

CHAPTER – II
TAXATION
DEPARTMENT



CHAPTER-II: TAXATION DEPARTMENT

2.1 Tax Administration

The Taxation Department is responsible for the administration of taxes on sales, trade, etc. in the State. The collection of tax is governed by the provisions of the Meghalaya Value Added Tax (MVAT) Act, 2003; the MVAT Rules, 2005; the Central Sales Tax (CST) Act, 1956; the CST Rules, 1957; the Meghalaya Sales of Petroleum and Petroleum Products (including Motor Spirit) and Lubricants Taxation (MSL) Act, etc. With the introduction of Goods & Services Tax (GST) on 01 July 2017, CST Act and MVAT Act have been repealed.

The Principal Secretary/ Commissioner and Secretary to the Government of Meghalaya, Excise, Registration, Taxation and Stamps (ERTS) Department holds the overall charge of the Taxation Department at the Government level. The Commissioner of Taxes (CoT) is the Head of the Department and is responsible for administration of all taxation measures, for general control and supervision over the zonal offices, unit offices and over the staff engaged in collection of taxes, and also to guard against evasion of taxes. He is also the authority for disposing off revision petitions under all taxation acts and laws besides providing clarifications under the MVAT Act, 2003. He is assisted by Joint Commissioner of Taxes (JCT), Assistant Commissioners of Taxes (ACTs), Superintendents of Taxes (SsT), Inspectors of Taxes both at the Headquarters and zonal/unit levels. At the district level, 17 Superintendents of Taxes (SsT) have been entrusted with the work of registration, scrutiny of returns, collection of taxes, levy of interest and penalty, issue of road permits/declaration forms, enforcement and supervision.

2.2 Results of Audit

Test check of records of 20 units (out of 23 units relating to VAT) during 2018-19 revealed under-assessment of tax and other irregularities in 178 cases involving ₹315.87 crore, which fall under the following categories:

Table 2.1

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Loss of revenue	03	10.38
2.	Evasion of tax	39	40.10
3.	Concealment	21	14.27
4.	Other irregularities	115	251.12
Total		178	315.87

During the year 2018-19, the Department accepted under assessment and other deficiencies to the tune of ₹85.66 crore in 39 cases. They did not furnish replies in 25 cases, did not accept the audit observations in 18 cases, and in 96 cases, the Department stated that the cases are under examination. Recovery at the instance of audit was ₹6.05 crore in 14 cases during the year.

A Performance Audit on “Roll out of Goods and Services Tax in Meghalaya” and select cases bearing financial impact of ₹183.80 crore, in terms of under assessment/short levy/non-levy of tax and other provisions of the Acts are discussed in paragraphs 2.3 to 2.6.

2.3 Performance Audit on “Roll out of Goods and Services Tax in Meghalaya”

2.3.1 Introduction

The implementation of the Goods and Services Tax (GST) with effect from 1st July 2017, through a Constitutional Amendment Act in 2016, was a milestone in the history of tax reforms in India. The new form of tax subsumed several indirect and direct taxes and duties levied by the Centre and States, such as Central Excise, Service Tax, Value Added Tax (VAT), *etc.* into a unified tax, thereby reducing the incidence of multiple taxes.

GST is a tax on supply of goods or services or both and a single tax on the entire value chain of supply, right from the manufacturer to the consumer. Credit of input taxes paid at each stage will be available in the subsequent stage of value addition, which makes the GST essentially a tax only on value addition at each stage. The final consumer will bear only the GST charged by the last dealer in the supply chain with set-off benefits of taxes paid at previous stages. Further, GST is a consumption based tax *i.e.* tax accrues to the State where goods and/or services are finally consumed.

Government of India approved setting up of the Goods and Services Tax Network (GSTN) for providing shared IT infrastructure and services for implementation of GST regime in the country. GSTN is responsible for maintaining the Common Portal for GST, which provides front-end services to all GST taxpayers. For 22 States and five Union Territories, GSTN has developed a common software based on processes defined and agreed by the States, however, the databases for the States are separately maintained. The nine States that have developed application systems on their own were called Model-1 and the remaining 27 States/ Union Territories who adopted the GSTN developed software are Model-2 States.

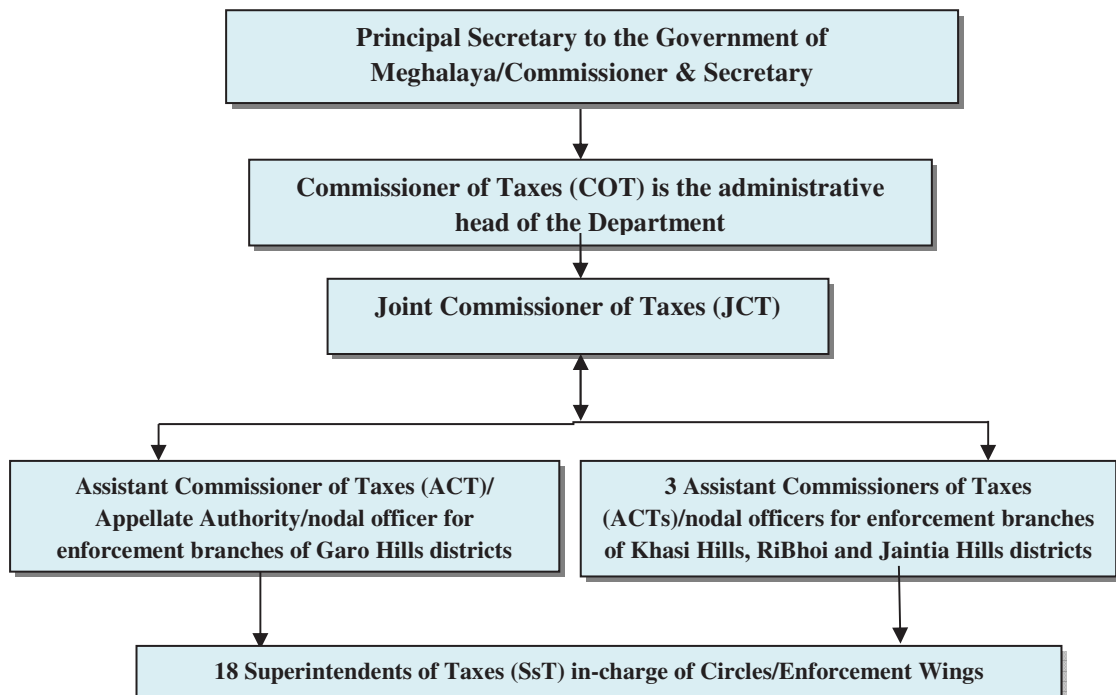
Government of Meghalaya had initially adopted Model 1⁷ for GST implementation *i.e.* State will develop its own backend modules of assessment, audit, enforcement, refund, *etc.*, through an IT service provider, NIC Meghalaya. The VAT collection of the State of Meghalaya for the year 2017-18 was ₹766.63 crore, out of which, VAT collection upto June 2017 was ₹522.74 crore. The State Goods & Service Tax

⁷ States which develop their own backend application system are Model 1 and those states which utilise the backend application developed by GSTN fall in Model 2 category.

collection for the State during the period of review from 1 July 2017 to 31 March 2019 was ₹1181.96 crore.

2.3.2 Organisational set-up

The Principal Secretary to the Government of Meghalaya, Excise, Registration, Taxation and Stamps (ERTS) Department is the administrative head of the Taxation Department at the level of Government. The Commissioner of Taxes (CoT) is the administrative head of the Department and is assisted by a Joint Commissioner of Taxes (JCT) and four Assistant Commissioners of Taxes (ACTs). One ACT functions as the Appellate Authority. The four ACTs also function as nodal officers for the enforcement branches created in different districts of the State. At the district level, 18 Superintendents of Taxes (STs) have been entrusted with the work of registration, scrutiny of returns, collection of taxes, levy of interest and penalty, enforcement activities, *etc.*, utilising the back-end system developed by NIC, Meghalaya. Organisational set-up of the Taxation Department is as follows:



2.3.3 Audit Objectives

The audit of the roll out of GST in Meghalaya was conducted in the Taxation Department, to ascertain whether the Department was adequately prepared in terms of capacity building and infrastructure facilities, particularly the IT framework, to ensure smooth implementation and administration of GST in the State.

The Audit objectives were to ascertain whether:

- Capacity building measures undertaken by the State Government were adequate to equip and empower all stake holders and its employees associated with the implementation for roll out of GST.

- The IT application for the implementation of State Goods and Services Tax was effective and efficient.
- Systems were in place to verify filing of returns, payment of taxes by dealers and ensure correctness of the claims of transitional credit, input tax credit and refund claims of the dealers.
- Internal control mechanism and coordination with other wings/Departments was adequate and functional.

2.3.4 Audit Sample and Methodology

Performance Audit was conducted between September 2019 to December 2019, covering the period from 1 July 2017 to 31 March 2019.

Audit focused on assessing the preparedness of the State Government for implementation of SGST with focus on examining adequacy and completeness of the SGST modules being developed on the IT platform through NIC Meghalaya. We test checked records of all 18 Taxation circles including three Enforcement wings at the district level along with records of the Commissioner & Secretary, Commissioner of Taxes and NIC. Information from NIC and other Central and State governments were collected and compared with the records furnished by the Taxation Department. Records of other Central/State Governments⁸ were also reviewed where deemed necessary.

We had an Entry Conference with the Taxation Department on September 04, 2019 to discuss the audit objectives, criteria and scope of the Audit. The draft report was issued to the Government on 13 January 2020. The Exit Conference was held with the Commissioner and Secretary, ERTS, Meghalaya on 10 February 2020, wherein the views of the Department concerning the audit findings were discussed. The Department's replies have been incorporated in the Audit Report at appropriate places.

2.3.5 Audit Criteria

The following Acts/Rules were used as sources of Audit Criteria during the Audit:

- (i) Meghalaya GST Act, 2017;
- (ii) Meghalaya GST Rules, 2017;
- (iii) GST (Compensation to State) Act, 2017;
- (iv) State Acts/Rules & CST Act /Rules subsumed under GST;
- (v) Guidelines issued by Central/State Government and GST Council from time to time;

⁸ Joint Commissioner of Taxes, Central GST, Shillong; Directorate of Mineral Resources; State Public Works Divisions, Public Health Engineering Divisions, Block Development Office, Registrar NEHU, Border Area Development Office.

2.3.6 Audit findings

Audit objective 1: Whether the capacity building measures undertaken by the State Government to equip and empower its employees and all stake holders associated with the implementation of GST were adequate

2.3.6.1 Training of Stakeholders- Taxation officials, dealers and Government departments

The roll out of GST in the State was based on the implementation of the GST back end application. This was a major shift from the erstwhile VAT regime of the State where the registration, filing of returns and assessments were mostly based on manual processes. The GST law was significantly different from the State VAT legislation. Thus, it was expected that the State Government should have a robust capacity development plan in place prior to roll out of the GST which included training of its officials in the new legislation and the GST application, as well as comprehensive dissemination of the law and its application amongst the stakeholders and citizens at large.

Audit observed that the Department had planned for theoretical and hands on programmes to be conducted by the Department. Master trainers were also required to render services for in-house training programmes.

Audit noted that no mandatory training programmes for GST were planned and given to inspectors (ITs) and assessing officers/Superintendent of Taxes (STs) of the Taxation Department. Further, as on 30 November 2019, the Taxation Department had imparted trainings on 12 different topics⁹ to officials of the rank of inspectors and above. It was observed that only one out of 13 officers at the Superintendent (ST) level and three out of 54 officials at the Inspector (IT) level in the Taxation Department had attended the trainings on the topics cited above. Further, these training programmes were only theoretical in nature and carried no hands on training on the utility of the GST application.

With regard to other stake-holders such as dealers and DDOs from other government departments, Audit observed that no campaigns or awareness programmes had been conducted by the Department for dealers. With respect to trainings imparted to various State Government departments, till January 2019, they had imparted 33 trainings to Government departments, however, the Department could not extend trainings to all districts of the State. In response to an audit query raised to 44 DDOs, they informed us that the trainings received were not fruitful and adequate to meet their clarifications on tax deduction and return filings procedures. They were facing difficulty in submission of GSTR 7 and GSTR 7A in time and were resorting to outsourcing to meet the GST timeline.

⁹ Training on GST; GST training level III; Training on GSTN Portal; Demonstration of e-way bill; Training on e-way bill; Training on GST by NACIN; Training on anti-profiteering under GST; GST Workshop on Return filing, Payment and ITC; Training on financial intelligence; Audit assessment; Refunds and TDS; Annual Return and New Return Prototype.

The Department in their reply (February 2020) stated that NIC Meghalaya, the IT solution provider, did conduct demonstration for officers regarding the work flow of every module developed by it and officers have also been sharing their experiences and suggestions for improvement from time to time.

Thus, the Department's preparatory work in terms of training of its own officials and raising awareness of the stakeholders was grossly inadequate, for roll out of the GST. This is further borne out from observations contained in this report regarding deficiencies in the IT infrastructure, deficiencies in the roll out of GST backend application as well as deficiencies noted in the registration and return filing processes.

Audit objective 2: Whether the IT application for the implementation of State Goods and Services Tax was effective and efficient.

2.3.6.2 Outdated IT Infrastructure

The Department opted to use their own IT infrastructure on introduction of the GST. The IT infrastructure, being used in NIC Meghalaya, Commissionerate and field offices of the Taxation Department were procured during 2011-12 and installed by 2012-13. The database server and application servers housed at NIC State Centre and used for production and staging¹⁰ were obsolete and there is no Annual Maintenance Contract (AMC) coverage for all hardware. The Department had not planned for and replaced the obsolete servers, which are crucial for data production and staging. For data backup, the GST data was stored on external drives instead of Storage Area Network¹¹ (SAN), which would have provided storage redundancy and adequate backup of the GST data.

From the data of computers, routers and modems available in these units, it was seen that only 64 *per cent* of the computers, 45 *per cent* of routers and 23 *per cent* of modems allotted¹² were in working condition. While the internet connectivity for the field units in Shillong was satisfactory, there was poor connectivity in the other districts of the State, particularly in Ribhoi, Jaintia Hills, Garo Hills and West Khasi Hills hindering the GST related work being carried out by field units.

In East Jaintia Hills district, it was noticed that the lightning arrester was not functioning properly resulting in frequent damages to the routers, modems and computer peripherals.

The Department, while accepting the audit observations stated (February 2020) that tender had been floated for purchase of servers, storage, desktops and other peripherals for the Department. Further development in this regard has not been intimated to audit (September 2020).

¹⁰ Data pulled by NIC from GSTN server are processed and validated before being released to the back-end application of the Taxation Department

¹¹ A computer network which provide access to consolidated block level data storage such as disk arrays and tape libraries to servers so that the devices appear to the operating system as locally attached devices

¹² Based on information furnished by 12 Taxation circles and six Enforcement branches

2.3.6.3 Planning and implementation of GST through IT platform

Important stakeholders in the process of smooth implementation of GST are Government of India, State Government and tax payers, duly supported by a robust IT infrastructure. The State Government opted for Model-I category under GST on the grounds that NIC Meghalaya was capable and competent of providing the IT infrastructure and services required for the backend interface. This backend interface consisted of modules, required to enable the Taxation Department to carry out its duties and functions with regards to settlement of IGST payment, generation of business intelligence and analytics and assisting tax officials in performing their statutory functions like approval of registrations, tax payer details, processing of refunds, assessment, audit, appeal, enforcement, *etc.*

It was seen that the Taxation Department did not have any formal Understanding/Agreement with NIC, Meghalaya concerning the development of fully automated backend modules for the Department. They neither indicated any timelines for completion of these backend modules nor did the Department mandate any timelines knowing very well that GST implementation had already been introduced. As the implementation progressed, they did not take any feedback nor requirements of the field units to share with NIC for developing the Functional Modules and their functionalities¹³.

For the complete GST application to be in place, there were eleven modules that were to be developed. These modules were Registration, Payment, Returns, E-way bill, Assessment/Scrutiny of returns, Refunds, Advance Ruling, Dispute Resolution, Appeal, Audit and Investigation. NIC, Meghalaya did not furnish details of completed functionalities in respect of eleven modules. As on 31 March 2019, they reported completion on four modules e.g. Registration (68 *per cent* completed), Payment (60 *per cent* completed), Returns (89 *per cent* completed) and Refunds (77 *per cent* completed). However, beyond the generic rate of completion of four modules, NIC Meghalaya was unable to provide any specific module wise details of the number of functionalities developed, number of functionalities remaining to be completed and consequent impact on the respective modules to become fully functional.

The tax application system was required to serve as an effective monitoring tool to the tax administration by enabling various MIS reports from the field units to the Zonal Units and then to the Commissionerate, on daily basis, on the user dashboard so as to receive and scrutinise the data of registration, tax returns, payments and refunds. All these functionalities were found deficient in the backend modules developed by NIC Meghalaya as the modules, functionalities were not fully developed and automated. Further, the Directorate and field offices could not generate any MIS reports on daily/periodical basis for monitoring compliance of taxpayers and discharging their various functions.

¹³ Functionalities are operational tools under modules to carry out various activities enabled in a functionality.

To analyse the functioning of the modules and their effectiveness in strengthening tax compliance with the roll out of GST from 1 July 2017, Audit checked the backend system available with the SsT and examined the performance of the modules and functionalities prepared by NIC. The issues and constraints faced by the SsT at the field offices were also examined and the following deficiencies were found prevalent in the application system developed by NIC Meghalaya: -

- (i) **The functionalities on assessment/scrutiny of returns** were not completed by NIC till date and hence the SsT could not extract the data with ease and issue show cause notices to the dealers through the system within a time schedule. Database updation was not taking place in real time and data uploaded by dealers in the GST portal was transferred to the backend system only after a lag of few days. Cases were noticed where the Department had issued notices to dealers for non-filing of tax returns based on the backend data provided by NIC, though the dealers had in fact submitted their tax returns in time, since the backend system used by the ST was lagging behind in updation.
- (ii) The Departmental officials could not view **detailed ITC claims** and detailed invoices, resulting in very limited information available to the tax authorities for scrutiny. Returns, payments and ITC claimed (IGST/CGST/SGST-discrepancies) **could only be viewed** on the **dashboard** of the Assessing Officer and action could not be taken to raise demand notices to defaulters from the IT system.
- (iii) **E-way bills** generated by dealers of any circle could be viewed but details of cancelled and rejected e-way bills could not be viewed. Monitoring of E-way bills was to be done with the help of the enforcement module, which was yet to be activated and made functional. Thus, sharing of the details of dealers with an enhanced perception of risk of default, by the field units with the enforcement wing was also hindered to that extent.
- (iv) In a single browse, officers could view the **normal e-way bills** for a maximum period of three days at a time, which meant that they needed to browse the pages 10 times for a month, in order to find out the number of e-way bills generated in respect of one dealer, which was time consuming. The e-way bill viewed did not contain details such as the generator of e-way bill and the vehicle registration number, which may be required for verification by the taxation officer.
- (v) There were delays noticed in updating the status of tax payers on returns filed, tax paid and liabilities due. Late fine liability of dealers who have applied for closure of their GST account continued to appear though their tax liabilities had been cleared. Dealers who had filed their tax returns (GSTR 3B) still appeared on the non-filers page. Thus, the system was very slow in updating causing all around problems for both taxpayers and the Department.
- (vi) Notices were being issued to non-filers through the office mail and not through the backend system. Thus, the taxpayers would not receive any alerts during

login to the GST portal nor of the show-cause notice, except through email/post or other forms of communication.

- (vii) The backend system did not enable **cross verification of details** of purchase, sales, e-way bills and ITC claims mismatches automatically as a result of which the field offices had to carry out these checks had to be carried manually after extracting these details from the dealers' accounts.
- (viii) Form GSTR 8, which had not been activated by the Department/NIC in the backend application and as such, 17 registered e-Commerce dealers were unable to file their returns. In the absence of the return, the authorities could ascertain neither the quantum of the tax payable nor the compliance of tax payment by these e-commerce operators.

It could be seen from above; NIC had not been able to fully develop all the essential modules and functionalities released by GST. Moreover, the backend interface application developed was found to be deficient in achieving its basic objectives of being user friendly, effective and efficient for the Taxation Department to ensure compliance and check leakage of revenue even after two years since the roll out of GST in the State. The failure of the Taxation Department, in working out the functionalities required by the Directorate and SsT, after obtaining inputs from the field offices and then assigning the modules to be completed by NIC in a time bound manner, indicates lack of proper planning, to ensure the smooth transition from VAT to GST.

Thus, in the absence of a collective responsibility of the Taxation Department and its IT service provider, NIC Meghalaya, the implementation of GST in the State was partial and grossly inadequate to meet the intended objectives of a completely electronically driven System for administration of the GST.

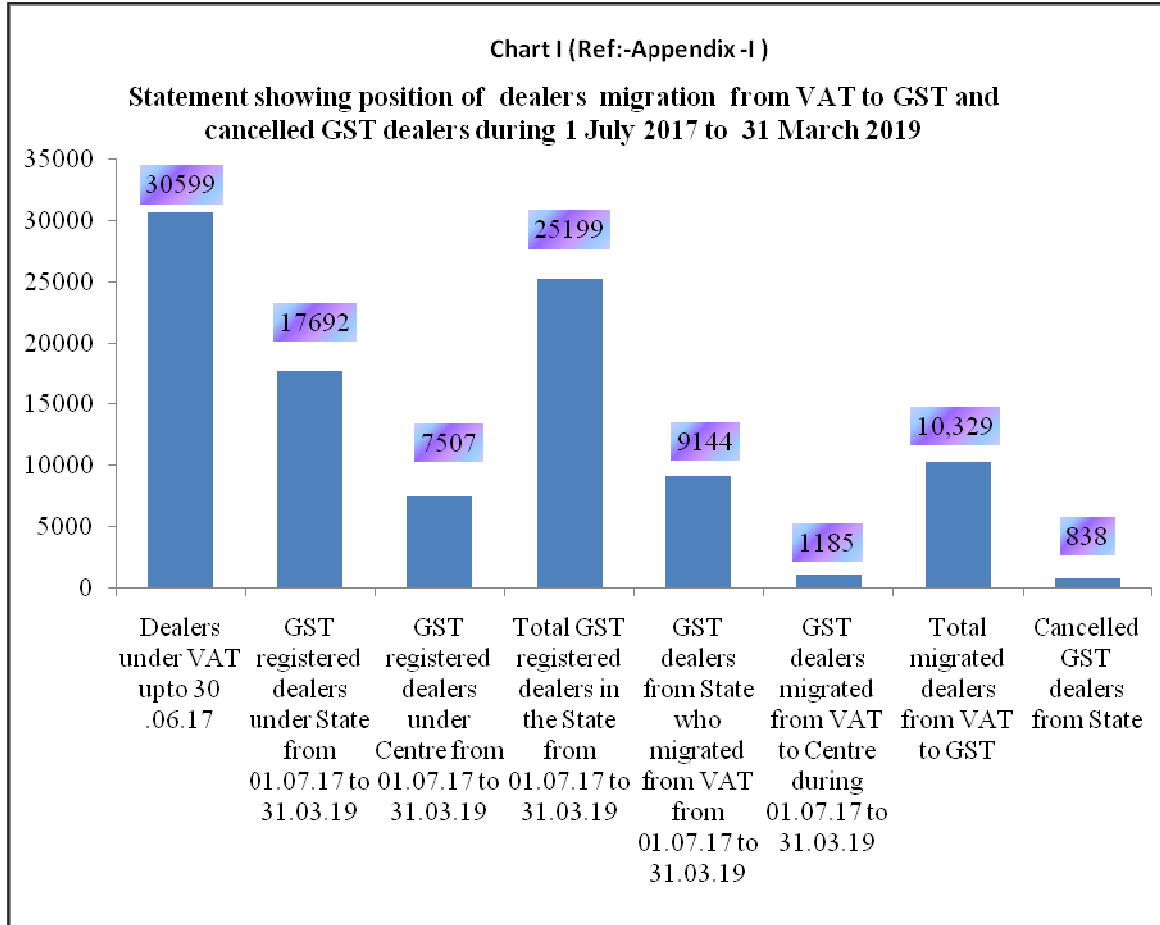
Audit objective 3: Whether Systems were in place to check payment of taxes by dealers, ensure correctness of the claims of transitional credit, input tax credit, and refund claims of the dealers

2.3.6.4 Registration of GST dealers

In the VAT regime, a dealer was required to obtain registration if his annual taxable turnover was ₹1 lakh. However, under GST Law any dealers with annual turnover of ₹10 lakh or more with effect from 1 July 2017 and ₹20 lakh or more with effect from 1 February 2019 for North Eastern (NE) and Hill States were required to be registered in the State under the new GST law. The State had 30599 registered dealers under Meghalaya Value Added Tax (MVAT) Act as on 30 June 2017. The Department registered 18530 dealers, during the period 1 July 2017 to 31 March 2019, out of which, they cancelled 838 GST dealers' registrations subsequently due to non-filing of GST Returns. Thus, as on 31 March 2019, there were **17692** registered dealers under GST with the State Taxation Department of which, 10329 GST registrations pertained

to dealers who had migrated from VAT¹⁴ to GST and 8548 GST registrations were new additions.

Details of VAT dealers prior to 01 July 2017 and dealers registered under GST during the period from 01 July 2017 to 31 March 2019 are shown in the following chart:



Source: Compilation of data from the backend system as provided by the Taxation department

Out of 30599 MVAT dealers registered in the State under the State Taxation Department as on 30 June 2017, only 10329 VAT dealers could be found registered under GST during the period of review, accounting for only about 34 per cent of the MVAT dealers. Considering the relaxed turnover criteria for NE States the registration of dealers should have been more in the State.

The Additional Commissioner of Taxes in his reply (15 October 2020) to the observed gap in taxpayer base, stated that threshold limits for mandatory registration under MVAT was ₹1 lakh and that in GST was ₹10 lakhs initially which had been enhanced to ₹20 lakhs. The percentage of dealers registered under MVAT Act was high and that it was likely that most of such taxpayers were not required to migrate to GST. Further, based on one-year analysis, the Department stated the revenue implication of such dealers with low turnover was not significant. However, the Department did not provide any further evidence to support this claim.

¹⁴ Out of 10329 migrated dealers from VAT, 9144 dealers are in State jurisdiction and 1185 dealers are in Centre jurisdiction.

The reply is not convincing since sixty six *per cent* of the tax payers registered under the Meghalaya Value Added Tax (MVAT) Act 2003, are out of the tax base of the State under the GST Law. It is evident that the Department has not carried out any substantive exercise to ascertain reasons for huge difference in the tax base under the GST regime and its possible impact on the revenue of the State.

Position of various categories of dealers registered under State GST as on 28 August 2020 are shown in the table below:

Table 2.1 Statement showing category of dealers registered under GST in Meghalaya (under State jurisdiction) upto 28.08.2020

Category of dealers	Number of dealers registered	Percentage of dealers registered under each category
Regular	18823	89.62
Casual	nil	nil
Composition	1841	8.76
Tax Deductor at Source	308	1.47
Tax Collection at Source (e-commerce dealer)	32	0.02
Input Service Distributor	nil	Nil
Non-resident	nil	Nil
Online Information Database Access and Retrieval Service (OIDAR)	nil	Nil
UIN dealer	nil	Nil
Total	21004	

Source: Compilation of data from the back end system as provided by the Taxation Department

The Government may carry out a study to assess the impact of GST on its tax base and revenues.

2.3.6.5 Deficiencies in Registration data

Based on the review of the application system, following shortcomings were noticed in the Registration module developed by NIC, Meghalaya:

- Break-up of dealers registered under various categories, namely, Regular dealer, Composition dealer, Tax Deductor at Source (TDS), Tax Collector at Source (TCS), *etc.*, are only available cumulatively and cannot be obtained for a specified time period in respect of all State taxation units.
- Details of dealers migrated from VAT to GST in respect of all taxation units are only available cumulatively and not for any specified time. Details for those dealers, who have migrated from the State taxation domain to the Centre's jurisdiction following implementation of GST, were not available.
- Unit-wise bifurcation of registered dealers having turnover up to ₹1.5 crore and those above ₹1.5 crore were not available to ascertain the status of filing of returns.

- The tax authorities could not generate Monthly/quarterly/half-yearly/yearly reports to view the list of defaulting dealers who had not filed or not filed their returns in time.

2.3.6.6 Deficiencies in Filing of GST Returns

Position of various GSTR returns to be filed and compliance by the State's dealers, during the period from 1 July 2017 to 31 March 2019 was as under:

Table 2.2

Returns	Type of returns	Category of dealers to file	Due date of filing of returns	Total number of dealers registered	Total number of minimum returns to be filed	Total number of returns actually filed	Percentage of returns filed
GSTR 1	monthly	Regular dealer having annual aggregate turnover more than ₹1.5 crore	10th of the next month	17692 ¹⁵	271402	131270	48.37
	quarterly	Regular dealer having annual aggregate turnover upto ₹1.5 crore	as fixed by the GST Council from time to time				
GSTR 3B	Monthly	Regular dealer	20th of the next month		271402	227321	83.76
GSTR 7	monthly	tax deductor	10th of the next month		1248	385	30.85
GSTR 7A	certificate made available electronically to the deductee on the basis of tax deducted by the deductor in GSTR 7				1248	274	21.96
GSTR 8	monthly	e-commerce operator	10th of the next month		114	62	54.39
GSTR 9	annual	Regular dealer	31st December of next financial year		27749	8117	29.26
GSTR 9A	annual	Composition dealer	31st December of next financial year		2948	986	33.45
Total					17692¹⁵		

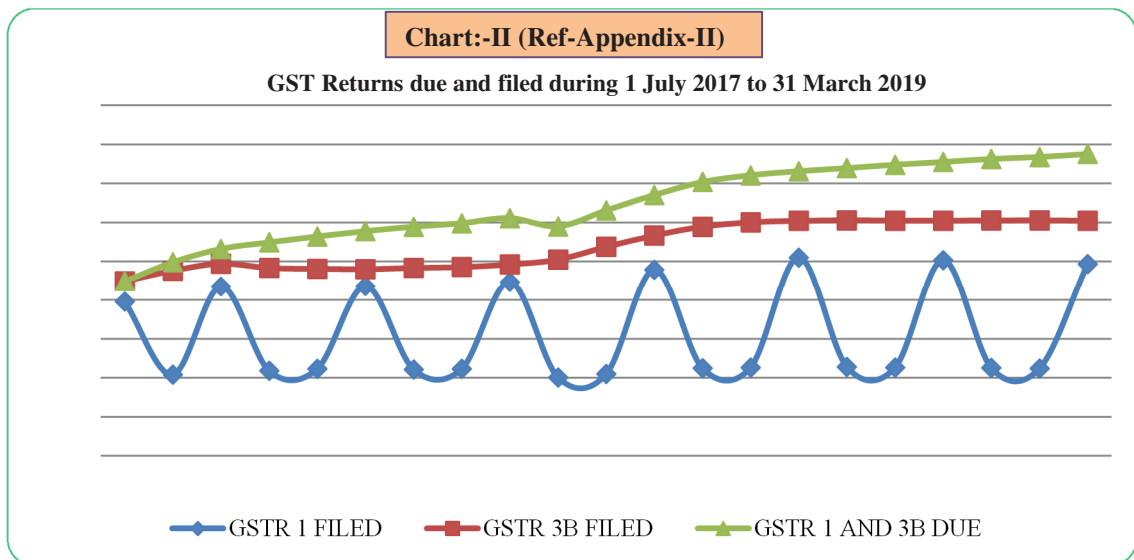
From the table above, the following observations are made:

- The filing of GSTR 1 and 3B returns is mandated under Section 37 and 39(1) of the MGST Act. The GSTR 1 return is expected to contain all outward supplies

¹⁵ No break up of categories of dealers under Composition, TDS and TCS are available as on 31 March 2019. Based on information furnished by the Taxation Department, as on 31.03.2018, there were 1107 composition dealers, 208 TDS dealers and 19 TCS dealers. From the backend system, upto 28.08.2020, 1841 composition dealers, 308 TDSs dealers and 32 TCS dealers were found registered. Therefore, for computation of returns due to be filed, during the period of review, out of 17692 dealers registered under the State jurisdiction, the GSTR returns for various categories were worked out by considering minimum 1107 composition dealers, 208 TDS dealers, 19 TCS dealers and the remaining 16348 dealers as regular as on 31March 2018.

of goods and services made by a regular dealer in a month. A GSTR 3B return is a monthly tax return to be filed by a regular dealer. The system envisages that both the returns are linked to enable the assessing officer to accurately assess the tax dues of the dealer, for a particular month

- Audit observed that as on date, there was no linkage between GSTR 1 and GSTR 3B in the system. Further, during the period of review, the number of GSTR 3B returns filed were found to be higher in number than the GSTR 1 returns filed during the same period. This was despite the extension granted by the GST Council (for the return period from July 2017 to January 2020 up to 30 September 2020) for filing of GSTR 3B returns. The variation in the number of GSTR 1 returns filed during the same period are more sporadic as indicated in the graph



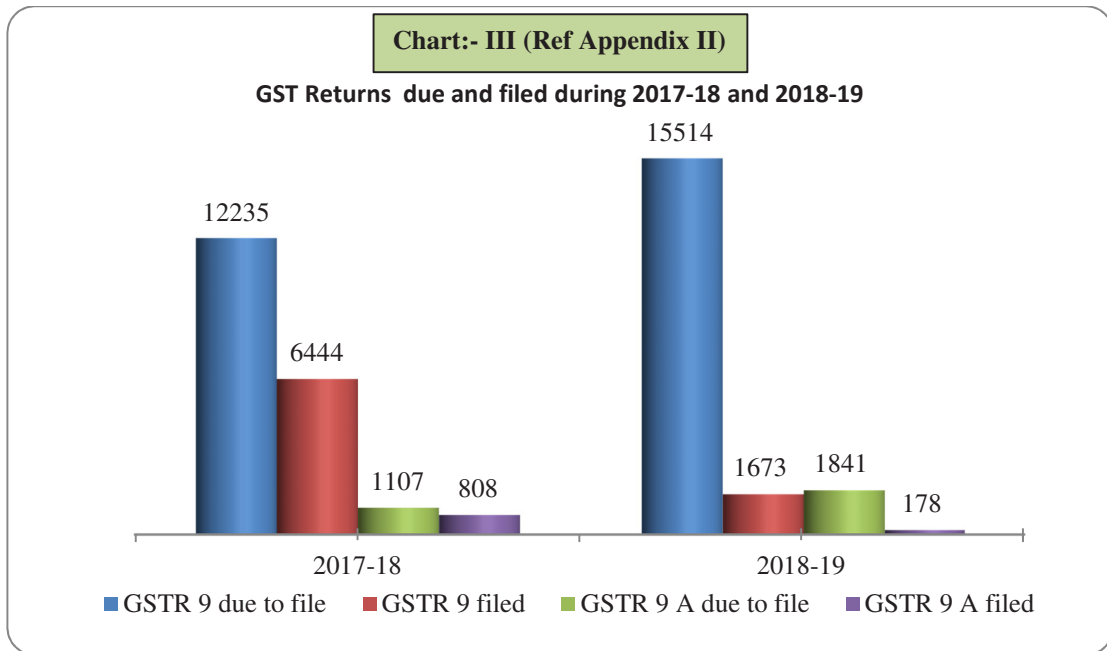
Source: Compilation of data from the backend system as provided by the Taxation department

In the absence of proper linkage between GSTR 1 and GSTR 3B, the Taxation Department would not be in a position to ascertain the accurate quantum of tax due and the potential of possible tax evasion.

The Department in its reply accepted the fact that absence of a linkage in the system hampers the taxation functions to that extent since refunds /tax credits for the receipt of supplies would be claimed on the basis of GSTR 3B, without a corresponding return GSTR 1 being filed. This opens the possibility of mismatch of sales, and corresponding irregular grant of refunds by a dealer. The graph above also depicts the variation on a month to month basis in filing of the GSTR 1 and GSTR 3B.

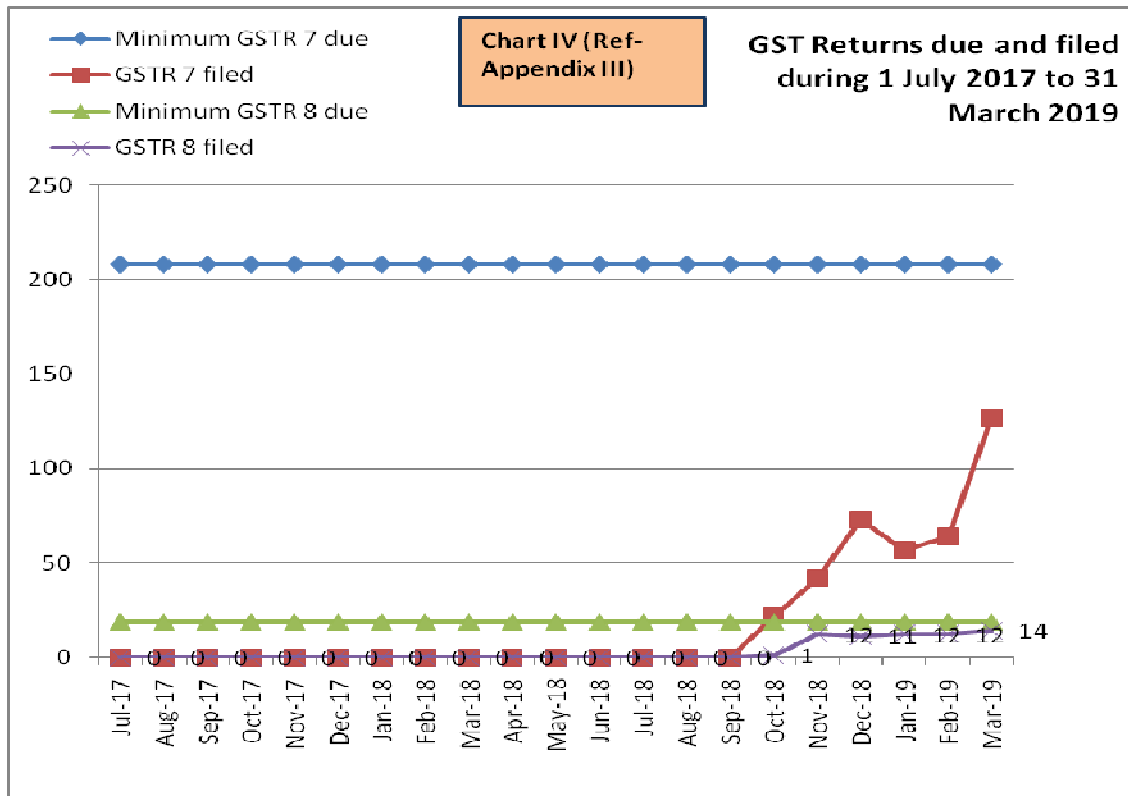
We test checked 10 cases selected from three taxation circles, out of which in five cases it was noticed that the absence of linkage between GSTR 1 and GSTR 3B had enabled evasion of tax to the tune of ₹2.03 crore which was also accepted by the Department.

The filing of returns by regular dealers and composition dealers in GSTR 9 and GSTR 9A was also inadequate as can be seen in the chart:



Source: Compilation of data from the backend system as provided by the Taxation department

- Against an aggregate of 27749 GSTR 9 returns to be filed by regular dealers during the review period, only 8117 returns were filed which accounts for only 29.26 per cent. In 2017-18 the percentage of GSTR 9 filings increased to 52.68 but again dropped to 10.79 per cent in 2018-19,
- For composition dealers, aggregate GSTR 9A returns to be filed during the review period was 2948 out of which only 986 returns were filed which represent only 33.45 per cent of returns to be filed. The percentage of GSTR 9A filed for 2017-18 was 73 and for 2018-19 was only 9.67 per cent, which was very low.
- The GSTR 7 (tax deductors) and GSTR 8 (i.e., commerce operators) returns filed during the review period aggregated 30.85 and 54.39 per cent respectively.



Source: Compilation of data from the backend system as provided by the Taxation department

The TDS and TCS dealers registered with the Taxation Department between the period 1 July 2017 to September 2018, did not file any GST returns. During the period October 2018 to March 2019, filing started and it ranged between 10.58 to 61.06 per cent of GSTR 7, 4.33 per cent to 50.48 per cent of GSTR 7A and 5.26 per cent to 73.68 per cent of GSTR 8. The non-filing of returns /low filing of returns by TDS dealers provided scope for dealers transacting with Government for supplies and contract works to potentially evade tax.

The Department in their reply (February 2020) stated that NIC Meghalaya had been asked to offer their comments/views. However, no further reply was received (September 2020).

The Department's response reflects absence of planning and implementing strategies for GST besides lack of monitoring of the IT functions. Though the Department has now planned to shift to the Model II State (GSTN) system, the fact remains that the Department has to assume responsibility for the inaction so far for failing to ensure that dealers filed the GST returns and paid the taxes due. Until they switch over to another system, the deficiencies have to be addressed and functions need to be discharged in their own revenue interest.

2.3.6.7 Tax dues in respect of cancelled registrations

Under Section 45 of the MGST Act, every registered person whose registration has been cancelled is required to submit a final return in GSTR 10 within three months of the date of cancellation or date of order of cancellation, whichever is later. For failure

to submit the tax returns, the dealer was required to pay a late fee of ₹100 for every day during which such failure continues subject to a maximum amount of five thousand rupees.

Audit observed that the Department had cancelled registration of 1206 dealers, out of which, only 324 dealers had filed the tax returns while the remaining 882 dealers in 15 Circles, who were required to submit their final tax returns within three months from the date of cancellation did not submit the final tax return in GSTR 10. From the details available on files pertaining to cancelled registrations, Audit observed that the STs had allowed the cancellation of registration of these 882 dealers without ascertaining the tax liabilities involved. For non-filing of mandatory GSTR 10 returns by the 882 dealers whose registrations were cancelled by the STs, penalty of ₹37.19 lakh realisable from these dealers was also not imposed as per the provisions of the MGST Act.

The cancellation of registration in haste without determining the pending tax liability of the dealers reflects serious lacunae in the system wherein the dealers with cancelled registration have been potentially allowed to go scot-free. Lack of due diligence by the tax authorities concerned, calls for action to fix responsibility for failure to protect revenue due to the Government. Further, audit is of the opinion that the provision of the Act that allows furnishing of GSTR 10 three months after cancellation of registration is a loophole that facilitates avoidance of tax liabilities.

The Commissioner of Taxes in his reply (15 October 2020) stated that details have been sought from the concerned STs to ascertain the tax liabilities of the 882 dealers and the same will be intimated in due course.

2.3.6.8 Ineligible taxpayers registered under Composition Scheme

As per provisions contained in Section 10 of the MGST Act, a registered person, whose aggregate turnover in the preceding financial year does not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him, an amount calculated at the rate of:

- (a) one *per cent* of the turnover in State, in case of a manufacturer;
- (b) two and a half *per cent* of the turnover in State, in case of supplies of goods being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption);
- (c) half *per cent* of the turnover in the State in case of other suppliers.

The Act further provides that the option availed of by a registered person shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under the said section of the Act. A dealer not registered under composition scheme is required to pay tax at the applicable rate.

Further, under Section 53 of the Act *ibid*, if a registered person liable to pay tax in accordance with the provisions of this Act or the rules made there under, fails to pay the tax or any part thereof to the Government within the period prescribed, shall for

the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen *per cent* per annum.

Audit scrutiny revealed that several ineligible dealers registered under GST were allowed to avail the composition scheme and evade tax as detailed below:

- Fifteen dealers out of 48 dealers test checked by Audit in 11 circles had crossed the threshold limit of turnover of ₹50 lakh during 2017-18 and were therefore not eligible to avail the composition scheme in the subsequent year 2018-19. However, these dealers were not treated as regular tax payers during 2018-19 and continued to pay tax on turnover of ₹8.61 crore at the concessional rate of one *per cent* instead of at the applicable rate of five *per cent* to 18 *per cent* resulting in short payment of tax of ₹47.87 lakh. Besides, a minimum penalty of ₹4.79 lakh and interest of ₹8.62 lakh (calculated upto December 2019) were also leviable on the defaulting dealers (**Appendix-IV**).
- Ten dealers out of 32 dealers were found to have crossed the threshold limit of ₹50 lakh during the year 2018-19 but were allowed to pay tax under the composition scheme resulting in a minimum short payment of tax of ₹8.64 lakh. For short payment of tax, penalty of ₹0.86 lakh and interest of ₹2.07 lakh (calculated up to December 2019) along with balance tax of ₹23.01 lakh were also realisable from the defaulting dealers. The Officers had failed to extract the data of composition dealers from the system and did not carry out the necessary checks manually to ascertain tax liabilities of various dealers (**Appendix-V**).

The Department while admitting the audit observation (February 2020) stated that all Superintendents have been instructed to examine the cases pointed out by audit and realise the short payment of tax and results thereof would be intimated to audit. However, no further information has been received from the Department (September 2020). The reply only confirms the position that despite being aware of the deficiency of the backend application to auto populate MIS returns to give the necessary triggers, the Department officials did not take any action manually also to check claims of dealers under the Composition Scheme.

The Department may get the regular GST returns filed from these dealers and ensure that they pay the taxes due.

2.3.6.9 Inadmissible transitional credit claims

With the roll out of GST from July 2017, provisions to carry forward input tax credits (ITCs) relating to the pre-GST regime were needed to ensure the smooth transition from VAT to GST. This would enable the taxpayers to avail the credits on inputs and input services rendered during the pre-GST regime on which taxes had already been paid. The admissible transitional credits would also help the Government in determining the adjusted GST revenue.

Section 140 of the MGST Act contains the criteria relating to input tax credit claims during transition from VAT to GST. The section provides for a registered person other

than a composition taxpayer to carry forward the closing balance of input tax credit under the Central Excise and Service Tax under CGST and input tax credit under State VAT and SGST subject to the following conditions:

- (a) Credit could be carried forward as entered in the last return filed under the pre-GST regime and would be payable as ITC to the taxpayer concerned.
- (b) Returns for the last six months prior to the roll out of GST should have been submitted by the taxpayer to the tax authority concerned.

The important conditions prescribed for availing the benefit of this transitional credit are, that the registered person should be in possession of an invoice or other prescribed documents evidencing payment of duty in respect of such inputs, which were issued not earlier than twelve months from the date of roll out of GST. Such dealers are required to claim their transitional input tax credits in form GST TRAN1¹⁶ and GST TRAN2¹⁷.

Further, the taxpayers, who were not liable to be registered under the existing law or who were engaged in the sale of exempted goods or goods which have suffered tax at the first point of their sale in the State and the subsequent sales of which are not subject to tax in the State under the existing law but which are liable to tax under this Act, if any, shall be entitled to take, in his electronic credit ledger, credit of the value added tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day.

Information furnished by seven tax offices, revealed that 60 taxpayers claimed transitional credit in TRAN1 amounting to ₹20.66 crore out of which ₹4.18 crore was transferred to their electronic ledger. Similarly, 23 taxpayers claimed transitional credit in TRAN2 amounting to ₹0.54 crore out of which ₹1.62 lakh was transferred to their electronic ledger account. In the absence of any data or a system to validate the data of TRAN1 and TRAN2, through automated verification of credit in the backend system, **the taxation officials cannot verify whether the transitional credit claims were proper and admissible as per provisions of the Act. However, nothing prevented the authorities from cross verifying with the dealers VAT returns, to determine correctness of the transitional credit claims.**

Audit crosschecked 60 cases of TRAN1 and 23 cases of TRAN2 with the respective VAT returns of the taxpayers, which revealed the following irregularities:-

- Three taxpayers¹⁸ claimed transitional credit of ₹4.17 lakh in TRAN 1 but there was no credit balance in the VAT returns of the respective taxpayers. It was further noticed that out of the ₹4.17 lakh credit claimed, ₹3.73 lakh was irregularly allowed.

¹⁶ Input tax credit claimed by a registered dealer on tax carried forward under any existing law or on goods held in stock on 1st July 2017

¹⁷ Input tax credit claimed by a dealer registered for GST but unregistered under VAT, on goods held in stock on 1st July 2017.

¹⁸ SM Enterprise, Surana Agencies and Deb Enterprise

- Two taxpayers¹⁹ claimed transitional credit of ₹44.97 lakh in TRAN 1 against which ₹9.44 lakh was allowed, though the two taxpayers had submitted VAT returns only up to March 2017.
- Two taxpayers²⁰ claimed transitional credit of ₹21.50 lakh in TRAN 1 of which ₹21.31 lakh was transferred to their electronic cash ledger. It was however seen that there was a credit balance of only ₹18.30 lakh in the VAT returns resulting in an excess claim of transitional credit of ₹2.83 lakh.
- In one case, audit observed that though the dealer had not claimed any transitional credit²¹ in TRAN2, the Department irregularly transferred ₹1.62 lakh to the electronic cash ledger of the dealer, without any enquiry.
- Eleven dealers not dealing with exempted goods claimed transitional credits on stock amounting to ₹0.55 crore which were not admissible as per the Act. Despite input credits availed by these dealers towards payment of tax liabilities being not admissible, the Department did not impose penalty of ₹5.49 lakh and interest of ₹9.89 lakh (calculated up to December 2019) and realise the input tax of ₹0.55 crore wrongly availed by the dealer.

The above findings are based on test check of sample cases, hence the possibility of many more such cases with irregularities cannot be ruled out.

The Department in their reply (February 2020) while accepting the audit points admitted that the data relating to VAT credit available against each tax payer as on 30 June 2017 was not digitised and hence matching of the same through the computer system was not available. The Department further stated that the concerned Superintendents of Taxes have been instructed to take necessary action in accordance with the provisions of the Act.

Audit recommends that the Department may verify at least all high value transitional claims and sample cases of the balance claims with the prescribed documents, to ascertain irregular/incorrect claims of transitional credit. The same needs to be done expeditiously now, since this was not done in the initial financial year of roll out of GST i.e. 2017-18 itself.

2.3.6.10 Excess ITC claims

As per Section 61 of the MGST Act, GST tax returns furnished by the dealer are required to be scrutinised by the ST.

The input tax credit claimed by the dealer in GSTR3B should match with the input tax credit available under GSTR 2A. Further, as per provisions contained in Section 11 of the GST (Compensation to States) Act, 2017, input tax credit in respect of cess on supply of goods and services could be utilised only towards payment of cess on supply of goods and services.

¹⁹ Sanna Enterprises and ESS BEE Enterprise

²⁰ Surana Essentials Pvt Ltd and P.Kharshing

²¹ M/s Fahrenheit

As per section 73 of the MGST Act, for wrong dossiers of input tax credit, the tax dealer is liable to pay penalty equivalent to 10 *per cent* of tax or ₹10,000, whichever is higher. Further, the dealer is liable to pay interest at the rate of 24 *per cent* per annum on liability less disclosed by the dealer through ITC adjustment under section 50 of the Act.

To assess the claims of input tax credit during the period of review, audit examination of the test checked cases revealed the following:

- In test check of 17 out of 51 dealers done by the audit, it was seen that there was a mismatch between the ITC claims as per the GSTR 2A and GSTR 3B Returns. For the period July 2017 to March 2019 as per the GSTR 2A returns, the dealers had ITC of ₹173.56 crore, however, these dealers availed ITC of ₹272.22 crore during this period through GSTR 3B returns, resulting in excess ITC claims of ₹98.65 crore. The Department failed to detect the excess claim of ITC by the dealers, for which they were liable to pay tax of ₹98.65 crore besides interest of ₹17.76 crore (calculated up to December 2019) and penalty of ₹9.86 crore (**Appendix-VI**).
- Test check of five cases of claim of input tax credit on cess revealed that a dealer (Company) had available input tax credit of ₹111.21 crore on cess in their purchase return (July 2017 to March 2019). However, the dealer claimed ITC of ₹125.58 crore on cess in their tax return GSTR 3B and availed excess credit of ₹14.36 crore which the Department failed to detect. For excess claim of ITC, the dealer was required to pay tax of ₹14.36 crore besides interest of ₹2.58 crore (calculated up to December 2019) and penalty of ₹1.44 crore²².

The above findings indicate the inadequacy in the IT infrastructure system resulting in loss of revenue. The Department in their reply (February 2020) while accepting the audit observations stated that the Superintendents of Taxes concerned under whose jurisdiction the cases occur, have been instructed to take necessary action in accordance with the provisions of the Act. Further development in this regard had not been intimated to audit (September 2020).

Audit objective 4: Whether Internal Control Mechanism and coordination with other wings/Departments was adequate and functional

2.3.6.11 Absence of Enforcement activities for sharing of information

With the removal of check-gates after the roll out of GST, creation of an Enforcement wing was essential to check/cross check activities and claims of dealers to curb tax evasion. Government of Meghalaya notified on 4 August 2017, the creation of an Enforcement branch in all districts of the State. The nodal officers in-charge of these units, in the districts were notified in April 2018 and formation of mobile squads and guidelines for their operation were notified in October 2019, more than two years

²² Excess cess claimed = ₹14,36,35,238, Interest @ 24 *per cent* on ₹14,36,35,238 from March 2019 to December 2019 = ₹2,58,54,343, Penalty @ 10% of ₹14,36,35,238 = ₹1,43,63,524

since the roll out of GST. The vehicles to be used by the Enforcement Wing were issued in November 2019 only. Computers/ laptops and other computer peripherals including internet connectivity were not provided to the Enforcement wing till date of audit (December 2019).

During audit, it was observed that absence of enforcement activities had provided scope for dealers transporting coal to evade tax since the information of mineral transport challans utilised by the coal transporters were not shared by the Mining Department with the Taxation Department. Moreover, with the removal of taxation check-gates and absence of any enforcement activities by the Taxation Department, risk involved for revenue leakage was high.

A few cases detected by Audit are narrated below:

To ascertain tax compliance with respect to sale on coal, audit collected information on utilisation of mineral transport challans by coal owners/transporters during the period from 1 July 2017 to 31 March 2019. Based on data furnished by the Mining Department for East Khasi Hills, West Khasi Hills and South Garo Hills, audit scrutiny revealed that 101 coal miners/transporters utilised 85475 mineral transport challans for transportation of coal outside Meghalaya. Audit test checked five cases involving 75449 mineral transport challans (88 *per cent* of mineral transport challans utilised) to ascertain the tax compliance by these transporters. Out of the five test checked cases, in four cases, involving transportation of minimum of 2.34 lakh MT of coal valued at ₹152.97 crore²³, the transporters/coal miners did not declare the sales turnover in their returns and no IGST/CGST/SGST was paid by them. In one case, the coal transporter actually transported 4.45 lakh MT²⁴ but disclosed sales turnover of coal of 1.38 lakh MT valued at ₹100.97 crore in his GST return. **Thus, based on actual transportation of 6.79 lakh MT²⁵ of coal by the coal transporters, the GST liability was ₹17.69 crore and cess payable was ₹21.62 crore against which, GST of only ₹4.86 crore was paid resulting in loss of revenue of ₹34.45 crore to the State.**

Thus, it is evident that in the absence of an enforcement wing in the State, traders were bringing goods to the State unchecked even though e-way bills were required to be generated. Further, since e-way bills are required to be generated for consignment valued at ₹50000 or more, e-way bills were confined to only large dealers while several other dealers could potentially evade tax by splitting the bills into amounts less than ₹50000. In absence of any enforcement activities, the possibility of tax evasion by dealers cannot be ruled out.

²³ 233757 MT x ₹6544 = ₹152,97,05,808

²⁴ 49476 MTCs x 9 MT = 445284 MT

²⁵ 75549 Mineral transport challans utilised by coal transporters which were issued by the Mining Department

2.3.6.12 Deduction of GST by Government Departments/organisations

With the roll out of GST from July 2017, one of the important areas was the creation of an effective mechanism to ensure tax compliance by Government Departments²⁶. To this end requisite training was required to be provided to the Government departments to familiarise them with the various provisions of the GST Act, particularly with respect to guidelines for deduction of tax applicable for the works contracts/purchase contracts and ensure regularity in filing of tax returns by the DDOs. However, as has already been pointed out in **paragraph 2.3.6.1**, the Department did not have any comprehensive training and capacity development plan in place for the roll out of GST. Instances of incorrect deduction of GST by the DDOs as seen in the test check of records are stated below.

Section 51 of the MGST Act, 2017 provides for deduction of tax at the rate of one *per cent* by DDOs from contractors/suppliers on value of contracts exceeding ₹2.50 lakh. The amount deducted by the DDO is to be paid to the Government within 10 days after the month in which such deduction was made along with return in form GSTR 7. This section for tax deduction at source along with guidelines was notified by the Central Government on 14 September 2018 and by the State Government on 20 November 2018. The DDOs were supposed to deduct tax at the rate of two *per cent*²⁷ of the bill value of the suppliers/contractors and credit the same to Government account and submit the return based on which the benefit of deduction shall be made available to the suppliers/contractors. The contractors are to pay the remaining tax at the rate of 10 *per cent* of the bill value with their tax returns in form GSTR 3B. Thus, timely filing of returns by the DDOs would ensure capturing of data of the contractors in the Taxation application system and would help the tax officials in checking tax compliance by the contractors.

To ensure proper deduction and deposit of tax after roll out of GST from 1 July 2017, the Taxation Department was required to issue proper notifications/ guidelines and create mechanism for ensuring proper collection of taxes and submission of all details by the DDOs to the Taxation Department to plug any scope for leakage of revenue to the State. The Taxation Department should examine each of the details furnished by the DDOs with deductions made and cross verify with the returns to check tax compliance of the contractors. To examine the measures adopted by the Taxation Department to ensure compliance by Government Departments, audit examination of notifications/circulars issued by the State Taxation Department revealed the following:

- The State Taxation Department issued a circular (26 October 2017) stating that no tax was to be deducted on bills raised on or after 01 July 2017. Further, the supplier/contractor receiving payment for contract exceeding ₹2.50 lakh

²⁶ As per the provisions of GST Act, the DDOs were required to deduct two *per cent* of the bill value from the contractor's bills and the remaining ten *per cent* of the bill were to be paid by the contractors in his tax returns.

²⁷ 1 *per cent* CGST and 1 *per cent* SGST

without deduction of GST was to furnish an undertaking that he would pay the applicable tax during submission of his tax returns.

- For the quarter ending September 2018, bills were released to the contractors based on an undertaking submitted for payment of the GST due by the contractors in his tax return, in respect of bills valued at ₹2.5 lakh and above, GST deductions from the contractor's bills were made only from December 2018 onwards.

The implementation of these circulars resulted in tax evasion as discussed in subsequent paragraphs relating to Works contractors:

2.3.6.13 Potential tax evasion on 'Nil' returns filed by works contractors

Audit examined 310 cases wherein DDOs had passed bills submitted by works contractors, during the period from September 2017 to March 2019. These bills were cross-examined with the respective GSTR 3B tax returns submitted by the contractors during the same period.

We found that in 121 cases contractors had either submitted 'NIL' returns or had disclosed a lower taxable turnover in their monthly GSTR 3B returns. The estimated minimum tax implication is of ₹2.43 crore on which an interest of ₹53.95 lakh would also be applicable.

The matter of potential tax evasion was brought to the notice of the Taxation Department, which, in reply (February 2020) stated that the Superintendents of Taxes concerned have been instructed to initiate necessary action as per provisions of the Act, the outcome of which will be intimated to audit in due course.

2.3.7 Deduction of VAT after roll out of GST

As per Government notification of July 2017, GST is applicable at the rate of 12 per cent of the bill value in respect of works contracts made after 30 June 2017. With respect to contracts made prior to 1 July 2017, VAT was to be realised at the rate of 14.5 per cent after adjusting labour charges of 25 per cent of the total work value²⁸. However, audit scrutiny of the information furnished by eight Government departments revealed that the DDOs continued to deduct VAT from the contractor's bills even after roll out of GST from July 2017. During the period from July 2017 to March 2019, against the total bills valued at ₹62.56 crore, Government departments deducted and credited VAT of ₹8.24 crore after 01 July 2017. In the absence of details on work order, dates, status of the work executed, etc., the possibility of incorrect computation of VAT against GST applicable cannot be ruled out.

Audit observed that after the roll out of GST, the details of VAT deducted from the contractors bills were not forwarded by the DDOs to the respective Assessing Officers who were required to carry out the assessments of the dealers under VAT up to 30 June 2017. Instructions and guidelines by the Taxation Department to regulate such

²⁸ 75 per cent of 14.5 per cent = 10.88 per cent

cases of payment made during GST regime for completed works relating to the VAT period were also absent. Absence of these instructions and mechanism to handle such cases provided scope for dealers to conceal their tax turnover and evade tax.

The Department in their reply (February 2020) while accepting the audit point stated that details have been sought from the DDOs for determining the tax liability of the dealers on which VAT deduction was made even after implementation of GST. No further reply had been received (September 2020).

The above audit findings indicate that there was no internal mechanism in the Department to verify the outcome of various circulars issued by them relating to tax deduction at source, filing of regular returns and payment of taxes linked with them. The Department had not evolved any cross verification system to compensate for the limited computerisation they had.

2.3.8 Conclusion

- In the assessment of the Meghalaya State's preparedness to roll out the newly introduced GST legislation, it is evident that the Taxation Department of the State Government did not make concerted efforts to create awareness amongst all-important Stakeholders such as the dealers and other Government Departments. The training imparted to its own Manpower was inadequate for them to utilise the automated system created by the NIC, to carry out their statutory responsibilities under the new tax regime. This resulted in lesser registration of dealers in comparison to the VAT regime, non-filing of returns by dealers and non-deduction of GST by DDOs mandated as per the provisions
- The GST application system developed by NIC Meghalaya which was the backbone for successful implementation of the new law, suffered from lack of planning in the design and roll out of the back end application system. The Taxation Department did not have any formal MOU with the NIC, Meghalaya for timely completion of backend modules for the GST System. Of the 11 modules to be developed, the NIC reported partial completion of only four modules, namely, Registration, Payment, Returns and Refunds, but even in these the functionalities were incomplete. Further, the GST application was not user friendly to assist the taxation officials in 'getting access to the tax payer's data' with ease for carrying out the necessary functions of issuing notices etc. The database was not being updated in real time and the time lag made it unfriendly to the dealers as well as to the Department. No MIS returns could be generated by the system to show dealers who have filed their returns and those who were defaulters.
- Dealers whose turnover had crossed the limits for availing benefits of the Composition Scheme (turnover of ₹50 lakh) were neither thrown up by the computer application system nor did the Department take any steps to deny the Scheme benefits to them.

- The Department rolled out the GST with outdated /obsolete hardware equipment and except for Shillong the internet connectivity to the tax administrators remained poor for implementing the GST, for which efficient net connectivity with modern computers/servers and other equipment is a must.
- The State had 17692 dealers under GST as on 31 March 2019, which was only 34 *per cent* of the registered dealers under VAT regime migrated to GST. In absence of any exercise carried out by the Department to analyse this gap in the tax base under the MGST and its impact on the State's revenue, we cannot give an assurance that all potential taxpayers were correctly registered under the new taxation system.
- Transitional credit claims could not be verified in absence of provisions for validation of data of TRAN1 and TRAN2, through automated verification of credit in the backend system. On a sample check, audit found 19 cases of irregular claims of transitional credits of ₹72.62 lakh, which need to be rectified urgently now.
- The input tax credit claimed by dealers in their tax return (GSTR3B) did not match with the input tax credit available under GSTR 2A. The Department failed to check such excess claims of input tax credits of ₹113 crore availed by 56 dealers.
- Absence of cross checks by the taxation officials to ensure filing of tax returns by tax deductors at source and tax compliance by deductees/contractors provided scope to contractors to evade payment of GST. We noted potential tax evasion by contractors in 121 cases where 'Nil' returns were filed.
- In absence of effective enforcement activities in the Taxation Department and no mechanism for sharing of information across Departments, audit noticed several cases of tax evasion due to misreporting by the traders bringing goods to the State.
- In view of the deficiencies pointed out by the Audit in implementation of the GST roll out, the Government needs to increase its efforts for a comprehensive implementation plan for the GST.

2.3.9 Recommendations

- The Government may initiate a study on the impact of GST implementation over its taxpayer base and revenue.
- The Government may put in place a comprehensive capacity building strategy for its tax officials to familiarise them both with the legal aspects of the MGST as well as technical skills required to handle the computerised application system.

- The Taxation department should take up the matter at the Government level mandating all State Government departments to provide details to them for any sales on which GST is to be levied.
- IT infrastructure of the Department needs to be thoroughly revamped by procurement of adequate hardware and networking infrastructure as the success of GST solely depends on the adequacy of the IT platform.
- The Government may initiate a review of the existing backend application system to devise measures to overcome the systemic glitches in the system.
- The enforcement activities may be strengthened to exercise effective monitoring over unregulated movement of goods and for prevention of tax evasion and fraudulent claims.
- Until a better computerised application is implemented by the Department they may take remedial action on all cases of defaulting dealers, incorrect claims of refund/setoff/transitional credits and composition scheme claimed by the existing registered dealers.
- The Department may cross check returns filed by works contractors who transact with Government agencies, to detect possible tax evasion by them.

COMPLIANCE AUDIT

Audit was conducted in ten taxation circles²⁹ from March 2018 to June 2019 during which, 1529 cases were test checked for compliance of applicable tax laws. The findings are discussed in subsequent paragraphs.

2.4. Shortfall in realisation of tax

In 11 cases Audit noticed noncompliance to the provisions of the Act which resulted in non/ short realisation of VAT amounting to ₹4.90 crore

The assessment and levy of VAT in the State, until introduction of GST, was governed by various provisions of the Meghalaya Value Added Tax Act 2003, and the notifications issued from time to time thereunder. The assessment and levy of VAT is governed by the provisions contained in Sections 39 and 45 of the MVAT Act. In case of failure of the dealer to pay the due amount within the prescribed period, penal interest rate of two *per cent* per month from the start of the quarter following the due date is leviable under Section 40 of the Act. Penalty for non-payment of tax is prescribed under Section 90 read with Section 96 of the Act.

Further, as per Section 86 of the MVAT Act, a dealer having an annual turnover above the specified limit is required to submit audit report certified by a Chartered Accountant within six months from the end of the year. The threshold has been fixed at ₹40 lakh since January 2009 vide notification No.CTAS-2/2007/4673 dated 17 January 2009

²⁹ SsT, Circles I, II, IV, V, VII, VIII, Shillong, Jowai, Nongstoin, Nongpoh and Circle II, Tura.

The details of non/short realisation of tax have been summarised as under:

Table 2.3

Sl. No.	Nature of Non-compliance	Shortfall in collection of tax (₹ in crore)	Irregularity noted in Audit (Details in Appendix VII)	Department's Response	Amount Recovered (₹ in crore)
1	Incorrect application of rate of tax	2.33	Tobacco and tobacco products including 'pan masala' were taxed at 14.5 per cent, liquor at 20 per cent instead of 30 per cent and 40 per cent respectively. A dealer concealed the entire turnover of tobacco and tobacco product and evaded payment of tax of ₹33.67 lakh. Three registered dealers sold liquor/ Rum to retailers/ State Police canteens and paid tax at the rate of 20 per cent instead of 30/ 40 per cent. Thus, the dealer made short payment of tax of ₹1.99 crore.	Admitted	0.10
2	Concealment/ Suppression of turnover.	1.03	Turnover on sale of vehicles, motor parts and accessories was concealed/ suppressed by dealers. Two dealers concealed sales turnover of ₹7.09 crore and evaded payment of tax amounting to ₹1.03 crore.	Admitted	Nil
3	Irregular claim of concessional rate of tax	0.79	Inter-state sale of goods at concessional rate of two per cent is permitted to dealers provided these sales are duly supported by "Form C" from purchasing dealer. The Department allowed Inter-state sales worth ₹17.50 crore to two dealers without obtaining declaration in Form C.	Admitted	Nil
4	Concealment of purchase of motor spirits/ high speed diesel	0.10	On cross verification of utilisation of Form C submitted by a dealer, audit noted that purchase of motor spirits/ high speed diesel up to ₹71 lakh was suppressed by the dealer in his returns. Tax along with penalty as applicable under Sections 11(4), 16(1)(c) and 20A of the Assam (Sales of Petroleum, etc.) Taxation Act, 1955 (as adopted by Meghalaya), was not levied and collected by the Department.	Admitted	Nil
5	Incorrect claim of input tax credit	0.65	Under Sections 11 read with 16, ITC dealer shall provide evidence in support of claim of ITC, in the absence of which, penalty under Sections 90 read with 96 of MVAT Act, 2003 is leviable. However, two dealers claimed ITC on intra-state purchase of goods valued at ₹9.04 crore and claimed ITC without providing documentary evidence of purchase invoices.	Admitted	Nil
Total		4.90	-	-	0.10

Based on the above irregularities noticed by audit, during the test check in ten taxation circles, the Department is advised to issue instructions to all unit offices to examine similar cases in future, to prevent loss of revenue to the State exchequer.

2.5 Interest not levied for late payment of tax

Interest amounting to ₹1.82 crore was not levied for late payment of tax by a dealer.

[ST, Circle VII, Shillong; March 2018]

Under Section 35 of the MVAT Act, every registered dealer has to furnish quarterly tax returns duly supported by proof of payment of tax. Further, if a dealer fails to pay the full amount of tax payable by due date³⁰, simple interest at the rate of two *per cent* per month from the first date of the quarter following the due date is leviable under Section 40 of the MVAT Act.

Under MVAT Act, 914 dealers were registered under the jurisdiction of the ST, Circle VII, Shillong. Audit test checked 108 dealers (12 *per cent*) and found that a dealer³¹ paid the admitted tax of ₹15.04 crore for the period between April 2014 and March 2017 after the due date, with delays ranging between one day and 1172 days. For delayed payment of tax, interest of ₹1.82 crore³² was payable under Section 40 of MVAT Act.

Despite delayed payment of tax, the ST did not take any action to levy interest and realise the same from the dealer. Further, the ST did not maintain any record to watch timely payment of tax by the dealers. In absence of the same, the ST was not in a position to detect tax defaulters. This resulted in non-realisation of interest from the dealer to that extent.

The case was referred to the Taxation Department, Government of Meghalaya in August 2018. The Department while accepting the audit observation (April 2020) stated that the case records of the dealer were scrutinised and demand notice for payment of interest on late payment of taxes has been issued. However, the status of recovery made was not communicated (September 2020).

Audit noticed non levy of interest on late payment of tax due to non-maintenance of records to watch timely payment of tax in one unit out of 23 unit offices in the state.

The Department may issue instructions to other unit offices to examine similar cases.

2.6 Irregularities in works contract assessments

Section 106(1) of the MVAT Act and Rule 39 of the MVAT Rules 2005 stipulates that every person working in any Government Department including companies, corporations, *etc.* wholly or substantially owned by the Government, responsible for

³⁰ From the first day of the quarter next following the said date.

³¹ M/s Goenka Engineering Works.

³² Calculated up to 31.03.2019.

making payments in respect of any sale or supply of goods or transfer of the right to use goods or works contracts must deduct tax at source while making such payments and credit the same to the Government within ten days from the expiry of the month to which such deduction relates. As per Rule 40, information of the contractor including Taxpayer Identification Number (TIN), details of work to be executed, period of completion of the work, manner of deduction of tax at source proposed shall be submitted to the assessing authority within fifteen days from the date of execution of the deed of work contract.

Under Section 5(2) (c) of the MVAT Act, in case of work contracts, the actual charges towards labour, services, *etc.* are to be deducted from the gross turnover before being taxed. In cases where the amount of such charges cannot be determined from the contract, upto 25 *per cent* of the gross turnover is allowed to be deducted towards labour charges, *etc.*

Section 45 of the MVAT Act provides that if the returns furnished by a dealer are incorrect, the ST can assess to the best of his judgment the amount of tax due from the dealer. If a dealer fails to pay the full amount of tax by the due date, simple interest at the rate of two *per cent* per month from the first date of the quarter following the due date is leviable under Section 40 of the MVAT Act. In addition, for non-payment of tax, penalty not exceeding twice the amount of tax involved is also to be levied under Section 90 read with Section 96 of the Act *ibid.*

In Meghalaya goods involved in works contract are taxable at a uniform rate of 13.5 *per cent* upto December 2014 and thereafter 14.5 *per cent w.e.f.* January 2015.

The irregularities noticed in audit of works contracts are discussed in subsequent paragraphs:

Application of incorrect rate of tax on works contract, excess claim towards labour charge and concealment of turnover by works Contractors, resulted in short payment of tax of ₹2.78 crore

A Incorrect application of rate of tax on works contract

[ST, Jowai, January 2019]

Under the MVAT Act, 2924 dealers³³ were registered under the jurisdiction of the ST, Jowai. Out of the total registered dealers, Audit test checked records of 200 dealers (7 *per cent*) and noticed that two dealers³⁴ executed works contract valued at ₹7.36 crore between June 2016 and July 2017 out of which ₹2.02 crore was deducted towards cost of labour and services. On the balance taxable turnover, the dealers paid tax amounting to ₹50.42 lakh (₹12.48 lakh at the rate of 5 *per cent* on ₹2.50 crore and ₹37.94 lakh at the rate of 14.5 *per cent* on ₹2.62 crore). However, on the balance turnover of ₹0.22 crore the dealer had not claimed any exemption nor were any record

³³ As on 30.06.2017

³⁴ M/s Friday Hinge and M/s Trueman Passah.

available on records for including this amount in his taxable turnover. The dealers applied for non-deduction of tax certificate for the above works under Rule 39 (5) of MVAT Rules and the same was accordingly issued by the ST in Form-25A. During assessment carried out between June 2017 and December 2017, the ST failed to detect the incorrect application of rate of tax and accepted the returns furnished by the contractors as correct. Failure of the ST to apply correct rate of tax on turnover of ₹2.50 crore resulted short collection of tax ₹12.48 lakh. The Department needs to ascertain the reasons for the balance amount of ₹0.22 crore not being offered for tax.

Since the MVAT Act provided uniform rate of tax at 14.5 per cent on goods involved in the execution of works contract, levy and collection of tax at the rate of five per cent instead of 14.5 per cent was irregular. Failure of the ST to detect application of incorrect rate of tax and non-payment of tax resulted in short payment of tax of ₹27.01 lakh³⁵ on which penalty of ₹54.02 lakh was additionally leviable.

The case was reported to the Sales Tax Department, Government of Meghalaya in July 2019. The Department in its reply (April 2020) stated that notices were issued to the dealers to produce their book of accounts for the purpose of assessment. Further development was not intimated to Audit (September 2020).

Audit examined the records of one unit office out of 23 unit offices in the State and noticed that failure of the ST resulted in incorrect application of rate and subsequent short payment of ₹27.01 lakh by two works contract dealers.

The Department may look into similar issues in the case of all unit offices.

B. Excess Claim of labour charges

[ST, Jowai January 2019]

Examination of case records of the dealers under the jurisdiction of ST, Jowai revealed that a dealer³⁶ was awarded two works contract valued at ₹5.41 crore between June 2016 and June 2017.

The dealer applied for, and availed in Form 25A, a certificate for non-deduction of tax at source on these works contract from the ST. He disclosed to the ST in his application (vide Form 24 A) that the total work valued at ₹5.13 crore comprised exempted value of ₹2.28 crore (towards labour *etc. i.e.*, 44 per cent) and gross taxable value of work of ₹2.85 crore. However, the dealer did not give details of exempted value of works done to the ST while applying for non-deduction of tax at source certificate.

The ST accordingly issued him a certificate of non-deduction of tax at source in Form 25A, without scrutiny of details of works executed by the dealer.

³⁵ Tax payable on ₹5.34 crore at 14.5 per cent = ₹77.43 lakh.
Tax actually paid (₹12.48 lakh + ₹37.94 lakh) = ₹50.42 lakh
Balance payable = ₹27.01 lakh - ₹50.42 lakh = ₹27.01 lakh

³⁶ M/s Friday Hinge.

In the absence of details of exempted value of works done, labour and service charges of ₹1.28 crore (25 per cent) was deductible from the gross turnover ₹5.13 crore. The ST completed the scrutiny of the returns between June 2017 and December 2017 and failed to ascertain the actual value of exempted work. The turnover of ₹3.85 crore (₹5.13 crore - ₹1.28 crore) was taxable at the rate of 14.5 per cent. Thus, the dealer was liable to pay ₹55.77 lakh³⁷ against this, the dealer paid only ₹26.49 lakh including ITC claim resulting in short payment of tax of ₹29.28 lakh³⁸.

Failure of the ST to apply necessary checks while examining details of the contract while issuing the non-deduction of tax at source certificate, resulted in short payment of tax amounting to ₹29.28 lakh on which interest of ₹10.66 lakh³⁹ was payable. Additionally, for short payment of tax, a penalty not exceeding ₹58.56 lakh was also leviable.

Audit noticed failure of the ST to adequately scrutinise the dealer's application for issue of non-deduction of tax at source certificate, thereby allowing an excess claim of labour charge, resulting in short payment of tax on verification of records of one dealer out of 200 dealers test checked by Audit from the total 2924 registered dealers. ST may look into remaining 2724 cases to identify more such cases.

The case was reported to the Taxation Department, Government of Meghalaya in July 2019. The Department in its reply (April 2020) stated that notice was issued to the dealer to produce the book of accounts as to enable to carry out assessment. However, status of assessment done and recovery of dues made was not communicated to Audit (September 2020).

Audit examined the records of one unit office out of 23 unit offices in the State and noticed that the ST allowed excess claim towards labour charges which resulted in short payment of tax by a works contract dealer. The ST needs to adopt stringent procedures before issuing non-deduction of tax certificate in respect of the remaining dealers dealing in work contracts within his unit.

The Department may look into similar issues in the case of other unit offices

C Non-disclosure of turnover

[ST, Circle-II, Tura; March 2019]

Under MVAT Act, 2970 dealers⁴⁰ were registered under the jurisdiction of ST, Circle-II, Tura. Out of the total registered dealers, Audit test checked records of 189

³⁷ Tax payable = 14.5% of ₹38461003 = ₹5576845.

³⁸ Tax short paid (₹ in crore)

Total work value	Exemption claimed towards labour, etc.	Taxable turnover of work disclosed by the dealer	Tax paid including ITC claim	Taxable sales turnover determinable after allowing exemption	Tax payable by the dealer	Tax short paid
5.13	2.28	2.85	26.49	3.85	55.77	29.28

³⁹ Calculated upto 31.03.2019.

⁴⁰ As on 30.06.2017

dealers (6 per cent) and noticed that two dealers⁴¹ disclosed sales turnover valued at ₹11.43 crore⁴² during the period from June 2010 to June 2017 for which they paid tax valued at ₹28 lakh⁴³. The dealers did not disclose any deduction of TDS in their quarterly returns. The returns were not scrutinised by the ST either.

Audit cross verified records of the Executive Engineer (EE), Public Works Division (Roads), Barengapara, and observed that the same dealers were issued a works contract by the Chief Engineer, Public Works Division (PWD) (Roads), Meghalaya, Shillong valued at ₹23.64 crore⁴⁴ in August 2010. The EE had submitted the completion reports in March 2014⁴⁵ and February 2016⁴⁶ respectively. On examination of the RA bills it was noticed that a total amount of ₹24.72 crore⁴⁷ were paid to the dealers for the total works completed as on March 2015 without deducting any tax at source. The EE had also failed to furnish the information viz. TIN of the contractor, details of works and manner of deduction of tax at source to the appropriate assessing authority while entering into the contract as provided under Rule 40 of the MVAT Rules, and had passed the bills, without deducting any tax at source from the RA bills and the ST to verify the books of account of the dealer. Neither the dealer had not applied for a certificate of non-deduction of tax at source in Form 24A on this work from the Taxation Authority nor did the assessing authority had collected details of the works from the DDOs.

Thus, the dealer concealed turnover to the tune of ₹18.54 crore and evaded a minimum tax amounting to ₹2.22 crore⁴⁸. Additionally, penalty (double the tax evaded) not exceeding ₹4.44 crore and interest of a minimum of ₹89.08 lakh⁴⁹ were also leviable for concealment of turnover as per relevant provision of the Act.

The cases were referred to the Taxation Department, Government of Meghalaya in May 2019. The ST stated (September 2019) that the onus of deducting of TDS lies with the DDO concerned and details of the work sanctioned, payments and TDS deductions are not shared with the taxation office, by the sanctioning Department. The reply of the ST is not tenable as the Assessing Officer (AO) has failed to collect the required information regarding details of the works contracts as well as payments received by the contractors during the financial year from the concerned government agencies of the State.

Further, the Department while accepting the audit observation (April 2020) stated that notice was issued to the dealer and at the same time the DDO was also requested to

⁴¹ Diwan B. Marak and Bimal Kr. Agarwala

⁴² Diwan B. Marak - ₹3.08 crore and Bimal Kr. Agarwala - ₹8.35 crore

⁴³ Diwan B. Marak - ₹25 lakh and Bimal Kr. Agarwala - ₹3 lakh

⁴⁴ Diwan B. Marak - ₹11.48 crore and Bimal Kr. Agarwala - ₹12.16 crore

⁴⁵ In respect of the works executed by Bimal Kr Agarwala

⁴⁶ In respect of the works executed by Diwan B. Marak

⁴⁷ Diwan B. Marak - ₹11.93 crore and Bimal Kr. Agarwala - ₹12.79 crore

⁴⁸ Taxable sale under Section 5(2)(C) = 75 per cent of gross sale (₹24.72 crore) = ₹18.54 crore. Tax due = 13.5 per cent of taxable sale (₹18.54 crore) = (₹2.50 crore - ₹28 lakh) = ₹2.22 crore

⁴⁹ Calculated upto 31.03.2019.

furnish the information in respect of the dealer. However, further progress was not intimated to Audit (September 2020).

Due to failure of both the EE to deduct tax at source from the RA bills and of the ST to verify the books of account of the dealer, facilitated concealment of turnover and tax evasion.

Audit examined the records of one-unit office out of 23 unit offices in the State and noticed evasion of tax by a works contract dealer due to cumulative failure of the ST and DDO.

The Department may look into similar issues in the case of works contractors in other unit offices.

