

## **Chapter II: Audit Mandate, Audit Universe and Response to Audit**

### **2.1 Audit Mandate**

Article 149 of the Constitution of India provides that the Comptroller and Auditor General of India (CAG) shall exercise such powers and perform such duties in relation to the accounts of the Union and of the states and of any other authority or body as may be prescribed by or under any law made by the Parliament. Parliament passed the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act (CAG's DPC Act) in 1971. Section 16 of the CAG's DPC Act authorizes CAG to audit all receipts 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 (Amendments), 2020 lay down the principles for Receipt Audit.

#### **2.1.1 Examination of systems and procedures and their efficacy**

Audit of receipts includes an examination of the systems and procedures and their efficacy mainly in respect of:

- a. identification of potential tax assessees, ensuring compliance with laws as well as detection and prevention of tax evasion;
- b. exercise of discretionary powers in an appropriate manner including levy of penalties and initiation of prosecution;
- c. appropriate action to safeguard the interest of the Government on the orders passed by appellate authorities;
- d. any measures introduced to strengthen or improve revenue administration;
- e. amounts that may have fallen into arrears, maintenance of records of arrears and action taken for recovery of the amounts in arrears;
- f. pursuit of claims with due diligence and to ensure that these are not abandoned or reduced except with adequate justification and proper authority.

#### **2.1.2 Audit of Indirect Taxes**

Indirect Tax System is a self-assessment system in which the tax payers prepare their own tax returns and submit it to the Department. This system is guided by the fiscal laws including the Goods and Service Tax Act, 2017, Integrated Goods and Service Tax Act, 2017, Goods and Service Tax (Compensation to States) Act, 2017 and legacy tax acts viz. Central Excise Act, 1944 and Finance

Act, 1994. Indirect Tax administration assesses and scrutinizes the returns by way of preliminary scrutiny, detailed scrutiny, internal audit etc. and ensures the correctness of the tax so deposited by the tax payer.

To examine the efficacy of the systems and procedures of the Indirect Tax administration, Audit examines the records related to the returns submitted by the assesseees along with the records of the various field formations and functional wings of the Board.

## **2.2 Audit Universe**

The audit universe includes the Department of Revenue, CBIC, its subordinate organisations and field formations. The organisational structure of CBIC and the number of departmental units are discussed in Para 1.2 of this Report. Roles and duties of the CBIC and its field formations are discussed in the subsequent paragraphs.

### **2.2.1 CBIC**

The Central Board of Indirect Taxes and Customs, in the Ministry of Finance, is the apex body for administering the levy and collection of indirect taxes of the Union of India. It deals with the tasks of formulation of policy concerning levy and collection of indirect taxes, prevention of smuggling and administration of matters relating to indirect taxes and narcotics to the extent under CBIC's purview. CBIC is headed by a Chairman and consists of six members.

### **2.2.2 Zones**

Zones are the highest auditable field entities headed by Principal Chief Commissioner/Chief Commissioner. Principal Chief Commissioner/Chief Commissioner of Zone exercises supervision and control over the technical and administrative work of all the Commissionerates in the Zone. They monitor the revenue collection by each Commissionerate in the Zone and the proper implementation of Acts/Rules and Board's instructions/guidelines issued from time to time.

### **2.2.3 Commissionerates**

Commissionerates are divided into three categories viz. Executive Commissionerates, Commissionerates (Audit) and Commissionerates (Appeal).

The primary function of a Central Goods and Service Tax Commissionerate (Executive Commissionerate) is to implement the provisions of the Central Goods and Service Tax Act, 2017, the Central Excise Act, 1944, rules framed

under these Acts and other allied Acts of the Parliament under which duty of GST/Central Excise is levied and collected. Administratively, each Commissionerate is a 3-tier set-up with its Headquarters at the helm, four to six Divisions at the second level and on an average four to seven Ranges under each Division at the third and final level.

In each zone, there may be one or more Audit Commissionerates headed by a Commissioner (Audit). The main function of the Audit Commissionerate is to conduct internal audit of the taxpayers falling under its jurisdiction, convening of monitoring committee meetings, helping executive Commissionerates in pursuing the cases against the assessee etc.

Commissioner (Appeal) acts as an appellate authority and passes orders on appeals in relation to adjudication orders passed by an authority subordinate to the rank of a Commissioner.

#### **2.2.4 Divisions**

Each executive Commissionerate has four to six Divisions headed by a Deputy/Assistant Commissioner. The Divisional heads are responsible for proper compliance of laws and procedures within their jurisdiction. They are also responsible for provisional assessments, sanctioning of refund claims and perform quasi-judicial functions viz. adjudication of cases falling within their competence.

#### **2.2.5 Ranges**

Each Division consists of on an average four to seven Ranges. The Range, headed by a Superintendent, is the first office of contact between the trade and industry, and the Department. Scrutiny of the assessment is done by the Range on the basis of prescribed returns filed by the assessee. Apart from the assessment work, the Range officials also check the correctness of statutory declarations filed by the taxpayers.

### **2.3 Audit Sample, Audit Efforts and Audit Products**

During 2020-21, Audit, in view of the access to pan-India data and back-end systems of the CBIC, transitioned from generic risk assessment at unit level (Ranges/Divisions) to a more comprehensive subject matter risk assessment with respect to GST. Accordingly, nine field audit offices headed by Directors General (DsG)/Principal Directors (PDs) of Audit carried out subject specific audit of two major areas under GST viz. processing of GST Refunds and Transitional Credits under GST.

As part of audit of GST refunds, Audit selected 12,283 refund cases for detailed audit, from 3, 40,894 GST refund applications received by the Department between August 2018 and July 2020. Audit observed various systemic issues and compliance deviations with revenue impact of ₹ 185.28 crore. Audit findings on processing of GST refunds are included in Chapter V of this Report.

With respect to audit of transitional credits under GST, Audit examined 7,560 (15 per cent) transitional credit cases, out of 50,000 cases<sup>31</sup>, identified by the CBIC for verification. Audit observed 1,686 compliance deviations in 1,438 cases with monetary impact of ₹ 977.54 crore. Audit observations pertaining to transitional credits are discussed in Chapter VI of this Report.

Audit also examined the GST returns data, in GSTN's premises, from FY 2017-18 to FY 2019-20, as filed by taxpayers up to August 2021. Audit noticed significant inconsistencies in the GST data maintained by GSTN, which are discussed in Chapter IV of this report.

Audit findings with respect to revenue trends and compliance verification mechanism under GST are included in Chapter I and Chapter III of this Report.

In addition to this, Audit had also issued 14 draft paragraphs with money value of ₹ 14.52 crore pertaining to GST audit and 03 draft paragraphs with money value of ₹ 73.84 crore pertaining to legacy tax audit (Service Tax). These audit findings were noticed during the period prior to 2020-21. The details of these 17 audit paragraphs are given in **Appendix-I**.

## 2.4 Follow-up of previous CAG's Audit Reports

In the last four Audit Reports (excluding current year's report), we had included 1,091 audit paragraphs pertaining to Central Excise, Service Tax and Goods and Services Tax involving money value of ₹ 3,091.87 crore. The details of follow-up on audit observations are included in Table 2.1.

**Table 2.1: Follow-up of Audit Reports**

Year		FY16	FY17	FY18	FY19 & FY20	Total	
Paragraphs Included		No.	255	300	239	297	1,091
		Amt.	435.56	1018.79	401.26	1236.26	3,091.87
Paragraphs accepted	As on 15.02.2022	No.	237	269	216	205	927
		Amt.	384.78	548.56	200.39	1,101.12	2234.85
Recoveries effected	As on 15.02.2022	No.	178	160	116	107	561
		Amt.	110.97	372.15	58.37	43.24	584.73

(Amount in ₹ crore)

<sup>31</sup> Antarang data set

The Ministry had accepted audit observations in 927 audit paragraphs involving money value of ₹ 2,234.85 crore, and had recovered ₹ 584.73 crore in 561 audit paragraphs.

## **2.5 Response by Ministry to audit observations included in this report**

We gave six weeks to the Ministry to offer their comments on the audit observations issued to them before inclusion in the Audit Report. We have included two subject specific compliance audit (SSCA) reports with money value of ₹ 1,162.82 crore in this Audit Report. An Exit Conference on these SSCAs was held with the Department on 7 February 2022. Ministry, with respect to SSCA on processing of GST Refunds, accepted audit observations with money value of ₹ 92.08 crore and reported recovery of ₹ 52.93 crore by the Department at the instance of audit. With respect to SSCA on transitional credits, Ministry accepted audit observations with money value of ₹ 309.82 crore and reported recovery of ₹ 50.39 crore by the Department at the instance of audit. We have also included 17 draft paragraphs (with money value of ₹ 88.36 crore), that were noticed prior to 2020-21. Ministry replied to 12 draft paragraphs and accepted audit observations in nine cases with money value of ₹ 8.60 crore. Ministry's reply is awaited with respect to five draft paragraphs.

In addition to the above, we issued 11 draft paragraphs related to Compliance verification mechanism under GST, Revenue Trends under GST, and data inconsistencies in GST data maintained by GSTN. Ministry replied to eight draft paragraphs and accepted audit observations/recommendations in seven draft paragraphs. Ministry's reply is awaited in respect of three draft paragraphs.

