

Seize CAG reports as Golden Opportunity to plug Tax Revenue Leakages

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and Auditor General (CAG) has, for once, done a commendable job in turning focus on tax revenue leakages. Its three latest reports on Customs, Goods and Services tax (GST) and Income tax deserve attention of Prime Minister Narendra Modi. This is especially required as his repeated exhortation against silo system of administration have not yet been embraced by the taxation system.

In its report on Customs (Compliance Audit) Numbered 17 of 2020, CAG notes:

"in spite of standing orders on monitoring EO (export obligation) and sharing of information between the Customs and RAs (regional authorities) through institutional mechanism, there is no established mechanism in place and the Departments continue to function as independent silos".

The report contains 114 paragraphs with revenue implication of Rs.10,909 crore for 2018-19. There are out of 353 inspection reports for the same year. Says CAG, ***"The remaining cases are being pursued by respective field formations"***.

Discretion Raj runs large in enforcement or laxity in enforcement of export obligations. When and whether to issue a show-cause notices (SCNs) to non-compliant exporter is grey area that leads to customs revenue loss.

As put by the Report,

"Absence of provisions for prescribed timelines for issue of SCNs and their adjudication in the Foreign Trade (Development and Regulation) (FTDR) Act, 1992 to act swiftly against the defaulters left discretion in the hands of administrative authorities of RAs and DCs and avoidable delays in recovery of Government revenue. Considerable delays were noticed in issue of SCNs by RAs, even though the EO period had already expired, including cases where the EO period expired 2 to 11 years ago".

It is baffling to learn that CAG has to tell the Government to specify timelines in FTDR rules for issuance and adjudication of SCNs. Good Governance requires that there should be timelines for each and every Government procedure.

More than that, non-compliance of timelines should be monitored to seek accountability for delays. Discretion should have no place in procedures that impact tax or non-tax receipts.

Arbitrariness in SCNs systems has also found ample space and concern in another CAG report on GST, Excise and pre-GST Service tax. **SCNs** figures 340 times in the Report!

CAG observes:

"We noticed significant deviations from law/rules such as incorrect computation of demand in SCNs, late issuance of SCNs, delay in adjudications etc. during audit of SCNs that were pending for adjudication as on 31 March 2019".

This is not for the first time that CAG flagged SCNs anarchy. It had examined SCNs and adjudication process of the department in 2014-15, covering 3 preceding years. It included its findings in Report No. 1 of 2016 (Service Tax) and Report No. 2 of 2016 (Central Excise). CAG followed up on the Finance Ministry's Action Taken Notes on the aforesaid report, and during the course of current audit, noticed persistent compliance deviations with respect to issue of SCNs and Adjudication process despite Ministry's assurance in the action taken notes.

CAG has now recommended computerization of the process of issuance of SCNs with inbuilt controls to ensure correct computation of demand, timely issuance of SCN, valid invocation of extended period of time and correctness of the SCN issued. This is one of the many recommendations. The ones that would attract maximum eyeballs pertain to GST.

The report numbered 1 of 2021 recommends:

"a definite time frame for roll out of simplified return forms may be fixed and implemented as frequent deferments are resulting in delay in stabilisation of return filing system and continued uncertainty in the GST eco-system".

Referring to its recommendation on this matter in a 2019 report, CAG says:

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

The Report has followed up CAG's recommendation on removing deficiencies in GST network (GSTN). It has so far taken corrective action in 25 out of 42 observations. CAG says:

"Audit reviewed the corrective action and noticed that GSTN had fixed the deficiency successfully in 19 cases".

It has made 26 recommendations to stabilize, strengthen and expand GSTN. A key recommendation reads as:

"GSTN may implement validations to restrict the refund claimed under LUT (letter of undertaking) in proportion to turnover of goods exported".

CAG has also advised GSTN to finalise the business flow and forms required to implement the ***"With-hold"*** functionality at the earliest. This, of course, has to be done in consultation with Revenue Department.

Finance Ministry informed CAG that it would standardize a mechanism for scrutiny of GST returns on basis of recommendations made by a committee of officers. CAG's recommendations, coupled with the ones made by 15th Finance Commission, should serve as a package to remove persisting stigma of work in progress from GST.

The Finance Ministry's cup of deficiencies in direct taxation is also brimming if CAG Report Numbered 16 of 2020 on income tax receipts from cooperative societies and cooperative banks is taken as a major indication.

The report has cited instances of non-compliance to provisions laid down in the Income Tax Act with respect to allowances of deductions/ expenses/ set-off and

carry forward of losses, mistakes in computation of tax and interest, non-deduction of TDS, non-levy of penalty etc. involving tax effect of Rs 12,328.40 crore, in 858 cases.

CAG has found that many cooperatives are not in the tax net. This is partly due to fact that Income Tax Department (ITD) does not have mechanism to collect and monitor information of cooperatives registered with central and state registration authorities. As put by the Report, ***"There is no mechanism to seed the PAN in the databases of the Registrar of Co-operative Societies, and to check any change of declared registration status by the assessee, which is a major impediment in institutional and structured sharing of information with ITD".***

It adds:

"There was no evidence of action initiated against the non-filers/ stop-filers of Income Tax returns. ITD did not utilize the tools available with it through conduct of survey and search & seizure operations to identify and bring into tax net the non-filers and stop filers of income tax returns".

CAG also noticed that audit noticed that entities other than cooperatives, such as Firms, Body of Individuals (BOIs), Companies, etc., were irregularly availing deductions meant for co-operative Societies/ Co-operative Banks. The Report says:

"This also has potential of providing inaccurate information pertaining to the assesseees involved in Co-operative Sector activities".

The report contains a slew of recommendations, whose implementation can go a long way in plugging income tax revenue leakage. Suffice it to say that taxation reforms should be more audit-driven and less corporate lobb-driven. The Government has to show the political will to act on CAG reports promptly.