EXECUTIVE SUMMARY

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). Customs receipts form part of the indirect tax revenue of the government.

Duties of customs are levied under the Customs Act 1962, and the rates of duties are governed under the Customs Tariff Act and notifications issued from time to time.

Customs receipts before the introduction of Goods and Services Tax (GST) comprised of the basic customs duty (BCD), countervailing duty (CVD) and special additional duties of customs (SAD). After introduction of GST w.e.f. 1 July 2017, the CVD and SAD on import of all commodities, except petroleum products and spirits, have been subsumed and replaced by integrated tax (IGST).

Department of Revenue under Ministry of Finance is responsible for administration of Direct and Indirect Union Taxes, through two statutory Boards namely, the Central Board of Indirect Taxes and Customs (CBIC) and the Central Board of Direct Taxes (CBDT) constituted under the Central Board of Revenue Act, 1963.

The levy and collection of customs duty and cross-border preventive functions are administered by the CBIC through 67 Customs Commissionerates across the country.

The Department of Commerce under Ministry of Commerce and Industry, through Director General of Foreign Trade (DGFT) formulates, implements and monitors the Foreign Trade Policy (FTP) which provides the basic framework of policy and strategy to be followed for promoting exports and trade.

During 2017-18, ₹ 19.57 lakh crore of exports (74,67,821 transactions) and ₹ 30.01 lakh crore worth of imports (46,04,315 transactions) took place. During FY 2017-18, the customs receipts to GDP ratio was 0.76 per cent while customs receipts as percentage of gross tax receipts was 6.7 per cent. Customs receipts as a percentage of indirect taxes was 14 per cent.

The compliance audit of Customs revenue covers transactions involving levy and collection of Customs Duties, any other levies of Customs, transactions of imports and exports undertaken under various schemes implemented under the Foreign Trade policy and specific compliance areas reviewed by audit from time to time. This year the compliance audit had reviewed the administration and collection of anti-dumping duties. The transactions covered in this report pertains to FY 2018, but in some cases prior period transactions have also been reviewed for getting a holistic picture.

The sample of Commissionerates selected for test check included 38 out of total of 67 Customs Commissionerates under 23 Zones. We audited 142 assessment charges and 90 non-assessment charges working under the Customs Commissionerates selected for audit. The audit was based on the examination of bills of entry (BsE) and shipping bills (SB) filed electronically into the Indian Customs EDI System (ICES) through a Customs House Service Centre or web based ICEGATE. In non-EDI Customs locations, the BE and SB are physically filed and assessed. The ICES uses Risk Management System (RMS) to process the data through a series of automated steps and results in an electronic assessment. This assessment determines whether the Bill of Entry will be taken-up for action, i.e. manual appraisal by assessing officer or examination of goods, or both, or be cleared after payment of duty and Out of Charge directly, without any assessment and examination. We audited BE and SB cleared by both the RMS and manual appraisal system.

Audit of incentives provided under Foreign Trade policy was carried out in 37 regional licensing authorities under the DGFT through test check of license files under various schemes of the FTP.

This report is divided into six chapters. Chapter I provides a brief description of functions of Department of Revenue and Department of Commerce and an overview of high level statistical information regarding Customs receipts, trade balance, revenue impact of tax incentives on Customs Duty, arrears of customs receipts and results of department's internal audit. Chapters II describes the CAG's audit mandate, scope and results of audit efforts. Chapters III, IV, V and VI contain significant audit findings. There are 92 paragraphs with revenue implication of ₹4795 crore in this report. In 79 paragraphs involving money value of ₹ 368 crore, rectificatory action has been taken by the department/ Ministry in the form of issuing show cause notices, adjudicating of show cause notices and recovery of ₹ 18 crore has been effected till date.

Responses received from Department of Commerce and Department of Revenue have been included at appropriate places.

Chapter I: Overview- Customs Revenue

- After introduction of GST w.e.f. 1 July 2017, the CVD and SAD have been subsumed and replaced by integrated tax (IGST). The integrated tax is in addition to the applicable BCD which is levied as per the Customs Tariff Act. In addition, GST compensation cess is also leviable on certain luxury and demerit goods under the Goods and Services Tax (Compensation to States)

Cess Act, 2017. Levy of education cess as well as anti- dumping duty and safeguard duty remains unchanged.

{Paragraphs 1.4.1 and 1.4.2}

- During 2017-18, Customs receipts realised were ₹1,29,030 crore as against ₹2,25,000 crore realised in 2016-17. One of the reasons for decrease in the Customs receipts during FY18 may be attributed to the fact that in GST regime Countervailing duty (CVD) and Special additional of Customs (SAD) have been subsumed in IGST. Hence, customs receipts mainly comprise of Basic Customs Duty.

{Paragraph 1.6}

- Imports registered growth of 16.44 percent while Exports registered a growth of 5.62 percent during the same period.

{Paragraph 1.7}

Chapter II: CAG's audit mandate and extent of Audit

- During FY 18, audit issued 479 inspection reports to the respective Commissionerates/ Regional licensing authorities containing 2715 observations and carrying a revenue implication of ₹ 1363 crore. Out of these 91 audit observations with revenue implication of ₹ 590 crore noticed during FY 18 have been included in this report. The remaining cases are being pursued by respective field formations. In addition a long paragraph involving money value of ₹ 4205 crore, on persistent irregularities regarding non-fulfilment of export obligations by the licence holders of export promotion schemes noticed consistently during audits has also been included in this report.

{Paragraphs 2.6.1& 2.6.2}

- Over the years, audit has noticed persistent cases of non-fulfillment of prescribed export obligations by licence holders of export promotion schemes like Advance authorization and EPCG. As an one time exercise, all such cases pointed out during 2000 to 2017 pertaining to 22[1] RLAs and 5 customs Commissionerates[2] were consolidated. In 1043 paras involving 3000 licence cases issued under Advance authorisation and EPCG schemes, non-fulfilment of prescribed export obligation involving revenue implication of ₹ 4,205 crore was noticed.

{Paragraphs 2.6.6 and 5.2}

[1] RLAs: Vadodara, Ahmedabad, Rajkot, Bengaluru, Panipat, Amritsar, Chennai, Trichy, Coimbatore, Puducherry, Madurai, Hyderabad, Vishakhapatnam, Cuttack, Kolkata, Varanasi, Moradabad, Dehradun, Kanpur, Mumbai, Surat and Pune.

[2] Customs Commissionerates : CH Sikka, ICD Bengaluru, ACC Bengaluru, Chennai Sea and Customs (P) Nautanvas

Chapter III: Levy of Anti-Dumping Duty (ADD) on imports

- Anti-dumping measures in India are administered by Directorate General of Trade Remedies (DGTR), (earlier the Directorate General of Anti-dumping and Allied Duties) functioning in the Department of Commerce in the Ministry of Commerce and Industry and the same is headed by the "Designated Authority", in this case the Director General. The Designated Authority's function, is to conduct the anti-dumping duty investigations and make recommendation to the Government for imposition of anti-dumping measures. Such a duty is finally imposed/ levied by a notification of the Ministry of Finance, Department of Revenue. Thus, while the Department of Commerce recommends the Anti-dumping duty (ADD), it is the Ministry of Finance, which levies such duty.

- During the period 2015-16 to 2017-18, ADD of ₹3,169 crore was collected on the imports.

- Audit noticed that the bills of entry had been cleared through the system under the Custom's Risk Management System (RMS) based clearance in the ICES. It was noticed that the RMS was unable to detect the specific conditions of ADD that were not met by the imports effected under many of the bills of entry test checked.

- Several instances of escapement of levy and instances of non- compliance with the conditions of the anti-dumping were noticed which resulted in non/short levy of anti-dumping duty amounting to ₹ 86.69 crore. The Department accepted observation amounting to ₹ 53 crore and reported recovery of ₹ 1.20 crore.

{Paragraphs 3.1 to 3.6}

Chapter IV: Non-compliance to provisions of Customs Act, Customs Tariff Act and Tariff notifications

- Data for import and export transactions for the year 2017-18 was received with much delay from CBIC, and that too with many gaps and deficiencies. In the absence of full data, the conclusions in this chapter on compliance audit were based on limited audits carried out in the field. However, the range of audit findings noticed even in the test check point to systemic deficiencies that need to be addressed by the department.

- During 2017-18, a total of 46.04 lakh BsE and 74.68 lakh Shipping Bill (SB) were generated, out of which Audit selected a sample of 4.04 lakh BsE and 1.62 lakh SB. Significant audit observations with revenue implication of ₹ 10 lakh or more noticed during test check of import/ export documents in the Customs Commissionerates have been reported in this Report. Audit has, wherever applicable, attempted to quantify potential risk to revenue by ascertaining the total number of similar transactions by using the import data received from CBIC for the year 2017-18.

The cases of non-compliance noticed during audit could be broadly categorized as follows:

I. Incorrect application of General exemption notifications

II. Misclassification of imports

III. Incorrect levy of applicable levies and other charges

- Audit noticed 49 cases of under assessments of applicable Customs duties due to misclassification of imported goods, incorrect application of General exemption and Incorrect levy of applicable levies and other charges, as result of which revenue of ₹ 88.42 crore was at risk etc.

{Paragraphs 4.1 to 4.11}

Chapter V: Non-compliance to provisions of various Export Promotion schemes of Foreign Trade Policy

Deficiencies in fulfilment of Export Promotion Capital Goods (EPCG) Scheme

- Despite the Government assurances on the audit recommendations there was no substantial improvement in the control and monitoring mechanism of EPCG licences. Issues like non fulfilment of export obligation, irregular issue of EPCG licences, no/delayed action being taken on defaulters; incorrect fixation of export obligation, irregular redemption of authorizations etc. continued to plague the scheme in large number of cases in the selected sample. Revenue of ₹ 306 crore was due from exporters/importers who had availed the benefits of EPCG scheme but had not fulfilled the prescribed export obligations/ conditions.

{Paragraphs 5.3 to 5.5}

Other Export Promotion Schemes

- In addition in 39 cases of licences issued under Foreign Trade Policy, test check revealed irregularities in fixation of export obligation, Clearance of restricted goods in Domestic Tariff Area, allowing benefits of Duty exemption/ Remission schemes etc. Revenue of ₹ 40.51 crore was due from exporters/importers who had availed the benefits of the duty exemption schemes but had not fulfilled the prescribed obligations/ conditions.

{Paragraphs 5.4 to 5.4.5}

Chapter VI: Irregularities in awarding major works by Santacruz Electronics Export Processing Zone (SEEPZ) Special Economic Zone (SEZ), authority

- The audit findings are indicative of weak administrative, financial and internal controls over the way in which major works; repairs and maintenance work are being outsourced to external agencies by the Authority. Expenditure involved was ₹ 67.91 crore.

{Paragraph 6.2.1}

- The instances of issue of excess work order without approval and cancellation of allotments of units due to lack of mandatory clearances from Statutory authorities are lacunae in the working of the SEEPZ Authority and need to be addressed at the highest level.

{Paragraphs 6.2.2 to 6.2.4}

General Recommendations

Though the Ministry has taken corrective action to recover duty in many cases, it may be pointed out that audit paragraphs in this Report are only a few illustrative cases. There is every likelihood that such errors of omission and commission, whether in RMS based assessments or manual assessments, may exist in many more cases. Audit has, wherever applicable, attempted to quantify potential risk to revenue by ascertaining the total universe of similar transactions by using the import data received from CBIC for the year FY 2017-18. These need to be examined by the department.

It is pertinent to note that a large number of BsE examined by audit in test check had been assessed through the RMS which indicated that the assessment rules mapped into the RMS to facilitate system based assessments were inadequate.

The process of mapping and updating of risk parameters in the RMS also needs to be reviewed.