EXECUTIVE SUMMARY

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, 1975 and notifications issued from time to time.

Customs receipts before the introduction of Goods and Service Tax (GST) comprised of the Basic customs duty (BCD), Additional Duty and Special Additional Duty of customs (SAD). After introduction of GST w.e.f. 1 July 2017, the Additional Duty and SAD on import of all commodities, except petroleum products and spirits, have been subsumed and replaced by integrated tax (IGST).

Department of Revenue under Ministry of Finance is responsible for administration of Direct and Indirect Union Taxes, through two statutory Boards namely, the Central Board of Indirect Taxes and Customs (CBIC) and the Central Board of Direct Taxes (CBDT) constituted under the Central Board of Revenue Act, 1963.

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 ₹22.19 lakh crore (1,37,43,809 transactions) through 405 Customs ports (203 EDI, 44 Non-EDI, 2 Manual & 156 SEZ ports) and ₹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*.

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 Foreign Trade policy and specific compliance areas reviewed by audit from time to time.

The sample of Commissionerates selected for test check included 41 out of total of 70 Customs Commissionerates. We audited 285 assessment units and 206 non-assessment units working under the Customs Commissionerates selected for audit. The audit was based on the examination of bills of entry (BsE) and shipping bills (SBs) filed electronically into the Indian Customs EDI System (ICES) through a Customs House Service Centre or web based ICEGATE. In non-EDI Customs locations, the BsE and SBs are physically filed and assessed. The ICES uses Risk Management System (RMS) to processes the data through a series of automated steps and results in an electronic assessment. This assessment determines whether the BE will be taken-up for action, i.e. manual appraisal by assessing officer or examination of goods, or both, or be cleared after payment of duty and Out of Charge directly, without any assessment and examination. We audited BsE and SBs cleared by both the RMS and manual appraisal system.

Audit of incentives provided under Foreign Trade policy was carried out in 21 regional authorities under the DGFT through test check of license files under various schemes of the FTP.

This report is divided into four chapters. Chapter I provides a brief description of functions of Department of Revenue and Department of Commerce and an overview of high level statistical information regarding Customs receipts, India's Imports and Exports, performance of Special Economic Zones, arrears of Customs receipts and results of the Department's internal audit. Chapters II describes the CAG's audit mandate, scope and results of audit efforts. Chapters III, and IV contain significant audit findings. There are 137 paragraphs with revenue implication of ₹143 crore in this report. The Ministry of Finance and Ministry of Commerce have responded in 74 out of 137 cases issued. In 130 paragraphs involving money value of ₹127 crore, rectificatory action has been taken by the department/Ministry in the form of issuing show cause notices, adjudicating of show cause notices and recovery of ₹40 crore in 93 cases has been effected till date.

Responses received from the Department of Commerce and the Department of Revenue have been included at appropriate places.

Chapter I: Overview- Customs Revenue

During FY 20, Customs receipts realised were ₹1,09,283 crore as against ₹1,17,813 crore realised in FY 19. One of the reasons for decrease in the Customs receipts during FY 20 may be attributed to the fact that after introduction of GST, Customs receipts comprise of only BCD excluding Additional Duty and SAD, which earlier used to be part of Customs receipts, being subsumed into IGST.

{Paragraphs 1.6.1 and 1.6.2}

Imports registered decline of (-) 6.50 *per cent* in FY 20, while Exports also registered a fall of (-) 3.81 *per cent* during the same period.

{Paragraph 1.7}

India's imports decreased in value to ₹33.60 lakh crore during FY 20 from ₹35.95 lakh crore in FY 19, and exports also decreased to ₹22.19 lakh crore in FY 20 from ₹23.07 lakh crore in FY 19.

Imports in FY 20 was led by five major commodity groups namely, (i) Mineral fuels, Mineral oils and products, (ii) Natural or Cultured Pearls/Precious or semi-precious stones, Gold and articles thereof, (iii) Electrical machinery and equipment and parts, (iv) Machinery and appliances and (v) Organic chemicals. These commodities accounted for 67 *per cent* share of the total imports made during FY 20.

{Paragraphs 1.7 and 1.8}

During last five years, (FY 16 to FY 20) India's top ten trading partners were China, USA, UAE, Saudi Arabia, Iraq, Hong Kong, Korea, Indonesia, Singapore and Germany. The share of imports in FY 20 of six out of 10 trading partners (Hong Kong, Singapore, Iraq, Saudi Arabia, UAE, USA) as compared to FY 16 had shown a positive increase, stagnated at the level it was in FY 16 with three partners (Germany, Indonesia, Korea) and declined in respect of one country (China).

{Paragraph 1.7.3 }

The top five commodity groups exported during FY 20 were (i) Mineral fuels, Mineral oils and products, (ii) Natural or Cultured Pearls, Precious or semi-precious stones, Precious metal and articles thereof (iii) Nuclear reactors, Machinery and Mechanical appliances and parts thereof (iv) Organic chemicals and (v) Vehicles other than Railways or Tramway and parts and accessories thereof in their respective order.

{Paragraph 1.8.2}

Chapter II: CAG's audit mandate and extent of Audit

During FY 20, audit issued 299 inspection reports to the respective Commissionerates/ Regional licensing authorities containing 2,266 observations and carrying a total revenue implication of ₹2,186 crore. Out of these, 137 audit observations with revenue implication of ₹143 crore noticed during FY 20 have been covered in this report. The remaining cases are being pursued by the respective field formations. The Ministry of Finance and Ministry of Commerce have responded in 74 out of 137 cases issued. Additionally, in 57 cases, responses were received from the local Customs Commissionerates/Regional Authorities. The Ministries/ Departments have accepted 130 paragraphs and taken rectificatory action involving money value of ₹127.38 crore in the form of issue of SCNs, adjudication of SCNs and have reported recovery of ₹39.68 crore in 93 cases of incorrect assessment of Customs duties.

{Paragraph 2.6}

Chapter III: Non-compliance to provisions of Customs Act, Customs Tariff Act and Tariff notifications

Pan India data requisitioned (June 2019) by audit for import and export transactions for the FY 19, 20 and 21 was not received, despite repeated requests. In the absence of Pan India transactional data, audit was conducted through CRA Module interface of ICES, which had its limitations. The limitations in the CRA and ICRA modules were also communicated to the CBIC. Accordingly, the conclusions in this chapter on compliance audit were based on limited audits carried out by physically visiting the 41 Commissionerates.

During FY 20, a total of 1.21 crore BsE and 1.37 crore SBs were generated, out of which Jurisdictional Audit offices, based on local risks, selected a sample of 4.11 lakh BsE (3.39 *per cent*) and 8.12 lakh SBs (5.93 *per cent*) for physical audits. The samples were selected at the level of individual field formations in the absence of Pan- India data, which is sub-optimal. Significant audit observations with revenue implication of ₹10 lakh or more noticed during test check of import/export documents in the Customs Commissionerates have been covered in this Report. Minor observations were issued to the respective Commissionerates through Inspection Reports for corrective action.

The cases of non-compliance noticed during audit could be broadly categorized as follows:

- Misclassification of imports (Paragraphs 3.7.1 to 3.7.11)

- Incorrect application of notifications (Paragraphs 3.8.1 to 3.8.8).
- Other irregularities (Paragraph 3.9).

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 ₹122 crore was at risk.

{Paragraphs 3.7 to 3.9}

Chapter IV: Non-compliance to provisions of various Export Promotion schemes of Foreign Trade Policy

Irregularities in Export promotion schemes of Foreign Trade Policy

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 ₹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.

{Paragraphs 4.2.1 to 4.2.6}

General Recommendations

Though the Ministry has taken corrective action to recover duty in many cases, it may be pointed out that audit paragraphs in this Report are only a few illustrative cases. There is a likelihood that such errors of omission and commission, whether in RMS based assessments or manual assessments, may exist in many more cases. It is pertinent to note that a large number of BsE examined by audit in test check had been assessed through the RMS which indicated that the assessment rules mapped into the RMS to facilitate system based assessments were inadequate. The process of mapping and updating of risk parameters in the RMS also needs to be reviewed.

{Paragraphs 3.10}