

## CHAPTER-II : TAXES ON SALES, TRADE, SUPPLIES, etc.

### 2.1 Tax administration

The receipts from the Goods and Services Tax/Value Added Tax/Central Sales Tax/Entry Tax payable under the respective laws relating to state taxpayers are administered at the Government level by the Principal Secretary (Finance). The Commissioner is the head of the Commercial Taxes Department (Department) and is assisted by 23 Additional Commissioners, 46 Deputy Commissioners, 91 Assistant Commissioners, 136 Commercial Taxes Officers, 405 Assistant Commercial Taxes Officers and a Financial Advisor. They are assisted by Junior Commercial Taxes Officers and other allied staff for administering the relevant tax laws and rules.

### 2.2 Internal audit

Financial Advisor is the head of the Internal Audit Wing. There are 17 internal audit parties. The status of internal audit conducted during the period from 2014-15 to 2018-19 is as under:

Year	Units Pending for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in per cent
2014-15	310	413	723	471	252	35
2015-16	252	413	665	181	484	73
2016-17	484	468	952	426	526	55
2017-18	526	468	994	526	468	47
2018-19	468	467	935	847	88	9

Source: Information furnished by Commercial Taxes Department.

It was noticed that 18,598 paragraphs of the internal audit reports were outstanding as on 31 March 2019. Year-wise break up is as under:

Year	Upto 2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	Total
Paragraphs	10,758	426	614	685	2,134	3,981	18,598

Source: Information furnished by Commercial Taxes Department.

Out of 18,598 paragraphs, 10,758 paragraphs were outstanding for more than five years for want of compliance/corrective action.

### 2.3 Results of audit

There are 486 auditable units in the Commercial Taxes Department, out of these, audit selected 162 units for test check wherein 2.47 lakh assessments were finalised. Out of these, audit test checked 26,051 assessments (approximate 10.53 per cent) during the year 2018-19 and noticed 918 cases (approximate 3.51 per cent of audited sample) of non/short levy of tax/interest, irregular allowance of Input Tax Credit, non-imposition of penalty for misuse of declaration forms, irregular allowance of investment subsidy, application of incorrect rate of tax and non-observance of provisions of Acts/Rules etc. involving an amount of ₹ 138.12 crore. These cases are illustrative only as these are based on test check of records. Audit pointed out some of the similar omissions in earlier years also however, not only these irregularities persist; but also remain undetected till next audit is conducted. There is a need for the Government to improve the internal control system including strengthening of internal audit so that recurrence of such cases can be avoided. Irregularities noticed broadly fall under the following categories:

Sl. No.	Category	₹ in crore)	
		Number of cases	Amount
1	Registration under GST	1	0.00
2	Irregular claim of Transitional credit	1	2.25
3	Refunds under Goods and Services Tax	1	0.51
4	Under assessment of tax	328	83.41
5	Acceptance of defective statutory forms	21	15.47
6	Evasion of tax due to suppression of sales/purchase	185	16.15
7	Irregular/incorrect/excess allowance of Input Tax Credit	96	10.06
8	Other irregularities relating to		
	(i) Revenue	231	10.26
	(ii) Expenditure	54	0.01
<b>Total</b>		<b>918</b>	<b>138.12</b>

During the year 2018-19, the Department accepted underassessment and other deficiencies of ₹ 8.65 crore in 390 cases, of which 47 cases involving ₹ 4.09 crore were pointed out in audit during the year 2018-19 and the rest in the earlier years. During the year 2018-19, the Department recovered/ adjusted ₹ 1.70 crore in 107 cases, of which 6 cases involving ₹ 24.65 lakh pertained to the year 2018-19 and the rest to earlier years.

Audit pointed out (April and May 2019) non/short levy of tax and interest amounting to ₹ 3.46 crore in four cases. Thereafter, the Department recovered/adjusted (between December 2018 and September 2019) the entire amount in these cases, therefore, these cases have not been discussed in this report, however, a brief of these cases is as follows:

- A dealer was granted exemption certificate on the condition that if the dealer procures or purchases any goods other than from the registered dealer of the State, he shall, in addition to the exemption fee, be liable to pay an amount equal to the amount of tax that would have been payable had the goods been purchased in the State from a registered dealer. The

Assessing Authority (AA), however, failed to assess the tax liability on inter-state purchased goods used in execution of works by a dealer which resulted in short levy of tax amounting to ₹ 19.57 lakh.

- According to the notification issued under Rajasthan VAT Act, input tax credit was not to be allowed on the goods utilised in the works contracts for which exemption certificates (EC) were granted. AA failed to levy reverse tax of ₹ 50.41 lakh on a dealer for purchase of goods within the State, which were utilised in the execution of EC works.
- A dealer disclosed his taxable turnover as ₹ 109.63 crore, however, the AA assessed the tax liability only on taxable turnover of ₹ 40.40 crore, which resulted in short levy of tax and interest amounting to ₹ 2.65 crore.
- A dealer (works contractor) had submitted quarterly VAT returns and trading account for the year 2015-16, however, did not furnish annual VAT return for the period. The AA failed to assess the tax liability on taxable turnover of ₹ 1.18 crore of a works contractor which resulted in short levy of tax amounting to ₹ 11.07 lakh.

## **2.4 Audit of Goods and Service Tax**

With automation of the collection of Goods and Service Tax (GST) having taken place, it is essential for Audit to transition from sample checks to a comprehensive check of all transactions, to fulfil the CAG's Constitutional mandate. The State Government did not provide access to the data related to GST. This is in violation of constitutional provisions (Article 149) and the Section 18 of the Duties, Powers & Conditions of the Services of CAG Act 1971. The following audit observations are based on some hard copy documents which were made available for audit of refunds and transitional credit pertaining to previous years.

Not having access to the data pertaining to all the GST transactions has come in the way of comprehensively auditing the GST receipts.

## **Registration, Refund and Transitional Credit under GST**

### **2.4.1 Introduction**

The Goods and Services Tax Act, 2017 (GST Act) was rolled out with effect from 1<sup>st</sup> July 2017 with the objectives of reducing tax cascading, ushering in a common market for goods and services and bringing in a simplified, self-regulating and non-intrusive tax compliance regime. Provisions have been made in the Rajasthan Goods and Services Act, 2017 (Rajasthan GST Act) for registration of the supplier under GST if the aggregate turnover of taxable supplies in a financial year exceeds ₹ 20 lakh.

### **2.4.2 Registration under GST regime**

Section 22 (2) of Rajasthan GST Act provides that every person who, on the day immediately preceding the appointed day, is registered or holds a license under an existing law, shall be liable to be registered under this Act with effect from the appointed day.

Further, Section 139 of Rajasthan GST Act read with Rule 24(2) (a) of the Rajasthan GST Rules, 2017 (Migration of persons registered under the existing law) provides that every person who has been granted a provisional registration under sub-rule (1) shall submit an application electronically in the prescribed form *i.e.* 'GST REG 26', duly signed or verified through electronic verification code, along with the information and documents specified in the said application, on the common portal.

Section 25 of the Rajasthan GST Act provides that every person who is liable to be registered under Section 22 or Section 24 shall apply for registration within 30 days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed. Further, Rule 9 of the Rajasthan GST Rules, 2017 (verification of the application and approval) provides the details for the registration process. The Section 18(1)(a) of the Rajasthan GST Act provides that a person who has applied for registration under this Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act.

Data regarding registration of the new taxpayers as of 31 March 2018 provided by the Department was scrutinised. Following observations have been noticed in Audit:

Sl. No.	Particulars of irregularities	Reply of Government/ remarks
1.	<p><b>Taxpayers not finally migrated under GST regime</b></p> <p>There were 83,173 existing registered VAT taxpayers who were granted provisional registration but did not finally migrate to GST. Out of which there were 132 taxpayers having gross turnover of more than ₹ 25 crore during the period 2016-17 under VAT, of which, 38 taxpayers registered with new GSTIN, 24 taxpayers cancelled their registration under VAT and 70 taxpayers were finally not registered. Out of these 70 taxpayers, 24 taxpayers pertained to Zone-I, II and III of Jaipur. Records of these 24 taxpayers along with reasons for non-migration were checked by audit. It was noticed that four taxpayers had been registered in other states and did not finally migrate to Rajasthan.</p>	<p>On being pointed out (September 2019), Government replied (January 2020) that two taxpayers did not register due to amalgamation/merger in other firm, four due to not uploading of necessary documents and another four due to closure of business. Reasons were not furnished in respect of remaining 10 taxpayers. Further, documents in support of cases related to closure of business were not provided to Audit. This indicates lack of effective internal control mechanism within the department.</p>
2.	<p><b>New Registrations beyond the prescribed time limit</b></p> <p>It was observed that 4,076 taxpayers out of 1,91,172 new registered taxpayers during the year 2017-18 were registered in a period ranging from 31 to 270 days from the date on which they became liable to registration.</p> <p>Audit requested for further information <i>viz.</i> date of submission of application by the taxpayers for registration to ascertain delay in applying for registration and number of days under which registration granted by the department. Department did not provide the information despite reminders issued in April and June 2019. Further, access to the data related to GST was also not provided to audit. The omission was pointed out to the Department (June 2019) and reported to the Government (October 2019).</p>	<p>Government stated (January 2020) that Rajasthan is a model II state under GST system and the relevant software and data is maintained by the Goods and Service Tax Network (GSTN) therefore, the desired information is not available. Further only the information as provided by the GSTN through Secure File Transfer Protocol (SFTP) server is available with the Department. Availability and access to the GST data for the State Tax Department is very limited and it is not possible to provide additional information/data except</p>

	information provided by the GSTN through SFTP server.
<p>The reply indicates that internal control mechanism within the Department for maintaining and ensuring availability of the data on registration process under GST was not effective.</p> <p>Due to non-availability of the desired information, Audit could not ascertain the delay in applying/granting of new registration under GST. Further, in cases where taxpayers applied for registration beyond 30 days from the date on which they become liable to be registered, the veracity of the input tax credit claimed, if any, by the taxpayers on pre-registration stock could not be ensured in Audit.</p>	
<p><b>Conclusion and Recommendations</b></p> <p>The Department did not ascertain the reasons of non-migration of existing taxpayers. It was noticed that 4,076 taxpayers were registered under GST with delays ranging from 31 to 270 days. In absence of the information regarding date of application by the new applicants, Audit could not ascertain the delay in applying/granting of new registration. Further, the possibility of irregular claim of input tax credit on pre-registration stock in cases where the taxpayer has applied for registration beyond 30 days, cannot be ruled out. Non-production of records severely limits the exercise of CAG's constitutional mandate and results in lack of accountability by State Government functionaries.</p> <p><b>Audit recommends that:</b></p> <ul style="list-style-type: none"> <li>• <i>The Department may analyse the reasons for non-migration of existing tax payers and to ensure that the business activities are not being run without registration under GST.</i></li> <li>• <i>An efficient information data base needs to be maintained to obtain necessary data/information from GSTN so as to ensure compliance to the provisions regarding applying/granting of new registrations under the Act/rules.</i></li> </ul>	

### 2.4.3 Refunds under Goods and Services Tax

#### 2.4.3.1 Introduction

Accurate and timely refund mechanism is an important part of an efficient tax administration as it facilitates the trade through release of blocked funds for working capital, expansion and modernization of existing business.

#### 2.4.3.2 Legal provisions

The refund procedure under GST is governed under Section 54 to 58 of the Central Goods and Services Tax (CGST) Act, 2017, Section 54 to 58 of the Rajasthan Goods and Services Tax (RGST) Act, 2017, Rule 89 to 97 of the Rajasthan Goods and Services Tax (RGST) Rules, 2017, Section 16 of the Integrated Goods and Services Tax (IGST) Act, 2017 and notifications/circulars issued there under from time to time. The refund amount under CGST, IGST and cess is sanctioned by the Central tax authority, while refund under SGST is sanctioned by the State tax authority. In case the jurisdiction of the taxpayer has been changed from Central to State tax authority or vice-versa, the refund order issued by the original authority is communicated to the concerned counter-part authority within seven working days for the purpose of payment of the sanctioned amount.

#### 2.4.3.3 Refund of tax

Section 54 (1) of RGST Act provides that any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before expiry of two years from the relevant date in prescribed form and manner. Further, Section 54 (3) provides that a registered person may claim refund of any unutilised input tax credit (ITC) at the end of any tax period.

Provided that no refund of unutilised ITC shall be allowed in cases other than-

- (i) Zero-rated supplies made without payment of tax;
- (ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council.

Provided further that no refund of unutilised ITC shall be allowed in cases where the goods exported out of India are subject to export duty.

Provided also that no refund of ITC shall be allowed, if the supplier of goods or services or both claims refund of the integrated tax paid on such supplies.

#### 2.4.3.4 Scope and methodology of Audit

Audit of refund cases was undertaken with a view to assess the performance of the State tax authorities and its field formations in sanctioning refund under the RGST Act. The audit examined the adequacy of the relevant administrative procedures and their effective implementation by the authorities concerned.

In Rajasthan, 776 refund cases involving ₹ 107.58 crore were sanctioned between July 2017 and March 2018 under 13 Zonal tax Offices of the State. Audit selected the zones on the basis of maximum cases of refunds sanctioned for amounts more than ₹ five lakh with at least 10 refund cases in a zone. Hence, seven zones<sup>1</sup> were selected wherein 717 refunds were sanctioned, out of which 348 refund cases involving more than ₹ five lakh were examined during April to June 2019. However, the Department did not provide access to the GSTN database, Audit could analyse only the physical documents/records made available.

#### 2.4.3.5 Audit findings

Sl. No.	Particulars of irregularities	Reply of Government/ remarks
1.	<p><b>Delay in sanction of refunds</b></p> <p>Rules 91 (2) and 92 of RGST Rules provides that provisional refund to the extent of 90 <i>per cent</i> of the amount claimed on account of zero-rated supplies in terms of Section 54(6) of the RGST Act, has to be given within seven days from the date of acknowledgement under Sub-rule (1) or sub-rule (2) of rule 90 of RGST Rules. Further, complete refund has to be sanctioned within 60 days in terms of Section 54 (7) from the date of receipt of application complete in all respects. If refund is not sanctioned within the said period of 60 days, interest at the rate notified will have to be paid in accordance with Section 56 of the RGST Act.</p>	
	<p>During scrutiny of the selected GST refund sanctioned cases in five RGST Zones (nine circles), it was noticed that refund of the balance 10 per cent amount in 70 cases involving ₹ 3.45 crore was sanctioned after expiry of stipulated period of 60 days with delays ranging between nine to 418 days. Further, in 15 cases of two RGST Zones the balance 10 per cent refund amount of ₹ 57.23 lakh is yet (March 2019) to be sanctioned despite lapse of more than one year since their acknowledgment. The delay in sanctioning of refund is against the spirit of the legislation and will result in payment of interest liability</p>	<p>The omission was reported to the Government (September 2019). Government while accepting the facts (November 2019) attributed the delay to excess time taken in verification of the proof of export from ICEGATE portal and non-availability of online verification of ITC on GST portal. It was also stated that at present the balance 10 per cent refund amount is being sanctioned within the prescribed time.</p>

<sup>1</sup> Zone: Alwar, Bhilwara, Jaipur I, II, III, Jodhpur and Udaipur.

	on the part of the Department, besides causing hardship to the dealers in the interim.	
<b>2.</b>	<b>Excess payment of refunds</b> Rule 89 (4) of RGST Rules provides that in the case of zero rated supply of goods or services or both without payment of tax under bond or letter of undertaking in accordance with the provisions of sub-section (3) of section 16 of the IGST Act, refund of input tax credit shall be granted as per the prescribed formula: Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) X Net Input Tax Credit ÷ Adjusted Total Turnover	
	During scrutiny of the records of the selected GST refund cases sanctioned in five RGST Zones (six circles) on account of zero-rated supplies made without payment of tax, audit observed that refunds were not granted in six cases as per the prescribed formula. The Authorities refunded ₹ 2.21 crore instead of ₹ 1.70 crore. This resulted in excess sanction of refund of ₹ 0.51 crore against the eligible refund amount.	The omission was reported to the Government (September 2019). Government while accepting the facts stated that (November 2019) excess refund of ₹ 33.43 lakh alongwith interest ₹ 7.28 in respect of four taxpayers has been recovered. Further, recovery of ₹ 2.42 lakh was also intimated in one case, which is not as per provisions of RGST/CGST; therefore, is not acceptable and notice has been issued in the remaining case.
<b>3.</b>	<b>Refunds sanctioned without obtaining the Export General Manifesto (EGM)</b> Rule 89 (2) (b) of the RGST Rules (Rules) provides that the application for refund shall be accompanied by a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices, in a case where the refund is on account of export of goods without payment of tax. Statement 3 under Rules 89 (2) (b) and 89 (2) (c) was designed for this purpose, which required the EGM number and date in case of export of goods without payment of tax. Further, Rule 90 (3) of the Rules, provides that where any deficiencies are noticed, the proper officer shall communicate the deficiencies to the applicant in Form GST RFD-03 requiring him to file a fresh refund application after rectification of such deficiencies.	
	During scrutiny of records in five RGST zones <sup>2</sup> it was noticed that 325 shipping bills involving export value of ₹ 20.56 crore out of total of 667 shipping bills in these zones did not contain the EGM number and date. However, the Department sanctioned refund of ₹ 6.01 crore related to these 667 shipping bills without obtaining the EGM details of 325 shipping bills. Department did not issue the deficiency memo to the taxpayers and thus erroneously sanctioned the refund claims.	The omission was reported to the Government (September 2019). The Government accepted the facts (November 2019) and forwarded the EGM details in respect of 315 out of 325 shipping bills. EGM details of the remaining shipping bills involving export value of ₹ 93.33 lakh were not provided by the Department.
	The reply indicates that the EGM details of the 325 shipping bills were not available at the time of processing of refund claims. Thus, lack of monitoring on part of the Department resulted in processing of refunds without obtaining of EGM details which was mandatory under the Rules <i>ibid</i> . Further, in absence of EGM details of 10 shipping bills, it could not be ascertained whether the goods were actually exported.	
<b>Conclusion</b> The Department delayed sanction of refunds in 70 cases and in 15 cases refunds are yet (March 2019) to be sanctioned which in turn will attract the liability of interest. Excess refunds were sanctioned against the eligible amount on account of zero-rated supplies made without payment of tax and refunds were sanctioned in case of shipping bills without obtaining EGM details.		

## 2.4.4 Irregular claim of Transitional credit

### 2.4.4.1 Introduction

Transitional arrangements for availing input tax credit are included in Section 140 of the Rajasthan GST Act, 2017 and Central GST Act, 2017. The

<sup>2</sup> RGST Zones: Jaipur-II, III, Alwar, Jodhpur and Udaipur.

registered persons are entitled to take, in their electronic ledger, credit of the amount of VAT/CENVAT carry forward in the return filed under the existing law, credit of unavailed input tax credit/CENVAT in respect of capital goods not carried forward in the returns and credit of the VAT/CENVAT in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day. The registered persons were required to file a return in prescribed form TRAN-1.

The credit attributable to any claim related to section 3, sub-section (3) of section 5, section 6, section 6A or sub-section (8) of section 8 of the Central Sales Tax Act, 1956 (Central Act No. 74 of 1956) which is not substantiated in the manner, and within the period, prescribed in rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957 is not eligible to be credited to the electronic credit ledger.

#### 2.4.4.2 Scope and Methodology of Audit

According to the information (dump data) provided (June 2018) by the Department, 61,517 taxpayers filed TRAN-1 and claimed transitional credit of ₹ 4,758.66 crore of which 46,138 taxpayers were under the jurisdiction of the State Government and had claimed transitional credit of ₹ 2,200.73 crore.

There were 2704 taxpayers under jurisdiction of Zone –II, Jaipur who claimed transitional credit. A sample of 123 taxpayers (transitional credit claimed ₹ 163.52 crore) of the State jurisdiction registered in the Zone-II, Jaipur where transitional credit as CGST and SGST of more than ₹ 20 lakh was claimed in each case was selected for audit scrutiny. Taxpayers claimed transitional credit in following categories:

(₹ in crore)					
Credit claimed	Credit carried forward	Un-availed credit	Input held in stock	Goods held in stock on behalf of Principal	Total
CGST	66.74	6.05	72.09	1.14	146.02
SGST	15.46	-	2.04	-	17.50

Central excise/service tax returns submitted by the selected taxpayers for the month/quarter ending on 30 June 2017 and Departmental web portal *RajVISTA* for the VAT returns for the quarter ending on 30 June 2017 of the selected taxpayers were reviewed.

Results of cross verification of transitional credit (CGST and SGST) claimed as per TRAN-1 with VAT returns and central excise/service tax returns submitted for the month/quarter ending 30 June 2017 and other relevant records revealed:

#### 2.4.4.3 Audit Finding

Sl. No.	Particulars of irregularities	Reply of Government/ remarks
1.	<b>Excess claim of transitional credit as carried forward</b> a) Transitional credit (SGST) of ₹ 15.46 crore was claimed by 51 taxpayers as credit carried forward in TRAN-1. We observed that 14 taxpayers claimed transitional credit (SGST) of ₹ 94.77 lakh in excess of ITC	The matter was pointed out to the Department (November 2019) and reported to the Government (November 2019). The Government replied (March 2020) that credit of ₹ 9.47 lakh have been reversed in two cases while ₹ 1.04 lakh (Tax ₹ 1.03 lakh and interest ₹ 0.01 lakh) have been recovered in four



	<p>shown in VAT returns under TRAN-1.</p> <p>b) Transitional credit (CGST) of ₹ 66.74 crore was claimed by 40 taxpayers in TRAN-1, of which returns of 31 taxpayers were provided to Audit. After scrutiny of these returns, Audit observed that nine taxpayers claimed transitional credit (CGST) of ₹ 128.47 lakh in excess of CENVAT credit shown in ER-1/ST-3 returns</p> <p>Further, central excise/service tax returns of nine taxpayers were not provided by the Department, therefore, these cases could not be scrutinised.</p>	<p>cases. Further in one case the dealer has erroneously shown the excess ITC in column 1.31 instead of Column 1.32 of VAT-10 however the dealer has not claimed any refund of excess ITC. Notices have been issued in remaining cases. Further progress is awaited (May 2020).</p> <p>The matter was pointed out to the Department (November 2019) and reported to the Government (November 2019). The Government replied (March 2020) that credit of ₹ 0.55 lakh have been reversed/recovered in two cases. Further Government stated in one case that the amount belongs to credit received after filing of ER-1 and before filing of TRAN-1. Reply is not acceptable as the dealer did not claim this credit under table 7(b) prescribed in TRAN-1 for this purpose. Notices have been issued in remaining cases. Further progress is awaited (May 2020).</p>
2.	<p><b>Irregular claim of transitional credit on closing stock</b></p> <p>A Guidance Note on Transitional Credit was issued (March 2018) by CBIC wherein procedure for verification of credit was defined. As per the Guidance Note, Department was required to collect specific information which would assist in verification of credit. Further, the Commercial Taxes Department, Rajasthan also issued (April 2018) guidelines for verification of Transitional Credit.</p> <p>Transitional credit of ₹ 72.09 crore on input held in stock was claimed by 92 taxpayers. However, detail of closing stock and supporting invoices thereof was produced in one case only. Scrutiny of this case disclosed that the taxpayer irregularly claimed transitional credit of 'Bidi worker's welfare cess and NCCD', which was not allowable as per the Explanation-3 given below Section 140 of CGST Act. This resulted in excess claim of transitional credit (CGST) amounting to ₹ 1.75 lakh.</p> <p>The Department did not collect the essential information (details of un-availed credit, closing stock and supporting invoices) in remaining cases to verify the transitional credit claimed in the categories other than credit carried forward (un-availed credit, input held in stock and goods held in stock on behalf of principal). Therefore, correctness of Transitional Credit claimed in these categories could not be ascertained.</p> <p>Thus, possibility of non-compliance to the provisions of GST Act/Rules and relevant provisions of pre-GST laws by the taxpayers in claiming Transitional Credit cannot be ruled out.</p>	<p>The matter was pointed out to the Department (November 2019) and reported to the Government (November 2019). The Government replied (March 2020) that the dealers in two cases claimed transitional credit for excise duty/import duty/ITC on goods lying as closing stock as on 30 June 2017. However, no evidence in support of above was provided. Further, it was stated that, notices had been issued in remaining cases. Further progress is awaited (May 2020).</p>
3.	<p><b>Limitations on scope and nature of audit</b></p> <p>(i) The Commercial Taxes Department did not provide access to GST portal.</p> <p>(ii) The Department did not provide the details of closing stock alongwith purchase invoice and details of capital goods alongwith purchase invoices of which credit was not</p>	

	claimed in earlier tax laws. In absence of these details, Audit could not verify the transitional credit claimed in other categories i.e. un-availed credit, input held in stock and goods held in stock on behalf of principal.	
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## 2.5 Compliance audit observations

Audit observed during test-check of the assessment records of CST/VAT/entry tax several cases of non/short levy of tax/interest, irregular allowance of Input Tax Credit and non-observance of provisions of Acts/Rules. Audit pointed out some of the similar omissions in earlier years also, but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of internal audit so that occurrence of such cases can be avoided. A few cases involving ₹ 59.29 crore are discussed in the succeeding paragraphs. These cases are illustrative only as these are based on a test check of records.

Sl. No.	Number of AAs (Date of assessment)	Particulars of irregularities	Reply of Government/remarks
1.	17 AAs <sup>3</sup> (between October 2015 and March 2018)	<b>Non/short levy of Entry Tax</b> Audit collected information from <i>RajVISTA</i> regarding goods received/purchased using declaration forms in respect of few evasion prone notified goods for the financial years 2013-14 to 2015-16 during audit of 17 Circles and cross checked it with the assessment records of 44 dealers. It was noticed that AAs did not utilise the information regarding inter-State purchases available in the <i>RajVISTA</i> and omitted to levy the taxes on these goods. <i>This resulted in non-levy of entry tax and interest amounting to ₹52.52 crore.</i>	The Government replied (October 2018) that in 41 cases demand of ₹ 21.22 crore has been raised of which ₹ 10.51 crore has been recovered.
2.	<b>Non/short levy of reverse tax</b>		
2(i)	AA Circle Special-III, Jaipur (February 2018)	Two dealers purchased goods <sup>4</sup> and claimed input tax credit <sup>5</sup> during the year 2015-16 on the purchases made in the State. Thereafter, the dealers received discounts/rebates <sup>6</sup> from the selling dealers. Scrutiny of returns disclosed that these goods were sold at the value less than the purchase value <i>i.e.</i> at subsidised price as the buyers received discounts/rebates from the selling dealers. Therefore, the input tax credit should have been allowed only to the extent of output tax payable on these goods. The AAs, however, could not detect the excess claim of input tax while finalising the assessments and did not levy reverse tax.	The Government intimated (July 2019) that demand of ₹ 44.80 lakh (tax ₹ 29.93 lakh and interest ₹ 14.87 lakh) had been raised which was stayed (May 2019) by the Appellant Authority. Further, progress is awaited (May 2020).

<sup>3</sup> Circle: A-Bharatpur; Special-I, Jaipur; Special-III, Jaipur; Special-XI, Jaipur; Special-II, Kota; Works contract and leasing tax-III, Jaipur; Special-II, Udaipur; Gangapur City; Shahjhanpur; Special-II, Bhiwadi; Works contract and leasing tax, Bhiwadi; M-Jaipur; Works and leasing tax, Alwar; C-Udaipur; Works contract and leasing tax, Bhilwara; C-Jaipur and A-Bhiwadi.

<sup>4</sup> Value of goods purchased: ₹ 33,421.19 lakh (₹ 12,844.28 lakh + ₹ 20,576.91 lakh).

<sup>5</sup> ITC claimed: ₹ 1,266.45 lakh (₹ 593.47 lakh + ₹ 672.98 lakh).

<sup>6</sup> Discounts/rebates received: ₹ 1,512.84 lakh (₹ 614.5 lakh + ₹ 898.34 lakh).

		<i>This resulted in non-levy of reverse tax amounting to ₹ 28.49 lakh besides leviable interest of ₹ 13.94 lakh (calculated up to March 2019).</i>	
2(ii)	AA Circle Anti-evasion, Bhiwadi (December 2016 and April 2017)	<p>A dealer (Manufacturer) disclosed his purchase ₹ 106 crore (₹ 55.45 crore Intra-State + ₹ 50.55 crore Inter-State) and sale ₹ 128.47 crore (₹ 54.68 crore Inter-State/Intra-State + ₹ 73.79 crore Inter-State branch transfer) transactions for the year 2014-15 in annual VAT return.</p> <p>The dealer claimed ITC amounting to ₹ 2.79 crore on Intra-State purchases of ₹ 55.45 crore. However, the dealer did not show any reverse tax regarding branch transfer of goods amounting to ₹ 73.79 crore during the course of inter-State transactions in compliance of the notification <i>ibid</i>.</p> <p>While finalising the assessment of the dealer, the AA levied reverse tax of ₹ 18.01 lakh. Thereafter, the dealer was selected for audit under Section 27 <i>ibid</i>. The AA after conducting the audit finalised the assessment of the dealer, but did not levy any additional reverse tax.</p> <p>Scrutiny of returns disclosed that the dealer consigned goods outside the State by way of branch transfer which was 57.44 per cent of total turnover during the year 2014-15. The inter-State purchase of the dealer was only 47.69 per cent of the total purchases. Thus, the dealer used 9.75 per cent<sup>7</sup> (57.44 – 47.69) of total purchased goods in stock transfer out of the goods purchased within the State. Therefore, reverse tax amounting to ₹ 41.34 lakh at the rate of four per cent on ₹ 10.34 crore<sup>8</sup> was leviable.</p> <p><i>This resulted in short levy of reverse tax amounting to ₹ 23.33 lakh (₹ 41.34 lakh – ₹ 18.01lakh) besides interest of ₹ 15.24 lakh (calculated upto March 2019).</i></p>	The Government intimated (July 2019) that demand of ₹ 36.39 lakh had been raised. Reasons for short levy of demand were called for (July 2019). The Government intimated (November 2019) that Appellate Authority Alwar had remanded (September 2019) the case for reassessment. Further progress is awaited (May 2020).
2(iii)	AA Circle-A, Bhiwadi (April 2016 and August 2017)	<p>Two dealers disclosed their gross turnover of ₹ 1173.24 crore for the years 2013-14 to 2015-16 including branch/stock transfer of ₹ 758.07 crore in annual VAT returns. The dealers showed inter-state purchases of ₹ 591.43 crore and intra-State purchases of ₹ 415.42 crore and claimed ITC amounting to ₹ 20.87 crore on intra-State purchases. The dealers did not show any reverse tax regarding stock/branch/depot transfer of goods during the course of inter-State transaction in compliance of the notification <i>ibid</i>.</p> <p>Scrutiny of the returns disclosed that the goods amounting to ₹ 59.94 crore purchased within the State were used in stock/branch/depot transfer. Therefore, reverse tax amounting to ₹ 2.40 crore at the rate of four per cent was leviable. The AA while finalising (April 2016 and August 2017) the assessments levied reverse tax amounting to ₹ 0.20 crore in one case for</p>	The Government intimated that (July 2019) demands amounting to ₹ 1.48 crore had been raised and ₹ 0.10 crore had been recovered. It was also intimated that the Appellant Authority had stayed the recovery of remaining demand. Further, progress is awaited (May 2020). However, reasons for short levy of reverse tax were not intimated.

<sup>7</sup> Details of purchased goods used in inter-State branch transfer were not available in the assessment record, therefore, entire inter-State purchases (47.69 per cent) were assumed to be used for branch transfer. Thus, 9.75 per cent of goods purchased within the State were utilised for branch transfer.

<sup>8</sup> ₹ 10.34 crore i.e. 9.75 per cent of total purchase of ₹ 106.00 crore.

		the period 2013-14. However, no action regarding levy of reverse tax was taken in other cases. <i>This resulted in short levy of reverse tax amounting to ₹2.20 crore.</i>	
<b>3. Irregular allowance of Input Tax credit</b>			
3(i)	3AAs <sup>9</sup> (between June 2016 and March 2018)	Three dealers, who were involved in the business of mining of lime stone and manufacturing of cement, purchased explosive within the State and availed ITC during the years 2013-14 to 2015-16.  In the light of the Section 2(22) of the Act, mining cannot be treated as manufacturing since mining does not involve any processing of goods which brings into existence a commercially different and distinct commodity. Further, explosive cannot be used as a raw material in manufacturing of cement, therefore, ITC should not have been allowed to the dealers. On the contrary, the AAs while finalising the assessments, did not detect the irregular claim and allowed the ITC.  <i>This resulted in irregular allowance of ITC amounting to ₹1.51 crore besides non-levy of interest of ₹0.80 crore.</i>	The Government intimated (October 2019) that demand of ₹ 2.63 crore <sup>10</sup> had been raised in two cases. Out of total demand raised, ₹ 80.53 lakh had been recovered in one case, while, Rajasthan Tax Board has granted stay on recovery of remaining demand. Another dealer also obtained stay on recovery of demand from Addl. Commissioner (Appeals) Udaipur. In the remaining case the Rajasthan High Court ordered that no coercive action should be taken by the Department against the dealer. Further progress is awaited (May 2020).
3(ii)	2AAs <sup>11</sup> (March 2017 and February 2018)	Three dealers had disclosed input tax amounting to ₹ 7.22 crore for the year 2014-15 and 2015-16 in their quarterly VAT returns. The dealers deducted input tax of ₹ 49.14 lakh related to the purchase returns in their annual returns and claimed ITC amounting to ₹ 6.73 crore. The AA cross-checked the amount of ITC disclosed in the quarterly returns with the details available at departmental web-application <i>RajVISTA</i> and allowed ITC amounting to ₹ 7.09 crore.  Scrutiny of the assessment records revealed that the AAs while finalising the assessments of the dealers, did not notice the purchase returns.  Therefore, the AAs irregularly allowed excess ITC amounting to ₹ 49.14 lakh related to purchase returns.  <i>This resulted in excess allowance of ITC of ₹49.14 lakh.</i>	The Government intimated (December 2019) that demand of ₹ 60.51 lakh <sup>12</sup> was raised in these cases, out of which ₹ 8.20 lakh had been recovered in one case and ₹ 29.40 lakh had been adjusted with the ITC available in remaining two cases. Further, progress of recovery of pending demand is awaited (May 2020).
4	AA Works Contract and Leasing Tax, Kota (March 2017 and	<b>Non-levy of tax on inter-state purchases</b> A dealer had exercised option 'A' for issuance of EC. The dealer disclosed his turnover under the works contracts amounting to ₹ 7.31 crore in its VAT returns for the years 2014-15 to 2015-16. The AA assessed	The omission was reported to the State Government (June 2019). The Government intimated

<sup>9</sup> Circle: Banswara; Chittorgarh and Special-Rajasthan, Jaipur.

<sup>10</sup> ₹ 2.63 crore: Tax of ₹ 1.29 crore + Interest of ₹ 0.62 crore + Penalty of ₹ 0.72 crore.

<sup>11</sup> Circles: M-Jaipur and F-Jodhpur.

<sup>12</sup> (Tax ₹ 49.65 lakh + Interest ₹ 10.86 lakh).

	March 2018)	<p>the exemption fee accordingly.</p> <p>Scrutiny of the information available on the departmental web-application 'RajVISTA' disclosed that the dealer purchased goods <i>i.e.</i> electronic goods, copper pipe, control panel, cable, flow-meter <i>etc.</i> amounting to ₹ 6.80 crore from outside the State. These goods were utilised in the execution of the works for which EC was granted under option 'A'. Therefore, VAT amounting to ₹ 44.07 lakh<sup>13</sup> at the rate of 5/5.5/14/14.5 <i>per cent</i> was leviable on these goods in addition to exemption fee. However, while finalising the assessment of the dealer, the AA failed to levy tax on these goods.</p> <p><i>This resulted in short levy of tax amounting to ₹ 44.07 lakh besides interest of ₹ 25.75 lakh (upto December 2018).</i></p>	<p>(January 2020) that demand of ₹ 69.80 lakh (tax ₹ 44.42 lakh and interest ₹ 25.38 lakh) had been raised Out of which ₹ 2.24 lakh had been recovered, while Appellate Authority Ajmer had granted stay on recovery of demand ₹ 63.35 lakh. Notices had been issued for recovery of remaining demand of ₹ 4.21 lakh. Further progress is awaited (May 2020).</p>
5	AA Circle, C Jaipur (between May 2016 and February 2018)	<p><b>Failure to levy tax on interstate purchases</b></p> <p>Two dealers submitted their VAT returns with nil turnover for the years 2013-14 to 2014-15. Later, one of the dealers submitted his return for the year 2015-16. The dealers did not furnish returns thereafter. Therefore, the Department cancelled their registration with effect from 30 June 2017. The AA assessed the dealers with nil turnovers for the years 2013-14 to 2016-17.</p> <p>Scrutiny of information available on departmental web-based application <i>RajVISTA</i> disclosed that these dealers purchased/received goods (edible oil, iron and steel) worth ₹ 3.98 crore against declaration forms 'C' and 'F' during 2013-14. The dealers did not disclose sale or transfer of these goods till the cancellation of their registration. Therefore, the closing balance of these goods was liable to be taxed according to the Rule 43 <i>ibid</i>. The AA, however, assessed nil tax for the period 2013-14 to 2016-17.</p> <p><i>This resulted in non-levy of tax at the rate of five per cent amounting to ₹ 19.92 lakh besides interest of ₹ 6.57 lakh.</i></p>	<p>The Government replied (August 2019) that the Department had conducted investigation and found that business activities were not being carried out at the business places of these dealers. Therefore, declaration forms had been cancelled and letters had also been sent to the assessing authorities of selling dealers of other States who sold/transferred goods against these declaration forms on concessional tax rate/without tax. Government further intimated (November 2019) that prosecution in these cases is under process.</p>
<p><i>The Government needs to improve the internal control system including strengthening of internal audit so that recurrence of such cases can be avoided.</i></p>			

Further progress is awaited in these cases (May 2020).

The required access to GST data is yet to be provided. Not having access to the data pertaining to all GST transactions has come in the way of comprehensively auditing the GST receipts. The accounts for the year 2018-19 are, therefore, certified on the basis of test audit, as was done when records were manually maintained, as a one-time exception.

<sup>13</sup> Leviable VAT ₹ 44.07 lakh: ₹ 14.97 lakh on ₹ 1.06 crore at the rate of 14/14.5 *per cent* and ₹ 29.10 lakh on ₹ 5.74 crore at the rate of 5/5.5 *per cent*.

