Chapter-III

Transitional Credit under Goods and Services Tax

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EXCISE AND TAXATION DEPARTMENT

Transitional Credit under Goods and Services Tax

3.1 Introduction

With the introduction and implementation of Goods and Services Tax (GST) Act, which subsumed multiple indirect taxes levied and collected by the Centre and States, 'Transitional Provisions for input tax' were included in the GST Acts to ensure smooth transition from the old tax regime to GST. These provisions provide for the entitlement and manner of claiming input tax credit in respect of appropriate taxes or duties paid under the existing laws.

This was to provide for carry forward of input tax credits into GST regime from the pre-GST taxes that were available with the taxpayers on the day of roll out[1] of GST (herein after referred to as transitional credits). Transitional credit provisions are important for both the Government and the business. For business, these credits should be carried forward properly to give them benefit of taxes they had already paid on inputs or input services in the pre-GST regime. From the viewpoint of the Government, the amount of admissible transitional credits will determine the extent of cash flow of GST revenue. Hence, in the interest of revenue, only admissible and eligible transitional credits should be carried forward into GST. To ensure the eligibility of transitional credit by the Departmental Officer, the Department of State Taxes, Punjab issued a guidance note covering various aspects for verification of SGST transitional credit claims.

3.2 Organizational set up

The Financial Commissioner Taxation and Principal Secretary to the Government of Punjab is overall in-charge of the Department of State Taxes. The Department administers Goods and Services Tax as well as Punjab Value Added Tax Act/Central Sales Tax Act in the State subject to overall control and superintendence of the Commissioner of State Tax with the help of Additional Commissioners of State Tax, Joint Commissioners of State Tax at the Headquarters, Deputy Commissioners of State Tax at the divisional level and Assistant Commissioners of State Tax (ACSTs), State Tax Officers and other allied staff at the district level.

3.3 Provisions for Transitional Credit

3.3.1 Conditions for availing Transitional Credit

Section 140 of the Punjab GST Act 2017 contains elaborate provisions relating to transitional arrangements for input tax credits. Under the

[1] GST was rolled out on 1 July 2017.

transitional arrangements, the input tax credit of various taxes paid under the State Value Added Tax (VAT) Act was carried forward to GST regime as under:

a) ***Closing balance of the credit in the last returns***: The closing balance of the VAT credit available in the returns filed under pre-GST law for the month immediately preceding the appointed day can be taken as SGST credit in Electronic Credit Ledger (ECL) by a registered person, other than composition taxpayer subject to conditions stated below: -

   i. Such credit should be admissible as input tax credit under GST Act; and,

   ii. Returns for at least the previous six months before roll out of GST should have been furnished.

(Section 140(1))

b) ***Credit on duty paid stock:*** A registered person other than manufacturer or service provider, may take the credit of duty/tax paid on the goods held in stock.

   i. If the stock is supported with invoice depicting amount of tax paid, credit on full stock is admissible. The claim is made through Table 7c of Form Tran-1.

   ii. If there is no such invoice which may depict amount of tax paid, credit will be admissible at the rate of 60 *per cent* on such goods where rate of GST is nine *per cent* or more or, 40 *per cent* credit on such goods where the rate of GST is less than nine *per cent*. The claim is made through Table 7d of Form Tran-1.

(Section 140(3))

c) **Credit for stock received after appointed day**: The input or input services received on or after the appointed day but the duty or tax on the same was paid by the supplier under the existing law.

(Section 140(5))

3.3.2 Timelines for Transitional Credit returns

Rule 117 of the Punjab GST Rule 2017 provides that every registered person entitled to transitional credit has to file a declaration electronically in form Tran-1, on the GST portal within 90 days of roll out of GST. This rule also provides for extension of this period by a further period not exceeding 90 days by the Commissioner, on the recommendations of GST Council. Further, a person not registered under the existing law is also entitled to avail the credit of input tax on goods held in stock on the appointed day for which he is not in possession of any document evidencing payment of tax. Such person has to file a statement in form Tran-2, provided that such goods were not unconditionally exempt from payment of tax. The GST rules initially provided for a maximum of six months to file Tran-1. However, on the recommendations of GST Council and due to technical difficulties on GST portal, the date for filing Tran-1 was extended till 31 March 2020.

3.4 Audit Objectives

Transitional credit claimed under Tran-1 and Tran-2 returns, credited to the Electronic Credit Ledger of the taxpayers as input tax credit, could be adjusted against GST output liability of the taxpayers. Thus, the claims have a direct impact on GST revenue collection. The audit of transitional arrangements for input tax credit under GST was taken up with the following audit objectives with a view to seek an assurance on:

i. Whether the mechanism envisaged by the Department for selection and verification of transitional credit claims was adequate and effective.

ii. Whether the transitional credit carried over by the assessee into GST regime was valid and admissible.

3.5 Scope of Audit

The scope of Audit comprises a review of transitional credit claim returns, both Tran-1 and Tran-2, filed by the taxpayers under the transitional arrangements of Punjab GST Act. Audit verification involves the scrutiny of process and outcomes of Departmental verifications along with detailed independent verification of selected claims. Verification of individual transitional credit claims involved the examination of VAT credit claimed by the taxpayers in the last quarterly/annual returns filed under pre-GST laws, immediately preceding the appointed date i.e., 01 July 2017, along with the documentary evidence in support of such claims. Further, in respect of input tax claimed pertaining to purchase of materials, verification involved examination of necessary invoices, documents or records evidencing purchase of such goods.

Audit observations were issued to the Department between February 2021 and March 2022. The replies furnished by the Department during audit and in meeting held on 10 June 2022 have been suitably incorporated in the relevant paragraphs.

3.6 Sample selection and audit

A total of 35,526 cases with total transitional credit claim of ₹ 3,557.22 crore (CGST of ₹ 2,340.81 crore and SGST of ₹ 1,216.41 crore) were received by the Department. The Department verified SGST claim in respect of 35,525 cases and allowed transitional credit of ₹ 1,050.10 crore as SGST.

Pan-India GST transitional credit data was obtained from GSTN and through risk-based data analysis, a sample of 1,933 cases[2] with SGST claim of ₹ 739.91 crore pertaining to 26 ACST offices were selected for detailed verification. Out of the selected 1,933 cases, 1,554 cases pertain to taxpayers who constituted potentially risk prone cases and 379 cases pertain to taxpayers who constituted relatively less risk prone cases.

The audit involved data analysis and verification of records available with the jurisdictional taxation authority. The legacy returns under Value Added Tax (VAT), input tax credit claimed by the taxpayers in Tran-1 and Electronic Credit Ledgers of the taxpayers were examined. Further, in respect of input tax credits pertaining to materials held in stock, the verifications involved examination of necessary accounting details, documents or records evidencing purchase of such goods.

3.7 Audit Criteria

Section 140 of the Punjab GST Act 2017 read with Rule 117 of the Punjab GST Rules 2017, Guidance Note on verification of SGST transitional credit claim issued by the Department were criteria for this audit.

3.8 Audit Findings

The audit findings have been categorized into two broad areas as systemic issue and compliance issues. While systemic issue addresses the adequacy and effectiveness of the envisaged verification mechanism, compliance issues address the deviations in individual cases from the provisions of the Act/Rules.

Table 3.1 brings out the extent of deficiencies noted during the audit of 1,933 selected cases of transitional credit claims.

Table 3.1: Nature of Audit Findings

(₹ in crore)

Sr. No.	Nature of Audit Findings	ACST offices involved	No. of cases	Money value	Recoveries at the instance of audit
1.	Inadmissible transitional credit due to non-validation of data (Para 3.9.1)	7	16	3.94	0.70
2.	Excess claim of Transitional credit [Para 3.10(A)(i)]	25	322	84.99	4.43
3.	Claim of Transitional credit by non-filers [Para 3.10(B)]	11	39	13.03	1.91

[2] Amritsar-I (41), Amritsar-II (50), Barnala (14), Bathinda (69), Faridkot (8), Fatehgarh Sahib (154), Fazilka (22), Ferozepur (79), Gurdaspur (54), Hoshiarpur (35), Jalandhar-I (58), Jalandhar-II (151), Kapurthala (17), Ludhiana-I (343), Ludhiana-II (141), Ludhiana-III (175), Mansa (15), Moga (41), Sri Muktsar Sahib (34), Nawanshahr (6), Pathankot (49), Patiala (100), Ropar (12), Sangrur (57), SAS Nagar (203) and Tarn Taran (5).

Sr. No.	Nature of Audit Findings	ACST offices involved	No. of cases	Money value	Recoveries at the instance of audit
4.	Non-reversal of excess transitional credit after finalising annual VAT-20 return (Para 3.10.1)	21	-	-	-
5.	Allowance of transitional credit twice against same input tax credit (Para 3.10.2)	2	4	0.11	0
6.	Input tax credits on suspected sales/purchases (Para 3.10.3)	4	9	13.28	0
7.	Accumulation of ineligible input tax credit (Para 3.10.4)	4	5	1.92	0.59
8.	Transitional credit against refunded input tax credit (Para 3.10.5)	1	1	0.03	0.02
9.	Inadmissible transitional credit under GST Act (Para 3.10.6)	1	1	0.62	0.62
10.	Allowance of transitional credit in assessed cases (Para 3.10.7)	9	23	18.84	1.45
11.	Transitional credit claims on input stock (Para 3.10.8)	3	5	0.86	0.04
12.	Irregular adjustment of SGST liability with CGST credit (Para 3.10.9)	2	-	-	0.02
Total			**425**	**137.62**	**9.78**

***Note:** The sample of 1,933 cases has been categorized under four categories viz. 'Excess', 'Less', 'Matching' and 'Non-filers'. The number and money value of cases in respect of 'Excess' and 'Non-filers' is comprehensively covered under Para 3.10 A(i) and 3.10 B respectively, which is included at Sr. No. 2 and 3 above. As significant findings at Para 3.10.1 to 3.10.9 of the report covers all four categories, the number and money value of 'Excess' and 'Non-filers' categories has been excluded in the table at Sr. No. 4 to 11 to avoid duplication. The category-wise details of cases included in the significant findings are available at Appendix 3.1.*

3.9 Systemic Issue

3.9.1 Inadmissible transitional credit due to non-validation of data

As per Section 140(1) of the Punjab GST Act 2017, a registered person, other than a person opting to pay tax under composition scheme, shall be eligible to take, in his Electronic Credit Ledger (ECL), the amount of Value Added Tax (VAT) credit carried forward in the return relating to the period up to 30 June 2017, furnished under the existing law (Punjab Value Added Tax Act 2005) provided that said credit was admissible under the existing law as well as under the Punjab GST Act.

To carry forward transitional credit to GST, the taxable person was required to file Tran-1 return and as per Table 5(c) of the Tran-1, the taxable person had to declare input tax credit reversible on the turnover for which statutory declaration forms (Form 'C', 'F', 'H' and 'I')[3] were pending. The portion of input tax credit reversible relatable to turnover for which such forms were pending, was not to be carried forward in the Electronic Credit Ledger. As provisions of GST have been implemented through GSTN system, the system is supposed to carry adequate checks and validations, which may enforce the provisions of GST effectively.

Audit noted in seven[4] ACSTs that taxable persons in 16 cases (0.83 *per cent* of examined sample) declared turnover of goods sold for ₹ 176.78 crore, where statutory declaration forms (Form 'C', 'F') were pending as on date of filing of Tran-1 and input tax credit reversible relatable to above turnover was ₹ 3.94 crore. The portion of input tax credit reversible declared by the taxpayers was not to be carried forward in the Electronic Credit Ledger. Audit, however, observed that the transitional credit in Electronic Credit Ledger of the taxpayers was carried forward without reducing ₹ 3.94 crore from the input tax credit balance available in the VAT return ending 30 June 2017. Audit analysis of the Tran-1 of the above taxpayers revealed that amount of input tax credit reversible declared by the taxpayers in Columns 4 and 6 was not deducted in the Column 10 of the Table 5(c), whereas in some other cases, the amount was found to have been deducted correctly. It indicates that correctness of the data to be inputted in Column 10 was not validated by the system and system allowed the amount in this column without deducting the input tax credit reversible declared by the taxpayers in the previous columns. The GSTN system is supposed to be robust having adequate checks and validations to avoid incorrect data insertions. The incorrect data insertion in Column 10 of Table 5(c) of Tran-1 resulted in inadmissible transitional credit of ₹ 3.94 crore **(*Appendix 3.2*)**, which could have been avoided by having validation checks or populating the amount automatically in the Column 10 based on the figures provided by the taxpayer in the previous columns of the Table 5(c).

The Department needs to examine the processes of the GSTN system leading to incorrect data insertions and identify the similar cases for rectifications.

On being pointed out (June 2021), the Department recovered ₹ 0.70 crore in four cases[5] and issued notice for ₹ 2.14 crore in one case of Hoshiarpur, which was under revision due to legal issues. In two cases of Fatehgarh Sahib, the Department replied that the dealers had submitted statutory declaration forms with the jurisdictional authorities. In one case of Sangrur, it was stated that the

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3 'C'-Interstate sale, 'F'-Branch/Consignment transfer, 'H'-Deemed export, 'I'-Interstate sale to unit in Special Economic Zone.

4 Fatehgarh Sahib (5), Hoshiarpur (1), Jalandhar-I (1), Ludhiana-I (1), Patiala (2), Sangrur (2) and SAS Nagar (4).

5 Fatehgarh Sahib (3) ₹ 0.03 crore and SAS Nagar (1) ₹ 0.67 crore.

dealer had less amount of transitional credit than the input tax credit available in VAT-20 return and, in another case, it was stated that 'C' forms were available as per assessments made for 2015-16 to 2017-18. In one case of Jalandhar-I, the dealer had reversed entire transitional credit in January 2018. Hence, there was no loss to Government in these cases. In remaining cases, replies were awaited (November 2022).

Audit opines that although Departmental responses were in line with the corrective actions after the matter was pointed out by Audit, yet, no comments were offered towards system weakness pointed out in audit observation, which ultimately had bearing on correctness of transitional credit.

3.10 Compliance Issues

Audit verified SGST transitional credits of 1,933 selected cases, claimed under Table 5(C) "State/UT tax credit carried forward" of form Tran-1, with the input tax credit balances available as per annual returns VAT-20[6] for the year 2017-18. In cases, where annual return was neither available on ETTSA[7] system nor made available to Audit by the Department, a comparison was made with quarterly return VAT-15 for the quarter April-June 2017.

Audit noticed that:

A. 1,894 (97.98 *per cent*) out of 1,933 dealers had filed return in VAT-20/ VAT-15. Out of this,

i. **Excess claim:** 322 (16.66 *per cent*) dealers claimed SGST transitional credit of ₹ 150.50 crore, whereas input tax credit of ₹ 65.51 crore was available as per VAT-20/VAT-15 filed by the dealers. Thus, the dealers claimed excess claim of transitional credit of ₹ 84.99 crore (***Appendix 3.3***).

ii. **Short claim:** 635 (32.85 *per cent*) dealers claimed transitional credit of ₹ 303.04 crore, which was ₹ 131.02 crore less than the input tax credit of ₹ 434.06 crore available as per VAT-20/VAT-15 filed by the dealers. The major reasons for short claim of transitional credit were *i) reduction in input tax credit due to non-availability of statutory declarations in Form 'C', 'F' and 'H'; ii) claim of refund out of input tax credit balances; iii) claim of transitional credit on the closing stock instead of accumulated input tax credit by the dealers who were engaged in manufacturing of goods, which was tax-free under Punjab VAT regime but became taxable under GST regime; and iv) Non-claim of transitional credit by such dealers who dealt in goods (e.g. food grains), which became exempt in GST regime.*

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6 Annual Returns (VAT-20) filed by the dealer on the ETTSA system or filed manually to the Department and made available to audit by the Department.

7 Excise and Taxation Technical Services Agency (ETTSA), a society created by the Government of Punjab, for the computerization of Excise and Taxation Department.

iii. **Matching claim:** In 937 cases (48.47 *per cent*), the claim of transitional credit of ₹ 250.94 crore matched[8] with input tax credit as per VAT-20/VAT-15.

B. Non-filers: 39 (2.02 *per cent*) out of 1,933 dealers claimed transitional credit of ₹ 13.93 crore without filing any of the quarterly/annual return for the relevant period. These dealers had filed neither quarterly return VAT-15 for the quarter April-June 2017 nor annual return VAT-20 for the year 2017-18 (***Appendix 3.4***). Filing of return for the last six months preceding the appointed day was a prerequisite for claiming transitional credit. In the absence of the returns, it could not be ascertained in audit on what basis the Department had verified these cases and allowed the SGST transitional credits.

Transitional credits allowed in excess of input tax credits available in VAT returns as mentioned at Para 3.10(A)(i), transitional credits allowed to non-filers as mentioned at 3.10(B) and inadmissible transitional credits pointed at Para 3.10.1 to 3.10.9 in this report indicate that the system of documents' verification by the Department before allowing transitional credit was inadequate.

Out of 361 cases mentioned at A(i) and B above, the recoveries/reversals of ₹ 35.05 crore in 74 cases[9] had already been made. The Department further recovered ₹ 6.34 crore in 88 cases[10] after being pointed out in Audit.

In 41 cases of excess claims, the Department replied (June 2022) that dealers had correctly claimed transitional credit and there was no excess. The reasons explained by the Department are detailed below:

- In 33 cases[11], the input tax credits were accumulated during the previous years, but the dealers didn't reflect it in the opening balance of subsequent annual VAT returns. At the time of filing Tran-1, the dealers claimed all such accumulated input tax credits lying in previous returns and correctly claimed transitional credit of ₹ 12.37 crore.
- In eight cases[12], the dealers had claimed VAT refunds in previous years by debiting the input tax credits. However, the refunds were not

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8 Differences up to ₹ 10,000 between input tax credit as per VAT-15/VAT-20 and transitional credit as per Tran-1 have been ignored.

9 Amritsar-I (2), Amritsar-II (2), Barnala (2), Bathinda (2), Fazilka (3), Ferozepur (4), Gurdaspur (5), Hoshiarpur (4), Jalandhar-I (1), Jalandhar-II (4), Kapurthala (1), Ludhiana-I (10), Ludhiana-II (3), Ludhiana-III (2), Mansa (2), Moga (5), Sri Muktsar Sahib (2), Pathankot (5), Patiala (10), Sangrur (3) and SAS Nagar (2).

10 Amritsar-I (6), Amritsar-II (4), Barnala (2), Bathinda (2), Faridkot (2), Fatehgarh Sahib (3), Fazilka (2), Ferozepur (11), Gurdaspur (3), Hoshiarpur (1), Jalandhar-I (1), Jalandhar-II (4), Ludhiana-I (4), Ludhiana-II (6), Ludhiana-III (4), Mansa (2), Moga (1), Sri Muktsar Sahib (7), Pathankot (4), Patiala (4), Ropar (1), Sangrur (3), SAS Nagar (10) and Tarn Taran (1).

11 Bathinda (1), Gurdaspur (1), Jalandhar-II (14), Ludhiana-I (12), Ludhiana-II (2), Ludhiana-III (1), SAS Nagar (2).

12 Gurdaspur (1), Jalandhar-I (1), Jalandhar-II (1), Kapurthala (1) and Ludhiana-I (4).

issued to them. These dealers claimed transitional credit of ₹ 37.92 crore by including the amount of VAT refunds not received.

The Department may ensure the correctness of input tax credits of previous years which were not brought forward in the annual VAT returns but dealers claimed all such input tax credits at the time of filing Tran-1.

In two cases[13] of excess claim, the Department stated (June 2022) that due to technical problems in GSTN system, the dealers could not avail the input tax credit on the inwards supplies for the post-GST month of July 2017. Thus, the dealers claimed input tax credit of July 2017 for ₹ 0.11 crore in Tran-1 and there was no monetary loss to the Government.

Audit opines that although there was no loss to Government, yet the claim of post-GST input tax credit through Tran-1 was irregular.

In five cases[14] of excess claim, the Department replied (June 2022) that dealers had correctly claimed transitional credit of ₹ 0.87 crore as per VAT returns.

The reply of the Department was not acceptable because as per annual VAT-20 returns of these dealers for 2017-18, the input tax credits of ₹ 0.77 crore were available but the dealers claimed transitional credits of ₹ 0.87 crore.

In one case[15] of excess claim, the Department stated (June 2022) that dealer had stock of tax paid goods for which he claimed transitional credit by including the amount under Table 5(c) of Tran-1. The transitional credit of ₹ 0.04 crore claimed by dealer was correct.

Audit opines that dealer needed to separately claim the transitional credit for stock under Table 7(c) or 7(d). Claiming of transitional credit for stock under Table 5(c) was irregular.

In one case[16] of excess claim, the Department informed (June 2022) that dealer had reversed input tax credit of ₹ 0.30 crore in VAT-20 return on account of Tran-1 claim and accordingly transitional credit of ₹ 0.29 crore claimed in Tran-1 was correct.

The Department needs to ensure that reversal of ₹ 0.30 crore made by the dealer in VAT-20 was on account of transitional credit as the same was not clearly reflecting in the VAT return and the amount of reversal was also varying from the transitional credit.

In one case[17] of excess claim of ₹ 0.58 crore, the Department replied (June 2022) that dealer had claimed refund of ₹ 0.46 crore under GST, which

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[13] Ludhiana-I.
[14] Fatehgarh (1), Ferozepur (1), Jalandhar-II (2) and Patiala (1).
[15] Bathinda.
[16] Ludhiana-I.
[17] Moga.

was rejected by the Department. The remaining amount of ₹ 0.12 crore pertained to pre-GST year 2016-17.

The Department needs to reconsider its reply because as per VAT-20 returns of the dealer for 2016-17 and 2017-18, the excess input tax credit of ₹ 0.39 crore was available, whereas the dealer had claimed transitional credit of ₹ 0.65 crore.

In one case[18] of excess claim, the Department replied (June 2022) that the dealer had claimed transitional claim of ₹ 0.39 crore which tallied with input tax credit available in VAT-15.

The reply of Department was not acceptable because dealer had claimed transitional credit of ₹ 0.40 crore instead of ₹ 0.39 crore, which was reflecting in the Tran-1 and Electronic Credit Ledger of the dealer.

In 33 cases[19] (30 cases of excess claims and three cases of non-filers) involving transitional credit of ₹ 6.52 crore, the Department informed that actions had been initiated. In remaining 114 cases[20] involving transitional credit of ₹ 40.98 crore, the replies were awaited (November 2022).

In cases categorized as ‘A’ and ‘B’ above, Audit observed several significant findings, which have been discussed in the succeeding paragraphs 3.10.1 to 3.10.9. The findings were noticed even in cases where the transitional credits were matching with the input tax credit balances as per the VAT returns or the dealers had claimed less transitional credits than the input tax credit balances available in the VAT returns.

3.10.1 Non-reversal of excess transitional credit after finalizing annual VAT-20 returns

In annual returns VAT-20, there are two columns which depict calculation of output tax liability on sale and input tax credit on purchase, one is "As per return" and another is "As per books of accounts". Figures under the column "As per return" are total of the figures depicted in the quarterly returns VAT-15 filed by the dealer during a tax period. The figures under the column "As per books of accounts" are the updated figures after making necessary corrections in the books of accounts of a dealer and are treated as final.

Audit noticed in 65 cases that the dealers claimed transitional credit of ₹ 11.96 crore on the basis of input tax credit carried forward as per quarterly returns VAT-15. However, in the annual returns VAT-20 filed by the dealers,

[18] Ludhiana-III.

[19] Amritsar-II (1), Bathinda (4), Fatehgarh Sahib (8), Ferozepur (1), Gurdaspur (1), Jalandhar-I (3), Jalandhar-II (4), Ludhiana-I (5), Ludhiana-II (1), Ludhiana-III (2), Mansa (1), Pathankot (1) and Ropar (1).

[20] Amritsar-I (2), Bathinda (6), Faridkot (1), Fatehgarh Sahib (3), Ferozepur (10), Jalandhar-I (7), Jalandhar-II (4), Ludhiana-I (30), Ludhiana-II (7), Ludhiana-III (11), Sri Muktsar Sahib (1), Patiala (1), Sangrur (1), SAS Nagar (30).

input tax credit of ₹ 8.94 crore was available as transitional credit based on their corrected books of accounts. Thus, the dealers availed excess transitional credit of ₹ 3.02 crore. The dealers did not reverse the excess claimed transitional credit of ₹ 3.02 crore after finalization and filing of annual return VAT-20. The Department also did not reverse the excess allowed transitional credit at the time of verification. This resulted in excess allowance of transitional credit of ₹ 3.02 crore (***Appendix 3.5***).

The matter was reported to the Department (March and April 2022). The Department replied (June 2022) in 57 cases[21], which have been incorporated under Para 3.10 being the parent Para.

3.10.2 Allowance of transitional credit twice against same input tax credit

Section 140(1) of the Punjab GST Act provides that the closing balance of the VAT credit available in the returns filed under pre-GST law for the month immediately preceding the appointed day can be taken as SGST credit in Electronic Credit Ledger (ECL) by a registered person, other than composition taxpayer. Further, Section 140(3) allows a registered person other than manufacturer or service provider to take the credit of duty/tax paid on the goods held in stock.

Audit noticed in six cases[22] that the dealers claimed transitional credit of ₹ 1.95 crore under Table-5C of Tran-1 as per Section 140(1) of the Punjab GST Act on the basis of input tax credit balance as per annual return VAT-20. The dealers claimed the same amount as credit under Table-7C of Tran-1 under Section 140(3) on account of input stock with invoices. Claim of same amount twice resulted in double input tax credit of ₹ 1.95 crore as transitional credit, which was allowed by the Department during verification (***Appendix 3.6***).

The matter was reported to the Department (March and April 2022). The Department replied (June 2022) that reversals of ₹ 2.57 crore had already been made by the dealers in five cases. In one case of Ludhiana-I, demand notice of ₹ 0.10 crore had been issued.

3.10.3 Input tax credits on suspected sales/purchases

A. Suspected sales/purchase: Section 13(12) of the Punjab VAT Act provides that in no case the amount of input tax credit on purchase of goods shall exceed the amount of tax actually paid into the Government Treasury on purchase of such goods.

The Department maintained a network called ETTSA gateway on which each dealer was required to fill details of sale/purchase made by him

[21] 19 cases: Recoveries/reversals already made, 30 cases: Recoveries made after audit, 8 cases: Replies received and included under Para 3.10 being parent para.

[22] Amritsar-I (1), Gurdaspur (1), Jalandhar-II (1) and Ludhiana-I (3).

during a tax period. Quarterly return in VAT-15 and Annual return in VAT-20 were also required to be filed by the dealers on the network. The network also captured the movement of goods in and out of State in respect of dealers through Information Collection Centres (ICCs) and detail of tax paid by the dealers. The Department, *inter-alia*, used this network to validate the purchase detail of purchasing dealer with sale detail of selling dealer. Any break in sale/purchase chain of a dealer, unless justified, was indicative of creation of bogus input tax credit.

Audit analysis of information available on ETTSA network revealed that transitional credit of ₹ 19.22 crore in 10 cases[23] was allowed on the basis of input tax credit balances against which no tax was found paid in the VAT regime at any stage in the purchase chains of the dealers. There were either breaks in the purchase chains because the selling dealers at some stage had not filed detail of sale/purchase on ETTSA gateway or the purchase chain was cyclic i.e., the selling dealers were the ultimate purchasers of the same goods. No dealer in these purchase chains had paid tax on such goods in the Government Account, which was indicative of creation of bogus input tax credits. The Department neither disallowed transitional credit of ₹ 19.22 crore against suspected purchases of ₹ 502.44 crore in these cases nor recovered the due tax from the selling dealers who did not pay any tax and did not file the required returns (***Appendix 3.7***).

The matter was reported to the Department (February and April 2022). The Department in four cases[24] replied (June 2022) that assessment of these cases will be done. In one case of Ludhiana-II, the Department stated that claim of input tax credit cannot be rejected because fraud, collusion or connivance with the registered selling dealer was not established yet. In one case of Ludhiana-III, the Department replied that case had already been assessed in October 2021 and demand of ₹ 2.42 crore was raised.

The reply of the Department in case of Ludhiana-II was not acceptable as Department did not provide information regarding action taken or investigation made to ascertain the genuineness of the transactions. The reply was furnished without taking any action in this regard. Further, the reply in case of Ludhiana-III was partially acceptable because the demand of ₹ 2.42 crore raised by the Department did not include the entire purchase portion objected to by Audit. The analysis of Assessment Order showed that the demand included only ₹ 0.65 crore on account of rejected input tax credit, whereas Audit had objected to input tax credit of ₹ 0.90 crore.

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[23] Bathinda (1), Ludhiana-I (4), Ludhiana-II (2) and Ludhiana-III (3).

[24] Bathinda (1), Ludhiana-II (1) and Ludhiana-III (2).

Out of the above 10 cases, illustrative case studies in four dealers along with Department's replies are mentioned below.

i. The dealer 'A'[25] in Ludhiana-I was allowed transitional credit of ₹ 2.40 crore who had not filed quarterly return VAT-15 for April-June 2017 and annual return VAT-20 for 2017-18. The detail of sale/purchase for the quarter April-June 2017 was also not available on ETTSA. In the absence of the returns and detail of sale/purchase, the source of accumulation of input tax credit during 2017-18 was not ascertainable. However, detail of sale/purchase made during 2016-17 was available on dealer cardex[26] on ETTSA. During 2016-17, the dealer 'A' had shown purchase of ₹ 54.48 crore from dealer 'B' and claimed input tax credit of ₹ 3.39 crore. However, the selling dealer 'B' had not shown any sale/purchase during the same period on ETTSA. Further, the VAT registration certificate of the dealer 'B' was cancelled by the Department *suo-moto* with effect from 6 April 2017, which clarifies that the dealer 'B' was non-compliant with provisions of the Punjab VAT Act 2005. Audit noticed that the GST registration of the dealer 'A' was also cancelled by the Department *suo-moto* on 14 May 2018. The order of cancellation had retrospective effect from 3 July 2017. However, transitional credit claimed by dealer 'A' in Tran-1 dated 14 October 2017 was allowed by the Department after verification. Moreover, the dealer 'A' utilised the transitional credit by debiting his electronic cash ledger on 6 November 2017 and 28 November 2017 i.e., almost four months after the effective date of cancellation of GST registration certificate. Thus, the Department allowed transitional credit of ₹ 2.40 crore, which was based on input tax credit against suspected transactions between non-compliant dealers whose VAT/GST registration certificates were cancelled by the Department *suo-moto*.

   The matter was reported to the Department (February and April 2022). The Department replied (June 2022) that assessment had been initiated.

ii. The Dealer 'C'[27] in Ludhiana-I was allowed transitional credit of ₹ 7.85 crore. This dealer had shown purchase of ₹ 78.78 crore during the quarter April-June 2017 from the dealer 'A' mentioned at serial number (i) above, who was allowed transitional credit of ₹ 2.40 crore on suspected transactions. The dealer 'C' had availed input tax credit of ₹ 8.90 crore during April-June 2017 on the above purchase shown from dealer 'A' but the dealer 'A' did not show any sale to this dealer. Further, the dealer 'C' had shown interstate sale of ₹ 47.97 crore (₹ 47.03 crore *plus* ₹ 0.94 crore CST) at concessional rate of tax of two *per cent* against 15 statutory

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25 ARN - AA031017012479J.

26 Dealer cardex contains the summarized details of transactions of the dealer.

27 ARN - AA030917006054K.

declarations in Form 'C'. Audit got these 'C' forms verified[28] from the issuing authorities of the states concerned and found that nine 'C' forms involving goods worth ₹ 38.84 crore were not issued by the issuing authorities concerned and were not genuine. Verification report of the remaining six 'C' forms was awaited up to the date of finalization of this audit report. Thus, the dealer 'C' not only showed suspected purchases to create input tax credit but also showed suspected interstate sales against fake 'C' forms to create surplus input tax credit of ₹ 7.85 crore, which was allowed as SGST transitional credit.

The matter was reported to the Department (February and April 2022). The Department in its reply (June 2022) accepted that purchases of dealer seemed fake, hence, assessment had been initiated.

iii. The dealer 'D'[29] in Ludhiana-I was allowed transitional credit of ₹ 3.68 crore. This dealer had shown purchase of ₹ 36.40 crore during the quarter April-June 2017 from the dealer 'A' mentioned at serial number (i) above, who was allowed transitional credit of ₹ 2.40 crore on suspected transactions. The dealer 'D' also showed interstate sale of ₹ 26.66 crore at concessional rate of tax. However, statutory declarations of this dealer in Form 'C' were not provided by ACST Ludhiana-I as the same was not available with the office. The transitional credit was allowed by the Department without verifying the status of receipt of statutory declarations. During verification of interstate sales of ₹ 26.66 crore with the authorities concerned of states, the taxation authorities of Haryana, Goa and Odisha informed that interstate sales of ₹ 13.55 crore were not made by the dealer 'D' to the dealers of their states. The verification reports for the remaining interstate sale of ₹ 13.11 crore[30] were awaited from the states of Maharashtra and Tripura (November 2022). It was also noticed that the GST registration certificate of the dealer 'D' was cancelled by the Department *suo-moto* with effect from 13 April 2018. However, no reversal of transitional credit was made by the Department despite having no records of 'C' Forms for the interstate sales, which were eventually found to be not genuine in the audit verifications made from the states concerned.

The matter was reported to the Department (February and April 2022). The Department replied (June 2022) that assessment had been initiated.

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28 Audit had requested respective State Tax Departments for verification of suspected 15 'C' forms of this dealer involving goods worth ₹ 47.97 crore. Verification report for 9 'C' forms pertaining to two dealers involving goods worth ₹ 38.84 crore received, and position stands included at 3.10.3 (A)(ii). The verification report for remaining red flagged 6 'C' forms involving goods worth ₹ 9.13 crore was awaited till the finalization of this report (***Appendix 3.8-A***).

29 ARN - AA030917004075I.

30 Maharashtra: ₹ 9.99 crore, Tripura: ₹ 3.12 crore.

iv. The dealer 'E'[31] in Ludhiana-I was allowed transitional credit of ₹ 3.53 crore, who had shown taxable purchase of ₹ 250.77 crore during the quarter April-June 2017 on which input tax credit of ₹ 26.29 crore was claimed. The purchases were suspect as VAT was not found paid on the purchased goods at any stage by any dealer. Further, the amount of purchase of ₹ 250.77 crore mentioned by dealer 'E' in his VAT-20 return did not match with the trading account for the year 2017-18, where purchase was shown as ₹ 164 crore, which was ₹ 86.77 crore less than the purchase declared in the annual return. Thus, the dealer suppressed the purchase of ₹ 86.77 crore involving input tax credit of ₹ 3.34 crore[32] in his trading account to avoid GST liability in the GST regime because such suppressed goods were neither sold nor got included in the closing stock. Thus, the dealer not only claimed transitional credit on suspected purchase but also suppressed such purchase in his trading account to avoid GST.

The matter was reported to the Department (March and April 2022). The Department replied that GST assessment of the dealer had been framed for 2017-18 and demand for ₹ 7.69 crore under SGST had been raised. The reply of the Department was not acceptable as stated assessment was for the GST period, whereas Audit had objected to transitional credit of ₹ 3.53 crore, which had flown from pre-GST period.

B. Not genuine 'C' Forms: Section 8(4) of the CST Act 1956 read with Rule 12(1) of CST (Registration and Turnover) Rules 1957, provides that the concessional rate of tax of two *per cent* shall not be admissible unless the selling dealer furnishes a declaration in Form 'C' duly filled in and signed by the registered dealer to whom the goods are sold, in a prescribed form obtained from the prescribed authority.

Audit noticed that one dealer in Ludhiana-II, who had claimed transitional credit of ₹ 0.26 crore, had shown interstate sale of ₹ 1.41 crore at concessional rate of tax of two *per cent* during the year 2017-18. On verification[33] of 'C' form valuing ₹ 1.17 crore from the taxation authority concerned of Delhi, it was informed to Audit that no such 'C' form was issued to the dealer of Ludhiana-II. The tax implication involved in this 'C' form worked out to ₹ 0.14 crore, eventually resulting in inadmissible transitional credit of ₹ 0.14 crore[34].

31 ARN - AA0308170827132.

32 3.85 *per cent* of ₹ 86.77 crore.

33 Audit had requested respective State Tax Departments for verification of suspected 6 'C' forms of five dealers involving goods worth ₹ 3.68 crore. Verification report in respect of one 'C' forms from Taxation Authority of Delhi was received and case included at Para 3.10.10.3 (B). The verification report of remaining red flagged 5 'C' forms involving goods worth ₹ 2.51 crore was awaited till the finalization of this report. (***Appendix 3.8-B***)

34 ₹ 1.17 crore x (14.30 *per cent* minus two *per cent*) = ₹ 0.14 crore.

The matter was reported to the Department (March and April 2022). The reply was awaited (November 2022).

3.10.4 Accumulation of ineligible input tax credit

GST regime allowed transitional credit of accumulated input tax credit of pre-GST law. Audit observed in six cases that dealers had availed transitional credit of ₹ 1.99 crore for which they were not eligible.

A-Tax Free Sales: Section 13(5) of Punjab VAT Act 2005 provides that a taxable person shall not qualify for input tax credit in respect of tax paid on purchase of goods used in manufacture, processing and packing of tax-free goods.

i. Audit noticed in two cases[35] in which transitional credit of ₹ 0.65 crore was allowed that the gross sale of the dealers during 2016-17 and 2017-18 was ₹ 26.23 crore, out of which ₹ 24.02 crore was sale of tax-free goods. Input tax credit of ₹ 0.47 crore was claimed on local purchase of the goods, out of which ₹ 0.40 crore was required to be reversed on account of tax-free sale. However, the dealers did not reverse any input tax credit. The non-reversal caused accumulation of unqualified input tax credit, which resulted in excess allowance of transitional credit of ₹ 0.40 crore (***Appendix 3.9***).

   On being pointed out by Audit (June 2021 and March 2022), the Department accepted and recovered ₹ 0.59 crore in case of SAS Nagar. In case of Ludhiana-II, the Department replied (June 2022) that dealer had claimed transitional credit as per input tax credit available in the VAT returns.

   The reply of the Department is not acceptable because all the sales of the dealer were tax-free during 2016-17 and 2017-18. The accumulation of input tax credit for these years was not justified.

ii. In one case[36] of Ludhiana-II, in which transitional credit of ₹ 0.18 crore was allowed, Audit noticed that the input tax credit balance was mainly due to carry forward of input tax credit of ₹ 0.18 crore from previous year i.e., 2016-17.

   Scrutiny of previous annual returns of the dealer revealed that the dealer had made only local taxable and tax-free sales in all the years right from 2011-12 in which the dealer had opening balance of input tax credit of ₹ 0.01 crore only. No export, interstate sale at concessional rate of tax, branch transfer or any other such activity was made by the dealer from 2011-12 to 2017-18 that may result in accumulation of input tax credit

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[35] Ludhiana-II (1) and SAS Nagar (1).

[36] ARN - AA030817076586R.

even after discharging output tax liability. Still, the input tax credit balance increased from ₹ 0.01 crore in 2011-12 to ₹ 0.18 crore in 2017-18. Out of ₹ 0.18 crore, the dealer was eligible for input tax credit of ₹ 0.03 crore only in the year 2017-18 on the basis of goods lying in stock[37] (₹ 0.01 crore) as on 1 April 2017 and entry tax[38] (₹ 0.02 crore) paid during previous years. Remaining input tax credit of ₹ 0.15 crore *(₹ 0.18 crore minus ₹ 0.03 crore)* was not qualified as transitional credit. The accumulation of unqualified input tax credit resulted in excess allowance of transitional credit by ₹ 0.15 crore.

The matter was reported to the Department (March and April 2022). The reply was awaited (November 2022).

B-Incorrect carry forward: The unutilised input tax credit at the end of a tax period is carried forward to the next tax period as opening balance.

i. Audit noticed in one case[39] of Ludhiana-III, in which transitional credit of ₹ 1.98 crore was allowed, that the accumulation of input tax credit was mainly due to input tax credit carried forward from previous years. Audit noted that opening balance of input tax credit of the dealer in 2014-15 was zero, hence Audit calculated the flow of input tax credit from 2014-15 onwards. As annual return VAT-20 for 2015-16 was not filed by the dealer on ETTSA, therefore, details of sale/purchase for this year available in the dealer's cardex on ETTSA was considered by Audit. It was noticed that input tax credit of ₹ 0.61 crore was required to be carried forward from the year 2015-16 to the year 2016-17, whereas input tax credit of ₹ 1.71 crore was carried forward in the year 2016-17 as detailed below:

(₹ in crore)

Year	ITC brought forward	ITC on purchases	Output tax on sale	Net Input Tax Credit	ITC to be carried forward
2014-15	0	0.61	0.33	0.28	0.28
2015-16*	0.28	0.64	0.31	0.33	**0.61**
2016-17	**1.71**	0.52	0.27	0.25	1.96
2017-18	1.96	0.17	0.08	0.09	2.05

**** Figures of this year are as per dealer Cardex.***

Thus, input tax credit of ₹ 1.10 crore was carried forward in excess of due input tax credit in the year 2016-17 that flowed in the year 2017-18 and resulted in excess allowance of transitional credit of ₹ 1.10 crore.

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37 ₹ 0.74 lakh on goods worth ₹ 12.25 lakh lying in closing stock as on 01 April 2017 at the rate of 6.05 *per cent*.

38 ₹ 48,000 (2011-12) + ₹ 23,180 (2012-13) + ₹ 1,09,650 (2013-14) + ₹ 10,790 (2015-16) + ₹ 4,530 (2016-17).

39 ARN - AA031117008364Q.

On being pointed out (March and April 2022), the Department partially accepted (June 2022) the objected amount and mentioned that input tax credit of ₹ 1.60 crore had been accumulated starting from 2010-11 till 2015-16 but the dealer carried forward ₹ 1.71 crore in 2016-17. The recovery of ₹ 0.11 crore would be made in the assessment of 2016-17.

ii. In one case[40] of Fatehgarh Sahib, where transitional credit of ₹ 0.36 crore was allowed, the closing balance of input tax credit in the annual return for 2016-17 was ₹ 0.34 crore, which was required to be carried forward as opening balance in 2017-18. However, the dealer carried forward ₹ 0.58 crore as opening balance of input tax credit in 2017-18 i.e., ₹ 0.24 crore in excess and at the end of this return period, the dealer had closing balance of input tax credit of ₹ 0.61 crore. The dealer claimed refund of ₹ 0.25 crore out of this accumulated input tax credit, which was allowed by the Department. After adjusting refunded amount, the dealer claimed transitional credit of ₹ 0.36 crore, which included the excess input tax credit of ₹ 0.24 crore flowing through the incorrect opening balance of 2017-18. This resulted in excess allowance of transitional credit of ₹ 0.24 crore.

The matter was reported to the Department (March and April 2022). The Department replied (June 2022) that as per assessment 2016-17, the input tax credit of ₹ 0.58 crore was available, but the dealer had mistakenly mentioned input tax credit of ₹ 0.34 crore in his VAT-20. The dealer had correctly claimed ₹ 0.58 crore as transitional credit.

The reply of the Department was not convincing because Audit analysis of VAT-20 returns from 2011-12 till 2017-18 did not indicate any omission of input tax credit of ₹ 0.24 crore at any stage, which might have required correction by adding ₹ 0.24 crore at the time of claiming transitional credit. Moreover, the Department did not provide any document, which could clarify at what stage and when the input tax credit of ₹ 0.24 crore was left out.

iii. Audit noticed in one case[41] of Ludhiana-II, in which transitional credit of ₹ 0.10 crore was allowed, that the accumulation of input tax credit occurred because no sale was shown by the dealer during the period from 2014-15 to 2017-18 as detailed in table below:

[40] ARN - AA030817082894Q.
[41] ARN - AA030917023192H (₹ 10.35 lakh).

(₹ in lakh)

Year	Gross Purchase value as per VAT-20	Input tax credit	Gross Sale Value as per VAT-20	Output tax	Net input tax credit
2013-14	18.22	0.30	0.93	0.04	0.26
2014-15	27.46	1.66	0	0	1.66
2015-16	41.18	1.66	0	0	1.66
2016-17	78.98	4.59	0	0	4.59
2017-18*	64.38	2.42	0	0	2.42
Total	**230.22**	**10.63**	**0.93**	**0.04**	**10.59**

***** *Upto 30 June 2017***

On this being pointed out (February 2022), ACST Ludhiana-II replied that the dealer was engaged in business of renting of shuttering material and had rental income. Since rental income is not sale, the same was not shown as such in the annual returns.

The reply was not acceptable because the goods were neither sold nor used in manufacture of taxable goods for sale; hence, the dealer was not eligible for input tax credit of ₹ 0.10 crore as per provision contained in Section 13 of Punjab VAT Act 2005. The transition credit of ₹ 0.10 crore allowed against this accumulated input tax credit was not admissible.

3.10.5 Transitional credit against refunded input tax credit

Section 39 of Punjab VAT Act 2005 provides that a dealer may be granted refund of excess of input tax credit over output tax payable under the Act. Input tax credit refunded to a dealer should not be available as transitional credit.

Audit noticed in three cases[42] that transitional credit of ₹ 0.79 crore was allowed to the dealers on the basis of input tax credit balances available in the pre-GST returns. However, these dealers had also claimed refunds of ₹ 0.56 crore against the same input tax credit balances. Out of this, refunds of ₹ 0.48 crore were granted to these dealers and input tax credit of ₹ 0.08 crore was rejected in the refund claims. Thus, refunded and rejected input tax credit of ₹ 0.56 crore was not admissible as transitional credit and was required to be disallowed at the time of transitional credit verifications, but no such reversal was made in the electronic credit ledger of the dealers. This resulted in inadmissible allowance of transitional credit of ₹ 0.56 crore (***Appendix 3.10***).

The matter was reported to the Department (March and April 2022). The Department replied (June 2022) that recovery of ₹ 0.02 crore had been made in one case of Ludhiana-II and demand of ₹ 1.05 crore including interest and penalty had been created in one case of Ludhiana-I. In one case of Ludhiana-I,

[42] Ludhiana-I (2) and Ludhiana-II (1).

the Department stated that dealer had excess input tax credit available even after claiming refund; however, the reply was not supported with documents which could justify the objected transitional credit of ₹ 0.17 crore.

3.10.6 Inadmissible transitional credit under GST Act

Audit noticed in one case[43] of Gurdaspur that a dealer dealt in manufacturing/trading of goods which were taxable in VAT regime but became exempted under GST regime. The dealer claimed transitional credit of ₹ 0.62 crore on the basis of input tax credit available in the annual return VAT-20 for the year 2017-18. However, the transitional credit was not admissible as input tax credit in GST regime because the goods that the dealer dealt in became exempted in GST regime. This resulted in inadmissible allowance of SGST transitional credit of ₹ 0.62 crore.

After the matter was pointed out by Audit (March 2022), the Department recovered (March 2022) the transitional credit of ₹ 0.62 crore.

3.10.7 Allowance of transitional credit in assessed cases

The Department stated to have verified 1,932 cases of transitional credit selected by Audit for detailed examination. Out of these cases, the Department had also made assessment of 326 cases for the years 2016-17 and 142 cases for the year 2017-18. Audit scrutiny of these cases brought out deficiencies in the allowance of transitional credit as discussed below.

i. In five cases[44], in which transitional credit of ₹ 17.97 crore was allowed, the Department had created additional tax demands of ₹ 25.52 crore after making assessments. These tax demands were pending for recovery. The Department could have recovered tax demand of ₹ 15.10 crore by adjustment from input tax credit balance/transitional credit (***Appendix 3.11***).

   The matter was reported to the Department (March and April 2022). The Department replied (June 2022) that two cases[45] were pending with the appellate authority and one case of Ludhiana-III was in tribunal. In one case of Ferozepur, the recovery of ₹ 0.22 lakh had been made. The reply in one case of SAS Nagar was awaited (November 2022).

ii. In six cases[46], the dealers claimed transitional credit of ₹ 2.54 crore, however, as per assessment made by the Department for 2017-18, input tax credit of ₹ 1.17 crore was available as transitional credit. Thus, the dealers had claimed excess transitional credit of ₹ 1.37 crore (***Appendix 3.12***).

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[43] ARN - AA031117260999V.
[44] Gurdaspur, Ferozepur, Ludhiana-III, Sangrur and SAS Nagar.
[45] Gurdaspur (1) and Sangrur (1).
[46] Barnala (1), Moga (3), Pathankot (1) and Sangrur (1).

In one case of Moga, the Department had already recovered excess claimed transitional credit of ₹ 1.26 crore. Balance amount of ₹ 0.02 crore in this case and ₹ 0.09 crore in five cases[47] was recovered (February to April 2022) after the cases were pointed out by Audit (February and March 2022).

iii. In 14 cases[48], the dealers claimed ₹ 4.76 crore as transitional credit. The Department had assessed annual returns of these dealers for 2016-17, in which the Department determined the input tax credit of ₹ 2.45 crore available for carry forward to 2017-18. Out of this surplus input tax credit of ₹ 2.45 crore, four dealers were allowed refund of ₹ 0.89 crore. Hence, the dealers were eligible to carry forward remaining input tax credit of ₹ 1.56 crore *(₹ 2.45 crore minus ₹ 0.89 crore).* Further, there was accumulation of input tax credit of ₹ 0.48 crore during the quarter April-June 2017. Thus, the dealers were eligible for transitional credit of ₹ 2.04 crore *(₹ 1.56 crore plus ₹ 0.48 crore).* However, the dealers claimed transitional credit of ₹ 4.76 crore as they had already carried forward excess input tax credit from the annual return for the year 2016-17 to the year 2017-18. This resulted in excess claim of transitional credit of ₹ 2.72 crore which was required to be recovered by the Department during verification of transitional credit (***Appendix 3.13***).

The Department had already recovered ₹ 1.91 crore in eight cases[49]. On being pointed out by Audit (March 2022), further recoveries of ₹ 1.33 crore in five cases[50] were made (March and April 2022). In one case of Kapurthala, the Department intimated that the difference of ₹ 0.10 crore was due to omission of opening balance of input tax credit in the assessment of 2016-17, which was available as per previous assessment. The same was corrected in 2017-18.

The Department may reconcile ₹ 0.10 lakh with the refunds issued to the dealer of Kapurthala to ensure that the objected amount was not refunded.

iv. In two cases[51], the dealers claimed transitional credit of ₹ 0.30 crore. Out of this, Department disallowed transitional credit of ₹ 0.10 crore during Tran-1 verification. However, one dealer of Bathinda had already utilised the transitional credit towards liability for the month of November 2017, hence, Department levied interest of ₹ 0.01 crore. Audit noticed that although the dealers had credited ₹ 0.11 crore *(₹ 0.10 crore plus ₹ 0.01 crore)* in their electronic cash ledgers on 30 April 2018 and

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47 Barnala (1), Moga (2), Pathankot (1) and Sangrur (1).
48 Ferozepur (12), Jalandhar-II (1) and Kapurthala (1).
49 Ferozepur (8).
50 Ferozepur (4) and Kapurthala (1).
51 Bathinda: ₹ 10.62 lakh (ARN - AA030817069039Z) and Tarn Taran: ₹ 0.52 lakh (ARN - AA031217018014X).

6 September 2021, yet they did not debit electronic cash ledgers to make payment for the demand.

After the matter was pointed out by Audit (March 2022), the tax of ₹ 0.52 lakh in one case[52] was debited in electronic cash ledger (March 2022). The reply in respect of the other case was awaited (November 2022).

3.10.8 Transitional credit claims on input stock

Section 140(3) of Punjab GST Act 2017 provides that a registered person, not liable to be registered under the pre-GST law, or who was dealing with exempted goods/services or a first/second stage dealer or a registered importer or a depot of a manufacturer is entitled to carry forward credit of eligible taxes in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock.

Out of selected sample of 1,933 cases, 46 dealers had claimed transitional credit of ₹ 18.19 crore on account of input stock with invoices. These were mainly either builders with work-in-progress or buildings in their stock or second stage dealers dealing in such goods, which were taxable at first stage only. In pre-GST regime, the second stage dealers were not required to claim input tax credit on purchase and declare output tax liability on sale in the VAT returns. These dealers claimed transitional credit on input stock with invoices. Further, nine dealers had claimed transitional credit of ₹ 0.32 crore on account of input stock without invoices. Audit verification of the above cases brought out significant findings as discussed below:

i. In one case[53] of Ludhiana-II, the dealer was allowed transitional credit of ₹ 0.25 crore (₹ 0.15 crore against input tax credit and ₹ 0.10 crore against input stock with invoices). A list containing detail of closing stock of ₹ 2.86 crore against which transitional credit of ₹ 0.10 crore was allowed was analysed by Audit and it was observed that input tax credit against these goods was already accounted for in the annual return VAT-20 on the basis of which input tax credit of ₹ 0.15 crore was allowed as transitional credit. This resulted in double allowance of input tax credit of ₹ 0.10 crore in the transitional credit.

   The matter was reported to the Department (March and April 2022). The Department replied (June 2022) that the claim of ₹ 0.15 crore under Table 5C was on account of advance tax which was paid by the dealer in previous years and got accumulated, whereas the claim of ₹ 0.10 crore under Table 7C was against the stock of yarn lying in stock as on 30 June 2017.

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52 Tarn Taran (ARN - AA031217018014X).
53 ARN - AA031117260261S.

The reply was not acceptable because it is clear from the VAT-20 return of 2017-18 that the amount of transitional credit of ₹ 0.15 crore claimed under Table 5C already included accumulated advance tax paid in previous years and input tax credit of ₹ 0.10 crore on local purchases made during the quarter April-June 2017. The same input tax credit of ₹ 0.10 crore was allowed as transitional credit under Table 7C also, which resulted in double allowance of transitional credit.

ii. In one case[54] of Ludhiana-III, the dealer was allowed transitional credit of ₹ 0.68 crore (₹ 0.46 crore against input tax credit and ₹ 0.22 crore against input stock with invoices). Audit noticed that gross purchase of the dealer during the quarter April-June 2017 as per VAT-20 returns was ₹ 14.06 crore. Out of this purchase, the local purchase was ₹ 12.41 crore on which input tax credit of ₹ 0.74 crore had been claimed. After utilising the available input tax credit against output tax liability, the surplus input tax credit remained ₹ 0.46 crore at the end of the quarter. It was further observed that the trading account of the dealer for 2017-18 also showed purchases of goods under VAT regime as ₹ 14.06 crore. Since all the purchases were already accounted for in the annual return VAT-20, on the basis of which transitional credit of ₹ 0.46 crore was allowed, allowance of additional transitional credit of ₹ 0.22 crore against input stock with invoices was not admissible.

The matter was reported to the Department (March and April 2022). The Department replied (June 2022) that reversal of ₹ 0.33 crore had been made in GSTR-3B of April 2018. However, from the documents made available to Audit, it could not be ascertained that the reversed amount of ₹ 0.33 crore also included the amount of ₹ 0.22 crore objected on account of double claim of same input tax credit.

iii. In two cases[55], the dealers were allowed transitional credit of ₹ 0.64 crore against input stock with invoices. Scrutiny of invoices and statement appended revealed that the dealers had claimed credit of ₹ 0.51 crore[56], which was paid by the dealer on account of central excise duty, Central Sales Tax (CST) and stock of high-speed diesel. These payments of tax of ₹ 0.52 crore were not eligible as input tax credit under Punjab VAT Act 2005 and hence was not admissible as transitional credit as SGST. However, the Department recovered ₹ 0.03 crore only. This resulted in excess allowance of transitional credit of ₹ 0.48 crore.

54 ARN - AA0312170137710.
55 Amritsar-II (ARN - AA031117263339A) and Ropar (ARN - AA031217017213W).
56 Amritsar-II: Central Excise Duty (₹ 0.47 crore), Central Sales Tax (₹ 0.03 crore) and Ropar: Stock of High-Speed Diesel (₹ 0.01 crore).

On being pointed out in Audit (March and April 2022), the Department recovered ₹ 0.01 crore in one case of Ropar (March 2022). The reply in respect of one case of Amritsar-II was awaited (November 2022).

iv. Audit noticed in two cases[57] that transitional credit of ₹ 0.03 crore was allowed on account of input stock without invoices. However, the dealers were not second stage dealers and had already claimed input tax credit on purchases in the annual returns. SGST transitional credit of ₹ 0.03 crore allowed against input stock without invoices was not admissible in these cases.

On being pointed out by Audit (March 2022), the Department recovered ₹ 0.03 crore in both cases (March and May 2022).

3.10.9 Irregular adjustment of SGST liability with CGST credit

Section 49(5)(c) of PGST Act 2017 provides that the amount of input tax credit available in the Electronic Credit Ledger of a registered person on account of the State tax shall first be utilised towards payment of State Tax and the amount remaining, if any, may be utilised towards payment of Integrated Tax. Further, Section 49(5)(e) of the Act provides that the central tax shall not be utilised towards the payment of State Tax.

Audit noticed in two cases[58] that the dealers claimed SGST of ₹ 21 crore as transitional credit. At a later stage, Department objected to SGST transitional credit of ₹ 0.05 crore being inadmissible. The dealer reversed objected transitional credit of ₹ 0.05 crore, out of which ₹ 0.02 crore was adjusted from CGST credit and ₹ 0.03 crore from SGST credit. Adjustment of SGST of ₹ 0.02 crore out of CGST credit was irregular as it was not permissible under the provisions.

The matter was reported to the Department (March and April 2022). The Department replied (June 2022) that in case of Hoshiarpur, the payment of ₹ 1.88 lakh has now been made under the correct head of SGST. The reply in respect of case of Amritsar-I was awaited (November 2022).

3.11 Acknowledgement

Audit acknowledges the efforts put in by the Department to produce the relevant records and information necessary to conclude the audit. However, in

[57] Ludhiana-II: ₹ 0.51 lakh (ARN-AA031117261270S) and Ludhiana-III: ₹ 2.65 lakh (ARN-AA0311170100072).

[58] Amritsar-I: ₹ 0.08 lakh (ARN-AA031017020568K) and Hoshiarpur: ₹ 1.88 lakh (ARN-AA031017014542W).

25 cases[59], records like trading account, statutory declarations and other information were not provided to Audit.

3.12 Conclusion

Audit examination of transitional credits showed systematic as well as compliance issues. The nature of systematic deficiency indicated inadequate checks and validations due to which transitional credits were carried forward to Electronic Credit Ledger without deducting the input tax credit reversible on account of pending statutory forms. The compliance deficiencies showed improper verification of transitional credits and Audit observed that dealers had claimed transitional credits in excess of credits available in pre-GST returns.

In some cases, dealers claimed double transitional credit, which was allowed by Department despite conducting verifications. Some dealers created suspected and bogus input tax credits in pre-GST regime and carried them forward as transitional credits to GST regime. Audit also noticed such cases, where transitional credit as well as refund against the same input tax credit was allowed to dealers. The deficiencies mentioned above indicate that the system of verification of documents by the Department before allowing transitional credit was inadequate.

Above matters were reported to Government/Department (April 2022). The replies of the Government were awaited (November 2022). However, the responses of the Department, wherever received, have been incorporated in the relevant paragraphs.

3.13 Recommendations

In view of the audit points coming out of above, it is recommended that:

- *Systemic lapse which allowed transitional credit without deducting tax liability on pending statutory forms may be examined in similar cases as included in this Report.*
- *The Department may verify transitional credit claims of all the dealers who had applied for refunds especially for the years 2016-17 and 2017-18, with the refunds issued to such dealers.*
- *The Department may verify the suspected red flagged 'C' forms, the verification of which was awaited till the finalization of this Report.*
- *The Department may verify the transitional claims on the basis of documentary evidences and information available on the ETTSA system.*
- *Department may evolve mechanisms to check claims of transitional credit by non-filers and inadmissible excess claims.*

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[59] Amritsar-I (1), Ludhiana-I (6), Ludhiana-II (3), Ludhiana-III (14) and SAS Nagar (1).