



CHAPTER II
COMMERCIAL TAXES

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2.1 Tax administration

The Commercial Taxes Department (CTD) in the state is primarily responsible for Tax Administration under different Acts, such as Bihar Goods and Services Tax (BGST) Act, 2017; Bihar Electricity Duty Act, 1948; Bihar Professional Tax Act, 2011; Bihar Value added Tax Act, 2005; Central Sales Tax (CST) Act, 1956; Bihar Entertainment Tax Act, 1948; Bihar Advertisement Tax Act, 2007; Bihar Taxation on Luxuries in Hotels Act, 1988 and Bihar Tax on Entry of Goods into local area (BTEG) for consumption, use or sale therein Act, 1993.

At the apex level, the Department is headed by the Commissioner of State Tax (CST), who is assisted by Special Commissioners of State Tax, Additional Commissioners of State Tax, Joint Commissioners of State Tax (JCST), and Deputy Commissioners of State Tax (DCST)/Assistant Commissioners of State Tax (ACST). At the field level, the State is divided into administrative, appeals and audit (nine divisions¹ each) as they were under the VAT period, each headed by an Additional Commissioner of State Tax. The administrative divisions are further sub-divided into 50 circles, each headed by a JCST/DCST, who is assisted by Assistant Commissioners of State Tax.

2.2 Results of audit

During 2021-22, Audit test-checked records of 17, out of 90 units of CTD and observed irregularities involving ₹ 35.21 crore in 242 cases, which fall under the categories detailed in **Table 2.1**.

Table 2.1
Results of audit

Sl. No.	Category	No. of cases	Amount (₹ in lakh)
A: Taxes on sales, trade etc./ VAT			
1.	Non-levy and short levy of taxes	02	110.91
2.	Suppression of turnover	29	197.69
3.	Excess allowance of Input Tax Credit	30	683.36
4.	Underassessment of CST	01	11.21
5.	Irregular allowances of exemption from tax	07	130.18
6.	Irregular allowances of concessional rate of tax	02	1.63
7.	Non-levy or short levy of additional tax and surcharge	25	151.01
8.	Application of incorrect rates of tax	14	436.07
9.	Short levy due to incorrect determination of turnover	02	8.21
10.	Non-levy of penalty for excess collection of tax mistake in computation	13	72.83
11.	Non-levy of purchase tax	04	77.19
12.	Other cases	38	111.18
Total		167	1,991.47

¹ Bhagalpur, Darbhanga, Magadh, Patna Central, Patna East, Patna West, Purnea, Saran and Tirhut.

Sl. No.	Category	No. of cases	Amount (₹ in lakh)
B: Entry Tax			
1.	Short levy of entry tax due to suppression of import value	17	587.87
2.	Application of incorrect rates of entry tax	04	23.72
3.	Other cases	00	00
Total		21	611.59
C: GST			
1.	Non/short levy of GST	54	917.89
Total		54	917.89
Grand Total		242	3,520.95

During 2021-22, the Department accepted underassessment and other deficiencies of ₹ 11.65 crore in 122 cases and recovered ₹ 0.44 crore in 44 cases, pointed out during 2021-22. The replies, in regard to the remaining cases of the previous years and for all the cases of 2021-22 were not received (June 2023).

2.3 Subject Specific Compliance Audit on “Department’s Oversight on GST payments and Returns Filing”

2.3.1 Introduction

Introduction of Goods and Services 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 Bihar GST Act (BGST), 2017, 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 had no tax liability during a particular tax period, it must file a nil return mandatorily. Further, Section 61 of the BGST Act read with Rule 99 of BGST 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, Bihar, in this new tax regime.

2.3.2 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” 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 tax payers; and
- ii. Whether the scrutiny procedures, internal audit and other compliance functions of the circles were adequate and effective.

2.3.3 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 15 deviations were identified across the domains of Input Tax Credit (ITC), discharge of tax liability, registration and return filing. Such deviations were followed up through a Centralised Audit², whereby these deviations were communicated to the relevant state departmental field formations (circles) and action taken by the circles on the identified deviations was ascertained without involving field visits.

The **Centralised Audit** was supplemented by a detailed audit involving field visits for verification of records available with the jurisdictional circles. Returns and related attachments and information were accessed through the GST portal (the back end system) using Single Signed On User ID (SSOID) provided by the Commercial Taxes Department, Bihar 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 audit of the oversight functions of selected circles covered the period 2017-18 to 2020-21. The SSCA covered only the state administered taxpayers. The field audit was conducted from March 2022 to January 2023.

Entry conference of this SSCA was held on 7 February 2022 with the Commissioner of State Taxes, Bihar in which the audit objectives, sample selection, audit scope and methodology were discussed. The Exit Conference was

² *Centralised Audit did not involve seeking taxpayer’s granular records such as financial statements related ledger accounts, invoices, agreements etc.*

held on 10 January 2023 with the Commissioner of State Taxes, Bihar in which the audit findings were discussed. The views expressed by the Commissioner of State Taxes, Bihar during the Exit Conference and the written replies to the draft report have been suitably incorporated in the relevant paragraphs.

2.3.4. 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 Centralised 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

Nine circles³ with jurisdiction over more than three selected taxpayers for Detailed Audit were considered as sample of circles for evaluation of their oversight functions.

(ii) Part II- Centralised Audit

The sample for Centralised 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, 471 taxpayers were selected for Centralised Audit under this SSCA and 423 deviations were communicated to the state tax authorities and action taken by the authorities on the identified deviations was ascertained.

(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 excess ITC, tax liability mismatch, disproportionate exempted turnover to total turnover and irregular ITC reversal.

The 100 taxpayers pertaining to 37 circles⁴ selected for Detailed Audit comprised of large, medium and small taxpayers⁵.

³ Aurangabad, Bhabhua, Gaya, Kadamkuan, Patliputra, Patna central, Patna north, Patna special and Sasaram.

⁴ Aurangabad, Begusarai, Bhabhua, Bhagalpur, Biharsharif, Buxar, Danapur, Darbhanga, Forbesganj, Gandhi Maidan, Gaya, Gopalganj, Hajipur, Jehanabad, Kadamkuan, Khagaria, Motihari, Muzaffarpur East, Muzaffarpur West, Nawada, Patliputra, Patna Central, Patna City East, Patna North, Patna South, Patna Special, Patna West, Raxaul, Saharsa, Samastipur, Saran, Sasaram, Shahabad, Sitamarhi, Siwan, Supaul and Teghra.

⁵ Large taxpayers- 63, Medium taxpayers- 28 and Small taxpayers- 9.

2.3.5 Audit criteria

The source of audit criteria comprised the provisions contained in the BGST Act, IGST Act and rules made thereunder. The significant provisions are given in **Table 1**.

Table 1
Source of criteria

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

In addition, the notifications and circulars issued by CBIC/state tax department 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 etc., also formed part of the audit criteria.

Audit findings

Audit carried out across 37 circles has brought out both systemic and compliance issues. While systemic issues address the adequacy and effectiveness of the envisaged verification mechanism, compliance issues pertain to deviations from the provisions of the Acts/Rules. Considering that this SSCA was oriented towards evaluating the oversight mechanism of the Department, the audit findings have been categorised into the following categories:

- a. Oversight on returns filing
- b. Oversight on tax payments
- c. Other oversight functions

2.3.6 Oversight on returns filing

A return is a statement of specified particulars relating to the business activity undertaken by taxpayers during a prescribed period. Every taxpayer is legally obligated to furnish a complete and correct return duly declaring the tax liability for a given period and taxes paid within the stipulated time. In a self-assessment regime, the significance of monitoring return filing by taxpayers acquires greater significance as the returns are the first mode of information about taxpayers and their respective business activities.

2.3.6.1 Trends in returns filing

The overall trend of return filing of monthly GSTR-3B and GSTR-1 returns as of August 2023 is given in **Table 2**.

Table 2
Trend of return filing of GSTR-1 and GSTR-3B

Financial Year	Number of returns to be filed		Number of returns filed by due date		Number of returns filed after due date		Total returns filed		Percentage of return Filing		Percentage of returns filed by due date	
	GSTR-3B	GSTR-1	GSTR-3B	GSTR-1	GSTR-3B	GSTR-1	GSTR-3B	GSTR-1	GSTR-3B	GSTR-1	GSTR-3B	GSTR-1
1	2	3	4	5	6	7	8	9	10	11	12	13
2017-18	19,62,881	12,92,941	9,09,610	7,77,820	8,54,866	2,75,185	17,64,476	10,53,005	90	81	52	74
2018-19	33,13,678	21,22,064	17,48,751	5,24,212	11,21,273	9,73,672	28,70,024	14,97,884	87	71	61	35
2019-20	38,54,767	24,57,947	20,60,332	5,59,667	13,95,134	11,54,743	32,99,465	17,14,410	86	70	62	33
2020-21	39,27,314	31,64,279	18,15,850	7,29,602	16,85,689	13,72,662	35,01,539	21,02,264	89	66	52	35
2021-22	37,70,781	37,70,781	22,80,785	10,17,872	11,35,729	22,02,926	34,16,514	32,20,798	91	85	67	32

(Source: GST website <https://www.gst.gov.in/download/gststatistics>)

The above statistics indicate that there has been a lag in filing of tax returns right from the beginning of GST implementation, more so in the filing of GSTR-1 as compared to GSTR-3B. The return filing percentages of GSTR-1 were less in comparison to the corresponding filing percentage of GSTR-3B. GSTR-1 filed by due date declined significantly from 74 per cent in the first year to about only 32 per cent in 2021-22. The gap in compliance between the filing of GSTR-1 and GSTR-3B, may aggravate mismatches in the tax information such as turnover, tax liability, and available ITC between GSTR-1 and GSTR-3B returns making compliance functions of the Department more complex and cumbersome.

2.3.6.2 Deficient monitoring mechanism on return filing

Out of sample of nine circles, six circles⁶ did not provide any information relating to non-filers of returns for the year 2017-18, three circles⁷ did not provide any information relating to non-filers of returns for the year 2018-19 and three circles⁸ did not provide such information for the year 2020-21. As a result, Audit could not verify the overseeing mechanism on return filing in these circles for the aforesaid periods.

⁶ Aurangabad, Gaya, Kadamkuan, Patna Central, Patna North and Sasaram.

⁷ Aurangabad, Gaya and Patna Central.

⁸ Patna North, Patna Special and Sasaram.

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

Section 46 of the BGST Act, 2017 read with Rule 68 of BGST Rules, 2017 stipulates issue of a notice in Form GSTR-3A requiring filing of return within fifteen 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 of returns.

During circle audit, it was noticed that out of 2,527 non-filers cases identified during 2018-19, GSTR-3A was issued only in 528 cases; out of 8,441 cases of non-filers identified during 2019-20, only in 3,172 cases, GSTR-3A was issued; and similarly, out of 14,931 cases of non-filers identified during 2020-21, only in 10,982 cases, GSTR-3A was issued.

The matter was reported to the Department (November 2022); the reply was awaited (November 2023).

2.3.6.4 Slow pace of scrutiny of returns

As per section 61 of the BGST Act, 2017 various returns filed by taxpayers have to be scrutinised by the Proper Officer to verify the correctness of the returns, and suitable action has to be taken on any discrepancies or inconsistencies reflected in the returns. The Proper Officer designated for this purpose is the Circle Officer. Further, Rule 99 of the BGST Rules, 2017 mandates that the discrepancies, if any, noticed shall be communicated to the taxpayer to seek his explanation.

CBIC had circulated (March 2022) a Standard Operating Procedure (SOP) for scrutiny of returns for the years 2017-18 and 2018-19. However, the Commercial Taxes Department, Bihar did not issue any such specific SOP or detailed guidelines regarding GST returns scrutiny. The Department reiterated that monitoring of scrutiny mechanism is done by GST cell on the basis of certain criteria⁹.

Audit observed that, in nine test-checked circles¹⁰, scrutiny mechanism was deficient as 53,623 GST returns pertaining to 6,760 taxpayers were scrutinised by the Proper Officers during 2017-18 to 2020-21 though considering only the monthly returns in GSTR-3B and annual return in GSTR-9 of 6,760 taxpayers at least 3,31,240 returns were filed. Thus, 16 *per cent* returns were scrutinised

⁹ *Red Flag Reports sent by GSTN, Business Intelligence and Fraud Analytics (BIFA) reports, and other parameters i.e. turnover, liability, e-way bill generated by National Informatics Centre etc.*

¹⁰ *Aurangabad, Bhabhua, Gaya, Kadamkuan, Patliputra, Patna Central, Patna North, Patna Special and Sasaram.*

during 2017-18 to 2020-21 which was due to absence of the detailed SOP/ instructions in the Department. Further, Aurangabad Circle did not provide any information regarding scrutiny conducted during the years 2017-18 and 2018-19. The basis (risk based approach) on which these returns/taxpayers were selected for scrutiny is also not clear.

Recommendation 1: The Department may issue SOP or detailed guidelines for scrutiny of returns. Such an SOP should identify the risk based approach for selection for scrutiny, consistent with available manpower resources, the detailed procedures for conducting scrutiny and the documentation to be maintained and the timelines for conduct of scrutiny.

2.3.6.5 Delay in audit by tax authorities

As per the Section 65 of the BGST 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) of the BGST 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 had started the internal audit of 1,717 taxpayers for the financial years 2017-18 and 2018-19 in May 2022. Audit sought (October 2022) information from the Department regarding status of internal audit conducted. However, information in this regard was not made available.

The matter was reported to the Department (November 2022); the reply was awaited (November 2023).

Recommendation 2: The Department needs to take prompt steps to undertake the audits under section 65 so that timely action could be initiated against the defaulters and recoveries could be effected to plug the revenue leakage. The basis/criteria for selection of taxpayers for such audit should also be clearly defined.

2.3.7 Oversight on tax payments

Compliance risk management is a continuous process demanding proactive action. With technology undergirding the entire process of return filing and tax administration, not only can the oversight on tax payments be maintained at different levels but a substantial part of it can also be non-intrusive and better targeted. The audit findings are discussed in the ensuing paragraphs:

2.3.7.1 Inconsistencies in GST returns- Centralised 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 15 parameters, which can be broadly categorised into two domains, ITC and tax payments.

Out of the 13 prescribed GST returns¹¹, the following basic returns that apply to normal taxpayers were considered for the purpose of identifying deviations, inconsistencies and mismatches between GST returns and 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.
- GSTR-8: monthly return to be filed by the e-commerce operators who are required to deduct TCS (Tax Collected at Source) 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 ₹ 5 crores 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.

¹¹ *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).*

The PAN State data analysis pertaining to State jurisdiction on the 15 identified parameters and extent of deviations/inconsistencies observed (i.e. sample for Centralised Audit) are summarised in **Table 3**.

Table 3
Summary of PAN state data analysis

Sl. No.	Parameter	Algorithm used	No. of deviations	Amount (₹ in crore)
Domain: ITC				
1	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) excluding the reversals Table-4B(2) but including the ITC availed in subsequent year 2018-19 from Table-8C of GSTR-9.	50	88.08
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 and 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) and 4A(3).	50	17.73
3	ITC mismatch on RCM without payment	RCM payments in GSTR-9, Table-4G (tax payable) was compared with ITC availed in GSTR-9, Table-6C, 6D and 6F. In cases where GSTR-9 was not available, RCM payment in GSTR-3B, Table-3.1(d) was compared with GSTR-3B, Table-4A(2) and 4A(3).	18	2.53
4	Incorrect availing of ISD credit	ISD transferred in GSTR-9, Table-6G or GSTR-3B, Table-4A(4) was compared with the sum of Table-5A, Table-8A, and Table-9A of GSTR-6 of recipient GSTINs.	25	3.52
5	Incorrect ISD credit 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.	2	0.00
6	Unreconciled ITC in Table-12F of GSTR-9C	Positive figure in GSTR-9C, Table-12F and examination of reasons provided in Table-13 for mismatch.	25	24.59
7	Unreconciled ITC in Table-14T of GSTR-9C	Positive figure in GSTR-9C, Table-14T and examination of reasons provided in Table-15 for mismatch.	25	349.66
Domain: Tax payments				
8	Unreconciled taxable turnover in Table-5R of GSTR-9C	Negative figure in GSTR-9C, Table-5R and examination of reasons provided in Table-6 for mismatch.	50	6,842.12
9	Unreconciled taxable turnover in Table-7G of GSTR-9C	Negative figure in GSTR-9C, Table-7G and examination of reasons provided in Table-8 for mismatch.	34	395.64
10	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	29.05
11	Undischarged tax liabilities	Greater of tax liability between GSTR-1 (Tables-4 to 11) and GSTR-9 (Tables- 4N, 10 and 11) was compared with tax paid details in GSTR-3B, Tables-3.1(a) and 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	163.48

Sl. No.	Parameter	Algorithm used	No. of deviations	Amount (₹ in crore)
12	Composition taxpayers availed e-commerce facility	E-commerce GSTR-8 became effective from 01.10.2018 when TCS provisions became effective. GSTINs declared in GSTR-8 who are also filing GSTR-4 under composition scheme.	16	0.00
13	GSTR-3B was not filed but GSTR-1 is 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	1.60
14	Interest not paid for delayed payments	Interest calculated at the rate of 18 per cent on cash portion of tax payment on delayed filing of GSTR-3B vis-à-vis interest declared in GSTR-3B.	25	6.74
15	Stop filers of returns	The taxpayers who stopped filing returns for more than six consecutive tax periods and hence were liable for cancellation of their registration, the datasets pertaining to GSTR-3B, GSTR-1 and GSTR-2A were analysed.	3	0.00

2.3.7.2 Non-submission of reply by the Department

Audit selected a sample of 423 deviations/inconsistencies cases in 15 parameters for the year 2017-18 and the audit queries were issued to the respective circles during March to April 2022 without further scrutiny of taxpayer's records. The audit checks in these cases were limited to verifying the Department's action on the identified deviations/mismatches. Initial responses for 62 inconsistencies were yet to be received, as of March 2023, which represent a potential risk exposure of ₹ 98.08 crore as summarised in Table 4.

Table 4
Reply not received

Audit dimension	Audit queries issued		Department reply not received		Percentage	
	No.	Amount (₹ in crore)	No.	Amount (₹ in crore)	No.	Amount (₹ in crore)
ITC mismatch between GSTR-2A and GSTR-3B	50	88.08	3	3.65	6	2
ITC Mismatch on RCM	50	17.73	5	2.62	10	15
ITC Mismatch on RCM without payment	18	2.53	0	0.00	0	0
Unreconciled ITC in Table-12F of GSTR-9C	25	24.59	8	8.56	32	35
Unreconciled ITC in Table-14T of GSTR-9C	25	349.66	2	32.26	8	9
Unreconciled turnover in Table-5R of GSTR-9C	50	6,842.12	1	10.10	2	0
Unreconciled taxable turnover in Table-7G of GSTR-9C	34	395.64	3	9.60	9	1
Unreconciled tax liability in Table-9R of GSTR-9C	50	29.05	12	6.17	24	11
Incorrect availing of ISD credit	25	3.52	1	0.11	4	3
Interest not paid for delayed payments	25	6.74	9	2.78	32	43

Audit dimension	Audit queries issued		Department reply not received		Percentage	
	No.	Amount (₹ in crore)	No.	Amount (₹ in crore)	No.	Amount (₹ in crore)
Undischarged tax liability	25	163.48	3	21.70	12	13
GSTR-3B not filed but GSTR-1 or 2A available	25	1.60	8	0.53	28	33
Composition taxpayers availed e-commerce facility	16	0.00	5	0.00	31	0
ISD reversals	2	0.00	0	0.00	0	0
Stop filers of returns	3	0.00	2	0.00	67	0
Total	423	7,924.74	62	98.08	265	165

Considering that the overall rate of conversion of inconsistencies into compliance deviations is significant as brought out in the next paragraphs, the Department is required to expedite verification of these cases as a priority. Details of these cases are listed in **Appendix 2.1** and top 10 cases are given in **Table 5**.

Table 5
Top 10 cases where response not received

(₹ in crore)			
Sl. No.	GSTIN	Circle	Mismatch amount
1.	10XXXXXXXXXX2Z0	Patna City East	27.73
2.	10XXXXXXXXXX1ZY	Hajipur	11.94
3.	10XXXXXXXXXX1Z2	Katihar	10.10
4.	10XXXXXXXXXX2Z0	Patna Special	8.08
5.	10XXXXXXXXXX1ZL	Patna Central	4.53
6.	10XXXXXXXXXX1ZP	Bagaha	3.95
7.	10XXXXXXXXXX1ZF	Aurangabad	3.16
8.	10XXXXXXXXXX1ZK	Katihar	3.01
9.	10XXXXXXXXXX1Z9	Katihar	2.63
10.	10XXXXXXXXXX1Z2	Forbesganj	2.03

Recommendation 3: The Department may pursue the 62 inconsistencies and deviations pointed out by Audit, for which responses have not been provided.

2.3.7.3 Results of Centralised Audit

Based on responses received from the Department to audit queries, the extent to which the 15 identified parameters translated into compliance deviations is summarised in **Table 6** as detailed in **Appendix 2.2**.

Table 6
Summary of deficiencies (₹ in crore)

Cases where reply received		Department's reply accepted by Audit						Compliance deviations															
		Data entry errors		Action taken before query		Other valid explanations		Accepted by Department including cases where action is yet to be initiated				Department's reply not acceptable to Audit (rebuttal)		Total		Department reply not furnished with documentary evidence		Department stated they are examining the AQ					
No.	Amount	No.	Amount	No.	Amount	No.	Amount	Recovered		ASMT-10		SCN issued		Under correspondence with taxpayer		No.	Amount	No.	Amount	No.	Amount	No.	Amount
361	7,826.67	48	4,882.17	29	124.82	100	704.55	11	6.75	44	479.63	63	272.59	55	1,347.39	11	8.36	184	2,114.73	42	175.11	50	1,341.06

Summary of Centralised Audit

Audit noticed deviations from the provisions of the Act in 184 cases involving tax/ inconsistencies of ₹ 2,114.73 crore constituting 51 *per cent* of the 361 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, incorrect turnover declarations and short tax payments.

In 177 cases, constituting 49 *per cent*, where the Department's reply was acceptable to Audit, data entry errors by taxpayers comprised 48 cases, proactively taken action in 29 cases and in 100 cases, other valid explanations were provided.

In 50 cases, the Department stated that it was examining the underlying deviation of ₹ 1,341.06 crore and in 42 cases, the reply was not furnished with supporting documentary evidence, and was thus not amenable to verification by Audit.

Analysis of causative factors

Considering the Department's response to 361 cases out of the 423 deviations/ inconsistencies, the factors that caused the data deviations/inconsistencies are as follows:

A) Deviations from GST Law and Rules

Out of the 361 deviations summarised in **Table 6**, the Department has accepted the audit observations or initiated examination in 184 cases with tax effect of ₹ 2,114.73 crore. Out of these cases, the Department has recovered ₹ 6.75 crore

in 11 cases, issued SCN in 63 cases for ₹ 272.59 crore, issued notice conveying discrepancies to the taxpayer in Form ASMT-10 in 44 cases for ₹ 479.63 crore and was in correspondence with the respective taxpayers in 55 cases involving ₹ 1,347.39 crore. The top case under each dimension is given in **Table 7**.

Table 7
Top cases for each dimension of Centralised Audit

(₹ in crore)

Sl. No.	Dimension	GSTIN	Circle	Mismatch amount	Action taken
1	ITC mismatch between GSTR-2A and GSTR-3B	10XXXXXXXXXX1ZM	Motihari	6.02	ASMT-10 issued
2	ITC Mismatch on RCM	10XXXXXXXXXX1ZT	Shahabad	1.06	Action initiated
3	ITC Mismatch on RCM without payment	10XXXXXXXXXX1ZR	Buxar	0.17	DRC-01 issued
4	Unreconciled ITC in Table-12F of GSTR-9C	10XXXXXXXXXX1ZG	Patna Special	2.79	Proceeding in progress
5	Unreconciled turnover in Table-5R of GSTR-9C	10XXXXXXXXXX2ZD	Patna Special	977.72	Proceeding in progress
6	Unreconciled taxable turnover in Table-7G of GSTR-9C	10XXXXXXXXXX1ZS	Patna Central	96.23	Notice issued
7	Unreconciled tax liability in Table-9R of GSTR-9C	10XXXXXXXXXX2ZS	Patna South	1.59	DRC-01 issued
8	Incorrect availing of ISD credit	10XXXXXXXXXX1ZS	Patliputra	0.61	DRC-01 issued
9	Interest not paid for delayed payments	10XXXXXXXXXX1ZB	Patna South	0.45	DRC-01 issued
10	Undischarged tax liability	10XXXXXXXXXX1ZQ	Purnea	39.48	DRC-07 issued
11	GSTR-3B was not filed but GSTR-1 is available	10XXXXXXXXXX1ZZ	Patna Special	0.53	Proceeding in progress

Dimension wise audit findings under Centralised Audit is described below:

(I) Input Tax Credit mismatch between GSTR-2A and GSTR-3B

In 12 circles, 26 taxpayers, had availed input tax credit of ₹ 761.76 crore through GSTR-3B, whereas, input tax credit of ₹ 720.03 crore only was available in their GSTR-2A for the year 2017-18.

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)¹² excluding

¹² All other eligible ITC.

the reversals in Table-4B(2)¹³ but including the ITC availed in the subsequent year 2018-19 from Table-8C of GSTR-9.

Audit observed that, 26 taxpayers under 12 circles¹⁴, had availed ITC of ₹ 761.76 crore¹⁵ through GSTR-3B whereas ITC of ₹ 720.03 crore only was available in their GSTR-2A for the year 2017-18. This resulted in mismatch of ITC availed amounting to ₹ 41.73 crore as detailed in **Appendix 2.3**.

On this being pointed out (March 2022), the Department replied (January 2023 to February 2023) that in five cases of four circles¹⁶, notice/ASMT-10/DRC-01 was issued, in 12 cases of four circles¹⁷, matter was included in the internal audit, in four cases of three circles¹⁸ DRC-07 were issued. The replies of the Department in five cases of four circles¹⁹ were not acceptable as they were not complete, inclusive or the detailed order was not made available.

An illustrative case is mentioned below:

A taxpayer (GSTIN-10XXXXXXXXXX1ZM) under Motihari Circle had availed ITC worth ₹ 7.32 crore in Table-4A (5) of GSTR-3B, (excluding the reversals in Table-4B(2) from Table-4A(5) of GSTR-3B but including the ITC availed in the subsequent year 2018-19 from Table-8C of GSTR-9) whereas the ITC available as per GSTR-2A with all its amendments was only ₹ 1.30 crore. This resulted in mismatch of ITC availed amounting to ₹ 6.02 crore. In response to the audit query, the Department stated that ASMT-10 and reminders were issued.

Recommendation 4: The Department may initiate reconciliation of input tax credit and accordingly losses of revenue may be recovered.

(II) Input Tax Credit mismatch on Reverse Charge Mechanism

In 11 circles, 22 taxpayers had availed excess ITC under Reverse Charge Mechanism of ₹ 7.28 crore for the year 2017-18.

In Reverse Charge Mechanism (RCM) 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 BGST Act, 2017 and under sub-section (3) or sub-section (4) of Section 5 of 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

¹³ Other ITC reversed.

¹⁴ Barh, Buxar, Gandhi Maidan, Motihari, Muzaffarpur West, Patliputra, Patna City East, Patna North, Patna South, Patna Special, Sasaram and Siwan.

¹⁵ ₹ 736.19 crore (ITC availed in Table-4A(2) of GSTR-3B) + ₹ 27.51 crore (ITC availed in Table-8C of GSTR-9) – ₹ 1.94 crore (ITC reversal in Table-4B(2) of GSTR-3B).

¹⁶ Buxar, Motihari, Patna City East and Siwan.

¹⁷ Gandhi Maidan, Muzaffarpur West, Patna South and Patna Special.

¹⁸ Barh, Patna North and Patliputra.

¹⁹ Muzaffarpur West, Patliputra, Patna Special and Sasaram.

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.

To analyse the veracity of ITC availed on tax paid under 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)²⁰ with ITC availed in GSTR-9, Table-6C²¹, 6D²² and 6F²³. In cases where GSTR-9 was not available, the check was restricted within GSTR-3B where the tax discharged part in GSTR-3B, Table- 3.1(d) was compared with the ITC availing part of GSTR-3B, Table- 4A(2)²⁴ and 4A(3)²⁵.

Audit observed that 22 taxpayers of 11 circles²⁶ had availed excess ITC under RCM of ₹ 7.28 crore for the year 2017-18 as detailed in **Appendix 2.4**.

On this being pointed out (March 2022), the Department replied (January 2023) that in two cases of Siwan Circle the amount had been recovered, in 13 cases of seven circles²⁷ the notices (ASMT-10/DRC-01) were issued to the taxpayers and in five cases of three circles²⁸ the action/proceedings were initiated. In one case of Muzaffarpur West Circle it was replied that the case had been dropped and in one case of Siwan Circle only short reply as 'no difference' was given but no supporting documents/evidence was provided.

An illustrative case is mentioned below:

A taxpayer (GSTIN-10XXXXXXXXXX1ZT) under Shahabad Circle had availed ITC under RCM of ₹ 1.06 crore as declared in Table-6(D) of GSTR-9 return. However, the taxpayer had admitted nil tax liability under reverse charge in Table-3.1(d) of GSTR-3B return. Thus, the taxpayer had availed excess ITC under RCM of ₹ 1.06 crore. In response, the Department replied that action was initiated.

(III) Input Tax Credit mismatch on Reverse Charge Mechanism without payment of tax

Seven taxpayers of five circles had availed input tax credit of ₹ 1.03 crore under reverse charge mechanism for the year 2017-18 without discharging/ payment of reverse charge mechanism tax liability.

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

²⁰ Inward supplies (liable to reverse charge)

²¹ Inward supplies received from unregistered persons liable to reverse charge.

²² Inward supplies received from registered persons liable to reverse charge.

²³ Import of services.

²⁴ Import of services.

²⁵ Inward supplies (liable to reverse charge).

²⁶ Bhabhua, Danapur, Gandhi Maidan, Gaya, Jhanjharpur, Muzaffarpur West, Patna South, Patna West, Samastipur, Shahabad and Siwan.

²⁷ Bhabhua, Danapur, Gandhi Maidan, Gaya, Patna South, Patna West and Samastipur

²⁸ Danapur, Jhanjharpur and Shahabad.

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-4G²⁹ were 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)³⁰ were compared with GSTR-3B, Table- 4A(2)³¹ and 4A(3)³².

Audit observed that in five circles³³, seven taxpayers had availed ITC of ₹ 1.03 crore under RCM for the year 2017-18 without discharging/payment of RCM tax liability as detailed in **Appendix-2.5**.

On this being pointed out (March 2022), the Department replied (January 2023) that in all these cases, notices (ASMT-10/DRC-01) were issued to the taxpayers.

An illustrative case is mentioned below:

A taxpayer (GSTIN-10XXXXXXXXXX1ZR) under Buxar Circle had availed ITC under RCM of ₹ 17.02 lakh as declared in Table-6(D) of GSTR-9. However, the taxpayer had paid nil tax under reverse charge as declared in Table-4G of GSTR-9. Thus, the taxpayer had availed ITC under RCM without making commensurate payment of tax. In response, the Department replied that the DRC-01 was issued.

(IV) Unreconciled Input Tax Credit in Table-12F of GSTR-9C

Five taxpayers of four circles had declared unreconciled input tax credit of ₹ 6 crore in Table-12F of GSTR-9C, being input tax credit claimed in annual return (GSTR-9) in excess of eligible input tax credit as per audited annual financial statements.

Table-12 of GSTR-9C reconciles ITC declared in annual return (GSTR-9) with ITC availed as per audited annual financial statement or books of accounts. Column-12F of this Table deals with unreconciled ITC. The certified reconciliation statement submitted by the taxpayer as required under the Rule 80(3) of BGST 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.

Audit observed that five taxpayers of four circles³⁴ had declared unreconciled ITC of ₹ 6 crore in Table-12F of GSTR-9C, being ITC claimed in annual return (GSTR-9) in excess of eligible ITC as per audited annual financial statements as detailed in **Appendix 2.6**.

²⁹ Inward supplies on which tax is to be paid on reverse charge basis.

³⁰ Inward supplies (liable to be reverse charge).

³¹ Import of services.

³² Inward supplies liable to be reverse charge other than import of goods and services.

³³ Bhabhua, Buxar, Danapur, Patna west and Siwan.

³⁴ Patliputra, Patna City West, Patna Special and Saharsa.

On this being pointed out (March 2022), the Department replied (January 2023 to February 2023) that in three cases of Patna City West and Saharsa Circles, ASMT-10 was issued and in one case of Patna Special Circle the proceeding was in progress. In one case of Patliputra Circle, the Department replied that the case was pending before the National Company Law Tribunal (NCLT).

An illustrative case is mentioned below:

A taxpayer (GSTIN-10XXXXXXXXXX1ZG) registered in Patna Special Circle had claimed ITC worth ₹ 3.04 crore in GSTR-9 (as per Table-12E of GSTR-9C) whereas the taxpayer had availed ITC of ₹ 0.25 crore only as per financial statements (Table-12D of GSTR-9C). Thus, the taxpayer had availed excess ITC of ₹ 2.79 crore over the ITC availed as per audited financial statements which resulted in unreconciled ITC. In response to the audit query, the Department stated that proceeding was in process.

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

Unreconciled turnover of ₹ 1,647.19 crore in 26 cases of 13 circles was declared in Table-5R of GSTR-9C for the year 2017-18.

Table-5 of GSTR-9C is the reconciliation of Gross Turnover (GTO) 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 BGST Rules, 2017 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 observed that in 26 cases of 13 circles³⁵, unreconciled turnover of ₹ 1,647.19 crore for the year 2017-18 was declared in Table-5R of GSTR-9C as detailed in **Appendix 2.7**.

On this being pointed out (March 2022), the Department replied (January 2023 to February 2023) that in 18 cases of 11 circles³⁶ notices (ASMT-10/DRC-01 or DRC-01A) were issued, in five cases of four circles³⁷, the taxpayers were selected for internal audit and in two cases of Patna City West Circle, the

³⁵ Bhabhua, Danapur, Gandhi Maidan, Kadamkuan, Patna Central, Patliputra, Patna City West, Patna North, Patna South, Patna Special, Patna West, Samastipur and Shahabad.

³⁶ Bhabhua, Danapur, Gandhi Maidan, Kadamkuan, Patna Central, Patliputra, Patna City West, Patna North, Patna South, Patna West and Samastipur.

³⁷ Shahabad, Patna Special, Patna south and Patna North.

registrations of the taxpayers were cancelled. In one case of Patna Special Circle, it was replied that out of unreconciled GTO of ₹ 977.72 crore, ₹ 39.28 crore only was taxable for which proceedings under Section 73 of BGST Act, 2017 were under process.

An illustrative case is highlighted below:

In the case of a taxpayer (GSTIN-10XXXXXXXXXX2ZD) under Patna Special Circle, unreconciled GTO of ₹ 977.72 crore for the year 2017-18 as declared in Table-5R of GSTR-9C was noticed, which was communicated to the Department. The Department replied (January 2023) that ₹ 938.44 crore out of unreconciled GTO of ₹ 977.72 crore pertained to administrative charges, terminal benefits, income on interest on saving bank accounts, loan/overdraft etc., and for the balance amount of ₹ 39.28 crore, proceeding under Section 73 of BGST Act, 2017 was being initiated. Further action was awaited (June 2023).

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

Unreconciled taxable turnover for ₹ 294.73 crore was declared in Table-7G of GSTR-9C, in 26 cases of 15 circles.

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 BGST Rules in Form GSTR-9C for the year 2017-18 was analysed at data level to review the extent of identified mismatch in taxable turn over 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, 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 observed that, in 26 cases under 15 circles³⁸, there was unreconciled taxable turnover for ₹ 294.73 crore as declared in Table-7G of GSTR-9C as detailed in **Appendix 2.8**.

On this being pointed out (March 2022), the Department replied (January 2023 to February 2023) that in one case of Kadamkuan Circle the amount was recovered and in 20 cases of 11 circles³⁹ notices (ASMT-10/DRC-01) were issued. In four cases of four circles⁴⁰ it was replied that the taxpayers were selected for internal

³⁸ Aurangabad, Bettiah, Bhabhua, Gandhi Maidan, Kadamkuan, Motihari, Muzaffarpur West, Patna Central, Patna City West, Patna South, Patna West, Samastipur, Sasaram, Shahabad and Siwan.

³⁹ Aurangabad, Bettiah, Bhabhua, Kadamkuan, Motihari, Patna Central, Patna City West, Patna South, Patna West, Samastipur and Siwan.

⁴⁰ Muzaffarpur West, Sasaram, Shahabad and Gandhi Maidan.

audit and in one case of Patna City West Circle, the registration of taxpayer was cancelled and notice was issued.

An illustrative case is highlighted below:

A taxpayer (GSTIN-10XXXXXXXXXX1ZS) under Patna Central Circle had declared unreconciled taxable turnover of ₹ 96.23 crore in Table-7G of GSTR-9C. In response, the Department stated (February 2023) that notice was issued to the taxpayer and further action is under process.

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

Unreconciled payment of tax for ₹ 8.90 crore in Table-9R of GSTR-9C in 19 cases of 13 Circles.

The certified reconciliation statement submitted by the taxpayer as required under Rule 80(3) of BGST 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 account. Table-9 of the form GSTR-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/BGST/IGST/Cess. There could 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.

Audit observed that, in 19 cases of 13 circles⁴¹, there was unreconciled payment of tax for ₹ 8.90 crore in Table-9R of GSTR-9C as detailed in **Appendix 2.9**.

On this being pointed out (March 2022), the Department replied (January to February 2023) that, in one case of Purnea Circle, the unreconciled tax amount was recovered, in 12 cases of seven circles⁴², notices (ASMT-10/DRC-01) were issued to the taxpayers and in one case of Patna Special Circle, the proceeding was in progress. In three cases of three circles⁴³, it was replied that the taxpayers were selected for internal audit and in two cases of Saran Circle, DRC-07 orders were issued.

An illustrative case is highlighted below:

A taxpayer (GSTIN-10XXXXXXXXXX1ZU) under Saran Circle had unreconciled payment of tax of ₹ 0.42 crore (CGST-₹ 0.21 crore and SGST-₹ 0.21 crore) as declared in Table-9R of GSTR-9C. In response to the audit query, the taxpayer paid the unreconciled tax of ₹ 0.42 crore through DRC-03

⁴¹ Aurangabad, Bhabhua, Danapur, Gandhi Maidan, Jamui, Muzaffarpur West, Patliputra, Patna South, Patna Special, Patna West, Purnea, Saran and Siwan.

⁴² Aurangabad, Bhabhua, Danapur, Gandhi Maidan, Patna South, Patna West, Siwan.

⁴³ Danapur, Gandhi Maidan, Muzaffarpur West.

on 26 July 2022 and demand for payment of interest of ₹ 0.40 crore was issued by the circle.

(VIII) Incorrect availing of Input Service Distributor credit by the recipients

In nine circles, 14 taxpayers, had availed excess ISD credit for ₹ 2.43 crore for the year 2017-18.

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-6G⁴⁴ of GSTR-9 or Table-4A(4)⁴⁵ of GSTR-3B of the recipient taxpayers under the jurisdiction of this State with the sum of Table-5A⁴⁶, Table-8A⁴⁷ and Table-9A⁴⁸ of GSTR-6 of the respective ISD.

Audit observed that 14 taxpayers under nine circles⁴⁹, had availed excess ISD credit for ₹ 2.43 crore for the year 2017-18 as detailed in **Appendix 2.10**.

On this being pointed out (April 2022), the Department replied (January 2023 to February 2023) that in 10 cases of seven circles⁵⁰ notices (ASMT-10/DRC-01) were issued, in two cases of two circles⁵¹ the matter was included in internal audit and one case of Patna Special Circle was sub-judice in NCLT court. In one case of Patna Special Circle, it was replied that the difference was due to ISD credit was claimed by the taxpayer through TRAN-1 and the case was dropped. The reply was not acceptable as against ISD credit claim of ₹ 9.27 lakh, ITC of ₹ 5.23 lakh only was available in the TRAN-1 and TRAN-2 return filed by the taxpayer. Further, it was also observed that the demand in form DRC-07 for ₹ 19.43 lakh (including interest and penalty) was issued on 23 January 2023.

An illustrative case is mentioned below:

A taxpayer (GSTIN-10XXXXXXXXXX1ZS) under Patliputra Circle, had availed ISD credit of ₹ 3.79 crore for the year 2017-18 as declared in Table-6(G) of GSTR-9, but ITC of ₹ 3.18 crore only was transferred by the ISD in Table (5A+8A+9A) of GSTR-6 return. This resulted in excess availing of ISD credit for ₹ 0.61 crore. When pointed out, the Department stated that DRC-01 was issued.

⁴⁴ ITC received from ISD.

⁴⁵ Inward supplies from ISD.

⁴⁶ Distribution of the amounts of eligible ITC for the tax period.

⁴⁷ Mismatch of ITC reclaimed and distributed.

⁴⁸ Redistribution of ITC distributed to a wrong recipient.

⁴⁹ Danapur; Gandhi Maidan, Motihari, Patliputra, Patna Central, Patna City East, Patna City West, Patna South and Patna Special.

⁵⁰ Danapur; Motihari, Patliputra, Patna Central, Patna City East, Patna City West and Patna South.

⁵¹ Gandhi Maidan and Patna Special.

(IX) Interest not paid for delayed payment

Section 50 of the BGST Act, 2017 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) was considered to work out the interest payable.

Audit observed that, in 13 cases under nine circles⁵² the GSTR-3B returns pertaining to the months of July 2017 to March 2018 involving tax liability of ₹ 22.68 crore were filed with delay of 50 to 780 days. However, interest liability of ₹ 2.76 crore on delayed payment of tax was not paid by the taxpayers which resulted in outstanding interest liability of ₹ 2.76 crore as detailed in **Appendix 2.11**.

On this being pointed out (March 2022), the Department replied (January 2023) that in six cases of five circles⁵³ the amount was recovered, in four cases of four circles⁵⁴ notices were issued to the taxpayers and in two cases of Shahabad Circle action had been initiated. In one case of Patna City East Circle, it was replied that the taxpayer could not file the returns online due to technical glitches, but the tax amount was credited to the cash ledger. The reply was not acceptable as mere availability of credit could not be assumed as payment of tax liability unless it is debited for discharging the tax liability.

An illustrative case is mentioned below:

A taxpayer (GSTIN-10XXXXXXXXXX1ZB) under Patna South Circle had filed GSTR-3B return pertaining to the month of March 2018 involving tax liability of ₹ 1.36 crore in March 2020 i.e., with delay of 691 days and paid the due taxes. However, interest of ₹ 44.80 lakh for delayed payment of tax was not paid by the taxpayer. In response, the Department stated that the DRC-01 has been issued.

(X) Undischarged tax liability

Mismatch of tax liability of ₹ 101.77 crore, in 14 cases of 11 circles, for the year 2017-18.

GSTR-1 depicts the monthly details of outward supplies of goods or services. This detail is also assessed by the taxpayer and mentioned in annual return

⁵² Begusarai, Gandhi Maidan, Hajipur, Patna City East, Patna South, Saran, Sasaram, Shahabad and Siwan.

⁵³ Begusarai, Gandhi Maidan, Hajipur, Sasaram and Siwan.

⁵⁴ Hajipur, Patna South, Saran and Sasaram.

GSTR-9 in the relevant columns. Further, taxable value and tax paid thereof 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 GSTR-9 were also considered for this purpose. For the algorithm, Table- 4 to 11 of GSTR-1 and Table-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 Table-9 and 14 of GSTR- 9 to identify the short payment of tax. In the case of GSTR- 3B, Table-3.1(a)⁵⁵ and Table-3.1(b)⁵⁶ were taken into account.

Audit observed that, in 14 cases of 11 circles⁵⁷, against the tax liability of ₹ 205.31 crore and tax paid amount was ₹ 103.21 crore only. This resulted in mismatch of tax liability of ₹ 101.77 crore for the year 2017-18 as detailed in **Appendix 2.12**.

On this being pointed out (March 2022), the department replied (January 2023 to February 2023) that the amount was recovered in one case of Patna Central Circle, in eight cases of eight circles⁵⁸, notices (ASMT-10/DRC-01) were issued to the taxpayers, in three cases of two circles⁵⁹, the taxpayers were selected for internal audit and in two cases of two circle⁶⁰, orders in form DRC-07 were issued to the taxpayers.

An illustrative case is highlighted below:

A taxpayer (GSTIN-10XXXXXXXXXX1ZQ) under Purnea Circle had shown tax liability of ₹ 0.41 crore in GSTR-1 and ₹ 39.48 crore in GSTR-9 for the year 2017-18. However, the taxpayer had not paid his tax liability. This resulted in undischarged tax liability of ₹ 39.48 crore (greater of the tax liability between GSTR-1 and GSTR-9). In response, the Department replied (January 2023) that the DRC-07 was issued.

⁵⁵ *Outward taxable supplies (other than Zero Rated, Nil Rated and exempted).*

⁵⁶ *Outward taxable supplies (Zero Rated).*

⁵⁷ *Bhagalpur, Hajipur, Lakhisarai, Muzaffarpur West, Patliputra, Patna Central, Patna South, Patna Special, Purnea, Sasaram and Shahabad.*

⁵⁸ *Bhagalpur, Hajipur, Lakhisarai, Patliputra, Patna Central, Patna Special, Patna South and Shahabad.*

⁵⁹ *Muzaffarpur West and Sasaram.*

⁶⁰ *Patliputra and Purnea.*

(XI) Cases where GSTR-3B not filed but GSTR-1 available

In 11 circles, 12 taxpayers had filed GSTR-1 and declared tax liability of ₹ 0.91 crore for the year 2017-18, without filing GSTR-3B return.

Section 39 of the BGST Act, 2017, read with Rule 61(5) of the BGST Rules, 2017 provides for filing of GSTR-3B returns. At the data level, Audit attempted to identify those taxpayers who had not filed GSTR-3B but had filed GSTR-1 or whose GSTR-2A was available. GSTR-3B return is an instrument through which the liability is offset and ITC is availed. The very availability of GSTR-1 and GSTR-2A and non-filing of GSTR-3B indicated that the taxpayers had undertaken/carried on the business during the period but had not discharged their tax liability. The data relating to GSTR-1 and GSTR-3B were analysed, and those cases where GSTR-3B was not filed were extracted.

Audit observed that, 12 taxpayers under 11 circles⁶¹ had filed GSTR-1 and declared tax liability of ₹ 0.91 crore for the year 2017-18 but they had not filed GSTR-3B return. This resulted in undischarged tax liability of ₹ 0.91 crore. It was also observed that the registrations of these taxpayers were cancelled as detailed in **Appendix 2.13**.

On this being pointed out (March 2022), the Department replied (January 2023) that, in seven cases of seven circles⁶² notices/ASMT-10/DRC-01 were issued, in two cases of Patna North and Saran Circles, demand in DRC-07 was issued and in one case of Gaya Circle, the registration of taxpayer was cancelled as he had not deposited any tax as per cash/credit ledger. In one case of Patna Special Circle, it was replied that the proceedings were under process. In one case of Biharsharif Circle, the Department replied that no file related to taxpayer was available in the circle, which was not acceptable.

An illustrative case is mentioned below:

A taxpayer (GSTIN-10XXXXXXXXXX1ZZ) under Patna Special Circle had admitted tax liability of ₹ 52.81 lakh in GSTR-1, but the taxpayer had not filed GSTR-3B return and did not pay tax. This resulted in undischarged tax liability of ₹ 52.81 lakh. In response, the Department replied that the proceedings were under process.

B) Cases where Department's reply is not acceptable to Audit

Out of the 184 non-compliance cases, Department had not accepted audit observation in 11 cases amounting to ₹ 8.36 crore as given in **Table 8**.

⁶¹ Aurangabad, Biharsharif, Danapur, Gandhi Maidan, Gaya, Hajipur, Patna City West, Patna North, Patna Special, Saran and Siwan.

⁶² Aurangabad, Danapur, Gandhi Maidan, Hajipur, Patna City West and Siwan.

Table 8
Cases where Department's response was rebutted

(₹ in crore)				
Sl. No.	GSTIN	Circle	Dimension	Mismatch amount
1.	10XXXXXXXXXXXX1ZJ	Patliputra	ITC mismatch	0.84
2.	10XXXXXXXXXXXX1Z3	Muzaffarpur West	ITC mismatch	4.03
3.	10XXXXXXXXXXXX1ZV	Sasaram	ITC mismatch	0.73
4.	10XXXXXXXXXXXX1Z4	Patna Special	ITC mismatch	1.13
5.	10XXXXXXXXXXXX1ZM	Muzaffarpur West	ITC mismatch	0.86
6.	10XXXXXXXXXXXX1ZK	Muzaffarpur West	Incorrect availing of ITC under RCM	0.20
7.	10XXXXXXXXXXXX1Z2	Siwan	Incorrect availing of ITC under RCM	0.23
8.	10XXXXXXXXXXXX1Z6	Patna City East	Non-payment of interest	0.20
9.	10XXXXXXXXXXXX1Z6	Patna Special	Incorrect availing of ISD credit	0.09
10.	10XXXXXXXXXXXX1ZE	Gaya	GSTR-3B not filed	0.04
11.	10XXXXXXXXXXXX1ZR	Biharsharif	GSTR-3B not filed	0.00
Total				8.35

An illustrative case is mentioned below:

Non-payment of interest liability of ₹ 0.20 crore arising out of delayed filing of GSTR-3B noticed in case of a taxpayer (GSTIN-10XXXXXXXXXXXX1Z6) under Patna City East Circle was communicated to the Department. The Department stated that, due to technical glitch the taxpayer could not file returns but the tax amount was credited to the cash ledger. The reply is not acceptable as discharge of liability is considered valid only, when there is a corresponding debit in the cash ledger. Since the tax liability was not set-off by due date, interest needs to be charged.

C) Data entry errors by taxpayers

Data entry errors constituted 13 *per cent* (48 out of 361 cases) of the total responses received and 27 *per cent* (48 out of 177 cases) of cases where the Department's responses were accepted by Audit. These data entry errors did not have any revenue implication. Most of the data entry errors related to RCM, ISD, turnover and tax paid (provided in GSTR-9C) as detailed in **Appendix 2.14**.

An illustrative case is brought out below:

A deviation amounting to ₹ 4,409.38 crore was identified as unreconciled turnover in Table-5R of GSTR-9C of a taxpayer (GSTIN-10XXXXXXXXXXXX2ZN) under Patna Special Circle and communicated to the Department. The Department replied that, the deviation was caused due to a typographical error. The taxpayer had erroneously indicated exempted supply of ₹ 489.93 crore instead of actual ₹ 4,899.31 crore in Table-5D of GSTR-9C.

The system allowed for such data entry errors, which could have been avoided with proper validation controls.

D) Action taken before issue of audit queries

As summarised in **Table 6**, the Department had already taken action in 29 cases, constituting eight *per cent* of the 361 responses received. Top five circles which had proactively addressed the deviations/inconsistencies are indicated in **Table 9**.

Table 9
Action taken before audit query

Circle	Action taken before audit query (No. of cases)	Total number of audit queries	Responses received (No. of cases)	Percentage of action taken before audit queries
Sasaram	4	13	13	31
Patna Central	3	30	16	10
Nawada	3	4	4	75
Bhabhua	2	18	18	11
Bhagalpur	2	11	8	18
Total	14	76	59	145

Recommendation 5: The Department should propose necessary validation controls/soft alerts to minimise occurrence of such data entry error to the GST Council.

2.3.7.4 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 State data analysis, a Detailed Audit of GST returns was also conducted as a part of this review. A risk based sample of 100 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. Based on desk review results, Detailed Audit was conducted in the circles by requisitioning corresponding granular records of taxpayers such as financial ledgers, invoices etc., to identify causative factors of the identified risks and to evaluate compliance by taxpayers.

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: (I) Returns, (II) Utilisation of ITC and (III) Discharge of tax liability. The summary of Detailed Audit findings is given in **Table 10**.

Table 10
Summary of Detailed Audit findings

Sl. no.	Parameter	No. of deviations	Amount (₹ in crore)	Amount recovered (₹ in crore)
1.	Non-payment of interest by taxpayers	22	2.62	0.02
2.	Mismatch of ITC as per supplier's details with ITC availed by the taxpayers	44	60.58	0.25
3.	Unreconciled ITC between annual return and audited financial statement (Table-12F of GSTR-9C)	4	11.04	0
4.	Mismatch of excess ITC in GSTR-3B than declared in annual return (Table-6J of GSTR-9)	8	0.54	0
5.	Non/short payment of tax and discrepancy between ITC availed and payment made under reverse charge	6	2.12	0
6.	Short admittance of tax liability in GSTR-9/3B as compared to GSTR-1	8	0.90	0
7.	Short payment of Tax	19	7.22	0.02
Total		111	85.02	0.29

A) Scope limitation (partial production of records)

During the desk review of taxpayers' records, available in the back end system, Audit identified the risks related to excess ITC and tax liability mismatches for detailed examination. On the ITC dimension, the mismatches were identified by comparing GSTR-3B with GSTR-2A and GSTR-9, and the declarations made in Table-12 and 14 of GSTR-9C. On the tax liability dimension, the mismatches were identified by comparing GSTR-3B with GSTR-1 and GSTR-9 and the declarations in Table-5, Table-7 and Table-9 of GSTR-9C. Audit requisitioned the granular records of the taxpayers through the respective circles such as the supplementary financial ledgers, invoices, agreement copies etc., for examining the causative factors for mismatches of ITC and tax liability. However, the Department did not produce the corresponding granular records in 79 cases. The circle-wise partial production of records is detailed in **Appendix 2.15** and five high risk cases of partial production of records are given in **Table 11**.

Table 11
High risk cases of partial production of records

GSTIN	Circle	Records not produced	Issues identified in desk review not examined	Mismatch amount (₹ in crore)
10XXXXXXXXXX1ZJ	Patna Special	Ledger of sundry creditors/ trade payables	Reversal of ITC if value of supply not paid within 180 days from the date of issue of invoice	212.86
10XXXXXXXXXX1ZU	Patna Special	Ledger of sundry creditors/ trade payables	Reversal of ITC if value of supply not paid within 180 days from the date of issue of invoice	55.63
10XXXXXXXXXX1ZQ	Patna North	Ledger of non-GST supply with sale invoices and sundry creditors/ trade payables	Non-GST supply was proper and reversal of ITC if value of supply not paid within 180 days from the date of issue of invoice.	15.39

GSTIN	Circle	Records not produced	Issues identified in desk review not examined	Mismatch amount
10XXXXXXXXXX2ZI	Buxar	Ledger of sundry creditors/ trade payables	Reversal of ITC if value of supply not paid within 180 days from the date of issue of invoice.	30.49
10XXXXXXXXXX4ZJ	Patna Special	Ledger of sundry creditors/ trade payables	Reversal of ITC if value of supply not paid within 180 days from the date of issue of invoice.	11.45

On this being pointed out in audit, the Proper Officers of seven circles⁶³ stated that, as regards the physical invoices, credit/debit notes and other books of accounts, it is not provided under the provisions of the GST Act, 2017 for taxpayers to furnish a physical copy in the jurisdictional office *suo moto* in the absence of any proceedings. The Proper Officers of 11 circles⁶⁴ stated that, the matter will be examined, while the Proper Officers of five circles⁶⁵ stated that, records available on GST portal have been provided. The Proper Officers of five circles⁶⁶ stated that, records will be sought from the taxpayers and will be made available to Audit. The Proper Officers of Gaya Circle did not reply.

The Department replied (January 2023) that, the above records were not readily available with the Department and the taxpayers furnish these records when audit under Section 65 of the Act is initiated.

I. Returns

The Detailed Audit of returns filed by a sample of 100 taxpayers disclosed that interest payments were not discharged by taxpayers which is brought out below:

a) Non-payment of interest by taxpayers

In 22 cases (including nine scrutinised cases) of 16 circles, taxpayers had filed their returns with delays of 1 to 1,060 days but the interest payments of ₹ 2.62 crore were not discharged.

As per section 50(1) of BGST Act, 2017, a taxpayer had to pay interest at the rate of 18 *per cent* per annum, if he failed to pay the tax or any part thereof within the stipulated period. 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 return. Only the net tax liability (cash component) was considered to work out the interest payable.

⁶³ Buxar, Jehanabad, Patliputra, Patna North, Patna Special, Shahabad and Siwan.

⁶⁴ Aurangabad, Bhagalpur, Darbhanga, Patna City East, Patna West, Raxaul, Saharsha, Saran, Sasaram, Sitamarhi and Tehra.

⁶⁵ Forbesganj, Kadamkuan, Nawada, Patna Central and Supaul.

⁶⁶ Bhabhua, Danapur, Gandhi Maidan, Muzaffarpur West and Patna South.

Audit observed in 22 cases (including nine scrutinised cases) of 16 circles⁶⁷, constituting 22 *per cent* of the 100 cases audited, that taxpayers had filed their returns with delay of 1 to 1,060 days but the interest payments were not discharged amounting to ₹ 2.62 crore as detailed in **Appendix 2.16**.

The top five cases are given in **Table 12**.

Table 12
Top five cases of non-payment of interest

(₹ in crore)			
Sl. No.	GSTIN	Circle	Amount involved
1.	10XXXXXXXXXX2ZI	Buxar	0.96
2.	10XXXXXXXXXX1Z7	Patliputra	0.64
3.	10XXXXXXXXXX1ZV	Aurangabad	0.36
4.	10XXXXXXXXXX1ZU	Patna Special	0.24
5.	10XXXXXXXXXX1Z3	Muzaffarpur East	0.08

On this being pointed out (May 2022 to August 2022), the Department replied (January 2023 to February 2023) that in one case of Supaul Circle, the amount was recovered, in 10 cases of seven circles⁶⁸, notices/order were issued, in two cases of two circles⁶⁹, action being taken, in three cases of three circles⁷⁰, taxpayers were selected for internal audit and in one case of Aurangabad Circle, hearing was under process. However, the section under which hearing was under process was not specified. In five cases of five circles⁷¹, the reply was awaited (June 2023).

Two illustrative cases are mentioned below:

- i. A taxpayer (GSTIN-10XXXXXXXXXX1Z7) under Patliputra Circle had tax liability of ₹ 2.70 crore for the year 2017-18 whereas he had paid tax of ₹ 1.29 crore only resulting in short payment of tax of ₹ 1.41 crore. It was observed that the taxpayer had paid the outstanding tax of ₹ 1.41 crore vide DRC-03 in November 2020 *i.e.*, with delay of 30 months. Thus, the taxpayer was liable to pay interest of ₹ 0.64 crore for delay payment of tax. When this was pointed out, the Department stated that, the DRC-01 was issued.
- ii. A taxpayer (GSTIN-10XXXXXXXXXX1ZV) under Aurangabad Circle, had filed the GSTR-3B returns for the month of March 2018 in March 2019 *i.e.*, with delay of 344 days. However, interest liability of ₹ 0.36 crore on delayed payment of tax of ₹ 2.10 crore was not discharged. When this was pointed out, the Department stated that the matter was under process.

⁶⁷ Aurangabad, Bhabhua, Buxar, Danapur, Forbesganj, Gaya, Kadamkuan, Muzaffarpur East, Muzaffarpur West, Patliputra, Patna North, Patna Special, Shahabad, Siwan, Sitamarhi and Supaul.

⁶⁸ Aurangabad, Buxar, Forbesganj, Gaya, Muzaffarpur West, Patliputra and Siwan.

⁶⁹ Patliputra and Shahabad.

⁷⁰ Danapur, Patna North and Patna Special.

⁷¹ Bhabhua, Kadamkuan, Muzaffarpur East, Patna North and Sitamarhi.

II. Utilisation of Input Tax Credit

Input Tax Credit means the Goods and Services Tax 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 payment of taxes on outward supplies.

Section 16 and 17 of the BGST Act prescribe the eligibility and conditions to avail ITC. Credit of CGST cannot be used for payment of SGST/UTGST and credit of SGST/UTGST cannot be utilised for payment of CGST. Rule 36 to 45 of the BGST Rules prescribes the procedures for availing and reversal of ITC.

a) Mismatch of Input Tax Credit as per supplier's details with Input Tax Credit availed by the taxpayers

Mismatch of ITC of ₹ 60.58 crore on input supplies received from various registered 44 taxpayers of 23 Circles.

Section 42 of the BGST Act, 2017 read with Rule 60 of BGST Rules, 2017 provides for matching, reversal and reclaim of ITC. Further, Section 44 of the Act read with Rule 80 of the Rules provides for filing of annual return. GSTR-2A is a purchase related dynamic tax return that is automatically generated for each business by the GST portal. When a supplier files GSTR-1 return, the information is captured in GSTR-2A. It takes the information of goods and services that have been purchased in a given month from the seller's GSTR-1. The ITC availability as per GSTR-2A should match with the ITC availed by the taxpayer through monthly GSTR-3B return or the annual GSTR-9 return.

Audit observed that 44 taxpayers of 23 circles⁷² availed ITC of ₹ 310.38 crore for the year 2017-18 through their GSTR-3B/9 but ITC of ₹ 249.60 crore only was available in GSTR-2A. Hence, there was a mismatch of ITC of ₹ 60.58 crore on input supplies received from various registered taxpayers as detailed in **Appendix 2.17**. Top five irregularities are given in **Table 13**.

Table 13
Top five cases of irregular availing of ITC

(₹ in crore)			
Sl. No.	GSTIN	Circle	Amount involved
1.	10XXXXXXXXXX1ZS	Patna Central	15.59
2.	10XXXXXXXXXX1ZN	Danapur	10.03
3.	10XXXXXXXXXX1ZM	Patliputra	9.95
4.	10XXXXXXXXXX1ZT	Patliputra	3.82
5.	10XXXXXXXXXX1ZR	Patna Special	3.01

⁷² Aurangabad, Begusarai, Bhabhua, Danapur, Forbesganj, Gandhi Maidan, Gaya, Gopalganj, Kadamkuan, Motihari, Muzaffarpur East, Muzaffarpur West, Patliputra, Patna Central, Patna City East, Patna North, Patna South, Patna Special, Samastipur, Saran, Sasaram, Shahabad and Sitamarhi.

On this being pointed out (May 2022 to November 2022), the Department replied (January 2023 to February 2023) that, in 19 cases of 11 circles⁷³ notices/orders were issued, in 13 cases of four circles⁷⁴ the taxpayers were selected for internal audit and in one case of Patliputra Circle the ITC was reversed. In 11 cases of eight circles⁷⁵ reply was awaited (March 2023).

An illustrative case is mentioned below:

A taxpayer (GSTIN-10XXXXXXXXXX1ZM) registered under Patliputra Circle had availed ITC of ₹ 21.36 crore (excluding the reversals in Table-7(H) of GSTR-9 from Table-6B(5) of GSTR-3B but including the ITC availed in the subsequent year 2018-19 from Table-8C of GSTR-9) whereas the ITC available as per his GSTR-2A with all its amendments was ₹ 11.41 crore only. Thus, there was a mismatch in availing of ITC of ₹ 9.95 crore. In response, the Department stated that the DRC-07 was issued.

b) Unreconciled Input Tax Credit between annual return and audited financial statement

There was an unreconciled ITC of ₹ 11.04 crore in four cases of three circles in Table-12F of GSTR-9C for the year 2017-18.

Table-12 of GSTR-9C reconciles ITC declared in annual return (GSTR-9) with ITC availed as per audited Annual financial statement or books of accounts. Column-12F of this Table deals with unreconciled ITC. The certified reconciliation statement submitted by the taxpayer as required under the Rule 80(3) of BGST Rules in form GSTR-9C for the year 2017-18 was analysed to identify the mismatch in ITC declared in the annual return with the financial statements.

Audit observed that, in four cases of three circles⁷⁶ there was an unreconciled ITC of ₹ 11.04 crore in Table-12F of GSTR-9C for the year 2017-18. This unreconciled ITC was the difference between ITC availed as per annual return for ₹ 39.30 crore and ITC availed as per audited financial statements or books of accounts for ₹ 28.26 crore **Appendix 2.18**.

On this being pointed out (June 2022 to August 2022), the Department replied (January 2023) that in two cases of Patliputra Circle DRC-01A/DRC-7 were issued and in two cases of two circles⁷⁷, the taxpayers were selected for internal audit.

An illustrative case is mentioned below:

⁷³ Aurangabad, Begusarai, Forbesganj, Gaya, Motihari, Patliputra, Patna City East, Patna North, Saran, Samastipur and Sasaram.

⁷⁴ Danapur, Muzaffarpur West, Patna Special and Shahabad.

⁷⁵ Bhabhua, Gandhi Maidan, Gopalganj, Kadamkuan, Muzaffarpur East, Patna Central, Patna North and Sitamarhi.

⁷⁶ Danapur, Muzaffarpur West and Patliputra.

⁷⁷ Danapur and Muzaffarpur West.

A taxpayer (GSTIN-10XXXXXXXXXX1ZM) registered under Patliputra Circle had claimed ITC of ₹ 21.36 crore in GSTR-9 (as per Table-12E of GSTR-9C) whereas as per financial statements the taxpayer had availed ITC of ₹ 14.40 crore (as per Table-12D of GSTR-9C). This resulted in unreconciled ITC of ₹ 6.96 crore in Table-12F of GSTR-9C. In response, the Department stated that the DRC-07 was issued.

c) Mismatch of Input Tax Credit in GSTR-3B than declared in annual return

There was a difference of ₹ 0.54 crore in eight cases (unscrutinised) of eight circles, in availing of ITC as reflected in Table-6J of GSTR-9 return.

As per Rule 80(1) of the BGST Rule, 2017 every registered person, other than an Input Service Distributor, a person paying tax under Section 51 or Section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return in Form GSTR-9. ITC claimed through GSTR-3B gets credited to Electronic Credit Ledger (ECL) of the taxpayer. Table-6A of GSTR-9 is the sum total of ITC availed in GSTR-3B which is auto-populated and non-editable. Through Table-6B to 6H, the taxpayer provides bifurcation of the ITC availed in form of inputs, input services and capital goods. A comparison of these Tables with Table-6A of GSTR-9 indicates the possibility of excess ITC availing. Table-6J of GSTR-9 brings out the difference of 'ITC actually availed through GSTR-3Bs as reflected in Table-6A of GSTR-9' and 'aggregate of ITC availed as declared in Table-6I of GSTR-9'.

Audit observed that in eight cases (unscrutinised) of eight circles⁷⁸, there was a difference of ₹ 0.54 crore in availing of ITC as reflected in Table-6J of GSTR-9 return as detailed in **Appendix 2.19**.

The top five irregularities are given **Table 14**.

Table 14
Top five cases of excess availing of ITC

(₹ in crore)			
Sl. No.	GSTIN	Circle	Amount involved
1.	10XXXXXXXXXX1ZN	Danapur	0.20
2.	10XXXXXXXXXX1ZP	Gandhi Maidan	0.11
3.	10XXXXXXXXXX1ZN	Darbhanga	0.10
4.	10XXXXXXXXXX2ZG	Teghra	0.08
5.	10XXXXXXXXXX1Z6	Patna Central	0.03

On this being pointed out (June 2022 to August 2022), the department replied (January 2023 to February 2023) that in three cases of three circles⁷⁹ notices were issued and in one case of Danapur Circle was selected for internal audit. In one case of Gaya Circle, it was replied that excess ITC was not availed but

⁷⁸ Bhabhua, Danapur, Darbhanga, Gandhi Maidan, Gaya, Patliputra, Patna Central and Teghra.

⁷⁹ Darbhanga, Patliputra and Teghra.

copy of the order was not provided. In three cases of three circles⁸⁰ reply was awaited (March 2023).

An illustrative case is mentioned below:

A taxpayer (GSTIN-10XXXXXXXXXX1ZN) under Danapur Circle had availed ITC of ₹ 84.95 crore under CGST/SGST/IGST as declared in Table-6A of GSTR-9, but in Table-6I of GSTR-9 the bifurcation of ₹ 84.75 crore only was provided. This resulted in mismatch of ITC of ₹ 0.20 crore as declared in GSTR-3B and annual return. In response, the Department replied that the taxpayer was selected for internal audit and the objection would be incorporated in the audit.

d) Non/short payment of tax and discrepancy between Input Tax Credit availed and payment made under reverse charge

Three taxpayers of Patna North and Patna Special Circles had availed ITC of ₹ 2.01 crore for the period 2017-18 but had paid tax of ₹ 0.04 crore only under reverse charge.

As per the provisions of Section 9(3) of BGST Act, 2017 and Section 5(3) of IGST Act, 2017, the Government may, on the recommendations of the council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Audit observed that, three taxpayers of Patna North and Patna Special Circles had availed ITC of ₹ 2.01 crore for the period 2017-18 but had paid tax of ₹ 0.04 crore only under reverse charge. This resulted into discrepancy of ₹ 1.98 crore in availing of ITC as detailed in **Appendix 2.20(A)**. Further, three taxpayers of Hajipur, Jehanabad and Sasaram Circles had paid ₹ 2.80 crore during 2017-18 for goods transport service which was notified under reverse charge but the taxpayers not/short paid tax for ₹ 0.14 crore under reverse charge thereon as detailed in **Appendix 2.20(B)**. It was also observed that in all these cases, scrutiny under Section 61 was conducted and notices in ASMT-10 were issued but the above discrepancy was not pointed out in five cases and in one case, it was pointed out but not followed further resulting in non-payment of tax of ₹ 0.14 crore.

On this being pointed out (May 2022 to August 2022), the Department replied (January 2023) that in one case of Sasaram Circle the taxpayer was selected for internal audit and in one case of Jehanabad Circle tax amount was recovered with interest. In four case of three circles⁸¹, the reply was awaited (June 2023).

⁸⁰ Bhabhua, Gandhi Maidan and Patna Central.

⁸¹ Hajipur, Patna North and Patna Special.

III. Discharge of tax liability**a) Short admittance of tax liability in GSTR-9/3B as compared to GSTR-1**

The taxpayers had admitted short tax liability of ₹ 0.90 crore.

GSTR-1 depicts the monthly details of outward supplies of goods or services. This detail is also assessed by the taxpayer and mentioned in annual return GSTR-9 in the relevant columns. Further, taxable value and tax paid thereof is also shown in GSTR-3B.

Audit observed that, eight taxpayers (including three scrutinised cases) of eight circles⁸² for the year 2017-18, had declared tax liability for ₹ 26.62 crore in GSTR-1 whereas as per GSTR-9/3B, the taxpayers had admitted tax liability of ₹ 25.72 crore only. Thus, the taxpayers had admitted short tax liability of ₹ 0.90 crore as detailed in **Appendix 2.21**.

The top five irregularities are given in **Table 15**.

Table 15
Top five cases of short admittance of tax liability

(₹ in crore)			
Sl. No.	GSTIN	Circle	Amount involved
1.	10XXXXXXXXXX1Z7	Patliputra	0.34
2.	10XXXXXXXXXX1ZR	Forbesganj	0.30
3.	10XXXXXXXXXX1ZP	Gandhi Maidan	0.08
4.	10XXXXXXXXXX1ZC	Patna North	0.07
5.	10XXXXXXXXXX1ZG	Kadamkuan	0.05

On this being pointed out (May 2022 to August 2022), the Department replied (January 2023 to February 2023) that, in four cases of four circles⁸³ notices were issued to the taxpayers. In four cases of four circles⁸⁴, reply was awaited (March 2023).

An illustrative case is mentioned below:

A taxpayer (GSTIN-10XXXXXXXXXX1Z7) under Patliputra Circle had admitted tax liability of ₹ 86.31 lakh under CGST/SGST/IGST in GSTR-1 for the year 2017-18 whereas he had admitted tax liability of ₹ 52.27 lakh only in GSTR-9. Thus, the taxpayer has short admitted the tax liability of ₹ 34.04 lakh in annual return as compared to tax liability shown in GSTR-1. In response, the Department stated that DRC-07 was issued.

⁸² Forbesganj, Gandhi Maidan, Kadamkuan, Muzaffarpur East, Patna Central, Patna North, Patliputra and Sasaram.

⁸³ Forbesganj, Patna North, Patliputra and Sasaram.

⁸⁴ Gandhi Maidan, Kadamkuan, Muzaffarpur East and Patna Central.

b) Short payment of tax

Short payment of tax of ₹ 7.22 crore by 19 taxpayers (including three scrutinised/assessed cases) of 16 circles.

An annual return GSTR-9 contains the details of outward supplies of goods or services under various heads (CGST, SGST, IGST and Cess). GSTR-9C is a reconciliation statement between the annual returns filed in GSTR-9 and the taxpayer's audited financial statements. Tax liability declared in GSTR-9/9C was compared with the tax paid as declared in Table -9 and 14 of GSTR-9.

Audit observed that, 19 taxpayers (including three scrutinised/assessed cases) of 16 circles⁸⁵ had admitted tax liability of ₹ 72.54 crore for the year 2017-18 in GSTR-9/9C, whereas as per Table-9 and 14 of GSTR-9, tax paid amount was ₹ 65.33 crore only. This resulted in short payment of tax of ₹ 7.22 crore as detailed in **Appendix 2.22**.

The top five irregularities are given in **Table 16**.

Table 16
Top five cases of short payment of tax

(₹ in crore)			
Sl. No.	GSTIN	Circle	Amount involved
1.	10XXXXXXXXXX2ZE	Muzaffarpur West	1.26
2.	10XXXXXXXXXX1ZK	Siwan	1.05
3.	10XXXXXXXXXX2Z7	Kadamkuan	0.84
4.	10XXXXXXXXXX1ZK	Shahabad	0.70
5.	10XXXXXXXXXX1ZG	Shahabad	0.68

On this being pointed out (May 2022 to August 2022), the department replied (January 2023 to February 2023) that, in nine cases of nine circles⁸⁶, notices were issued, in two cases of Shahabad Circle, action initiated and one case of Muzaffarpur West Circle, the taxpayer was selected for internal audit. In one case of Gaya Circle, it was replied that there was no short payment of tax but copy of the order was not provided. In six cases of five circles⁸⁷, the reply was awaited (June 2023).

An illustrative case is mentioned below:

It was observed that a taxpayer (GSTIN-10XXXXXXXXXX2ZE) under Muzaffarpur West Circle had declared tax liability of ₹ 32.72 crore in GSTR-1 however, as per Table-9 and 14 of GSTR-9, he had paid tax liability of ₹ 31.46 crore only. This resulted in short payment of tax amounting to ₹ 1.26 crore. In response, the Department stated that, the matter is being examined in internal audit.

⁸⁵ Bhabhua, Biharsharif, Darbhanga, Gaya, Gopalganj, Kadamkuan, Motihari, Muzaffarpur West, Patliputra, Patna Central, Patna South, Saharsa, Samastipur, Sasaram, Shahabad and Siwan.

⁸⁶ Biharsharif, Darbhanga, Gaya, Motihari, Patliputra, Saharsa, Samastipur, Sasaram and Siwan.

⁸⁷ Bhabhua, Gopalganj, Kadamkuan, Patna Central and Patna South.

c) Exclusion of supplies

Two taxpayers of Sasaram and Shahabad Circles had made taxable supplies of ‘transfer of business assets and scrap sales’ for ₹ 2.58 crore for the period 2017-18.

Section 7 of BGST Act, 2017 defines supplies to include all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. It also includes import of services for a consideration whether or not in the course or furtherance of business. This is an inclusive definition, main elements being (1) supply should be of goods or services, (2) supply has to be made for a consideration, (3) supply has to be made in the course or furtherance of business, (4) supply should be made by a taxable person, (5) supply should be a taxable supply, and (6) supply should be made within the taxable territory. Schedule I specifies certain activities which even made without a consideration shall be treated as supply. Schedule II specifies treatment of certain activities or transactions as either supply of goods or supply of services.

Audit observed that, two taxpayers of Sasaram and Shahabad Circles had made taxable supplies of ‘transfer of business assets and scrap sales’ for ₹ 2.58 crore for the period 2017-18, but did not pay applicable tax thereon as given in **Table 17**.

Table 17
Non-payment of tax on taxable supply

			(₹ in crore)
Sl. No.	Name of the circle	GSTIN	Value of supply
1.	Sasaram	10XXXXXXXXXX1ZO	0.96
2.	Shahabad	10XXXXXXXXXX1ZK	1.62
Total			2.58

Further, it was observed that in one case of Sasaram Circle, scrutiny under Section 61 was conducted and notice (ASMT-10) issued but the above discrepancy was not pointed out in the notice.

The matter was reported to the Department (November 2022); the reply was awaited (June 2023).

Recommendation 6: The Department may initiate remedial action for all the compliance deviations brought out in this report before they get time barred.

2.3.8 Other oversight functions

The role of circles (departmental field formations) is to provide oversight over taxpayers’ compliance with regard to filing of returns, discharging tax liability and other compliance obligations. The oversight functions relating to return filing, action on late/non-filers and scrutiny have been discussed in the previous

sections of this report. This section highlights the audit findings on cancellation of registrations.

Section 29 of the BGST Act, 2017, read with Rule 20 of BGST 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 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, willful misstatement or suppression of facts.

Section 45 of the BGST Act requires every registered person other than (a) 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 nine circles for evaluating the cancellation function and deficiencies noticed are brought out below:

2.3.8.1 Non/inadequate availability of information regarding cancellation of registration in the circles

The information regarding cancellation of registration i.e., number of applications received from taxpayers for cancellation, number of cancellations initiated on own motion by tax authorities *etc.*, were sought from nine selected circles. Out of nine circles, five circles⁸⁸ either did not provide any information or provided partial information regarding cancellation of registration of the defaulting taxpayers. This indicates that information regarding cancellation of registration was not properly available in the circles.

The matter was reported to the Department (November 2022); the reply was awaited (November 2023).

⁸⁸ Aurangabad, Bhabhua, Patliputra, Patna North and Patna Special.

Recommendation 7: The Department may strengthen the monitoring mechanism in circles and ensure that due diligence is followed in procedures for cancellation, issue of Show Cause Notices and recovery.

2.3.9 Inadequacy of manpower

For efficient functioning of the Department, proper manpower planning to meet its objectives and its proper deployment is necessary. The sanctioned and working strength in Commercial Taxes Department in respect of adjudicating authority (Dy. Commissioner/Assistant Commissioner, Commercial Taxes Officer/Assistant Commercial Taxes Officer) during pre-GST and post-GST is given in **Table 18**.

Table 18
Sanctioned and actual strength of manpower

Particulars	Number of taxpayers	Sanction strength	Actual strength	Vacant posts	Percentage of vacant post
Pre-GST period (as on 30 June 2017)	2,33,361	784	421	363	46
Post-GST period (as on 31 March 2022)	5,89,925	784	484	300	38

(Source: Information provided by the Commercial Taxes Department, Government of Bihar)

The table above shows that, the vacant posts in respect of adjudicating authority ranged between 38 *per cent* to 46 *per cent*. Further, in post-GST period number of taxpayers increased from 2,33,361 to 5,89,925 registering an increase of 153 *per cent* over pre-GST period. But, the number of adjudicating authorities/officers increased from 421 in pre-GST period to 484 in post-GST period, an increase of 15 *per cent* only. Thus, the increase in Proper Officers in post-GST era was not commensurate with increase in number of taxpayers.

2.3.10 Conclusion

The Subject Specific Compliance Audit on ‘Departments’ Oversight on GST Payments and Return 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 system in monitoring return filing and tax payments, extent of compliance and other departmental oversight functions.

This SSCA was predominantly driven by data analysis, which highlighted risk areas, and rule based deviations and inconsistencies in GST returns filed for 2017-18. The SSCA entailed assessing the oversight functions of the State jurisdictional formations (circles) at two levels; at the data level through global data queries and at the functional level, which involved accessing taxpayer records. The audit sample comprised of nine circles, 423 high value inconsistencies across 15 parameters selected through global queries and 100

taxpayers selected on risk assessment for detailed audit of GST returns for the year 2017-18.

The Department did not issue detailed instructions/Standard Operating Procedure for scrutiny of returns. A review of the nine circles disclosed that documentation of essential oversight functions of the circles such as monitoring of return filing and taxpayer compliance was inadequate and were not amenable to evaluation.

Further, out of the 423 high value data inconsistencies identified by Audit, the Department responded to 361 cases. Of these, 184 cases constituting 51 *per cent*, turned out to be compliance deficiencies of ₹ 2,114.73 crore (including mismatch amount of ₹ 1,999.36 crore, revenue implication of ₹ 115.37 crore and amount recovered ₹ 6.75 crore). Mismatch amount indicates to revenue implication to Government exchequer. A relatively higher rate of deficiencies was noticed in short/non-payment of interest, ITC mismatch, incorrect turnover declarations and short payment of tax. Data entry errors caused the inconsistencies in 13 *per cent* of the cases and in eight *per cent* of the cases the Department had already taken proactive action. The Department not responded to 62 cases of inconsistencies, which has an identified risk exposure of ₹ 98.08 crore (including mismatch).

Detailed Audit of GST returns also suggested significant non-compliance. At the outset, granular records such as financial statements, invoices etc, were not produced in 79 cases out of a sample of 100 taxpayers, which constituted a significant scope limitation. Audit observed compliance deficiencies of ₹ 85.02 crore (including mismatch amount of ₹ 71.91 crore, revenue implication of ₹ 12.82 crore and amount recovered ₹ 0.29 crore). The main causative factors were availing of incorrect ITC, incorrect turnover declarations, non/short payment of interest on delayed payment of tax and short payment of tax.

2.3.11 Summary of recommendations

Considering the significant rate of compliance deficiencies, the Department must initiate remedial action for all the compliance deviations brought out in this report before they get time barred. Monitoring mechanism in circles needs to be strengthened to establish effective oversight on return filing, taxpayers' compliance, tax payments. The Department may propose necessary validation controls/soft alerts in GST returns to the GST council to curb data entry errors, enhance taxpayers' compliance and facilitate better scrutiny. The Department may issue SOP/detailed guidelines for scrutiny of returns and take prompt steps to undertake the audits under Section 65 so that timely action could be initiated against the defaulters and recoveries could be effected to plug the revenue leakage.

2.4 Legacy Issues

2.4.1 Loss of revenue due to non-deduction of TDS on supply of material

Due to non-deduction of TDS from the bills of suppliers under MGNREGA, the short admittance of tax liability could not be detected which led to a loss of revenue of ₹ 1.77 crore.

Section 51 of the Bihar Goods and Services Tax (BGST) Act, 2017, provides for deduction of tax at source, at the rate of one *per cent*, by Government agencies, departments and local authorities (the Deductor), from the payment made to the supplier (the Deductee) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds ₹ two lakh and fifty thousand (excluding taxes). The amount of tax, deducted as TDS, under this Section, is to be paid to the Government, by the deductor, within 10 days after the end of the month in which such deduction is made.

Rules 12(1) and 12(2) of BGST Rules, 2017, provide that any person, required to deduct tax in accordance with the provisions of Section 51, is to obtain a registration under GST. Further, Rule 66(1) of the BGST Rules, 2017, provides that every registered person, required to deduct TDS under Section 51 of the BGST Act, 2017, shall furnish a return electronically (to the Commercial Taxes Department), through the common portal of GST.

Audit scrutiny (November 2022) of records made available by Programme Officers (POs) under the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), of all 11 blocks⁸⁹ of Banka District, revealed that the POs had neither registered themselves under GST, nor had they deducted TDS from the payments made to suppliers, on account of supplies made during F.Y. 2020-21. Audit further verified, the details of material supplied, GST collected by the suppliers from MGNREGA offices, at the block level and GST admitted by the suppliers in their GST returns. It was found that, 16 suppliers had admitted only ₹ 1.80 crore as tax liability in their GST returns, even though they had collected ₹ 3.57 crore on supplies of materials made under MGNREGA, in Banka District, during FY 2020-21. This had resulted in loss of revenue, amounting to ₹ 1.77 crore, as detailed in **Appendix 2.23**.

Had the POs registered themselves under GST and deducted TDS, as per provisions made under GST laws, the suppliers may not have been in a position to conceal their taxable turnover and tax liability. Such concealment was also indicative of the possibility of concealment of income, for computation of Income Tax, by these suppliers.

⁸⁹ *Amarpur, Banka, Barhat, Belhar, Bounsi, Chanand, Dhoraiya, Fullidumar, Katoria, Rajaun and Shambhuganj.*

The matter was reported (December 2022) to the Commercial Taxes Department and the Rural Development Department (RDD). In reply, the RDD stated (December 2022) that, as there was no provision for deduction of TDS on GST from the bills of material suppliers in the Management Information System of MGNREGA, compliance of the provision of GST could not be ensured so far. The reply from CTD was awaited (as of November 2023).

