

CHAPTER-II: STATE GOODS AND SERVICES TAX

2. Compliance Audit on ‘Department’s Oversight on GST Payments and Returns Filing for the year 2017-18’

2.1 Introduction

Introduction of Goods and Services Tax (GST) has replaced multiple taxes levied and collected by the Centre and States. GST, which came into effect from 01 July 2017, is a destination-based consumption tax on the supply of goods or services or both levied on every value addition. The Centre and States simultaneously levy GST on a common tax base. Central GST (CGST) and State GST (SGST) /Union Territory GST (UTGST) are levied on intra state supplies, and Integrated GST (IGST) is levied on inter-state supplies.

Section 59 of the Uttar Pradesh Goods and Services Tax (UPGST) Act stipulates GST as a self-assessment-based tax, whereby the responsibility for calculating tax liability, discharging the computed tax liability and filing returns is vested on the taxpayer. The GST returns must be filed online regularly on the common GST portal, failing which penalties will be payable. Even if the business has had no tax liability during a particular tax period, it must file a nil return mandatorily. Further, Section 61 of the Act read with rule 99 of UPGST Rules stipulate that the proper officer may scrutinise the return and related particulars furnished by taxpayers, communicate discrepancies to the taxpayers and seek an explanation.

This audit was taken up considering the significance of the control mechanism envisaged for tax compliance and the oversight mechanism of the Commercial Taxes Department (Department), Uttar Pradesh in this new tax regime.

2.2 Audit objectives

This audit was oriented towards providing assurance on the adequacy and effectiveness of systems and procedures adopted by the Department with respect to tax compliance under GST regime. Audit of ‘Department’s Oversight on GST Payments and Returns Filing’ was taken up with the following audit objectives to seek an assurance on:

- i. Whether the rules and procedures were designed to secure an effective check on tax compliance and were being duly observed by taxpayers; and
- ii. Whether the scrutiny procedures, internal audit and other compliance functions of the Sectors were adequate and effective.

2.3 Audit methodology and scope

This audit was predominantly conducted based on data analysis, which highlighted risk areas and red flags pertaining to the period from July 2017 to

March 2018. Through data analysis a set of 15 deviations were identified across the domains of Input Tax Credit (ITC), Discharge of tax liability, Registration and Return filing. Such deviations were followed up through a **limited audit**¹, whereby these deviations were communicated to the relevant State departmental field formations and action taken by the jurisdictional formations on the identified deviations was ascertained without involving field visits. The limited audit was supplemented by a detailed audit involving field visits for verification of records available with the jurisdictional field formations. Returns and related attachments and information were accessed through the State taxes department application as much as feasible to examine data/documents relating to taxpayers (viz. registration, tax payment, returns and other departmental functions). The **detailed audit** also involved accessing relevant granular records from the taxpayers such as invoices through the respective field formations. This apart, compliance functions of the departmental formation such as scrutiny of returns, were also reviewed in selected Sectors.

The review of the scrutiny of returns by the Department and verification of taxpayers records covered the period from July 2017 to March 2018, while the audit of the functions of selected Sectors covered the period from July 2017 to March 2021. The audit covered only the State administered taxpayers. The field audit was conducted from September 2022 to January 2023.

Entry conference of this audit was held on 26 August 2022 with the Additional Commissioner, State Tax in which the audit objectives, sample selection, audit scope and methodology were discussed. The exit conference was held on 16 June 2023 with the Additional Commissioner, Grade-I, State Tax in which audit findings were discussed. The view expressed by the Department during the Exit Conference and the written replies to the draft report have been suitably incorporated in the relevant paragraphs.

2.4 Audit sample

A data-driven approach was adopted for planning, as also to determine the nature and extent of substantive audit. The sample for this audit comprised a set of deviations identified through data analysis for limited audit that did not involve field visits; a sample of taxpayers for detailed audit that involved field visits and scrutiny of taxpayer's records at departmental premises; and a sample of Sectors for evaluating the compliance functions of the Sectors.

¹ Limited Audit did not involve seeking taxpayer's granular records such as financial statements related ledger accounts, invoices, agreements etc.

There were *three* distinct parts of this audit as under:

(i) Part I- Audit of Sectors

Nine Sectors with jurisdiction over more than one selected sample of cases and one Sector with one selected sample case for Detailed Audit were considered as the sample of Sectors for evaluation of their oversight functions.

(ii) Part II –Limited Audit

The sample for Limited Audit was selected by identification of high-value or high-risk deviations from rules and inconsistencies between returns through data analysis for evaluation of the adequacy and effectiveness of the scrutiny procedure of the Department. Accordingly, 462 cases were selected for Limited Audit under this audit.

(iii) Part III-Detailed audit

It was conducted by accessing taxpayer’s records through Sectors for evaluation of the extent of tax compliance by taxpayers. The sample of taxpayers for Detailed Audit was selected on the basis of risk parameters such as Excess ITC, Tax Liability mismatch, Disproportionate exempted turnover to total turnover and Irregular ITC reversal. The 80 taxpayers selected for Detailed Audit comprised of Large², Medium³ and Small⁴ strata taxpayers as well as taxpayers selected randomly.

The details of sample for limited audit, detailed audit and audit of Sectors selected for this audit are brought out in **Appendix-I**.

2.5 Audit criteria

The source of audit criteria comprised the provisions contained in the UPGST Act, IGST Act, and Rules made thereunder. The significant provisions are given in **Table 2.1**.

Table 2.1: Source of criteria

| Sl. No. | Subject | Act and Rules |
|---------|--------------------------------|---|
| 1. | Levy and collection | Section 9 of UPGST Act |
| 2. | Reverse Charge Mechanism (RCM) | Section 9(3) of UPGST Act and Section 5 (3) of IGST Act |
| 3. | Availing and utilizing ITC | Sections 16 to 21 under Chapter V of UPGST Act; Rules 36 to 45 under Chapter V of UPGST Rules |

² First category comprising large taxpayers – top 2 per cent of taxpayers based on turnover.
³ Second category comprising medium taxpayers – next 8 per cent of taxpayers based on turnover.
⁴ Third category comprising small taxpayers – remaining 90 per cent of taxpayers based on turnover.

| Sl. No. | Subject | Act and Rules |
|---------|--------------------------------|---|
| 4. | Registrations | Section 22 to 25 of UPGST Act; Rules 8 to 26 of UPGST Rules |
| 5. | Supplies | Section 7 and 8 of UPGST Act, Schedule I, II and III of the Act. |
| 6. | Place of supply | Section 10 to 13 of IGST Act |
| 7. | Time of Supply | Section 12 to 14 of UPGST Act |
| 8. | Valuation of supplies | Section 15 of UPGST Act; Rules 27 to 34 of UPGST Rules |
| 9. | Payment of Tax | Sections 49 to 53 under Chapter X of UPGST Act ; Rules 85 to 88A under Chapter IX of UPGST Rules |
| 10. | Filing of GST Returns | Section 37 to 47 under Chapter IX of UPGST Act, Rules 59 to 68 and 80 to 81 under Chapter VIII Part B of UPGST Rules prescribes format of returns |
| 11. | Zero-rated supplies | Section 8 of IGST Act |
| 12. | Assessment and Audit functions | Sections 61, 62, 65 and 66 under Chapter XII & XIII of UPGST Act; Rules 99 to 102 under Chapter XI of UPGST Rules |

In addition, the notifications and circulars issued by CBIC/State Tax Department relating to filing of returns, notifying the effective dates of filing of various returns, extending due dates for filing returns, rates of tax on goods and services, payment of tax, availing and utilizing ITC, scrutiny of returns and oversight of tax compliance and Standard Operating Procedures (SOP) containing instructions to departmental officers on various aspects related to filing of returns, scrutiny of returns, cancellation of registrations and verification of Directorate General of Analytics and Risk Management (DGARM)/Business Intelligence and Fraud Analytics (BIFA) reports etc. also formed part of the audit criteria.

2.6 Audit findings

The audit findings are categorized into the following two categories:

- a. Oversight on returns filing
- b. Oversight on tax payments

2.6.1 Oversight on returns filing

A return is a statement of specified particulars relating to the business activity undertaken by a taxpayer during a prescribed period. Every taxpayer is legally obligated to furnish complete and correct returns during a given period for the tax liability and taxes paid within the stipulated time. In a self-assessment regime, the significance of monitoring return filing by taxpayers acquires greater significance as the returns are the first mode of information about taxpayers and their respective business activities.

2.6.1.1 Deficient monitoring mechanism on return filing

Out of a sample of 10 Sectors, Audit could not verify the overseeing mechanism on return filing in four Sectors⁵ as neither records nor data was provided to Audit. The monitoring mechanism in the remaining Sectors was deficient as Sector Officers had not taken timely action on MIS reports related to non-filers/late filers of normal and composition taxpayers.

In six Sectors, the process of issuing GSTR 3A (notice for defaulters who have not filed GST returns) and following it with ASMT-13 (Best Judgement Assessment order in cases where the taxpayers have not complied with GSTR 3A notices) and DRC-07 (Summary of Demand order as a follow up of ASMT-13) was also not adhered to resulting in non-recovery of ₹ 9.85 crore from defaulters. However, in four Sectors⁶ recovery of ₹ 20.44 crore was made.

2.6.1.2 Result of Sector Audit

(i) Lack of action on late-filers and non-filers

Section 46 of the UPGST Act, 2017 read with Rule 68 of UPGST Rules, 2017 stipulates issue of a notice in Form GSTR-3A requiring filing of return within fifteen days if the taxpayer had failed to file the return within the due date. In case the taxpayer fails to file the returns even after such notice, the proper officers may proceed to assess the tax liability of the said person to the best of their judgement, taking into account all the relevant material which is available or gathered and issue an assessment order in Form ASMT-13. Commercial Tax Department vide Circular dated 24 January 2020 issued detailed guidelines/SOP on non-filers of returns in order to ensure the uniformity in the implementation of the provisions of the law.

Filing of returns is related to payment of tax as the due date for both the actions are the same, which implies risk of non-payment of tax/penalty in the case of non-filers.

During Sector's Function Audit of 10 Sectors, requisite information was called for during September 2022 to December 2022. Information was still awaited (January 2024) from the four Sectors⁷. It was noticed that 91,465 cases of late filers/non-filers were identified by six Sectors⁸. In six Sectors, 83,435 notices in form GSTR-3A were issued (Excess 1,759 GSTR-3A was issued by Sector 3 ST Gautam Buddha Nagar) for non-filing of returns. However, the proper

⁵ JC CC-II ST Lucknow, Sec 12 ST Lucknow, Sec 14 ST Noida & Sec 20 ST Varanasi.

⁶ Sec 2 ST Hardoi, Sec 8 & 11 ST Ghaziabad & Sec 9 ST Noida.

⁷ JC CC-II ST Lucknow, Sec 12 ST Lucknow, Sec 14 ST Noida & Sec 20 ST Varanasi.

⁸ Sec 3 ST G. B. Nagar, Sec 2 ST Hardoi, Sec 8 & 11 ST Ghaziabad, JC CC-II ST Kanpur & Sec 9 ST Noida.

officers had not initiated any action regarding issuance of notice in GSTR 3A and assessment in 9,789 cases of non-filers (**Appendix-II**).

On being pointed out in audit (between September 2022 and January 2023), it was stated by the proper officers of five⁹ sectors (December 2022 to February 2023) that appropriate action is being taken on non-filers and late filers as per rules. But no documents in support of this claim were provided.

The matter was reported to the Government and the Department (April 2023). The Department during Exit Conference stated (June 2023) that proceeding are under-process. But, no reason was given for not completing the proceedings within the prescribed time limit.

(ii) Action initiated on non-filers but not completed (GSTR-3A issued but ASMT-13 not issued)

The due process of issue of GSTR 3A followed by ASMT 13 was not observed in all cases. Audit observed across six Sectors¹⁰ that during 2017-18 to 2020-21 where GSTR 3A notices were issued but assessment orders under ASMT-13 were not issued despite taxpayers not filing their returns within the stipulated time. In six Sectors, out of 83,435 notices issued in Form GSTR 3A during 2017-18 to 2020-21, only in 67,292 cases the taxpayers filed their returns in pursuance of notices issued. Out of the remaining 16,143 cases, proceeding for best judgement assessment started in 6,292 cases. However, ASMT-13 was issued only in 4,825 cases and in 1,467 cases proceeding was under process. Recovery was pending for an amount of ₹ 9.85 crore¹¹, however, in four Sectors¹² recovery of ₹ 20.44 crore was made (**Appendix-II**). The information/details regarding issue of DRC-07 in these cases were not provided to Audit.

The matter was reported to the Government and the Department (April 2023). The Department during Exit Conference stated (June 2023) that proceeding are under-process. But no reason was given for not completing the proceedings within the prescribed time limit.

An illustrative case is highlighted below:

In Sector 3 ST Gautam Buddha Nagar, out of 35,070 notices issued in Form GSTR 3A during 2017-18 to 2020-21, in 25,802 cases the taxpayers filed their returns in pursuance of notices issued. Out of the remaining 9,268 cases, ASMT-13 initiated in 3,457 cases and orders issued only in 1,990 cases and in 125 cases ASMT-13 was withdrawn on account of taxpayers filing returns. The Sectors had not initiated any action in 5,811 cases.

⁹ Sec 3 G. B. Nagar, Sec 2 ST Hardoi, Sec 8 & 11 ST Ghaziabad & Sec 9 ST Noida.

¹⁰ Sec 3 G. B. Nagar, Sec 8 & 11 ST Ghaziabad, Sec 2 ST Hardoi, JC CC-II ST Kanpur & Sec 9 ST Noida.

¹¹ Sec 3 ST Gautam Buddha Nagar and JC CC-II ST Kanpur.

¹² Sec 2 ST Hardoi, Sec 8 & 11 ST Ghaziabad & Sec 9 ST Noida.

2.6.1.3 Slow pace of scrutiny of returns

As per Section 61 of the UPGST Act, 2017 various returns filed by taxpayers have to be scrutinised by the proper officer to verify the correctness of the returns and suitable action has to be taken on any discrepancies or inconsistencies reflected in the returns. The proper officer designated for this purpose is the Sector Officer. Further, Rule 99 of the UPGST Rules, 2017 mandates that the discrepancies, if any, noticed shall be communicated to the taxpayer to seek his explanation.

Commercial Tax Department vide Circular dated 29 March 2022 issued detailed guidelines/SOP on scrutiny of returns with a view to ensure the uniformity and to standardize the procedure for the scrutiny proceeding as per section 61 of the Act.

Details of information provided by five sectors¹³ revealed that 25,797 cases related to 9,932 taxpayers were scrutinised during 2017-18 to 2020-21. In 2,358 cases discrepancies were found and ASMT 10 issued out of which in 394 cases discrepancy accepted by taxpayers and ₹ 9.49 crore recovered. In 552 cases Show Cause Notice (SCN) was issued and in 312 cases proceeding was completed and a recovery of ₹ 33.67 crore was made while 240 cases involving an amount of ₹ 123.57 crore¹⁴ were pending for completion. Further, it was observed that only three cases were marked for internal audit. No information was provided by five¹⁵ sectors regarding scrutiny of returns **(Appendix-III)**.

The matter was reported to the Government and the Department (April 2023). The Department during Exit Conference stated (June 2023) that proceedings are under-process. But, no reason was given for not completing the proceedings within the prescribed time limit.

Audit is of the view that due to slow pace of scrutiny of returns, the window for issuing of order under section 73 and 74 of the UPGST Act, 2017 on the returns relating to the period of 2017-18 was getting shorter as this was to be done by December 2023.

Recommendation 1: The Department may complete the proceeding within the prescribed timelines for scrutiny of the returns.

2.6.1.4 Delay in Audit by tax authorities

As per the Section 65 of the UPGST Act, 2017 the Commissioner or any officer authorized by him, by way of a general or a specific order, may

¹³ Sec 3 G. B. Nagar, Sec 8 & 11 ST Ghaziabad, JC CC-II ST Kanpur & Sec 9 ST Noida.

¹⁴ For four sectors-Sec 3 G. B. Nagar, Sec 8 & 11 ST Ghaziabad and JC CC-II ST Kanpur. Information related to amount involved in SCN issued was not provided by Sector 9 ST Noida.

¹⁵ Sec 2 ST Hardoi, JC CC-II ST Lucknow, Sec12 ST Lucknow, Sec 14 ST Noida & Sec 20 ST Varanasi.

undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed. Section 2 (13) of the UPGST Act, 2017, defines “Audit” as the examination of records, returns and other documents maintained or furnished by the registered person under this Act or the rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or the rules made thereunder.

Commercial Taxes Department, on 15 January 2021 issued detailed procedure of audit in the Tax Audit Manual, which incorporated the new norms for selection of taxpayers for conducting audit based on risk parameters. It envisages that the selection of the taxpayers to be audited will be done by Headquarter level officers. Teams at Zonal level were required to examine big complex cases allocated on the basis of risk parameters. The rest of the cases were to be dealt with at Sector level.

The details of Tax Audit undertaken by the Department up to November 2022 for GST is given in **Table 2.2.**

Table 2.2: Tax Audit undertaken

| Financial Year | Audit conducted for the year | Total number of taxable persons | No. of taxable persons selected for audit (in per cent) | Actual number of audits completed (as of November 2022) | No. of cases in which deficiencies were found | Total amount involved in deficiencies (₹ in crore) | Total Recovery (₹ in crore) |
|----------------|------------------------------|---------------------------------|---|---|---|--|--------------------------------|
| 2017-18 | 1,189 | 5,42,003 | 0.22 | 1,189 | 959 | 1,021.26 | Not provided by the Department |

(Source: Information provided by the Commercial Tax Department.)

Above facts indicate that due to delay in issuing the Audit manual, Department conducted the audit of the financial years 2017-18 during the period 2021-22 to 2022-23. Audit for the financial years 2018-19 to 2020-21 is yet to be commenced. In addition, complete recoveries information was not provided to audit. **An illustrative case is featured below:**

During test check (between November 2022 and December 2022), out of 80 sample cases for detailed audit, tax audit pertaining to seven cases falling under seven Sectors¹⁶ was undertaken and completed by Department, it was noticed, on the basis of Credit Ledger, Cash Ledger, Tax Audit Report, Balance Sheet and Profit & Loss account made available to the audit in case of M/s JKM Infra GSTIN-09XXXXXXXXXX1ZC under sector-6 Noida, that

¹⁶ JC CC ST Agra, Sec 4 & 9 ST Ghaziabad, JC CC ST Gorakhpur, Sec 26 ST Kanpur, Sec 6 & 13 ST Noida.

the Department could not recover interest amounting to ₹ 2.02 lakh on irregular set-off of ITC of ₹ 68.32 lakh against tax payable.

The matter was reported to the Government and the Department (April 2023). During Exit Conference the Department stated (June 2023) that tax audit of taxpayers related to 2018-19 is in process and of 2019-20 and 2020-21 will be completed within stipulated time limit.

Recommendation 2: As the GST is self-assessed tax regime and audit is one of the main tools for ensuring compliance by the taxpayers, the Department needs to take prompt steps to undertake the remaining audits so that timely action could be initiated against the defaulters and recoveries could be effected so as to plug the revenue leakage. The Department may also ensure timely recovery of dues pointed out in audit.

2.6.1.5 Lack of action on Business Intelligence and Fraud Analytics Reports (BIFA)

During the audit, audit checked utilization of the information regarding high-risk taxpayers identified by BIFA on the basis of the risk parameters and the procedure of scrutiny of returns during the year 2017-18 to 2020-21 related to three¹⁷ sectors. Seven¹⁸ sectors had not provided information related to BIFA cases scrutiny.

Audit noticed that under BIFA category 1,226 high risk taxpayers pertaining to financial year 2017-18 to 2020-21 were scrutinised by the proper officers of three¹⁹ Sectors. Of these, scrutiny was completed in 27 cases and a recovery of ₹ 10.10 crore was made and in 544 cases scrutiny was under process. In 453 cases scrutiny process was yet to be initiated and in 202 cases no further action was required (**Appendix-IV**).

The matter was reported to the Government and the Department (April 2023). The Department during Exit Conference stated (June 2023) that proceedings are under process.

2.6.1.6 Cancellation of registration

The role of Sectors (departmental field formations) is to provide oversight over taxable persons' compliance with regard to filing of returns, discharging tax liability and other compliance obligations. The Sectors have a broad set of functions to be exercised in this regard such as initiating action on late filers and non-filers, scrutiny of returns and assessment and cancellation of registrations.

¹⁷ Sec 9 ST Noida, Sec 8 ST Ghaziabad & JC CC-II ST Kanpur.

¹⁸ JC CC-II ST Lucknow, Sec12 ST Lucknow, Sec 14 ST Noida, Sec 20 ST Varanasi, Sec 11 ST Ghaziabad, Sec 2 ST Hardoi & Sec 3 ST G. B. Nagar.

¹⁹ Sec 9 ST Noida, Sec 8 ST Ghaziabad & JC CC-II ST Kanpur.

Section 29 of the UPGST Act, 2017 stipulates conditions for cancellation of registration on application filed by the taxable person and *suo moto* cancellation of the registration of taxable person by tax officer on the grounds of contravention of the Acts or Rules by the taxable person, composition taxable persons not filing return for three consecutive tax periods, normal taxable persons not filing return for continuous period of six months, registered persons not commencing business within six months from date of registration and registration obtained by means of fraud, wilful misstatement or suppression of facts.

Section 45 of the UPGST Act, 2017 requires every registered person other than (a) ISD or a non-resident taxable person or (b) Composition taxable person (Section 10) or (c) persons paying tax under Section 51 - Tax collection at source (TCS) or persons paying tax under Section 52 - Tax deducted at source (TDS), whose registration has been cancelled, to file a final return in GSTR-10, within three months of the effective date of cancellation or the date of order of cancellation, whichever is later. The purpose of the final return is to ensure that the taxable person discharges the outstanding liability. In case of non-filing of GSTR -10, the same procedure as adopted for non-filing of any return must be followed by the tax officer.

(i) Action for cancellation not completed/initiated in all cases

Out of the selected 10 Sectors, no data relating to cancellation of registration was provided by five²⁰ sectors. Audit observed in five sectors²¹ that 4,038 number of applications were received for cancellation of registration from taxable persons and in 5,064 cases suo-moto proceeding for cancellation was initiated totalling to 9,102 cases. In 8,903 cases SCN in REG 17 were issued out of which 5,129 registrations were cancelled and in 877 cases proceedings were dropped and 2,897 cases were pending for completion. In 199 cases no action was initiated by the Department. In one sector though data related to filing of GSTR-10 was provided but data related to assessment order issued in ASMT-13 was not furnished. In four sectors no data relating to filing of GSTR-10, dropping of proceedings, assessment order issued under ASMT-13 was provided. In absence of these details, audit could not ascertain timely completion of proceedings, amount pending for recovery, amount recovered, cases pending for assessment etc. **(Appendix-V)**.

The matter was reported to the Government and the Department (April 2023). The Department during Exit Conference stated (June 2023) that proceedings are under-process.

Overall, vital information relating to oversight functions was not provided by the sectors. Oversight functions compliance also has effect on revenue to

²⁰ JC CC-II ST Kanpur, JC CC-II ST Lucknow, Sec 12 ST Lucknow, Sec 14 ST Noida and Sec 20 ST Varanasi.

²¹ Sec 3 ST G. B. Nagar, Sec 8 & 11 ST Ghaziabad, Sec 2 ST Hardoi and Sec 9 ST Noida.

Government. These information needs to be necessarily maintained and acted upon by the Sectors to avoid non-compliance by taxable person and ensure due revenue to the Government.

Recommendation 3: The Department may instruct its field formations to maintain information and take timely action on oversight functions and to share the same with audit.

2.6.2 Oversight on tax payments - Limited audit

2.6.2.1 Inconsistencies in GST returns

Audit analysed GST returns data pertaining to the period of July 2017 to March 2018 as made available by GSTN. Rule-based deviations, and logical inconsistencies between GST returns filed by taxpayers were identified on a set of 15 parameters relating to ITC and Tax payments.

Out of the 13 prescribed GST returns,²² the following basic returns that apply to normal taxpayers were considered for the purpose of identifying deviations, inconsistencies and mismatches between GST returns/data:

- GSTR-1: monthly return furnished by all normal and casual registered taxpayers making outward supplies of goods and services or both and contains details of outward supplies of goods and services.
- GSTR-3B: monthly summary return of outward supplies and input tax credit claimed, along with payment of tax by the taxpayer to be filed by all taxpayers except those specified under Section 39(1) of the Act. This is the return that populates the credit and debits in the Electronic Credit Ledger and debits in Electronic Cash Ledger.
- GSTR-6: monthly return for Input Service Distributors providing the details of their distributed input tax credit and inward supplies.
- GSTR-8: monthly return to be filed by the e-commerce operators who are required to deduct TCS (Tax collected at source) under GST, introduced in October 2018.
- GSTR-9: annual return to be filed by all registered persons other than an Input Service Distributor (ISD), Tax Deductor at Source/Tax Collector at Source, Casual Taxable Person, and Non-Resident taxpayer. This document contains the details of all supplies made and received under various tax heads (CGST,

²² GSTR-1, GSTR-3B, GSTR-4 (taxpayers under the Composition scheme), GSTR-5 (non-resident taxable person), GSTR-5A (Non-resident OIDAR service providers), GSTR-6 (Input service distributor), GSTR-7 (taxpayers deducting TDS), GSTR-8 (E-commerce operator), GSTR-9 (Annual Return), GSTR-10 (Final return), GSTR-11 (person having UIN and claiming a refund), CMP-08, and ITC-04 (Statement to be filed by a principal/job-worker about details of goods sent to/received from a job-worker).

SGST and IGST) during the entire year along with turnover and audit details for the same.

- GSTR-9C: annual audit form for all taxpayers having a turnover above ₹ 2 crores (2017-18) in a particular financial year. It is basically a reconciliation statement between the annual returns filed in GSTR-9 and the taxpayer's audited annual financial statements.
- GSTR-2A: a system-generated statement of inward supplies for a recipient. It contains the details of all B2B transactions of suppliers declared in their Form GSTR-1 / 5, ISD details from GSTR 6, details from GSTR-7 and GSTR- 8 respectively by the counterparty and import of goods from overseas on bill of entry, as received from ICEGATE Portal of Indian Customs.

The data analysis pertaining to State jurisdiction on the 15 identified parameters and extent of deviations/inconsistencies observed (Sample for limited audit) are summarised in **Table 2.3**.

Table 2.3: Summary of data analysis

| Sl. No. | Parameter | Algorithm Used | Number of deviations | Amount (₹ in crore) |
|---------|---|---|----------------------|---------------------|
| 1. | ITC mismatch between GSTR 2A and GSTR-3B | ITC available as per GSTR-2A with all its amendments was compared with the ITC availed in GSTR-3B in Table-4A(5) (accrued on domestic supplies) considering the reversals in Table-4B(2) but including the ITC availed in subsequent year 2018-19 from Table-8C of GSTR-9 | 56 | 341.74 |
| 2. | Mismatch between ITC availed under RCM vs payment of tax in GSTR-3B/ GSTR-9 | RCM payments in GSTR-3B, Table-3.1(d) was compared with ITC availed in GSTR-9, Table 6C, 6D & 6F. In cases where GSTR-9 was not available, check was restricted within GSTR-3B, tax discharged in Table-3.1(d) vis-à-vis ITC availed in Table-4A(2) & 4A(3) | 55 | 40.44 |
| 3. | Mismatch between payment of tax under RCM vs ITC availed in GSTR-3B/ GSTR-9 | RCM payments in GSTR-9, Table 4G (tax payable) was compared with ITC availed in GSTR-9, Table 6C, 6D & 6F. In cases where GSTR-9 was not available, RCM payment in GSTR-3B, Table-3.1(d) was compared with GSTR-3B, Table- 4(A)(2) and 4A(3). | 17 | 11.92 |
| 4. | Incorrect | ISD transferred in GSTR-9, | 28 | 17.75 |

| Sl. No. | Parameter | Algorithm Used | Number of deviations | Amount (₹ in crore) |
|---------|---|---|----------------------|---------------------|
| | availment of ISD credit | Table-6G or GSTR-3B, Table 4(A)(4) was compared with the sum of Table 5A, Table 8A, and Table-9A of GSTR-6 of recipient GSTINs. | | |
| 5. | Incorrect ISD credit reversal | GSTR-9, Table-7B/7H of the recipients was compared with sum of Table-8A (negative figures only) and Table 9A (negative figures only) of their GSTR-6 returns. | 02 | 0.02 |
| 6. | Reconciliation between ITC availed in Annual returns with expenses in financial statements (Table 14T of GSTR-9C) | Positive figure in GSTR-9C, Table- 14T. | 28 | 1,255.77 |
| 7. | Mismatch of ITC availed between Annual returns and Books of accounts (Table 12F of GSTR-9C) | Positive figure in GSTR-9C, Table- 12F. | 27 | 146.07 |
| 8. | Mismatch in turnover declared in GSTR-9C Table 5R | Negative figure in GSTR-9C, Table-5R. | 55 | 5,889.02 |
| 9. | Mismatch in taxable turnover declared in GSTR-9C Table 7G | Negative figure in GSTR-9C, Table-7G. | 18 | 737.83 |
| 10. | Mismatch in tax paid between books of accounts and returns GSTR-9C Table 9R | Negative figure in GSTR-9C, Table-9R. | 55 | 85.87 |
| 11. | Undischarged tax liabilities | Greater of tax liability between GSTR-1 (Tables 4 to 11) and GSTR-9 (Tables- 4N, 10 & 11) was compared with tax paid details in GSTR-3B, Tables | 28 | 374.36 |

| Sl. No. | Parameter | Algorithm Used | Number of deviations | Amount (₹ in crore) |
|---------|---|--|----------------------|---------------------|
| | | 3.1(a) & 3.1(b). In cases where GSTR-9 was not available GSTR-3B tax paid was compared with GSTR-1 liability. The amendments and advance adjustments declared in GSTR-1 and 9 were duly considered. | | |
| 12. | Composition taxpayer also availing e-commerce facility | E-commerce GSTR-8 became effective from 01.10.2018 when TCS provisions became effective. GSTINs declared in GSTR-8 who are also filing GSTR-4 under composition scheme. | 37 | 00 |
| 13. | GSTR-3B was not filed but GSTR-1 is available | Taxpayers who had not filed GSTR-3B but filed GSTR-1 or where GSTR-2A available, indicating taxpayers had carried the business without discharging tax. | 28 | 19.70 |
| 14. | Non/Short payment of interest on delayed payment of tax | Interest calculated at the rate of 18 per cent on cash portion of tax payment on delayed filing of GSTR-3B vis-à-vis interest declared in GSTR-3B. | 27 | 11.49 |
| 15. | Stop filers | The taxpayers who stopped filing returns for more than six consecutive tax periods and hence were liable for cancellation of their registration, the datasets pertaining to GSTR-3B, GSTR-1 and GSTR-2A were analysed. | 01 | 00 |
| | Total | | 462 | 8,931.98 |

Non-submission of reply by the Department

Audit selected a sample of 462 cases from amongst the top deviations /inconsistencies in each of the 15 parameters for the year July 2017 to March 2018. The audit queries were issued to the respective Zones between September 2022 and December 2022 without further scrutiny of taxpayer's records. The audit check in these cases was limited to verifying the Department's action on the identified deviations/mismatches.

As of 16 June 2023, initial responses were yet to be received for nine inconsistencies communicated to the Department, which represent a potential risk exposure of ₹ 206.14 crore as detailed in **Table 2.4**.

Table 2.4: Non-submission of reply by the Department

(₹ in crore)

| Audit Dimension | Sample | | Department Reply not received | | Percentage | |
|---|------------|--------------------|-------------------------------|---------------|-------------|-------------|
| | Number | Amount of mismatch | Number | Amount | Number | Amount |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| ITC mismatch between GSTR 2A and GSTR-3B | 56 | 341.74 | 02 | 27.73 | 3.57 | 8.11 |
| Mismatch between ITC availed under RCM vs payment of tax in GSTR-3B/ GSTR-9 | 55 | 40.44 | 0 | 0 | NA | NA |
| Mismatch between short payment of tax under RCM vs ITC availed in GSTR-3B/ GSTR-9 | 17 | 11.92 | 01 | 0.77 | 5.88 | 6.46 |
| Incorrect availment of ISD credit | 28 | 17.75 | 0 | 0 | NA | NA |
| Incorrect ISD credit reversal | 02 | 0.02 | 0 | 0 | NA | NA |
| Reconciliation between ITC availed in Annual returns with expenses in financial statements (Table 14T of GSTR-9C) | 28 | 1,255.77 | 0 | 0 | NA | NA |
| Mismatch of ITC availed between Annual returns and Books of accounts (Table 12F of GSTR-9C) | 27 | 146.07 | 01 | 2.44 | 3.70 | 1.67 |
| Mismatch in turnover declared in GSTR-9C Table 5R | 55 | 5,889.02 | 01 | 154.79 | 1.82 | 2.63 |
| Mismatch in taxable turnover declared in GSTR-9C Table 7G | 18 | 737.83 | 0 | 0 | NA | NA |
| Mismatch in tax paid between books of accounts and returns GSTR-9C Table 9R | 55 | 85.87 | 0 | 0 | NA | NA |
| Undischarged tax liabilities | 28 | 374.36 | 03 | 20.13 | 10.71 | 5.38 |
| Composition taxpayer also availing e-commerce facility | 37 | 00 | 0 | 0 | NA | NA |
| GSTR-3B was not filed but GSTR-1 is available | 28 | 19.70 | 0 | 0 | NA | NA |
| Non/Short payment of interest on delayed payment of tax | 27 | 11.49 | 01 | 0.28 | 3.70 | 2.44 |
| Stop filers | 01 | 00 | 00 | 00 | 0 | 0 |
| Total | 462 | 8,931.98 | 09 | 206.14 | 1.94 | 2.30 |

Considering that the overall rate of conversion of inconsistencies into compliance deviations as brought out in the next paragraph, the Department is required to expedite verification of these cases as a priority. Details of these cases are listed in **Table 2.5**.

Table 2.5: Cases in terms of money value where response is yet to be received

| Sl. No. | GSTIN | Name of the taxable person | Zone | Name of the sector | Mismatch amount (₹ in crore) |
|---------|-----------------|---|--------------|------------------------------|------------------------------|
| 1. | 09XXXXXXXXXX1Z6 | M/s Adroit Financial Services Pvt. Ltd. | Ghaziabad II | Sector-16, Ghaziabad | 154.79 |
| 2. | 09XXXXXXXXXX1ZV | M/s Rim Jhim Ispat Ltd. | Kanpur II | Corporate Circle, Kanpur II | 24.77 |
| 3. | 09XXXXXXXXXX1ZK | M/s Maruti Enterprises | Lucknow-I | Sector 12 Lucknow | 12.83 |
| 4. | 09XXXXXXXXXX1ZH | M/s Gayatri Projects Ltd. | Jhansi | Jhansi Sector-4 | 4.08 |
| 5. | 09XXXXXXXXXX1ZR | M/s Sael Limited | Varanasi-I | Corporate Circle, Varanasi I | 3.22 |
| 6. | 09XXXXXXXXXX1ZG | M/s Sistema Smart Technologies Limited | Lucknow-II | Sector-21, Lucknow | 2.96 |
| 7. | 09XXXXXXXXXX1ZX | M/s The India Wood Products Co. Ltd. | Bareilly | Sector-5, Bareilly | 2.44 |
| 8. | 09XXXXXXXXXX1ZY | M/s Gyan Enterprises | Varanasi II | Sector-3, Mirzapur | 0.77 |
| 9. | 09XXXXXXXXXX1ZY | M/s Praveen Aroma Private Limited | Moradabad | Sambhal Sector-1 | 0.28 |

2.6.2.2 Results of Limited audit

Based on responses received from the Department to the Audit Queries, the extent to which each of the 15 parameters translated into compliance deviations is summarized in **Table 2.6**.

Table 2.6: Results of Limited audit

(₹ in crore)

| Audit Dimension | Cases where reply received | | Department reply accepted by audit | | | | | |
|---|----------------------------|----------|------------------------------------|----------|---------------------------|----------|-------------------------|----------|
| | | | Data entry errors | | Action taken before query | | Other valid explanation | |
| | No. | Amt. | No. | Amt. | No. | Amt. | No. | Amt. |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| ITC mismatch between GSTR 2A and GSTR-3B | 54 | 314.01 | 02 | 8.87 | 02 | 13.47 | 14 | 75.87 |
| Mismatch between ITC availed under RCM vs payment of tax in GSTR-3B/ GSTR-9 | 55 | 40.44 | 14 | 16.71 | 02 | 0.63 | 11 | 7.90 |
| Mismatch between payment of tax under RCM vs ITC availed in GSTR-3B/ GSTR-9 | 16 | 11.15 | 08 | 6.36 | 0 | 0 | 03 | 2.63 |
| Incorrect availment of ISD credit | 28 | 17.75 | 03 | 0.51 | 0 | 0 | 01 | 0.13 |
| Incorrect ISD credit reversal | 02 | 0.02 | 0 | 0 | 0 | 0 | 0 | 0 |

| Audit Dimension | Cases where reply received | | Department reply accepted by audit | | | | | |
|---|----------------------------|-----------------|------------------------------------|---------------|---------------------------|---------------|-------------------------|-----------------|
| | | | Data entry errors | | Action taken before query | | Other valid explanation | |
| | No. | Amt. | No. | Amt. | No. | Amt. | No. | Amt. |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| Reconciliation between ITC availed in Annual returns with expenses in financial statements (Table 14T of GSTR-9C) | 28 | 1,255.77 | 0 | 0 | 0 | 0 | 17 | 720.27 |
| Mismatch of ITC availed between Annual returns and Books of accounts (Table 12F of GSTR-9C) | 26 | 143.63 | 0 | 0 | 0 | 0 | 11 | 71.47 |
| Mismatch in turnover declared in Table 5R of GSTR-9C | 54 | 5,734.23 | 02 | 48.10 | 01 | 205.43 | 21 | 2,035.01 |
| Mismatch in taxable turnover declared in Table 7G of GSTR-9C | 18 | 737.83 | 02 | 82.04 | 0 | 0 | 08 | 200.04 |
| Mismatch in tax paid between books of accounts and returns Table 9R of GSTR-9C | 55 | 85.87 | 0 | 0 | 03 | 2.05 | 19 | 25.41 |
| Undischarged tax liabilities | 25 | 354.23 | 05 | 71.81 | 02 | 13.08 | 07 | 84.40 |
| Composition taxpayer also availing e-commerce facility | 37 | 0 | 0 | 0 | 0 | 0 | 16 | 0 |
| GSTR-3B was not filed but GSTR-1 is available | 28 | 19.70 | 0 | 0 | 01 | 0.13 | 03 | 1.79 |
| Short payment of interest on delayed payment of tax | 26 | 11.21 | 0 | 0 | 02 | 0.92 | 03 | 1.58 |
| Stop filers | 01 | 0 | 0 | 0 | 0 | 0 | 01 | 0 |
| Total | 453 | 8,725.84 | 36 | 234.40 | 13 | 235.71 | 135 | 3,226.50 |

| Compliance deviations | | | | | | | | | | | | | | | |
|--|--------------|------------|---------------|------------|-----------------|-------------------------------------|----------|---|---------------|------------|-----------------|--|---------------|--|----------|
| Accepted by Department including cases where action is yet to be initiated | | | | | | | | Department's reply not accepted to Audit (Rebuttal) | | Total | | Department reply not furnished with appropriate documentary evidence | | Department stated that they are examining the AQ | |
| Recovered ²³ | | SCN issued | | ASMT-10 | | Under correspondence with taxpayers | | | | | | | | | |
| No. | Amt. | No. | Amt. | No. | Amt. | No. | Amt. | No. | Amt. | No. | Amt. | No. | Amt. | No. | Amt. |
| 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| 01 | 0.94 | 17 | 57.08 | 09 | 69.95 | 0 | 0 | 03 | 26.86 | 30 | 154.83 | 06 | 42.13 | 0 | 0 |
| 01 | 0.15 | 7 | 5.46 | 11 | 4.44 | 0 | 0 | 07 | 3.41 | 26 | 13.46 | 02 | 0.53 | 0 | 0 |
| 0 | 0 | 0 | 0 | 02 | 0.70 | 0 | 0 | 03 | 1.46 | 5 | 2.16 | 0 | 0 | 0 | 0 |
| 01 | 8.73 | 3 | 1.03 | 15 | 6.13 | 0 | 0 | 01 | 0.16 | 20 | 16.05 | 04 | 1.07 | 0 | 0 |
| 0 | 0 | 0 | 0 | 01 | 0.01 | 0 | 0 | 01 | 0.01 | 2 | 0.02 | 0 | 0 | 0 | 0 |
| 0 | 0 | 1 | 25.81 | 06 | 355.12 | 0 | 0 | 01 | 39.09 | 8 | 420.02 | 03 | 115.48 | 0 | 0 |
| 0 | 0 | 2 | 8.48 | 11 | 56.02 | 0 | 0 | 0 | 0 | 13 | 64.5 | 02 | 7.65 | 0 | 0 |
| 0 | 0 | 6 | 260.13 | 19 | 2,921.37 | 0 | 0 | 01 | 31.78 | 26 | 3213.28 | 04 | 219.34 | 0 | 0 |
| 0 | 0 | 1 | 40.37 | 7 | 415.38 | 0 | 0 | 0 | 0 | 8 | 455.75 | 0 | 0 | 0 | 0 |
| 0 | 0 | 10 | 7.91 | 15 | 25.27 | 0 | 0 | 01 | 1.06 | 26 | 34.24 | 07 | 24.15 | 0 | 0 |
| 0 | 0 | 6 | 34.56 | 04 | 20.42 | 0 | 0 | 0 | 0 | 10 | 54.98 | 01 | 128.63 | 0 | 0 |
| 0 | 0 | 4 | 0 | 11 | 0 | 0 | 0 | 03 | 0 | 18 | 0 | 03 | 0 | 0 | 0 |
| 0 | 0 | 16 | 15.48 | 07 | 2.14 | 0 | 0 | 0 | 0 | 23 | 17.62 | 01 | 0.08 | 0 | 0 |
| 07 | 2.20 | 8 | 2.91 | 05 | 2.84 | 0 | 0 | 0 | 0 | 20 | 7.95 | 01 | 0.18 | 0 | 0 |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 10 | 12.02 | 81 | 459.22 | 123 | 3,879.79 | 0 | 0 | 21 | 103.83 | 235 | 4,454.86 | 34 | 539.24 | 0 | 0 |

²³ The amount in above table under 'Recovered' and 'SCN issued' category is as per recoveries made and amount of SCN issued by the Department irrespective of the amount pointed out by audit.

Summary of Limited Audit

Audit noticed deviations from the provisions of the Act in 235 cases (Col. No. 10, 12, 14, 16, 18) involving mismatch in ITC/tax/turnover of ₹ 4,454.86 crore (Col. No. 11, 13, 15, 17 and 19) constituting 52 per cent of the 453 responses received. Relatively higher rates of deviations were noticed in risk parameters such as Mismatch of ITC availed between Annual returns and Books of accounts (Table 12F of GSTR-9C), Mismatch in turnover declared in GSTR-9C Table 5R, Mismatch in tax paid between books of accounts and returns (Table 9R of GSTR-9C) and short/non-payment of interest etc.

In 184 cases (Col. No. 4, 6 and 8), constituting 40 per cent, where the Department's reply was acceptable to Audit, data entry errors by taxpayers comprised 36 (Col. No.4) cases, Department had proactively taken action in 13 (Col. No.6) cases and 135 (Col. No.8) cases had valid explanations.

In the remaining 34 (Col. No.22) cases, constituting eight per cent, though the Department did not accept the deviations pointed out by Audit, its contention was not borne out by evidence, and was thus not amenable to verification by Audit.

Table 2.7: Top case for each dimension of Limited Audit (for compliance deviation pertaining to cases of recovery, SCN issued, ASMT-10 and under correspondence with taxable person)

| Sl. No. | Dimension | GSTIN | Name of the taxpayer | Jurisdictional Sector | Mismatch (₹ in crore) | Action taken |
|---------|---|---------------------|--|-----------------------------|-----------------------|---|
| 1. | ITC mismatch between GSTR 2A and GSTR-3B | 09XXXXXX XXXX4ZE | M/s Larsen and Toubro Infrastructure Vertical | Sector-3 Hapur | 27.11 | In compliance of audit query notice in ASMT-10 has been issued to the taxable person by the Department. |
| 2. | Mismatch between ITC availed under RCM vs payment of tax in GSTR-3B/ GSTR-9 | 09XXXXXX XXXX1Z9 | M/s Pearson India Education Services Pvt. Ltd. | Noida Sector-3 | 2.93 | Department replied that notice in DRC-01 has been issued to the taxable person. |
| 3. | Mismatch between payment of tax under RCM vs ITC availed in GSTR-3B/ GSTR-9 | 09XXXXXX XXXX1ZX | M/s Durga Marbles | Sector Modinagar, Ghaziabad | 0.44 | ASMT-10 has been issued by the department. |

| Sl. No. | Dimension | GSTIN | Name of the taxpayer | Jurisdictional Sector | Mismatch (₹ in crore) | Action taken |
|---------|---|---------------------|--|------------------------------|-----------------------|---|
| 4. | Incorrect availment of ISD credit | 09XXXXXX XXXX1ZS | M/s Hindustan Unilever Limited | Corporate Circle, Aligarh | 8.73 | The Department replied that ITC on ISD of ₹ 8,72,81,307.00 was claimed through TRAN-1 and also utilised by declaring it in GSTR-3B Table 4(a)(4), it was reversed by the taxable person vide DRC-03 dated-09.03.2023. |
| 5. | Incorrect ISD credit reversal | 09XXXXXX XXXX1ZY | M/s SMR Automotive Systems India Limited | Noida Sector-14 | 0.01 | The Department replied that ASMT-10 has been issued to the taxable person on 17.04.2023. |
| 6. | Reconciliation between ITC availed in Annual returns with expenses in financial statements (Table 14T of GSTR-9C) | 09XXXXXX XXXX1Z5 | M/s Hindustan Aeronautics Ltd. | Corporate Circle, Lucknow II | 178.33 | The Department replied that notice in ASMT-10 has been issued to the taxable person. |
| 7. | Mismatch of ITC availed between Annual returns and Books of accounts (Table 12F of GSTR-9C) | 09XXXXXX XXXX1ZH | M/s EMS Limited | Ghaziabad Sector-4 | 19.81 | ASMT-10 has been issued to the taxable person. |
| 8. | Mismatch in turnover declared in Table 5R of GSTR-9C | 09XXXXXX XXXX3ZM | M/s Omaxe Limited | Noida Sector-13 | 925.60 | The Department replied that ASMT-10 has been issued to the taxable person on 16.03.2023. |
| 9. | Mismatch in taxable turnover declared in Table 7G of GSTR-9C | 09XXXXXX XXXX5Z0 | M/s Modi Industries Limited | Modinagar Sector Ghaziabad | 221.32 | The Department replied that ASMT-10 has been issued to the taxable person on 13.04.2023. |

| Sl. No. | Dimension | GSTIN | Name of the taxpayer | Jurisdictional Sector | Mismatch (₹ in crore) | Action taken |
|---------|--|---------------------|---------------------------------|------------------------------|-----------------------|--|
| 10. | Mismatch in tax paid between books of accounts and returns Table 9R of GSTR-9C | 09XXXXXX XXXX1ZE | M/s Vikas & Company | Chandausi Sector-1 | 6.82 | Department replied that ASMT-10 has been issued to the taxable person. |
| 11. | Undischarged tax liabilities | 09XXXXXX XXXX9ZO | M/s NTPC Limited | Corporate Circle, Lucknow II | 8.60 | ASMT-10 has been issued by the Department to the taxable person. |
| 12. | Composition taxpayer also availing e-commerce facility | 09XXXXXX XXXX1ZJ | M/s Dastar Khwan Restaurant | Lucknow Sector- 2 | Not Available | The Department replied that ASMT-10 has been issued to the taxable person on 17.05.2023. |
| 13. | GSTR-3B was not filed but GSTR-1 is available | 09XXXXXX XXXX1ZK | M/s Maruti Enterprises | Lucknow Sector- 12 | 12.83 | Department replied that notice in DRC-01 U/s 74 has been issued to the taxable person. |
| 14. | Short payment of interest on delayed payment of tax | 09XXXXXX XXXX1ZT | M/s Berger Paints India Limited | Corporate Circle, Noida | 1.84 | Department replied that notice was issued on 27.03.2023. In reply taxable person stated that return GSTR-3B for the month of December 2017 was filed in March 2018 and from cash ledger ₹ 4.13 crore was debited, but on portal it was showing filed in the month of October 2018. Verification is in process. |

Illustrative cases are discussed below:

(i) Dimension - Excess ITC availed

GSTR 2A is a purchase related dynamic tax return that is automatically generated for each business by the GST portal, whereas GSTR-3B is a monthly return in which summary of outward supplies along with ITC declared and payment of tax are self-declared by the taxpayer.

To analyse the veracity of ITC utilization, relevant data were extracted from GSTR-3B and GSTR 2A for the year 2017-18, and the ITC paid as per suppliers' details was matched with the ITC credit availed by the taxpayer. The methodology adopted was to compare the ITC available as per GSTR 2A with all its amendments and the ITC availed in GSTR-3B in Table 4A (5)²⁴ considering the reversals in Table 4B (2)²⁵ but including the ITC availed in the subsequent year 2018-19 from Table 8C of GSTR-9.

Audit observed that in case of taxable person M/s Larsen and Toubro Infrastructure Vertical GSTIN-09XXXXXXXXXX4ZE under Sector-3 Hapur, the ITC available as per GSTR 2A was ₹ 251.62 crore and the ITC availed in table 4A (5) of GSTR-3B was ₹ 278.73 crore. This resulted in mismatch of ITC availed amounting to ₹ 27.11 crore which was communicated to the Government and the Department (April 2023). The Department replied (June 2023) that notice in ASMT-10 under Section 61 of UPGST Act, 2017 has been issued to the taxable person.

(ii) Dimension - Excess availment of ITC on RCM

Under Reverse Charge Mechanism the liability to pay tax is fixed on the recipient of supply of goods or services instead of the supplier or provider in respect of certain categories of goods or services or both under Section 9(3) or Section 9(4) of the UPGST Act, 2017 and under sub-section (3) or sub-section (4) of Section 5 of the IGST Act, 2017.

GSTR-9 is an annual return to be filed once for each financial year, by the registered taxpayers who were regular taxpayers, including SEZ units and SEZ developers. The taxpayers are required to furnish details of purchases, sales, input tax credit or refund claimed or demand created etc.

To analyse the veracity of ITC availed on tax paid under Reverse Charge Mechanism (RCM) for the year 2017-18, the datasets pertaining to GSTR-3B and annual return GSTR-9 were compared to check whether the ITC availed on RCM was restricted to the extent of tax paid. The methodology adopted was to compare the RCM payments in GSTR-3B Table 3.1(d)²⁶ with ITC availed in GSTR-9 Table 6C²⁷, 6D²⁸ and 6F²⁹. In cases where GSTR-9 was not available, the check was restricted within GSTR-3B where the tax discharged part in R3B Table 3.1(d) was compared with the ITC availing part of R3B 4A (2)³⁰ and 4A (3)³¹.

²⁴ All other eligible ITC.

²⁵ Other ITC reversed.

²⁶ Inward supplies (liable to reverse charge).

²⁷ Inward supplies receive from unregistered persons liable to reverse charge.

²⁸ Inward supplies received from registered persons liable to reverse charge.

²⁹ Import of services.

³⁰ Import of services.

³¹ Inward supplies (liable to reverse charge).

Audit observed that in case of taxable person M/s Pearson India Education Services Pvt. Ltd. GSTIN- 09XXXXXXXXXX1Z9 under Sector-3, Noida the ITC available in table 3.1(d) of GSTR-3B was ₹ 0.9 crore whereas ITC availed in table (6C+6D+6F) of GSTR-9 was ₹ 3.84 crore resulting in mismatch of ITC availed amounting to ₹ 2.93 crore which was communicated to the Government and the Department (April 2023). The Department replied (June 2023) that notice has been issued to the taxable person.

(iii) Dimension - Excess availment of ITC on RCM without payment of Tax

The extent of availing of ITC under RCM for the year 2017-18 without discharging equivalent tax liability or, in other words, short payment of tax under RCM was analysed by comparing the datasets pertaining to GSTR-3B and annual return GSTR-9 to check whether the tax has been discharged fully on the activities/transactions under RCM. In cases where GSTR-9 was filed, the RCM payments in Table 4G³² was compared with ITC availed in Table 6C, 6D and 6F. In cases where GSTR-9 was not available, RCM payments in GSTR-3B Table 3.1(d)³³ was compared with GSTR-3B 4(A) (2)³⁴ and 4A (3)³⁵.

Audit observed that in case of taxable person, M/s Durga Marbles, GSTIN-09XXXXXXXXXX1ZX under Sector-Modinagar, Ghaziabad, no RCM payments in table 4G of GSTR-9 was made (GSTR-3B also showed no RCM payment) and the ITC availed in table (6C+6D+6F) of GSTR-9 was ₹ 44.14 lakh. This resulted in excess availment of ITC on RCM without payment of tax amounting to ₹ 44.14 lakh which was communicated to the Government and the Department (April 2023). The Department replied (June 2023) that notice in ASMT-10 under Section 61 of UPGST Act, 2017 has been issued to the taxable person.

(iv) Dimension - Irregular availing of ITC by recipient on ISD credit

To analyse whether the ITC availed by the taxpayer is in excess of that transferred by the Input Service Distributor (ISD), ITC availed as declared in the returns of the taxpayer is compared with the ITC transferred by the ISD in their GSTR 6. The methodology adopted was to compare Table 6G³⁶ of GSTR-9 or Table 4(A)(4)³⁷ of GSTR-3B of the recipient taxpayers under the

³² Inward supplies on which tax is to be paid on reverse charge basis.

³³ Inward supplies (liable to be reverse charge).

³⁴ Import of services.

³⁵ Inward supplies liable to be reverse charge other than Import of Goods and Services.

³⁶ ITC received from ISD.

³⁷ Inward supplies from ISD.

jurisdiction of the State with the sum of Table 5A³⁸, Table 8A³⁹, and Table 9A⁴⁰ of GSTR 6 of the respective ISD.

In case of taxable person M/s Hindustan Unilever Limited, GSTIN-09XXXXXXXXXX1ZS under Corporate Circle, Aligarh, audit observed that the ITC availed in table 6G of GSTR-9 was ₹ 41.93 crore and the ITC transferred by the ISD in table (5A+8A+9A) of GSTR 6 was ₹ 33.20 crore. This resulted in excess availment of ITC transferred by the ISD amounting to ₹ 8.73 crore which was communicated to the Government and the Department (April 2023). In response, the Department replied (June 2023) that ITC on ISD of ₹ 8.73 crore was claimed through TRAN-1 and also utilised by declaring it in GSTR-3B Table 4(a) (4), it was reversed by the taxable person vide DRC-03 dated 09 March 2023.

(v) Dimension - Unreconciled ITC in Table 14T of GSTR-9C

Table 14 of GSTR-9C reconciles ITC declared in annual return (GSTR9) with ITC availed on expenses as per audited Annual financial statement or books of accounts. Column 14T of this table deals with unreconciled ITC.

The certified reconciliation statement submitted by the taxpayer as required under the rule 80(3) of UPGST Rules in form GSTR-9C for the year 2017-18 was analysed at data level to review the extent of identified mismatch in ITC declared in the Annual Return with the expenses reported in the Financial Statements.

Unreconciled ITC of ₹ 178.23 crore declared in Table 14T of GSTR-9C, being ITC availed in GST returns in excess of eligible ITC based on expenses reported in financial statements, in case of, M/s Hindustan Aeronautics Ltd., GSTIN-09XXXXXXXXXX1Z5 under Corporate Circle, Lucknow II, was noticed and communicated to the Government and the Department (April 2023). The Department replied (June 2023) that notice in ASMT-10 under Section 61 of UPGST Act, 2017 has been issued.

(vi) Dimension - Unreconciled ITC in Table 12F of GSTR-9C

Table 12 of GSTR-9C reconciles ITC declared in annual return (GSTR9) with ITC availed as per audited Annual financial statement or books of accounts. Column 12F of this table deals with unreconciled ITC.

The certified reconciliation statement submitted by the taxpayer as required under the rule 80(3) of UPGST Rules in form GSTR-9C for the year 2017-18 was analysed at data level to review the extent of identified mismatch in ITC declared in the Annual Return with the Financial Statements.

³⁸ Distribution of the amounts of eligible ITC for the tax period.

³⁹ Mismatch of ITC reclaimed and distributed.

⁴⁰ Redistribution of ITC distributed to a wrong recipient.

Unreconciled ITC of ₹ 19.81 crore declared in Table 12F of GSTR-9C, being ITC availed in GST returns in excess of eligible ITC based on financial statements, in case of, M/s EMS Limited, GSTIN-09XXXXXXXXXXXX1ZH under Ghaziabad Sector-4, was noticed and communicated to the Government and the Department (April 2023). The Department replied (June 2023) that notice in ASMT-10 under Section 61 of UPGST Act, 2017 has been issued.

(vii) Dimension - Unreconciled turnover in Table 5R of GSTR-9C

Table 5 of GSTR-9 C is the reconciliation of turnover declared in audited annual financial statement with turnover declared in annual return (GSTR-9). Column 5R of this table captures the unreconciled turnover between the annual return GSTR-9 and that declared in the Financial Statement for the year after the requisite adjustments.

The certified reconciliation statement submitted by the taxpayer as required under rule 80(3) of UPGST Rules in form GSTR-9C for the year 2017-18 was analysed at data level to review the extent of identified mismatch in turnover reported in the Annual Return *vis-à-vis* the Financial Statements. The unreconciled amount in cases where the turnover declared in GSTR-9 is less than the financial statement indicates non-reporting, under-reporting, short-reporting, omission, error in reporting of supplies leading to evasion or short payment of tax. It could also be a case of non-reporting of both taxable and exempted supplies.

Audit query on unreconciled turnover in Table 5R of GSTR-9C amounting to ₹ 925.60 crore was issued in respect of taxable person, M/s Omaxe Limited, GSTIN-09XXXXXXXXXXXX3ZM under Sector 13 Noida and communicated to the Government and the Department (April 2023). The Department replied (June 2023) that notice in ASMT 10 under Section 61 of UPGST Act, 2017 has been issued on 16.03.2023.

(viii) Dimension - Unreconciled taxable turnover in Table 7G of GSTR-9C

Table 7 of GSTR-9C is the reconciliation of taxable turnover. Column 7G of this table captures the unreconciled taxable turnover between the annual return GSTR-9 and that declared in the financial statement for the year after the requisite adjustments.

The certified reconciliation statement submitted by the taxpayer as required under the rule 80(3) of UPGST Rules in Form GSTR-9C for the year 2017-18 was analysed at data level to review the extent of identified mismatch in taxable turnover reported in the Annual Return *vis-à-vis* the Financial Statements. The unreconciled amount in cases where the turnover in GSTR-9 is less than the financial statement indicates non-reporting, under-reporting, short-reporting, omission, error in reporting of taxable supplies. It could also be on account of non-reporting of both taxable and exempted supplies.

Audit query on Unreconciled taxable turnover in Table 7G of GSTR-9C, amounting to ₹ 221.32 crore was issued in respect of taxable person, M/s Modi Industries Limited, GSTIN-09XXXXXXXXXX5Z0 under Sector Modinagar, Ghaziabad and communicated to the Government and the Department (April 2023). The Department stated (June 2023) that notice in ASMT 10 under Section 61 of UPGST Act, 2017 has been issued to the taxable person.

(ix) Dimension - Unreconciled tax liability in Table 9R of GSTR-9C

The certified reconciliation statement submitted by the taxpayer as required under rule 80(3) of UPGST Rules in form GSTR-9C for the year 2017-18 was analysed at data level to review the extent of identified mismatch in tax paid between the Annual Return and the books of account. Table 9 of the form 9C attempts to reconcile the tax paid by segregating the turnover rate-wise and comparing it with the tax discharged as per annual return GSTR-9. The unreconciled amounts could potentially indicate tax levied at incorrect rates, incorrect depiction of taxable turnover as exempt or *vice versa* or incorrect levy of SGST/CGST/IGST. There can also be situations wherein supplies/tax declared are reduced through amendments (net of debit notes/credit notes) in respect of the 2017-18 transactions carried out in the subsequent year from April to September 2018. Consequential interest payments - both short payments and payments under incorrect heads - also need to be examined in this regard.

Unreconciled payment of tax declared in Table 9R of GSTR-9C, amounting to ₹ 6.82 crore in case of the taxable person M/s Vikas & Company, GSTIN-09XXXXXXXXXX1ZE under Sector-1, Chandausi was communicated to the Government and the Department (April 2023). The Department replied (June 2023) that notice in ASMT-10 under Section 61 of UPGST Act, 2017 has been issued to the taxable person.

(x) Dimension - Short declaration of tax liability

GSTR-1 depicts the monthly details of outward supplies of Goods and/or Services. This details also assessed by the taxpayer and mentioned in annual return GSTR-9 in the relevant columns. Further, taxable value and tax paid thereof also shown in GSTR-3B.

To analyse the undischarged tax liability, relevant data were extracted from GSTR-1 and GSTR-9 for the year 2017-18 and the tax payable in these returns was compared with the tax paid as declared in GSTR-9. Where GSTR-9 was not available, a comparison of tax payable between GSTR-1 and GSTR-3B was resorted to. The amendments and advance adjustments declared in GSTR-1 and 9 were also considered for this purpose.

For the algorithm, tables 4 to 11 of GSTR-1 and tables 4N, 10 and 11 of GSTR-9 were considered. The greater of the tax liability between GSTR-1 and

GSTR-9 was compared with the tax paid declared in tables 9 and 14 of GSTR-9 to identify the short payment of tax. In the case of GSTR-3B, tables 3.1(a)⁴¹ and 3.1(b)⁴² were taken into account.

Audit observed that in case of taxable person M/s NTPC Limited, GSTIN-09XXXXXXXXXX9ZO under Corporate Circle-II Lucknow, the tax payable in table 4 to 11 of GSTR-1 was ₹ 72.55 crore and the tax payable declared in tables 9 and 14 of GSTR-9 was ₹ 63.95 crore. This resulted in mismatch of tax liability amounting to ₹ 8.60 crore between GSTR-1 and GSTR-3B which was communicated to the Government and the Department (April 2023). In response, the Department replied (June 2023) that notice in ASMT 10 under Section 61 of UPGST Act, 2017 has been issued.

(xi) Dimension - GSTR-3B was not filed but GSTR-1 is available

As per section 61 of UPGST Act, 2017 various returns filed by the taxable person has to be scrutinised by the proper officer to verify the correctness of the returns, and suitable action to be taken on any discrepancies or inconsistencies reflected in the returns.

At the data level, we attempted to identify those taxable persons who have not filed GSTR-3B but have filed GSTR-1 or whose GSTR 2A was available. GSTR-3B return is only instrument through which the liability is offset and ITC is availed. The very availability of GSTR-1 and GSTR 2A and non-filing of GSTR-3B indicates that the taxable person had carried on the business during the period but have not discharged their tax liability. It may also include cases of irregular passing on of ITC.

Audit observed that taxable person M/s Maruti Enterprises GSTIN-09XXXXXXXXXX1ZK under Sector- 12, Lucknow had filed GSTR-1 and admitted tax liability of ₹ 12.83 crore. The taxpayer had not even filed a single GSTR-3B for 2017-18. This resulted in non-discharge of tax liability of ₹ 12.83 crore. This was communicated to the Government and the Department (April 2023). The Department replied that notice in DRC-01 under Section 74 of UPGST Act, 2017 has been issued to the taxable person.

(xii) Dimension - Short payment of interest

Section 50 of the Act stipulates that every person liable to pay tax in accordance with the provisions of this Act or the rules made there under but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay interest at the rate notified.

The extent of short payment of interest on account of delayed remittance of tax during 2017-18 was identified using the tax paid details in GSTR-3B and the

⁴¹ Outward taxable supplies (other than zero rated, nil rated and exempted).

⁴² Outward taxable supplies (Zero rated).

date of filing of the GSTR-3B. Only the net tax liability (cash component) has been considered to work out the interest payable.

Audit observed that in case of taxable person, M/s Berger Paints India Limited, GSTIN-09XXXXXXXXXX1ZT under Corporate Circle, Noida, wherein the returns (GSTR-3B) pertaining to the month of December 2017, were filed delayed. This resulted in short payment of interest amounting to ₹ 1.84 crore which was communicated (April 2023) to the Department and the Government. The Department replied (June 2023) that return GSTR-3B for the month of December 2017 was filed in March 2018 and from cash ledger ₹4.13 crore debited, but on portal it was showing filed in the month of October 2018. Verification is in process.

2.6.2.3 Analysis of causative factors

Considering the Department's response to 453 cases out of the sample of 462 data deviations/inconsistencies, the factors that caused the data deviations/inconsistencies are as follows:

(a) **Deviations from GST law and rules:** Out of the 453 deviations summarized in Table-2.6, the Department has accepted the audit observations or initiated examination in 214 cases with mismatch of ITC/tax/turnover of ₹ 4,351.03 crore. Out of these cases, the Department has recovered ₹ 12.02 crore in 10 cases, issued notice conveying discrepancies to the taxpayer in Form ASMT-10 in 123 cases for ₹ 3,879.79 crore and issued SCN in 81 cases for ₹ 459.22 crore. Details are given in **Appendix-VI**. The top five accepted cases are featured in **Table 2.8**.

Table 2.8: Top five cases (Mismatch in ITC/Tax) accepted or action initiated by the Department

| Sl. No. | GSTIN | Name of the taxpayer | Name of the Sector | Dimension | Mismatch in ITC/Tax (₹ in crore) | Action taken |
|---------|---------------------|-------------------------------------|------------------------------|---|----------------------------------|--------------------------|
| 1. | 09XXXXXX XXXX1Z5 | M/s Hindustan Aeronautics Ltd. | Corporate Circle, Lucknow II | Reconciliation between ITC availed in Annual returns with expenses in financial statements (Table 14T of GSTR-9C) | 178.33 | ASMT-10 has been issued. |
| 2. | 09XXXXXX XXXX1ZY | M/s GDN Enterprises Private Limited | Corporate Circle, Noida | Reconciliation between ITC availed in Annual returns with expenses in financial statements (Table 14T of GSTR-9C) | 76.00 | ASMT-10 has been issued. |
| 3. | 09XXXXXX XXXX1ZQ | M/s Bajaj Hindustan Sugar Limited | Corporate Circle, Lucknow II | Reconciliation between ITC availed in Annual returns with expenses in financial statements | 59.73 | ASMT-10 has been issued. |

| Sl. No. | GSTIN | Name of the taxpayer | Name of the Sector | Dimension | Mismatch in ITC/ Tax (₹ in crore) | Action taken |
|---------|---------------------|---|--------------------|---|-----------------------------------|--------------------------|
| | | | | (Table 14T of GSTR-9C) | | |
| 4. | 09XXXXXX XXXX4ZE | M/s Larsen and Toubro Infrastructure Vertical | Sector-3 Hapur | ITC mismatch between GSTR 2A and GSTR-3B | 27.11 | ASMT-10 has been issued. |
| 5. | 09XXXXXX XXXX1ZL | M/s Jindal Quality Tubular Limited | Kosikalan Sector | Reconciliation between ITC availed in Annual returns with expenses in financial statements (Table 14T of GSTR-9C) | 25.81 | SCN has been issued |

Illustrative case is given below:

Unreconciled ITC of ₹ 76.00 crore declared in Table 14T of GSTR-9C, being ITC availed in GST returns in excess of eligible ITC based on expenses reported in financial statements, in case of, M/s GDN Enterprises Private Limited, GSTIN-09XXXXXXXXXX1ZY under Corporate Circle, Noida, was noticed and communicated to the Government and the Department (April 2023). The Department replied (June 2023) that notice in ASMT-10 under Section 61 of UPGST Act, 2017 has been issued on 06 April 2023.

(b) Cases where Department's reply is not accepted to Audit

Out of the 462 non-compliance cases, Department has not accepted deficiencies in 21 cases amounting to ₹ 103.83 crore. In these cases, the Department issued notice for tax liability instead of ITC availed on RCM without payment of tax, issued notice for excess claim of ITC instead of notice on unreconciled turnover etc. on the audit observations. Details of these cases along with the Audit rebuttal are given in **Appendix-VII**. The top five rebuttal cases and some illustrative cases are featured in **Table 2.9**.

Table 2.9: Top five cases in terms of money value where Department's response was rebutted

| Sl. No. | GSTIN | Name of the taxpayer | Name of the Sector | Dimension | Mismatch amount (₹ in crore) |
|---------|-----------------|--|------------------------------------|---|------------------------------|
| 1. | 09XXXXXXXXXX1ZO | M/s Sunplast Electronics Pvt. Ltd. | Corporate Circle, Greater Noida -2 | Reconciliation between ITC availed in Annual returns with expenses in financial statements (Table 14T of GSTR-9C) | 39.09 |
| 2. | 09XXXXXXXXXX1ZT | M/s Revat Laboratories Private Limited | Lucknow Sector- 9 | Mismatch in turnover declared in Table 5R of GSTR-9C | 31.78 |
| 3. | 09XXXXXXXXXX1ZQ | M/s Pidilite Industries Limited | Sector-1, Gautam Buddha Nagar | ITC mismatch between GSTR 2A and GSTR-3B | 21.25 |
| 4. | 09XXXXXXXXXX1ZT | M/s Hari Darshan Company | Azamgarh Sector-4 | ITC mismatch between GSTR 2A and GSTR-3B | 3.69 |
| 5. | 09XXXXXXXXXX1ZP | M/s Omar Distributors | Kanpur Sector-1 | ITC mismatch between GSTR 2A and GSTR-3B | 1.92 |

- i Unreconciled ITC of ₹ 39.09 crore declared in Table 14T of GSTR-9C, being ITC availed in GST returns in excess of eligible ITC based on expenses reported in financial statements, in case of, M/s Sunplast Electronics Pvt. Ltd., GSTIN-09XXXXXXXXXX1ZO under Corporate Circle, Greater Noida -2, was noticed and communicated to the Government and the Department (April 2023). The Department replied (June 2023) that notice in ASMT-10 under Section 61 of UPGST Act, 2017 has been issued on 10 April 2023 for difference of ITC under GSTR-2A and claimed in GSTR-3B. Reply is not acceptable as observation was on ITC of ₹ 39.09 crore declared in Table 14T of GSTR-9C, being ITC availed in GST returns in excess of eligible ITC based on expenses reported in financial statement.
- ii. Unreconciled turnover of ₹ 31.78 crore declared in Table 5R of GSTR-9C was noticed in case of M/s Revat Laboratories Private Limited GSTIN-09XXXXXXXXXX1ZT, under Sector 9 Lucknow, which was communicated to the Department and the Government (April 2023). The Department replied (June 2023) that by passing order under Section 73 of the UPGST Act, demand of ₹ 24.20 lakh for excess claim of ITC, penalty of ₹ 2.42 lakh and interest of ₹ 24.57 lakh has been created. The reply is not acceptable as basis of calculation of excess claim, penalty and interest was not related to ₹ 31.78 crore unreconciled turnover by the proper officer in its reply.
- iii. Audit observed that in case of taxpayer M/s Pidilite Industries Limited GSTIN-09XXXXXXXXXX1ZQ under Sector-1, Gautam Buddha Nagar, the ITC available as per GSTR 2A was ₹ 36.14 crore and the ITC availed

in table 4A (5) of GSTR-3B was ₹ 57.39 crore. This resulted in mismatch of ITC availed amounting to ₹ 21.25 crore which was communicated to the Government and the Department (April 2023). The Department replied (June 2023) that excess claimed ITC of ₹ 32104.00 has been deposited by the taxable person. Reply is not acceptable as Department has not given specific reply on difference of ITC of ₹ 21.25 crore claimed in GSTR-3B and ITC auto-populated in GSTR-2A.

- iv. Audit observed that in case of taxpayer M/s Hari Darshan Company GSTIN-09XXXXXXXXXX1ZT under Sector-4 Azamgarh, the ITC available as per GSTR 2A was ₹ 11.68 crore and the ITC availed in table 4A (5) of GSTR-3B was ₹ 15.37 crore. This resulted in mismatch of ITC availed amounting to ₹ 3.69 crore which was communicated to the Government and the Department (April 2023). The Department replied (June 2023) that notice in ASMT-10 under Section 61 was issued to the taxable person on 30 June 2021. In compliance taxable person had furnished reply on 09 July 2021 which was found convincing and verified from portal. Reply of the Department is not acceptable as audit objection was on difference of ITC of ₹ 3.69 crore between GSTR 2A and GSTR-3B which was not addressed in the reply.
- v. Audit observed that in case of taxpayer M/s Omar Distributors GSTIN-09XXXXXXXXXX1ZP under Sector-1 Kanpur, the ITC available as per GSTR 2A was ₹ 1.88 crore and the ITC availed in table 4A (5) of GSTR-3B was ₹ 3.80 crore. This resulted in mismatch of ITC availed amounting to ₹ 1.92 crore which was communicated to the Government and the Department (April 2023). The Department replied (June 2023) that ITC of ₹ 1.88 crore which was to be entered under inward supplies (Other than RCM) in column 6B of GSTR-9 was by mistake entered in column 6D of GSTR-9, ITC on inward supplies liable to reverse charge. Reply of the Department is not acceptable as audit objection was on difference of ITC of ₹ 1.92 crore between GSTR 2A and GSTR-3B which was not addressed in the reply.

(c) Data entry errors by taxpayers

The data entry errors constituted eight *per cent* (36 cases) of the total responses received and the Department's responses in these cases were accepted by Audit. These data entry errors did not have any revenue implication. Most of the data entry errors were related to RCM, ISD, turnover, taxable turnover and undischarged tax liability as detailed in **Appendix-VIII**.

Top five cases of data entry errors are featured in **Table 2.10**.

Table 2.10: Data entry errors by taxpayers

| Sl. No. | GSTIN | Name of the taxable person | Name of the sector | Dimension | Mismatch amount (₹ in crore) |
|---------|-----------------|-------------------------------|---------------------------|--|------------------------------|
| 1. | 09XXXXXXXXXX1ZA | M/s Shreyas Enterprises | Gorakhpur Sector-9 | Mismatch in turnover declared in Table 7G of GSTR-9C | 68.26 |
| 2. | 09XXXXXXXXXX1ZU | M/s Shri ji Timber Industries | Sector-1 Hapur | Undischarged tax liability | 34.92 |
| 3. | 09XXXXXXXXXX1ZM | M/s Meerut Vikash Pradhikaran | Meerut Sector-10 | Mismatch in turnover declared in Table 5R of GSTR-9C | 30.71 |
| 4. | 09XXXXXXXXXX1Z1 | M/s Amit Auto Sales | Basti Sector-2 | Undischarged tax liability | 18.26 |
| 5. | 09XXXXXXXXXX1ZA | M/s Gajanan Enterprises | Lakhimpur Kheri, Sector-1 | Mismatch in turnover declared in Table 5R of GSTR-9C | 17.39 |

An illustrative case is brought out below:

A deviation amounting to ₹ 18.26 crore was identified as tax liability mismatch between GSTR-1 and GSTR-9 return of the taxpayer M/s Amit Auto Sales GSTIN-09XXXXXXXXXX1Z1, under Sector 2 Basti, and communicated to the Department. Department replied that due to typographical error, in GSTR-9 column 4 tax liability of CGST ₹ 10,14,31,025.93 & SGST ₹ 10,14,31,025.93 was entered instead of CGST ₹ 1,01,43,125.93 & SGST ₹ 1,01,43,125.93 on the outward supply of ₹ 7,26,14,502.00, which was paid by the taxpayer.

The system allowed for such data entry errors, which could have been avoided with proper validation controls.

(d) Action taken before issue of Audit Queries: As summarised in Table-6, the Department had already taken action in 13 cases, constituting three *per cent* of the 453 responses received. The top six zones which had proactively addressed the deviations/inconsistencies are indicated in **Table 2.11**.

Table 2.11: Action taken before query - Zone wise

| Jurisdiction | Name of the sector | Action taken before Audit Query (No.) | Action taken before Audit Query* (₹ in crore) | Total number of cases in zone | Total responses received | Responses not received | Percentage of total cases (3/5*100) |
|--|---------------------------|--|--|--------------------------------------|---------------------------------|-------------------------------|--|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| Additional Commissioner Grade-I, Agra | JC (CC) Agra | 01 | 3.41 | 15 | 15 | 0 | 13.33 |
| | Sector 20 Agra | 01 | 0.36 | | | | |
| Additional Commissioner Grade-I, Saharanpur | Sector 8 Saharanpur | 01 | 10.06 | 08 | 08 | 0 | 12.50 |
| Additional Commissioner Grade-I, Varanasi-II | Sector 2 Bhadohi | 01 | 0.26 | 27 | 26 | 01 | 3.70 |
| Additional Commissioner Grade-I, Gorakhpur | Sector 2 Mahrajganj | 01 | 8.52 | 20 | 20 | 0 | 10 |
| | Sector 1 Siddharthnagar | 01 | 0.90 | | | | |
| Additional Commissioner Grade-I, Lucknow-II | Sector 16 Lucknow | 01 | 205.43 | 37 | 36 | 01 | 2.70 |
| Additional Commissioner Grade-I, Prayagraj | Sector 5 Prayagraj | 01 | 0.36 | 15 | 15 | 0 | 13.33 |
| | JC (CC) Prayagraj | 01 | 0.56 | | | | |
| Total | | 09 | 229.86 | 122 | 120 | 02 | 7.38 |

* Including mismatch of turnover

Recommendation 4: The Department may consider introducing validation controls in GST Returns to curb data entry errors, enhance taxpayer compliance and facilitate better scrutiny.

2.6.3 Oversight on tax payments - Detailed audit

In a self-assessment regime, the onus of compliance with law is on the taxpayer. The role of the Department is to establish and maintain an efficient tax administration mechanism to provide oversight. With finite level of resources, for an effective tax administration, to ensure compliance with law and collection of revenue, an efficient governance mechanism is essential. An IT driven compliance model enables maintaining a non-discretionary regime of governance on scale and facilitates a targeted approach to enforce compliance.

From an external audit perspective, Audit also focused on a data-driven risk-based approach. Thus, apart from identifying inconsistencies/deviations in GST returns through data analysis, a detailed audit of GST returns was also conducted as a part of this review. A risk-based sample of 80 taxpayers was selected for this part of the review. The methodology adopted was to initially conduct a desk review of GST returns and financial statements filed by the taxpayers as part of the GSTR-9C and other records available in the back-end system to identify potential risk areas, inconsistencies/deviations and red flags. Desk review was carried out in CAG field audit offices. Based on desk review results, detailed audit was conducted in Commercial Tax Department field formations by requisitioning corresponding granular records of taxpayers such as financial ledgers, invoices etc. through the respective field formations to identify causative factors of the identified risks and to evaluate compliance by taxpayers.

As brought out in the previous paragraphs detailed audit involved a desk review of GST returns and other basic records to identify risks and red flags, which were followed up by field audit to identify the extent of non-compliance by taxpayers and action taken by the Commercial Tax Department field formations. Non-compliance by taxpayers at various stages ultimately impacts the veracity of returns filed, utilisation of ITC and discharge of tax payments. The audit findings are therefore categorized under (a) Returns (b) Utilization of ITC and (c) Discharge of tax liability.

2.6.3.1 Scope limitation (partial production of records)

The details of partial production of records are summarized in the following paragraphs:

Partial production: During the desk review of taxpayers' records available in the back-end system, Audit identified the risks related to excess ITC and tax liability mismatches for detailed examination. In nine cases, the Department did not produce the corresponding granular records such as the supplementary financial ledgers, auditor's report, schedule of Balance Sheet and Profit and Loss account etc. Due to partial production of records in these nine cases, Audit could not examine the causative factors for mismatches of ITC and tax liability intended to be checked on the basis of desk review. Audit requisitioned these granular records of the taxpayers through the respective Sectors. The details of partial production of records is summarized in **Table 2.12.**

Table 2.12: Cases of partial production

(₹ in crore)

| Sl. No. | GSTIN | Name of the taxable person | Jurisdictional Sectors | List of records not produced | Mismatch Amount (ITC and Undischarged tax liability) |
|---------|-----------------|---|------------------------|---|--|
| 1. | 09XXXXXXXXXX1ZU | M/s Ananda dairy | JC CC ST Meerut | Auditor's Report, Balance Sheet (B/S) and Profit and Loss Account (P/L), sundry debtors/creditors detail | 14.44 |
| 2. | 09XXXXXXXXXX1ZS | M/s Pan Realtors Private Ltd. | Sec 10 ST Noida | Auditor's Report in Form 3CD and Form 3CEB, Schedules of P/L & B/S, list of sundry creditors/debtors more than six months | 29.13 |
| 3. | 09XXXXXXXXXX2Z1 | M/s Sunsorce Energy Pvt. Ltd | Sec 14 ST Noida | Auditor's Report in Form 3CD and Form 3CEB, List of sundry creditors/debtors | 3.80 |
| 4. | 09XXXXXXXXXX2ZQ | M/s Power Grid Corporation of India Ltd | JC CC ST Prayagraj | Form 3CD and Form 3CEB of Auditor's Report, list of sundry creditors/debtors more than six months | 0.45 |
| 5. | 09XXXXXXXXXXSZA | UP State Bridge Corporation Limited | JC CC-I ST Lucknow | Directors Report, Auditor's Report in Form 3CD and Form 3CEB, Schedule of P/L and B/S | 5.88 |
| 6. | 09XXXXXXXXXX1ZK | M/s LACDM Engineers | Sec 12 ST Lucknow | Director's Report, Auditor's Report in Form 3CD and Form 3CEB, complete B/S and P/L account with notes & schedule | 0.03 |
| 7. | 09XXXXXXXXXX1Z8 | M/s Prathma Bank | Sec 1 ST Moradabad | Director's Report, Auditor's Report in Form 3CD and Form 3CEB, Schedule of P/L and B/S with notes on accounts. | 10.40 |
| 8. | 09XXXXXXXXXX1ZG | M/s Zila Sahkari Bank Limited | JC CC ST Moradabad | Director's Report | 0.24 |
| 9. | 09XXXXXXXXXX1ZB | M/s Gawar Constructions Limited | JC CC ST Muzaffarnagar | Auditor's Report in Form 3CD and Form 3CEB | 0.13 |

The granular records were partially produced in 11 *per cent* of cases, as a result the identified risks relating to excess/irregular ITC availment and undischarged tax liability could not be examined in detail by Audit.

The matter was reported to the Government and the Department (in April 2023). The reply was awaited (January 2024).

2.6.3.2 Returns

The detailed audit of returns filed by a sample of 80 taxable persons disclosed that interest payments were not discharged by taxable persons and data errors existed in the returns, which are brought out below:

(a) Short/Non-payment of interest by taxable persons

Audit observed in 29 cases, constituting 36 *per cent* of the 80 cases audited, that taxable persons had either set off their tax liability belatedly or had erroneously utilised excess ITC credits which were paid back, but the interest payments amounting to ₹ 1.76 crore were not discharged (Appendix–IX).

The top five irregularities noticed in this category (Table 2.13) and illustrative cases are featured below.

Table 2.13: Top five cases of non-payment of interest

| (₹ in crore) | | | |
|--------------|-----------------|------------------------|------------------------------|
| Sl. No. | GSTIN | Jurisdictional | Amount involved in deviation |
| 1. | 09XXXXXXXXXX1ZU | Sector 20 Lucknow | 1.02 |
| 2. | 09XXXXXXXXXX1ZR | Sector 16 ST Ghaziabad | 0.17 |
| 3. | 09XXXXXXXXXX1Z5 | Sector 3 ST Noida | 0.16 |
| 4. | 09XXXXXXXXXX1Z8 | Sec 1 ST Moradabad | 0.09 |
| 5. | 09XXXXXXXXXX1ZL | JC CC-II ST Kanpur | 0.04 |

- i. Audit scrutinised the GSTR-9, GSTR-3B, GSTR-1, Electronic Cash Ledger and DRC-03 of M/s Rithwik Projects Private Limited, Lucknow GSTIN-09XXXXXXXXXX1ZU under Sector 20 Lucknow for the period 2017-18 and observed that taxable person has deposited tax of ₹ 7.79 crore only as against the admitted tax of ₹ 9.55 crore. Thus differential tax of ₹ 1.76 crore was short paid which was recoverable with interest.

On being pointed out in audit (in September 2022), the Department replied that the taxable person has deposited the due tax of ₹ 1.76 crore vide DRC-03 dated 24 March 2022 and 30 March 2022. Reply of the proper officer is not tenable as taxable person has discharged above tax liability by debiting electronic credit ledger for ₹ 30.89 lakh and by debiting electronic cash ledger for ₹ 1.45 crore. On the cash component of ₹ 1.45 crore, interest of ₹ 1.02 crore for the period 21.04.2018 to 24.03.2022 (1434 days) was chargeable which was not charged.

The matter was reported to the Government and the Department (April 2023). Department replied (June 2023) that notice in DRC-01 under Section 73 of the UPGST Act, 2017 has been issued.

- ii. M/s Prathama Bank GSTIN-09XXXXXXXXXX1Z8, under Sector 1 ST Moradabad had filed the GSTR-3B returns belatedly for the months of July, August, December 2017 and March 2018 between December 2017 and June 2018. However, interest liability amounting to ₹ 9.14 lakh on delayed payment of tax was not discharged.

The matter was reported to the Government and the Department (April 2023). The Department replied (June 2023) that interest of ₹ 2.24 lakh for the month of August 2017 has been deposited through DRC-03 on 19 May 2023, however for remaining months no reply was furnished.

(b) Data entry errors

Audit observed data entry mistakes by taxable persons while filing GST returns. The data entry errors in the returns were noticed in four cases, constituting five *per cent* of the audited cases, as detailed in **Appendix-X**. The errors were mainly in the areas like discrepancy between taxable values and tax liability in GSTR-1/GSTR-3B, discrepancy in CGST and SGST payments in GSTR-1/GSTR-3B, discrepancy in ITC availed and reversals between GSTR-3B and GSTR-9 etc. **An illustrative case is brought out below:**

M/s Panchsheel Realtech Private Limited GSTIN-09XXXXXXXXXX1ZC under Sector 9 ST Ghaziabad, had exhibited a mismatch of ₹ 5.91 crore in tax payment between GSTR-3B and GSTR-1. On this being pointed out (December 2022), the Department stated that the taxable person had inadvertently entered tax of SGST ₹ 3,28,45,546.00 and CGST ₹ 3,28,45,546.00 in Table 4 of GSTR-1 instead of actual tax amount of SGST ₹ 32,84,546.00 and CGST ₹ 32,84,546.00 for the month of December 2017 which was correctly shown in GSTR-3B. The reply was found acceptable.

2.6.3.3 Utilisation of Input Tax Credit

Input Tax Credit (ITC) means the Goods and Services Tax (GST) paid by a taxable person on purchase of goods and/or services that are used in the course or furtherance of business. To avoid cascading effect of taxes, credit of taxes paid on input supplies can be used to set-off for payment of taxes on outward supplies.

Section 16 and 17 of the UPGST Act prescribe the eligibility and conditions to avail ITC. Credit of CGST cannot be used for payment of SGST/ UTGST and credit of SGST / UTGST cannot be utilised for payment of CGST. Rule 36 to 45 of the UPGST Rules prescribes the procedures for availing and reversal of ITC.

Audit observed 57 cases of compliance deficiencies amounting to ₹ 92.77 crore out of 80 cases examined. The deficiencies were due to availing ITC irregularly, availing ineligible ITC, non or short reversal of ITC and excess availment of ITC on Input Service Distribution.

(a) Irregular availing of ITC

Section 16(2) of the Act prescribes the conditions for availing ITC. The pre-requisites for availing ITC are:

- Taxable person should be in possession of tax invoice or any other specified tax paying document
- Taxable person has received the goods or services
- Tax has actually been paid by the supplier
- Taxable person has furnished the return to avail the ITC
- The value of the goods or services along with the tax should have been paid to the supplier within 180 days from the date of issue of invoice.

Rule 36 of UPGST Rules prescribe the documentary requirements for claiming ITC. A tax payer can avail ITC based on (a) Invoice issued by a supplier of goods or services or both, (b) Invoice issued by recipient along with proof of payment of tax, (c) A debit note issued by supplier, (d) Bill of entry or similar document prescribed under Customs Act, (e) Revised invoice and (f) Document issued by Input Service Distributor. No ITC shall be availed beyond September of the following financial year to which invoice pertains or date of filing of annual return, whichever is earlier.

Further, in respect of Reverse Charge Mechanism⁴³ (RCM) as per Section 13(3) of the UPGST Act 2017, the time of supply of services under RCM is considered as earlier of (a) the date of payment as entered in the books of the recipient or the date on which the payment is debited in his bank account or (b) 60 days from the date of issue of invoice. Where it is not possible to determine the time of supply by the above means, the time of supply would be the date of entry in the books of account of the recipient of supply.

Audit observed compliance deficiency in one out of 80 cases where taxable person had availed irregular ITC of ₹ 4.12 lakh. The deficiency was mainly on account of excess claim of ITC.

In case of M/s Suvidha Infracon Pvt. Ltd GSTIN-09XXXXXXXXXX3ZI under Sector 9 ST Noida, on scrutiny of GSTR-9C and annual financial statement it was observed that taxable person had claimed ITC of ₹ 10.26 lakh against the other miscellaneous expenses of ₹ 34.13 lakh in GSTR-9C. Audit calculated the ITC for ₹ 6.14 lakh at the rate of 18 *per cent* which was

⁴³ Reverse Charge means the liability to pay tax is on the recipient of supply of goods or services instead of the supplier of such goods or services in respect of notified categories of supply.

admissible to the taxable person. Thus, taxable person had claimed excess ITC of ₹ 4.12 lakh which was required to be reversed.

The matter was reported to the Government and the Department (April 2023). The Department reply was awaited (January 2024).

(b) Non/Short reversal of ITC

Section 17(2) of the Act read with Rule 42 and 43 of the Rules states that where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies and partly for effecting exempt supplies, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies. Manner⁴⁴ of determination of input tax credit in respect of inputs or input services and reversal thereof has been specified in Rule 42 *ibid*.

Audit observed non-compliance in nine out of 80 cases where taxable persons had either not reversed or short reversed ITC of ₹ 7.80 crore due to incorrect application of Rule 42 and 43 (Appendix-XI).

The top five irregularities noticed in this category are shown in **Table 2.14**.

Table 2.14: Top five cases of non-reversal of ITC

| (₹ in crore) | | | |
|--------------|-----------------|------------------------|------------------------------|
| Sl. No. | GSTIN | Jurisdictional office | Amount involved in deviation |
| 1. | 09XXXXXXXXXX1ZU | JC CC ST Meerut | 5.00 |
| 2. | 09XXXXXXXXXX1ZC | JC CC-II ST Lucknow | 1.27 |
| 3. | 09XXXXXXXXXX1ZF | JC CC Range-B ST Noida | 0.91 |
| 4. | 09XXXXXXXXXX1ZY | JC CC Range-A ST Noida | 0.21 |
| 5. | 09XXXXXXXXXX1Z8 | Sec 1 ST Hardoi | 0.20 |

⁴⁴ Common credit denoted as ‘C’ and calculated as - $C = T - (T1+T2+T3+T4)$

Where ‘T’ classified the total input tax involved on inputs and input services in a tax period, ‘T1’ classified the amount of input tax, out of ‘T’, attributable to inputs and input services intended used exclusively for the purposes other than business, ‘T2’ classified the amount of input tax, out of ‘T’, attributable to inputs and input services used exclusively for effecting exempt supplies, ‘T3’ classified the amount of input tax, out of ‘T’, in respect of inputs and input services on which credit is not available under sub-section (5) of section 17 and ‘T4’ classified the amount of input tax credit attributable to inputs and input services intended to be used exclusively for effecting supplies other than exempted but including zero rated supplies.

The amount of input tax credit attributable towards exempt supplies, be denoted as ‘D’ and calculated as - $D = (E \div F) \times C$ where, ‘E’ is the aggregate value of exempt supplies during the tax period, and ‘F’ is the total turnover in the State of the registered person during the tax period.

An illustrative case is featured below:

Audit examined the GSTR-I, GSTR-3B, credit and cash ledger of M/s Ananda Dairy Limited GSTIN-09XXXXXXXXXX1ZU under Joint Commissioner (Corporate Circle) Meerut and observed that taxable person had declared annual turnover of ₹ 961.83 crore in their returns out of which 73.50 per cent amounting to ₹ 706.99 crore was shown as exempt/nil rated supply. Taxable person had availed ITC of ₹ 12.61 crore and reversed ITC of ₹ 4.27 crore in proportion of exempt/nil supplies. As per audit ITC of 73.50 per cent amounting to ₹ 9.27 crore in proportion of exempt/nil supply was required to be reversed, but ITC of 33.86 per cent amounting to ₹ 4.27 crore only was reversed by the taxable person. This resulted in short reversal of ITC of ₹ 5.00 crore.

The matter was reported to the Government and the Department (April 2023). The Department replied (June 2023) that notice in ASMT-10 under Section 61 of the UPGST Act, 2017 has been issued to the taxable person.

(c) Mismatch in ITC

(i) Mismatch of ITC between GSTR-3B and GSTR-2A

GSTR 2A is a purchase related dynamic tax return that is automatically generated for each taxable person by the GST portal. When a supplier files GSTR-1, the information is captured in GSTR-2A. It auto-populates the information of goods and services that have been purchased in a given month by the taxable person from the seller's GSTR-1. ITC availability as per GSTR-2A should match with the ITC availed by the taxable persons through monthly GSTR-3B and with the annual GSTR-9 including adjustments.

As per Section 61 of the UPGST Act, 2017 various returns filed by the taxable persons have to be scrutinised by the proper officer to verify the correctness of the returns, and suitable action has to be taken on any discrepancies or inconsistencies reflected in the returns.

Audit examined the returns of 80 sampled taxable persons in 72 Sector offices and observed in 42 sectors that 44 taxable persons had availed ITC of ₹ 959.61 crore in GSTR-3B {Table 4A(5)-4B(2)+Table 8(C) of GSTR-9} whereas as per GSTR-2A they were eligible for ITC of ₹ 875.08 crore only. Thus there was an excess availment of ITC of ₹ 84.53 crore which was recoverable as per provisions of the UPGST Act, 2017.

The matter was reported to the Government and the Department (April 2023). The Department replied (June 2023) that in five cases recovery of ₹ 4.07 crore has been made, in six cases tax of ₹ 2.91 crore levied, penalty of ₹ 22.20 crore imposed in three cases, notice under Section 61/73/74 of UPGST Act, 2017 issued in 22 cases, in one case tax levied but taxable person filed appeal and in three cases scrutiny is under process. In four cases Department had taken action before commencement of audit (**Appendix-XII**).

An illustrative case is featured below:

Audit examined the returns GSTR-3B and 2A for the year 2017-18 of M/s Rithwik Projects Limited, GSTIN-09XXXXXXXXXX1ZU in Sector-20 Lucknow and found that the taxable person had claimed ITC of ₹7.93 crore in GSTR-3B whereas as per GSTR-2A he was eligible for ITC of ₹ 3.32 crore only. Thus there was an excess claim of ITC of ₹ 4.61 crore which was required to be recoverable from the taxable person.

The matter was reported to the Government and the Department (April 2023). The Department replied (June 2023) that DRC-01 on 26 May 2023 was issued to the taxable person. In compliance taxable person has deposited ₹ 3.54 crore. Remaining amount of ₹1.07 crore with applicable interest is yet to be deposited.

(ii) Excess availing of ITC under RCM

The short payment of tax under RCM was analysed by comparing the datasets pertaining to GSTR-3B and annual return GSTR-9 with the objective to check whether the tax has been discharged fully on the activities/transactions under RCM. In cases, where GSTR-9 was filed, the RCM payments in Table 4G was compared with ITC availed in Tables 6C, 6D and 6F. In cases, where GSTR-9 was not available, RCM payments in GSTR-3B Table 3.1(d) was compared with GSTR-3B Tables 4(A)(2) and 4A(3).

Audit examined the returns GSTR-3B, GSTR-9 and Electronic Cash Ledger of the 80 sampled taxable persons in 72 Sector offices and observed in three sectors that three taxable persons had claimed ITC of ₹ 55.39 lakh in GSTR-9/3B whereas tax paid in GSTR-3B was ₹ 15.96 lakh only. This resulted in excess availing of ITC of ₹ 39.43 lakh under RCM without payment of tax as detailed in **Table 2.15**.

Table 2.15: Excess availing of ITC under RCM

| (₹ in lakh) | | | | | |
|-------------|-----------------|--------------------|--|--|---------------------------------|
| Sl. No. | GSTIN | Name of the sector | ITC availed on RCM{(in Table 6C, 6D & 6F of GSTR-9) & (in case of 3B-4A(2)+4A(3)) | Tax paid on RCM in GSTR-3B {Table 6.1 (B)} | Non-short payment of tax on RCM |
| 1. | 09XXXXXXXXXX1ZJ | Sec 23 ST Kanpur | 2.90 | 1.93 | 0.97 |
| 2. | 09XXXXXXXXXX1ZM | Sec 9 ST Lucknow | 37.50 | 13.31 | 24.19 |
| 3. | 09XXXXXXXXXX2ZG | Sec 2 ST Rampur | 14.99 | 0.72 | 14.27 |
| | Total | | 55.39 | 15.96 | 39.43 |

An illustrative case is featured below:

Audit examined the returns GSTR-3B and GSTR-9 of M/s J B Trading, GSTIN-09XXXXXXXXXX1ZM under Sector-9 Lucknow, for the year 2017-18 and observed that taxable person had claimed ITC of ₹ 37.50 lakh under RCM, whereas tax of ₹ 13.31 lakh only was paid against RCM (GSTR-3B, column 6.1.B). Thus an excess ITC of ₹ 24.19 lakh was claimed by taxable person without payment of tax.

The matter was reported to the Government and the Department (April 2023). The Department replied (June 2023) that notice in ASMT-10 has been issued.

2.6.3.4 Discharge of tax liability

The taxable event in case of GST is supply of goods and/or services. Section 9 of the UPGST Act is the charging section authorizing levy and collection of tax called Central/State Goods and Services Tax on all intra-State supplies of goods or services or both, except on supply of alcoholic liquor for human consumption, on value determined under section 15 of the Act *ibid* and at such rates not exceeding 20 *per cent* under each Act, i.e., UPGST Act and CGST Act. Section 5 of the IGST Act vests levy and collection of IGST on interstate supply of goods and services with Central Government with maximum rate of 40 *per cent*.

Under Section 8 of the Goods and Services Tax (Compensation to States) Act, 2017, a cess is levied on all inter-state and intra-state supply of such goods or services or both which are listed in the schedule of the said Act such as tobacco products, aerated drinks, cigarettes, vehicles etc. Section 9(4) of the UPGST Act and Sections 5(3) and 5(4) of the IGST Act provide for reverse charge levy on certain goods or services, wherein the recipient instead of supplier becomes liable to pay tax.

Audit observations are as follows:

(a) Exclusion of supplies

Section 7 of UPGST Act, 2017 defines supplies to include all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. It also includes import of services for a consideration whether or not in the course or furtherance of business. This is an inclusive definition, main elements being (1) supply should be of goods or services, (2) supply has to be made for a consideration, (3) supply has to be made in the course or furtherance of business, (4) supply should be made by a taxable person, (5) supply should be a taxable supply, and (6) supply should be made within the taxable territory. Schedule I specifies certain activities which even made without a consideration shall be treated as supply. Schedule II specifies treatment of certain activities or

transactions as either supply of goods or supply of services. Section 8 of UPGST Act 2017 deals with composition and mixed supplies.

During scrutiny of returns, Profit and Loss account and assessment order of Value Added Tax (VAT) period of taxable person M/S Newtech Shelters Pvt Ltd, Ghaziabad GSTIN-09XXXXXXXXXX1ZL in Sector 11 ST Ghaziabad for the year 2017-18, it was found that taxable person had neither declared any turnover of supply nor any tax liability in his GSTR-3Bs. However, in Profit and Loss account for the year 2017-18 taxable person had shown ₹ 1.52 crore in the head revenue from operations. Further, on examination of assessment order of year 2017-18 (VAT) it was found that turnover of supply was assessed for ₹ 65.45 lakh. Hence, differential turnover of supply of ₹ 86.17 lakh was not declared by taxable person in GST regime resulting in non-levy of tax of ₹ 4.31 lakh at the rate of five *per cent* on supply of turnover of ₹ 86.17 lakh.

The matter was reported to the Government and the Department (April 2023). The reply was awaited (January 2024).

(b) Tax payment under Reverse Charge Mechanism

As per the provisions of Section 9(3) of UPGST Act, 2017 and Section 5(3) of IGST Act, 2017, the Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Audit observed compliance deficiencies in two out of 80 cases, amounting to ₹ 4.17 crore, due to taxable persons incorrectly discharging tax liability under Reverse Charge Mechanism leading to short levy of tax.

The irregularities noticed are featured in **Table 2.16** below:

Table 2.16: Two cases under RCM

(₹ in crore)

| Sl. No. | GSTIN | Jurisdictional office | ITC availed on RCM{(in Table 6C, 6D & 6F of GSTR-9) & (in case of 3B-4A(2)+4A(3))} | Tax paid on RCM {(in GSTR9 Table 4G) and (in case of GSTR-3B Table 3.1(d))} | Non-short payment of tax on RCM |
|---------|-----------------|-----------------------|---|---|---------------------------------|
| 1. | 09XXXXXXXXXX1ZO | JC CC ST Ayodhya | 3.77 | 0 | 3.77 |
| 2. | 09XXXXXXXXXX1ZN | Sec 16 ST Kanpur | 0.40 | 0 | 0.40 |
| | Total | | 4.17 | 0 | 4.17 |

An illustrative case is featured below:

Scrutiny of Annual return GSTR-9 and Electronic Cash Ledger, of M/s Gupta Traders GSTIN-09XXXXXXXXXX1ZO under Joint Commissioner (Corporate Circle) ST Ayodhya, revealed short payment of tax under RCM. The tax payable under RCM as per Table 4G⁴⁵ of GSTR-9 was ₹ 3.77 crore whereas in Electronic Cash Ledger no debit entry was made for tax payment against RCM for the year 2017-18. Thus tax of ₹ 3.77 crore in cash was not paid against RCM liability. No action was initiated by the Sector (October 2022).

The matter was reported to the Government and the Department (April 2023). The Department replied (June 2023) that notice in ASMT-10 under Section 61 of UPGST Act, 2017 has been issued to the taxable persons.

(c) Other observations

Audit also noticed 33 inconsistencies/mismatch in tax liability and non-imposition of penalty cases amounting to ₹ 67.32 crore, which are featured below:

(i) Mismatch of tax liability admitted in GSTR-1/GSTR-9 and tax paid shown in GSTR-9

In order to analyse the undischarged tax liability, relevant data of GSTR-1, GSTR-9 for the year 2017-18 and the tax payable in these returns was compared with the tax paid in GSTR-9. Greater tax liability between GSTR-1 and GSTR-9 was taken into consideration. The amendments and advance adjustments declared in GSTR-1 and GSTR-9 were also considered for this purpose.

Audit examined the returns of 80 sampled taxable persons registered in 72 sector offices and observed in 21 sectors⁴⁶ that 23 registered persons had total tax liability of ₹ 1,806.95 crore as per GSTR-1 or GSTR-9 (whichever is greater) whereas actual tax paid was ₹ 1,746.16 crore as per (Table 9 +Table 14-Table 4G) of GSTR-9. Thus taxable persons exhibited high value deviations, with potential short payment of tax of ₹ 60.79 crore which was recoverable as per provisions of UPGST Act, 2017.

The matter was reported to the Government and the Department (April 2023). The Department replied (June 2023) that recovery of ₹ 22.16 lakh has been made of in two cases, in one case tax of ₹ 13.96 lakh through DRC-07 has been levied, in one case tax of ₹ 8.45 crore has been levied but taxable person has filed appeal, in three cases action was under process and in 14 cases notice

⁴⁵ Table 4G of the Annual return GSTR-9 captured the tax payment under RCM for the entire year.

⁴⁶ Sec 4 ST Basti, Sec 3 Chandauli, Sec 6, 10 & 17 ST Ghaziabad, Sec 16 & 23 ST Kanpur, JC CC-I ST Lucknow, JC CC-II ST Lucknow, Sec 9, 12 & 22 ST Lucknow, Kosikalan ST Mathura, Sec 11 ST Meerut, JC CC Range-A ST Noida, JC CC-Range-B ST Noida, Sec 5, 9, & 14 ST Noida, Sec-1 Raebareilly, Sec 1 ST Unnao.

under Section 61/73/74 of UPGST Act, 2017 issued. In one case, Department has taken action before commencement of audit and in one case, reply not found convincing (**Appendix-XIII**).

An illustrative case is featured below:

During scrutiny of returns GSTR-3B and GSTR-9 for the year 2017-18 of M/s Bhartiya Bhaiyo Ki Dukan, GSTIN-09XXXXXXXXXX1Z9, Sec 4 ST Basti, it was found that taxable person had tax liability for ₹ 21.47 lakh as per GSTR-1 and tax liability as per GSTR-9 for ₹ 37.96 lakh whereas it paid tax of ₹ 21.47 lakh as per GSTR-9. Thus tax liability of ₹ 16.48 lakh as per GSTR-9 was not paid.

The matter was reported to the Government and the Department (April 2023). The Department replied that in compliance of audit objection tax of ₹ 17.16 lakh has been deposited by the taxable person vide DRC-03 dated 03 November 2022 and 01 May 2023.

(ii) Mismatch of tax liability between GSTR-1 and tax paid shown in GSTR-3B

In order to analyse the undischarged tax liability, relevant data of GSTR-1 and GSTR-3B for the year 2017-18 and the tax payable in these returns was compared with the tax paid declared in GSTR-3B. The amendments and advance adjustments declared in GSTR-1 and 3B were also considered for this purpose.

Audit examined the returns of the 80 sampled taxable persons registered in 72 sector offices and observed in nine sectors⁴⁷ that nine taxable persons had total tax liability of ₹ 17.45 crore as per GSTR-1 whereas actual tax paid as per GSTR-3B was ₹ 10.99 crore. Thus taxable persons exhibited high value deviations, with potential short payment of tax of ₹ 6.46 crore which was recoverable as per provisions of UPGST Act, 2017 (**Appendix-XIV**).

The matter was reported to the Government and the Department (April 2023). The Department replied (June 2023) that recovery of ₹ 7.30 lakh has been made in two cases, in one case tax of ₹ 18.65 lakh levied through DRC-07, penalty of ₹ 5.93 crore imposed in two cases under Section 122 (1)(ii)⁴⁸, notice issued in four cases under Section 73/74 of UPGST Act, 2017.

⁴⁷ Sec 1 ST Ballia, Sec 3 ST Gautam Buddha Nagar, Sec 4 ST Ghaziabad, Sec 2 ST Hardoi, Sec 2 ST Lucknow, Sec 6 ST Lucknow, Sec 16 ST Lucknow, Sec 2 ST Muzaffarnagar and Sec 1 ST Siddharth Nagar.

⁴⁸ Section 122. Penalty for certain offences.- (1) Where a taxable person who issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder, he shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher.

(iii) Non-imposition of penalty for non-deposit of admitted tax

As per provisions of the Section 73 of UPGST Act, 2017, where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.

The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten *per cent* of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.

Audit scrutinised the GSTR-3B, GSTR-1, Cash Ledger and Credit Ledger of M/s Gorra Specialities Ltd., Kosikalan GSTIN-09XXXXXXXXXX1ZD for the months of July 2017 to March 2018 and observed that taxable person has admitted tax liability of ₹ 65.99 lakh in GSTR1 out of which ₹ 75,990.00 was cleared through ITC in the month of November 2017. Rest of the tax ₹ 65.23⁴⁹ lakh was neither paid in cash nor adjusted through ITC. Therefore, penalty of ₹ 6.52 lakh impossible as per aforesaid provisions of the Act was not imposed.

The matter was reported to the Government and the Department (April 2023). The Department replied (June 2023) that notice in ASMT-10 under Section 61 of UPGST Act, 2017 has been issued to the taxable person.

Recommendation 5: The Department may initiate remedial action for all the compliance deviations brought out in this report before they get time barred.

2.7 Inadequacy of manpower

For efficient functioning of the Department, proper manpower planning to meet its objectives and its proper deployment is necessary.

The sanction and working strength of Commercial Taxes Department in respect of adjudicating authority (Deputy Commissioner, Assistant Commissioner, Commercial Taxes Officer) and other supporting staff (Administrative Officer, Principal Assistant, Ledger Keeper, Junior Assistant etc.) during the years 2017-18 to 2020-21 is given in **Table 2.17**.

⁴⁹ Observation on mismatch of tax liability of ₹ 65.23 lakh added under caption "Mismatch of tax liability in GSTR-1/GSTR-9 and tax paid shown in GSTR-9."

Table 2.17: Inadequacy of manpower

| Year | Name of the posts | Number of sanctioned posts | Actual strength | Number of vacant posts | Percentage of vacant posts |
|---------|------------------------|----------------------------|-----------------|------------------------|----------------------------|
| 2017-18 | Adjudicating authority | 3,108 | 2,464 | 644 | 20.72% |
| | Supporting staff | 13,906 | 7,697 | 6,209 | 44.64% |
| 2018-19 | Adjudicating authority | 3,108 | 2,466 | 642 | 20.66% |
| | Supporting staff | 13,904 | 6,745 | 7,159 | 51.48% |
| 2019-20 | Adjudicating authority | 3,108 | 2,519 | 589 | 18.95% |
| | Supporting staff | 13,903 | 6,785 | 7,118 | 51.19% |
| 2020-21 | Adjudicating authority | 3,108 | 2,464 | 644 | 20.72% |
| | Supporting staff | 13,903 | 6,442 | 7,461 | 53.66% |

Source: Information provided by the Commercial Taxes Department.

The above table shows that during 2017-18 to 2020-21, the vacant posts in respect of Adjudicating authority ranged between 18.95 to 20.72 *per cent*. Further, the vacant posts in respect of supporting staff ranged between 44.64 to 53.66 *per cent*. Absence of adequate manpower has impacted the working efficiency of the Department which is evident in the slow pace of scrutiny or returns, lack of action in cases of cancellation of registrations, etc.

Audit also noticed that adjudicating authorities were given BOWEB access from 1 July 2017 while supporting staff was allowed access only from October 2022. From this it is evident that staff was not involved in the related aspect of GST work during July 2017 to September 2022.

The matter was reported to the Government and the Department (April 2023). The Department replied (June 2023) that the issue of filling the vacancies is raised with the Government from time to time.

2.8 Internal audit not initiated

Internal Audit of an organisation is a vital component of the internal control mechanism. It enables the organisation to assure itself that the prescribed systems are functioning reasonably well.

On being inquired about the number of units⁵⁰ planned, number of units covered, number of units audited outside the planned and number of nil reports related to internal audit, the Department replied (June 2023) that the 'Model All India GST Audit Manual 2023' has been introduced in March 2023 and internal audit has now been started as per provisions of the manual.

⁵⁰ Assessment sectors, Deputy Commissioner Administration, Mobile Squad unit etc.

2.9 Conclusion

The Compliance Audit on Department Oversight on GST Payments and Return Filing was undertaken in the context of varying trend of return filing and continued data inconsistencies with an objective of assessing the adequacy of the system in monitoring return filing and tax payments, extent of compliance and other departmental oversight functions.

This audit was predominantly based on data analysis, which highlighted risk areas, red flags and in some cases, rule-based deviations and logical inconsistencies in GST returns filed for 2017-18. The audit entailed assessing the oversight functions of State Jurisdictional formation at two levels, at the data level through global data queries and at the functional level with a deeper detailed audit both of the Sectors/Zones and of the GST returns, which involved accessing taxpayer records. The audit sample therefore comprised 20 Zones, 462 high value inconsistencies across 15 parameters selected through global queries and 80 taxpayers selected on risk assessment for detailed audit of GST returns for the year 2017-18.

A review of the 10 Sectors disclosed that Sectors' compliance to essential oversight functions, such as monitoring of returns filing, scrutiny of returns, audit, taxpayer compliance and cancellation of registration, was inadequate.

In limited audit relatively higher rates of deviations were noticed in risk parameters such as Mismatch of ITC availed between Annual returns and Books of accounts, Mismatch in turnover declared in GSTR-9C Table 5R, Mismatch in tax paid between books of accounts and returns and short/non-payment of interest etc.

Detailed audit of GST returns also suggested significant non-compliance. Certain essential records such as financial statements, directors report etc., were not produced in nine cases, which resulted in scope limitation. The main deficiencies noticed were availing of irregular ITC, non-imposition of penalty for not deposit of tax, non-charging of interest and incorrect discharge of tax under RCM.

Considering the compliance deficiencies, pointed out in this chapter the Department needs to reinforce the institutional mechanism in the Sectors to establish and maintain effective oversight on return filing, taxpayer compliance, tax payments, cancellation of registrations and recovery of dues from defaulters.

2.10 Summary of recommendations

The recommendations are as follows:

- 1. The Department may complete the proceeding within the prescribed timelines for scrutiny of the returns.**
- 2. As the GST is self-assessed tax regime and audit is one of the main tools for ensuring compliance by the taxpayers, the Department needs to take prompt steps to undertake the remaining audits so that timely action could be initiated against the defaulters and recoveries could be effected so as to plug the revenue leakage. The Department may also ensure timely recovery of dues pointed out in audit.**
- 3. The Department may instruct its field formations to maintain information and take timely action on oversight functions and to share the same with audit.**
- 4. The Department may consider introducing validation controls in GST Returns to curb data entry errors, enhance taxpayer compliance and facilitate better scrutiny.**
- 5. The Department may initiate remedial action for all the compliance deviations brought out in this report before they get time barred.**