

Circular No. 985/09/2014-CX

F. No. 206/03/2014-CX.6

Government of India

Ministry of Finance

Department of Revenue

Central Board of Excise & Customs

New Delhi, dated the 22<sup>nd</sup> Sept. 2014

To

The Chief Commissioners of Central Excise and Service Tax (ALL),

The Director General of Service Tax,

The Director General of Audit,

The Director General of Central Excise Intelligence,

The Commissioners of Service Tax (ALL).

Madam/Sir,

**Subject – Guidelines regarding Structure, Administrative set up and Functions of Audit Commissionerates - reg**

On implementation of cadre review there would be 23 Central Excise Zones and 4 Service Tax Zones with each zone having one or more Audit Commissionerates. Each Audit Commissionerate would cover assesseees registered under the jurisdiction of 3 to 5 Executive Commissionerates. Principal Chief Commissioner and Chief Commissioner shall assign the jurisdiction of Audit Commissioner in the zone, decide the location of Audit Commissionerates and its subordinate offices. Following guidelines may be followed while finalizing

the location and organizational structure of Audit Commissionerate and its subordinate offices, subject to deviations needed to cater to the local requirements.

**Location of Audit Commissionerate:**

2.1 The headquarters and the subordinate offices of the Audit Commissionerates could be co-located in metropolitan city based zones.

2.2 In non-metropolitan city based zones, Executive Commissionerates are spread over different cities therefore the headquarters of the Audit Commissionerates may be located in the city where zonal office is located, and at least one of the Circles (subordinate office explained later) may be located in the city where Executive Commissionerates are located.

2.3 In cases where there is more than one Audit Commissionerate in the Zone, the location of the second or third Audit Commissionerate and its subordinate offices may be decided based on the geographical concentration of the taxpayers. However, the Headquarters of the Audit Commissionerate may be in the city where the Executive Commissionerate is located. This is to ensure that audit officers work in close coordination with the Executive Commissionerates and are accessible to the assesseees.

2.4 LTU Audit - Two LTU Audit Commissionerates have been created. LTU Audit Commissionerate at Delhi shall have jurisdiction over assesseees registered with LTU Delhi, Kolkata or Bangalore whereas LTU Audit Commissionerate at Mumbai shall have jurisdiction over the assesseees registered with LTU Mumbai or Chennai. The assigning of audit to the subordinate offices of these Commissionerates may be carried out taking into account the location of cluster of assesseees. While assigning assesseees to the subordinate office, assesseees with same PAN number should be assigned to one subordinate officer.

**Configuration of Audit Commissionerate:**

3.1 Audit Commissionerate would comprise of a Headquarters similar to an Executive Commissionerate and subordinate offices proposed to be called Circles similar to a Divisions. The Circles would be headed by a Deputy or Assistant Commissioner. The Circles would comprise of Audit Groups equivalent to the Range offices which would have Superintendents and Inspectors.

3.2 Audit Commissioner would be Head of the Department and the headquarters would have two Additional or Joint Commissioners, who in turn would be supported by two Deputy or Assistant Commissioners each.

3.3 The proposed sections in the Headquarters are:

- i. Planning and coordination section to look after scheduling and support in conduct of MCM meeting, maintenance and updation of Assessee Master File, maintenance of Records/Registers and submission of reports to look after formation / constitution of audit groups and deployment of officers matching skills with audit requirement, maintenance of database of officer's profile, training needs of officers.
- ii. Administration, Personnel & Vigilance section to look after administrative matters, transfer, leave, allowances, budgetary grants, vigilance matters etc.
- iii. Technical section to look after draft Show Cause Notices, audit follow up, court cases, Board's circulars, instructions etc.
- iv. Risk Management and Quality Assurance section to look after risk based selection of units, use of Third Party Source of Information, maintenance of Audit database of units to be audited, selecting themes/issues for audit, performance appraisal and Quality Assurance

3.4 The aforementioned four sections of an Audit Commissionerate can be manned by either 3 or 4 Deputy / Assistant Commissioners in the Headquarters. In case of three Sections in Headquarters, the Technical and Planning function can merge into one. The other Deputy / Assistant Commissioners would be in charge of Circles. Each Audit Commissionerate may have 6 to 7 Circles under its jurisdiction.

3.5 The Circles would be assigned the geographical jurisdiction of either an entire Commissionerate or some Divisions of an Executive Commissionerate.

3.6 Division of the jurisdiction of an Executive Commissionerate between two Audit Commissionerates / Audit circles should be avoided.

3.7 In addition to geographically defined Circles, the Audit Commissionerates may have functionally oriented Circles for conducting Theme/Issue based audit (for example Insurance, telecom, Banking services or specific commodities etc) and its territorial jurisdiction should cover the jurisdiction of the entire Audit Commissionerate.

**Organisational Structure of Audit Commissionerates**

**Staffing norms:**

4.1 Headquarters shall be manned by one Commissioner, two Additional or Joint Commissioners and three or four Deputy Commissioners.

4.2 Each Audit Circle shall be headed by Deputy or Assistant Commissioner and will also comprise of Audit Groups. The Audit Groups deployed for large units should comprise of 2-3 Superintendents and 4-6 Inspectors. For Medium units the Audit Group should include 1 - 2 Superintendents and 2 - 4 Inspectors. For Small units the Audit Group should include, 1 Superintendent and 1 - 2 Inspectors.

4.3 Groups for Large units, Medium units and Small units should be in such number that the following distribution of manpower deployment in audit groups is achieved.

- a. 50% of manpower to Large units
- b. 30% of manpower to Medium units
- c. 10 % of manpower to Small units
- d. 10% of manpower for planning, coordination and follow up.

**Functions of Audit Commissionerate**

5.1 Monitoring Committee Meeting (MCM) should be convened by Audit Commissionerate, for which the Executive Commissioner or his representative will be invited to attend. The decision with regard to settlement of an audit objections after recovery of all dues or dropping of the unsustainable audit objections shall vest with the Audit Commissioner. Approved audit objections including those in which show cause notices are proposed to be issued should be conveyed to the Executive Commissioner in the form of Minutes of the MCMs, who shall respond to these objections conveying his agreement/disagreement within 15 days of the receipt of the minutes of the MCM.

5.2 On points of difference, further consultations may be held for a maximum period of 15 days. In case the difference persists, the final decision to issue show cause notice rests with the Audit Commissioner.

5.3 Audit Commissionerate shall issue the show cause notice, wherever necessary, after the audit objections are confirmed in the MCMs. The show cause notice shall be answerable to and adjudicated by the Executive Commissioner or the subordinate officers of the Executive Commissionerate as per the adjudication limits prescribed by the Board. Audit function will end with the issuance of show cause notice and further action including adjudication and follow-up shall be the responsibility of Executive Commissioner.

5.4 Litigation after adjudication proceedings (including defending the order before the appellate forums-Commissioner (Appeals)/Tribunals/Courts) shall be the responsibility of Executive Commissioner. However, Audit Commissionerates shall remain closely associated and provide inputs wherever required.

5.5 The function of pre-audit/post-audits of refunds, rebates and brand rate fixation of drawback shall continue with the jurisdictional Executive Commissionerate.

5.6 CERA audit shall be attended by the Executive Commissionerate by compiling necessary information and replying to the audit objections raised by C&AG. Audit Commissioners will have no role either in compiling / furnishing information to CERA or replying to the C&AG objections. However, it is desirable that Audit Commissionerate is aware of the objections raised by C&AG. Therefore, copy of the objections received from CERA and replies furnished by the Executive Commissioner shall be forwarded to the Audit Commissionerate by the Executive Commissionerate.

5.7 Anti-evasion functions shall continue with the Executive Commissionerates. Audit Commissionerates may refer, with the approval of the MCM, any case arising out of audit where detailed investigation is necessary to the Executive Commissionerates.

5.8 Special Audit shall be ordered by the Audit Commissionerates. Section 14A / 14AA of CEA, 1944 and Section 72A of the Finance Act, 1994 provide for such special audits in the specified circumstances by Cost Accountants / Chartered Accountants. The Audit Commissioners shall be the competent authority to order Special Audit, either on their own satisfaction or on a reference received from the Executive Commissioner.

5.9 Audit should be so conducted that the assessee is least inconvenienced. Documents as prescribed in the manual should be called and preparatory work finalized ahead of audit. Audit should be completed expeditiously and as soon as the Final Audit Report is prepared , **it should be ensured that a copy of the Final Audit Report including ‘ NIL ’ report is dispatched or provided to the assessee under acknowledgement to be kept in Assessee Master File.**

5.10 Currently, audit is undertaken for each tax separately even though the business and financial records verified during the audit remains common for all the three tax administered by the Board . In order to improve the efficiency of audit process, it has been decided that coordinated and integrated audit covering two or more taxes for assessees having common PAN shall be carried out. Necessary legal enablement has been provided in the notification conferring territorial jurisdiction to the Commissionerates such that Service Tax Audit Commissionerates can audit Central Excise assessees within a zone and vice-versa. An assessee who is registered under Central Excise, Service Tax and Customs need not be subjected to three separate audits. The information about his various registrations is available and such assessees would be subjected to a complete audit by the designated Audit Commissionerate. For this purpose the Principal Chief Commissioner / Chief Commissioner will assign the audit of an assessee to a particular Audit Commissionerate, based on payment of Central Excise duty or Service tax whichever is higher. Following the same principle OSPCA would be also be carried out by the designated Central Excise or Service Tax Audit Commissionerate, in an integrated manner.

5.11 It is proposed to issue risk based audit norms in due course of time. In the interim the existing audit norms may be used to ensure that audit functions continue efficiently.

**Transfer policy and capacity building:**

6.0 Audit requires specialized skills in accountancy and handling of financial / SAP or ERP related databases apart from domain knowledge of Central Excise, Service Tax and Customs law and procedures. The officers need to gain knowledge of compliance requirements under Income Tax, Companies Act, VAT laws to do a comprehensive and meaningful audit. The officers who have gained expertise in this regard are few. DG (Audit) in consultation with NACEN shall develop appropriate modules for training of officers in audit functions and inform field on further progress. As it takes time for officers to gain expertise in audit techniques , appropriate transfer policy to be followed by Zones shall be prepared by the DG, Audit with due approval of the Board so that the

department can adequately use officers for audit after they have acquired the necessary skills . Suggested transfer policy shall be circulated by the DG , Audit after approval of the Board .

**Removal of difficulty -**

7.0 Past guidelines and instructions on the subject stand modified to the extent they are in conflict with these guidelines . If there is any difficulty in implementing the above guidelines , Principal Chief Commissioners and Chief Commissioners are authorised to issue appropriate instructions to be valid for temporary periods to remove difficulty in setting up and operationalizing Audit Commissionerates . Issues which need to be addressed in the Board may be forwarded to the Director General of Audit with suggestions for further examination and seeking approval of the Board where needed .

(**ROHAN**)

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