

CHAPTER-II

Taxes/VAT on Sales and Trade

2.1 Tax administration

The Financial Commissioner Taxation and Principal Secretary to the Government of Punjab is overall in-charge of the Excise and Taxation Department. Subject to overall control and superintendence of the Excise and Taxation Commissioner (ETC), the administration of the Punjab Value Added Tax Act (PVAT Act)/Central Sales Tax Act (CST Act) is carried out with the help of Additional Excise and Taxation Commissioner (Addl. ETC), Joint Excise and Taxation Commissioners at the headquarters (JETCs), Deputy Excise and Taxation Commissioners (DETCs) at the divisional level and Assistant Excise and Taxation Commissioners (AETCs), Excise and Taxation Officers (ETOs) and other allied staff at the district level. The authorities performing duties within jurisdictions as specified by the Government under the PVAT Act are called as Designated Officers (DOs).

2.2 Results of audit

Test check of the records of 44 units out of 68 units relating to Sales Tax/VAT during 2017-18 revealed under-assessment of tax and other irregularities involving ₹ 109.41 crore in 425 cases as depicted below.

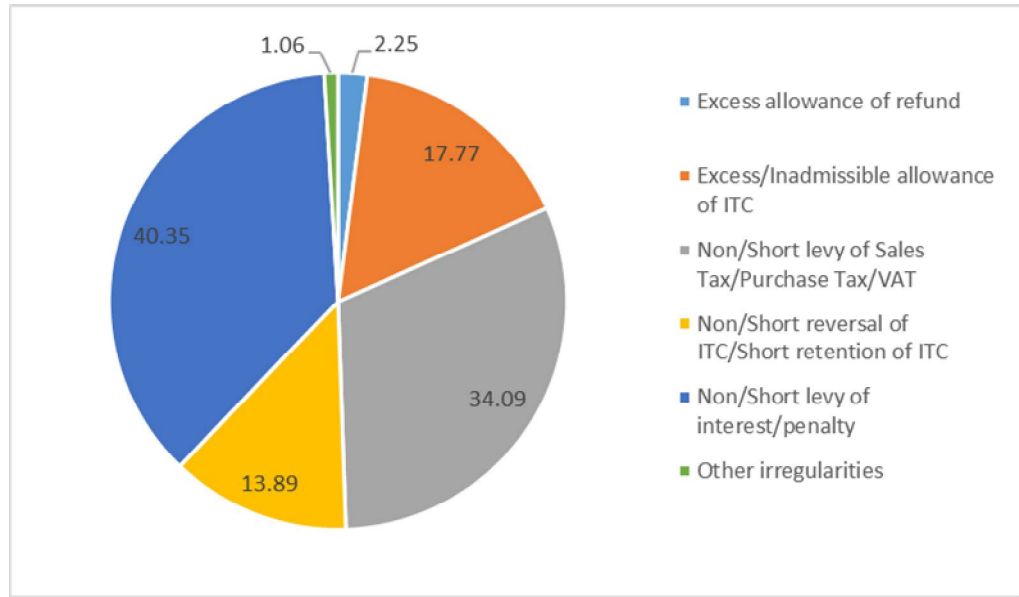
Table 2.1: Results of Audit

Sl. No.	Categories	No. of cases	Amount (` in crore)
1.	Excess allowance of refund	18	2.25
2.	Excess/Inadmissible allowance of ITC	39	17.77
3.	Non/Short levy of Sales Tax/Purchase Tax/VAT	91	34.09
4.	Non/Short reversal of ITC/Short retention of ITC	40	13.89
5.	Non/Short levy of interest/penalty	94	40.35
6.	Other irregularities	143	1.06
Total		425	109.41

Head wise audit findings noticed under Taxes/VAT on Sales and Trade is depicted in Chart 2.1:

Chart-2.1

(` in crore)



The Department accepted and recovered ` 14.97 lakh in 12 cases in 2017-18 out of which ` 10.17 lakh involved in six cases was pointed out during 2017-18 and rest in earlier years.

Significant cases involving ` 53.48 crore are discussed in the succeeding paragraphs.

2.3 Preparedness for transition to Goods and Services Tax (GST)

2.3.1 Introduction

Goods and Services Tax (GST¹) was implemented with effect from 1 July 2017. GST is being levied on intra-State supply of goods or services (*except alcohol for human consumption and five specified petroleum products*²) separately but concurrently by the Union (CGST) and the States (SGST) / Union Territories (UTGST). Further, Integrated GST (IGST) is being levied on interstate supply of goods or services (including imports) and the Parliament has exclusive power to levy IGST. Prior to implementation of GST, Value Added Tax was leviable on intra-State sale of goods in the series of sales by successive dealers as per Punjab Value Added Tax (PVAT) Act, 2005 and Central Sale Tax (CST) on sale of goods in the course of interstate trade or commerce as per CST Act, 1956.

The State Government was empowered to regulate the provisions of PVAT Act, whereas, provisions relating to GST are being regulated by Centre and State on the recommendation of Goods and Services Tax Council (GSTC) which was constituted with representation from Centre and all the States to

1 Central GST: CGST and State/Union Territory GST: SGST/UTGST.

2 Petroleum Products: crude, high speed diesel, petrol, aviation turbine fuel and natural gas.

recommend on the matters related to GST. The State Government notified (June 2017) the Punjab Goods and Services Tax (PGST) Act, 2017 and the Punjab Goods and Services Tax Rules, 2017 where various taxes³ were subsumed.

Goods and Services Tax Network (GSTN) was set up by the Government of India as a private company to provide IT services. It provides shared IT infrastructure and services, to both central and state governments including tax payers and other stakeholders. The *Front-end* services of Registration, Returns, Payments, etc. to all taxpayers are provided by GSTN. It is the interface between the government and the taxpayers. Further, GSTN will also provide the Back-End Services to tax officers of the Model-II⁴ states. Punjab has opted for Model-II.

2.3.2 Trend of revenue

GST was implemented from July 2017 and total receipts under GST including non-subsumed/subsumed taxes from July 2017 to March 2018 were ₹ 14,245.93 crore⁵ against ₹ 13,513.99 crore under pre-GST taxes during the same period of previous year 2016-17 i.e. an increase of 5.42 per cent. Actual receipts under pre-GST taxes⁶ and GST are given below:

Table 2.2 : Trend of Revenue Receipt

(` in crore)

Year	Revised Budget Estimate	Receipts under pre-GST taxes ⁷	Receipts under GST		Total receipts under pre-GST taxes and GST	Increase (in per cent)	Compensation received	Protected Revenue
			SGST	Advance IGST Approtationment				
2013-14	16,829.60	14,916.36	-	-	14,916.36	-	-	
2014-15	17,852.00	15,534.10	-	-	15,534.10	4.14	-	
2015-16	17,088.51	15,946.09	-	-	15,946.09	2.65	-	
2016-17 [§]	18,695.21	4,173.50	-	-	17,687.49	10.92		
2016-17 ^{&}		13,513.99	-	-				
2017-18*	24,153.96	4,850.89	-	-	19,096.82	7.97	4,037.00	
2017-18#		6,344.79 [§]	7,268.14	633.00				

[§] April to June 2016, [&] July 2016 to March 2017, ^{*} April to June 2017, [#] July 2017 to March 2018

The above table indicates that there was an increasing trend in receipts during the last four years.

3 Value Added Tax, Central Sales Tax, Entry Tax, Luxury Tax and Entertainment Tax.

4 Model-I States: States which have already developed or are developing a software application.

Model-II States: States which have not developed a software application, GSTN would develop necessary application.

5 ₹ 6,344.79 crore (Pre-GST receipts) + ₹ 7,901.14 crore (SGST).

6 Value Added Tax, Central Sales Tax, Entry Tax, Luxury Tax and Entertainment Tax.

7 Receipts under 0040 (PVAT) and 0045 (Luxury & Entertainment).

8 It includes VAT on non-subsumed items also. Amount of VAT on subsumed items was ₹ 1,585.01 crore.

9 This protected revenue of ₹ 14,105.70 crore for the period from July 2017 to March 2018 (₹ 1,567.30 crore per month) has been derived from the approved figure of ₹ 14,471.77 crore pertaining to base year 2015-16 (14 per cent increase per year).

2.3.3 Statutory Preparedness

The State Government notified the Punjab Goods and Services Tax Act, 2017 and the Punjab Goods and Services Tax Rules, 2017 in June 2017. E-way bill system was implemented in the state on interstate transactions with effect from 1 April 2018 and on intra-state transactions with effect from 1 June 2018. Further, necessary notifications were issued by the State Government from time to time for facilitating implementation of GST in the state.

2.3.3.1 Restructuring / reorganization of the Department

The Department, which earlier administered the State Value Added Tax (VAT), was restructured to align it with the requirements of GST. The officers working under VAT regime were re-designated as below:

Table 2.3 : Restructuring of administration for GST

Designation under VAT regime	Re-designated under GST regime
Excise and Taxation Commissioner	Commissioner of State Tax
Additional Excise and Taxation Commissioner	Additional Commissioner of State Tax
Joint Excise and Taxation Commissioner	Joint Commissioner of State Tax
Deputy Excise and Taxation Commissioner	Deputy Commissioner of State Tax
Assistant Excise and Taxation Commissioner	Assistant Commissioner of State Tax
Excise and Taxation Officer	State Tax Officer

The existing 35 Information Collection Centres¹⁰ (ICC) were done away with and number of mobile wings was increased from 6 to 13. The number of divisions (six) and districts offices (26) remained the same as it was in pre-GST regime.

2.3.4 IT preparedness and capacity building efforts by the Department

GSTN was to provide three front-end services to the taxpayers namely registration, payment of tax and filing of returns. As Punjab had opted model-II for implementation of GST, *back-end applications* like registration approval, taxpayer detail viewer, refund processing, audit and enforcement, recovery etc. for GST administration were being developed by GSTN. The access for back-end application was available to the State through Application Programming Interface (API).

No funds were provided by the State Government for Information Technology infrastructure of GST and opening of new facilitation centres / help desks for GST stake holders. The existing help desk at Data Centre of ETTSA¹¹ at

¹⁰ In pre-GST regime, the ICC barriers and mobile wings were established with a view to prevent or check avoidance or evasion of tax under Punjab Value Added Tax Act, 2005.

¹¹ Excise and Taxation Technical Services Agency (ETTSA) is a society created by the Government of Punjab for implementation of technical projects in the Excise and Taxation Department.

Patiala catered to the needs of GST stake holders through helpline numbers. The IT infrastructure for GST was installed by ETTSA at the total cost of ₹ 23.97 crore from the funds available with it.

The Department conducted various training programmes/workshops i.e. Induction Training, Refresher Training, Field Training, training to selected Master Trainers, workshops on fraud analytics, ITC refund training, training on MIS report and GST Modules etc. during 2018-19 for skill development of its officers/officials. The Department also conducted training on TDS provisions of GST for Drawing and Disbursing Officers (DDOs). The above trainings were imparted at departmental offices and training institutes situated in Punjab, GSTN Delhi and National Academy of Customs, Indirect Taxes and Narcotics (NACIN) Chandigarh. The period of training/workshop ranged between one day and one month.

GST Mitra¹² training and GST Mitra Refresher training were conducted during 2017-18 and 2018-19 for skill development of unemployed youth and hand holding of such small and marginal taxpayers who may not be conversant with GSTN protocols for filing returns and other applications. The Department had certified 503 candidates as GST Mitra during 2017-18. Moreover, 81 candidates had qualified GST Mitra assessment test during 2018-19.

2.3.5 Implementation of GST

The major issues/challenges in implementation of GST were registration, migration, allocation of taxpayers, filing of returns, payment of tax, transitional credit, refund etc. These issues along-with the changes in Rules and Regulations made since 1 July 2017 were analysed in audit and are briefly discussed as follows:

2.3.5.1 Registration of taxpayers

Every person registered under any of the pre-GST laws and having a valid Permanent Account Number (PAN) was to be issued a certificate of registration on provisional basis. Thereafter, final certificate of registration was to be granted on completion of prescribed conditions. Further, taxpayers having turnover of more than the threshold limit of ₹ 20 lakh were required to be registered under GST.

- **Migration of existing taxpayers**

As per Rule 24 of Punjab GST Rules, 2017, every person registered under any existing law of subsumed taxes and having a PAN shall enrol on common portal by validating his e-mail address as well as mobile number. Such person shall be granted registration on a provisional basis. Every person who has been granted a provisional registration shall submit an application alongwith the information and documents specified in the application on common portal. A

¹² GST Mitra can independently assist taxpayers for consideration/payment to be mutually decided by GST Mitra and the taxpayers.

certificate of registration shall be made available to the registered person electronically if the information and the particulars furnished in the application are found to be correct and complete. As per information provided by the Department, position of provisional registration and final registration of existing registered dealers in the Commercial Taxes Department as on 28 February 2019 is given below:

Table 2.4 : Status of migration of dealers to GST

Total number of existing registered dealers with valid PAN	Number of dealers migrated to GST	Percentage of existing registered dealers migrated to GST
2,70,875	2,01,944	74.55

(Source: Information furnished by Excise and Taxation Department)

It would be seen from the above table that 74.55 per cent of the existing dealers completed the migration process and were finally registered under GST. Apart from that 1,79,771 new dealers were also registered under the GST.

- **Allocation of taxpayers between Centre and State**
 - (a) **Existing registered taxpayers of Commercial Taxes Department and Central Excise Department:** As per recommendation of GST Council, 90 per cent of existing registered taxpayers having turnover up to ` 1.50 crore and 50 per cent of existing registered taxpayers having turnover of more than ` 1.50 crore were allotted to the State. Accordingly, State was allotted the jurisdiction of 1,59,119 existing registered taxpayers (December 2017) as detailed below:

Table 2.5 : Allocation of existing taxpayers

	Existing registered tax payers		
	Turnover up to ` 1.5 crore	Turnover more than ` 1.5 crore	Total
State	1,38,811	20,308	1,59,119
Centre	15,433	20,308	35,741
Total	1,54,244	40,616	1,94,860

(Source: Information furnished by Excise and Taxation Department)

- (b) **New taxpayers** - Jurisdiction of newly registered taxpayers is being allotted to the State and Centre by GST portal electronically during submission of application for registration by the taxpayers. Position of new registration under the jurisdiction of State as on 28 February 2019 is given below:

Table 2.6 : Status of new registration

Total registrations	Active dealers	Cancelled registrations	In-active dealers	Provisional registrations
1,79,771	1,65,266	13,639	861	5

(Source: Information furnished by Excise and Taxation Department)

2.3.5.2 Filing of returns

As per Rule 59 to 61 of Punjab GST Rules, 2017, taxpayers other than composition taxpayers were required to furnish details of outward supplies of goods or services in Form GSTR-1¹³, details of inward supplies of goods or services in Form GSTR-2¹⁴ and a return in Form GSTR-3 (electronically generated by system on the basis of information furnished through GSTR-1 and GSTR-2) monthly, whereas composition taxpayers were required to file a quarterly return GSTR-4.

The filing of GSTR-2 and GSTR-3 was postponed by GSTC and all taxpayers were mandated to submit a simple monthly return in Form GSTR-3B¹⁵ with payment of tax by 20th of the succeeding month. Further, taxpayers having turnover below ₹ 1.50 crore were to file GSTR-1 on quarterly basis.

Position of new filing of returns under the jurisdiction of State as on February 2019 is given below:

Table 2.7: Status of filing of returns

Month	GSTR-3B				GSTR-4			
	Due	Filed	Pending	Pending per cent	Due	Filed	Pending	Pending per cent
07/2017	2,18,287	2,12,056	6,231	2.85	40,797	30,007	10,790	26.45
08/2017	2,41,137	2,30,554	10,583	4.39				
09/2017	2,54,431	2,40,154	14,277	5.61	43,889	37,388	6,501	14.81
10/2017	2,61,256	2,39,229	22,027	8.43				
11/2017	2,66,408	2,40,619	25,789	9.68				
12/2017	2,71,168	2,43,763	27,405	10.11	45,594	39,076	6,518	14.30
01/2018	2,75,493	2,45,847	29,646	10.76				
02/2018	2,80,420	2,48,876	31,544	11.25				
03/2018	2,84,273	2,51,022	33,251	11.70				
Total	23,52,873	21,52,120	2,00,753		1,30,280	1,06,471	23,809	

Monthly returns GSTR-3B and quarterly return GSTR-4 were required to be filed after payment of due tax. Therefore, monitoring of these returns was important to ensure timely deposit of due tax by the taxpayers. Scrutiny of the information provided (March 2019) by the Department for the period July 2017 to March 2018 revealed that taxpayers ranging between 2,12,056 and 2,51,022 had filed their monthly return GSTR-3B against taxpayers ranging between 2,18,287 and 2,84,273 required to file GSTR-3B. The remaining tax payers had not filed 2,00,753 monthly returns in GSTR-3B for the period July 2017 to March 2018. Further, 14.30 to 26.45 *per cent* of the composition taxpayers had not filed 23,809 quarterly returns in GSTR-4.

Audit is of the view that the Department needs to take concrete steps to ensure that pending returns are filed by tax payers expeditiously.

13 GSTR-1: (a) Invoice wise details of all interstate and intra-State supplies made to the registered persons and interstate supplies with invoice value more than ₹ 2.50 lakh made to unregistered persons, (b) consolidated details of all intra-State supplies made to unregistered persons and State wise interstate supplies with invoice value up to ₹ 2.50 lakh made to the unregistered persons and (c) debit and credit notes, if any, issued during the month.

14 GSTR-2: (a) Invoice wise details of all interstate and intra-state supplies received from the registered persons or unregistered persons. (b) Import of goods and services made and (c) debit and credit notes, if any, received from supplier.

15 GSTR-3B: A monthly return required to be filed by all taxpayers other than composition taxpayers.

2.3.5.3 Transitional Credit

As per Rule 117 of Punjab GST Rules read with Section 140 of Punjab GST Act, the registered taxpayers were entitled to carry forward and claim un-availed amount of ITC of the pre-GST regime (as per VAT returns) in the GST regime. This included un-availed input tax credit in respect of capital goods not carried forward in the VAT returns. Further, the taxpayers were also entitled to take credit of VAT in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on which credit was not claimed in earlier law and the taxpayer is eligible for input tax credit on such inputs under the Punjab GST Act. The registered taxpayers were required to file a return in prescribed transition form, TRAN-I¹⁶. However, the taxpayers shall not be allowed to take credit where all the returns required under the pre-GST law for the period of six months immediately preceding the appointed date were not furnished.

Scrutiny of data¹⁷ provided (March 2019) by the Department revealed that 35,586¹⁸ taxpayers had filed TRAN- 1 and claimed transitional credit of ` 3,441.94 crore. Out of this, 5,755 taxpayers claimed transitional credit amounting to ` 750.53 crore as CGST, 17,070 taxpayers claimed ` 361.01 crore as SGST and 2,723 taxpayers claimed both CGST (` 526.10 crore) and SGST (` 270.83 crore) under the Jurisdiction of State Authority. Similarly, 3,042 taxpayers claimed transitional credit amounting to ` 526.79 crore as CGST, 5,212 taxpayers claimed ` 209.83 crore as SGST and 1,593 taxpayers claimed both CGST (` 536.76 crore) and SGST (` 258.62 crore) under the Jurisdiction of Central Authority.

i. Audit cross verified 325¹⁹ (all cases of more than ` 10 lakh) out of 6,654²⁰ cases of claim of transitional credit (SGST) with VAT returns for the quarter ending 30 June 2017 filed by respective taxpayers. Cross verification revealed that in 16 cases, the quarterly returns (VAT-15) in pre-GST law for the period ending 30 June 2017 were not available. In 63 cases, the taxpayers had claimed transitional credit of ` 24.26 crore in TRAN-I whereas the credit available to these dealers as per the VAT returns (VAT-15) for the period ending 30 June 2017 was ` 5.48 crore.

ACST, Ludhiana-III in its reply (March 2019) stated that ITC of ` 52.24 lakh has been reversed in respect of two dealers, ITC of ` 45.56 lakh has been blocked in case of two of the dealers, registration of two dealers involving ITC of ` 49.95 lakh were cancelled/inactive and verification of ITC of ` 138.24 lakh was under progress in respect of four dealers. Further, it was

16 Form prescribed under Section 140 of CGST Act to claim transitional credit.

17 Information relating to transitional credit was provided by the Department in excel file.

18 It includes 167 taxpayers who did not claim any transitional credit and 24 tax payers who claimed CGST (` 1.40 crore) and SGST (` 0.07 crore) as transitional credit but were not allocated to State or Centre.

19 SGST claimed by dealers under State Authority in Ludhiana-II (156 dealers), Ludhiana-III (157 dealers) and Kapurthala (12 dealers).

20 TRAN-I filed by dealers of Ludhiana-II (3,223 dealers), Ludhiana-III (2,831 dealers) and Kapurthala (600 dealers).

also stated that information in respect of 16 taxpayers, who claimed transitional credit of ` 5.11 crore in TRAN-I was not available with the department.

ACST, Kapurthala (March 2019) stated that verification of ITC of ` 557.99 lakh was under progress in respect of one dealer and the cases will be examined and due action will be taken in respect of three dealers.

ACST, Ludhiana-II stated (November 2018) that notice would be issued and reply would be given in due course.

ii. Audit enquired about 1,422²¹ out of 6,654 cases allocated to State Authority where transitional credit of ` 153.75 crore was claimed by the dealers as CGST. The enquiry revealed that department had allowed the credit of CGST without verification of claim with returns filed in earlier central tax laws²².

AETC Ludhiana-II, Ludhiana-III and Kapurthala in its reply (March 2019) stated that transitional credit claimed under CGST was not verified as it falls under the jurisdiction of Central Authorities and data/report of previous regime was not available to verify the credit of CGST claimed in TRAN-I.

Thus, results of preliminary examination showed that there is a need to institutionalize a mechanism to ensure that all cases of transitional credit are cross verified with the returns filed under earlier tax laws and other relevant records.

2.3.5.4 Refund under GST

Refund module under GSTN was not operational hence the refunds are being allowed through manual system to the applicants. Specific procedures were prescribed for refund of the balance amount in the electronic cash ledger or unutilised input tax credit at the end of particular tax period. Refund of unutilised input tax credit was allowed in case of zero-rated supplies made without payment of tax or when the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies. As per information provided by the Department position of refunds was as under:

21 CGST claimed by dealers under State Authority in Ludhiana-II (739 dealers), Ludhiana-III (574 dealers) and Kapurthala (109 dealers).

22 Central Excise and Service Tax.

Table 2.8 : Refund under GST regime

(` in crore)

Applications received for refund upto 31 March 2018		Refunds allowed within prescribed period		Refunds allowed after prescribed period		Number of applications rejected/pending
Number of taxpayers	Amount	Number of taxpayers	Amount	Number of taxpayers	Amount	
808	83.84	674	64.93	63	4.07	71*

* Rejected-69, Pending -02

It could be seen from the above table that the Department allowed refunds to 83.42 per cent of the registered taxpayers within the prescribed period of sixty days and 69 applications were rejected. As filing of GSTR-2 was postponed (till further orders), match/mismatch report of ITC could not be generated from the IT system. Therefore, possibility of claim of refund in case of unutilised input tax credit showing incorrect ITC amount in GSTR-3B cannot be ruled out.

Legacy Issues

Audit assessed the legacy issues regarding assessment, recovery of arrears and other related matters and the observations are as follows:

2.3.6 Assessment of dealers

Dealers were registered under PVAT Act, 2005, CST Act, 1956 and other minor taxes i.e. luxury tax, entertainment tax etc. prior to implementation of GST. Therefore, assessments of the dealers registered under pre-GST regime were to be completed by the Department within the prescribed²³ period.

As per prescribed time line, the assessments for the year 2011-12 were to be completed by November 2018²⁴. However, out of 26 AETCs, the 4,288 assessments for the year 2011-12 in 5 AETCs offices were pending as on 28 February 2019 (detailed below).

Table 2.9: Arrears of Assessment

Total cases approved ²⁵ for assessment for the year 2011-12	Number of assessments completed	Number of cases pending for assessment
30,122	25,834	4,288

There was need to complete the assessments before those becoming time barred.

23 Three years from the date when annual statement was filed or due to be filed, whichever is later, but not later than six years under special circumstances.

24 The annual return for the year 2011-12 was to be filed in November 2012, the assessment of which was to be completed by November 2018.

25 Total number of cases approved and assessed was for 26 AETCs. Out of these, the pendency of 4,288 cases was in 5 AETCs (Bathinda (1,327), Ferozepur (391), Gurdaspur (613), Ludhiana-I (603) and Ludhiana-II (1,354)).

2.3.7 Recovery of arrears

As per information furnished by the Department, arrears (VAT and CST) aggregating to ₹ 6,317.86 crore were pending as on 31 March 2018, out of which, arrears of ₹ 945.62 crore was outstanding for more than five years. ₹ 1.41 crore was written off by the Department. More than 64 per cent of total arrears (₹ 4,056.59 crore) were locked up on account of cases pending before various appellant courts/authorities. No reply/reason was furnished by the Department for the remaining arrears of ₹ 2,259.86 crore. In a bid to minimize litigation, 'One Time Settlement Scheme' as initiated in the neighbouring State of Haryana, had not been introduced in the State of Punjab.

2.3.8 Refunds of pre-GST period

Provisions were not available in the PVAT Act/Rules for processing the refunds as a result of assessment made without submission of refund of application by the dealers as is provided in Income Tax Act.

As per information provided by the Department, position of refunds claimed/sanctioned by/to dealers for the pre-GST period under PVAT Act, as on 28 February 2019 is given below:

Table 2.10 : Refunds of pre-GST period

(₹ in crore)

Claims outstanding in beginning of year		Claims received		Refund Sanctioned		Claim rejected		Balance	
Number of cases	Amount	Number of Cases	Amount	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
8,726	1,036.77	5,428	586.48	9,536	974.66	1,354	300.26	3,264	348.33

It can be seen from the above table that 3,264 refund claims involving an amount of ₹ 348.33 crore were still to be finalized by the Department. The department may also consider sensitizing the dealers to apply for refunds, if any left unclaimed by dealers of pre-GST period. This is in interest of the revenue of the State as the shortfall in revenue, if any, due to allowing refunds would be compensated by Central Government during the transitional period of five years only and refunds allowed after the transitional period would adversely affect the revenue of State.

Conclusion

The Government/Department was prompt in its preparedness for implementation of GST as can be seen with reference to enactment of the Act and Rules as per model law approved by GST Council, migration of existing taxpayers, capacity building efforts etc. Further, the Department needs to sort out the legacy issues like assessments of pre-GST cases, recovery of arrears and refund of tax relating to pre-GST regime expeditiously in a time bound manner through focused arrangements. Proper system was not put in place for verification of transitional credit especially in respect of the dealers transferred from the jurisdiction of Central Government.

The Paragraph was sent to Government (March 2019); the replies were awaited.

2.4 Irregular allowance of concession of tax

The Designated Officer allowed irregular concession of ` 16.52 lakh on the basis of seven non-genuine 'C' forms which were not obtained from prescribed authority of the issuing State of Himachal Pradesh.

Section 8(4) of the CST Act, 1956 read with Rule 12(1) of CST (Registration & Turnover) Rules, 1957 provides that the concessional rate of tax of two *per cent* shall not be admissible unless the dealer selling the goods furnishes a declaration in Form 'C' duly filled in and signed by the registered dealer to whom the goods are sold, in a prescribed form obtained from the prescribed authority.

Scrutiny of records of AETC Ludhiana-III revealed that the Designated Officer, for the year 2012-13 and 2013-14, allowed concessional rate of CST of two *per cent* on seven 'C' forms against which a dealer of Ludhiana had sold goods worth ` 4.72 crore to a registered dealer of Himachal Pradesh. Tax at the rate of 5.50 *per cent* was leviable on these goods. On cross verification and checking it from TINXYS (Tax Information Exchange System), it was found that these 'C' forms were not genuine and were not issued by the prescribed authority. Thus, the DO allowed the concession without ensuring that the forms were valid. The irregular allowance of concession resulted in short levy of tax of ` 16.52 lakh²⁶ at the rate of 3.50 *per cent* (5.50 *per cent* minus two *per cent*). The details are as below:

(Amount in `)

C forms objected	Value	Tax leviable (5.5 <i>per cent</i>)	Tax levied (2 <i>per cent</i>)	Short levy of tax
HP A/1 3516240	1,06,56,128	5,86,087	2,13,123	3,72,964
HP A/1 3516241	70,09,123	3,85,502	1,40,182	2,45,320
HP A/1 3516242	67,36,695	3,70,518	1,34,734	2,35,784
HP A/1 3516243	52,19,808	2,87,089	1,04,396	1,82,693
HP A/1 3516244	67,27,176	3,69,995	1,34,544	2,35,451
HP A/1 3516245	61,03,490	3,35,692	1,22,070	2,13,622
HP A/1 3516246	47,45,356	2,60,995	94,907	1,66,088
	4,71,97,776	25,95,878	9,43,956	16,51,922

The matter was reported to the Government/Department in May 2018 and August 2018; their replies were awaited (May 2019).

The Government may direct the Department to institutionalize a mechanism to ensure that concession of tax on the basis of 'C' forms is allowed after cross verifying from TINXYS and from the issuing state in all future cases and to recover ` 16.52 lakh from the assessee in the instant case.

²⁶ ` 4,71,97,776 x 3.5 *per cent* = ` 16,51,922.

2.5 Short reversal of input tax credit

Excess Input Tax Credit availed by two dealers was not reversed in full resulting in short levy of tax of ₹ 27.34 lakh.

Section 13 of PVAT Act provides that VAT paid on local purchase of goods is available as input tax credit. Section 13-A of the Act provides that the entry tax²⁷ paid would be admissible as input tax credit (ITC) subject to the provisions of the Act. Section 19(5) of the Act provides that ITC on goods, specified in Schedule 'H'²⁸ of PVAT Act i.e. paddy, wheat, cotton, sugarcane and milk, or products manufactured there from, when sold in the course of interstate trade or commerce, shall be available only to the extent of central sales tax chargeable under the Central Sales Tax Act, 1956.

Scrutiny of two assessment cases for the year 2009-10, assessed in May and November 2016 under AETC Ludhiana-I, revealed that two dealers purchased Schedule-H goods (cotton) from both within (₹ 210.66 crore) and outside State (₹ 218.88 crore). Goods worth ₹ 106.11 crore were sold in the course of interstate sales on which ₹ 2.12 crore was payable as Central Sales Tax (at the rate of two *per cent*). Audit calculated the ITC availed on local and interstate purchase of cotton used in manufacture of goods for interstate sale and output tax liability on corresponding sale value of cotton on proportionate basis. It was found that ITC of ₹ 2.11 crore was availed on value of cotton used for the interstate sale whereas the dealers were eligible for ITC of ₹ 1.74 crore²⁹ only. The Designated Officer was required to reverse³⁰ ITC of ₹ 36.82 lakh whereas ITC of ₹ 9.48 lakh was reversed in one case and no reversal was done in the other case. This resulted in short levy of tax of ₹ 27.34 lakh (***Appendix-I***).

The matter was reported to the Government/Department in April 2018 and May 2018; their replies were awaited (May 2019).

The Government may direct the Department to realise tax of ₹ 27.34 lakh in these two cases by re-assessing these two cases.

27 Entry tax is tax paid to the State of Punjab on interstate purchase of goods.

28 There are nine schedules to PVAT Act i.e. Schedules 'A', 'B', 'C', 'C1', 'D', 'E', 'F', 'G' and 'H' which prescribe rates of tax or exemptions.

29 Worked out proportionally on the basis of proportion of interstate purchase to total purchase of cotton.

30 The process where the Designated Officer disallows the amount of ITC claimed by the dealer.

2.6 Short retention of input tax credit

In seven assessment and two refund cases under eight AETCs, ITC of ₹ 11.12 crore on goods, lying in closing stock, was allowed to be adjusted from output tax liability in contravention of the provision contained in PVAT Act resulting in short levy of tax of ₹ 10.84 crore and irregular refund of ₹ 28.35 lakh.

Government of Punjab amended³¹ (November 2013) first proviso to Section 13(1) of PVAT Act, 2005 effective from 1 April 2014. It provides that VAT paid on purchase of any goods within State shall not be available as input tax credit unless such goods are sold within the State or in the course of interstate trade or commerce or in the course of export or are used in manufacture, processing or packing of taxable goods for sale within the State or in the course of interstate trade or commerce or in the course of export. Similar provision exists for purchase tax³² on purchase of goods specified in Schedule 'H'³³ of the Act (Paddy, Wheat, Cotton, Sugarcane and Milk) (Section 19 and Section 19(4) of the Act).

a) Scrutiny of four assessment cases for the year 2014-15 (three cases) and 2015-16 (one case), assessed between April 2016 and March 2017 under three AETCs³⁴, revealed that four dealers purchased raw materials worth ₹ 19.49 crore for trading/manufacturing. At the end of the years, raw materials worth ₹ 8.15 crore were lying in the closing stock which proportionately contained goods worth ₹ 6.74 crore purchased from within State. VAT of ₹ 55.11 lakh paid on this purchase was not available as ITC during the years. The Designated Officers were required to carry forward ITC of ₹ 55.11 lakh for use in subsequent years on account of unused raw materials. However, the DO, while assessing the cases, carried forward ITC of ₹ 9.68 lakh in one case only and did not carry forward any ITC in the remaining three cases. The balance amount of ₹ 45.43 lakh was allowed as ITC and adjusted from output tax liability which reduced the output tax liability of the dealers to that extent. This resulted in short levy of tax of ₹ 45.43 lakh in the assessment years.

b) Scrutiny of two refund cases for the year 2014-15, which were finalised in April and August 2016 under two AETCs³⁵, revealed that raw materials worth ₹ 13.21 crore remained unutilized during the year and were lying in closing stock. This proportionately included materials worth ₹ 8.04 crore which were purchased from within State and on which VAT of ₹ 28.35 lakh was paid. Consequently, ITC of ₹ 28.35 lakh was not available for utilisation during the years. However, the Designated Officers did not

31 Before amendment the provision stated that "provided that the goods are for sale in the State or in the course of interstate trade or commerce or in the course of export or for use in manufacture, processing or packing of taxable goods for sale within the State or in the course of interstate trade or commerce or in the course of export."

32 Purchase tax is paid by the purchaser of the goods (registered dealer) when the goods are purchased from unregistered persons (farmers) and is levied at a rate of VAT applicable to such goods as per Schedules.

33 Schedule 'H' goods are Paddy, Wheat, Cotton, Sugarcane and Milk on which purchase tax is levied.

34 Barnala, Patiala and Sangrur.

35 Barnala and Fatehgarh Sahib.

retain any ITC and allowed refund of ` 28.35 lakh. This resulted in irregular refund of ` 28.35 lakh.

c) Scrutiny of three assessment cases for the years 2009-10 and 2013-14, assessed in May and November 2016 under three AETCs³⁶, revealed that three dealers purchased Schedule-H goods (wheat and paddy) and paid purchase tax on it. Goods worth ` 443.81 crore remained unutilized during the years and were lying in closing stock. Consequently, purchase tax of ` 17.85 crore was not available as ITC. The Designated Officers should have carried forward ` 17.85 crore for use as ITC in subsequent years. However, while assessing the cases, the DO carried forward ` 7.46 crore only and incorrectly allowed the remaining ` 10.39 crore as ITC in the assessment years which reduced the tax liability of the dealers to that extent during the years. This resulted in short levy of tax of ` 10.39 crore.

The above matters were reported to the Government/Department in January 2018 and May 2018; their replies were awaited (May 2019).

The Government may direct the Department to re-assess these nine cases by complying with the provisions of PVAT Act.

2.7 Short levy of tax due to incorrect assessment

In two assessment cases under AETC Ludhiana-II, the Designated Officers short levied tax of ` 1.31 crore on account of (a) giving undue benefit of tax paid and (b) not taxing sale of plant and machinery.

Rule 48(1) of PVAT Rules, 2005 provides that the Designated Officer after considering the objections and documentary evidence, if any, filed by the person, shall pass an order of assessment in writing, determining the tax liability of such a person.

a) Scrutiny of an assessment case for the year 2009-10, assessed in September 2016 under AETC Ludhiana-II, revealed that a dealer had claimed tax deposit of ` 13.14 crore in his annual return for the year 2009-10. However, at the time of assessment the Designated Officer took the tax paid as ` 14.37 crore instead of ` 13.14 crore. This resulted in short levy of tax of ` 1.23 crore.

b) Capital goods i.e. plant and machinery and parts thereof were taxable at the rate of four *per cent* up to 28 January 2010 and five *per cent* thereafter under Entry 16 of Schedule 'B' of PVAT Act, 2005.

Scrutiny of an assessment case for the year 2009-10, assessed in November 2016 under AETC Ludhiana-II, revealed that the dealer, in the annual return showed gross sale as ` 59.95 crore (` 59.62 crore as sale and ` 0.33 crore as consignment transfer). The dealer had also sold plant and

³⁶ Fatehgarh Sahib, Fazilka and Sangrur.

machinery for ` 2.05 crore³⁷ during 2009-10, as per Schedule of Fixed Asset and Profit and Loss Account. Thus, the gross sale of the dealer including sale of machinery was ` 62.00 crore. The Designated Officer accepted and assessed the gross sale of the dealer without considering the sale value of ` 2.05 crore of plant and machinery. This resulted in non-levy of tax of ` 8.20 lakh at the rate of four *per cent* on sale of Plant and Machinery.

The above matters were reported to the Government/Department in May 2018; their replies were awaited (May 2019).

The Government may direct the Department to realise tax of ` 1.31 crore in the two cases by correcting the omissions.

2.8 Short levy of Central Sales Tax

In an assessment case under AETC Fazilka, the Designated Officer did not levy revised rate of tax on turnover of interstate sales without 'C' forms resulting in short levy of tax of ` 11.97 lakh.

The Government of Punjab raised the tax rate leviable under Section 8 of PVAT Act, on items falling under Schedule 'B'³⁸ of the Act, from four *per cent* to five *per cent* w.e.f. 28 January 2010 and levied surcharge, under Section 8-B of PVAT Act, at the rate of 10 *per cent* of tax liability w.e.f. 05 February 2010.

Scrutiny of an assessment case for the year 2009-10, assessed in November 2016 under AETC Fazilka, revealed that the Designated Officer, while determining the tax liability of a dealer, levied CST at the rate of four *per cent* on interstate sale of ` 40.00 crore. The sale was without any concessional form. Out of this, goods worth ` 1.43 crore were sold between 29 January 2010 and 04 February 2010 on which CST of ` 7.15 lakh at revised rate of five *per cent* was applicable. Similarly, goods worth ` 7.03 crore were sold on or after 05 February 2010 on which CST and surcharge of ` 38.66 lakh at the rate of 5.5 *per cent* were applicable. Thus, goods worth ` 8.46 crore ($\text{` 1.43 crore} + \text{` 7.03 crore}$) were sold after 28 January 2010 on which tax of ` 45.81 lakh ($\text{` 7.15 lakh} + \text{` 38.66 lakh}$) was required to be levied. However, the Designated Officer, at the time of assessment, levied tax of ` 33.84 lakh at the rate of four *per cent* on this transaction of ` 8.46 crore. The omission resulted in short levy of tax of ` 11.97 lakh.

The matter was reported to the Government/Department in May 2018; their replies were awaited (May 2019).

The Government may direct the Department to apply the correct rate of tax and recover tax of ` 11.97 lakh which was short levied.

³⁷ Plant and machinery worth ` 1.63 crore and profit of ` 42.47 lakh.

³⁸ Schedule B lists commodities on which tax was increased from four *per cent* to five *per cent* w.e.f. 29 January 2010 and surcharge, at the rate of 10 *per cent* of tax liability of five *per cent* was levied w.e.f. 05 February 2010. The commodity in this case was edible oil which is listed as item no. 33 in the Schedule.

2.9 Inadmissible benefit to a dealer

In AETC Muktsar and AETC Ludhiana-I, the Designated Officers allowed inadmissible benefit of ` 1.92 crore to two dealers resulting in short levy of tax of ` 1.92 crore.

Section 2(zc) of PVAT Act, 2005 provides that a return is a true and correct account of business pertaining to the return period in the prescribed form. Further, Rule 48(1) of PVAT Rules, 2005 provides that the Designated Officer after considering the objections and documentary evidence, if any, filed by the person, shall pass an order of assessment in writing, determining the tax liability of such a person.

a) Scrutiny of an assessment case for the year 2009-10, assessed in November 2016 under AETC Muktsar, revealed that the Designated Officer had computed ` 2.59 crore as the amount of purchase tax to be retained³⁹. This was reduced by ` 1.82 crore stating that in the annual return filed by the dealer, this amount had been shown as retained. However, scrutiny of the dealer's annual return showed that no amount was retained by the dealer. This resulted in inadmissible benefit and short levy of tax of ` 1.82 crore.

b) Scrutiny of an assessment case for the year 2011-12, assessed in January 2017 under AETC Ludhiana-I, revealed that the DO, at the time of assessment, computed tax liability of ` 4.93 lakh. There was no ITC due for carrying forward. However, the DO instead of levying tax of ` 4.93 lakh, allowed carry forward ITC of ` 4.80 lakh based on the return of the dealer and adjusted it against the tax payable. Due to this incorrect assessment, tax of ` 4.93 lakh was not levied and ineligible carry forward of ITC of ` 4.80 lakh was also allowed. This resulted in short levy of tax of ` 9.73 lakh ($\text{` 4.93 lakh} + \text{` 4.80 lakh}$).

The matter was reported to the Government/Department in May 2018; their replies were awaited (May 2019).

The Government may direct the Department to realise tax of ` 1.92 crore by correcting the omissions in the two assessment cases.

³⁹ Retention means holding back of ITC during a particular year so that it cannot be adjusted against output tax of that particular year.

2.10 Inadmissible input tax credit on furnace oil and lubricants

The Designated Officer allowed inadmissible input tax credit of entry tax paid on interstate purchase of furnace oil and lubricants in two cases resulting in excess allowance of ITC and inadmissible refund ₹ 33.63 lakh.

Section 13(4) of PVAT Act, 2005 provides that ITC on furnace oil, lubricants etc. shall be allowed only to the extent by which the amount of tax paid in the State exceeds a specific rate⁴⁰. The rate was four *per cent* up to 3 December 2012 and five *per cent* from 4 December 2012. Further, Section 13-A of the Act provides that entry tax paid on interstate purchases of goods will be available as input tax credit subject to the provisions of the Act.

a) Scrutiny of two refund cases for the years 2012-13 and 2013-14 that were finalised in January 2017 and February 2015 respectively under AETC Hoshiarpur, revealed that a dealer made interstate purchase of furnace oil of ₹ 4.06 crore and paid entry tax of ₹ 17.48 lakh on it at the rate of four *per cent* and four and half *per cent*. The dealer was eligible for input tax credit on entry tax paid in excess of four *per cent* up to 3 December 2012 and five *per cent* from 4 December 2012. Out of ₹ 17.48 lakh, the dealer was eligible for input tax credit of ₹ 0.16 lakh. The remaining amount of ₹ 17.32 lakh was not available as input tax credit and was required to be reversed⁴¹. However, the Designated Officer reversed only ₹ 0.67 lakh. The balance amount of ₹ 16.65 lakh (₹ 17.32 lakh - ₹ 0.67 lakh) was refunded to the dealer which was inadmissible.

b) Scrutiny of an assessment case for the year 2010-11, assessed in August 2016 under AETC Hoshiarpur, revealed that the dealer purchased lubricants (engine oil, transmission oil, gear oil etc.) worth ₹ 14.70 crore on which entry tax of ₹ 1.84 crore was paid at the applicable rate of 12.5 *per cent*. Out of this ₹ 1.84 crore, entry tax of ₹ 58.80 lakh (four *per cent* of ₹ 14.70 crore) was not available as ITC as per the provisions *ibid* and was required to be reversed at the time of assessment. However, the Designated Officer reversed entry tax of only ₹ 41.82 lakh. The omission resulted in excess allowance of ₹ 16.98 lakh (₹ 58.80 lakh - ₹ 41.82 lakh) as ITC on lubricants.

The above matters were reported to the Government/Department in May 2018 and June 2018; their replies were awaited (May 2019).

⁴⁰ Rates of entry tax

Date	Rate of entry tax on Furnace oil (in <i>per cent</i>)	Rate of entry tax on Lubricants (in <i>per cent</i>)	Rate of reversal of entry tax u/s 13(4) of PVAT Act (in <i>per cent</i>)
Up to 17 Sep 2012	4	12.5	4
18 Sep 2012 to 03 Dec 2012	4.5	13	4
04 Dec 2012 to 03 Oct 2013	4.5	13	5

⁴¹ Reversal means disallowing ITC claims of a dealer under provisions of PVAT Act and Rules at the time of assessment by the Designated Officer.

The Government may direct the Department to recover excess allowance of ITC of ` 33.63 lakh (` 16.65 lakh + ` 16.98 lakh).

2.11 Inadmissible allowance of deduction to works contractor

Designated Officer allowed deduction of ` 2.21 crore on account of material supplied by Government Department which was not admissible, resulting in short levy of tax of ` 12.14 lakh.

Section 8(2-A) of the Punjab Value Added Tax (PVAT) Act, 2005 provides that every person executing works contract shall pay tax at applicable rates on the value of goods at the time of incorporation of such goods in the works. Further, Rule 15(4) of PVAT Rules lists items which are admissible as deductions from gross sales to determine the taxable turnover. Material supplied by contractee/department to contractor for use on works is not listed under Rule *ibid*.

Scrutiny of an assessment case for the year 2009-10, assessed in November 2016 under AETC Kapurthala, revealed that a works contractor in his trading account has shown goods worth ` 2.21 crore as material supplied by the Government Department. Cost of material supplied by the Department was not admissible as deduction from the gross taxable turnover. The Designated Officer allowed this deduction at the time of assessment and did not levy tax on it whereas the cost of material was not admissible for deduction from gross turnover under Rule 15(4). The omission resulted in short levy of tax of ` 12.14 lakh⁴².

The matter was reported to the Government/Department in May 2018 and June 2018; their replies were awaited (May 2019).

The Government may direct the Department to recover ` 12.14 lakh from the assessee.

2.12 Non/Short levy of interest

Application of incorrect provision relating to levy of interest in assessment orders by 18 AETCs, resulted in short levy of interest of ` 38.11 crore in 51 cases.

Section 32(1) of the PVAT Act, 2005 provides that if a person fails to pay the amount of tax due from him as per provisions of this Act, he shall be liable to pay simple interest on the amount of tax at the rate of half *per cent* per month from the due date of payment till the date he actually pays the amount of tax. Further, Section 32(3) provides that if a person fails to declare the amount of tax in a return, which should have been declared, such a person shall be liable to pay simple interest at the rate of one and half *per cent* per month on such amount of tax from the due date of payment till the date he actually pays such amount of tax.

⁴² ` 2,20,70,031 x 5.5 *per cent* = ` 12,13,852.

Scrutiny of assessment cases of 18 AETCs⁴³, assessed during 2016-17, revealed that 45 dealers in 51 cases did not declare due tax in their annual returns between 2009-10 and 2014-15. While assessing the cases, the DOs raised additional tax demands of ` 51.44 crore. However, in eight cases of eight dealers pertaining to five AETCs⁴⁴, the DOs levied interest of ` 1.69 crore at the rate of 0.5 *per cent* per month instead of ` 4.96 crore⁴⁵ at applicable rate of 1.5 *per cent* per month. Further, the DOs did not levy any interest in the remaining 43 cases of 37 dealers whereas interest of ` 34.84 crore was leviable. The above omissions resulted in short levy of interest of ` 38.11 crore⁴⁶.

AETC Mohali replied (March 2018) that the dealers had declared their turnover and tax liability in the returns and thus interest under Section 32(3) was not leviable. The reply was not tenable because merely declaring any tax liability in the annual return was not sufficient, the dealers were required to declare due tax liability so that no additional tax demands could be raised on assessment. Since additional tax demands were raised, it makes it amply clear that correct tax liabilities were not declared by the dealers. Hence, the Designated Officers should have levied interest at the rate of 1.5 *per cent*.

The matter was reported to the Government/Department in May 2018 and June 2018; their replies were awaited (May 2019).

The Government may direct the Department to recover interest of ` 38.11 crore in the 51 cases which was short realised.

The cases pointed out are based on the test check conducted by Audit. The Department may initiate action to examine similar cases and take necessary corrective action.

43 Amritsar-I, Amritsar-II, Batala, Bathinda, Faridkot, Ferozepur, Fatehgarh Sahib, Jalandhar-I, Jalandhar-II, Ludhiana-I, Ludhiana-II, Ludhiana-III, Mansa, Mohali, Patiala, Ropar, Sangrur and Tarn Taran.

44 Ferozepur, Jalandhar-I, Ludhiana-II, Mohali and Ropar.

45 Interest is calculated by audit from the following financial year till the month in which assessment was completed.

46 ` 4.96 crore- ` 1.69 crore+ ` 34.84 crore= ` 38.11 crore