

CHAPTER II

CAG's Audit mandate and extent of Audit

2.1 Authority of the CAG for audit of receipts

2.1.1 Section 16 of the CAG's DPC Act, 1971 authorizes CAG to audit all receipts (both revenue and capital) of the Government of India and of Government of each state and of each Union territory having a legislative assembly and to satisfy himself that the rules and procedures are designed to secure an effective check on the assessment, collection and proper allocation of revenue and are being duly observed. Regulations on Audit & Accounts, lay down the principles for Receipt Audit.

2.1.2 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 FTP and specific compliance areas reviewed by audit from time to time. The transactions covered in this report pertain to FY 19, but in some cases, prior period transactions have also been reviewed for getting a holistic picture. In addition, this year the audit had commented on SSCA "Show Cause Notices (SCNs) and Adjudication process".

2.2 Scope of Audit

2.2.1 CAG examines the records, selected on a risk based sample, of the various functional wings of the CBIC, along with the sample of transactional records of Customs field formations relating to imports, exports and refunds. CAG also examines records relating to departmental functions like adjudication and recovery of arrears and preventive functions.

2.2.2 Records of concerned RAs under DGFT in respect of customs exemption benefits availed by importers/exporters under FTP are examined. Similarly CAG conducts audit of DCs of SEZs/ EOUs and Software Technology Parks (STPs), including certification of accounts of government owned SEZ.

2.3 Audit Universe

2.3.1 Audit universe includes CBIC, its Customs field formations and the ports (both EDI linked and non-EDI) and transactions executed there under i.e BsE and SBs.

2.3.2 Customs field formations are divided into 11 Customs Zones and 09 Combined (Customs and GST) Zones with 70 Principal Commissioners / Commissioners in 20 Zones headed by one Chief Commissioner each. As on 1 April 2019, there were 44 Customs Executive Commissionerates, 13 Customs Preventive Commissionerates, Nine Customs Appeal Commissionerates and four Customs Audit Commissionerates.

2.3.3 For the audit of export promotion schemes, the audit universe comprises of the DGFT, its RAs and DCs of SEZ/EOU/STP. DGFT is an attached office of the MOCI and is headed by Director General of Foreign Trade. DGFT is responsible for formulating and implementing the FTP with the main objective of promoting India's exports. The DGFT issues scrips/authorization to exporters and monitors their corresponding obligations through a network of 38 regional offices and an extension counter at Indore.

2.3.4 The schemes which are implemented through SEZs and EOUs, are audited at the office of respective DCs of SEZs/EOUs. The Customs audit is also responsible for annual certification of accounts of seven public sectors SEZ³.

2.4 Access to Auditee data

Audit relies on Customs transaction data to draw assurance⁴ that laws have been applied correctly to prevent loss of revenue. Lack of full access to pan-India data limits the audit scrutiny to test check of transactions and a limited assurance in certifying revenue receipts.

For Pan India transactional data transfer, Audit has entered into a Memorandum of Understanding (MoU) with CBIC in March 2015, duly complying with CBIC's data sharing policy and requirements for maintaining data integrity and confidentiality.

Pan India import and export transactions data for the FY 19 requisitioned (June 2019) by audit was not received despite repeated requests. In the absence of Pan India transactional data, audit was conducted by physically visiting the 48 Commissionerates through Customs Receipt Audit (CRA) Module interface of ICES, which had its limitations.

Audit has, to the extent possible based on the findings in test check, quantified total number of transactions at risk, through the CRA Module access provided by the Department.

The instances mentioned in this Report are those which came to notice in the course of test audit conducted during the period 2018-2019 and in some cases earlier year also. Audit has, to the extent possible based on the findings in test check, quantified total number of transactions at risk, based on the data that has been provided by the Department.

³Santacruz Electronics Export Processing Zone (SEEPZ), Kandla SEZ, Madras SEZ, Cochin SEZ, Visakhapatnam SEZ, Noida SEZ and Falta SEZ

⁴ 'expressing a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the outcome of the evaluation or measurement of a subject matter against criteria'

2.5 Audit sample

Test check of transactions was carried out in **48** out of 70 (**69 per cent**) Commissionerates. The audit of Commissionerates of Customs involved 36 out of 44 Executive Commissionerates, Nine out of 13 Preventive Commissionerates and three out of Nine Appeal Commissionerates. Audit of licenses under various schemes of FTP granted by the DGFT through its RAs was done in 28 out of 38 RAs.

Table 2.1: Audit Universe and Sample

	Audit Universe		Audit Sample
	Audited Entity	Total	
Department of Revenue	Chief Commissionerates Customs & Preventive	11 ⁵	7 (64 %)
	Principal Commissionerate/ Commissionerate	70	48(69 %)
	Executive Commissionerate	44	36 (82%)
	Exclusive Preventive Commissionerate	13	9 (69%)
	Appeal Commissionerate	9	3 (33%)
	Audit Commissionerate	4	0
	Assessment Units	285	203(71%)
	Non Assessments Units	206	62(30%)
	Department of Commerce	Regional authority	38
	Development Commissioner	8 ⁶	8 (100%)

2.6 Audit efforts

2.6.1 During FY 19, 353 Inspection Reports were issued to the respective Commissionerates/RAs/DCs containing 2,299 observations and carrying a revenue implication of ₹3,296 crore.

2.6.2 Significant and high value cases noticed during audit were issued to the Ministry for comments before inclusion in the Audit Report. This report contains 114 audit observations with revenue implication of ₹10,909 crore noticed during FY 19.

2.6.3 The Ministry has taken rectificatory action involving money value of ₹62.50 crore in respect of 93 paragraphs in the form of issue of SCNs, adjudication of SCNs and has reported recovery of ₹31.58 crore in 66 cases of incorrect assessment of Customs duties.

⁵Customs Zones-11 (Ahmedabad Cus, Bangaluru Cus., Chennai Cus., Trichi Prev., Delhi Customs, Delhi Prev., Kolkata Customs, Patna Prev., Mumbai-I, Mumbai-II, Mumbai-III)

⁶ Santacruz Electronics Export Processing Zone (SEEPZ), .Kandla SEZ, Madras SEZ, Cochin SEZ, Visakhapatnam SEZ, Noida SEZ and Falta SEZ and one SEZ-Indore

2.6.4 An SSCA on ‘SCNs and Adjudication process’ in Customs, RAs and DCs office has also been included in this report as Chapter III. Audit examined compliance to Customs procedures regarding ‘SCNs and Adjudication process’ and the findings with revenue implication of ₹10,649 crore are reported.

2.6.5 In Chapter IV, Audit reported significant findings noticed during test check of BsE and other records at selected Commissionerates with a revenue implication of ₹233 crore. The audit findings generally pertained to incorrect application of General exemption notifications; Mis-classification of imports; and incorrect levy of applicable levies and other charges. Audit findings also comprise of following systemic issues and persistence irregularities.

(A) Systemic issues

Audit noticed systemic issues in few import cases wherein the RMS allowed clearance even though the prescribed import conditions were not fulfilled. The RMS needs to address the issues flagged by audit so that the prescribed import conditions are complied with and applicable duties are automatically charged once the BE passes through the system.

Few cases are mentioned below and also discussed in Chapter IV of the Report.

- (i) Short levy of BCD on I phones (Smart phones) imports due to incorrect application of the notification. .
- (ii) Short levy of BCD on incorrect exemption granted to ‘Camera module and printed circuit Board Assembly’.
- (iii) Import of restricted commodity below Minimum Import Price.
- (iv) Improper exemption of IGST on import of pharmaceutical products.
- (v) Incorrect application of IGST rate on import of Carpets and other textile floor coverings (CTH- 57033090).
- (vi) Short levy of duty due to undervaluation of goods.

(B) Persistent irregularities

Similar instances of non-realisation of cost recovery (establishment) charges from the units in the SEZ and misclassification of imports flagged to the Ministry in the previous Audit Reports continue to be reported in the Customs field formations, notwithstanding assurances of the CBIC that their field formations have been sensitised to check similar issues cautiously. Few cases are mentioned below:

- (i) Non realisation of cost recovery charges from the developers.
- (ii) Misclassification of machinery for animal feed.
- (iii) Misclassification of RFID tags.

2.6.6 Irregularities reported in Chapter V, especially the issue of non-fulfilment of export obligation and other non-fulfilment of conditions by exporter/importer as per FTP seems to be widespread and need to be addressed by the DGFT, New Delhi and CBIC. The remaining cases are being pursued by respective field formations. Appropriate action to recover the duty saved in cases pointed in Audit needs to be taken.

2.7 Revenue Impact of Audit Reports

In the five reports pertaining to FY 15 to FY 19, Audit has included 530 audit paragraphs (**Table 2.2**) involving ₹18,014 crore. Government has accepted observations in 410 audit paragraphs involving ₹565 crore and has recovered ₹107 crore in 278 paragraphs.

Table 2.2 : Revenue Impact of Audit Reports

Year	Paragraphs included		Paragraphs accepted		Recoveries effected	
	No.	Amt. (₹ in Cr.)	No.	Amt. (₹ in Cr.)	No.	Amt. (₹ in Cr.)
FY 15	122	1,162	91	85	67	23
FY 16	103	1,063	70	19	54	15
FY 17	99	85	77	30	50	19
FY 18	92	4,795	79	368	42	18
FY 19	114	10,909	93	63	65	32
Total	530	18,014	410	565	278	107

