

Executive Summary

Goods and Services Tax (GST) is a tax on supply of goods or services or both except taxes on the supply of alcoholic liquor for human consumption. GST came into effect from 1 July 2017. Central Excise duty (except five Petroleum and tobacco products), Service Tax, Additional Customs Duty, Special Additional Duty of Customs (SAD) and most of the indirect taxes of States have been subsumed into GST. This report deals mainly with the issues involving levy and collection of Goods and Services Tax. A few audit findings with respect to Central Excise collections and legacy Service Tax have been included to present a full picture of indirect taxes.

This report is divided into six chapters. Chapter I provides a brief description of the nature of indirect taxes, organisational structure of Central Board of Indirect Taxes and Customs (CBIC), trends in Indirect Taxes revenue, comparative growth of various components of Indirect Taxes and comparison of GST Budget Estimates vs Actual Receipts. Chapter II describes the CAG's audit mandate for audit of revenue receipts, audit universe, audit sample, and result of audit efforts. Chapter III brings out the status of implementation of the simplified GST return mechanism; and the Department's performance with respect to the compliance verification functions such as scrutiny of returns, internal audit and anti-evasion activities; and recovery of arrears. Chapter IV discusses the audit observations relating to significant data inconsistencies noticed during GST data analysis by Audit. Chapter V discusses the systemic and compliance issues, observed during the course of the Subject Specific Compliance Audit (SSCA) of processing of refund claims under GST. Chapter VI contains significant findings of the Subject Specific Compliance Audit (SSCA) of Transitional Credits under GST which were noticed during the examination of records pertaining to transitional credits under the jurisdiction of CBIC. With respect to the SSCA on processing of refund claims under GST, the Ministry accepted audit observations with money value of ₹ 92.08 crore and reported recovery of ₹ 52.93 crore, as of February 2022. With respect to the SSCA on Transitional Credits, the Ministry accepted audit observations with money value of ₹ 309.82 crore and reported recovery of ₹ 50.39 crore, as of March 2022.

This highlights of the Report are as follows:

Chapter I: Indirect Taxes Administration and Revenue Trend

Indirect Taxes collections increased by ₹ 1, 20,555 crore (12.56 per cent) during FY21 over FY20. The annual growth of Indirect Taxes (Y-o-Y), which constantly decreased from 21.33 percent in FY 17 to 1.76 per cent in FY20, saw an upward

trend in FY 21. Further, during FY 21 there was a rise in Indirect taxes to GDP ratio when it increased to 5.45 *per cent* in FY 21 from 4.70 *per cent* in FY 20. The growth in indirect taxes was due to increase in the receipts from Central Excise Duty and Customs duty, which increased, respectively, by ₹ 1,50,215 crore and ₹ 25,467 crore over the previous year (FY20).

Central GST taxes¹ revenue, however, decreased by 8.34 *per cent* from ₹ 6,01,784 crore in FY 20 to ₹ 5,51,541 crore in FY21. Central GST taxes as a percentage of GDP also decreased to 2.79 *per cent* in FY 21 from 2.95 *per cent* in FY 20 and 3.02 *per cent* in FY19.

(Paragraph 1.3.1. Paragraph 1.3.1.1 & Paragraph 1.3.2)

Chapter III: Effectiveness of Compliance Verification Mechanism under GST

In the last Audit Report² on Indirect taxes, Audit had reviewed the progress made in respect of implementation of simplified return mechanism under GST and system-verified flow of Input Tax Credit (ITC). Audit observed that owing to continuing extensions in the roll out of simplified return system, and delay in decision making, the originally envisaged system verified flow of ITC was yet to be implemented despite more than three years of roll out of GST. In the absence of a stable and simplified return system, one of the main objectives of roll out of GST i.e. simplified tax compliance system was yet to be achieved. Accordingly, Audit had recommended that a definite time frame for roll out of simplified return forms may be fixed and implemented as frequent deferments were resulting in delay in stabilisation of the return filing system and continued uncertainty in the GST eco-system.

During 2020-21, Audit further reviewed the status of implementation of simplified return mechanism and noted significant progress with respect to linking of GSTR-1³, GSTR-2B⁴ and GSTR-3B⁵; and restricting input tax credit (ITC) of the recipient taxpayers to the supplies declared by suppliers. However, Audit is of the view that further steps need to be taken to achieve a non-intrusive e-tax system with system-verified flow of ITC such as mandatory filing of GSTR-1 before filing of GSTR-3B and enhanced use of preventive checks in the GST Common portal.

(Paragraph 3.1)

¹ GST revenue included Central Goods and Services Tax, Integrated Goods and Services Tax, UT Goods and Services Tax and GST Compensation Cess.

² Audit Report No. 1 of 2021 (Indirect Taxes- Goods and Services Tax, Central Excise and Service Tax)

³ GSTR-1 is an outward supplies statement as provided in Section 37 of the CGST Act, 2017 and Rule 59 of the CGST Rules, 2017.

⁴ GSTR-2B is an auto-drafted statement containing the details of input tax credit which shall be made available to the registered person in GSTR-3B.

⁵ GSTR-3B is a self-assessed summary monthly return which captures summary of outward supplies and inward supplies liable to reverse charge.

In the last Audit Report on Goods and Services Tax, Audit had observed that CBIC was yet to put in place an effective system of scrutiny of returns based on detailed instructions/standard operating procedure for the tax officers. Therefore, an important compliance function of the department, as mandated by law, was yet to be effectively rolled out even after three years of GST implementation. Ministry replied (February 2022) that a risk-based standardised system of return scrutiny based on detailed instructions/standard operating procedure was under active consideration.

Audit recommends that an effective risk based standardised system of returns' scrutiny (with detailed instructions/standard operating procedure) should be implemented at the earliest so that the Department has sufficient time to take action against non-compliant taxpayers before time-barring of cases as per law. Such a scrutiny should involve risk-based selection of returns, and the results of the scrutiny (similar to scrutiny assessments in respect of income tax) should also be captured in real-time through the CBIC-GST System to ensure transparency and minimize arbitrariness.

(Paragraph 3.2)

CBIC constituted (July 2017) the Directorate General of Analytics and Risk Management (DGARM) with the aim to study, interpret and analyse indirect tax data and share the outputs with various stakeholders.

DGARM identifies high risk taxpayers through use of extensive data analytics on the GST returns data received from GSTN and DG Systems, and Income Tax return (ITR) data received from CBDT. The list of high risk taxpayers is shared with the CBIC field formations through various analytical reports on the Directorate of Data Management (DDM) portal for action.

Audit examined the monitoring and feedback mechanism of DGARM reports and observed that use of manual/semi-automated mechanism for monitoring action by the Department in respect of high risk taxpayers, identified in DGARM reports, is sub-optimal and fails to properly leverage the full power of IT and thus, there is a need to ensure that the entire set of activities should be end-to-end automated as part of the CBIC-GST platform.

(Paragraph 3.3)

Chapter IV: Reliability of GST data maintained by Goods and Services Tax Network

Audit was provided access to the GST returns data in February 2021, in GSTN's premises, pertaining to the period from FY 2017-18 to FY 2019-20, as filed by

taxpayers up to August 2021. An analysis was performed with a view to deriving an assurance on the quality of data captured.

(Paragraph 4.1)

During analysis of pan-India data provided by GSTN, Audit noticed significant data inconsistencies between the taxable value and declared tax liability. Inconsistencies were also noticed between the CGST and SGST components of GST, and between ITC figures captured in GSTR-3B and GSTR-9 returns. Due to significant inconsistencies in the GST data, Audit could not establish the reliability of data, for the purpose of finding audit insights and trends in GST revenue, and assessing high risk areas such as tax liability and ITC mismatch at the pan-India level.

(Paragraph 4.6)

Audit recommends that the Ministry should consider introducing appropriate validation controls (controls which prevent unreasonable data entries or alert the taxpayer to unreasonable data or both) supplemented by post-facto data analytics in respect of important data elements, where in data (such as tax amounts; taxable values; tax components, like CGST and SGST; validation of ITC and tax amounts, between the annual and monthly returns) is entered by the taxpayer. An effective review and follow up system needs to be developed at GSTN to review and address cases of data inconsistencies. In case of significant deviations, tax officers may be alerted to the inaccuracies and directed to take necessary action.

(Paragraph 4.7)

Chapter V: Processing of Refund Claims under GST

Timely refund processing facilitates the taxpayers by providing much needed liquidity and cash inflows. Audit examined GST refund cases processed and paid by the Central tax authorities pertaining to the period from July 2017 to July 2020. During the course of examination of records, Audit observed certain systemic and compliance issues in relation to grant of refund by the Department, which need to be addressed.

(Paragraph 5.3)

Systemic Issues

Audit observed that there exists a mechanism to match ITC availed by a taxpayer with the GSTR-1 returns filed by the suppliers and to identify fraudulent cases through data analytics after the amount has been paid. However, adequate systems were not in place to prevent and mitigate refund

related frauds by using real time/near real time data analytics so as to alert the tax officials before sanction of refunds.

(Paragraph 5.6.1)

Audit analysed the data of Public Financial Management System (PFMS) relating to GST refunds pertaining to the period from July 2017 to September 2019 (Pre-automation) received from 34 Commissionerates and followed it up with substantive audit of the payment process. Audit noticed 410 instances of double payments owing to lack of reconciliation and monitoring by the Department amounting to ₹ 13.73 crore.

(Paragraph 5.6.3)

Even after four years of implementation of GST, a proper system of review and post-audit of refunds had not been effectively institutionalized so that the Department may rectify mistakes in time.

(Paragraph 5.6.4)

Compliance Issues

Audit examined compliance to the provisions of the CGST Act, associated rules, procedures, etc. with respect to a risk-based sample of 12,283 refund cases processed by the Central tax authorities. Audit noticed 522 cases where excess/inadmissible refund of ₹ 185.28 crore was sanctioned due to various reasons such as incorrect computation of Adjusted Total Turnover, consideration of ineligible accumulated ITC, claims which were time-barred etc.

Audit noticed significant number of refund cases where the Department did not adhere to the prescribed timelines for processing of refunds leading to instances of significant delay in issue of acknowledgement, deficiency memo and sanction of refund orders. Further, in the majority of cases, the department did not pay interest to the taxpayers in case of delayed refunds.

(Paragraph 5.7)

For the audit observations highlighted in the Subject Specific Compliance Audit report on GST refunds, the corresponding impact on the State Goods and Services Tax is given in **Appendix-IV**.

(Paragraph 5.9)

Audit has included 12 recommendations to strengthen the refund processing system. Ministry has accepted nine recommendations and stated that the matter would be taken up with GSTN/DG(System) in respect of eight recommendations. In respect of one recommendation, Ministry stated that the matter would be taken up with the field formations and advisory was being

issued. Further, the department has recovered ₹ 52.93 crore at the instance of audit.

(Paragraph 5.10)

Chapter VI: Transitional Credits under GST

Transitional credit being a one-time flow of input tax credit 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. A total of 10.13 lakh taxpayers had claimed the benefit of transitional credit of ₹ 1,72,584.96 crore under the GST Acts, out of which 3.46 lakh taxpayers constituting 34 *per cent* of the taxpayers were under the jurisdiction of CBIC. The transitional credit claims of these taxpayers accounted for ₹1,34,029.23 crore constituting 78 *per cent* of the total transitional credit claimed under the GST Acts.

(Paragraph 6.3)

The Department identified 50,000 (Antarang⁶ data set) high value transitional credit cases for verification by CBIC field formations. Audit selected pan-India sample of 8,514 cases for detailed audit based on data analysis of these 50,000 cases. The sample size of 8,514 cases represented a transitional credit of ₹82,754.77 crore and constituted about 62 *per cent* of the total transitional credit on the Central side.

(Paragraph 6.5)

In spite of requisitions and follow up, the CBIC departmental formations did not produce records of 954 claims. As a result, 11 *per cent* of sample size representing ₹6,849.68 crore of transitional credit claimed could not be audited. Further, in another 2,209 cases representing ₹19,660.72 crore of credit claimed, records were partially produced as relevant underlying records determining the eligibility of credit were not produced, which constituted a substantial scope limitation. Out of these records, the Ministry stated that some of the records and verification related records have since been produced to Audit. These would be audited and reported separately. Further, record keeping by the departmental field formations varied widely and maintenance of records for verified cases were inadequate in most of the jurisdictions.

Audit observed irregularities in 1,132 cases out of 6,999 cases verified by the Department.

(Paragraph 6.8)

⁶ Antarang is the intra-net platform for officers of the CBIC.

Systemic Issues

Audit observed that though the Department had identified the top 50,000 cases for verification as a priority for 2018-19, the exercise was not yet completed, and the Department was yet to verify 8,849 cases⁷. The rate of recovery of detected irregularities was low. Cross jurisdictional issues and lack of co-ordination in Central Tax jurisdictions in some zones impeded verification and initiation of recovery actions.

In view of these findings, Audit recommends

- ensuring production of records for cases for which envisaged detailed audit checks could not be completed. These will be reviewed subsequently by Audit.
- addressing the issue of inadequate maintenance of verification records in the jurisdictional formations as they are not amenable to review in the present form.

Ministry provided an updated status of verification and stated (February 2022) that another 4,770 cases had since been verified and 4,079 cases were pending verification, and that irregular ITC detection had gone up to ₹ 10,965.91 crore out of which ₹ 3,596.10 crore had been recovered. Ministry also stated that the Board was actively monitoring the expeditious verification of transitional credit claims.

(Paragraph 6.9.1)

Compliance Issues

Audit review disclosed significant irregularities in the transitional credit claims of taxpayers across various categories regulated by the sub sections of Section 140, Section 142(11) as well as Section 50(1) of the CGST Act 2017 pertaining to payment of interest.

Audit observed 1,686 compliance deviations in 1,438 cases, out of 7,560 cases examined in detail, amounting to ₹ 977.54 crore, constituting a deviation rate of 22 *per cent*. Irregularities noticed were relatively higher in four categories viz; ineligible credit of duty paid goods in stock without documents, irregular claim on unavailed credit on capital goods, ineligible credit on inputs or input services in transit, and irregular claim on closing balances. Considering that the Department had verified 79 *per cent* of these claims, the deviation rate suggested that the verification process carried out by the Department suffered from inadequacies. Out of 1,438 cases, where Audit noticed irregularities, 1,132

⁷ As of November 2021

cases had been verified by the Department, and the Department did not point out irregularities amounting to ₹735.69 crore.

In view of the above compliance findings, Audit recommends

- ensuring verification of the high risk claims reflected in Table 7aB of Tran 1 (credit on duty paid stock without invoices) and the cases where the transitional credit claim under Table 5a (closing credit balance of legacy returns) was in excess of the closing balance of legacy return.
- initiating remedial measures for the compliance deviations pointed out during this audit before the claims become time barred.

(Paragraph 6.9.2)