

Chapter I

Service Tax Administration

1.1 Resources of the Union Government

The resources of Government of India include all revenues received by the Union Government, all loans raised by issue of treasury bills, internal and external loans and all moneys received by the Government in repayment of loans. Tax revenue resources of the Union Government consist of revenue receipts from direct and Indirect Taxes. Table 1.1 below shows the summary of resources for the financial year (FY) 16 and FY15.

Table 1.1: Resources of the Union Government

	(₹ in crore)	
	FY16	FY15
A. Total Revenue Receipts	19,42,200	16,66,717
i. Direct Tax Receipts	7,42,012	6,95,792
ii. Indirect Tax Receipts including other taxes	7,13,879	5,49,343
iii. Non-Tax Receipts	4,84,428	4,19,982
iv. Grants-in-aid & contributions	1,881	1,600
B. Miscellaneous Capital Receipts ¹	42,132	37,740
C. Recovery of Loans and Advances ²	41,878	26,547
D. Public Debt Receipts ³	43,16,950	42,18,196
Receipts of Government of India (A+B+C+D)	63,43,160	59,49,200
Source: Union Finance Accounts of respective years.		
Note: Total Revenue Receipts include ₹ 3,37,808 crore in FY15 and ₹ 5,06,193 crore in FY16, share of net proceeds of Direct and Indirect Taxes directly assigned to states.		

The total receipts of the Union Government increased to ₹ 63,43,160 crore in FY16 from ₹ 59,49,200 crore in FY15. In FY16, its own receipts were ₹ 19,42,200 crore including Gross Tax receipts of ₹ 14,55,891 crore of which Indirect Tax receipts including other taxes accounted for ₹ 7,13,879 crore.

1.2 Nature of Indirect Taxes

Indirect Taxes are attached to the cost of the supply of goods/services and are, in this sense, transaction-specific rather than person-specific. The major Indirect Taxes/duties levied under Acts of Parliament are:

- a) **Service Tax:** Service Tax is levied on services provided within the taxable territory (Entry 97 of List 1 of the Seventh Schedule of the Constitution). Service Tax is a tax on services rendered by one person to another. Section 66B of the Finance Act, 1994 envisaged that there

¹ This comprises of value of bonus share, disinvestment of public sector and other undertakings and other receipts;

² Recovery of Loans and advances made by the Union Government;

³ Borrowing by the Government of India internally as well as externally.

shall be a tax levied at the rate of 14 per cent on the value of all services, other than those specified in the negative list, provided or agreed to be provided in the taxable territory by one person to another and collected in such manner as may be prescribed.⁴ ‘Service’ has been defined in section 65B (44) of the Finance Act, 1994 to mean any activity for consideration (other than the items excluded therein) carried out by a person for another and to include a declared service.⁵

- b) Customs duty:** Customs duty is levied on import of goods into India and on export of certain goods out of India (Entry 83 of List 1 of the Seventh Schedule of the Constitution).
- c) Central Excise duty:** Central Excise duty is levied on manufacture or production of goods in India. Parliament has powers to levy excise duties on tobacco and other goods manufactured or produced in India except alcoholic liquors for human consumption, opium, Indian hemp and other narcotic drugs and narcotics but including medicinal and toilet preparations containing alcohol, opium etc (Entry 84 of List 1 of the Seventh Schedule of the Constitution).

This chapter discusses trends, composition and systemic issues in Service Tax using data from finance accounts, departmental accounts and relevant data available in public domain.

1.3 Organisational Structure

The department of Revenue (DoR) of Ministry of Finance (MOF) functions under the overall direction and control of the Secretary (Revenue) and coordinates matters relating to all the Direct and Indirect Union Taxes through two statutory Boards namely, the Central Board of Excise and Customs (CBEC) and the Central Board of Direct Taxes (CBDT) constituted under the Central Board of Revenue Act, 1963. Matters relating to the levy and collection of Service Tax are looked after by the CBEC.

Indirect Tax laws are administered by the CBEC through its field offices, the commissionerates. For this purpose, the country is divided into 27 zones of Central Excise and Service Tax headed by the Chief Commissioner. Under these 27 zones of Central Excise and Service Tax, there are 83 composite executive commissionerates that deal with both Central Excise and Service Tax, 36 exclusive Central Excise executive Commissionerates and 22 exclusive Service Tax executive Commissionerates headed by the Commissioner. Divisions and ranges are the subsequent formations, headed by Deputy/

⁴ Section 66B was inserted by the Finance Act, 2012 with effect from 1 July 2012; section 66D lists the items the negative list comprises of.

⁵ Section 66E of the Finance Act, 1994 lists the declared services.

Assistant Commissioner and Superintendents respectively. Apart from these executive commissionerates, there are eight Large Tax Payer Units (LTU) commissionerates, 60 Appeal commissionerates, 45 Audit commissionerates and 20 Directorates General/Directorates dealing with specific function.

The overall sanctioned staff strength of the CBEC is 91,756 as on 31 March 2016. The organisational structure of CBEC is shown in Appendix I.

1.4 Growth of Indirect Taxes - Trends and Composition

Table 1.2 depicts the relative growth of Indirect Taxes during FY12 to FY16.

Table 1.2: Growth of Indirect Taxes

Year	Indirect Taxes	GDP	Indirect Taxes as % of GDP	Gross Tax Revenue	(₹ in crore)
					Indirect Taxes as % of Gross Tax Revenue
FY12	3,92,674	90,09,722	4.36	8,89,118	44.16
FY13	4,74,728	99,88,540	4.75	10,36,460	45.80
FY14	4,97,349	1,13,45,056	4.38	11,38,996	43.67
FY15	5,46,214	1,25,41,208	4.36	12,45,135	43.87
FY16	7,10,101	1,35,76,086	5.23	14,55,891	48.77

Source: Tax revenue - Union Finance Accounts (Provisional), GDP – Press note of CSO⁶

It is observed that Indirect tax collection have risen as a per cent of GDP in FY16 after registering a slight decline during the preceding two years. The share of Indirect Taxes in Gross Tax revenue increased in FY16 vis-à-vis FY15.

1.5 Indirect Taxes – Relative Contribution

Table 1.3 depicts the trajectory of the various Indirect Tax components in GDP terms for the period FY12 to FY16.

Table 1.3: Indirect Taxes – Percentage of GDP

Year	GDP	ST Revenue	ST Revenue as % of GDP	CE Revenue	CE Revenue as % of GDP	Custom Revenue	(₹ in crore)
							Custom Revenue as % of GDP
FY12	90,09,722	97,509	1.08	1,44,901	1.61	1,49,328	1.66
FY13	99,88,540	1,32,601	1.33	1,75,845	1.76	1,65,346	1.66
FY14	1,13,45,056	1,54,780	1.36	1,69,455	1.49	1,72,085	1.52
FY15	1,25,41,208	1,67,969	1.34	1,89,038	1.51	1,88,016	1.50
FY16	1,35,76,086	2,11,415	1.56	2,87,149	2.12	2,10,338	1.55

Source: Figures of tax receipts are as per Union Finance Accounts of respective years.

⁶ Press note on GDP released on 31 May 2016 by Central Statistical Office (CSO), Ministry of Statistics and Programme Implementation. This indicates that the figures for GDP for FY14 and FY15 are based on New Series Estimates; and figure for FY16 are based on provisional estimates at current prices. The figures of GDP for FY12 and FY13 are based on current market price with base year 2004-05. Figures are being continually revised by CSO and this data is meant for an indicative comparison of fiscal performance with macro economic performance

Among the indirect taxes, the Service Tax revenue as a percentage of GDP has been increasing every year during last five years, though it declined marginally during FY15. The share of all major indirect taxes i.e. Central Excise, Service Tax and Customs revenue as a percentage of GDP has increased in FY16.

1.6 Growth of Service Tax - Trends and Composition

Table 1.4 depicts the growth trends of Service Tax in absolute and GDP terms during FY12 to FY16.

Table 1.4: Growth of Service Tax

Year	GDP	Gross Tax Revenue	Gross Indirect Taxes	Service Tax	Service Tax as % of GDP	Service Tax as % of Gross Tax Revenue	
						of Gross Tax Revenue	of Indirect Taxes
FY12	90,09,722	8,89,118	3,92,674	97,509	1.08	10.97	24.83
FY13	99,88,540	10,36,460	4,74,728	1,32,601	1.33	12.79	27.93
FY14	1,13,45,056	11,38,996	4,97,349	1,54,780	1.36	13.59	31.12
FY15	1,25,41,208	12,45,135	5,46,214	1,67,969	1.34	13.49	30.75
FY16	1,35,76,086	14,55,891	7,10,101	2,11,415	1.56	14.52	29.77

Source: Figures of tax receipts are as per Union Finance Accounts of respective years.

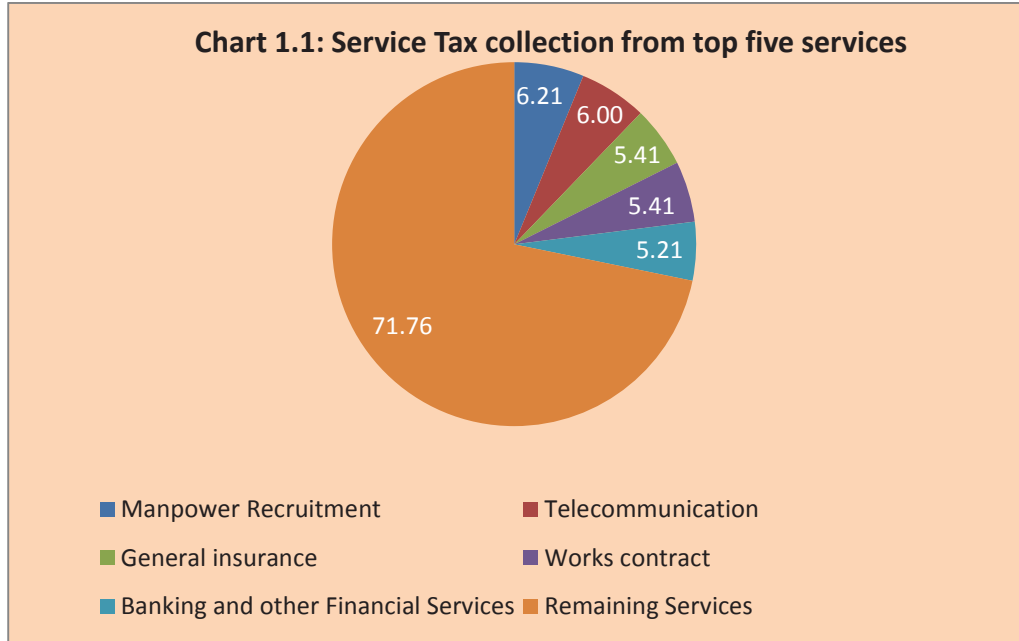
Service Tax accounted for 14.52 per cent of Gross Tax revenue during FY16. Share of service tax in gross tax revenue has been steadily increasing where as its share in total indirect taxes declined by around one per cent in FY16. Service sector grew by 9.2 per cent in 2015-16, marginally lower than the growth rate of 10.6 per cent⁷ in 2014-15. The slowdown was mainly due to the deceleration in growth of the combined category of public administration, defence and other services to 6.9 per cent from 10.7 per cent in 2014-15.

1.7 Service Tax from Major Service Categories

As per Finance Act, 1994, the Service Tax was leviable on 119 services upto 30 June 2012. With the introduction of introduction of Negative list with effect from 1 July 2012, all services were taxable other than those entries specified under Section 66D like services by the Reserve Bank of India, services by a foreign diplomatic mission located in India, trading of goods, services by way of access to a road or a bridge on payment of toll charges, services by way of pre-school education and education up to higher secondary school or equivalent etc.

⁷ Para 7. 12 of Economic Survey 2015-16 (Volume II)

It is observed that no single service is a major contributor to Service Tax. However, the top five categories of services contributed 28 per cent of the total service tax collection during FY16 which is depicted in pie chart 1.1. Remaining services that include categories of services such as Business Support Services, Business Auxiliary Services, Renting of Immovable property, Transport of Goods by Road, Life Insurance etc., contributed 72 per cent.



The Service Tax collections from these top five category of services during FY12 to FY16 are shown in Table 1.5.

Table 1.5: Service Tax from Top Five Service Categories

(₹ in crore)

Year	FY12	FY13	FY14	FY15	FY16
Manpower Recruitment	3,847	4,432	7,335	9,045	13,129
Telecommunication	5,402	7,538	12,643	13,531	12,690
General Insurance Premium	5,234	6,321	8,834	9,263	11,436
Works Contract	4,179	4,455	7,434	8,139	11,434
Banking and Other Financial Services	5,876	4,964	7,185	8,099	11,005

Source: Union Finance Accounts of respective years.

It is observed that Manpower Recruitment Service, which was in third position in FY15, has become top Service Tax revenue paying service in FY16 followed by Telecommunication and General Insurance Premium services.

1.8 Tax Base

"Assessee" means any person who is liable to pay Service Tax and includes his agent as per definition in Section 65(7) of the Finance Act, 1994 (as amended). Table 1.6 depicts the data of the number of persons registered with the Service Tax department under Section 69 of the Finance Act, 1994.

Table 1.6: Tax base in Service Tax

Year	No. of ST Registrations	% Growth Over Previous Year	No. of Temporary Registration (not PAN Based)	No. of Assesseees who Filed Returns	% of Registrants who Filed Returns
FY12	17,67,604	12.88 ⁸	3,00,421	7,31,042	41.36
FY13	19,97,422	13.00	3,00,875	8,62,624	43.19
FY14	22,73,723	13.83	3,01,192	9,99,200	43.95
FY15	25,26,932	11.14	3,01,413	10,94,862	43.33
FY16	28,28,358	11.93	3,01,448	11,67,181	41.27

Source: Figures furnished by the Ministry. Comment on data discrepancy in Para 1.21

It is observed that number of registered persons as also the number of assesses filing returns is increasing steadily. However the per cent of the registered assesseees filing returns has declined by 2 per cent in FY16. ST Voluntary Compliance Encouragement Scheme (VCES) 2013, implemented during 2013-14, mainly aimed at encouraging non-filers and stop filers to file returns. In a performance audit conducted during 2015-16, it was observed that in 15 selected commissionerates, only 62 per cent of returns due for filing were actually filed post-VCES period by the declarants (Para 4.3.1 of CAG Audit Report No.22 of 2016). Department needs to examine reasons for non-filing of returns and take stringent action to ensure filing of due returns.

1.9 Budgeting Issues in Service Tax

Table 1.7 depicts a comparison of the Budget Estimates and the corresponding actuals for service tax receipts.

Table 1.7: Budget, Revised Estimates and Actual Receipts

(₹ in crore)						
Year	Budget Estimates	Revised Budget Estimates	Actual Receipts	Diff. between Actuals and BE	%age Variation between Actuals and BE	%age Variation between Actuals and RE
FY12	82,000	95,000	97,509	15,509	18.91	2.64
FY13	1,24,000	1,32,697	1,32,601	8,601	6.94	(-)0.07
FY14	1,80,141	1,64,927	1,54,780	(-)25,361	(-)14.08	(-)6.15
FY15	2,15,973	1,68,132	1,67,969	(-)48,004	(-)22.23	(-)0.10
FY16	2,09,774	2,10,000	2,11,415	1,641	0.78	0.67

Source: Union Finance Accounts and receipt budget documents of respective years.

It is observed that actual collection of Service Tax was slightly above the budget estimates and revised budget estimates during FY16.

⁸ ST Registrations during FY11 were 15,52,521

1.10 Arrears of Service Tax

Every year we comment on arrears of service tax on the basis of data received from the Ministry in chapter I. This year a subject specific audit has been done on this subject and all the findings have been included in chapter II.

1.11 Additional Revenue Realised Because of Anti Evasion Measures

DGCEI as well as the Central Excise and Service Tax Commissionerates have well-defined roles in the task of detection of cases of evasion of Service Tax. While the Commissionerates, with their extensive database about units in their jurisdiction and presence in the field are the first line of defence against duty evasion, DGCEI specialises in collecting specific intelligence about evasion of substantial revenue. The intelligence so collected is shared with the Commissionerates. Investigations are also undertaken by DGCEI in cases having all India ramifications. Tables 1.8 depict the performance of DGCEI during last three years.

Table 1.8: Anti-Evasion Performance of DGCEI During Last Three Years

(₹ in crore)

Year	Detections		Voluntary Payments During Investigation
	No. of Cases	Amount	
FY14	9,215	14,842	5,103
FY15	6,719	10,544	4,448
FY16	7,534	18,971	4,658

Source: Figures furnished by the Ministry.

It is observed that the number of Service Tax cases and the amounts detected by DGCEI has increased during FY16 as compared to decline noticed in FY15.

Tax administration in Service Tax

1.12 Scrutiny of Returns

CBEC introduced the concept of self-assessment in respect of Service Tax in 2001. With the introduction of self-assessment, the department also envisaged the provision of a strong compliance verification mechanism, inter alia, through scrutiny of returns. Even in the self-assessment era, the primary function of departmental officers continues to be assessment or confirmation of assessment as it is they who have a statutory liability to ensure correctness of tax payment.⁹ This is undertaken through scrutiny of Service Tax returns, which in turn are to be selected on the basis of risk parameters. The Manual for Scrutiny of Service Tax Returns, 2009 envisages that scrutiny is to be carried out in two stages i.e. preliminary scrutiny of the return which is to be

⁹ Manual for Scrutiny of Service Tax Returns, 2009, Para 1.2.1A.

carried out by ACES application and detailed scrutiny of assessment which is to be carried out manually on the returns marked by ACES or otherwise.

1.12.1 Preliminary Scrutiny of Returns

The purpose of preliminary scrutiny is to ensure completeness of information, timely submission of the return, timely payment of duty, arithmetical accuracy of the amount computed as duty and identification of non-filers and stop-filers.¹⁰

Table 1.9 depicts the performance of the department in carrying out preliminary scrutiny of returns.

Table 1.9: Preliminary Scrutiny of Service Tax Returns

Year	No of Returns Filed in ACES	No. of Returns Marked for Review & Correction	% of Returns Marked for Review & Correction	No. of Returns Cleared After Review & Correction	No. of Returns Pending for Review & Correction	% of marked Returns Pending Correction
FY14	18,21,672	6,34,413	34.83	70,849	5,63,564	88.83
FY15	20,18,354	6,04,794	29.96	83,229	5,21,565	86.24
FY16	21,28,652	4,92,387	23.13	1,05,415	3,86,972	78.59

Source: Figures furnished by the Ministry. Comments on data discrepancy in Para 1.21

The percentage of returns marked for Review and Correction (R&C) by ACES decreased to 23.13 per cent in FY16 which is a healthy sign indicating stabilization of ACES and it needs to be taken further.

It is also observed that 78.59 per cent of returns marked for R&C were pending correction as on 31 March 2016, despite drastic reduction in number and per cent of returns marked for R&C. One of the main intentions behind introducing preliminary scrutiny online was to release manpower for detailed manual scrutiny, which could then become the core function of the Range/Group.¹¹ The high figures of pendency for correction after R&C identification indicates that the same is far from being achieved.

Completion of R&C of returns in ACES is the prerequisite for scrutiny of subsequent returns submitted by the assesseees. Large number of returns pending for scrutiny carry the risk of demands becoming time barred and incorrect depiction of Service Tax collection.

1.12.2 Detailed Scrutiny of Returns

The purpose of detailed scrutiny is to establish the validity of information furnished in the tax return and to ensure correctness of valuation, availing of CENVAT credit, classification and effective rate of tax applied after taking into

¹⁰ Manual for Scrutiny of Service Tax Returns, 2009, Para 1.2.1

¹¹ Manual for Scrutiny of Service Tax Returns, 2009 Para 1.2B

consideration the admissibility of exemption notification availed etc.¹² Unlike preliminary scrutiny, detailed scrutiny is to cover only certain selected returns, identified on the basis of risk parameters, developed from the information furnished in the returns submitted by the taxpayers.¹³ After formation of separate Audit Commissionerates as part of restructuring of the department in October 2014, carrying out of detailed scrutiny of returns became the main job of the Executive Commissionerates.

Despite our repeated reminders, the Ministry did not furnish detailed scrutiny figures for FY14, FY15 and for first seven months of FY16. During November 2015 to March 2016, detailed scrutiny was carried out in respect of 9,785 returns and an amount of ₹ 74.45 crore recovered against short payment / non-payment of ₹ 149.82 crore detected.

Further, the Ministry did not furnish the actual number of returns marked for detailed scrutiny. In absence of complete details, the adequacy of detailed scrutiny could not be commented upon.

1.13 Adjudication

Adjudication is the process through which departmental officers determine issues relating to tax liability of assesseees. Such process may involve consideration of aspects relating to, inter alia, CENVAT credit, valuation, refund claims, provisional assessment etc. A decision of the adjudicatory authority may be challenged in an appellate forum as per the prescribed procedures.

Table 1.10 depicts age-wise analysis of Service Tax adjudication.

Table 1.10: Cases Pending for Adjudication with Departmental Authorities

(₹ in crore)

Year	Cases Pending as on 31 March		No. of Cases Pending for More than 1 Year
	No.	Amount	
FY14	19,925	31,790	4,383
FY15	33,122	77,463	12,668
FY16	30,453	76,124	8,587

Source: Figures furnished by the Ministry.

The number of pending adjudication cases including cases pending for more than one year decreased in FY16 in comparison to FY15 but the amount involved in these cases decreased only marginally.

¹² Manual for Scrutiny of Service Tax Returns, 2009, Para 1.2.1

¹³ CBEC Circular 113/7/2009-ST dated 23 April 2009.

1.14 Disposal of Refund Claims

Section 11B of the Central Excise Act, 1944 provides the legal authority for claim and grant of refund. Further, section 11BB of the Act stipulates that interest is to be paid on refund amount if it is not refunded within three months of the date of application of refund

Table 1.11 depicts the status of disposal of refund claims by the department. The delay depicted is in terms of time taken from the date of receipt of refund application along with all details required for processing the claims.

Table 1.11: Disposal of Refund Claims in Service Tax

(₹ in crore)

Year	OB Plus Claims Received During the Year	No of Claims Disposed During the Year				Interest Payments	
		Total Number of Disposals	Within 3 Months and % of Disposals	Claims Disposed with Delay		No of Cases	Interest Paid
				< 1 year	> 1 year		
FY14	23,145	13,979	11,445 (81.87%)	1,494 (10.69%)	1,040 (7.44%)	0	0
FY15	*	13,381	*	*	*	14	5.58
FY16	67,749	37,296	*	*	*	*	*

Source: Figures furnished by the Ministry.

*The Ministry did not provide complete data for FY15& FY16.

As the Ministry did not furnish break up of opening balance and claims received during the year and the details of disposal of cases during FY15 and FY16, the same could not be analysed.

Table 1.12 depicts an age-wise analysis of pendency of refund claims during last three years.

Table 1.12: Age-Wise Pendency of Service Tax Refund Cases as on 31 March

(₹ in crore)

Year	OB Plus Claims Received in the Year	Total Number of Refund Claims Pending as on 31 March		Refund Claims Pending for			
				Less than One Year		Over 1 Year	
		Number	Amount	Number	Amount	Number	Amount
FY14	23,145	8,154	4,487	6,391	3,582	1,763	905
FY15	*	13,913	8,390	10,848	5,642	3,065	2,747
FY16	67,749	30,453	76,124	21,866	*	8,587	*

Source: Figures furnished by the Ministry.

*The Ministry did not provide the complete data for FY15 and FY16.

It is observed that both number of cases as well as amount involved in refund claims has increased drastically in FY16 as compared to FY14. The Ministry may look into the reason for the same. The complete data for FY15 and FY16 has not been provided by the Ministry despite our repeated reminders.

1.15 Appeal Cases

Besides the adjudicating authorities, there are several other authorities including departmental appellate authorities, courts of law etc where issues of law, interpretations etc. are considered. Besides, the department also resorts to coercive recovery measures in many instances. Huge amounts of revenue thus remain outside the Consolidated Fund of India for substantial periods of time. Based on data furnished by CBEC, we have tabulated the pendency of cases at various forums in Table 1.13.

Table 1.13: Pendency of Appeal (CX & ST)

Year	Forum	Appeals Pending at the End of the Year					
		Party's Appeals		Departmental Appeals		Total	
		No. of Appeals	Amount Involved (Cr. ₹)	No. of Appeals	Amount Involved (Cr. ₹)	No. of Appeals	Amount Involved (Cr. ₹)
FY14	Supreme Court	855	1,835	1,702	6,078	2,557	7,913
	High Court	5,856	9,359	5,505	6,764	11,361	16,123
	CESTAT	41,257	90,447	16,685	14,806	57,942	1,05,253
	Settlement Commission	109	230	4	1	113	231
	Commissioner (Appeals)	23,783	7,054	3,225	669	27,008	7,723
	Total	71,860	1,08,926	27,121	28,318	98,981	1,37,244
FY15	Supreme Court	815	2,202	1,754	6,428	2,569	8,630
	High Court	5,577	10,206	5,408	9,231	10,985	19,437
	CESTAT	44,710	1,05,905	16,719	14,240	61,429	1,20,145
	Settlement Commission	155	349	2	1	157	350
	Commissioner (Appeals)	25,617	6,272	3,676	655	29,293	6,927
	Total	76,874	1,24,935	27,559	30,554	1,04,433	1,55,489
FY16	Supreme Court	766	3,112	1,525	7,437	2,291	10,549
	High Court	5,663	13,507	4,900	11,073	10,563	24,580
	CESTAT	48,071	1,20,689	15,159	24,396	63,230	1,45,085
	Settlement Commission	129	192	0	0	129	192
	Commissioner (Appeals)	26,821	7,814	4,534	766	31,355	8,580
	Total	81,450	1,45,314	26,118	43,672	1,07,568	1,88,986

Source: Figures furnished by the Ministry

The Table indicates that cases involving revenue of ₹ 1,88,986 crore were pending in appeals at the end of FY16 which is about ₹ 33,000 crore more than the amount pending at the end of FY15. As no action can be initiated for recovery of revenue till the appeal is pending, locking up of revenue of ₹ 1,88,986 crore is a matter of concern.

The Ministry has provided the data regarding pendency of appeal separately for Service Tax for FY15 & FY16. The data is tabulated below:

Table 1.14: Pendency of Appeal (ST)

Year	Forum	Appeals Pending at the End of the Year					
		Details of Party's Appeals		Details of Departmental Appeals		Total	
		No. of Appeals	Amount Involved (Cr. ₹)	No. of Appeals	Amount Involved (Cr. ₹)	No. of Appeals	Amount Involved (Cr. ₹)
FY15	Supreme Court	179	450	359	1,762	538	2,211
	High Court	1,837	4,663	877	1,717	2,714	6,380
	CESTAT	16,245	54,654	5,585	6,762	21,830	61,416
	Settlement Commission	73	214	0	0	73	214
	Commissioner (Appeals)	15,112	3,373	1,925	357	17,037	3,730
	Total	33,446	63,354	8,746	10,597	42,192	73,951
FY16	Supreme Court	196	959	423	3,077	619	4,036
	High Court	2,115	6,300	859	2,218	2,974	8,518
	CESTAT	18,628	63,654	5,546	15,824	24,174	79,478
	Settlement Commission	52	94	0	0	52	94
	Commissioner (Appeals)	14,986	4,320	2,619	377	17,605	4,697
	Total	35,977	75,327	9,447	21,496	45,424	96,823

Source: Figures furnished by the Ministry

The Ministry has provided the details of disposal of appeal cases for FY14 to FY16. The data is tabulated below:

Table No. 1.15: Breakup of Cases Decided During the Year

Year	Forum	Department's Appeal				Party's Appeal			
		Decided In Favour of Deptt.	Decided Against the Deptt.	Remanded	% of Successful Appeal	Decided in favour of Party	Decided Against Party	Remanded	% of Successful Appeal
FY14	Supreme Court	21	82	5	19.44	14	33	3	28.00
	High Court	193	355	22	33.86	379	1247	223	20.50
	CESTAT	248	1,407	151	13.73	2,314	2,125	1,574	38.48
	Comm. (A)	1,141	1,248	31	47.15	7,064	12,888	697	34.21
	Total	1,603	3,092	209	32.69	9,771	16,293	2,497	34.21
FY15	Supreme Court	24	149	16	12.70	16	52	29	16.49
	High Court	230	712	130	21.46	447	1397	206	21.80
	CESTAT	216	1,121	218	13.89	2,255	1,987	1,874	36.87
	Comm. (A)	717	869	87	42.86	4,202	9,151	931	29.42
	Total	1187	2,851	451	26.44	6,920	12,587	3,040	30.69
FY16	Supreme Court	7	81	6	7.45	11	3	3	64.71
	High Court	51	211	25	17.77	118	361	172	18.13
	CESTAT	114	589	72	14.71	1,020	544	582	47.53
	Comm. (Appeals)	275	294	26	46.22	2,897	2,673	1,341	41.92
	Total	447	1,175	129	25.53	4,046	3,581	2,098	41.60

Source: Figures furnished by the Ministry

The table indicates that success ratio of department's appeal against adjudication order has decreased from 32.69 per cent in FY14 to 25.53 per

cent in FY16. The success ratio registered a steep decline when the department went in appeal to High Court (from 34 per cent in FY14 to 18 per cent in FY16) and to Supreme Court (from 19 per cent in FY14 to seven per cent in FY16).

1.16 Cost of Collection

Table 1.16 depicts the cost of collection vis-a-vis the revenue collection.

Table 1.16: Central Excise and Service Tax Receipts and Cost of Collection

(₹ in crore)

Year	Receipts from Service Tax	Receipts from Central Excise	Total Receipts	Cost of Collection	Cost of Collection as % of Total Receipts
FY12	97,356	1,44,540	2,41,896	2,227	0.92
FY13	1,32,601	1,75,845	3,08,446	2,439	0.79
FY14	1,54,780	1,69,455	3,24,235	2,635	0.81
FY15	1,67,969	1,89,038	3,57,007	2,950	0.83
FY16	2,11,415	2,87,149	4,98,564	3,162	0.63

Source: Union Finance Accounts of respective years.

The cost of collection increased marginally in FY16 but as a per cent of total receipts of Central Excise and Service Tax, it decreased marginally with a 40 per cent increase in the total receipts.

1.17 Internal Audit

Modernisation of Indirect Tax administration in India is based on the Canadian model. The new audit system EA 2000 has four distinct features: scientific selection after risk analysis, emphasis on pre-preparation, scrutinising of business records against statutory records and monitoring of audit points.

Audit processes include preliminary review, gathering and documenting systems' information, evaluating internal controls, analysing risks to revenue and trends, developing audit plan, actual audit, preparation of audit findings, reviewing the results with the assessee/Range Officer/Divisional Assistant Commissioner and finalisation of the report.

The Audit framework consists of three parts. Directorate General of Audit and the field Commissionerates share the responsibility of administration of Audit. While the Directorate is responsible for collection, compilation and analysis of audit results and its feedback to CBEC to improve tax compliance and to gauge levels of client satisfaction, audit parties from Commissionerates undertake audit in terms of EA 2000 audit protocol. In order to improve audit quality, CBEC took the assistance of Asian Development Bank in developing audit manuals, risk management manuals

and manuals to train auditors in EA 2000 and CAATs, which prescribe detailed processes for conduct of audit.

After the restructuring of the department in October 2014, new Audit Commissionerates has come into existence. Following which the department has reorganized the audible units into three categories i.e. Large, Medium and Small Units and allocates the manpower available with the Audit Commissionerate in fix percentage for each category.

Table 1.17 depicts details of Service Tax units due for audit during FY16 by audit parties of the Commissionerates vis-à-vis units audited.

Table 1.17: Audits of Assessee Conducted During FY16

Category	Number of Units Due	Number of Units Audited	Shortfall in Audit (No.)	Shortfall in Audit (%)
Large Units	5,050	1,906	3,144	62.26
Medium Units	7,618	2,705	4,913	64.49
Small Units	16,548	5,425	11,123	67.22

Source: Figures furnished by the Ministry

The Ministry furnished the figures from October 2015 to March 2016 i.e., only for six months. It is observed that during the above six months, there was a huge shortfall in the Internal audits conducted, as compared with audits due, across all categories of units.

The result of the audit conducted by the department is tabulated in table 1.18.

Table 1.18: Amount Objected and Recovered During FY16

(₹ in crore)

Category	Amount of Short Levy Detected	Amount of Total Recovery
Large Units	8,082	1,369
Medium Units	1,498	510
Small Units	1,101	482
Total	10,681	2,361

Source: Figures furnished by the Ministry.

It is observed that amount of short levy detected and recovered in Large units is significantly higher than other units indicating the need to allocate more resources for carrying out internal audit of Large units. This year a subject specific audit has been done on “Effectiveness of Internal Audit”, the findings of which have been included in chapter III.

1.18 Revenue Collection Due to Departmental Efforts

Besides, the voluntary payment of Service Tax by the tax payers there are various methods by which the department collects the revenue due but not

paid by the taxpayers. These methods includes Scrutiny of Returns, Internal Audit, Anti-Evasion, Adjudication etc.

The result of departmental efforts is tabulated in Table 1.19

Table 1.19 : Revenue Recovered by Departmental Efforts

(₹ in crore)			
Sl. No.	Departmental Action	Recovery During FY15	Recovery During FY16
1	Internal audit	826.84	688.76
2	Anti-Evasion	3,236.42	3,009.21
3	Confirmed Demands*	621.57	1,015.36
4	Scrutiny of Returns	152.01	263.23
5	Recovery from Defaulters**	860.79	1,044.26
6	VCES	2,857.25	163.89
7	Income tax return/Tax deducted at source	406.67	235.68
8	Others***	251.40	736.21
	Total	9,212.95	7,156.60

Source: figures furnished by the Ministry

* After adjudication of SCN

** Recovery from defaulters is after issue of SCN and adjudication thereof.

*** Interests/late filing fee etc.

Total Service Tax collection during FY16 is ₹ 2,11,415 crore out of which only ₹ 7,156.60 crore is collected due to departmental efforts. Further, it is noticed that revenue collection shown under Internal Audit and Anti-evasion in Table 1.19 does not tally with the amount relating to same category shown in Table 1.18 and 1.8 respectively. In fact, the recoveries reflected in table 1.19 (₹ 3,009 crore) are far less than spot recoveries of Anti-Evasion reported in Table 1.8 (₹ 4,658 crore). Even though similar data discrepancy regarding data provided by the Ministry during FY15 was brought to the notice of Ministry through Audit Report on Service Tax last year (Report No. 1 of 2016), the Ministry sent similar data without proper verification again in 2016.

1.19 Non-furnishing of Data or Discrepancy in Data Furnished by the Ministry

The Ministry could not provide complete data related to detailed scrutiny of returns, Internal Audit and disposal of refund cases for FY16 as format of data and responsibility to maintain the data were revised from November 2014. This indicates that continuity of maintenance of critical data is not ensured during change management in CBEC. Further, CBEC provided data relating to various performance parameters such as scrutiny of returns, refunds, internal audit etc. However, we observed in respect of registered assesseees and preliminary scrutiny of returns¹⁴, data furnished did not tally with information

¹⁴ Tables 1.6 and 1.9

furnished for last Audit Report no. 1 of 2016. There is an urgent need to improve the quality of data maintenance in respect of Service Tax.

1.20 Audit Effort and Service Tax Audit Products - Compliance Audit Report

Compliance audit was conducted as per Regulations on Audit and Accounts, 2007 (as amended) and in conformity with the Auditing Standards, 2nd Edition, 2002 issued by the Comptroller and Auditor General of India.

1.21 Sources of Information and the Process of Consultation

Data from the Union Finance Account, along with examination of basic Records/ documents in DoR, CBEC, and their field formations, MIS and MTRs of CBEC along with other stake holder reports were used. We have nine field offices headed by Director Generals (DGs)/Principal Directors (PDs) of Audit, who managed audit of 1,082 units (CX&ST) in FY16.

1.22 Report Overview

The current report has 162 paragraphs having financial implication of ₹ 256.88 crore. There were generally three kinds of observations: non-payment of Service Tax, short payment of Service Tax, irregular availing and utilisation of CENVAT credit etc. The department/Ministry has already taken rectificatory action involving money value of ₹ 252.65 crore in case of 158 paragraphs in the form of issue of show cause notices, adjudication of show cause notices and reported recovery of ₹ 78.47 crore.

1.23 Response to CAG's Audit, Revenue Impact/Follow-up of Audit Reports

In the last five audit reports (including current year's report) we had included 810 audit paragraphs (Table 1.20) having financial implication of ₹ 2,181.44 crore.

Table 1.20: Follow up of Audit Reports

Year		FY12	FY13	FY14	FY15	FY16	Total	
Paragraphs Included	Number	152	151	178	167	162	810	
	Amount	500.23	265.75	772.08	386.50	256.88	2,181.44	
Paragraphs Accepted	Pre Printing	Number	150	147	171	163	158	789
		Amount	498.65	262.29	477.22	372.80	252.65	1,863.61
	Post Printing	Number	1	4	--	1	--	6
		Amount	0.52	1.81	--	0.32	--	2.65
	Total	Number	151	151	171	164	158	795
		Amount	499.17	264.1	477.22	373.12	252.65	1,866.26
Recoveries Effected	Pre Printing	Number	88	95	92	104	122	501
		Amount	84.58	65.28	130.29	53.02	78.47	411.64
	Post Printing	Number	4	9	11	3	--	27
		Amount	0.85	2.07	33.93	1.10	--	37.95
	Total	Number	92	104	103	107	122	528
		Amount	85.43	67.35	164.22	54.12	78.47	449.59

Source: CAG Audit Reports

It is observed that the Ministry had accepted audit observations in 795 audit paragraphs having financial implication of ₹ 1,866.26 crore and had recovered ₹ 449.59 crore.