ISSN 2278 – 7909

INDIAN JOURNAL OF PUBLIC AUDIT & ACCOUNTABILITY

SPECIAL ISSUE ON INDIRECT TAXES

INSTITUTE OF PUBLIC AUDITORS OF INDIA
NEW DELHI

Vol.- XVI No. 1 January – March 2025
Vol.- XVI No. 2 April – June 2025

INDIAN JOURNAL OF PUBLIC AUDIT & ACCOUNTABILITY

INDIAN JOURNAL OF PUBLIC AUDIT AND ACCOUNTABILITY

SPECIAL ISSUE ON INDIRECT TAXES

Vol.- XVI No. 1 January – March 2025

Vol.- XVI No. 2 April – June 2025

Institute of Public Auditors of India
223, 2nd Floor, 'C' Wing, Audit Bhawan,
I.P. Estate, New Delhi – 110002
Ph. No. 91-011-23702330, 23702290, 23702318, 23702369
E-mail: ipai.hq@ipaiindia.org ; ipai.hq@gmail.com
Website: www.ipaiindia.org

About the Institute of Public Auditors of India (IPAI)

The Institute of Public Auditors of India (IPAI) was established in 1996, with the Comptroller and Auditor General of India as its ex officio patron, primarily with the objective of spreading public awareness on accountability in governance and tapping the experience and expertise of audit and accounts professionals in assisting public authorities to improve accounting, auditing and financial management practices.

IPAI has established its credentials in the areas of inquiries, internal audit and investigative examination, regulatory inspections, monitoring and evaluation of programmes/schemes /projects, Outcome studies, internal controls and governance appraisals, management consultancy on behalf of the Union and State governments, autonomous organizations and local bodies.

IPAI has a presence across the country through its nineteen Regional Chapters located at Agartala, Ahmedabad, Allahabad & Lucknow, Bengaluru, Bhopal, Bhubaneswar, Chandigarh, Chennai, Guwahati, Hyderabad, Jaipur, Kolkata, Mumbai, Patna, Raipur, Ranchi, Shimla, Jammu, and Thiruvananthapuram. This network helps IPAI to take up coordinated assignments on regional and all-India basis with oversight from the IPAI Headquarters at New Delhi.

CONTENTS

FROM THE DESK OF EDITOR-IN-CHIEF

1. The subject of taxation is vast, enriched by the intellect and experience of policymakers, taxmen, tax dodgers, lawyers, accountants, auditors and jurists, whose collective and cumulative wisdom and perhaps vested interests have kept the tax laws and their implementation incredibly puzzling, complex and verbose, as seen by the proverbial common man. A steady pursuit of fair, reasonable, predicable, and rule-based tax system; equity, efficiency, and ease of collection from a large, well-diversified tax base and are widely recognised principles of prudent taxation. In an era of capital mobility and tax competition among governments, there is also increasing realisation that a heavy-handed approach in taxation can scar and scare investors and may even kill the goose laying the golden eggs. We expect tax collectors to act like Raja Harish Chandra, ruthlessly demanding payment of due levies, sparing none. That is possible when tax laws are unambiguous to interpret.

2. The previous issue of this Journal was focussed on direct taxes and it was natural for the editorial board to plan this next issue on indirect taxes. In practice, the incidence of all taxes is a direct hit on someone's income! One can sometimes fully or partially pass on the burden of a direct tax but may be forced to absorb full or part of the burden of an indirect tax. It all depends on the supply and demand in the market. The Stamp Duty on property transfers presents a ready case to highlight the direct-indirect tax distinction though officially bracketed with direct taxes. When a property price is quoted differently depending upon the extent of consideration paid in cash, this distinction becomes stark. A Professional Tax levied by the State government is factored by the taxed professionals in pricing their services. Kerala had imposed (2001[1]) a sales tax on petroleum products with the condition that the petroleum companies shall not pass on the burden to the consumers. It was held that such a conditional sales tax amounted to taxing the income of the companies which was beyond the legislative competence of Kerala Assembly.

3. In this monograph on indirect taxes, we have steered clear of the vexed issue of the final apportionment of indirect tax burden and attempted to highlight the trend and profile of five major categories commodity taxation which carry the 'indirect' tag in government budgets and accounts. These are: Customs Duties, Goods and Service Tax (GST), Taxes of Petroleum & Petroleum products and Taxes on alcohol and various Cesses, taxes earmarked to be used for declared purposes. We highlight contemporary issues in the indirect tax system and a brief overview of how the tax policy, law and administration has evolved over decades.

4. In a reminder of a bygone era when land revenue was the principal source of revenue for the State, the Boards of Revenue at State level as part of the quasi-judicial hierarchy in matters of land administration. The District Collector, the principal officer of the Revenue Department in the field, commanded an eminent position. Now his role has mutated more as Deputy Commissioner or District Magistrate. Till 1922, this officer

[1] *H*industan Petroleum Corporation Ltd. vs. State of Kerala and Others (2001) Kerala High Court

also used to collect income tax when the function was transferred from provincial to the central government. The Central Board of Revenue Act, 1924 created the Board as a statutory body to oversee the administration of central taxes. In 1963, the Central Board of Revenue was bifurcated into two distinct Boards to manage the direct and indirect taxes.

5. The first two articles contain a macro view and commentary on the trend and profile of Central government 'total tax revenue and on the States' own taxes and their respective share in overall tax mobilisation and sharing of taxes collected by the Centre, States and UTs. The share of direct taxes in total tax revenue is a prime indicator of how progressive a country's tax system is. We find that the tax system has become broad based and relies more on direct taxes – from 17% share in total tax kitty in FY71 to 56% in FY24 which is set to increase to 59% in BE25-26 despite major relief to small taxpayers. In fact, the direct taxes overtook indirect taxes after 2007-08.

6. It is seen from the accounts of FY22-23 that major sources of tax revenue among States' own taxes are the State GST (41 per cent share); State Sales Tax/VAT (20 per cent share) mainly on petroleum products and alcoholic liquor; State Excise (13 per cent share) on alcoholic liquor and Stamp Duties and Registration Fees (12 per cent share) mainly on registration of property transfers. The trends also show that the States' share in the combined tax pool collected by the Centre and the States has remained around 55 per cent as the increase in the States' share in the divisible pool of Central taxes has been largely offset by increase in the non-divisible Central taxes and Cesses/Surcharges.

7. History of taxation is a chronicle of growth of democracy worldwide. A quest for legitimacy by the taxing sovereigns and public protests like the Boston Tea Party in USA or Salt Satyagraha in India have limited arbitrary powers of taxation. We felt that in an Issue of the Journal focussed to the theme of indirect taxes, viz., commodity taxation, the readers would find a nostalgic peep into the history of the taxation of salt. Though the tax is absent since 2017, it had stirred deep emotions and led to mass public mobilization in India's Freedom Struggle against the British colonial rule.

8. The tax reforms have been one of the most successful aspects of public finance reforms in India. Technology has played a major role in reforming our tax system. On commodity taxation, our reforms have focussed on reduction in the multiplicity of tax rates and moving towards One Nation One Tax through the Goods and Services Tax (GST) concurrently levied by the Union and State government at common, uniform rate across India. GST subsumes nearly all taxes by the Centre and States on manufacture and sale of goods and services except petroleum products, alcohol for human consumption and electricity. In the initial years, the implementation hiccups subdued the collections which have boomed in recent years giving the government headroom to reduce and rationalise GST.

9. Control and taxation of imports and exports of goods has major implications for the fiscal health and security of the nation and its economy. Indian economy had largely been insular till the decade of 80s with local producers protected by high tariff barriers and a 'license-permit raj' imposing quantitative controls. As part of reforms since 90s,

aided by the new international order symbolised by the emergence of World Trade Organisation, India and other developing countries allowed increased market access to the developed world by substantially lowering the Customs tariffs, barring a few sectors. Customs Duties are now a rather small fraction (about 6 per cent) of total taxes collected by the Union, down from the peak share of 36 per cent in 1990-91, but recent tectonic developments in international trade and tariffs have resulted in a paradigm reset with tremendous uncertainty. Large-scale and frequent changes in the Customs Duties imposed by the USA - the world's biggest market - on specific goods and exporting countries have ushered unforeseen challenges and opportunities. In commenting on declining share of Customs Duties in contribution to public exchequer, we have to be of course, mindful of the fact that the imported items attract Integrated GST – the domestic consumption tax – whose benefit accrues to the State/UT where the imported item is finally sold to the end-consumer.

10. Taxation of Petroleum and petroleum products is a major non-GST source of revenue to both the Central and State governments. State Excise Duty and other levies on alcoholic liquor are a major source of revenue for State governments. Two articles highlight important factual and policy aspects of these sources of commodity taxation. CAG Report on changes in Delhi Excise Policy showing a revenue effect of over Rs.2000 crore has been highlighted.

11. Next we come to an Article highlighting major tax policy issues confronting the indirect tax administration.

12. Cesses are special types of taxes where the taxing statute mandates utilisation of tax proceeds for specified purposes. One of the earliest Cesses was the Cess on salt imposed soon after the Excise Duty on salt was abolished in 1946. Often the legislative formulation on Cesses is couched in general terms and there are no Rules to fill in the details as to how the government has to give an account to the Legislature of how much has been spent on the specific purpose mandated by the Legislature. Where a public purpose (like education, health, agriculture, road construction) receives other public funding besides Cess funding, there is often lack of clarity on the extent to which the Cess funding supplements or supplants the non-Cess funding. The amount collected through Central Taxes/Duties (excluding Cesses and Surcharges for the purpose of the Union) are shareable with the State governments under the awards of the Finance Commission. Hence, large-scale collection of Cesses and Surcharges by the Union government without proper accounting and disclosure of Cess funding of specified purposes collection of large Cess funds without matching expenditure on specified purposes leads to controversy in Centre-State fiscal relations. For, such Cesses are perceived as general tax mobilisation by the Union government which are shown as 'Cess' on paper to deny the States their share in Central taxes. An article explores various issues and contentions including the comments in the CAG Reports on the Cesses and suggests ways to improve accounting, disclosure and accountability for utilising the Cesses for intended purposes.

13. We have also attempted to see from the lens provided by the CAG reports on indirect taxes how the system of tax administration - the system of assessing, collecting and accounting of taxes - has evolved and how its economy, efficiency and effectiveness in meeting the tax policy goals is audited by the Comptroller and Auditor General of India. Our focus here has not been on such matters of tax policy as to who and what should be taxed; at what rate and what exemptions and concessions should be there for any class of taxpayers.

14. The Governing Body of the Institute does not bear any responsibility for the contents or views expressed in the Report. That responsibility lies solely with the authors.

SUBHASH CHANDRA PANDEY

AN OVERVIEW OF THE TAX REVENUES OF THE UNION GOVERNMENT

MEENAKSHI SHARMA [1]

We provide a macro view and commentary on the trend and profile of Central government' total tax revenue from 1970-71 onwards. The share of direct taxes in total tax revenue is a prime indicator of how progressive a country's tax system is. We find that the tax system has become broad based and relies more on direct taxes – from 17% share in total tax kitty in FY71 to 56% in FY24 which is set to increase to 59% in the Budget 2025-26 despite major relief to small taxpayers. In fact, the direct taxes overtook indirect taxes after 2007-08. We attempt to fathom the reasons for the relative increase in the share of Corporate Income Tax and decline in the share of Customs Duty in recent years in the total tax collections by the Union government, to be read with compensatory tax mobilisation through Integrated GST on imported goods. The data on tax collections has been taken from the Union Budget documents.

1. The Constitution of India provides for specific Taxes and Duties to be levied, collected and appropriated by the Union, State and Union Territory governments as authorised by their respective legislatures. There are Stamp Duties on specified financial transactions which are levied by the Union (for the purpose of all-India uniformity) but collected and retained by the States (Art.268). The Goods and Services Tax (GST) introduced w.e.f.1st July 2017 under a Constitutional Amendment empowers both the Union and the States to concurrently levy GST at a common rate uniform across India on intra-State (Central GST and State GST) or inter-State (Integrated GST) trade and commerce in specified goods and services. All supplies of goods & services made as imports into India are treated as an inter-State supply (Art.269A). The taxes on inter-State sale, purchase or consignment of goods not covered by the GST are levied and collected by the Union but their net proceeds are assigned to the States (Art.269). Major exclusions from the GST net are petroleum products, alcoholic liquor for human consumption and electricity. Alcoholic liquor for human consumption is subject to value-added tax (VAT) by the State governments while 'extra neutral alcohol' sold for industrial use is subject to Central and State GST. Agricultural Income Tax and a limited Professional Tax is leviable by the States. The taxes and duties remaining after these carve-outs and special arrangements (mainly non-agricultural Income Tax, Central Excise Duty and Customs Duties) are levied and collected by the Union.

2. The Constitution of India further provides for the mechanism of a Finance Commission appointed by the President once in 5 years or earlier, if need be, to recommend the share in total collection of Union Taxes and Duties which should be distributed among States (Vertical Devolution) and also the share of each State in the total divisible pool (Horizontal Devolution). The Cesses are special taxes whose proceeds are earmarked

---

[1] Ms. Meenakshi Sharma, IAAS (1988), superannuated as a Deputy Comptroller and Auditor General. She is a member of the Editorial Board of IPAI.

by legislation to be used for specific purposes. Likewise, the Constitution permits the Union to levy a Surcharge on Union Taxes and Duties whose proceeds are exclusively used by the Union. The Cesses and Surcharges do not form part of the divisible pool of Union Taxes and Duties to be shared with the States. Currently, 41 per cent of the Union Taxes and Duties excluding Cesses and Surcharges is distributed among States during the period FY2020-21 to FY2025-26. There is thus a standard budgetary term of 'gross tax revenue' of the Centre to denote the total tax collection including the States' share as distinct from 'net tax revenue' of the Centre to denote the tax collection remaining with the Centre after deducting the States' share. (On a technical note, even the 'Gross Tax Revenue' (GTR) is computed as net of tax refunds though GTR may include tax collected in excess but yet to be refunded.)

Trend in collection of major Union taxes and duties since 1970-71

3. **Table 1** below provides year-wise trend in nominal values of tax collections by the Union government from 1970-71 to the latest Budget estimates for FY2025-26 under four groupings: Corporate Income Tax(CIT), Personal Income Tax (PIT), Tax on domestic goods/service (Central Excise Duty/Service Tax/GST) and Customs duty on imported goods. The 'Gross Tax Revenue' (GTR) is the total tax collected by the Union government (net of tax refunds) without deducting States' share in Union taxes/duties. The purpose of presenting GTR data is to highlight the efficiency and efficacy of the Union government's efforts in steering the tax laws and tax administration and not the net tax revenue technically available for financing the Union expenditure. Which receipt finances what expenditure and what are the expenditure controlled by the Union and by the State government are functions of wider fiscal policy issues that are beyond the mandate of the Department of Revenue. The GTR data has been extracted from the "Receipts Budget" documents of the Union government (**https://www.indiabudget.gov.in/**). The taxes collected under the Income Tax Act, 1961 are broadly categorised as income tax on corporates (CIT-Corporate Income Tax) and on individuals and non-corporate entities like Partnership Firms, LLPs, Hindu Undivided Families, Trusts, Societies etc. (PIT-Personal Income Tax).

Table 1: Tax Profile of Central Government's Gross Tax Revenues (Rs. in crore)

Items /Year	Corporate Income Tax (CIT)	Personal Income Tax (PIT)	Central Excise / Service Tax/ Central GST	Customs Duty	Other taxes	Gross Tax Revenue
1970-71	371	114	1,759	524	17	2,785
1971-72	472	536	2,061	696	107	3,872
1972-73	557	629	2,324	857	142	4,509
1973-74	583	745	2,602	996	147	5,073
1974-75	709	874	3,231	1,333	175	6,322
1975-76	862	1,214	3,844	1,419	269	7,608
1976-77	984	1,194	4,221	1,554	318	8,271
1977-78	1,221	1,002	4,448	1,824	364	8,858

Items /Year	Corporate Income Tax (CIT)	Personal Income Tax (PIT)	Central Excise / Service Tax/ Central GST	Customs Duty	Other taxes	Gross Tax Revenue
1978-79	1,251	1,177	5,367	2,423	306	10,525
1979-80	1,392	1,340	6,011	2,924	307	11,974
1980-81	1,377	1,440	6,500	3,409	198	12,924
1981-82	1,970	1,476	7,421	4,300	372	15,539
1982-83	2,185	1,570	8,059	5,119	407	17,340
1983-84	2,493	1,699	10,222	5,583	333	20,330
1984-85	2,556	1,928	11,151	7,041	342	23,018
1985-86	2,865	2,511	12,956	9,526	276	28,134
1986-87	3,160	2,879	14,470	11,475	854	32,838
1987-88	3,433	3,192	16,426	13,702	913	37,666
1988-89	4,407	4,241	18,841	15,805	1,179	44,474
1989-90	4,729	5,010	22,406	18,036	1,455	51,636
1990-91	5,335	5,371	24,514	20,644	1,712	57,576
1991-92	7,853	6,731	28,110	22,257	2,410	67,361
1992-93	8,899	7,888	30,832	23,776	3,242	74,637
1993-94	10,060	9,123	31,697	22,193	2,670	75,743
1994-95	13,822	12,025	37,754	26,789	1,904	92,294
1995-96	16,487	15,592	41,049	35,757	2,339	1,11,224
1996-97	18,567	18,231	46,067	42,851	3,046	1,28,762
1997-98	20,016	17,097	49,548	40,193	12,367	1,39,221
1998-99	24,529	20,240	55,203	40,668	3,157	1,43,797
1999-00	30,692	25,647	64,030	48,419	2,964	1,71,752
2000-01	35,696	31,764	71,139	47,542	2,462	1,88,603
2001-02	36,609	32,004	75,857	40,268	2,322	1,87,060
2002-03	46,172	36,866	86,432	44,852	1,944	2,16,266
2003-04	63,562	41,387	98,665	48,629	2,105	2,54,348
2004-05	82,680	49,268	1,13,325	57,611	2,074	3,04,958
2005-06	1,01,277	57,308	1,34,281	65,067	9,541	3,67,474
2006-07	1,44,318	75,093	1,55,211	86,327	12,563	4,73,512
2007-08	1,92,911	1,02,644	1,74,912	1,04,119	18,561	5,93,147
2008-09	2,13,395	1,06,046	1,69,554	99,879	16,425	6,05,299
2009-10	2,44,725	1,22,475	1,61,413	83,324	12,591	6,24,528
2010-11	2,98,688	1,39,069	2,08,717	1,35,813	10,785	7,93,072
2011-12	3,22,816	1,64,485	2,42,410	1,49,328	10,138	8,89,177
2012-13	3,56,326	1,96,512	3,08,446	1,65,346	9,605	10,36,235
2013-14	3,94,678	2,37,817	3,24,233	1,72,085	9,920	11,38,733
2014-15	4,28,925	2,58,326	3,56,097	1,88,016	13,522	12,44,886
2015-16	4,53,228	2,87,628	4,99,487	2,10,338	4,967	14,55,648

Items /Year	Corporate Income Tax (CIT)	Personal Income Tax (PIT)	Central Excise / Service Tax/ Central GST	Customs Duty	Other taxes	Gross Tax Revenue
2016-17	4,84,924	3,49,436	6,36,255	2,25,370	19,837	17,15,822
2017-18	5,71,202	4,19,880	7,82,623	1,29,030	16,273	19,19,008
2018-19	6,63,572	4,72,983	8,19,508	1,17,813	6,589	20,80,465
2019-20	5,56,876	4,92,593	8,44,230	1,09,282	7,078	20,10,059
2020-21	4,57,719	4,87,139	9,40,059	1,34,750	7,437	20,27,104
2021-22	7,12,037	6,96,238	10,89,934	1,99,728	11,379	27,09,316
2022-23	8,25,834	8,33,233	11,68,563	2,13,372	13,190	30,54,192
2023-24	9,11,055	10,44,722	12,62,995	2,33,119	13,628	34,65,519
2024-25RE	9,80,000	12,57,000	13,66,999	2,35,000	14,456	38,53,455
2025-26BE	10,82,000	14,38,000	14,95,100	2,40,000	15,133	42,70,233

Note: 2024-25RE refers to Revised Estimates for FY2024-25 and 2025-26BE refers to the Budget Estimates for FY2025-26.

4. **Table 2** below is a different presentation of the data in Table 1, with % shares in total tax collections being tabulated rather than actual amount of tax collection under each category.

Table 2: Tax Profile of Central Government's Gross Tax Revenues (% share in total GTR)

Items/ Year	CIT	PIT	Central Excise/ Service Tax/ GST	Customs	Other taxes
1970-71	13	4	63	19	1
1971-72	12	14	53	18	3
1972-73	12	14	52	19	3
1973-74	11	15	51	20	3
1974-75	11	14	51	21	3
1975-76	11	16	51	19	4
1976-77	12	14	51	19	4
1977-78	14	11	50	21	4
1978-79	12	11	51	23	3
1979-80	12	11	50	24	3
1980-81	11	11	50	26	2
1981-82	13	9	48	28	2
1982-83	13	9	46	30	2
1983-84	12	8	50	27	2
1984-85	11	8	48	31	1
1985-86	10	9	46	34	1
1986-87	10	9	44	35	3
1987-88	9	8	44	36	2

Items/ Year	CIT	PIT	Central Excise/ Service Tax/ GST	Customs	Other taxes
1988-89	10	10	42	36	3
1989-90	9	10	43	35	3
1990-91	9	9	43	36	3
1991-92	12	10	42	33	4
1992-93	12	11	41	32	4
1993-94	13	12	42	29	4
1994-95	15	13	41	29	2
1995-96	15	14	37	32	2
1996-97	14	14	36	33	2
1997-98	14	12	36	29	9
1998-99	17	14	38	28	2
1999-00	18	15	37	28	2
2000-01	19	17	38	25	1
2001-02	20	17	41	22	1
2002-03	21	17	40	21	1
2003-04	25	16	39	19	1
2004-05	27	16	37	19	1
2005-06	28	16	37	18	3
2006-07	30	16	33	18	3
2007-08	33	17	29	18	3
2008-09	35	18	28	17	3
2009-10	39	20	26	13	2
2010-11	38	18	26	17	1
2011-12	36	18	27	17	1
2012-13	34	19	30	16	1
2013-14	35	21	28	15	1
2014-15	34	21	29	15	1
2015-16	31	20	34	14	..
2016-17	28	20	37	13	1
2017-18	30	22	41	7	1
2018-19	32	23	39	6	..
2019-20	28	25	42	5	..
2020-21	23	24	46	7	..
2021-22	26	26	40	7	..
2022-23	27	27	38	7	..
2023-24	26	30	36	7	..
2024-25RE	25	33	35	6	..
2025-26BE	25	34	35	6	..

5. **Chart 1** below graphically presents the data in Table 2, with % shares in total tax collections being tabulated for the 5 broad categories of taxes.

Chart 1: Profile of Central Government's Gross Tax Revenues (% share in total)

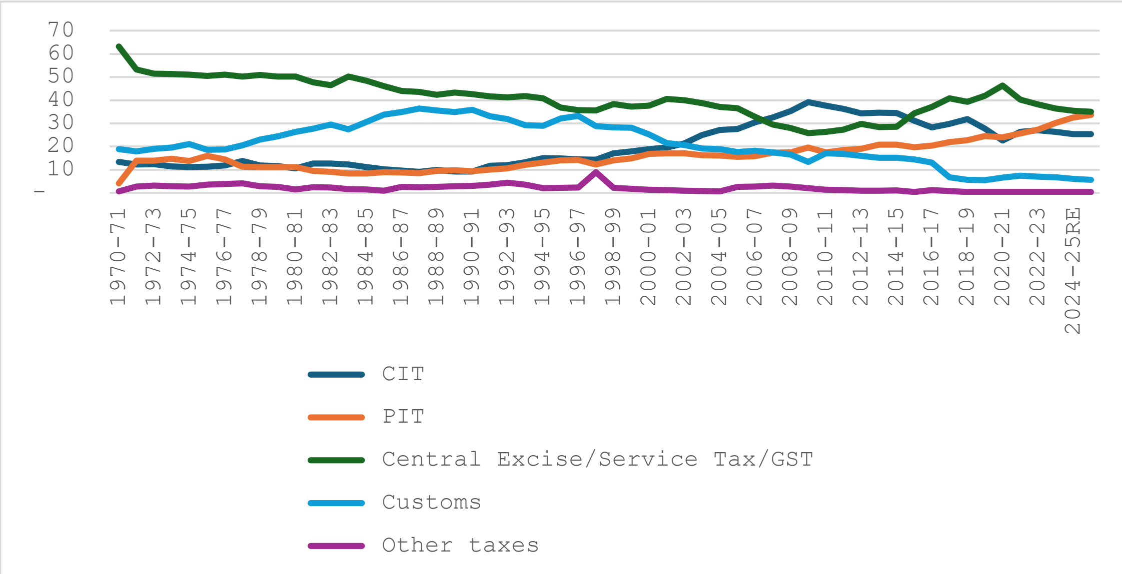
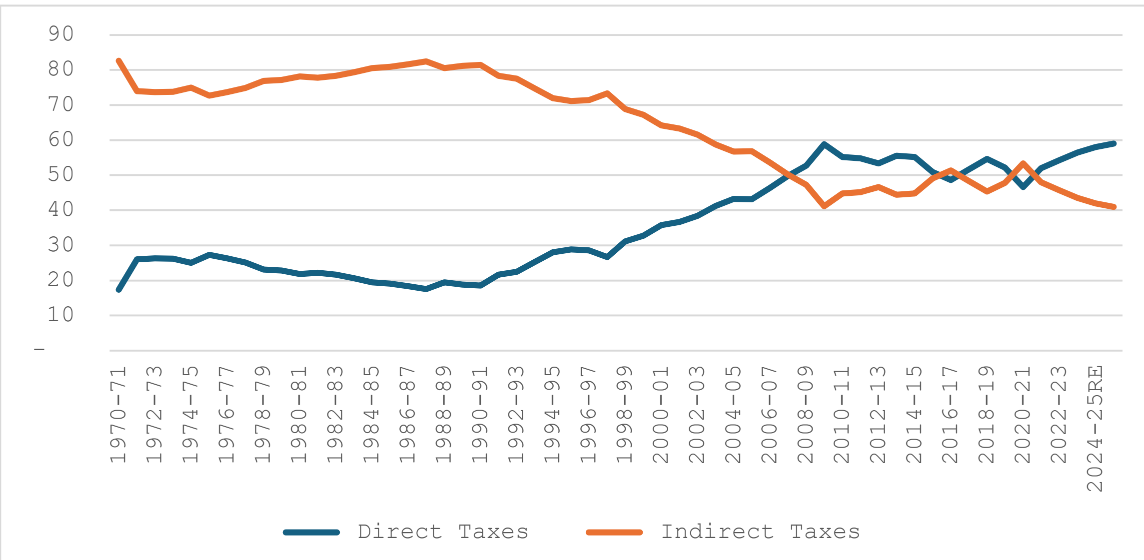


Chart 2 below graphically presents the data in Table 2, with % shares of direct and indirect taxes in total tax collections.

Chart 2: Direct/indirect taxes (% share in Central Government's Gross Tax Revenues)



Sharp increase in the share of non-corporate income tax collections and sharp fall in share of Customs Duties

6. The above Table/Chart show the varying composition of the total tax kitty of the Union government. The most dramatic change in last 10 years or so has been the increase in share of non-corporate income tax (from 20 per cent to 34 per cent) and sharp fall in share of Customs Duties (from 14 per cent to 6 per cent). The Black Money Act (2015), remonetization of high value currency notes (2016), introduction of Goods and Services Taxes (2017) and a host of measures to promote use of digital transactions and

extensive use of technology in tax enforcement has seen the upsurge in tax collections despite the disruption caused by the Covid pandemic and its lingering effects.

7. Customs Duties are now a rather small fraction (about 6 per cent) of total taxes collected by the Union, down from the peak share of 36 per cent in 1990-91. In commenting on declining share of Customs Duties in contribution to public exchequer, we have to be of course, mindful of the fact that the imported items attract Integrated GST – the domestic consumption tax – whose benefit accrues to the State/UT where the imported item is finally sold to the end-consumer. Decline in the share of Customs Duties is attributable, apart from reduction in tariff rates, to a large quantum of imports being used as inputs for exported goods. Under internationally accepted rules, a country is allowed or rather expected not to export its taxes to foreign consumers of goods it produces. Hence, duty-free imports are allowed where the imported items are for exclusive use in production of exported goods. Any taxes and duties paid on inputs of manufacture of exported goods are also refunded. Domestic industries can import raw materials, intermediates and components under the Advance Authorisation Scheme on a duty-free basis for production of items for exports. Over the past two decades, the import intensity of India's manufactured exports has been on the rise, reflecting the country's growing integration into global value chains (GVCs) as intermediate goods are imported, processed, and then re-exported. The import intensity is particularly high in export of petroleum products, mobile phones, telecom equipment, other electronics and engineering goods, gold and diamond jewellery exports. All crude petroleum oil – whether for manufacture of petrol/diesel etc. for export or domestic use is subjected to a token amount of import duty. (Basic Customs Duty (BCD) is Rs.1/- MT and Additional Customs Duty (ACD) is also Rs.1/- MT on imported crude oil.)

Decline in share of corporate tax

8. As seen from Table 2 above, the share of personal income tax in total tax revenue of Central government has increased from 20% to 34% in last decade while during the same period, the share of corporate income tax has come down from 31% to 25%. The number of companies filing income tax returns has increased from 6,36,023 for FY2013-14 to 10,27,200 for FY2022-23, the latest year for which the data is publicly available[2]. The increase in the number of individual IT return files has seen more dramatic increase from 3,04,97,487 for FY2013-14 to 6,96,90,925 or FY2022-23. A record number of 7.28 crore Income Tax Returns filed for Assessment Year 2024-25 by the normal last date of 31st July 2024.

9. The dip in share of corporate tax was particularly marked in the FY2020-21 (from 28% in 2019-20 to 23% in 2020-21). The profile of gross total income declared by different categories of taxpayers for Assessment Year 2023-24 is the latest available from CBDT. It is seen that more than 99.5% of all the companies report less that Rs.100 crore gross total income and the corporate tax regime for small companies has in a way become more beneficial than for even individual taxpayers. Out of total 10,70,924 corporate tax

[2] Income Tax Return statistics for Assessment Year 2023-24

returns filed declaring gross total income of Rs.34,58,217 crore for AY23-24, 605,562 companies filed nil returns, while 140,351 companies declared a gross total income of only Rs.612 crore. Bulk of the gross total income - Rs.27,27,295 crore was declared by just 3637 companies, each declaring Rs.100 crore or more. [842 companies declared gross total income of Rs.500 crore or more aggregating to total of Rs.2145,364 crore]

10. The share of corporate tax contribution can decline due to multiple reasons like decline in corporate profitability, decline in corporate tax rates and relatively higher growth in personal income tax and GST. The healthy growth in personal income tax and GST shows robust economic growth and impact of stricter tax enforcement. Persistent inflation howsoever moderate indicates lack of competition and increased power to set market rate. Although a robust and detailed analysis is beyond the scope of this article, gradual reduction in corporate tax rates is the main cause for decline in share of corporate taxes. In announcing a special package of corporate tax reduction in September 2019, the Government had estimated that the revenue foregone would be about Rs.145,000 crore.

11. The standard corporate tax rate was 30% (plus cesses and surcharges) for domestic companies and 40% for foreign companies when in Budget 2016-17, a beginning was made to reduce tax burden on small domestic companies which account for almost 99% of total. Budget 2016-17 stipulated that the tax rate would be reduced from 30% to 29% for domestic companies 'if the total turnover or gross receipts of the company in the previous year 2014-15 does not exceed five crore rupees'. Further, as incentive to Startup companies, the tax rate was reduced from 30% to 25% subject to certain conditions being met. In Budget 2017-18, the 25% rate was extended to domestic companies with total turnover or gross receipts being less than Rs.50 crore. In Budget 2018-19, the 25% tax rate was extended to domestic companies with total turnover or gross receipts in 2016-17 not exceeding Rs.250 crore, threshold being raised to Rs.400 crore in Budget 2019-20.

12. Under the Taxation Laws (Amendment) Ordinance and Bill, 2019, a new tax regime was put in place for companies offering major tax concessions to corporates. Domestic companies with annual turnover of up to Rs 400 crore pay income tax at the rate of 25%. For other domestic companies, the tax rate is 30%. The domestic companies were given an option to pay tax at the rate of 22%, provided they do not claim certain deductions under the Income Tax Act. This offer was available to both under the 25% tax obligation (annual turnover not exceeding Rs 400 crore) and 30% tax obligation (annual turnover exceeding Rs 400 crore). In a further incentive to new manufacturing companies, new domestic manufacturing companies were given an option to pay income tax at the rate of 15%, provided they do not claim certain deductions. These new domestic manufacturing companies must be set up and registered on or after the 1st day of October, 2019 and start manufacturing before April 1, 2023, with the date extended to April 1, 2024. It was further stipulated that provisions regarding payment of Minimum Alternate Tax (MAT) will not apply to companies opting for the new tax rates. MAT is the minimum amount of tax required to be paid by a company, in case its

normal tax liability after claiming deductions falls below a certain limit. A company can choose to opt for the new tax rates in the financial year 2019-20 (i.e. assessment year 2020-21) or in any other financial year in the future. Once a company exercises this option, the chosen provision will apply for all subsequent years. Of course, being an optional arrangement, a company would migrate to new tax regime only when it is beneficial to it. The total revenue foregone for the reduction in corporate tax rate and other relief was estimated by the government to be Rs. 1,45,000 crore (September 2019).

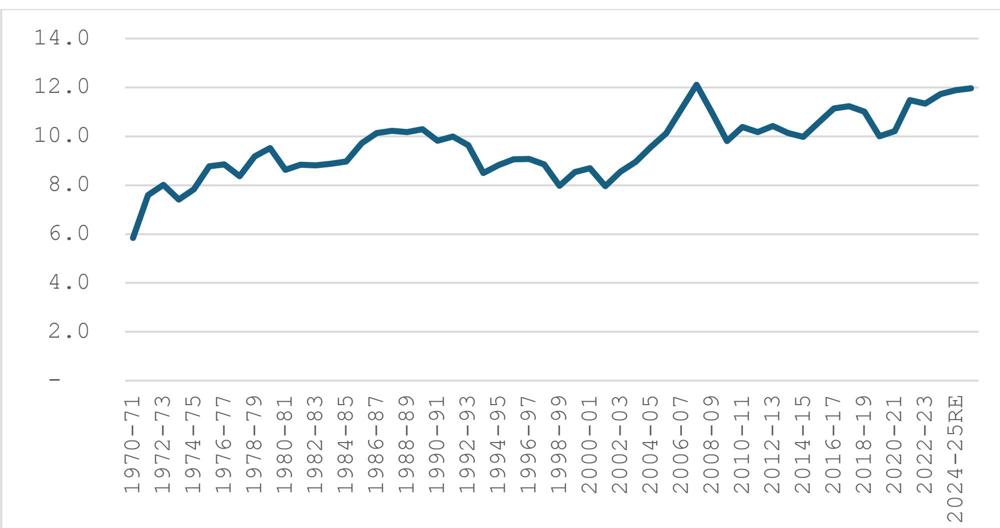
13. Extending the ongoing programme of gradual reduction in corporate tax on companies, the tax rate on foreign companies was reduced from 40% to 35% in Budget 2024-25, on income other than income chargeable at special rates. This is in line with the policy to attract foreign investment in manufacturing sector that will create new avenues of economic growth and job creation.

14. It may thus be seen that the marginal tax rate for over 99% of domestic companies (25%, 22% or 15%) is less than the marginal tax rate for non-corporate taxpayers (30%) excluding Cess and Surcharge. Such wide differential may be an incentive to corporatise to convert 'personal income' into 'corporate income' and reduce tax liability for smart taxpayers. This is discussed in detail in another article.

Tax: GDP ratio shows improvement in recent years

15. Chart 3 below provides the trend in the ratio of the Gross Tax Revenue of the Union government as a percentage of the Gross Domestic Product at current market prices, a matrix typically used for inter-country comparisons of the incidence of taxation on national economy. One has to be mindful of the fact whether the Tax:GDP ratio being used for a particular country refers to only the tax collections by the federal/national level government or also include the taxes collected by sub-national entities also.

Chart 3: Trend in the Gross Tax Revenue of the Union government as a % of the GDP at current market prices



16. The following table extracted from IMF's database (https://www.imf.org/en/Topics/fiscal-policies/world-revenue-longitudinal-database?utm_source=chatgpt.com) shows the Tax:GDP ratio for different countries whose data was available to IMF for the year 2022 (arranged in descending order):

Table 3: Tax: GDP ratio (2022)

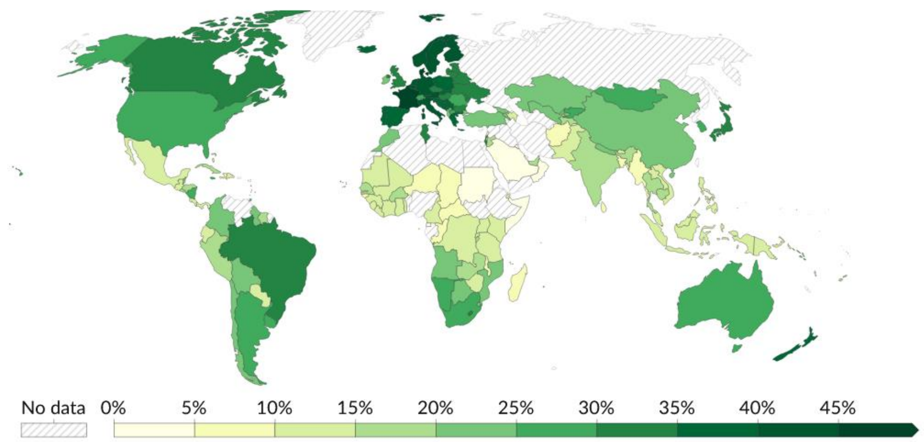
Country	Tax: GDP ratio	Country	Tax: GDP ratio	Country	Tax: GDP ratio
Nauru	37.3	Maldives	19.9	Egypt	12.6
Lesotho	36.8	Mauritius	19.8	Tanzania	12.6
Norway	35.7	Nepal	19.8	Brunei Darussalam	12.5
New Zealand	32.7	El Salvador	19.6	Ghana	12.5
Iceland	31.9	Bulgaria	19.6	Liberia	12.3
Finland	31.0	Albania	19.1	Singapore	11.9
France	30.9	Colombia	18.7	Guinea	11.7
Belgium	29.7	Uzbekistan	18.7	Malaysia	11.7
Italy	29.0	Suriname	18.6	Uganda	11.6
United Kingdom	29.0	Uruguay	18.6	Bhutan	11.5
Greece	28.8	St. Lucia	18.6	Benin	11.5
Jamaica	28.7	Cabo Verde	18.5	Guatemala	11.4
Canada	28.4	Korea	18.3	Cote d'Ivoire	11.3
Austria	28.2	San Marino	18.3	Djibouti	11.2
Australia	27.5	Kazakhstan	18.2	Papua New Guinea	11.1
Luxembourg	27.4	Bolivia	18.0	The Gambia	11.0
Barbados	27.3	North Macedonia	17.9	Sao Tome and Principe	10.6
Seychelles	26.8	Jordan	17.7	Pakistan	10.4
Croatia	26.3	Palau	17.7	Gabon	10.4
Montenegro	26.1	Senegal	17.7	Indonesia	10.4
Namibia	25.7	UAE	17.5	Paraguay	10.2
Portugal	25.6	**India**	**17.3**	Lao P.D.R	9.7
Serbia	25.5	Ireland	17.2	Madagascar	9.7
Samoa	25.3	Peru	17.0	Sierra Leone	9.6
Cyprus	25.1	Zimbabwe	16.8	Guyana	9.5
Hungary	25.0	The Bahamas	16.8	Niger	9.4
Kosovo	24.8	Romania	16.7	Guinea-Bissau	9.3
Tunisia	24.7	Burundi	16.4	Turkmenistan	9.0
Brazil	24.7	Antigua and Barbuda	16.2	Democratic Republic of the Congo	8.9
Spain	24.6	Zambia	16.1	Sudan	8.7
Germany	24.4	Kiribati	16.0	Timor-Leste	8.6

Country	Tax: GDP ratio	Country	Tax: GDP ratio	Country	Tax: GDP ratio
Georgia	23.9	Trinidad and Tobago	15.8	Algeria	8.5
Chile	23.8	Thailand	15.8	Comoros	8.3
Malta	23.4	Philippines	15.6	Bangladesh	8.0
Kyrgyz Republic	23.4	Vanuatu	15.6	Angola	7.9
Eswatini	23.3	Fiji	15.2	Saudi Arabia	7.9
Dominica	23.2	Cambodia	14.7	Republic of Congo	7.8
West Bank and Gaza	22.1	St. Kitts and Nevis	14.6	Sri Lanka	7.7
Tonga	22.1	Mexico	14.5	Panama	7.6
Japan	22.0	Tuvalu	14.4	Equatorial Guinea	7.5
United States	21.6	Hong Kong SAR	14.2	Ethiopia	7.5
Armenia	21.5	Mauritania	14.1	Central African Republic	7.2
Lithuania	21.4	Costa Rica	14.1	Myanmar	5.5
Poland	21.4	Vietnam	13.9	Chad	5.2
Estonia	21.2	Togo	13.9	Haiti	5.1
Solomon Islands	21.0	Marshall Islands	13.9	Iran	4.8
Bosnia and Herzegovina	21.0	China	13.9	Nigeria	4.1
Moldova	20.9	Dominican Republic	13.8	Oman	3.5
Nicaragua	20.7	Ecuador	13.6	Yemen	3.2
Latvia	20.5	Azerbaijan	13.5	Qatar	3.1
Mozambique	20.3	Rwanda	13.5	South Sudan	1.8
Mongolia	20.2	Kenya	13.2	Somalia	1.7
Botswana	20.1	Mali	13.1	Kuwait	1.0
Slovak Republic	20.0	Malawi	12.9	Iraq	1.0

17. The following Charts graphically illustrate international comparison of Tax to GDP ratio of India (Central and State Taxes combined):

Chart 4: Trend in Tax Revenues as percentage of GDP

Chart 5: Tax Revenue as percentage of GDP (2022)



Source: https://ourworldindata.org/grapher/tax-revenues-as-a-share-of-gdp-unu-wider

18. According to provisional data provided by OECD countries[3], tax revenues as a percentage of GDP were 33.9% on average in 2023, a marginal decrease of just 0.1 percentage points (p.p.) of GDP relative to 2022. This was the second consecutive small decline in the OECD's tax-to-GDP ratio following a drop of 0.04 p.p. in 2022. France had the highest tax-to-GDP ratio among OECD countries for the second consecutive year in 2023, at 43.8%. Denmark had the second-highest tax-to-GDP ratio (43.4%) while Mexico had the lowest tax-to-GDP ratio (17.7%). The tax-to-GDP ratio increased in 18 of the 36 countries for which a full set of preliminary data for 2023 are available,

[3]OECD Revenue Statistics 2024 on global tax revenues https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-tax-revenues/revenue-statistics-highlights-brochure.pdf

declined in 17 and remained the same in one. However, the declines were larger than the increases on average (-1.4 p.p. versus 1.1 p.p.). The largest increases occurred in Luxembourg (2.7 p.p.), Colombia (2.6 p.p.) and Türkiye (2.5 p.p.). The largest decline in 2023 occurred in Chile, whose tax-to-GDP ratio fell by 3.2 p.p., while declines also exceeded 2.0 p.p. in Korea (3.1 p.p.), Israel (3.0 p.p.) and the United States (2.4 p.p.).

19. Long-term average Tax:GDP ratio for only Union Government taxes has been about 10 per cent of GDP, with occasional spikes above the 10 percent level, due to special tax efforts or slower economic growth or both in particular years. The Tax: GDP ratio of the Union government has shown improvement in recent years after post-pandemic revival of the economy and improved tax enforcement. It is now about 12 per cent of GDP, last achieved in 2007-08. On its own and even after accounting for State level taxes of about 7 per cent of GDP to compare with federated economies of the world, India's Tax:GDP ratio of about 17 per cent of GDP (for both the Central and the State taxes combined) is lagging far behind the Tax:GDP ratios in Advanced Economies. India has followed a middle path between the two extremes of tax-and-spend OECD countries and the 'tax heaven' countries having very low level of taxes on incomes. In FY2023–24, India's direct tax-to-GDP ratio reached a 24-year high of 6.64%, marking a significant increase from 5.55% in 2014–15. It is hoped that with rationalisation of GST rates; increased formalization and digitalisation of economy; and continuing use of technology in tax enforcement; the Tax:GDP ratio is likely to improve further in coming years as part of the broader agenda of pursuing prudent fiscal management and macro-economic stability.

20. If the Tax: GDP ratio of the Union government is hovering around 12 per cent of GDP and the typical tax rates are higher than 12 per cent – say more than double also - on incomes, consumption and capital gains, the inevitable conclusion is that a large part of the GDP is not "tax-bearing" due to policy choices or tax evasion/avoidance.

21. The tax reforms agenda, one of the most successful aspects of public finance reforms, has been the subject of continuous experimentation and improvement. Widening and deepening the tax base by tackling tax evasion (concealment of taxable income through dealings in cash or sham bank transactions) or tax avoidance (finding innovative workarounds to show that the income is not taxable as per the 'letter of law'; reducing the multiplicity of tax rates if it creates opportunities to misclassify and taxpayer facilitation remain the top line agenda for reforming the tax policy and administrative systems.

AN OVERVIEW OF THE TAX REVENUES OF THE STATE GOVERNMENTS

V. K. CHANDHOK[1]

1. In the preceding sections, we have given the trend and profile of collection of different types of taxes/duties by the central government. The picture on taxes is incomplete without looking at the collections of State level taxes which supplement the overall tax burden.

2. The 7th Schedule of the Constitution of India delineates executive and legislative responsibilities between the Union, the States and the UTs with Legislature in three elaborate lists of subjects: the Union List, the State List and the Concurrent List. The residuary powers on any unlisted subject rests with the Union. Union List includes Defence, internal security, external affairs, currency, Railway, Posts and telecom, major ports, banking, insurance, oilfields, higher judiciary, audit, non-agricultural personal income tax, corporation tax, Customs Duty, Central GST etc. State List includes police, prisons, local government, agriculture, public health, land, water, GST on consumption, tax on liquor, agricultural income tax, professional tax. Concurrent List includes education, forests, social security, personal law, electricity, lower judiciary etc. In case of conflict, the Central law prevails over State law on concurrent subjects except when the President of India has assented to giving primacy to the State law for any particular law.

3. The States/UTs differ widely in terms of area, population, endowment of natural resources, profile of economic activities and stage of development, all constrained by history and geography of the area covered. Hence, the Constitutional design is such that the division of powers and functions among different levels of governments is asymmetrical. There is a pronounced concentration of revenue raising powers in the Centre while the States are entrusted with functional responsibilities that entail larger expenditures than they can meet out of their own resources.

4. Realising the wide gap in the development status and resource mobilisation capacity of different States and need for national level uniformity in certain areas, the Constitution provides for higher empowerment of the Union government to levy and collect taxes. There is system in place under which the Union government makes grants to State governments in addition to a definite share in Union taxes/duties. Under Art.280 of the Constitution, the President constitutes a Finance Commission to recommend the principles and quantum of these transfers. Currently, the accepted recommendations of the 15th Finance Commission are in force for the 6 years' period FY2020-21 to FY2025-26.

---

[1] Shri V. K. Chandhok, IAAS superannuated as Director in the office of the Director General of Audit (Central Expenditure), New Delhi.

5. Major Union taxes are Personal and Corporate Income Tax, Central Excise Duties on petroleum/tobacco and related products, Duties on imports and exports and Central GST. Major State taxes are State GST; State Excise Duties on alcoholic liquors for human consumption, opium etc.; Sale of petroleum products within State (not in course of inter-State sale or export outside the country; Stamp Duties on registration of specified documents, Taxes on vehicles, and taxes on the consumption or sale of electricity.

6. Before the introduction of GST from July 2017, the Centre levied Excise Duty on ex-factory price of several manufactured goods and levied service tax on certain services while the States levied Sales Tax/Value Added Tax on retail sale. After switchover to GST regime by both the Centre and States for most goods and services, Central and State GST is applied at same rate for a taxable good or service. At every stage of value addition and subsequent sale, the seller/service provider is entitled to claim Input Tax Credit on GST already paid at previous stage of the value addition chain. Thus, the benefit of tax proceeds of GST accrues to the State or UT where the final sale takes place. For online sale of goods and services the GST benefit is supposed to accrue to the State where the buyer is located. Same principle applies to Stamp Duty on sale of shares, debentures and other securities which is to be collected by Stock Exchanges etc. and remitted to the State of domicile of the buyer.

7. Some Central taxes are in the Union List only for the purpose of ensuring uniformity of taxation across the country. For example,'. Stamp duties on bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts are collected and appropriated by the States at the rates legislated by the Union.

8. Similarly, Taxes on the sale or purchase of goods and taxes on the consignment of goods not part of inter-State sale are levied and collected by the Union but assigned to the States. The goods and services tax in course of inter-State trade or commerce levied and collected by the Government of India and such tax is apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

9. Under Art.270 of the Constitution, a fixed share of the 'net proceeds' of certain Union Taxes and Duties – as prescribed under Presidential Orders issued on the basis of the recommendations of Finance Commission are not to form part of the Consolidated Fund of India. Instead, the 'States' share' is to be credited into the Consolidated Fund of the States. This 'divisible pool' of Central taxes/duties excludes Cesses and Surcharges. Centre can levy a special surcharge on Central taxes 'for the purposes of the Union', the proceeds of which are not shareable with the States. Also, Centre can levy Cess – special taxes earmarked for funding specific expenditures such as Road Development Cess or Education Cess - the proceeds of which are not shareable with the States. The 'net proceeds' - net of cost of collection' - are required to be certified by the Comptroller and Auditor General of India.

10. For the financial year FY22-23 for which the accounts of all States have been made public, the aggregate profile of States' own taxes is as follows:-

Table 1 - Profile of States' own taxes – aggregate for all States/UTs (Rs in crore)

Budget Head	Amount collected (Rs. in crore)	Share in total tax collection
State's Own Tax Revenue (1 to 3)	17,62,288	100.0
1: Taxes on Income (i+ii)	***7,771***	0.4
1.i: Agricultural Income Tax	2	0.0
1.ii: Taxes on Professions, Trades, Callings and Employment	7,769	0.4
2: Taxes on Property and Capital Transactions (i to iii)	***2,27,026***	12.9
2.i: Land Revenue	17,432	1.0
2.ii: Stamp Duties and Registration Fees	2,07,720	11.8
2.iii: Urban Immovable Property Tax	1,874	0.1
3: Taxes on Commodities and Services (i to viii)	***15,27,491***	86.7
3.i: Sales Tax (a to c)	***4,02,725***	22.9
3.i.a: Central Sales Tax	12,624	0.7
3.i.b: State Sales Tax/VAT	3,59,588	20.4
3.i.c: Other Receipts	30,513	1.8
3.ii: State Excise	**2,34,604**	13.3
3.iii: Taxes on Vehicles	***97,286***	5.5
3.iv: Taxes on Goods and Passengers	**2,094**	0.1
3.v: Taxes and Duties on Electricity	**60,981**	3.5
3.vi: Entertainment Tax	**85**	0.0
3.vii: State Goods and Services Tax	**7,26,642**	41.2
3.viii: Other Taxes and Duties	**3,074**	0.2

11. It is seen from the accounts of FY22-23 that major sources of tax revenue among States' own taxes are the State GST (41 per cent share); State Sales Tax/VAT (20 per cent share) mainly on petroleum products and alcoholic liquor; State Excise (13 per cent share) on alcoholic liquor and Stamp Duties and Registration Fees (12 per cent share) mainly on registration of property transfers.

12. The above macro picture of aggregate tax revenue of all States may be contrasted with the tax revenue collected by the Central government during FY 22-23 as follows:-

(Rs. In crore)

Corporate Income Tax (CIT)	Personal Income Tax (PIT)	Central Excise / Service Tax/ Central GST	Customs Duty	Other taxes	Gross Tax Revenue
8,25,834	8,33,233	11,68,563	2,13,372	13,190	30,54,192

13. Besides receipts formally classified as 'taxes' or 'duties', there are other statutory levies on goods and services such as royalty on crude petroleum oil from onshore oilfields, and on coal and other major/minor minerals. These are classified as non-tax revenues.

There are also statutory levies like Construction Workers Welfare Cess which is levied under a Central law but collected and used by a State level Board, Construction Workers' Welfare Board.

Table 2 -Trend in States' total tax revenue and own tax revenue vis-à-vis Centre's gross and net tax revenue (Rs. In crore)

Year	Revenue from State Taxes	Revenue from Central Taxes	Total Tax Revenue (Centre +States)	States' share in Central taxes	States' Tax Revenue (Own Taxes + Share in central Taxes)	% Share of State taxes in combined Tax revenue	% States' share in Central Tax Revenue	% States' share in total tax revenue
1990-1991	30,345	57,576	87,921	14,241	44,586	35	25	51
1991-1992	35,756	67,361	1,03,117	16,848	52,604	35	25	51
1992-1993	39,868	74,637	1,14,505	20,580	60,448	35	28	53
1993-1994	45,874	75,743	1,21,617	22,395	68,269	38	30	56
1994-1995	53,947	92,294	1,46,241	24,885	78,832	37	27	54
1995-1996	61,754	1,11,224	1,72,978	29,048	90,802	36	26	52
1996-1997	68,567	1,28,762	1,97,329	35,038	1,03,604	35	27	53
1997-1998	78,288	1,39,221	2,17,509	40,411	1,18,699	36	29	55
1998-1999	85,906	1,43,797	2,29,703	39,421	1,25,328	37	27	55
1999-2000	99,151	1,71,752	2,70,903	44,121	1,43,273	37	26	53
2000-2001	1,17,981	1,88,603	3,06,584	50,734	1,68,715	38	27	55
2001-2002	1,28,097	1,87,060	3,15,157	52,215	1,80,312	41	28	57
2002-2003	1,42,143	2,16,266	3,58,409	56,655	1,98,798	40	26	55
2003-2004	1,59,921	2,54,348	4,14,269	67,079	2,26,999	39	26	55
2004-2005	1,89,133	3,04,958	4,94,091	78,550	2,67,683	38	26	54
2005-2006	2,12,307	3,67,474	5,79,781	94,024	3,06,332	37	26	53
2006-2007	2,52,548	4,73,512	7,26,060	1,20,293	3,72,841	35	25	51
2007-2008	2,86,546	5,93,147	8,79,693	1,51,402	4,37,948	33	26	50
2008-2009	3,21,930	6,05,299	9,27,229	1,61,052	4,82,983	35	27	52
2009-2010	3,63,061	6,24,528	9,87,589	1,65,014	5,28,075	37	26	53
2010-2011	4,60,709	7,93,072	12,53,781	2,19,489	6,80,198	37	28	54
2011-2012	5,57,396	8,89,177	14,46,573	2,55,592	8,12,987	39	29	56
2012-2013	6,54,551	10,36,235	16,90,786	2,91,530	9,46,081	39	28	56
2013-2014	7,12,419	11,38,733	18,51,152	3,18,273	10,30,692	38	28	56
2014-2015	7,79,278	12,44,886	20,24,164	3,37,835	11,17,113	38	27	55
2015-2016	8,47,145	14,55,648	23,02,793	5,06,191	13,53,336	37	35	59
2016-2017	9,12,912	17,15,822	26,28,734	6,07,861	15,20,773	35	35	58
2017-2018	11,30,460	19,19,008	30,49,468	6,05,186	17,35,646	37	32	57
2018-2019	12,14,845	20,80,465	32,95,310	7,46,894	19,61,739	37	36	60
2019-2020	12,23,993	20,10,059	32,34,052	6,50,687	18,74,679	38	32	58

Year	Revenue from State Taxes	Revenue from Central Taxes	Total Tax Revenue (Centre +States)	States' share in Central taxes	States' Tax Revenue (Own Taxes + Share in central Taxes)	% Share of State taxes in combined Tax revenue	% States' share in Central Tax Revenue	% States' share in total tax revenue
2020-2021	11,71,878	20,27,104	31,98,982	5,95,227	17,67,105	37	29	55
2021-2022	14,72,520	27,09,316	41,81,836	8,83,100	23,55,620	35	33	56
2022-2023	17,62,276	30,54,192	48,16,468	9,48,982	27,11,258	37	31	56

14. The adverse impact of covid pandemic is reflected in the deceleration in tax collections during 2019-20 and 2020-21 with a remarkable rebound from the adversity. It is also seen from the above that little over 30% of the Centre's tax revenue is shared with the States although the States' share in the Centre's divisible pool of taxes is 41 per cent. This is due to a significant revenue from Cesses and Surcharges collected by the Central government are not part of the divisible pool. Despite this, the post-devolution share of States in total tax revenue of the Centre and States is 56 per cent which is close to a long-term average of 55 per cent. Thus, the increase in Cesses and Surcharges by the Centre has not affected the overall share of States in the governments' combined tax revenue.

Table 3 - State-wise profile of tax revenue : FY2022-23 (Rs. in crore)

Government	State Goods and Services Tax	Sales Tax / VAT	State Excise	Stamps and Registration Fees	Taxes on Vehicles	Taxes and Duties on Electricity	Other State Taxes	Total State Taxes	Share in Central Taxes
All States /UTs	**7,26,642**	**4,02,713**	**2,34,604**	**2,07,720**	**97,286**	**60,981**	**32,331**	**17,62,276**	**9,48,982**
Maharashtra	1,21,256	54,568	21,507	45,286	11,740	14,721	8,409	2,77,486	60,001
Uttar Pradesh	64,141	31,979	41,253	24,844	9,059	2,519	292	1,74,087	1,69,745
Tamil Nadu	53,823	59,144	10,423	17,560	7,513	1,506	254	1,50,223	38,731
Karnataka	61,403	19,082	29,920	17,726	10,611	3,052	1,906	1,43,702	34,596
Gujarat	52,154	36,984	188	14,207	5,002	10,594	5,682	1,24,810	33,034
Telangana	36,248	29,604	18,470	14,228	6,737	886	774	1,06,949	19,668
Rajasthan	33,790	22,727	13,326	8,189	6,128	2,625	560	87,346	57,231
West Bengal	37,967	11,840	16,266	6,876	3,392	2,774	4,493	83,609	71,435
Andhra Pradesh	27,981	18,004	14,798	8,022	4,320	4,243	657	78,026	38,177
Madhya Pradesh	23,397	17,719	12,955	8,812	4,028	3,498	2,203	72,611	74,543
Kerala	29,513	26,876	2,876	6,217	5,387	72	1,027	71,968	18,261
Haryana	28,577	11,262	9,673	8,607	4,231	578	32	62,961	10,378
NCT Delhi	27,324	5,582	5,548	6,023	2,884	-	1	47,363	-
Odisha	18,601	12,023	6,455	1,997	2,133	4,210	1,135	46,554	42,989
Bihar	23,243	9,881	1	6,451	2,935	987	519	44,018	95,510
Punjab	18,128	5,637	8,437	4,227	2,674	2,888	254	42,243	17,164

Government	State Goods and Services Tax	Sales Tax / VAT	State Excise	Stamps and Registration Fees	Taxes on Vehicles	Taxes and Duties on Electricity	Other State Taxes	Total State Taxes	Share in Central Taxes
Chhattisgarh	11,298	6,450	6,783	2,229	1,757	3,677	929	33,122	32,358
Jharkhand	11,374	6,271	2,057	1,108	1,574	1,132	1,603	25,118	31,404
Assam	12,564	6,749	2,526	852	1,348	88	376	24,502	29,694
Uttarakhand	7,341	2,555	3,526	1,987	1,212	294	188	17,103	10,617
Jammu and Kashmir	7,212	1,554	1,794	557	723	340	155	12,335	-
Himachal Pradesh	5,259	1,370	2,216	399	675	252	423	10,595	7,884
Goa	3,536	1,899	866	984	412	-	128	7,825	3,665
Puducherry	1,874	748	1,403	134	137	-	1	4,297	-
Meghalaya	1,477	622	365	28	132	2	25	2,651	7,286
Tripura	1,459	464	368	103	118	36	51	2,597	7,127
Arunachal Pradesh	1,607	222	281	18	62	-	48	2,237	16,689
Manipur	1,426	289	19	14	83	0	48	1,879	6,784
Sikkim	804	249	298	27	50	-	70	1,497	3,865
Nagaland	959	247	4	3	188	8	53	1,462	5,400
Mizoram	904	113	2	8	41	-	34	1,102	4,745

15. The data in the above table has been sorted in descending order on total revenue of the State/UT from the State taxes. Maharashtra, Uttar Pradesh, Tamil Nadu, Karnataka, Gujarat and Telangana fall in the State's own tax revenue collection being more than Rs. 1 lakh crore. Of these, Uttar Pradesh has the highest share in Central taxes being the most populous State. Bihar, Mizoram, Nagaland, Manipur and Gujrat stand out among lowest in State Excise collections with Bihar and Gujrat following official policy on prohibition of consumption of alcoholic liquor within the State. Uttar Pradesh tops in State Excise (levy on alcoholic liquor) collections. Tamil Nadu, Maharashtra, Gujarat and Uttar Pradesh top in the list of States collecting Sales Tax/VAT which is mainly from petroleum products and/or alcoholic liquor, the items which are outside the tax net of Goods and Services Tax(GST).

FUNDAMENTAL RESTRUCTURING OF INDIRECT TAXES THROUGH THE GOODS AND SERVICES TAX

SUBHASH CHANDRA PANDEY[1]

1. We present a synoptic overview of major issues for policy makers and tax administration in evolving a modern, tech-savvy, taxpayer-friendly, broad-based indirect tax regime to generate resources for financing public welfare and infrastructure; while lagging behind direct taxes in the interest of equity. The introduction of a dual Goods and Services Tax (GST) system from July 2017 has fundamentally altered the Indian indirect tax system.

Legislative framework of indirect taxes

2. The Constitution of India, which is a Union of States, originally provided for a division of legislative powers between the Parliament and the State Legislatures with co-extensive executive powers of the Union government and the State governments.

3. Implementation of the Goods and Services Tax (GST) in a country of India's size and complexity and federal democratic polity is one of the biggest tax reforms in the world. Its seeds were sown when the idea of creating a common market in India across State borders was crystallised by the Bhairon Singh Shekhawat Committee (1995). If sovereign nations could come together to create European Common Market and introduce a common fiscal and monetary regime, it should be less problematic for Indian States, it was argued.

4. The European Common Market was created when sovereign nations came together to introduce a common fiscal and monetary regime. The GST unites India into a common market across State borders. Bhairon Singh Shekhawat Committee (1995) crystallised the idea of integrating the national market on the lines of the EU model and sowed the seeds of introduction of State level VAT in 2005 and the dual GST in 2017. Earlier States used to indulge in fratricidal tax competition to the detriment of public exchequer.

5. Apart from commodity tax rate homogenization, two other objectives of reforms in this area were to minimize multiplicity of rates leading to classification disputes and to minimize the cascading effect of taxes, i.e., output and input both being taxed leading to tax across the value addition chain from raw material to finished products. Efforts started with CENVAT and MODVAT mechanisms but the coverage did not extend to the whole chain as is intended now under the GST regime though this objective is not fully realised and broken chains exist.

6. Prior to the landmark tax reform of introducing a dual Goods and Services Tax (GST)

---

[1] Dr. Subhash Chandra Pandey, IAAS (1983), superannuated as Special Secretary, Ministry of Commerce and Industry. He is presently the President, IPAI and Editor-in-Chief of the IPAI Journal.

system from July 2017, the Union government was empowered, with the approval of the Parliament, to levy and collect Taxes/Duties/Cesses on goods manufactured in India (except alcoholic liquor for human consumption) or on imported goods.

7. The Service Tax was introduced under the Finance Act, 1994 imposing a 5% tax on only three services: Telephone services, Non-life insurance services (general insurance) and Services provided by stockbrokers. The scope of the tax was gradually expanded over the years to cover more services, eventually leading to a "negative list" regime in 2012 where all services except those specifically exempted were taxed, before the entire system was subsumed into the Goods and Services Tax (GST) from July 2017 onwards, with insurance and other financial services emerging as major contributors to GST collections. Service Tax was introduced under residuary powers of legislation conferred on the Parliament as the tax was not specifically listed in the Constitution. Parliament was empowered to levy taxes on railway passenger fares and Stamp Duties on certain specified transactions in the financial market

8. In the case of inter-State sales, the Centre has the power to levy a tax (the Central Sales Tax) but, the tax was collected and retained entirely by the States from where the goods move out. The State/UT governments were empowered, with the approval of the concerned Legislature, to levy Value Added Tax on sale of goods, Electricity Duty on electricity consumption, Stamp Duties on registration of documents, Entertainment Tax, Mandi Taxes etc.

9. Through the 101st Constitutional Amendment Act, 2016, both the Union and the States were empowered to make laws with respect to goods and services. Of course, the Parliament continues to have exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce. This significant Amendment requiring special majority in both the Houses of Parliament and ratification by majority of States was the result of a grand bargain between these governments arrived at after protracted negotiations spanning over a decade. In terms of this Act, the Constitutional amendments were to be enforced with effect from such date as the Central Government may notify. Section 12 of the Act was notified for enforcement w.e.f. 12th September 2016 and the remaining Sections were brought into force w.e.f. 16th September, 2016.

10. The new tax regime contemplated levy of three new taxes, viz., Central GST, State GST and Integrated GST on goods and services with effect from July 1, 2017. The GST rates, rules and regulations are governed by the Goods and Services Tax Council, which comprises of the Finance Ministers of the Union, all the States and the two Union Territories with Legislature. All Goods and Services were divided into five tax slabs - 0%, 5%, 12%, 18% and 28% so as to approximate the total incidence of various pre-GST taxes. In addition, a special rate of 0.25% on rough precious and semi-precious stones and 3% on gold jewellery. In addition, a cess of 22% or other rates on top of 28% GST applied on few items like aerated drinks, luxury cars and tobacco products. The cess proceeds are meant to compensate the States against revenue losses benchmarked to 2015-16 collections with a growth of 14% per annum.

11. Alcoholic liquor for human consumption is outside the GST tax net and continues to be governed by pre-GST tax laws. Five major products in petroleum sector (crude oil, high speed diesel, motor spirit (petrol), natural gas and aviation turbine fuel) are technically part of the GST law but to be taxable with effect from a future date to be decided by the GST Council and till such eventuality continue to be taxed as per the pre-GST laws as transitional arrangement. GST is applicable to Liquefied Petroleum Gas (LPG) and Superior Kerosene Oil (SKO). Tobacco and Tobacco products are covered by GST but as an exception are also subject to Central Excise duty on these products.

12. Salt is a unique product which is exempted from any tax, duty or cess and there is a good deal of history behind this outcome which is detailed in a note placed at **Annexure A.**

13. The GST is a dual GST with the Centre and States simultaneously levying it on a common tax base. The GST to be levied by the Centre on intra-State supply of goods and / or services would be called the Central GST (CGST) and that to be levied by the States/ Union territory would be called the State GST (SGST)/ UTGST. Similarly, Integrated GST (IGST) will be levied and administered by Centre on every inter-state supply of goods and services.

14. GST is a destination-based tax on consumption of goods and services, which levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as setoff. In a nutshell, only value addition by each economic agent in the value addition chain will be taxed and ultimate and full burden of tax is to be borne by the final consumer. The benefit of tax proceeds would accrue to the taxing authority which has jurisdiction over the place of consumption which is also termed as place of supply. While the location of the supplier and the recipient within the country is immaterial for the purpose of CGST, SGST would be chargeable only when the supplier and the recipient are both located within the State.

15. The GST superseded and subsumed the following taxes:

    (i) taxes currently levied and collected by the Centre:

    a) Central Excise duty
    b) Duties of Excise (Medicinal and Toilet Preparations)
    c) Additional Duties of Excise (Goods of Special Importance)
    d) Additional Duties of Excise (Textiles and Textile Products)
    e) Additional Duties of Customs (commonly known as CVD)
    f) Special Additional Duty of Customs (SAD)
    g) Service Tax
    h) Central Surcharges and Cesses so far as they relate to supply of goods and services

    (ii) State taxes that would be subsumed under the GST are:

a) State VAT

b) Central Sales Tax

c) Luxury Tax

d) Entry Tax (all forms)

e) Entertainment and Amusement Tax (except when levied by the local bodies)

f) Taxes on advertisements

g) Purchase Tax

h) Taxes on lotteries, betting and gambling

i) State Surcharges and Cesses so far as they relate to supply of goods and services The GST Council shall make recommendations to the Union and States on the taxes, cesses and surcharges levied by the Centre, the States and the local bodies which may be subsumed in the GST.

16. It is important to note that the GST not only affects Union Excise Duties and Service Tax but also the Customs as in the GST regime of consumption-based taxation, even imported goods and services are subject to GST.

17. It is a well-accepted proposition in tax theory that achieving neutrality of incentives between domestic production and imports requires that all domestic indirect taxes also be levied on imports. So, if a country levies a sales tax, VAT, or excise or GST on domestic sales/production, it should also be levied on imports. In India, this is achieved through the CVD/SAD which is levied on imports to offset the impact of the excise duty levied on domestically manufactured goods. However, CVD/SAD exemptions act perversely to favour foreign production over domestically produced goods; that is, they provide negative protection for Indian manufacturing. The amended Constitution now provides that the supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce. Therefore, the imports are treated as deemed inter-State supplies and thus attract levy of Integrated GST.

8 years' journey of GST shows great strides despite Covid slowdown

18. Despite early hiccups and teething problems, GST has now settled down fairly well. Tax collections have been increasing and systems are getting streamlined. Still, many challenges remain including the expansion of tax net to surpass the pre-GST revenue from the subsumed taxes and coverage of broken value addition chains.

19. Technology has played a major role in reforming our tax system; improving the tax yield and taxpayer facilitation. Within 8 years of introduction, GST has reached a stage of maturity where the number of active GST registrations has crossed 1.5 crore and the monthly collections have jumped from an average of Rs. 70,000 crore to an average of Rs.200,000 crore.

20. Prior to introduction of GST, there were about 72 lakh manufacturers, suppliers, sellers and service providers registered with Central Excise, Service Tax or State VAT authorities. (By December 25, 2017, as many as 99.01 lakh had registered under GST in different States, of which 16.60 lakh were 'composition dealers' who expect their annual turnover to be less than a prescribed threshold[2] and choose to pay GST at flat rates on the declared turnover without any itemized reckoning and record keeping obligation. They are not allowed to claim Input Tax Credit on inward supplies.)

21. Tax collections from taxes subsumed in GST was about 6% of GDP in 2016-17. The GST collections to GDP ratio was 6.25% in 2018-19 and 6% in 2019-20 when the Covid pandemic upset the economic growth and the tax growth trajectory. However, since then GST has bounced back with strong rebound in the economy and stricter tax enforcement aided by technology and will. The following table shows phenomenal gwoth in the business entities brought into the GST net in 8 years.

Table 1- : Active Taxpayers as on 30th Jun 2025 (including 40,75,501 migrated from pre-GST tax regime)[3]

(In Rupees)

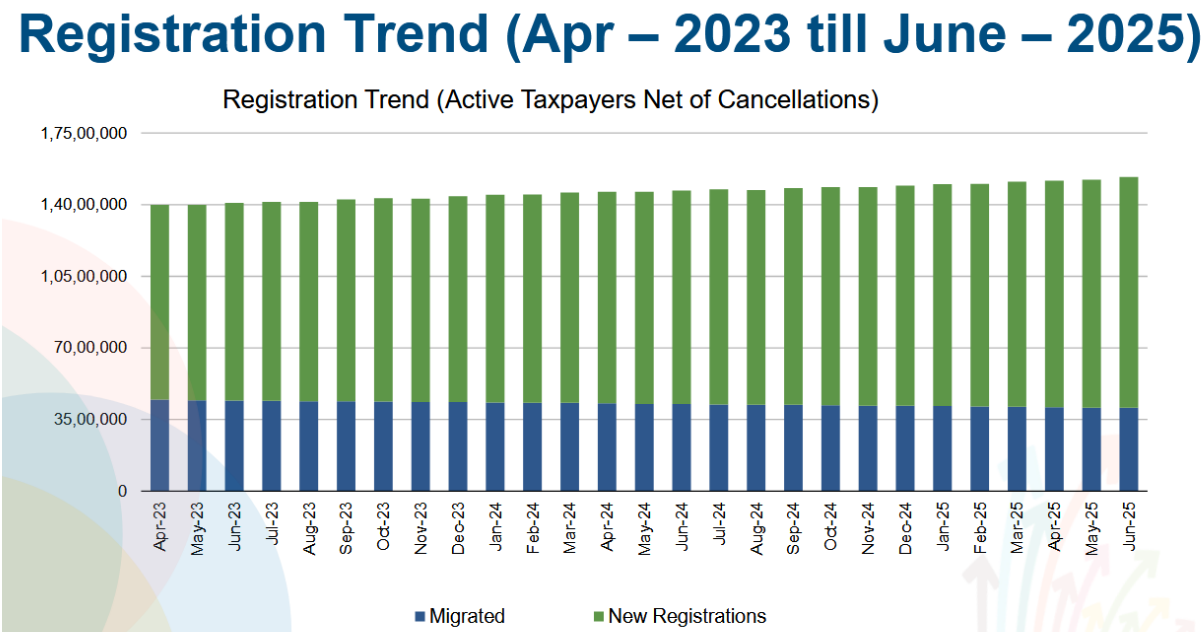
Normal Taxpayers	1,34,52,270
Composition Taxpayers	14,79,938
Input Service Distributor	22,522
Tax Collector at source	22,970
Tax Deductor at source	3,77,162
Others	3954
Total	**1,53,58,816**

22. It is a creditable achievement that the number of registered businesses under taxes subsumed in GST has increased from Rs. 72 lakhs to Rs. 1.35 crore despite significant de-registrations due to increased thresholds for registration and voluntary deregistration by some Central Excise-exempt units located in Himalayan/ North Eastern States whose business became unviable under the destination-based GST.

[2] Rs. 50 lakhs in Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Himachal Pradesh and Rs.75 lakhs in other States

[3] https://tutorial.gst.gov.in/offlineutilities/gst_statistics/8YearsReport.pdf

Chart – 1



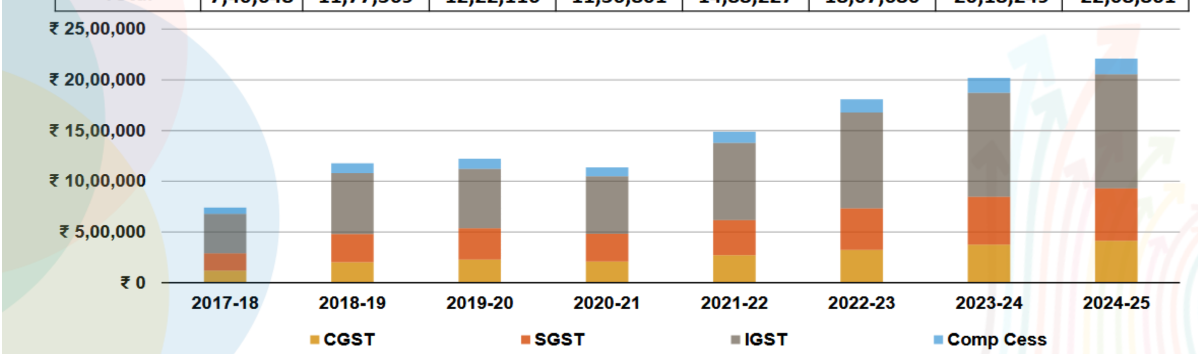
23. Likewise, the following table shows remarkable rebound in GST collections in last three years.[4]

Table – 2

Payments- July'17 to Mar'25

Figures in crores

MONTH	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25
CGST	1,18,876	2,02,444	2,27,442	2,09,916	2,70,701	3,23,923	3,75,710	4,13,776
SGST	1,71,803	2,78,817	3,09,231	2,72,827	3,46,186	4,10,251	4,71,195	5,16,448
IGST *	3,87,355	5,98,739	5,86,698	5,65,720	7,63,632	9,45,220	10,26,789	11,25,335
Domestic	1,93,092	3,08,244	3,19,422	3,03,947	3,86,676	4,73,421	5,43,704	6,03,582
Imports	1,94,264	2,90,496	2,67,277	2,61,773	3,76,956	4,71,799	4,83,085	5,21,754
Comp Cess *	62,614	97,369	98,745	88,338	1,07,708	1,28,286	1,44,555	1,53,303
Domestic	56,319	87,289	88,304	79,153	98,918	1,17,390	1,32,639	1,41,892
Imports	6,294	10,079	10,443	9,185	8,790	10,896	11,915	11,411
Total	7,40,648	11,77,369	12,22,116	11,36,801	14,88,227	18,07,680	20,18,249	22,08,861



*Note -IGST/ Cess includes payments on both domestic supplies and imports

[4] https://tutorial.gst.gov.in/offlineutilities/gst_statistics/8YearsReport.pdf

Multiplicity of rates and classification disputes in commodity taxation

24. On commodity taxation, our reforms have focussed on reduction in the multiplicity of tax rates and moving towards One Nation One Tax through the Goods and Services Tax (GST) concurrently levied by the Union and State government at common, uniform rate across India. GST subsumes nearly all taxes by the Centre and States on manufacture and sale of goods and services except petroleum products, alcohol for human consumption and electricity. In the initial years, the implementation hiccups subdued the collections which have boomed in recent years giving the government headroom to reduce and rationalise GST.

25. The import, manufacture, transport, sale/resale and in some cases even export of goods is subjected to various taxes and statutory levies by the Union and State governments. (Excise/ Sales Tax/Customs/GST. Different commodities are subjected to different rates of taxes and the assesses sometimes try to contend that a product falls in this or that category in classification. Classification disputes and litigation are inherent in the design of any classification system since everything cannot be neatly pigeonholed. There would be newer items defying existing classification or carrying multiple classification tags. Prior to tax reforms ushered in 1990s, the Central Excise, Sales Tax and Customs used to carry dozens of tariff lines and the top court got involved in deciding whether coconut is a fruit, vegetable or oilseed. Reforms reduced the number of tariff lines and the Central Excise started a move towards convergence to just four rates zero percent, 8% ,18%and 24%, with intention to achieve weighted mean rate of 18% in late 90s. Later when Central Excise got merged in the GST for most products (except mainly POL, liquor and tobacco), an Expert Committee recommended (2015) a "Revenue Neutral Rate" of 15% for GST. GST has zero percent, 6%, 12%, 18% and 28% percent; with a cess applicable over and above on intra-state or inter-state supply of specified goods (luxury, sin and demerit goods such as automobiles, aerated drinks and tobacco etc).

26. This Cess was initially enacted (the Goods and Services Tax (Compensation to States) Act, 2017) for 5 years and was meant to compensate the States suffering revenue loss due to merger of several State taxes in the GST, based on an agreed assured revenue guarantee @14% per annum over their pre-GST revenues. Due to disruption caused by the covid pandemic, the Cess has been extended upto 31st March 2026. The GST Council had decided to set up a Group of Ministers (GoM) to suggest 'how to go about the GST compensation cess, which is levied after the loans taken to meet the shortfall in revenue of States during Covid-affected years are repaid.

27. Some tariff classification disputes still linger on. Harmonized System of Nomenclature (HSN) developed by the World Customs Organization is a globally accepted system for classifying goods and services used by more than 200 countries for customs tariffs and international trade and also adopted for GST. SAC Code - Services Accounting Code – has been developed for classification of taxable services. (If a service is not GST exempt or the GST rates are not provided, the default GST rate for services of 18% applies.) India is a member of the World Customs Organization (WCO) since 1971. We

were using 6-digit HSN codes to classify commodities for Customs and Central Excise. Later Customs and Central Excise added two more digits to make the codes more precise, resulting in an 8-digit classification. The HSN code is meant to uniquely identify a taxable product. The purpose of HSN codes is to make GST systematic and globally accepted. HSN codes remove the need to upload the detailed description of the goods thereby making digital processing of tax invoices and returns easier.

28. Classification dispute can arise whether a commodity falls under HSN Code A or HSN Code B. Recently, an issue arose whether hand sanitizer is a medicinal or cosmetic product (12% or 18% GST). (The scope of tax dispute would remain even if every HSN Code were to attract a single rate if the taxability depended on its end-use. For example, if the law sought to tax tyres used in luxury cars, low priced cars and bullock carts differently but that is an issue of tax enforcement to deal with tax evasion. Tax reforms have meant that end-use based exemptions or differential taxation are mostly things of the past but exceptions persist. All food items like atta, salt and popcorn do not attract same tax rate. With innovative processing/packaging, the food processing industry creates premium products that are sought to be taxed at higher rates. Differential tax on branded and unbranded atta or on caramelised popcorn or packaged parotta have attracted commentary but little scope for litigation since the legislative intent is clear.

Rate Rationalisation under GST

29. After the reduction in tax rates and rationalisation announced in the Income Tax and Customs Duties in Budget 2025-26, major reforms of GST Rate Rationalization have been implemented w.e.f. September 22, 2025. Dubbed GST2.0, these reforms move the system to a streamlined two-rate structure of 5% and 18% for most goods and services, with a 40% "sin tax" on luxury items. The reforms aim to lower prices on daily essentials and improve affordability. The revenue neutral rate (RNR), which was 15.8 per cent when GST was introduced in July 2017, has now come down to 11.4 per cent in 2023 and is likely to decrease further.

30. GST law contains elaborate provisions to articulate legislative intent as to what is taxable and what is not. However, there is scope for multiple interpretations. An intuitive, common parlance understanding would be that GST would apply to tradable commodities which would typically be movable goods and not houses, factories and big installations like mobile towers. However, GST subsumed State Sales Tax which has had a system of presumptive taxation on implied sale of construction materials that go into creating immovable properties by applying a percentage on gross construction cost. Legislative intent was not to tax the immovable property but the sale of cement, steel etc. that happened in the process and which was tedious for the State to track and tax the construction material. This legacy of presumptive taxation has found its way into GST law where a discourse around what is movable and what is immovable has created scope for doubt in judicial minds. A recent Delhi High Court judgment ruled that mobile towers are ‘movable property’ and the input taxes used in the installation of mobile towers can be used as input tax credit for payment of GST. Only legislative intervention can help pre-empt such litigation that creates uncertainty, cost and hassles

for both taxpayer and tax person.

31. Raw material, small parts and components of manufactured white goods like Car, Fridge, AC, Washing Machine etc.), sub-assemblies, CKD/SKD kits that can be imported and assembled here into final product with relatively small value-added cost are all taxed differently. Tax policy would want to promote increased value addition in India but the tax laws cannot quickly legislate changed in manufacturing technology and business practices. A recent custom duty dispute involving Skoda Auto Volkswagen India and Kia Motors centers around the classification of imported vehicle components—whether they should be taxed as individual parts (5-15%) or as completely knocked down (CKD) kits (35%). Such instances bring to fore new issues of inter-tax coordination. How to operationalize the legislative intent of taxing imports inversely to local value addition? Should the Customs Duty be linked to the value of finished product declared by the manufacture for purpose of GST payment and the value of imported inputs? How to effect legislation linking Customs and GST?

32. Simple tax laws are easier to implement but then equity and multiple non-tax considerations result in complex tax laws. Tax laws need to be and are agile, amenable to changes in response to fast-changing VUCA world.

Broadening the taxbase and tech-enabled enforcement and efficiency in collection of taxes

33. Strong anti-evasion measures are needed to improve tax collections as tax evasion is rampant and tax collections are still below expectations and potential. GST system includes certain checks on tax evasion like mandatory audits, matching of returns, e-way bills, reverse charge mechanism and invoice matching. Government is cracking whip on tax evaders to ramp up GST collections. Nationwide raids by Directorate General GST Intelligence unearthed 'fake' entities registered under GST and ITC frauds (illegally availing or passing on fake input tax credits). Directorate General of Analytics and Risk Management identifies business entities suspected of availing input tax credit through fake invoices. To check the practice of setting up shell firms for fraud, government has mandated Aadhaar authentication for taking GST registration. GST law permits deemed registration 21 days after an application is filed. Authorities will now physically inspect to verify entities obtaining deemed GST registration without Aadhaar.

34. The Central and State Governments are taking steps to overcome resistance to formalisation and digitalisation, rationalisation of GST rates and curbing tax evasion through claims of fake or excess input tax credits, misinvoicing or undocumented sales. Instances have been found where unscrupulous dealers have used fake invoices for inputs (not received) to claim undue input tax credit. Such invoices don't have any corresponding supply of goods/services or not to the full extent and do not involve actual payment of GST on inputs. This practice also leads to defrauding banks by exaggerating turnovers and money laundering.

35. Ever since the Economic Administration Reforms Commission (chaired by Shri L K Jha 1984) highlighted how 80% of Excise manpower then guarded the gates of low

revenue yielding factories, tax administration has been moving away from physical controls to self-assessment. A trust-based tax assessment system is effective only when there is deterrence of test check and fear of penal action on detection of breach of faith in test check. Otherwise, the tax system will be no different than managing DAAN PATRAS placed in temples!

36. Since tax inspectors no longer guard gates of factories and godowns, 'E-Way Bills' system was rolled out in April 2018 to track movement of taxable goods. This also reduces the income tax evasion by transporters as they need to get registered. Capturing the vehicle registration numbers into a trackable IT system, the eWay Bills and FASTag systems help check other malpractices. (In Bihar fodder scam, the CAG detected certain vehicles supposedly used for fodder transport were actually registered two wheelers, proving fake procurement.)

37. Officials have found lakhs of eWay Bills being cancelled within few hours indicating undocumented delivery to intra-city or nearby destinations or multiple trips being made against a single eWay Bill to transport excess undeclared goods. To curb misuse, em the E-way bill system has been integrated with **FASTag** and **RFID (Radio Frequency Identification) tags,** being used for electronic collection of tolls on National Highways and Vahan database, to allow for real-time tracking and verification of goods in transit. When a vehicle passes an RFID reader at a toll plaza, the details of the associated e-way bill are uploaded to the government portal, helping officials monitor compliance and check for tax evasion.

38. The CAG report on GST (July 2019) had expressed concern on continuing delay in full invoice matching system which made the system prone to input tax credit frauds. The system was intended to be designed based on 100% invoice-matching to ensure system-verified input tax credit, correct settlement of IGST and minimizing direct human interface with assessees. After full automation is adopted by taxpayers, even “assessment”, as understood in the manual system, may no longer be necessary. The tax returns can be generated by a system that matches invoices. Tax evasion can be detected by applying analytical tools and AI to the massive data that crores of invoices generate.

39. In fact, the GST system should reach the same maturity in terms of providing visibility of Input Tax Credit as is now available for verification and tracing of TDS/TCS credits by Income Tax assesses.

A persisting anomaly: GST may have to be paid even before realisation of sale consideration

40. One common and persisting problem, especially for small businesses, is that the GST system is not designed to distinguish a sale for full upfront payment and a sale on credit; a sale on EMI. Income tax is paid after income is received but GST may be required to be paid by the seller even before receiving full sale consideration from the buyer. Why force a seller to pay GST even before he gets paid for the supplies? Even allowing quarterly filing of GST returns with monthly payments does not addresses this problem.

Small businesses selling to big buyers including governments and PSUs routinely face payment delays though some progress has been made recently. It would be desirable if in an upgrade, a receipt-based GST system can be implemented where the GST would be payable to the Treasury only on receipt of full or pro rata payment for the supplied goods/services. One theoretical option to implement this at least for small businesses could be to allow them to opt for Cash Accounting rather than Accrual Accounting but that will create problems when they grow and have to leave the small business tag. Better option will be to introduce payment tracking whose benefits will go beyond the GST sphere in checking defaults and delinquencies. The recovery of overdue payments fall under civil law only as the GST Act offers no direct recourse for a seller / service provider against a non-paying buyer. There is no specific complaint mechanism within the GST department for suppliers to report non-payment by their buyers. GST Portal, however, has a "Communication Between Taxpayers" tab that allows a seller to remind a buyer about unpaid dues, though this is informal and non-binding. [GST->Services->User services->Communication between Tax Payers]. https://prodcc.gst.gov.in/cchannel/auth/viewnotification

Way forward

41. Inclusion of electricity and petroleum products in GST will allow input tax credit across full value addition chains. It will pave way for further GST rate rationalisation, further lowering of rates with continuing strict action against tax frauds can make GST more acceptable and yield more revenues. The GST scope expansion can be done through appropriate adjustments in non-GST taxes like Customs Duty, Central Excise Duty and Electricity Duty. Digitalisation and formalisation of businesses pose some short-term costs and hassles but it is inevitable and it alone holds the promise of giving long awaited justice to the overtaxed. Rates can come down when compliance improves for this grand reform.

42. Widespread adoption of digital technology in payments and financial transactions has boosted India's capital market and tax revenues, both direct and indirect. Phenomenal growth in the assets under management of mutual funds and the number of retail investors in the capital market has provided scope for easy to track financial services and yielded unprecedented collections under GST and the Securities Transaction Tax.

43. Financial Services and Lotteries have reportedly emerged as major sources of GST revenues though at present there is no official reporting on what GST revenue is yielded by different categories of taxable goods and services. It would be a measure of improve fiscal transparency if broad category wise GST revenue is disclosed.

Sin taxes: A continuing policy dilemma

44. In theory, there is no morality in 'taxation' in the sense that taxman is not averse to taxing proceeds of crime and various shades of unacceptable behaviour. Taxing people addicted to liquor, tobacco, cigarettes, lotteries has been steady source of revenue. Liquor is a major source of State Excise Duty for most States and out of the scope of GST. If more States opt for prohibition, tax revenues will fall. Conversely, the States

can legalise and tax betting and other vices. It is a tough policy choice, whether to benefit from peoples' vices and addictions or not. There are trade-offs between the government's spending on healthcare, reduction in delinquency and crime rate and social well-being.

TAXATION OF ALCOHOL

MEENAKSHI GUPTA[1]

The Constitutional and legislative provisions governing the role, responsibility and power to tax and regulate alcohol and alcoholic products by the Union and State governments have been subject of extensive judicial scrutiny. The States have exclusive power to levy excise duty on domestic manufacture and sale of alcoholic liquor for human consumption. The Union Government is empowered to tax imported liquor and alcohol used in medicinal and toilet preparations. A 2024 judgment of the Supreme Court has held that the States' legislative power on 'intoxicating liquors' extends to non-potable industrial alcohol as well. This overturned a judgment of 1989 vintage, which had restricted the States's power to kick in only after the alcohol had been converted into a form 'fit for human consumption'. Whether the Industries (Development and Regulation) Act, 1951 was meant or sought to curb individual States' power to tax and regulate key commodities in broader national interest, overriding the powers of the States? Whether the Central Acts were mainly intended for common regulatory framework for key commodities or extended to limit the individual States' revenue raising from these commodities thereby exercising control on the prices payable by end users? These questions remain open.

A remarkable feature of State Excise revenue is steady increase over the years, undented by the covid pandemic which had affected other sources of public revenues. Exclusion of potable alcohol from the scope of GST creates some issues. Taxation on alcohol raises the ethical issue and a moral dilemma from the point of view of governance. There are public health, public order and other social trade-off in context of policy of Prohibition on consumption of alcohol being followed by some of the states like Gujarat and Bihar. Hence, a common national framework for regulation and taxation of alcohol and alcohol-based products does not seem feasible at present due to extreme divergence of practice across States and very high dependence on revenue from liquor taxation in several States (upto 32 per cent of total revenue from States' own taxes).

1. The alcohols (particularly the Ethanol / Ethyl Alcohol) are a class of chemical substances that are largely produced as an agricultural bye-product besides being synthesized in Laboratories which are widely used for human consumption as an intoxicating liquor in a variety of compositions but are also used for industrial purposes and in medicinal and toilet preparations as a solvent, preservative, antiseptic, and therapeutic agent.

2. Ethanol is also being used to blend with Petrol as a measure to conserve foreign exchange in import of crude petroleum oil. Ethanol Blended Petrol (EBP) reduces level

[1] Ms. Meenakshi Gupta, IAAS (1984), superannuated as a Deputy Comptroller and Auditor General and later served as Member, Telecom Regulatory Authority of India. She is a member of the Editorial Board of IPAI.

of pollution as oxygen present in ethanol allows 100% of fuel to be burnt and also helps farmers increase their income. Sugarcane is the main source for production of ethanol.

3. Though the medicinal and toilet preparations, including those having alcohol as a relatively small-value input, attract the Goods and Services Tax (GST), alcoholic liquor for human consumption and non-potable alcohol used as fuel-additive or for industrial purposes are an important class of commodities which are outside the scope of the GST. However, these commodities attract a host of other Taxes, Duties and fees levied by the Union, State and Union Territory governments.

4. The States have the exclusive power to levy excise duty on alcoholic liquor for human consumption (Article 246(3) and Entry 51[2] of the State List - Seventh Schedule of the Constitution of India) but cannot levy excise duties on medicinal and toilet preparations containing alcohol. The Union has the exclusive power to levy Duties of excise on medicinal and toilet preparations containing alcohol under Entry 84[3] of the Union List - Seventh Schedule of the Constitution of India.

5. In addition, States can levy VAT/Sales Tax on sale of alcoholic liquor under Entry 54 of the State List since alcoholic liquor is outside GST. States can also levy VAT/Sales Tax on retail sale of Ethanol Blended Petrol (EBP) alongwith such tax on other petroleum products.

6. The Union has exclusive power to tax all imports into the country and hence States cannot levy any tax on imported alcoholic spirits and liquors. The Central government levies Basic Customs Duty (BCD) and Cesses on import of bottled Wine, Beer and Whisky. For personal, duty-free baggage allowance covers upto 2 litres of alcoholic liquor.

7. The Budget for FY2025-26 major reductions in Customs Duties on imports of spirits and liquors. Duty on Bourbon Whisky from USA was reduced from 150% to 50%. Duty on Scotch/Blended Whisky from UK was reduced from 150% to 75% and is set to be further reduced to 40% over a decade under the India-UK Free Trade Agreement. Imported Beer typically attracts 100% Basic Customs Duty and 50% Countervailing Duty (CVD). With Education Cess and State level taxes the taxes can cumulatively exceed 200% in final consumer prices.

8. States impose State Excise Duty, Value Added Tax (VAT) and several other levies on manufacture, bottling, export/import within State and on licences for wholesale or retail sale of alcoholic liquors for human consumption. (Cess for social welfare schemes,

[2]Entry 51 State List, Seventh Schedule. Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India:- (a) alcoholic liquors for human consumption; (b) opium, Indian hemp and other narcotic drugs and narcotics, but not including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.

[3]Entry 84 Union List, Seventh Schedule. Duties of excise on tobacco and other goods manufactured or produced in India except- (a) alcoholic liquors for human consumption; (b) opium, Indian hemp and other narcotic drugs and narcotics, but including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.

Additional Excise Duty for infrastructure and other ad hoc levies like Label registration fees, Excise permit fees, Beverage Corporation margin fees, “Special Corona Fee” etc.)

9. The State Excise Duty is levied on the manufacture and sale of alcoholic liquor. The State Excise Duty may also be levied on narcotic drugs and certain medicinal/toilet preparations containing alcohol.

10. The State Excise Policies and Rules vary significantly across States and very wide differential vis-à-vis neighbouring States can cast serious implementation challenge for the administration. Models vary from total prohibition (Bihar, Gujarat) and State controlled trade (Delhi, Kerala, Tamil Nadu, West Bengal), State regulated trade through private licensees with mixed models for beer/wine versus hard liquor.

11. Some States like Gujarat and Bihar have a policy of Prohibition in force for years and it is thus illegal to sell or consume liquor there. Bihar imposed a complete ban on alcohol (manufacture, sale, storage, consumption) in April 2016. An amendment in 2022 to the Bihar prohibition law shifted the emphasis of enforcement from consumers to providers. First-time “drinkers” can get away with a penalty rather than face arrest; cases can be withdrawn; a vehicle in which liquor is found may not be compulsorily confiscated and, if it is, can be released after a fine but bootleggers have to face the brunt of the law.

12. Some State governments control retail sales of spirits through State controlled monopolistic enterprises such as the Tamil Nadu State Marketing Corporation Limited (TASMAC)), the Kerala State Beverages (Manufacturing & Marketing) Corporation Ltd (BEVCO), the West Bengal State Beverages Corporation (WBSBCL) While holding a monopoly on wholesale trade, WBSBCL has recently entered retail through private franchisees, ensuring significant state revenue.

13. Delhi Government. used to have State monopoly on retail sale of liquor and experimented briefly with privatisation in 2021–22 which led to anti-corruption investigations and a CAG Report. Following the withdrawal of the controversial 2021-2022 Excise Policy (which had privatized sales), Delhi reverted to its old policy in September 2022, placing the government back in control of all retail liquor operations. The liquor vends are run by four government agencies: Delhi State Industrial and Infrastructure Development Corporation (DSIIDC), Delhi Tourism and Transportation Development Corporation (DTTDC), Delhi Consumer's Co-operative Wholesale Store (DCCWS), and Delhi State Civil Supplies Corporation (DSCSC).

14. Most State governments follow a practice of approving the State Excise Policy annually at the Cabinet level. For different categories of spirits and liquors, the State level Excise Policy typically covers aspects like the Distribution model (State monopoly vs open market), methodology of allocation of licenses for manufacture, storage, transit and sale, Licence fees to be paid by market intermediaries (whether fixed on administrative basis or on the basis of auction to the highest bidder), MRP rules, Dry Days when liquor vends have to remain closed or other prohibition rules. Specific licences are given to

exempted categories like the Defence Forces (Canteen Store Departments, Unit run Canteens) for sale of liquor at concessional rates.

Impact of liquor taxation on state finances

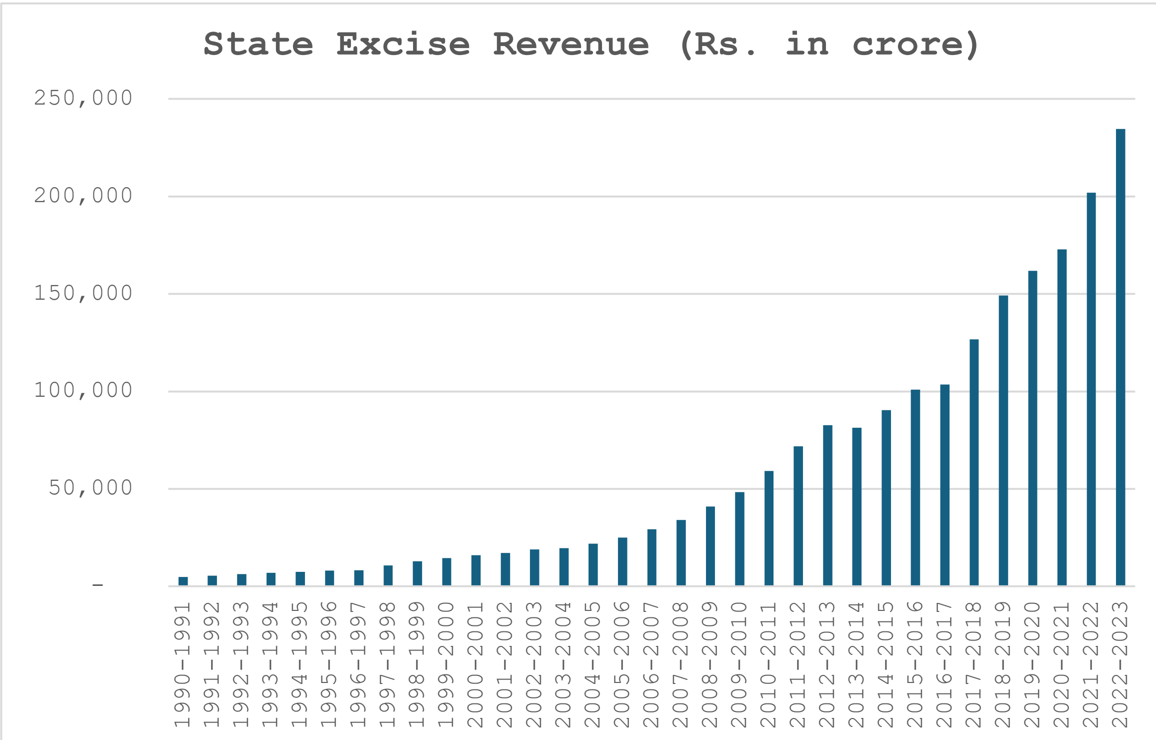
15. State excise duty and the Value Added Tax on alcohol together constitute the second biggest source of revenue after the State GST for most of the States/UTs. State/UT wise State Excise Revenue collections during FY2022-23 are given in the table below. (The Revenue from State Excise does not constitute total revenue from alcohol as VAT and other levies are separate from State Excise revenue.)

Table 1 - State/UT wise State Excise revenue (FY2022-23) – Rs. in crore

State/UT	Revenue State Excise (Rs in crore)	Contribution of State Excise Revenue to the State's total revenue from own taxes (%)
Puducherry	1,403	32.6
Uttar Pradesh	41,253	23.7
Himachal Pradesh	2,216	20.9
Karnataka	29,920	20.8
Uttarakhand	3,526	20.6
Chhattisgarh	6,783	20.5
Punjab	8,437	20.0
Sikkim	298	19.9
West Bengal	16,266	19.5
Andhra Pradesh	14,798	19.0
Madhya Pradesh	12,955	17.8
Telangana	18,470	17.3
Haryana	9,673	15.4
Rajasthan	13,326	15.3
Jammu and Kashmir	1,794	14.5
Tripura	368	14.2
Odisha	6,455	13.9
Meghalaya	365	13.8
Arunachal Pradesh	281	12.6
NCT Delhi	5,548	11.7
Goa	866	11.1
Assam	2,526	10.3
Jharkhand	2,057	8.2
Maharashtra	21,507	7.8
Tamil Nadu	10,423	6.9
Kerala	2,876	4.0
Manipur	19	1.0
Nagaland	4	0.3
Gujarat	188	0.2
Mizoram	2	0.2
Bihar	1	-
All States/UT	**2,34,604**	**13.3**

16. A remarkable feature of State Excise revenue is steady increase over the years, undented by the covid pandemic which had affected other sources of public revenues, as shown in the chart on long-term trend since 1990-91.

Chart 1:



Taxation of Alcohol used for Industrial Purposes / Dual use Extra Neural Alcohol

17. Taxation of commodities and services in general is a system of indirect taxation of consumers. A Value Added Tax or a Goods and Services Tax is in general designed so that the persons selling the goods and services is asked to pay only the difference between the tax on the goods/services 'sold' and the tax already paid on the goods and services used as input to providing the 'sold' goods and services. Anomalies often arise when input goods are taxable under GST/VAT but output goods are not taxable. Situations of 'Inverted Duty Structure' arise when the tax rate applied to input goods is higher than the tax rate applied on the output goods. This situation leads businesses to accumulate unused Input Tax Credit (ITC) because the total tax paid on purchases is more than the tax collected on sales.

18. Exclusion of Potable Alcohol from GST presents a similar situation where GST paid on inputs to making potable alcohol cannot be claimed as Input Tax Credit from the non-existent GST on alcohol.

19. The States are authorised to levy Excise Duty on only the alcohol for human consumption and not on the alcohol used for industrial purposes or in medicinal and toilet preparations or the alcohol used for blending with petrol. (Ethanol-blended petrol may attract State level VAT/Sales Tax.)

20. The primary alcohol used in medicinal and toilet preparations is Ethanol (Ethyl Alcohol), serving as a solvent, preservative, antiseptic, and therapeutic agent in products like cough syrups, tonics, mouthwashes, and perfumes, with specific types like Rectified Spirit and Denatured Spirit used under strict excise regulations, particularly in India under the MTP Act, 1955, to control duties and prevent misuse. A Central Act – the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 – regulates the manufacture, sale, and taxation of alcohol-containing medicines and toiletries.

21. The Union government's authority to tax the alcohol used in medicinal and toilet preparations is thus well-settled. However, since the States can levy excise duty only on the alcohol for human consumption, the power to tax dual use alcohol (industrial or human consumption) had been the subject of protracted legal tussle.

22. Industrial alcohol and potable (drinkable) liquor are both manufactured from rectified spirit, a highly concentrated spirit which is generally toxic in nature. The rectified spirit then undergoes a "denaturation" process and becomes industrial alcohol. The denaturation process makes the spirit unpalatable and nauseating, making it unfit for human consumption. In the illegal economy of alcohol trade, industrial alcohol is sometimes used for manufacturing of potable liquor, making the regulation of both industrial alcohol and potable liquor a crucial and complex task.

23. The Extra Neutral Alcohol (ENA) is the purest form of alcohol and depending on how it is processed further, it can have dual usage in both potable and industrial applications. Denatured ENA is unfit for human consumption while (undenatured) ENA is a primary raw material in the production of liquor for human consumption but can also have a dual, industrial use. India Made Foreign Liquor (IMFL) typically have ENA content of over 40% whereas India Made Indian Liquor (IMIL) has about 33% ENA content.

24. The sugar factories which supply ENA to both alcoholic beverage industry and other industries have taken different positions on such ENA with potential dual-use (and thus carrying the risk of diversion for undeclared purposes). Significant proportions of ENA are used as input for manufacturing both Indian Made Foreign Liquor (IMFL) and Indian Made Indian Liquor (IMIL). The State Governments do not have a uniform view on the issue.

25. Owing to a lack of clarity on the matter, divergent practices were being followed by manufacturers or suppliers where some were paying GST on the sale of ENA while others were paying VAT/Central Sales Tax (CST), treating it akin to 'alcoholic liquor for human consumption,' a commodity outside the purview of GST.

26. Effective from November 1, 2024, un-denatured ENA or rectified spirit used for the manufacture of alcoholic liquor for human consumption has been excluded from the scope of GST. This is expected to alleviate the financial burden on the liquor industry, which has faced complications from dual taxation. The ENA used as raw material in industrial applications, will attract an GST @18%.

Who has the authority to tax and regulate industrial or dual-use alcohol?

27. The relative role, responsibility and power to tax and regulate alcohol and alcoholic products by the Union and State governments is based on an elaborate scheme of Constitutional and legislative provisions that have been subject of extensive judicial scrutiny.

28. There is no dispute on the levy of GST on denatured ENA (industrial alcohol), and the issue arises only in the case of (undenatured) ENA, which can be used for the manufacture of alcoholic liquor meant for human consumption and also for industrial purposes.

29. Who has the power to tax and regulate (undenatured) ENA has been a matter of contention between the Union and the States due to its dual end-use for industrial and human consumption purposes.

30. Till 2024, the settled law was that the Central government had the power to tax and regulate industrial alcohol until the stage it is converted into a form which is 'fit for human consumption' and that alcohol used for industrial purposes can be taxed and regulated only by the Centre. GST is levied on industrial alcohol products like hand sanitizers, alcohol used for pharma and solvents. Most of these are not "fit for human consumption," and therefore, not in State Excise domain.

31. A 2024 judgment of the Supreme Court has held that the States' legislative power on 'intoxicating liquors' extends to non-potable industrial alcohol as well. This overturned a judgment of 1989 vintage, which restricted the States' power only to the alcohol converted into a form 'fit for human consumption' in view of the Centre's powers under the Industries (Development and Regulation) Act, 1951. The chronology of this judgement is detailed in succeeding paragraphs:-

32. Entry 52 of the Union List empowers the central government to regulate industries that Parliament finds to be of "public interest." Parliament—acting in accordance with the Union List—through Section 18-G of the Industries (Development and Regulation) Act, 1951 (Industries Act), is entrusted with the power to regulate specific products related to scheduled industries to the Union government. This was done to ensure that these products were being distributed fairly and sold at reasonable prices

33. Under Entry 8 of the State List, a State is empowered to make laws for "Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors.

34. However, under Entry 33 of the Concurrent List both the State and Union governments can make laws on the products of any industry, even if Parliament has granted control to the Union in public interest. And therein lies the confusion of who has the power to regulate industrial alcohol—the State or the Union

35. In *Ch.Tika Ramji v State of Uttar Pradesh* (1956), the Supreme Court hearing a case pertaining to sugarcane regulation was deliberating whether a State legislation enacted in pursuance of Entry 33 of the Concurrent list impinged into the Union's power under

Entry 52 of Union list. The Court held that the parliamentary intent behind Section 18-G did not indicate that the "entire field" or regulatory scope of the specific product of scheduled industries would be covered by the provision. It also found that the State legislation dealt only with supply and purchase of sugarcane and did not impinge on the Union's exclusive jurisdiction to regulate sugar. The Court recognised that the State's power to legislate on matters under Entry 33 of Concurrent list existed independently of Section 18-G in the Industries Act.

36. In 1990, the Uttar Pradesh government imposed a licence fee of 15 paise per litre on the quantity of specially denatured spirit obtained from distilleries. The Allahabad High Court held (1991) that only the Union could legislate on industrial alcohol which is a liquor "unfit for human consumption". The Court reasoned that the state governments enjoyed limited regulatory authority over industrial alcohol. The States legislative power was restricted to oversee the prevention of industrial alcohol being converted into potable alcohol. It noted however, that if and when the state government imposed any regulatory fee pertaining to denatured spirit, it had the burden of showing that there was a "broad correlation" between the fee charged and administrative expenses the government incurred for the purpose as otherwise it would tantamount to the State getting power to tax industrial alcohol through back door

37. The High Court also found that there was no correlation between the 15 paise per litre licence fee and any additional expenses incurred by the department. Therefore, it concluded that this fee was not a regulatory fee but was in fact a tax. In 1997, a Division Bench of the Supreme Court dismissed (*Vam Organic Chemicals Ltd. v State of Uttar Pradesh*) the appeal against the High Court judgement

38. In 1999, UP government stipulated that for any sale made by any wholesale vendor to licence holders, a licence fee of 15 percent ad valorem would be applied but once the rectified spirit was converted into industrial alcohol after denaturation, the licence fee would not be imposed anymore.

39. In 2003, a Division Bench of the Supreme Court held (*State of Uttar Pradesh v Vam Organic Chemicals Ltd.)* that the State government was competent to levy a fee for the purpose of ensuring that industrial alcohol is not surreptitiously converted into potable alcohol and the public is protected from consuming illicit liquor.

40. The imposition of the licence fee on denatured spirit by State government was challenged based on the Supreme Court's judgement in *Vam Organics Chemicals* (1997) in which the Court had noted that the state government, per se, did not have power to levy tax on industrial alcohol, whether or not it had the potential to be used as alcoholic liquor. The manufacturing and sale of "denatured spirits" was beyond State government's legislative power due to its coverage under Section 18-G of the Industries (Development and Regulation) Act, 1951 (IDR Act), a Central Act. The denatured spirit and industrial alcohol were thus outside the legislative power of the State which only had regulatory authority over-potable alcohol. The Court held that the licence fee was "wholly illegal" and that the Uttar Pradesh government had failed to show that the fee was being charged to overlook the prevention of diversion of rectified spirit to be used

for human consumption. The Court relied on *Vam Organic Chemicals (1993)* to state that the imposition of the fee on such grounds was unacceptable since the general regulation of denatured spirit was outside the purview of the state legislature. On 22 August 2004, after a SLP was filed against this judgement, the Supreme Court granted an interim stay on the Allahabad High Court's order.

41. On 27 October 2007, a Division Bench of the Supreme Court held (*State of U.P. v Lalta Prasad Vaish*) that following the decision in *Synthetics & Chemicals*, Section 18-G removed the jurisdiction of the state legislature from Entry 33 of Concurrent list. It reiterated that States had the legislative competence to regulate potable liquor and a limited competence over industrial alcohol merely to make provisions to prevent and check industrial alcohol being misused as intoxicating liquor.

42. The case of Synthetics and Chemicals Ltd. only dealt with alcohol that could be used for industrial purposes, i.e., denatured rectified spirit. A situation where the rectified spirit would be used entirely for making alcohol fit for human consumption was considered by the court in the case of Bihar Distillery vs Union of India (1997) where it was held that in so far as the spirit was used for manufacturing potable liquor, the power to levy excise duty would vest with the State Governments, thereby, equating such spirits to alcohol fit for human consumption.

43. The 1997 Supreme Court judgment (Bihar Distillery v. Union of India) clarified the division of power between the Central (Union) and State governments over alcohol control, ruling that while States control potable liquor (Entry 8, List II), the Union controls industrial alcohol under the IDR Act (Entry 52, List I). The key was the point of clearance: Union government for industrial alcohol (used for making chemicals) and State government for potable use even for dual-use rectified spirit, creating a functional demarcation to prevent diversion and revenue loss. The judgment delineated powers, addressing conflicts between state control over "intoxicating liquors" and central control over "industries" like alcohol manufacturing. The crucial factor became the purpose for which alcohol (especially rectified spirit) was removed from the distillery. About Dual-Use Rectified Spirit, the court established that the State could regulate it if the stock was intended for potable use, while the Union could regulate if intended for industrial use.

44. In the case *State of Uttar Pradesh vs. Lalta Prasad Vaish* (2024), the Supreme Court overturned the long-standing previous decisions and affirmed, by an 8:1 majority judgment, that the States' legislative competence under Entry 8[4] of the State List (8. Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors) extends to cover 'industrial/denatured alcohol' as well.

45. This judgment overturned the judgments in *Synthetics and Chemicals Ltd vs. State of U.P. (1990) and* Bihar Distillery v. Union of India (1997) which had upheld primacy of Union control over industrial alcohol under the Industries Development and Regulation

[4]**Entry 8 State List, Seventh Schedule.** Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors.

Act 1951 (Section 18G) and had restricted State jurisdiction mainly to potable liquor and preventing diversion of industrial alcohol for potable use.

Conclusions

46. The judgment of Hon. Supreme Court in *State of Uttar Pradesh vs. Lalta Prasad Vaish* (2024) settles some very important issues while raising fresh issues. These issues arising out of the judgment are discussed below.

47. Entries in the Union List, State List and Concurrent List in the Seventh Schedule of the Constitution of India lists subjects on which the Parliament, State Legislature and both can legislate. Generally, legislative competence on a listed subject would mean power to legislative on all aspects of that subject including levy of any taxes, duties, cesses or fees besides legislative regulation of actions of various entities. So while the power to tax and regulate can both be read into a listed entry, the power to tax under a listed subject needs to be read with as having been restricted by Entries that specifically lists various taxes and duties.

48. The judgment in *State of Uttar Pradesh vs. Lalta Prasad Vaish* (2024) holds that even 'industrial/denatured alcohol' which is not potable, not fit for human consumption falls under the States' legislative competence.

49. Does it imply States power to only regulate the production, manufacture, possession, transport, purchase and sale of 'industrial/denatured alcohol'? Does it also include power to directly or indirectly tax 'industrial/denatured alcohol'? Is the States' taxing power limited to only to alcoholic liquors for human consumption while regulatory powers extends to even non-potable alcohol, on the ground that non-potable alcohol may possibly be misused for adulteration of potable alcohol? Is the expanded State power meant merely to prevent diversion of non-potable alcohol for potable use does it also allow State to raise more revenue from non-potable alcohol? If a State were to levy any hefty charge, by whatever name it may be called , on 'industrial/denatured alcohol' and the charged amount is disproportionately higher than the direct cost of regulation, will it not amount to indirectly taxing even the non-potable alcohol which seems to be against the intent of Entry 51[5] State List? Does it mean that the States' power to tax potable alcohol under Entry 51 is supplemental and not in conflict with States' taxing power on all intoxicating liquors (including non-potable alcohol) implicit in Entry 8?

50. In the case of Vam Organic Chemicals Ltd. vs. State of U.P. (2003), the Supreme Court had upheld the State's power to levy a fee on industrial alcohol, ruling that the fee was a valid regulatory measure to prevent diversion of industrial alcohol to potable alcohol, not an extra tax; confirming States' broad authority over industrial alcohol under the Concurrent List (Entry 51) for control in the interest of public safety. Such fees required reasonable justification, not strict quid pro quo. The judgment in *State of Uttar Pradesh*

[5] **Entry 51 State List, Seventh Schedule.** Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India:- (a) alcoholic liquors for human consumption; (b) opium, Indian hemp and other narcotic drugs and narcotics, but not including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.

vs. Lalta Prasad Vaish (2024) has not specifically overturned the judgment in the case of Vam Organic Chemicals Ltd. v. State of U.P. (2003). Hence, it is unclear if the judgment in *State of Uttar Pradesh vs. Lalta Prasad Vaish* (2024) now gives unrestrained power to States to tax and regulate all forms of alcohol or merely extends the power to regulation of non-potable alcohol with a reasonable regulatory fees that requires reasonable justification, not strict quid pro quo.

51. It is apt that before this judgment (October 2024), the Supreme Court had given another judgment expanding the States' taxation powers on minerals, overturning decades old decisions. On 25 July, 2024 a nine-judge Constitution Bench of the Supreme Court held (by 8:1 majority) that States have the power to levy tax on mines and minerals in addition to any royalty paid under the Mines and Minerals (Development and Regulation) Act, 1957, a Central Act. (Mineral Area Development Authority & Anr. v. M/s Steel Authority of India & Anr. The Court held that the royalty is not a tax and hence a royalty payable under the MMRD Act is not a Central tax and hence the royalty not being a Central tax cannot limit State's taxing power over and above the royalty.

52. It is an interesting to note that both the judgments (*State of Uttar Pradesh vs. Lalta Prasad Vaish* (2024) regarding alcohol and Mineral Area Development Authority & Anr. vs. M/s Steel Authority of India & Anr etc. regarding minerals), delivered with 8:1 majority, expanded the States' power (to tax and regulate) alcohol and minerals overturning decades old previous SC judgments that gave primacy to the Central laws - Industries (Development and Regulation) Act, 1951 and Mines and Minerals (Development and Regulation) Act, 1957, respectively.

53. The above brings to fore the wider issues whether the Central Acts like the Industries (Development and Regulation) Act, 1951 and Mines and Minerals (Development and Regulation) Act, 1957 sought or were meant to curb individual States' power to tax and regulate key commodities in broader national interest, overriding the powers of the States? Whether the Central Acts were mainly intended for common regulatory framework for key commodities or extended to limit the individual States' revenue raising from these commodities thereby exercising control on the prices payable by end users?

54. Whether and to what extent it is desirable to fragment the nation as a single market while resolving the conflicting financial interests of the Union and individual States are issues that go beyond judicial pronouncements which essentially seek to interpret the provisions in the Constitution and the laws enacted by the Parliament and State Legislatures.

55. As the introduction of Goods and Services Tax w.e.f. July 2017 as part of a grand bargain between the Union and the States has shown, the legal framework including the Constitution is amenable to amendment to reflect the current realities.

56. Exclusion of potable alcohol from the scope of GST creates some issues. Tax competition between neighbouring States due to lack of GST like uniformity of rates

[6] https://api.sci.gov.in/supremecourt/1999/9012/9012_1999_1_1501_54138_Judgement_25-Jul-2024.pdf

and hassles of border-checks lead to governance issues and unhealthy practices. Very high excise rates push consumers to informal/bootleg markets or cross-border purchases, eroding tax collections. When GST on inputs (packaging, transport) rises, liquor producers cannot claim input credits (because finished liquor is outside GST), so costs are passed on to consumers, prompting states to adjust MRP or excise formulas.

57. Taxation on alcohol raises the ethical issue and a moral dilemma from the point of view of governance. There are public health, public order and other social trade-off in context of policy of Prohibition on consumption of alcohol being followed by some of the states like Gujarat and Bihar. Outright bans or very high excise duties may either reduce consumption or increase illicit production / sale and enforcement costs. While prohibition is advocated for improved health, reduction in crimes and maintaining the social fabric of the society, the revenue generated from alcohol is significant for state finances in many States.

58. State excise duties on alcohol contribute upto 30% of States' own tax revenues in some States. Over the years, the revenue collected by States on account of State excise on alcohol has registered a very significant growth increasing from Rs.1,03,493 crore in 2016-17 to Rs.2,34,604 crore in 2022-23. The increase in revenue on account of taxes on alcohol was almost 23 percent over the year 2016-17 to 2017-18 and over the period 2016-17 to 2022-23 it was 126 percent over a period of 6 years.

59. A common national framework for regulation and taxation of alcohol and alcohol-based products does not seem feasible at present due to extreme divergence of practice across States, from total prohibition in Bihar and Gujarat to high dependence on revenue from liquor taxation in several States.

TAXATION OF PETROLEUM AND PETROLEUM PRODUCTS

SHUBHA KUMAR[1]

India is highly dependent on import of crude petroleum oil with almost 85 per cent of its total annual requirement being imported. While the public sector companies lead the capital-intensive upstream (exploration and production of crude oil), the private sector dominates the downstream (refining) segments of the petroleum sector. Contribution of the petroleum sector to the Union Government tax revenue increased from Rs.1,72,065 crore in FY 2014-15 to Rs. 4,15,181 crore in FY 2024-25. A large part of these Central revenues were in the nature of Cess or Surcharge and hence not shareable with the States. Contribution of the sector to the State exchequer increased from Rs.1,60,554 crore in FY 2014-15 to Rs.3,25,584 crore in FY 2024-25. Five major products in petroleum sector (crude oil, high speed diesel, motor spirit (petrol), natural gas and aviation turbine fuel) are technically part of the GST law but to be taxable with effect from a future date to be decided by the GST Council and till such eventuality continue to be taxed as per the pre-GST laws as transitional arrangement. GST is applicable to Liquefied Petroleum Gas (LPG) and Superior Kerosene Oil (SKO). Wide variation in the rates of State-level taxes and overall high incidence of taxes on petroleum sector (tax rates significantly higher than the benchmark GST rates) point to the difficulty in bringing these commodities within the GST net even though from a technical viewpoint, the GST should cover all value addition chains to derive maximum benefit.

Introduction

1. India is highly dependent on import of crude petroleum oil with almost 85 per cent of its total annual requirement being imported. As an incentive, the domestic crude oil producers are allowed to charge import-parity price (price matching the landed cost of imported crude oil) which is generally higher than their actual production cost. This exposes the prices of petroleum products to the huge risks of supply disruption and price variation in international market. While the public sector companies (Oil and Natural Gas Corporation and Oil India Ltd.) lead the capital-intensive upstream (exploration and production of crude oil), the private sector dominates the downstream (refining) segments of the petroleum sector. We have two large export-oriented crude oil refineries in the private sector.

2. Petroleum products offer a convenient channel of collection of indirect taxes with little scope of tax evasion. Hence, indirect tax system in India has had a large concentration of tax incidence on petroleum products. The petroleum products have wide usage in both final consumption by retail consumers and intermediate consumption by industries and hence serve as a good proxy base for wider indirect tax net. This does raise the

[1] Ms. Shubha Kumar, IAAS (1985), superannuated as a Deputy Comptroller and Auditor General. She is the Vice President of IPAI and a member of the Editorial Board of IPAI.

issue of trade-offs between equity and efficiency, which are inevitable in any tax system. Need to reduce foreign exchange outgo on account of crude petroleum imports and imperatives of moving towards greener, cleaner fuels provide additional justification for taxing petroleum products.

3. The dependence on revenue from the petroleum sector has been so large for so long for both the Central and State governments that five key petroleum products—petroleum crude, natural gas, motor spirit (petrol), high-speed diesel, and aviation turbine fuel (ATF) - were kept out of the scope of Goods and Services Tax (GST) while negotiating the political consensus on GST between the Central and State governments with divergent interests at stake. The final incidence of Central and State taxes, cesses and surcharges is higher than GST and inclusion within GST framework would have meant significant revenue losses. Goods and Services Tax (GST) is applicable to Liquefied Petroleum Gas (LPG) and Superior Kerosene Oil (SKO).

Tax Structure

4. As per Article 279 A (5) of the Constitution, the Goods and Service Tax Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel (ATF). As per the section 9(2) of the CGST Act, inclusion of these products in GST will require recommendation of the GST Council. So far, the GST Council has not made any recommendation for inclusion of five petroleum products [petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and ATF] under GST.[2]

5. The Union Government levies Customs Duty, Central Excise Duty/ Additional Excise Duty/Cess/GST, while the State Governments levy Value Added Tax (VAT) or GST, as detailed below.

- Crude Oil: The details of various taxes and duties levied by the Central Government on crude oil are as follows: (Feb 2025)
- Oil Industry Development Board (OIDB) Cess: Under the Oil Industry Development Act, 1974, OID Cess @20% ad-valorem basis effective 01.03.2016 on Nomination block.
- National Calamity Contingent Duty (NCCD): It is collected by the Central Govt. Present Rate from nomination fields is Rs.50/- MT on the Crude oil delivered to refineries.
- Central Excise: Present Rate from nomination fields is Rs. 1/- MT on the Crude oil produced.
- Customs Duty: It is collected by the Central Govt. Present Rate is Rs.1/- MT on the Crude oil imported and Additional Customs Duty (ACD) is Rs.1/- MT.

[2] https://sansad.in/getFile/annex/253/A69.pdf?source=pqars

- Special Additional Excise Duty (SAED) was levied on production of Crude oil,

6. States typically levy Sales Tax/ VAT on petroleum and petroleum products. In addition the Union Government as well as State Governments also get dividend income from PSUs of Oil Sector.

Contribution of Petroleum Sector to Exchequer

7. The extent of contribution made by the petroleum sector during FY2014-15 to FY2024-25 to the public exchequer may be gauged from the following table:-

Table 1: Contribution of Petroleum Sector to Exchequer[3] (Rs. Crore)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25(P)
1. Contribution to Central Exchequer											
A. Tax/ Duties on Crude oil & Petroleum products											
Cess on Crude Oil	15,869	15,409	13,082	14,514	17,741	14,789	10,676	19,214	21,445	19,580	18,559
Royalty on Crude Oil / Natural Gas	3,858	4,885	4,649	4,747	6,062	5,602	3,590	5,639	9,822	9,286	9,195
Customs Duty	4,125	6,763	8,799	11,171	16,035	22,927	13,514	11,423	14,985	13,134	14,337
NCCD on Crude Oil	822	857	926	968	1,180	1,130	1,016	1,121	1,192	1,191	1,197
Excise Duty	99,068	1,78,477	2,42,691	2,29,716	2,14,369	2,23,057	3,72,970	3,63,305	2,87,575	2,73,684	2,71,529
Service tax	2,181	2,837	2,956	1,228	340	17	0	-	-	-	-
IGST				9,211	16,479	13,099	11,594	19,726	22,236	20,930	19,065
CGST				4,488	7,437	6,831	6,158	10,843	13,012	12,230	10,653
Others	101	125	122	125	204	88	365	338	59	52	46
Sub Total (A)	**1,26,025**	**2,09,354**	**2,73,225**	**2,76,168**	**2,79,847**	**2,87,540**	**4,19,884**	**4,31,609**	**3,70,326**	**3,50,086**	**3,44,581**
B. Dividend to Government/ Income tax etc.											
Corporate/ Income Tax	23,921	25,505	32,511	33,599	38,561	23,134	21,909	29,219	33,292	57,493	43,182
Dividend income to Central Govt.	9,197	10,217	17,501	14,575	15,525	12,270	10,393	22,612	15,673	19,310	22,095
Dividend distribution tax	3,500	4,590	6,197	5,981	6,415	5,462	-	-	-	-	-
Profit Petroleum on exploration of Oil/ Gas	9,422	4,630	5,742	5,839	7,694	5,909	2,883	8,862	8,776	5,505	5,322
Sub Total (B)	**46,040**	**44,943**	**61,950**	**59,994**	**68,194**	**46,775**	**35,185**	**60,694**	**57,741**	**82,308**	**70,600**
Total Contribution to Central Exchequer (A+B)	**1,72,065**	**2,54,297**	**3,35,175**	**3,36,163**	**3,48,041**	**3,34,315**	**4,55,069**	**4,92,303**	**4,28,067**	**4,32,394**	**4,15,181**
2. Contribution to State Exchequer											
A. Tax/ Duties on Crude & Petroleum products											
Royalty on Crude Oil / Natural Gas	14,159	7,932	11,942	9,370	13,371	11,882	7,179	13,526	17,914	12,530	11,582
Sales Tax/ VAT on POL Products	1,37,157	1,42,807	1,66,414	1,85,850	2,01,265	2,00,493	2,02,937	2,56,248	2,88,086	2,92,716	3,02,059
SGST/UTGST				4,974	7,961	7,345	6,121	11,017	13,188	12,289	10,792

3 https://ppac.gov.in/prices/contribution-to-central-and-state-exchequer

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25(P)
Octroi, Duties Incl. Electricity Duty	3,838	2,753	3,524	1,663	685	716	706	827	830	687	620
Entry Tax / Others	5,372	6,622	7,706	4,745	4,114	405	329	354	293	301	452
Sub Total (A)	**1,60,526**	**1,60,114**	**1,89,587**	**2,06,601**	**2,27,396**	**2,20,841**	**2,17,271**	**2,81,972**	**3,20,311**	**3,18,523**	**3,25,505**
B. Dividend to Government/ Direct tax etc.											
Dividend Income to State Govt.	28	95	183	262	195	215	379	151	340	239	79
Sub Total (B)	**28**	**95**	**183**	**262**	**195**	**215**	**379**	**151**	**340**	**239**	**79**
Total Contribution to State Exchequer (A+B)	**1,60,554**	**1,60,209**	**1,89,770**	**2,06,863**	**2,27,591**	**2,21,056**	**2,17,650**	**2,82,122**	**3,20,651**	**3,18,762**	**3,25,584**
Total Contribution of Petroleum Sector to Exchequer (1+2)	**3,32,620**	**4,14,506**	**5,24,945**	**5,43,026**	**5,75,632**	**5,55,370**	**6,72,719**	**7,74,425**	**7,48,718**	**7,51,156**	**7,40,765**

Source :- https://ppac.gov.in/prices/contribution-to-central-and-state-exchequer

Notes: The status is as on 24 June 2025, based on details provided by 15 major oil & gas companies. Details are as provided by 15 major oil & gas companies. Profit petroleum on exploration of Oil/ Natural Gas as provided by MOP&NG. Figures for the previous periods have been regrouped wherever necessary.

8. Analysis of the above reveals that contribution of the sector to the Union Government tax revenue increased from Rs.1,72,065 crore in FY 2014-15 to Rs.4,15,181 crore in FY 2024-25 registering an increase of 141 percent. This increase was largely accounted for by excise duty, which increased from Rs. 99,068 crore in FY 2014-15 to Rs.2,71,529 crore in FY 2024-25 registering an increase of 174 percent over a period of 10 years. A large part of these Central revenues were in the nature of Cess or Surcharge and hence not shareable with the States.

9. Similarly, contribution of the sector to the State exchequer increased from Rs.1,60,554 crore in FY 2014-15 to Rs.3,25,584 crore in FY 2024-25 registering an increase of 102 percent over a period of 10 years. The increase is largely attributed to higher revenue collections on account of Sales Tax/VAT which increased from Rs. 1,37,157 crore in 2014-15 to Rs. 3,02,059 crore in FY 2024-25 registering an increase of 120 percent over a period of ten years.

10. The FY 2016-17 can be considered as watershed year as GST was introduced w.e.f. July 1, 2017. It may be noted that collections on account of Union Excise Duty increased from Rs. 2,42,691 crore in FY 2016-17 to Rs. 2,71,529 crore in FY 2024-25 registering an increase of only 12 percent over a period of 8 years. At the same time for State exchequer collections on account of Sales Tax/VAT increased from 1,66,414 crore in FY 2016-17 to Rs.3,02,059 crore in 2024-25 an increase of 82 percent over a period of 8 years.

Rates of Union Taxes on Petrol and Petroleum Products

11. Revenue collection is a function of rate of tax and the quantity of commodity purchased. Therefore, analysis of the rates of taxes would be interesting as it provides a useful insight.

12. LPG: LPG for domestic use attracts a lower rate of 5% while LPG for non-domestic use attracts significantly higher rate of 18%. Basic Customs duty is Nil for import of domestic LPG sold by PSU OMCs to household consumers. Basic Customs duty rate is 5% for other importers of domestic LPG. End-use monitoring may be posing a challenge for tax authorities given widespread use of LPG, especially where sold in the form of cylinders.

Petrol and Diesel

13. The customs duty rate on Petrol and diesel is 2.5% plus social welfare surcharge @ 10% on customs duty since 2nd Feb 2021. Prior to this, the Social Welfare Surcharge /cess was levied @ 3% on custom duty of 2.5% on petrol and diesel.

14. Central Taxes on Petrol and Diesel for domestic use include Basic Excise Duty, Special Additional Excise Duty, Agriculture Cess, and Road and Infrastructure Cess. Details of the combined central taxes per litre are given in the table below:-

Table 2: Central Taxes on Petrol and Diesel

(Rs. per Litre)

Effective Date	**Petrol***	**Diesel**
As on 01.04.2019	17.98	13.83
06.07.2019	19.98	15.83
14.03.2020	22.98	18.83
06.05.2020	32.98	31.83
02.02.2021	32.90	31.80
04.11.2021	27.90	21.80
22.05.2022	19.90	15.80
08.04.2025	21.90	17.80

*An additional Basic Excise duty @Rs 2/ltr has been levied on unblended petrol (not blended with ethanol or methanol) intended for retail sale w.e.f. 01.11.2022.

15. The tax collections from the Special Additional Excise Duty(SAED), Agriculture Infrastructure & Development Cess (AIDC) and Additional Excise Duty (Road and Infrastructure Cess) are not shareable with the State governments. Only the Basic Excise Duty is shareable with the States. [States' share in Basic Excise Duty is 41% during the period 2020-26.]

Special taxes during July 2022 to December 2024

16. Usually, the government's effort is to boost exports and hence the government reimburses the domestic taxes embedded in the price of the exported product so as to reduce its price in the international market.

17. The 'special military operations' launched by Russia against Ukraine in February 2022 resulted in sharp increase in the international prices of crude oil but Russian crude oil became available for India's export-oriented refineries at a discount to the prevailing high international prices. Their refining margins (difference between landed cost of cheaper Russian crude and high export price of petrol/diesel/ATF) ballooned swiftly. In an unusual move, the Central government levied Excise Duties on export of petrol and diesel w.e.f. 1st July 2022 so as to gain a share in the super normal profits of oil companies and ensure adequate availability of the petrol/diesel in the local market. Since the price of domestic crude petroleum is for long linked to international prices, domestic crude producers were also having windfall gains from the sharp spike in international prices. Hence, the windfall gains of domestic crude producers were also taxed through Special Additional Excise Duty. The changes in the rates of these special windfall gains taxes are given in the table below.

18. The special duties (termed 'windfall gain tax' in popular parlance) were gradually rolled back by 2nd December, 2024, with the decline in 'windfall gains'.

State level taxes on petroleum products and GST

19. LPG (Liquefied Petroleum Gas) is a critical fuel in Indian households, restaurants, hotels, and industries. Government has been making steady efforts to reduce the consumption of Kerosene Oil for home use by incentivising switchover to LPG under PM-UJJWALA scheme. Both SKO (PDS) - Superior Kerosine Oil sold through PDS outlets and LPG used for domestic purposes attract 5% GST (Central GST 2.5%+ State GST 2.5%). Rates of Sales Tax/VAT levied by states are given below in the table.

Table 3: Rates of Sales Tax/VAT levied by states

State/UT	Petrol	Diesel
States	**Sales Tax/VAT**	
Andaman & Nicobar Islands	1%	1%
Andhra Pradesh	31% VAT + Rs.4/litre VAT+Rs.1/litre Road Development Cess and Vat thereon	22.25% VAT + Rs.4/litre VAT+Rs.1/litre Road Development Cess and Vat thereon
Arunachal Pradesh	14.50%	7.00%
Assam	24.77% or Rs.18.80 per litre whichever is higher	22.19% OR Rs. 14.60 per litre whichever is higher Rebate of Rs. 1.50 per litre subject to minimum tax of Rs. 14.60 per litre

State/UT	Petrol	Diesel
States	**Sales Tax/VAT**	
Bihar	23.58% or Rs 16.65/Litre whichever is higher (30% Surcharge on VAT as irrecoverable tax)	16.37% or Rs 12.33/Litre whichever is higher (30% Surcharge on VAT as irrecoverable tax)
Chandigarh	Rs.10/KL cess +15.24% or Rs.12.42/Litre whichever is higher	Rs.10/KL cess + 6.66% or Rs.5.07/Litre whichever is higher
Chhattisgarh	24% VAT + Rs.1/litre VAT	23% VAT + Rs.1/litre VAT
Dadra and Nagar Haveli and Daman and Diu	12.75% VAT	13.50% VAT
Delhi	19.40% VAT	Rs.250/KL air ambience charges + 16.75% VAT
Goa	21.5% VAT + 0.5% Green cess	17.5% VAT + 0.5% Green cess
Gujarat	13.7% VAT+ 4% Cess on Town Rate & VAT	14.9% VAT + 4 % Cess on Town Rate & VAT
Haryana	18.20% or Rs.14.50/litre whichever is higher as VAT+5% additional tax on VAT	16.00% VAT or Rs.11.86/litre whichever is higher as VAT+5% additional tax on VAT
Himachal Pradesh	17.5% or Rs 13.50/Litre-whichever is higher	13.90% or Rs 10.40/Litre-whichever is higher
Jammu & Kashmir	24% MST+ Rs.2/Litre employment cess, Rebate of Rs.3.50/Litre	16% MST+ Rs.1.00/Litre employment cess, Rebate of Rs.4.50/Litre
Jharkhand	22% on the sale price or Rs. 17.00 per litre, which ever is higher + Cess of Rs 1.00 per Ltr	22% on the sale price or Rs. 12.50 per litre , which ever is higher + Cess of Rs 1.00 per Ltr
Karnataka	29.84% sales tax	21.17% sales tax
Kerala	30.08% sales tax+ Rs.1/litre additional sales tax + 1% cess , Social security cess Rs.2 per litre	22.76% sales tax+ Rs.1/litre additional sales tax + 1% cess , Social security cess Rs.2 per litre
Ladakh	15% MST+ Rs.5/Litre employment cess, Reduction of Rs.2.5/Litre	6% MST+ Rs.1/Litre employment cess, Reduction of Rs.0.50/Litre
Lakshadweep	10% VAT	10% VAT
Madhya Pradesh	29 % VAT + Rs.2.5/litre VAT+1%Cess	19% VAT+ Rs.1.5/litre VAT+1% Cess
Maharashtra – Mumbai, Thane & Navi Mumbai	25% VAT+ Rs.5.12/Litre additional tax	21% VAT

State/UT	Petrol	Diesel
States	**Sales Tax/VAT**	
Maharashtra (Rest of State)	25% VAT+ Rs.5.12/Litre additional tax	21% VAT
Manipur	25% VAT	13.5% VAT
Meghalaya	13.50% or Rs13.50/Litre- whichever is higher (Rs.0.10/Litre pollution surcharge)	5% or Rs 9.50/Litre- whichever is higher (Rs.0.10/Litre pollution surcharge)
Mizoram	18%, Social Infrastructure and Services Cess Rs 2000/KL, Road Maintenance Cess Rs 2000/KL	10%, Social Infrastructure and Services Cess Rs 2000/KL, Road Maintenance Cess Rs 2000/KL
Nagaland	21.75% VAT or Rs. 16.94/litre whichever is higher	17.20% VAT or Rs. 12.83/litre whichever is higher
Odisha	28% VAT	24% VAT
Puducherry	16.98% VAT	11.22% VAT
Punjab	Rs.2050/KL (cess)+ Rs.0.10 per Litre (Urban Transport Fund) + 0.25 per Litre (Special Infrastructure Development Fee)+16.58% VAT plus 10% additional tax or Rs.14.93/Litre whichever is higher	Rs.1050/KL (cess) + Rs.0.10 per Litre (Urban Transport Fund) +0.25 per Litre (Special Infrastructure Development Fee) + 13.1% VAT plus 10% additional tax and or Rs.10.94/Litre whichever is higher
Rajasthan	29.04% VAT+Rs 1500/KL road development cess	17.30% VAT+ Rs.1750/KL road development cess
Sikkim	22% VAT+ Rs.4000/KL cess	12% VAT + Rs.3500/KL cess
Tamil Nadu	13% + Rs.11.52 per litre	11% + Rs.9.62 per litre
Telangana	35.20% VAT	27% VAT
Tripura	17.50% VAT+ 3% Tripura Road Development Cess	10.00% VAT+ 3% Tripura Road Development Cess
Uttar Pradesh	19.36% or Rs 14.85/Litre whichever is higher	17.08% or Rs 10.41/Litre whichever is higher
Uttarakhand	16.97% or Rs 13.14 Per Ltr whichever is greater	17.15% or Rs Rs 10.41 Per Ltr whichever is greater
West Bengal	25% or Rs.13.12/litre whichever is higher as sales tax+ Rs.1000/KL cess (20% Additional tax on VAT as irrecoverable tax)	17% or Rs.7.70/litre whichever is higher as sales tax + Rs 1000/KL cess (20% Additional tax on VAT as irrecoverable tax)

(As per details provided by Oil Marketing Companies (OMCs) and compiled by Petroleum Planning & Analysis Cell)

Notes: For Petrol & Diesel, VAT/Sales Tax at applicable rates is also levied on Dealer's commission in Delhi, Gujarat, Dadra & Nagar Haveli and Daman & Diu, Haryana, Madhya Pradesh, Rajasthan, Punjab, Chandigarh, Puducherry, Andaman & Nicobar, Meghalaya & Lakshadweep.

20. There is a wide diversion of rates on petrol across States and UTs. While Andamans and Nicobar Islands have the lowest rate of 1 percent, Telangana has highest rate of 35.20 percent followed by Andhra Pradesh with rate of 31 percent, Kerala 30.8 percent, and Maharashtra and Manipur at 25 percent. Twelve UTs and States have rates below 20 percent.

Conclusion

21. Petroleum sector is critical not only for the smooth running of the economy but also as a major source of revenue for public exchequer. Five major products in petroleum sector (crude oil, high speed diesel, motor spirit (petrol), natural gas and aviation turbine fuel) are technically part of the GST law but to be taxable with effect from a future date to be decided by the GST Council and till such eventuality continue to be taxed as per the pre-GST laws as transitional arrangement. GST is applicable to Liquefied Petroleum Gas (LPG) and Superior Kerosene Oil (SKO). Wide variation in the rates of State-level taxes and overall high incidence of taxes on petroleum sector (tax rates significantly higher than the benchmark GST rates) point to the difficulty in bringing these commodities within the GST net even though from a technical viewpoint, the GST should cover all value addition chains to derive maximum benefit.

TAXATION OF ELECTRICITY

PRAVEEN KUMAR TIWARI[1]

1. Generation, transmission, storage and supply of electricity to end consumers is an important economic activity. The extent of electricity consumption, particularly by industry, is a dynamic metric to gauge the economic growth. The States have exclusive right to impose "Taxes on the consumption or sale of electricity" (Entry 53 of the State List Schedule VII of the Constitution of India) with some important constitutional restrictions.

2. Firstly, Art 286 of the Constitution prohibits extra-territorial operation of the States' taxation powers on sales. Sale of goods and services to consumers outside the State is beyond the power of the State from where the supplies are made. The Article is reproduced below:-

   286. Restrictions as to imposition of tax on the sale or purchase of goods.—(1) No law of a State shall impose, or authorise the imposition of, a tax on the supply of goods or of services or both, where such supply takes place— (a) outside the State; or (b) in the course of the import of the 2[goods or services or both] into, or export of the goods or services or both out of, the territory of India.

   (2) Parliament may by law formulate principles for determining when a supply of goods or of services or both] in any of the ways mentioned in clause (1).

3. In view of this restriction under Art. 286 on a State's taxation power, the Supreme Court held that Andhra Pradesh government cannot impose electricity duty on sale of power by the National Thermal Power Corporation from its thermal power station set up at Ramagundam, Andhra Pradesh to other States' electricity boards as it amounts to taxing inter-State sale of electricity for which the State lacks legislative competence. (vide State Of A.P vs National Thermal Power Corpn. Ltd. & Ors on 22 April, 2002 AIR 2002 SUPREME COURT 1895) https://indiankanoon.org/doc/970048/

4. Secondly, Article 287 of the Constitution bars the States from taxing electricity consumption for the purposes of the Union government or for consumption by Railways. The Article is reproduced below:

   Art 287 Exemption from taxes on electricity.—Save in so far as Parliament may by law otherwise provide, no law of a State shall impose, or authorise the imposition of, a tax on the consumption or sale of electricity (whether produced by a Government or other persons) which is—

---

[1] Dr. Praveen Kumar Tiwari IAAS (1985), superannuated as a Deputy Comptroller and Auditor General and later served as Member, National Financial Reporting Authority.

(a) consumed by the Government of India, or sold to the Government of India for consumption by that Government; or

(b) consumed in the construction, maintenance or operation of any railway by the Government of India or a railway company operating that railway, or sold to that Government or any such railway company for consumption in the construction, maintenance or operation of any railway, and any such law imposing, or authorising the imposition of, a tax on the sale of electricity shall secure that the price of electricity sold to the Government of India for consumption by that Government, or to any such railway company as aforesaid for consumption in the construction, maintenance or operation of any railway, shall be less by the amount of the tax than the price charged to other consumers of a substantial quantity of electricity.

5. It may be noted that the bar on taxing electricity consumption by the Central government extends to overcharging the Central government which would amount to indirect taxation. Central government consumption must have price parity with similarly placed bulk consumers.

6. Electricity is generated though coal, gas fired or nuclear power or running water driven turbines or through solar panels and the diverse technologies used in generation, transmission, storage and supply involve large capital expenditure and a complex chain of value-added economic activities. Parts of this value-addition chain - the equipment and services used as input in electricity generation, transmission, storage and supply of electricity - are covered under the Goods and Services Tax (GST) but the end stage of sale of electricity to consumers is outside the GST net. Electricity is considered 'goods' as per the definition of goods in the GST Acts.

7. The sale of electricity, whether to end consumers - whether they are industrial, commercial, agricultural or household consumers - or to intermediaries in the transmission and distribution channel is currently **exempt from GST. Hence, power generators, transmitters and distributors cannot claim** Input Tax Credit **(ITC) in respect of GST paid on various equipment and input services used in power generation, transmission or distribution.**

8. While electricity supply itself is exempt from GST, electrical equipment, appliances and components such as bulbs, tubelights, LED lights, switches, inverters, batteries and solar panels are subject to standard GST rates ranging from 5% to 18% as these products are goods distinct from the supply of electricity which is a separate 'goods' exempt from GST.

9. While the electric supply is exempt from GST, certain ancillary services like installation, maintenance, or repair services, are subject to GST. Businesses can claim ITC on the maintenance and repair services of electrical equipment, provided those services are subject to GST.

10. An**cillary Services may be taxable under GST**: The sale of electricity is exempt from GST. However, GST may apply in specific circumstances related to electricity as the

supply of electricity-related equipment and services may attract GST. While the electric supply is exempt, certain ancillary services like installation, maintenance, or repair services, are subject to GST. The rate of GST varies depending on the nature of the service and whether it is bundled with electricity supply. Typically, it is 18% for bundled services. Examples include application fees for a new connection, rental charges for metering equipment, testing fees, labour charges for shifting meters, and charges for duplicate bills. However, recent court rulings and clarifications have created some ambiguity, with some judgments stating that these related services, when naturally bundled with the principal supply of electricity distribution, should also be exempt.

11. Services related to electricity supply, such as the construction, erection, commissioning, or installation of infrastructure for extending the electricity distribution network, are exempt from GST when supplied by electricity distribution utilities.

12. **Electricity composite supplies:** When electricity is supplied as part of a bundle of services (e.g., renting of commercial immovable property (shops and offices and maintenance of electrical equipment) it may qualify as a composite supply and will attract GST at 18%, even if the bundled electricity supply is billed separately. The principal service supply is the renting service (which has an 18% GST rate), so the entire bundled supply, including electricity supply, gets covered with GST at 18%.

13. Co-operative Housing Societies are entities registered under the co-operative laws of the respective States. GST is not leviable on Electricity Charges which are collected from individual flat owners. However, if these charges are collected by the Society for generation of electricity by Society's generator or to provide drinking water facility or any other service, then such charges collected by the society are liable to GST. https://gstcouncil.gov.in/sites/default/files/e-version-gst-flyers/GST_ON_Co-operative_housing_Societies0509.pdf

14. When a housing society obtains a bulk electricity supply and re-bills it to members, the GST implications depend on whether the society is acting as a "pure agent" or if the charges are part of a composite supply of maintenance services. **Pure Agent Concept (No GST):** If the housing society recovers the exact amount of electricity charges from members (based on individual sub-meter readings) without any mark-up, it is considered to be acting as a **"pure agent"** for the electricity board/utility. In this scenario, the amount collected for electricity is excluded from the value of the society's supply, and thus, **no GST is leviable** on these specific charges. The original electricity bill from the utility should be available for verification.

15. **Composite Supply (18% GST):** If the electricity charges are bundled with the common area maintenance (CAM) services and not recovered at actuals (e.g., charged on a per square foot basis), or if a mark-up is added on actual electricity bill amount of individual houses, then these are considered part of a **composite supply**. The principal supply is generally the maintenance service, which attracts an **18% GST** rate. In this case, the entire amount, including the electricity component, becomes taxable at 18%.

16. **Private Generators**: Electricity supplied by private entities, such as power back-up through a Diesel Generator (DG) set, is generally considered a service and may attract 18% GST.

17. **Tax on services ancillary to transmission and distribution of electricity service**: In the pre-GST regime, transmission and distribution of electricity was exempted from service tax. Notification No. 12/2017 dated 28th June 2017 exempted vide Entry No. 25 "Transmission or distribution of electricity by an electricity transmission or distribution utility." Ministry of Finance, Government of India vide its circular no. F. No. 354/17/2018-TRU dated 1st March, 2018, clarified that the services by way of transmission or distribution of electricity by an electricity transmission or distribution utility is only exempt from GST. It was also clarified in the circular that the other services such as meter rent, application fees, testing fees for meters etc. provided by these companies to their consumers are taxable.

18. A writ petition was filed in Gujarat High Court in the matter of Torrent Power Ltd. v. Union of India [TS-858-HC-2018(GUJ)-NT-Torrent Power Ltd] challenging the validity of this Circular dated 1st March 2018 with regards to taxability of charges recovered for the activities directly connected with the distribution and transmission of electricity such as application fee, meter rent, testing fee, labour charges for shifting meters and shifting of service line, etc.. The High Court gave verdict in favour of the assesee, holding that charges such an application fee, meter rent, testing fee, etc collected by the Petitioners were part of composite supply, of which principal supply is the actual supply of electricity and therefore the entire composite supply is exempt from tax under Entry 25 of Notification No.12/2017 dated 28.6.2017. The Court noted that prior to the coming of the negative list regime of the service tax laws (i.e. before 01.07.12), the Central Government by virtue of Notification No. 11/2010 dated 27.02.2010 had exempted transmission of electricity service from the whole of the service tax leviable thereon and by virtue of Notification No. 32/2010 dated 22.06.2010 distribution of electricity came to be exempted from the whole of the service tax leviable thereon. In so far as electricity meters are concerned, vide circular No. 131/13/2010-ST dated 7.12.2010, it was clarified that supply of electricity meters for hire to consumers being an essential activity, having direct and close nexus with transmission and distribution of electricity, the same is covered by the exemption for transmission and distribution of electricity extended under the relevant notifications. The meaning of "transmission and distribution of electricity" does not change either for the negative list regime (i.e. after 01.07.2012) or the GST regime (i.e. after 01.07.2017). If that be so, the services which stood included within the ambit of transmission and distribution of electricity during the pre-negative list regime cannot now be sought or excluded by merely issuing a clarificatory circular, that too, with retrospective effect.

Revenue earning of States from the Electricity Duty

19. The table below shows State/UT-wise profile of revenue from electricity duty vis-à-vis revenue from State GST, arranged in descending order of taxes/duties on electricity consumption during FY22-23

Table 1: State/UT –wise profile of revenue from electricity

Government	State Goods and Services Tax (Rs in crore)	Taxes and Duties on Electricity (Rs in crore)	Electricity Duty revenue as % of State GST (%)
All States/UT	**7,26,641.53**	**60,981**	**8.4**
Maharashtra	1,21,256	14,721	12.1
Gujarat	52,154	10,594	20.3
Andhra Pradesh	27,981	4,243	15.2
Odisha	18,601	4,210	22.6
Chhattisgarh	11,298	3,677	32.5
Madhya Pradesh	23,397	3,498	15.0
Karnataka	61,403	3,052	5.0
Punjab	18,128	2,888	15.9
West Bengal	37,967	2,774	7.3
Rajasthan	33,790	2,625	7.8
Uttar Pradesh	64,141	2,519	3.9
Tamil Nadu	53,823	1,506	2.8
Jharkhand	11,374	1,132	10.0
Bihar	23,243	987	4.2
Telangana	36,248	886	2.4
Haryana	28,577	578	2.0
Jammu and Kashmir	7,212	340	4.7
Uttarakhand	7,341	294	4.0
Himachal Pradesh	5,259	252	4.8
Assam	12,564	88	0.7
Kerala	29,513	72	0.2
Tripura	1,459	36	2.5
Nagaland	959	8	0.8
Meghalaya	1,477	2	0.1
Manipur	1,426		
NCT Delhi	27,324		

Government	State Goods and Services Tax (Rs in crore)	Taxes and Duties on Electricity (Rs in crore)	Electricity Duty revenue as % of State GST (%)
Goa	3,536		
Puducherry	1,874		
Arunachal Pradesh	1,607		
Sikkim	804		
Mizoram	904		

20. Chhattisgarh, Odisha, Gujarat, Punjab, Andhra Pradesh, Madhya Pradesh, Maharashtra and Jharkhand have Electricity Duty collections equal to 10 per cent or more of their total State GST revenue.

Electricity within GST net? Issues and concerns

21. Electricity distribution is the final component of the value chain and the most important as it links the end consumers with the rest of the value chain. This is an inherently complex element of the power sector. It is also considered the weakest given the present health of discoms in the country. Discoms purchase power at wholesale rates for selling to end consumers thereby operating as market intermediaries. They also charge a mark-up over the wholesale rate before supplying to the consumers. The overall rate is reflected in terms of tariff as regulated by State Electricity Regulatory Commissions. Therefore, keeping power distribution out of the ambit of GST is not much change for the sector directly.

22. The power sector is essentially a mesh of contracts for engineering, procurement, construction (EPC) to generate electricity, boost energy efficiency and shore up renewable power. Yet, input tax credit would not be available on EPC contracts, with electricity outside the GST regime. Further, the Finance Act of 1994, in section 66D, lists transmission and distribution (T&D) of electricity in the negative list of services. Also, some of the distribution vendors are not included in the GST regime and it may impact their business as well. Discoms or distribution franchises (which are trying to bring in efficiencies in the system) stand to lose because they would no longer get input tax credit. This means they will have to pay tax on everything they buy (goods and services) but can't set it off against the GST they bill. Therefore, their own profitability may be hit slightly.

23. As noted above, power generators, transmitters and distributors cannot claim Input Tax Credit (ITC) in respect of GST paid on various equipment and input services used in power generation, transmission or distribution because their output supply – the supply of electricity – is exempt from GST. Therefore, there is a prima facie case for bringing electricity supply within the ambit of GST, even by starting with a low nominal rate of say 1 or 2 per cent.

24. Of course, any restructuring of taxation structure has gainers and losers and simulation studies would need to be carried out with the kind of that that is internally available with the GST Network and GST Council and not in the open public domain. Since GST is a destination-based tax and its benefit accrues to the State where final supply of goods or services takes place, all States having high electricity consumption from non-government consumers would be benefitted by bringing electricity supply within the GST net. The benefit of GST on inputs to power generation such as coal which currently accrues to the States having the power generation plants, will shift to the States where the electricity consumer is located.

UTILIZATION OF CESSES: PLUMBING THE CESSPOOL

P SESH KUMAR[1]

1. Successive governments have increasingly turned to special cesses and surcharges – taxes ostensibly earmarked for education, roads, health, agriculture etc. without any transparent accounting and disclosure of matching funding of the specified activities, creating a growing "cesspool" of funds. In practice, large portions never reach their intended targets, accumulating in government coffers and quietly propping up fiscal numbers. Over the past five years alone, the Comptroller and Auditor General (CAG) has reported large-scale non-utilization of Cesses for earmarked purposes by the Union government. This article explores how many of these cess/surcharge funds exist, why these were created, and how much money lies idle or "unreleased" to the programs it was meant for. A constructive way forward is proposed to ensure cess and surcharge collections truly serve their intended purpose.

2. Cesses are special taxes often linked to regular taxes which are marketed as piggybanks for a righteous cause. There is a cess for seemingly every virtue: education, roads, clean energy, sanitation, agriculture, health, the welfare of older citizens, and more. In each case, the script was similar – impose a statutory levy named as a Cess for this or that purpose with the promise that it will only fund that specific public good. There many dedicated reserve funds under the Public Account of India which are supposed to receive cess collections. However, not every cess has a corresponding reserve fund and there is no official commitment that whole of cess collections would be transferred to the reserve fund, if there is one. Even when a part of cess collection is transferred to a reserve fund, the expenditure on the specified public purpose cannot be direct spent from the reserve fund. The expenditure is budgeted as outgo from the Consolidated Fund as part of annual budget with financing shown as coming from the reserve fund.

3. In preparation for rollout of GST, many special cesses (on salt, rubber, automobiles, cement, tea, sugar, coal, jute, beedi industry etc.) were repealed in 2017. All of these (except Salt Cess) were being collected with Central Excise Duties. Salt was the only exception having only cess but no excise duty since Independence. Even after this cleaning up exercise to abolish relatively low-revenue yield cesses, there were as many as 35 different cesses, levies and charges yielding ₹2.75 lakh crore in 2018-19.

4. Constitutionally, cesses and surcharges are not part of the divisible pool of taxes to be shared with States. The Centre's temptation to proliferate the special levies excluded from the divisible pool increased after the States' share in the divisible pool was substantially raised from 32% to 42% for the five year period April 1, 2015, to March 31, 2020. By 2021-22, cesses and surcharges made up about 20% of the Centre's gross

[1] Shri P. Sesh Kumar, IAAS (1982) superannuated as Director General of Audit from the office of the CAG of India.

tax revenue, double their share from a decade earlier, effectively shrinking the slice of taxes that States receive.

5. Which are these funds and why were they created? The roster of earmarked cesses reads like a catalog of India's development priorities. Education Cess was introduced in 2004 (originally 2%, later 3%) to boost school funding, leading to the creation of the Prarambhik Shiksha Kosh (PSK) for elementary education. A secondary and higher education cess followed in 2007, meant to finance advanced learning; its proceeds were eventually supposed to flow into the Madhyamik and Uchchatar Shiksha Kosh (MUSK) created in 2017. There's a Health and Education Cess of 4% on income tax since 2018-19, purportedly split between education funds and a new Pradhan Mantri Swasthya Suraksha Nidhi (PMSSN) for healthcare. The Road and Infrastructure Cess on fuel (and an earlier Infrastructure cess on vehicles) feeds the Central Road and Infrastructure Fund (CRIF), financing highways, rural roads, and other infrastructure. A Clean Energy Cess on coal (introduced 2010) was aimed at funding green energy via the National Clean Energy Fund – though this morphed over time and was later repurposed for GST compensation. A short-lived Swachh Bharat Cess (2015) on services promised better sanitation, and a Krishi Kalyan Cess (2016) aimed to aid agriculture. The telecom sector has its Universal Service Obligation Fund, fed by a levy on operators to expand rural connectivity. An Oil Industry Development Cess, dating back to 1974, was meant to bankroll oil and gas exploration through the Oil Industry Development Board.

6. For the welfare of vulnerable groups, there are earmarked funds like the Senior Citizens' Welfare Fund (fed by unclaimed deposits and insurance policies) and the Building and Other Construction Workers Welfare Fund (financed by a 1% cess on construction project costs under a 1996 law).

7. Each of these levies are backed by a law with the explicit purpose of ensuring a steady flow of money to a critical sector or marginalized community – ring-fenced from the general budget so it couldn't be diverted elsewhere. In theory, it's a powerful idea: money for something, not money for nothing.

The CAG Unravels the Great Accumulation of unspent cess collections

8. If intentions were all that mattered, India would be awash in well-funded schools, spotless cities, robust health programs and happy farmers – all paid for by the dedicated cesses willingly contributed by taxpayers. Instead, a sobering pattern has emerged: huge accruals, low disbursals, and even lower actual spending. The Comptroller and Auditor General of India – the nation's audit watchdog – has been raising alarm bells about this for years, and its recent reports paint a stark picture of how far practice has strayed from promise.

9. Take the education cesses. Between 2018-19 and 2023-24, the Centre collected roughly ₹75,542 crore in "Health and Education Cess" intended for secondary and higher education, which should have gone into the MUSK reserve fund. But not a single rupee was transferred for the first four years. The fund wasn't operational until 2022. By then, the untransferred corpus had swelled. Even in the last two years, transfers have lagged

actual collections. Out of that ₹75,542 crore collected, only ₹52,083 crore (about 70%) was eventually transferred to the fund, and barely ₹27,524 crore – just over one-third – was actually spent on education programs. In plain terms, nearly ₹48,000 crore raised for education over six years is sitting idle – not in classrooms or scholarships, but parked in government accounts. Ironically, primary education saw the opposite situation: the Prarambhik Shiksha Kosh received ₹1.80 lakh crore over the same period against ₹1.51 lakh crore collected, and those funds were fully utilized in recent years. This suggests the elementary education cess money was at least put to work (funding the Sarva Shiksha Abhiyan and mid-day meals), while the secondary/higher education kitty became a hostage of procedural delays and perhaps a convenient cushion for the Exchequer. It was only after CAG's scathing remarks and parliamentary prodding that transfers to MUSK began – and even now about ₹23,459 crore meant for higher education remains stuck in the Consolidated Fund, awaiting release.

10. Education is just one exhibit. The CAG's audits have spotlighted several such funds with massive "short transfers" – money collected through a cess or levy that was not passed on to the designated reserve fund. In its latest report (2025), the CAG zeroed in on four egregious cases from the last five years. The Agriculture Infrastructure and Development Cess, introduced in 2021 on items like fuel and alcohol, yielded a whopping ₹1,51,093 crore in just FY 2018-23, but the corresponding Agriculture Infrastructure Development Fund was "not created as yet" – meaning not a single paisa was transferred. The Oil Industry Development Cess on crude oil (an old levy) brought in ₹83,621 crore in the same period, yet no money went to the Oil Industry Development Fund. The Senior Citizens' Welfare Fund should have received over ₹2,800 crore from lapsed deposits, but only ₹238 crore (about 8%) was actually transferred, ostensibly due to "limited proposals" from the concerned ministry. Even the Investor Education and Protection Fund (IEPF) – which holds unclaimed dividends for protecting investors – saw a shortfall, with ₹3,592 crore collected but not transferred during 2018-23. In total, these four funds alone had a colossal ₹2,40,876 crore short-transferred in five years. The audit report bluntly notes that this practice of short transfer "has an impact of understating the revenue deficit". In other words, by not moving this money out of the Consolidated Fund (where the government's income and spending are booked) into the public account funds, the government effectively did not count it as expenditure – making its fiscal deficit appear smaller by that amount.

11. Zoom out further, and the pattern becomes truly staggering. In August 2025, a CAG review revealed that, cumulatively, since the mid-1970s about ₹3.69 lakh crore of cess collections were never transferred to the reserve funds. This is an aggregate of five decades of governments of all parties quietly pocketing a chunk of cess money in the Consolidated Fund, instead of credibly segregating it for the promised cause. The practice spans various cesses across the years – a lapse of fiscal integrity persisting through successive administrations. Even focusing on recent times, the sums are eye-popping: between just 2020 and 2022, roughly ₹2.19 lakh crore of cess collections were not transferred or utilized as intended.

12. Some historical examples illustrate how these funds became honey pots for misuse or neglect. The Secondary and Higher Education Cess, from 2006 onwards, raised over ₹94,000 crore in its first decade – yet for years, no separate fund was even operational to receive this money. Budget documents until 2018 simply showed the cess revenue vanishing into the Consolidated Fund, and nobody could tell where that ₹94k crore went – an expert called it alarming that fiscal accounting conventions have been disregarded in this way. Another is the Research & Development (R&D) Cess on technology imports: ₹8,122 crore was collected between 1996 and 2019, meant to spur indigenous innovation via the Technology Development Board. Yet only ₹879 crore was ever transferred to the TDB; the rest effectively helped finance general expenditures. In fact, the CAG found that even after the R&D Cess was abolished in 2017, the government continued to collect it inadvertently for a while (another ₹192 crore in 2017-18!), ₹ 45.34 crore in 2018-19 – a rather literal case of taxation without legislative sanction. The CAG lambasted such bookkeeping sins as a "breach of constitutional commitment" because Article 270 allows cesses to be kept out of the shared pool only on the promise that they're used for a specific purpose. If that promise is broken, it violates the trust of both the taxpayer and the spirit of federal fiscal sharing.

13. The litany goes on. The Clean Energy Cess on coal, for instance, built up a huge corpus in the National Clean Energy Fund earlier this decade, but much of it sat unspent or got diverted to unrelated uses, prompting repeated CAG censures. The Central Road Fund (now CRIF) generally does fund highway projects, but even there the auditor noted instances of "short transfer" – money collected as fuel cess not fully passed on to the fund – repeatedly flagged since 2010 without corrective action. Meanwhile, new surcharges have been created that don't even pretend to have a separate fund – like the "Social Welfare Surcharge" on customs duties from 2018, ostensibly for social welfare schemes but in reality just adding to general revenue. Similarly, part of the 4% Health & Education Cess that was meant for health sat in limbo for years because the health fund (PMSSN) was only established in 2021, three years after the cess started. For a time, a portion of the health cess was collected with no designated fund at all – a lapse the CAG called out as not unintentional.

Playing with the Fiscal Deficit: The Cushy Cushion of Unspent Cess

14. Why would a cash-strapped government leave crores of rupees meant for important causes untouched? The uncomfortable answer is that these unspent, untransferred funds effectively become a fudge factor in fiscal math. They offer the Finance Ministry a tempting "cushion" to prop up the budget. By not releasing or spending the full cess collections on the specified programs, the Centre can report lower expenditure and hence lower fiscal deficits than it otherwise would – all while sitting on a pile of money that technically has a designated purpose. As the CAG flatly noted, short-transfer of cess understates the revenue deficit, allowing the government to present a rosier picture of its finances. It's akin to a household not paying some bills and then boasting about savings in the bank.

15. Indeed, when the CAG first exposed in 2020 that over 40% of all cess collections in 2018-19 were retained in the Consolidated Fund instead of being spent as intended, the impact on deficit numbers was explicit. In that year, ₹2.75 lakh crore was collected via 35 cesses but only ₹1.64 lakh crore was transferred to the respective funds. The remaining ₹1.11 lakh crore quietly stayed in the central coffers, helping the government meet deficit targets on paper while the programs meant to get that money went underfunded. The CAG observed that not only did this practice mask the true revenue and fiscal deficit, it meant Parliament's intent in levying those cesses was being defied – the purposes for which citizens paid extra tax were not served.

16. The Finance Ministry's defense has been telling. When confronted by auditors, officials argued that they only transfer cess proceeds to a fund "when there is an expenditure requirement" for that purpose. In other words, if a ministry doesn't demand or utilize the money, the Finance Ministry sees fit to simply hold onto it (and even count it towards general budget financing). This flips the logic of a cess on its head – instead of the collection driving new spending on the intended purpose, it's the spending (or lack thereof) that dictates whether the collection is acknowledged at all. Such an approach "erodes the clear demarcation between the Consolidated Fund and Public Account," as one analyst noted, calling it a "methodical effort" by the finance establishment to blur lines and retain control of the cash. Essentially, the government has treated these earmarked taxes as a revenue reservoir that it can dip into or ignore at will, rather than a sacred trust for explicit duties.

17. This behavior does lend credence to the accusation that the Finance Ministry enjoys a dubious cushion from unspent cess funds, which it can use to maneuver through fiscal tight spots. Suppose revenue collection is falling short or the fiscal deficit is in danger of breaching targets; having a few tens of thousands of crores of "sleeping" funds gives the ministry wiggle room – they can either not spend that amount (since it's anyway outside normal budgetary spending until transferred), or even formally transfer some portion to make a show of funding schemes while actually not increasing net expenditure (for example, by using cess money in place of regular budget outlay for a scheme). In extreme cases, funds meant for one thing have been repurposed entirely: auditors discovered, for instance, that a part of the R&D Cess pool was utilized to finance the general revenue deficit of the Union – a blatant misuse of an earmarked tax. This is fiscal sleight-of-hand at its finest (or ugliest). It allows the Centre to claim credit for announcing special initiatives (funded by a new cess) and to collect the money from taxpayers, but then quietly withhold spending it, thereby keeping the deficit lower and freeing up funds for other, perhaps politically expedient, expenses.

18. Little wonder then that cesses and surcharges have become a convenient budgetary tool in the post-2015 era, especially after the Fourteenth Finance Commission increased the states' share of the divisible pool to 42%. Faced with having to give away a larger slice of normal tax revenues to states, the Centre leaned more on cesses that it didn't have to share. The share of cesses/surcharges in gross tax revenue climbed, peaking in the last few years. During the pandemic hit year and after, the divisible pool shrank to under

₹90 of every ₹100 collected, when historically it used to be ₹91-95. That difference may sound small, but it represents tens of thousands of crores retained centrally – a significant part due to high cess collections. In FY 2021-22, for instance, ₹13.5 of every ₹100 in gross taxes was from cesses/surcharges (hence not shared), and even by 2025-26 it's projected at about ₹11 per ₹100 – markedly higher than pre-2020 levels. This has given the Union government a large cache of non-shareable funds to play with, affording it both financial flexibility and a certain unaccountable power, since spending of these funds doesn't go through the same rigorous annual scrutiny by Parliament's normal budget process (they are often disbursed through ministry schemes outside the usual demand-for-grants).

The CAG Calls Out, the PAC Shrugs

19. What happens when the country's top auditor repeatedly uncovers these shenanigans? Ideally, such findings should trigger parliamentary outrage, corrective action by the executive, maybe even penalties for those responsible for violating financial norms. In reality, the aftermath has been depressingly routine: the CAG tables one report after another detailing untransferred cess amounts, and the Public Accounts Committee (PAC) – the legislative committee that examines CAG reports – discusses the matter, issues a formal recommendation or two, and little fundamentally changes. It has become an almost ritualistic circus repeated every year, ad nauseam, to borrow the user's apt phrase.

20. Take the PAC's response to the latest revelations. In its 69th Report (17th Lok Sabha), the PAC noted the short transfers and advised that every cess should have a well-defined purpose and a "sunset clause" – i.e. an end date – once its objectives are achieved. This is sound advice: essentially PAC saying "stop piling up perpetual cesses, finish what you started, or discontinue the tax." Yet, this recommendation is not new. Parliamentarians and Finance Commissions have urged restraining cesses for over a decade. The Fourteenth Finance Commission explicitly disapproved of the proliferation of cesses, and the Fifteenth echoed concerns, but new cesses kept appearing. The PAC's polite admonitions – "immediate corrective action" has been urged by CAG and supported by PAC multiple times – have not put a dent in the Finance Ministry's approach. At best, we see minor compliance: for example, after being flagged for years, the government finally operationalised the Secondary/Higher Edu cess fund (MUSK) in 2022 and set up the health fund (PMSSN) in 2021. But these happened long after the taxes began and huge sums languished unused. By the time MUSK got its accounting procedure, four years of potential education spending were lost. In essence, the CAG keeps pointing out the same fundamental issue – "Don't collect special taxes unless you're going to spend them for that special purpose!" – and each time the PAC notes it with mild rebuke, yet the cycle of inaction continues.

21. The PAC, comprising MPs across party lines, often finds itself walking on eggshells. Stronger measures – like charging officials with contempt of Parliament for flouting its intentions, or legislating automatic transfer of cesses – are seldom employed. Instead, the PAC reports end up as moral exhortations. The executive shrugs, knowing well that

there is no real penalty for continuing the status quo. As one commentator observed, despite the CAG highlighting these anomalies "again and again, the Finance Ministry has not changed this practice". The drama thus resets each financial year: the Budget rolls out a cess or two with fanfare, a year or two later the audit report finds the money parked or diverted, PAC dutifully "admonishes" and recommends principles that everyone ostensibly agrees with, and then nothing substantively changes in how the system operates. It's governance on a loop, with citizens and intended beneficiaries as the unwitting clowns in the circus.

The State of the States: Collateral Damage and Ire

22. This Central "cess pool" has generated considerable heartburn among States as collections from Cesses and Surcharges are retained by the Centre, not shared with States. Centre's growing reliance on cesses is undercutting the spirit of fiscal federalism. Their argument is simple: the Union is effectively raising what are national taxes (since citizens pay them across the country) but bypassing the revenue-sharing arrangement by labeling them "cess" or "surcharge." This shrinks the divisible pool from which states get their constitutionally recommended share. The result is that even though the Finance Commission might award, say, 41% of central taxes to states, that 41% applies on a progressively smaller base. Many states, during consultations for the Fifteenth Finance Commission, pointed out that if you include cesses, the states' effective share is far lower than advertised. They even petitioned for their share to be raised to 50% of the total taxes to compensate, and/or for cesses and surcharges beyond a certain limit to be merged into the general tax pool. For instance, the Government of Maharashtra and others noted that the Centre had turned cesses from a temporary tool into a permanent revenue stream, "restricting States' fiscal space" and making a mockery of the agreed devolution formula.

23. Beyond the share-of-pie issue, states have their own episodes of underutilized funds – often created under central laws. The Building and Other Construction Workers (BOCW) Welfare Cess is a prime example at the state level. Collected by State level Boards (at 1% of construction cost) to fund welfare benefits for construction workers, this cess piled up unspent in state welfare boards year after year. By October 2016, over ₹22,000 crore stood idle in these funds nationwide. The Supreme Court stepped in with a sharp rap on the knuckles. In May 2018, the apex court, "expressing displeasure at the unspent funds," directed the government to remedy the situation. Yet, nearly a year after the SC's intervention, more than half of the construction cess collected remained underutilized. As of March 2019, states had amassed ₹47,127 crore from this levy but spent only about ₹19,000 crore, just 40%. Some states like Kerala bucked the trend by using even more than they collected (having tapped reserves for worker benefits), but many big states lagged abysmally – Goa had spent a pitiful 0.8% of its collected cess, Gujarat around 9%. The Supreme Court's prodding forced the Central Labour Ministry to draft a model welfare scheme and push states to act. It's a telling microcosm: absent judicial pressure, thousands of crores meant for poor laborers languished due to bureaucratic inertia and indifference.

24. Another striking case was the Compensatory Afforestation Fund (CAMPA), fed by levies on project developers who fell trees and are supposed to finance reforestation in return. Technically, it was neither a tax nor cess but a Supreme Court-mandated levy to fund afforestation, a judicially created Cess, with proceeds accumulated outside government accounts! The CAMPA levies too ballooned into a four- and five-digit crore corpus over years with scant usage. The issue festered until the Supreme Court, aghast that roughly ₹1 lakh crore meant for forest restoration lay unused, demanded accountability in 2018. "Tragic that despite availability of funds, no move has been made… trust seems to have gone," the Court lamented as it sought an explanation. That judicial fire under the executive ultimately led to a new law and release of funds to states for afforestation.

25. These examples underscore that the malady of unspent special-purpose levies is not just a Central government phenomenon; it can pervade state-administered funds too. However, the states' ire is principally directed at the Centre's "cess cleverness" – whereby the Union accumulates large cash hoards via cesses/surcharges and either diverts them or doles them out at its discretion, all while states are cut out of the equation. It has bred mistrust.

26. In the contentious arena of GST compensation, states noted that even the GST Compensation Cess was not spared: the CAG found the Centre initially withheld ₹47,272 crore of GST cess that should have gone to the compensation fund for states, and instead used it to temporarily pad its own budget numbers. (The Finance Ministry later had to make up that shortfall amid an outcry). To cash-strapped State governments, all this feels like the Centre is running a shell game – proliferating cesses to hoard resources and manage its deficit, at the cost of the States' rightful revenues. Some, like Kerala's former Finance Minister, openly criticized this trend as an attack on federal principles, arguing that if the Union keeps this up, states should perhaps get a share even in cesses or the practice should be statutorily curbed.

Breaking the Cycle: Toward Accountability and a Way Forward

27. How can this chronic problem be resolved or at least mitigated? The fact that it repeats every year suggests deep systemic incentives that must be realigned. Short of waiting for an outraged Supreme Court to swoop in on every instance – a rather inelegant and ad hoc solution – reforms are needed in law, oversight, and perhaps even the budgetary culture.

(i) Sunset Clauses and Finite Lives: One immediate reform is to ensure that every cess and surcharge comes with a built-in sunset clause. As the PAC recommended, cesses should not be endless revenue streams. If a cess was levied to fulfill a specific objective – say, Swachh Bharat Mission – then set a target timeframe (e.g. five years) or a monetary ceiling for that objective. After that, the cess should automatically cease. This forces a discipline: either achieve the goal or reassess and get fresh parliamentary approval to continue. It prevents the accumulation of "ghost funds" that outlive their purpose. A number of countries use such temporary earmarked taxes (Australia's short-lived levies for gun buyback or disaster recovery come to mind). India, too, can legislatively mandate that any new cess is by default a five-year measure unless renewed. If the goal is met early, the cess can be terminated sooner. Such clauses would also politically pressure the government to show results from the collected funds within the timeframe, rather than letting them drift.

(ii) Automatic Transfer Mechanism: There needs to be a hardwall separation between collection and spending decision. When a cess is collected, it should be automatically credited to the designated reserve fund in the Public Account (where applicable) rather than lounging in the Consolidated Fund until someone remembers to move it. In practice, this could mean amending the Financial Rules so that at the end of each quarter, all cess proceeds are deemed transferred to the relevant fund, whether spent or not. This would eliminate the artificial "short transfer" trick. The money would show up transparently as part of that fund's balance, which Parliament and CAG can then track. It also removes the Finance Ministry's de facto veto power over release – the funds would be there, ready for line ministries to draw down as needed for the specified scheme. If the Appropriation Act currently needs to enable such transfer, then make that a standing provision each year for full transfer. Essentially, take the discretion out of the Finance Ministry's hands. Any unspent balance would remain visible in the fund (and ideally earn interest if it's an interest-bearing fund) rather than quietly masking the deficit. Of course, this requires a fundamental change in the way Appropriation Acts are framed and passed at present, containing specific limits on the amounts that can be drawn from the Consolidated Fund with enhancement of limits requiring Supplementary Appropriation Acts.

(iii) Enhanced Transparency and Reporting: At present, while budget documents do mention transfers to these funds in the Expenditure Budget statements, the opacity is high. The government should present to Parliament an annual Cess Utilisation Report detailing for each cess/surcharge: how much was collected that year, how much was transferred to the fund, the cumulative balance, and how much of the fund was actually spent by the implementing ministries. Some of this information is buried in the accounts or Finance Ministry's detailed demands, but it's not given upfront. If every MP and every taxpayer could clearly see that, say, "Education cess: ₹X collected, only ₹Y used for education, Z% unutilized," the pressure to correct course would mount. Transparency is a disinfectant; it would also counter the current situation where, as noted, one can't even tell where ₹94,000 crore of SHEC went. The law could require the Finance Minister's Budget speech or budget documents to explicitly table the status of all active cesses. This requires putting in place elaborate Cess accounting Rules under the Cess law.

(iv) Incentivize Line Ministries (and States) to Use Funds: One paradox is that sometimes funds remain unspent because the line ministries do not come forward with enough proposals (as was cited in the Senior Citizens' fund case). To tackle bureaucratic inertia, the government could institute an incentive-and-penalty regime. For example, if a ministry fails to utilize, say, 75% of the available cess fund in a year, a portion of the unspent amount could be re-allocated or even opened up for other related uses.

Conversely, ministries that efficiently spend the earmarked funds on quality programs could be rewarded with additional regular budget allocation or flexibility in the next cycle. For state-related funds, the Centre could potentially say: if states don't use a welfare cess within a certain time, those funds may be redirected to a central pool that can be used for that welfare purpose in other states or through central schemes. Essentially, use it or lose it. This creates a mild competitive pressure to not leave money on the table that was collected for a good cause.

(v) Tie Cesses to Outcomes, Not Just Accounting: Each cess should have measurable outcome targets attached. For instance, the Clean Energy Cess could be tied to achieving X gigawatts of renewable energy capacity or Y tons of carbon emissions averted. If the outcomes are lagging while money accumulates, it's a red flag needing intervention – perhaps by an empowered board or committee that oversees that fund. This way the conversation shifts from just "money unspent" to "mission unaccomplished," which is harder for the government to defend. It might also justify discontinuing cesses that are not translating into outcomes – as Drishti analysts suggested, if a cess is found to be ineffective or misused, perhaps it should be folded back into general tax and shared with states, rather than continuing the charade.

(vi) Hardwiring Federal Safeguards: The Finance Commission or even an amendment to the Finance Commission Act could introduce a formula that penalizes excessive use of cesses. For example, if the proportion of cess/surcharge in gross tax revenue exceeds a threshold (say 10-12%), the excess amount could be automatically counted in the divisible pool for sharing. This would disincentivize the Centre from turning too much of its taxation into cess. Some State leaders have mooted that states deserve a share in certain cesses (like the health and education cess) since health and education are largely delivered by states. While that may be politically hard to concede, at least limiting the Centre's ability to offload regular taxes into cess form will protect states' revenues. A rules-based check is needed so that the Centre cannot indefinitely game the system even after realizing that the Finance Commission recommendations are not binding on the Central government.

(vii) Empowered Oversight: PAC's polite nudges clearly aren't enough. Perhaps a joint parliamentary committee or a reconstituted PAC subcommittee should specifically monitor Action Taken on every instance of untransferred or unutilized cess that CAG flags. They could summon senior officials of the Finance Ministry and line ministries, not just to scold but to enforce a time-bound remedy (for instance, ensure transfer of pending amounts within the next fiscal). While Parliament does not typically micromanage execution, these funds exist because Parliament approved a cess for a reason – so Parliament has every right to demand they be put to use or returned. Another idea floated in public discourse is to legally mandate that unspent cess funds after a certain period (say 2-3 years) must be treated as general revenue to be shared with States. This way, the Centre can't indefinitely hold it; either spend it on the purpose or lose exclusive claim to it. Knowing this, the Centre would be more motivated to deploy the money as promised.

(viii) Improve Public Accountability: Civil society and media also have a role. When citizens are aware that their “Swachh Bharat” cess or “Krishi Kalyan” cess never actually cleaned anything or helped any farmer, the political cost for the government rises. Public interest litigations (PILs) can be one instrument but so can simpler tools like citizen report cards, periodic NGO audits of these funds’ performance, and leveraging the Right to Information (RTI) Act to uncover where the money sits. If every time a new cess is announced, the public cynically questions “Is this going to be another education cess that vanishes into thin air?”, the government may think twice about misuse. Transparency can empower voters to hold their representatives accountable for this pattern of fiscal illusion.

Legal Issues

28. When all else fails, citizens often knock on the courthouse doors. Supreme Court has often been directing government action on financial governance when it believes fundamental rights or public interests are at stake – albeit such interventions are rare in fiscal matters. We have seen it happen: the CAMPA afforestation fund case, the construction workers’ welfare fund case, and also instances like the piling up of the Nirbhaya Fund (for women’s safety) or the National Clean Environment Fund where judicial prodding either loomed or was invoked.

29. Approaching the judiciary is a double-edged sword. On one hand, the precedents are encouraging. The Supreme Court’s intervention was pivotal in shaking loose ₹1 lakh crore of environmental funds for their rightful green purpose, and in forcing the hand of authorities to actually spend the construction welfare cess on impoverished workers. In those cases, the Court treated the matter as one of executive accountability and the rights of beneficiaries. The logic can extend here: if farmers, students, patients, or other groups are deprived of benefits because the Centre is hoarding a cess meant for them, one could argue their right to welfare or education (enshrined indirectly in the Constitution) is being violated. A plea for judicial intervention in the matter could contend that failure to transfer or use earmarked funds is arbitrary and against the law that established those cesses, thus warranting judicial remedy. The Supreme Court has shown an appetite to enforce fiscal discipline in egregious cases of fund mismanagement – sometimes reading it into the right to life (Article 21) when vulnerable populations are affected (like construction workers living precariously while their welfare fund lay unused).

30. On the other hand, involving the Supreme Court in budgetary decisions is not a step to be taken lightly. Fiscal governance is ordinarily the domain of the executive and legislature. Courts generally defer to the government on financial matters unless there is a clear illegality or rights issue. If the plea simply says “government isn’t spending an education cess”, the Centre might argue this is a policy domain issue – maybe it chose to fund education via other means and will use the cess later. There’s also the risk of the judiciary overstepping or issuing broad directives that are hard to implement on an ongoing basis. The CAMPA and BOCW cases were somewhat straightforward since specific funds and statutory obligations were in question, and the Court could order

"spend or distribute this money in this way." For the entire cess-surcharge regime, the plea would essentially be asking the court to direct the government to manage its finances or to cease a practice that, while dubious, may not explicitly violate a written law beyond constitutional principles of financial propriety.

31. Judicial intervention might prod the government into pre-emptive self-correction to avoid an adverse order. For example, when the specter of judicial scrutiny hung over GST cess delays, the Finance Ministry expedited transfers to States by devising a special borrowing mechanism. One could imagine the Supreme Court, if convinced, pronouncing that continued non-transfer of designated cesses is "unconstitutional" – citing Article 270 (which excludes cesses from the divisible pool only for specific purposes) read with Article 266 (governing how public accounts are kept). The Court could direct the Union to henceforth transfer all such collections within the financial year and to utilize past accumulations for stated purposes within a timeframe, or even set up a committee to monitor compliance. It could also draw from the public trust doctrine, treating money collected for a dedicated purpose as a "trust fund" that the government must not misappropriate or sit on. These would be strong medicines, but not entirely outside the realm of the judiciary's toolkit in public interest cases.

32. However, relying on the Supreme Court to fix what is essentially governance malpractice has downsides. It reflects a failure of our democratic oversight mechanisms. Ideally, Parliament and CAG should suffice to check the executive – a court shouldn't have to tell the government to spend an education tax on education. Moreover, court-driven solutions might not address the root incentive problem; they might force one-time compliance (like emptying a fund backlog) but the sly creation of new cesses or new ways to park funds could emerge unless laws are changed. There's also the practicality: would the judiciary continuously supervise government spending of various cesses? Unlikely – they can crack the whip to set things right, but sustained monitoring is not their forte.

33. In sum, seeking judicial intervention in the matter would be a remedial option of last resort – perhaps justified if all other levers (executive conscience, legislative accountability, media exposure) fail to end the "cesspool" of non-accounted-for funds. It has worked in specific instances as noted, bringing life and urgency to dormant welfare funds. Public interest litigation in the matter could certainly galvanize public attention and nudge the government into speeding up utilization of cess funds and proper reporting on cess utilisation. But it would be far better if the system healed itself through transparent accounting, rule changes, and responsible governance, rather than needing periodic judicial CPR. The judiciary's role should ideally be to enforce clearly defined rights and laws; in this sphere, it can enforce the law that says cess proceeds must be used for their purpose – and indeed the Court has indicated that collecting a cess and not using it for that purpose is tantamount to reneging on a promise made to the people. So there is a legal hook.

Conclusion: From Cesspool to Stream of Purpose

34. The story of cesses and surcharges in recent years is a cautionary tale of good intentions subverted by opacity and expedience. What began as innovative financing tools to address developmental needs morphed into a murky fiscal cushion – a "cesspool" of unspent money that successive governments found too convenient to resist dipping their toes into. The Comptroller and Auditor General has done yeoman's work dragging these issues into the light, only to see them persist like a recurring bad dream in the nation's accounts. Meanwhile, critical programs – from secondary schools to senior citizens' welfare – go underfunded even though citizens paid specifically to fund them. States resent the Centre's sleight-of-hand that pads Centre's coffers at the expense of cooperative federalism.

35. Yet, there is room for cautious optimism. The very fact that these discrepancies are now widely reported and debated means the pressure for reform is mounting. Already, under scrutiny, the government has begun operationalizing funds that languished (MUSK, PMSSN) and transferring chunks of accrued cess to their proper place. The conversation has shifted from "what was hidden" to "how to fix this." By implementing structural changes – time-bound cesses, automatic transfers, greater transparency, and accountability incentives – India can ensure that a cess or surcharge remains true to its purpose: a sacred contract with the public that the extra pennies they chip in will indeed translate into concrete benefits, not vanish into a black hole of fiscal jugglery. The way forward is to rebuild trust, both with the taxpayers who fund these causes and with state governments who must not feel cheated by central cleverness. That means honoring the principle that a tax for a cause must serve that cause, or else not be collected at all.

36. If the government embraces reforms on its own, it will not only defang any need for judicial intervention but also demonstrate a commitment to transparent, rule-bound fiscal management. The Finance Ministry must come to see that the Public Account is not its personal cookie jar for balancing books, but a fiduciary responsibility. Likewise, Parliament needs to strengthen its grip on ensuring money bills and appropriations truly reflect what was promised. Ultimately, restoring credibility to cess and surcharge funds is part of a larger journey of reinforcing fiscal responsibility and cooperative federalism in India. As citizens, one hopes that five years from now we won't still be reading CAG reports lamenting "short transfers" and unused billions. Instead, we should see headlines of cess funds making a real difference on the ground – schools built, hospitals upgraded, forests replanted, roads completed – with every rupee accounted for. Then, perhaps, this long-running saga of the Great Indian Cesspool can finally be drained and closed, replaced by a flowing stream of public funds serving public good, as was always intended.

37. Constructive Way Forward: The solution lies in accountability and alignment of incentives. Amend the laws to mandate time-bound use of cess collections, with any surplus beyond a period either allocated to states or reabsorbed into general revenues for redistribution. Establish independent audits for each major fund and publish annual "report cards" on their performance. Encourage a culture in the civil service that views

unspent earmarked funds not as savings, but as failures to deliver – because in governance, "savings" at the cost of development are a false economy. Consider reviving the institution of an outcome budget specifically tracking cess-funded programs. If need be, entrust a neutral body to oversee disbursement from large reserve funds to depoliticize the process. And most critically, instill transparency at every step: let the sunlight into this cesspool so that it cannot breed stagnation. Whether through enlightened self-correction by the executive or through the stern gaze of the judiciary upholding the public trust, the time has come to end the cess surcharge circus. The taxpayers have paid the price; it's only just that they – and the intended beneficiaries – finally get the payoff in the form of tangible public goods and services, as promised. The money is there. The will to do right by it must now follow.

38. The above analysis draws on CAG audit findings and government data highlighting massive shortfalls between cess collections and their utilization. Instances like the oil industry cess (₹83,000+ crore) and agriculture infrastructure cess (₹1.5 lakh crore) remaining largely unused illustrate the extent of the problem. CAG reports have repeatedly flagged that over the decades, ₹3.69 lakh crore of such cess funds were not transferred to the proper accounts, effectively understating deficits. Even in education, about ₹48,000 crore meant for secondary and higher schooling sat idle (2018-24), impacting key schemes. The PAC and experts have decried this as a breach of trust and constitutional intent, noting it undermines the federal tax-sharing agreement and transparency. State-level parallels, like the underutilization of construction workers' welfare cess (only ~40% of ₹47,000 crore spent by 2019) and the CAMPA afforestation fund (₹1 lakh crore lying unused until SC intervention), show a recurring pattern of neglect that courts had to correct. These sources underscore the urgency for structural fixes and possibly judicial prodding to ensure public funds serve the public interest as intended.

ANNEXURE A

TAXATION OF SALT: A SYMBOL OF DEMOCRATIC DISSENT IN TAXATION HISTORY

1. Just like the primary agricultural produce, the salt used to be taxed in ancient and medieval periods but the steep burden of salt tax during the British period created a very popular backlash that was instrumental in mobilization of public opinion against foreign rule immortalised by Gandhiji through the SALT SATYAGRAHA / DANDI MARCH, a campaign of public defiance against unjust British laws. Thus, the taxation of salt has played an important role in India's struggle for freedom from British colonial rule and the salt was freed of all statutory levies in 2017. The Note dwells into this interesting history even though in terms of implications of the taxes and levies on salt have been rather insignificant for public exchequer all along.

2. A particularly notable and controversial tax in British India was a heavy tax imposed on salt, an essential commodity. The British East India Company initially monopolized salt production and sale, adding taxes and charges that made it difficult for local salt industries to compete and burdened the Indian population. The tax was later strengthened by the Indian Salt Act of 1882, which enforced a government monopoly on salt production and distribution and levied a tax of Rs 1-4-0 per maund. This oppressive tax became a major point of contention and a catalyst for widespread civil disobedience, of which the Salt March (or Salt Satyagraha) led by Mahatma Gandhi in 1930 was the most famous.

3. The *Arthashastra* mentions a special officer called *lavananadhyaksa* to oversee the collection of tax on salt. The tax was typically 25 percent of the value of the salt. In Bengal, there was a salt tax in force during the era of the Mughal Empire, which was 5% for Hindus and 2.5% for Muslims.

4. Salt has been produced all along the long coastline of India. When the British took over the administration of Bengal, they gradually monopolized Odisha salt all over Bengal and to check smuggling and illegal transportation, they sent armies into Odisha, resulting in the conquest of Odisha in 1803.

Taxation of salt by the British East India Company

5. In 1759, two years after its victory at the Battle of Plassey, the British East India Company came into possession of land near Calcutta where there were salt works. Utilizing this opportunity to make money, they doubled the land rent and imposed transit charges on the transportation of salt. In 1764, following the victory at the Battle of Buxar, the British began to control all the revenues of Bengal, Bihar and Orissa. Robert Clive, who returned as governor in 1765, made the sale of tobacco, betel nut, and salt (apart from other accessories and essential spices and condiments), the monopoly of the senior officers of the British East India Company. Contracts were given to deliver salt to depots, and merchants were required to buy from these depots. The outrage was expressed by the authorities in England against such a monopoly.

Clive responded by offering the company Rs. 1,200,000 per annum from the profits made.

6. Due to the pressure they exerted, the monopoly of tobacco and betel nut was stopped on 1 September 1767, followed by the annulment of the salt monopoly on 7 October 1768.

7. In 1772, the governor-general, Warren Hastings, brought the salt trade once again under the company's control. The salt works were leased out to farmers who agreed to deliver salt at a fixed rate to the company and sold the leases to the highest bidders. Corruption dealt a severe blow to the company and the revenue from salt trade fell to 80,000 rupees by 1780. This, along with the exploitation of salt workers by their landlords, forced Hastings to introduce a new system for controlling the salt trade in India. In 1780, Hastings brought the salt trade once again under government control, dividing the infrastructure into agencies, each under the control of an agent and governed by a controller. This system persisted, with minor modifications, until India's independence in 1947. Under this new system, the salt workers sold the salt to the agents at a particular price, initially fixed at 2 rupees a Maund with a tax of 1.1 to 1.5 rupees a maund. This new system was a success, and in 1781–82, the salt revenue was 2,960,130 rupees. The company received salt revenue of 6,257,750 rupees in 1784–85.

8. From 1788 onwards, the company began selling salt wholesalers by auction. As a result, the British East India Company increased the tax to 3.25 rupees a maund, and the wholesale price of salt increased from 1.25 to about 4 rupees a maund. This was an exorbitant rate that few could afford.

9. In 1804, the British monopolized salt in the newly conquered state of Orissa. In return, they advanced money to the salt workers against future salt production, resulting in the workers falling into a debt trap. In the early 19th century, to make the salt tax more profitable and reduce smuggling, the East India Company established customs checkpoints throughout Bengal. G. H. Smith established a "customs line", which was the boundary across which salt transportation involved payment of high customs duties. In the 1840s, a thorn fence was erected along the western frontiers of Bengal province to prevent salt smuggling. Eventually, after 1857, the thorn fence grew to be 2,500 miles long. Inland Customs Line (red), incorporating the Great Hedge of India or Indian Salt Hedge (green), built by the British colonial rulers of India. A customs line was established, which stretched across the whole of India, which in 1869 extended from the Indus to the Mahanadi in Madras, a distance of 2,300 miles; and it was guarded by nearly 12,000 men and petty officers it consisted principally of an immense impenetrable hedge of thorny trees and bushes, supplemented by stone wall and ditches, across which no human being or beast of burden or vehicle could pass without being subject to detention or search.

Taxation of salt by the British authorities

10. The taxation laws introduced by the British East India Company were in vogue during the ninety years of British Raj which followed the Crown taking over the sovereign

control of the colony from the company. The construction of a fence to prevent smuggling of salt, which was commenced during the company's rule, was completed during this period.

11. In 1835, special taxes were imposed on Indian salt to facilitate its import. This paid huge dividends for the traders of the British East India Company. When the Crown took over the administration of India from the Company in 1858, the taxes were not revoked.

12. Some sources indicate that by 1858, British India derived 10% of its revenues from its monopoly of salt. However, by the end of the century, the tax on salt had been considerably reduced. In 1880, income from salt amounted to 7 million pounds. In 1900 and 1905, India was one of the largest producers of salt in the world, with a yield of 1,021,426 metric tons and 1,212,600 metric tonnes respectively.

13. In 1923, under the viceroyalty of Lord Reading, a bill was passed doubling the salt tax. However, another proposal made in 1927 was subsequently vetoed. It was one of Finance Member Basil Blackett's first deeds when producing his first budget in February 1923.

Annual tax revenue

Year	**Rs (million)**	**£ (million)**
1929–30	67	5.025
1930–31	68	5.1
1931–32	87	6.525
1932–33	102	7.65

14. The first laws to regulate the salt tax were made by the British East India Company.

15. In 1835, the government appointed a salt commission to review the existing salt tax. It recommended that Indian salt should be taxed to enable the sale of imported English salt. Consequently, salt was imported from Liverpool, resulting in an increase in salt rates. Subsequently, the government set up a monopoly on the manufacture of salt by the Salt Act. Production of salt was made an offense punishable with six months' imprisonment.

16. In 1878, a uniform salt tax policy was adopted for the whole of India, both British India as well as the princely states. Both production, as well as possession of salt, were made unlawful by this policy. The salt tax, which was one rupee and thirteen annas per maund in Bombay, Madras, the Central Provinces, and the princely states of South India, was increased to two rupees and eight annas and decreased from three rupees and four annas in Bengal and Assam to two rupees and fourteen annas, and from three rupees to two rupees and eight annas in North India.

17. Section 39 of the Bombay Salt Act, which was the same as Section 16-17 of the Indian Salt Act, empowered a salt-revenue official to break into places where salt was being illegally manufactured and seize the illegal salt being manufactured. Section 50 of the Bombay Salt Act prohibited the shipping of salt overseas.

18. The India Salt Act of 1882 included regulations enforcing a government monopoly on the collection and manufacture of salt. Salt could be manufactured and handled only at official government salt depots, with a tax of Rs 1-4-0 on each *maund* (82 pounds).

Protests against the British salt tax

19. The stringent salt taxes imposed by the British were vehemently condemned by the Indian public. In 1885, at the first session of the Indian National Congress in Bombay, a prominent Congress Leader, S. A. Saminatha Iyer, raised the issue of the salt tax.

20. Since the introduction of the first taxes on salt by the British East India Company, the laws were subjected to fervent criticism. The Chamber of Commerce in Bristol was one of the first to submit a petition opposing the salt tax:

21. The price to the consumer here [in England] is but about 30s per ton instead of 20 pounds per ton as in India; and if it was necessary to abolish the Salt tax at home some years since it appears to your petitioners that the millions of her Majesty's subjects of India have a much stronger claim for remission in their case, wretchedly poor as they are, and essentially necessary as salt is to their daily sustenance, and to the prevention of disease in such a climate.

22. The salt tax was criticized at a public meeting at Cuttack in February 1888. In the first session of the Indian National Congress held in 1885 in Bombay, a prominent Congress member, S. A. Saminatha Iyer pleaded against the tax: *It would be unjust and unrighteous if the tax on salt should be increased. It is a necessary article both for human as well as animal well-being... it would be bad policy and a retrograde movement to raise the tax, especially at a time when the poor millions of India are anxiously looking forward to a further reduction of the tax... As any increase, therefore, of this tax will fall heavily upon the masses of the people of the land, I would strongly urge upon the attention of this Congress the necessity of its entering its strong protest against any attempt on the part of Government to raise the tax on salt.*

23. At the Allahabad session of the Indian National Congress in 1888, Narayan Vishnu, a delegate from Poona vehemently opposed the Indian Salt Act. A resolution was passed wherein the delegates present declared 'That this Congress do put on record its disapproval of the recent enhancement of the salt tax as involving a perceptible increase to the burden of the poorer classes, as also the 'partial adoption, in a time of peace and plenty, of the only financial reserve of the Empire.' The 1892 session at Allahabad concluded thus: '... We do not know when the tax will be reduced. So that there is every necessity for our repeating this prayer in the interests of the masses, and we earnestly hope that it will be granted before long'. A similar sort of protest was also issued at the Congress session at Ahmedabad.

24. The salt tax was also protested by eminent people like Dadabhai Naoroji. On 14 August 1894, he thundered in the House of Commons.

25. Then the Salt Tax, the cruelest Revenue imposed in any civilized country provided Rs. 8,600,000/- and that with the opium 'formed the bulk of the revenue of India, which was drawn from the wretchedness of the people... It mattered not what the State received was called – tax, rent, revenue, or by any other name they liked – the simple fact of the matter was, that out of a certain annual national production the State took a certain portion. Now it would not also matter much about the portion taken by the State if that portion, as in this country, returned to people themselves, from whom it was raised. But the misfortune and the evil was that much of this portion did not return to the people and that the whole system of Revenue and the economic condition of the people became unnatural and oppressive, with dangers to the rulers. So long as the system went on, so long must the people go on, living wretched lives. There was a constant draining away of India's resources, and she could never, therefore, be a prosperous country. Not only that, but in time India must perish, and with it perish the British Empire.

26. In 1895, George Hamilton stated at a session of the House of Commons that: *Time has, however, now come when the Government finds itself in possession of larger surpluses and it is, therefore, its duty as guardian of public exchequer, to reduce taxation on salt.*

27. When the salt tax was doubled in the year 1923, it was sharply criticized in a report by the Taxation Enquiry Committee which was published two years later. This raise also evoked sharp reactions from Indian nationalists. In 1929, Pandit Nilakantha Das demanded the repeal of the salt tax in the Imperial Legislature but his pleas fell on deaf ears. In 1930, Orissa was close to open rebellion.

Mahatma Gandhi's Salt March

28. At the historic Lahore session of the Indian National Congress on 31 December 1929 in which Purna Swaraj was declared, a passing reference was made to the infamous and oppressive salt law and resolved that a way should be found to oppose it. In the first week of March 1930, Mahatma Gandhi wrote to Lord Irwin apprising him of the prevailing social, economic and political conditions in the country. On 12 March 1930, Gandhi embarked on a satyagraha with 78 followers from Sabarmati Ashram to Dandi on the Arabian Sea coast. This march, known as the Dandi March, was sensationalized by the international press; film clippings and pictures of Mahatma Gandhi were relayed to distant corners of the world. Gandhi reached Dandi on 5 April 1930. After his morning bhajan, he waded in to the sea shore and picked up a handful of salt, proclaiming that with the handful of salt he was proclaiming the end of the British Empire. The police arrived and arrested thousands of national leaders including Gandhi. Mahatma Gandhi's bold defiance of the salt law encouraged other Indians to break the law as well.

29. The salt tax continued to remain in effect and was repealed by the interim government headed by Pd. Jawaharlal Nehru as the prime minister in 1946. However, the salt tax

that was abolished in 1946 was soon replaced by another statutory levy – a SALT CESS (to fund the salt department and the development of the salt industry) w.e.f. April 1947 later regularised through Salt Cess Act, 1953. The Salt Cess was abolished in 2017 under the Taxation Laws (Amendment) Act, 2017 as part of the transition to the Goods and Services Tax (GST). Under GST regime, there is no tax on all forms of dietary salt (iodised or not) but only on chemical salts used for industrial or pharmaceutical purposes.

ANNEXURE B

LIST OF REPORTS OF THE CAG OF INDIA ON INDIRECT TAXES

1. Report No. 12 of 2025 - Performance Audit Report on E-Way Bill System under GST, Union Government (Department of Revenue – Indirect Taxes -Goods and Services Tax)
2. Report No. 11 of 2025 - Compliance Audit of Union Government Department of Revenue (Indirect Taxes-Customs)
3. **Report No. 12 of the year 2024 Government of Odisha https://cag.gov.in/uploads/download_audit_report/2024/Minor-Mineral-English_Report-No.-12-of-2024-067ed536b17e6c5.24617546.pdf**
4. **Report No. 9 of 2024 Govt. of Uttar Pradesh Performance Audit Civil https://cag.gov.in/ag2/uttar-pradesh/en/audit-report/details/122448**
5. Report No. 1 of the year 2024 – Performance Audit on Liquor Supply in Delhi ***https://cag.gov.in/ag/new-delhi/en/audit-report/details/121510***
6. Report No. 14 of 2023- IT Audit of Indian Customs Electronic Data Interchange System (ICES) 1.5 ,Union Government Department of Revenue-Indirect Taxes (Customs)
7. Report No. 3 of 2023 - IT Audit of CBIC ACES-GST Application, Union Government Department of Revenue (Indirect Taxes – Goods and Services Tax)
8. Report No.30 of 2022 - Compliance Audit on Union Government Department of Revenue (Customs) for the year ended March 2021
9. Report No.19 of 2022 - Performance Audit on Working of Customs Bonded Warehouses (CBWs) and Free Trade Warehousing Zones (FTWZs)
10. Report No.14 of 2022 - Performance Audit Report on Sabka Vishwas (Legacy Dispute Resolution) Scheme (SVLDRS) 2019, Union Government Department of Revenue (Indirect Taxes-Goods and Services Tax, Central Excise and Service Tax)
11. Report No.5 of 2022- Compliance Audit Report on Indirect Taxes - Goods and Services Tax, Union Government Department of Revenue (Indirect Taxes – Goods and Services Tax)
12. Report No.18 of 2021 - Compliance Audit on Union Government Department of Revenue (Customs)for the year ended March 2020
13. Report No. 10 of 2021- Union Government, Performance Audit on Advance Authorisation Scheme (Department of Revenue – Indirect Taxes -Customs)
14. **Report No. 1 of 2021 - Compliance Audit on Union Government Department of Revenue (Indirect Taxes – Goods and Services Tax, Central Excise and Service Tax) Customs**
15. Report No. 17 of 2020 - Compliance Audit on Union Government (Department of Revenue - Customs)

16. Report No.5 of 2020 - Performance Audit on MEIS and SEIS Union Government (Department of Revenue Indirect Taxes-Customs)
17. Report No. 17 of 2019 - Compliance Audit on Indirect Taxes Union Government, Department of Revenue Customs
18. Report No.11 of 2019 - Compliance Audit of Union Government, Department of Revenue (Indirect Taxes – Goods and Services Tax)
19. Report No.4 of 2019 - Compliance Audit of Union Government, Department of Revenue (Indirect Taxes – Central Excise and Service Tax)
20. Report No.16 of 2018 - Performance Audit of Working of Inland Container Depots (ICDs) and Container Freight Stations (CFSs) Department of Revenue Indirect taxes, Customs
21. Report No.43 of 2017 - Compliance Audit on Indirect Taxes – Service Tax-Union Government
22. Report No.42 of 2017 - Compliance Audit on Indirect Taxes – Central Excise-Union Government
23. Report No.41 of 2017 - Compliance Audit of Department of Revenue – Customs Union Government
24. Report No.31 of 2017 - Performance audit Union Government Levy and collection of Service Tax on Entertainment Sector Reports of Department of Revenue Indirect Taxes – Service Tax
25. Union Report 3 of 2017 Revenue Indirect Taxes Central Excise
26. Union Report 1 of 2017 - Revenue Customs
27. Report 42 of 2016 - Performance Audit Customs on Project Imports
28. Union Report 41 of 2016 - Revenue Service Tax
29. Report No 22 of 2016 - Performance Audit on Voluntary Compliance Encouragement Scheme 2003-Union Indirect Taxes–Service Tax
30. Report No 10 of 2016 - Union Indirect Taxes Central Excise and Service Tax
31. Report 6 of 2016 - Union Revenue Performance Audit Indirect Taxes Customs
32. Report No. 5 of 2016 - Compliance Audit on Customs Department of Revenue Union Government
33. Report No. 2 of 2016 - Compliance Audit on Indirect Taxes-Central Excise Union Government Department of Revenue
34. Report No.1 of 2016 - Compliance Audit on Indirect Taxes-Service Tax Union Government Department of Revenue

35. Report No. 13 of 2015 - Performance Audit on Import and Export Trade Facilitation through Customs Ports Union Government, Department of Revenue-Indirect Taxes,Customs

36. Report No. 9 of 2015 - Performance Audit on Export Oriented Unit scheme Union Government, Department of Revenue-Indirect Taxes,Customs

37. Report No. 8 of 2015 - Compliance Audit on Customs Union Government, Department of Revenue

38. Report No. 7 of 2015 - Compliance Audit on Indirect Taxes - Central Excise Union Government, Department of Revenue

39. Report No. 4 of 2015 - Compliance Audit on Indirect Taxes - Services Tax Union Government, Department of Revenue

40. Report No. 33 of 2014 - Performance Audit on Central Excise Administration in Automotive Sector of Union Government, Department of Revenue-Indirect Taxes,Central Excise

41. Report No. 29 of 2014 - Performance Audit on Administration of Prosecution and Penalties in Central Excise and Service Tax of Union Government, Department of Revenue - Indirect Taxes, Central Excise and Service Tax

42. Report No. 21 of 2014 - Performance Audit of Special Economic Zones SEZs of Union Government, Department of Revenue - Indirect Taxes, Customs

43. Report No. 12 of 2014 - Compliance Audit on indirect Taxes Union Government, Department of Revenue Customs

44. Report No. 11 of 2014 - Performance Audit on Indian Customs Electronic Data Interchange System of Union Government, Department of Revenue-Indirect Taxes,Customs

45. Report No. 9 of 2014 - Performance Audit on Duty Entitlement Pass Book Scheme Union Government, Department of Revenue - Revenue-Indirect Taxes,Customs

46. Report No. 8 of 2014 - Compliance Audit on indirect Taxes - Central Excise Union Government, Department of Revenue

47. Report No. 6 of 2014 - Compliance Audit on Indirect Taxes - Services Tax Union Government, Department of Revenue

48. Report No. 17 of 2013 - Compliance Audit on Indirect Taxes-Central Excise and Service Tax Union Government, Department of Revenue

49. Report No. 14 of 2013 - Compliance Audit on Customs Union Government, Department of Revenue

50. Report No. 9 of 2013 - Performance Audit of Levy and Collection of Services Tax on Import of Services of Union Government, Department of Revenue-Indirect Taxes, Services Tax

51. Report No. 8 of 2013 - Performance Audit of Deemed Export Drawback Scheme and Reimbursement of Central Sales Tax Union Government, Department of Revenue - Indirect Taxes

52. Report No. 31 of 2011 - Compliance Audit on Indirect Taxes – Customs Union Government, Department of Revenue

53. Report No. 29 of 2011 - Compliance Audit on Indirect Taxes – Service Tax Union Government, Department of Revenue

54. Report No. 28 of 2011 - Compliance Audit on Indirect Taxes – Central Excise Union Government, Department of Revenue

55. Report No. 25 of 2011 - Performance Audit of Central Excise and Service Tax Union Government, Department of -Indirect Taxes (Working of Commissionerates, Divisions and Ranges)

56. Report No. 22 of 2011 - Performance Audit of Export Promotion Capital Goods Scheme Union Government, Department of -Indirect Taxes

57. Report No. 15 of 2011 - Performance Audit of Service Tax on Banking and other Financial Services and Duty Drawback Scheme Union Government, Department of - Indirect Taxes

58. Report No. 30 of 2010 - Performance Audit of Cenvat credit Scheme Union Government (Indirect Taxes - Central Excise & Service Tax)

59. Report No. 29 of 2010 - Compliance Audit on Indirect Taxes – Service Tax Union Government, Department of Revenue

60. Report No. 25 of 2010 - Performance Audit of Service Tax on Construction Services Union Government (Indirect Taxes – Service Tax)

61. Report No. 24 of 2010 - Compliance Audit on Indirect Taxes – Customs Union Government, Department of Revenue

62. Report No. 23 of 2010 - Compliance Audit on Indirect Taxes – Central Excise Union Government, Department of Revenue

63. Report No. 15 of 2010 - Performance Audit of Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof, imitation jewellery, coin

64. Report No. 11 of 2010 - Performance Audit of Excise Duty on Pharmaceutical Products (Indirect Taxes - Central Excise)

65. Report No. 15 of 2009 - Performance Audit Natural or cultured pearls, precious stones, precious metal, coins Union Government, Department of Indirect Taxes-Customs

66. Report No. 14 of 2009 - Compliance Audit on Indirect Taxes – Customs Union Government, Department of Revenue

67. Report No. 13 of 2009 - Compliance Audit on Indirect Taxes – Service Tax Union Government, Department of Revenue

68. Report No. 12 of 2009 - Compliance Audit on Indirect Taxes – Central Excise Union Government, Department of Revenue

69. **Report No.CA 7 of 2008 for the Period ended March 2007 - Indirect Taxes - Central Excise, Service Tax and Customs**

70. **Report No. 6 of 2008 for the Period ended March 07 - Performance Audit of Indirect Taxes - Central Excise, Service Tax and Customs**

71. **Report No. 7 of 2007 for the period ended March 2006 - Union Government (Indirect Taxes) (Compliance Audit) Customs, Central Excise and Service Tax**

72. **Report No.-7 of 2007 for the period ended March 2006 Performance Audit of Customs, Central Excise and Service Tax (indirect taxes)**

73. **Report No. - 11 of 2005 for the period ended March 2004 (Indirect Taxes) Central Excise and Service Tax (Compliance Audit)**

74. **Report No.- 10 of 2005 for the period ended March 2004 (Indirect Taxes) Customs (Compliance Audit)**

ANNEXURE C

HIGHLIGHTS FROM THE REPORTS OF THE CAG OF INDIA ON INDIRECT TAXES

1. Report No. 12 of 2025 - Performance Audit Report on E-Way Bill System under GST, Union Government (Department of Revenue – Indirect Taxes -Goods and Services Tax)

In the GST tax regime, E-Way bill (EWB) is a document required for the movement of goods and is designed to capture details of goods before being moved. The EWB has been introduced with effect from 1 April 2018.

Automation and standardisation of the entire process was intended to help check tax evasion and shore up GST collections. EWB is also designed to dissolve the non-trade barriers, so that transit time is reduced and supply chain efficiency is improved.

The Performance Audit (PA) on EWB System under GST had objectives to examine effectiveness of EWB mechanism in protecting revenue interest of the Government and to evaluate efficiency and effectiveness of the preventive activities of the Department in enforcing EWB provisions. EWB transactions pertaining to the period from 1 April 2018 to 31 March 2022 were covered in this PA and the audit was conducted from February 2023 to July 2023.

A risk based approach has led this PA and samples were selected based on the Key Problem Areas (KPAs) identified - 2,244 EWBs relating to 956 taxpayers and 50 per cent of preventive units for the two objectives, respectively. Limitation of scope due to non-production of records In order to verify 2,244 selected EWBs, audit requisitioned records in respect of 956 selected taxpayers (with reference to corresponding 2,244 EWBs) for the period from 2018-19 to 2021-22. However, records were not produced in respect of 108 taxpayers and only partial records were produced in respect of 334 taxpayers. Similarly, in respect of records relating to booked cases of EWB verifications, though records relating to 1,559 booked cases pertaining to 58 Commissionerates were called for, the documents for 153 cases were not produced by 13 Commissionerates.

(i) Audit observed that 36 taxpayers under Composition Levy scheme (CLS) pertaining to 24 Commissionerates had generated EWBs for effecting inter-State outward supplies or/and their turnover had crossed the threshold limit thereby violating the conditions specified for composition scheme. Short payment of tax noticed in these cases was ₹ 6.74 crore alongwith interest of ₹ 0.51 crore.

(ii) Audit observed that 103 taxpayers pertaining to 37 Commissionerates who had effected outward supplies for ₹ 2,285.23 crore from April 2018 to March 2022 supported by EWBs either did not file their return or did not report the turnover in their returns. The amount of tax involved in these cases worked out to ₹ 307.37 crore alongwith interest of ₹ 3.25 crore.

(iii) Audit observed that 43 taxpayers pertaining to 24 Commissionerates had generated EWBs for effecting outward supplies for ₹ 152.60 crore from April 2018 to March

2022 after the effective date of cancellation of their registration. Tax liability of ₹ 23.56 crore is recoverable in these cases alongwith interest of ₹ 0.94 crore.

(iv) Audit observed that 71 taxpayers falling under 33 Commissionerates reporting Nil turnover in their returns actually effected outward supplies, as ascertained from EWBs, amounting to ₹ 340.42 crore. The amount of tax recoverable worked out to ₹ 50.41 crore alongwith interest of ₹ 3.69 crore.

(v) Audit also observed that 174 taxpayers pertaining to 53 Commissionerates had effected outward supplies of ₹ 1,750.87 crore from April 2018 to March 2022 without discharging tax liability of ₹ 168.06 crore recoverable with interest of ₹ 9.29 crore on these supplies.

(vi) **Wilful suppression of turnover by a group of taxpayers:** Audit observed that 18 taxpayers pertaining to three Commissionerates had generated 3,137 EWBs for outward supplies of ₹ 168.21 crore. The taxpayers did not discharge the tax liability of ₹ 81.11 crore with interest of ₹ 45.19 crore due to either non-filing of returns or non/short reporting the turnover in their returns.

(vii) **Discrepancies noticed in availing of ITC:** Audit observed that 72 taxpayers pertaining to 28 Commissionerates had availed ITC of ₹ 1,357.89 crore through GSTR-3B, however, ITC available as per GSTR-2A was ₹ 1,202.48 crore. Thus, there was mismatch between ITC available as per GSTR-2A and that availed by the taxpayers through GSTR-3B to a tune of ₹ 155.41 crore.

2. Report No. 11 of 2025 - Compliance Audit of Union Government Department of Revenue (Indirect Taxes-Customs)

Customs duty is levied on import of goods into India and on export of certain goods out of India (Entry 83 of List 1 of the Seventh Schedule of the Constitution). Customs receipts form part of the indirect tax revenue of the Government. Duties of Customs are levied under the Customs Act 1962, and the rates of duties are governed under the Customs Tariff Act and notifications issued from time to time. Department of Revenue (DoR) under Ministry of Finance (MoF) is responsible for administration of Indirect Union Taxes, through the Central Board of Indirect Taxes and Customs (CBIC). The levy and collection of Customs duty and cross-border preventive functions are administered by the CBIC through 70 Customs Commissionerates across the country.

During FY 22, exports worth ₹31.47 lakh crore (2.37 crore transactions) through 406 Customs ports (EDI, Non-EDI, Manual and SEZ ports) and ₹ 45.72 lakh crore worth of imports (1.93 crore transactions) through 437 Customs ports (EDI, Non-EDI, Manual and SEZ ports) took place. Ratio of Customs receipts to GDP was 0.85 per cent, while Customs receipts as percentage of gross tax receipts was 7.37 per cent. Customs receipts as a percentage of Indirect taxes was 15.39 per cent.

During FY 22, Audit issued 251 inspection reports to the respective Commissionerates/ Regional Licensing Authorities containing 2,065 observations and carrying a total revenue implication of ₹ 9,824 crore. The Report highlighted the following:

- The total arrear of Customs revenue pending as on March 2022 (₹ 51,784 crore) had increased by 22 per cent in comparison to pendency as on March 2021 (₹42,601 crore). The overall arrears in Customs Duties have grown by 60 per cent in FY 22 compared to FY 18. Age analysis of undisputed arrears revealed that out of total ₹ 9,867 crore, ₹ 2,200 crore (22.30 per cent) were lying unrecovered for more than five years.
- There were 11,322 defaulters in 20 Zones having Customs Duties arrears of ₹ 5,960 crore as on 31 March 2022. The pendency of arrears and slow recovery may be attributed to vacancies under various categories of post. The Ministry needs to take effective steps for strengthening the Department's recovery mechanism.
- Test audit of 20 Regional Authorities and eight Development Commissioners revealed instances of violations of prescribed rules, procedures framed to give effect to the provisions of the Foreign Trade Policy and procedures regarding fulfilment of export obligations and awarding export incentives. Of the total revenue of ₹ 773 crore due from exporters/importers, in one case, lack of proper validation controls in ICES 1.5 resulted in irregular IGST refund to non- entitled Export-Oriented Units (EOUs) and Advance Authorization (AA) Holders involving revenue of ₹ 736 crore.
- Audit noticed 88 cases of under assessments of applicable Customs duties due to misclassification of imported goods, incorrect application of notifications and incorrect levy of applicable levies and other charges, as result of which revenue of ₹ 46 crore was at risk.

3. Report No. 14 of 2023- IT Audit of Indian Customs Electronic Data Interchange System (ICES) 1.5 ,Union Government Department of Revenue-Indirect Taxes (Customs)
4. Report No. 3 of 2023 - IT Audit of CBIC ACES-GST Application, Union Government Department of Revenue (Indirect Taxes – Goods and Services Tax)

The above reports include findings on IT Audit of Customs, Goods & Service Tax.

5. Report No.30 of 2022 - Compliance Audit on Union Government Department of Revenue (Customs) for the year ended March 2021

Duties of Customs are levied under the Customs Act 1962, and the rates of duties are governed under the Customs Tariff Act and notifications issued from time to time. The levy and collection of Customs duty and cross-border preventive functions are administered by the CBIC through 70 Customs Commissionerates across the country. The Department of Commerce under Ministry of Commerce and Industry, through Director General of Foreign Trade (DGFT) formulates, implements and monitors the Foreign Trade Policy (FTP) which provides the basic framework of policy and strategy to be followed for promoting exports and trade.

During the last five years (FY 17 to FY 21) India's major trading partners were China, USA, UAE, Hong Kong, Saudi Arabia, Singapore, Germany, Switzerland, Indonesia and Korea. Of these, the share of imports in FY 21 of nine trading partners except Saudi Arabia have increased as compared to FY 17. During FY 21, India's trade imbalance with its top 10 trading partners was 87 per cent {Rs. (-) 7,56,914 crore} of the total trade imbalance.

- Audit noticed 88 cases of under assessments of applicable Customs Duties due to, misclassification of imported goods, incorrect application of notifications and incorrect levy of applicable levies and other charges, as result of which revenue of Rs.75 crore was at risk.

- Irregularities in Export promotion schemes of Foreign Trade Policy Test audit of 17 Regional Authorities and eight Development Commissioners revealed instances of violations of prescribed rules, procedures framed to give effect to the provisions of the Foreign Trade Policy and procedures regarding fulfilment of export obligations and awarding export incentives. Revenue of 11 crore was due from exporters/importers who had availed the benefits of the duty under Export promotion schemes but have not fulfilled the prescribed obligations/ conditions.

6. Report No.19 of 2022 - Performance Audit on Working of Customs Bonded Warehouses (CBWs) and Free Trade Warehousing Zones (FTWZs).

Performance Audit on the working of Customs Bonded Warehouses (CBWs) and Free Trade Warehousing Zones (FTWZs) was conducted to (a) assess the effectiveness of the changes made in the Warehousing Regulations, in improving facilitation and self-clearance mechanism without detriment to the interest of revenue, and also the adequacy of Rules, Regulations, Notifications, Circulars, etc. issued from time to time in relation to CBWs under the Customs Act 1962; and (b) assess whether the establishment and operationalization of FTWZs are duly aligned with the objectives of FTWZs' policy and whether the internal control system, monitoring and coordinating mechanism are adequate and designed to minimize the risk of revenue loss.

Audit covered different aspects of Warehouses/FTWZs and examined relevant records maintained at the Customs Offices, Development Public Warehouses, Private Warehouses and Special Warehouses.

- Audit scrutiny revealed that the Department was totally dependent upon the Monthly Technical Reports and monthly returns submitted by each bonded warehouse; the monthly reports are not automated. There was absence of a structured and seamless flow of data between the IT systems maintained by the warehouses and ICES, the main IT Systems of Customs. Further, warehouses were required to maintain data in Form A and B which were not integrated with ICES. While ex-bonding of goods for home consumption is accounted for in ICES, other transactions such as re-export of the warehoused goods, transfer to SEZs and transfer from one bonded warehouse to another bonded warehouse were not captured in ICES. The SEZ Online IT System (managed by NSDL) which covers the SEZs was not integrated with ICES.

- The form prescribed for monthly return of the receipt, storage, operations and removal of the goods in the warehouse (Form A) was deficient as the removal details do not capture the ex-bond details.

- There was no standard operating procedure for antecedent verification and different procedures were followed by different Customs Commissionerates; further, the details required to be filled in Part IV of the application for license were not complete in respect of 36 test checked warehouses.

- There were delays, ranging from 7 to 440 days, beyond the stipulated time limit of 30 days in issue of licenses of 30 out of the test-checked 219 CBWs. This delay affects the “ease of doing business” policy of the government.
- Instances of non-short/ deduction of Customs duty in the general bond and excess holding of goods beyond the permissible limits prescribed in the licenses was noticed. Excess stock would not be covered by insurance coverage and the Department is liable to lose Customs duty in the event of disaster like fire, accident and others.
- There was short/irregular payment of Merchant Overtime (MOT) charges in 14 warehouses, and in 10 warehouses, customs supervision charges were levied incorrectly on MOT basis, instead of cost recovery charge basis, leading to short recovery of customs supervision charges of ₹10.29 crore.
- In 129 warehouses, licensees failed to comply with the Board’s Regulation stipulating an all risk insurance policy for a sum equivalent to the amount of duty involved on the dutiable goods proposed to be stored; this entailed risk of losing the customs duty on the warehoused goods in the event of any disaster in the warehouses. Out of 129 cases, in 56 cases insurance cover was deficient at a point of time or for a period by an amount of ₹1,015.71 crore. In 73 Warehousing license cases, the same could not be quantified because the maximum value of duty on goods proposed to be stored (as per licence) was not available.

7. Report No.14 of 2022 - Performance Audit Report on Sabka Vishwas (Legacy Dispute Resolution) Scheme (SVLDRS) 2019, Union Government Department of Revenue (Indirect Taxes-Goods and Services Tax, Central Excise and Service Tax)

This Performance Audit was conducted in 52 selected Commissionerates to study whether the implementation process of the Sabka Vishwas Legacy Dispute Resolution Scheme (SVLDRS) (the ‘Scheme’) was adequate and complete; settlement of cases and realization of tax dues was as per law; internal control mechanisms were adequate and the learnings from the accepted audit recommendations in respect of the earlier VCES Scheme were followed in this ‘Scheme’.

The key aim of the ‘Scheme’ was to unload the baggage relating to the legacy cases viz. Central Excise and Service Tax that have been subsumed under GST.

This Performance Audit revealed certain deficiencies mainly related to inadequacies in designing the online system/following legal provisions/CBIC instructions, disposal of disputed cases and keeping the tax evaders in the tax net, as summarised below:

- CBIC instructions regarding timely availability of updated records to the Designated Committees were not adhered to in 15 Commissionerates.

- There were instances of the SVLDRS Portal accepting deficient declarations, generating incorrect data and failure to restrict entry of invalid data in conformity with the provisions of the 'Scheme'
- Irregular relief of ₹ 109.81 crore in 28 declarations was extended to declarants who sought relief with respect to ineligible goods.
- The Designated Committees irregularly processed 21 declarations, involving tax dues of ₹ 7.01 crore under the 'Voluntary Disclosure' category, though the declarants were subjected to enquiry/investigation/audit and filed returns.
- The Designated Committees rejected 14 eligible declarations, also resulting in probable loss of revenue of ₹ 8.72 crore.
- Irregular processing of 17 declarations under the 'Litigation' category instead of 'Arrears' resulted in excess relief amounting to ₹ 5.1 crore to the declarants.
- Incorrect consideration of tax dues in ten declarations resulted in excess relief of ₹ 1.31 crore.
- In 65 declarations involving tax dues of ₹ 90.51 crore, evidence of pre deposits/deposits had not been verified properly, after due linking with the concerned cases.
- In 625 cases discharge certificates were issued covering the GST period i.e. on or after 1 July 2017. This indicated incorrect issue of discharge certificates as this was beyond the scope of the 'Scheme'.
- The SVLDRS portal accepted multiple declarations in 208 cases involving tax dues of ₹ 273.53 crore, which resulted in processing of certain cases multiple times.
- There was no systemic mechanism for verification of a risk based sample of the 'Voluntary Disclosure' cases; also, there was lack of adequate follow-up action to recover ₹ 54.22 crore in 264 unpaid 'Voluntary Disclosures'.

8. Report No.5 of 2022- Compliance Audit Report on Indirect Taxes - Goods and Services Tax, Union Government Department of Revenue (Indirect Taxes – Goods and Services Tax)

   - This report contains significant findings of the Subject Specific Compliance Audit (SSCA) of Transitional Credits under GST which were noticed during the examination of records pertaining to transitional credits under the jurisdiction of CBIC. With respect to the SSCA on processing of refund claims under GST, the Ministry accepted audit observations with money value of ₹ 92.08 crore and reported recovery of ₹ 52.93 crore, as of February 2022. With respect to the SSCA on Transitional Credits, the Ministry accepted audit observations with money value of ₹ 309.82 crore and reported recovery of ₹ 50.39 crore, as of March 2022.
   - Audit analysed the data of Public Financial Management System (PFMS) relating to GST refunds pertaining to the period from July 2017 to September 2019 (Pre-automation) received from 34 Commissionerates and followed it up with substantive

audit of the payment process. Audit noticed 410 instances of double payments owing to lack of reconciliation and monitoring by the Department amounting to ₹ 13.73 crore.

- Audit examined compliance to the provisions of the CGST Act, associated rules, procedures, etc. with respect to a risk-based sample of 12,283 refund cases processed by the Central tax authorities. Audit noticed 522 cases where excess/inadmissible refund of ₹ 185.28 crore was sanctioned due to various reasons such as incorrect computation of Adjusted Total Turnover, consideration of ineligible accumualted ITC, claims which were time-barred etc.

9. Report No.18 of 2021 - Compliance Audit on Union Government Department of Revenue (Customs)for the year ended March 2020

The levy and collection of Customs duty and cross-border preventive functions are administered by the CBIC through 70 Customs Commissionerates across the country.

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

During FY 20, exports worth Rs. 22.19 lakh crore (1,37,43,809 transactions) through 405 Customs ports (203 EDI, 44 Non-EDI, 2 Manual & 156 SEZ ports) and Rs. 33.61 lakh crore worth of imports (1,20,87,439 transactions) through 437 Customs ports (183 EDI, 29 Non-EDI, 2 Manual & 223 SEZ ports) took place.

During FY 20, the Customs receipts to GDP ratio was 0.54 per cent while customs receipts as percentage of gross tax receipts was 5.44 per cent. Customs receipts as a percentage of indirect taxes was 12.72 per cent.

- Audit noticed 102 cases of under assessments of applicable Customs duties due to, misclassification of imported goods, incorrect application of notifications and incorrect levy of applicable levies and other charges, as result of which revenue of Rs. 122 crore was at risk.
- Test audit of 21 Regional authorities and eight Development Commissioners revealed instances of violations of prescribed rules, procedures framed to give effect to the provisions of the Foreign Trade Policy and procedures regarding fulfilment of export obligations and awarding export incentives. Revenue of Rs. 21 crore was due from exporters/importers who had availed the benefits of the duty under Export promotion schemes but have not fulfilled the prescribed obligations/ conditions.

10. Report No. 10 of 2021- Union Government, Performance Audit on Advance Authorisation Scheme (Department of Revenue – Indirect Taxes -Customs)

The objective of the Advance Authorisation Scheme (AAS) is to provide registered exporters with their requirement of basic inputs/raw materials at international prices without payment of Customs duty in India, subject to the condition of export of manufactured goods with specified percentage of value addition. Performance Audit of this Scheme was conducted to ascertain whether the issue, utilization, redemption and implementation of Authorisations by the Directorate General of Foreign Trade (DGFT) and the Customs Department is being done in an efficient and effective manner. Audit also examined the effectiveness of inter-departmental coordination involved in the administration of the Scheme and whether the internal control measures are sufficient to minimize the risks of revenue loss, misuse, etc. Audit covered DGFT, its Regional Authorities (RAs) and related Customs field formations through the Customs Commissionerates concerned.

The Scheme is administered by the DGFT while exemption from the levy of Customs duty on imported inputs is allowed by the Central Board of Indirect Taxes and Customs (CBIC), DoR under Ministry of Finance (MoF).

There are a total of 38 RAs across India wherein 88,157 Advance Authorisations (AAs) involving Cost, Insurance and Freight (CIF) value for imports of Rs. 7,58,141 crores were issued during the period 2015-16 to 2018-19 covered under the Performance Audit.

- Non-issuance of Show Cause Notices (SCNs) by Customs Department against defaulters and delays in adjudication process indicates weakness in coordination between the two Departments and ineffective utilization of the EDI system or 'eodc.online' of DGFT to ascertain export performance and take concerted action. DGFT should notify DoR about extensions granted to AAs, SCNs/demand notices.
- Absence of an effective policy on internal/special audit had contributed to non-monitoring of implementation of the Scheme wherein licences are issued for export of various goods by allowing duty free import of inputs among other functions. Many RAs at field level were unaware of any such mechanism.

11. **Report No. 1 of 2021 - Compliance Audit on Union Government Department of Revenue (Indirect Taxes – Goods and Services Tax, Central Excise and Service Tax) Customs**

In the CAG's first Audit Report on Goods and Services Tax (GST), we noted the landmark achievement of the Government and other stakeholders in roll out of GST. We had further noted that an area where full potential of GST had not been achieved was the simplified tax compliance regime. The originally envisaged system-validated Input Tax Credit (ITC) through "invoice matching" had not been implemented. The complexity of return mechanism and technical glitches had resulted in roll-back of key GST returns, rendering the system prone to ITC frauds. Accordingly, we had recommended simplified tax compliance regime by introducing simplified return forms duly using technological solutions.

During the current audit, we noticed that owing to the continuing extensions in the roll out of simplified return forms, and delay in decision making, the originally envisaged system-verified flow of ITC through "invoice matching" is yet to be implemented and a non-intrusive e-tax system still remains unimplemented. The GST return system is still a work in progress despite more than three years of GST roll out. In the absence of a stable and simplified return mechanism, one of the main objectives of roll out of GST i.e. simplified tax compliance system is yet to be achieved.

Indirect Taxes collections increased by ₹ 16,627 crore during FY20 over FY19. However, there is a declining trend in annual growth of Indirect Taxes during the last five years.

The annual growth of Indirect Taxes (Y-o-Y) declined from 21.33 per cent in FY17 to only 1.76 per cent in FY20. Further, share of Indirect taxes in total revenue receipts declined from 38.95 per cent in FY17 to 36.92 per cent in FY20. Central GST taxes revenue as percentage of GDP declined from 3.08 per cent in FY 19 to 2.95 per cent in FY20.

CBIC has yet to put in place an effective system of scrutiny of returns based on detailed instructions/manual for the tax officers. As a result, an important compliance function of the department, as mandated by law, is yet to be effectively rolled out even after three years of GST implementation.

- We verified 5,822 out of 77,363 transitional credit cases in 81 Central GST Commissionerates and five Audit Commissionerates, and noticed 1,182 instances (20 per cent) of non-compliance. We noticed instances of irregular claim of transitional credit on input services in transit, irregular availing of Cess of earlier regime as credit, excess carry forward of Cenvat credit, irregular availment of transitional credit on exempted goods etc. with money value of Rs. 543.70 crore.

- During the period October 2018 to March 20205, we examined the records relating to 4,736 refunds out of 23,106 in 33 CGST Commissionerates. We noticed non-adherence to extant provisions in processing of refunds in 280 claims (6 per cent) involving an amount of Rs. 16.16 crore. We observed instances of irregular grant of refund due to non-consideration of minimum balance in electronic credit ledger, irregular sanction of refund of input tax credit availed on capital goods etc.

  IT audit of GSTN (Phase – II) was undertaken to assess whether the Refund and Returns modules implemented by GSTN were in line with the provisions of the Acts and Rules governing the GST regime and the System Requirements Specifications (SRS). In addition, E-Way Bills module, which has been developed by National Informatics Centre, under the supervision of GSTN was also reviewed.

  In 14 cases, the key validations / functionalities as existing in the rolled out modules were not found aligned to the applicable provisions even though SRS was correctly framed.

Absence of adequate controls, risk of claiming refund on unverified ITC and deficiencies in integration of GST Portal with the Indian Customs EDI Systems (ICES) application for IGST refund on export of goods resulted in following deficiencies in Refund module:

Due to GSTR 2 and 3 being held in abeyance, the envisaged buyer seller reconciliation mechanism could not be implemented resulting in unmitigated risk in the GST refund system.

The refund of ITC sanctioned was disproportionately more than the actual value of export in case of export without payment of tax.

Verification of endorsement detail of invoices of supplies to SEZ with SEZ online was not made mandatory while processing the refund application.

Incorrect creation of GSTR-2A, which is an important source of information on inward supply for the tax officers, could lead to irregular availability of ITC.

12. Report No. 17 of 2020 - Compliance Audit on Union Government (Department of Revenue - Customs)

The levy and collection of Customs duty and cross-border preventive functions are administered by the CBIC through 70 Customs Commissionerates across the country.

During 2018-19, exports worth Rs. 23.08 lakh crore (1,33,60,422 transactions) and imports worth Rs. 35.95 lakh crore (1,21,88,592 transactions) took place.

During FY 2018-19, Customs receipts realised were Rs. 1,17,813 crore as against Rs. 1,29,030 crore realised in FY 2017-18. One of the reasons for decrease in the Customs receipts during FY 2018-19 may be attributed to the fact that after introduction of GST, CVD and SAD which used to be part of Customs receipts, have been subsumed into IGST.

The compliance audit of Customs revenue covers transactions involving levy and collection of Customs duties, any other levies of Customs, transactions of imports and exports undertaken under various schemes implemented under the FTP and specific compliance areas reviewed by audit from time to time.

Audit was conducted in 25 Customs Commissionerates, 12 RAs of DGFT and eight DC-SEZs. Audit examined the adjudication process of SCNs, SCNs issued and OIOs passed during the financial years 2016-17 to 2018-19 and the SCNs pending for adjudication as on 31 March 2019.

The compliance audit had reviewed the "Show Cause Notices (SCN) and Adjudication process" in Customs Commissionerates/ Regional authorities (RA) of DGFT and Development Commissioners (Special Economic Zone) (DC- SEZ)). The transactions covered in this report pertain to FY 2018-19, but in some cases prior period transactions have also been reviewed for getting a holistic picture.

Audit noticed shortcomings in issue of SCNs, deficiencies in the process and procedures leading to adjudication, lack of proper follow up of adjudication and review orders and deficiency in monitoring and internal controls.

Audit noticed systemic issues in few import cases wherein the Risk Management System (RMS) allowed clearance even though the prescribed import conditions were not fulfilled

Audit noticed 86 cases of under assessments of applicable Customs duties due to incorrect application of notifications, misclassification of imported goods and Incorrect levy of applicable levies and other charges, as result of which revenue of Rs. 233 crore was at risk etc.

Irregularities in Export promotion schemes of FTP : Test audit of 28 RAs revealed instances of violations of prescribed rules, procedures framed to give effect to the provisions of the FTP and procedures regarding fulfilment of EO and awarding export incentives. Revenue of Rs. 27.74 crore was due from exporters/ importers who had availed the benefits of the duty under Export promotion schemes but have not fulfilled the prescribed obligations/conditions.

13. Report No.5 of 2020 - Performance Audit on MEIS and SEIS Union Government (Department of Revenue Indirect Taxes-Customs)

Performance Audit on the Merchandise Exports from India Scheme (MEIS) and Service Exports from India Scheme (SEIS) was conducted to seek an assurance on the success of facilitation measures introduced for simplifying the process of issuance of scrips and to examine effective linkage of rules and procedures of the Schemes in Director General of Foreign Trade (DGFT) Electronic Data Interchange (EDI) system.

This audit covered analysis of pan-India data received from DGFT for the period April 2015 to October 2018. It was noticed that 5,94,653 (5,84,650 MEIS and 10,003 SEIS) scrips amounting to Rs. 76,416 crore were issued by 38 Regional Authorities (RAs) and Nine Development Commissioners (DCs) of SEZs. In view of prevalent manual processes, a sample of 25 RAs (66 per cent of total RAs) and seven DC offices (77 per cent of total DC offices) was selected for this audit. These 32 units covered 5,53,726 (5,43,803 MEIS and 9,923 SEIS) scrips (93.12 percent) amounting to ₹72,743 crore (95.19 percent).

- The exporters got rewards in cases where the services were misclassified though actual services rendered were not specified in Appendix 3D and benefits amounting to ₹172.72 crore in respect of these services were granted by 7 RAs in 37 cases, by placing reliance on Chartered Accountant (CA) certificates.
- The self-declarations and CA certificates were insufficient to provide assurance about eligibility of services and remittances for grant of rewards under SEIS. However, department relied heavily on these self-declarations and CA certificates for granting rewards. RAs failed to distinguish between eligible (Mode 1 & 2) and ineligible (Mode 3 & 4) services and to segregate and deny rewards to ineligible services resulting in excess rewards of ₹57.52 crore to 13 service providers in contravention to extant provisions. Errors in claims amounting to Rs. 40.47 crores were noticed in 62 cases due to incorrect self- declarations and CA certificates. Excess issue of rewards amounting to ₹13.02 crores was noticed in 34 cases due to incomplete checks by RAs and system. There was lack of clarity in SEIS provisions for port services as to how the actual service providers would get the benefit when they were not directly providing service to foreign consumers.
- The substantial delays in issue of MEIS and SEIS scrips indicated failure of the automated system in achieving the objective of simplification of procedures and ease of doing business.
- The extension of MEIS benefits to E-commerce exports amounting to ₹5.52 crore was delayed by almost four years due to delay in amending the regulations and operationalization of E-commerce module.

14. Report No.11 of 2019 - Compliance Audit of Union Government, Department of Revenue (Indirect Taxes – Goods and Services Tax)

Implementation of Goods and Services Tax (GST)

- GST was rolled out with effect from 1 July 2017 with the objectives of reducing tax cascading, ushering in a common market for goods and services and bringing in a simplified, self-regulating and non-intrusive tax compliance regime.
- The roll out of GST has been a landmark achievement of the Government with respect to unifying multiple central and state taxes barring a few goods / sectors and availability of Input Tax Credit (ITC) across the entire value chain. Multiplicity of tax rates has also been eliminated to a large extent. The objective of roll out of single IT based interface for taxpayer has also been achieved to some extent.
- One significant area where the full potential of GST roll out has not been achieved is the roll out of the simplified tax compliance regime.
- Even after two years of roll out of GST, system validated Input Tax Credit through "invoice matching" is not in place and non- intrusive e-tax system still remains elusive.
- The complexity of return mechanism and the technical glitches resulted in roll back of invoice-matching, rendering the system prone to ITC frauds. Thus, on the whole, the envisaged GST tax compliance system is non-functional. The deficiencies in the GST system also point to a serious lack of coordination between the Executive and the developers.
- All the IGST Settlement Ledgers were not being generated due to non-implementation of corresponding GST modules, like imports and appeals. This, coupled with the inaccuracies in the settlement algorithm and limitation of the GSTR-3B return in capturing all the information required for settlement, had a bearing on the settlement of funds to the Centre and various States.
- The incomplete IGST ledgers were partly responsible for ₹2,11,688 crore of IGST balance remaining unsettled during 2017-18.
- Duplicate records were noticed in 6,748 cases in 5 Settlement ledgers, leading to inaccurate settlement of ₹ 416.07 crore IGST funds for the period from July 2017 to July 2018.
- Incorrect settlement of IGST amounting to ₹ 359.46 crore during the period from July 2017 to July 2018 was noticed because of erroneous entries in settlement ledgers due to the algorithm picking up entries from wrong category of taxpayers.
- Unrealistic erroneous claim of ITC of IGST by one taxpayer, representing 79 per cent of total ITC claim by all taxpayers for a month, was allowed by the system, exposing the vulnerability of the system to fraudulent ITC claims.
- There was a short transfer of ₹ 6,466 crore of GST Compensation cess to the Public Account during 2017-18.

- The incomplete IGST ledgers were partly responsible for ₹ 2,11,688 crore of IGST balance remaining unsettled during 2017-18.

- Duplicate records were noticed in 6,748 cases in 5 Settlement ledgers, leading to inaccurate settlement of ₹ 416.07 crore IGST funds for the period from July 2017 to July 2018.

15. Report No.4 of 2019 - Compliance Audit of Union Government, Department of Revenue (Indirect Taxes – Central Excise and Service Tax)

We examined functions of Central Excise and Service Tax Department relating to scrutiny, internal audit etc. and verified records of assessees, which form the basis for tax calculation, to examine the extent of effectiveness of the systems in place in ensuring that assessees comply with extant rules and procedures in this era of self-assessment.

Total revenue collection of Central Excise, Service Tax and Goods and Service Tax (with effect from 1 July 2017) has increased by ₹ 1,49,068 crore (23.48 per cent) in FY18 as compared to FY17. However, after excluding GST Compensation Cess amounting ₹ 62,612 crore from the GST revenue, as GST Compensation Cess is not part of the Consolidated Fund of India, total indirect tax (Central Excise, Service Tax, GSTT and Customs) decreased by ₹ 11,277 crore in FY18 from FY17. One of the reasons for decrease in the indirect tax revenue during FY18 may be attributed to the fact that the GST amount of ₹ 32,179 crore for the month of March 2018 was collected in the subsequent month of April 2018, unlike Central Excise and Service Tax.

After the implementation of GST, the number of registered assessees had increased to 1,05,05,913. Further, as on 31 March 2018, the total number of GST registrants under CBIC administration were 32,11,352 of whom 10,54,859 were migrated from the old tax regime and 21,56,493 were new registrants.

In Central Excise, 45,749 cases involving revenue of ₹ 1,04,718 crore were pending in Appeals at the end of FY18 registering a marginal decrease of 3.5 per cent over the amount pending at the end of FY17. In Service Tax, 43,718 cases involving Service Tax revenue of ₹ 1,20,907 crore were pending in Appeals at the end of FY18 registering one per cent decrease over the amount pending at the end of FY17.

The mechanism to monitor the performance of field formations in respect of cases pending in Appeals was deficient as Zone/Commissionerate-wise data was not maintained at Board level. Also, accuracy of data maintained at Board and field formations level was not ensured as discrepancies were noticed in data maintained at Directorate of Legal Affairs and data reported in Monthly Performance Reports (MPRs).

- In 28 Commissionerates, out of total 4,286 Appeal cases disposed, we examined 1,833 cases and observed that in 60 cases (3 per cent) pertaining to 13 Commissionerates, involving revenue of ₹ 126.33 crore, Appeals were dismissed due to lapses on part of the Department.

- In the selected 20 Commissionerates, out of total pending 5,672 arrear cases involving money value of ₹ 6,816.77 crore in Central Excise as on 31 March 2018, we examined

119 case files (2 per cent) involving money value of ₹ 1,217.29 crore. Similarly, out of total pending 12,046 arrear cases involving money value of ₹ 13,549.19 crore in Service Tax as on 31 March 2018, we examined 154 case files (1 per cent) involving money value of ₹ 6,317.34 crore.

- In 115 cases (47 per cent of test checked cases) under 16 Commissionerates, action for recovery under section 11 of Central Excise Act, 1944, section 142 of Customs Act, 1962 and section 87 of the Finance Act, 1994 was not initiated, which resulted in non-recovery of ₹ 1,202.33 crore.
- Inadequate/non-pursuance of the case with Official Liquidator resulted in non-recovery of ₹ 15.61 crore.
- There were discrepancies in figures of arrear amount in litigation as reported by Directorate of Legal Affairs and Tax Arrear Recovery reports for FY18. Total pending arrears in litigation as per Tax Arrear Recovery reports was ₹ 66,604 crore in 32,100 cases whereas as per Directorate of Legal Affairs report, the figure was ₹ 74,406 crore in 35,199 cases in respect of Central Excise. Similarly, total pending arrears in litigation as per Tax Arrears Recovery reports was ₹ 1,11,851 crore in 36,367 cases whereas as per Directorate of Legal Affairs report, the figure was ₹ 94,825 crore in 35,163 cases in respect of Service Tax.
- Further, we observed instances of non-payment/short payment of Service Tax, incorrect availing/utilisation of CENVAT credit and non-payment of interest by the assessee in 63 cases having financial implication of ₹ 52.00 crore.
- We also observed 26 instances of non-compliance by the assessees on issues of on/short payment of Central Excise duty/interest and irregular availing/utilization of CENVAT credit etc. having financial implication of ₹ 129.65 crore.

16. Report No.43 of 2017 - Compliance Audit on Indirect Taxes – Service Tax-Union Government

We examined functions of Service Tax Department relating to scrutiny, internal audit etc. and verified records of assessees, which form the basis for tax calculation, to examine the extent of effectiveness of the systems in place in ensuring that assessees comply with extant rules and procedures in this era of self- assessment. Besides regular audit of departmental functions and compliance by the assessees, this year we conducted a subject specific compliance audit (SSCA) on Commercial Training or Coaching Service.

The department had shifted from revenue based selection of units due for audit to risk based selection by factoring in the manpower available in the Audit Commissionerates. Despite the change of methodology in selection of assessees for audit, the shortfall in audit is still more than 50 per cent in the large and medium units.

The Service Tax revenue generated from Commercial Training or Coaching service has increased from ₹ 880.09 crore in FY13 to ₹ 1,950.08 crore in FY16 proving that the business of coaching centres is expanding day by day.

- Arrear cases involving revenue implication of ₹ 1,17,935 crore were pending for recovery as on 31 March 2017.
- Cases involving revenue of ₹ 1,22,008 crore were pending in appeals in FY17 registering a 26 per cent increase over the amount pending at the end of FY16. Early disposal by the various authorities is important to bring in possible revenue of Rs. 1,22,008 crore to the Government coffers.
- Audit observed deficiencies in scrutiny and internal audit carried out by departmental officers, delayed issue of show cause notice etc., having financial implication of ₹ 165.88 crore.
- Audit detected 1,005 number of unregistered assessees out of which in 250 cases, we were able to quantify Service Tax liability of ₹ 6.11 crore.
- A sample verification of records of the assessees by the Audit revealed 179 cases of non/short payment of Service Tax, irregular availing of CENVAT credit, non/short payment of interest etc. by registered assessees involving revenue of ₹ 88.26 crore.
- Audit observed instances of non-payment/short-payment of Service Tax, incorrect availing/utilisation of CENVAT credit and non-payment of interest on delayed payments having financial implication of ₹ 92.61 crore.
- Audit observed deficiencies in scrutiny and internal audit carried out by departmental officers, delayed issue of show cause notice etc., having financial implication of ₹ 165.88 crore.

17. Report No.42 of 2017 - Compliance Audit on Indirect Taxes – Central Excise-Union Government

We examined functions of Central Excise Department relating to scrutiny, internal audit etc. and verified records of assessees, which form the basis for tax calculation, to examine the extent of effectiveness of the systems in place in ensuring that assessees comply with extant rules and procedures in this aera of self-assessment. Besides regular audit of departmental functions and compliance by the assessees, this year we conducted subject specific compliance audit (SSCA) on two major commodities i.e. Plastic and articles thereof and Tobacco products.

Central Excise revenue collection was ₹ 3,80,495 crore during financial year 2016-17 (FY17) and accounted for 44.13 per cent of Indirect Tax revenue in FY17. In comparison of FY16, Central Excise revenue increased by ₹ 93,346 crore (32.51 per cent) in FY17. Revenue forgone in Central Excise, on account of conditional exemptions was ₹ 76,844 crore in FY17 which was 20.20 per cent of total Central Excise revenue.

- Cases involving revenue of ₹ 1,08,563 crore were pending in appeals at the end of FY17 registering a 18 per cent increase over the amount pending at the end of FY16. As no action can be initiated for recovery of revenue till the appeal is pending, early disposal by the various authorities to bring in possible revenue of ₹ 1,08,563 crore to the Government coffers, is important.

- In 106 cases relating to plastic manufacturers, Audit noticed Internal Audit and other lapses of the Department, involving revenue of ₹ 4.71 crore. In another 190 cases Audit noticed non-compliance of Act, Rules etc. by the assessees involving revenue of ₹ 7.68 crore.
- In 10 test-checked cases of payment of duty on chewing tobacco/pan masala, based on capacity of production, Audit observed excess production as much as 325 per cent over 'deemed production' involving revenue of ₹ 309.18 crore.
- Audit observed 44 cases of irregular availing and utilisation of CENVAT credit, non/short payment of Central Excise duty involving revenue of ₹ 45.40 crore.
- Audit observed 58 cases of deficiencies in internal audit carried out by departmental officials and other issues involving revenue of ₹ 279.19 crore.
- In 40 cases relating to Tobacco manufacturers Audit noticed non- compliance of Act, Rules etc. by the assessees involving revenue of ₹ 97.72 lakh.

18. Report No.41 of 2017 - Compliance Audit of Department of Revenue – Customs Union Government

- The total revenue implication of the Audit Report is ₹ 85 crore, out of which recovery of `₹ 19 crore has been effected and the Government has reported initiating rectificatory action in cases involving revenue implication of ₹ 30 crore.
- Audit noticed mis-utilization of duty credit in respect of test checked instruments issued under Chapter 3 of Foreign Trade Policy (FTP) through various methods of manipulating registration of scrip/use of scrip indicating potential fraud. The money value involved in mis-utilisation of licences amounted to ₹ 4.97 crore.
- Revenue of ₹ 41.53 crore was due from exporters/importers who had availed the benefits of the duty exemption schemes but had not fulfilled the prescribed obligations/conditions.
- Audit noticed 13 cases of incorrect application of exemption notifications having total revenue implication of ₹ 16.78 crore. Of these, the department had accepted ten cases with revenue implication of ₹4.20 crore and reported recovery of ₹ 2.15 crore in seven cases.
- Audit noticed 22 cases of short/non-recovery of applicable levies and other charges having total revenue implication of ₹ 15.03 crore. Of these, the department had accepted 20 cases with revenue implication of ₹ 12.20 crore and reported recovery of ₹ 7.97 crore in 14 cases. These cases arose mainly due to short levy of Basic Customs duty, imports cleared without levying applicable anti dumping duty, short levy of duty due to undervaluation and non realisation of cost recovery charges.
- In 21 cases assessing officers mis-classified various imported goods which caused short levy/non levy of Customs duties of ₹ 6.12 crore. Out of these, the department had accepted 17 cases with revenue implication of ₹ 2.80 crore and reported recovery of ₹ 67 lakh in nine cases.

19. [Report No.31 of 2017 - Performance audit Union Government Levy and collection of Service Tax on Entertainment Sector Reports of Department of Revenue Indirect Taxes – Service Tax]

We conducted a Performance Audit on levy and collection of Service Tax on Entertainment Sector, to seek an assurance regarding adequacy of Service Tax rules and regulations relating to entertainment sector and systems in place to ensure compliance to the same. The audit was conducted in 17 selected Commissionerates, including one division and one range in each Commissionerates and examination of records relating to 307 assessees. The audit covered the three years period from 2013-14 to 2015-16. The audit revealed certain inadequacies in the extant provisions as well as systemic deficiencies relating to the levy and collection of service tax on Entertainment Sector.

Taxable commercial activities escaped taxation due to clubbing of theatrical rights that are exempted with taxable non-theatrical rights/other activities by way of an agreement treating the entire consideration only towards theatrical rights.

There were instances of artists/producers entering into agreements with foreign entities to establish a service recipient(s) and place of provision in the non-taxable territory and thereby consideration for the portion of service provided outside India was treated as exports Wrong availment of Cenvat credit of ₹ 14.71 crore under sponsorship services.

- There were 156 cases of non-compliance to prescribed rules / provisions resulting in non / short payment of service tax / interest /Swachh Bharat Cess, incorrect / excess availing of cenvat credit and incorrect claim of benefits of export of services involving revenue of ₹ 48.13 crore.

20. [Union Report 3 of 2017 Revenue Indirect Taxes Central Excise]

Central Excise collection was ₹ 2,87,149 crore during financial year 2015-16 (FY16) and accounted for 40 per cent of Indirect Tax revenue in FY16. This Report has 93 audit observations on Central Excise duties, having financial implication of ₹ 178.68 crore. The Ministry/Department had, till December 2016, accepted audit observations involving revenue of ₹ 132.13 crore and reported recovery of ₹ 30.44 crore

- Revenue forgone for FY16 in respect of Excise duties was ₹ 2,24,940 crore (₹ 2,05,940 crore as general exemptions and Rs. 19,000 crore as area based exemptions) which is 78.34 per cent of revenue from Central Excise.
- Huge amount of Central Excise revenue amounting to ₹ 92,162 crore is under litigation at various levels. The amount is increasing every year.
- In 37 test checked cases, under 12 Commissionerates, action for recovery under section 11 of Central Excise Act, 1944, and section 142 of Customs Act, 1962, were not taken, which resulted into non-recovery of Rs. 95.87 crore.
- In 23 test checked cases, pending from 2 to 10 years involving revenue of ₹ 137.81 crore, in four Commissionerates, applications for early hearing were not filed.
- If no recovery is made by Departmental efforts, cases need to be transferred to the Recovery Cells which have been empowered to take action for ecovery by attachment

and sale of property of the defaulter. No cases were transferred to the Recovery Cells in 23 Commissionerates during 2014-15, there were 15,388 cases amounting to ₹ 18,700.27 crore pending for recovery. Non-transfer of cases has not only resulted into Recovery Cells becoming redundant but has also led to piling of arrears and poor recoveries thereof.

- The Board constituted, in 2004, a Centralised Task Force (CTF) to co-ordinate, facilitate, monitor and oversee the efforts of Customs and Central Excise field formations in recovery of arrears. We observed that though the Task Force was entrusted with finalising and implementing strategies for realisation of arrears it did not take any such action for realization of arrears. As on March 2015, out of total arrears of ₹ 63,925.42 crore, cases involving arrears of ₹ 44,747.82 crore, ₹ 1,485.15 crore and ₹ 77.07 crore were pending with CESTAT, Commissioner (Appeals) and Settlement Commission respectively which constituted 72.44 per cent of total arrears for recovery.
- We observed 35 cases of irregular availing and utilisation of CENVAT credit, non/short payment of Central Excise duty involving revenue of ₹ 73.99 crore.
- We observed 56 instances of deficiencies in internal audit carried out by departmental officials and other issues involving revenue of ₹ 104.68 crore.

21. Union Report 1 of 2017 - Revenue Customs

During the financial year 2015-16 the Custom Receipts of ₹ 2,10,338 crore grew by 12 percent over the previous financial year. The ratio of Customs duty collected to GDP was 1.55 percent. Duty foregone on account of export promotion schemes and on commodities was ₹ 3,40,420 crore in the financial year 2015-16.

The report has 101 paragraphs with revenue implication of ₹495 crore and two subject specific compliance paragraphs of ₹ 568 crore. In addition systemic and internal control deficiencies involving revenue of ₹ 6430 crore have been included in the report.

- Accumulation of arrears due to non-monitoring of drawback cases, incorrect adjudication of Advance license cases without monitoring the EODC status and deficiencies in the monthly reports being submitted by the field formations are symptoms of an unreliable monitoring and weak internal control system.
- Audit noticed issues worth ₹ 1.75 crore and systemic deficiencies involving revenue of ₹ 5133 crore.
- Revenue of ₹ 409.96 crore was due from exporters/importers who had availed the benefits of the duty exemption schemes but had not fulfilled the prescribed obligations/conditions.
- Audit noticed 29 cases of incorrect assessment of customs duties having total revenue implication of ₹ 17.48 crore. Of these, the department had accepted 22 cases with revenue implication of ₹ 8.39 crore and reported recovery of ₹ 7.55 crore in 20 cases. These cases arose mainly due to non levy of applicable anti dumping duty on imports,

excess payment of drawback, delay in disposal of warehoused goods (liquor) and non levy of safeguard duty etc.

- In 28 cases assessing officers mis-classified various imported goods which caused short levy/non levy of customs duties of ₹ 10.01 crore. Out of these, the department had accepted 19 cases with revenue implication of ₹ 3.26 crore and reported recovery of ₹ One crore.
- Audit noticed mis-utilization of duty credit in respect of instruments issued under Chapter 3 of Foreign Trade Policy through manipulation of registration of scrip/use of scrip by deploying various methods indicating potential fraud. The money value involved in mis- utilisation of licences amounted to ₹ 51.70 crore.
- Audit noticed another seven cases of incorrect application of exemption notifications having total revenue implication of ₹ 3.30 crore. Of these, the department had accepted four cases with revenue implication of ₹ 37 lakh and reported recovery of ₹ 12 lakh in three cases.

22. Report 42 of 2016 - Performance Audit Customs on Project Imports

'Project Imports' is a scheme of Government of India to facilitate setting up of or substantial expansion of industrial plants, by facilitating imports of capital goods and related items required for these industrial projects. The scheme seeks to achieve the objective of smooth and quick assessment of imports by providing for a simplified process of classification and valuation. Under this scheme all goods imported for a project are classified under one chapter heading 9801 of the Customs Tariff Act, 1975 and are assessed at a uniform customs duty rate even though other headings may cover these goods more specifically. The scheme is available to projects falling under specified sectors like, industrial plant, irrigation project, power project, mining, and oil/ mineral exploration project.

A review of the existing legal provisions of the scheme reveals considerable ambiguities in the scheme due to later notifications and amendments. Thus, the assessments are being done in an inconsistent manner leading to under/over valuations and incorrect levy of duty. Lack of appropriate provisions in the regulations to monitor completion of imports have resulted in many projects lingering for indefinite periods, and undue advantage of concessional imports being extended to importers even after the commencement of projects. There are multiple sponsoring authorities for a single project without clear administrative responsibilities for monitoring completion of projects and whether the projects for substantial increase in capacity have achieved their objective.

Performance audit has brought forth numerous instances of weak or incorrect compliance to the existing provisions. Contracts were finalised even in the absence of requisite documents, contracts for substantial expansion of project were allowed without actual verification of the expansion of capacity, and inadmissible imports and undedicated goods were allowed under project imports. Audit noticed several instances of imports of spare parts much in excess of the prescribed ceiling and application of incorrect rates of duty and interest.

Audit examined aspects of trade facilitation like dwell time of cargo, documentation requirements, time taken in finalisation of assessments and contracts and transaction costs. Audit found instances of delay in clearanceof cargo at some of the major ports with delays upto 297 days in some cases. Examination of documentation requirements revealed that multiple documents were required to be submitted by importers and that in several cases importers had not submitted the documents or had submitted the same with delays.

Even though the Customs Department has computerised its operations through the EDI system, the performance audit revealed that no steps have been taken to integrate the Project Import scheme within the EDI system.

This performance audit has revenue implication of ₹ 1,822 crore, in addition systemic issues worth ₹ 203 crore which could not be recovered due to inconsistency and ambiguity in the existing regulations and rules besides internal control matters which could not be quantified.

23. Union Report 41 of 2016 - Revenue Service Tax

The Service Tax collection was ₹ 2,11,145 crore during financial year 2015-16 (FY16) and accounted for 29.77 per cent of Indirect Tax revenue in FY16. Indirect tax collection have risen as a per cent of GDP in FY16 after registering a slight decline during the preceding two years. The share of Indirect Taxes in Gross Tax revenue increased in FY16 vis-à-vis FY15. Service Tax revenue as a percentage of GDP has been increasing every year during last five years, though it declined marginally during FY15.

This Report has 162 audit observations on Service Tax, having financial implication of ₹ 256.88 crore. The Ministry/department had accepted (up to December 2016) 158 audit observations involving revenue of ₹ 252.65 crore and reported recovery of ₹ 78.47 crore. Significant audit findings are as follows:

- Adjudication cases involving Service Tax implication of over ₹ 76,124 crore were pending finalisation as on 31 March 2016.
- In the last five audit reports (including current year's report) we had included 810 audit paragraphs having financial implication of ₹ 2,181.44 crore against which the Ministry accepted 795 audit paragraphs having financial implication of ` 1,866.26 crore and had recovered ₹ 449.59 crore.
- Arrears of Service Tax, which was ₹ 22,014 crore in 2012-13, tripled to ₹ 71,257 crore in 2014-15. However, recovery during the year as a percentage of unrestrained recoverable arrears registered a steep fall from 42 per cent during 2013-14 to 10 per cent during 2014-15.
- In 49 test checked cases in eight Commissionerates, action for recovery under section 73 and 87 of the Finance Act 1994, was not initiated, which resulted in non-recovery of ₹ 14.86 crore.
- In 51 test checked cases in nine Commissionerates, pending from two to 10 years involving revenue of ₹ 613.07 crore, applications for early hearing were not filed.

- Audit observed instances of non-payment/short-payment of Service Tax, incorrect availing/utilisation of CENVAT credit and non-payment of interest on delayed payments having financial implication of ₹ 138.22 crore.
- Audit observed deficiencies in scrutiny and internal audit carried out by departmental officers, delayed issue of show cause notice etc., having financial implication of ₹ 118.66 crore.

24. Report No 22 of 2016 - Performance Audit on Voluntary Compliance Encouragement Scheme 2003-Union Indirect Taxes–Service Tax

The Performance Audit on Service Tax Voluntary Compliance Encouragement Scheme, 2013 (VCES) was conducted in 35 selected Commissionerates to study whether the Scheme achieved its intended goals through seeking assurance regarding mechanism devised by the department for its implementation, addressing of the systemic failures that necessitated the VCES and monitoring of post-VCES compliance by the declarants.

The key aims of the scheme viz. encouraging non-filers or stop filers to file returns and tax base broadening were not achieved as only 66,072 existing as well as new registrants declared tax dues amounting to ₹ 7,750 crore under VCES as against 10,00,000 non/stop filers when the Scheme was announced and only around 22 per cent of the declarations filed related to new registrations. The Performance Audit revealed deficiencies in the design and enabling provisions of the Scheme, non-compliance to provisions prescribed in various stages and inadequacies in tax administration as detailed below:

- The Scheme envisaged grant of immunity for truthful declaration of Service tax dues. No basic documents in support of tax liability declared were prescribed and verification of correctness of declaration was restricted only to mere check of arithmetic accuracy. Even basic facts apparent on the face of the declaration were not verified.
- Clarifications given by Board regarding pending demand notice, inquiry, audit or investigation, which would make the declarant ineligible for the scheme, were contradictory to the provisions and the intention of the scheme. This resulted in extension of unintended benefit amounting to ₹ 129.84 crore in 332 cases.
- In 444 cases in 20 Commissionerates, involving tax dues of ₹ 85.97 crore, we found deficiencies in verification of eligibility criteria.
- We noticed in 169 cases, involving tax dues of ₹ 20.96 crore, that though the declarants had not paid the declared tax dues as per due dates prescribed, the declarations were not made ineligible for the scheme.
- The department did not initiate any action to recover the balance of the declared tax dues or to levy applicable interest and penalty in respect of 78 rejected cases involving an amount of ₹ 23.02 crore.

25. Report No 10 of 2016 - Union Indirect Taxes Central Excise and Service Tax

We conducted the Performance Audit on Cenvat credit scheme, to seek an assurance that provisions in the Act/rules/clarifications/procedures as laid down are unambiguous and adequate to safeguard any misuse of the Cenvat credit scheme and that the internal control and monitoring mechanism were in place and effective. The Performance Audit was conducted in 41 selected Commissionerates which included examination of records relating to 469 assessees.

The Performance Audit revealed certain inadequacies in the extant provisions, both of system as well as deficiencies in internal controls relating to the Cenvat credit scheme.

- We observed that the proportionate value of service tax credit on `Input services of ₹ 21.63 crore was not reversed due to absence of suitable provision in Cenvat Credit Rules, 2004.
- We observed that concessional rate of duty in respect of mobile phones, allowing benefit of Cenvat credit in respect of input services even though it was meant to be restricted to inputs and capital goods resulted in unintended benefit of ₹ 7.30 crore to the assessee.
- We observed various shortcomings while examining adherence to the rules and regulations of Cenvat Credit Rules, 2004 involving ₹ 128.31 crore which failed to come to the notice of the department due to non-observance of the compliance verification mechanism as envisaged.
- During test check we observed in three cases where goods were declared as obsolete but Cenvat credit was not reversed due to absence of suitable provisions.
- We observed that there is no provision for charging interest in case of on/delayed reversal of Cenvat credit in respect of non/delayed receipt of goods sent to job worker.
- We observed instances of non-submission of various prescribed returns by the assessees. Non-submission of returns would hinder the department's ability to verify the duty paid by assessees, correctness of valuation, availing of Cenvat credit, admissibility of exemption, etc.

26. Report 6 of 2016 - Union Revenue Performance Audit Indirect Taxes Customs

The Gems and Jewellery (G&J) industry occupies an important position in the Indian economy as it is a leading foreign exchange earner and one of the fastest growing industries. It contributed to 15 per cent of the national export basket. The major product categories of this industry are gold and diamond jewellery. Gold jewellery forms around 80 per cent of the Indian jewellery market while the remaining market demand is of studded jewellery that includes diamond studded as well as gemstone studded jewellery. Over 65 per cent of the World's polished diamonds is manufactured in India in terms of value, 85 per cent in terms of volume and 92 per cent in pieces. India's diamond manufacturing sector employs about ten lakh people across the country. Majority of the diamond manufacturing activities takes place in Surat, Gujarat. The Bharat Diamond Bourse in Mumbai, a modern trading complex which began its operations in 2010, is the largest bourse in the World, and accounts for nearly 90 per cent of India's total diamond trade.

The manufacturing of jewellery and coloured gemstones is centred at Jaipur, which is the World's largest manufacturing center. The import of gold, jewellery et cetera increased from ₹ 3,50,396 crore in 2010-11 to ₹ 3,81,515 crore (9 per cent) in 2014-15. Export of similar goods also increased to ₹ 2,53,940 crore (28 per cent) in 2014-15 from ₹ 1,98,886 crore in 2010-11. In 2014-15 the share of imports of Chapter 71 goods to all imports was 13.93 percent whereas the share of its exports was 13.39 percent. While imports grew by 10.57 percent, the exports grew only by 0.7 percent over the last year.

Trade deficit has decreased from 43 per cent (FY 11) to 34 per cent (FY 15) but the duties foregone have increased from 14 per cent (FY 11) to 20 per cent (FY 15) of the value of imports. During this period, value of the US Dollar increased by 34 percent making the imports proportionately expensive and exports cheaper. The entire five year period saw, imports of gold as a major component of the imports under the chapter 71 but it suffered a negative Net Foreign Exchange Earnings (NFEE) vis a vis corresponding exports of jewellery.

Export-import data of DoC in respect of import of gold jewellery from Singapore, Malaysia, Indonesia, Hongkong, Thailand and UAE during 2010-11 to 2014-15 revealed that there was a surge in import of gold jewellery from Asian Countries during the year 2013-14 and 2014-15 when 20:80 scheme was in operation, since import of gold bar was restricted for normal importers during the above period. UAE's diamond trade slumped after 2011, post imposition of the 2 per cent customs duty (January 2012) when gold and gold jewellery received a boost.

- CBEC/DoR was mandated to provide improved tax payer services, implement export promotion measures and effectively collect the tax revenue. Total Customs duty forgone was ₹ 12,26,033 crore for the period 2010-11 to 2014-15 whereas the share of gems and jewellery sector in the above was 25 per cent (₹ 3,01,042 crore) for the same period. Gaps in the valuation database management and Customs electronic data application allowed gradual increase in trade mis-invoicing over the period leading to foreign exchange/capital outflow.
- DoR, CBEC and DoC, DGFT need to improve coordination; implement the EDI systems with full functionality; reduce transaction cost; regulate related party transactions, tariff and re-export, for a growth led licit Gems and Jewellery trade to avoid inflated export figures through mere trade accounting. This performance audit has revenue implication of ₹ 1,003.37 crore in addition to systemic issues worth ₹ 19,522.67 crore and internal control matters which could not be quantified.

27. Report No. 17 of 2013 - Compliance Audit on Indirect Taxes-Central Excise and Service Tax Union Government, Department of Revenue

- This Report contains 239 audit observations pertaining to Central Excise duties and Service Tax, having a total revenue implication totaling Rs. 569.55 crore. The Ministry/department had, till May 2013, accepted audit observations involving revenue of Rs 565.72 crore and reported recovery of Rs. 109.30 crore.
- Indirect tax revenues as a percentage of Gross domestic product decreased from 5.24 per cent in FY 03 to 4.38 per cent in FY12. During the same period, Central Excise revenues (PLA) as a percentage of GDP declined from 3.25 in FY03 to 1.61 in FY12 and Service Tax revenues as a percentage of GDP rose to 1.09 from 0.16.

- Revenues foregone on account of Central Excise exemptions continued during FY12. Exemptions under section 5A(1) of the Central Excise Act amounted to Rs 1,95,590 crore (Rs 1,79,453 crore in general exemptions and Rs 16,137 crore in area based exemptions) i.e. 135 per cent of the revenues from Central Excise.

28. Report No. 14 of 2013 - Compliance Audit on Customs Union Government, Department of Revenue

- The Report has a total revenue implication of Rs 31.48 crore covering 31 paragraphs. We had issued another 90 paragraphs involving money value of Rs 30.80 crore on which rectificatory action was taken by the Department/Ministry in the form of issuing show cause notices, adjudicating show cause notices and recovery of Rs 27.76 crore. Customs revenue as a ratio of GDP has been stagnant at around 1.7 percent.
- Department of Revenue does not have a results framework document with objectives, activities, performance and success indicators in line with the subjects of its business allocation, for clearer performance monitoring and evaluation. Fluctuating gap between Revised Estimates/ Budget Estimates suggests that the department did not adopt any rational method for pre budget analysis and forecasting.
- The Customs Revenue forgone is increasing exponentially without commensurate increase in the exports. There was no outcome analysis of the SEZ Scheme at the macroeconomic level. ICT based solutions (ICES) and self assessment were not extended to all customs transactions. In the last ten audit reports, we had included 1709 audit paragraphs involving Rs 2129.73 crore. Of these, the Government had accepted audit observations in 1390 audit paragraphs involving Rs 1177.03 crore and had recovered Rs 156.89 crore.

29. Report No. 15 of 2009 - Performance Audit - Natural or cultured pearls, precious stones, precious metal, coins Union Government, Department of Indirect Taxes-Customs

- We conducted a performance audit on the levy of customs duty on 'natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof, imitation jewellery, coin (chapter 71 of Customs Tariff Heading)' to evaluate the adequacy of the provisions of the relevant Acts, Rules and instructions in ensuring proper assessment and collection of revenues.
- The estimated duty foregone in this sector during 2005-06 to 2007-08 amounted to Rs. 68,192 crore. We found that the revenue earned from gems and jewellery by eleven audited commissionerates, during 2005-06 to 2007-08 was Rs. 2,023 crore, while the duty foregone was Rs. 20,864 crore.
- As against the import growth of 16 per cent, the growth in exports was only 13 per cent during the three years. Thus, despite the substantial revenue foregone and the various benefits and exemptions extended to this sector, the exports growth has not yet caught up with the rate of growth of imports.

ANNEXURE – D

HIGHLIGHTS FROM THE REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA ON PERFORMANCE AUDIT ON REGULATION AND SUPPLY OF LIQUOR IN DELHI GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI *REPORT NO. 1 OF THE YEAR 2024*

https://cag.gov.in/ag/new-delhi/en/audit-report/details/121510

There are multiple stakeholders involved in the supply and distribution of liquor starting from the manufacturers/distilleries (located outside Delhi) to the respective Bonded Warehouses located in Delhi and then to the various corporation vends, private vends, Hotels, Clubs & Restaurants and finally the consumers. Apart from the multiplicity of stakeholders, there is a multiplicity of heads under which Excise Department collects revenue, i.e., Excise duty, License fees, Permit fees, Import/Export fees etc. on Liquor products. This entails a complex supply chain mechanism to monitor, control and regulate the supply of liquor. Further, the different types of liquor and intoxicants (Country Liquor, Indian Made Foreign Liquor, Foreign Liquor, Denatured spirits and narcotics) are subject to different taxes, pricing, and administrative mechanisms.

Audit covered a period of four years from 2017-18 to 2020-21 to examine Regulation and Supply of IMFL and FL Liquor in Delhi, in detail. Supply chain of Country Liquor has been looked into with regard to confiscation activity in Chapter VI. Owing to the substantial changes in the Excise Policy regime from November 2021 onwards and its subsequent withdrawal w.e.f. 1 September 2022, the Excise Policy 2021-22 was also covered.

Audit observed several discrepancies in the way Excise Department monitored and regulated the supply of Liquor in NCT of Delhi. The working of Excise Department raises several questions about the way the Department is fulfilling its responsibility. Total financial implication of the audit findings is approximately ₹ 2,026.91 crore.

Audit observed that the Department could not ensure the implementation of Rule 35 of Delhi Excise Rules, 2010, which prohibits issue of multiple licenses of different category (Wholesaler, Retailer, HCR etc.) to related parties, leading to the existence of common directorship among entities holding various License Types. The Department was issuing licenses without checking various requirements relating to Excise Rules and Terms and Conditions for the issue of different type of licenses. It was observed that licenses were issued without ensuring solvency, submission of audited financial statements, submission of data regarding sales and wholesale price declared in other states and across the year, verification of criminal antecedents from the competent authority etc. It is imperative that cases of cross ownership and proxy ownership among companies applying for licenses, based on criteria like common directorship, percentage share-holding, unsecured loan to companies, be dealt with strictly to avoid unfair practices like cartelization in liquor trade and brand promotion.

Lack of transparency in pricing of IMFL Pricing of liquor was important to ensure optimal excise revenue collection. Excise Department allowed discretion to L1 licensee (Manufacturer and Wholesaler) to declare its Ex-Distillery Price (EDP), for liquor priced above a certain level. All the price components after manufacture, including profit of manufacturer, were added thereafter. Audit observed varying EDP in various States for liquor supplied by same manufacturer unit. Further, this discretion allowed L1 licensee to manipulate prices of liquor to its own advantage, through increase in EDP. Analysis of pricing and sale of a few brands revealed that discretionary EDP led to decline in sales and consequent loss in excise revenue. As the costing details were not sought to ascertain the reasonability of EDP, there was a risk of L1 licensee getting compensated by the profits hidden in increased EDP.

Poor execution of Enforcement function Apart from its role as a deterrent, Enforcement is supposed to penalise existing licensees for violations of Delhi Excise Act/ Rules etc. Various critical weaknesses were noticed which hampered the ability of the Department to either penalise violation appropriately or act as sufficient deterrent against further violations. The actual raids were discretionary and fragmented in the absence of any Standard Operating Procedure. Further, lack of rigour in evidence collection and substantiation including utilization of ESCIMS data did put the cases on weak footing to begin with. Lapses were observed at each stage of the enforcement process, ranging from incorrect Inspection Reports to deficient Show Cause Notices.

Lacunae in End to End Tracking of Inventory An IT enabled system was operationalized in December 2013, for barcode based tracking of inventory and payment solution for all stakeholders. The primary objective of ESCIMS was to ensure end-to-end tracking of liquor, via barcode capture, at every stage and authentication of sale at Point of Sale (POS). However, the Department's inability to ensure sale of all the liquor through scanning led to the adoption of stock reconciliation post-sale (Monthly Stock Reconciliation- MSR Gap) which was outside the scope of contract agreement. This reconciliation procedure introduced various anomalies in the sales data and undermined inventory tracking, data accuracy, regulatory effectiveness and also increased the risk of Non-Duty Paid Liquor being circulated through use of duplicate barcodes.

Further, the project of Excise Adhesive Labels, aimed at enhancing security of labels, could not be implemented as a result of which the objective of authenticity, traceability and security aspects of the supply side could not be achieved.

There was a need to replace the outdated MSR-gap method with real time end to end barcode tracking. Secure barcode labels should be implemented swiftly to prevent barcode duplication and misuse. Data Analytic tools and Artificial Intelligence algorithms should be deployed to help in analysis and automatic generation of red flags for anomalous data and easy identification.

Infirmities in formation of Excise Policy Recommendations of the Expert Committee, formed for suggesting changes for formation of new Excise Policy, were ignored while formation of the same, justification of which was not available in records provided. These changes included grant of wholesale license to private entities instead of State owned wholesale entity, upfront charging of excise duty in the license fees in place of excise duty to be charged per bottle, applicant being allowed to get a maximum of 54 retail vends in place of an individual being allotted a maximum of two vends. Further, in violation of Cabinet decision, necessary permissions from the Cabinet/opinion of the Lieutenant Governor were not obtained before giving important exemptions/relaxations having revenue implications.

Issue in Design and Award of Licenses One of the objectives of the policy was prevention of the formation of monopoly or cartel. However, the new policy had inherent design issues including the imposed exclusivity arrangement between manufacturers and wholesalers and formation of retail zone with a minimum of 27 wards in each zone. These issues resulted in limiting the number of total licensees and increasing the risk of monopolisation and cartel formation. It was noticed that wholesale licenses for supply of IMFL and FL were granted to 14 business entities, whereas the same were granted to 77 manufacturers of IMFL and 24 suppliers of FL in the old policy (2020-21).

Similarly, for the purpose of Retail Vends, Delhi was divided into 32 Zones (containing 849 vends) whose licenses were granted to 22 entities through tendering, whereas, 377 retail vends were run by four Government Corporations and 262 retail vends were allotted to private individuals previously. Moreover, cases of related business entities holding licenses across the supply chain and skewed distribution pattern highlighted the risk of exclusivity arrangements and Brand Pushing.

Issues in implementation of Excise Policy While some retailers retained licenses till the expiry of the policy period, some surrendered the same before the policy period was over. As retail licensees were limited in numbers, it caused disruption in supply because the Policy did not contain any provision requiring the licensees to give advance notice before surrendering the license. Further, there was revenue loss of approximately ₹ 890 crore to the Government as it did not retender the surrendered retail licenses. In spite of being aware that vends were required to be opened in non-conforming wards in order to achieve the objective of equitable distribution, the Department did not take timely action to work out modalities leading to non-achievement of the objective. It also resulted in loss of revenue of approximately ₹ 941 crore due to exemptions which had to be given to the zonal licensees.

Despite being mentioned in the conditions of the Tender Document that any commercial risk shall lie with the licensee, clarification provided during the pre-bid meeting that there is no provision for *force majeure* and against the opinion of the Excise Department to relax the license fees, a waiver of license fees of ₹ 144 crore was granted to the zonal licensees on the basis of COVID restrictions (28 December 2021 to 27 January, 2022), resulting in loss of revenue to the Government.

Apart from the above three, incorrect collection of Security Deposit from zonal Licensees, led to loss of revenue of around ₹ 27 Crore. Therefore, these implementation issues of the new policy led to a loss of revenue of approximately ₹ 2,002 crore.

RNI.: DELENG/2007/19390

Edited, published & printed by Dr. Subhash Chandra Pandey, President, Institute of Public Auditors of India, Audit Bhawan, I.P. Estate, New Delhi – 110002

Price : Single copy Rs. 50/- (US # 5) Annual Subscription of Rs. 200/- (US # 20)