

CHAPTER-II
FINANCE (TAXATION) DEPARTMENT

CHAPTER - II

FINANCE (TAXATION) DEPARTMENT

2.1 Tax administration

The Finance (Taxation) Department is responsible for the administration of Commercial Tax in the State. The Commissioner of Taxes (CT), Assam is the Head of the Commissionerate of Taxes, Assam. He is responsible for administration of all taxation measures and for general control and supervision over the zonal and unit offices and the staff engaged in collection of taxes and to guard against evasion of taxes. He is also the authority for disposing of revision petitions under all taxation Acts and laws besides providing clarifications under the Assam Value Added Tax (AVAT) Act, 2003. The Commissioner is assisted by Additional Commissioners of Taxes, Joint Commissioners of Taxes (JCTs), Deputy Commissioners of Taxes (DCTs) in Zones and Appeal Offices, Assistant Commissioners of Taxes (ACTs), Superintendents of Taxes (STs) and Inspectors of Taxes both at the Headquarters and zonal/unit levels. The Officers posted in the unit offices are responsible for collection of taxes under various heads and also to guard against the evasion of taxes. The Commissionerate of Taxes has one Head office/Commissioner's office, 10 Zonal offices, five Appellate offices, 34 unit offices and 23 recovery offices.

The functioning of the Department is governed by the provisions of the AVAT Act, 2003; the Assam Goods and Services Tax Act, 2017 (*w.e.f.* 01 July 2017), the Central Sales Tax (CST) Act, 1956; the Assam Professions, Trades, Callings and Employments Taxation Act, 1947; the Assam Electricity Duty Act, 1964; the Assam Taxation (on Specified Lands) Act, 1990; the Assam Agricultural Income Tax Act, 1939 and various administrative orders issued from time to time.

2.2 Working of Internal Audit Wing

Internal audit is a vital component of the internal control mechanism which functions as an internal oversight mechanism of the Department and is a vital tool which enables the management to assure itself that the prescribed systems are functioning reasonably well. During 2020-22, the Department did not put any internal audit in place.

2.3 Results of Audit

During test-check of records of 16 unit offices and eight unit offices (out of total 75 unit offices) in 2020-21 and 2021-22 respectively relating to VAT/CST/AET/Agricultural Income Tax assessments and other records, Audit noticed deficiencies as categorised in **Table 2.1**.

Table 2.1: Results of Audit

Sl. No.	Category	2020-21		2021-22	
		Number of IRs	Amount (₹ in crore)	Number of IRs	Amount (₹ in crore)
1	Turnover escaping assessment	3	14.18	3	1.58
2	Irregular grant of ITC	5	0.89	3	0.65
3	Concealment of turnover	7	3.51	5	7.89

Sl. No.	Category	2020-21		2021-22	
		Number of IRs	Amount (₹ in crore)	Number of IRs	Amount (₹ in crore)
4	Short levy of tax and interest	6	0.99	8	5.35
5	Irregular allowance of exemption/ concessional rate of tax	10	4.90	11	16.10
6	Short/non-levy of entry tax	3	1.23	2	0.31
7	Short/non-payment of Professional Tax	5	0.26	1	0.03
8	Other irregularities	67	17.97	13	4.92
Total		106	43.93	46	36.83

2.4 Subject Specific Compliance Audit on “Department’s oversight on GST payments and returns filing”

2.4.1 Introduction

Goods and Services Tax (GST) has replaced multiple taxes levied and collected by the Centre and States. GST, which came into effect from 01 July 2017, is a destination-based consumption tax on 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 Assam Goods and Services Tax Act, 2017 (AGST 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 Act read with Rule 99 of the Assam Goods and Services Tax Rules, 2017 (AGST Rules) stipulate that the proper officer may scrutinise the return and related particulars furnished by taxpayers, communicate discrepancies to the taxpayers and seek an explanation.

This 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 State Taxes Department, Assam, Guwahati 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 the GST regime. The audit was taken up to seek an assurance whether:

- i. The rules and procedures were designed to secure an effective check on tax compliance and were being duly observed by taxpayers; and
- ii. 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 pertaining to the period from July 2017 to March 2018. Through data analysis, a set of 14 mismatches/deviations were identified across the domains of Input Tax Credit, Discharge of tax liability, Registration and Return filing. Such deviations were followed up through a **centralised audit**⁸, whereby these deviations were communicated to the Circles and action taken by the Circles on the identified deviations was ascertained without involving field visits. The centralised 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 Department/State Taxes Department application as much as feasible to examine data/documents relating to taxpayers (*viz.*, registration, tax payment, returns and other departmental functions). The detailed audit also involved accessing relevant granular records from the taxpayers such as invoices through the respective field formations. This apart, compliance functions of the departmental formation such as scrutiny of returns, conduct of internal audit, action on late filers/non-filers, *etc.* were also reviewed in selected circles.

The review of scrutiny of returns by the Department and verification of taxpayers' records covered the period from July 2017 to March 2018, while audit of the functions of selected Circles covered the period 2017-18 to 2020-21. The SSCA covered only State-administered taxpayers. The field audit was conducted from May 2022 to October 2022.

The entry conference for this SSCA was held on 18 January 2022 with the Principal Commissioner of State Tax, Assam in which the audit objectives, sample selection, audit scope and methodology were discussed. The draft SSCA report was issued to the State Commissionerate on 09 February 2023. Reply of the same is awaited (February 2023).

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 during 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.

The three distinct parts of this SSCA are as under:

⁸ Centralised Audit was conducted from the AG office premises and did not involve seeking taxpayer's granular records such as financial statements, related ledger accounts, invoices, agreements, *etc.*

2.4.4.1 Part I-Audit of Circles

Ten Circles⁹ out of total 134 Circles under six Unit offices¹⁰ out of 34 Unit offices 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.

2.4.4.2 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 adequacy and effectiveness of the scrutiny procedure of the Department. Accordingly, a sample of 282 taxpayers pertaining to 101 Circles under 31 Unit offices were selected for Centralised Audit under this SSCA.

2.4.4.3 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 ITC, tax liability mismatch, disproportionate exempted turnover to total turnover and irregular ITC reversal. The sample of 50 taxpayers (which are not included in Centralised audit) pertaining to 37 Circles under 21 Unit offices selected for audit comprised Large¹¹, Medium¹² and Small¹³ strata taxpayers as well as taxpayers selected randomly.

2.4.5 Audit criteria

The source of audit criteria comprised the provisions contained in the AGST Act, IGST Act, 2017 and Rules made thereunder. In addition, the notifications and circulars issued by the State Tax Department relating to filing of returns, notifying the effective dates of filing of various returns, extending due dates for filing returns, rates of tax on goods and services, payment of tax, availing and utilising ITC, scrutiny of returns and oversight of tax compliance and Standard Operating Procedures (SoP) containing instructions to Departmental officers on various aspects related to filing returns, scrutiny of returns and cancellation of registrations, *etc.* also formed part of the audit criteria.

2.4.6 Oversight on return filing

Audit of 10 Circles involving six unit offices under Principal Commissioner of State Tax, Assam was taken up as part of this SSCA. The role of Circles is to ensure compliance by taxpayers in respect of accuracy of the taxable value declared, calculation and payment of tax liabilities, filing of returns, *etc.* The Circles have a broad set of functions to be exercised in this regard, which were evaluated as a part of this

⁹ Guwahati - B – 7 and 10, Guwahati – C- 6 and 99, Guwahati - D – 4, 8 and 99, Barpeta Road – 1, Tinsukia – 7, Sivasagar – 4.

¹⁰ Comprises of 2 to 10 circles.

¹¹ First category comprising large taxpayers – top 2 *per cent* of taxpayers based on turnover.

¹² Second category comprising medium taxpayers – next 8 *per cent* of taxpayers based on turnover.

¹³ Third category comprising the bottom most layer *i.e.* small taxpayers – remaining 90 *per cent* of taxpayers based on turnover.

SSCA. The objective of this audit was to ensure that the oversight functions exercised by the circles in relation to scrutiny, filing of returns by the taxpayers, and cancellation were in alignment with the provisions of the AGST Act and AGST Rules and as stipulated in the Standard Operating Procedures (SOP) devised thereunder. The audit observations are brought under four broad categories: Scrutiny of returns, Internal Audit, late filing/non-filing of returns and Cancellation of registrations.

2.4.6.1 Scrutiny of returns

Section 61 of the AGST Act, 2017 stipulates that the proper officer may scrutinise the returns and related particulars furnished by the taxpayers to verify the correctness of the returns and information. Under Rule 99 of the AGST Rules, discrepancies noticed, if any, are to be communicated to the taxpayer for seeking their explanation by issuing notice in Form GST ASMT-10¹⁴. The Principal Commissioner of State Tax, Assam vide Paragraph 1 of instruction No. 02/2021-GST, dated 01 March 2021 instructed to complete scrutiny of returns for the years 2017-18 and 2018-19 by 30 April 2021.

The CBIC vide Instruction No. 02/2022-GST dated 22 March 2022 issued Standard Operating Procedure (SOP) for scrutiny of returns for the Financial Year 2017-18 and 2018-19 to ensure uniformity in selection/ identification of returns for scrutiny. Further, in paragraph 3 of the instruction *ibid*, Directorate General of Analytics and Risk Management (DGARM) has been assigned the task of selection of returns for scrutiny based on identified risk parameters.

Audit sought information on scrutiny of returns carried out by the proper officers during the period 2017-18 to 2020-21 from the selected 10 circles. Audit noticed that scrutiny was not carried out in three Circles¹⁵, only one taxpayer's return was scrutinised in one Circle¹⁶ and information was not furnished to Audit by five Circles¹⁷.

In one circle *i.e.*, Circle-99 of Guwahati Unit-D, only two taxpayers' returns were scrutinised by the proper officer. Of these two cases, Audit observed short payment of interest in one case as discussed under:

During examination of returns of Torsa Machines Limited (GSTIN-xxxxxxxxxxQ2ZA) for the year 2018-19, it was noticed that though the taxpayer had discharged monthly tax liabilities belatedly, the proper officer failed to levy interest of ₹ 0.84 lakh (**Appendix-III**) under Section 50 of the AGST Act, 2017 for delay in payment ranging between 29 days and 182 days.

Though the Principal Commissioner of State Tax, Assam instructed to complete scrutiny of returns for the years 2017-18 and 2018-19 by 30 April 2021, no detailed Standard Operating Procedure (SOP) for selection of returns for scrutiny based on specific risk parameters was issued for tax officers. Further, no instructions for

¹⁴ Form GST ASMT-10 is the notice issued for intimating discrepancies in GST returns filed by the taxpayers and seeking explanation for same.

¹⁵ Guwahati C-06, Tinsukia-07, Sivasagar-04.

¹⁶ Circle - 99 under ACT SGST Unit-C.

¹⁷ Guwahati - B- 7 and 10, Guwahati - D-04 and 08, Barpeta Road-01.

completion of scrutiny of returns for the years 2019-20 and 2020-21 have been issued till date (March 2023).

Further, Audit observed that there was no separate wing operating under the Department for identifying high risk taxpayers for scrutiny/verification like Directorate General of Analytics and Risk Management (DGARM) in respect of CBIC field formations and Tax Research Unit (TRU) in other States. It was stated by the Department that though there was no dedicated wing for selection of high-risk taxpayers, jurisdictional officers take up cases for scrutiny based on some indicative mismatch reports. As such, the Department lacked an effective risk-based standardised system of scrutiny of returns to facilitate proper officers in selecting high-risk taxpayers for scrutiny.

Recommendations No. 1 and 2

- *The Department may issue detailed SOP/ guidelines for selection of returns for scrutiny based on risk parameters in line with CBIC's instruction dated 22 March 2022 and consider creating a separate dedicated wing to institutionalise an effective risk based system of scrutiny.*
- *The Department may consider issuing suitable instructions with reference to the scrutiny of returns for 2019-20 and 2020-21 with timelines.*

2.4.6.2 Internal Audit under GST

As per Section 65 of the AGST Act, 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 AGST Act 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 (ITC) availed, and to assess his compliance with the provisions of this Act or the rules made thereunder.

The Principal Commissioner of State Tax, Assam issued instruction No. 03/2021-GST dated 26 March 2021 for initiation of audit of the selected taxpayers for the year 2017-18 under section 65 of AGST Act. In this connection, detailed procedures for conduct of audit of taxpayers to bring uniformity and universality were also highlighted in the instructions *ibid*.

During audit, information was sought from the Department on coverage of internal audit during the period from 2017-18 to 2020-21. In reply, the Department stated that the Apex Office had selected 1,422 cases for conduct of audit under Section 65 of AGST Act for the year 2017-18 but no information regarding coverage during internal audit was furnished to Audit. Of the 1,422 cases selected for internal audit, 231 cases fell under the jurisdiction of the 10 selected Circles. Information on completion of internal audit has not been furnished to Audit though called for. Further, during conduct

of detailed audit of 50 selected cases under this SSCA, Audit noticed that eight cases¹⁸ fell within the list of 1,422 cases selected by the Department for internal audit. However, as per information furnished to Audit by the respective Circle in-charge, out of the above eight cases, audit of one case was under process and no audit had been conducted by the jurisdictional proper officer against the remaining seven cases till the date of audit (February 2023). This indicated delays in conduct of internal audit by the Department.

Recommendation No. 3

- *The Department may take prompt steps to undertake the audits under Section 65 of the Act so that timely action can be initiated against the defaulters before the cases get time-barred.*

2.4.6.3 Lack of action on late-filers and non-filers

Section 46 of the AGST Act read with Rule 68 of the AGST Rules provides for issue of 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 returns even after such notice, the proper officers may proceed to assess the tax liability of the said person to the best of their judgement under Section 62 of the AGST Act and issue an assessment order in Form ASMT-13. The Principal Commissioner of State Tax, Assam had issued a detailed SOP¹⁹ to be followed in case of non-filing of returns by registered persons in December 2019.

The position of non-filers/late filers of returns during the period from 2017-18 to 2020-21 was called for from 10 circles; however, only three circles furnished the information but information on action taken against the non-filers was not furnished. The details of non-filers/late filers in respect of the three circles are shown in **Table 2.4.1**.

Table 2.4.1: Statement showing the status of non-filers/late filers

Sl. No.	Name of the Circle	Number of	
		Non-filers	Late filers
1	Barpeta Road -01	11	Nil
2	Guwahati-C-06	Nil	14
3	Guwahati-C-99	Nil	83

From the above, it is seen that 11 cases (10 taxpayers) under Barpeta Road-01 did not file returns for the period 2017-21; however, no best judgement assessment was carried out by the proper officer as required under the provisions of Section 62 of the AGST Act. Further, Audit noticed that 97 taxpayers under Guwahati Unit-C (Circles 06 and 99) had filed returns after the due dates without payment of interest for the period of delay.

¹⁸ (i) xxxxxxxxxxxxB1ZV (ii) xxxxxxxxxxxxB1ZV (iii) xxxxxxxxxxxxG1ZS (iv) xxxxxxxxxxxxC1ZO (v) xxxxxxxxxxxxH1Z5 (vi) xxxxxxxxxxxxK1ZK (Under process) (vii) xxxxxxxxxxxxL1ZP and (viii) xxxxxxxxxxxxC1Z6.

¹⁹ Vide Circular No.82/2019-GST dated 26 December 2019.

Further, the proper officer in respect of the remaining seven circles had not furnished information on non-filers to Audit; however, Audit analysed “GSTR 3B non-filer report” and noticed 1,742 non-filers²⁰ of return during the period 2017-21. Thus, the verification mechanism against non-filers and late filers needs to be strengthened.

2.4.6.4 Lack of action for non-filing of GSTR-10 after cancellation of registration

Section 29 of the AGST Act stipulates conditions for cancellation of registration, including *suo-moto* cancellation of registrations of taxpayers who have not filed returns for six consecutive months (three consecutive tax periods for composition taxpayers). Section 45 of the AGST Act read with Rule 81 of the AGST Rules specifies that any person whose registration was cancelled should file final return in Form GSTR-10 within three months of the date of cancellation or date of order of cancellation, whichever is later. In case GSTR-10 is not filed within the stipulated date, the proper officer should issue notice in Form GSTR-3A and if the taxpayer still fails to file the final return within 15 days of the receipt of notice, an assessment order in Form ASMT-13 under Section 62 of AGST Act read with Rule 100 of AGST rule shall have to be issued to determine the liability of the taxpayer. The proper officer is responsible for *suo-moto* cancellation of registration of non-filers.

The information regarding cancellation of registration was sought from the selected 10 Circles during audit. Against the audit requisition, three circles had furnished information on cancellation of registration and seven circles either did not furnish information or stated that such information was not available with them.

The position of cancellation of registration as per information furnished by three circles and the defaulter list of GSTR-10 generated from the system during the period 2017-18 to 2020-21 are shown in **Table 2.4.2**.

Table 2.4.2: Defaulter list of GSTR-10

Sl. No.	Name of the Circle	No of cancelled cases	No of cases of GSTR-10 defaulters	Remarks
1	Guwahati-B-07	Not furnished	622	Information on best judgement assessment, was not furnished to Audit though called for.
2	Guwahati-B-10	Not furnished	1,056	
3	Guwahati-D-04	Not furnished	452	
4	Guwahati-D-08	Not furnished	940	
5	Guwahati-D-99	Not furnished	86	
6	Barpeta Road-01	304	304	
7	Guwahati-C-06	595	510	
8	Guwahati-C-99	26	30	
9	Tinsukia-07	Not available	183	
10	Sivasagar-04	Not available	257	
Total			4,440	

In the absence of information regarding best judgment assessment against the above mentioned 4,440 defaulting cases under Section 62 of the AGST Act, 2017, the

²⁰ (i) Guwahati-B (Circle -07) -363; (ii) Guwahati-B (Circle -10)-700; (iii) Guwahati-D (Circle -04)-111; (iv) Guwahati-D (Circle -08)-225; (v) Guwahati-D (Circle -99)- 19; (vi) Tinsukia (Circle -07)-108; (vii) Sivasagar (Circle -04)-216.

adequacy and effectiveness of the monitoring mechanism with respect to filing of GSTR-10 returns could not be ascertained in audit.

2.4.7 Centralised Audit

2.4.7.1 Inconsistencies in GST returns

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 14 parameters, which can be broadly categorised into two domains - ITC and Tax payments.

Out of the 13 prescribed GST returns²¹, the following basic returns that apply to normal taxpayers were considered for the purpose of identifying deviations, inconsistencies and mismatches between GST returns/data:

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

²¹ GSTR-1, GSTR-3B, GSTR-4 (taxpayers under the Composition scheme), GSTR-5 (non-resident taxable person), GSTR-5A (Non-resident OIDAR service providers), GSTR-6 (Input service distributor), GSTR-7 (taxpayers deducting TDS), GSTR-8 (E-commerce operator), GSTR-9 (Annual Return), GSTR-10 (Final return), GSTR-11 (person having UIN and claiming a refund), CMP-08 (Statement of payment of self-assessed tax by Composition taxpayer) and ITC-04 (Statement to be filed by a principal/ job-worker about details of goods sent to/received from a job-worker).

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 pan-State data analysis pertaining to State jurisdiction on the 14 identified parameters and extent of deviations/inconsistencies observed are summarised in **Table 2.4.3:**

Table 2.4.3: Summary of sample data analysis (Centralised audit)

Sl. No	Parameter	Algorithm used	Details of deviations/mismatches	
			Number	Amount (₹ in crore)
Domain: ITC				
D1	ITC mismatch between GSTR-2A and GSTR-3B	ITC available as per GSTR-2A with all its amendments was compared with ITC availed in GSTR-3B in Table 4A(5) (accrued on domestic supplies) excluding the reversals Table 4B(2) but including ITC availed in the subsequent year 2018-19 from Table 8C of GSTR-9	25	34.27
D2	ITC availed under Reverse Charge Mechanism (RCM) without payment of tax in GSTR-3B and GSTR-9	RCM payments in GSTR-3B Table 3.1(d) was compared with ITC availed in GSTR-9 Table 6C, 6D and 6F. In those cases where GSTR-9 was not available, the check was restricted within GSTR-3B - tax discharged in Table 3.1(d) <i>vis-à-vis</i> ITC availed Table 4A(2) and 4A(3)	25	10.02
D3	RCM ITC availed without payment	RCM payments in GSTR-9 Table 4G (tax payable) was compared with ITC availed in GSTR-9 Table 6C, 6D and 6F (ITC availed). In those cases where GSTR-9 was not available, RCM payment in GSTR-3B Table 3.1(d) was compared with GSTR-3B 4(A)(2) and 4A(3). Greater of difference in GSTR-9 and GSTR-3B considered where both were available.	10	1.44
D4	Mismatch in availment of ISD credit	ISD transferred in GSTR-9 Table 6G or GSTR-3B Table 4(A)(4) was compared with the sum of Table 5A, Table 8A, and Table 9A of GSTR-6 of recipient GSTINs	25	9.17
D5	ISD credit reversal	GSTR-9 Table 7B/7H of the recipients was compared with sum of Table 8A (negative figures only) and Table 9A (negative figures only) of their GSTR-6s	01	0.01
D6	Reconciliation between ITC availed in annual returns with expenses in financial statements	Positive figure in GSTR-9C Table 14T and examination of reasons provided in Table 15 for mismatch	25	1421.17 ²²
D7	Mismatch of ITC availed between annual returns and books of accounts	Positive figure in GSTR-9C Table 12F and examination of reasons provided in Table 13 for mismatch	25	525.03

²² The amount of ₹ 1,421.17 crore is on account of un-reconciled ITC availed in the Annual returns and corresponding expenses booked in financial statements by the taxpayers.

Sl. No	Parameter	Algorithm used	Details of deviations/mismatches	
			Number	Amount (₹ in crore)
Domain: Tax payments				
D8	Mismatch in turnover declared in GSTR-9C Table 5R	Negative figure in GSTR-9C Table 5R and examination of reasons provided in Table 6 for mismatch	25	--- ²³
D9	Mismatch in taxable turnover declared in GST-9C Table 7G	Negative figure in GSTR-9C Table 7G and examination of reasons provided in Table 8 for mismatch	17	--- ²⁴
D10	Mismatch in tax paid between books of accounts and returns	Negative figure in GSTR-9C Table 9R and examination of reasons provided in Table 10 for mismatch	25	29.61
D11	Undischarged tax liabilities	The greater of tax liability between GSTR-1 (Tables 4 to 11) and GSTR-9 (Tables 4N, 10 and 11) was compared with tax paid details in Table 9 and Table 14 of GSTR-9. In those cases where GSTR-9 was not available, tax paid in Tables 3.1(a) and 3.1(b) of GSTR-3B was compared with GSTR-1 liability. The amendments and advance adjustments declared in GSTR-1 and 9 were duly considered.	25	68.89
D12	Composition taxpayer also availing e-commerce facility	E-commerce GSTR 8 became effective from 01 October 2018 when TCS provisions became effective. GSTINs declared in GSTR 8 who are also filing GSTR 4 under composition scheme.	4	0
D13	GSTR-3B was not filed but GSTR-1 is available	Taxpayers who have not filed GSTR-3B but have filed GSTR-1 or where GSTR-2A is available, indicating taxpayers were carrying on the business without discharging tax.	25	1.22
D14	Short payment of interest	Interest calculated at the rate of 18 per cent on cash portion of tax payment on delayed filing of GSTR-3B vis-à-vis interest declared in GSTR-3B	25	7.29
Total			282	2108.12²⁵

Audit selected a sample of 282 cases from amongst the top deviations/inconsistencies in each of the 14 parameters for the year 2017-18. The audit queries were issued to the respective circles between February 2022 and April 2022 without further scrutiny of taxpayers' records. The audit check in these cases was limited to verifying the Department's action on the identified deviations/mismatches.

Initial responses were yet to be received (February 2023) for 42 inconsistencies communicated to the Department which involved deviations/mismatches of an amount of ₹ 663.69 crore. Details of 42 cases are listed in **Appendix-IV** and **Appendix-V**. Dimension-wise highest value cases where no response was received are given in **Table 2.4.4**.

²³ Deviation amount of ₹ 832.73 crore is mismatch of total turnover declared in Table 5R of GSTR-9C.

²⁴ Deviation amount of ₹ 274.54 crore is mismatch of taxable turnover declared in Table 7G of GSTR-9C.

²⁵ The amount includes un-reconciled ITC of ₹ 1,421.17 crore.

Table 2.4.4: Dimension-wise highest value cases where no response was received

Sl. No.	Dimension name	GSTIN	Taxpayer Name	Jurisdiction	Deviation Amount (₹ in crore)
1	ITC (3B v/s 2A)	xxxxxxxxxxxR1ZO	Mc Nally Bharat Engineering Co. Ltd.	Guwahati-D/4	1.65
2	ITC (RCM)	xxxxxxxxxxxQ2ZU	Gujarat Co-operative Milk Marketing Federation Limited	Guwahati-D/99	0.27
3	ITC without RCM	xxxxxxxxxxxC1ZS	J K Chemical	Guwahati-A/1	0.41
4	ISD ITC mismatch	xxxxxxxxxxxN1ZT	Hindustan Unilever Limited	Guwahati-D/99	6.77
5	12F-Excess ITC	xxxxxxxxxxxF1ZT	Baker Hughes Singapore PTE	Naharkatia-1	4.17
6	14T-Ineligible ITC	xxxxxxxxxxxC1ZW	Oil India Limited	Naharkatia-1	626.11*
7	5R Total turnover	xxxxxxxxxxxF1ZB	M/s Soma Enterprise Ltd	Guwahati-D/99	63.00©
8	7G Taxable turnover	xxxxxxxxxxxL1ZV	Carriers India Pvt. Ltd.	Guwahati-D/4	14.76
9	9R Tax paid	xxxxxxxxxxxF1ZF	Zillion Infraprojects Pvt Ltd.	Bongaigaon / 1	1.13
10	Undischarged tax liability	xxxxxxxxxxxJ1ZL	C J Darcl Logistics Limited	Guwahati-D/4	2.48
11	No 3B but R1 available	xxxxxxxxxxxR1ZO	G.N. Enterprise	Guwahati-D/4	0.08

*This is on account of unreconciled ITC availed in the Annual Returns and the corresponding expenses booked in financial statements.

© Mismatch of ITC as per Table 12F of GSTR-9C.

Recommendation No. 4

- Department may examine the 42 mismatches/ deviations pointed out by Audit for which responses have not been provided and issue notices wherever necessary under Section 61 of AGST Act, 2017.

2.4.7.2 Summary of deficiencies noticed during Centralised Audit

Based on responses received from the Department to the audit queries, the extent to which the audit parameters translated into compliance deviations (**Appendix-VI**) are summarised in **Table 2.4.5**.

Table 2.4.5: Summary of deficiencies (Centralised audit)

(₹ in crore)

Audit Dimension	Cases where reply received		Department reply accepted by Audit		Compliance deviations							
					Recovery made or SCN issued ²⁶		ASMT-10/Notice/DRC-01A issued		Department's reply not acceptable to Audit (Rebuttal)		Total	
	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
ITC (3B v/s 2A)	18	22.57	5	4.05	3	0.45	7	8.97	4	9.10	14	18.52
ITC (RCM)	21	9.12	14	6.26	2	2.011	5	0.85	0	0	7	2.861
ITC without RCM	8	0.89	6	0.74	1	0.08	1	0.07	0	0	2	0.15
ISD ITC mismatch	22	2.25	13	1.54	1	0.001	8	0.71	0	0	9	0.711
ISD reversal	1	0.01	0	0	0	0	1	0.01	0	0	1	0.01

²⁶ Recovery made of ₹ 1.48 crore in 15 cases and SCN issued of ₹ 4.39 crore in 16 cases.

Audit Dimension	Cases where reply received		Department reply accepted by Audit		Compliance deviations							
					Recovery made or SCN issued ²⁶		ASMT-10/Notice/DRC-01A issued		Department's reply not acceptable to Audit (Rebuttal)		Total	
	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.
12F-Excess ITC	21	518.67	14	510.82	0	0	7	7.85	0	0	7	7.85
14T-Ineligible ITC	24	795.07	23	787.27	0	0	1	7.80 ²⁷	0	0	1	7.80
5R Total turnover	21	--- ²⁸	18	0	0	0	3	-	0	0	3	0
7G Taxable turnover	14	--- ²⁹	12	0	0	0	2	-	0	0	2	0
9R Tax paid	24	25.33	6	20.83	4	0.65	10	2.66	5	1.19	19	4.50
Undischarged tax liability	17	53.38	5	21.66	0	0	9	26.64	3	5.08	12	31.72
E-commence	4	0	4	0	0	0	0	0	0	0	0	0
No 3B but R1 available	20	1.46	0	0	8	0.19	10	1.03	3	0.24	21	1.46
Interest short paid	25	7.36	0	0	12	2.49	14	4.81	0	0	26	7.30
Total:	240³⁰	1436.11	120³¹	1353.17	31³²	5.87	78³³	61.4	15	15.61	124	82.88

Audit noticed deviations from the provisions of the AGST Act in 124 cases involving short levy of tax of ₹ 82.88 crore, constituting 51.67 per cent of the 240 inconsistencies/mismatches in data, for which the Department provided responses. The Department has accepted the audit observations or initiated action in 105 cases with tax effect of ₹ 67.27 crore. Out of these cases, the Department has recovered ₹ 1.48 crore in 15 cases³⁴, issued Show Cause Notices (SCN) in 16 cases for ₹ 4.39 crore, issued notice conveying discrepancies to the taxpayer in Form ASMT-10 in 69 cases for ₹ 59.10 crore and was in correspondence with the respective taxpayers or issued DRC-01A in nine cases involving tax effect of ₹ 2.30 crore. Relatively higher rates of deviations were noticed under risk parameters such as excess ITC availed, short declaration of taxable value, short payment of interest, etc.

In 120 cases, constituting 50 per cent of the audit sample, where the Department's reply was acceptable to Audit, data entry errors by taxpayers comprised 34 cases, the

²⁷ Compliance deviation of unreconciled ITC in table 14T of GSTR- 9C of ₹ 7.80 crore.

²⁸ Total unreconciled turnover (TO) in table 5R of GSTR-9C in the 25 cases is ₹ 832.73 crore, out of which mismatched TO of ₹ 101.23 crore in four cases is yet to be examined by the Department, in 18 cases involving mismatched TO of ₹ 606.33 crore was mainly due to disclosure consolidated turnover of multiple GSTIN units in table 5R of GSTR 9C-and the deviations in the remaining three cases involving mismatched TO of ₹ 125.17 crore ASMT-10 had been issued by the Department.

²⁹ Total unreconciled taxable turnover (TO) in table 7G of GSTR-9C in the 17 cases is ₹ 274.54 crore, out of which mismatched TO of ₹ 29.56 crore in three cases is yet to be examined by Department, in 12 cases involving mismatched TO of ₹ 152.34 crore was mainly due to disclosure consolidated turnover of multiple GSTIN units in table 7G of GSTR 9C and deviations in the remaining two cases involving mismatched TO of ₹ 92.64 crore. ASMT-10 had been issued by the Department.

³⁰ This excludes 42 cases yet to be examined by the Department.

³¹ Out of 118 accepted cases, in 34 cases amounting to ₹ 48.96 crore related to data entry error, 81 cases amounting to ₹ 1302.67 crore accepted by audit based on other valid explanation given by the Department and in four cases amounting to ₹ 1.54 crore where the Department had taken action before query.

³² In four cases where recovery partly made are also included in ASMT-10 (two cases) and SCN cases (two cases).

³³ Out of 78 cases, 69 cases related to ASMT-10 involving amount of ₹ 59.10 crore and the remaining nine cases related to DRC 01A/Notices involving amount of ₹ 2.30 crore.

³⁴ 15 cases involved such cases which also included in SCN (2 cases) and ASMT-10 cases (2 cases).

Department had proactively taken action in four cases and in 82 cases, there were valid explanations. The details are enclosed in **Appendix-IX**.

In 42 cases constituting 17.5 *per cent* (underlying deviations/mismatch of ₹ 663.69 crore), the Department is yet to examine the observations.

2.4.7.3 A few high value illustrative cases from each dimension are given 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 analyse the veracity of ITC utilisation, relevant data was extracted from GSTR-3B and GSTR-2A for the year 2017-18 and the ITC paid as per suppliers' details was matched with the ITC credit availed by the taxpayer.

In case of M/s Global Distributors (GSTIN- xxxxxxxxxxxE1Z0) under Guwahati Unit-C (Circle-3) for the year 2017-18, it was observed that the taxpayer had availed ITC of ₹ 5.18 crore as per table 4A(5) of GSTR-3B excluding ITC reversal of ₹ 0.31 lakh table 4B(2) of GSTR-3B whereas ITC amount available as per GSTR-2A was only ₹ 1.09 crore, resulting in mismatch of ITC of ₹ 4.08 crore.

On this being pointed out (February 2022), the Department stated (September 2022) that the taxpayer can avail ITC as per books of accounts if he satisfies all other conditions laid down in Section 16 of the AGST Act. However, the Department did not provide any documentary evidence in support of availability of ITC with the taxpayer.

(b) Excess availment of ITC on RCM without payment of tax as per GSTR-3B: Under Reverse Charge Mechanism, the liability to pay tax is fixed on the recipient of supply of goods or services instead of the supplier or provider in respect of certain categories of goods or services or both under Section 9(3) or Section 9(4) of the CGST Act, 2017 and under sub-section (3) or sub-section (4) of Section 5 of the IGST Act, 2017.

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.

In case of M/s Funshine Getaways Pvt Ltd (GSTIN- xxxxxxxxxxxP1ZS) under Sibsagar Unit (Circle-1) for the year 2017-18, it was observed that the taxpayer had availed ITC of ₹ 2.01 crore as per Table 6(C+D+F) of GSTR-9 whereas tax paid under RCM as per Table 3.1(d) of GSTR3B was ₹ 0, which resulted in mismatch of availment of ITC of ₹ 2.01 crore under RCM.

On this being pointed out (February 2022), the Department stated (August 2022) that the matter was being pursued and DRC-01A³⁵ dated 10 August 2022 for intimation of tax ascertained as being payable under Section 74(5) was issued to the taxpayer.

(c) Excess availment of ITC on RCM without payment of Tax as per GSTR-9:

The extent of availing of ITC under RCM for the year 2017-18 without discharging equivalent tax liability or, in other words, short payment of tax under RCM was analysed by comparing RCM payments in GSTR-9 Table 4G with ITC availed in GSTR-9 Tables 6C, 6D and 6F to check whether the tax has been discharged fully on the activities/transactions under RCM.

In case of J K Chemical (GSTIN- xxxxxxxxxxxC1ZS), under Guwahati Unit-A (Circle-1), Audit noticed that during 2017-18, as per Table 6 (C, D & F) of GSTR-9, the taxpayer had availed ITC of ₹ 0.42 crore under RCM. However, tax payable under RCM as per Table 4G of GSTR 9 was ₹ 0.50 lakh under RCM. Thus, the taxpayer had availed ITC of ₹ 0.41 crore under RCM without payment of tax.

This was pointed out in February 2022. Response of the Department is awaited (February 2023).

(d) Irregular availing of ITC by recipient on ISD credit: To analyse whether the ITC availed by the taxpayer is in excess of that transferred by the Input Service Distributor (ISD), ITC availed as declared in the returns of the taxpayer was compared with ITC transferred by the ISD in their GSTR-6.

In case of M/s. Hindustan Unilever Limited (GSTIN- xxxxxxxxxxxN1ZT) under Guwahati Unit-D (Circle-99) for the year 2017-18, Audit noticed that the taxpayer had availed ITC credit of ₹ 25.43 crore in Table 4(A)(4) of GSTR-3B & Table 6G of GSTR-9 against inward supplies received from ISD and ITC transferred by the ISD of ₹ 18.66 crore as per GSTR-6 of ISD. This resulted in incorrect availment of ITC of ₹ 6.77 crore.

This was pointed out in April 2022. Response of the Department is awaited (February 2023).

(e) Unreconciled ITC in Table 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. Table 12F deals with unreconciled ITC.

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

In case of Baker Hughes Singapore PTE (GSTIN- xxxxxxxxxxxF1ZT), under Naharkatia Unit (Circle-1), Audit noticed that as per Table 12 (E) of GSTR-9C, ITC availed was

³⁵ Form DRC-01A is intimation of tax ascertained as being payable under Section 73(5)/74(5) under Rule 141(1A) of the AGST Rules.

₹ 9.03 crore whereas as per Table 12 (D) of GSTR-9C ITC availed was ₹ 4.86 crore. As such, there was mismatch in ITC availed amounting to ₹ 4.17 crore between annual return and financial statements (as mentioned in Table 12F of form GSTR-9C) during 2017-18.

This was pointed out in February 2022. Response of the Department is awaited (February 2023).

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

The certified reconciliation statement submitted by the taxpayer, as required under Rule 80(3) of AGST Rules in form GSTR-9C for the year 2017-18, was analysed at data level to review the extent of identified mismatch in turnover reported in the annual return *vis-à-vis* the financial statements. The unreconciled amount in cases where the turnover declared in GSTR-9 is less than the financial statement indicates non-reporting, under-reporting, short-reporting, omission or 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.

In case of M/s United Spirits Limited (GSTIN- xxxxxxxxxxxJ1Z9), under Unit-C (Circle-7), Audit noticed that the turnover as per annual return was ₹ 34.15 crore whereas the turnover as per financial statement was ₹ 113.59 crore which resulted in unreconciled turnover of ₹ 79.44 crore as per Table 5R of GSTR-9C.

On this being pointed out (February 2022), the Department stated (September 2022) that notice under Section 61 (in form ASMT-10) was issued to the taxpayer.

(g) Unreconciled tax liability in Table 9R of GSTR-9C: The certified reconciliation statement submitted by the taxpayer as required under rule 80(3) of AGST Rules in Form GSTR-9C for the year 2017-18 was analysed at data level to review the extent of identified mismatch in tax paid between the annual return and the books of account. Table 9 of Form 9C reconciles the tax paid by segregating the turnover rate-wise and comparing it with the tax discharged as per annual return in 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 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.

In case of M/s Zillion Infraprojects Private Limited (GSTIN- xxxxxxxxxxxF1ZF), under Bongaigaon (Circle-1), Audit observed that as per books of accounts (Table 9P of GSTR-9C), the taxpayer was liable to pay ₹ 4.20 crore. However, as per annual return

(Table 9Q of GSTR-9C), the taxpayer had paid ₹ 3.07 crore. As such, there was short payment of tax amounting to ₹ 1.13 crore due to mismatch between tax liabilities as per books of accounts and annual return (Table 9R of GSTR-9C) submitted by the taxpayer during 2017-18.

This was pointed out in February 2022. Response of the Department is awaited (February 2023).

(h) Undischarged tax liability: GSTR-1 depicts the monthly details of outward supplies of goods or services. Outward supplies are also assessed by the taxpayer and mentioned in annual return in GSTR-9 in the relevant columns. Further, taxable value and tax paid thereof are also shown in monthly GSTR-3B return.

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

In case of M/s. J.S.B. Cement LLP (GSTIN- xxxxxxxxxxxD1ZW) under Guwahati Unit-C (Circle-8) for the year 2017-18, Audit observed that the liability as per GSTR-1 was of ₹ 13.96 crore whereas payment as per GSTR-9 was ₹ 8.06 crore, which resulted in mismatch in terms of short discharge of tax of ₹ 5.91 crore.

On this being pointed out (February 2022), the Department stated (July 2022) that notice under Section 61 (in Form ASMT-10) had been issued to taxpayer to explain the reasons for discrepancies.

(i) GSTR-3B not filed but GSTR-1 available: GSTR-3B return under rule 61(5) of AGST Rule is the only instrument through which the tax liability is offset and ITC is availed.

Effort was made through data analysis to identify those taxpayers who had not filed GSTR-3B but had filed GSTR-1 or whose GSTR-2A was available. The very availability of GSTR-1 and 2A coupled with non-filing of GSTR-3B indicates that the taxpayers had undertaken/carried on the business during the period but had not discharged their tax liability. It may also include cases of irregular passing on of ITC.

The datasets pertaining to relevant fields in the GSTR-1, 2A and 3B were analysed. In case of M/s Rockland Media and Communication Pvt Ltd (GSTIN- xxxxxxxxxxxM1Z2) under Guwahati Unit-C (Circle-7) for the year 2017-18, Audit noticed that there was tax liability of ₹ 0.39 crore as per GSTR-1 but the taxpayer did not pay tax by filing GSTR-3B. As such there was short discharge of tax liability of ₹ 0.39 crore.

On this being pointed out (February 2022) by Audit, the Department stated (September 2022) that action under section 74 of the Assam GST Act had been initiated

and accordingly DRC-01A³⁶ had been issued for recovery of ₹ 0.74 crore (tax amount of ₹ 0.40 crore and interest amount of ₹ 0.34 crore).

(j) Short payment of interest: Section 50 of the Act stipulates that every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder 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 GSTR-3B. Only the net tax liability (cash component) has been considered to work out the interest payable.

In case of M/s Assam State Transport Corporation (GSTIN- xxxxxxxxxxxR1ZU), under Guwahati Unit-C (Circle-2) for the year 2017-18, Audit observed that the taxpayer made payment of monthly tax liability with delay but no interest was paid on such delayed payment of tax. This resulted in non-payment of interest of ₹ 0.83 crore.

On this being pointed out (February 2022) by Audit, the Department stated (September 2022) that notice under Section 61 (in Form ASMT-10) had been issued to taxpayer to explain the reasons for discrepancies.

2.4.7.4 Audit observations accepted by the Department

Out of the 282 deviations summarised in Table 2.4.5, the Department has accepted the audit observations or initiated action in 105 cases with tax effect of ₹ 67.27 crore (details are given in **Appendix-VII**). A few illustrative cases where the Department accepted or intimated action taken are given below:

(a) Undischarged tax liability: In order to analyse the undischarged tax liability, relevant data were extracted from GSTR 1 and GSTR 9 for the year 2017-18 and the tax payable in these returns was compared with the tax paid declared in GSTR 9.

In case of RCC Infraventures Ltd (GSTIN- xxxxxxxxxxxE1ZC) under Tezpur Unit (Circle-1) for the year 2017-18, Audit noticed that the tax liability as per GSTR-1 was ₹ 9.61 crore whereas payment as per GSTR 9 was only ₹ 4.45 crore, which resulted in short discharge of tax liability of ₹ 5.16 crore.

On this being pointed out (February 2022), the Department stated (May 2022) that notice under Section 61 (in Form ASMT-10) had been issued to taxpayer to explain the reasons for discrepancies.

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

³⁶ Dated 23 September 2022.

In case of Air India Limited (GSTIN- xxxxxxxxxxxP1ZO), under Unit-C (Circle-7), Audit noticed that as per Table 12 (E) of GSTR 9C, ITC availed was ₹ 2.69 crore whereas as per Table 12 (D) of GSTR 9C, ITC availed was ₹ 0.13 crore. As such, there was mismatch in ITC availed amounting to ₹ 2.56 crore between the annual return and the financial statements (as mentioned in Table 12F of form GSTR 9C) during 2017-18.

On this being pointed out (February 2022), the Department stated (September 2022) that notice under Section 61 (in form ASMT-10) was issued to the taxpayer to explain the reasons for discrepancies.

2.4.7.5 Department response rebutted

Out of the 125 non-compliance cases as per Table 2.4.5, the Department has not accepted 15 audit observations amounting to ₹ 15.61 crore. These cases are featured in **Appendix-VIII**. Two illustrative cases are given below:

(a) Undischarged tax liability: In case of M/s Sri Gopikrishna Infrastructure Pvt. Ltd (GSTIN- xxxxxxxxxxxQ2ZO) under Guwahati Unit-C(Circle-4), Audit observed that the liability as per GSTR-1 was of ₹ 2.53 crore whereas payment as per GSTR-3B/GSTR-9 was ₹ 0.11 crore for the year 2017-18, which resulted in short discharge of tax liability of ₹ 2.42 crore.

On this being pointed out (February 2022), the Department stated (July 2022) that the taxpayer had correctly discharged tax liability of ₹ 0.11 crore for 2017-18 through GSTR-3B for the months of February 2018 and March 2018. The reply is not tenable as the taxpayer had amended invoice/credit note/debit note pertaining to the year 2017-18 amounting to ₹ 2.42 crore in GSTR 1 during the year 2018-19 which brought the total tax liability for 2017-18 to ₹ 2.53 crore. This needs further clarification from the Department.

(b) ITC mismatch between GSTR-2A and GSTR-3B: In case of M/s. Mahindra & Mahindra Limited (GSTIN- xxxxxxxxxxxE1ZY) under Guwahati Unit-C (Circle-99) for the year 2017-18, it was observed that the taxpayer had availed ITC of ₹ 197.97 crore as per GSTR-3B whereas ITC amount reflected in GSTR-2A was ₹ 195.75 crore which resulted in excess availment of ITC of ₹ 2.22 crore.

On this being pointed out (February 2022), the Department stated (September 2022) that the taxpayer can avail ITC as per books of accounts if he satisfies all other conditions laid down in Section 16 of AGST Act. However, the Department did not provide documentary evidence regarding availability of ITC with the taxpayer.

2.4.7.6 Data entry errors by taxpayers

The data entry errors constituted 14.17 *per cent* (34 cases) of the total responses received. These data entry errors did not have any revenue implication. Most of the data entry errors relate to payment of tax under RCM, distribution of ITC by ISD, *etc.* as detailed in **Appendix-IX**. An illustrative case is brought out below:

Unreconciled tax liability in Table 9R of GSTR-9C: In case of M/s Jain Udyog (GSTIN-xxxxxxxxxxG1ZF), under Silchar Unit (Circle-1), Audit observed that there was unreconciled tax liability of ₹ 18.63 crore as per Table 9R of GSTR 9C.

On this being pointed out (February 2022), the Department stated (September 2022) that unreconciled amount in table 9R of GSTR-9C was due to entering ₹ 0 in Table 9 of GSTR-9 inadvertently. The system allowed for such data entry errors, which could have been avoided with proper validation controls.

The CAG's Report No. 5 of 2022 on Union Government Department of Revenue (Indirect Taxes-Goods and Services Tax)- had also highlighted data quality issues and significant inconsistencies in the GST data due to which Audit could not establish reliability of data for finding audit insights and trends. The Report had recommended that the Union Ministry should consider introducing appropriate validation controls (controls to prevent unreasonable data entries and/or alert the taxpayer to unreasonable data) supplemented by *post-facto* data analytics in respect of important data elements.

Recommendation No. 5

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

2.4.7.7 Department's reply acceptable to audit

Out of 120 cases summarised in Table 2.4.5, in 82 cases (68.34 *per cent*), the Department's response is acceptable to Audit. A few illustrative cases are given below:

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

In case of North Eastern Electric Power Corporation Ltd (GSTIN- xxxxxxxxxxxJ2ZQ), under Haflong Unit (Circle-1), Audit noticed that there was mismatch in ITC availed amounting to ₹ 1.04 crore between the annual return and the financial statements (as mentioned in Table 12F of form GSTR 9C) during 2017-18.

On this being pointed out (February 2022), the Department stated (September 2022) that the unreconciled amount of ₹ 1.04 crore as per GSTR 9C of 2017-18 had been reversed in GSTR 3B for the months of September 2018 and December 2018.

(b) Unreconciled turnover in table 5R of GSTR-9C

In case of Village Financial Services Limited (GSTIN- xxxxxxxxxxxB1ZF), under Dhubri Unit (Circle-1), Audit noticed that there was a mismatch of unreconciled turnover of ₹ 112.77 crore as per Table 5R of GSTR-9C.

On this being pointed out (February 2022), the Department stated (June 2022) that the reasons for unreconciled turnover was due to disclosure of consolidated turnover of multi-GSTIN units under the same PAN.

2.4.8 Detailed Audit

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

From an external audit perspective, Audit also focused on a data-driven risk-based approach. Thus, apart from identifying inconsistencies/deviations in GST returns through pan-State data analysis, a detailed audit of GST returns was also conducted as part of this SSCA. A risk-based sample of 50 taxpayers was selected for this part of the SSCA. The methodology adopted was to initially conduct a desk review of GST returns and financial statements filed by the taxpayers as part of GSTR-9C and other records available in the back-end system to identify potential risk areas, inconsistencies/deviations and red flags. Accordingly, desk review was carried out in the audit office. Based on desk review results, detailed audit was conducted at Circles by requisitioning records of taxpayers such as financial ledgers, invoices, *etc.* to identify causative factors of the identified risks and to evaluate compliance by taxpayers.

In reply to audit requisitions relating to granular records for detailed audit, the Department furnished records only in four cases out of 50 selected cases.

In 38 cases, comprising 76 *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-X**. Consequently, in these partially produced cases, Audit was restricted to the information available in the returns filed by the taxpayers. In eight cases (16 *per cent*), the jurisdictional circles did not produce any records. The details are in **Appendix-XI**. Thus, Audit could not assess eligibility of ITC claimed and extent of unsettled tax liability, which constituted a significant scope limitation.

Top five cases of non-production and partial production of records are given in **Table 2.4.6** & **Table 2.4.7** respectively.

Table 2.4.6: Top five cases of non-production of records

Sl. No.	GSTIN	Name of the taxpayer	Jurisdictional Circle	Mismatches (ITC and liability) (₹ in crore)
1	xxxxxxxxxxN3ZX	Nayak Infrastructure Private Limited	Hojai-01	3.02
2	xxxxxxxxxxJ1Z1	M/s Global Oil Field Services Private Limited	Sibsagar -04	0.72
3	xxxxxxxxxxR2ZI	G.K. & Sons Agency	Guwahati-B-07	0.61
4	xxxxxxxxxxK1ZW	S K Logitech Private Limited	Sibsagar-04	0.60
5	xxxxxxxxxxB1Z6	A M Enterprise	Guwahati-B-07	0.39

Table 2.4.7: Top five cases of partial production of records

Sl. No.	Name of the taxpayer/ GSTIN (Circle)	Records not produced	Mismatch Amount (ITC and Undischarged liability) (₹ in crore)
1	Borah BBM Automobiles LLP/ xxxxxxxxxxQ1ZM (DIBRUGARH-04)	<ol style="list-style-type: none"> Inward invoices for the months of December 2017 and January 2018 Outward invoices/Exempted supply invoices for the months of July 2017 and December 2017 Purchase and sale ledger. Ledger of sundry creditors, Statement detailing value of supply & tax payable invoice-date-wise and date of payment made thereagainst Notes & Schedules related to financial statements 	6.47
2	Hindustan Construction Co. Ltd./ xxxxxxxxxxB1ZV (GUWAHATI-D-99)	<ol style="list-style-type: none"> Inward invoices for the months of January 2018 & March 2018 Outward invoices for the months of August 2017 & February 2018 Purchase and sale ledger. Trial Balance of the state GSTIN for the year 2017-18 	5.46
3	National Insurance Company Ltd/ xxxxxxxxxxE1Z2 (GUWAHATI-D-02)	<ol style="list-style-type: none"> Inward invoices for the months of July 2017 & January 2018 Outward invoices/Exempted supply invoice for the months of October 2017 & March 2018 Purchase and sale ledger. Fixed Asset sale ledger and related GST payment documents Calculation sheet of Common credit for reversal of ITC as per formula prescribed under Rule 42 of AGST Act 2017. 	4.21
4	Emami Limited/ xxxxxxxxxxG1ZS (GUWAHATI-C-99)	<ol style="list-style-type: none"> Inward invoices for the months of February 2018 & March 2018 Outward invoices for the months of July 2017 and October 2017 Purchase and sale ledger. Trial-balance of the State GSTIN 	3.26
5	Vodafone Idea Limited/ xxxxxxxxxxP1ZW (GUWAHATI-B-02)	<ol style="list-style-type: none"> Inward invoices for the months of November 2017 & March 2018 Outward invoices for the months of December 2017 & March 2018 Purchase and sale ledger. Trial Balance of the state GSTIN for the year 2017-18 	3.22

2.4.8.1 Audit findings - Detailed audit

The audit findings have been categorised under three categories viz., audit findings relating to (a) Returns (b) Utilisation of ITC and (c) Discharge of tax liability.

(a) Audit findings related to GST Returns

The detailed audit of returns filed by a sample of 50 taxpayers disclosed that interest payments were not discharged by taxpayers and there was non/short levy of late fee and penalty in a significant number of cases, which are brought out below.

(i) Non-payment of interest by taxpayers

As per section 50 of the AGST Act, every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, 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, on his own, interest at such rate, not exceeding eighteen *per cent*, as may be notified by the Government on the recommendations of the Council.

On scrutiny of GSTR-3B returns for the year 2017-18 in respect of selected 50 taxpayers, it was noticed that 25 taxpayers pertaining to 20 Circles (or 12 Unit Offices) did not pay interest of ₹ 0.75 crore for delayed payment of tax. Details are given in **Appendix-XII**.

On these being pointed out (May-September 2022), the Department stated (July-September 2022) that notices were issued to taxpayers in eight cases under Section 61 to explain the reasons for discrepancies and SCNs were issued to taxpayers in eight cases under Section 73 of the AGST Act to ascertain short payment of interest and four taxpayers had deposited ₹ 0.40 lakh. Reply of the Department in respect of five cases is awaited (February 2023). The top five irregularities noticed in this category amounted to ₹ 0.64 crore. Two illustrative cases are given below:

- During scrutiny of monthly returns (GSTR-3B) of Shri Kulen Hazarika (GSTIN-XXXXXXXXXXK1ZJ), under Mangaldoi Unit (Circle-2) for the year 2017-18, it was noticed that there was delay in filing of GSTR-3B return for the months of October 2017, December 2017, February 2018 and March 2018. The delay ranged between 217 and 337 days; however, interest amounting to ₹ 0.26 crore was not paid on delayed payment of tax of ₹ 2.26 crore.

On this being pointed out (September 2022), the Department stated (September 2022) that DRC 01A dated 28 September 2022 had been issued to the taxpayer.

- Scrutiny of GSTR-3B returns of Tapan Changmai (GSTIN-XXXXXXXXXXM2Z9), under Tinsukia (Circle-2) for the year 2017-18 revealed that there was delay in filing of GSTR-3B for the months of December 2017 to March 2018 ranging between 139 and 227 days; however, interest amounting to ₹ 0.15 crore was not paid on delayed payment of tax of ₹ 1.77 crore.

On this being pointed out (July 2022), the Department stated (July 2022) that SCN under section 73 of the AGST Act, 2017 (DRC-01) had been issued to the taxpayer for short payment of interest.

(ii) Non/short levy of late fee for delay in filing of Annual Return

In terms of Section 47 of the AGST Act, any registered person who fails to furnish annual return (GSTR-9) as per Section 44 of the Act *ibid* within the due date shall pay

a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of half *per cent*³⁷ of turnover in the State.

Audit noticed that out of the selected 50 taxpayers, five taxpayers³⁸ did not file GSTR-9 and seven taxpayers³⁹ filed GSTR-9 but with delays ranging between 12 days and 865 days from the due date for the period 2017-18. However, the proper officer did not levy late fee amounting to ₹ 0.16 crore. The details of these cases are shown in **Appendix-XIII**.

On being pointed out (between June and September 2022), the Department stated (between July and September 2022) that notices were issued to six taxpayers under Section 61 to explain the reasons for discrepancies and SCN were issued to five taxpayers under Section 73 of the AGST Act, 2017 and one taxpayer had deposited late fees of ₹ 1.46 lakh. Further, action initiated by the Department is awaited (February 2023). The top five irregularities noticed in this category amounted to ₹ 8.88 lakh. Two illustrative cases are given below:

- In case of M/s Nayak Infrastructure Pvt. Ltd (GSTIN- xxxxxxxxxxxN3ZX), under Hojai Unit (Circle-1) for the year 2017-18, Audit noticed that the taxpayer did not file his annual return (GSTR-9) till the date of audit (31 August 2022). As such there was a delay of 936 days in filing of annual return with late fee implication of ₹ 1.88 lakh.

On this being pointed out (September 2022), the Department stated (September 2022) that SCN under Section 73 of the AGST Act (DRC-01) had been issued to the taxpayer.

- In case of S K Logitech Pvt Ltd (GSTIN- xxxxxxxxxxxK1ZW), under Sivasagar (Circle-4) for the year 2017-18, Audit noticed that the taxpayer did not file his annual return till the date of audit (31 July 2022). There was delay of 905 days in filing of annual return with late fee implication of ₹ 1.82 lakh.

On this being pointed out (August 2022), the Department stated (August 2022) that SCN under Section 73 of the AGST Act, 2017 (DRC-01) had been issued to the taxpayer.

(iii) Non-levy of penalty due to delay in filing of form GSTR-9C

As per Section 44(2) of AGST Act, 2017, every registered person who is required to get his accounts audited shall furnish, electronically, the annual return (GSTR-9) under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement (GSTR-9C), reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement and such other particulars as may be prescribed. Again, as per sl. no. 2 of Notification No. 06/2020 – Central Tax⁴⁰ dated 03 February 2020, the due date for furnishing return under

³⁷ 0.25 *per cent* under the CGST Law + 0.25 *per cent* under the SGST / UTGST Law.

³⁸ Pertains to four circles.

³⁹ Pertaining to seven circles.

⁴⁰ No similar notification was found to be issued from state tax authority.

Section 44 of the Act *ibid* and Rule 80 made thereunder was extended to 07 February 2020 for the year 2017-18.

As per Section 125 of AGST Act, 2017, any person, who contravenes any of the provisions of this Act or any rules made thereunder for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to twenty-five thousand rupees. Similar provision for levy of penalty has also been laid down under the CGST Act, 2017.

Audit noticed that out of the selected 50 taxpayers, nine taxpayers⁴¹ did not file GSTR-9C. Further, six taxpayers⁴² filed GSTR-9C with delays ranging between 13 days and 955 days from the due date for the period 2017-18. However, the proper officers did not levy penalty amounting to ₹ 7.50 lakh for such delayed/non-filing of GSTR-9C. The details of the cases are shown in **Appendix-XIV**.

On being pointed out (between June and September 2022), the Department stated (between July and September 2022) that notices were issued to seven taxpayers under Section 61 to explain the reasons for discrepancies and SCNs were issued to another seven taxpayers under Section 73 of the AGST Act, 2017 to determine short/non-levy of penalty. Further, a penalty of ₹ 0.50 lakh (₹ 0.25 lakh under CGST Act and ₹ 0.25 lakh under AGST Act) was recovered from one taxpayer.

(b) Audit findings relating to utilisation of ITC

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

The Principal Commissioner of State Tax, Assam vide Circular No. 131/2021-GST dated 11 January 2023 prescribed the following procedures for dealing with cases where there was difference in the ITC availed in Form GSTR-3B as compared to that ITC available in Form GSTR-2A for the FY 2017-18 :

(a) If the difference between ITC claimed in Form GSTR-3B and that available in Form GSTR-2A exceeds ₹ five lakh, the proper officer shall ask the registered person to produce a certificate for the concerned supplier from Chartered Accountant (CA) or Cost Accountant (CMA), certifying that supplies in respect of the said invoices of the supplier have actually been made by the supplier to the said registered person and the tax on such supplies has been paid by the said supplier in his return in Form GSTR-3B.

(b) If the difference between ITC claimed in Form GSTR-3B and that available in Form GSTR-2A is up to ₹ five lakh, the proper officer shall ask the claimant to produce a certificate from the concerned supplier to the effect that said supplies have actually been made by him to the said registered person and the tax on said supplies has been paid by the said supplier in his return in Form GSTR-3B.

On verification of records for the year 2017-18 in respect 50 selected taxpayers, Audit noticed ITC mismatch of ₹ 27.01 crore in respect of 37 taxpayers⁴³. There was

⁴¹ Pertaining to seven circles.

⁴² Pertaining to six circles.

⁴³ Pertaining to 30 Circles (or 19 Unit Offices).

mismatch of ITC availed as per Table 4A (5) of GSTR-3B and ITC available as per GSTR-2A during 2017-18. (Details are in **Appendix-XV**).

On being pointed out (between May and September 2022), the Department stated (between July and October 2022) that in 24 cases notices had been issued to taxpayers under Section 61 to explain the reasons for discrepancies. However, further reply of the Department is awaited (February 2023).

Further, in four cases, SCNs were issued under Section 73 of the AGST Act, 2017 and in one case, the Department had realised ₹ 9.87 lakh. The reply of the Department in respect of the remaining eight cases is awaited (February 2023). The top five irregularities noticed in this category amounted to ₹ 12.87 crore. An illustrative case is given below:

- During examination of the returns of Hindustan Construction Co. Ltd (GSTIN-XXXXXXXXXXB1ZV) under jurisdiction of Guwahati Unit-D (Circle-99) for the period from July 2017 to March 2018, Audit observed that ITC availed as per GSTR-3B/GSTR-9⁴⁴ was ₹ 22.78 crore. However, ITC available as per auto populated GSTR-2A was ₹ 17.85 crore. Thus, there was a mismatch of excess ITC of ₹ 4.93 crore during the year 2017-18.

On being pointed out (May 2022), the Department stated (October 2022), that notice was issued to the taxpayer under Section 61 to explain the reasons for discrepancy. However, further reply of the Department is awaited (February 2023).

(ii) Mismatch in availment of ISD credit

In order to examine whether the ITC availed by the taxpayer was as per the amount transferred by the ISD, ITC availed in the returns of the taxpayer was compared with ITC transferred by the ISD in their GSTR-6.

On verification of GSTR-3B/GSTR-9 and data of GSTR-6⁴⁵ of ISD for the year 2017-18 in respect of 50 selected taxpayers three taxpayers⁴⁶ pertaining to three Circle (or two Unit Offices), it was noticed that the recipients had availed ITC of ₹ 3.50 crore against distributed ITC of ₹ 3.16 crore by their respective ISD. This resulted in mismatch in availment of ISD credit of ₹ 0.34 crore by the recipients.

On being pointed out (between June and July 2022), the Department stated (August 2022) that in two cases, notices had been issued to the taxpayers under Section 61 of the AGST Act, 2017 to explain the reasons for discrepancies and the reply of the Department is awaited (February 2023) in one case.

⁴⁴ [Table 4A (5) -Table 4B (2)] of GSTR-3B + Table 8C of GSTR-9.

⁴⁵ Source: Data from GSTN extracted by the core team of O/o CAG of India.

⁴⁶ (i) XXXXXXXXXXXXP1ZW (ii) XXXXXXXXXXXXE1ZQ (iii) XXXXXXXXXXXXG1ZS.

(iii) Other cases relating to utilisation of ITC

In addition, Audit observed five cases of mismatch of ITC involving ₹ 15.65 lakh owing to mismatch in ITC under Reverse Charge mechanism and un-reconciled ITC between annual returns and financial statements (**Detailed in Appendix-XVI**).

(c) Audit findings relating to discharge of tax liability

(i) Mismatch in tax liability

Audit observed in case of 28 taxpayers⁴⁷ out of 50 selected cases, there was tax liability mismatch ranging from ₹ 0.20 lakh to ₹ 1.86 crore amounting to a total of ₹ 8.76 crore (**Detailed in Appendix-XVII**). The tax liability declared by the taxpayer as per GSTR-1 did not match with the tax liability declared in GSTR-9 (Audit consider GSTR-3B where GSTR-9 was not available).

On being pointed out (between May and September 2022), the Department stated (between June and October 2022) that notices had been issued to taxpayers in 22 cases under Section 61 to explain the reasons for discrepancies and SCNs had been issued to taxpayers in two cases under Section 73 of the AGST Act, 2017. One taxpayer had deposited ₹ 0.46 lakh including interest. The reply of the Department in other four cases is awaited (February 2023). Top five irregularities noticed in this category amounted to ₹ 6.14 crore. An illustrative case is given below:

- Scrutiny of monthly returns (GSTR-1)/Annual return (GSTR-9) of National Insurance Company Ltd (GSTIN-xxxxxxxxxxE1Z2), under Guwahati Unit-D (Circle-2) for the year 2017-18, disclosed that the tax liability as per GSTR-1/GSTR-9 was ₹ 16.02 crore whereas the tax payment as per table 9 of GSTR-9 was ₹ 14.16 crore. This resulted in tax liability mismatch of ₹ 1.86 crore.

On this being pointed out (June 2022), the Department stated (July 2022) that the matter was pursued with taxpayer by issuing notice in Form ASMT-10 to explain the reasons for discrepancy.

(ii) Other observations on mismatch of tax liability

Audit noticed deviations/mismatch in tax liability in respect of nine taxpayers out of selected 50 taxpayers with reference to ‘difference in tax paid between books of accounts and Annual returns’ (three cases) ‘mismatch of turnover as per GSTR-9C and turnover as per IT return’ (one case), ‘non-discharge of tax liability of rental income’ (two cases), ‘interest not paid against delayed payment of un-discharged tax liability’ (three cases). The tax liability in these observations ranges from ₹ 0.04 lakh to ₹ 0.61 lakh amounting to ₹ 2.67 lakh (**Detailed in Appendix-XVIII**).

Recommendation No. 6

- *The Department may initiate remedial action for all the compliance deviations before they get time-barred.*

⁴⁷ Pertaining to 22 circles.

2.4.9 Conclusion

The Subject Specific Compliance Audit (SSCA) on 'Department's Oversight on GST Payments and Return Filing' was undertaken with the objective of assessing the adequacy of the system in monitoring returns filing by the taxpayers, extent of compliance by the taxpayers and other departmental oversight functions.

This SSCA was predominantly based on data analysis, which highlighted risk areas, raised red flags and in some cases, pointed out rule-based deviations and logical inconsistencies in GST returns filed by the taxpayers for 2017-18. The SSCA entailed assessing the oversight functions of State tax jurisdictional formations (Circles) at two levels – at the data level through global data queries and at the functional level with a deeper detailed audit both of the circles and of the GST returns, which involved accessing taxpayer records. The audit sample, therefore, comprised 10 Circles of assessing oversight functions of the Circles, 282 high value inconsistencies across 14 risk parameters selected through global queries and 50 taxpayers selected on risk assessment for detailed audit of GST returns.

A review of **10 Circles** disclosed that essential oversight functions of the circles such as monitoring of return filing, scrutiny of selected returns and internal audit of taxpayers needs to be strengthened.

As regards **centralised audit**, deviations were observed in 124 cases involving short levy of tax of ₹ 82.88 crore constituting 51.67 *per cent* of the 240 inconsistencies/mismatch in data for which the Department provided response. The Department has accepted the audit observations or initiated action in 105 cases with tax effect of ₹ 67.27 crore. Relatively higher rates of deviations were noticed under risk parameters such as excess ITC availed, short declaration of taxable value and short payment of interest, *etc.* In 42 cases, constituting 17.5 *per cent* of the audit sample, (underlying deviations/mismatch of ₹ 663.69 crore), the Department is yet to give replies.

As regards **detailed audit**, out of a sample of 50 taxpayers, essential basic records such as financial statements, trial balance, *etc.* were not produced in eight cases and in another 38 cases, the corresponding other records from the taxpayer were not forthcoming, which constituted a significant scope limitation for detailed audit. Detailed audit of GST returns also pointed towards non-compliance on issues such as non-payment of interest by taxpayers, non-short levy of late fee/penalty and short discharge of tax liability, with a revenue implication of ₹ 37.29 crore.

2.4.10 Summary of recommendations

The Department may:

- *may issue detailed SOP/ guidelines for selection of returns for scrutiny based on risk parameters in line with CBIC's instruction dated 22 March 2022 and consider creating a separate dedicated wing to institutionalise an effective risk based system of scrutiny.*

- *consider issuing suitable instructions with reference to the scrutiny of returns for 2019-20 and 2020-21 with timelines.*
- *take prompt steps to undertake the audits under Section 65 of the Act so that timely action can be initiated against the defaulters before the cases get time-barred.*
- *examine the 42 mismatches/ deviations pointed out by Audit for which responses have not been provided and issue notices wherever necessary under Section 61 of AGST Act, 2017.*
- *take up the matter with the GST Council to insert adequate validation controls in the GST portal to curb data entry errors, enhance taxpayer compliance and facilitate better scrutiny.*
- *initiate remedial action for all the compliance deviations before they get time-barred.*

2.5 Underassessment of turnover

The Assessing Officer failed to detect wrong declaration of opening stock as well as short declaration of stock received from branch offices which resulted in understatement of stock by the dealer involving tax of ₹ 22.81 lakh. Besides, interest of ₹ 27.89 lakh and penalty not exceeding ₹ 45.62 lakh was also payable.

As per Section 40 of the AVAT Act, 2003, if the prescribed authority has reason to believe that any part of the turnover had been under-assessed, he may proceed to assess the amount of tax due from the dealer in respect of such turnover within a period of eight years from the close of the financial year concerned. Further, under Section 90 of the AVAT Act, 2003, if a dealer conceals the particulars of turnover, he shall pay by way of penalty, in addition to tax and interest, a sum not exceeding twice the amount of tax involved or tax evaded or sought to be evaded. During 2013-14 and 2014-15, goods falling under the Second Schedule and Fifth Schedule of AVAT Act were taxable at the rate of five and 14.5 *per cent* respectively.

Out of 62 VAT assessments completed by Assistant Commissioner of Taxes (ACT), Unit A, Guwahati in 2019-20, Audit checked (February-March 2021) 52 cases and observed that in one case, the Assessing Officer failed to detect understatement of stock by a dealer, M/s Gupta, who dealt in processed food, tobacco, milk products, *etc.*

As per the audited accounts for the year 2013-14, closing stock of goods of the dealer under the Second schedule and Fifth schedule were ₹ 16.08 lakh and ₹ 1.05 crore respectively. However, the dealer, in his audited accounts for the year 2014-15, had carried forward opening stock of goods under the Second Schedule and Fifth Schedule as ₹ 1.05 crore and ₹ 16.08 lakh respectively. While completing the assessment (March 2020), the AO failed to notice the understatement and over statement of stocks under the Fifth schedule and Second schedule which involves evasion of tax of ₹ 8.42 lakh as detailed in **Table 2.5.1**.

Table 2.5.1: Details of evasion of tax due to overstatement of stocks

(Amount in ₹)

Particulars	Closing stock of 2013-14 (A)		Opening stock of 2014-15 (B)	
	5%	14.5%	5%	14.5%
Stock position (as per audited accounts)	16,08,149	1,04,69,695	1,04,69,695	16,08,149
Tax involved	80,407	15,18,105	5,23,484	2,33,181
Total tax involved	15,98,512		7,56,665	
Net evasion of tax (difference of (A) and (B))			8,41,847	
Interest payable up to February 2022 (79 months)			9,97,588	
Penalty not exceeding twice the amount of tax evaded			16,83,694	

Further, the dealer, in his audited accounts and annual return for the year 2014-15, had declared receipt of consignment stock goods valued at ₹ 2.76 crore and ₹ 1.19 crore under the Second and Fifth schedule respectively. Audit scrutinised utilisation statement of Form 'F'⁴⁸ (**Appendix-XIX**) furnished by the dealer which revealed that during 2014-15, the dealer had actually received consignment stock goods (from outside the State) valued at ₹ 4.38 crore and ₹ 1.63 crore under the Second and Fifth schedule respectively. The AO, while completing the assessment (March 2020), accepted the figures as disclosed by the dealer in his audited accounts without verifying the value of Form 'F' utilised by the dealer available in the case records. This resulted in understatement of stock received which involves evasion of tax of ₹ 14.39 lakh as detailed in **Table 2.5.2**.

Table 2.5.2:-Details of evasion of tax due to understatement of stocks

(Amount in ₹)

Rate of goods	5%	14.5%
Consignment stock received turnover as per utilisation of Form 'F' (from outside the state of Assam)	4,37,50,625	1,62,52,000
Consignment stock received turnover brought to assessment	2,75,80,625	1,19,02,000
Concealment of consignment stock received turnover	1,61,70,000	43,50,000
Tax leviable	8,08,500	6,30,750
Interest leviable @1.5% up to March 2022 (83 months)	10,06,583	7,85,284
Penalty not exceeding twice the amount of tax evaded	16,17,000	12,61,500

Thus, due to wrong declaration of opening stocks and consignments received by the dealer and non-detection of suppression of stocks in closing stock during assessment by the AO, the Government had to forgo revenue of ₹ 22.81 lakh.

On this being pointed out (April 2021), the Department stated (February 2023) that the AO has verified the dealer's books and accounts and noticed that actual closing stock at the end of March 2014 stands at ₹ 1.05 crore and ₹ 16.08 lakh under the Second and Fifth Schedule of the Act respectively. The transposition of amount of closing stock under the Second and Fifth Schedule (in both annual return as well as audited accounts of 2013-14) has occurred due to sheer typographical mistake. The reply of the Department is not tenable as audit has observed that while replying, the AO has recast the closing stock of 2013-14 by altering the profit amount certified by the Chartered

⁴⁸ F form is used for stock transfer to branches/consignment agents or *vice-versa* from one state to another, without attracting charge of CST.

Accountant. Further, the Department's reply on short declaration of receipt of consignment stock goods is awaited (February 2023).

The case was reported to the Government in September 2022; their reply was awaited (February 2023).

2.6 Non-verification of utilisation of Form 'C'/delivery notes

As per Section 37 (1) of the AVAT Act, 2003, if any dealer has not furnished annual returns within the prescribed date or furnished incomplete/incorrect annual returns or failed to maintain accounts in accordance with the provision of the Act *ibid*, the prescribed authority shall, after issue of a notice to the dealer in the prescribed form and in prescribed manner, so as to give him a reasonable opportunity of being heard, assess him to the best of his judgement.

Section 40 of the AVAT Act, 2003, provides that if the prescribed authority has reason to believe that any part of the turnover had been under-assessed, he may proceed to assess the amount of tax due from the dealer in respect of such turnover within a period of eight years from the close of the financial year concerned.

Section 30 of the AVAT Act, 2003, provides that if any dealer fails to pay the amount of tax due within the time prescribed for its payment (within 21 days of the subsequent month), such dealer shall, in addition to the tax, be liable to pay simple interest at the rate of one and half *per cent* per month on the unpaid tax amount. Further, under Section 90 of the AVAT Act, 2003, if a dealer conceals the particulars of turnover, he shall pay by way of penalty, in addition to tax and interest, a sum not exceeding twice the amount of tax involved or tax evaded or sought to be evaded.

2.6.1 Concealment of purchase turnover of ₹ 1.40 crore

The Assessing Officer did not verify utilisation of Form 'C'/delivery notes against goods purchased from outside the State which resulted in concealment of purchase turnover valuing ₹ 1.40 crore involving tax of ₹ 20.26 lakh. Besides, interest of ₹ 19.61 lakh and penalty not exceeding ₹ 40.52 lakh was also payable.

Audit scrutinised (January-February 2021) the assessment records in the office of the ACT, Unit-C, Guwahati and observed that M/s Electro Sales Corporation (dealing in batteries, torch light and UPS) disclosed its inter-State taxable purchase (Fifth schedule items) as "NIL" during the years 2015-16 and 2016-17. The assessing authority, while assessing the accounts (January 2021), accepted the inter-State purchase value as declared by the dealer. However, scrutiny of utilisation details of delivery notes showed that the dealer had actually purchased Fifth schedule goods valued at ₹ 64.41 lakh and ₹ 75.33 lakh for the years 2015-16 and 2016-17 respectively (**Appendix-XX**).

Thus, failure of the AO to verify the details of delivery notes enabled the dealer to conceal purchase turnover of ₹ 64.41 lakh and ₹ 75.33 lakh for the years 2015-16 and 2016-17 respectively which resulted in short levy of tax amounting to ₹ 20.26 lakh on which interest of ₹ 19.61 lakh is leviable as detailed in **Table 2.6.1**.

Table 2.6.1: Details of short levy of tax due to concealment of purchase turnover

Particulars	(Amount in ₹)	
	2015-16	2016-17
Total purchase value as per Delivery Note details	64,40,655	75,33,429
Less: Total inter-State purchase value of goods brought into assessment as per annual return	0	0
Concealment of purchase	64,40,655	75,33,429
Tax leviable @14.5 per cent	9,33,895	10,92,347
Interest @ 1.5 per cent up to March 2022	9,94,598	9,66,727
	(71 months)	(59 months)
Penalty not exceeding twice the amount of tax evaded	18,67,790	21,84,694

On this being pointed out (April 2021), the Department stated (February 2023) that examination of records reflected discrepancies between goods sold and goods purchased involving different tax rates. Accordingly, the Department has initiated re-assessment proceeding under the provision of the AVAT Act, 2003. However, final outcome is awaited (February 2023).

The matter was reported to the Government in September 2022; their reply was awaited (February 2023).

2.6.2 Escapement of Inter-State purchase turnover of ₹ 2.68 crore

The Assessing Officer (AO) did not take cognisance of utilisation details of delivery notes against goods purchased from outside the State of Assam during best judgement assessment, which led to escape of inter-state purchase turnover to the tune of ₹ 2.68 crore from assessment, thereby causing short levy tax of ₹ 38.80 lakh. Besides, interest of ₹ 48.31 lakh and penalty not exceeding ₹ 77.61 lakh was also payable.

Audit scrutinised (January-February 2022) the assessment records in the office of the ACT, Unit-D, Guwahati and observed that a dealer, M/s Baruah Motors, dealing in car, accessories, spare parts, *etc.* had not furnished annual return since its registration (June 2014). The competent authority issued (August 2020) notice under Section 37 of the AVAT Act, 2003 to the dealer to appear (on 07 September 2020) with all the relevant records, registers, *etc.* pertaining to the period 2014-15. The dealer failed to comply with the time and opportunity given and the Assessing Officer (AO) proceeded (September 2020) with best judgement assessment under Section 37 (1) of the AVAT Act, 2003. Accordingly, a demand notice was issued (October 2020) for payment of ₹ 57.15 lakh (VAT-₹ 28.94 lakh and interest-₹ 28.21 lakh) to the dealer.

During scrutiny of the assessment order and case records available with the AO, Audit observed that based on the utilisation of delivery notes, the dealer had made inter-state purchase of goods valued at ₹ 13.83 crore (**Appendix-XXI**) during 2014-15 whereas the AO, while assessing the accounts of the dealer, determined inter-state purchase of goods valued at ₹ 11.15 crore only leading to escapement of inter-state purchase turnover of ₹ 2.68 crore from the assessment.

It was further noticed that apart from issue of demand notice for ₹ 57.15 lakh as a result of best judgement assessment in October 2020, the AO did not take any steps to recover the tax and interest due from the dealer.

Thus, failure of the AO to exercise due diligence and take cognisance of utilisation details of delivery notes already available with the AO while assessing the dealer resulted in short levy of tax of ₹ 38.80 lakh on which interest of ₹ 48.31 lakh and penalty not exceeding ₹ 77.61 lakh was also leviable as detailed in **Table 2.6.2**.

Table 2.6.2: Details of short levy of tax and interest

Particulars	(Amount in ₹)
	2014-15
Total purchase value as per delivery notes	13,82,97,457
Less : Total inter-State purchase value of goods brought into assessment	11,15,35,910
Turnover escaped assessment	2,67,61,547
Tax leviable @14.5 per cent	38,80,424
Interest @ 1.5 per cent up to March 2022 for 83 months	48,31,129
Penalty not exceeding twice the amount of tax evaded	77,60,848

On this being pointed out (March 2022), the Department stated (February 2023) that due to failure to get any response from the dealer, the AO proceeded (September 2022) with re-assessment under Section 40 of the AVAT Act, 2003 and a fresh demand of tax and interest of ₹ 1.72 crore⁴⁹ was issued (September 2022) to the dealer. The Department further added that the matter has been forwarded (January 2023) to the Certificate Officer, Kamrup, Guwahati for recovery and Union Bank of India, in which the dealer had a CAGEN bank account, had been requested (January 2023) to freeze the bank account of the dealer.

The case was reported to the Government in January 2023; their reply was awaited (February 2023).

2.7 Non-levy of interest for deferment of advance tax

The Assessing Officer failed to levy interest of ₹ 22.43 lakh for deferment of advance tax while completing re-assessment of the assessee's accounts.

Section 35 and Section 35 A of the Assam Agricultural Income Tax (AAIT) Act, 1939 read with Rule 29 of the AAIT Rules, 1939 provides that an assessee shall pay to the credit of the State Government, as advance tax, an amount equal to the agricultural income tax payable/estimated in four equal instalments and on such dates as may be prescribed.

Section 35 H of the AAIT Act, 1939 provides that if the assessee who is liable to pay advance tax, has failed to pay such tax by the prescribed date, he shall be liable to pay simple interest at the rate of one and half *per cent* per month with effect from the immediate next day of the day prescribed for payment of advance tax for the respective quarter on the unpaid amount till the date of full payment of such amount which falls

⁴⁹ Tax:-₹ 69.42 lakh (including amount assessed as per best judgement assessment) and Interest:- ₹ 1.03 crore.

short of advance tax due. The prescribed dates for payment of advance tax provided under Rule 29 of the AAIT Rules, 1939 is given below:

Instalment	Percentage of tax to be paid	Last date on which the tax be paid
1 st instalment	25 <i>per cent</i> of total tax payable	30 June of the financial year
2 nd instalment	25 <i>per cent</i> of total tax payable	30 September of the financial year
3 rd instalment	25 <i>per cent</i> of total tax payable	15 December of the financial year
4 th instalment	25 <i>per cent</i> of total tax payable	15 March of the financial year

Section 35 B of the AAIT Act, 1939 stipulates that where in any financial year, an assessee has paid advance tax and advance tax so paid is less than ninety *per centum* of the tax determined on regular assessment, simple interest at the rate of two *per centum* for each English calendar month from the first day of April of the succeeding financial year in which advance tax was payable up to the month prior to the month of regular assessment shall be payable by the assessee on the amount by which the advance tax paid falls short of the tax determined on regular assessment. However, if tax is deposited prior to regular assessment, interest is to be calculated prior to the month of deposit of tax.

Audit test-checked (March 2021) assessment cases in the office of the Assam Agricultural Income Tax Officer (AITO), Guwahati and noticed that the accounts of M/s Apeejay Tea Limited⁵⁰, (formerly known as M/s Apeejay Surendra Corporate Services Limited) relating to assessment year 2010-11 was re-assessed (March 2019) based on audit observations⁵¹ and interest of ₹ two crore levied under Section 35 B of the AAIT Act, 1939. The AITO, while completing the initial assessment (in July 2014), levied tax of ₹ 3.16 crore (of which the assessee had deposited ₹ 17.36 lakh as advance tax) but did not levy interest for delayed payment of tax on the ground that the dealer was not liable to pay advance tax as the assessment was done under Section 8B⁵². Aggrieved with the re-assessment order (March 2019), the assessee filed an appeal before the Appellate Authority⁵³; however, the Appellate Authority held (November 2020) that the appellant was liable to pay advance tax for the assessment year 2010-11. As such, the assessee was also liable to pay advance tax in equal instalments of ₹ 78.95 lakh per quarter on the prescribed date as per provisions of Sections 35 and 35 A of the Act *ibid*. However, scrutiny of the re-assessment order revealed that the AITO did not levy interest under Section 35 H of the Act *ibid* for failure to pay advance tax as per the prescribed dates.

Thus, the AITO failed to levy interest of ₹ 22.43 lakh for deferment of advance tax by the assessee for the assessment year 2010-11 as detailed in **Table 2.7.1**.

⁵⁰ Engaged in cultivation, manufacture and sale of tea.

⁵¹ Featured in the Report of the CAG of India on Public Sector Undertakings and Revenue Sector for the year ended 31 March 2019 (Report No. 2 of 2021) vide paragraph No. 4.2.7.

⁵² If the agricultural income tax payable under this Act on the 60 *per cent* portion of agricultural income computed as per provisions of Income Tax Act, 1961 (Central Act 43 of 1961) is less than 10 *per cent* of the 60 *per cent* of the book profit computed in the manner as referred to in Section 115 JB of the Income Tax Act, 1961, 60 *per cent* of such book profit shall be deemed to be agricultural income of such assessee under this Act. Agricultural income so derived under this Section is taxable at the rate of 18 *per cent* (effective from April 2010).

⁵³ Deputy Commissioner of Taxes (Appeal), Guwahati.

Table 2.7.1:-Details of interest not levied

Instalment No.	Amount of advance tax payable (in ₹)/Due date	Amount of tax paid (in ₹)/Date	Short payment of advance tax (in ₹)	Delays (in month and Days)	Interest leviable under Section 35 H (in ₹)
1	78,95,464/ 30-06-2009	Nil	78,95,464	8 months 18 days	10,16,223
		17,36,040/ 19-03-2010	61,59,424	13 days	38,745
2	78,95,464/ 30-09-2009	Nil	78,95,464	6 months	7,10,592
3	78,95,464/ 15-12-2009	Nil	78,95,464	3 months 16 days	4,16,422
4	78,95,464/ 15-03-2010	Nil	78,95,464	16 days	61,126
Total					22,43,108

On this being pointed out (July 2021), the Department stated that the assessee failed to pay demand of ₹ two crore raised during re-assessment in March 2019, wherein interest under Section 35 B of the AAIT Act, 1939 was levied. The Department further added that arrear certificate had been forwarded to Recovery Officer, Tinsukia by levying 50 *per cent* penalty over the amount due for realisation. However, the Department's reply is silent on non-levy of interest under Section 35 H of the AAIT Act, 1939.

The matter was reported to the Government in September 2022; their reply was awaited (February 2023).

