue.

### 3.14 Internal Control and Audit

It was informed by DGOV that no internal audit or review of functioning of DGOV had been conducted by CBEC or any other agency in the last five years. It was stated by DGOV that certification of Secret Service Expenditure has been done by Commissioner, Valuation. Further, neither any expenditure nor establishment audit by Pr. CCA, CBEC nor any technical audit by CBEC was done. In the absence of any audit of functioning of DGOV and their budgeted



expenditure, assurance has to be established on compliance of the mandate; efficiency and effectiveness of the systems and procedure.

### 3.15 Mismatch between the defined objectives and manpower deployment

Table 3.5 Sanctioned strength and men in position in DGOV

Sr. No.	Post	Strength as per last cadre structuring in the year 2002	Sanctioned strength as per cadre restructuring on 1-8-2014	Working strength as on 1-10-2014	Vacancy
1	Chief Commissioner/Directorate General	1	1	1	0
2	Commissioner	1	2	1	1
3	Addl./Jt. Commissioner	5	2	3	-1
4	Dy./Asst. Commissioner	6	10	3	7
5	Chief Accounts Officer/ Administrative Officer	2	4	0	4
6	Superintendent CE /Superintendent Cus.(P)	15	6	8	-2
7	Appraiser	0	3	1	2
8	Inspector CE/PO/Examiner	5	3	3 +8*	0
9	Others	44	46	0 +11*	46
<b>Total</b>		<b>79</b>	<b>77</b>	<b>20</b>	<b>57</b>

\*Working on diversion basis i.e. staff diverted from other Customs Department to work for DGOV.

It is noted from above that against the sanctioned strength of 77 officials, DGOV is currently having a working strength of only 20 officials which is 26 percent of its sanctioned strength leaving a huge shortfall of 74 percent in the working strength.

Audit observed that eight inspectors (CE/PO/Examiners) and 11 other officials were working on diversion basis. However, the norms under which they were working in DGOV (Whether under deputation or posting) were not provided to audit. It is also not understood as to how DGOV would be able to meet its objectives with only 26 percent men in position.

### 3.16 Expenditure incurred in excess of sanctioned budget

The Budget sanctioned and expenditure incurred by DGOV for the years 2011-12 to 2013-14 was as follows:

Table 3.6: Budget and Expenditure of DGOV

Object Head MH 2037-Customs	(lakh ₹)					
	2011-12		2012-13		2013-14	
	Total Budget	Actual Expdr.	Total Budget	Actual Expdr.	Total Budget	Actual Expdr.
Salaries	200.00	208.28	220.00	231.09	250.00	255.08
Medical Treatment	0.80	0.02	0.80	0.44	1.00	0.07
Domestic Travel Expenses (DTE)	11.00	18.89	21.00	24.68	23.00	10.79
Foreign Travel Expenses(FTE)	2.50	1.78	2.50	2.10	2.50	2.23

Object Head MH 2037-Customs	2011-12		2012-13		2013-14	
	Total Budget	Actual Expdr.	Total Budget	Actual Expdr.	Total Budget	Actual Expdr.
Office Expenses-General	40.00	39.53	42.00	34.71	42.00	30.05
Office Expenses-M. Vehicles	22.00	22.39	23.20	29.59	23.00	22.26
M. Vehicles - hiring	0	2.22	0	4.23	0	3.01
Publication	10.00	9.94	11.00	12.62	11.00	8.05
Other Administrative Expenses	1.00	0	1.00	0.24	1.00	0
Secret Service Expenditure	1.80	2.00	2.00	2.10	2.20	2.20
Information Technology(O.E)	31.00	35.50	31.00	56.47	40.00	30.94
<b>Total</b>	<b>320.10</b>	<b>340.69</b>	<b>354.50</b>	<b>398.22</b>	<b>395.70</b>	<b>364.72</b>

The classification of the budget of DGOV has the making of an intelligence organisation with a secret service fund and provision of a special valuation. Expenditure on IT hovered around 8.5 to 14 percent and salary & expenses on establishment was between 83 to 89 percent in this ICT intensive organisation.

It was observed that in the years 2011-12 and 2012-13, the actual expenditure had exceeded the sanctioned budget. In the year 2011-12 the expenditure incurred was ₹ 340.69 Lakh against a provision of ₹ 320.10 Lakh. Similarly in the year 2012-13, the expenditure incurred was ₹ 398.22 Lakh against a provision of ₹ 354.50 Lakh. It was also seen that expenditure on Motor Vehicle hiring was incurred to the extent of ₹ 9.46 Lakh during 2011-12 to 2013-14 without any sanctioned budget expenditure.