



CHAPTER – V
REVENUE SECTOR

CHAPTER – V: REVENUE SECTOR

5.1 Introduction

5.1.1 Trend of Revenue Receipts

Tax and non-tax revenue raised by the Government of Arunachal Pradesh (GoAP) during 2020-21 and 2021-22, the State share of net proceeds of divisible Union taxes and duties assigned to the State, Grants-in-Aid received from the Government of India (GoI) during the year and corresponding figures for the preceding three years are shown in **Table 5.1**.

Table 5.1: Trend of Revenue Receipts

(₹ in crore)

Sl. No.	Particulars	2017-18	2018-19	2019-20	2020-21	2021-22
Revenue raised by the State Government						
1.	Tax revenue	815.57	1068.04	1228.73	1431.10	1639.79
	Non-Tax revenue	366.18	608.87	651.38	836.53	774.67
Total		1181.75	1676.91	1880.11	2267.63	2414.46
Revenue Receipts from the GoI						
2.	Share of net proceeds of divisible Union taxes and duties	9238.79	10436.14	8987.57	10472.58	14643.90
	Grants-in-Aid	3354.06	4082.91	4020.87	4383.30	4173.28
Total		12592.85	14519.05	13008.44	14855.88	18817.18
3.	Total revenue receipts of the State Government (1 + 2)	13774.60	16195.96	14888.55	17123.51	21231.64
4.	Percentage (1 w.r.t 3)	8.58	10.35	12.63	13.24	11.37

(Source: Finance Accounts of the respective years)

Table 5.1 reveals that during 2020-21, revenue raised by the State Government (₹2,267.63 crore) was 13.24 per cent of the total revenue receipts. The balance 86.76 per cent of the receipts was from the GoI. The total revenue receipts of the State Government were increased by ₹2,234.96 crore (15.01 per cent) over the previous year during 2020-21. The increase was mainly due to rise in the Share of net proceeds of divisible Union taxes and duties by ₹1,485.01 crore (16.52 per cent) and Grant-in-aid by ₹362.43 crore (9.01 per cent). The Tax and Non-Tax Revenue of State Government increased by ₹202.37 crore (16.47 per cent) and ₹185.15 crore (28.42 per cent) during the same period.

During 2021-22, revenue raised by the State Government (₹2,414.46 crore) was 11.37 per cent of the total revenue receipts. The balance 88.63 per cent of the receipts was from the GoI. The total revenue receipts of the State Government were increased by ₹4,108.51 crore (23.99 per cent) over the previous year during 2021-22. The increase was mainly due to rise in the Share of net proceeds of divisible Union taxes and duties by ₹4,171.32 crore (39.83 per cent). The tax revenue of State Government was also increased by ₹208.69 crore (14.58 per cent). However, the increase was offset by decrease in Grants-in-Aid by ₹210.02 crore (4.79 per cent) and decrease in non-tax revenue of the State Government by ₹61.86 crore

(7.39 per cent) during the same period.

Details of tax revenue raised against Budget Estimate (BE) during 2019-20 to 2021-22 are shown in **Table 5.2**.

Table 5.2: Details of Tax Revenue

(₹ in crore)

Head of Revenue	2019-20		2020-21		Percentage Increase (+)/ Decrease (-) in 2020-21 over 2019-20		2021-22		Percentage Increase (+)/ Decrease (-) in 2021-22 over 2020-21	
	BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual
Goods and Services Tax	4355.47	801.55	5,011.38	859.29	(+)15.06	(+) 7.20	5000.37	1131.00	(-) 0.22	(+) 31.62
Land Revenue	16.12	15.97	15.00	7.52	(-) 6.95	(-) 52.91	16.00	6.83	(+) 6.67	(-) 9.17
Stamp Duty	12.60	8.14	7.00	10.47	(-) 44.44	(+) 28.62	10.00	12.48	(+) 42.86	(+) 19.20
State Excise	208.36	144.97	157.00	238.02	(-) 24.65	(+) 64.19	230.12	115.92	(+) 46.57	(-)51.30
Taxes on Sales, Trade, etc.	311.44	219.82	270.00	283.09	(-) 13.31	(+) 28.78	394.90	324.61	(+) 46.26	(+) 14.67
Motor vehicle Tax	38.00	38.12	33.00	32.71	(-) 13.16	(+) 14.19	27.00	48.94	(+) 18.18	(+) 49.62
Taxes on goods and passenger	0.00	0.16	0.00	0.00	0.00	(-) 100.00	0.00	0.01	0.00	0.00
Total	5972.14	1228.73	5,493.38	1431.10	(-) 8.02	(+) 16.47	5678.39	1639.79	(+) 3.37	(+) 14.58

(Source: Finance Accounts of the respective years and the Budget document of the respective years, GoAP)

The increase of tax revenue by ₹202.37 crore (16.47 per cent) in 2020-21 as compared to the previous year was mainly on account of increase in contribution of State Excise by ₹93.05 crore, increase in Taxes on Sales, Trade, etc. by ₹63.27 crore, increase in State Goods and Services Tax (SGST) by ₹57.74 crore and increase in taxes on Stamp Duty by ₹2.33 crore. However, the increase was offset by decrease in Land Revenue by ₹8.45 crore, decrease in Motor Vehicle taxes by ₹5.41 crore and decrease in Taxes on goods and passengers by ₹0.16 crore.

During 2021-22, tax revenue increased by ₹208.69 crore (14.58 per cent) in 2021-22 as compared to the previous year. The increase was mainly due to increase in SGST by ₹271.71 crore, increase in Tax on sales, trades etc. by ₹41.52 crore, increase in Motor vehicles taxes by ₹16.23 crore, increase in Stamp duty by ₹2.01 crore and increase in Taxes on goods and passengers by ₹0.01 crore. However, the increase was offset by decrease in State excise duty by ₹122.17 crore and decrease in Land Revenue by ₹0.69 crore.

Details of non-tax revenue raised against BE from 2019-20 to 2021-22 is shown in the **Table 5.3**.

Table 5.3: Details of Non-Tax Revenue

(₹ in crore)

Head of Revenue	2019-20		2020-21		Percentage Increase (+)/ Decrease (-) in 2020-21 over 2019-20		2021-22		Percentage Increase (+)/ Decrease (-) in 2021-22 over 2020-21	
	BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual
Power	442.37	247.95	286.00	243.28	(-) 35.35	(-) 1.88	350.00	384.18	(+) 22.38	(+)57.92
Interest Receipts	118.84	62.49	98.84	34.12	(-) 16.83	(-) 45.40	-	47.21	(-) 100.00	(+)38.37

Head of Revenue	2019-20		2020-21		Percentage Increase (+)/ Decrease (-) in 2020-21 over 2019-20		2021-22		Percentage Increase (+)/ Decrease (-) in 2021-22 over 2020-21	
	BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual
Forestry & Wild Life	66.26	6.52	20.00	8.68	(-) 69.82	(+) 33.13	45.00	15.16	(+) 125.00	(+)74.66
Public works	31.30	7.74	15.00	17.33	(-) 52.08	(+) 123.90	19.00	33.18	(+) 26.67	(+)91.46
Miscellaneous General Services	37.26	12.78	15.00	0.01	(-) 59.74	(-) 99.92	21.00	9.22	(+) 40.00	(+) 92100.00
Other Administrative Service	35.64	129.79	25.00	367.29	(-) 29.85	(+) 182.99	26.07	83.66	(+) 4.28	(-) 77.23
Police	14.86	4.27	5.00	3.94	(-) 66.35	(-) 7.73	11.00	7.96	(+) 120.00	(+)102.03
Medical & Public Health	5.23	21.23	10.00	5.73	(+) 91.20	(-) 73.01	6.80	4.75	(-) 32.00	(-) 17.11
Co-operation	5.80	0.71	1.00	1.27	(-) 82.76	(+) 78.87	3.00	0.6	(+) 200.00	(-) 52.76
Other Non-Tax Receipts	713.16	157.90	396.25	154.88	(-) 44.44	(-) 1.91	368.13	188.75	(+) 196.50	(+) 21.87
Total	1470.72	651.38	872.09	836.53	(-) 40.70	(+) 28.42	850.00	774.67	(+) 41.67	(-) 7.39

Source: Budget Document and Finance Accounts of respective years

During 2020-21, there was increase in collection of non-tax revenue by ₹185.15 crore (28.42 per cent) over the previous year. The increase was mainly on account of increase in receipts under Forestry & Wild Life by ₹2.16 crore; increase in Public Works by ₹9.59 crore; increase in Other Administrative Services by ₹237.50 crore and increase in Co-operation by ₹0.56 crore. However, the increase was offset by decrease in receipts under Power by ₹4.67 crore, decrease in Interest Receipts by ₹28.37 crore, decrease in Miscellaneous General Services by ₹12.77 crore, decrease in Police by ₹0.33 crore, decrease in Medical & Public Health by ₹15.50 crore and decrease in Other Non-Tax Receipts by ₹3.02 crore.

The non-tax revenue was decreased by ₹61.86 crore (7.39 per cent) in 2021-22 over the previous year. The decrease was mainly due to decrease in receipts under other administrative services by ₹283.63 crore, decrease in receipts under Medical and Public Health by ₹0.98 crore and decrease in receipts under Co-operation by ₹0.67 crore. However, the decrease was offset by increase in receipts under Power Department by ₹140.90 crore, increase in other non-tax receipts by ₹33.87 crore, increase in receipts under Public Works Department by ₹15.85 crore, increase in Interest receipts by ₹13.09 crore, increase in receipts under miscellaneous general services by ₹9.21 crore, increase in receipts under Forest and Wild Life Department by ₹6.48 crore, and increase in receipts under Police Department by ₹4.02 crore.

5.1.2 Analysis of arrears of revenue

The arrears of revenue indicates delayed realisation of revenue due to the Government. The arrears of revenue as at the end of the year were furnished (August 2022) by the Tax and Excise Department in respect of 25 Superintendent of Taxes (STs), out of total 28 STs, as on March 2022. However, the Department could not furnish arrears of revenue at the end of the year (March 2021) and collections of arrears of revenue during the year 2021-22. As such, promptness of the Department to realise outstanding arrears of revenue and actual realisation during the year could

not be assessed. The details of arrears of revenue as on March 2022 is detailed in the **Table 5.4**

Table 5.4: Details of outstanding revenue

Head of Revenue	Amount outstanding as on 01 April 2021	Collection of arrear of revenue during 2021-22	Total amount outstanding as on 31 March 2022	(₹ in crore)	
				Amount outstanding for more than five years as on 31 March 2022	
0040- Taxes on Sales, Trade etc.	NA	NA	247.14	196.34	
0039- State Excise	Nil	Nil	Nil	Nil	
Total	NA	NA	247.14	196.34	

(Source: Data furnished by the State Government)

It is evident from the **Table 5.4** that recovery of ₹196.43 crore was pending for more than five years. Clearance of arrears of such magnitude requires focused efforts by all Departments concerned and a push for coordination with other departments such as banks, police department and quasi-judicial/ judicial bodies involved in the process of recovery before expiry of the statutory time limit for such recovery.

5.1.3 Arrears in Assessments

Timely assessment is important for ensuring better tax compliance and increasing the collection efficiency. The details of the assessments made were called for from the department to assess whether there were any arrears in making the assessments. The Department furnished (August 2022) arrears of assessment in respect of 28 STs as detailed in **Table 5.5**.

Table 5.5: Details of arrear of assessments of revenue

Head of Revenue	Opening Balance	New cases due for assessment during 2021-22	Total assessments due	Cases disposed of during 2021-22:		Balance at the end of the year
				Number	Percentage	
0040- Taxes on Sales, Trade etc.	432	54	486	40	8.23	446
0039- State Excise	Nil	Nil	Nil	Nil	Nil	Nil
Total	432	54	486	40	8.23	446

(Source: Data furnished by the State Government)

As can be seen from the table above, the Departments could complete the assessment of only 8.23 per cent of the cases (taxes on Sales, Trade etc.) and none in State Excise during 2021-22, leading to addition to the arrears. Since the assessments have to be completed within the timeframe stipulated in the tax laws, delays in completing assessments is fraught with the risk of foregoing the revenue. Pendency in assessment may result in non/ short-realisation of Government revenues and further accumulation in arrears of revenue.

5.1.4 Evasion of tax detected by the Department

The evasion of tax detected by the Tax and Excise Department, cases finalized and demands for additional tax raised are important indicator of revenue collection

efforts of the State Government. Promptness in disposal of refund cases is an important indicator of the performance of the Department. High pendency of refund cases may indicate red tape, vested interest, prevalence of speed money, etc. Details of evasion of tax detected are given in **Table 5.6**.

Table 5.6: Details of evasion of Tax detected

(₹ in crore)

Head of Revenue	Cases pending as on 01 April 2021	Cases detected during 2021-22	Total	Number of cases in which assessment completed		Number of cases pending for finalisation as on 31 March 2022
				Number	Amount	
1	2	3	4 (2+3)	5	6	7 (4-5)
0040- Taxes on Sales, Trade etc.	120	05	125	20	0.00	105
0039- State Excise	01	00	01	00	2.77	01
Total	121	05	126	20		106

(Source: Data furnished by the State Government)

The inability to complete the assessments in a timely manner, coupled with weak monitoring mechanism, contributed to delay in assessment of cases. During 2021-22, out of 126 cases, only 20 cases (15.87 per cent) were cleared leaving a pendency of 106 cases.

5.1.5 Pendency of Refund Cases

The pendency of refund cases furnished by the Tax and Excise Department is detailed in **Table 5.7**.

Table 5.7: Details of refund cases in 2021-22

(₹ in crore)

Sl. No	Particulars	SGST		VAT	
		Number	Amount	Number	Amount
1.	Claims outstanding at the beginning of the year	87	11.00	01	0.23
2.	Claims received during the year	91	11.24	00	0.00
3.	Refund made/ rejected during the year	43	5.89	00	0.00
4.	Balance outstanding at the end of year	135	16.35	01	0.23

(Source: Data furnished by the State Government)

It is evident from the **Table 5.7** that the Department could not even clear the refund cases which got added during the current year, leading to addition to the arrears. The Department cleared 43 refund cases out of total 179 cases pending during 2021-22 leaving pendency of 136 cases.

5.1.6 Response of the Government/ Departments towards Audit

The Principal Accountant General, Arunachal Pradesh, conducts periodical inspection of Government Departments to test-check transactions and verify maintenance of important accounts and other records, as prescribed in the rules and procedures. These inspections are followed up with Inspection Reports (IRs) incorporating irregularities detected during inspections and not settled on the spot, which are issued to the Heads of Offices inspected, with copies to the next higher

authorities for taking prompt corrective action. Heads of Offices are required to take appropriate actions on the audit observations contained in the IRs, and report compliance to the Principal Accountant General, Arunachal Pradesh within one month from the date of issue of IRs. Serious financial irregularities are reported to the Heads of Departments and the Government.

Inspection Reports issued upto March 2022 disclosed that for Revenue Receipts 1,607 paragraphs involving ₹6,48.63 crore relating to 434 IRs remained outstanding at the end of March 2022 along with the corresponding figures for the preceding years. The details are shown in the **Table 5.8**.

Table 5.8: Details of pending Inspection Reports

Particulars	March 2019	March 2020	March 2021	March 2022
Number of IR pending	379	400	414	434
Number of outstanding Audit Observations	1,332	1,456	1,526	1,607
Total amount involved (₹ in crore)	6,307.87	6,348.86	6,414.14	6,489.63

(Source: Monthly Progress Report)

Department-wise details of the IRs and audit observations outstanding as on 31 March 2022 and amounts involved are shown in **Table 5.9**.

Table 5.9: Department-wise details of IRs and Audit Observations

Sl. No.	Department	Nature of receipts	No of outstanding		Money value involved
			IRs	Audit Observations	
1.	Sales Tax	Taxes on Sales, Trade etc.	121	600	345.70
2.	Excise	State Excise	75	199	20.82
3.	Land Management	Land Revenue	39	183	5,643.06
4.	Transport	Taxes on Motor Vehicle	60	223	30.99
5.	State Lottery	Lottery	6	21	187.62
6.	Geology & Mining	Non-ferrous Mining & Metallurgical Industries	26	73	87.23
7.	Environment & Forest & Wild Life	Forestry & Wild Life	107	308	174.22
Total			434	1607	6,489.63

(Source: Monthly Progress Report)

Audit did not even receive first replies within one month from the date of issue of IRs from 11 Heads of Offices for 11 IRs issued during 2021-22. The large pendency of IRs due to the non-receipt of replies indicated that Heads of Offices and Departments did not initiate necessary actions to rectify the defects, omissions and irregularities pointed out in IRs.

Recommendation: *The Government may introduce an effective system for prompt and appropriate response to audit observations.*

5.1.7 Departmental Audit Committee Meetings

The Government set up Audit Committees to monitor and expedite the progress of settlement of IRs and Paragraphs in the IRs. However, no Departmental Audit Committee meeting for Revenue Sector was held during 2020-21 and 2021-22. As

can be seen from Para 5.1.6, there is large pendency of IRs. In view of this, the Government may ensure holding of regular Audit Committee meetings to expedite clearance and settlement of outstanding audit observations.

5.1.8 Response of Departments to Draft Audit Paragraphs

The Draft Audit Paragraphs proposed for inclusion in the Report of the Comptroller & Auditor General of India are forwarded by the Principal Accountant General, Arunachal Pradesh to the Principal Secretaries/ Secretaries of concerned Departments, drawing their attention to audit findings and requesting them to send responses within four weeks. The reply of Department/ Government is invariably incorporated in the respective paragraph.

5.1.9 Follow-up on Audit Reports

The internal working system of the Public Accounts Committee (PAC), notified in December 2002, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the PAC. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. 107 paragraphs (including two performance audits) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Arunachal Pradesh for the years 2008-2009 to 2019-20 were placed before the State Legislative Assembly between 03 September 2010 and 06 September 2022. The action taken explanatory notes from the concerned departments on these paragraphs were not furnished within the specified time.

The PAC discussed 52 selected paragraphs under Revenue Sector (February 2021) from two departments pertaining to the Audit Reports for the years from 2008-09 to 2016-17. Out of 52 paragraphs, 40 paragraphs were settled by the PAC and the remaining 12 paragraphs were recommended for further examination.

5.1.10 Analysis of mechanism for dealing with issues raised by Audit

To analyse the system of addressing issues highlighted in Inspection Reports/ Audit Reports by the Department/ Government, action taken on Paragraphs and Performance Audits included in the Audit Reports of the last 10 years for one department is evaluated and included in this Audit Report.

The succeeding paragraph 5.1.10.1 discusses the performance of the State Transport Department under revenue head 0041 and cases detected during the course of local audit during the years 2012-13 to 2021-22.

5.1.10.1 Position of Inspection Reports

The summarised position of the Inspection Reports issued during the last 10 years (2012-13 to 2021-22) to various offices under the administrative control of the State

Transport Department as on 31 March 2022 is shown in **Table 5.10**.

Table: 5.10 Position of Inspection Reports

(₹ in lakh)

Year	Opening Balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IRs	Para	Money value	IRs	Para	Money value	IRs	Paras	Money value	IRs	Para	Money value
2012-13	39	110	765.81	-	-	-	-	5	15.58	39	105	750.23
2013-14	39	105	750.23	-	-	-	-	-	-	39	105	750.23
2014-15	39	105	750.23	-	-	-	1	5	15.56	38	100	734.67
2015-16	38	100	734.67	3	16	164.88	-	-	-	41	116	899.55
2016-17	41	116	899.55	8	58	264.33	-	9	178.65	49	165	820.35
2017-18	49	165	820.35	1	11	3.60	-	-	-	50	176	823.95
2018-19	50	176	823.95	-	-	-	-	11	105.24	50	165	718.71
2019-20	50	165	718.71	6	42	907.89	-	-	-	56	207	1626.60
2020-21	56	207	1626.60	3	14	1389.64	1	2	0.03	58	219	3016.21
2021-22	58	219	3016.21	2	13	124.40	0	9	41.74	60	223	3098.87

(Source: Monthly Progress Report)

The Government did not arrange Audit Committee Meetings between the Department and the Principal Accountant General's office to settle the old paragraphs. It is evident from the above table, against 39 outstanding IRs with 110 paragraphs at the beginning of 2012-13, the number of outstanding IRs remained at 60 IRs with 223 paragraphs at the end of 2021-22.

5.1.10.2 Recovery of Accepted Cases

The position of Compliance Audit Paragraphs included in Audit Reports of the last 10 years, those accepted by the respective department and amounts recovered are mentioned in the following **Table 5.11**.

Table 5.11: Status of recovery from accepted Paragraphs in Audit Reports during the period from 2010-11 to 2019-20

Sl. No.	Year	No. of Paragraphs included	Money value of Paragraphs (₹ in crore)	Amount recovered during the year	Cumulative position of recovery of accepted cases of 31 March 2022
1.	2010-11	15	7.56	Nil	Nil
2.	2011-12	22	5.71	Nil	Nil
3.	2012-13	07	2.31	Nil	Nil
4.	2013-14	12	6.94	Nil	Nil
5.	2014-15	06	1.43	Nil	Nil
6.	2015-16	07	12.78	Nil	Nil
7.	2016-17	05	2.25	0.01	0.01
8.	2017-18	05	5.69	0.002	0.002
9.	2018-19	08	72.61	Nil	Nil
10.	2019-20	05	6.35	Nil	Nil
Total		92	123.63	0.012	0.012

From the above table it can be seen that there were negligible recoveries even in accepted cases during the last 10 years. Recoveries of accepted cases were to be pursued as arrears recoverable from the concerned parties. No mechanism for pursuance of the accepted cases was put in place by the Department/ Government. Further, arrear cases, including accepted audit observations, were not available with

the office of the Commissioner, Excise & Taxation Department. In the absence of a suitable mechanism, the department could not monitor recoveries of accepted cases.

Recommendation: The Department may take immediate action to pursue and monitor prompt recovery of dues involved in accepted cases.

5.2 Audit Planning and Result of Audit

The Unit offices under various Departments are categorised into high, medium and low risk units, according to their revenue position, past trends of audit observations and other parameters. An Annual Audit Plan is prepared on the basis of risk analysis, which includes critical issues in Government Revenues and Tax Administration, *i.e.* Budget Speech, White paper on State Finance, Reports of the Finance Commission (Central and State), recommendation of the Taxation Reforms Committee, Statistical analysis of the revenue earnings, factors of the tax administration, audit coverage *etc.* During 2020-21, out of 161 auditable units, 25 units (15.53 *per cent*) were planned for audit under revenue sector and 19 units (11.80 *per cent*) were actually audited. Similarly, during 2021-22, out of 178 auditable units, 16 units (8.99 *per cent*) were planned for audit under revenue sector and 19 units (10.67 *per cent*) were actually audited.

5.3 Coverage of this Chapter

This chapter contains two subject specific compliance audit (SSCA) reports *viz.* ‘Goods and Service Tax (GST) Refunds in Tax Department’ and ‘Transitional Credits under GST in Taxes Department’, Government of Arunachal Pradesh and four audit paragraphs involving financial effect of ₹3.45 crore. Out of total audit objections of ₹3.45 crore (₹2.50 crore of tax revenue and penalty/ interest of ₹0.95 crore) included in Audit Report of March 2022, Department/ Government made recovery of tax revenue of ₹28.98 lakh and penalty of ₹5.06 lakh in respect of objections included in Audit Report. Thus, the total recoveries made at the instance of audit in respect of paragraphs included in this report during the year aggregated to ₹34.04 lakh.

Subject Specific Compliance Audit (SSCA)

5.4 Transitional Credits under Goods and Service Tax (GST) in Department of Taxes, Government of Arunachal Pradesh

5.4.1 Introduction

Introduction of GST (Goods and Service Tax) is a significant reform in the field of indirect taxes in our country, which replaced multiple taxes levied and collected by the Centre and States. GST is a destination based tax on supply of goods or services or both, which is levied at multi-stages wherein the taxes will move along with supply. The tax will accrue to the taxing authority which has the jurisdiction over the place of supply. Tax is levied simultaneously by the Centre and States on a common tax base. Central GST (CGST) and State GST (SGST)/Union Territory GST (UTGST) is levied on intra state supplies and Integrated GST (IGST) is levied on inter-state supplies. Availability of input tax credit of taxes paid on inputs, input services and capital goods for set off against the output tax liability is one of the key features of GST. This will avoid cascading effect of taxes and ensures uninterrupted flow of credit from the seller to buyer. To ensure the seamless flow of input tax from the existing laws to GST regime, transitional arrangements for input tax were included in the GST Acts to provide for the entitlement and manner of claiming input tax in respect of appropriate taxes or duties paid under existing laws. Transitional credit provisions are important for both the Government and business. For business, the transitional credit provisions ensure transition of accumulated credits from the legacy returns, input tax in respect of raw materials, work in progress, finished goods held in stock as on the appointed day as well as credit in respect of capital goods into the GST regime. The provisions enable taxpayers to transfer such input credits only when they are used in the ordinary course of business or furtherance of business.

In Arunachal Pradesh, GST is administered under the Arunachal Pradesh Goods and Services Tax (APGST) Act, 2017 and Arunachal Pradesh Goods and Services Tax (APGST) Rules, 2017. The Department of Tax & Excise is headed by the Commissioner. The jurisdictional officers of the department are the Superintendent of Taxes (ST).

During the VAT period, the tax was administered under the provisions of the Arunachal Pradesh Goods Tax (APGT) Act, 2005 and Arunachal Pradesh Goods Tax (APGT) Rules, 2005.

5.4.2 Transitional arrangements for input tax

Section 140 of the APGST Act 2017 (and CGST Act/UTGST Acts) enables the taxpayers to carry forward the Input Tax Credit (ITC) earned under the existing laws to the GST regime. The section read with Rule 117 of APGST Rules 2017 prescribes elaborate procedures in this regard. All registered taxpayers, except those who are opting for payment of tax under composition scheme (under section 10 of the Act),

are eligible to claim transitional credit by filing TRAN 1 returns within 90 days from the appointed day. The time limit for filing TRAN 1 returns was extended initially till 27 December 2017. However, many taxpayers could not file the return within the due date due to technical difficulties. Thus, sub-rule 1A was inserted under Rule 117 of APGST Rules, 2017 vide Notification 36/2018 – State Tax dated 10 September 2018, to accommodate such taxpayers. The due date for filing TRAN 1 was further extended to 31 March 2020, vide Notification No. 02/2020 (State Tax) dated 01 January 2020, for those taxpayers who could not file TRAN 1 due to technical difficulties and those cases recommended by the GST Council. Under the transitional arrangements, the ITC of various taxes paid under the existing laws such as State Value Added Tax (VAT) can be carried forward to GST regime in circumstances such as:

- a. **Closing balance of the credit in the last returns:** The closing balance of the VAT credit available in the returns filed under existing law for the month immediately preceding the appointed day can be taken as credit in electronic credit ledger.
- b. **Un-availed credit on capital goods:** The balance installment of un-availed credit on capital goods can be taken by filing the requisite declaration in GST TRAN 1.
- c. **Credit on duty paid stock:** A registered taxable person, other than the manufacturer or service provider, may take the credit of the duty/ tax paid on goods held in stock based on the invoices.
- d. **Credit on duty paid stock when Registered Person does not possess the document evidencing payment of excise duty/VAT:** For traders who do not have excise or VAT invoice, there is a mechanism to allow credit to them on the duty paid stock.

5.4.3 Audit Scope and Methodology

The scope of audit comprised a review of transitional credit claim returns, both TRAN 1 and TRAN 2, filed by the taxpayers under the transitional arrangements for input tax provided for under Section 140 of the APGST Act. The period of review was from the appointed date *i.e.* 01 July 2017 to the end of March 2020. Audit verification involved the scrutiny of process and outcomes of departmental verifications along with detailed independent verification of select claims. Verification of individual transitional credit claims entailed the examination of VAT credit claimed by the taxpayers in the last six monthly returns (FF-01) filed under existing laws, immediately preceding the appointed date, along with the documentary evidence in support of such claims. Further, in respect of input tax claimed pertaining to materials held in stock, verification would involve examination of necessary accounting details, documents or records evidencing purchase of such goods.

Audit conducted verification of the records relating to 67 sample cases of Transitional Credit in the Office of the Commissioner of Tax & Excise, Itanagar as well as the nine jurisdictional offices of Superintendent of Taxes (STs). The erstwhile VAT system was entirely manual in Arunachal Pradesh and taxpayers were required to file physical copies of returns and other related documents. Audit checked copies of TRAN 1s obtained from the GST back-office, data provided by the STs from their back-end systems, taxpayer VAT returns and other related records to ascertain the genuineness of the claims.

The SSCA began with an entry conference held on 02 September 2021 wherein the objectives, scope and methodology of the audit were explained to the department. The draft report was issued to the department on 01 February 2022 and the SSCA was concluded with an exit conference on 03 March 2022 where the audit findings were discussed with the department and the replies/comments of the department noted.

5.4.4 Sample Selection

The total number of transitional credit claims of SGST in the State was 69 with a total value of ₹9.21 crore. 67 cases were examined in audit. 20 cases involving transitional credit claim of ₹61.36 lakh pertain to taxpayers registered under the jurisdiction of the central authority (CBIC) and the remaining 47 cases involving transitional credit claim of ₹7.64 crore pertain to taxpayers registered under the jurisdiction of the state tax authority (Department of Tax & Excise, GoAP). The details of the jurisdiction of the 67 sample cases are shown in *Appendix -5.1*.

The 67 sample cases selected for detailed audit pertain to the following categories of transitional credit claim as detailed in **Table 5.12**.

Table 5.12: Details of sample cases selected for audit

Sl. No.	Type of Claim	Section of APGST Act	Table of TRAN 1	No. of Cases
1.	VAT credit carried forward from the closing balance in last returns	140(1), 140(4)(a)	5(c)	60
2.	Un-availed VAT credit on capital goods	140(2)	6(b)	1
3.	Eligible duties and taxes/VAT/Entry Tax in respect of inputs	140(4)	7.b	2
4.	Amount of VAT and Entry Tax paid on inputs supported by invoices	140(5)	7.c	4
Total				67

(Source: Departmental records)

5.4.5 Audit objectives

The audit of transitional arrangements for input tax credit under GST was taken up with the following audit objectives with a view to seeking an assurance on:

1. Whether the mechanism envisaged by the Department for selection and verification of transitional credit claims was adequate and effective (System issues).

2. Whether the transitional credits carried over by the taxpayers into GST regime were valid and admissible (Compliance issues).

5.4.6. Audit findings

The table below brings out the extent of deficiencies noted during audit of the transitional credit cases, selected for detailed audit.

Table 5.13: Details of irregularities noticed in sampled cases.

(₹ in lakh)

Nature of Audit Observation	Audit sample		Number of deficiencies noticed		Deficiencies as percentage of sample	
	Number	Amount	Number	Amount	Number	Amount
Excess carry forward of input tax credit	67	825.09	3	6.14	4.48	0.74
Irregular availment of transitional credits on capital goods	67	825.09	1	1.5	1.49	0.18
Irregularities in carrying forward of VAT credit under Section 140(1)	67	825.09	3	52.99	4.48	6.42
Irregular claim of transitional credit by Taxpayers due to wrong declaration of input tax credit in their VAT returns (FF-01)	67	825.09	6	4.14	8.96	0.50

(Source: Departmental records)

The audit observations are described in following paragraphs:

A. Systemic Issues

5.4.6.1 Non-verification of Transitional Credit claims

The Department of Tax & Excise, Government of Arunachal Pradesh needed to formulate a system for verification of the claims with the legacy returns and other documents of the VAT regime to ensure that these claims are genuine.

However, Audit noticed that the Department did not formulate any system for verification of the transitional credit claims. No sample was selected at the Commissionerate level for verification and the Assessing Officers (Superintendents of Taxes) were also not instructed by the Commissioner to verify the claims submitted by taxpayers under their respective jurisdiction.

Further, during the field audit of 67 sample cases of transitional credit when Audit issued query to the nine Assessing Officers regarding verification of claims, they replied as detailed in **Table 5.14:**

Table 5.14: Number of cases verified by Assessing Officers

GST Assessing Officers (State)	Approving Authority of the 67 Taxpayers		TRAN 1 Claim amount (₹ in lakh)		Cases verified		Claim amount verified (₹ in lakh)		Cases not verified		Claim amount not verified (₹ in lakh)	
	State	Centre	State	Centre	State	Centre	State	Centre	State	Centre	State	Centre
ST Aalo	0	1	0.00	0.02	0	0	0	0	0	1	0.00	0.02
ST Banderdewa	4	1	11.77	3.87	0	0	0	0	4	1	11.77	3.87
ST Itanagar Zone-II	14	9	455.21	21.70	14	0	455.21	0	0	9	0.00	21.70
ST Khonsa	1	0	124.86	0.00	0	0	0	0	1	0	124.86	0.00
ST Naharlagun Zone-I	6	5	31.97	33.26	0	0	0	0	6	5	31.97	33.26
ST Namsai	2	0	4.07	0.00	0	0	0	0	2	0	4.07	0.00
ST Pasighat ⁹²	9	2	127.65	1.29	0	0	0	0	9	2	127.65	1.29
ST Roing	3	1	0.98	1.07	3	1	0.98	1.07	0	0	0.00	0.00
ST Tezu	8	1	7.19	0.15	0	0	0	0	8	1	7.19	0.15
Total	47	20	763.70	61.36	17	1	456.19	1.07	30	19	307.51	60.29

(Source: Departmental records)

Audit noticed from the replies that out of the nine Assessing Officers only two *i.e.* ST, Zone-II, Itanagar and ST, Roing have conducted verification of their TRAN 1 claims. As such, out of the 47 claims under the jurisdiction of State, only 17 claims (36.17 *per cent*) have been verified and 30 (63.83 *per cent*) still remain unverified. Further, only ST Roing has stated that they had verified one claim under the jurisdiction of the central tax authority. However, none of these two Assessing Officers produced any proof of verification of claims like copies of verification report or action-taken report (ATR) or any other documents relating to the process. Remaining seven Assessing Officers (STs) did not furnish any reasons for non-verification of claims. Moreover, no steps were taken to verify and *ex-post-facto* validation of Transitional credit claims availed by 30 taxpayers even after five years of implementation of GST in the State.

When Audit pointed this out (February 2022), the Department stated during the exit conference (March 2022) that the Superintendents of Taxes are not able to access these transactions from their GST back office due to lack of proper training and hence they were unable to verify the cases. The Department also stated that as this was a skill issue, it would contact the software developing agency/GSTN and organise training for this purpose.

5.4.6.2 Non production of TRAN-1

In order to carry forward ITC earned under the existing laws to the GST regime, all registered taxpayers, except those who are opting for payment of tax under composition scheme were required to file TRAN-1 returns. However, when Audit called for the copies of the TRAN-1 returns of 67 sampled taxpayers who had claimed transitional credit, none of the nine STs produced the same. Subsequently, Audit collected the TRAN-1s from the GST Back-office system at the Commissioner's Office.

⁹² ST Pasighat did not furnish replies to the questionnaire and hence his TRAN 1 claims are taken as not verified.

When Audit pointed this out (February 2022), the Department agreed to audit finding and stated during exit conference (March 2022) that the Superintendents of Tax were unable to produce the TRAN 1s to Audit due to lack of understanding of the GST back office. The Department also stated that as this was a skill issue, they would contact the software developing agency/GSTN and organize training for this purpose.

5.4.6.3 Non-production of VAT records of taxpayers

Audit called for the VAT records of 67 taxpayers, who had claimed transitional credit, from their respective jurisdictional officers (STs). However, four STs failed to produce the VAT records of five taxpayers.

ST, Tezu stated that two taxpayers who were registered with them under APGST Act 2017 were not registered under them during VAT. Further, as the VAT system was manual in the State, Audit could not locate where the taxpayers were registered under VAT. Due to the non-production of VAT records of five taxpayers, Audit could not verify their claims of transitional credit.

When Audit pointed this out (February 2022), the Department during the exit conference accepted the audit observation and stated (March 2022) that the respective Superintendents of Tax are trying to trace the files. The Department also stated that two taxpayers who are registered under GST with the ST, Tezu were actually registered under ST, Changlang during VAT. The VAT files would be collected from ST, Changlang and furnished to Audit.

B. Compliance Issues

5.4.6.4 Taxpayers whose claims were found correct

Out of 67 cases of transitional credit claims checked by Audit, there were 34 cases where the claims of transitional credit of the taxpayers were found to be correct. All of the 34 claims pertained to VAT credit carried forward by the taxpayers under Section 140 (1) (ii) of the APGST Act 2017. These taxpayers submitted their VAT returns (FF-01) of the last six months immediately preceding the appointed date *i.e.* 1 July 2017 and their credit balance matched with the TRAN-1 claims.

Further, there were two cases where the taxpayers claimed less transitional credit than the VAT credit remaining in their last VAT return of June 2017.

5.4.6.5 Non-submission of VAT returns

As per Section 140 (1) (ii) of the APGST Act 2017, a registered person, other than a person opting to pay tax under Section 10, shall be entitled to take, in his electronic credit ledger, credit of the amount of Value Added Tax, and Entry Tax, if any, carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed, provided that he has furnished all the returns required under

the existing law for the period of six months immediately preceding the appointed date.

Scrutiny of 67 cases of Transitional Credit claim revealed that there were nine cases where the taxpayers had not submitted their VAT returns (FF-01) during the last six months immediately preceding the appointed date *i.e.* 01 July 2017 resulting in irregular transitional credit claim of ₹18.08 lakh as detailed in **Table 5.15**:

Table 5.15: Irregularities in transitional claims

Sl. No.	Name of taxpayer	GST Jurisdiction /VAT Jurisdiction	GSTIN No.	VAT TIN No.	Transitional Credit claimed (in ₹)	Details of return not filed
1.	Life Angel Pharmaceutical	Itanagar Range/ ST, Itanagar, Zone-II	12ACMPW7606G2ZD	12171327196	566.00	April 2017 – June 2017 quarterly return
2.	M/s Maa Kali Traders	ST, Itanagar, Zone-II	12AEYPC0402L1ZR	12170555139	133.64	January 2017 – June 2017 returns
3.	M/s Bie Enterprise	ST, Itanagar, Zone-II	12AHAPL4217F1Z0	12171047112	1,61,522.64	April 2017 – June 2017 quarterly return
4.	M/s L. B. Enterprises	ST, Itanagar, Zone-II	12AOWPG8018C1Z3	12170320117	99,840.21	January 2017 – June 2017 returns
5.	M/s Nani Auto Agency	ST, Naharlagun, Zone-I	12AEBPN7916D1ZV	12041851192	92,156.86	April 2017 monthly return
6.	M/s M.N.W Enterprises	ST, Naharlagun, Zone-I	12ACZPW5789K1ZC	12042040142	9,07,041.86	April 2017 – June 2017 quarterly return
7.	M/s Sanju Gramin IndaneVitrak	ST, Namsai	12BRMPD1513R1ZS	12110200123	1,58,958.00	April 2017 – June 2017 quarterly return
8.	M/s Surajmal Kaniyalal	ST, Tezu	12AKPPM9000K1Z3	12110001170	3,77,584.00	January 2017 – June 2017 returns
9.	M/s Vansi Arms Repair and Sales	ST, Tezu	12BOFPS7112P2ZM	12110080184	9,874.00	April 2017 – June 2017 quarterly return
Total					18,07,677.21	
Rounded off (in lakh)					18.08 lakh	

(Source: Departmental records)

Further, from the GSTN portal it was noticed that the registration of four of these taxpayers had been cancelled, as detailed in **Table 5.16**.

Table 5.16: Registration details of firms

Sl. No.	Name of taxpayer	GST Jurisdiction /VAT Jurisdiction	GSTIN	VAT TIN	Transitional Credit claimed (in ₹)	Cancellation Details
1.	Life Angel Pharmaceutical	Itanagar Range/ ST, Itanagar, Zone-II	12ACMPW7606G2ZD	12171327196	566.00	Cancelled <i>suo-moto</i> (Effective from 12 October 2020)
2.	M/s Bie Enterprise	ST, Itanagar, Zone-II	12AHAPL4217F1Z0	12171047112	1,61,522.64	Cancelled <i>suo-moto</i> (Effective from 05 July 2021)

Sl. No.	Name of taxpayer	GST Jurisdiction /VAT Jurisdiction	GSTIN	VAT TIN	Transitional Credit claimed (in ₹)	Cancellation Details
3.	M/s L. B. Enterprises	ST, Itanagar, Zone-II	12AOWPG8018C1Z3	12170320117	99,840.21	Cancelled on application of taxpayer (Effective from 01 February 2019)
4.	M/s Nani Auto Agency	ST, Naharlagun, Zone-I	12AEBPN7916D1ZV	12041851192	92,156.86	Cancelled suo-moto (Effective from 16 April 2021)

(Source: Departmental records)

When Audit pointed this out (February 2022), the Department accepted the audit observation during the exit conference and stated (March 2022) that it would look into the matter and necessary steps would be taken to recover the amount from the taxpayers.

5.4.6.6 Claim of excess Transitional Credit

As per Section 140 of the APGST Act 2017, the closing balance of the VAT credit available in the returns filed under existing law for the month immediately preceding the appointed day can be taken as credit in electronic credit ledger by filing Form TRAN-1.

During the scrutiny of 67 sample cases of transitional credit, it was observed that there were three cases where the transitional credit claimed by the taxpayer in his TRAN-1 was higher than the amount of VAT credit available in his last VAT return (FF-01) for the month immediately preceding the appointed day. The total claim of the four taxpayers was ₹8.60 lakh whereas the actual credit as per their FF-01 totaled only ₹2.46 lakh, and as such there was excess claim of ₹6.14 lakh as detailed in **Table 5.17**:

Table 5.17: Details of excess claimed made by firms

Sl. No.	Trade Name	GST Jurisdiction/VAT Jurisdiction	GSTIN	VAT TIN	Transitional Credit claimed in TRAN-1	VAT credit on 30 June 2017 as per return (FF-01)	Excess claim (₹)
1.	M/s T.T Agency	Itanagar Range/ ST, Itanagar, Zone-II	12ADYPT39 20H3Z6	12170895144	4,13,983.58	1,33,335.13	2,80,648.45
2.	M/s. Arunachal Agro Agency	Pasighat Range/ ST, Pasighat	12AAKFA42 94L1ZA	12080020187	2,36,772.00	99,550.00	1,37,222.00
3.	M/s NORTECH Power Project Ltd.	ST, Tezu	12AABCN70 84P1Z2	12110107163	2,09,254.00	1,30,99.75	1,96,154.25
Total					8,60,009.58	2,45,984.88	6,14,024.70
Rounded off (in lakh)					8.60 lakh	2.46 lakh	6.14 lakh

(Source: Departmental records)

Further, none of the above three taxpayers submitted any documents with their TRAN-1s to substantiate the claims of transitional credit and as such Audit could not determine the reasons for the excess claim of transitional credit totaling ₹6.14 lakh.

As such, these three taxpayers are entitled to transitional credit of ₹2.46 lakh only being the VAT credit available in their last returns and the excess transitional credit totaling ₹6.14 lakh may be recovered from them.

When Audit pointed this out (February 2022), the Department agreed with the audit findings during the exit conference and stated (March 2022) that the CBIC has already taken action against M/s Arunachal Agro Agency, Pasighat and recovery of the amount will be intimated to Audit by the ST, Pasighat. In respect of remaining three dealers under jurisdiction of the State, the Department stated that notices have already been served to the taxpayers and recovery would be made, if found necessary.

5.4.7 Other discrepancies in transitional credit claims

Audit observed the following cases where there were discrepancies in the VAT returns (FF-01) of the taxpayers who had claimed transitional credit under Section 140:

5.4.7.1 Irregularities in carrying forward of VAT credit under Section 140(1)- Ineligible carry forward despite VAT outstanding to the Government

As per Section 140 (1) of the APGST Act, 2017, a registered person shall not be allowed to take credit where the said amount of credit is not admissible as input tax credit under this Act.

During the conduct of audit, out of total sample of 67 cases, 03 instances under the jurisdiction of the Superintendent of Tax (ST), Zone-II, Itanagar were observed wherein the taxpayers claimed transitional credit totalling ₹52.99 lakh in their TRAN1s. However, Audit observed from their VAT returns of June 2017 that the three taxpayers had outstanding VAT liability to the tune of ₹12.30 crore. Hence, the claim of transitional credit of the taxpayers was irregular and they were not eligible for taking transitional credit under Section 140 of the APGST Act, 2017. The details of all cases are in *Appendix-5.2*.

When Audit pointed this out (February 2022), the Department stated during the exit conference (March 2022) that one taxpayer namely M/s Sushee Infra & Mining Ltd. could not be contacted as it had shifted its address but the matter would be followed up to a logical conclusion. In the second case, the department stated that a notice has been issued to the concerned taxpayer and reply is still awaited and in the remaining case, the department produced copy of the deposit challan to Audit, however the amount was deposited under the VAT head of account '0040' and not under the SGST head of account '0006' and as such the excess transitional credit of GST remained unadjusted.

An illustrative case is given below:

Sushee Infra & Mining Ltd (GSTIN: 12AACCS8560Q1ZV; VAT TIN: 12170804107) who is registered under the jurisdiction of the Superintendent of Tax (ST), Itanagar, Zone-II applied for transitional credit of ₹46,84,646 in his TRAN 1

submitted on 15/12/2017. Audit observed from the last six months VAT returns (FF-01) that the credit balance of ₹46,84,646 shown in the last return pertains only to the month of June 2017. However, Audit calculated his total liability of VAT outstanding to Government at ₹12.28 crore. Hence, the claim of Transitional Credit of the taxpayer is irregular and he is not eligible for taking transitional credit under Section 140 of the APGST Act, 2017.

When Audit pointed this out (February 2022), the Department stated during the exit conference (March 2022) that they tried to issue notice to the taxpayer. However, the company could not be contacted as it has shifted its address. The Department assured that the matter will be followed up to a logical conclusion.

5.4.7.2 Irregularities in carrying forward of un-availed VAT credit on capital goods under Section 140(2)

Section 140 (2) of the APGST Act, 2017 states that a registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, credit of the unavailed input tax credit in respect of capital goods, not carried forward in a return, furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed, provided that the registered person shall not be allowed to take credit unless the said credit was admissible as *input tax* credit under the existing law and is also admissible as input tax credit under this Act. Further, rule 117(2)(a) of the APGST Rules 2017 states that every declaration under sub-rule (1) shall- in the case of a claim under sub-section (2) of section 140, specify separately the following particulars in respect of every item of capital goods as on the appointed day- (a) in the case of a claim under sub-section (2) of section 140, specify separately the following particulars in respect of every item of capital goods as on the appointed day- (i) the amount of tax or duty availed or utilised by way of input tax credit under each of the existing laws till the appointed day; and(ii) the amount of tax or duty yet to be availed or utilized by way of input tax credit under each of the existing laws till the appointed day.

Audit noticed that a taxpayer M/s KNR Construction Limited, Pasighat (GSTIN: 12AAACK8316L1ZL; VAT TIN: 12080390104) who is registered under the jurisdiction of the Superintendent of Tax (ST), Pasighat claimed transitional credit of ₹1,50,370 against credit of the un-availed input tax credit in respect of capital goods, not carried forward in a return, furnished under the existing law by him under Section 140(2) of APGST Act 2017 in his TRAN 1 (Table 6(b)) submitted on 27/12/2017. However, scrutiny of the TRAN 1 revealed that the taxpayer had not furnished any details of the un-availed credit on capital goods in contravention of the rule 117(2) (a) of APGST Rules 2017. Further, scrutiny of the last six months' VAT return (FF-01) of the taxpayer revealed that he has not submitted any proof of his claim. As such, the taxpayer is not entitled to claim the transitional credit of ₹1,50,370 under section 140(2) of the APGST Act 2017.

When Audit pointed this out (February 2022), the Department stated (March 2022) that notice was issued to the taxpayer and he clarified that the transitional credit on Capital Goods claimed by him was against a vehicle (Scorpio) purchased by the company but the documents were not submitted with the TRAN 1. However, the reply of the taxpayer is not tenable as the vehicle (Scorpio) cannot be treated as a capital good as the taxpayer has not provided any proof that the vehicle was used in the course or furtherance of business [Section 2(19)].

5.4.7.3 Irregular claim of transitional credit by Taxpayers due to wrong declaration of input tax credit in their VAT returns (FF-01)

As per Section 140 (1) of the APGST Act, 2017, a registered person shall not be allowed to take credit where the said amount of credit is not admissible as input tax credit under this Act.

During the scrutiny of the transitional credit claims, Audit noticed that there were six (06) cases where the taxpayers claimed total transitional credit of ₹120.91 lakh through Tran-1. However, Audit found from the verification of VAT returns (FF-01) that these taxpayers had declared wrong input tax credit (ITC) in their last return of June 2017. When Audit calculated the actual closing balance of the taxpayers it was determined to be totalling ₹116.77 lakh. As such, these taxpayers irregularly claimed excess transitional credit of ₹4.14 lakh as detailed in *Appendix 5.3*.

When Audit pointed this out (February 2022), the department accepted the audit observations and stated (March 2022) that it will look into the matter and take necessary action against the taxpayers.

5.4.7.4 Non-production of essential records/evidence pertaining to transitional credit claim

I. Non-submission of details of stock held

Section 140 (4) of the APGST Act, 2017 states that a registered person, who was engaged in the sale of taxable goods as well as exempted goods or tax free goods, by whatever name called, under the existing law but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger - a) the amount of credit of the value added tax and entry tax, if any, carried forward in a return furnished under the existing law by him in accordance with the provisions of sub-section (1); and (b) the amount of credit of the value added tax and entry tax, if any, in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day, relating to such exempted goods or tax free goods, by whatever name called, in accordance with the provisions of sub-section (3). Rule 117(2) (b) of the APGST Rules, 2017 further states that every declaration under sub-rule (1) shall in the case of a claim under clause (b) of sub-section (4) of section 140, specify separately the details of stock held on the appointed day.

During the scrutiny of sample cases, Audit noticed that M/s GE T&D India Limited, Namsai (GSTIN - 12AAACG2115R1ZS; VAT TIN - 12041451169) who is

registered under the jurisdiction of the ST Namsai under GST registered under the ST, Naharlagun, Zone-I during VAT regime applied for transitional credit of ₹2,48,404/- against duties and taxes/VAT/ET in respect of inputs under Section 140(4) of the APGST Act 2017. However, audit scrutiny of the TRAN 1 revealed that the taxpayer has not filled up the description column of table 7(b). Further, during the scrutiny of the last six months VAT returns (FF-01) in the office of the ST Zone-I Naharlagun Audit could not find any proof of inputs or input services which were received after 1st July 2017 but taxes on which were paid under the existing law (Goods/ Services in Transit). Due to the non-production of the essential information by the taxpayer, Audit could not verify the correctness of claim of transitional credit of ₹2,48,404.

When Audit pointed this out (February 2022), the Department stated (March 2022) that it would look into the audit finding and take necessary action, if required.

II. Non-submission of invoices/document on the basis of which credit of input tax was admissible under the existing law

Section 140 (5) of the APGST Act, 2017 states that a registered person shall be entitled to take, in his electronic credit ledger, credit of value added tax and entry tax, if any, in respect of inputs received on or after the appointed day but the tax in respect of which has been paid by the supplier under the existing law, subject to the condition that the invoice or any other tax paying document of the same was recorded in the books of account of such person within a period of thirty days from the appointed day, provided that the period of thirty days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding thirty days. Provided further that the said registered person shall furnish a statement, in such manner as may be prescribed, in respect of credit that has been taken under this sub-section. Rule 117(2) (c) of the APGST Rules, 2017 further states that every declaration under sub-rule (1) shall in the case of a claim under sub-section (5) of section 140, furnish the following details namely – (i) the name of the supplier, serial number and date of issue of the invoice by the supplier or any document on the basis of which credit of input tax was admissible under the existing law; (ii) the description and value of the goods or services; (iii) the quantity in case of goods and the unit or unit quantity code thereof; (iv) the amount of eligible taxes and duties or, as the case may be, the value added tax [or entry tax] charged by the supplier in respect of the goods or services; and (v) the date on which the receipt of goods or services is entered in the books of account of the recipient.

During the scrutiny of the 67 sample cases, Audit noticed two instances under the jurisdiction of two ranges⁹³ where the taxpayers claimed transitional credit totalling ₹ 20.62 lakh against VAT and Entry Tax paid on inputs supported by invoices under Section 140 (5) of the APGST Act 2017. However, scrutiny of the last six months'

⁹³ CBIC, Itanagar Range and ST, Zone-II, Itanagar

VAT returns (FF-01) of the taxpayer revealed that he has not submitted any copies of invoices relating to the payment of VAT/Entry Tax for which he has claimed Transitional Credit. As such, due to lack of details in the TRAN-1 and non-production of invoices, Audit could not verify the correctness of the two taxpayers' transitional credit claim of ₹20.62 lakh as detailed in **Appendix-5.4**.

When Audit pointed this out (February 2022), the Department stated (March 2022) that in respect of the first case, the ST, Zone-II, Itanagar has issued notice to the taxpayer and he will also take up the matter with his counterpart in CBIC for recovery of the dues. In the second case, it has issued notice to the taxpayer; however, no response has been received. The matter will be followed up.

5.4.8 Conclusion

In order to ensure that only the genuine and eligible claims of transitional credit were carried forward to the GST regime the Department of Tax and Excise was required to verify the legacy returns of the taxpayers along with the TRAN 1s and other supporting documents. However, audit of the 67 sample cases of transitional credit revealed that out of the 47 claims under the jurisdiction of State, only 17 claims (36.17 *per cent*) have been verified by the department till date and 30 claims (63.83 *per cent*) still remain unverified even after the expiry of more than one year from the last date of submissions of TRAN1 returns *i.e.* 31 March 2020. Due to the lack of effective mechanism to verify the TRAN-1s, taxpayers managed to avail transitional credit against ineligible input tax credit of VAT regime. Audit detected 31 such cases (total deficiency ₹1.08 crore) which were intimated to the department for further action at their end.

5.4.9 Audit recommendations

- The Department may take steps to verify the discrepancies pointed out by Audit and other irregular cases in the State to ensure that only genuine and eligible ITC claims are carried over to GST regime.
- Steps may also be taken to complete verification and *ex-post-facto* validation of GST claims of taxpayers.
- The Department may consider organising more training programmes on GST (backend applications) for the Jurisdictional Officers.
- The Department should consider introducing a monthly/ quarterly MIS from the Jurisdictional Officers/districts with regard to verification of transitional credit claims.
- The Department may take steps to recover the undue claim of transitional credit paid to taxpayers.

Subject Specific Compliance Audit (SSCA)

5.5 Goods and Service Tax (GST) Refunds in Department of Taxes, Government of Arunachal Pradesh

5.5.1 Introduction

Timely refund mechanism constitutes a crucial component of tax administration, as it facilitates trade through release of blocked funds for working capital, expansion and modernization of existing business. The provisions pertaining to refund contained in the GST laws aim to streamline and standardise the refund procedures under GST regime. It was decided that under the GST regime, the claim and sanctioning procedure would be completely online. Due to unavailability of electronic refund module on the common portal, a temporary mechanism was devised and implemented by the GOI. Circular Nos. 17/17/2017-GST dated 15 November 2017⁹⁴ and Circular no. 24/24/2017-GST dated 21 December 2017⁹⁵ was issued prescribing the detailed procedures. In this electronic-cum-manual procedure, the applicants were required to file the refund applications in Form GST RFD-01A on the common portal, take a print out of the same and submit it physically to the jurisdictional tax office along with all supporting documents.

Further, processing of those refund applications, *i.e.* issuance of acknowledgement, issuance of deficiency memo, passing of provisional/final refund orders, payment advice *etc.* were being done manually. In order to make the process of submission of the refund application electronic, Circular No. 79/53/2018-GST dated 31 December 2018⁹⁶ was issued wherein it was specified that the refund applications in Form GST RFD-01A, along with all supporting documents, had to be submitted electronically. However, various post submission stages of processing of the refund applications continued to be manual.

For making the refund procedure fully electronic, wherein all the steps from submission applications to processing thereof could be undertaken electronically, the application feature has been deployed on the common portal with effect from 26 September 2019 (also called Automation of Refund Process). Accordingly, the Circulars issued earlier laying down the guidelines for manual submission and processing of refund claims have either been superseded or modified. A fresh set of guidelines have been issued for electronic submission and processing of refund claims vide Master Circular No.125/44/2019-GST dated. 18 November 2019⁹⁷. In order to ensure uniformity in implementation of the provisions of law across field formations, several earlier Circulars viz. Circular No. 17/17/2017-GST dated 15 November 2017, 24/24/2017-GST dated 21 December 2017, 37/11/2018-GST dated 15 March 2018, 45/19/2018-GST dated 30 May 2018(including corrigendum

⁹⁴ The Dept. of Tax & Excise neither endorsed the circular nor issued similar circular.

⁹⁵ The Dept. of Tax & Excise neither endorsed the circular nor issued similar circular.

⁹⁶ The Dept. of Tax & Excise neither endorsed the circular nor issued similar circular.

⁹⁷ The Dept. of Tax & Excise neither endorsed the circular nor issued similar circular.

dated 18 July 2019), 59/33/2018-GST dated 04 September 2018, 70/44/2018-GST dated 26 October 2018, 79/53/2018-GST dated 31 December 2018 and 94/13/2019-GST dated 28 March 2019 have been superseded vide para 2 of the aforesaid Master Circular. However, the provisions of the said Circulars shall continue to apply for all refund applications filed on the common portal before 26 September 2019 and the said applications shall continue to be processed manually as were done prior to deployment of new system.

5.5.2 Audit Objectives

Audit of Refund cases under GST regime was conducted to assess:

- (i) The adequacy of Act, Rules, notifications, circulars etc. issued in relation to the grant of refunds.
- (ii) The compliance of extant provisions by the tax authorities and the efficacy of the systems in place to ensure compliance by the taxpayers.
- (iii) Whether effective internal control mechanism exists to check the performance of the departmental officials in disposing the refund applications.

5.5.3 Audit Scope and Sample Selection

During the SSCA, the refund data pertaining to the period from July 2017 to July 2020 made available by GSTN was analysed and risk based sample of 27 cases totalling ₹2.11 crore was extracted for detailed audit. Out of the 27 cases, 21 cases of total refund value ₹1.83 crore pertained to pre-automation period *i.e.* before 26 September 2019 (*Appendix-5.5*) and 6 cases of total refund value ₹28.47 lakh pertained to the post-automation of refund process (*Appendix-5.6*).

The SSCA began with an entry conference held on 05 January 2021 wherein the objectives, scope and methodology of the audit were explained to the department. Further, the SSCA was concluded with an exit conference on 08 December 2021 where the audit findings were discussed with the department and the replies/comments of the department noted.

5.5.4 Audit Criteria

The following sections, rules and notifications, etc. provide the provisions/procedure for claiming the refunds:

- (i) Section 54 to 58 and section 77, of Central Goods and Services Tax Act, 2017 and Arunachal Pradesh Goods and Services Tax Act, 2017
- (ii) Rule 89 to 97A of Central Goods and Services Tax Act, 2017 and Arunachal Pradesh Goods and Services Tax Rules, 2017
- (iii) Section 15, 16 and 19 of Integrated Goods and Services Tax Act, 2017
- (iv) Notifications/Circulars/Instruction issued by the CBIC/ Arunachal Pradesh State tax department

5.5.5 Circumstances where the GST refunds arise

A claim for refund may arise on account of the followings:

- (i) Export of goods or services;
- (ii) Supplies to SEZs units and developers;
- (iii) Deemed exports;
- (iv) Refund of taxes on purchase made by UN or embassies etc.;
- (v) Refund arising on account of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court;
- (vi) Refund of accumulated Input Tax Credit of GST on account of inverted duty structure/Reverse Charge cases.
- (vii) Finalisation of provisional assessment;
- (viii) Refund of balance in electronic cash ledger.
- (ix) Refund of pre-deposit;
- (x) Excess GST payment;
- (xi) Refunds to International tourists of GST paid on goods in India and carried abroad at the time of their departure from India;
- (xii) Refund on account of issuance of refund vouchers for taxes paid on advances against which, goods or services have not been supplied;
- (xiii) Refund of CGST & SGST paid by treating the supply as intra-state supply which is subsequently held as inter-state supply and vice versa.

5.5.6 Audit findings

The 27 sample cases selected for audit scrutiny including 6 cases where refund has been sanctioned, came under the jurisdiction of the following 10 assessment officers:

Table 5.18: Details of 27 sampled cases

(₹ in lakh)

Sl. No.	Name of jurisdictional assessment officer	Total no. of cases	Total value of case	No. of refund sanctioned	Total value of refund sanctioned
1.	Superintendent of Tax (ST), Aalo	1	5.63	0	0.00
2.	Superintendent of Tax (ST), Bhalukpong	1	0.03	1	0.03
3.	Superintendent of Tax (ST), Itanagar Zone-II	8	59.60	4	28.17
4.	Superintendent of Tax (ST), Khonsa	1	1.23	0	0.00
5.	Superintendent of Tax (ST), Likabali	1	0.27	1	0.27
6.	Superintendent of Tax (ST), Zone-I, Naharlagun	5	58.22	0	0.00
7.	Superintendent of Tax (ST), Pasighat	2	30.77	0	0.00
8.	Superintendent of Tax (ST), Roing	1	20.65	0	0.00
9.	Superintendent of Tax (ST), Tezu	6	30.95	0	0.00
10.	Superintendent of Tax (ST), Ziro	1	3.73	0	0.00
Total		27	211.08	6	28.47

(Source: Departmental records)

Audit visited the Office of the Commissioner of Tax & Excise, Itanagar as well as nine out of the above ten jurisdictional offices of Superintendent of Taxes (STs) (Khonsa was not visited due to Covid-19 restrictions) and checked the records relating to sample cases of GST Refunds along with the data provided by the STs from their backend systems, whenever available. The SSCA began with an entry conference held on 05 January 2021 and field audit was conducted between the period from January 2021 to April 2021. The draft report was issued to the department on 24 September 2021 and an Exit Conference was held on 08 December 2021 to discuss the Audit findings with the department. The replies of the department have been incorporated in the final draft Audit report.

Table 5.19 below brings out the extent of deficiencies noted during the audit of refund cases, selected for detailed audit.

Table 5.19: Details of irregularities noticed in sampled cases

Nature of Audit Findings (indicate only)	Audit Sample		Number of deficiencies noticed	Deficiencies as percentage of Sample
	Number	Amount		
Delay in issue of Refund orders	27	211.08	3	11.11
Delay/non-conducting of post audit of refund claims	27	211.08	27	100
Non-issuance of acknowledgement of refund applications:	27	211.08	21	77.78
Cancellation of refund application by the assessing officer due to furnishing of incomplete applications without issuing deficiency memo	27	211.08	05	18.52
Submission of claim without supporting documents	27	211.08	01	3.70
Non-processing of GST refund cases	27	211.08	17	62.96
Submission of duplicate applications:	27	211.08	2	7.41
Non-mentioning of date of re-submission of application in the RFD-01:	27	211.08	1	3.70

Audit findings are included in the subsequent paragraphs:

5.5.6.1 Non production of records

During audit (February 2021) of the Superintendent of Tax & Excise, Pasighat, two (2) Refund Cases totaling ₹30.77 lakh were called for test check. However, despite follow up by Audit, the records were not made available to audit. In the absence of these records Audit could not verify the veracity of these cases. The details of these cases are given **Table 5.20**.

Table 5.20: Details of sampled cases for which records were not made available

Sl. No	Name of assessment officer	Name of dealer	GSTIN	Date of application	Refund reason	Amount of refund claim (₹ in lakh)	No. of days delay till 30 April 2021
1.	ST, Pasighat	Shree Gautam Construction Co Limited	12AAGCS4032F1ZV	28 March 2019	Excess balance in electronic cash ledger	29.17	764
2.	-do-	M/s Sri Tani Eko	12ACAPE5608A1ZM	25 December 2018	XSPAY	1.60	857
Total						30.77	

(Source: Departmental records)

When Audit pointed this out (September 2021), the department during the exit conference (December 2021) accepted the audit observation and assured that the Superintendent of Tax, Pasighat has been instructed to furnish the records to Audit within a week.

The Superintendent of Tax replied (December 2021) that he could not produce the records to Audit as refund applications of the dealers could not be accessed at that time. Even on date ST could only access the application of M/s Tani Eko.

If received later, the same will be subsequently reviewed in Audit.

5.5.6.2 Non-issuance of acknowledgement of refund applications:

Rule 90 (1) and (2) of Arunachal Pradesh Goods and Services Tax Rules, 2017 (APGST Rules) 2017 stipulates that where the application related to claim for refund from the ECL, an acknowledgement in Form GST RFD-02 shall be made available electronically to the applicant through the common portal, clearly indicating the date of filing of the claim for refund. For, refund application other than ECL, the application shall be forwarded to the proper officer within a period of 15 days of filing of the said application, scrutinize the application for its completeness. An acknowledgment in Form GST RFD-02 shall be made available to the applicant within 15 days through common portal. The acknowledgement shall clearly indicate the date of filing claim.

Further, Rule 90 (3) of AGST Rules, 2017 stipulates that if any deficiencies are noticed, the proper officer shall communicate the deficiencies to the applicant in FORM GST RFD-03 within 15 days through the common portal electronically, requiring him to file a fresh refund application after rectification of such deficiencies.

Scrutiny of 27 cases revealed that acknowledgement in RFD-02 was issued in six cases and neither RFD-02 nor RFD-03 was issued in remaining 19 cases (excluding 2 cases relating to ST, Pasighat).

When Audit pointed this out (September 2021), the department accepted during the exit conference (December 2021) the audit findings and added that due to the lack of

skill/knowledge to work on GST system such things are happening. The internet connectivity in the districts is another factor for such delays.

5.5.6.3 Processing of refunds

Under the provision of Rule 90(1) & (2) of the APGST Rules, 2017 an acknowledgment in Form GST RFD-02 shall be made available to the applicant within 15 days through common portal. The acknowledgement shall clearly indicate the date of filing claim and the time period i.e. 60 days specified for processing of refund. If any deficiencies are noticed, the proper officer shall communicate electronically the deficiencies to the applicant in FORM GST RFD-03 within 15 days through the common portal, requiring him to file a fresh refund application after rectification of such deficiencies.

During the scrutiny of records of two Assessing Officers, Superintendent of Tax, Zone-I, Naharlagun and Ziro audit noticed the following:

I. Cancellation of refund application by the assessing officer due to furnishing of incomplete applications

It was noticed that the Superintendent of Tax & Excise, Zone – I, Naharlagun received five (05) refund applications from four dealers between the period 07 January 2019 to 26 August 2019 for refunds totaling ₹58.22 lakh as in Table 5.21.

Table 5.21: Details of refunds cases received

					(₹ in lakh)
Sl. No.	Name of dealer	GSTIN	ARN No. & Date of application	Refund reason	Amount of refund claim
1.	Nabam Tullon LLP-ECI (JV)	12AADAN6565F1ZP	AA120819000824C Dated 26 August 2019	Excess balance in electronic cash ledger	38.12
2.	M/s Tabiang Associates	12ALBPY2619R1ZM	AA120719001017O Dated 30 July 2019	ANYOTHER	8.23
3.	-do-	12ALBPY2619R1ZM	AA120819000161S Dated 06 August 2019	ANYOTHER	8.23
4.	Papumpare Tea Estate Private Limited	12AAFPCP8653A1ZQ	AA120119000110D Dated 07 January 2019	Excess balance in electronic cash ledger	2.63
5.	M/s Ave Maria Earth Movers	12ADKPT2805P2Z6	AA120819000762E Dated 24 August 2019	ANYOTHER	1.01
Total					58.22

(Source: Departmental records)

However, from the copies of the Form RFD-01A collected by Audit from GSTN portal it could not be verified as to what were the reasons for refund under the head 'ANYOTHER'.

Audit further noticed that the ST did not issue any acknowledgment in RFD-02 or communicate deficiencies in RFD-03 against the five applications but straightway

issued notices of rejection of application of refund in Form GST-RFD-08 in respect of four applications totaling ₹20.10 lakh on 08 November 2019 due to furnishing of incomplete applications as detailed in **Table 5.22**. This was not as per GST provisions, as deficiency memo should have first been issued.

Table 5.22: Details of incomplete returns furnished by dealers

(₹ in lakh)						
Sl. No.	Name of dealer	GSTIN	ARN No. & Date of application	Amount of refund claim	Date of issue of RFD-08	Reason for rejection
1.	M/s Tabiang Associates	12ALBPY2619R1ZM	AA120719001017O Dated 30 July 2019	8.23	APGST/NZ-I/077/19/379 Dated 08 November 2019	Incomplete application
2.	-do-	12ALBPY2619R1ZM	AA120819000161S Dated 06 August 2019	8.23	APGST/NZ-I/077/19/380 Dated 08 November 2019	
3.	Papumpare Tea Estate Private Limited	12AAFCP8653A1ZQ	AA120119000110D Dated 07 January 2019	2.63	APGST/NZ-I/079/19/382 Dated 08 November 2019	
4.	M/s Ave Maria Earth Movers	12ADKPT2805P2Z6	AA120819000762E Dated 24 August 2019	1.01	APGST/NZ-I/076/19/376 Dated 08 November 2019	
Total				20.10		

(Source: Departmental records)

It was noticed that out of the four (04) rejected applications, only M/s Tabiang Associates (GSTIN: 2ALBPY2619R1ZM) resubmitted his claim on 04 October 2019 which was sanctioned by the Assessing Officer on 03 September 2020.

When Audit pointed this out (September 2021), the Department stated (December 2021) that the applications had been rejected due to incomplete furnishing of documents.

II. Submission of claim without supporting documents

Rule 89 (1) of the APGST Rules 2017 states that any person, except the persons covered under notification issued under section 55, claiming refund of any tax, interest, penalty, fees or any other amount paid by him, other than refund of integrated tax paid on goods exported out of India, may file an application electronically in **Form GST RFD-01** through the common portal, either directly or through a Facilitation Centre notified by the Commissioner. Sub-rule (2) (h) further states that the application under sub-rule (1) shall be accompanied in Annexure 1 of **Form GST RFD-01** as documentary evidence, as applicable, to establish that a refund is due to the applicant, a statement containing the number and the date of the invoices received and issued during a tax period in a case where the claim pertains to refund of any unutilised input tax credit under sub-section (3) of section 54 where

the credit has accumulated on account of the rate of tax on the inputs being higher than the rate of tax on output supplies, other than nil-rated or fully exempt supplies.

Scrutiny of RFD-01 application Form of a taxpayer M/s T D T Enterprises (GSTIN: 12AGUPT1872F3Z1) under the jurisdiction of the ST, Ziro revealed that the taxpayer has not enclosed any supporting document to substantiate his claim of refund of ITC accumulated due to inverted duty structure amounting ₹3.73 lakh. The details are in **Table 5.23**.

Table 5.23: Dealer's claim not substantiate by supporting document

(₹ in lakh)

Sl. No.	Name of assessment officer	Name of dealer	GSTIN	Date of application	Refund reason	Amount of refund claim	No. of days delay till 30.04.2021
1.	ST, Ziro	M/s T D T Enterprises	12AGUPT1872F3Z1	02 May 2019	ITC accumulated due to inverted tax structure	3.73	729
Total						3.73	

(Source: Departmental records)

The ST, Ziro had yet not issued a deficiency memo despite laps of about two years.

When Audit pointed this out (September 2021), the department stated (December 2021) that the Jurisdictional Office i.e. Superintendent (Tax & Excise), Ziro will be directed to process the case and intimate the result to Audit. No further reply has been received till date.

III. Delayed sanction of refund

Section 56 of the Arunachal Pradesh GST (APGST) Act, 2017 further stipulates that if any tax ordered to be refunded under sub-section (5) of section 54 to any applicant is not refunded within sixty days from the date of receipt of application under sub-section (1) of that section, interest at such rate not exceeding six per cent as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund of such tax: Provided that where any claim of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same is not refunded within sixty days from the date of receipt of application filed consequent to such order, interest at such rate not exceeding nine per cent as may be notified by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund.

Among the 52 cases of refund applications received from the GSTN in respect of Arunachal Pradesh, the number of refund cases which were sanctioned was only six (06). Audit noticed that all the six cases of refund totalling ₹28.47 lakh which were sanctioned by three (03) Assessing Officers, related to the Excess Balance of Cash

Ledger and no other types of refunds were sanctioned. The details are in *Appendix-5.7*.

It was noticed in annexure that three of the six applications were processed and refund sanctioned within the specified time limit of 60 days from date of receipt of application. There were delays in processing and sanctioning of refund in the other three cases with delays ranging between 18 days to 69 days after the specified limit of 60 days from date of receipt of applications.

Due to the delay in processing and sanctioning of the three refund applications totaling ₹20.61 lakh, the State Government had to pay interest to these taxpayers⁹⁸ at the rate of six *per cent* per annum as detailed in *Appendix-5.8*.

When Audit pointed this out (September 2021), the department agreed during the exit conference (December 2021) to the audit finding and added that this was mainly due to the poor net connectivity and lack of understanding of back-end system by officers. The department also agreed to organise more trainings for the Jurisdictional Officers on GST (backend applications).

IV. Non-processing of GST refund cases

Rule 92 of the Arunachal Pradesh GST Rules, 2017 stipulated that upon submission of refund application, the officer shall carry out the examination process. He shall examine if the refund claim amount is due and payable. If yes, he shall make an order in Form GST RFD-06, sanctioning the amount of refund to which the applicant is entitled within 60 days of receipt of application. He should also mention therein the amount, if any, refunded to him on a provisional basis in case of zero-rated supply.

Scrutiny of records pertaining to the 27 sample cases revealed that four cases pertaining to the ST, Zone-I, Naharlagun were rejected by the assessing officer and one was subsequently readmitted. Out of the remaining 23 refund cases, only six were processed for refund and the remaining 17 number cases were yet to be processed by eight assessing officers till April 2021.

Audit noticed that there were huge delays in processing of refund cases with delays ranging between 613 days to 921 days which is in contravention of the maximum time limit of 60 days as per the provisions of the APGST Act and Rules, 2017 which is detailed in *Appendix-5.9*.

However only the ST, Tezu and ST, Aalo furnished reasons for non-processing of the refund cases as given below:

- The ST, Tezu stated that the refund applications were not reflected in his GST dashboard and he did not receive manual copies of the Form RFD-01. He also stated that the matter will be taken up with the concerned assesses

⁹⁸ i) M/s Tippi Road – ARN No. AA1211190001243 dated 05 November 2019
ii) M/s N.M. Enterprises – ARN No. AA1202200006348 dated 18 February 2020
iii) Dalmia Cement (Bharat) Limited – ARN No. AA120120000422J Dated 16 January 2020

and intimated to Audit. However, the reply of the Assessing Officer does not seem tenable as the six refund applications pertaining to his office were reflected in the sample generated from the GSTN database.

- The ST, Aalo stated that his office has not taken up any refund process till date due to poor and ill-timed network service of the service provider (BSNL Aalo).

The remaining six Assessing Officers (STs) did not furnish any reasons for failure to process the refund applications.

When Audit pointed this out (September 2021), the department agreed during the exit conference (December 2021) to the Audit findings and stated that the Jurisdictional Officers will be instructed to settle the refund cases at the earliest under intimation to Audit.

V. Technical issues in the refund processing of GSTN back-end system

The GST back-end system used by the Department of Tax & Excise, Arunachal Pradesh has been developed by the Goods and Services Tax Network (GSTN). As the state did not have the required IT teams to develop the system on its own the Back end modules like registration approval, assessment, audit, refund, appeal, adjudication etc. were developed and are maintained by the GSTN.

Audit noticed several technical issues in the back-end system as detailed below:

a. Submission of duplicate applications

Scrutiny of refund records of the ST, Zone-I, Naharlagun revealed that a dealer M/s Tabiang Associates (GSTIN: 12ALBPY2619R1ZM) had submitted two refund applications for total amount ₹16.46 lakh during July and August 2019. The ST, Zone-I did not issue any acknowledgment in RFD-02 or communicated the deficiencies in RFD-03 against the two applications but issued notices of rejection of application of refund in Form GST-RFD-08 due to incomplete furnishing of documents as detailed in **Table 5.24**.

Table 5.24: Incomplete return furnished by the dealers

(₹ in lakh)

Sl. No.	Name of dealer	GSTIN	ARN No. & Date of application	Refund reason	Amount of refund claim	Date of issue of RFD-08
1.	M/s Tabiang Associates	12ALBPY2619R1ZM	AA120719001017O Dated 30 July 2019	ANYOTHER	8.23	APGST/NZ-I/077/19/379 Dated 08 November 2019
2.	-do-	12ALBPY2619R1ZM	AA120819000161S Dated 06 August 2019	ANYOTHER	8.23	APGST/NZ-I/077/19/380 Dated 08 November 2019
Total					16.46	

(Source: Departmental records)

Audit noticed that the dealer resubmitted an application for refund of Excess Balance in Electronic Cash Ledger vide ARN No. AA1210190001055 dated 04 October 2019 for which acknowledgement in RFD-02 was issued on the same date. The ST issued the refund sanction order RFD-06 on 03 September 2020 vide No. ZD120920000002I for payment of ₹8.23 lakh and payment order in RFD-05 was issued on the same date vide No. ZD120920000003G. The details of resubmission of application and subsequent payment are as detailed in **Table 5.25**.

Table 5.25: Details of resubmission and subsequent payment

(₹ in lakh)

Sl. No	Name of dealer	ARN No. & Date of application	Refund reason	Refund claim	ARN No. & Date of RFD-06	ARN No. & Date of RFD-05
1.	M/s Tabiang Associates GSTIN 12ALBPY2619R1ZM	AA12101900 01055 Dated 04 October 2019	Excess Balance in Electronic Cash Ledger	8.23	ZD120920000002I Dated 03 September 2020	ZD120920000003G Dated 03 September 2020

(Source: Departmental records)

Audit noticed that both the original applications submitted by the dealer on 30 July 2019 & 06 August 2019 vide ARN Nos. AA120719001017O & AA120819000161S were for the same amount of ₹8.23 lakh under the same refund reason titled 'ANYOTHER'. Audit collected the two applications RFD-01A of the dealer from GSTN portal but could not ascertain what the actual reason of refund was. However, as the dealer has resubmitted only one application for refund of the same amount ₹8.23 lakh under the reason 'Excess Balance in Electronic Cash Ledger' hence it can be assumed that both the original applications are in fact, duplicates of each other.

The fact that the dealer could submit the same application twice suggests that the GSTN system does not have any built-in controls embedded in the application to prevent such incidents.

When we pointed this out (September 2021), the department during the exit conference (December 2021) stated that as this was a technical issue with the back-end system it would be taken up with the GSTN.

b. Non-mentioning of date of re-submission of application in the RFD-01

Audit noticed that the dealer M/s Tabiang Associates resubmitted the application for refund of Excess Balance in Electronic Cash Ledger totalling ₹8.23 lakh vide ARN No. AA1210190001055. However, the application RFD-01 generated by the system does not mention the date of filing application. In fact, there was no column for the date of filing. The date of filing the application which is 04/10/2019 can be traced only from the acknowledgement Form RFD-02. Audit noticed that other RFD-01s generated from the system also do not have any column for the date of filing. As such, it was not possible for audit to ascertain the date of filing of refund application from the RFD-01s.

The Commissioner of Tax & Excise, Government of Arunachal Pradesh may look into the matter and take it up with the GSTN for necessary change management.

When we pointed this out (September 2021), the department during the exit conference stated (December 2021) that as this was a technical issue with the back-end system it would be taken up with the GSTN.

c. Non-generation of interest amount by the system for delay in processing of refund

Section 56 of the Arunachal Pradesh GST (APGST) Act, 2017 further stipulates that if any tax ordered to be refunded under sub-section (5) of section 54 to any applicant is not refunded within sixty days from the date of receipt of application under sub-section (1) of that section, interest at such rate not exceeding six per cent as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund of such tax: Provided that where any claim of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same is not refunded within sixty days from the date of receipt of application filed consequent to such order, interest at such rate not exceeding nine per cent as may be notified by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund.

The dealer M/s Tabiang Associates resubmitted his fresh application for refund of Excess Balance in Electronic Cash Ledger totalling ₹8.23 lakh to the ST, Zone-I, Naharlagun in Form RFD-01 on 04 October 2019 with ARN No. AA1210190001055. Acknowledgement in Form RFD-02 was also issued on the same date. Further, it was noticed that the ST, Zone-I issued the refund sanction order RFD-06 No. ZD120920000002I for payment of ₹8.23 lakh belatedly on 03 September 2020 and payment order in RFD-05 No. ZD120920000003G was issued on the same date. As there was a delay of 335 days in issue of refund on 03 September 2020 from the date of application *i.e.* 04 October 2019 hence, the Government was liable to pay interest of ₹45,322.47 at the rate of six *per cent* per annum under the provision of Section 56 of the APGST Act 2017. However, the RFD-06 & RFD-05 did not compute the interest payable to the dealer. As such, the dealer was deprived of his right to compensation (interest) on delayed processing of refund application.

The matter may be looked into and admissible interest may be paid to the dealer. Further, the Commissioner of Tax & Excise, Government of Arunachal Pradesh may take up the issue with the GSTN for necessary corrective action.

When we pointed this out (September 2021), the department stated during the exit conference (December 2021) that as this was a technical issue with the back-end system it would be taken up with the GSTN.

5.5.7 Internal Control

5.5.7.1 Non-maintenance of essential registers of manual refund applications

The Govt. of India, Ministry of Finance, Department of Revenue vide Circular No. 17/17/2017-GST dated 21 December 2017⁹⁹ issued instructions that three different registers are to be maintained for record keeping of the manually sanctioned refunds – for receipts, sanction of provisional refunds and sanction of final refunds. This was to ensure timely processing of refund applications and to keep track of adjustment of provisional refunds against final refund.

Scrutiny of records of the 10 Assessing Officers (STs) revealed that none of the officials maintained the above three essential registers.

When we pointed this out (September 2021), the department agreed during the exit conference (December 2021) and replied that the three registers were required to be maintained for the pre-automation cases but as the refund process has been automated after September 2019, hence they are not relevant now. Moreover, in reply:-

- ST, Zone-I, Naharlagun stated that his office did not maintain the registers as during offline period no GST refund had been sanctioned. The reply is not tenable as the ST received five of the sample cases of refund and he had issued notice of rejection of the five refund applications in Form RFD-08s.
- ST, Tezu stated that the registers were not maintained as his office was not aware of requirement of such registers.

Replies are awaited from the remaining eight Assessing Officers (STs).

5.5.7.2 Monitoring and assessment by the Commissionerate

As the Apex body for levy and collection of GST in the State, the Commissioner, Tax & Excise, Itanagar is required to issue circulars, orders and standard operating procedures (SOPs) to the Assessing Officer for timely disposal of refund cases within the specified timelines. Further, the Commissionerate is also required to assess the performance of the Assessing Officers in settling refund cases.

The Commissionerate of Tax & Excise, Government of Arunachal Pradesh, while replying to a audit questionnaire stated that:

- The Department of Tax & Excise, GoAP has not issued any instructions/ guidelines/ orders/ notifications to the Assessing Officers/ Superintendent of Taxes regarding settlement of GST refund cases.

⁹⁹ The Dept. of Tax & Excise neither endorsed the circular nor issued similar circular.

- The Assessing Officers/Superintendent of Taxes do not furnish any periodic reports/returns to the Commissioner of Tax & Excise regarding settlement of refund cases.

From the above replies it is observed that the Department has not taken effective steps to ensure the timely processing of GST refunds applications by the Assessing Officers.

Audit also noticed that post audit in respect of the six (06) refund cases sanctioned by the Assessing Officers were not carried out by the Commissionerate office.

When we pointed this out (September 2021), the department during the exit conference (December 2021) stated that instructions have now been issued to the Jurisdiction Officers for settlement of pending refund cases. Further, copies of circulars/notifications of GST have also been forwarded to the officers. On the advice of Audit, the department agreed to introduce a Management Information System (MIS) to capture the number of cases of refund received, refund cases settled and pending cases.

5.5.8 Other issues

5.5.8.1 Poor internet connectivity in jurisdictional offices

As the Goods and Services Tax (GST) is administered through online system, continuous internet connectivity is a basic requirement for the refund process to work. However, it was noticed in audit that so far only 17 districts out of 25 have been connected with WAN from BSNL and eight districts are yet to be connected till date (December 2021).

Further, several of the Assessing Officers (STs) stated that they were facing problems in accessing the GST backend system due to poor internet connectivity as follows:

- The ST, Aalo stated in February 2021 that his office has not taken up any refund process till date due to poor and ill-timed network service of the service provider (BSNL Aalo).
- The ST, Khonsa has stated in May 2021 that due to poor net connectivity the office could not have continuous access to GST Back Office. Further, online training on GST refund was also affected due to poor net connectivity.
- The ST, Pasighat has stated that due to poor internet connectivity he is unable to furnish record of GST refund from his back office.
- The ST, Roing has stated that some time the designated lease line provided by BSNL to access GST back office does not function for many days in a month.
- The ST, Tezu has stated that the designated lease line provided by BSNL does not function from time to time, thus hinders the official works.

As such, from the statements of the STs, it is noticed that the Commissionerate of Tax & Excise has been unable to provide good net connectivity to the Assessing Officers which has contributed to the poor performance in settling of refund cases.

When Audit pointed this out (September 2021), the Department agreed during the exit conference (December 2021) that poor connectivity in the districts has affected the administration of GST. It also stated that there was no official internet connection in the district jurisdictional offices till December 2020. WAN connectivity has been provided by BSNL in 14 districts only w.e.f. from 01 January 2021 and three additional districts have been connected with WAN during 2021. However, eight districts are yet to be connected till date.

5.5.9 Conclusion

Timely refund mechanism constitutes a crucial component of tax administration, as it facilitates trade through release of blocked funds for working capital, expansion and modernization of existing business. The provisions pertaining to refund contained in the GST laws aim to streamline and standardise the refund procedures under GST regime.

However, audit of 27 sample cases of refund revealed that the department not only did not comply with the provisions of the Act and Rules but also failed to ensure timely settlement of the refund claims. It was noticed that the Assessing Officers issued acknowledgement (RFD-02) in respect of only 6 cases and no acknowledgement was issued in the remaining 21 cases. Further, out of the 27 sample cases only 6 refund claims pertaining to post-automation period were settled by the Assessing Officers and the remaining 21 cases were yet to be settled till date of audit. The Assessing Officers also failed to maintain the required registers for the pre-automation refund claims. Moreover, no post-audit of the sanctioned refunds was carried out by the Department.

5.5.10 Audit recommendations

- The Department may strengthen the monitoring mechanism to ensure that the Jurisdictional Officers comply with the provisions of the APGST Act & Rules 2017 and timely process the refund cases.
- The Department may consider organizing more trainings on GST (backend applications) for the Jurisdictional Officers.
- The deficiencies noticed in the applications should be taken up with GSTN for embedding appropriate controls in the application.
- The Department should consider introducing a monthly/quarterly MIS from the Jurisdictional Officers/districts that captures number and time taken by them in processing of refund applications i.e. number of cases pending for more than a year, more than 6 months, more than a month, etc.
- The Department may take necessary steps to provide internet connectivity in the remaining districts for smooth administration of GST in the entire State.

Compliance Audit Paragraph

Tax & Excise Department

5.6 Short-realisation of excise duty

The Assessing Authority failed to detect short-deposit of excise duty of ₹12.76 lakh by a wholesale vendor of IMFL which resulted in short-realisation of revenue.

Rule 204 of the Arunachal Pradesh Excise Rules 1994 stipulates that the duty imposed on – (a) Foreign Liquor and country spirit; (b) imported under bond; or (c) manufactured in a distillery and stored in a distillery or excise warehouse, shall be paid before removal from the distillery or excise warehouse, unless a bond has been executed for such payment. Rule 205 further states that when the duty on an excisable article is to be paid before removal from a distillery or excise warehouse, the payment must be made into the local treasury or sub-treasury approved by the Collector.

Further Section 29(1)(b) of the Arunachal Pradesh Excise Act 1993 states that the authority who granted any license, permit, or pass under the Act may cancel or suspend it if any duty or fee payable by the holder thereof be not duly paid.

The Tax & Excise Department, Government of Arunachal Pradesh (GoAP) revised (November 2015)¹⁰⁰ the rates of excise duty of various classes of Indian Made Foreign Liquor (IMFL) with immediate effect. The revised rates of General Brand, Premium Brand, Classic Premium Brand of and Wine were detailed in **Table 5.26:**

Table 5.26: Brand wise applicable excise rate

(Amount in ₹)		
Sl. No	Name of the Brand	Rate
1.	General Brand	₹135.00 per case
2.	Premium Brand	₹302.40 per case
3.	Classic Premium Brand (costing ₹8000.00 per case and above)	₹600.00 per case
4.	Wine (containing 42 per cent proof spirit)	₹180.00 per case

(Source: Departmental record)

Scrutiny (September 2020) of the records of the Superintendent of Excise (SE), Zone-I, Naharlagun revealed that a wholesale vendor of IMFL/ Beer, M/s Frontier Wholesale¹⁰¹, Naharlagun had submitted an application (26 October 2018) for issue of import permit for procurement of total 11,450¹⁰² cases of IMFL from a Bonded Warehouse of IMFL, M/s Three Star Bonded Warehouse, Naharlagun. The total excise duty payable by M/s Frontier Wholesale, Naharlagun for the 11,450 cases of

¹⁰⁰ Vide notification No. TAX-433/2013-14 dated 20 November 2015

¹⁰¹ License No. Ex-47/99/WSV dated 07 September 2009

¹⁰² Premium Brand: 150 cases; General Brand: 6,000 cases, Classic Premium Brand: 5,000 cases and Wine: 300 cases

IMFL was ₹39.09 lakh (*Appendix-5.10*) but Audit noticed that the dealer deposited total excise duty of only ₹26.33 lakh¹⁰³ as shown in *Appendix-5.11*.

Audit observed that the supplier altered the rate of applicable excise duty for premium, general and classic premium category of IMFL and evaded tax amounting to ₹12.76 lakh as detailed in **Table 5.27**:

Table 5.27: Details of short realization of excise duty

(Amount in ₹)						
Sl. No.	Brand Name	Quantity imported	Applicable rate	Rate adopted	Difference	Tax evasion
1.	Premium	150	302.40	600.00	-297.60	-44640
2.	General	6,000	135.00	302.40	-167.40	-1004400
3.	Classic premium	5,000	600.00	135.00	465.00	2325000
4.	Wine	300	180.00	180.00	0.00	0.00
Total						1275960

(Source: Departmental record)

It is evident from above that supplier altered the applicable excise rate, furnished incorrect return and evaded tax of ₹12.76 lakh. However, the SE, Zone-I failed to detect this short-deposit and issued (October 2018) an import permit¹⁰⁴ with validity (up to 15 November 2018) for procurement of the above mentioned 11,450 cases of IMFL from M/s Three Star Bonded Warehouse, Naharlagun. The Department did not have any charter of duties for the excise officers and no procedure was in place for ensuring correctness of duty paid by the applicant. This reflects a lack of internal control in the department. Due to the negligence of SE, Zone-I and lack of internal control, the import permit was issued to supplier without exercising necessary check of the permit application of the supplier. As a result, there was short-realisation of revenue to the tune of ₹12.76 lakh and subsequent loss to the Government.

The case was reported to the Department/ Government in February 2021. In reply (January 2022) the Department stated that lapse was unintentional and concerned Superintendent of Tax has been directed to recover the amount. However, the fact remains that the outstanding Tax amount due are yet to be recovered as on November 2022 despite lapse of 4 years.

Recommendation: The Government should prepare a charter of duties for excise officers clearly defining their duties and roles in order to strengthen the internal control in the department. Recovery of outstanding tax amount may also be expedited and necessary action and penalty may be imposed on the supplier for wilful alteration of applicable excise rate.

¹⁰³ vide Treasury Challan No. 01 dated 26 October 2018

¹⁰⁴ Serial No. 572/18 dated 31 October 2018

5.7 Evasion of Tax

The Assessing Authority failed to detect concealment of total turnover declared by a dealer in VAT return (FF-01) resulting in evasion of tax of ₹4.58 lakh for which an equal penalty and interest ₹2.57 lakh is also leviable.

As per provision of Section 34(1)(b) of the Arunachal Pradesh Goods Tax (APGT) Act, 2005, if any person has furnished incomplete or incorrect returns or for any other reasons the Commissioner is not satisfied with the return furnished by a person, the Commissioner may assess or re-assess the tax due for a tax period to the best of his judgment. Further, Section 87(10) of the Act *ibid* stipulates that if a dealer furnishes a return under this Act which is false, misleading or deceptive in a material particular; or omits from a return furnished under this Act any matter or thing without which the return is false, misleading or deceptive in a material particular; the dealer is liable to pay by way of penalty of sum of ₹one lakh or the amount of tax deficiency, whichever is greater. Moreover, as per Section 44(2) of the APGT Act, when a person is in default in making the payment of any tax, penalty or other amount due, he shall in addition to the amount assessed be liable to pay simple interest ranging between 12 to 24 *per cent per annum* calculated on daily basis for the period of default on the amount of tax paid short.

Scrutiny (February-March 2021) of the records of the Superintendent of Tax (ST), Upper Subansiri District, Daporijo revealed that a dealer, M/s KKKK Marde Filling Station¹⁰⁵, registered under the APGT Act, 2005 and dealing in Petrol and Diesel, which are taxable at 12.5 and 20 *per cent* respectively, declared total turnover/ gross sales of ₹96.05 lakh in the self-assessed¹⁰⁶ VAT return (FF-01) for the quarterly tax period from April 2020 to June 2020. The dealer, further, declared his output tax liability for the quarter as ₹11.19 lakh¹⁰⁷ and deposited (September 2020) the tax.

Scrutiny of Sales Register (FF-12) of the dealer (August 2022) revealed that the total turnover for the period April 2020 to June 2020 was ₹104.83 lakh (*Appendix-5.12*) instead of ₹96.05 lakh as declared by the dealer in VAT return (FF-01). Thus, dealer concealed total turnover by ₹8.78 lakh (₹104.83 lakh - ₹96.05 lakh) and tax liability by ₹4.58 lakh as detailed in **Table 5.28**:

Table 5.28: Evasion of tax

Sl. No.	Tax liability declared by dealer			Total turnover as per sales register and tax liability			Evasion of tax
	Taxable amount	Tax rate (<i>per cent</i>)	Tax amount	Taxable amount	Tax rate (<i>per cent</i>)	Tax amount	
1.	40.70	12.50	5.09	69.23	12.50	8.65	3.56
2.	30.53	20.00	6.10	35.60	20.00	7.12	1.02
Total	71.23		11.19	104.83		14.29	4.58

(Source: Departmental record)

¹⁰⁵ TIN: 12060092145

¹⁰⁶ Under section 33 of Arunachal Pradesh Goods Tax (APGT) Act 2005

¹⁰⁷ 12.5 *per cent*: ₹5.09 lakh and 20 *per cent*: ₹6.10 lakh

Thus, the dealer concealed its quarterly turnover (April-June 2020) thereby leading to evasion of tax of ₹4.58 lakh. The ST, Daporijo did not exercise assessment of tax return in accordance to APGT Act 2005¹⁰⁸. Thus, due to negligence and lack of internal control, the ST, Daporijo failed to detect suppression of tax liability and as a result the dealer managed to evade tax of ₹4.58 lakh.

For evasion of tax liability of ₹4.58 lakh the dealer is liable to pay penalty of ₹4.58 lakh under Section 87(10) of the APGT Act, 2005. Further, interest of ₹2.57 lakh (@ 12% on ₹9.16 lakh (tax liability ₹4.58 lakh + penalty ₹4.58 lakh) for 854 days from 29 July 2020 to 30 November 2022) is also leviable U/s 44(2) of the Act *ibid*.

The matter was reported to the Government in July 2021. In reply the Department accepted (January 2022) the audit finding and stated that they already have recovered ₹1.30 lakh and the balance amount will also be recovered from the firm shortly. However, scrutiny of the challan submitted by the Department revealed that the recovery pertains to penalty due on non-filing of returns (FF-01) for the separate period *i.e.* 28 July 2016 to 28 July 2017. No recovery has been actually affected against the audit finding as on November 2022.

Recommendation: The Government may fix responsibility on concerned ST for negligence and tax suppression. Action may also be taken to recover outstanding tax, penalty and upto date interest from the dealer.

5.8 Evasion of Tax

The Assessing Authority failed to detect concealment of taxable turnover of ₹1.37 crore by a dealer and evasion of Value Added Tax (VAT) of ₹27.38 lakh for which an equal penalty and interest ₹8.61 lakh is also leviable.

As per provision of Section 34(1) (b) of the Arunachal Pradesh Goods Tax (APGT) Act, 2005, if any person has furnished incomplete or incorrect returns or for any other reasons the Commissioner is not satisfied with the return furnished by a person, the Commissioner may assess or re-assess the tax due for a tax period to the best of his judgment. Further, Section 87(10) of the Act *ibid* stipulates that if a dealer furnishes a return under this Act which is false, misleading or deceptive in a material particular; or omits from a return furnished under this Act any matter or thing without which the return is false, misleading or deceptive in a material particular; the dealer is liable to pay by way of penalty a penalty a sum of ₹one lakh or the amount of tax deficiency, whichever is greater. Moreover, as per Section 44(2) of the APGT Act, when a person is in default in making the payment of any tax, penalty or other amount due, he shall in addition to the amount assessed be liable to pay simple interest ranging between 12 to 24 *per cent per annum* calculated on daily basis for the period of default on the amount of tax paid short.

¹⁰⁸ According to Act 34 of APGT Act 2005, the commissioner may assess or re-assess to the best of his judgment.

Scrutiny (December 2020) of records of the Superintendent of Tax (ST), Zone-II, Itanagar revealed that a dealer, M/s Yumlam Brothers Bonded Warehouse¹⁰⁹ who was registered under the Arunachal Pradesh Goods Tax (APGT) Act, 2005 and dealing in India Made Foreign Liquor (IMFL), which is taxable at 20 per cent, declared total turnover of ₹1.71 crore during the financial year 2019-20 (April 2019 to March 2020) in 12 monthly self-assessed¹¹⁰ VAT returns (FF-01) as detailed in **Appendix-5.13**. Audit also noticed that the entire turnover of ₹1.71 crore was generated during the three months from January 2020 to March 2020 and there was no turnover during the remaining nine months. However, when Audit cross-verified the VAT returns (FF-01s) of the dealer with his excise sales invoices collected during the compliance audit of the Commissioner of Excise, Itanagar it was noticed that the dealer's actual turnover against 11 Nos. invoices (**Appendix-5.14**) during the three months period from January 2020 to March 2020 was actually ₹3.08 crore and not ₹1.71 crore. As such the dealer concealed taxable turnover of ₹1.37 crore from his VAT returns (FF-01). The assessing officer (ST, Zone-II) did not undertake necessary assessment of VAT return furnished by the supplier and concealment of tax was remained undetected. Thus, due to negligence and failure of the Assessing Officer to detect the concealment of taxable turnover the dealer managed to evade tax liability of ₹27.38 lakh shown in **Table 5.29**:

Table 5.29: Details of evasion of Taxes

(Amount in ₹)				
Tax Period	Total turnover as per record	Turnover declared by the dealer	Concealment of turnover	Tax evaded on concealed turnover (@ 20 per cent)
Jan-20	4312710.00	7857232.00	-3544522.00	-708904.40
Feb-20	13971800.00	5698675.00	8273125.00	1654625.00
Mar-20	12551120.00	3590100.00	8961020.00	1792204.00
Total	30835630.00	17146007.00	13689623.00	2737924.60

(Source: Departmental records)

For evasion of tax liability of ₹27.38 lakh the dealer is liable to pay penalty of ₹27.38 lakh under Section 87 (10) of the APGT Act, 2005. Further, interest of ₹8.61 lakh (calculated upto 30 November 2022) is also leviable U/s 44(2) of the Act *ibid* as detailed in **Appendix-5.15**. Thus, dealer evaded total tax liability amounting to ₹63.37 lakh (Tax due ₹27.38 lakh + Penalty ₹27.38 lakh + Interest ₹8.61 lakh).

The case was reported to the Department/ Government in January 2021 and in reply the department stated (January 2022) that they have reassessed the case and recovered ₹34.04 lakh (VAT due – 28.98 lakh + Penalty under Section 87(12)(c) of APGT Act 2005 of ₹ 2.70 lakh + Interest of ₹ 2.36 lakh) from the firm citing unintentional tax evasion. No evidence was provided as to how unintentional tax evasion was established.

¹⁰⁹ TIN: 12171540192

¹¹⁰ Under section 33 of APGT Act 2005.

The reply and action taken by the Department was not acceptable as the department imposed a penalty of 10 *per cent* only under Section 87(12)(c) of APGT Act 2005 whereas the case was for false, willful and deceptive evasion of tax for which penalty should be charged under Section 87(10). Thus, total tax liability amounting to ₹29.33 lakh (₹63.37 lakh - ₹34.04 lakh) remains outstanding against dealer as on November 2022.

Recommendation: *The Government may expedite to recover outstanding tax amount after fixing responsibility on the concerned assessing officer for non-assessment of tax return.*

LAND MANAGEMENT DEPARTMENT

5.9 Non-realisation of land revenue

Non realization of Annual Lease Rent/ Land Revenue amounting to ₹2.57 crore (from Central Government, Central Government Undertakings and Private Individuals) resulted in the land revenue outstanding related to last 39 years.

Section 2 (h) of the Arunachal Pradesh Land Settlement and Records Act, 2000, stipulates that “Government land” means land acquired by the Government under land acquisition Act or through donation of the Public for establishment of Administrative Headquarters, Government institutions and facilities under various wings of the Government. Further, Section 58 of the Act stipulates that the land revenue shall be payable at such times, in such installments, to such persons, and at such places, as may be prescribed by the Government.

According to Section 59 (i) of this Act, any instalment of land revenue or part thereof which is not paid on the due date shall become an arrear of land revenue and the person responsible for the payment shall become a defaulter. Section 60 *ibid* provides that the outstanding land revenue may be recovered by (a) Serving a written notice of demand on the defaulter; or (b) distraint and sale of the defaulter's moveable property including the produce of the land; or (c) attachment and sale of the defaulter's immovable property.

Scrutiny of records of five Land Management Department units *viz.* Director Land Management, Itanagar and four DLSROs, namely Capital Complex, Pasighat, Aalo and Tezu for the last three years *i.e.* 2019-20 to 2021-22, out of total 22 auditable units, revealed that there was consistent failure on the part of the Department in realization of land revenue from the allotment of government land. Existence of similar natures of cases in all five test checked units indicated that there was a systemic failure on the part of the department in realization of land revenue. The outstanding land revenue in respect of three DLSROs *viz.* Capital complex, Pasighat and Aalo have already been incorporated as Paragraph 5.5 in Audit Report 2019-20. Audit findings in respect of Director Land Management and DLSRO Tezu are discussed in succeeding paragraphs.

5.9.1. Non realization of Land Revenue from Central Government Department/Central Government undertakings

The GoAP revised¹¹¹ (February 2010) the rate of Annual Lease Rent (ALR) for Central Government Department/Central Government undertakings including defense and paramilitary forces at ₹10 per sq.mtr.

Scrutiny (March 2021) of land allotment register and records of the DLSRO, Lohit District, Tezu, Arunachal Pradesh revealed that seven different Central Government Departments/ Public Sector Undertakings (PSUs) were allotted total 1,42,220.70 Sq. mtr of Government land at various locations in Lohit District (Tezu Town, Wakro Town and Sunpura) during the period from January 1980 to March 2009. On revision of rate¹¹², the seven land allottees were required to pay the ALR at the rate fixed by the Government. However, Audit noticed that the DLR&SO, Tezu failed to issue any bill or notice to these seven Central Government Departments/ Public Sector Undertakings (PSUs) for payment of ALR from 2009-10 onwards even after the expiry of 12 years from the issue of the Government directions. As a result, an amount of ₹1.71 crore being annual lease rent at prevailing rate of ₹10.00 per sq. mtr for 1,42,220.70 sq. mtr for the period of 12 years from 2009-10 to 2021-22 payable by these allottees remained un-assessed and unrealized (**Appendix-5.16**). Thus, due to the failure of the DLR&SO, Tezu to collect ALR from the 7 allottees, there was loss of revenue to the Government detailed in **Table 5.30**:

Table 5.30: Details of outstanding land revenue

(Amount in ₹)			
Sl. No.	Name of allottees	Area in possession (Sq.m)	Outstanding ALR for last 12 years (2009-10 to 2021-22)
1.	Airport Authority of India (AAI)	17,386.80	20,86,416.00
2.	Postal Department	8,292.50	9,95,100.00
3.	All India Radio and TV	70,092.40	84,11,088.00
4.	North Eastern Electric Power Corporation Limited, (NEEPCO)	25,633.50	30,76,020.00
5.	SDO, Telecom	9,549.25	11,45,910.00
6.	Director, Microwave Project Guwahati	5,866.25	7,03,950.00
7.	Regional Research Laboratory (RRL), Jorhat	5,400.00	6,48,000.00
Total		1,42,220.70	1,70,66,484.00

(Source: Departmental record)

As evident from above that total ALR of ₹1.71 crore remained outstanding against 7 allottees for the last 12 years. The allottees defaulted on payment of ALR on due date. However, the DLR&SO did not serve any notice of demand/ arrear of revenue

¹¹¹ vide letter No. LR-17/88 (Vol-I) dated 15 September 2009 and LR-17/88 (Vol-I) dated 10 February 2010

¹¹² Annual lease rent (ALR) for Central Government Department/ Central Government undertakings including defense and paramilitary forces to ₹10 per sq.mtr. w.e.f. 2009-10 [Government notification No. LR-17/88 (Vol-I) dated 15 September 2009 and LR-17/88 (Vol-I) dated 10 February 2010]

statement in accordance with Arunachal Pradesh (LS&R) Act 2000. There was no internal control mechanism established in the Department to assess outstanding ALR and realize it on time. Thus, due to negligence of DLSRO and lack of internal control, notice of demand/ arrears of revenue statement could not be served on time and ALR amounting to ₹1.71 crore remained outstanding against seven firms.

The matter was reported to the Government in July 2021. In reply the department stated (January 2022) that they have already initiated suitable action for recovery of the amount pointed out by Audit. The progress made would be intimated to Audit. However, land revenue amounting to ₹1.71 crore yet to be recovered as on November 2022.

5.9.2 Non-realisation of land revenue from commercial and residential individual

Rule 12 (viii) and (ix) of Arunachal Pradesh Allotment of Land Rules 1988 provides that interest @ 10% per annum on private allotments and @ 15 per cent per annum on commercial allotments, or at the rate prescribed by the Government time to time, will be charged on unpaid amounts of premium and annual lease rent

The, Land Management Department, Government of Arunachal Pradesh (GoAP) had revised¹¹³ (December 2005) the Annual Lease Rent (ALR) in respect of land allotted to the private individual for residential purpose in Capital Complex at ₹two per sqm. and in District/ Sub-Divisional Headquarters at ₹one per Sqm. Further, the ALR in respect of land allotted to the private individual for business purpose like shopping complex, hotel, industries *etc.* in Capital Complex at ₹four per Sqm. and in District/ Sub-Divisional Headquarters at ₹three per Sqm.

Scrutiny (March 2021) of land allotment registers maintained by the District Land Revenue & Settlement Officer (DLRSO), Lohit District, Tezu revealed that 335 Nos. of private individuals who have been allotted Government land for residential purposes and 78 Nos. of private individuals who have been allotted Government land for business purposes in the Lohit District. However, as on December 2022, allottees had not paid ALR on the land in their possession for periods ranging between 01 year and 39 years. The total value of the ALR and interest payable by these defaulters are ₹86.44 lakh as detailed in **Table 5.31**:

Table 5.31: Details of outstanding ALR and interest due

						(₹ in lakh)
Sl. No	Type of allotment	No of land allotment holder	Period of revenue	Outstanding ALR	Interest Due	Total Outstanding
1.	Residential	335	01 year to 39 year	25.79	32.92	58.71
2.	Commercial	78	01 year to 39 year	9.20	18.53	27.73
Total				34.99	51.45	86.44

(Source: Departmental records)

¹¹³ Vide order No. LM-39/2004 dated 05 December 2005

Although the defaulters have not paid their ALR for prolonged periods, the DLRSO did not serve any arrear of demand notice in accordance to Section 59 & 60 of Arunachal Pradesh Land Settlement Act, 2000. The DLR&SO failed to recover the dues resulting in the non-realisation of Government revenue to the tune of ₹86.44 lakh (ALR: ₹34.99 lakh and interest: ₹51.45 lakh).

The matter was reported to the Government in July 2021. In reply the Department stated (January 2022) that they are already following up the matter and also had a meeting at Tezu with the Deputy Commissioner and DLRSO. The Department had already recovered ₹0.25 lakh. However, the Department did not furnish any treasury deposit challan in this regard. Thus, the fact remains that land revenue amounting to ₹86.44 lakh is outstanding against private land holders as on November 2022.

Thus, due to failure of DLSRO, Tezu a total Annual Lease Rent/ Land Revenue amounting to ₹2.57 crore (*Central Government/ Central Government Undertakings ₹1.71 crore + Private Individuals ₹0.86 crore*) related to last 37 years remained outstanding as on November 2022

Recommendation: The Government may expedite the recovery of outstanding land revenue by taking appropriate action in accordance to Section 60 of Arunachal Pradesh Land Settlement and Records Act, 2000. The responsibility may also be fixed on the concerned officer for not issuing notice of demand and arrears of revenue on time.