

Chapter I
Revenue Sector

Chapter-I

Revenue Sector

1.1 Introduction

1.1.1 Trend of revenue receipts

1.1.1.1 The tax and non-tax revenue raised by the Government of National Capital Territory of Delhi (GNCTD) during the year 2019-20 and 2020-21, Grants-in-aid received from the Government of India (GoI) during the year and the corresponding figures for the preceding four years are depicted in **Table-1.1**.

Table-1.1: Trend of revenue receipts

(₹ in crore)

Sl. No.	Particulars	2016-17	2017-18	2018-19	2019-20	2020-21
1	Revenue raised by GNCTD					
	Tax revenue	31,139.89	35,717.02	36,624.67	36,565.87	29,425.33
	Non-tax revenue	380.69	766.06	644.16	1,096.89	979.67
	Total	31,520.58	36,483.08	37,268.83	37,662.76	30,405.00
2	Receipts from the Government of India					
	Grants-in-aid	2,825.16	2,184.19	5,843.77	9,473.05	11,458.60 ¹
3	Total revenue receipts of the GNCTD (1 and 2)	34,345.74	38,667.27	43,112.60	47,135.81	41,863.60
4	Percentage of 1 to 3	92	94	86	80	73

Source: Finance Accounts of GNCTD

The year-wise trend in revenue receipts during 2016-17 to 2020-21 is depicted in **Chart-1.1**.

Chart-1.1



¹ This includes an amount of ₹ 4,182 crore received in 2018-19 for compensation of loss of revenue arising out of implementation of Goods and Services Tax (GST). In the year 2017-18, compensation received for loss of revenue was ₹ 157.00 crore only.

Revenue receipts increased by 21.89 *per cent* from ₹ 34,346 crore in 2016-17 to ₹ 41,864 crore in 2020-21 at an annual average growth rate of 4.07 *per cent* out of which NCT of Delhi's revenue receipts (tax and non-tax) decreased by ₹ 1,115 crore (3.53 *per cent*) while grants-in-aid increased by ₹ 8,634 crore (305.63 *per cent*) respectively, during the said period.

During 2020-21, revenue receipts decreased by 11.18 *per cent* over the previous year, mainly due to decrease in own tax revenue and non-tax revenue by ₹ 7,141 crore (19.53 *per cent*) and ₹ 117 crore (10.67 *per cent*) respectively.

The share of NCTD's tax revenue receipts to total revenue receipts decreased from 90.67 *per cent* in 2016-17 to 70.29 *per cent* in 2020-21. During 2016-17, about 91.77 *per cent* of revenue receipts came from GNCTD's own resources while Grants-in-aid contributed 8.23 *per cent*. In the year 2020-21, about 72.63 *per cent* of revenue receipts came from GNCTD's own resources while grants-in-aid contributed 27.37 *per cent*.

1.1.1.2 The details of tax revenue raised during the period 2016-17 to 2020-21 are given in **Table-1.2**.

Table-1.2: Details of Tax Revenue raised

(₹ in crore)

Sl. No.	Head of revenue	2016-17 (percentage of total tax revenue)	2017-18 (percentage of total tax revenue)	2018-19 (percentage of total tax revenue)	2019-20 (percentage of total tax revenue)	2020-21 (percentage of total tax revenue)	Percentage of increase (+) or decrease (-) in actual of 2020-21 over 2019-20
1	State Goods and Service Tax (SGST)	-	13,620.84 (38.14%)	19,186.57 (52.39%)	19,464.95 (53.23%)	15,676.15 (53.27%)	-19.46
2	Sales Tax	21,144.24 (67.90%)	11,149.17 (31.21%)	5,885.75 (16.07%)	5474.67 (14.97%)	4,411.20 (14.99%)	-19.43
3	State Excise	4,251.40 (13.65%)	4,453.49 (12.47%)	5,028.19 (13.73%)	5,068.01 (13.86%)	4,108.15 (13.96%)	-18.94
4	Stamps and Registration Fees	3,143.93 (10.10%)	4,117.07 (11.53%)	4,458.62 (12.17%)	4,606.39 (12.60%)	3,548.80 (12.06%)	-22.96
5	Tax on Vehicles	1,808.78 (5.81%)	2,115.76 (5.92%)	2,054.75 (5.61%)	1,948.09 (5.33%)	1,676.18 (5.70%)	-13.96
6	Other taxes and duties on commodities and services	789.53 (2.53%)	259.18 (0.73%)	10.68 (0.03%)	1.14 (0.003%)	0.67 (0.002%)	-41.23
7	Land Revenue	2.01 (0.01%)	1.51 (0.004%)	0.11 (0.0003%)	2.62 (0.007%)	4.18 (0.014%)	59.54
Total Tax Revenue		31,139.89	35,717.02	36,624.67	36,565.87	29,425.33	

Source: Finance Accounts of GNCTD

Year-wise trend of various tax revenues is depicted in **Chart-1.2**.

Chart-1.2



The major contribution to revenue receipts was from Sales Tax/SGST which declined by ₹ 4,852.27 crore (19.46 per cent) in 2020-21 over the previous year. The actual receipts for the year 2020-21 under the heads 'State Excise', 'Stamps and Registration Fees' and 'Tax on Vehicles' decreased by ₹ 959.86 crore (18.94 per cent), ₹ 1057.59 crore (22.96 per cent) and ₹ 271.91 crore (13.96 per cent) respectively while receipts under the heads 'Land Revenue' increased by 1.56 crore (59.54 per cent) over the previous year. After subsuming of VAT, Betting, Luxury and Entertainment Tax in GST, tax receipts under the head 'Other taxes and duties on commodities and services' reduced to ₹ 0.67 crore in 2020-21 from ₹ 789.53 crore in 2016-17.

The respective Departments reported the following reasons for variation during the year:

SGST/ Sales Tax

The Department stated that the Covid-19 pandemic and the lockdown affected businesses due to which less SGST was collected during 2020-21.

State Excise

The Department stated that the decrease was primarily due to imposition of lockdown on account of Covid-19 pandemic and declaration of new Excise policy.

Stamps and Registration Fees

Revenue receipts decreased due to Covid-19, all the offices remained closed during the lockdown period and there was a downfall in the sale of stamp papers due to Covid-19 pandemic.

Tax on Vehicles

Shortfall in revenue collection was primarily due to less registration of vehicles due to Pandemic and lockdown in Delhi.

Land Revenue

Land and Building Department is not a regular collector of land revenue. However, as per the directions of Hon'ble Court, this Department receives money on account of land revenue.

1.1.1.3 The details of non-tax revenue raised during the period 2014-15 to 2018-19 are indicated in **Table-1.3**.

Table-1.3: Details of Non-tax Revenue raised

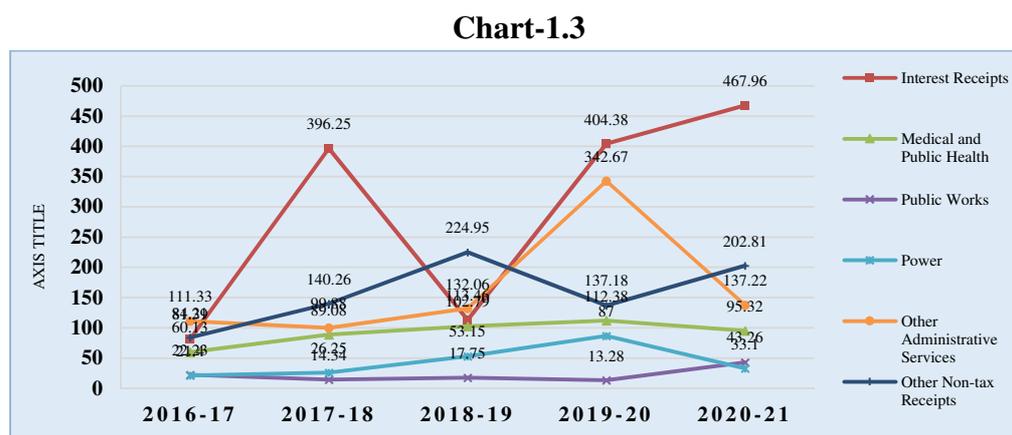
(₹ in crore)

Sl. No.	Head of Revenue	2016-17	2017-18	2018-19	2019-20	2020-21	Percentage of increase (+) or decrease (-) in Actual of 2020-21 over 2019-20
1	Interest Receipts	81.39	396.25	113.46	404.38	467.96	15.72
2	Medical and Public Health	60.13	89.08	102.79	112.38	95.32	-15.18
3	Public Works	22.23	14.34	17.75	13.28	43.26	225.75
4	Power	21.40	26.25	53.15	87.00	33.10	-61.95
5	Other Administrative Services	111.33	99.88	132.06	342.67	137.22	-59.96
6	Other ² Non-tax Receipts	84.21	140.26	224.95	137.18	202.81	47.84
Total		380.69	766.06	644.16	1096.89	979.67	

Source: Finance Accounts of GNCTD

² Dividends and Profits, Public Service Commission, Police, Jails, Education, Family Welfare, Housing, Urban Development, Information & Publicity, Labour and Employment, Social Security and Welfare, Crop Husbandry, Animal Husbandry, Fisheries, Forestry and Wildlife, Cooperation, Other Agricultural Programmes, Other Rural Development Programmes, Medium Irrigation, Village and Small Industries, Non-ferrous mining and metallurgical industries, Tourism, Civil Supplies, Other general economic services.

Year-wise trend of various non-tax revenues is depicted in **Chart-1.3**.



The non-tax receipts of the NCT of Delhi have been fluctuating over the period 2016-17 to 2020-21. It decreased by 10.70 *per cent* in 2020-21 over the revenue attained in 2019-20. The major contribution in non-tax revenue receipts was from ‘Interest Receipts’ and ‘Other Administrative Services’. ‘Interest Receipts’ increased by ₹ 63.58 crore (15.72 *per cent*) while ‘Other Administrative Services’ decreased by ₹ 205.45 crore (59.96 *per cent*) during the current year over the previous year.

Revenue receipts under the head ‘Medical and Public Health’ and ‘Power’ for the year 2020-21 decreased by ₹ 17.05 crore (15.17 *per cent*), ₹ 53.90 crore (61.95 *per cent*) respectively over the previous year while receipts under the head ‘Public works’ increased by ₹ 29.98 crore (225.75 *per cent*).

The respective Departments reported the following reasons for variation during the year:

Interest Receipts

The increase in Interest Receipts in 2020-21 as compared to 2019-20 was due to the Pragati Power Corporation Limited (PPCL) making payment of ₹ 445.80 crore on account of interest on loan taken from GNCTD.

Medical and Public Health

The variation was due to decrease in number of total new registrations along with fine fees and all DDOs in different departments may be booking the contribution towards DGEHS under Medical and Public Head for working employees/contribution from pensioners who retired from Delhi Government.

Public Works

The Department stated that during the year 2020-21, unclaimed security deposits were transferred to revenue receipts heads as per accounting rules.

Power

The decrease in revenue was due to advance receipts of Annual License Fee during the Financial Year 2019-20.

Other Administrative services

The reason for variation in Receipts is mainly due to less realization of receipts on account of Fines and Forfeitures, Services and Fee and other Receipts pertaining to Courts/Election.

Other Non-tax Receipts

Receipts under Urban Development during 2020-21 was ₹ 61.69 crore as compared to previous year receipts of ₹ 31.63 crore as upspent balance was received from work executing agencies.

1.1.2 Response of the Government/Departments to Audit

The Principal Accountant General (Audit), Delhi (PAG) conducts periodical inspection of the Government Departments to test-check transactions and verify maintenance of accounts and other records as prescribed in the rules and procedures. These inspections are followed up through Inspection Reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The Heads of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance to the PAG within four weeks from the date of receipt of the IRs. Serious financial irregularities are reported to the Heads of the Departments and the Government.

The summarised position of the IRs issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2021 is depicted in **Annexure 1.1**.

The number of pending paras increased from 8597 (from 355 IRs) involving an amount of ₹ 7,173.40 crore in 2011-12 to 10,071 (from 991 IRs) involving money value of ₹ 7,810.93 crore at the end of the year 2020-21 which indicates that the Department did not take adequate steps to settle the outstanding paragraphs.

This large pendency of paras due to non-receipt of replies is indicative of the fact that the Heads of offices and the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the Audit in the IRs. Lack of executive action on audit observations weakens accountability and raises the risk of avoidable loss of revenue. The continuous increase in the number of pending audit paragraphs merits the attention of the Government to ensure effective mechanisms to regularly monitor and review the compliance and settlement of audit observations.

1.1.2.1 Departmental Audit Committee Meetings

The Government set up an Audit Committees to monitor and expedite the progress of settlement of audit paragraphs in the IRs. However, no audit committee meeting was held by the Departments during the years 2019-21.

1.1.2.2 Non-production of records to Audit for scrutiny

As per Section 18 (1) (b) of CAG's DPC Act, 1971, any accounts, books, papers and other documents which deal with or form basis or are otherwise relevant to the transactions to which his duties in respect of audit extended, shall be sent to such place as he may appoint for his inspection. The programme of local audit of Tax Revenue offices is drawn up sufficiently in advance and intimations are issued, usually one month before the commencement of audit, to the Departments to enable them to keep the relevant records ready for audit scrutiny.

Primary records of the dealers were available in the DVAT system of the Department, however, in some cases these records were not considered sufficient for any audit conclusion. Audit requisitioned physical records of 1,036 dealers during the year 2020-21 for intensive scrutiny but the Department provided only records of 336 (32.43 *per cent*) dealers which is a violation of CAG's powers provided under Section 18 (1) (b) of DPC Act, 1971. Consequently, the revenue involved in these cases could not be ascertained. Departments of Revenue provided records of 100 *per cent* cases requisitioned whereas Transport Department provided record of 134 cases out of 182 requisitioned (74 *per cent*) during the year 2020-21.

1.1.2.3 Follow up on Audit Reports – summarised position

To ensure accountability of the executives to the issues dealt with in various Audit Reports, the administrative departments are to issue *suo-motu* Action Taken Notes (ATNs) on all audit paragraphs and performance audits featuring in the Audit Reports irrespective of the fact whether these are taken up for discussion by the Public Accounts Committee (PAC) or not. These ATNs are to be submitted to the PAC duly vetted by the Principal Accountant General (Audit), Delhi within a period of four months from the date of presentation of Audit Reports in the Legislative Assembly of Delhi.

However, ATNs on the Reports were delayed in respect of 22 paragraphs and one Performance Audit (PA) included in the Reports of the CAG of India on the Revenue Sector of the GNCTD for the years ended 31 March 2014, 2015, 2016, 2017 and 2018 placed before the State Legislative Assembly between June 2015 and December 2019. The ATNs from the concerned Departments were received late with an average delay of six months in respect of each of these Audit Reports. ATNs in respect of 02 paragraphs from the Departments had not been received in respect of the Audit Reports for the year ended 31 March 2014, 2015, 2016, 2017 and 2018 as depicted in **Table-1.4**.

Table-1.4: Details of Paragraphs, Performance Audits and the ATNs

Sl. No.	Year of Report ending 31 March	Number of Paragraphs and Performance Audits printed in Report	Number of Paragraphs and Performance Audits for which ATNs were awaited
1.	2014	3+0 (PA)	0+0 (PA)
2.	2015	0+1 (PA)	0+0 (PA)
3.	2016	4+0 (PA)	0+0 (PA)
4.	2017	7+0 (PA)	0+0 (PA)
5.	2018	8+0 (PA)	2+0 (PA)
Total		22+1(PA)	2+0 (PA)

PAC did not discuss paragraphs/PA pertaining to the Audit Reports of the Revenue Sector for the period 2013-14 to 2017-18.

1.1.3 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Departments and the amount recovered are depicted in **Annexure 1.2**.

The reports for the year 2008-09 to 2017-18 contained audit findings involving ₹ 9,054.81 crore, out of which, observations involving money value of ₹ 732.28 crore were accepted by the Departments. However, only an amount of ₹ 2.12 crore (0.29 per cent) was recovered by the Department which was negligible. The meagre amount of recovery depicts lackadaisical approach of the Department and poor monitoring.

Departments may consider fixing responsibility of all the officers who have failed to effect recoveries in accepted cases.

1.1.4 Audit Planning

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of the audit observations and other parameters. The annual audit plan is prepared on the basis of a risk analysis which takes into account matters highlighted in the budget speech, White paper on State Finances, Reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, factors of the tax administration, audit coverage and its impact during the past five years.

There were 165 auditable units of which 61 and 21 units were planned and audited during the year 2019-20 and 2020-21 respectively.

1.1.5 Results of Audit

1.1.5.1 Position of local audits conducted during the year

Audit of 61 units³ and 21 units⁴ out of 165 auditable units⁵ involving tax revenue receipts of ₹ 327.22 crore and ₹ 203.25 crore respectively was conducted during the year 2019-20 and 2020-21. Test-check of records revealed non levy of interest/non recovery of tax/short levy of fines and stamp duty and registration fees and other irregularities involving ₹ 846.15 crore in 182 paragraphs as categorised in **Table-1.5**.

Table-1.5: Category-wise audit observations

Sl. No.	Categories	No. of paragraphs/cases	Amount (₹ in crore)
Sales Tax/Value Added Tax			
1	Subject Specific Compliance Audit on Transitional Credit	1	571.42
2	Subject Specific Compliance Audit on processing of refund claims under GST	1	32.93
3	Irregular claim of Input Tax Credit	7	1.86
4	Interest not levied on additional demand of tax	4	6.91
5	Failure to recover demand of tax, interest and penalty	22	87.74
6	Irregular allowance of concessional rate of tax on invalid Statutory Forms	1	0.61
7	Other irregularities	93	104.51
Total		129	805.98
Motor Vehicle Tax			
1	Short collection of fines from repeated traffic offenders	1	0.19
2	Other Irregularities	14	31.51
Total		15	31.70
Stamp Duty and Registration Fee			
1	Short levy of Stamp Duty and Registration Fees	2	0.27
2	Other Irregularities	20	1.34
Total		22	1.61
Excise, Entertainment & Luxury Tax			
1	Other irregularities	16	6.86
Total		16	6.86
Grand Total		182	846.15

³ Delhi Goods & Service Tax-40, Motor Vehicles Tax-7, Stamps and Registration Fees-13, Excise Department-1

⁴ Value Added Tax-16, Motor Vehicles Tax-2, Stamps and Registration Fees-3,

⁵ Value Added Tax-126, Stamps and Registration Fees-22, Motor Vehicles Tax-16, State Excise-1

During the years 2019-21, Audit pointed out instances of short/non-levy of tax/duties amounting to ₹ 846.15 crore, out of which the concerned Departments accepted under-assessment and other deficiencies of ₹ 94.65 crore.

1.1.6 Coverage of the Revenue Chapter

This Chapter on Revenue Sector contains eight paragraphs involving financial effect of ₹ 701.93 crore. The Government has accepted audit observations involving ₹ 94.65 crore. These are discussed in the succeeding paragraphs.

Compliance Audit Paragraphs

Department of Revenue

1.2 Short levy of stamp duty and registration fee

Failure of the Sub-registrar in verifying the correct land use factor and categorisation of properties resulted in short levy of stamp duty and registration fee of ₹ 26.89 lakh.

Urban Development Department, Government of National Capital Territory of Delhi (GNCTD) vide its notification (September 2006) categorised the properties according to their usages and notified the commercial streets, mixed use streets, pedestrian shopping streets and already notified mixed use streets as commercial streets. Further, the GNCTD introduced and notified the minimum rates (circle rates) for valuation of land and immovable properties in Delhi in July 2007 wherein separate rates were prescribed based on location categorised from 'A' to 'H' (where A attracts highest rates and H lowest) for the purpose of payment of stamp duty and registration fee. The circle rates were last revised in September 2014.

Test check of records (between December 2020 and January 2021) of the office of e-Sub-Registrar-I, Kashmere Gate for the year 2019-20 revealed in two cases that the Sub-registrar considered these two properties as residential while calculating the consideration amount whereas the properties were of commercial utility as per notification of Urban Development Department of GNCTD. This resulted in short levy of stamp duty and registration fee of ₹ 18.38 lakh, as detailed in **Annexure 1.3**.

Audit also noted that in 13 other cases, the Sub-Registrar had incorrectly registered the instruments wherein the properties were mentioned as located in F, G and H categories, though these properties were actually located in E, F and G categories respectively. This resulted in application of lower circle rates for calculation of consideration amount and short levy of stamp duty and registration fee of ₹ 8.51 lakh, as detailed in **Annexure 1.4**.

Thus, failure of the Sub-registrar in verifying the correct land use factor and categorisation of properties resulted in short levy of stamp duty and registration fee of ₹ 26.89 lakh.

The matter was referred to the Government in October 2021, their reply was still awaited (May 2022).

Department of Trade and Taxes

1.3 Compliance Audit (SSCA) on Transitional Credit

1.3.1 Introduction

Section 140 of the Delhi Goods and Services Tax Act 2017 (DGST) and Central Goods and Services Tax Act 2017 (CGST) 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 DGST Rules 2017, prescribes elaborate procedures in this regard. All registered taxpayers, except those who are opting for payment of tax under the 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, which was further extended to 31 March, 2020, vide Central Board of Indirect Taxes and Customs (CBIC) order No.01.2020-GST dated 07 February, 2020, for those taxpayers who could not file Tran-1 due to technical difficulties and those cases recommended by the GST Council. Under transitional arrangements for ITC, the ITC of various taxes paid under the existing laws such as State Value Added Tax (VAT), Central Value Added Tax (CENVAT credit) etc. are eligible to be carried forward to the GST regime viz. (a) Closing balance of credit in legacy return, (b) Un-availed credit on capital goods, (c) Credit on duty paid stock, (d) Credit on duty paid stock when Registered Person does not possess the document evidencing payment of excise duty/VAT, (e) Credit relating to exempted goods under the existing law which are now taxable, (g) Tax paid under the existing law under composition scheme etc.

1.3.2 Audit objectives

Transitional credit claims directly impact GST revenues as the credit is eligible for set-off against the output tax liability of taxpayers. The audit of transitional credit has been taken up with the following objectives seeking assurance on:

- (i) whether the mechanism envisaged by the Department for selection and verification of transitional credit claims was adequate and effective; and
- (ii) whether the transitional credits carried over by the assessee into GST regime were valid and admissible.

1.3.3 Audit scope

The audit scope comprised review of transitional credit returns filed by the taxpayers under Section 140 of the DGST/CGST Act 2017. This involved examination of adequacy of rules specified for transitional credit under the Act, effectiveness of the departmental verification process, follow up action taken on the deviations detected, process adopted for implementation of cross-jurisdictional functions regarding transitional credit and independent examination of selected transitional credit claims for compliance assurance.

1.3.4 Audit Sample

The transitional credit is a one-time flow of ITC from the legacy regime into the GST regime and can be availed both by the taxpayers migrating from the previous regime as well as new registrants under GST. A sample of 1411 high risk cases was identified and out of this, 961 cases (i.e. 68.11 *per cent*) represents the claims of DVAT credit available to the dealers as per Form 16 - Delhi value Added Tax return, under table 5(c) only of the Tran-1 declaration form and carried forward in the Electronic Credit Ledger (ECL). 446 cases (31.60 *per cent*) represents the claims of CENVAT credits, un-availed ITC on capital goods, credit of excise duty, taxes etc. in respect of inputs held in stocks, semi furnished or fully furnished, etc. under other tables viz. 5(a), 6(a), 6(b), 7(a) A, 7(a) B, 7(b), 7(c) and 11 etc. of Tran-1 and column 8 of Tran-2 forms along with claims under 5(c) and four cases represents the assesseees who did not file Tran-1 declaration form.

1.3.5 Audit methodology

The methodology adopted for audit of transitional credit claims involved examination of selected transitional credit claims for compliance assurance and Tran return verification process adopted by the Department and follow up action taken on the deviations detected.

Audit Findings

The audit findings are categorised into two broad areas i.e. systemic and compliance issues based on the objectives of audit. Systemic issues address the mechanism envisaged and targets achieved there against, and the compliance issues address the deviations from the provisions of the Act/Rules.

1.3.6 Systemic issues

1.3.6.1 Non-verification of Transitional Credit cases

Circular no.-2/2018 (F.no.03(203)/Policy-GST/2018/16-18) dated 28 September 2018 issued by the Department of Trade and Taxes stipulates that Tax Officer/Proper Officer/Jurisdictional officers/Zonal In-charges should take necessary action to counter revenue shortfall and to increase GST revenue of Delhi. It also added that Tran-1 and Tran-2 verification should be undertaken of those tax payers whose ITC availment was on the higher side i.e. above ₹ 25 lakh in case of wards and above ₹ one crore in case of KCS Wards initially. Ward-in-charges were also directed to verify other taxpayers whose ITC availment was below the limits stated above.

Subsequently, circular no. F.3(399)/Policy-GST/2013-Audit Para1.2/2020/148-52 dated 07 October 2020 directed the Proper Officers to verify the genuineness of ITC carried through Tran-1 and Tran-2 and this verification was to be completed within three months of the issue of this circular.

However, audit noted that verification of genuineness of cases where ITC had been carried over to Tran-1 and Tran-2 was not conducted by the Department. The reasons for non-verification of transitional credit cases have been called from the Department in October 2021 and the reply is awaited (March 2022).

1.3.6.2 Non-production of Records

Transitional Credits claims of 1411 cases were test checked and audit noted that the assesseees have claimed the credits of CENVAT credits, DVAT credit, un-availed ITC on capital goods, credit of excise duty, taxes etc. in respect of inputs held in stocks, semi furnished or fully furnished, credit of VAT and service tax paid before the appointed date, etc. under various Tables viz. 5(a), 5(c), 6(a)/(b), 7.a.A, 7.a.B, 7.b, 7c and 11 etc. of Tran-1 and column 8 of Tran-2 declaration forms. The claims under table 5(c) are verifiable from the records available at the DVAT portal of Department of Trade and Taxes, while claims under other tables could not be verified from the DVAT-Portal. Audit requisitioned relevant physical records of 446 cases where credits of ₹ 430.21 crore were claimed under other tables of Tran-1 and Tran-2 forms, against which records of only six assesseees' claims amounting to ₹ 3.98 crore was provided. The claim of ₹ 426.23 crore in respect of the remaining 440 assesseees could not be verified due to non-production of records despite repeated requests, including at Secretary (Finance) level (**Annexure 1.5**).

1.3.7 Compliance issues

As per Section 140(1) of the DGST Act, 2017, a registered person, other than a person opting to pay tax under Section 10, shall be entitled to take in his ECL, credit of the amount of VAT 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 the registered person shall not be allowed to take credit in the following circumstances namely:

- (i) where the said amount of credit is not admissible as ITC under the Act;
or
- (ii) where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date;
or

Provided further that so much of the said credit as is attributable to any claim related to section 3, sub-section (3) of section 5, section 6, section 6A or sub-section (8) of section 8 of the Central Sales Tax Act, 1956 which is not substantiated in the manner, and within the period, prescribed in rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957 shall not be eligible to be credited to the ECL.

Audit verified the Transitional claims of 1411 GSTINs and noted that the taxpayers had carried forward irregular VAT credit in respect of 507 claims

amounting to ₹ 571.25 crore under **Table-1.3.1** of Tran-1. The deviations noted have been shown in the table category-wise:-

Table-1.3.1: Nature of Deviations

(₹ in crore)

Nature of deviations	Sample Selected		Audit Objection		Deviation %	
	No.	Amt. 5(c)	No.	Amt.	No.	Amt.
Inadmissible Input Tax Credit (ITC) carried forward (Annexure 1.6)	1411	1720.35	231	190.62	16.37	11.08
Excess carry forward of Input Tax Credit (Annexure 1.7)	1411	1720.35	202	269.23	14.32	15.65
Transitional credit claimed without filing legacy returns (Annexure 1.8)	1411	1720.35	50	104.52	3.54	6.08
Transitional credit carried forwarded by dealers registered under composition scheme in legacy Tax regime	1411	1720.35	1	0.96	0.07	0.06
Excess Transitional credit carried forward without deducting tax payable against pending Statutory Forms (Annexure 1.9)	1411	1720.35	23	5.92	1.63	0.34
Total	1411	1720.35	507	571.25	35.93	33.20

1.3.7.1 Inadmissible Input Tax Credit carried forward

As per section 9 (1) & (2) of the DVAT Act, 2004, a dealer who is registered or is required to be registered under this Act shall be entitled to a tax credit in respect of the turnover of purchases occurring during the tax period where the purchase arise in the course of his activities as a dealer and the goods are to be used by him directly or indirectly for the purpose of making sale which are liable to tax under section (3) or sales which are not liable to tax under section 7 of this Act. Further, no tax credit shall be allowed in the case of goods purchased from a person who is not a registered dealer.

Scrutiny of DVAT Returns for the period 2016-17 and 2017-18 revealed that 231 assesseees claimed inadmissible ITC amounting to ₹ 190.62 crore (**Annexure 1.6**). The 2A and 2B mismatch report of the assesseees revealed that assesseees have shown excess purchases as compared to the sale shown by its selling dealers and claimed inadmissible ITC in the DVAT Return. Thus, inadmissible VAT credit of ₹ 190.62 crore in 231 cases has been claimed by the assesseees in Tran-1 Form and further being credited to ECL.

The Department confirmed (March 2022) the facts and figures of 165 cases out of 231 cases and in 31 cases did not confirm the facts and figures, whereas no reply was received in 35 cases. It further stated that the demand had been raised in 10 out of 31 cases while another 10 cases (including two cases where facts and figures were confirmed by the Department) were in the central jurisdiction.

The reply is not satisfactory as recovery status of cases has not been furnished to audit where demand has been raised and the cases which pertain to central jurisdiction were registered under the DVAT Act and credit of VAT was carried forward as SGST under transitional provisions in the DGST Act.

1.3.7.2 Excess carry forward of Input Tax Credit

Audit noted that assessee had claimed excess credit of VAT in 202 cases of ₹ 269.23 crore (**Annexure 1.7**) as compared to balances of tax credit available in the VAT returns of first quarter of 2017-18 filed under the legacy tax regime.

The Department confirmed (March 2022) the facts and figures of 171 cases out of 202 cases and in six cases did not confirm facts and figures whereas, no reply was received in 25 cases. Further, the Department stated that eight cases (including three cases where facts and figures were confirmed by the Department) were in the central jurisdiction and two cases (one each from the cases where the Department confirmed the facts and figures and where the Department did not confirm the facts and figures) were cancelled.

The reply is not satisfactory as the reasons for cancellation has not been furnished and the cases which pertain to central jurisdiction were registered under the DVAT Act and credit of VAT was carried forward as SGST under transitional provisions in the DGST Act.

1.3.7.3 Transitional credit claimed without filing legacy returns

According to Section 140 (1) (ii) of the DGST Act, transition of credit from the legacy returns is permissible only when the taxpayer had filed all relevant returns for the period of six months immediately preceding the appointed day. Audit noted instances of taxpayers claiming transitional credit of ITC available in VAT return even though the returns required under the existing law have not been filed, which is contrary to the transitional credit provisions of the Act. Amount of credit transitioned without filing legacy return in 50 cases is ₹ 104.52 crore (**Annexure 1.8**).

The Department confirmed (March 2022) the facts and figures of 48 cases out of 50 cases and in one case did not confirm facts and figures, whereas no reply was received in one case. Further, the Department stated that in one case the same amount has been carry forwarded as per DVAT return (first quarter 2017-18) and as per TRAN-1 and in one case status of taxpayer is cancelled.

The reply is not acceptable as the taxpayers did not file the last six months' returns under legacy tax regime and were not eligible to carry forward the VAT credit under Transitional Provisions in the DGST Act and in respect of cancelled case the reason of cancellation was not submitted. Even though the registration was cancelled, yet the status of recovery should have been provided.

1.3.7.4 Transitional credit carried forwarded by dealers registered under composition scheme in legacy Tax regime

Section 140 (1) of the DGST Act, 2017 stipulates that a registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his ECL, credit of the amount of VAT 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.

Further a dealer, who elected to pay tax under section 16 of DVAT Act is not allowed to claim credit under section 9, section 14 and section 15 of DVAT Act as per subsection 5c of section 16 of said act.

Audit noted that assessee (GSTIN-07AACCS2475A1ZP/TIN-07730356109) was registered under section 16 of DVAT Act i.e. composition scheme for specified dealers and was not allowed to take credit of the amount of Value Added Tax. The assessee had claimed irregular transitional credit of ₹ 0.96 crore under table 5(c) of Tran-1 form.

The matter was reported (October 2021 and December 2021) to the Department and their reply is awaited (March-2022).

1.3.7.5 Excess Transitional credit carried forward without deducting tax payable against pending Statutory Forms

Section 140 (1) of DGST Act, 2017 stipulates 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 amount of Value Added Tax 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:

Further as per 2nd proviso of Section 140(1) it is provided that so much of the said credit as is attributable to any claim related to section 3, sub-section (3) of section 5, section 6, section 6A or sub-section (8) of section 8 of the Central Sales Tax Act, 1956 which is not substantiated in the manner, and within the period, prescribed in rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957 shall not be eligible to be credited to the electronic credit ledger: Provided also that an amount equivalent to the credit specified in the second proviso shall be refunded under the existing law when the said claims are substantiated in the manner prescribed in rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957.

However, audit noted that statutory Forms amounting ₹428.57 crore of 23 assessees for the year 2015-16 (**Annexure 1.9**) were pending, as per the Form-9 history available at DVAT portal, at the time of claiming the transitional credits in Tran-1 declaration form. Thus, effective tax of pending statutory forms not deducted from the VAT credit which was carried forward to the

Tran-1 as per transitional provisions of DGST act 2017, resulted in excess carried forward of transitional credit of ₹ 5.92 crore in Tran-1 (**Annexure 1.9**).

The Department confirmed (March 2022) the facts and figures of 11 cases out of 23 cases and in eleven cases did not confirm the facts and figures, whereas no reply was received in one case. Further, the Department stated that in 2 out of 11 cases in which facts and figures were confirmed by the Department there are no pending C forms and in 3 cases (where facts and figures were confirmed by the Department) demand has been raised.

The reply is not acceptable as the taxpayer availed the credit of the pending statutory forms at the time of carrying forward the transitional credit in 2017 which was contrary to the Transitional credit provisions. Moreover, status of recovery of demand raised against pending statutory forms was not furnished.

1.3.8 CGST claims

1.3.8.1 Excess amount credited to Electronic Credit Ledger over and above the amount claimed in Tran-1

As per Rule 117(3) of DGST Rules, 2017, the amount of credit specified in the Tran-1 application shall be credited to the ECL of the applicant maintained in Form GST PMT 2 on the common portal.

However, it is pertinent to mention that verification of the Tran-1 form of the assessee (GSTIN 07AABCT1296R1ZP) revealed that the taxpayer had claimed CGST transitional credit under Table 7.a.A and 7.b of Tran-1 of ₹ 6.43 crore, whereas the actual amount of ITC to the ECL under CGST was ₹ 6.61 crore. Therefore, the electronic credit ledger of the taxpayer was credited with excess input tax credit of ₹ 17.41 lakh over and above the credit claimed by the taxpayer as per Tran-1 return.

The matter was reported to the Department (September 2021) and the Department stated that the assessee is registered under central jurisdiction.

1.4 Compliance Audit on processing of refund claims under GST

1.4.1 Introduction

1.4.1.1 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 Goods and Services Tax (GST) laws aim to streamline and standardise the refund procedures under GST regime. It was decided that 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 till Circular No.17/17/2017-GST dated 15.11.2017 and Circular No.24/24/2017-GST dated 21.12.2017 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.

1.4.1.2 Further processing of those refund applications, i.e. issuance of acknowledgement, issuance of deficiency memo, passing of provisional/final refund orders, payment advice etc. was being done manually. In order to make the process of submission of the refund application electronic, Circular No. 79/53/2018-GST dated 31.12.2018 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.

1.4.1.3 The refund procedure was made fully electronic (wherein all the steps from submission of applications to processing thereof could be undertaken electronically) 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 18.11.2019. 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 15.11.2017, 24/24/2017-GST dated 21.12.2017, 37/11/2018-GST dated 15.03.2018, 45/19/2018-GST dated 30.05.2018 (including corrigendum dated 18.07.2019), 59/33/2018-GST dated 04.09.2018, 70/44/2018-GST dated 26.10.2018, 79/53/2018-GST dated 31.12.2018 and 94/13/2019-GST dated 28.03.2019 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. Certain other clarifications/circulars were also issued by the Board from time to time.

1.4.2 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 grant of refund.
- (ii) The compliance of extant provisions by the tax authorities and the efficacy of the systems in place to ensure compliance by taxpayers.
- (iii) Whether effective internal control mechanism exists to check the performance of the departmental officials in disposing the refund applications.

1.4.3 Scope of Audit

During field audit, the refund cases processed in the Delhi GST Department from July 2017 to July 2020 were examined during November 2020 to July 2021. Pan-India refund data was obtained from Goods and Service Tax Network (GSTN) and a sample of refund cases was extracted for detailed examination.

1.4.4 Sample Selection

In total, 613 refund cases relating to Delhi GST Department processed during July 2017 to July 2020 were selected for audit as below:

Pre-automation refund cases: 300 high value pre-automation refund cases were selected, based on the refund amount claimed by the taxpayers.

Post-automation refund cases: 313 post-automation refund cases were selected using risk parameters such as refund amount claimed (60 *per cent* weightage), delay in sanctioning refund (15 *per cent*), refund sanctioned/refund claimed ratio (10 *per cent*) and deficiency memo issued (15 *per cent*).

1.4.5 Legal Provisions

The following Sections/Rules/notifications provide the guidelines/procedure for claiming the refunds and are the sources of audit criteria:

- a) Section 54 to 58 and Section 77 of the Delhi GST Act, 2017.
- b) Rule 89 to 97A of the Delhi GST Rules, 2017.
- c) Section 15, 16 and 19 of Integrated Goods and Services Tax Act, 2017.
- d) Notifications/circulars issued by Central Board of Indirect Taxes (CBIC) and Delhi GST Department.

1.4.6 Audit Observations

Results of Audit: Audit results are categorized corresponding to the audit objectives. Significant observations noticed during audit and included in this report are summarised in **Table-1.4.1**:

Table-1.4.1: Details of significant audit observations

(₹ in crore)

Nature of audit findings	Audit sample		Records received		Number of deficiencies noticed		Deficiencies in percentage of sample
	Number	Amount	Number	Amount	Number	Amount	
Acknowledgment not issued within time	613	220.04	512	176.61	233	---	45.51
Refund orders not sanctioned in time	613	220.04	512	176.61	167	---	32.62
Provisional refund not sanctioned within time	244	134.02	232	128.99	14	---	6.03
Provisional refund not sanctioned	244	134.02	232	128.99	160	82.63	68.97
Irregular grant of provisional refunds	301	72.12	256	57.87	3	0.95	1.17
Excess sanction of refund	613	220.04	512	176.61	191	22.45	37.30
Delay in communicating refund orders to counterpart tax authority	300	140.04	5	4.58	1	---	20
Delay/non-conducting of post audit of refund claims	613	220.04	512	176.61	512	---	100
Sanction of refund without checking the status of filing of returns/required documents etc.	613	220.04	512	176.61	346	88.30	34.18
Non-production of records	613	220.04	512	176.61	101	43.43	19.73
Miscellaneous observations							
(i) Non-credit of the amount of rejected refund claim in the electronic credit ledger	613	220.04	512	176.61	11	0.69	2.15
(ii) Excess payment of refund without adjustment of ₹ 39954	613	220.04	512	176.61	1	0.0040	0.19
(iii) Payment of refund on ineligible item to the tune of ₹ 95238	613	220.04	512	176.61	1	0.0095	0.19

To the extent that records were not received, Audit is unable to derive assurance with regard to the audit objectives

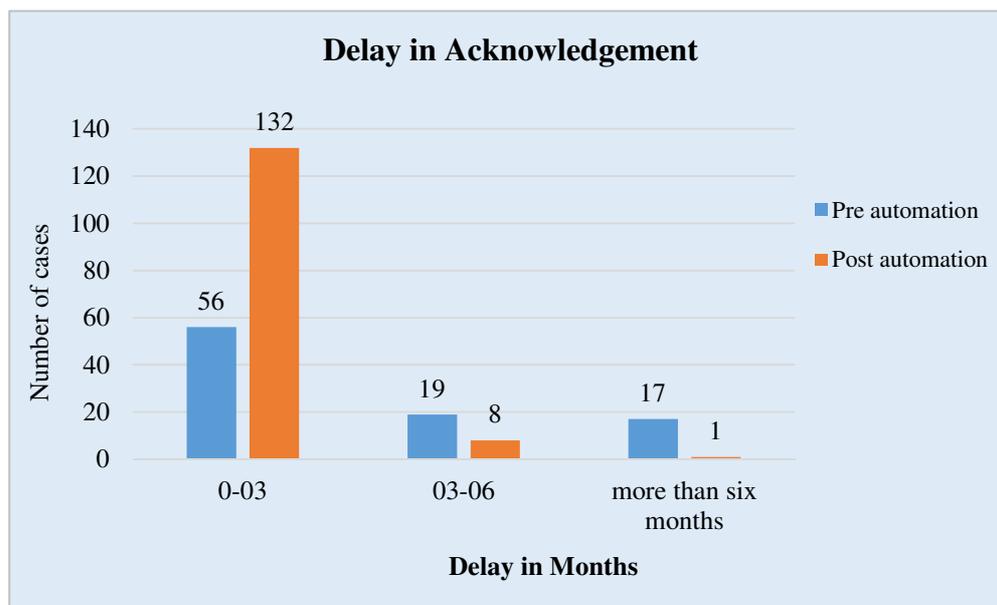
1.4.6.1 Acknowledgment not issued within time

Rule 90(1) of the Delhi GST Rules, 2017 provides that the acknowledgment shall be issued within 15 days of filing of refund claim with the proper officer, if the application is found complete in all respects. In case of pre-automation cases the stipulated period of 15 days will be counted from the date of manual submission of refund application along with all specified documents.

During audit of 199 pre-automation refund cases furnished⁶ by the Delhi GST Department, it was noticed that in 92 refund cases there were delays in issue of acknowledgement ranging from one to 723 days (**Annexure 1.10**).

During audit of 313 post-automation refund cases, it was noticed that there were delays in issuing of acknowledgement in 141 cases. The range of delays was from one to 217 days (**Annexure 1.11**).

Chart 1.4.1: Delay in issue of acknowledgement of Pre-automation and Post- automation refunds



The Department, confirmed (December 2021) the facts and figures in 214 cases out of 233 cases (92 pre-automation and 141 post-automation cases) and in 18 cases did not confirm the facts and figures, while reply was not received in one case. Further, the Department stated that the delays were due to refund issued after detailed examination, the matter was dealt in other ward, taxpayer could not submit the required documents in time, Lok Sabha election duty/frequent transfers/Covid -19 outbreak, refund issued in time (within 60 days) and glitches in system.

The reply of the Department is not acceptable as the law specified the timelines for each stage of refund and that the acknowledgement to be issued within 15 days.

1.4.6.2 Refund orders not sanctioned in time

Section 54(7) of the Delhi GST Act, 2017 provides that the proper officer shall issue the order under sub-section (5) within sixty days from the date of receipt of application complete in all respects.

During audit of 199 pre-automation refund cases of Delhi GST Department, it was noticed that in 104 cases, there were delays in sanctioning of refunds

⁶ Details of non-production of records are mentioned in para no. 6.10.

ranging from 2 to 901 days. Further, the Department did not pay interest due under Section 56 of the Act of ₹ 2.50 crore for belated payment of refunds to the tax payers (**Annexure 1.12**).

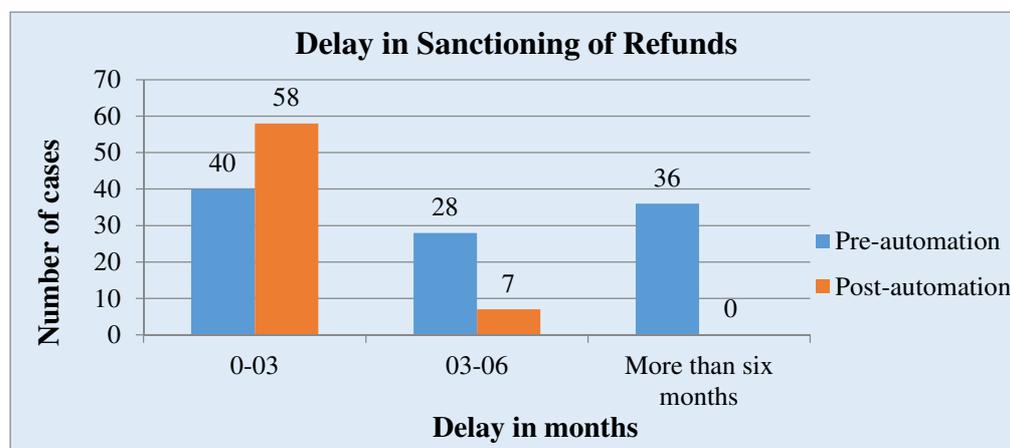
During audit of 313 post-automation refund cases of Delhi GST Department, it was noticed that in 63 cases, there were delays in sanctioning of refunds ranging from 2 to 172 days. Further, for belated payment of refunds, the Department did not pay interest due under Section 56 of the Act of ₹ 14.79 lakh to the tax payers (**Annexure 1.13**).

The Department confirmed (December 2021) the facts and figures in 134 cases out of 167 cases (104 pre-automation and 63 post-automation cases) and in 31 cases did not confirm the facts and figures, while reply was not received in two cases. Further, the Department stated that the delays were due to refund issued after detailed examination, the matter dealt in other wards, taxpayers could not submit the required documents in time, Lok Sabha election duty/frequent transfers/Covid -19 outbreak and glitches in system.

The reply is not acceptable as this time limit is a statutory requirement.

Delay in sanction of pre-automation and post-automation refund cases is depicted in **Chart-1.4.2**.

Chart-1.4.2: Delay in sanctioning of Pre-automation and Post-automation refunds



1.4.6.3 Provisional refund on account of zero-rated supply

Section 54(6) of Delhi GST Act, 2017 provides for provisional refund of 90 per cent of the total amount claimed. Further, Rule 91 of the Delhi GST Rules, 2017 provides that provisional refund on account of zero rated supply shall be granted within seven days of acknowledgement subject to fulfillment of certain conditions.

During audit of pre-automation refund cases of Delhi GST Department related to zero-rated supply, it was noticed that out of the selected 300 cases, 137 cases

were processed on account of zero-rated supply of goods or services or both. Out of 133 cases furnished to audit, in 93 cases the following was noticed:

(i) **Provisional refund not sanctioned within time**

In 14 cases, there were delays in sanction of the provisional refunds of ₹ 8.66 crore ranging from 7 to 230 days (**Annexure 1.14**).

(ii) **Provisional refund not sanctioned**

In 79 cases of zero-rated supply of goods, provisional refund was not sanctioned against the total claimed amount of ₹ 49.27 crore (**Annexure 1.14**).

The Department confirmed (December 2021) the facts and figures in 77 cases out of 93 cases and in 13 cases did not confirm the facts and figures, while reply was not received in three cases. Further, the Department stated that the delays were due to refund issued after detailed examination, refund issued within 60 days, the matter dealt in other wards, taxpayers could not submit the required documents in time, Lok Sabha election duty/frequent transfers/data not available on GSTN portal and glitches in system.

During audit of post-automation refund cases of Delhi GST Department related to zero-rated supply, it was noticed that out of the selected 313 cases, 97 cases were processed on account of zero-rated supply of goods or services or both. Out of these 97 cases, in 81 cases provisional refund was not sanctioned against the total claimed amount of ₹ 33.36 crore (**Annexure 1.15**).

The Department confirmed (December 2021) the facts and figures in 74 cases out of 81 cases and in five cases did not confirm the facts and figures, while reply was not received in two cases. Further, the Department stated that the delays were due to the matter dealt in other wards, taxpayers could not submit the required documents in time, frequent transfers/covid outbreak, refund issued on time, refund issued after detailed verification and SCN/RFD-03 issued.

The replies are not acceptable as the law mandates grant of provisional refund within seven days. The 60 days limit is for completion of the total process of granting the refund.

1.4.6.4 Irregular grant of provisional refunds

As per section 54(6) of Delhi GST Act, 2017, in the case of any claim for refund on account of zero rated supply of goods or services or both made by registered persons, 90 *per cent* of refund claimed may be sanctioned on a provisional basis and thereafter an order made under sub section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant. Thus, sanction of provisional refund is allowed on account of zero rated supply of goods and/or services and not in other categories.

During the audit of records relating to refund cases, it was noticed that the Department had issued provisional refund of ₹ 95.37 lakh (90 *per cent*) to one

taxpayer (pre-automation refund cases) on account of inverted duty structure, which was different from zero rated supply of goods or services. This resulted in irregular provisional refund of ₹ 95.37 lakh issued by the Department (**Annexure 1.16**).

The Department confirmed (December 2021) the facts and figures in all three cases.

1.4.6.5 Excess sanction of refund

As per Section 54 of the Delhi Goods and Services Act, 2017, refund of unutilized input tax credit (ITC) can be claimed by a registered person at the end of any tax period. Further, in terms of Para 36 of Circular No. 125/44/2019 – GST dated 18.11.2019 of Central Board of Indirect Taxes and Customs, applicants for refunds of unutilized ITC, i.e. refunds pertaining to unutilized ITC on account of exports without payment of tax, refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax and refund of unutilized ITC on account of accumulation due to inverted tax structure, shall have to upload a copy of FORM GSTR-2A for the relevant period (or any prior or subsequent period/s in which the relevant invoices have been auto-populated) for which the refund is claimed. The proper officer shall rely upon FORM GSTR-2A as evidence of the accountal of the supply by the corresponding supplier/s in relation to which the ITC has been availed by the applicant.

Also, in the interest of Government Revenue, while allowing refund, the proper officer should consider the minimum of the ITC claimed out of the amount of ITC reflected in the GSTR-2A, GSTR-3B, RFD-01 and Statement-1A. Similarly, the adjusted total turnover should be the maximum of the GSTR-1, GSTR-3B, RFD-01 and Statement-1A.

During audit of GST refund cases (pre-automation) it was noticed that in 71 refund cases, the Department sanctioned refund amount of ₹ 44.60 crore against the permissible refund amount of ₹ 32.86 crore. This led to excess allowance of refund of ₹ 11.74 crore (**Annexure 1.17**).

Further, scrutiny of 313 selected GST post-automation refund cases, it was noticed that in 120 cases, the Department sanctioned refund amounting to ₹ 32.28 crore against the permissible refund of ₹ 21.57 crore; this led to excess sanction of refund amounting to ₹ 10.71 crore (**Annexure 1.18**).

Illustrative examples:

1. Zero rated supply

Zero rate of supply			
GSTIN	ARN	Period of refund	Refund Claimed in (₹)
07AAFCA1440A1ZH	AA070120057405P	Nov-19	7342542
Turnover of zero rate of supply of goods and services (₹)			60016516
Adjusted total turnover (₹)			
GSTR1	GSTR3B	RFD01	Maximum Amount to be considered
275826040	275826040	275826040	275826040
Net Input Tax Credit (ITC) (₹)			
as per GSTR-2A	as per GSTR-3B	as per RFD-01	Minimum Amount to be considered
32092533	33750781	33745115	32092533
Allowable Refund Amount = (Turnover of zero rate of supply of goods) x Net ITC ÷ Adjusted Total Turnover			(60016516×32092533)/275826040
Refund Sanctioned in (₹)			Excess of Refund
7296576			6982959
			Refund Sanctioned -Allowable Refund
			313617

2. Inverted duty structure

GSTIN	ARN	Period of refund	Refund Claimed in (₹)	
07AAGCM6855J1Z0	AA0711186055491	Nov-18	2595421	
Turnover of inverted rate of supply of goods and services(₹)		Tax payable on such inverted rated supply of goods and services (₹)		
14380496		1793960		
Adjusted total turnover (₹)				
GSTR 1	GSTR 3B	RFD 01A	Statement-1A	Maximum Amount to be considered
14380496	14380496	14380496	14380496	14380496
Net Input Tax Credit (ITC) (₹)				
as per GSTR-2A	as per GSTR-3B	as per RFD-01	Statement-1A	Minimum Amount to be considered
1972538	4389381	4389381	1907796	1907796
Allowable Refund Amount = (Turnover of inverted of supply of goods) x Net ITC ÷ Adjusted Total Turnover - Tax payable on such inverted rated supply of goods and service				
{(14380496×1907796)/14380496}-1793960= 113836				
Refund Sanctioned in (₹)		Excess of Refund		
2595421		113836		
		2481585		

The Department confirmed (December 2021) the facts and figures in 164 cases out of 191 cases (71 pre-automation and 120 post-automation cases) and in 22

cases did not confirm the facts and figures, while reply was not received in five cases.

Further, the Department stated that the dealer must have submitted clarification for less input in GSTR-2A, the purchase might reflect in the succeeding month due to filing of returns by the supplier, refund sanctioned as per annexure-B, ITC available in taxpayers account, the matter was dealt in other wards, taxpayers could not submit the required documents in time and data not available on GSTN portal.

The reply is not acceptable, as circulars No. 79/53/2018-GST dated 31.12.2018 and No. 125/44/2019-GST dated 18.11.2019 state that “the self certified copies of invoices in relation to which the refund of ITC is being claimed and which are declared as eligible for ITC in Annexure-B, but which are not populated in FORM GSTR-2A, shall be uploaded by the applicants alongwith the application in FORM GSTR RFD 01”. However, Annexure-B alongwith self certified copies of invoices were not uploaded on the GSTN portal with GSTR-RFD01 and were also not found in files. The refund is to be calculated by considering the minimum of the ITC claimed out of the amount of ITC reflected in GSTR-2A/GSTR-3B/RFD-01 and statement-1A and adjusted total turnover should be taken as maximum of the GSTR-1/GSTR-3B/RFD-1 and statement-1A. The changing of jurisdiction is an internal matter of the Department. Proper officer should have issued RFD-03 (deficiency memo) for any shortcomings in the required documents.

1.4.6.6 Delay in communicating refund orders to counterpart tax authority

As per Board circular No. 24/24/2017 GST DT 21/12/2017, refund order issued either by a central tax authority or a state tax/UT tax authority shall be communicated to the concerned counterpart tax authority within seven working days for the purpose of payment of relevant sanctioned amount of tax or cess as the case may be. It was also reiterated therein to ensure adherence to the time lines specified under Section 54(7) and Rule 91(2) of the Delhi GST Act and Rules respectively for sanction of refund orders.

The Department was requested (August 2021) to furnish information of the selected 199 pre-automation cases relating to the transmission of refund sanctioned order cases to their counterpart Central GST authority.

The Department stated (September 2021) that in five cases it had issued sanction orders to the Central GST Authority. Further, audit noted that out of five cases, in one case involving ₹ 1.67 crore, there was a delay of eight days.

Information in respect of the remaining 194 cases was awaited (May 2022).

1.4.6.7 Delay/non-conducting of post audit of refund claims

The CBEC circular No.-17/17/2017-GST dated 15/11/2017 elaborately laid down the procedure for manual processing of refunds of zero rated supplies. The circular *inter-alia*, stipulated that, the pre-audit of manually processed refund applications is not required till separate detailed guidelines are issued by Board, irrespective of the amount involved. However, it was clarified that the post audit of refund order shall be continued as per the extant guidelines.

This procedure was extended to all types of refund applications processed manually vide CBIC circular number 24/24/2017 dated 21 December 2017.

The Department was requested (August 2021) to furnish information relating to the post audit of selected refund sanction order cases (300 pre-automation and 313 post-automation); however, the relevant information was awaited (May 2022) from the Department.

Thus, non-conducting of post audit, apart from resulting in non-adherence to Board's instructions, may also lead to possible loss of revenue to the exchequer.

1.4.6.8 Sanction of refund without checking the status of filing of returns/ required documents etc.

As per CBIC's Circular No. 125/44/2019 – GST (Annexure-A) dated 18 November, 2019, for claiming refund under GST, a tax payer was required to file applications in Form GST RFD-01A, along with all supporting documents.

During audit of the selected 512 (199 pre-automation and 313 post-automation) refund cases, the following was noticed:

- (i) In 167 cases involving claim of refund amounting to ₹ 51.14 crore, refund was issued even though the tax payer did not submit the copy of GSTR-2A return with the refund application (**Annexure 1.19**).
- (ii) In 175 cases involving claim of refund amounting to ₹ 36.77 crore, refund was issued without verifying the required documents e.g. CA Certificate, Undertaking etc. in relation to sections 16(2)(c) and section 42(2) (**Annexure 1.20**).
- (iii) In 4 cases involving claim of refund amounting to ₹ 39.07 lakh, refund was issued without checking the status of filing of GSTR-1 return (**Annexure 1.21**).

The Department stated (December 2021) that while processing refund claims, GSTR-2A of the relevant periods have been verified and in the online cases, dealer submitted it physically. Reply in respect of para no. 2 and 3 was not furnished.

The Department's reply is not acceptable since submission of print-out in offline mode was mandatory and in online cases, form GSTR-2A is to be uploaded on the GST portal.

1.4.7 Miscellaneous observations

1.4.7.1 Non-credit of the amount of rejected refund claim in the electronic credit ledger

Rule 93 of the Delhi GST Rules, 2017 provided that where any deficiencies have been communicated under Rule 90(3), the amount debited under Rule 89(3) shall be re-credited to the electronic credit ledger. Where any amount claimed as refund is rejected under Rule 92, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in FORM GST PMT-03.

During the audit of GST refund, 512 cases (199 pre-automation and 313 post-automation) were examined and it was observed that in 11 cases of post-automation the proper officer rejected an amount of ₹ 0.69 crore against the claimed refund amount of ₹ 9.30 crore. However, the rejected amount was not re-credited to the electronic credit ledger of the respective taxpayer (**Annexure 1.22**).

The Department confirmed (December 2021) the facts and figures in all 11 cases.

1.4.7.2 Excess payment of refund without adjustment of ₹ 39954

As per Delhi GST Rule 92(IA), where, upon examination of the application of refund of any amount paid as tax other than the refund of tax paid on zero-rated supplies or deemed export, the proper officer is satisfied that a refund under sub-section (5) of section 54 of the Act is due and payable to the applicant, he shall make an order in FORM RFD-06 sanctioning the amount of refund to be paid.

The refund should not be paid in excess as sanctioned by the competent authority. However, during the scrutiny of online records of GST refund cases, it was noticed that two⁷ taxpayers applied for refund of ₹ 22,98,912 on ITC for the month of November/December 2018-19 due to inverted tax structure. The competent authority sanctioned refund amount of ₹ 22,58,958 against the above applied refund. However, the sanction order (RFD-6) was issued for an amount of ₹ 22,98,112 which resulted in excess refund of ₹ 39,954 (₹ 22,98,912 - ₹ 22,58,958) allowed to the taxpayers.

The matter was reported to the Department in September 2021; their reply was awaited (May 2022).

1.4.7.3 Payment of refund on ineligible item to the tune of ₹ 95238

Scrutiny of records revealed that one⁸ taxpayer claimed refund of ₹ 95,238 on payment of tax for sale of flat during the financial year 2019-20 and the same

⁷ (i) GSTIN-07AAFPP7742K1Z9/ ARN-AA0712190455833 and (ii) GSTIN-07AARFV0873F1ZT/ ARN-AA070120015738K

⁸ GSTIN No. 07BXTPP6309Q1ZE

amount was allowed by the competent authority. It was observed that the flat was not associated with the business purpose of the assessee. Hence, refund of tax was allowed on ineligible items. This resulted in excess refund of ₹ 95,238. Besides, applicable interest was also leviable.

The matter was reported to the Department in September 2021; their reply was awaited (May 2022).

1.4.8 Non-production of records

During the audit of GST refund cases, 300 pre-automation refund cases were requisitioned for test check. However, the Department furnished records in respect of 199 refund cases only. Records in respect of 10 cases were not furnished to audit, while refunds records in respect of the remaining 91 cases, the following reasons were given by the Department:-

- (a) In 19 cases, Department replied that the taxpayer had not submitted the refund application and relevant document physically to the Department.
- (b) In 28 cases, the Department replied that relevant records are not traceable/ available.
- (c) In 37 cases, the Department replied that the refund has not been sanctioned/issued.
- (d) In seven cases, the Department replied that refund cases were rejected by the Department/on the request of dealers (**Annexure 1.23**).

1.4.9 Conclusion

The audit of refund cases was conducted to check the efficiency of the Department in disposing the refund applications and sanctioning of refund orders in time. Audit noted that there was delay in issue of acknowledgement in respect of pre-automation and post-automation refund cases which ranged between 1 to 723 days and 1 to 217 days respectively. Inordinate delay was also noticed in 167 cases where refund orders were not sanctioned in time. The Department had made irregular provisional refund of ₹ 95.37 lakh and also sanctioned excess refund of ₹ 22.45 crore in 191 cases.

1.4.10 Recommendations

- Department should take effective steps for timely acknowledgement and processing of refund applications.
- Timely action should be taken for issuing provisional refunds in case of refunds due to zero rated supplies.
- Due care should be taken while sanctioning the refund to the eligible dealers/taxpayers.

1.5 Irregular claim of Input Tax Credit

The Assessing Authorities allowed Input Tax Credit of ₹ 83.85 lakh to the assesseees without verifying the details of tax deposited by the selling dealers, which resulted in short levy of tax of ₹ 67.91 lakh. In addition, interest of ₹ 49.97 lakh and penalty of ₹ 67.91 lakh were also leviable.

Section 9 (2) (g) of the Delhi Value Added Tax (DVAT) Act, 2004 stipulates that no tax credit shall be allowed to a dealer or class of dealers unless the tax paid by the purchasing dealer has actually been deposited by the selling dealer with the Government or has been lawfully adjusted against output tax liability and correctly reflected in the return filed for the respective tax period. Section 86 (10) of the DVAT Act stipulates that any person who furnishes a return under this Act which is false, misleading or deceptive in a material particular shall be liable to pay by way of penalty a sum of ten thousand rupees or the amount of tax deficiency, whichever is greater. Interest shall also be liable under Section 42 (2) of the DVAT Act for default in making the payment of any amount.

Audit scrutiny of records (between May 2019 and January 2020) of five wards⁹ revealed that seven assesseees filed their quarterly returns along with summary of purchases (Annexure-2A) for the assessment years 2015-16 and 2016-17. As per purchase summary of these assesseees available on online portal of the Department of Trade and Taxes for the assessment years 2015-16 and 2016-17, the assesseees claimed Input Tax Credit (ITC) of ₹ 83.85 lakh on local purchases of ₹ 11.12 crore. However, on cross verification from the sales summary (Annexure-2B), it was found that the selling dealers had shown sales of only ₹ 2.09 crore to the assesseees and output tax of ₹ 15.94 lakh was paid for the respective tax periods. This implies that the assesseees had shown irregular local purchase in the Annexure-2A and claimed inadmissible ITC.

Thus, failure of the Assessing Authorities in verifying the details of tax deposited by the selling dealers during assessments between June 2016 and March 2018 resulted in short levy of tax of ₹ 67.91 lakh (₹ 83.85 lakh - ₹ 15.94 lakh). In addition, interest of ₹ 49.97 lakh which is calculated upto 31 May 2021 and penalty of ₹ 67.91 lakh was also leviable.

The Government stated (between August 2020 and October 2021) that all the assesseees have been re-assessed and an additional demand of ₹ 1.64 crore has been raised. Moreover, recovery proceedings in four cases have been initiated while in one case, the assessee has filed an objection against the demand raised.

Actual recovery of ₹ 1.64 crore was awaited (May 2022).

⁹ Wards- 1, 62, 71, 84 and 90

1.6 Interest not levied on additional demand of tax

Assessing Authority failed to levy interest of ₹ 6.91 crore on additional demand of tax.

Section 42(2) of the Delhi Value Added Tax (DVAT) Act, 2004 stipulates that when a person is in default in making the payment of any tax, penalty or other amount due under this Act, he shall, in addition to the amount assessed, be liable to pay simple interest on such amount at the annual rate notified by the Government from time to time, computed on a daily basis, from the date of such default for so long as he continues to make default in the payment of the said amount. The Government notified (April 2005) the annual rate of interest @ 15 per cent for the purpose of the said Section.

Scrutiny of assessment records (between December 2019 and January 2020) of ward 87 for the year 2016-17 revealed that the assessments of four assessees¹⁰ were completed between September 2017 and November 2017. The assessment orders revealed that Assessing Authority (AA) while assessing these cases disallowed Input Tax Credit (ITC) and raised an additional demand of tax of ₹ 10.40 crore as on the notice of AA, none appeared nor any representation was received in all the four cases, on behalf of the firms to justify the input tax credit availed. However, audit noted that AA failed to levy the interest on additional demand of ₹ 10.40 crore, which resulted in not levying of interest of ₹ 6.91 crore from the date of such default i.e. for the period between 22 July 2016 to 31 May 2021.

The Government stated (September 2021) that recovery proceedings have been initiated against the dealers by issuing recovery certificates but additional tax and interest has not been realised so far. As per the recovery certificates issued (between July and September 2021), interest of ₹ 7.65 crore was calculated/levied by the assessing authority.

1.7 Failure to recover demands of tax, interest and penalty

The Department failed to recover demands of ₹ 87.74 crore from the assessees whose registrations had been cancelled.

Sections 32(2) and 33(2) of the Delhi Value Added Tax (DVAT) Act, 2004 and Section 9(2) of the Central Sales Tax (CST) Act, 1956 provides that the amount of additional tax is due and payable on the same date as the date on which the net tax for the tax period was due. Further, penalty assessed is due and payable on the date on which the notice of assessment is served by the Commissioner. Any amount of tax, interest or penalty, composition money or other amount due under this act which remains unpaid even after the due date shall be recoverable under Section 43 of DVAT Act. Further, Section 22(9) of DVAT Act stipulates that the cancellation of registration shall not affect the liability of any person to

¹⁰ TIN No. 07777226010, 07597226012, 07507226013 and 07777121638

pay tax due for any period and unpaid as on the date of such cancellation or which is assessed thereafter notwithstanding that he is not otherwise liable to pay tax under this Act. Interest shall also be leviable under the Section 42(2) of DVAT Act for default in making the payment of any amount.

Scrutiny of records of seven wards¹¹ for the year 2012-13 to 2016-17 revealed (between July 2019 and March 2020) that the assessments of 22 assessees¹² were completed (between September 2014 and March 2019) under Section 32 and 33 of the DVAT Act and Section 9(2) of the CST Act by raising additional demands of ₹ 71.15 crore (tax ₹ 42.55 crore; interest ₹ 15.66 crore and penalty ₹ 12.94 crore) though their registrations had already been cancelled between January 2014 and September 2017 by the Department. The assessees were directed to deposit the demands within a stipulated time period mentioned in the assessment orders. In cases where the demands were not deposited within the prescribed time period, the Department was to initiate proceedings for recovery of tax, interest and penalty by issuing recovery certificates under Section 43 of DVAT Act.

However, audit noted that even after a lapse of 10 months to 53 months, the Department did not taken any action for realising the demands against the assessees. As a result of which revenue amounting to ₹ 87.74 crore i.e. (tax ₹ 42.55 crore; interest ₹ 32.25 crore which is calculated up to 31 May 2021 and penalty ₹ 12.94 crore) could not be realised.

The Government stated (between August 2020 and October 2021) that the recovery certificates/writs of demand have been issued in 20 cases and bank attachments under Section 139 of Delhi Land Reform Act 1954 have also been initiated in five out of these 20 cases. Further, in one case¹³ it also added that recovery notice was forwarded to the principal place of business of assessee and residential address through speed post, but the receiver was not found on the available address. Bank details were also not available in the dealer profile. In other case¹⁴, the Government stated that additional demand was deposited by the assessee but the reply is not satisfactory as the challans shown in quarterly returns (DVAT-16) vide which the amount was deposited relates to net tax payable. However, the fact remains that demands of ₹ 87.74 crore have not been recovered from the assessees till May 2022.

¹¹ Ward No. 1, 8, 45, 87, 101, 102 and 107.

¹² TIN: 07830395824, 07300272586, 07477107350, 07250473937, 07790406031, 07960478348, 07026969103, 07366956500, 07946937880, 07777226010, 07597226012, 07507226013, 07777121638, 07180138889, 07146941004, 0740202252, 07427133228, 07336937650, 07866934206, 07157124792, 07190440311 and 07100256206.

¹³ TIN: 07100256206

¹⁴ TIN: 07140202252

1.8 Irregular allowance of concessional rate of tax against invalid statutory 'C' forms

The Assessing Authority allowed concessional rate of tax on inter-state sale of ₹ 6.78 crore to an assessee against invalid statutory 'C' forms which resulted in short levy of tax of ₹ 20.33 lakh. In addition, interest of ₹ 19.96 lakh and penalty of ₹ 20.33 lakh were also leviable.

Section 8(1) of the Central Sale Tax (CST) Act, 1956 provides that every dealer, who in the course of inter-state trade or commerce, sells to a registered dealer, shall be liable to pay tax under this Act, which shall be two *per cent* of his turnover or at the rate applicable to the sale or purchase of such goods inside the appropriate State under the sales tax law of the State, whichever is lower. Section 8(4) of the CST Act, 1956 provides that a declaration, duly filled and signed by the purchasing dealer, is required to be furnished by the selling dealer to the prescribed authority. Otherwise, the dealer shall be liable to pay tax on inter-state trade at the rate applicable to the sale or purchase of such goods inside the State under Section 8(2) of CST Act. Further, Section 86 (10) of Delhi Value Added Tax (DVAT) Act, 2004 stipulates that any person who furnishes a return under this Act which is false, misleading or deceptive in a material particular shall be liable to pay, by way of penalty, a sum of ten thousand rupees or the amount of tax deficiency, whichever is the greater. Interest shall also be payable under Section 42(2) of the DVAT Act for default in making the payment of any amount.

Scrutiny of records of ward-207 revealed (between July 2019 and August 2019) that quarterly returns filed by an assessee¹⁵ for the assessment year 2014-15 were assessed between August 2015 and October 2018. The online sale summary and details of statutory forms received from the purchasing dealers in Form-9 reflected that the assessee had made inter-state sale of ₹ 6.78 crore against seven statutory 'C' forms for which concessional rate of tax at the rate of two *per cent* was paid. However, cross-verification from online data of Commercial Tax Department, Government of Rajasthan showed that these seven statutory forms were already declared invalid. Thus, the concessional rate of tax claimed by the assessee against these seven statutory forms was irregular which resulted in short levy of tax of ₹ 20.33 lakh. Besides, interest of ₹ 19.96 lakh (calculated up to 31 May 2021) and penalty of ₹ 20.33 lakh were also leviable.

The Government stated (September 2021) that default assessment has been made and a demand of ₹ 59.69 lakh (calculated on proportionate basis, tax- ₹ 20.33 lakh, interest- ₹ 19.03 lakh and penalty- ₹ 20.33 lakh) has been created against the dealer vide rectification order dated 16 and 19 July 2021. The demand could not be recovered, so far, as the dealer had filed a petition of

¹⁵ JJ POLY IMPEX, TIN No. 07720330943

insolvency and bankruptcy before the National Company Law Tribunal, Mumbai Bench, but the case had been dismissed for non-prosecution on 21 September 2021. Therefore, the recovery against the dealer has now been initiated.

Department of Transport

1.9 Short collection of fines from repeat traffic offenders

Levying fines on the offenders at the rate of first offence instead of at the rate applicable for the second and subsequent offence, resulted in short-collection of fines of ₹ 19.30 lakh. Besides, effect of compounding of fines to discourage repeat traffic offences was negated.

The Lieutenant Governor of National Capital Territory of Delhi vide notification No. F-19(95)/Tpt./Sectt./10/257 dated 20 December 2016 authorized the officers of the rank of Head Constable/Assistant Sub-Inspector and above of Delhi Traffic Police and of Transport Department, Government of National Capital Territory of Delhi (GNCTD) to compound traffic offences committed under the Motor Vehicles Act, 1988. To discourage repeat traffic offences, the notification also had provisions for increased fine for second or subsequent offence.

On the basis of records/data of the challans issued through the handheld communication devices made available to Audit (between December 2020 and January 2021) by Transport Department, it was found that there were 7,422 cases of repeat offences punishable under various Sections/Rules of Motor Vehicles Act, 1988/Central Motor Vehicles Rules, 1989/Delhi Motor Vehicles Rules, 1993/ Motor vehicles (Amendment) Act, 2019 during the year 2019-20. In all these cases, fines were paid by the offenders to the Transport Department. However, Audit noted that the necessary system modifications were not carried out in the handheld communication devices to incorporate provisions of the notification dated 20 December 2016 regarding increased fines for repeat offences and the fines were levied on the offenders at the rate of the 'first offence' instead of at the rate applicable for second and subsequent offence i.e. at the notified rate which was approximately twice or thrice as compared to the first offence. This resulted in short collection of fines of ₹ 19.30 lakh.

The Government stated (October 2021) that in 2016 all the challans were issued manually and there was no mechanism with the Enforcement officials to find out the 2nd or subsequent offences while issuing manual challans on road. The Motor Vehicle Act 1988 (amended) was notified on 01 September 2019. There was no compounding powers with challaning officers as per amended Act and there was no compounding fee charged by the Enforcement Branch. Further, all the challans were sent to court along with the details of previous or subsequent offence. It is purely a judicial matter to charge the penalty for second or subsequent offences. Now, National Informatics Centre has made

provisions in the application to identify the violator for second or subsequent offences and Enforcement Branch of Transport Department, is charging penalties for second or subsequent offences as per notification dated 14 March 2020.

The reply is not acceptable as the above mentioned cases were not sent to the courts as the fines charged by the Transport Department were paid directly by the traffic offenders. Further, the rates for second and subsequent offence were notified vide notification dated 20 December 2016, in which the officers of the rank of Head Constable/Assistant Sub-Inspector and above of Delhi Traffic Police and of Transport Department, GNCTD were authorised to compound traffic offences committed. Also, the amended Motor Vehicle Act, 1988 did not take away 'compounding powers' as claimed by the Department. Nevertheless the notification dated 20 December 2016, defined penalties not only for the first offence (which were being levied) but also for second and subsequent offences (which were not being levied).

Hence, levying fines on the offenders at the rate of first offence instead of at the rate applicable for the second and subsequent offence, resulted in short collection of fines of ₹ 19.30 lakh. Besides, the effect of compounding of fines to discourage repeat traffic offences was also not achieved.