

## Chapter 2: System design

### 2.1 System Issues

#### Inclusion of key manual provisions/validations in ACES system

##### 2.1.1 Provisions of Information Technology (IT) Act

IT Act, 2008 contains specific provisions for attribution of an electronic transaction, time/place of despatch/receipt of electronic record. These provisions provide legal safeguard for linking a particular transaction with a particular person. However, during examination, it was observed that ACES does not capture/record signatures (such as IP addresses) of physical location of user computers, and hence does not conform to provisions of the Act.

When we pointed this out (September 2014), the Ministry while not accepting the observation stated (October 2015) that an assessee or new applicant gets access to ACES only through successful authentication of his/her user account and the departmental user is allotted a unique single sign-on ID (SSOID) with a password. Hence, capturing of IP address is not required.

The reply of the Ministry is not acceptable as capturing of IP address serves the principle functions of host and network interface identification and location addressing, which can not be addressed by the user name and password provided by the department. Further audit suggests that keeping in view the risk and frauds involved in the IT transactions, it is better to capture the IP address of the user machines. This will provide a second level of security check to the system.

##### 2.1.2 Surrender of Registration Certificate

Rule 9 of Central Excise Rules, 2002 read with notification dated 26 June 2001 and Rule 4 (7) of Service Tax Rules, 1994 specifies the procedure for surrender of Registration Certificates (RCs) for CX and ST respectively. Before de-registering the assessee, the department has to check about the outstanding liability against the assessee. Further the assessee is also required to submit his original RC. We observed that there is no provision for verifying outstanding tax liability before accepting surrender application in ACES and also requirement of surrender of original RC is not being watched through ACES. These gaps in the procedure are filled by manual methods.

We also noticed that in ACES, Division/Range wise list of assessees whose surrender request is pending only could be viewed. But there is no provision to generate list of assessees whose surrender request had been accepted. The Surrender list available in ACL module shows lists for the whole Commissionerate and not Range/Division wise and also does not show the date of acceptance of surrender.

When we pointed this out (May 2015), the Ministry stated (October 2015) that ACES restricts processing of surrender requests in case of outstanding liabilities available in ACES and the liabilities available outside ACES were checked physically. Further it has stated that there is no requirement of submission of original RCs as the requirement of signed RC was dispensed with effect from 28 February 2015. In the case of ACES Division/Range wise list of assessee whose surrender request has been accepted, it has stated that the issue is under examination. Audit opines that the liabilities available outside the ACES may be made part of ACES to ensure automation of the entire working process. As there is no signature available on the RC, the legal sanctity of the RC is under question. Further progress is awaited in the case of ACES Division/Range wise list of assessees whose surrender request has been accepted.

Ministry further stated (November 2015) that it may not be practicable since the status of liabilities handled outside the system, including those in different judicial fora, may change frequently.

Audit further opines that if there will be frequent changes of liabilities in different judicial fora then it is better that such data is maintained in system to facilitate better monitoring.

### **2.1.3 Selection of returns for detailed scrutiny**

Para 4B read with para 4.1A of Manual for the Scrutiny of Central Excise Returns, 2008, provides for selection of up to five per cent of total returns received for a detailed scrutiny of assessment on the basis of risk parameters. As large units with total duty payment of more than ₹ three crore are subject to mandatory audit every year, detailed return scrutiny could focus on the returns of non-mandatory units. Further sub para 2 of para 3.1.3B of Manual also stipulates that the logic is to select those returns that qualify as risky on some or all of the parameters. First, all those returns are to be picked up that have been proven 'risky' on all the parameters listed. If the list yields less than 2 per cent of the total returns filed during that month, then those returns that have been proven 'risky' on all but one of the parameters listed are selected, and so on till the system identifies five per cent of the total returns submitted during that month as eligible for scrutiny.

Similar procedures were also laid down in Manual for the Scrutiny of Service Tax Returns, 2009 for detailed scrutiny. Paragraph 4.2A of the Manual for Scrutiny of Service Tax Returns, 2009 stipulates that only two per cent of the returns need to be examined in detailed scrutiny. Board's circular dated 11 May 2009 also stipulated that after implementation of ACES, returns would be automatically listed in descending order of risk and submitted to Commissioner for selection.

Audit noticed that against the above directions, Software Requirement Specification (SRS) document relating to application of mini-risk parameters envisaged selection of only two per cent of the total returns submitted during that month for the purpose of detailed scrutiny on the basis of inbuilt mini-risk parameters instead of five per cent as prescribed in the Manual for Central Excise Returns.

Further on test check of the functioning of the module in selected CDRs, we observed that there was no provision in the module for selection of returns for detailed scrutiny on the basis of inbuilt risk parameters as per the directions issued by Board.

When we pointed this out (between September 2014 and March 2015), the Ministry stated (October 2015) that the selection of returns for detailed scrutiny, based on risk parameters has not been implemented in ACES. However, it further stated that as per circular dated 21 July 2015, the functionality of selection of assesseees by the Commissionerates for detailed scrutiny shall be based on risk score to be generated from ACES. However, no reasons were quoted for non-implementation of this functionality in ACES so far and for envisaging selection of only two per cent returns in SRS against manual provision of two to five per cent.

#### **2.1.4 Time-limit for review of marked returns**

As per para 2.1A of Manual for the Scrutiny of Central Excise Returns, 2008 preliminary scrutiny should be carried out within three months. However, we observed that in SRS document relating to Review and Correction (RnC), it was envisaged that the system marks the returns for review which would be rectified by the departmental officers after consulting with the assessee till the end of the month. Moreover, this requirement of time limitation was not inserted in the module.

When we pointed this out (March 2015), the Ministry stated (October 2015) that initially, a time limit of one month was built in for RnC of returns in ACES, but later on, considering the large number of returns marked for RnC, which was not commensurate with the manpower available in the field, the time limit of one month was removed.

Audit opines that since now the marking of returns for RnC has come down, the time limit may be fixed.

#### **2.1.5 Provision for monitoring of finalisation of Provisional assessments**

As per Rule 7 of the Central Excise Rules, 2002 and Rule 6(4) of the Service Tax Rules, 1994, provisional assessment is required to be finalised within six months from the date of filing request by the assessee for assessment of duty/tax provisionally. We observed that there was no provision in the ACES module to monitor finalisation of provisional assessment within the prescribed time limit.

When we pointed this out (September 2014), the Ministry stated (October 2015) that pendency of provisional assessment cases is displayed on the dashboard of the jurisdictional officer and in the monthly performance report of each Commissionerate and that development of a report generation facility to monitor the disposal of provisional assessment cases is under examination.

#### **2.1.6 Provision for uploading/attaching documents**

We noticed that there was no provision in ACES to upload/attach any documents which were required for registration, scrutiny of returns, refund, export etc. In the absence of this facility, the assessee was required to submit all the documents manually/physically. The provision for calling of online documents for detailed scrutiny through ACES was also not available. This leads to non-fulfilment of main objective of ACES i.e. to reduce physical interface.

When we pointed this out (December 2014), the Ministry while accepting the observation stated (October 2015) that a proposal is under consideration for upgrading the current infrastructure, which will facilitate uploading of scanned documents as the existing infrastructure is not adequate for the uploading and storage of scanned documents.

#### **2.1.7 Updating of notifications/amendments in ACES**

Audit noticed that though provision to upload notifications/amendments has been made in ACL module, but notifications/circulars relating to CX Acts/Rules and ST Acts/Rules and their amendments were not found uploaded. Further, there is no mechanism to regularly update budgetary or other changes in notifications/circulars etc., on the ACES.

When we pointed this out (September 2014), the Ministry stated (October 2015) that CX and ST notification masters are maintained and periodically updated before the commencement of the return-filing period. However, during audit, Delhi (LTU) Commissionerate stated (October 2014) non-

availability of active notifications in notification masters, implying delays in system of updation.

### **2.1.8 Enabling Digital Signature Certificates in ACES**

The Indirect tax administration involves adjudications, judicial processes, variable interpretations and obvious financial dimensions. While such an administration is provided with the power of information technology, every activity through the IT application should be sacrosanct. Digital Signature Certificates provide for the identity and authenticity of any document/transaction done through e-governance projects. In absence of such an authenticity, evolution of any administration into IT might not be successful.

While all modules of ACES application need authenticity, it is mandatory for the Dispute Settlement Resolution, Refunds, Export and Return modules.

Digital Signature facility in the ACES application provides legal sanctity to every process in ACES, without which orders made through ACES can be questioned in a Court of Law. For providing the legal sanctity, the Officers are forced to do manual work which results in duplicity of work (processing the applications through both ACES and manual modes) and adds to the workload of the Officers and thus the very purpose of the ACES application is compromised. The Officers tend to prefer manual mode in processing the applications which were received through ACES because of the aforesaid reasons.

When we pointed this out (May 2015,) the Ministry stated (October 2015) that initially the ACES was designed to accept digitally signed documents, but considering the preparedness of the assesseees and to avoid any inconvenience to them in transacting with the department online, it was decided to deactivate the functionality and stated that there is no duplicity of work as stated by audit.

Audit suggests that in the scenario of digital India, the provision for digital signature may be enabled in ACES so that entire process is automated.

## **2.2 Business Processes Re-engineering**

Business process reengineering (BPR) is “the fundamental rethinking and radical redesign of business processes to achieve dramatic improvements in critical contemporary measures of performance, such as cost, quality, service, and speed”. BPR, per se, involves analysis and re-design of workflows and business processes within an organisation and it seeks to restructure organisations by focusing on the ground-up design of their business

processes. The BPR is aimed to help organisations fundamentally rethink how they do their work in order to dramatically improve service, cut operational costs, and adhere to standards of comparable world class organisations. Without fundamental rethinking, technology often merely automates old ways of doing business.

During the course of Audit, we attempted to ascertain the extent to which ACES succeeded as an application in completely re-engineering the manual processes involved in collection of CX and ST and streamlining all the ancillary workflows thereto. We observed that, although, processes laid down in CX and ST Manual were automated in ACES application, but much more can be done in terms of "fundamental rethinking and radical redesign" of business processes in crucial aspects of functioning involving People (Human Resources) and Processes (work flow and procedures) as discussed below: -

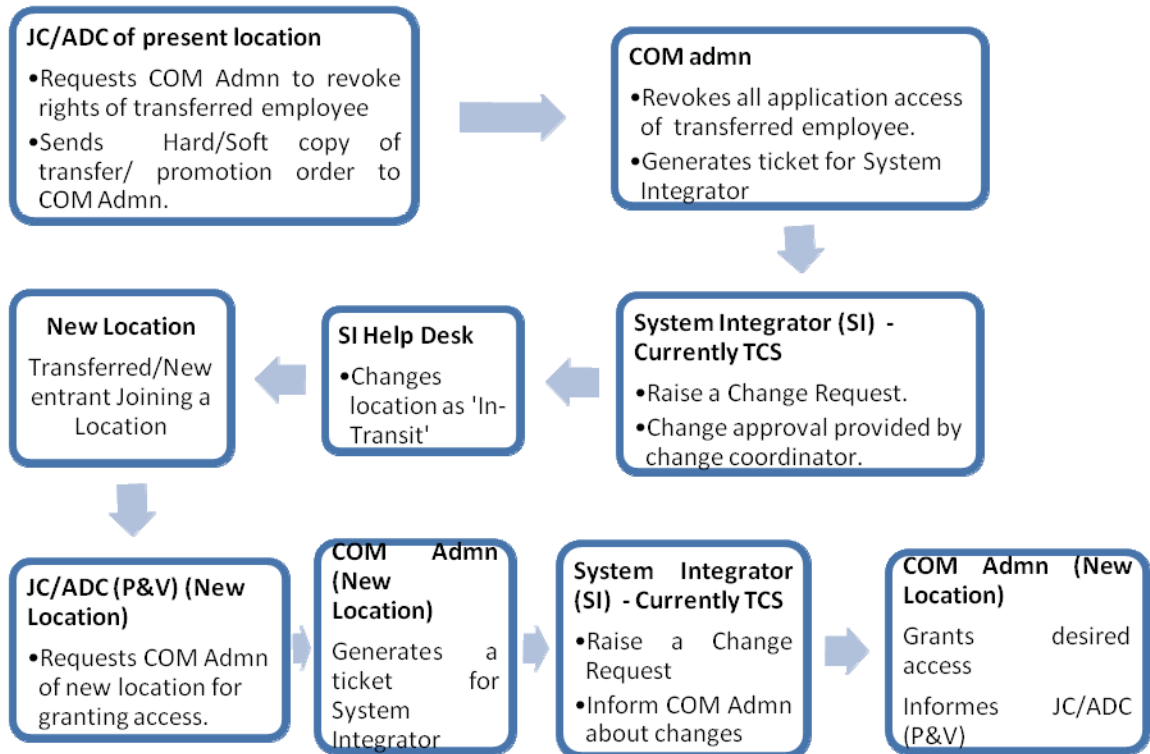
### **2.2.1 Human resource management**

During the course of Audit, we noticed that although the ACL module created roles for all the functions performed by employees within the hierarchy, it did not cover a very important aspect of actually managing human resources for manning identified tasks in a real working situation through the system. The following crucial processes of HR management continued to function outside the coverage of ACES: -

### **2.2.2 Transfers/Postings**

The ACES has been designed with an assumption that largely same people continue to perform same tasks in designated domain which, after being mapped once in system, facilitate the smooth working of the system. However, in a Government working setup, functioning of the departments require frequent change of roles of employees who may have to perform different tasks, work on same tasks in different domains upon promotions/transfers or simply to take up work of an absent employee. During examination it came to notice that there were no provisions of linking transfer/posting orders with mapping of work domain and work privileges to SSOID. As a result, complicated multi-level process is required to be followed for assignment of role to an employee intended to work in a vacant work domain in a Range.

Chart 2 Procedure for role assignment



This cumbersome process ultimately leaves several tasks unmanned with several employees in transit waiting for data rights to start work. As a major part of process activities are out of ambit of ACES, exact time taken for reassigning work to employees after having relieved from one charge cannot be ascertained by examination of data and may result in idling of staff due to manual completion of process which starts from transfer order to taking up of new assignment.

When we pointed this out (March 2015), the Ministry stated (October 2015) that since the employee is exposed to more than one Application for performing Customs, CX or ST related work, enough flexibility has been built in to ACES to enable Com. Admn./HQ Admn. to assign/modify the roles. To manage these transfer dynamics, it is essential to have defined Protocols so that no confusion in work flow arises and all the stake holders need to follow the defined Protocol.



Audit opines that as the present system of role assignment and reassignment is very cumbersome and involved a number of stake holders, it needs to be simplified.

### **2.2.3 Roles of important Sections in ACES**

We enquired (between September 2014 and March 2015) from selected CDRs and DG (Systems) regarding defining of role of important sections such as legal, tribunal, technical, adjudication, tax recovery cell, preventive/anti-evasion, statistics etc. in ACES.

DG (Systems) stated (May 2015) that roles are to be created locally by Com. Admn. They further stated that ACES does not extend to Tribunal and does not have a functionality for tax recovery or technical wing officers while officers dealing with preventive or adjudication functions could be given role to use DSR module.

However, from the replies furnished (between September 2014 and March 2015) by Commissionerates, audit observed that the role of legal, adjudication, preventive/anti evasion etc., were not mapped in 20<sup>2</sup> Commissionerates. 13<sup>3</sup> Commissionerates have not furnished any reply. Only seven<sup>4</sup> Commissionerates stated that these sections were mapped in ACES.

When we pointed this out (August 2015), the Ministry stated (October 2015) that usage of ACES with regard to assignment of role to important section in ACES varies from place to place and there is a facility to create role activity for all the sections.

Contrary to the reply of the Ministry, audit observed that only 7 out of 40 selected Commissionerates informed the mapping of roles of important sections.

### **2.2.4 ACES access to Inspector level officials**

Inspectors are required to assist Range Officer in all range works and both are jointly responsible for all the functions. The duties, which were carried out by Inspectors before introduction of ACES, could not be performed by them subsequently as they have no role in the workflow of ACES. Presently, all the duties/responsibilities are with the Range Officer, which results in accumulation of work.

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<sup>2</sup> Ahmedabad-II, Bhopal, Chandigarh-I, Chennai (LTU), Delhi-II (CX), Delhi-II (ST), Delhi (LTU), Guwahati, Hyderabad-IV, Indore, Jaipur-I, Kolhapur, Ludhiana, Mumbai-I (CX), Mumbai-I (ST), Mumbai (LTU), Pune-I, Ranchi, Rohtak and Vadodara-II

<sup>3</sup> Allahabad, Bengaluru-I (CX), Bengaluru-I (ST), Bengaluru (LTU), Bhubaneswar-II, Bolpur, Coimbatore, Hyderabad-II, Kanpur, Kolkata-I, Kolkata-III, Patna and Raipur

<sup>4</sup> Ahmedabad (ST), Chennai-I (ST), Cochin, Kolkata-I (ST), Pudecherry, Surat-II and Visakhapatnam-I



When we pointed this out (December 2014), the Ministry stated (October 2015) that functionality is being developed for allowing Inspectors to work in ACES.

### **2.2.5 Process Designing**

Processes to facilitate people to conveniently perform designated tasks are the other major area of functioning that affects productivity, quality of service and costs. During examination of working of ACES, it was noticed that [http://en.wikipedia.org/wiki/Human\\_resource\\_management](http://en.wikipedia.org/wiki/Human_resource_management) - cite note-1 despite putting in a lot of effort in creating computerised processes to match legal and procedural requirements, there were some gaps in understanding of user requirements and business environment while undertaking the process design exercise. Process designing problems prevalent in different modules are discussed in chapter III.

### **2.2.6 Conclusion**

Comprehensively looking at the complete BPR exercise, it can be concluded that although it is a great step forward to create a new system for replacing manual system, gaps still exist in re-designed process with respect to management of people, processes and provision of technology.

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

There is a need to simplify the cumbersome procedure adopted in respect of mapping of employees in ACES to save man days that go unutilised during the period of assignment of roles in ACES. One of the methodology that can be adopted to achieve this is to incorporate transfer and posting of employees in the ACES system itself.

Ministry in its reply stated (October 2015) that incorporating transfer and posting of officers in the ACES is not possible, as the ACES was not contemplated as a tool to manage Human Resources.

Audit further opines that the cumbersome procedure adopted in respect of mapping of employees needs to be simplified.

#### ***Recommendation No.2***

Provision for complete linking of outstanding liabilities to processing surrender applications may be introduced to make ACES more effective.

Ministry stated (October 2015) that the system checks if any amount is outstanding against the assessee as per information available in ACES. Pre-

ACES dues in respect of some assesseees, who had migrated to ACES and liabilities that occur in the offline mode during Audit or investigation are not captured in ACES.

Audit further suggests that liabilities available offline may be made a part of ACES.