



Report of the Comptroller and Auditor General of India

Compliance Audit (Revenue)
for the year ended 31 March 2021



लोकहितार्थ सत्यनिष्ठा
Dedicated to Truth in Public Interest



Government of Tamil Nadu
Report No. 8 of 2022

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Comptroller and Auditor General of India**

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PREFACE

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2021 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 (Transport Department).

The instances mentioned in this Report are those, which came to notice in the course of test audit during the period 2020-21 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 2020-21 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

This report contains eight paragraphs relating to non / short levy of taxes, interest, penalty, etc. involving ₹ 396.30 crore. Some of the major findings are mentioned below:

I General

The total revenue receipts of the State during 2020-21 were ₹ 1,74,076.30 crore, comprising tax revenue of ₹ 1,06,152.96 crore and non-tax revenue of ₹ 10,421.85 crore. ₹ 24,924.51 crore was received from the Government of India as State's share of divisible Union taxes and ₹ 32,576.98 crore as grants-in-aid. Sales tax and Goods and Services Tax (₹ 81,431.41 crore) formed a major portion (77 *per cent*) of the tax revenue of the State. Interest receipts, dividends and profits and other receipts (₹ 7,836.86 crore) accounted for 75 *per cent* of the non-tax revenue.

(Paragraph 1.1; Page 1)

Test check of records relating to Goods and Services Tax, Stamp Duty and Registration Fee and land revenue during the year 2020-21 revealed under-assessments, short levy, loss of revenue and other observations amounting to ₹ 675.87 crore in 1,079 cases.

(Paragraph 1.9; Page 11)

II Goods and Service Tax

Subject Specific Compliance Audit on "Processing of GST Refunds" revealed the following:

- The Act did not have provisions to restrict refund claims in proportion to foreign remittances realised and to disallow ITC in proportion to subsidy granted

(Paragraphs 2.4.3.1 and 2.4.3.2; Pages 17 & 18)

- There were delays in issue of provisional refunds and final refunds

(Paragraphs 2.4.4.2 and 2.4.4.3; Pages 21 & 22)

- Excess refund of ₹ 366.88 crore was granted due to incorrect determination of eligible ITC.

(Paragraph 2.4.4.4; Page 23)

- Excess refunds amounting to ₹ 9.87 crore were granted for tax-payers with zero-rated turnover

(Paragraph 2.4.4.5; Page 25)

- Excess refund of ₹ 9.89 crore was granted for tax-payers with inverted duty structure
(Paragraph 2.4.4.6; Page 27)
- There was delay / non-conducting of post audit of refund claims
(Paragraph 2.4.5 (c); Page 30)

III Stamp Duty and Registration Fee

Compliance Audit on “Clearance of documents for valuation under Section 47-A of Indian Stamp Act, 1899” in Registration Department revealed the following:

- There were delays and inconsistencies in disposal of deeds referred. In 131 cases, the DRO (Stamps)/SDC (Stamps) took more than one year to finalise the value of properties. However, in 107 cases, valuations were completed in just one day.
(Paragraph 3.4.2.1; Page 37)
- The nature of lands as assessed by the DRO(Stamps)/SDC (Stamps) was different from the nature of lands as referred by the Registering Authority. This resulted in potential undervaluation of properties.
(Paragraph 3.4.2.2; Page 39)

The Audit of Offices of the Sub-Registrar revealed the following:

- Short collection of Stamp Duty and Registration Fee amounting to ₹ 3.53 crore due to undervaluation of properties.
(Paragraph 3.5; Page 44)

IV Taxes on Vehicles

The Audit of the Regional Transport Offices revealed the following:

- There was non-levy of Green Tax in respect of Transport and Non-Transport vehicles amounting to ₹ 4 crore.
(Paragraph 4.4; Page 52)

CHAPTER – I

GENERAL

CHAPTER-I

GENERAL

1.1 Trend of revenue receipts

1.1.1 Tax and non-tax revenue raised by the Government of Tamil Nadu during the year 2020-21, 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 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	2016-17	2017-18	2018-19	2019-20	2020-21
1	Revenue raised by the State Government					
	• Tax revenue	85,941.40	93,736.60	1,05,549.90	1,07,462.28	1,06,152.96
	• Non-tax revenue	9,913.76	10,764.01	14,200.02	12,887.84	10,421.85
	Total	95,855.16	1,04,500.61	1,19,749.92	1,20,350.12	1,16,574.81
2	Receipts from the Government of India					
	• State's share of divisible Union taxes	24,537.77	27,099.71	30,623.03	26,392.41	24,924.51 ¹
	• Grants-in-aid	19,838.20	14,679.44	23,368.21	27,783.37	32,576.98
	Total	44,375.97	41,779.15	53,991.24	54,175.78	57,501.49
3	Total revenue receipts of the State Government (1 + 2)	1,40,231.13	1,46,279.76	1,73,741.16	1,74,525.90	1,74,076.30
4	Percentage of 1 to 3	68	71		69	67

(Source: Finance Accounts of Government of Tamil Nadu)

During the year 2020-21, the revenue raised by the State Government (₹ 1,16,574.81 crore) was 67 per cent of the total revenue receipts. The remaining 33 per cent (₹ 57,501.49 crore) of the receipts during 2020-21 was from the Government of India.

1.1.2 **Table 1.2** presents the details of tax revenue raised during the period from 2016-17 to 2020-21.

¹ 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 2020-21. 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.

Table 1.2: Details of Tax revenue raised

(₹ in crore)

Sl. No.	Head of revenue	2016-17		2017-18		2018-19		2019-20		2020-21		Percentage of increase (+) or decrease (-) in 2020-21 over 2019-20
		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	(-) 1.13
2.	Taxes on Sales, Trade etc.,	64,835.04	63,233.58	73,959.25	46,356.15	44,427.04	42,701.07	48,033.65	44,515.44	56,046.29	43,489.31	(-) 2.31
3.	State Excise	6,636.08	6,248.16	6,902.91	5,815.30	6,997.83	6,863.12	7,262.32	7,205.97	8,133.80	7,821.66	(+) 8.54
4.	Stamps and Registration Fees	9,858.17	7,236.65	8,219.52	9,194.63	10,935.67	11,066.18	13,122.81	10,855.65	14,435.09	11,675.04	(+) 7.55
5.	Taxes on Vehicles	4,793.91	4,854.29	5,418.03	5,362.63	6,211.75	5,572.80	6,510.70	5,674.64	6,897.73	4,561.17	(-) 19.62
6.	Land Revenue	315.27	153.40	354.46	152.30	282.39	177.99	357.29	258.30	328.39	211.19	(-) 18.24
7.	Taxes on immovable property other than agricultural land (Urban Land Tax)	18.09	10.20	18.09	8.36	13.00	10.34	13.65	8.83	13.65	8.16	(-) 7.59
8.	Other Receipts ²	4,235.30	4,205.12	4,717.87	2,257.92	1,378.38	625.31	1,355.24	567.26	1,479.80	444.33	(-) 21.67
	Total	90,691.86	85,941.40	99,590.13	93,736.60	99,994.51	1,05,549.90	1,24,813.06	1,07,462.28	1,33,530.30	1,06,152.96	

(Source: Finance Accounts of Government of Tamil Nadu)

Tax revenue accounted for 60.98 per cent (₹ 1,06,152.96 crore) of the total revenue (₹ 1,74,076.30 crore) of the State for the year 2020-21. Decrease of ₹ 1,309.32 crore (1.22 per cent) in tax revenue raised by State Government (₹1,06,152.96 crore) in 2020-21 over the previous year (₹ 1,07,462.28 crore) was due to decrease in tax collection under State Goods and Services Tax (1.13 per cent), Taxes on Sales, Trade etc., (2.31 per cent), Taxes on vehicles (19.62 per cent), Land Revenue (18.24 per cent), Taxes on immovable property other than agricultural land-Urban Land Tax (7.59 per cent) and others (21.67 per cent).

The decrease in revenue under State Goods and Services Tax was due to reduction in receipt under (i) State Goods and Services Tax, (ii) Fees and (iii) Input Tax Credit cross utilization of SGST and IGST due to the negative impact caused by the first wave of COVID-19 pandemic. The decrease in collection under Taxes on Sales, Trade, etc., was due to lesser collection under sale of liquor and Petroleum products and Central Sales Tax Act owing to lockdown imposed to curtail the spread of COVID-19 pandemic. The decrease in collection under Taxes on vehicles was due to lesser collection in receipts under the Indian Motor Vehicles Act and the State Motor Vehicles Taxation Act. The decrease in collection under Land Revenue was due to lesser collection under “Sale proceeds of Waste Lands and Redemption of Land Tax”.

² ‘Other Receipts’ represent tax receipts pertaining to heads (i) Agricultural Income, (ii) Goods and Passengers, (iii) Electricity and (iv) Commodities and Service.

The increase in collection under State Excise was due to higher receipts under Sale of Foreign Liquor and Spirits. The increase in collection under Stamps and Registration Fees was due to increase in revenue collection under (i) Sale of Stamps, (ii) Duty on impressing documents and (iii) Fees for registering documents.

1.1.3 Table 1.3 presents the details of non-tax revenue raised during the period from 2016-17 to 2020-21.

Table 1.3: Details of Non-tax revenue raised

(₹ in crore)

Sl. No.	Head of revenue	2016-17		2017-18		2018-19		2019-20		2020-21		Percentage of increase (+) or decrease (-) in 2020-21 over 2019-20
		Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	
1.	Interest receipts, dividends and profits	2,874.85	4,503.90	3,816.36	5,357.15	4,086.26	7,031.19	4,631.01	4,547.74	5,596.49	3,729.44	(-) 17.99
2.	Crop Husbandry	128.46	56.94	123.40	76.47	59.82	185.06	62.16	53.12	76.27	75.42	(+) 41.98
3.	Forestry and Wildlife	158.59	34.22	161.72	57.51	103.07	145.46	48.63	83.38	83.69	94.70	(+) 13.58
4.	Non-Ferrous Mining and Metallurgical industries	1,180.99	983.90	1,186.10	1,146.11	1,452.27	1,057.45	1,987.50	1,150.12	2,222.35	765.24	(-) 33.46
5.	Education, Sports, Art and culture	2,404.56	1,195.23	1,606.50	1,153.45	1,448.99	1,592.36	1,264.59	1,792.96	1,919.96	1,649.63	(-) 7.99
6.	Other receipts ³	2,976.50	3,139.57	5,423.92	2,973.32	4,150.70	4,188.50	5,333.01	5,260.52	6,000.05	4,107.42	(-) 21.92
	Total	9,723.95	9,913.76	12,318.00	10,764.01	11,301.11	14,200.02	13,326.90	12,887.84	15,898.81	10,421.85	

(Source: Finance Accounts of Government of Tamil Nadu)

The non-tax revenue accounted for was 5.99 per cent (₹ 10,421.85 crore) of the total revenue (₹ 1,74,076.30 crore) of the State for the year 2020-21. Decrease of ₹ 2,465.99 crore in non-tax revenue raised by State Government (19.13 per cent) in 2020-21 over the previous year (₹ 12,887.84 crore) was due to decrease in collection under Interest Receipts, Dividends and Profits (17.99 per cent), Non-Ferrous Mining and Metallurgical industries (33.46 per cent), Education, Sports, Arts and Culture (7.99 per cent) and Other Receipts (21.92 per cent).

The decrease in collection under Interest Receipts, Dividends and Profits was due to lesser collections mainly under Other Receipts, interest from Public Sector and other Undertakings and interest realised on investment of cash balance. The decrease in revenue under Non-ferrous Mining and Metallurgical Industries was mainly due to lesser collection under Mineral Concession fees, rents and royalties and Other Receipts. The decrease in collection under Education, Sports, Arts and Culture was due to lesser collection under Secondary Education and Services and Service Fees under Technical Education.

³ 'Other receipts' represent non-tax receipts pertaining to heads (i) Police; (ii) Miscellaneous General Services; (iii) Medical and Public Health; and (iv) Urban Development etc.

The increase in collection under Crop Husbandry was due to higher receipts under (i) Sale of Fertilisers, (ii) Plant Protection and (iii) Commercial Crops. The increase in collection under Forestry and Wildlife was due to higher receipts under (i) Other Receipts and (ii) Environmental Forestry and Wildlife.

1.2 Analysis of arrears of revenue

The arrears of revenue, as on 31 March 2021, on some principal heads of revenue amounted to ₹ 38,124.75 crore, of which ₹ 19,273.15 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 2021	Amount outstanding for more than five years as on 31 March 2021	Replies of Department
1	State Goods and Services Tax	495.48	0.00	Recovery of ₹ 29.56 crore was stayed by High Court and other judicial authorities. Amount of ₹ 2.69 crore was likely to be written off. Remaining arrears of ₹ 463.23 crore were at various stages of recovery.
2	Taxes on Sales, Trade etc.,	29,951.56	15,645.09	Recovery of ₹ 10,028.14 crore was covered by Recovery Certificates. Recovery of ₹ 6,678.02 crore was stayed by High Court and other judicial authorities. Government stayed the collection of ₹ 112.80 crore. Collection of ₹ 45.38 crore was held up due to persons becoming insolvent. Amount of ₹ 643.28 crore was likely to be written off. Remaining arrears of ₹ 10,091.72 crore were at various stages of recovery. Current arrear was 2,352.22 crore.
3	Stamp Duty and Registration Fee	432.84	365.48	Recovery of ₹ 432.79 crore was covered by Recovery Certificates and collection of ₹ 0.05 crore stayed by High Court and other judicial authorities.
4	State Excise	32.49	32.49	Recovery of ₹ 15.95 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. Amount of ₹ 2.25 crore was likely to be written off. Arrears of ₹ 12.49 crore were at various stages of collection.
5	Taxes on vehicles	0.33	0.00	An amount of ₹ 0.19 crore was stayed by High Court and other judicial authorities. Arrears of ₹ 0.14 crore were at various stages of collection.
6	Electricity Taxes	620.96	455.18	Recovery of ₹ 169.59 crore was covered by Recovery Certificates. Recovery of ₹ 370.26 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 ₹ 57.20 crore were at various stages of recovery.
7	Urban Land Tax	199.58	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 ₹ 178.74 crore were at various stages of recovery.
8	Non-Ferrous Mining and Metallurgical industries	6,391.51	2,683.11	Recovery of ₹ 277.00 crore was covered by Recovery Certificates. Recovery of ₹ 3,604.04 crore was stayed by High Court and other judicial authorities. Government stayed the collection of ₹ 58.52 crore. Recovery of ₹ 5.62 crore was covered by rectification/ review application. Remaining arrears of ₹ 2,446.33 crore were at various stages of recovery.
	Total	38,124.75	19,273.15	

(Source: Details furnished by the concerned Departments)

Table 1.4 indicates that the amount of uncollected revenue as on 31 March 2021 was about 31 *per cent* of the total revenue raised by the Government during the year 2020-21. The total uncollected revenue of ₹ 38,124.75 crore for the year 2020-21 is 23 *per cent* higher than ₹ 30,908.32 crore for the year 2019-20. The Government may order expeditious collection of arrears of revenue besides taking necessary measures to boost collection efficiency in the current periods.

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 01/04/2020	12,270
Assessment due for the current assessment year 2020-21	NIL
Total	12,270
Assessment completed during the year 2020-21	11,294
Closing balance of assessments pending at the end of the year as on 31/03/2021.	976

(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 2020	Cases detected during 2020-21	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 2021
					Number of cases	Amount of demand (₹ in crore)	
1	State Goods and Services Tax	127	3,597	3,724	3,618	1,268.13	106
2	Taxes on Sales, Trade etc., (Other than State Goods and Services Tax)	2,648	0	2,648	797	3,064.46	1,851
3.	Taxes on Vehicles	0	8	8	8	0.06	0

(Source: Details furnished by the Department)

The Commercial Taxes Department had finalised 94 *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 30 *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 2020-21, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2020-21 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

(₹ in crore)

Sl. No.	Particulars	Value Added Tax		State Goods and Services Tax		State Excise		Motor Vehicles Tax	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1	Claims outstanding at the beginning of the year	443	28.65	644	73.01	1	0.01	22	0.09
2	Claims received during the year	5,464	188.78	25,571	3,357.22	0	0.00	173	1.39
3	Total (1+2)	5,907	217.43	26,215	3,430.23	1	0.01	195	1.48
4.	Refunds made during the year (including rejected cases)	1,239	126.06	25,964	3,404.08	0	0.00	195	1.48
5	Balance outstanding at the end of the year	4,668	91.37	251	26.15	1	0.01	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 2020 disclosed that 31,264 paragraphs, involving ₹ 5,485.67 crore relating to 5,543 IRs, remained outstanding at the end of June 2021 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 2019	June 2020	June 2021
Number of IRs pending for settlement	5,784	5,978	5,543
Number of outstanding audit observations	32,600	35,462	31,264
Amount of revenue involved (₹ in crore)	6,225.78	6,654.05	5,485.67

(Source: As per data maintained in office of the Principal AG (Audit-I) and AG (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 2020 and outstanding as on 30 June 2021 and the amounts involved are mentioned in **Table 1.9**.

Table 1.9: Department-wise details of IRs

(₹ in crore)

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1	Commercial Taxes and Registration	Value added tax and other taxes	1,761	18,932	3,362.56
		Stamp Duty and Registration Fee	1,712	5,749	759.17
2	Revenue	Land revenue	933	3,751	148.92
		Urban land tax	114	224	15.67
3	Home (Transport)	Taxes on vehicles	401	1,091	51.59
4	Home (Prohibition and Excise)	State excise	227	489	653.50
5	Industries	Mines and minerals	228	583	232.35
6	Energy	Electricity tax	102	214	261.91
7	Finance	Finance and Planning	65	231	0.00
Total			5,543	31,264	5,485.67

(Source: As per data maintained in office of the Principal AG (Audit-I) and AG (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 2020-21 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.

Eight draft paragraphs proposed for inclusion in the Report of the CAG for the year ended March 2021 were forwarded to the Secretaries to Commercial Taxes and Registration Department and Home (Transport) Department between January and May 2022. Government furnished specific reply in six cases. Since specific reply was not furnished in two 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 with in 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 199 paragraphs included in the Reports of the CAG on the Revenue Receipts of the Government of Tamil Nadu upto the year ended March 2019 were pending discussion by PAC. Out of the above, the Departments had not furnished explanatory notes in respect of 111 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 1,558 recommendations pertaining to 375 audit paragraphs discussed by PAC. Out of the pending 1,558 recommendations, even the first ATN had not been

received in respect of 163 recommendations, 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 Registration 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 Commercial Taxes and Registration Department relating to Stamp Duty and Registration Fee during the last 10 years, paragraphs included in these reports and their status as on 31 March 2021 are tabulated in **Table 1.10**.

Table 1.10: Position of Inspection Reports

(₹ in crore)

Year	Opening balance			Additions during the year			Clearance during the year			Closing balance		
	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value
2011-12	1,474	4,279	374.18	258	1,094	149.91	171	610	4.06	1,561	4,763	520.03
2012-13	1,561	4,763	520.03	157	462	1,174.15	125	764	70.00	1,593	4,461	1,624.18
2013-14	1,593	4,461	1,624.18	179	667	154.18	94	405	9.33	1,678	4,723	1,769.03
2014-15	1,678	4,723	1,769.03	165	746	115.74	51	258	14.33	1,792	5,211	1,870.44
2015-16	1,792	5,211	1,870.44	134	749	109.08	139	437	159.41	1,787	5,523	1,820.11
2016-17	1,787	5,523	1,820.11	116	759	51.40	89	343	34.62	1,814	5,939	1,836.89
2017-18	1,814	5,939	1,836.89	20	94	11.41	30	235	4.61	1,804	5,798	1,843.69
2018-19	1,804	5,798	1,843.69	9	78	64.42	10	77	1.17	1,803	5,799	1,906.94
2019-20	1,803	5,799	1,906.94	69	695	16.44	5	47	0.42	1,867	6,447	1,922.96
2020-21	1,867	6,447	1,922.96	57	493	104.09	297	1,387	1,140.99	1,627	5,553	886.06

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

As against 4,279 paragraphs involving money value of ₹ 374.18 crore which were pending at the beginning of 2011-12, the number at the end of 2020-21 had increased to 5,553 paragraphs involving money value of ₹ 886.06 crore. 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

Fifty-five draft paragraphs (including one Performance Audit) involving ₹ 1,102.68 crore was included in the Report of the CAG, Revenue Sector, Government of Tamil Nadu relating to the period from 2011-12 to 2018-19. The Department accepted audit observations in 44 cases involving ₹ 54.37 crore and recovered / adjusted ₹ 24.49 crore. All the 55 paragraphs included in the Audit Report for the years 2011-12 to 2018-19 are yet to be

discussed in the PAC. Out of 55 paragraphs, the Government had not submitted explanatory notes to nine paragraphs (including one Performance Audit) included in the CAG's Audit Report for the years 2016-17 to 2018-19. 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 2020-21, the audit universe comprised 1,880 auditable offices, of which 123 offices were planned and 113 offices were audited i.e., six *per cent* of the total auditable offices as mentioned in **Table 1.11**.

Table 1.11: Audits planned and conducted during the year 2020-21

Sl. No.	Name of the Department	Nature of Receipts / Expenditure	Auditable Offices	Offices planned	Offices audited
1	Finance	Treasuries and Pension	105	3	3
2	Commercial Taxes and Registration	State Goods and Services Tax, Value Added Tax, Sales Tax and other receipts	397	2	2
		Stamp Duty and Registration Fee	646	53	53
3	Revenue	Urban Land Tax	26	0	0
		Land Revenue	402	26	26
4	Home (Transport)	Taxes on vehicles	103	13	9
5	Transport	Motor Vehicle Maintenance Department	23	3	2
6	Home (Prohibition and Excise)	State Excise	75	0	0
7	Industries	Mines and minerals	33	6	1
8	Energy	Electricity duty	25	17	17
9	Planning	Planning, Development and Special Initiatives	45	0	0
Total			1,880	123	113

1.9 Results of audit

Position of local audit conducted during the year

During the year 2020-21, records maintained in the 113 offices were test checked and under-assessment, short levy, loss of revenue and other observations amounting to ₹ 675.87 crore were noticed in 1,079 cases. During the year, the Departments accepted under-assessment and other deficiencies and recovered / adjusted a sum of ₹ 13.73 crore in 184 cases. Out of these, 178 cases involving ₹ 13.72 crore pertained to observations raised in earlier years.

1.10 Scope of this Report

This Report contains eight paragraphs involving financial effect of ₹ 396.30 crore. The Department / Government accepted audit observations involving ₹ 7.94 crore and collected a sum of ₹ 0.43 crore. These are discussed in succeeding Chapters II to IV. The audit observations discussed in the subsequent paragraphs are observed from the test check of records in the selected offices. 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 twelve¹ 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 nine² 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 01 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 339 offices to be audited, 327 offices were planned but 154 offices were audited during the year 2019-20. 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 22,090 paragraphs with money value of ₹ 467.92 crore were outstanding as at the end of 31 March 2021 as detailed in **Table 2.1**.

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

² Chennai I, Chennai II, Coimbatore, Erode, Madurai, Salem, Tirunelveli, Trichy and Vellore.

Table 2.1: Details of Internal Audit Objections

(₹ in crore)

Year	No. of Inspection Reports	No. of Objections	Money value
Upto 2018-19	743	14,800	296.06
2019-20	131	3,562	122.02
2020-21	108	3,728	49.84
Total	982	22,090	467.92

(Source: Reply of the Department)

It is suggested that appropriate measures may be taken for clearance of old outstanding objections pending since 2010-11.

2.3 Results of audit

During the year, a Subject Specific Compliance Audit on “Processing of GST Refunds” was taken up and the findings are discussed in the following paragraphs.

2.4 Subject Specific Compliance Audit Report on “Processing of GST Refunds”

2.4.1 Introduction

Timely refund mechanism constitutes a crucial component of tax administration, as it facilitates trade by releasing the blocked funds for the purpose of working capital expansion and modernisation of existing business. The provisions pertaining to refund contained in the GST laws aim to streamline and standardize the refund procedures under GST regime. At the same time, a robust system should identify unlawful / incorrect refund claims to arrest revenue leakage and undue enrichment. The various types of refunds are refund of excess balance in Electronic Cash Ledger, refund of unutilized Input Tax Credit (ITC) on account of export of goods / services without payment of tax, refund of tax paid on export of services with payment of tax, refund of unutilized ITC on account of supplies made to SEZ Unit / SEZ Developer without payment of tax, refund of tax paid on supplies made to SEZ Unit/SEZ Developer with payment of tax, refund of unutilized ITC on account of accumulation due to Inverted Tax Structure, refund to supplier on tax paid on deemed export supplies, refund to recipient of tax paid on deemed export supplies, refund of excess payment of tax, refund of tax paid on intra-state supply which is subsequently held to be inter-state supply and vice versa, refund on account of assessment/provisional assessment/appeal/any other order, refund on account of “any other” ground or reason and refund as per Section 54(2) of the TNGST Act, 2017, of tax paid on inward supplies of goods or services or both by UNO etc. notified under Section 55.

Organisational Structure

In Tamil Nadu, GST 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). There are twelve³ Territorial Divisions headed by Joint Commissioners (JCs). The Deputy Commissioners, Assistant Commissioners, State Tax Officers, Deputy State Tax Officers are collectively termed as ‘Proper Officers’(POs) who are entrusted with assessment and collection of taxes. The Secretary, Commercial Taxes and Registration Department controls and monitors the CTD.

Audit Objectives

Audit of Refund cases under GST regime was conducted to assess

- the adequacy of Act, Rules, Notifications, Circulars etc. issued in relation to grant of Refund;
- the compliance of extant provisions by the tax authorities and the efficacy of the systems in place to ensure compliance by taxpayers; and
- Whether effective internal control mechanism exists to check the performance of the departmental officials in disposing off the refund applications.

Scope of audit

A Compliance Audit on “Processing of GST Refunds” was conducted in 2019-20 covering the refund applications processed during the period from 01 July 2017 to 31 March 2019 and the same was included in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2019 vide Paragraph Number 2.4. Hence the period covered in this report is from 1 April 2019 to 31 March 2021.

An entry meeting was held with the Secretary to Government, Commercial Taxes Department on 2 July 2021 in which audit objectives, criteria, scope and methodology were explained. An Exit meeting was held on 29 March 2022. The opinion expressed by the Government and the Department during the Exit meeting have been suitably incorporated in the report.

Sample selection

During the period from 01 April 2019 to 31 March 2021, a total of 33,038 refund applications were processed and refunds of ₹ 10,761.44 crore were sanctioned to the taxpayers. In the present audit conducted from July 2021 to February 2022, 704 refund cases (including 73 cases processed manually during 2019-20) were selected for detailed scrutiny based on stratified sampling using various risk parameters such as refund amount claimed, delay in sanctioning refund in various stages, refund sanctioned / refund claimed ratio and deficiency memo issued. The sample covered all 12 territorial

³ Chennai Central, Chennai East, Chennai North, Chennai South, Coimbatore, Erode, Large Taxpayers Unit, Madurai, Salem, Tirunelveli, Trichy and Vellore.

divisions and out of 396 circles, 41⁴ circles were covered in the pre-automation sample of 73 cases and 158⁵ circles were covered in the post-automation sample of 631 cases.

Audit Criteria

The audit objectives were benchmarked against the criteria drawn from the following sources:

- Tamil Nadu Goods and Services Tax Act, 2017 (TNGST Act, 2017)
- Tamil Nadu Goods and Services Tax Rules, 2017 (TNGST Rules, 2017)
- Central Goods and Services Tax Act, 2017 (CGST Act, 2017)
- Central Goods and Services Tax Rules, 2017 (CGST Rules, 2017)
- Integrated Goods and Service Tax Act, 2017 (IGST Act, 2017)
- Integrated Goods and Services Tax Rules, 2017 (IGST Rules, 2017)
- Notifications and circulars issued by the Department.

⁴ Adyar, Ambur, Annur, Anupparpalayam, Chithode, Devakottai, Ganapathy, Gummidipoondi, Harbour, Harur, Hosur (South)-II, Hosur (North)-II, Kumarapalayam, LTU-DC2, LTU-DC3, Madipakkam, Mylapore, Namakkal (Town), Oragadam, Padi (Anna Nagar), Palladam-I, Pallipalayam, Peelamedu (North), Pongalur, Ponneri, Rajapalayam-I, Rajapalayam-II, Ranipet, Ranipet Sipcot, Royapuram, Saidapet, Sholinganallur, Sriperumbudur, Thanjavur-II, Thirukazhukundram, Tiruppur (North)-I, Tiruppur (North)-II, Tiruppur Kongu Nagar, Tiruppur Lakshmi Nagar, Tuticorin-I and Velandipalayam.

⁵ Adyar, Alagapuram, Alandur, Amaindakarai, Ambatur IE, Ambur, Anna Nagar, Anna Salai, Annur, Anupparpalayam, Ashok Nagar, Attur (Rural), Avinashi, Avinashi Road, Avarampalayam, Bhavani, Brough road, Chengalpattu, Chennimalai, Chepauk, Chithode, Chrompet, Dharapuram, Egmore, Ettayapuram, Ganapathy, Gandhinagar, Gudiyatham (East), Guindy, Gummidipoondi, Harbour, Harur, Hasthampatty, Hosur(North)-I, Hosur (North)-II, Hosur (South)-II, J.J. Nagar, K K Nagar, Kaladipet, Kangeyam, Karumathampatti, Karur-I, Karur-II, Karur-III, Karur-IV, Kelambakkam, Kilpauk, Kodumudi, Kotturpuram, Kovilpatti-I, Krishnagiri-I, Kumarapalayam, Kuniyamuthur, LTU-DC3, Madurai Rural (South), Maduranthakam, Manali, Mandaveli, Mannady, Maraimalainagar, Medavakkam, Melur, Mettupalayam Road, Mettupalayam Taluk, Mettur Road, Muthialpet, Mylapore, N.S.C. Bose Road, Nagercoil-I, Nagercoil (Rural), Namakkal (Rural), Namakkal (Town), Nandambakkam, Nandanam, Nanganallur, Nilakottai, Nolambur, Nungambakkam, Oragadam, P N Palayam, Padi (Annanagar), Palani-I, Palladam-I, Palladam-II, Pallipalayam, Pammal, Park Road, Pattaravakkam, Peelamedu (North), Peelamedu (South), Periya Agraharam, Periyanaickenpalayam, Perundurai, Podanur, Pollachi (Rural), Pongalur Bazaar, Pongalur, Ponneri, Poonamallee, Porur, R S puram, Rajapalayam-I, Rajapalayam-II, Ram Nagar, Ranipet, Ranipet sipcot, Rasipuram, Royapuram, Saidapet, Salem Rural, Sankari, Saravanampatti (East), Saravanampatti (West), Sattur, Sattur-I, Sholinganallur, Singanallur (North), Sowcarpet, Sriperumbudur, T. Nagar, Thanjavur-II, Theni-I, Theni-II (andipatti), Thindal, Thirukazhukundram, Thirumazhisai, Thirupattur, Thiruvanniyur, Thudiyalur, Tiruchengode (Town), Tiruchengodu rural, Tiruppur (North)-I, Tiruppur (North)-II, Tiruppur (Rural)-I, Tiruppur (Rural)-II, Tiruppur (South), Tiruppur Bazaar, Tiruppur Central-II, Tiruppur Kongu Nagar, Tiruppur Lakshmi Nagar, Tiruvallur, Tiruverkadu, Trichy Road, Tuticorin-I, Tuticorin-II, Tuticorin-III, Udumalpet (North), Udumalpet (South), Valluvarkottam, Vaniyambadi, Vedasanthur, Velacherry, Velandipalayam, Vellakovil, Vengalakadai street, Vepery, Virudhunagar-I and West Veli Street.

2.4.2 Audit Findings

Audit findings are categorized into two broad areas viz., systemic issues and compliance issues. While the systemic issues aim to bring out the shortcomings relating to adequacy and effectiveness of the processing of refund claims, the compliance issues highlight deviations from the provisions of Act and Rules in individual cases and the resultant leakage of revenue. The audit findings are given below:

2.4.3 Systemic issues

The systemic issues involve both absence of provisions in the Act or Rules to plug leakage of revenue and absence of facility in the Goods and Services Tax Network (GSTN) to comply with the Act, Rule, Notification and circular. The issues observed during audit are given below:

2.4.3.1 Absence of provisions to restrict refund claims in proportion to the foreign remittances realised

Rule 89(4) of TNGST Rules, 2017, provides a formula⁶ for granting refund of ITC in the case of zero-rated⁷ supply of services. Rule 89(4)(D) defines the turnover of zero-rated supply of services as the aggregate of payments and advances received. Rule 89(4)(E) defines the adjusted total turnover as the aggregate of payments and advances received for the value of the turnover of zero-rated supply of services determined as per Rule 89(4)(D) and non-zero-rated supply of services. Therefore, in cases of exporters having turnover of only zero-rated supply of services, the numerator and the denominator in the formula cited are one and the same. Audit noticed in four out of 359⁸ cases assessed in three⁹ assessment circles wherein the export turnover was ₹ 392.64 crore but only ₹ 379.81 crore was realised in foreign exchange resulting in excess refund of ₹ 71.49 lakh. However, the POs allowed refunds based on the export turnover due to lack of provision in the Act to restrict the refunds to the extent foreign remittances were realised or have an alternative acceptable mechanism for adjusting the shortfall in foreign remittances vis-à-vis the export turnover claimed.

This was pointed out between November 2021 and February 2022. The reply is awaited (April 2022).

During Exit Conference (March 2022), Government while accepting the observation, stated that the matter is with the GST Council.

⁶ Refund Amount = (Turnover of zero rated supply of goods + Turnover of zero rated supply of services) x Net ITC/Adjusted Total Turnover.

⁷ Supply of goods or services for the purpose of export or supply to Special Economic Zone.

⁸ These 359 cases are zero rated cases out of total 704 sampled cases.

⁹ Sholingallur, Tiruppur Central-II and Velandipalayam.

2.4.3.2 Lack of provision to disallow ITC proportionate to subsidy granted

As per Section 15(2)(e) of TNGST Act, 2017, the value of supply shall include subsidies directly linked to the price excluding subsidies provided by the Central and State Governments. All subsidies in India are provided by the State or Union Government. The amount of subsidy is not included in the turnover for the purpose of calculating eligible ITC, turnover or adjusted turnover. As a result, eligible ITC is not computed by restricting the turnover relating to non-subsidy portion and the ITC on the entire input is allowed as refund.

Audit noticed in four out of 704¹⁰ cases assessed in three¹¹ circles that due to lack of provision in the Act to include the subsidy as a part of turnover, there was excess grant of refund of ₹ 7.24 crore. It is therefore suggested that the amount of all subsidies may be considered for inclusion in the turnover of the taxpayers and treated on par with zero-rated turnover.

When this was pointed out (September 2021 and February 2022), the POs of Manali and Tuticorin-II stated (October 2021 and February 2022) that subsidies issued by the Central and State Governments shall not form part of taxable supply and therefore subsidy provided could not be taken as exempted and reversal of ITC is not warranted. The reply does not address the Audit concern that ITC can be claimed only on the turnover which is assessed to tax. Since turnover relating to subsidy is not reported to tax, ITC cannot be availed on this turnover. Therefore, Audit has suggested that the Department may bring the issue to the notice of the GST Council for amendment of the Act to treat subsidy on par with zero-rated turnover.

During Exit Conference (March 2022), Government replied that the matter is with the GST Council.

2.4.3.3 Interest on belated issue of refunds

As per Section 56 of TNGST Act, 2017, if any tax ordered to be refunded under sub-section (5) of Section 54 to any applicant is not refunded within sixty days from the date of receipt of application under sub-section (1) of that Section, interest at such rate not exceeding six *per cent* as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax. Government notified¹² interest rate as six *per cent* per annum.

¹⁰ Out of 704 cases, only four cases involve subsidy.

¹¹ Anna Salai, Manali and Tuticorin-II.

¹² G.O.(M.S) No. 61 dated 29 June 2017 of the Commercial Taxes and Registration Department, Tamil Nadu.

Audit scrutiny of the refund applications processed in 36¹³ circles revealed that the POs had issued final refund order after the expiry of 60 days from the date of application in respect of 71 cases out of 704 examined in audit. The delay ranged from one to 179 days. Of these, 61 cases were delayed by upto three months and 10 cases were delayed by more than three months respectively. No interest was paid on these refunds which were issued belatedly. The interest on the belated issue of refunds is ₹ 26.92 lakh. Ideally, while sanctioning refund, the system should calculate interest automatically for the delayed period. However, no such facility has been provided in the system.

This was pointed out between September 2021 and January 2022. The reply is awaited (April 2022).

During Exit Conference (March 2022), Government replied that no interest had been paid on belated refunds so far and there is no provision in the system to credit interest automatically along with the belated refund.

2.4.3.4 Double payment of provisional refund

It was noticed that one taxpayer assessed in Thiruvallur circle had claimed refund of ITC on account of Export of Goods and Services without payment of tax for the period August 2019 and September 2019. The taxpayer had applied for refund for the period twice – once manually and subsequently through online. The same Application Reference Number (ARN) was granted to both applications and acknowledgement was issued twice for the same ARN.

While granting provisional refund, the PO processed both the applications and granted provisional refund on each application. That is, for the same ARN, provisional refund was granted twice. This resulted in excess payment of provisional refund of ₹ 25.31 lakh. During the transit period wherein processing mode was switched from manual to online, the system had permitted fresh application for refund which was already under process manually and the ARN that was already assigned could be generated. The failure of the system in this case is that the PO was not in a position to identify the double payment of provisional refund and the final refund was processed and granted as if in a normal case. However, had the taxpayer not remitted back the excess refund voluntarily, the double refund would not have been identified at all. The Department should trace and rectify similar cases of excess provisional refund, if any, granted during the transition period from manual to online processing of refunds.

This was pointed out in December 2021. The reply is awaited (April 2022).

¹³ Adyar, Ambur, Ganapathy, Guindy, Gummidipoondi, Harbour, Harur, Hosur (North)-I, Hosur (North)-II, Karur-I, Kelambakkam, Large Taxpayers Unit DC-III, Madipakkam, Mannady, Melur, Mylapore, Nandambakkam, Nungambakkam, Oragadam, Palladam-II, Pallipalayam, Poonamallee, Rajapalayam-II, Ranipet Sipcot, Sholinganallur, Sriperumbudur, T.Nagar, Thiruppathur, Thiruvanniyur, Tiruppur (Rural)-I, Tiruppur (Central)-II, Tiruvallur, Tiruvottiyur, Trichy Road, Tuticorin-I and Udumalaipet (South).

2.4.4 Compliance Issues

Table 2.2 brings out the extent of deficiencies noticed during the detailed audit of refund cases.

Table 2.2: Extent of deficiencies noticed in Audit

Nature of Audit Findings	Audit Sample in number	Number of deficiencies noticed in number	Deficiencies as percentage of Sample
Delay in issuance of acknowledgement	704	126	17.90
Delay in issue of final refund	704	71	10.09
Non-issue / Delay in issuance of provisional refund on account of zero-rated supply	359	190	52.92
Excess grant of refund due to incorrect determination of eligible ITC	359	75	20.89
Excess refunds granted for taxpayers with zero-rated turnover	359	50	13.93
Excess refund granted in cases of inverted duty structure	292	45	15.41

As evident from the table above, Audit noticed significant delay in issuance of acknowledgement in 17.90 *per cent* and issuance of refund orders in 10.09 *per cent* cases. Audit also noticed non-issue / delay in issuance of provisional refund in 52.92 *per cent* cases. Further, there was excess refund due to incorrect determination of ITC, excess refund to taxpayers with zero-rated turnover and with inverted duty turnover in 20.89 *per cent*, 13.93 *per cent* and 15.41 *per cent* cases respectively.

2.4.4.1 Delay in issue of acknowledgement

Rule 90(2) of TNGST Rules, 2017, prescribes that the application for refund, shall be forwarded to the proper officer who shall, within a period of fifteen days of filing of the said application, scrutinize the application for its completeness and where the application is found to be complete, issue an acknowledgement in Form GST-RFD-02.

Audit noticed in 126 cases out of 704 cases (17.90 *per cent*), assessed in 56¹⁴ circles that there was a delay in issuance of acknowledgement. The delay ranged from one to 118 days. Of these, 125 cases were delayed by up to three months and one case was delayed by more than three months. Thus, the Department did not adhere to the timelines for issuing acknowledgement as prescribed in the rules *ibid*.

When this was pointed out (between September 2021 and January 2022), six POs¹⁵ stated (between October 2021 and February 2022) that the delay was due to technical glitches on account of transmission from Offline to Online. The reply from the remaining 50 circles is awaited (April 2022).

The reply is not acceptable as the law has specified timelines for each stage of refund and acknowledgement was to be issued within 15 days.

2.4.4.2 Delay in issue of Final Refund

Section 54(7) of TNGST Act, 2017, stipulates that the proper officer shall issue the order under sub-section (5) within sixty days from the date of receipt of application complete in all respects.

Audit noticed in 71 (10.09 *per cent*) out of 704 refund cases, assessed in 36¹⁶ circles, that there was delay in issue of final refunds. The delay ranged from one to 179 days. Of these, 61 cases were delayed up to three months and 10 cases were delayed by more than three months.

When this was pointed out (between September 2021 and January 2022), five POs¹⁷ stated (between October 2021 and February 2022) that the delay was due to technical glitches on account of transmission from Offline to Online. The PO, Trichy Road, stated (February 2022) that the delay was due to Covid Pandemic. The reply from the remaining 30 circles is awaited (April 2022).

¹⁴ Adyar, Annur, Anupparpalayam, Chengalpattu, Chithode, Ettayapuram, Ganapathy, Guindy, Gummidipoondi, Harbour, Hosur (North)-I, Hosur (North)-II, Hosur (South)-II, Karumathampatti, Kotturpuram, Kumarapalayam, Madipakkam, Manali, Maraimalainagar, Mylapore, Namakkal (Town), Nandambakkam, Nungambakkam, Nagercoil (Rural), Oragadam, P.N.Palayam, Palladam-I, Palladam-II, Pallipalayam, Peelamedu (North), Peelamedu (South), Periya Agraharam, Pollachi (Rural), Pondy Bazaar, Pongalur, Rajapalayam-II, Ranipet Sipcot, Saidapet, Sholinganallur, Sriperumbudur, T.Nagar, Thanjavur-II, Thirimazhisai, Thiruppathur, Thiruvanniyur, Tiruppur (North)-II, Tiruppur (Rural)-I, Tiruppur (Central)-II, Tiruppur Kongu Nagar, Tiruppur Lakshmi Nagar, Tiruvallur, Tiruvottiyur, Trichy Road, Tuticorin-I, Velandipalayam and Viridunagar-I.

¹⁵ Oragadam, Sriperumbudur, Tuticorin-I, Tiruppur (North) II, Kotturpuram and Thiruvanniyur.

¹⁶ Adyar, Ambur, Ganapathy, Guindy, Gummidipoondi, Harbour, Harur, Hosur (North)-I, Hosur (North)-II, Karur-I, Kelambakkam, LTU DC3, Madipakkam, Mannady, Melur, Mylapore, Nandambakkam, Nungambakkam, Oragadam, Palladam-II, Pallipalayam, Poonamallee, Rajapalayam-II, Ranipet Sipcot, Sholinganallur, Sriperumbudur, T. Nagar, Thiruppathur, Thiruvanniyur, Tiruppur (Rural)-I, Tiruppur (Central)-II, Tiruvallur, Tiruvottiyur, Trichy Road, Tuticorin-I and Udumalaipet (South).

¹⁷ Oragadam, Sriperumbudur, Tuticorin-I, Park Road and Thiruvanniyur.

The reply is not tenable since the law has specified the timelines for each stage of refund and no specific orders providing relaxation of this timeline due to pandemic were issued.

During Exit Conference (March 2022), the Government replied that the delay in issue of acknowledgement and final refund was due to the pandemic and such delays have reduced considerably now.

2.4.4.3 Non-issue/delay in issue of provisional refund on account of zero-rated supply

Rule 91(2) of TNGST Rules, 2017, envisages that the proper officer, after scrutiny of the claim and the evidence submitted in support thereof and on being *prima-facie* satisfied that the amount claimed as refund is due to the applicant in accordance with the provisions of sub-section (6) of 54, shall make an order in Form GST- RFD-04, sanctioning the amount of refund on a provisional basis within a period not exceeding seven days from the date of the acknowledgement.

Audit noticed in 171 (47.63 *per cent*) cases out of 359 zero-rated cases, assessed in 62¹⁸ circles, that no provisional refund was granted although these cases were eligible for provisional refund. Further, in 19 (5.29 *per cent*) cases, assessed in 15¹⁹ circles, wherein provisional refund was granted, there was delay in issue of provisional refund beyond the prescribed time limit of seven days from the date of acknowledgement. The delay ranged from one to 40 days.

When this was pointed out (between September 2021 and January 2022), PO, Thiruvanniyur stated (January 2022) that the delay was due to technical glitches and PO Trichy Road in February 2022 attributed the delay to personal reasons. The reply from the remaining 13 circles is awaited (April 2022). Reply in respect of non-issue of provisional refunds in eligible cases is awaited (April 2022).

The reply is not tenable since the statutory provision regarding sanction of refund on provisional basis within statutorily specified timelines is part of Government's policy of 'ease of doing business' and to release the blocked revenue as soon as possible to the businesses concerned.

¹⁸ Adyar, Alagapuram, Ambattur IE, Ambur, Anupparpalayam, Attur (Rural), Chrompet, Egmore, Ettayapuram, Gandhi Nagar, Guindy, Gummidipoondi, Harbour, Hasthampatti, KK Nagar, Karumathampatti, Karur-II, Karur-III, Karur-IV, Kelambakkam, Kodambakkam, Kodumudi, Kotturpuram, Kuniamuthur, Madurai Rural (South), Maduranthagam, Mettupalayam Road, Nanganallur, Nilakkottai, Nolambur, Oragadam, PN Palayam, Palladam-I, Pattaravakkam, Perur, Podanur, Pollachi Rural, Pongalur, Poonamallee, Porur, Rajapalayam-I, Ranipet Sipcot, Singanallur (North)-I, Theni-I, Theni-II (Andipatti), Thirukazhukundram, Thiruvanniyur, Tiruchengode Rural, Tiruppur North-I, Tiruppur North-II, Tiruppur Rural-I, Tiruppur Rural-II, Tiruppur South, Tiruppur Bazaar, Tiruppur Central-II, Tiruppur Kongunagar, Tiruppur Lakshminagar, Tiruverkadu, Tuticorin-I, Tuticorin-II, Tuticorin-III and Velandipalayam.

¹⁹ Guindy (C), Hosur (North)-II, Large Taxpayers Unit DC-III, Maraimalainagar, Melur, Mylapore, Oragadam, Sholinganallur, Sriperumbudur, T. Nagar, Thiruvanniyur, Tiruvallur, Trichy Road, Tuticorin-I and Veperiy.

During the Exit Conference (March 2022), Government replied that the delay in issue of provisional refund was due to the pandemic and such delays have reduced considerably now.

2.4.4.4 Excess grant of refund due to incorrect determination of eligible ITC

Central Board of Indirect Taxes and Customs (CBIC) clarified²⁰ in September 2018 that the proper officer shall rely upon Form GSTR 2A as evidence for the account of the supply by the corresponding supplier in relation to which the ITC has been availed by the claimant. The Commissioner of Commercial Taxes also issued a Circular in June 2020²¹, wherein it was clarified that the refund of accumulated ITC shall be restricted to the ITC available on those invoices, the details of which are uploaded by the supplier in GSTR 1 and are reflected in Form GSTR 2A of the applicant. Rule 42(1) of the TNGST Rules, 2017, defines the method of calculation of net ITC in case the turnover consists of business income, other than business income, income from exempt supplies and income from zero-rated supplies. The Rule also mandates that the summary of each category of turnover shall be reported in GSTR-3B separately. Rule 42(1)(k) prescribes the formula for calculation of eligible ITC. Rule 42(1)(m) mandates the reversal of ineligible ITC in GSTR-3B.

Audit noticed in 75 cases out of 359 zero-rated cases, that the POs, instead of arriving at the refund payable on the basis of eligible ITC based on available ITC in GSTR-2A, by application of Rule 42(1)(k), etc., adopted the amount of ITC as stated in the application for refund. This resulted in excess refund of ₹ 366.88 crore. Cases of different categories are given below:

a) Non-adoption of Input Tax Credit as per GSTR-2A

- (i) A taxpayer assessed in Large Taxpayer Unit-III, Chennai, claimed refunds for the months of April 2019, September 2019, October 2019, November 2019 and December 2019 through five refund applications. The total amount claimed was ₹ 723.61 crore. The PO sanctioned ₹ 723.11 crore after disallowing ₹ 49.67 lakh. On verification, Audit noticed that the assessee had ITC amounting only to ₹ 535.33 crore as per GSTR-2A as on the date of refund, even after providing allowance²² for mismatch between GSTR-2A and GSTR-3B amounts. When Audit determined the eligible ITC based on the amount available in GSTR-2A as on the date of application and computed the refund, the eligible refund was found to be only ₹ 365.76 crore. Due to incorrect adoption of values, the PO granted a refund of ₹ 723.11 crore as against the eligible refund of ₹ 365.76 crore which resulted in excess refund of ₹ 357.35 crore.

²⁰ Circular No.59/33/2018-GST dated 04 September 2018.

²¹ Circular No.10/2020-TNGST dated 20 June 2020.

²² Rule 36(4) of CGST Rules inserted vide CBIC Notification nos. 49/2019-Central Tax dated 9-10-2019 and 75/2019-Central Tax dated 26-12-2019.

When this was pointed out (November 2021), the PO furnished the details of matched credits in March 2022. Since credit available in GSTR-2A as on the date of sanctioning refund only is eligible to be refunded, matched credits furnished in March 2022 cannot be taken into account as credits available as on the date of refund.

During the Exit Conference (March 2022), Government replied that post audit would be conducted, and the results would be communicated to audit.

- (ii) Audit noticed in 35 cases, assessed in 22²³ circles, that refund of ₹ 32.01 crore was granted based on the ITC claimed by the taxpayers. However, when Audit determined the eligible ITC based on credit available in GSTR-2A on the date of claim and computed the refund, the eligible refund was found to be only ₹ 25.12 crore. Due to incorrect adoption of values, the POs granted a refund of ₹ 32.01 crore as against the eligible refund of ₹ 25.12 crore which resulted in excess refund of ₹ 6.89 crore.

When this was pointed out (between November 2021 and January 2022), the PO, Adyar stated (February 2022) that notice was issued to the taxpayer in February 2022. The PO, Palladam-I, stated (March 2022) that the ITC available in GSTR-2A was ₹ 2.10 crore. The reply is not tenable since only ₹ 1.98 crore was available in GSTR-2A as on the date of claim and hence the claim should have been restricted to this amount. The reply from the remaining twenty circles is awaited (April 2022).

b) Non-restriction of eligible ITC as per GSTR-3B

Section 39 of the TNGST Act, 2017, provides that a registered person shall furnish a monthly return electronically through common portal declaring his inward and outward supplies and ITC claimed during the preceding month in Form GSTR-3B.

Audit noticed in one case assessed in Kelambakkam assessment circle that the taxpayer had claimed a refund of ₹ 1.17 crore for three months from April 2018 to June 2018 which was granted by the PO. However, when Audit determined the eligible ITC based on credit available in GSTR-3B on the date of claim and computed the refund, the eligible refund was found to be only ₹ 0.94 crore. Due to incorrect adoption of values, the PO granted a refund of ₹ 1.17 crore as against the eligible refund of ₹ 0.94 crore which resulted in excess refund of ₹ 0.23 crore.

This was pointed out in November 2021. The reply is awaited (April 2022).

²³ Adyar, Anupparpalayam, Gudiyatham (East), Gummidipoondi, Harbour, Harur, Hosur (North)-II, JJ Nagar, Krishnagiri-I, Maduranthagam, Maraimalainagar, Palladam-I, Pongalur, Ponneri, Poonamallee, Sholinganallur, T.Nagar, Thirumazhisai, Tiruchengode Rural, Tiruppur (North)-II, Tiruppur (Rural)-1 and Velandipalayam.

c) Non-determination of eligible ITC under Rule 42(1)(k)

If a taxpayer has both domestic and export supplies, the ITC allowable in proportion to domestic supplies is calculated using the formula prescribed in Rule 42(1)(k). Further, the excess ITC claimed beyond the permissible amount is to be reversed as stipulated in Rule 42(1)(m).

Audit noticed in 34 cases assessed in 18²⁴ circles that the PO did not adopt the formula as envisaged in Rule 42(1)(k) to determine the eligible ITC and granted refund based on the claim of the taxpayer. Due to incorrect adoption of values, the POs granted a refund of ₹ 31.98 crore as against the eligible refund of ₹ 29.57 crore which resulted in excess refund of ₹ 2.41 crore. Besides, ITC amounting to ₹ 1.66 crore was to be reversed.

This was pointed out between January and February 2022. The reply is awaited (April 2022).

During the Exit Conference (March 2022), Government agreed to take action on the above paras and stated that specific reply in individual cases would be furnished.

2.4.4.5 Excess refunds granted for taxpayers with Zero-rated turnover

Rule 89(4)(E) prescribes that the adjusted turnover is the aggregate of all supplies excluding the turnover of services and value of exempt supplies other than zero-rated supplies. The GSTR-3B reflects the adjusted turnover computed on the basis of this Rule. Audit noticed in 50 cases out of 359 cases examined, that an amount of ₹ 9.87 crore was granted in excess of the eligible amount since the department did not adopt the adjusted turnover as declared in the returns. Cases of different categories are given below:

a) Incorrect adoption of ITC and adjusted turnover

Audit noticed in 20 cases assessed in 15²⁵ Circles that the amounts of ITC and adjusted turnover as per the claim was different from the amounts declared in the returns. The POs, instead of adopting the amounts declared in the returns, granted refund based on the claims made by the taxpayers in their applications. Due to incorrect adoption of eligible ITC and adjusted turnover, the POs granted a refund of ₹ 23.13 crore as against the eligible refund of ₹ 18.47 crore, which resulted in excess refund of ₹ 4.66 crore. In addition, in seven of the above cases, a reversal of ITC amounting to ₹ 0.27 crore was also required.

²⁴ Ambur, Anuppapalayam, Karur-II, Karur-III, Karur-IV, Maraimalainagar, Namakkal Town, Podanur, Rajapalayam-I, Rajapalayam-II, Ranipet, Tiruppur Central-II, Tiruppur Kongunagar, Tiruvallur, Tutocorin-II, Turicorin-III, Vedasanthur and Velandipalayam.

²⁵ Ettayapuram, Hosur (North)-1, Karur-II, Karur-IV, Kelambakkam, Kilpauk, Kotturpuram, NSC Bose Road, Saidapet, Sholinganallur, Theni-II (Andipatti), Thiruvanniyur, Turicorin-I, Tuticorin-II and Velacherry.

When this was pointed out (between November 2021 and January 2022), the PO, Tiruvanmiyur stated (February 2022) that notice was issued to the taxpayer in February 2022 and rectification report would be sent. The reply from the remaining 14 POs is awaited (April 2022).

b) Incorrect adoption of eligible ITC and Zero-rated turnover

Audit noticed in six cases assessed in six ²⁶ circles that the amounts of eligible ITC and zero-rated turnover adopted by the taxpayers in their refund applications were different from the amounts declared in the returns. Instead of adopting the ITC and the zero-rated turnover declared in the returns, the POs granted refund based on the amounts claimed in the refund application. Due to incorrect adoption of values, the POs granted a refund of ₹ 21.59 crore as against the eligible refund of ₹ 18.56 crore which resulted in excess refund of ₹ 3.03 crore. In addition, in two of the above cases, a reversal of ITC amounting to ₹ 1.00 crore was also required.

This was pointed out between November 2021 and February 2022. The reply is awaited (April 2022).

c) Non-adoption of appropriate amounts of adjusted turnover

Audit noticed in 22 cases assessed in 17²⁷ circles that the amounts of adjusted turnover adopted by the taxpayers in their refund applications were different from the amounts declared in the returns. The POs, instead of adopting adjusted turnover declared in returns, granted refund based on the adjusted turnover claimed in the refund application. While the disallowance required was ₹ 1.43 crore, the POs disallowed only ₹ 0.04 crore, which resulted in excess refund of ₹ 1.39 crore.

When this was pointed out (between November 2021 and February 2022), the PO, Adyar, stated (February 2022) that notice was issued to two taxpayers in February 2022 and a report would be sent to Audit in due course. The reply from the remaining 16 POs is awaited (April 2022).

d) Incorrect adoption of eligible ITC, Zero-rated turnover and Adjusted turnover

Audit noticed in two cases assessed in two circles²⁸ that the amounts of eligible ITC, zero-rated turnover and adjusted turnover adopted by the taxpayers in their refund applications were different from the amounts declared in the returns. The POs had not verified these details with those declared in the returns but allowed the claims based on the details furnished in the applications. Due to incorrect adoption of values, the POs granted a

²⁶ Guindy, Gummidipoondi, Kilpak, Pondy Bazaar, Saravanampatti East, and Tiruppur Lakshmi Nagar.

²⁷ Adyar, Ambur, Chrompet, Ettayapuram, Hosur (North)-I, Karur-III, Kotturpuram, Nilakottai, Oragadam, Pollachi (Rural), Sholinganallur, Tiruppur (North)-II, Tiruppur (Rural)-I, Tiruppur (South), Tiruppur Lakshmi Nagar, Trichy Road and Tuticorin-I.

²⁸ Mylapore and Sholinganallur.

refund of ₹ 1.32 crore as against the eligible refund of ₹ 0.53 crore which resulted in excess refund of ₹ 0.79 crore.

This was pointed out between November 2021 and February 2022. The reply is awaited (April 2022).

During the Exit Conference (March 2022), Government agreed to take action on the above paras and stated that specific reply in individual cases would be furnished.

2.4.4.6 Excess refund granted in cases of inverted duty structure

Refunds due to inverted duty structure arise since accumulated ITC on account of the output tax liability is lesser than the input tax credits. In these cases, the ITC accumulated can never be adjusted against the output tax payable and hence they can only be claimed as refund. Rule 89(4)(E) of the TNGST Act, 2017, prescribes that the adjusted turnover is the aggregate of all supplies excluding the turnover of services and value of exempt supplies other than zero-rated supplies. The GSTR-3B reflects the adjusted turnover computed on the basis of this Rule. Rule 89(2)(h), prescribes that a statement containing the number and the date of the invoices received and issued during a tax period in a case where the claim pertains to refund of any unutilised input tax credit under sub-section (3) of Section 54 where the credit has accumulated on account of the rate of tax on the inputs being higher than the rate of tax on output supplies, other than nil-rated or fully exempt supplies, shall accompany the refund application. The value arrived at in this statement constitutes the inverted duty turnover. Analysis of data extracted from GSTN showed that refunds were granted in excess of eligible amounts owing to non-following of the method envisaged in the Rule, *ibid*. Excess refunds involving ₹ 9.89 crore in 45 out of 292 cases involving inverted duty structure have been pointed out. Cases of different categories are given below:

a) Incorrect adoption of adjusted turnover

Audit noticed in 11 cases in nine²⁹ circles that the POs did not adopt the turnovers as furnished in GSTR-3B to compute the eligible refund. Instead, they relied on the amounts claimed by the taxpayers in their refund application. As a result, they disallowed only ₹ 0.09 crore as against the required disallowance of ₹ 5.28 crore which resulted in excess refund of ₹ 5.19 crore.

When this was pointed out (between December 2021 and February 2022), the PO, Adyar stated (February 2022) that notice was issued to the taxpayer in February 2022 and a report would be sent to Audit. The reply from the remaining eight circles is awaited (April 2022).

²⁹ Adyar, Hosur (North)-1, Hosur (South)-II, Large Taxpayers Unit (DC-2) Chennai, Namakkal DC, Namakkal Town, Pallipalayam, Poonamallee and Vellakovil.

b) Incorrect Computation of eligible ITC and incorrect adoption of Inverted duty turnover and Adjusted turnover

Audit noticed in 22 cases assessed in 13³⁰ circles that the POs did not adopt the ITC as declared in the returns and adjusted turnover as per the statements prepared under Rules 89(2)(h) and 89(4)(E). Instead of adopting the ITC and the adjusted turnover declared in the returns, the POs granted refund based on the amounts claimed in the refund application. Due to incorrect adoption of inverted duty turnover and the adjusted turnover, the POs granted a refund of ₹ 12.65 crore as against the eligible refund of ₹ 9.44 crore which resulted in excess refund of ₹ 3.21 crore.

This was pointed out between December 2021 and January 2022. The reply is awaited (April 2022).

c) Incorrect adoption of Inverted Duty turnover

Audit noticed in five cases assessed in five³¹ circles, that the POs did not adopt the inverted duty turnover from this statement. Instead of adopting the inverted duty turnover declared in the returns, the POs granted refund based on the amounts claimed in the refund application. Due to incorrect adoption of inverted duty turnover, the POs granted a refund of ₹ 1.78 crore as against the eligible refund of ₹ 1.12 crore, which resulted in an excess refund of ₹ 0.66 crore.

This was pointed out between December 2021 and February 2022. The reply is awaited (April 2022).

d) Incorrect adoption of Inverted Duty Turnover and Adjusted Turnover

Audit noticed in five cases assessed in five³² circles that the POs did not adopt the inverted duty turnover as per the statement enclosed under Rule 89(2)(h) and the adjusted turnover as declared in GSTR-3B. Instead of adopting the inverted duty turnover and the adjusted turnover declared in the returns, the POs granted refund based on the amounts claimed in the refund application. Due to incorrect adoption of inverted duty turnover and the adjusted turnover, the POs granted a refund of ₹ 2.52 crore as against the eligible refund of ₹ 1.86 crore which resulted in excess refund of ₹ 0.66 crore.

When this was pointed out (between December 2021 and February 2022), the PO, Tiruppur North-I stated (February 2022) that an amount of ₹ 72,498 along with an interest of ₹ 13,586 was collected. Since the PO computed the demand by deducting ₹ 6,69,040 as tax paid instead of the actual amount of

³⁰ Hosur, Chithode, Hosur (North)-I, Kangeyam, Medavakkam, Pallipalayam, Peelamedu(North), Peria Agraharam, Perundurai, Sathur, Thindal, Tiruppur Lakshmi Nagar and Tiruppur Kongunagar.

³¹ Annur, Chithode, Palani-I, Royapuram and Vellakovil.

³² Karur-I, Pallipalayam, Royapuram, Tiruppur North-I and West Veli Street.

₹ 66,940 paid as tax, a further demand of ₹ 2,48,299³³ remains to be collected. The reply from the remaining four circles is awaited (April 2022).

e) Incorrect Computation of eligible ITC and incorrect adoption of adjusted turnover

Audit noticed that the POs of Perundurai and Velandipalayam circles did not adopt eligible ITC and the adjusted turnover as declared in the returns. Instead of adopting the eligible ITC and the adjusted turnover declared in the returns, the POs granted refund based on the amounts claimed in the refund application. Due to incorrect adoption of ITC and the adjusted turnover, the POs granted a refund of ₹ 0.50 crore as against the eligible refund of ₹ 0.33 crore which resulted in excess refund of ₹ 0.17 crore.

This was pointed out in February 2022. The reply is awaited (April 2022).

During Exit Conference (March 2022), Government agreed to take action on these paras and replied that specific reply in individual cases would be furnished.

2.4.5 Other issues

a) Non-collection of interest towards belated debit of claim amount in the Electronic Credit Ledger

Rule 89(3) of TNGST Rules, 2017, prescribes that “where the application relates to refund of input tax credit, the Electronic Credit Ledger (ECL) shall be debited by the applicant by an amount equal to the refund so claimed”. Section 50(3) of the TNGST Act, 2017, prescribes payment of interest at the rate of 24 *per cent* per annum for belated reversal of ITC.

Audit noticed that a taxpayer assessed in Thiruvottiyur circle had claimed refund of unutilised credit of ITC related to supplies made to SEZ unit / SEZ developer without payment of tax for the period July 2017 to March 2018 and final refund was issued. As the dealer had not debited the accumulated ITC in the ECL on the date of submission of application *viz.*, 14 October 2019, the PO had issued notice in Form DRC-01 to the dealer on 27 August 2021, instructing him to pay ₹ 14.41 lakh sanctioned as refund, that was not debited in the ECL, along with applicable interest at 24 *per cent* per annum. On receipt of the notice, the taxpayer had debited the refund amount of ₹ 14.41 lakh on 02 September 2021 in the ECL. However, the interest at 24 *per cent* is yet to be paid by the taxpayer which works out to ₹ 6.62 lakh³⁴.

This was pointed out in September 2021. The reply is awaited (April 2022).

³³ Difference between ₹ 3,20,797 pointed out in Audit and ₹ 72,948 actually collected by the PO.

³⁴ 24 *per cent* from 14 October 2019 to 2 September 2021.

b) Delay in communicating refund orders to counterpart tax authorities

Section 54(7) of the TNGST Act, 2017, mandates that the refund order shall be issued within sixty days from the date of receipt of the application complete in all respects. As per Board Circular No.24/24/2017 GST dated 21 December 2017, refund order issued either by Central Tax Authority or State Tax Authority shall be communicated to the concerned counterpart tax authority within seven working days for the purpose of payment of relevant sanctioned amount of tax or cess, as the case may be.

It was observed from the data made available relating to transmission of refund sanction orders communicated by the Assessment Circles to Counterpart Central Tax Authority, out of 7,554 refund orders issued during 2019-20 in the pre-automation period, 301 refund orders involving a sum of ₹ 90.14 crore were forwarded with a delay ranging from 1 to 287 days. Of these, 289 cases were delayed by upto three months, eight cases were delayed by three to six months and four cases were delayed by more than six months respectively.

Similarly, on a scrutiny of data relating to refund orders transmitted by Central Tax Authority to the State, it was observed that out of 6,715 refund orders relating to the pre-automation period, 2,880 orders involving ₹ 112.28 crore were forwarded belatedly. The delay ranged from 1 to 848 days. Of these, 2,705 cases were delayed by upto three months, 128 cases were delayed by three to six months and 47 cases were delayed by more than six months respectively.

This was pointed out in March 2022. The reply is awaited (April 2022).

c) Delay/non-conducting of post audit of refund claims

Post-audit of refunds is an important component of the internal control mechanism of the Commercial Tax Department to avoid revenue loss to the Government exchequer due to inadmissible refunds. If the post-audits are conducted regularly and results communicated to the assessing authority within the time stipulated, various shortcomings in the process of grant of refund would be identified and the proper officers can be trained to focus on such deficiencies. Further, excess refunds already granted can also be recovered or adjusted early and this will have a positive impact on Government revenue.

The CCT circular No 17/17/2017-GST dated 15 November 2017 stipulated that the pre-audit of manually processed refund applications is not required till separate detailed guidelines are issued by the Board, irrespective of amount involved. However, it was clarified that the post-audit of refund orders shall be continued as per the extant guidelines. In circular no 809/6/2005-CX dated 1 March 2005, issued by Ministry of Finance, it is stipulated that the post-audit shall be completed within three months from the date of issue of refund orders.

Audit noticed from the data furnished (February 2022) by JC (IT) that all the 504 refund cases sampled for the period from April 2019 to March 2020 were marked for post-audit on the same day the refund orders were issued. The data also revealed that the post-audit was finalised in 157 cases within the time prescribed and in 347 cases (50 relating to pre-automation period and 297 relating to post-automation period), post-audit was finalised belatedly beyond the period of three months. The delay ranged from 41 days to 849 days. Of these, eight were delayed by upto three months, 70 were delayed by three to six months and 269 were delayed by more than six months respectively.

When Audit called for post-audit reports (March 2022) relating to five cases mentioned in para 7.2.4 (a)(i) involving a refund of ₹ 723.11 crores sanctioned during 2019-20, the PO, Large Taxpayers Unit, Chennai stated (March 2022) that post-audit of refunds issued by him during 2019-20 was under progress. The contradictory reply furnished by the JC(Systems) and the PO shows that internal control in Department was inadequate, and completion of post-audit of refunds and prompt action thereupon were not prioritised. Expeditious completion of post-audit, especially on those cases which involve substantial amount of refunds, will enable the Proper Officers to rectify deficiencies in refund orders thereby protecting the revenue of Government.

During the Exit Conference (March 2022), Government replied that post audit in the cases pointed out in Audit would be done on priority basis and the report would be furnished to Audit.

2.4.6 Conclusion

There have been delays in issue of acknowledgement for applications of refund. There were delays also in grant of final refund and provisional refund and in many cases provisional refund was not granted due to inadequate monitoring at various stages of processing of refund. As a result, the Government's policy of 'ease of doing business' and to release the blocked revenue as soon as possible to the businesses concerned, was not fully achieved. There is no provision in the Act to disallow ITC for the turnover relating to subsidy. In several cases, the Proper Officers erred in calculating and adopting the appropriate values of eligible ITC, turnover and adjusted turnover in the case of taxpayers with zero-rated income and taxpayers with inverted tax turnover which resulted in excess grant of refunds. The Department did not possess credible data on conduct and completion of post-audit on refunds and post audit reports were not produced for perusal.

2.4.7 Recommendations

The Government may –

- **Urge the GSTC to introduce suitable provisions or amend the existing provisions to treat turnover relating to subsidy on a par with zero-rated turnover and disallow proportionate ITC.**
- **Instruct the Department to monitor adoption of appropriate values of eligible ITC, turnover and adjusted turnover by Proper Officers while granting refunds.**
- **Ensure that in cases where substantial amounts have been granted as refund, post-audit is conducted on priority basis, reports furnished expeditiously and action on the reports taken immediately.**

CHAPTER – III

STAMP DUTY AND REGISTRATION FEE

CHAPTER-III

STAMP DUTY AND REGISTRATION FEE

3.1 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 instruments¹, levy and collection of Stamp Duty and Registration Fees 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.

3.2 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 3.1**.

Table 3.1: Details of Internal Audit

Year	Number of audits due	Number of audits completed	Audit in arrears	Percentage of arrears
(1)	(2)	(3)	(4)	(5)
Upto 2016-17	6,991	5,265	1,726	25
2017-18	2,426	1,916	510	21
2018-19	3,817	3,038	779	20
2019-20	6,624	5,767	857	13
2020-21	6,594	6,141	453	7
Total	26,452	22,127	4,325	

(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 arrear audit. As a result, audit was being conducted in most of the offices. However, since 4,325 audits are still pending, the Department may take effective measures so that all the units due for audit are completed in a time-bound manner.

¹ "Instrument" includes every document by which any right or liability is, or purports to be created, transferred, limited, extended, extinguished or recorded.

Audit noted that 43,360 paragraphs with money value of ₹ 193.64 crore were outstanding as at the end of 31 March 2021 as detailed in **Table 3.2**.

Table 3.2: Details of Internal Audit Objections

(₹ in crore)

Year	Opening Balance		Observations raised		Observations settled		Observations pending	
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
Upto 2016-17	21,249	88.12	27,147	67.09	25,798	58.90	22,598	96.31
2017-18	22,598	96.31	24,078	60.16	16,354	39.49	30,322	116.98
2018-19	30,322	116.98	17,106	41.66	13,213	25.21	34,215	133.43
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

(Source: Reply of the Department)

It is suggested that measures such as Audit Committees may be formed to initiate appropriate action for clearance of old outstanding objections pending since 1992-93.

3.3 Audit methodology and Results of Audit

During the year 2020-21, there were 646² auditable units 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 (September 2020 to March 2021) was conducted in 53 out of the 646 auditable units (8.20 *per cent*). The revenue receipt in the test-checked units was ₹ 4,762.37 crore, representing 43.87 *per cent* of total revenue receipts of ₹ 10,855.65 crore during 2019-20.

Test-check of assessment and other records showed that irregular/incorrect assessment of market value of land and building and misclassification of deeds resulted in short collection of Stamp Duty and Registration Fee on sale, lease, agreement to sell, Power of Attorney, certificate of sale, release and partition of properties, etc. involving ₹ 127.69 crore in 486 cases. Accordingly, category-wise audit observations have been mentioned in **Table 3.3**.

² 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).

Table 3.3: Category-wise Audit observations for 2020-21

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1	Compliance Audit on “Clearance of documents for valuation under Section 47-A of Indian Stamp Act, 1899” in Registration Department	1	0
2	Undervaluation of deeds / documents	8	6.43
3	Misclassification of deeds / documents	260	46.25
4	Excess / Incorrect allocation of Transfer Duty Surcharge	47	6.06
5	Others	170	68.95
	Total	486	127.69

During 2020-21, the Department accepted under-assessment and other deficiencies amounting to ₹ 5.39 lakh in six cases pointed out between 2004-05 and 2016-17.

In respect of one draft Paragraph, the Government replied in March 2022 that a sum of ₹ 25 lakh has been collected in June 2021 as pointed out by Audit.

Compliance Audit on “Clearance of documents for valuation under Section 47-A of Indian Stamp Act, 1899” in Registration Department and a few illustrative cases involving ₹ 4.82 crore are discussed in the following paragraphs.

3.4 Compliance Audit on “Clearance of documents for valuation under Section 47-A of Indian Stamp Act, 1899” in Registration Department

3.4.1 Introduction

Section 47-A(1) of the Indian Stamp Act, 1899 (IS Act, 1899), states that if the registering officer, while registering any instrument / deed of conveyance, Exchange, gift, release of benami right or settlement, has reason to believe that the market value of the property has not been truly set forth in the deed, he may, after registering the deed, refer the same to the Collector for determination of the correct market value and duty payable thereon. The District Revenue Officer (Stamps) (DRO(Stamps)) / Special Deputy Collector (Stamps) (SDC(Stamps)) had been appointed as “Collector” for the purpose of determination of market value of property.

The Collector, under Section 47-A(3), may *suo-motu* or otherwise review the value of properties fixed by the registering authorities, within five years from the date of registration of the deed. The valuation made may be challenged by the executants under Section 47-A(5) by appealing to the Chief Controlling Revenue Authority (CCRA). The CCRA under Section 47-A(6) may also *suo-motu* review the values determined by the Collector. The Inspector General of Registration (IGR) presently holds the post of CCRA.

Functional Set-up

There are 11 offices viz., two headed by DRO (Stamps)³ and nine by SDC (Stamps)⁴ in the State to which deeds under Section 47-A(1) are referred. The DRO (Stamps) / SDC (Stamps) are assisted by Tahsildars in determination of market value of properties.

Audit Objectives

The audit was performed to assess whether:

- the cases referred under Section 47-A (1) were assessed as per prescribed procedures and within the time frame envisaged and demands were raised and collected appropriately; and
- the internal control mechanism was functional and effective.

Audit Criteria

The objectives and criteria of audit were derived from the following:

- The Indian Stamp Act, 1899;
- The Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 and The Registration Act, 1908; and
- Notifications and circulars issued by the Department

Audit Scope and Methodology

The audit was conducted from July to December 2021 and records pertaining to the deeds whose valuations were completed under Section 47-A(2) of the IS Act, 1899 during the period from 1 April 2018 to 31 March 2021 were covered in the audit. A total of 31,767 deeds involving a deficit Stamp Duty of ₹ 643.82 crore was finalised in the 11 offices during the period covered by audit. It is also observed that 2,268 deeds were pending for finalisation under Section 47-A(1) as on March 2021 in all the 11 offices, out of which 1,993 deeds were pending for valuation in the selected six offices.

Audit selected all two⁵ offices of DRO (Stamps) and four⁶ out of nine offices of the SDC (Stamps) based on amount of deficit Stamp Duty determined. Data pertaining to receipt, processing and finalisation of deeds was maintained manually by the auditee offices. Therefore, the auditee offices were requested to furnish all data pertaining to deeds finalised during the period of coverage and this data was validated and sampled. Out of 19,942 deeds, 2,222 deeds (11.14 *per cent*) referred to the DRO (Stamps) / SDC (Stamps) under Section 47-A(1), whose valuations were finalised during the period of audit,

³ Chennai and Coimbatore.

⁴ Cuddalore, Madurai, Salem, Thanjavur, Tiruchirappalli, Tirunelveli, Thoothukudi, Vellore and Virudhunagar.

⁵ Chennai and Coimbatore.

⁶ Salem, Tiruchirappalli, Tirunelveli and Vellore.

were sampled in the six offices through stratified sampling technique. The details are furnished in **Table 3.4**.

Table 3.4: Number of deeds finalised during 2018-19 to 2020-21 and selection of deeds for Audit scrutiny

Sl. No.	Name of the Office	No. of deeds finalised under Section 47-A(2)*	No. of deeds selected for audit	Percentage of selection
1	DRO(Stamps), Chennai	4,393	542	12.34
2	DRO(Stamps), Coimbatore	3,790	512	13.51
3	SDC(Stamps), Salem	3,196	307	9.61
4	SDC(Stamps), Tiruchirappalli	2,823	239	8.47
5	SDC(Stamps), Tirunelveli	1,887	285	15.10
6	SDC(Stamps), Vellore	3,853	337	8.75
	Total	19,942	2,222	11.14

(*Source: Details furnished by the Department)

Audit also visited the Office of the IGR, Chennai and Sub-Registrar Offices for verification and examination of related records. In the Office of the IGR, Chennai audit checked 275 appeal cases processed during the period of audit. An Entry Conference was conducted on 2 July 2021 with the Secretary to Government, Commercial Taxes and Registration Department, wherein the audit objectives, criteria, scope and methodology were explained. The Exit Conference was held on 29 March 2022. The views expressed in the Exit Conference and reply furnished by the Government are suitably incorporated in the report.

Acknowledgement

Audit acknowledges the cooperation extended by the Registration Department in smooth conduct of the audit.

3.4.2 Audit Findings

During field audit, the sampled and validated data was verified with original records; outcome of the verification and analysis of data captured from the Master Register are given below:

3.4.2.1 Inconsistencies in selection and disposal of documents referred

As per the procedure prescribed in Rule 4 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, a notice in Form I shall be issued on receipt of deeds under Section 47-A(1) of the IS Act within 15 days informing the person concerned to submit his representations. After determination of provisional market value as per the guidelines prescribed in Rule 5 and after considering the representations, a notice in Form II, as prescribed in Rule 6 is issued communicating provisionally the value determined and the differential Stamp Duty payable. Thereafter, a final order and a demand notice are issued to the parties to pay up the deficit duty determined. Rule 7 prescribes a three-month time limit for issue of final orders from the date of notice in Form I.

Analysis of 2,222 cases in selected offices revealed that, in 537 cases, valuation of documents was completed after the prescribed timeline of three months from the date of issue of Form-I, as given in the **Table 3.5**.

Table 3.5: Delay in determining market value after issue of Form I

Sl. No	Time consumed (beyond 90 days stipulated) for fixation from issue of notice in Form I	Total No. of deeds finalised in selected Offices*	No. of deeds sampled in Audit	No. of deeds (out of 2222 deeds sampled) involved	Percentage (out of 2222 deeds sampled)	Deficit Stamp Duty involved (in crore)
1	More than one year	19,942	2,222	131	5.90	3.01
2	More than six months but less than one year	19,942	2,222	89	4.01	2.11
3	More than three months but less than six months	19,942	2,222	113	5.09	3.13
4	One day to three months	19,942	2,222	204	9.18	15.69
	Total			537	24.17	23.94

(*Source: Details furnished by the Department)

The above table indicates that about 24 *per cent* of the sampled deeds referred have been valued beyond 90 days from the date of issue of Form-I notice. Due to non-adherence of the prescribed time limit, there was blockage of revenue due to the Government amounting to ₹ 23.94 crore.

Audit also noticed that there was no order of priority for taking up the deeds for valuation, i.e. on first-come-first served basis. It was observed that 355 deeds involving deficit Stamp Duty of ₹ 83.46 crore were finalised within 5 days from the date of issue of Form-I notice.

Out of these 355 deeds, 107 deeds involving a deficit Stamp Duty of ₹ 26.17 crore were finalised on the same day on which Form-I notice was issued. The process of valuation involves issue of notices by DRO(Stamps)/SDC(Stamps) to the parties, obtain representation from the concerned parties, conduct inspection for valuation and issue of final orders. Audit found that all these processes were completed within a single day in all these cases. Therefore, the valuation process and the selection of deeds for finalisation by DRO(Stamps)/ SDC(Stamps) were carried out in *ad-hoc* manner without following any prescribed / transparent system.

On being pointed out (January 2022), the Government (March 2022) citing the Supreme Court decision in Civil Appeal No 2586 of 2020 replied that the timeline of three months under Rule 7 is purely directory and not mandatory. It was also stated that notwithstanding the decision cited, the Inspector General of Registration, vide Circular no.3103/E3/2022 dated 29.01.2022, instructed the District Revenue Officers (Stamps) / Special Deputy Collector (Stamps) to determine the market value of the properties within time limit prescribed in the Rules. While the reply is acceptable, Audit is concerned that there is blockage of revenue of Government due to pendency of documents for valuation of properties by DRO(Stamps) / SDC(Stamps). Further, the issue of hasty completion of valuation in selected cases has not been replied to.

3.4.2.2 Discrepancies in valuation of deeds

According to Rule 5 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, the Collector shall, while arriving at the provisional market value of land, consider the classification of land and value of adjacent lands or lands in the vicinity. An analysis of the data showed that in 74 *per cent* of the sampled cases, the Stamp Duty determined under Section 47-A(2) was less than one third of the deficit Stamp Duty referred by the Registering Authorities as explained in the **Table 3.6**:

Table 3.6: Details of valuation under Section 47-A(2)

Sl. No.	Valuation of DRO (Stamps) / SDC (Stamps) in comparison with the deficit Stamp Duty referred	No. of deeds	Percentage out of 2,222 deeds sampled*
1	Valuation at 100 <i>per cent</i> of the deficit duty referred	107	4.82
2	Valuation at 50-100 <i>per cent</i> of the deficit duty referred	202	9.09
3	Valuations at less than 50 <i>per cent</i> but more than one-third of deficit duty referred	266	11.97
4	Valuation at less than one-third of the deficit duty referred	1,647	74.12

(*Source: Details furnished by the Department)

Audit have already pointed out in **Paragraph 3.4.2.1** that 355 deeds were valued in less than five days, 107 of which were valued in just one day. Now from **Table 3.6**, it is revealed that the quantum of determination of deficit Stamp Duty in 74.12 *per cent* cases was less than one-third of the deficit Stamp Duty referred by the Registering Officers (ROs). The hasty manner in which DRO(Stamps) / SDC (Stamps) completed valuation of select deeds in a very short time, and the deeply discounted quantum of valuation when compared to guidelines point to the fact that the processes of valuation lacked transparency and designed to favour the parties.

Audit noticed in 19 cases that misclassification of nature of lands resulted in potential short levy of Stamp Duty of ₹ 20.96 crore (₹ 21.81 crore referred as deficit duty minus ₹ 0.85 crore actually levied by the DRO(Stamps) / SDC (Stamps)). The details are placed in the **Table 3.7**.

Table 3.7: Details of objections

Sl. No.	Years	No. of sampled cases	No. of illustrative cases	Deficit duty referred (in crore)	Deficit duty fixed (in crore)	Remarks
1	2018-19	542	2	13.48	0.05	Misclassification of industrial land as residential land
2	2018-19 to 2020-21	2222	11	5.45	0.45	Misclassification of residential land as agricultural land
3	2018-19 2019-20	1395	6	2.88	0.35	Misclassification of industrial land as agricultural land
	Total		19	21.81	0.85	

The cases are explained below:

- In the Office of the DRO(Stamps), Chennai, in two out of 542 cases, the value of industrial land was classified as residential land and the value was fixed at ₹ 240 per sq. ft against a market value of guideline of ₹ 500 per sq.ft. While the classification of the land was industrial and the deficit Stamp Duty referred by the ROs was ₹ 13.48 crore, the DRO(Stamps) assessed the properties as residential lands and fixed the deficit Stamp Duty as ₹ 0.05 crore. The incorrect adoption of nature of land thus resulted in a potential short levy of ₹ 13.43 crore.
- 11 cases out of 2,222 valued in all six offices sampled were referred by nine ROs as residential lands under Section 47-A(1). The ROs had calculated the deficit Stamp Duty at ₹ 5.45 crore in these 11 cases. However, the DRO (Stamps) / SDC (Stamps) decided that the lands were agricultural and determined the deficit Stamp Duty at ₹ 0.45 crore. The change in classification of these properties resulted in short determination of deficit Stamp Duty of ₹ 5 crore.
- In four⁷ offices, six cases out of 1395 cases were referred by six ROs for fixation of values under Section 47-A(1). The ROs had classified the properties as industrial and the deficit duty was estimated at ₹ 2.88 crore. However, the DRO(Stamps) / SDC (Stamps) decided that the lands were agricultural and determined the deficit Stamp Duty at ₹ 0.35 crore. Thus, the change in classification of these properties resulted in short determination of deficit duty of ₹ 2.53 crore.

In all the above instances, the DRO(Stamps) / SDC (Stamps) did not follow the principles laid down in Rule 5 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 that resulted in potential under-estimation of the value of properties. These cases were not selected for *suo-motu* review under Section 47-A(6) by the CCRA.

On this being pointed out (January 2022), Government replied (March 2022) that the Deputy Inspectors General concerned had been directed to make the field inspection of properties and to state whether the above cases are fit for initiating *suo-motu* revision under Section 47A-(6) of the Indian Stamp Act, 1899.

3.4.2.3 Non-fulfillment of condition prescribed u/s 47-A(7)

As per provision u/s 47-A(6) of Indian Stamp Act, 1899, the CCRA may, *suo motu*, call for and examine an order passed under sub-section (2) or (3) and if such order is prejudicial to the interests of revenue, he may make such inquiry or cause such inquiry to be made and, subject to the provision of act, may initiate proceedings to revise, modify or set aside such order and may pass such order thereon as he thinks fit. Further, as per provision u/s 47-A(7) of IS

⁷ DRO(Stamps) Coimbatore, SDC(Stamps) Salem, SDC(Stamps) Tiruchirappalli and SDC(Stamps) Vellore.

Act, 1899, the CCRA shall not initiate proceeding against any order passed under sub-section (2) or (3) if,

- (a) The time for appeal against that order has not expired; or
- (b) More than five years have expired from the date of passing of such order.

It was noticed from files relating to Section 47-A(6) for the years 2018-19 to 2020-21 that in three out of 20 orders passed u/s 47-A(6) by the CCRA, initiation of proceedings have been done after the five year period stipulated under Section 47-A(7) of the IS Act, 1899, as detailed in the following **Table 3.8.**

Table 3.8: Details of appeal cases finalised belatedly

Sl. No.	Year in which finalised	Total No. cases finalised	No. of cases wherein there was belated action	Percentage	Money value involved (₹ in lakh)
1	2018-19	8	2	25.00	6.73
2	2019-20	2	0	0.00	0
3	2020-21	10	1	10.00	12.09
	Total	20	3	15.00	18.82

Out of the total amount of ₹ 18.82 lakh involved in these three cases, a deficit duty of ₹ 6.73 lakh was collected in two cases. An amount of ₹ 12.09 lakh remains to be collected in one case.

On this being pointed out, the department replied (December 2021) that an endorsement had been made in the Encumbrance Certificate and notice had been issued to the document holder for paying the deficit amount.

Government in their reply (March 2022), citing various judgements, stated that it could not be stated that it is not possible to collect the deficit amount on the ground that proceedings under Section 47-A(6) of the Indian Stamp Act, 1899, had been initiated after expiry of five years from the date of order passed under Section 47A-(2) of the said Act. It was further replied that the office of the Sub-Registrar, Joint-I, Arakkonam, the District Registrar, Arakkonam and Special Duty Collector (Stamps), Vellore had been directed to initiate action for collection of deficit amounts.

The judgements quoted are not related to appeals under Section 47-A of cases disputed under the IS Act, 1899. Audit reiterates that the timelines prescribed in the Act are binding on the enforcing authority and belated actions will not stand the test of law.

3.4.2.4 Issues relating to internal control

- **Improper maintenance of Master Register:** The ‘Master Register’ is the key register in the offices of the DRO(Stamps)/ SDC(Stamps) for recording the receipt of deeds for valuation under Section 47-A(1) and dates of subsequent actions such as issue of notices, determination and finalization of market value and collection of deficit Stamp Duty. It is through this record that the DRO (Stamps) / SDC (Stamps) monitor the progress of receipt and clearance of deeds referred. Audit, during verification noticed (October 2021) that all columns relating to deed referred for valuation were not filled up in the O/o the SDC (Stamps), Tirunelveli.

When this was pointed out (October 2021), SDC (Stamps), Tirunelveli replied (October 2021) that the Master Register will be updated and intimated to audit.

The issue of improper maintenance of Master Register had already been highlighted in **Para 3.9.4** of the Report of the Comptroller and Auditor General of India (Revenue Sector) for the year ended March 2013 and a recommendation was also made to computerise the Master Register in Audit Report for the year ended 31 March 2010. However, even after a lapse of 11 years, no action has been taken to computerize the register.

On this being pointed out (January 2022), Government replied (March 2022) that after implementation of Comprehensive Web based system from February 2018, all the operations of the Department are carried out in digital platforms. The reply is not tenable since none of the functions of DRO(Stamps) / SDC (Stamps) has yet been computerized.

- **Delay in reconciliation:** The ROs reconcile periodically the deeds referred to the DRO(Stamps) / SDC(Stamps) with the deeds pending for valuation so as to ensure that all deeds were returned to the ROs concerned after valuation. Although there is no Manual instruction or prescribed periodicity for this reconciliation, the procedure enables tracking of deeds referred under Section 47-A(1) and is used as a tool to identify and retrieve deeds lost during transit or due to other reasons.

Scrutiny of relevant records revealed that 273 out of 317 ROs falling within the jurisdiction of five DRO(Stamps) / SDC(Stamps) did not perform reconciliation for more than one year. The details are shown in **Table 3.9**.

Table 3.9: Non-reconciliation of deeds during 2018-19 to 2020-21

Sl. No.	Name of the Office	No. of SROs in the jurisdiction	No. of offices that did not reconcile	Percentage of offices that did not reconcile	Period for which reconciliation not performed
1	DRO (Stamps), Chennai	67	47	70	2019-20 and 2020-21
2	DRO (Stamps), Coimbatore	56	47	84	2018-19 to 2020-21
3	SDC (Stamps), Tiruchirappalli	71	56	79	2019-20 and 2020-21
4	SDC (Stamps), Tirunelveli	62	62	100	2019-20 and 2020-21
5	SDC (Stamps), Salem	61	61	100	2018-19 to 2020-21
	Total	317	273	86	

On this being pointed out, the DRO(Stamps) / SDC(Stamps) replied (between August and November 2021) that the reconciliation work is being carried out and the outcome would be intimated to audit.

Government in their reply (March 2022) stated that the Audit observation was brought to the notice of the Deputy Inspectors General of Registration concerned and they were requested to forward details of pendency of reconciliation in respect of deeds referred upto 30 June 2021.

3.4.3 Conclusion

There was considerable delay in valuation of deeds which resulted in belated realisation of revenue to the Government. Notwithstanding that the process of valuation under Section 47-A(2) is quasi-judicial, first-cum-first-served basis was not adopted while choosing deeds for valuation as there was no system of queuing. The provisions of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 are merely advisory in nature and not binding upon the DRO (Stamps) / SDC (Stamps). Therefore, the DRO (Stamps) / SDC (Stamps) have wide discretion while arriving at the value of instruments referred to him. As a result, there were discrepancies in valuation of properties and the same were not done on the principles laid down in the Rules *ibid*, which may have caused potential loss to the Government. Review under Section 47-A(6) in a few cases was time-barred. Master Register, which is the gateway to entry and clearance of deeds referred under Section 47-A(1) and 47-A(3), was not updated and digitization of the register had not taken place yet.

3.4.4 Recommendation

The Government may

- **Ensure that effective measures are taken for establishment of a transparent system of fixation of market value of the documents by the DRO (Stamps) / SDC (Stamps) referred to them under Section-47A(1).**
- **Bring in suitable amendments to the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 to enforce accountability in fixing value of instruments referred under Section 47A.**

Other Audit Observations

Audit scrutinised (September 2020 to March 2021) the available records in the Department for assessment and collection of Stamp Duty, Registration Fee, etc. Audit noticed short realisation of revenue due to misclassification of deeds and undervaluation of properties. The Government/Department may, undertake a detailed review of all units to check whether similar errors/omissions have taken place elsewhere, and if so, to rectify them.

3.5 Short collection of Stamp Duty and Registration Fee due to undervaluation of property

In the case of transfer of immovable property, Stamp Duty at the rate of seven *per cent* including Transfer Duty Surcharge, is chargeable on the market value as per Article 23 of Schedule I to the IS Act, 1899, and Registration Fee at the rate of one or four⁸ *per cent* is chargeable on the market value as per Article 1(a) of Table of Fees prepared under Section 78 of The Registration Act, 1908. According to Section 27 of the IS 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 the Government Order⁹, instruments executed by members in favour of co-operative societies registered in the State are exempted from payment of Stamp Duty.

- (i) During test-check of records (March 2021) in the Office of the Sub-Registrar, Kundrathur, it was noticed that through six Sale Deeds registered in June 2019, an extent of 5.13 acres of land, across various survey numbers situated in Kundrathur 'A' village, were conveyed for a total consideration of ₹ 7.70 crore. Subsequently, the purchasers of the properties conveyed the entire properties to a registered Co-operative Housing Society for a sale consideration of ₹ 39.79 crores through two Sale Deeds registered in June 2019.

Further analysis revealed that the first sale was between individuals (being non-members) and the members of the Society, and the subsequent sale was between the members and the Society. Since values of properties cannot rise five-fold within a period of two to seven days, it is evident that the actual consideration was concealed for the purpose of avoiding Stamp Duty in the first transaction but revealed in the subsequent transactions, since sale to a registered Co-operative Society is exempted from Stamp Duty. In short, a lower value was declared in deeds that attracted Stamp Duty but the actual value was revealed in the deeds that were exempt from duty. However, the RO did not identify the concealment and registered the deeds based on the value declared in each deed. This resulted in undervaluation of properties by ₹ 32.09 crore and consequent short levy of Stamp Duty and Registration Fee of ₹ 3.53 crore (Appendix 3.1).

⁸ One *per cent* upto 08 June 2017 and four *per cent* from 09 June 2017.

⁹ GO Ms.No.2179, Agriculture (Co-operation), dated 29 June 1966.

On being pointed out by Audit (January 2022), the Government accepted the audit observation and stated (June 2022) that the District Registrar, Chennai (South) had been directed to instruct the Sub-Registrar to refer the documents under Section 47-A(3) of the IS Act.

- ii) During test-check of the records in the office of the Sub-Registrar, Thiruppathur (Vellore), Audit noted (June 2019) that in two¹⁰ out of 168 conveyance deeds, land and building were conveyed for a value of ₹ 1.50 crore. A Stamp Duty and Registration Fee of ₹ 12.00 lakh on this value was collected. Audit further noted that the value of the properties as per the Guideline Value Register was ₹ 2.59 crore. However, the RO, after registering the conveyance deeds, did not refer the same to the Collector for determination of market value as laid down in Section 47-A(1). The failure of the RO in following the prescribed procedure resulted in undervaluation of properties to the extent of ₹ 1.09 crore as detailed in Annexure and consequent short levy of Stamp Duty and Registration Fee of ₹ 8.72 lakh (Appendix 3.2).

On being pointed by Audit (January 2021), the Government accepted the audit observation and stated (January 2022) that the deeds were referred to the Collector for determination of market value.

Recommendation: The Department may ensure, through internal audit and appropriate internal controls, that conveyance deeds which convey properties that have not been valued as per guideline rates or fair market value, are invariably referred to the Collector for determination of correct market value.

3.6 Undervaluation of property due to furnishing of incorrect details of location of the property

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 and Registration Fee is leviable at the rate of one *per cent* as per the Table of Fees prepared under Section 78 of the Registration Act, 1908 on the market value of property.

- (i) Audit scrutiny (February 2021) of records in Joint-I Sub-Registrar Office, Tiruppur, revealed that through a sale document registered in February 2016, property measuring an extent of 6,839 sq.ft land situated in TS No.17/7A2C, Block No.3, T.S.No.17/9, Murugeripalayam Itteri Road, Tiruppur was conveyed for a consideration of ₹ 88.92 lakh. The same property was again conveyed in April 2016 for a consideration of ₹ 88.92 lakh. In both the occasions, Stamp Duty and Registration Fee of ₹ 7.11 lakh was collected. It is noticed from the parent document (Document No.

¹⁰ Registered in May 2013 and June 2014.

7491/2015) that the property was situated in College Road for which Guideline Value is ₹ 2,300 per square feet. Evidently, there was suppression of information by the executants, and this was not identified by the Registering Officer (RO). If the value of College Road is adopted, the value of the property would be ₹ 157.30 lakh against ₹ 88.92 lakh set forth in both the documents. This has resulted in undervaluation of documents and consequent short collection of Stamp Duty and Registration Fee of ₹ 10.94 lakh (**Appendix 3.3**).

- (ii) During test-check of records in the Sub-Registrar Office, Walajabad, it was noted (March 2021) that through a conveyance deed registered in February 2018, property measuring an extent of 8,720 sq.ft. situated in New Survey No. 271/13 (Old Survey No.271/2A1) of Walajabad village was conveyed for a consideration of ₹ 29.21 lakh. The executant quoted the survey number and mentioned 'road' in one of the boundaries. The RO adopted the market value guideline of ₹ 335 per sq.ft applicable to the survey number and collected Stamp Duty and Registration Fee of ₹ 3.21 lakh.

On further verification, it was found that during the previous sale deed registered in September 2011, one of the boundaries was mentioned as "Walajabad-Kancheepuram Road". Evidently, there was suppression of information in the present deed registered in February 2018 which the RO failed to notice. If the market value (as per Guideline Value Register) of ₹ 1,005 per sq.ft applicable to Wallajabad-Kancheepuram Road is adopted, the value of the property would be ₹ 87.63 lakh instead of ₹ 29.21 lakh set forth. As the property was undervalued to the extent of ₹ 58.42 lakh, there was a short levy of Stamp Duty and Registration Fee of ₹ 6.43 lakh (**Appendix 3.4**).

On being pointed out by Audit (January 2022), the Government accepted the audit observation raised in the Sub-Registrar office, Wallajabad and stated (June 2022) that the District Registrar, Kancheepuram, had been directed to instruct the Sub-Registrar to refer the documents under Section 47-A(3) of the IS Act. In respect of the observation raised in the Joint-I Sub-Registrar Office, Tiruppur, Government replied (June 2022) that the District Registrar had been directed to instruct the Sub-Registrar to file a criminal suit under Section 27 of the IS Act, 1899 read with Section 64 of the Act for recovering the loss of revenue due to the Government.

Recommendation: Department may ensure that the ROs do not just go by the details furnished by the parties but verify all allied documents including encumbrance certificates before assessing the property.

3.7 Incorrect classification of settlement as partition

According to Article 45(b) to Schedule-I of Indian Stamp Act (IS Act), 1899, an instrument of partition not covered under Article 45 (a), i.e. involving non-family members, shall be stamped at four *per cent* on the value of the separated share¹¹ of the property. As per Article 58(ii), any settlement other than in favour of a family member attracts seven *per cent* Stamp Duty. The corresponding Registration Fees applicable are one *per cent* and four *per cent* respectively as per Table of Fees under Section 78 of the Registration Act, 1908.

Audit scrutiny (March 2021) of records in the office of the Sub-Registrar, Kundrathur revealed that through a document executed and registered in May 2018, six persons and a private company partitioned an extent of 3 acres and 79 cents, falling within Survey number 98/4A1A1 of Numbal village, valued at ₹ 43.14 crore. The separation of properties was carried out through two schedules. The first schedule valued at ₹ 39.38 crore was allotted to the individuals and the second schedule valued at ₹ 3.76 crore was allotted to the company. The RO collected ₹ 15.06 lakh and ₹ 3.76 lakh as Stamp Duty and Registration Fee respectively and registered the document.

From the recitals of the document, Audit noticed that the individuals had already sold 14,400 sq.ft of undivided share from the ancestral property, of which the current property under partition is a part. The present deed of partition was on the premise that the above sale had conferred joint rights to the company. However, the company does not become co-owner of the property but only an absolute owner of the 14,400 sq.ft. of land, since the original extent was not acquired jointly by the company and the individuals. As only co-owners can partition a property, the document cannot be classified as a partition but only as a non-family settlement, which would attract a Stamp Duty and Registration Fee of 11 *per cent*. This view was supported by the decision in Proceedings No.30272/P1/2016 dated 22 January 2019 of the Chief Controlling Revenue Authority and Inspector General of Registration, wherein it was held, in a similar case, that the document shall be classified as a non-family settlement. Therefore, if the document is rightly classified as a non-family settlement, there would arise a demand of Stamp Duty and Registration Fee of ₹ 41.32 lakh. However, the RO classified the document as a non-family partition and collected only ₹ 18.81 lakh, being four *per cent* on the market value of the property after excluding the separated share. This resulted in a short collection of Stamp Duty and Registration Fee of ₹ 22.51 lakh (**Appendix 3.5**).

On being pointed out by Audit (January 2022), the Government replied (June 2022) that according to the Supreme Court judgement¹² “where an owner of a property transfers a share in the property to another, the transferee becomes a co-owner along with the original owner”. The Government also referred to

¹¹ The remaining share after excluding the share of highest value.

¹² Ramanlal Bhailal Patel and Others vs. State of Gujarat in Civil Appeal No.4420 of 2004.

another Supreme Court decision¹³ wherein it was observed that “it was not correct to say that co-owner of a property is not its owner”.

The reply of the Government is not tenable for the following reasons:

- As per the Supreme Court judgment first cited, it is only if the owner transfers a share of the property to another that the second person will become a co-owner. In the present case, the owner had sold undivided shares to another, which means the buyer had become absolute owner of the undivided shares and had no joint ownership in the property. In the absence of joint ownership, the partition cannot happen.
- The second judgement cited is irrelevant since a co-owner is the owner of the property, but an absolute owner cannot be a co-owner.

Recommendation: Department may ensure that the ROs go deeply into the recitals of deeds while classifying the same for the purpose of levy of Stamp Duty.

3.8 Short collection of Stamp Duty and Registration Fee due to short declaration of 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 therein. 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 Transfer Duty Surcharge and Registration Fee is leviable at the rate of one *per cent* as per the Table of Fees prepared under Section 78 of the Registration Act, 1908 on the market value of property.

During test-check of records (January 2021), in the Sub-Registrar Office, Sulur, Audit noted that a sale document (Document No.8395/2012) conveying 1.55 acres of land comprising in Survey number 125/2C1 situated in Nilambur village, Sulur was registered on 2 July 2012. The consideration set forth as ₹ 1.70 crore in the document was accepted by the RO while registering the document. However, it was noticed from Income Tax records for the Assessment Year 2012-13 (Assessment order dated 31 March 2015) that the purchaser of the above property had voluntarily accepted an amount of ₹ 5.31 crore as having been paid towards consideration for the above sale. Evidently, the party had suppressed a consideration of ₹ 3.61 crore (₹ 5.31 crore declared in the Income Tax return minus ₹ 1.70 crore shown as consideration in the Sale Deed) for the purpose of avoiding higher Stamp Duty. The concealment of actual consideration resulted in short payment of Stamp Duty and Registration Fee of ₹ 28.89 lakh (**Appendix 3.6**).

¹³

Sri Ram Pasricha Vs Jagannath reported in AIR 1976 SC 2335.

On being pointed out by Audit, the RO replied (January 2021) that the objection would be pursued and action under Section 27 and 64 of the IS Act, 1899 would be taken in due course under intimation to Audit.

When the matter was referred to the Government (January 2022), Government replied (May 2022) that the reply would be sent shortly. Reply, however, is still awaited (June 2022).

3.9 Misclassification of conveyance-cum-surrender of lease deed as surrender of lease deed

As per Section 5 of Indian Stamp Act, 1899 (IS Act), any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act. According to Article 61 of Schedule I to the IS Act, maximum Stamp Duty of ₹ 40 is leviable in the case of surrender of lease. As per Article 23 of Schedule I to the IS Act, in the case of transfer of immovable property, Stamp Duty at the rate of seven *per cent* including transfer duty surcharge and Registration Fee at the rate of four *per cent* is leviable on the market value of the property.

During the scrutiny of records in the offices of the Sub-Registrar, Suler and Avinashi (January and February 2021), Audit noted that lease of vacant lands given previously through five lease deeds executed and registered in 1999, 2004, 2014, 2015 and 2016 was subsequently surrendered in September 2018, August 2019 and December 2019. On reference to the Assistant Executive Engineer (AEE), presence of building was noticed on the vacant lands originally leased out. The AEE determined (February 2019, December 2019 and January 2020) the value of the building as ₹ 5.15 crore during field inspections, based on which the ROs collected a Registration Fee of ₹ 5.16 lakh (November 2019, December 2019 and January 2020), being one *per cent* of the value of the building. Since only a vacant land was leased out, and while on surrender, a building was also transferred, the building shall be treated as improvement and shall be construed as conveyance. Therefore, the transaction should be treated as a conveyance-cum-surrender of lease deed and stamped as per Section 5 of the IS Act. However, the RO, had collected one *per cent* of Registration Fee of ₹ 5.16 lakh only, against Stamp Duty and Registration Fee of ₹ 56.61 lakh leviable. This resulted in short collection of Stamp Duty and Registration Fee of ₹ 51.45 lakh (**Appendix 3.7**).

On being pointed out by Audit (January and February 2021), the RO, Avinashi replied (February 2021) that a detailed reply would be furnished to Audit after verification of the records. The RO, Suler replied that Stamp Duty and Registration Fees have been levied as per I GR's instructions vide Circular No 43479/P1/2014 dated 17 October 2014 and Section 5 need not be invoked as the document is of single nature only. The reply is not acceptable since existence of building had been confirmed by the AEE. The transaction therefore has two classifications, *viz.* surrender of lease of vacant land and transfer of immovable property, *i.e.* building. Therefore, it has to be stamped according to Section 5 of the IS Act.

When the matter was brought to notice (January 2022), the Government cited Section 108 of the Transfer of Property Act, 1882, which says that “the lessee may even after the determination of lease remove, at any time whilst he is in possession of the property leased but not afterwards, all things which he has attached to the earth, provided he leaves the property in the state in which he received it.” It also quoted judgements¹⁴ in support of the stand that the lessor cannot claim ownership on the improvements on surrender of original lands. A reference to Proceedings¹⁵ was also made wherein it was held that more than one fee cannot be levied on a single transaction of building.

The reply is not tenable for the following reasons:

- The judgment in AIR 789 1959 SCR 799 is about building built by the lessee on the instructions of the lessor and is not relevant to the observation raised;
- In AIR 1965 All 527, the manure left over had been sold by the lessee and the Court decided that the sale proceedings could be retained by the lessee. Manure left cannot be termed as an improvement to the leased land as it is a movable property. Therefore, the case cannot be termed as pertinent to the Audit observation.
- The Proceedings of the CCRA cited is not suitable here since Audit had suggested a fee of four *per cent* for the conveyance of building only and the question of multiple levy of Registration Fee for single transaction of building does not arise.

Recommendation: Department may instruct the ROs to classify deeds relating to cancellation or surrender of lease carefully and after calling for and referring to supporting documents, so that transfer of immovable property in the guise of surrender does not escape Stamp Duty.

¹⁴ Dr. K.A. Dhairyawan and Others Vs. J.R. Thakur and Others reported in AIR 789 1959 SCR 799 and Municipal Board Vs Beer Sing reported in AIR 1965 All 527.

¹⁵ No. 47346/P1/2013 dated 11.02.2014.

CHAPTER – IV

TAXES ON VEHICLES

CHAPTER-IV

TAXES ON VEHICLES

4.1 Tax administration

The State Transport Authority (STA) is the authority to implement the provisions of the Motor Vehicles Act, 1988, the Central Motor Vehicles Rules, 1989, the Tamil Nadu Motor Vehicles Rules, 1989 and the Tamil Nadu Motor Vehicles Taxation Act and Rules, 1974 in Tamil Nadu. The Department is headed by the Transport Commissioner of the State (TC). The Regional Transport Offices (RTOs) function under the control of the TC. Check-posts under the RTOs monitor inter-State movement of vehicles. The monitoring and control at Government level is exercised by the Additional Chief Secretary, Home (Transport) Department.

4.2 Internal audit

Internal audit is functioning in the Department since 1978. The Department is having a system of internal audit to ensure cent *per cent* audit of all the offices. There are 12 audit parties, each headed by an Assistant Accounts Officer. As against the target of 128 offices, audit of 114 offices were conducted during 2020-21. The Department did not furnish the details of pendency of internal audit observations as on 31 March 2021.

4.3 Results of audit

Test check of records of nine departmental offices out of 103, conducted during the period from April 2020 to March 2021, revealed Short/ Non-collection of Tax, fees, penalty and other observations amounting to ₹ 8.04 crore in 117 cases, which broadly fell under the following categories:

Table 4.1: Results of Audit

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1	Non/short collection of tax	44	6.77
2	Non/short collection of fees	09	0.53
3	Non/short collection of penalty	04	0.02
4	Others	60	0.72
	Total	117	8.04

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

During the course of the year 2020-21, the department accepted Non/Short-collection tax and other deficiencies in 43 cases and recovered ₹ 0.80 crore.

Audit observation

4.4 Non-levy of Green Tax

As per Section 3-A (1) of the Tamil Nadu Motor Vehicle Taxation Act, 1974, additional tax called “green tax”, shall be levied and collected, in addition to the tax levied under Section 3, on the motor vehicles suitable for use on road, for the purpose of implementation of various measures to control air pollution. The rate of green tax specified in the Fourth Schedule to the Act is as follows:

Category	Criteria	Green Tax to be levied
Transport Vehicles	On completion of 7 years from the date of registration	Auto Rickshaw: ₹ 200 per annum Other Vehicles: ₹ 500 per annum
Non-Transport Vehicles	On completion of 15 years from the date of registration	Motor cycles: ₹ 500 for five years Other Vehicles: ₹ 1,000 for five years

Test check of VAHAN¹ data furnished to audit relating to seven² Regional Transport Offices (RTO) during 2020-21 revealed non levy of green tax in respect of 10,308 transport vehicles and 59,966 non-transport vehicles amounting to ₹ 42.19 lakh and ₹ 357.44 lakh respectively (**Appendices 4.1 and 4.2**).

On this being pointed out (between December 2020 and April 2021), the Transport Department furnished the latest data upto May 2021 (June 2021) from which Audit verified that the Department had subsequently collected green tax amounting to ₹ 7.81 lakh (in respect of 1,561 Transport vehicles) and ₹ 9.05 lakh (in respect of 929 non-transport vehicles) out of the vehicles pointed out by Audit. Report on collection of green tax in respect of the remaining vehicles is still awaited and the Department had assured that stringent action was being taken to collect the same (June 2022).

The matter was reported to the Government (January 2022) and reminded (April 2022 and June 2022); their reply is awaited (July 2022).

¹ Portal for Ministry of Road Transport and Highways.

² Chennai Central, Chennai South, Chennai (North West), Coimbatore (North), Hosur, Salem (West) and Vellore.

Recommendation: The Government may also evolve a suitable mechanism for identifying the vehicles and collecting green tax promptly in future and the report on the balance tax collected may be submitted to ensure compliance.



(R. AMBALAVANAN)

Principal Accountant General (Audit-I),
Tamil Nadu

Chennai
The

Countersigned



(GIRISH CHANDRA MURMU)
Comptroller and Auditor General of India

New Delhi
The 16 November 2022

APPENDICES

Appendix 3.1

(Reference: Paragraph 3.5 (i); Page 44)

Short collection of Stamp Duty and Registration Fee due to undervaluation of property

(in ₹)

Particulars	Date of Registration	Extent of land conveyed (in Acre)	Value set forth in the sale deeds	Stamp Duty at seven per cent	Registration Fee at four per cent
First Transactions in Doc. Nos.					
9773/2019	18.06.2019	1.38	2,07,00,000	14,49,100	8,28,000
9774/2019	18.06.2019	1.42	2,13,00,000	14,91,100	8,52,000
10133/2019	25.06.2019	0.43	64,50,000	4,51,600	2,58,000
10134/2019	25.06.2019	0.54	81,00,000	5,67,100	3,24,000
10135/2019	25.06.2019	0.87	1,30,50,000	9,13,600	5,22,000
10136/2019	25.06.2019	0.49	73,50,000	5,14,600	2,94,000
Total value set forth in the instruments where stamp duty is attracted (A)		5.13	7,69,50,000	53,87,100	30,78,000
Subsequent transactions in Doc.Nos.					
10022/2019	21.06.2019	2.80	21,71,56,800	Exempt	86,86,280
10167/2019	26.06.2019	2.33	18,07,05,480	Exempt	72,28,220
Total value declared in instruments exempt from duty (B)		5.13	39,78,62,280	Exempt	1,59,14,500
Value concealed (A-B)			32,09,12,280	2,24,63,850	1,28,36,490
Deficit SD & RF to be collected			3,53,00,340		

Appendix 3.2

(Reference: Paragraph 3.5 (ii); Page 45)

Short collection of Stamp Duty and Registration Fee due to undervaluation of property

Name of Registering Office	Sub Registry, Thiruppathur(Vellore)		Total
Instrument Number	4861/2014	4726/2013	
Date of Execution / Date of Registration	09.06.2014 / 09.06.2014	25.01.2013 / 10.05.2013	
Nature of instrument	Conveyance	Conveyance	
Property Details	Land measuring 707 Sq.mtr (7,770 sq.ft) along with Building at Door No.12, Kullappa Gounder Street, Thiruppathur	Land measuring 211.56 Sq.mtr along with building at Paslaniswamy Mudaliar Road, Tiruppathur	
Value set forth in the instrument (Including building value)	₹ 85,00,000 (Value of Land ₹ 53, 63,346 + Value of Building ₹ 31,36,654)	₹ 65,00,000 (Value of Land ₹ 42,58,703 + Value of Building ₹ 22,41,297)	₹ 1,50,00,000
Stamp duty collected (Seven per cent)	₹ 5,95,000	₹ 4,55,000	₹ 10,50,000
Registration Fee collected (One per cent)	₹ 85,000	₹ 65,000	₹ 1,50,000
Total Stamp Duty and Registration Fee collected (A)	₹ 6,80,000	₹ 5,20,000	₹ 12,00,000
Guideline Value of the Property	₹ 16,150 per Sq.Mtr	₹ 43,060 per Sq.Mtr	--
Value of the property as per GLV (including building value)	₹ 1,45,54,704 (Value of Land ₹ 1,14,18,050+ Value of Building ₹ 31,36,654)	₹ 1,13,51,071 (Value of Land ₹ 91,09,774 + Value of Building ₹ 22,41,297)	₹ 2,59,05,775
Undervaluation	₹ 60,54,704	₹ 48,51,071	₹ 1,09,05,775
Stamp Duty and Registration Fee to be collected @ 7 + 1 per cent (B)	₹ 11,64,376	₹ 9,08,085	₹ 20,72,461
Short collection of Stamp Duty and Registration fee (B-A)	₹ 4,84,376	₹ 3,88,085	₹ 8,72,461

Appendix 3.3

(Reference: Paragraph 3.6 (i); Page 45)

Undervaluation of property due to furnishing of incorrect details of location of the property

Name of the Sub-Registry	Joint-I Sub-Registrar, Tiruppur		Total
Document Number	1409/2016	5064/2016	
Date of Execution / Date of Registration	04.02.2016	18.04.2016	
Nature	Conveyance	Conveyance	
Name of the Executant	Shri Srimi Krish	Shri R.Balasubramaniam	
Name of the Claimant	Shri R.Balasubramaniam	Shri J. Jeyakandan	
Property Details	6,839 sq.ft land situated in TS No.17/7A2C, Block No.3, T.S.No.17/9, Tiruppur		
Value set forth in the document @ ₹ 1,300/- per sq.ft	₹ 88,92,000	₹ 88,92,000	₹ 1,67,84,000
Stamp duty collected (Seven per cent)	₹ 6,22,440	₹ 6,22,440	₹ 12,44,880
Registration Fee collected (One per cent)	₹ 88,920	₹ 88,920	₹ 1,77,840
Total Stamp Duty and Registration Fee collected (A)	₹ 7,11,360	₹ 7,11,360	₹ 14,22,720
Value of the Property adopting the value of ₹ 2,300 applicable to College Road, Tiruppur	₹ 1,57,29,700	₹ 1,57,29,700	₹ 3,14,59,400
Stamp Duty to be collected (7 per cent)	₹ 11,01,080	₹ 11,01,080	₹ 22,02,160
Registration Fee to be collected (1 per cent)	₹ 1,57,300	₹ 1,57,300	₹ 3,14,600
Total Stamp Duty and Registration Fee to be collected	₹ 12,58,380	₹ 12,58,380	₹ 25,16,760
Short collection of Stamp Duty and Registration fee (B-A)	₹ 5,47,020	₹ 5,47,020	₹ 10,94,040

Appendix 3.4

(Reference: Paragraph 3.6 (ii); Page 46)

Undervaluation of property due to furnishing of incorrect details of location of the property

Name of the Sub-Registry	SR, Wallajabad
Instrument Number	478/2018
Date of Execution / Date of Presentation / Date of Registration	08/02/2018 06/05/2016 24/06/2019
Nature of instrument	Conveyance
Name of the Executant	Shri G. Neelakandan
Name of the Claimant	Shri S. Ravichandran and Shri S. Rengasamy
Property Details	Land measuring 8,720 Sq.ft at Wallajabad Village.
Value set forth in the instrument	₹ 29,21,200
Stamp duty collected (Seven per cent)	₹ 2,04,500
Registration Fee collected (four per cent)	₹ 1,16,850
Market value of the property applicable to Wallajabad-Kancheepuram Road (as per GLV Register - ₹ 1,005 per sq.ft)	₹ 87,63,300
Undervaluation	₹ 58,42,100
Stamp Duty and Registration Fee to be collected (7 + 4 per cent)	₹ 9,63,996
Stamp Duty and Registration Fee already collected	₹ 3,21,350
Short collection of Stamp Duty and Registration fee	₹ 6,42,646

Appendix 3.5

(Reference: Paragraph 3.7; Page 47)

Incorrect classification of settlement as partition

Name of the Sub-Registry	Sub-Registrar, Kundrathur
Document Number	5802/2018
Date of Execution / Date of Registration	09/05/2018
Nature	Partition
Name of the Parties involved	1. Mrs Faridha and 5 others 2. M/s.Greata Enterprises and Developer Private Limited
Property Details	33 Cents vacant land situated at No.67, Numbal Village, Ambattur Taluk, Tiruvallur District.
Value set forth in the document	₹ 3,75,62,000
Stamp duty collected (four per cent)	₹ 15,05,190
Registration Fee collected (One per cent)	₹ 3,75,620
Total Stamp Duty and Registration Fee collected	₹ 18,80,810
Stamp Duty to be collected (7 per cent)	₹ 26,29,340
Registration Fee to be collected (4 per cent)	₹ 15,02,480
Total Stamp Duty and Registration Fee to be collected	₹ 41,31,820
Stamp Duty and Registration Fee already collected	₹ 18,80,810
Short collection of Stamp Duty and Registration fee	₹ 22,51,010

Appendix 3.6

(Reference: Paragraph 3.8; Page 48)

Short collection of Stamp Duty and Registration Fee due to short declaration of sale consideration

Name of the Sub-Registry	Sub-Registrar, Sullur
Document Number	8395/2012
Date of Execution / Date of Registration	02/07/2012
Nature	Conveyance
Name of the Executant	Shri C.R.Palanisamy and Shri P.Dhanapal
Name of the Claimant	Dr. Velachamy Raveendran
Property Details	1.55 acres of land situated at R.S.No.125/2 in Neelambur Village
Value set forth in the document	₹ 1,70,29,400
Stamp duty collected (Seven per cent)	₹ 11,92,060
Registration Fee collected (One per cent)	₹ 1,70,300
Total Stamp Duty and Registration Fee collected	₹ 13,62,360
Value as per Income-Tax Record	₹ 5,31,37,640 (₹ 5,45,00,000 (-) ₹ 13,62,360)
Stamp Duty to be collected (7 per cent)	₹ 37,16,935
Registration Fee to be collected (1 per cent)	₹ 5,31,375
Total Stamp Duty and Registration Fee to be collected	₹ 42,51,010
Stamp Duty and Registration Fee already collected	₹ 13,62,360
Short collection	₹ 28,88,650

Appendix 3.7

(Reference: Paragraph 3.9; Page 49)

Misclassification of conveyance-cum-surrender of lease deed as
surrender of lease deed

(In ₹)

Sl. No.	Name of the office	Document No	Month of Registration	Value of building	Stamp Duty and Registration fee to be collected at 11 per cent	Stamp Duty and Registration fee collected	Difference
1	Sulur	14353/2019	December 2019	1,94,56,132	21,40,175	1,94,670	19,45,505
2	Sulur	8702/19	August 2019	20,64,761	2,27,124	21,100	2,06,024
3	Sulur	8703/2019	August 2019	20,64,761	2,27,124	21,100	2,06,024
4	Sulur	8704/2019	August 2019	20,64,761	2,27,124	21,100	2,06,024
5	Avinashi	12477/2018	September 2018	2,58,12,144	28,39,335	2,58,125	25,81,210
Total				5,14,62,559	56,60,882	5,16,095	51,44,787

Appendix 4.1

(Reference: Paragraph 4.4; Page 52)
Non-Levy of Green Tax for Transport Vehicles

(In ₹)

(i) Auto-rickshaw

Name of the RTO	Universe		Tax collected at the instance of Audit		Balance due	
	Vehicles	Amount	Vehicles	Amount	Vehicles	Amount
Chennai Central	668	1,33,600	NIL		668	1,33,600
Chennai Northwest	877	1,75,400			877	1,75,400
Chennai South	754	1,50,800			754	1,50,800
Coimbatore North	256	51,200			256	51,200
Hosur	39	7,800			39	7,800
Salem west	53	10,600			53	10,600
Vellore	469	93,800			469	93,800
Total (a)	3,116	6,23,200			3,116	6,23,200

(ii) Other than Auto-rickshaw

Name of the RTO	Universe		Tax collected at the instance of Audit		Balance due	
	Vehicles	Amount	Vehicles	Amount	Vehicles	Amount
Chennai Central	667	3,33,500	165	82,500	502	2,51,000
Chennai Northwest	1,080	5,40,000	205	1,02,500	875	4,37,500
Chennai South	829	4,14,500	77	38,500	752	3,76,000
Coimbatore North	1,863	9,31,500	790	3,95,000	1,073	5,36,500
Hosur	467	2,33,500	65	32,500	402	2,01,000
Salem west	1,026	5,13,000	211	1,05,500	815	4,07,500
Vellore	1260	6,30,000	48	24,000	1,212	6,06,000
Total (b)	7,192	35,96,000	1,561	7,80,500	5,631	28,15,500
Total (a+b)	10,308	42,19,200	1,561	7,80,500	8,747	34,38,700

Appendix 4.2

(Reference: Paragraph 4.4; Page 52)

Non-Levy of Green Tax for Non-Transport Vehicles

(i) Motorcycles

Name of the RTO	Universe		Tax collected at the instance of Audit		Balance due	
	Vehicles	Amount	Vehicles	Amount	Vehicles	Amount
Chennai Central	1,651	8,25,500	11	5,500	1,640	8,20,000
Chennai Northwest	3,218	16,09,000	21	10,500	3,197	15,98,500
Chennai South	5,164	25,82,000	8	4,000	5,156	25,78,000
Coimbatore North	13,011	65,05,500	74	37,000	12,937	64,68,500
Hosur	2,323	11,61,500	11	5,500	2,312	11,56,000
Salem west	15,750	78,75,000	127	63,500	15,623	78,11,500
Vellore	7,328	36,64,000	13	6,500	7,315	36,57,500
Total (a)	48,445	2,42,22,500	265	1,32,500	48,180	2,40,90,000

(ii) Other Non-Transport vehicles

Name of the RTO	Universe		Tax collected at the instance of Audit		Balance due	
	Vehicles	Amount	Vehicles	Amount	Vehicles	Amount
Chennai Central	1,538	15,38,000	103	1,04,000	1,435	14,34,000
Chennai Northwest	1,419	14,19,000	91	91,000	1,328	13,28,000
Chennai South	3,094	30,94,000	53	53,000	3,041	30,41,000
Coimbatore North	2,504	25,04,000	164	2,05,500	2,340	22,98,500
Hosur	453	4,53,000	20	22,000	433	4,31,000
Salem west	1,969	19,69,000	213	2,72,329	1,756	16,96,671
Vellore	544	5,44,000	20	25,000	524	5,19,000
Total (b)	11,521	1,15,21,000	664	7,72,829	10,857	1,07,48,171
Total (a+b)	59,966	3,57,43,500	929	9,05,329	59,037	3,48,38,171

Glossary of abbreviations

Abbreviations	Full Form
AA	Assessing Authority
AC	Assistant Commissioner
AEE	Assistant Executive Engineer
AG	Accountant General
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
Commissioner	Commissioner of State Tax
CST	Central Sales Tax
CTD	Commercial Taxes Department
DSTO	Deputy State Tax Officer
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

Abbreviations	Full Form
RO	Registering Officer
RTO	Regional Transport Officer
SDC (Stamps)	Special Deputy Collector (Stamps)
SEZ	Special Economic Zone
SGST	State Goods and Services Tax
SR	Sub Registrar
STA	State Transport Authority
STO	State Tax Officer
TC	Transport Commissioner
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
UNO	United Nations Organisation

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