

## Executive summary

We conducted the Performance Audit on assessees providing Works Contract Services, to seek an assurance that the indirect tax administration is adequately placed to safeguard the interests of revenue. We examined that, the Rules and extant instructions in ensuring proper assessment and collection of revenues, identification of defaulters, monitoring of exemptions etc. were adequate and adhered by the department. The Performance Audit was conducted in 33 selected Commissionerates including examination of records relating to 237 assessees.

The Performance Audit revealed certain inadequacies in the extant provisions, both of system as well as compliance issues relating to the assessment and collection of tax from the Works Contract Service.

- a. On examination of records from data/dump-data relating to works contractors gathered from various sources, we identified 425 works contractors who had executed works contracts, had neither registered with the department nor paid service tax of ₹ 447.76 crore.

(Paragraph 2.2.1)

- b. In 1857 cases under 17 Commissionerates, we observed delays in submission of returns ranging upto 49 months involving late fee of ₹ 1.70 crore.

(Paragraph 2.5.1)

- c. We observed 145 cases of non/short-payment of service tax of ₹ 44.74 crore.

(Chapter 3)

- d. We observed 34 cases of irregular availing/utilisation of Cenvat credit involving an amount of ₹ 22.59 crore.

(Chapter 4)

- e. We observed 14 cases of incorrect availing of exemptions involving an amount of ₹ 17.81 crore.

(Chapter 5)

- f. We observed 44 cases, of incorrect application of rate of service tax and non/short payment of interest of ₹ 8.84 crore.

(Chapter 6)

## Summary of Recommendations

1. Inter departmental co-ordination should be made obligatory mainly with Commercial Tax Department for identification of unregistered service providers and broadening of tax base in particular with VAT records through the Regional Economic Intelligence Committee meetings. The result of this exercise should be reflected in periodical report such as Monthly Technical Reports (MTRs).

*Central Board of Excise and Customs (CBEC) of in its reply (June 2015) stated that Tax 360<sup>0</sup> program has been started within Department of Revenue wherein data is shared between CBEC, Central Board of Direct Taxes (CBDT), Ministry of Corporate Affairs (MCA-21) and six VAT departments viz., Maharashtra, Gujarat, Kerala, Tamil Nadu, Andhra Pradesh and West Bengal. The Directorate General of Systems and Data Management is the nodal agency for CBEC which compiles the data and shares it with the respective field formations. It further stated that Section 15A and Section 15B of the Central Excise Act, 1944 were inserted vide the Finance Act, 2014 which have been made applicable to like matters in service tax vide Section 83 of the Finance Act, 1994 which make it obligatory for certain specified categories of persons to furnish information returns to the department. This includes any authority under the State Government, Electricity department, etc.*

While the steps taken by the Ministry are in the right direction for achieving inter departmental co-ordination, the Ministry may ensure that the results of the same is reflected in the MTRs.

2. CBEC may consider to design a tool to co-relate service tax payments from the ST-3 return filed either by service provider or service recipient involving service tax liability under reverse charge mechanism.

*CBEC in its reply (June 2015) stated that Guidelines are being issued to the field formations for conducting detailed scrutiny of returns in which the aspect of matching payment of service tax by the service provider and recipient under reverse charge would be taken care of. The returns would be selected on the basis of risk parameters including local risk factors. As such, in the ST-3 returns filed by the service provider and recipient, individual transactions are not*

*recorded. Thus, this aspect can be looked into only when audit, anti-evasion inquiry or detailed manual scrutiny of returns is taken up.*

CBEC in its letter dated 16 March 2012 while introducing the reverse charge on WCS stated that “it has been noticed that a number of registrants collect the tax but do not pay the same to the Department. This is a serious loss of the revenue even though the compliant section at the recipient end is often not benefitted. To ensure proper collection, while not inconveniencing small business, a new scheme is proposed to be introduced”. So the intention behind introduction of reverse charge is to ensure that the due service tax to the Government is to be paid by both service provider and service receiver. Though no individual transactions are recorded in ST-3 return, the audit opines that in the era of Information Technology, the Board may consider introduction of a mechanism, so that this issue is taken care of.

3. Monitoring mechanism to watch non/late filers should be strengthened keeping in view of determination of service tax payments through self assessment.

*CBEC in its reply (June 2015) stated that the Directorate General of Systems and Data Management has created a report utility in ACES (Assessee-Wise Detailed Report (AWDR)) for identifying stop filers/non-filers/late filers which can be viewed by the field officers for further necessary action at their end.*

During test check audit observed that no action was taken at Commissionerate level. Audit further suggests that in the automated environment of ACES the CBEC may consider automatic levy of late fee on belated filing of returns.

4. CBEC may review the requirement of submission of records and to ensure that the rule may be adhered to strictly or else the provision may be revised accordingly.

*Ministry in its reply (June 2015) admitted the recommendation for compliance.*