

*Chapter II*  
**Revenue Sector**



## Chapter II

### Revenue Sector

#### 2.1 Revenue Receipts

##### 2.1.1 Trend of Revenue Receipts

The tax and non-tax revenue raised by the Government of Goa during the year 2020-21, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and grants-in-aid received from the Government of India during the year and corresponding figures for the preceding four years are detailed in **Table 2.1**.

**Table 2.1: Details of total revenue receipts of State Government**

(₹ in crore)

Sl. No.	Particulars	2016-17	2017-18	2018-19	2019-20	2020-21
1	<b>Revenue raised by the State Government</b>					
	▪ Tax revenue	4261.16	4731.37	4871.36	4700.56	4150.68
	▪ Non-tax revenue	2712.00	3033.27	2873.66	2737.54	2902.80
	<b>Total</b>	<b>6973.16</b>	<b>7764.64</b>	<b>7745.02</b>	<b>7438.10</b>	<b>7053.48</b>
2	<b>Receipts from the Government of India</b>					
	▪ Share of net proceeds of divisible Union taxes and duties	2299.20	2544.26	2878.36	2479.85	2296.53
	▪ Grants-in-aid	292.61	744.62	814.60	1379.57	1090.28
	<b>Total</b>	<b>2591.81</b>	<b>3288.88</b>	<b>3692.96</b>	<b>3859.42</b>	<b>3386.81</b>
3	<b>Total revenue receipts of the State Government (1 and 2)</b>	<b>9564.97</b>	<b>11053.52</b>	<b>11437.98</b>	<b>11297.52</b>	<b>10440.29<sup>1</sup></b>
4	<b>Percentage of 1 to 3</b>	<b>73</b>	<b>70</b>	<b>68</b>	<b>66</b>	<b>68</b>

(Source: Finance Accounts of the State)

There was a decline in the State's revenue collection in 2020-21 by ₹ 384.62 crore. The revenue raised by the State Government during the year 2020-21 constituted 68 per cent of the total revenue receipts. The balance 32 per cent of the receipts during 2020-21 was from the Government of India by way of share of net proceeds of divisible Union taxes, duties and grants-in-aid.

<sup>1</sup> For details, please see Statement No. 14 Detailed accounts of revenue receipt by minor heads in the Finance Accounts of the Government of Goa for the year 2020-21. Figures under the head 0005-Central GST, 0008-Integrated GST, 0020-Corporation tax, 0021-Taxes on income other than corporation tax, 0032-Taxes on wealth, 0037-Customs, 0038-Union excise duties, 0044-Service tax and 0045-Share of net proceeds assigned to State booked in the Finance Accounts-Tax revenue, have been excluded from revenue raised by the State and included in State's share of divisible Union taxes in this statement.

## 2.1.2 Tax Revenue

The tax revenue raised by the Government of Goa during 2020-21 was ₹ 4,150.68 crore. The details of tax revenue during the period from 2016-17 to 2020-21 are given in **Table 2.2**.

**Table 2.2: Details of tax revenue receipts of the State Government**

(₹ in crore)

Sl. No.	Head of revenue	BE/ RE/ Actual	2016-17	2017-18	2018-19	2019-20	2020-21	Percentage increase (+) or decrease (-) in 2020-21 over 2019-20
1	Taxes on sales, trade etc.	BE	2624.35	2582.32	782.58	1395.74	1244.10	
		RE	2245.50	1491.52	782.58	1091.32	1051.05	
		Actual	2438.17	1621.69	1013.53	1032.84	989.81	(-) 4.17
2	SGST	BE	-	-	3123.62	2756.89	2772.03	
		RE	-	1710.66	3123.62	2493.01	2373.08	
		Actual	-	1463.74	2529.09	2438.50	1984.92	(-) 18.60
3	Entertainment Tax/Luxury Tax etc. <sup>2</sup>	BE	848.01	905.62	28.81	13.88	19.92	
		RE	792.78	332.93	28.81	17.48	19.92	
		Actual	822.59	315.98	13.50	(-)2.52	33.85	1443.25
Sub-total (Actual collection under 1,2 and 3 above)			3260.76	3401.41	3556.12	3468.82		
4	Stamp Duty & Registration fees <sup>3</sup>	BE	678.49	600.59	612.53	641.30	728.35	
		RE	625.16	600.59	612.53	631.30	728.35	
		Actual	365.11	529.69	432.33	393.37	350.41	(-) 10.92
5	State Excise <sup>4</sup>	BE	348.50	381.77	399.86	475.25	547.93	
		RE	348.50	381.77	399.86	475.25	459.21	
		Actual	316.03	408.44	477.95	491.77	514.86	04.70
6	Taxes on Goods and Passengers	BE	25.00	25.00	25.00	27.50	31.00	
		RE	21.47	25.00	25.00	27.50	31.00	
		Actual	23.65	26.08	25.39	25.02	10.04	(-) 59.87
7	Land Revenue	BE	156.01	61.64	39.59	60.17	67.54	
		RE	182.91	61.64	39.59	60.17	67.54	
		Actual	39.09	42.02	66.62	37.11	34.18	(-) 7.90
8	Other taxes	BE	236.00	243.46	260.26	385.97	434.24	
		RE	229.41	243.46	260.26	385.97	434.24	
		Actual	256.51	323.73	312.95	284.47	232.65	(-) 18.23
	<b>Total</b>	<b>BE</b>	<b>4916.36</b>	<b>4800.40</b>	<b>5272.25</b>	<b>5756.72</b>	<b>5845.11</b>	
		<b>RE</b>	<b>4445.73</b>	<b>4847.57</b>	<b>5272.25</b>	<b>5182.02</b>	<b>5164.39</b>	
		<b>Actual</b>	<b>4261.16</b>	<b>4731.37</b>	<b>4871.36</b>	<b>4700.56</b>	<b>4150.68</b>	

(Source: Compiled by Audit from Budget Estimates and Finance Accounts)

Taxes on Sales, Trade etc. (except those on petroleum products and liquor), Entertainment tax, Luxury tax and taxes on entry of goods and medicinal and toilet preparations containing alcohol, opium etc., are subsumed in GST consequent to

<sup>2</sup> Taxes on entry of goods and medicinal and toilet preparation containing alcohol, opium etc.

<sup>3</sup> Due to less receipts under court fees realised in stamps and sale of stamps during the years 2018-19 and 2019-20 tax revenue has declined

<sup>4</sup> Excludes medicinal and toilet preparations containing alcohol, opium etc.

the implementation of GST *w.e.f.* 01 July 2017. During 2020-21 a major portion of tax revenue (47.82 *per cent*) was collected under 'SGST'.

### 2.1.2.1 Revenue from GST

Government of Goa implemented GST with effect from 01 July 2017. GST is levied on *intra-State* supply of goods or services (except alcohol for human consumption and five specified petroleum products) and its components are shared by the Centre (CGST) and the State (SGST). Further, Integrated Goods and Services Tax (IGST) is levied and collected by the Central Government on *inter-State* supply of goods and services. The IGST so collected is apportioned between the Centre and the concerned State where the goods and services are consumed.

**Table 2.3: Details of budgeted and actual receipt of GST**

(₹ in crore)

Year	Budget Estimates (BE)	Revised Estimates (RE)	Actuals
	SGST	SGST	SGST
2017-18	0.00	1710.66	918.45
2018-19	*3123.62	*3123.62	1420.95
2019-20	1601.16	1601.16	1526.17
2020-21	1657.26	1506.90	1068.85

(Source: Details furnished by the SGST Department)

\*Budget Estimate & Revised Estimate for the year 2018-19 are inclusive of IGST share whereas actuals shown above is the proceeds of SGST exclusively.

The overall GST revenue of the State Government decreased by ₹ 457.32 crore (30 *per cent*) in 2020-21 in respect to 2019-20.

### 2.1.2.2 GST Registrations

The category-wise registrations under GST have been given in **Table 2.4**.

**Table 2.4: Details of GST registrations (2020-21)**

Category of Registrant	No. of Registrants	Percentage of total
Normal taxpayers	35875	85.32
Composition taxpayers	5253	12.49
Tax Deductors at Source	686	1.63
Tax Collectors at Source	148	0.35
Input Service Distributors	75	0.18
Others (Casual, NRTP, OIDAR)	11	0.03
<b>Total Registrants</b>	<b>42048</b>	

(Source: Data furnished by State Tax Department)

The total registrations under GST as on 31 March 2021 were 42,048 of which normal taxpayers accounted for 85 *per cent* and composition taxpayers were around 12 *per cent*. Of the total registrations, 20,569 were migrated from pre-GST regime, accounting for around 49 *per cent*, while balance were new registrations.

### 2.1.2.3 GST Return Filing Pattern

#### Filing pattern of GSTR-1 and GSTR-3B

The trends of filing of GSTR-1 and GSTR-3B as on 31 March 2021 for the period from April 2020 to March 2021, as compiled from the summary reports shared by State Tax Department, have been depicted in **Table 2.5**.

**Table 2.5: Returns filing trends of GSTR-1 and GSTR-3B**

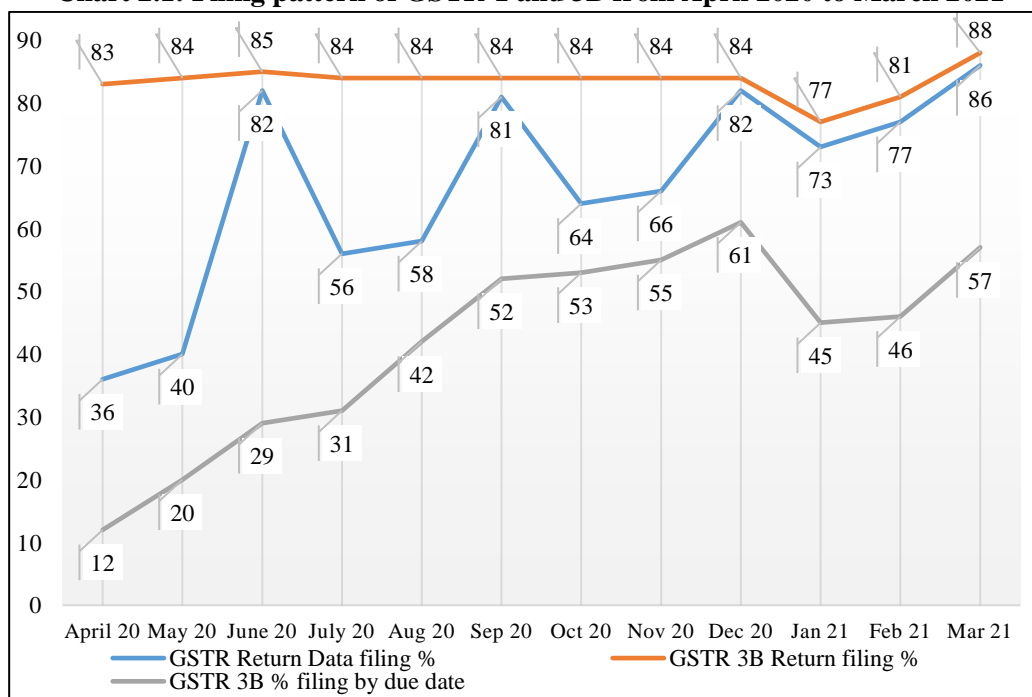
(Figures in numbers)

Return Type	GSTR-1			GSTR-3B				
Months	Due for filing	Returns filed	Return filing per cent	Due for filing	Returns filed as on last day of the report period	Return filing per cent	Returns filed by due date	Per cent filed by due date
April 2020	35971	12814	36	36015	29942	83	4252	12
May 2020	32261	12865	40	35551	29995	84	7270	20
June 2020	35630	29242	82	35630	30151	85	10369	29
July 2020	23074	12985	56	35883	30256	84	11013	31
Aug 2020	22269	13006	58	36112	30417	84	15141	42
Sep 2020	36289	29487	81	36289	30477	84	18972	52
Oct 2020	20568	13204	64	36624	30682	84	19521	53
Nov 2020	20258	13300	66	36792	30890	84	20298	55
Dec 2020	36918	30188	82	36918	31101	84	22678	61
Jan 2021	23527	17188	73	23509	18127	77	10488	45
Feb 2021	22628	17354	77	22626	18271	81	10488	46
Mar 2021	35459	30511	86	35459	31326	88	20167	57

(Source: Data furnished by State Tax Department)

The filing of GSTR-3B for April 2020 was 83 per cent while the filing per cent for March 2021 was 88 per cent. It was noticed that GSTR-3B returns were being filed within the due date on an average by 42 per cent taxpayers and 42 per cent filed the returns after due date (remaining 16 per cent taxpayers did not file returns). GSTR-3B returns filed by the due date remained at a low per cent ranging from 12 per cent to 61 per cent during April 2020 to March 2021.

The trend of return filing pattern is depicted in **Chart 2.1**.

**Chart 2.1: Filing pattern of GSTR-1 and 3B from April 2020 to March 2021**

(Source: Data furnished by State Tax Department)

- The filing percentages of GSTR-1 returns were throughout less in comparison to the corresponding filing of GSTR-3B returns during the period April 2020 to March 2021.
- Interestingly, GSTR-1 filing percentage at the end of each quarter was higher than the monthly filing *per cent*. As could be seen from **Table 2.5** against 0.36 lakh and 0.32 lakh taxpayers due to file GSTR-1 for April and May 2020 respectively, only 0.13 lakh taxpayers filed these returns. But for the month of June in which taxpayers with turnover below ₹ 1.5 crore were also due to file returns (*i.e.* quarterly returns), the total taxpayers due to file GSTR-1 was 0.36 lakh against which GSTR-1 was filed by 0.29 lakh people. Similar trend could be seen in the next two quarters also.

#### Filing of GSTR- 4

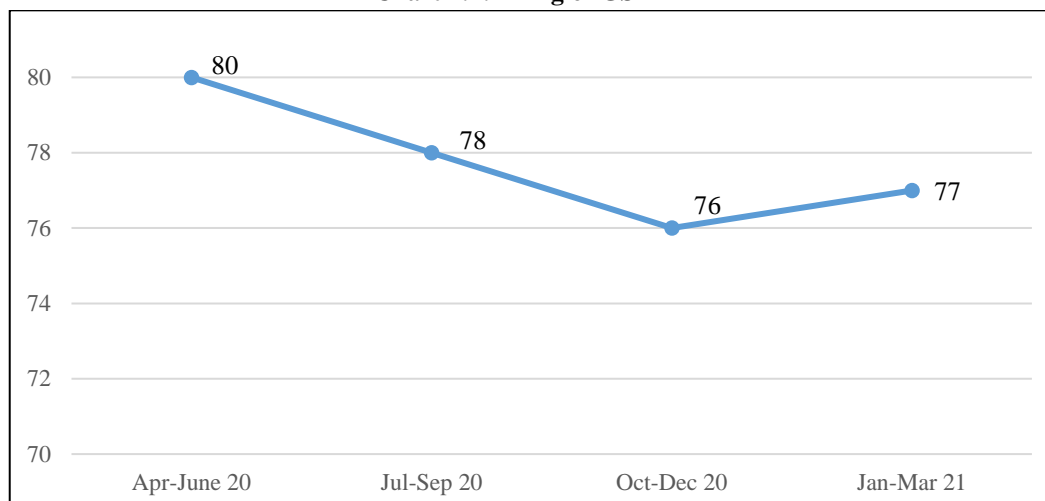
**Table 2.6: Details of return filing of return CMP 08 for 2020-21**

Return Type	CMP08		
	Months	Due for filing	Returns filed
Apr-June 2020	5339	4295	79.55
Jul-Sep 2020	5419	4230	78.06
Oct-Dec 2020	5408	4123	76.24
Jan-Mar 2021	5243	4019	76.65

(Source: Data furnished by State Tax Department)

The trend of filing of GSTR-4, a quarterly return to be filed by composition taxpayers, as of March 2021, for the period from April 2020 to March 2021, is given in **Chart 2.2**.

**Chart 2.2: Filing of GSTR 4**



(Source: Data furnished by State Tax Department)

**Filing of GSTR- 6 as of March 2021**

GSTR-6 is filed by Input Service Distributor (ISD), giving the details of Input Tax Credit (ITC) received and distributed. The trend of filing GSTR-6, as compiled from the summary reports shared by State Tax Department, is depicted in **Table 2.7**.

**Table 2.7: Details of filing GSTR-6**

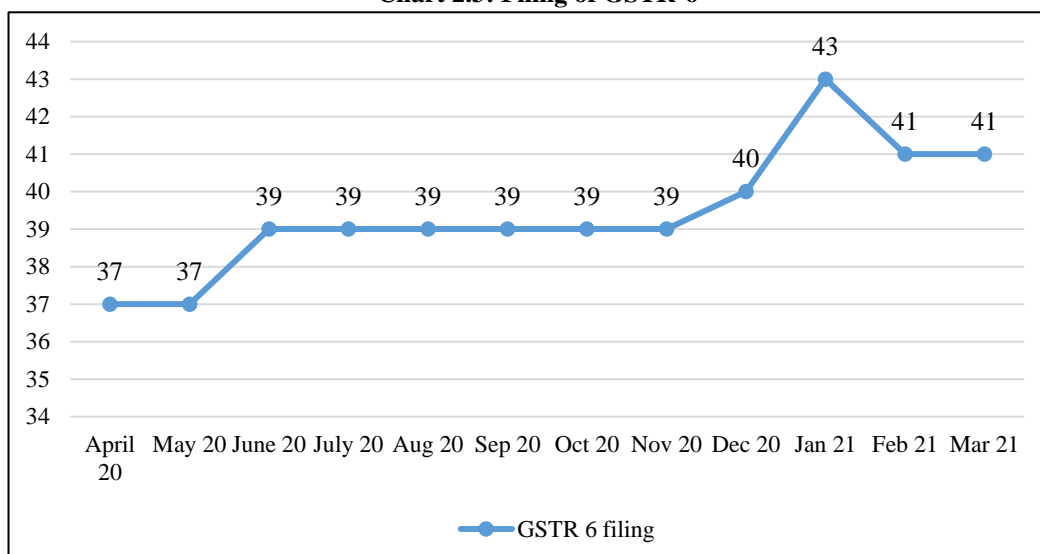
Return type	GSTR-6			
	Months	Due for Filing	Returns filed	Return filing per cent
	April 2020	78	28	37
	May 2020	77	28	37
	June 2020	77	29	39
	July 2020	76	29	39
	Aug 2020	76	29	39
	Sep 2020	76	29	39
	Oct 2020	75	29	39
	Nov 2020	75	29	39
	Dec 2020	75	30	40
	Jan 2021	76	32	43
	Feb 2021	78	31	41
	Mar 2021	75	31	41

(Source: Data furnished by State Tax Department)

Returns filed for GSTR-6 taxpayers ranged from 37 per cent (April 2020) to 43 per cent (January 2021). It can be noticed that there was a marginal increase of filing by 16.2 per cent. The trend of returns filing is depicted in **Chart 2.3**.



Chart 2.3: Filing of GSTR-6



(Source: Data furnished by State Tax Department)

#### 2.1.2.4 Integrated Goods and Services Tax

Integrated Good and Service Tax apportioned to the State share for the year 2019-20 and 2020-21 was ₹ 954.02 crore and ₹ 916.07 crore respectively as shown in Table 2.8.

Table 2.8: Details of IGST

(₹ in crore)

IGST Component	2018-19	2019-20	2020-21
	1108.14	954.02	916.07

(Source: Data furnished by State Tax Department)

#### 2.1.2.5 Analysis of Bi-monthly Compensation received during 2020-21

There was a short fall during the period from April 2020 to September 2020 by ₹ 1,045.50 crore as shown in Table 2.9.

Table 2.9: Details of compensation due and received

(₹ in crore)

Month	Provisional Compensation due	Provisional compensation received		Shortfall/surplus if any
		Borrowings	Compensation received	
April 2020	307.38	0.00	101.30	206.08
May 2020	253.79	0.00	0.00	145.83
June 2020	177.49	0.00	107.96	177.49
July 2020	193.47	0.00	120.04	73.43
Aug 2020	228.59	0.00	0.00	228.59
Sep 2020	214.08	0.00	0.00	214.08
Oct 2020	182.09	63.60	119.02	(-) 0.53
Nov 2020	102.78	180.79	0.00	(-) 78.01
Dec 2020	149.39	230.73	119.02	(-) 200.36
Jan 2021	75.15	182.92	0.00	(-) 107.77
Feb 2021	(-) 3.43	149.85	0.00	(-) 153.28
Mar 2021	98.45	32.11	244.13	(-) 179.27
<b>Total</b>	<b>1979.23</b>	<b>840</b>	<b>811.47</b>	<b>326.28</b>

(Source: Data furnished by State Tax Department)

However, during the month of October 2020 to March 2021 there was surplus of ₹ 719.22 crore (considering compensation by way of borrowings of ₹ 840 crore in the form of back-to-back loans to states in lieu of GST shortfall compensation from Centre).

### 2.1.3 Non-tax Revenue

The details of non-tax revenue for the year 2020-21, along with details of preceding four years are given in **Appendix 2.1**. The total non-tax revenue raised during 2020-21 was ₹ 2,902.80 crore. Details of non-tax revenue raised by some principal departments of the Government of Goa during the period 2016-17 to 2020-21 are indicated in **Table 2.10**.

**Table 2.10: Details of major Non-tax revenue receipts of the State Government**

(₹ in crore)

Sl. No.	Heads of revenue		2016-17	2017-18	2018-19	2019-20	2020-21	Percentage increase (+)/decrease (-) in 2020-21 over 2019-20
1	Power	BE	1687.75	1819.15	1907.65	2244.16	2264.19	
		RE	1687.75	1819.15	1907.65	2244.16	2366.20	
		Actual	1765.80	2119.09	1919.80	1960.52	2051.05	04.62
2	Non-Ferrous Mining and Metallurgical Industries <sup>5</sup>	BE	439.28	377.60	327.59	60.64	511.47	
		RE	259.34	377.60	327.59	60.64	397.47	
		Actual	347.63	332.79	34.39	08.78	168.10	1814.58
3	Other Administrative Services	BE	176.47	178.67	161.38	310.25	295.36	
		RE	183.70	179.83	161.38	310.25	455.51	
		Actual	152.52	139.66	450.94	260.25	190.71	(-) 26.72
4	Water Supply and Sanitation	BE	162.62	126.05	136.96	154.73	158.00	
		RE	114.59	126.05	136.96	154.73	184.15	
		Actual	119.69	129.80	145.96	147.66	135.67	(-) 8.12

(Source: Finance Accounts of the State and Estimates of Receipts for the years concerned)

### 2.1.4 Analysis of Arrears of Revenue

The arrears of revenue pending collection in respect of some principal departments of the State Government as on 31 March 2021 were ₹ 5,181.54 crore of which ₹ 1,630.48 crore had been pending for more than five years as detailed in **Appendix 2.2**.

The information relating to cases pending in courts and with Departmental Appellate Authorities was not furnished by all the departments. However, it could be seen from the above that 31.47 per cent of arrears have been pending for more than five years. As the chances of their recovery become low with the passage of time, it is recommended that the Government may instruct the departments concerned to make extra efforts for settlement of arrears.

<sup>5</sup> Includes major minerals such as iron ore, manganese and bauxite; minor minerals such as basalt (Granite), laterite stones, ordinary sand, river pebbles, murrum and laterite boulders

### 2.1.5 Pendency of Refund Cases

Details of refund cases pending at the beginning of the year 2020-21, claims received and refunded during the year and the cases pending at the close of the year 2020-21 in respect of Commercial Taxes Department are given in **Table 2.11**.

**Table 2.11: Details of pending refund cases**

Sl. No.	Particulars	Sales tax/VAT		State Excise	
		No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)
1	Claims outstanding at the beginning of the year	763	132.93	-	-
2	Claims received during the year	690	198.67	10	0.26
3	Claims rejected	01	0.10	-	-
4	Refunds made during the year	583	81.57	10	0.26
5	Balance outstanding at the end of the year	869	249.93	-	-

(Source: Information furnished by respective departments)

As seen above, 869 cases of refunds involving ₹ 249.93 crore were outstanding in Commercial Taxes Department as on 31 March 2021. Section 33 (2) of Goa Value Added Tax Act, 2005 provides for payment of interest, at the rate of eight *per cent per annum* for delay in refunds. It would be prudent on the part of the Department to settle the refund cases expeditiously to save the Government from interest liability. In the case of State Excise Department, no claims were pending for refund at the end of 31 March 2021.

### 2.1.6 Response of Government/Departments towards Audit

The office of Accountant General, Goa (AG) conducts periodical inspection of Government/departments to test check transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed by the issue of Inspection Reports (IRs) which incorporate irregularities detected during the inspection and not settled on the spot. The IRs are issued to the Heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The Heads of the offices/the Government are required to promptly respond to the observations contained in the IRs and rectify the defects and omissions and report compliance through initial reply to the Accountant General within four weeks from the date of issue of the IRs. Serious financial irregularities are reported to the Heads of the Department and the Government.

Analysis of IRs issued up to December 2020 disclosed that 1,143 observations involving ₹ 3,571.34 crore relating to 232 IRs remained outstanding at the end of June 2021. Out of these, 341 observations from 123 IRs were outstanding for more

than five years. The figures as on June 2021 along with the corresponding figures for the preceding two years are given in the **Table 2.12**.

**Table 2.12: Details of pending Inspection Reports**

	June 2019	June 2020	June 2021
Number of IRs pending for settlement	218	232	232
Number of outstanding audit observations	933	1049	1143
Amount of revenue involved (₹ in crore)	717.56	3469.17	3571.34

(Source: Compiled from Audit records)

Department-wise details of the IRs and audit observations outstanding as on 30 June 2021 are mentioned in the **Table 2.13**.

**Table 2.13: Department-wise details of pending Inspection Reports**

Sl. No.	Name of the Department/ Directorate	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1	Finance	Commercial Taxes	103	533	497.10
2	Excise	State excise	16	80	09.54
3	Revenue	Land revenue	26	127	09.88
4	Transport	Taxes on motor vehicles	42	192	70.71
5	Stamps and Registration	Stamp duty and registration fees	42	181	181.02
6	Mines and Geology	Non-ferrous mining and metallurgical industries	03	30	2803.09
<b>Total</b>			<b>232</b>	<b>1143</b>	<b>3571.34</b>

(Source: Compiled from Audit records)

Audit did not receive the first replies from the Heads of offices within four weeks from the date of issue of IRs in respect of 12 IRs issued up to December 2020. This indicated that the Heads of offices/departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

### **2.1.7 Response of the Departments to Draft Audit Paragraphs**

One Information Technology Audit, two Subject Specific Compliance Audits on GST (refund claims and transitional credits) and 12 draft paragraphs were sent to the Secretaries of the respective departments between October 2021 and February 2022. Reply in respect of these paragraphs have not been received from the Government (September 2022).

### **2.1.8 Planning and Conduct of Audit**

The auditable units under various departments are categorised into high, medium and low risk units. Risk analysis is done considering their revenue position, trend of past audit observations and other parameters specified in Compliance Audit Guidelines. The annual audit plan is prepared on the basis of critical issues in

Government revenues and tax administration. Audit also considered the priorities of the Government as per the budget speech, revenue during the past five years, features of the tax administration, audit coverage and its impact during past five years *etc.*

For the period 2020-21, 50<sup>6</sup> units were planned and were audited, which included 12 Apex units.

### 2.1.9 Results of Audit and Coverage of this Chapter

During the year 2020-21, Audit test checked the records of 50 units of Sales Tax/Value Added Tax, State Excise, Motor Vehicles Tax, Goods and Passengers Tax, Stamp Duty and Registration and other Departmental offices.

The test check showed under-assessment/short-levy/loss of revenue aggregating ₹ 89.96 crore in 119 cases. During the year, the departments concerned effected recoveries in cases of under assessment and other deficiencies amounting to ₹ 18.02 lakh (in 14 cases).

The details of the assessments, registrations, licenses issued and other activities undertaken by the five major revenue collection departments and the extent and coverage of audit are as discussed below.

#### ***Commercial Taxes Department***

There are eight auditable units in the Commercial Taxes Department, of which Audit selected five units for test check wherein 15,301 assessments were finalised during the year 2020-21. Audit test checked 755 assessments (4.93 *per cent*) during the year 2020-21 and noticed 52 cases (6.89 *per cent* of audited sample) of non/short levy of tax/interest/penalty, irregular allowance of input tax credit, grant of incorrect tax exemption benefits *etc.* involving ₹ 78.42 crore.

#### ***Revenue Department***

There are 25 auditable units in the Department, of which two were selected for test check during 2020-21. Audit noticed seven cases of arrears of Land tax, irregularities in regularisation of unauthorised construction, pending revenue recovery cases, lapses/short collection of mutation fee/conversion fee *etc.* involving ₹ 5.85 crore.

#### ***Excise Department***

There are 12 auditable units in the Excise Department of which seven units were selected for test check during the year 2020-21. In these seven units there were 2,780 licensees, out of which audit test checked records of 662 licensees (23.81 *per cent*). During test check audit noticed 32 cases of non-payment of minimum bottling fee, application of incorrect license fee on hotel, non-levy of excise duty on old stock lying idle for more than three years in bonded warehouse, non-renewal of licenses of distilleries, non-recovery of amount towards offences

<sup>6</sup> 50 units = 12 Apex Units + 38 units

compounded by the Commissioner, non-levy of surcharge of 100 *per cent* of the license fee on Foreign Liquor (FL) retailers, delay in disposal of confiscated liquor goods *etc.* involving ₹ 2.24 crore.

### ***Transport Department***

There are 14 auditable units in the Transport Department. A total of 38,135 vehicles were registered during 2020-21 in the State. Audit selected eight units for test check and entire case of vehicles registered were verified during audit. Audit noticed 22 cases of non-renewal of permits of M/C taxi, non-recovery of contract carriage permit fee, non-payment of road tax, non-payment of passenger tax, non-compounding of offence, short levy of fee for special number, non-levy of higher penalty for second offence, short levy of Registration fee on vehicles registered in the name of firms, collection of road tax in excess of rates prescribed by Government of Goa *etc.* involving ₹ 3.24 crore.

An IT Audit on Implementation of Vahan 4.0 and Sarathi 4.0 in Goa was also conducted during the year 2020-21.

### ***Registration Department***

There are 15 auditable units in the Registration and Stamp Department of which three units were audited during 2020-21. A total of 16,383 instruments were registered during 2020-21 out which 92 instruments were selected for test check. Audit noticed six cases of realisation of deficient registration fee, escapement of stamp duty and registration fees due to splitting of sale deeds, short levy of Registration fee due to under valuation of property, short levy of Stamp duty and Registration fees due to non-application of minimum land rate *etc.* involving ₹ 11 lakh.

## **Transport Department**

### **2.2 Information Technology (IT) Audit on Implementation of Vahan 4.0 and Sarathi 4.0 in Goa**

**The National Informatics Centre (NIC) developed centralized web-based applications called Vahan 4.0 and Sarathi 4.0 for the automation of vehicle and license related transport services in the country. These were operationalized by the Directorate of Transport (DoT), Government of Goa during 2017 and 2018. Information Technology Audit of these applications was taken up to evaluate the effectiveness of their implementation.**

**Department neither had an action plan nor a formal mechanism for monitoring the progress of implementation of Vahan 4.0 and Sarathi 4.0. As at the end of April 2021, 14 modules of Vahan 4.0 and 05 modules of Sarathi 4.0 were implemented and only 09 out of 31 online services were provided end-to-end, while the remaining 22 services were partially implemented. Department may prepare an action plan for the time bound**

implementation of the remaining modules, including all the end-to-end online services envisaged.

Audit noticed certain instances of incorrect/non-mapping of business rules resulting in irregularities in the levy of fee on fresh issue of Smart Registration Card in certain cases, grant of Driving License (DL) to underaged persons, penalties for registration beyond validity period, misclassification of certain vehicle categories, inconsistent application of rules for issue of Fitness certificate *etc.* This indicated gaps in the application controls, which impacted the correct application of rules, data integrity and Management Information System (MIS) reporting.

Due to certain inadequacies in input controls, data validation in key fields relating to vehicle classification, homologation module, pollution control validity, change in class of vehicles, receipt matching with treasury challans *etc.* was lacking. This caused some inaccuracies/incompleteness in data and erroneous application of rules.

Further, the absence of adequate output controls resulted in incorrect tax collection years in the database, incorrect passenger tax defaulters' data, inconsistencies in the MIS reports and mismatch between Analytics portal and Parivahan dashboard. The Department may put in place adequate output controls, ensure correct MIS reporting and address the data mismatch issues between the Analytical portal and Parivahan website, to facilitate dissemination of correct information to the stake holders.

Segregation of roles pertaining to data entry, verification and approval was not enforced, which made the system vulnerable to inaccuracies and manipulation. Further, weak logical access controls such as use of default passwords, absence of periodical password change process and One Time Password (OTP) related issues were noticed.

### 2.2.1 Introduction

The Ministry of Road Transport and Highways (MoRTH), Government of India makes the broad policy for regulation of road transport in the country, while the State Governments are responsible for the public transport system, registration of vehicles, issue of driving licenses, road permits, fitness certificates and collection of road taxes as per the Motor Vehicles (MV) Act, 1988. The MoRTH envisaged the Transport Mission Mode Project (MMP) under National e-Governance Plan (NeGP), with the objective of modernizing the IT infrastructure and improving the quality of services provided to citizens by bringing in efficiency, transparency, accountability and reliability in services. Accordingly, the National Informatics Centre (NIC) developed the applications; Vahan for registration of vehicles and Sarathi for the issue of driving licences to facilitate the functionalities mandated by the Central and State Motor Vehicles Acts and Rules. NIC was to extend



support for configuring the applications as per the State specific needs to the extent possible within the framework of a centralised architecture.

In Goa, the Vahan and Sarathi applications (Version 2.0) were implemented from the year 2010. Subsequently the NIC developed new centralised web-based versions of these applications; Vahan 4.0 and Sarathi 4.0 and the various modules for providing transport related services by the State departments were made available under the Parivahan portal. All the states were required to implement the new web-based version by March 2017, as per MoRTH's communication (June 2016). Key modules/services under Vahan 4.0 and Sarathi 4.0 are depicted in **Chart 2.4** and **Chart 2.5**.

**Chart 2.4: Key modules/services under Vahan 4.0**





Chart 2.5: Key modules/services under Sarathi 4.0



### 2.2.2 Organisational set up of the Transport Department

The management and functioning of the Transport Department in the State at the apex level is overseen by the Secretary (Transport). The Director of Transport (DoT) is the authority for implementing the provisions of the MV Act<sup>7</sup> and Rules<sup>8</sup> made there under and is assisted by a Deputy Director (Admin), two Deputy Directors (Transport) and 10 Assistant Directors of Transport (ADT)<sup>9</sup> at the taluka level. There are two Enforcement wings<sup>10</sup> in two districts, each headed by an ADT and five border check posts<sup>11</sup> functioning under the Enforcement wing.

### 2.2.3 Audit objectives

The Information Technology (IT) audit was taken up with a view to examine whether:

- The Transport Department formulated a strategic plan and action plan for providing online services and implementation of Vahan and Sarathi modules;
- Proper mapping of business rules was ensured in Vahan and Sarathi;

<sup>7</sup> Central Motor Vehicles Act, 1988/ The Goa Daman and Diu Motor Vehicles Tax Act, 1974 and The Goa Daman and Diu (Taxation on Passengers and Goods) Act, 1974

<sup>8</sup> Central Motor Vehicles Rules, 1989 / The Goa Motor Vehicles Rules, 1991

<sup>9</sup> North Goa- Panaji, Mapusa, Bicholim, Pernem, South Goa- Margao, Ponda, Vasco, Quepem, Canacona, Dharbandora

<sup>10</sup> One each at North and South Goa

<sup>11</sup> Mollem, Polem, Dhargal, Dodamarg, Keri

- The controls were adequate to ensure integrity, reliability, confidentiality and availability of data;
- Adequate system and data security policies have been framed and implemented for accessibility, retrieval and security of data; and
- Monitoring and supervision was adequate to ensure effective and efficient functioning of the applications.

#### **2.2.4 Audit criteria**

The audit criteria for this IT audit are based on the following:

- The Central Motor Vehicles (CMV) Act, 1988 and Central Motor Vehicles (CMV) Rules, 1989;
- The Goa, Daman and Diu Motor Vehicles Tax (GDDMV) Act, 1974, the Goa, Daman and Diu Motor Vehicles Tax (GDDMV) Rules, 1974, the Goa Daman and Diu (Taxation on Passenger and Goods) Act, 1974 and the Goa Daman and Diu (Taxation on Passenger and Goods) Rules, 1975 and Goa Motor Vehicle Rules, 1991;
- User manuals of various modules of Vahan 4.0 and Sarathi 4.0; and
- Guidelines/Instructions/Circulars/Orders issued by the Department.

#### **2.2.5 Scope of audit and methodology**

The IT audit was conducted between July to December 2021 covering a period of five years from 2016-17 to 2020-21. Audit evaluated the implementation of Vahan 4.0 and Sarathi 4.0 and its utilisation by the Department of Transport. Checks were exercised to ascertain the General and Application controls of the system and aspects relating to planning, implementation and monitoring by the Department. State level data pertaining to registration of vehicles, taxation, conversion, fitness, transfer of vehicles, homologation data, issue of licences *etc.* was carried out by using IDEA software on the Vahan 4.0 and Sarathi 4.0 datasets. For this purpose, the records and data maintained in the office of Director of Transport and four<sup>12</sup> offices of the ADTs were selected out of 12<sup>13</sup> ADT offices for scrutiny through random sampling method. As enforcement activities were also carried out by the registering authorities, the two Enforcement offices were not considered for selection.

The audit objectives, criteria, scope and methodology of audit were explained in an entry conference held (July 2021) with the Secretary (Transport) and other concerned officers. The audit findings, conclusion and recommendations were discussed in the exit conference held (May 2022) with the Secretary (Transport). Replies received from the Department are incorporated at appropriate places in the report.

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<sup>12</sup> Panaji, Mapusa, Margao and Canacona

<sup>13</sup> At taluka level- 10 ADTs (Registering Authority), 02 ADTs (Enforcement)

## 2.2.6 Details of revenue and registration of vehicles

The details of number of vehicles registered, licenses issued, and revenue collected by the Department during the period 2016-17 to 2020-21 are shown in **Table 2.14**.

**Table 2.14: Details of number of vehicles registered, licences issued and revenue collected**

Year	Total vehicles registered	Total licences issued	Total revenue <sup>14</sup> collected (₹ in crore)
2016-17	80403	37438	275.56
2017-18	86119	28558	341.97
2018-19	75076	40960	327.54
2019-20	57817	53184	299.32
2020-21	38135	50245	233.32

(Source: Information received from Department)

## 2.2.7 Acknowledgment

Audit acknowledges the co-operation and assistance extended by the State Government and its implementing offices in conducting the IT audit.

## Audit Findings

### 2.2.8 Planning and implementation

#### 2.2.8.1 Lack of planning

As part of its vision for providing efficient, safe and modern transport environment for the people, the Transport Department envisaged to make its work faceless, system driven and online, with very little interaction of public with employees of the Department, by 2025. However, there was no specific plan or action plan for achieving this vision or for the implementation of Vahan 4.0 and Sarathi 4.0 applications. Further, there was no formal mechanism for monitoring the progress and timely implementation of the applications.

The importance of a detailed action plan and the role of an empowered committee to steer the course of the project in ensuring the successful implementation of IT projects of this nature cannot be over emphasised. Their absence led to implementation delays and non-completion of modules in Vahan 4.0 and Sarathi 4.0, as well as inability to systematically address the issues that came up during the course of implementation, as discussed later in this report.

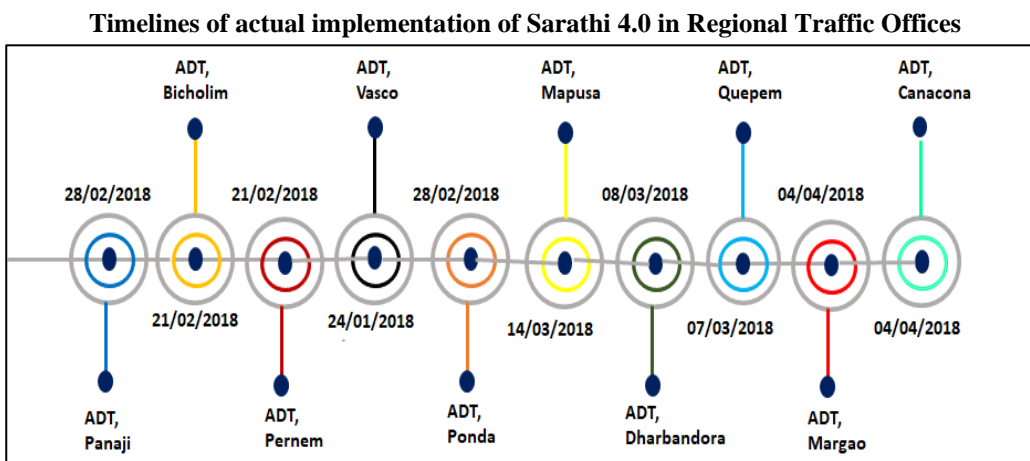
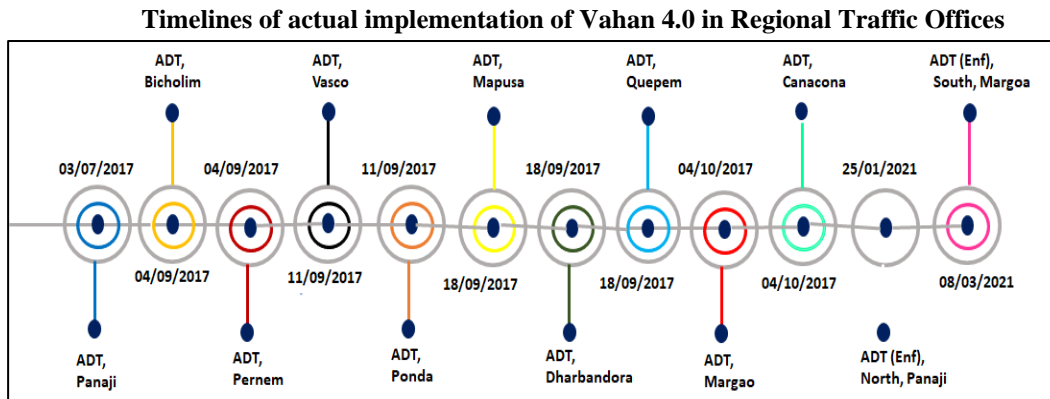
Accepting the audit observation, the Department constituted a Steering Committee under the chairmanship of the Director of Transport in January 2022.

#### 2.2.8.1 (i) Delay in implementation of various modules

A total of 17 and 07 modules each in Vahan 4.0 and Sarathi 4.0 respectively were to be implemented in Goa. The Department issued an order to implement Vahan 4.0 on pilot basis from 01/07/2017 and then roll out in all ADT offices by

<sup>14</sup> Road tax, passenger tax, fees & fines, cess, other receipts

31/07/2017. For Sarathi 4.0, the implementation was planned to start from 22/01/2018 and be completed by 04/04/2018. However, no detailed action plan with timelines for implementation of Vahan 4.0 and Sarathi 4.0 and its modules/across the Department was prepared to guide the timely implementation of the said modules.



As against the timeline of March 2017 mandated by the MoRTH, following delays were noticed in the implementation of the applications:

- a) There was an overall delay in implementation of Vahan 4.0 by three to six months and Sarathi 4.0 by 09 to 12 months in the 10 registering offices.
- b) The two<sup>15</sup> ADT offices for Enforcement were brought under the ambit of Vahan 4.0 after a delay of 45 to 47 months.
- c) The following modules under Vahan 4.0 were implemented with a delay ranging from 12 to 50 months by the Department:

<sup>15</sup> ADT (Enforcement) Panaji in January 2021 and ADT (Enforcement) Margao in March 2021

Table 2.15: Delay in implementation of the module under Vahan 4.0

Sl. No.	Name of module	Nature of service	Date of implementation of the module	No. of months delayed against targeted completion mandated by MoRTH (March 2017)
1	Tax	Tax payment	04/04/2018 (four ADTs)	12 months
2	Fitness	Fitness Certificate	10/10/2019 (Panaji) 09/01/2019 (Mapusa) 01/04/2019 (Madgaon) 11/10/2018 (Canacona)	16 to 30 months
3	e-Challan	Enforcement related activity	14/12/2020 (four ADTs)	44 months
4	Permit	Permit <sup>16</sup> to transport vehicle	08/03/2021 (Mapusa) 03/06/2021 (Canacona)	47 to 50 months
5	Fancy number	Allotment of fancy number	04/04/2018 (four ADTs)	12 months
6	Payment gateway	Online payment	04/04/2018 (four ADTs)	12 months

(Source: Data compiled by audit)

- d) Under Sarathi 4.0, Conductor's licence was partially implemented in two ADT offices (Mapusa, Panaji) after a delay of 42 months. The Driving School module was partially implemented in one ADT office (Panaji) after a delay of 52 months.
- e) DoT was required to link the emission data with Vahan database from April 2019 as per notification issued by the MoRTH (June 2018). Emission results obtained during testing of the vehicle were required to be uploaded through an online process into the Vahan database. Linkage of the Pollution Under Control (PUC) data was implemented after a delay of 16 months (*w.e.f.* 30/07/2020) by the Department.

Hence, there were delays in implementation which could have been avoided through better planning and monitoring.

### 2.2.8.1 (ii) Non-implementation of certain modules

The following modules/services are yet to be implemented by the DoT.

- The Check post module (Vahan 4.0) facilitates online tax payment by vehicle owners, saving them the effort of physically visiting the transport office, while enabling the Department to collect taxes in a cashless and seamless manner. However, the Department was yet to implement this module and the check posts in Goa continue to use an offline application developed by NIC which is not integrated with Vahan 4.0. Hence, people still need to visit the check post office for making payments, which is inconvenient, non-transparent and carries the risk of revenue leakage.

<sup>16</sup> Permit relating to Panaji, Margao are covered by ADT (Enforcement) North and South respectively

- As per Rule 33 of CMV Rules- Motor vehicles in the possession of the dealer shall be exempted from the necessity of registration subject to the condition that he obtains a trade certificate from the registering authority that has jurisdiction in the area. Further, as per Rule 18 of GDDMV Tax Rules, 1974 the vehicle owner not intending to use the vehicle can avail exemption from payment of tax by making a declaration of non-use. Trade Certificate module and ‘Non-use’ service, though available in Vahan 4.0, were not implemented and were being processed manually by the Department.
- As per Section 29 of the CMV Act, no person can act as a conductor of a stage carriage without having a valid license. Conductors’ License module (Sarathi 4.0) was not implemented in two (Margao, Canacona) out of four selected ADT offices and the licenses were issued manually. Further, as per Rule 24 of the CMV Rules, a driving school cannot be established without a license issued by the licensing authority. Driving School module was not implemented in three (Mapusa, Margao and Canacona) out of four selected ADT offices and the licenses were issued manually.

On being pointed out by Audit, the Department replied (05/05/2022) that Trade Certificate module was implemented *w.e.f.* 30/03/2022 and conductor licence module was in use at all ADTs. Testing of Check post module was in progress. Also, the ADTs were directed to use ‘non-use service module’ under Vahan 4.0 for processing and approving the applications received for non-use of vehicle.

### **2.2.8.1 (iii) Delay in providing certain end-to-end online services**

Out of 31 online services that could be provided end-to-end, online services were provided by the Department only for five services under Vahan 4.0 and four services under Sarathi 4.0 (December 2021) the services are operational now, as detailed in **Table 2.16**.

**Table 2.16: Delay in implementation of end-to-end online services under Vahan 4.0 and Sarathi 4.0**

Sl. No.	Application	Due date	Date implementation of the Department	Delay in implementation
<b>Vahan 4.0</b>				
1	Online tax payment	31/03/2017	04/04/2018	12 months
2	Update mobile number in Registration Certificate (RC)	31/03/2017	04/04/2018	12 months
3	Service withdrawal	31/03/2017	04/04/2018	12 months
4	Fancy number booking	31/03/2017	17/03/2020	35 months
5	Apply for new goods permit	31/03/2017	15/04/2021	48 months
<b>Sarathi 4.0</b>				
1	DL Extract	31/03/2017	04/04/2018	12 months
2	Application cancellation	31/03/2017	01/04/2021	48 months
3	Mobile number update	31/03/2017	01/04/2021	48 months
4	Apply for learner license	31/03/2017	01/07/2021	51 months

(Source: Data compiled by audit)

The implementation of these end-to-end services under Vahan 4.0 was delayed by 12 to 48 months and 12 to 51 months under Sarathi 4.0 from the timelines mandated by MoRTH. Several of the remaining<sup>17</sup> online services were partially implemented and the applicant had to visit the ADT office at the later stage of the process, to avail the services. Delays in implementation of end-to-end online services, available in Vahan 4.0 and Sarathi 4.0, impacted the timely achievement of the Department's goal of providing cost-effective and user-friendly services to the public. Further, MoRTH<sup>18</sup> had identified 16 contactless services to be provided online with Aadhar based authentication.

The Department, while accepting the audit observation, stated (05/05/2022) that seven additional services were implemented as on 08/04/2022 and for the remaining services NIC was requested to expedite implementation.

#### 2.2.8.1 (iv) Absence of Refund module in Vahan 4.0

Section 9 of the GDDMV Tax Act, 1974 provides for refund of MV tax paid in advance, subject to certain conditions. The four selected offices have granted 95<sup>19</sup> refunds of ₹ 44.20 lakh during the period 2016-17 to 2020-21 as detailed in **Table 2.17**.

**Table 2.17: Details of refund cases**

(₹ in lakh)

Year	Cases	Refund amount
2016-17	07	01.10
2017-18	15	11.24
2018-19	09	07.19
2019-20	20	05.69
2020-21	44	18.98
<b>Total</b>	<b>95</b>	<b>44.20</b>

(Source: Data compiled by audit)

The refunds were processed manually as no module for processing refunds has been incorporated in Vahan 4.0 by NIC and automation to that extent was incomplete. Manual processing of refunds meant that, the public were bound to visit the office to apply for their refund claims as well as to know the status of refund. Given the increase in the number of refund cases over the years, processing of refund cases through Vahan 4.0 would improve the efficiency of processing and ensure better service to the public.

The Department replied (16/11/2021) that NIC has been requested to incorporate the provision of processing the refund cases in Vahan 4.0.

<sup>17</sup> Transfer of ownership, hypothecation termination and addition, issue of duplicate RC, issue of fitness certificate, change of address in RC, RC renewal, RC cancellation, conversion of vehicle, alteration of vehicle, apply for driving licence, DL renewal, change of address in DL etc.

<sup>18</sup> Notification dated 03/03/2021 by MoRTH

<sup>19</sup> Refund cases of ADT Margao for the period 2016-17 were not included as the same was not provided



### **2.2.8.1 (v) Delay in procurement and non-utilization of hardware**

With a view to ensure enhanced performance and compatibility with the upgraded versions of the application, NIC provided (October 2017) the technical specifications for computers and peripherals<sup>20</sup> required for the implementation of Vahan 4.0 and Sarathi 4.0. Based on this the Department obtained the hardware requirements from all the ADT offices. Audit observed the following:

- There were delays in the procurement of computers and peripherals as the same were procured between July 2018 and February 2019 *i.e.* well after the implementation of Vahan 4.0 (October 2017) and Sarathi 4.0 (April 2018) applications.
- The e-Challan application comprising an android based mobile app and web interface was a sophisticated application software integrated with Vahan 4.0 and Sarathi 4.0, providing several user-friendly features covering all major functionalities of Traffic Enforcement System and management of traffic violations. It facilitates, on-site card payment and offences recorded through the e-Challan module, directly blocks the transactions against the RC/DL and records repetition of offence. NIC had recommended the procurement of Smart phone/Tabs (handheld devices) for the e-Challan module. However, the Department implemented the e-Challan module in December 2020 without procuring the required hardware. Even as of December 2021, the Department did not procure the necessary hardware and was issuing challans manually.
- At ADT Canacona, seven computers have remained unused since their procurement (February 2019) due to lack of office space, which showed that adequate planning was not done before the procurement of hardware, resulting in scarce resources lying idle.

Poor planning led to delays in procurement of computers as well as non-procurement of hardware for the e-Challan module, impacting project timelines and the Department's ability to reap the benefits of the new applications in full.

The Department replied (05/05/2022) that computers lying idle had been relocated to other ADTs and handheld devices for e-Challan module provided to all the ADTs.

***Recommendation 1: The Department may prepare an action plan for the time bound implementation of the remaining modules/services in Vahan 4.0 and Sarathi 4.0, including the provision of all the envisaged end-to-end online services.***

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<sup>20</sup> Desktop computers and peripherals (laptop, servers, scanners, printers, UPS *etc.*)



## 2.2.9 Application controls

Application controls consist of input, output and processing controls and help to ensure rule mapping, proper authorization, completeness, accuracy and validity of transactions. Audit findings on the mapping of business rules in the applications and adequacy of application controls are discussed in the following paragraphs.

### 2.2.9.1 Mapping of business rules in Vahan 4.0 and Sarathi 4.0

The Department is governed by the MV Act and Rules, and all the extant business rules are to be incorporated in the IT applications. Data analysis was carried out to assess the compliance of Vahan 4.0 and Sarathi 4.0 applications with the relevant rules and regulations. Several instances of incomplete, improper and non-mapping of business rules were noticed, as detailed in the following paragraphs:

#### 2.2.9.1 (i) Levy of irregular fee on issue of fresh RC smart card on cancellation of hypothecation agreement

As per the notification of Government of Goa (May 2017), an additional fee of ₹ 200 was not to be charged for issue of fresh smart card upon cancellation of hypothecation agreement.

During the period between 12 May 2017 to 31 March 2021, in 56,709 cases in respect of all the registering authorities (37,473 cases in selected units), fee amounting to ₹ 1.14 crore (₹ 75.35 lakh in selected units) was collected on the issue of fresh smart cards after cancellation of hypothecation agreements, which was in violation of the relevant provision. Non-mapping of the business rule as per the Government's notification resulted in an irregular levy on the public.

The Department, while accepting the audit observation replied (05/05/2022) that the customisation in fee calculation was tested successfully on the test server and requested NIC to make it live.

#### 2.2.9.1 (ii) Non mapping of penalty provisions for registration beyond the validity of temporary registration and irregular collection of penalty for delayed registration of new vehicle

Section 43 of the CMV Act, 1988 mandates a vehicle owner to get a temporary registration number with a validity period of one month. Within the validity period of the temporary registration number, the vehicle is required to be registered under Section 39 of the Act *ibid*. The offence of using a vehicle without registration or despite the suspension or cancellation of registration attracts different amounts of penalty<sup>21</sup> for different categories of vehicles under Section 192 of the Act.

a) Analysis of Vahan 4.0 database for the period<sup>22</sup> between April 2016 to March 2020 in respect of all the registering authorities revealed that 504 temporary registered vehicles were not registered permanently within one month from the

<sup>21</sup> Heavy Motor Vehicle- ₹ 3,000, Taxi cab/Minibus/Motor car/motor cycle- ₹ 2,000

<sup>22</sup> Due to exemption provided during pandemic 2020-21 was not considered.

date of temporary registration. In the four selected units, 352 vehicles were not registered permanently within one month. Out of these, in the case of 220 vehicles it was seen that the penalty was levied under wrong heads viz. miscellaneous or difference of fee instead of penalty head.

As the relevant provision was not mapped in Vahan 4.0 the penalty u/s 192 of the Act was not calculated/levied automatically. Non-mapping of penalty provisions in the IT application resulted in non-levy of penalty of ₹ 3.59 lakh in respect of 132 vehicles as detailed in **Table 2.18**.

**Table 2.18: Non levy of penalty beyond the validity of temporary registration**

Type of Vehicle	No. of Vehicles	Penalty rate leviable	Short levy of penalty
Goods carriage, Bus, Construction equipment, Dumper, Crane mounted and forklift	95	3000	285000
Taxi cabs, Auto rickshaws, Motor cars and tractors	37	2000	74000

(Source: Data compiled by audit)

On being pointed out by Audit, the Department replied (16/12/2021) that NIC has been requested to map the Vahan 4.0 system with provision to auto calculate the penalty u/s 192 in case of delay in registration.

b) As per Rule 47 of CMV Rule, 1989, an application for registration of a motor vehicle shall be made to the registering authority within a period of seven days from the date of delivery of the vehicle, excluding the period of journey.

Audit noticed that a penalty of one *per cent* per month of MV tax was levied on new vehicles which did not apply for temporary registration within the stipulated time period. However, this rate of penalty was not authorised by any Act, notification or provision. During the audit period, a total of ₹ 21.78 lakh was collected irregularly as penalty in 807 cases by all the registering authorities in Goa. In the selected units, fine amounting to ₹ 16.49 lakh in 651 cases was collected as detailed in **Table 2.19**.

**Table 2.19: Cases of fine collected for delayed registration**

Name of office	2016-17		2017-18		2018-19		2019-20		2020-21	
	No. of cases	Penalty collected (in ₹)	No. of cases	Penalty collected (in ₹)	No. of cases	Penalty collected (in ₹)	No. of cases	Penalty collected (in ₹)	No. of cases	Penalty collected (in ₹)
Panaji	0	0	13	18429	11	19319	23	51113	88	61715
Mapusa	0	0	32	54806	39	218498	40	316179	123	116659
Margao	1	12750	37	86712	68	143741	67	318355	81	219188
Canacona	0	0	05	2658	01	231	05	3224	17	5617
	<b>1</b>	<b>12750</b>	<b>87</b>	<b>162605</b>	<b>119</b>	<b>381789</b>	<b>135</b>	<b>688871</b>	<b>309</b>	<b>403179</b>

(Source: Data compiled by audit)

The Department, while accepting the audit observation, replied that levy of this penalty was as per prevailing practices and the process of amendment had been initiated.

Collection of penalty without any authority is irregular and the Department is required to frame the necessary rules for levy of penalty for delayed registration. Further, non-existent business rules should not be built into the IT application.

**2.2.9.1 (iii) Non mapping of registration fee provision for construction equipment vehicles**

Construction equipment vehicles<sup>23</sup> have been defined under Rule 2 (cab) of the CMV Rules 1989 and the registration fee for issue or renewal of certificate of registration is prescribed under Rule 81 of the CMV Rules for various types<sup>24</sup> of vehicles. Construction equipment vehicles are required to be categorised as ‘any other vehicle’ and attract a fee of ₹ 3,000 as per notification (12/05/2017) issued by the Government of Goa.

Analysis of Vahan 4.0 data in respect of all the registering authorities revealed that 119 construction equipment vehicles/crane mounted vehicle/earth moving equipment vehicles were incorrectly categorised as LMV or MMV resulting in short levy of registration fee amounting to ₹ 2.87 lakh. As these vehicles did not belong to any of the specified categories, as per the extant provisions, they were to be registered under the category ‘any other vehicle’ and fees levied accordingly. The misclassification was further verified in the selected units where 62<sup>25</sup> construction equipment vehicles were misclassified leading to short levy of registration fee amounting to ₹ 1.51 lakh during the audit period.

The Department, while accepting the audit observation, replied (25/11/2021) that NIC has been informed to incorporate the necessary provision for mapping the registration fees with the correct vehicle type.

**2.2.9.1 (iv) Incorrect requirement of NOC for change of address/ ownership of vehicles from one ADT office to another within the State**

As per provisions of Section 48, 49 and 50 of the CMV Act, 1988, No Objection Certificate (NOC) from the Department was required for transferring a vehicle from one state to another, while there was no such requirement for change of address and ownership of the vehicles within the State.

Analysis of NOC data for the audit period in respect of all the registering authorities revealed that a total of 76,230 NOCs (47,097 NOCs in selected units)

<sup>23</sup> Rubber tyred, rubber padded or steel drum wheel mounted, self-propelled, excavator, loader, backhoe, compactor roller, dumper, motor grader, mobile crane, dozer, fork lift truck, self-loading concrete mixer or any other construction equipment vehicle

<sup>24</sup> Invalid carriage, Motorcycle, Light Motor Vehicle (LMV), Medium Goods Vehicle, Heavy Goods vehicle, Medium passenger vehicle, Heavy passenger vehicle, imported motorcycle, imported vehicle and any other vehicle not mentioned above

<sup>25</sup> Construction equipment vehicle-32, crane mounted-22, earth mover-08= 62

were issued for transfer from one registering authority to another within the State on account of changes in the address or ownership of the vehicles. Vahan 4.0 application did not provide access to another RTO for change of address or ownership of the vehicles unless the NOC was recorded at the previous RTO. Vahan 4.0 application requires processing through the NOC service for change of address or ownership from one ADT office to another within the State, as the provisions of Section 49 and sub-clause (i) of Sub-section 1(a) of Section 50 of the Act have not been mapped correctly. Incorporation of rules in violation of the provisions of the Act is irregular and goes against the spirit of the Department's mission of providing hassle-free services to citizens.

The Department, while accepting the audit observation, replied (05/05/2022) that NOC service has been enabled in Vahan 4.0 as an end-to-end online service. Reply is not acceptable as the requirement of NOC within the State delays the transfer from one R.T.O. to another and defeats the purpose of an online system.

**2.2.9.1 (v) System accepted MV tax without confirming the validity of insurance**

Under Section 4(1) read with Section 3 of the GDDMV Act, 1974, at the time of making payment of Motor Vehicle tax, the vehicle owner must produce before the authority a valid certificate of insurance before making the payment of tax. In Vahan 4.0, the insurance data was directly captured from insurance companies and the latest renewal status of insurance was readily available.

Analysis of tax payment data for the year 2019-20<sup>26</sup> and the validity of insurance at the time of payment of tax revealed that in 1,545 cases in respect of all the registering authorities (991 in selected units), tax payment was made even though the insurance had expired. The system accepted payment of MV tax without ensuring the validity of insurance, in violation of the provision of the Act.

The Department, while accepting the audit observation replied (05/05/2022) that necessary check had been introduced in the software.

**2.2.9.1 (vi) Incorrect grant of driving licence to underaged persons**

As per Section 4 of CMV Act 1988, no person under the age of 18 years shall drive a motor vehicle in any public place, except a motorcycle with engine capacity not exceeding 50 Cubic Capacity (CC) that may be driven in a public place by a person after attaining the age of 16 years.

A total of 1,603 driving licenses were issued by all the registering authorities in Goa during the audit period (1,150 in selected units) to the applicants in the 16 to 18 years age group under the category "motorcycle without gear", though these applicants were eligible for DL only under the category "motorcycle with engine capacity not exceeding 50 CC" as per provision under Section 10(2) of the Act.

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<sup>26</sup> Period 2020-21 not considered due to prevalence of pandemic

As the Sarathi 4.0 application was not mapped in accordance with the requirement of the Act, underage persons were allowed to drive all categories of two wheelers without gear, including those with engine capacity exceeding 50 CC.

Accepting the audit observation, the Department replied (16/12/2021) that NIC has been requested to make the necessary changes in the Vahan 4.0 software.

**2.2.9.1 (vii) Delay in issuance of registration certificate for want of updation of HSRP details**

Vehicle dealers carry out registration of new vehicles through the Dealers Point Registration module. As per the citizen charter of the Transport Department, the smart card registration certificate was to be issued within 15 days of the date of registration of the vehicle. High Security Registration Plates (HSRP) were mandated by the MoRTH (December 2018) for all new vehicles sold on or after 01/04/2019. The smart card registration certificate could be printed only after linking the plate's unique code<sup>27</sup> with assigned vehicle registration mark<sup>28</sup>.

In 623 cases in respect of all the registering authorities the smart card registration certificates could not be generated and issued within the prescribed time as the HSRP updation by the dealers was pending (as on 11/04/2022) in Vahan 4.0. As the service level requirement of issue of registration certificate within 15 days of the vehicle registration was not built into the system, there was no control feature that could enable monitoring and enforcement of compliance with the citizen's charter by the Department.

The Department replied (05/05/2022) that the matter would be taken up with the dealers to speed up fixation of HSRP once a new vehicle is registered.

**2.2.9.1 (viii) Fitness certificate not allowed to vehicles with road tax arrears whereas allowed to vehicles with passenger tax arrears**

As per Section 56 of the CMV Act 1988, a certificate of fitness can be issued to a transport vehicle only when the vehicle complies with all the requirements of the Act and the rules made thereunder.

Audit noticed that in Vahan 4.0, the issue of fitness certificate was not allowed where MV tax of the vehicle was in arrears, whereas it was allowed in cases where passenger tax was in arrears. Data analysis of fitness certificates issued and passenger tax paid details revealed that during the audit period, in respect of all the registering authorities in Goa, 1,169 vehicles (706 in selected units) with arrears of passenger tax were granted fitness certificate in Vahan 4.0. Incomplete mapping of business rules resulted in inconsistent and wrong application of the rule.

<sup>27</sup> At the time of manufacture of HSRP plate the unique code is generated by the vendor and the same updated in Vahan 4.0 after obtaining assurance from the dealer.

<sup>28</sup> Provided by RTO

Accepting the audit observation, the Department replied (25/11/2021) that Vahan 4.0 was not configured to check for passenger tax up to date status for any vehicle related transaction. The NIC has been requested to check for passenger tax up to date status before any transaction could be made.

### **2.2.9.1 (ix) Cancellation of receipts without prior approval of ADT**

In Vahan 4.0 and Sarathi 4.0, the right to collect cash, generate receipts and cancel the receipts so generated has been given to the cashiers. A total of 4,475 receipts amounting to ₹ 7.58 crores were cancelled in respect of all the registering authorities during the period 2017-18 to 2020-21 due to various reasons such as entry of incorrect registration certificate, entry of incorrect transaction, non updation of manually issued fitness certificate validity in Vahan 4.0 etc.

In four selected ADTs, 814 receipts valuing ₹ 5.29 Crore were cancelled during the said period as detailed in **Table 2.20**.

**Table 2.20: Cases of cancellation of receipts without prior approval of ADT**

Name of the ADT office	2017-18		2018-19		2019-20		2020-21	
	No. of Receipts	Amount (in ₹)	No. of Receipts	Amount (in ₹)	No. of Receipts	Amount (in ₹)	No. of Receipts	Amount (in ₹)
Mapusa	89	385812	90	368890	72	165729	28	48333
Panaji	68	3831051	92	45968666	34	72953	44	205012
Margao	10	194418	98	597494	88	837674	71	128136
Canacona	-	-	07	11460	07	9290	16	58525
<b>Total</b>	<b>167</b>	<b>4411281</b>	<b>287</b>	<b>46946510</b>	<b>201</b>	<b>1085646</b>	<b>159</b>	<b>44006</b>

(Source: Data compiled by audit)

Cancellation of these receipts in the system was done through OTP authentication from the registered user's mobile.

Audit observed that prior approval of the ADT for cancellation of receipts was not obtained in the system, as the system did not facilitate a two-level check, as is available for other services *i.e.* through segregation of verification and approval roles for receipt cancellation. Due to the absence of system-based approval by the ADT, manual approvals for cancellation were later obtained from the ADTs. Cancellation of receipts without a system-based prior approval of the supervisory authority is fraught with the risk of misuse.

Accepting the audit observation, the Department replied (20/12/2021) that NIC has been requested to make the provision for two level processing and approval of cancellation of receipts under Vahan 4.0 and Sarathi 4.0.

### **2.2.9.1 (x) Absence of mapping of revenue collection modes**

Vahan 4.0 and Sarathi 4.0 provided for two modes of revenue collection- cash and other than cash (only draft option). Though revenue was also collected through debit/credit cards using Point of Sale (PoS) machines and bank challans, the same were reflected under the cash option due to the non-availability of corresponding options. For example, a revenue of ₹ 30.87 crore shown in Vahan 4.0 dashboard

as collected by way of cash during January 2020 to March 2021 was not reflective of the true position. Due to the absence of the provision to capture the details of all permissible modes of revenue collection in Vahan 4.0 and Sarathi 4.0 the MIS reports were inaccurate to that extent.

Accepting the audit observation, the Department replied (13/08/2021) that the discrepancy was intimated to NIC for necessary amendment in the system. The bank challan, draft, NEFT/RTGS modes have been made available in the system from 31/08/2021 in the 'other than cash mode'.

However, audit observed that in the 'other than cash mode', the PoS which was the main mode of revenue collection, has yet to be integrated with the system.

### 2.2.9.2 Input controls

Input controls pertain to computerized validity checks/controls on the data being entered in a system with a view to ensure that the data being entered is complete and accurate. When inaccurate/incomplete data is allowed to be entered into the system, the outputs generated will be inaccurate/incomplete, compromising the integrity and usefulness of the system. Certain deficiencies were noticed in the input controls in the Vahan 4.0/Sarathi 4.0 applications as described under:

#### Absence of data validation in key fields

Analysis of Vahan 4.0 and Sarathi 4.0 database of the four selected offices for the period April 2016 to March 2021 revealed that certain key fields contained incorrect data/values in several records due to inadequate data validation. The details are as under:

#### 2.2.9.2 (i) (a) Vehicles not classified based on seating capacity

Section 2 (22) of the CMV Act defines 'Maxi cab' as any motor vehicle constructed or adopted to carry more than six passengers but not more than 12 passengers, excluding the driver, for hire or reward. Similarly, 'Motor cab' is defined under Section 2(25) as any motor vehicle constructed or adopted to carry not more than six passengers excluding the driver for hire or reward. 'Omnibus' is defined under Section 2(29) as any motor vehicle constructed or adopted to carry more than six persons excluding the driver. The MV tax is levied<sup>29</sup> at different rates<sup>30</sup> based on the seating capacity. Following was noticed in the analysis of registration database:

- In respect of all the registering authorities, in 197 cases, vehicles with seating capacity of more than eight were registered incorrectly as Motor cab in Vahan 4.0 instead of the applicable class (Maxi cab/Omnibus). In the selected units, 166 vehicles were wrongly classified as Motor cab as shown in **Table 2.21**.

<sup>29</sup> Upto 18 seats ₹ 2,000 per annum and for every additional seat ₹ 118

<sup>30</sup> Notification dated 21/09/2016

Table 2.21: Vehicles not classified based on seating capacity

Name of office	Seating capacity between 8 to 13 (including driver seat)	Seating capacity more than 13 seats (including driver seat)	Total vehicles wrongly classified as motor cab
Mapusa	53	14	67
Panaji	56	06	62
Margao	20	10	30
Canacona	06	01	07
<b>Total</b>			<b>166</b>

(Source: Data compiled by audit)

Out of 166 misclassified vehicles, in 79 cases a short levy of MV tax of ₹ 1.08 lakh was noticed.

- In, 64 cases in respect of all the registering authorities (34<sup>31</sup> cases in selected units) vehicles with more than 13 seats were registered incorrectly as “Maxi cab” instead of the applicable class (Omnibus).

The above cases of misclassification indicate that the vehicle category is not validated against the seating capacity under Vahan 4.0, which affected the integrity and reliability of the data, which in turn could impact Government revenues.

Accepting the audit observation, the Department replied (24/11/2021) that the NIC has been requested to make the necessary changes in Vahan 4.0 software regarding seating capacity and class of vehicle.

#### 2.2.9.2 (i) (b) Irregular change in class of vehicles

Section 2 of the Central Motor Vehicle Act, 1988 categorises vehicles in relation to their seating capacity as Maxi cab<sup>32</sup>, Motor cab<sup>33</sup> and Omnibus<sup>34</sup>. The rate of MV tax for a vehicle with seating capacity between 8 to 13 seats (Maxicab) was ₹ 2,000 *per annum*.

Audit observed the following upon analysis of Vahan 4.0 data pertaining to change of class of vehicles in the selected units:

- Under the jurisdiction of ADT Panaji and Canacona, 11 vehicles with seating capacity between 08 to 13, which were correctly registered as maxi cab initially, were later changed as motor cab. This change in the vehicle class was approved by non-supervisory staff in Vahan 4.0. The irregular change in vehicle class resulted in a recurring loss of ₹ 5,830 *per annum* on MV tax.
- In respect of 15 vehicles pertaining to three ADT offices (Panaji, Mapusa, Canacona), the class of vehicle was wrongly changed after registration from

<sup>31</sup> Mapusa-10, Panaji-05, Margao-11, Canacona-08 (seating capacity between 14 to 32 seats)

<sup>32</sup> Motor vehicle constructed or adapted to carry more than six passengers, but not more than 12 passengers excluding driver

<sup>33</sup> Motor vehicle constructed or adapted to carry not more than six persons excluding the driver

<sup>34</sup> Motor vehicle constructed or adapted to carry more than six persons excluding driver



maxi cab to motor car. Though this was rectified later, there was short collection of MV tax of ₹ 13,780 on these vehicles during the intervening period.

The system lacked validation control linking the class of vehicle with seating capacity. Further, the risk of irregularities and possible malpractice was amplified as there was no segregation of roles of entry, verification and approval and the same person was allotted all the three roles without any supervisory control, resulting in loss of revenue to the Government.

Accepting the audit observation, the Department replied (30/12/2021) that as per letter dated 12/05/2021 from the MoRTH, the permission for correction of vehicle data in Vahan 4.0 at RTO level were withdrawn by NIC and all modifications in vehicle data were to be approved through the State administrator login ID. Further, the Department has requested NIC (24/11/2021) to incorporate validation control regarding seating capacity and class of vehicles.

#### **2.2.9.2 (ii) Deficiencies in homologation module**

The homologation module in Vahan 4.0 provides for domestic vehicle manufacturers to furnish the details of vehicles meant for sale in the country. These details are used by the dealers of vehicles who are authorised to register the vehicles as well as by the ADT offices for vehicle registration. At the time of registration of the vehicle, the application automatically links all the details entered by the manufacturer in the homologation module. Analysis of data of all the registering authorities for the period 03/07/2017 to 31/03/2021 revealed the following:

- In 2,17,523 cases (1,30,838 in selected units), the details of the length, width and height of the vehicle were entered as zero by the manufacturer which was accepted in the module.
- In 1,19,689 cases (70,967 in selected units), the sale price of the vehicle was entered as zero by the manufacturer. This was due to lack of necessary application controls, as the manufacturers were not required to compulsorily fill all the data before the vehicle record was accepted into the system.
- The homologation module showed vehicle price as per the purchase invoice issued by the manufacturer, which includes basic manufacturing cost and all applicable taxes on which the MV tax is to be levied. Further, as per Government of Goa notification dated 17 August 2020, for levy of MV tax, registering authority shall not deduct the discounts offered by the dealer/manufacture from cost of motor vehicle. Moreover, in this regard, Department also stated (November 2021) that Vahan 4.0 allows the registering authority (ADT) to change the price of the vehicle in the higher side than the value fetched from the homologation module.

However, Audit noticed that in 126 cases in the selected units, registering authority considered the sale price based on the dealer's tax invoice which was

lower than the sale price in the homologation module (which could be due to discounts offered by the dealer). This resulted into short levy of MV tax amounting to ₹ 30.88 lakh.

The absence of necessary controls in the homologation module resulted in incomplete and inconsistent data, which left the system open to misuse as well as to leakage of government revenues.

On being pointed out by Audit, the Department replied (November 2021) that NIC has been requested to make the necessary update in the software so that manufacturers of motor vehicles are given an option to make master entry of sale price of all the models of vehicles and the same value can be auto fetched while feeding data in the homologation portal by the motor vehicle manufacturer.

The reply is not tenable as mere auto-fetching of sale price in the homologation portal would not prevent the registering authority from entering a sale price lower than the auto fetched price in the homologation module for levy of MV tax.

### **2.2.9.2 (iii) Incorrect data entered for seating capacity and gross weight of vehicles**

Different types<sup>35</sup> of motor vehicles are defined based on their laden/unladen weight or seating capacity under Section 2 of the CMV Act, 1988.

Analysis of the registration database of all the registering authorities revealed that the seating capacity (two wheelers) and laden weight (LMV, MMV, HMV) of 11,943 vehicles were not in conformity with the seating capacity/laden weight applicable to these vehicles.

Further analysis of the registration database of four selected ADT offices revealed that the seating capacity (two wheelers) and laden weight (LMV, MMV, HMV) of 6,672 vehicles were not in conformity with the seating capacity (38 vehicles)/laden weight (6,634 vehicles) applicable to these vehicles. Out of these, 86 vehicles were registered in Vahan 4.0. The details are given in **Table 2.22**.

**Table 2.22: Incorrect data entered in vehicles details**

Sl. No.	Name of Office	Vehicle class	No. of Vehicles	No. of Seats/ laden weight ranging between	No. of vehicles registered in Vahan 4.0
1	Mapusa, Panaji, Margao, Canacona	Two wheelers	30	0 seats	04
			08	05 to 229 seats	
2	Mapusa, Panaji, Margao, Canacona	LMV	6595	0 kg	47
			03	Exceed 7500 kg	
3	Mapusa, Panaji, Margao	MMV	21	0 kg	21
			01	Exceed 12000 kg	
4	Mapusa, Panaji, Margao	HMV	14	0 kg	14

(Source: Data compiled by audit)

<sup>35</sup> Heavy goods vehicle, heavy passenger motor vehicle, light motor vehicle, medium goods vehicle, medium passenger motor vehicle, maxi cab, motor cab, motorcycle, omnibus

Accepting the audit observation, the Department replied (24/12/2021) that NIC has been requested to incorporate the validation control between class of vehicle with seating capacity in case of passenger vehicle and laden weight in case of goods vehicle.

#### 2.2.9.2 (iv) Incorrect mention of engine capacity of two-wheeler

Under Rule 2 of CMV Rules 1989, motorcycles are categorized based on engine capacity exceeding 50 CC or not exceeding 50 CC. The Department informed (16/11/2021) that no two wheelers with engine capacity less than 50 CC were registered in the State during the Audit period.

Analysis of the Vahan database of registering authorities in Goa revealed that the CC of 71 two wheelers as per their make and model were much higher but were entered as ranging from 0 to 20 CC. Out of these, 25 vehicles were registered in Vahan 4.0 between August 2017 and September 2019.

Further, analysis of the database relating to the selected units was as detailed in **Table 2.23**.

**Table 2.23: Incorrect mention of engine capacity of two-wheeler**

Sl. No.	Name of Office	Total two wheelers			Registered in Vahan 4.0
		Non-transport	Transport	Total	
1	Mapusa	12	01	13	01
2	Panaji	08	00	08	05
3	Margao	11	00	11	05
4	Canacona	09	01	10	04
<b>Total</b>		<b>40</b>	<b>02</b>	<b>42</b>	<b>15</b>

(Source: Data compiled by audit)

Thus, as a result of inadequate data validation in Vahan 4.0, vehicle category was not automatically determined by the CC of two-wheeler vehicles, resulting in incorrect data in several records.

On being pointed out by Audit, the Department replied (24/12/2021) that NIC has been requested to incorporate validation control regarding engine capacity and class of vehicle.

#### 2.2.9.2 (v) Incorrect entry of purchase date of vehicles

Section 39 of the CMV Act, 1988 prescribes that no motor vehicle should be driven unless it is registered in accordance with the provisions of the Act.

Scrutiny of registration data in respect of all the registering authorities revealed that in 10 cases the purchase dates of the vehicles were incorrectly mentioned after the registration date, due to absence of validation checks. In the selected units, in six vehicles, the date of purchase of vehicles was shown after the date of the registration ranging between 06 to 623 days. The lack of validation checks resulted in incorrect entries in the database as shown in **Table 2.24**.

**Table 2.24: Incorrect entry in vehicles details**

Office	Registration No.	Registration date	Purchase date shown in the details of vehicle in the system
Mapusa	GA03AN2530	20/04/2016	04/01/2018
Mapusa	GA03W1160	28/11/2016	10/11/2017
Mapusa	GA03W3434	02/03/2017	15/11/2017
Panaji	GA07F6737	13/06/2016	14/11/2017
Panaji	GA03W1945	05/11/2016	30/01/2018
Margao	GA08R5302	24/02/2020	03/03/2020

(Source: Data compiled by audit)

On being pointed out by Audit, the Department replied (24/11/2021) that NIC has been requested to incorporate a validation control regarding purchase date being on or before registration date.

#### **2.2.9.2 (vi) Deficiencies in backlog module**

To facilitate digitisation of records yet to be captured in the system, a separate backlog module has been provided in Vahan 4.0/Sarathi 4.0. The data in respect of such vehicles/licences was being entered in the backlog module by the staff on the basis of original documents produced by the vehicle owner/licensees.

Analysis of 32,027 backlog entries in Vahan 4.0 revealed that, in 36 cases, the purchase date and registration date were entered incorrectly. The software should be able to identify cases with wrong data for corrective action.

Accepting the audit observation, the Department replied (17/12/2021) that NIC has been requested to incorporate validation control on the data entry.

#### **2.2.9.2 (vii) Discrepancies in fitness certificate issued and PUC validity**

As per Rule 115(7) of CMV Rules, 1989, after the expiry of a period of one year from the date on which the motor vehicle was first registered, every such vehicle shall carry a valid 'Pollution Under Control' (PUC) certificate issued by an agency authorised by the State Government. Further, Rule 62 requires the PUC certificate (PUCC) for fitness clearance of the vehicle. The validity of the PUC certificate under Bharat stage IV or VI was 12 months and for others it was six months.

- Analysis of database of vehicle fitness during the audit period in respect of all the registering authorities in Goa revealed that 517 vehicles (408 in selected units) were granted fitness certificates in the system even in the absence of pollution clearance details.
- Analysis of database of PUC certificate of all the registering authorities revealed that in case of 2,113 vehicles (1,828 in selected units) the validity of pollution certificate was either more or less than that prescribed *i.e.*, 180 days or 365 days as shown in **Table 2.25**.

Table 2.25: Validity of pollution certificate

No. of vehicles where validity of PUC shown less than 177 days	No of vehicles where validity of PUC shown between 369 to 911 days
1743 (All Goa)	370 (All Goa)
1517 (Selected units)	341 (Selected units)

(Source: Data compiled by audit)

The system did not have validation control to verify compliance with PUC requirements before the issue of fitness certificate. The Department may ensure that PUC compliance is made mandatory in the system as drop down box before issue of fitness certificate.

Further, the validity period of PUC certificate was not correctly mapped to the relevant stage-Bharat IV or VI. Thus, data integrity was not ensured.

Accepting the audit observation, the Department replied (16/12/2021) that NIC has been requested to incorporate the necessary validation control on PUC validity in Vahan 4.0.

#### **2.2.9.2 (viii) Lack of validation controls in capturing receipt details against treasury challans**

In addition to online collection and through PoS machines in ADT offices, the Transport Department collects revenue by issuing challan to the public for payment into Government treasury. Upon payment of the dues into the treasury by an individual, the receipted challan details are entered against the relevant field in Vahan 4.0/Sarathi 4.0. It was observed that neither of the applications had the necessary validation controls to prevent the wrong entry of a challan receipt number.

This can be avoided by integrating the e-challan portal of Director of Accounts with the Vahan 4.0/Sarathi 4.0 applications, so that the challans can be validated.

#### **2.2.9.3 Output and other controls**

Output controls ensure that system outputs are accurate, serving the purpose for which those outputs are generated. Certain deficiencies in the output controls noticed in audit are discussed below:

##### **2.2.9.3 (i) Incorrect output of tax collection period**

According to Section 3 read with Section 4 of the GDDMV Tax Act, 1974, tax shall be paid yearly in advance by the registered owner as per the schedule of payment of taxes for each category of vehicle prescribed by the Government from time to time.

Analysis of the Vahan 4.0 database for the period 2016-17 to 2020-21 revealed that in 423 cases in respect of all the registering authorities (355 in selected units), the period for which the recurring tax was paid by the vehicle owner was shown incorrectly in the database. In these cases, tax was paid during the period 2016-17 to 2020-21, while the database showed that the tax was paid for a future

period (April 2022 to March 2047). Audit also noticed that the system neither validated the period for which the recurring tax was last paid, nor did it automatically determine the period for which the tax was due to be paid.

On being pointed out by Audit, the Department replied (27/12/2021) that Vahan 4.0 was not capturing the actual tax period for conversion<sup>36</sup> of vehicle. NIC has been requested to incorporate necessary changes in the software.

### **2.2.9.3 (ii) Discrepancies in generation of tax defaulters list and absence of tax amount details in certain cases**

As per Section 4 of the GDDMV Tax Act 1974, tax levied under the Act shall be paid in advance and Rule 23 of GDDMV Rules, 1974 deals with show cause notice issued by a taxation authority to a tax defaulter.

The list of defaulters and notices/memos for issuing to the defaulters were generated through the Vahan report service (Notice of dues) and the Vahan transaction service (Notice of demand). The following discrepancies were noticed in the defaulter list and notices generated:

- Where MV tax and Passenger tax had been paid online in the past and subsequently there was a default, the tax defaulter list and memos/notices generated through the system did not indicate the dues of tax or penalty against the vehicle. Though the system identified the tax default status, the amount of default was not available.
- The tax defaulters list included vehicles that were exempted from payment of tax and accordingly notices/memos were generated for exempted vehicles. The tax defaulters list did not contain vehicles migrated from e-Vahan to Vahan 4.0, if no transaction was ever made against the vehicle in Vahan 4.0.
- The system did not have any provision to deliver the notices/memos to the tax defaulters electronically (*viz.* SMS, email).

The above discrepancies showed that the relevant output controls in Vahan 4.0 were not adequate/appropriate, leading to incorrect generation of information, which impacted the Department's capacity to monitor the payment of taxes and realise the taxes due.

Accepting the audit observation, the Department replied (05/10/2021) that NIC has been requested to make the necessary changes so that the tax defaulter list and related amount was calculated correctly.

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<sup>36</sup> Transport to non-transport category and non-transport to transport category

### 2.2.9.3 (iii) Deficiencies in the Report Module

MIS reports play a crucial role in enabling the management to assess performance and facilitate faster decision making. Analysis of the report module in Vahan 4.0 and Sarathi 4.0 showed the following:

- Tax arrears report under the Top Management MIS reports did not match with the Department's arrears report which was manually compiled by collecting the information office wise.
- The Report module of Vahan 4.0 generated various type of reports namely Utility, Summary, Treasury, Dealer, Permit *etc.* under which 10<sup>37</sup> sub reports were generated for a maximum period of 180 days at a time and 15<sup>38</sup> sub reports for a maximum period of 31 days/month.
- All sub reports under Top Management MIS could be generated for only one month at a time. There was no provision for generation of the above reports for an entire year.
- The total tax arrears of multiple years collected during a particular year were shown as tax collections for that year and not with reference to the years to which the arrears pertained. Thus, the report on collection of year-wise arrears and break up of arrears collection *versus* tax collection for that year could not be generated for assessment of status of arrears collection by the Department.

Sarathi Report<sup>39</sup> Module generated only office-wise reports and did not generate consolidated reports across the ADT offices.

On being pointed out by Audit, the Department replied (24/11/2021) that NIC has been requested to incorporate the observation made by Audit.

### 2.2.9.3 (iv) Difference in the fee/tax collected data: Analytics Portal *versus* Parivahan Dashboard

Considering the volume and complexity of data generated through the various transport services, a progressive analytic portal has been implemented in Vahan 4.0 and Sarathi 4.0 by NIC. The Dashboard and Reports under Parivahan website also include various MIS reports to enable decision making and forecasting.

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<sup>37</sup> Sub reports relating to - fitness, cancelled receipt, HSRP summary, all pendency summary, account statement, parking charges collected, region/route wise permit detail, registered vehicle permit, registered vehicle without permit and special temporary permit report

<sup>38</sup> Sub reports relating to - fitness tracker, vahan citizen portal transaction, registered vehicle on road summary, vehicle registration/ KMS/HSRP/RC print/RC dispatch, smart card pendency, fancy number allotment, tax paid, dealer treasury, goods permit, passenger permit, RC dispatched, registration summary, revenue collection summary, tax arrears, VIP number revenue report

<sup>39</sup> DL test report, organ donor report, LLs issued through EKYC report, Trans wise pending, issued CL report, faceless report, report on applications, report on DL block, LL and DL count, Darpan report, MIS report on DL, MIS report on application, MIS DL test report *etc.*

Data pertaining to fees and taxes collected as per the Analytics portal<sup>40</sup> and Parivahan dashboard during the period 2017 to 2020 under Vahan 4.0 and 2018 to 2020 under Sarathi 4.0 was as detailed in **Table 2.26**.

**Table 2.26: Analytics and Parivahan portal data**

*(₹ in crore)*

	Calender Year	Data as per Analytics Portal			Data as per Parivahan Dashboard		
		Fees	Tax	Total Revenue	Fees	Tax	Total Revenue
<b>Vahan 4.0</b>	2017	19.64	356.78	376.42	15.45	447.27	462.72
	2018	14.88	243.28	258.16	14.89	244.83	259.72
	2019	17.38	221.31	238.69	17.39	222.77	240.16
	2020	12.69	150.84	163.53	12.70	152.57	165.27
<b>Sarathi 4.0</b>	2018	07.58	-	07.58	09.12	-	09.12
	2019	10.77	-	10.77	10.80	-	10.80
	2020	03.07	-	03.07	08.40	-	08.40

*(Source: Data compiled by audit)*

The Analytics portal displayed data pertaining to the calendar year. However, data extraction options for specific periods of time or by financial year were not available. It was also noticed that the figures under the Analytics portal and the dashboard did not tally. The difference in figures ranged from ₹ 0.03 crore to ₹ 86.30 crore. Incorrect/incomplete reporting limits the utility and reliability of the portal for financial monitoring and decision-making purposes by the management.

On being pointed out by Audit, the Department replied (04/10/2021) that NIC has been requested to rectify the mismatches and the incorrect/incomplete reports shown in the Analytics portal and Vahan dashboard.

Thus, it is evident that non-mapping of business rules in the system resulted in irregularities and violation of various provisions of the Act. The lack of necessary input and output controls affected the data integrity and the monitoring and decision making mechanisms in the Department.

***Recommendation 2: The Department may ensure that necessary application controls are incorporated in the system as per business rules, along with timely updates to the same, to ensure data integrity and facilitate effective decision making.***

<sup>40</sup> Analytics portal is provisioned with an aim to enable efficient decision making and forecasting. It serves the key purpose of analysis and reporting needs related to Vahan, Sarathi and other transport related data to help in forecast of occurrence of events in future based upon the historical data.



### 2.2.10 General controls

General controls relate to the general environment in which the IT system is developed, operated, managed, and maintained. They establish a framework of overall control for the IT activity and provide assurance that overall control objectives are satisfied.

#### 2.2.10.1 Lack of integration with payment gateway

As per Rule 5 of Goa Receipt and Payment Rule, 1997, all moneys received by or tendered to Government officers or any agency authorised to collect Government dues on account of revenues or receipts or dues of the Government shall, without undue delay, be paid into the accredited bank for inclusion in Government Account. The Department adopted fully cashless mode of operations since July 2019 and collected revenues for its services through the various channels like online payments, issue of challan (SBI treasury bank) and HDFC PoS terminals at the ADT offices.

The following discrepancies were noticed in the revenue collection mechanism at ADT offices:

- i) The system generated receipts and delivered services without confirming whether the payment transaction made through the HDFC PoS machine was successful or not, as the payment gateway of Vahan 4.0 and Sarathi 4.0 was not integrated with HDFC PoS machines. Thus, the possibility of providing services without receiving the corresponding payment cannot be ruled out.
- ii) As the payment gateway of Vahan 4.0 and Sarathi 4.0 was not linked to the State Payment Portal<sup>41</sup> for revenue collected through HDFC PoS machines, the revenue could not be automatically credited into the Government Treasury account. Instead, these amounts were initially parked in the current account of the designated HDFC banks and thereafter transferred online into Government Treasury account through e-Challan payment gateway of Government of Goa by the ADT office. Due to this, Audit noticed the following discrepancies:
  - Though approval for collection of revenue through HDFC PoS machines was obtained from the Government, the Department did not enter into a formal MoU/agreement with HDFC bank detailing the terms and conditions of this engagement. Such an MoU/agreement should have stipulated the timelines for transfer of collections to Government accounts.
  - Test check of records of four selected months<sup>42</sup>, revealed that there was delay in transfer of revenue deposited with HDFC bank into Government treasury. The delay ranged from 04 days to 34 days at three ADT offices<sup>43</sup> and 338 days in one case at ADT Panaji, in three selected months (August 2018, August

<sup>41</sup> e-Challan payment gateway owned by Director of Accounts

<sup>42</sup> August 2017, August 2018, August 2019 and August 2020

<sup>43</sup> Panaji, Mapusa, Margao

2019 and August 2020). Further, an amount of ₹ 11.24 lakh collected in three<sup>44</sup> cases through PoS machines during the period from 18/07/2018 to 12/07/2019 was not transferred till date from the HDFC bank account to Government Treasury account by the ADT office Panaji.

- Scrutiny of bank statements revealed that at two ADT offices (Mapusa and Panaji), a sum of ₹ 1.84 crore collected through PoS machines was lying in the HDFC bank account of ADT offices to be transferred into Government Treasury Account as on 31/03/2021.

Thus, the decision of the Department to deploy an intermediary's PoS machines without integrating them with Vahan 4.0/Sarathi 4.0 applications led to absence of validation controls for payments received while rendering services, loss to Government due to parking of revenues outside the Government account and delayed transfers from the intermediary bank account.

On being pointed out by Audit, the Department replied (29/12/2021) that it has taken up the matter with HDFC Bank and NIC for integration of bank payment gateway with the portal of Vahan 4.0 and Sarathi 4.0. Further, the Department replied (18/01/2022) that an agreement between HDFC bank and the Department was being processed. The delay in transfer of money was due to various technical<sup>45</sup> reasons. Also, HDFC bank was requested to revert the deducted amount to the current account of the ADT Margao and also requested not to deduct any amount in the future.

***Recommendation 3: The Department may take steps for integration of the payment gateway in Vahan 4.0 and Sarathi 4.0 with the State portal to ensure timely deposit of Government receipts into the treasury and to avoid providing service without confirming payment status of PoS transactions.***

#### **2.2.10.2 Same vehicle registration numbers under multiple ADT offices**

As per Section 40 of the CMV Act, 1988 read with Rule 42 of GMV Rules 1991, a vehicle owner shall register his vehicle in the jurisdiction of the registering authority where he resides or where the vehicle is normally kept.

Analysis of the data for the period from 2016-17 to 2020-21 pertaining to all the registering authorities in Goa revealed duplicates in the Vahan database.

- In the case of 119 vehicles, active registration was noticed under the jurisdiction of two ADT offices. Databases of different RTO offices were not linked in Vahan 2.0 and the vehicle data was replicated at different ADT offices upon transfer of vehicles from one RTO jurisdiction to another. The same data was migrated to Vahan 4.0 without exercising necessary controls.
- Further, in case of six registration numbers, Audit noticed that one registration number was allotted to two different vehicles under the jurisdiction of different

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<sup>44</sup> ₹ 1,55,277 (18/07/2018), ₹ 8,47,295 (11/09/2018) and ₹ 1,22,348 (12/07/2019)

<sup>45</sup> Network issue, issues related to login id of HDFC bank account

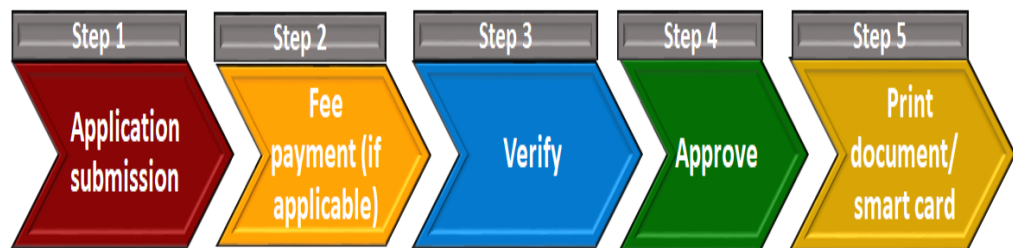
offices, which was irregular and invalid. This resulted in duplicate and invalid records in the database.

On being pointed out by Audit, the Department replied (06/01/2022) that the incorrect records have been removed after verification. In respect of six registration marks shown in different RTOs for different vehicles, the ADTs were directed to verify with physical records available with the office and take further action to update correct data in Vahan 4.0 in coordination with NIC.

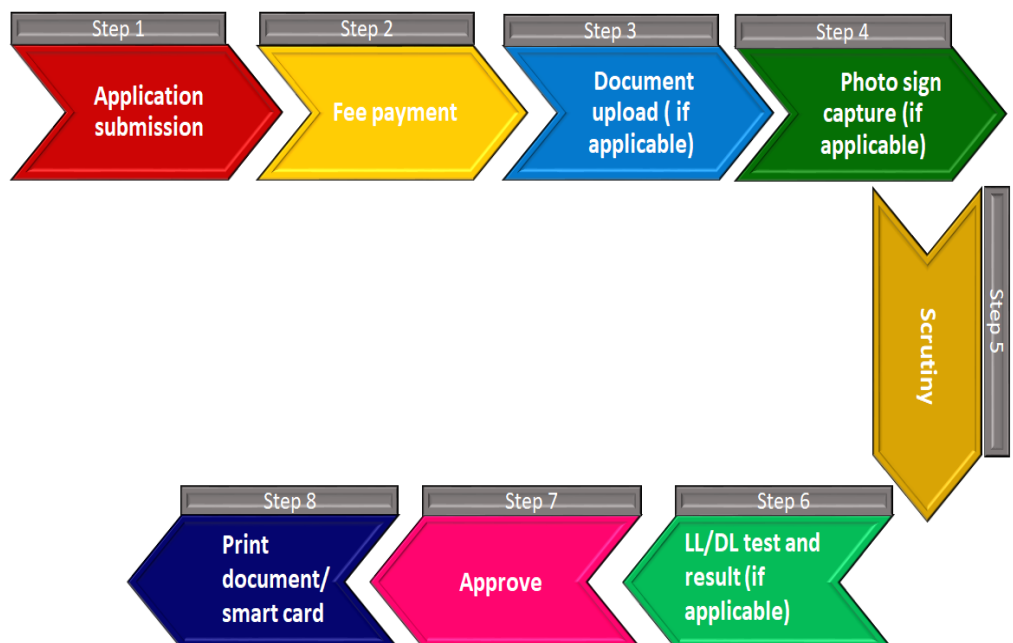
### 2.2.10.3 Delegation and segregation of duties

Segregation of duties is a proven way of ensuring that transactions are properly authorized, recorded and assets are safeguarded. Inadequate segregation of duties increases the risk of errors being made, remaining undetected and adoption of inappropriate working practices. Following was the envisaged work flow in Vahan 4.0 and Sarathi 4.0:

#### Work flow process in Vahan 4.0:



#### Work flow process in Sarathi 4.0



### **2.2.10.3 (i) Absence of segregation of duties**

The ADT as the office administrator assigned roles (entry, verification and approval) to the subordinate staff in the system to deliver the various services of the Transport Department.

Audit noticed that the principle of segregation of duties was not followed by the ADTs while allocating duties in Vahan 4.0. Several instances of all the three roles being allotted to the same person were observed. Some of the crucial functions, where all the three roles were performed by the same non-supervisory staff are detailed in **Table 2.27**.

**Table 2.27: Number of services performed for all the three roles by the same person**

<b>Name of service where all the three roles performed by the same person in Vahan 4.0</b>	<b>Total number of services provided</b>
New registration	95173
No objection certificate	39495
Alteration of vehicles	8990
Conversion of vehicles	8798
Tax clearance	34241
Tax exemption	680
Transfer of ownership	62573
Backlog services <sup>46</sup>	6604

*(Source: Data compiled by audit)*

Assignment of all the three roles for a service to the same staff posed a potential risk to the data and system integrity. It also increased the risk of errors being made and remaining undetected as discussed in **Para 2.2.9.2 (i) (b)**.

While accepting the audit observation, the Department replied (17/12/2021) that all the ADTs have been directed to follow the principle of segregation while allotting the three roles and to allot the role of approval to the supervisory staff. NIC has been directed to make necessary changes in the software to prevent assigning multiple roles to the same person.

### **2.2.10.3 (ii) Non-exercise of approval role by supervisory authority**

Vahan 4.0 and Sarathi 4.0 applications provided segregated roles *viz.* entry, verification and approvals for carrying out different activities in the system. Approval was the final stage in the process of delivering a service and is a supervisory function resting with the head of the office (ADT). None of the ADTs of the four selected units exercised the ‘approval’ role in Vahan 4.0 during the period covered by audit. The ADT, Canacona did not exercise any approval role under Sarathi 4.0 as well. The approval role in these units was assigned to non-supervisory staff<sup>47</sup>. The assignment of approval role to non-supervisory staff

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<sup>46</sup> Only for the year 2020-21

<sup>47</sup> Lower Division Clerk, Upper Division Clerk, Data Entry Operator

resulted in lack of supervision by the higher-level authority over the functioning of the subordinate staff in Vahan 4.0 indicating internal control failure.

On being pointed out by Audit, the Department replied (17/12/2021) that an office memorandum has been issued to the ADTs to allot approval role to the supervisory staff.

#### **2.2.10.4 Absence of change management system**

Changes in Vahan 4.0 and Sarathi 4.0 are made by the NIC, based on change requests from the Transport Department. The Deputy Director of Transport (North) was authorised to communicate any change requests in Vahan 4.0 and Sarathi 4.0 to NIC Goa. Beyond this, no change management system was put in place by the Department. The following discrepancies were noticed by audit in this regard:

##### **2.2.10.4 (i) Lack of change management controls**

As the procedure<sup>48</sup> for communication of changes were not communicated to the ADTs, the glitches/issues noticed by the field offices in Vahan 4.0 and Sarathi 4.0 were directly reported to NIC by the ADTs for taking corrective action, either through mail or telephone. Also, the DoT was unaware of the glitches noticed by the ADTs.

- A total of 384 issues were raised by three ADT offices during the audit period. Out of these, 48 issues were resolved by the NIC after a delay ranging from 05 days to 126 days and 12 issues (including one with a revenue implication) raised during May 2018 to March 2021 which were communicated by the ADT offices to the NIC were yet to be resolved. Delayed redressal/non redressal by the NIC of issues faced by the ADTs impacted the smooth delivery of services by the concerned ADTs and in the following instance, there were financial implications:
- Government *vide* notification dated 18/01/2018 exempted electric operated vehicles from payment of the tax under GDDMV Tax Act, 1974. Further, as per Section 3B of the Act, Infrastructure Development Cess was to be levied at the time of registration of new luxury motor cars in addition to the MV tax levied under the Act. However, as the Infrastructure Development Cess and MV tax were linked in Vahan 4.0, when the MV tax field was selected for exemption, Infrastructure Development Cess was also automatically exempted. The issue of Infrastructure Development Cess being exempted by default was brought to the notice of NIC by the ADT Mapusa (November 2020). The issue was resolved (February 2021) after being pointed out by Audit. In the intervening period, there was non-levy of Infrastructure

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<sup>48</sup> Dy. Director of Transport (North) was authorised to communicate any change requests in Vahan 4.0 and Sarathi 4.0 to NIC

Development Cess amounting to ₹ 6.30 lakh in respect of 28 vehicles in five ADT offices in Goa.

- No Central Register or Priority list was maintained/marked separately to identify important issues/critical issues with revenue implications, which required immediate attention.

An appropriate change management system would have systematised the process of logging complaints by the users, their review by the competent authority, flagging of issues for priority resolution, especially those with system level or far reaching implications on revenue and the timely resolution of complaints by NIC.

Accepting the audit observation, the Department replied (20/12/2021) that the matter has been taken up with the NIC for providing a structured management complaint system with the provision to view and resolve the issues/feedback/complaints in a hierarchical manner. It was also stated that the recovery of Infrastructure Development Cess would be made.

#### **2.2.10.5 Weak logical access controls**

Logical access controls are restrictions imposed by the computer software through a system of measures and procedures in the software products used, aimed at protecting computer resources against unauthorised access attempts. The objective of logical access controls is to protect the IT applications and underlying data files from unauthorised access, amendment or deletion.

Vahan 4.0 and Sarathi 4.0, being web enabled applications, the users were able to access the applications using user id and password. In addition, there was a second level of logical access control through One Time Password (OTP). Audit noticed discrepancies related to the existing logical controls as follows:

- To login to the Vahan 4.0 system, OTP facility was not available for users other than the State administrator and Office administrator. The facility for new OTP for each login was not available in Vahan 4.0. Instead, the validity of OTP was for a long period of 12 hours, which made the system vulnerable to misuse. However, Sarathi 4.0 had an OTP based login which was generated and entered along with user id and password for every login.
- The password protection system in Vahan 4.0 system does not force the users to regularly change the password. This increases the risk of security breach by an unauthorised person or a phishing software/ malware which would continue to make unnoticed changes in the system for a long time till its detection. However, Sarathi 4.0 forces the user to change password once in every six months.
- In Sarathi 4.0, the default password provided for the first-time user was not forced to be changed by the user in the system. However, in Vahan 4.0, the system asks the user to immediately change the default password on first login. As default passwords are set by a person other than the user, they were not

confidential and vulnerable to misuse.

- In the case of non-use, the automatic sign out time under Sarathi 4.0 was after 30 minutes. This makes the system vulnerable to misuse if the user forgets to log out.

On being pointed out by Audit, the Department replied (20/12/2021) that NIC has been requested to incorporate the changes pointed out.

#### **2.2.10.6 Lack of Monitoring and Supervision**

For the successful implementation of any project, periodic monitoring and supervision by the senior management is essential. The Department did not set up a steering committee or any other formal mechanism to monitor the implementation and functioning of Vahan 4.0 and Sarathi 4.0. As a result, the progress of implementation of various modules/services, procurement of equipment, providing end to end online services available in applications *etc.* were not reviewed and corrective actions were not taken in a systematic manner, as seen from the delays in project implementation brought out in this audit. Lack of internal controls pertaining to mapping of business rules, segregation of duties, change management *etc.* did not get attention from the management and were managed in an ad-hoc manner, resulting in deficiencies and discrepancies as discussed under **Para 2.2.9.1, 2.2.10.2 and 2.2.10.3.**

Accepting the audit observation, the Department replied (14/01/2022) that an IT Steering Committee under the chairmanship of the Director of Transport has been constituted in January 2022.

#### **2.2.10.7 Deficiencies in Grievance Redressal System**

Any IT application providing citizen centric services should provide an appropriate Grievance Redressal System for systematic redressal of grievances. However, till July 2021 the Department did not implement the grievance redressal/feedback system in Vahan 4.0 and Sarathi 4.0. Instead, an archaic system where the ADTs received complaints /grievances through official emails from the public regarding services provided under Vahan 4.0 and Sarathi 4.0 was in place. There were no guidelines/directions prescribing timelines for resolution of different categories of complaints or escalation to higher levels in the office hierarchy in case of non-resolution. There was no periodical reporting to supervisory staff regarding grievances and their redressal.

Though the complaint/feedback system for the public was introduced by NIC in the month of July 2021, the ADTs did not have access to view the complaints/feedback reported.

The Department replied (05/05/2022) that, NIC has updated the system of feedback/complaint with respect to Vahan 4.0 and Sarathi 4.0, which is available on the dashboard and accessible to the concerned authorities.



Thus, non-compliance by the Department with the principle of segregation of roles adversely affected the internal control system. The absence of proper change management system delayed the required resolution of priority/critical issues and the deficiencies in the grievance redressal system adversely affected the quality of service delivery to citizens.

***Recommendation 4: The Department may strictly comply with the principle of segregation of roles/duties of the functionaries to ensure data integrity and stronger internal controls. A comprehensive change management system and grievance redressal system may be implemented on priority for improved service delivery.***

### **State Tax Department**

#### **2.3 Subject Specific Compliance Audit on processing of refund claims under Goods and Service Tax**

**Introduction of the Goods and Service Tax (GST) was a significant indirect tax reform in the country, which replaced multiple taxes levied and collected by the Centre and states. It is levied simultaneously by the Centre and states on a common tax base. Central GST (CGST) and State GST (SGST) are levied on *intra-State* supplies and Integrated GST (IGST) is levied on *inter-State* supplies. Given the importance of refund mechanism in tax administration, the Government decided to streamline/standardise refund procedures and make the claim and sanction process completely online.**

**This Subject Specific Compliance Audit (SSCA) was carried out for the period from July 2017 to July 2020 to assess whether (i) the tax authorities complied with the extant refund provisions, (ii) the systems to ensure compliance by taxpayers were in place and (iii) an adequate internal control mechanism existed to check the performance of departmental officials in disposing of refund applications.**

**We noticed some delays and non-compliance with prescribed timelines by the Department in the issue of acknowledgement, deficiency memos, sanction and payment of provisional and final refunds (29 *per cent* of sampled cases) to taxpayers. The Government may take necessary steps to adhere to the prescribed timelines, while putting in place a system for ensuring automatic payment of interest in case of delay in sanction of refund.**

**We also observed some instances of irregular/excess grant of provisional and final refund in case of inverted duty structure and excess grant of refund to taxpayers due to non-deduction of assessed dues (pending arrears) under the extant law. Accepting our recommendation to put in place a suitable mechanism for verification of previous dues, the**



**Government informed that instructions have been issued to verify the dues under the previous Act as well as under the GST Act before sanction of refunds. Further, though the Department was required to carry out post-audit of all the sampled cases of refunds, the same was not being done. The Department replied that the taxpayers had been identified for audit under Section 65 of the CGST Act. However, since audit under Section 65 is the general audit of taxpayers, the Government may take necessary action to ensure post-audit as prescribed under the rules.**

### 2.3.1 Introduction

Timely refund mechanism constitutes a crucial component of tax administration, as it facilitates business activity through release of blocked funds for working capital, expansion, modernisation *etc.* With a view to streamline and standardise the refund procedures under the GST regime, among other things, the Government decided to make the claim and sanctioning procedure completely online. However, due to the non-availability of electronic refund module on the common portal, a temporary mechanism of electronic-cum-manual procedure was devised and implemented. Circular no. 10/2017-18-GST dated 07/02/2018 and Circular no.16/2017-2018-GST dated 07/02/2018 were issued by the Government of Goa detailing the procedures in this regard. As per this procedure, the applicants were required to file the refund applications in Form RFD-01A on the GSTN portal and submit a printout of the same physically to the jurisdictional tax office, along with the relevant supporting documents.

Further processing of the refund applications *i.e.* issuance of acknowledgement, deficiency memo, passing of provisional/final refund orders, issuance of payment advice *etc.* was done manually. *Vide* circular No. 41/2018-19-GST, dated 15/01/2019, the submission of refund applications in Form RFD-01A, was made electronic, while the post submission processing of applications continued to be manual.

The refund procedure was made fully electronic with effect from 26/09/2019 (also called as Automation of Refund Process). A fresh set of guidelines have been issued for electronic submission and processing of refund claims *vide* master circular No.32/2019-20-GST dated 10/12/2019. In order to ensure uniformity in implementation of the provisions of law across field formations, several earlier circulars *viz.* circular no. 10/2017-2018-GST dated 07/02/2018, 16/2017-2018-GST dated 07/02/2018, 04/2018-19-GST dated 27/04/2018, 11/2018-19-GST dated 05/06/2018 (including corrigendum dated 26/07/2019), 25/2018-19-GST dated 20/09/2018, 33/2018-19-GST dated 01/11/2018, 41/2018-19-GST dated 15/01/2019 and 01/2019-20-GST dated 01/04/2019 have been superseded *vide* para 2 of the aforesaid master circular. However, the provisions of the said circulars continue to apply to all refund applications filed on the common portal before 26/09/2019 and the said applications would continue to be processed manually as done prior to the deployment of the new system.

### **2.3.2 Audit objectives**

Audit of refund cases under GST regime was conducted with a view 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.

### **2.3.3 Scope of Audit**

The Subject Specific Compliance Audit (SSCA) was conducted between July<sup>49</sup> 2021 and November 2021 covering the period from July 2017 to July 2020. Audit scrutinised sampled refund records in all the eight wards of Goa. Audit objectives, criteria, scope, and methodology were explained in an entry conference held (August 2021) with the Secretary (Finance) and Commissioner of State Tax Goa. Audit findings were discussed in an exit conference (May 2022) with the Commissioner of State Tax, Goa.

### **2.3.4 Sample Selection**

A sample of 107 cases were drawn out of which 53 manual refund cases was extracted based on the refund amount claimed by the taxpayers. Further, a sample of 54 electronic refund cases was extracted based on risk parameters such as refund amount claimed (60 *per cent* weightage), delay in sanctioning of refund (15 *per cent*), refund sanctioned/refund claimed ratio (10 *per cent*) and deficiency memo issued (15 *per cent*). A total of 670 refund cases have been processed by the Department as of July 2020. In seven cases out of the total sampled cases pertaining to pre-automation period, the refund application was filed electronically in RFD-01A on the GSTN portal but the printout along with supporting documents were not submitted physically, as stated by the Department. Hence only 100 cases were examined by audit.

### **2.3.5 Audit criteria**

The audit observations have been benchmarked against the following criteria:

- (i) Section 15, 16 and 19 of Integrated Goods and Services Tax Act, 2017;
- (ii) Section 54 to 58 and Section 77 of Goa Goods and Services Tax Act, 2017;
- (iii) Rule 89 to 97A of Goa Goods and Services Tax Rules, 2017; and
- (iv) Order/circulars/notifications/clarifications issued by Government of India and Government of Goa.

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<sup>49</sup> Some of the manual cases of refunds were verified by Audit during February 2021 to March 2021

### 2.3.6 Procedure for grant of refund

Due to non-availability of the refund module on the GSTN portal, Government of Goa *vide* circular nos. 10/2017-18-GST and 16/2017-2018-GST dated 07/02/2018 allowed manual filing and processing of refund in respect of exports, deemed exports, excess balance in electronic cash ledger and inverted duty structure. After allocation of taxpayers between the Centre & the State, the registered person needs to file the refund claim with the jurisdictional tax authority 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 the respective authority is implemented, in which case an 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 CGST, IGST and cess shall be made by the central tax authority while in relation to SGST and UTGST, it would be made by the respective State/UT tax authority in case of manual refund applications. To ensure timely payment of the entire refund, the Government of Goa issued instructions<sup>50</sup> that any refund order issued either by the Central tax authority or the State tax authority should be communicated to the concerned counter-part tax authority within three days or the purpose of payment of the relevant sanctioned refund amount. In case of online refund applications, the payment of sanctioned refund amount in relation to CGST, IGST, SGST, UTGST and cess shall be made by the jurisdictional RSA.

### 2.3.7 Circumstances where the claim for GST refunds arise

A claim for refund may arise on account of the following:

- (i) Export of goods or services;
- (ii) Supplies to SEZ units and developers;
- (iii) Deemed exports;
- (iv) Refund of accumulated Input Tax Credit of GST on account of inverted duty structure;
- (v) Refund of excess balance in electronic cash ledger;
- (vi) Excess GST payment; and
- (vii) Refund of CGST & SGST paid by treating the supply as *intra-State* supply which is subsequently held as *inter-State* supply and *vice versa*.

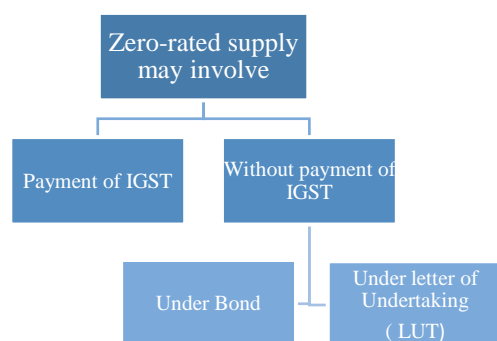
#### 2.3.7.1 Treatment of zero-rated supplies

“Zero rated supply” under Section 16 of the IGST Act, 2017 means any of the following supplies of goods or services or both, namely:

<sup>50</sup> Circular Nos. 10/2017-18-GST

- (a) export of goods or services or both; or
- (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

On account of zero-rated supplies, the supplier is entitled to claim Input Tax Credit (ITC) in respect of goods or services or both for such supplies, though they might be non-taxable or fall under the exempted list of supplies. Every person making claim of refund on account of zero-rated supplies has the option to either export under Bond/Letter of Undertaking (LUT) and claim refund of accumulated ITC or to export on payment of integrated tax and claim refund thereof as per the provisions of Section 54 of GGST Act, 2017. Thus, the GST law allows flexibility to claim the refund upfront as integrated tax (by making supplies on payment of tax using ITC) or export without payment of tax by executing a Bond/LUT and claim refund of related ITC of taxes paid on inputs and input services used in making zero-rated supplies.



### **2.3.7.2 Grant of provisional refund in case of zero-rated supplies**

GST law also provides for grant of provisional refund of 90 *per cent* of the total refund claim, in case the claim relates to refund arising on account of zero-rated supplies. The provisional refund would be paid within seven days after giving the acknowledgement. The acknowledgement of refund application is issued within a period of 15 days. Suppliers who had been prosecuted during any period of five years immediately preceding the refund period for evasion of tax exceeding rupees two crore and fifty lakh, would not be eligible for the provisional refund.

### **2.3.7.3 Payment of wrong tax**

Under GST there could be instances where a taxable person may pay integrated tax instead of central tax *plus* State tax and *vice versa* due to incorrect application of the place of supply provisions. In such cases, while making the appropriate payment of tax, interest would not be charged and the refund claim of the wrong tax paid earlier would be entertained without subjecting it to the provision of unjust enrichment.

### **2.3.7.4 Claim by a person who has borne the incidence of tax**

Any tax collected by a taxable person more than the tax due on such supplies must be credited to the Government account and the law makes an explicit provision

for the person who has borne the incidence of tax to file refund claim in accordance with the provisions of Section 54 of the GGST Act, 2017.

### 2.3.7.5 Unjust enrichment

GST is an indirect tax whose incidence is to be borne by the consumer and a presumption is always drawn that the businessman will shift the incidence of tax to the final consumer. Hence, every claim of refund (barring specified exceptions) needs to pass the test of unjust enrichment and every such claim, if sanctioned is first transferred to the Consumer Welfare Fund. However, the GST law makes this test inapplicable in cases of refund of accumulated ITC, refund on account of exports, refund of payment of wrong tax (integrated tax instead of central tax *plus* State tax and *vice versa*), refund of tax paid on a supply which is not provided or for which refund voucher is issued or if the applicant shows that he has not passed on the incidence of tax to any other person. In all other cases, the test of unjust enrichment needs to be satisfied for the claim to be paid to the applicant. As per circular no. 32/2019-20-GST dated 10/12/2019, if the refund claim is less than ₹ two lakhs, then a self-declaration of the applicant to the effect that the incidence of tax has not been passed to any other person would suffice to process the refund claim. For refund claims exceeding ₹ two lakhs, a certificate from a Chartered Accountant/Cost Accountant would have to be furnished.

### 2.3.8 Audit findings

The extent of deviations observed in sampled cases is given below:

Nature of Audit Findings	Audit Sample		Deficiencies noticed		Deficiencies as percentage of Sample
	Number	Amount	Number	Amount	
Delay in issue of acknowledgment	100	15448.44	4	78.62	4.00
Delay in issue of deficiency memo	100	15448.44	5	165.65	5.00
Delay in sanction of Provisional refund on account of Zero-rated supply	41	11571.08	5	955.85	12.19
Delay in payment of provisional refund after sanction	41	11571.08	1	163.06	2.44
Delay in payment of final refunds to the taxpayers	100	15448.44	29	10.20	29.00
Irregular grant of provisional refund other than Zero-rated supply	59	3877.36	1	432.95	1.69
Excess grant of refund on account of zero-rated supplies due to inclusion of ITC availed on “Capital Goods”	41	11571.08	1	35.88	2.44
Irregular grant of refund under Inverted Duty structure due to inclusion of ITC availed on “input service”	8	2208.61	6	172.78	75.00
Non-raising of demand in DRC-07 to recover the ineligible input tax credit	49	13779.69	7	9.34	14.29
Excess grant of refund to taxpayer due to non-deduction of the assessed dues under the existing laws	49	13779.69	3	2.12	6.12
Non-conducting of post audit of refund claims	100	15448.44	100	-	100.00

### **2.3.8.1 Compliance with regard to extant provisions of sanction and payment of refund**

The compliance issues addressed the deviations from extant provisions of sanction and payment of refund. The audit findings are given in the ensuing paragraphs:

#### **2.3.8.1 (i) Delay in issue of acknowledgement for refund applications**

As per Rule 90(1) and 90(2) of GGST Rules, 2017, acknowledgement in Form RFD-02 shall be issued to the taxpayer within a period of 15 days of filing of the refund application.

Audit observed from 100 test checked refund cases that in four cases (four *per cent*), pertaining to three wards<sup>51</sup>, there were delays in the issue of acknowledgement ranging from 08 to 39 days as detailed in **Appendix 2.3**.

#### **An illustrative case is given below:**

Refund Sanctioning Authority (RSA) of Vasco Ward sanctioned (June 2020) a refund of ₹ 40.71 lakh to a taxpayer (GSTIN: 30AAACF7909E2Z1, Flemingo Duty Free Shop Pvt. Ltd.). The taxpayer had filed an application for refund on 06/03/2020 and the RSA was to issue acknowledgment in RFD-02 on or before 21/03/2020. However, the RSA issued the acknowledgment on 30/04/2020 with a delay of 39 days from the due date, resulting in non-observance of the provisions of Rule 90 of GGST Rules, 2017.

On being pointed out (August 2021 to December 2021) by Audit, the RSA of Vasco Ward (one case) replied (August 2021) that there was a delay of 54 days in receiving the application from the Goods and Services Tax Network (GSTN) portal to the Goa GST backend system which caused delay in the issuance of acknowledgement to the taxpayer. Mapusa Ward (one case) RSA replied (October 2021) that delay was due to vacant post, additional charge to the RSA and time taken to provide login credentials and Digital Signature for processing of refund applications. Panaji Ward (two cases) RSA replied (November/December 2021) that delay was due to administrative reasons and technical glitch in the GSTN system.

Reply of the RSAs is not tenable as the provisions require the issue of acknowledgement within 15 days from the receipt of the refund application, which was not done.

The Commissioner of State Tax replied (May 2022) in the exit conference that instructions have been issued to the RSAs to adhere to the timelines stipulated in the GST Act *vide* circular No. 21/2021-22-GST dated 08/03/2022.

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<sup>51</sup> Vasco, Mapusa and Panaji

### 2.3.8.1 (ii) Delay in issue of deficiency memo for refund applications

As per Rule 90(3) of GGST Rules 2017, the proper officer shall issue a deficiency memo in Form RFD-03, communicating the deficiencies within 15 days from the receipt of the refund application.

Audit observed from 100 refund cases that in five (five *per cent*) refund cases, pertaining to three wards<sup>52</sup>, there were delays in issue of deficiency memo ranging from 07 to 63 days as detailed in **Appendix 2.4**. Delay in the issue of deficiency memo resulted in delayed sanction and payment of refund, as the taxpayer is required to file a fresh application after rectifying the deficiencies pointed out in the deficiency memo.

#### An illustrative case is given below:

RSA of Ponda Ward sanctioned (November 2019) a refund of ₹ 1.61 crore to a taxpayer (GSTIN: 30AAACI0991D1Z5, Unilever India Exports Limited) for the tax period of July 2017 to March 2018. The taxpayer filed an application for refund on 09/04/2019 and the RSA was to issue the deficiency memo in RFD-03 on or before 24/04/2019. However, the RSA issued the deficiency memo to the taxpayer on 26/06/2019, with a delay of 63 days from the due date. Delay in the issue of deficiency memo caused further delay in filing of fresh application which consequently delayed the sanction and payment of the refund to the taxpayer.

On being pointed out (August 2021 to November 2021) by Audit, the Ponda Ward (one case) RSA did not state any reason (August 2021) for delay in the issue of deficiency memo. The RSAs of Panaji Ward, in respect of three cases, replied (November 2021) that there was delay in issuing deficiency memo due to technical glitch in the GSTN system and administrative reasons such as additional charge of the DCST and leave of the STO. In one case, Vasco Ward RSA replied (September 2021) that there was delay in issuing of deficiency memo as this was the first refund case pertaining to the refund of IGST paid on services and the taxpayer had applied for refunds for three months in a single application and manual verification of documents was time consuming.

Reply of the RSAs is not tenable as the provisions require the completion of verification and issue deficiency memo within 15 days from the receipt of the refund application, which was not done.

The Commissioner of State Tax replied (May 2022) in the exit conference that instructions have been issued to the RSAs to adhere to the timelines stipulated in the GST Act *vide* circular no. 21/2021-22-GST dated 08/03/2022.

<sup>52</sup> Ponda, Vasco and Panaji



### **2.3.8.1 (iii) Delay in sanction of provisional refund on account of zero-rated supply**

As per Rule 90(1) and 90(2) of GGST Rules 2017, acknowledgement in the Form RFD-02 shall be issued to the taxpayer within a period of 15 days of filing of the refund application. Further, as per Rule 91(2) of GGST Rules, provisional refund shall be sanctioned within seven days from the issue of acknowledgement in case of zero-rated supplies. In effect, provisional refund shall be sanctioned within 22 days of receipt of the refund application.

Audit observed from 41 refund cases pertaining to zero-rated that in respect of four (10 *per cent*) cases, pertaining to Panaji Ward, there were delays in the sanction of provisional refunds ranging from 04 to 41 days<sup>53</sup> as detailed in **Appendix 2.5(A)**. In one (two *per cent*) case pertaining to Panaji Ward, provisional refund was given in time (after four days of acknowledgement), however acknowledgment was issued with delay of six days, consequently delaying the sanction of provisional refund as detailed in **Appendix 2.5(B)**. These are instances of non-observance of the provisions of Rule 91(2) of the GGST Rules 2017.

#### **An illustrative case is given below:**

The RSA sanctioned (October 2019) a provisional refund of ₹ 63 lakh to a taxpayer (GSTIN: 30AABCS8856L1Z1, Pentair Water India Pvt. Ltd.) on account of zero-rated supplies. The taxpayer filed the application for refund on 27/08/2019. The acknowledgement was required to be issued on or before 11/09/2019. However, the RSA did not issue the acknowledgment to the taxpayer. The provisional refund was required to be sanctioned on or before 18/09/2019. However, the RSA sanctioned the provisional refund on 29/10/2019 with a delay of 41 days from the due date. This has resulted in non-observance of the provisions of Rule 91(2) of the GGST Rules 2017.

On being pointed out (February 2021 and November 2021) by Audit, the RSA replied (March 2021) in respect of four cases (pre-automation period) that due to verification of huge quantum of transactions manually, there was delay in sanction of provisional refunds. Since the proper officer has to manually verify these transactions, it was impossible to verify these transactions within seven days. In the remaining one case (post-automation period), the RSA replied (December 2021) that the authority was having dual charge due to which the application could not be acknowledged within time, which consequently delayed the sanction of provisional refund.

Reply of the RSA is not tenable as the provisions require sanctioning of provisional refund within seven days from the date of issue of acknowledgement.

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<sup>53</sup> Delay has been calculated after giving 22 days' time from the receipt of the application in cases where acknowledgements were not issued



### 2.3.8.1 (iv) Delay in payment of provisional refund after sanction

As per Rule 91(2) and 91(3) of GGST Rules, provisional refund shall be sanctioned and paid within seven days from the issue of acknowledgement in case of zero-rated supplies.

Audit observed from 41 refund cases pertaining to zero-rated supplies that in respect of one case (two *per cent*) the RSA sanctioned (March 2020) a provisional refund of ₹ 1.63 crore to a taxpayer (GSTIN:30AAMCA4457A1Z6, Albys Agro Pvt. Ltd.) on account of zero-rated supplies. The taxpayer filed the application for refund on 24/01/2020 and the RSA issued deficiency memo on 07/02/2020 against which the taxpayer filed fresh application on 13/02/2020. RSA issued acknowledgement for the same on 25/02/2020. Thereafter, the provisional refund was sanctioned on 04/03/2020. However, payment advice in RFD-05 was issued to the taxpayer on 20/04/2020, with a delay of 47 days from the sanction of the provisional refund. This resulted in delayed payment of provisional refund to the taxpayer.

On being pointed out (August 2021) by Audit, the RSA replied (August 2021) that the provisional refund is released to the taxpayer after due verification by the RSA and it is not compulsory to issue the provisional refund in seven days only.

The reply is not tenable as the RSA issued provisional refund sanction order (RFD-04) on 04/03/2020 and separate time is not provided for issue of payment advice under the GGST Act.

*While sanction of provisional refund was made within the prescribed time, payment of provisional refund was delayed.*

### 2.3.8.1 (v) Delay in payment of final refund to the taxpayers

Sub-section (7) of Section 54 of the GGST Act, 2017 stipulates that the proper officer shall sanction the refund within 60 days from the date of receipt of refund application, complete in all respects. Rule 92(4) of GGST Rules, 2017 stipulates that the proper officer shall make an order in FORM RFD-06 and issue a payment advice in FORM RFD-05 for refund and the same shall be electronically credited to the bank account of the taxpayer. Further, Section 56 of the GGST Act, 2017, provides for interest on delayed refunds, wherein it is envisaged that if any tax ordered to be refunded to any applicant is not refunded within 60 days from the date of receipt of the application, interest at the rate of six *per cent per annum* shall be payable in respect of such refund from the date immediately after the expiry of 60 days from the date of receipt of the application till the date of refund of such tax.

Audit observed from 100 refund cases that in 29 (29 *per cent*) refund cases, pertaining to five wards<sup>54</sup>, there was delay in payment of refunds ranging from 02 to 144 days as detailed in **Appendix 2.6(A)** and **Appendix 2.6(B)**. Of these cases,

<sup>54</sup> Ponda, Mapusa, Margao, Panaji and Vasco

in 24 cases delay was ranging upto three months and in remaining five cases delay was ranging from three months to six months. Further, the Department did not pay interest in any case amounting to ₹ 10.20 lakh to the taxpayers.

**An illustrative case is given below:**

A taxpayer (GSTIN:30AAACU0551B1Z9, Unichem Laboratories Limited) under Mapusa Ward filed an application for refund of ITC of ₹ 1.99 crore on account of inverted duty structure on 29/10/2019. The due date of sanction of refund was 28/12/2019, while the RSA sanctioned the refund of ITC of ₹ 1.99 crore to the taxpayer on 13/01/2020 with a delay of 16 days from the due date of sanction of refund. The Department was liable to pay the interest of ₹ 0.52 lakh to the taxpayer. However, the Department did not pay any interest to the taxpayer.

On being pointed out (February 2021 to November 2021) by Audit, the RSAs intimated (March 2021 to November 2021) various reasons for delay, as listed below:

- (i) In respect of nine cases, there was delay in final disposal of refund applications as the taxpayers filed reply to Show Cause Notice (SCN) with delay.
- (ii) In respect of seven cases, delay was due to server errors at the time of processing of refund cases, sanctioning of refunds got delayed.
- (iii) In respect of four cases, applications were processed manually and request letter to debit the electronic credit ledger was communicated through speed post that caused delay in sanction and payment of refunds.
- (iv) In respect of two cases, there were delays in receiving the applications for processing on Goa GST backend system which caused delay in sanction of refunds.
- (v) In respect of two cases, payment advice could not be issued in time as the bank details submitted by the taxpayers could not be validated on the GST portal.
- (vi) In one case, it was stated that the refund was sanctioned well within the time limit, though there was a delay of six days.
- (vii) Reply of the RSAs in respect of remaining four cases were awaited.

Replies of the RSAs are not tenable as the period of 60 days is provided for sanctioning of refund and any technical difficulties should be taken care within those 60 days. Further, the RSAs could have rejected the applications in case of delay in filing replies of SCNs by taxpayers, which was not done.

*There were delays in payment of final refunds to the taxpayers and interest was not paid for the delay.*

***Recommendation 1: The Government may consider putting in place a mechanism to pay interest automatically in case of delay in sanction of refunds.***

**2.3.8.1 (vi) Irregular grant of provisional refund in other than zero-rated supply**

As per Section 54(6) of GGST Act, 2017, in the 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 the refund claimed may be sanctioned on a provisional basis and thereafter an order made for final settlement of the refund claim after due verification of documents furnished by the applicant. Thus, sanction of provisional refund is allowed on account of zero-rated supply of goods and/or services and not in other categories.

Audit observed from 59 refund cases pertaining to other than zero rated category that in one (two *per cent*) case, the RSA of Mapusa Ward sanctioned (November 2019) provisional refund of 90 *per cent* of total refund claimed on account of inverted tax structure which was other than zero rated supply of goods and services. The order sanctioning provisional refund of ₹ 4.33 crore (SGST- ₹ 36.87 lakh, CGST- ₹ 36.87 lakh and IGST- ₹ 3.59 crore) was communicated to the central authority for payment of central components (CGST and IGST) on 12/11/2019. The Deputy Commissioner of Central Tax sent a letter to the RSA on 20/12/2019 stating that the provisional refund cannot be granted in case of inverted tax structure in view of Section 54(6) of GGST/CGST Act. Further, the refund of IGST and CGST of ₹ 3.96 crore (₹ 3.59 crore + ₹ 36.87 lakh) was not paid by the Deputy Commissioner of Central Tax. Even after pointing out by the Deputy Commissioner of Central Tax, the RSA did not initiate any action to recover the irregular provisional refund of SGST of ₹ 36.87 lakh from the taxpayer.

On being pointed out (February 2021) by Audit, the RSA replied (August 2021) that the taxpayer was exporting goods with payment of tax as well as without payment of tax under Letter of Undertaking (LUT). However, there was no option for making refund claim under exports with payment of tax on the portal till date. Hence the taxpayer has chosen or made a claim of refund on account of inverted tax structure.

Reply of the RSA is not tenable as there was no need to apply for refund on account of exports with payment of tax in view of rule 96(1) of GGST Rules 2017. The shipping bill filed by the taxpayer shall be deemed to be an application for refund of tax paid on exports with payment of tax.

Thus, sanction of provisional refund of ₹ 4.33 crore (SGST- ₹ 36.87 lakh, CGST- ₹ 36.87 lakh and IGST- ₹ 3.59 crore) to the taxpayer for inverted tax structure was irregular and no action to recover the irregular provisional refund of SGST of

₹ 36.87 lakh from the taxpayer was initiated by the RSA even after being pointed out by the Deputy Commissioner of Central Tax.

The Commissioner of State Tax replied (May 2022) in the exit conference that necessary instructions have been issued to all the RSAs to ensure that due procedure is followed while sanctioning refunds.

**2.3.8.1 (vii) Excess grant of refund on account of zero-rated supplies due to inclusion of ITC availed on ‘Capital Goods’**

As per Section 54 of the GGST Act, 2017, refund of unutilised input tax credit (ITC) can be claimed by a registered person at the end of any tax period. Rule 89(4) of the GGST Rules, 2017, prescribes the formula based on which the refund in the case of zero-rated supply of goods or services shall be granted as detailed below:

$$\text{Refund Amount} = (\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services}) \times \text{Net ITC} \div \text{Adjusted Total Turnover}$$

In the above formula "Net ITC" means input tax credit availed on inputs and input services during the relevant period. As per section 2(59) of GGST Act 2017, 'Input' means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business. Thus, ITC availed on capital goods shall not be included as eligible ITC in Net ITC.

Audit observed from 41 cases pertaining to zero-rated supplies that in a refund claim (two *per cent*) of taxpayer (GSTIN: 30AACCD9205D1ZB, Deccan Fine Chemicals India Pvt. Ltd.) for the tax-period August 2018, refund of unutilised input tax credit of ₹ 2.56 crore was sanctioned. While computing the "Net ITC" for arriving at the refund amount, the taxpayer included the ITC of ₹ 2.69 crore availed on capital goods. This resulted in excess sanction of refund of ₹ 35.88 lakh, which was recoverable with interest in terms of Section 73 read with Section 50 of the GGST Act, 2017.

On being pointed out (October 2021) by Audit, the RSA replied (December 2021) that ITC on capital goods was erroneously included while computing the Net ITC for arriving at the refund amount and necessary proceedings would be initiated for recovery of the same.

The Commissioner of State Tax replied (May 2022) in the exit conference that necessary action would be taken by the Assessing Authority for the recovery of excess grant of refund.

**2.3.8.1 (viii) Irregular grant of refund under inverted duty structure due to inclusion of ITC availed on ‘Input Services’**

As per Section 54(3) of GGST Act, 2017, a registered person may claim refund of any unutilised input tax credit 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). Rule 89(5) of the GGST Rules, 2017, prescribes the formula based on which the refund in the case of inverted duty structure shall be granted as detailed below:

Maximum Refund Amount= {(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

Net ITC in the above formula shall mean input tax credit availed on inputs during the relevant period. As per Section 2(59) of GGST Act 2017, ‘Input’ means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business. “Input Service” has been defined separately under Section 2(60) of GGST Act 2017. Further, in para 14 of Circular dated 15/01/2019 issued by the Government of Goa, it has been clarified that the refund of tax paid on input services shall not be allowed under inverted duty structure, effective from 01/07/2017. This means the input tax credit availed on input services cannot be refunded under the inverted duty structure.

Audit test checked eight refund cases of inverted duty tax structure and observed in six (75 per cent) refund cases, pertaining to Mapusa Ward, that the RSA erroneously considered ITC availed on input services while granting refund. This resulted in irregular allowance of refund to the tune of ₹ 1.73 crore in these six cases as detailed in **Appendix 2.7(A)** and **Appendix 2.7(B)**.

**An illustrative case is given below:**

The RSA sanctioned (January 2020) a refund of ₹ 9.55 crore to a taxpayer (GSTIN: 30AAACU0551B1Z9, Unichem Laboratories Ltd.) on account of inverted duty structure. While granting refund, the RSA erroneously included an ITC of ₹ 75.17 lakh on input services for calculation of Net ITC, which resulted in irregular allowance of refund to the tune of ₹ 86.31 lakh.

On being pointed out (February 2021 and August 2021) by Audit, the RSA stated (October 2021) that in all six cases, the excess refund amount of ₹ 1.73 crore was recovered from the taxpayers.

The Commissioner of State Tax replied (May 2022) in the exit conference that the RSA has recovered the amount of excess refund granted in all six cases and in similar cases appropriate action would be taken.

**2.3.8.1 (ix) Non-raising of demand in DRC-07 to recover the ineligible input tax credit**

As per Para 20 and 21 of Circular dated 10/12/2019 issued by the Government of Goa, the refund sanctioning authority has a dual responsibility- one as Refund Sanctioning Authority and second as Adjudicating Authority in the event a claim

is found inadmissible. Further, the amount of ineligible input tax credit shall be recovered along with interest and penalty from the taxpayer by issuing DRC-07.

Audit observed from 49 refund cases pertaining to zero-rated supplies and inverted duty structure that in seven (14 *per cent*) cases, the RSAs of four wards<sup>55</sup> reduced the amount of refund by ₹ 9.34 lakh on account of ineligible ITC. However, the RSA did not initiate any action to recover the ineligible ITC along with the applicable interest from these seven taxpayers as detailed in **Appendix 2.8(A)** and **Appendix 2.8(B)**. Non-raising of demand in DRC-07 resulted in non-recovery of the ineligible ITC of ₹ 9.34 lakh from the taxpayers, in violation of the provisions of the circular referred above.

**An illustrative case is given below:**

A taxpayer (GSTIN: 30AAMCA4457A1Z6, Albys Agro Pvt. Ltd.), under Vasco Ward, claimed (January 2020) a refund of ₹ 1.81 crore for the tax period April 2018 to March 2019 on account of export without payment of tax. The RSA sanctioned (May 2020) a refund of ₹ 1.73 crore to the taxpayer after deducting the ineligible refund amount of ₹ 7.84 lakh (ITC not reflected in GSTR-2A- ₹ 6.59 lakh and ITC related to local exempt sales- ₹ 1.25 lakh). However, the RSA did not initiate any action to recover the ineligible ITC of ₹ 6.59 lakh.

On being pointed out (August to November 2021) by Audit, the RSA of Margao Ward intimated (October 2021) that in one case, refund was processed before the issue of circular, hence, DRC-07 could not be issued, but the taxpayer had paid the amount, while in other case, DRC-07 had been issued. The RSA of Vasco Ward (two cases, including one case illustrated above) replied (November 2021) that notice for recovery in form DRC-01A had been issued to the taxpayers. RSA Panaji Ward (two cases) intimated (December 2021) various reasons like time restriction to process refund, non-availability of function in GSTN system and time taken in issuing SCN and finalisation of the same. However, instructions were being issued to the concerned jurisdictional authority to take action for recovery. RSA of Ponda Ward (one case) replied (August 2021) that taxpayer was informed about non-admissibility of refund and credit was reversed by the taxpayer.

The Commissioner of State Tax replied (May 2022) in the exit conference that action has already been initiated by RSAs and the amount would be recovered.

**2.3.8.1 (x) Excess grant of refund to taxpayer due to non-deduction of the assessed dues under the existing laws**

Section 54(10) of GGST Act, 2017 read with Section 54(3) prescribes that the RSA may deduct the amount of any tax, interest, penalty fee or any other amount which the taxpayer is liable to pay but remains unpaid under the GGST Act or under the existing laws from the refund amount pertaining to zero rated supplies

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<sup>55</sup> Ponda, Margao, Vasco and Panaji

and inverted duty structure under the GGST Act. This means that the undisputed dues under Value Added Tax (VAT), Entry tax (ET) and Central Sales Tax (CST) may be deducted from the refund amount due under the GGST Act.

Audit observed from test check of 49 refund cases pertaining to zero-rated supplies and inverted duty structure that in three<sup>56</sup> (six per cent) cases the RSA of Margao Ward sanctioned refund of ₹ 5.27 crore as detailed in **Appendix 2.9**. However, the RSA did not deduct the amount of dues under existing laws before making payment of refund under the GGST Act. Failure to deduct the amount of dues under existing laws resulted in excess payment of refund by ₹ 2.12 lakh to three taxpayers.

**An illustrative case is given below:**

A taxpayer (GSTIN: 30AABCS8856L1Z1, Pentair Water India Pvt. Ltd.) had claimed (March 2020) a refund of ₹ 1.50 crore on account export of goods and services without payment of tax, which the RSA sanctioned (April 2020). The taxpayer had an undisputed arrear of ₹ 0.15 lakh pertaining to 2008-09 under VAT, which was pending recovery since March 2013. However, the RSA did not deduct the dues of ₹ 0.15 lakh under existing laws before making the payment of refund under the GGST Act as there was no system to check the undisputed arrears. Failure to deduct the dues under existing laws resulted in excess payment of refund by ₹ 0.15 lakh to the taxpayer.

On being pointed out (October 2021) by Audit, the RSA intimated (November 2021) that in all the three cases, dues had been recovered under existing laws and in future the details of dues in arrears of taxpayers shall be called from the concerned assessing authorities before sanction of any refund.

Reply of the RSA is not tenable as the provisions require recovery of arrears at the time of sanctioning of refund. Failure to do so may result in non/delayed recovery of arrears.

The Commissioner of State Tax replied (May 2022) in the exit conference that the dues have already been recovered under the respective laws and instructions are issued to verify the dues under previous act as well as under GST Act before sanction of refund.

*Dues under existing laws (arrears) were not deducted before making payment of refund under the GGST Act, which resulted in excess grant of refund to the taxpayers.*

<sup>56</sup> (One case of GSTIN: 30AABCS8856L1Z1 was from sample and two cases of GSTINs: 30AABCR7561F1ZN, 30AAPFS8066D1Z4 was not from sample)



***Recommendation 2: The Government may fix responsibility on the concerned RSA for excess/irregular refunds. A suitable mechanism for verification of past dues under existing laws prior to sanction of refund may be put in place by the Department.***

#### **2.3.8.1 (xi) Non-conducting of post audit of refund claims**

The circular no. 10/2017-18-GST dated 07/02/2018 issued by the Government of Goa stipulated that, the pre-audit of manually processed refund applications is not required till separate detailed guidelines are issued by the Board, irrespective of the amount involved. However, it was clarified that the post audit of refunds shall be continued as per the extant guidelines.

As per Commissioner of Commercial Taxes, GoG order dated 16/11/2018, Internal Audit Cell was created for taking up internal audits of all the assessed cases as per the guidelines. Further, it was also stated in this order that all assessment cases involving excess ITC refunds shall be invariably selected for internal audit.

Audit observed from 100 refund cases that post audit of none of the refund cases was carried out by the competent authority.

On being pointed out (November 2021) by Audit, the RSAs replied (December 2021) that the competent authority did not carry out post-audit of GST refund cases.

Had the Department complied with the Government's instructions on post audit of refund cases, it could have detected irregularities in refund claim, observed by Audit.

Post audit of prescribed number of refund cases were not carried out by the Department.

***Recommendation 3: The Government may ensure post audit of refund cases as prescribed under extant rules.***

## **2.4 Subject Specific Compliance Audit on transitional credits under Goods and Service Tax**

**Introduction of the Goods and Service Tax (GST) was a significant indirect tax reform in the country, which replaced multiple taxes levied and collected by the Centre and states. The GST is levied simultaneously by the Centre and states on a common tax base. Central GST (CGST) and State GST (SGST) is levied on *intra-State* supplies and Integrated GST (IGST) is levied on *inter-State* supplies. To ensure the seamless flow of input tax from the existing laws to GST regime, provision for 'Transitional arrangements for input tax' was included in the GST Act for the**



entitlement and manner of claiming input tax in respect of taxes or duties paid under existing laws.

This Subject Specific Compliance Audit (SSCA) was carried out for the period from July 2017 to March 2020 to assess whether (i) there was an adequate and effective mechanism for selection and verification of transitional credit claims and (ii) the transitional credits carried over by taxpayers into GST regime were valid and admissible.

We observed systemic issues like absence of effective verification mechanism for credit transitioned to GST, credit of excess amount to Electronic Credit Ledger<sup>57</sup> over and above the amount claimed in TRAN-1<sup>58</sup> and allowing credit of stock to ledger without filing of TRAN-2<sup>59</sup> returns. The Government may ensure that technical issues in the system, which allowed such excess/incorrect credits, are resolved. The Department informed that the mechanism of ITC was on the front-end portal for the entire country and that the matter has been taken up with NIC for necessary rectification.

We also observed certain compliance issues like transitioning of credit without filing of legacy returns before TRAN-1 returns, non/short levy of interest in sampled cases, short raising of demand where transitional credit was disallowed, non-recovery/delayed recovery of ineligible transitional credit, ineligible allowance of transitional credit on TDS *etc.* The Department informed that remedial action to recover the ineligible credit has been initiated.

#### 2.4.1 Introduction

Introduction of Goods and Service Tax (GST) is 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 will accrue to the taxing authority which has the jurisdiction over the place of supply. Tax is levied simultaneously by the Centre and states on a common tax base. Central GST (CGST) and State GST (SGST)/ Union Territory GST (UTGST) is levied on *intra-State* supplies and Integrated GST (IGST) is levied on *inter-State* supplies. Availability of input tax credit 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 to GST regime, 'Transitional arrangements for input tax' was included in the GST Acts to provide for the

<sup>57</sup> A ledger that reflects the amount of Input Tax Credit available to the taxpayer

<sup>58</sup> Transitional Credit related return Form-1

<sup>59</sup> Transitional Credit related return Form-2

entitlement and manner of claiming input tax in respect of appropriate taxes or duties paid under existing laws. For business, the transitional credit provisions ensure transition of accumulated credits from the legacy returns, input tax in respect of raw materials, work in progress, finished goods held in stock as on the appointed<sup>60</sup> day as well as credit in respect of capital goods into the GST regime. The provisions enable taxpayers to transfer such input credits only when they are used in the ordinary course of business or furtherance of business.

#### **2.4.2 Legal provisions under transitional arrangements for input tax**

Section 140 of the Goa Goods and Services Tax (GGST) Act, 2017 enables the taxpayers to carry forward the Input Tax Credit (ITC) earned under existing laws to the GST regime. The Section read with Rule 117 of GGST Rules, 2017 prescribes elaborate procedures in this regard. All registered taxpayers, except those who are opting for payment of tax under the composition scheme (under Section 10 of the GGST Act), are eligible to claim transitional credit by filing TRAN-1 returns within 90 days from the appointed day. The time limit for filing TRAN-1 returns was extended initially till 27/12/2017. However, due to technical difficulties many taxpayers could not file the return within due date. Therefore, Sub-rule 1A was inserted under Rule 117 of CGST Rules, 2017 *vide* notification no. 38/1/2017-Fin(R&C) (70) dated 17/09/2018, to accommodate such taxpayers by extending the due date for filing till 31/03/2019. Under transitional arrangements for ITC, the ITC of various taxes paid under the existing laws such as State Value Added Tax (VAT) and Entry tax (ET) *etc.* can be carried forward to GST regime as under;

- a) **Closing balance of the credit in the last returns:** The closing balance of the VAT and Entry tax credit available in the returns filed under the existing law for six months immediately preceding the appointed day can be taken as credit in Electronic Credit Ledger (ECL).
- b) **Un-availed credit on capital goods:** The balance instalment of un-availed credit on capital goods can be taken by filing the requisite declaration in GST TRAN-1.
- c) **Credit on duty paid stock:** A registered taxable person, may take the credit of the VAT/ET paid in respect of input services and inputs supported by invoices/documents evidencing payment of tax.
- d) **Credit on duty paid stock when Registered Person does not possess the document evidencing payment of VAT:** As per Section 140(3) of GGST Act 2017 read with Rule 117(4) of GGST Rules, 2017, for traders who do not have VAT invoice, the credit claimed on stocks declared under Table-7(d)<sup>61</sup> of the TRAN-1 return will be afforded to the ECL ledger of the taxpayer as

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<sup>60</sup> Appointed day is the date of implementation of GST. GST was implemented in Goa with effect from 01/07/2017

<sup>61</sup> Table-7d of TRAN 1: claim of credit on stocks without invoices

and when the taxpayer submits TRAN-2 return indicating therein the details of supplies of such goods effected during the six months during which the scheme was in operation. The ECL will be credited based on the GST paid on such supplies as indicated in the TRAN-2 return.

- e) **Credit relating to exempted goods under the existing law which is now taxable:** Input tax credit of VAT in respect of input, semi-finished and finished goods in stock attributable to exempted goods or services which are now taxable in GST.
- f) **Input or 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.
- g) **Tax paid under the existing law under composition scheme:** The taxpayers who had paid tax at fixed rate or fixed amount in lieu of 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.
- h) **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.
- i) **Credit in respect of goods or capital goods belonging to principal lying at the premise of the agent:** The agent can claim credit on such goods or capital goods subject to fulfilment of certain conditions.

### 2.4.3 Context and materiality

The transitional credit is a one-time flow of input credit from the legacy regime into the GST regime, which can be availed both by the taxpayers migrating from the previous regime as well as new registrants under GST regime. The Government of Goa envisaged complete scrutiny of returns/assessment of first quarter of 2017-18 of 100 *per cent* taxpayers who claimed transitional credit as SGST to be completed on or before 30/04/2018.

### 2.4.4 Audit scope

The scope of audit comprises a review of transitional credit claim returns, both TRAN-1 and TRAN-2, filed by the taxpayers under the transitional arrangements for input tax provided for under Section 140 of the GGST Act. The period of review was from the appointed date to the end of March 2020. Audit verification involves the scrutiny of processes and outcomes of departmental verifications along with detailed independent verification of selected claims. Verification of individual transitional credit claims entailed the examination of VAT and Entry tax (ET) credit claimed by the taxpayers in the last six-month returns filed under existing laws, immediately preceding the appointed date, along with the

documentary evidence in support of such claims. Further, in respect of input tax claimed pertaining to materials held in stock, verification involved examination of necessary accounting details, documents or records evidencing purchase of such goods.

Audit objectives, criteria, scope, and methodology were explained in an entry conference held (August 2021) with the Commissioner of State Tax Goa. Audit findings were discussed in an exit conference (May 2022) with the Commissioner of State Tax, Goa.

#### **2.4.5 Audit objectives**

Transitional credit claimed under TRAN-1 and TRAN-2 returns is credited to the Electronic Credit Ledger (ECL) of the taxpayers as input tax credit and would be adjusted against GST output liability of the taxpayers. These claims have a direct impact on GST revenue collection. Thus, the audit of transitional arrangements for input tax credit under GST is taken up to ensure:

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

#### **2.4.6 Audit methodology and Audit criteria**

The methodology for audit of transitional credit claims of selected taxpayers involved data analysis and examination of records available with the respective wards.

The criteria against which the audit objectives and sub-objectives were verified comprised the provisions of Section 140 of the GGST Act, 2017 read with Rules 117 to 121 of the GGST Rules, 2017, notifications/circulars issued by Government of Goa and relevant instructions issued by the Central Board of Indirect Taxes and Customs (CBIC).

#### **2.4.7 Audit sample**

A representative sample of 200 cases involving transitional claim of ₹ 52.93 crore out of 618 cases involving transitional claim of ₹ 77.18 crore was selected for audit scrutiny.

#### **2.4.8 Audit findings**

The audit findings were categorized into two broad areas as systemic and compliance issues based on the objectives of audit. While systemic issues addressed the adequacy and effectiveness of the envisaged verification mechanism, the compliance issues addressed the deviations in individual cases from the provisions of the Act/Rules/Notifications/Circulars. The extent of deviations observed in sampled cases is given as follows:

(₹ in lakh)

Nature of Audit findings	Audit sample		Number of deficiencies noticed		Deficiencies as percentage of sample
	No.	Amount	No.	Amount	
<b>Systemic deficiencies</b>					
Absence of mechanism for verification of transitional credits claims	200	5293.38	8	75.25	5.00
Excess amount credited to Electronic Credit Ledger over and above the amount claimed in TRAN-1			1	0.23	
Allowing credit of stock to Electronic Credit Ledger without filing TRAN-2 returns			1	1.03	
<b>Compliance deficiencies</b>					
Irregular claim of transitional credit without filing VAT returns before filing TRAN-1 returns	200	5293.38	7	141.43	51.50
Excess carried forward of transitional credit in GST over and above the closing balance shown in the VAT returns			1	1.77	
Ineligible allowance of transitional credit on TDS			1	2.22	
Non-raising of demand in DRC-07			2	8.42	
Short raising of demand in DRC-07			4	98.17	
Irregular allowance of transitional credit pertaining to previous year			2	11.23	
Non/short levy of interest on irregular/ineligible transitional credit claimed			86	1298.78	

The audit findings are detailed in the ensuing paragraphs:

#### 2.4.8.1 Systemic issues

A review of the verification mechanism envisaged by the Department in terms of extent of coverage against the targets, policy/procedural gaps in the verification mechanism and efficiency of the recovery process indicated the following:

##### 2.4.8.1 (i) Absence of effective mechanism for verification of transitional credits claims

Securing compliance to the transitional credit provisions and regulating the transitional credit claims of taxpayers involves a control risk. Rule 121 of GGST Rules, 2017, specifies that the amount claimed under transitional credit may be verified and recovery proceedings under Section 73 or 74 of GGST Act shall be initiated in respect of any credit wrongly availed, whether wholly or partly. Central Board of Indirect Taxes and Customs (CBIC) issued a Guidance Note (March 2018) envisaging the procedure of verification of transitional credit. Audit observed that no such guidelines detailing the process of verification were issued by the Department for verification of transitional credit.

Audit further observed that Commissioner of Commercial Taxes (CCT) Goa issued a Memorandum No. CCT/12-22/TRAN 01 verif/2017-18/4716 dated 09/01/2018 to take up scrutiny of returns/assessment of first quarter of 2017-18 of each dealer who has filed TRAN-1 and complete scrutiny on or before 30/04/2018. Also, the due date of filing of Audit Report for the taxpayers having turnover of ₹ 25 lakh and above for the period from April 2017 to June 2017 was extended up to 31/08/2018. This implies that after filing of the Audit Report under VAT, Assessing Authority (AA) would require additional time to complete the assessment of the taxpayers.

Audit observed that there were 618 taxpayers who claimed transitional credit in Goa out of which 200 taxpayers were selected for audit scrutiny. Out of 200 test checked taxpayers, AAs did not complete the assessment of 189 (95 per cent) taxpayers involving transitional credit of ₹ 51.62 crore within the due date *i.e.* 30/04/2018. Further, as on 08/07/2021 (commencement of CAG audit), AAs did not complete the assessment of 55 (28 per cent) taxpayers involving transitional credit of ₹ 18.15 crore. However, the assessments of these 55 taxpayers were also completed as on 15/11/2021. As stated by the AAs, the main reason for not completing the verification of transitional credit in a timely manner was extension of due date of filing of Audit Report, handling dual role of completing VAT assessments and implementing the new GST regime.

Audit also observed that out of 200 cases, eight (four per cent) taxpayers pertaining to five wards<sup>62</sup> claimed transitional credit of ₹ 88.04 lakh under Tables-{5(c), 7(b) and 7(d)}<sup>63</sup> of TRAN-1 which was credited in their ECLs (**Appendix 2.10**). While assessing the eight taxpayers, the AAs did not verify the transitional credit of ₹ 8.54 lakh claimed by five taxpayers under Table 7(b) and 7(d) as there was no mention of allowance/disallowance of transitional credit of ₹ 8.54 lakh in the assessment order. Further, the AAs did not verify the transitional credit of ₹ 66.71 lakh of the remaining three taxpayers who claimed transitional credit under Table-5(c). Audit did not find copies of TRAN-1 and ECLs in the assessment records of these taxpayers. Even the assessment orders did not mention the claim, allowance and verification of transitional credits in these cases. Due to this, transitional credits in these cases remained unverified partly though the taxpayers were assessed/scrutinised.

On being pointed out by Audit (July to November 2021), the AA of Panaji Ward (one case) stated (November 2021) that transitional credit of ₹ 61.76 lakh was disallowed during reassessment (November 2021) and demand in DRC-07 was issued to the taxpayer. The AAs of three wards<sup>64</sup> (five cases) stated

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<sup>62</sup> Ponda, Vasco, Mapusa, Margao and Panaji

<sup>63</sup> TRAN-1-Tables: 5c-Closing credit balance of VAT/ET returns: 7b- credit of input services and inputs supported by invoices/documents evidencing payment of tax and 7d-credit of stocks not supported by duty paid stocks and credit to be afforded only when the taxpayer files TRAN-2

<sup>64</sup> Vasco, Margao and Panaji

(August/October/November 2021) that reassessment notices were issued to the taxpayers for verification of transitional credits. The AA of Ponda Ward (one case) stated (August 2021) that the transitional credit claimed (TRAN-1) was unconnected with the return filed (VAT return) and return was scrutinised without verifying transitional claim. The transitional VAT ITC would be verified and excess ITC claim, if any, would be recovered by issuing DRC-07. The AA of Mapusa Ward (one case) stated (September 2021) that the matter was being examined and outcome would be intimated.

Thus, the Department's instructions related to the scrutiny/assessment of return was a different exercise and not related to verification of transitional credit claims. This, led to delayed assessment as well as incomplete verification of transitional credit claims.

The Commissioner of State Tax replied (May 2022) in the exit conference that directions were issued to all ward officers to ensure that due procedure is followed under Section 73/74 of GGST Act and to complete the verification within the statutory limits prescribed under the law.

However, Audit also observed that AAs were yet to complete verification of 26 out of 618<sup>65</sup> taxpayers who claimed transitional credit in the State (as on July 2023).

Further, GoG *vide* notification dated 08/07/2022 extended the timeline to complete the verification of taxpayers who claimed transitional credit by AAs upto 30/09/2023.

***Recommendation 1: The State Government may ensure completion of the verification of all transitional credit claims of the taxpayers at the earliest.***

#### **2.4.8.1 (ii) Excess amount credited to Electronic Credit Ledger over and above the amount claimed in TRAN-1**

As per Rule 117(3) of GGST Rules, 2017, the amount of credit specified in the TRAN-1 application shall be credited to the Electronic Credit Ledger (ECL) of the applicant maintained in Form GST PMT-2 on the common portal. The system should not allow the credit in ECL, in excess of credit claimed in TRAN-1 returns.

Audit observed (August 2021) from assessment records of a taxpayer (GSTIN: 30AAACZ3924H1ZL, M/s. Zuari Agro Chemicals Limited) pertaining to Vasco Ward that the taxpayer had claimed transitional credit of ₹ 72.32 lakh (₹ 52.33 lakh + ₹ 19.99 lakh) as per the TRAN-1 filed. However, amount of input tax credited to the ECL was ₹ 72.55 lakh, which resulted in excess input tax credit under SGST amounting to ₹ 0.23 lakh over and above the credit claimed by the taxpayer as per TRAN-1 return.

<sup>65</sup> Total number of transitional credit claims in the State were 618. While all 200 cases selected for audit scrutiny were verified by 15/11/2021, 26 out of the balance 418 were still pending.



On being pointed out (August 2021) by Audit, the AA of Vasco Ward stated (September 2021) that the matter was being taken up with Commissioner of State Tax and NIC Goa and the outcome would be intimated.

The Commissioner of State Tax replied (May 2022) in the exit conference that the matter had been taken up with NIC and necessary rectification was done.

#### **2.4.8.1 (iii) Allowing credit of stock to Electronic Credit Ledger without filing TRAN-2 returns**

As per Section 140(3) of GGST Act, 2017 read with Rule 117(4) of GGST Rules, 2017, the credit claimed on stocks declared under Table-7d of the TRAN-1 return, would be afforded to the ECL ledger of the taxpayer as and when the taxpayer submits TRAN-2 return indicating therein the details of supplies of such goods effected during the six months during which the scheme was in operation. The ECL would be credited based on the GST paid on such supplies as indicated in the TRAN-2 return.

Audit observed (August 2021) from the assessment records of a taxpayer (GSTIN: 30ADDFS7649K1ZS, Suvarn Enterprises) pertaining to Vasco Ward that the taxpayer claimed (December 2017) transitional credit of ₹ 1.53 lakh (₹ 0.50 lakh under Table-5c and ₹ 1.03 lakh under Table-7d) in TRAN-1. The ECL of the taxpayer was credited with the amount of ₹ 1.53 lakh, which included transitional credit of ₹ 1.03 lakh under Table-7d of TRAN-1. Thus, ITC of Table-7d was credited at the time of filing TRAN-1 which was incorrect as it was without fulfilling the basic requirements of selling goods held in stock and payment of appropriate tax under GST and filing TRAN-2 return. This reflects a system deficiency, wherein the provisions of GGST Act appear to have been incorrectly mapped to the business rules of GSTN system.

On being pointed out (August 2021) by Audit, the AA of Vasco Ward stated (August 2021) that the matter was being taken up with the Commissioner of State Tax and NIC and the outcome would be intimated.

The Commissioner of State Tax replied (May 2022) in the exit conference that the mechanism of ITC was on the front-end portal for the whole of India. The matter is under examination and the issue will be resolved at the earliest.

Excess amount was credited to Electronic Credit Ledger of the taxpayer over and above the amount claimed in TRAN-1. Credit was also allowed to the tax payer on stocks declared without filing TRAN-2 returns.

***Recommendation 2: The State Government may ensure that technical issues in the system, which allowed more credit to ECL than the credit claimed in TRAN-1 and allowed credit of stock without filing TRAN-2 returns, are resolved.***



### 2.4.8.2 Compliance issues

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 various specified tables of TRAN-1 and TRAN-2 as applicable.

#### 2.4.8.2 (i) Irregular claim of transitional credit by filing TRAN-1 returns before VAT returns

As per Section 140(1) of GGST Act, 2017, a registered person other than a person opting to pay tax under Section 10, shall be entitled to take, in his ECL, credit of the amount of VAT and Entry tax, if any, carried forward in the return relating to the period ending on the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed. However, the registered person shall not be allowed to take credit if he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed day. This means that the VAT and ET return should have been filed before filing the TRAN-1 return to claim transitional credit under Table-5c of TRAN-1.

Audit observed from assessment records of 200 taxpayers that seven taxpayers (3.50 per cent) pertaining to three wards<sup>66</sup>, claimed transitional credit of ₹ 1.41 crore (**Appendix 2.11**) under Table-5c of TRAN-1 which was credited in their ECL during August 2017 to December 2017. However, the taxpayers filed their VAT returns for the period from April 2017 to June 2017 during January 2018 to June 2021 which was not within the statutory timelines. Thus, credit availed by these taxpayers was irregular as per provisions of Section 140(1) of GGST Act, 2017.

On being pointed out (July to October 2021) by Audit, the AAs of two wards<sup>67</sup> (five cases) accepted (July to December 2021) the audit observation and issued demand (three cases) in DRC-07 to recover the ineligible transitional credit, while in one case it was intimated that the demand in DRC-07 would be issued and in one case show cause notice was issued to the taxpayer. The AA of Margao Ward (two cases) stated (October 2021) that the taxpayer would be reassessed and the matter of claim of ineligible transitional credit would be examined.

#### An illustrative case is given below:

Audit observed (July 2021) from the assessment records of VAT and CST, TRAN-1 and ECL of a taxpayer (GSTIN:30AAPPL0144B1ZF, Tyre House and Services) pertaining to Ponda Ward for the period from April 2017 to March 2018 that the taxpayer filed TRAN-1 on 16/10/2017 and claimed transitional credit of ₹ 2.90 lakh under Table-5c of TRAN-1 and the same had been credited

<sup>66</sup> Ponda, Vasco and Margao

<sup>67</sup> Ponda and Vasco

to his ECL. However, the taxpayer had not filed the VAT return for the period April 2017 to June 2017 as on the date of filing of TRAN-1. The return under the existing law was filed belatedly on 16/02/2018. The taxpayer was not eligible for any transitional credit as he had not filed the returns under the existing law while filing the TRAN-1. The AA, while finalising the assessment of the taxpayer had allowed (June 2020) transitional credit of ₹ 2.01 lakh, contrary to the provisions of Section 140(1) of the GGST Act, 2017.

On being pointed out by Audit (July 2021), the AA of Ponda Ward stated (August 2021) that they missed the fact of non-filing of VAT returns before filing of TRAN-1 by oversight and demand in DRC-07 would be issued to the taxpayer for recovery of ineligible transitional credit of ₹ 2.01 lakh.

The Commissioner of State Tax replied (May 2022) in the exit conference that remedial action to recover the ineligible credit has been initiated by AAs in all seven cases.

#### **2.4.8.2 (ii) Excess carry forward of transitional credit in GST over and above the closing balance shown in the VAT returns**

As per Section 140(1) of GGST Act, 2017, a registered person other than a person opting to pay tax under Section 10, shall be entitled to take, in his ECL, credit of the amount of VAT and Entry tax, if any, carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed. This means that the closing balance as shown in the last return shall be allowed to be carried forward under Table-5c of TRAN-1.

Audit observed (August 2021) from assessment records of a taxpayer (30ANAPS2396C1ZC, John Vincent Soals) pertaining to Vasco Ward for the period from April 2017 to June 2017 that the taxpayer had claimed transitional credit of ₹ 2.07 lakh under Table-5c of TRAN-1. The same was credited in his ECL on 28/08/2017. The taxpayer had filed VAT return for the period from April 2017 to June 2017 on 28/07/2017. As per the VAT return filed, the taxpayer had a closing balance of ITC of ₹ 0.30 lakh only. Therefore, the taxpayer had claimed excess/ineligible transitional credit of ₹ 1.77<sup>68</sup> lakh under GST. The AA assessed (July 2021) the taxpayer and disallowed the full ITC of ₹ 2.07 lakh which was carried forward in GST. However, the AA did not issue demand in DRC-07 to recover the excess/ineligible transitional credit.

On being pointed out by Audit (August 2021), the AA of Vasco Ward stated (August 2021) that DRC-07 has been issued for recovery of the transitional credit of ₹ 2.07 lakh along with interest of ₹ 0.28 lakh.

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<sup>68</sup> (₹ 2.07 lakh - ₹ 0.30 lakh)

The Commissioner of State Tax replied (May 2022) in the exit conference that demand has been issued for recovery of transitional credit along with applicable interest.

#### **2.4.8.2 (iii) Ineligible allowance of transitional credit on TDS**

As per Section 140(1) of GGST Act 2017, a registered person other than a person opting to pay tax under Section 10, shall be entitled to take, in his ECL, credit of the amount of VAT and Entry tax, if any carried forward in the return relating to the period ending with day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed. Table-5c of TRAN-1 is for credit of VAT and ET paid on inputs which shall be allowed to be carried forward under GST regime.

Audit observed (November 2021) from the assessment records of a taxpayer (GSTIN: 30AALFP7009H1ZE, Phoenix Infrastructure and Projects) pertaining to Panaji Ward that the taxpayer filed TRAN-1 on 19/10/2017 and claimed transitional credit of ₹ 7.28 lakh under Table-5c of TRAN-1. The AA of Panaji Ward allowed (April 2021) carry forward of transitional credit of ₹ 7.28 lakh which included ITC of ₹ 5.06 lakh on inputs and TDS of ₹ 2.22 lakh. Allowing the carry forward of TDS as transitional credit is irregular as TDS is not an input.

On being pointed out (November 2021) by Audit, the AA of Panaji Ward accepted the audit observation and stated (November 2021) that the assessment order had been reviewed and demand in DRC-07 to recover the ineligible credit of ₹ 2.22 lakh has been issued to the taxpayer. The recovery of the demand is awaited.

The Commissioner of State Tax replied (May 2022) in the exit conference that action has already been taken by the AA.

#### **2.4.8.2 (iv) Non-raising of demand in DRC-07 for recovery of ineligible transitional credit**

As per Rule 121 of the GGST Rules, 2017, 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 thereon under Section 50 of the Act.

Audit observed from the assessment records of 200 taxpayers that, during assessment/reassessment/scrutiny the AAs of seven wards<sup>69</sup>, had partly disallowed transitional credit amounting to ₹ 17.99 crore out of ₹ 25.31 crore claimed by 77 taxpayers (**Appendix 2.12**). However, AAs did not issue demand in DRC-07<sup>70</sup> to recover the ineligible transitional credit of ₹ 8.42 lakh in respect

<sup>69</sup> Curchorem, Ponda, Vasco, Mapusa, Margao, Pernem and Panaji

<sup>70</sup> DRC-07 is the summary of the order specifying the amount of tax, interest and penalty payable by taxpayer

of two out of 77 taxpayers. Further, AAs issued demand in DRC-07 with delays ranging from one month to 43 months to recover the ineligible transitional credit of ₹ 17.90 crore in respect of 75 taxpayers. Of 75 cases, in seven cases delay was ranging upto three months, in 33 cases delay was ranging from three months to six months and in 35 cases delay was more than six months.

On being pointed out by Audit (July 2021 to November 2021), in respect of two cases where demand was not issued, the AA of Ponda Ward (one case) stated (September 2021) that the DRC-07 was not issued to the taxpayer as some inconsistencies remained in the assessment order for which reassessment notice was issued to the taxpayer and that the reassessment would be completed on priority. The AA of Margao Ward (one case) stated (October 2021) that the matter would be examined and DRC-07 would be issued. Further, in respect of delayed issue of demand, the AAs of four wards<sup>71</sup> (40 cases) stated (October to December 2021) that there were delays in issue of DRC-07 due to various reasons such as system error, no clarity regarding authority for issue of DRC-07, busy schedule of AAs in recovery of tax dues under One Time Settlement Scheme and other administrative works. The AA of Panaji Ward (two cases) stated (November 2021) that the taxpayers had filed an appeal against the assessment orders and hence the issue of DRC-07 was kept on hold. The AAs of five wards<sup>72</sup> (30 cases) did not state (August 2021 to November 2021) any reason for delay in issue of DRC-07. The AA of Mapusa Ward (two cases) stated (September 2021) that the matter would be examined. The AA of Ponda Ward (one case) stated (August 2021) that there was delay in issue of demand as they had to complete the assessment for the year 2017-18 within the limitation period in a time bound manner.

The Commissioner of State Tax replied (May 2022) in the exit conference that directions were issued to all the ward officers to ensure that due procedure is followed under Section 73/74 of GGST Act and to complete the verification within the statutory limits prescribed under the law.

Demands for recovery of ineligible transitional credits in respect of two cases were not issued and demands in respect of 75 cases were issued with delay.

#### **2.4.8.2 (v) Short raising of demand in DRC-07**

Audit observed from the assessment records of 200 taxpayers that four (two *per cent*) taxpayers pertaining to three wards<sup>73</sup> claimed transitional credit of ₹ 6.34 crore which was credited in their ECLs. The AAs assessed (May 2019/July 2021) the taxpayers and disallowed transitional credit of ₹ 1.30 crore. However, the AAs issued demand of ₹ 31.87 lakh only in DRC -07, which was short by ₹ 98.17 lakh (**Appendix 2.13**).

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<sup>71</sup> Mapusa, Margao, Pernem and Panaji

<sup>72</sup> Curchorem, Ponda, Vasco, Mapusa and Panaji

<sup>73</sup> Mapusa, Margao and Panaji

On being pointed out (September to November 2021) by Audit, the AAs of two wards<sup>74</sup> accepted (September to November 2021) the audit observation (three cases) and issued demand of ₹ 3.63 lakh in DRC-07 to the taxpayers. The AA of Mapusa Ward (one case) stated (September 2021) that the matter would be examined and the outcome would be intimated to audit.

**An illustrative case is given below:**

Audit observed (September 2021) from the assessment records of a taxpayer (GSTIN: 30AAACG2207L1Z5, Glenmark Pharmaceuticals Ltd.) pertaining to Mapusa Ward that transitional credit of ₹ 4.41 crore (₹ 3.46 crore under Table-5c and ₹ 0.95 crore under Table-6b) was claimed in TRAN-1 and credited in taxpayer's ECL on 26/08/2017.

The AA of Mapusa Ward finalised (April 2020) the assessment and allowed ITC of ₹ 3.43 crore to be carried forward as transitional credit under GST. The remaining transitional credit of ₹ 0.98 crore (₹ 4.41 crore - ₹ 3.43 crore) was to be recovered from the taxpayer by issuing demand in DRC-07. However, the AA of Mapusa Ward issued (August 2021) the demand in DRC-07 to recover the irregular transitional credit of ₹ 0.03 crore only, which was short by ₹ 0.95 crore.

On being pointed out (September 2021) by Audit, the AA of Mapusa Ward stated (September 2021) that the matter was being examined by the Department and the outcome would be intimated.

The Commissioner of State Tax replied (May 2022) in the exit conference that action has already been taken by the respective AAs.

**2.4.8.2 (vi) Irregular allowance of transitional credit pertaining to previous year**

As per Sub-section 2 of Section 10 of Goa Value Added Tax (GVAT) Act, 2016 amended *vide* notification No.7/15/2016-LP dated 12/09/2016, after adjustment under Sub-section 1, the excess input tax credit of a registered dealer other than the exporter, shall be carried over as an input tax credit to the subsequent financial period up to the end of the respective financial year and if there is any unadjusted input tax credit thereof, the same shall be refunded in the prescribed manner within a period of three months from the date of filing last quarterly return of the respective financial year or from the date of filing an application by the dealer, claiming such refund, whichever is later. Also, the notification mentions that the excess input tax credit cannot be carried forward to the next financial year with effect from 12/09/2016. This means that excess input tax credit for the year 2016-17 should not be allowed to be carried forward to the year 2017-18.

<sup>74</sup> Margao and Panaji

Audit observed from assessment records of 200 taxpayers that two (one *per cent*) taxpayers pertaining to two wards<sup>75</sup> claimed transitional credit of ₹ 20.79 lakh which was credited in their ECLs. The AAs allowed transitional credit of ₹ 20.79 lakh during the assessment for April 2017 to June 2017 which included ITC of ₹ 11.23 lakh carried forward from the previous year *i.e.* 2016-17, which was irregular, as carry forward of ITC pertaining to the previous years is inadmissible as per Sub-section 2 of Section 10 of the GVAT Act. This resulted in excess/irregular allowance of transitional credit of ₹ 11.23 lakh (**Appendix 2.14**).

On being pointed out (August/October 2021) by Audit, the AA of Panaji Ward (one case) accepted (November 2021) the audit observation and stated that the re-assessment notice was issued to the taxpayer and compliance would be reported. The AA of Vasco Ward (one case) stated (August 2021) that the matter was being examined and outcome would be intimated to audit.

**An illustrative case is given below:**

Audit observed (August 2021) from assessment records of a taxpayer (GSTIN:30AAICS2115D1Z3, Sea Blue Shipyard Ltd.) pertaining to Vasco Ward that the taxpayer filed TRAN-1 on 28/08/2017 and claimed transitional credit of ₹ 18.89 lakh under Table-5c of TRAN-1. The AA allowed transitional credit of ₹ 18.89 lakh during assessment for April 2017 to June 2017 which included ITC of ₹ 9.32 lakh carried forward from previous year *i.e.* 2016-17, which was irregular as carry forward of ITC pertaining to the previous years was inadmissible in view of Sub-section 2 of Section 10 of GVAT Act. This resulted in excess/irregular allowance of transitional credit of ₹ 9.32 lakh.

On being pointed out (August 2021) by Audit, the AA of Vasco Ward stated (August 2021) that the matter was being examined and reply would be submitted in due course.

The Commissioner of State Tax replied (May 2022) in the exit conference that in one out of two cases, re-assessment is under process and in the remaining one case, the taxpayer has been re-assessed.

**2.4.8.2 (vii) Non/short levy of interest on irregular/ineligible transitional credit claimed**

As per Rule 121 of GGST Rules, 2017, the amount credited under Sub-rule (3) of Rule 117 may be verified and proceedings under Section 73 or Section 74 of GGST Act, 2017 shall be initiated in respect of any credit wrongly availed, whether wholly or partly. The proceedings under Section 73 or 74 of the GGST Act, 2017 require the taxpayer to pay the excess or wrong credit availed along with interest payable thereon under Section 50 of the Act. Section 50(3) of the Act

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<sup>75</sup> Vasco and Panaji

stipulates that a taxable person who makes an undue or excess claim of input tax credit 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, at such rate not exceeding 24 *per cent*.

Audit observed from assessment records of 200 taxpayers that in respect of 86 taxpayers (43 *per cent*) pertaining to eight wards<sup>76</sup> the AAs did not levy/short-levied interest of ₹ 12.99 crore (**Appendix 2.15**) while issuing demand for recovery of irregular/excess/ineligible transitional credit under Section 50(3) of GGST Act, 2017, though the taxpayers utilised the transitional credits.

On being pointed out (July to November 2021) by Audit, the AAs of six wards<sup>77</sup> (23 cases) accepted (August to November 2021) the audit observation and issued demand (11 cases) in DRC-07 to recover the interest and issued (one case) show cause notice to recover the interest and agreed to issue show cause notices (11 cases) to recover the interest. The AAs of two wards<sup>78</sup> (63 cases) stated (October to November 2021) that after examination and verification of the ITC utilisation, appropriate interest would be levied as per the provisions of the Act.

**An illustrative case is given below:**

Audit observed (September 2021) from assessment records of VAT and CST, TRAN-1 and Electronic Credit Ledger (ECL) for the period from April 2017 to March 2018 of a taxpayer (GSTIN: 30AAJCS0723L1ZJ, Sahanu Sponge and Power Pvt. Ltd.) in Bicholim Ward that transitional credit of ₹ 77.71 lakh was claimed in TRAN-1 and credited in ECL on 28/08/2017. The taxpayer had utilised<sup>79</sup> the transitional credit of ₹ 77.71 lakh during 28/08/2017 to 20/09/2017 for making payment of tax under GST. The AA of Bicholim Ward finalised (December 2019) the assessment and allowed Input Tax Credit (ITC) for ₹ 14.39 lakh only. Hence, there is excess ITC of ₹ 63.32 lakh which was carried forward as transitional credit under GST. The AA issued (August 2021) a demand notice in DRC-07 for ₹ 63.32 lakh to recover the excess transitional credit availed and utilised. However, the AA did not levy any interest. This resulted in non-levy of interest of ₹ 60.90 lakh.

On being pointed out (September 2021) by Audit, the AA of Bicholim Ward accepted the audit observation and stated (September 2021) that the demand in DRC-07 had been issued to the taxpayer for recovery of the interest of ₹ 60.90 lakh. The recovery of the interest is awaited.

The Commissioner of State Tax replied (May 2022) in the exit conference that instructions have been issued to the ward offices to check if the ineligible carry

<sup>76</sup> Curchorem, Ponda, Vasco, Mapusa, Bicholim, Margao, Pernem and Panaji

<sup>77</sup> Curchorem, Ponda, Bicholim, Pernem, Vasco and Mapusa

<sup>78</sup> Margao and Panaji

<sup>79</sup> Utilisation of transitional credit is worked out on First In First Out (FIFO) basis



forward of TRAN-1 ITC has been utilized by the taxpayers for discharging the tax liability and accordingly, action would be taken to recover interest.

***Recommendation 3: The State Government may fix responsibility on the concerned Assessing Authority for cases of excess/irregular transitional credits allowed and non/short levy of interest.***

### **Commercial Taxes Department**

#### **2.5 Excess refund of ₹ 3.75 crore due to allowance of deduction in excess of permissible limit**

***Assessing Authority underassessed M/s Venkata Rao Infra Projects Pvt. Ltd. (TIN 30421202710) for VAT by allowing 58 per cent deduction on Gross Turnover instead of the eligible 50 per cent, resulting in understatement of Taxable Turnover and subsequent excess refund of ₹3.75 crore.***

The Government of Goa, vide notification no. 4/5/2005-Fin (R&C) (115) dated 24/12/2014, amended Rule 4 (A) of Goa Value Added Tax (GVAT) Rules, 2005. While determining the sale price in respect of works contracts involving transfer of property in goods (whether as goods or in some other form), the amended Rule 4A of Goa VAT Rules 2005 stipulates that the sale price shall be determined by effecting certain deductions<sup>80</sup> subject to a maximum of 50 per cent, provided the contractor produces audited books of accounts. It further stipulates that where the contractor fails to produce audited accounts which enable a proper evaluation of different deductions or where the Commissioner finds that the accounts maintained by the contractor are not sufficiently clear or intelligible, the sale price shall be determined by allowing a lump sum deduction specified therein for the works contract.

M/s Venkata Rao Infra Projects Pvt. Ltd (TIN No. 30421202710) had undertaken works contracts in the State of Goa during 2015-16. The dealer was assessed under GVAT Act, 2005 for the year 2015-16 on 31/12/2018. Audit scrutiny of the dealer's assessment records revealed that his gross sales as per the VAT Audit Report was ₹ 291.61 crore. The Assessing Authority (AA) accepted the Gross Turnover (GTO) of sales shown in VAT Audit Report of the dealer and determined his Taxable Turnover (TTO) of sales by allowing deduction of ₹ 170.25 crore which worked out to 58 per cent towards labour charges from GTO, instead of the maximum deduction of 50 per cent as per the aforesaid notification, citing the

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<sup>80</sup> (i) Labour and service charges for the execution of the works contract (ii) Amounts paid by way of price for sub-contract, if any, to sub-contractors (iii) Charges for planning, designing and architect's fees (iv) charges for obtaining on hire or otherwise, machinery and tools for the execution of the works contract (v) Cost of consumables such as water, electricity, fuel used in the execution of works contract. (vi) Cost of establishment of the contractor to the extent to which it is relatable to supply of the labour and services, (vii) other similar expenses relatable to the said supply of labour and services, (viii) Profit earned by the contractor to the extent it is relatable to the supply of said labour and services

decision of Hon'ble High Court of Bombay, Panaji Bench in writ petition (189/2014) dated 01/08/2016. However, the assessment of the AA is to be seen in the following context.

The writ petition (189/2014) was filed in the Hon'ble High Court Bombay at Goa April 2014 to challenge Rule 4A which was introduced under Goa VAT Rules, 2005 *vide* notification dated 30/12/2008. Under this Rule, sale price of works contract was determined by making deductions (for civil contracts) ranging from 30 *per cent* to 35 *per cent* of the gross receipts. The Court ruled (August 2016) that the standard deduction formula referred to therein (notification dated December 2008) would be followed only in situations where the dealers have no proper records. However, there was no reference to dealers who maintain proper books of accounts in the said judgement. In the meantime, Rule 4A was amended (December 2014) according to which a maximum of 50 *per cent* deduction was allowed for those dealers who maintain proper books of accounts and submit audited accounts.

Hence, the judgement of the Court on writ petition (189/2014) is not applicable to assessment of those dealers who maintain proper books of account and materials to establish the actual value of goods at the time of incorporation. Since the dealer M/s Venkata Rao Infra Projects Pvt. Ltd. has maintained proper books of accounts and submitted VAT Audit Report for the year 2015-16, the said judgement is not applicable in this case. Hence, the AA erred in allowing deduction of ₹ 170.25 crore (58 *per cent*) towards labour charges, which resulted in understatement of TTO and subsequent excess refund of tax to the extent of ₹ 3.75 crore as detailed below.

(Amount in ₹)

Particulars	As per Assessment order dt. 31/12/2018		As per Audit based on provisions of Rule 4 A of GVAT, Rules 2005	
		Tax Payable		Tax Payable
Gross Turn Over (GTO)	2916071386		2916071386	
Less Deduction	1702536684 (58%)	-	1458035693 (50%)	-
Taxable Turnover (TTO)	1213534702	-	1458035693	-
Exempted Sales	Nil	0	Nil	0
Local Sale @ 5%	955422656	47771133	-	-
Local Sale @ 8%	30685050	2454804	8% <sup>81</sup> on TTO	116642855
Local Sale @ 12.5%	226748551	28343568	-	-
Local Sale @ 15%	678445	101767	-	-
Penalty u/s 55 of GVAT Act, 2005	-	1000	-	1000
Total Tax Payable	-	78672272	-	116643855
ITC admissible	-	183771395	-	183771395
Amount paid in excess	-	105099123	-	67127540
Adjustment of Entry tax payable	-	427606	-	427606
Amount of tax refundable /to be carried forward	-	104671517	-	66699934 (A)
Amount of tax refunded	-	104243911 (B)	-	-
<b>Amount of tax refunded in excess (B-A)</b>				<b>37543977</b>

<sup>81</sup> The rate of tax on works contract under GVAT Act, 2005 is eight *per cent*

On this being pointed out, the Department replied (July 2021 and February 2022) that in the light of the decision of the Hon'ble High Court of Bombay, the TTO of the dealer has been determined on the basis of material utilised in works contract and taxed at the rate applicable to the respective material used.

The reply is not tenable as the said judgement is not applicable to the dealer who has maintained proper books of account and furnished VAT Audit Report. Hence, the above dealer should have been assessed under Rule 4A, as amended in December 2014 and was in effect upto 30/06/2017 (before implementation of GST). Further, assessment is always based on applicable acts and rules and the Government of Goa did not make any amendment to Rule 4A pursuant to the Hon'ble High Court ruling.

Thus, allowance of deduction in excess of permissible limit by AA resulted in understatement of TTO and subsequent excess refund of tax to the extent of ₹ 3.75 crore.

**2.6 Excess allowance of ITC on Entry tax (₹ 28.98 lakh) and irregular allowance of carry forward of ITC amounting to ₹ 1.88 crore resulted in short levy of tax**

*Assessing Authority allowed excess ITC of ₹28.98 lakh for the Entry tax paid which was inadmissible and also allowed irregular carry forward of ITC amounting to ₹1.88 crore as this amount had been utilized for payment of CST dues, resulting in short levy of tax.*

Sub-section (6) of Section 9 of Goa Value Added Tax (GVAT) Act, 2005 provides that any registered dealer who has paid Entry tax under the Goa Tax on Entry of Goods Act, 2000 shall be entitled for Input Tax Credit (ITC) on goods other than those covered by Schedule 'G' or sub-section (2) of GVAT Rules, 2005. Further, in respect of finished goods dispatched by way of stock transfer, the ITC on goods shall be to the extent it exceeds the rate of two *per cent* specified under Sub-section (1) of Section 8 of Central Sales Tax Act, 1956. Sub-rule (2) of Rule 7 of GVAT Rules, 2005 provides that where a registered dealer makes sale of taxable goods, exempt goods and stock transfer in a tax period, he shall make the calculation of ITC in proportion to such sales. Thus, ITC on Entry tax paid involving stock transfer should be allowed to the extent it exceeds the rate of two *per cent* after calculating the proportionate ITC eligible for stock transfer.

Test check of 15 out of 77 assessed cases for Entry tax during the period 2019-20 by the office of Commercial Tax Officer, Margao Ward revealed that in two cases the dealers had made stock transfer of goods where the rate of Entry tax did not exceed two *per cent*. As such, in these two cases the dealers were not eligible for ITC on the Entry tax paid proportionate to stock transfer. However, the Assessing Authorities (AA) allowed 100 *per cent* ITC on the Entry tax paid involving stock

transfer resulting in excess allowance of ITC amounting to ₹ 28.98 lakh as detailed below.

TIN of the dealers	Period of assessment	Entry tax paid (₹)	Percentage of Stock transfer	ITC to be disallowed/ Excess ITC allowed (₹)
	Col (1)	Col (2)	Col (3)	Col (4) = Col (2X3)/100
30831103496	2015-16	16446925	10	1644693
30911107138	2015-16	1662393	42	698205
	2016-17	1232616	45	554677
			<b>Total</b>	<b>2897575</b>

Based on the audit observation the Department reassessed (August 2021) the dealer (TIN: 30831103496) for the period 2015-16 and disallowed ITC of ₹ 16.44 lakh for the Entry tax paid and raised a demand of ₹ 2.79 lakh. However, the ITC proportionate to stock transfer for purchases made has not been disallowed by the Assessing Authority and needs to be re-assessed for disallowance of ITC.

Audit also noticed that, in the original assessment order, AA had allowed excess ITC of ₹ 1.88 crore for the period 2015-16 to be carried forward for the financial year 2016-17, though, the excess ITC amount had already been utilized by the dealer for payment of Central Sales Tax (CST) in 2015-16. During re-assessment, the Department adjusted the excess ITC towards the dues of Entry tax and central sale tax and no ITC was carried forward for the year 2016-17. However, scrutiny of Assessment Order (assessed in June 2020) for the period 2016-17 revealed that the Department had already extended excess ITC benefit of ₹ 1.88 crore to the dealer which was carried forward in the original assessment but disallowed during re-assessment, resulting in irregular benefit of ₹ 1.88 crore. The Department replied (March 2022) that re-assessment Notice was issued to the dealer for reversal of excess input tax credit and in case of TIN: 30911107138, the dealer was re-assessed and dues amounting to ₹ 12.54 lakh were raised.

## **2.7 Non-aggregation of sales turnover resulted in short levy of tax (₹ 1.82 crore).**

***Non-consideration of aggregate sales turnover as per the dealer's financial statements resulted in short levy of VAT amounting to ₹1.82 crore.***

Under Section 2 (am) of Goa Value Added Tax Act, 2005 (GVAT Act), turnover means the aggregate amount of sale price for which goods are sold or supplied or distributed by a dealer, either directly or through another, whether on own account or on account of others, whether for cash or for deferred payment, or other valuable consideration.

A liquor dealer having two units *viz.* Royal Spirits and Classic Spirits was registered under one TIN: 3060303152. Since both the units of the dealer were registered under one TIN, the total sales turnover of both the units is to be aggregated for determination of output tax liability, as mentioned in Section 2 (am) *ibid.* During the period 2016-17, the total sales turnover (as per the Profit &

Loss Account of the dealer) of Royal Spirits and Classic Spirits was ₹ 26.76 crore and ₹ 10.12 crore respectively. Hence, the total aggregate sales turnover of ₹ 36.88 crore was to be considered for determination of output tax liability for the year 2016-17.

However, audit scrutiny (January 2021) of assessment record of the above dealer for the period 2016-17 revealed that the Assessing Authority (AA) considered a total sales turnover of ₹ 28.29 crore for determination of output tax liability as shown below.

<i>(Amount in ₹)</i>	
Gross Turnover (GTO)	282918156
Total Turnover (TTO)	282918156
Tax@5% on TTO 25,24,248	126212
Tax@12.5% on TTO 1,80,13,342	2251668
Tax@22% on TTO 26,23,80,566	57723725
Penalty u/s 70 for not filing audit report and u/s 55 for delay in return filing	27000
Interest levied	14795684
ITC allowed (less)	13184254
Tax paid (less)	24958153
Outstanding dues	36781882

Thus, non-consideration of aggregate sales turnover of ₹ 36.88 crore by the AA resulted in under-statement of total sales turnover to the tune of ₹ 8.59 crore and consequent short levy of tax amounting to ₹ 1.82 crore<sup>82</sup> on pro rata basis. The reason for non-consideration of aggregate sales turnover by the AA was not on record.

After being pointed out by Audit, the Department re-assessed (January 2022) the dealer's returns and has raised dues amounting to ₹ 7.44 crore<sup>83</sup>.

## **2.8 Irregular allowance of composition of tax resulted in short levy of tax (₹ 91.56 lakh)**

***Dealer was wrongly assessed on the basis of composition of tax instead of considering him as a regular dealer that resulted in short levy of tax amounting to ₹91.56 lakh.***

As per Rule 6 of Goa Value Added Tax (GVAT) Rules, 2005, any registered dealer covered under Schedule E may apply to the Appropriate Assessing Authority to compound the tax assessable within 30 days from the date of commencement of the financial year. Further, as per entry no. 5 of Schedule E, a works contractor having turnover of up to ₹ one crore can apply for composition of tax at the rate of three *per cent* with effect from 01/04/2012 subject to conditions prescribed under rule 6(2A) of GVAT Rules, 2005. One of the prescribed

<sup>82</sup> Calculated on pro-rata basis as per the output tax rate of five *per cent* (0.89 %), 12.5 *per cent* (6.3 %) and 22 *per cent* (92.7 %)

<sup>83</sup> Including interest of ₹ 3.45 crore

conditions was that the dealer shall make payment of the amount of composition of tax for the return period in which the agreement is entered into and include the amounts stipulated as payable in the respective tax periods as per agreement as turnover of sales in the said return. Subsequently (October 2015), entry no. 5 of Schedule E was changed to the effect that a works contractor could apply for composition of tax at the rate of 0.5 *per cent* to two *per cent* depending upon the cost of construction of flat(s), dwelling unit(s), house(s), row houses, building(s) or premises.

For determination of the sale price in respect of a works contract, Rule 4A of Goa VAT Rules, 2005 stipulates that, where the contractor fails to produce audited accounts which enable a proper evaluation of different deductions or where the Commissioner finds that the accounts maintained by the contractor are not sufficiently clear or intelligible, the sale price shall be determined by allowing a lump sum<sup>84</sup> deduction specified therein for the works contract.

Audit observed (March 2021) from the records of Commercial Tax Office, Panaji that a works contractor (TIN: 30760110206, Mangalam Build Developers Ltd.) who undertakes work of construction of flats was assessed (August 2020) for taxable turnover of ₹ 12.43 crore and ₹ 0.14 crore as composition of tax payable was worked out, considering the above dealer as composition dealer. However, the dealer did not apply for composition of tax for the year 2016-17. The dealer neither filed quarterly returns nor had paid any composition tax during the year. The dealer also did not file VAT Audit Report. On account of the fact that the dealer did not fulfil the conditions for grant of composition scheme, he was not eligible for composition of tax and therefore, should have been assessed as a regular dealer by allowing lump sum deduction as provided in rule 4A of GVAT Rules, 2005 as detailed below.

As per Rule 4A of GVAT Rules, 2005	
(A) Gross Receipts	= ₹ 203188343
(B) Deduction under rule 4(A)	= ₹ 71115920 (35 <sup>85</sup> % of ₹ 203188343)
(C) Taxable Turnover (A - B)	= ₹ 132072423
(D) Output tax payable (C x 8%)	= ₹ 10565794
(E) Penalty u/s 70(3) & 55	= ₹ 27000
(F) Total tax payable (D+E)	= ₹ 10592794
(G) Tax paid under composition	= ₹ 1437068
(H) Balance payable (F-G)	= ₹ 9155726

The above working shows that the AA assessed the dealer under composition scheme which resulted in short levy of VAT of ₹ 0.92 crore.

<sup>84</sup> Under rule 4(A) of GVAT Rules, sale price regarding works contract is determined by making deductions (ranging from 10 *per cent* to 40 *per cent* of the gross receipts) as specified in column 3 of the Table given under the said Rule for the Works Contract as specified in corresponding Entry in Column 2 of the said Table

<sup>85</sup> Deduction under rule 4(A) @ 35 *per cent* from gross receipts for construction of buildings



On being pointed out, the Department accepted (March 2022) that the dealer was not eligible for composition scheme benefit, hence re-assessed and demand notice for ₹ 0.74 crore was issued in March 2022.

**2.9 Non-levy of Entry tax on *inter-State* purchase of raw materials for manufacture of liquor (₹ 47.58 lakh)**

*Entry tax of ₹ 47.58 lakh was not levied on inter-State purchase of raw materials for manufacture of liquor by three distilleries.*

In exercise of the powers conferred by Sub-section (1) of Section 25 of the Goa Tax on Entry of Goods (GTEG) Act, 2000, the Government of Goa *vide* notification No. 5/11/2008-Fin (R&C) (9) dated 31/03/2013, provided exemption from payment of Entry tax on *inter-State* purchase of goods into local area other than liquor, alcohol, ferroalloys, steel melting, steel and chemical units for use in the manufacture of intermediate or finished products by Small Scale Industrial Units. The liquor manufacturing units were, therefore, not eligible for exemption from payment of Entry tax. The rate of Entry tax leviable on *inter-State* purchase of spirit, alcohol, malt, hops, essences and additives for manufacture of IMFL, beer, wine *etc.* was five *per cent*.

Test check of assessment records of ten distilleries of the Office of Commercial Tax Officer, (CTO) Ponda, revealed that three distilleries (shown in Table) had not paid the Entry tax amounting to ₹ 47.58 lakh on *inter-State* purchase of Plant & Machinery and raw materials *viz.* extra neutral alcohol, spirit, alcohol, consumables essence, caramel, flavour *etc.*, and the AA also did not levy the Entry tax at the time of assessment. The details of Entry tax leviable on the three liquor dealers are mentioned below.

(Amount in ₹)

Name and TIN No./R.C No.	Period of Assessment	<i>inter-State</i> raw material purchased during the period	Entry tax leviable @ five <i>per cent</i>
M/s Fullatron Distilleries Pvt Ltd. (TIN:30100205338E)	2016-17	30197100	1509855
M/s Vinayak Distilleries Pvt Ltd. (TIN:30430205011)	2013-14	6212250	310612
	2014-15	6621387	331069
	2015-16	4771575	238578
	2016-17	6448950	322447
M/s Leela Distilleries Pvt. Ltd. (TIN: 30550201938E)	2013-14	3262420	163121
	2014-15	10234057	511702
	2014-15 (plant and machinery)	6913680 @ 2%	138273
	2015-16	24647671	1232383
<b>Total</b>			<b>4758040</b>



The Department replied (12/01/2022) that one dealer (M/s Vinayak Distillery) has been re-assessed and a demand of ₹ 49.59 lakh<sup>86</sup> raised for the period from 2013-14 to 2016-17. The re-assessment is under process for the other two dealers.

## 2.10 Short levy of Entry tax (₹ 22.04 lakh)

***Non-application of revised rates of Entry tax on procurement of two commodities during assessment resulted in short levy of ₹ 22.04 lakh.***

In exercise of the powers conferred by Sub-section (1) of Section 25 of the Goa Tax on Entry of Goods (GTEG) Act, 2000 the Government of Goa vide notification No. 7/16/2013-LA dated 20/05/2013 revised the rates of the Entry tax listed in Schedule I and II of the Act. The applicable rates of following two items after revision were as under:

Sl. No.	Commodity	Rate of tax
1	Packing material viz. 1) Fibre board boxes, paper bags, carrier bags. 2) Paper boxes, folding cartons, car board boxes, corrugated board boxes and the like	2% 4%
2	Paper (all kinds)	5%

Audit observed (October 2020) from the Entry tax file of the dealer M/s Polynova Industries Ltd. (R.C. No. 30130202848E) that the revised rate of the packing material was not taken into consideration at the time of assessment for the years 2013-14 to 2015-16. Similarly, in the assessments carried out, the commodity Releae paper<sup>87</sup> was taxed in the year 2014-15, 2015-16 and 2016-17 at 0.5 per cent instead of five per cent applicable to paper of all kinds. Non-application of the revised rates on the commodity procured by the dealer from outside the local area resulted in short levy of Entry tax amounting to ₹ 22.04 lakh as shown below.

(Amount in ₹)

Commodity	Year	Value of goods liable to tax	Rate of tax levied	Min. rate of tax leviable	Tax amount payable	Tax amount paid	Short levy
1	2	3	4	5	6	7	8 = 6 - 7
Releae paper	2014-15	19661617	0.5%	5%	983081	98308	884773
	2015-16	18166739	0.5%	5%	908337	90834	817503
	2016-17	8866845	0.5%	5%	443342	44334	399008
Packing <sup>88</sup> material	2013-14	2045887	1%	2%	40918	20459	20459
	2014-15	1390847	1%	2%	27817	13908	13909
	2015-16	2356573	1%	2%	47131	23566	23565
	2016-17	4504261	1%	2%	90085	45043	45042
<b>Total</b>							<b>2204259</b>

<sup>86</sup> ₹ 49.59 lakh= Tax payable ₹ 17.37 lakh plus interest ₹ 32.22 lakh

<sup>87</sup> Classified as paper of all kinds as per the entry specified at Sr. No. 40 of the Goa Tax on Entry of Goods (Amended Act), 2013

<sup>88</sup> Lower rate of tax adopted for calculation as the specific kind of paper not mentioned in the assessment notices

The short levy of Entry tax was communicated to the Government in December 2021. The Commissioner of State Tax stated (February 2022) that the dealer has been re-assessed for the years 2013-14 to 2016-17 and demand notices of ₹ 41.47 lakh issued (January 2022).

**2.11 Non/short Levy of interest for delayed/short payment of VAT/CST (₹ 19.95 lakh)**

***Wrong assessment of three dealers resulted in non-levy/short levy of interest amounting to ₹19.95 lakh on delayed/short payment of VAT.***

As per Section 25(4)(a) of Goa Value Added Tax (GVAT) Act, 2005, wherever the tax is due, and the return or revised return has been furnished without any payment, such dealer shall be liable to pay interest at the rate of 18 *per cent per annum* from the date such tax has become payable. Further, as per Section 9(2B) of Central Sales Tax Act (CST), 1956 read with Section 25 (4)(a) of GVAT Act 2005, interest as applicable to GVAT Act shall be levied on the delayed/defaulted amount under CST.

Scrutiny of records of Commercial Tax Office (CTO) Vasco revealed that the CTOs either did not levy or short levied interest under Section 25(4)(a) of the GVAT Act in respect of three<sup>89</sup> dealers assessed during the year 2018-19 and 2019-20. Details of non/short levy of interest in respect of these three dealers for a total amount of ₹ 19.95 lakh under the applicable provisions of the Act are shown below.

*(Amounts in ₹)*

Name of CTO	TIN No/RC No.	Period of assessment	Net Tax Due	Delay (months)	Interest <sup>90</sup> to be levied	Interest levied	Short levy of interest
Vasco	30061202035	2015-16	5110704	34 (May 2016 to February 2019)	2606459 <sup>91</sup>	1271879	1334580
	30601203581	2016-17	4874292	28 (May 2017 to August 2019)	2047203	1754744	292459
	RC No: V/CST/3788)		184524		77500	0	77500
	30211203941, RC No: V/CST/4105)	2017-18	625000	31 (August 2017 to February 2020)	290625	0	290625
<b>Total</b>					<b>5021787</b>	<b>3026623</b>	<b>1995164</b>

The non/short levy of interest was reported to the Commissioner of Commercial Taxes (October 2021) and the Government (December 2021). The Commissioner in his reply stated (January 2022) that re-assessment has been carried out and demand notices for re-assessed dues of ₹ 1.92 crore including interest of ₹ 0.47 crore, have been issued in the case of two<sup>92</sup> dealers. In respect of the remaining one<sup>93</sup> dealer, the matter is under dispute.

<sup>89</sup> Two cases of short-payment and one case of non-payment of tax

<sup>90</sup> Interest calculated @ 18 *per cent per annum*

<sup>91</sup> Interest leviable= ₹ 5110704 X 18 *per cent* X 34 months/12

<sup>92</sup> TIN: 30061202035 & 30601203581/RC No: V/CST/3788)

<sup>93</sup> TIN: 30211203941/RC No: V/CST/4105)

## 2.12 Irregular grant of exemption (₹ 89.19 lakh)

***Exemption of luxury tax of ₹89.19 lakh was granted to nine hoteliers in three Luxury Tax Offices in violation of prescribed conditions.***

Under the provisions of Section 21 of the Goa Tax on Luxuries Tax Act (GTLA) 1988, Government of Goa issued a notification (March 2015), exempting luxury tax in excess of 40 paise in a rupee for luxuries provided in a hotel during the months from June to September every year with effect from 01/04/2015, subject to conditions (i) the hotelier holds a valid registration certificate (ii) files the returns within the prescribed time (iii) pays all tax within the time prescribed under the Act and (iv) should not be in arrears of tax or other dues. As per Notification (March 2016) luxury tax in excess of 75 paise in a rupee shall be exempt for luxuries provided in a hotel during the months from June to September every year with effect from 01/04/2016 subject to above mentioned conditions. Further, as per Sub-section 2 of Section 21 of GTLA, 1988, where a hotelier has availed exemption of luxury tax and any of the conditions subject to which such exemption was granted are not complied with, for any reason whatsoever, then such hotelier shall be liable to pay luxury tax on the luxury provided in a hotel at the normal rates.

Scrutiny of assessment records of three<sup>94</sup> Luxury Tax Offices revealed (March 2021) that though the conditions of exemption were not fulfilled, Luxury Tax Officers (LTOs) allowed (between October 2019 and March 2020) Luxury tax exemptions while finalising the assessment of nine dealers mentioned in the table below. This resulted in irregular grant of exemption and consequent short levy of Luxury tax of ₹ 89.19 lakh as detailed below.

R.C. No. (TIN)	Period of assessment /Month of assessment	Violation in the conditions of the notification	Taxable Turnover (in ₹)	Normal rate of tax in per cent	Rate of tax levied in per cent	Rate of excess exemption allowed in per cent	Amount of excess exemption allowed (in ₹)
<b>Luxury Tax Office, Mapusa</b>							
BRD/GTL/605 (30090308115)	2015-16 March 2020	(ii) The last quarter return was filed with delay of 89 days	50355	6	2.4	3.6	1813
			1399330	9	3.6	5.4	75564
			15549683	12	4.8	7.2	1119577
<b>Luxury Tax Office, Margao</b>							
MRG/GTL/115 (30231104602L)	2015-16 March 2020	(iii) Delay in remittance of tax up to 63 days	14780843	9	3.6	5.4	798166
			51374115	12	4.8	7.2	3698936
MRG/GTL/162 (30061107557L)	2015-16 March 2020	(ii) and (iii) Delay in remittance of tax up to 155 days and delayed filing of 2 <sup>nd</sup> and 3 <sup>rd</sup> quarter	2404924	6	2	4	96197
			731048	9	3.2	5.8	42401
			48004	12	4	8	3840

<sup>94</sup> Panaji, Margao, Mapusa

R.C. No. (TIN)	Period of assessment /Month of assessment	Violation in the conditions of the notification	Taxable Turnover (in ₹)	Normal rate of tax in per cent	Rate of tax levied in per cent	Rate of excess exemption allowed in per cent	Amount of excess exemption allowed (in ₹)
		returns ranging from 26 days to 121 days					
MRG/GTL /172 (30281107 727L)	2015-16 March 2020	(ii)	2141317	6	2.4	3.6	77087
		Returns were filed with delay of 236 days	284582	9	3.6	5.4	15367
			135411	12	4.8	7.2	9750
MRG/GTL /86 (30881104 293L)	2015-16 March 2020	(ii)	180542	6	2.4	3.6	6500
		Returns of first quarter was filed with delay and returns for remaining three quarters were not filed.	57861	9	3.6	5.4	3124
<b>Luxury Tax Office, Panaji</b>							
304301081 08	2015-16 March 2020	(ii) and (iii)	5677100	6	2.4	3.6	204376
		Delay in remittance of tax up to 33 days and returns of 2 <sup>nd</sup> and 3 <sup>rd</sup> quarter were filed with delay ranging from 7 days to 39 days	714841	9	3.6	5.4	38601
			23976	12	4.8	7.2	1726
PNJ/GTL/ 213 (30620107 276L)	2015-16 March 2020	(ii)	2952334	6	2.4	3.6	106284
		Return of 2 <sup>nd</sup> quarter was filed with delay of 3 days	9831360	9	3.6	5.4	530893
			2899245	12	4.8	7.2	208745
305801085 59L	01/04/2017 to 30/06/2017 October 2019	(ii)	1874358	6	2	4	74974
		Delay in remittance of tax up to 33 days	12326231	9	3.2	5.8	714921
			116967	12	4.8	7.2	8422
PNJ/GTL/ 188(30740 105270L)	2015-16 March 2020	(iv)	14762102	6	2.4	3.6	531436
		There were outstanding arrears of assessed dues for the assessment year 2010-11	2584060	9	3.6	5.4	139539
			399914	12	4.8	7.2	28794
	2016-17 March 2020	2 <sup>nd</sup> and 3 <sup>rd</sup> quarter's returns were filed with delay of 17 days	17381682	6	4.5	1.5	260725
5404787			9	6.75	2.25	121608	
<b>Total short levy of tax</b>							<b>8919366</b>

The Commissioner of State Tax stated (February 2022) that re-assessment of six<sup>95</sup> dealers was conducted and demand notices issued.

In respect of one dealer (Reg. No. BRD/GTL/605), re-assessment notice was issued. In respect of two<sup>96</sup> dealers, demand notices were issued but the dealers had filed appeal against the demand notices.

<sup>95</sup> RC No. 30430108108, PNJ/GTL/213, PNJ/GTL/188, MRG/GTL/162, MRG/GTL/172, MRG/GTL/86

<sup>96</sup> RC No. 30580108559 and MRG/GTL/115

## Excise Department

### 2.13 Application of incorrect rates for levy of license fee (₹ 18.00 lakh)

*The Excise Stations of Sanguem, Quepem, Pernem and Canacona short-levied license fee from hoteliers for sale of liquor.*

As per Section 15 of Goa Excise Duty Act, 1964, hoteliers are issued foreign liquor (FL) licenses for sale of foreign liquor and foreign country liquor licenses for sale of Indian made foreign liquor (IMFL) and country liquor (CL). The yearly rates of license fee applicable for retail sale of foreign liquor (FL), Indian made foreign liquor (IMFL) and country liquor (CL) for consumption in the premises of hotels are notified<sup>97</sup> by the Government. The license fee is levied based on the category of hotel, as issued by the Department of Tourism, Government of Goa.

Further, Rule 122 of the Goa Daman and Diu (Excise Duty) Rules, 1964 provides for levy of additional amount at the rate of two *per cent* per month for delay in payment of short-levied license fee.

Scrutiny of records of hoteliers for the period from April 2015 to March 2021 during audit of Excise stations Sanguem, Quepem, Pernem and Canacona revealed short levy of licence fee amounting to ₹ 9,93,630 which is recoverable along with leviabale penalty of ₹ 8,06,304 from 15 hoteliers as detailed in the **Appendix 2.16**.

The short levy of license fee was communicated to the Government in December 2021. The Commissioner of State Excise stated (April 2022), that an amount of ₹ 6,79,500 (including interest) has been recovered from eight<sup>98</sup> out of 15 licensees. Notices for payment of dues have been issued in respect of five<sup>99</sup> licensees. In respect of one licensee having license nos. FCL/514 and FL/con/64, out of ₹ 1,32,660 only an amount of ₹ 50,000 has been recovered and for the balance amount notice has been issued for payment of dues and the remaining one licensee with license no. FCL/173 requested for personal hearing which is under process.

## Directorate of Mines and Geology

### 2.14 Loss of ₹ 5.74 crore due to irregular refund

*Shree Durga Mining Company did not lift iron ore within the stipulated period as per the contract award. Instead of enforcing the terms of the e-Auction award, the Directorate of Mines and Geology granted unwarranted extension and irregularly refunded ₹5.74 crore for shortage of 22,838.75 MT ore.*

<sup>97</sup> Notifications dated 31/03/2015, 14/10/2015, 31/03/2016, 31/03/2017, 31/03/2018 and 31/03/2021

<sup>98</sup> Eight Licensees having license No. FCL/303, FCL/136, IMFL/294, FCL/299, FCL/363, FCL/247, FCL/251 and FCL/432

<sup>99</sup> Five Licensees having license No. FCL/323, FL/con/30, (FCL/358 & FL/con/14), FCL/380 and FCL/368

All major mineral mining operations in the State of Goa were suspended by the State Government with effect from 11/09/2012. The Hon'ble Supreme Court of India, *vide* its order dated 11/11/2013 allowed the Government to dispose of approximately 15 million metric tonne of excavated mineral ore lying in different mines and stockyards in the State through e-Auction under the supervision of a court-appointed Monitoring Committee<sup>100</sup>. M/s Metal Scrap Trade Corporation Limited, a Government of India (GoI) enterprise was nominated (February 2014) by the Government to carry out the e-Auction.

As per the e-Auction procedure notified by the Government (January 2014), the successful bidder was required to lift the ore within a period of 30 days, which may be extended by the Director of Mines and Geology (DMG) on the bidder's request, by a further period of a maximum of 30 days.

Shree Durga Mining Company (SDMC) purchased lot no. F3(M)-75/52 of Iron ore fines of quantity 65,471 metric tonne (MT) during the e-Auction (second) conducted on 05/03/2014 at V.M. Kadnekar Mines, T.C. No. 75/52, Chunimolo, Rivona for a bid price of ₹ 16.66 crore<sup>101</sup> (₹ 2,140 per MT). The permit for lifting the ore was issued on 14/05/2014, which was valid till 22/04/2016. However, the SDMC neither lifted the lot within the prescribed time (30 days) nor applied for extension within the validity period of permit. Subsequently, 10 months after the expiry of the validity of the permit, SDMC applied for a revised permit (March 2017). The DMG re-validated the permit in March 2017 upto May 2017. Thereafter, SDMC lifted 261.06 MT (0.40 *per cent*) in April 2017. Citing abnormal delay to lift the cargo, DMG issued (October 2017) a Show Cause Notice (SCN) to SDMC asking why such unlifted cargo should not be confiscated. SDMC replied to the SCN (20/10/2017) citing infrastructure constraints<sup>102</sup> (till 2016) and law and order issues<sup>103</sup> thereafter (till October 2017). DMG re-validated the permit upto March 2018. SDMC lifted the remaining ore totaling 42,371.19 MT in January/February 2018.

Thereafter, SDMC demanded (May 2018) a refund of ₹ 5.81 crore for shortage of 22,838.75 MT ore (42,632.25 MT of ore lifted against the 65,471 MT auctioned). The surveying officer of DMG carried out a site inspection (24/10/2018) and reported that there was no balance quantity of ore at the site.

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<sup>100</sup> Committee consisting of (1) a Senior Officer of the Mines Department nominated by Chief Secretary, not below the rank of a Joint Secretary to GoI (2) Dr. U.V. Singh, Additional Principal Chief Conservator of Forests, Karnataka Forest Department and (3) Mr. Sheikh Naimuddin, Special Secretary to GoI, New Delhi

<sup>101</sup> Bid value = ₹ 2,140 x 65,474 MT = ₹ 14.01 crore, Govt. levy/WMT = ₹ 2.65 crore (royalty, VAT and TCS)

<sup>102</sup> Weighbridge, internet connectivity, loading arrangement and non-availability of internet access at the site

<sup>103</sup> Fatal road accident leading to villagers stopping transport

Without investigating further, the Department approved (February 2019) a refund of ₹ 5.74<sup>104</sup> crore and the amount was refunded in July 2019.

Audit observed (April 2021) that the cause of insurmountable/hostile conditions<sup>105</sup> mentioned by SDMC was covered as *force majeure* in the condition number 10 of the auction notice. The said condition absolved both the parties from damages for non-performance upon following the procedure (of a formal notice within 21 days) upon occurrence of *force majeure* event. Even though no such notice pointing out the obstructions faced were issued by SDMC within the permissible period, seeking extension of permit validity, the DMG granted extension without any valid reasons on record instead of confiscating the ore.

DMG replied (27/05/2022) that the quantity put to e-Auction was as declared by the leaseholders in 2012 and that any shortage or excess quantity of ore would be known only after removal of cargo by the successful bidder. It was also stated that there was no procedure for reverting the unlifted ore by the company as per the e-Auction procedure and bidding document, till May 2020. The reply was silent on reasons for extending the permit validity despite non-compliance of SDMC with the condition of issuing timely Notice (within 21 days of any eventuality leading to non-performance).

Thus, though the terms of auction prescribed a maximum of 60 days for lifting of the ore and SDMC failed to invoke the *force majeure* clause within the prescribed period, the DMG irregularly allowed the lifting of ore, extended the permit validity and refunded ₹ 5.74 crore instead of confiscating the ore.

(Anitha Balakrishna)

Principal Accountant General

Panaji  
The 31 July 2023

Countersigned

(Girish Chandra Murmu)

Comptroller and Auditor General of India

New Delhi  
The 01 August 2023

<sup>104</sup> Sale value ₹ 4.89 crore + royalty ₹ 0.49 crore + processing fee ₹ 0.05 crore + refund on account of VAT and cess ₹ 0.32 crore

<sup>105</sup> Strikes/break down of weighbridge/order of statutory authorities etc. and any other technical or other reasons beyond the control of the buyer/DMG