

**Report of the
Comptroller and Auditor General
of India**

For the year 2012-13

The Report has been laid on the table of the Parliament house on 18-07-2014

Duty Entitlement Pass Book (DEPB) Scheme

**Union Government
Department of Revenue
(Indirect taxes – Customs)
No. 9 of 2014**

Laid on the table of Lok Sabha/Rajya Sabha _____

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Preface

The Report for the year ended March 2013 containing the results of performance audit on 'Duty Entitlement Pass Book (DEPB) Scheme has been prepared for submission to the President under Article 151 (1) of the Constitution of India.

The audit of Revenue Receipts – Indirect Taxes of the Union Government is conducted under the Section 16 of the Comptroller and Auditor General of India (Duties, Powers and Conditions of Service) Act, 1971.

The observations included in this Report were from the findings of the test audit conducted during the year 2013-14.

Executive Summary

India's exports have picked up in the recent years which rose by 15 per cent (CAGR) against global export growth of 5 per cent, with our share in global exports moving up from around 0.5 per cent in 1992 to 1.4 per cent in 2013. However, imports have been rising faster, driven largely by the demands of a growing economy. With the result, the trade balance has been widening and in 2004-05 the current account balance turned negative and has remained in the deficit ever since. This has important implications for price stability and economic growth.

Experts in Government and in Public Policy research, have near unanimity in prescribing reduction in transaction cost; strengthening of trade facilitation; negotiating preferential access to prospective markets; attracting long term investment, and modern technology with a matching reward and incentive trade environment.

Duty Entitlement Pass Book (DEPB), as an incentive scheme was notified vide circular no. 10/1997 dated 17 April 1997. The DEPB scheme substituted the Value Based Advance Licencing (VABAL) scheme and the Pass Book scheme of the earlier Exim policy. This scheme initially consisted of two sub-schemes, viz 'Pre-export DEPB' and 'Post-export DEPB'. The pre-export DEPB scheme was abolished with effect from 1 April 2000. After several extensions through the years, the post-export scheme was phased out on 30 September 2011 and thereafter DEPB items were incorporated into the Duty Drawback Schedule with effect from 1 October 2011.

Audit came across policy implementation issues and cases of operational malfunction, both in the manual as well as the EDI environment, in 28 RAs, seven SEZs and 31 Customs Ports. This was aggravated by a weak Internal audit system. The coordination between DGFT, Customs and RBI required more attention. DEPB credits were not related to the actual incidence of duty and despite earlier C&AG reports the scheme implementation was mired in familiar policy misinterpretations and malfunctions. DGFT has not carried out any outcome assessment of the efficacy of the scheme with regard to its performance nor had a revenue impact assessment of the import duty neutralisation before implementing the scheme.

Audit recommended impact or outcome studies of schemes by DoC/DoR by taking into account the intertwined components of scheme-based rewards and incentives and FTA based incentives to the

exporters/importers and manufacturing exports to draw the complete picture. Such statements may serve the purpose better as a part of the FRBM disclosure in the Receipt budget of the Union Government.

Recommendations

1. Internal control and audit system of RAs, Customs, Ports need strengthening for efficient implementation, monitoring and outcome of the incentive schemes.

(Paragraphs 2.1 to 2.3)

2. DGFT may review its EDI system along with the online data exchanged with the Customs Department and modify its data requirement in the EDI module to ensure compliance to the policy provisions.

(Paragraph 2.5)

3. DGFT needs to improve its coordination with Customs and RBI by coming up with solutions and taking prompt action on alerts issued by the Customs/RBI for all rewards and incentive schemes.

(Paragraph 2.6)

4. In case of policy implementation issues and cases of operational malfunction, audit recommends that appropriate action be taken under the FT (D&R), Act.

(Paragraphs 3.1 to 4.21)

5. Audit recommends that while impact or outcome studies of schemes are done, DoC/DoR must take into account the intertwined components of scheme based rewards and incentives and PTA based incentives to the exporters/importers and manufacturers, to draw the complete picture. Such statements may serve the purpose better as a part of the Fiscal Responsibility and Budget Management (FRBM) disclosure in the Receipt budget of the Union Government.

(Paragraph 5)

**Duty Entitlement Pass Book (DEPB)
Scheme**

Duty Entitlement Pass Book (DEPB) Scheme

Chapter I: Introduction

1.1 Background

With a view to continuously increase India's global trade and to use trade expansion as an instrument of economic growth, several fiscal incentive schemes have been launched by the Government of India. Duty Entitlement Pass Book (DEPB), as an incentive scheme was notified vide circular no. 10/1997 dated 17 April 1997. DEPB scheme substituted the Value Based Advance Licencing (VABAL) scheme and the Pass Book scheme of the earlier Exim policy. DEPB scheme initially consisted of two sub-schemes, viz 'Pre-export DEPB' and 'Post-export DEPB'. The pre-export DEPB scheme was abolished with effect from 1 April 2000. After several extensions through the years, the post-export scheme was phased out on 30 September 2011 vide public notice no. 54/2010 dated 17 June 2011 and thereafter DEPB items were incorporated into the Duty Drawback Schedule with effect from 1 October 2011 vide Ministry of Finance, Department of Revenue, Central Board of Excise and Custom (CBEC) Circular no. 42/2011-Cus dated 22 September 2011, bringing the curtains down on this popular export incentive scheme after eight and a half years of sporadic extensions.

Performance of the scheme was audited by C&AG in the year 2000 with the objective to verify whether the (a) benefits of duty credit allowed under the scheme were commensurate with the actual incidence of duties of customs suffered by exporters, (b) scheme was implemented as per the relevant notification, rules and procedures, (c) monitoring and interdepartmental co-ordination mechanisms was efficacious, and (d) DEPB scheme plugged the loopholes of the erstwhile VABAL scheme.

Audit *inter alia* commented upon (i) the duty credit allowed which were unrelated to actual incidence of duty (ii) not-debiting the SAD in Pass Book (iii) unjustified exemption from SAD (iv) unintended benefits of DEPB credit due to late fixation/non revision of value caps (v) absence of provisions to prevent negative value addition (vi) incorrect fixation of DEPB credit rates (vii) non-revision/delay in revision of credit rates (viii) incorrect set off of duty on import of negative list inputs against credit rates (ix) imports in excess of the limit prescribed in DEPB (x) non-application of rates on the date of Let Export Order (xi) excess/irregular grant of DEPB credit (xii) overvaluation of goods (xiii) non realisation of foreign exchange etc.

Various facets of the scheme were once again audited in 2004-05 reiterating that (a) duty credit was not related to actual incidence of duty (b) there were

unintended benefits of DEPB credit (c) certain export proceeds were not realised (d) certain DEPB rates were incorrectly fixed (e) items not specified in DEPB schedule were granted credit (f) incorrect DEPB credits were granted (h) DEPB clearance restrictions were not imposed. Further, twelve audit observations on various aspect of DEPB scheme have also been reported in the Compliance Audit Reports on Customs from 2005-06 to 2011-12.

The mandate of the Department of Commerce (DoC) is regulation, development and promotion of India's international trade and commerce through formulation of appropriate international trade and commercial policy and implementation of the various provisions thereof. The basic role of the Department is to facilitate the creation of an enabling environment and infrastructure for accelerated growth of international trade. The Department 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 growth. Report of the Working group on "Boosting India's Manufacturing Exports" of DoC for XIIth Plan period chaired by Secretary DoC, provides an interesting insight into the evolution and pertinence of both international trade and domestic manufacturing challenges, leading to export and growth.

Director General of Foreign Trade (DGFT), New Delhi, a 'responsibility center' of DoC under the PMES¹ is headed by Director General and is an attached office under the administrative control of DoC. DGFT is assigned the role of a 'facilitator' with responsibility to implement the FTP and promote India's exports. DGFT also issues licenses to exporters and monitors their corresponding obligations through a network of 41 Regional Offices (Regional Authorities).

Objectives in the Result Framework Document (RFD) of DoC included increase in exports and implementation of trade facilitating measures to improve trade environment for accelerating growth of exports. DoC has not assigned priority to the review of the outcome of the export promotion schemes under FTP 2009-14. According to Outcome Budget of DoC, the department had not fixed any quantifiable deliverables against the budget outlay for the export subsidy granted. No documentation was made available to show if the scheme was analysed for revenue impact prior to its implementation while transiting from VABAL to DEPB.

Similarly, as per paragraph 3.1 (XIII) of the Strategic Plan of DoC, DGFT is responsible for implementation of various provisions and schemes under FTP and is the main interface with the trading community. Accordingly, a

¹ Performance Monitoring and Evaluation System of Cabinet Secretariat.

comprehensive review of the various export promotion schemes was to be undertaken and the schemes reformulated to make them more effective, but DEPB has not been reviewed by DoC; therefore, the achievements of this scheme as claimed by DoC are mostly unsubstantiated.

The Scheme was subjected to vigorous questioning during successive trade policy review of India by World Trade Organisation (WTO). The computation of DEPB credit has been treated as countervailable because of the subsidies provided by it and has been proceeded against by US, Canada and EU between 1999-2002. Ministry of Commerce, in turn engaged experts (NCAER, ICRIER, NIPFP etc) to formulate a new scheme to replace DEPB; moreover, from 2002 onwards, closure of the scheme was contemplated which finally materialized in September 2011. In the mean time, successive extensions were granted on grounds of making the exports competitive.

While a new scheme to replace DEPB was being explored by DoC, DEPB items were finally incorporated in duty drawback schedule from 1 October 2011. Given the slow progress of Doha rounds of talks in WTO, comprehensive bilateral Free Trade Agreements (FTAs) and Regional Trade Agreements (RTAs-SAARC, ASEAN) were engaged in. CECA², Singapore was negotiated in this background. The revealed competitive advantage and trade advantage of India computed for this agreement included trading advantage to the Indian exporters because of the extant FTP which included DEPB.

Therefore, it was imperative to conduct a performance audit, taking into account both inter-related components of the scheme (DEPB) and non scheme, Preferential Trade Agreement (PTA) related incentives (CECA) to exports which could help in formulating reward and incentive schemes by DoC in future, to promote exports, strengthen the manufacturing exports and yet not attract anti-subsidy countervailing duties worldwide.

1.2 Objectives of the scheme

The objective of DEPB Scheme was to neutralise incidence of customs duty on import content of export product. Neutralisation was provided by way of grant of duty credit against export product. Duty credit under the scheme was calculated by taking into account deemed import content of said export product as per Standard Input-Output Norms (SIONs). Value addition achieved by export of such product was also taken into account while determining the rate of duty credit under the scheme {paragraph 4.37 of Hand Book of Procedure (HBP) vol.1}. Value caps were imposed on export products having high DEPB rates to curb the misuse of the incentive.

² Comprehensive Economic Co-operation Agreement

DEPB duty credit thus availed was utilised by exporters for adjusting customs duty, both basic and countervailing duties (CVD), against import of any importable items/restricted items into India. The exporters could use the credit for importing any product, and not necessarily the material used in the export product. DEPB and/or the items imported against it were freely transferable. DEPB Scrips could also be utilised for payment of duty against import under Export Promotion Capital Goods (EPCG) Scheme.

1.3 Process of sanction of duty credit

Under the scheme, an exporter was allowed credit on duty payments as a percentage of the free on board (FOB) value of exports made. Credit was provided at the time of export at an *ad valorem* rate notified by DGFT, in relation to the FOB value of the export product. These rates were based on the computation of basic customs duty (BCD) paid by the exporters on the inputs listed in SIONs applicable to the export product. The crucial feature of DEPB scheme was that all the inputs listed under the SION were deemed to have been imported and to have been subjected to customs duties. The credit under DEPB scheme allowed import of any item except the items which are otherwise restricted for imports.

1.4 Audit Objectives

The system in place was test checked in audit for DEPB scheme during the scheme tenure with a view to seek assurance regarding:

- a. Effectiveness of the internal control procedures and internal audit system for management of the scheme by DoC, DGFT and Customs;
- b. Efficacy of the monitoring and interdepartmental co-ordination mechanism involved in administration of the Scheme;
- c. Analysis of the rates of DEPB items after being incorporated under Duty Drawback Scheme;
- d. Implication of a Preferential Trade agreement (CECA, Singapore) on export under DEPB scheme;
- e. Compliance with the extant provision to guard against any irregular issue and use of DEPB scrips;
- f. Fixation of DEPB rates;
- g. Timely disposal of scrip applications.

1.5 Audit Scope, Sample and Criteria

Audit scrutinised DEPB scrips in a sampled population in 28 RAs³ out of 36 RAs of DGFT, 7 DC-SEZ⁴ out of 8 SEZs of DoC and 31 Customs ports (Appendix I). In these 28 RAs, 5,64,321 DEPB scrips amounting to ₹ 51,489 crore were issued during 2005-06 to 2011-12. 12,139 valid scrips were issued during 2011-12. 4,443 DEPB scrips were scrutinised. Similarly, in the seven SEZs, 2,592 DEPB scrips amounting to ₹ 104.66 crore were issued, out of those 508 scrips were selected for audit scrutiny. Sample for the performance audit was selected, based on the volume of DEPB scrips issued in the field formations of DGFT using stratified random sampling with strata as tabulated below:-

Table: 1

Sl. No.	Value of DEPB scrips	Sample size
1.	₹ 1 crore and above	100 per cent
2.	Above ₹ 50 lakh and upto ₹ 1 crore	50 per cent
3.	Above ₹ 10 lakh and upto ₹ 50 lakh	5 per cent
4.	Above ₹ 5 lakh and upto ₹ 10 lakh	1 per cent
5.	Below ₹ 5 lakh	0.2 per cent

Records relating to DEPB scheme maintained by DGFT were also scrutinised.

The records were audited inter alia, with reference to the following:

- RFD of DoC, DGFT and CBEC.
- Strategic Plan; Outcome budget of DoC; Receipt Budget of DoR.
- FTP 2009-14.
- Hand Book of Procedures, Volumes I and II.
- CECA, Singapore Agreement.
- Public notifications, Circulars and orders issued by DGFT.
- Customs notifications, circulars etc of CBEC.
- Reports on DEPB scheme and CECA, Singapore.
- C&AG's Audit Reports 2000 and 2004-05.

At the commencement of the performance audit, an entry conference was held with DGFT on 12 April 2013 wherein audit methodology, scope, objectives and sampling were explained. Simultaneously, entry conferences were held by the Director Generals/ Principal Directors of Audit with RAs involved in the implementation of the scheme. Exit conference was held on 15 January 2014. The draft PA report was again sent to DoC (DGFT)/DoR (CBEC) for final comments.

³Delhi, Bhopal, Raipur, Mumbai, Pune, Goa, Chennai, Coimbatore, Madurai, Puducherry, Kochi, Thiruvananthapuram, Kolkata, Panipat, Jammu, Ludhiana, Amritsar, Chandigarh, Hyderabad, Vishakhapatnam, Cuttack, Ahmedabad, Bengaluru, Jaipur, Kanpur, Moradabad, Varanasi, Dehradun

⁴Indore, Mumbai, Chennai, Kochi, Falta, Kandla, Noida

1.6 Financial outlay and domain of Audit

In pursuance to the Fiscal Responsibility and Budget Management Act, 2003 (FRBM) the Government started showing estimates of major tax expenditure under Central Tax System from the Receipt Budget, 2006-07 onwards. Though the statement of revenue forgone under Central Tax System in the Receipt Budget of the Union Government indicates the tax expenditure on DEPB scheme, there was no budgetary provision for the scheme of the Department of Commerce. The benefits were given in the form of duty credit scrips that could be used to pay the import duty at the time of actual import. There were no statement of scheme outcome in FRBM disclosures as envisaged by Finance Commission. During the year 2005-06 to 2011-12, DEPB scrips valuing ₹ 51,489 crore were issued by DGFT (Table 2) and DEPB scrips with duty credit of ₹ 104.66 crore were issued by seven SEZs.

DGFT could not provide the number of DEPB authorisations issued by RAs and DCs SEZ all over the country, FOB value of export, value of duty credit allowed for imports during the years 2005-06 to 2011-12. Table 2 summarizes information as made available to audit by RAs and SEZs.

Table: 2

Year	Number of DEPB authorizations issued (Nos.)	Amount of authorizations (₹ In crore)	FOB value of export (₹ In crore)	Revenue forgone* (₹ In crore)
2005-06	1,20,902	5,010	1,10,267	5,650.00
2006-07	1,04,752	4,618	1,20,495	4,842.00
2007-08	91,508	5,496	1,25,183	5,311.50
2008-09	1,10,856	7,729	1,67,410	7,087.49
2009-10	1,12,413	8,267	1,68,044	8,008.45
2010-11	11,750	9,204	1,97,664	8,736.40
2011-12	12,139	11,165	2,50,532	10,404.37
Total	5,64,321	51,489	11,40,495	50,040.21

(Source-DGFT)

(*Source-Department of Revenue)

Analysis of year wise DEPB scrips issued during FY06 to FY10 revealed that scrips were mostly issued for chemical and allied products, engineering products, textile products and packing material as detailed in Appendix II.

As per the information furnished by the 28 RAs and 7 SEZs where audit was conducted, total number of DEPB scrips issued, duty credit and FOB value of export allowed for the period 2005-06 to 2011-12 is given in Appendix III and IV. The all-India figures published in DGFT's Annual report and information furnished by individual RAs and DCs do not match clearly indicating that there was lack of control on the information/reports furnished by the RAs. The same was also not reconciled by DGFT during the second journey after the Exit conference. Audit has relied upon the data presented to audit by DGFT, DoC, DoR and their field formations. The duty forgone (₹ 10,404 crore) under DEPB scheme during FY 12 was nearly 16 per cent of the total duty forgone under 17 export promotion schemes of the Government.

The summary of DEPB scrips issued vis-a-vis scrips utilised and duty forgone against them is given in Appendix V.

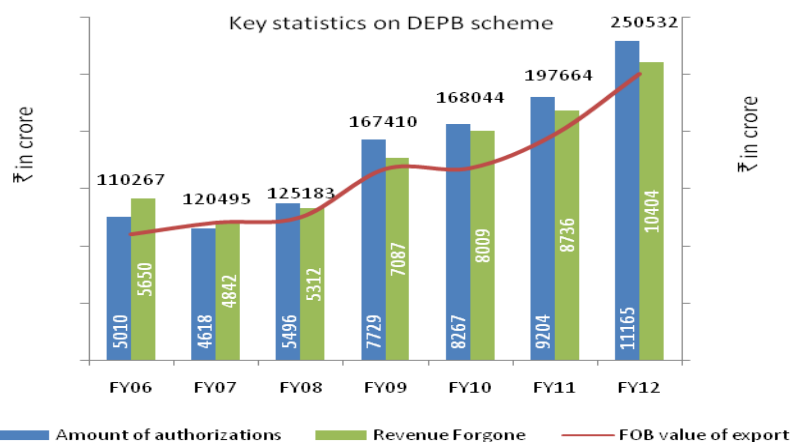


Table: 3
Average rate of DEPB credit

Year	DEPB credit	duty	FOB value of Export (₹ In crore)	Average rate
2005-06	5,010		1,10,267	4.54
2006-07	4,618		1,20,495	3.83
2007-08	5,496		1,25,183	4.39
2008-09	7,729		1,67,410	4.62
2009-10	8,267		1,68,044	4.89
2010-11	9,204		1,97,664	4.66
2011-12	11,165		2,50,532	4.46

Source: DGFT

Though the peak rate of Customs duty over a period from 2005-06 to 2011-12 had declined by 50 per cent (from 20 per cent to 10 per cent), however, the average rate of DEPB credit over a period of seven years between 2005-12 had remained almost the same at 4.48 per cent.

The year-wise details of import under PTA-CECA Singapore during 2005-06 to 2012-13 were as under:

Table: 4
Import under PTA-CECA Singapore during 2005-06 to 2012-13

Year	Assessable Value of imports	Growth per cent	Duty Payable	Duty Forgone	Value of Export	Growth per cent
2005-2006	743.04	-	119.79	101.54	24019.65	--
2006-2007	1,633.37	1.19	350.18	241.48	27461.61	4.80
2007-2008	2,020.26	0.23	389.85	293.74	29662.23	4.52
2008-2009	3,299.58	0.63	625.11	437.58	37756.88	4.49
2009-2010	3,274.58	-0.01	419.11	470.19	35948.30	-4.25
2010-2011	4,823.31	0.47	679.94	617.18	44731.73	3.91
2011-2012	5,191.11	0.07	701.95	783.42	80362.99	5.48
2012-2013	6,245.30	0.20	1,031.51	695.19	73994.97	4.52
TOTAL	27,230.54	0.40 (Avg)	4,317.45	3,640.32	3,53,938.40	3.35 (Avg)

Worldwide recession started from 2009-10. DEPB was completely phased out from September 2011. An analysis of data furnished by DoR, Ministry of Finance revealed that total amount of duty forgone on import under CECA Singapore for the year 2005-06 to 2012-13 was ₹ 3,640 crore against import of ₹ 27,231 crore with staggered growth of 0.40 per cent after signing the agreement. Export grew at a much higher rate of 4.7 per cent.

Chapter II: Internal control and monitoring

2.1 DGFT and DoC need to strengthen their internal control procedures and internal audit systems and outcome measurement of the reward and incentive schemes.

DoC or its CCA have not conducted any internal audit of the field units of DGFT or DoC. According to DGFT, an inspection unit of DGFT, New Delhi, headed by an officer of the rank of Additional Director General, carried out inspection of offices of RAs from time to time including export promotion schemes. Controller Aid Accounts and Audit, Department of Economic Affairs informed (October 2012) that various Export Promotion Licences issued by DGFT were to be audited by them but they have not conducted any such audit.

DGFT in their policy circular dated January 2000 and October 2003 on licences and brand rates, circulated to RAs, stated that about five to ten per cent of the cases, selected on random basis, may be subjected to post audit by Internal Audit Unit and requisite follow-up action initiated immediately to review the case at appropriate level. This required RAs to create an Internal Audit Wing in their respective jurisdiction for audit activities in respect of the office. RAs are required to maintain all register/records i.e. claim receipt register, cheque payment register, monthly technical reports and post audit register etc. for proper monitoring.

As per paragraph 4.45 of HBP, vol 1, RA shall monitor all such cases wherein the scrip(s) has been issued without bank realisation certificate (BRC) and ensure that the BRC is submitted within 12 months from the date of issuance of the scrip or such extended period as may be allowed by RBI. Further, as per paragraph 4.40.2 of HBP, each Custom House at ports shall maintain a separate record of details of exports made under DEPB.

In terms of DoR, MOF letter No F.No. A-11019/34/2001 - Ad. IV dated 27 June 2002, the Directorate General of Export Promotion (DGEP), CBEC is also supposed to conduct post audit of select cases of duty free imports allowed under various Export Promotion Schemes in the Customs and Central Excise formations. For this purpose, DGEP interacts with trade, EOUs, STPIs, SEZs and also handles the audit of these formations.

2.2 Internal control procedures and internal audit system at RAs

Though the system provided for test check/review of all the authorisations at prescribed percentages, as per DGFT instructions dated January 2000 and October 2003, the same is not being practised at eight RAs (Hyderabad, Vishakhapatnam, Chennai, Coimbatore, Madurai, Ahmedabad, Puducherry

and Cuttack) in contravention of the above circular. System of Internal audit was also not observed at KASEZ, Gandhidham and MEPZ Chennai.

- Though RA Jaipur, claimed 100 per cent internal checks in respect of DEPB scrips, instances of short/non imposition of late cut, excess DEPB granted due to incorrect FOB value, incorrect application of higher exchange rate or due to consideration of higher FOB amount of BRCs instead of SBs, were noticed during the audit scrutiny, indicating inadequate mechanism of monitoring and control.
- Instances of expiry of demand draft (₹ 2500) and short payment of application fee (₹ 1000) were also noticed at RA, Jaipur.
- Further, genuineness of the relevant documents like RCMC, BRCs/FIRCs, Shipping Bills/Bill of Exports and Registration with different Authorities submitted by the applicants were also not being verified.
- Internal Audit wing of the RA, Cuttack audited only the cash and contingency of the office and not the scheme. Hence, there was no Internal Audit System for DEPB scheme. Further, there was no internal control over the scheme as the Department was not able to furnish the exact number of DEPB scrips issued, FOB value and DEPB credit figures year wise. The DEPB Register maintained by the RA, Cuttack differed from MIS Report on DEPB scrips issued with Electronic data at Home page and database maintained at National level.
- RAs Kanpur and Varanasi and NSEZ Noida issued 11 DEPB scrips valued at ₹ 63.08 lakh during 2005-06 to 2012-13 on the basis of photocopy of BRC.

RAs Jaipur and Ahmedabad and KASEZ, Gandhidham accepted the audit observations. RA, Ahmedabad further stated that duly verified SBs were received from customs and duly authenticated BRCs were received from Bank, therefore, there was no need to maintain separate register as 100 per cent verification was done for SBs and BRCs.

Reply of RA, Ahmedabad is not tenable because as per above circular the Post Audit Wing of the RA had to select 5 per cent of DEPB licences and the non EDI SBs and BRC of the selected files were to be cross-verified with the concerned Port and Bank.

Audit further observed that there was no system of monitoring and internal audit at ICDs Mandideep & Pithampur, ICD Santhanagar and ACC Hyderabad. ACC, Bengaluru admitted that no internal audit mechanism existed. Though

Internal Audit Department existed at Sea Ports, Chennai and Kochi and Airport, Thiruvananthapuram, audit of DEPB cases was not undertaken.

DoR replied (January 2014) that Board's circular No. 14/1999-Cus dated 15.3.1999 had prescribed detailed verification procedure for registration of DEPB scrip before they could be utilized. On initiation of electronic transmission of shipping bills and DEPB scrips, the online validation checks were put in place (circular No. 11/2007-cus dated 13.2.2007). Post clearance audit is prescribed for imports. All these were in the nature of audit checks.

DGFT in its reply (February 2014) stated that Post Issue Audit Wing (PIAW) has been set up at all the RAs.

DoR replied (January 2014) that incentive and reward schemes are in the domain of DGFT. However, this Department is open to examining suggestions for strengthening monitoring and compliance.

Replies of DGFT and DoR are not acceptable because audit revealed that the instructions issued by DGFT or DoR from time to time were not implemented/monitored in regional formations.

Recommendation: *Internal control and audit system of RAs, Customs, Ports need strengthening for efficient implementation, monitoring and outcome of the incentive schemes.*

2.3 Monitoring and Internal control at Ports

As per paragraph 4.40.2 of HBP, vol 1, 2009-14, each Customs House at ports shall maintain a separate record of details of exports made under DEPB.

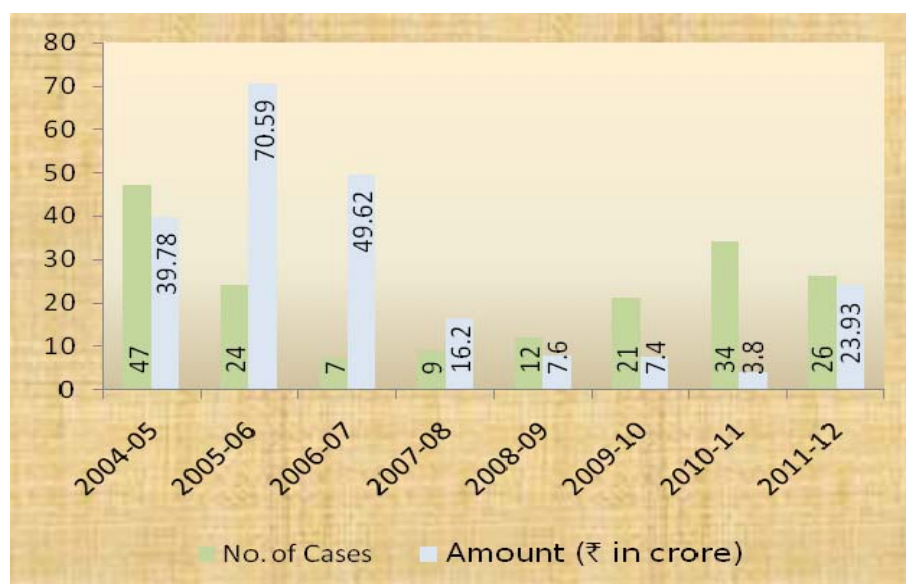
- At KASEZ, Port, Gandhidham, one consolidated 'Bill of Export Register' was being maintained instead of maintaining separate register/records showing details of export (Bill of Export) made under DEPB Scheme.
- At ICD, Garhi Harsaru (Gurgaon) records relating to all the export promotion Schemes had been kept together instead of in Scheme wise segregation. One combined file containing information of all TRAs issued/received for all the export promotion Schemes was maintained, no separate Scheme wise register was maintained in the absence of which, total number of TRAs issued/ received during the period, records maintained manually i.e. (2005-06 to 2009-10) could not be ascertained. Further, no record relating to sale/transfer of DEPB Scrips etc. by the original licence holder was maintained in the Custom Port.

DoR in its reply stated (January 2014) that on the aspect of maintaining consolidated record, the report of the jurisdiction is awaited and accepted that the sale/transfer of freely transferable DEPB scrips is not maintained by Customs, but its usage by the transferee holder-importer is reflected in customs record.

The reply is not acceptable because in the absence of separate records in respect of any scheme, it may not be possible to monitor or act upon cases of default properly.

2.4 Misuse of DEPB duty credit benefit

The Directorate of Revenue Intelligence (DRI) had reported the following cases of misuse of DEPB scheme during the years from 2005-06 to 2011-12 in their Annual Reports (Appendix VII). The trend is interesting as in the initial three years after closure of the scheme was announced (2002), there were higher number of cases detected. This also coincided with the commencement of CECA. After a lull period of three years the misuses increased around the period DEPB was finally closed. The nature of misuse was due to incorrect valuation, misclassification, mis-declaration, round tripping etc. Study of these trends may serve a useful purpose for future scheme formulations. Garments, fabric/yarn, crude palm oil etc were the most seized commodity by DRI.



Audit observed that 60 cases of misuse had been detected at two RAs (Kochi and Kolkata) and two Customs Ports (ICD Hyderabad, ACC Bengaluru) during the period 2003-04 and 2011-12.

One case of misuse of DEPB duty credit scrips was detected by ACC, Bengaluru for export of IC-engine parts such as valve seats, bushings, turbo charger parts, nozzle blank rings etc and mis-declaring the goods as 'Alloy

Steel Castings'. The same was intimated to RA, Bengaluru and an SCN was issued to the exporter. The final outcome of the case is awaited as of March 2014.

DRI and Preventive unit of Customs Commissionerate at Kolkata detected 14 cases of misuse of the scheme amounting to ₹ 54.86 lakh during the period 2003 to 2011 for fraudulent conversion of SBs or wilful mis-declaration of exported goods to be of Indian origin to avail DEPB benefit. On adjudication of the cases, penalty of ₹ 55.16 lakh was imposed by RA, Kolkata. However, copy of adjudication order was not endorsed to Customs authority, except in one case.

DoR in their reply stated (January 2014) that DRI proceeds on cases on the basis of specific intelligence and it has informed the details of the cases on misuse of DEPB Scheme as compiled from its Zonal units. After investigation by DRI and issue of show cause notices the cases lie with various Adjudicating Authorities/ jurisdictional Commissioners of Customs. Further, while the number of cases and duty amount shown in the Annual Reports is based on detection, this may be different from the amount demanded in show cause notices.

DGFT in its reply (February 2014) stated that action under Foreign Trade (Development and regulation) Act has been initiated. However, DGFT has not provided any detail of the action initiated in these cases to audit.

2.5 Deficiencies in DGFT's EDI system

To simplify procedures, reduce transaction costs and to provide electronic commerce solutions to the trade and industry for various Export Promotion Schemes, the data relating to Electronic data Interchange (EDI) SB (for DEPB Scheme) issued on or after 1 October 2005 from Customs EDI Ports was exchanged between the Customs and DGFT Server on a digital platform. DEPB scheme was claimed to be completely online in the outcome budget of DoC. Audit noticed the following deficiencies in the system at RAs:-

- The EDI module did not capture the exports made under FTAs
- The EDI Module did not provide any system for online sharing of information regarding transfer and sale of DEPB scrips between RA/DGFT/Customs.

In the absence of proper system for capturing all the relevant information, Customs/DGFT did not have any details on exports made under FTAs or sale/transfer/ utilisation of duty scrips.

DoR in their reply stated (January 2014) that the lead agency for entering into Free Trade Agreement is Ministry of Commerce. On the Customs side,

exports under FTA do not attract any FTA related benefit. Therefore, no differentiation is made for such exports. The sale/transfer of freely transferable DEPB scrips is not maintained by Customs, but its usage by the transferee holder-importer is reflected in Customs record.

DGFT in its reply stated (February 2014) that Customs EDI system does not capture the export made under FTAs. It is the importer in India's FTA partner country and not the Indian exporter that declares that imports are under FTAs.

Reply of DoR is not acceptable because FTAs provide duty concessions and result in duty forgone. Reply of DGFT overlooks the point that DEPB is earned out of exports and can be used for any imports, therefore any trader could over value export (with no RMS/valuation on exports/PMV and unlinked with BRS) to a non dutiable destination and undervalue imports (with high import duties) which could be a bottleneck for growth of trade.

2.5.1 Absence of mechanism for verification of Present Market Value (PMV) of EDI Shipping Bills and issue of duty credit without verification of PMV

Paragraph 4.43 of HBP 2004-09 and 2009-14 stipulates that where the rate of credit entitlement under DEPB Scheme comes to ten per cent or more in respect of products entitled for Duty credit under DEPB scheme, the amount of credit against each such export product shall not exceed 50 per cent of the Present Market Value (PMV) of the export product. At the time of export, the exporter shall declare on the SB that the benefit under DEPB scheme against the export product would not exceed 50 per cent of the PMV of the export product. However, PMV declaration shall not be applicable for products for which value cap exists irrespective of DEPB rate of the product.

Policy circular no. 28(RE-2005)/2004-09, dated 6 October 2005 stipulates that applicants are not required to submit a hard copy of DEPB SBs. The RA will finalise DEPB claim based on the data submitted on DEPB ECOM module only. However, RA may, at their discretion, call for such additional documents as may be required to satisfy themselves of the admissibility of DEPB claim as per FTP and HBP.

The scrutiny of EDI data of RLA, Mumbai revealed that where licensee had filed their application electronically, licensee had not submitted hard copy of SBs. The details of SBs were available in online e-shipping bill. However, the online process of e-shipping bills does not reflect PMV of the exports product, hence were not reflected in EDI system at RLA, Mumbai. As such, RLA, Mumbai could not verify the PMV of items where DEPB rate of products was ten per cent or more. In absence of this information, the basic condition

for verification of PMV where the duty credit is ten per cent or more and no value cap exists had not been verified by RLA, Mumbai before issue of licence.

Audit observed that RLA, Mumbai issued 19 DEPB scrips amounting to ₹ 23.95 crore to M/s Videocon Industries Ltd. for export of TV Glass Bulbs/Shells/Glass Parts for TV Picture Tubes under Electronics Product code 83 (serial no. 73) without verification of PMV.

RA, Kolkata also admitted that there is no system in the RA office to verify PMV.

DoR in their reply stated (January 2014) that the requirement for which data fields is required from Customs is defined by DGFT.

DGFT in its reply (February 2014) reiterating the reply of RA, Mumbai, stated that the situation of DEPB benefit exceeding 50 per cent of PMV will arise only in the rarest of rare cases since provision says that wherever DEPB rate comes to 10 per cent or more, the duty credit should not exceed 50 per cent of the PMV. It is also pertinent to note that even though DGFT did not receive details relating to PMV in its EDI system from Customs, DGFT factored PMV calculations in its processing based on the details mentioned in the physical copy of the shipping bills submitted by the exporters. Audit is in no position to verify the methodology adopted under the circumstances.

2.5.2 Wrong classification of Vishesh Krishi and Gram Udhog Yojana (VKUGY) cases under DEPB Scheme

Paragraph 2.56 of HBP vol.1 stipulates that if Customs authorities, after recording reasons in writing, permit conversion of an Export Promotion (EP) copy of any scheme-shipping bills on which benefit of that scheme has not been availed, exporter would be entitled to benefit under the scheme in which shipment is subsequently converted.

RA, Jammu, issued seven duty credit scrips valuing ₹ 2.92 crore to VKUGY Scheme during 2005-06 and 2006-07 and the same were entered under DEPB scheme (Code: 06). Audit noticed that the same were correctly entered under VKUGY manually without deleting them from DEPB Scheme in EDI data. Since these cases continued to be shown under DEPB scheme in EDI data, as such it reflects poorly on the integrity and completeness of EDI data.

DGFT while admitting that duty scrips were issued under VKYU and wrongly entered in DEPB scheme stated (February 2014) that a person can claim benefits under both DEPB and VKGUY, if the product in question is entitled under these schemes. There is no bar that if a person has claimed benefits

under DEPB scheme, he cannot claim benefit under VKGUY scheme. Hence no loss has accrued to the Government.

Reply of DGFT is not related to the facts presented by audit. The issue raised was that scrips issued under VKGUY were entered in EDI system under DEPB scheme and not about the entitlement of the scrip holder. Further, in terms of paragraph 3.13.3 of FTP, benefit of VKGUY and DEPB cannot be allowed at the same rates.

2.5.3 Duty credit debited without licence details

Audit scrutiny of data furnished by ACC, Bengaluru, revealed that 1,11,161 items had been imported under DEPB scheme from 2005-06 to 2011-12. Audit noticed that though the duty amounting to ₹ 1.01 crore in respect of 279 items had been debited, however, no details of licence were found in the data. In the absence of licence details, the correctness of debiting of duty could not be ascertained in audit.

The reply of DGFT is awaited (March 2014).

DoR in their reply stated (January 2014) that the Bengaluru Customs has reported that out of the 279 items (under 61 Bills of Entry), the debit details can be viewed for Sl. No. 60 to 63, Sl. No. 120-277, for which the registration numbers are available. For remaining items, data is not available in the new ICES 1.5 System, as it pertains to earlier period viz. 2005, 2006. The Commissioner is being directed to get the balance details from NIC/importers.

2.5.4 Grant of duty credit on export of goods with 'zero' DEPB rate

In terms of paragraph 4.3.1 of the FTP 2010-11, as amended, an exporter may apply for credit, at specified percentage of FOB value of exports, made in freely convertible currency. Such credit shall be available against such export products and at rates, as may be specified by DGFT by way of Public Notice (PN). The duty credit may be utilized for payment of customs duty on freely importable items and/or restricted items.

RA, Chennai issued DEPB duty credit scrips valuing ₹ 29.38 crore against FOB value of ₹ 552.54 crore on exports against which DEPB rates (both as a percentage on the FOB value and Value Cap) were 'zero'.

DGFT in its reply stated (February 2014) that due to system error the shipping bills show '0' even though specific DEPB rate existed.

Reply of DGFT confirmed that EDI system had glitches and could not be totally relied upon.

2.5.5 Deficiencies in the online systems database

DEPB rates for the year 2008-09 were revised vide PN dated 5 November 2008. However, the department later noticed that there was an anomaly in the English and Hindi versions for item Cotton Yarn (DEPB serial no. 78/89) which was fixed at 7.67 per cent but printed as 3.67 per cent in the English version and 7.67 per cent in the Hindi version of DEPB Schedule of the system. On a query to the Senior Technical Director and NIC official by DGFT in May 2009 about the history of any changes having been made in the website on rates notified vide PN dated 5 November 2008, it was informed by NIC that the system did not allow retrieval of the "Change history" and that the same would be installed shortly. DGFT in its reply stated (February 2014) that a system has been put in place for the past two years to trace changes/modifications.

Audit concludes that the system was at risk of being changed by any unauthorized person without leaving a trail during the period of audit (2007-13) and the same may be presented for verification during future audits.

2.5.6 Delay in transmission of SBs from customs ports to DGFT

The Customs Authority had to upload EDI SB data to DGFT system and on the basis of uploaded information, the exporter had to file online application to the concerned RA. As per paragraph 4.46 of HBP vol 1, application for obtaining credit shall be filed within a period of twelve months from the date of exports or the date of uplinking of EDI SB details on DGFT website, or within three months from the date of printing/release of SB, whichever is later, in respect of shipments for which claim has been filed.

Audit observed that there was a delay ranging from 30 to 1553 days noticed at seven RAs, Bhopal, Mumbai, Pune, New Delhi, Kolkata, Ahmedabad and Lucknow in uploading of the SBs at DGFT site.

DoR in their reply stated (January 2014) that the shipping bills are transmitted online from Customs to DGFT Systems after filling of correct EGM by the shipping lines provided bill assessment is final and not provisional. The transmission is not made merely on crossing the Let Export Order (LEO) stage at the time of export. There may be a few cases requiring re-transmission after rectification of technical or EGM errors.

DGFT in its reply (February 2014) stated that the observation primarily relates to Customs. Further, they stated that the exporter cannot be penalized and his entitlement cannot be reduced on account of delayed uplinking of EDI shipping bills in DGFT website by customs. Attention was also drawn to paragraph 4.46 of HBP Vol. 1 which clearly stated that the time period for filing DEPB claim shall be within a period of 12 months from the date of

exports or 6 months from the date of realization of export proceeds or the date of uplinking of EDI shipping bill details in DGFT website or within 3 months from the date of printing/release of shipping bill, whichever is later.

Audit is of the opinion that there was substantial delay in uplinking of EDI shipping bill details in DGFT website from customs ports. DGFT and DoR need to review and eradicate the reason for delays in uplinking of data.

Recommendation: DGFT may review its EDI system along with the online data exchanged with the Customs Department and modify its data requirement in the EDI module to ensure compliance to the policy provisions.

2.6 Lack of co-ordination between DGFT, RAs, Customs Department and Banks

The implementation of DEPB scheme required coordinated functioning of the four authorities i.e. DGFT, RAs of DGFT, Customs Department and Banks.

The Task Force on Indirect Taxes (October 2002) constituted by Ministry of Finance, under the chairmanship of Shri Vijay Kelkar commented that *“Both DGFT and Customs are two arms of the Government and it is necessary that they operate together and in harmony while giving effect to Government policies. At the same time it is appreciated that at the field level the individual officer of Customs (or DGFT) are bound by their individual laws and would hesitate to act on the basis of a DGFT order unless specifically so authorized to do so under their own law. Thus, the remedy lies in improved coordination between the two departments”*.

The Action Taken Report of Ministry of Finance, Department of Revenue on the recommendation of Kelkar Committee is awaited (March 2014) from the Department.

While DGFT determined the rates of items under DEPB scheme and RAs issued DEPB scrips to the exporters on the basis of realised FOB value of exported goods at DEPB rates as per rates set by DGFT, the Customs Department certified that the goods were exported and allowed duty free import against the scrip issued by RA, and the Bank issued certificate for the realisation of foreign exchange of goods exported. After the introduction of online system, the licences were being issued on the basis of EDI Shipping Bill (SB), which could be verified through the system by RAs and Customs.

Audit observed several instances of lack of co-ordination between all these four authorities involved in the implementation of the scheme. A few such instances are listed below:-

- DGFT, in its Policy Interpretation Committee (PIC) meeting on 24 March 2009, decided that DEPB benefit against export of ‘fish meal’

and 'fish oil' products, being value added products, were not entitled for DEPB benefit. Subsequently, in September 2009 Customs Commissionerate, Mangalore, asked RA, Bengaluru for cancellation of DEPB scrips issued on the basis of export of said products through Mangalore port. However, RA, Bengaluru argued that the exports of these products under DEPB ought not to have been allowed by Customs and no action was initiated by RA, Bengaluru for recovery/cancellation of DEPB scrips utilised/unutilised. The action in this regard was taken by RA, Bengaluru only in January 2010 after intervention of DGFT, New Delhi.

DGFT in its reply (February 2014) stated that RA Bengaluru is in constant touch with the concerned exporters for recovery.

- The Chief Commissioner of Customs (Preventive), New Delhi, vide letter no. VIII (SB) 9/73/INV/2010/9287 dated 3 September 2010 informed RA, New Delhi about Indian Trade Classification (ITC) violations by M/s M.K. Exports and M/s M.K. Overseas Pvt Ltd in respect of export of Frozen/Chilled Buffalo/Sheep Meat exported under DEPB scheme and requested for non-issuance of DEPB scrips till the finalisation of adjudication. However, circular for non-issuance of scrip to the said exporter was issued by RA, New Delhi only on 11 October 2010, i.e. after a delay of more than one month. Audit noticed that during the period from 3 September 2010 to 11 October 2010, ten DEPB scrips valuing ₹ 1.86 crore were issued to these two exporters by RA, New Delhi.

DGFT in its reply (February 2014) stated that the matter regarding M/s MK Exports was settled and alert notice was withdrawn and due care would be taken in future to reduce the time period in communicating such notices.

- It was observed that though Electronic Data Interchange (EDI) started functioning at Paradeep Port, Orissa w.e.f 21 March 2011 as per the PN dated 11 July 2011, it was not properly operative till the closure of the scheme i.e. 30 September 2011. Both the manual system and EDI system were in use simultaneously.

DGFT in its reply (February 2014) stated that Custom Ports which are EDI enabled send data to Customs Centralized server at ICEGATE. It is ICEGATE that collates data and sends it to DGFT server. When there is a problem in the functioning of the Custom's EDI system, Customs issue manual shipping bills.

- RAs Chennai, Coimbatore, Madurai, Kochi, Puducherry, Delhi, Kolkata, Jaipur, Hyderabad, Raipur, Bhopal, Ahmedabad, Moradabad, Varanasi and Thiruvananthapuram had no specific system for correspondence/exchange of information with Customs and Bank authorities. There was no inter-departmental meeting among the RA and Customs Department with Bank regarding cross checking of BRCs. It was only in cases of doubt/specific information that the BRCs submitted by the exporters were being verified from the issuing banks. RA, Kolkata had verified BRCs in only seven cases during the period between 2005-06 and 2011-12.

RA, Kolkata replied (August 2013) that the matter will be taken up with DGFT, Headquarters. RA, Jaipur stated (June 2013) that no such provisions were prescribed in FTP and it relied on the BRCs provided by the firm and an undertaking was also obtained from the exporter declaring the genuineness of documents. ACC Bengaluru admitted that there was no specific mechanism for information exchange between DGFT and Customs regarding misuse of DEPB scrips. RA, Delhi stated that it is an organisation for export facilitation and promotion and the same worked on trust basis. However, as a precautionary measure, the documents, including BRCs, of the firm applying for DEPB scrip for the first time were verified before extending any benefit.

DGFT in its reply (February 2014) stated that for the new comers DEPB was issued after verification of BRCs with the banks. Copies of forwarding letters of DEPB scrips issued were being endorsed to concerned bank from where the BRC was issued for cross checking at their end. After the introduction of the e-BRCs, the details of foreign exchange realization comes to DGFT directly (electronically) and shipping bill detail is transmitted electronically from customs to DGFT. Incidentally all benefits at present are being granted only after realization.

- The Customs Authority had to register DEPB licences issued by all RAs. However, the system that was in existence did not provide the RA-wise DEPB scrips registered. At three EDI Customs ports (ICD, Khodiyar, ACC, Ahmedabad and Kandla Customs House) and two non-EDI Ports (Pipavav Customs House and KASEZ port, Gandhidham), there was no system to provide information on RA-wise DEPB scrips registered with them.

- Though the Reserve Bank of India (RBI) provided Export Outstanding Statement (XOS) at RAs Ahmedabad and Kolkata, every six months showing the exporter/SB-wise foreign exchange outstanding, however, this statement was silent about the scheme to which the SB pertained, thereby rendering the whole exercise futile. XOS statements were not received from RBI at RA, Hyderabad and Custom Ports at Hyderabad.

Though the recommendation for improvement of coordination between DGFT and Customs Department was made way back in 2002, audit noticed that there was no healthy exchange of information/data between the agencies concerned with the implementation of the scheme.

DoR in their reply stated (January 2014) that the recommendations of the Task Force on Indirect Taxation (headed by Dr. Vijay Kelkar) were handled by Central Excise Wing of CBEC and response has been sought which is awaited.

They further stated that:

- a) On the issue that both manual and EDI Customs systems functioned at Paradeep Port after EDI system was made functional, the Bhubaneswar Commissionerate has reported that though EDI operations began from March 2011, drawback module and link with DGFT started functioning from October 2011, and there were also teething problems. The manual filing was with prior permission of the competent authority.

This reply, however, did not highlight the implicit issue of clarity in such permissions.

- b) On the issue of Customs EDI system not providing information on RA-wise DEPB scrip registration, it was stated that no differentiation is made RA-wise while registering the licenses in Customs EDI as no such requirement was received from DGFT. The DEPB licenses were issued by RA specifying the port of registration and this detail can be provided by DGFT.

Recommendation: DGFT needs to improve its coordination with Customs and RBI by coming up with solutions and taking prompt action on alerts issued by Customs/RBI for all rewards and incentive schemes.

DoR in their reply stated (January 2014) that the Board's Instruction No. 609/119/2010-DBK dated 18.01.2011 relating to reward schemes and export obligations, directed all field formations on 18 January 2011 that 'an institutional mechanism should be set up whereby the customs officials and

the officials of the local RLA meet at least once every quarter, or as per mutually agreed period, to exchange intelligence, check misuse and pursue issues such as export obligation (EO) fulfilment status in cases, where Export Obligation period has expired in that quarter/ previous quarter so that concerted action can be taken against the defaulters'. Major field formations have reported that there is regular interaction between Customs and RA. The Board shall reiterate these instructions for further improving the coordination.

DGFT stated that recommendation has been noted for compliance in future scheme. Further, DGFT stated that quarterly meetings between the regional authorities of DGFT and local customs formation are being held on a regular basis.

2.7 Non-monitoring of Bank Realisation Certificates /Legal Undertakings (LUTs) by RAs

RA can initiate action for recovery of the duty credit where scrip holder fails to produce BRC or extension as granted by RBI. In case, where BRC is not submitted, LUT for the same amount as the duty credit granted is to be submitted in accordance with paragraph 4.45 of HBP, vol 1 and watched through LUT Register. As per PN dated 30 March 2009 the licensing authority had to monitor the submission of BRC in respect of licences issued from April 2009 onwards.

(a) Non-submission of BRCs within the prescribed timeframe

Audit scrutiny revealed that at 15 RAs, BRCs for export proceeds of 1652 DEPB scrips having duty credit value of ₹ 709.59 crore had not been submitted. Fresh duty credit scrips were issued to the exporter without compliance with the scrip issued earlier.

- RA, Kolkata issued SCN in 55 cases, out of which in 15 cases BRC has been submitted by the scrip holders after being pointed out in audit.

DGFT in its reply (February 2014) stated that in 26 cases the party submitted the documents and in the remaining cases SCN were issued for finalisation of cases.

- RA, Ahmedabad had issued demand letters against 20 DEPB scrips for recovery of excess duty credit along with interest. However, exporters had neither paid duty nor surrendered the unutilised DEPB scrips, even after passage of 52 days to 787 days (June 2013) from the date of issuance of demand letters.
- RA Bhopal, in 61 cases forfeited Bank Guarantees for ₹ 44.33 lakh and an amount of ₹ 8.29 crore is still pending.

- An analysis of DEPB SB data provided by ACC, Bengaluru and NCH, Mangalore was compared with the XOS statement provided by RBI and it was found that there were 225 DEPB SBs amounting to ₹ 42.09 crore pending realization in respect of ACC, Bengaluru and NCH, Mangalore.
- RA, Jaipur issued 16 DEPB scrips for ₹ 1.17 crore during February 2009 to October 2010; however, the scrip holders did not submit BRCs within 12 months of the issuance of the scrips.
- Except at RA Bhopal and RA Hyderabad, there was no monitoring mechanism in place to ensure that the export proceeds are realized subsequently. There was nothing on record in respect of these cases regarding grant of proper extension of time by RBI for realization. There was no mechanism for watching the cases where there was failure in realization of export proceeds and consequent enforcing of recovery of credit.

On these being pointed out, RA Jaipur replied (June 2013) that evidence of partial realisation of export proceeds was furnished by the exporter and for the remaining realisation, the firm would submit evidence shortly. Reply is not acceptable as copies of partially received BRCs were not produced to Audit. RA, Delhi replied that cases would be reviewed and required action according to policy provisions would be taken.

(b) Discrepancies noticed in Legal Undertaking (LUT) register

The following discrepancies were noticed in the maintenance of LUT register at RAs:

- RA, Ahmedabad was maintaining LUT register which was incomplete and without full information in respect of scrips issued against LUTs, viz file no., scrip no., LUT no., date and amount of LUT etc. Further, year-wise break-up of cases pending realisation in the form of abstract was also not prepared in the register. No signatures of a competent officer were found recorded on the cases which were shown closed.
- LUT registers maintained at RA, Jaipur were incomplete and information required for monitoring LUT cases was not found incorporated. Summaries of outstanding LUT cases were also not maintained. The detailed information of 61 DEPB scrips (13 of year 2009-10, 16 of 2010-11 and 12 of 2011-12) issued without BRCs against LUTs could not be ascertained.

- LUT Registers maintained by RAs Mumbai and Pune revealed that data maintained in Register as well as in EDI were not updated. The method of closing the files after submission of requisite BRCs was also not uniform and systematic.

In the absence of complete details in the LUT register, the very purpose of monitoring of LUT cases and their realisation is defeated.

DGFT in its reply (February 2014) stated that master register for DEPB against LUT has been updated and wherever BRCs have not been received, action has been initiated against the firms under FT (D&R) Act 1992.

Actual action initiated may be intimated to audit.

2.8 Non production of records/information in respect of misuse of DEPB scrips and redressal of grievances

Audit requested RA, Ahmedabad to provide information regarding misuse of DEPB scrips and system for redressal of grievances in May 2013 along with the relevant SCN/Adjudication files.

While furnishing the information, RA, Ahmedabad stated that year-wise compilation was not available with them. Regarding SCN/Adjudication files pertaining to DEPB scrips, RA Ahmedabad replied that the information was not available since the Enforcement cum adjudication (ECA) master register did not contain licence-wise information of SCNs/Adjudication cases.

RA, Ahmedabad did not produce SCN/Confirmed demand files to audit and asked it to seek permission of the Adjudicating Authority for access of such files by pointing out specific reason for its requirement. RA further stated that Audit team would then have to take responsibility for such files by giving an undertaking in writing since it involved risk of loss of documents or misplacement of files, which could have an adverse bearing on the outcome of the case.

DGFT in its reply (February 2014) stated that ECA master register does not contain any information relating to DEPBs issued for the audit period FY 2005 to FY 2012. However, RA Ahmedabad has stated that it has directed its ECA Division to show/produce the ECA master register to the audit team for the above said period if they visit the RA again at a time convenient to them.

The above indicates reluctance on the part of RA Ahmedabad to submit records for audit. Necessary action may be taken by DGFT to avoid such recurrence in future. Action taken may kindly be intimated to audit.

2.9 Non maintenance of records at RAs

Audit noticed that list of DRI cases; search and seizures records; appeals cases; CBI cases; SCN cases; Special Valuation Branch (SVB) cases, statement of outstanding Arrear of revenue; Post Clearance Audit (PCA) and On Site Post Clearance Audit (OSPCA) cases are not being maintained by the RAs Hyderabad and Visakhapatnam.

DGFT may instruct the RAs to maintain the records for all incentive schemes so that they can monitor the cases and avoid operational malfunctions. Providing records in time to audit forms an essential part of the legislative control mechanism. This also helps audit in having a balanced view of the entire transaction related to the policy implementation. DGFT may like to ensure this for all future audits.

Chapter III: Policy implementation issues

3.1 As per paragraph 1.1 of HBP vol 1, DGFT notifies the schedule of DEPB rates. Further, as per paragraph 2.4 of FTP, DGFT may specify procedure to be followed for an exporter or importer or by any licencing or any other competent authority for purpose of implementing provisions of Foreign Trade (Development & Regulation) Act, the Rules and the Orders made thereunder and FTP. Such procedures shall be published by means of a PN, and may, in like manner, be amended from time to time.

DGFT in its reply (February 2014) stated that there was no dispute (subsidy cases) raised by WTO/bilaterally against India during the period 2005-06 to 2011-12.

However, the computation of DEPB as discussed in India's Trade policy review by WTO has been treated as counter-vailable and has been proceeded against by US, Canada and EU. The caselaws of Supreme Court (SC)/Central Excise Service Tax Administrative Tribunal (CESTAT) have touched various issues of policy misinterpretation and malfunction.

3.1.1 DEPB rates fixed without considering the actual incidence of duty resulting in excess duty credit

Rule 21 of General Financial Rules regarding Standards of Financial Propriety stipulates that *"every officer incurring or authorizing expenditure from public moneys should be guided by high standards of financial propriety"*.

The DEPB rates for 2006-07 were announced vide PN. 29 dated 3 July 2006. During the year 2007, the peak rate of customs duty was reduced from 12.5 per cent to 10 per cent. However, DEPB rates announced for the year 2007-08 were increased ranging from one per cent to three per cent over the rate that existed during 2006-07. The main argument for increase in DEPB rate was that the exchange value of the Rupee had appreciated to an extent that the exporters were suffering hardship despite a decrease in customs duty. The Rupee had appreciated with respect to the US\$ from ₹ 44 in mid-March 2007 to just above ₹ 40 by mid-May 2007 and appreciated further to below ₹ 40 from September 2007 to the end of April 2008. However, the currency had thereafter weakened vis-à-vis the dollar, touching ₹ 51 in March 2009 and was in the range of ₹ 44-52 till the closure of scheme.

Though the increase in DEPB rates was approved for one year period only, the Department generalised the increase in rate which continued till closure of the scheme on 30 September 2011.

At the time of fixation of new DEPB rates for the year 2008-09, the issue of roll back of increment granted by DGFT was taken up by both the Directorate

of Drawback and the Department of Revenue. The Finance Minister, in his letter (October 2008) to the Commerce Minister stated that due to considerable depreciation in Rupee value there was an urgent need to adjust DEPFB rates downwards to contain the unintended revenue outgo and exemption from customs duties also needs to be reflected DEPFB rates of the downstream products. However, the same was not acceded to by DoC/DGFT at the time of fixation of new DEPFB rates, with the result that the additional benefit due to the increase continued to be carried forward for the rates fixed for the year 2008-09 till the closure of the scheme (September 2011).

Thus, non-rollback had a cascading effect on the increment during 2009-10 to 2011-12, which resulted in extra duty credit of ₹ 11,361.32 crore (refer Appendix VI) allowed to exporters as detailed below:

Table: 5

DEPB rate during 2007-08 (average)(A)	6.00
Increased rate 2007-08 (average)(B)	2.39
% B of A	39.85

Table 6**Average rate of DEPFB credit**

Year	DEPB credit	duty	FOB value of Export (₹ In crore)	Average rate
2005-06	5,010		1,10,267	4.54
2006-07	4,618		1,20,495	3.83
2007-08	5,496		1,25,183	4.39
2008-09	7,729		1,67,410	4.62
2009-10	8,267		1,68,044	4.89
2010-11	9,204		1,97,664	4.66
2011-12	11,165		2,50,532	4.46

DGFT in its reply stated (September 2013) that ad-hoc rates were revised for certain products in October 2007. Thereafter, DEPFB rates were again revised on 5.11.2008. An extensive revision was undertaken in the year 2009 and the draft DEPFB rates based on Customs duty (without ad-hoc increase in rates) were finalised. However, the same could not be issued in view of the decision taken by the Government to withdraw DEPFB scheme in 2011.

DGFT further stated (February 2014) that the relief was provided based on the recommendation of various Committees including the Inter-Ministerial Committee and the Committee of Secretaries. Subsequently, to bring down the revenue implications at a level recommended by DoR, DEPFB rates for a number of product were revised downwards w.e.f October 2007 and in annual DEPFB exercise, DEPFB rates for 1262 items were reduced and 26 items were increased w.e.f November 2008. DGFT further stated that due to slowdown on account of recessionary condition globally, DEPFB rates applicable before November 2008 had to be restored w.e.f January 2009.

The replies furnished by DGFT in September 2013 and February 2014 are elusive. In September, DGFT stated that the revised rates could not be issued in view of the decision taken by the Government to withdraw DEPB scheme in 2011 and in February 2014 DGFT stated that due to global recession they had to retain the unrevised rates. However, the fact remain that non issue of revised DEPB rates finalised in 2009 resulted in extra expenditure of ₹ 11361.32 crore by the Government during April 2009 to September 2011.

Since the main objective of DEPB scheme was to neutralise incidence of customs duty on import content of export product and the formula for calculation of DEPB rate is independent of the currency rate, DEPB rates for the year 2007 should ideally have been reduced on account of decrease in rate of customs duty. However, the Department, instead of correlating DEPB rates with customs duty, linked the same with currency rate and recessionary trends. The methodology and calculation adopted to factor in the exchange rate fluctuation and recession was not produced to audit. The increase in DEPB rates without recalculating the incidence of duties, resulted in undue benefit to the exporters.

3.1.2 Undue benefit to the exporters by implementing the notification retrospectively

DEPB rates for the year 2006-07 and 2008-09 were announced by DGFT vide public notice no. 29 dated 3 July 2006 and 102 dated 5 November 2008 with a reduction in DEPB rates by one per cent to two per cent and one per cent respectively on account of reduction in customs duty from 15 to 12.5 per cent in 2006-07. The rates were applicable from the date of issue of PN.

However, DEPB rates for the year 2007-08 announced by DGFT vide PN 18 dated 13 July 2007 with an increment in DEPB rates ranging two to three per cent, were made applicable retrospectively from 1 April 2007, thereby extending undue benefit to the exporters to the tune of ₹ 618.26 crore as detailed below:

Table: 7

DEPB credit during 2007-08	₹ 5,498 crore
% Increment in DEPB rate	39.85
Extra benefit for the period 2007-08	₹ 618.26 crore *

*39.85% of 5498*103days/365days

DGFT, New Delhi stated (November 2013) that committee constituted in 2007-08 to consider impact of Rupee appreciation on export competitiveness, loss of export orders and likely job losses in different sectors expressed their view that there would be significant reduction in export and job losses if exporters forego booking of orders in the month of July, which may further lead to significant layoffs. Therefore, during the

meeting (25 June 2007) held between the then Finance Secretary, Secretary (Revenue) and Commerce Secretary, it was agreed that DEPB and duty drawback rates for select sectors had to be suitably adjusted as a matter of comfort and the public notice no. 17 was eventually issued on 12.7.2007 indicating therein new DEPB rates which were valid upto 31.3.2008. After issue of the PN, it was observed that the Ministry of Finance had revised the Duty Drawback rates as well as 2 per cent concession on pre-ship and post shipment credit effective from 1.4.2007 and accordingly with the approval of Commerce & Industry Minister, the public Notice No. 18 dated 13.7.2007 was issued to make the enhancement in DEPB rates effective from 1 April 2007.

The reply is not tenable as the Public Notice No. 18 issued on 13 July 2007 was made effective retrospectively from 1st April 2007 without referring to the Ministry of Finance, thereby extending undue benefit to the exporters.

DGFT justified (February 2014) the implementation of the notification retrospectively by reiterating the reasons furnished in their reply of November 2013. However, the reply is silent about implementation of the notification retrospectively without referring to the Ministry of Finance; neither could DGFT produce minutes of Empowered Committee meeting to audit.

3.1.3 Irregular fixation of DEPB rates without SIONs

Paragraph 4.38 of HBP vol 1 stipulates that all applications for fixation of DEPB rates shall be routed through concerned Export Promotion Councils (EPCs) which shall verify the FOB value of exports as well as international price of inputs covered under SION.

Audit scrutiny of the fixation of DEPB rates for the year 2007-08 revealed that DEPB rates for as many as 157 items in five product groups had been fixed without availability of SION. These items also enjoyed *ad-hoc* increase ranging from one per cent to three per cent. Since the inputs, as well as their share in the final product, and customs duties levied thereon cannot be worked out, it could not be ascertained as to how the Department had arrived at the average customs duty for the fixation of DEPB rates. It was also revealed that for the year 2008-09, DEPB rates had been fixed at previous year's (2007-08) rates for items for which SIONs have been deleted. Since no SION is available for these items, hence their continuation in DEPB schedule was irregular.

Department during fixation of DEPB rates (October 2008) admitted that in the product group 'Electronics' (Product Code 83), SION serial numbers against a number of DEPB entries could not be indicated by the Norms Committee since DEPB rates for these products were notified in 1997 and

were based on the Special Value Based SION (available till 1996-97). The DEPB rates for these products were fixed on pro-rata basis against the last rates vis-à-vis the changes in the customs duty.

Due to failure to notify SION for the same and inability to work out correct DEPB rates in the absence of relevant data for these items since 1996-97, loss to the exchequer on account of high DEPB benefit cannot be ruled out. The arbitrary manner of fixation of DEPB rates by the Department against the regulations was also against the policy provisions.

DGFT in its reply (February 2014) stated that SION provides details about the inputs and their quantity used in the manufacture of export product. The average customs duties applicable on the inputs along with value addition norms (wherever applicable) are thereafter taken into account to fix DEPB rates. SION for "Electronics" (Product Code 83) was fixed under the Special Value Based Advance Licence Scheme (VABAL) which was withdrawn in 1997. DEPB rates announced in 1997 and thereafter were based on those SIONs. With the withdrawal of Special value based scheme, the corresponding SIONs were withdrawn. Since the SION is only needed to ascertain the items of inputs and their quantity for fixation of DEPB, subsequent DEPB rates for those items were fixed based on prevalent rate of customs duties vis-à-vis the weightage indicated against the inputs as per earlier SION by DEPB committee, in which the Department of Revenue and concerned administrative ministries/ departments are permanent members.

The fact remains that DEPB rates were fixed arbitrarily in absence of relevant data and possible loss to the exchequer could not be ruled out.

3.1.4 Non-revision of value caps due to lack of trade data

DEPB scheme, launched in 1997, was in continuation of VABAL. Most of DEPB rates were set on the basis of VABAL rates. It was admitted by the Department (May 2003) that one of the factors affecting de-novo calculation of DEPB rates is lack of data. Out of 2100 DEPB rates, more than 60 per cent were calculated on the basis of the value addition that existed under VABAL scheme. For 40 per cent of the rates, which were calculated on the basis of actual data furnished by the industry, the re-calculation is difficult due to non-availability of current international prices of the export products and inputs. It was decided by Department to have contemporary trade data from EPCs to calculate actual DEPB rates without issue of any PN to hide the facts that the Department had no data.

DEPB rates fixed, without trade data, at the beginning of the scheme continued to be carried forward and value caps in respect of only those items were revised from time to time for which the exporter himself had furnished

import-export data through EPC. It was seen that no concrete effort had been taken by DGFT to get contemporary import-export data for annual revision of value caps. It was also noticed that no mechanism existed in DGFT to verify data submitted by industries through EPCs for revision of value caps.

Thus, the correctness of the value caps set by DGFT could not be ascertained and undue benefit to exporters on account of higher value caps could not be ruled out.

DGFT in its reply (February 2014) stated that value cap is imposed on the FOB value of the export product under DEPB scheme. Value cap was imposed on 485 items out of approximately 2150 items for which DEPB rates were prescribed. This was initially based on actual data furnished by the industry. In any case, if the value caps would have been revised, it is likely that the same would have had to be increased over time due to rise in FOB values of products which normally increase every year. Increase in value caps would have led to higher revenue outgo. There was therefore, no benefit to exporters on account of non-revision of value caps so far as DEPB scheme is concerned.

The reply furnished by DGFT appears to be presumptive and without empirical analysis. DGFT could not furnish any study report or calculations to substantiate their claim.

3.1.5 Variation in DEPB rates/value addition for the same product

Analysis of DEPB rates/value addition revealed that the Department had fixed different DEPB rates/adopted different value addition for the same product:-

Table: 8

Product code	Product Sl. No.	Name of product	Value addition	DEPB rates in per cent		
				2005	2006	2007
62	434	Refined glycerine	150 per cent	6	5	7
	525	Refined glycerine	125 per cent	7	6	8
62	265	Pigment yellow-12	400 per cent	3	2	4
	598	Pigment yellow-12	350 per cent	3	2	4
62	439	Trichloro Ethylene	225 per cent	5	4	6
	785	Trichloro Ethylene	275 per cent	4	3	5

Adopting different parameters for the same products reflects lacuna in the system for fixing DEPB rates.

DGFT in its reply (February 2014) stated that DEPB rates for various items were fixed based on prevalent rate of customs duties vis-à-vis the weightage indicated against the inputs as per SION and value addition. This was done by the DEPB committee in which the Department of Revenue and concerned administrative ministries/ departments were permanent members. Variation in rates could be a factor of different processing route or on account of

variation in purities of the finished product. When the SIONs were revised, removing the purity component of the finished product, the corresponding DEPB Rates were amended accordingly. However, wherever such duplications were detected, the same were rectified from time to time.

DGFT clarified that prior to 2003, there were two DEPB entries at Sl. No. 468 (Refined Glycerine 99 per cent purity minimum) and 565 for the Product Refined Glycerine (Refined Glycerine 99.5 per cent purity minimum) for Refined Glycerine. However, these entries were amended as Refined Glycerine for both Serial Nos. 434 and 525 with DEPB rates of 14 and 15 per cent respectively vide PN 62 dated 17.02.2003.

After detailed deliberations, DEPB Committee decided to recommend the case for deletion of DEPB entry at Sl. No. 434 of the Product Group 'Chemicals'. Accordingly, vide Public Notice No. 13 dated 13.10.2010 DEPB entry at Sl. No. 434 was deleted while maintaining the same DEPB rate for entry at Sl. No. 525.

The facts remain that two different DEPB rates for refined Glycerine continued upto October 2010 and no reply has been furnished for other products highlighted by audit.

3.2 DEPB *vis-à-vis* Duty Drawback Scheme

While DEPB scheme was operated by DGFT, the Duty Drawback scheme was administered by the Ministry of Finance. As per Ministry of Finance (Department of Revenue), CBEC Circular no. 42/2011-Cus dated 22 September 2011, with effect from 1 October 2011, DEPB items were incorporated into the Duty Drawback Schedule.

The Duty Drawback (DBK) scheme is a duty remission scheme and the rates for the Drawback scheme were calculated on the basis of actual inputs used in the manufacturing process.

A comparative analysis of Duty Drawback scheme and DEPB scheme, which was in operation till 30 September 2011, revealed that out of the 2131 items included in DEPB schedule, 1129 items were also in the Duty Drawback schedule. The number of items covered under Duty Drawback scheme was 2835 (approx.) before the closure of DEPB scheme and the same rose to 4000 (approx.) after incorporation of the DEBP items.

A comparison of rate of 1129 common items under both the duty remission schemes, when both the schemes were operational for the year 2010-11, revealed the following:-

Table: 9

Number of items where DEPB rate was more than DBK rate	1124
Number of items where DEPB rate was less than DBK rate	5

A comparison of Drawback rates for the year 2010-11 and 2011-12 in respect these above cited common items revealed the following:-

Table: 10

Number of items where DBK rates for 2011-12 were decreased w.r.t 2010-11	29
Number of items where DBK rates for 2011-12 were not changed w.r.t 2010-11	96
Number of items where DBK rates for 2011-12 were increased w.r.t. 2010-11	1004

Similarly, a comparison of the drawback rates for the year 2011-12 notified by Directorate of Drawback for these common items with the then existing DEPB rates revealed the following:-

Table: 11

Description	Common Items	New Items	Total	Percentage
Number of items where DBK rates for 2011-12 were decreased w.r.t existing DEPB rates.	1115 (Range 7.6-0.2)	997 (Range 1-9)	2112	99.11
Number of items where DBK rates for 2011-12 were not changed w.r.t existing DEPB rates	11	5	16	0.75
Number of items where DBK rates for 2011-12 were increased w.r.t existing DEPB rates	3 (Range 0.3 -2)	Nil	3	0.14
Total	1129	1002	2131	100

It clearly reflected that duty neutralisation in respect of 99.11 per cent of items (2112 items) under DEPB scheme was higher, ranging from 0.2 – 9 per cent. The Department of Revenue also held that DEPB scheme over compensated customs duties on export.

The proportionate excess revenue forgone on account of higher DEPB rates for these 2112 items for 2011-12 was to the tune of ₹ 5858.60 crore (56 per cent).

Cost benefit study on DEPB done by ICRIER⁵ calculated similar subsidy component in DEPB credits.

Table: 12

Average Rate under DEPB scheme for 2112 items (A)	5.98
Average DBK rate for 2112 items	2.58
Difference in Avg rate (B)	3.40
Total Revenue forgone during 2011-12 (C)	₹ 10,404.40 crore
Excess Revenue forgone on account of higher Average DEPB rate (C*99.11%*B/A)	₹ 5,858.60 crore

DoR in their reply stated (January 2014) that the decline in the rate for the erstwhile DEPB items on account of merger into drawback scheme reflects the broad policy principle of providing erstwhile DEPB items with drawback

⁵ Mukhpadhyaya, Sukumar, *Cost Benefit Analysis of tax exemptions for export promotion schemes*, ICRIER, 2007

rates equivalent to DEPB rate less the extraneous elements in DEPB rate. The reduction in rates on erstwhile DEPB items has been continued in subsequent AIR drawback schedules till 2013-14.

DGFT in its reply (February 2014) stated that DEPB and Duty Drawback Scheme cannot be compared in terms of the inherent principles of the schemes. Duty Entitlement Passbook Scheme was primarily formulated to neutralize the customs duty on the deemed import content of the export product. While Duty Drawback Scheme is based on different principles which take into account certain averages. However, for some products the Duty Drawback Rates might have been higher on account of the specific rate of Duty Drawback for some products whereas it is falling under the residual rate of DEPB and in certain cases value addition under DEPB scheme was higher to reduce revenue implication.

Reply of DGFT is not acceptable as the analysis done by Audit in 2112 products revealed that DEPB rates were fixed at higher rates which were not commensurate with the actual incidence of duties and included other considerations as well, which resulted in excess revenue forgone of ₹ 5,858 crore in 2011-12. Without the mechanism for verification of PMV of Shipping Bill in EDI system (paragraph 2.5.1), cases of upwardly loaded DEPB scrips at inflated export price could not be ruled out.

3.3 Trade analysis of CECA Singapore

The Comprehensive Economic Cooperation Agreement (CECA) between India and Singapore came into force on 1 August 2005, after 26 months of negotiation. It was the first comprehensive trade agreement India signed with any trade partner as part of Government of India policy of market expansion. The main objectives of India-Singapore CECA were to strengthen and enhance the economic, trade and investment cooperation between the Parties, to liberalise and promote trade in goods; to liberalise and promote trade in services in accordance with Article V of the General Agreement on Trade in Services, including promotion of mutual recognition of professions; to improve the efficiency and competitiveness of their manufacturing and services sectors and to expand trade and investment between the Parties, including joint exploitation of commercial and economic opportunities in non-Parties etc.

DEPB scheme was set to close by March 2002 amidst vigorous questioning of India's Trade Policy by WTO and disputes with EU, USA and Canada. A new scheme was being explored by DoC. Given the slow progress in Doha rounds of WTO negotiation, comprehensive bilateral FTAs and RTAs (SAARC, ASEAN) were engaged in. CECA, Singapore was negotiated in this background. The

revealed competitive advantage and trade advantage of India computed for this agreement included trading advantage to the Indian exporter as a result of the extant FTP and DEPB in specific.

DoC in its Strategic Plan claimed that, working out conducive trading arrangements with trading partners holds a crucial place in the entire strategy of export promotion. The efforts towards successful conclusion of FTAs with important partners would receive utmost attention. Similarly, one of the objectives in RFD of DoC was implementation of trade facilitating measures to improve trade environment for accelerating growth of exports.

Peak rate of customs duties in India has been 10 per cent since FY08. DEPB was under sporadic extensions. Worldwide recession started from 2008-09. DEPB was completely phased out from September 2011. In the table below the year-wise details of import under PTA-CECA Singapore, during 2005-06 to 2012-13 clearly indicates the events.

Table: 13

(₹ In crore)

Year	Assessable Value of imports	Growth per cent	Duty Payable	Duty Forgone	Value of Export	Growth per cent
2005-2006	743.04	-	119.79	101.54	24019.65	--
2006-2007	1,633.37	1.19	350.18	241.48	27461.61	4.80
2007-2008	2,020.26	0.23	389.85	293.74	29662.23	4.52
2008-2009	3,299.58	0.63	625.11	437.58	37756.88	4.49
2009-2010	3,274.58	-0.01	419.11	470.19	35948.30	-4.25
2010-2011	4,823.31	0.47	679.94	617.18	44731.73	3.91
2011-2012	5,191.11	0.07	701.95	783.42	80362.99	5.48
2012-2013	6,245.30	0.20	1,031.51	695.19	73994.97	4.52
TOTAL	27,230.54	0.40 (Avg)	4,317.45	3,640.32	3,53,938.40	3.35 (Avg)

Source: Department of Revenue, Ministry of Finance

An analysis of data furnished by DoR, Ministry of Finance revealed that total amount of duty forgone on import under CECA Singapore for the year 2005-06 to 2012-13 was ₹ 3,640.32 crore against import of ₹ 27,230.54 crore with staggered growth of 0.40 per cent after signing the agreement. Out of the total duty forgone 26.6 per cent duty incentive was availed by five importers namely M/s Supreme Chemicals, M/s BASF India Ltd., M/s LG Polymers India Pvt. Ltd, M/s C.J. Shah & Co. and M/s Jesons Industries Ltd. to the tune of ₹ 968.35 crore. Export grew at a much higher rate of 4.7 per cent. Further, on comparing the data of DoC with the data of DoR, it has been observed that the duty forgone in the year 2009-10 and 2011-12 is more than the duty payable. Therefore, the correctness of the data maintained by these two departments could not be assured.

Percentage of duty forgone under Section 25(1) of the Customs Act, 1962 for other than scheme based exemption was 145 per cent of the Customs receipt during FY12. Crude and mineral oils, diamond, gold, machinery etc contributed 88 per cent of the revenue forgone.

Regarding exports under CECA-Singapore, from the data available with DoC, it was observed that during the period 2005-06 to 2012-13, export of ₹ 3,53,938.40 crore with annual growth of 3.9 to 5.5 per cent and import of ₹ 27,230.54 crore forgoing ₹ 3,640.32 crore were made. Generally, all goods imported into Singapore are subject to GST payment for non dutiable goods and GST and/or duty payment in the case of dutiable goods. Intoxicating liquors, tobacco products, motor vehicles and petroleum products are dutiable goods and *all* other products are non dutiable. From the value of export for year 2011-12 (₹ 80,363 crore - Table 12) and the average higher rate (3.4 per cent – Table 11) offered under DEPB scheme for 2112 items duty scrips worth ₹ 2,732 crore could be generated for exports made to a zero duty destination. This amount has 56 per cent of the component beyond the taxes neutralised. In addition, due to lack of PMV verification the export value itself could be on the higher side. ₹ 2732 crore worth scrips can be used to pay any imports through any port. Citing cases of misuse (as seen through an analysis of ICES 1.5 data), the import with poor RSP (retail sale price) validation could further cause private profit and duty forgone for Government.

It is interesting to note that barring a few finished products like needles for injection, syringes etc., most of the items imported under preferential tariffs under the India-Singapore CECA (Appendix VIII) are in the nature of raw materials or intermediates for use by the domestic manufacturing industry. It is also interesting to note that except for needles for injection, butanoic acid and alkylphenols, none of the other items imported under preferential terms constitutes more than 10 per cent of our global imports. It would therefore be safe to assume that these preferential imports would have had little impact on the domestic manufacturers of similar products.

The report of the XII Plan Working Group on 'Boosting India's Manufacturing Exports' observed that ambitious Comprehensive Economic Co-operation Agreement (CECA) sought deeper market access for achieving economic objectives and increased market access. CECA Singapore has been in force long enough to make a meaningful assessment of the import they have on manufacturing sector. The report further states that:

"...while it is still too early to assess the exact impact our RTAs would have in accelerating our exports of manufactured goods, the preferential market access under these RTAs would definitely contribute beneficially – the extent

of such contribution would emerge after these RTAs run their course of full implementation. Of course, one would still need to establish a causal link between any such increase and the preferential market access under the RTAs. The multilateral trade liberalisation efforts under the WTO would have little impact on our domestic manufacturers in terms of increased competition since we would still have sufficient water between our applied and bound tariffs. Sectoral commitments would have an impact. However, sectoral commitments are voluntary and we would only undertake commitments taking our domestic sensitivities into consideration. The multilateral liberalisation could have a beneficial impact on our manufactured exports as tariffs of the developed economies are expected to be significantly reduced from their present levels. Such reductions would present opportunities for enhanced market access as well as opening of new markets”.

DGFT in its reply (February 2014) maintained that there is no linkage between the imports being effected from a country and exports taking place to different countries for the purpose of availing DEPB benefit. Moreover, as stated earlier, DEPB scheme is based on deemed import content of the export product and hence there is no co-relation of duty concession availed under FTA vis-à-vis benefit available under DEPB Scheme for any export.

The reason why it was decided to look at CECA Singapore is because incentives that accrue to the exporters/importers through FTP schemes and the incentive accruing because of the PTAs are closely connected. It requires precise measurement of the gains to the exporters and manufacturers to design trade facilitations at the ports and infrastructure for the domestic Industry lest it is misdirected and misused jeopardizing trade or economic growth, which are the ultimate strategic goals of DoC/MoF.

The purpose of this analysis by audit was to draw attention to the outcome analysis of FTP schemes such as DEPB which operates in the environment of PTAs that India is engaged in with different countries. XII Plan Working Group of DoC also noted that for growth, competitiveness, infrastructure and facilitation is required rather than subsidising.

3.4 Excess import against export resulted in excess outflow of foreign exchange

As per paragraph 4.37 of HBP vol 1, 2009-14, duty credit under the scheme shall be calculated by taking into account deemed import content of said export product as per SION. Value addition achieved by export of such product shall also be taken into account while determining the rate of duty credit under the scheme. DEPB scheme does not provide for any restriction

on value of import against any scrip, restriction was limited to the value of the scrips.

Audit observed that in 68 cases at 3 RAs at Ahmedabad, Mumbai and Kolkata, imports worth ₹ 145.54 crore were made using DEPB scrips issued against exports of ₹ 105.58 crore, leading to excess outflow of foreign exchange from the country. DEPB scheme did not have any check to ensure that the foreign exchange outflow did not exceed the inflow or in other words the CIF value of imports was not more than the FOB value realized on export.

The data provided, generated through EDI system at the RA, Bhopal showed only DEPB debits and not the total debits (i.e cash payment, EPCG payments etc) against those Bills of Entry. In the absence of total debits, corresponding CIF values could not be ascertained. DGFT, Bhopal intimated that no such information was available with them.

Analysis of all India trade ICES 1.5 data made available to audit also revealed that only DEPB debits were recorded against the BE in the system and not transmitted to DGFT from Customs.

On this being pointed out (June/July 2013), the Dy. Commissioner of Customs, Customs House, Kandla and Pipavav replied (July 2013) that while utilising DEPB licence, the duty credit available in DEPB licence was utilised and not the CIF value.

DGFT did not review the online data received from Customs Department and modify data requirement on EDI module to ensure compliance to policy provisions.

DoR in their reply stated (January 2014) that if requirement for additional data fields is indicated by DGFT, the feasibility of providing it can be examined.

DGFT in its reply (February 2014) asserted that outflow of foreign exchange is not linked with the scheme and clarified that the exporter is free to import anything against DEPB scrip. There are chances that the firms can import goods having low customs duty against DEPB scrip obtained on the basis of export with higher DEPB rates. Outflow of foreign exchange is not linked with the scheme.

DGFT further stated that the duty credit under DEPB Scheme is for the basic customs duty component of the export product. Here the duty credit is in lieu of the cash payment. Hence, under DEPB scheme, the linkage of utilization of DEPB scrip to that of the any limit on the CIF value of imports to that of FOB value of exports is not required. However, prior to 2002 when the facility of exemption from the Special Additional Duty (SAD) component

was available on clearance of consignment against DEPB without the requirement of debit of DEPB amount for the said component of SAD, it was necessary to limit the CIF value of imports maximum up to the FOB value of exports of the product against which DEPB has been issued.

DGFT also stated that Special Additional duty was withdrawn after 2002 and was reintroduced in 2004. The Special Additional Duty used to be debited from DEPB credit allowed in the scrip at the time of clearance of the consignment and no exemption of Special Additional duty against DEPB was allowed since then. Hence, the clearance against DEPB scrip became similar to clearance of the consignment against payment of duty in cash. Hence, the earlier requirement of limiting the CIF value of import up to the FOB value of export product against which DEPB scrip was issued was no more relevant and hence, the provision was deleted with the consent of DoR in 2004.

Reply of DGFT is not acceptable. Now since SAD is reintroduced (2004), DGFT could have made provision to refund the SAD in Indian rupee to prevent the excess outflow of foreign exchange as augmentation of foreign exchange is one of the objectives of the FTP. In addition, to analyse the foreign exchange earnings of this scheme at a macro level it is important to capture the available data by the RAs and correlate it to the different export/import products and destinations.

Chapter IV: Cases of operational malfunction

4.1 Incorrect utilisation of DEPB duty credit

Paragraphs 2.12 and 2.12.3 of HBP, vol 1 stipulate that the validity of DEPB authorization shall be 24 months from the date of issue and the duty credit scrips must be valid on the date on which actual debit of duty is made. Further, as per paragraph 4.3.1 of FTP, 2009-14, DEPB credit may be utilised for payment of customs duty on freely importable items and/or restricted items. DEPB scrips can also be utilised for payment of duty against imports under EPCG Scheme. Further, DEPB scrips can also be used/debited towards payment of customs duty in case of EO defaults for Authorisation issued under chapters 4 and 5 of FTP.

Audit scrutinised whether the RAs/Customs Department were exercising checks to ensure that DEPB duty credit scrips were being adjusted/utilised correctly and in the following instances, it was noticed that the licences were utilised in contravention of provisions.

4.2 Incorrect adjustment of excess DEPB duty credit

In eight cases at RA, Ahmedabad, adjustment of excess DEPB duty credit and/or interest amounting to ₹ 23.40 lakh was done against unutilised DEPB scrip/FMS scrip, which was incorrect.

RA, Ahmedabad stated (November 2013) that recovery process has been initiated.

4.3 Irregular debit of Clean Energy Cess in DEPB Scrips

According to Central Excise notification dated 22 June 2010, an effective rate of Clean Energy Cess is ₹ 50 per tonne. Notification nos. 28/2010-CE and 29/2010-CE, both dated 22 June 2010, have also been issued to exempt such goods (i.e. to which the clean energy cess applies) from education cess and higher education cess. As a result, aggregate rate of cess would be ₹ 50 per tonne. This amount had to be paid in cash, as suitable amendment in the CENVAT Credit Rules 2004 had been made to exclude payment of clean energy cess using credit.

Audit noticed that 'coal in bulk' imported under 64 Bills of Entry at Custom House, Kandla, Kolkata, Bengaluru, JNPT, Goa, Ludhiana, Paradeep and Mundra were cleared by debiting the duty in DEPB scrips, in contravention of the above provisions. This resulted in incorrect debit of Clean Energy Cess of ₹ 68.37 lakh and ₹ 1.16 crore in DEPB scrips for the period from 2010-11 and 2011-12 respectively.

DoR in their reply stated (February 2014) that Kandla Customs has reported recovery of ₹ 1.26 crore and Amritsar Customs has reported recovery of ₹ 2835 in two cases and six cases are under examination. Regarding cases at Kolkata, Bengaluru, JNCH, Goa and Paradeep, reports are awaited from field formations.

4.4 Irregular grant of DEPB duty credit

As per paragraph 1.1 of HBP, vol 1, DGFT notifies the schedule of DEPB rates. Further, as per paragraph 2.4 of FTP, DGFT may specify procedure to be followed for an exporter or importer or by any licensing or any other competent authority for purpose of implementing provisions of FT (D & R) Act, the Rules and the Orders made there under and FTP. Such procedures shall be published by means of a PN, and may, in like manner, be amended from time to time.

Audit scrutinised whether the RAs were exercising checks to ensure correct grant of DEPB credit. In the following instances, it was noticed that the licences were issued in contravention of provisions.

4.5 Irregular grant of DEPB duty credit during suspension of benefit under DEPB

DEPB benefit on six items were withdrawn through various PNs issued by DGFT. Though the benefit was subsequently restored from a later date, Audit however noticed that in 108 cases, DEPB benefit amounting to ₹ 13.01 crore had been granted for exports made during the suspension period.

(a) Cotton yarn

As per PN dated 21 April 2010, DEPB benefit was withdrawn on export of cotton yarn including Melange Yarn appearing at DEPB entry sl. No. 78 (Product Group 89-textiles). It was further clarified vide policy circular no. 04 (RE-2010)/2009-14 dated 29 November 2010 that exports of 'Cotton Yarn' would not be entitled to any DEPB benefit even under the residual entry at sl. No. 22D of the Product Group "Miscellaneous" of DEPB rate schedule. The same was restored for exports made on or after 1 April 2011 vide PN dated 4 August 2011.

Audit scrutiny, however, revealed that four RAs (Ahmedabad, Coimbatore, Puducherry and New Delhi) issued 35 licences for duty scrips of ₹ 5.40 crore for exports made during the gap period from 21 April 2010 to 31 March 2011 when DEPB benefit was not admissible to 'cotton yarn'.

DGFT in its reply stated (February 2014) that action for recovery has been initiated wherever benefits were not admissible. Further action will be taken

as per provision of FT (D&R) Act 1992. Action initiated may be intimated to audit.

(b) Cotton

DEPB benefit on export of 'cotton' was withdrawn with effect from 21 April 2010 vide PN dated 31 March, 2011. It was also clarified that DEPB benefit should not be available even under DEPB entry serial no. 22C and 22D of the Product Group "Miscellaneous", with respect to shipments made on or after 21 April 2010. The same was restored vide PN dated 4 August 2011 w.e.f 1 October 2011.

Audit scrutiny, however, revealed that three RAs (Ahmedabad, Mumbai and New Delhi) issued 37 licences for duty scrips of ₹ 4.85 crore for exports made during the gap period from 21 April 2010 to 30 September 2011 when DEPB benefit was not admissible on 'cotton'.

DGFT in its reply stated (February 2014) that action for recovery has been initiated wherever benefits were not admissible. Further action will be taken as per provision of FT (D&R) Act 1992. Action initiated may be intimated to audit.

(c) Cold Rolled Non Alloy Steel

According to PN dated 27 March 2008, read with corrigendum dated 5 April 2008, DEPB benefit on product 'cold rolled non alloy steel' appearing at DEPB rate list serial no. 387A of Product Group Engineering (Product code 61) was withdrawn from 27 March 2008. The DEPB benefit on this item was again restored with immediate effect vide PN dated 14 November, 2008.

Audit scrutiny, however, revealed that RA, Mumbai issued five licences for duty scrips of ₹ 3.12 lakh to four exporters on 'cold rolled non alloy steel strips' under serial no. 387A of product group 'Engineering' exported between 27 March 2008 and 30 March 2008.

DGFT in its reply stated (February 2014) that recovery has been initiated wherever benefits were not admissible. Further action will be taken as per provision of FT (D&R) Act 1992. Action initiated may be intimated to audit.

(d) Skimmed Milk Product

As per PN dated 17 April 2008, read with corrigendum dated 23 April 2008, DEPB benefit on export of 'skimmed milk product, casein and any other milk product' under serial no. 22C and 22D of the Miscellaneous Product (Product Code 90) and 'Casein all types' appearing at DEPB entry serial no. 571 of the Product Group 'Chemicals' (Product Code 62) was withdrawn for the shipments made from 17 April 2008 to 16 December 2008. The DEPB benefit

on this item was again restored with immediate effect vide PN dated 16 December 2008.

Audit scrutiny, revealed that RA, Mumbai issued four licences for duty scrips of ₹ 44.79 lakh on export of 'acid casein and milk protein concentrate-80 per cent' under product group 'Chemical' under serial no. 571 of DEPB rate schedule for shipments made before 16 December 2008, which was irregular.

DGFT in its reply (February 2014) stated that RA, Mumbai has raised the demand to the beneficiary. Further action will be taken as per provisions of the FT (D&R) Act 1992. Action initiated may be intimated to audit.

(e) Ferro Manganese H.C

As per PN dated 27 March 2008, DEPB rate on Ferro Manganese appearing under serial no. 327 of Engineering Product Group was temporarily suspended with immediate effect. The DEPB benefit on this item was again restored with immediate effect vide PN dated 14 November 2008.

Audit scrutiny, however, revealed that RA, Pune issued one licence to M/s Natural Sugar and Allied Industries Ltd and duty credit of ₹ 2.66 lakh was granted on export of 'Ferro Manganese H.C.', covered under serial no. 327 of Engineering Product Group, exported in May 2008, which was irregular.

DGFT in its reply (February 2014) stated that RA, Pune has raised the demand to the beneficiary and the firm has been put under Denied Entity List (DEL) on 12 November 2013. Further action will be taken as per provisions of the FT (D&R) Act 1992. Action initiated may be intimated to audit.

(f) Non Basmati and Basmati rice

As per PN dated 27 March 2008, DEPB benefit on 'non-basmati rice' under sl. Nos. 22C and 22D of the Miscellaneous Product was suspended with immediate effect from 27 March 2008. Further, vide PN dated 3 April 2013, DEPB benefit on 'basmati rice' under serial nos. 22C and 22D of the miscellaneous product was suspended from 3 April 2008.

Audit scrutiny, however, revealed that RA, Delhi issued 28 licences for duty credit scrips of ₹ 1.94 crore on exports of non basmati and basmati rice during April 2008 under DEPB scheme.

DGFT in its reply (February 2014) stated that the cases are under review and updated position will be intimated.

4.6 Irregular grant of DEPB credit for supply of goods not manufactured in India

As per sl. No. 1(e) of the General Instructions for DEPB Rates to the Schedule of DEPB Rates (notified on 9 February 2004), the rates of DEPB specified in

the schedule shall not be applicable to exports of goods of foreign origin, unless the goods have been manufactured or processed or on which similar operations have been carried out in India.

The Development Commissioner (DC), Falta SEZ, allowed duty credit of ₹ 74.84 lakh to M/s Exotica International, a Domestic Tariff Area (DTA) unit, for supply of cotton track suit (knitted) to a SEZ unit under 17 SBs. Audit noticed that the goods against 11 SBs were manufactured either in Oman or Kuwait as per the examination report of the customs officer endorsed on SBs. Since the goods were not manufactured in India, the supplier was not eligible for duty credit amounting to ₹ 50.16 lakh under DEPB scheme for supplies against these 11 SBs.

The reply of the Department is awaited (March 2014).

4.7 Irregular grant of DEPB credit on supply of goods to SEZ unit

As per paragraph 4.43 of HBP, vol 1, an application for grant of DEPB credit for supplies from DTA to SEZ unit can be filed either with the RA or DC concerned along with BRC in prescribed form. Further, as per paragraph 4.3.1 of FTP, in case of supply by a DTA unit to a SEZ unit/SEZ Developer/Co-Developer, the exporter may apply for credit for exports made from foreign currency account of SEZ unit/SEZ Developer/Co-Developer. However, the exporter shall also be entitled for DEPB benefit in case payment is made in Indian Rupees by SEZ Developer/Co-Developer for supplies received w.e.f 10 February 2006.

DC, Falta SEZ, issued ten duty credit scrips aggregating ₹ 89.40 lakh between January 2006 and January 2009 to seven DTA units for supply of goods to SEZ units. Audit scrutiny of BRCs submitted by the claimants revealed that the payments made by the SEZ units were in Indian currency. Since only SEZ Developers/Co-Developers are permitted to pay in Indian currency, such transactions by SEZ units were not entitled for grant of duty credit under DEPB scheme. Therefore, grant of duty credit of ₹ 89.40 lakh was irregular. The reply of the Department is awaited (March 2014).

4.8 Irregular grant of DEPB credit due to non declaration of net weight of exported DEPB items

As per DEPB schedule, automobile tyres reinforced with 'nylon tyre cord warp sheet or rayon tyre cord warp-sheet with or without butyle rubber tubes' exported under product code 62/494 were entitled to duty credit at the rate of 10 per cent subject to value cap of ₹ 90 per kg (FOB value).

RA, New Delhi issued licence to M/s Modi Tyres Company Ltd for ₹ 54.86 lakh on the basis of 43 manual SBs and DEPB duty credit was restricted to

applicable rate of value cap. Audit observed that though the SBs contained both DEPB and non-DEPB items, the exporter had not declared their respective net weights and had instead incorrectly declared total number of units exported. Since value caps are calculated on the basis of net weight of the goods, in the absence of any declaration of net weight of DEPB items, the department had accepted and granted benefit on the basis of weight declared by the exporter in the application.

In the absence of relevant information, the correctness of the claim could not be ascertained in audit.

DGFT in its reply (February 2014) stated that the applicant has declared weight in DEPB application itself but the same could not be cross checked. RA, Delhi has assured that due care would be taken to meticulously check all entries in respect of such cases in future.

The reply of the department is not acceptable as the SB is an authenticated record and the Department cannot rely upon the declaration furnished by the applicant alone.

4.9 Irregular grant of duty credit against unrealised export proceeds

As per paragraph 4.45 of HBP, vol 1, RLAs are required to monitor all such cases wherein the scrip(s) has been issued without BRC and to ensure that the BRC is submitted within 12 months from the date of issuance of the scrip (s). Further, as per paragraph 2.25.3 of HBP, in cases where applicant applies for duty credit scrip against confirmed irrevocable letter of credit and this is confirmed and certified by exporter's bank in relevant Bank Certificate of Export and Realisation, payment of export proceeds shall be deemed to be realised. For Status Holder, irrevocable letter of credit would suffice.

Audit observed that in three instances in two RAs (New Delhi and Kolkata), duty credit amounting to ₹ 5.48 crore had been granted without actual realisation of the export proceeds. Further, the scrips were issued without safeguarding the government revenue by not obtaining Bank Guarantees/Legal Undertakings against unrealised export proceeds.

DGFT in its reply (February 2014) stated that pending realizations under DEPB, cases are being very meticulously monitored at the highest level. In case of non-realization action will be initiated under FT (D&R) Act, 1992 as amended from time to time. Action initiated may be intimated to audit.

4.10 Irregular grant of DEPB credit on advance payment

According to clause 16 of the Foreign Exchange Management (Export of goods and services) Act (FEMA) 2000, where the exporter receives advance payment (with or without interest), from a buyer outside India, the exporter

shall be under an obligation to ensure that the shipment of goods is made within one year from the date of receipt of advance payment or where the export agreement provides for shipment of goods extending beyond the period of one year from the date of receipt of advance payment, the exporter shall require the prior approval of the Reserve Bank.

Audit observed that RA, Kochi, issued a DEPB duty scrip valuing ₹ 0.70 lakh to the exporter, for shipments made between September and December 2009, against advance payment of ₹ 94.00 lakh received during July and August 2007 without furnishing approval of RBI, which was not in order.

DoR in their reply stated (January 2014) that DEPB scheme is no longer in operation. As far as DGFT's reward and incentive schemes like VKGUY, FMS, FPS are concerned, the shipping bill reflects only the intent of claiming reward and the checks are exercised by DGFT to ensure the grant of correct benefit.

DGFT in its reply stated (February 2014) that SCN to the authorization holder has been issued.

DGFT and Customs Department did not have checks in place to filter out export consignment made during suspension period to rule out incorrect grant of DEPB scrips. Action initiated may be intimated to audit.

4.11 Incorrect grant of DEPB benefit

As per paragraph 4.3.1 of FTP, an exporter may apply for credit, at specified percentage of FOB value of exports, made in freely convertible currency. Credit shall be available against such export products and at such rates as may be specified by DGFT by way of PN. Further, as per general instructions for DEPB rates, wherever any specific rate exists for a particular item under DEPB rate list, the item shall not be covered under any generic description of DEPB rate list.

Audit scrutinised whether the RAs were exercising checks to ensure that duty credit had been calculated correctly as per notified rates and as per the provisions made on this behalf. In the following instances, audit found that licences with excess duty credit had been issued.

(I) Misclassification of goods and incorrect grant of DEPB duty credit

DEPB duty credit is eligible on export of specified goods at the rates notified. Audit noticed that in two cases, the exported goods were misclassified and DEPB credits were granted incorrectly.

(a) Fish and Fish products

'Fish, crustaceans, molluscs, aquatic, invertebrates and any aquatic animal product of marine or fresh water origin in live or chilled or dried form' under sl. No. 1 in the product group 66 (Fish and Fish Products) are eligible for 4 per cent DEPB credit, whereas, 'fish, crustaceans, molluscs, aquatic, invertebrates and any aquatic animal product of marine or fresh water origin in frozen form' are eligible for 8 per cent DEPB credit under Sl. No. 2 in the product group 66 (Fish and Fish Products) with effect from 12 July 2007 (PN 17 RE 2007). Further, PN 69 dated 28 May 2010 prescribed a value cap of ₹ 131/Kg for 'fish, crustaceans etc in dried form'.

Audit observed that RA, Kochi granted DEPB credit at the rate of 8 per cent to two exporters for export of 'freeze dried shrimps' classifying them under Sl. No. 2 of the product group 66 *ibid*. The exported goods are rightly classifiable under sl. No. 1, and thus, eligible for duty credit at the rate of 4 per cent of fob value of exports. This resulted in excess grant of DEPB credit to the tune of ₹ 1.03 crore.

DGFT in its reply (February 2014) stated that the matter has been referred to DGFT by RA, Cochin. The matter is under consideration in consultation with the Technical Members representing the Administrative Ministries in the DEPB Committee.

(b) Hot Rolled Steel Sheets

RA, Kolkata issued duty credit scrip for ₹ 67.82 lakh on export of G.P. coil for FOB value of ₹ 13.81 crore exported through Kolkata (Sea Port) in April 2005. The exporter was allowed DEPB credit under sl. No. 329 of Product Code 61 at the rate of 4 per cent with value cap of ₹ 30.50/kg.

Scrutiny of export documents submitted along with the claim revealed that the description of the export item in SB was 'Cold Rolled Steel Sheets' classifying them under customs tariff heading (CTH) 7208 5190, which pertains to 'Hot Rolled Steel Sheets etc'. Further, in the invoice and the BRC the export product was described as 'Hot Dipped Galvanized Steel Coils'. But, despite the disagreement in the description of the export item in the different export documents, DEPB credit at higher rate was allowed as per sl. No. 329 of Product Code 61, as 'Cold Rolled Galvanized Non-alloy Steel Sheets etc.'

The risk of granting of DEPB credit at higher rate without ascertaining the actual export item could not be ruled out.

DGFT in its reply (February 2014) stated that RA, Kolkata has asked the firm to substantiate the documents for regularization of case and personal hearing has been allowed to settle the issue immediately.

(II) Incorrect grant of duty credit on items under 'Negative List' of exports

Goods which are permitted for exports are detailed in 'schedule 2 of Indian Trade Classification (Harmonised System) Classification of Export and Import Items' notified by the Government of India, Ministry of Commerce & Industry, Department of Commerce vide notifications Nos. 2 and 3 dated 31 August 2004. As per paragraph 3A to the General Notes to Export Policy – Goods under Restrictions of Schedule 2 cited, the prohibited items are not permitted to be exported and an export authorisation will not be given in the normal course for prohibited goods.

Pulses, falling under sub-heading code 0713 of the ITC HS code were placed in the 'Negative List' of exports by the Government of India, Ministry of Commerce & Industry, Department of Commerce vide notification Nos. 15 dated 27 June 2006 and were prohibited for exports. The prohibition, as above, on export of Pulses was extended till 31 March 2014, vide DGFT notification No. 38 dated 25 March 2013.

RA, Chennai issued DEPB duty credit valuing ₹ 1.12 lakh for export of Pulses during the year 2007-08. Similarly, 11 other shipments of Pulses with FOB value of ₹ 2.05 lakh were allowed at Chennai Seaport under DEPB post-exports scheme when the prohibition cited above was in force.

DoR replied (February 2014) that the circumstances under which such export was permitted are being examined and the recovery has been made from the exporter in Chennai.

4.12 Incorrect grant of DEPB duty credit on ineligible items

Under DEPB scheme, an exporter may apply for credit, as a specified percentage of FOB value of exports, in freely convertible currency. The credit shall be available against such export products and at such rates as may be specified by DGFT by way of PN. These rates were based on the computation of basic customs duty paid by the exporters on the inputs listed in SION applicable to the export product. As per general instructions for DEPB rates, wherever any specific rate exists for a particular item under DEPB rate list, the item shall not be covered under any generic description of DEPB rate list.

Audit observed that six RAs had issued 172 licences on export of seven items which are not covered in DEPB schedule. Incorrect grant of duty credit in two cases noticed at RAs, New Delhi and Hyderabad could not be worked out due to lack of details.

- Audit noticed that at Madras Export Processing Zone (MEPZ)-SEZ (Chennai) and RAs Pune, New Delhi, Kolkata and Bengaluru, 176 DEPB scrips amounting to ₹ 1.12 crore had been granted on seven items

(Prefabricated parts of corner arm, Ordinary Portland cement, Soap nuts without seeds, IGL-5060 Mono Ethyl Glycol, frozen peeled then cooked PUD shrimps, Manipulators, Rotators, Hydraulic Fit up station and Welding rotators and coffee packed in glass bottles) which were not covered under DEPB schedule and thus not eligible for grant of DEPB duty credit.

- As per DEPB schedule, product sl. No. 519 of product group 62 covers 'Beauty Cream'. RA, New Delhi while issuing seven DEPB licences valuing ₹ 6.58 lakh, non-DEPB items viz. Toner, cleanser, eye liner, conditioner, shampoo, nail enamel, soap and kajal were also taken into consideration along with beauty cream for calculating benefit under DEPB scheme. Omission to eliminate these items from the exported goods by RA, New Delhi, while calculating DEPB credit resulted in excess grant of DEPB credit. Customs authority also failed to disallow such products for claiming benefit under DEPB.

DGFT in its reply stated (February 2014) stated that recovery memo has been issued in Delhi. In Pune, the firm has been placed under DEL and further necessary action has been initiated as per FT (D&R) Act, while in Kolkata the case is under process for finalisation.

4.13 Grant of duty credit on time barred claim

As per paragraph 4.46 of HBP, vol 1, application for obtaining credit shall be filed within a period of twelve months from the date of exports or the date of up-linking of EDI SB details in DGFT website, or within three months from the date of printing/release of shipping bill, whichever is later, in respect of shipments for which claim has been filed.

DC, Falta SEZ granted five DEPB licences with duty credit of ₹ 50.51 lakh for claims submitted between July 2005 and June 2008 for SBs with LEO date between November 2003 and May 2005. Since the applications had been filed after expiry of the maximum prescribed time limit for submitting claim with late cut, the same had become time-barred and thus ineligible for grant of DEPB duty credit.

The reply of the Department is awaited (March 2014).

Similarly, audit noticed that in 70 cases at 7 RAs (Ahmedabad, Jaipur, New Delhi, Hyderabad, Bengaluru, Kanpur and Dehradun) and 2 SEZs (Falta and Kandla) excess DEPB credit amounting to ₹ 25.93 lakh had been granted due to non/incorrect imposition of late cuts.

On being pointed out (May/June 2013) RA, Ahmedabad stated (July 2013) that reply would be sent in due course after examination. DC, Kandla Special

Economic Zone (KASEZ), Gandhidham replied (June 2013) that recovery, if any, would be made after proper scrutiny of documents.

Further, audit noticed that RA, New Delhi levied excess late cut amounting to ₹ 0.98 lakh in two cases comprising five shipping bills even though the applications were filed within time frame as per the provision *ibid*.

DGFT in its reply (February 2014) stated that the cases at RAs, New Delhi and Hyderabad, the scrips were issued correctly as the applications were filed within six months from the date of realisation of as per BRC and in one case at Delhi, recovery action has been initiated. Similar recovery action has also been initiated at RA, Bengaluru and Kanpur have also initiated recovery proceedings and recovery has been made at RA, Jaipur.

4.14 Incorrect grant of duty credit on third party exports

As per paragraph 2.34 of FTP, third party exports, as defined in chapter 9, shall be allowed under FTP. Further, as per paragraph 9.62 of the FTP, 'third-party exports' means exports made by an exporter or manufacturer on behalf of another exporter(s). In such cases, export documents such as SBs shall indicate name of both manufacturing exporter/manufacturer and third party exporter(s). BRC, GR declaration, export order and invoice should be in the name of third party exporter.

RA, Kolkata issued a transferable duty credit scrip valuing ₹ 75.49 lakh to M/s Asbesco (India) Pvt Ltd in November 2010 for export of 'pole line hardware fittings and accessories'. The DEPB credit was claimed for exports made vide 20 SBs filed between January and March 2009.

Audit scrutiny revealed that M/s Fedders Lloyd Corporation Ltd was the exporter while M/s Asbesco (India) Ltd was the 'third party exporter'. However, neither were the BRCs in the name of M/s Asbesco (India) Ltd nor was there any endorsement of the firm's name. Yet, the RA, Kolkata granted DEPB scrip for ₹ 75.49 lakh in contravention of rules.

DGFT in its reply (February 2014) stated that endorsement of the third party has been endorsed in BRCs. The reply of DGFT is not correct as perusal of BRCs issued by State Bank of India in favour of M/s Fedders Llyod Corporation Ltd does not bear the endorsement of the third party exporter.

DGFT did not frame the terms of scheme clearly to ensure proper interpretation and correct grant of benefit under the scheme.

4.15 Undue benefit to the exporters under DEPB Scheme

As per paragraph 2.4 of FTP, DGFT may specify procedure to be followed for an exporter or importer or by any licensing or any other competent authority for purpose of implementing provisions of FT (D&R) Act, the Rules and the

Orders made thereunder and FTP. Such procedures shall be published by means of a PN, and may, in like manner, be amended from time to time.

Audit scrutinised the PNs issued by DGFT for withdrawal and restoration of DEPB benefit on various items to ensure that no undue benefit had been extended to the exporters. The following instances of undue benefit due to discrepancies in PNs issued were noticed.

(a) Undue benefit to the exporters of cotton due to contradictory notifications

While issuing PN dated 31 March 2011, for withdrawing benefit on exports of Cotton retrospectively, DGFT clarified that *'when the intention of the Government is not to encourage exports of specific commodity, DEPB benefit on such a commodity would be contradictory to its intention.'*

The DEPB benefit on export of 'Cotton yarn including Melange yarn' was withdrawn vide PN dated 21 April 2010 with effect from 1 April 2010. The export benefit on 'Cotton yarn including Melange yarn' was restored w.e.f. 1 April 2010 vide PN dated 4 August 2011. Similarly, the export benefit on Cotton was restored w.e.f. 1 October 2010 vide PN dated 4 August 2011. Thus, by withdrawing the benefit simultaneously but restoring retrospective DEPB benefit on both the items from different dates not only defeated the intention of the Government to discourage export of both these items but also extended undue benefit by six months to the exporters of cotton.

RA, Mumbai issued 47 licences valuing ₹ 17.03 crore to seven exporters for export of raw cotton from November 2010 to February 2011.

Hence, the issue of PN 68 dated 4 August 2011 was contradictory to the intention of the Government expressed in PN dated 31 March, 2011 and gave undue benefit to the exporters of cotton.

DGFT in its reply (February 2014) stated that the restoration of DEPB benefit on export of raw cotton and cotton yarn on two different dates is a matter of policy.

The reply is not acceptable as restoration of DEPB on raw cotton (October 2010) prior to restoration of incentive on cotton yarn (April 2011) was against the intention of withdrawal of incentive on cotton along with cotton yarn by PN dated March 2011. This also indicates that there is inconsistency in policy implementation.

(b) Undue benefit to the exporters of Basmati Rice

The Cabinet Secretariat put restriction on export of rice on 27 March 2008 and ordered withdrawal of export incentives on all types of rice with immediate effect. PN dated 27 March 2008 was issued by DGFT, New Delhi

for suspension of DEPB benefit under sl. Nos. 22C and 22D of the Miscellaneous Product on Non-basmati rice with immediate effect (27 March 2008). However, notice for withdrawal of benefit on Basmati rice was issued only on 3 April 2008, leading to a gap period of seven days and thereby extending undue benefit to exporters of basmati rice for the period from 27 March 2008 to 2 April 2008.

Audit noticed two RAs (New Delhi and Mumbai) had issued 25 licences valuing ₹ 3.92 crore on export of Basmati rice during 27 March 2008 to 2 April 2008.

Thus, delay in issue of withdrawal of export incentive on Basmati rice resulted in undue benefit to the tune of ₹ 3.92 crore to the exporters of Basmati rice.

DGFT in its reply (February 2014) stated that DEPB benefit for non-Basmati Rice was withdrawn vide Public Notice No. 130 dated 27.03.2008 *as per verbal directions of Commerce Secretary*. The written communication from Cabinet Secretariat for withdrawal of DEPB benefits on all types of Rice was received in DGFT only on 31.03.2008. Hence, the Public Notice No. 137 for withdrawing DEPB benefits on Basmati Rice was issued on 03.04.2008 after completing necessary formalities, with approval of the then Commerce and Industry Minister. Thus there does not seem to be any undue delay.

Fact remains that the delay in issue of PN withdrawing the incentive on Basmati Rice resulted in undue benefit to the exporters.

4.16 Benefit to ineligible exporters

Rule 7 of the FT (D&R) Act, 1992 empowers RA to refuse grant of fresh licences if applicant has contravened any law/regulations of Customs/FTP. Once Refusal Order (RO) is issued, the entity's name will be placed in the DEL which debars the licensee from getting any fresh licence.

Audit scrutinised whether the RAs were exercising checks to ensure that licences were not issued to defaulters or to applicants not eligible for the benefit of the scheme. In the following instances, audit noted that licences were issued to ineligible exporters.

(a) Licences issued despite Refusal Order

RAs, Ahmedabad, Jaipur and Bengaluru issued DEPB scrips amounting to ₹ 127.51 crore despite ROs issued to the exporters and the exporters' being placed in DEL maintained at the RAs after issuing abeyance order (AO) against these ROs to temporarily lift the defaulter's name from DEL for a short period.

Audit noticed that there was no provision in FTP for issuing AO against a licensee whose name had been placed on DEL. However, AOs were being issued repeatedly in favour of exporters to facilitate issuance of licences. AOs issued without complying with the conditions of ROs defeated the very purpose of putting the licensee under DEL and the provision of FT (D&R) Act.

DGFT in its reply (February 2014) stated that Guidelines for DEL dated 31 December 2003 is given under rule 7 of Foreign Trade (Regulation) Rules 1993 which state that the authority placing the firm on DEL can also remove the firm from DEL by a speaking order.

The reply is not acceptable as there was no provision in statute to legalise AOs.

(b) Licence issued to ineligible exporter

Audit noticed that RA, Ahmedabad placed M/s Meghmani Organics Ltd under DEL vide its order dated 5 January 2012. When the exporter applied for duty scrip, RA, Ahmedabad issued DEPB Licence amounting to ₹ 64.97 lakh stating that "Firm was in DEL but through oversight DEPB licence already typed". This resulted in irregular grant of DEPB licence for ₹ 64.97 lakh.

Analysis of the cases revealed that more than 10 abeyance circulars were issued against a single Refusal Order, thereby facilitating issuance of fresh licences.

DGFT in its reply (February 2014) stated that Guidelines for DEL dated 31 December 2003 is given under Rule 7 of Foreign Trade (Regulation) Rules 1993 which state that the authority placing the firm on DEL can also remove the firm from DEL by a speaking order.

Reply is not acceptable as issuance of AOs without the fulfilment of conditions for which refusal order was issued defeated the very purpose of putting a licensee under DEL.

4.17 Excess grant of DEPB benefit

Paragraph 4.38 of HBP, vol 1 stipulates that DEPB rates as may be specified by DGFT by way of PN shall be applied on the FOB value or value cap wherever exists, whichever is lower.

Audit examined whether the RAs were exercising checks to ensure that DEPB duty credit was being calculated correctly. In the following instances, audit noted that excess benefit had been granted.

Audit noticed that in eight RAs (Jaipur, Hyderabad, Cuttack, Bengaluru, New Delhi, Vishakhapatnam, Kochi and Thiruvananthapuram), DEPB duty credit amounting to ₹ 1.54 crore, involving 44 cases, had been granted in excess of

entitlement due to application of DEPB rate on higher than the eligible FOB value.

In one instance it was seen that RA, Bengaluru had issued DEPB licence in excess of ₹ 56.96 lakh by wrongly calculating duty entitlement as ₹ 57.53 lakh instead of ₹ 0.57 lakh.

DGFT in its reply (February 2014) reported that its field formation has initiated action in the cases reported by Audit. Action initiated may be intimated to audit.

4.18 System of issue of DEPB scrips in case of supply by a DTA unit to a SEZ unit/SEZ Developer/Co-Developer

In terms of paragraph 4.43B of the HBP vol 1, an application for grant of credit for supplies from DTA to SEZ can be made by DTA unit or SEZ unit. DTA unit may claim benefits either from RA or DC concerned. In case claims have been filed with RA, while allowing benefits to DTA unit, the RA would simultaneously endorse a copy of communication to the concerned DC along with details of export documents.

However, it was observed that the RA, Chennai had granted thirteen DEPB scrips valued at ₹ 1.18 crore to a DTA unit for supplies made to a SEZ Developer without following the prescribed procedure cited above. Similar observation was also noticed at RA, Kolkata.

On this being pointed out, the RA, Chennai stated that in most of the files, their office endorsed a copy of the communication to the concerned DC, SEZ and in few cases it was not done by oversight. Reply from RA, Kolkata is awaited (March 2014).

4.19 Issue of duty credit scrips without production of prescribed documents

As per guidelines of ANF4G (HBP 2009-14), DEPB application must be accompanied by application fee, EP copy of Bill of Export and BRC evidencing payment made to the supplier.

DC, KASEZ, Gandhidham issued a DEPB licence to M/s Pipavav Shipyard Ltd., (Amreli) on submission of 'Exchange Control Copy' of Bill of Export instead of 'EP copy of Bill of Export'. This resulted in irregular grant of DEPB licence for ₹ 15.96 lakh without valid documents.

RA, Coimbatore issued DEPB duty credit amounting to ₹ 1.13 crore without obtaining the undertaking that "the exporter has not availed any duty exemption/neutralization benefit on the exports made under the Shipping Bill for export made under EPCG" as required under policy circular dated 12.1.2012.

DGFT in its reply (February 2014) stated that in case of DEPB issued by RA, Coimbatore, the firm has submitted the documents and in case of DEPB issued by DC, KASEZ, the firm has been instructed to submit the documents and action will be initiated on receipt of reply from the firm.

4.20 Delay in issue of DEPB licences

As per paragraph 9.11 of HBP, 2009-14, RA shall dispose of DEPB application expeditiously within 3 days provided it is complete in all respect and is accompanied by prescribed documents.

DC, KASEZ, Gandhidham issued 20 DEPB licences late involving a delay ranging between 1 day and 103 days. Further, no reason was mentioned for the delay in issue of licences.

On this being pointed out (June 2013), the DC, KASEZ, Gandhidham replied (June 2013) that delay was due to shortage of ministerial staff and no loss was incurred to the Government exchequer.

Reply of the department regarding shortage of staff is not justifiable since they are having full strength of men in position.

4.21 Delay in recovery of confirmed demands

According to section 142(c)(i) of Customs Act, 1962, where any sum payable by any person under this Act is not paid by initiating action under sub section (a) & (b) of the said section, the Assistant Commissioner of Customs may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector on receipt of such certificate shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue;

- Audit noticed that three confirmed demands cases involving ₹ 22.17 lakh (including penalty of ₹ 3 lakh) were outstanding at Custom House, Kandla in March 2010. Detention Notices were issued under section 142(b) in all the three cases in September 2010 and subsequent reminders were issued in January 2012. However, no further action has been taken to recover the demand under section 142(c) of Customs Act, 1962 so far (July 2013). On this being pointed out, Customs House, Kandla stated (September 2013) that detention notices were issued. Further matter was taken up with the Commissioner of Central Excise concerned and a request made to deploy the recovery team to recover Government dues.
- DRI, Chennai had booked a case against a firm for exporting 'starch powder' by mis-declaring the same as 'Omerprazole' so as to avail the

benefit under DEPB. Accordingly, ICD, Hyderabad imposed a penalty of ₹ 5 lakh under section 114(iii) of Customs Act and ₹ 2.5 lakh under section 112(A) of Customs Act and the same were yet to be recovered. Recovery of arrears amounting to ₹ 1 crore in connection with M/s Help Line and ₹ 1 crore in connection with M/s Mejda International were also awaited.

- RA, New Delhi reported 9 cases of excess duty credit amounting to ₹ 4.07 lakh due to incorrect application of value caps and recovery of the same is awaited as of March 2014.

DoR in their reply stated (January 2014) that Kandla Customs has reported that as a part of step wise procedure of recovering sums due to the government, detention were issued in the three cases and matter also taken up with Central Excise in Ludhiana (one case) and Rajkot (two cases) where the addresses were located. Certificate action was also initiated which could not be enforced as no property was identified so far. ICD, Hyderabad has reported that in the case of M/s Pearl Pharma where penalty of ₹ 5 lakh and fine ₹ 2.5 lakh was imposed, the action for recovery was initiated but defaulters are not traceable. In the case of M/s. Help Line, on deposit made of ₹ 20.50 lakh, stay has been granted by CESTAT, Bengaluru. In the case of M/s. Mejda International, on deposit made of ₹ 20.50 lakh, stay has been granted by CESTAT, Bengaluru.

DGFT in its reply (February 2014) stated that only three cases are pending in Delhi. Action initiated may be intimated to audit.

Recommendation: *In case of policy implementation issues and cases of operational malfunction, audit recommends that appropriate action be taken under the FT (D&R), Act.*

5 Conclusion

Audit came across policy implementation issues and cases of operational malfunction, both in the manual as well as EDI environment, in the 28 RAs, seven SEZs and 31 Customs Ports. This was aggravated by a weak Internal control and audit system of RAs/Customs /ports for implementation of reward and incentive scheme of DGFT. There were lacunae in implementation, monitoring and compliance of the scheme as observed during the audit. The coordination between DGFT, Customs and RBI required more attention, in respect of coming up with solutions and taking prompt actions on alerts issued by the Department for all rewards and incentive schemes. DGFT needs to review the online data received from Customs Department and modify data requirement on EDI module to ensure compliance to policy provisions. DEPB credits were not related to the actual

incidence of duty and despite earlier C&AG reports the scheme implementation remained mired in similar policy misinterpretations and malfunctions. DGFT has not carried out any outcome assessment of the efficacy of the scheme with regard to its performance strategy nor had a revenue impact assessment done before implementing the scheme on import duty neutralisation and financial benefits accrued to the beneficiaries.

DGFT in its reply (February 2014), apart from other explanations stated that, the observation of the audit that no outcome assessment of the efficacy of the scheme was done while launching the scheme nor a revenue impact assessment was carried out midway to analyse the outcome envisaged vis-a-vis obtained, the same has been noted and will be complied with for all schemes in future.

Audit recommends that while impact or outcome studies of schemes are done, DoC/DoR must take into account the intertwined components of scheme based rewards and incentives and PTA based incentives to the exporters/importers and manufacturers, to draw the complete picture. Such statements may serve the purpose better as a part of the Fiscal Responsibility and Budget Management (FRBM) disclosure in the Receipt budget of the Union Government.

New Delhi
Dated : 28 May 2014

(Nilotpal Goswami)
Principal Director (Customs)

Countersigned



New Delhi
Dated : 30 May 2014

(Shashi Kant Sharma)
Comptroller and Auditor General of India

Glossary

Glossary

ACC	Air Cargo Complex
ADD	Anti Dumping Duty
AIR	All Industry Rate
ANF	Aayaat Niryaat Form
AO	Abeyance Order
ASEAN	Association of Southeast Asian Nations
BCD	Basic Customs Duty
BRC	Bank Realisation Certificate
CBEC	Central Board of Excise and Customs
CBI	Central Bureau of Investigation
CTH	Customs Tariff Heading
CECA	Comprehensive Economic Co-operation Agreement
CESTAT	Central Excise Service Tax Administrative Tribunal
CIF	Cost, Insurance and Freight
CVD	Countervailing Duty
DBK	Duty Drawback
DC	Development Commissioner
DEL	Denied Entity List
DEPB	Duty Entitlement Pass Book Scheme
DGEP	Directorate General of Export Promotion
DGFT	Directorate General of Foreign Trade
DoC	Department of Commerce
DoR	Department of Revenue
DRI	Directorate of Revenue Intelligence
DTA	Domestic Tariff Area
ECA	Enforcement - cum- Adjudication
ECOM	Electronic Commerce
EDI	Electronic Data interchange
EGM	Export General Manifest
EOU	Export Oriented Units
EP	Export Promotion
EPC	Export Promotion Council
EPCG	Export Promotion Capital Goods
EO	Export Obligation
EU	European – Union
Exim	Export Import
FEMA	Foreign Exchange Management (Export of Goods & Services) Act, 2000
FIRC	Foreign Inward Remittance Certificate
FMS	Focus Marketing Scheme
FOB/fob	Free on Board
FPS	Focus Productivity Scheme
FRBM	Fiscal Responsibility and Budget Management
FSEZ	Falta Special Economic Zone
FT (D&R) Act	Foreign Trade (Development & Regulation) Act, 1992
FTA	Foreign Trade Agreement
FTP	Foreign Trade Policy
GST	Goods and Services Tax
HBP	Hand Book of Procedures
ICD	Inland Container Depot
ICEGATE	Indian Customs EDI Gateway
ICES	Indian Customs Electronic Data Interchange System
ICRIER	Indian Council for Research and International Economic Relations
ICT	Information and Communication Technology
ITC	International Trade Classification
ITC (HS)	International Trade Classification (Harmonised System)
JNCH	Jawaharlal Nehru Custom House, Nhava Sheva
KASEZ	Kandla Special Economic Zone
LEO	Let Export Order
LUT	Legal Undertaking
MEPZ	Madras Export Processing Zone

MIS	Management Information System
NCAER	National Council of Applied Economic Research
NCH	New Customs House
NIC	National Informatics Centre
NSEZ	Noida Special Economic Zone
OSPCA	On-site Post Clearance Audit
PA	Performance Audit
PCA	Post Clearance Audit
PIAW	Post Issue Audit Wing
PIC	Policy Interpretation Committee
PMV	Present Market Value
PN	Public Notice
PTA	Preferential Trade Agreement
RA	Regional Authorities
RBI	Reserve Bank of India
RCMC	Registration – cum – Membership Certificate
RFD	Result Framework Document
RLA	Regional Licencing Authority
RMS	Risk Management System
RO	Refusal Order
RSP	Retail Sale Price
SAARC	South Asian Association for Regional Cooperation
SAD	Special Additional Duty
SB	Shipping Bill
SCN	Show Cause Notice
SEZ	Special Economic Zone
SION	Standard Input-Output Norms
STPI	Software Technology Park of India
SVB	Special Valuation Branch
TRA	Telegraphic Release Advice
US	United States
VABAL	Value Based Advance Licence
VAT	Value Added Tax
VKGUY	Vishesh Krishi and Gram Udyog Yojana
WTO	World Trade Organisation
XOS	Export Outstanding Statement

Appendices

APPENDIX I

RA, SEZ and Customs Ports audited

Sl. No.	RA	SEZ	Customs Port
1	Delhi	Indore	NCH, Delhi
2.	Bhopal	Mumbai	ICD, Patparganj
3.	Raipur	MEPZ, Chennai	ICD, Tughlakabad
4	Mumbai	CSEZ, Kochi	ICD, Mandideep
5.	Pune	Falta	ICD, Pithampur
6.	Goa	KSEZ	NCH, Mumbai
7	Chennai	SEZ-NOIDA	JNCH &ACC, Mumbai
8	Coimbatore		Chennai
9	Madurai		Tuticorin
10	Puducherry		Kochi
11	Kochi		Thiruvanthapuram
12	Thiruvananthapuram		Kolkata Port
13	Kolkata		Kolkata Airport
14	Panipat		ICD Dugrapore
15	Jammu		ICD, Petrapole
16	Ludhiana		ICD, Garhi
17	Amritsar		ICD, Sanathnagar
18	Chandigarh		Aircargo, Hyderabad
19	Hyderabad		Customs Port (Visakhapatnam)
20	Visakhapatnam		ICD, Khodiyar
21	Cuttack		Air Cargo Complex
22	Ahmedabad		Customs House (Kandla)
23	Jaipur		Customs House (Pipavav)
24	Bengaluru		KASEZ (Gandhidham)
25	Kanpur		ICD, Concor, Jodhpur
26	Moradabad		ICD, Thar Dryport, Jodhpur
27	Varanasi		ACC, Bengaluru
28	Dehradun		ICD, Bengaluru
29			NCH, Mangalore
30			ICD, JRY, Kanpur
31			ICD, Dadri

Appendix II

MATRIX OF DEPB AUTHORISATION OF TOP FOUR PRODUCT GROUPS															
Product Group	2005-06			2006-07			2007-08			2008-09			2009-10 (Apr'09 to Dec'09)		
	DEPB issued	DEPB Value	FOB value	DEPB issued	DEPB Value	FOB value	DEPB issued	DEPB Value	FOB value	DEPB issued	DEPB Value	FOB value	DEPB issued	DEPB Value	FOB value
	No.	₹ In crore	₹ In crore	NO.	₹ In crore	₹ In crore	NO.	₹ In crore	₹ In crore	NO.	₹ In crore	₹ In crore	NO.	₹ In crore	₹ In crore
Chemical & Allied Products	24715 (20%)	1117 (22%)	17016 (15%)	24327 (23%)	1033 (22%)	20294 (17%)	22628 (24%)	1078 (20%)	21191 (16%)	27699 (25%)	1772 (23%)	31432 (19%)	20740 (25%)	1384 (23%)	24626 (21%)
Engineering	31529 (26%)	1691 (39%)	37800 (34%)	28586 (27%)	1720 (37%)	48747 (41%)	27202 (29%)	2268 (41%)	53730 (41%)	32696 (29%)	2746 (36%)	57715 (34%)	21452 (26%)	1787 (30%)	37377 (31%)
Textile Products	34524 (28%)	1168 (23%)	20301 (18%)	25660 (24%)	893 (19%)	16509 (14%)	16096 (17%)	762 (14%)	13192 (10%)	15954 (14%)	906 (12%)	12858 (8%)	15472 (18%)	1168 (20%)	15402 (13%)
Miscellaneous (Packing Material)	13102 (11%)	231 (5%)	18184 (17%)	10976 (10%)	192 (4%)	16362 (13%)	12319 (13%)	434 (7%)	22813 (18%)	16290 (15%)	604 (8%)	34986 (21%)	11537 (14%)	365 (6%)	21610 (18%)
Total of 24 product groups	122683	5001	109930	106102	4600	119810	92920	5499	129464	112764	7713	168745	83787	5881	119817

Appendix III																					
Number and value of DEPBs issued by different Regional Authorities during the Years 2005-06 to 2011-12																			(value in crore ₹)		
	2005-06			2006-07			2007-08			2008-09			2009-10			2010-11			2011-12		
	No.	Duty credit	F.O.B.	No.	Duty credit	F.O.B.	No.	Duty credit	F.O.B.	No.	Duty credit	F.O.B.	No.	Duty credit	F.O.B.	No.	Duty credit	F.O.B.	No.	Duty credit	F.O.B.
Kolkata	8,190	390	10,742	7,719	366	11,448	8,348	540	14,318	9,909	691	17,907	10,021	669	16,389	10,048	758	19,901	10,583	855	20,109
Mumbai	37,607	1,740	34,994	35,328	1,640	40,408	30,636	1,866	41,099	37,494	2,434	48,529	40,159	2,704	51,990	40,169	3,211	65,359	41,903	3,497	71,598
Chennai	7,985	277	5,658	5,580	190	5,095	3,942	198	4	5,683	362	7,372	5,694	349	7,357	5,625	387	7,203	5,818	465	9,319
CLA Delhi	23,131	848	17,689	18,503	663	16,442	13,766	707	18,107	15,835	1,036	23,349	14,341	1,053	21,928	14,332	1,088	24,807	15,664	1,368	30,095
Kanpur	1,070	34	562	638	16	311	434	20	381	485	35	628	546	56	912	632	74	1,103	712	81	1,372
Bengaluru	3,690	121	2,812	3,213	93	2,432	2,814	122	2,960	4,294	280	5,988	3,888	220	4,559	3,944	253	5,103	4,695	348	7,308
Ahmedabad	5,256	157	3,610	4,824	141	4,078	4,153	160	4,409	5,407	282	7,299	5,533	332	7,792	6,062	399	9,900	7,366	504	14,194
Hyderabad	1,947	138	2,898	2,193	152	3,814	2,108	154	3,993	2,505	267	6,345	2,567	287	7,661	2,554	348	8,914	3,245	465	15,803
Cochin	2,674	74	2,146	2,108	92	2,307	1,995	117	2,437	2,336	157	3,056	2,443	183	3,325	1,934	129	2,367	2,867	261	4,641
Bhopal	1,683	77	2,288	1,354	68	1,843	1,325	77	1,976	1,584	132	4,053	1,337	131	3,166	1,387	137	3,814	1,324	130	3,590
Amritsar	561	14	594	556	14	641	439	15	702	360	17	746	349	8	292	245	10	256	243	11	286
Jaipur	2,475	53	1,495	2,173	141	4,266	1,453	148	4,098	1,368	104	2,891	1,379	90	2,196	1,333	109	3,062	1,618	215	5,684
Guwahati	16	0	4	28	1	95	45	1	92	46	3	70	31	2	49	14	1	31	18	2	47
Varanasi	382	13	249	376	18	499	246	23	516	237	32	839	203	18	451	170	20	473	195	19	425
Panjim	150	7	184	173	8	177	194	12	256	311	25	403	362	27	362	341	24	331	462	38	615
Jammu	305	8	230	298	5	201	315	12	367	259	15	292	256	16	313	290	18	359	260	15	301
Patna	61	1	11	25	0	9	14	0	11	38	1	20	24	1	12	46	2	28	67	3	59
Chandigarh	714	26	385	662	22	385	683	25	458	809	46	897	716	45	795	870	70	1,259	828	63	1,144
Cuttack	191	126	2,865	171	140	3,855	223	173	3,787	259	148	3,376	251	122	3,018	229	133	3,934	266	172	4,742
Rajkot	1,935	63	1,465	1,938	86	2,225	1,869	113	2,393	2,409	186	3,530	2,392	196	3,685	2,124	178	3,827	2,931	300	6,733
Pondicherry	160	37	880	174	23	856	90	15	475	184	70	1,720	193	82	2,345	142	65	1,881	187	77	2,368
Visakha	641	68	1,766	732	80	2,403	745	127	3,287	643	102	2,348	580	116	2,472	577	148	5,360	675	199	11,821
Moradabad	953	12	378	304	6	271	236	6	302	189	5	228	161	5	225	93	3	129	117	6	280
Ludhiana	5,156	162	3,461	4,379	134	3,474	3,852	143	3,146	4,237	201	3,637	4,017	289	4,371	4,410	313	5,310	4,998	432	6,826
Pune	2,971	156	3,015	3,095	187	4,057	3,308	296	5,335	3,721	477	7,293	3,477	487	7,358	3,421	586	8,368	4,154	649	9,560

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	2005-06			2006-07			2007-08			2008-09			2009-10			2010-11			2011-12		
	No.	Duty credit	F.O.B.	No.	Duty credit	F.O.B.	No.	Duty credit	F.O.B.	No.	Duty credit	F.O.B.	No.	Duty credit	F.O.B.	No.	Duty credit	F.O.B.	No.	Duty credit	F.O.B.
Coimbatore	3,440	92	2,147	2,346	69	1,701	1,918	90	2,078	2,068	110	2,613	1,919	129	2,685	1,765	130	2,726	2,501	211	3,933
Panipat	1,649	108	2,884	1,138	104	3,590	930	118	3,527	1,024	100	3,318	677	90	2,273	666	82	2,178	1,051	143	4,457
Baroda	1,453	44	925	1,320	38	1,069	1,441	33	906	1,607	102	2,396	1,708	121	3,179	1,635	93	2,171	2,116	119	2,741
Madurai	1,831	65	1,551	1,614	51	1,249	1,843	81	1,596	1,844	88	1,567	2,240	123	1,940	2,260	128	2,153	2,994	201	3,318
Nagpur													208	8.07	214.64	240	16.12	315.17	379	39.44	689.02
Surat	1,958	82	1,109	1,564	64	983	1,508	73	1,095	2,622	168	2,125	3,720	256	3,196	3,429	253	3,260	2,637	191	2,559
Trivendrum	667	15	1,269	208	7	279	410	19	693	892	42	2,150	867	43	2,254	620	31	1,587	964	64	3,124
Shillong	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Dehradun	0	0	0	18	1	32	54	3	103	58	3	99	45	3	66	47	2	37	62	4	70
Raipur	0	0	0	0	0	0	171	8	278	139	9	327	109	5	214	96	5	157	109	5	233
Indore																			130	13.03	387.5
Total	120,902	5,010	110,267	104,752	4,618	120,495	91,508	5,496	125,183	110,856	7,729	167,410	112,413	8,267	169,044	111,750	9,204	197,664	124,139	11,165	250,432

Appendix IV

Number and value of DEPB licences issued by various SEZ offices during 2005-06 to 2011-12

SEZ	2005-06		2006-07		2007-08		2008-09		2009-10		2010-11		2011-12	
	Total no. of DEPB Scrips issued	Value of DEPB Scrips issued	Total no. of DEPB Scrips issued	Value of DEPB Scrips issued	Total no. of DEPB Scrips issued	Value of DEPB Scrips issued	Total no. of DEPB Scrips issued	Value of DEPB Scrips issued	Total no. of DEPB Scrips issued	Value of DEPB Scrips issued	Total no. of DEPB Scrips issued	Value of DEPB Scrips issued	Total no. of DEPB Scrips issued	Value of DEPB Scrips issued
MEPZ SEZ	81	12500000	70	5800000	74	11600000	94	15900000	110	21400000	114	10000000	217	37300000
NOIDA SEZ	3	354298	2	153031	7	1402915	1	306716	3	1486129	2	618819	1	299793
COCHIN SEZ	0	0	10	8667000	22	829668	36	1994773	3	307665	0	0	0	0
KA SEZ	225	72300000	60	15500000	179	36700000	117	27400000	190	69600000	111	48800000	232	214400000
SEEPZ SEZ	NIL	NIL	NIL	NIL	NIL	NIL	NIL	NIL	NIL	NIL	15	1598628	20	28440038
FALTA SEZ	81	105532516	51	21829065	56	16709995	63	32772634	117	48686522	129	115245061	94	58988029
Indore SEZ	NIL	NIL	NIL	NIL	NIL	NIL	1	340000	NIL	NIL	NIL	NIL	1	920000
TOTAL	390	190686814	193	51949096	338	67242578	312	78714123	423	141480316	371	176262508	565	340347860

Appendix V

Key statistics on DEPB scheme

The RA-wise and SEZ-wise DEPB scrips issued, duty credit and FOB value of export allowed for the period 2005-06 to 2011-12 audited.

Year	Number of DEPB authorizations issued (Nos.)	Amount of authorizations (₹ In crore)	FOB value of export (₹ In crore)	₹ In crore
				Revenue forgone* (₹ In crore)
2005-06	1,20,902	5,010	1,10,267	5,650.00
2006-07	1,04,752	4,618	1,20,495	4,842.00
2007-08	91,508	5,496	1,25,183	5,311.50
2008-09	1,10,856	7,729	1,67,410	7,087.49
2009-10	1,12,413	8,267	1,68,044	8,008.45
2010-11	11,750	9,204	1,97,664	8,736.40
2011-12	12,139	11,165	2,50,532	10,404.37
Total	5,64,321	51,489	11,40,495	50,040.21

(Source-DGFT)

(*Source-Department of Revenue)

Appendix VI

Extra duty credit due to non roll back of increment during 2009-10 to 2011-12.

Year	Total DEPB credit (A)	₹ In crore
		Incremental component (A*39.85%)
2009-10	8,207	3,270.53
2010-11	9,171	3,654.69
2011-12	11,132	4,436.10
Total	28,510	11,361.32

Appendix VII

Misuse of DEPB scrips

₹ In crore

Year	No. of Cases	Amount
2004-05	47	39.78
2005-06	24	70.59
2006-07	7	49.62
2007-08	9	16.20
2008-09	12	7.60
2009-10	21	7.4
2010-11	34	3.8
2011-12	26	23.93

Appendix VIII
Top 50 items imported under FTA CECA Singapore during 2008-13.

Sl. No.	HS	Description	Imports under CECA (Avg 2008-13)	Global Imports (Avg 2008-13)	CECA Imports as % of Global Imports
₹ In crore					
1	29161400	Esters of methacrylic acid	190.70	309.37	61.64
2	90183220	Hollow needles, for injection, aspiration, biopsy and transfusion	21.71	38.16	56.88
3	84149040	Of Industrial fans, blowers	48.15	95.32	50.51
4	48204000	Manifold business forms and interleaved carbon sets	0.43	0.93	45.96
5	29156010	Butanoic acids, their salts and esters	35.70	79.92	44.67
6	37079010	Chemical products mixed or compounded for photographic uses (for example developers & fixers) whether or not in bulk	12.20	31.33	38.94
7	29071950	Alkyl phenols	12.20	31.33	38.94
8	39023000	Propylene copolymers	181.00	485.38	37.29
9	29053200	Propylene glycol (propane-1,2-diol)	85.72	248.50	34.50
10	38112900	Other additives for lubricating oils	47.82	158.32	30.20
11	39061090	Other Poly (methyl methacrylate)	29.28	115.13	25.43
12	39053000	Poly (Vinyl alcohol), whether or not containing unhydrolysed acetate groups	63.53	255.88	24.83
13	29173960	Isophthalic Acid	30.75	125.31	24.54
14	29023000	Toluene	256.80	1135.95	22.61
15	90183100	Syringes, with or without needles	24.27	113.27	21.42
16	29024100	o-Xylene	57.05	291.79	19.55
17	38111900	Other anti-knock preparations	9.98	66.39	15.04
18	29173990	Other Aromatic polycarboxylic acids, their anhydrides, halides, peroxides, peroxyacids and their derivatives	21.18	144.12	14.70
19	68071090	Other Articles of asphalt or similar materials	2.91	21.59	13.47
20	39019090	Other Polymers of ethylene, in primary forms	93.86	731.48	12.83
21	90183930	Cannulae	11.45	89.88	12.74
22	38119000	Other anti-knock preparations	35.43	300.71	11.78
23	39029000	Other Polymers of propylene or of other olefins, in primary forms	25.65	242.61	10.57
24	39074000	Polycarbonates	123.52	1189.63	10.38
25	39021000	Polypropylene	220.10	2172.38	10.13
26	90328990	Other automatic regulating or controlling instruments and apparatus	105.13	1151.64	9.13
27	90283090	Other Electricity meters	1.17	20.73	5.64
28	84145930	Industrial fans blowers and similar blowers	10.40	191.32	5.43
29	39069090	Other Acrylic polymers in primary forms	32.64	631.27	5.17

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30	38123090	Other anti-oxidising preparations and other compound stabilisers for rubber or plastics	18.71	407.63	4.59
Sl. No.	HS	Description	Imports under CECA (Avg 2008-13)	Global Imports (Avg 2008-13)	CECA Imports as % of Global Imports
31	84145990	Other industrial fans	15.62	347.73	4.49
32	38109090	Other Pickling preparations for metal surfaces	3.41	78.34	4.35
33	84193200	For wood, paper pulp, paper or paperboard	0.50	11.63	4.26
34	73182300	Rivets	1.86	57.09	3.25
35	73181900	Other Threaded articles	9.76	304.42	3.21
36	38220090	Other diagnostic or laboratory reagents	22.14	767.80	2.88
37	32061110	Pearl pigment (Titanium dioxide, coated micaceous and lustre pearl pigment)	19.73	686.06	2.88
38	28111940	Sulphonic acid	0.24	8.66	2.75
39	84483990	Other textile machinery	9.64	366.63	2.63
40	85371000	For a voltage not exceeding 1,000 V	27.04	1104.12	2.45
41	84798999	Other (other than Apparatus for growing or pulling microcrystal semi-conductor boules, Epitaxial deposition machines for semi-conductor wafers, Apparatus for physical deposition by sputtering on semi-conductor wafers, Apparatus for wet etching, developing,	66.17	3413.69	1.94
42	68071010	Tarfelt roofing in rolls	0.19	13.65	1.38
43	90132000	Lasers, other than laser diodes	1.10	80.55	1.37
44	84483310	For cotton spinning machines	0.28	22.24	1.25
45	73181600	Nuts	3.93	349.19	1.13
46	44189000	Other Assembled flooring panels	0.47	44.52	1.06
47	07139010	Other dried and shelled leguminous vegetables, split	0.69	1473.71	0.05
48	44181000	Windows, French-Windows and their frames	0.01	2.98	0.42
49	44182090	Other Doors and their frames and thresholds	0.13	35.40	0.28
50	28129000	Other Halides and halide oxides of non- metals	0.01	23.84	0.04