

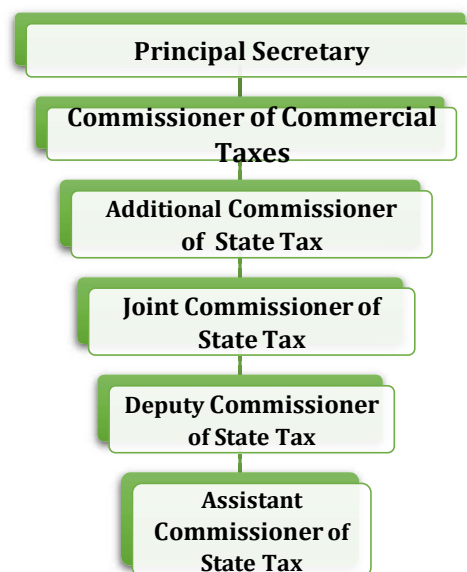
Chapter II

Value Added Tax, Central Sales Tax and Goods & Services Tax

2.1 Tax Administration

Commercial Taxes Department is one of the key revenue earning Departments in the Government of Telangana. The Department administers and collects revenue on goods and services under The Telangana Value Added Tax Act, 2005 (VAT Act), The Central Sales Tax Act, 1956 (CST Act), The Telangana Entertainment Tax Act, 1939, The Telangana Tax on Professions, Trades, Callings and Employment Act, 1987 apart from other minor Acts. After introduction of Goods and Services Tax with effect from 1 July 2017, the Commercial Taxes Department has been administering and collecting revenue on goods and services under the Telangana Goods and Services Tax Act, 2017 (GST Act).

Figure-2.1: Organogram



2.2 Trend of receipts

Actual receipts from State Tax Revenue (VAT, CST and GST) during the years 2017-18 to 2021-22 along with the total tax receipts during the same period is shown in **Table 2.1** below:

Table 2.1: Receipts from State Tax Revenue

(₹ in crore)

Year	Budget Estimates	Actual receipts	Variation excess (+) / shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual VAT / SGST receipts vis-a-vis total tax receipts
2017-18	46,500.00 [#]	38,179.39	(-) 8,320.61	(-) 17.89	56,519.81	67.55
2018-19	51,982.00	44,130.68	(-) 7,851.32	(-) 15.10	64,674.06	68.24
2019-20	47,789.00	44,191.12	(-) 3,597.88	(-) 7.53	67,597.49	65.37
2020-21	54,000.00	43,094.24	(-) 10,905.76	(-) 20.20	66,650.37	64.66
2021-22	57,500.00	55,890.70	(-) 1,609.30	(-) 2.80	91,271.38	61.24

Source: Finance Accounts

[#]GST implemented from 1 July 2017 and, hence the budget estimates pertained to only Taxes on sales under VAT&CST. However, the actual receipts include both Taxes on sales under VAT&CST and GST.

As seen from the above, VAT, CST and GST revenue contributes more than 60 per cent of the total tax revenue of the State. The percentage of these taxes to total tax receipts has ranged from 61 per cent to 68 per cent during the period 2017-22.

2.3 Cost of collection

The figures of gross collection of Commercial Taxes Department, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years from 2017-18 to 2021-22 are given in **Table 2.2** below:

Table 2.2: Cost of collection

(₹ in crore)

Head of revenue	Year	Gross collection	Expenditure on collection of revenue	Percentage of cost of collection to gross collection
VAT, CST and GST	2017-18	38,179.39	217.47	0.57
	2018-19	44,130.68	196.21	0.44
	2019-20	44,191.12	208.16	0.47
	2020-21	43,094.24	216.15	0.50
	2021-22	55,890.70	251.36	0.45

There was consistent increase in expenditure on collection of revenue from 2018-19. However, the percentage of expenditure to gross collection has not witnessed any major fluctuations from 2017-18 to 2021-22.

2.4 Impact of Audit

During the last five years, Audit pointed out non / short levy of tax, non / short realisation of tax, underassessment of tax, loss of revenue, incorrect exemption, concealment / suppression of turnover, application of incorrect rate of tax, incorrect computation *etc.*, with a revenue implication of ₹1,825.12 crore in 4,009 cases. Of these, the Department / Government accepted Audit observations in 704 cases involving ₹223.11 crore and recovered ₹1.98 crore. The details are shown in the following **Table 2.3**.

Table 2.3: Impact of Audit

(₹ in crore)

Year	No. of units audited	Objected		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2017-18	81	1,227	776.75	281	125.15	37	0.45
2018-19	73	1,084	538.93	278	75.02	28	0.37
2019-20	68	934	357.05	54	10.95	29	0.38
2020-21	8	52	2.98	49	6.76	24	0.45
2021-22	40	712	149.41	42	5.23	19	0.33
Total	270	4,009	1,825.12	704	223.11	137	1.98

As against the money value of ₹223.11 crore relating to the accepted cases during the period 2017-18 to 2021-22, a meagre amount of ₹1.98 crore (0.89 *per cent*) was recovered by the Department.

2.5 Working of Internal Audit wing

Internal Audit is an important part of internal control mechanism for ensuring proper and effective functioning of a system for detection and prevention of control weaknesses. As per orders issued by the Government of Telangana from time to time, the Accounts branch of the Commissionerate of Commercial Taxes is required to conduct internal Audit of the Regional Offices, District Offices, Unit Offices *etc.*, periodically (at least once in a year) and furnish reports to the Head of the Department. As per the Handbook on Financial Accountability developed by the Finance Department in collaboration with Centre for Good Governance, the Head of the Department should conduct internal audit of all Subordinate Controlling Officers or Unit offices at least to the level of district units every year to check all the accounts maintained by them. For this purpose, separate internal audit units should be created in the Department.

The Department of Commercial Taxes informed that it did not have an Internal Audit wing. It is recommended that the Government set up an Internal Audit wing in the Commissionerate to evaluate and improve the functions of the Commercial Tax Department.

2.6 Results of Audit

During 2021-22, test-check of the records of 40 offices of the Commercial Taxes Department relating to VAT, CST and GST revealed under assessments of tax and other irregularities involving ₹149.41 crore falling under the following categories.

Table 2.4: Category of Audit Observations on Revenue Receipts

(₹ in crore)

Sl.No.	Categories	No. of Audit Observations	Amount
1	Short levy of Tax on works contracts	17	15.90
2	Non-levy or short levy of interest and penalty	173	30.29
3	Excess claim or allowance of Input Tax Credit	104	12.73
4	Non-levy or short levy of Tax under VAT Act	231	64.30
5	Non-levy or short levy of Tax under Central Sales Tax (CST) Act	145	19.93
6	Other irregularities	39	4.61
7	Observations under Goods and Services Tax Act	3	1.65
	Total	712	149.41

During 2021-22, the Department accepted underassessments and other deficiencies of ₹5.23 crore in 42 cases which were pointed out in Audit prior to 2021-22. An amount of ₹0.33 crore was realised in 19 cases during the period 2021-22.

Significant cases involving non-compliance with the provisions of the Acts and Rules by the Assessing Authorities that resulted in non-levy / short levy of tax, penalty and interest to the extent of ₹53.63 crore¹ in 407 cases are discussed in the subsequent paragraphs.

2.7 Input Tax Credit

2.7.1 Excess allowance of Input Tax Credit due to incorrect restriction

Incorrect method of restriction of Input Tax Credit resulted in excess allowance of Input Tax Credit amounting to ₹1.23 crore

According to Telangana VAT Act, 2005 (VAT Act):

1. Input Tax Credit (ITC) is not allowed² on purchase of Taxable goods corresponding to sale of exempt goods and exempted sales³.
2. Where a VAT dealer makes consignment sale / branch transfers⁴ of goods for:
 - (a) **14.5 per cent goods:** ITC will be allowed in full up to 9.5 per cent portion of 14.5 per cent purchases, and on the balance five per cent portion of 14.5 per cent, purchases shall be restricted by applying formula⁵ and
 - (b) **5 per cent goods:** ITC will be restricted by applying formula⁶.
3. Where a VAT dealer makes taxable sales, exempt sales and also exempt transactions by using common inputs, ITC is allowed proportionately⁷.

Audit test checked (between December 2020 and March 2022) VAT assessments and VAT records for the period from 2013-14 to 2017-18⁸. In 21 cases pertaining to 14 circles⁹, ITC was not correctly restricted towards exempt sales and branch transfers / consignment sales, resulting in excess allowance of ITC of ₹1.23 crore.

In reply to Audit, four Assessing Authorities¹⁰ (AAs) in six cases stated that the files were submitted to Joint Commissioners (State Tax) concerned for revision / necessary action while Assistant Commissioner (State Tax) (AC(ST)), Malkajgiri-III in one case replied that the file would be sent to the Joint Commissioner (ST) (JC(ST)), Saroornagar division for revision. Two AAs¹¹ in three cases replied that notices would be issued to the dealers after examination of the issue and result would be intimated. Six AAs¹² in ten cases stated that

¹ This includes the cases prior to 2021-22 (2018-19 to 2020-21).

² Section 13(5) of Telangana VAT Act, 2005 read with Rule 20(7) of Telangana VAT Rules, 2005.

³ Such as Sales to Special Economic Zones (SEZs).

⁴ Section 13(6) of Telangana VAT Act, 2005 read with Rule 20(8) of Telangana VAT Rules, 2005.

⁵ $A*B/C$, where A is the input Tax for common inputs for each Tax rate, B is the Taxable turnover and C is the total turnover.

⁶ $A*B/C$, where A is the input Tax for common inputs for each Tax rate, B is the Taxable turnover and C is the total turnover.

⁷ Section 13(5) and (6) of Telangana VAT Act, 2005 read with Rule 20(9) of Telangana VAT Rules, 2005.

⁸ Up to June 2017.

⁹ ACs(ST) - Fathehnagar, Hydernagar-I, Hydernagar-II, Hydernagar-III, Jeedimetla-I, Jeedimetla-II, Madhapur-I, Madhapur-II, Malkajgiri-I, Malkajgiri-III, Mehdiapatnam-I, MG Road-SD Road, Nacharam-I and Saroornagar-III.

¹⁰ ACs (ST) - Fathehnagar, Nacharam-I, Malkajgiri-I and Saroornagar-III.

¹¹ ACs (ST) - Jeedimetla-I and Madhapur-I.

¹² ACs (ST)-Hydernagar-I, Hydernagar-II, Hydernagar-III, Jeedimetla-II, Madhapur-II and MG Road-SD Road.

the matter would be examined, and reply furnished in due course. AC(ST), Mehdiapatnam-I in one case replied that the revision of assessment was taken up by JC (ST) Charminar and passed order confirming the demand raised in audit.

The matter was referred to the Government (February 2023); reply has not been received.

Incorrect / non-restriction of ITC has been repeatedly highlighted in C&AG's Audit Reports. Repetition of these lapses indicate inadequate internal controls.

2.7.2 Excess / Incorrect allowance of Input Tax Credit (ITC)

Excess / incorrect allowance of input tax credit of ₹13.36 lakh

According to VAT Act¹³ read with Rule 17(2)(e) of Telangana VAT Rules, 2005 (VAT Rules), where any VAT dealer has opted to pay tax under composition scheme¹⁴, he is neither eligible to claim ITC on purchases made nor eligible to issue tax invoices. As per Section 13(3) of the VAT Act read with Rule 27(4) of the VAT Rules, ITC shall be claimed only against an original tax invoice.

Audit test checked (between January 2022 and March 2022) VAT assessments and VAT records for the period from 2014-15 to 2017-18¹⁵. In one case pertaining to Madhapur-II circle, the AA incorrectly allowed ITC based on the invoices issued by selling dealer who opted to pay tax by way of composition. In respect of two other dealers involved in trading of goods and execution of works contracts pertaining to two circles¹⁶, the AAs allowed ITC on the turnover pertaining to works contracts under composition scheme. This resulted in excess / incorrect allowance of ITC of ₹13.36 lakh.

In reply to Audit, AC (ST), Nacharam-I in one case stated that the audit file was forwarded to the JC (ST), Saroornagar division for revision. The AC (ST), Madhapur-II in one case replied that the matter would be examined, and reply furnished in due course. AC (ST), Jeedimetla-I in another case stated that notice would be issued to the dealer after examination of the issue.

The matter was referred to the Government (January 2023); reply has not been received.

Excess / incorrect allowance of input tax credit has been repeatedly highlighted in C&AG's Audit Reports. Repetition of these lapses indicate inadequate internal controls.

¹³ Section 13(5)(a) of Telangana VAT Act, 2005.

¹⁴ Under Section 4(7)(b) Telangana VAT Act, 2005.

¹⁵ Up to June 2017.

¹⁶ Jeedimetla-I and Nacharam-I.

2.7.3 Excess allowance of Input Tax Credit

Non-restriction of Input Tax Credit on the turnover of goods sold at the price less than purchase price resulted in excess allowance of input tax credit of ₹9.08 lakh

According to Section 13(1-A)¹⁷ of VAT Act, if goods were sold at a price lesser than the price of goods purchased by a VAT dealer, the amount of ITC shall be restricted to the amount of output tax.

Audit test checked (January 2021) the VAT assessments and VAT records for the year 2016-17 and observed in one case pertaining to AC (ST), Mehdiapatnam-I circle that even though sale price was less than the purchase price of the turnover during the period October 2016 to March 2017, ITC was not restricted to corresponding output tax. This resulted in excess allowance of ITC of ₹9.08 lakh.

In reply to Audit, the AA stated that the assessment file was submitted to the JC (ST), Charminar division for revision.

The matter was referred to the Government (December 2022); reply has not been received.

2.8 Short or Non-levy of Value Added Tax

2.8.1 Short levy of tax due to adoption of incorrect rate of tax

Application of incorrect rates resulted in short levy of tax aggregating to ₹5.10 crore

According to VAT Act¹⁸, every dealer shall pay tax on sale of taxable goods at the respective rates specified in Schedules III, IV and VI of the Act. Goods which are not covered under these Schedules fall under Schedule V, and are liable to be taxed at the rate of 14.5 *per cent*. Further, every hotel dealer whose annual turnover is ₹1.50 crore and above in respect of sale or supply of goods, being food and drinks served in restaurants, sweet-stalls, clubs, eating houses or by caterers etc., shall pay tax at the rate specified for Schedule-V¹⁹.

Audit test checked (between August 2018 and March 2022) VAT assessments and VAT records of 18 dealers in 10 circles²⁰ for the period from 2011-12 to 2017-18²¹ and noticed short levy of tax as mentioned below:

- i. 12 dealers had levied tax on commodities, viz., UPVC profiles, powder coat painting, cement storage tanks (manufacturing and fabrication), cranes, water purifier, broken glass, timber, plywood and laminates, pre-engineering building products, wood products, glycerin, fabrication of steel structures, etc., at the rate of five *per cent* although they attracted higher rate of 14.5 *per cent*.
- ii. Six hotel dealers whose annual turnover was more than ₹1.50 crore, sold taxable goods

¹⁷ Inserted *vide* Act No. 4 of 2015 and effective from 27 September 2016.

¹⁸ Section 4(3) of Telangana VAT Act, 2005.

¹⁹ Section 4(9)(c) of the Telangana VAT Act, 2005.

²⁰ ACs (ST) - Basheerbagh-Nampally, Hydernagar-I, Jeedimetla-I, Madhapur-III, Mahabubnagar, Mehdiapatnam-I, Malakpet-I, Nacharam-I, Saroornagar-III and Tarnaka-II.

²¹ Up to June 2017.

at the rate of five *per cent* instead of 14.5 *per cent*.

Short levy of tax in the above cases works out to ₹5.10 crore on the turnover of ₹54.31 crore.

In reply to Audit, AC(ST), Saroornagar III in one case stated that the assessment was revised and action for collection would be initiated. Two AAs²² in three cases replied that the Assessment files were submitted to JCs (ST) concerned for revision. The AC (ST), Jeedimetla-I circle in six cases stated that notices would be issued to the dealers after examination of the matter. Six AAs²³ in eight cases assured that the matter would be examined and detailed reply would be furnished in due course.

The matter was referred to the Government (January 2023); reply has not been received.

Short levy of tax due to application of incorrect rates is repeatedly highlighted in C&AG's Audit Reports. Repetition of such lapses indicate inadequate internal controls.

2.8.2 Short levy of VAT on mobile phones

Incorrect levy of tax at five *per cent* instead of at 14.5 *per cent* on mobile phones resulted in short levy of tax amounting to ₹9.28 crore

According to VAT Act²⁴, every VAT dealer shall pay Tax at the rate of 14.5 *per cent* on the sale of goods falling under Schedule V to the VAT Act. Government orders issued in March 2013²⁵ placed 'Mobile Phones' under Schedule V. Prior to that and post July 2016, these were under Schedule IV with tax rate of five *per cent*. Thus, sale of Mobile Phones during the intermediary period from 1 April 2013 to 27 July 2016²⁶ was to be taxed at 14.5 *per cent*.

Audit test checked (between July 2021 and March 2022) the VAT assessments and VAT records for the period from 1 April 2013 to 27 July 2016 and observed that in case of six dealers pertaining to six circles²⁷, the AAs levied tax on sale of Mobile Phones at the rate of five *per cent* instead of at 14.5 *per cent*. This resulted in short levy of Tax of ₹9.28 crore on a turnover of ₹97.70 crore.

AC(ST), Madhapur-I in one case, replied that assessment was revised. However, collection is still pending. AC(ST), Madhapur-IV in one case stated that the assessment file was sent to JC(ST), Hyderabad (Rural) division for further action. AC(ST), Jagitial in another case stated that revision show cause notice was issued to the dealer. AC(ST), Warangal

²² ACs (ST) - Malakpet-I and Nacharam-I.

²³ ACs (ST) – Basheerbagh-Nampally, Hydernagar-I, Madhapur-III, Mehdiapatnam-I, Saroornagar-III and Tarnaka-II.

²⁴ Section 4(3) of Telangana VAT Act, 2005.

²⁵ i) G.O.Ms.No.1615, Revenue (Commercial Taxes-II) Department, dated 31 August 2005 under Schedule IV at the rate of five *per cent*.

ii) G.O.Ms.No.140, Revenue (Commercial Taxes-II) Department, dated 19 March 2013 under Schedule V at the rate of 14.5 *per cent*, and

iii) G.O.Ms.No.186, Revenue (Commercial Taxes-II) Department, dated 28 July 2016 under Schedule IV at the rate of five *per cent*.

²⁶ Mobile Phones were brought under Schedule IV in July 2016 liable to be Taxed at five *per cent*.

²⁷ ACs (ST) – Jagitial, Madhapur-I, Madhapur-IV, Mancherla, Saroornagar-III and Warangal urban-I.

Urban-I in one case replied that the file would be submitted to JC(ST), Warangal for revision and remaining two AAs²⁸ in two cases assured that the matter would be examined.

The matter was referred to the Government (November 2022); reply has not been received.

2.8.3 Irregular exemption under VAT

Irregular exemption of turnover resulted in non-levy of tax aggregating ₹36.52 lakh

According to VAT Act²⁹, every dealer shall pay tax on sale of taxable goods at the respective rates specified in Schedules III, IV and VI of the Act. Under Schedule-I to the VAT Act, some goods are exempt from tax. Goods which are not covered under these Schedules fall under Schedule V and are liable to be taxed at the rate of 14.5 *per cent*. Further, as per the judgement³⁰ delivered by Supreme Court of India, the amounts received by the dealers towards '*replacement of spare parts during warranty period*' attract tax as per the rates of goods specified in Schedules.

Audit test checked (between July 2017 and February 2022) VAT assessments and records for the period from 2013-14 to 2017-18³¹. In case of six dealers pertaining to six circles³², AAs while finalising the assessments incorrectly exempted turnover pertaining to goods that are classified under Schedule-IV / V. These goods include computer peripherals, cotton coated fabric (Rexine), warranty claims on sales of electronics, chilies, optical fiber and gas (commercial) and are taxable at the rate of five / 14.5 *per cent*. This resulted in non-levy of Tax of ₹36.52 lakh on a turnover of ₹7.03 crore.

In reply to Audit, four AAs³³ in four cases stated that the matter would be examined and detailed reply furnished. AC (ST), Malakpet-II circle in one case replied that the Assessment file was submitted to the JC (ST) concerned for revision. AC (ST), Hyderguda-Ashoknagar circle in one case replied that revised orders were issued duly levying the tax and the amount has been entered in Debt Management Unit (DMU)³⁴. However, collection is still pending.

The matter was referred to the Government (January 2023); reply has not been received.

²⁸ ACs (ST) –Mancherla and Saroornagar-III.

²⁹ Sub section (3) and (5) of Section 4 of Telangana VAT Act, 2005.

³⁰ In the case of M/s. Ekram Khan & Sons Vs Commissioner of Trade Tax Uttar Pradesh dated 21 July 2004.

³¹ Up to June 2017.

³² ACs (ST) – Hyderguda-Ashoknagar, Gowliguda-Osmangunj, Madhapur-III, Mahbubnagar, Malakpet-II and Saroornagar-III.

³³ ACs (ST) – Gowliguda-Osmangunj, Madhapur-III, Mahbubnagar and Saroornagar-III.

³⁴ A module of Department's web portal (VATIS) maintained for watching recoveries.

2.8.4 Non/short-levy of VAT on receipts towards transfer of right to use goods

VAT amounting to ₹86.18 lakh on receipts towards transfer of right to use was not levied or short levied

According to VAT Act³⁵, every VAT dealer, who transfers the right to use any taxable goods to any lessee or licensee for any valuable consideration in the course of his business, shall pay tax on the total amount received by him at the rates applicable to such goods.

Audit test checked (between January and March 2022) VAT assessments and VAT records for the period from 2012-13 to 2017-18³⁶. It was found in three cases pertaining to two circles³⁷ that the AAs had not levied / short levied tax on a turnover of ₹6.84 crore received by the dealers on transfer of right to use goods (hire charges income) while finalising the VAT assessments. This resulted in non / short-levy of Tax of ₹86.18 lakh.

In reply to Audit, AC (ST), Bowenpally-I, in one case stated that notice was issued to the dealer. AC (ST), Madhapur-III, in the remaining two cases assured to examine the matter.

The matter was referred to the Government (December 2022); reply has not been received.

2.8.5 Short levy of tax / excess allowance of ITC due to adoption of incorrect figures / arithmetical inaccuracies

Adoption of incorrect figures / arithmetical inaccuracies resulted in short levy of tax / excess allowance of ITC of ₹86.68 lakh

According to VAT Act³⁸, every return shall be subject to scrutiny to verify the correctness of calculation, application of correct rate of tax and input tax credit claimed therein and full payment of tax payable for such tax period. If any mistake is detected as a result of such scrutiny, the authority prescribed shall issue a notice of demand for any short payment of tax or for recovery of any excess input tax credit claimed. As per Rule 60 of VAT Rules, any authority prescribed, appellate or revising authority, may at any time within four years from the date of any order passed by him rectify any clerical or arithmetical mistake apparent from the record.

Audit test checked (between October 2018 to March 2022) VAT and CST assessments and records for the period from 2013-14 to 2017-18 (up to June 2017). It was observed that while finalising the VAT assessments, AAs short levied tax amounting to ₹86.68 lakh in 13 cases (dealers) due to (i) incorrect adoption of tax amount actually paid by the dealers (four cases), (ii) carrying forward more VAT credit than the available credit in previous years (six cases) and (iii) incorrect computation of the tax at the prescribed rates (three cases). In respect of three other dealers³⁹, ITC was allowed despite adjusting the same towards payment of CST, resulting in excess allowance of ITC amounting to ₹20.70 lakh.

³⁵ Section 4(8) of Telangana VAT Act, 2005.

³⁶ Up to June 2017.

³⁷ ACs (ST) - Bowenpally-I and Madhapur-III.

³⁸ Section 20(3) of Telangana VAT Act, 2005.

³⁹ Two of them are same as those included in earlier observation.

The total short levy of tax and excess allowance of ITC in all these cases worked out to ₹86.68 lakh.

In reply to Audit, five AAs⁴⁰ in five cases replied that the matter would be examined, and detailed reply furnished in due course. Four AAs⁴¹ (four cases) stated that Assessment files were / would be sent to the JC / DC (ST) concerned for revision. ACs (ST), Bowenpally-I and Nacharam I (two cases) informed that notices were issued to the Dealers. AC(ST), Fathehnagar (in one case) replied that the assessment was revised duly raising the demand for ₹0.52 lakh. However, collection is still pending. AC(ST), Charminar (in one case) stated that ₹1.02 lakh was paid by the dealer. However, evidence of payment was not produced.

The matter was referred to the Government (January 2023); reply has not been received.

2.8.6 Non or Short levy of Tax due to incorrect determination of Taxable Turnover

Variation in sales turnover between Profit and Loss accounts and assessment orders led to non or short levy of Tax of ₹13.06 lakh

As per Section 21 (4) of VAT Act, the competent authority may, based on any information available or on any other basis, conduct a detailed scrutiny of the accounts of any VAT dealer and where any assessment, as a result of such scrutiny, becomes necessary, such assessment shall be made within a period of four years from the end of the period for which assessment is to be made.

As per Rule 25(10) of VAT Rules, all the VAT dealers are required to furnish for every financial year to the prescribed authority, the statements of manufacturing or trading, Profit and Loss accounts, balance sheet and annual report duly certified by Chartered Accountant on or before 31 December subsequent to the financial year to which the statements relate. As per para 5.12 of the VAT Audit Manual, 2012, audit officer has to reconcile the figures given by the dealer on VAT returns with certified annual accounts.

Audit test checked (between December 2021 and March 2022) the VAT assessments and VAT records for the period from 2013-14 to 2016-17. It was found that in six cases pertaining to four circles⁴², there were variations in sales turnover between VAT assessment orders and Profit and Loss accounts. Sale turnover as per Profit and Loss accounts was more than the sale turnover as assessed in VAT assessment orders. This resulted in non or short levy of Tax of ₹13.06 lakh on the differential turnover of ₹2.28 crore.

In reply to audit, two AAs⁴³ (in three cases) stated that the files were sent to the JC (ST) concerned for revision. AC (ST), Mahbubnagar (in one case) stated that a show cause

⁴⁰ ACs (ST)-Hydernagar-I, Jeedimetla-II, Keesara II, Medak and Mehdiapatnam-I.

⁴¹ ACs (ST)-Bowenpally-II, Jeedimetla-I, Malakpet-II and Nalgonda-I.

⁴² ACs (ST)-Jeedimetla-I, Karimnagar-II, Mahbubnagar and Malakpet-I.

⁴³ ACs (ST)-Mahbubnagar and Malakpet-I.

notice was issued to the Dealer. Two AAs⁴⁴ (in two cases) replied that the matter would be examined and detailed reply furnished in due course.

The matter was referred to the Government (February 2023); reply has not been received.

Non or short levy of tax due to incorrect determination of taxable turnover has been repeatedly highlighted in C&AG's Audit Reports. Repetition of these lapses indicate inadequate internal controls.

2.9 Inter-State sales

2.9.1 Non / short levy of Tax on the turnover of inter-State sales not supported by statutory forms

Inter-State sales turnover not supported by statutory forms resulted in non / short levy of tax of ₹5.56 crore

According to Central Sales Tax (CST) Act and CST Rules⁴⁵, the rate of Tax on Inter-State sales not covered by 'C Forms' shall be at the rate applicable to the sale or purchase of such goods inside that State and under the Sales Tax laws of that State. CST Act⁴⁶ further specifies that if a dealer fails to submit necessary statutory forms in support of exports, branch transfers, transit sales etc., they should be treated as inter-State sales not covered by 'C Forms'.

Audit test checked (between October 2020 and March 2022) CST assessments and CST records for the period from 2013-14 to 2017-18⁴⁷. Of the 35 dealers pertaining to 22 circles⁴⁸, it was found in respect of 27 dealers, the AAs levied Tax at the lesser rate of five *per cent* instead of 14.5 / 20 *per cent* for non-submission of statutory forms on inter-state sales of goods pertaining to Schedule-V / Schedule VI of the Act. In the case of remaining eight dealers, no tax was levied treating the commodities as exempt goods, although they were taxable goods at the rate of five *per cent*. This resulted in short / non levy of Tax of ₹5.56 crore on the turnover of ₹76.23 crore.

In reply to Audit, 12 AAs⁴⁹ in 19 cases assured that the matter would be examined. Eight AAs⁵⁰ in 13 cases stated that files were submitted to the JCs (ST) concerned for revision / further action. ACs (ST), Bowenpally-I and Bowenpally-II in respect of three dealers stated that notices were issued to the dealers.

The matter was referred to the Government (January 2023); reply has not been received.

⁴⁴ ACs (ST) – Jeedimetla-I and Karimnagar-II.

⁴⁵ Section 8 of CST Act read with Rule 12 of CST Rules.

⁴⁶ Section 5, 6 and 6A of CST Act.

⁴⁷ up to June 2017.

⁴⁸ ACs (ST)-Abids, Basheerbagh-I, Bowenpally-I, Bowenpally-II, Charminar, Gowliguda-Osmangunj, Hydernagar-II, Jeedimetla-II, Keesara-II, Madhapur-II, Malakpet-I, Malakpet-II, Mancheria, Nacharam-I, Nalgonda-I, Rajendranagar-I, Rajendranagar-II, Sanathnagar, Sanga Reddy-II, Saroornagar-III, Tarnaka-II, and Vanasthalipuram-II.

⁴⁹ ACs (ST) - Abids, Charminar, Hydernagar-II, Jeedimetla-II, Keesara-II, Madhapur-II, Mancheria, Nalgonda-I, Rajendranagar-I, Rajendranagar-II, Sanga Reddy-II and Tarnaka-II (19 dealers).

⁵⁰ ACs (ST) – Basheerbagh-I, Gowliguda-Osmangunj, Malakpet-I, Malakpet-II, Nacharam-I, Sanathnagar, Saroornagar-III and Vanasthalipuram-II (13 dealers).

Non / short levy of tax on the turnover of inter-state sales not supported by statutory forms has been repeatedly highlighted in C&AG's Audit Reports. Repeated non / short levy of tax indicates lack of adequate internal controls.

2.9.2 Short levy of Tax on the turnover of inter-State sales of mobile phones not supported by statutory forms

Inter-State sales turnover of mobile phones not supported by statutory forms resulted in non / short levy of Tax of ₹3.33 crore

According to CST Act read with CST Rules⁵¹, the rate of Tax on Inter-State sales not covered by 'C Forms' shall be at the rate applicable to the sale or purchase of such goods inside that State and under the Sales Tax laws of that State.

According to VAT Act⁵², every VAT dealer shall pay Tax at the rate of 14.5 *per cent* on the sale of goods falling under Schedule V to the Act. Government orders issued in March 2013⁵³ placed "Mobile Phones" under Schedule V. Prior to that and post July 2016, these were under Schedule IV with tax rate of five *per cent*. Thus, sale of Mobile Phones during the intermediary period from 1 April 2013 to 27 July 2016⁵⁴ was to be taxed at 14.5 *per cent*.

Audit test checked (between August 2021 and January 2022) the CST assessments and records for the period from 2015-16 to 2016-17. In case of the three dealers pertaining to two circles⁵⁵, Audit found that the AAs levied Tax on Inter-State sale of mobile phones at lesser rate of five *per cent* instead of 14.5 *per cent* for non-submission of statutory forms. This resulted in short levy of Tax of ₹3.33 crore on the turnover of ₹35.07 crore.

In reply, the Deputy Commissioner (ST), Malkajgiri-II Circle in one case stated (June 2022) that file was submitted to the JC(ST), Saroornagar division for revision. AC(ST), Basheerbagh-Nampally in two cases stated (January 2022) that the matter would be examined.

The matter was referred to the Government (November 2022); reply has not been received.

2.9.3 Non / short levy of Tax due to incorrect determination of Taxable Turnover under CST

Variation in sales turnover between CST assessment orders and CST turnover in VAT assessment orders led to non or short levy of Tax of ₹7.75 crore

According to CST Act⁵⁶, the authorities empowered to assess tax under the general sales tax (VAT) law of the State, shall also assess tax under the CST Act. Para 5.12 of VAT

⁵¹ Section 8 of CST Act, 1956 read with Rule 12(1) of CST (R&T) Rules, 1957

⁵² Section 4(3) of VAT Act, 2005.

⁵³ i) G.O.Ms.No.161,5 Revenue (Commercial Taxes-II) Department, dated 31 August 2005 under Schedule IV at the rate of five *per cent*.

ii) G.O.Ms.No.140, Revenue (Commercial Taxes-II) Department, dated 19 March 2013 under Schedule V at the rate of 14.5 *per cent*, and

iii) G.O.Ms.No.186, Revenue (Commercial Taxes-II) Department, dated 28 July 2016 under Schedule IV at the rate of five *per cent*.

⁵⁴ Mobile Phones were brought under Schedule IV in July 2016 liable to be Taxed at five *per cent*.

⁵⁵ ACs (ST) – Malkajgiri-II and Basheerbagh-Nampally.

⁵⁶ Section 9(2) of CST Act, 1956.

Audit Manual, 2012 prescribes that the Audit Officer verify the details given by the dealer in VAT / CST returns and reconcile with the figures reported in certified annual accounts for the same period.

As per provisions of CST Act read with Rule 12 of CST (R&T) Rules, 1957, if any dealer fails to submit necessary statutory forms in support of exports, branch transfers, transit sales *etc.*, the relevant transactions have to be treated as interstate sales not covered by ‘C’ forms and tax is to be levied at the rates applicable on the sale of goods inside the appropriate State.

Audit test checked (between October 2020 and March 2022) CST assessment files and VAT records of 12 circles⁵⁷ for the period 2013-14 to 2017-18⁵⁸. Audit observed that in 22 cases (dealers), the taxable turnover under CST Act was determined less than the taxable turnovers of CST mentioned in VAT assessment orders / CST turnovers as per VAT / CST Returns, Ledgers and Profit and Loss accounts. This resulted in non / short levy of tax of ₹7.75 crore on under-assessed turnover of ₹149.18 crore.

In reply to Audit, AC(ST), Nacharam-I in one case stated that CST assessment was revised duly levying tax. However, the tax demand has not yet been collected. Three AAs⁵⁹ in six cases stated that the files were submitted to the Divisional offices concerned for revision while two other AAs⁶⁰ in two cases replied that notices had been issued to the Dealers concerned. AC(ST), Sanathnagar in one case replied that local sales were adopted as CST sales in the Audit observation. Reply of AA is not acceptable, as the CST sales mentioned in VAT assessments were only considered and not the local sales. Two AAs⁶¹ in eight cases stated that notices would be issued to the dealers after examination of the issue and result intimated. Four AAs⁶² in respect of the remaining four cases replied that the matter would be examined, and reply submitted in due course.

The matter was referred to the Government (February 2023); reply has not been received.

2.9.4 Non-levy of penalty and interest on belated payment of Tax under CST

Penalty of ₹4.53 lakh and interest of ₹14.74 lakh on delayed payment of tax by dealers under CST was not levied

Every VAT dealer shall pay the tax declared as due not later than 20 days after the end of the Tax period⁶³. A dealer who fails to pay the Tax by the last day of the month in which it is due, shall pay the Tax along with a penalty of 10 *per cent* of the amount of tax due⁶⁴. If tax or penalty due is not paid within the prescribed time, the dealer is liable to pay in addition to the amount of such Tax or Penalty, interest at the rate of 1.25 *per cent* per month

⁵⁷ ACs (ST) – Bowenpally-I, Bowenpally-II, Charminar, Hydernagar-II, Jeedimetla-I, Madhapur-II, Malakpet-I, Mancheri, Nacharam-I, Sanathnagar, Sanga Reddy-II and Rajendranagar-I.

⁵⁸ Up to June 2017.

⁵⁹ ACs (ST) – Charminar, Malakpet-I and Nacharam-I.

⁶⁰ ACs (ST) – Bowenpally-I and Bowenpally-II.

⁶¹ ACs (ST) – Jeedimetla-I and Sanga Reddy-II.

⁶² ACs (ST) – Hydernagar-II, Madhapur-II, Mancheri and Rajendranagar-I.

⁶³ As per Rule 24(1) of Telangana VAT Rules, 2005, every month is considered as a Tax period.

⁶⁴ Section 51(1) of Telangana VAT Act, 2005.

for the period of delay⁶⁵. These provisions shall also applicable to payment of return tax in respect of inter-state sales, in terms of CST Act and CST Rules⁶⁶.

Audit test checked (between December 2021 and February 2022) 128 CST payment records for the period from June 2014 to June 2017 and noticed that 15 dealers in three offices⁶⁷, paid tax belatedly with delay ranging from 320 to 1,922 days. However, the AAs did not levy interest of ₹ 14.74 lakh and penalty of ₹ 4.53 lakh in these cases as shown in the **Table** below:

Table 2.5: Age-wise analysis of delayed payments

(₹ in lakh)

Sl. No.	Delay in number of days (month / year)	Number of payment records	Interest Leviable	Penalty leviable	Total
1	320 to 365 days (above 6 months and up to 1 year)	5	0.58	0.41	0.99
2	366 to 730 days (above 1 year and up to 2 years)	45	5.48	2.42	7.90
3	731 to 1,095 days (above 2 years and up to 3 years)	27	2.36	0.61	2.97
4	1,096 to 1,460 days (above 3 years and up to 4 years)	37	4.44	0.84	5.28
5	1,461 to 1,825 days (above 4 years and up to 5 years)	13	0.61	0.09	0.70
6	More than 1,825 days (above 5 years and up to 6 years)	1	1.27	0.16	1.43
Total		128	14.74	4.53	19.27

In reply to Audit, AAs⁶⁸ assured that the matter would be examined and result intimated. The matter was referred to the Government (December 2022); reply has not been received.

The non-levy of penalty and interest on belated payment of taxes has been highlighted in Comptroller and Auditor General of India's Audit Reports previously. Recurrence of such lapses is indicative of inadequate internal controls.

2.10 VAT on Works Contracts

2.10.1 Short levy of tax due to incorrect allowance of input tax credit under works contract

Incorrect allowance of ITC to works contractors resulted in short levy of tax of ₹93.55 lakh

According to VAT Act⁶⁹, where any VAT dealer pays tax under non-composition method, the ITC shall be limited to 75 *per cent* of the related input tax. Further, as per Rule 17 (1) (g) of VAT Rules, where the VAT dealer has not maintained the accounts to determine the correct value of goods at the time of incorporation, he shall pay tax at the rate of 14.5 *per*

⁶⁵ Section 22 (2) of Telangana VAT Act, 2005.

⁶⁶ Sub section 2A of section 9 of CST Act read with Rule 14A of CST Rules.

⁶⁷ ACs (ST) - Jeedimetla-I, Keesara-II and Malakpet-II.

⁶⁸ ACs (ST) - Jeedimetla-I, Keesara-II and Malakpet-II.

⁶⁹ Section 4(7)(a) and Section 13(7) of Telangana VAT Act, 2005.

cent on the total consideration after allowing deductions as specified and shall not be entitled to claim ITC.

Audit test checked (between October 2020 and January 2022) VAT assessments and records for the period from 2013-14 to 2017-18⁷⁰ and found in three circles⁷¹ that out of six cases, AAs in five cases, incorrectly allowed ITC to the dealers who did not maintain accounts. In the remaining one case, AA allowed ITC at 95 per cent instead of at 75 per cent to the dealer who paid tax under non-composition method. The incorrect allowance of ITC resulted in short levy of tax of ₹93.55 lakh.

In reply, two AAs⁷² in three cases stated that the matter would be examined and detailed reply furnished in due course. AC / ST Madhapur-III in three cases replied that a notice was issued to the dealer but there was no response from the dealer. The file had been transferred to DC / CT Hyderabad Rural for taking up revision. The matter was referred to the Government (December 2022); reply has not been received.

This observation has been repeatedly highlighted in the previous C&AG's Audit Reports. It is indicative of weak internal controls besides non-compliance with the provisions of VAT Rules.

2.10.2 Short levy of tax due to incorrect determination of taxable turnover under works contract

Under-assessment of taxable turnover under works contract resulted in short levy of tax of ₹1.16 crore

According to VAT Act⁷³, every dealer executing works contract shall pay Tax on the value of goods incorporated in the work at the rates applicable to the goods. As per VAT Rules⁷⁴, certain deductions⁷⁵ are to be allowed from the total turnover and the remaining turnover is to be taxed in proportion to the goods purchased at the rates applicable to them. The Rules⁷⁶ also specify that the turnover so arrived shall not be less than the purchase value.

Audit test checked (between December 2020 and February 2022) the VAT assessments and VAT records for the period from 2013-14 to 2017-18⁷⁷. In respect of seven dealers pertaining to six circles⁷⁸, Audit observed that AAs incorrectly determined the taxable turnover due to incorrect calculation of cost of establishment relating to labour, profit relating to labour, purchase ratio of goods, exemption of turnover, etc. This incorrect determination of taxable turnover resulted in short levy of tax of ₹1.16 crore.

In reply to audit, AC (ST), Jubilee Hills-II in one case replied that the assessment file was submitted to the JC (ST) concerned for revision. AC (ST), Mehdiapatnam-I in one case

⁷⁰ Up to June 2017.

⁷¹ ACs (ST)- Madhapur-II, Madhapur-III and Maredpally.

⁷² ACs (ST)- Madhapur-II and Maredpally.

⁷³ Section 4(7) (a) of Telangana VAT Act, 2005.

⁷⁴ Rule 17(1) (e) of Telangana VAT Rules, 2005.

⁷⁵ Labour charges, establishment charges and other similar charges relatable to labour and services, Profit earned by the contractor to the extent it is relatable to supply of labour and services.

⁷⁶ Rule 17(1)(d) and Rule 17(1)(e) of Telangana VAT Rules, 2005.

⁷⁷ Up to June 2017.

⁷⁸ ACs (ST)- Jubilee Hills-II, Madhapur-II, Madhapur-III, Mehdiapatnam-I, MG Road – SD Road and Tarnaka-II.

stated that JC (ST), Charminar had withdrawn the proposal to levy tax as the dealer filed details of labour charges. However, the reply did not address the issue of incorrect calculation of profit and allowing full deduction of expenses instead of deducting on prorata basis for labour charges. Four AAs⁷⁹ (in five cases) stated that the matter would be examined and detailed reply would be furnished in due course.

The matter was referred to the Government (January 2023); reply has not been received.

Incorrect determination of taxable turnover under works contract has been repeatedly highlighted in C&AG's Audit Reports. Repetition of these lapses indicates inadequate internal controls.

2.10.3 Short levy of tax on works contracts under composition scheme

Incorrect determination of taxable turnover of works contractors under composition scheme resulted in short levy of tax of ₹1.39 crore

According to VAT Act⁸⁰, a works contractor can opt to pay Tax by way of composition at the rate of five *per cent* on the total consideration on works executed whereby tax is payable on gross receipts without any deductions. Provisions of Act and Rules⁸¹ further stipulate that any dealer engaged in construction and selling of residential apartments, houses, buildings or commercial complexes may opt to pay tax by way of composition at the rate of five *per cent* on 25 *per cent* of the consideration received or receivable or the market value⁸², whichever is higher. Further, as per Government Orders issued in June 2017⁸³, the works contractors became liable to pay tax on the advances received from the customers up to 30 June 2017.

Audit test checked (between December 2020 and February 2022) the VAT assessment files of nine works contractors who opted to pay tax under composition for the period from 2013-14 to 2017-18⁸⁴. In respect of eight contractors pertaining to eight circles⁸⁵, it was found that AAs incorrectly determined taxable turnover because of allowing deductions⁸⁶ / adopting lesser turnovers than that reflected in Profit and Loss account / non- consideration of advances received from customers as taxable turnover / adoption of incorrect tax payment. In respect of one contractor AC(ST), Rajendranagar-II had adopted incorrect amount towards tax payment in assessment when compared to the payment status report in VATIS Portal. The incorrect determination of taxable turnover resulted in short levy of Tax of ₹1.39 crore.

In reply to Audit, seven AAs⁸⁷ in seven cases stated that the matter would be examined and detailed reply furnished in due course. AC(ST), Jubilee hills-II in one case stated that the

⁷⁹ ACs (ST)- Madhapur-II, Madhapur-III, MG Road-SD Road and Tarnaka-II.

⁸⁰ Section 4(7)(b) of Telangana VAT Act, 2005 as amended w.e.f. 15 September 2011.

⁸¹ Section 4(7)(d) of Telangana VAT Act, 2005 read with Rule 17(4) of Telangana VAT Rules, 2005.

⁸² Fixed for the purpose of stamp duty.

⁸³ G.O.Ms No.124 dated 30 June 2017 omitted clauses (e) and (i) of sub-rule 4 of Rule17 of the VAT Rules.

⁸⁴ Up to June 2017.

⁸⁵ ACs (ST) – Basheerbagh-I, Hydernagar-I, Jubilee Hills-II, Madhapur-II, Madhapur-III, Madhapur-IV, Marredpally and Saroornagar-III.

⁸⁶ Towards Further Security Deposit, Consultancy, Cess, etc.

⁸⁷ ACs (ST)- Hydernagar-I, Madhapur-II, Madhapur-III, Madhapur-IV, Marredpally, Rajendranagar-II and Saroornagar-III (seven dealers).

JC (ST), Punjagutta division had issued pre-revision notice to the dealer. AC(ST), Basheerbagh-I in one case stated that the observation was transferred to other circle⁸⁸ due to change in jurisdiction.

The matter was referred to the Government (November 2022 and January 2023); reply has not been received.

2.10.4 Short levy of tax due to excess adoption of tax paid by way of TDS certificates

Excess adoption of tax paid by way of Tax Deducted at Source (TDS) certificates resulted in short levy of tax of ₹3.08 crore

Section 22 (3) of VAT Act permits the authorities⁸⁹ to deduct the VAT at source from out of the amounts payable by them to a dealer in respect of works contract executed for them. The VAT Rules⁹⁰ further stipulate that the amount so deducted and paid to the State Government shall be treated as payment of tax on behalf of the dealer executing works contract and credit shall be given to the said dealer for the period for which amount was so deducted on production of the certificate furnished by the contractee.

Audit test checked (between December 2021 and February 2022) VAT assessments and records of four dealers in four Circles⁹¹ for the period from 2014-15 to 2017-18⁹² and observed that the AAs while finalising VAT assessments, adopted the tax payment made by dealers at source as ₹7.15 crore whereas the certificates available in the Assessment files were only for ₹4.07 crore. This resulted in short levy of tax of ₹3.08 crore.

In reply to Audit, AC(ST), Jubilee Hills-II in one case stated that pre-revision show cause notice was issued by the JC (ST), Punjagutta Division and final reply would be furnished after issuing final revision order. Three AAs⁹³ in three cases stated that the matter would be examined and detailed reply furnished.

The matter was referred to the Government (January 2023); reply has not been received.

2.10.5 Non / short levy of tax on works contracts who did not maintain detailed accounts

Tax of ₹2.86 crore on turnover of works contractors who did not maintain detailed accounts was not levied / short levied

As per Section 4(7)(a) of VAT Act, every contractor shall pay tax on the value of goods at the time of incorporation of such goods in the works executed at the rates applicable to the goods. The provisions of the VAT Act read with Rule 17(1)(g) of VAT Rules further stipulate that if the accounts are not maintained to determine the correct value of goods at the time of incorporation, such dealers shall pay tax at rate specified in Schedule V

⁸⁸ Basheerbagh-Nampally.

⁸⁹ Central Government or the State Government or an industrial, commercial, or trading undertaking of Central Government or of the State Government or a local authority or a statutory body or a company registered under the Companies Act, 1956 or any other person notified by the Commissioner.

⁹⁰ Rule 18(2) of Telangana VAT Rules, 2005.

⁹¹ ACs (ST) - Abids, Madhapur-II, Malakpet-I and Jubilee Hills-II.

⁹² Up to June 2017.

⁹³ ACs (ST) - Abids, Madhapur-II and Malakpet-I.

(14.5 *per cent*) on the total consideration received or receivable subject to such deductions on percentage⁹⁴ basis based on the category of work executed. According to Section 4(7)(b) of the VAT Act read with Rule 17(2)(c) of VAT Rules, every dealer executing works contracts may opt⁹⁵ for payment of tax under composition at the rate of five *per cent* on gross works contract receipts before commencement of work.

Audit test checked (between December 2020 and February 2022) VAT assessments and records for the period from 2013-14 to 2017-18. It was observed in respect of 11 dealers pertaining to nine circles⁹⁶ that:

- i. In five cases, the AAs⁹⁷ levied tax at the rate of five *per cent* though the dealers opted for composition after commencement of work.
- ii. Despite the sales turnover included work contract receipts as per Profit and Loss Accounts, the AAs⁹⁸ either did not levy or short-levied tax on works contract receipts in respect of two cases.
- iii. Although the assessment was done under the provisions relating to the situations where detailed accounts were not maintained, the AAs⁹⁹ levied tax at the rate of five *per cent* instead of at 14.5 *per cent* in two cases.
- iv. In another case, the AA¹⁰⁰ levied tax at 14.5 *per cent* on 50 *per cent* of the total turnover of works contract receipts and allowed exemption on the remaining 50 *per cent* turnover treating it as service turnover. This indicates that work wise details were not available. Hence the turnover should be assessed under the provisions of VAT Rule 17 (1) (g), taxing 100 *per cent* turnover at 14.5 *per cent*.
- v. In the remaining one case, the AA¹⁰¹ allowed exemption on works contract receipts on the ground that the work was purely labour oriented without involvement of any material. However, the work involved supply, fabrication and erection of structures.

As all the above dealers were works contractors who did not maintain / furnish detailed accounts, the entire turnover of ₹44.20 crore was to be taxed at the rate of 14.5 *per cent* after allowing permissible deductions on percentage basis. Failure of AAs to do so resulted in short levy of tax of ₹2.86 crore.

In reply to Audit, three AAs¹⁰² (in three cases) stated that the assessment files were / would be submitted to the JCs (ST) concerned for revision. ACs (ST), Bowenpally-II and Madhapur I (in two cases) stated that notices were / would be issued to the dealers. Three

⁹⁴ Such as 30 *per cent* on works contract receipts, 20 *per cent* on painting works receipts etc.

⁹⁵ In Form 250.

⁹⁶ ACs (ST)- Basheerbagh-I, Bowenpally-II, Jubilee Hills-II, Madhapur-I, Madhapur-II, Madhapur-III, Malkajgiri-II, Marredpally and Tarnaka-II.

⁹⁷ ACs (ST)- Basheerbagh-I, Bowenpally-II, Madhapur-I, Malkajgiri-II, and Tarnaka-II.

⁹⁸ ACs (ST) - Madhapur-II and Marredpally.

⁹⁹ ACs (ST) - Madhapur-II and Madhapur-III.

¹⁰⁰ AC (ST) - Madhapur-III.

¹⁰¹ AC(ST), Jubilee hills-II.

¹⁰² ACs (ST) - Basheerbagh-I, Jubilee Hills-II and Malkajgiri-II.

AAs¹⁰³ (in five cases) stated that the matter would be examined, and reply submitted. AC / ST Madhapur-III, in one case, replied that a notice was issued to the dealer but there was no response from the dealer.

The matter was referred to the Government (February 2023); reply has not been received.

Non / short levy of tax on works contractors who did not maintain detailed accounts has been repeatedly highlighted in C&AG's Audit Reports. Repetition of these lapses indicates inadequate internal controls.

2.11 Levy of penalties and interest under VAT

2.11.1 Non-levy of penalty and interest on belated payment of Tax

Penalty of ₹1.58 crore and interest of ₹2.29 crore on delayed payment of tax by dealers was not levied

Every VAT dealer shall pay the tax declared as due in Form VAT- 200 not later than 20 days after the end of the Tax period¹⁰⁴. A dealer who fails to pay the tax by the last day of the month in which it is due, shall pay the tax along with a penalty at 10 *per cent* of the amount of tax due¹⁰⁵. If tax due is not paid within the prescribed time, the dealer is liable to pay interest at the rate of 1.25 *per cent* per month for the period of delay¹⁰⁶ in addition to the amount of such tax or penalty.

Audit test checked (between January 2021 to March 2022) VAT payment records for the period from October 2012 to September 2020. In respect of 1,101 tax payments records, Audit noticed that 167 dealers in 25 circles¹⁰⁷, had paid tax belatedly with delay ranging from one to 2,868 days. However, the AAs did not levy both penalty and interest on belated payments made by 165 dealers out of 167 and levied interest only in respect of remaining two dealers. This resulted in non-levy of penalty of ₹1.58 crore and interest of ₹2.29 crore in these cases as shown in the **Table 2.6** below:

Table 2.6: Age-wise analysis of delayed payments

(₹in crore)				
Delay	No. of tax payment records	Interest	Penalty	Total
Up to 6 months	310	0.19	0.80	0.99
Above 6 months and up to 1 year	110	0.20	0.18	0.38
Above 1 year and up to 2 years	240	0.78	0.37	1.15
Above 2 years and up to 3 years	240	0.57	0.15	0.72

¹⁰³ ACs (ST) - Madhapur-II, Marredpally and Tarnaka-II.

¹⁰⁴ As per Rule 24(1) of Telangana VAT Rules, 2005 every month is considered as a Tax period.

¹⁰⁵ Section 51(1) of Telangana VAT Act, 2005.

¹⁰⁶ Section 22 (2) of Telangana VAT Act, 2005.

¹⁰⁷ ACs (ST) – Abids, Basheerbagh-Nampally, Bowenpally-II, Charminar, Hydernagar-III, Jeedimetla-I, Jeedimetla-II, Keesara-II, Madhapur-II, Madhapur-III, Madhapur-IV, Mahbubnagar, Malakpet-I, Malakpet-II, Malkajgiri-I, Malkajgiri-II, Malkajgiri-III, Mehdiapatnam-I, Nacharam-I, Nalgonda-I, Rajendranagar-I, Rajendranagar-II, Sanga Reddy-II, Saroornagar-II and Vanasthalipuram-II.

Above 3 years and up to 4 years	130	0.27	0.05	0.32
Above 4 years and up to 5 years	53	0.15	0.02	0.17
Above 5 years and up to 9 years	18	0.13	0.01	0.14
Total	1,101	2.29	1.58	3.87

In reply to Audit, 17 AAs¹⁰⁸ stated that the matter would be examined. Three AAs¹⁰⁹ stated that action would be taken to recover the penalty and interest. One AA¹¹⁰ stated that notice was issued in one case while AC(ST), Madhapur-IV stated in eight cases that notices would be issued. Three AAs¹¹¹ stated that penalty and interest assessment orders were issued while AC(ST), Bowenpally-II in two cases stated that penalty orders were issued. However, collection is still pending.

The matter was referred to the Government (February 2023); Reply has not been received.

Non-levy of penalty and interest on belated payment of taxes has been repeatedly highlighted in C&AG's Audit Reports. Repetition of these lapses indicates inadequate internal controls.

2.11.2 Non or short levy of penalties for under-declaration of taxes / excess claim of ITC / non-registration

Penalties of ₹4.91 crore for under-declared taxes / excess claim of Input Tax Credit/ non-registration were either not levied or short levied

According to VAT Act¹¹², a dealer who has under-declared Tax, is liable for payment of penalty depending upon the quantum of tax under-declared. If the under-declared tax is less than 10 *per cent* of the tax due, the penalty shall be imposed at 10 *per cent* of such under-declared tax; if it is more than 10 *per cent* of the tax due, a penalty shall be imposed at 25 *per cent* of such under-declared tax.

Further, as per VAT Act¹¹³, every dealer commencing business and whose estimated taxable turnover for 12 consecutive months is more than ₹50 lakh shall be liable to be registered as VAT dealer before commencement of business. If the dealer fails to apply for VAT registration, he is liable to pay¹¹⁴ a penalty of 25 *per cent* of the amount of Tax due prior to the date of the registration by the Registering Authority.

Audit test checked (between October 2018 and February 2022) the VAT assessments and VAT records for the period from 2013-14 to 2017-18 (up to June 2017) and noticed tax compliance omissions as detailed in Table 2.7 below. In case of 37 cases pertaining to 25

¹⁰⁸ ACs (ST) - Abids, Basheerbagh-Nampally, Charminar, Hydernagar-III, Jeedimetla-I, Jeedimetla-II, Keesara-II, Madhapur-II, Madhapur-III, Mahbubnagar, Malakpet-II, Malkajgiri-II, Nalgonda-I, Rajendranagar-I, Rajendranagar-II, Sanga Reddy-II and Saroornagar-II (130 dealers).

¹⁰⁹ ACs (ST)- Malakpet-I, Malkajgiri-III and Vanasthalipuram-II (nine dealers).

¹¹⁰ AC (ST)- Nacharam-I (eight dealers).

¹¹¹ ACs (ST)- Mahbubnagar, Malkajgiri-I and Mehdipatnam-I (17 dealers).

¹¹² Section 53 (1) of Telangana VAT Act, 2005.

¹¹³ Section 17 (2) of Telangana VAT Act, 2005.

¹¹⁴ Section 49(2) of Telangana VAT Act, 2005.

Circles¹¹⁵, the AAs did not levy (15 cases) / short levied (22 cases) penalty where the dealers under-declared output Tax and / or claimed excess ITC. Further, AC (ST), Gowliguda-Osmangunj in two cases did not levy penalty for failure to apply for VAT registration on crossing prescribed limit of turnover. This resulted in non-levy / short-levy of penalty of ₹4.91 crore. Details are given in **Table 2.7 below**.

Table 2.7: Cases of short / non-levy of penalty

(₹ in lakh)

Nature of Omission	Quantum of penalty leviable as per VAT Act (%)	No. of cases	Amount of non / short levy of penalty	Jurisdiction of Commercial Tax Officer
Short payment of tax / excess claim of Input Tax credit (ITC)	10 / 25	37	478.79	ACs (ST) – Abids, Basheerbagh-I, Basheerbagh-Nampally, Bowenpally-II, Fathehnagar, Gowliguda-Osmangunj, Hydernagar-I, Hydernagar-II, Hydernagar-III, Jeedimetla-I, Keesara-II, Madhapur-I, Madhapur-II, Malkajgiri-I, Malkajgiri-II, Malkajgiri-III, Marredpally, Mehdipatnam-I, Rajendranagar-I, Rajendranagar-II, Ramgopalpet-Ranigunj, Saroornagar-II, Saroornagar-III, Tarnaka-I and Tarnaka-II.
Non-registration of VAT Dealer	25	2	12.12	AC (ST) Gowliguda-Osmangunj
Total		39	490.91	

In reply to Audit, three AAs¹¹⁶ in three cases stated that penalty orders were passed. However, collection of amounts is still pending. Two AAs¹¹⁷ in two cases stated that action would be taken to levy penalty. Five AAs¹¹⁸ in five cases stated that the files were submitted to JCs (ST) concerned for revision. AC (ST), Mehdipatnam-I in one case stated that the JC (ST) concerned issued revision show cause notice to the Dealer. 14 AAs¹¹⁹ in 26 cases assured that the matter would be examined. AC (ST), Gowliguda-Osmangunj in two cases stated that notices would be issued to the dealers by levying penalty.

The matter was referred to the Government (February 2023); Reply has not been received.

¹¹⁵ ACs (ST) - Abids, Basheerbagh-I, Basheerbagh-Nampally, Bowenpally-II, Fathehnagar, Gowliguda-Osmangunj, Hydernagar-I, Hydernagar-II, Hydernagar-III, Jeedimetla-I, Keesara-II, Madhapur-I, Madhapur-II, Malkajgiri-I, Malkajgiri-II, Malkajgiri-III, Marredpally, Mehdipatnam-I, Rajendranagar-I, Rajendranagar-II, Ramgopalpet-Ranigunj, Saroornagar-II, Saroornagar-III, Tarnaka-I and Tarnaka-II.

¹¹⁶ ACs (ST) - Bowenpally-II, Madhapur-I and Malkajgiri-I.

¹¹⁷ ACs (ST) - Malkajgiri-II and Malkajgiri-III.

¹¹⁸ ACs (ST) - Basheerbagh-I, Fathehnagar, Gowliguda-Osmangunj, Malkajgiri-I and Tarnaka-I.

¹¹⁹ ACs (ST) - Abids, Basheerbagh-Nampally, Hydernagar-I, Hydernagar-II, Hydernagar-III, Jeedimetla-I, Keesara-II, Madhapur-II, Rajendranagar-I, Rajendranagar-II, Ramgopalpet-Ranigunj, Saroornagar-II, Saroornagar-III, and Tarnaka-II.

2.12 Non-levy of penalty on self-consumption of Notified Goods

Penalty of ₹53.09 lakh for using notified goods for self-consumption was not levied

According to Section 3(2) of The Telangana Tax on Entry of Goods into Local Areas Act, 2001, any dealer importing notified goods from other States into any local area¹²⁰ for the purpose of re-sale or for use of the goods as inputs for manufacture of other goods in the State or inter-State trade is exempt from payment of Tax. If the dealer utilises the goods otherwise than by way of re-sale or as inputs, he shall notify the Assessing Authority of the self-consumption of such goods and pay Tax, failing which, he is liable to pay Tax along with Penalty equivalent to the amount of Tax under Section 3(3) of the Act *ibid*.

Audit test checked (between November 2020 and February 2022) the Entry Tax assessment records for the period from November 2016¹²¹ to June 2017. In 12 cases pertaining to eight circles¹²², dealers had utilised notified goods for the purposes other than re-sale or as inputs for manufacture of goods for resale. On detection of this, the AAs had levied only the Entry Tax of ₹53.09 lakh. They did not levy penalty of ₹53.09 lakh as per the provisions.

In reply, Five AAs¹²³ in nine cases replied that the matter would be examined and detailed reply submitted in due course. Two AAs¹²⁴ in two cases stated that the Assessment files would be submitted to the JC (ST) concerned for necessary action. AC(ST), Madhapur-IV in one case stated that notice would be issued to the dealer.

The matter was referred to the Government (February 2023); Reply has not been received.

2.13 Goods and Services Tax (GST)

Goods and Services Tax (GST) was implemented with effect from 01 July 2017. GST is being levied on intra-State supply of goods or services (except alcohol for human consumption and five specified petroleum products¹²⁵) separately but concurrently by the Union (CGST) and the States (SGST) / Union territories (UTGST). Further, Integrated GST (IGST) is being levied on inter-State supply of goods or services (including imports). Parliament has exclusive power to levy IGST.

State Government is empowered to regulate the provisions of TVAT Act, whereas provisions relating to GST are regulated by Centre and State on the recommendation of the Goods and Services Tax Council (GSTC), which was constituted with representation from Centre and all the States to recommend on matters related to GST. The State Government notified (June 2017) the Telangana Goods and Services Tax (TGST) Act, 2017 and the Telangana Goods and Services Tax Rules (TGST Rules), 2017 wherever various taxes were subsumed.

¹²⁰ "Local area" means the area of jurisdiction of a local authority i.e., Municipal Corporations / Municipalities / Cantonment Boards / Panchayats etc.

¹²¹ 11 November 2016.

¹²² ACs (ST) – Basheerbagh-Nampally, Charminar, Madhapur-IV, Malkajgiri-II, Malkajgiri-III, Rajendranagar-I, Rajendranagar-II and Vanasthalipuram-II.

¹²³ ACs (ST) – Basheerbagh-Nampally, Charminar, Rajendranagar-I, Rajendranagar-II and Vanasthalipuram-II.

¹²⁴ ACs (ST) – Malkajgiri-II and Malkajgiri-III.

¹²⁵ Petroleum products: crude, high speed diesel, petrol, aviation turbine fuel and natural gas.

Goods and Services Tax Network (GSTN) was set up by the Government of India as a private company to provide IT services under GST. Later on, the Board of GSTN in its 49th Board meeting held on 30 June 2022 approved the conversion of GSTN into Government Company. It provides front-end IT services to taxpayers like registration, payment of tax and filing of returns. Back-end IT services include registration approval, taxpayer detail viewer, refund processing, MIS reports *etc.* GSTN developed the back-end IT services for States that did not have the requisite IT support systems. These States, including Telangana State, are referred to as Model-II States. Model-I States are those that have developed the back-end systems on their own. With automation of the collection of GST having taken place, it is essential for Audit to have access to GST data to transition from sample checks to a comprehensive check of all transactions. Accountant General (Audit) has written to Commissioner of Commercial Taxes, Telangana to provide access to GST data (May 2018 and November 2018). Based on the decision of GST Implementation Council (GSTIC) in providing data access, Chief Secretary and Special Chief Secretary to Government were addressed (October 2020) to provide access to back-end system of the Commercial Taxes Department. Reminders were issued in November 2020. However, access to data is yet to be provided (February 2023). The Commissioner of Commercial Taxes stated (January 2021) that access would be provided to the deployed Audit officials at their premises by providing logins to GST portal for conducting Subject Specific Compliance Audits (SSCAs) and hence, remote access would not be given. Accordingly, limited access to GST portal alone was provided for conducting SSCAs. Audit of GST Revenue is restricted to that extent.

2.14 Subject Specific Compliance Audit on 'Department's oversight on GST payments and Returns filing (Phase-I)'

2.14.1 Introduction

Introduction of Goods and Service Tax (GST) has replaced multiple taxes levied and collected by the Centre and States. GST, which came into effect from 01 July 2017, is a destination-based consumption tax on the supply of goods or services or both levied on every value addition. The Centre and States simultaneously levy GST on a common tax base. Central GST (CGST) and State GST (SGST) / Union Territory GST (UTGST) are levied on intra state supplies, and Integrated GST (IGST) is levied on inter-state supplies.

Section 59 of the Telangana GST Act, 2017 (TGST Act or Act) stipulates GST as a self-assessment-based tax, whereby the responsibility for calculating tax liability, discharging the computed tax liability and filing returns is vested on the taxpayer. The GST returns must be filed online regularly on the common GST portal, failing which penalties will be payable. Even if the business has no tax liability during a particular tax period, it must file a nil return mandatorily. Further, Section 61 of the Act read with Rule 99 of Telangana GST Rules, 2017 (TGST Rules) stipulate that the proper officer may scrutinise the return and related particulars furnished by taxpayers, communicate discrepancies to the taxpayers and seek an explanation.

This Subject Specific Compliance Audit (SSCA) was taken up considering the significance of the control mechanism envisaged for tax compliance and the oversight mechanism of the Commercial Taxes Department of Telangana (Department) in this new tax regime.

2.14.2 Audit objectives

This audit was oriented towards providing assurance on the adequacy and effectiveness of systems and procedures adopted by the Department with respect to tax compliance under GST regime. Audit of 'Department's oversight on GST payments and Return filing (Phase I)' was taken up with the following Audit objectives to seek an assurance on:

- (i) Whether the Rules and procedures were designed to secure an effective check on tax compliance and were being duly observed by taxpayers; and
- (ii) Whether the scrutiny procedures, internal audit and other compliance functions of the Circles were adequate and effective.

2.14.3 Audit methodology and scope

This SSCA was predominantly conducted based on data analysis, which highlighted risk areas and red flags pertaining to the period July 2017 to March 2018. Through data analysis a set of 14 deviations were identified across the domains of Input Tax Credit, Discharge of tax liability, Registration and Return filing. Such deviations were followed up through a **Limited Audit**¹²⁶, whereby these deviations were communicated to the respective jurisdictional Divisions of the Department and action taken by these Divisions on the identified deviations was ascertained without involving field visits. The Limited audit was supplemented by a detailed audit involving field visits for verification of records available with the jurisdictional field formations. Returns and related attachments and information were accessed through the back-end system of the Department as much as feasible to examine data / documents relating to taxpayers (*viz.* registration, tax payment, returns and other departmental functions). The **Detailed Audit** also involved accessing relevant granular records from the taxpayers such as invoices through the respective field formations. This apart, compliance functions of the departmental formation such as scrutiny of returns, were also reviewed in selected circles.

The review of the scrutiny of returns by the Department and verification of taxpayers' records covered the period from July 2017 to March 2018, while the audit of the functions of selected circles covered the period from July 2017 to March 2021. The SSCA covered only State administered taxpayers. The field audit was conducted from June 2022 to August 2022.

Entry conference of this SSCA was held on 24 February 2022 with the Commissioner and other officials of Commercial Taxes Department, Telangana in which the Audit objectives, sample, Audit scope and methodology were discussed. The draft report on this SSCA was communicated to the Government and to the Department (February 2023) and the replies received so far (April 2023) have been suitably incorporated in the relevant paragraphs.

¹²⁶ Limited Audit do not involve seeking taxpayer's granular records such as financial statements related ledger accounts, invoices, agreements etc.

Audit findings were also discussed with the Commissioner of Commercial Taxes Department in the Exit conference held on 13 June 2023.

2.14.4 Audit sample

A data-driven approach was adopted for planning, as also to determine the nature and extent of substantive audit. The sample for this SSCA comprised a set of deviations identified through data analysis for Limited Audit that did not involve field visits; a sample of taxpayers for Detailed Audit that involved field visits and scrutiny of taxpayer's records at departmental premises; and a sample of Circles for evaluating the compliance functions of the Circles.

There were *three* distinct parts of this SSCA as under:

(i) Part I- Audit of Circles / Strategic Taxpayer Units (STUs)

15 Circles / STUs with jurisdiction over more than one selected sample of cases for Detailed Audit were considered as the sample of Circles / STUs for evaluation of their oversight functions.

(ii) Part II -Limited Audit

The sample for Limited Audit was selected by identification of high-value or high-risk deviations from Rules and inconsistencies between returns through data analysis for evaluation of the adequacy and effectiveness of the scrutiny procedure of the Department. Accordingly, 407 deviations were selected for Limited Audit under this SSCA.

(iii) Part III-Detailed Audit

It was conducted by accessing taxpayers' records through Circles for evaluation of the extent of tax compliance by taxpayers. The sample of taxpayers for Detailed Audit was selected on the basis of risk parameters such as mismatch in claiming of ITC, undischarged tax liability, disproportionate exempted turnover to total turnover and irregular ITC reversal. The 50 taxpayers¹²⁷ selected for Detailed Audit comprised of large, medium and small strata taxpayers as well as taxpayers selected randomly.

The details of sample for Detailed Audit, Limited Audit and Audit of Circles selected for this SSCA are brought out in **Appendix 2.1(A)(B) &(C)**.

2.14.5 Audit criteria

The source of audit criteria comprised the provisions contained in the CGST / SGST Act, IGST Act, and Rules made thereunder. The significant provisions are given in following **Table**.

¹²⁷To have a uniform methodology for stratification considering that the financial profile of taxpayers widely varying across jurisdictions, the stratification of taxpayers on financial materiality is achieved as Large, Medium and Small taxpayers. Eighty *per cent* of the sample size was selected from Large, Medium and Small strata on the proportion of 60: 30:10 based on risk scores. The remaining 20 *per cent* of the sample size was selected on a stratified random sampling basis.

Table 2.8: Source of criteria

Sl No	Subject	Act and Rules
1	Levy and collection	Section 9 of TGST Act, 2017
2	Reverse Charge Mechanism	Section 9(3) of TGST Act, 2017 and Section 5 (3) of IGST Act, 2017
3	Availing and utilising ITC	Sections 16 to 21 under Chapter V of TGST Act, 2017; Rules 36 to 45 under Chapter V of TGST Rules, 2017
4	Registrations	Section 22 to 25 of TGST Act, 2017; Rules 8 to 26 of TGST Rules, 2017
5	Supplies	Section 7 and 8 TGST Act, 2017. Schedule I, II and III of the Act.
6	Place of supply	Section 10 to 13 of IGST Act
7	Time of Supply	Section 12 to 14 of TGST Act, 2017
8	Valuation of supplies	Section 15 of TGST Act, 2017; Rules 27 to 34 of TGST Rules, 2017
9	Payment of Tax	Sections 49 to 53 under Chapter X of TGST Act, 2017; Rules 85 to 88A under Chapter IX of TGST Rules, 2017
10	Filing of GST Returns	Sections 37 to 47 under Chapter IX of TGST Act, 2017; Rules 59 to 68 and 80 to 81 under Chapter VIII. Part B of TGST Rules, 2017
11	Zero-rated supplies	Section 8 of IGST Act 2017
12	Assessment and Audit functions	Sections 61, 62, 65 and 66 under Chapter XII & XIII of TGST Act, 2017; Rules 99 to 102 under Chapter XI of TGST Rules, 2017

In addition, the notifications and circulars issued by Central Board of Indirect Taxes and Customs (CBIC) / Commercial Taxes Department of State Government relating to filing of returns, notifying the effective dates of filing of various returns, extending due dates for filing returns, rates of tax on goods and services, payment of tax, availing and utilising ITC, scrutiny of returns and oversight of tax compliance and Standard Operating Procedures (SoP) containing instructions to departmental officers on various aspects related to filing returns, scrutiny of returns, cancellation of registrations and verification of Directorate General of Analytics and Risk Management (DGARM) reports etc., also formed part of the audit criteria.

Audit findings

2.14.6 Oversight on returns filing

2.14.6.1 Trends in return filing (State-wise)

The Department was addressed (April 2023) with a request to provide information relating to filing of GSTR 1 and GSTR 3B returns by due dates and after due dates for the period 2017-18 to 2020-21 to analyse the State-wise trend of return filing. However, the information has not been received (April 2023).

2.14.6.2 Deficient monitoring mechanism on return filing

Out of a sample of 15 Circles / STUs, Audit could not verify the overseeing mechanism on return filing in STU-1, Secunderabad as neither records nor data was provided to Audit stating that there was no such reporting mechanism available at Circle level and the information / data could be obtained from Commissioner of Commercial Taxes. Even

though the matter was escalated (July 2022) to the Commissioner of Commercial Taxes Audit did not receive any further information / data as of April 2023.

The monitoring mechanism for recovery of demand from non-filers was deficient in 10¹²⁸ Circles / STUs where best judgement assessment in ASMT-13¹²⁹ was initiated. The total amount involved in ASMT-13 was ₹439.66 crore out of which an amount of ₹38.63 crore was recovered leaving a balance of ₹401.03 crore.

2.14.6.3 Lack of action on late-filers and non-filers

A. Overall status at the State Level

The Department was addressed (April 2023) for the information relating to number of late-filers identified, number of cases where GSTR-3A¹³⁰ was issued, number of cases where returns were filed in pursuance of GSTR-3A, cases where the Department initiated best judgment assessment (ASMT-13) and further proceedings taken thereon along with the details of non-filers etc., for the period 2017-18 to 2020-21 to analyse the State-wise trend. However, the information has not been received (April 2023).

B. Results of circle audit

Section 46 of the TGST Act read with Rule 68 of TGST Rules stipulates issue of a notice in Form GSTR-3A requiring filing of return within 15 days if the taxpayer had failed to file the return within the due date. In case the taxpayer fails to file the returns even after such notice, the proper officers may proceed to assess the tax liability of the said person to the best of their judgment, taking into account all the relevant material which is available or gathered and issue an assessment order in Form ASMT-13. Filing of returns is related to payment of tax as the due date for both the actions are the same, which implies risk of non-payment of tax / penalty in the case of non-filers.

(i) Status of non-filers

During Circle Function Audit, it was noticed that 18,922 cases of late filers / non-filers were identified by 10¹³¹ out of 15 sampled circles / STUs during 2017-18 to 2020-21.

As per the information furnished by the circles, there were no non-filers / late filers in three circles¹³². STU-1, Secunderabad did not furnish the requisite information and replied that the required information had to be obtained from the office of Commissioner of Commercial Taxes while Narayanaguda-MJ market circle replied that there was no information available in the officer's login in respect of the return defaulters.

It was noticed that in ten circles though a total of 18,922 cases of non-filers were identified, notices in Form GSTR 3A have been issued to only 18,070 cases leaving a balance of 852

¹²⁸ Abids STU-1, Abids STU-2, Begumpet, Musheerabad, Hyderabad Rural STU-1, Hyderabad STU-2, Jubilee Hills-1, Jubilee Hills-2, Punjagutta STU-1, Punjagutta STU-2.

¹²⁹ Best Judgement Assessment order in cases where the taxpayers have not complied with GSTR 3A notices.

¹³⁰ Notice for defaulters who have not filed GST returns.

¹³¹ Abids STU-1, Abids STU-2, Begumpet, Musheerabad, Hyderabad Rural STU-1, Hyderabad STU-2, Jubilee Hills-1, Jubilee Hills-2, Punjagutta STU-1, Punjagutta STU-2.

¹³² Begumpet STU-1, Begumpet STU-2, Madhapur-3 circle.

cases (4.5 *per cent*). Jurisdictional officers did not initiate any action in these 852 cases. Out of 18,070 cases in which notices in Form GSTR 3A were issued, only in 8,732 cases (48.32 *per cent*), returns were filed by the taxpayers and in the remaining 9,338 cases (51.68 *per cent*), taxpayers have not filed the appropriate returns even after issuance of notices in form GSTR-3A.

(ii) Non-availability of information relating to return defaulters in the officer login

When the information relating to non-filers was called for (June 2022), Assistant Commissioner (AC) / (ST), Narayanaguda MJ Market circle replied that notices for return defaulters were generated from GST Portal in Form GSTR-3A and intimated to taxpayers as return defaulters and accordingly, on filing of returns by the taxpayers, the notices were dropped from the system. The AC (ST) further replied that no separate action was initiated by the Circle Office in respect of return defaulters as there was no information available in the officer's login in respect of the return defaulters and collection of late fee.

The matter was reported to the Government and the Department (February 2023). The Reply has not been received (April 2023).

(iii) Inadequate efforts to recover dues

Section 78 of TGST Act stipulates that any amount payable by a taxable person in pursuance of an order passed under this Act, shall be paid by such person within a period of three months from the date of service of such order failing which recovery proceedings shall be initiated. The time period can be less than three months in some special circumstances, if it is expedient in the interest of the Government.

Audit observed that despite issuing GSTR-3A notices in 9,338 cases across 10 circles during 2017-18 to 2020-21, assessment orders under ASMT-13 were issued only with respect to 397 cases and were not issued in 8,941 cases (96 *per cent*) despite taxpayers not filing their returns within the stipulated time.

Of the 397 cases where ASMT 13 were issued for an amount of ₹439.66 crore, further proceedings in respect of 339 cases under seven¹³³ circles, were withdrawn by tax authorities on filing of returns and upon payment of interest and penalty by the taxpayers. However, details of the action taken by the Department in respect of the remaining 58 cases have not been furnished. Out of the total assessed tax of ₹439.66 crore, an amount of ₹38.63 crore was recovered leaving a balance of ₹401.03 crore.

Two illustrative cases are given below:

- In Jubilee Hills-1 circle under Punjagutta Division, Audit observed that in 58 cases though ASMT-13 were issued, DRC-07¹³⁴ were not issued despite non-payment of tax by the taxpayers and no recovery proceedings were initiated. The money value involved in these cases amounted to ₹42.42 crore.

¹³³ Abids STU1, Abids STU2, Musheerabad, Jubilee hills I, Jubilee hills 2, Hyderabad Rural STU2, Hyderabad Rural STU3.

¹³⁴ Summary of Demand order as a follow up of ASMT-13.

- In Jubilee Hills-2 circle under Punjagutta Division, Audit observed that in 287 cases where ASMT-13 were withdrawn, amount recovered was ₹34.45 crore out of assessed tax of ₹385.41 crore leaving a balance amount of ₹350.96 crore pending recovery.

The matter was reported to the Government and the Department (February 2023). The Reply has not been received (April 2023).

2.14.6.4 Non-initiation of scrutiny of returns

A. Overall status at the State Level

The Department was addressed (April 2023) with a request to provide the information relating to total number of returns to be scrutinised, number of returns actually scrutinised, number of cases where ASMT-10 / SCN (DRC-1) issued and cases where discrepancies accepted by taxpayers etc., for the period 2017-18 to 2020-21 to analyse the pace of scrutiny of returns and further follow up action at State level. However, the information has not been received (April 2023).

B. Results of circle audit

Section 61 of TGSST Act read with Rule 99 of TGSST Rules stipulates that the proper officer may scrutinise the return and related particulars furnished by the taxpayer to verify the correctness of the return and inform him of the discrepancies noticed, if any, in Form GST ASMT-10¹³⁵ in such manner as may be prescribed and seek his explanation thereto. In case no satisfactory explanation is furnished within the prescribed period or where the taxpayer, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action by issuance of DRC-01¹³⁶ and further follow up action. However, Audit noticed that:

(i) SOP for scrutiny

It was not forthcoming whether Department issued detailed guidelines / Standard Operating Procedure (SOP) on scrutiny of returns with a view to ensure the uniformity and to standardise the procedure for the scrutiny proceeding as per Section 61 of the Act. A letter was addressed (November 2022) to the Commissioner of Commercial Taxes Department with a request to provide a copy of SOP and a reminder issued (April 2023). Response is awaited (April 2023).

(ii) Form GST ASMT-10 not issued

Out of total 23,092 taxpayers in 14 out of 15¹³⁷ sampled field formations, returns relating to 7,674 taxpayers (33 *per cent*) were scrutinised and GST ASMT-10 was issued to 1,272 taxpayers informing them of the discrepancies and seeking their explanation thereto. Further, DRC-01 notice was also issued to these 1,272 taxpayers as per procedure.

¹³⁵ ASMT-10 is issued under Rule 99 in accordance with the provisions of Section 61 of the Act informing the taxpayer of such discrepancy and seeking his explanation thereto.

¹³⁶ DRC 01 is a summary of show cause notice issued under Rule 142 specifying tax and other dues.

¹³⁷ Secunderabad STU-I circle replied that no reporting mechanism exists.

However, out of the remaining 6,402 taxpayers, notice in DRC-01 was directly issued to 6,229 taxpayers without issuing ASMT-10 informing them of the discrepancies and seeking their explanation thereto. In balance cases (173), neither ASMT-10 nor DRC-01 were issued.

(iii) Status of recovery of demand issued in SCNs

As observed from the data relating to 14 sampled field formations, Show Cause Notices (SCNs)¹³⁸ under Section 73 of TGST Act in DRC-01 were issued to the 7,501 (1,272 + 6,229) taxpayers. The total amount involved in these SCNs was ₹1,573.90 crore against which only ₹63.67 crore (four *per cent*) was collected from 684 taxpayers. Details of replies received and action taken thereon in respect of the remaining 6,817 taxpayers were not furnished. Further, final assessment order in DRC-07 under Section 73 was not issued in any of the cases.

(iv) Non-inclusion of IGST component SCNs

According to Section 5 of Integrated Goods and Services Tax (IGST) Act, 2017, IGST shall be levied on all inter-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under Section 15 of the TGST Act and at such rates, not exceeding 40 *per cent* as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person. Section 4 of IGST Act 2017 stipulates that the officers appointed under the SGST Act are authorised to be the proper officers for the purposes of this Act.

However, Audit observed that IGST component has not been included in any of the SCNs even in the cases where the taxpayers were liable to pay IGST. On this being brought to notice, three field formations¹³⁹ replied that only CGST and SGST components were included in the SCN but not the IGST component. DC, STU-1 Secunderabad replied that the policy details were to be submitted by their Commissionerate.

The matter was reported to the Government and the Department (February 2023). The Reply has not been received (April 2023).

Recommendation 1:

Show Cause Notices issued for short / non-payment of tax should be pursued and should also include IGST component along with SGST / CGST components.

2.14.6.5 Audit by tax authorities / internal audit

As per Section 65 of the TGST Act, 2017 the Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed. Section 2 (13)

¹³⁸ For tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful- misstatement or suppression of facts.

¹³⁹ Begumpet STU-1, Begumpet STU-2 and Begumpet Circle.

of the TGST Act, 2017, defines “Audit” as the examination of records, returns and other documents maintained or furnished by the registered person under this Act or the Rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or the Rules made thereunder.

The Department was addressed (April 2023) with a request to provide the information relating to total number of taxpayers, total number of taxpayers selected for audit, actual number of audits completed, number of cases where deficiencies were found, amount involved in deficiencies and total recovery etc., for the period 2017-18 to 2020-21 to analyse the effectiveness of the Audits undertaken by the Department. However, the information has not been received (April 2023).

2.14.6.6 Action on DGARM Reports

The Department was addressed (April 2023) with a request to provide the information relating to number of reports received from Directorate General of Analytics and Risk Management (DGARM) / other departments or organisations / Business Intelligence and Fraud Analytics reports etc., for the period 2017-18 to 2020-21 and results of verification of these reports to analyse the follow up action on the reports received. However, the information has not been received (April 2023).

2.14.6.7 Inconsistencies in GST returns -Limited Audit

Audit analysed GST returns data pertaining to 2017-18 as made available by GSTN. Rule-based deviations, and logical inconsistencies between GST returns filed by taxpayers were identified on a set of 14 parameters, which can be broadly categorised into two domains - ITC and Tax payments.

Out of the 13 prescribed GST returns,¹⁴⁰ the following basic returns that apply to regular taxpayers were considered for the purpose of identifying deviations, inconsistencies and mismatches between GST returns / data:

- GSTR-1: monthly return furnished by all normal and casual registered taxpayers making outward supplies of goods and services or both and contains details of outward supplies of goods and services.
- GSTR-3B: monthly summary return of outward supplies and input tax credit claimed, along with payment of tax by the taxpayer to be filed by all taxpayers except those specified under Section 39(1) of the Act. This is the return that populates the credit and debits in the Electronic Credit Ledger and debits in Electronic Cash Ledger.
- GSTR-6: monthly return for Input Service Distributors providing the details of their distributed input tax credit and inward supplies.

¹⁴⁰ GSTR-1, GSTR-3B, GSTR-4 (taxpayers under the Composition scheme), GSTR-5 (non-resident taxable person), GSTR-5A (Non-resident OIDAR service providers), GSTR-6 (Input service distributor), GSTR-7 (taxpayers deducting TDS), GSTR-8 (E-commerce operator), GSTR-9 (Annual Return), GSTR-10 (Final return), GSTR-11 (person having UIN and claiming a refund), CMP-08, and ITC-04 (Statement to be filed by a principal / job-worker about details of goods sent to / received from a job-worker).

- GSTR-8: monthly return to be filed by the E-commerce operators who are required to deduct Tax Collected at Source (TCS) under GST, introduced in October 2018.
- GSTR-9: annual return to be filed by all registered persons other than an Input Service Distributor (ISD), Tax Deductor at Source / Tax Collector at Source, Casual Taxable Person and Non-Resident taxpayer. This document contains the details of all supplies made and received under various tax heads (CGST, SGST and IGST) during the entire year along with turnover and audit details for the same.
- GSTR-9C: annual audit form for all taxpayers having a turnover above ₹five crore in a particular financial year. It is basically a reconciliation statement between the annual returns filed in GSTR-9 and the taxpayer's audited annual financial statements.
- GSTR-2A: a system-generated statement of inward supplies for a recipient. It contains the details of all B2B transactions of suppliers declared in their Form GSTR-1 / 5, ISD details from GSTR-6, details from GSTR-7 and GSTR-8 respectively by the counterparty and import of goods from overseas on bill of entry, as received from ICEGATE Portal of Indian Customs.

The data analysis pertaining to the jurisdiction of Commercial Taxes Department, Telangana on the 14 identified parameters and extent of deviations / inconsistencies observed are summarised in **Table** below.

Table 2.9: Summary of data analysis

Sl. No.	Parameter	Algorithm used	Number of deviations out of 407	(₹ in crore)
				Amount
1.	Input Tax Credit (ITC) mismatch between GSTR-2A and GSTR-3B	ITC available as per GSTR-2A with all its amendments was compared with the ITC availed in GSTR-3B in Table-4A (5) (accrued on domestic supplies) considering the reversals in Table-4B(2) but including the ITC availed in subsequent year 2018-19 from Table-8C of GSTR-9	50	279.69
2.	ITC Mismatch on RCM	RCM payments in GSTR-3B, Table-3.1(d) was compared with ITC availed in GSTR-9, Table 6C, 6D & 6F. In cases where GSTR-9 was not available, check was restricted within GSTR-3B, tax discharged in Table-3.1(d) vis-à-vis ITC availed in Table-4A (2) & 4A(3)	50	44.57
3.	Mismatch in turnover between Annual return and Financial Statements (Table 5R of Form 9C)	RCM payments in GSTR-9, Table 4G (tax payable) was compared with ITC availed in GSTR-9, Table 6C, 6D & 6F. In cases where GSTR-9 was not available, RCM payment in GSTR-3B, Table-3.1(d) was compared with GSTR-3B, Table- 4(A)(2) and 4A(3).	15	2.71
4.	Mismatch in taxable turnover between Annual return and	Negative figure in GSTR-9C, Table-5R and examination of reasons provided in Table-6 for mismatch	50	3,476.09

	Financial Statements (Table 7G of Form 9C)			
5.	Mismatch in tax paid between books of accounts and Annual Return (Table 9R of Form 9C)	Negative figure in GSTR-9C, Table-7G and examination of reasons provided in Table-8 for mismatch	29	600.20
6.	Unreconciled taxable turnover in Table-9R of GSTR-9C	Negative figure in GSTR-9C, Table-9R and examination of reasons provided in Table-10 for mismatch	50	1,030.43
7.	Mismatch in ITC availed between Annual Return and Financial Statements (Table 12F of Form 9C)	Positive figure in GSTR-9C, Table- 12F and examination of reasons provided in Table- 13 for mismatch	25	7,589.25
8.	Reconciliation between ITC declared in Annual return with expenses in financial statement (Table 14T of Form 9C)	Positive figure in GSTR-9C, Table-14T and examination of reasons provided in Table-15 for mismatch	25	1,313.90
9.	Cases where GSTR-3B not filed but GSTR-1 or GSTR-2A available	Taxpayers who had not filed GSTR-3B but filed GSTR-1 or where GSTR-2A available, indicating taxpayers had carried the business without discharging tax.	25	1.97
10.	Undischarged tax liability	Greater of tax liability between GSTR-1 (Tables 4 to 11) and GSTR-9 (Tables- 4N, 10 & 11) was compared with tax paid details in GSTR-3B, Tables 3.1(a) & 3.1(b). In cases where GSTR-9 was not available GSTR-3B tax paid was compared with GSTR-1 liability. The amendments and advance adjustments declared in GSTR-1 and 9 were duly considered.	25	167.40
11.	Short payment of interest on delayed payments	Interest calculated at the rate of 18 <i>per cent</i> on cash portion of tax payment on delayed filing of GSTR-3B <i>vis-à-vis</i> interest declared in GSTR-3B	25	9.93
12.	Composition taxpayers availed E-commerce facility	E-commerce GSTR-8 became effective from 01 October 2018 when TCS provisions became effective. GSTINs declared in GSTR-8 who are also filing GSTR-4 under composition scheme.	10	0
13.	Input Service Distributor (ISD) Credit	ISD transferred in GSTR-9, Table-6G or GSTR-3B, Table-4(A)(4) was compared with the sum of	25	20.80

		Table-5A, Table-8A and Table-9A of GSTR-6 of recipient GSTINs.		
14.	ISD Reversal	GSTR-9, Table-7B/7H of the recipients was compared with sum of Table-8A (negative figures only) and Table-9A (negative figures only) of their GSTR-6 returns.	3	0.01
Total			407	14,536.95

Non-submission of reply by the Department

Audit selected a sample of 407 cases from amongst the top deviations / inconsistencies in each of the 14 parameters for the year 2017-18. The audit queries were issued to the respective Divisions between March-April 2022 without further scrutiny of taxpayer's records. The audit check in these cases was limited to verifying the Department's action on the identified deviations / mismatches.

Initial responses were yet to be received, as of April 2023, for 124 inconsistencies communicated to the Department, which represent a potential risk exposure of ₹1,568.81 crore as shown in the **Table** below:

Table 2.10: Reply not received

(₹ in crore)

Audit Dimension	Sample		Department reply not received		Percentage	
	Number	Amount of mismatch	Number	Amount	Number	Amount
ITC mismatch between GSTR-2A and GSTR-3B	50	279.69	11	62.95	22.0	22.5
ITC Mismatch on RCM	50	44.57	20	10.23	40.0	23.0
ITC Mismatch on RCM without payment	15	2.71	4	0.74	26.7	27.3
Mismatch in turnover between Annual return and Financial Statements (Table-5R of Form GSTR-9C)	50	3,476.09	14	663.54	28.0	19.1
Mismatch in taxable turnover between Annual return and Financial Statements (Table-7G of Form GSTR-9C)	29	600.20	8	218.35	27.6	36.4
Mismatch in tax paid between books of accounts and Annual Return (Table-9R of Form GSTR-9C)	50	1,030.43	20	26.96	40.0	2.6
Mismatch in ITC availed between Annual Return and Financial Statements (Table-12F of Form GSTR-9C)	25	7,589.25	7	49.15	28.0	0.6
Reconciliation between ITC declared in Annual return with expenses in financial statement (Table 14T of Form GSTR-9C)	25	1,313.90	7	488.02	28.0	37.1

Cases where GSTR-3B not filed but GSTR-1 or GSTR-2A available	25	1.97	5	0.23	20.0	11.7
Undischarged tax liability - compared with GSTR-1 liability and GSTR-9/GSTR-3B payments	25	167.40	8	38.09	32.0	22.8
Short payment of Interest	25	9.93	7	4.10	28.0	41.3
List of Composition taxpayers who are also availing E-commerce facility	10	-	2	-	20.0	-
Mismatch in ISD credit	25	20.80	9	6.44	36.0	31.0
Short reversal of ISD credit	3	0.01	2	0.01	66.7	100.0
Total	407	14,536.95	124	1,568.81	30.47	10.79

Considering that the overall rate of conversion of inconsistencies into compliance deviations is significant as brought out in the next paragraph, the Department is required to expedite verification of these cases as a priority.

Table 2.11: Top ten cases in terms of money value where response is yet to be received

(₹ in crore)					
Sl. No.	GSTIN	Name of the taxpayer	Division / Circle	Deviation	Mismatch amount
1	3XXXXXXXXXXXXXZ	Toshiba Transmission & Distribution Systems (India) Private Limited	Hyderabad Rural Hyderabad Rural STU-3	Reconciliation between ITC declared in Annual return with expenses in financial statement (Table-14T of Form GSTR-9C)	228.94
2	3XXXXXXXXXXXXX5	Bharat Dynamics Limited	Charminar Charminar STU-2	Mismatch in turnover between Annual return and Financial Statements (Table 5R of Form GSTR-9C)	124.44
3	3XXXXXXXXXXXXXY	Royalook Incorporation Private Limited	Hyderabad Rural Hydernagar - III	do	123.85
4	3XXXXXXXXXXXXXL	Prajay Properties Private Limited	Abids Narayanaguda-MJ Market	do	118.58
5	3XXXXXXXXXXXXX9	Taurus Value Steel & Pipes Private Limited	Hyderabad Rural Hyderabad Rural STU-2	Reconciliation between ITC declared in Annual return with expenses in financial statement (Table 14T of Form GSTR-9C)	100.49

6	3XXXXXXXXXXXXX2	Orient Cement Limited	Adilabad Adilabad STU	do	76.92
7	3XXXXXXXXXXXXXW	Hyderabad Race Club	Charminar Charminar STU-1	Mismatch in taxable turnover between Annual return and Financial Statements (Table 7G of Form GSTR-9C)	66.53
8	3XXXXXXXXXXXXXL	Nagarjuna Milk Products Pedda Papaiahpally	Karimnagar Siricilla	-do-	53.05
9	3XXXXXXXXXXXXXI	Savitri Steels and Rerollings Private Limited	Charminar Charminar STU-2	Mismatch in turnover between Annual return and Financial Statements (Table-5R of Form GSTR-9C)	47.54
10	3XXXXXXXXXXXXXU	Andhra Bank	Abids Abids STU-1	Mismatch in taxable turnover between Annual return and Financial Statements (Table-7G of Form GSTR-9C)	39.81

Recommendation 2:

Department may urgently pursue the inconsistencies and deviations pointed out in Limited Audit, for which responses have not been provided and intimate the results to Audit.

2.14.6.8 Results of Limited Audit**(A) Summary of deviations**

Based on responses received from the Department in respect of 283 cases out of 407 Audit queries issued, the extent to which each of the 14 parameters translated into compliance deviations is summarized in **Appendix 2.2**.

Summary of Limited Audit

Audit noticed deviations from the provisions of the Act in 109 cases (Col. No. 10,12,14,16 and 18 of **Appendix 2.2**) involving a short levy of tax, mismatch in claim of ITC and mismatch of turnover, etc., of ₹986.78 crore (Col.No.11, 13, 15, 17 and 19 of **Appendix 2.2**) constituting 38.51 *per cent* of the 283 inconsistencies / mismatches in data, for which the Department provided responses. Relatively higher rates of deviations were noticed in risk parameters such as short / non-payment of interest, ITC mismatch, mismatch in RCM ITC availed, mismatch in claim of ISD credit, incorrect turnover declarations and short tax payments etc.

In 142 cases (Col. No.4, 6 and 8 of **Appendix 2.2**), constituting 50 *per cent*, where the Department's reply was acceptable to Audit, data entry errors by taxpayers comprised 41

cases (Col. No.4 of **Appendix 2.2**), Department had proactively taken action in 14 cases (Col. No.6 of **Appendix 2.2**) and 87 cases (Col. No.8 of **Appendix 2.2**) had valid explanations.

In two cases (Col. No.24 of **Appendix 2.2**), constituting 0.7 *per cent*, the Department stated that it was examining the underlying deviation of ₹1.01 crore. In the remaining 30 cases (Col. No.22 of **Appendix 2.2**), constituting 10.60 *per cent*, though the Department did not accept the deviations pointed out by Audit, its contention was not borne out by evidence, and was thus not amenable to verification by Audit.

Illustrative cases for each highest value case from each dimension are given below:

(i) Dimension - ITC mismatch between GSTR-2A and GSTR-3B

GSTR-2A is a purchase related dynamic tax return that is automatically generated for each business by the GST portal, whereas GSTR-3B is a monthly return in which summary of outward supplies along with ITC declared and payment of tax are self-declared by the taxpayer.

To analyse the veracity of ITC utilisation, relevant data were extracted from GSTR-3B and GSTR-2A for the year 2017-18, and the ITC paid as per suppliers' details was matched with the ITC credit availed by the taxpayer. The methodology adopted was to compare the ITC available as per GSTR-2A with all its amendments and the ITC availed in GSTR-3B in Table-4A (5)¹⁴¹ excluding the reversals Table-4B (2)¹⁴² but including the ITC availed in the subsequent year 2018-19 from Table-8C of GSTR-9.

Audit observed that in case of M/s. Brahmos Aerospace Private Limited under Saroornagar STU – II, the ITC available as per GSTR-2A was ₹113.14 crore and the ITC availed in Table 4A (5) of GSTR-3B was ₹136.85 crore (including the ITC ₹22.27 crore availed in the subsequent year 2018-19 from Table 8C of GSTR-9). This resulted in mismatch of ITC availed amounting to ₹23.71 crore which was communicated to the Department (March 2022) and the Government (February 2023). In response, the Department stated (April 2023) that a notice seeking the reasons for the discrepancy had been issued (April 2023). Final Reply has not been received (April 2023).

(ii) Dimension - ITC Mismatch on RCM

Under Reverse Charge Mechanism, the liability to pay tax is fixed on the recipient of supply of goods or services instead of the supplier or provider in respect of certain categories of goods or services or both under Section 9(3) or Section 9(4) of TGST Act, 2017 and under sub-section (3) or sub-section (4) of Section 5 of the IGST Act, 2017.

GSTR-9 is an annual return to be filed once for each financial year, by the registered taxpayers who were regular taxpayers, including Special Economic Zone (SEZ) units and SEZ developers. The taxpayers are required to furnish details of purchases, sales, input tax credit or refund claimed or demand created etc.

¹⁴¹ All other eligible ITC.

¹⁴² Other ITC reversed.

To analyse the veracity of ITC availed on tax paid under Reverse Charge Mechanism (RCM) for the year 2017-18, the datasets pertaining to GSTR-3B and annual return GSTR-9 were compared to check whether the ITC availed on RCM was restricted to the extent of tax paid. The methodology adopted was to compare the RCM payments in GSTR-3B Table-3.1(d)¹⁴³ with ITC availed in GSTR-9 Table-6C¹⁴⁴, 6D¹⁴⁵ and 6F¹⁴⁶. In cases where GSTR-9 was not available, the check was restricted within GSTR-3B where the tax discharged under Table 3.1(d) of GSTR-3B was compared with the ITC availing under table 4A(2)¹⁴⁷ and 4A(3)¹⁴⁸ of GSTR-3B.

Audit observed that in case of M/s. Kalpan Kumar Cheeti under Marredpally Circle, the tax liability on inward supplies under reverse charge in Table 3.1(d) of GSTR-3B was Nil and the ITC availed in Table 4A (2) & (3) of GSTR-3B was ₹4.61 crore resulting in mismatch of ITC availed amounting to ₹4.61 crore. The same was communicated to the Department (March 2022) and the State Government (February 2023). In response, the Department stated (April 2023) that a notice in DRC-01 was issued in April 2022 and order in DRC-07 was issued (July 2022) duly confirming the demand. Further progress has not been received (April 2023).

(iii) Dimension - ITC Mismatch on RCM without payment

The extent of availing of ITC under RCM for the year 2017-18 without discharging equivalent tax liability or, in other words, short payment of tax under RCM was analysed by comparing the datasets pertaining to GSTR-3B and annual return GSTR-9 to check whether the tax has been discharged fully on the activities / transactions under RCM. In cases where GSTR-9 was filed, the RCM payments in Table-4G¹⁴⁹ was compared with ITC availed in Table-6C, 6D and 6F. In cases where GSTR-9 was not available, RCM payments in GSTR-3B Table-3.1(d)¹⁵⁰ was compared with GSTR-3B 4(A) (2)¹⁵¹ and 4A (3)¹⁵².

Audit observed that in case of M/s United Engineering System under Vanathalipuram-2 circle, the RCM payments in Table 3.1(d) of GSTR-3B was ₹77,372/- and the ITC availed in table 4(A)(2) and 4A(3) of GSTR-3B was ₹20.02 lakh. This resulted in mismatch in availing of ITC on RCM without payment of tax amounting to ₹19.24 lakh which was communicated to the Department (March 2022) and the State Government (February 2023). In response, the Department stated (April 2023) that DRC-01 seeking the reasons for the discrepancy had been issued (April 2023). Further progress in this regard has not been received (April 2023).

¹⁴³ Inward supplies (liable to reverse charge).

¹⁴⁴ Inward supplies received from unregistered persons liable to reverse charge.

¹⁴⁵ Inward supplies received from registered persons liable to reverse charge.

¹⁴⁶ Import of services.

¹⁴⁷ Import of services.

¹⁴⁸ Inward supplies (liable to reverse charge).

¹⁴⁹ Inward supplies on which tax is to be paid on reverse charge basis.

¹⁵⁰ Inward supplies (liable to be reversed charge).

¹⁵¹ Import of services.

¹⁵² Inward supplies liable to be reversed charge other than Import of Goods and Services.

(iv) Dimension - Mismatch in availment of ITC by recipient on ISD credit

To analyse whether the ITC availed by the taxpayer is in excess of that transferred by the Input Service Distributor (ISD), ITC availed as declared in the returns of the taxpayer is compared with the ITC transferred by the ISD in their GSTR-6. The methodology adopted was to compare Table 6G¹⁵³ of GSTR-9 or Table 4(A)(4)¹⁵⁴ of GSTR-3B of the recipient taxpayers under the jurisdiction of this State with the sum of Table 5A¹⁵⁵, Table 8A¹⁵⁶ and Table 9A¹⁵⁷ of GSTR-6 of the respective ISD.

In case of M/s Eli Lilly and Company India Private Limited under Rajendranagar-1 circle, audit observed that the ITC availed in Table 6G of GSTR-9 was ₹1.51 crore and the ITC transferred by the ISD in Table (5A+8A+9A) of GSTR-6 was ₹0.87 crore. This resulted in mismatch in availment of ITC transferred by the ISD amounting to ₹0.64 crore which was communicated to the Department (March 2022) and the State Government (February 2023). In response, the Department stated (April 2023) that necessary action would be initiated as soon as the reply is filed by the taxpayer.

(v) Dimension - Unreconciled ITC in Table 14T of Form- GSTR-9C

Table 14 of Form-GSTR-9C reconciles ITC declared in annual return (GSTR-9) with ITC availed on expenses as per audited Annual financial statement or books of accounts. Row 14T of this Form deals with unreconciled ITC.

The certified reconciliation statement submitted by the taxpayer as required under the Rule 80(3) of CGST / SGST Rules in form GSTR-9C for the year 2017-18 was analysed at data level to review the extent of identified mismatch in ITC declared in the Annual Return with the expenses reported in the Financial Statements.

Unreconciled ITC of ₹41.68 crore declared in Table 14T of GST- 9C, being ITC availed in GST returns in excess of eligible ITC based on expenses reported in financial statements, in case of M/s. Indus Towers Limited under Begumpet STU-2 was noticed and communicated to the Department (March 2022) and the State Government (February 2023). In response, the Department stated (April 2023) that notice in Form DRC-01 had been issued. Further progress in this regard has not been received (April 2023).

(vi) Dimension - Unreconciled ITC in Table 12F of Form GSTR-9C

Table 12 of Form-GSTR-9C reconciles ITC declared in annual return (GSTR-9) with ITC availed as per audited Annual financial statement or books of accounts. Row 12F of this Form deals with unreconciled ITC.

The certified reconciliation statement submitted by the taxpayer as required under the Rule 80(3) of CGST / SGST Rules in form GSTR-9C for the year 2017-18 was analysed at data level to review the extent of identified mismatch in ITC declared in the Annual Return with the Financial Statements.

¹⁵³ ITC received from ISD.

¹⁵⁴ Inward supplies from ISD.

¹⁵⁵ Distribution of the amounts of eligible ITC for the tax period.

¹⁵⁶ Mismatch of ITC reclaimed and distributed.

¹⁵⁷ Redistribution of ITC distributed to a wrong recipient.

Unreconciled ITC of ₹2.88 crore declared in Table 12F of GSTR-9C, being ITC availed in GST returns in excess of eligible ITC based on financial statements, in case of M/s Dell International Services under Begumpet STU-1 was noticed and communicated to the Department (March 2022) and the State Government (February 2023). In response, the Department stated (April 2023) that DRC-01 had been issued (April 2022). Further progress in this regard has not been (April 2023).

(vii) Dimension - Unreconciled turnover in Table 5R of GSTR-9C

Table 5 of GSTR-9C is the reconciliation of turnover declared in audited annual financial statement with turnover declared in annual turnover (GSTR-9). Column 5R of this table captures the unreconciled turnover between the annual return GSTR-9 and that declared in the Financial Statement for the year after the requisite adjustments.

The certified reconciliation statement submitted by the taxpayer as required under Rule 80(3) of CGST / SGST Rules in form GSTR-9C for the year 2017-18 was analysed at data level to review the extent of identified mismatch in turnover reported in the Annual Return *vis-à-vis* the Financial Statements. The unreconciled amount in cases where the turnover declared in GSTR-9 is less than the financial statement indicates non-reporting, under-reporting, short-reporting, omission, error in reporting of supplies leading to evasion or short payment of tax. It could also be a case of non-reporting of both taxable and exempted supplies.

Audit query on unreconciled turnover in Table 5R of GSTR-9C, amounting to ₹339.03 crore was issued (March 2022) in respect of M/s Shriram Life Insurance Company Limited under Madhapur-IV Circle and communicated to the Department and the State Government (February 2023). In response, the Department stated (April 2023) that a notice had been issued. Further progress in this regard has not been received (April 2023).

(viii) Dimension - Unreconciled taxable turnover in Table 7G of GSTR-9C

Table 7 of GSTR-9C is the reconciliation of taxable turnover. Column 7G of this table captures the unreconciled taxable turnover between the annual return GSTR 9 and that declared in the financial statement for the year after the requisite adjustments.

The certified reconciliation statement submitted by the taxpayer as required under the Rule 80(3) of CGST / SGST Rules in Form GSTR-9C for the year 2017-18 was analysed at data level to review the extent of identified mismatch in taxable turnover reported in the Annual Return *vis-à-vis* the Financial Statements. The unreconciled amount in cases where the turnover in GSTR-9 is less than the financial statement indicates non-reporting, under-reporting, short-reporting, omission, error in reporting of taxable supplies. It could also be on account of non-reporting of both taxable and exempted supplies.

Audit query on Undischarged taxable turnover in Table 7G of GSTR-9C, amounting to ₹13.91 crore in respect of M/s. Uttara Enterprises HPC under Mahbubnagar Circle was communicated to the Department (March 2022) and the State Government (February 2023). In response, the Department stated (April 2023) that a notice in Form DRC-01 had been issued and a detailed reply would be furnished as and when response is received from taxpayer. Further progress in this regard has not been received (April 2023).

(ix) Dimension - Unreconciled tax liability in Table 9R of GSTR-9C

The certified reconciliation statement submitted by the taxpayer as required under Rule 80(3) of CGST / SGST Rules in form GSTR-9C for the year 2017-18 was analysed at data level to review the extent of identified mismatch in tax paid between the Annual Return and the books of accounts. Table 9 of the form-9C attempts to reconcile the tax paid by segregating the turnover rate-wise and comparing it with the tax discharged as per annual return GSTR-9. The unreconciled amounts could potentially indicate tax levied at incorrect rates, incorrect depiction of taxable turnover as exempt or *vice versa* or incorrect levy of CGST / SGST / IGST. There can also be situations wherein supplies / tax declared are reduced through amendments (net of debit notes / credit notes) in respect of the 2017-18 transactions carried out in the subsequent year from April to September 2018. Consequential interest payments - both short payments and payments under incorrect heads - also need to be examined in this regard.

Unreconciled payment of tax declared in Table 9R of GSTR-9C, amounting to ₹0.61 crore in case of M/s. Thirupathi Tulsegari Contractor under Karimnagar-1 Circle was communicated to the Department (March 2022) and the State Government (February 2023). In response, the Department stated (April 2023) that a notice in DRC-01 had been issued in April 2022. Further progress in this regard has not been received (April 2023).

(x) Dimension - Undischarged tax liability

GSTR-1 depicts the monthly details of outward supplies of Goods or Services. These details are also assessed by the taxpayer and mentioned in annual return GSTR-9 in the relevant columns. Further, taxable value and tax paid thereof are also shown in GSTR-3B.

To analyse the undischarged tax liability, relevant data were extracted from GSTR-1 and GSTR-9 for the year 2017-18 and the tax payable in these returns was compared with the tax paid as declared in GSTR-9. Where GSTR-9 was not available, a comparison of tax payable between GSTR-1 and GSTR-3B was resorted to. The amendments and advance adjustments declared in GSTR-1 and 9 were also considered for this purpose.

For the algorithm, Tables 4 to 11 of GSTR-1 and Tables 4N, 10 and 11 of GSTR-9 were considered. The greater of the tax liability between GSTR-1 and GSTR-9 was compared with the tax paid declared in Tables 9 and 14 of GSTR-9 to identify the short payment of tax. In the case of GSTR-3B, Tables 3.1(a)¹⁵⁸ and 3.1(b)¹⁵⁹ were taken into account.

During audit, it was observed that in case of M/s. Electronic Corporation of India Limited under Saroornagar STU-1, the tax payable in Table 4N, 10 and 11 of GSTR-9 was ₹224.33 crore and the tax paid declared in Tables 9 and 14 of GSTR-9 was ₹212.85 crore. This resulted in mismatch of tax liability amounting to ₹11.48 crore between the tax payable and tax paid as per GSTR-9 which was communicated to the Department (March 2022) and the State Government (February 2023). In response, the Department stated (April 2023) that a

¹⁵⁸ Outward taxable supplies (other than zero rated, nil rated and exempted).

¹⁵⁹ Outward taxable supplies (Zero rated).

notice in Form DRC-01 had been issued to the taxpayer. Further progress in this regard has not been received (April 2023).

(xi) Dimension - Short payment of interest

Section 50 of the Act stipulates that every person liable to pay tax in accordance with the provisions of this Act or the Rules made there under but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay interest at the rate notified.

The extent of short payment of interest on account of delayed remittance of tax during 2017-18 was identified using the tax paid details in GSTR-3B and the date of filing of the GSTR-3B. Only the net tax liability (cash component) has been considered to work out the interest payable.

Audit observed that in case of M/s. Analogics Tech India Limited under Basheerbagh-1 circle wherein the returns (GSTR-3B) pertaining to the months of July 2017 to March 2018 involved tax liability amounting to ₹3.96 crore and were filed between August 2018 and February 2019. This resulted in a short payment of Interest amounting to ₹60 lakh which was communicated to the Department (March 2022) and State Government (February 2023). In response, the Department stated (April 2023) that out of the total interest liability of ₹60 lakh an amount of ₹25 lakh had been recovered (August 2022, January and March 2023) from the taxpayer at the instance of audit and the taxpayer promised to pay the balance. Further progress in this regard has not been received (April 2023).

(xii) Dimension - Cases where GSTR-3B not filed but GSTR-1 or GSTR-2A available

GSTR-3B return is the only instrument through which the liability is offset, and ITC is availed. The very availability of GSTR-1 and 2A and non-filing of R3B indicates that the taxpayers had undertaken / carried on the business during the period but have not discharged their tax liability. It may also include cases of irregular passing on of ITC. At the data level, Audit has attempted to identify those taxpayers who have not filed GSTR-3B but have filed GSTR-1 or whose GSTR-2A was available.

M/s. Sai Balaji Housing Private Limited under Madhapur-1 Circle filed GSTR-1 involving tax liability of ₹18.30 lakh and GSTR-2A of the taxpayer was also available. However, the taxpayer had not filed GSTR-3B for the year 2017-18 and this was communicated to Department (March 2022) and State Government (February 2023). In response, the Department stated (May 2022) that a notice in Form DRC-01 had been issued to the taxpayer in April 2022. Further progress in this regard has not been received (April 2023).

(B) Analysis of causative factors

Considering the Department's response to 283 cases out of the sample of 407 data deviations / inconsistencies, the factors that caused the data deviations / inconsistencies are as follows:

(a) Deviations from GST law and Rules: Out of the 283 deviations summarised above, the Department has accepted the audit observations or initiated examination in 97 cases with tax effect (including mismatches in ITC, tax liability and turnover) of ₹729.85 crore.

Out of these cases, the Department has recovered ₹1.54 crore in six cases, issued SCN in 49 cases for ₹219.07 crore, issued notice conveying discrepancies to the taxpayer in Form ASMT-10 in 12 cases for ₹9.41 crore and was in correspondence with the respective taxpayers in 30 cases involving an amount of ₹499.49 crore.

The top five accepted cases are featured below:

- i. ITC mismatch between GSTR-3B and GSTR-2A of ₹17.84 crore was noticed in case of M/s Xiaomi Technology India Private Limited under Punjagutta STU-1, Punjagutta Division, which was communicated to the Department in March 2022. In response, the Department stated (April 2022) that a notice has been issued to taxpayer.
- ii. ITC mismatch between GSTR-3B and GSTR-2A of ₹11.89 crore was noticed in case of M/s Mahindra and Mahindra Limited under Begumpet STU-2, Begumpet Division, and the same was communicated to the Department in March 2022. In response, the Department stated (April 2022) that a notice in DRC-01 was issued to taxpayer.
- iii. ITC mismatch between GSTR-3B and GSTR-2A of ₹8.96 crore was noticed in case of M/s Biocon Limited under Begumpet STU-1, Begumpet Division, which was communicated to the Department in March 2022. In response, the Department stated (April 2023) that a notice has been issued to the taxpayer.
- iv. In case of M/s. Kalpan Kumar Cheeti under Marredpally Circle, the tax liability on inwards supplies under reverse charge was Nil and the ITC on RCM availed was ₹4.61 crore resulting in mismatch of ITC on RCM availed amounting to ₹4.61 crore. The same was communicated to the Department (March 2022). In response, the Department stated (April 2023) that a notice in DRC-01 was issued in April 2022 and order in DRC-07 was issued (July 2022) duly confirming the demand.
- v. Mismatch in ITC availed between Annual Return and Financial Statements (Table 12F of Form GSTR-9C) of ₹2.28 crore was noticed in case of M/s Vigneshwara Cement Agencies under Nalgonda-1 circle, Nalgonda Division, and the same was communicated to the Department in March 2022. In response, the Department stated (April 2023) that a notice in DRC-01 was issued to the taxpayer.

In all the cases Government's reply has not been received (April 2023).

Cases where Department's reply is not accepted to Audit

Out of 283 non-compliance cases, the Department contended Audit observations in 12 cases amounting to ₹257.27 crore (including mismatches). In these cases, the Department either did not accept the audit observation or forwarded explanations of the taxpayers without explicitly commenting on the audit observations.

Five illustrative cases are featured below:

- (i) The tax liability declared by M/s BVSR Constructions Private Limited under Abids STU-2 as per GSTR-1 for the year 2017-18 was ₹30.29 crore and the tax paid declared in Tables 9 and 14 of GSTR-9 was ₹19.93 crore. This resulted in mismatch of tax liability amounting to ₹10.36 crore between the tax payable and tax paid

which was communicated to the Department (March 2022) and the State Government (February 2023). The Department replied (April 2023) that the actual tax liability was ₹19.93 crore and the same was discharged by the taxpayer. However, the tax liability as per the data extracted from GSTN Portal was ₹30.29 crore and hence there was undischarged tax liability of ₹10.36 crore. Further reply has not been received (April 2023).

- (ii) Mismatch of tax liability amounting to ₹3.39 crore between the tax payable (₹8.10 crore) and tax paid (₹4.71 crore) as per GSTR-9 noticed in the case of M/s HES Infra (JV) under Jubilee Hills-1 circle was communicated to the Department (March 2022) and the State Government (February 2023). The Department replied (April 2023) that the taxpayer discharged the tax liability of ₹3.39 crore through DRC-03 dated February 2022 by debiting Electronic Credit Ledger duly claiming the ITC pertaining to 2017-18 in January 2022. However, as per CBIC Order No.02 / 2018 dated 31 December 2018, ITC pertaining to 2017-18 was allowed to be claimed up to March 2019 only. Hence, allowance of ITC pertaining to 2017-18 in January 2022 is not correct and therefore needs to be reversed along with applicable interest. Final reply has not been received (April 2023).
- (iii) Unreconciled ITC of ₹2.57 crore declared in Table 12F of GSTR 9C, being ITC availed in GST returns in excess of eligible ITC based on financial statements was noticed in case of M/s Hy Gro Chemicals Pharmtek under M.G.Road - S.D.Road circle and communicated to the Department (March 2022) and the State Government (February 2023). In response, the Department replied (April 2023) that unreconciled ITC was due to credit of Transitional claim and reversals made in Table GSTR-9 for the year 2017-18. However, the reply is not acceptable as Table 12 of GSTR 9-C already captured all these figures and net ITC eligible as per books of accounts was ₹4.45 crore only as against which ITC of ₹7.02 crore was availed in GSTR-9 resulting in unreconciled ITC of ₹2.57 crore.
- (iv) Unreconciled payment of tax declared in Table 9R of GSTR 9C, amounting to ₹8.45 crore was noticed in case of M/s. Apollo Medskills Limited under Jubilee Hills-1 circle and communicated to the Department (March 2022) and the Government (February 2023). As seen from GSTR-9 of M/s. Apollo Medskills Limited under Jubilee Hills-1 circle, the actual tax liability was ₹84.47 lakh as against which liability of ₹8.45 crore was adopted incorrectly in GSTR 9C due to data entry error by Chartered Accountant. Hence the unreconciled tax of ₹8.45 crore was communicated to the Department as against the actual liability of ₹84.47 lakh. In response, the Department forwarded (April 2023) taxpayer's reply wherein it was stated that GSTR-3B was filed correctly declaring exempted supplies, but error occurred at the time of filing of GSTR-9 by making exempted supplies as taxable supplies. Reply is not acceptable as tax liability as per GSTR-9 was ₹84.47 lakh out of which an amount of ₹18.53 lakh (₹0.48 lakh through GSTR-3B and ₹18.05 lakh through DRC-03) only was discharged leaving tax liability of ₹65.94 lakh undischarged. Final reply has not been received (April 2023).

(v) Audit observed that in case of M/s. Hasan Ali Merchant under Warangal Urban-3 circle, the tax liability on inwards supplies under reverse charge in table 3.1(d) of GSTR 3B was Nil and the ITC availed in Table 4A (2) & (3) of GSTR 3B was ₹38.09 lakh resulting in mismatch of ITC availed amounting to ₹38.09 lakh which was communicated to the Department (March 2022) and the State Government (February 2023). The Department replied (April 2023) that the dealer made mistakes in filing GST returns and admitting the mistakes, the dealer made payment through DRC-03 for incorrectly claimed ITC of ₹50.78 lakh on IGST during the year 2017-18. The reply is not acceptable as excess ITC pointed out by Audit was on account of ITC claimed under RCM in Table 4A (3) of GSTR-3B whereas as per the reply, the taxpayer has reversed ITC claimed incorrectly on IGST, but IGST under which head of Table 4(A) 3 of GSTR 3B was not mentioned nor any supporting document for the same provided in response. Further reply has not been received (April 2023).

(b) Data entry errors by taxpayers: The data entry errors constituted 14.49 *per cent* (41 cases) of the total responses received and 28.87 *per cent* of cases where the Department's responses were accepted by Audit. These data entry errors did not have any revenue implication. The system allowed for such data entry errors, which could have been avoided with proper validation controls. Most of the data entry errors relate to RCM, ISD, turnover, taxable turnover and tax paid (provided in GSTR-9C).

Few illustrative cases are brought out below:

1. As regards the mismatch of ₹7,468.27 crore in ITC availed between Annual Return and Financial Statements (Table 12F of Form GSTR-9C) of M/s Granules India Limited, under Punjagutta STU-1 circle, Department replied (April 2023) that the deviation was caused due to a typographical error in IGST figures in Table 6B of GSTR-9. Even though ITC on IGST declared in GSTR 3B during 2017-18 was ₹75.43 crore, the taxpayer had erroneously indicated ITC on IGST as ₹7,543 crore in table 6B of GSTR-9. The system allowed for such data entry errors, which could have been avoided with proper validation controls.
2. As per Departments reply (April 2023) to the deviation amounting to ₹790.32 crore identified as mismatch in tax paid between books of accounts and Annual Return (Table 9R of Form GSTR-9C) of M/s Bion Therapeutics India Private Limited, under Vidyanagar circle, it was due to a typographical error. IGST tax liability as per table 5N of GSTR-9 was during 2017-18 “₹79.11 lakh”, while the taxpayer erroneously indicated it as “₹791.11 crore” in Table 9 of GSTR-9C.
3. A deviation amounting to ₹19.41 crore was identified as mismatch in turnover between Annual return and Financial Statements (Table 5R of Form GSTR-9C) of M/s Srinivasa Rao Ramineni / Amineni Transport, under Kodad circle, Nalgonda Division and communicated to the Department in March 2022. The Department replied (April 2023) that the taxpayer is engaged in Road Transport Business and opted Reverse Charge mechanism to discharge transport business liability during the financial year 2017-18,

hence GST is exempted in the hands of Service Provider and taxable in the hands of Service recipient. However, the taxpayer forgot to report the Reverse Charge turnover (outward supplies) of ₹19.41 crore in Table 5C of GSTR-9, though it was correctly indicated in Table 7D of GSTR-9C.

4. A deviation amounting to ₹17.85 crore was identified as mismatch in taxable turnover between Annual return and Financial Statements (Table 7G of Form GSTR-9C) of M/s Life Shine Medical Services Private Limited, under Keesara-II circle, Saroor Nagar Division and communicated to the Department in March 2022. The Department replied (April 2023) that the unreconciled turnover belongs to nil / exempted turnover which was correctly mentioned in Table 5G of GSTR-9 but while filing GSTR-9C, it got wrongly entered in Table 7G instead of Table 7C (~7B) of GSTR-9C.
5. A deviation amounting to ₹9.84 crore was identified as undischarged tax liability i.e., GSTR-1 liability compared with GSTR-9 / GSTR-3B payments of M/s Narender Reddy Dasari, under Keesara-I circle, Saroor Nagar Division and communicated to the Department in March 2022. The Department replied in April 2023 that typographical error / clerical error occurred inadvertently while filing GSTR-9 in IGST component. IGST tax liability as per Table 3 of GSTR-3B was ₹99.55 lakh which was inadvertently indicated as ₹9.95 crore in Table 4B GSTR-9.

Recommendation 3:

Department may consider introducing validation controls in GST Returns to curb data entry errors, enhance taxpayer compliance and facilitate better scrutiny.

2.14.6.9 Detailed audit of GST returns

In a self-assessment regime, the onus of compliance with law is on the taxpayer. The role of the Department is to establish and maintain an efficient tax administration mechanism to provide oversight. With finite level of resources, for an effective tax administration, to ensure compliance with law and collection of revenue, an efficient governance mechanism is essential. An IT driven compliance model enables maintaining a non-discretionary regime of governance on scale and facilitates a targeted approach to enforce compliance.

From an external audit perspective, Audit also focused on a data-driven risk-based approach. Thus, apart from identifying inconsistencies / deviations in GST returns through pan-India data analysis, a detailed audit of GST returns was also conducted as part of this review. A risk-based sample of 50 taxpayers was selected for this part of the review. The methodology adopted was to initially conduct a desk review of GST returns and financial statements filed by the taxpayers as part of the GSTR 9C and other records available in the back-end system to identify potential risk areas, inconsistencies / deviations and red flags. Desk review was carried out in the Office of the Accountant General (Audit), Telangana, Hyderabad. Based on desk review results, detailed audit was conducted in the field formations of Commercial Taxes Department, Telangana, Hyderabad by requisitioning corresponding granular records of taxpayers such as financial ledgers, invoices etc.,

through the respective field formations to identify causative factors of the identified risks and to evaluate compliance by taxpayers.

As brought out in the previous paragraphs detailed audit involved a desk review of GST returns and other basic records to identify risks and red flags, which were followed up by field audit to identify the extent of non-compliance by taxpayers and action taken by the field formations of Commercial Taxes Department, Telangana, Hyderabad. Non-compliance by taxpayers at various stages ultimately impacts the veracity of returns filed, utilisation of ITC and discharge of tax payments. The audit findings are therefore categorised under a) Returns b) Utilisation of ITC and c) Discharge of tax liability

Scope limitation (non-production)

The jurisdiction-wise non-production of records is summarised in the following **Table**.

Table 2.12: Non-production of records

(₹ in crore)

Division	Circle/STU	Sample	Non-production	
		Number of taxpayers	Number of taxpayers	Mismatch in ITC/tax liability
Abids	Abids STU-1	2	2	20.32
	Abids STU-2	2	2	46.23
	Narayanaguda-MJ Market	4	4	2.38
Begumpet	Begumpet	4	4	11.84
	Begumpet STU-1	1	1	19.56
	Begumpet STU-2	3	3	11.15
Hyderabad Rural	Hyderabad Rural STU-2	4	4	55.34
	Hyderabad Rural STU-3	3	3	9.65
	Madhapur -3	4	4	10.05
Punjagutta	Jubilee Hills – I	4	4	12.41
	Jubilee Hills – II	3	3	4.42
	Punjagutta STU - 1	5	5	38.61
	Punjagutta STU - 2	3	3	0.00
Secunderabad	Secunderabad STU-1	5	5	5.32
	Musheerabad	3	0	0.00
Total		50	47	247.28

Non-production of records constituted 94 *per cent* of the sample size and potential risk of ₹247.28 crore could not be addressed. In these cases, Profit and Loss Account, Balance sheet / Trial Balance of the unit, Notes to Accounts of Income and expenditure, Trading account, Schedule of Assets, Foreign Exchange disclosures if any, Ledger copies of debtors and creditors, Sales invoices / purchase invoices for two selected months, Related party / distinct party transactions, Director's report and Auditor's Report, etc., were not produced and hence could not be audited. The top ten cases of non-production are given below.

Table 2.13: List of top ten cases of non-production

(₹ in crore)

SI No	GSTIN	Name of the taxpayer	Jurisdictional formation	Mismatches (ITC and liability)
1	3XXXXXXXXXXXXXXQ	Tata Communications	Hyderabad Rural STU-2	48.43
2	3XXXXXXXXXXXXXM	Bharat Sanchar Nigam Limited	Abids STU-2	36.09
3	3XXXXXXXXXXXXXL	Sushee Infra & Mining Limited	Punjagutta STU - 1	27.19
4	3XXXXXXXXXXXXXL	Conneqt Business Solutions	Begumpet STU-1	19.56
5	3XXXXXXXXXXXXXU	Andhra Bank	Abids STU-1	13.92
6	3XXXXXXXXXXXXXU	Tata Teleservices	Abids STU-2	10.14
7	3XXXXXXXXXXXXX1	Cloud4C Services	Hyderabad Rural STU-3	9.65
8	3XXXXXXXXXXXXXZ	Rimini Street India Operations Private Limited	Madhapur -3	9.50
9	3XXXXXXXXXXXXXO	Inrhythm Energy Private Limited	Jubilee Hills - 1	7.68
10	3XXXXXXXXXXXXXZ	IVRCL	Abids STU-1	6.40

(A) Returns

The detailed audit of returns filed by a sample of 50 taxpayers disclosed that interest / late fee / penalty payments were not discharged by taxpayers and data errors existed which are brought out below:

(a) Non-payment of interest by taxpayers

Audit observed in 24 cases, constituting 48 *per cent* of the 50 cases audited, that taxpayers had either filed their returns belatedly or had erroneously utilised excess ITC credits which were paid back but the interest payments were not discharged amounting to ₹89.79 lakh.

Top three irregularities noticed in this category are illustrated below:

- M/s. Swamy Ads under STU-1, Secunderabad circle had filed the returns of September 2017 to November 2017 and January 2018 to February 2018 belatedly in September 2018 and October 2018 respectively and paid the tax dues in these returns by debiting the Electronic Cash Ledger. However, interest amounting to ₹12.32 lakh was not paid. On this being pointed out, the Department replied (April 2023) that DRC-07 for interest liability of ₹12.32 lakh for delayed payment was issued to the taxpayer in April 2023.
- M/s Kalyanram Nandamuri under Jubilee Hills-1 circle had filed the returns of July 2017 to October 2017 and February 2018 to March 2018 belatedly in December 2017, April 2018 and July 2018 and paid the tax dues in these returns by debiting the Electronic Cash Ledger. However, interest amounting to ₹11.53 lakh was not paid. On this being pointed out, the Department replied (April 2023) that the taxpayer is in process of reconciling the interest calculation and information on same would be provided.

- (iii) M/s. Conneqt Business Solutions Limited under STU-1, Begumpet filed returns of August 2017 to October 2017 and paid tax dues in these returns in December 2017 by debiting the Electronic Cash Ledger. However, interest amounting to ₹10.11 lakh was not paid. On this being brought to notice, the Department replied (July 2022) that a show-cause notice in DRC-01 was issued to the taxpayer in November 2021 itself basing on the dynamic information available in GSTN and E-Way bill portal. However, the amount objected to by Audit was not covered in the show-cause notice so issued.

(b) Non-payment of late fee / penalty by taxpayers

Section 47 (2) TGST Act 2017 stipulates that if a taxpayer fails to furnish the Annual return (GSTR-9) by the due date, he / she shall be liable to pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at 0.25 *per cent* of his turnover in the State or Union territory. Similar provision is in place in CGST Act for payment of late fee of one hundred rupees. Thus, the taxpayer is liable to pay a late fee of two hundred rupees (₹100 for TGST and ₹100 for CGST) for every day of delay. The due date for filing of Annual Return for the year 2017-18 was 7 February 2020.

Section 125 of TGST Act 2017 stipulates that if a taxpayer contravenes any of the provisions of this Act or any Rules made thereunder for which no penalty is separately provided for in this Act, he shall be liable to a penalty which may extend to ₹25,000/-. Similar provision is in place in CGST Act for payment of penalty. Thus, the taxpayer is liable to pay a penalty of ₹50,000/- (₹25,000/- for TGST and ₹25,000/- for CGST). Further, as per the Rule 80(3) of TGST Rules 2017, every registered person whose aggregate turnover exceeds ₹two crore has to file Annual Reconciliation Statement in form GSTR-9C. The due date for filing of GSTR-9C for the year 2017-18 was 7 February 2020.

Audit observed in 19 cases, constituting 38 *per cent* of the 50 cases audited, that taxpayers had either filed their annual returns belatedly or had not filed annual return, but the penalty / late fee payments were not discharged amounting to ₹18.56 lakh.

The two illustrative cases are given below:

- (i) M/s.Vajram Constructions Private Limited, under Begumpet circle did not file GSTR 9 liable to file by 7 February 2020 (due date) as on 31 March 2023. However, the late fee amounting to ₹2,29,600/- (₹1,14,800/- for CGST and ₹1,14,800/- for SGST @ ₹100 per day each for CGST and SGST for 1,148 days up to 31 March 2023) for not filing GSTR 9 by due date was not paid by them. On this being pointed out, the Department replied (July 2022) that the taxpayer had been issued notice.
- (ii) M/s.Inrhythm Energy Private Limited under Jubilee Hills-1 circle liable for filing GSTR-9C by 7 February 2020 had filed the return belatedly on 27 August 2020. However, the penalty amounting to ₹50,000/- (₹25,000/- for CGST and ₹25,000/- for SGST) for filing of GSTR-9C with a delay of 202 days was not

paid. On this being pointed out (July 2022), the Department replied (April 2023) that the taxpayer agreed to pay the penalty of ₹50,000/- in response to the notice issued to them.

Recommendation 4:

Strict controls should be put in place to ensure timely filing of returns by taxpayers and effecting recoveries towards penalties / interest for belated payments.

(c) Data entry errors

Audit observed data entry mistakes while filing GST returns by taxpayers in four cases, constituting eight *per cent* of the audited cases as detailed below. The errors were mainly in the areas like discrepancy in ITC availed under Table 8C of GSTR-9 and discrepancy of taxable values in GSTR 3B. Audit noticed the following data entry errors in this category.

Table 2.14: Cases of Data Entry errors

Sl. No	GST Number	Jurisdiction circle	Data entry error made
1	3XXXXXXXXXXXXXF	Jubilee Hills-2	Entered ₹73,87,249/- instead of 'ZERO' under table 8C of GSTR-9
2	3XXXXXXXXXXXXX9	Secunderabad STU-1	Entered ₹6,94,35,161/- instead of ₹4,38,94,494/- under table 8C of GSTR-9
3	3XXXXXXXXXXXXXT	Secunderabad STU-1	Entered the amount of ₹25,41,312/- under "ITC on RCM" (Table 4A(3)) under "all other ITC" (Table 4A(5)) in GSTR-3B
4	3XXXXXXXXXXXXXN	Madhapur-3	Reported a turnover of ₹139056,30,90,562.71/- in GSTR 3B incorrectly in the month of September 2017

One case is illustrated below:

The total of ITC availed by M/s Pride Point Constructions Private Limited under Jubilee Hills-2 circle as per Table 8(B) and (C) of GSTR-9 for the year 2017-18 was ₹1.48 crore whereas the amount of ITC available as per Table 8(A) of GSTR-9 was only ₹63.13 lakh exhibiting excess claim of ITC of ₹84.62 lakh under table 8D of GSTR-9. On this being brought to notice, the Department replied (April 2023) that the taxpayer incorrectly entered ₹73.87 lakh instead of 'ZERO' under table 8C of GSTR-9 and therefore the amount under table 8B+8C should be ₹73.87 lakh but not ₹1.48 crore. Department further replied that even that excess claim of ₹10.74 lakh (₹73.87 lakh minus ₹63.13 lakh) was rectified by the taxpayer by reversing in GSTR-3B return for the month of March 2019, which has been verified by Audit and found correct.

The following mismatches relating to ITC were observed in Audit during review of returns. However, the granular records were not made available to Audit for further scrutiny.

(B) Utilisation of Input Tax Credit

Input Tax Credit (ITC) means the Goods and Services Tax (GST) paid by a taxable person on purchase of goods and / or services that are used in the course or furtherance of business.

To avoid cascading effect of taxes, credit of taxes paid on input supplies can be used to set-off for payment of taxes on outward supplies.

Section 16 and 17 of the TGST Act prescribe the eligibility and conditions to avail ITC. Rule 36 to 45 of the TGST Rules prescribes the procedures for availing and reversal of ITC. Section 16 (2) of TGST Act stipulates that the registered taxpayer shall be entitled to the credit of any input tax if he is in possession of a tax invoice and the tax charged in respect of such supply has been actually paid to the Government by the supplier.

i. Mismatch of claim of ITC as per GSTR 3B and GSTR-2A

Section 39(1) of TGST Act stipulates that every registered person shall furnish GSTR 3B every month electronically, of inward and outward supplies, input tax credit (ITC) availed, tax payable, tax paid and other particulars as may be prescribed on or before 20th day of the month succeeding such calendar month or part thereof. As per Rule 59(3) of TGST Rules, the details of outward supplies furnished by the supplier shall be made available electronically to the concerned registered persons (recipients) in GSTR-2A (auto populated return) through the common portal after the due date of filing of GSTR-1 of the supplier.

In order to analyse the veracity of ITC utilization, relevant data for the year 2017-18 were extracted from GSTR-3B and GSTR-2A and ITC credit availed by the taxpayers (recipients) as per GSTR-3B was matched with the ITC of suppliers' as per GSTR-2A.

During the scrutiny of returns of the 50 sampled taxpayers, Audit noticed that there was mismatch of ITC availed as per GSTR-3B and GSTR-2A in respect of 30 taxpayers to a tune of ₹49.24 crore.

One illustrative case is given below:

M/s Conneqt Business Solutions Limited under Begumpet STU-1 claimed ITC of ₹24.05 crore in GSTR-3B for the year 2017-18, whereas the ITC available as per GSTR-2A was ₹19.14 crore only, resulting in mismatch of ITC claim for ₹4.91 crore. On this being pointed out, the Department replied (August 2022) that a show cause notice in DRC-01 was issued to the taxpayer basing on the dynamic information available in GSTN and E-Way bill portal before being pointed out by the Audit. However, amount objected to by Audit was not covered in the show cause notice so issued to the taxpayer. Final Reply has not been received (April 2023).

ii. Mismatch of ITC claim as per GSTR-9 Tables 8 (B)&(C) and 8 (A)

Table 8(A) of GSTR-9 (Annual Return) represents auto populated figure of GSTR-2A (inward supplies) as on the date of filing of GSTR-9. Table 8 (B) of GSTR-9 captures the sum of ITC availed as per GSTR 3B (Monthly Return) during the financial year. Table 8C of GSTR 9 represents ITC on inward supplies received during the financial year but availed in the next financial year up to specified period. ITC available as per Table 8(A) of GSTR-9 should be greater than or equal to ITC claimed i.e., sum of Tables 8B and 8C of GSTR 9. Hence, negative figure of Table 8D (Table 8A-8B-8C) shows excess claim of ITC.

During the scrutiny of returns of the 50 sampled taxpayers, Audit noticed that the amount of ITC availed as per Table 8(B) & (C) of GSTR-9 did not match with the ITC eligible as per Table 8(A) of GSTR-9 in respect of 19 taxpayers amounting to ₹37.09 crore.

One illustrative case is given below:

M/s Lalitha Jewellery Mart Private Limited under Punjagutta STU-1 availed the total amount of ITC of ₹56.61 crore as per Table 8(B)&(C) of GSTR-9 for the year 2017-18, whereas the amount of ITC available as per Table 8(A) of GSTR-9 was only ₹41.22 crore resulting in excess claim of ITC of ₹15.39 crore (table 8D of GSTR-9). On this being pointed out, the Department replied (July 2022) that the issue had already been identified and a show cause notice *vide* DRC-01 had been issued before being pointed out by Audit. However, as seen from details furnished by the Department, the taxpayer made reversal of ₹14.85 crore out of excess claim of ₹15.39 crore. Documents evidencing the balance of reversals to the extent of ₹53.52 lakh were not furnished to audit. Final Reply has not been received (April 2023).

iii. Mismatch of ITC claim as per GSTR-3B and GSTR 9

Table 4A of GSTR 3B (Monthly Return) captures the ITC availed by taxpayer. Table 6A of GSTR 9 (Annual Return) captures the aggregate total of ITC availed in all the nine months during 2017-18 which is availed through Table 4A of GSTR-3B. Table 6B to 6H of GSTR 9 (Annual Return) gives the breakup of eligible ITC relating to inputs, input services and capital goods under various categories *viz.*, Reverse Charge Mechanism, import of goods and services, Input Service Distributor and ITC reclaimed, if any. Table 6J of GSTR 9 represents the difference between 6A and 6B to 6H as declared by the taxpayer at the time of filing of GSTR 9. *Hence Table 4A of GSTR 3B should match with Table 6A of GSTR 9 and also the sum of Table 6B to 6H of GSTR 9.*

During the scrutiny of returns of 50 sampled taxpayers, Audit noticed that the amount of ITC availed as per Table 4A of GSTR-3B did not match with the ITC declared in GSTR-9 (Table 6B to 6H) in respect of the two taxpayers amounting to ₹4.50 crore.

One illustrative case is given below:

M/s Conneqt Business Solutions Limited under Begumpet STU-1 availed ITC of ₹22.94 crore as per GSTR-3B table 4A (R9 Table 6A) whereas ITC declared in GSTR-9 table 6B to 6H (including ITC on imports of goods, ITC on RCM) was ₹18.69 crore resulting in mismatch of ITC claim of ₹4.24 crore in GSTR-3B (R9 Table 6J). On this being pointed out, the Department replied (July 2022) that a show cause notice in DRC-01 was issued to the taxpayer basing on the dynamic information available in GSTN and E-Way bill portal. However, the amount objected to by Audit was not covered in the show cause notice so issued to the taxpayer. Final Reply has not been received (April 2023).

iv. Non reversal / short reversal of ITC

Sub section 2 of Section 17 of TGST Act read with Rule 42 and 43 of TGST Rules states that where the goods or services or both are used by the registered person partly for

effecting taxable supplies including zero-rated supplies and partly for effecting exempt supplies, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies. Manner¹⁶⁰ of determination of input tax credit in respect of inputs or input services and reversal thereof has been specified in Rule 42 *ibid*.

Audit observed non-compliance in 14 cases out of 50 cases where taxpayers had either not reversed or short reversed ITC of ₹19.89 crore due to incorrect application of Rule 42 and 43.

Two illustrations are given below:

- (i) Total aggregate supplies of M/s. Mahindra Logistics under Begumpet STU-2 circle for the year 2017-18 was ₹147.72 crore out of which ₹62.64 crore (42.41 *per cent*) related to exempt supplies / Nil rated supplies. The amount of common ITC for the year 2017-18 was ₹6.44 crore, out of which an amount of ₹2.73 crore (@42.4 *per cent*) was required to be reversed. However, an amount of ₹2.21 lakh only was reversed leaving a balance of ₹2.71 crore. On this being pointed out, the Department replied (July 2022) that a show-cause notice in DRC-01 was already issued to the taxpayer basing on the dynamic information available in GSTN and E-Way bill portal. However, the show cause notice issued was for only ₹1.98 crore without considering the IGST component of ITC, whereas the amount objected to by Audit was ₹2.71 crore (which includes IGST component). Final Reply has not been received (April 2023).
- (ii) Total aggregate supplies of M/s. Conneqt Business Solutions Limited under Begumpet STU-1 circle for the year 2017-18 was ₹182.60 crore out of which ₹10.68 crore (5.85 *per cent*) related to exempt supplies / Nil rated supplies. The amount of common ITC for the year 2017-18 was ₹19.81 crore, out of which an amount of ₹1.15 crore (@5.81 *per cent*) was required to be reversed. On this being pointed out, the Department replied (July 2022) that a show-cause notice in DRC-01 was issued to the taxpayer basing on the dynamic information available in GSTN and E-Way bill portal. However, the show cause notice issued was for ₹23.94 lakh only whereas the amount objected to by Audit was ₹1.15 crore (which includes IGST component). Final Reply has not been received (April 2023).

v. Other observations relating to Input Tax Credit

- a. *Incorrect ITC on 'imports of services' without payment of tax liability falling under RCM*

As per Section 2(11) of IGST Act 2017, read with Notification No. 10/2017-ITI dated 28 June 2017, tax on 'imports of services' has to be paid through Reverse Charge

¹⁶⁰ Common credit denoted as 'C' and calculated as $C = T - (T_1 + T_2 + T_3 + T_4)$ Where 'T' classified the total input tax involved on inputs and input services in a tax period, 'T₁' classified the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for the purposes other than business, 'T₂' classified the amount of input tax, out of 'T', attributable to inputs and input services used exclusively for effecting exempt supplies, 'T₃' classified the amount of input tax, out of 'T', in respect of inputs and input services on which credit is not available under sub-section (5) of section 17 and 'T₄' classified the amount of input tax credit attributable to inputs and input services intended to be used exclusively for effecting supplies other than exempted but including zero rated supplies. The amount of input tax credit attributable towards exempt supplies, be denoted as 'D' and calculated as $D = (E \div F) \times C$ where, 'E' is the aggregate value of exempt supplies during the tax period, and 'F' is the total turnover in the State of the registered person during the tax period.

Mechanism (RCM) on cash basis. It was observed from GSTR 3-B of M/s. Cloud 4 C Services Private Limited, in STU-3, Hyderabad (Rural), for the month of December 2017 that the taxpayer claimed ITC of ₹24.62 lakh on import of services without discharging tax liability through RCM.

On this being brought to notice (June 2022), the Department replied (July 2022) that the deviation would be brought to the notice of the taxpayer and on receipt of the reply from the taxpayer, the same would be furnished to Audit. Final Reply has not been received (April 2023).

b. Incorrect claim of ITC on import of goods

In case of M/s. Cloud 4 C Services Private Limited in STU-3, Hyderabad (Rural), Audit observed from Table 4 (A) (i) of GSTR 3-B that the taxpayer claimed ITC of ₹1.32 crore in respect of imports of goods whereas imports of goods for the year 2017-18 was nil as per the GSTR 9C and GSTR-9 for the year 2017-18.

When the discrepancy was brought to notice (June 2022), the Department replied (July 2022) that the deviation would be brought to the notice of the taxpayers and reply furnished on receipt of the same from the taxpayer. Final Reply has not been received (April 2023).

c. Excess claim of Transitional Credit

As per the provisions of Section 140(1) of the Act, a registered person, other than a person opting to pay tax under Section 10, shall be entitled to take, in his Electronic Credit Ledger, the amount of CENVAT / VAT credit 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.

M/s. Ravago Shah Polymers Private Limited under Hyderabad Rural STU-3 circle declared Transitional Credit amount as ₹22.33 lakh in GSTR-9 whereas an amount of ₹44.66 lakh was credited in the Electronic Credit Ledger of the taxpayer resulting in excess credit of ₹22.33 lakh which needs to be reversed along with interest. This was pointed out in July 2022. Department's final Reply has not been received (April 2023).

(C) Discharge of tax liability

The taxable event in case of GST is supply of goods and / or services. Section 9 of the TGST Act is the charging section authorizing levy and collection of tax called Central / State Goods and Services Tax on all intra-State supplies of goods or services or both, except on supply of alcoholic liquor for human consumption, on value determined under Section 15 of the Act *ibid* and at such rates not exceeding 20 *per cent* under each Act, *i.e.*, CGST Act and SGST Act. Section 5 of the IGST vests levy and collection of IGST on interstate supply of goods and services with Central Government with maximum rate of 40 *per cent*.

Under Section 8 of the Goods and Services Tax (Compensation to States) Act, 2017, a cess is levied on all inter-state and intra-state supply of such goods or services or both which are listed in the schedule of the said Act such as tobacco products, aerated drinks, cigarettes, vehicles etc. Section 9(4) of the TGST Act and Sections 5(3) and 5(4) of the IGST Act

provide for reverse charge levy on certain goods or services, wherein the recipient instead of supplier becomes liable to pay tax.

The following mismatches in tax liabilities were observed in Audit during review of returns. However, the granular records were not made available to Audit for further scrutiny.

i. Difference between Liability as per GSTR-1 and Tax paid as per GSTR-3B / GSTR-9

In order to analyse undischarged tax liability between GSTR-1 (Monthly Outward supplies of the supplier) and GSTR-9 (Annual Return of the Supplier), relevant data for the year 2017-18 (from July 2017 to March 2018) were extracted and the tax payable as per GSTR-1 was compared with the amount of tax paid as per GSTR-9 of the same taxpayer after considering the amendments and advance adjustments.

During the scrutiny of returns of the 50 sampled taxpayers, Audit noticed difference in undischarged tax liability amounting to ₹44.89 crore between GSTR-1 and GSTR-9 in respect of 29 taxpayers under the jurisdiction of 15 circles / STUs¹⁶¹.

One case is illustrated below:

Tax liability as per GSTR-1 for the period from July 2017 to March 2018 of M/s Indian Immunologicals Limited under Jubilee Hills-2 circle was ₹12.49 crore whereas the tax paid as per GSTR-3B for the year 2017-18 was ₹12.31 crore only resulting in a difference of ₹18 lakh in undischarged tax liability. On this being pointed out, Department replied (April 2023) that as per GST portal and taxpayer records liability as per GSTR-1 was ₹12.37 crore, which includes RCM turnover of ₹8.12 lakh. Further replied that tax amounting to ₹12.23 crore (excluding RCM) was paid as per GSTR-9 and balance tax of ₹5.95 lakh was paid through DRC-03 in March 2021 and therefore there was no difference in tax discharged. The reply is not acceptable as there is a variation in the liability, for which break-up of GSTR-1 liability was provided to Jubilee Hills-2 circle. Even after considering the additional amount of ₹5.95 lakh paid through DRC-03, there was a net undischarged liability of ₹11.17 lakh. Final Reply has not been received (April 2023).

ii. Mismatch of tax payment between GSTR-9C and GSTR-9

Rule 80 (2) of TGST Rules stipulates that every registered person whose aggregate turnover during a financial year exceeds ₹two crore shall get his accounts audited and furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in Form GSTR-9C, electronically, through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

In order to analyse the mismatch of tax payments between GSTR-9C and GSTR-9 (Annual Return), relevant data for the year 2017-18 (from July 2017 to March 2018) were extracted

¹⁶¹Abids STU-1, Abids STU-2, Begumpet, Begumpet STU-1, Begumpet STU-2, Hyderabad (Rural) STU-2, Hyderabad (Rural) STU-3, Jubilee Hills-1, Jubilee Hills-2, Madhapur-3, Musheerabad, Narayanaguda-MJ Market, Panjagutta STU-1, Panjagutta-STU-2 and Secunderabad STU-1.

and the tax paid as per Table 9(Q) of GSTR-9C was compared with the amount of tax paid as per Table 9 of GSTR-9 of the same taxpayer.

Table 9Q of GSTR 9C reports the total amount of tax paid as declared in GSTR 9 for the purpose of reconciliation of tax liability and payment.

During scrutiny of returns of 50 sampled taxpayers, Audit noticed (June 2022-July 2022) mismatch in tax payments amounting to ₹0.44 crore between GSTR-9C and GSTR-9 in respect of one taxpayer M/s. Avanthi Warehousing Services Private Limited under Hyderabad Rural STU-2. The amount of tax paid (sum of Table 9 and Table 14 of GSTR-9) was ₹8.50 crore but the same was shown as ₹8.94 crore under Table 9Q (Total amount paid as declared in Annual Return GSTR-9) of GSTR 9C resulting in unreconciled payment of tax of ₹0.44 crore. On this being brought to notice, the Department replied that matter would be examined. Final Reply has not been received (April 2023).

Recommendation 5:

Department may initiate remedial action for all the compliance deviation cases brought out in this report before they get time barred and review all other cases to rule out similar deviations.

2.14.7 Other oversight functions

The role of departmental field formations is to provide oversight over taxpayers' compliance with regard to filing of returns, discharging tax liability and other compliance obligations. The circles have a broad set of functions to be exercised in this regard such as initiating action on late filers and non-filers, scrutiny of returns and assessment and cancellation of registrations.

The oversight functions relating to return filing, action on late / non-filers, scrutiny and compliance to DGARM reports have been discussed in the previous sections of this report. This section highlights the audit findings on cancellation of registrations.

Section 29 of the TGST Act 2017 read with Rule 20 of the TGST Rules allows for cancellation of registration by the taxpayer in certain situations like closure of business, turnover falling below threshold for registration, transfer of business / merger / amalgamation, change of PAN, non-commencement of business within the stipulated time period, and death of the proprietor. The taxpayer applying for cancellation of registration should apply in REG-16 on the GST common portal within a period of 30 days of the "occurrence of the event warranting the cancellation".

Section 29(2) of the TGST Act allows for *suo-moto* cancellation of the registration of taxpayer by tax officer on the grounds of contravention of the Acts or Rules by the taxpayer, composition taxpayers not filing return for three consecutive tax periods, normal taxpayers not filing return for continuous period of six months, registered persons not commencing business within six months from date of registration and registration obtained by means of fraud, wilful misstatement or suppression of facts.

Section 45 of the TGST Act requires every registered person other than (a) Input Service Distributor (ISD) or a non-resident taxable person or (b) Composition taxable person

(Section 10) or (c) persons paying tax under Section 51 - Tax collection at source (TCS) or persons paying tax under Section 52 - Tax deducted at source (TDS), whose registration has been cancelled, to file a final return in GSTR-10, within three months of the effective date of cancellation or the date of order of cancellation, whichever is later. The purpose of the final return is to ensure that the taxpayer discharges the outstanding liability. In case of non-filing of GSTR-10, the same procedure as adopted for non-filing of any return must be followed by the tax officer.

Audit selected a sample of 15 Circles for evaluating the cancellation function. As per the information provided by the field formations, there were no cancellations in nine circles / STUs¹⁶². Required data was not provided by Musheerabad circle of Secunderabad Division and insufficient data was provided by the Begumpet circle. Audit observed various deficiencies in cancellation of registrations in four circles¹⁶³, which are brought out below:

2.14.7.1 Delay in cancellation based on the applications of taxpayers

Rule 22(3) of the TGST Rules provides that where a person who has submitted an application for cancellation (REG-16) of his registration is no longer liable to be registered, the proper officer shall cancel the registration with effect from a date to be determined by him and notify the taxable person, directing him to pay arrears of any tax, interest or penalty including the amount liable to be paid under sub-Section (5) of Section 29. Accordingly, the cancellation order in REG-19 has to be issued within 30 days from the date of application (taxpayers request). In any case the effective date should not be a date earlier than the date of application for the same.

During the years 2017-18 to 2020-21, a total of 1,341 applications were received for cancellation of registration. Of these, 18 registrations were cancelled and Form GST REG-19 were issued. However, process of cancellation in 1,323 cases was still pending (April 2023) in violation of Rule 22 (3) of TGST Rules, 2017.

Reasons for non-cancellation / delay in cancellation of the registrations were not furnished. Similarly, details of recovery particulars of ITC or tax liability recoverable in respect of the taxpayers whose registrations were cancelled have also not been furnished to audit.

Illustrative cases:

- (i) In Jubilee Hills-2 circle of Punjagutta Division, a total of 290 applications were received for cancellation of registration. However, Form REG-19 were not issued in any of these cases in lieu of cancellations.
- (ii) In Narayanaguda-MJ market circle of Abids Division, a total of 71 applications were received for cancellation of registration. However, Form REG-19 were issued only in 18 cases in lieu of cancellations and the same were not issued to the remaining 53 cases.

¹⁶² Abids STU-1, Abids STU-2, Begumpet STU-1, Begumpet STU-2, Hyderabad Rural STU-2, Hyderabad Rural STU-3, Punjagutta STU-1, Punjagutta STU-2, Secunderabad STU-1.

¹⁶³ Jubilee Hills-1, Jubilee Hills-2, Madhapur-III, Narayanaguda-MJ Market.

2.14.7.2 Non-adherence to prescribed procedure for suo-moto cancellation

It was noticed in four¹⁶⁴ circles that a total of 2,818 suo-moto cancellations were initiated by circle officers during the years 2017-18 to 2020-21 out of which notice in form REG-17 were issued to 2,812 taxpayers leaving six taxpayers to whom REG-17 was not issued. Out of 2,812 cases to whom SCNs / REG-17 were issued, proceedings against 53 cases were dropped and 2,025 cases registrations were cancelled leaving a balance of 734 cases against whom action has not been completed.

Illustrative cases are given below:

- (i) In Jubilee Hills-II circle of Punjagutta Division, *suo-moto* cancellation was initiated against 1,383 taxpayers out of which REG-17 was issued to 1,380 taxpayers and the same was not issued in three cases. Out of the total of 1,380 taxpayers were issued SCNs for *suo-moto* cancellation of registrations in Form GST REG-17 during the years 2018-19 to 2020-21, a total of 664 registrations were cancelled *suo-moto* leaving a balance of 716 cases on which no action has been taken.
- (ii) In Jubilee Hills-1 circle of Punjagutta Division, a total of 865 taxpayers were issued SCNs for *suo-moto* cancellation of registrations in Form GST REG-17 during the years 2018-19 to 2020-21, of which proceedings were dropped by issuing GST REG-20 in respect of 53 taxpayers. Of the remaining 812 taxpayers, 794 registrations were cancelled *suo-moto* leaving a balance of 18 cases.
- (iii) One taxpayer in Jubilee Hills-II circle did not file any return for a continuous period of six months and filed the first return i.e., GSTR-3B of August 2017 on 01 December 2018 (15 months delay). However, the registration of that taxpayer has not been cancelled.

2.14.7.3 Inadequate follow up on non-filing of GSTR 10

As per Section 45 of the Act, GSTR-10 – the final return, has to be filed within three months of the effective date of cancellation or the date of order of cancellation, whichever is later. The last date for furnishing of GSTR-10 by those taxpayers whose registration has been cancelled on or before 30 September 2018 was extended till 31 December 2018 *vide* notification No. 58/2018 – Central Tax dated 26 October 2018.

As per Rule 68 of TGST Act 2017 and as prescribed in Circular No. 129/48/2019-GST dated 24 December 2019, GSTR-3A has to be issued to the taxpayer, where GSTR 10 has not been filed. If the taxpayer still fails to file the final return within 15 days of the receipt of notice, then an assessment order in Form ASMT-13 under Section 62 of the TGST Act read with Rule 100 of the TGST Rules shall have to be issued to determine the liability of the taxpayer under sub-section (5) of Section 29 (i.e., debit ITC equivalent to inputs, and inputs contained in semi-finished and finished goods held in stock or capital goods or the output tax payable on such goods whichever is higher). If the taxpayer files the final return within 30 days from the issue of order ASMT-13, then the said order shall be deemed to have been withdrawn. However, the liability for payment of interest and late fee shall

¹⁶⁴ Jubilee Hills-1, Jubilee Hills-2, Madhapur-III, Narayanaguda-MJ Market circles.

continue. If the said return remains unfurnished within the statutory period of 30 days from the issue of order ASMT-13, then the proper officer may initiate proceedings under Section 78 and recovery under Section 79 of the TGST Act.

Audit observed compliance deficiencies in filing of GSTR-10 in 1,893 cases across four¹⁶⁵ circles.

Although a total of 1,893¹⁶⁶ registrations were cancelled, only 95 taxpayers filed Form GSTR-10, leaving a balance of 1,798 taxpayers (95 *per cent*). As per the information furnished by the field formations, no action appears to have been taken in respect of these 1,798 taxpayers for issuance of notices in Form GSTR-3A as well as to assess the tax liability of these taxpayers on the basis of best judgement under the provisions mentioned *ibid*. Final replies in respect of these observations have not been received.

One illustrative case is given below:

In Madhapur-III circle under Hyderabad Rural Division, out of 567 cases of cancellation for the years 2019-20 and 2020-21, none of the taxpayers filed GSTR-10 as of July 2022. Final Reply has not been received (April 2023).

2.14.7.4 Capacity building efforts

Capacity building is necessary for effectiveness of officers and staff of the Department at all levels. Department organise various training programmes on GST to their officers and staff in order to enhancement of their skill so as to upgrade their knowledge in new tax reforms and for revenue augmentation. The Department was addressed (April 2023) to furnish the details of trainings on GST imparted by the Department during the years 2017-18 to 2021-22. However, the information has not been received (April 2023).

2.14.7.5 Planning and deployment of manpower

For efficient functioning of the Department, proper manpower planning to meet its objectives and its proper deployment is necessary. The Department was addressed (April 2023) to furnish the details of the sanction and working strength in the Department for the years 2017-18 to 2021-22 to analyse the adequacy and utilisation of manpower. However, the information has not been received (April 2023).

Recommendation 6:

Department may strengthen the monitoring mechanism in field formations and ensure that due diligence is followed in procedures for cancellation, issue of Show Cause Notices and recovery.

2.14.8 Conclusion

The Subject Specific Compliance Audit (SSCA) on Department's Oversight on GST payments and Returns Filing was undertaken in the context of varying trend of return filing and continued data inconsistencies with an objective of assessing the adequacy of the

¹⁶⁵ Jubilee Hills I, Jubilee Hills II, Madhapur III and Narayanaguda-MJ Market

¹⁶⁶ 1,893 = 18 cancellations on taxpayer applications + 2,025 on *suo-moto* cancellation – 150 revoked cases.

system in monitoring return filing and tax payments, extent of compliance and other departmental oversight functions.

This SSCA was predominantly based on data analysis, which highlighted risk areas, red flags and in some cases, rule-based deviations and logical inconsistencies in GST returns filed for 2017-18. The SSCA entailed assessing the oversight functions of State Jurisdictional formations (Circles / STUs) at two levels – at the data level through global data queries and at the functional level with a deeper detailed audit both of the Circles / STUs and of the GST returns, which involved accessing taxpayer records. The audit sample therefore comprised 15 Circles / STUs, 407 high value inconsistencies across 14 parameters selected through global queries and 50 taxpayers selected based on risk assessment for detailed audit of GST returns for the year 2017-18.

Further, out of the 407 high value data inconsistencies identified by Audit the Department responded to 283 cases. Of these, 109 cases constituting 38.51 *per cent*, turned out to be clear compliance deficiencies with a revenue implication of ₹986.78 crore including mismatches and inconsistencies. A relatively higher rate of deficiencies was noticed in short / non-payment of interest, ITC mismatch, mismatch in RCM ITC availed, mismatch in claim of ISD credit, incorrect turnover declarations and short tax payments etc. While data entry errors caused the inconsistencies in 41 cases (14.49 *per cent*), in 101 cases (35.69 *per cent*) the Department had already taken proactive action / provided valid explanations.

Detailed audit of GST returns also suggested significant non-compliance. At the outset, essential records such as Profit and Loss Account, Balance Sheet / Trail Balance of the unit, Notes to Accounts of Income and expenditure, Trading account, Schedule of Assets, Foreign Exchange disclosures if any, Ledger copies of debtors and creditors, Sales invoices / purchase invoices for two selected months, Related party / distinct party transactions, Director's report and Auditor's Report, etc., were not produced in 47 cases out of a sample of 50 taxpayers which constituted a significant scope limitation. These cases represent a potential risk exposure of ₹247.28 crore towards identified mismatches in ITC availed and tax payments.

Out of the 50 cases that were audited either fully or partially, Audit observed 141 compliance deficiencies including mismatches with a revenue implication of ₹158.93 crore. The main causative factors were availing of ineligible and irregular ITC, non / short payment of interest / penalty, incorrect discharge of tax under RCM and undischarged tax liability etc.

Considering the significant rate of compliance deficiencies, the Department must initiate remedial measures before they get time barred. From a systemic perspective, the Department needs to reinforce the institutional mechanism in the field formations to establish and maintain effective oversight on return filing, taxpayer compliance, tax payments, cancellation of registrations and recovery of dues from defaulters. The validation controls and MIS features in the Department's back-end application need to be deployed expeditiously. The Department may also consider introducing additional validation controls in GST returns to improve taxpayer compliance and to facilitate scrutiny of returns.

2.14.9 Recommendations

- 1. Show Cause Notices issued for short / non-payment of tax should be pursued and should also include IGST component along with SGST / CGST components.*
- 2. Department may urgently pursue the inconsistencies and deviations pointed out in Limited Audit, for which responses have not been provided and intimate the results to Audit.*
- 3. Department may consider introducing validation controls in GST Returns to curb data entry errors, enhance taxpayer compliance, and facilitate better scrutiny.*
- 4. Strict controls should be put in place to ensure timely filing of returns by taxpayers and effecting recoveries towards penalties / interest for belated payments.*
- 5. Department may initiate remedial action for all the compliance deviation cases brought out in this report before they get time barred and review all other cases to rule out similar deviations.*
- 6. Department may strengthen the monitoring mechanism in field formations and ensure that due diligence is followed in procedures for cancellation, issue of Show Cause Notices and recovery.*