

EXECUTIVE SUMMARY

This Report of the Comptroller and Auditor General of India (C&AG) relates to matters arising from compliance audit of Finance and Revenue departments of Government of Maharashtra. Compliance Audit refers to examination of the expenditure and revenue of the audited entities to ascertain whether the provisions of the Constitution of India, applicable laws, rules, regulations and various orders and instructions issued by the authorities are being complied with.

The primary purpose of this Report is to bring important results of audit to the notice of the State Legislature. The findings of audit are expected to enable the executive to take corrective actions and also to frame policies and directives that will lead to improved operational efficiency and financial management of the organisation, thus contributing to better governance.

The office of the Accountant General (Audit-II), Maharashtra, Nagpur audits 14 departments of Government of Maharashtra (GoM). The audit observations pertaining to commercial undertakings of GoM are reported in Audit Report on State Public Sector Enterprises. The audit observations pertaining to the expenditure are reported in Compliance Audit Report-Expenditure. This report contains significant results of audit of the Stamp & Registration, Finance and Home (Excise) Departments of GoM.

This Report includes audit findings in three chapters. **Chapter I** includes “Introduction, Audited entity profile, Planning and conduct of audit and responsiveness of Government to Audit”, **Chapter II** includes Audit observations related to Compliance Audit Paragraphs and **Chapter III** includes two Subject Specific Compliance Audits.

A synopsis of this report is presented below:

Chapter-I: Introduction

There are three departments viz. Stamp & Registration, Finance and Home (Excise) Departments of the Government of Maharashtra headed by Additional Chief Secretary/Principal Secretaries/Secretaries which are audited by the Accountant General (Audit-II), Maharashtra, Nagpur.

Explanatory Memorandum on 21 paragraphs included in the Audit Report were outstanding. Action Taken Notes on 99 recommendations of Public Accounts Committee were awaited from department.

Chapter –II: Compliance Audit Paragraphs

Accountant General (Audit-II), Maharashtra, Nagpur conducted test check of the records of 217 units of Stamp Duty and Goods and Service Tax (GST)/State Excise/Entertainment duty during the year 2022-23. Audit noticed following shortcomings:

- The Department applied a reduced rate of Stamp Duty due to misclassification of document as Article of Agreement, which resulted in short levy of Stamp Duty of ₹ 10.50 crore.
- The Collector of Stamps, Mumbai, valued a property at ₹ 62.28 crore and levied Stamp Duty of ₹ 3.11 crore under Article 5(g-a). However, Audit

assessed the market value at ₹ 100.11 crore, calculating the Stamp Duty payable as ₹ 5.00 crore. This led to a short levy of ₹ 1.89 crore by the department, due to undervaluation of the property.

- Inspector General of Registration and Controller of Stamps, Maharashtra State, Pune allowed irregular concession of one *per cent*, which led to short levy of Stamp Duty of ₹ 1.50 crore.
- Since the indenture transferred all rights, title, and interest in the entire land to the purchaser, the valuation of the property should have been based on the complete land area. However, the department did not consider the entire plot area when determining the market value which resulted in short levy of stamp duty of ₹ 76.18 lakh.
- The department calculated Stamp Duty based on a five-year license agreement, ignoring the clause that allows renewal for another five years, making the total period 10 years. This resulted in short levy of Stamp Duty and Registration Fee of ₹ 29.71 lakh.
- Excess allowance of set-off under Rule 53(3)(a) of MVAT Rules resulted in a short levy of tax to the tune of ₹ 96.84 lakh including interest of ₹ 44.28 lakh.

Chapter –III: Subject Specific Compliance Audit

➤ E-Way Bill System under GST

E-Way Bill (EWB) system is intended to bring automation and standardisation of the entire process to help check tax evasion and shore up GST collections. EWB system includes various processes such as enrollment of the required persons in the portal, Generation of EWB, Extension, Cancellation and Rejection of the EWBs generated *etc.* The Commissioner of State Tax, Maharashtra State is responsible for implementation of EWB system. SSCA examined the effectiveness of the system in protecting revenue interest of the Government and of the Preventive/Enforcement activities of the Department in enforcing EWB provisions.

Substantive Audit was conducted in respect of 51 taxpayers by detailed examination of records for the year 2018-22. Audit observed deficiencies in effectiveness of EWB system and noticed instances of taxpayers generating EWB after the cancellation of registration, taxpayers generating EWBs but filing nil returns, EWBs generated but returns not filed by the taxpayers, taxpayers using single invoice for generating multiple EWBs, Generation of EWBs using invalid vehicles and abnormal high value EWBs generated by the taxpayers. Significant audit findings in this regard are presented below:

- Out of 51 taxpayers, the Department cancelled the registrations of 43 taxpayers across 10 Divisions. These included cancellation of registration of 11 taxpayers with retrospective effect due to reasons, such as failure to furnish returns for six consecutive months, non-commencement of business, or not operating from the registered place of business (in one case, cancellation was made at the taxpayer's request). The remaining 32 taxpayers were classified as Non-Genuine Taxpayers and their

registrations were cancelled *ab initio* on various grounds. Audit observed that proper officers did not take cognisance of the supplies made by these taxpayers during the intervening period, nor did they ascertain and recover the tax payable before cancellation of the registration. This resulted in non-recovery of tax amounting to ₹ 96.85 crore along with applicable interest.

- Five taxpayers, who had filed 'nil' return during the audit period, were found to have made taxable supplies, as evidenced by their EWBs. Accordingly, they were liable to pay tax of ₹ 3.53 crore which was recoverable with applicable interest.
- Nine taxpayers did not file returns for several months during the audit period despite generating EWBs during the period. These taxpayers transported goods worth ₹ 4.90 crore having tax effect of ₹ 0.72 crore.
- Review of 18 EWBs generated by 18 taxpayers from outside Maharashtra for supplies made to the consignees in Maharashtra having same PAN numbers, showed that in seven cases, goods worth ₹ 10.59 crore having tax effect of ₹ 1.56 crore were not received in Maharashtra. Thus, the authenticity of these seven EWBs and the discharge of the associated tax liability amounting to ₹ 1.56 crore could not be verified.

Based on audit of a sample of 196 interception cases falling under six Joint Commissioner Offices, audit observed administrative deficiencies in the execution of preventive functions such as not having dedicated setup for verification of EWBs, insufficient patrolling vehicles, and insufficient use of analytical reports of NIC on EWBs. Audit also observed deficiencies in interception of vehicles by the Department, involving non/short creation of demand and delayed payment of tax and penalty to the Government account.

Recommendations

Government may:

1. *ensure cognizance of supplies made by the taxpayers in case of retrospective cancellation and accordingly determine tax arrears and interest and raise the demand in the order of cancellation.*
2. *take appropriate action to recover ITC from the ultimate recipients. Also, issue of non-availability of NGTP data on BO portal may be examined and suitable action taken.*
3. *take action to flag messages/report for tax officers about use of invalid vehicles to generate EWBs.*
4. *consider maintaining dedicated vehicles for interception activities.*
5. *issue suitable instructions to Departmental officers for effective use of analytical reports of NIC on EWBs.*
6. *train the departmental officers and reiterate instructions about the proper procedure of creating demand of tax and penalty during interception and payment of the same to government account by adjustment of liability and cash ledgers.*

➤ **Department's Oversight on GST Payments and Returns Filing for the Years 2018-19 to 2020-21**

GST is 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. This audit aimed to derive assurance whether the rules and procedures were designed to secure an effective check on tax compliance and were being duly observed by taxpayers; and whether the scrutiny procedures, internal audit and other compliance functions of the Proper Officer¹ were adequate and effective.

The audit of Department's Oversight on GST Payments and Returns Filing for the Years 2018-19 to 2020-21 was conducted in three distinct parts –

Audit of Charge offices

A review of the functions of 10 Charge Offices for the year 2020-21 disclosed that there were deficiencies in oversight functions of Charges such as non-conduct of scrutiny of returns and audit in nine Charges; delay ranging from nine to 292 days in cancellation of 11 registration pertaining to five Charge offices, and non-filing of GSTR 10 by 15 taxpayers and delayed (ranging from 340 to 813 days) filing by three taxpayers, resulting in non-recovery of revenue.

Result of Centralized Audit

Audit selected a sample of 718 high value data inconsistencies, pertaining to 362 taxpayers. The Department responded to 623 cases. Of these 145 cases relating to ITC/Tax payment and 11 cases relating to turnover mismatches turned out to be compliance deficiencies with amount of mismatches of ₹ 1055.43 crore and ₹ 2793.62 crore respectively. Relatively higher rates of deviations were noticed in non/short payment of interest, mismatch between GSTR 2A and GSTR 3B, ITC availed in GSTR 3B filed after the cut-off period, short payment of tax under RCM versus ITC availed in GSTR 3B/GSTR 9, non-filing of GSTR 3B, and under-declaration of taxable supplies by comparing TDS returns.

Detailed Audit

Detailed audit of GST returns also identified significant non-compliance. Out of 100 selected cases, in 62 cases, granular records such as financial statements, supplementary financial ledgers, invoices, agreement copies *etc.* were not produced, which constituted a significant scope limitation. These cases represented potential risk exposure towards identified mismatches in ITC availment and tax payments. In respect of the taxpayers whose records/returns were examined, Audit observed compliance deficiencies in 20 cases with a revenue implication of ₹ 154.64 crore on account of non-payment of interest and misclassification of supply. This apart, mismatches in availing ITC, discharge of tax liability and turnover were noticed in 119 cases involving mismatch of ₹ 6,666.10 crore.

¹ Proper Officer in relation to any function to be performed under MGST Act means the Commissioner or the officer of the State Tax who is assigned that function by the Commissioner.

Hence, Audit observed deficiencies with respect to systems and procedures adopted by the department for effective checks on tax compliance.

Recommendation

The Government may expeditiously address the deviations in the Department's Oversight of GST Payments and Return Filing, as highlighted by the audit and intimate the results to audit.