INDIAN CUSTOMS ELECTRONIC DATA INTERCHANGE SYSTEM (ICES 1.5)

MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)

PUBLIC ACCOUNTS COMMITTEE
(2015-16)

TWENTY-THIRD REPORT

SIXTEENTH LOK SABHA

LOK SABHA SECRETARIAT
NEW DELHI

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INDIAN CUSTOMS ELECTRONIC DATA INTERCHANGE SYSTEM (ICES 1.5)

MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)

Presented to Lok Sabha on: ....13 AUG 2015

Laid in Rajya Sabha on: ....

L O K S A B H A S E C R E T A R I A T
N E W D E L H I
August 2015/ Shravana 1937 (Saka)

GLOSSARY

ACP	Accredited Client Program
ACC	Air Cargo Complex
ADD	Anti Dumping Duty
AEO	Authorised Economic Operator
APSO	Airport Sorting Office
ATF	Aviation Turbine Fuel
AV	Assessable Value
BCD	Basic Customs Duty
BE	Bill of Entry
CAB	Change Advisory Board
CBDT	Central Board of Direct Taxes
CBEC	Central Board of Excise & Customs
CCEA	Cabinet Committee On Economic Affairs
CCR	Compulsory Compliance Requirement
CETH	Central Excise Tariff Heading
CHA	Custom House Agent
CNE	Committee on Non-Plan Expenditure
COO/CORG	Country of Origin
CRA	Customs Receipt Audit
CTA	Customs Tariff Act
CTH	Customs Tariff Heading
Cus	Customs
CVD	Countervailing Duty
DEPB	Duty Entitlement Pass Book Scheme/Scrip
DGCI&S	Directorate General of Commercial Intelligence & Statistics
DGFT	Director General of Foreign Trade
DIT	Department of Information and Technology
DoR	Department of Revenue
DoS	Directorate General of Systems & Data Management
DoV	Directorate of Valuation
DSCI	Data Security Council of India
DMZ	Demilitarized Zone
ECDB	Export Commodity Database
EDD	Extra Duty Deposit
EDI	Electronic Data Interchange
EGM	Export General Manifest
EO	Export Obligation
EODC	Export Obligation Discharge Certificate
EPCG	Export Promotion Capital Goods
FMS	Focus Market Scheme/Scrip
FPS	Focus Product Scheme/Scrip
HPC	High Powered Committee
HS	Harmonized Commodity

TEG	Technical Experts Group
TPA	Third Party Auditor
TRA	Telegraphic Release Advice
UQC	Unit Quantity Code
VPD	Virtual Private Database
WH	Warehouse

(v)

CONTENTS

PART – I

BACKGROUND ANALYSIS

PART-II

OBSERVATIONS/RECOMMENDATIONS

APPENDICES

COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE
(2015-16)

Prof. K.V. Thomas   -   Chairperson

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2. Smt. Anita B. Panda   - Director
3. Shri T. Jayakumar   - Additional Director
4. Shri Paolienlal Haokip - Deputy Secretary

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(2014-15)

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19. Shri Bhubaneswar Kalita
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21. Shri Sukhendu Sekhar Roy
22. Shri Ramchandra Prasad Singh

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[*] Elected w.e.f. 3rd December, 2014 *vice* Shri Rajiv Pratap Rudy who has been appointed as Minister w.e.f. 9th November, 2014.
[†] Elected w.e.f. 3rd December, 2014 *vice* Shri Jayant Sinha who has been appointed as Minister w.e.f. 9th November, 2014.
[‡] Elected w.e.f. 3rd December, 2014 *vice* Dr. M. Thambidurai who has been chosen as Hon'ble Deputy Speaker, Lok Sabha and has since resigned from the membership of the Committee.

INTRODUCTION

I, the Chairperson, Public Accounts Committee, having been authorised by the Committee, do present this Twenty-third Report(Sixteenth Lok Sabha) on " Indian Customs Electronic Data Interchange System (ICES 1.5)" based on Audit Report No. 11 of 2014 relating to the Ministry of Finance (Department of Revenue).

2.   The Report of Comptroller and Auditor General of India for the year 2012-13 was laid on the Table of the House on 18 July, 2014.

3.   The Public Accounts Committee (2014-15) took up the subject for detailed examination and report. The Committee took oral evidence of the representatives of the Ministry of Finance on 19.11.2014. As the examination could not be completed due to paucity of time, the PAC 2015-16 retained the subject to continue the examination and to submit a Report to Parliament based on evidence taken by the predecessor Committee. Accordingly, draft Report was prepared and placed before the Committee for their consideration. The Committee considered and adopted this draft Report at their sitting held on 11th August, 2015. The Minutes of the Sittings are appended to the Report.

4.   For facility of reference and convenience, the Observations and Recommendations of the Committee have been printed in thick type and form Part- II of the Report.

5.   The Committee would like to place on record their appreciation to the representatives of the Ministry of Finance (Department of Revenue) for tendering evidence before the Committee and furnishing the requisite information in connection with the examination of the subject. The Committee also expresse their gratitude to the representatives of Central Board of Excise and Customs (CBEC) for submission of facts and for tendering evidence before the Committee in connection with examination of the subject.

7.   The Committee place on record their appreciation of the assistance rendered to them in the matter by the office of the Comptroller and Auditor General of India.

NEW DELHI;   PROF. K.V. THOMAS
13th August, 2015   Chairperson,
21 Shravana, 1937 (*Saka*)   Public Accounts Committee.

REPORT

PART - I

I. Introductory

The Central Board of Excise & Customs (CBEC) runs a number of projects aimed at harnessing ICT for achieving the objectives of Customs and Central Excise administration. The Directorate General of Systems & Data Management (DoS) has been entrusted with the implementation of these projects. There are three major components of Indian Customs ICT Systems, as under:

a.　The Indian Customs Electronic Data Interchange System (ICES) was developed around 18 years back as the core Information and Communication Technology (ICT) system through which import and export documents {Bills of Entry (BEs), Shipping Bills (SBs), Import General Manifests (IGMs) and Export General Manifests (EGMs)} were to be processed. The main objectives of ICES were to provide a comprehensive, paperless, fully automated customs clearance system by ensuring uniformity of assessments and valuations; ensure faster processing; reduce transaction cost, interaction of the Trade with Government agencies, and provide quick and accurate import/export statistics for compilation by Directorate General of Commercial Intelligence and Statistics (DGCI&S). ICES Ver 1.0 was initially launched as a Pilot project at Delhi Custom House in 1995. It was gradually made operational at other custom houses from 1997. ICES is running at 123 customs locations at present and handling nearly 98 per cent of India's International trade ICES 1.5 is upgraded version of the original ICES 1.0 version. It rolled out across various custom locations from June, 2009 onwards.

b.　The Indian Customs EDI Gateway (ICEGATE), is the interface of ICES with the Trade for customs clearance related messages and with licensing and regulatory agencies such as Directorate General of Foreign Trade (DGFT), Directorate of Commercial Intelligence and Statistics (DGCI&S), Ministry of Steel, Ministry of Railways, Reserve Bank of India (RBI), etc. for sharing of trade
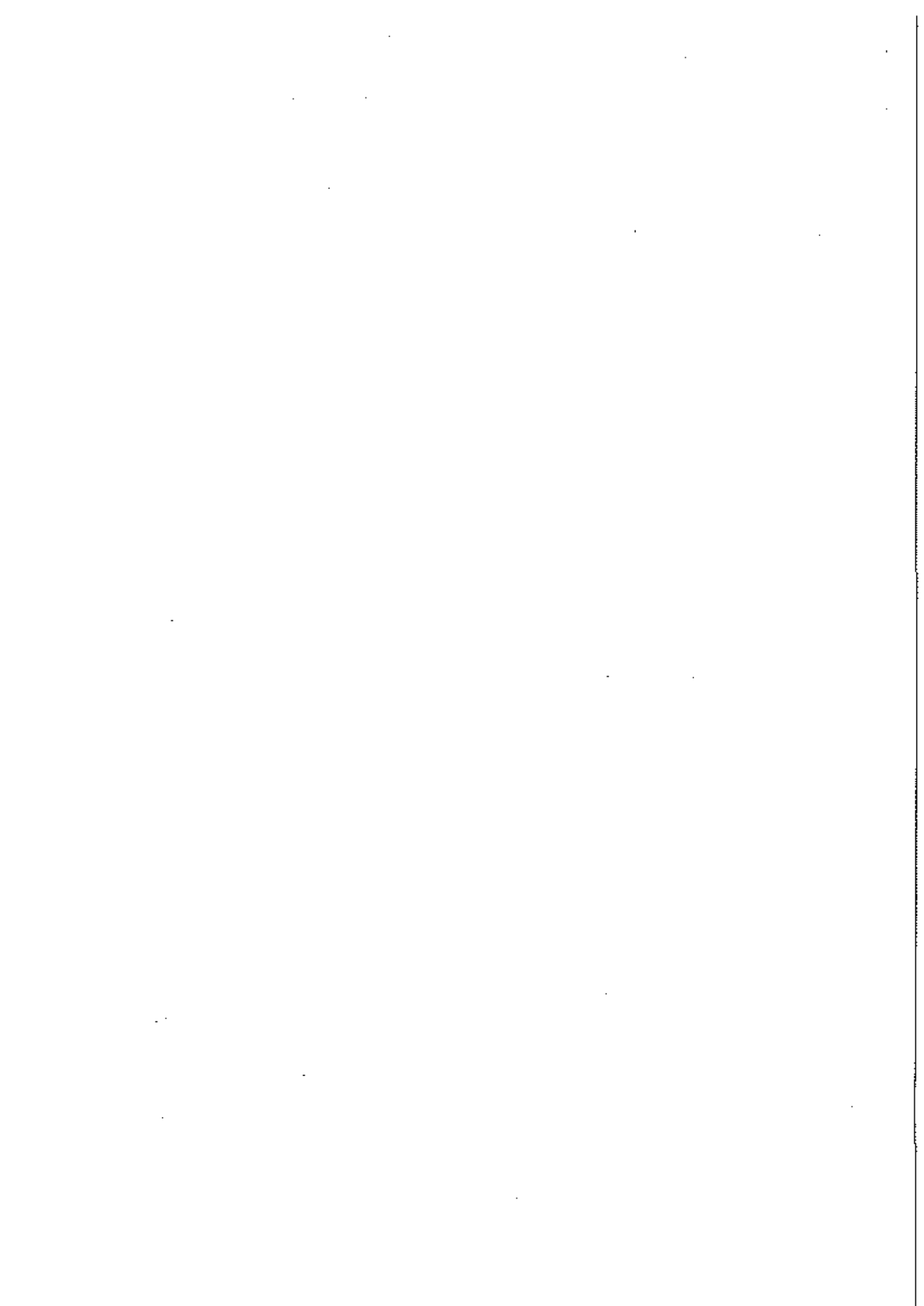
statistics/Customs clearance data. The National Import Database (NIDB) and Export Commodity Database (ECDB) for Directorate of Valuation (DoV) are also serviced through ICEGATE. It provides a host of services like e-filing of customs documents, e-payment of duty, document tracking status, online verification of licences, importer-exporter code (IEC) status, PAN based Custom House Agent (CHA) data, etc.

c. The Risk Management System (RMS), is a separate application, but integrated with the ICES, which facilitates minimal or no checks for low risk import consignments/entities and focuses customs compliance enforcement efforts on high risk consignments/ entities. It was introduced in November, 2005 and a newer version, RMS ver. 3.1, was introduced in June, 2010. It had so far functioned for imports only, but RMS for exports has been introduced from 15 July, 2013 at two ICES locations on trial basis.

2. Audit had earlier reviewed the Customs EDI System for the first time in the year 2000-01 and reported its findings in CAG's Report No. 10 of 2002 (Customs). The review focused on procurement and software development. ICES 1.0 was again reviewed by the Audit in the year 2008, primarily to verify whether it had mapped the processes and provisions of the Customs Act and allied rules and regulations effectively. This review had revealed deficiencies in (i) system design leading to incomplete capture of data resulting in manual interventions, (ii) incorrect mapping of business rules, (iii) absence of appropriate input controls, (iv) absence of validation between 'customs tariff heading' and the serial number of the notification for ensuring correct availing of exemption notification, (v) absence of validation of licence and scheme code, (vi) inadequate change management controls and (vii) wastage of resources as the data available in the system was not utilised and manual process were restored instead. The Audit had also made certain recommendations to address the system deficiencies which were included in their Report No. PA 24 of 2009-10 (Customs) which were as follows:

I. Review of the business rules mapped in the systems may be carried out.

II. Any changes built into the system may be documented and the conformity of the changes to the business rules ensured. The changes may be authorised by an appropriate authority. An audit trail of the changes made to the system and the data may be maintained. For centralised applications, a centralised change management system must be in place.

III. Input controls and validation checks may be reviewed and built into the system, wherever required.

IV. The system may be modified to use the available data fully so that all business processes are done through the system instead of resorting to manual procedures.

V. A periodical review of the performance of the system may be put in place to ensure continued efficiency and effectiveness of the system towards the desired/dynamic business objectives.

All the above recommendations were accepted by the Ministry of Finance.

3. The Customs ICT systems and the ICES application have been modified from time to time in accordance with the operational requirements of the department and changes in the Customs Act and allied Acts, Rules and Regulations. Although the core ICES application has been in use for nearly two decades, with the migration from decentralised to centralised environment from the year 2009-10, the Audit report states that there were several changes in underlying ICT infrastructure, work flow, data transfer and storage, security, etc.

4. ICES 1.5, an upgrade of the original ICES 1.0 Version was rolled out in a phased manner across various customs locations from June 2009. The main features of the upgraded version were a migration from Oracle database 8i to 10g, which runs in an environment with a centralised application having:

i. Multi-locational functionality;

II. Single database with partitions for users to access data only for their location;

III. Centralized maintenance and updating of software;

IV. Faster and better communication with external stakeholders, banks, e-PAO, etc.

V. Integration with ICEGATE in central environment leading to better response time. (However, having spend ₹ 604 crore in upgrading the application, estimation of commensurate gains in terms of cost and time savings have not been made.)

The latest Audit of ICES 1.5 was stated to be conducted to gain an assurance that:

a. The ICT system has adequate controls in place to safeguard assets (data, technology, applications, facilities and people),

b. To maintain data confidentiality, integrity, and

c. To ensure fulfillment of the department's business requirements set down in the Customs Act and allied rules and regulations by effectively mapping the processes and provisions of the Customs Act and allied rules and regulations through the ICES 1.5 application and its inter phases.

5. The Customs Department is today facing challenge from the global online shopping business giants like Amazon, eBay, etc. There lies great potential in tapping and generating revenues from the online shopping businesses across the globe. The Customs Department needs to devise smart strategies to tap this potential domain.

6. Though qualitative changes have been made in ICES 1.5 as compared to ICES 1.0 the Audit came across certain systemic issues and issues involving inadequate scoping and functionality of the 1.5 application. The total revenue implication of the Audit Report was worked out to be ₹ 847.16 crore.

7. Some of the important findings of Audit were as under:

(i) Incorrect calculation of warehousing interest by ICES 1.5 Application

8. An analysis of ICES data for the period 1 April 2012 to 31 March 2013 revealed that out of 6,887 Ex-Bond BEs involving clearances from Warehouse (WH) beyond 90

days *(considering the WBE_WH_DT field from the BE_STATUS Table and the PAYMENT_DT field from the BE_CASH Table)* and where WH interest was levied, in 6,756 BEs WH interest was levied for one day less, resulting in short-levy of WH interest by Rs. 13.28 lakh. In the remaining 131 BEs, WH interest was found to have been either excess or short-levied for periods varying from 28 days in excess to 6 days less, for reasons not ascertainable from the available data. This indicated an error in the program for the 'calculation of WH Interest' in ICES 1.5 application.

(ii)   Absence of RSP (Retail Sale Price) validations to enforce RSP declaration for imports attracting RSP based assessment

9.   The audit analysis revealed that there were no validations in the ICES 1.5 application to ensure that importers of goods falling under any of the Tariff lines attracting RSP based assessment were required to declare the RSP of the imported goods.

10.   In 61 per cent of the imports valuing Rs. 44,612.93 crore, Countervailing Duty (CVD) amounting to Rs. 5,746.40 crore was levied on *ad valorem* basis. Had these imports been assessed under RSP, the revenue realisation could have been much more. The exact short realisation of revenue could not be quantified by Audit as RSP were not declared in these cases.

(iii)   Acceptance of multiple rate of exchange rates by the application

11.   According to Section 14 of the Customs Act 1962, valuation of goods for assessment to duties of customs is to be ascertained with reference to the 'rate of exchange' of the foreign currency of the invoice, as in force on the date of presentation of BE and the rate notified by CBEC. The Board, vide NT notifications dated 21 May 2012 and 24 May 2012, had upwardly revised the exchange rates for the Japanese Yen, the U.S. Dollar, and the Hong Kong Dollar, effective from 22 May 2012 and 25 May 2012, respectively. However, the audit had observed that the changes were not updated in the system, resulting in incorrect assessment and consequently short levy of duty.

(iv)   Failure to update the central excise duty rate and notification directories

12.   The updating of rates of Central Excise duty and the Central Excise notification directories are delegated to the Jawaharlal Nehru Custom House (JNCH), Nhava Sheva. Audit observed that these directories were not updated when the Finance Act 2012-13 was passed and notified vide Gazette of India notification No. 25 dated 28 May 2012. The omission continued for the rest of the FY 2013, as a result of which a number of amendments in the Central Excise Tariff Schedule involving changes in duty rates was not incorporated in the system. This resulted in continued short levy of CVD on goods like 'cigarettes (Chapter 24)' and 'railway wagons', 'parts of locomotives' etc. (CETH 8607, 8608 and 8609) throughout the year. The impact of short levy on imports under chapter 86 vide 1,696 BEs at all-India level due to application of CVD rate of 6 per cent instead of the higher applicable rate of 12 per cent from 28 May 2013 amounted to Rs. 97.55 crore, as ascertained from ICES 1.5 data.

(v)   Delay in updating of Customs Exemption Notification and Duty rate Directories

13.   The updating of rates of customs duty and the customs notification directories are delegated to Chennai Sea Customs. Custom's exemption dated 17 March 2012 was amended by notification dated 23 January 2013 enhancing the Basic Customs Duty (BCD) rate from 'nil' to 2.5 percent in respect of certain goods involving crude oil imports. However, audit observed that in 15 instances of imports of 'crude sunflower oil' and 'crude palm kernel oil' made on 23 and 24 January 2013 under Chennai Sea Customs were assessed at 'nil' rate of BCD vide exemption notification dated 17 March 2012, resulting in short collection of duty of Rs. 2.29 crore. The reason for the incorrect exemption was the delay in updating of customs exemption notification.

(vi)   Failure to update the SAD Exemption notification

14.   It was noticed by Audit that in several instances at Chennai Sea, Air and Tuticorin Commissionerates, incorrect exemption from SAD was allowed under serial No. 50 of notification dated 1 March 2006 though the goods are liable to SAD in terms of the other notification dated 1 March 2006. This resulted in short levy of duty of Rs.

2.33 crore, out of which recovery of Rs. 0.98 crore had been effected till July 2013 (Audit Paragraph No. 4.3 of Report No.14 of 2013). Similarly, in 49 instances in Kochi Sea Customs incorrect grant of exemption resulted in short levy of duty of ` 0.89 crore (Audit Paragraph No. 1.75 (4) of Report No.14 of 2013). Similar case was once again noticed in audit in Kochi in November 2012 which resulted in short levy of Rs. 0.51 lakh. Scrutiny of the EDI transaction data from 8 April 2011 to 31 March 2013 pertaining to Kolkata Port and Airport Commissionerates revealed that in 1,034 and 9154 cases SAD was not levied. This resulted in short levy of SAD amounting to Rs. 46.59 crore and Rs. 29.26 crore in the respective Commissionerates.

(vii) Difference in duty calculated and duty collected

15. The analysis revealed that there were differences in the calculated duty payable and duty actually paid in the cases of 1,057 and 1,729 BEs for the year 2011-12 and 2012-13 respectively. The total duty payable in these BEs were Rs. 106.77 crore and ₹ 195.73 crore, whereas, only ₹ 20.87 crore and ₹ 59.07 crore were collected on clearance of imported goods for the year 2011-12 and 2012-13, resulting in short collection of ₹ 85.70 crore and ₹ 136.66 crore in these BEs for the respective years 2011-12 and 2012-13. Further, out of 1,057 BEs for the year 2011-12 and 1,729 BEs for the year 2012-13, in 162 and 445 BEs calculated duty payable were ₹ 32.29 crore and ₹ 72.68 crore for the respective years 2011-12 and 2012-13, against which no amount was collected.

(viii) Business processes not covered under ICES, requiring manual assessments

16. It was observed that an average of 3.64 per cent, 1.87 per cent and 1.39 per cent BEs were filed manually at 19 EDI ports during the years 2010-11, 2011-12 and 2012-13. Similarly 4.35 per cent, 2.16 per cent and 2.19 per cent SBs were filed manually at these 19 EDI ports during the years 2010-11, 2011-12 and 2012-13. However, the number of EDI processed customs documents has increased over the past three years. The percentage of manual filing of BEs were higher at Tuticorin, Goa, Nagpur and Kolkata Port, ranging between 3.53 percent to 6.90 percent, whereas the manual filing

of SBs were higher at Chennai Air, Kochi, Goa, Nagpur and Kolkata Airports, ranging between 4.77 percent to 23.76 percent, which were in contravention of sections 46 and 50 of the Customs Act and the Board's instructions. It was also noticed that 100 per cent of BEs were assessed manually at West Bengal (Preventive) Commissionerate. Audit also observed that out of 116 EDI enabled locations, only in 89 locations, electronic filing of import documents was done, out of which in 29 locations, less than 500 BEs were filed during 2012-13. Similarly export documents were filed in 99 locations; out of this in 20 locations, less than 500 SBs were filed during the same period.

(ix)   Improper allocation/utilization of hardware

17.   Audit observed that only 250 and 100 numbers of Thin Client terminals have been installed at Chennai Sea and Chennai Air Commissionerates against 414 and 166 numbers received by them. Further, in case of Chennai Air and ICD Patparganj, it was observed that out of 100 and 62 numbers of installed terminals, only 80 and 30 terminals were actually in use as on 31 March 2013. This indicates that optimum utilization of hardware was not being done.

II.   Business processes not covered under ICES, requiring manual assessments

18.   According to sections 46 and 50 of the Customs Act 1962, import documents, i.e. Bills of Entry (BEs) as well as export documents, i.e. Shipping Bills (SBs) are mandatory to be filed electronically (through Electronic Data Interchange or EDI system). In order to prevent misuse, CBEC issued instructions on 04 May 2011, that manual processing and clearance of import/export goods shall be allowed only in exceptional cases and data for manual documents should be compulsorily entered and transmitted by all locations within the stipulated time period.

19.   The percentage of manual filing of BEs were higher at Tuticorin, Goa, Nagpur and Kolkata Port, ranging between 3.53 percent to 6.90 percent, whereas the manual filing of SBs were higher at Chennai Air, Kochi, Goa, Nagpur and Kolkata Airport, ranging between 4.77 percent to 23.76 percent, which were in contravention of section

46 and 50 of the Customs Act and the Board's Instructions. It was also noticed that 100 percent of BEs were assessed manually at West Bengal (Preventive) Commissionerate.

20. Audit also observed that out of 116 EDI enabled locations, only in 89 locations, electronic filing of import documents were carried out, out of which in 29 locations, less than 500 BEs were filed during 2012-13. Similarly export documents were filed in 99 locations; out of this in 20 locations, less than 500 SBs were filed during the same period.

21. When asked about the measures taken to ensure compliance with mandatory filling of BEs and SBs electronically, through EDI system, the Ministry submitted following reply:

> "In order to ensure compliance with mandatorily filing of BEs and SBs electronically, CBEC vide F.No.401/81/2011-Cus.III dated 4th May 2011 has issued instructions that only in the rarest of rare and genuine cases manual processing and clearance will be allowed and further the Authority of permitting manual documents shall be vested only with the Commissioner of Customs."

22. The Committee were surprised to note that the manual filing of return was still being allowed. When asked the reasons for the same, the Ministry replied as under:

> "The reason why manual filing of return are still being allowed is due to the fact that there are certain customs locations which are not yet under EDI net. While it is the constant endeavour of CBEC to ensure that all sites are brought onto EDI at the earliest, several reasons like very less volume of business, connectivity issues & remoteness of the locations are hindrances.
>
> Further, there are various processes in Customs of which major processes have already been automated. Remaining are taken up for automation, based on prioritization by the Board, which priority is in turn dependent on changing criteria including the urgency of the requirement, its impact on revenue collection, mitigation of fraud possibilities, the cost involved, addressing concerns of maximum stakeholders, etc. In the meanwhile, manual filing for these processes is necessitated.
>
> Earnest efforts are being taken for automation of all these business processes to the extent possible, which can be seen from the significant decrease in the documents filed manually."

23. On being asked what mechanism the department had to ensure that all manual entries made at all stations were entered in the system within the prescribed time, the

Ministry replied that there was a provision in the ICES for capturing data for manual documents. CBEC vide Instruction F.No.401/81/2011-Cus.III dated 04.05.2011 had prescribed a mechanism for Commissionerates to monitor data entry for manual documents and to ensure that all manual entries made at all stations were compulsorily entered in the system within the prescribed time.

24. On being asked whether the Ministry had fixed any timeline for ensuring maximum compliance with mandatory filing of BEs and SBs electronically, through EDI system, the Ministry in their written reply submitted as under:

> "No time limit is fixed. The Customs Act, 1962 mandates filing of electronic declarations, both import and export. Manual filing is generally allowed only in exceptional cases where it is not feasible to file electronic declarations due to non availability of EDI or operational issues relating to EDI. In such cases approval of Commissioner of Customs is required."

III. Futuristic IS strategic plans and DRISHTI Project

25. To exact maximum benefit from an Information System (IS) requires foresight to prepare for the changes, and planning to provide an economical and effective solution. IS planning provides a structured means of addressing the impact of technologies, including emerging technologies, on an organization. Through the planning process, relevant technologies are identified and evaluated in the context of broader business goals and targets. Based on a comparative assessment of relevant technologies, the direction for the organization can be established. When the Committee enquired whether the information system (IS) was up-to-date with emerging technologies and prepared to meet the challenges in context of business targets in the global economy and what new initiatives had been taken in the recent past by the department to meet new challenges, the Ministry replied as under:

> "CBEC had deployed state-of-the-art information systems to meet the business requirements of its stakeholders. These include enterprise class servers, storage, networks, security devices and other systems. CBEC also regularly upgrades its information systems such as databases, operating systems etc, keeping in consideration the growing business demands and emerging technologies. Some of the recent initiatives being undertaken are upgrading the data centre network from 1G to 10G; up gradation of storage to the latest technology and increasing

the computing capacity of its systems in a manner which will utilize the data centre space and power utilization in a more economical manner. Furthermore, CBEC has recently submitted a project proposal for augmentation and revamp of its IT systems to meet new business requirements in the period 2016-17 until 2020-21. This proposal is under consideration by the Ministry for approval of funding. "

26. DRISHTI is an ambitious and well highlighted project of the Department of Revenue. A personnel policy for development of internal competencies for management of CBEC IS Management, development and training of IT personnel are key essentials for smooth operation of the Department's mission critical IT System. The Committee desired to know whether any initiative had been taken by the Department to constitute a Steering Committee for developing IS plan according to its business strategy in consonance with its future IS needs. The Department of Revenue have accordingly submitted the details of the DRISHTI project proposed to be launched for improving the efficiency and effectiveness of Indirect Tax Administration as follows-

"A High Powered Committee (HPC) by Department of Revenue, Ministry of Finance, CBEC was constituted to examine the possible improvement in the existing systems and laying down an appropriate IT roadmap of CBEC named as Driving Information Systems for Holistic Tax Initiaves (DRISHTI) as well as for preparing a vision document with a view to strengthening CBEC initiatives towards achieving its vision of creating a voluntary compliance and in combating smuggling, revenue evasion and commercial frauds after taking into account clearly identified activities, milestone and responsibilities and considering the requirements of external and internal stakeholders. The said Committee has already submitted its report to Finance Minister on 21.10.2014. The report after examining the existing business processes and the existing status of IT systems in CBEC, has highlighted the area for improvement and has offered certain recommendations aimed at leveraging IT for improving the quality and extent of tax payer services, encouraging voluntary compliance and detecting tax evasion. The recommendations are under examination by CBEC."

Audit had made the following comment on above reply of the Ministry:

"The project does not deal with effectiveness on taxation issues. For other tax administration issues, the report submitted to FM along with the recommendation made may have to be analysed to opine on its applicability. The recommendations of the HPC do not indicate linkages between the issues/activities recommended and measurable results expected, thereon."

27. The major recommendations of the Report of the High Powered Committee (HPC) constituted by Department of Revenue to examine the possible improvement in the existing systems and laying down an appropriate IT roadmap of CBEC as provided by Ministry and the recommendations of the DRISHTI Committee are listed below:-

- The Existing Help Desk to be augmented and converted to an integrated National Help Desk

- Need to adopt a more IT-Centric HR Policy

- Manpower Resource augmentation at Systems Directorate

- Centralised HR Management System

- Administrative and Financial constraints to be suitably addressed

- Need for technology upgrade of ICES application

- Review and redesign ACES and introduce invoice level data capture to enable CENVAT credit reconciliation.

- Conduct a comprehensive review of Business Processes in Customs, Central Excise and Service Tax

- Redesign of ICES, ICEGATE and RMS into an Integrated Customs System

- Introduce a well-planned change management initiative at policy level for providing sufficient lead time for technical changes such as during the Budget and tax notifications

- Need to expand the Tax 360 initiative

- Increasing the use of advanced data analytics

- Enhancement of Risk Management System across Customs, Central Excise and Service Tax

- Implementation of mobility solutions

- Sufficient headroom to ensure that resource utilisation does not exceed 60% on a sustained basis

- Increase the computing capacity at the DR site to provide full redundancy with zero data loss through synchronous replication and a DR Network Operation Centre.

- Improve CBEC network resilience and connectivity with better bandwidth allocation best in class network monitoring tools revamping VPN solutions etc.

- Making the IT infrastructure more manageable by reducing the multiplicity of vendors

- Implement real time replica system for transactional and hybrid reports

- Reduce disaster Recovery time to move towards automated fail-over

- Strengthen user authentication process by measures such as two factor authentication

- Deploy Document Management System for business documents at local and central levels for safe archival; even for manual data

- Upgrade ICEGATE application technology to supported versions

- Implement modular, scalable server solutions, use of flash etc.

- Human resources handling IT operations to be strengthened.

- Lateral entry of experts

- Capacity building of officers

- Creation of a Chief Technology Officer (CTO) function under DG Systems

- Implement an internal e-learning system comprising a Learning Management System and a Knowledge Management System

- Introduction of a structured Leadership Development Programme in policy making, tax strategies, and global tax developments and given wide exposure to other tax administrations.

- Consider the various IT Governance Models including SPV Model

- Customs Single Window Project interfacing with other Government departments and regulatory agencies.

- Engage with other Customs Administration towards International Data Exchange

- CBEC to implement document management system on the lines of the project implemented in Bangalore.

- Introduce Advance Passenger Information System

- Set up a National Customs Assessment Centre for central processing of Customs Import & Export declarations.

- Create a National Processing Centre for Central Excise & Service Tax Returns.

- Establish a National Targeting Centre dedicated to collection, processing, analysis and dissemination of critical data / information across the country and abroad for real-time intervention and action

- Setting up a National Centre of Excellence similar to the Knowledge and Intelligence unit of HMRC, UK, to act as Research and Knowledge Hub for entire Indirect Tax Administration.

- Setting up a Directorate General of International Customs

- Strengthening and reorganisation of Functional Units in CBEC

IV. Performance of Post Clearance Audit (PCA)

28. In order to implement self assessment effectively and to ensure its benefits to the trade, the Board decided that current facilitation level under RMS should be enhanced significantly. Accordingly, as per the Board's circular dated 2 September 2011, it was decided to enhance facilitation level up to 80, 70 and 60 per cent in case of Air Cargo complexes, ports and ICDs respectively, by rationalizing risk rules and risk parameters. According to Board circular dated 13 June 2012, higher facilitation at the same time has led to the need for more scrutiny of BEs at PCA/PCCV stage. It is, therefore, felt that the percentage of BEs selected for PCA needed to be enhanced by concerned field formations. Board, therefore, directed that till the time OSPCA was made applicable to all categories of importers, the percentage of BEs selected for PCA at a Customs house should be suitably enhanced to safeguard the interest of revenue. Board also desired that concerned Chief Commissioners of Customs should review the staff position in their jurisdiction and reallocate more manpower for audit work as increased facilitation in terms of reduced examination had led to lesser requirement of staff for examination of goods. It was, therefore, imperative that excess staff should be diverted for activities such as PCA and SIIB in Customs Houses.

29. The Committee note that the compilation of information on PCA activity received from field offices revealed that the Board's instructions to reallocate more manpower for PCA to increase scrutiny of RMS cases has not been followed in any location and showed increasing trend in pendency of cases in 8 out of the 10 customs locations for which data has been received.

30. On being asked why more manpower has not been allocated to the field offices as desired by the Board, the Ministry submitted their written reply as under:

> "The general reasons for not posting staff for PCA has been that prior to cadre restructuring there was acute shortage of Appraising Officers and Assistant Commissioners. For instance, Chief Commissioner of Customs, Chennai has reported that due to acute overall shortage of manpower at the grade of Appraising Officers (40.35%) and Assistant / Deputy Commissioner of Customs (44.23%), more staff from other sections could not be diverted to PCA. The situation has improved after cadre restructuring and more number of officers are being posted by field formations for PCA."

31.   When asked whether any steps had been taken to deploy excess staff for PCA & SIIB in Customs Houses after the audit observation, the Department of Revenue submitted the details as under:

"Chief Commissioner of Customs, Chennai has informed that after cadre restructuring 6 Assistant Commissioners have been posted to attend exclusively to PCA work in Chennai Sea Commissionerate and 5 Assistant Commissioners have been posted to attend exclusively PCA work in Chennai Air Cargo complex. Similarly, the strength of Assistant Commissioners has been enhanced from 1 to 2 in SIIB.

Chief Commissioner of Customs, Jawaharlal Nehru Custom House, Nhava Sheva has also reported that with the implementation of cadre restructuring more officers particularly at the level of Assistant /Deputy Commissioners have now been deployed.   Accordingly. 8 Officers at the level of Assistant /Deputy Commissioners have been posted in Jawaharlal Nehru Custom House, Nhava Sheva and there is greater emphasis on PCA. SIIB has also been strengthened by deployment of 4 Officers at the level of Assistant / Deputy Commissioners."

32.   The Committee were surprised to note that no PCA wing has been constituted at ICD Mandideep and ICD Pithampur leaving no scope for detection of incorrect assessment by the department at these customs locations. The Ministry, when asked about the reasons for not-constituting PCA wing as mentioned above, replied:

"A dedicated PCA Wing was not set up due to the low volume of import. However, PCA Wing has since been set up at ICD, Pithampur on 26.11.2014 and at ICD Mandideep on 11.04.2014."

33.   The Committee were curious to know how, in absence of PCA, the Department ensure the correctness of the assessments made at the custom locations. When a specific query was addressed to the Ministry in this regard, the following reply was submitted:

"Assessment is done on self-basis by importers and its correctness is confirmed by performing systems checks and by verification by the Customs officers. PCA is an additional methodology to confirm the assessment. Thus, the assessment is being confirmed even in the absence of PCA."

34.   The Ministry also informed in writing that there were total 49 ICDs with RMS wherein a PCA Wing was required and that such a Wing had been constituted at all these ICDs.

35.   CAG Audit on scrutiny of the pending PCA BEs at ACC Chennai and Tuticorin Commissionerates as on 31 March 2013 revealed that approximately 138 and 2172 bills of entry respectively, had already become time barred under section 28 of the Customs Act, 1962, thereby foreclosing the opportunity to raise demand even if incorrect assessments were detected.   The Committee enquired whether there was any provision in the system to detect such cases timely, the Ministry replied as under:

> "The list of documents pending for PCA is made available to the audit officers alongwith the dates. The officer has the option to select any document for PCA based on the requirement, although no alert as such is generated in the System."

V.   Ineffective Functioning of Local Risk Management (LRM)

36.   The Risk Management System of ICES 1.5 has two components — National Risk Management (NRM) and Local Risk Management (LRM). While risk rules and targets at the National level are inserted and updated by RMD, Mumbai, the LRM Committees at custom sites are responsible for inserting and monitoring local risk factors through insertion of local targets. According to CBEC dated 28 June 2007, LRM Committee was to be constituted at each Custom House/ACC headed by an officer not below the rank of Commissioner of Customs. The Committee was to meet once in every month to discuss framing and review performance of RMS and to send periodic reports to RMD, Mumbai.

37.   Audit observed poor functioning of LRM at almost all locations in discharging its function to monitor the performance of RMS and PCA. No LRM Committee has yet been constituted in Goa, ICD Patparganj, ICD Mandideep, ICD Pithampur and Kolkata Airport Commissionerates.

38.   The Committee were interested to know whether any directions/instructions had been issued to Local Risk Management Committees at different sites for proper and timely performance review of RMS. On being asked the same, the Ministry replied as under:

> "As per para 5.3(iv) of the Board circular no. 23/2007 dated 28.06.2007, the Local Risk Management Committees have been instructed to review the performance of the RMS and evaluate the results of the action taken on the basis of the RMS output."

39. The CBEC, Department of Revenue also informed in a written reply that have submitted the details that RMS has been rolled out in 89 EDI locations and as per information available with the RMD, LRMCs have been constituted for all these 89 locations (List given below).

Status of RMS in various EDI locations

Sr No	LRM LOCATION	Sr No	LRM LOCATION
1	ICD Patparganj	26	ICD Sabarmati, Ahmedabad
2	ICD Mulund	27	Custom House Kandla
3	ACC Sahar	28	Custom House Mundra
4	ACC Chennai	29	ACC Ahmedabad
5.	ACC Hyderabad	30	ICD Dashrath, Vadodra
6	ICD Tuticorin	31	ICD Vapi
7	NCH Mumbai	32	Dahej Port
8	Custom House Tuticorin	33	Magdala port
9	ICD Tuglakabad	34	ICD Thar Dry Port, Sanand
10	ICD Hyderabad	35	ICD Waluj,Aurangabad
11	ICD Whitefield, Bangalore	36	Pipavav Port
12	ICD Dighi	37	ICD Ankaleashwar
13	ICD Talegaon, Pune	38	ICD Sachin Surat
14	ICD Chinchwad, Pune	39	ACC Kolkata
15	ACC Bangalore	40	Custom House Kolkata
16	ICD Gari Harsaru	41	Custom House Goa
17	ICD Rewari	42	Custom House Cochin
18	ICD Patli	43	ICD Maliwada
19	CFS Nashik	44	ACC Goa
20	ICD Janori	45	ACC Trivandrum
21	ACC Amritsar	46	ICD Mandideep
22	ICD Bhusawal	47	ICD Raipur
23	Paradeep Port	48	ACC Calicut
24	ACC Janori	49	ICD KOTTAYAM, VILLAGE NATTAKAM
25	ICD Ballabhgarh	50	ACC Cochin
51	Custom House Chennai	71	ICD Jaipur
52	Ennore Port	72	CONCOR DADRI
53	ICD Irungaltukottai	73	TRIDENT - DADRI
54	ICD CONCOR Tondiarpet	74	CFS Albatross ICD Dadri
55	Kattupalli Port	75	CGM DADRI
56	Custom House	76	CFS STARTRACK DADRI

	Mangalore		
57	Custom House Vizag	77	ICD Concor Kanakpura, Jaipur
58	CFS(OWPL) Ludhiana	78	ACC Jaipur
59	Custom House Kakinada	79	ICD Concor Jodhpur
60	ICD Pithampur	80	ICD Thar Dry Port, Jodhpur
61	ICD Ballabgarh	81	ICD JRY Kanpur
62	ICD Singanallur	82	ICD Nagpur
63	ICD Irugur	83	ICD Agra
64	ACC Coimbatore	84	ICD Kota
65	Nagapattinam port	85	KLPL ICD, PANKI, KANPUR
66	Gangavaram Port	86	ICD Surat
67	ICD Pakwara,Moradabad	87	ACC Delhi
68	ICD Loni	88	HAZIRA PORT
69	Karaikkal Port	89	JNCH Nhava Sheva
70	Krishnapatnam Port		

40.   When enquired about the members of the LRM Committee and experts in risk management in these Committees, the Ministry submitted the following written reply:

"As per para 5.2 of the Board Circular no. 23/2007 dated 28.06.2007 the LRM Committee comprises of the Additional/Joint Commissioner in charge of Special Investigation and Intelligence Branch (SIIB), who is designated as the Local Risk Manager, and functions as the Secretary of the Committee. The LRM Committee includes the Additional / Joint Commissioner in charge of Audit and a nominee, not below the rank of a Deputy Director from the regional / zonal unit of the DRI, and a nominee, not below the rank of Deputy Director from the Directorate of Valuation, if any. The Local Risk Manager handles the Risk Management System at local level on regular basis and possesses the domain knowledge. Further, he may consult the Risk Management Division in case of any difficulty."

41.   As regards the functions of NRM, the Ministry have furnished following information to the Committee:

"NRM i.e. the Risk Management Division (RMD) is the nodal agency with the overall responsibility for designing and implementation of Risk Management System using various risk parameters and risk management tools. RMD suggests assessment and examination in respect of consignments perceived to be risky and facilitates the remaining ones. The RMD also reviews the performance of the Risk Management System (RMS) in terms of reviewing the various targets/interventions inserted by the Local Risk Managers. However, the Board vide Circular No.23/2007-Cus dated 28.06.2007 has issued "Charter of Functions for the RMD" and the same are reproduced as under:

Charter of functions for the RMD.

3.1   The RMD will have the overall responsibility for the management of the RMS which has been designed to address risks facing Customs, i.e., the potential for non-compliance with Customs and allied laws and security regulations, including risks associated with the potential failure to facilitate international trade.

3.2   The RMD will be the nodal agency with the overall responsibility for designing and implementation of Risk Management System using various risk parameters and risk management tools. RMD will suggest assessment and examination in respect of consignments perceived to be risky and facilitate the remaining ones.

3.3   The RMD will also be responsible for collecting and collating information and developing an intelligence database with a view to effectively implement the RMS and also carry out effective risk assessment, risk evaluation and risk mitigation techniques. It will update and maintain risk parameters in relation to the trade, commodities and all stakeholders associated or involved with the supply chain logistics.

3.4   The RMD will be the nodal agency for Accredited Client's Programme (ACP). It will maintain a list of accredited clients in the RMS and closely monitor the compliance standards of these accredited clients.

3.5   The RMD will closely interact with all Custom Houses, Directorate of Revenue Intelligence (DRI) and Directorate of Valuation (DOV) to enable it to effectively address national risks. The local risks will be largely addressed by RMD in co-operation with the Custom Houses where import/export clearances are actually effected. Further, the RMD will also closely interact with Directorate of Valuation (DOV) on all matters pertaining to the Valuation Risk Assessment Module (VRAM) of RMS. DOV will guide and advise RMD on all matters pertaining to valuation in RMS. DOV will also supply the list of Most Sensitive Commodities with value bands, the list of valid valuation alerts and the list of Unusual Quantity Code (UQC) at agreed intervals.

3.6   The RMD will also review the performance of the RMS in terms of reviewing the various targets/interventions inserted by the Local Risk Management (LRM) Committee, make an objective assessment of the effectiveness of such insertions, and ensure that the performance is consistent with the objective laid down. For this purpose, the RMD shall provide necessary advice and guidance to Custom Houses as and when required, which shall be followed. The RMD will also review the extent of facilitation being provided to the trade and offer necessary guidance to the officers in the Custom Houses with a view to providing appropriate facilitation and also ensuring compliance.

3.7   The RMD will also coordinate and liaise with other Government Departments (OGDs), in order to deal with risks relating to the compliance requirements under allied Acts which the Customs department is required to administer, under the overall direction of the D.G. (Systems).

3.8   The RMD will work in close coordination with NACEN in developing training manuals and other documentation necessary for the implementation of RMS. In addition to this, it will also work out regular training schedules for training of officers

responsible for implementing the RMS in major customs locations.

3.9   The RMD shall work in close coordination with Directorate General of Audit (DG Audit), which has the responsibility for formulating audit policies and procedures, developing criteria and parameters for selection of cases or documents for audit.

3.10   DG (Systems) will submit periodic reports on the functioning of the RMS to the Board."

VI.   Security System and Verification of ICES Application and RMS

42.   DoS issues Single sign-on Identity (SSOID) to local users for accessing the EDI system on the basis of request received from the appointed nodal officer. After issue of SSOID, the System Manager/Commissionerate Administrator at the field formation level assigns roles/privileges required to perform any activity within the application and monitors SSOIDs activity.   Audit observed that the number of SSOIDs issued as on 31 March 2013 was not available with system Manager/Administrator at 10 of the 19 EDI locations where the Performance Audit was conducted, indicating that SSOIDs activity was not being monitored at these locations by the local system administrator.

43.   On being asked about the steps/measures taken by the Department to monitor the SSOIDs activity by the users, the Ministry submitted the following written reply to the Committee:

> "The Central Systems Integration (SI) team of CBEC monitors the SSOIDs issued to users. Every month, the central team proactively disables users retiring in that month. Furthermore, the Electronic User Access Review and Verification tool mentioned in the Report has been launched country-wide in September 2014 and is being actively used by the field formations."

44.   Explaining further the working of the User Access Management tool the Ministry of Finance furnished the following reply:

> "The Electronic User Access Review and Verification tool has already been launched Country-wide in September 2014 and is being actively used by the System Managers of all field formations.   The User Access Review and Verification tool (UAV) has been designed to verify and review the application access provisioned to the departmental users.   The System manager/Comm Admin can review and verify the availability and application role access of

departmental users in their respective locations. The System Manager/ Comm Admin has been provided with the privileges to review and update the tool, if any change is required in user's access. The System Manager / Comm Admin is required to carry out this review on a monthly basis. Using this User Access Review and Verification application, the System Manager/Comm Admin can perform the following functionalities:

- Check location wise list of users
- Review User's details and application access
- Update the tool in case of any variation in user details and application access
- Generate the Review Status Report upto 6 months.

Using this tool the Project Monitoring unit as well as the concerned officials of the Directorate of Systems can track the changes made by the Systems Managers and help in resolution of issues. This User Access Review and Verification tool displays to all System managers the list of all SSOIDs active and mapped to their locations along with their roles. System manager is thus able to verify all users for their locations. The tool has been deployed and is in use."

45. According to the Ministry, a Central SI team monitors the SSOIDs issued to users, but the performance audit indicated that the activity was not monitored at 10 of the 19 EDI locations. On being asked about the reasons for such a lapse, the Ministry replied as under:

"The Central SI team is responsible for user creation and mapping only. It deactivates proactively all users retiring in the month. In ICES application the grant of access inside the system, role allocation etc. is driven by local System Managers. Since the introduction of the User Access Review and Verification tool in September 2014, the locations are using the same for review and reporting."

46. Passwords are given to the officers to access the data filed by the users in their area. The Committee desired to know the procedure for passing over the password in case of transfer of the officers. When asked about the same, the Ministry replied as under:

"Every officer is allotted a unique Single Sign On user ID (SSOID) and password. The SSOID remains the same for the complete service tenure of the officer. The password expires after 30 days and has to be regularly changed by the officer. Every officer is required to access the system using his unique SSOID and password only. Use of another officer's ID or password is not permitted as per CBEC's Information Security policy. CBEC's applications follow Role Based

Access Control. Accordingly, once an officer is transferred or his role is changed, his access in the system is disabled by the concerned System Manager and the SSOID is de-mapped from the location in case of transfer to another location. The SSO-ID of the relieving officer is mapped to the desired role by the System Manager at the location for access into the system. Thus there is no question of transferring any ID or password. "

47. Audit had observed that some features of operational password policy like password composition requirements, account lockout from unsuccessful login attempts, etc. were different from the documented password policy (paragraph 9.2.3 – User Password Management) of the Information Security Procedures V1.7. The operational password policy has different security features for ordinary users (business) and privileged users (administrators etc.), whereas the documented password policy does not provide for separate policies for different categories of users. Neither does it provide for relaxation of number of failed login attempts for ordinary users, as found to have been allowed in the operational policy.

48. The changes in the operational features of logical security elements like password policy may invariably be implemented only after due authorisation and documentation of the changes. In this regard, when asked whether any password policy has been framed by the department for different categories of users, the Ministry replied as under:

"CBEC has instituted an ISO 27001 compliant Information Security Policy and Procedure document, and password policy is an integral part of these. The Security Procedure document 2.0 contains the password policy (para 9.2.3) for different categories of users such as System Administrators who typically have the most stringent password controls, internal CBEC users, other stake holders such as Banks etc. Any change in password policy or procedure is implemented only after taking written approval of competent authority. Such changes are necessarily documented as per internal approval process. Further, security documents are reviewed and updated on an annual basis."

49. In reply to the query about the measures/initiatives taken to ensure full proof data security of the ICES system, the Ministry furnished the written information to the Committee as under:-

"CBEC recognizes data as its most critical asset and has accordingly put in place measures to ensure zero loss of its critical data. The production environment is

completely separated from development and testing environments. Application support personnel do not have access to production systems. Infrastructure support team is completely separate and does not have any access either to development / testing environment or to application source code. MIS Reports are built into applications and are menu-based, retrievable only by authorized CBEC users. Remote access from offices where WAN connectivity is not present is permitted only through VPN. USB ports are disabled by default and permitted only by exception. User Access is through diskless thin clients. CBEC uses standard products for its applications which have several inherent features relating to data integrity, consistency, access logs and audit trails etc. In addition, CBEC has implemented Virtual Private Database (VPD) which allows even an authorized user to view only the data pertaining to his/her location. Applications have Role Based Access Control and day to day user access is controlled by CBEC officers themselves at the national and local levels for all its applications. Even privileged users such as DBAs can work only after they have been granted the required privilege by the Administrator, who in turn seeks CBEC approval for any major database activity. In 2013-14, CBEC has implemented a Real time Database Activity Monitoring solution to prevent misuse of DBA privileges and protect its business data.

CBEC has adopted the stringent ISO 27001 standard for Information Security for its data centre implementation and was certified for compliance to this standard in July 2011 by the Standards Testing Quality and Certifications (STQC) -- a body under the Ministry of Information and Communication Technology. Action has been initiated to achieve re-certification as per the revised standard (ISO 27001:2013).

All infrastructure hosting business data and business logic is in the militarized zone (MZ), in a separate network segment from the Demilitarized Zone (DMZ) and public zone. In addition, consoles for managing network are also in a separate network segment from the data LAN. CBEC internal users access the data centre using diskless thin clients without local storage, through the Citrix presentation layer that allows only mouse clicks and keyboard strokes to traverse the network, while also providing bandwidth optimization from an availability perspective. Perimeter security is in place with firewalls etc. and a 24x7 monitoring team works in shifts. CBEC has its own email domain which is also used by CBEC's service providers for official communication. The computing infrastructure is owned by CBEC and deployed in caged areas in BS 7799-certified, tier-3 data centres, with primary and DR sites in different seismic zones. All IT operations are conducted from a dedicated Network Operating Centre (NOC) which is separated from other client environments and is ISO 27001 certified. Application service providers are distinct from the infrastructure team and have no access to production data. The infrastructure team, in turn, has no access to applications and manages databases only in the capacity of DBA. All changes deployed in production are first tested on the development environment, then tested by users on the pre-production environment, which is again completely separate from the production environment. Production data is backed

up on a daily, weekly and monthly basis on disk and tape libraries, with tapes being stored in an off-site location in fire-proof storage. The Data Security Council of India (DSCI) awarded CBEC as the winner of their "Security in e-Governance" award on 11th December 2012."

50. On being asked how the department validate, the ICES application and RMS to detect related cases in view of the large volume of goods cleared at RSP declared below import cost, the Ministry submitted the written replies as under:

"There are no legal provisions empowering the Customs authorities to mandatorily disallow lower RSP based assessment vis-a-vis transaction value based assessment. Selling goods at a price lower than the cost may be a purely commercial decision. Further, against all the CTH where RSP based CVD is applicable, Compulsory Compliance Requirements (CCRs) to that effect are already in place which instruct the 'Out Of Charge Officers' to ensure compliance of declaration of RSP and correctness of CVD levied/collected before consignment is allowed Out of Customs. As of now, 1455 CTHs have been identified for RSP based assessment."

In response, the Audit made following comment:

"Reply is not acceptable. Non-interception of the undervalued goods imported at the self assessment regime will not only lead to loss of revenue but also impact the domestic industry. Therefore, it is important to know if the Ministry is considering amendment of Valuation rules in case of RSP mis-declared (cases where RSP is lower than the import cost)? If any instructions were issued to refer those cases to investigative agencies? Whether the importers making regular imports at undervalued RSP were marked/flagged for PCA/OSPCA?"

51. The Ministry has submitted that in addition to the SI (System Integration) team which generates daily, weekly and monthly system reports for CBEC for monitoring the system performance, user response time, e-filing and e-payment etc., there is a Change Advisory Board (CAB) comprising exclusively of CBEC officers that meets every week to approve major and significant changes to the system. All the changes to the system are entered into Service Manager Tools and audited by third party auditors' bi-annually.

52. Substantial delay had been reported in implementation of RMS Export module. The constraints in the timely implementation of RMS Export module as specified by Ministry are as follows:

"The delay in implementation of RMS Export module was due to various operational constraints, as explained earlier, as prior to consolidation, the department had to upgrade and modify both ICES and RMS applications to make them work in a centralized environment. It was indeed a challenge to make all the three Customs Applications namely ICES, ICEGATE and RMS compatible with each other as changes in one necessitates changes/modifications in the other application. Further, the infrastructure needed augmentation in order to handle a large number of export documentations. Exporters' convenience and ease of doing business was paramount to the department and it was, therefore, decided to implement Exports RMS after sorting out all the issues. The infrastructure was finally augmented during August, 2012 and Export RMS was finally implemented on 15th July, 2013."

VII. Human Resources Development

53. As per C&AG observation, presently, nearly 98 percent of customs transactions are being processed through ICES and the department is entirely dependent on its Systems for assessment and collection of customs revenue. Therefore, by not having a personnel policy for recruitment of technically qualified officers to manage the Systems, the department is failing to build internal competencies and limiting its options for better management and monitoring the IS Systems to the third party vendors/service providers who manage the IS systems.

54. In this regard, when Committee enquired about specific policy or long term plan for inducting specialized selection and recruitment of staff for ICT System, the Ministry replied that there was no such policy at present.

55. Human Resource Development and Training is an integral part of any organization for keeping its staff equipped with latest technological or administrative or managerial developments. The Ministry has provided the details of the Training and skill development policy of the Department for its staff and officers as follows:

"NACEN, Faridabad with 9 RTIs are engaged in imparting professional training to Group 'A' officers at the induction stage in service as well as in in-service training and by conducting Phase III, IV & V mid-career training. The human resources of the department are provided critical and vital inputs on the crucial areas of ICT skills and latest technological, administrative and managerial development through various course modules. Group 'B' & 'C' officers are given induction training and in-service training at the RTIs. Induction training is also imparted to officers promoted from Group 'B' to Group 'A' on leadership and to develop their

skills to run the independent establishment in Customs Central Excise & Service Tax."

56. According to paragraph 6.2.2 of IT Security Procedures Ver.1.7, ICES users shall be imparted training on Information Security on a periodic basis and refresher courses will be conducted to re-train the already trained employees on new threats and countermeasures. On being asked whether any periodic training had been conducted for CBEC users during last 5 years, the Ministry submitted the following details:

"CBEC conducts training for all ICES users. New IRS probationers are trained on the system in every batch by NACEN. Regional Training Institutes also conduct trainings for Group B officers. Need -based courses are scheduled both by NACEN and regional Institutes. In addition to the above, security awareness trainings have been held at various locations. More than 20,000 users at more than 90 locations have been trained till date by representatives of DG Systems.

The details of training in 2014-15 are as given below.

Location	Total number of users trained
ICD TKD	76
NCH, Delhi	63
Kolkata (CE I III, V and ST)	82
ACC Sahar	99
Vishakhapatnam I, II and Custom	78
Total	398

VIII. Internal Audit System for ICES

57. Audit observed that the Internal Audit and Corrective Action–Preventive Action Procedure Ver. 1.2 does not have any provision for audit/review of any of the applications of the IT System, either by departmental officers or by TPAs. In an IS organization a critical application like ICES with massive revenue implication requires a regular audit of the database, OS, infrastructure, application hardware for IT security audit, Malware analysis, Source code review, Application configuration review, ICT

infrastructure configuration review, Application-OS-hardware-network performance reviews, Vulnerabilities Assessment and Penetration Testing (VAPT) etc.

58.   When asked to give details of internal audit system of the Department for ICES and how in absence of any provision for audit/review of the application of the IT System, the Department ensure that a critical application like ICES was functioning properly, the Ministry submitted as under:

> "The Central Board of Excise and Customs acknowledges the requirement of an Internal Audit and Control. The Board is actively considering devising a mechanism for the same where the requisite domain knowledge, skill sets of audit and understanding of the Information Technology are fused together to enable an early implementation of the same."

IX.   CRA Module Application

59.   After the implementation of ICES 1.5, SSOIDs were issued to CRA officers to access ICES 1.5 from specified locations for auditing BEs and SBs. However, the Audit observed that while making a selection for SBs, only cancelled and purged SBs were getting selected for audit. This was brought to the notice of the department in May 2012 and February 2013, apart from eleven other inherent drawbacks of CRA module through this report but has not been rectified.

60.   Section 28 of the Customs Act 1962 was amended with effect from 8 April 2011 by Section 42 of Finance Act 2011, increasing the period for raising a demand in respect of imports from six months to one year from the date of clearance of goods. However, the corresponding changes have not been incorporated in CRA module available in the ICES system where it is possible to make a selection of auditable documents only for upto six months from the current date. Similarly, in the CRA module there is no system to go to and view any particular item in a BE containing more than one item except by viewing the details of each item in sequential order.

61.   On being asked whether department has issued any guidelines for removing deficiencies of CRA module, the Ministry replied as under:

> "Regarding the issue of only cancelled and purged shipping bills getting selected in the Audit, the issue has already been rectified on 11.01.2014. On the issue of

various suggestions to incorporate changes for audit of BE in CRA module, it can be seen that the requirement of Audit is dynamic in nature. Currently discussions are already on to provide customs transaction data on a regular basis through secure file transfer. Acquisition of this data will provide complete flexibility to Audit to carry out any such deeper analysis. No changes would therefore be required in the CRA Module."

62.   When asked whether the department had taken any steps to introduce checks in ICES to detect cases where RSP declared was less than the assessable value, the Ministry replied that there was no legal provision empowering Customs authorities to disallow RSP lower than the transaction value. The assessment on the basis of transaction value was in accordance with India's commitment under the WTO Agreement on Customs Valuation as well as its obligation to adhere to the principle of "national treatment".

X.   Delay in updating of Customs Exemption Notification and Duty rate Directories

63.   The updating of rates of customs duty and the customs notification directories are delegated to Chennai Sea Customs. As per C&AG observation, Custom's exemption dated 17 March 2012 was amended by notification dated 23 January 2013 enhancing the BCD rate from 'nil' to 2.5 percent in respect of certain goods involving crude oil imports. However, audit observed that in 15 instances of imports of 'crude sunflower oil' and 'crude palm kernel oil' made on 23 and 24 January 2013 under Chennai Sea Customs were assessed at 'nil' rate of BCD vide exemption notification dated 17 March 2012, resulting in short collection of duty of Rs.2.29 crore. The reason for incorrect exemption was the delay in updating of customs exemption notification.

64.   In this regard, when asked whether recovery has been made for the shortfall, the Ministry submitted that Chief Commissioner of Customs, Chennai has informed that the entire amount of short levy of Rs.2.29 crore has been recovered.

65.   The Committee desired to know whether any explanation had been called or any action initiated against staff/officers responsible for this lapse/delay in updating of exemption notification resulting in substantial loss to the exchequer. On the issue, the Ministry submitted:

"Chief Commissioner of Customs, Chennai has reported that the said Notification No.2/2013-Customs, dated 23.01.2013 which enhanced the BCD rate from nil to 2.5 % in respect of certain goods involving crude oil imports was updated on the day of its issue itself i.e., 23.01.2013. However, under ICES version 1.0 the updated Notification directory moved to the ICES server only during the 'End Of The Day' operations. As such, the updation made in the directories became available in the ICES only from 00:00 on 24.01.2013.

The matter has been remedied w.e.f. February, 2013 onwards with the introduction of the new version ICES 1.5. Now, once the directories of Customs duties and notifications are updated, the same becomes instantly available. Hence the issue would not arise again."

In response, the Audit made the comment on Ministry's reply as under:

"Reply is not acceptable. Out of 15 cases reported at Chennai Sea Commissionerate, 6 cases relates to imports dated 24.01.2013, thus the contention of the Ministry that notification updation made on 23.01.2013 become available in the system from 00:00 on 24.01.2013 is incorrect. Further Ministry's claim that the issue of delayed updation under ICES 1.0 was remedied in ICES 1.5, which was implemented in 2011 was also not correct as the cases cited by audit pertains to the period January 2013. In response to the remedy claimed by department audit can comment after verification of the relevant data made available to audit."

66. The Ministry, when asked about the mechanism to ensure that the notification is immediately updated, submitted details as under:

"Presently Jawaharlal Nehru Custom House (JNCH), Nhava Sheva, Raigad, Maharashtra is the nodal site for updation of BCD and CVD directories while Chennai Customs is the nodal site for updation of notifications. ICD Patparganj, New Delhi updates exchange rates and drawback notifications.

Procedure for ensuring timely updating of notifications in the EDI system is under active consideration. As a first step, Nodal officers have been appointed in TRU who coordinate with the Directory updating sites to ensure timely updation. If a time lag occurs due to any unavoidable circumstances, an advisory is issued to all sites to recall the earlier BEs and collect differential duty, if any."

67. According to Section 14 of the Customs Act 1962, valuation of goods for assessment to duties of customs is to be ascertained with reference to the 'rate of exchange' of the foreign currency of the invoice, as in force on the date of presentation of BE and the rate notified by CBEC. The Board, vide NT notifications dated 21 May 2012 and 24 May 2012, had upwardly revised the exchange rates for the Japanese Yen, the U.S. Dollar and the Hong Kong Dollar effective from 22 May 2012 and 25 May

2012, respectively. However, audit observed that the changes were not updated in the system, resulting in incorrect assessment and consequently short levy of duty.

68. When asked to give explanation for non-updating of exchange rates as mentioned above, and whether any responsibility had been fixed upon the concerned officers for such serious lapses having substantial financial implications, the Ministry gave a written submission as under:

> "The non updation of exchange rate occurred due to the fact that earlier the exchange rate notification was issued once in a month. This practice was changed suddenly without notice as the Ministry was forced to issue revised exchange rate in the middle of the month due to the excessive fluctuation in the US Dollar. It also necessitated System changes to remove an existing validation in the system which hitherto ensured that exchange rate notifications could be made effective in ICES only from a future date. In addition, a facility was immediately provided to System Managers of all locations to change the effective exchange rate for the Bills of Entry which were assessed at the earlier rates. An advisory was also issued immediately. There is no lapse on the part of officers."

69. When asked about monitoring the cases of short levy in ICES and details of the process of recovery in such cases, the Ministry in their post evidence reply stated that monitoring of short levy was a post clearance process involving demand, adjudication, recovery, etc. which was not automated. The process of recovery of cases involving short levy was dealt in accordance with Section 28 of the Customs Act, 1962.

XI. Anti-dumping Duty

70. Anti dumping Duty (ADD) is leviable on certain imported goods based on factors such as customs classification, description of goods, country of origin, country of export, name of the producer and name of exporter. The amount to be levied depends on one or more of the above factors. It is observed that in the BE display screens in the ICES application, such as Master, invoice, GATT declarations, etc. there is no field showing name of producer. In the absence of such vital information, it cannot be assured in Audit that correct ADD has been levied.

71. The Ministry in their reply stated that the EDI BE format is compliant to the prescribed format for electronic filing of import documents. The format had evolved over the last few decades as per requirements. It was not possible to capture each and

every details of the importer/supplier/manufacturer by introducing separate fields in the BE format. Levy of ADD is dependent on the serial no. of the anti-dumping notification declared by the importer. Anti dumping notifications might prescribe any kind of conditions such as description of goods, country of exports, name of the producer, name of the exporter etc., none of which were structured fields. Hence, automation of such fields for automatic decision-making was not possible. The risk management system populates CCR in the BE based on the CTHs where anti-dumping duty had been levied. Such BEs were routed through shed examination where the necessary checks were carried out manually by the customs officers.

72. On being asked about the mechanism available in the ICES to ascertain levy of ADD at correct rates without the field of 'name of producer', the Ministry replied as under:

> "A separate field is provided for recording any 'additional information' including name of producer. The importer may also add it as a part of description, as it is in his interest to declare the name to avoid the higher generic rate applied to 'any' other producers. The information is, therefore, available on the System to the assessing officer for taking necessary action."

73. When asked to provide details of technological solutions in place in other countries like USA, UK and China in matters of Anti Dumping Duty, if any, and if we could replicate the technical solutions as prevalent in these countries, the Ministry in their post evidence replies stated that so far no studies of technological solutions used in other countries have been carried out.

74. The Ministry in their post evidence reply also furnished the details of monitoring mechanism in the Department of Revenue under ICES 1.5 architecture for goods released on trans-shipment, as follows:

> "The trans-shipper executes a running bond and Bank Guarantee with the gateway site. After approval of transhipment, the System debits the bond and allows transhipment. On receipt of goods at destination site, a landing certificate is provided by the custom officer and is submitted to the gateway site for re-credit of bond on the System. Facility has been provided on the System to monitor pending bonds."

XII. Online Business Transactions

75. Today, on-line shopping companies like Amazon, eBay, Flipkart etc. which have international presence in several countries, are witnessing a quantum jump in their business in India they have their own business model. It is really a challenge for all the tax authorities not only in India but all over the world to capture the revenues which they are generating. In fact, the latest trend in that business is that they are entering into non-transparent tax agreements with certain Countries. Considering their large transactions charging them is a new development and of course, a big challenge.

76. The Committee were keen to know how the Department of Revenue looked at this new import-export aspect of online shopping transactions. When a query was raised in this regard, the representatives of the Ministry deposed before the Committee on 19th November, 2014 as under:

> "In fact, the latest trend in that business is that they are entering into not so transparent tax agreements with certain jurisdictions like Luxemburg and other places where the tax rates are very low which means that world over they will not pay any tax. This is a matter of concern and very rightly this issue has been discussed in the G-20 meetings in the earlier part of this week when the hon. Prime Minister participated in the G-20 meeting. This kind of issues came up for discussion as a part of the BEPS, Base Erosion and Profit Shifting, project which the G-20 has taken up. The tax base of each country is getting shrunk. The profits are being shifted to other countries or to jurisdictions like Luxemburg where no tax or very low tax is paid. Therefore, internationally the G-20 countries have agreed and under the aegis of the OECD this BEPS project is being undertaken under which digital economy, that is the e-commerce models are being studied. Our Revenue Department from India is actively taking part in this Working Group which has been constituted by the G-20 countries under the aegis of the OECD. One major achievement from India's point of view which we have been able to get, in fact it forms part of the communiqué issued at the end of the latest G-20 Summit which the Hon'ble Prime Minister attended. Internationally now every country has agreed that they will give due weightage to the place where the economic activity or where the business is generated. Companies like Amazon may be in USA or Luxemburg but if bulk of its business is generated in countries like India or China we should get our due share of tax, due share of its profit should be taxed in countries like India. In principle this has been accepted.
>
> So far as the e-commerce companies functioning entirely outside India, I wish to report to the Committee that since they are companies based in India their

income will be taxed in India as per the Income Tax Act. With regard to the leviability of service tax, our service tax jurisdictions in Mumbai are currently studying the business models of their entire operations. We will see whether the existing laws are sufficient to ensure that they can be taxed or if it requires, it will be too premature for me to make an observation, any change in law the Government will consider that."

77. The Ministry also submitted their post evidence reply in this connection which is as under:

"Online shopping transaction or e-Commerce is basically a mode of payment with the goods being generally imported either through courier or posts mode. There are laid down procedures under the Customs Act, 1962 for handling the import and export of goods through courier / post. A challenge is expected in the area of valuation but the Department is equipped to handle it."

XIII. Improper Allocation/Utilization of Hardware

78. As per the C&AG observation, only 250 and 100 numbers of Thin Client terminals were installed at Chennai Sea and Chennai Air Commissionerates against 414 and 166 numbers received by them. Further, in case of Chennai Air and ICD Patparganj, it was observed that out of 100 and 62 numbers of installed terminals, only 80 and 30 terminals were actually in use as on 31 March 2013. This indicates that optimum utilization of hardware was not being done.

79. When the Committee enquired whether the system installed for electronic filing was user friendly and had any review been made of the system, the Ministry in writing replied that the system was user friendly and there had been no negative feedback from the users and that review of system was an ongoing and continuous process.

80. When further asked whether Department of Revenue has made fresh assessment of the requirements of the Thin Client Nodes in view of the online filing of BEs and SBs, the Ministry replied:-

"The requirement of Thin Client / Nodes had been assessed based on the roles allocated to the officers at a particular field formation. Online filing of BEs for assessment is not relevant for determining the requirement of Thin Client/ Nodes. Since BEs and SBs are processed by the officers using Thin Clients, hence number of such user officers is relevant for determining the requirement of Thin Clients/Nodes."

81. The Committee noted that some Thin Client Terminals have been lying utilized at some locations. On being asked how they propose to use the infrastructure rendered redundant and the staff employed there, the Ministry replied as under:

> "It is mentioned that online filing of returns is done by the Assessees, which are then processed by the departmental officers using Thin Clients. Therefore, utilization of Thin Clients is not dependent on the number of documents filed online. At certain locations infrastructure may be temporarily surplus due to shortage of staff posted. It is proposed to utilize such spare infrastructure at other field formations in the course of restructuring exercise."

In response Audit made comment on the Ministry's above reply as under:

> "The reply is not acceptable because hardware is supposed to be planned, procured and allocated based on actual or projected requirement; but the department failed to justify in these lines."

PART – II

Observations/Recommendations

1.   The Committee note that although the ICES application has been operating for the last 18 years, the CBEC could not overcome its weaknesses in areas of IT strategic planning, personnel management and training and policy for internal assessment and audit of core applications, as highlighted in the C&AG's scrutiny as well as in the Committee's examination of ICES 1.5. At the application level, date validations in several critical areas such as customs and excise exemption notifications, country of origin based exemptions, Retail Sale Price (RSP) based assessments, etc., which are essential for ensuring correct exemptions have been found to be lacking thereby allowing incorrect exemptions by the application, leaving scope for mis-declarations and incorrect assessments and resultant leakage of revenue. The Committee observe with serious concern that even after incurring ₹ 604 crore in upgrading the version form ICES 1.0 to ICES 1.5, the Department did not assess their cost and time saving, if any, due to the enhanced competence of ICES1.5. The Committee have now been informed that processes followed by their Director General of System and Data Management (DoS) are aligned with globally recognized standards/best practices particularly those embodied in the IT infrastructure library framework evolved by the United Kingdom's office of Government Commerce. CBEC has also started monitoring compliance regularly through an 'Information Security Committee'. Additionally, the report of a High Powered Committee to deliberate upon Driving Information Systems for Holistic Tax Initiatives (DRISHTI) has since been submitted to the Minister concerned. In the light of these developments, the Committee hope that the   CBEC   has   finally   developed   a   roadmap   for   future modifications/alterations/enhancements in their automated business processes relating to customs, as well as review of the effectiveness brought about by their core applications under ICES 1.5 version. They would like to be furnished with a detailed note on the same, also indicating the progress on various modules, which were under finalisation for inclusion in the ICES 1.5 application, as well as, the

action taken on the various systematic issues that emerged subsequent to the audit as well as PAC's examination of the subject, which are given in the ensuing paras.

Filing through EDI

2.   The Committee observe that Sections 46 and 50 of the Customs Act, 1962 stipulate that import/export documents are mandatorily required to be filed electronically through Electronic Date Exchange (EDI) system.   In order to prevent misuse, CBEC issued instructions in May, 2011 that manual processing and clearance of import/export goods shall be allowed only in the rarest of rare and genuine cases.   Audit has pointed out that out of 116 EDI enabled locations, only in 89 locations, electronic filing of import documents was carried out, out of which, in 29 locations, less than 500 Bills of Entries (Bes) were filed during 2012-13.   Similarly, export documents were filed in 99 locations, out of this in 20 locations, less than 500 SBs were filed during the same period.   The Committee note that manual filing of SBs were higher at Commissionerates in Chennai Air, Kochi, Goa, Nagpur and Kolkata Airport, ranging between 4.77% to 23.76%. The Committee fail to understand as to how the CBEC allowed such rampant non-adherence to its instructions, both in terms of number of locations adopting electronic filing and high percentages of manual filing at major locations.   They therefore, recommend that stringent action be initiated against responsible authorities in the identified commissionerates for such indifference to its directions. The CBEC have now informed the Committee that the percentage of manually assessed documents has been reducing over the years and presently it is less than one percent of import documents and less than 2.5 percent of export documents.   The Committee desire that the Ministry should furnish a Commissionerate-wise Statement to them providing details of those covered under their EDI net till date and the percentage of manual filing of documents by those, if any.   The Committee recommend that CBEC should take appropriate measures and remove the constraints, if any, in ensuring 100% electronic filing,

as it will bring better accountability, efficiency and transparency in the Customs Department.

DRISHTI Project

3.   Driving Information Systems for Holistic Tax Initiatives (DRISHTI) is the IT Vision of the CBEC for improving the efficiency and effectiveness of Indirect Tax Administration. The Committee note that a High Powered Committee (HPC) had been set up to examine issues to evolve appropriate roadmap for actualization of DRISHTI and recommending appropriate IT architecture to support business services.   DRISHTI also envisages studying issues which require immediate attention and decide the priority for implementation in view of current resource constraints in system.   The said HPC has reportedly submitted their recommendations on DRISHTI in October, 2014 to the Minister concerned. However, according to audit, effectiveness on taxation issues and linkage between action and targets are certain areas where the project needs to delve upon. The Committee are of the opinion that as DRISHTI is an ambitious project of Department of Revenue which can bring long lasting changes and reforms in Customs Department in terms of bringing better efficiency, transparency, accountability and service delivery, it must be ensured to identify and prioritise all issues requisite linkages within as well as outside the Department in their future IT plans. The Committee, therefore, would like to be apprised of the action taken on DRISHTI HPC's recommendations and desire that the Department of Revenue should expedite the actualization of the project on priority.

Security Features in Information system (IS)

4.   A Single Sign-on Identity (SSOID) is issued to the local user by the DoS for accessing EDI system. In the backdrop of the audit finding that in 10 out of 19 EDI locations, the total no. of such IDs were not available, the Committee note that the Department has already launched a review and verification tool in September 2014 to enable the system Manager see, check, review and monitor all users. Such a vital tool should have been made available right from the

beginning. Further, the Committee take note of the Audit observation that some features of operational password policy like password composition requirements, account lockout from unsuccessful login attempts, etc. were different from the documented password policy. The operational password policy has different security features for ordinary users (business) and privileged users (administrators etc.), whereas the documented password policy does not provide for separate policies for different categories of users. Neither does it provide for relaxation of number of failed login attempts for ordinary users as found to have been allowed in the operational policy. The Committee feel that changes in the operational features of logical security elements like password policy should invariably be implemented only after due authorisation and documentation of the changes. The Committee have been given details of the security related aspects of ICES by the Department. They also stated to have applied for recertification as ISO-27001:2013 by the Standardisation Testing and Quality Certification (STQC) also. The Committee desire to know its status. They are of the considered opinion that security feature in Information System of ICES is of critical importance. Any breach or leakage into the security architecture of ICES may result in manipulation in data/ crashing of the whole IS system which may impact the revenue collection too. The Committee, therefore, strongly recommend that the Department should take all necessary measures to ensure a fool proof security system and all changes in the same must be implemented after due authorisation from the Change Advisory Board of CBEC, which is the body mandated for the same.

Timely updation of central excise duties, exemption notifications and exchange rates

5.   The Committee take note of Custom's exemption dated 17 March 2012 which was amended by notification dated 23 January 2013 enhancing the BCD rate from 'nil' to 2.5 percent in respect of certain goods involving crude oil imports. However, audit observed that 15 instances of imports of 'crude sunflower oil' and 'crude palm kernel oil' made on 23 and 24 January 2013 under Chennai Sea Customs were assessed at 'nil' rate of BCD vide exemption

notification dated 17 March 2012 instead of the revised version dated 23 January, 2013, resulting in short collection of duty of ₹2.29 crore. Similarly, according to Section 14 of the Customs Act 1962, valuation of goods for assessment of duties of customs is to be ascertained with reference to the 'rate of exchange' of the foreign currency of the invoice as in force on the date of presentation of BE and the rate notified by CBEC. The Board, vide NT notifications dated 21 May 2012 and 24 May 2012, had upwardly revised the exchange rates for the Japanese Yen, the U.S. Dollar and the Hong Kong Dollar, effective from 22 May 2012 and 25 May 2012, respectively. However, the changes were not updated in the system, resulting in incorrect assessment and consequently short levy of duty. The response of the Ministry w.r.t. these cases in Chennai customs based on the reply of Chief Commissioner Customs, were not accepted by Audit as those were incorrect. The Committee desire that the Ministry may probe the matter and take suitable action against the erring officers for furnishing incorrect information. The Committee also feel that failure in updation of central excise duties, exemption notices and exchange rates is a serious lapse and a matter of dereliction of duty on the part of concerned officers/staff particularly since the Chennai Customs, where audit noticed the irregularity, itself has been the nodal site for updation of notifications. The Committee recommend that all such instances should be enquired to fix the accountability of officers by the Department. The Department of Revenue and CBEC should take necessary steps in this regard. Further, the Committee are also of the view that as far as exchange rates updation is concerned, a module may be developed in the ICES for daily updation of exchange rates with RBI. This would enable the exchange rate to be applicable from midnight and the issue would get resolved automatically. The Committee recommend that the Department should put in place a system for either centralized monitoring or cross-verification of the directory/notifications updating delegated to various Custom field formations.

Incorrect calculation of warehousing interest

6.   The Committee take note of the analysis of ICES data by the audit for the period from 1 April 2012 to 31 March 2013 which revealed that out of 6,887 Ex-Bond BEs involving clearances from Warehouse beyond 90 days and where Ware House (WH) interest was levied, in 6,756 BEs WH interest was levied for one day less, resulting in short-levy of WH interest by Rs. 13.28 lakh. In the remaining 131 BEs, WH interest was found to have been either in excess or short-levied for periods varying from 28 days in excess to 6 days less, for reasons not ascertainable from the available data. The Committee, therefore have a reason to believe that there may be an error in the 'program for the calculation of WH Interest' in ICES 1.5 application, which, if not rectified, might lead to continued short levies of WH interest thus resulting in loss to the Government exchequer. The Committee are astonished to observe that such technical fault/software error kept on persisting and the supervisory officers failed to notice the same. The Committee, therefore, recommend that the root problem causing the incorrect calculation of warehousing interest by ICES application should be sorted out on urgent basis. It is the responsibility of technical team of ICES application to ensure accuracy and correctness in calculation of warehousing interest. The Committee, also desire that in such cases of short levying of interest responsibility needs to be fixed upon the concerned officers/staff for under-recovery.

Responsibility to be fixed and Recovery be made for short levy

7.   The Committee observed various Audit paras of CAG and found that there had been numerous cases of short levy due to casual and negligent attitude of the concerned officers and staff resulting in huge revenue loss to the Government exchequer. As per the Performance Audit report only, the total revenue implication was calculated as ₹ 847.16 crore. The Committee are surprised that even after numerous such incidents of short levy no responsibility has been fixed upon the concerned staff/officers of the Department. Though recovery has been made in a few cases and system related issues are being

addressed by developing relevant modules for ICES 1.5 application by the Department, the Committee, strongly recommend that the Department should fix responsibility for serious lapses of shortfall of revenue due to non-updation of duty rates, exchange rates or exemption notices and take appropriate action against the officer/staff responsible for it. The Committee, also impress upon the Department of Revenue to take rigorous action for recovery of all the shortfall revenues in a time bound and effective manner. In this regard the Committee desire to be furnished with the details of action taken, if any, against the responsible staff and officers and progress made in the direction of recovery of the shortfall of revenue.

Ineffective functioning of LRM

8.   The Risk Management System (RMS) is a separate application integrated with ICES which facilitates faster clearance with minimal or no checks for low risk import consignments/entities and focusses customs compliance enforcement efforts on high risk consignments/entities. RMS has two components, National Risk Management (NRM) and Local Risk Management (LRM). The Committee observe that LRM Committees of custom sites are responsible for inserting and monitoring local risk factors through insertion of local targets. CBEC's circular dated 28 June, 2007 had stipulated that a LRM Committee was to be constituted at each Custom House/ACC headed by an officer not below the rank of Commissioner. The Committee take a critical note of the Audit observation about poor functioning of LRM at almost all locations in discharging its function for monitoring the performance of RMS and PCA. The Committee are anguished to see that despite an 8 year old stipulation, no LRM Committee had been constituted in Goa, ICD Patparganj, ICD Mandideep, ICD Pithampur and Kolkata Airport Commissionerates. Surprisingly, the Commissionerates of Kolkata Port and Pune had no information regarding the LRM Committee Meetings. The Committee, therefore, are not satisfied with the functioning of LRM at many of the Custom sites. The Committee also note that non-constituting of LRM Committees in many custom locations is a serious lapse on the part of Customs Department

and wonder as to whether insertion of local targets was being under taken at all in these locations. The Committee condemn the lethargic attitude of CBEC towards ensuring proper and timely compliance of its own circular of June, 2007 with regard to constituting LRM Committee at each Custom House. The Committee recommend that LRM Committees should be constituted at all Customs Houses without any further delay. The Committee would also like to have the status report about constitution of LRM Committees by CBEC.

Staff Recruitment

9.   The Committee observe that shortage of staff is severely affecting the performance of the Customs Department. They note that CBEC had directed that till the time On-site Post Clearance Audit (PCA) was made applicable to all categories of importers, the percentage of BEs selected for PCA at a Customs House should be suitably enhanced to safeguard the interest of revenue. The Committee understand that the concerned Chief Commissioners of Customs were supposed to review the staff position in their jurisdiction and reallocate more manpower for audit work as increased facilitation in terms of reduced examination had led to lesser requirement of staff for examination of goods. It was, therefore, imperative that excess staff should have been diverted for activities such as PCA and Special Investigation and Intelligence Branch (BSIIB) in Customs Houses. However, the compilation of information on PCA activity received from field offices revealed that the Board's instructions to reallocate more manpower for PCA to increase scrutiny of RMS cases have not been followed in any location and showed increasing trend in pendency of cases in 8 out of the 10 Custom locations for which data has been received. The Committee, therefore recommend that more manpower be allocated to the field offices for strengthening PCA and SIIB in Customs Houses.

Training and Skill development of Staff/Officers

10.   The Committee are of the considered opinion that Human Resource Development and Training is an integral part of any organization for keeping its

staff equipped with latest technological or administrative or managerial developments. Paragraph 6.2.2 of IT Security Procedures Ver.1.7 reportedly states that ICES users shall be imparted training on Information Security on a periodic basis and refresher courses would be conducted to re-train the already trained employees on new threats and counter-measures. The Committee observe that day to day user management for role allocation and revocation is also handled by CBEC officers themselves as part of the application. Since the customs cargo clearing process is an online process, the inability of Customs Officers to work on ICES could impact the clearance of cargo. Though the representative of the Ministry informed the Committee during evidence that till date around 20,000 users have been trained in 90 locations, the figures furnished for 2014-15 showed only 398 users trained during the year in 5 locations. The Committee, therefore, strongly recommend that regular training of staff and officers at various levels be made an integral feature of IT Management system of CBEC, Department of Revenue. Also the Department may examine the possibility of evolving a personnel policy for development of in-house technical expertise for CBEC's IS management through recruitment and training of IT personnel. The Department may furnish details of Training programmes conducted, if any for improvising skills of staff and officers at various levels during the last 5 years to the Committee.

Anti-Dumping Duty assessment feature of ICES 1.5 Ver. and System enhancement

11.   The Committee observe that dumping of goods from outside into the Country can severely affect the national economy, which is the reason behind the enactment of Anti-Dumping laws and operation of anti-dumping duty regime in the Country. Based on Audit's observations, the Committee note that there are concerns over the effectiveness and capacity of the ICES software for accurate determination of Anti-Dumping Duty to import shipments. The Committee also note the Ministry's claim that adequate features for the same are included in the system. However, the Committee desire that the Ministry needs to conduct a comparative study of technological solutions in place in select developed

countries so that the features in the ICES 1.5 Version may be further enhanced, not only in the correct assessment of Anti-Dumping Duty, but also in the overall efficiency and effectiveness of the system.

Generating revenues from Online Shopping Business Giants

12. The Committee note that the Department, although aware of the challenge faced by them due to a surge in the online shopping transactions across borders is yet to fully grasp the custom implications of the online shopping businesses, both national and international. It is evident from the reply given to the Committee which merely informed that such transactions, being either through courier or posts mode, are dealt with under the relevant procedures of the Customs Act, 1962. However, the Committee also note that efforts are ongoing, both at the national level and International level, to assess, understand and tackle the possible tax base erosion and profit shifting brought about by this mode of online transactions and that the officials of the Department are part of the G-20 Workshop Group working on the project. The Committee desire that the CBEC apprise the Committee of the progress made in tapping revenue from online shopping businesses, national and international, and report on whether the existing legislations, institutional structures are adequate to deal with the new form of import/export of goods.

Lack of Internal Audit System of ICES 1.5

13. The Committee observe that internal audit system of the Customs Department did not have any provision for audit/review of any of the applications of the IT system either by departmental offices or by Third Party Auditors (TPAs). Neither Standardization Testing and Quality Certifications (STQC) nor oracle reviewed the adequacy of business processes covered and the correctness of business rules mapping which have been found to be deficient in ICES 1.5 application. The Committee are of the opinion that in an IS organization a critical application like ICES with massive revenue implication requires a regular audit of the database, OS, infrastructure and application hardware for IT Security audit,

Malware analysis, source code review, application configuration review, ICT infrastructure configuration review, vulnerability assessment and National Cyber Security policy compliance, etc. The Committee are of the view that the Department of Revenue should take necessary action to audit and examine its core ICES 1.5 application for detecting deficiencies and suggesting improvements in the application. As the Department is stated to be actively considering the matter, the Committee would like them to submit a status report on action taken with regard to introducing a sufficient and capable internal audit system for ICES 1.5 application. A blueprint or framework of the internal audit system as envisaged by the Department covering different areas or domains may be furnished to the Committee.

<u>Improper/under-utilisation of hardware</u>

14. The Committee observe that optimum utilization of hardware was not being done and the procurement and distribution of the same lacked proper planning. The Committee take critical note of the Audit observation that only 250 and 100 Thin Client terminals have been installed at Chennai Sea and Chennai Air Commissionerates against 414 and 166 received by them. Again, in case of Chennai Air and ICD Patparganj, it was observed that out of 100 and 62 numbers of installed terminals, only 80 and 30 terminals were actually in use as on 31st March 2013. The Committee further note that the audit were informed by the Department at that time that all the their clients would be put to use in Chennai after implementation of Cadre Restructuring. However, the shortage of Officers was only one reason for the underutilization. Another reason cited was non-availability of modules pertaining to the processing of BEs filed in Courier and APSO. The Committee feel that such technical upgradation should be undertaken in ICES 1.5 version fast so as to rule out any underutilization resulting from operational issues. While the Committee would desire to know the present status of thin client terminals in Chennai sea and Air Commissionerates, they feel that the optimum utilization of the already procured hardware would have enhanced the working and efficiency of the ICES system. The Committee also feel that

under-utilisation of hardware which was already procured, points towards an unrealistic procurement planning leading to wastage. The Committee, therefore, recommend that CBEC should henceforth ensure development of a proper system of procurement planning for all its units based on actual requirement and manpower availability.

Absence of linkage of 'Sezonline' Portal

15.   The Committee express their concern that ICES 1.5 has not been linked with 'Sezonline' portal (Special Economic Zone's online portal) of the Ministry of Commerce which facilitates online clearance of both imports and exports by the Development Commissioners of SEZs to monitor the closure of IGMs filed at the Customs ports for the goods imported which are intended for use in SEZs. The Committee feel that the said linking, once achieved, could be of immense help to the Customs Department in better, efficient and faster management of imported-exported goods, thereby earning more revenue for the Country. The Committee, therefore, desire that the Ministry should expedite the requisite modalities of linking the ICES 1.5 with 'Sezoline' portal of Ministry of Commerce and submit a status report in this regard within six months of the presentation of this report.

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NEW DELHI;   PROF. K.V. THOMAS
12thAugust,2015   Chairperson,
21 Shravana, 1937 (Saka)   Public Accounts Committee.

MINUTES OF THE EIGHTH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE (2014-15) HELD ON 19th NOVEMBER, 2014.

The Committee sat on Wednesday the 19th November, 2014 from 1430 hrs. to 1545 hrs. in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

Prof. K. V. Thomas   -   Chairperson

MEMBERS

LOK SABHA

2.   Shri S.S. Ahluwalia
3.   Shri Ranjit Singh Brahmpura
4.   Shri Nishikant Dubey
5.   Shri Bhartruhari Mahtab
6.   Shri Ramesh Pokhriyal 'Nishank'
7.   Shri Janardan Singh Sigriwal
8.   Shri Anurag Thakur

RAJYA SABHA

9.   Shri Satyavrat Chaturvedi
10.   Shri Vijay Goel
11.   Dr. Satyanarayan Jatiya
12.   Shri Shantaram Naik
13.   Shri Sukhendu Sekhar Roy

LOK SABHA SECRETARIAT

1.   Shri A. K. Singh   - Joint Secretary
2.   Smt. Anita B. Panda   - Director
3.   Shri Jayakumar T.   - Additional Director

REPRESENTATIVES FROM THE OFFICE OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

1.   Shri N. Goswami   - Principal Director of Audit (Customs)
2.   Shri B.P. Yadav   - Principal Director of Audit (AB&LB)

REPRESENTATIVES OF THE MINISTRY OF FINANCE

1. Shri Shakti Kanta Das   Secretary
2. Shri Kaushal Srivastava   Special Secretary & Chairman
3. Shri Shashi Bhushan Singh   Special Secretary & Member (CX&ST)
4. Ms. Mala Srivastava   Member (Customs & L&J)
5. Ms. Ananya Ray   DG (System)
6. Shri Sandeep M. Bhatnagar   JS (Custom)
7. Shri Vivek Chaturvedi   Commissioner (EDW)

2.   At the outset, the Chairperson, PAC welcomed the Officers of the C&AG of India and the representatives of the Ministry of Finance to the sitting of the Committee. The Chairperson apprised that the meeting has been convened to have oral evidence on the subject 'Indian Customs electronic Data Interchange System (ICES 1.5)' based on C&AG Report No. 11 of 2014. The Chairperson sought the views of the Secretary on the issues relating to the differences in calculated duty payable and duty actually paid, manual processing of import and export documents and incorrect exemption from Special Additional Duty. The Chairperson further pointed out the ineffective functioning of Local Risk Management system & gross failure in updation of the central excise duty rates and notification directory and desired the Directorate General of Systems & Data Management to pay special attention for centralized monitoring of directory updating.

3.   The representatives of the Ministry then gave a briefing on the subject, the Audit findings and response of the Ministry thereon. Thereafter, Secretary of the Ministry attended to the queries of the members on the ineffective functioning of the Risk Management System of ICES 1.5, delay in updation of Customs Exemption Notification & Duty rate Directories, recoveries made for shortfall of revenues, measures taken by CBEC to ensure maximum compliance of filing of return through EDI system, password policy of Department and steps taken by Department of Revenue to ensure full proof data security of the ICES system.

4.   The Committee took a critical note of the Department for lack of any specific personnel policy for recruitment of technically qualified officers and staff to manage the IS system as the department was entirely dependent on its IS system for assessment

& collection of customs revenue. As some queries required detailed and statistical information, the Chairperson asked the representatives of the Ministry to furnish written replies to the PAC Secretariat as early as possible.

5.   The Chairperson, then thanked the representatives of the Ministry for appearing before the Committee and furnishing the updated information on the subject.

A copy of the verbatim proceedings was kept on record.

The Committee then adjourned.

MINUTES OF THE FIFTH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE (2015-16) HELD ON 11th AUGUST, 2015.

The Committee sat from 1000 hrs. to 1045 hrs. on 11th August, 2015 in Room No. "51" (Chairperson's Chamber), Parliament House, New Delhi.

PRESENT

Prof. K. V. Thomas   -   Chairperson

MEMBERS

LOK SABHA

2. Shri Nishikant Dubey
3. Shri Ramesh Pokhriyal "Nishank"
4. Shri Neiphiu Rio
5. Shri Janardan Singh Sigriwal
6. Shri Shiv Kumar Udasi
7. Dr. Kirit Somaiya

RAJYA SABHA

8. Shri Anil Madhav Dave
9. Shri Bhubaneswar Kalita
10. Shri Sukhendu Sekhar Roy

LOK SABHA SECRETARIAT

1. Shri A. K. Singh   - Joint Secretary
2. Smt. Anita B. Panda   - Director
3. Shri T. Jayakumar   - Additional Director
4. Shri P. Haokip   - Deputy Secretary

REPRESENTATIVES FROM THE OFFICE OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

1. Shri Arun Kumar Singh   - Dy. C&AG (RC&LB)
2. Shri Prasenjit Mukherjee   - Dy. C&AG (Commercial)
3. Shri A.M. Bajaj   - Director General (ESM
4. Ms. Shubha Kumar   - Director General (Report Central)
5. Shri Manish Kumar   - Principal Director (PAC)

2.   At the outset, the Chairperson welcome the Members and the representatives of the Office of the C&AG of India to the sitting of the Committee. The Chairperson then apprised that the meeting had been convened to consider and adopt four Draft Reports of the Committee and for selection of additional subjects for detailed examination by the Committee. Thereafter, the Committee took up the following draft Reports one by one for consideration:

i.   Draft Report on "Role and Functioning of Indian Coast Guard" based on C&AG Report No.7 of 2011-12;

ii.   Draft Report on "Procurement of Allopathic drugs in CGHS" based on Para 6.3 of C&AG Report No.19 of 2013;

iii. Draft Report on "Indian Customs Electronic Data Interchange System (ICES1.5)" based on C&AG Report No.11 of 2014; and

iv.   Draft Report on Action Taken by the Government on the observations/recommendations of the Committee contained in their Eighty-third Report (Fifteenth Lok Sabha) on "Augmentation of provision to object heads - Grants-in-aid and Subsidy".

3.   While considering the draft Reports, the Committee decided to observe and make suitable recommendations on the issues relating to land acquisition and ship building, repair and refit capacity development, as far as the report at Serial No. (i) is concerned. With regard to report at Serial No. (ii) the Committee desired that recommendations may be made for the Ministry to give due importance and stress on making quality drugs available, and to devise systems avoid stock piling of drugs that have expired. The modification and amendments are shown in Annexure I and II respectively.

4.   They adopted the other two reports without any modification. The Committee also authorised the Chairperson to finalise the four Reports adopted by them, in light of their suggestions and factual verifications received from the Audit and present the same to the House on a date convenient to him.

5.   Thereafter, the Chairperson placed the following two subjects for consideration of the Committee for selection and detailed examination during 2015-16:

i.   "XIXth Commonwealth Games 2010" based on C&AG Report No. 6 of 2011-12; and

ii. "Bad debts/uncollectible accounts burden willful default by borrowers on public institutions".

6. After some discussion on the above-mentioned two subjects the Committee agreed to the proposal of the Chairperson on the first subject and to modify the second subject as "Bad debts/uncollectible accounts and willful defaulters; burden on public financial institutions".

7. The Chairperson also apprised the Committee about the forthcoming Conference of Chairpersons of PACs of Parliament and State Legislatures/UTs from 8 to 9 September, 2015, proposed sittings of the Committee on 19 & 26 August and 7th September, 2015 and the proposed Study Visit of the Committee to Bhubaneswar, Andaman and Nicobar Islands and Chennai from 15-19 September, 2015.

The Committee then adjourned.