CHAPTER V
REVENUE SECTOR

5.1 Trend of revenue receipts

5.1.1 The Revenue Receipts of the State comprises,

- Tax and non-tax revenues raised by the Government of Sikkim,
- State's Share of Net Proceeds of divisible Union taxes and duties assigned to the State, and
- Grants-in-Aid received from the Government of India.

The details along with the corresponding figures for the preceding four years have been depicted in **Table No. 5.1:**

Table No. 5.1: Trend of Revenue Receipts

(₹ in crore)

Sl. No.		2017-18	2018-19	2019-20	2020-21	2021-22
I	Revenue raised by the State Government					
	• Tax revenue	688.33	892.92	970.41	966.70	1,254.41
	• Non-tax revenue	654.38	6,57.78	693.40	662.29	680.63
	Total	**1,342.71**	**1,550.70**	**1,663.81**	**1,628.99**	**1,935.04**
II	Receipts from Government of India					
	• State's share of net proceeds of divisible Union taxes	2,634.66	2,794.67	2,295.56	2,302.27	3,287.55
	• Grants-in-aid	1,235.42	1,574.99	881.90	1,676.56	1,858.13
	Total	3,870.08	4,369.66	3,177.46	3,978.83	5,145.68
III	**Total receipts of State Government (I + II)**	**5,212.79**	**5,920.36**	**4,841.27**	**5,607.82**	**7,080.72**
IV	Percentage of I to III	26	26	34	29	27

Source: Finance Accounts

Revenue Receipts of the State increased by 35.8 *per cent* from ₹ 5,212.79 crore in 2017-18 to ₹ 7,080.72 crore in 2021-22 at an annual average rate of 7.16 *per cent*. During 2021-22, Revenue Receipts increased by ₹ 1,472.9 crore (26.26 *per cent*) as compared to the previous year, mainly on account of increase in States share of net proceeds of divisible Union taxes. About 27.32 *per cent* of Revenue Receipts during 2021-22 came from State's Own Resources while Central Tax Transfers and Grants-in-Aid together contributed 72.68 *per cent*.

Tax Revenue constituted 17.71 *per cent* of Revenue Receipts and increased by ₹ 287.71 crore during 2021-22, recording an increase of 29.76 *per cent* compared to the previous year. Non-Tax Revenue in 2021-22 constituted 9.61 *per cent* of the total Revenue Receipts and increased by ₹ 18.34 crore at a rate of 2.77 *per cent* over the previous year.

5.1.2 The details of tax revenue raised during the period from 2017-18 to 2021-22 are given in **Table No. 5.2**.

Table No. 5.2: Details of Tax Revenue

(₹ in crore)

Sl. No.	Head of revenue	2017-18		2018-19		2019-20		2020-21		2021-22		% of increase (+) or decrease (-) in 2021-22 over 2020-21	
		BEs	Actuals	BEs	Actuals	BEs	Actuals	BEs	Actuals	BEs	Actuals	BEs	Actuals
1	State Goods and Services Tax (SGST)	0.00	171.39	363.65	405.72	660.00	454.89	650.00	463.04	579.00	655.55	-11	42
2	Sales Tax/Value Added Tax (VAT)	388.26	249.66	154.00	188.20	200.00	197.63	220.00	195.25	220.00	227.18	0	16
3	Taxes on Income and Expenditure other than Corporation Tax	10.00	8.04	10.00	15.63	15.00	15.17	15.00	14.29	15.00	15.40	0	8
4	State Excise	155.00	150.47	158.54	183.09	237.00	207.15	248.13	210.27	275.00	249.20	11	19
5	Stamps and Registration Fees	7.82	13.57	13.34	14.95	16.14	13.30	16.44	13.13	11.78	23.35	-28	78
6	Taxes on Vehicles	28.50	29.37	31.05	33.10	49.15	41.08	39.16	28.96	43.50	39.09	11	35
7	Other Taxes and Duties on Commodities and Services	72.84	58.39	32.63	43.13	44.32	36.79	44.57	28.43	42.6	35.11	-4	24
8	Land Revenue	7.09	7.44	7.10	9.08	8.60	4.40	8.60	13.33	8.60	9.53	0	-29
	Total	**669.51**	**688.33**	**770.31**	**892.92**	**1,230.21**	**970.41**	**1,241.9**	**966.7**	**1,195.48**	**1,254.41**		

**** BE: Budget Estimates***

Source: Estimates of Receipts, Finance Department, GoS and Finance Accounts 2019-20

It appears from the above table that the actual realization was 4.92 *per cent* higher than the Budget Estimates (BEs). The percentage of realisation under different heads ranged between 82 *per cent* and 198 *per cent* of the BE which indicates that the budget was not prepared based on realistic estimates.

Tax Revenue increased by ₹ 287.71 crore (29.76 *per cent*) in 2021-22 as compared to previous year, the increase was mainly due to increase in SGST by ₹ 192.51 crore (41.57 *per cent*), State Excise by ₹ 38.93 crore (18.51 *per cent*) and Sales Tax/VAT by ₹ 31.93 crore (16.35 *per cent*).

5.1.3 The details of non-tax revenue raised during the period 2017-18 to 2021-22 are given in **Table No. 5.3**:

Table No. 5.3: Details of Non-Tax Revenue realised

(₹ in crore)

Sl. No.	Head of Revenue	2017-18		2018-19		2019-20		2020-21		2021-22		Percentage of increase (+) or decrease (-) in 2021-22 over 2020-21	
		BEs	**Actual**	**BEs**	**Actual**	**BEs**	**Actual**	**BEs**	**Actual**	**BEs**	**Actual**	**BEs**	**Actual**
1	Power	160.10	310.26	190.10	269.44	320.10	256.37	372.38	346.05	380.00	306.77	2	-11
2	Interest receipts	50.41	114.76	50.41	125.33	96.99	143.82	51.88	126.95	77.51	49.92	47	-61
3	Police	52.74	45.39	57.11	46.64	88.12	86.77	78.71	26.17	70.01	112.38	-11	329

Sl. No.	Head of Revenue	2017-18		2018-19		2019-20		2020-21		2021-22		Percentage of increase (+) or decrease (-) in 2021-22 over 2020-21	
		BEs	Actual	BEs	Actual	BEs	Actual	BEs	Actual	BEs	Actual	BEs	Actual
4	Road Transport	55.00	52.08	59.00	53.96	65.00	57.10	62.00	47.87	65.00	61.78	5	29
5	Forestry and Wild Life	13.50	14.21	13.50	17.53	18.50	15.78	18.70	14.88	19.00	24.31	2	63
6	Other Adminis-trative Services	4.83	5.30	7.79	5.04	23.23	12.65	21.84	12.00	21.68	19.45	-1	62
7	Public Works	4.37	15.38	4.59	28.01	21.75	23.13	15.38	14.24	31.94	14.84	108	4
8	Water Supply and Sanitation	5.00	4.88	10.00	4.29	8.00	4.92	5.61	5.52	5.85	5.15	4	-7
9	Education, Sports, Art and Culture	1.15	2.31	1.17	2.32	1.32	3.55	1.61	14.29	1.42	10.59	-12	-26
10	State Lotteries	50.00	55.03	55.00	57.82	40.00	40.10	31.96	22.37	55.18	6.48	73	-71
11	Others[1]	29.36	34.78	33.25	47.4	51.54	49.21	50.59	31.95	47.63	68.96	-5.85	115.8
	Total	**426.46**	**654.38**	**481.92**	**657.78**	**734.55**	**693.4**	**710.66**	**662.29**	**775.22**	**680.63**		

Source: Finance Accounts 2020-21, 2021-22 and Estimates of Receipts, Finance Department, GoS.

It appears from the above table that the actual realisation was 12.20 *per cent* less than the Budget Estimates. The percentage of realisation under different heads ranged between 45 *per cent* and 746 *per cent* of the BEs which indicates that the budget was not prepared based on realistic estimates.

Non-tax revenue increased by ₹ 18.34 crore (2.76 *per cent*) in 2021-22 over the previous year. The increase was mainly under Police by ₹ 86.21 crore (329.42 *per cent*), Road Transport by 13.91 crore (29.05 *per cent*) and Forestry and Wildlife by ₹ 9.43 crore (63.37 *per cent*). The increase was offset by decrease mainly under Interest Receipts by ₹ 77.03 crore (60.7 *per cent*) and Power by ₹ 39.28 crore (11.3 *per cent*).

5.2 Revenue and return filling trends

5.2.1 GST Revenue of Government of Sikkim: Comparison between budget estimates and actual receipts

The comparison of budget estimates and the corresponding actual collection of Goods and Service Tax (GST) during the period from 2017-18 to 2021-22 are shown in **Table No. 5.4**.

[1] Revenue head 'Others' comprise of non-tax revenue realised under Plantations, Tourism, Medical and Public Health, Other Rural Development Programmes, Stationery and Printing and Crop Husbandry.

Table No. 5.4: Revenue from GST during 2017-22

(₹ in crore)

Year[2]	State GST		
	Budget Estimates (BEs)	Revised Estimates (REs)	Actuals
2017-18	--	221.99	171.39
2018-19	253.07	253.07	405.72
2019-20	415.00	415.00	454.89
2020-21	650.00	431.06	463.41
2021-22	579.00	579.00	655.55

Source: Budget estimates

It could be seen from **Table No. 5.4** that, the actual collection of revenue from SGST during 2018-19 to 2021-22 exceeded the estimates.

5.2.2 Compensation under GST

As per the GST Act, any shortfall in revenue by the State is required to be compensated by the Central Government. Compensation under GST (Compensation to the States) Act 2017 is payable when the actual revenue collected by the State under GST and pre-GST arrears is less than the projected revenue. In Sikkim during the period from 2017-18 to 2021-22 the actual revenue collected was more than the projected revenue in all the years except 2020-21. Details are shown in **Table No. 5.5**.

Table No. 5.5: Projected Revenue figure for compensation and actual collection of SGST

(₹ in crore)

Sl. No.	Year	Projected Revenue	SGST collection along with pre-GST arrears
1	2017-18	239.24	264.76
2	2018-19	363.65	425.33
3	2019-20	414.56	457.00
4	2020-21	472.60	463.05
5	2021-22	538.76	655.55

Source: Respective years' State Finances Audit Reports

5.2.3 Trends of Integrated GST apportionment to the State and its cross utilisation

The Integrated GST (IGST) collected is apportioned between the Centre and the State where the goods or services are consumed. The revenue is apportioned to the Centre at the CGST rate, and the remaining amount is apportioned to the consuming State.

Trends of IGST apportionment to the State and its cross utilisation are given in **Table No. 5.6**.

Table No. 5.6: Integrated Goods and Services Tax

(₹ in crore)

IGST component	2017-18	2018-19	2019-20	2020-21	2021-22
IGST[3] apportioned to the State as per Section 17 of IGST Act, 2017	11.00	39.87	8.28	23.31	16.88
IGST provisionally/ad-hoc apportioned to the State	23.16	45.84	63.58	55.74	390.83

[2] GST data on Budget Estimates for the Financial year 2017-18 is not applicable as GST was implemented from July 2017.

[3] IGST: It is a tax collected by the Central Government for an inter-State sale

IGST component	2017-18	2018-19	2019-20	2020-21	2021-22
IGST cross utilised between					
SGST[4] as IGST	(+)24.05	(+)52.93	(+)49.39	(+)41.69	(+) 640.76
IGST as SGST	(-)77.41	(-) 194.18	(-) 262.98	(-) 205.13	(-) 1744.62

Source: Sanction letter of Ministry of Finance

5.2.4 Registration under GST

The total registrations under GST as on 1 April 2022 were 10,367, of which normal taxpayers accounted for 88.06 *per cent* and composition taxpayers were around 7.78 *per cent*. Of the total registrations, 2,305 were migrated from pre-GST regime, accounting for around 22.23 *per cent*, while balance were new registrations. The category wise registrations under GST is given in **Table No. 5.7**.

Table No. 5.7: Details of GST registrations upto 1 April 2022

Category of Registrant	No. of Registrants	Percentage of total
Normal taxpayers	9,129	88.06
Composition taxpayers	807	7.78
Tax Deductors at Source	347	3.35
Tax Collectors at Source	82	0.79
Input Service Distributors	2	0.02
Total Registrants	**10,367**	**100**

Source: GSTN Daily summary registration reports as on 1 April 2022

5.2.5 GST Return filling pattern of GSTR-1 and GSTR-3B

The trends of filing of GSTR-1[5] and 3B[6] as on 30 June 2022 for the period 2020-21 and 2021-22 as collected from the gst.gov.in, have been depicted in **Table No. 5.8** and **Table No. 5.9** respectively.

Table No.5.8: Details of return filing (GSTR-1 and GSTR-3B) during 2020-21

Return Type	GSTR-1			GSTR-3B				
Months	**Due for filing (Nos.)**	**Returns filed (Nos.)**	**Filing of Return in *per cent***	**Due for filing**	**Returns filed as on June 2021**	**Filing of Return in *per cent***	**Returns filed by due date (Nos.)**	***Percentage of filing of return by* due date**
Apr-20	7,488	2,658	35.50	7,507	6,593	87.82	1,112	14.81
May-20	6,492	2,676	41.22	7,513	6,602	87.87	1,952	25.98
Jun-20	7,574	6,233	82.29	7,574	6,643	87.71	2,307	30.46
Jul-20	4,791	2,701	56.38	7,650	6,683	87.36	2,480	32.42
Aug-20	4,633	2,707	58.43	7,695	6,702	87.10	3,248	42.21
Sep-20	7,706	6,263	81.27	7,706	6,701	86.96	4,478	58.11
Oct-20	4,195	2,729	65.05	7,795	6,727	86.30	4,312	55.32
Nov-20	4,132	2,792	67.57	7,846	6,782	86.44	4,771	60.81
Dec-20	7,893	6,437	81.55	7,893	6,817	86.37	5,046	63.93
Jan-21	5,263	3,894	73.99	5,264	4,163	79.08	2,499	47.47
Feb-21	5,091	4,014	78.85	5,086	4,281	84.17	2,499	49.13
Mar-21	7,885	6,738	85.45	7,885	7,126	90.37	4,639	58.83

Source: gst.gov.in

4 SGST: It is a tax collected by the State Government for an intra-State sale

5 Form GSTR-1 is a monthly/quarterly Statement of Outward Supplies of Goods and Services or both

6 FORM GSTR-3B is a summary return for GST liabilities and discharge of these liabilities during the period.

The filing of GSTR-3B for April 2020 was 88 *per cent* and for the month March 2021 it was 90 *per cent*. However, the percentage of filing of GSTR-3B returns within the due date was ranging from as low as 15 *per cent* to 64 *per cent* during April 2020 to March 2021.

During 2020-21, the average *per cent* of filing of GSTR 3B within due date was only 45 *per cent* and the average filing of GSTR 3B after due date was 41 *per cent* indicating non-compliance of GST Rules and provisions relating to due dates for GSTR 3B return filing by 55 *per cent* of taxpayers.

Table 5.9: Details of return filing (GSTR-1 and GSTR-3B) during 2021-22

Return Type	**GSTR-1**			**GSTR-3B**				
Months	**Due for filing (Nos.)**	**Returns filed (Nos.)**	**Filing of Return in *per cent***	**Due for filing**	**Returns filed as on June 2021**	**Filing of Return in *per cent***	**Returns filed by due date (Nos.)**	***Percentage of filing of return by* due date**
Apr-21	5,479	4,501	82.15	5,479	4,753	86.75	1,124	20.51
May-21	5,462	4,477	81.97	5,462	4,696	85.98	1,118	20.47
Jun-21	8,047	6,845	85.06	8,047	7,141	88.74	4,175	51.88
Jul-21	5,619	4,498	80.05	5,619	4,707	83.77	3,218	57.27
Aug-21	5,711	4,523	79.20	5,711	4,775	83.61	3,351	58.68
Sep-21	8,314	7,002	84.22	8,314	7,306	87.88	5,305	63.81
Oct-21	5,709	4,504	78.89	5,709	4,742	83.06	3,389	59.36
Nov-21	5,805	4,659	80.26	5,805	4,828	83.17	3,512	60.50
Dec-21	8,632	7,369	85.37	8,632	7,539	87.34	5,851	67.78
Jan-22	5,837	4,616	79.08	5,837	4,752	81.41	3,451	59.12
Feb-22	5,912	4,737	80.13	5,912	4,853	82.09	3,508	59.34
Mar-22	8,941	7,544	84.38	8,941	7,711	86.24	5,756	64.38

Source: gst.gov.in

The filing of GSTR-3B for April 2021 was 86.75 *per cent* and for the month March 2022 was 86.24 *per cent*. However, the percentage of filing of GSTR-3B returns within the due date was ranging from as low as 20.47 *per cent* to 67.78 *per cent* during April 2021 to March 2022.

The average per cent of filing of GSTR 3B within due date was only 53.59 *per cent* and the average filing of GSTR 3B after due date was 31.41 *per cent* indicating non-compliance of GST Rules and provisions pertaining to due date for GSTR 3B return filing by 46.41 *per cent* of taxpayers.

5.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2022 in respect of some Heads of Revenue as reported by the departments amounted to ₹ 2.34 crore, of which, ₹ 0.37 crore was outstanding for more than five years (as detailed in **Table No. 5.10**).

Table No. 5.10: Arrears of Revenue

(₹ in crore)

Sl. No.	Head of revenue	Total amount outstanding		Replies of Department
		As on 31 March 2022	For more than five years	
1	Animal Husbandry	0.15	0.15	Entry tax of ₹ 34.98 lakh, due from a firm M/S Uttara Foods & Feed Pvt. Ltd., was only partially paid by the firm leaving a balance of ₹ 14.58 lakh.
2	Roads and Bridges Department	2.19	0.22	The road machineries of the department were mostly deployed for the departmental works. Payment was not made despite serving several reminders for clearing the dues.
Total		**2.34**	**0.37**	

Source: Information received from Departments concerned.

5.4 Response of the departments/ Government towards Audit

The Principal Accountant General (PAG), Sikkim conducts periodical inspection of the Government departments to test check the transactions and verify the maintenance of the important accounts and other records as prescribed in the Rules and procedures. Inspection Reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot are issued to the heads of the offices inspected with copies to the next higher authorities for prompt corrective action. The heads of the offices/ departments are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the PAG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

It was seen that 268 paragraphs involving ₹ 435.27 crore relating to 97 IRs remained outstanding at the end of June 2022. The details along with the corresponding figures for the preceding two years are mentioned in **Table No. 5.11**:

Table No. 5.11: Details of pending Inspection Reports

Particulars	June 2020	June 2021	June 2022
Number of outstanding IRs	93	96	97
Number of outstanding audit observations	264	266	268
Amount involved (*₹ in crore*)	718.07	456.27	774.41

5.4.1 The department-wise details of the IRs, the audit observations outstanding as on 30 June 2022 and the amounts involved are mentioned in the following **Table No. 5.12:**

Table No. 5.12: Department-wise details of IRs

Sl. No.	Name of Department	Nature of Receipts	No. of outstanding IRs	No. of outstanding Audit observations	Money value involved (*₹ in crore*)
1	Finance (Commercial Taxes Division)	VAT/Taxes on Sales, Trade, etc.	15	51	366.22
2	Excise (Abkari)	State Excise	9	26	14.88
3	Land Revenue and Disaster Management	Land Revenue	19	29	0.92
4	Transport (Motor Vehicles Division	Taxes on Motor Vehicles	9	22	19.70

Sl. No.	Name of Department	Nature of Receipts	No. of outstanding IRs	No. of outstanding Audit observations	Money value involved (*₹ in crore*)
5	Mines, Minerals and Geology	Non-ferrous Mining and Metallurgical Industries	0	0	0
6	Forest, Environment and Wildlife Management	Forestry and Wildlife	15	32	55.10
7	Finance (Directorate of State Lotteries)	State Lotteries	4	13	85.44
8	Urban Development and Housing	Urban Development	17	47	19.83
9	Energy and Power	Power	9	48	212.32
Total			**97**	**268**	**774.41**

Audit did not receive even the first replies from the heads of offices within one month from the date of issue of 06 numbers of IRs (issued during 2021-22) till June 2022. Pendency of IRs due to non-receipt of the replies was indicative of heads of offices and heads of the departments not initiating adequate action to rectify the defects, omissions and irregularities pointed out by the PAG through IRs.

The Government may consider having an effective system for prompt and appropriate response to audit observations.

5.5 Departmental Audit Committee Meetings

The Government set up audit committees to monitor and expedite the progress of the settlement of the IRs and paragraphs in the IRs. During 2020-21 and 2021-22 one Audit Committee Meeting was held with Commissioner, Commercial Tax Division, Finance Department where 10 IRs and 17 paragraphs were discussed, out of which four IRs and nine paragraphs were settled.

The overall progress on settlement of paragraphs needs to be improved in view of the huge pendency of IRs and paragraphs.

5.6 Response of the departments to the draft audit paragraphs

The PAG forward the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India to the Principal Secretaries/ Secretaries of the Department concerned, drawing their attention to audit findings and requesting them to send their response within four weeks. The fact of non-receipt of replies from the departments/ Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Four draft paragraphs proposed for inclusion in the Audit Report of the Comptroller and Auditor General of India for the year ended March 2022 were forwarded to the heads of Departments through demi-official letter and replies in respect of three paragraphs were received.

5.7 Follow up on Audit Reports - summarised position

The Rules of Procedures of the Committee on Public Accounts of the Sikkim Legislative Assembly (internal working) lays down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the departments shall initiate action on the audit paragraphs and the Government should submit the action taken explanatory notes within three months of tabling the Report for consideration of the Committee. In spite of these provisions, the explanatory notes on the audit paragraphs of the Reports were being delayed inordinately.

Reports of the Comptroller and Auditor General of India of the Government of Sikkim for the years ended 31 March 2014, 2015, 2016, 2017, 2018 and 2019 containing 18 paragraphs under Revenue Sector were placed before the State Legislative Assembly between March 2015 and December 2021. Action taken explanatory notes in respect of 10 paragraphs from six departments {Excise; Finance[7]; Transport (Motor Vehicles Division); Urban Development; Power; and Directorate of Sikkim State Lotteries} had not been received for Audit Reports for the years ending 31 March 2015, 2016, 2017, 2018 and 2019.

During 2020-21, the PAC discussed four PAs, eight paragraphs and two State Finance Audit Reports and during 2021-22 the PAC discussed five paragraphs.

5.8 Motor Vehicles Division, Transport Department - Analysis of the mechanism for dealing with issues raised by Audit

To analyse the system of addressing the issues highlighted in the IRs/ Audit Reports by the departments/ Government, action taken on the paragraphs and Performance Audits (PAs) included in the Audit Reports pertaining to the last 10 years in respect of Transport Department (Motor Vehicles Division) was evaluated and included in this Report.

The succeeding Paragraphs 5.8.1 to 5.8.3 discuss the performance of the Transport Department (Motor Vehicles Division) in dealing with the cases detected in course of local audit conducted during the last ten years and also the cases included in the Audit Reports pertaining to the last 10 years.

5.8.1 Position of IRs

The summarised position of IRs issued during the last ten years, paragraphs included in these Reports and their status as on 30 June 2022 are given in the following **Table No. 5.13:**

Table No. 5.13: Position of Inspection Reports

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2012-13	6	18	1.62	1	6	1.54	0	4	0.98	7	20	2.17
2013-14	7	20	2.17	0	0	0.00	1	5	0.99	6	15	1.19
2014-15	6	15	1.19	1	5	0.93	1	7	2.06	6	13	0.05
2015-16	6	13	0.05	1	22	7.67	0	6	3.90	7	29	3.81
2016-17	7	29	3.81	1	3	0.60	4	26	3.79	4	6	0.62
2017-18	4	6	0.62	1	5	0.38	0	0	0.00	5	11	1.00
2018-19	5	11	1.00	1	4	2.56	0	2	0.11	6	13	3.45

[7] Commercial Taxes Division and Directorate of Sikkim State Lotteries

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2019-20	6	13	3.45	1	5	4.25	0	2	0.27	7	16	7.43
2020-21	7	16	7.43	1	7	18.71	0	4	7.37	8	19	18.77
2021-22	8	19	18.77	1	6	2.66	1	3	1.73	8	22	19.70

No Departmental Audit Committee meetings were held during 2020-22.

5.8.2 Recovery in accepted cases

The position of paragraphs included in the Audit Reports pertaining to the last 10 years accepted by the Department and recovery affected there-against is mentioned in **Table No. 5.14**:

Table No. 5.14: Details of accepted paragraphs and recovery thereof

Year of Audit Report	No. of paragraphs included	Money value of the paragraphs (*₹ in crore*)	Number of paragraphs accepted	Money value of accepted paragraphs (*₹ in crore*)	Amount recovered during the year (*₹ in crore*)	Cumulative position of recovery of accepted cases (*₹ in crore*)
2010-11	No paragraphs featured in the Audit Report					
2011-12	01	0.56	01	0.56	Nil	Nil
2012-13	No paragraphs featured in the Audit Report					
2013-14						
2014-15	03	1.34	02	1.09	Nil	Nil
2015-16	01	3.21	01	3.21	Nil	Nil
2016-17	No paragraphs featured in the Audit Report					
2017-18						
2018-19						
2019-20						

It was evident from the above table that the progress of recovery even in accepted cases was very slow during the last ten years. The recovery in accepted cases was to be pursued as arrears recoverable from the parties concerned. The Department/ Government had not put in place any mechanism for pursuance of the accepted cases. In the absence of a suitable mechanism, the Department could not monitor the recovery in accepted cases.

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

5.8.3 Action taken on the recommendations accepted by the departments/ Government

The draft reports on Performance Audits (PAs) conducted by the PAG are forwarded to the Government/ Department concerned for their information with a request to furnish their replies. These PAs are also discussed in the exit conference and the Department's/ Government's views are included while finalizing the PAs for the Audit Reports.

The following TA on Transport Department (Motor Vehicles Division) had featured in the Audit Report 2014-15. The details of recommendations and their status are given in **Table No. 5.15:**

Table No. 5.15: Details of recommendations and their status

Year of AR	Name of the PA	Details of the Recommendations	Status
2014-15	**Thematic Audit on Collection of Revenue from outsourced activities in Motor Vehicles Tax**	Suitable action may be taken to provide HSRP to public at competitive rates as prevailing in other States. Timely action to ensure response to tender should be taken.	After being pointed out in audit, the rate of HSRP has been reduced from ₹ 2,250 to ₹ 1,450
		Suitable action may be taken to link royalty from operation of AETC to number of registered vehicles.	The Department offered no reply on the recommendation
		Action may be taken to provide various forms free of cost for availing different services.	The Department offered no reply on the recommendation
		Adherence to the provisions of CMV Act/Rules and SMV Rules for issuance of PUC certificates should be ensured.	The PUC issuance is made centralized and acquired online, hence its updating has been made mandatory.
		Steps like tendering for selection of outsourced agents through competitive bidding, adherence to the terms and conditions of the agreements may be taken to safeguard Government and public interest.	The Department offered no reply on the recommendation

NB: Status as in the table is based on departmental replies

5.9 Audit Planning

The unit offices under various departments were categorised into high, medium and low risk units according to their revenue position, past trends of the audit observations and other parameters. The annual audit plan was prepared on the basis of risk analysis which *inter alia* included critical issues in Government revenues and tax administration, *i.e.,* budget speech, White Paper on State Finances, Reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, factors of the tax administration, audit coverage and its impact during the past five years *etc.*

During 2020-21, there were nine auditable units, of which four units (44.44 *per cent*) were planned and audited similarly during 2021-22 there were nine auditable units, of which four units (44.44 *per cent*) were planned and audited.

5.10 Results of audit

Test check of the records of four units under Revenue departments {Finance Department, Transport Department, Excise Department, Power Department, Land Revenue Department, Forest and Environment Department, Mines and Geology Department and Urban Development Department} was carried out during the year 2020-21 as well as 2021-22. It revealed irregularities involving revenue aggregating to ₹ 6.27 crore in 12 cases during 2020-21 and ₹ 5.26 crore in 24 cases during 2021-22. During the course of the year, the departments concerned accepted all observations.

5.11 Coverage of this Report

This Chapter contains one Subject Specific Compliance Audit and two compliance audit paragraphs involving financial effect of ₹ 131.95 crore.

COMPLIANCE AUDIT PARAGRAPHS

FINANCE DEPARTMENT
(COMMERCIAL TAX DIVISION)

5.12 Subject Specific Compliance Audit on transitional credits under GST in Sikkim

5.12.1 Introduction

Introduction of Goods and Services Tax (GST) is a significant reform in the field of indirect taxes in our country, which replaced multiple taxes levied and collected by the Centre and States. GST is a destination-based tax on supply of goods or services or both, which is levied at multiple-stages wherein the taxes move along with supply. The tax accrues to the tax authority which has the jurisdiction over the place of supply. Tax is levied simultaneously by the Centre and States on a common tax base. Central GST (CGST) and State GST (SGST) /Union Territory GST (UTGST) are levied on intra-state supplies and Integrated GST (IGST) is levied on inter-state supplies. Availability of input tax credit (ITC) of taxes paid on inputs, input services and capital goods for set off against the output tax liability is one of the key features of GST. This avoids cascading effect of taxes and ensures uninterrupted flow of credit from the seller to buyer. To ensure the seamless flow of input tax from the existing laws to GST regime, transitional arrangements for input tax were included in the GST Acts to provide for the entitlement and manner of claiming input tax in respect of appropriate taxes or duties paid under the existing laws. Transitional credit provisions are important for both the Government and business.

5.12.2 Transitional arrangements for input tax credit – Legal provisions

Section 140 of the Sikkim GST Act 2017 enables the taxpayers to carry forward the ITC under the existing VAT laws to the GST regime. This section, read with Rule 117 of SGST Rules 2017 prescribes elaborate procedures in this regard. All registered taxpayers, except those who are opting for payment of tax under composition scheme (under Section 10 of SGST Act), are eligible to claim transitional credit by filing Tran 1 Returns within 90 days from the appointed day[8]. The time limit for filing TRAN 1 Returns was extended till 31.03.2020. Under transitional arrangements for ITC, the ITC of various taxes paid under the existing law and State Value Added Tax (VAT) can be carried forward to GST regime as under:

(a) Closing balance of the credit in the last Returns: The closing balance of the VAT credit available in the Returns filed under the existing law for the period immediately preceding the appointed day can be taken as credit in ECL.

(b) Un-availed credit on capital goods: The balance instalment of un-availed credit on capital goods can be taken by filing the requisite declaration in GST TRAN 1.

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

[8] 01.07.2017

(d) Credit on duty paid stock when Registered Person does not possess the document evidencing payment of VAT: For traders who do not have excise or VAT invoice, there is a mechanism to allow credit to them on the duty paid stock.

(e) Credit relating to exempted goods under the existing law which are now taxable: ITC of VAT in respect of input, semi-finished and finished goods in stock attributable to exempted goods or services which are now taxable in GST.

(f) Input/input services in transit: The input or input services received on or after the appointed day but the duty or tax on the same was paid by the supplier under the existing law.

(g) Tax paid under the existing law under composition scheme: The taxpayers who had paid tax at fixed rate or fixed amount in lieu of the tax payable under the existing law, now working under normal scheme under GST can claim credit on their input stock, semi-finished and finished stock on the appointed date.

(h) Credit in respect of tax paid on any supply both under VAT Act and under Finance Act, 1994: Transitional credit in respect of supplies which attracted both VAT and Service tax under the existing laws, for which tax was paid before the appointed date and supply of which is made after the appointed date.

5.12.3 Context and materiality

The transitional credit was a one-time flow of input tax credit from the legacy regime into the GST regime, which could be availed both by the taxpayers migrating from the previous regime as well as new registrants under GST regime. The components of transitional credit claimed by taxpayers in the appropriate tables of forms –TRAN 1 and TRAN 2, pertaining to conditions specified under relevant Sections and Rules of the SGST Act 2017 and SGST Rules 2017 respectively, are mentioned below:

Table No. 5.16: Components of transitional credit under SGST Act 2017 and SGST Rules 2017

Returns	Table No.	Relevant Section or Rule for Transitional Credit
TRAN-1	5(c)	**Section 140. (1):** Balance credit of the amount of VAT ITC as shown in the last return.
	7(b)	**Section 140 (5):** Inputs received on or after the appointed day but tax paid under the VAT, invoices have been recorded in the books of account.
	7 (c)	**Section 140 (3):** Dealers not liable to be registered or dealing in exempted goods during VAT regime but has invoices of VAT of inputs held in stock and semi-finished goods. **Section 140(4):** Dealers involved in sale of both taxable goods or exempted goods but are liable to be tax under this GST Act. **Section 140 (6):** Dealers who were composite tax payer under VAT regime.
	7 (d)	**Rule 117 (4) (a):** Dealers not registered during VAT can avail credit of stock even if not in possession of invoice. (The rate of ITC would be 60 % if SGST is 9 % or more and 40 % if SGST is less than 9 %.
	11	**Section 142 (11) (c):** Credit in respect of tax paid before the appointed day and supply made after the appointed day.
TRAN-2	5	**Rule 117 (4) (b):**Credit afforded on stocks held on appointed date

Further, as per Rule 117 (1) of SGST Rules 2017 all taxpayers availing credit under Section 140 (1) should file TRAN 1. As per Rule 117 2 (b) of SGST Rules 2017, taxpayers who were unregistered under the existing law or who were dealing in taxable goods and exempted good under the existing law: claiming transitional credit under sub-section (3) or clause (b) of sub-section (4) or sub-section (6) or sub-section (8) of Section 140 should furnish details of stock held and, as per Rule 117 (4) (b), the details of stock should be filed in form TRAN 2.

5.12.4 Audit scope and methodology

The scope of audit comprised a review of transitional credit claim Returns, both Tran 1 and Tran 2, filed by the taxpayers under the transitional arrangements for input tax credit provided under Section 140 of the SGST Act. The period of review was from the appointed date to the end of March 2020. The methodology for verification of transitional credit claims of the selected taxpayers involved verification and scrutiny of quarterly VAT returns filed under the existing laws, immediately preceding the appointed date, along with the evidence in support of such claims. In respect of input tax credit claimed on goods held in stock, verification involved examination of necessary documents or records evidencing purchase of such goods. Verification also involved cross checking of TRAN 1 data with last VAT returns and ECL records available in the state GST system and accessing relevant information/records called from the Commercial Tax Division (CTD).

The audit commenced with entry conference held on 21 June 2021 during which the audit objectives, scope and criteria were discussed with the Department. After the conclusion of audit, the draft report was issued to the CTD on 30 December 2021 and the exit conference was held on 21 January 2022 where audit findings were discussed. The replies of the Department wherever received, have been duly incorporated in the report.

5.12.5 Audit objectives

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

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

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

5.12.6 Audit criteria

The criteria against which the audit objectives and sub-objectives were verified comprise the provisions of Section 140 of the SGST Act 2017 read with Rule 117 of the SGST Rules 2017, circulars, notifications and instructions issued by CTD, Sikkim.

5.12.7 Audit sample

The total number of transitional credit claims was 237 amounting to ₹ 116.27 crore, out of which 86 cases amounting to ₹ 4.89 crore were selected for detailed checking.

5.12.8 Audit findings

Scrutiny of relevant data, records and information pertaining to transitional credit revealed the following:-

Table No. 5.17: Details of Audit scrutiny and results thereof

(₹ in lakh)

Nature of Audit Observation	Audit sample		Deficiencies noticed		Deficiencies as percentage of sample	
	Nos.	Amount	Nos.	Amount	Nos.	Amount
Excess carry forward of input tax credit	54	177.63	49	75.88	90.74	42.72
Irregular utilisation of transitional credit without filing last VAT returns	54	177.63	2	3.95	3.70	2.22
Irregular utilisation of transitional credit on works contract service	9	351.09	2	53.55	22.22	15.25
Non-declaration of stock details in Form GST TRAN 2	86	489.47	9	49.60	10.47	10.13

5.12.8.1 Non-production of records

(i) Out of the 86 cases selected for audit, in nine cases the taxpayers had received transitional credit under table 7 (b) and (c) of the Tran-1 application. Invoices in support of their claims for transitional credit were called for scrutiny on 31 August 2021. Invoices in respect of two taxpayers[9] were not made available to Audit.

(ii) In order to examine transitional credit pertaining to Works Contract, the works bills in respect of five taxpayers, pertaining to their last VAT returns (*i.e.* April-June 2017-18) were called for scrutiny on 10 September 2021.The work bills were not furnished to Audit.

This was informed to the CTD (28 December 2021). During the exit conference, the officers of CTD replied that they had asked the taxpayers to submit the required documents. However, the work bills were not furnished to Audit (April 2022). Consequently, Audit could not derive assurance as to the correctness of transitional credit claims of ₹ 86.10 lakh.

5.12.8.2 Verification of Transitional credit

Transitional credit was a one-time flow of input credit from the VAT regime into the GST regime, which could be availed both by the taxpayers migrating from the previous regime as well as new registrants under GST regime. The credit availed was adjusted against GST output liability of the taxpayers. Hence, the claims had a direct impact on GST revenue collection. Accordingly, the verification of transitional arrangements for ITC under GST was of outmost importance. In this regard the

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[9] GSTIN 11AAACI5120L1Z1 and 11AAACN0255D1ZB

Central Board of Indirect Taxes and Customs (CBIC) issued a letter[10] instructing all field formations to verify correctness of transitional credits in a focussed and concreted manner. A detailed guidance notes to aid and assist the field formations of CBIC in verification of transitional credit was also issued.

It was noticed that the CTD, Sikkim had not set up any mechanism for selection and verification of transitional credit.

This was intimated to the Department on 15 September 2021. During the exit conference, the Departmental representatives replied that as the GST was a new taxation system, the CTD was busy with understanding the GST regime and its implementation and the verification would be done in due course. Even after five years of implementation of GST, neither the Department had checked the veracity of the transitional credits claimed nor was any post facto validation done.

In absence of any verification of the transitional credit claims, the Department so far had not detected any irregular transitional credits and other lacunas as illustrated in the subsequent paras. Further, the State Tax Department had not prepared any guidance note that provides for completion of verification within a fixed time frame.

5.12.8.3 Loss of Revenue due to excess carry forward of input tax credit

As per Section 140 (1) of SGST Act 2017, 'A registered person, other than a person opting to pay tax under Section 10, shall be entitled to take, in his ECL, credit of the amount of VAT, and Entry Tax, if any, carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed.

As per Rule 117 (1) of SGST Rules 2017, every registered person entitled to take credit of input tax under Section 140 shall, within ninety days of the appointed day, submit a declaration electronically in Form GST TRAN-1, duly signed, on the common portal specifying therein, separately, the amount of ITC of eligible duties and taxes, to which he is entitled under the provisions of the said section:

Thus, as per the relevant provision of the SGST Act and Rules 2017 the balance of VAT credit immediately preceding the appointed date could be carried forward to the GST regime, for which the taxpayer had to submit Form TRAN 1 electronically. TRAN 1 consists of various tables out of which the balance of credit of VAT could be carried forward to ECL through Table 5 (c).

Audit observed that in 54 out of 86 cases, VAT credit was carried forward. Cross verification of the last quarterly VAT returns with the transitional credit amount revealed that there were deviations in 49 cases amounting to ₹ 75.88 lakh out of 54 cases.

Transitional credits allowed were more than the credit balance of VAT in the quarterly Returns in five cases amounting to ₹ 22.36 lakh and in 44 cases, transitional

[10] No D.O. F. No. 267/8/2018-CX.8 Dated: 14 March, 2018 (No such circular has been issued by the State Tax Department)

credits amounting to ₹ 53.52 lakh were carried forward where no credits were available as per VAT returns. This resulted in setting off of GST liability from the said credit which had directly impacted the GST revenue to the tune of ₹ 75.88 lakh ***(Appendix 5.1)***.

Audit pointed out these findings to the Department on 10 September 2021. During the exit conference, the Department replied that the defaulting taxpayers have been informed. The Department subsequently forwarded (14 February 2022) the replies of 30 taxpayers in which all the taxpayers had made the same statements, that on the VAT portal the taxpayers could claim ITC only when the buyers approved the sales uploaded by the sellers which was possible only after end of the respective month. The amount of ITC claimed in the last VAT return was approved only after the appointed date and was remaining unutilised. Therefore, the ITC of the last VAT return was carried forward into the GST.

The replies of the taxpayers forwarded by the CTD are not acceptable on the ground that as per Rule 33 of the State VAT Rules 2005, the last quarterly Return (April to June 2017) could have been filed till the end of July 2017 which could include all the purchases made during that last quarter (April–June 2017). The replies forwarded to Audit were not supported by any documentary evidence (invoices issued by the seller but not uploaded). The said documentary evidence was called for checking on 23 February 2022. However, the CTD has not furnished any evidence to support the veracity of the claims (December 2022).

5.12.8.4 Transitional credit allowed to taxpayer without filing VAT returns

As per Section 140 (1) of SGST Act 2017, a registered person shall not be allowed to take credit in the following circumstances, namely: – (i) where the said amount of credit is not admissible as input tax credit under SGST Act; or (ii) where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date.

Hence, the taxpayers were required to file last two quarterly VAT Returns to avail transitional credit. Audit observed that two taxpayers[11] out of 54 taxpayers had availed transitional credit of ₹ 3.95 lakh, without filing the last two quarterly VAT Returns for the period of January to June 2016-18.

Audit pointed this out to the Department on 22 October 2021. During the exit conference, the Departmental officers replied that they would check for the availability of the returns in the State system. However, further reply was awaited (December 2022).

5.12.8.5 Irregular Transitional credit

As per Section 13 (1) of the Sikkim Value Added Tax (SVAT) Act 2005, 'every taxpayer shall pay for each year, a tax under this Act on his taxable turnover for transfer of property in goods (whether as goods or in some other form) involved in the

[11] GSTIN: 11AEAPK6185Q1Z7 & 11ANYPP6755A1ZS

execution of works contracts, determined at the rates specified for the same goods in the Schedules mentioned in Section 12.

Provided that all amounts towards labour charges and other like charges not involving any transfer of property of goods actually incurred in connection with the execution of works contract, shall be allowed to be deducted from gross turnover of such taxpayer in determining his taxable turnover.

Provided further that if the amount towards labour charges and other like charges not involving any transfer of property in goods, actually incurred in connection with the execution of works contract are not ascertainable from the books of accounts maintained and produced by a taxpayer before the appropriate assessing authority, such taxpayer shall be allowed to deduct from his gross turnover such amount towards labour charges and other like charges as the said authority shall determine on the basis of the nature of works, records available before him and making such verification as may be necessary, but not exceeding forty *per cent* of the total value of the works executed by such taxpayer:

Provided further that the appropriate assessing authority shall determine the turnover taxable as applicable as per the rates of tax specified in the Schedules from the total taxable turnover ascertained after allowing deductions on account of labour charges and other like charges, on the basis of the records available before him and making such verifications as may be necessary on this behalf.

Provided also that the appropriate assessing authority shall record in writing the reasons of determination of taxable quantum and applicable tax rate on such taxable quantum.'

Hence as per the provision of the SVAT Act 2005, VAT would be levied on the value of transfer of goods which is equal to gross amount of the work bill minus 'labour charges and other like charges.

Out of 86 cases selected for detailed checking, in nine cases the taxpayers were registered as Works Contractors. Out of these nine taxpayers, five taxpayers[12] had availed transitional credit of SGST. Scrutiny of the last quarterly (April-June of 2017-18) VAT returns of the five taxpayers revealed Irregular claims of Transitional credit in two cases as detailed below:

(i) M/s AIREF Engineers Pvt. Ltd had claimed a transitional credit of ₹ 21.81 lakh and as per the last revised VAT return, the gross value of the bill was as ₹ 1,565.63 lakh and the total amount of 'labour and like other charges was ₹ 1,422.45 lakh; hence the taxable value of property transferred in goods was ₹ 143.18 lakh (₹ 1,565.63 lakh - ₹ 1,422.45 lakh).

Scrutiny also revealed that the 'labour and like other charges' consisted of five components and profit *i.e.* one of its components was calculated at a

[12] Out of nine taxpayers, three had availed credit of zero hence excluded, one taxpayer had not filed the complete VAT return and there was no balance credit availed in the VAT return. Hence, only five taxpayers have been considered for availing of transitional credit of SGST.

disproportionately high rate of 73.35 *per cent* of the gross value of the work. If the profit margin is taken at a reasonable rate of 10[13]*per cent*, there would not have been any credit balance of VAT and the taxpayer would not be eligible for transitional credit. Thus, as the result of the inflated profit the undue transitional credit of ₹ 21.81 lakh was claimed by the taxpayer and was allowed by the Department without any assessment.

The above observations were intimated to the CTD on 10 September 2021. In response the CTD had simply forwarded (31 January 2022) the reply furnished by the taxpayer wherein the taxpayer has submitted the revised VAT return on 13.08.2018 to justify transitional credit of ₹ 21.81 lakh. Even after six months of issue of the audit observation (September 2021) the CTD has not offered any comment on the correctness of the profit (December 2022).

(ii) In the case of M/s U Narayan Sharma, the taxpayer had claimed a transitional credit of ₹ 31.74 lakh and as per the last VAT Return the gross value of the bill was ₹ 2,114.67 lakh and the total amount of 'labour and like other charges' was ₹ 554.47 lakh, therefore the taxable value of property transferred in goods was ₹ 1,560.20 lakh (₹ 2,114.67 lakh - ₹ 554.47 lakh). However, taxable value as disclosed in the return was only ₹ 261.96 lakh. Due to the suppression in taxable value (*i.e.,* ₹ 261.96 lakh in place of ₹ 1,560.20 lakh) there was credit balance of ₹ 31.74 lakh in the last VAT return. This resulted in irregular claim of transitional credit of ₹ 31.74 lakh, the tax payable at different 'value of property transferred in goods' which was allowed by the department.

Table 5.18: Credit balance in last VAT return

(₹ in lakh)

Particulars	Total value of bill Amount	Total value of labour and like other charges	Value of property transferred in goods or Sales	Tax payable	Total credit availed in last VAT return	Balance of credit
	(1)	(2)	(3)=(1)-(2)	(4)	(5)	(6)=(4)-(5)
As disclosed by the taxpayer in the return	2,114.67	554.47	261.96	10.56	42.29	-31.74
As per the provision of SVAT Act 2005	2,114.67	554.47	1,560.20	62.88[14]	42.29	20.59

Hence, as per the provision of the SVAT Act 2005, the taxpayer was not eligible for the transitional credit of ₹ 31.74 lakh.

This was intimated to the CTD on 10 September 2021. In response, the CTD had forwarded (10 February 2022) the reply furnished by the taxpayer wherein the

13 In Sikkim there was no separate Schedule of Rates pertaining to Tunnel Works. Karnataka' Schedule of Rates pertaining to the same work i.e. Tunnel and Allied works provides for profit of 10 percent.

14 Tax amount of ₹ 10.56 lakh was collected when sale declared was ₹ 261.96 lakh, proportionately if the sales was taken as ₹ 1,560.20 lakh the tax collected would have been ₹ 62.88 lakh.

taxpayer stated that there was credit balance of ₹ 31.73 lakh and the same was carried forward to the GST via TRAN – 1. The taxpayer had further stated that if they have wrongly taken the credit, they would refund the amount of ₹ 31.73 lakh on issue of demand notice. However, no such notice had been issued by the CTD (April 2022).

5.12.8.6 Non-declaration of stock details in Form GST TRAN 2

As per Rule 117 (1) of SGST Rules 2017 all taxpayers availing credit under Section 140 (1) should file TRAN 1. As per Rule117 (2) (b), 'every declaration under sub-rule (1) shall in the case of a claim under sub-section (3) or clause (b) of sub-section (4) or sub-section (6) or sub-section (8) of Section 140, specify separately the details of stock held on the appointed day'. Rule 117 (4) (b) (iii) provides that the registered person availing of this scheme and having furnished the details of stock held by him in accordance with the provisions of clause (b) of sub-rule (2), should submit a statement in **Form GST TRAN 2** by 30 June 2018, for each of the six tax periods during which the scheme is in operation indicating therein, the details of supplies of such goods effected during the tax period.

Hence, in terms of Rule 117 (2) (b) read with Rule 117 (4) (b) (iii), the taxpayer who filed transitional credit under Table 7 (c) and 7 (d) also had to furnish details of stock held by him in statement Form GST TRAN 2. The form GST TRAN 2 contains details of stocks held by the taxpayer: opening stock, outward supplies made during the tax period and the closing stock.

Scrutiny of the returns revealed that out of 86 cases selected for audit, ten taxpayers had availed transitional credit of ₹ 49.98 lakh under Tables 7 (c): four and 7 (d): six. These taxpayers were to submit statement of stock held by them in TRAN 2. However, nine taxpayers[15] with transitional credit amounting to ₹ 49.6 lakh out of these 10 taxpayers had not submitted the stock declaration in TRAN 2. This not only led to non-compliance to Rules 117 (2) (b) read with 117 (4) (b) (iii) of SGST Rules 2017, but is also fraught with the risk of possible tax evasion. The details of the taxpayers who availed the transitional credit but failed to declare the details of stock held by them are given below:

Table 5.19: Details of taxpayers who failed to declare details of stock

(₹ in lakh)

GSTIN	Legal Name	Table	ITC availed
11AAACY3532C1Z0	Yuksom Breweries Limited	7C	1.99
11AACCB4167A1ZG	BVSR Constructions Private Limited	7C	0.18
11AAICA5591M1ZG	Alembic Pharmaceuticals Limited	7C	3.70
11CFWPS0136J1Z8	Surendra Kumar Sarda	7C	1.11
11ACRPA2124N2ZU	Bijay Kumar Agarwal	7D	0.21
11AJHPB3716G1ZW	Karma Loday Bhutia	7D	38.14
11ANRPR5139D1ZZ	Kumar Rai	7D	3.01
11BGGPP9514F1ZJ	Narendra Prasad	7D	0.53
11BIYPD0820J1ZG	Prema Devi	7D	0.72
TOTAL			**49.60**

15 One taxpayer out of ten had filed GST TRAN 2.

Audit pointed this out to the Department on 10 September 2021. During the exit conference, the Departmental officer replied that they have informed the taxpayers. However, further reply is awaited (December 2022).

5.12.8.7 Mismatch of transitional credit data of GSTN with State System

As per Rule 117 (1) of SGST Rules 2017, every registered person entitled to take credit of input tax under Section 140 shall, within ninety days of the appointed day, submit a declaration electronically in Form GST TRAN-1, duly signed, on the common portal specifying therein, separately, the amount of ITC of eligible duties and taxes, to which he is entitled under the provisions of the said section.

The claim of transitional credit was to be initiated by filing up Form Tran 1 on the common portal which would get credited in the ECL and this data of the common portal gets transferred to the State IT system through API[16]. Hence, the data pertaining to transitional credit in different modules such as ECL and Tran 1 is stored in both GSTN and State System.

To test the reliability of the data in the system, Audit made cross-verification of data from three sources (credit amount in GSTN, TRAN 1 data of State system and ECL data of State system) pertaining to 86 selected taxpayers. Audit found mismatch of data in 13 cases, as shown below:

Table No. 5.20: Mismatch of data between GSTN data and State system

(₹ in lakh)

Sl. No.	GSTIN (highlight means - return not furnished by CTD)	Legal name in State System	Tran Application amount	*SGST* credit ledger amount	GSTN Tran amount
1.	11AACCB4167A1ZG	BVSR Constructions Private Limited	0.18	0.18	0.00
2.	11CFWPS0136J1Z8	Surendra Kumar Sarda	1.12	1.12	0.00
3.	11AAICA5591M1ZG	Alembic Pharmaceuticals Limited	3.70	3.70	0.00
4.	11AAACN0255D1ZB	NTPC Limited	6.98	6.98	0.00
5.	11AAACY3532C1Z0	Yuksom Breweries Limited	2.60	2.61	0.61
6.	11ACRPA2124N2ZU	Bijay Kumar Agarwal	0.21	0.00	0.21
7.	11AABCT6921F1ZR	Thyssenkrupp Elevator (India) Private Limited	0.38	0.00	0.38
8.	11BIYPD0820J1ZG	Prema Devi	1.18	0.46	1.18
9.	11BGGPP9514F1ZJ	Narendra Prasad	1.06	0.53	1.06
10.	11AABCG0541J1Z7	Golden cross Pharma Private Limited	25.03	24.86	25.03
11.	11AJHPB3716G1ZW	Karma Loday Bhutia	38.14	0.00	38.14
12.	11AABCA9521E1ZA	Alkem Laboratories Ltd	0.00	1.33	1.33
13.	11AAACI1220M1Z6	Ipca Laboratories Limited	0.00	3.53	3.53
14.	11ACIPA8111E1ZG	Pradeep Kumar Agarwal	0.25	0.49	0.71
15.	11AABCT2439G1ZS	Topsel Private Limited	1.56	0.00	0.83
16.	11ANRPR5139D1ZZ	Kumar Rai	3.01	0.00	1.85

[16] Application Programming interface (API) is a software interface format that allows two applications to interact with each other without any user intervention.

i) In case of five taxpayers (Sl. Nos. 1 to 5 above), TRAN-1 application amount and the SGST credit ledger amount are the same but the GSTN TRAN amount is different.

ii) In six cases (Sl. Nos. 6 to 11 above), TRAN-1 application amount and the GSTN Tran amount are the same but the SGST credit ledger amount is different.

iii) In two cases (Sl. Nos. 12 & 13), SGST credit ledger amount and the GSTN TRAN amount are the same but the TRAN-1 application is different.

iv) In the remaining three cases (Sl. Nos. 14 to 16 above), all the figures are different.

Audit pointed this out to the Department on 13 September 2021. During the exit conference, the Department replied that the mismatch could be due to technical glitch during pulling data into the State system from the GSTN and *vice versa*. The Department further stated that they would look into the matter. Further reply was awaited (December 2022)

5.12.9 Conclusion

The Subject Specific Compliance Audit on Transitional Credits under the GST regime revealed the following compliance and systemic deviations:

1) Instances of non-compliance to the provisions under Section 140 (1) of SGST Act 2017 where transitional credit amount carried forward to ECL was more than the closing balance of VAT credit in the last VAT returns, which resulted in short GST revenue collection by ₹ 75.88 lakh.

   Instances of irregular claims of transitional credit by the taxpayers involved in execution of Works Contract under Section 13 (1) of the State VAT Act 2005 which resulted in enhanced credit (Comprehensive checks on works contract could not be conducted due to non-production of relevant records).

2) The mechanism for selection and verification of transitional credit claims was not established.

3) Non-declaration of stock details in Form GST TRAN 2 under Rule 117 (2) (b) read with Rule 117 (4) (b) (iii) of SGST Rules 2017.

Further, mismatches of data captured in two modules (ECL and TRAN 1) of the State system and with GSTN data were also detected. Hence, the verification mechanism, if at all established in future, would be hindered by such data discrepancies.

5.12.10 Recommendations

In order to address the non-compliance to relevant provisions of the acts and rules which directly impacted the GST revenue collection and to ensure establishment of an effective verification mechanism, the following recommendations are made:

- *CTD should ensure that all data captured in the various modules of the State system are accurate.*
- *An effective verification mechanism should be set up to check the veracity of the transitional credit availed and for which guidelines need to be framed on the lines of those prepared by CBIC.*

FINANCE DEPARTMENT
(COMMERCIAL TAX DIVISION)

5.13 Short payment of sales tax by seven liquor dealers

Failure of the State Sales Tax Authorities to exercise due diligence in assessing the sales turnover of liquor dealers of the State by cross verifying with the sales data maintained by the Excise Department resulted in short payment of Sales Tax of ₹ 130.87 crore by the seven dealers during the period 2018-21.

Section 4 of Sikkim Sales Tax (SST) Act, 1983 envisages that every dealer who sells goods (manufactured, imported, produced or purchased by him) in the State, shall pay a Sales Tax on the sales made by him from the date of commencement of the Act. For the purpose of Sales Tax on liquor, the distilleries, breweries and licensed importers of liquor are themselves the registered Dealers and constitute the first point of sale[17] responsible for collecting and paying Sales Tax to the Government. The rate of Sales Tax on liquor as fixed by the State Government was 25 *per cent*[18] with effect from January 2015.

Further, in terms of Rule 62 of Sikkim Excise (Distillery) for manufacture of spirit and foreign liquor) Rules, 2000 and Rule 21 of Sikkim Excise (Brewery) Rules 2000, every distillery / brewery shall be placed by the Commissioner under the charge of an Excise Inspector or Excise Sub-Inspector to be designated as Officer-in-charge of the distillery / brewery.

Scrutiny of the records of the Secretary, Excise Department (ED) revealed (April 2021) that the Excise Officers posted at each distillery, brewery and importer's warehouse regularly maintain details of sales of liquor on actual and real time basis. Such details are submitted to the Commissioner of Excise, Gangtok every month/ year by the Excise officials posted at the units (distilleries, breweries, etc.).

With a view to ascertain the quantum of Sales Tax to be paid by liquor dealers for the period from 2018-19 to 2020-21, Audit worked out (June 2021) the value of Sales Tax payable by seven Liquor Dealers of the State based on the sales data maintained by the Excise Department and compared the same with the Sales Tax actually paid as per the sales returns filed by these Dealers to the Commercial Tax Department. The comparison showed that there was short payment of Sales Tax amounting to ₹ 130.86 crore by the seven Liquor Dealers due to suppression of sales turnover by the Dealers in their Sales Tax returns as detailed in the following table:

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17 Sale point where goods, whether manufactured or imported, are invoiced and transported out for the first time in the State.

18 As per Notification No. 113/CTD/2014 dated 20 November 2014 of the State Government, the tax payable by the Liquor dealers on sale of alcoholic liquor for human consumption is 25 per cent w.e.f. January 2015.

Table No. 5.21: Short Payment of Sales Tax during 2018-19 to 2020-21

(₹ in crore)

Particulars	Krishna Trade links	Shruti Warehouse	Pawan Kr. Gurung	Sikkim Distilleries	Mount Distilleries	Lahag/ Esvegee	Denzong Albrew	Grand total
Local sales data maintained by Excise Department*	91.53	87.87	94.31	350.60	161.50	84.47	87.14	
Local sales as reported by the Dealers concerned in their Returns*	7.57	13.02	31.95	56.36	152.52	11.12	51.39	
Local sales suppressed	83.96	74.85	62.36	294.24	8.98	73.35	35.75	633.49
Sales Tax payable (25%)	22.88	21.97	23.58	87.65	40.38	21.12	21.78	239.36
Sales Tax actually paid	9.82	6.59	4.16	34.39	39.93	2.49	11.12	108.50
Short Realisation of Sales Tax	**13.06**	**15.38**	**19.42**	**53.26**	**0.45**	**18.63**	**10.66**	**130.86**
Assessments done up to	2018-19	2019-20	Not assessed	2019-20	Not assessed	Not assessed	Not assessed	

**Exclusive of Sales Tax*

The above table shows that:

a. there was a total suppression of sales turnover of ₹ 633.49 crore during 2018-21, and

b. the suppression of sales turnover by the Dealers led to short payment of SST of ₹ 130.86 crore during the period 2018-21, which was of substantial value seen against the backdrop of the State's own tax revenue.

Thus, failure of the Commercial Tax Authorities to use the sales data of liquor maintained by the Excise officers posted at the premises of each Liquor Dealer for cross verifying the returns filed by Dealers resulted in short payment of Sales Tax by ₹ 130.86 crore by the seven dealers during the period 2018-21. Year-wise details of short-payment of sales tax are shown in ***Appendix 5.2***.

On this being pointed out, the Department stated (November 2021) that records of the seven Liquor Dealers were being reviewed for verification and scrutiny of their sales tax returns and accordingly requested two months' time for submission of reply.

In a subsequent reply (April 2022), the Department stated that:

(i) the comparison of turnover of Sales Tax with turnover of excise duty was not fair as incidence of levy of Sales Tax and levy of excise duty were different;

(ii) turnovers of sales declared in the self-assessed quarterly returns were exclusive of admissible deductions on account of sales returns, discounts, etc.; and

(iii) the quantity of liquor shown as sold in the State in terms of the Excise Department data was disproportionately high for the population of Sikkim and hence the corresponding amount of sales turnover for liquor in the State was presumptuous.

The reply furnished by the CTD was not based on facts in view of the following:

(i) the incidence of levy of Sales Tax as well as Excise Duty are same by virtue of liquor being taxed at the first point of sale;

(ii) the calculation of audit is based on the data maintained by the Excise Department and Excise Duty was levied on that particular data;

(iii) there is no provision of discounts in the Sales Tax Act on the sale of liquor in the Sales Tax Act and Rules. Moreover, there was not a single instance of mention of sales returns or discounts on sales in the sales data/ sales returns provided to Audit, in case of the seven dealers during the period 2018-21; and

(iv) the CTD's comparison of sale of liquor with that of population of Sikkim is not logical in view of liquor being taxed at first point of sale. Further, huge inflow of tourist into the State and cross border trafficking of liquor into States neighbouring Sikkim was ignored by the Department.

Recommendation:

Immediate action may be initiated by the Department/ Government to realise the actual Sales Tax due from the defaulting Liquor Dealers along with penalty in a time bound manner; a mechanism of inter-departmental cross verification needs to be evolved so as to leave no scope for evasion of Taxes; levy and collection of State Sales Tax from the liquor dealers henceforth may be done simultaneously; and State Government may verify levy of Sales Tax on Liquor Dealers since 01 January 2015, i.e.; the date of revision of Sales Tax from 20 to 25 per cent.

URBAN DEVELOPMENT DEPARTMENT

5.14 Non-realisation of revenue

The Urban Development Department failed to ensure whether Pharmaceutical Companies in the State were complying the Sikkim Trade License and Miscellaneous Rule 2011 and also could not collect the license fees from these Companies which led to non-realisation of revenue to the tune of ₹ 30.87 lakh.

State Government vide notification dated 16.04.2011 made Sikkim Trade License and Miscellaneous Provision (STLMP) Rules, 2011 for control and regulation of trade licenses in the State of Sikkim. Rule 3 (1) of STLMP Rules, 2011, *inter alia* provides that no person shall manufacture, store, sell, exhibit for sale, use any place for the purpose of trade of any goods, etc. as enumerated in Schedule I except under license issued by the Urban Development Department (UDD) under the Rules *ibid*. Further, the licensee after obtaining license from other Departments as envisaged in Rule 3(2) of STLMP Rules, 2011 should obtain trade license from Urban Development Department (UDD) for carrying out on any trade or business on payment of License fee as per Schedule I of the said Rules as amended (16 July 2011). Moreover, Licensee has to pay annual renewal fee (equivalent to License fee) to retain the trade license to continue their business. Accordingly, all the registered Companies for “Manufacturing & Storage, Assembling and Fabrication” are liable to pay license fee @ ₹ 15,000, ₹ 10,000 and ₹ 1,500 per annum as per the category of unit *i.e.* Large, Medium and Small respectively. Further, Rule 21 of STLMP Rules, 2011 provides for imposition of fine up to ₹ 20,000 on contravention of provisions of the Sikkim (Repeal and Miscellaneous Provisions) Act or STLMP Rules, 2011 by the applicant.

During scrutiny of the records of UDD (February 2020), details of 40 Pharmaceutical Companies (PCs) out of 116 PCs in the State were test checked (Annexure). Scrutiny revealed that none of these 40 PCs, had obtained mandatory trade license from the UDD to run their businesses in the State.

PCs never applied for trade license from UDD nor UDD had ensured that no business may commence without valid trade license under the provisions of Rule 6 of STLMP Rules. This also led to undue advantage to the tune of ₹ 30.87 lakh to the PCs on account of non-payment of trade license fee and renewal fee as given in the **Table No. 5.22**.

Table No. 5.22: Trade License fee and Renewal fee due from PCs

Sl. No.	Units Category	Rate of License fee/ renewal per annum	No of companies not paid tax	Period ranging between	Total license renewal charges (in ₹)
1	Large scale units	₹ 15,000	33	3 years to 9 years	29,40,000
2	Medium scale units	₹ 10,000	4	3 years to 9 years	1,20,000
3	Small scale units	₹ 1,500	3	3 years to 9 years	27,000
Total			**40**		**30,87,000**

Further, conditions for renewal of License as envisaged in Rule 12(1) and 12(2) of the STLMP Rules, 2011 states that renewal application shall be made before the expiry of validity of license, any application for renewal of a license submitted after the period prescribed in these Rules shall be accompanied by a late fee of ₹ five for every day of delay. However, UDD did not monitor renewal of trade license with respect of these PCs ever since this notification came into effect.

Thus, due to lackadaisical approach by UDD in implementation of the STLMP Rules, 2011, non-realisation of revenue to the tune of ₹ 30.87 lakh on account of non-payment of license fee/ renewal fee/ late fee in the State.

The Department in its reply (August 2022) accepted audit observation and stated that 05 Large scale units and one Medium scale unit have paid the license fee of ₹ 3,75,000 and ₹ 70,000 (including advance payment of ₹ 2,00,500 of four companies) respectively for the year 2022-23. However, the Department had not recovered fine for contravention of the provisions of these Rules from these five companies.

The UDD should review all the cases of non- payment of license fee by traders/ manufacturers including all 116 Pharmaceutical companies in the State and recover due license fee/ renewal fee/ late fee and any other fine as determined by the UDD on contravention of the provisions of these rules.

Recommendation:

i. The Department should develop coordination between different departments of State machinery to ensure that businesses are carried out in the State only after trade licenses are obtained by them.

ii. The Department should review all the cases of non- payment of license fee by traders/ manufacturers including all 116 Pharmaceutical companies in the State and recover license fee/ renewal fee/ late fee and any other due from manufacturers.

iii. The Department may fix responsibility for lackadaisical approach in collection of government revenue.