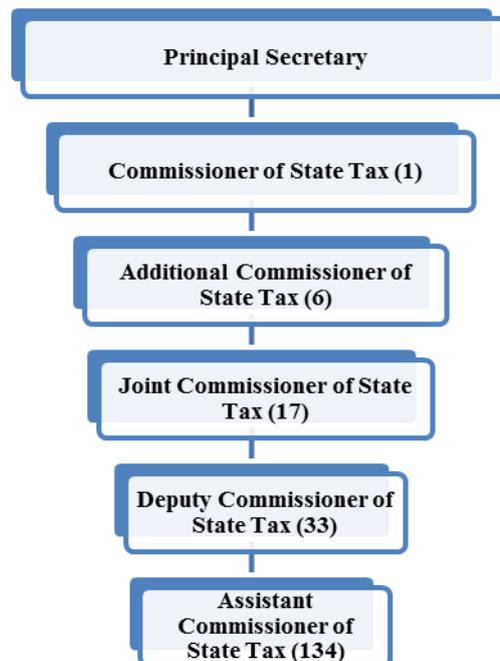


## CHAPTER II

### VALUE ADDED TAX, CENTRAL SALES TAX AND GOODS AND SERVICES TAX

#### 2.1 Tax Administration

Value Added Tax and Central Sales Tax Act<sup>13</sup> and Rules framed there under are administered at the Government level by Principal Secretary of Revenue Department and the organisational set up is depicted in the organogram given below. The total revenue from State Tax Department during 2017-18 was ₹ 38,179.39 crore<sup>14</sup>.



#### 2.2 Internal Audit

Internal audit is an important mechanism for ensuring proper and effective functioning of a system for detection and prevention of control weaknesses. The Department did not have a dedicated Internal Audit Wing that would plan and conduct audit in accordance with a scheduled audit plan. Each STU/circle is audited by audit teams consisting of five members headed by either ACs or State Tax Officers (STOs). The information relating to audits conducted was however not furnished by the Department (March 2019).

<sup>13</sup> Consequent on introduction of GST (Goods and Services Tax) w.e.f. 01 July 2017, the department is known as State Tax Department.

<sup>14</sup> Source: State Finance Accounts 2017-18.

## 2.3 Results of Audit

During the year 2017-18, the assessment files, refund records and other connected documents in 81 out of 112 offices of the Commercial Taxes Department were test checked. Instances of under assessment of Sales Tax/VAT and other irregularities involving ₹776.75 crore in 1,227 cases were observed. These fall under different categories as given in **Table 2.1**:

**Table 2.1**  
**Category of Audit observations on revenue receipts**

Sl. No.	Categories	No. of audit observations	(₹ in crore)
			Amount
1.	Short levy of tax on works contracts	24	11.56
2.	Non-levy/short levy of interest and penalty	246	152.83
3.	Excess claim/allowance of Input Tax Credit	257	76.08
4.	Non-levy/short levy of tax under VAT Act	418	289.52
5.	Non-levy/short levy of tax under CST Act	88	55.28
6.	Sales tax deferment	22	49.03
7.	Compliance Audit on “Transition from VAT to GST”	1	62.43
8.	Other irregularities	171	80.02
	<b>Total</b>	<b>1,227</b>	<b>776.75</b>

Department accepted audit findings involving tax effect of ₹125.15 crore in respect of 281 cases out of which it recovered an amount of ₹0.45 crore in 37 cases during the year 2017-18.

There are six broad categories of audit observations under VAT/ CST Act and one broad category of audit observation under GST Act. There may be similar irregularities, errors/omissions in other units under the department but not covered in the test audit. Department may, therefore, examine all the units with a view to ensure that the taxes are levied as per provisions of the Act and rules. In reply to the observations discussed in the chapter, the test checked Assessing Authorities (AA) stated that files were submitted to higher authorities for revision; show cause notices were being issued; action is under process; matter would be examined; orders passed for collection of balance tax; orders passed and demand taken in to Debt Management Unit (DMU); penalty and interest would be levied *etc.*

### **Non-observance/compliance of provisions of the Telangana VAT Act and Rules read with Government notifications**

The Telangana VAT Act, 2005, the Telangana VAT Rules made there under, CST Act, 1956 and CST Rules, 1957 provide for:

- Allowance of input tax credit on purchases made at the prescribed rate for each type of commodity
- Levy and collection of output tax by adopting rates of tax prescribed by the Act
- Levy and collection of tax on inter-state sale turnovers

- Levy of penalty and interest on belated payment of tax
- Levy of tax on the correctly assessed taxable turnover
- Levy of tax on works contract turnover

The Telangana Goods and Services Tax (GST) Act, 2017 provides for levy of tax on intra-state supply of goods or services (*except alcohol for human consumption and five specified petroleum products*<sup>15</sup>). Further, Integrated GST (IGST) is being levied on inter-state supply of goods or services (including imports) and the Parliament has exclusive power to levy IGST. The GST Act also provides for Transitional provisions and legacy issues such as claim of refunds and, transitional credits.

The AAs, while finalising the audit assessments of the dealers did not observe some of the aforesaid provisions involving ₹ 261.84 crore which are discussed in the following paragraphs. Such omissions are pointed out in audit every year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is a need for improvement of internal controls so that repetitions of such omissions can be avoided or detected timely and rectified.

## 2.4 Input Tax Credit

### 2.4.1 Allowance of input tax credit on ineligible items

**Input Tax Credit amounting to ₹3.23 crore was allowed on ineligible items.**

Under Section 13(1) and 13(3) of the Telangana VAT Act, 2005, Input Tax Credit (ITC) shall be allowed to a VAT dealer for tax charged in respect of all purchases of taxable goods, made from a registered VAT dealer during the tax period, if such goods are for use in his business and if he is in possession of valid tax invoices. On test check (between January 2017 and October 2017) of 15<sup>16</sup> out of 112 offices and found that in 26 cases<sup>17</sup>, ITC amounting to ₹3.23 crore was incorrectly allowed on ineligible items as shown in **Table 2.2:**

<sup>15</sup> Petroleum products: crude, high speed diesel, petrol, aviation turbine fuel and natural gas.

<sup>16</sup> JCs(ST)-Abids, Hyderabad Rural and Karimnagar; ACs(ST)-Ashoknagar, Basheerbagh, Bowenpally, Charminar, Hydernagar, Jubilee Hills, Madhapur, Mahabubnagar, M.J.Market, Punjagutta, Rajendranagar, and Vengalraonagar.

<sup>17</sup> Cases in this Chapter means 'Dealers'.

**Table 2.2**  
**Incorrect allowance of ITC**

Authority	Subject	No. of Division/ Circles	No. of Cases	Incorrect allowance of ITC (₹ in crore)
As per Section 13(5)(h) of the Telangana VAT Act, 2005, no input tax credit is allowed on the supply of goods on which VAT dealer pays tax under clause (b) and (d) of sub section (9) of section 4 of the Act.	Incorrect claim of ITC by dealers running Hotel business	Nine <sup>18</sup>	18	2.96
Under section 13(4) of the Act read with Rule 20(2) of Telangana VAT Rules, 2005, a VAT dealer shall not be entitled for ITC in respect of purchase of items used for personal consumption such as Refrigerators, coolers, etc.	ITC claimed on ineligible items	Two <sup>19</sup>	2	0.13
As per Rule 27(1)(d) of Telangana VAT Rules, 2005, a tax invoice without serially numbered printed or computerized invoice is invalid and no ITC is allowed on purchases with such invoices.	ITC allowed on invalid tax invoices	Three <sup>20</sup>	3	0.03
As per Section 13(5)(b) of Telangana VAT Act, 2005, no ITC credit shall be allowed in case of transfer of business as a whole.	Incorrect claim of ITC on transfer of business as whole	AC Vengalrao Nagar	1	0.05
As per Section 13 of VAT Act, the dealer is not entitled to claim ITC on damaged goods and purchase returns.	ITC not restricted on damaged goods	Two <sup>21</sup>	2	0.06
<b>Total</b>			<b>26</b>	<b>3.23</b>

The matter was referred to the Department (July 2018) and to the Government (September 2018); replies have not been received (February 2020).

<sup>18</sup> JCs(ST)-Abids, Hyderabad Rural and Karimnagar;

ACs(ST)-Ashoknagar, Basheerbagh, Bowenpally,Hydernagar, Madhapur and Punjagutta.

<sup>19</sup> ACs(ST)-Basheerbagh and Jubilee Hills.

<sup>20</sup> ACs(ST)-Charminar, Mahabubnagar and Rajendranagar.

<sup>21</sup> ACs(ST)-Charminar and M.J. Market.

#### 2.4.2 Excess claim of input tax credit due to incorrect restriction

##### **Excess allowance of Input Tax Credit of ₹2.73 crore due to non restriction of ITC on exempt sales /transactions.**

As per Section 13(5) read with Rule 20(7) of Telangana VAT Act, 2005 (VAT Act), no Input Tax Credit (ITC) is allowed on purchase of taxable goods corresponding to sale of exempt goods. As per Section 13(6), read with Rule 20(8) of the VAT Act, where a VAT dealer makes sale/branch transfers of goods, ITC will be as follows:

- (a) ITC on 9.5 *per cent* portion of 14.5 *per cent* purchases shall be allowed in full.
- (b) The balance five *per cent* of (a) above and ITC on five *per cent* purchases shall be restricted by applying formula<sup>22</sup>.

Where a VAT dealer makes taxable sales, exempt sales and also exempt transactions by using common inputs, ITC is allowed proportionately.

On test check of VAT assessments and VAT records for the period 2009-10 to 2016-17, it was observed (between January 2017 and September 2017) that in 13<sup>23</sup> out of 112 offices, ITC was not restricted in respect of 18 cases. The amount of ITC claimed/ allowed was ₹47.95 crore against eligible ITC of ₹45.22 crore. Non-restriction of ITC by the AAs as per the rules on exempt sales/ transactions resulted in excess allowance of ITC of ₹ 2.73 crore.

In one case, AC (ST) Balanagar replied that the assessment was finalised under Rule 20(9)<sup>24</sup> of the VAT Rules.

It is of the view that the dealer instead of restricting ITC on purchases involved both in exempt transactions and exempt sales (SEZ sales) had however restricted ITC only on purchases involved in exempt transactions.

The matter was referred to the Department (June 2018) and to the Government (September 2018); replies have not been received (February 2020).

#### 2.4.3 Incorrect Input Tax Credit

##### **Incorrect carry forward of Input Tax Credit in respect of 12 dealers led to excess allowance of tax credit of ₹ 1.22 crore.**

Under Section 13(1) and 13(3) of the Telangana VAT Act, 2005, Input Tax Credit (ITC) shall be allowed to the VAT dealer for tax charged in respect of all purchases of taxable goods, made from a registered VAT dealer during the

<sup>22</sup> A\*B/C, where A is the input tax for common inputs for each tax rate, B is the taxable turnover and C is the total turnover.

<sup>23</sup> JCs(ST)- Begumpet, Punjagutta, Secunderabad and Warangal; ACs(ST)-Balanagar, Basheerbagh, IDA Gandhinagar, Jeedimetla, Khammam-III, Rajendranagar, Sanathnagar, Sangareddy and Srinagar colony.

<sup>24</sup> Deals with restriction of ITC in respect of exempt sales and exempt transactions.

tax period, if such goods are for use in business and if the dealers in possession of valid tax invoices.

On test check (September 2017) of VAT assessments and VAT records in the Office of Asst. Commissioner (ST) Sangareddy for the period 2012-13 to 2015-16, it was observed in 12 cases that the AAs had adjusted ITC against the output tax in the assessments. The balance ITC taken to VATIS ledger<sup>25</sup> for adjustment in the subsequent years was in excess than determined in the assessment order. Such excess carry forward of ITC resulted in undue credit of ₹ 1.22 crore.

The matter was referred to the Department (July 2018) and to the Government (September 2018); replies have not been received (February 2020).

## **2.5 Short/ Non-levy of Value Added Tax**

### **2.5.1 Short levy of VAT**

**Incorrect levy of tax at five per cent instead of 14.5 per cent on mobile phones resulted in short levy of tax amounting to ₹ 94.88 crore.**

As per Section 4(3) of Telangana VAT Act, 2005 every VAT dealer shall pay tax on the sale of goods, at rates specified in the Schedules to the Act. All goods other than those specified in schedules I, III, IV and VI falls under Schedule-V, which are liable to be taxed at the rate of 14.5 per cent. As per the Government Order<sup>26</sup> 'Mobile Phones' (HSN Code 8517) are taxable at five per cent under Schedule-IV to the Act. The Government rescinded<sup>27</sup> (March 2013) this order and as a result, mobile phones were to be taxed as per the residuary entry in Schedule-V to the Act, at 14.5 per cent with effect from 01 April 2013. Further, the Government<sup>28</sup> again included "Cell Phones/Mobile Phones" in Schedule-IV w.e.f. 28 July 2016. Thus, Mobile Phones fell under Schedule-V of the Act, during the intermediary period from 01 April 2013 to 27 July 2016 and were to be taxed at 14.5 per cent.

According to Section 20(3)(a) of the VAT Act, 2005, every return submitted by a dealer shall be subjected to scrutiny to verify the correctness of calculation, application of correct rate of tax, input tax credit claimed therein and full payment of tax payable for such tax period.

On test check (between February 2017 and September 2017) of VAT records in eight<sup>29</sup> out of 112 offices for the period from April 2013 to March 2016, it was observed that in 20 cases, the AAs levied tax at the rate of five per cent instead of at 14.5 per cent on sale of mobiles. This resulted in short-levy of tax of ₹ 94.88 crore at differential rate of 9.5 per cent on a turnover of ₹ 998.73 crore.

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<sup>25</sup> VAT ledger - Value Added Tax ledger generated in Telangana Commercial Taxes portal.

<sup>26</sup> G.O.Ms.No.1615 dated 31 August 2005.

<sup>27</sup> vide G.O.Ms.No.140 dated 19 March 2013.

<sup>28</sup> G.O.Ms.No.186 dated 28 July 2016.

<sup>29</sup> ACs(ST)- Hydernagar, Jeedimetla, Jubilee Hills, Madhapur, M.J. Market, Sanathnagar, Sangareddy and Somajiguda.

The matter was referred to the Department (April 2018) and to the Government (September 2018); replies have not been received (February 2020).

### 2.5.2 Short levy of tax due to adoption of incorrect rate of tax

#### **Application of incorrect rates resulted in short levy of tax aggregating to ₹ 31.65 crore.**

Under Section 4(3) of the VAT Act, 2005 every VAT dealer shall pay tax on sale of taxable goods at the rates specified in Schedules to the Act. Commodities which fall under Schedule-VI to the Act, attract special rate of tax. Commodities not specified in any of the schedules fall under Schedule-V and tax is to be levied at the rate of 14.5 *per cent*<sup>30</sup>. Further, as per Section 4(9)(c) of the Act, every dealer whose annual total turnover is ₹ 1.50 crore and above shall pay tax at the rate of 14.5 *per cent* on the taxable turnover representing sale or supply of food served in restaurants, sweet-stalls *etc.*

On test check (between January 2017 and September 2017) of VAT assessments and VAT records for the period 2009-10 to 2016-17, it was observed that there was short levy of tax in 17 cases in 13<sup>31</sup> out of 112 offices. In respect of 12 cases, the AAs<sup>32</sup> incorrectly levied tax at four/five *per cent*<sup>33</sup> on commodities<sup>34</sup>, though these are liable to be taxed at the rate of 12.5/14.5 *per cent*.

In respect of five cases in four offices<sup>35</sup>, dealers who owned bars and restaurants/restaurants and Hotels had declared annual total turnover above ₹ 1.50 crore and paid VAT at five *per cent* on sale of food though they are liable to pay tax at the rate of 14.5 *per cent*. Application of incorrect rates of tax resulted in short levy of tax aggregating to ₹ 31.65 crore on a turnover of ₹ 331.81 crore.

In one case, AC (ST) Begumpet replied (August 2017) that the pre Engineered Fabricated steel structures fall under Schedule-IV and taxable at the rate of five *per cent*.

It is however, noted that the said commodity was a distinct commercial commodity and it was clarified in Advance Ruling<sup>36</sup> that the commodity was liable to tax at the rate of 14.5 *per cent*.

<sup>30</sup> Prior to 11 January 2010, the rate of tax on Schedule-V goods were at the rate of 12.5 *per cent*.

<sup>31</sup> JC(ST) – Abids & ACs(ST) – Bowenpally, Begumpet, IDA Gandhinagar, Jeedimetla, Lad Bazar, Madhapur, Malkajgiri, Nampally, Punjagutta, Rajendranagar, Sanathnagar and Sangareddy.

<sup>32</sup> JC(ST) – Abids & ACs(ST) – Bowenpally, Begumpet, Jeedimetla, Lad Bazar, Malkajgiri, Nampally, Punjagutta, Sanathnagar and Sangareddy.

<sup>33</sup> Prior to 13 September 2011, the rate of tax on Schedule-IV goods were at the rate of four *per cent*.

<sup>34</sup> Birla White Cement, AAC blocks, Galvanised Sheets, Diesel Generators, Empty Gas Cylinders, Storage Tanks *etc.*

<sup>35</sup> ACs (ST) – Bowenpally, IDA Gandhinagar, Madhapur and Rajendranagar.

<sup>36</sup> A.R.Com/28/2012, dt. 15 September 2012.

The matter was referred to the Department (April/ June 2018) and to the Government in September 2018; replies have not been received (February 2020).

### 2.5.3 Short levy of tax due to under assessment of turnover

**Non consideration of sales turnover as per Profit and Loss accounts filed by dealers led to short levy of tax of ₹ 2.17 crore .**

As per Section 4(1) of Telangana VAT Act, 2005, every dealer registered or liable to be registered as a VAT dealer shall be liable to pay tax on every sale of goods in the State at the rates specified in the Schedule. As per Section 4(8) of Telangana VAT Act, every VAT dealer who leases out or licenses others to use taxable goods, for cash or consideration in the course of his business shall pay tax on the consideration at the rates as are applicable to the goods involved.

As per Rule 25(10) of Telangana VAT Rules, every VAT dealer shall furnish, for every financial year, to the prescribed authority, the audited accounts on or before 31 December subsequent to the financial year to which the statements relate. As per para 5.12 of the VAT Audit Manual, 2012, audit officer has to reconcile the figures given by the dealer on VAT returns with certified annual accounts.

On test check (between January 2017 and September 2017) of VAT/ CST assessments and VAT/ CST records for the period 2010-11 to 2015-16, in 18<sup>37</sup> out of 112 offices, it was observed that the sales turnover determined by the AAs in 31 cases was ₹ 950.87 crore as against the turnover of ₹ 985.68 crore reported in Profit and Loss accounts (including other income<sup>38</sup>). This resulted in short levy of tax of ₹ 2.17 crore on differential turnover of ₹ 34.81 crore at five per cent/ 14.5 per cent as detailed in **Table 2.3**:

**Table 2.3**  
**Turnover Variation between P&L Account and VAT/CST**  
**assessments/VATIS Ledger**

(₹ in crore)					
Sl. No.	Category	Turnover as per P&L A/c	Turnover as per AO/VATIS Ledger	Difference in turnover	Short levy of tax
1.	CST	679.36	667.90	11.46	0.79
2.	VAT/VATIS ledger	306.32	282.97	23.35	1.38
	<b>Total</b>	<b>985.68</b>	<b>950.87</b>	<b>34.81</b>	<b>2.17</b>

Thus there was a total short levy of ₹ 2.17 crore on account of variation/non-inclusion of taxable turnover in assessments.

<sup>37</sup> JCs(ST) –Adilabad and Secunderabad, ACs(ST)- Ashoknagar, Charminar, Hydernagar, Jeedimetla, Khammam-III, Kodad, Madhapur, Malakpet, Malkajgiri, Peddapalli, Punjagutta, R.P. Road, Sanathnagar, Sangareddy, Suryapet, and Vengalraonagar.

<sup>38</sup> Other income may include hire charges, miscellaneous income, discounts etc. Such income is to be added to turnover and tax levied at the rates applicable to the commodity dealt by the dealer.

The matter was referred to the Department in April 2018 and to the Government in September 2018; replies have not been received (February 2020).

#### 2.5.4 Short realisation of Tax due to failure to register as VAT dealer

**Failure to register as VAT dealers despite taxable turnover exceeding the threshold limit resulted in short realisation of tax of ₹ 31.43 lakh.**

As per Section 17(3) of the Telangana VAT Act, 2005 with effect from 01 May 2009<sup>39</sup>, every dealer whose taxable turnover in the preceding twelve months exceeds ₹ 50 lakh<sup>40</sup> shall be liable to be registered as a VAT dealer. As per Rule 11(1) of the VAT Rules, the prescribed authority may *suo moto*, register a dealer, who is liable to apply for registration as VAT dealer but has failed to do so.

On test check of Turnover Tax (TOT) records in eight<sup>41</sup> out of 112 offices and observed (between January 2017 and September 2017) in 14 cases that the taxable turnover of the dealers (during the period from July 2014 to March 2017) had crossed the threshold limit. These TOT dealers had neither applied for VAT registration nor were they registered by the respective AAs at the time of assessment. The total turnover that exceeded the threshold limits in these cases amounted to ₹ 5.76 crore on which VAT of ₹ 31.43 lakh was leviable had they been registered as VAT dealers. Failure to get them registered as VAT dealers resulted in short realisation of tax of ₹ 31.43 lakh.

The matter was referred to the Department in April/May 2018 and to the Government in September 2018; replies have not been received (February 2020).

## 2.6 Inter-State Sales

### 2.6.1 Short levy of tax on inter-state sales not covered by 'C' forms

**Allowance of concessional rate of tax on interstate sales turnover not supported by statutory forms resulted in short levy of tax of ₹ 99.98 lakh.**

As per Section 8(2) of the Central Sales Tax Act, 1956 read with Rule 12 of the CST (Registration & Turnover) Rules, 1957 every dealer, who in the course of inter-state trade or commerce sells goods to a registered dealer located in another State, shall be liable to pay tax under the CST Act at the rate of two *per cent* (with effect from 01 June 2008), provided the sale is supported by a declaration in Form 'C', otherwise tax shall be at the rates applicable to the sale or purchases of such goods inside the appropriate State under the sales tax law of that State.

<sup>39</sup> Sub Section (3) is substituted by Act no. 4 of 2009 dated 03 March 2009 (w.e.f. 01 May 2009).

<sup>40</sup> Amended from ₹ 40 lakh to ₹ 50 lakh from April 2012.

<sup>41</sup> ACs(ST) – Afzulgunj, Hydernagar, Jubilee Hills, Madhapur, Mehdipatnam, Sangareddy, Saroornagar and Suryapet.

On test check (between January 2017 and August 2017) of CST records of 12<sup>42</sup> out of 112 offices for assessment period from 2011-12 to 2013-14, it was observed in 12 cases that the AAs levied lesser rates on inter-state sales of “ACC concrete blocks, granites, mobiles, aluminium composite panels, photographic goods, transformers, photocopying machines, automobile spare parts, earthmoving equipment, soya seeds, paint products” etc., which were not supported by ‘C’ forms. This resulted in short levy of tax of ₹99.98 lakh on the inter-state sales turnover of ₹10.50 crore.

The matter was referred to the Department in April 2018 and to the Government in September 2018; replies have not been received (February 2020).

## 2.7 Levy of penalties and interest under VAT

### 2.7.1 Non-levy of penalty and interest on delayed payment of tax and filing of returns

**Penalty of ₹36.87 crore and interest of ₹15.26 crore on delayed payment of tax and delayed filing of returns by dealers was not levied.**

According to Rule 24(1) of Telangana VAT Rules, in case of a VAT dealer, the tax declared to be due in Form VAT 200 shall be paid not later than 20 days after the end of the tax period.

Under Section 51(1) of the Telangana VAT Act, 2005, a dealer who fails to pay tax by the last day of the month in which it is due, shall be liable to pay tax and a penalty of 10 *per cent* of the amount of tax due. Further, according to Section 22 (2) of Telangana VAT Act, 2005, the dealer is liable for an additional levy of interest calculated at the rate of 1.25 *per cent* per month for the period of delay.

According to Section 50 of Telangana VAT Act, 2005, any VAT dealer, who fails to file a return where no tax is due, by the end of the month in which it was due, shall be liable to pay a penalty of ₹2,500. Further as per Section 50(3) of the Act, where a dealer files a return, after the last day of the month in which it is due, he shall be liable to pay a penalty of 15 *per cent* of the tax due.

On test check (between January 2017 and October 2017) of VAT assessments and VAT records for the period from January 2011 to March 2017, it was noticed that in 40<sup>43</sup> out of 112 offices, in 359 cases, the dealers paid tax

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<sup>42</sup> JC(ST) – Abids & ACs(ST) – Balanagar, Hydernagar, IDA Gandhinagar, Jubilee Hills, Madhapur, Mehdipatnam, M.J. Market, Nalgonda, Ranigunj, Sangareddy and Srinagar Colony.

<sup>43</sup> JCs(ST) – Begumpet, Charminar, Saroonagar, Secunderabad and Warangal; ACs(ST) – Ashoknagar, Basheerbagh, Begumpet, Bowenpally, Charminar, IDA Gandhinagar, Hydernagar, Jangaon, Jubilee Hills, Karimnagar-II, Khammam-I, Khammam-II, Khammam-III, Kodad, Kothagudem, Ladbazar, Madhapur, Mahabubabad, Malakpet, Malkajgiri, Mehdipatnam, Nampally, Nirmal, N.S. Road, Peddapalli, Punjagutta, Ranigunj, R.P. Road, Sanathnagar, Sangareddy, SD Road, Somajiguda, Suryapet, Vanasthalipuram and Vengalraonagar .

belatedly with delay ranging from one to 1,165 days. In four<sup>44</sup> out of 112 offices, five cases were found where the dealers filed the returns with delays and were therefore liable to pay penalty and interest. It was however noticed that the AAs did not levy penalty and interest. This resulted in non-levy of penalty of ₹ 36.87 crore and interest of ₹ 15.26 crore.

The matter was referred to the Department in June /July 2018 and to the Government in September 2018; replies have not been received (February 2020).

### 2.7.2 Non-levy/ Short levy of penalty on under declaration of tax

#### Penalty of ₹ 4.05 crore on under declaration of tax/excess claim of Input Tax Credit was not levied/short levied.

As per Section 53(1) of Telangana VAT Act, 2005, where any dealer has under-declared tax, (not fraudulent or wilful) penalty shall be imposed at the following rates:

- If under-declared tax is less than 10 *per cent* of the tax, penalty shall be 10 *per cent* of such under-declared tax;
- If it is more than 10 *per cent* of the tax due, penalty shall be 25 *per cent* of such under-declared tax.

Rule 25(8)(a) & (b) of Telangana VAT Rules, for the purpose of Section 53, further defines tax under-declared in respect of input tax means the excess of input tax claimed over and above the input tax actually entitled to be claimed. Tax under-declared in respect of output tax means the difference between output tax actually chargeable and the output tax declared in the returns.

On test check (between January 2017 and October 2017) of VAT assessments and VAT records for the period from April 2009 to July 2016, in 30<sup>45</sup> out of 112 offices, 57 cases of under-declared tax/excess claim of ITC of ₹ 18.96 crore were observed. It was however noticed that the AAs did not levy penalty in 27 cases and levied penalty less than the rates prescribed in the remaining 30 cases. This resulted in non/short levy of penalty of ₹ 4.05 crore as given in **Table 2.4**:

**Table 2.4**  
**Short / Non-levy of penalty**

Subject	No. of cases	₹ in crore	
		Short levy of penalty	Non-levy of penalty
Excess claim of ITC	13	0.14	0.24
Under-declaration of tax	44	1.45	2.22
<b>Total</b>	<b>57</b>	<b>1.59</b>	<b>2.46</b>

<sup>44</sup> ACs(ST) - Jadcherla, Karimnagar-II, M.J. Market and Peddapalli.

<sup>45</sup> JCs(ST) - Abids, Begumpet, Hyderabad Rural, Karimnagar and Secunderabad.

ACs(ST)- Ashoknagar, Balanagar, Basheerbagh, Begumpet, Jangon, Jeedimetla, Jubilee Hills, Khairathabad, Khammam-III, Kothagudem, Madhapur, Mahabubnagar, Malkajgiri, Mancherla, Mehdipatnam, Nampally, Nirmal, Peddapalli, Punjagutta, Ranigunj, R.P. Road, Sangareddy, Saroornagar, SD Road and Vanasthalipuram.

In one case, JC(ST), Secunderabad Division (June 2017) contested that the penalty was not attracted on the ground that tax on under declared turnover pointed out by audit was already deducted through TDS by the contractee and hence the said turnover was not reported in returns. As per the provisions of the VAT Act, 2005, penalty is leviable wherever under declaration of tax is found/noticed during assessment. Therefore, the dealer was liable for penalty on under declared tax as he did not declare the turnover in his return.

The matter was referred to the Department in May/June 2018 and to the Government in September 2018; replies have not been received (February 2020).

### **2.7.3 Non-levy/ Short levy of penalty on wilful under-declaration of tax**

**Penalty of ₹ 2.34 crore for wilful under declaration of tax was not levied/ short levied.**

Under Section 53(3) of Telangana VAT Act, 2005, any dealer who has under declared tax and where it is established that fraud or wilful neglect has been committed he shall be liable to pay penalty equal to the tax under-declared.

On test check (between February 2017 and September 2017) of VAT assessments and VAT records for the period from April 2010 to September 2016, it was observed in 10<sup>46</sup> out of 112 offices that in 10 cases, the dealers had under declared tax of ₹ 2.73 crore wilfully. The AAs during assessment noticed that the dealers had concealed the facts such as deficit stock, suppression of turnovers, sales turnovers not accounted in books of accounts etc. In four cases AAs<sup>47</sup> levied penalty at the rate of 10 per cent, in five cases AAs<sup>48</sup> levied penalty at the rate of 25 per cent and in one case penalty was not levied by AC(ST), Mancherial. In all these cases penalty was, however, leviable at the rate of 100 per cent. This resulted in non-levy/ short levy of penalty of ₹ 2.34 crore.

The matter was referred to the Department in April 2018 and to the Government in October 2018; replies have not been received (February 2020).

## **2.8 Works Contracts**

### **2.8.1 Short levy of tax due to incorrect determination of taxable turnover under works contract**

**Incorrect determination of taxable turnover under works contracts resulted in short levy of tax of ₹ 3.13 crore.**

Under Section 4(7)(a) of the Telangana VAT Act, 2005, every dealer executing works contract shall pay tax on the value of the goods at the time of

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<sup>46</sup> ACs(ST)-Ashoknagar, Basheerbagh, Hydernagar, Khammam-I, Mancherial, Mehdipatnam, Rajendranagar, R.P. Road, Saroornagar and Vanasthalipuram.

<sup>47</sup> ACs(ST)-Ashoknagar, Basheerbagh, Hydernagar and Mehdipatnam.

<sup>48</sup> ACs(ST)-Khammam-I, Rajendranagar, R.P. Road, Saroornagar and Vanasthalipuram.

incorporation of such goods in the works executed at the rates applicable to such goods under the Act. The value of goods in a works contract was to be calculated by deducting from the total contract value, all items of works that do not directly relate to goods such as labour charges, establishment cost on services, consumables etc.

On test check (between January 2017 and October 2017) of VAT assessments and VAT records for the period 2011-12 to 2015-16, in eight<sup>49</sup> out of 112 offices, it was observed that in 13 cases, AAs incorrectly determined taxable turnover as ₹ 145.19 crore instead of ₹ 189.74 crore. This was due to adoption of incorrect formula for arriving cost of establishment and profit relatable to supply of labour & services. Labour charges were divided by material & labour expenses instead of total expenditure. Illustration on the correct adoption of the above stated provision is given in **Table 2.5**:

**Table 2.5**  
**Correct method for adoption of Taxable Turnover**

	Taxable Turnover as per correct method (in ₹)	Taxable Turnover as per incorrect method (in ₹)
Gross works contract receipts	10,000	10,000
Cost of material	3,500	3,500
Labour charges (allowable deductions)	3,800	3,800
Other fully allowable deductions	1,200	1,200
Cost of establishment and other similar expenses	1,000	1,000
Total expenditure	9,500	9,500
Profit	500	500
Cost of establishment and other similar expenses relatable to supply of labour and services	$1,000 \times 3,800 / 9,500 = 400$	$1,000 \times 3,800 / 7,300 = 520$
Profit relatable to supply of labour and services	$500 \times 3,800 / 9,500 = 200$	$500 \times 3,800 / 7,300 = 260$
Taxable works contract receipts	$10,000 - 3,800 - 1,200 - 400 - 200 = 4,400$	$10,000 - 3,800 - 1,200 - 520 - 260 = 4,220$

Further, certain inadmissible expenditure such as excess deductions from gross turnovers on account of profit relatable to labour charges, incorrect excess calculation of cost of establishment etc. were allowed. The incorrect determination of taxable turnover resulted in short levy of tax of ₹ 3.13 crore. In one case the JC (ST), Secunderabad replied (July 2017) that there is no particular provision in the Act to adopt formula for arriving cost of establishment and profit relatable to supply of labour and services.

It is however stated that cost of establishment, other similar expenditure and profit has to be proportionately arrived as per Rule 17(1)(e)(v),(vi)&(vii).

The matter was referred to the Department in May 2018 and to the Government in October 2018; replies have not been received (February 2020).

<sup>49</sup> JC(ST), Secunderabad; ACs (ST)-Balanagar, Hydernagar, Malakpet, Malkajgiri, Nampally, Sanathnagar and Somajiguda.

## 2.8.2 Non/ short levy of tax on works contracts who did not maintain detailed accounts

### **Tax of ₹ 35.22 lakh on works contracts not supported by detailed accounts was not levied/ short levied.**

As per Rule 17(1)(g) of Telangana VAT Rules, if any works contractor has not maintained detailed accounts to determine the correct value of the goods at the time of their incorporation, tax shall be levied at the rate of 14.5 *per cent* on the total consideration received after allowing permissible deductions on percentage basis based on the category of work executed. Civil works and works which do not fall under any category are entitled for 30 *per cent* deductions.

On test check (between August 2017 and September 2017) of VAT assessments and VAT records in three<sup>50</sup> out of 112 offices for the period from 2013-14 and 2015-16, it was observed in two out of four cases that AAs<sup>51</sup> while finalising the assessments levied tax at the rate of five *per cent*. No tax was levied in other two cases by AC(ST), Basheerbagh. As these dealers were works contractors who did not maintain detailed accounts, the entire turnover of ₹5.08 crore was to be taxed at the rate of 14.5 *per cent* under Rule 17(1)(g). The failure of AAs to do so resulted in short levy of tax of ₹35.22 lakh.

The matter was referred to the Department in May 2018 and to the Government in September 2018; replies have not been received (February 2020).

## 2.9 Non-Levy of interest on delayed payment of Deferred Sales Tax

### **Interest of ₹ 21.65 lakh on delayed payment of Deferred Sales Tax was not levied.**

According to the Sales Tax Deferment Schemes envisaged in Government Order<sup>52</sup> and as per the conditions stipulated in the Final Eligibility Certificate, the Sales Tax Deferment allowed to a unit in the first year should be paid back in lump sum at the end of 10<sup>th</sup>/14<sup>th</sup> year thereof without interest. Further, the Commissioner of Commercial Taxes(CCT)<sup>53</sup> also clarified that the due date for repayment of Sales Tax Deferment availed in the year 1996-97 was 31 March 2010 and the due date for the payment of Sales Tax Deferment availed in the year 1997-98 was 31 March 2011 and so on. In case of non-remittance of the tax on due dates, an interest of 21.50 *per cent* will be charged from the due date till the date of payment as per the guidelines of deferment scheme.

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<sup>50</sup> ACs(ST)- Basheerbagh, Malakpet and Mehdiapatnam.

<sup>51</sup> ACs(ST)-Malakpet and Mehdiapatnam.

<sup>52</sup> G.O.Ms.No.498 Industries & Commerce Department dated 16 October 1989, G.O.Ms.No.117 Industries & Commerce Department dated 17 March 1993 & G.O.Ms.No.108 Industries & Commerce (IP-II) Department dated 20 May 1996.

<sup>53</sup> CCT's reference No. All (3)/373/2012 dated 19 December 2012.

It was observed (between June 2017 and September 2017) during test check of records of five<sup>54</sup> out of 112 offices that industrial units availed Sales Tax Deferment in six cases. These units repaid the deferred tax of ₹ 1.70 crore (availed during 1998-99 to 2007-08) belatedly between November 2014 and March 2017 with a delay ranging from 125 days to 1,332 days. The AAs however, did not levy interest of ₹ 21.65 lakh in deviation to the Government orders resulting in loss of revenue to that extent.

The matter was referred to the Department in May 2018 and to the Government in September 2018; replies have not been received (February 2020).

## **2.10 Preparedness for transition to Goods and Services Tax (GST)**

### **2.10.1 Introduction**

Goods and Services Tax (GST) was implemented with effect from 01 July 2017. GST<sup>55</sup> is being levied on intra-State supply of goods or services (*except alcohol for human consumption and five specified petroleum products*<sup>56</sup>) separately but concurrently by the Union (CGST) and the States (SGST)/ Union territories (UTGST). Further, Integrated GST (IGST) is being levied on inter-State supply of goods or services (including imports) and the Parliament has exclusive power to levy IGST. Prior to implementation of GST, VAT was levied on intra-State sale of goods in the series of sales by successive dealers as per Telangana Value Added Tax (TVAT) Act, 2005 and Central Sales Tax (CST) on sale of goods in the course of inter-State trade or commerce as per CST Act, 1956.

The State Government was empowered to regulate the provisions of TVAT Act whereas provisions relating to GST were 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 recommend on the matters related to GST. The State Government notified (June 2017) the Telangana Goods and Services Tax (TGST) Act, 2017 and the Telangana Goods and Services Tax Rules, 2017 wherever various taxes<sup>57</sup> were subsumed.

Goods and Services Tax Network (GSTN) was set up by the Government of India as a private company to provide IT services under GST. It provides *Front-end* IT services to taxpayers namely registration, payment of tax and filing of returns. *Back-end* IT services *i.e.* registration approval, taxpayer detail viewer, refund processing, MIS reports *etc.* are also being provided by GSTN to Model-II<sup>58</sup> States. Telangana has opted for Model-II.

<sup>54</sup> JCs(ST)-Saroornagar and Begumpet; ACs (ST)-Kodad, Kothagudem and Nalgonda.

<sup>55</sup> Central GST: CGST and State/ Union Territory GST: SGST /UTGST.

<sup>56</sup> Petroleum products: crude, high speed diesel, petrol, aviation turbine fuel and natural gas.

<sup>57</sup> Value Added Tax, Central Sales Tax, Entry Tax, Luxury Tax and Entertainment Tax.

<sup>58</sup> Model-I States: only Front-end services provided by GSTN;

Model-II States: both Front-end and Back-end services provided by GSTN.

### 2.10.2 Audit Objectives

Audit was conducted to seek an assurance on:

- The compliance with regard to registration of dealers and submission of returns.
- The adequacy of measures for implementation of transitional provisions.
- The preparedness of the State Government for implementing the IT solution.

### 2.10.3 Audit criteria

The transitional provisions contained in the following Act/ Rules served as the sources of criteria for audit:

- i. The Telangana Goods and Services Tax Act, 2017 (TGST Act)
- ii. The Telangana Goods and Services Tax Rules, 2017 (TGST Rules)
- iii. GST (Compensation to States) Act, 2017
- iv. Guidelines/ Instructions/ Circulars/ Orders *etc.* issued by the Government.

### 2.10.4 Scope of Audit

The activities of the Commercial Taxes Department, Telangana relating to implementation of GST were reviewed. Detailed information regarding 'Registration, Transitional Credit and Refunds *etc.*' was sought for from the Department for conducting audit. The audit was conducted mainly on the basis of information furnished by the Department and MIS Reports available in VATIS portal. Records of office of the Commissioner of Commercial Taxes (CCT), Telangana and records related to Registration, Transitional Credits and Refunds of three divisions<sup>59</sup> and three circles<sup>60</sup> under the CCT were also examined.

Draft Paragraph was sent to the Government in December 2018, replies have not been received (February 2020).

### 2.10.5 Status of Data sharing

With automation of the collection of GST having taken place, it is essential for Audit to have access to GST data to transition from sample checks to a comprehensive check of all transactions. Principal Accountant General (Audit) has written to Commissioner of State Taxes, Telangana to provide access to GST data (May 2018 and November 2018). However, access to data is yet to be provided. A stand was taken by the State that a clarification had been sought from GST Council regarding guidelines and procedures to be followed in providing access to the data to maintain uniformity with other states.

The reply is not acceptable as Section 18 of the CAG's DPC Act, 1971 provides CAG with the mandate to access any record, accounts and other documents that are relevant to his inquiry. Further, as per Section 16 of the

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<sup>59</sup> Punjagutta, Begumpet and Charminar.

<sup>60</sup> Jubilee hills, Khairatabad-Somajiguda and Rajendranagar.

DPC Act, it shall be the duty of the CAG to audit all receipts which are payable into the Consolidated Fund of India and each State. Thus, not having access to the data pertaining to all GST transactions is violation of the provisions of CAG's DPC Act and has come in way of comprehensively auditing the GST receipts.

### 2.10.6 Trends of Revenue under VAT/GST

Total receipts under GST including arrears collected under subsumed taxes from July 2017 to March 2018 were ₹ 16,457.91 crore (including IGST advance ₹ 705 crore) which was more than the protected revenue. As per Section 5 of the Goods and Services Tax (Compensation to States) Act, 2017, protected revenue for nine months of 2017-18 (from July 2017) was ₹ 15,701.18 crore. Actual receipts under pre-GST taxes and GST are given below in **Table 2.6**:

**Table 2.6**  
**Trend of Revenue**

(₹ in crore)

Year	Budget Estimate	Receipts under pre-GST/ non-subsumed taxes	Receipts under SGST including IGST apportionment	Total receipts under pre-GST taxes and GST	Increase/ Decrease in per cent	Compensation received
2014-15*	26,963.30	22,120.78	-	22,120.78	-	-
2015-16	35,463.39	29,846.91	-	29,846.91	-	-
2016-17	42,073.53	34,234.69	-	34,234.69	14.70	-
2017-18	46,500.00	25,106.48	13,072.91	38,179.39	11.52	169.00

\* 2014-15: From 2<sup>nd</sup> June 2014 to 31<sup>st</sup> March 2015

Source: Finance accounts for the year 2017-18, information furnished by Department

The above table indicates that there was deceleration in growth of revenue in 2017-18. This was due to decrease in VAT on alcohol from 190 per cent to 70 per cent (corresponding increase in Excise duty).

### 2.10.7 Legal/ Statutory preparedness

The State Government notified (June 2017) the Telangana Goods and Services Tax Act, 2017 and Telangana Goods and Services Tax Rules, 2017. E-way bill system was implemented in the State on intra-State transactions with effect from 10 February 2018 and on inter-State transactions with effect from 01 April 2018. Further, necessary notifications were issued by the State Government from time to time for facilitating implementation of GST in the State. The State Government/ Commercial Taxes Department had issued 143 notifications/ circulars/ orders to facilitate implementation of GST in the State till November 2018.

### 2.10.8 Institutional preparedness

GSTN was to provide three *Front-end* IT services to the taxpayers namely registration, payment of tax and filing of returns. As Telangana had opted model-II for implementation of GST, *Back-end* IT services like registration

approval, taxpayer detail viewer, Letter of Undertaking (LUT) processing, refund processing *etc.*, as well as various MIS reports were also to be provided by GSTN.

The Department informed (December 2018) to Audit that modules relating to Registration, Returns, Payments, E-way bill and MIS reports have been developed by GSTN till now. Further in case of refund module, filing of application was completed but online processing was yet to be developed. During the course of audit of one Division<sup>61</sup> and three Circles<sup>62</sup>, it was however observed that MIS reports were not yet functional.

### 2.10.9 Implementation of GST

It was noticed that the major issues/challenges faced by the Department in implementation of GST were in migration of existing tax payers, filing of returns, transitional credit, refund *etc.* These issues were analysed in audit and are briefly discussed as follows:

#### 2.10.9.1 Registration of tax payers

As per Rule 24 of Telangana GST Rules, 2017, every tax payer registered under any of the pre-GST law which was subsumed into GST and having a valid Permanent Account Number (PAN) was required to enroll on GSTN portal by validating his e-mail address as well as mobile number. Following enrolment, the tax payer was to be issued a certificate of registration on provisional basis. The persons so enrolled were required to apply for final Registration Certificate on GSTN portal by furnishing required information and documents. A 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. New tax payers with an annual turnover of ₹ 20 lakh and above were to be registered under GST.

#### ➤ Migration of existing tax payers

The information furnished by the Department/ obtained from VATIS portal (December 2018) in this regard is given in **Table 2.7**:

**Table 2.7**  
**Migration of existing tax payers**

Total no. of tax payers as on 30 <sup>th</sup> June 2017 under pre-GST laws	Total no. of dealers allotted provisional Ids (percentage <i>w.r.t.</i> column 1)	No. of dealers issued final registration certificates (percentage <i>w.r.t.</i> column 1)
2,18,735	2,12,955 (97 <i>per cent</i> )	1,65,082*(75 <i>per cent</i> )

\* These tax payers might be allotted to State or Centre

Source: Information furnished by the Department/ web portal of CTD

**Table 2.7** showed that 97 *per cent* of the existing tax payers completed the preliminary enrolment but only 75 *per cent* of the existing tax payers completed the migration process and were finally registered under GST.

<sup>61</sup> Punjagutta

<sup>62</sup> Jubilee Hills, Khairtabad-Somajiguda and Rajendranagar.

On this being pointed out, the Department attributed (November 2018) the shortfall to the following:

- Multiple registrations were allowed for single PAN under VAT. Under GST, these businesses were issued single registration.
- Under GST, threshold limit for registration was increased to ₹20.00 lakh from existing ₹7.5 lakh. Hence, tax payers below the threshold limit did not apply for migration.
- Tax payers dealing in commodities which are exempted under GST also did not apply for migration.
- Few tax payers instead of migration opted to directly register as new tax payer under GST.

➤ **Allocation of tax payers between Centre and State and new registrations**

As per recommendation of GST Council, 90 *per cent* of the existing registered taxpayers having turnover up to ₹ 1.5 crore and 50 *per cent* of existing registered tax payers having turnover of more than ₹ 1.5 crore were allotted to State. Accordingly, Telangana was allotted the jurisdiction of 1,59,026 existing registered tax payers (November 2018).

Jurisdiction of newly registered taxpayers is being allotted to the State and Centre by GSTN electronically during submission of application for registration by the taxpayers. As per information furnished by the Department, total number of new registrations till October 2018 were 84,059.

### **2.10.9.2 Filing of returns**

As per Rule 59 to 61 of Telangana GST Rules, 2017, every registered tax payer other than composition tax payer was required to furnish details of outward supplies of goods/ services in Form GSTR-1<sup>63</sup>, details of inward supplies of goods/ services in Form GSTR-2<sup>64</sup> 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 tax payers were required to file a quarterly return GSTR-4. Further as per Section 16 of the Act, a tax payer is entitled to claim tax paid on inward supplies as input tax credit only if tax charged by the supplier on such supplies has been actually paid to the Government.

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<sup>63</sup> GSTR-1: (a) Invoice wise details of all inter-State and intra-State supplies made to the registered persons and inter-State supplies with invoice value more than ₹ 2.50 lakh made to the un-registered persons, (b) consolidated details of all intra-State supplies made to unregistered persons and State wise inter-State supplies with invoice value upto ₹ 2.50 lakh made to the unregistered persons and (c) debit and credit notes, if any, issued during the month.

<sup>64</sup> GSTR-2: (a) Invoice wise details of all inter-State 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.

The prescribed process of return filing was amended to address the difficulties faced by the taxpayers in the initial period of new tax regime. The filing of GSTR-2 and GSTR-3 returns was postponed. Instead all the taxpayers<sup>65</sup> were mandated to submit a simple monthly return in form GSTR-3B<sup>66</sup> along with payment of tax by 20<sup>th</sup> of the succeeding month. Further, taxpayers having turnover below ₹ 1.5 crore were to file GSTR-1 on quarterly basis.

The status of returns filed by the taxpayers for the months July 2017 to March 2018 is detailed in **Table 2.8**:

**Table 2.8**  
**Filing of returns in 2017-18**

Name of Return	Periodicity	Number of returns			Shortfall percentage
		Required to be filed	Filed	Not filed	
GSTR-3B	Monthly	17,29,414	13,18,243	4,11,171	23.80
GSTR-4	Quarterly	1,10,438	70,137	40,301	36.50

*Source: Information furnished by the Department*

**Table 2.8** showed that there was significant shortfall in filing of returns. Monthly return 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. Further, there was a possibility of evasion of tax by the defaulters and claiming of ITC by the recipients against the tax paid to the defaulters.

Department stated that substantial efforts such as meetings up to circle level offices were conducted to enlighten the dealers. Meetings were also conducted on commodity/ category basis of the dealers, Facilitation centers were opened in all the Divisional and Circle offices, street surveys were also conducted area-wise and also on specific commodities like textiles (which are newly brought into GST). Audit is of the view that the Department needs to take concrete steps to ensure that remaining tax payers file their returns expeditiously.

### **2.10.9.3 Transitional Credit**

As per Section 140(1) of the Telangana GST Act, 2017, a registered person, other than a person opting to pay tax under Section 10, was entitled to carry forward and claim un-availed amount of input tax credit of the pre-GST regime in the GST regime provided that he has filed all the returns due under the pre-GST laws for the period of six months immediately preceding the appointed date. Further that so much of the said credit as is attributable to any concessional/ exempt claim under CST Act which is not substantiated by requisite forms shall not be eligible to be carry forwarded.

<sup>65</sup> Except composition tax payers who have to file GSTR-4 quarterly.

<sup>66</sup> GSTR-3B: A monthly return required to be filed by all the tax payers other than composition tax payers.

The claims to be preferred in TRAN-1 returns by December 2017 were to be examined by the Department against the above requirements. The Department informed (November 2018) that 20,076 TRAN-1 returns were filed duly claiming transitional credit of ₹ 894.86 crore. Audit selected three divisions<sup>67</sup> for detailed audit with 4,867 TRAN-1 returns filed for ₹ 230.23 crore. The erroneous claims of transitional credit in these divisions is detailed in **Table 2.9:**

**Table 2.9**  
**Scrutiny of transitional claims by the Department**

	(₹ in crore)	
	No. of cases	Amount
Total TRAN-1 returns admitted	4,867	230.23
<b>1.</b> Erroneous claims detected by Department	750 (15%)	65.98 (29%)
Out of the above		
a) ITC recovered	352 (47%)	39.73 (60%)
b) Awaiting recovery	398 (53%)	26.25 (40%)
<b>2.</b> Claims related to dealers migrated to Centre	75 (10%)	12.67 (19%)
Of which		
Referred to Central authorities	3 (4%)	8.23 (65%)
<b>3.</b> Referred by Central authorities	0	0

*Source: Information furnished by the Department*

It could be seen from **Table 2.9** that out of total erroneous claims of ₹ 65.98 crore, an amount of ₹ 26.25 crore was yet (December 2018) to be recovered. Further out of 75 cases relating to dealers who had been migrated to Centre, only three cases were referred to Central authorities. This shows ineffective co-ordination between the two authorities regarding verification of transitional credit claims and action thereof.

It was further observed in Audit, the following shortcomings in processing of transitional credit claims:

- i. **Transitional claims on stock:** Department gave instructions to the AAs to verify only top 30 cases where transitional credit was claimed on stock. As a result, remaining cases of erroneous transitional credit claim, if any would remain undetected.
- ii. In four <sup>68</sup> out of 112 offices, Audit found that in 78 out of 90 cases, excess claim of ₹ 62.43 crore was made by the dealers that remained undetected by the Department.
  - In 59 cases, CST assessments of the dealers were not completed since April 2014 up to June 2017 and were not supported by Form-C, Form-H and Form-F for concessional claim/ exemption but transitional credit was claimed in full as per the closing balance of ITC in the return of VAT filed in June 2017. This resulted in excess claim of transitional credit of ₹ 51.65 crore. On this being pointed out, in respect of 25 cases, Assistant Commissioners<sup>69</sup> replied that assessment notices

<sup>67</sup> Begumpet, Punjagutta and Charminar.

<sup>68</sup> JC(ST)-Punjagutta; ACs(ST) - Jubilee Hills, Khairtabad- Somajiguda and Rajendranagar.

<sup>69</sup> Jubilee Hills and Khairtabad-Somajiguda.

were issued to the dealers and final orders would be passed after due verification. In respect of 28 cases, Assistant Commissioner<sup>70</sup> replied that the matter would be examined. In the remaining six cases, Deputy Commissioner<sup>71</sup> replied that TRAN-1 returns were submitted by the dealers duly paying differential tax on Form-C/ Form-F/ Form-H/ Form-I. It was however seen from the TRAN-1 returns that in five out of six cases, no such differential tax was paid or transitional credit was restricted by the dealers. In one case though transitional credit was restricted, it was less than the amount which was to be restricted.

- In three cases, the dealers did not file all the prescribed returns for past six months. Hence claim of transitional credit of ₹ 17.34 lakh in these cases was irregular. On this being pointed out, Assistant Commissioners<sup>72</sup> replied that the matter would be examined.
- In 16 cases, the dealers claimed excess transitional credit than the closing balance of Input Tax Credit available in June 2017 returns. Total excess claim of transitional credit in these cases was ₹ 10.61 crore. On this being pointed out, in respect of 15 cases, Assistant Commissioner<sup>73</sup> replied that assessment notices were issued to the dealers and final orders would be passed after due verification. In one case, Assistant Commissioner<sup>74</sup> replied that the matter would be examined.

***Recommendation: The Department should review its order wherein AAs have been asked to look into only top 30 transitional credit on stock cases.***

***The Department may formulate detailed guidelines for scrutiny of TRAN-1 forms and ensure that such forms are scrutinized at the earliest as per provisions of the TSGST/ TSVAT Act. There should be co-ordination with Central authorities in respect of scrutiny of transitional credit of dealers who are now on the rolls of Central authorities.***

#### **2.10.9.4 Refunds under GST**

As per Section 54(1) of the Telangana GST Act, 2017, a registered person may claim refund of any balance in the electronic cash ledger before the expiry of two years from the relevant date. Section 54(7) of the Act stipulated that refund claims shall be processed within sixty days from the date of receipt of application complete in all respects. Provisional refunds are to be allowed within 7 days of issue of acknowledgement.

Refund module under GSTN was not operational. Hence, the refunds are being processed through manual system. Specific procedures were prescribed for refund of the balance amount in the electronic cash ledger or unutilized input tax credit at the end of particular tax period. Refund of unutilized Input Tax Credit was allowed in case of zero-rated supplies such as exports, SEZ

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<sup>70</sup> Rajendranagar.

<sup>71</sup> Punjagutta.

<sup>72</sup> Rajendranagar and Jubilee Hills.

<sup>73</sup> Khairtabad-Somajiguda.

<sup>74</sup> Rajendranagar.

sales which are 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. Department informed Audit (November 2018) that no refund was authorized under GST during the year 2017-18. It was however noticed in three circles<sup>75</sup>, that refunds were processed provisionally (Table 2.10):

**Table 2.10**  
**Status of refunds**

(₹ in crore)

Applications received for refund upto 31 <sup>st</sup> March 2018		Refunds allowed within prescribed period		Refunds allowed after prescribed period		Number of applications rejected		Number of applications pending	
Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount
203	17.58	12	1.74	30	9.12	0	0	161	6.72

Source: Information furnished by the Department/ web portal of CTD

It could be seen from the above table that only six *per cent* provisional refund claims were authorised within the stipulated time. Further, 79 *per cent* of refund claims were still pending (December 2018). The Department replied that delay was due to non-filing of physical refund claim along with relevant documents by the tax payers.

#### 2.10.10 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, primary enrolment of existing tax payers *etc.* It was noticed that frequent changes were made in the rules/regulations since 01 July 2017 on the recommendations of GST Council which have resulted in non-implementation of many of the procedures laid down in Telangana GST Act. Further, the GSTN has not been able to provide the complete IT solution and thus the problems regarding filing of returns GSTR-2 and GSTR-3 have not been resolved. Department needs to address the issues of erroneous transitional claims and significant pendency in filing of returns.

<sup>75</sup> Jubilee Hills, Khairtabad-Somajiguda and Rajendranagar.