

CHAPTER II
TAXATION DEPARTMENT



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2.1 Tax Administration

The Taxation Department holds the mandate for the administration of taxes on sales, trade, *etc.*, within the State. The collection of tax is governed by the provisions of the Meghalaya Value Added Tax (MVAT) Act, 2003; the MVAT Rules, 2005; the Central Sales Tax (CST) Act, 1956; the CST Rules, 1957; the Meghalaya Sales of Petroleum and Petroleum Products (including Motor Spirit) and Lubricants Taxation (MSL) Act, 1972, *etc.* With the introduction of Goods & Services Tax (GST) on 01 July 2017, CST Act and MVAT Act have been repealed.

The Principal Secretary/Commissioner and Secretary to the Government of Meghalaya, overseeing the Excise, Registration, Taxation, and Stamps (ERTS) Department, assumes overall charge of the Taxation Department at the Government level. Within this framework, the Commissioner of Taxes (CoT) serves as the Head of the Department and is entrusted with the administration of all taxation initiatives, which encompasses the general control and supervision of zonal offices, unit offices, and staff engaged in tax collection, and also to guard against evasion of taxes. In addition to these duties, the CoT is also the authority for disposing of revision petitions under all taxation acts and laws besides providing clarifications under the MVAT Act, 2003. The CoT is assisted by Additional Commissioner, Joint Commissioner of Taxes (JCT), Dy. Commissioners of Taxes (DCTs), Assistant Commissioners of Taxes (ACTs), Superintendents of Taxes (STs) and Inspectors of Taxes operating both at the Headquarters and zonal/unit levels. At the district level, the task of dealer registration, returns scrutiny, tax collection, interest and penalty imposition, issuance of road permits/declaration forms, and enforcement and supervision rests under the purview of 16¹⁰ designated Superintendents of Taxes (STs).

2.2 Results of Audit

Test-check of records of 15 units during 2022-23 revealed short collection of taxes, loss of revenue, and other irregularities in 74 cases involving an amount of ₹ 520.11 crore, as depicted in **Table 2.1**.

Table 2.1: Results of Audit conducted during 2022-23

(₹ in crore)			
Sl. No.	Category	No. of Cases	Amount
1.	Short collection of taxes	10	15.83
2.	Loss of revenue	3	0.92
3.	Other irregularities	61	503.36
Total:		74	520.11

¹⁰ (1) ST Circle I, (2) ST Circle II, (3) ST Circle III, (4) ST Circle IV, (5) ST Circle V, (6) ST Circle VI, (7) ST Circle VII, (8) ST Circle VIII, (9) ST Williamnagar Circle, (10) ST Tura Circle, (11) ST Jowai Circle, (12) ST Ri Bhoi Circle, (13) Non-resident Circle, (14) ST Nongstoin Circle, (15) ST Khliehriat Circle, (16) ST Tura Circle II.

During the year 2022-23, the Department accepted short collection of revenue and other deficiencies to the tune of ₹ 417.46 crore in 26 cases. No recovery was made during the year.

This chapter contains three Subject Specific Compliance Audits (SSCAs), outlined as follows:

- (i) Implementation of Meghalaya Regulation of the Game of Arrow Shooting and the Sale of Teer Tickets Act, with a financial impact of ₹ 0.17 crore.
- (ii) Department's Oversight on GST Payments and Returns Filing (Phase I), with a financial impact of ₹ 73.46 crore, and
- (iii) Tax Deduction at Source (TDS) by Government Departments and Tax Collection at Source (TCS) by E-Commerce Operators, with a financial implication of ₹ 8.28 crore.

2.3 SSCA on Implementation of Meghalaya Regulation of the Game of Arrow Shooting and the Sale of Teer Tickets Act.

2.3.1 Introduction

Meghalaya has a unique tradition of lottery called Teer (Arrow). Teer is a lottery based on the game of arrow shooting. People participate in the teer lottery by buying teer tickets and submitting their guess of winning number (00 – 99) to a **Bookmaker**¹¹. The winning number is obtained by selecting the last two digits from the total number of arrows that hit the target in a game of shooting arrow organised by an **Organiser**¹². The participants who have rightly guessed this number is the winning **Bettor**. A winning bettor receives a winning amount of 80 times their bet amount. For example, a bettor pledges a bet of ₹ 50 on the number 44 and the number of arrows hitting the target is 744. Then the bettor is declared a winning bettor and receives a winning amount of ₹ 4,000 i.e., 50*80.



Fig 1: The game of arrow shooting.

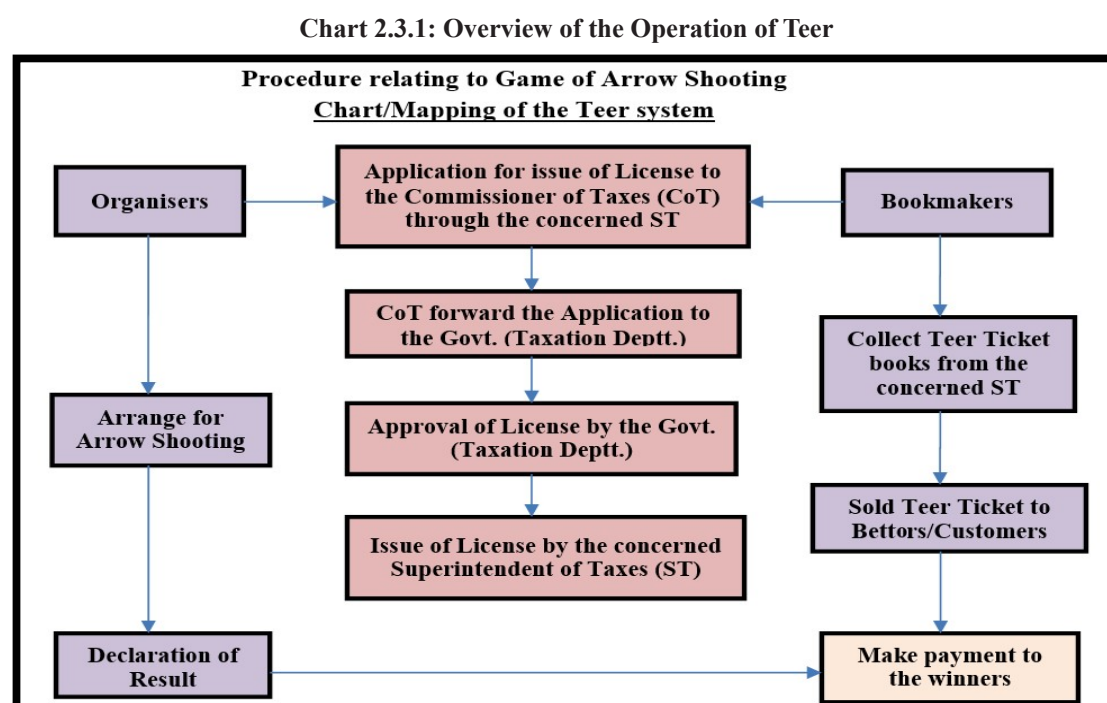
¹¹ Bookmaker means any person who carries on business or vocation as a bookmaker in respect of sale of teer (thoh team) tickets on the game of arrow shooting under a licence issued in the manner prescribed by the State Government.

¹² Organiser means a person or organisation authorised to organise arrow shooting or the game of teer (thoh team) under licence or permit issued in the manner prescribed by any officer authorised in this behalf by the State Government.

The Government of Meghalaya (GOM) has enacted the Meghalaya Regulation of the Game of Arrow Shooting and the Sale of Teer Tickets (MRGAS&STT) Act, 2018 and also notified Meghalaya Regulation of the Game of Arrow Shooting and the Sale of Teer Tickets (MRGAS &STT) Rules, 2018 to regulate the game of arrow shooting and the sale of teer tickets. The administration of these legal frameworks falls under the Excise, Registration, Taxation, and Stamps (ERTS) Department, Government of Meghalaya.

Prior to enactment of the MRGAS&STT Act in 2018, arrow shooting in Meghalaya fell under the purview of the Meghalaya Amusement and Betting Tax (MABT) Act, 1982. However, with the advent of the Goods and Services Tax (GST), the MABT Act, 1982 has been subsumed into the broader framework of GST.

An overview of the Game of Arrow Shooting and the Sale of Teer Tickets is depicted in **Chart 2.3.1**.



Total number of organisers and bookmakers registered with the ERTS department during 2017-18 to 2022-23 is depicted in **Table 2.3.1**.

Table 2.3.1: Number of Organisers and Bookmakers

Sl. No.	Particulars	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
1	Number of Licensed Organisers	5	4	4	6	6	6
2	Number of licensed bookmakers	400	228	246	402	437	1438

As illustrated in the table above, the number of organizers decreased from five to four during the 2018-19 and remained unchanged in 2019-20. However, from 2020-21, there was an increase from four to six, which remained the same through 2022-23.

In contrast, the number of licensed bookmakers exhibited notable fluctuations. There was a sharp decline during the 2018-19 and 2019-20, with a decrease of 43 *per cent* and 39 *per cent*, respectively, when compared to 2017-18. During 2020-21, an increase of 63 *per cent* was seen followed by an additional 8 *per cent* increase in 2021-22. The number of bookmakers peaked dramatically in 2022-23, with a substantial increase of 229 *per cent*.

Revenue collected from the MRGAS & STT consists of license fee, renewal license fee, security fee, sale of teer books and penalty. Year-wise position of collection of revenue by the ERTS Department under the MRGAS & STT Act and Rules during July 2017 to March 2023 is depicted in **Table 2.3.2**.

Table 2.3.2: Year-wise collection of revenue by ERTS Department under MRGAS & STT Act/Rules
(₹ in crore)

Year	Budget Estimate (BE)	Revenue Generated	Percentage of Revenue Generated against BE	Increase (+) / Decrease (-) in revenue generated over the previous year	
				Amount	Percentage
2017-18 ¹³	3.35	0.53	15.82	0.00	-
2018-19	4.10	2.23	54.39	1.70	(+) 320.75
2019-20	1.81	2.91	160.77	0.68	(+) 30.49
2020-21	2.94	1.19	40.48	-1.72	(-) 59.11
2021-22	0.49	0.70	142.86	-0.49	(-) 41.18
2022-23	2.51	1.74	69.32	1.04	(+) 148.57
Total	15.20	9.30	61.18	-	-

Source: Information furnished by the Department and State Finance Accounts.

Table 2.3.2 presents the revenue generated from the Game of Arrow Shooting and Sale of Teer Tickets and compares with Budget Estimates during 2017-18 to 2022-23. The collection of revenue increased by 320.75 *per cent* from ₹ 0.53 crore (2017-18) to ₹ 2.23 crore (2018-19). The increase in 2019-20 (₹ 2.91 crore) over 2018-19 (₹ 2.23 crore) was 30.49 *per cent* (₹ 0.68 crore). However, the revenue declined by 59.11 *per cent* (₹ 1.72 crore) in 2020-21 (₹ 1.19 crore) from 2019-20 (₹ 2.91 crore). The decline continued in 2021-22 (₹ 0.70 crore) from 2020-21 (₹ 1.19 crore) by 41.48 *per cent*. During 2022-23, revenue generated increase by 148.57 *per cent* (₹ 1.74 crore) when compared to 2021-22 (₹ 0.70 crore).

The Department stated that the decrease in collection of revenue was due to Lockdown (Covid-19). The department stated that it has not fixed any target on the collection of revenue from the Game of Arrow Shooting and Sale of Teer Tickets during the period covered by the audit. However, budget provisions were made for the Revenue Heads¹⁴ under which the revenue from the Game and Sale of Teer Tickets is received, as illustrated in **Table 2.3.2**. In other words, budget targets were made for revenue from the game and sale of tickets thereof.

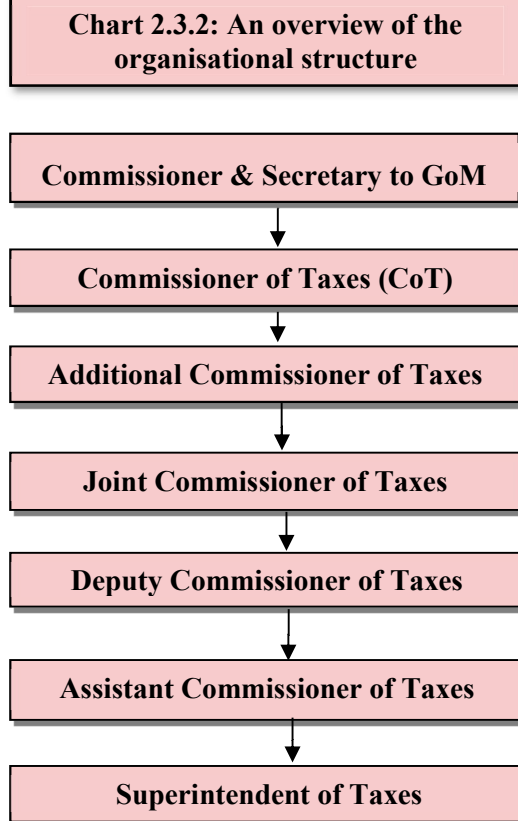
¹³ w.e.f. 01.07.2017

¹⁴ 2017-18 to 2018-19: 0045-102-01-01(Tax Collection-Licence fee & Teer Book) & 2019-20 to 2021-22: 0045-800-03(Fees for Regulating the Game of Archery-License and permit Fee & Teer Book fee)

The Audit findings brought out loss of revenue from MRGAS & STT to the extent of ₹ 0.17 crore which is two *per cent* of the total revenue (₹ 9.30 crore) collected from the Game of Arrow Shooting and Sale of Teer Tickets during the period covered under audit.

2.3.2 Organisational set-up

Excise, Registration, Taxation and Stamps (ERTS) Department administers the regulatory frameworks governing teer in Meghalaya. The Commissioner & Secretary to the Government of Meghalaya, Excise, Registration, Taxation and Stamps (ERTS) Department is the administrative head at the Department level. The Commissioner of Taxes (COT) is the administrative head at the Directorate level. He is assisted by a Joint Commissioner of Taxes (JCT) and Assistant Commissioners of Taxes (ACTs). At the District level, 16 Superintendents of Taxes (SsT) have been entrusted with the responsibility of collecting licence fee including renewal thereof, security deposit and other fees of tickets books. The SsT are also responsible for inspection and monitoring of the game of arrow shooting and sale of teer tickets including imposition of penalty on defaulters.



2.3.3 Audit Objectives

The Subject Specific Compliance Audit (SSCA) on ‘**Implementation of Meghalaya Regulation of the Game of Arrow Shooting and the Sale of Teer Tickets Act**’ was carried out to assess whether:

- Applicable Rules had been complied with in granting and renewal of licenses, printing and sale of teer tickets and in collection of revenue from the Game of Arrow Shooting and Sale of Teer Tickets;
- Enforcement mechanism was in place in order to prevent operation of illegal bookmakers/organisers and to safeguard revenue of the State.

2.3.4 Audit Scope and Methodology

Audit examined the implementation of the MRGAS&STT Act, 2018, during the period from 01 July 2017 to 31 March 2022. Audit was conducted between October 2022 and April 2023.

Audit examined records at the Secretariat and the Directorate as well as the selected Superintendent of Taxes, and bookmakers under the jurisdiction of selected superintendents. Joint physical verification (JPV) of bookmakers and event locations was also carried out.

Entry conference for the SSCA was held on 01 November 2022 wherein the audit objectives, criteria, scope and the methodology to be adopted was discussed with the ERTS Department. Exit conference was held with the ERTS Department on 14 June 2023. Replies received from the Department during the Exit Conference and thereafter have been appropriately incorporated in the report.

2.3.5 Audit Criteria

Audit findings were benchmarked against the criteria provided here under:

- The Meghalaya Amusements and Betting Tax Act (Assam Act VI of 1939 as adapted and modified by Government of Meghalaya);
- The Meghalaya Regulation of the Game of Arrow Shooting and the Sale of Teer Tickets Act, 2018;
- The Meghalaya Regulation of the Game of Arrow Shooting and the Sale of Teer Tickets Rules, 2018;
- Government Notifications on the Game of Arrow Shooting and the Sale of Teer Tickets.
- The Goods and Service Tax, 2017 and its amendments.

2.3.6 Audit Sample

Audit sample consisted of eight out of fifteen Superintendent of Taxes offices (Shillong Circles-II, III, VI & VII, Tura Circle-I, Williamnagar, Nongpoh & Khliehriat Circles) which were selected using Probability Proportional to Size Without Replacement (PPSWR) method with size measure being the number of licenses issued to bookmakers during the period from 2017-18 to 2021-22. As on 31 March 2022, there were 466 bookmakers under the jurisdiction of the eight selected SsT.

2.3.7 Acknowledgement

The office of the Principal Accountant General (Audit), Meghalaya, Shillong acknowledges the co-operation extended by the Commissioner & Secretary of ERTS Department, the Commissioner of Taxes and the sampled Superintendents of Taxes during the conduct of the SSCA.

2.3.8 Audit Findings

***Audit Objective 1:** Whether the applicable Rules had been complied with in granting and renewal of licenses, printing and sale of teer tickets and in collection of revenue from the Game of Arrow Shooting and Sale of Teer Tickets.*

2.3.8.1 Irregularities in the issue of licences to Bookmakers and Organisers for the Game of Arrow Shooting and Sale of Teer Tickets.

Rule 3 of the MRGAS&STT Rules, 2018 regulates the grant of licence to organisers and bookmakers. Rule 3(6) of the MRGAS&STT Rules, 2018 prescribes that the license granted under the Rules is valid for a period of one year from the date of issue and expires on 31 March each year. The same rule also bars issuing licence to an applicant whose application has been granted unless prescribed licence fee has been paid. Further, Rule 7(7) and Rule 7(8) of the Rules *ibid* requires submission of application for renewal of licence of bookmakers and organisers, *respectively*, within 30 days before expiry of the current licence. Further, Rule 13 of the MRGAS&STT Rules, 2018 requires surrender of licence for discontinuation of business.

Section 5 of the MRGAS&STT Act, 2018 outlines the terms and conditions for granting licenses to organisers, while Section 6 of the same Act specifies the terms and conditions for granting licenses to bookmakers.

Section 13 (1) of the MRGAS&STT Act, 2018 prescribes penalty for offences of breaching conditions and restrictions imposed by the Act and rules thereunder. Additionally, Section 14(1) allows compounding of offences under the MRGAS&STT Act 2018 and MRGAS&STT Rules 2018 thereof by levying compensation for the offence at the penal rate not exceeding ₹ 30,000 for organisers and ₹ 5,000 for bookmakers. Audit findings are indicated below:

A. Delay in submission of application for renewal of licences by bookmakers and organisers.

Scrutiny of records of bookmakers and organisers in the selected eight SsT offices revealed that 65 bookmakers and two organisers submitted application for renewal of their license for the financial years 2019-20 to 2021-22 with delays ranging from one to 20 months. Delay in submission of application for renewal of license is a violation of the MRGAS&STT Rules 2018 and hence attracts penalty. The SsT, however, did not take any action as per Section 14(1) of the MRGAS&STT Act, 2018, which resulted in non-levy of penalty of ₹ 4.95 lakh as summarised in **Table 2.3.3**.

Table 2.3.3: Non-levy of penalty from bookmakers/organisers who submitted applications for renewal of license after the due date.

(Amount in ₹)

Bookmakers					
Sl. No.	Name of ST office	No. of bookmakers who submitted application for renewal after the due date	Financial year	Period of delay (in months)	Penalty
1	ST, Circle-II, Shillong	13	2020-21 & 2021-22	1 to 14	80,000
2	ST, Circle-III, Shillong	5	2021-22	2 to 10	25,000
3	ST, Circle-VI, Shillong	37	2021-22	1 to 12	1,85,000
4	ST, Circle-VII, Shillong	3	2021-22	6 to 9	15,000
5	ST, Nongpoh	7	2019-20 to 2021-22	1 to 16	70,000
Sub Total		65	-	-	3,75,000

Organisers					
Sl. No.	Name of ST office	No. of organisers who submitted application for renewal after the due date	Financial year	Period of delay (in months)	Penalty
1	ST, Khliehriat	1	2021-22	1	30,000
2	ST, Nongpoh	1	2018-19, 2019-20, 2021-22	3-7	90,000
Sub Total		2	-	-	1,20,000
Grand Total		67	-	-	4,95,000

During the exit conference, the ERTS Department stated that penalty was not levied due to contradiction between Rule 3(7) and Rule 7(7).

Both Rule 3(7) and Rule 7(7) of the MRGAS&SST Rules, 2018 require submission of application for renewal of licence by organisers within 30 days of expiry of the existing licence.

The reply by the ERTS Department is not factually correct as the liability of the bookmakers to renew their licenses is clearly defined in Rule 3 (6) of the MRGAS&SST Rules 2018, failing which the department has powers to invoke Section 13(1) and Section 14(1) of the MRGAS&STT Act, 2018 for taking penal action. The rules 3(7) and 7(7) cited by the department are not applicable to bookmakers. Due to inaction by the ERTS Department to levy compensation as penalty for non-submission and delayed submission of applications for renewal of licences by 65 bookmakers and two organisers, revenue amounting to ₹ 4.95 lakh remains unrealised.

B. Non-identification of organisers

Under Rule 5 of the MRGAS&STT Rules, 2018, license or permit granted for the Bookmakers shall be in Form IV appended to the Rules. As per the prescribed Form IV, the organiser along with its licence number is to be specified in the Bookmakers Licence. Further, as per terms and conditions of the prescribed Form IV, the name of the organiser along with its licence number is to be specified in the Bookmakers Licence.

Examination of the licences issued to the bookmakers by the Superintendents of Taxes (SsT) revealed that the licenses were issued by the SsT without mentioning the name of the organiser in the licence of the bookmakers as summarised in **Table 2.3.4**.

Table 2.3.4: Statement showing licenses issued without mentioning name of the organiser in the licence of the bookmakers.

Sl. No.	Name of ST office	No. of bookmakers where licenses were issued without mentioning the name of the organiser	Financial year
1	ST, Circle-II, Shillong	8	2020-21 & 2021-22
2	ST, Williamnagar	12	2020-21 & 2021-22

Source: Examination of records of bookmakers in the selected SsT offices.

While not mentioning name of the organisers in the licences of bookmakers is non-compliance of the prescribed rules, it is a way to manipulate the system as it prevents ascertaining the organiser under which the bookmakers sell the teer tickets,

thus, making it impossible to ascertain the correct number of teer tickets being sold legally. This places a restriction on monitoring and supervision of operation of the teer lottery in the State of Meghalaya.

The Department accepted the audit observation and stated that rectification has been made in the licenses. Also, the Department has furnished amended licences in respect of seven out of 20 bookmakers pointed out by Audit.

Recommendation: *The Department needs to ensure that the name of the organiser is specified in the bookmakers' licence as prescribed in the Rule.*

C. Potential unregistered bookmakers

Section 16 of the MRGAS&STT Act, 2018 stipulates those licences issued under the repealed MABT Act, 1982 continue to be valid for the remainder of the validity period of the licence issued. Further, Rule 13 of the MRGAS&STT Rules, 2018 requires surrender of licence or permit as and when business as an organiser or bookmaker is discontinued.

Scrutiny of records in the eight sampled ST offices revealed that 967 bookmakers were registered under the repealed MABT Act, 1982. Further scrutiny revealed that as of March 2022, out of 967 bookmakers, only 295 bookmakers had migrated to the MRGAS&STT leaving 672 bookmakers out of the MRGAS&STT Rules, 2018 as detailed in **Table 2.3.5**.

Table 2.3.5: Statement showing migration of bookmakers to MRGAS & STT Rules, 2018.

Sl. No.	Name of ST office	No. of bookmakers registered under the Repealed Act	No. of bookmakers who have migrated to MRGAS&STT Rules	No. of bookmakers who has not migrated to MRGAS&STT Rules
1	ST, Circle-II, Shillong	77	13	64
2	ST, Circle-III, Shillong	32	10	22
3	ST, Circle-VI, Shillong	205	86	119
4	ST, Circle-VII, Shillong	82	18	64
5	ST, Circle-I, Tura	95	1	94
6	ST, Williamnagar	218	77	141
7	ST, Khliehriat	9	5	4
8	ST, Nongpoh	249	85	164
Total:		967	295	672

Source: Records of the Selected SsT.

Audit observed that none of the sampled ST Offices initiated action to ascertain whether the 672 non-migrated bookmakers have surrendered their licenses as prescribed under the Rule 13 and discontinued their business or continue to operate illegally.

The Department stated that though frequent inspections were conducted, records of such inspection were not kept officially. Further, most of the bookmakers who have not migrated into the MRGAS&STT have discontinued their business.

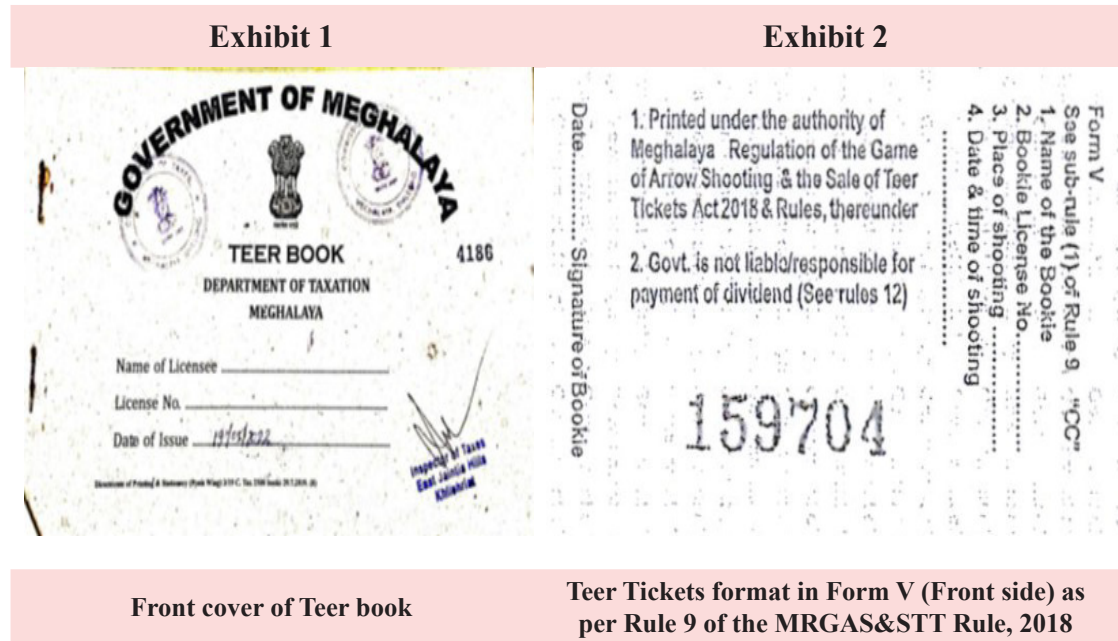
The Department’s claim is not tenable, as records of inspections are not available. This highlights a weak monitoring and enforcement system, raising concerns about unauthorized operations by non-migrated bookmakers.

Recommendation: *The Department needs to ensure the non-migrated bookmakers comply with the prescribed rules of migration unless they have discontinued their business.*

2.3.8.2 Irregularities in sale of teer tickets

A. Teer tickets sold on plain paper

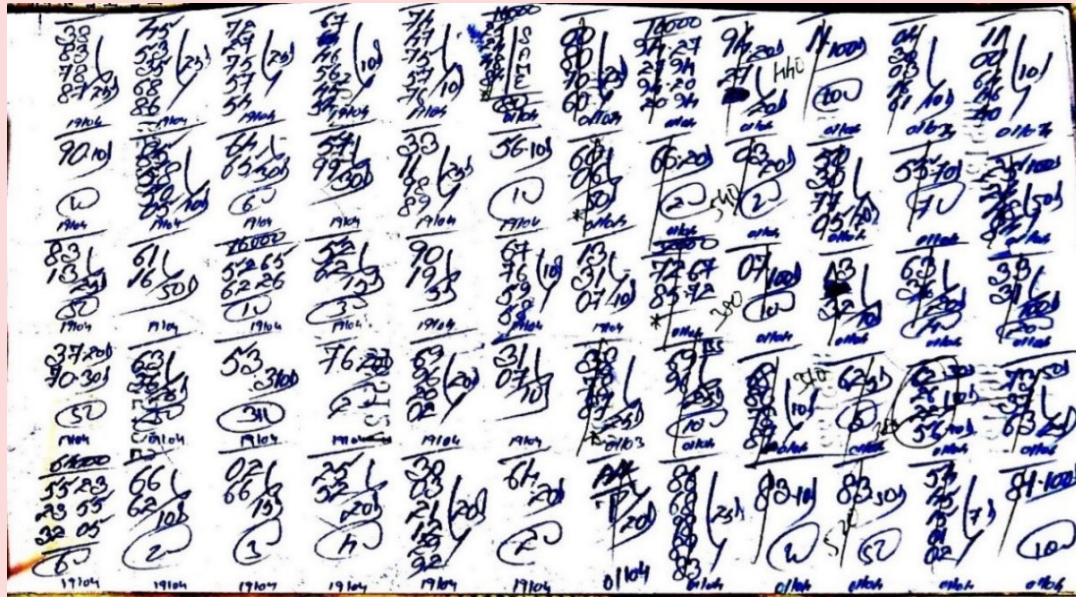
Rule 9 of the MRGAS&STT Rules, 2018 prescribes Form V as format of teer tickets to be sold by the bookmakers. Form V provides for particulars such as Tickets Number, Bookie License Number, Place of shooting, date and time of shooting, bet number, bet amount and signature of the bookmaker. Teer tickets are to be printed and supplied to the bookmakers by the State Government or duly authorised office. Sale of Teer tickets are required to be numbered distinctively. Sale of teer tickets other than those printed and supplied by the state government or duly authorised office is prohibited. Further, tickets for different rounds of shooting are required to be issued from different books which are distinctively numbered under Rule 9 (4) of the MRGAS&STT Rules, 2018.



(i) Teer tickets not sold as per format in Form V issued by the Taxation Department

During Joint Physical Verification (JPV) conducted with officers of the Taxation Department during December 2022 to April 2023 in in the jurisdiction of eight selected SsT offices, it was found that all 61 bookmakers visited as indicated below sold teer tickets from the back side of the printed teer books where only the numbers betted and date was recorded in hand written but other details as per format were not recorded as illustrated in **Exhibit 3**.

Exhibit 3



Duplicate copy of Teer Tickets as sold by bookmakers

The details of the 61 bookmakers are as per Table 2.3.6.

Table 2.3.6: Statement of JPV conducted

Sl. No.	Name of ST office	No. of bookmakers where JPV conducted	Remarks
1	ST, Circle-II, Shillong	4	All the bookmakers sold teer tickets from the back side of the printed teer books
2	ST, Circle-III, Shillong	8	
3	ST, Circle-VI, Shillong	7	
4	ST, Circle-VII, Shillong	10	
5	ST, Circle-I, Tura	8	
6	ST, Williamnagar	9	
7	ST, Khliehriat	6	
8	ST, Nongpoh	9	
Total:		61	-

The sale of teer books in plain paper by the bookmakers without capturing the details prescribed in Form-V is a clear violation of the Rule 9(3) MRGAS&STT Rules, 2018.

During JPV, bookmakers stated that there is no place to write on the front side of the teer tickets provided by the Department since the front side has already been filled up with printed words and figures and if written on the top of the printed tickets, it would become illegible. They also stated that the cost of one teer book (which consists of 100 tickets per book) is ₹ 1,000 per book. However, the amount of bet of ₹ one per piece is also accepted and thus if sold as per form V issued by the taxation department, there will be no profit. Further, it was evident that by adopting plain paper method of selling teer tickets, bookmakers were able to sell much larger number of tickets than the tickets actually issued by the Department, that too without a proper account of the value of tickets being sold.

The Department accepted the audit observation and stated that the format of the teer books was required to be revised.

The Department's inability to curb the continuing practice of sale of Teer Tickets on plain paper is a strong indictment on the absence of a regulatory mechanism on sale of teer tickets resulting in unchecked practice of illegal sale of teer tickets.

Recommendation: *The Department may ensure that only teer tickets as per the prescribed format should be sold by the bookmakers. The minimum sale price must be clearly displayed on the front of the ticket, with space provided to indicate the bet value. Additionally, tickets should include a QR code or barcode, to enhance the system's efficiency, promote transparency, and security, benefiting both operators and customers.*

(ii) Issue of teer book to bookmakers without approval of licence

Section 2 (d) of the MRGAS&STT Act, 2018 defines bookmaker as a person who carries on business or vocation as a bookmaker in respect of sale of teer tickets on the game of arrow shooting under a license issued by the State Government.

Audit examined the list bookmakers registered under the repealed Act and noticed that despite the licenses have not been issued under the new Act, however, teer books were issued to these bookmakers. During the period from March 2019 to March 2022, 1375 teer books were issued to 101 bookmakers who do not have a valid licence as summarised in **Table 2.3.7**.

Table 2.3.7: Statement showing teer books issued without approval of licence

Sl. No.	Name of ST office	No. of Bookmakers who were issued teer books without approval of licence	No of teer books issued	Period of issue
1	ST, Circle-II, Shillong	17	159	Mar'19 to Mar'22
2	ST, Circle-III, Shillong	1	22	Sep'19 to Mar'22
3	ST, Circle-VII, Shillong	33	989	Apr'19 to Mar'22
4	ST, Circle-I, Tura	42	83	Jul'19 to Jan'22
5	ST, Nongpoh	8	122	Mar'19 to Mar'22
Total		101	1,375	-

Issuance of teer ticket books to bookmakers who did not have a valid licence constituted not only a violation of the MRGAS&STT Act, 2018, but also indicated large scale prevalence of unauthorised bookmakers due to non-migration of bookmakers registered in the repealed Act as mentioned in **Para 2.3.8.1 (C)**.

In its reply, the Taxation Department stated that teer books were issued to bookmakers in order to collect revenue and to allow the bookmakers to continue their business for their livelihood and also to prevent illegal sale of teer tickets from books not issued by the Department since the approval of license by the Government takes time.

The reply of the Department is not tenable since it is already stipulated under the Rules that the bookmaker needed to apply at least 30 days in advance for issue/renewal of license before starting the operations. While the intention to support bookmakers with expired licenses and prevent unauthorised teer ticket sales is understandable, it's crucial to maintain regulatory standards. Issuing ticket books to those with expired licenses may compromise the integrity of the regulatory framework. Additionally, responsibility for the lapse in monitoring and issuance should be identified and addressed to prevent such oversights in the future, ensuring accountability within the regulatory framework.

Recommendation: *The license renewal process for eligible bookmakers may be expedited, ensuring compliance to the Act. Responsibility may also be fixed on officers who issued teer books to unauthorised bookmakers.*

(iii) Teer tickets sold on games organised by unauthorised organiser

Section 2 (i) of the MRGAS&STT Act, 2018 states that an organiser of arrow shooting means a person or organisation authorised to organise arrow shooting or the game of teer (thoh team) under a licence or permit issued by the State Government. Further, Rule 5 of the MRGAS&STT Rules, 2018 stipulates the format of license for bookmakers at Form-IV. Form IV requires mentioning the name of the organiser of the game of arrow shooting for which teer tickets are sold in the bookmaker's licence. Terms and conditions laid down for bookmakers in the Form IV (licence) prohibit bookmakers from selling tickets for games organised by other organisers.

During JPV conducted (February-March 2023) on the bookmakers with the officers of the Taxation Department in the jurisdiction of the SsT, Circle VII, Shillong and Nongpoh, it was observed that while the licence was issued to the bookmakers mentioning Hynniewtrep Indigenous Archery Organisation Institute (HIAOI), the bookmakers sold teer tickets organised by Khasi Hills Archery Sports Institution (KHASI) which does not have licence to operate as an organiser.





Fig 2: Photos of Teer Shooting organised by Khasi Hills Archery Sports Institute (KHASI).

Audit found no record of any action having being initiated by the Department against such illegal sale of teer tickets for games organised by the unauthorised Khasi Hills Archery Sports Institution (KHASI) and by different organisers.

The Department in their reply stated that the game of archery in the State is a customary practice and Khasi Hills Archery Sports Institution (KHASI) is the oldest organiser where people are used to buying teer tickets on games organised by KHASI. The Department also stated that attempts have been made to stop the illegal operation of the unregistered organiser but could not be stopped.

The reply of the Department is not acceptable since allowing unauthorised teer organisers to operate outside regulatory frameworks, overlooking the established provisions, undermines fair competition, consumer protection, and integrity of teer results. This compromises trust, exposes participants to fraud, and jeopardises the long-term viability of the industry. Strict adherence to regulations is essential to maintain credibility and safeguard stakeholders' interests. Furthermore, a clear requirement to assign responsibility for enforcing these regulations is imperative to ensure accountability and effective oversight.

Recommendation: *The operations of unauthorised organisers may be stopped by enforcement of applicable penal provisions of the MRGAS&STT Act, 2018 and responsibility may also be fixed on the responsible officers who failed to stop illegal operation of teer organiser.*

(iv) Non-maintenance/submission of accounts by bookmakers

Rule 14 (2) of the MRGAS&STT Rules, 2018 requires licensed bookmakers to maintain his accounts in Form VII under the Rules in duplicate in respect of all bets made with him and the particular tickets issued to Bettors and to submit a copy of the said accounts for any particular day to the State Government or the authorised officer within seven days of the closure of betting.

Audit observed that in all the selected SsT offices, none of the bookmakers has maintained and submitted accounts in Form VII to the Taxation Department.

The SsT, however, did not take any action to direct the bookmakers to submit the accounts on the number of teer books used, the number of teer tickets sold and the accounts of bet.

Thus, due to non-submission of accounts by the bookmakers, the department is unable to assess the size of business/operation including annual turnovers of bookmakers. Moreover, non-maintenance/submission of accounts by bookmakers not only increases the risk of exploitation and fraudulent practices but also results in substantial revenue losses for the State.

The Department stated that though the MRGAS&STT Rules provide for submission of accounts by bookmakers, submission of accounts may not be necessary since there is no provision for assessment and for collection of tax.

The reply of the Department that submission of accounts by bookmakers may not be necessary due to absence of provision for assessment is not acceptable since Rule 14(2) of the MRGAS&STT Rules, 2018 clearly requires submission by the bookmakers to the State Government. Non-submission of prescribed accounts is violation of the conditions stipulated by the MRGAS&STT Rules, 2018. The frivolity in the reply of the Department raises serious concern on the commitment to uphold prescribed regulations. The lax enforcement not only compromises turnover assessment but also fosters an environment where non-compliance is tolerated. This issue demands immediate attention and stringent measures to rectify the oversight, ensuring that bookmakers adhere strictly to their financial reporting obligations.

Recommendation: *The Department may ensure that the bookmakers submit their accounts as provisioned in the Rule. Responsibility may also be fixed for failure to enforce reporting mechanism prescribed for bookmakers.*

Audit Objective 2: *Whether enforcement mechanism was in place in order to prevent operation of illegal bookmakers/organisers and to safeguard revenue of the State.*

2.3.8.3 Weak Enforcement Mechanism

A. Sale of teer tickets beyond permissible limits

Under Section 6 (1) of the MRGAS&STT Act, 2018 (as amended in 2019), counter for sale of teer tickets should be located at the place not less than 100 m from the nearest place of worship or educational institution.

During a JPV conducted to ascertain the location of teer counters beyond permissible limits above, Audit checked location of 42 teer counters selling teer tickets across six ST jurisdictions, based on random selection. Out of the 42 teer counters checked, 31 teer counters were operating in the prohibited jurisdictions as summarised in **Table 2.3.8**.

Table 2.3.8: Statement showing teer counters operating within prohibited jurisdictions.

Sl. No.	Name of the SsT Office	No. of Teer Counters checked	No. of Teer Counters operating within 100 meters of nearest educational institution or place of worship
1	Shillong Circle – II	06	03
2	Shillong Circle – III	11	07
3	Shillong Circle – VI	06	06
4	Shillong Circle – VII	03	02
5	Shillong Circle – VIII	06	04
6	Tura Circle – I	10	09
Total		42	31

Source: Joint Physical Verification (ST, Circle VIII did not depute any official for the JPV).

Recommendation: The Department should ensure to relocate all counters operating within 100 meters of nearest educational institutions and places of worship.

B. Register of Licences issued not maintained in the Department

Rule 14 (1) & (3) of the MRGAS&STT Rules, 2018 requires maintaining a register for licence/permit issued for arrow shooting as per format prescribed at Form VI under the Rules.

During examination of the license registers maintained by the sampled SsT offices, it was observed that register for license was not maintained as per the prescribed format. The discrepancies observed are summarised in **Table 2.3.9**.

Table 2.3.9: Statement showing non-maintenance of licence registers in prescribed format.

Sl. No.	Name of the SsT Office	Remarks
1	ST, Circle-II, Shillong	Though the register was maintained, however, in many cases, the date of issue of license was not mentioned. Further the date upto which the license was renewed was not mentioned in many cases.
2	ST, Circle-III, Shillong	Though the register was maintained as per format, however, in many cases, the date of issue, the date from which the license is valid was left blank.
3	ST, Circle-VI, Shillong	The date from which the license is valid and the date of expiry of validity was not mentioned.
4	ST, Circle-VII, Shillong	Though the register was maintained as per format, however, in some cases, the period upto which the license is renewed is not mentioned.
5	ST, Nongpoh	The date of validity and date of expiry of validity was not mentioned.
6	ST, Williamnagar	No Register maintained.
7	ST, Circle-I, Tura	The date of expiry of validity of the license was not mentioned.
8	ST, Khliehriat	The date of issue, the date from which the license is valid and the date of expiry of validity was not mentioned.

Source: Examination of records in the selected SsT offices.

Non-maintenance of registers as prescribed not only indicates lack of monitoring by the SsT it constitutes non-compliance of prescribed rules.

The Department during exit conference while accepting the audit observation, stated that the format for maintenance of registers of license issued to bookmakers provided in the Rules is lengthy and it is difficult to maintain the Register. However, the Department

stated that register as per prescribed format will be maintained electronically henceforth.

The reply of the department that the format for maintenance of registers of license issued to bookmakers provided in the Rules is lengthy which is difficult to maintain is not acceptable since as per format in Form-VI only eight columns need to be entered and filled up. The reply also indicates that the department failed to follow the prescribed Rules and to ensure that all registered bookmakers have renewed and paid the renewal license fee within the prescribed time limit. While the commitment to maintain the register electronically in the prescribed format is noted, the difficulty in manual upkeep cannot excuse non-compliance.

Recommendation: *The Department should proactively work towards maintenance of the register in compliance with the prescribed record-keeping requirements as per prescribed Rules/Act. Non-compliance to prescribed record maintenance may be addressed stringently.*

C. Inspection not conducted

Section 4 (2) of the MRGAS&STT Act, 2018 empowers any authorised officer to enter place where the game of arrow shooting is organised or teer tickets are sold by bookmakers. Further, Section 4 (3) of the MRGAS&STT Act, 2018 prescribes penalty for the offence of obstruction to such entry by authorised officers. Thus, authority has been given to conduct inspection.

To curb illegal sale of teer tickets, regular inspection and supervision of organisers and bookmakers by the authorised officers are required. The position of inspection carried out by the selected SsT office during the years 2017-18 to 2021-22 is summarised in **Table 2.3.10**.

Table 2.3.10: Statement showing position of inspections carried out by SsT.

Sl. No.	Name of the SsT Office	No. of inspections carried out during the years				
		2017-18	2018-19	2019-20	2020-21	2021-22
1	ST, Circle-II, Shillong	Nil	Nil	Nil	1	1
2	ST, Circle-III, Shillong	Nil	Nil	1	Nil	2
3	ST, Circle-VI, Shillong	Nil	Nil	ST stated that regular inspections were conducted, but no records were maintained.		
4	ST, Circle-VII, Shillong	Nil	Nil	ST stated that regular inspections were conducted, but no records were maintained.	Nil	ST stated that regular inspections were conducted, but no records were maintained.
5	ST, Williamnagar	1	2	3	Nil	2
6	ST, Circle-I, Tura	Nil	Nil	Nil	2	3
7	ST, Khliehriat	Nil	Nil	Nil	1	2

From the table above it could be seen that one¹⁵ out of eight selected SsT, did not conduct any inspection during the years 2017-18 to 2021-22. Further, inspections conducted by the other seven ST offices during the five-year period ranges from one to three, which is quite low. This indicates lack of frequent checks to curb illegal operations. The Department did not fix any target for periodic inspection and supervision of organisers/bookmakers.

The Department stated that frequent inspections were conducted but all records on such inspections were not maintained.

Recommendation: *The Department should fix targets (monthly) for regular inspection of bookmakers and organisers to check illegal operations and all inspection reports officially recorded for future accountability. Responsibility may be fixed for non-adherence to prescribed directions.*

D. Inaction against illegal teer counters detected by the Department

Section 13(1) of the MGAS&STT Act, 2018 penalises breach of conditions and restrictions prescribed under the act and rules thereunder. Additionally, Section 14(1) allows compounding of offences under the MRGAS&STT Act 2018 and MRGAS&STT Rules, 2018 thereof by levying compensation for the offence at the penal rate *not exceeding* ₹ 30,000 for organisers and ₹ 5,000 for bookmakers.

During the years 2017-18 to 2021-22, 250 cases of illegal sale of teer tickets were detected during inspection in the jurisdiction of the eight selected ST offices as illustrated in **Table 2.3.11**.

Table 2.3.11: Statement showing illegal sale of teer tickets.

(Amount in ₹)

Sl. No.	Name of the SsT Office	No. of illegal sale of teer tickets detected					Total illegal teer counters	Penalty @5,000 per illegal teer counter
		2017-18	2018-19	2019-20	2020-21	2021-22		
1	ST, Circle-III, Shillong	NIL	NIL	25	NIL	45	70	3,50,000
2	ST, Circle-VI, Shillong	NIL	NIL	20	15	20	55	2,75,000
3	ST, Circle-VII, Shillong	NIL	NIL	10	NIL	15	25	1,25,000
4	ST, Williamnagar	10	5	10	NIL	9	34	1,70,000
5	ST, Khliehriat	NIL	NIL	NIL	23	25	48	2,40,000
6	ST, Circle-II, Shillong	NIL	NIL	NIL	9	9	18	90,000
Total:							250	12,50,000

Source: Information furnished by the Department.

Audit did not find any record to indicate any action being initiated to levy penalty from unauthorised bookmakers identified. Non-imposition of penalty by way of compensation for offence resulted in non-realisation of penalty amounting to ₹ 12.50 lakh.

The Department stated that illegal teer counter were advised to regularise by getting themselves registered under the MRGAS&STT Act, 2018.

¹⁵ ST, Nongpoh.

The reply is not tenable since Section 13 (1) of the MRGAS&STT Act, 2018, explicitly penalises unauthorised sell of teer tickets. Moreover, it reveals a deficient monitoring and enforcement system within the Department, compromising the effective enforcement of MRGAS&STT Act and Rules. This inadequacy undermines the legislative intent and compromises public trust. Strengthening the enforcement mechanisms is imperative to uphold the integrity of the regulatory framework and ensure stringent action against illicit activities such as unauthorised teer ticket sales.

Recommendation: *The penal provisions for violation of the prescribed rules by the bookmakers and organisers may be enforced as per Act/Rules. Responsibility may also be fixed on officers who failed to levy penalty on bookmakers/organisers who violated the provisions of the Act/Rules.*

2.3.19 Conclusion

Audit observed that the applicable Act/Rules were not complied with by the Department while granting/renewal of licenses and while issuing of Teer Books and sale of teer tickets. There are cases where the name of the organiser was not mentioned in the licenses issued to bookmakers, Teer Tickets were not sold in the prescribed format printed by the Government, Teer books were issued to bookmakers without approval of the licenses, bookmakers were allowed to sell teer tickets on games by unauthorised organisers and also there was loss of revenue due to non-renewal of license by bookmakers/organiser and non-levy of penalty.

Monitoring and enforcement mechanism to regulate the Game of Shooting and Sale of Teer Tickets under the MRGAS&STT Act and Rules in order to prevent operation of illegal bookmakers/organisers and to safeguard revenue of the State is inadequate. Despite non submission of accounts by the bookmakers, no action was taken by the department to direct the bookmakers to submit accounts which resulted in turnover of the bookmakers to remain unassessed.

2.3.10 Summary of Recommendations

- (i) *The Department needs to ensure that the name of the organiser is specified in the bookmakers' licence as prescribed in the Rule.*
- (ii) *The Department needs to ensure the non-migrated bookmakers comply with the prescribed rules of migration unless they have discontinued their business.*
- (iii) *The Department may ensure that only teer tickets as per the prescribed format should be sold by the bookmakers. The minimum sale price must be clearly displayed on the front of the ticket, with space provided to indicate the bet value. Additionally, tickets should include a QR code or barcode, to enhance the system's efficiency, promote transparency, and security, benefiting both operators and customers.*

- (iv) The license renewal process for eligible bookmakers may be expedited, ensuring compliance to the Act. Responsibility may also be fixed on officers who issued teer books to unauthorised bookmakers.*
- (v) The operations of unauthorised organisers may be stopped by enforcement of applicable penal provisions of the MRGAS&STT Act, 2018 and responsibility may also be fixed on the responsible officers who failed to stop illegal operation of teer organiser.*
- (vi) The Department may ensure that the bookmakers submit their accounts as provisioned in the Rule. Responsibility may also be fixed for failure to enforce reporting mechanism prescribed for bookmakers.*
- (vii) The Department should ensure to relocate all counters operating within 100 meters of nearest educational institutions and places of worship.*
- (viii) The Department should proactively work towards maintenance of the register in compliance with the prescribed record-keeping requirements as per prescribed Rules/Act. Non-compliance to prescribed record maintenance may be addressed stringently.*
- (ix) The Department should fix targets (monthly) for regular inspection of bookmakers and organisers to check illegal operations and all inspection reports officially recorded for future accountability. Responsibility may be fixed for non-adherence to prescribed directions.*
- (x) The penal provisions for violation of the prescribed rules by the bookmakers and organisers may be enforced as per Act/Rules. Responsibility may also be fixed on officers who failed to levy penalty on bookmakers/organisers who violated the provisions of the Act/Rules.*

2.4 SSCA on Department's Oversight on GST Payments and Returns Filing (Phase I)

2.4.1 Introduction

The Goods and Services Tax (GST) was introduced on 01 July 2017, to replace several taxes collected by the Central and State Governments. It 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 Meghalaya Goods and Services Tax Act, 2017 (MGST 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 with 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 MGST Act read with Rule 99 of Meghalaya Goods and Services Tax Rules, 2017 (MGST Rules) stipulates that the proper officer may scrutinise the return and related particulars furnished by taxpayers, communicate discrepancies to the taxpayers and seek an explanation.

This Subject Specific Compliance Audit (SSCA) was taken up considering the significance of the control mechanism envisaged for tax compliance and the oversight mechanism of the Taxation Department, Government of Meghalaya in this new tax regime.

2.4.2. 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 Circles were adequate and effective.

2.4.3. Audit methodology and scope

This SSCA was predominantly conducted based on data analysis, which highlighted risk areas and red flags in GST payments and returns filing pertaining to the period July 2017 to March 2018. Through data analysis, a set of 12 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 **centralised audit**¹⁶, 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 centralised audit (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 back-end system of the State Taxation Department's 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 formations such as scrutiny of returns, action on non-filers and late-filers, internal audit, cancellation of registration, *etc.* were also reviewed in selected Circles.

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 Circles covered the period from July 2017 to March 2021. The SSCA covered only the State administered taxpayers. Field audit was conducted between January 2022 and August 2022.

Entry conference was held on 17 January 2022 with Additional Commissioner of Taxes, Meghalaya, Shillong in which the audit objectives, sample selection, audit scope and methodology were discussed. The exit conference was held on 20 September 2022 with the Additional Commissioner of Taxes in which the audit findings were discussed. The views expressed by the Department during the exit conference and the written replies to the draft report have been suitably incorporated in the relevant paragraphs.

2.4.4 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 SSCA comprised a set of deviations identified through data analysis for centralised audit that did not involve field visits; a sample of taxpayers for detailed audit that involved field visits and scrutiny of taxpayers' records at departmental premises; and a sample of Circles for evaluating the compliance functions of the Circles.

¹⁶ Centralised Audit did not involve seeking taxpayer's granular records such as financial statements related ledger accounts, invoices, agreements, *etc.*

The three distinct parts of this SSCA are as under:

(i) Part I- Audit of Circles

Five Circles¹⁷ out of 15 Taxation Circles with jurisdiction over more than one selected sample of cases for Detailed Audit were considered as the sample of Circles for evaluation of their oversight functions.

(ii) Part II –Centralised Audit

The sample for Centralised 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, sample of 177 cases pertaining to 13 Taxation Circles were selected for Centralised Audit under this SSCA.

(iii) Part III-Detailed Audit

Detailed Audit was conducted by accessing taxpayers' records through Circles 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 input tax credit (ITC), tax liability mismatch, disproportionate exempted turnover to total turnover and irregular ITC reversal. The sample of 20 taxpayers pertaining to 10 Taxation Circles selected for Detailed Audit comprised Large¹⁸, Medium¹⁹ and Small²⁰ strata taxpayers as well as taxpayers selected randomly.

The details of sample for centralised audit, detailed audit and audit of Circles selected for this SSCA are brought out in **Appendix 2.1**.

2.4.5. Audit criteria

The sources of audit criteria were based on the provisions contained in the MGST Act, IGST Act and Rules made thereunder. In addition, the notifications and circulars issued by State Taxation 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, ITC utilization, scrutiny of returns and oversight of tax compliance and Standard Operating Procedures (SoP) containing instructions to departmental officers on various aspects related to filing returns, scrutiny of returns, cancellation of registrations, *etc.* also formed part of the audit criteria.

2.4.6 Audit findings

The audit findings are categorised into the following three categories:

1. Oversight functions of Circle offices.
2. Centralized Audit
3. Detailed Audit

¹⁷ Shillong Circles I, V, VI & VIII and Ri-Bhoi Circle.

¹⁸ First category strata comprising large taxpayers – top 2 per cent of taxpayers based on turnover.

¹⁹ Second category strata comprising medium taxpayers – next 8 per cent of taxpayers based on turnover.

²⁰ Third category strata comprising small taxpayers – remaining 90 per cent of taxpayers based on turnover.

2.4.6.1 Audit of Circles

The role of Circles (departmental field formations) is to provide oversight over taxpayers' compliance with regard to filing of returns, discharging tax liability and other compliance obligations. The Circles 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.

Audit of five sampled Taxation Circles²¹ was taken up with the objective to assess that the oversight functions exercised by the Circles in relation to scrutiny on filing of returns by taxpayers and cancellation of registrations are as per the provisions of MGST Act and Rules. The observations noticed during the audit of these Circles are brought out in the following paragraphs.

➤ Lack of action on non-filers

Section 46 of the MGST Act, 2017 read with Rule 68 of MGST Rules, 2017 stipulates the 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 officer 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 as per Section 62 of the MGST Act read with the Rule 100 of MGST Rules.

Filing of returns is inherently linked to tax payment, thus establishing a risk of non-payment of tax/penalty in the cases of non-filers.

Test check of five Circles on the status of non-filers revealed the following:

Table 2.4.1: Statement showing the status of non-filers for the period 2017-18 to 2020-21

Sl. No.	Name of the Circle	As per MIS COMP 01 and 02 generated from State GST back-end portal		As per ST's reply		
		No. of cases of non-filers (taxpayers) of returns identified	No. of cases of non-filers (returns) of returns identified	No. of notices issued in GSTR-3A	No. of returns filed after issuance of GSTR-3A	No. of returns not filed even after issuance of GSTR-3A (out of Col 5)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Shillong Circle I	312	10,342	7,128	4,109	3,019
2	Shillong Circle V	159	5,177	0	0	0
3	Shillong Circle VI	217	5,968	NA ²²	0	0
4	Shillong Circle VIII	253	6,058	0	0	0
5	Ri-Bhoi Circle	303	7,563	6,722	2,987	3,735
	Total	1,244	35,108	13,850	7,096	6,754

Source: MIS reports generated from State GST back-end portal and replies received from Department.

²¹ Circle I, V, VI, VIII, Ri Bhoi.

²² Superintendent of Taxes (ST), Circle VI only stated that notices were issued in offline mode but did not provide the details of no. of notices issued.

From **Table 2.4.1**, it could be seen that 35,108 cases of non-filing of returns in respect of 1,244 taxpayers were noticed during the period 2017-18 to 2020-21 in the five sampled Circles as per MIS report. Out of these, notices in GSTR-3A were issued in only 13,850 cases in two Circles²³ by the proper officer as per reply received from these two Circles. Further, Superintendent of Taxes (ST), Circle VI stated that notices were issued offline but detail of the number of notices issued was not provided. In other two Circles²⁴, no action was taken by the proper officer. Appropriate returns were not found filed in 6,754 cases (49 per cent) even after issuance of notices (13,850 cases) in Form GSTR-3A. Interest and late fee amounting to ₹ 0.01 crore and ₹ 0.13 crore were recovered in Circle I only. However, the Jurisdictional officers had not initiated any action regarding assessment and cancellation of registration in these cases. Hence, the due process of issue of GSTR-3A followed by ASMT 13 was not observed in all the other remaining cases.

The audit observation was issued to the Department (September 2022). Reply was awaited (March 2024).

➤ **Slow pace of scrutiny of returns /Non-initiation of scrutiny of returns**

As per Section 61 of the MGST Act, 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 ‘Superintendent of Taxes’. Further, Rule 99 of the MGST Rules, 2017 mandates that the discrepancies, if any, noticed shall be communicated to the taxpayer to seek explanation. The Taxation Department has issued ‘MGST returns scrutiny manual’ which is available on the department’s official website.

Audit analysis of the reply provided by the STs for five sampled Circles relating to scrutiny of returns during the period 2017-18 to 2020-21 revealed that a total of 10,239 returns in respect of 1028 taxpayers were scrutinized by the Proper Officer in the sampled five Circles. It was noticed that out of five Circles, three Circles²⁵ had not carried out any scrutiny of returns during 2017-18. ST, Circle VIII carried out scrutiny only during the year 2020-21.

Further, as a result of scrutiny, out of 1,028 ASMT-10 issued in five Taxation Circles, discrepancies were accepted by taxpayers in only 33 cases in four Circles, resulting in recovery of ₹ 0.33 crore. SCNs were issued in 83 cases in Ri-Bhoi Circle only, involving money value of ₹ 11.12 crore out of which only 36 cases were completed wherein ₹ 0.01 crore was recovered. Details of the cases are given in **Table 2.4.2**.

²³ Circle I and Circle Ri-Bhoi.

²⁴ Circle V and Circle VIII.

²⁵ Circle V, Circle VIII and Circle VI.

Table 2.4.2: Details of results of scrutiny of returns in the five sampled Circles

(₹ in crore)

Circle	No. of taxpayers whose returns scrutinised	No. of returns scrutinised	No. of ASMT-10 issued	Accepted by taxpayer		SCN issued			
				No.	Amount	No.	Amount	Completed	Amount recovered
I	378	4,533	378	5	0.03	0	0	0	0
V	46	526	46	3	0.28	0	0	0	0
VI	389	3,075	389	0	0	0	0	0	0
VIII	132	1,272	132	1	0.01	0	0	0	0
Ri-Bhoi	83	833	83	24	0.01	83	11.12	36	0.01
Total	1,028	10,239	1,028	33	0.33	83	11.12	36	0.01

The audit observation was issued to the Department (September 2022). Reply was awaited (March 2024).

Recommendation: *The Department should take necessary steps to speed up the process of scrutiny of returns under Section 61 of the Act before time barring of cases. Moreover, period within which scrutiny of returns is to be initiated and completed should explicitly be indicated in the Department's GST Returns Scrutiny Manual.*

➤ **Non conduct of internal audit**

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

Audit scrutiny of the information provided by the Department (May–July 2022) in respect of five sampled Circles for the period 2017-18 to 2020-21 revealed that in all the five selected Circles, no cases were marked for Internal Audit. Audit therefore infers that the mechanism of taxpayer's audit under Section 65 of MGST Act, 2017 was not in place.

The audit observation was issued to the Department (September 2022). Reply was awaited (March 2024).

Recommendation: *Prompt action may be initiated by the Department to undertake the audits under Section 65 of the Act before time barring of cases.*

➤ **Cancellation of registration**

(i) Date of cancellation prior to date of application

Rule 22 (3) of the MGST Rules provides that where a person who has submitted an application for cancellation of his registration is no longer liable to be registered or

his registration is liable to be cancelled, the proper officer shall issue an order in Form GST REG-19, within a period of thirty days from the date of application submitted under sub-rule (1) of rule 20 or, as the case may be, the date of the reply to the show cause issued under sub-rule (1), cancel the registration, with effect from a date to be determined by him and notify the taxable person, directing him to pay arrears of any tax, interest or penalty including the amount liable to be paid under sub-section (5) of section 29. In any case the effective date should not be a date earlier than the date of application for the same.

Audit observed that in 636 cases pertaining to four out of five sampled Circles, the date of cancellation preceded the date of application for cancellation of GST registration. Details of such cases are brought out in **Table 2.4.3**.

Table 2.4.3: Date of cancellation prior to date of application

Sl. No.	Jurisdictional Office	Total Cancellation Requests	Number of cases where date of cancellation preceded the date of application
1	Circle I	249	161
2	Circle V	152	107
3	Circle VIII	335	196
4	Circle Ri-Bhoi	363	172
Total		1,099	636

The audit observation was issued to the Department (September 2022). Reply was awaited (March 2024).

(ii) Delays in issue of cancellation order (REG-19)

Rule 22(3) of the MGST Rules provides that where a person who has submitted an application for cancellation of his registration is no longer liable to be registered or his registration is liable to be cancelled, the proper officer shall issue an order in Form GST REG-19, within a period of thirty days from the date of application submitted under sub-rule (1) of rule 20 or, as the case may be, the date of the reply to the show cause issued under sub-rule (1), cancel the registration, with effect from a date to be determined by him and notify the taxable person, directing him to pay arrears of any tax, interest or penalty including the amount liable to be paid under sub-section (5) of section 29.

As per MIS report, there were 2,135 cases of cancellation (1,335 on application + 800 *suo moto* cancellation) during the period 2017-18 to 2020-21 in five sampled Circles. Audit noticed that out of these 2,135 cases, the cancellation order in REG-19 were issued with delay beyond the stipulated period in 585 cases falling under five Circles ranging from one to 729 days. The details of such cases are brought out in **Table 2.4.4**.

Table 2.4.4: Delays in cancellation (As per MIS REG 1.18)

Sl. No.	Jurisdictional Office	Total Cancellation on Request by Taxpayer	Delays (30 days from date of application) in Cancellation cases in respect of Col 3	Range of delay (no. of days) in respect of Col 4	Total Cancellation <i>suo moto</i>	Delays (37 days from date of issue of notice) in Cancellation cases in respect of Col 6	Range of delay (no. of days) in respect of Col 7
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	Circle I	249	74	01-589	177	28	01-729
2	Circle V	152	45	03-175	68	07	03-181
3	Circle VI	236	27	01-300	183	44	02-554
4	Circle VIII	335	72	02-374	253	84	02-630
5	Ri-Bhoi	363	119	01-686	119	85	03-322
Total		1,335	337	-	800	248	-

The audit observation was issued to the Department (September 2022). Reply was awaited (March 2024).

(iii) Inadequate follow up on non-filing of GSTR-10

Section 45 of the MGST Act, 2017 read with Rule 81 of MGST Rules, 2017 stipulates that any person whose registration was cancelled should file final return in Form GSTR-10 within three months of the effective date of cancellation or the date of order of cancellation, whichever is later.

Section 46 of the MGST Act, 2017 read with Rule 68 of the MGST Rules, 2017 requires issuance of a notice in Form GSTR-3A to a registered person who fails to furnish return under section 39 or section 44 or section 45. If the taxpayer still fails to file the final return within 15 days of the receipt of notice, then an assessment order in Form ASMT-13 under Section 62 of the MGST Act read with Rule 100 of the MGST Rules shall have to be issued to determine the liability of the taxpayer. If the taxpayer files the final return within 30 days from the issue of order ASMT-13, then the said order shall be deemed to have been withdrawn. However, the liability for payment of interest and late fee shall continue.

The last date for furnishing of GSTR-10 by those taxpayers whose registration has been cancelled on or before 30 September 2018 was extended by State Government till 31 December 2018 *vide* notification No. ERTS (T) 65/2017/Pt II/29 dated the 26 October 2018.

Audit noticed from the information available on State GST back-end portal that GSTR-10 was not filed even after stipulated period from the date of cancellation of registration in 360 cases across five test checked Circles during the period 2017-18 to 2020-21. However, no action was found to be initiated by the Department against the defaulters like issuance of notice in GSTR-3A and ASMT 13. The details of such cases are given **Table 2.4.5**.

Table 2.4.5: Inadequate follow up on non-filing of GSTR-10

Sl. No.	Circle	Number of Registrations Cancelled (Suo moto + On taxpayer application) (MIS REG 1.18)	GSTR-10 pending to be filed (MIS COMP 14)
1	Circle I	426	46
2	Circle V	220	39
3	Circle VI	419	75
4	Circle VIII	588	137
5	Circle Ri Bhoi	482	63
	Total	2,135	360

The audit observation was issued to the Department (September 2022). Reply was awaited (March 2024).

Recommendation: *The Taxation Department may strengthen the internal monitoring mechanism in Circle offices and ensure that due diligence is followed for filing of cancellation, issue of Show Cause Notices and recovery.*

2.4.6.2 Inconsistencies in GST returns – Centralised audit

Audit analysed GST returns data pertaining to 2017-18 as made available by GSTN. Rule-based deviations and logical inconsistencies between GST returns filed by taxpayers were identified on a set of 12 parameters, which can be broadly categorized into two domains - ITC and Tax payments.

Out of the 13 prescribed GST returns²⁶, the following seven 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 credits 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.

²⁶ (i) GSTR-1, (ii) GSTR-3B, (iii) GSTR-4 (taxpayers under the Composition scheme), (iv) GSTR-5 (non-resident taxable person), (v) GSTR-5A (Non-resident OIDAR service providers), (vi) GSTR-6 (Input service distributor), (vii) GSTR-7 (taxpayers deducting TDS), (viii) GSTR-8 (E-commerce operator), (ix) GSTR-9 (Annual Return), (x) GSTR-10 (Final return), (xi) GSTR-11 (person having UIN and claiming a refund), (xii) CMP-08, and (xiii) ITC-04 (Statement to be filed by a principal/job-worker about details of goods sent to/received from a job-worker).

- 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, MGST 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 ₹ two crores 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 taxpayers identified on the basis of data analysis pertaining to 12 identified parameters and extent of deviations/inconsistencies observed are summarised in **Table 2.4.6**.

Table 2.4.6: Summary of inconsistencies/deviations (Centralised Audit)

(₹ in crore)

Sl. No.	Parameter	Algorithm used	Number of deviations	Amount
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 {Table 4A (5)} (accrued on domestic supplies) considering the reversals in Table 4(B)(2) but including the ITC availed in subsequent year 2018-19 from Table 8(C) of GSTR-9.	25	4.94
2	ITC availed under RCM in GSTR-3B/ GSTR-9 vs payment of tax in GSTR-3B	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, RCM liability in GSTR-3B Table 3.1(d) was compared with GSTR-3B Table {4(A)(2) + 4(A)(3)}	25	1.07
3	Short payment of tax under RCM vs ITC availed in GSTR-3B/ GSTR-9	RCM liability declared in GSTR-9 Table 4G was compared with ITC availed in GSTR-9 Table (6C + 6D + 6F). In cases where GSTR-9 was not available, RCM payments in GSTR-3B Table 3.1(d) was compared with GSTR-3B 4(A)(2) and 4(A)(3).	9	0.03
4	Incorrect availment of ISD credit	ISD received in GSTR-9 Table 6G was compared with ITC transferred in GSTR-6 (sum of Table 5A +Table 8A +Table 9A of GSTR-6) of the distributor. In cases where GSTR-9 is not available then GSTR-3B Table 4(A)(4) compared with sum of Table 5A +Table 8A +Table 9A of GSTR-6.	10	0.34
5	Reconciliation between ITC availed in annual returns with expenses in financial statements	Positive figure in GSTR-9C Table 14T.	10	53.48

Sl. No.	Parameter	Algorithm used	Number of deviations	Amount
6	Mismatch of ITC availed between annual returns and books of accounts	Positive figure in GSTR-9C Table 12F.	10	2.71
7	Mismatch in turnover declared in GSTR-9C Table 5R	Negative figure in GSTR-9C Table 5R	25	229.42
8	Mismatch in taxable turnover declared in GSTR-9C Table 7G	Negative figure in GSTR-9C Table 7G	14	5.75
9	Mismatch in tax paid between books of accounts and returns	Negative figure in GSTR-9C Table 9R.	25	1.77
10	Unsettled liabilities	Greater of tax liability between GSTR-1 (Table 4 to 11) and GSTR-9 (Table 4N, 10 & 11) was compared with tax payable details in GSTR-3B Table {3.1 (a) + 3.1 (b)}. In cases where GSTR-9 was not available, tax paid in GSTR-3B was compared with GSTR-1 liability. The amendments and advance adjustments declared in GSTR-1 and GSTR-9 were duly considered.	10	6.69
11	GSTR-3B was not filed but GSTR-1 or GSTR-2A 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.	5	1.36
12	Short payment of interest	Interest calculated at the rate of 18 <i>per cent</i> on cash portion of tax payment on delayed filing of GSTR-3B vis-a-vis Interest declared in GSTR-3B Table 6.1.	10	2.20

(i) Non-submission of reply by the CTD

Audit selected a sample of 177 cases from amongst the top deviations/inconsistencies in each of the 12 parameters for the year 2017-18. The audit queries were issued to the respective Circles in February 2022. The audit check in these cases was limited to verifying Department's action on the identified deviations/mismatches.

Initial responses were yet to be received (March 2024) for 21 inconsistencies communicated to the Department, which involved deviations/mismatches amounting to ₹ 3.74 crore. Details of the 21 cases where no responses were received are given in Table 2.4.7.

Table 2.4.7: Dimension-wise cases where no responses were received

(₹ in crore)

Sl. No.	Audit Dimension	Sample		Department's Reply not received		Percentage	
		No.	Amount of mismatch	No.	Amount	No.	Amount
1	ITC mismatch between GSTR-2A and GSTR-3B	25	4.94	6	1.67	24.00	33.81
2	ITC availed under RCM in GSTR-3B/GSTR-9 vs payment of tax in GSTR-3B	25	1.07	3	0.05	12.00	4.67
3	Incorrect availment of ISD credit	10	0.34	4	0.09	40.00	26.47

Sl. No.	Audit Dimension	Sample		Department's Reply not received		Percentage	
		No.	Amount of mismatch	No.	Amount	No.	Amount
4	Mismatch in turnover declared in GSTR-9C Table 5R	25	229.42	1	0.60	4.00	0.26
5	Mismatch in taxable turnover declared in GSTR-9C Table 7G	14	5.75	3	0.09	21.43	1.57
6	Mismatch in tax paid between books of accounts and returns (Table 9R of GSTR-9C)	25	1.77	1	0.02	4.00	1.13
7	Unsettled liabilities	10	6.69	1	1.11	10.00	16.59
8	Short payment of interest	10	2.20	2	0.11	20.00	5.00
Total		144	252.18	21	3.74	14.58	1.48

Recommendation: *Department may examine the 21 mismatches/inconsistencies pointed out by Audit, for which responses have not been provided and intimate the results there-of.*

(ii) Results of Centralised Audit

Based on responses received from the Taxation Department, the extent to which each of the audit parameters translated into compliance deviations is summarized in **Table 2.4.8**.

Table 2.4.8: Summary of deficiencies (Centralised Audit) (₹ in crore)

Audit Dimensions	Cases where replies received			Department's replies accepted by Audit						Compliance deviations						Department's replies not furnished with appropriate documentary evidence			Department stated AQ's are under examination						
	Data entry errors		Action taken before query		Other valid explanation		Accepted by Department including action is yet to be initiated		Notices issued/ DRC-01/07		Under correspondence with taxpayers		Department's replies not accepted by Audit (Rebuttal)		Total			Department's replies not furnished with appropriate documentary evidence			Department stated AQ's are under examination				
	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23			
ITC mismatch between GSTR-2A and GSTR-3B	19	3.27	01	0.13	04	0.64	01	0.43	00	00	06	0.89	00	00	02	0.40	08	1.29	04	0.65	01	0.13			
ITC availed under RCM in GSTR-3B/ GSTR-9 vs payment of tax in GSTR-3B	22	1.02	07	0.60	01	0.01	01	0.01	04	0.02	04	0.17	00	00	00	00	08	0.19	05	0.21	00	00			
Short payment of tax under RCM vs ITC availed in GSTR-3B/ GSTR-9	09	0.03	06	0.02	01	0.004	00	00	01	0.003	01	0.004	00	00	00	00	02	0.007	00	00	00	00			
Incorrect availment of ISD credit	06	0.25	03	0.22	01	0.006	00	00	00	00	00	00	00	00	00	00	00	00	02	0.03	00	00			
Reconciliation between ITC availed in Annual returns with expenses in financial statements	10	53.48	00	00	00	00	08	30.18	01	12.84	01	10.46	00	00	00	00	02	23.30	00	00	00	00			
Mismatch of ITC availed between Annual returns and Books of accounts	10	2.71	00	00	01	0.10	04	1.38	00	00	05	1.23	00	00	00	00	05	1.23	00	00	00	00			

Audit Dimensions	Cases where replies received				Department's replies accepted by Audit				Compliance deviations										Department's replies not furnished with appropriate documentary evidence				Department stated AQ's are under examination			
	Data entry errors		Action taken before query		Other valid explanation		Accepted by Department including cases where action is yet to be initiated				Department's replies not accepted by Audit (Rebuttal)		Total				Department's replies not furnished with appropriate documentary evidence		Department stated AQ's are under examination							
	Under correspondence with taxpayers		Notices issued/ DRC-01/07		Recovered		No. Amt.		No. Amt.		No. Amt.		No. Amt.		No. Amt.		No. Amt.		No. Amt.							
	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27
Mismatch in turnover declared in GSTR-9C Table 5R ²⁷	24	-	00	00	01	-	15	-	00	00	07	-	00	00	00	00	07	-	00	00	01	-	-	00	01	-
Mismatch in taxable turnover declared in GSTR-9C Table 7G ²⁸	11	-	00	00	01	-	02	-	01	-	04	-	00	00	01	-	06	-	02	-	00	-	-	00	00	00
Mismatch in tax paid between books of accounts and returns	24	1.74	00	00	11	1.13	02	0.08	00	00	06	0.31	00	00	01	0.04	07	0.35	04	0.18	00	00	00	00	00	00
Unsettled liabilities	09	5.58	00	00	01	0.43	03	1.84	00	00	03	2.29	01	0.62	00	00	04	2.91	01	0.40	00	00	00	00	00	00
GSTR-3B was not filed but GSTR-1 is available	04	1.36	00	00	00	00	00	00	00	00	02	0.73	01	0.62	01	0.006	04	1.36	00	00	00	00	00	00	00	00
Short payment of interest	08	2.09	00	00	01	0.10	00	00	00	00	06	0.56	01	1.43	00	00	07	1.99	00	00	00	00	00	00	00	00
Total	156	71.53	17	0.97	23	2.42	36	33.92	07	12.86	45	16.64	03	2.67	05	0.45	60	32.62	18	1.47	02	0.13				

²⁷ This dimension is based on turnover. Therefore, tax liability under this dimension was not quantified. Total unreconciled turnover (TO) in table 5R of GSTR-9C in twenty-five cases is ₹ 229.42 crore out of which Department's reply in respect of unreconciled TO of ₹ 0.60 crore in one case is yet to be received. In fifteen cases involving unreconciled TO of ₹ 218.32 crore valid explanation was provided by the Department, in one case involving ₹ 0.51 crore action taken before query, one case involving ₹ 0.18 crore is under examination by department and the compliance deviations in the remaining seven cases involving unreconciled TO of ₹ 9.81 crore has been observed.

²⁸ This dimension is based on taxable turnover. Therefore, tax liability under this dimension was not quantified. Total unreconciled taxable turnover (TTO) in table 7G of GSTR-9C in fourteen cases is ₹ 5.75 crore out of which Department's reply in respect of unreconciled TTO of ₹ 0.09 crore in three cases is yet to be received. In two cases involving unreconciled TTO of ₹ 0.14 crore valid explanation was provided by the Department, in one case involving unreconciled TTO of ₹ 0.05 crore action taken before query, in two cases involving ₹ 0.19 crore department reply not furnished with appropriate documentary evidence and the compliance deviation in the remaining six cases involving unreconciled TTO of ₹ 5.28 crore has been observed in which recovery of ₹0.002 crore tax along with interest was made on unreconciled TTO of ₹ 0.03 crore.

Summary of deficiencies (Centralised Audit)

Audit noticed deviations from the provisions of the Act in 60 cases involving an amount of ₹ 32.62 crore constituting 38.46 per cent of the 156 inconsistencies/mismatches in data, for which the Department provided responses. Relatively higher rates of deviations were noticed in risk parameters such as ITC mismatch, excess RCM ITC availed, mismatch in tax paid between books of accounts and returns and short payment of tax.

In 76 cases, constituting 48.72 per cent, of the 156 mismatches/inconsistencies, the Department's reply was acceptable to Audit. Data entry errors by taxpayers comprised 17 cases constituting 10.89 per cent of the 156 mismatches/inconsistencies.

In two cases, constituting 1.28 per cent, the Department stated that it was examining the underlying deviation and in 18 cases, constituting 11.54 per cent of the 156 mismatches/inconsistencies, though the Department did not accept the deviations pointed out by Audit, its contention was not supported by documentary evidences, and was thus not amenable to verification by Audit.

Top cases for each dimension of Centralized audit (for compliance deviation pertaining to cases of recovery, SCN issued and under correspondence with taxpayer) are detailed in **Table 2.4.9**.

Table 2.4.9: Top cases of compliance deviations

(₹ in crore)

Sl. No.	Dimension	GSTIN	Name of the taxpayer	Jurisdictional Circle	Mismatch	Action taken
1	ITC mismatch between GSTR-2A and GSTR-3B	17AABCD9269N1ZZ	Dyna Roof Private Limited	Circle-Ri-Bhoi	0.20	Department's reply not acceptable to Audit (Rebuttal)
2	ITC availed under RCM in GSTR-3B/ GSTR-9 vs payment of tax in GSTR-3B	17EHRPS7468Q2ZR	K D General Store	Circle-VIII	0.15	Notice has been served to the taxpayer.
3	Short payment of tax under RCM vs ITC availed in GSTR-3B/ GSTR-9	17DUDPS9061K1ZZ	Dura Enterprises	Circle-Ri-Bhoi	0.004	Notice has been served to the taxpayer.
4	Incorrect availment of ISD credit	17ABWPJ6878N1ZE	Bhagwandass Textiles	Circle-II	0.01	ST furnished reply which is not accepted by Audit as the same was not provided with appropriate documentary evidence.
5	Reconciliation between ITC availed in Annual returns with expenses in financial statements (Table 14T of GSTR-9C)	17AAACR9627B1ZH	Ramky Infrastructure Ltd.	Ri-Bhoi Circle	12.84	Recovered.
6	Mismatch of ITC availed between Annual returns and Books of accounts (Table 12F of GSTR-9C)	17AABCM7758B1ZH	Maithan Alloys Limited	Ri-Bhoi Circle	0.51	Notice has been served to the taxpayer.

Sl. No.	Dimension	GSTIN	Name of the taxpayer	Jurisdictional Circle	Mismatch	Action taken
7	Mismatch in turnover declared in GSTR-9C Table 5R	17AAACU7999M1ZC	Umadutt Industries Ltd	Ri-Bhoi Circle	3.23	Notice has been served to the taxpayer.
8	Mismatch in taxable turnover declared in GSTR-9C Table 7G	17AKXPC3764E1ZX	Rajan Chetri	Nongstoin Circle	2.81	Notice has been served to taxpayer.
9	Mismatch in tax paid between books of accounts and returns (Table 9R of GSTR-9C)	17ALNPM9745L1Z7	M/s Taste	Circle-VI	0.12	Notice has been served to the taxpayer.
10	Unsettled liabilities	17AAACR6117Q1ZZ	National Projects Construction Corporation Ltd	Circle-VI	0.97	Notice has been served to the taxpayer.
11	GSTR-3B was not filed but GSTR-1 or GSTR-2A available	17AAHCM8571G1Z4	Manthan JP Ventures Pvt., Ltd.	Circle-VI	0.66	Notice has been served to the taxpayer.
12	Short payment of interest	17AADCG2870Q1Z3	Goldstone Cements Limited	Khliehriat Circle	1.43	ST stated that the taxpayer demanded month wise breakup of interest payable.

Details of all the deviation cases noticed during centralised audit out of audit sample of 177 cases from each dimension are discussed below.

a) ITC mismatch between GSTR-2A and GSTR-3B

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 analyze the veracity of ITC utilisation, relevant data were extracted from GSTR-3B and GSTR-2A for the year 2017-18, and the ITC paid as per suppliers' details were matched with the ITC credit availed by the taxpayers.

Out of the sample of 25 cases, six cases were not considered (in one case, there was data entry error in returns, in four cases action was taken before the issue of the audit queries and in one case Department's reply was accepted by Audit). Audit analysis of the remaining 19 cases revealed that, against the ITC of ₹ 49.29 crore available as per GSTR-2A, the ITC availed by the taxpayers as per GSTR-3B was ₹ 53.03 crore. This resulted in mismatch of ITC availed amounting to ₹ 3.74 crore.

On being pointed out by Audit (February 2022), the Department stated (April-August 2022) that notices had been issued to the taxpayers in six cases involving ₹ 0.89 crore. In four cases involving ₹ 0.65 crore, the Department did not furnish reply with appropriate documentary evidence and in one case involving ₹ 0.13 crore, the Department stated (April 2022) that they are examining the Audit Query. In two cases involving ₹ 0.40 crore, reply of the Department was not acceptable to Audit against which rebuttal was provided. No reply was furnished for the remaining six cases involving ₹ 1.67 crore till date (March 2024) (**Appendix 2.2**).

b) ITC availed under RCM in GSTR-3B/GSTR-9 vs payment of tax in GSTR-3B

Under Reverse Charge Mechanism (RCM), the liability to pay tax is fixed on the recipient 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 MGST 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 by the registered taxpayers, including Special Economic Zone (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., in GSTR-9.

To analyse the veracity of ITC availed on tax paid under 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.

Out of the sample of 25 cases, nine cases were not considered (in seven cases, there were data entry errors in returns, in one case action was taken before the issue of the audit query and in one case Department's reply was accepted by Audit). Audit analysis of remaining 16 sampled cases revealed the following:

Analysis of data extracted from GSTR-3B and GSTR-9 for the year 2017-18 in respect of the remaining 16 cases revealed that in three cases, taxpayers (who filed annual returns in GSTR-9) received inward supplies liable to reverse charge and tax payable related to such inward supplies as per Table 3.1[d] of GSTR-3B was ₹ 0.21 crore. The taxpayers were entitled to take credit for this amount as input tax subject to payment of the tax payable. However, the ITC claim related to reverse charge by these three taxpayers was ₹ 0.25 crore as per tables 6C, 6D and 6F of GSTR-9, resulting in excess ITC claim of ₹ 0.04 crore. Further, in 13 cases where GSTR-9 was not available, the ITC claim related to reverse charge by the taxpayers was ₹ 0.42 crore as per table 4(A) (3) of GSTR-3B. These 13 cases received inward supplies liable to reverse charge, however, tax payable related to such inward supplies as per table 3.1[d] of GSTR-3B was ₹ 0.001 crore. Thus, resulting in excess ITC claim of ₹ 0.42 crore. This resulted in mismatch in availment of ITC of ₹ 0.46 crore (₹ 0.04 crore plus ₹ 0.42 crore) related to reverse charge for these 16 cases.

On being pointed out by Audit (February 2022), ₹ 0.02 crore was recovered in four cases at the instance of Audit (May-September 2022). In four cases involving ₹ 0.17 crore, the Department stated (April-August 2022) that notices had been issued to the taxpayers. In five cases involving ₹ 0.21 crore, the Department's reply was not furnished with appropriate documentary evidence. In remaining three cases involving ₹ 0.05 crore, the Department did not furnish any reply (March 2024) (**Appendix 2.3**).

c) Short payment of tax under RCM vs ITC availed in GSTR-3B/GSTR-9

The extent of availing of ITC under RCM for the year 2017-18 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.

Out of the sample of nine cases, seven cases were not considered (in six cases, there were data entry errors in returns, in one case, action was taken before the issue of the audit query). Analysis of data extracted from GSTR-3B for the year 2017-18 in respect of the remaining two cases (GSTR-9 was not filed in either case) revealed that the RCM payments in GSTR-3B was ₹ 0.02 crore and ITC availed under RCM in GSTR-3B was ₹ 0.03 crore. This resulted in excess in availment of ITC on RCM without payment of tax amounting to ₹ 0.01 crore.

On being pointed out by Audit (February 2022), in one case recovery of ₹ 0.003 crore was done at the instance of Audit (February 2022) and in one case involving ₹ 0.004 crore, the Department stated (April 2022) that notice had been issued to the taxpayer (**Appendix 2.4**).

d) Incorrect availment of ISD credit

To analyse whether the ITC availed by the taxpayers is in excess of that transferred by the Input Service Distributor (ISD), ITC availed as declared in the returns of the taxpayers was compared with the ITC transferred by the ISD in their GSTR-6.

Out of the sample of 10 cases, four cases were not considered (in three cases there were data entry errors in returns and in one case, action was taken before the issue of the audit query). Audit analysis of the remaining six cases revealed that the ITC availed in Table 6G of GSTR-9 was ₹ 0.12 crore and the ITC transferred by the ISD in Table (5A+8A+9A) of GSTR-6 was nil. This resulted in excess availment of ITC transferred by the ISD amounting to ₹ 0.12 crore.

On being pointed out by Audit (February 2022), the Department did not furnish reply with appropriate documentary evidence in two cases involving ₹ 0.03 crore, while no reply was furnished for the remaining four cases involving ₹ 0.09 crore (March 2024) (**Appendix 2.5**).

e) Reconciliation between ITC availed in annual returns with expenses in financial statements

Table 14 of GSTR-9C reconciles ITC declared in annual return (GSTR-9) 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 for the year 2017-18 as required under Rule 80 (3) of MGST Rules in Form GSTR-9C, 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.

Out of the sample of ten cases, eight cases were not considered (Department's reply was accepted by Audit). Audit analysis of the remaining two cases revealed unreconciled

ITC of ₹ 23.30 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.

On being pointed out by Audit (February 2022), ₹ 12.84 crore pertaining to one case was recovered at the instance of Audit (May 2022). In one case involving ₹ 10.46 crore, the Department stated (April 2022) that notice had been issued to the taxpayer (**Appendix 2.6**).

f) Mismatch of ITC availed between annual returns and books of accounts

Table 12 of GSTR-9C reconciles ITC declared in annual return (GSTR-9) 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 for the year 2017-18 as required under Rule 80(3) of MGST Rules in Form GSTR-9C was analysed at data level to review the extent of identified mismatch in ITC declared in the Annual Return with the Financial Statements.

Out of the sample of 10 cases, five cases were not considered (in one case, action was taken before the issue of the audit query and in four cases, Department's reply was accepted by Audit). Audit analysis of the remaining five cases revealed unreconciled ITC of ₹ 1.23 crore declared in Table 12F of GSTR-9C, being ITC availed in GST returns in excess of eligible ITC based on financial statements.

On being pointed out by Audit (February 2022), the Department stated (April-July 2022) that notices had been issued to the taxpayers in all five cases involving ₹ 1.23 crore (**Appendix 2.7**).

g) Mismatch in turnover declared in GSTR-9C Table 5R

Table 5 of GSTR-9C is the reconciliation of turnover declared in audited annual financial statement with turnover declared in annual turnover (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 for the year 2017-18 as required under Rule 80(3) of MGST Rules in Form GSTR-9C 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.

Out of the sample of 25 cases, 16 cases were not considered (in one case action was taken before the issue of the audit query and in 15 cases the Department's reply was

accepted by Audit). Remaining nine cases had unreconciled turnover in Table 5R of GSTR-9C, amounting to ₹ 10.60 crore.

On being pointed out by Audit (February 2022), the Department stated (April-August 2022) that notices had been issued to the taxpayers in seven cases involving ₹ 9.81 crore. In one case involving ₹ 0.19 crore, the Department stated (April 2022) that they are examining the Audit Query. No reply was furnished in respect of remaining one case involving ₹ 0.60 crore (March 2024) (**Appendix 2.8**).

h) Mismatch in taxable turnover declared in GSTR-9C Table 7G

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 for the year 2017-18 as required under Rule 80(3) of MGST Rules in Form GSTR-9C 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.

Out of the sample of 14 cases, three cases were not considered (in one case action was taken before the issue of the audit query and in two cases Department's reply was accepted by Audit). Remaining 11 cases had unreconciled taxable turnover in Table 7G of GSTR-9C, amounting to ₹ 5.55 crore.

On being pointed out by Audit (February 2022), ₹ 0.002 crore tax along with interest was paid (November 2022) on unreconciled turnover of ₹ 0.03 crore in one case at the instance of Audit. In four cases involving ₹ 5.09 crore, the Department stated (March-July 2022) that notices/DRC-01A had been issued to the taxpayers. In one case involving ₹ 0.16 crore, the reply of the Department was not acceptable to Audit against which rebuttal was provided. In two cases involving ₹ 0.19 crore, the Department did not furnish the reply with appropriate documentary evidence. No reply was furnished in remaining three cases involving ₹ 0.09 crore (March 2024) (**Appendix 2.9**).

i) Mismatch in tax paid between books of accounts and returns

The certified reconciliation statement submitted by the taxpayer for the year 2017-18 as required under Rule 80(3) of MGST Rules in Form GSTR-9C was analysed at data level to review the extent of identified mismatch in tax paid between the annual returns and the books of accounts. 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 CGST/SGST/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.

Out of the sample of 25 cases, 12 cases were not considered (in 11 cases action was taken before the issue of the audit query and in one case Department's reply was accepted by Audit). Remaining 13 cases had unreconciled payment of tax declared in Table 9R of GSTR-9C, amounting to ₹ 0.61 crore.

On being pointed out by Audit (February 2022), the Department stated (April-August 2022) that notices had been issued to the taxpayers in six cases involving ₹ 0.31 crore. In two cases involving ₹ 0.08 crore, reply of the Department was not acceptable to Audit against which rebuttal was provided. In four cases involving ₹ 0.18 crore, the Department did not furnish reply with appropriate documentary evidence. No reply was furnished in remaining one case involving ₹ 0.02 crore (March 2024) (**Appendix 2.10**).

j) Unsettled liabilities

GSTR-1 depicts the monthly details of outward supplies of Goods or Services. The taxable value and tax paid thereof are shown in GSTR-3B. Details of GSTR-1 and GSTR-3B are also mentioned in annual return GSTR-9 in the relevant columns.

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 were 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 GSTR-9 were also considered for this purpose.

Out of the sample of 10 cases, four cases were not considered (in one case, action was taken before the issue of the audit query and in three cases Department's reply was accepted by Audit). Audit analysis of the remaining six cases revealed that the taxpayers were liable to pay tax liability of ₹ 5.94 crore for outward supplies in GSTR-1/ GSTR-9. The tax liability as declared was to be discharged through ITC and/ or Cash. Tax paid by the taxpayers, as declared in GSTR-9 or GSTR-3B, was ₹ 1.52 crore. This resulted in a mismatch of tax payment of ₹ 4.42 crore.

On being pointed out by Audit (February 2022), the Department stated (July-August 2022) that notices had been issued to the taxpayers in three cases involving ₹ 2.29 crore and one case involving ₹ 0.62 crore was under correspondence with taxpayer. In one case involving ₹ 0.40 crore, the Department did not furnish reply with appropriate documentary evidence. No reply was furnished for the remaining one case involving ₹ 1.11 crore (March 2024) (**Appendix 2.11**).

k) GSTR-3B was not filed but GSTR-1 or GSTR-2A available

At the data level, taxpayers who have not filed GSTR-3B but have filed GSTR-1 or whose GSTR-2A was available was identified. GSTR-3B return is the only instrument through which the liability is offset and ITC is availed. The availability of GSTR-1 and GSTR-2A and non-filing of GSTR-3B indicates that the taxpayers had undertaken/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.

The data sets pertaining to relevant fields in GSTR-1, GSTR-2A and GSTR-3B were analyzed, and those cases where GSTR-3B is null were extracted.

Audit analysis revealed that the sampled four taxpayers have not filed even a single GSTR-3B for the period 2017-18 involving total tax deviation amounting to ₹ 1.36 crore in terms of tax liability flowing from GSTR-1.

On being pointed out by Audit (February 2022), the Department stated (August 2022) that notice/DRC-01A had been issued to the taxpayers in two cases involving ₹ 0.73 crore and one case involving ₹ 0.62 crore was under correspondence with taxpayer. In one case involving ₹ 0.006 crore, reply of the Department was not acceptable to Audit against which rebuttal was provided (**Appendix 2.12**).

l) Short payment of interest

Section 50(1) of the MGST Act, 2017 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 date of filing of the GSTR-3B. Only the net tax liability (cash component) has been considered to work out the interest payable.

Out of the sample of 10 taxpayers, one case was not considered (action was taken before the issue of the audit query). Audit analysis of the remaining nine cases revealed that taxpayers filed the returns (GSTR-3B) pertaining to the months from July 2017 to March 2018 with delay. This resulted in short payment of interest amounting to ₹ 2.10 crore.

On being pointed out by Audit (February 2022), the Department stated (April-August 2022) that notices/DRC-01/07 had been issued to the taxpayers in six cases involving ₹ 0.56 crore and one case involving ₹ 1.43 crore was under correspondence with taxpayer. No reply was furnished for the remaining two cases involving ₹ 0.11 crore (March 2024) (**Appendix 2.13**).

Recommendation: *The State Taxation Department may take up the matter with the GST Council to insert adequate validation controls in GST Returns/portal to curb data entry errors, enhance taxpayer compliance and facilitate better scrutiny.*

2.4.6.3 Detailed audit of GST returns

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 Pan-State data analysis, a detailed audit of GST returns was also conducted as part of this review. A risk-based sample of 20 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 O/o Principal Accountant General (Audit), Meghalaya. Based on desk review results, detailed audit was conducted in State Tax Department's field formations by requisitioning corresponding granular records of taxpayers such as financial ledgers, invoices, *etc.*, to identify causative factors of the identified risks and to evaluate compliance by taxpayers.

(i) Scope limitation (non-production/ partial production of records)

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. On the ITC dimension, the mismatches were identified by comparing GSTR-3B with GSTR-2A and GSTR-9, and the declarations made in Table 12 and 14 of GSTR-9C. On the tax liability dimension, the mismatches were identified by comparing GSTR-3B with GSTR-1 and GSTR-9 and the declarations in Table 5, Table 7 and Table 9 of GSTR-9C. Audit requisitioned granular records of the taxpayers through the respective Circles (March 2022).

Out of the 20 sampled cases, complete records were produced only in *two* cases (10 *per cent*). In 12 out of 20 cases, comprising 60 *per cent* of the risk-based sample, records were partially produced as granular taxpayer records such as invoices, trial balance, ledger, *etc.*, were not provided. The jurisdiction-wise partial production of records is summarised in **Appendix 2.14**. Consequently, in these partially produced cases, Audit was restricted to the information available in the returns filed by the taxpayers. In six cases (30 *per cent*), the jurisdictional Circles did not produce any records (**Appendix 2.15**). Thus, Audit could not assess eligibility of ITC claimed and extent of unsettled tax liability, which constituted a significant scope limitation.

(ii) Audit Findings- Detailed Audit

As brought out in the previous paragraphs, detailed audit involves 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 State Commercial Tax Department's 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, categorised under a) Returns b) Utilisations of ITC, and c) Discharge of tax liability.

(A) Returns

a) Non-payment of interest by taxpayers

Section 50(1) of the MGST Act, 2017 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 such rate, not exceeding 18 *per cent*, as may be notified by the Government on the recommendations of the Council.

Out of 20 sample cases audited, it was observed that in four cases (20 *per cent*), where the taxpayers had filed their returns of July 2017 to March 2018 belatedly and paid the tax dues in these returns by debiting the Cash Ledger, interest amounting to ₹ 0.73 crore, payable as per Section 50 (1) of the MGST Act, 2017 was not paid by the taxpayers **(Appendix 2.16)**.

The audit observation was brought to the notice of the Department (June to August 2022). Reply is received in only *two* cases. In case of RN Enterprise (7ADZPS7313N1ZI), the ST, Circle I stated (December 2022) that notice had been issued to the taxpayer and reply is awaited. Reply in another case is provided in the illustration given below. Reply for the remaining *two* cases is awaited. (March 2024).

An illustrative case is as follows:

One taxpayer having GSTIN 17AAGCA9080R1ZW under Circle VII had filed the returns (GSTR-3B) of July 2017 to March 2018, belatedly in February 2018 to September 2018 and paid the tax due in these returns by debiting the Electronic Cash Ledger. However, interest liability amounting to ₹ 0.90 crore (later reduced to ₹ 0.70 crore on the basis of reply) required to be paid on cash portion of liability was not discharged.

On this being pointed out by Audit (September 2022), the ST, Circle VII, in case of M/s Amrit Cement (17AAGCA9080R1ZW) while accepting the audit observation (November 2022), provided detailed calculation of interest due to delay (after taking into account extension of due dates for filing of returns by the Government) in filing GST returns and concluded that interest amounting to ₹ 0.70 crore was underpaid. Explanation provided by the ST is accepted by Audit and the ST is requested to recover the pending interest amount at the earliest under intimation to Audit.

b) Discrepancies noticed in filing of GST returns

➤ **Non-filing of GST returns**

As per Section 39(1) of MGST Act, 2017, every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of Section 10, Section 51 or Section 52 shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and other particulars as may be prescribed on or before the twentieth day of the month succeeding such calendar month or part thereof.

As per Section 29(2)(c) of the MGST Act, 2017, the proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where any person has not furnished returns for a continuous period of six months.

Audit scrutiny of return filing information available on State GST back-end portal revealed that M/s NRL Energy Station (17AWLPM2254M2Z2) registered in October 2017, filed only four GSTR-3B returns from October 2017 to January 2018. Moreover, the taxpayer did not file GSTR-9 and GSTR-9C for the year 2017-18. Although no return was filed by the taxpayer since February 2018 till date (71 months, calculated upto December 2023), the ST did not cancel the registration of the taxpayer.

On this being pointed out by Audit (August 2022), the ST, Williamnagar Circle stated (October 2022) that process of suo moto cancellation of registration of the taxpayer has been initiated. The ST is requested to ensure full recovery of tax due at the time of cancellation of registration of the taxpayer under intimation to Audit.

➤ **GSTR-9/9C not filed even when turnover crossed ₹ two crores**

Rule 80(1) of the MGST Rules, 2017 states that every registered person, other than an Input Service Distributor, a person paying tax under Section 51 or Section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return as specified under sub-section (1) of Section 44 electronically in Form GSTR-9 through the common portal.

Further, Rule 80(3) of the MGST Rules, 2017 provides that every registered person whose aggregate turnover during a financial year exceeds two crore rupees shall get his accounts audited as specified under sub-section (5) of Section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in Form GSTR-9C, electronically through the common portal.

Audit scrutiny of the returns filed by the 20 sampled taxpayers for the year 2017-18, revealed that two taxpayers did not file Annual Return in GSTR-9 for the said period. Moreover, it was further observed that three taxpayers did not file their Reconciliation Statement in GSTR-9C even when their turnover was above threshold limit of ₹ two

crores as required under Section 44 (**Appendix 2.17**). On verification by Audit, no notices were found to be issued by the Department to taxpayers.

The audit observation was brought to the notice of the Department (September 2022). Reply is awaited (March 2024).

B. Utilisation of Input Tax Credit

The audit findings pertaining to mismatches in ITC emanating from ITC compared between returns (GSTR-3B and GSTR-2A) and examination of reconciliation statement (Table 14T of GSTR-9C) are provided in **Table 2.4.10**.

Table 2.4.10: Mismatches relating to Input Tax Credit

(₹ in crore)

Sl. No.	Parameter	No. of cases	No. of Circle offices	Amount of mismatch	Remarks
1.	Mismatch between GSTR-3B and GSTR-2A in availing of ITC through Input Service Distribution. To analyze 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 (GSTR-3B table 4(A)(4) was compared with the ITC available as per GSTR-2A table ISD credit received from ISD distributor (Appendix 2.18).	01	01	4.89	The matter was brought to the notice of the Department (August 2022). Reply is awaited (March 2024).
2.	Unreconciled ITC as per Table 14T of GSTR-9C. Table 14 of GSTR-9C reconciles ITC declared in annual return (GSTR-9) 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 for the year 2017-18 as required under Rule 80 (3) of MGST Rules in Form GSTR-9C was analysed to review the extent of identified mismatch in ITC declared in the Annual Return with the expenses reported in the Financial Statements (Appendix 2.19).	02	02	8.68	On being pointed out by Audit (August 2022), Department provided reply in one case which is provided below. Reply in remaining one case is awaited (March 2024). ST Circle, I replied (December 2022) in case of R.N. Enterprise (7ADZPS7313N1ZI) that notice has been issued to the taxpayer and further reply is awaited.
3.	Unreconciled ITC as per 12F of GSTR-9C. Table 12 of GSTR-9C reconciles ITC declared in annual return (GSTR-9) 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 for the year 2017-18 as required under Rule 80(3) of MGST Rules in Form GSTR-9C was analysed at data level to review the extent of identified mismatch in ITC declared in the Annual Return with the Financial Statements.	01	01 Ram Chandra Sharma (17AHPPS 5603M1ZP), Circle V	0.31	The matter was brought to the notice of the Department (August 2022). Reply is awaited (March 2024).

(C) Discharge of tax liability**a) Mismatches related to discharge of tax liability**

The audit findings pertaining to undischarged tax liability emanating from tax liability compared between returns (GSTR-1 and GSTR-9/GSTR-3B) and examination of the reconciliation statement (GSTR-9C) were as follows:

Table 2.4.11: Mismatches related to discharge of tax liability**(₹ in crore)**

Sl. No.	Parameter	No. of cases	No. of Circle offices	Amount of mismatch	Remarks
1.	Un-discharged tax liability on comparing greater of the tax liability of GSTR-1, GSTR-9 with reference to Tax payment in GSTR-9 or GSTR-3B: GSTR-1 and GSTR-9 for the year 2017-18 and the tax payable in these returns was compared with the tax paid and declared in GSTR-9 or GSTR-3B (Appendix 2.20).	09	08	3.49	On being pointed out (August 2022) by Audit, Department provided reply in three cases which are provided below. Replies for the remaining six cases are awaited (March 2024) ST Circle, I replied (December 2022) in case of RN Enterprise (7ADZPS7313N1ZI) that notice had been issued to the taxpayer and further reply is awaited. ST, Circle Khliehriat stated (September 2022) in case of M/s Mines and Minerals Development Agency (17AIWPT6114G1ZR) that the taxpayer had made payment through DRC-03 (June 2021) amounting to ₹ 0.13 crore. The ST also stated that the taxpayer has paid ₹ 0.08 crore against outstanding interest (September 2022). Reply of ST is accepted by Audit after verification. Hence, there is recovery of ₹ 0.08 crore at the instance of Audit. The ST, Circle Ri-Bhoi replied (December 2022) that Jorabat Shillong Expressway Ltd (17AACCJ3827H1ZL) has paid the unreconciled tax liability of ₹ 0.10 crore through DRC-03 (November 2022). However, the taxpayer stated that no interest was leviable because liability was discharged through Electronic Credit Ledger. Reply of the ST is accepted by Audit after verification. Hence, there is recovery of ₹ 0.10 crore at the instance of Audit.
2.	Unreconciled Tax payment declared in GSTR-9C: Table 9R of GSTR-9C captures reconciliation between rate wise tax payment declared in annual return GSTR-9 and audited Annual Financial Statements. (Appendix 2.21)	02	02	1.82	The matter was brought to the notice of the Department in August 2022. Reply is awaited. (March 2024).
3.	Unreconciled turnover declared in GSTR-9C: Table 5R of GSTR-9C captures reconciliation of turnover declared in audited Annual Financial Statement with turnover declared in Annual Return (GSTR-9) (Appendix 2.22)	01	01	30.91	On being pointed out by Audit (August 2022). ST replied (December 2022) that the unreconciled turnover of ₹ 30.91 Crore was due to transport subsidy received by the taxpayer amounting to ₹ 16.28 crore, CGST refund amounting to ₹ 1.15 crore, IGST refund amounting to ₹ 12.97 crore and Insurance subsidy amounting to ₹ 0.51 crore. However, the ST did not provide any documentary evidence in support of the claim. The ST is requested to provide the documentary evidence in support of the reply.

b) Liability on account of Annual Return discharged through Electronic Credit Ledger instead of Electronic Cash Ledger

Instruction provided at the end of GSTR-9 format prescribed by SCTD²⁹ reads that towards the end of the return, taxpayers shall be given an option to pay any additional liability declared in this form, through Form DRC-03. Taxpayers shall select Annual Return in the drop down provided in Form DRC-03. It may be noted that such liability shall be paid through electronic cash ledger only.

Section 50(1) of the MGST Act, 2017 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 such rate, not exceeding 18 *per cent*, as may be notified by the Government on the recommendations of the Council.

Audit noticed that M/s Nazareth Hospital Society (17AAATN2887J1Z5) paid liability arising due to filing of annual return (filed in February 2020) for the year 2017-18 through DRC-03. Scrutiny of Form DRC-03 as available on GST back-end portal revealed that out of total liability of ₹ 0.18 crore on account of Annual return, ₹ 0.16 crore were paid through Electronic Credit Ledger. Thus, payment of tax liability by the taxpayer arising on account of GSTR-9 through Electronic Credit Ledger is in violation of the extant provision.

It was further observed that the tax liability pertains to the period from September to November 2017, as such, the taxpayer was liable to pay interest of ₹ 7.00 lakh (**Appendix 2.23**) for delayed payment of tax. The taxpayer paid only ₹ 0.25 lakh as interest. Thus, interest of ₹ 6.75 lakh was yet to be recovered from the taxpayer.

The audit observation was brought to the notice of the Department (August 2022). Reply is awaited. (March 2024).

D. Other Findings - Issuance of improper invoice

As per Rule 46 of MGST Rules, 2017, a tax invoice referred to in Section 31 of MGST Act, 2017 shall be issued by the registered person containing (a) Name, address and Goods and Services Tax Identification Number (GSTIN) or Unique Identity Number (UIN), if registered, of the recipient; (b) Harmonized System of Nomenclature code for goods or services; (c) description of goods or services.

On verification of invoices furnished by Jorabat Shillong Expressway Ltd (17AACCJ3827H1ZL) against its exempted supplies claim of ₹ 72.51 crores, Audit observed that basic details required under GST Act were not mentioned in the invoice such as GSTIN of the receiver, description of Goods, Quantity, unit and rate of supplies. In absence of these basic details, the invoice produced is not acceptable. Further, as per

²⁹ State Commercial Taxation Department.

registration details available on GST back-end portal, the taxpayer was not registered in any exempted supplies.

The audit observation was brought to the notice of the Department (September 2022). Reply is awaited (March 2024).

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

2.4.7. Conclusion

The Subject Specific Compliance Audit (SSCA) on Department's Oversight on GST Payments and Returns Filing was undertaken 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 SSCA 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.

In Circle Audit, a review of five Circles disclosed that no action was taken by some Circle Officers to pursue recovery of dues against non-filers and no follow-up for issue of ASMT-13 was observed. Also, internal audit mechanism was found inadequate. There were some deficiencies noticed related to cancellation of registrations *i.e.* delay in issue of cancellation orders, inadequate follow-up on non-filing of GSTR-10, *etc.*

In centralised audit, out of the 177 data inconsistencies identified by Audit, the Department's reply was received in 156 cases. Upon analysing the responses of the Department, compliance deviations were observed in 60 cases involving amount of ₹ 32.62 crore, out of which ₹ 12.86 crore were recovered in seven cases. A relatively higher rate of deficiencies was noticed in ITC mismatch, excess RCM ITC availed, mismatch in tax paid between books of accounts and returns and short payment of tax. While data entry errors caused the inconsistencies in 17 cases, action was taken before query in 23 cases and in 36 cases, valid explanations were provided.

Detailed audit of GST returns revealed some non-compliance issues and in six cases, the taxpayers' granular records were not forthcoming, which constituted a scope limitation. Out of the 20 cases that were audited either fully or partially, Audit observed compliance deficiencies such as non-payment of interest and mismatches relating to ITC and tax liability involving amount of ₹ 19.99 crore, out of which recovery of ₹ 0.18 crore was made. The main causative factors were non-payment of interest, irregular availment of ISD credit and unreconciled ITC/tax payment.

2.4.8 Summary of recommendations

- (i) *The Department should take necessary steps to speed up the process of scrutiny of returns under Section 61 of the Act before time barring of cases. Moreover, period within which scrutiny of returns is to be initiated and completed should explicitly be indicated in the Department's GST Returns Scrutiny Manual.*

- (ii) Prompt action may be initiated by the Department to undertake the audits under Section 65 of the Act before time-barring of cases.*
- (iii) Taxation Department may strengthen the internal monitoring mechanism in Circle offices and ensure that due diligence is followed for filing of cancellation, issue of Show Cause Notices and recovery.*
- (iv) Department may examine the 21 mismatches/inconsistencies pointed out by Audit, for which responses have not been provided and intimate the results there-of.*
- (v) The State Taxation Department may take up the matter with the GST Council to insert adequate validation controls in GST Returns/portal to curb data entry errors, enhance taxpayer compliance and facilitate better scrutiny.*
- (vi) Taxation Department may initiate remedial action for all the compliance deviations brought out in this report before they get time barred.*

2.5 SSCA on Tax Deduction at Source (TDS) by Government Departments and Tax Collection at Source (TCS) by E-Commerce Operators

2.5.1 Introduction

Goods and Services Tax (GST) was rolled out in the country from 01 July 2017 subsuming various Central and State indirect taxes with the objectives of **achieving the idea of ‘One Nation, One Tax’, eliminating the cascading effect of multiple taxes, increasing the taxpayers’ base and curbing tax evasion, etc.**

A major objective of the GST rollout was creation of an effective mechanism to ensure tax compliance by the taxpayers. In order to achieve this objective, provisions of Tax Deduction at Source (TDS) under Section 51 and Tax Collection at Source (TCS) under Section 52 were included in the Meghalaya Goods and Services Tax Act, 2017 (MGST Act, 2017). The purpose of introduction of TDS/TCS provisions in the Act was to enable the Government to have a trail of transactions and to monitor and verify the compliance. It acts as a powerful instrument to prevent tax evasion and expand the tax net, as it provides for the creation of an audit trail.

Section 51 of MGST Act, 2017 read with Rule 66 of MGST Rules, 2017 provides for tax deduction at source by Government Departments in respect of payment made to the suppliers of taxable goods/services and the person deducting the TDS would be required to deposit the same with the Government within ten days after the end of the month in which such deduction is made and issue Form GSTR-7A (certificate of tax deduction at source) to the person whose TDS has been deducted. This provision is similar to the deduction of TDS and consequent issue of Forms 16 and 16A under the Income Tax Act, 1961. The threshold limit for TDS deduction is ₹ 2.5 lakh as per Section 51(1) of MGST Act, 2017.

Similarly, Section 52 of the MGST Act, 2017 provides for Tax Collection at Source, by Electronic Commerce Operator (ECO)³⁰ in respect of the taxable supplies made through it by other suppliers, where the consideration in respect of such supplies is to be collected by the ECO and remit the same to the Government within ten days after the end of the month in which such collection is made. There is no threshold limit for TCS collection as per Section 52(1) of MGST Act, 2017.

Thus, TDS/TCS provisions under the Act are very important tools for the State Commercial Taxation Department (SCTD) to:

- *Arrive at the turnover of suppliers, where supplies were made to the Government Departments, and*
- *Identify tax evaders.*

³⁰ ECO means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

2.5.1.1 Organisational set up of the Taxation Department

The organisational set up of the Taxation Department under GST regime is given in Chart 2.5.1.

Chart 2.5.1: Organisational set up

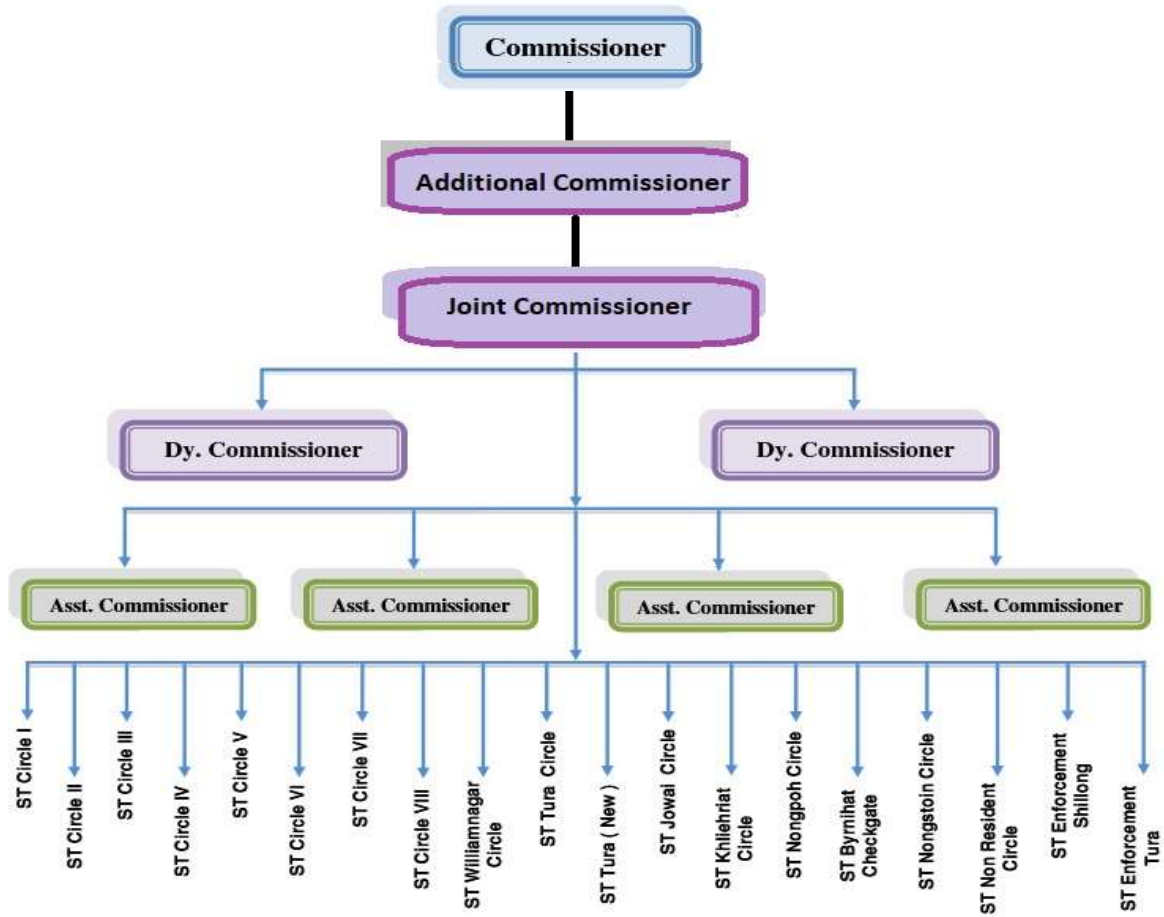


Fig. Organisational Structure of the Department

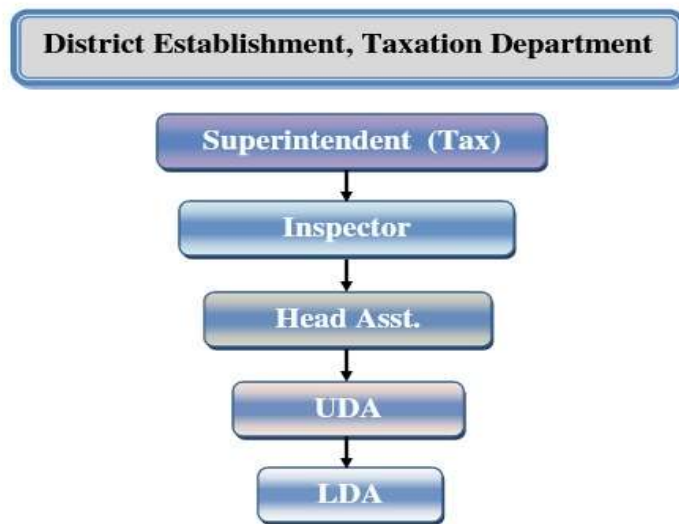


Fig. District Level Organisational Structure of the Department

2.5.2 Audit Objectives

The overall aim of the SSCA was to provide reasonable assurance on the adequacy and effectiveness of systems and procedures of the Department to ascertain:

- i. Whether the rules and procedures are designed to secure an effective check on tax compliance and are being duly observed by taxpayers;
- ii. Whether the Departmental system is defined to ensure that all eligible taxpayers are registered; and
- iii. Whether the internal control mechanism and coordination with other departments/ organizations was adequate to prevent leakage of revenue.

2.5.3 Audit Methodology and Scope

The SSCA on **Tax Deduction at Source (TDS) by Government Departments and Tax Collection at Source (TCS) by E-Commerce Operators**, Meghalaya, Shillong was conducted for the period covering 01 July 2017 to 31 March 2021³¹.

2.5.3.1 Audit Methodology

The methodology for verification of TDS/TCS mechanism under GST for the selected taxpayers involved data analysis and verification of records available with the State Commercial Taxation Department (SCTD) and jurisdictional Circles. It also involved accessing relevant information/records from the respective DDOs/ECOs. The records pertaining to the TDS/TCS returns verified by the departments readily available with the departmental formations were requisitioned for verification. In other cases, the documents were called for from the DDOs/ECOs in the same manner as is used for detailed examination of assessment of records under VAT laws (*i.e.* seeking taxpayer's records through Departmental units).

An Entry Conference was held on 15 December 2022 with Addl. Commissioner of Taxes, SGST, Meghalaya in which the scope and audit objectives of the SSCA were outlined. An Exit Conference was held on 19 May 2023 with the Addl. Commissioner of Taxes, SGST, Meghalaya wherein the audit findings were discussed. Replies received from the Department had been suitably incorporated at appropriate places along with audit rebuttal.

2.5.3.2 Audit Scope

(A) Registered dealers under GST

Section 22(1) of MGST Act, 2017 states that, any dealer with annual turnover of ₹ 10 lakh or more with effect from 01 July 2017 and ₹ 20 lakh or more with effect from 15 October 2019 was required to be registered in the State under the new GST law.

³¹ The audit period is further divided into two parts: (i) **Phase I**- DDOs were not required to deduct any TDS, instead forward non-deduction of TDS declaration (furnished by suppliers) to the Commissioner of Taxes, Meghalaya within 15 days from the date of payment to the suppliers of bills valuing above ₹ 2.5 lakh, and (ii) **Phase II**-TDS mechanism was fully implemented. DDOs were required to deduct TDS as per GST provisions.

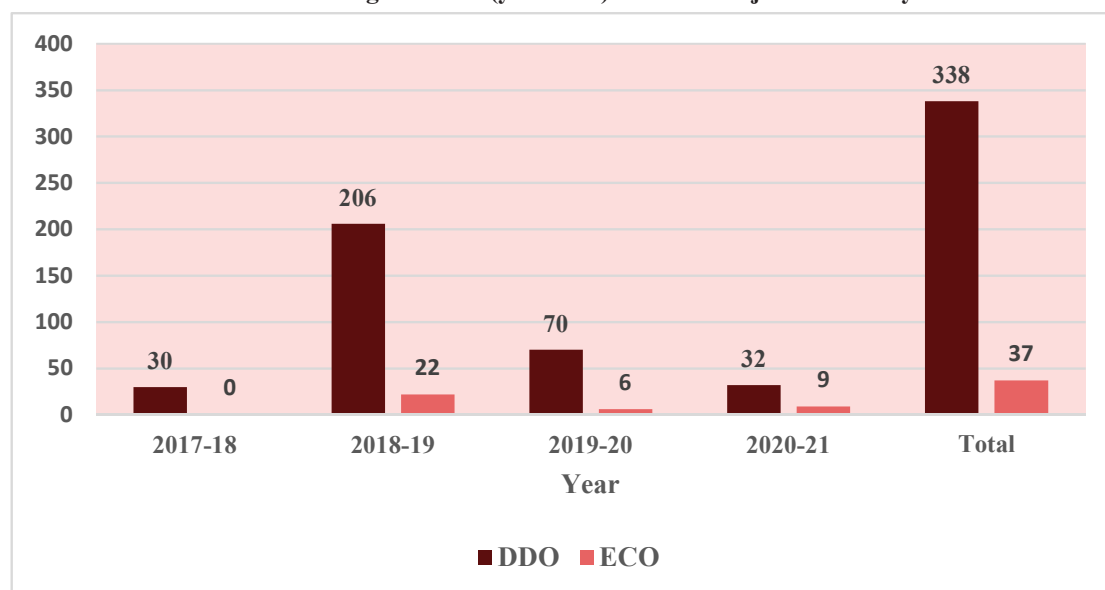
Year-wise position of dealers registered under TDS/TCS in Meghalaya is presented in **Table 2.5.1**.

Table 2.5.1: Year-wise position of dealers registered under TDS/TCS

Year	No. of registrants under State jurisdiction	
	Under TDS	Under TCS
2017-18	30	Nil
2018-19	206	22
2019-20	70	06
2020-21	32	09
Total	338	37

As on 31 March 2021, the total registrants under GST in Meghalaya were 28532, which included 338 DDOs. The total number of DDOs in Meghalaya as per data available with the Principal Accountant General (A&E), Meghalaya, is 972. The percentage of DDOs registered under GST constitute about 35 *per cent* which is quite low and the State Taxation Department needs to bring all eligible DDOs under the ambit of GST for better tax compliance. As per GSTN Portal, there are a total of 96 e-commerce operators (June 2022) in the State of Meghalaya of which 37 ECOs fall under State jurisdiction and were registered up to March 2021. Year-wise break-up of DDOs and ECOs registration during the period of review is as shown in **Chart 2.5.2**.

Chart 2.5.2: Number of GST registrations (year wise) under State jurisdiction by DDOs and ECOs



Further, compliance in returns filing by DDOs has increased from 669 returns filed annually in 2018-19 to 2213 returns filed in 2020-21. TCS returns filed by e-commerce operators also improved from 27 returns filed in 2018-19 to 369 returns filed in 2020-21.

(B) GST revenue collected by State

The GST revenue collected by State during the period from July 2017 to March 2021 and revenue contribution from TDS and TCS is shown in **Table 2.5.2**.

Table 2.5.2: GST Revenue

(₹ in crore)

Period	Actual Realisation	Revenue from Government (TDS)	Revenue from e-commerce operators (TCS)
July 2017 to March 2018	500.00	Nil	Nil
April 2018 to March 2019	878.96	29.18	0.19
April 2019 to March 2020	1,011.24	54.80	0.37
April 2020 to March 2021	994.76	67.15	0.23

Source: State GST Commissionerate Meghalaya, Shillong, Government of Meghalaya.

Collections under GST revenue have almost doubled from ₹ 500 crore in 2017-18 to ₹ 994.76 crore in 2020-21 (increase of 98.80 per cent).

The revenue contribution from TDS during the years 2018-19 to 2020-21, increased from ₹ 29.18 crore to ₹ 67.15 crore. While TCS contribution increased from ₹ 0.19 crore in 2018-19 to ₹ 0.37 crore in 2019-20, a decline of 38 per cent is seen in TCS contribution during 2020-21.

2.5.4 Audit Sample

The sample selected for TDS comprises 21 DDOs (**Appendix 2.24**) out of 338 registered DDOs of Government Departments and four (**Appendix 2.25**) e-commerce operators out of 37 e-commerce operators registered in the State during the period of review. Selection of these sample were made on the basis of weighted expenditure by applying Probability Proportional to Size Without Replacement (PPSWOR)³².

2.5.5 Audit Criteria

The following Acts/Rules were used as the sources of Audit Criteria for the SSCA:

- Meghalaya Goods and Services Tax Act/Rules, 2017 (MGST Act/Rules, 2017).
- Central Goods and Services Tax Act/Rules, 2017 (CGST Act/Rules, 2017).
- Integrated Goods and Services Tax Act/Rules, 2017 (IGST Act/Rules, 2017).
- Notifications/Circulars issued by State Government from time to time on deduction and collection of tax at source by Government Departments and E-Commerce Operators respectively.

2.5.6 Audit Limitations- Non-production of records

Audit requisitioned various records pertaining to the sampled four E-Commerce Operators to check whether the ECOs were collecting and depositing the full amount of TCS to the Government as per GST provisions or not. Details of records not produced are provided in **Table 2.5.3**.

³² It is a method of sampling from a finite population. In this method, the probability of selecting a unit is proportional to its size. It is based on randomization using random number table.

Table 2.5.3: List of Taxpayers (ECOs)

Sl. No.	GSTIN	Circle	Documents Required
1	17AAHCP1178L1CC	I	Invoices, Shipping bills, Export goods manifest, Bank Realization Certificate and Foreign Inward Remittance certificate (FIRC/BRCs), Accounts and records required to be maintained as per Section 35 of MGST Act, 2017.
2	17AAFCT5810K1CH	I	
3	17AACCD0796K1CP	Non-resident	
4	17AAQCA5807N1CE	I	

The Department was requested (January 2023) to produce the records mentioned in the above table for audit checks and interpretations. However, records of the four ECOs were not provided (April 2024).

ST, Circle I forwarded (May 2023) reply provided by IBIBO Group Private Limited (GSTIN 17AAHCP1178L1CC) stating that documents required are not applicable in case of TCS registration. The reply is not acceptable because the ECO took GST registration in November 2018, hence, it must possess requisite documents pertaining to the supplies.

2.5.7 Audit Findings

Section 3 to 5 of MGST Act, 2017 outlines the jurisdictional authority conferred upon the Commissioner of Taxes (CoT), encompassing the entire State of Meghalaya. The CoT is entrusted with the responsibility of executing the duties mandated by the Act. This includes the prerogative to delegate tasks to subordinate officers for efficient administration.

During the course of the SSCA various deficiencies have been noticed, revealing inadequacies in the implementation of the Act within the State. The audit findings are highlighted in the succeeding paragraphs.

2.5.7.1 Compliance issues noticed related to DDOs

The irregularities noticed by Audit in respect of the sampled DDOs are elucidated in the following paragraphs.

(A) Non-levy of penalty due to non-registration/delay in obtaining registration by DDOs

Section 51 (1) of MGST Act, 2017 provides that the Government may mandate (a) a department or establishment of the Central Government or State Government; or (b) local authority; or (c) Governmental agencies; or (d) such persons or category of persons as may be notified by the Government on the recommendations of the Council to deduct tax at the rate of one *per cent* from the payment made or credited to the supplier of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees.

Section 24 (vi) of MGST Act, 2017 states that persons required to deduct tax under Section 51 are mandatorily required to get registered under this Act.

Section 122 (1) (xi) of MGST Act, 2017 states that where a taxable person who is liable to be registered under this Act but fails to obtain registration, 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, whichever is higher (an additional and equivalent amount under CGST Act, 2017).

Excise, Registration, Taxation and Stamps (ERTS) Department, Government of Meghalaya (GoM) vide Circular No. ERTS (T) 70/2017/23 dated 26 October 2017 directed all the DDOs concerned to complete the registration process at the earliest on the GSTN portal.

Further, GoM vide Circular No. ERTS (T) 65/2017/Pt I/240 dated 13 September 2018 notified 01 October 2018 as the date on which the provisions of Section 51 of the MGST Act, 2017 was to come into force.

(i) Non-registration of DDOs

Verification of records³³ of the 21 sampled DDOs for the period of review revealed that two³⁴ DDOs passed 11 bills amounting to ₹ 85.14 lakh during October 2018 to March 2021 having value more than ₹ 2.5 lakh each. TDS amounting to ₹ 1.37 lakh was deductible from these bills and were to be remitted to the Government, which was not done by the DDOs (**Appendix 2.26**). Further scrutiny revealed that the DDOs did not take the mandatory registration under GST till the date of Audit (January 2023) and as such no TDS returns under GSTR-7 were filed. Thus, as per provisions of the MGST Act, 2017, penalty of ₹ 1.41 lakh was leviable on the DDOs for not obtaining the GST registrations.

On this being pointed out by Audit (February, 2023), the Director of Animal Husbandry and Veterinary, Meghalaya (17SHLD06188A1D8) stated (April 2023) that registration under GST has been completed (March 2023) as suggested by Audit. Further, penalty amounting to ₹ 1.21 lakh for not deducting TDS has also been paid by the DDO through GSTR-7. However, confirmation from the Taxation Department is awaited (April 2024).

The Divisional Forest Officer (Wildlife), Jaintia Hills, Jowai stated (May 2023) that they had completed the registration (April 2023) and had requested for exemption from paying the penalty amount. Provision for exemption from payment of penalty has not been provided in the MGST Act, 2017, hence the penalty amount from the above mentioned DDOs amounting to ₹ 0.20 lakh was required to be recovered by the Taxation Department.

³³ (1) Bill, Vouchers, RA bills, Sanction order, Cash book, (2). Register required to be maintained by DDOs as per Circular No. ERTS (T) 65/2017/Pt. I/261 dated 20 November 2018, (3). Non-deduction of TDS certificate required as per Circular No. ERTS (T) 70/2017/23 dated 26 October 2017, etc.

³⁴ (1) Director, A.H. & Vety. Shillong (2) and Divisional Forest Officer, Wildlife Division, Jowai.

(ii) Delay in registration by DDOs

Verification of records of the sampled 21 DDOs revealed that one³⁵ DDO passed four bills amounting to ₹ 21.69 lakh having value more than ₹ 2.5 lakh each during October 2018 to March 2021. TDS amounting to ₹ 0.37 lakh was deductible from these bills but were not found deducted. Further scrutiny revealed that the DDO got registered under GST during December 2022 and as such are required to pay penalty of ₹ 0.37 lakh, an equivalent to TDS not deducted (**Appendix 2.27**) as per Section 122 of MGST Act, 2017.

On this being pointed out by Audit (April 2023), the Divisional Forest Officer (Social Forestry and Territorial Division), Baghmara, in a communication endorsed to ST, Circle II, Tura and to Audit clarified (July 2023) that, due to the absence of a formal contract for the supplies undertaken, no TDS was liable to be deducted under Section 51 of MGST Act, 2017.

Reply of the DDO that TDS was not deducted in absence of any formal contract, is not acceptable since 'Contract' under Section 51 of the MGST Act, 2017 read with Section 2(h) of the Indian Contract Act, 1872 states that 'an agreement enforceable by law is a contract'. Further, Rule 46(q) of MGST Rules, 2017 provides that tax invoices shall be issued by the registered person containing signature or digital signature of the supplier or his authorized representative. In absence of formal contract, the invoice raised by the supplier after receiving formal supply order from the DDO is deemed as a contract agreement.

Recommendation: *The Department should take steps to get all the unregistered DDOs registered under GST.*

(B) Non-levy of penalty due to non-deduction of TDS by DDOs

Section 122 (1) (v) of MGST Act, 2017 states that where a taxable person who fails to deduct the tax in terms of sub-section (1) of Section 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax not deducted under Section 51 or short deducted, whichever is higher.

Verification of records of the sampled 21 DDOs revealed that two³⁶ DDOs passed four bills amounting to ₹ 459.09 lakh having individual value above ₹ 2.5 lakh each during October 2018 to March 2021, without mandatory deduction of TDS amounting to ₹ 8.26 lakh as per Section 51 (1) of MGST Act, 2017(**Appendix 2.28**). Making payment without deducting TDS is a violation of GST provisions attracting penalty under Section 122 *ibid*. Hence, penalty of ₹ 8.26 lakh is payable by the concerned DDOs.

On this being pointed out by Audit (February, 2023), Superintendent of Taxes (ST, Circle VII, Shillong) stated (July 2023) that in response to audit observation, the Governor's Secretariat, Meghalaya, Shillong (GSTIN-17SHLG01710C1DO) had

³⁵ (1) DFO, Social Forestry Division, South Garo Hills, Baghmara.

³⁶ (1) Governor's Secretariat, Raj Bhawan, Shillong, and (2) Director, Social Welfare, Shillong.

paid (July 2023) the penalty amounting to ₹ 0.76 lakh for non-deduction of TDS. The ST also provided DRC-03 filed by the DDO as evidence of the payment. On audit verification of the document, the reply was found to be correct.

The Director of Social Welfare, Meghalaya, Shillong (GSTIN-17SHLD04326A1DO) while accepting (March 2023) that the payments were made without deducting TDS under GST stated that supplies were procured through GeM portal and no formal contract was entered, hence TDS was not deducted. Reply of the DDO that TDS was not deducted in absence of any formal contract, is not acceptable since as per entry 5.2.4.7 'Contract Management' of handbook on GeM issued by Government of India in July 2018, the contract shall be auto generated on the GeM platform. Based on the audit observation, the ST, Circle VII, Shillong directed the DDO to deposit the liable amount along with penalty (June 2023). Superintendent of Taxes (ST, Circle VII, Shillong) stated (July 2023) that the Director of Social Welfare, Meghalaya, Shillong (GSTIN-17SHLD04326A1DO) requested for adjournment of the proceedings till 14 August 2023. As the time requested by the DDO has already been elapsed, necessary action may be taken to recover the penalty.

(C) Non-adherence to Government instructions during bill preparation

Circular No. ERTS (T) 65/2017/Pt. I/261 dated 20 November 2018 laid down guidelines for deductions and deposits of TDS by the DDO under MGST Act, 2017. As per Point No. 6 of the Circular, following instructions were provided:

The DDO shall prepare bills based on the Expenditure Sanction. The Expenditure Sanction shall contain the (a) Total amount, (b) Net amount payable to the contractor/supplier/vendor; and (c) 2 per cent as TDS amount of GST. Also, in the Bill, it will be specified (a) the net amount payable to the contractor; and (b) 2 per cent as TDS.

Scrutiny of records of 21 sampled DDOs for the period from July 2017 to March 2021 revealed that bills prepared by Director of Social Welfare, Meghalaya, Shillong were not in accordance with the aforementioned guidelines. The bills prepared did not have vital details such as the amount of TDS to be deducted and the net amount payable to the contractor/supplier/vendor. In absence of these details, calculation for TDS deduction and amount payable to the dealers becomes difficult.

On this being pointed out by Audit (March, 2023), the Director of Social Welfare, Meghalaya, Shillong (GSTIN-17SHLD04326A1DO) while accepting the audit observation stated (March 2023) that the office was preparing bills in note sheet. The DDO stated that the bills would henceforth be prepared in the proper format containing the requisite details as per the notifications issued by the Government.

(D) GSTIN not mentioned on non-deduction of TDS declaration forwarded by DDOs

As per Circular No. ERTS (T) 70/2017/23 dated 26 October 2017, DDOs were asked not to deduct any TDS under the provisions of IGST/CGST/MGST Act, 2017 on bills or invoices raised after 01 July 2017 for supply of Goods or Services or both. The

supplier of the goods or services or both who received payment(s) without deduction of tax at source of the CGST/MGST/IGST is to furnish a declaration as per Annexure A, wherein GSTIN details of the supplier was required to be furnished along with other details, if the total value of supply under a contract exceeds two lakh and fifty thousand rupees, to the DDOs. Thereafter, the DDOs are required to forward the said declaration of the suppliers to the State Taxation Department within 15 days from the date of payment to the suppliers.

During verification of records of the 21 sampled DDOs, it was observed that two³⁷ DDOs forwarded non-deduction of TDS declaration in respect of two contractors, who did not mention their GSTIN in Annexure A. Audit scrutiny revealed that the contractors provided works contract services amounting to ₹ 58.49 lakh (₹ 13.54 lakh + ₹ 44.95 lakh) but the DDOs failed to provide GSTIN of the contractors even on being requisitioned by Audit (April 2023).

The audit observation was issued (April 2023) to the State GST Department. Reply of the Department is awaited (April 2024).

2.5.7.2 Compliance issues noticed relating to ECOs

The irregularity noticed by Audit in respect of the sampled ECOs is elucidated in the following paragraph.

(A) Non-levy of penalty due to delay in obtaining registration by ECOs

Section 24(x) of the MGST Act provides that every ECO is compulsorily required to take registration under GST. Further, Section 122 (1) (xi) of MGST Act, 2017 states that where a taxable person who is liable to be registered under this Act but fails to obtain registration, shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not collected under Section 52, whichever is higher (an additional and equivalent amount under CGST Act, 2017).

Verification of records of four sampled cases covering the period of review revealed that two³⁸ out of the four taxpayers obtained registration as an e-commerce operator in the state during November 2018. Further verification revealed that these two taxpayers were also registered under 'Normal' category in the State prior to implementation of TCS mechanism. Audit observed that their total turnover since registration to September 2018 was ₹ 36.22 lakh under 'Normal' registration. Thus, it is evident that the taxpayers were operating in the state of Meghalaya prior to implementation of TCS provisions but they failed to obtain registration under ECO category from the effective date, *i.e.*, 01 October 2018.

Audit requisitioned invoices and other documents pertaining to these ECOs from the Taxation Department to ascertain the quantum of TCS involved during the period of delay which the Department failed to provide. Thus, minimum penalty of ₹ 0.40 lakh

³⁷ (1) E.E., PWD (Rds), Mairang Division, Mairang, and (2) E.E., PWD (Bldg), Tura Building Division, Tura.

³⁸ (1) Yatra Hotel, and (2) IBIBO Group Pvt. Ltd.

(Appendix 2.29) under Section 122 of MGST Act, 2017 on the two taxpayers was leviable.

The audit observation was communicated to the Department (April 2023). Reply on action taken to recover the penalty from the defaulting ECOs is awaited (April 2024).

Recommendation: *The Department should take steps to recover penalty from DDOs/ ECOs for taking delayed registration under GST and for non/short deduction/collection of tax.*

2.5.7.3 Other observations

Audit has identified the following additional discrepancies in respect of the deductees/suppliers:

(A) Suppression of turnover by contractors/suppliers for supplies made prior to 01 October 2018

Rule 59(1) of the MGST Rules, 2017 states that every registered person, other than a person referred to in Section 14 of the IGST Act, 2017, required to furnish the details of outward supplies of goods or services or both under Section 37 of MGST Act, shall furnish such details in Form GSTR-1 electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner. Further, Rule 61(1) states that, every registered person, except for specific cases mentioned in the law, shall furnish a return in Form GSTR-3B as specified under sub-section (1) of Section 39 of MGST Act, 2017.

Section 50(1) of MGST Act, 2017 states that every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, 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 on his own, interest at such rate, not exceeding 18 *per cent*, as may be notified by the Government on the recommendations of the Council.

Audit test checked cases of declarations submitted by the suppliers for non-deduction of TDS which were forwarded by the DDOs to the Commissioner of Taxes, Meghalaya, as per circular no. ERTS (T) 70/2017/23 dated 26 October 2017 pertaining to procurement of Goods or Services or both during July 2017 to September 2018. In respect of the records³⁹ test checked, Audit observed that two⁴⁰ DDOs made payment of ₹ 109.65 lakh to five Contractors/suppliers in respect of bills/contracts having values above ₹ 2.5 lakh each. Cross-verification of the same with information available as per GST returns (GSTR-3B) of suppliers/contractors for the period revealed that no tax was paid by the suppliers/contractors in their GSTR-3B. Thus, GST amounting to ₹ 11.74 lakh

³⁹ (1) Bill, Vouchers, RA bills, Sanction order, Cash book, (2). Register required to be maintained by DDOs as per Circular No. ERTS (T) 65/2017/Pt. I/261 dated 20 November 2018, and (3). Non-deduction of TDS certificate required as per Circular No. ERTS (T) 70/2017/23 dated 26 October 2017, etc.

⁴⁰ (1) Director, Tourism, Shillong, and (2) E.E., PWD (Bldg), Tura Building Division, Tura.

is recoverable from the Contractors/suppliers on the undeclared turnover along with interest amounting to ₹ 12.49 lakh (calculated up to 30 April 2024) (**Appendix 2.30**) under Section 50(1) of MGST Act, 2017.

On this being pointed out by Audit (April, 2023), Department's reply on action taken to recover dues from the defaulting contractors/suppliers is awaited (April 2024).

(B) Suppression of turnover by deductees/suppliers for supplies made to DDOs after 01 October 2018

Rule 66 (2) of MGST Rules, 2017 states that the details furnished by the DDOs under sub-rule (1) shall be made available electronically to each of the deductees on the common portal after filing of Form GSTR-7 for claiming the amount of tax deducted in his electronic cash ledger after validation.

Verification of GST returns (GSTR-7) filed by eight⁴¹ registered DDOs during the audit period revealed that the DDOs declared ₹ 632.16 lakh as TDS deducted from 560 taxpayers. Audit verified GST returns information of top deductees falling under state jurisdiction each year against whom TDS amounting to ₹ 188.92 lakh was deducted. Audit cross verified GSTR-1 filed by the deductees beyond one year from the month of GSTR-7 filed by the DDOs. It was observed that the deductees did not declare supplies made to the DDOs. In absence of disclosure of supplies made to DDOs in GSTR-1, tax payment on such supplies by deductees could not be verified. Non-declaration of supplies in GSTR-1 by the deductees is fraught with the risk of suppression of turnover. GST amounting to ₹ 472.31 lakh was recoverable on the undeclared turnover along with interest amounting to ₹ 321.15 lakh (**Appendix 2.31**) (calculated up to February 2023) under Section 50(1) of MGST Act, 2017.

On this being pointed out by Audit (March-April, 2023), the ST, Circle VII in reply stated that it is found that most of the taxpayers, who have supplied goods, services or both to tax deductors, have included the supplied amount in their turnovers in the returns and had shown in the B2C Section of GSTR-1 and as such detailed study of case records of such taxpayers has become necessary. The ST requested additional time for furnishing the replies (July 2023). Further action has not been communicated yet (April 2024). Reply from Jowai, Nongstoin and Tura circle is awaited (April 2024).

As per GST provisions, the suppliers were required to furnish B2B sales in Table 4A of GSTR 1. As DDOs are registered entities, supplies made to them should have been declared as B2B supplies. The ST, Circle VII is requested to conduct and complete the detailed study of the cases to ensure that full tax on these supplies was declared and paid by suppliers. The ST is requested to intimate outcome of the detailed study to Audit accordingly.

⁴¹ (1) Director of Tourism, Shillong, (2) Governor's Secretariat, Raj Bhawan, Shillong, (3) E.E. PWD (Roads) Central Division, Shillong, (4) E.E. PWD (Roads) North Jowai Division, Jowai, (5) E.E. PWD(Roads) Mairang Division, (6) Director Social Welfare, Shillong, (7) E.E. PWD (Roads) Tura North Division, Tura, and (8) E.E. PWD(Building) Tura Division, Tura.

Recommendation: *The Department should take steps to recover the GST amount along with penalty and interest from the suppliers by leveraging data/information available.*

2.5.8 Conclusion

The Subject Specific Compliance Audit on “Tax Deduction at Source (TDS) by Government Departments and Tax Collection at Source (TCS) by E- Commerce Operators” was undertaken with an objective of assessing the adequacy of the system in monitoring TDS/TCS provisions, extent of compliance and other departmental functions.

As regards DDOs/ECOs, it has been observed that the DDOs and ECOs obligated to be registered under GST, either failed to comply with the statutory registration requirements or registered post the prescribed deadline. Only 35 per cent of the DDOs were found registered under GST. As a result, the objective of encompassing all taxable transactions conducted by government departments and e-commerce operators within the purview of GST was not achieved. Thus, due to non-registration/delay in registration and non-deduction/collection of tax, penalty of ₹ 10.44 lakh was leviable. Out of which, recovery of ₹ 1.97 lakh was made at the instance of Audit. Instances of non-adherence to Govt. instructions during bill preparation and GSTIN not mentioned on non-deduction of TDS declaration forwarded by DDOs were also noticed.

With respect to deductees/suppliers, many discrepancies were noticed like cross-verification of the declarations on non-deduction of TDS by suppliers with GST returns of five contractors/suppliers, revealed that no tax was paid by the contractors/suppliers. Hence, GST of ₹ 11.74 lakh along with interest of ₹ 12.49 lakh is recoverable on the undeclared turnover. Cross verification of GSTR-1 filed by the deductees/suppliers with GSTR-7 filed by the DDOs revealed that the deductees/suppliers did not declare supplies made to the DDOs in GSTR-1. This omission risks turnover suppression. As a result, GST amount of ₹ 472.31 lakh along with interest of ₹ 321.15 lakh on undeclared turnover is recoverable from the taxpayers.

2.5.9 Summary of recommendations

- (i) *The Department should take steps to get all the unregistered DDOs registered under GST.*
- (ii) *The Department should take steps to recover penalty from DDOs/ECOs for taking delayed registration under GST and for non-deduction/collection of tax.*
- (iii) *The Department should take steps to recover the GST amount along with penalty and interest from the suppliers by leveraging data/information available.*

