

**6**

**SERVICE TAX ON BANKING AND  
OTHER FINANCIAL SERVICES**

[Action Taken by the Government on the Observations/Recommendations of the  
Committee contained in their Seventy-ninth Report (15th Lok Sabha)]

**MINISTRY OF FINANCE**  
(DEPARTMENT OF REVENUE)

**PUBLIC ACCOUNTS  
COMMITTEE  
2014-2015**

**SIXTH REPORT**

---

**SIXTEENTH LOK SABHA**



**LOK SABHA SECRETARIAT  
NEW DELHI**

# SIXTH REPORT

## PUBLIC ACCOUNTS COMMITTEE (2014-15)

(SIXTEENTH LOK SABHA)

### SERVICE TAX ON BANKING AND OTHER FINANCIAL SERVICES

[Action Taken by the Government on the Observations/Recommendations of the  
Committee contained in their Seventy-ninth Report (15th Lok Sabha)]

MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

*Presented to Lok Sabha on 25th November, 2014  
Laid in Rajya Sabha on 25th November, 2014*



LOK SABHA SECRETARIAT  
NEW DELHI

*November, 2014/Agrahayana, 1936 (Saka)*

**P.A.C. No. 2034**

*Price: ₹ 112.00*

© 2014 BY LOK SABHA SECRETARIAT

Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fifteenth Edition) and Printed by the General Manager, Government of India Press, Minto Road, New Delhi-110 002.

## CONTENTS

	PAGE
COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE (2014-15) .....	(iii)
COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE (2013-14) .....	(v)
INTRODUCTION .....	(vii)
CHAPTER I Report .....	1
CHAPTER II Observations/Recommendations which have been accepted by the Government .....	11
CHAPTER III Observations/Recommendations which the Committee do not desire to pursue in view of the replies received from the Government .....	86
CHAPTER IV Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration .....	87
CHAPTER V Observations/Recommendations in respect of which the Government have furnished interim replies .....	103

## APPENDICES

I. Minutes of the Seventh Sitting of the Public Accounts Committee (2014-15) held on 19.11.2014. ....	104
II. Analysis of the Action Taken by the Government on the Observations/Recommendations of the Public Accounts Committee contained in their Seventy-ninth Report (Fifteenth Lok Sabha) .....	106

COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE  
(2014-2015)

Prof. K.V. Thomas — *Chairperson*

MEMBERS

*Lok Sabha*

2. Shri S.S. Ahluwalia
3. Shri Sudip Bandyopadhyay
4. Shri Ranjit Singh Brahmura
5. Shri Nishikant Dubey
6. Shri Gajanan Kirtikar
7. Shri Bhartruhari Mahtab
8. Shri Ramesh Pokhriyal “Nishank”
9. Shri Neiphiu Rio
- \*10. Vacant
11. Shri Janardan Singh Sigriwal
- †12. Vacant
13. Dr. Kirit Somaiya
14. Shri Anurag Thakur
- ††15. Vacant

*Rajya Sabha*

16. Shri Satyavrat Chaturvedi
17. Shri Vijay Goel
18. Dr. Satyanarayan Jatiya
19. Shri Bhubaneswar Kalita
20. Shri Shantaram Naik
21. Shri Sukhendu Sekhar Roy
22. Shri Ramchandra Prasad Singh

SECRETARIAT

- |                        |   |                            |
|------------------------|---|----------------------------|
| 1. Shri A.K. Singh     | — | <i>Joint Secretary</i>     |
| 2. Smt. Anita B. Panda | — | <i>Director</i>            |
| 3. Shri Jayakumar T.   | — | <i>Additional Director</i> |
| 4. Smt. Anju Kukreja   | — | <i>Under Secretary</i>     |

---

\* Vacant *vice* Shri Rajiv Pratap Rudy who has been appointed as Minister *w.e.f.* 9th November, 2014.

† Vacant *vice* Shri Jayant Sinha who has been appointed as Minister *w.e.f.* 9th November, 2014.

†† Vacant *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.

COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE  
(2013-14)

Dr. Murli Manohar Joshi — *Chairman*

MEMBERS

*Lok Sabha*

2. Shri Anandrao Vithoba Adsul
3. Dr. Baliram
4. Shri Ramen Deka
5. Shri Sandeep Dikshit
6. Dr. M. Thambi Durai
7. Shri T.K.S. Elangovan
8. Shri Jayaprakash Hegde
9. Dr. Sanjay Jaiswal
10. Shri Bhartruhari Mahtab
11. Shri Abhijit Mukherjee
12. Shri Sanjay Brijkishorlal Nirupam
13. Shri Ashok Tanwar
- \*14. Shri Ajay Maken
15. Shri Dharmendra Yadav

*Rajya Sabha*

16. Shri Prasanta Chatterjee
17. Shri Prakash Javadekar
- †18. Shri Ashwani Kumar
19. Shri Satish Chandra Misra
- ††20. Dr. V. Maitreyan
21. Shri N.K. Singh
22. Smt. Ambika Soni

---

\* Elected *w.e.f.* 14th August, 2013 *vice* Dr. Girija Vyas appointed as Minister of Housing, Urban Development and Poverty Alleviation *w.e.f.* 17th June, 2013.

† Elected *w.e.f.* 3rd September, 2013 *vice* Dr. V. Maitreyan ceased to be a Member upon his retirement as a Member of Rajya Sabha *w.e.f.* 24th July, 2013.

†† Elected *w.e.f.* 3rd September, 2013 *vice* Dr. E.M. Sudarsana Natchiappan appointed as Minister of State for Commerce and Industry *w.e.f.* 17th June, 2013.

## INTRODUCTION

I, the Chairperson, Public Accounts Committee (2014-15), having been authorized by the Committee, do present this Sixth Report (Sixteenth Lok Sabha) on Action Taken by the Government on the Observations/Recommendations of the Committee contained in their Seventy-ninth Report (Fifteenth Lok Sabha) on **‘Service Tax on Banking and Other Financial Services’** relating to the Ministry of Finance (Department of Revenue).

2. The Seventy-ninth Report was presented to Lok Sabha on 21st March, 2013. Replies of the Government to the Observations/Recommendations contained in the Report were received on 6th March, 2014. The Public Accounts Committee considered and adopted this Report at the Sitting held on 18th November, 2014. Minutes of the Sitting are given at *Appendix I*.

3. For facility of reference and convenience, the Observations and Recommendations of the Committee have been printed in thick type in the body of the Report.

4. 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.

5. An analysis of the action taken by the Government on the Observations/Recommendations contained in the Seventy-ninth Report (Fifteenth Lok Sabha) is given at *Appendix II*.

NEW DELHI;  
24 November, 2014  

---

03 Agrahayana, 1936 (*Saka*)

PROF. K.V. THOMAS  
*Chairperson,*  
*Public Accounts Committee.*

# REPORT

## PART I

### **Introductory**

This Report of the Public Accounts Committee deals with the Action Taken by the Government on the Observations and Recommendations of the Committee contained in their Seventy-ninth Report (15th Lok Sabha) on "Service tax on Banking and other Financial Services" based on C&AG Report No. 15 of 2011-12, Union Government (Indirect Taxes-Service Tax and Customs), relating to Ministry of Finance (Department of Revenue).

2. The Seventy-ninth Report (15th Lok Sabha), which was presented to Lok Sabha/Laid in Rajya Sabha on 21st March, 2013, contained 18 Observations and Recommendations. Action Taken Notes in respect of all the Observations and Recommendations have been received from the Ministry of Finance (Department of Revenue) and are broadly categorized as under:—

- (i) Observations/Recommendations which have been accepted by the Government:

Para Nos. 1-9 and 12-18

Total: 16  
Chapter-II

- (ii) Observations/Recommendations which the Committee do not desire to pursue in view of the replies received from the Government:

Para Nos. NIL

Total: NIL  
Chapter-III

- (iii) Observations/Recommendations in respect of which replies of Government have not been accepted by the Committee and which require reiteration:

Para Nos. 10 & 11

Total: 2  
Chapter-IV

- (iv) Observations/Recommendations in respect of which Government have furnished interim replies:

-NIL-

Total: NIL  
Chapter-V

3. The Service Tax on the Banking and other Financial Services (BFNs) levied with effect from 1st July, 2001 is a major contributor to Service Tax revenue. Its contribution to total Service Tax collected during the years 2007-08 and 2008-09 was 7.09 per cent (₹ 3634.94 crore out of ₹ 51,301.79 crore) and 6.15 per cent (₹ 3747.65 crore out of ₹ 60,940 crore) respectively. The Committee's examination of Service Tax on Banking and other Financial Services revealed several procedural deficiencies in registration of assesseees, receipt of returns and scrutiny of returns. Instances of non-compliance with rules and provisions on valuation, incorrect/excess availment and utilization of cenvat credit, non-remittance of Service Tax etc. had resulted in revenue leakage of ₹ 251.38 crore. Furthermore, Service Tax of ₹ 1.41 crore was collected but not remitted to the Government. The various irregularities/deficiencies noted by the Committee were: (i) 1142 service providers who had provided Banking and other Financial Services were not on the departmental registration lists. 65 of these potential assesseees were liable to pay Service Tax of ₹ 92.12 crore; (ii) 6 per cent of Service Tax returns were received late and 14 per cent of the returns were not received at all; (iii) There were instances of evasion of Service Tax totalling to 28.93 crore; (iv) Department had not imposed penalty of ₹ 4.35 crore on defaulting assesseees; (v) No system existed in the Department to co-relate the taxable income as shown in the Income-Tax return with the ST-3 return etc. The Committee had accordingly given their Observations and Recommendations in their Seventy-ninth Report (15th Lok Sabha).

4. The Action Taken Notes furnished by the Ministry of Finance (Department of Revenue) in respect of all the Observations/Recommendations of the Committee have been reproduced in the relevant chapters of this Report. The Committee will now deal with the Action Taken by the Government on some of their Observations/Recommendations made in the Seventy-ninth Report, which need reiteration or merit comments.

### **Registration of Eligible Service Providers**

#### **Recommendation (Para No. 2)**

5. While scrutinizing the subject in detail, the Committee in their Seventy-ninth Report (15th LS) noted that in 26 out of 60 Commissionerates, there were 1142 service providers, who, though liable to pay Service Tax did not figure in the Departmental registration lists. The Committee were appalled to note that out of these 1142 assesseees, 65 potential assesseees had not paid service tax to the extent of ₹ 92.12 crore with additional penalty upto ₹ 92.12 crore and further interest liability of ₹ 21.35 crore. Noting that in respect of 19 Audit objections (involving Service Tax of ₹ 36.47 crore) necessary remedial measures were taken by the Department to recover Government revenue and 17 cases involving Service Tax of ₹ 5.34 crore were pending investigation, the Committee in para 2 of their 79th Report (15th LS) had called for the latest status of the cases that were pending investigation.

6. The Ministry of Finance (Department of Revenue) in its Action Taken Note has stated as under:—

"Consolidated list of 17 cases, which were pending investigation, detailing the further proceedings/present status of the cases is enclosed as Annexures 'D-I (P)' &

'D-II (P)'. Of these, in 3 cases it was found that there was no service tax liability on account of SSI exemption, foreign services, non-taxable interest income, etc. In the remaining cases, Show Cause Notices have been issued & demand confirmed in 10 cases. In one case, the party could not be located at the given address."

**7. The Committee note that the Ministry of Finance (Department of Revenue) issued Show Cause Notices in respect of 7 cases out of 17 cases which were pending investigation and confirmed demand in all the cases. However, the reply is lacking details with regard to date of issue of the Show Cause Notices, date of adjudication and the amount of demand confirmed thereon. The Committee need to be apprised of the same and also the latest position with respect to the recovery of demand confirmed in all these cases.**

#### **Reliability on Voluntary Compliance for Registration of Eligible Service Providers**

##### **Recommendation (Para No. 4)**

8. The Committee had observed that for registration of eligible service providers, the Government had relied largely on 'voluntary compliance'. Thus, an entity, though liable to pay Service Tax, could evade tax by not applying for registration. The Committee had felt that with proper focus on non-intrusive but penetrating methods of collecting data through the instruments like returns and surveys, the Government could widen the tax base and ensure better tax compliance. Thus, the Committee had urged the Ministry to make all-out efforts to ensure that while the Government remains assessee-friendly, tax evaders are dealt with stringently entailing that Non-compliance be made a costly proposition. The Ministry had also been directed that if need be, measures taken in respect of Central Excise and Customs assesseees, also be taken with regard to Service Tax assesseees *i.e.* for registration of eligible BFNs.

9. In this regard, the Ministry of Finance (Department of Revenue) in its Action Taken Note, submitted as under:—

"Stringent penal provisions exists to deal with non-compliance. Under section 76 of the Finance Act, 1994 a penalty of ₹ 100 per day during which the failure to pay service tax continues or the amount calculated at the rate of 1% per month on the tax due, whichever is higher, in case of failure to pay the tax due is leviable. Similarly, failure to take registration under section 69 of the Act *ibid* invites penalty of ₹ 200 per day of failure from the due date till the date of actual compliance or ₹ 10,000, whichever is higher. Further, a provision has been introduced in the Finance Act, 2013 whereby in cases where a service provider is liable for prosecution and the amount involved is more than ₹ 50 lakh, he is liable for arrest. Further if he collects service tax and does not deposit it with the Government and the amount involved is more than ₹ 50 lakh, the offence has been made cognizable."

**10. The Committee note that the Ministry has mainly elaborated upon the existing penal provisions for non-compliance which were provided in the Finance Act, 1994. It is evident from the Action Taken Reply that the provisions were revised so far only once in 2013 after having been pointed out by the C&AG regarding the Service Tax evasion by the Banking and other Financial Services (BFNs) in their Report. The Committee recommend the Ministry of Finance (Department of Revenue) to have a re-look at the amount of penalty stipulated in Section 76 of the Finance Act, 1994. The Committee be apprised of the effectiveness of the new provisions introduced in the Finance Act, 2013.**

#### **Non/Late Receipt of Service Tax Returns**

##### **Recommendation (Para No. 8)**

11. The Committee found that for the period September 2004 to March 2009, out of 2,37,593 returns due, as many as 18,684 were not received. The Committee further found that out of ₹ 60.32 lakh of penalties levied, penalties of ₹ 25.22 lakh had not been recovered. While emphasizing the need for effective monitoring of Service Tax returns and timely recovery of penalties imposed, the Committee had desired to be apprised about the current position with regard to recovery of outstanding penalties of ₹ 25.22 lakh. Apart from recommending stringent action against the defaulters, the Committee had also urged the Ministry of have a re-look at the penalty provisions as the present penalty was insufficient to act as a deterrent with regard to non-submission of returns.

12. The Ministry of Finance (Department of Revenue) in its Action Taken Note, made the following submission:—

"With regard to recovery of outstanding penalties of ₹ 25.22 lakh due to delayed/ non submission of ST-3 returns, ₹ 8.28 lakh has already been recovered and in rest of the cases necessary action has been initiated.

Regarding re-look at the penalty provisions, the maximum late fee for non-filing of returns under Section 70 of the Finance Act, 1994 has been increased to ₹ 20,000/- w.e.f. 08.04.2011 for non-submission of returns in time.

Further, in the Budget 2013, the Government has introduced the Service Tax Voluntary Compliance Encouragement Scheme 2013, according to which, non-filers have been given an opportunity to make payment of Service Tax dues under declaration as per the provisions of Sub-section (1) of Section 97 of the Finance Act, 2013."

**13. Regarding recovery of outstanding penalties the Committee note that only ₹ 8.28 lakh has been recovered out of ₹ 25.22 lakh. Apparently the Ministry seems to be slow on recovery of penalties from the defaulters. Taking note of the Service Tax Voluntary Compliance Encouragement Scheme, 2013 aiming to give an opportunity to the non-filers to make payment of Service Tax dues under declaration as per the provisions of Sub-Section(1) of Section 97 of the Finance Act, 2013, the Committee recommend the Ministry to have a close and effective monitoring of the scheme.**

## **Absence of Vital Database of the Actual Number of BFNs Filing Returns**

### **Recommendation (Para No. 9)**

14. The Committee had observed that the vital database of the actual number of BFNs filing returns and those who have failed to do so, was not available with the Department. The Ministry had informed that such a data base was not being developed by the Directorate General of Service Tax. Further, the assesseees who were not filing service tax return were issued Show Cause Notices. Expressing concern that the Department could not function effectively and monitor their collection of Service Tax from BFNs in the absence of vital data base, the Committee had urged the Department of Revenue to put in place an effective mechanism to facilitate monitoring of the progress of revenue receipts and processing of returns on a periodical basis.

15. In its Action Taken Note, the Ministry of Finance (Department of Revenue) has stated as under:—

“The database of assesseees who have filed/not filed ST-3 returns in Automation in Central Excise and Service Tax (ACES), including those pertaining to BFNs, is available in the Directorate of Systems.

Further, the Customs and Central Excise Department, Principal Controller of Accounts, Controller General of Accounts and the Reserve Bank of India with the participation of 28 commercial banks introduced the Electronic Accounting System in Excise and Service Tax (EASIEST) in April 2007 with the GAR 7 challan. This system provides for the facility for online verification of the status of tax payment using a unique Challan Identification Number(CIN).

In order to develop a vital database, the Directorate General of Service Tax (DGST) as a one-time exercise, had asked the field formations to approach RBI office under their jurisdiction and obtain the list of NBFCs registered with them. Accordingly, the list of Non-Banking Financial Companies (NBFCs) obtained was compared with NBFC already registered with the Department. For non-registered NBFCs, appropriate action was taken by the field formations for getting them registered.

Further, in the Budget 2013, the Government has introduced the Service Tax Voluntary Compliance Encouragement Scheme 2013, according to which, non-filers have been given an opportunity to make payment of Service Tax dues under declaration as per the provisions of Sub-Section (1) of Section 97 of the Finance Act, 2013.”

**16. In their 79th Report the Committee had observed that the Department did not have the vital database of the actual number of BFNs filing returns and those who had failed to do so. The Ministry had submitted that such database was not being developed by the Directorate General of Service Tax. However, in its Action Taken Notes, the Ministry has stated that the database of assesseees who have filed/not filed ST-3 returns in Automation in Central Excise and Service Tax (ACES), including those pertaining to Banking Financial Companies (BFNs) is available in the Directorate of Systems. Furthermore, the Ministry has also stated that in order to develop a vital database, the**

**Directorate General of Service Tax (DGST) as a one-time exercise had taken appropriate action for getting the non-registered NBFs registered. The Ministry need to explain how incorrect information was submitted at the outset. Furthermore the reply of the Ministry is devoid of details regarding the date/period during which this exercise was undertaken, number of BFNs registered as a result thereof, the amount of penalty imposed/recovered from the defaulting assesseees etc. The Committee recommend that Electronic Accounting System in Excise and Service Tax introduced in April 2007 be made effective.**

### **Scrutiny of Returns**

#### **Recommendation (Para No. 10)**

17. The Committee were concerned to note that during the year 2008-09 (i) in 67 Commissionerates 12.38 per cent returns received were pending preliminary verification/scrutiny; (ii) in 22 Commissionerates, there were 99 cases in which Department failed to detect irregularities like payment of Service Tax at lower rate, non-levy of interest and penalty, short payment of interest, etc. leading to short levy of Service Tax totalling ₹ 7.02 crore and interest of ₹ 1.56 crore; (iii) there was no system in place to Co-relate the taxable income as shown in the Income Tax return with the ST-3 return; and (iv) 116 assesseees had shown lower figures in ST returns which had Service Tax implication of ₹ 21.91 crore and interest of ₹ 2.94 crore during the period from September 2004 to March 2009. While deploring the failure of the Ministry in ensuring timely verification/scrutiny of returns, the Committee had exhorted the Ministry to have a comprehensive review for identification of bottlenecks, if any, in the present system of scrutiny of returns and overcome the same through appropriate policy intervention.

18. In its Action Taken Notes, the Ministry of Finance (Department of Revenue) has stated as under:—

"At present, preliminary scrutiny is done by the system while detailed scrutiny is undertaken by the Range Officers. Further, based on certain well-defined parameters, the system throws up some returns for Review and Correction (R&C) by the Range Officers. As per the Scrutiny Manual for ST-3 Returns, the mechanism of scrutiny involves two stages namely Preliminary and Detailed Scrutiny. The preliminary scrutiny has been designed to check completeness of the information provided, timeliness, arithmetic accuracy etc. The detailed scrutiny will ensure correctness of classification, exemption availed, valuation, availment of CENVAT credit etc.

Efforts are being made to ensure timely scrutiny. The bottlenecks relate to staff shortage, as well as certain technical problems including internet connectivity. The department has already appointed a Committee to solve these technical problems. As regards, manpower, the expansion of services under the service tax ambit was not commensurate with staff strength available. The issue is being addressed through cadre re-structuring proposal.

It is also mentioned that the present system of preliminary scrutiny has been examined by a Committee set up by CBEC and the Committee has submitted their report for major changes in the system to avoid large number of returns for R&C. Once the recommendations of the Committee are accepted and implemented, it is expected that this may result in minimization of returns thrown for R&C. After the said changes, it is expected that officers may get time to carry out detailed scrutiny.

The data regarding the amount of revenue detected and amount recovered as a result of scrutiny of returns is as under:

(₹ in lakh)

Revenue detected as a result of scrutiny of ST-3 Returns filed under BFNs			Amount recovered as a result thereof		
2010-11	2011-12	2012-13	2010-11	2011-12	2012-13
13128.90	17167.75	53591.39	4918.36	9977.17	15539.58

The major policy decision would be to augment the staff strength on priority. There may not be other effective/corrective policy measures to overcome such huge pendency of ST-3 returns as well as other areas of service tax functioning."

**19. In order to ensure timely scrutiny of ST-3 returns, the Committee note that present system of preliminary scrutiny was examined by a Committee set up by CBEC, which in its report recommended major changes in the system in order to avoid large number of returns for Review and Correction (R&C). The Ministry of Finance (Department of Revenue) expect that once the recommendations of that Committee are accepted and implemented, this would minimize the number of returns requiring R&C. The Committee would like to be apprised about the latest position in this regard.**

#### **Co-relating the data of various departments**

##### **Recommendation (Para No. 11)**

20. The Committee had noted that no system existed in the Department to Co-relate the taxable income as shown in the Income Tax Return with the ST-3 Returns to identify cases for further scrutiny. Expressing concern over the fact that cross verification of a few ST returns with Income-tax returns had revealed Service Tax implication of ₹ 21.91 crore and interest of ₹ 2.94 crore during the period September 2004 to March, 2009, the Committee had recommended that a suitable but effective system for correlating the data of various Departments be devised and also ensure that the revenue due to the Government is collected without remiss.

21. While submitting the Action Taken Notes, the Ministry stated as under:

"Both for audit purposes and return scrutiny, there is a mandatory requirement to examine documents such as balance sheet, profit & loss account, income tax audit report u/s 44AB of Income Tax Act, 1961. (These documents are normally submitted to the Ministry of Corporate Affairs and the Income Tax Department).

The Service Tax Return Scrutiny Manual (issued in 2008) prescribes a checklist for reconciling the figures of income contained in the financial records of the assessee viz., balance sheet/profit & loss account with the taxable income shown in the service tax return. Data sharing between CBEC and CBDT is being examined."

**22. With regard to devising a suitable and effective system for co-relating the data of taxable income, as shown in the income tax returns with the ST-3 returns of various Departments, the Ministry has not come up with any concrete action and has merely submitted the existing procedure available with them. No efforts seem to have been made by the Ministry in this regard apart from submitting that data sharing between CBEC and CBDT was being examined. The Committee exhort the Ministry of Finance (Department of Revenue) to expedite interlinking of database of taxable income of all the Departments concerned so as to avoid losing of revenues on account of lack of coordination and discrepancy. The Committee would like the Ministry to be apprised of the concrete steps taken in this direction within six months of the presentation of this Report.**

#### **Revenue Leakage due to wrong utilization of CENVAT Credit**

##### **Recommendation (Para No. 15)**

23. As per the provisions, the assessee was liable to restrict the utilization of cenvat credit to 20 percent of the Service Tax payable during the period 2006-07 and 2007-08. Out of the 24 months in 2006-07 and 2007-08, the assessee paid Service Tax of ₹ 1198.04 lakh in 12 months. While the utilization of cenvat credit to make these payments should have been restricted to ₹ 239.61 lakh (20 percent) the actual utilization was ₹ 626.65 lakh. This led to excess utilization of credit of ₹ 387.04 lakh which was recoverable with interest of ₹ 95.84 lakh. The assessee had also not maintained separate accounts for receipt, consumption and inventory of input services used for taxable and exempted services. Since adjudication in respect of Show Cause Notices (SCNs) of ₹ 5.52 crore (period 2005-06 to September, 2009) including ₹ 387.04 lakh issued in March 2010 was pending, the Committee had desired to be apprised about the latest position in this regard.

24. While furnishing details in this regard, the Ministry of Finance (Department of Revenue) in its Action Taken Note has submitted as under:

"It is reported that a Show Cause Notice involving an amount of ₹ 5.52 crore (period 2005-06 to September 2009) including ₹ 387.04 lakh raised by the C&AG had been issued in March, 2010, which is pending adjudication.

It is further reported that neither EA-2000 Audit nor detailed scrutiny was done for the period 2006-07 to 2007-08 of M/s. Infrastructure Development Finance Corporation Ltd. due to acute shortage of staff, as existing staff in the Audit Section and Divisions is not adequate. Presently, there are only 3 Divisions to look after more than 1 lakh assesseees. Further, shortage of staff in Audit Section has also been acknowledged by C&AG in their report and they feel that at least 4 to 5 times more staff is required to cope up the audit work in the Mumbai ST-I Commissionerate."

**25. The Committee are surprised to note that the Ministry is conspicuously silent on the issue of irregular utilization of CENVAT Credit. The Committee need explanation up to their satisfaction. Further, the Committee recommend that the Ministry examine other cases wherein CENVAT Credit has been availed to ensure that such irregularities have not occurred. The Committee would also like to be apprised about the details of SCNs awaiting adjudication and the ones already adjudicated.**

**Service Tax collected but not remitted to the Government**

**Recommendation (Para No. 17)**

26. The Committee in their 79th Report (15th LS) had found that during the years 2007-08 to 2010-11 there were 2111 cases in which service providers had collected the Service Tax to the tune of ₹ 1134.82 crore but had not deposited the same in the Exchequer. During the same period, recovery of ₹ 560.07 crore involving 1343 cases had been effected. Further, out of the 2111 cases, 1065 cases pending realization are under litigation and the revenue involved was to the extent of ₹ 1043.20 crore. Noting that the amount involved in the SCNs issued, constituted nearly 90% of the total amount that was collected by service providers from the consumers but not deposited with exchequer, the Committee had expected that the adjudication process be expedited and recoveries be made at the earliest.

27. In its Action Taken Notes, the Ministry of Finance (Department of Revenue) has submitted as under:

"It is reported that all out efforts are being made to liquidate the pendency of adjudication cases and recover the amount at the earliest. In this regard, necessary instructions have been issued to the field formations to expedite the adjudication process.

Further, Board *vide* F. No. 137/155/2012-Service Tax dated 21.12.2012 has stated "Adjudication: Adjudication pendency was reviewed, especially the cases pending for more than 1 year and cases involving more than ₹ 1 crore. Member, Service Tax emphasized the need for Chief Commissioners to closely monitor the disposal at all levels and fix targets at each level. The targets would be different for combined Commissionertes and exclusive Service Tax Commissionerates. For the latter a suggested target was 10-15 per month for Commissioners, 20 per month for ADCs and 40-50 per month for DCs/ACs. Chief Commissioners were advised to montior, officer-wise, every fortnight and to ensure that targets were met each month. The progress would be reviewed in the first week of January, 2013."

**28. In pursuance of the Committee's recommendation, the Department has issued necessary instructions to the field formations to expedite the adjudication process and to recover the amounts due at the earliest. The Chief Commissioners have been asked to closely monitor the disposal and fix targets at each level, and to also ensure that targets were met each month and the 'progress be reviewed in the first week of**

**January 2013'. Noting the steps taken by the Ministry for expediting the adjudication process the Committee would like to be apprised of the outcome of the review and subsequent corrective action taken by the Ministry. The Committee would also like to implore the Ministry to examine whether the Non-credit of the collected money can be treated as a criminal offence, warranting prosecution.**

## CHAPTER II

### OBSERVATIONS/RECOMMENDATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

#### Observation/Recommendation

The Banks and other Financial Services accept deposits and channels those deposits into lending activities, either directly or through capital markets and connect customers with capital deficits to customers with capital surpluses by acting as Financial Intermediary. The Service Tax on the Banking and other Financial Services (BFN) was levied with effect from 1 July, 2001 and it is a major contributor to Service Tax revenue. Its contribution during the years 2007-08 and 2008-09 was 7.09 per cent (₹ 3634.94 crore out of ₹ 51,301.79 crore) and 6.15 per cent (₹ 3747.65 crore out of ₹ 60,940 crore) respectively. Audit conducted a comprehensive review of the performance of this sector with a view to (i) seek assurance that the mechanism to identify and bring in potential assesseees to tax net is effective enough; (ii) examine the rules, regulations and procedures to identify ambiguities and lacunae therein; and (iii) to identify instances of non-compliance with rules leading to loss of revenue. The Committee's examination of Service Tax on Banking and other Financial Services revealed several procedural deficiencies in registration of assesseees, receipt of returns and scrutiny of returns. Further, instances of non-compliance with rules and provisions on incorrect valuation, incorrect/excess availment and utilization of CENVAT credit, non-remittance of Service Tax, etc. had resulted in revenue leakages. Furthermore, Service Tax of Rs. 1.41 crore was collected but not remitted to the Government. These issues along with the related issues have been examined in detail by the Committee and commented upon suitably in the succeeding paragraphs.

[Observation/Recommendation No. 1 of 79th Report of the Public Accounts Committee (15th Lok Sabha)]

#### Action Taken

No comments required.

#### Audit's vetting comments on Ministry's ATN

No comments

#### Ministry's further Action Taken on the vetting comments of Audit

No comments.

Sd/-

Special Secretary to the Govt. of India

[Ministry of Finance, Deptt. of Revenue O.M. No. 238/03/2013-CX.7 dt. 5.03.2014]

### **Observation/Recommendation**

2. While the law clearly envisages that every person liable to pay Service Tax has to apply for registration within a period of 30 days from the date of commencement of businesses, the Committee note that, in 26 out of 60 Commissionerates, there were 1142 service providers, who, though liable to pay Service Tax, were not available on the departmental registration lists. Out of these 1142 assesseees, 65 potential assesseees had not paid Service Tax to the extent of ₹ 92.12 crore with additional penalty upto ₹ 92.12 crore and further interest liability of ₹ 21.35 crore. The Committee were apprised that out of 65,17 cases involving Service Tax of ₹ 46.12 crore have not been accepted by the Government. In respect of 19 Audit objections involving Service Tax of ₹ 36.47 crore, necessary remedial measures have been taken to recover Government revenue. 17 cases involving Service Tax of ₹ 5.34 crore were pending investigation. While deploring the belated remedial measures being taken by the Department, the Committee should like to be apprised of the latest status of cases that are pending investigation within 03 months of the presentation of this Report and also the detail of the 17 cases not accepted by the Government and the reasons therefor.

[Observation/Recommendation No. 2 of 79th Report of the  
Public Accounts Committee (15th Lok Sabha)]

### **Action Taken**

Consolidated list of 17 cases, which were pending investigation, detailing the further proceedings/present status of the cases is enclosed as Annexures 'D-I (P)' & 'D-II (P)'. Of these, in 3 cases it was found that there was no service tax liability on account of SSI exemption, foreign services, non-taxable interest income, etc. In the remaining cases, Show cause notices have been issued and demand confirmed in 10 cases. In 1 case, the party could not be located at the given address.

Also, List of 17 cases in which Audit objection was not accepted by the Department specifying justifications/reasons for non-acceptance of Audit objection is enclosed as Annexures 'D-I' & 'D-II'

### **Audit's vetting comments on Ministry's ATN**

Details in respect of each item and further remarks if any, are given in the respective Annexures.

### **Ministry's further Action Taken on the vetting comments of Audit**

Ministry's further comments on further proceedings/present status of 17 cases mentioned in the enclosed **Annexures 'D-I (P)' & 'D-II (P)'** are given in the last Column of the said Annexures.

Similarly, Ministry's further comments on justifications/reasons given for non-acceptance of Audit objection in the 17 cases mentioned in enclosed **Annexures 'D-I (P)' & 'D-II (P)'** are given in the last Column of the said Annexures.

Special Secretary to the Govt. of India

[Ministry of Finance, Deptt. of Revenue O.M. No. 238/03/2013-CX.7 dt. 5.03.2014]

### Observation/Recommendation

3. The Committee are concerned to note that out of 1074 cases of non-registration pointed out in Audit, only 370 cases had been verified by the Ministry, 21 cases were under investigation and in case of 188 service providers verification report was yet to be received as on 31.07.2012. In case of Bangalore Service Tax Commissionerate, out of 725 cases only 208 service providers had been verified and the verification of remaining 517 cases was underway but obviously hamstrung due to paucity of staff. Furthermore, while admitting the problem of non-registration of Service Tax assesseees, the Secretary, Department of Revenue testified before the Committee that till 2010, they had no means to find out as to which of the assesseees were effectively into the system and underlined the need for building up a good electronic system and engagement of additional manpower to deal with the problem. The Committee are concerned to note that though Service Tax was levied with effect from 1 July, 2001, no whole-hearted and sustained efforts have been made by the Ministry either to build up a good electronic system for this purpose and engage the additional manpower. Apparently, the Service Tax was levied without working out the methodology for its effective implementation even after having realized the immense revenue potential of Service Tax and its rampant evasion. **The Committee would like to be apprised about the efforts made by the Department during the last 11 years to ensure that the work of collection of Service Tax from Banking and other Financial Services does not suffer for want of manpower and introduction of good electronic system. The Committee further recommend that the verification of 517 cases be expedited and they be apprised of the same.**

[Observation/Recommendation No. 3 of 79th Report of the  
Public Accounts Committee (15th Lok Sabha)]

### Action Taken

Regarding deployment of sufficient manpower, Department is acutely aware of the staffing requirements of Service Tax administration. While formulating the Cadre Restructuring Proposal 2010, the Department has taken into account the existing and anticipated workload of all the three streams, *i.e.* Service Tax, Central Excise & Customs and consequent staff requirements of these streams. The proposal projected the staffing requirements in various Groups 'A', 'B' & 'C' grades of 95168 personnel. The said proposal was approved with minor changes by the Department of Expenditure in May, 2011. Thereafter, the proposal was sent to the Department of Personnel & Training, who after several rounds of discussions and written submissions/clarifications by the CBEC, suggested slashing (without going into the functional requirement of the Department ) of the projected staff strength by 8300 posts at various levels in March, 2012. DoP&T again raised some questions in August, 2012. The queries mainly pertained to post-CR structure of IRS (C&CE) and austerity measures taken by the Government. Reply to these queries was sent to the DoP&T in December, 2012. Meanwhile, the proposal was submitted to the Hon'ble Finance Minister seeking grant of exemption to the Cadre Restructuring Proposal from the austerity measures of the Government, presently in force, as the proposal is a revenue earning proposal that seeks to garner additional revenue of Rs. 68,000 crore over and above budgetary estimates for the current fiscal. Hon'ble Finance Minister has not only granted the requisite exemption

to the proposal from austerity measures, but also approved the proposal except the proposal at the level of DC/AC, as agreed upon between the then FM and MoS (PP) on 1.3.2012. In case of DC/AC level, the Hon'ble FM approved creation of additional 568 posts at DC/AC level, over and above 3600 posts agreed upon at Ministerial level on 1.3.2012, to meet the requirement of additional workload (introduction of 24x7 Customs Clearance Operations, introduction of Negative List of Service etc.) of the Department generated after March, 2012.

CBEC has already developed and implemented a robust electronic system for registration of assesseees, both in Central Excise and Service Tax. The application is known as Automation of Central Excise and Service Tax (ACES) and has been rolled out *w.e.f.* 23.12.2009 in all the 104 Central Excise, Service Tax Commissionerates and LTUs. The application provides for online registration of the assesseees, which is PAN-based and the PAN is verified online with the Income Tax database. In case of Service Tax, there is no physical verification of premises but the officer verifies the documents before issuing the Registration Certificate.

The verification report of 725 cases (including 517 cases mentioned above) in respect of Bangalore Service Tax Commissionerate is as under:

No. of units not existing/ not traceable	No. of units located	
	Out of units located, no. of units registered	Out of units located, no. of units not required to take registration due to threshold limit/not providing taxable service
593	58	74

#### **Audit's vetting comments on Ministry's ATN**

- (a) PAC desired to be apprised about the efforts made by the Department during the last 11 years to ensure that the work of collection of Service Tax from Banking and other Financial Services does not suffer for want of manpower and introduction of good electronic system. The Ministry's response does not indicate specific details pertaining to the effects in this direction during this period. However, efforts in recent years to improve staffing requirements and operationalise ACES have been elaborated.
- (b) As the department has carried out the verification in respect of the cases pointed out by Audit, the response may be accepted.

#### **Ministry's further Action Taken on the vetting comments of Audit**

No comments required.

Sd/-

Special Secretary to the Govt. of India

[Ministry of Finance, Deptt. of Revenue O.M. No. 238/03/2013-CX.7 dt. 5.03.2014]

### **Observation/Recommendation**

4. Notably, the Government have largely relied on "Voluntary Compliance" for registration of eligible service providers. The Committee have been informed that to make the service providers aware of the registration, the Department has been running a media campaign by issuing a number of advertisements in the print/electronic media, displaying outdoor hoardings, etc. Further, help desks have been set up in the Commissionerates for answering the tax payers queries and the problems faced by them. Seminars have been organized in Mumbai, Chennai, Kolkata, Delhi, Ahmedabad, Hyderabad, Jaipur, Chandigarh and Bangalore. While Voluntary tax compliance is a laudable objective, the considered view of the Committee is that the results have been far from encouraging. The Committee feel that with proper focus on non-intrusive but penetrating methods of collecting data through the instruments like returns and surveys, the Government would be able to widen the tax base and ensure better tax compliance. The Committee urge the Ministry to make all out efforts to ensure that while the Government remain assessee-friendly, tax evaders are dealt with stringently and that non-compliance becomes a costly proposition. The Committee are also of the opinion that if need be, measures taken in respect of Central Excise and Customs assesseees also be taken with regard to Service Tax assesseees *i.e.* for registration of eligible BFNs.

[Observation/Recommendation No. 4 of 79th Report of the  
Public Accounts Committee (15th Lok Sabha)]

### **Action Taken**

Stringent penal provisions exist to deal with non-compliance. Under section 76 of the Finance Act, 1994 a penalty of ₹100 per day during which the failure to pay service tax continues or the amount calculated at the rate of 1% per months on the tax due, whichever is higher, in case of failure to pay the tax due is leviable. Similarly, failure to take registration under section 69 of the Act *ibid* invited penalty of ₹ 200 per day of failure from the due date till the date of actual compliance or Rs. 10,000 whichever is higher. Further, a provision has been introduced in the Finance Act, 2013 whereby in cases where a service provider is liable for prosecution and the amount involved is more than ₹ 50 lakhs, he is liable for arrest. Further if he collects service tax and does not deposit it with the Government and the amount involved is more than ₹ 50 lakhs, the offence has been made cognizable.

### **Audit's vetting comments on Ministry's ATN**

With the introduction of provisions relating to prosecution and cognizable offences *vide* Finance Act 2013, the laws have become more stringent.

One method of impressing on the public that non-compliance is a costly proposition would be to issue show causes and take further action as warranted in cases identified as stop-filers and non-filers through the facility of ACES. Follow-up in this direction may be monitored stringently .

**Ministry's further Action Taken on the vetting comments of Audit**

No comments required.

Sd/-

Special Secretary to the Govt. of India

[Ministry of Finance, Deptt. of Revenue O.M. No. 238/03/2013-CX.7 dt. 5.03.2014]

**Observation/Recommendation**

5. As per the action plan issued in May, 2003 by the Director General of Service Tax, Mumbai, field surveys had been identified as one of the important mechanisms to identify and broaden the tax base. The Committee are disappointed that none of the 60 Commissionerates test checked in Audit had fixed any targets for surveys during 2007-08 to 2008-09 and no surveys were conducted in 27 out of 60 Commissionerates. Out of 32 Commissionerates, where surveys were conducted, in 9 Commissionerates 154 new service providers of BFNs were registered. However, no new service provider could be registered through surveys for this service in remaining 23 Commissionerates. In 32 Commissionerates where surveys had taken place, the outcome was not monitored as prescribed in the DGST circular. Moreover, during the years 2009-10 and 2010-11 although the number of surveys conducted was 113 and 87 respectively, no assesseees were registered thereafter. Again, during the year 2011-12, out of 1003 surveys conducted only 90 assesseees were registered realizing Rs. 0.44 crore only as a Service Tax. The Committee deplore that field surveys, construed as an important mechanism for widening the tax net have not been carried out with right earnestness by the Commissionerates. The Committee are dismayed that the Department was devoid of any mechanism to assess, monitor and enhance the efficiency of survey operations. Though instructions have been issued to field formations on 23.11.2011 to create special cell in each Commissionerates mandated with the task of identifying potential assesseees, the Committee find the reply of the Ministry silent regarding the status of creation of these cells in all the Commissionerates, the number of cells created so far and the number of service providers that were brought to the tax net as a result thereof. The Committee believes that these survey operations, if conducted methodically and efficiently, would discover new assesseees and bring additional tax revenue to the Government. The Committee would like to be apprised of the present position of creating these cells Commissionerate-wise and the outcome thereof.

[Observation/Recommendation No. 5 of 79th Report of the  
Public Accounts Committee (15th Lok Sabha)]

**Action Taken**

It may be stated that at the time of initial instructions, the number of taxable services and number of assesseees were less, which increased substantially during subsequent years. Staff crunch is also one of the main hurdles to implement instructions strictly. Further, it was apprehended that the extensive field surveys have potential to cause hardship and harassment to the trade which may lead to allegations against the departmental officers. The Circular of 2003 issued by the Directorate General of Service Tax (DGST) was accordingly reconsidered and withdrawn. In supersession of the

earlier instructions, the revised instructions (*vide* F.No. 137/151/2011-Service Tax) dated 23.11.2011 have been issued by CBEC. The Commissionerates have been directed to create a special cell mandated with the task of identifying potential assesseees. The cell should collect list of service providers from the various service providers' associations, yellow pages, local publications, advertisements appearing in the newspapers, regional registration authorities, websites, regulatory bodies, State Government Departments, Income Tax Department and Reserve Bank of India and identify unregistered service providers and get them registered. Also surveys in the local markets, malls may be carried out if deemed necessary.

The present position regarding creation of special cells in the Commissionerate-wise and the outcome thereof is enclosed as **Annexure-'A'**. For ease of reference, Chief Commissionerate-wise details of creation of special cells and outcome is as under:

Sl. No.	Chief Commissionerate Zone	No. of Special Cells created so far	Total No. of assesseees brought to tax net as a result thereof (registered)	Out of (iv), No. of assesseees falling under the BFNs category
1.	Ahmedabad	2	860	4
2.	Bangalore	5	25	0
3.	Bhopal	2	6	2
4.	Bhubaneshwar	2	80	0
5.	Kolkata	8	150	1
6.	Chandigarh	6	176	46
7.	Chennai	12	26	3
8.	Cochin	5	44	44
9.	Coimbatore	11	368	24
10.	Hyderabad	8	96	51
11.	Jaipur	2	352	0
12.	Lucknow	11	1448	15
13.	Meerut	6	220	219
14.	Mysore	3	78	4
15.	Mumbai-zone-I	4	223	9
16.	Mumbai-zone-II	1	0	0
17.	Nagpur	5	102	0
18.	New Delhi	9	47777	1004
19.	Ranchi	6	184	11
20.	Pune	3	9	5
21.	Shillong	5	227	5
22.	Vadodara	6	70	1
23.	Vishakhapatnam	13	489	360
	Total	135	53010	1808

In pursuance of Board's instruction to field offices *vide* F. No. 137/151/2011-ST dated 23.11.2011, a total of 135 special cells, to identify the potential assesseees, have been created till date. As a result of which, 53010 assesseees have been brought to tax net (registered) and out of these assesseees, 1808 belong to the category of Banking and Other Financial Services.

#### **Audit's vetting comments on Ministry's ATN**

Special Cell is yet to be created in some Commissionerates (Annexure-A). It is an ongoing process and periodical monitoring is to be ensured. In the CC's jurisdiction of Bhopal and Pune, Special Cells have identified only 6 & 9 assesseees respectively. Chennai having 12 cells has identified 26 assesseees and Mumbai Zone-II has identified none. Reasons may be analysed for such poor performance.

#### **Ministry's further Action Taken on the vetting comments of Audit**

Regarding creation of Special Cells and assesseees brought to tax net thereof, reasons for modest performance of 4 Chief Commissionerates Zones, *i.e.*, Bhopal, Pune, Chennai and Mumbai Zone-II, are as follows:

#### **Bhopal Chief Commissionerate Zone**

It is reported that a substantial progress has been made in the zone since the furnishing of earlier figures. The further progress and present position of creating special cell is as below:

Commissionerate	No. of special cell created	No. of assessee brought to tax net	No. of assessee registered under BFN
Bhopal	03	112	0
Indore	01	0	1
Raipur	01	01	1
Total	05	113	2

#### **Pune Chief Commissionerate Zone**

It is reported that during the material period, surveys were conducted by all the four Commissionerates falling under the Zone for verification of records of various assesseees to find out potential assesseees coming under service tax net. Special Cells were created in three Commissionerates. However, due to staff shortage, sufficient manpower could not be deployed for survey and in special cells in all the Commissionerates. Further, during the survey, it was also noticed that many of the Banking and Financial Institutions falling under the Zone were Centrally registered under Mumbai and other Commissionerates.

Necessary instructions and guidelines are issued by the Commissionerates to the field formations to conduct surveys methodologically and efficiently. They have also been asked to keep watch for identification of the service providers from various Service Provider Associations, yellow pages, and local publications, advertisement

appearing in the Newspapers, website, regulatory bodies, State Government Departments and Reserve Bank of India.

#### **Chennai Chief Commissionerate Zone**

The Chennai Chief Commissionerate has reported that the Commissionerates administering Service Tax of the Zone has conducted a detailed survey over the assesseees who are providing the taxable service and brought into tax net about 26 assesseees providing the said service of Banking & Other Financial Service. Hence, there is no further action pending on the subject matter and accordingly no further comments in this regard.

#### **Mumbai Chief Commissionerate Zone-II**

It is reported that as per the instructions issued on the subject, a Special Cell has been created in the Service Tax Division of Raigad Commissionerate.

During the survey conducted, it was found that the most of the Banking and other Financial Services providers in the jurisdiction have their main office located in Mumbai City having Centralized Registrations.

In view of the above, number of assesseees brought to tax net under Banking & other financial services category was reported as NIL. Presently, there are only 126 such service providers who have already obtained registration and no un-registered service providers in respect of BFN Services have been noticed in the Chief Commissionerate Zone.

Special Secretary to the Govt. of India

[Ministry of Finance, Deptt. of Revenue O.M. No. 238/03/2013-CX. 7 dt. 5.03.2014]

#### **Observation/Recommendation**

6. The Committee find that a large number of returns for Service Tax by BFNs were either not received or received late by the Department. During the period September 2004 to March 2009, about six per cent of the returns were received late and 14 per cent of the returns were not received at all. Surprisingly, the Commissionerates had not followed any monitoring mechanism to ascertain the reasons for non-submission of returns. The Committee note that amongst the returns not received, 301 service providers, whose annual receipts had exceeded ₹ four lakh during the year 2005-06 had not submitted the returns for the year 2006-07. Further, 440 service providers whose annual receipts had exceeded ₹ eight lakh during the year 2006-07 had not submitted the annual returns for the year 2007-08. Similarly, 513 service providers whose annual receipts had exceeded ₹ ten lakh during the year 2007-08 had not submitted the returns for the year 2008-09. The Committee are deeply concerned to note that the Department had not initiated any action to ascertain the reasons for not filing annual returns. The Committee further find that the Department had not levied penalty on defaulting assesseees which constituted about 97 percent of the total amount leviable (₹ 4.50 crore). Apparently, the defaulting assesseees are either allowed to go scot-free

or let off with lighter punishment. The Committee, therefore, recommend that the Ministry devise a foolproof system so as to ensure that all the BFN assesseees, taxable under Service Tax Rules file their returns regularly. The Committee should be informed within 3 months about the system so desired. Further, defaulting assesseees be suitably penalized to act as a deterrent.

[Observation/Recommendation No. 6 of 79th Report of the  
Public Accounts Committee (15th Lok Sabha)]

#### **Action Taken**

As per Service Tax Rules, 1994, every assessee is under obligation to file their ST-3 returns periodically on the given dates. On failure to do so, the penal provisions are provided in the law. Further, to verify proper discharge of Service Tax liability by the assessee, the same is verifiable through scrutiny of ST-3 returns in terms of guidelines issued under Return Scrutiny Manual.

The Department has undertaken measures to educate and promote the tax payer for discharging their tax liabilities and filing the return timely by use of print and electronic media, as well as by conducting seminars at the field level to educate the tax-payer for filing of returns. Further, the jurisdictional officers are closely monitoring the late filing/non-filing of returns by the BFN's. Information about stop-filers and non-filers, service-wise, can be generated from the Database. A facility is provided in ACES to generate a report on assessee-wise details so that the non-filers of ST-3 returns can be identified. DG Systems has also circulated a process note requesting the Commissioners to make use of this facility. DG Systems has also prepared Commissionerate-wise lists of stop-filers and non-filers of ST-3 returns for the year 2009-10, 2010-11 and 2011-12 and sent to all the Commissionerates for taking necessary action. In the event of any default, persuasive action is initiated, failing which they resort to action available under the Act to collect the late fee as well as to initiate penal action on the defaulters.

Further, for monitoring of stop-filers, the field formations were directed to identify the non/stop-filers of ST-3 returns. A special exercise was undertaken in 2011-12 in which the field formations were directed to identify non/stop-filers as on 31.03.2011 and take necessary corrective action by way of ascertaining the reasons for non-filing of ST-3 returns. It was revealed that some assesseees did not file ST-3 returns due to reasons such as turnover below exemption limit, closure of business, opting for centralised registration but failed to surrender other registrations etc.

As a result of this exercise, around 25000 assesseees started filing ST-3 returns regularly and approximately ₹ 133 crores were recovered from them by way of late fee/penalty, interest and service tax.

It may further be stated that in the Budget 2013, the Government has introduced-Service Tax Voluntary Compliance Encouragement Scheme 2013, according to which, non-filers have been given an opportunity to make payment of Service Tax dues under declaration as per the provisions of sub-section (1) of Section 97 of the Finance Act, 2013.

**Audit's vetting comments on Ministry's ATN**

- (a) As details of the foolproof system sought by PAC have not been furnished, the Ministry may clarify on this aspect.
- (b) Field Commissionerates should have the authority to extract lists of non-filers and stop-filers in ACES and should not need to rely each time on DG (System) to forward the list to them. From the response of the Ministry, it appears that the Commissionerates have the report generating facility only in respect of non-filers but not stop-filers.

**Ministry's further Action Taken on the vetting comments of Audit**

- (a) As long as returns had to be filed manually, keeping track of non/stop-filers was difficult. Audit's study appears to have been in the period when returns had to be filed manually. *Vide* notification 43/2011-Service Tax dated 25.8.2011, *w.e.f.* 1-10-2011, all returns are filed electronically. This itself is foolproof inasmuch as there is an electronic trail of whether or not a return has been filed. This itself has enabled the department to keep a better track of stop/non-filers. Thereafter it is a question of monitoring and follow-up, subject to constraints of staff.
- (b) The facility of generating lists is not limited to non-filers. The usage of the phrase "non-filers" in the earlier reply was referring to assessees who were not filing returns. It should not be interpreted to mean that lists can be generated only of non-filers and not stop-filers. It must be also understood that there is no standard interpretation of these two phrases. Every non-filer is, in one sense, a stop-filer and *vice versa*.

The DG (Systems) has modified the existing Assessee-wise detailed report under Report Module with enhanced features. In this report, jurisdiction-wise (Commissionerate/Division/Range) and financial year-wise details of Assesseees are given *viz.*, REG No., Name, Address, e-mail ID, Date of Registration, Return filing status (filed/not filed), Date of filing of return (original/revised) and period of return. Stop-Filer is one who has filed return atleast once in ACES and has stopped filing thereafter. This means for a particular return filing period, one may be both a Non-Filer and a Stop-Filer. It will now be possible to generate list of Non-Filers at the Range level. Since the date of filing of the return is shown in the Assessee-wise detailed report, the list of Late-Filers can also be ascertained from the data. By importing the data from ACES in excel format to the personal folder of the officer in ACES or to another computer and by analyzing the same, list of Stop-Filers/Late-Filers can be culled out by the Range officers without depending on the Directorate General of Systems.

Special Secretary to the Govt. of India

[Ministry of Finance, Deptt. of Revenue O.M. No. 238/03/2013-CX.7 dt. 5.03.2014]

### **Observation/Recommendation**

7. The Committee further observe that 7 assesseees in Nagpur Commissionerate had not filed their Service Tax returns but they had continued to provide services which were subjectable to tax during the period of non-filing. This resulted in non-payment of Service Tax of ₹ 20.33 lakh and interest of ₹ 4.97 lakh. It was submitted before the Committee that protective Show Cause Notices have been issued on 13.10.2011 in respect of all the said 7 cases and that instructions have been issued to field formations on 14th and 27th July, 2011 to create special cell in each Commissionerate mandated with the task of identifying potential assesseees and stop filers. The Committee, therefore, recommend that field Commissionerates should periodically monitor the cases where assesseees have stopped filing returns and the Committee be apprised by the Ministry about the latest position with regard to Show Cause Notices issued, within 03 months of the presentation of this Report.

[Observation/Recommendation No. 7 of 79th Report of the  
Public Accounts Committee (15th Lok Sabha)]

### **Action Taken**

The 7 protective demand-*cum*-Show Cause Notices all dated 13.10.2011 had been issued to the assessee and are lying in the Call Book. It is further reported that, the para was not found acceptable for which detailed reasoning was provided to Audit. It was found that in most instances, value related to amounts like interest on loans and investment, profit on securitization, risk mitigation charges, profit from sale of vehicles, etc. had been taken into account, which do not form part of the taxable value under the Service Tax category of Banking & Financial Services. In one instance, the value was found to be below the threshold limit, and hence not liable for payment of Service Tax.

As regards monitoring of stop-filers, the field formations were directed to identify the non/stop-filers of ST-3 returns. A special exercise was undertaken in 2011-12 in which the field formations were directed to identify non/stop-filers as on 31.3.2011 and take necessary corrective action by way of ascertaining the reasons for non-filing of ST-3 returns. It was revealed that some assesseees did not file ST-3 returns due to reasons such as turnover below exemption limit, closure of business, opting for centralised registration but failed to surrender other registrations etc.

As a result of this exercise, around 25000 assesseees started filing ST-3 returns regularly and approximately ₹ 133 crores were recovered from them by way of late fee/penalty interest and service tax.

Further, in the Budget 2013, the Government has introduced the Service Tax Voluntary Compliance Encouragement Scheme 2013, according to which, non-filers have been given an opportunity to make payment of Service Tax dues under declaration as per the provisions of sub-Section (1) of Section 97 of the Finance Act, 2013.

### **Audit's vetting comments on Ministry's ATN**

The Ministry may clarify about the periodicity and method (through MTRs or otherwise) whereby it proposes to monitor the action by field Commissionerates in respect of stop-filers. Though the Ministry has elaborated measures recently taken,

these appear to be a one-time exercise rather than ensuring a system to monitor periodically the progress.

**Ministry's further Action Taken on the vetting comments of Audit**

It is not a one-time exercise. In the current financial year, the progress is reviewed regularly by the Commissioners and monitored on a quarterly basis by the Ministry. After the filing of returns electronically was made compulsory with effect from October 2011, there has been a relatively better monitoring of stop/non-filers. CBEC has, from time to time, issued instructions in this regard.

Special Secretary to the Govt. of India

[Ministry of Finance, Deptt. of Revenue O.M.No.238/03/2013-CX.7 dt. 5.03.2014]

**Observation/Recommendation**

8. Every individual liable to pay Service Tax has to assess and voluntarily pay the tax. Further, half-yearly returns are to be furnished to the Department. An assessee failing to furnish timely returns is liable to pay a penalty subject to a maximum of ₹1000. The information furnished by the Ministry relating to BFN for the period September 2004 to March 2009, reveals that out of 2,37,593 returns due during the said period as many as 18,684 were not received. The Committee further note that out of ₹ 60.32 lakh of penalties levied, penalties of ₹ 25.22 lakh has not been recovered. While emphasizing the need for effective monitoring of Service Tax returns and timely recovery of penalties imposed, the Committee would like to be informed about the current position with regard to recovery of outstanding penalties of ₹ 25.22 lakh, and the efforts made by the Ministry to ensure timely recovery of outstanding dues within 03 months of the presentation of this Report. The Committee also strongly express the need for taking stringent action against the defaulters and also have a re-look at the penalty provisions as the present penalty is insufficient to act as a deterrent with regard to non-submission of returns.

[Observation/Recommendation No. 8 of 79th Report of the Public Accounts Committee (15th Lok Sabha)]

**Action Taken**

With regard to recovery of outstanding penalties of ₹ 25.22 lakh due to delayed/ non submission of ST-3 returns, ₹ 8.28 lakh has already been recovered and in rest of the cases necessary action has been initiated.

Regarding re-look at the penalty provisions, the maximum late fee for non-filing of returns under Section 70 of the Finance Act, 1994 has been increased to ₹ 20,000 *w.e.f.* 08.04.2011 for non-submission of returns in time.

Further, in the Budget 2013, the Government has introduced the Service Tax Voluntary Compliance Encouragement Scheme, 2013, according to which, non-filers have been given an opportunity to make payment of Service Tax dues under declaration as per the provisions of sub-Section (1) of Section 97 of the Finance Act, 2013.

### **Audit's vetting comments on Ministry's ATN**

The Ministry may apprise the PAC about number of cases in which action has been initiated based on the revamped provisions on penalty (Finance Act 2011). It may also clarify whether this is being monitored through MTRs or otherwise.

### **Ministry's further Action Taken on the vetting comments of Audit**

Action has been initiated based on the revamped provisions on penalty (*vide* Finance Act, 2011) against late filers of ST-3 returns under Section 70 read with Rule 7C of the Service Tax Rules 2. Zone-wise number of cases in which action has been initiated, report for the years 2011-12, 2012-13 & 2013-14 (upto August, 2013) is enclosed as **Annexure B**.

Late filing of ST-3 returns is monitored through MTR on monthly basis and also through ACES.

Sd/-

Special Secretary to the Govt. of India

[Ministry of Finance, Deptt. of Revenue O.M. No. 238/03/2013-CX.7 dt. 5.03.2014]

### **Observation/Recommendation**

9. The Committee are shocked to learn that the vital database of the actual number of BFNs filing returns and those who have failed to do so, is not available with the Department. The Committee was informed that such data base is not being developed by the Directorate General of Service Tax. Further, the registered assesseees who were not filing Service Tax returns are issued Show Cause Notices. Obviously, the Department cannot function effectively and monitor their collection of Service Tax from BFNs in the absence of vital database. The Committee would, therefore, urge the Department of Revenue to put in place an effective mechanism to facilitate monitoring of the progress of revenue receipts and processing of returns on a periodical basis.

[Observation/Recommendation No. 9 of 79th Report of the Public Accounts Committee (15th Lok Sabha)]

### **Action Taken**

The data base of assesseees who have filed/not filed ST-3 returns in ACES, including those pertaining to BFNs, is available in the Directorate of Systems.

Further, the Customs and Central Excise Department, Principal Controller of Accounts, Controller General of Accounts and the Reserve Bank of India with the participation of 28 commercial banks introduced the Electronic Accounting System in Excise and Service Tax (EASIEST) in April 2007 with the GAR 7 challan. This system provides for the facility for online verification of the status of tax payment using a unique Challan Identification Number (CIN).

In order to develop a vital database, the Directorate General of Service Tax (DGST) as a one-time exercise, had asked the field formations to approach RBI office under

their jurisdiction and obtain the list of NBFCs registered with them. Accordingly, the list of NBFCs obtained was compared with NBFC already registered with the Department. For non-registered NBFCs, appropriate action was taken by the field formations for getting them registered.

Further, in the Budget 2013, the Government has introduced the Service Tax Voluntary Compliance Encouragement Scheme 2013, according to which, non-filers have been given an opportunity to make payment of Service Tax dues under declaration as per the provisions of Sub-Section (1) of Section 97 of the Finance Act, 2013.

#### **Audit's vetting comments on Ministry's ATN**

- (a) DG (Sys.) has the data of assessee's filing/not filing returns through ACES. The same should however, be available with DGST on a periodic basis also as DGST is the authority responsible *inter alia*, for monitoring the collection of revenue receipts which would involve aspects such as monitoring action taken in respect of non-filers etc. In the alternative, if this task of monitoring at an All India level, such activities has been assigned to any other authority, this may be clarified.

#### **Ministry's further Action Taken on the vetting comments of Audit**

It is reported that Lists of non-filers/stop filers are being given by the DG (Systems) to DGST on regular basis. Moreover, DGST has also been given direct access to EDW Data Base. Using this, DGST can prepare the list of non-filers/stop filers of ST-3 returns. Further, DGST can also be given access to ACES Data Base on request.

Further, with adequate manpower and infrastructural support along with proper software, DGST would be able to monitor number of stop filers/non-filers at all India level.

Sd/-

Special Secretary to the Govt. of India

[Ministry of Finance, Deptt. of Revenue O.M.No. 238/03/2013-CX. 7 dt. 5.03.2014]

#### **Observation/Recommendation**

12. As per Rule 5(2) of Service Tax Rules, 1994, every assessee shall furnish to the superintendent of Central Excise at the time of filing his return for the first time, a list of books of accounts maintained by the assessee in relation to Service Tax. Despite clear statutory provision, the Committee note that 26 per cent of service providers had not given the list of books of accounts maintained by them. During the period from April 2007 to March, 2009, in 10 Commissionerates, not a single assessee had submitted the list of books of accounts at the time of filing of returns for the first time in respect of BFN. The Committee are surprised that the Commissionerates did not pursue these cases to ascertain the reasons for non-submission of these details. The Ministry attributed staff crunch and lack of proper training to the available staff of Service Tax Department as the main hurdles in the implementation of the Service Tax Rules. Since effective scrutiny of relevant books of accounts is imperative for ensuring proper assessment of Service Tax, the Committee urge the Ministry to the urgent measures to

augment the staff strength and also to them the Service Tax staff for developing a better understanding of the various books of accounts maintained by BFN assesseees. The Committee should like to be apprised of the necessary follow-up action taken in this direction and the outcome thereof. Further, as regards the strategy formulated to obtain list of books of accounts alongwith the returns from defaulters, the Department reported that non-compliance with the Rule 5(2) of the Service Tax Rules 1994 invites penal action and a letter has been issued to field formations to ensure compliance to the said Rule. The Committee would like to be apprised about the number of defaulters prosecuted so far as a result thereof.

[Observation/Recommendation No. 12 of 79th Report of the  
Public Accounts Committee (15th Lok Sabha)]

#### **Action Taken**

The staffing requirements of Service Tax administration is a prominent area of concern for the Department. While formulating the Cadre Restructuring Proposal 2010, the Department has taken into account the existing and anticipated workload of all the three streams, *i.e.*, Service Tax, Central Excise & Customs and consequent staff requirements of these streams. The proposal projected the staffing requirements in various Groups 'A', 'B' & 'C' grades of 95168 personnel. The said proposal was approved with minor changes by the Department of Expenditure in May, 2011. Thereafter, the proposal was sent to the Department of Personnel & Training, who after several round of discussions and written submissions/clarifications by the CBEC, suggested slashing (without going into the functional requirement of the Department) of the projected staff strength by 8300 posts at various levels in March, 2012. DoP&T again raised some questions in August, 2012. The queries mainly pertained to post—CR structure of IRS (C&CE) and austerity measures taken by the Government. Reply to these queries was sent to the DoP&T in December, 2012. Meanwhile, the proposal was submitted to the Hon'ble Finance Minister seeking grant of exemption to the Cadre Restructuring Proposal from the austerity measures of the Government, presently, in force, as the proposal is a revenue earning proposal that seeks to garner additional revenue of ₹ 68,000 crore over and above budgetary estimates for the current fiscal. Hon'ble Finance Minister has not only granted the requisite exemption to the proposal from austerity measures, but also approved the proposal, except the proposal at the level of DC/AC, as agreed upon between the then FM and MoS (PP) on 1.3.2012. In case of DC/AC level, the Hon'ble FM approved creation of additional 568 posts at DC/AC level, over and above 3600 posts agreed upon at Ministerial level on 1.3.2012, to meet the requirement of additional workload (introduction of 24x7 Customs Clearance Operations, introduction of Negative List of Services etc.) of the Department generated after March, 2012.

As regards training, due emphasis is being placed on training of officers, both in-house and through the Training Academy and the regional training institutes. Specific training was imparted, on financial analysis, in collaboration with the Institute of Chartered Accountants of India, in October 2012 in New Delhi. Similar training has been organized on a smaller scale in various Commissionates.

As regards defaulters, non-compliance under Rule 5(2) of Service Tax Rules, 1994 invites penal action under the provisions of Finance Act, 1994, as amended. Penal action

has been initiated in the matter. Till date, 77 Show Cause Notices have been adjudicated imposing penalty amounting to ₹ 2,54,500/- which has been fully recovered.

Further, in the Ministry's Advance Action Taken Notes (ATN) submitted to the Hon'ble PAC *vide* letter F.No. 238/03/2013-CX-7 dated 17th June, 2013, data regarding non-filing of List of Books of Account was submitted. The report in respect of 2438 cases pointed out by Audit where List of Books of Accounts were not submitted at the time of filing the service tax return for the first time depicted that 110 assesseees have taken Centralised registration and in 849 cases, proceedings such as issuance of Show Cause Notices, persuasion etc. were in progress.

In this regard, it is reported that the verification/investigation in respect of 110 cases of centralised registration and 849 cases under investigation has been completed and the revised report of 2438 cases pointed out by Audit where List of Books of Accounts were not submitted at the time of filing the service tax return for the first time, is as under:

No. of cases where details of List of Books of Accounts not received at the time of filing first return	Cases where details of List of Books of Accounts has now been received	Registration surrendered/ units closed down	Show Cause Notices issued and subsequently adjudicated	Proceedings initiated
2305*	2092	6	77	130

\*The Audit has originally pointed out 2438 assesseees who have not submitted the List of Books of Accounts. However as reported earlier, the Belgaum Commissionerate has informed that out of 158 cases pointed out by the Audit, in respect of Gulbarga Division, inadvertently 111 cases were shown instead of 13 cases and in respect of Hubli Divisions, 47 cases were shown instead of 12. Hence, in total 133 (98+35) cases were inadvertently shown which were actually not existing.

Out of 2305 (2438-133) cases where List of Books of Accounts was not received at the time of filing first return, in 2092 cases, *i.e.*, in 90.7 percent of the cases, the List of Books of Accounts have now been received whereas in 6 cases, either registration has been surrendered or units have been closed down and in remaining 130 cases necessary proceedings have been initiated in the concerned Commissionerate.

#### **Audit's vetting comments on Ministry's ATN**

Data on number of cases in which prosecution has been initiated since introduction of provision for prosecution in 2011 is yet to be furnished.

#### **Ministry's further Action Taken on the vetting comments of Audit**

Data on number of cases in which prosecution has been initiated since introduction of provision for prosecution for the number of defaulters prosecuted (upto August, 2013) for violation of Rule 5(2) of Service Tax Rules, 1004 may be treated as NIL as all the zones/LTUs have furnished NIL report.

It may be noted that Service Tax Rule 5(2) which was introduced in the year 2008 and put an obligation on the part of the assessee to furnish List of Books of Accounts to the Superintendent of Central Excise, while Section 89 was introduced subsequently in 2011 without any retrospective effect. Further, the provisions of Section 89(1)(c)

specify that-failure to supply any information which the assessee is required to supply under this Chapter or Rules made thereunder, is an offence. Thus, C&AC appears to have understood that contravention of Rule 5(2) is an offence under Section 89(1)(c).

However, after the introduction of Section 89, the Board has issued a Circular *vide* letter F. No. 354/45/2011-TRU dated 12.5.2011 where under para 8 it has been clarified that—"Clause (c) of Section 89(1) of Finance Act, 1994, is based on similar provision in the Central Excise Law. It should be noted that offence in relation to maintenance of false Books of Accounts or failure to supply required information or supplying of false information, should be in material particulars have bearing on the tax liability. Mere expression of opinions shall not be covered by the said clause. Supplying false information, in response to summons, will also be covered under this provision".

The matter has been examined and Ministry is of the view that if an assessee is substantially complying with the provisions of Finance Act, 1994 and Rules made thereunder but contravenes the provisions of Rule 5(2) of Service Tax Rules, 1994, then in such cases penalty under Section 77 is to be imposed. Prosecution for contraventions of Rule 5(2) will be launched only in cases where they have bearing on the tax liability. Thus, cases of contravention of Rule 5(2) will not fall under Section 89(1)(c) of Chapter V of the Finance Act, 1994 since they do not have bearing on the tax liability. Moreover, Nil reports have been received from all the Zones/LTUs.

In view of the above, the Hon'ble PAC is requested to reconsider the point as there may not be cases of prosecution on account of mere failure to furnish List of Books of Accounts.

Special Secretary to the Govt. of India

[Ministry of Finance, Deptt. of Revenue O.M. No. 238/03/2013-CX.7 dt. 5.03.2014]

#### **Observation/Recommendation**

13. The Committee further find that there were 110 cases of wrong availment of exemption or abatement during 2009-10 and 91 cases during 2010-11. The amount of Service Tax involve therein is ₹ 339.47 crore and ₹ 250.07 crore respectively. The Committee are concerned to note that only ₹ 10.53 crore and ₹ 20.23 crore respectively have been recovered by the Department. Further, zone-wise details as received from the Ministry indicates that maximum number of wrong availment of cases have been noticed in the Kolkata zone. While 27 cases during 2009-10 and 16 cases during 2010-11 involving Service Tax of ₹ 157.64 crore and ₹ 204.85 crore respectively were noticed in Delhi zone, out of which only ₹ 0.0019 crore has been recovered during the year 2009-10. Similarly, 64 instances of undervaluation with short payment of Service Tax of ₹ 53.80 crore was detected in the Audit. The Committee are concerned to note that the entire process involved has resulted in locking up of substantial revenue for the years 2009-10 and 2010-11. The Committee, therefore, urge the Government to revisit the extant provisions of Service Tax law and the rules framed thereunder so as to ensure that the Service Tax dues are collected effectively and within the given time-frame.

[Observation/Recommendation No. 13 of 79th Report of the  
Public Accounts Committee (15th Lok Sabha)]

### **Action Taken**

The assesseees are required to pay the service tax due by the 5th/6th of the following month. To ensure that the dues are collected effectively and within the given time frame, there are provisions for acting on intelligence, doing audit and scrutiny of returns. These requisite tools available to the department are based on the principles of due process of law and principles of natural justice.

### **Audit's vetting comments on Ministry's ATN**

Action plan to revisit the extant provisions of Service Tax law and the rules framed thereunder is awaited.

### **Ministry's further Action Taken on the vetting comments of Audit**

Adequate provisions already exist for effective and timely payment of duty. Section 68 of the Finance Act read with Rule 6A lays down the conditions with respect to payment of duty. There are provisions with respect to late payment of duty, interest and penalty. In order to deal sternly with defaulters, there are provisions for provisional attachment of property, arrest and prosecution. It must be borne in mind that *w.e.f.* 16.7.2001, section 70 of the Finance Act provides for self-assessment. In taxation statutes over the years there has been a move towards self-assessment by the tax payer and audit based compliance verification. Nevertheless, at the time of the Budget, a review of existing legal provisions is always undertaken.

Special Secretary to the Govt. of India

[Ministry of Finance, Deptt. of Revenue O.M. No. 238/03/2013-CX.7 dt. 5.03.2014]

### **Observation/Recommendation**

14. In terms of Rule 4 of the Cenvat Credit Rules, 2004 credit of Service Tax paid on any input service is allowed to a provider of taxable service. The Committee notice incorrect availment and utilization of cenvat credit totaling ₹ 105.30 crore by providers of banking and financial services in 75 cases including interest of ₹ 6.26 crore. The Committee have been apprised that in 46 cases involving ₹ 52.59 crore, proceedings have been initiated by issuing Show Cause Notices to the defaulting service providers and 8 cases involving ₹ 5.47 crore are pending investigation. The Ministry has not submitted the reasons for allowing Cenvat Credit incorrectly. Furthermore, in cases where the Ministry has differed from Audit, no justification has been adduced before the Committee. Merely issuing Show Cause Notices cannot be construed as action taken by the Ministry. The Ministry needs to explain to the satisfaction of the Committee the reasons for the same and also the initiatives taken to ensure that all such leakages are plugged and that there are no such recurrences.

[Observation/Recommendation No. 14 of 79th Report of the Public Accounts Committee (15th Lok Sabha)]

### **Action Taken**

This observation is with regard to cases of incorrect availment and utilization of CENVAT credit. Consolidated list of 24 cases, in which Audit objection was not accepted by the Department, detailing justifications/reasons for non-acceptance of Audit objection is enclosed as Annexure 'J'.

Nevertheless, it is clarified that in the era of self-assessment, the assessee avails credit on his own and declares only the total amount of credit availed and utilized in the returns. In case a default is observed by the department, due action is taken.

The cases of wrong availment of CENVAT credit are generally detected at the time of scrutiny of ST-3 Returns, Audit or during Anti-evasion inquiry, and corrective measures are initiated immediately. The Department has to follow the principles of natural justice and hence it is mandatory to issue a SCN, grant a hearing, recover wrongly availed credits and impose penalties only after a reasoned order. Hence the Department has no option but to initiate corrective action by issuing a SCN.

### **Audit's vetting comments on Ministry's ATN**

Out of 24, one is admitted and one is partially accepted.

Details in respect of each item and further remarks if any, are given in the respective Annexure.

### **Ministry's further Action Taken on the vetting comments of Audit**

Ministry's further comments on Audit's vetting comments on justifications/reasons given for non-acceptance of Audit objection in the 24 cases mentioned in enclosed Annexure 'J' are given in the last Column of the said Annexure.

Special Secretary to the Govt. of India

[Ministry of Finance, Deptt. of Revenue O.M. No. 238/03/2013-CX. 7 dt. 5.03.2014]

### **Observation/Recommendation**

15. The Committee further find that as per the provisions, the assessee was liable to restrict the utilization of cenvat credit to 20 per cent. of the Service Tax payable during the period 2006-07 and 2007-08. Out of the 24 months in 2006-07 and 2007-08, the assessee paid Service Tax of ₹ 1198.04 lakh in 12 months. While the utilization of cenvat credit to make these payments should have been restricted to ₹ 239.61 lakh (20 per cent.) the actual utilization was ₹ 626.65 lakh. This led to excess utilization of credit of ₹ 387.04 lakh which was recoverable with interest of ₹ 95.84 lakh. The assessee also did not maintain separate accounts for receipt, consumption and inventory of input services used for taxable exempted services. The Committee have been informed that the field formations at the time of scrutiny of returns and while auditing the records of the party take necessary measures to stop revenue leakages on this count. The Committee seek explanation as to how the mechanism failed in these cases which resulted in a considerable loss of revenue to the Government. The Department has reported that SCN of ₹ 5.52 crore (period 2005-06 to September 2009) including

₹ 387.04 lakh had been issued in March, 2010, which is pending adjudication. The Committee would like to be apprised about the latest position in this regard.

[Observation/Recommendation No. 15 of 79th Report of the  
Public Accounts Committee (15th Lok Sabha)]

#### **Action Taken**

It is reported that a Show Cause Notice involving an amount of ₹ 5.52 crore (period 2005-06 to September 2009) including ₹ 387.04 lakh raised by the C&AG had been issued in March, 2010, which is pending adjudication.

It is further reported that neither EA-2000 Audit nor detailed scrutiny was done for the period 2006-07 to 2007-08 of M/s Infrastructure Development Finance Corporation Ltd. due to acute shortage of staff, as existing staff in the Audit Section and Divisions is not adequate. Presently, there are only 3 Divisions to look after more than 1 lakh assesseees. Further, shortage of staff in Audit Section has also been acknowledged by C&AG in their report and they feel that at least 4 to 5 times more staff is required to cope up the audit work in the Mumbai ST-I Commissionerate.

#### **Audit's vetting comments on Ministry's ATN**

- (a) Result of adjudication is awaited.
- (b) The adequacy of norms fixed for selection of units/assesseees for detailed scrutiny and for audit may need to be re-examined even while recognizing the manpower constraint.

#### **Ministry's further Action Taken on the vetting comments of Audit**

- (a) It is reported that a Show Cause Notice dated 12.3.2010 issued to M/s Infrastructure Development Finance Co. Ltd. for Rs. 5, 51, 62, 731/- (which includes an amount of ₹ 387.04 lakh raised by the C&AG) is still pending for adjudication. Further, it is also informed that a Personal Hearing (PH) was fixed on 06.08.2013, however the assessee did not turn up for the hearing. Subsequently, another PH has been fixed for 09.10.2013.
- (b) This process has already been initiated.

Special Secretary to the Govt. of India

[Ministry of Finance, Deptt. of Revenue O.M.No. 238/03/2013-CX. 7 dt. 5.03.2014]

#### **Observation/Recommendation**

16. Further, failure to consider the interest on cash credit and overdraft facility which were exempted from Service Tax had resulted in short-payment of ₹ 515.56 lakh for the period from April 2008 to March 2009 which was recoverable with interest of ₹ 47.69 lakh. The SCN dated 09.02.2010 issued for the period 2008-09 is pending adjudication. Again, incorrect reflection of cenvat credit in ST-3 returns of M/s Citi Finance Consumer Finance India Limited in Delhi ST Commissionerate for the period April 2006 to September 2006 resulted in excess availment of Cenvat credit to the extent of rupees two crore. Show Cause Notice dated 20.10.11 for a demand of ₹ 199.99 lakh

has been issued to the assessee. Having observed that in a large number of cases the basic prerequisite *i.e.* proper maintenance of records is wanting, the Committee would like the Ministry to enumerate the concrete measures taken by them to ensure compliance with the instructions regarding maintenance of records.

[Observation/Recommendation No. 16 of 79th Report of the  
Public Accounts Committee (15th Lok Sabha)]

#### **Action Taken**

Rule 5 of Service Tax Rules, 1994, provides for maintenance of records. The service tax provider can maintain the records as required under any other law and the same are acceptable for the purpose of service tax also. As per provision in rule 5(2), introduced *vide* Notification No. 45/2007-S. Tax dt. 28.12.2007, 'every assessee shall furnish to the Superintendent of Central Excise at the time of filing the return for the first time or the 31st of January, 2008, whichever is later, a list of records as mentioned above'. This provision gives an option to the assessee either to submit the list of records at the time of filing of the return for the first time or by the 31st day of January, 2008, whichever is later.

#### **Audit's vetting comments on Ministry's ATN**

The measures taken by the Ministry/department to ensure compliance with the instructions regarding maintenance of records need to be furnished as directed by the PAC.

#### **Ministry's further Action taken on the vetting comments of Audit**

Since statutory provisions were incorporated, separate instructions were not issued. During the course of compliance verification, the records maintained by the assessee are verified.

Sd/-

Special Secretary to the Govt. of India

[Ministry of Finance, Deptt. of Revenue O.M. No. 238/2013-CX.7 dt. 5.03.2014]

#### **Observation/Recommendation**

17. Section 73A of the Finance Act, 1994 (as amended w.e.f. 18th April, 2006) provides that any person who is liable to pay Service Tax and has collected any amount in excess of the Service Tax assessed should without fail, pay the amount so collected to the credit of the Government. The Committee find that during the years 2007-08 to 2010-11, there have been 2111 cases in which service providers have collected the Service Tax to the tune of ₹ 1134.82 crore but had not deposited the same in the Exchequer. During the same period, recovery of ₹ 560.07 crore involving 1343 cases has been effected. Further, out of the 2111 cases, 1065 cases pending realization are under litigation and the revenue involved is to the extent of ₹ 1043.20 crore. The Committee are perturbed to note that the amount involved in the SCNs issued constitute nearly 90% of the total amount that was collected by the service providers from the

consumers but not deposited with exchequer. The Committee desire that the adjudication process be expedited and recoveries be made at the earliest.

[Observation/Recommendation No. 17 of 79th Report of the  
Public Accounts Committee (15th Lok Sabha)]

#### **Action Taken**

It is reported that all out efforts are being made to liquidate the pendency of adjudication cases and recover the amount at the earliest. In this regard, necessary instructions have been issued to the field formations to expedite the adjudication process.

Further, Board *vide* F. No. 137/155/2012-Service Tax dated 21.12.2012 has stated "Adjudication: Adjudication pendency was reviewed, especially the cases pending for more than 1 year and cases involving more than ₹ 1 crore. Member, Service Tax emphasized the need for Chief Commissioners to closely monitor the disposal at all levels and fix targets at each level. The targets would be different for combined Commissionerates and exclusive Service Tax Commissionerates. For the latter, a suggested target was 10-15 per month for Commissioners, 20 per month for ADCs and 40-50 per month for DCs/ACs. Chief Commissioners were advised to monitor, officer-wise, every fortnight and to ensure that targets were met each month. The progress would be reviewed in the first week of January, 2013".

#### **Audit's vetting comments on Ministry's ATN**

The progress in adjudication and recoveries as reviewed on first week of January, 2013 may be furnished.

#### **Ministry's further Action taken on the vetting comments of Audit**

Substantial progress has been made in adjudications and recoveries. Detailed report will follow.

Sd/-

Special Secretary to the Govt. of India

[Ministry of Finance, Deptt. of Revenue O.M. No. 238/03/2013-CX. 7 dt. 5.03.2014]

#### **Observation/Recommendation**

18. The Committee note that there is a lack of perspective planning in the matter of deployment of staff on such a vital source of revenue collection *viz.*, Service Tax. Taking into consideration the amount of revenue collected from Service Tax and Central Excise during the year 2011-12, the Committee are surprised to find that in contrast to the deployment of nearly 40000 officers for excise, only 4000 to 5000 officers have been deployed for Service Tax stream and that too after withdrawing from the Central Excise stream. Apparently, Service Tax wing has been working for more than 15 years, with no staff of its own. The Committee are dismayed to note the helplessness expressed both by the Finance Secretary and Chairman, Central Board of Excise and Customs in this regard especially when, Ministry of Finance is itself one of the nodal authorities for examining and sanctioning requisite staff to Ministries. The Committee feel that the

staff requirement be examined on priority basis by the concerned authorities in order to ensure that the Service Tax Collections, which have increased phenomenally from ₹ 407 crore in 1994-95 to ₹ 97,389 crore in 2011-12 does not suffer for want of human resource.

[Observation/Recommendation No. 18 of 79th Report of the Public Accounts Committee (15th Lok Sabha)]

#### **Action Taken**

Department is well aware of the staffing requirements of Service Tax administration. While formulating the Cadre Restructuring Proposal 2010, the Department has taken into account the existing and anticipated workload of all the three streams, *i.e.*, Service Tax, Central Excise and Customs and consequent staff requirements of these streams. The proposal projected the staffing requirements in various group 'A', 'B' & 'C' grades of 95168 personnel. The said proposal was approved with minor changes by the Department of Expenditure in May, 2011. Thereafter, the Proposal was sent to the Department of Personnel & Training, who after several rounds of discussions and written submissions/clarifications by the CBEC, suggested slashing (without going into the functional requirement of the Department) of the projected staff strength by 8300 posts at various levels in March, 2012. DoP&T again raised some questions in August, 2012. The queries mainly pertained to post-CR structure of IRS (C&CE) and austerity measures taken by the Government. Reply to these queries was sent to the DoP&T in December, 2012. Meanwhile, the proposal was submitted to the Hon'ble Finance Minister seeking grant of exemption to the Cadre Restructuring Proposal from the austerity measures of the Government, presently in force, as the proposal is a revenue earning proposal that seeks to garner additional revenue of ₹ 68,000 crore over and above budgetary estimates for the current fiscal. Hon'ble Finance Minister has not only granted the requisite exemption to the proposal from austerity measures, but also approved the proposal, except the proposal at the level of DC/AC, as agreed upon between the then FM and MoS (PP) on 1.3.2012. In case of DC/AC level, the Hon'ble FM approved creation of additional 568 posts at DC/AC level, over and above 3600 posts agreed upon at Ministerial level on 1.3.2012, to meet the requirement of additional workload (introduction of 24X7 Customs Clearance Operations, introduction of Negative List of Services etc.) of the Department generated after March, 2012.

#### **Audit's vetting comments on Ministry's ATN**

No comments.

#### **Ministry's further Action taken on the vetting comments of Audit**

No comments required.

Sd/-

Special Secretary to the Govt. of India

[Ministry of Finance, Deptt. of Revenue O.M. No. 238/03/2013-CX. 7 dt. 5.03.2014]

## OBSERVATION/RECOMMENDATION NO. 2

17 CASES WHICH WERE PENDING INVESTIGATIONS HAVE BEEN SHOWN AS COMBINED [06 IN D-I (P) & 11 in D-II (P) ANNEXURE]

PRESENT STATUS OF 6 OUT OF 17 PENDING CASES

**Details of cases of non-registration (as per IT records)**

**Refer paragraph 2.1**

(Amt. in Rs. Lakh)

Sl. No.	Commissionerate	Name of service provider	Under Investigation	Ministry's ATN: Further proceedings/ Present status of the case	Audit'svetting comments	Ministry's further comments on vetting comments of Audit
1	2	3	4	5	6	7
1.	Ahmedabad ST	Kalawati Finance Ltd., Ahmedabad	13.85	It is reported that the assessee had interest income only which is not taxable.	As the Department has verified the records of the assessee. The reply may be accepted.	No comments required.
2.	Ahmedabad III	The Mehsana Urban Co-op. Bank Ltd., Mehsana	67.74	It is reported that the demand of Rs. 24.48 has been confirmed vide O-I-O dated 31.01.2013.	No further comments.	No comments required.
3.	Ahmedabad III	The Vadnagar Nagrik Sahkari Bank Ltd., Vadnagar	1.43	It is reported that demand was confirmed vide O-I-O dated 16.09.2011. Subsequently. O-I-A dated 14.02.2013 was	Department has confirmed the demand and CESTAT has ordered de novo proceedings subsequently. No further comments.	No comments required.

1	2	3	4	5	6	7
				passed by the Commr. (Appeals) upholding the said O-I-O. CESTAT has order denovo proceedings. Adjudication proceedings are in progress.		
4.	Ahmedabad III	Mehsana Leasing and Finance Ltd., Mehsana	1.03	It is reported that demand was confirmed <i>vide</i> O-I-O dated 29.02.2012. Subsequently O-I-A dated 08.11.2012 passed by the Commr. (Appeals) has ordered denovo proceedings. SCN vacated <i>vide</i> O-I-O dated 29.03.2013	Department has confirmed the demand and Commr. (Appeals) ordered de novo proceedings subsequently. However, it may be clarified whether Commr. (Appeals) has powers to issue order of denevo adjudication when his powers of remand has been omitted from the Act <i>w.e.f.</i> 11.05.2011.	It is reported that <i>vide</i> Finance Act, 2001, the power of Commissioner (Appeals) to remand the cases for fresh adjudication to the original adjudicating authorities has been withdrawn by amending the provisions of Section 35A(3) of the Central Excise Act, 1944.  Further, while reviewing the subject Order-In-Appeal passed by the Commissioner (Appeals), the Committee of Commissioners found that though O-I-A is not proper, the same has been accepted as per the Board's Instruction issued under F. No. 390/Misc./163/2010-JC dated 17.8.2011, on monitory ground.

5.	Delhi ST	AG and Company (P) Ltd.	1.52	It is reported that the assessee is found registered in Range-VII instead of Range-X (which deals with banking and order financial services) of Division-I with effect from 04.12.2009. The assessee has paid ₹ 2,12,542/- towards service tax and interest.	Department has confirmed that the assessee paid ₹ 2.13 lakh. No further comments.	No Comments required.
6.	Delhi ST	Hindustan Commercial Investment Ltd.	2.19	It is reported that the letter was written to assessee for their compliance in the matter. The assessee replied that they are not having any business of financing/banking or any other service which are covered under service tax. Further, a letter has been written to assessee asking them to furnish balance sheet & other relevant documents to verify status of the assessee.	Further development may be communicated.	It is reported that the status of the assessee has been got verified and on perusal of Balance Sheet of the assessee for the year 2011-12, it was observed that the subject amount of ₹ 2.19 lakhs was actually the income of the assessee during 2011-12 from 'sale of shares' on which Service Tax is not applicable.
		Total	87.76			

OBSERVATION/RECOMMENDATION NO. 2  
PRESENT STATUS OF 11 OUT OF 17 PENDING CASES  
**Details of cases of non-registration (as per Secondary records)**  
**Refer paragraph 2.1**

Sl. No.	Commiss- ionerate	Name of service provider (M/s.)	Under investi- gation	Ministry's ATN: Further proceedings/Present status of the case	Audit's vetting comments	Ministry's further comments on vetting comments of Audit
1	2	3	4	5	6	7
1.	Patna	Dadji Leasing Private Ltd., M-1, Grand Chandra Apartment Frazer Road, Near B.S.F.C., Patna-800 001	5.21	It is reported that a demand cum Show Cause Notice dated 14.10.2011 amounting to ₹ 114449/- for the period from 2006-07 to 2008-09 was issued to the assessee. The said SCN was subsequently adjudicated <i>vide</i> O-I-O dated 30.10.2011 and the demand was confirmed.	As the demand has been confirmed. No further comments.	No comments required.
2.	Patna	Goodluck Insurance Facilitators Pvt. Ltd., K.G. Road, Utsaw Complex, 1st Floor, Ara, Bihar-802301	4.71	It is reported that the Service provider is not found at the given address.	The department could not trace the service provider after putting reasonable efforts. No further comments.	No comments required.
3.	Ahmeda- bad ST	S.N.L. Fin. (I) Ltd., A'bad	219.58	It is reported that the assessee had exported 100% services to their parent company located in USA and payment of service received in foreign services.	No further comments.	No comments required.
4.	Ahmeda- bad ST	Satupa Finance Ltd.	0.99	It is reported that, as the assessee had paid an amount of ₹ 0.43 lakh for the F.Y. 2005-06 and ₹ 0.47 lakh for the F.Y. 2006-07 within time limit and	Further development may be communicated.	It is reported that in the year 2005-06, the assessee has paid the service tax within time limit, hence the question of interest and penalty does not arise.

				therefore, no interest and penalty is applicable. For the remaining amount, the matter is under correspondence with assessee.		In the year 2006-07, the assessee has made short payment of service tax to the tune of ₹ 9360/-. Matter is being pursued to recover the remaining amount. The service provider has surrendered the Service Tax Registration.
5.	Ahmedabad ST	Jaspal Investment and Consultancy P. Ltd., A'bad	1.19	It is reported, as the assessee had paid an amount of ₹ 0.45 lakh for the F.Y. 2005-06 and ₹ 0.62 lakh for the F.Y. 2006-07 within the time limit and therefore, no interest and penalty is applicable. For the remaining amount, the matter is under correspondence with assessee.	Further development may be communicated.	It is reported that the assessee had short paid service tax to the tune of ₹ 14,149/- (₹ 1798/- for the year 2005-06 & ₹ 12351/- for the year 2006-07). Efforts are being made to recover the same. The service provider has surrendered the Service Tax Registration.
6.	Ranchi	Ranchi Khunti CC Bank	4.39	They have been contacted and directed to apply for registration immediately.	Further reply is awaited.	It is reported that the assessee applied for the Centralised registration on 07.02.2012 but the application was not complete so it was returned to the assessee on 21.04.2013 for want of relevant documents. The assessee has been reminded regularly telephonically as well as by visit of the officers for submission of ST-1 along with relevant documents. After obtaining the required documents, their centralised registration would be granted.
7.	Ranchi	Dumka CC Bank	4.25	It is reported that they are entitled to avail SSI exemption under Notification No. 06/2005 dated 1.3.2005 as amended from time to time.	The reply of the Department may be accepted.	No comments required.

1	2	3	4	5	6	7																																													
8.	Ranchi	Deoghar Jamtara CC Bank	26.83	It is reported that there is a variation in figure for taxable value of services provided by the assessee, as given by the C&AG in their report and the figure available for the same period 2004-05 to 2009-10 as per balance sheet of the Bank. The MD of the Bank has been contacted by the jurisdictional officers and it is learnt that the difference is on account of various heads like commission exchange, provision for outstanding charges etc. which appear to wrongly loaded into the value of services by the C&AG. The jurisdictional authorities are in touch with the MD of the Bank who has assured to furnish the breakup detail shortly.	Further reply is awaited.	It is reported that the assessee has provided the data as detailed below:  <table border="1"> <thead> <tr> <th>Sl. No.</th> <th>Financial Year</th> <th>As per balance sheet</th> <th colspan="2">Break-up - year wise</th> </tr> <tr> <td></td> <td></td> <td>Commissioner exchange</td> <td>Commission exchange/ Service charge</td> <td>Incidental charges</td> </tr> </thead> <tbody> <tr> <td>1.</td> <td>2005-06</td> <td>3,55,727</td> <td>0</td> <td>3,55,727</td> </tr> <tr> <td>2.</td> <td>2006-07</td> <td>916783.21</td> <td>94484</td> <td>82229.21</td> </tr> <tr> <td>3.</td> <td>2007-08</td> <td>930128.63</td> <td>138263</td> <td>791865.63</td> </tr> <tr> <td>4.</td> <td>2008-09</td> <td>624347.72</td> <td>138264</td> <td>486083.72</td> </tr> <tr> <td>5.</td> <td>2009-10</td> <td>652619.5</td> <td>170408</td> <td>482211.5</td> </tr> <tr> <td>6.</td> <td>2010-11</td> <td>850214.79</td> <td>285490</td> <td>564724.79</td> </tr> <tr> <td>7.</td> <td>2011-12</td> <td>1027768.79</td> <td>327939</td> <td>699829.79</td> </tr> </tbody> </table> <p>As above figures do not tally with the figures pointed out by the Audit. In their report, the Audit has put the value of taxable service as ₹ 2.37 crore for the period 2005-06, 2006-07 to 2008-09. As per the report submitted by the assessee, commission exchange contains commission exchange/service charges as well as incidental charges. As commission amount in particular year is below threshold limit, hence there is no tax liability.</p>	Sl. No.	Financial Year	As per balance sheet	Break-up - year wise				Commissioner exchange	Commission exchange/ Service charge	Incidental charges	1.	2005-06	3,55,727	0	3,55,727	2.	2006-07	916783.21	94484	82229.21	3.	2007-08	930128.63	138263	791865.63	4.	2008-09	624347.72	138264	486083.72	5.	2009-10	652619.5	170408	482211.5	6.	2010-11	850214.79	285490	564724.79	7.	2011-12	1027768.79	327939	699829.79
Sl. No.	Financial Year	As per balance sheet	Break-up - year wise																																																
		Commissioner exchange	Commission exchange/ Service charge	Incidental charges																																															
1.	2005-06	3,55,727	0	3,55,727																																															
2.	2006-07	916783.21	94484	82229.21																																															
3.	2007-08	930128.63	138263	791865.63																																															
4.	2008-09	624347.72	138264	486083.72																																															
5.	2009-10	652619.5	170408	482211.5																																															
6.	2010-11	850214.79	285490	564724.79																																															
7.	2011-12	1027768.79	327939	699829.79																																															
9.	Ranchi	Gumla Simdega CC Bank	3.52	It is reported that a demand-cum-Show Cause Notice dated 23.3.2012 for an amount of ₹ 993818/- has been issued to the assessee.	No further remarks as action has been taken.	No comments required.																																													

10.	Jamshed-pur	Singhbhum CC Bank Ltd., Chaibasa	30.35	It is reported that some demands have been confirmed <i>vide</i> 5 O-I-Os, all dated 20.3.2012 amounting to ₹ 0.124 lakh, ₹ 0.354 lakh, 1.466 lakh, 0.434 lakh and 1.12 lakh respectively.	No further remarks as action has been taken.	No comments required.
11.	Kolkata ST	Peerless General Finance and Investment Co., Kolkata	145.28	It is reported that Show Cause Notice issued to the assessee has already been adjudicated by the Commissioner of Central Excise, Kolkata-IV <i>vide</i> O-I-O dated 12.02.2013 confirming the service tax demand of ₹ 1,49,09,648/- (including cess) along with appropriate interest and imposing penalty of ₹ 5000/- and ₹ 1,49,09,648/- under Section 77 & 78 of the Finance Act, 1994. Further, Sr. Audit Officer, CERA-Hq, Central Kolkata <i>vide</i> his letter No. RA/CE/RDP-1 (BOFS)/2009-10/1298 dated 30.3.2012 has intimated "The case may be settled".	No further remarks.	No comments required.
		Total	446.30			

## OBSERVATION/RECOMMENDATION NO. 2

17 CASES WHICH WERE NOT ACCEPTED BY THE DEPARTMENT HAVE BEEN SHOWN AS COMBINED (04 IN D-I & 13 IN D-II ANNEXURE) JUSTIFICATION/REASONS FOR NON ACCEPTANCE OF AUDIT OBJECTIONS

**Details of cases of non-registration (as per IT records) Refer paragraph 2.1**

(Amt. in Rs. Lakh)

Sl. No.	Commission-erate	Name of service provider	Amount of service tax not paid	Objection Not accepted	Ministry's ATN: Justification/Reasons for non-acceptance of Audit's objection	Audit's vetting comments	Ministry's further comments on vetting comments of Audit
1	2	3	4	5	6	7	8
1.	Vadodara I	The Padra Nagar Sahkari Bank Ltd., Padra	1.68	1.68	The case of M/s The Padra Nagar Sahkari Bank Ltd., Padra has been transferred to Call book for the reason that the objection of non-registration/non-payment service tax (as per Income Tax records) was found not correct on verification on the ground that a portion of the said income was interest income which is exempted.	No further comments.	No comments required.
2.	Vadodara I	Atmjyoti-nagar Co-op. Credit Society Ltd., Vadodara	8.75	8.75	The Para has been closed <i>vide</i> letter no.-DP(CERA)/Review/B&F/2010-11/O.W.Z. dtd. 07.04.11.	No further comments.	No comments required.
3.	Vadodara II	M.S. Co-op. Bank Ltd., Vadodara	10.75	10.75	Detailed verification has been done and there is no short levy. The assessee had registered themselves under the category of 'Banking and Other Financial Services' after implementation of service tax <i>w.e.f.</i> 10.9.2004. They have filed half yearly	Department has done detailed verification of the records, hence	No comments required.

				ST-3 returns regularly till 31.3.2008. However, w.e.f.1.4.2008, they have surrendered their registration certificate as their turnover of taxable services was less than the exemption limit prescribed <i>vide</i> Notification No. 6/2005-ST dated 1.3.2005. Further, copies of ST-3 returns along with copies of GAR-7 challans, Balance Sheets as well as Profit & Loss Account were obtained and verified and it was found that the said service provider have paid service tax till the surrender of their registration certificate.	no further comments.		
4.	Vadodara I	The Mercantile Co-op. Bank Ltd., Borsad	4.29	4.29	A Show Cause Notice dated 23.08.2011 was issued and transferred to Call Book till the settlement of objection. Against the Show Cause Notice the assessee under his written submission has clarified that the value of taxable service provided by them does not cross the threshold limit.	Department has done detailed verification of the records. Reply may be accepted.	No comments required.
		Total	25.47	25.47			

## OBSERVATION/RECOMMENDATION NO. 2

17 CASES WHICH WERE NOT ACCEPTED BY THE DEPARTMENT HAVE BEEN SHOWN AS COMBINED

(04 IN D-I &amp; 13 In D-II ANNEXURE)

JUSTIFICATION/REASONS FOR NON ACCEPTANCE OF AUDIT OBJECTIONS

**Details of cases of non-registration (as per Secondary records)****Refer paragraph 2.1**

(Amount in Rs. lakh)

Sl. No.	Commissionerate	Name of service provider	Amount of service tax not paid	Objection Not accepted	Ministry's ATN: Justification/Reasons for non-acceptance of Audit's objection	Audit's vetting comments	Ministry's further comments on vetting comments of Audit
1	2	3	4	5	6	7	8
1.	Hyderabad-II	Andhra Pradesh Urban Finance and Infrastructure Development Corporation, Hyderabad	269.64	269.64	The nature of services provided by M/s Andhra Pradesh Urban Finance and Infrastructure Development Corporation, Hyderabad (APUFIDC) is neither advisory nor do they fall under other auxiliary financial services so as to bring them under the category of Banking & Other Financial Services. Secondly, the assessee is not a bank or financial institution so as to cover them under the ambit of "Banking & Other Financial Services". One of the channels identified for financing the capital infrastructure cost of the municipalities is funding through HUDCO. The company as per the instructions of Government is supposed to enter into loan agreement with HUDCO on behalf of cluster of urban local bodies for availing the HUDCO loan for their urban infrastructure and accordingly the company enters into agreement from time to	Department has verified the records in addition to original records. The reply may be accepted based on a consideration of the nature of transactions.	No comments required.

time, whenever such loan is availed. The procedure being followed is as follows:—

The urban local bodies prepare project reports of the proposed development plans within their notified area with detailed project cost in relation thereto and sent it to Chief Engineer Department of Public Health, who is responsible for proposing the project before the Government and obtaining an administrative approval for the project. Thereafter, the Chief Engineer forwards such proposal to APUFIDC Ltd. and APUFIDC Ltd. being the channelizing agency forwards the applications from the urban local bodies to the HUDCO for providing assistance. As the agency of the State Government, APUFIDC verifies whether the application for loan by local bodies is within the revolving guarantee of Rs. 700 crore provided by State Government and forward the loan application HUDCO for apprising and sanctioning of loan required by the urban local bodies.

The loans raised fall under a definite financing scheme of State Government, M/s APUFIDC, acting on behalf of all the local bodies enters into loan agreements with HUDCO. In view of the above, it is clear that the services provided by M/s APUFIDC are not in the nature of advisory or other auxiliary financial services. The 10% A&S charges are not receipts towards services but is part of project cost termed as Administrative and Service charges which are to be released to implementing agencies as directed by Government, and hence are recorded as liabilities/reserves in the Financial/Statements/ Books of APUFIDC. One percentage of the total actual expenditure whichever is less is pure

---

1	2	3	4	5	6	7	8
					<p>reimbursement of expenses incurred by APUFIDC. The balance of the amount is in the nature of liability/reserves, which are so reflected in the Financial Statements, pending direction of the Government of Andhra Pradesh as to their utilisation. Therefore, the activities of APUFIDC are not classifiable under the category of "Banking &amp; Other Financial Services".</p> <p>Secondly, Banking &amp; Other Financial Services are defined under Section 65(12) of the Act. Such services provided to a customer by a banking company or a financial institution including a non-banking financial company or any other body corporate or any other person to a customer are liable to service under Section 65(105)(zm).</p> <p>M/s APUFIDC is not similar to bank or a financial institution and hence does not fall within the category of any other similar service provider. Attention is also drawn to Board's Circular No. 83/1/2006-ST dt. 4.7.2006, wherein it has been clarified by the Department that the department of post is not liable to pay service tax under the category of "Banking &amp; Other Financial Services".</p>		
2.	Ludhiana	Kovalam Investment and Trading Co. Ltd., Ludhiana	48.58	48.58	<p>Audit's objection was raised without going through the actual balance sheet or P&amp;L statement of the assessee. Accordingly, protective demand cum Show Cause Notice was issued to the assessee on 24.10.2011. Further, documentary evidences furnished by the assessee revealed that the company is receiving commission earned as brokerage from various mutual fund/asset management companies on account of service provided as an agent of the said mutual fund/asset management companies under the category</p>	<p>Action, if any, taken to ensure fulfilment of ST liability by mutual fund / asset management company under reverse charge may be intimated to Audit.</p>	<p>It is reported that M/s Kovalam Investment and Trading Co. Ltd., Ludhiana provided service to Asset Management/Mutual Fund Companies. None of these companies falls under the jurisdiction of Ludhiana Commissionerate. However, it is been ascertained that all these companies are duly registered with the department for payment of service tax <i>vide</i> registration number</p>

of 'Business Auxiliary Services' and not 'Banking & Finance Service'. Further, in terms of Ruls 2(1) d(vi) of the Service Tax Rules, 1994, the mutual fund or asset management company, and not the assessee is liable to pay service tax under reverse charge method. Hence para is not admitted.

given below against each company.

S. No.	Name (M/s)	Service Tax Registration Number
1.	Sundaram Asset Management Co. Limited	AAICS4257JST001
2.	Tata Asset Management Limited	AAACT1458LST001
3.	Computer Age Management Service Pvt. Limited	AAACT3035GST001
4.	Reliance Capital Asset Management Limited	AAACR2668GSD0003
5.	Kotak Mahindra Asset Management Company Limited	AAACK5576CST001
6.	Birla Sun Life Mutual Fund	AAATB0102CST001

Further, this office is taking up matter with the respective jurisdiction service tax formations of above 6 Asset Management/Mutual Fund Companies for specific verification of service tax payments made by these companies under reverse charge mechanism in respect of services provided by M/s Kovalam Investment and Trading Co. Ltd., Ludhiana during the relevant period.

1	2	3	4	5	6	7	8
3.	Ludhiana	SG Stock Services 118-G BRS Nagar Ludhiana	15.16	15.16	Audit's objection was raised without going through the actual balance sheet or P&L statement of the assessee. Accordingly, protective demand cum Show Cause Notice was issued to the assessee on 21.09.2011. Further, objection by Audit that assessee was not registered was incorrect, as they are already registered with the Department under the category of 'Stock Broker Service' with effect from April, 2006 <i>i.e.</i> , much before the Audit objection raised in 2009, and paying service tax.	Department has verified the records. The reply may be accepted as the service provider is registered and paying dues under 'Stock Broker Services'.	No comments required.
4.	Ludhiana	Master Portfolio Services SCO 19, FG Market, Ludhiana	3.51	3.51	Audit's objection was raised without going through the actual balance sheet or P&L statement of the assessee. Accordingly, protective demand cum Show Cause Notice was issued to the assessee on 03.08.2011. Further, documentary evidences furnished by the assessee revealed that they are already registered with the Central Excise Range-II, Chandigarh under the category of 'Business Auxiliary Services' and paying service tax.	Department has verified the records. The reply may be accepted as the service provider is registered and paying dues under 'Business Auxiliary Services'.	No comments required.
5.	Ludhiana	City Gold Credit Capital, 467, Stock Exchange Bldg., Feroz Gandhi Market, Ludhiana	24.59	24.59	Audit's objection was raised without going through the actual balance sheet or P&L statement of the assessee. Accordingly, protective demand cum Show Cause Notice was issued to the assessee on 27.09.2011. Further, documentary evidences furnished by the assessee revealed that the assessee has actually engaged only in sale of shares and securities on their own account and no taxable	Department has verified the original records. The reply may be accepted.	No comments required.

					services including 'Banking and other Financial Services', appear to have been provided by the assessee.		
6.	Ludhiana	Ramsons Financial Services, 980/10, Daulat Industry Lane, Civil lines, Ludhiana	5.89	5.89	Audit's objection was raised without going through the actual balance sheet or P&L statement of the assessee. Accordingly, protective demand cum Show Cause Notice was issued to the assessee on 27.09.2011. The assessee however, submitted a representation to the Chairman, CBEC on 14.01.2012 intimating that they do not provide any taxable services. Further, documentary evidences furnished by the assessee revealed that the assessee has actually engaged only in sale of shares on their own account and no taxable services including 'Banking and other Financial Services' appear to have been provided by the assessee.	Department has verified documentary evidence. The reply may be accepted.	No comments required.
7.	Ludhiana	SRU Securities Ltd., 110, SC Tagore Nagar, Civil Lines, Ludhiana	440.05	440.05	Audit's objection was raised without going through the actual balance sheet or P&L statement of the assessee. Accordingly, protective demand cum Show Cause Notice was issued to the assessee on 24.10.2011. Further, documentary evidences furnished by the assessee revealed that the assessee is a sub broker of LSE Securities Ltd. Ludhiana and is registered with the Department and paid service tax on stock brokerage commission upto Oct., 2007, that is, well before the objection was pointed out by AG Audit. Further the assessee got registered as a sub-broker with	Department has verified documentary evidence. The reply may be accepted.	No comments required.

1	2	3	4	5	6	7	8
					LSE Securities Ludhiana and as per LSE Securities's letter dated 18.08.2011, service tax has been paid by them from November, 2007 onwards.		
8.	Ludhiana	Nirman Ficap Ltd., 172-C, Bhai Randhir Singh Nagar, Ludhiana	2840.31	2840.31	Audit's objection was raised without going through the actual balance sheet or P&L statement of the assessee. Accordingly, protective demand cum Show Cause Notice was issued to the assessee on 24.10.2011. The assessee however, submitted a representation to the Chairman, CBEC on 14.01.2012 intimating that they do not provide any taxable services. Further, documentary evidences furnished by the assessee revealed that the assessee is not a share broker. Sale of shares and Securities has been done on their own account and the same does not qualify as share brokering and, is therefore, not covered under service tax net.	Department has verified documentary evidence. The reply may be accepted.	No comments required.
9.	Ludhiana	Charu Fiscal Services Ltd., 1st Floor, Deol Complex, PNB Civil Lines, Ludhiana	140.87	140.87	Audit's objection was raised without going through the actual balance sheet or P&L statement of the assessee. Accordingly, protective demand cum Show Cause Notice was issued to the assessee on 24.10.2011. The assessee however, submitted a representation to the Chairman, CBEC on 14.01.2012 intimating that they do not provide any taxable services. Further, documentary evidences furnished by the assessee revealed that the assessee has actually engaged only in sale of shares on their own account and no	Department has verified documentary evidence. The reply may be accepted.	No comments required.

					taxable services including 'Banking and other Financial Services', appear to have been provided by the assessee.		
10.	Ludhiana	Dee Dee Securities, 2nd Floor, City Tower, 527 R, Model Town, Ludhiana	54.39	54.39	Audit's objection was raised without going through the actual balance sheet or P&L statement of the assessee. Accordingly, protective demand cum Show Cause Notice was issued to the assessee on 26.9.2011. The assessee however, submitted a representation to the Chairman, CBEC on 14.01.2012 intimating that they do not provide any taxable services. Further, documentary evidences furnished by the assessee revealed that the assessee has engaged only in sale of shares and securities on their own account and no taxable services including 'Banking and other Financial Services', appear to have been provided by the assessee.	Department has verified documentary evidence. The reply may be accepted.	No comments required.
11.	Ludhiana	Garg Capital Securities, 304, Novelty Plaza, Bhai Bala Chowk, Ludhiana	17.54	17.54	Audit's objection was raised without going through the actual balance sheet or P&L statement of the assessee. Accordingly, protective demand cum Show Cause Notice was issued to the assessee on 26.09.2011. Further, documentary evidences furnished by the assessee revealed that the assessee has undertaken the following 2 services : (1) Sale of shares has been done by the assessee on their own account; same does not qualify as share brokering and is therefore not covered under service tax net;	No further comments.	No comments required.

1	2	3	4	5	6	7	8
					(2) Brokering fee received by the assessee in 2006-07 (Rs. 80,000/-) and in 2007-08 (₹ 89,000/-) is however below the service tax exemption limit of ₹ 8 lakh and hence no registration is required nor any tax liability arises.		
					It is reported that the taxable turnover of the assessee for the year 2008-09 was within the threshold limit and hence the service provider was required to take registration only when they crossed the threshold limit.	Department has verified the facts. No further comments.	No comments required.
12.	Chennai ST	M/s Srivari Money exchange Private Limited	10.15	10.15	<p>The activity of purchase and selling of foreign exchange made taxable with effect from 16.5.2008 attracts service tax. If the assessee charge and collect service charges from their clients and the same is indicated in the invoice, they can pay service tax at normal rate under Section 66 of the Finance Act, 1944. Alternatively, if they do not collect any separate consideration [<i>i.e.</i> the service charges] or such service charges are not reflected in the invoices issued by them, they have an option to pay service tax @ 0.25% of the total transaction value as prescribed under Rule 6(7B) of the Service Tax Rules, 1994.</p> <p>In the instant case, the assessee had collected service charges @ Rs. 25/- per transaction and it is reported that their taxable turnover for 2008-09 in respect of their branches was within</p>		

the threshold limit exemption. Hence, the service provider was required to take registration only after reaching the prescribed limit of taxable turnover. Accordingly, the assessee has taken registration on 25.04.2011. Whereas, Audit has arrived at the volume of turnover by clubbing the sales and purchase of Foreign exchange transacted during the year 2008-09 in their branches at Chennai and Coimbatore. In view of the above, there appears to be no service tax liability as contended by the Audit.

The Commissionerate has reported that as per the Audit, the assessee has not paid service tax amounting to Rs. 715.86 lakh on (a) Ancillary service charges to meet out additional overheads levied by HUDCO and other Financial institutions, (b) Hire purchase deposits from its consumers purchasing house/flats on hire purchase, (c) Interest for flats/houses allotted on hire purchase, and (d) Administrative charges on regularisation of transfer of Hire purchase of Leases.

Since the matter pertains to financial services, the issue was examined under Section 65(105)(zm) of the Finance Act, 1994 which deals with the Banking & Other Financial Services.

The HUDCO and other Financial institutions are not banking company as defined under

Though definition of financial institution has not been given in Chapter-V of the Finance Act, the definition in RBI Act would not cover such institutions. No further comments please.

No comments required.

13.	Jaipur I	M/s. Rajasthan Housing Board, Jaipur	715.86	715.86
-----	----------	--------------------------------------	--------	--------



REPLY TO VETTING COMMENTS OF AUDIT ON OBSERVATION/RECOMMENDATION NO. 14 OF THE 79TH REPORT OF  
THE PAC JUSTIFICATION/REASONS FOR NON-ACCEPTANCE OF AUDIT OBJECTIONS

**Details of irregular/incorrect availment of CENVAT Credit**

**Refer Chapter 4**

(Amount in lakh of rupees)

Sl. No.	Commissionerate	Name of service provider M/s	Amount of CENVAT Credit involved	Objection not accepted	Ministry's ATN: Justification/Reasons for non-acceptance of Audit's objection	Audit's vetting comments	Ministry's further comments on vetting comments of Audit
1	2	3	4	5	6	7	8
1.	Hyderabad II	Andhra Bank (Credit Card Division), Sultan Bazar, Hyderabad	24.68	24.68	Audit objection is not acceptable. The insurance coverage offered by the Bank is a part of the taxable service and hence all service obtained by the Bank is a part of the taxable service would become input services. The insurance service has nexus with the provisions of output service. Hence, credit is admissible. However, a Show Cause Notice dated 20.08.2011 has been issued to the assessee.	No further comments.	No comments required.
2.	Hyderabad II	State Bank of Hyderabad, Main Branch, Gunfoundry, Hyderabad	16.53	16.53	Audit has contended that the taxpayers have not followed the proper laid down procedure. However, Audit has not elaborated as to which specific procedure was violated. In any case, it is well settled that substantive benefit of Cenvat Credit cannot be denied on the ground of technical infractions. No credit on diesel was taken by SBH. The contention of the Audit is factually wrong. The contention that catering	The reply may be accepted.	No comments required.

1	2	3	4	5	6	7	8
---	---	---	---	---	---	---	---

service, car hiring etc., have no nexus with the output service is not acceptable. All these are business related activities. Tribunals have held that the definition of the term "input service" is very wide. The Tribunals, rejecting the contention that insurance/catering is a welfare measure, have held that these are essential for providing output service. Board *vide* Circular No. 120/01/2010-ST dt. 19.01.2010 has also clarified that services like outdoor catering or rent-a-cab for pick up and dropping of employees to office would also be eligible for credit as these are essential pre-requisites to provide output service efficiently. Reliance is also placed on the decision of Mumbai High Court in the case of Ultratech Cement Limited. Further, the Board *vide* Circular No. 943/04/2011-CX dt. 29.04.2011 has clarified that credit on rent-a-cab etc. for the earlier period is allowed in case provision of that service had been completed before 1.4.2011 and it has nexus with output service as clarified *vide* the aforesaid Board's Circular.

3.	Hyderabad II	State Bank of India, IFB Branch, Somajiguda, Hyderabad	86.47	86.47	Audit has contended that the taxpayers have not followed the proper laid down procedure. However, Audit has not elaborated as to which specific procedure was violated. In any case, it is well settled that substantive benefit of CENVAT Credit cannot be denied on the ground of technical infractions. No credit on diesel was taken by SBH. The contention of the Audit is factually wrong. The contention that catering service, car hiring etc., have no nexus with the	No further comments	No comments required.
----	--------------	--	-------	-------	--	---------------------	-----------------------

output service is not acceptable. All these are business related activities. Tribunals have held that the definition of the term "input service" is very wide. The Tribunals rejecting the contention that insurance/catering is a welfare measure, have held that these are essential for providing output service. Board *vide* Circular No. 120/01/2010-ST dt. 19.01.2010 have also clarified that services like outdoor catering or rent-a-cab for pick up and dropping of employees to office would also be eligible for credit as these are essential pre-requisites to provide output service efficiently, Reliance is placed on the decision of Mumbai High Court in the case of Ultratech Cement Limited. Further, the Board *vide* Circular No. 943/04/2011-CX dt. 29.04.2011 has clarified that credit on rent-a-cab etc. for the earlier period is allowed in case provision of that service had been completed before 1.4.2011 and it has nexus with output service as clarified *vide* the aforesaid Board's Circular.

4.	Hyderabad II	Karvy Consultants Ltd. Hyderabad	12.79	12.79	The Commissionerate has reported that it was not a case of non-registration as held by Audit. The assessee was already registered with the Department for payment of Service Tax. The Audit has misinterpreted the provision contained in Section 69 and Rule 4. These provisions provide for registration of a service provider within a period of 30 days from the date on which service tax under Section 66 is levied. These provisions related to service provider, who is not registered with the Department and a new assessee consequent to levy of service tax. Old assesseees who are already registered with the	No further comments	No comments required.
----	-----------------	--	-------	-------	---	---------------------	-----------------------

1	2	3	4	5	6	7	8
					Department need not obtain/apply for fresh/new registration. The belated incorporation of these services in the registration certificate can not have any impact on the eligibility of Cenvat Credit. The assessee has duly discharged the service tax liability on the output services provided by them and has rightly taken credit of input services used in providing output services.		
5.	Hyderabad II	Karvy Stock Broking	10.20	10.20	The Commissionerate has reported that issue of write-off and subsequent non-reversal of Cenvat Credit was contested on merit. Similar issue was raised <i>vide</i> DAP No. 352/07-08, in respect of the same assessee, which has been settled <i>vide</i> C.No. RACE V/DAP Cell/LDP No. 4-19/DAP No. 352/2007-08/618 dt. 31.01.2011 of SAO/AG (C&RA), Hyderabad.	No further comments	No comments required.
6.	Hyderabad II	SKS Micro Finance Pvt. Ltd., Hyderabad	10.72	10.72	The Commissionerate has reported the Audit has contended that the Insurance coverage provided by the assessee to its employees was only in the nature of welfare measures and it does not have any nexus to assessee's service activity, and thus it falls outside the scope and ambit of input service. Audit objection is not acceptable. The Hon'ble Tribunals, rejecting the contention that insurance is a welfare measure, have held that these are essential for providing output service. Just as insurance to machinery is an input service, so is insurance coverage of the employees, as the employees constitute human assets of the organisation. However, a protective Show Cause Notice dated 15.10.2011 has been issued to the assessee.	No further comments	No comments required.

7.	Ahmedabad ST	State Bank of India (Corporate accounting Branch), Ahmedabad	10.00	10.00	The Commissionerate has reported that the objection has been raised <i>vide</i> LAR No. 165/2009-10 dated 05.10.2009, however M/s. State Bank of India has obtained registration under the category of "INPUT SERVICE DISTRIBUTOR" on 23.11.2005, <i>i.e.</i> prior to the date of objection.	No further comments	No comments required.
8.	Panchkula	SBI SCB Karnal in Panchkula Commissionerate	469.74	469.74	The audit has contended that the Bank is providing both taxable and exempted services during 2008-09 and has taken cenvat credit on common input services such as telephone, courier etc. but has not reversed 8% on value of exempted services. The objection is not admitted and reply was sent on 22.02.2010. The Department replied that the Bank exercised the option under Clause (ii) of Sub-Rule 3 of Rule 6 of Cenvat Credit Rules, 2004. After exercising the said option, the only obligation on the Bank was to pay an amount equal to the formula prescribed under Sub-Rule 3A of Rule 6 of Cenvat Credit Rules, 2004 and interest at the prescribed rate has to be paid in case of delayed payment, which was paid/debited by the Bank in Oct., 2009/Jan., 2010. However, protective demand Show Clause Notice covering the period April, 2008 to September, 2010 for ₹ 11,66,35,787/-is being issued.	As the assessee exercised the option already, the reply may be accepted.	No comments required.
9.	Trivandrum	State Bank of Travancore, Trivandrum	68.10	68.10	Audit objection is that M/s State Bank of Travancore (SBT), Trivandrum obtained centralized registration for payment of Service Tax with effect from 01.07.2008 and opted to pay Cenvat Credit proportionate to exempted services (91% worked out by the assessee). the amount of Cenvat Credit reversed by the assessee was Rs. 204.24 lakhs for the period July, 2008	The assessee reversed higher amount than the required due to erroneous understanding regarding exempted	No comments required.

1	2	3	4	5	6	7	8
---	---	---	---	---	---	---	---

to March, 2009 (at an average of ₹ 22.69 lakh per month). The Bank has 736 branches and these branches have been paying service tax under separate registration upto June, 2008. The Headquarters of the bank has not intimated the branches for the payment on proportionate basis for the period from April, 2008 to June, 2008 under Rule 6(3A) of Cenvat Credit Rules, 2004. The excess credit utilized amounts to ₹ 68.1 lakhs, which has been worked out at an average of ₹ 22.7 lakhs for a month.

services. There is no revenue loss. The reply may be accepted.

On verification of the records, it is seen that the total value of exempted service rendered by State Bank of Travancore during the year 2008-09 was ₹ 9.40 crores. They have opted to pay an amount equal to the cenvat credit attributable to inputs and input services used in or in relation to the provision of exempted service as per Rule 6(3) (ii) of the Cenvat Credit Rules, 2004. Accordingly as per provisions of Rule 6(3A) of the Cenvat Credit Rules, 2004 they reversed an amount of ₹ 1.89 Crores during 2008-09 as cenvat credit attributable to inputs and input services used in or in relation to the provision of exempted service which is much higher than the amount of ₹ 0.75 Crores [i.e. 8% of ₹ 9.40 crores] required to be reversed by them; if they had opted for Rule 6(3)(i) of the Cenvat Credit Rules, 2004.

Thus the amount of cenvat credit reversed by State Bank of Travancore during the year is

substantially more than what was warranted by the provisions of either Rule 6 (3)(i) or 6(3)(ii) of the Cenvat Credit Rules, 2004 and hence there is no excess availment or utilisation of cenvat credit by State Bank of Travancore during 2008-09.

The higher amount came to be reversed by State Bank of Travancore on the basis of an erroneous understanding regarding the exempted services.

10.	Bangalore LTU	Canara Bank	195.43	195.43
-----	------------------	-------------	--------	--------

The Audit has observed that M/s Canara Bank had availed Cenvat credit on service tax paid on services such as Life Insurance Service, Forward contract service, Internet cafe service, Authorised service station service, Stock broker service, TV and Radio programming service, Construction of residential complex service, Real Estate Agents service, cable operator service, programme producer service, etc. during the years 2006-07 to 2008-09. Audit has pointed out that these services have no relation to their output services viz. Banking and other Financial service and hence the credit availed is irregular.

The reply may be No comments required.  
accepted.

An explanation as to how each of the services are inputs to them is explained below :

1. Forward contract service: The assessee have stated that payments made by them to M/s Future & Options have been wrongly classified by them while availing credit as Forward contract service whereas the correct classification was 'manpower recruitment service' which is an essential input service relating to their business activity.
-



- c. Processing and printing of Acknowledgement cards for transfer of documents received through Post/ Courier/Bank.
- d. Maintenance of specimen signatures.
- e. Arranging and keeping all mail return cases such as Certificates, Dividend Warrants, etc.
- f. Safe custody and reconciliation of entire stationery including blank valuable presigned negotiable instruments like share certificates, dividend warrants, etc.
- g. Accepting letters, documents and issuing acknowledgements thereof.
- h. Attending to day-to-day service request, corresponding and replying to queries/ complaints.
- i. Reconciliation of share capital as and when required.
- j. Generation of statistical reports.
- k. Attending to Statutory auditors, Internal Auditors and SEBI Auditors.
- l. Provide technical support to the Bank in conducting General body meetings.
- m. Arranging the dispatch of Dividend Warrants, Annual reports and other communication to the shareholders, etc.

The assessee have stated that the correct classification of the input service is 'share transfer agent' service, which is quoted by the service provider on their bills.

Since the above services get covered under the definition of 'input services' under

---

1	2	3	4	5	6	7	8
					<p>Rule 2(1) of Cenvat Credit Rules, 2004 and are related to the business activities of the assessee, credit availed on the said service is admissible.</p> <p>4. Authorized service station service: This service is availed by the assessee for servicing and repairs of the cars belonging to the Head Office of the assessee assigned to various executives. Since the use of the vehicles as claimed by the assessee is in relation to the business activities of the company, the same is admissible as input service eligible for Cenvat credit.</p> <p>5. Programme producers service and T.V. or radio programme service: These services used by the assessee for advertisement of the Bank's products and services. Since the same is essential for the business activities of the assessee, the assessee is entitled to avail credit on the said services.</p> <p>All the above services are used by the assessee in relation to their business activity and the assessee is eligible to avail Cenvat credit on the above services. Hence the para is contested.</p>		
11.	Bangalore LTU	Vijaya Bank	36.19	36.19	The objection is contested on the grounds that <i>vide</i> Cenvat Credit Rules, 2004, <i>w.e.f.</i> 10.09.2004, credit of service tax paid in respect of Mobile Phones and telephones provided at residence of	No further comments.	No comments required.

bank officials is admissible, provided the same is used for providing output service. Mobile Phones and telephone facility at residence is provided only to top Management Executives, branch heads and certain other designated officers. As per Vijaya Bank (Officers') Service Regulations duly approved by the Central Government, the officer of the bank has to be available for Bank's duties at any given time of the day. Banking being a specialized industry dealing in matters having huge financial implications, hence there is a need for connectivity between top Management Executives, branch heads and other designated officials of the Bank to address any exigencies. These officers are provided with mobile phones and telephones at residences, with the basic objective of enabling them to take quick and timely decisions concerning business matters. Further as per the service regulations of the Bank, these telephones are supposed to be used only for Business purposes. Similarly the services of Real Estate agents are used by the Bank in connection with leasing or renting of real estate for the purpose of banking business. Hence, the assessee is eligible to avail Cenvat credit of service tax paid on mobile phones, telephone provided at residence to the bank officials who are being used for official purposes and also on real estate services which is related to their business.

12.	Kolkata ST	Allahabad Bank	563.25	563.25	The Audit has made observation on the ground that interest income of the Banking company comes under the head of exempted service as defined in Rule 2(e) of Cenvat Credit Rules, 2004. However, it is pertinent to mention that	No further comments.	No comments required.
-----	------------	----------------	--------	--------	--	----------------------	-----------------------

1	2	3	4	5	6	7	8
					the same is specifically excluded in terms of Rule 6(2)(iv) of Service Tax (Determination of Value) Rules, 2006. Thus, Audit's observation is not admitted. However, Department has issued a protective Show Cause Notice dated 9.02.2010 for the period 2008-09 demanding service tax of ₹ 5,15,55,892/- and proposing interest and penalty.		
13.	Kolkata ST	Bank of India, Main Branch	105.19	105.19	The Audit has made observation on the ground that interest income of the Banking company comes under the head of exempted service as defined in Rule 2(e) of Cenvat Credit Rules, 2004. Notwithstanding Audit's observation, it is pertinent to mention here that the same is also specifically excluded in terms of rule 6(2)(iv) of Service Tax (Determination of Value) Rules, 2006 which happens to fall after Cenvat Credit Rules, 2004 and it has been settled matter of law that issue dealt specifically at later date has better acceptability. Thus, Audit's observation is not admitted. However, Department has issued a protective Show Cause Notice dated 5.01.2010 demanding service tax of ₹ 1,05,19,292/- and interest at an appropriate rate and also proposing penalty for the period 2008-09.	No further comments.	No comments required.
14.	Kolkata ST	BoI	26.95	26.95	The objection has been admitted and a combined Show Cause cum Demand Notice dated 5.1.2010, demanding total service tax amount of ₹ 6,47,66,017/-, interest at appropriate rate and proposing to impose penalty. The said Show Cause Notice included a demand of	Admitted by the Ministry. No further comments.	No comments required.

₹ 26,94,914/- for period from June, 2005 to October, 2007, interest at the appropriate rate and proposal of imposition of penalty. The Show Cause Notice had been adjudicated by the Commissioner of Service Tax, Kolkata *vide* O-I-O dated 28.6.2011 confirming the demand for recovery of service tax of ₹ 26,94,914 interest at appropriate rate and penalty of ₹ 26,94,914.

15.	Indore	State Bank of India, Commercial Branch, GPO, Indore	82.51	82.51	<p>The reasons for not accepting the objection is that it is purely a procedural lapse due to which substantive right of the assessee cannot be denied. The basic ingredient of availment of Cenvat credit, the payment of service tax on input services, utilization of input service towards providing the output service is not challenged by the AGMP. Hence, no credit can be denied on this technical lapse otherwise the basic intention of the legislature <i>i.e.</i> availment of Cenvat credit to avoid the cascading effect will be defeated. The Tribunal Ahmedabad in the case of Commissioner of Central Excise, Vapi <i>vs.</i> Jindal Photo Ltd. 2009(14) S.T.R. 812 (Tri. Ahmd.) held that registration not taken by Head office as Input Service Distributor—Credit availed on invoices not containing the registration number of ISD—Impugned order allowing credit on the ground that receipt of services not in dispute—Credit admissible.</p> <p>In the present issue also it is the objection of the audit that the Local Head Office of the SBI has not taken registration for Input Distribution Service. However, the Audit itself in the SOF No. 51/09-10 has discussed that the LHO Bhopal are</p>	<p>Ministry accepted the procedural lapse. No further comments.</p>	No comments required.
-----	--------	---	-------	-------	---	---	-----------------------

1	2	3	4	5	6	7	8
					registered with the department having STCAAACS8577KSTU4 w.e.f. 08.04.2005 for providing services under banking only. Thus, it is not a case that the LHO was not at all registered with the department but the registration was not separately taken for Input Service Distribution. However protective SCN dated 14.09.2010 has already been issued.		
16.	Nagpur	Akola Janta Commercial Co-opp. Bank Ltd., Akola	461.38	461.38	<p>The Audit has considered interest earned as exempted service. Interest earned on loans etc. is excluded from the definition of Banking &amp; Financial Services which, <i>inter-alia</i>, means that interest earned is not a service at all, there it cannot be considered as exempted service.</p> <p>Secondly, the assessee had filed intimation required under Sub-rule 3(A) of Rule 6 of Cenvat Credit Rules, 2004, for opting for clause (ii) of sub-rule 3 of Rule 6 of the said Rules, with the Range Superintendent on 23.10.2008. Therefore, 8% of exempted service cannot be charged. The Audit has not taken into account the intimation referred to above. In view of the above the Audit objection is not accepted.</p>	No further comments.	No comments required.
17.	Mumbai ST	Global Trade Finance	57.07	57.07	The Department has not accepted the objection. The service of factoring is a single composite service under which two types of charges viz. factoring charges and discount charges are collected. The discount charges are in the nature of interest which is levied on account of pre-payment made to the customer and are only a	No further comments.	No comments required.

part of the value of the factoring service which is taxable service. Thus, the receipt of discount charges cannot be treated as a receipt towards exempted under Notification No. 29/2004. The said exemption has the effect of only providing exemption to discount charges and not to the entire factoring service. Thus, the service of factoring are not exempted services. Therefore, the discount charges are not required to be treated as value towards exempted service. The turnover ratio under Rule 6(3) is required to be calculated on the basis of the value of exempted services and value of taxable services. However, SCN dated 29.04.2010 has been issued to the assessee for the said period.

18.	Mumbai ST	Bank of India	312.47	312.47	The Department has not accepted the objection as the interest on cash credit, overdraft and export packaging credit are not value of exempted service. The Notification 29/2004 provides exemption only to part value of the service. In fact, taxable service is lending and part of such services like processing charges etc. are taxable. Rule 6(3) is applicable only where exempted service is provided. The definition of exempted service means a service which is fully exempted as such and not where part value of service is exempted. Hence, provisions of Rule 6(3) are not applicable for interest on cash credit, overdraft and export packaging credit. However, a SCN dated 29.04.2010 is issued to the assessee for the said period.	Interest on loan is excludible as per valuation rules. The reply may be accepted.	No comments required.
-----	--------------	------------------	--------	--------	---	---	-----------------------

1	2	3	4	5	6	7	8
19.	Mumbai ST	ABN Amro Bank N.V.	23.71	23.71	The Audit objection is partially accepted. The assessee is providing exempted and taxable services. As they are not maintaining separate Books of Accounts, they are liable to reverse amount of credit as per Rule 6(3) of Cenvat Credit Rules, 2004. Under this Rule, there are two options. Under option 6(3)(ii), the assessee can reverse proportionate credit and he has to intimate the Superintendent of his option. Whereas, the Audit has opined that the assessee cannot get benefit of this option as they have not intimated the Superintendent, and accordingly, Audit calculated the reversal liability as per Rule 6(3)(i) of the said Rules. However, the intimation under the Rule 6(3)(ii) of Cenvat Credit Rules, 2004 is only of procedural nature and there are number of judgements on this issue and hence one can extend the benefit of such option.	Ministry accepted procedural lapse. However, no credit can be denied on this technical lapse. No further comments please. However, in order to have consistency in treatment by adjudicating authorities across the country and observations raised in audit by internal audit and by CERA parties, the department may consider issuing a clarification on types of technical or procedural lapses which would not impact the availing of Cenvat credit.	It is reported that it is not possible to prepare an exhaustive lists of what constitutes technical or procedural lapses. There are many matters in which the Department has held that the lapse is not technical, only for the Courts to hold later that the lapse is indeed a technical one. The law on the subject is constantly evolving.
20.	Jaipur II	State Bank of India, Commercial Branch, Jaipur	201.73	201.73	The Commissionerate has reported that State Bank of India, Commercial Branch, Jaipur falls under the jurisdiction of Jaipur-I Commissionerate.  Accordingly, the Jaipur-I Commissionerate has reported that as per amendment in Rule 6(3) of	No further comments please.	No comments required.

Cenvat Credit Rules, 2008 *w.e.f.* 1.4.2008 which is as under: Notwithstanding and thing contained in sub-rules (1) and (2), the provider of output service, opting not of maintain separate accounts shall follow either of the following options as applicable to him namely:

- (i) the provider of output service shall pay an amount equal to the eight per cent of value of exempted service; or
- (ii) the provider of output services shall pay an amount equivalent to the Cenvat Credit attributable to inputs and input services used in, or in relation to, the provisions of exempted services subject to the conditions and procedure specified in sub rule 3(A).

The assessee availed and utilised service tax credit both for taxable and exempted services but did not pay an amount equal to 8% of the value exempted services provided or not maintaining separate accounts of input services. Failure to do so resulted in non-payment of ₹ 201.73 lakh against value of exempted services provided during the period 2008-09.

The matter has been examined and it is observed that the assessee has opted for a second method for non-maintaining of separate documents and as per Rule 6(3A) the provider or output service shall follow the provisions laid down in rule and while exercising the option, the provider of output service shall intimate that:

- (i) name, address and registration no. of the manufacturer of goods or provider of output service
-

1	2	3	4	5	6	7	8
---	---	---	---	---	---	---	---

- (ii) date from which the option under this clause is exercised or proposed to be exercised
- (iii) description etc. ....
- (iv) .....
- (v) .....

As per the clarification method mentioned in Rule 6(3)(b) total Cenvat Credit available with the assessee for the year 2008-09 was ₹ 38,742 whereas the assessee has utilised the Cenvat Credit on input services only of ₹ 8111/- in Feb., 2009 & March, 2009 instead of ₹ 9542 as per provisions mentioned in Rule 6(3)(b). Hence, the Audit objection is not accepted in respect of non-payment of 8% availment of input credit of exempted services.

The issue in the instant case pertains to reversal of Cenvat Credit under Rule 6(3) for providing exempted service. However, as a protective measure a Show Cause Notice in the matter is being issued to safeguard of Service Tax liability.

The Commissionerate has reported that the Audit objection is not admitted on the following grounds:

The assessee is registered for providing Banking and other Financial Services. Rule 6(3) of the Cenvat Credit Rules provides that where a provider of output service avails of Cenvat credit in respect of any inputs or input services and

provides output services which are chargeable to tax as well as exempt, and opting not to maintain separate accounts shall follow either of the following options, viz., (i) the provider of output service shall pay an amount equal to eight per cent of the value of the exempted services or (ii) shall pay an amount equivalent to the Cenvat credit attributable to inputs and input services used in, or in relation to, the manufacturer of exempted goods or for provision of exempted services subject to the condition and procedure specified in Sub-Rule 3A.

21.	Trichy	City Union Bank	1850.48	1850.48
-----	--------	--------------------	---------	---------

As per Rule 2(e) of the Cenvat Credit Rules, 2004, 'exempted services' means taxable services which are exempt from the whole of service tax leviable thereon and includes services on which no service tax is leviable under Section 66 of the Finance Act, 1994. Notification No. 29/2004 ST dated 22.9.2004 exempts so much of the value of taxable service as is equivalent to the amount of interest on such overdraft facility, cash facility or discounting of bills of exchange or cheques. This exemption is only for the specified portion of the taxable value for a particular service which is also specified in sub-clause (zm) of clause (105) of Section 65 of the Finance Act, 1994 and hence the same cannot be treated as a separate exempted service.

As long as the facilities viz., overdraft, cash credit and discounting of bills are accepted to the taxable ingredients with respect to 'Banking and other Financial Services', the clarification given in Board's letter F.No. 137/2003/2007-CX4



					From 1.4.2011 onwards, the assessee has availed only 50% of the Cenvat credit on input/input services as per the Sub-Rule 3B of Rule 6 [Rule 6(3B)] of the Cenvat Credit Rules, 2004 and hence no Show Cause Notice has been issued.		
22.	Trichy	Lakshmi Vilas Bank	163.76	163.76	Same as for Paras 1 to 3 of Sl. No. 21. Further, as per Board's instructions contained in Circular No. 698/14/03 dated 3.3.2003, 2 protective demand cum Show Cause Notices dated 24.10.2011 and 9.4.2012 for the amounts of ₹ 6,54,28,570/- for the period April, 2007 to Feb., 2011 and Rs. 62,80,384/- for the period March 2011 respectively have been issued to the assessee.	No further comments.	No comments required.
					From 1.4.2011 onwards, the assessee has availed only 50% of the CENVAT credit on input/input services as per the Sub-Rule 3B of Rule 6 [Rule 6(3B)] of the Cenvat Credit Rules, 2004 and hence no Show Cause Notice has been issued.		
23.	Triunelveli	Tamilnadu Mercantile Bank	111.63	111.63	The Commissionerate has reported that Rule 6(2) of the Service Tax (Determination of Value) Rules, 2006, clearly states that interest on loans do not form part of any value of taxable services. The purpose for which interest on loans was excluded from the valuation Rules is to recognise the principle that the interest is compensatory in nature and not any value addition in the nature of services. Accordingly, interest should never be component of valuation; the value for service tax is only after excluding the interest portion. Hence the Bank as availed input credit only in accordance with the provisions of service tax	No further comments.	No comments required.

1	2	3	4	5	6	7	8
					rules concerned and the bank has not availed any excess input credit. However, as per the Board's instructions, to safeguard Government revenue, protective Show Cause Notice has been issued to M/s Tamilnadu Mercantile Bank Ltd., Tuticorin demanding an amount of ₹ 3,03,26,451 for the financial years 2008-09, 2009-10 and 2010-11.		
24.	Bangalore LTU	ICICI Venture Fund Management Co. Ltd.	12.76	12.76	<p>The Commissionerate has contested the objection on the following grounds:—</p> <p>On verification of the Cenvat ledgers for the above months, it is noticed that the assessee has wrongly calculated the service tax liability while filing the Original ST-3 returns. As per the Original Returns, the Gross Value for the period Oct., 2007 to Mar., 2008 is ₹ 111,35,02,610 on which Service Tax liability @12.36% works out to ₹ 13,76,28,923 whereas they have shown the tax liability as ₹ 13,95,63,021 which is in excess of ₹ 19,34,098 and again while showing the actual payment by cash and Cenvat credit utilization (₹ 12,98,29,118 in cash + ₹ 1,11,73,269 in Cenvat=Total ₹ 14,10,02,387) there is a difference of ₹ 14,39,366 which is in excess of the liability shown in the returns. At the same when the difference is worked out between the actual liability and what is paid under Cash &amp; Cenvat the difference is ₹ 33,73,464 on the higher side. That is, as per the original returns, they have totally shown as excess payment of</p>	<p>Figures given in the original returns had clerical/technical error. Ministry confirmed there was no short payment. No further comments please.</p>	No comments required.

₹ 33,73,464 as against the actual tax liability. Now in the revised returns filed during the month of Dec., 08, the total gross value has been increased to ₹ 111,79,02,106 from the earlier ₹ 111,35,02,610 which is an increase of ₹ 43,99,496. Again here also the correct service tax liability is ₹ 13,81,72,700 but it has been shown as ₹ 13,82,67,560 thus representing an increase of ₹ 94,860. The total payments made is (₹ 12,98,27,118/- in cash & ₹ 84,36,255 in Cenvat) ₹ 13,82,63,373 thereby the total tax payment has come down by ₹ 27,39,014. But since the revised return was submitted during the month of Dec., 08, when already the returns for the next half was filed, they were forced to maintain the closing balance as was shown in the Original Return filed for Oct'07-Mar'08. Hence in order to maintain the closing balance the assessee has shown higher figures as utilized just to maintain the closing balance/opening balance as was earlier disclosed to the department *vide* their Original returns for the period Oct., 2007-Mar., 08 and Apr., 08 to Sept., 08 respectively. Thus, in view of the above, the payments made are in excess rather than being short as pointed out by the Audit. Since there is an excess payment and also the figures reflected in the Original returns were due to clerical/technical errors, the Para is contested by the Department.

---

Total	4913.74	4913.74
-------	---------	---------

---

## OBSERVATION/RECOMMENDATION NO. 5 OF THE 79TH REPORT OF THE PAC

**Present position of performance of Service Tax Cells and assesseees brought to tax net as a result thereof**

Sl. No.	Chief Commissionerate Zone	Commissionerate	No. of Special Cells created so far	Total No. of assesseees brought to tax net as a result thereof	Out of (iv), No. of assesseees falling under the BFNs category
1	2	3	4	5	6
1.	AHMEDABAD	Ahmedabad-I			
		Ahmedabad-II			
		Ahmedabad-III	0	0	0
		Bhavnagar	0	0	0
		Rajkot	1	452	0
		Ahmedabad ST	1	408	4
		Total	2	860	4
2.	BANGALORE	Bangalore-I			
		Bangalore-II			
		Bangalore-III			
		Bangalore-ST	5	25	0
		Total	5	25	0
3.	BHOPAL	Bhopal	0	0	0
		Indore	1	6	2
		Raipur	1	0	0
		Total	2	6	2
4.	BHUBANESHWAR	Bhubaneswar-I	1	5	0
		Bhubaneswar-II	1	75	0
		Total	2	80	0

1	2	3	4	5	6
5.	KOLKATA	Kolkata-I Kolkata-II Kolkata-III Kolkata-IV Kolkata-V Kolkata-VI Kolkata-VII Bolpur Haldia Siliguri Kolkata ST Total	1 1 1 5 8	0 32 0 118 150	0 0 0 1 1
6.	CHANDIGARH	Chandigarh-I Chandigarh-II Ludhiana J & K Total	0 4 2 6	0 0 176 176	0 0 46 46
7.	CHENNAI	Chennai-I Chennai-II Chennai-III Chennai-IV Pondicherry Chennai-ST Total	0 11 12	0 23 3 26	0 3 3
8.	COCHIN	Calicut Cochin Thiruvananthpuram Total	3 1 1 5	33 1 10 44	33 1 10 44

1	2	3	4	5	6
9.	COIMBATORE	Coimbatore	1	39	1
		Madurai	1	21	12
		Salem	3	35	0
		Thirunelveh	3	54	0
		Tiruchirapalli	3	219	11
		Total	11	368	24
10.	HYDERABAD	Hyderabad-I	1	33	0
		Hyderabad-II	5	50	38
		Hyderabad-III	0	13	13
		Hyderabad-IV	2	0	0
		Total	8	96	51
11.	JAIPUR	Jaipur-I	1	0	0
		Jaipur-II	1	352	0
		Total	2	352	0
12.	LUCKNOW	Lucknow	5	33	4
		Allahabad	1	1374	4
		Kanpur	5	41	7
		Total	11	1448	15
13.	MEERUT	Ghaziabad	0	0	0
		Meerut-I	0	0	0
		Meerut-II	5	3	2
		Noida	1	217	217
		Total	6	220	219
14.	MYSORE	Belgaum	0	0	0
		Mangalore	2	37	3
		Mysore	1	41	1
		Total	3	78	4

1	2	3	4	5	6
15.	MUMBAI-ZONE-I	Mumbai-I Mumbai-IV Mumbai-V Thane-I Thane-II Mumbai ST-1 Mumbai ST-2 Total	3 1 4	214 9 223	0 9 9
16.	MUMBAI-ZONE-II	Belapur Mumbai-II Mumbai-III Raigarh Total	1 1	0 0	0 0
17.	NAGPUR	Aurangabad Nagpur Nasik Total	3 1 1 5	33 33 36 102	0 0 0 0
18.	NEW DELHI	Delhi-I Delhi-II Gurgaon (Delhi-III) Faridabad (Delhi-IV) Panchkula Rohtak (Delhi-V) Delhi-ST Total	7 1 1 9	167 0 47610 47777	0 0 1004 1004
19.	RANCHI	Jamshedpur Ranchi Patna	1 1 4	22 151 11	0 0 11
		Total	6	184	11

1	2	3	4	5	6
20.	PUNE	Goa	1	0	0
		Pune-I	1	5	5
		Pune-II (Kolhapur)	1	4	0
		Pune-III	0	0	0
		Total	3	9	5
21.	SHILLONG	Dibrugarh	4	15	0
		Guwahati	0	0	0
		Shillong	1	212	5
		Total	5	227	5
22.	VADODARA	Daman	1	0	0
		Surat-I	0	0	0
		Surat-II	4	70	1
		Vadodara-I	0	0	0
		Vadodara-II	0	0	0
		Valsad (Vapi)	1	0	0
		Total	6	70	1
23.	VISHAKHAPATNAM	Guntur	2	310	310
		Visakhapatnam-I	2	131	9
		Visakhapatnam-II	5	17	17
		Tirupati	4	31	24
		Total	13	489	360
	Total		No. of Special Cells created so far	Total No. of assesseees brought to tax net as a result thereof	Out of (iv), No. of assesseees falling under the BFNs category
		135	53010	1808	

## RECOMMENDATION NO. 08

**Proforma**  
**Year—2011-12**

(Amt. in lakhs)

2011-12	Zone	Voluntary Payment		Notice issued for late filing of ST-3 Returns under Section 70 of the Finance Act, 1994 read with rule 7C of the Service Tax Rules, 1994			
		No. of cases	Amount	Recovery		No. of cases	Amount
	Ahmedabad	0	0	0	0	0	0
	Bangalore	0	0	5	0.06	5	0.06
	Bhopal	0	0	0	0	0	0
	Bhubhaneshwar	0	0	1	0.005	1	0.005
	Chandigarh	0	0	13	0.44	0	0
	Chennai	0	0	0	0	0	0
	Cochin	18	0.227	13	3.51	2	0.02
	Coimbatore	1	0.010	0	0	0	0
	Delhi	0	0	1	0.075	0	0
	Hyderabad	0	0	4	0.80	0	0
	Jaipur	50	2.15	100	4.06	25	1.88
	Kolkata	33	4.35	18	3.49	7	0.80
	Lucknow	10	5.050	05	0.350	05	0.350
	Mysore	14	3.15	7	1.27	2	0.4
	Meerut	11	0.22	11	1.705	2	0.155
	Mumbai-I	1	0.02	0	0	0	0
	Mumbai-II	0	0	0	0	0	0
	Nagpur	0	0	0	0	0	0
	Pune	0	0	0	0	0	0
	Ranchi	21	3.2	121	6.21	36	4.64
	Shillong	149	81.03	21	1.24	16	1.13
	Vadodara	22	0.52	42	3.52	12	0.39
	Vishakhapatnam	1	0.15	32	7.36	11	1.79
	Mumbai LTU	0	0	0	0	0	0
	Bangalore LTU	0	0	0	0	0	0
	Delhi LTU	0	0	0	0	0	0
	Chennai LTU	0	0	0	0	0	0
	<b>Total</b>	<b>431</b>	<b>100.077</b>	<b>394</b>	<b>34.095</b>	<b>124</b>	<b>11.62</b>

## Year—2012-13

(Amt. in lakhs)

2012-13	Zone	Voluntary Payment		Notice issued for late filing of ST-3 Returns under Section 70 of the Finance Act, 1994 read with rule 7C of the Service Tax Rules, 1994			
		No. of cases	Amount	No. of cases	Amount	Recovery	
						No. of cases	Amount
	Ahmedabad	0	0	8	0	4	0.04
	Bangalore	0	0	10	0.1	10	0.1
	Bhopal	0	0	0	0	0	0
	Bhubhaneshwar	0	0	34	1.19	4	0.71
	Chandigarh	1	0.15	1	0.06	0	0
	Chennai	0	0	0	0	0	0
	Cochin	16	0.548	3	0.104	2	0.094
	Coimbatore	1	0.005	0	0	0	0
	Delhi	0	0	0	0	0	0
	Hyderabad	0	0	6	0.924	2	0.124
	Jaipur	38	1.46	58	1.88	3	0.12
	Kolkata	79	3.26	59	4.63	31	1.83
	Lucknow	16	4.385	04	0.755	04	0.755
	Mysore	21	9.455	0	0	0	0
	Meerut	2	0.015	39	0.40	0	0
	Mumbai-I	6	0.52	4	0	0	0
	Mumbai-II	0	0	0	0	0	0
	Nagpur	24	3	40	2.06	40	1.03
	Pune	0	0	141	0	1	0.08
	Ranchi	10	3.8	177	6.145	23	2.625
	Shillong	148	357.22	17	1.01	7	0.45
	Vadodara	57	1.61	27	1.17	2	0.02
	Vishakhapatnam	0	0	101	6.31	34	1.612
	Mumbai LTU	0	0	0	0	0	0
	Bangalore LTU	0	0	0	0	0	0
	Delhi LTU	0	0	0	0	0	0
	Chennai LTU	0	0	0	0	0	0
	<b>Total</b>	<b>419</b>	<b>385.428</b>	<b>729</b>	<b>26.678</b>	<b>167</b>	<b>9.59</b>

## Year—2013-14 (upto Aug. 2013)

(Amt. in lakhs)

2013-14 Zone (upto Aug. 13)	Voluntary Payment		Notice issued for late filing of ST-3 Returns under Section 70 of the Finance Act, 1994 read with rule 7C of the Service Tax Rules, 1994			
	No. of cases	Amount	Recovery		No. of cases	Amount
Ahmedabad	0	0	0	0	0	0
Bangalore	0	0	3	0.2	3	0.2
Bhopal	0	0	0	0	0	0
Bhubhaneshwar	0	0	0	0	0	0
Chandigarh	0	0	97	0.11	3	0.11
Chennai	0	0	0	0	0	0
Cochin	16	1.28	4	0.314	1	0.068
Coimbatore	0	0	0	0	0	0
Delhi	0	0	0	0	0	0
Hyderabad	0	0	0	0	0	0
Jaipur	1	0.01	0	0	0	0
Kolkata	12	2.33	7	1.93	7	0.18
Lucknow	04	0	0	0	0	0
Mysore	2	0.02	1	0	0	0
Meerut	0	0	45	0	0	0
Mumbai-I	0	0	0	0	0	0
Mumbai-II	0	0	0	0	0	0
Nagpur	9	3.27	0	0	0	0
Pune	0	0	0	0	0	0
Ranchi	14	1.15	62	4.13	16	0.28
Shillong	88	109.22	6	0.36	2	0.203
Vadodara	22	0.99	13	1.09	13	1.09
Vishakhapatnam	0	0	12	2.4	1	0.04
Mumbai LTU	0	0	0	0	0	0
Bangalore LTU	0	0	0	0	0	0
Delhi LTU	0	0	0	0	0	0
Chennai LTU	0	0	0	0	0	0
<b>Total</b>	<b>168</b>	<b>118.27</b>	<b>250</b>	<b>10.534</b>	<b>46</b>	<b>2.171</b>

### **CHAPTER III**

OBSERVATIONS/RECOMMENDATIONS WHICH THE COMMITTEE DO NOT  
DESIRE TO PURSUE IN VIEW OF THE REPLIES RECEIVED FROM THE  
GOVERNMENT

—Nil—

## CHAPTER IV

### OBSERVATIONS/RECOMMENDATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

#### **Observation/Recommendation**

Audit scrutiny of returns revealed that during 2008-09 (i) in 67 Commissionerates 12.38 per cent returns received were pending preliminary verification/scrutiny; (ii) in 22 Commissionerates, there were 99 cases in which Department failed to detect irregularities like payment of Service Tax at lower rate, non-levy of interest and penalty, short payment of interest, etc. leading to short levy of Service Tax totaling ₹ 7.02 crore and interest of ₹ 1.56 crore; (iii) there was no system in place to co-relate the taxable income as shown in the Income Tax return with the ST-3 return; and (iv) 116 assesseees had shown lower figures in ST returns which had Service Tax implication of ₹ 21.91 crore and interest of ₹ 2.94 crore during the period from September 2004 to March 2009. Accepting the Audit observation, the Department issued Show Cause Notices for ₹ 9.43 crore in July 2010. On the issue of 12.38% of returns that were received and were pending preliminary verification/scrutiny, the Committee have been apprised that norms for scrutiny of returns have since been fixed and Service Tax Return Scrutiny Manual has been prepared, guidelines have been issued for checking/verifying the ST-3 returns. Further, electronic filing of Service Tax returns made mandatory *w.e.f.* 01.10.2011, the system of Automation in Central Excise and Service Tax (ACES) has been introduced throughout the country and instructions have also been issued by CBEC on 21.02.2012 that the function of detailed scrutiny by implemented in all the ranges. The Department, however, could not furnish reasons for their failure to have timely verification/scrutiny of returns. The Committee would like to be apprised of the revenue due and realized as a result of the various corrective measures initiated by the Ministry and recommend a comprehensive review for identification of bottlenecks, if any, in the present system of scrutiny of returns, and overcome the same through appropriate policy intervention.

[Observation/Recommendation No.10 of 79th Report of the Public Accounts  
Committee (15th Lok Sabha)]

#### **Action Taken**

At present, preliminary scrutiny is done by the system while detailed scrutiny is undertaken by the Range officers. Further, based on certain well-defined parameters, the system throws up some returns for Review and Correction (R&C) by the Range officers. As per the Scrutiny Manual for ST-3 Returns, the mechanism of scrutiny involves two stages namely Preliminary and Detailed Scrutiny. The preliminary scrutiny has been designed to check completeness of the information provided, timeliness arithmetic accuracy etc. The detailed scrutiny will ensure correctness of classification, exemption availed, valuation, availment of Cenvat Credit etc.

Efforts are being made to ensure timely scrutiny. The bottlenecks relate to staff shortage, as well as certain technical problems including internet connectivity. The department has already appointed a Committee to solve these technical problems. As regards, manpower, the expansion of services under the service tax ambit was not commensurate with staff strength available. The issue is being addressed through cadre re-structuring proposal.

It is also mentioned that the present system of preliminary scrutiny have been examined by a Committee set up by CBEC and the Committee has submitted their report for major changes in the system to avoid large number of returns for R&C. Once the recommendations of the Committee are accepted and implemented, it is expected that this may result in minimization of returns thrown for R&C. After the said changes, it is expected that officers may get time to carry out detailed scrutiny.

The data regarding the amount of revenue detected and amount recovered as a result of scrutiny of returns in as under:

(Amt. in Rs. lakh)

Revenue detected as result of Scrutiny of ST-3 Returns filed under BFNs			Amount recovered as a result thereof		
2010-11	2011-12	2012-13	2010-11	2011-12	2012-13
13128.90	17167.75	53591.39	4918.36	9977.17	15539.58

The major policy decision would be to augment the staff strength on priority. There may not be other effective/corrective policy measures to overcome such huge pendency of ST-3 returns as well as other areas of service tax functioning.

#### **Audit's vetting comments on Ministry's ATN**

ATN is silent on the aspect of any proposed comprehensive review by the Ministry on the basis of the PAC's recommendation for identification of bottlenecks in the present system of scrutiny of returns. However, it identified staff shortage and technical problems as bottlenecks.

PAC has made a recommendation *vide* Para No. 18 that 'the staff requirement be examined on priority basis'. Hence, no comments in respect of staff shortage.

Outcome of the examination by a Committee on the present system of preliminary scrutiny is awaited. Meanwhile the report can be provided to audit also.

Corrective measures initiated to ensure timely verification/scrutiny of returns is not stated.

#### **Ministry's further Action Taken on the vetting comments of Audit**

It is reported that owing to the movement from a positive list of services to a negative list based on system of taxation, there have been many legal changes. Hence, all the earlier processes with respect to scrutiny may not have the same relevance. Hence, the whole process of scrutiny is being reviewed. One Committee has been set up to revise the risk parameters in ACES for service tax. These revised parameters are

expected to form the basis of preliminary scrutiny by the system. Once preliminary scrutiny is done and “risky returns” are thrown up, detailed scrutiny will have to be done by the Officers. The Scrutiny Manual of 2008 also requires to be revised in the light of various legal changes. Another Committee has been set up to revise the Scrutiny Manual. Once both Committees finish their assigned task, the revised scrutiny process can be implemented.

Sd/—

Special Secretary to the Govt. of India

[Ministry of Finance, Deptt. of Revenue O.M.No. 238/03/2013-CX. 7 dt. 05.03.2014]

#### **Observation/Recommendation**

The Committee are distressed to note that no system exists in the Department to correlate the taxable income as shown in the Income Tax Return with the ST-3 returns to identify cases for further scrutiny. Cross verification of a few ST returns with Income-tax returns had revealed Service Tax implication of ₹ 21.91 crore and interest of ₹ 2.94 crore during the period September 2004 to March 2009. Consequently, the Department issued SCNs for ₹ 9.43 crore in July 2011. Taking note that the Ministry had initiated steps to safeguard the revenue interest, the Committee recommend a suitable but effective system be devised for correlating the data of various Departments and ensuring that the revenue due to the Government is collected without remiss.

[Observation/Recommendation No. 11 of 79th Report of the Public Accounts Committee (15th Lok Sabha)]

#### **Action Taken**

Both for audit purposes and return scrutiny, there is a mandatory requirement to examine documents such as balance sheet, profit & loss account, income tax audit report u/s 44AB of Income Tax Act, 1961. (These documents are normally submitted to the Ministry of Corporate Affairs and the Income Tax Department). The Service Tax Return Scrutiny Manual (issued in 2008) prescribes a checklist for reconciling the figures of income contained in the financial records of the assessee *viz.* balance sheet/ profit & loss account with the taxable income shown in the service tax return. Data sharing between CBEC and CBDT is being examined.

#### **Audit's vetting comments on Ministry's ATN**

- (a) The Committee's recommendation was based on the recognition of the urgent need to correlate data in the Income Tax returns with those in ST-3 returns as this would enable identification of cases for further scrutiny. The Ministry's reply however focuses mainly on the procedures at later stages (for instance, subsequent to selection for scrutiny) *i.e.* during actual scrutiny at ranges or audit at the premises.
- (b) Data sharing between CBEC and CBDT is stated to be under examination. Outcome is awaited.

- (c) Measures initiated/envisaged concerning data sharing with other departments such as Registrar of Companies may also be provided.

Selection of returns for scrutiny at ranges without a system for examining data in IT returns etc. is indicative of risk in the selection process itself and particularly when viewed in the backdrop of the fact that detailed scrutiny as per the ST Manual for scrutiny of Returns, 2009 is envisaged only of 2 per cent of the returns.

**Ministry's further Action taken on the vetting comments of Audit**

A formal institutional arrangement for data sharing may be best operationalised through amendments in the Act. Recently CBEC has signed a MoU with the Financial Intelligence Unit (FIU), which is under the Department of Revenue, for data sharing. A proposal to amend the registration form so as to require the assessee to give details of other registrations (so as to be able to link up with the database of that organization for an online verification) is being examined.

Owing to the fact that *w.e.f* 1.7.2012, taxation of services is based on the concept of taxability of all services, barring those in the negative list/exempted services, risk parameters have to be revised. The risk parameters in ACES are under revision and accordingly changes will be made in the Scrutiny Manual.

Circular No. 296/152/2013-CX.9 dated 18th February, 2014 regarding MoU between CBEC and CBDT on sharing of data has been issued. **Annexure-C**

Special Secretary to the Govt. of India

[Ministry of Finance, Deptt. of Revenue O.M. No. 238/03/2013-CX. 7 dt. 5.03.2014]

OBSERVATION/RECOMMENDATION NO.11

F.No. 296/152/2013-CX. 9

Government of India

Ministry of Finance

Department of Revenue

Central Board of Excise & Customs

New Delhi, 18th February, 2014

OFFICE MEMORANDUM

(Committee No. 14/2014)

**Subject:** MoU between CBEC and CBDT on sharing of data—reg.

The issue of exchange of data between CBEC and CBDT has been identified to be of paramount importance for enhancing the effectiveness of tax administration. Sharing of information with CBDT would help in building an effective and compliant indirect tax regime through targeted scrutiny, audit, investigations as well as arrears recovery in Central Excise, Customs and Service Tax. With this view, CBEC intends to enter into a formal agreement by way of an MoU with CBDT for sharing of data.

2. Based on the inputs received from the policy wings and Directorates, the list of such data elements is enclosed as Annexure.

3. Now, it has been decided to constitute a Committee comprising of following members for finalizing the data elements required from CBDT:—

Sl.	S/Shri	Designation
a.	V.S Krishnan	CCE, Mumbai-I (Chairman)
b.	Alok Shukla	ADG, CEI, Chennai
c.	A.K. Singh	Commissioner, LTU, Chennai
d.	Vivek Chaturvedi	ADG, Systems, Delhi
e.	M.R.R. Reddy	Additional Commissioner (Audit), Service Tax-I, Mumbai
f.	G. Sreenivasa Rao	Additional Director, DRI, Mumbai

In addition, the Committee may co-opt any other member as required.

4. The terms of reference of the Committee are as under:—

- a. The Committee shall take into account the requirements of Customs, Central Excise and Service Tax for, *inter alia*, improving revenue collection, strengthening compliance, assessing risks, Business analytics and Tax Recovery.
- b. The Committee shall identify the data elements and also the IT documents from which such data elements are to be taken.

- c. The Committee shall review the list of data elements so identified and make their recommendations on each data element in the list.
  - d. The Committee shall also specify the purposes for which the aforesaid data elements are to be used in CBEC.
  - e. Any other recommendations that may be necessary for giving effect to the above said purposes.
5. The Committee shall submit its recommendations within one months from its constitution.

Encl.:— As above.

Sd/-  
(Akhil Kumar Khatri)  
OSD, CX. 9, CBEC  
Tel.: 9958296888  
(akhil.khatri@gmail.com)

To,

1. Chairperson, CBEC for information.
2. All the Members of CBEC for information.
3. All the Chief Commissioners/Directors General for information.
4. All the Members of the Committee for information and necessary action.
5. All the Sections/wings of CBEC for information.
6. All the Directorates for information.

Sl. No.	Name of the record from which data is required	Purpose for which required	Periodicity of Data Exchange	Relevant field from the Registration Form	Particulars	Remarks, if any. Recommended by
1	2	3	4	5	6	7
1	2	3	4	5	6	7
1.1	Registration-Form 49A	Profiling an Entity	Quarterly	Full Name	Last Name/Surname First Name Middle Name	DGSYS
1.2	Registration-Form 49A	Profiling an Entity	Quarterly	Name you would like printed on the card		DGSYS
1.3	Registration-Form 49A	Profiling an Entity	Quarterly	Have you ever been known by any other name	Yes or No	DGSYS
1.4	Registration-Form 49A	Profiling an Entity	Quarterly	If, yes, then details of other Name	Last Name/Surname First Name Middle Name	DGSYS
1.5	Registration-Form 49A	Profiling an Entity	Quarterly	Residential Address	Flat/Door/Block No. Name of Premises/Building/ Village Road/Street/Lane/Post Office Area/Locality/Taluka/Sub-Division Town/City/District State/Union Territory Pin	DGSYS
1.6	Registration-Form 49A	Profiling an Entity	Quarterly	Official Address	Flat/Door/Block No. Name of Premises/Building/ Village Road/Street/Lane/Post Office Area/Locality/Taluka/Sub- Division Town/City/District State/Union Territory Pin	DGSYS
1.7	Registration-Form 49A	Profiling an Entity	Quarterly	PAN Registration Number		DGSYS
1.8	Registration-Form 49A	Profiling an Entity	Quarterly	Telephone No./Mobile No.		DGSYS

1	2	3	4	5	6	7	8
1.9	Registration-Form 49A	Profiling an Entity	Quarterly	Email ID			DGSYS
1.10	Registration-Form 49A	Profiling an Entity	Quarterly	Date of Birth/Incorporation/ Agreement/Partnership or Trust Deed/Formation of Body of Individuals/Association of Person			DGSYS
1.11	Registration-Form 49A	Profiling an Entity	Quarterly	Registration Number (in case of firms, companies etc.)			DGSYS
2.1	Part A: Gen. from ITR4, ITR5 and ITR6	Updated personal Information of a taxpayer	Annual	Personal Information	Name PAN Assessment Year Old Name (If applicable) Flat/Door/Block No. Name of Premises/Building/ Village Road/Street/Lane/Post Office Area/Locality/Taluka/Sub-Division Town/ City/District State/Union Territory Pin Telephone Number Mobile Number Email ID Date of Incorporation Whether a Public Company or a Private Company	Applicable only for ITR6, Not Applicable for ITR4 and ITR5	DGSYS, DGST
2.2	Part A: Gen. from ITR4, ITR5 and ITR6	Understand the key persons behind an entity	Annual	Key Persons (Particulars of key officers who have held office during previous year)	Name Designation Residential Address PAN		DGSYS

2.3	PART A: Gen. from ITR4, ITR5 and ITR6	Understand the nature of key business of the entity	Nature of Company and it's Business	Code Description	If more than one business or profession, can capture upto 3 main activities/products	DGSYS, DGST
3.1	Part A: BS from ITR5		Application of funds	Current assets, loans and advances Current liabilities and provisions (i) Current Liabilities (ii) B Liability for leased assets		DGST, DGCEI
3.2	Part A: BS from ITR5		Application of funds	Current assets, loans and advances Loans and advances Loans to subsidiary companies		DGST, DGCEI
4.1	Part A: P&L from ITR4, ITR5 and ITR6	Comparing against data disclosed to CBEC	Credits to Profit & Loss Account	Sales/Gross receipts of business or profession (with breakups) Union Excise Duties received or receivable in respect of goods and services sold or supplied. Service Tax received or receivable in respect of goods and services sold or supplied VAT/Sales Tax received or receivable in respect of goods and services sold or supplied Other Income-Rent Income-Commission Closing Stock		DGSYS, DGST, DGCEI

1	2	3	4	5	6	7	8
	4.2 Part A: P&L from ITR4		Monthly	Credits to Profit & Loss Account	Other Income-Interest		DGST
	4.3 Part A: P& L from ITR6		Monthly	Credits to Profit & Loss Account	Duties, taxes and cess, received or receivable, in respect of goods and services sold or supplied		DGST
	4.4 Part A: P&L from ITR4, ITR5 and ITR6	Comparing against data disclosed to CBEC	Annual	Debits to Profit & Loss Account	Opening Stock Purchases (net of refunds and duty or tax, if any) Custom Duty paid or payable in respect of goods and services purchased Counter vailing Duty paid or payable in respect of goods and services purchased Special Additional Duty paid or payable in respect of goods and services purchased Service Tax paid or payable in respect of goods and services purchased VAT/Sales Tax paid or payable in respect of goods and services purchased Profit Before Taxes		DGSYS
	4.5 Part A: P&L from ITR4, ITR5 and ITR6	Comparing the trend against CBEC specific trend	Annual	Provisions for Tax and Appropriations	Provision for Current Tax		DGSYS
	4.6 Part A: P&L from ITR5		Monthly	Revenue from operations	A Sales/Gross receipts of business (net of returns and refunds and duty or tax, if any) Sale of services 2 Other income (i) Rent		DGST

4.7 Part A: P&L Form ITR6	Monthly	Other Income	DGST
(ii) Commission			
7 Duties and taxes, paid or payable, in respect of goods and services purchased			
22 Commission			
23 Royalty			
24 Professional/Consultancy fees/Fee for technical services			
36 Rates and taxes, paid or payable to Government or any local body (excluding taxes on income)			
3 a Rent			
3 b Commission			
5 Totals of credits to profit and loss account (1+2e+3k+4)			
12 Rents			
16 Insurance			
17 Workmen and staff welfare expenses			
18 Entertainment			
19 Hospitality			
20 Conference			
21 Sales promotion including publicity (other than advertisement)			
22 Advertisement			
23 Commission			
24 Hotel, boarding and Lodging			
25 Travelling expenses including foreign travelling			
26 Conveyance expenses			

1	2	3	4	5	6	7	8
					27 Telephone expenses		
					28 Guest House expenses		
					29 Club expenses		
					30 Festival celebration expenses		
					31 Scholarship		
					32 Gift		
					33 Donation		
					34 Rate and taxes, paid or payable to Government or any local body (excluding taxes on income)		
5.1	Part A: OI from ITR4, ITR5 and ITR6	Comparing against CBEC Data	Annual	Other Information	Credit Outstanding in respect of Union Excise Duty	DGSYS	
					Credit Outstanding in respect of Service Tax		
					Credit Outstanding in respect of VAT/Sales Tax		
5.2	Part A: OI from ITR4, ITR5 and ITR6		Monthly	Other Information	Method of accounting employed in the previous year	DGST	
5.3	Part A: OI from ITR5 and ITR6		Monthly	Other Information	Amount of Credit outstanding in the accounts in respect of Opening stock		
6.1	Part A: QD from ITR4, ITR5 and ITR6	Comparing against Central Excise and VAT data	Annual	In case of Trading concern	Purchase during the previous year sales during the previous year closing stock	DGSYS	

6.2	Part A: QD from ITR4, ITR5 and ITR6	Comparing against Central Excise and VAT data	Annual	In case of Manufacturing concern	Opening Stock Purchase during the previous year Quantity Manufactured during the Previous year Sales during the previous year Closing Stock	This is for Finished Products/By-products	DGSYS
7.1	Part B: TI from ITR4, ITR5 and ITR6	Profiling an entity	Annual	Computation of Total Income	Profits and Gains from Business or Profession Total Income		DGSYS, DGST
7.2	Part B: TI from ITR4, ITR5 and ITR6	To identify service providers who have not registered or have suppressed their activities	Monthly	Computation of Total Income	Income from house property Profit and gains from business or profession		DGST
7.3	Part B: TI from ITR5 and ITR 6			Computation of Total Income	Profits and gains from business other than speculative business and specified business		DGST
8.1	Part B: TTI from ITR4, ITR5 and ITR6	Comparing the trend against CBEC data	Annual	Computation of Tax Liability	Gross Tax Liability Net Tax Liability		DGSYS
8.2	Part B: TTI from ITR4, ITR5 and ITR6	Comparing the trend against CBEC data	Annual	Taxes Paid	Advance Tax Paid TDS TCS Self Assessment Tax Total Taxes Paid		DGSYS
9.1	Schedule BP from ITR4			Computation of income from business or profession			DGST
9.2	Schedule BA from ITR4, ITR5 and ITR6	Profiling an entity	Annual		Bank Account Number		DGSYS
9.3	Schedule OS from ITR4, ITR5 and ITR6		Annual	Income from other sources	Rental income from machinery, plants, buildings, etc.		DGSYS, DGST
9.4	Schedule OS from ITR6		Annual	Income from other sources	Income other than from owning race horse(s);—		DGST
9.5	Schedule HP from ITR4, ITR5 and ITR6		Monthly	Details of Income from House Property			DGST
10.1	Details of Outward	To trace instances where money is	Every month	Form 15CA	Part A		DGST

1	2	3	4	5	6	7	8
	Remittances from Form 15CA	remitted abroad to the service provider but the remitters have not paid service tax under reverse charge mechanism for services received by them in India.			(i) Remitter Column (ii) Remittee Column (iii) Remittance Column Part B Section A (iv) Remitter Column (v) Remittee Column Section B Remittance Column (vi) Column No. 6 DTAA Column No. 9 (vii) Column A (viii) Column D(a)		
10.2	Details of Outward Remittances from Form 15CB	To trace instances where money is remitted abroad to the service provider but the remitters have not paid service tax under reverse charge mechanism for services received by them in India.	Every month	Form 15CB	(i) Part A Full details of single column Part B (ii) sub-column No. 1 (iii) sub-column No. 2 (iv) sub-column No. 3 (v) sub-column No. 4 (vi) sub-column No. 5 (vii) sub-column No. 10 (viii) sub-column No. 12 (ix) sub-column No. 14 and (x) sub-column No. 16.		DGST
11.1	OLTAS and TDS	Comparing the trend against CBEC data	Quarterly	Assessee Details	Name of Assessee PAN of Assessee Financial Year		DGSYS
11.2	OLTAS and TDS	Comparison against Service Tax data	Quarterly	Details of Tax Deducted at Source	Assessment Year Name of Deductor TAN of Deductor PAN of Deductor Section under which Deduction Made Transaction Date Amount Paid Tax Deducted		DGST

11.3	OLTAS and TDS	Comparing the trend against CBEC data	Quarterly	Details of Tax Collected at Source	Name of Collector TAN of Collector PAN of Collector Section under which Deduction Made Transaction Date Amount Paid Tax Collected	DGST
11.4	OLTAS and TDS	Comparing the trend against CBEC data	Quarterly	Details of Tax Paid (other than TDS and TCS)	Major Head Code Minor Head Code Tax Surcharge Education Cess Others Total Tax Date of Deposit	DGSYS
11.5	OLTAS and TDS	Comparing the trend against CBEC data	Quarterly	Details of Paid Refund	Assessment Year for which Refund is Paid Mode of Payment Amount of Refund Interest Date on which Refund is Paid	DGSYS
12.1	PAN database, Database of Annual Returns, TIN database, AIR (Annual Information Return) database and Survey Reports of investigation Wing					
12.2	Data pertaining to Transfer Pricing, data pertaining to export income & availing tax concessions, PAN numbers not filling IT returns					DGCE
						DGRI

1	2	3	4	5	6	7	8
	12.3 Data in respect of International Transactions with associated enterprises and Transfer Pricing Orders in case of related party transactions					see the letter dated 30.12.2013	DG Valuation

**CHAPTER V**  
OBSERVATIONS/RECOMMENDATIONS IN RESPECT OF WHICH THE  
GOVERNMENT HAVE FURNISHED INTERIM REPLIES

-NIL-

NEW DELHI;  
24 November, 2014  
03 Agrahayana 1936 (*Saka*)

PROF. K. V. THOMAS  
*Chairperson,*  
*Public Accounts Committee.*

## APPENDIX-I

### MINUTES OF THE SEVENTH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE (2014-15) HELD ON 19TH NOVEMBER, 2014

The Committee sat on Wednesday the 19th November, 2014 from 1100 hrs. to 1400 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 Brahmputra
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 Shekhar Roy

#### SACRETARIAT

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. Smt. Suman Saxena — Dy. CAG
2. Shri P. Mukherjee — Dy. CAG
3. Shri P. Shesh Kumar — Director General
4. Shri S. Nandeolkar — Director General (Rlys.)
5. Shri A.M. Bajaj — Principal Director
6. Shri B.P. Yadav — Principal Director
7. Shri P. Tiwary — Principal Director



## Appendix II

(Vide Para 5 of Introduction)

### ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE OBSERVATIONS/RECOMMENDATIONS OF THE PUBLIC ACCOUNTS COMMITTEE CONTAINED IN THEIR SEVENTY-NINTH REPORT (FIFTEENTH LOK SABHA)

(i) Total No. of Observations/Recommendations	18
(ii) Observations/Recommendations of the Committee which have been accepted by the Government:	
	Total : 16
Para Nos. 1-9 and 12-18	Percentage — 89%
(iii) Observations/Recommendations which the Committee do not desire to pursue in view of the replies received from the Government:	
	Total : 0
-NIL-	Percentage — 0%
(iv) Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration:	
	Total : 2
Para Nos. 10 & 11	Percentage — 11%
(v) Observations/Recommendations in respect of which Government have furnished interim replies:	
	Total : 0
-NIL-	Percentage — 0%