

# **CHAPTER - II**

# **COMMERCIAL TAX**



## Highlights

### Why CAG did this Audit

Commercial Tax Department levies and collects Value Added Tax, Entry Tax, Central Sales Tax and *Vilasita, Manoranjan and Amod Kar*, which are based on self-assessment system.

During 2018-19, the Department was engaged in completing the assessment for the transactions that took place during the previous regime of Value Added Tax, Entry Tax, Central Sales Tax, etc. and was also heading towards new taxation system of Goods and Services Tax. Accordingly, Audit was done for assessments under previous taxation system only, as assessment under GST regime were yet to be finalised by the Commercial Tax Department.

Audit was conducted with a view to assess whether:

#### In Pre-GST era:

- Taxable turnover was worked out properly and appropriate rates of tax have been applied; and
- Input Tax Rebate (ITR) was claimed and allowed properly.

#### In Post-GST era:

Taxation Authorities verified the correctness of the amount of ITC as claimed in TRAN-1 filed by the taxpayers.

### What CAG found

**During a test check of records in the Office of Commissioner, Commercial Tax, and 32 out of 115 underlying units, the following issues of non-compliance with the provisions of Act/Rules were noticed:**

#### Pre-GST era:

- *The Assessing Authorities (AAs) under-assessed the taxable turnover*
- *Failure of the AAs to apply the correct rate of tax resulted in short levy of tax,*
- *Failure of AAs to apply provision of inter-State sales resulted in short levy of tax,*
- *Entry Tax on goods was either not levied or levied at incorrect rates on their entry into local area. and*
- *The AAs allowed ITR of aggravated amount against the admissible ITR, which resulted in short realisation of tax and non-imposition of penalty.*

#### Post-GST era:

- *4,450 applications were pending registration as on 31 March 2020.*
- *Taxpayers had irregularly carried forward transitional credit of ₹ 11.49 crore in TRAN-1 in excess of the ITC shown in the VAT returns.*

## **2.1 Introduction**

Commercial Tax Department accounts for the highest revenue receipts of the Government of Madhya Pradesh. The Department administers and collects revenue on goods and services under the Madhya Pradesh Value Added Tax Act, 2002 (VAT Act), The Central Sales Tax Act, 1956 (CST Act), The Madhya Pradesh Entry Tax, 1976, The Madhya Pradesh Professional Tax, 1995 and *The Madhya Pradesh Vilasita, Manoranjan, Amod Evam Vigyapan Kar Adhiniyam, 2011*. After introduction of Goods and Services Tax with effect from 01 July 2017, the Department has been administering and collecting revenue on goods and services under the Madhya Pradesh Goods and Services Tax Act, 2017 (GST Act).

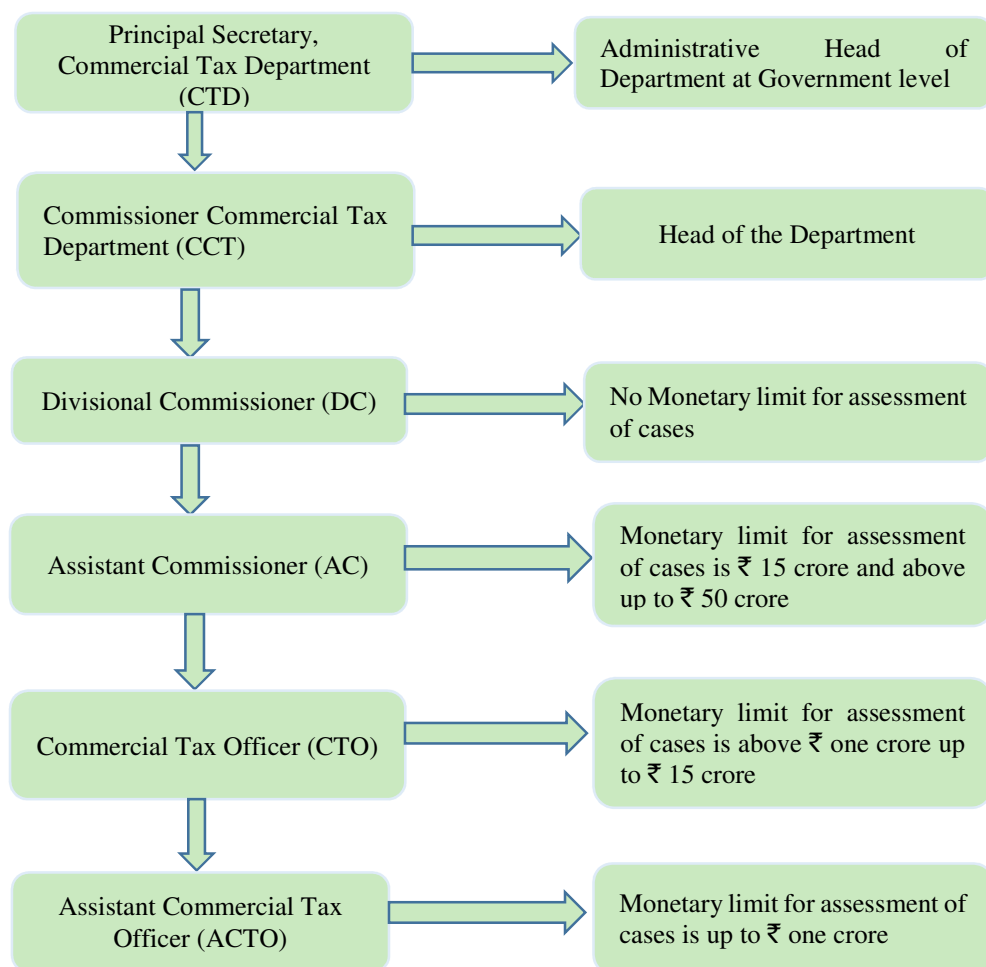
Commercial Tax Department is currently completing the assessment for the transactions that occurred during the previous regime of Value Added Tax, Entry Tax, Central Sales Tax, etc. and is also heading towards the new taxation system of GST. Accordingly, Audit was done for assessments under previous taxation system only, as assessment under GST regime is yet to be finalised by the Commercial Tax Department. Hence, issues relating to preparedness for transition to GST have been incorporated in this chapter.

## **2.2 Tax Administration**

The Principal Secretary, Commercial Tax Department is the Administrative Head of the Department at the Government level. The Commissioner of Commercial Tax is the Head of the Department and is assisted by Additional Commissioners of Commercial Tax, Deputy Commissioners, Assistant Commissioners, Commercial Tax Officers, Assistant Commercial Tax Officers and Inspectors of Commercial Tax in the performance of such functions as may be assigned to him under the Act.

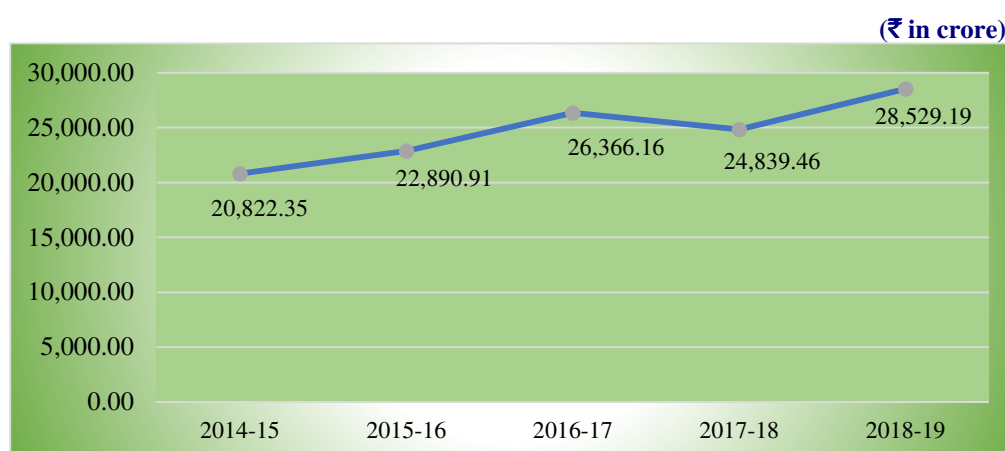
The Assistant Commercial Tax Officer (ACTO), Commercial Tax Officer (CTO), Assistant Commissioners (AC) and Deputy Commissioners (DC) have been vested with the powers of assessment of cases.

The hierarchy and responsibilities of the Department are shown in the organogram given below in **Chart 2.1**.

**Chart 2.1: Organisational set up**

### 2.3 Trend of Receipts

The trend of revenue receipts of Commercial Tax Department from taxes on sales, trades, etc., taxes on goods and passengers, and SGST is given below in **Chart 2.2**.

**Chart 2.2: Commercial Tax Receipt**

Source: Finance Accounts of Government of Madhya Pradesh

As can be seen from the chart given above, revenue contributed by the Commercial Tax Department to the total revenue of the State has been quite

substantial over the years. During the five-year period 2014-19, there has been an increase in revenue from commercial taxes from year-to-year except for a steep decline of 5.79 *per cent* during 2017-18 compared to the previous year before picking up pace and increasing by 14.85 *per cent* during 2018-19 over 2017-18. Further, except during the year 2016-17, the actual receipts from the Department have not matched the budgetary expectations in any of the years. In fact, despite the introduction of GST during 2017-18, which had the effect of increasing the overall commercial tax receipts during the year 2018-19, revenue receipts from the Department during 2018-19 have fallen short of budgetary expectations by 9.44 *per cent*.

## **2.4 Audit Approach**

Audit of Commercial Tax Department was carried out during June 2019 and March 2020 and covered the assessments for the three-year period 2016-17 to 2018-19. Audit was conducted through a test check of the assessments and other related records in 32<sup>12</sup> offices (three Divisional Offices, 18 Regional Offices and 11 Circle Offices) out of 115<sup>13</sup> offices selected on the basis of risk perception<sup>14</sup> and those that were due for audit in 2018-19, to gain assurance that the taxes were assessed, levied, collected and accounted for in accordance with the relevant Acts<sup>15</sup>, Codes and Manuals, and the interests of the Government are safeguarded (**Appendix I**). Besides, information was also collected from the office of the Commissioner, Commercial Tax Department. Assessing Authorities (AAs) in the selected offices provided 53,373 regular (assessed under section 20(4) of MPVAT Act) and deemed assessed cases<sup>16</sup> (assessed under section 20 A of MPVAT Act), assessed during the period 2016-17 to 2018-19 to Audit.

Audit findings were benchmarked against the criteria sourced from MPVAT Act, 2002, Entry Tax Act, 1976 (ET Act), and Central Sales Tax Act, 1956 (CST Act); and Rules and instructions, circulars/exemption notifications issued by the State Government and decisions of the Courts and Appellate Authority.

## **2.5 Results of Audit**

Test-check of 18,550 cases (34.75 *per cent*) out of the total 53,373 cases of the sampled units brought out instances of deviations/non-compliance with the relevant Acts/Codes/Manuals leading to short levy of tax and inadmissible/excess input tax rebate including penalty in 801 cases involving an amount of ₹ 42.65 crore, due to various reasons, as detailed in **Table 2.1**.

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<sup>12</sup> DCCT Bhopal II, Indore II and Jabalpur II;  
ACCT Bhopal I, Bhopal V, Bhopal VI, Guna, Gwalior II, Indore I, Indore II, Indore III, Indore IX, Indore X, Jabalpur I, Jabalpur II, Katni, Khandwa, Morena, Pithampur, Sagar I and Satna I, and  
CTO Ashok Nagar, Betul, Damoh, Gwalior IV, Indore I, Indore VIII, Neemuch, Rewa, Sagar, Satna II and Sehore.

<sup>13</sup> 16 units were unrelated to the Audit Topic.

<sup>14</sup> Inherent Risk, reported cases of fraud/embezzlement/loss, internal assessment, revenue collection, etc.

<sup>15</sup> MPVAT Act, 2002, Entry Tax Act, 1976 (ET Act), and Central Sales Tax Act, 1956 (CST Act).

<sup>16</sup> Annual lists of these cases were not provided by the Department. Hence, the total number of these cases could not be ascertained.

**Table 2.1: Categories of Audit observations on revenue receipts**

(₹ in crore)			
Sl. No.	Categories	No. of audit observations	Amount
1	Incorrect determination of Turnover	96	10.42
2	Application of incorrect rate of tax	30	6.96
3	Grant of irregular concession under Central Sales Tax (CST) Act	13	1.83
4	Non-levy or short levy of Entry Tax	59	3.07
5	Allowance of Input Tax Rebate without proper verification	184	6.27
6	Allowance of excess Input Credit	50	2.61
7	Observations under Goods and Services Tax Act (Refunds and Transitional claims)	369	11.49
<b>Total</b>		<b>801</b>	<b>42.65</b>

There are seven broad categories of audit observations under VAT Act, Entry Tax Act or CST Act and one audit observation under GST Act on transitional credit besides status of registration which are detailed in succeeding paragraphs.

There may be similar irregularities, errors or omissions in other units under the Department but not covered in the test audit. The Department may, therefore, examine all the units to ensure that taxes are levied as per provisions of the Acts and Rules.

## Audit Findings

### 2.6 Incorrect determination of Turnover

According to Section 2(z) of the Madhya Pradesh VAT Act (MPVAT Act), turnover in relation to any period means the aggregate of sale prices received or receivable by a dealer in respect of any sale or supply of goods made during that period, excluding the amount of sales returned within the prescribed period.

For the purpose of determining taxable turnover (TTO), the MPVAT Act provides for deduction from turnover, the sale price of tax paid goods, tax free goods and the amount of tax, if included in the aggregate of sale prices. As per provisions contained under Section 2(v) (iii), therein, discount at the time of sale, as evident from the invoice, shall be excluded from the sale price but any *ex-post facto* grant of discount or incentives or rebate or rewards and the likes, shall not be excluded. Further, as per Section 2 (x) (iii) therein, taxable turnover is determined after deducting amount of tax included in aggregate of sale price. It also provides that no deduction shall be allowed if the amount of tax is not included in the aggregate of sale price.

Test-check of assessment records in 8,256 cases revealed that in 96 cases (73 regular assessment and 23 deemed assessed) the AAs determined less taxable turnover amounting to ₹ 32.69 crore, due to the reasons given in **Table 2.2**.

**Table 2.2: Details of incorrect determination of turnover**

Sl. No.	Particular	No. of cases
1	AAs determined less turnover due to non/short account of sale value, profit and other receipts	46
2	Figures of audited accounts were not adopted while determining turnover	25
3	Excess/incorrect deductions were allowed	09
4	The AA determined turnover without considering purchase data	10
5	The dealer did not account for out of State purchase	04
6	The AA could not explain the reason for difference between the turnover of VAT returns and assessed turnover	01
7	The dealer determined less Gross Turn Over (GTO) due to manipulation in opening stock	01

In the above cases, the AAs concerned failed to determine the correct taxable turnover at the time of assessment. As a result, VAT aggregating ₹ 2.99 crore (₹ 2.46 crore in assessment of regular and ₹ 0.53 crore in deemed assessed cases) was short levied and minimum penalty of ₹ 7.43 crore under Section 21(2) of the MPVAT Act (₹ 5.87 crore in assessment of regular and ₹ 1.56 crore in deemed assessed cases) was not imposed.

After being pointed out in audit, in 80 cases the AAs stated that action would be taken after verification. In 15 cases, replies were submitted by the AAs and in one case, the AA accepted the observation. The details are given in **Appendix II**.

During the Exit Conference (August 2020), the Commissioner, CTD stated that all the cases pointed out in audit relating to incorrect determination of turnover, application of incorrect rate, short levy of tax/grant of irregular concession under Central Sales Tax, short levy/non-levy of Entry Tax and allowance of Input Tax Rebate, would be re-opened and action on these would be intimated to Audit in due course. However, as regards the issue of imposition of penalty, the Commissioner, CTD disagreed with the amount of penalty quantified in audit and stated that the penalty depends on the nature of omission.

While it is true that penalty will be based on the nature of omission, the Government will be able to comment on the amount of penalty only after re-opening the case and examining the non-compliance/deviation from the Act/Rules/Codes.

Final action is awaited (December 2020).

## **2.7 Application of incorrect rate of tax**

The MPVAT Act, read with the CST Act and notifications issued thereunder, specify the rates of VAT leviable on different commodities.



Test-check of 8,256 cases in one Divisional Office<sup>17</sup>, 11 Regional Offices<sup>18</sup> and eight Circle Offices<sup>19</sup> revealed that in 30 cases (25 assessment of regular and five deemed assessed), the AAs applied incorrect rate of tax on sale of PSCC Pole, Cement, Tyre, Wall Putty, Cosmetic, Chemical, Coolant, Petrol, Diesel, Vehicle, Rock Phosphate, Bone Cement Paver Block, *Murom*, Plant & Machinery DG set, Kota Stone and Sleeper, etc. which were taxable at higher rates.

As such, the AAs did not comply with the provisions of the Acts, Rules and Departmental circulars to classify the commodities correctly and apply the appropriate rate of tax. This resulted in short levy of VAT of ₹ 3.19 crore (₹ 2.70 crore in assessment of regular and ₹ 0.49 crore in deemed assessed cases) and probable minimum penalty of ₹ 3.77 crore under Section 21(2) of the MPVAT Act (₹ 2.28 crore in assessment of regular and ₹ 1.49 crore in deemed assessed cases) thereon.

The case wise details of audit observations, and replies of the AAs concerned, are given in **Appendix III**.

During the Exit Conference (August 2020), the Commissioner, CTD stated that all the cases pointed out in audit relating to incorrect determination of turnover, application of incorrect rate, short levy of tax/grant of irregular concession under Central Sales Tax, short levy/non-levy of Entry Tax and allowance of Input Tax Rebate, would be re-opened and action on these would be intimated to Audit in due course. However, as regards the issue of imposition of penalty, the Commissioner, CTD disagreed with the amount of penalty quantified in audit and stated that the penalty depends on the nature of omission.

While it is true that penalty will be based on the nature of omission, the Government will be able to comment on the amount of penalty only after re-opening the case and examining the non-compliance/deviation from the Act/Rules/Codes.

Final action is awaited (December 2020).

## **2.8 Short levy of tax/grant of irregular concession under Central Sales Tax Act**

The Central Sales Tax (CST) Act stipulates that if a dealer claiming tax on inter-State sales (entitling him to pay tax at two percent of turnover) fails to furnish the required declaration in Form 'C' signed by the purchasing dealer, he shall be liable to pay tax at the rate applicable to the sale or purchase of such goods inside the appropriate State, and in addition, pay penalty of the tax so assessed. While completing the assessment, the assessing authority is required to ensure that the concessional rate of tax is allowed only on the basis of genuine and valid statutory form issued by the respective authority of the issuing State during the course of inter-State trade. Otherwise, rate of tax applicable to the sale of such goods as prescribed in MPVAT Act shall be leviable.

<sup>17</sup> DCCT Indore II.

<sup>18</sup> ACCT Bhopal VI, Guna, Gwalior Division II, Indore III, Indore IX, Jabalpur I, Jabalpur II, Katni I, Morena, Pithampur and Sagar.

<sup>19</sup> CTO Ashok Nagar, Damoh, Indore I, Neemuch, Rewa, Sagar, Satna II and Sehere.

Further, under Section 6-A of the CST Act, consignment sale (branch transfer) shall be exempt from payment of tax on production of statutory Form 'F'. In the absence of the statutory forms and supporting documents, the tax on these goods is leviable at the rates prescribed in the Act.

Similarly, in respect of transit sale, Section 6(2), provides that where a sale of any goods in the course of inter-State trade or commerce has either occasioned the movement of such goods from one State to another or has been effected by a transfer of documents of title to such goods during their movement from one State to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods to a registered dealer, shall be exempt from Tax under CST Act.

Moreover, selling dealers are required to furnish Form 'E-I', 'E-II' and Form 'C' in support of such sale for claiming exemption from payment of tax.

Test-check of 3,056 cases revealed that in 13 cases (12 assessment of regular and one deemed assessed) the AAs allowed incorrect deduction under CST Act, as per details given in **Table 2.3**:

**Table 2.3: Details of short levy of tax/grant of irregular concession**

Sl. No.	Audit observation	No. of cases
1	The AA allowed incorrect deduction on branch transfer without supported or incomplete declaration Form 'F'	03
2	The AA allowed incorrect deduction without supported declaration Form 'E-1'	01
3	The AA allowed incorrect deduction on Form 'E-1' and Form 'C' while concerned dealer sold goods against Form 'C'	02
4	The AA allowed irregular deduction of tax during assessment while tax was not included in GTO.	01
5	The AA did not impose penalty due to misuse of Form 'C' under section 10(d)	01
6	The AA allowed irregular deduction against the case of 2015-16 while transaction is related for the period 2016-17.	01
7	The AA applied incorrect rate of tax	03
8	The AA allowed deduction without supporting documents in respect of direct export	01

This resulted in short levy of VAT of ₹ 0.95 crore (₹ 0.20 crore in assessment of regular and ₹ 0.75 crore in deemed assessed cases) and non-levy of possible minimum penalty of ₹ 0.88 crore under Section 21(2) of the MPVAT Act in assessment of regular cases as detailed in **Appendix IV**.

During the Exit Conference (August 2020), the Commissioner, CTD stated that all the cases pointed out in audit relating to incorrect determination of turnover, application of incorrect rate, short levy of tax/grant of irregular concession under Central Sales Tax, short levy/non-levy of Entry Tax and allowance of Input Tax Rebate, would be re-opened and action on these would be intimated to Audit in due course. However, as regards the issue of imposition of penalty,

the Commissioner, CTD disagreed with the amount of penalty quantified in audit and stated that the penalty depends on the nature of omission.

While it is true that penalty will be based on the nature of omission, the Government will be able to comment on the amount of penalty only after re-opening the case and examining the non-compliance/deviation from the Act/Rules/Codes.

Final action is awaited (December 2020).

## 2.9 Entry Tax was not levied/short levied

Madhya Pradesh Entry Tax Act 1976, and Rules and notifications issued there-under, stipulate that Entry Tax is leviable at the specified rates on the goods entering into local area for consumption, use or sale therein.

Test-check of 7,238 assessment cases, and related records such as audited accounts, purchase list, etc. revealed that in 59 cases (55 assessment of regular and four deemed assessed), Entry Tax on goods like iron & steel, electrical item, packing material, transformer, pipe, chemical, plastic granules, cement sheet, light diesel oil, explosive, tiles, sanitary, *tendu patta*, *bidi*, sand, *gitti*, coal, bitumen, resin, winding wire and steel tube, etc. was either not levied or was levied at incorrect rates on their entry into local area, as per details given in **Table 2.4**.

**Table 2.4: Details of short levy/non-levy of Entry Tax**

Sl. No.	Audit observation	No. of cases
1	The AA applied lower rate of tax	23
2	The AA allowed excess and irregular deduction	18
3	The AA determined less gross turnover	23
4	The AA did not levy ET and penalty under Section 7	04
	<b>Total</b>	<b>68<sup>20</sup></b>

Therefore, the AAs concerned did not apply the correct rate of tax in all these cases. As a result, Entry Tax amounting to ₹ 1.01 crore (₹ 0.98 crore in assessment of regular and ₹ 0.03 crore in deemed assessed cases) was short levied and possible minimum penalty of ₹ 2.06 crore under Section 21(2) of the MPVAT Act (₹ 1.97 crore in assessment of regular and ₹ 0.09 crore in deemed assessed cases) also could not be imposed.

On these being pointed out, in 52 cases the AAs stated that action would be taken after verification and in remaining seven cases the replies were submitted to audit. The details of audit observation and replies of the AAs concerned are given in **Appendix V**.

During the Exit Conference (August 2020), the Commissioner, CTD stated that all the cases pointed out in audit relating to incorrect determination of turnover, application of incorrect rate, short levy of tax/grant of irregular concession under Central Sales Tax, short levy/non-levy of Entry Tax and allowance of

<sup>20</sup> Though 59 cases have been checked, nine cases contain multiple types of observations. Hence, the total here is different from 59.

Input Tax Rebate, would be re-opened and action on these would be intimated to Audit in due course. However, as regards the issue of imposition of penalty, the Commissioner, CTD disagreed with the amount of penalty quantified in audit and stated that the penalty depends on the nature of omission.

While it is true that penalty will be based on the nature of omission, the Government will be able to comment on the amount of penalty only after re-opening the case and examining the non-compliance/deviation from the Act/Rules/Codes.

Final action is awaited in Audit (December 2020).

### **2.10 Allowance of inadmissible Input Tax Rebate (ITR)**

As per Section 14 of MPVAT Act, where a registered dealer purchases any goods specified in Schedule II within the state of Madhya Pradesh from another such dealer after payment of input tax, other than those specified in Part III and Part IIIA of the said Schedule, he shall claim or be allowed in such manner and within such period as may be prescribed, input tax rebate (ITR) of the amount of such input tax.

Under Rule 9 of the MPVAT Act, no input tax rebate shall be claimed or be allowed if the bill, invoice or cash memorandum does not indicate separately the amount of tax collected by the selling registered dealer.

Further, Section 18 of the MPVAT Act, read with Rule 21(9), provided that notwithstanding anything to the contrary contained in these rules, no return shall be complete unless details of purchases and sales, as required in the prescribed Form, are furnished in return - Form 10, Form 10.1 or Form 10.2, as the case might be.

Section 14(6-A) of MPVAT Act stipulates that notwithstanding anything to the contrary contained in this Section, in no case the amount of input tax rebate on any purchase of goods shall exceed the amount of tax in respect of such purchase of goods actually paid under the Act, into the Government Treasury.

The Commissioner Commercial Tax had also issued instruction to all the Circle Officer vide circular no. 147/2014-15/30/fifteen/667 dated 21 August 2014 that amount of mismatch should be reconciled before allowing input tax rebate to purchasing dealer.

#### **2.10 (a) Allowance of Input Tax Rebate without proper verification**

Test check of 1,087 assessment cases and the related records, such as purchase list, report 75-76<sup>21</sup> of VATIS software, etc. revealed that in 184 (101 regular assessments and 83 deemed assessed) cases, the AAs allowed excess ITR of ₹ 6.27 crore (₹ 3.55 crore in regular assessment and ₹ 2.72 crore in deemed assessed cases) without taking into consideration the fact that the selling dealers concerned had short deposited output tax into the Government account.

The details of audit observations and replies of the AAs concerned are given in **Appendix VI**.

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<sup>21</sup> Departmental application report which contains collected and analysed purchase and sale data from electronic returns submitted by the dealer along with sale and purchase list as provided under section 18 of the MPVAT Act.

The Department replied (August 2020) that ITR was allowed by the AAs after verification of purchase bills, separately charged VAT in purchase bills and complete verification of MIS mismatch reports No. 75 and 76. On various occasions, due to incorrect entry of TIN or name of the firm by dealers or non-production of selling details by selling dealers, situation of mismatch arose. In these cases the AA concerned had allowed ITR after micro examination of all purchasing documents. Many court decisions had been given in favor of purchasing dealer. Hence, the objection of disallowing of ITR only on the basis of MIS mismatch report No. 75 and 76 is not reasonable.

Reply of the Department is not acceptable because the AAs concerned had not followed the provision under section 14 (6-A) read with Rule 9-A and the instructions issued by the Commissioner Commercial Tax vide circular no. 147/2014-15/30/fifteen/667 dated 21 August 2014, and allowed ITR to dealer concerned without verifying the figures of mismatch with the concerned seller's AA.

### **2.10 (b) Allowance of excess input credit against provision**

Test-check of 8,256 cases revealed that in 50 assessed cases (43 regular and seven deemed assessed), the AAs allowed higher ITR, as per details given in **Table 2.5**.

**Table 2.5: Details of allowance of excess input credit**

Sl. No.	Audit observation	No. of cases
1	The AA allowed excess ITR without consideration of purchase list and audited accounts	16
2	The AA allowed ITR against the provision	16
3	The AA allowed excess ITR due to non/short reversal of the ITR and incorrect calculation of reversal amount	12
4	The AA allowed ITR on out of State purchase	01
5	The AA allowed ITR on irregular invoices	03
6	The AA allowed ITR on such purchases, which was from unregistered dealer	02

Therefore, in above cases, the AAs failed to determine correct ITR. As a result, inadmissible ITR of ₹ 1.11 crore (₹ 1.03 crore in assessment of regular and ₹ 0.08 crore in deemed assessed cases) was allowed and possible minimum penalty of ₹ 1.50 crore under Section 21(2) of the MPVAT Act (₹ 1.39 crore in assessment of regular and ₹ 0.11 crore in deemed assessed cases) was not imposed.

The details of audit observations, and replies of the AAs concerned and audit comments thereon, are given in **Appendix VII**.

During the Exit Conference (August 2020), the Commissioner, CTD stated that all the cases pointed out in audit relating to incorrect determination of turnover, application of incorrect rate, short levy of tax/grant of irregular concession under Central Sales Tax, short levy/non-levy of Entry Tax and allowance of Input Tax Rebate, would be re-opened and action on these would be intimated

to Audit in due course. However, as regards the issue of imposition of penalty, the Commissioner, CTD disagreed with the amount of penalty quantified in audit and stated that the penalty depends on the nature of omission.

While it is true that penalty will be based on the nature of omission, the Government will be able to comment on the amount of penalty only after re-opening the case and examining the non-compliance/deviation from the Act/Rules/Codes.

Final action is awaited in Audit (December 2020).

## 2.11 Preparedness for Transition to Goods and Services Tax

### Registration of new taxpayers

As per Rule 9 of Madhya Pradesh GST Rules, 2017, registration of new dealers under GST was to be completed within three working days of receipt of application. The status of new registrations of dealers under GST as on 31 March 2020 is given in **Table 2.6**.

**Table 2.6: Registration of new taxpayers**

No. of applications received up to 31 March 2020	No. of applications rejected	No. of applications approved	No. of applications pending registration
3,24,916	60,487	2,59,979	4,450

Source: Information furnished by the State Tax Department

The above table indicates that 18.62 *per cent* of applications were rejected. However, reasons for rejection of application have not been provided by the Department. Regarding pendency of applications, the Department replied (September 2020) that issue of registration, cancellation and revocation of registration is a continuous process. Reply of the Department is not acceptable as there was delay in registration of new dealers.

Further, it was intimated (October 2020) that after implementation of GST, the allocation of the new taxpayers between State and Center, was done automatically by the GSTN, in compliance with various circulars issued by CBIC.

## 2.12 Claim and admittance of Input Tax Credit

As per Section 140 of the MPGST Act, a registered person is entitled to carry forward the credit of Value Added Tax available to him as on 30 June 2017. Such tax credit can be claimed by the registered person by filing a declaration in Form TRAN-1 prescribed under Rule 117 of the MPGST Rules. The last date of filing this declaration was 27 December 2017, which was extended till March 2020. Thereafter, taxation authorities were required to verify the correctness of the amount of ITC as claimed in TRAN-1 filed by the taxpayer. As per information provided by the Department, 30,773 taxpayers had filed TRAN-1 and claimed transitional credit of ₹ 3,893.55 crore.

Audit test checked (between July 2019 and March 2020) 1,366 out of 3,969 cases in 15 offices<sup>22</sup>, where transitional credit was claimed and was carried

<sup>22</sup> **Regional Offices (Circle) (4)** Bhopal VI, Indore X, Morena and Rewa,

forward as SGST. Cross-verification of transitional credit (SGST) claimed, with the ITC carried forward as shown in VAT returns (Form-10) submitted for the period from April to June 2017, revealed that 369 taxpayers had irregularly carried forward transitional credit of ₹ 11.49 crore in TRAN-1 in excess of the ITC shown in the VAT returns (**Appendix VIII**).

During Exit Conference (August 2020), the Commissioner, CTD stated that, after the implementation of GST, the benefit of self-assessment and deemed tax assessment scheme issued by the Government were not given to those dealers who had submitted the TRAN-1, so that the ITC claimed by such dealers can be matched and verified at the time of assessment of VAT for the year 2017-18. Currently, the work of tax assessment for the first quarter of the year 2017-18 is in process. At the time of tax assessment, carry forward amount of TRAN-1 would be verified.

The Commissioner, CTD also stated that objection was taken by the Audit in 372 cases in which verification was being done by the Circles concerned and according to the information received from the Circles, verification work had been completed by the Department in 88 cases, in which no discrepancies were found; in other cases, information was being obtained from Circle Offices. However, the details of 88 cases were not provided by the Department.

Contrary to Commissioner's assertion, replies of the AAs were as under-

- i. CTO Circle Betul intimated (August 2020) recovery of ₹ 25.69 lakh in nine cases and stated that scrutiny of 12 cases where objected amount of ₹ 15.70 lakhs was involved, a credit of ₹ 7.13 lakh was found correctly allowed and action was under process for remaining amount.
- ii. ACCT Morena informed (August 2020) that out of 80 objected cases amounting to ₹ 1.68 crore, eight cases were scrutinized and Demand Notices of ₹ 5.98 lakh in two cases were issued. Assessment of 12 cases was under process. However, no documentary evidence was provided in support of the reply.
- iii. CTO Circle Sagar, Guna and Gwalior-IV intimated (August and September 2020) that tax assessment of objected cases is under progress/pending and examination of carry forward of ITR/credit would be done at the time of regular assessment.
- iv. ACCT Circle VI Bhopal and CTO Circle VIII Indore informed (August and September 2020) that no separate instructions were received for verifications of ITC amount claimed by the tax payers.
- v. ACCT Circle Rewa intimated (September 2020) that the cases were scrutinised and Demand Notices of ₹ 42.17 lakh in four cases were issued.

Further, the contention of Commissioner CTD, that verification work had been completed by the Department in 88 cases, in which no discrepancies were found, was also not correct in view of replies received from the AAs, and issue of Demand Notices for incorrect claim and acceptance of ITC as indicated *ibid*.

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**Circle Office (11)** Ashok Nagar, Betul, Damoh, Guna, Gwalior IV, Indore I, Indore VIII, Neemuch, Sagar, Satna II and Sehore.

Further information is awaited for verification in Audit (December 2020).

### **2.13 Login IDs and Password not provided**

With automation of collection of Goods and Services Tax (GST) having taken place, it is essential for Audit to transition from sample checks to a comprehensive check of all transactions, to fulfill the CAG's Constitutional mandate of verification of records. The required access to data is yet to be provided. Not having access to data pertaining to all GST transactions has come in the way of comprehensively auditing the GST receipts. Hence, only issues relating to preparedness for transition to GST have been examined in audit.