



**Report of the  
Comptroller and Auditor General of India**

**Compliance Audit (Revenue)  
for the year ended 31 March 2022**



SUPREME AUDIT INSTITUTION OF INDIA  
लोकहितार्थ सत्यनिष्ठा  
Dedicated to Truth in Public Interest



**Government of Tamil Nadu**

**Report No. 4 of 2024**

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Comptroller and Auditor General of India**

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## P R E F A C E

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2022 has been prepared for submission to the Governor of the State of Tamil Nadu under Article 151 (2) of the Constitution of India.

This report contains significant findings of audit of Receipts and Expenditure of Commercial Taxes and Registration Department and Home (Prohibition and Excise) Department.

The instances mentioned in this Report are those, which came to notice in the course of test audit during the period 2021-22 as well as those which came to notice in earlier years, but could not be reported in the previous Audit Reports. The instances relating to the period subsequent to 2021-22 have also been included, wherever necessary.

This audit was conducted under the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.





## OVERVIEW

The report contains 11 paragraphs, including Subject Specific Compliance Audit in GST, Compliance Audit on “Functioning of TASMAC” and individual Draft Paragraphs in Stamp Duty and Registration, involving ₹2,978.46 crore. Some of the major findings are mentioned below:

### I General

The total revenue receipts of the State during 2021-22 were ₹1,34,982.81 crore, comprising tax revenue of ₹1,22,866.29 crore and non-tax revenue of ₹12,116.52 crore. ₹37,458.62 crore was received from the Government of India as State’s share of divisible Union taxes and ₹35,050.98 crore as grants-in-aid. The revenue raised by the State Government in 2021-22 was 65 *per cent* of the total revenue receipts as compared to 67 *per cent* in 2020-21. Taxes on sales and trade and Goods and Services Tax (₹93,944.70 crore) formed a major portion (76 *per cent*) of the tax revenue of the State.

**(Paragraph 1.1)**

Test-check of records relating to Goods and Services Tax, Motor Vehicles Tax, Stamp Duty and Registration Fee, State Excise, Mines and Minerals and Land Revenue during the year 2021-22 revealed under-assessments, short levy, loss of revenue and other observations amounting to ₹149.08 crore and were issued as Inspection Reports.

**(Paragraph 1.9)**

### II Goods and Services Tax

During the Subject Specific Compliance Audit (SSCA) on “Department’s oversight on GST payments and Return filing” the following deficiencies were found:

- Audit was conducted and reported in three parts *viz.* Audit of circles, Centralised Audit and Detailed Audit. In the Audit of circles, the oversight functions were evaluated in 10 circles; in the Centralised Audit, 436 taxpayers were test-checked for deviations from rules and inconsistencies. In the Detailed Audit, the returns and allied granular records of 100 taxpayers were test-checked in detail to identify incorrect claims of ITC and non/short payment of taxes.

**(Paragraph 2.4.4)**

- Compliance Audit of circles revealed that the Proper Officers (POs) did not act against non-filers of returns. It was also ascertained that no scrutiny of returns was performed during the period of Audit and no Standard Operating Procedure was issued for conduct of scrutiny. Audit noticed that cancelled taxpayers did not file GSTR-10 and these taxpayers could also obtain new registrations without filing returns.

**(Paragraph 2.4.6)**

- The Centralised Audit was performed based on 14 pre-set parameters derived from data. In 143 cases, there were data entry errors which led to incorrect information in the returns. In 111 cases, Audit pointed out irregularities amounting to ₹992.38 crore. Department recovered ₹5.46 crore and also issued notices in 103 cases.

**(Paragraph 2.4.7)**

- During the conduct of Detailed Audit, Audit noticed deficiencies relating to excess ITC, claim of ITC on blocked credit and incorrect availing of ITC on imports among others. The excess claim amounted to ₹31.08 crore.

**(Paragraph 2.4.8.2A)**

- Detailed Audit also revealed an undischarged tax liability in 56 cases amounting to ₹22.68 crore.

**(Paragraph 2.4.8.2B)**

### **III State Excise**

- Check of records in eight out of 43 depots revealed that TASMAC did not pay differential excise duty of ₹30.50 crore due to revision of rates of Indian Made Foreign Liquor, although MRP was revised based on this revision. The observation was accepted and demand had been raised against TASMAC.

**(Paragraph 3.3.8.1)**

- Post preparation of Draft Project Report for End-to-End Computerisation, attempting to revise the Project requirement has led to inordinate delay in implementation of end-to-end computerisation. The project is yet to take off.

**(Paragraph 3.3.8.3 (i))**

- The Godown monitoring system does not have provision to register manufacturing date and batch numbers of liquor stocks. TASMAC is therefore not in a position to monitor and clear stocks adopting first-in-first-out method.

**(Paragraph 3.3.8.3 (ii))**

- 
- The tenderers selected for transporting liquor did not possess valid documents such as GSTIN, insurance for vehicles, etc. although these were mandatory requirements to participate in the tender. Also, award of tenders repetitively to same persons flags the possibility of cartelisation.

(Paragraph 3.3.8.4)

- Out of 5,359 PoS machines installed in retail vending shops, only 3,114 machines were functional. Trade continues to be predominantly cash based amidst complaints of overcharging.

(Paragraph 3.3.8.5(ii))

#### IV Stamp Duty and Registration Fee

- In one case, the Chartered Mechanical Engineer (CME), while valuing building accessories stated that these accessories were installed after registration. However, the CME's report contained evidence clearly showing that the accessories were installed before the deed was submitted for registration. The failure of RO to verify facts and figures led to a loss of Stamp Duty and Registration Fee of ₹21.67 lakh.

(Paragraph 4.4.1)

- Audit noticed a case where the consideration agreed in a sale agreement was not adopted in the final sale deed. There was a short levy of Stamp Duty and Registration Fee of ₹1 crore.

(Paragraph 4.4.2)

- The RO classified a non-family settlement as a non-family partition despite guidance for treatment for classification of such instruments was available through an order of the Chief Controlling Revenue Authority. The misclassification resulted in a short collection of Stamp Duty and Registration Fee of ₹30.23 lakh.

(Paragraph 4.4.3)

- A short adoption of actual extent conveyed due to non-inclusion of common area that resulted in short collection of Stamp Duty and Registration Fee of ₹45.23 lakh.

(Paragraph 4.4.4)

- There was short declaration of advance amount paid while registering the Sale Agreement which resulted in short collection of Registration Fee of ₹54.20 lakh.

(Paragraph 4.4.5)

- The Deputy Inspector General of Registration (DIG) had revised the guidelines in respect of three properties but these revised values were not uploaded in the Registration Department's website. The RO had, without verifying the revised orders, adopted values as found in the website. This resulted in a short levy of Stamp Duty and Registration Fee of ₹2.68 crore.

**(Paragraph 4.4.6)**

- In one case, the lease period was arrived at incorrectly which resulted in short collection of Stamp Duty of ₹22.65 lakh.

**(Paragraph 4.4.7)**

- In one case, the RO referred an instrument of non-family release, which does not fall under the category of instruments than can be referred under Section 47A (1), to DRO (Stamps) for valuation. The DRO's valuation was lesser than the guideline values. The incorrect reference resulted in loss of revenue of Stamp Duty and Registration Fee of ₹3.44 crore.

**(Paragraph 4.4.9)**

# **CHAPTER – I**

## **GENERAL**



## GENERAL

### 1.1 Trend of revenue receipts

**1.1.1** Tax and non-tax revenue raised by the Government of Tamil Nadu, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India during the year 2021-22 and the corresponding figures for the preceding four years are mentioned in **Table 1.1**.

**Table 1.1: Trend of Revenue Receipts**

(₹ in crore)						
Sl. No.	Particulars	2017-18	2018-19	2019-20	2020-21	2021-22
<b>Revenue raised by the State Government</b>						
1	• Tax revenue	93,736.60	1,05,549.90	1,07,462.28	1,06,152.96	1,22,866.29
	• Non-tax revenue	10,764.01	14,200.02	12,887.84	10,421.85	12,116.52
	<b>Total</b>	<b>1,04,500.61</b>	<b>1,19,749.92</b>	<b>1,20,350.12</b>	<b>1,16,574.81</b>	<b>1,34,982.81</b>
<b>Receipts from the Government of India</b>						
2	• State's share of divisible Union taxes	27,099.71	30,623.03	26,392.41	24,924.51	37,458.62*
	• Grants-in-aid	14,679.44	23,368.21	27,783.37	32,576.98	35,050.97
	<b>Total</b>	<b>41,779.15</b>	<b>53,991.24</b>	<b>54,175.78</b>	<b>57,501.49</b>	<b>72,509.59</b>
3	<b>Total revenue receipts of the State Government (1 + 2)</b>	<b>1,46,279.76</b>	<b>1,73,741.16</b>	<b>1,74,525.90</b>	<b>1,74,076.30</b>	<b>2,07,492.40</b>
4	<b>Percentage of 1 to 3</b>	<b>71</b>	<b>69</b>	<b>69</b>	<b>67</b>	<b>65</b>

\* For details, please see Statement No. 14 – Detailed statements of revenue by minor heads of the Finance Accounts of the Government of Tamil Nadu for the year 2021-22. Figures under various heads relating to 'Share of net proceeds assigned to States' booked in the Finance Accounts under 'A - Tax revenue' have been excluded from the revenue raised by the State and included in 'State's share of divisible Union taxes' in this statement.

(Source: Finance Accounts of Government of Tamil Nadu)

During the year 2021-22, the revenue raised by the State Government (₹1,34,982.81 crore) was 65 per cent of the total revenue receipts. The remaining 35 per cent (₹72,509.59 crore) of the receipts during 2021-22 was from the Government of India.

**1.1.2** Table 1.2 presents the details of tax revenue raised during the period from 2017-18 to 2021-22.

**Table 1.2: Details of Tax revenue raised**

(₹ in crore)

Sl. No.	Head of revenue	2017-18		2018-19		2019-20		2020-21		2021-22		Percentage of increase (+) or decrease (-) in 2021-22 over 2020-21
		Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	
1	State Goods and Services Tax	-	24,589.31	29,748.45	38,533.09	48,157.40	38,376.19	46,195.55	37,942.10	45,395.50	45,276.49	19.33
2	Taxes on Sales, Trade etc.,	73,959.25	46,356.15	44,427.04	42,701.07	48,033.65	44,515.44	56,046.29	43,489.31	57,070.17	48,668.21	11.91
3	State Excise	6,902.91	5,815.30	6,997.83	6,863.12	7,262.32	7,205.97	8,133.80	7,821.66	9,613.90	8,236.63	5.31
4	Stamps and Registration Fee	8,219.52	9,194.63	10,935.67	11,066.18	13,122.81	10,855.65	14,435.09	11,675.04	14,879.37	14,330.98	22.75
5	Taxes on Vehicles	5,418.03	5,362.63	6,211.75	5,572.80	6,510.70	5,674.64	6,897.73	4,561.17	6,581.75	5,627.40	23.38
6	Land Revenue	354.46	152.30	282.39	177.99	357.29	258.30	328.39	211.19	559.74	205.18	(-) 2.85
7	Taxes on immovable property other than agricultural land (Urban Land Tax)	18.09	8.36	13.00	10.34	13.65	8.83	13.65	8.16	13.65	14.31	75.37
8	Other Receipts*	4,717.87	2,257.92	1,378.38	625.31	1,355.24	567.26	1,479.80	444.33	1,527.70	507.09	14.12
	<b>Total</b>	<b>99,590.13</b>	<b>93,736.60</b>	<b>99,994.51</b>	<b>1,05,549.90</b>	<b>1,24,813.06</b>	<b>1,07,462.28</b>	<b>1,33,530.30</b>	<b>1,06,152.96</b>	<b>1,35,641.78</b>	<b>1,22,866.29</b>	

\* 'Other Receipts' represent tax receipts pertaining to heads (i) Agricultural Income, (ii) Goods and Passengers, (iii) Electricity and (iv) Commodities and Service.

(Source: Finance Accounts of Government of Tamil Nadu)

Tax revenue accounted for 59.21 per cent (₹1,22,866.29 crore) of the total revenue (₹2,07,492,40 crore) of the State for the year 2021-22. There was an increase of ₹16,713.33 crore (15.74 per cent) in tax revenue raised by State Government in 2021-22 over the previous year (₹1,06,152.96 crore).

The increase in revenue under State Goods and Services Tax, Taxes on Sales and Trade, Stamp Duty and Registration Fee and Taxes on vehicles was due to retrieval of economy from adverse impact of COVID-19 pandemic.

**1.1.3** Table 1.3 presents the details of non-tax revenue raised during the period from 2017-18 to 2021-22.



Table 1.3: Details of Non-tax revenue raised

(₹ in crore)

Sl. No.	Head of revenue	2017-18		2018-19		2019-20		2020-21		2021-22		Percentage of increase (+) or decrease (-) in 2021-22 over 2020-21
		Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	
1	Interest receipts, dividends and profits	3,816.36	5,357.15	4,086.26	7,031.19	4,631.01	4,547.74	5,596.49	3,729.44	6,544.22	4,189.78	12.34
2	Crop Husbandry	123.40	76.47	59.82	185.06	62.16	53.12	76.27	75.42	238.62	92.81	23.06
3	Forestry and Wildlife	161.72	57.51	103.07	145.46	48.63	83.38	83.69	94.70	24.30	83.37	(-)/11.96
4	Non-Ferrous Mining and Metallurgical industries	1,186.10	1,146.11	1,452.27	1,057.45	1,987.50	1,150.12	2,222.35	765.24	2,023.93	1,004.83	31.31
5	Education, Sports, Art and culture	1,606.50	1,153.45	1,448.99	1,592.36	1,264.59	1,792.96	1,919.96	1,649.63	1,179.58	1,064.66	(-)/35.46
6	Other receipts*	5,423.92	2,973.32	4,150.70	4,188.50	5,333.01	5,260.52	6,000.05	4,107.42	5,637.77	5,681.07	38.31
	<b>Total</b>	<b>12,318.00</b>	<b>10,764.01</b>	<b>11,301.11</b>	<b>14,200.02</b>	<b>13,326.90</b>	<b>12,887.84</b>	<b>15,898.81</b>	<b>10,421.85</b>	<b>15,648.42</b>	<b>12,116.52</b>	

\* 'Other receipts' represent non-tax receipts pertaining to heads (i) Other Administrative Services; (ii) Miscellaneous General Services; (iii) Medical and Public Health; and (iv) Urban Development etc.,

(Source: Finance Accounts of Government of Tamil Nadu)

The non-tax revenue accounted for was 5.84 *per cent* (₹12,116.52 crore) of the total revenue (₹2,07,492.40 crore) of the State for the year 2021-22. There was an increase of ₹1,694.67 crore in non-tax revenue raised by State Government (16.26 *per cent*) in 2021-22 over the previous year (₹10,421.85 crore).

The increase in collection under Interest Receipts, Dividends and Profits was due to increase in receipts under dividends from Public Sector Undertakings. The increase in revenue under Non-ferrous Mining and Metallurgical Industries was mainly due to increase in receipts under Mineral Concession fees, rents and royalties. The increase in collection under Crop Husbandry was due to increase in receipts under sale, hire and services of agricultural implements and machinery including tractors. The decrease in collection under Education, Sports, Arts and Culture was mainly due to reimbursement of expenditure by GOI under SSA in Elementary Education and Secondary Education.

## 1.2 Analysis of arrears of revenue

The arrears of revenue, as on 31 March 2022, on some principal heads of revenue amounted to ₹39,350.96 crore, of which ₹22,549.47 crore was outstanding for more than five years, as detailed in **Table 1.4**.

Table 1.4: Arrears of revenue

(₹ in crore)

Sl. No.	Head of revenue	Total amount outstanding as on 31 March 2022	Amount outstanding for more than five years as on 31 March 2022	Replies of Department
1	State Goods and Services Tax	1,285.98	0.00	Recovery of ₹666.81 crore was covered by Recovery Certificates. Recovery of ₹167.60 crore was stayed by High Court and other judicial authorities. Amount of ₹0.15 crore was pending due to rectification / review of application. Remaining arrears of ₹451.40 crore were at other stages of recovery.
2	Taxes on Sales, Trade etc.,	29,566.12	18,809.23	Recovery of ₹7,723.83 crore was covered by Recovery Certificates. Recovery of ₹7,018.54 crore was stayed by High Court and other judicial authorities. Government stayed the collection of ₹224.30 crore. Collection of ₹220.81 crore was held up due to persons becoming insolvent. The amount under review was ₹208.86 crore. Amount of ₹463.31 crore was likely to be written off. Remaining arrears of ₹12,508.62 crore were at various stages of recovery. ₹1,197.85 crore has since been collected.
3	Stamp Duty and Registration Fee	486.78	395.09	Recovery of ₹486.73 crore was covered by Recovery Certificates and collection of ₹0.05 crore stayed by High Court and other judicial authorities.
4	State Excise	32.17	32.17	Recovery of ₹15.64 crore was being done by Recovery Certificates. Recovery of ₹1.11 crore was stayed by High Court and other judicial authorities. Recovery of ₹0.69 crore was covered by rectification/ review application and persons becoming insolvent. An amount of ₹2.25 crore was likely to be written off. ₹0.31 crore has since been collected. Arrears of ₹12.18 crore were at various stages of collection.
5	Taxes on vehicles	0.36	0.00	An amount of ₹0.12 crore was stayed by High Court and other judicial authorities. Arrears of ₹0.24 crore were at various stages of collection.
6	Electricity Taxes	647.20	450.93	Recovery of ₹169.37 crore was covered by Recovery Certificates. Recovery of ₹401.50 crore was stayed by High Court and other judicial authorities. Government stayed the collection of ₹19.23 crore. Collection of ₹4.68 crore was held up due to persons becoming insolvent. Remaining arrears of ₹52.42 crore were at various stages of recovery.
7	Urban Land Tax	215.84	91.80	Recovery of ₹17.09 crore was stayed by High Court and other judicial authorities. Government stayed the collection of ₹3.75 crore. Remaining arrears of ₹195.01 crore were at various stages of recovery.
8	Non-Ferrous Mining and Metallurgical industries	7,116.51	2,770.25	Recovery of ₹272.52 crore was covered by Recovery Certificates. Recovery of ₹4,034.49 crore was stayed by High Court and other judicial authorities. Government stayed the collection of ₹3.14 crore. Recovery of ₹5.68 crore was covered by rectification/ review application. Remaining arrears of ₹2,800.68 crore were at various stages of recovery.
	<b>Total</b>	<b>39,350.96</b>	<b>22,549.47</b>	

(Source: Details furnished by the concerned Departments)

**Table 1.4** indicates that the amount of uncollected revenue as on 31 March 2022 was about 29 per cent of the total revenue raised by the Government during the year 2021-22. The total uncollected revenue of ₹39,350.96 crore for the year 2021-22 is 3.22 per cent higher than ₹38,124.75 crore for the year 2020-21. The Government may order expeditious collection of arrears of revenue besides taking necessary measures to boost collection efficiency in the current period.

### 1.3 Arrears in assessments

The details of assessments relating to Central Sales Tax and Other taxes pending in the Commercial Taxes Department are given in **Table 1.5**.

Table 1.5: Arrears in assessments

Description	CST and Other assessments
Opening balance of pending assessment of the previous year as on 01/04/2022	976
Assessment due for the current assessment year 2021-22	1,081
<b>Total</b>	<b>2,057</b>
Assessment completed during the year 2021-22	766
Closing balance of assessments pending at the end of the year as on 31/03/2022.	1,291

(Source: Details furnished by the Department)

Government may instruct the Department to complete the pending assessments expeditiously as new tax regime (State Goods and Services Tax) had already come into effect from 01 July 2017.

#### 1.4 Evasion of tax detected by the Department

The details of cases of evasion of tax detected by the Commercial Taxes Department in respect of State Goods and Services Tax and other Taxes and Home (Transport) Department in respect of Taxes on Vehicles, cases finalised and the demands for additional tax raised are given in **Table 1.6**.

Table 1.6: Evasion of Tax

Sl. No.	Head of revenue	Cases pending as on 31 March 2021	Cases detected during 2021-22	Total	Number of cases in which assessment / investigation completed and additional demand with penalty etc. raised		Number of cases pending for finalisation as on 31 March 2022
					Number of cases	Amount of demand (₹ in crore)	
1	State Goods and Services Tax	106	12,689	12,795	11,294	1,188.73	1,501
2	Taxes on Sales, Trade etc., (Other than State Goods and Services Tax)	2,016	234	2,250	1,463	4,751.06	787
3	Taxes on Vehicles	Nil	1	1	1	0.01	Nil

(Source: Details furnished by the Department)

The Commercial Taxes Department had finalised 88 *per cent* of the cases of tax evasion relating to State Goods and Services Tax. However, as far as Taxes on Sales, Trade etc., is concerned, the department could finalise only 62 *per cent* of cases of tax evasion. The Government may instruct the Commercial Taxes Department to complete the pending cases expeditiously.

#### 1.5 Pendency of Refund Cases

The number of refund cases pending at the beginning of the year 2021-22, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2021-22 relating to Commercial Taxes

Department (Value Added Tax and State Goods and Services Tax), Home (State Excise) and Home (Transport) Department are given in **Table 1.7**.

**Table 1.7: Details of pendency of refund cases**

Sl. No.	Particulars	Value Added Tax		State Goods and Services Tax		State Excise		Motor Vehicles Tax	
		No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)
1	Claims outstanding at the beginning of the year	4,668	91.37	251	26.15	2	0.03	0	0.00
2	Claims received during the year	17,994	319.30	21,414	4,924.34	0	0.00	173	2.57
3	Total (1+2)	22,662	410.67	21,665	4,950.49	2	0.03	173	2.57
4	Refunds made during the year (including rejected cases)	8,665	331.11	18,639	4,830.00	0	0.00	173	2.57
5	Balance outstanding at the end of the year	13,997	79.56	3,026	120.49	2	0.03	0	0.00

(Source: Replies of concerned Departments)

Since the Tamil Nadu Value Added Tax and Tamil Nadu Goods and Services Tax Acts provide for interest on belated refunds, the Commercial Taxes Department may finalise the refund claims expeditiously.

## 1.6 Response of the Departments / Government towards audit

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

IRs issued up to 31 December 2021 disclosed that 27,547 paragraphs, involving ₹5,242.45 crore relating to 5,274 IRs, remained outstanding at the end of June 2022 as mentioned below along with the corresponding figures for the preceding two years in **Table 1.8**.

Table 1.8: Details of pending IRs

Particulars	June 2020	June 2021	June 2022
Number of IRs pending for settlement	5,978	5,543	5,274
Number of outstanding audit observations	35,462	31,264	27,547
Amount of revenue involved (₹ in crore)	6,654.05	5,485.67	5,242.45

(Source: As per data maintained in offices of the PAG (Audit-I) and PAG (Audit-II), Tamil Nadu)

### 1.6.1 Department-wise details of the Inspection Reports and Audit observations

The Department-wise details of the IRs and Audit observations issued up to 31 December 2021 and outstanding as on 30 June 2022 and the amounts involved are mentioned in **Table 1.9**.

Table 1.9: Department-wise details of IRs

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1	Commercial Taxes and Registration	Value added tax and other taxes	1,678	16,223	3,104.88
		Stamp Duty and Registration Fee	1,599	4,982	781.56
2	Revenue	Land Revenue	882	3,630	185.02
		Urban Land Tax	108	215	15.66
3	Home (Transport)	Taxes on vehicles	379	1,016	53.98
4	Home (Prohibition and Excise)	State Excise	235	533	654.47
5	Industries	Mines and Minerals	219	538	181.05
6	Energy	Electricity Tax	110	243	265.83
7	Finance	Finance and Planning	64	167	0.00
<b>Total</b>			<b>5,274</b>	<b>27,547</b>	<b>5,242.45</b>

(Source: As per data maintained in offices of the PAG (Audit-I) and PAG (Audit-II), Tamil Nadu)

The large pendency of the IRs, due to non-receipt of the replies, is indicative of failure by heads of offices and departments to initiate action to rectify defects, omissions and irregularities pointed out by the AG through the IRs. The Government may instruct the Departments to furnish replies to the audit observations in time and to take remedial action to clear the outstanding paragraphs.

### **1.6.2 Departmental Audit Committee Meetings**

The Government has set up Audit Committees (during various periods) to monitor and expedite the progress of the settlement of paragraphs in the IRs. In the meeting, the Secretaries of the Departments discuss the pendency and direct the Head of the Departments to take immediate action to clear the outstanding audit observations. No Audit Committee meeting was conducted in the year 2021-22 due to Covid-19 pandemic. It is recommended that Government may conduct Audit Committee meetings periodically so that the outstanding audit observations are settled.

### **1.6.3 Response of the Departments to draft Audit Paragraphs**

The draft Audit paragraphs proposed for inclusion in the Report of the CAG are forwarded by AG to the Secretaries of the Departments concerned, drawing their attention to audit findings and requesting them to send their response within six weeks. The fact of non-receipt of replies from the Departments is indicated at the end of each such paragraph included in the Audit Report.

Eleven draft paragraphs proposed for inclusion in the Report of the CAG for the year ended March 2022 were forwarded to the Secretaries to Commercial Taxes and Registration Department and Home (Prohibition and Excise) Department between January and May 2023. Government furnished specific reply in six cases. Since specific reply was not furnished in five cases, the paras were included after incorporating replies from the Department and general reply furnished by the Government during the Exit Conference.

### **1.6.4 Follow-up of Audit Reports**

With a view to ensure accountability of the executive in respect of the issues dealt within the Audit Reports, the Public Accounts Committee (PAC) laid down in 1997 that after the presentation of the Report of the CAG in the Legislative Assembly, the Departments shall initiate action on the Audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within two months of tabling the Report, for consideration of the PAC. In spite of these instructions, the explanatory notes on Audit paragraphs of the Reports were being delayed inordinately. We observed that 182 paragraphs included in the Reports of the CAG on the Revenue Receipts of the Government of Tamil Nadu up to the year ended March 2022 were pending discussion by PAC. Out of the above, the Departments had not furnished explanatory notes in respect of 104 paragraphs. Review of the outstanding action taken notes (ATNs) as on 31 March 2022 on paragraphs included in the Report of the CAG, Revenue Receipts, Government of Tamil Nadu indicated that the Departments had not submitted ATNs for 1,579 recommendations pertaining to 329 audit paragraphs discussed by PAC, the earliest of which related to the Audit Report for the year 1986-87.

## 1.7 Analysis of the mechanism for dealing with the issues raised by Audit in Motor Vehicles Department

To analyse the system of addressing the issues highlighted in the IRs/Audit Reports by the Departments / Government, the action taken on the paragraphs and Performance Audits included in the Audit Reports of the last 10 years for one Department is evaluated and included in this Audit Report.

### 1.7.1 Position of Inspection Reports

The summarised position of the IRs issued to Home (Transport) Department relating to Taxes on Vehicles during the last 10 years, paragraphs included in these reports and their status as on 31 March 2022 are tabulated in **Table 1.10**.

**Table 1.10: Position of Inspection Reports**

Year	Opening balance			Additions during the year			Clearance during the year			Closing balance		
	IRs	Paras	Money value (₹ in crore)	IRs	Paras	Money value (₹ in crore)	IRs	Paras	Money value (₹ in crore)	IRs	Paras	Money value (₹ in crore)
2012-13	417	963	94.23	49	139	0.57	46	74	3.26	420	1,028	91.54
2013-14	420	1,028	91.54	42	249	6.17	8	80	4.22	454	1,197	93.49
2014-15	454	1,197	93.49	41	232	2.58	48	168	12.34	447	1,261	83.73
2015-16	447	1,261	83.73	46	369	13.18	23	148	4.56	470	1,482	92.35
2016-17	470	1,482	92.35	45	214	8.01	43	132	2.16	472	1,564	98.20
2017-18	472	1,564	98.20	21	123	4.00	32	182	7.48	461	1,505	94.72
2018-19	461	1,505	94.72	5	33	0.01	52	121	20.18	414	1,417	74.55
2019-20	414	1,417	74.55	8	69	1.03	14	172	5.27	408	1,314	70.31
2020-21	408	1,314	70.31	11	138	8.22	10	188	20.19	409	1,264	58.34
2021-22	409	1,264	58.34	5	46	2.43	18	216	5.18	396	1,094	55.59

(Source: As per data maintained in office of the Principal AG (Audit-II), Tamil Nadu)

As against 963 paragraphs which were pending at the beginning of 2012-13, the number at the end of 2021-22 had increased to 1,094 paragraphs. This indicates that response to the local audit reports was poor and adequate steps need to be taken by the Department to clear the outstanding paragraphs.

### 1.7.2 Recovery of accepted cases

During the last 10 years, 16 draft paragraphs including one Performance Audit involving ₹211.38 crore were included in the Report of the CAG, Revenue Sector, Government of Tamil Nadu. The Department accepted audit observations in nine cases involving ₹6.46 crore and recovered ₹62 lakh.

Out of these 16 paragraphs, 11 paragraphs relating to Audit Reports 2012-13 to 2020-21 are yet to be discussed in the PAC. Government had not submitted explanatory notes to 11 paragraphs out of these 16 paragraphs included in the CAG's Audit Reports for the years 2012-13 to 2020-21.

The Government may review the progress in recovery of accepted cases on priority and take special efforts to ensure recoveries. Further, Government may

instruct the Department to furnish explanatory notes and fix a timeline for the same.

## 1.8 Audit planning

The offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations, nature/volume of transactions, etc. The annual audit plan is prepared on the basis of risk analysis which, *inter alia*, includes statistical analysis of the revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during the past five years, etc.

During the year 2021-22, the audit universe comprised 1,525 auditable offices, of which 169 offices were planned and 174 offices were audited i.e., 11 *per cent* of the total auditable offices as mentioned in **Table 1.11**.

**Table 1.11: Audits planned and conducted during the year 2021-22**

Sl. No.	Name of the Department	Nature of Receipts / Expenditure	Auditable Offices	Offices planned	Offices audited
1	Finance	Treasuries and Pension	104	12	13
2	Commercial Taxes* and Registration	State Goods and Services Tax and Value Added Tax	0	0	0
		Stamp Duty and Registration Fee	646	81	81
3	Revenue	Urban Land Tax	25	0	0
		Land Revenue	447	41	41
4	Home (Transport)	Taxes on vehicles	103	4	5
5	Transport	Motor Vehicle Maintenance Department	21	0	0
6	Home, Prohibition and Excise	State Excise	75	17	17
7	Industries	Mines and Minerals	33	6	9
8	Energy	Electricity Tax	25	3	3
9	Planning	Planning, Development and Special Initiatives	46	5	5
<b>Total</b>			<b>1,525</b>	<b>169</b>	<b>174</b>

\* No Units are audited in Value Added Tax since the tax has been subsumed, except for Petroleum and Liquor, into Goods and Services Tax.

(Source: As per data maintained in offices of the PAG (Audit-I) and PAG (Audit-II), Tamil Nadu)

## 1.9 Results of audit

### Position of local audit conducted during the year

During the year 2021-22, records maintained in the 174 offices were test-checked and under-assessment, short levy, loss of revenue and other observations amounting to ₹149.08 crore were noticed in 1,748 cases and issued as Inspection Reports. During the year, the Departments accepted



under-assessment and other deficiencies pointed out in Audit and recovered/adjusted a sum of ₹12.58 crore in 33 cases. Out of this, an amount of ₹7.76 crore in one case relates to the current year and the remaining relate to observations raised in previous years.

### **1.10 Scope of this Report**

This Report contains 11 paragraphs involving financial effect of ₹2,978.46 crore. The Department / Government accepted audit observations involving ₹1,023.12 crore and collected ₹7.04 crore. The audit observations discussed in the subsequent paragraphs were identified from the test-check of records in the selected offices only. Most of the observations are of a nature that may reflect similar deficiencies/under assessments in other offices, not test-checked by Audit. Department, may, therefore, carry out internal audit in these offices to ensure that such irregularities and deficiencies, if any, stand rectified.



# **CHAPTER – II**

# **GOODS AND SERVICES TAX**



## CHAPTER-II

### GOODS AND SERVICES TAX

#### 2.1 Tax administration

In Tamil Nadu, State Goods and Services Tax (SGST) is administered by the Commercial Taxes Department (CTD) in respect of taxpayers allotted to the State. The head of CTD is the Commissioner of State Tax (Commissioner) and he is assisted by Additional Commissioners and Joint Commissioners (JCs). There are twelve<sup>1</sup> Territorial Divisions headed by JCs and the assessing units under the control of the Assistant Commissioners (AC), State Tax Officers (STO) and Deputy State Tax Officers (DSTO), collectively termed as 'Proper Officers' (POs), function under these Territorial Divisions. There are nine<sup>2</sup> Intelligence divisions headed by JC (Intelligence) having Roving squads for intercepting and checking vehicles and Adjudication cells for adjudicating issues arising out of detention of goods and vehicles by Roving squads. The Secretary, Commercial Taxes and Registration Department controls and monitors the CTD.

#### 2.2 Internal audit

Internal audit is a vital component to enable an organisation to assure itself that the prescribed systems are functioning reasonably well. There is no separate internal audit wing in the Goods and Services Tax (GST) regime. The subject relating to internal audit is dealt in Review, Appeal and Legacy Section from 1 June 2019. This Section consists of Assistant Commissioners, State Tax Officers and Deputy State Tax Officers and number of audit parties operated during the year 2019-20 was 42.

Audit noted that out of the 306 offices to be audited, 302 offices were planned but only 103 offices were audited during the year 2021-22. The Department attributed the reasons for arrear in internal audit due to vacancy of Assistant Commissioners and supporting staff. The Department may consider strengthening internal audit so that all the units due for audit are completed in a time bound manner.

Audit noted that 11,031 paragraphs with money value of ₹688.43 crore were outstanding as at the end of 31 March 2022 as detailed in **Table 2.1**.

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<sup>1</sup> Chennai Central, Chennai East, Chennai North, Chennai South, Coimbatore, Erode, Large Taxpayers Unit, Madurai, Salem, Tirunelveli, Trichy and Vellore.

<sup>2</sup> Chennai I, Chennai II, Coimbatore, Erode, Madurai, Salem, Tirunelveli, Trichy and Vellore.

**Table 2.1: Outstanding internal audit paras**

Year	Opening Balance		Additions		Clearance		Closing Balance	
	Paras	Value (₹ in crore)	Paras	Value (₹ in crore)	Paras	Value (₹ in crore)	Paras	Value (₹ in crore)
2019-20	29,790	1,102.43	16,399	787.58	19,073	615.60	27,116	1,274.41
2020-21	27,116	1,274.41	8,741	226.82	13,767	608.24	22,090	893.00
2021-22	22,090	893.00	6,520	381.29	17,579	585.86	11,031	688.43

(Source: Details furnished by the Department)

The number of outstanding paras is steadily on the decline from 2019-20. Since there is time restriction for issue of notices and re-opening of assessments, it is recommended that expeditious action may be taken to clear the remaining paras also.

### **2.3 Results of audit**

During the year, a Subject Specific Compliance Audit on “Department’s oversight on GST payments and Return filing” was taken up and the findings are discussed in the following paragraphs.

### **2.4 Subject Specific Compliance Audit Report on “Department’s oversight on GST payments and Return filing”**

#### **2.4.1 Introduction**

Good and Services Tax (GST) was introduced from 1 July 2017 with an intention to replace multiple State and Central levies such as Value Added Tax (VAT), Sales Tax (ST), Excise Duty (ED), Service Tax, etc. It 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 Tamil Nadu Goods and Services Tax Act, 2017 (the TNGST Act) stipulates GST as a self-assessment-based tax, whereby the responsibility for calculating tax liability, discharging the computed tax liability and filing returns is vested with 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 had no tax liability during a particular tax period, it must file a ‘nil’ return mandatorily. Further, Section 61 of the Act read with Rule 99 of Tamil Nadu Goods and Services Tax Rules, 2017 (the TNGST 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 State Taxes Department (Department), Government of Tamil Nadu (GoTN), in this new tax regime.

#### 2.4.2 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:

- Whether the rules and procedures are designed to secure an effective check on tax compliance and are being duly observed by taxpayers; and
- Whether the scrutiny procedures, internal audit and other compliance functions of the assessment circles are adequate and effective.

#### 2.4.3 Audit Scope

The scope of audit comprised examination of taxpayers' compliance, scrutiny process and subsequent follow up carried out by the Department on returns filed by the registered taxpayers. In addition, the SSCA included review of records of a sample of taxpayers for the year 2017-18. The scope of this SSCA also included evaluation of the functions of selected Circles.

The period of review of the scrutiny of returns and verification of taxpayers' records was from July 2017 to March 2018 and that for audit of functions of selected Circles was from 2017-18 to 2020-21.

#### 2.4.4 Audit methodology and Sample Selection

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. This SSCA, has three distinct parts as under:

##### (i) Part I - Audit of Circles

For the purpose of evaluation of oversight functions, 10 assessment circles<sup>3</sup> out of 338 (2.96 per cent) with jurisdiction over highest number of selected samples for Detailed Audit were considered as the sample for audit of assessment circles.

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<sup>3</sup> Anna Salai, Chengalpattu, Dharapuram, Gandhipuram, LTU DC-I, LTU DC-IV, Mandaveli, Royapettah, Sriperumbudur and Tiruppur Central-II.

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**(ii) Part II – 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 14 parameters<sup>4</sup> such as mismatch of ITC availed between Annual Returns and Books of accounts, short payment of interest, ITC mis-matches etc. Audit selected a sample of 436 cases (out of a total of 6,43,218 representing 0.07 *per cent*) based on 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. The audit queries were issued to the respective assessment circles between March 2022 and November 2022 without further scrutiny of taxpayer's records.

**(iii) Part III - Detailed audit**

Audit selected 100 cases (out of a total of 6,43,218 representing 0.02 *per cent*) for detailed audit which involved field visits for verification of records available with the assessment circles. Taxpayers' records, like returns and related attachments and information, were accessed through Circles for evaluation of the extent of tax compliance by taxpayers. Audit utilised the SSOIDs<sup>5</sup> provided to the maximum extent feasible to examine data/documents relating to taxpayers in the back-end system (*viz.* registration, tax payment, returns and other departmental functions). The relevant granular records of the taxpayers such as invoices etc. were called through the respective assessment circles.

An entry meeting with the Secretary, Commercial Taxes and Registration Department and Principal Secretary/Commissioner of Commercial Taxes was held on 29 March 2022 in which audit objectives, criteria, scope, and methodology were explained. The Exit conference was conducted on 13 April 2023.

**2.4.5 Audit Criteria**

The source of audit criteria comprised the provisions contained in the TNGST Act, IGST Act, 2017 and Rules made thereunder. In addition, the notifications and circulars issued by 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 by Departmental officers also formed part of the audit criteria.

**2.4.6 Compliance verification by the department (Part-I)**

Three systemic areas were identified for examination in audit *viz.*, (i) effectiveness of scrutiny of returns, (ii) action taken on non-filing of

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<sup>4</sup> ITC Mismatch, RCM ITC availed, RCM payment, ISD ITC Mismatch, ISD ITC reversal, 12F- Excess ITC, 14T Ineligible ITC, 5R Total Turnover, 7G Taxable Turnover, 9R - Tax paid, Unsettled Liability, E-commerce, No GSTR-3B but GSTR-R1 available and Interest short paid.

<sup>5</sup> Single Sign On Identification Document.

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GSTR-10 after cancellation of registration and (iii) action on late filers. Accordingly, relevant information was called for from the selected 10 assessment circles<sup>6</sup>. The role of circles is to ensure compliance by taxpayers in respect of accuracy of the taxable value declared, calculation and payment of tax liabilities, filing of returns etc. The circles have a broad set of functions to be exercised in this regard, which were evaluated as part of this SSCA. Audit also examined Statistical Analytical System (SAS) reports and data maintained by the Department to identify irregularities in GST returns. During this verification, the following shortcomings were noticed:

#### **2.4.6.1 Effectiveness of scrutiny of returns**

Scrutiny of returns is an important oversight function of the department to ensure compliance to GST provisions.

As per Section 61(1) of TNGST Act, 2017, the Proper Officer (PO) shall ensure the correctness of information furnished in returns and in case of incomplete and defective information, he shall call for explanation by issue of notices. If explanation is not received within the time granted, the PO may initiate, as envisaged in Section 61(3), proper action including those under Sections 65, 66 or 67 and determine taxes and other dues under Sections 73 and 74. When Audit (March 2022) called for the details of scrutiny of returns from ten<sup>7</sup> selected assessment circles during the period from 2017-18 to 2020-21, six POs<sup>8</sup> stated (between April and December 2022) that no scrutiny was conducted during the audit period. Reply from the remaining four circles are awaited (March 2023).

Further, Audit noticed lack of detailed instructions<sup>9</sup> regarding procedure for selection of scrutiny cases and timelines to complete scrutiny by the Circles.

#### **Recommendation 1:**

**The Department may put in place an effective system of scrutiny of returns by issuing detailed instructions / Standard Operating Procedure (SOP) for conduct of scrutiny, duly incorporating the selection methodology and timelines for completion of scrutiny by the Circles.**

#### **2.4.6.2 Lack of action on belated filers**

As per Section 39 of the TNGST Act, 2017, read with Rule 61(1) of TNGST Rules, 2017, GSTR-3B shall be filed each month, by 20<sup>th</sup> of the succeeding month. The return shall contain details of inward and outward supplies, ITC availed and tax paid. As per Section 50 (1) of the TNGST Act, read with GO Ms. No. 61 dated 29 June 2017, an interest of 18 *per cent* per annum shall be paid on belated payment of dues.

<sup>6</sup> Anna Salai, Chengalpattu, Dharapuram, Gandhipuram, LTU DC-I, LTU DC-IV, Mandaveli, Royapettah, Sriperumbudur and Tiruppur Central-II.

<sup>7</sup> Anna Salai, Chengalpattu, Dharapuram, Gandhipuram, LTU DC-I, LTU DC-IV, Mandaveli, Royapettah, Sriperumbudur and Tiruppur Central-II.

<sup>8</sup> Chengalpattu, Dharapuram, Gandhipuram, LTU DC-I, LTU DC-IV and Tiruppur Central-II.

<sup>9</sup> Circular No.26/2021-TNGST (PP2/GST-15003/62/2021) Dated 29 October 2021.

During the perusal of SAS data in the ten selected circles, Audit noticed that in 19,634 cases, there was belated filing of returns and consequent belated payment of tax. The interest on this belated payment of tax amounted to ₹35.38 crore. The POs failed to notice the delayed payment of tax and hence did not initiate any action.

When this was pointed out (between September 2022 and November 2022), the POs, LTU DC-I and LTU DC-IV stated (between September and December 2022) that ASMT-10<sup>10</sup> were issued to the taxpayers. PO, Sriperumbudur stated (December 2022) that ASMT-10 were issued to 581 taxpayers at the instance of Audit and 78 taxpayers had paid interest of ₹1.56 crore. PO, Dharapuram stated (July 2022) that ASMT-10 would be issued. Reply from the remaining six circles is awaited (March 2023).

**Recommendation 2:**

**Since tax can be paid only on filing of returns, belated filing of returns results in belated disclosure of transactions and belated payment of tax. The POs should strictly monitor filing of returns by the taxpayers and initiate timely action, not only to collect interest, but also to make best-judgment assessments as provided in the statute.**

**2.4.6.3 Lack of action for non-filing of GSTR-10 after cancellation of Registration**

**(i) Non-filing of returns by cancelled taxpayers**

As per Section 45 of the TNGST Act, 2017 read with Rule 81 of TNGST Rules, 2017, every registered person whose registration has been cancelled shall furnish a final return in Form GSTR-10 within three months of the date of cancellation or the date of order of cancellation, whichever is later. The last date for furnishing of GSTR-10 by those taxpayers whose registration has been cancelled on or before 30-09-2018 was extended till 31-12-2018 vide Notification annexed to G.O. (Ms) No. 141 dated 26 October 2018. In case GSTR-10 was not filed by the taxpayer, the POs shall issue notices in GSTR-3A and proceed for best of his judgment under Section 62 in case of failure to reply to the notice.

From the MIS Reports, Audit noticed that, in the sampled circles, 6,663 out of 7,033 cancelled taxpayers did not file GSTR-10 and pay tax. The POs did not initiate action to recover the dues, if any, by issuing notice in GSTR-3A and best judgement assessment under Section 62, if required.

This was brought to the notice of Department between October 2022 and November 2022. Reply is awaited (April 2023).

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<sup>10</sup> Notice for intimating discrepancies in the return after scrutiny.

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**(ii) Receipt of supply by Cancelled Taxpayers**

Audit analysis of SAS data showed that in eight<sup>11</sup> out of the ten selected circles, 1,259 cancelled taxpayers continued to receive inward supplies even after the date of cancellation of their registration. The value of such supply amounted to ₹228.03 crore. The POs, however, failed to initiate action based on the SAS report. This was brought to notice of the Department in November 2022. Reply is awaited (April 2023).

**(iii) Issue of invoices by Cancelled Taxpayers**

Audit scrutiny of the GSTR-1 and GSTR-3B data with the cancelled taxpayers list downloaded from MIS report revealed that 20 taxpayers (259 invoices) pertaining to seven<sup>12</sup> assessment circles continued to issue invoices with cancelled GSTIN for a taxable value amounting to ₹2.91 crore even after their registrations were cancelled. Out of the tax due of ₹18.87 lakh on these trades, the taxpayers had paid ₹15.60 lakh. There was a due of ₹3.27 lakh. The system had permitted the taxpayers to file GSTR-1 and GSTR-3B even after their registrations were cancelled. This was brought to the notice of Government in January 2023. Reply is awaited (April 2023).

**(iv) Obtaining of new registration without filing GSTR-10**

From the data furnished by the Department pertaining to the ten selected circles, Audit noticed that 438 out of 6,663 cancelled taxpayers had obtained 458 new registrations both under the State and the Central jurisdictions without filing GSTR-10 and clearing the tax dues. Out of these 438 cancelled taxpayers, 215 obtained new registration within the State jurisdiction and 168 obtained new registration in the same name. Audit further found that 99 out of the above 215 cancelled taxpayers had obtained 103 new registrations in the same circle in which they were assessed prior to cancellation. These irregularities were noticed in eight<sup>13</sup> offices. Although the data of cancelled dealers was available with the POs, they did not verify and correlate the data before granting new registration. This was brought to notice of the Department during October 2022 and November 2022. Reply is awaited (April 2023).

**(v) Non-realisation of foreign exchange in respect of the service exports**

As per Rule 96A of the TNGST Rules, any registered person availing the option to supply goods or services for export without payment of integrated tax shall furnish, prior to export, a bond or a Letter of Undertaking in **FORM GST RFD 11** to the jurisdictional Commissioner, binding himself to pay the tax due along with the interest specified under sub-Section (1) of Section 50 within a period of fifteen days after the expiry of one year, or such further period as may

<sup>11</sup> Anna Salai, Chengalpattu, Dharapuram, Gandhipuram, Mandaveli, Royapettah, Sriperumbudur and Tiruppur Central-II.

<sup>12</sup> Anna Salai, Chengalpattu, Dharapuram, Gandhipuram, Mandaveli, Sriperumbudur and Tiruppur Central-II.

<sup>13</sup> Anna Salai, Chengalput, Dharapuram, Gandhipuram, Mandaaveli, Royapettah, Sriperumbudur and Tiruppur Central-II.

be allowed by the Commissioner, from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange or in Indian rupees, wherever permitted by the Reserve Bank of India.

On scrutiny of data relating to cancelled dealers, Audit noticed that a taxpayer assessed in Mandaveli circle had voluntarily obtained cancellation of registration with effect from 30/11/2020. Further scrutiny of the GSTR-9 filed by the taxpayer revealed that the taxpayer had made export of services amounting to ₹2.25 crore during 2018-19 and 2019-20. However, taxpayer had not submitted the Foreign Inward Remittance Certificate (FIRC) details even after the lapse of three years. The PO failed to ensure realisation of foreign exchange before cancelling the registration.

This was brought to the notice of the Department in October 2022. Reply is awaited (April 2023).

### **Recommendation 3:**

**Allowing a registered person to raise invoices to procure using a cancelled GSTIN is a major system flaw that would defeat the very purpose of cancellation of registration. Hence, it is recommended to introduce a system check for not allowing cancelled GSTINs to have any transactions in the GST network, by updating the status of such GSTINs on a real-time basis. Further, in the case of re-registrations, the POs shall ensure that the taxpayers had filed GSTR-10 and had cleared their liabilities before granting registration and responsibility shall be fixed on the officials who cause loss of revenue due to erroneous re-registration.**

#### **2.4.7 Centralised Audit (Part II)**

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

Out of the 14 prescribed GST returns<sup>14</sup> the following basic returns that apply to normal taxpayers were considered for the purpose of identifying deviations, inconsistencies and mismatches between GST returns/data:

- GSTR-1: monthly return furnished by all normal and casual registered taxpayers making outward supplies of goods and services or both and contains details of outward supplies of goods and services.

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<sup>14</sup> GSTR-1, GSTR-3B, GSTR-4 (taxpayers under the Composition scheme), GSTR-5 (non-resident taxable persons), 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-9C (Reconciliation Statement), GSTR-10 (Final return), GSTR-11 (person having UIN and claiming a refund), CMP-08, and ITC-04 (Statement to be filed by a principal/ Job worker about details of goods sent to/received from a job-worker).

- GSTR-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 crore in a particular financial year. It is basically a reconciliation statement between the annual returns filed in GSTR-9 and the taxpayer's audited annual financial statements.
- GSTR-2A: a system-generated statement of inward supplies for a recipient. It contains the details of all B2B transactions of suppliers declared in their Form GSTR-1/5, ISD details from GSTR-6, details from GSTR-7 and GSTR-8 respectively by the counterparty and import of goods from overseas on bill of entry, as received from ICEGATE Portal of Indian Customs.

#### 2.4.7.1 Audit findings based on Data analysis

The details of GST data analysis on the 14 identified parameters and extent of deviations/mismatches observed are summarised in **Table 2.2**.

**Table 2.2: Summary of data analysis and mismatches observed by Audit**

Sl. No.	Parameter	Algorithm used	Number of deviations/ mismatches	Amount of deviations/ mismatches (₹ in crore)
<b>Domain: ITC</b>				
1	ITC mismatch between GSTR-2A and GSTR-3B - [Dimension 1]	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 the subsequent year 2018-19 from Table 8C of GSTR-9	50	1,210.46

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Sl. No.	Parameter	Algorithm used	Number of deviations/mismatches	Amount of deviations/mismatches (₹ in crore)
2	ITC availed under RCM vs payment of tax in GSTR-3B/GSTR-9 – [Dimension 2]	RCM payments in GSTR-3B Table 3.1(d) were compared with ITC availed in GSTR-9 Table 6C, 6D and 6F. In cases where GSTR-9 was not available, the check was restricted within GSTR-3B - tax discharged in Table 3.1(d) vis-a-vis ITC availed Table 4A(2) and 4A(3)	50	342.72
3	Short payment of tax under RCM vs ITC availed in GSTR-3B/GSTR-9 – [Dimension 3]	RCM payments in GSTR-9 Table 4G (tax payable) were compared with ITC availed in GSTR-9 Table 6C, 6D and 6F (ITC availed). In cases where GSTR-9 was not available, RCM payment in GSTR-3B Table 3.1(d) was compared with GSTR-3B 4(A)(2) and 4A(3). Greater of difference in GSTR-9 and GSTR-3B considered where both were available.	15	11.38
4	Incorrect availing of ISD credit – [Dimension 4]	ISD transferred in GSTR-9 Table 6G or GSTR-3B Table 4(A)(4) was compared with the sum of Table 5A, Table 8A, and Table 9A of GSTR-6 of recipient GSTINs	25	47.69
5	Incorrect ISD credit reversal – [Dimension 5]	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-6S	6	0.21
6	Mismatch of ITC availed between Annual returns and Books of accounts [Dimension 6]	Positive figure in GSTR-9C Table 12F and examination of reasons provided in Table 13 for mismatch	25	466.39
7	Reconciliation between ITC availed In Annual returns with expenses in financial statements – [Dimension 7]	Positive figure In GSTR-9C Table 14T and examination of reasons provided in Table 15 for mismatch	23	1,682.28
<b>Domain: Tax payments</b>				
8	Mismatch in <b>turnover</b> declared in GSTR-9C Table 5R – [Dimension 8]	Negative figure in GSTR-9C Table 5R and examination of reasons provided in Table 6 for mismatch	50	12,727.68
9	Mismatch in <b>taxable turnover</b> declared in GSTR-9C Table 7G – [Dimension 9]	Negative figure in GSTR-9C Table 7G and examination of reasons provided in Table 8 for mismatch	47	2,054.88
10	Mismatch in tax paid between books of accounts and returns – [Dimension 10]	Negative figure in GSTR-9C Table 9R and examination of reasons provided in Table 10 for mismatch	50	147.19
11	Unsettled liabilities – [Dimension 11]	The 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.	26	679.61

Sl. No.	Parameter	Algorithm used	Number of deviations/ mismatches	Amount of deviations/ mismatches (₹ in crore)
12	Composition taxpayer also availing ecommerce facility – [Dimension 12]	E-commerce GSTR-8 became effective from 1/10/2018 when TCS provisions became effective. GSTINs declared in GSTR-8 who are also filing GSTR-4 under composition scheme.	19	-
13	GSTR-3B was not filed but GSTR-1 is available – [Dimension 13]	Taxpayers who have not filed GSTR-3B but have filed GSTR-1 or where GSTR-2A available, indicating taxpayers carrying on the business without discharging tax.	25	15.45
14	Short payment of interest – [Dimension 14]	Interest calculated at the rate of 18 per cent on cash portion of tax payment on delayed filing of GSTR-3B vis-a-vis interest declared in GSTR-3B	25	18.15

#### 2.4.7.2 Response to Audit

Audit selected a sample of 436 from amongst the top deviations/ inconsistencies in each of the 14 parameters for the year 2017-18. The audit queries were issued to the respective assessment circles between March and November 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 were yet to be received, as of March 2023, for 181 inconsistencies (42 per cent) communicated to the Department as summarised in **Table 2.3** which represent deviations/mismatches of ₹1,891.92 crore.

**Table 2.3: Details of cases where reply was not received**

Audit Dimension	Sample		Department Reply not received		Percentage	
	Number	Amount of mismatch (₹ in crore)	Number	Amount (₹ in crore)	Number	Amount (₹ in crore)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
ITC Mismatch (D1)	50	1,210.46	26	422.42	52	35
RCM ITC availed (D2)	50	342.72	17	42.03	34	12
RCM payment (D3)	15	11.38	11	8.34	73	73
ISD ITC Mismatch (D4)	25	47.69	11	32.90	44	69
ISD Reversal (D5)	6	0.21	4	0.19	67	92
12F – Excess ITC (D6)	25	466.39	11	184.99	44	40
14T Ineligible ITC (D7)	23	1,682.28	11	798.94	48	47
5R Total Turnover (D8)	50	-*	20	-	40	-
7G Taxable Turnover (D9)	47	-**	11	-	23	-
9R – Tax paid (D10)	50	147.19	23	87.53	46	59
Unsettled Liability (D11)	26	679.61	6	300.30	23	44

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
E-commerce (D12)	19	0.00	9	0.00	47	--
No 3B but R1 available (D13)	25	15.45	12	8.72	48	56
Interest short paid (D14)	25	18.15	9	5.56	36	31
<b>Total</b>	<b>436</b>	<b>4,621.51</b>	<b>181</b>	<b>1,891.92</b>	<b>42</b>	<b>41</b>

\* Total unreconciled turnover (TO) in table 5R of GSTR-9C in 50 cases was ₹12,727.68 crore.

\*\* Total unreconciled turnover (TO) in table 7G of GSTR-9C in 50 cases was ₹2,054.88 crore.

**Recommendation 4:**

**Department may urgently pursue the 181 mismatches and deviations pointed out by Audit, for which responses have not been provided and intimate the results to Audit immediately. Since the time for assessment lapses in September 2023, there is a risk of these cases being time-barred for assessment and consequent recovery of revenue, if any.**

*2.4.7.3 Summary of deficiencies noticed during Centralised audit*

Based on responses received from the Department to the Audit Queries, the extent to which each of the 14 parameters translated into compliance deviations is summarised in **Table 2.4**.

**Table 2.4: Summary of deficiencies**

Audit Dimension	Cases where response received		Department reply is acceptable to the Audit		Compliance deviations							
			Total		Recovery made or SCN issued <sup>15</sup>		ASMT-10 / Notice issued		Department's reply not acceptable to Audit		Total	
	No.	Amount (₹ in crore)	No.	Amount (₹ in crore)	No.	Amount (₹ in crore)	No.	Amount (₹ in crore)	No.	Amount (₹ in crore)	No.	Amount (₹ in crore)
A	B	C	D	E	F	G	H	I	J	K	L	M
ITC Mismatch (D1)	24	788.04	9	60.38	3	25.95	10	402.38	2	1.79	15	430.12
RCM ITC availed (D2)	33	300.69	24	63.06	0	0.00	9	237.64	0	0.00	9	237.64
RCM payment (D3)	4	3.03	3	2.27	0	0.00	1	0.76	0	0.00	1	0.76
ISD ITC Mismatch (D4)	14	14.79	9	11.07	0	0.00	5	3.72	0	0.00	5	3.72
ISD Reversal (D5)	2	0.01	1	0.00	0	0.00	1	0.01	0	0.00	1	0.01
12F- Excess ITC (D6)	14	281.40	10	225.42	1	20.06	3	\$	0	\$	4	20.06
14T Ineligible ITC (D7)	12	883.34	8	714.85	0	0.00	4	#	0	#	4	#

<sup>15</sup> Recovery of ₹5.46 crore made in two cases and SCN issued for ₹150.95 crore (including penalty and interest) in 13 cases.



Audit Dimension	Cases where response received		Department reply is acceptable to the Audit		Compliance deviations							
			Total		Recovery made or SCN issued <sup>15</sup>		ASMT-10 / Notice issued		Department's reply not acceptable to Audit		Total	
	No.	Amount (₹ in crore)	No.	Amount (₹ in crore)	No.	Amount (₹ in crore)	No.	Amount (₹ in crore)	No.	Amount (₹ in crore)	No.	Amount (₹ in crore)
5R Total Turnover (D8)	30	- <sup>16</sup>	16	-	2	88.02	10	-	2	-	14	88.02
7G Taxable Turnover (D9)	36	- <sup>17</sup>	20	-	1	- <sup>18</sup>	13	-	1	-	15	-
9R - Tax paid (D10)	27	59.66	17	41.25	0	0.00	7	15.65	3	2.77	10	18.42
Unsettled Liability (D11)	20	379.31	11	202.29	2	15.57	7	161.87	0	0.00	9	177.44
E-commerce (D12)	10	0.00	8	0.00	0	0.00	2	0.00	0	0.00	2	0.00
No GSTR-3B but GSTR-R1 available (D13)	13	6.73	2	2.68	4	5.96	7	1.77	0	0.00	11	7.73
Interest short paid (D14)	16	12.58	5	4.05	2	0.85	9	7.61	0	0.00	11	8.46
<b>Total</b>	<b>255<sup>19</sup></b>	<b>2,729.58</b>	<b>143</b>	<b>1,327.32</b>	<b>15</b>	<b>156.41</b>	<b>88</b>	<b>831.41</b>	<b>8</b>	<b>4.56</b>	<b>111</b>	<b>992.38</b>

§ This includes one case yet to be examined by the Department.

<sup>16</sup> Total unreconciled turnover (TO) in table 5R of GSTR-9C in 30 cases where responses received is ₹5,327.67 crore, out of which ₹475.94 crore in eight cases were due to data entry errors, eight cases with TO of ₹2,608.43 crore were having valid explanations from the department, in two cases SCN was issued for ₹88.02 crore (including penalty), in 10 cases ASMT 10 was issued for TO of ₹1,554.33 crore, department reply was not acceptable to audit in two cases with TO ₹244.44 crore.

§ Compliance deviation of unreconciled ITC in table 12F of GSTR-9C (ASMT 10 issued with unreconciled ITC of ₹35.93 crore).

# Compliance deviation of unreconciled ITC in table 14T of GSTR-9C (ASMT 10 issued with unreconciled ITC of ₹168.49 crore).

<sup>17</sup> Total unreconciled turnover(TO) in table 7G of GSTR-9C in 36 cases where responses received is ₹1,599.78 crore, out of which ₹25.90 crore in one case is yet to be examined by the department, ₹571.80 crore in 14 cases were due to data entry error, in six cases with TO ₹384.36 crore were having valid explanations from the department, in one case with TO ₹16.60 crore SCN was issued for entire unreconciled TO, ASMT 10 was issued in 13 cases with TO ₹590.09 crore, department reply was not acceptable to audit in one case with TO ₹11.03 crore.

<sup>18</sup> SCN was issued for entire unreconciled TO of ₹16.06 crore.

<sup>19</sup> This includes one case yet to be examined by the Department.

\* Audit pointed out deviation amounting to ₹20.46 crore in these three cases out of which valid explanation was provided for ₹14.07 crore and an amount of ₹0.87 crore is yet to be paid.

& Audit pointed out deviation amounting to ₹58.86 crore. However, department action included interest and penalty amounting to ₹4.07 crore.

Audit noticed deviations from the provisions of the Act in 111 cases, involving an amount of ₹992.38 crore constituting 44 *per cent* of the 255 inconsistencies/ mismatches in data, for which the Department provided responses. Out of this, Department has accepted the audit observations or initiated action in 103 cases with tax effect of ₹987.82 crore. Department recovered ₹5.46 crore in two cases, issued SCN in 13 cases for ₹150.95 crore. Form ASMT-10 was issued in 88 cases for ₹831.41 crore. In 8 cases, the reply of department is not acceptable to Audit. Relatively higher rates of deviations were noticed in risk parameters such as ITC mismatch and undischarged tax liability.

In 143 cases constituting 56 *per cent* of replies received, where the department's reply was acceptable to audit, data entry errors by taxpayers comprised 74 cases, department had proactively taken action in 26 cases and 43 cases had other valid explanations.

In one case, the department is yet to examine the observation.

#### ***2.4.7.4 Centralised Audit - Reasons for deviations/mismatches noticed during data analysis***

Considering the Department's response to 255 cases, the factors that caused the data deviations/inconsistencies are as follows:

**(a) Deviations from GST law and rules:** Out of 255 deviations summarised in **Table 2.4** above, the Department had accepted the audit observations or initiated action in 103 cases with tax effect of ₹987.82 crore. Out of these cases, the Department, has recovered ₹5.46 crore in two cases and issued SCN in 13 cases for ₹150.95 crore, issued Form ASMT 10 conveying the discrepancies to the taxpayer in 88 cases for ₹831.41 crore. The top five cases accepted or where action was initiated by the Department amounted to ₹677.56 crore. Top case under each dimension is illustrated below.

**(i) Excess ITC availed (D1):** GSTR-2A is a purchase related dynamic form that is automatically generated for each business by 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, GSTR-9 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.

Audit observed that in case of taxpayer M/s. Seoyon E-Hwa Summit Automotive India Private Limited (33AAGCS4350J1ZD) assessed in LTU DC-I circle, ITC available as per GSTR-2A was ₹220.19 crore and the ITC availed as per table 4A(5) of GSTR-3B was ₹212.79 crore and ITC availed during April 2018 to March 2019 on inward supplies received during 2017-18 as per table 8C of GSTR-9 was ₹216.16 crore resulting in mismatch of ₹208.76 crore. When this was pointed out (March 2022), the Department stated (April 2022) that ASMT 10 was issued to the taxpayer in April 2022.

**(ii) Mismatch of ITC on RCM (D2):** Under Reverse Charge Mechanism, the liability to pay tax is fixed on the recipient of supply of goods or services instead

of the supplier or provider in respect of certain categories of goods or services or both under Section 9(3) or Section 9(4) of the SGST Act, 2017 and under sub-section (3) or sub-section (4) of Section 5 of the IGST Act, 2017.

GSTR-9 is an annual return to be filed once for each financial year, by the registered taxpayers who were regular taxpayers, including 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 Reverse Charge Mechanism (RCM) for the year 2017-18, the datasets pertaining to GSTR-3B and annual return GSTR-9 were compared to check whether the ITC availed on RCM was restricted to the extent of tax paid. 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 4A (2)<sup>20</sup> and 4A (3)<sup>21</sup>.

Audit observed that in the case of the taxpayer M/s. Seoyon E-Hwa Summit Automotive India Private Limited (33AAGCS4350J1ZD) assessed in LTU DC-I circle, the ITC available as per the tax payable under RCM in table 3.1(d) of GSTR-3B was ₹1.11 crore whereas the ITC availed in table 6C, 6D & 6F of GSTR-9 was ₹223.89 crore resulting in mismatch of excess availing of ITC under RCM amounting to ₹222.78 crore. When this was pointed out (March 2022), Department stated (April 2022) that ASMT 10 was issued to the taxpayer in April 2022.

**(iii) Excess availment of ITC on RCM without payment of Tax (D3):** The extent of availing of ITC under RCM for the year 2017-18 without discharging equivalent tax liability or, in other words, short payment of tax under RCM was analysed by comparing the datasets pertaining to GSTR-3B and annual return GSTR-9 to check whether the tax has been discharged fully on the activities/transactions under RCM. In cases where GSTR-9 was filed, the RCM payments in Table 4G<sup>22</sup> was compared with ITC availed in Table 6C, 6D and 6F. In cases where GSTR-9 was not available, RCM payments in GSTR-3B Table 3.1(d)<sup>23</sup> was compared with GSTR-3B 4(A) (2)<sup>24</sup> and 4A (3)<sup>25</sup>.

Audit observed that in the case of the taxpayer M/s. Pachamuthu Ramu (33AAXPR0449K2Z3) assessed in Devakottai circle, ITC credit under RCM amounting to ₹0.76 crore was availed through GSTR-9 with no payment on RCM made through GSTR-3B. When this was pointed out (March 2022), the department stated (September 2022) that DRC-01A was issued to the taxpayer in September 2022.

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<sup>20</sup> Import of services.

<sup>21</sup> Inward supply (liable to reverse charge).

<sup>22</sup> Inward supplies on which tax is to be paid on reverse charge basis.

<sup>23</sup> Inward supply (liable to reverse charge).

<sup>24</sup> Import of services.

<sup>25</sup> Inward supply liable to reverse charge other than import of goods and services.

**(iv) Irregular availing of ITC by recipient on ISD credit (D4):** 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.

Audit observed in the case of the taxpayer M/s. Steel Authority of India Ltd (33AAACS7062F1ZL), assessed in Salem Rural circle, that the ITC availed in table 6G of GSTR-9 was ₹1.30 crore and ITC transferred by the ISD in table (5A+8A+9A) of GSTR-6 was ₹0.29 crore, resulting in a mismatch of ₹1.01 crore. When this was pointed out (June 2022), the Department stated (August 2022) that ASMT 10 was issued to the taxpayer in July 2022.

**(v) Incorrect ISD credit reversal by the recipient (D5):** To analyse the correctness of ITC reversed by the taxpayers, the adjustments made by the Input Service Distributor (ISD) in their GSTR-6 returns were compared with the ITC reversals of the recipients declared in their annual return.

Audit observed in the case of the taxpayer M/s. SMR Automotive Systems India Limited (33AAFCS0021D1Z7), assessed in Poonamallee circle, that the ITC reversed in table (7B+7H) of GSTR-9 was NIL and ITC adjustments by the ISD in table (negative figures (8A+9A)) of GSTR-6 was ₹0.19 crore, resulting in a mismatch of ₹0.19 crore. When this was pointed out (June 2022), the Department stated (November 2022) that ASMT 10 was issued to the taxpayer in November 2022.

**(vi) Unreconciled ITC in Table 12F of GSTR-9C (D6):** 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 SGST Rules, 2017, 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.

Unreconciled ITC declared in Table 12F of GSTR-9C of ₹2.93 crore being mismatch of ITC availed in GST returns and ITC on items booked in financial statement, in case of M/s. Chakravarthy Plastic Industries (33AAHFC3090P1Z7), assessed in Perundurai circle was noticed. When this was pointed out (March 2022), the Department stated (December 2022) that DRC-01 was issued to the taxpayer in November 2022.

**(vii) Unreconciled ITC in Table 14T of GSTR-9C (D7):** Table 14 of GSTR-9C reconciles ITC declared in annual return (GSTR-9) with ITC availed on expenses as per audited annual financial statements or books of accounts. Column 14T of this table deals with unreconciled ITC. The certified reconciliation statement submitted by the taxpayer as required under the rule 80(3) of SGST Rules, 2017, in form GSTR-9C for the year 2017-18 was analysed at data level to review the extent of identified mismatch in ITC

declared in the Annual Return with the expenses reported in the Financial Statements.

Unreconciled ITC of ₹58.93 crore declared in Table 14T of GSTR-9C, being ITC availed in GST returns in excess of eligible ITC based on expenses reported in financial statements, in case of, M/s. Siemens Gamesa Renewable Power Private Limited (33AACCG6027C1Z6), assessed in Madhavaram circle, was noticed. When this was pointed out (March 2022), the Department stated (November 2022) that ASMT 10 was issued to the taxpayer in November 2022.

**(viii) Unreconciled turnover in Table 5R of GSTR-9C (D8):** Table 5 of GSTR-9 C is the reconciliation of turnover declared in audited annual financial statement with turnover declared in annual turnover (GSTR-9). Column 5R of this table captures the unreconciled turnover between the annual return GSTR-9, and that declared in the Financial Statement for the year after the requisite adjustments.

The certified reconciliation statement submitted by the taxpayer as required under Rule 80(3) of SGST 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.

In respect of the taxpayer, M/s. Siemens Gamesa Renewable Power Private Limited (33AACCG6027C1Z6), assessed in Madhavaram circle, Audit noticed an unreconciled turnover of ₹367.34 crore as declared in Table 5R of GSTR-9C. When this was pointed out (March 2022), the Department stated (November 2022) that ASMT 10 was issued to the taxpayer in November 2022.

**(ix) Unreconciled taxable turnover in Table 7G of GSTR-9C (D9):** 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 SGST Rules, 2017, in Form GSTR-9C for the year 2017-18 was analysed at data level to review the extent of identified mismatch in taxable turnover reported in the Annual Return vis-à-vis the Financial Statements. The unreconciled amount in cases where the turnover in GSTR-9 is less than the financial statement indicates non-reporting, under-reporting, short-reporting, omission, error in reporting of taxable supplies.

In respect of M/s. Zoho Corporation Private Limited (33AAACZ4322M1ZA) assessed in Maraimalainagar circle, Audit noticed an unreconciled taxable turnover of ₹220.03 crore as declared in Table 7G of GSTR-9C. When this was

brought to the notice of the Department (March 2022), the PO stated (May 2022) that ASMT 10 (May 2022) was issued to the taxpayer.

**(x) Unreconciled tax liability in Table 9R of GSTR-9C (D10):** The certified reconciliation statement submitted by the taxpayer as required under rule 80(3) of SGST Rules, 2017, 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 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 paid at incorrect rates, incorrect depiction of taxable turnover as exempt or vice versa or incorrect levy of CGST/SGST/IGST. There can also be situations wherein supplies/tax declared are reduced through amendments (net of debit notes/credit notes) in respect of the 2017-18 transactions carried out in the subsequent year from April to September 2018. Consequential interest payments also need to be examined in this regard.

In respect of the taxpayer, M/s. Narayanan Chandrasekar (33ACGPN3201Q1ZL) assessed in Vellore-South circle. Audit noticed unreconciled payment of tax of ₹5.64 crore as declared in Table 9R of GSTR-9C. When this was brought to the notice of the Department (March 2022), the PO stated (January 2023) that DRC-01A (January 2023) was issued to the taxpayer.

**(xi) Short declaration of tax liability (D11):** GSTR-1 depicts the monthly details of outward supplies of Goods or Services. The details are also assessed by the taxpayer and mentioned in annual return GSTR-9 in the relevant columns. Further, taxable value and tax paid thereof is 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. In the case of GSTR-3B, Tables 3.1(a)<sup>26</sup> and 3.1(b)<sup>27</sup> were taken into account.

Audit observed that in the case of the taxpayer, M/s. Ministry of Railways (33AAAGM0289C1ZQ), under LTU DC-I, there was an undischarged tax liability amounting to ₹83.95 crore which was communicated to the Department vide Audit query (March 2022). The liability declared by the taxpayer in GSTR-9 (Table 4) was ₹365.86 crore. However, the tax discharged in GSTR-9 (Table 9) was only ₹281.91 crore. When this was pointed out (March 2022), the PO stated (April 2022) that ASMT 10 was issued to the taxpayer in April 2022.

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<sup>26</sup> Outward taxable supplies (other than zero rated, nil rated and exempted).  
<sup>27</sup> Outward taxable supplies (Zero rated).

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**(xii) Non filing of GSTR-3B - Non-Payment of tax but passing ITC (DI3):** GSTR-3B return under Rule 61(5) of SGST Rule, 2017, is the only instrument through which the tax liability is off set and ITC is availed.

Effort was made through data analysis to identify those taxpayers who had not filed GSTR-3B but filed GSTR-1 or whose GSTR-2A was available. The very availability of GSTR-1 and 2A and non-filing of GSTR-3B indicates that the taxpayers had undertaken/carried on the business during the period but have not discharged their tax liability. It may also include cases of irregular passing on of ITC.

The datasets pertaining to relevant fields in GSTR-1, 2A and 3B were analysed in case of taxpayer M/s. Mohammed Hanifa Parveen (33DCRPP7650H1Z3) assessed in Gudiyatham (West) circle. It was observed that the taxpayer had not filed GSTR-3B in 2017-18 and potential tax liability flowing from GSTR-1 of ₹1.10 crore was noticed. When this was pointed out (March 2022), the PO stated (January 2023) that DRC-07 was issued in May 2022 and DRC-09 issued in August 2022.

**(xiii) Short payment of interest (DI4):** Section 50 of the Act stipulates that every person liable to pay tax in accordance with the provisions of this Act or the rules made thereunder but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay interest at the rate notified.

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

In respect of M/s. Noble Tech Industries Private Limited (33AABCV9111H1ZJ) assessed in LTU DC-IV circle, Audit noticed that there was a short payment of interest of ₹2.01 crore due to belated filing GSTR-3B. When this was pointed out (March 2022), the PO stated (February 2023) that ASMT 10 was issued to the taxpayer in October 2022.

**(b) Inconsistencies/mismatches not accepted by the Department but rebutted by Audit:** Out of the audit sample of 436 cases of mismatch/inconsistencies, the Department did not accept mismatches/deviations pointed out by Audit in eight cases amounting to ₹4.56 crore. Audit, however, did not agree with the contention of the Department in these cases and had issued rebuttals. A few illustrative cases are given below:

**(i) Excess ITC availed (DI):** Audit observed that in case of taxpayer M/s. P S T Engineering Construction (33AABFP9618C1ZH) under Tiruchengodu Rural, ITC available as per GSTR-2A was ₹11.80 crore and the ITC availed as per table 4A(5) of GSTR-3B was ₹267.55 crore resulting in mismatch of ₹255.74 crore which was communicated through an Audit query. When this was pointed out (March 2022), the PO stated (August 2022) that the taxpayer

had inadvertently availed excess ITC of ₹254.60 crore and the same was already reversed. Further, the excess ITC availed was not utilised for discharging tax. The reply is not acceptable as even after considering the data entry error, there still exists an excess claim of ITC of ₹1.14 crore. It was further noticed that the closing balance of ITC at the end of March 2018 was ₹251.87 crore which is ₹3.87 crore less than the excess ITC pointed out by Audit. Thus, it is evident that taxpayer had utilised an amount of ₹3.87 crore for discharging tax. Hence interest must be levied on the utilised ITC. Department's reply is awaited.

**(ii) Unreconciled turnover in Table 5R of GSTR-9C (D8):** Unreconciled turnover of ₹198.96 crore declared in Table 5R of GSTR-9C was noticed in case of M/s. Ravindranath GE Medical Associates Private Limited (33AABCR4013N1ZJ) assessed in Medavakkam circle. When this was pointed out (March 2022), the PO stated (May 2022) that unreconciled turnover is exempted turnover which was entered wrongly due to technical glitches. The reply is not acceptable, since, on audit scrutiny it was noticed that the taxpayer had reported exempted turnover of only ₹72.16 crore in GSTR-9. Further, the exempted turnover as per GSTR-3B was ₹181.93 crore and as per GSTR-1, it was ₹267.33 crore. The department needs to examine wide variation in the exempted turnover amounts.

**(iii) Unreconciled turnover in Table 7G of GSTR-9C (D9):** Unreconciled turnover of ₹11.03 crore declared in Table 7G of GSTR-9C was noticed in case of M/s Erode District Co-Operative Milk Producers Union Limited (33AAAAE0560A1ZO), assessed in Brough Road circle and communicated (March 2022) to the Department. When this was pointed out (March 2022), the PO stated (January 2023) that unreconciled turnover pertains to pre-GST service bills, income tax refunds and exempt supplies. However, no supporting documents were enclosed. Hence, Audit could not ascertain the veracity of the reply.

**(iv) Unreconciled tax liability in Table 9R of GSTR-9C (D10):** Unreconciled tax liability of ₹0.80 crore declared in Table 9R of GSTR-9C was noticed in case of M/s Bharathi Weaning Food Manufacturing Women Dev Industrial Co-operative Society (33AAAAB8146R1ZE), assessed in Devakottai circle. When this was pointed out (March 2022), the PO stated (December 2022) that the taxpayers' total liability was ₹1.43 crore and the taxpayer had paid an amount of ₹1.17 crore. The reply is not acceptable since as per GSTR-3B the taxpayer had paid ₹0.66 crore against the tax liability of ₹1.43 crore. The taxpayer still had to pay an amount of ₹0.77 crore along with applicable interest. Department's reply is awaited.

**(c) Data entry error by taxpayers:** The data entry errors constituted 29 per cent (74 cases) of the cases where responses were received from the Department. These data entry errors did not have any revenue implications. A case is illustrated below:

Audit observed that in case of a taxpayer, Gupta Agencies (GSTIN 33AFWPR3660N1ZM) assessed in Mettupalayam Road circle, the tax liability



under GSTR-9 was ₹59.12 crore and the tax paid as per GSTR-9 was ₹2.09 crore. This resulted in an undischarged tax liability of ₹57.03 crore. When this was pointed out (March 2022), the PO stated (July 2022) that the taxpayer had inadvertently entered ₹57.61 crore instead of ₹0.58 crore in SGST amount of GSTR-9 return resulting in excess tax liability.

#### **Recommendation 5:**

**The Department may take up the matter with the GST council to insert adequate validation controls in the GST portal to curb data entry errors, enhance taxpayer compliance and facilitate better scrutiny.**

**(d) Action taken before issue of audit queries:** The Department had already taken action in 26 cases constituting 10 *per cent* of the total responses received. The top three circles which had proactively addressed the deviations/inconsistencies are indicated in **Table 2.5**.

**Table 2.5: Action taken before audit query - circle-wise**

Circle	Action taken before audit query	Type of action	Responses received
Sriperumbudur	4	Excess ITC availed already reversed	4
Ambattur industrial estate	3	Additional liability has already been paid, excess ITC availed already reversed.	3
Aranthangi	2	Excess ITC availed already reversed	2

#### **2.4.7.5 Miscellaneous Findings**

In addition to the 14 risk parameters examined in Centralised audit, Audit noticed certain miscellaneous findings as follows:

(a) Audit noticed that M/s TNQ Books & Journals Private Limited (33AABCT3050B1Z3), assessed in Tiruvanmiyur Assessment circle, had undergone demerger and subsequently the assets and liabilities were transferred to the demerged company. On scrutiny of GSTR-9 filed by the taxpayer, it was noticed that the taxpayer had shown unreconciled ITC amounting to ₹7.31 crore in his GSTR-9 but as per financial statements the ITC was shown as Nil. The reason stated in the return was that the ITC pertained to the demerged company and hence not accounted in books. However, the above taxpayer had obtained a refund of unutilised ITC of ₹2.81 crore during 2018-19. As the available ITC pertained to the new entity, the refund claim by the above taxpayer was not admissible. This was brought to notice of the Department in September 2022. Reply is awaited (April 2023).

(b) Audit noticed that M/s Sify technologies Limited (33AAACS9032R1ZY), under Assistant Commissioner Office, Kotturpuram, was granted a refund of unutilised ITC of ₹1.21 crore for July 2017. Audit scrutiny revealed that the balance ITC at the end of the tax period was only ₹10,000. The excess refund of ₹1.21 crore granted has to be remitted back with

interest. This was brought to notice of the Department in June 2022. Reply is awaited (April 2023).

(c) As per Section 140(3) of TNGST/CGST Act read with Rule 117(4) (a) (i) and (iii) of TNGST/CGST Rules, a registered person who was not registered under the existing law shall be allowed to avail of input tax credit on goods held in stock on the appointed day in respect of which he is not in possession of any document evidencing payment of tax by submitting a statement in Form TRAN-2.

Audit noticed that M/s Rajkrishna Aditya Auto Store Private Limited (33AABCR2879L1Z1), assessed in Saravanampatti West circle, had availed CGST Transitional credit amounting to ₹40.69 lakh through TRAN-2. However, Audit ascertained that the taxpayer was a registered person under erstwhile central laws and hence not eligible to avail CGST credit through TRAN-2. This was brought to notice of the Department in August 2022. Reply is awaited (April 2023).

#### **2.4.8 Detailed Audit (Part-III)**

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 analysis of data on GST related to the State, 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. Desk review was carried out in the office of Principal Accountant General, Tamil Nadu. Based on desk review results, detailed audit was conducted in assessment 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.

### 2.4.8.1 Scope limitation

In spite of requisition and follow-up, 14<sup>28</sup> POs did not produce any taxpayers' granular records in 17 cases (17 *per cent*) out of the sampled 100 cases identified using a risk-based approach. Consequently, in these cases, audit was restricted to the information available in the returns filed by the taxpayers. Further, in another 46 cases (46 *per cent*), records were partially produced as underlying records such as invoices, credit and debit notes, ledgers, trial balance relating to State, etc., were not provided by 38 POs<sup>29</sup>. Audit could not assess eligibility of ITC claimed and extent of unsettled tax liability, which constituted a significant scope limitation. Further, since the assessments under Section 73 relating to the year 2017-18 get time-barred by September 2023, there is a risk of non-recovery of deficit revenue, if any, due to inaction of the Department. It is recommended that the POs may be made accountable for any such loss of revenue.

The jurisdiction wise non-production of records is summarised. Non-production of records constituted 17 *per cent* of the sample size and potential risk of ₹68.32 crores could not be addressed. In these cases, basic records such as financial statements were not produced and hence could not be audited.

The jurisdiction-wise partial production of records is summarised. As a result, the identified risks relating to excess/ irregular availing of ITC and undischarged liability of ₹323.47 crore could not be examined in detail by Audit.

### 2.4.8.2 Results of detailed audit

Non-compliance by the taxpayer at the various stages ultimately impact the veracity of availing/utilisation of ITC and discharge of tax payments. The audit findings are, therefore, categorised under A) availing/utilisation of ITC, and B) discharge of tax liability. The cases have been illustrated below:

#### (A) Availing/Utilisation of ITC

Input Tax Credit (ITC) means the Goods and Services Tax (GST) paid by a taxable person on purchase of goods and/or services that are used in the course or furtherance of business. To avoid cascading effect of taxes, credit of taxes paid on inward supplies can be used to set-off for payment of taxes on outward supplies.

<sup>28</sup> Annasalai, Hosur (North)-I, Kodumudi, LTU DC-III, Mandaveli, Salem Rural, Singallur North, Sriperumbudur, Thirumazhisai, Tiruvanmiyur, Tuticorin-III, Vadapalani, Vanagaram and Vepery.

<sup>29</sup> Adyar, Annasalai, Arumbakkam, Chengalpattu, Chepuk, Cholavaram, Choolai, Gandhipuram, Gudiyatham East, Guindy, Gummidipoondi, KK Nagar, KK Nagar (Madurai), Kancheepuram, Kelambakkam, Kilpauk, Kodambakkam, Koyambedu, LTU DC-IV, LTU DC-I, Mettur, Nandambakkam, Nandanam, Nanganallur, Nungambakkam, Oragadam, Palani-I, Pallavaram, Pondy Bazaar, Royapettah, Saidapet, Saligramam, Saravanampatti East, Selaiyur, Sriperumbudur, T.Nagar, Thanjavur-I and West Veli Street.

Section 16 of SGST Act, 2017 allows availing of ITC on any supply of goods or services or both which are used or intended to be used in the course of furtherance of business. Section 17(5) of the Act provides a list of goods and supplies on which the ITC cannot be availed except when the outward taxable supply is of the same category of services. Rule 36 to 45 of the SGST Rules, 2017 prescribes the procedures for availing and reversal of ITC.

Audit observed compliance deficiencies in 34 out of the 83 cases where records were fully or partially produced. The taxpayers had availed irregular/excess ITC of ₹31.08 crore. The deficiencies were mainly on account of incorrect availing of Transitional credit, excess availing of ITC on imports, availing of ITC on blocked credit, availing of SGST and CGST for inter-State supplies, non-payment of consideration within 180 days, excess availing of ITC from ISD and non-payment of interest on excess ITC utilised.

**(i) Incorrect availing of Transitional credit**

Audit observed compliance deficiencies in five cases assessed in five<sup>30</sup> circles where taxpayers had availed incorrect transitional credit of ₹17.00 crore. The cases are illustrated below:

(a) As per Rule 117(1) and 117(3) of TNGST Rules, Transitional credit can be availed by submitting a declaration in GST TRAN-1 and the same shall be credited to the Electronic Credit Ledger of the taxpayer. The details of Transitional credit availed through TRAN-1 should be reported in Table 6K of GSTR-9.

Audit noticed that Chennai Petroleum Corporation Ltd (GSTIN: 33AAACM4392C1ZU) assessed in LTU DC-III assessment circle, had declared transitional ITC as ₹15.09 crore in GSTR-9 but availed ₹27.38 crore in the electronic credit ledger. The excess ITC availed amounted to ₹12.29 crore. When this was pointed out (October 2022), the PO stated (January 2023) that DRC-01 had been issued.

(b) As per Section 140(1) of TNGST Act, the taxpayer is entitled for closing balance of VAT credit available in the last returns under the existing law. M/s. JSR Infra Developers Private Ltd., assessed in Gudiyatham East Assessment circle, availed Transitional ITC amounting to ₹3.10 crore although the closing balance of ITC as per revised VAT return was Nil. This resulted in excess availing of ITC amounting to ₹3.10 crore. This was brought to the notice of the Department in September 2022. Reply is awaited (April 2023).

(c) In terms of proviso to Section 140(3) of CGST Act, 2017 read with Rule 117 (4) (a) (i) of CGST Rules, 2017. TRAN-2 can be filed only by a dealer or trader but not by a manufacturer or a service provider who is registered under GST regime but not under pre-GST regime. Audit noticed that three taxpayers

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<sup>30</sup> Guindy, Gudiyatham (East), LTU DC-III, T. Nagar and West Veli Street.

assessed in three<sup>31</sup> assessment circles had availed CGST transitional credit amounting to ₹1.30 crore, through TRAN-2, although they were registered under pre-GST regime. Also, two of the taxpayers were registered as service providers. Hence, the taxpayers were not eligible to avail CGST credit through TRAN-2. When this was pointed out (October 2022), the PO, West Veli Street replied that the taxpayer was not registered under central excise law and hence eligible to claim Tran credit through TRAN-2. The reply is not acceptable because the taxpayer is a service provider under the GST regime and also previously registered under service tax regime. Reply is awaited from T. Nagar and Guindy assessment circles.

(d) As per Rule 10(4) (b) of TNVAT Rules, in respect of capital goods purchased within the State, the registered dealer shall be entitled to avail up to fifty *per cent* of the input tax credit in the same financial year and the balance of the input tax credit before the end of the third financial year, provided the said capital goods are in possession of the dealer. After the expiry of the third financial year, the un-availed input tax credit, if any, shall lapse to Government. As per Section 140 (1) of TNGST Act, the taxpayer is entitled for ITC on closing balance of VAT credit available in the last returns under the existing law. Audit noticed that Chennai Petroleum Corporation Ltd (GSTIN: 33AAACM4392C1ZU) assessed in LTU DC-III assessment circle, had availed Transitional ITC in respect of those invoices for which the time limit of three years had elapsed before July 2017. Since barred by time, the ITC on these invoices shall lapse. The incorrect availing of lapsed ITC as transitional credit amounted to ₹30.74 Lakh. When this was pointed out (October 2022), the PO stated that DRC-01 had been issued.

**(ii) Excess availing of ITC on Imports**

As per Rule 36(d) of TNGST Rules, the registered person shall avail ITC on imports based on Bill of Entry or similar documents prescribed under Customs Act, 1962. Audit noticed that two taxpayers assessed in two<sup>32</sup> assessment circles had availed excess ITC on imports amounting to ₹10.25 crore. These were brought to notice of the Department between July 2022 and October 2022. Reply is awaited (April 2023). A case is illustrated below:

Kaleeswari Refinery (P) Ltd. (GSTIN 33AAACK6087A1ZW), assessed in Royapuram circle availed, ₹65.43 crore as ITC on imports as per GSTR-9 for the period 2017-18. However, audit scrutiny of the bills of entry provided by the Department revealed that the IGST amount paid on imports was ₹55.37 crore. The excess availing of ITC on imports, therefore, works out to ₹10.07 crore. This was brought to notice of the Department in October 2022. Reply is awaited (April 2023).

<sup>31</sup> Guindy, T. Nagar and West Veli Street.  
<sup>32</sup> LTU DC-I and Royapuram.

**(iii) Incorrect availing of ITC on blocked credit**

As per Section 17(5) of TNGST Act, 2017, ITC is not available on supplies such as purchase of motor vehicles, food and beverages, rent a cab, works contract services, etc.

Audit scrutinised the purchase details of selected taxpayers, and it was noticed that in respect of five cases pertaining to five<sup>33</sup> assessment circles, the taxpayers had availed ITC on blocked credits. The total ineligible ITC to be reversed amounts to ₹2.21 crore along with applicable interest. These were brought to the notice of the Department between August and October 2022. Reply is awaited (April 2023). Top two cases are illustrated below:

M/s. Joyalukkas India Limited (GSTIN 33AABCJ1087G1ZU) under Gandhipuram assessment circle had availed ITC amounting to ₹1.31 crore on works contract services such as interior works, civil works and food and beverages as noticed from the ITC ledger. Since claim of ITC is not eligible on these services as per Section 17(5), the same needs to be reversed. This was brought to notice of the Department in August 2022. Reply is awaited (April 2023).

Brakes India Private Ltd. (GSTIN 33AAACB2533Q1ZP) had availed ITC amounting to ₹0.80 crore on welfare expenses, canteen expenses, repair and maintenance expenses, etc. This was noticed from the inward register of the taxpayer. Since claim of ITC is not eligible on these purchases as per Section 17(5), the same needs to be reversed. This was brought to notice of the Department in October 2022. Reply is awaited (April 2023).

**(iv) Non-payment of interest on excess ITC utilised**

As per Section 50(1) of the TNGST Act, read with GO Ms. No. 61 dated 29 June 2017, an interest of eighteen *per cent* per annum shall be paid on belated payment of dues. If excess ITC is claimed and reversed belatedly or not reversed, interest will be attracted on the amount of ITC that was utilised to pay for liability. Audit identified in four cases assessed in four<sup>34</sup> assessment circles that an interest of ₹25.63 lakh remained unpaid.

When this was pointed out (September 2022), the PO, Perundurai stated (February 2023) that the taxpayer had IGST ITC on imports amounting to ₹22.08 lakh for September 2017 which was not availed in GSTR-3B but available in books and hence there would be no excess availing of ITC. The reply is not tenable since the ITC stated to be in books was not brought into the credit ledger. This cannot be construed as ITC available for utilisation. PO, Tiruvarur stated (January 2023) that ASMT-10 has been issued to the taxpayer. Reply is awaited in the remaining two cases. An illustrative case is as follows:

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<sup>33</sup> Ambattur, Chengalpattu, Gandhipuram, Saidapet and Thanjavur – I.  
<sup>34</sup> Chepauk, Perundurai, Royapettah and Tiruvarur.

Sathya Jothi Films (GSTIN: 33AAPFS4728Q1ZE) assessed in Royapettah Circle had availed transitional ITC of ₹2.63 crore in GSTR-3B of July 2017 without filing TRAN-1 and utilised the credit for payment of tax for July 2017. However, the taxpayer had filed TRAN-1 and availed Transitional Credit only in October 2017 as noticed from credit ledger. Hence, the utilisation of incorrectly availed ITC in July 2017 for discharging output tax liabilities was not in order. The interest on this ITC utilised amounted to ₹13.38 Lakh. This was brought to notice of the Department in June 2022. Reply is awaited (April 2023).

**(v) Excess availing of ITC from Input Service Distributor (ISD)**

An Input Service Distributor (ISD) receives service on behalf of various taxpayers with the same PAN and distributes the ITC to these taxpayers for claim at their end. As per Rule 39(1) (a) of TNGST Rules, an ISD shall furnish the details of ITC distributed in a month in FORM GSTR-6. Table 6G of GSTR-9 contains the value of ITC received by the taxpayer from ISD. Table 4A (4) of GSTR-3B, which contains the details of ISD credit availed, shall tally with the Table 6G of GSTR-9. Audit noticed that two taxpayers assessed in two<sup>35</sup> assessment circles had availed excess ITC on ISD amounting to ₹23.58 lakh. One case is illustrated below:

M/s. ISS SDB SECURITY SERVICES PRIVATE LIMITED, assessed in LTU DC-IV assessment circle, declared ₹1.32 lakh as Input Tax Credit received from ISD in GSTR-9 (Table 6G). However, the ITC claimed on inward supplies from the ISD as per GSTR-3B (Table 4A (4)) was ₹24.21 lakh. This resulted in excess availing of ITC amounting to ₹22.89 Lakh. When this was pointed out (October 2022), the PO replied that ASMT-10 had been issued to the taxpayer. Reply is awaited in the second case (April 2023).

**(vi) Non-payment of consideration within 180 days**

As per 2nd proviso to Section 16(2) of TNGST Act, 2017, where a recipient fails to pay to the supplier of goods or services or both, the amount towards the value of supply along with tax payable within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest.

Audit noticed that in three cases pertaining to three<sup>36</sup> assessment circles, the recipients had failed to honour payment within the 180-day limit for supplies of goods or services received as of March 2018. The total ITC to be reversed on account of non-payment of consideration within 180 days on such invoices amounted to ₹0.20 crore which shall be collected with applicable interest. This was brought to notice of the Department between September and November 2022. Reply is awaited (April 2023). A case is illustrated below:

<sup>35</sup> Choolai and LTU DC-IV.

<sup>36</sup> Ambur, Kelambakkam and Srivilliputhur.

Buoyant Technology Constellations Private Limited (GSTIN 33AAFCM1653D1ZX), assessed in Kelambakkam circle, had received supplies amounting to ₹85.57 lakh and availed an ITC of ₹17.65 lakh on these supplies. Audit verification of the closing balance of the supplier's ledger revealed that the above amount remained unpaid for a period exceeding 180 days. Therefore, the ITC availed has to be reversed with applicable interest. This was brought to notice of the Department in September 2022. Reply is awaited (April 2023).

**(vii) Incorrect sanction of refund of accumulated ITC**

As per Circular No. 59 dated 4 September 2018 issued by CBIC, the refund amount shall be the least of (i) refund amount as per formula (ii) balance in credit ledger at the time of refund (iii) balance in credit ledger at the end of tax period for which refund is claimed.

Audit noticed that AMEC Foster Wheeler India (P) Ltd (33AAACF3204C1ZK) under Adyar assessment circle had obtained a refund of ₹4.52 crore in February 2020 for 2017-18. The taxpayer's credit ledger balance at the time of filing refund was ₹6.25 crore. Further the taxpayer's ITC at the end of 2017-18 was ₹5.71 crore. However, the taxpayer had availed excess ITC of ₹1.30 crore in 2017-18 and had the same been reversed, the ITC at the end of 2017-18 would have been ₹4.41 crore and the taxpayer refund amount would be ₹4.41 crore instead of ₹4.52 crore. The excess amount of ₹0.11 crore needs to be collected back with interest.

When this was pointed out (October 2022), the PO stated (January 2023) that ASMT-10 had been issued.

**(viii) Other ITC related irregularities noticed during audit**

In addition to regular issues relating to availing of ITC, some miscellaneous irregularities found in Audit are illustrated below:

(a) As per Section 17(2) of TNGST Act, the amount of ITC shall be restricted to Input Tax attributable to taxable supplies including zero rated supplies. Audit noticed that Tarendra Infrastructure India (P) Ltd (GSTIN 33AACCT9883F1Z1) under Mylapore assessment circle dealing only with exempt supplies had accumulated ITC of ₹33.40 lakh in his credit ledger. Hence, ITC amount needed to be reversed. This was pointed out in August 2022. Reply is awaited (April 2023).

(b) Audit found that Sana Store (GSTIN 33EXUPS4639N1ZD), assessed in K K Nagar (Madurai) assessment circle, had availed an ITC of ₹29.78 lakh in the electronic credit ledger at the end of March 2018. Audit observed from the purchase details of the taxpayer that after adjusting the available ITC against tax liability, the closing balance of ITC was only ₹3.75 lakh for 2017-18. The excess ITC availed amounted to ₹26.03 Lakh which is to be reversed by the taxpayer. This was brought to the notice of the Department in September 2022. Reply is awaited (April 2023).

(c) As per Notification No. 73/2017-CUSTOMS (N.T.) dated 26th July 2017 read with circular 22 of 2017 of CBEC dated 30/06/2017, the



drawback shall be applicable to export of a commodity if no input tax credit of the central goods and services tax or of the integrated goods and services tax has been availed on the export product or on any of the inputs or input services used in the manufacture of the export product for the transition period of July 2017 to September 2017.

Audit noticed that Naps India Shoes (P) Ltd (GSTIN 33AADCN0120C1ZG), assessed in Ambur assessment circle, had availed drawback for the exports made during this transition period of three months. The taxpayer had also availed proportionate ITC of ₹14.23 lakh during this period. Since the taxpayer had availed drawback on these exports, the taxpayer shall reverse the ITC claimed and pay the interest applicable. This was brought to notice of the Department in August 2022. Reply is awaited (April 2023).

(d) As per Section 16 (2) (c) of TNGST Act 2017, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless the tax charged in respect of such supply has been actually paid to the Government. Audit noticed in two cases assessed in two<sup>37</sup> assessment circles that the suppliers of these taxpayers had not filed GSTR-3B and had not paid tax. The registration of one of the suppliers had also been cancelled with retrospective effect from 1 July 2017. However, the taxpayers had availed ITC amounting to ₹8.05 lakh on inward supplies from these suppliers. Therefore, the relevant POs shall initiate action towards recovery of tax due from these suppliers as per tax jurisdiction. This was pointed out between July 2022 and October 2022. Reply is awaited (April 2023).

**(ix) Mismatch in claim of ITC as noticed from Returns**

When Audit analysed the GSTR-2A data of selected taxpayers along with GSTR-3B, GSTR-9 and GSTR-9C filed by the taxpayers, there were instances of mismatches of ITC among various returns and tables. Audit could not derive assurance on these mismatches since relevant records were not produced/partially produced by Department. Also, in 152 instances out of 185 (82.16 *per cent*), involving ₹292.38 crore, the Department did not furnish reply. The details are tabulated in **Table 2.6**.

Since the time for assessment lapses in September 2023, there is a risk of these cases being time-barred for assessment and consequent recovery of revenue, if any. It is recommended that time-bound action may be taken to ascertain the reasons for the mismatch and arrange to recover the dues, if any.

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<sup>37</sup> Thanjavur - I and Vepey.

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Table 2.6 Mismatch in claim of ITC

Sl. No.	Parameter	No. of cases	No. of circles	Amount of mismatches (₹ in crore)	Remarks
1	Non reversal of ITC availed for Exempt and Non-GST supplies. As per Section 17(2) of TNGST Act, 2017, read with Rules 42 and 43 of TNGST Rules, 2017, ITC shall be availed only in proportion to the taxable supply if the total supply consists of taxable, exempted and non-GST supply.	18	16	140.60	When these cases were pointed out to the Department (between July and October 2022), the PO, Palani-I stated (December 2022) that the ITC of ₹0.01 crore had been reversed. The PO, LTU DC-III stated (January 2023) that DRC-01 for an amount of ₹31.05 crore had been issued. PO's of LTU DC-IV and Palani-II circles stated (between October and December 2022) that ASMT-10 for an amount of ₹100.16 crore had been issued to the taxpayers. Reply is awaited in respect of remaining circles twelve circles (April 2023).
2	ITC mismatch between GSTR-2A and GSTR-3B. The ITC available as per GSTR-2A was ₹620.24 crore but the ITC availed by the taxpayers as per GSTR-3B was ₹744.62 crore.	68	59	124.38	When these cases were pointed out to the Department (between June and November 2022), the PO, Sengottai, stated (March 2023) that the amount of ₹0.46 lakh had been collected. The PO, Tiruppur Central-II, stated (February 2023) that DRC-07 (demand notice) for ₹0.09 crore had been issued. PO, Tiruvallur stated (July 2022) that it was a clerical error. However, necessary evidence in support of the reply was not provided to Audit. The POs of seven <sup>38</sup> circles stated that ASMT-10 for an amount of ₹5.38 crore (between November 2022 and February 2023) had been issued to the taxpayers. The PO of Choolai assessment circle stated (April 2022) that ASMT-10 would be issued to the taxpayer. Reply is awaited from the remaining 48 circles (April 2023).
3	Mismatch in ITC availed as per Table 8D of GSTR-9. Table 8D of GSTR-9, captures the difference in ITC as per GSTR-2A and GSTR-3B at the time of filing GSTR-9.	45	41	88.70	When these cases were pointed out to the Department (between July and November 2022), the PO, Nanganallur stated that the differential ITC was due to claim through physical invoices and the matching of credit in GSTR-2A with GSTR-3B was effective only from January 2022. As per Section 16 of TNGST Act, 2017, the claim of ITC based on physical invoices shall be subject to final remittance of tax by the supplier. But, in these cases, the invoices were not reported in GSTR-1 and taxes had not been paid. Therefore, the reply is not tenable. The PO, Tiruvallur, stated (July 2022) that the differential amount had been rectified in GSTR-9. However, documents evidencing the rectification were not provided. The PO, Tiruppur Central-II, stated (February 2023) that DRC-07 (demand notice) for ₹0.09 crore had been issued. The POs of LTU DC-IV and West Veli Street stated (between October and December 2022) that ASMT-10 for an amount of ₹15.91 crore had been issued. The PO, Choolai stated (April 2022) that ASMT-10 would be issued to the taxpayers. Reply is awaited in respect of remaining 35 circles (April 2023).

<sup>38</sup>

LTU DC-IV, Kodumudi, Koyambedu, Singanallur (North), Thirumangalam, Tiruvarur and Tuticorin-III.

Sl. No.	Parameter	No. of cases	No. of circles	Amount of mismatches (₹ in crore)	Remarks
4	ITC mismatch between GSTR-2A and GSTR-9. ITC amounting to ₹301.27 crore was declared in GSTR-9 (Table 6B + 8C – 7H) but ITC as per GSTR-2A was ₹248.02 crore	14	12	53.26	When these were pointed out to the Department (between June and October 2022), the PO, Sengottai, stated (March 2023) that the amount of ₹0.46 lakh had been collected. PO, LTU DC-IV and Tuticorin-III stated (between November and December 2022) that ASMT-10 for an amount of ₹0.68 crore had been issued to the taxpayers. Reply is awaited in respect of remaining nine circles (April 2023).
5	Mismatch in ITC availed as per Table 6J of GSTR-9. Table 6J captures the differences between 6A and 6I. Table 6A of GSTR-9 contains the details of ITC availed in GSTR-3B during the financial year. The breakup of Table 6A is disclosed in Table 6B to 6H of GSTR-9.	21	20	19.15	When these cases were pointed out to the Department (between June and October 2022), PO, Tirumangalam stated (December 2022) that the difference is on account of transitional credit availed in GSTR-3B. The reply is not acceptable because the taxpayer should avail transitional ITC only through TRAN-1 and not through GSTR-3B. However, the taxpayer had not filed TRAN 1. The PO of Palani-I stated that the taxpayer had committed typographical error while filing GSTR-9. However, evidence in support of the reply was not produced to Audit. Four <sup>39</sup> POs stated (between November 2022 and January 2023) that ASMT-10 for an amount of ₹5.63 crore had been issued. The PO of Choolai assessment circle stated (April 2022) that ASMT-10 would be issued to the taxpayer. Reply is awaited in respect of remaining 13 circles (April 2023).
6	Unreconciled ITC as per Table 14T of GSTR-9C. Table-14T of FORM GSTR-9C captures the difference between the ITC availed on various expenses as per books (Table 14R) and ITC as declared in the GSTR-9.	6	6	12.88	These cases were pointed out to the Department during September 2022 and October 2022. Reply is awaited (April 2023).
7	Unreconciled ITC as per Table 12F of GSTR-9C. Table-12F of GSTR-9C captures the difference between the total ITC as computed from the books of account (Table-12D) and ITC as declared in the GSTR-9.	8	8	11.27	These cases were pointed out to the Department between September 2022 and November 2022. Reply is awaited (April 2023).
8	Mismatch in ITC availed under RCM. Table 3.1 (d) of GSTR-3B which contains the details of Inward supplies that are liable to reverse charge was compared with RCM ITC shown in Table 6C, 6D and 6F of GSTR-9.	3	3	3.51	These cases were brought to the notice of the Department (between August 2022 and October 2022). Reply is awaited (April 2023).
9	Mismatch in ITC availed under RCM. Table 3.1(d) of GSTR-3B which contains the details of Inward supplies that are liable to reverse charge was compared with RCM ITC availed in Table 4A (2) and 4A (3) of GSTR-3B.	2	2	1.04	These cases were brought to the notice of the Department (between August 2022 and October 2022). Reply is awaited (April 2023).

**(B) Undischarged Tax liability**

Audit observed compliance deficiencies in 56 out of the 83 cases where records were fully or partially produced wherein taxpayers did not discharge their tax liability amounting to ₹22.68 crore. The deficiencies were mainly on account of incorrect rates of tax adopted, non-payment and short payment of tax, reporting of taxable supplies as exempt and non-payment of interest on belated discharge of liability.

**(i) Incorrect adoption of tax rate**

Audit noticed that in respect of six cases pertaining to six<sup>40</sup> Assessment circles, the taxpayers adopted incorrect rates of tax. The tax rates adopted were different from the tax rates liable to be paid for the HSN codes. Due to erroneous rates adopted, the taxpayers paid only ₹18.65 crore against ₹28.91 crore due to be paid. This resulted in short payment of tax amounting to ₹10.26 crore. The tax has to be collected with interest applicable. When this was pointed out to the Department (between August 2022 and October 2022), the PO, Koyambedu assessment circle replied that ASMT-10 would be issued to the taxpayers. Reply is awaited from the remaining five circles. The short payment in top five cases was ₹10.26 crore. Top two cases are illustrated below:

(a) The rate of GST for Works Contract service has been prescribed as 18 *per cent* as per Notification No. 11/2017-Central Tax (Rate) dated 28/06/2017, if supplies are between two private entities. JSR Infra Developers Private Ltd. (GSTIN 33AADCJ4440P1ZE), assessed in Gudiyatham East Circle, had adopted a rate of 12 *per cent* for works contract service provided to non-Government agencies as against 18 *per cent* applicable. It resulted in short payment of tax of ₹9.10 crore. This was brought to the notice of the department in September 2022. Reply is awaited (April 2023).

(b) Alectrona Energy Private Ltd., (GSTIN 33AAICA6165H1ZP), assessed in Sriperumbudur circle, adopted a rate of five *per cent* for HSN 8543 (Electrical machines and apparatus) as noticed from the HSN wise summary of GSTR-1. However, the applicable rate was 18 *per cent*. It resulted in short payment of tax of ₹0.97 crore. This was brought to the notice of the department in October 2022. Reply is awaited (April 2023).

**(ii) Non-payment of taxes due to non-reporting of taxable supplies**

In eight cases relating to seven<sup>41</sup> assessment circles, the taxpayers did not report taxable supplies in their returns. The information on these supplies was available through invoices or entries made in books of accounts. The total tax due to unreported supplies amounted to ₹2.83 crore. In top five cases, the tax due on the unreported supplies amounted to ₹2.69 crore. When this was pointed out (October 2022), the POs of LTU DC-III and Tiruvarur replied that ASMT-10 had been issued. Reply is awaited from the remaining six circles. Top two cases are illustrated below:

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<sup>40</sup> Ambur, Gudiyatham (East), Koyambedu, Oragadam, Peelamedu (South) and Sriperumbudur.

<sup>41</sup> Adayar, Ettayapuram, Kilpauk, LTU DC-III, Nandambakkam, Selaiyur and Tiruvarur.

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(a) M/s. Micro Therapeutic Research Labs Private Ltd (GSTIN 33AAECM1669E1ZO), assessed in Selaiyur Circle, had reported income of ₹6.52 crore from clinical research services in his financial statements but had not reported this in GSTR-1. It resulted in non-payment of tax amounting to ₹1.17 crore. This was brought to the notice of the department in September 2022. Reply is awaited (April 2023).

(b) Triveni Logistics Services LLP (GSTIN 33AAIFT5946N1ZK), assessed in Kilpauk circle, did not report an income of ₹2.16 crore in GSTR-1 in respect of five invoices which was noticed from the invoices relating to 2017-18 produced to audit. This resulted in non-payment of tax amounting to ₹38.87 lakh. This was brought to the notice of the department in August 2022. Reply is awaited (April 2023).

**(iii) Non-payment of taxes due to unaccounted purchases**

Three taxpayers assessed in three<sup>42</sup> assessment circles did not report purchases amounting to ₹1.22 crore. The details of purchases were available in the books of accounts. From the closing stock and sundry creditor details, it was also ascertained that the stocks were sold in 2017-18. The non-reporting of purchases and the consequent sales resulted in suppression of turnover. When this was pointed out (between July 2022 to November 2022), the PO, Tiruvarur stated (January 2023) that ASMT 10 for an amount of ₹1.4 lakh had been issued. Reply is awaited from remaining two circles. The top case is illustrated below: M/s. Gabriel traders (GSTIN 33BKIPG5263L1Z0), assessed in Saidapet circle, had a difference in purchases as per sundry creditors and as per GSTR-2A amounting to ₹1.02 crore. In spite of the above difference, the purchases as per financial statements and as per GSTR-2A was matching. Thus, it is evident that the differential purchase value was unaccounted. This was brought to the notice of the Department in November 2022. Reply is awaited (April 2023).

**(iv) Non-payment of taxes due to incorrect reporting of taxable supplies as exempt supplies**

As per Section 76 (1) and 76 (4) of TNGST Act, every person who has collected tax from any other person and has not paid the said amount to the Government shall pay the said amount along with interest.

CISF RTC (GSTIN 33AAALC0609B2Z2), assessed in Arakkonam assessment circle, had collected tax amounting to ₹1.71 crore on outward supplies amounting to ₹12.50 crore as per sales register. However, the same was reported as exempt supplies in GSTR-3B. This resulted in non-payment of tax amounting to ₹1.71 crore. This was brought to the notice of the Department in August 2022. Reply is awaited (April 2023).

**(v) Non-payment of tax reported in GSTR-9C**

Part V of GSTR-9C captures the additional liability to be paid due to non-reconciliation based on the Auditor's recommendation.

Mr. Molly Jaison (GSTIN 33AEDPM3111R1ZI), assessed in Saligramam assessment circle, had shown additional liability of ₹28.69 lakh in GSTR-9C. However, the same was not paid.

<sup>42</sup> Ettayapuram, Saidapet and Tiruvarur.

On this being pointed out (October 2022), the PO stated (December 2022) that the amount had been recovered along with interest.

**(vi) Non-payment of tax due to non-debiting of electronic cash/credit ledger**

As per Sections 61(3) and 85(3) of TNGST Rules 2017, liability towards tax and other dues shall be discharged by debiting the electronic cash ledger or electronic credit ledger. Audit noticed that two taxpayers assessed in Ambur and Thanjavur assessment circles did not debit the electronic credit or cash ledger towards liability of ₹19.04 lakh leading to non-payment of tax. This was brought to the notice of the Department between July 2022 and August 2022. Reply is awaited (April 2023). A case is illustrated below:

Sreshta Leisure Private Limited (GSTIN: 33AAHCA0069P1ZI) under Thanjavur I assessment circle had an interest liability of ₹0.18 crore for late filing of returns in his liability register. However, the same has not been set off by debiting cash ledger. As a result, the liability remained unpaid.

**(vii) Short payment of taxes**

During verification of records, Audit noticed that there was short payment of tax on reverse charge basis, short reporting of turnover and underpayment of tax by six taxpayers assessed in six<sup>43</sup> circles amounting to ₹1.73 crore. When this was pointed out (September and October 2022), the PO, Sengottai stated (March 2023) that an amount of ₹0.07 lakh was recovered. Reply in the remaining five cases is awaited. Two illustrative cases are detailed below:

TANGEDCO (GSTIN 33AADCT4784E1ZC), assessed in LTU DC-I assessment circle, had an outstanding GST liability of ₹22.56 crore as per the financial statements under reverse charge mechanism. However, scrutiny of GSTR-3B of March 2018 revealed that the tax paid on reverse charge basis was only ₹21.66 crore. This resulted in a short payment of ₹0.90 crore. This was brought to notice of the Department in September 2022. Reply is awaited (April 2023).

DHL Supply Chain India Private Ltd. (GSTIN 33AAECD6334M2ZJ), assessed in Thirumazhisai circle, had made supplies with HSN code 9967 (warehouse management services) which attract tax of ₹4.97 crore at 18 *per cent* as noticed from GSTR-1. However, the tax paid was only ₹4.57 crore for these supplies resulting in a short payment of ₹0.40 crore. This was brought to notice of the Department in October 2022. Reply is awaited (April 2023).

**(viii) Non-payment of interest on belated payment of tax**

As per Section 50(1) of the TNGST Act, read with GO Ms. No. 61 dated 29 June 2017, an interest of eighteen *per cent* per annum shall be paid on belated payment of dues. Audit scrutiny of GSTR-3B and GSTR-9 returns filed by the selected taxpayers for the period from July 2017 to March 2018 revealed that in

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<sup>43</sup> Guindy, LTU DC-I, KK Nagar (Madurai), Kodambakkam, Sengottai and Tirumazhisai.

respect of 39 cases assessed in 38 Assessment circles<sup>44</sup>, the taxpayers had remitted the tax amounting to ₹188.35 crore belatedly. The delay ranged from 1 to 1,734 days. However, the interest amounting to ₹2.15 crore was not paid. The interest on top five cases amounts to ₹1.10 crore.

When this was pointed out (between July 2022 and November 2022), the POs of five<sup>45</sup> assessment circles stated (between June 2022 to September 2022) that an amount of ₹6.26 lakh were collected in five cases. PO, LTU DC-I stated (September 2022) that the taxpayers had requested for waiver of interest amounting to ₹9.68 lakh on the grounds that taxpayer is a PSU working without any profit motive. The reply is not acceptable since there is no provision in the Act to waive interest on belated payment. In respect of another case, it was replied that the amount of ₹7.86 lakh had already been deposited in cash ledger. The reply is not acceptable because unless the amount is debited, it is not treated as payment. The PO, Perundurai stated (February 2023) that the taxpayer had continuous consolidated ITC and hence interest is not applicable. The reply is not tenable since tax pointed out was RCM and this had to be paid by cash and not by debiting ITC. Hence, interest would arise. Four POs<sup>46</sup> stated (between December 2022 and January 2023) that ASMT-10 for an amount of ₹0.16 crore had been issued to the taxpayers. Reply is awaited from the remaining 28 circles. The top two cases are illustrated below.

V Creations (GSTIN: 33AABPD8561A1ZC), under Mandaveli circle, had filed returns belatedly for the months of August, September, October 2017 and January, February and March 2018. The delay ranged from 151 to 255 days. The total amount paid through cash ledger during this period was ₹4.74 crore. The interest on this worked out to ₹0.38 crore which is to be paid by the taxpayer. This was brought to notice of the Department in October 2022. Reply is awaited (April 2023).

(a) First Engineering Plastics India Pvt Ltd (GSTIN: 33AAACF9947N1Z3), under Sriperumbudur circle, had filed returns belatedly for all months from July 2017 to March 2018. The delay ranged from 4 to 239 days. The total amount paid through cash ledger during this period was ₹3.64 crore. The interest on this worked out to ₹0.23 crore which is to be paid by the taxpayer. This was brought to notice of the Department in October 2022. Reply is awaited (April 2023).

**(ix) Payment of Tax under the Wrong Head**

As per Section 5(1) of IGST Act, 2017, IGST shall be levied on all inter-State supplies of goods or services or both. As per Section 9(1) of CGST and SGST

<sup>44</sup> Adayar, Ambur, Arumbakkam, Chepauk, Choolai, Ettayapuram, Gudiyatham (East), Hosur (North) - I, Kancheepuram, Kelambakkam, Kodambakkam, Kodumudi, Kotturpuram, Krishnagiri -I, LTU DC-I, LTU DC-III, LTU DC-IV, Mandaveli, Nagercoil (Rural), Nandambakkam, Nandanam, Pattaravakkam, Peelamedu (South), Perundurai, Pondy Bazaar, Royapuram, Saligramam, Selaiyur, Sriperumbudur, Srivilliputhur, Thirumazhisai, Thiruvanniyur, Thuckalay - 2, Tiruvallur, Tiruvarur, Vadapalani, Vanagaram and West Veli Street.

<sup>45</sup> Kancheepuram, Nagercoil Rural, Nandambakkam, Thuckalay-2 and West Veli Street.

<sup>46</sup> Kodumudi, LTU DC-III, LTU DC-IV and Tiruvarur.

Act, 2017, CGST and SGST shall be levied on all intra-State supplies of goods or services or both.

(a) Joyalukkas India Limited (GSTIN: 33AABCJ1087G1ZU) under Gandhipuram circle had charged IGST in the case of intra-state supplies, instead of charging CGST and SGST. The tax wrongly charged amounted to ₹48.59 lakh. This was brought to notice of the Department in August 2022. Reply is awaited (April 2023)

(b) TTK Prestige Limited (GSTIN: 33AAACT6503G1ZQ), assessed in Hosur (North) – I assessment circle, had charged CGST and SGST instead of IGST in the case of inter-State supplies. The tax wrongly charged amounts to ₹11.27 lakh. This was brought to notice of the Department in September 2022. Reply is awaited (April 2023).

**(x) Non-payment of tax due under Reverse Charge Mechanism**

(a) Tax liability under RCM is auto-populated in the GSTR-2A of the recipient. The RCM liability shall be declared in the GSTR-3B return and the tax shall be paid through cash ledger.

Six taxpayers assessed in six<sup>47</sup> circles had liability amounting to ₹3.65 crore as inward supplies liable to reverse charge. However, the tax paid was only ₹1.37 crore. This resulted in short payment of tax of ₹2.27 crore. When this was pointed out between June 2022 and October 2022, the PO, Choolai stated (April 2022) that ASMT-10 would be issued. Reply in the remaining five cases is awaited. A case is illustrated below:

Tamil Nadu Generation and Distribution Corporation Limited (GSTIN: 33AADCT4784E1ZC) under LTU DC-I assessment circle had inward supplies under RCM in the GSTR-2A with tax liability amounting to ₹2.71 crore. However, the taxpayer had paid only ₹1.05 crore as RCM in GSTR-3B. This has resulted in non-payment of tax of ₹1.65 crore. This was pointed out in September 2022. Reply is awaited (April 2023).

(b) In respect of supply of services listed in Notification No 13/2017 Central Tax (rate) dated 28 June 2017, GST was payable by the recipient under RCM. Six taxpayers in six<sup>48</sup> circles did not pay tax under RCM amounting to ₹35 lakh. This was brought to notice of the Department between August and November 2022. Reply is awaited (April 2023). A case is illustrated below:

V Creations (GSTIN 33AABPD8561A1ZC), assessed in Mandaveli circle had shown expenses incurred in respect of supply of services by an author, music composer, photographer and artist which are listed in the notification ibid. This was noticed from the taxpayer's expenditure account. However, tax amounting to ₹0.17 crore under RCM was not paid for these services. This was brought to notice of the Department in October 2022. Reply is awaited (April 2023).

**(xi) Other irregularities noticed during audit**

(a) As per Rule 96A of TNGST Rules 2017, any registered person availing the option to supply services for export without payment of integrated tax shall furnish, prior to export, a bond or a Letter of Undertaking in FORM GST

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<sup>47</sup> Annasalai, Choolai, LTU DC-I, Kilpauk, Royapettah and Sriperumbudur.

<sup>48</sup> Choolai, Gummidipoondi, Hosur (North) - I, Mandaveli, Royapettah and Selaiyur.



RFD-11 to the jurisdictional Commissioner, binding himself to pay the tax due along with interest specified under sub-Section (1) of Section 50 within a period of fifteen days after the expiry of one year, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange. Audit noticed that four taxpayers in three<sup>49</sup> assessment circles, had export of services during 2017-18 without payment of tax amounting to ₹1,448.68 crore as per returns but produced Foreign Inward Remittance Certificates (FIRC) for only ₹1,283.90 crore. Since the FIRC showed realisation of only ₹1,283.90 crore as foreign remittance, the taxpayer needs to pay tax on the unrealised portion of exports amounting to ₹164.77 crore. This was brought to notice of the Department between June 2022 and November 2022. Reply is awaited (April 2023). The top two cases are illustrated below.

(i) Amec Foster Wheeler India Pvt Ltd (GSTIN: 33AAACF3204C1ZK), under Adyar assessment circle, had made total exports of ₹152.25 crore as per GST returns, but produced FIRC only for ₹65.96 crore. Since the FIRC showed realisation of only ₹65.96 crore as foreign remittance, the taxpayer needs to pay tax on the unrealised portion of exports amounting to ₹86.29 crore. This was brought to notice of the Department in October 2022. Reply is awaited (April 2023).

(ii) Tata Consultancy Services Limited (GSTIN: 33AAACR4849R2ZR), under Royapettah assessment circle, had made total exports of ₹1,286.18 crore as per GST returns, but produced FIRC only for ₹1,214.12 crore. Since the FIRC showed realisation of only ₹1,214.12 crore as foreign remittance, the taxpayer needs to pay tax on the unrealised portion of exports amounting to ₹72.06 crore. This was brought to notice of the Department in August 2022. Reply is awaited (April 2023).

**Recommendation 6:**

**Since there is no mechanism to watch realisation of foreign exchange on exports made without payment of tax by taxpayers, the department may establish a proper system to watch the realisation of foreign exchange.**

(b) As per Section 16(3) of IGST Act, an exporter may export goods or services with payment of tax and obtain refund of the tax paid. Triumph International (India) Private Limited (GSTIN: 33AABCT5775D1ZF) assessed in Chengalpattu assessment circle had made “Exports with Payment of tax” amounting to ₹5.22 crore and obtained a refund from the Customs department. The IGST on these supplies was ₹26.11 lakh. However, scrutiny of GSTR-3B revealed that the above supply was reported as “Exports without payment of tax” and IGST liability was reduced to the extent of ₹26.11 lakh. The tax of ₹26.11 lakh, therefore, needs to be paid with interest. This was brought to notice of the Department in August 2022. Reply is awaited (April 2023).

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<sup>49</sup> Adayar, Royapettah and Sriperumbudur.

(c) As per Notification 66/2017 – CT dated 15/11/2017, advance received for supply of goods was exempted from tax. However, the advance was taxable till 14 November 2017.

First Engineering Plastics India Pvt Ltd (GSTIN: 33AAACF9947N1Z3), under Sriperumbudur assessment circle, had received advance of ₹2.63 crore on supplies made between 1 July 2017 and 14 November 2017 but tax was not paid. Although it is possible that the tax would have been paid on raising the final invoice, the liability had arisen on the date of advance. Therefore, interest on this amount needs to be collected and payment of tax also to be verified by the department. In the absence of details of tax payment, the amount of interest could not be ascertained in Audit.

This was brought to notice of the Department in November 2022. Reply is awaited (April 2023).

(i) As per Section 34 of TNGST Act, where tax invoices have been issued for supply and the taxable value or tax charged in that tax invoice is found to exceed the actual value payable in respect of such supply, the registered person may issue credit note to the recipient and furnish the details in GSTR-1.

Kaleeswari Refinery (P) Ltd. (GSTIN 33AAACK6087A1ZW), assessed in Royapuram circle, reduced the output tax liability amounting to ₹1.27 crore stating that the reduction was on account of credit notes raised to unregistered persons. However, audit scrutiny revealed that these credit notes were not reported in GSTR-1 and that these were issued to registered persons. Thus, on one hand the taxpayer had reduced output tax payable without disclosing the same in GSTR-1 returns, on the other hand, the reversal of ITC to that extent by recipient was not ensured in GSTR-3B.

This was brought to notice of the Department in October 2022. Reply is awaited (April 2023).

**(xii) Mismatch in tax due and tax paid as per Returns filed**

Audit scrutinised the returns GSTR-1, GSTR-3B and GSTR-9 filed by the selected taxpayers for the year 2017-18 and compared the tax liability furnished in the returns. Audit could not derive assurance on these mismatches since relevant records were not produced/partially produced by the Department. Further, in 109 instances out of 154 (70.78 per cent), involving a value of ₹71.14 crore, the Department did not furnish reply. The details are tabulated in **Table 2.7**.

Table 2.7: Mismatch in tax due and tax paid

Sl. No.	Parameter	No. of cases	No. of circles	Amount of mismatches (₹ in crore)	Remarks
1	Tax liability mismatch between greatest GSTR-1, GSTR-9 and GSTR-3B. The tax liability based on the greater of the amounts furnished in the two returns (GSTR-1, GSTR-9) was found to be ₹2,488.67 crore as against the actual payment through GSTR-3B of ₹2,434.95 crore	47	40	53.72	When these cases were pointed out to the Department (between June 2022 and November 2022), the PO, Palani-I stated (December 2022) that amount of ₹0.16 crore had been collected. The PO LTU DC-III stated (January 2023) that DRC-01 for ₹0.95 crore had been issued. The PO, Tiruverkadu stated that the taxpayer had reported turnover for month of August 2017 as ₹131.34 lakh instead of ₹65.67 lakh in GSTR-1. Therefore, the tax was paid in GSTR-3B for ₹65.67 lakh. Thus, there is no excess liability. The reply is not acceptable since no credit notes were raised for these invoices. The POs of five <sup>50</sup> circles stated (between July and December 2022) that ASMT-10 for an amount of ₹8.90 crore were issued to the taxpayers. The POs of two <sup>51</sup> circles stated (between April and August 2022) that ASMT-10 would be issued. Reply is awaited in respect of remaining 30 circles (April 2023).
2	Tax liability mismatch between GSTR-1 and GSTR-9. tax liability as per GSTR-1 was ₹2,384.49 crore but the tax liability reported as per GSTR-9 was ₹2,359.13 crore	40	35	25.53	When these cases were pointed out to the Department (between June 2022 and November 2022), the PO, Srivilliputhur stated that the amount of ₹0.32 lakh had been collected. The PO, LTU DC-III stated (January 2023) that DRC-01 for an amount for ₹0.95 crore had been issued. The PO, Tiruverkadu stated (May 2022) that the taxpayer had reported turnover for month of August 2017 as ₹131.34 lakh instead of ₹65.67 lakh in GSTR-1 but the tax was paid correctly. The reply is not acceptable because, in the absence of credit notes having been raised, the recipients are eligible for ITC based on GSTR-1 filed by the taxpayer. The POs of five <sup>52</sup> circles stated (between July 2022 and January 2023) that ASMT-10 for an amount of ₹8.88 crore were issued to the taxpayers. The POs of two <sup>51</sup> circles stated (between April and August 2022) that ASMT-10 would be issued. Reply is awaited in respect of remaining 25 circles (April 2023).
3	Tax liability mismatch between GSTR-1 and GSTR-3B. Tax liability as per GSTR-1 was ₹742.08 crore but the tax paid as per GSTR-3B was ₹718.42 crore	35	27	23.66	When these cases were pointed out to the Department (between June 2022 and November 2022) the PO, Palani-I stated (December 2022) that ₹0.16 crore had been paid. However, there is still ₹1.87 lakh needed to be collected. The PO, Tiruvallur stated (July 2022) that the taxpayer liability pointed out by Audit was ₹1.04 crore but as per GST Portal, it was ₹0.81 crore. Hence the difference in liability would be only ₹0.12 lakh. The reply is not acceptable

<sup>50</sup> LTU DC-IV, Koyambedu, Mandaveli, Tiruvallur and West Veli Street.

<sup>51</sup> Choolai and T. Nagar.

<sup>52</sup> LTU DC-IV, Koyambedu, Tiruvallur, Tiruvarur and West Veli Street.

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Sl. No.	Parameter	No. of cases	No. of circles	Amount of mismatches (₹ in crore)	Remarks
					because the liability pointed out by Audit included amendments for 2017-18 made in subsequent years. The PO, LTU DC-I stated (September 2022) that the taxpayer had stated that the amount was paid in returns of subsequent months and details would be intimated shortly. The POs of five <sup>53</sup> circles stated (between October 2022 and January 2023) that ASMT-10 for an amount of ₹11.11 crore were issued to taxpayers. Reply is awaited in respect of remaining 19 circles (April 2023).
4	Mismatch in tax paid between books of accounts and returns in Table 9R of GSTR-9C.	12	11	1.54	When these cases were pointed out to the Department (between August and November 2022), the POs of Mettur Road, Tirumangalam and Namakkal Rural circles stated that an amount of ₹0.05 crore (including interest) was collected. The PO of LTU DC-IV circle stated (December 2022) that ASMT-10 for an amount of ₹0.46 crore were issued to the taxpayers. Reply is awaited in respect of remaining seven circles (April 2023).
5	Mismatch between Invoice value and sum of taxable value and tax.	3	3	0.47	When these cases were pointed out to the Department (between April and October 2022), the PO of Choolai stated (April 2022) that ASMT-10 would be issued to the taxpayer. Reply is awaited from remaining two circles (April 2023).
6	Mismatch in <b>turnover</b> declared in GSTR-9C Table 5R of ₹17.94 crore. Table 5R of the GSTR-9C provides information regarding the reconciliation of gross turnover declared in annual return (GSTR-9) with the audited annual financial statements.	8	8	-- <sup>54</sup>	When these cases were pointed out to the Department (between July 2022 and October 2022), the PO, Thirumangalam stated (December 2022) that the taxpayer did not report invoices and hence there was turnover mismatch; yet taxes have been paid correctly. The PO, however, did not furnish details. The PO's, Koyambedu and West Veli Street stated (October 2022) that ASMT-10 has been issued to the taxpayer. Reply is awaited in respect of remaining five circles (April 2023).
7	Mismatch in <b>taxable turnover</b> declared in GSTR-9C Table 7G ₹4.97 crore. Table 7G of the GSTR-9C provides information regarding the reconciliation of taxable turnover declared in annual return (GSTR-9) with the audited annual financial statements.	3	3	-- <sup>54</sup>	When these cases were pointed out to the Department (October 2022), the PO, Thirumangalam stated (December 2022) that the taxpayer did not report invoices and hence there was turnover mismatch; yet taxes have been paid correctly. The PO, however, did not furnish details. Reply from the remaining two circles is awaited (April 2023).
8	Mismatch in turnover as per GST Returns and Form 26 AS for an amount of ₹28.20 crore	2	2	-- <sup>54</sup>	These cases were brought to the notice of the Department (between September and November 2022). Reply is awaited (April 2023).
9	Mismatch in pre-GST turnover between GSTR-9C and VAT returns of the taxpayer for an amount of ₹18.09 crore	4	4	-- <sup>54</sup>	These cases were brought to the notice of the Department (September and October 2022). Reply is awaited (April 2023).

<sup>53</sup>

Kodumudi, LTU DC-IV, Singanallur (North), Tiruvarur and West Veli Street.

<sup>54</sup>

Turnover mismatch.

### (C) Non filing and late filing of Returns

As per Section 47 (2) of the TNGST Act, 2017, any registered person who fails to furnish the return required under Section 44 by the due date shall be liable to pay a late fee of one hundred rupees for every day subject to a maximum of a quarter *per cent* of his turnover. As per GO Ms. No. 165 of Tamil Nadu Commercial Taxes Department, dated 31 December 2018, the late fee was prescribed at ₹25 per day for late filing of GSTR-3B subject to a maximum of ₹5,000 under each Act. As per Section 125 of the TNGST Act, 2017, any person, who contravenes any of the provisions of this Act or any rules made thereunder for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to twenty-five thousand rupees.

Audit noticed from 21 assessment circles<sup>55</sup> that 22 out of 100 taxpayers did not file or belatedly filed GSTR-3B, GSTR-9 and GSTR-9C. The late fee / penalty worked out to ₹23.50 lakh. When this was brought to the notice of the Department (between June 2022 and October 2022), the PO, Vepery stated (August 2022) that a ASMT-10 for an amount of ₹1.74 lakh has already been issued in June 2022. However, Audit found that the ASMT-10 was issued for levy of penalty only and not for levy of late fee. The PO, LTU DC-I stated (September 2022) that the filing of GSTR-9 was optional for taxpayers with turnover less than ₹2 crore. The reply is not acceptable since turnover in the cases pointed out is more than ₹2 crore. The POs, Kodumudi and Singanallur (North) stated (December 2022 and January 2023) that ASMT-10 has been issued to two taxpayers for an amount of ₹4.50 lakh. Reply is awaited from the remaining 17 circles.

### 2.4.9 Conclusion

The Subject Specific Compliance Audit (SSCA) on Department's Oversight on GST Payments and Return Filing was undertaken in the context of varying trends 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, red flags and in some cases, rule-based deviations and logical inconsistencies in GST returns filed for 2017-18. The SSCA entailed assessing the oversight functions of assessment circles at two levels - at the data level through pan-State data queries and at the functional level with a deeper detailed audit both, of the assessment circles and of the GST returns, which involved accessing taxpayer records. The audit sample therefore comprised 10 assessment circles, 436 value inconsistencies across 14 parameters selected

<sup>55</sup> Ambur, Arakkonam, Arumbakkam, Cholavaram, K.K. Nagar (Chennai), Kancheepuram, Kilpauk, Kodumudi, Krishnagiri -I, LTU DC-I, Nandanam, Palani - I, Royapettah, Salem Rural, Singanallur (North), Sriperumbudur, Srivilliputhur, Thanjavur – I, Tuticorin – III, Vanagaram and Vepery.

through global queries and 100 taxpayers selected on risk assessment for detailed audit of GST returns for the year 2017-18.

A review of the assessment circles disclosed lack of an effective system of scrutiny of returns, lack of adequate action for non-filing of returns, and instances of issue of invoices by cancelled taxpayers.

Further, out of the high value data inconsistencies (436 cases) identified by Audit, the Department responded to 255 cases. Of these 111 cases constituting 44 *per cent*, turned out to be clear compliance deficiencies with a revenue implication of ₹992.38 crore. A relatively higher rate of deficiencies was noticed in ITC mismatch and undischarged liability risk parameters. Further, data entry errors caused the inconsistencies in 29 *per cent* of the cases, and in ten *per cent* of the cases the Department had already taken proactive action. The Department has not responded to 181 cases of inconsistencies/mismatches amounting to ₹1,891.92 crore.

Detailed audit of GST returns also suggested significant non-compliance. At the outset, the granular taxpayer records were not forthcoming in 17 out of audit sample of 100 cases, which constituted a significant scope limitation. These cases represent a potential risk exposure of ₹559.71 crore towards identified mismatches in ITC availing and tax payments. Out of the cases that were audited either fully or partially, Audit observed compliance deficiencies with a revenue implication of ₹54.65 crore. The main causative factors were availing of incorrect availing of transitional, ineligible and irregular ITC, misclassification of supplies, non-reporting of supplies for taxation, unreconciled turnover and taxes and incorrect discharge of tax under reverse charge mechanism.

Considering the significant rate of compliance deficiencies, the Department must initiate remedial measures before they get time barred. From a systemic perspective, the Department needs to strengthen the quality of documentation and reinforce the institutional mechanism in the assessment circles to establish and maintain effective oversight on return filing, taxpayer compliance, tax payments, availing of ITC, cancellation of registrations and recovery of dues from defaulters. Validation controls are required to introduce a system check for not allowing cancelled GSTINs to have any transactions in the network, by updating the status of such GSTINs on a real-time basis.

# **CHAPTER – III**

## **STATE EXCISE**





## CHAPTER-III

### STATE EXCISE

#### 3.1 Tax administration

The Commissioner (Prohibition & Excise) is the head of the Department who administers the Tamil Nadu Prohibition Act, 1937 and various other Acts/Rules. He is under the administrative control of the Additional Chief Secretary, Home, Prohibition and Excise Department. He is assisted by Joint Commissioners and Assistant Commissioners at Headquarters level and Distillery Officers, Excise Supervisory Officers at distilleries and breweries (at manufactory level). A Financial Controller, deputed from the Finance Department, helps the Commissioner in controlling the financial matters.

#### 3.2 Results of audit

Test-check of records during the period from April 2021 to March 2022 revealed non/short collection of excise duty, licence fees and other irregularities amounting to ₹32.89 crore, as given in **Table 3.1**.

Table 3.1

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1	Compliance Audit on 'Functioning of Tamil Nadu State Marketing Corporation Limited (TASMAC)'	1	30.50
2	Other observations included in Inspection Reports	95	2.39
	<b>Total</b>	<b>96</b>	<b>32.89</b>

During the course of the year 2021-22, the department accepted the audit observations in five cases and recovered an amount of ₹7.83 crore. Out of this, ₹7.76 crore was remitted into Government account on being pointed out in the Compliance Audit on "Functioning of TASMAC" during this year. The remaining four cases were pointed out during the earlier years.

The observations included in the Compliance Audit on 'Functioning of TASMAC' involving ₹30.50 crore are discussed in the following paragraphs.

#### 3.3 Compliance Audit on 'Functioning of TASMAC'

##### 3.3.1 Introduction

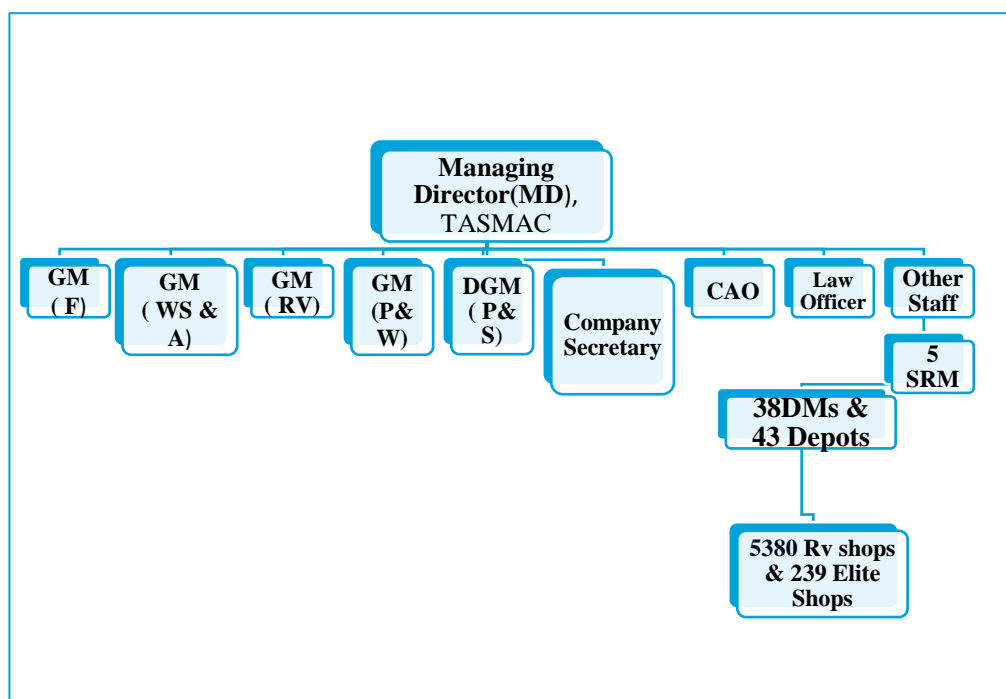
The Constitution of India, by virtue of Entries 8 and 51 of the State List in the Seventh Schedule empowers the Legislature of any State to make laws with respect to the production, manufacture, possession, transport, purchase and sale of intoxicating liquors and for levying duties of excise on alcoholic liquors for

human consumption manufactured in the State. The GST regime did not subsume liquor and therefore Value Added Tax on liquor continued to be within the State's purview.

Tamil Nadu State Marketing Corporation Limited (TASMAC), a company wholly owned by Government of Tamil Nadu, was incorporated in 1983 under the Companies Act, 1956. Initially, TASMAC was granted exclusive privilege for wholesale vending of Indian Made Foreign Spirit (IMFS) for the whole state of Tamil Nadu ending private sector participation in wholesale liquor vending. The Company was also marketing Imported Foreign Liquor (IFL), Beer and Wine products. In 2003, the Government introduced Tamil Nadu Retail Vending Rules, 2003 and granted exclusive authority to TASMAC for retail vending of IMFS and other forms of potable liquor. Thus, TASMAC is the only wholesale and retail vendor for all forms of liquor in the State. Although hotels and clubs are permitted to vend liquor to their members, they have to purchase liquor from TASMAC depots and not directly from manufacturers.

### 3.3.2 Organisational Structure

Exhibit 1: Organisational Structure



The Managing Director (MD) is head of the company and is essentially responsible for the functioning of the Company. There are four General Managers, five Senior Regional Managers (SRM) and 38 District Managers (DM) to assist him. TASMAC has five special flying squads headed by an Officer in the rank of a District Collector, to check irregularities and violations at the retail vending shops. TASMAC has 43 depots to store and supply liquor

to retail vending shops. It runs 5,380 retail vending shops and 239 Elite shops<sup>56</sup> in order to sell liquor to public throughout the State. The Commissioner of Prohibition and Excise, who is also one of the Board members of TASMAC, supervises the functioning of the company.

### 3.3.3 Functions of TASMAC

TASMAC procures various forms of potable liquor from the manufacturers and sells them through its retail vending shops to general public at a price arrived at on the basis of Act and Rules and with the approval of the Commissioner of Prohibition and Excise. It also sells liquor to hotels and clubs which are duly licensed to sell liquor to its members. TASMAC invites tender to run bars attached to the retail vending shops on periodical basis. It retains one *per cent* of the Bar tender amount and remits the balance to Government account.

TASMAC procures all forms of liquor from the manufacturers by paying a price that includes Excise Duty and VAT. The Excise Duty and VAT (first sale) collected by the manufactories are paid by them directly into Government Account. TASMAC collects VAT (second sale) from consumers and remits into Government Account. TASMAC has paid a total of ₹57,027.54 crore as Value Added Tax in the three years under coverage of Audit. The details of VAT paid by TASMAC in each year of coverage by Audit are as given in **Table 3.2**.

**Table 3.2: Details of VAT paid by TASMAC**

Year	VAT paid (₹ in crore)
2019-20	18,620.94
2020-21	18,578.85
2021-22	19,827.75
<b>Total</b>	<b>57,027.54</b>

(Source: Annual Reports of TASMAC)

### 3.3.4 Audit Objectives

The Compliance Audit is taken up with the objectives to ascertain

- Whether Functioning of the TASMAC in terms of Financial Management and Control over the revenue leakages were effective.
- Whether a proper system exists in respect of the Inventory Management.
- Whether the Internal Control mechanism in TASMAC is effective.

### 3.3.5 Audit Criteria

The audit objectives were benchmarked against the following criteria:

- (a) Memorandum and Articles of Association of the Company.
- (b) Agenda and Minutes of the meetings of the Board of Directors and Audit Committee of TASMAC.

<sup>56</sup> Shops that exclusively market premium brands.

- (c) Annual Reports of TASMAC.
- (d) Tamil Nadu Prohibition Act, 1937.
- (e) Tamil Nadu Liquor (Supply by Wholesale) Rules, 1983.
- (f) Tamil Nadu Liquor Retail Vending (In Shops and Bars) Rules, 2003.
- (g) Tamil Nadu VAT Act, 2006.
- (h) Tamil Nadu Tender Transparency Act, 2000.
- (i) Terms and conditions specified by TASMAC to the Suppliers.
- (j) Policy Notes.

### **3.3.6 Audit Scope and Methodology**

In the Performance Audit conducted on “Receipts under State Excise” in 2019<sup>57</sup>, the failure of control of the Prohibition and Excise Department over the functioning of TASMAC and the implications of the failure on Government’s revenue were discussed. In the present audit conducted between April and November 2022, the functioning of TASMAC in general, covering a period from April 2019 to March 2022, was analysed. Audit sampled seven out of 38 Offices of the District Manager (DMO) and four out of 18 IMFS and Brewery units for the purpose of this audit. The Audit team also visited the Office of the Commissioner of Prohibition and Excise, Chennai, to scrutinise allied records.

The entry conference was conducted on 4 July 2022 wherein the audit scope and methodology were explained in detail to the Additional Chief Secretary, Home, Prohibition and Excise Department, Managing Director, TASMAC and the Commissioner of Prohibition and Excise. The Exit Conference was held on 26 April 2023. The reply given by the Government and the Department in the Exit Conference has been incorporated in the report suitably. Since Audit had covered only 18.42 per cent of DMOs and 22.22 per cent of manufactories, the TASMAC management may arrange for extensive internal audit to identify similar lapses in other offices and rectify them.

### **3.3.7 Acknowledgement**

Audit acknowledges the co-operation of TASMAC in providing records and information, except the details of IMFS clearances during the audit period and details of closing stock held on 6 February 2020, in respect of the sampled depots. Audit also acknowledges the production of records required by Audit in the Office of the Commissioner, Prohibition and Excise.

### **3.3.8 Audit Findings**

The revenue of the Government of Tamil Nadu in respect of Excise Duty and VAT from manufacture and sale of liquor is furnished in **Table 3.3**.

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<sup>57</sup> Para 3.3 of CAG’s Audit Report on Revenue Sector – Government of Tamil Nadu - for the period ended March 2019.

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**Table 3.3: Revenue to Government by sale of liquor**

(₹ in crore)

Year	Excise Duty	Value Added Tax	Total
2019-20	7,205.97	24,294.72	31,500.69
2020-21	7,821.66	25,927.27	33,748.93
2021-22	8,236.63	27,814.05	36,050.68
<b>Total</b>	<b>23,264.26</b>	<b>78,036.04</b>	<b>1,01,300.30</b>

(Source: Policy Notes of Prohibition and Excise Department)

TASMAC procures IMFS and beer stocks locally from 11 IMFS manufacturers and seven beer manufacturers in the State. It also procures wine locally from one manufacturer. It imports scotch, whisky and few wine brands from other States and also from other countries. TASMAC derives income from sale of potable liquor and commission on Bar tender amount. The total income of TASMAC during the period 2019-20 to 2021-22 is as given in **Table 3.4**.

**Table 3.4: Details of income and expenditure of TASMAC**

(₹ in crore)

Year	Total Revenue	Total Expenditure	Net Profit
2019-20	20,882.15	20,937.62	(-) 55.47
2020-21	21,323.93	21,485.39	(-) 161.46
2021-22	22,880.87	22,950.79	(-) 69.92

(Source: Audited Annual Accounts of the company)

As seen above, the company was incurring minor losses, despite increase in revenue, during all the financial years under Audit coverage. For the year 2019-20, the losses were mainly due to payment of difference of VAT of ₹126.25 crore based on revision of assessment by the Commercial Tax Department. The short payment was pointed out in Audit during the last Performance Audit on Excise Department. In the year 2020-21, Government imposed lockdown of TASMAC retail shops due to Covid. This resulted in losses more than tripling when compared to the previous year. The lockdown was extended for a part of the year in 2021-22 and shops were closed from 35 days to 56 days and therefore the sale of liquor was affected. Since administrative expenses had to be incurred despite partial close down, the company incurred losses for 2021-22 also.

### **3.3.8.1 Non-payment of differential Excise Duty on the closing stock of liquor held on the date of Excise Duty revision**

As per the proviso to Section 18 C of the Tamil Nadu Prohibition Act, 1937, where there was a difference of duty between two licence periods, such difference may be collected in respect of all stocks of liquor other than foreign liquor held by the licensees at the close of the former period. As per Rule 18 A of Tamil Nadu Liquor (Licence and Permit) Rules, 1981, the Commissioner may from time to time, fix the minimum and maximum price for sale of Indian

Made Foreign Spirits (IMFS) by the retailer of the IMFS and no retailer of the IMFS shall sell the IMFS otherwise than in accordance with the above price.

During 2019-20 to 2021-22, the rates of Excise Duty (ED) rates were increased thrice on 7 February 2020, 7 May 2020 and 7 March 2022. Whenever there was any increase in Excise Duty, the TASMAC increases the MRP by preparing the price list stating the Basic price, Excise Duty, VAT payable by the manufacturer, Profit Margin, VAT payable by TASMAC, selling price and MRP per case and submits to the Commissioner who in turn circulates to all the district offices.

Audit obtained details of closing stock (06 May 2020 and 06 March 2022) and opening stock (07 May 2020 and 7 March 2022) from eight out of 43 depots in selected districts and noticed that the stock received with pre-revised MRP with a payment of pre-revised Excise Duty was cleared by adopting new Maximum Retail Price (MRP) which was raised due to the revision of Excise Duty in respect all the shops. However, no differential ED was paid in spite of the fact that the closing stock held was cleared on higher MRP. As the MRP was revised on all the occasions only due to the increase in Excise Duty rates, the TASMAC should have paid the differential Excise Duty in respect of the closing stock held on 6 May 2020 and 6 March 2022 as the TASMAC indirectly collected the revised ED by selling at the revised enhanced MRP. The total differential Excise Duty payable in this regard in respect of the eight selected depots alone worked out to ₹28.92 crore . The closing stock details as on 6 February 2020 were not produced to Audit. The amount of unpaid Excise Duty would have been higher if the closing stock details as on 6 February 2020 had been included.

During the Exit meet, Government replied (April 2023) that demand of differential duty has been raised against TASMAC for all the years wherein revision was effected.

### ***3.3.8.2 Inventory Management***

#### **Non-transparency in orders placed with manufactories**

Each manufactory in the State has its own brand of liquor which cannot be manufactured by the other manufacturers. Therefore, procurement cannot be managed by tender system. TASMAC, as the sole procurer of liquor in the State, has to adopt a demand-based procurement system to suit the needs of consumer. It is therefore essential that TASMAC adopts a consistent and unbiased procurement policy. TASMAC boasts of a comprehensive inventory policy framework which is being followed from the year 1998. As per the policy, the requirement of liquor is worked out on the first day of every month based on weighted average sale per day based on a three-month average. As per the policy, TASMAC ensures at least one month's sale is stocked as on the first day of each month. Further, the indent is regulated in order to have 15 days' stock of a particular item in the depots including stock in transit.

The policy, however, did not contemplate equitable distribution of orders across all manufactories. TASMAC, being the sole wholesale purchaser of all types of liquor permitted to operate in the State, is the lifeline of the manufactories and

most of these manufactories did renew their licences every year in anticipation of improved order book. But as the procurement policy was silent on how orders shall be distributed among manufactories, there was wide variation in quantum of orders placed with each licensee in each licence year. Due to this non-transparent policy, there were litigations. The Honourable Madras High Court, in the case of M/s Golden Vats Private Limited vs. TASMAL (W.P.Nos.1937 & 1938 of 2014) directed TASMAL, in the interest of all the manufacturers of IMFL, Stakeholders and Consumers and to avoid further controversies, to frame necessary guidelines as to the issuance of orders and indents to the manufacturers to maintain equality. As per the above orders, TASMAL was ordered to place indents to all manufacturers equitably without bias.

Audit verification of indents placed by TASMAL to manufacturers revealed that the procedure is not followed by the company as revealed by the following data given in **Table 3.5**.

**Table 3.5: Details of orders placed by TASMAL with different manufacturers**

Sl No.	Name of the company (IMFS units)	2019-20		2020-21		2021-22	
		Number of cases ordered	Per centage	Number of cases ordered	Per centage	Number of cases ordered	Per centage
1	Enrica Enterprises (P) Ltd.	88,32,250	14.67	74,46,421	13.88	74,75,939	13.12
2	Shiva Distilleries	9,84,291	1.63	<b>9,02,545</b>	<b>1.68</b>	36,25,486	6.36
3	Safil	48,40,472	8.04	39,90,437	7.44	42,28,098	7.42
4	Mohan Brew&Dist	41,85,157	6.95	57,66,956	10.75	57,22,941	10.05
5	Empee Distilleries	<b>0</b>	<b>0.00</b>	20,74,919	3.87	37,65,097	6.61
6	Midas Golden Dist	17,63,339	2.93	16,48,188	3.07	<b>14,95,861</b>	<b>2.63</b>
7	Accord Dist&Brew	94,00,212	15.61	77,47,427	14.45	64,78,113	11.37
8	SNJ Distilleries	<b>1,02,40,377</b>	<b>17.01</b>	<b>80,81,446</b>	<b>15.07</b>	<b>79,33,176</b>	<b>13.93</b>
9	Kals Distilleries	81,81,400	13.59	74,56,707	13.90	76,95,035	13.51
10	Golden Vats	55,24,624	9.17	39,56,373	7.38	31,43,922	5.52
11	KALs Brew. (IMPERIAL)	62,64,943	10.40	45,58,967	8.50	54,05,929	9.49
		<b>6,02,17,065</b>		<b>5,36,30,386</b>		<b>5,69,69,597</b>	
	<b>Breweries</b>						
12	United Breweries Ltd.Kuthambakkam	59,60,784	17.96	40,66,057	17.68	39,94,382	15.27
13	United Breweries Pvt. Ltd.	97,78,206	29.47	67,21,904	29.22	85,06,620	32.52
14	S N J Breweries Pvt Ltd.	71,53,590	21.56	51,50,681	22.39	62,02,580	23.71
15	Kals Breweries Pvt. Ltd.	58,95,147	17.77	40,73,290	17.71	44,63,387	17.06
16	Accord Dist & Brew	43,93,900	13.24	29,91,556	13.00	29,94,453	11.45
		<b>3,31,81,627</b>		<b>2,30,03,488</b>		<b>2,61,61,422</b>	

(Source: Details furnished by TASMAL)

It is seen from the above table that there was wide variation in the quantity procured from each manufacturer every year. In 2019-20, for IMFS, the variation ranged from zero to 17 *per cent*, in 2020-21 the range was from three to 14 *per cent* and in 2021-22, it varied widely from three to 17 *per cent*. Similar order variation was also noticed in the case of beer procurement. Due to this non-transparent order placement, a few manufacturers are favoured while others, with consistently low orders, have idle machinery.

During the Exit Meet, Government replied (April 2023) that it was not possible to place orders in equal quantity with all the manufacturers and steps taken by TASMACH following the Court orders would be intimated to Audit.

### **3.3.8.3 Failure of Internal Control**

#### **(i) Delay in implementation of End-to-End computerisation**

In the 185<sup>th</sup> meeting held on 31 October 2017, Board of Directors of TASMACH approved the proposal to appoint consultant for preparation of Detailed Project Report (DPR) for System Integration of wholesale IMFS Depots, Retail Vending Shops and Corporate Office. The consultant was to be appointed through Commissionerate of e-Governance (TNeGA) - Government of Tamil Nadu (GoTN).

TNeGA appointed Price Waterhouse Coopers (PWC) as consultant by following the tender process in December 2018. PWC was paid ₹1.51 crore for preparation of Detailed Project Report (DPR). PWC submitted the final DPR on 1 August 2019 for the System Integration project estimating a cost of ₹255.34 crore which was approved by Board in its 195<sup>th</sup> meeting held on 27 February 2020. Government (vide GO Ms. No. 20 Home, Prohibition and Excise (IV) Department, dated 17 June 2020) accorded permission to TASMACH to implement the Project enabling End to End computerisation of core and support functions of TASMACH through tender process. In response to tender notice (13 July 2020) for selection of System Integrator, only two bids (M/s Tata Consultancy Services Limited and M/s Oasys Cybernetics Private Limited) were received. M/s Oasys Cybernetics Private Limited was declared as successful bidder for the tender.

In this regard, Audit observed that as per clause 3.7 of the Notice Inviting Tender (Volume-I), the offer submitted by the bidders was valid for a period of 180 days from the last date of bid submission. However, the order was not placed and the tender was finally cancelled on 3 September 2022. Failure to identify the requirements and delay in obtaining the consent from the Board has not only delayed the project indefinitely, but also defeated the very purpose of appointing a consultant and paying ₹1.51 crore for the preparation of DPR.

During the Exit Meet, Government replied (April 2023) that the end-to-end computerisation involves integrating of activities of TASMACH with that of the Department and the manufactories and hence is delayed. It was also stated that the tender processes for the project would be finalised soon.



**(ii) Deficiency in Godown Monitoring System - lack of provision for capturing the Batch Number and Date of Manufacture in the Goods Receipt Acknowledgement**

On receipt of supplies at the depot, a Goods Receipt Acknowledgement (GRA) is generated through Godown Monitoring System (GMS). GRA is the primary document to account for the receipt of goods in the depots and forms the basis for making payment to the suppliers. The GRA *inter alia* contains details regarding the indents issued by the Company, invoice details of the supplier, the brand and quantity of the items invoiced and quantity of items received in good condition etc.

In this regard, Audit observed that there was no provision in GMS software for capturing the batch number and date of manufacture in the GRA. Consequently, the batch number and date of manufacture were not being reflected in the Stock Transfer Invoice at the time of movement of stock from the depot to retail vending shops. In the absence of provision in GMS software for capturing the batch number and date of manufacture in the GRA, the age-wise inventory, demurrage collectable on stock over 90 days, sediment stock, if any, are not ascertainable through the system. In the absence of these details, the adoption of First-in-First-Out (FIFO) could not be ensured in audit. The design of the GRAs is defective and the internal control system has failed to identify and rectify the design.

During the Exit Meet, Government replied (April 2023) that the shortcomings pointed out in Audit would be overcome once the end-to-end computerisation project is implemented.

**3.3.8.4 Lapses in transport tender**

While the manufacturers deliver stock to TASMAC depots, the depots in turn have to deliver the stock to retail vending shops at their own expense. Therefore, TASMAC calls for tender to transport stock from its depots to vending shops periodically. Until 2020, the tenders were finalised by the District Managers and from 2021, the processing was centrally made by the Senior Regional Manager. The year-wise expenditure incurred by the company towards transporting stock from depots to retail vendors is given in **Table 3.6**.

**Table 3.6: Expenditure incurred by TASMAC on transport of stock**

(₹ in crore)

Year	Expenditure for the State	Expenditure on selected eight Depots
2019-20	102.11	30.22
2020-21	92.76	26.28
2021-22	104.55	30.71

(Source: Details provided by TASMAC)

Scrutiny of tender documents for transport of stock revealed the following irregularities:

- The e-submission of open tenders were activated in Government website from 1 January 2008 and guidelines for acceptance of e-tenders were issued vide GO Ms. No. 360 dated 8 December 2017. However, TASMAC accepted all bids in physical form. Since e-tendering was introduced with a view to making the tendering process more transparent and competitive, TASMAC's decision to accept physical tenders rendered the process non-transparent.
- Scrutiny of tender documents showed that the same entities participated in the above tenders. The details are as given in **Table 3.7.**

**Table 3.7: Details of successful bidders for various periods**

DMO	Successful bidder	Period
Tiruppur	KSM Transport	2012-13, 2013-14 and from 2015 to 2023
Kangeyam	Arul Jothi Enterprises	2012 to 2017
	KSM Transport	2017 to 2023
Kancheepuram South	Vedprakash	2012 to 2018
	Karpagavinayaga Transport	2019 to 2023
Coimbatore North	Sun Transport	2013 to 2021
Tiruvallur West	PR Transport	2012 to 2023
Kancheepuram North	Sree Gokul Transport	2015 to 2023

(Source: Details provided by TASMAC)

It is seen from the above table that the same entity / person had been repeatedly awarded the transport tender for more than ten years in each DMO. Further, it is also noticed that only a few tenderers repeatedly participated in the tender process. The tender process therefore is quite non-transparent and competition is totally discouraged. The issue is not flagged by the internal control system of the company. When the potential cartelisation in the tender process by a few entities was pointed out (September 2022), TASMAC replied that it had no choice but to choose from those who applied for the tender. TASMAC should have realised that limited participation in the tender may be due to cartelisation and should have taken effective measures to publicise the tender process widely to promote competition. The reply only highlights failure of TASMAC to rectify the shortcomings in the transport tender process.

- As per conditions of the Tender document inviting transport bids, the tenderers shall furnish GSTIN and shall own a minimum of 15 lorries with valid fitness certificate and insurance. Scrutiny of tender records in DMO, Tiruvallur West revealed that M/s. Pandurangan Transport (PRT), who was the successful bidder for transport of stock for the calendar years 2019, 2020 and 2021, did not possess a valid GSTIN. Its GSTIN registration (33AHJPP2197B1ZG) was already cancelled in November 2020. The Fitness Certificate (FC) for six lorries for the period 2021-23 and for two lorries for the period 2019-21 and insurance of five lorries for the period 2021 to 2023 and

six lorries for the period 2019 to 2021 had elapsed even as on the date of submission of tender documents. Audit also verified from VAHAN details that a lorry with registration number TN10J5873 was actually a tanker. Despite all these deficiencies, the bidder was awarded the tender for 2019-21 and renewed for 2021-23 period. This shows clear lack of transparency in inviting and choosing tenders and failure of internal control over selection of bidders.

When this was pointed out (November 2022), Government replied (April 2023) that GST was paid by TASMAC on Reverse Charge Mechanism basis. It was also stated that Fitness Certificates and insurance documents are available for the current period.

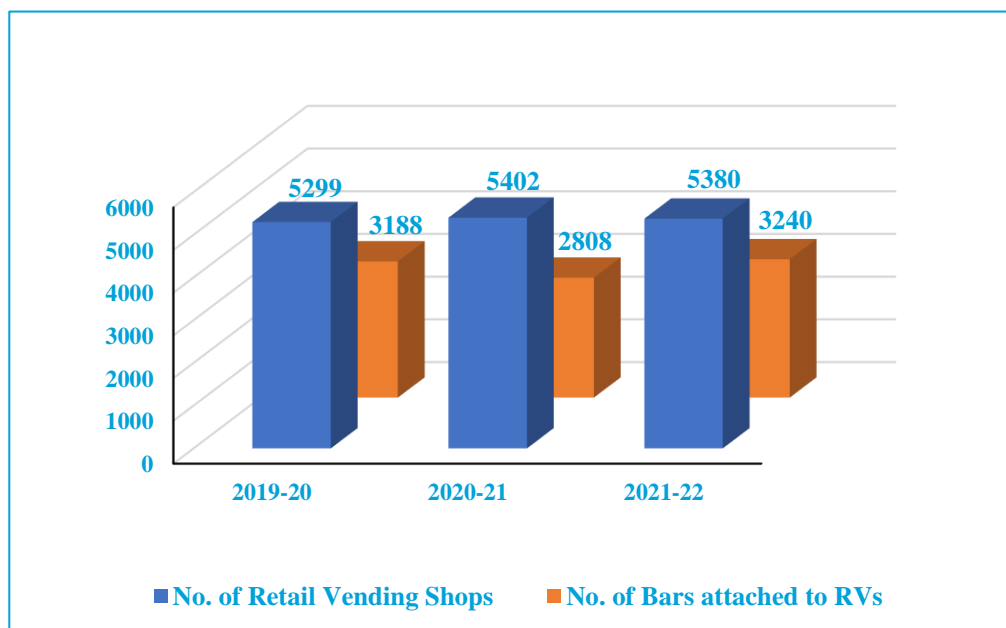
The reply of the Government is not tenable since when the tenderers were chosen, they did not possess GSTIN and valid Fitness certificates and insurance documents as per the terms of tender. The reply of the Government did not clarify why the tenderers were chosen despite not possessing valid documents prescribed in the tender. The reply clearly shows that the entire tender process was defective and invalid, and internal control has been a total failure in this regard.

### 3.3.8.5 Other issues

#### (i) Non-collection of interest for delayed payment of bar tender amount

TASMAC runs 5,380 retail vending shops for sale of liquor. There are 3,240 bars attached to these shops wherein supplementary foods and drinks are being sold.

Exhibit 2: Number of RV Shops and Bars



While the retail vending shops are run by TASMAC, the bars attached to these shops are run by private entities. TASMAC invites bid for running these bars fixing the upset price based on average monthly sale. According to Clause VII of the tender document, the bar tender amount i.e. the bid amount, has to be remitted by the successful tenderer by 5<sup>th</sup> of each month in advance. In case of delays beyond the stipulated date, an interest at the rate of 12 *per cent* per annum has to be paid until the date of remittance. Till the payment is made, the bars shall remain closed and shall be re-opened only after remittance of the monthly bar tender amount along with due interest.

Audit noticed that interest on belated payment of bar tender amount was not collected from tenderers in the seven DMOs sampled as detailed in **Table 3.8**.

**Table 3.8: Amounts of interest due on belated payment of bar tender**

Sl. No.	Name of District	Interest Due (₹)
1	Kancheepuram (North)	34,96,394
2	Kancheepuram (South)	9,34,251
3	Tiruvallur (West)	4,16,123
4	Tiruchirapalli	21,11,609
5	Madurai (South)	7,42,990
6	Coimbatore (North)	40,64,602
7	Tiruppur	39,95,512
	<b>Total</b>	<b>1,57,61,581</b>

When this was pointed out (September 2022), Government replied (April 2023) that the entire amount of ₹1.57 crore was collected from the concerned bar contractors or adjusted against security deposits.

**(ii) Inefficient maintenance of PoS machines**

To encourage cashless transactions, Point-of-Sale (PoS) machines were installed in all the retail vending shops for payment of sales amount by electronic mode. On scrutiny of records made available to audit, it was observed that out of 5,359 PoS machines installed, only 3,114 PoS machines (58 *per cent*) were in working condition. PoS machines were inoperative due to various technical reasons and immediate measures were not being taken to restore them. By ignoring the maintenance of PoS machines, TASMAC had indirectly encouraged cash transactions. Most complaints received by TASMAC (177 out of 238) related to overcharging in TASMAC outlets and non-maintenance of PoS machines has compounded the issue.

During the Exit Meet, Government replied (April 2023) that measures are being taken to improve cashless trade in the retail vending shops.

**(iii) Incorrect inclusion of ‘Rounding-Off’ component over and above the Retail Profit Margin against Rule provisions**

As per Rule 2(oo) of The Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003, “Maximum Retail Price” (MRP) means the price determined by adding retail profit margin at the rate of 0.05 *per cent* of stock transfer price and sales tax payable by the Tamil Nadu State Marketing Corporation Limited under the Tamil Nadu General Sales Tax Act, 1959 to the stock transfer price of TASMAL. TASMAL is not authorised to add any other component on the way to computing the maximum retail price (MRP) of liquor brands after arriving Transfer Price.

Audit noticed from TASMAL records that the company added an amount of ₹46.75 as a “rounding-off component” after the transfer price was computed but before arriving at the MRP for beer. As per the Rule *ibid*, TASMAL is forbidden from adding any amount except the profit margin and the VAT payable on way to computing the MRP. However, TASMAL had added a rounding-off component after the transfer price in violation of the provision of statute.

On this being pointed out (January 2023), the Government replied (April 2023) that it would ensure the rounding-off element being included by TASMAL before the transfer price in the next price revision.

### 3.4 Conclusion

TASMAL had inserted a “rounding-off” value after computing the transfer price and the Commissioner while forwarding the MRP to the District Officers, failed to notice that the fixation did not conform to stipulated Rules. The non-payment of differential ED on price revision as per the Act provisions was not monitored by the Commissioner of Excise. TASMAL followed an inconsistent and opaque policy in procurement and supply of liquor. The commencement of implementation of end-to-end software was delayed due to DPR having been prepared with inadequate requirements. GRA invoices did not have provisions to capture batch number and dates; therefore, the implementation of FIFO system in removal of stocks to retail vending shops could not be ensured. Transport tenders were deficient and non-transparent as tenderers were chosen even without proper documents, and the same entity was granted tender continuously and repeatedly. Measures taken to introduce cashless facilities were inadequate even as most complaints from public received related to excess charging beyond MRP.

### **3.5 Recommendations**

- 1. TASMAC should abide by taxation laws and shall pay excise duty as per the provisions of the statute. The State Excise Department should monitor payment of duty by TASMAC and issue demand notices if non-payment or short payment is noticed.**
- 2. The inventory policy i.e. the procurement and retail vending policy is very old and not transparent. TASMAC, being entrusted with sheer monopoly in both procuring and vending liquor in the State, should adopt an equitable purchase policy from all manufactories without favouring or disfavouring any brand or manufactory.**
- 3. The end-to-end computerisation project has already been quite delayed. The management should, realising the importance of the project, find ways to finalise it expeditiously in order to have efficient Goods Monitoring System.**
- 4. Ineligible tenderers should not be awarded tender. E-tender for transport tendering should be introduced as early as possible to check cartelisation of tenders. Further, TASMAC should analyse the ways and means of promoting wide participation in tenders and shall devise a sound policy in this regard.**
- 5. Despite efforts reportedly taken by the company, there were complaints of overcharging. TASMAC should put to use new technologies effectively to promote cashless business at retail vending shops.**

# **CHAPTER – IV**

## **STAMP DUTY AND REGISTRATION FEE**





## CHAPTER-IV

### STAMP DUTY AND REGISTRATION FEE

#### 4.1 Tax administration

The Registration Department administers the Indian Stamp Act, 1899 (IS Act), the Registration Act, 1908 and the Rules made thereunder. The Inspector General of Registration (IGR) is the head of the Department. There are 50 registration districts, comprising 578 Registration Offices including three Camp Offices in the State. The registration of instruments<sup>58</sup>, levy and collection of Stamp Duty and Registration Fee are done by the Registering Officers (ROs), namely District Registrars / Sub-Registrars. The monitoring and control at the Government level is done by the Secretary, Commercial Taxes and Registration Department.

#### 4.2 Internal audit

Internal audit is a vital component to enable an organisation to assure itself that the prescribed systems are functioning reasonably well. The Department has a system of internal audit to ensure one hundred *per cent* audit of all the instruments registered. There are 45 audit units, each headed by a District Registrar. The periodicity of audit of all offices is on monthly basis. The Registration Manual (Part II) provides the required framework for planning and taking up internal audit in the Department. A Handbook of Internal Audit has been prepared by the Department for guidance on this issue. The details of internal audits due and conducted are placed in **Table 4.1**.

**Table 4.1: Details of Internal Audit**

Year	Number of audits due	Number of audits completed	Audit in arrears	Percentage of arrears
(1)	(2)	(3)	(4)	(5)
Up to 2017-18	9,417	7,181	2,236	25
2018-19	3,817	3,038	779	20
2019-20	6,624	5,767	857	13
2020-21	6,594	6,141	453	7
2021-22	7,073	6,753	320	5
<b>Total</b>	<b>33,525</b>	<b>28,880</b>	<b>4,645</b>	

(Source: Reply of the Department)

The Department attributed the reasons for arrear in internal audit to vacancy of Audit Registrars and stated that a special team had been formed to complete

<sup>58</sup> “Instrument” includes every document by which any right or liability is, or purports to be created, transferred, limited, extended, extinguished or recorded.

arrears audit. As a result, audit was being conducted in most of the offices now. Since a large number of audits pending relate to the period up to 2017-18, the Department may take effective measures to clear the backlog in a time-bound manner.

Audit noted that 47,613 paragraphs with a money value of ₹219.63 crore were outstanding as at the end of 31 March 2022 as detailed in **Table 4.2**.

**Table 4.2: Details of Internal Audit Objections**

Year	Opening Balance		Observations raised		Observations settled		Observations pending	
	No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)
Up to 2019-20	34,215	133.43	15,642	32.16	11,176	8.41	38,681	157.18
2020-21	38,681	157.18	15,467	84.67	10,788	48.21	43,360	193.64
2021-22	43,360	193.64	13,706	49.74	9,453	23.75	47,613	219.63

(Source: Reply of the Department)

Since the oldest objection pending relates to the period prior to 2011-12, effective measures may be taken to settle the outstanding cases.

### 4.3 Audit Methodology and Results of Audit

During the year 2021-22, there were 646 auditable units<sup>59</sup> in the Registration Department. The unit offices were categorised into High, Medium and Low Risk units according to their revenue collection, number of deeds/documents and revenue per deed/document in respect of the year 2019-20. The test-check by Audit (April 2021 to March 2022) was conducted in 81 out of the 646 auditable units (12.54 per cent). The revenue receipt in the test-checked units was ₹5,129.13 crore, representing 35.79 per cent of total revenue receipts of ₹14,330.98 crore during 2021-22.

During the test-check of assessment and other records, Audit raised 956 observations involving ₹135.02 crore. The category-wise audit observations are summarised in **Table 4.3**.

**Table 4.3: Category-wise Audit observations for 2020-21**

Sl. No.	Category	No. of cases	Amount (₹ in crore)
1	Undervaluation of deeds / documents	134	22.23
2	Misclassification	452	100.36
3	Excess / Incorrect allocation of Transfer Duty Surcharge	63	1.57
4	Others	307	10.86
	<b>Total</b>	<b>956</b>	<b>135.02</b>

<sup>59</sup> Offices of the Inspector General of Registration (1), Deputy Inspector General of Registration (9), District Revenue Officer (Stamps) (2), Special Deputy Collector (Stamps) (9), District Registrar (50) and Sub-Registrar (575).

During 2021-22, the Department accepted under-assessment and other deficiencies amounting to ₹23.39 lakh in 25 cases pointed out between 2008-09 and 2019-20.

A few illustrative cases involving ₹9.40 crore are discussed in the following paragraphs.

#### 4.4 Audit Observations

While scrutinising the records of the Registration Department, relating to the period from April 2021 to March 2022, Audit noticed short realisation of revenue due to misclassification of deeds and undervaluation of properties. Since the results are from only a test-check of selected units, the Government/Department may undertake a detailed review of all units to identify similar errors/omissions in the units that were not subjected to Audit and to rectify them.

##### 4.4.1 Undervaluation of building due to failure to value accessories

According to Section 17(a) of the Registration Act, 1908, all immovable properties are to be compulsorily registered. As per Article 23, conveyance of properties attracts seven *per cent* Stamp Duty including a transfer duty surcharge of two *per cent*. A Registration Fee of four *per cent*<sup>60</sup> is leviable as per table under Section 78 of the Registration Act, 1908. While market value of land is adopted from market value guideline register, valuation of building is done on the basis of schedule of PWD rates. For buildings of declared value more than ₹50 lakh or for special type of buildings, the instruments are referred to the Assistant Executive Engineer (AEE) for valuation.

During the verification of records at Joint-I Sub-Registry, Coimbatore (December 2021), Audit noticed that a conveyance deed (No.859/2020), comprising sale of both land and building was registered on 7 February 2020 for a total consideration of ₹17.91 crore. Since the building value was declared as ₹3.20 crore, it was referred to valuation by AEE. The AEE issued his report in May 2020 assessing the value of building but instructed the Registering Officer (RO) to add the values of deposit paid to Electricity Board, firefighting arrangements, ductable a/c, lift and genset to arrive at the final value of the building. The Chartered Engineer, who valued the machinery, furnished a report in June 2020 concluding that all the accessories were installed after the registration of the instrument and therefore they need not be valued. The RO, therefore, added only the deposit paid to Electricity Board and arrived at a value of ₹3.36 crore and collected a differential Stamp Duty and Registration Fee of ₹1.78 lakh.

A detailed scrutiny of the valuation report of the CME revealed that all the accessories were installed in 2016 and 2017 well before the registration of the instrument in 2020. Therefore, they had to be valued appropriately and included in the value of the building. However, the RO failed to read the details of the

<sup>60</sup> Revised w.e.f 9 June 2017.

report and relied only on the conclusion of the CME stating that the accessories were installed after the date of registration.

The value of the accessories as per the rates prescribed in PWD schedule would be ₹1.97 crore. The short collection of Stamp Duty and Registration Fee amounted to ₹21.67 lakh which was to be collected (**Appendix 4.1**).

This was brought to notice of the Government in September 2022 and their reply is awaited (April 2023).

**Recommendation 1:**

**The Department should ensure that ROs study the reports of the AEE and the consultants and verify the facts in detail before collecting the deficit payments. In case of incorrect valuations and comments, the feasibility of debarring the chartered engineers from consultancy services should be considered.**

**4.4.2 Short payment of Stamp Duty and Registration Fee due to non-adoption of agreed sale consideration**

According to Section 27 of the Indian Stamp Act, 1899, the consideration and the market value affecting the chargeability of any instrument with duty shall be fully and truly set forth. As per Article 23 of Schedule I to the Indian Stamp Act, 1899, conveyance of immovable property attracts levy of Stamp Duty at the rate of seven *per cent* including surcharge at two *per cent* and Registration Fee is leviable at the rate of four *per cent*<sup>61</sup> as per the Table of Fees prepared under Section 78 of the Registration Act, 1908 on the market value of property. The Inspector General of Registration (IGR) issued a circular<sup>62</sup> in June 2017 that the registering officers (RO) should adopt the sale consideration agreed in the sale agreement deed, if the deed had not been cancelled, as the market value of the property conveyed.

During the scrutiny of records in Sub-Registry, Padappai, Audit noticed (July 2021) that two sale deeds with registered numbers 796/2018 and 858/2018 involving a sale of an extent of 11.08 acres of land situated in Naduveeranpattu village were registered in February 2018. In both the deeds, Shri. Sasi was the vendor of the property. Shri. Sivasankar representing M/s Sivasankar Real Assets was the buyer in the first deed and Smt. Devi was the buyer in the second deed. The parties expressed a market value of ₹2,19,500 and ₹30,00,000 respectively which was accepted by the RO and the deeds were registered after collection of the Stamp Duty and Registration Fee on the consideration expressed.

However, on a detailed scrutiny of the Encumbrance Certificate (EC) of the above property, Audit found that, the vendor Shri. Sasi had executed a Sale Agreement deed in favour of M/s.Ashok Nandavanam Properties Private Limited represented by one of its Directors, Shri.S Asokan (vide Document No.5810/2016 registered in September 2016). In the said sale agreement, the

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<sup>61</sup> From June 2017.

<sup>62</sup> Circular no. 25735/C1/2017 dated 8 June 2017.

vendor agreed to convey 11.72 acres in Naduveeranpattu village for a consideration of ₹12,30,00,000/ i.e at ₹1.05 crore per acre. In the agreement deed, it was specifically agreed that the vendor would convey the said property in favour of the purchaser or his nominees either as a whole or in various divided portions thereof. Subsequent to this sale agreement, the vendor executed a Power of Attorney in favour of Shri. Asokan who was one of the Directors of the intended buyer Ashok Nandavanam Properties Private Limited without cancelling the sale agreement deed.

In as much as the sale agreement deed is live, the agreed rate of ₹1.05 crore per acre should be adopted as the consideration by the vendor in the sale deeds. However, the parties adopted guideline market values. The RO failed to identify the existence of an agreement deed prior to the sale deed and therefore did not follow the instructions of the IGR. The RO should have assessed the property at ₹10.23 crore and ₹1.40 crore respectively for the sale deeds and should have collected ₹1.13 crore and ₹15.35 lakh as Stamp Duty and Registration Fee. However, he collected only ₹24.15 lakh and ₹3.30 lakh respectively for the two deeds. This resulted in a total short collection of Stamp Duty and Registration Fee of ₹ one crore for the two sale deeds (**Appendix 4.2**).

On this being pointed out (June 2022), Government accepted the observation and replied that since it is believed that true market value had not been adopted, the District Registrar had been directed to refer the cases to the District Revenue Officer (Stamps) under Section 47A(3). The reply is not acceptable since the amount declared as consideration is already available in the Department's records and there is no need to refer the cases under Section 47A(3). The RO shall directly adopt the agreed consideration, calculate the deficit amount and issue notice to the parties.

#### **Recommendation 2:**

**The Department should instruct the ROs that cases, wherein the concealed or suppressed value or consideration of the property can be arrived at with the materials already furnished by the executants, shall be assessed based on the available information and shall not be referred under Section 47A for fixation of true value.**

#### **4.4.3 Short Levy of Stamp Duty and Registration Fee Due to Misclassification of a deed of non-family settlement as a deed of partition**

The Chief Controlling Revenue Authority (CCRA) vide his order D Dis.No.1416/P1/2014 dt.17/09/2014 decided that interest held in the partnership firm can never be regarded as absolute property of the partner and hence in the case of partnership property being converted into individual property the same has to be treated only as a Settlement among non-family members, attracting Stamp Duty as per Article 58(a)(ii) of the Schedule I of the Indian Stamp Act, 1899. The Stamp Duty on non-family partition as per Article

45 (b) is four *per cent* on the separated share<sup>63</sup>. The Stamp Duty on non-family settlement is seven *per cent* on the entire value of the property. The Registration Fee leviable is one *per cent* in respect of non-family partition and four *per cent* in respect of non-family settlement as per table of fees under Article 78 of the Registration Act.

While scrutinising Doc No. 5479/2018 dated 31/12/2018 in Sub-Registry, Thirukazhukundram, it was noticed (February 2022) that a deed of partition was entered into between four persons, who are the present partners of the partnership firm **M/s Venus Estates**. The properties measuring 1,95,417.50 sq.ft. situated in Nallathor village, partitioned by the four persons were actually owned by the firm. As revealed by the recitals “The partners further decided that they shall continue with the rest of the properties that stands in the name of the firm without dissolving the said firm”. The Registering Officer (RO) classified the deed as a non-family partition deed under Article 45 (b) and collected a Stamp Duty and Registration Fee of ₹13.02 lakh and registered the deed.

Since the lands were held by the firm, and partners are not the absolute owners of the property, the transaction shall be classified as a non-family settlement under Article 58(a)(ii) as per the appellate orders cited and Stamp Duty and Registration Fee levied accordingly. However, the RO failed to abide by the appellate orders cited while classifying the deed. Therefore, as against a Stamp Duty and Registration Fee of ₹43.24 lakh to be levied and collected, the RO collected only ₹13.02 lakh which resulted in a short collection of ₹30.23 lakh (**Appendix 4.3**).

On this being pointed out (July 2022), Government, while accepting the observation, replied (October 2022) that the deed had been classified as conveyance and the District Registrar had been directed to recover the deficit amount of ₹22.36 lakh stating that no surcharge is leviable if conveyance is executed without consideration. The appellate order cited has classified such instruments as non-family settlement and not as conveyance. Therefore, Government’s stand to classify the deed as conveyance is not acceptable.

### **Recommendation 3:**

**The Department should instruct the ROs to carefully study the details of the recitals in the light of existing provisions of statute and the relevant Appellate orders before classifying the instruments and collecting Stamp Duty and Registration Fee.**

#### **4.4.4 Escapement of extent resulting in short collection of Stamp Duty and Registration Fee**

As per Article 23 of Schedule I to the Indian Stamp Act, 1899, conveyance of immovable property attracts levy of Stamp Duty at the rate of seven *per cent* including surcharge at two *per cent* and Registration Fee is leviable at the rate

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<sup>63</sup> Shares remaining after excluding the share of highest value.

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of four *per cent*<sup>64</sup> as per the Table of Fees prepared under Section 78 of the Registration Act, 1908 on the market value of property.

During the Audit of Sub-Registry, Tiruporur (December 2020), it was noticed that through two sale documents *viz.*, 11333/2019 and 12828/2019, 135 cents (58,806 sq.ft) were sold by two sellers to M/s.Phoenix Serene Spaces (P) Ltd. for a total consideration of ₹7.94 crore. The RO collected Stamp Duty and Registration Fee applicable for the consideration set forth.

Further reading of the recitals revealed that the sellers and the buyer had already entered into a joint venture to develop the property. It was also revealed from the recitals that an extent of 34 cents in the first document and an extent of 36 cents in the second document were relinquished in favour of the seller since these extents were treated as “Affected area” as they were common pathways. The rights over a property can be relinquished through release only when both the releasee and the releasor have joint absolute right over the property. In this case, the developer M/s. Phoenix Serene Spaces (P) Ltd., did not possess absolute right over the property but was developing the property only through a joint venture and a Power of Attorney. Since title cannot be transferred through joint venture agreements or Power of Attorney, the absolute title of the 70 cents of the “Affected area” remained with the sellers.

In the absence of joint ownership over the extent of 70 cents, the relinquishment of the extent shall be only through conveyance and not through release. However, the RO did not recognise the “relinquishment” transaction at all and stamped only 135 cents. Therefore, an extent of 70 cents, which was conveyed in the guise of ‘relinquishment of rights’ escaped assessment. This resulted in a short collection of ₹45.23 lakh as Stamp Duty and Registration Fee (**Appendix 4.4**).

On this being pointed out (December 2021), Government accepted (June 2022) the observation and replied that the District Registrar had been directed to treat the relinquishment as conveyance and initiate action under Section 33 A to collect the Stamp Duty and Registration Fee excluding Transfer Duty Surcharge (TDS), since there was no consideration for the extents relinquished. The reply is partially not acceptable since consideration is not a criterion for levy of TDS, and even gift deeds, wherein no consideration is involved, attract TDS.

**Recommendation 4:**

**The Department should instruct the ROs to carefully study the details of the recitals in the light of existing provisions of statute before classifying the instruments and collecting Stamp Duty and Registration Fee.**

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<sup>64</sup> From June 2017.

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#### **4.4.5 Short declaration of amount of advance paid resulted in short collection of Registration Fee**

According to Clause 1(l) under the Table of Fees of the Registration Act read with Clause 1(a)(10), Registration Fee on an agreement to sell shall be leviable on the advance money at the rate of one *per cent*.

During the scrutiny of records in Sub-Registry, Joint-II Chengalpet (March 2022), Audit noticed (Document no. 7644/2020) that property lying in Vallancheri and Potheri villages was conveyed for a total consideration of ₹55.80 crore. The sale agreement for the sale of the above property was registered through two agreement deeds. As per the sale deed, an amount of ₹99 lakh was paid through demand draft (after deducting ₹one lakh as TDS) through in the first agreement deed (no. 4546/2016) and the balance amount of ₹54.25 crore was paid through transfer of funds vide UTR No. SCBLR 22016050200003044 in the second agreement deed (no.7900/2017).

However, verification of sale agreement deed no. 7900/2017 revealed that only an amount of ₹5 lakh was declared as advance paid made through transfer of funds vide the same UTR No SCBLR 22016050200003044 on which a Registration Fee of ₹5,000 was collected. Therefore, there was a suppression of advance amount of ₹54.20 crore, which the RO failed to notice while registering the sale instrument. The suppression of advance amount paid resulted in short collection of Registration Fee amounting to ₹54.20 lakh (**Appendix 4.5**).

On this being pointed out (January 2023), the Government replied (February 2023) that the audit observation is accepted, and the concerned District Registrar was directed to initiate action for recovering the deficit Registration Fee.

#### **Recommendation 5:**

**The Department should instruct the ROs to verify all information furnished in the documents and correlate them with connected records to ensure that there was no short collection due to overlooking of information furnished in the recitals of the documents.**

#### **4.4.6 Non-adoption of revised guideline values resulted in short collection of Stamp Duty and Registration Fee**

Section 47AA of the Indian Stamp Act, 1899, as applicable in the State of Tamil Nadu, provides for statutory backing of the guideline values maintained by the Department and these values are to be treated as the market value for the purpose of levy of Stamp Duty and Registration Fee. According to Article 23, a Stamp Duty of seven *per cent* (including surcharge of two *per cent*) on the market value is to be collected. According to Clause 1 of Table of Fees prepared under Section 78 of the Registration Act, a Registration Fee of four *per cent* is leviable on the value adopted for Stamp Duty.



During the scrutiny of documents in Sub-Registry, Joint-I, Coimbatore (December 2021), Audit noticed that three<sup>65</sup> instruments of sale were presented for registration in November 2020 and registered in February 2021 valued at ₹7.33 crore, ₹14.05 crore and ₹1.67 crore respectively. The properties sold through the instruments consisted of both lands and buildings (some of them were industrial buildings) and were situated within different jurisdictions i.e. Sub-Registry, Joint-I, Coimbatore, Sub-Registry, Ganapathy, Sub-Registry, Madukkarai and Sub-Registry, Suler but were presented at the Sub-Registry, Joint-I, Coimbatore. The value of lands falling within jurisdiction of Sub-Registry, Ganapathy, Madukkarai and Suler were adopted at ₹837 per sq.ft., ₹100 per sq.ft and ₹6,03,000 per acre (₹12.95 per sq.ft) respectively as per the values in the guideline registers maintained by the Department. However, the Registering Officer (RO) did not accept these values and, after treating the instruments as pending (Nos. 123/2020, 124/2020 and 125/2020), referred them to the Deputy Inspector General (DIG), Coimbatore, for a revised fixation of values of lands involved. The DIG, in his orders in January 2021, classified the lands as industrial areas and fixed the values at ₹2,500 per sq.ft, ₹150 per sq.ft and ₹50 sq.ft respectively for lands situated in Ganapathy, Madukkarai and Suler.

Since the RO had, *ab initio*, not accepted the valuation done by the parties and had sought a fresh valuation, he should have adopted the values fixed by the DIG and collected the deficit Stamp Duty and Registration Fee applicable on the revised values. However, the instruments were registered accepting the values set forth, ignoring the revised values fixed by the DIG. The failure of the RO to adopt the revised values resulted in short collection of Stamp Duty and Registration Fee of ₹2.68 crore (**Appendix 4.6**).

On this being pointed out (December 2021), the department replied that the parties had promised to pay the deficit Stamp Duty and Registration Fee and the collection would be intimated to Audit.

This was brought to notice of the Government in January 2023 and their reply is awaited (April 2023).

#### **Recommendation 6:**

**Department should ensure that all the revised guideline values are periodically updated in the official website. The department should also ensure that the ROs check and peruse all fixation orders before assessing the value of any instrument and fix the responsibility on the ROs concerned for any failure in this regard.**

#### **4.4.7 Incorrect adoption of period of lease resulted in short collection of Stamp Duty**

According to Article 35(b) of the Indian Stamp Act, a Stamp Duty at the rate of four *per cent* on the total rent for the entire period is leviable on instruments purporting to lease an immovable property for a period of 30 years and above

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<sup>65</sup> Document nos.1045, 1046 and 1047 of 2021.

and up to 99 years. As per Article 35(a), if the instrument involves a lease period of less than 30 years, Stamp Duty shall be levied on the total lease rent at the rate of one *per cent*.

During the verification of records (March 2021) at Sub-Registry, Sriperumbudur, Audit noticed that a lease for a period of 29 years and 11 months was registered in April 2018 vide document no.1856/2018. The period of lease was stated as 1 August 2018 to 30 June 2048 and the total rent for the entire lease period was computed at ₹6.40 crore. The RO added GST to the rent declared and arrived at a value of ₹7.55 crore, classified the document under Article 35(a) and collected Stamp Duty of ₹7.55 lakh, being one *per cent* on the rent.

Audit, while going through the recitals of the document, found (from Clause 'e' of the agreement) that the lease had commenced from 5 April 2018 and possession of the vacant land was also handed over on the same date to the lessee. That is, the lease period commenced from April 2018 with a rent-free lease of four months and rent was collected from August 2018. Therefore, the period of lease had to be treated as 30 years and 2 months commencing from 5 April 2018 and ending on 30 June 2048.

Accordingly, the document had to be classified under Article 35(b) of the Indian Stamp Act, 1899 and a Stamp Duty at the rate of four *per cent* must be collected. The RO, however, assessed the document without completely going through the clauses incorporated in the lease deed. As against applicable Stamp Duty of ₹30.20 lakh, the RO collected only ₹7.55 lakh, which resulted in short collection of Stamp Duty of ₹22.65 lakh (**Appendix 4.7**).

On this being pointed out (April 2021), the RO replied (August 2022) that the lessor had since filed a rectification deed correcting the date of commencement of lease as 1 August 2018. The reply is not tenable since it was declared in the original document that possession of vacant property to the lessee was already handed over in April 2018 and the fact cannot be altered by a rectification. Further, in the said rectification deed, the date of handing over the vacant land to the lessee was not altered and remained as 5/4/2018 only. Further, any rectification may alter the details of the parent document but will not have any influence on Stamp Duty liability for the original document. Only the legal validity of the lease will stand rectified.

The issue was reported to Government in January 2022. Reply is awaited (April 2023).

**Recommendation 7:**

**The Department should mandate the ROs to exercise basic scrutiny of all factors that influence the Stamp Duty of any instrument before registration. The ROs may be held responsible for any loss to Government**

due to erroneous decisions as a result of failure to carry out detailed scrutiny.

#### 4.4.8 Undervaluation of properties due to incorrect adoption of guideline values

As per Article 23 of Schedule I to the Indian Stamp Act, 1899, conveyance of immovable property attracts levy of Stamp Duty at the rate of seven *per cent* including surcharge at two *per cent* and Registration Fee is leviable at the rate of four *per cent*<sup>66</sup> as per the Table of Fees prepared under Section 78 of the Registration Act, 1908 on the market value of property.

During verification of records in three<sup>67</sup> Sub-Registries (January 2022, November 2021, September 2021), Audit noticed that three documents of sale involving properties situated in Avadi, Valasarawakkam and Usilampatti villages were registered as document numbers 10119/2020, 4262/2020 and 1099/2018 respectively.

**Table 4.4: Details of documents and values**

Doc numbers	10119/2020	4262/2020	1099/2018
Office (Sub-Registry)	Avadi	Virugambakkam	Usilampatti
Property location		Chowdry Nagar Main Road	Madurai Road
Location assessed		Chowdry Nagar	Survey number based
Value assessed	₹35.08 lakh	₹3.70 crore	₹40.93 lakh
Value to be assessed	₹1.11 crore	₹3.85 crore	₹61.04 lakh

In the document no.10119/20, Audit noticed that the RO had adopted the value set forth by the executant instead of the guideline values prescribed and entered in the Guideline register. As for document no. 4262/2020, the RO, Virugambakkam adopted the guideline value of Chowdry Nagar 6th Street although property tax records indicated that the property was situated in Chowdry Nagar Main Road. The RO, Usilampatti did not notice that the property sold through document no.1099/2018 was bordering Madurai Road and therefore adopted the value relating to the Survey number.

In all the above cases, the details of properties, along with boundaries and guideline values, were available with the ROs but they failed to assess the properties based on appropriate market values. Consequently, they collected a Stamp Duty and Registration Fee of ₹49.06 lakh instead of ₹61.20 lakh actually due, which resulted in a short collection of ₹12.15 lakh. **(Appendix 4.8).**

This was brought to the notice of Government in January 2023. Reply is awaited (April 2023).

<sup>66</sup> From June 2017.

<sup>67</sup> Avadi, Virugambakkam and Usilampatti.

**Recommendation 8:**

**The Department should ensure that the ROs adopt the guideline rates maintained in the Guideline register for the purpose of levy of Stamp Duty. Since check of guideline values is a basic function to be carried out by RO, any failure in this regard shall be considered a grave omission and departmental action should be initiated for loss of revenue to Government.**

**4.4.9 Incorrect reference of a document of release among partners of a firm under Section 47A(1) resulted in loss of revenue to Government**

According to Section 47A(1) of the Indian Stamp Act, 1899, if the RO has reason to believe that the market value of the property, which is the subject matter of conveyance, exchange, gift, release of benami right and settlement, has not been truly set forth, he may, after registering the instrument, shall refer to the Collector for determination of the market value of the property. As per Article 55D (ii) of the Indian Stamp Act, 1899, in case of release of immovable property between partners who are not family members, a Stamp Duty at the rate of seven *per cent* is leviable on the market value of the property. Registration Fee is leviable at the rate of one *per cent* on the market value of property as per the Table of Fees prepared under Section 78 of the Registration Act, 1908.

During the verification of records at Sub-Registry, Tiruporur (March 2022), Audit noticed that a release deed was executed by M/s.R K Textiles (India) (represented by its partner) in favour of another partner who retired from the firm in March 2011. The property released was situated in Survey numbers 12 and 13 in Puduppakkam village. The total extent released was 9,01,692 sq.ft. and was valued at ₹3.14 crore by the executants. The Departmental guideline value for the said property was ₹670 per sq.ft. which worked out to ₹60.41 crore for the entire property released. Therefore, the RO should have assessed the value of the property at ₹60.41 crore and collected Stamp Duty and Registration Fee of ₹4.83 crore as per Article 55D(ii). However, the RO collected Stamp Duty and Registration Fee of only ₹34.55 lakh, applicable on the value set forth and, treating the document as undervalued, referred the document under Section 47A(1) for the Collector to determine the market value. The Collector determined the value of the property at ₹18.03 crore (at ₹200 per sq.ft.) and collected a deficit Stamp Duty of ₹1.04 crore. The total collection of Stamp Duty and Registration Fee stood at ₹1.39 crore although the actual Stamp Duty and Registration Fee leviable on the instrument was ₹4.83 crore.

The RO referred a release document under Section 47A(1) beyond the provisions of the Indian Stamp Act and the DRO (Stamps), Chennai, too, despite the fact that the document did not fall within the scope of his valuation, proceeded to determine the value of the property. Due to the incorrect reference of a document of release among partners under Section 47A(1) by the RO, and the incorrect decision of the DRO (Stamps) to go ahead with the valuation of

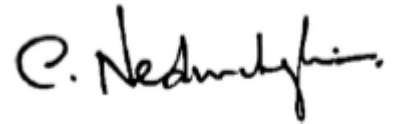
the property without any authority, the Government incurred a loss amounting to ₹3.44 crore (**Appendix 4.9**).

This was brought to the notice of Government in September 2022. Reply is awaited (April 2023).

**Recommendation 9:**

**Department should instruct the ROs to act within the framework of relevant provisions of Act and fix the responsibility on the ROs, if the Government incurs losses due to lapses on their part.**

Chennai  
The 15 May 2024



**(C. NEDUNCHEZHIAN)**  
Principal Accountant General (Audit-I),  
Tamil Nadu

Countersigned



New Delhi  
The 21 May 2024

**(GIRISH CHANDRA MURMU)**  
Comptroller and Auditor General of India



# APPENDICES





#### Appendix- 4.1 (Para 4.4.1)

### Undervaluation of building due to failure to value accessories

#### A. Valuation of accessories as per PWD schedule of rates

	Amount (₹)
Cost of Lift (As per PWD schedule Even adopting the cost of lift of 13 persons for 3 Floors)	18,10,000
AC Ductable (Centralised AC) 3,422.65 sq.meter X ₹5,230 per sq. meter (area covered under RCC building alone considered)	1,79,00,460
<b>Total</b>	<b>1,97,10,460</b>

#### B. Calculation of deficit Stamp Duty and Registration Fee

Document number / Sub-Registry	859/2020, Joint-I Coimbatore
Date of Execution / Registration	7 February 2020
Value of land assessed	₹14,70,75,000
Value of building assessed	₹3,35,84,445
Total value of the property assessed	₹18,06,59,445
Stamp Duty and Registration Fee collected	₹1,98,73,500
Value of accessories failed to be assessed	₹1,97,10,460 (from the above table)
Building value actually to be assessed (₹)	3,35,84,445+1,97,10,460=5,32,94,905
Value of the property will be(₹)	5,32,94,905+14,70,75,000=20,03,69,905
Stamp Duty and Registration Fee Applicable (@ 11 per cent)	₹2,20,40,690
<b>Short collection (₹)</b>	<b>2,20,40,690-1,98,73,500=21,67,190</b>

**Appendix-4.2 (Para 4.4.2)**

**Short payment of Stamp Duty and Registration Fee due to non-adoption  
of agreed sale consideration**

Document No.	796/2018	858/2018
Extent conveyed	9.75 Acres	1.33 Acres
Consideration expressed in the agreement	₹1,04,94,880/acre	₹1,04,94,880/acre
Value of extent conveyed as per agreement	₹10,23,25,080	₹1,39,58,190
Stamp Duty (SD) and Registration Fee (RF) to be collected by RO at 11 per cent	₹1,12,55,759	₹15,35,401
SD and RF actually collected by the RO	₹24,14,600	₹3,30,000
Short collection	₹88,41,159	₹12,05,401
<b>Total short collection</b>	<b>₹1,00,46,560</b>	

## Appendix-4.3 (Para 4.4.3)

**Short Levy of Stamp Duty and Registration Fee Due to Misclassification  
of a deed of non-family settlement as a deed of partition**

Document number	5479/2018, SR Thirukazhukundram
Date of Execution / Registration	31/12/2018
Total value of the document	₹3,93,11,000
Stamp Duty as per Art 58(ii) at seven <i>per cent</i>	₹27,51,770
Registration Fee at four <i>per cent</i>	₹15,72,440
Total amount to be collected	₹27,51,770+₹15,72,440=₹43,24,210
Amount actually collected by RO	₹13,01,500
<b>Short collection</b>	<b>₹30,22,710</b>

Appendix – 4.4 (Para 4.4.4)

Escapement of extent resulting in short collection of Stamp Duty  
and  
Registration Fee

	Doc No.11333/2019	Doc No. 12828/2019
Extent conveyed	66 cents	69 cents
Value set forth	₹3,88,11,960	₹4,05,76,140
Value set forth for a cent	₹5,88,060	₹5,88,060
Extent over which rights said to be relinquished	34 cents	36 cents
Value for the extent relinquished	34X5,88,060=1,99,94,040	36X5,88,060=2,11,70,160
Stamp Duty and Registration Fee applicable at 11 per cent	₹21,99,344	₹23,28,718
Stamp Duty and Registration Fee collected by the RO	Nil	Nil
Short collection	₹21,94,440	₹23,28,718
<b>Total short collection</b>	<b>₹45,23,158</b>	

**Appendix – 4.5 (Para 4.4.5)**  
**Short declaration of amount of advance paid resulted in short  
collection of Registration Fee**

Total sale consideration declared	₹55,80,30,000
LESS: TDS deducted	₹55,80,300
Advance paid as per declaration in sale deed	₹55,24,49,700 (55,80,30,000-55,80,300)
Registration Fee to be collected at one <i>per cent</i>	<b>₹55,25,500...(A)</b>
Advance declared in agreement deed no.4546/2016	₹1,00,00,000
Advance declared in agreement deed no. 7900/2017	₹5,00,000
Total advance declared	₹1,05,00,000
Registration Fee actually collected	<b>₹1,05,000...(B)</b>
<b>Short collection (A-B)</b>	<b>₹54,20,500</b>

Appendix – 4.6 (Para 4.4.6)

Non-adoption of revised guideline values resulted in short collection of Stamp Duty and Registration Fee

(A) INSTRUMENT NO. 1045/2021 (GANAPATHY VILLAGE)

Extent of land conveyed in Ganapathy village	75,333 sq.ft
Revised guideline value as per fixation	₹2,500/sq.ft
Value of land as per revised guidelines	₹18,83,32,500
Value of building adopted	₹73,90,250
Total value of land and buildings	₹19,57,22,750
Value of other properties in the instrument	₹28,39,216
Stamp Duty and Registration Fee to be collected at 11 per cent	₹2,18,41,216
Stamp Duty and Registration Fee actually collected	₹76,68,887
<b>Short collection</b>	<b>₹1,41,72,329...(A)</b>

(B) INSTRUMENT NO. 1046/2021 (MADUKKARAI VILLAGE)

Extent of land conveyed in Madukkarai village	15,78,614 sq.ft
Revised guideline value as per fixation	₹150/sq.ft
Value of land as per revised guidelines	₹23,67,92,100
Value of building adopted (₹19,10,000+ ₹17,50,000+2,40,320)	₹39,00,320
Total value of land and buildings	₹24,06,92,420
Value of other properties in the instrument	₹12,46,000
Total value of the properties in the instrument	₹24,19,38,420
Stamp Duty and Registration Fee to be collected at 11 per cent	₹2,66,13,226
Stamp Duty and Registration Fee actually collected	₹1,54,63,840
<b>Short collection</b>	<b>₹1,11,49,386..(B)</b>

**(C) INSTRUMENT NO. 1047/2021 (SULUR VILLAGE)**

Extent of land conveyed in Sulur village	3,59,805.6 sq.ft
Revised guideline value as per fixation	₹50/sq.ft
Value of land as per revised guidelines	₹1,79,90,280
Value of building adopted (₹32,10,000+ ₹31,00,000)	₹63,10,000
Total value of land and buildings	₹2,43,00,280
Value of other properties in the instrument	₹62,52,500
Total value of the properties in the instrument	₹3,05,52,780
Stamp Duty and Registration Fee to be collected at 11 per cent	₹33,60,806
Stamp Duty and Registration Fee actually collected	₹18,46,474
<b>Short collection</b>	<b>₹15,14,332..(C)</b>
<b>TOTAL SHORT COLLECTION (A+B+C)</b>	<b>₹2,68,36,047</b>

Appendix – 4.7 (Para 4.4.7)

**Incorrect adoption of period of lease resulted in short collection of Stamp Duty**

Document No.	1856/2018
Nature	Lease deed
Total rent declared	₹6,39,95,343
Rent computed by RO after including GST	₹7,55,00,000
Period of lease	5 April 2018 to 30 June 2048 i.e. 30 years and 2 months
Stamp Duty applicable at 4 per cent	₹30,20,000
Stamp Duty actually collected	₹7,55,200
<b>Short collection</b>	<b>₹22,64,800</b>



**Appendix – 4.8 (Para 4.4.8)**  
**Undervaluation of properties due to incorrect adoption of guideline values**

**(a) Avadi**

Document Number	10119/2020
Date of Execution / Registration	31 October 2020
Extent sold	0.60 acres
Village	Tandurai
Guideline value as per Department	₹1,84,25,000 per acre
Value of extent sold as per guideline	₹1,10,55,000
Stamp Duty and Registration Fee at 11 per cent	₹12,16,050
Stamp Duty and Registration Fee actually collected	₹3,85,835
<b>Short collection</b>	<b>₹8,31,735...(A)</b>

**(b) Virugambakkam**

Document number	4262/2020
Date of Execution / Registration	21 October 2020
Extent sold	4,400 sq.ft
Village	Valasaravakkam
Guideline value as per Department	₹3,015 per sq.ft
Value of extent sold as per guideline	₹1,32,66,000
Building value as declared	₹2,52,08,005
Total value of the property	₹3,84,74,005
Stamp Duty and Registration Fee at 11 per cent	₹42,32,141
Stamp Duty and Registration Fee actually collected	₹40,70,030
<b>Short collection</b>	<b>₹1,62,111...(B)</b>

**(c) Usilampatti**

Document number	1099/2018
Date of Execution / Registration	14 March 2018
Extent sold	15,260 sq.ft
Village	Usilampatti
Guideline value as per Department	₹400 per sq.ft
Value of extent sold as per guideline	₹61,04,000
Stamp Duty and Registration Fee at 11 per cent	₹6,71,440
Stamp Duty and Registration Fee actually collected	₹4,50,175
<b>Short collection</b>	<b>₹2,21,265...(C)</b>
<b>Total short collection A+B+C</b>	<b>₹12,15,111</b>

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**Appendix – 4.9 (Para 4.4.9)**
**Incorrect reference of a document of release among partners of a firm under Section 47A(1) resulted in loss of revenue to Government**

Document number	4415/2021
Date of execution / registration	12/3/2021
Extent released	9,01,692 sq.ft.
Value per sq. ft. as per guidelines	₹670
Market value of the property	₹60,41,33,640
Stamp Duty and Registration Fee at 8 <i>per cent</i>	₹4,83,30,691
Stamp Duty and RF collected by RO	₹34,55,135
Stamp Duty collected by Collector	₹1,04,37,000
Stamp Duty and Registration Fee totally collected	₹1,38,92,135
<b>Loss of revenue</b>	<b>₹3,44,38,556</b>

**Glossary of abbreviations**

<b>Abbreviations</b>	<b>Full Form</b>
AC	Assistant Commissioner
AEE	Assistant Executive Engineer
ATN	Action Taken Note
CAG	Comptroller and Auditor General of India
CBIC	Central Board of Indirect Taxes and Customs
CCRA	Chief Controlling Revenue Authority
CCT	Commissioner of Commercial Taxes
CGST Act	Central Goods and Services Tax Act
CGST Rules	Central Goods and Services Tax Rules
CME	Chartered Mechanical Engineer
Commissioner	Commissioner of State Tax
CTD	Commercial Taxes Department
DC	Deputy Commissioner
DIG	Deputy Inspector General of Registration
DRO (Stamps)	District Revenue Officer (Stamps)
ECL	Electronic Credit Ledger
GST	Goods and Services Tax
GSTIN	Goods and Services Tax Taxpayers Identification Number
GSTN	Goods and Services Tax Network
IGR	Inspector General of Registration
IGST Act	Integrated Goods and Services Tax Act
IGST Rules	Integrated Goods and Services Tax Rules
IR	Inspection Report
IS Act	Indian Stamp Act
ITC	Input Tax Credit
JC	Joint Commissioner
PAC	Public Accounts Committee
PO	Proper Officer
RO	Registering Officer
SDC (Stamps)	Special Deputy Collector (Stamps)

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<b>Abbreviations</b>	<b>Full Form</b>
SGST	State Goods and Services Tax
SR	Sub-Registrar
TDS	Transfer Duty Surcharge
TNGST Act	Tamil Nadu Goods and Services Tax Act
TNGST Rules	Tamil Nadu Goods and Services Tax Rules
TNVAT Act	Tamil Nadu Value Added Tax Act

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