

Chapter-3

**Compliance Audit Observations
Relating to Revenue Departments**

CHAPTER-3

COMPLIANCE AUDIT OBSERVATION RELATING TO REVENUE DEPARTMENTS

INDUSTRIAL DEVELOPMENT DEPARTMENT (MINING)

3.1 Subject Specific Compliance Audit on Mining activities in Dehradun district

3.1.1 Introduction

Sand mining is regulated in terms of the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) and the Mineral Concession Rule framed by the concerned State Governments. Further, Section 23-C of the MMDR Act give power to the State Government to make Rules for preventing illegal mining, transportation and storage of minerals.

Accordingly, Government of Uttarakhand has framed Uttarakhand Minor Mineral Concession Rules, 2001 and Uttarakhand Minor Minerals Prevention of Illegal Mining, Transportation and Storage Rules, 2005, as amended.

Ministry of Environment, Forest and Climate Change has issued Sustainable Sand Mining Management Guidelines 2016, which *inter-alia*, emphasizes the procedure for monitoring of sand/riverbed mining with respect to monitoring of the mined-out material which is key to the successful implementation of sustainable Environment Management Plan. The gist of monitoring mechanism, *inter-alia*, are: (i) The movement of sand is controlled through Transit Permit¹; (ii) Use of IT and IT enabled services for effective monitoring of the quantity of mined out material and transportation along with process re-engineering has been made a part of the Notification; (iii) Stringent monitoring of movement of mined out material from source to destination using IT tools: bar coding, SMS *etc.* and (iv) The route of vehicle from source to destination shall be tracked through the system using check points, Radio-Frequency Identification Tags, and Global Positioning System (GPS).

3.1.2 Audit Objectives, Scope and Methodology

The compliance audit covering the mining years² from 2017-18 to 2020-21 was conducted to assess illegal mining activities in Dehradun district during January to December 2021.

¹ The security feature of Transit Permit should be as printed on Indian Bank Association approved Magnetic Ink Character Recognition paper; Unique Barcode; Unique QR code; Fugitive Ink Background; Invisible Ink Mark; Void Pantograph and Watermark.

² A mining year is from October to June.

Audit used Remote Sensing and GIS tools to assess the presence of illegal mining. The results of Remote Sensing technology were corroborated through joint physical verification, analysis of Department's database of transit passes (Form-MM-11 and Form-J) and consumption of mining material by Government agencies.

Audit selected three riverbed sand mining sites, namely, Song-3 (Song River); 21/3 at Dhakrani and 23/3 at Kulhal³ (Yamuna River) out of 24 mining sites in Dehradun district as all of them were officially non-operational from three to 48 months⁴ prior to taking up the Remote Sensing based audit.

Audit hired a technical consultant⁵ who assessed illegal mining and non-compliance with mining plans/environment friendly measures on above mentioned three sites. This report is based on the report submitted by the technical consultant.

Audit Findings

3.1.3 Results of Remote Sensing /GIS examination

The results of Remote Sensing/ GIS examination in the selected sites are given below as case studies.

3.1.3.1 Case Study-1: Dhakrani site

Dhakrani mining site is located on river Yamuna and this site has not been leased for mining since January 2017. Accordingly, no mining activity should have taken place from January 2017. To assess whether any illegal mining activity have taken place at the said mining site, Audit with the help of technical consultant analysed sentinel images⁶ at different times in 2020 (**Figure-1 below**). On reviewing these images, Audit found no mining activity in the encircled area till February 2020. Gradually, the black patch began appearing in May 2020 image, which indicated mining activity from February to May 2020. Significantly, this was period when there was almost complete lockdown due to Covid-19 pandemic.

During the monsoon period (July to September) the riverbed material gets replenished. So, Audit examined the extent of illegal mining post October 2020 in the said site. Images (**Figure-1**) clearly showed increase in illegal mining activity during October to November 2020 period.

³ 21/3 and 23/3 are Lot numbers, these are given for identification of leases.

⁴ Song-3 (Song River); 21/3 at Dhakrani and 23/3 at Kulhal were non-operational since, June 2019, January 2017 and October 2020 respectively.

⁵ Punjab Engineering College, Chandigarh.

⁶ In absence of mining, the area around the riverbed would appear white or sky-blue colour, whereas mining signatures will be seen as black or dark blue patches.

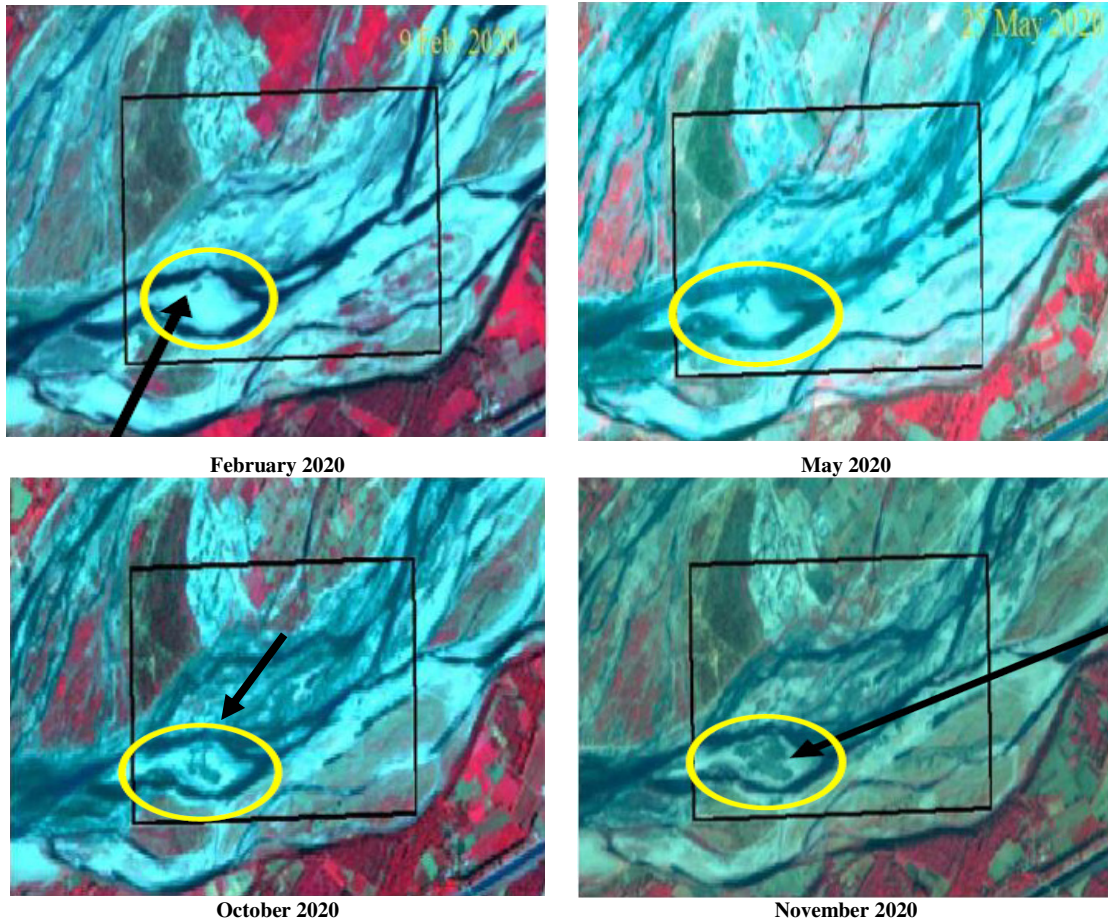


Figure-1: Sentinel images of Dhakrani site 2020 showing mining signatures

It was also observed that the incidence of illegal mining was not limited to 2020. On analyzing sentinel images (**Figure-2 below**) for previous years, Audit observed that mining signatures were present in 2017, 2018 and 2019 as well.

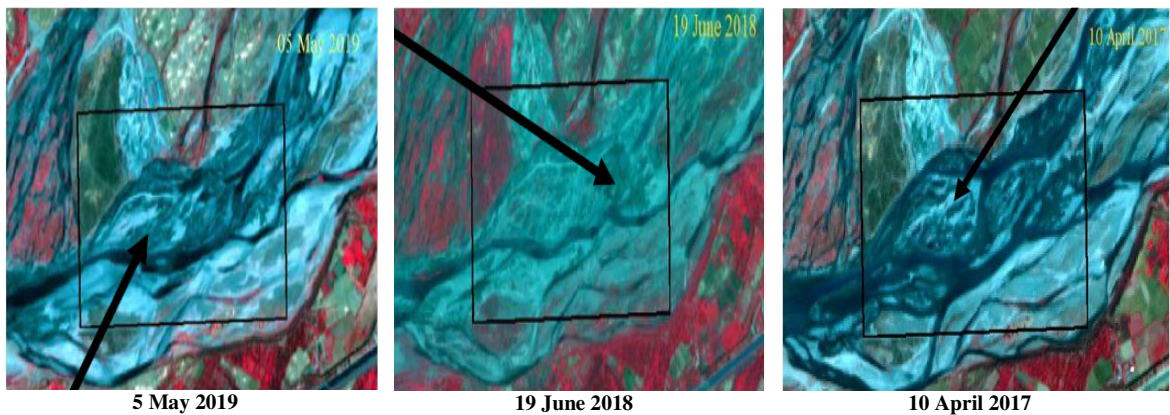


Figure-2: Mining signatures (dark blue patches) at Dhakrani site of various years

To analyse it further, Audit conducted joint physical verification of the said site along with mining officials. Audit observed mining signatures like presence of large pits, stack of sand and heavy vehicle tracks as can be seen from **Figure-3(a), 3(b)** below.



Figure-3(a) Dhakrani (15 January 2021): Stack of mined sand and large pits seen onsite



Figure-3(b) Dhakrani (15 January 2021): Tyre signature of heavy weight vehicles

Apart from Sentinel images, the same area was analysed using Google Earth images and Audit observed extensive mining signatures as shown in **Figure-4(a) and 4(b)**.



Figure-4(a): Mining signatures seen at Dhakrani



Figure-4(b): Pop up view of mining along the bank at Dhakrani

3.1.3.2 Case Study-2: Song-3 Site

Song-3 site is located in forest area. The forest / environmental clearance for this site was available till May 2019. Project proponent had submitted applications and clarification to receive environmental clearance thereafter. Even as environmental clearance was being pursued by Uttarakhand Forest Development Corporation (UFDC), the technical consultant concluded, based on Sentinel Remote Sensing images from year 2018 to 2020 that mining activities increased over the years and covered the whole riverbed in October 2019 (dark blue patches in **Figure-5** in adjacent column). The findings from analysis of Remote Sensing images were further corroborated by site inspection. Accordingly, during joint physical verification, Audit observed mining signatures like pit formation, water logging signatures like pit formation, water logging, mined stacks *etc.* [**Figure-6(a), 6(b) below**].

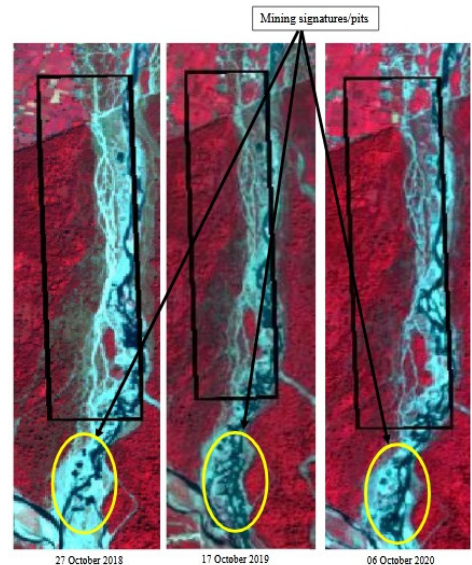


Figure-5: Signatures of illegal mining beyond leased boundaries at Song-3



Figure-6(a) Song-3: Stack of illegally mined sand



Figure-6(b) Song-3: Mining pits, water logging

3.1.3.3 Case Study-3: Kulhal Site

As per mining lease and environmental clearance the mining can take place only within the leased area which is to be demarcated jointly by District Collector and Mining Department using geo-coordinates in the environmental clearance and mining lease. The technical consultant reported occurrence of mining activities outside officially leased area. **Figure-7** below shows visual details using satellite as well Google Earth images.



Figure-7 Kulhal: Google Earth images (2019) showing mining signature outside the polygon

In reply to the above case studies (*paragraphs 3.1.3.1 to 3.1.3.3*), the Secretary (Mining), during exit conference, assured (May 2022) that necessary action would be taken for prevention of illegal mining.

3.1.4 Extent of illegal mining and consequent revenue loss

The technical consultant had estimated illegal mining to the extent of 57.11 lakh Metric Ton (MT), as detailed in **Table-3.1.1** below, based on area of illegal mining and conservative assumptions that depth of illegal mining was 1.5 metre (official limit for riverbed mining). **Figure-8 (a), 8(b) and 8(c)** shows coordinates given in environmental

clearance of the site (Yellow Polygon) and surface area in which illegal mining is supposed to have taken place (Red Polygon). Corresponding to estimated quantity of illegal mining, revenue loss of ₹ 39.98 crore⁷ on account of royalty and ₹ 5.71 crore⁸ on account of Goods and Service Tax (GST) was estimated by Audit.

Table-3.1.1: Details of the volume of minerals at the sites

Sl. No.	Source for calculation of area/ site name	Area approved in mining plan (in Hectare)	Illegal mining area (in square meters)	Depth allowed (in metre)	Bulk density of soil (in Ton/m ³)	Weight ⁹ (in MT)	Annual mineable reserve ¹⁰ (in MT)
1	2	3	4	5	6	7	8
1	Yamuna 21/3 at Dhakrani, Vikasnagar	64.38	16,40,000	1.5	2	49,20,000	39,36,000
2	Song-3	270	6,90,000	1.5	2	20,70,000	16,56,000
3	Yamuna 23/3 at Kulhal, Vikasnagar	14.97	56,700	1.5	2	1,70,100	1,19,070
Total							57,11,070

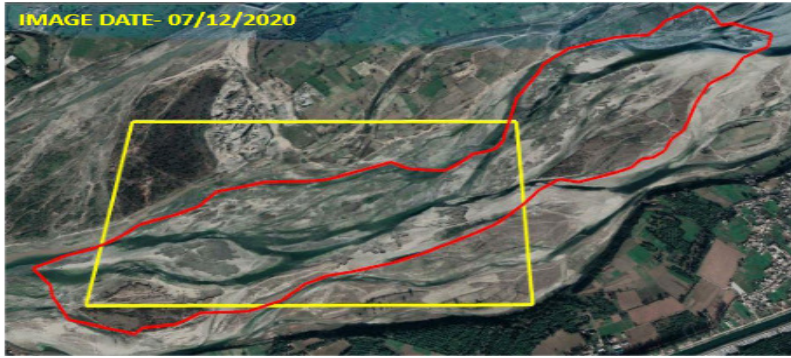


Figure-8 (a):Dhakrani



Figure-8 (b): Kulhal



Figure-8(c): Song-3

The Secretary (Mining), after getting apprised about the possibility of illegal mining and consequent revenue loss in the said three mining sites which were non-operational due to expiry of the lease period at the time of survey by technical consultant, assured (May 2022) to take necessary action to prevent illegal mining in the State.

⁷ ₹ 70 (Royalty Rate) x 57,11,000 MT= ₹ 39,97,70,000 (say ₹ 39.98 crore).

⁸ ₹ 10 per MT as per form-J.

⁹ Weight= illegal mining area x depth bulk density.

¹⁰ Annual mineable reserve is calculated after deducting the blocked reserves i.e 80 per cent of column number seven of serial number one and two and 70 per cent of column number seven of serial number three of **Table-3.1.1**. It shows that estimation of the quantity of minor minerals was done using the volumetric method with blocked area taken as 20 per cent in Yamuna 21/3 Dhakrani & Song-3 and 30 per cent in Yamuna 23/3 Kulhal (taking reference from mining plan of all three Sites).

3.1.5 Corroborative Evidence of illegal Mining

As noted in three Case Studies above, joint physical verification of concerned sites confirmed findings of the technical consultant regarding illegal riverbed mining. Audit also found corroborative evidence for illegal mining through other collateral evidence. Audit findings are contained in subsequent /following paragraphs.

3.1.6 Discrepancies in transit passes

Transit pass is key control in preventing and detecting illegal mining. Accordingly, all entries in it (lease number, form number, vehicle number, quantity of mined mineral, type of mineral, purchaser details) should be complete and authentic. On review, Audit found as under:

3.1.6.1 Analysis of transit passes with vehicle having UK series registration numbers

Government of Uttarakhand introduced in 2007 designated series to register commercial Goods vehicles (C), Government vehicles (G), Passenger carriage vehicles (P) and Taxis (T). On review of transit passes with vehicles having distinct UK series registration numbers it was observed that vehicle bearing G, P and T series were used for transportation of minor minerals which was illegal as the designated series vehicles were not to be used for carrying commercial goods/ material. Audit found a total of 6,303 vehicles affecting 0.49 lakh Transit Forms having quantity of 3.74 lakh MT as detailed in **Table-3.1.2** below under the category of non-commercial vehicles. The deployment of non-commercial vehicles raises questions about efficacy of law enforcement operations.

Table-3.1.2: Analysis of transit passes with vehicle having UK series registration numbers

Sl. No.	Description of UK Series Vehicles	No. of non-commercial Vehicles	No. of forms	Weight of minor mineral used in transit pass (in MT)
1	No. of vehicles in Government category	2,969	14,293	1,24,474
2	No. of vehicles in Passenger carriage category	835	14,179	97,665
3	No. of vehicles in Taxi category	2,499	20,746	1,52,188
Total		6,303	49,218	3,74,327

3.1.6.2 Vehicles having no registration number and ineligible registration number

During 2018-21, total quantity of 5.54 lakh MT minor minerals were transported against 3.59 lakh transit passes on 60,882 vehicles which had no vehicle numbers or had large number of vehicle numbers from outside Uttarakhand or with outdated series of registration numbers as detailed in **Table-3.1.3** below.

Table-3.1.3: Details of vehicles having no registration number and ineligible number

Sl No.	Description	No. of Vehicles	No. of Forms	Weight (in MT)
1.	No. of vehicles having no registration number	57,571	57,571	1,23,182
2	Vehicles showing less than seven-digit/ alphabets registration number	3,276	3,01,207	4,30,424
3	Vehicles showing greater than 10-digit/ alphabets registration number	35	35	437
Total		60,882	3,58,813	5,54,043

3.1.6.3 Ineligible/unsuitable vehicles

Audit cross checked vehicle registration number mentioned in transit passes with that of VAHAN database¹¹ maintained by Ministry of Road Transport and Highways. Audit could match 1.18 lakh out of 4.37 lakh vehicles mentioned in transit passes. On further analysis of these 1.18 lakh matched vehicles, Audit found that 0.43 lakh ineligible/unsuitable vehicles (ambulance, cash van, fire tenders, petroleum tanker, two/three wheelers, e-rickshaw), affecting 5.02 lakh Transit Forms and quantity of 56.53 lakh MT had been used for transporting mined minor minerals as detailed in **Table-3.1.4** given below.

Table-3.1.4: Details of ineligible/unsuitable vehicles

Sl. No	Description	No. of Vehicles	No. of Forms	Weight (in MT)
1	Number of Agriculture Tractor used	7,796	3,46,926	23,01,861
2	Number of Two-wheeler like M-Cycle/Scooter/Moped used	24,745	66,503	9,20,477
3	Number of four-wheeler passenger vehicles like Motor Car/Motor Cab/Maxi Cab/Bus/Educational Bus /Cash Van/Omni Bus used	7,658	26,504	2,49,053
4	Number of Excavator (Commercial)/Excavator (NT)	1,374	5,354	98,626
5	Number of Ambulance/Fire Fighting Vehicle/Hearses/Road Roller/Mobile Clinic/X-ray Van/Mobile Canteen used	40	160	2,470
6	Number of Three-Wheeler/E-rickshaw used	261	1,174	16,531
7	Number of tankers (petroleum/others) used	782	7,248	1,07,526
8	Number of others ineligible vehicles used	201	48,451	19,56,149
Total		42,857	5,02,320	56,52,693

In reply to the above paragraphs (*paragraphs 3.1.6.1 to 3.1.6.3*), Secretary (Mining) apprised (May 2022) that since the E-Rawanna web application is not integrated with Vehicle Transport System of Transport Department, therefore, the vehicles whose numbers are entered in the E-Rawanna transit pass cannot be traced. He assured that Geology and Mining Unit (GMU) would make a collaboration with Transport Department so that in transit passes with suspected vehicle registration number and ineligible/unsuitable vehicles number would be easily tracked.

3.1.6.4 Cash transactions

Tax Collected at Source (TCS) is applicable on mining and quarrying at the rate of two *per cent* as per the Section 206 C, Income Tax Act, 1961.

On review of transit Passes, Audit found that seven *per cent* of transactions were made in cash which accounted for four *per cent* of quantity of minor mineral sold during 2018-21 as detailed in **Table-3.1.5** below. The lack of purchaser's identity in cash-based transactions creates hindrance for collection of TCS from the purchaser and leaves no trail.

¹¹ As made available to Audit in December 2019.

Table-3.1.5: Details of cash transactions

Sl. No.	Type of Purchaser	No of transactions	Quantity purchased (in Ton)
1	Purchaser details available	93,37,642	12,27,68,978.30
2	Purchased in cash and without purchaser details	7,20,833	56,98,454.84
Grand Total		1,00,58,475	12,84,67,433.14
3	Percentage of transaction and quantity purchased in cash	07	04

During exit conference, the Secretary (Mining) agreed (May 2022) that huge number of cash transaction without purchaser's details like Registration Number, GSTN etc. was a concern and assured that after enquiry necessary action would be taken on the issue.

3.1.6.5 Invalid transactions /transit passes

During 2018-21, 33,86,869 out of 1,00,65,109 transactions /transit passes did not have Purchase Registration Number i.e. they did not have registration with GMU. Out of 33,86,869 only 91,817 transaction/ transit passes had GST number in purchase address. This implies that almost all minor minerals were being sold to such person/entities, having no registration with GMU/GST, who are not in the business of minor minerals.

During exit conference, the Secretary (Mining), assured (May 2022) that necessary enquiry/action would be taken.

3.1.7. Consumption of illegally mined mineral by Government agencies

Government of Uttarakhand is a major consumer of mined material. It pays civil contractor on the basis of Scheduled Rates which in turn is based on the assumption that contractor uses material after paying royalties and taxes. Accordingly, most of the Government agencies at the time of making payments to the contractors check availability of transit passes to satisfy legality of mined material. On review of IFMS data and information from some of the Government's construction agencies, Audit found that construction agencies had allowed the Contractors to use estimated 37.17 lakh¹² MT of mining material without transit passes (i.e. illegally mined material).

Audit further found that in Dehradun district, royalty of ₹ 26.02 crore was deposited during the year 2017-18 to 2020-21 in the State exchequer by State executive/ construction agencies wherever minor minerals were used in the construction work without e-forms¹³ "MM-11" or "J". According to the Uttarakhand Mining (Illegal mining, transportation, storage) Rule as amended from time to time, penalty of five times of royalty should be imposed and recovered, but it was not complied. As a result, there was minimum loss of revenue of ₹ 104.08 crore¹⁴.

¹² Source: IFMS- ₹ 26.02 crore was deposited by State construction agencies. As such volume of minerals to be ₹ 26.02 crore/₹ 70 (rate of royalty) =37.17 lakh MT.

¹³ e-form "MM-11" is issued for transport of the sub-minerals from mines to any place of the State and e-form "J" is issued for effective transport of minerals from stone crushers/screening plants/retail storehouses to the site of work.

¹⁴ ₹ 26.02 crore x 4= ₹ 104.08 crore.

In addition to royalty, Government's construction agencies should have deducted District Mineral Fund, compensation and stamp fee. However, this was not being done and there was no remedial action taken by district administration on such lapses. Still further, there was also loss of GST on illegally mined material.

Further, there was no assurance that the transit passes submitted by the contractors to the construction agencies were genuine. The construction agencies were not cross-checking authenticity/validity of the transit passes. Audit found instances where contractors had submitted fake transit passes. Review of transit passes revealed that:

- In one of the PWD divisions¹⁵ in November 2021 contractors had submitted illegal transit passes as they were in the name of different contractors and/or with different destinations. This involved 17,432.96 MT of mined mineral.

On being pointed out, the concerned Division stated that the matter will be referred to mining unit for checking.

- In another PWD Division¹⁶, Audit observed that the contractor had submitted tax invoices in lieu of transit passes and thus escaped payment of royalty of ₹ 32.73 lakh and penalty thereon.

On being pointed out, the Division produced transit passes belonging to some other contractor /destinations. As such, the contractors had used illegal minor minerals amounting to 4.67 lakh MT.

- In one more Division¹⁷, submission of fake transit passes was noticed (January 2020) for 597 MT by the contractor¹⁸. On being pointed out, Division agreed to examine the issue.
- There was no system to block use of valid transit passes twice/multiple times. This fear was confirmed recently when Audit found that a Contractor¹⁹ in one of the PWD Divisions had submitted 4,454 invalid/duplicate/forged transit passes. This case has been reported through CAG's Audit Report²⁰ for the year ending March 2019.

During exit conference, the Secretary (Mining) stated (May 2022) that necessary provisions have been made in the Uttarakhand mineral (illegal mining, storage and transportation) Rules-2021 to prevent use of minor mineral without valid transit passes by Government construction agencies. All the Government construction agencies will be informed again to follow Rules.

¹⁵ Executive Engineer, Construction Division, Public Works Department, Dehradun (November 2021).

¹⁶ Executive Engineer, NH PWD Dehradun pertaining to the period 08/2017 to 07/2018.

¹⁷ Executive Engineer, Irrigation Division, Haridwar.

¹⁸ 01/AE-III/I.D.H./2018-19 (M/s A R Developers & Associate).

¹⁹ M/s Woodhill Infrastructure Ltd. under the Contract Agreement No. 13/PD/PMU/ADB/2013 dated 23.01.2014.

²⁰ Government of Uttarakhand, Report No. 2 of the year 2020.

3.1.8 Risk of illegal mining due to non-operative mines

The Report²¹ of the Oversight Committee, National Green Tribunal (NGT), Uttar Pradesh (January 2021) noted that areas where only few leases are operative and the rest are not settled/surrendered need to be carefully analysed. There could be a chance of cartel formation and mining of sand illegally from other vacant mining plots under the garb of the operative lease. On review of status of the operation of mining leases in Dehradun district (**Table-3.1.6** below), Audit found that most of the mines were non-operational which increased the risk of illegal mining from non-operative mines.

Table-3.1.6: Status of mining in District Dehradun

(₹ in crore)				
Sl. No.	Description	2018-19	2019-20	2020-21
1	Royalty	58.81	45.60	Awaited
2	Number of mining leases under Forest Department	5	5	5
3	Number of active mining leases under Forest Department	5	0	0
4	Number of mining leases under Garhwal Mandal Vikas Nigam Ltd (GMVN)	19	19	19
5	Number of active mining leases under GMVN	5	10	3

During exit conference, the Secretary (Mining) agreed (May 2022) that vacant laying mining areas were one of the main causes of illegal mining and assured that necessary steps would be taken for speeding up the process for sanctioning of these vacant areas on mining leases.

3.1.9 Unregistered Stockists/Dealers

Audit observed 219 traders were registered with State Tax Department to carry out trading of sand, stone, grit, *bajri* etc. in Dehradun district. However, out of these only 34 traders were registered in GMU/District Mining Officer (DMO) in Dehradun district. This shows GMU could not detect unregistered dealers on its own or with the help of State Tax Department.

During exit conference, the Secretary (Mining) assured (May 2022) to initiate enquiry on all traders which are registered in State Tax Department for mining related business but not registered in the Mining Department and after that necessary action would be taken for registration.

3.1.10 Unverified weighing machines

Verification and stamping of weight or measure (Section 24 of Chapter-IV) of the Legal Metrology Act 2009 provides that every person having any weight or measure in his possession, custody or control in circumstances indicating that such weight or measure is being, or is intended or is likely to be, used by him in any transaction or for protection, shall, before putting such weight or measure into such use, have such weight or measure

²¹ https://greentribunal.gov.in/sites/default/files/news_updates/REPORT%20BY%20OVERSIGHT%20COMMITTEE%20IN%20OA%20NO.%20360%20of%202015%20%28National%20Green%20Tribunal%20Bar%20Association%20vs%20Virender%20Singh%20%28State%20of%20Gujarat%29.pdf

verified at such place and during such hours as the Controller may, by general or special order, specify in this behalf, on payment of such fees as may be prescribed.

Audit conducted (November-December 2021) Joint Physical verification of eight weighbridges (six at mining site and two at other sites) in Dehradun district with officials of the Metrology Department. It was found that two²² out of six weighbridge machines were not verified and stamped by Metrology Department and another one²³ did not have verified papers. Further, one²⁴ out of two weighbridges installed at places other than mining sites failed the standard weight test. In the light of suspect weighbridges, the quantity/weight mentioned in transit passes was suspect.

During exit conference, the Secretary, (Mining) assured (May 2022) that necessary action would be taken by giving direction to concerned Department.

3.1.11 Mining Surveillance System not adopted even after five years of its launch

Ministry of Mines, Government of India and Indian Bureau of Mines (IBM) developed a Mining Surveillance System (MSS), a satellite-based monitoring system which aims to establish a regime of responsive mineral administration by facilitating State Governments in curbing instances of illegal mining activity. The system works on the basic premise that most minerals occur in the continuity and their occurrence is not limited to the lease area but is likely to extend in the vicinity. The MSS checks a region of 500 metres around the existing mining lease boundary to search for any unusual activity which is likely to be illegal mining. Any discrepancy found is flagged-off as a trigger. These triggers would be examined at Remote Sensing Control Centre, IBM and then transmitted to the State Mining and Geology Department or the district level mining officials for field verification, who would check for illegality and submit compliance report of their inspections using mobile app or online portal.²⁵

The Government of India (Ministry of Mines²⁶) in its communication to the State Government stressed (October 2016) that the success of MSS would entirely depend on the support of the respective State Government and they were requested to take necessary action.

On review, Audit found that the MSS was yet to be adopted even after five years of its launch and communications from the Central Government.

The Department stated (March 2022) that implementation of Development & Maintenance of Mining Digital Transformation & Surveillance System is being initiated through E-tendering process.

²² M/s Pradeep Agrawal (GMVN), Song-1, Khiri Man Singh and M/s Ramesh Rautela(GMVN), Tons River.

²³ M/s Kailash Rawat, Song-1, Dubada, Maldevta.

²⁴ N S Dharmkanta, Matak Majri, Kulhal.

²⁵ A user-friendly mobile app for MSS has been created and launched on 24 January 2017.

²⁶ <https://mines.gov.in/writereaddata/UploadFile/WayforwardMSS636124955823215184.PDF>.

3.1.12 Responsibility for illegal mining

As mentioned in *paragraph 3.1.3* above, there was illegal mining at three sites (Dhakrani 23/3, Kulhal 21/3 on Yamuna River & Song-3 on Song river). Further, 37.17 lakh MT of mined material was used by the Government's own agencies without valid legal documents (Form M-11 or Form-J). Still further, the issue of illegal mining is in public knowledge in the form of media reports and public interest litigation. In light of widespread complaints regarding illegal mining, the NGT through its various orders *inter-alia* observed that district administration is fully accountable for ensuring compliance to its various directions/compliance with conditions of environmental clearance and that District Magistrates and Superintendents of Police have to seize all mining equipment and vehicles in case of illegal mining. Further, besides criminal proceedings, there has to be imposed exemplary penalty by District Magistrates in case of illegal mining.

In the light of above, all responsible authorities jointly and severally failed to prevent and detect illegal mining in Dehradun during 2017-21. Lapses at the level of each authority responsible for prevention and detection of illegal mining can be seen in the **Table-3.1.7** given below.

Table-3.1.7: Lapses at each Government authority level

Sl. No.	Authority	Details of Lapses
1	District Collector	Having been conferred power to regulate all stages in mining process (processing of mining leases, granting license to retailers, checking of illegal mining, transportation and storage, imposition of penalty, review of monthly statements, review of CCTV footage, monitoring of work of DMO) and having coordination and oversight responsibility in respect of all Departments in the district, he failed to ensure compliance with mining related Rules and Regulations and directions of the NGT. This also means that NGT's instructions that district administration will be fully accountable for illegal mining is not being seriously taken by the District Collector.
2	Geology Mining Unit /DMO	<ul style="list-style-type: none"> ➤ Ineffective enforcement mechanisms and inspections at different places (mining sites, transit/on road, storage, construction sites) to check compliance with environmental clearance conditions and applicable Rules and Policies. Accordingly, project proponents were operating without tracking of vehicles, without CCTV based monitoring at designated places. ➤ Did not coordinate with State Tax Department to know dealers who were dealing with minor minerals. Accordingly, Audit found mismatch²⁷ between number of Dealers/Stockists for Minor Minerals as per District Mining Unit /GMU and as per the State Tax Department. ➤ Failure to coordinate with the Government's construction agencies where illegally mined material was being consumed. ➤ Did not establish a system whereby the Government's own construction agencies could cross check authenticity of transit passes. ➤ Failure to implement Government of India's MSS, a satellite-based monitoring system, which sends triggers of illegal mining to the State Government authorities.

²⁷ As per State Tax Department the number of dealers in Dehradun were 219 whereas as per GMU the number of dealers were 34 in Dehradun.

Sl. No.	Authority	Details of Lapses
3	Forest Department	Since illegal mining within forest land is a forest offence so the Department's enforcement mechanisms ²⁸ should have detected it just like other forest offences (illegal timbering, poaching). So, the presence of illegal mining in forest land also raises questions about effectiveness of Forest Department's enforcement activities in preventing and detecting other types of forest offences.
4	Project Proponent (UFDC, GMVN)	<ul style="list-style-type: none"> ➤ Did not establish any system to ensure compliance with conditions mentioned in environmental clearance certificate. This <i>inter-alia</i> included lack of CCTV based monitoring, issue of correct transit pass, checking of weight, correctness of Weighbridge. ➤ Did not undertake mining themselves whenever sub leasing to a private entity was not possible.
5	Transport	Transport authorities are obliged to undertake physical inspections to detect compliance with applicable Rules by commercial and private vehicles. However, the Department failed to prevent and detect plying of vehicles without proper registration, private vehicles carrying mined material and large number vehicles carrying overweight material.
6	Construction Agency like Public Works Department	Construction agencies allowed the contractors to use illegally mined minerals. Further, they did not inform authorities (District Collector, District Mining Officer, Police, Transport Department) about the illegalities being committed by the contractors.
7	Uttarakhand Pollution Control Board	Uttarakhand Environment Protection and Pollution Control Board (UEPPCB) gives Consent to establish and Consent to operate to mining lease holder before mining. Illegal mining/transportation of minor mineral pollute environment of that place wherever this activity has been done, UEPPCB failed to monitor those mining lots where illegal mining has been done.
8	Police	As per Uttarakhand Police Act, Police Department should check vehicle violating Rules of GMU, but Police Department failed to check vehicles involve in transportation of illegal minor minerals.
9	Legal Metrology	Metrology Department failed to verify weighing machine. In Joint physical verification done by audit team (November-December 2021) with officials of the Metrology Department at six mining sites and places other than mining sites of Dehradun district, it was found that out of six weighing machines, four weighing machines were installed at exit area of mining sites, out of those, two machines ²⁹ were found not verified and stamped by the Metrology Department and other one ³⁰ was found having no verified papers at the site. Out of other two weighing machines installed at places other than mining sites, one ³¹ found failed to the standard weight test.

During exit conference, the Secretary (Mining) assured (May 2022) that he would hold a meeting with all Government authorities concerned like GMU, District Administration, Transport Department, Police Department, Forest Department, GMVN, Van Vikas Nigam, State Pollution Control Board, Legal Metrology Department, whose responsibility are mentioned in their own departmental Rules and policies, to prevent illegal mining and illegal transportation. Further, he assured that the responsibility of the concerned Government Departments will be fixed.

²⁸ The Department's enforcement mechanisms like forest check posts, guarding /gasth by Beat Forest Guards, inspections by Rangers and DFO.

²⁹ M/s Pradeep Agrawal (GMVN), Song-1, Khiri Man Singh and M/s Ramesh Rautela (GMVN), Tons River.

³⁰ M/s Kailash Rawat, Song-1, Dubada, Maldevta.

³¹ N S Dharmkanta, Matak Majri, Kulhal.

3.1.13 Conclusion

Audit found evidence of illegal mining in three sample mining sites with the help of Remote Sensing and Geographical Information System technology. The fact of illegal mining was confirmed through joint physical verification. There was use of 37.17 lakh MT of “illegal mined material” by Government’s own construction agencies in Dehradun. Audit revealed unreliability of Government’s transit passes. There were large number of inactive/Un-operative mines increasing risk of illegal mining.

All Government agencies like Geology and Mining Unit, District Collector, Police Department, Forest Department and Project proponent and Garhwal Mandal Vikas Nigam Ltd. collectively failed to prevent and detect illegal mining. Geology and Mining Unit failed to implement Government of India’s initiative called Mining Surveillance System for over five years.

3.1.14 Recommendations

Illegal mining adversely affects the revenue of the State besides impacting the stability of riverbeds and banks, leading to degradation of the entire fluvial system. The State Government may consider the following measures to control/monitor illegal riverbed mining in the State:

1. **Transit Pass:** (i) Government’s construction agencies should verify each transit pass for its authenticity before making payment to the contractor. Further, they should not allow use of illegally mined material in Government projects and should mandatorily inform District Collector and District Mining Officer regarding procurement of illegally mined material by the contractor so that district administration can proceed against such contractors.
(ii) For Governmental and other big projects, the transit passes should have contractor’s Goods and Services Tax Identification Number and Global Positioning System coordinates of the delivery point.
(iii) All fields should be properly filled in transit pass and monitoring of all fields of transit pass should be properly ensured by mining unit. Use of duplicate transit pass should be stopped.
2. **Co-ordination among Government Departments and Effective Internal Control:** District administration, Government’s construction agencies, Transport Department, State Tax Department and Geology and Mining Unit should establish effective coordination mechanism to prevent and detect illegal mining. Further, District administration and Geology and Mining Unit should implement provisions in letter and spirit and for that should establish effective internal control system.
3. **Geo-referencing of leases and Mining Surveillance System:** Multiple coordinates demarcating the lease accurately should be ensured in the Mining Plan to ensure that the mining activities are restricted within the permissible area. These coordinates should be marked properly on the ground with defined pillars’ sites so as to prevent

- illegal and unscientific mining and their locations should be available digitally (in the *shp* file³²). Mining Surveillance System should be adopted by the State at the earliest for a quicker response time and an effective follow-up. The deterrence effect of ‘Eyes watching from the Sky’ would be extremely fruitful in curbing instances of illegal mining.
4. **Assessment of River Bed Material quantity:** Assessment of River Bed Material Quantity and delineation of lot should be prepared and monitored in ‘DRONE PLATFORM’ in a digital spatial environment.
 5. **Unmanned Aerial Vehicles or Drones**, which have multiple applications in mining sector like periodical aerial survey of mines and change detection; monitoring illegal mining at night through thermal cameras; and tracking the movement of unauthorized trucks; may be considered at sensitive sites.
 6. **Regular environmental audit** may be carried out by authorities to check the compliance with Rules and Regulations by the contractor and punitive action should be taken in case of violation as per Rules.
 7. **Responsibility** may be fixed for lapses at each Government Department level concerned to prevent and detect illegal Mining.

3.2 *Failure to impose penalty*

Failure to impose penalty on illegal mining/storage led to revenue loss of ₹1.24 crore.

Rule 3(1) of Uttarakhand Minor Mineral (Concession) Rules 2001 provides that no person shall undertake any mining operations in any area within the State of any minor minerals to which these Rules are applicable except under and in accordance with the terms and conditions of a mining lease or mining permit granted under these Rules.

As per Rule 23(1) of Uttarakhand Minor Mineral (Sand, Gravel, Boulder) Picking Policy³³ 2016, for use of muck (minor mineral stone/boulder/sand, *etc.*) coming out of the work of the reservoir/tunnel, *etc.* of hydropower projects in construction works of the project, short term permission will be granted by the District Magistrate (DM) concerned based on the recommendations of the District Level Committee constituted under the chairmanship of Sub Divisional Magistrate (SDM) after examination/ investigation and evaluation of construction estimate of project and mining lease till the end of the project will be approved by the Government on the recommendations of DM and Director, GMU by relaxing Rule 72, under Rule 68 of Uttarakhand Minor Mineral Concession Rules, 2001.

As per Rule 13(2)(*kha*) of the Government of Uttarakhand notification³⁴ dated 13.11.2016, in addition to the penalty of ₹ 2.00 lakh, the amount of five times of royalty will also be charged on illegal mining/storage of mineral from illegal stockholders/

³² It is vector data format for storing geographical data and associated attribute information.

³³ 1561/VII-1/80-*kha*/2016 dated 30.09.2016.

³⁴ No. 1725/VII-1/16/158-*kha*/2004.

miners. Further, according to Government of Uttarakhand notification³⁵ dated 26.02.2016, royalty rate of khandas/boulders/gravel/grit ballast single/moram/sand resulting from erosion of mountains was fixed at ₹ 194.50 per cum *i.e.* ₹ 8.85 per quintal.

During scrutiny of records of DMO, Bageshwar (November-December 2019) and Chamoli (February 2020), the following issues were noticed:

A. In DMO, Bageshwar, it was noticed that an area of 4,536 cum was illegally dug by the contractor for which penalty of ₹ 2.00 lakh was deposited (July 2018) by him. However, as per Rule, in addition to the penalty of ₹ 2.00 lakh, the amount of five times of royalty for illegal mining was not imposed on the contractor. The Department, therefore, suffered a loss of revenue of ₹ 44.11 lakh³⁶.

On being pointed out, the Department accepted the audit observation.

B. In DMO, Chamoli, it was noticed that the approval of stone crusher for repair/reconstruction works of Vishnuprayag Hydropower Project was renewed (December 2016) for a period of three years in favour of the contractor by DM, Chamoli. It was further noticed that the minor mineral derived from the muck of the project was being used in the construction of the project after crushing it into the approved stone crusher by the license holder. However, license was not taken for use of the minor mineral in the hydro power project. Audit also noticed that 7,990 cum minor mineral was crushed in the stone crusher during November 2016 to December 2017 by the license holder for which he had deposited (July 2018) environmental and mineral estate duty of ₹ 1.20 lakh. The license holder was also liable to pay penalty of ₹ 79.70 lakh³⁷ on the quantity of illegal mining and storage of minor mineral, which was not imposed.

On being pointed out by audit, the Department accepted the audit observation and imposed (March 2021) the penalty on the contractor.

The Department, therefore, suffered revenue loss of ₹ 1.24 crore³⁸ due to not imposing the required penalty on illegal mining/storage.

The matter was reported to the Government (November 2021); reply was awaited (September 2022).

3.3 Non /short levy of penalty on excess storage of minor minerals

The Department suffered revenue loss of ₹ 2.72 crore due to non/short levy of penalty on excess storage of minor minerals.

Rule 13(2)(kha) of Industrial Development Section-1, Government of Uttarakhand notification³⁹ provides that in addition to the penalty of ₹ 2.00 lakh, the amount of five

³⁵ No. 211/VII-1/24-kha/2007.

³⁶ 4,536 Cum × ₹ 194.50 × 5 = ₹ 44,11,260.

³⁷ ₹ 77,70,275 (7,990 Cum × ₹ 194.50 × 5) + ₹ 2,00,000 = ₹ 79.70 lakh.

³⁸ ₹ 44.11 lakh + ₹ 79.70 = ₹ 123.81 lakh, say ₹ 1.24 Crore.

³⁹ No. 1725/VII-1/16/158-kha/2004, dated 13.11.2016.

times of royalty will also be charged on illegal storage of mineral from the stockholders. Further, Industrial Development Section-1, Government of Uttarakhand notification⁴⁰, provides the royalty rate of “ordinary sand or moram or gravel or boulder or any of these in mixed state available in the riverbed other than sand used for prescribed purposes” as ₹ 7.00 per quintal or ₹ 154.00 per cum (for Haridwar and other places).

Scrutiny of records of DMO, Chamoli revealed (February 2020) that three stockholders stored minor minerals in excess of the sanctioned quantity in different months. However, no penalty was imposed on these stockholders. The stockholders were, therefore, liable to pay penalty of ₹ 2.63 crore, as detailed in the **Appendix-3.3.1**, on the quantity of excess minor minerals stored.

On being pointed out, the Department issued notices (March 2021) to all the three stockholders to deposit the amount of five times of royalty in addition to penalty.

Further, during scrutiny of records of DMO, Uttarkashi (February 2020), it was noticed that penalty for excess storage of minor minerals was imposed (September 2019 and November 2019) on two stone crushers at pre-revised rate of ₹ 35 per ton instead of prevailing rate of ₹ 70 per ton as per Government of Uttarakhand notification⁴¹. The Department, therefore, imposed short penalty of ₹ 9.31 lakh⁴² on the license holders.

On being pointed out, DMO, Uttarkashi stated (February 2020) that the penalty on the license holders was calculated by Headquarters, Dehradun. The reply was not acceptable as the penalty should have been imposed at the prevailing rates issued by the Government.

The Department, therefore, suffered revenue loss of ₹ 2.72 crore⁴³ due to non/short levy of penalty on the excess storage of minor minerals.

The matter was referred to the Government (November 2021), reply is awaited (September 2022).

⁴⁰ No. 842/VII-1/2016/24-kha/2007, dated 19.05.2016.

⁴¹ No. 842/VII-1/2016/24-kha/2007 dated 19.05.2016.

⁴²

Sl. No.	Name of Stone Crusher	Date of inspection	Quantity of minor mineral (in ton)	Amount (in ₹)	
				Short levy of royalty per ton	Total Penalty to be recovered
1	2	3	4	5	6 (col 4 x col 5 x 5 times)
1	Shivam Industries	31.08.2019	3024.52	35	5,29,291
2	Jamdagni Rishi Maharaj Construction	31.08.2019	2293.96	35	4,01,443
Total					9,30,734 (say ₹ 0.09 crore)

⁴³ DMO (Chamoli) ₹ 2.63 crore + DMO (Uttarakashi) ₹ 0.09 crore= ₹ 2.72 crore.

STATE TAX DEPARTMENT

3.4 *Subject Specific Compliance Audit on Processing of Refund Claims under Goods and Services Tax*

3.4.1 *Introduction*

Timely refund mechanism constitutes a crucial component of tax administration as it facilitates trade through release of blocked funds for working capital, expansion and modernization of existing business. The provisions pertaining to refund contained in the GST laws aim to streamline and standardise the refund procedures under GST regime. It was decided that the claim and sanctioning procedure would be completely online. Due to unavailability of electronic refund module on the common portal, a temporary mechanism was devised and implemented. Circular Nos. **17/17/2017-GST dated 15 November 2017** and **Circular No. 24/24/2017-GST dated 21 December 2017** were issued prescribing the detailed procedures. In this electronic-cum-manual procedure, the applicants were required to file the refund applications in Form GST RFD-01A on the common portal, take a printout of the same and submit it physically to the jurisdictional tax office along with all supporting documents.

Further processing of those refund applications, *i.e.* issuance of acknowledgement, issuance of deficiency memo, passing of provisional/final refund orders, payment advice, *etc.* were being done manually. In order to make the process of submission of the refund application electronically, **Circular No. 79/53/2018-GST dated 31 December 2018** was issued wherein it was specified that the refund applications in Form GST RFD-01A, along with all supporting documents, had to be submitted electronically. However, various post submission stages of processing of the refund applications continued to be manual.

For making the refund procedure fully electronic, wherein all the steps from submission of applications to processing thereof could be undertaken electronically, have been deployed on the common portal with effect from 26 September 2019 (also called **Automation of Refund Process**). Accordingly, the Circulars issued earlier laying down the guidelines for manual submission and processing of refund claims have either been superseded or modified. A **fresh set of guidelines** have been issued for electronic submission and processing of refund claims vide **Master Circular No.125/44/2019-GST dated 18 November 2019**.

3.4.2 **Audit Objectives**

Audit of Refund cases under GST regime was conducted to assess:

- (i) The adequacy of Act, Rules, Notifications, Circulars, *etc.* issued in relation to grant of refund;
- (ii) The compliance of extant provisions by the tax authorities and the efficacy of the systems in place to ensure compliance by taxpayers; and

- (iii) Whether effective internal control mechanism exists to check the performance of the departmental officials in disposing the refund applications.

3.4.3 Audit Approach

During field audit, the refund cases processed from July 2017 to July 2020 were examined in the selected sectors of State Tax Department, Uttarakhand. Pan-India refund data was obtained from GSTN and a sample of refund cases was extracted for detailed examination.

GSTN had provided Pan-India Refund Data from July 2017 till July 2020. Considering that the refund data available varies drastically on either side of 26 September 2019, refund risk parameters for these two stages are also different. As no other relevant risk parameters were available for period prior to 26 September 2019, the refund applications under each category were sorted in descending order of refund amount claimed by taxpayers. Thereafter, sorted refund applications were divided into four quartiles and sample was drawn. For selecting refund applications filed after 26 September 2019, a composite risk score was devised using risk parameters such as refund amount claimed (60 *per cent* weightage), delay in sanctioning refund (15 *per cent* weightage), refund sanctioned/refund claimed ratio (10 *per cent* weightage) and deficiency memo issued (15 *per cent* weightage). Based on the above arrived risk score, refund applications were selected for period after 26 September 2019.

Based on above sampling, 385 refund cases having 194 Pre-Automation⁴⁴ and 191 Post-Automation⁴⁵ have been scrutinized, having monetary value of ₹ 97.52 crore and ₹ 102.42 crore respectively were examined during field audit conducted from November 2020 to March 2021.

3.4.4 Legal Provisions and Audit checks

The following Sections/Rules/Notifications provide the procedure for claiming the refunds:

- (i) Section 54 to 58 and Section 77 of The Uttarakhand Goods and Services Tax (UGST) Act, 2017;
- (ii) Rule 89 to 97A of UGST Rules, 2017; and
- (iii) Section 15, 16 and 19 of Integrated Goods and Services Tax (IGST) Act, 2017.

After allocation of taxpayers between Centre and State, the registered person needs to file the refund claim with the jurisdictional tax authority to which the taxpayer has been assigned as per the administrative order. In case such an order has not been issued in the State, the registered person is at liberty to apply for refund before the Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayers to respective authority is implemented. However, in the latter case, an

⁴⁴ The GST refund cases processed upto 25/09/2019.

⁴⁵ The GST refund cases processed w.e.f. 26/09/2019.

undertaking is required to be submitted stating that the claim for sanction of refund has been made to only one of the authorities. The payment of the sanctioned refund amount shall be made only by the respective tax authority of the Centre or State Government. In other words, the payment of sanctioned refund amount in relation to Central Goods and Services Tax (CGST), IGST and Cess shall be made by the central tax authority while in relation to State Goods and Services Tax (SGST) and Union Territory Goods and Services Tax (UTGST), it would be made by the State/Union Territory Tax Authority. To ensure timely payment of entire refund, the Board had instructed that refund order issued either by the central tax authority or the State Tax authority is communicated to the concerned counter-part tax authority within seven days for the purpose of payment of the relevant sanctioned refund amount.

3.4.5 Results of Audit

Sl. No.	Particular	Major Audit Findings
1	Acknowledgment not issued within time.	In 60 cases, the Department could not issue the acknowledgement for refund to the applicant (other than claim for refund from electronic cash ledger) within the time due to non-observance of the provisions of Rule 90 (2) of the UGST Rules, 2017. (Paragraph 3.4.6)
2.	Refund orders not sanctioned in time.	In 51 cases, refund orders of ₹ 20.89 crore had not been sanctioned in time as per the provisions of Section 54(7) of UGST Act, 2017 read with Rule 92 of UGST Rules, 2017 resulted in creating liability of interest of ₹ 11.44 lakh, which was payable to the claimants as per Section 56 of UGST Act, 2017. (Paragraph 3.4.7)
3.	Provisional refund on account of zero-rated supply not sanctioned within time.	In six refund cases, there was delay in sanction of provisional refunds of ₹ 2.45 crore resulted in non-observance of provisions of Section 54(6) of UGST Act, 2017 read with Rule 91(2) of UGST Rules, 2017. (Paragraph 3.4.8)
4.	Excess grant of refund due to non-consideration of minimum balance in Electronic Credit Ledger (ECL) at the end of tax period.	Excess allowance of refund of ₹ 1.55 crore was given to the four claimants who were not entitled for any refund by non-considering of minimum balance in the ECL at the end of tax period in violation of Section 54 (3) of UGST Act, 2017, Rule 89 (3) and Rule 89(4) of UGST Rules, 2017. (Paragraph 3.4.10)
5.	Irregular allowance of refund of inverted duty structure.	While granting refund of inverted duty structure, the Department considered Input Tax Credit (ITC) availed on input services led to irregular allowance of refund to the tune of ₹ 1.47 crore to the claimants, whereas in 30 refund cases, the Department did not consider the statements accompanying the refund application for determining turnover of inverted rated supply, Net ITC and adjusted total turnover which led to irregular allowance of refund to the tune of ₹ 14.13 crore. (Paragraph 3.4.11)
6.	Irregular grant of provisional refund.	The Department had issued the provisional refund of 90 per cent pertaining to refund on account of inverted duty structure to the four claimant which are other than the cases of zero-rated supply of goods or services, resulted in irregular grant of provisional refund of ₹ 94.76 lakh. (Paragraph 3.4.12)
7.	Irregular allowance of refund of zero-rated supply.	In 11 zero rated supply of refund cases, the Department allowed irregular refunds by way of wrongly considering the turnover of zero-rated supply as per GSTR-3B, statement of turnover, excess ITC etc. while sanctioning refunds, resulted in irregular allowance of refund to the tune of ₹ 3.23 crore. (Paragraph 3.4.13)

Audit Observations

3.4.6 Acknowledgment not issued within time

As per Rule 90(2) of UGST Rules, 2017 the application for refund, other than claim for refund from electronic cash ledger, shall be forwarded to the proper officer who shall, within a period of 15 days of filing of the said application, scrutinize the application for its completeness and where the application is found to be complete in terms of sub-Rule (2), (3) and (4) of Rule 89, an acknowledgement in **FORM GST RFD-2** shall be made available to the applicant through the common portal electronically, clearly indicating the date of filing of the claim for refund and the time period specified in Section 54 (7) of UGST Act, 2017 shall be counted from such date of filing.

Scrutiny of 385 Sampled Refund cases revealed that there was delay in issuance of acknowledgement in 38 Pre-Automation Cases and in 22 Post-Automation cases. Age-wise break-up of the delay in issuance of acknowledgment is given in **Table-3.4.1** below.

Table-3.4.1: Age-wise break of delay in issuance of acknowledgement

Sl. No.	Type of automation	No. of cases	Age-wise break-up of the delay in issuance of acknowledgment		
			0-3 Months	3-6 Months	More than 6 Months
1	Pre-Automation	38	19	14	05
2	Post-Automation	22	21	01	-

Further, in 21 cases⁴⁶, no acknowledgement was issued by the Department even though the RFD-06⁴⁷ have been issued to assesses. This resulted in non-observance of the provisions of Rule 90 (2) of the UGST Rules, 2017 as detailed in **Appendix-3.4.1** and **Appendix-3.4.1 A**.

On this being pointed out (December 2020 to March 2021), the Department (April 2022) while accepting the fact, stated that the technical issues⁴⁸ at the initial stage in implementation of GST was the main reason for delay.

3.4.7 Refund orders not sanctioned in time

As per Section 54 (5) of UGST Act, 2017, if, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the "Fund" referred to in Section 57. Further Section 54(7) of UGST Act, 2017 provides that the proper officer shall issue the order under Sub-Section (5) within 60 days from the date of receipt of application completed in all respects. Further, as per Section 56 of UGST Act, 2017, if any tax ordered to be refunded under Sub-Section (5) of Section 54 to any applicant and is not refunded within 60 days from the date of receipt of application under Sub-Section (1) of that Section, interest at such rate not exceeding

⁴⁶ Pre-Automation.

⁴⁷ Final Refund order.

⁴⁸ Such as official website was not working properly and there was problem in internet-connectivity.

six per cent, as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of 60 days from the date of receipt of application under the said Sub-Section till the date of refund of such tax.

Scrutiny of 385 Sampled Refund cases revealed that there was delay in sanction of refunds of ₹ 20.89 crore in 37 Pre-Automation cases and in 14 Post-Automation cases. Age-wise break-up of the delay in sanction of refund is given in **Table-3.4.2** below.

Table-3.4.2: Age-wise break-up of delay in sanction

Sl. No.	Type of automation	No. of cases	Age-wise break-up of the delay in sanction of refund		
			0-3 Months	3-6 Months	More than 6 Months
1	Pre-Automation	37	27	04	06
2	Post-Automation	14	14	-	-

This resulted in non-observance of the provisions of Section 54(7) of UGST Act, 2017 read with Rule 92 of UGST Rules, 2017. Consequently, under Section 56 of UGST Act, 2017 the Department did not pay interest amounting to ₹ 11.44 lakh to the claimants as detailed in **Appendix-3.4.2** and **Appendix-3.4.2 A**.

Despite pointed it out repeatedly (August 2021, March 2022 and April 2022), the Department was yet to give its reply (September 2022).

3.4.8 Provisional refund on account of zero-rated supply not sanctioned within time

As per Rule 91(2) of UGST Rules, 2017 the proper officer, after scrutiny of the claim and the evidence submitted in support thereof and on being prima facie satisfied that the amount claimed as refund under sub-Rule (1) is due to the applicant in accordance with the provisions of Sub-Section (6) of Section 54, shall make an order in Form GST RFD-4. Sanctioning the amount of refund due to the said applicant on a provisional basis within a period not exceeding seven days from the date of the acknowledgement under sub-Rule (1) or sub-Rule (2) of Rule 90.

Audit noticed that out of 385 sampled refund cases, 100 cases⁴⁹ were related to zero-rated supply⁵⁰ of goods or services or both till July 2020. Out of these 100 cases, Provisional Refund (PR) was demanded in 37 cases⁵¹. In rest of the cases, no PR was demanded by assesseees. These zero-rated supply cases were examined, and it was noticed that in four Pre-Automation PR cases, there was delay in sanction of PR of ₹ 2.20 crore ranging from seven to 19 days whereas in two Post-Automation cases, there was delay in sanction of PR of ₹ 0.25 crore ranging from two to 15 days. This resulted in non-observance of the provisions of Section 54(6) of UGST Act, 2017 read with Rule 91(2) of UGST Rules, 2017 as detailed in **Appendix-3.4.3** and **Appendix-3.4.3 A**.

⁴⁹ 56 Pre-Automation cases and 44 Post-Automation cases.

⁵⁰ Zero-rated supply means export of goods or services or both; or supply of goods or services or both to a special economic zone developer or a special economic zone unit.

⁵¹ 16 Pre-Automation cases and 21 Post-Automation cases.

Despite pointed it out repeatedly (August 2021, March 2022 and April 2022), the Department was yet to give its reply (September 2022).

3.4.9 Delay/non-conducting of post audit of refund claims

The Central Board of Indirect Taxes and Customs (CBIC/erstwhile Central Board of Excise & Customs) Circular No. 17/17/2017-GST dated 15 November 2017 elaborately laid down the procedure for manual processing of refunds of zero-rated supplies. The circular, *inter-alia*, stipulated that the pre-audit of manually processed refund applications is not required till separate detailed guidelines are issued by Board, irrespective of amount involved. However, it was clarified that the post audit of refund order shall be continued as per the extant guidelines. This procedure was extended to all types of refund applications processed manually vide CBIC Circular No. 24/24/2017 dated 21 December 2017.

Out of 385 sampled cases, no case was sent for post audit. This resulted in non-adherence to Board's instructions and may also lead to possible loss of revenue to exchequer.

Despite pointed it out repeatedly (August 2021, March 2022 and April 2022), the Department was yet to give its reply (September 2022).

3.4.10 Excess grant of refund due to non-consideration of minimum balance in electronic credit ledger at the end of tax period

Section 54 (3) of UGST Act, 2017 stipulates that refund of ITC in respect of zero-rated supplies can be claimed by registered persons at the end of tax period. Rule 89 (3) of UGST Rules, 2017 provides that for refund of ITC, the ECL shall be debited by the applicant by an amount equal to the refund so claimed. Further, Rule 89(4) of UGST Rules, 2017, prescribes the formula as per which the refund in the case of zero-rated supply of goods or services shall be granted.

Refund Amount = (turnover of zero-rated supply of goods + turnover of zero-rated supply of services) x Net ITC ÷ Adjusted total turnover

where, "Net ITC" means ITC availed on inputs and input services during the relevant period and refund amount means the maximum refund amount that is admissible.

The CBIC vide circular No.59/33/2018-GST dated 4 September 2018 clarified that in case of refund of unutilised ITC of zero-rated supplies, the refundable amount is to be calculated as the least of the following amount:

- a. The maximum refund amount as per the formula laid down in Rule 89(4) of UGST Rules, 2017;
- b. The balance in the ECL of the claimant at the end of the tax period for which the refund claim is being filed after the return for the said period has been filed; and
- c. The balance in the ECL of the claimant at the time of filing the refund application.

Out of 385 sampled case, 100 cases⁵² were related to zero-rated supply. These cases were examined, and it was noticed that in four Pre-Automation refund cases, the Department allowed refund with reference to balance in ECL at the time of filing of application. However, the balance in the ECL at the end of tax period after filing of the return was nil. The claimants in these cases were, therefore, not entitled for any refund. This led to excess allowance of refund of ₹ 1.55 crore to the claimants as detailed in **Appendix-3.4.4**. Despite pointed it out repeatedly (August 2021, March 2022 and April 2022), the Department was yet to give its reply (September 2022).

3.4.11 Irregular allowance of refund of inverted duty structure

As per Section 54 (3) of UGST Act 2017, a registered person may claim refund of any unutilised ITC at the end of any tax period where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (*i.e.* Inverted Duty Structure). Further, Rule 89(5) of UGST Rules, 2017 prescribes the formula for maximum refund of unutilised ITC on account of inverted duty structure. As per the Rule, Net ITC includes the ITC availed only on inputs during the relevant period and does not include credit availed on input services. Rule 89(4) of UGST Rules, 2017 prescribes that application for refund shall be accompanied by a statement containing the number and the date of invoices received and issued during a tax period in a case where the claim pertains to refund of any unutilised ITC on account of inverted duty structure. The formula as per which the refund of ITC accumulated due to inverted tax structure shall be granted.

Maximum refund amount to be claimed = [(turnover of inverted rated supply of goods and services x Net ITC / Adjusted total turnover) – Tax payable on such inverted rated supply of goods and services]

- (1) Out of 385 sampled refund cases, 205 refund cases⁵³ were related to inverted duty structure. During the scrutiny of these cases, it was noticed that in 11 refund cases⁵⁴, while granting refund, the Department considered ITC availed on input services also. This resulted in irregular allowance of refund to the tune of ₹ 1.47 crore to the claimants as detailed in **Appendix-3.4.5** and **Appendix-3.4.5 A**.
- (2) Further, it was noticed that in 30 refund cases⁵⁵, while granting refund, the Department did not consider the statements accompanying the refund application for determining turnover of inverted rated supply (2), Net ITC (1) and adjusted total turnover (27). This resulted in irregular allowance of refund to the tune of ₹ 14.13 crore as given in **Appendix-3.4.6** and **Appendix-3.4.6 A**.

⁵² 56 Pre-Automation and 44 Post-Automation cases.

⁵³ 92 Pre-Automation and 113 Post-Automation.

⁵⁴ 10 Pre-Automation and 01 Post-Automation.

⁵⁵ 10 Pre-Automation and 20 Post-Automation.

On this being pointed out (August 2021 and March 2022), the Department accepted (April 2022) the facts.

3.4.12 Irregular grant of provisional refund

As per Section 54(6) of UGST Act, 2017, in case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, 90 *per cent* of refund claimed may be sanctioned on a provisional basis and thereafter an order made under Sub-Section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant. Sanction of provisional refund is, therefore, allowed on account of zero-rated supply of goods and / or services and not in other categories.

Out of 385 sampled cases, 205 case⁵⁶ were related to inverted duty structure. These cases were examined, and it was noticed that in four Pre-Automation cases⁵⁷, the Department had issued the provisional refund of 90 *per cent* pertaining to refund on account of inverted duty structure which are other than the cases of zero-rated supply of goods or services. Thus, the provisional grant of refund in these cases resulted in irregular grant of provisional refund of ₹ 94.76 lakh as detailed in **Appendix-3.4.7**.

Despite pointed it out repeatedly (August 2021, March 2022 and April 2022), the Department was yet to give its reply (September 2022).

3.4.13 Irregular allowance of refund of zero-rated supply

Section 54 (3) of UGST Act, 2017 stipulates that refund of ITC in respect of zero-rated supplies can be claimed by registered persons at the end of tax period. Rule 89 (3) of UGST Rules, 2017 provides that for refund of ITC, the ECL shall be debited by the applicant by an amount equal to the refund so claimed.

Out of 385 sampled cases, 100 refund cases were related to zero-rated supply. These zero-rated supply cases were examined, and it was noticed that in 11 refund cases⁵⁸, while granting refund, the Department allowed irregular refunds by way of wrongly considering the turnover of zero-rated supply as per GSTR-3B (six cases), statement of turnover-Annexure 1 'A' (four cases) and excess ITC (one case) while sanctioning refunds. This resulted in irregular allowance of refund to the tune of ₹ 3.23 crore as detailed in **Appendix-3.4.8** and **Appendix-3.4.8 A**.

Despite pointed it out repeatedly (August 2021, March 2022 and April 2022), the Department was yet to give its reply (September 2022).

3.4.14 Conclusion

Despite provisions of the Goods and Services Tax Act and Rules made thereunder, the Department could not issue the acknowledgement for refund to the applicants (other than

⁵⁶ Pre-automation: 92 and post-automation- 113.

⁵⁷ Refund on account of ITC accumulated due to inverted tax structure.

⁵⁸ Four Pre-Automation (four cases-GSTR-3B) + seven Post-Automation (four cases-turnover, two cases-GSTR-3B and one cases-ITC).

claim for refund from electronic cash ledger) within time, Refund orders were not sanctioned in time resulting in creation of liability of interest payable to the claimants, Provisional refund on account of zero-rated supply were not also sanctioned within time, None of the sampled cases were sent for post audit, Excess refund was given to the claimants who were not entitled for any refund due to non-consideration of minimum balance in the electronic credit ledger at the end of tax period, Irregular refund relating to the inverted duty structure was paid to the claimant. The Department had issued the provisional refund of 90 per cent on account of inverted duty structure which were other than zero-rated supply cases. It also allowed irregular refunds by way of wrongly considering the turnover of zero-rated supply.

3.4.15 Recommendations

In light of the audit findings, the Government may:

1. Identify refund claims which were sanctioned, in contravention of the provisions of the Act and Rules made thereunder in light of audit observations and its experience and take effective action as per law.
2. Take measures to mitigate deficiencies in the processing of refund to avoid delay in sanction, irregular payment of refund and creation of liability of interest *etc.*
3. Strengthen the mechanism for monitoring of processing of refund cases to ensure adherence to prescribed timelines as per GST Act.

3.5 Subject Specific Compliance Audit on Transitional Credit under Goods and Services Tax

3.5.1 Introduction

Introduction of GST was a significant reform in the field of indirect taxes in our country, which replaced multiple taxes levied and collected by the Centre and States. GST is a destination-based tax on supply of goods or services or both, which is levied at multi-stages wherein the taxes will move along with supply. The tax, which is levied simultaneously by the Centre and States on a common tax base, will accrue to the taxing authority having jurisdiction over the place of supply. CGST and SGST/UTGST is levied on intra-state supplies, whereas IGST is levied on inter-state supplies. Availability of ITC of taxes paid on inputs, input services and capital goods for set off against the output tax liability is one of the key features of GST. This will avoid cascading effect of taxes and ensures uninterrupted flow of credit from the seller to buyer. To ensure the seamless flow of input tax from the existing laws into GST regime, 'transitional arrangements for input tax' was included in the GST Acts to provide for the entitlement and manner of claiming input tax in respect of appropriate taxes or duties paid under existing laws.

3.5.2 Transitional arrangements for input tax credit

Section 140 of the Uttarakhand Goods and Services Tax Act (UGST Act), 2017 enables the taxpayers to carry forward the ITC earned under the existing laws to the GST regime. The Section read with Rule 117 of Uttarakhand Goods and Services Tax Rules, 2017

prescribes elaborate procedures in this regard. Under transitional arrangement for ITC, the ITC of various taxes paid under the existing laws such as State Value Added Tax (VAT), Central Value Added Tax (CENVAT) *etc.* are eligible to be carried forward to GST regime as under:

- i. Closing balance of credit in legacy return:** The closing balance of VAT credit/CENVAT credit available in the returns, filed under existing law for the month immediately preceding the appointed day⁵⁹, can be taken as credit in ECL.
- ii. Un-availed credit on capital goods:** The balance installment of un-availed credit on capital goods can be taken by filing the requisite declaration in GST TRAN-1.
- iii. Credit on duty paid stock:** A registered taxable person, other than the manufacturer or service provider, may take the credit of the tax/duty paid on goods held in stock based on the invoices.
- iv. Credit on duty paid stock when registered person does not possess the document evidencing payment of VAT/excise duty:** Traders who do not have VAT or excise invoice, are eligible to take credit on the duty paid stock.
- v. Credit relating to exempted goods under the existing laws which are now taxable:** ITC of VAT/CENVAT in respect of input, semi-finished and finished goods in stock attributable to exempted goods or services which are now taxable in GST.
- vi. Input/input services in transit:** The input or input services received on or after the appointed day but the duty or tax on the same was paid by the supplier under the existing law.
- vii. Tax paid under the existing law under composition scheme:** The taxpayers who had paid tax at fixed rate or fixed amount in lieu of the tax payable under existing law, now working under normal scheme under GST can claim credit on their input stock; semi-finished and finished stock on the appointed date.
- viii. Credit in respect of tax paid on any supply both under VAT Act and under Finance Act, 1994:** Transitional credit in respect of supplies, which attracted both VAT and Service tax under existing laws, for which tax was paid before appointed date and supply of which is made after the appointed date.

Taxpayers can claim the components of transitional credit, under the relevant Sub-Sections of Section 140 of the Act, in the appropriate tables mentioned below in **Table-3.5.1**, in the two forms–TRAN-1 and TRAN-2.

⁵⁹ The day on which provisions of the Act came into force i.e. 01 July 2017.

Table-3.5.1: Transitional arrangements for ITC

Return	Table No.	Transitional credit components
TRAN-1	5(c)	Closing balance of credit from the last returns.
TRAN-1	6(b)	Un-availed credit on capital goods.
TRAN-1	7(b)	Credit on Input/input service in transit.
TRAN-1	7(c)	Credit in respect of VAT and Entry Tax paid on inputs supported by invoices/documents.
TRAN-1	7(d)	Credit in respect of stock of goods not supported by invoices/documents evidencing payment of tax. (to be there only in States having VAT at single point)
TRAN-1	9	Details of goods sent to job-worker and held in his stock on behalf of the principal.
TRAN-1	10	Details of goods held in stock as agent on behalf of the principal.
TRAN-1	11	Credit in respect of any supply where VAT as well as Service Tax was paid before the appointed day and supply made after the appointed day.
TRAN-2	4	Credit afforded on stocks claimed without invoices.
TRAN-2	5	Credit in respect of stock of goods not supported by invoices/documents evidencing payment of tax. (to be there only in States having VAT at single point)

All registered taxpayers, except those who opt payment of tax under composition scheme (under Section-10 of the Act), are eligible to claim transitional credit by filing TRAN-1 within 90 days from the appointed day, however the time limit was extended⁶⁰ up to 31 March 2020.

3.5.3 Context and materiality

The transitional credit being one-time flow of ITC from the legacy regime into the GST regime, can be availed both by the taxpayers migrating from the previous regime as well as new registrants under GST. As on 31 March 2018, 1.19 lakh (State jurisdiction-70,004 dealers & Central jurisdiction-48,578 dealers)⁶¹ taxpayers were registered under UGST out of which 2,954 taxpayers had claimed transitional credit under State Tax amounting to ₹ 172.64 crore. Out of the above 2,954 TRAN-1 returns, the Department had verified 1,008 returns (January 2022). In this context, 200 taxpayers were identified for audit scrutiny of the transitional claims. Transitional claims of these 200 taxpayers⁶²

⁶⁰ The time limit for filing TRAN-1 returns was initially extended upto 27.12.2017. However, many taxpayers could not file the return within the due date due to technical difficulties. Thus, sub-rule 1A was inserted under Rule 117 of CGST Rules, 2017 vide Notification 48/2018 CT dated 10.09.2018, to accommodate such taxpayers. The due date for filing TRAN-1 was further extended to 31.03.2020, vide CBIC order No.-01/2020-GST dated 07.02.2020, for those taxpayers who could not file TRAN-1 due to technical difficulties and those cases recommended by the GST Council.

⁶¹ Commissioner, State Tax, Uttarakhand letter No. 3662/Aayukt kar, Uttarakhand/Pradhan Mahalekhakaar (Lekha Pariksha); dated 21 October 2021.

⁶² Number of claims, as depicted in the chart are more than the sample (200) since transitional credit was submitted by some taxpayers in more than one category.

aggregated to ₹ 114.19 crore under State Tax. The table wise (TRAN-1) distribution of these 200 claims is shown in **Table-3.5.2** below.

Table-3.5.2: Table wise (TRAN-1) distribution of transitional credit claims

Table of TRAN-1	Number of dealers	Amount Claimed (₹ in crore)
5(c)	153	107.98
6(b)	23	1.81
7(b)	12	0.60
7(c)	31	2.69
10	3	0.04
11	2	1.08

The credit transitioned as closing VAT credit in table 5(c) accounted for a significant majority of 94.56 *per cent* of the total transitional credit claimed and the remaining tables accounted for balance 5.44 *per cent* of the total transitional credit claimed.

3.5.4 Audit objectives

Transitional credit claims directly impact GST revenues, as the credit is eligible for set off against the output tax liability of taxpayers. Thus, the audit of transitional credit was taken up with the following objectives seeking assurance on:

- (i) Whether the mechanism envisaged by the Department for selection and verification of transitional credit claims was adequate and effective; and
- (ii) Whether the transitional credits carried over by the assesses into GST regime were valid and admissible.

3.5.5 Audit scope

The audit scope comprised review of transitional credit returns filed by the taxpayers under Section 140 of the UGST Act 2017 from the appointed date to the end of March 2020. This involved examination of adequacy of Rules specified for transitional credit under the Act, effectiveness of departmental verification process for examination of transitional credit claims for compliance assurance and follow up action taken on the deviations detected.

3.5.6 Audit methodology

The methodology adopted for audit of transitional credit claims involved data analysis for determining the samples, nature and extent of audit of underlying records to be conducted. The substantive audit involved the examination of the records pertaining to transitional credit maintained in the field formations, process adopted for implementation of cross-jurisdictional functions regarding transitional credit; TRAN verification process adopted by the Department and follow up action taken on the deviations detected. It also involved an independent examination of selected transitional credit claims for compliance assurance. The audit scrutiny of selected TRAN-1 cases was carried out between July 2021 to September 2021 at the offices of Deputy Commissioner (DC)/Assistant Commissioner (AC), State Tax, under the concerned Regional Joint Commissioners. The draft report was issued to the Department on 31 December 2021.

3.5.7 Audit criteria

Section 140 of the UGST Act 2017 governs the transition of VAT credit from legacy VAT provisions. The Section read with Rule 117 of the Uttarakhand GST Rules 2017 and relevant Notifications/Circulars issued by CBIC and Orders issued by Government of Uttarakhand.

3.5.8 Sample and coverage

The sample comprising 200 cases, with an aggregate transitional credit claim of ₹ 114.19 crore were identified for Audit scrutiny. The data analysis of legacy data and its comparison with GSTN transitional data, was used to identify a risk-based audit sample, based on the following three parameters:

1. Comparisons of closing balance shown in last return (VAT) *i.e.*, June 2017 in earlier regime and aggregated closing balance of tables 5(c), 6(b), 7(b), 7(c), 7(d), 10 & 11 depicted in TRAN-1.
2. Cases where growth rate is more than 25 *per cent* in credit by adopting the method of taking difference of closing balance of credit between June 2017 and October 2016/ December 2016.
3. Non-filing of return for last six months or for last two quarters.

Audit findings

The audit findings are categorized into two broad areas as systemic and compliance issues based on the objectives of audit. While systemic issues address the adequacy and effectiveness of the envisaged verification mechanism and efficacy of the GSTN portal, the compliance issues address the deviations from the provisions of the Act and Rules.

The audit of transitional credits was primarily dependent on the records provided by the Department and accessing the underlying records viz. TRAN-1, TRAN-2 and ECL, available on the GSTN Portal. The audit findings are discussed in ensuing paragraphs.

3.5.9 Systemic issues

The systemic issues comprised a review of the provisions applicable for compatibility of the GSTN portal with relevant provisions of the Act, verification mechanism envisaged by the Department, policy/procedural gaps in the verification mechanism and efficiency of the recovery process, as discussed below:

3.5.9.1 Lack of efficacy in GSTN Portal.

- i) Rule 117(3) of UGST Rules, 2017, provides that the amount of credit specified in the TRAN-1 application, shall be credited to the ECL of the applicant, maintained in Form GST-PMT 2 on the common portal. Hence, the business Rules applicable for the credit in ECL should not allow the credit in excess of credit claimed in TRAN-1 returns.

Audit scrutiny of records of two State Tax offices showed that ECL of the dealers was credited over and above the credit claimed by the taxpayers as detailed below:

- A dealer, M/S Nalin Industries Private Limited (GSTIN: 05AAECN0317J1ZS), under the jurisdiction of DC-1, Rudrapur, had claimed (26 August 2017) transitional credit of ₹ 9.21 lakh in table 7 of TRAN-1. However, ECL of the dealer was credited (26 August 2017) with an amount of ₹ 18.42 lakh. Thus, ₹ 9.21 lakh was excess credited in ECL, over and above the credit claimed by the taxpayer.

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

- Similarly, a dealer, M/S Tayaje & Sons Pvt Ltd (GSTIN: 05AAACT2611H1ZU), under the jurisdiction of DC-1, Haldwani, had claimed (26 August 2017) transitional credit of ₹ 6.88 lakh in table 5(a) of TRAN-1. However, ECL of the dealer was credited (26 August 2017) with an amount of ₹ 13.75 lakh. Thus, ₹ 6.87 lakh was excess credited in ECL, over and above the credit claimed by the taxpayer.

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

- ii) Audit scrutiny of the TRAN-1 filed by the dealer M/S Jet Star Industries (GSTIN:05AETPP1360D2ZJ), under the jurisdiction of DC-1, Rishikesh, revealed that ECL of the dealer was credited with an amount of ₹ 92.74 lakh on 29 November 2017 as State Tax credit. However, dealer had not claimed any amount as State Tax credit under TRAN-1.

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

- iii) Audit scrutiny of the TRAN-1 filed by three dealers, under the jurisdiction of DC-2, Rudrapur, revealed credit of wrongly claimed ITC amounting to ₹ 9.89 lakh in ECL. These credits were subsequently reversed in GSTR-9 (annual return form) by these dealers but debit in ECL and deposit in Cash Ledger through DRC-03 (voluntary tax payment form), was done at later dates, as detailed in the **Table-3.5.3** below.

Table-3.5.3: Details of ITC reversal in GSTR-09 and debit in ECL and Cash Ledger

(Amount in ₹)

Sl. No.	Name of the Dealer (GSTIN)	Amount claimed	Date of claim	Amount reversed	Date of reversal in GSTR-09	Date of debit in ECL (amount)	Date of deposit in cash ledger (through DRC-03)
1.	M/S Shyam Industries (05ACZFS9624D1ZL)	1,82,309	28.08.2017	1,82,309	08.01.2020	13.02.2020 (₹ 70,874)	13.02.2020 (₹ 1,11,435)
2.	M/S Kataria Industries (05AAQFK3909A1ZK)	6,59,255	28.08.2017	6,59,255	17.01.2020	14.02.2020 (₹ 5,96,164)	14.02.2020 (₹ 63,091)
3.	M/S Dayal Industries (05AAIFD6583F1ZD)	1,47,339	27.12.2017	1,47,339	03.02.2020	12.02.2020	-
TOTAL		9,88,903		9,88,903			

Also, the verification of DRC-03, filed by these dealers and issue of DRC-04 (Acknowledgement of acceptance of payment made voluntarily) by the proper officer, was pending till the date of audit.

The above-mentioned irregularities refer to the lack of efficacy and necessary checks in the GSTN portal.

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

3.5.9.2 Verification mechanism envisaged by the Department

The State Tax Department, Uttarakhand had issued instructions⁶³ for scrutiny of admissibility and legality of transitional credit claims and actions required to be taken in case of detection of irregular transitional credit claims. Audit of the selected sample of 200 cases, revealed that the Department could carry out verification of transitional credit claims of only 15 dealers (7.5 per cent) till the date of audit (September 2021), though all these transitional credit claims were submitted by the dealers/taxpayers by December 2017.

Audit pointed out this during July to September 2021, The Department, replied⁶⁴ that further verification of 20 cases of sample has been completed totaling to 35 cases out of audit sample of 200 cases.

Thus, Department failed to carry out verification of all the transitional credit claims even after lapse of more than three years.

3.5.9.3 Follow up measures to recover ineligible claims

The adequacy of the verification mechanism is determined by the outcome of the examination, continued follow up and initiation of adequate recovery measures against the deviations detected to protect the revenue. Audit examined the aspects of recovery in respect of the cases where the departmental verification had resulted in detection of ineligible or incorrect credit claims under the provisions.

Rule 121 of Uttarakhand GST Rules 2017 provides that transitional credit wrongly availed and credited to ECL under sub-Rule (3) of Rule 117 may be recovered under Section 73 or, as the case may be, under Section 74 of the Act.

Audit scrutiny revealed that departmental verification of transitional credit claim of a dealer⁶⁵, registered as works contractor under the existing law, under the jurisdiction of DC-3, Roorkee, had resulted in detection of excess claim of credit amounting to ₹ 2.51 lakh. The Department should have initiated action under Section 74 of the Act for recovery of the wrongly availed credit, but the Department took action under the existing law which was not in accordance with the provisions of the Act and departmental order issued in this regard.

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

⁶³ Letter No. 5110/Aayu.Ra.Ka.Uttara. /Vidhi Anu./Ra.Ka.Mu./2017-18/De.Doon; dated 25 January 2018.

⁶⁴ Letter No. 5879/Aayu.Ra.Ka.Uttara. /Vidhi Anu./Ra.Ka.Mu./2017-18/De.Doon.; dated 12 January 2022.

⁶⁵ M/S Girdhari Lal Construction Private Limited (GSTIN:05AABCG9035B1Z2).

3.5.10 Compliance issues

The compliance issues pertain to the validity and admissibility of the transitional credits carried over by the taxpayers into GST regime. Taxpayers were required to claim transitional credits in appropriate tables of TRAN-1 and TRAN-2 as depicted in **Table-3.5.1** above. The sample identified for audit, represented claims under each of these tables so that the adequacy of provisions applicable table wise, could be examined for overall compliance assurance.

Audit scrutiny disclosed various deficiencies in the transitional credit claims of taxpayers across various categories under Section 140, Section 142(9) (a) & (b) as well as Section 50(3) of the UGST Act 2017. These deficiencies, in the nature of compliance deviations, were observed on transition of the closing balance of credit from legacy returns, un-availed credit on capital goods, credit in respect of VAT and Entry Tax paid on inputs supported by invoices/documents evidencing payment of tax, credit in respect of stock of goods not supported by invoices/documents evidencing payment of tax (to be there only in States having VAT at single point), credit on inputs in transit, credit in respect of any supply where VAT as well as Service Tax was paid before the appointed day and supply made after the appointed day.

Audit of sampled 200 cases revealed compliance deviations in 160 cases, constituting a deviation rate of 80 *per cent*. The high deviation rate, as shown in **Table-3.5.4** below, indicates that the Department did not initiate appropriate action regarding verification of transitional credit claim cases. These compliance deviations are detailed in the ensuing paragraphs.

Table-3.5.4: Categories of Compliance Deviations

(₹ in lakh)

Sl. No.	Nature of audit observation	Audit sample		Deficiencies noticed		Deficiencies (per cent of sample)	
		Number	Amount	Number	Amount	Number	Amount
1.	Irregular claim of transitional credit on goods in stock with tax paid documents	3	28.10	3	28.10	100.00	100.00
2.	Irregular claim of transitional credit on goods in stock without duty paid documents	3	4.22	3	4.22	100.00	100.00
3.	Excess carry forward of ITC*	136	9574.26	133	7820.86	97.79	81.69
4.	Irregular availment of transitional credits on capital goods	23	181.13	13	107.44	56.52	59.31
5.	Irregular claim of transitional credit on input/input services in transit	12	59.52	12	59.52	100.00	100.00
6.	Irregular availment of transitional credit on exempted goods	1	0.44	1	0.44	100.00	100.00
7.	Irregular availment of transitional credit on works contract service	8	866.26	7	835.62	87.50	96.46
8.	Irregular claim of transitional credit on inadmissible items	31	268.55	24	226.31	77.42	84.27
9.	Others	35	331.29	35	331.29	100.00	100.00
* Number of observed deficiencies are more than the sample because objection in some cases have been included in more than one sub paragraphs.							

3.5.10.1 Irregular claim of transitional credit on goods in stock with tax paid documents

As per Section 140(3) of the UGST Act 2017, a registered person, who was not liable to be registered under the existing law or who was engaged in the sale of exempted goods or tax free goods, by whatever name called, or goods which have suffered tax at the first point of their sale in the State and the subsequent sales of which are not subject to tax in the State under the existing law but which are liable to tax under this Act or where the person was entitled to the credit of input tax at the time of sale of goods, if any, shall be entitled to take, in his ECL, credit of VAT in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions.

- (i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;
- (ii) the said registered person is eligible for ITC on such inputs under this Act;
- (iii) the said registered person is in possession of invoice or other prescribed documents evidencing payment of tax under the existing law in respect of such inputs; and
- (iv) such invoices or other prescribed documents were issued not earlier than 12 months immediately preceding the appointed day.

Provided that where a registered person, other than a manufacturer or a supplier of services, is not in possession of an invoice or any other documents evidencing payment of tax in respect of inputs, then, such registered person shall, subject to such conditions, limitation and safeguards as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient, be allowed to take credit at such rate and in such manner as may be prescribed.

Audit noticed that three dealers of two offices had availed credit amounting to ₹ 28.12 lakh⁶⁶ on account of sale return but concerned debit notes were not available to support the claim. Hence, credit claim of ₹ 28.12 lakh was irregular.

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

3.5.10.2 Irregular claim of transitional credit on goods in stock without tax paid documents

As per Section 142(14) of the UGST Act 2017, where any goods or capital goods belonging to principal are lying at the premises of the agent on the appointed day, the agent shall be entitled to take credit of the tax paid on such goods or capital goods subject to fulfilment of the following conditions:

⁶⁶

1	DC (A) 2, State Tax, Dehradun	M/S Oppo Mobiles Pvt Ltd	05AACCO2559D1ZQ	₹ 5.10 Lakh
2	DC (A) 2, State Tax, Dehradun	M/S Haier Appliances (India) Pvt Ltd	05AABCH3162LIZO	₹ 22.34 Lakh
3	DC (A) 4, State Tax, Dehradun	M/S AM Enterprises	05BOTPS9220J1ZB	₹ 0.68 lakh

- (i) the agent is a registered taxable person under this Act;
- (ii) both the principal and the agent declare the details of stock of goods or capital goods lying with such agent on the day immediately preceding the appointed day in such form and manner and within such time as may be prescribed in this behalf;
- (iii) the invoices for such goods or capital goods had been issued not earlier than 12 months immediately preceding the appointed day; and
- (iv) the principal has either reversed or not availed of the ITC in respect of such,
 - (a) goods; or
 - (b) capital goods or, having availed of such credit, has reversed the said credit, to the extent availed of by him.

Audit noticed that three dealers of three offices, had availed irregular credit amounting to ₹ 4.22 lakh⁶⁷ in table 10.a of TRAN-1. However, the relevant invoices/documents in support of their claim, were not submitted resulting in non-scrutiny of eligibility of the claim.

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

3.5.10.3 Excess carry forward of transitional credit

Section 140(1) of the UGST Act 2017 provides that, a registered person, other than a person opting to pay tax under Section 10, shall be entitled to take in his ECL, the credit of the amount of VAT, if any, carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under existing law in such manner as may be prescribed, provided that the registered person shall not be allowed to take credit in the following circumstances, namely:

- (i) Where the said amount of credit is not admissible as ITC under this Act; or
- (ii) Where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date.

Provided further that so much of the said credit as is 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 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 shall not be eligible to be credited to the ECL.

During the audit, we noticed that out of 200 sampled cases, 133 dealers had carried forward excess ITC amounting to ₹ 78.21 crore under table 5(c) of TRAN-1. A significantly higher number of dealers claiming excess transitional credit indicates possibility of potential revenue leakages as total 2,954 dealers claimed transitional credit

⁶⁷

1	DC-03, State Tax, Rudrapur	M/S Radhu Products (Pvt) Ltd	05AAACR0755J1ZI	₹ 1.60 Lakh
2	DC-03, State Tax, Dehradun,	M/S Shivam Enterprises	05ANDPK6732B1ZG	₹ 1.19 Lakh
3	AC-04, State Tax, Haridwar	M/S B.H.D. Enterprises	05ARLPP3389H1ZC	₹ 1.43 Lakh

in the State. Observations of excess carry forward of credit is illustrated in the following paragraphs:

a) Carry forward of excess credit than available in the last return

Section 140(1) of the UGST Act 2017 contains elaborate provisions relating to transitional arrangements for ITC. This Section provides for a registered person, other than composition taxpayer, to carry forward closing balance of VAT as SGST, subject to specified conditions. The important conditions are discussed below:

- i. Credit can be carried forward as given in the last return filed under pre-GST statutes.
- ii. Such credit should be admissible as ITC under GST Act and pre-GST Acts.
- iii. Returns for at least previous six months before roll out of GST should have been furnished.

Audit Scrutiny of records of 18 State Tax offices revealed that 25 dealers carried forward excess credit amounting to ₹ 11.22 crore, (as detailed in ***Appendix-3.5.1***). Scrutiny of VAT returns filed by these dealers revealed that the actual credit balances as per the said returns, were less than the amount claimed by these dealers.

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

b) Carry forward of credit without furnishing the details of form and non-reversal of credit related to pending forms

Audit scrutiny of records of 27 State Tax offices showed that 73 dealers carried forward excess credit amounting to ₹ 47.15 crore, (as detailed in ***Appendix-3.5.2***) without furnishing the details of form C/F/H in relevant tables of TRAN-1.

Scrutiny of TRAN-1 filed by these dealers, revealed that 66 claims amounting to ₹ 41.56 crore pertain to irregular ITC being carried forward without furnishing the details of form C/F/H in relevant tables of TRAN-1. Seven dealers had claimed ITC amounting to ₹ 5.60 crore and furnished the details of pending form C/F/H but did not reverse the tax credit relating to the pending forms.

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

c) Excess carry forward of credit pertaining to revised return cases

Section 142 (9) (a) of the UGST Act 2017 stipulates that, where any return, furnished under the existing law, is revised after the appointed day and if, pursuant to such revision, any amount is found to be recoverable or any amount of ITC is found to be inadmissible, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as ITC under this Act. Further, as per Section 142 (9) (b) of the UGST Act 2017, where any return, furnished under the existing law, is revised after the appointed day but within the time limit specified for such revision under the existing law and if, pursuant to such revision, any amount is found to be refundable or ITC is found to be admissible to any

taxable person, the same shall be refunded to him in cash under the existing law, and the amount rejected, if any, shall not be admissible as ITC under this Act.

Audit scrutiny of records of 20 State Tax offices showed that 34 dealers carried forward ineligible credit amounting to ₹ 19.82 crore (as detailed in **Appendix-3.5.3**), pertaining to revised return in violation of provision of Section 142(9) (a) and (b) of UGST Act 2017.

- 31 dealers revised the VAT returns after the appointed date and carried forward the ITC amounting to ₹ 19.77 crore according to the revised returns which was not in consonance with the provisions of the Section 142 (9)(b) of UGST Act 2017.
- Three dealers revised the VAT return after the appointed date which resulted in reduction of eligible ITC available to carry forward to GST regime but these dealers did not reduce the same in TRAN-1 and carried forward excess ITC amounting to ₹ 5.10 lakh according to the original VAT returns which was against the provisions of the Section 142 (9)(a) of UGST Act 2017.

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

d) Excess carry forward of credit due to claiming same amount in two tables

Audit scrutiny showed that a dealer⁶⁸ under the jurisdiction of AC-02, Dehradun, had claimed same amount in two tables (5c and 7c) of TRAN-1. However, the dealer was eligible to claim the credit only in table 5c of TRAN-1. This resulted in excess carry forward of transitional credit amounting to ₹ 1.86 lakh.

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

3.5.10.4 Irregular availing of transitional credits on capital goods

Section 140(2) of the UGST Act 2017 stipulates that, a registered person other than a person opting to pay tax under Section 10, shall be entitled to take, in his ECL, credit of “un-availed ITC”⁶⁹ in respect of capital goods, not carried forward in a return, furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed, provided that the registered person shall not be allowed to take credit unless said credit was admissible as ITC under existing law and is also admissible as ITC under this Act.

Taxpayers were required to claim un-availed ITC of capital goods under table 6(b) of TRAN-1. Audit scrutiny of records of eight State Tax offices showed that 13 dealers carried forward irregular credit of ₹1.07 crore pertaining to ITC in respect of capital goods, (as detailed in **Appendix-3.5.4**). 12 of these claims amounting to ₹ 1.05 crore, pertain to the dealers who had claimed excess transitional credit claim and one dealer had claimed credit of ₹ 2.60 lakh according to the revised returns which was against the provisions of the Section 142 (9)(b) of UGST Act 2017.

⁶⁸ M/S Ridnup Home Appliances Private Limited (GSTIN: 05AAGCR2652E1ZN).

⁶⁹ Un-availed ITC = (Aggregate ITC – ITC availed) of capital goods under the existing law.

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

3.5.10.5 Irregular claim of transitional credit on inputs in transit

Section 140(5) of the UGST Act 2017 stipulates that, a registered person shall be entitled to take in his ECL, the credit of VAT, if any, in respect of inputs received on or after the appointed day but the tax in respect of which has been paid by the supplier under the existing law, subject to the condition that the invoice or any other tax paying document of the same was recorded in the books of account of such person within a period of 30 days from the appointed day, provided that the period of 30 days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding 30 days, provided further that said registered person shall furnish a statement, in such manner as may be prescribed, in respect of credit that has been taken under this Sub-Section.

Audit scrutiny of 11 State Tax Offices revealed that 12 dealers had claimed and carried forward irregular credit (as detailed in *Appendix-3.5.5*), amounting to ₹ 59.52 lakh pertaining to input credit in respect of inputs received on or after the appointed day but the tax in respect of which had been paid by the dealers under the VAT Act 2005. However, the necessary documents to support the claims were not submitted.

Therefore, the authenticity of the claim in respect of 12 dealers amounting to ₹ 59.52 lakh could not be ascertained by the Audit.

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

3.5.10.6 Irregular availing of transitional credit on exempted goods

Sub-Section 3 (i) of Section 140 of UGST Act 2017 stipulates that, a registered person, shall be entitled to take in his ECL, the credit of VAT in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the condition that such inputs or goods are used or intended to be used for making taxable supplies under this Act.

Audit scrutiny of the TRAN-1 filed by a dealer⁷⁰, under the jurisdiction of DC-2, Rudrapur, revealed that the dealer had claimed and carried forward transitional credit amounting to ₹ 0.44 lakh in respect of inputs related to stock of goods namely 'rice', which is not taxable under the UGST Act 2017. Hence, the claim amounting to ₹ 0.44 lakh, was irregular.

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

⁷⁰ M/S OM Rice Industries, GSTIN: 05AACFO5959L1ZT.

3.5.10.7 Irregular availment of transitional credit on works contract service

Sub-Section 8 (k) of Section 6 of Uttarakhand VAT Act 2005, stipulates that no ITC shall be allowed on purchase of goods, other than the capital goods, when goods are sold by way of transfer of property in goods (whether as goods or in some other form), involved in the execution of works contract.

As per Section 142 (11) (c) of UGST Act 2017, where tax was paid on any supply, both under the Uttarakhand VAT Act, 2005 and under Chapter-V of the Finance Act, 1994, tax shall be leviable under this Act and the taxable person shall be entitled to take credit of VAT or Service Tax paid under the existing law to the extent of supplies made after the appointed day and such credit shall be calculated in such manner as may be prescribed. Audit scrutiny of six State Tax offices revealed irregular availment of transitional credit amounting to ₹ 8.36 crore on works contract service, as detailed in **Table-3.5.5** below.

Table-3.5.5: Irregular availment of transitional credit on works contract service*(₹ in lakh)*

Sl. No.	Name of the unit	Name of the Dealer (GSTIN)	ITC claimed & transitioned	Audit Observation
1	AC-4 (State Tax), Dehradun	M/S G3S Builder Private Ltd. (05AAF CG1561L1ZM)	202.57	The dealer had claimed credit of ₹ 2.03 crore in table 5(c) of TRAN-1. The dealer, being registered as works contractor under existing law, was not eligible for claiming credit under table 5(c) according to the provisions of Section 140(3) of the Act. Apart from this the dealer had not filed the return prior to filing TRAN-1.
2	DC-1 (State Tax), Rishikesh	M/S GPT Infra Projects Ltd. (05AAACT9793J1ZS)	4.76	The dealer had claimed credit of ₹ 4.76 lakh in table 5(c) of TRAN-1. The dealer, being registered as works contractor under existing law. Hence, the dealer was not entitled to claim ITC.
3	DC-1 (State Tax), Rudrapur	M/S Shapoorji Pallonji and Company Pvt. Ltd. (05AAACS6994C1ZB)	15.95	Dealers had claimed credit of ₹ 16.47 lakh in table 7(c) which pertains to credit in respect of VAT and Entry Tax paid on inputs supported by invoices/documents. However, the dealers, being registered as works contractors under existing law, were not eligible for claiming credit under table 7(c) according to the provisions of Section 140(3) of the Act.
4	AC-1 (State Tax), Mussoorie	M/S Rautella & Company (05AGQPR7370E2ZO)	0.52	
5	DC-1 (State Tax), Rudrapur	M/S Shapoorji Pallonji and Company Pvt. Ltd. (05AAACS6994C1ZB)	98.01	The dealers had claimed credit amounting to ₹1.08 crore in table (11) of TRAN-1, related to any supply where VAT as well as Service Tax was paid before the appointed day and supply made after the appointed day, respectively. The invoices and other relevant details, as required for claiming input credit under table (11), were also not submitted. Therefore, the authenticity of the claim made by the dealers could not be ascertained by Audit.
6	DC-4 (State Tax), Dehradun	M/S Sawhney Build Well LLP (05ADAFS9305H1Z6)	10.37	
7	DC-4 (State Tax), Dehradun	M/S Kunal Infrastructure Pvt. Ltd. (05AACCK7952Q1ZW)	257.24	The dealer had claimed credit of ₹ 2.57 crore in table 5(c) of TRAN-1. However, as per the return, he was not entitled to carry forward any credit owing to 'Nil' amounts shown in the VAT return [Form III (B) as on 30-06-2017].
8	DC (State Tax), Khatima	M/S H G Infra Engineering Pvt. Ltd. (05AABCH2668B1ZO)	246.20	The dealer had claimed credit of ₹ 2.46 crore in table 5(c) of TRAN-1. However, as per the VAT return [Form III (B) as on 30-06-2017], he was not entitled to carry forward any credit.
Total			835.62	

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

3.5.10.8 Irregular claim of transitional credit on inadmissible items

As per Section 140(3) of the UGST Act 2017, a registered person, who was not liable to be registered under the existing law or who was engaged in the sale of exempted goods or tax free goods, by whatever name called, or goods which have suffered tax at the first point of their sale in the State and the subsequent sales of which are not subject to tax in the State under the existing law but which are liable to tax under this Act or where the person was entitled to the credit of input tax at the time of sale of goods, if any, shall be entitled to take, in his ECL, credit of VAT in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the certain conditions specified in the said Section of the Act.

Audit scrutiny of 20 State Tax Offices revealed that 24 dealers had claimed transitional credit of ₹ 2.26 crore (as detailed in **Appendix 3.5.6**) on inadmissible items.

- Four dealers had claimed ITC amounting to ₹ 15.24 lakh under the existing law on items “Newar” and “Timber” and transitioned the same in GST. However, ITC on purchase of these items was not admissible under Section-6 of the existing law.
- 20 Dealers had claimed ₹ 2.11 crore in table 7(c) of TRAN-1 which pertains to credit in respect of VAT and Entry Tax paid on inputs supported by invoices or other prescribed documents. These dealers were registered under the existing law and were not engaged in the sale of exempted goods or tax-free goods or goods which have suffered tax at the first point of their sale in the State and the subsequent sales of which are not subject to tax in the State under the existing law, but which are liable to tax under this Act. Therefore, tax paid by these dealers on their purchases under the VAT regime would automatically be included as ITC in their VAT returns. Thus, these dealers do not belong to the category of dealers who can claim credit of VAT in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day. Hence, claim of these dealers was inadmissible according to the provisions of Section 140(3) of the Act.

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

3.5.10.9 Other irregularities related to transitional credits

a) Non-payment/short payment of interest on wrongly transitioned credit

Rule 121 of the Uttarakhand GST Rules 2017 stipulates that, the recovery of amount credited under sub-Rule (3) of Rule 117 may be initiated under Section 73 or as the case may be, Section 74 of the Act. The proceeding under Section 73 or 74 shall require the taxpayer to pay the credit along with interest payable there on under Section 50 of the Act. Section 50(3) of the Act stipulates that a taxable person who makes an undue or excess claim of ITC under Sub-Section (10) of Section 42 or undue or excess reduction

in output tax liability under Sub-Section (10) of Section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding 24 *per cent*, as may be notified by the Government on the recommendations of the Council.

Test check of records of DC(A)-II State Tax, Rudrapur showed that three dealers had claimed irregular transitional credit of ₹ 9.97 lakh, (as detailed in *Appendix-3.5.7*), the dealers had either not deposited the payable interest or had deposited less interest than that required under the Act, while reversing the wrongly claimed ITC. This resulted in non/short levy of interest amounting to ₹ 5.07 lakh.

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

b) Non creation/short creation of demand under the existing law while assessing cases for the year 2016-17 and 2017-18

The assessing authorities, while assessing the cases for the year 2016-17 under the existing law (VAT Act), should take into consideration the amount of ITC that was already carried forward by the dealer to next Financial Year 2017-18, as the ITC was subsequently transitioned into GST regime by the dealers. The assessing authorities should have reduced the ITC eligible to be carried forward by these dealers by an amount which was already claimed in the VAT return of the next Financial Year *i.e.*, 2017-18. This would have resulted in either creation of demand⁷¹ under VAT regime or decreased balance of ITC available that can be carried forward to the year 2017-18.

Test check of records of 16 State Tax Offices revealed that in 23 cases (as detailed in *Appendix-3.5.8*), the assessing authorities, while assessing the cases for the year 2016-17 under the existing law (VAT Act), did not take into consideration the amount of ITC that was already carried forward by these dealers to the year 2017-18. The carried forward ITC was subsequently transitioned into GST regime by these dealers.

Therefore, this inaction by assessing authorities resulted in non/short creation of demand for the year 2016-17 and excess carry forward of tax credit to the year 2017-18, amounting to ₹ 1.23 crore, under the existing law. Similarly, in two cases, the assessing authorities, while assessing the cases for the year 2017-18 under the existing law, did not consider the amount of ITC that was already transitioned into GST regime by these dealers. This resulted in non-creation of demand under the existing law for the year 2017-18 amounting to ₹ 6.36 lakh.

Thus, due to non-consideration of the amount of ITC, already carried forward, while assessing cases for the year 2016-17 and 2017-18, under existing law resulted in non-creation/short creation of demand amounting to ₹ 1.29 crore.

⁷¹ Demand, in case there was no balance of ITC available or decreased balance in case there was excess balance of ITC at the end of assessment year 2016-17.

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

c) False ITC claimed under the existing law and carried forward as transitional credit

Test check of records of DC-01, Vikas Nagar showed that a dealer⁷² had claimed ITC of ₹ 2.08 lakh pertaining to purchases in the year 2016-17, under the existing law and transitioned the same to GST regime. However, scrutiny of the records revealed that the seller⁷³ had not declared any sale to the dealer in his records. Hence, irregular transitional credit of ₹ 2.08 lakh was claimed by the dealer.

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

d) Transitional credit claimed in wrong table of TRAN-1

Taxpayers can claim the components of transitional credit, under the relevant Sub-Sections of Section 140 of the Act, in the appropriate tables of TRAN-1 and TRAN-2. Audit scrutiny of transitional credit claims of seven dealers amounting to ₹ 1.87 crore (as detailed in **Appendix-3.5.9**), revealed that these dealers had not carried forward the credits through the appropriate/applicable tables under the relevant Sub-Sections of Section 140 of the Act. Five of these dealers had claimed transitional credit of ₹ 25.10 lakh, in table 7(c) instead of 7(d) of TRAN-1, one dealer had claimed transitional credit of ₹ 1.60 crore, in table 5(c) instead of 6(b) of TRAN-1 and one dealer had claimed transitional credit of ₹ 1.65 lakh in table 7(c) instead of 5(c) of TRAN-1. Hence, the claims of these seven dealers amounting to ₹ 1.87 crore were irregular.

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

e) Excess claim of transitional credit on account of subsidy claim under existing law

Audit scrutiny of records of a dealer⁷⁴ under the jurisdiction of DC-01, Rishikesh showed that the dealer has credit balance of ₹ 92.74 lakh in ECL, which includes the credit of ₹ 14.32 lakh as VAT subsidy under hill policy. Scrutiny of returns of the dealer showed that eligible amount on account of VAT subsidy under hill policy was only ₹ 5.33 lakh. Thus, the dealer had claimed excess tax credit of ₹ 8.99 lakh (₹ 14.32 - ₹ 5.33) under the existing law in the year 2017-18 on account of VAT subsidy under hill policy and transitioned the same into GST regime. Hence, excess claim of transitional credit of ₹ 8.99 lakh on account of subsidy claim under existing law is recoverable.

⁷² M/S Vinishma Technologies Pvt. Ltd, GSTIN: 05AABCV4265G1ZF.

⁷³ M/S Banke Bihari Trading Company, TIN: 05016689942.

⁷⁴ M/S Jet Star Industries, GSTIN: 05AETPP1360D2ZJ.

Audit pointed out this in December 2021, the reply of the Department had not been received (September 2022).

3.5.11 Conclusion

The transitional credit is a one-time flow of Input Tax Credit from the legacy regime into the Goods and Services Tax regime. 80 *per cent* dealers of the 200 sampled cases availed benefit of transitional credit without complying with applicable conditions enshrined in the extant rules. Verification of only 17.5 *per cent* of the sample reveals the inadequacies of the verification mechanism of the Department.

3.5.12 Recommendations

In view of the significant compliance deviation as detailed in the preceding paragraphs and pending verification of 82.5 *per cent* of the sample, the Department may consider prioritizing the verification of all cases of transitional credit claims so that adequate action may be taken for recovery of wrongly availed transitional credit. The appropriate authority may also consider making necessary changes in the GSTN portal so that reversal of wrongly claimed credit, while filing GSTR-9, is affected only after the reversible amount along with applicable interest has been deposited through DRC-03.

3.6 Tax and penalty not levied

The dealer was liable to pay tax of ₹6.91 lakh at the differential rate of 12.5 per cent on the sale against four duplicate Form-C. In addition, he was also liable to pay penalty of ₹22.38 lakh.

Section-8 (4) of the Central Sales Tax Act, 1956, stipulates that inter-state sales to registered dealers are taxable at concessional rate⁷⁵ when such sales are supported by declaration in Form-C. If a dealer issues or furnishes a false certificate or declaration, he shall be liable to pay penalty of a sum not exceeding 40 *per cent* of the value of the goods involved or three times of the tax leviable on such goods, whichever is higher, under Section-58 (1) (XXIX) of the Uttarakhand VAT Act, 2005.

Scrutiny of records (August- September 2020) of Deputy Commissioner (Assessment)-2, Sales Tax, Vikas Nagar, revealed that during the year 2019-20, the Assessing Authority (AA) had assessed (June 2019) the case of a dealer⁷⁶ in which the central sale of self-made diamond cutting plastic wire of ₹ 3.70 crore was declared against 35 Form-C by the dealer in the assessment year 2015-16 and ₹ 3.70 lakh (@ one *per cent*) was deposited as tax. Audit noticed that out of 35 Form-C submitted by the dealer, four Form-C amounting to ₹ 55.25 lakh (excluding tax @ one *per cent*) were submitted twice by the dealer and the benefit of such forms was also extended by the AA to him.

⁷⁵. At the rate of one *per cent*.

⁷⁶ TIN 05007883409.

The dealer was, therefore, liable to pay tax of ₹ 6.91 lakh⁷⁷ at the differential rate of 12.5 *per cent*⁷⁸ on the sale against four duplicate Form-C. In addition, he was also liable to pay penalty of ₹ 22.38 lakh⁷⁹.

On this being pointed out, the Government while accepting (January 2022) the facts, raised the demand notice (December 2021) for penalty and the balance tax.

3.7 Loss of revenue due to tax and penalty not realised

Utilisation of unauthorised declaration of Form-11 for the transactions prior to the effective date of recognition certificate and sale of products which were not covered by the recognition certificate of the dealer resulted in loss of revenue and penalty amounting to ₹3.52 crore.

Section 4(2)(b)(i)(d) of Uttarakhand Value Added Tax Act, 2005 provides that a dealer shall be liable to pay tax on his taxable turnover at the rate of 13.5 *per cent* in respect of goods other than those included in any of the Schedules.

According to Section 63 of Uttarakhand Value Added Tax Act, 2005, notwithstanding anything to the contrary contained elsewhere in this Act, and without prejudice to Section 58, a person who issues a false or wrong certificate or declaration prescribed under any provision of this Act or the Rules framed thereunder shall be liable to pay on such transaction an amount which would have been payable as tax on such transaction had such certificate or declaration not been issued. Further, according to Section 58 (1) (XXIX) of the Act, a person who issues or furnishes a false or a wrong form of declaration or certificate is liable to pay a sum not exceeding 40 *per cent* of the value of goods involved or three times of tax leviable on such goods under any of the provisions of this Act, whichever is higher.

Test check of records of the Assistant Commissioner (Assessment), Sector-2, State Tax, Haridwar revealed that the AA while assessing the case of a dealer⁸⁰ for the assessment years 2011-12 and 2012-13, levied tax at the rate of two *per cent* instead of 13.5 *per cent* on the sale of product DVD parts (₹ 5.39 crore for assessment year 2011-12 and ₹ 0.79 crore for assessment year 2012-13) which were not covered by the recognition certificate⁸¹ of the dealer and purchase of product Induction parts amounting to ₹ 0.33 crore without Form-11⁸² which was not classified in any of the schedules. This

⁷⁷ ₹ 6.91 lakh = ₹ 55.25 lakh x 12.5 *per cent*.

⁷⁸ @13.5 *per cent*, since self-made diamond cutting plastic wire is not covered by any schedule of the Uttarakhand VAT Act, 2005 – 1 *per cent* (already paid) = 12.5 *per cent*.

⁷⁹ ₹ 55.25 lakh × 13.5 *per cent* × 3 times = ₹ 22.38 lakh or ₹ 55.25 lakh × 40 *per cent* = ₹ 22.10 lakh, whichever is higher.

⁸⁰ TIN 05008383444.

⁸¹ A certificate issued to a dealer giving details of goods which can be purchased at concessional rates {Section 4 (7) (b) of the Uttarakhand VAT Act, 2005}.

⁸² Manufacturers who are registered with Commercial Tax Department are given special benefit under Section 4 (7) for purchasing raw material *etc.* on concessional rate against Form 11.

resulted in short levy of tax amounting to ₹ 0.75 crore⁸³ at the differential rate of 11.5 per cent. Besides, penalty amounting to ₹ 2.64 crore⁸⁴ was also leviable.

Similarly, tax was levied at the rate of two per cent by issuing Form-11 for previous years for the purchase of cable tray, panel and hydrant machine of ₹ 0.24 crore in the assessment year 2013-14 by another dealer⁸⁵. The dealer was authorised for the purchase of cable tray only with effect from 07.06.2013 and the panel and hydrant machine were not covered by the recognition certificate of dealer. The tax amounting to ₹ 0.03 crore⁸⁶ was, therefore, leviable at the differential rate of 11.5 per cent besides penalty amounting to ₹ 0.10 crore⁸⁷.

On this being pointed out, the Government replied (January 2022) that tax and penalty amounting to ₹ 3.52 crore⁸⁸ was levied (April/May 2018) on the dealers which was to be deposited within 60 days by the dealers. Due to non-deposit of tax and penalty by the dealers, the Department issued recovery certificate in January 2019 and September 2020 respectively. The recovery was pending (September 2022).

3.8 Failure to realise penalty even after three years

The Department failed to realise the penalty of ₹ 31.86 lakh from the dealer even after lapse of more than three years.

According to Section 10-A read with Section 10(b) of Central Sales Tax Act, 1956 (Act), if any person being a registered dealer, falsely represents when purchasing any class of goods that goods of such class are covered by his certificate of registration, the authority who granted to him or, as the case may be, is competent to grant to him a certificate of registration under this Act, may, after giving him a reasonable opportunity of being heard, by order in writing impose upon him by way of penalty a sum not exceeding one-and-a-half times the tax which would have been levied under Sub-Section (2) of Section 8 in respect of the sale to him of the goods, if the sale had been a sale falling within that Sub-Section.

Scrutiny of the records of Assistant Commissioner (Assessment), Sector-2, State Tax, Haridwar, revealed (December 2017) that Forms-C amounting to ₹ 1.36 crore and ₹ 28.95 lakh were issued for the purchase of DVD parts during Assessment Year 2011-12 and for the purchase of DVD parts / heat sink during Assessment Year 2012-13 respectively by a dealer⁸⁹. As per central registration certificate, the manufacturing of multimedia player was started by the dealer in September 2012, whereas the purchase of DVD parts was made during the period from 01.04.2009 to 27.08.2012 i.e. before the

⁸³ (₹ 5.39 crore + ₹ 0.79 crore + ₹ 0.33 crore = ₹ 6.51 crore) × 11.5 per cent = ₹ 0.75 crore.

⁸⁴ ₹ 6.51 crore × 13.5 per cent × 3 = ₹ 2.64 crore.

⁸⁵ TIN 05010966263.

⁸⁶ ₹ 0.24 crore × 11.5 per cent = ₹ 0.03 crore.

⁸⁷ ₹ 0.24 crore × 13.5 per cent × 3 = ₹ 0.10 crore.

⁸⁸ {TIN 05008383444: ₹ 0.75 crore (Tax) + ₹ 2.64 crore (Penalty) + {TIN 05010966263: ₹ 0.03 crore (Tax) + ₹ 0.10 crore (Penalty)} = ₹ 3.52 crore (say 3.52 crore).

⁸⁹ TIN 05008383444.

date of start of manufacturing of multimedia player. Further, the heat sink was also not covered by the dealer's central registration certificate. The dealer was, therefore, liable to pay penalty of ₹ 33.42 lakh⁹⁰ as he was not authorised to avail the benefit of Forms-C before September 2012.

On being pointed out by audit, the Government stated (January 2022) that penalty of ₹ 27.56 lakh was imposed (May 2018) on the dealer for Assessment Year 2011-12 under Section 10 (b) of the Central Sales Tax Act and the demand of ₹ 26.00 lakh was raised after adjusting the excess deposit of ₹ 1.56 lakh. Similarly, penalty of ₹ 5.86 lakh was imposed (May 2018) on the dealer for the Assessment Year 2012-13. The Government further intimated (January 2022) that recovery certificates against the dealer had been issued in January 2019.

The Department, therefore, failed to realise the penalty ₹ 31.86 lakh⁹¹ from the dealer even after lapse of more than three years.

3.9 Penalty not levied on delayed deposit of TDS

Penalty amounting to ₹32.74 lakh was not levied on delayed deposit of TDS into Government Treasury.

Section 35(4) of Uttarakhand Value Added Tax Act, 2005 provides that every person, who is responsible for making payment in pursuance of a work contract, shall at the time of making such payment deduct the amount of Tax Deduction at Source (TDS) and deposit the same in the Government Treasury before the expiry of the month following the month in which deduction was made.

Further, according to Section 35(8) of the Act, if any such person fails to make the deduction or after deducting fails to deposit the amount so deducted as required in Sub-Section (4), the AA may, after giving such person an opportunity of being heard, by order in writing, direct that such person shall pay, by way of penalty, a sum not exceeding twice the amount deductible under this Section but not so deducted and, if deducted, not so deposited into Government Treasury.

Scrutiny (August 2018) of the records of Deputy Commissioner (Assessment)-2, State Tax, Kashipur revealed that a contractor⁹² had deducted an amount of ₹ 0.16 crore as TDS (**Appendix-3.9.1**) on payment of ₹ 2.73 crore to a sub-contractor in the assessment year 2013-14. TDS deducted by the contractor was deposited with delay in the Government Treasury. However, the AA, while passing the assessment order in December 2017, did not levy penalty on the Contractor for late deposit of TDS.

⁹⁰ ₹ 33.42 lakh = Assessment year 2011-12: ₹ 1,36,07,822 × 13.5 per cent × 1.5 = ₹ 27,55,584 (say ₹ 27.56 lakh); + Assessment Year 2012-13 = ₹ 28,94,524 × 13.5 per cent × 1.5 = ₹ 5,86,141 (say ₹ 5.86 lakh).

⁹¹ ₹ 31.86 lakh = ₹ 33.9242 lakh – ₹ 1.56 lakh (already adjusted).

⁹² TIN-05011220306.

Therefore, as per above Rule, the penalty of ₹ 32.74 lakh⁹³, two times of the amount of TDS, was to be levied on contractor.

On this being pointed out, the State Government replied (January 2022) that penalty of ₹ 32.74 lakh had been imposed (December 2019) on the contractor. It was further stated that interest for the delayed deposit of TDS was adjusted by the Department from the carried forward amount of the contractor. The recovery certificate has been issued (October 2020). However, the recovery of penalty was awaited (September 2022).

3.10 Short levy of tax

Erroneous application of tax rate resulted in loss of revenue of ₹ 21.92 lakh and interest of ₹ 21.35 lakh.

Section 4(2)(b)(i)(d) of Uttarakhand Value Added Tax Act, 2005 provides that a dealer shall be liable to pay tax on his taxable turnover at the rate of 13.5 *per cent* in respect of goods other than those included in any of the Schedules. According to Section 34 (4) of the Act, the tax admittedly payable shall be deposited within the time prescribed failing which simple interest at the rate of 15 *per cent* per annum shall become due and be payable on the unpaid amount with effect from the date immediately following the last date prescribed till the date of payment of such amount. Further, according to Section 41(8) of the Act, the interest leviable under this Act due to the non-payment or late payment of tax shall not exceed the amount of tax on which such interest is charged.

During scrutiny of the records (February 2019) of Assistant Commissioner (Assessment), Sector-2, State Tax, Rudrapur, Audit noticed that the tax was self-assessed by a dealer⁹⁴ in the year 2013-14 and 2014-15. As per records submitted by the dealer, the total sale of sand and gravel of ₹ 2.10 crore (₹ 1.44 crore in the year 2013-14 and ₹ 0.66 crore in the year 2014-15) was declared, on which tax was paid at the rate of five *per cent*. It was further noticed from the purchase list attached with the assessment file that sand and gravel were purchased from the stone crushers. As such, the tax was to be levied at the rate of 13.5 *per cent* on sand and gravel purchased from the stone crushers because the sand and gravel purchased by the dealer was not a “river sand and river gravel” (as classified in schedule II-B) as it was processed by the stone crusher. The facts pointed out by the Audit were also corroborated by the AA by mentioning the same in the assessment order. The tax of ₹ 17.87 lakh⁹⁵ was, therefore, leviable on the dealer at the differential rate of 8.5 *per cent*. As per Rule, interest was also payable by dealer at the rate of 15 *per cent* per annum on short levied tax of ₹ 17.87 lakh⁹⁶ from October 2013 and October 2014 respectively.

On this being pointed out, the Government, while accepting the facts (January 2022), stated that the Department had reassessed (September 2020) the case and levied tax at the

⁹³ ₹ 16,37,115×2 = 32,74,230 (Say ₹ 0.33 crore).

⁹⁴ M/s Shri Om Sales (TIN-05007794557).

⁹⁵ ₹ 2,10,24,649 x 8.5 *per cent* = 1787095 *i.e.* 17.87 lakh.

⁹⁶ ₹ 12,25,817 + ₹ 5,61,278.

rate of 13.5 *per cent* on sand and gravel purchased from the stone crushers. A total demand of ₹ 21.92 lakh⁹⁷ (₹ 15.39 lakh for the year 2013-14 and ₹ 6.53 lakh for the year 2014-15) and interest of ₹ 21.35 lakh⁹⁸ was raised (September 2020) by the Assessing Officer.

3.11 Irregular tax rebate on use of false 'Form-C'.

False declaration was made by a dealer for inter-state sales of Iron and Steel on concessional rate of tax, which resulted in short levy of tax of ₹ 11.89 lakh and interest of ₹ 11.89 lakh. Besides, penalty amounting to ₹ 1.58 crore was also leviable.

Section-8 (4) of the Central Sales Tax Act, 1956, stipulates that inter-state sales to registered dealers are taxable at concessional rate when such sales are supported by declaration in Form-'C'. These forms are issued by tax authorities to the purchaser of inter-state purchase of goods. Section – 58(1)(XXIX) of the Uttarakhand VAT Act, 2005 prescribes that if a dealer issues or furnishes a false certificate or declaration, he shall be liable to pay penalty of a sum not exceeding 40 *per cent* of the value of the goods involved or three times of the tax leviable on such goods, whichever is higher. Further, Section-34(4) of this Act also provides that tax admittedly payable shall be deposited within the time prescribed failing which simple interest at the rate of 15 *per cent* per annum shall become due and be payable on the unpaid amount with effect from the date immediately following the last date prescribed till the date of payment of such amount. Further, Commissioner, State Tax Department, Uttarakhand directed (September 2014) all the field offices to verify all the declaration forms of ₹ five lakh and above regarding inter-state transactions through verification cell under Joint Commissioner (Executive) of the respective offices.

Audit scrutiny of records (June 2018) of the Deputy Commissioner (DC) (Assessment)-3, State Tax, Haridwar revealed that a dealer⁹⁹ (assessed in January 2014 with revised assessment in July 2017) had furnished two Form-'C'¹⁰⁰ amounting to ₹ 3.96 crore for sale of Iron and Steel. The Form-'C' was reported to be given to the dealer by the purchasers of the Uttar Pradesh and Delhi. Cross verification of both Form-'C' through online checking by Audit disclosed that these forms were not issued by tax authorities of these States. Further, the issuing authorities of Delhi informed that the form was not issued by them nor the purchaser has shown this purchase in his tax return. Tax authorities from UP also confirmed non issuance of Form-'C'. Thus, these forms were false. Due to

⁹⁷ including the above short levy of tax of 17.87 lakh.

⁹⁸ Interest on the amount of ₹ 15,39,275 for the period 01.10.2013 to 31.10.2020 (7 years and one month) is ₹ 16,35,480 (₹ 15,39,275×15×7 years/100 + ₹ 15,39,275×15×1month/1200) but as per Section 41 (8) of the Uttarakhand Value Added Tax Act, 2005, the interest will be limited to ₹ 15,39,275. Interest on the amount of ₹ 6,52,922 for the period 01.10.2014 to 31.10.2020 (6 years and one month) is ₹ 5,95,791 (₹ 6,52,922×15×6 year/100 + ₹ 6,52,922×15×1 month/1200). Total interest = ₹ 21,35,066.

⁹⁹ M/s Rana Global Ltd., Haridwar (TIN 05008650582).

¹⁰⁰ M/s Devansh Enterprises, Uttar Pradesh, TIN-09672805229 (Form-C, No.3594876, Uttar Pradesh) – ₹ 2.80 crore; M/s Sagar Shally Sales, New Delhi, TIN-07420380384 (Form – C, No.17P-018212, Delhi) – ₹ 1.16 crore.

false declaration, the dealer was liable to pay tax of ₹ 11.89 lakh¹⁰¹, interest of ₹ 11.89 lakh¹⁰² and also penalty of ₹ 1.58 crore¹⁰³.

The verification cell under Joint Commissioner (Executive), State Tax, Haridwar did not cross verify the declaration Form-‘C’ from the issuing States in violation of the directions of the Commissioner, State Tax Department, Uttarakhand. The action was taken by the verification cell only when the matter was highlighted by Audit.

On being pointed out, the Government, while accepting (January 2022) the falsity of both Form – ‘C’, informed that the demand of ₹ 11.14 lakh (after adjustment of deposits) and ₹ 1.58 crore towards tax due and penalty respectively had been raised (February 2019 and September 2020).

¹⁰¹ Differential tax @ of 3 per cent (of the 4 per cent, the dealer had already paid 1 per cent) x ₹ 396.18 lakh = ₹ 11.89 lakh.

¹⁰² ₹ 18.43 lakh (₹ 11.89 lakh x 15 per cent per annum x 124 months/12x100) for the period from 01.10.2010 to 31.01.2021. As per Section 41(8) of Uttarakhand VAT Act 2005, the interest has been limited to the amount of tax payable i.e. ₹ 11.89 lakh.

¹⁰³ Forty per cent of value of goods (i.e. ₹ 396.18 lakh x 40 per cent) = ₹ 158.47 lakh (say ₹ 1.58 crore) or three times of tax leviable (i.e. ₹ 396.18 lakh x 4 per cent x 3) = ₹ 47.54 lakh, whichever is higher.