



सत्यमेव जयते

**Report of the  
Comptroller and Auditor General of India  
for the year ended March 2022**



**SUPREME AUDIT INSTITUTION OF INDIA**  
लोकहितार्थ सत्यनिष्ठा  
Dedicated to Truth in Public Interest

**Union Government  
Department of Revenue  
(Indirect Taxes – Goods and Services Tax)  
Report No. 7 of 2024**

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Comptroller and Auditor General of India**

**for the year ended March 2022**

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Department of Revenue  
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**Laid on the table of Lok Sabha/Rajya Sabha on .....**



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## **Preface**

This Report for the year ended March 2022 has been prepared for submission to the President of India under Article 151 of the Constitution of India.

The Report contains significant results of compliance audit of Central Board of Indirect Taxes and Customs (CBIC) under the Department of Revenue. The report deals mainly with the issues involving levy and collection of Goods and Services Tax. A few audit findings with respect to Central Excise collections and legacy Service Tax have been included to present a full picture of indirect taxes.

The instances mentioned in this Report are those, which came to notice in the course of test audit during 2021-22 and the first half of 2022-23, as well as those which came to notice in earlier years but could not be reported in the previous Audit Reports.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.



## Executive Summary

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

This report is divided into seven chapters. Chapter I provides a brief description of the nature of indirect taxes, organisational structure of Central Board of Indirect Taxes and Customs (CBIC), trends in Indirect Taxes revenue, comparative growth of various components of Indirect Taxes and comparison of GST Budget Estimates versus Actual Receipts, and non-submission of GST Compensation Fund Account for audit. Chapter II describes the CAG's audit mandate for audit of revenue receipts, audit universe, audit sample, and result of audit efforts. Chapter III brings out the status of implementation of the simplified GST return mechanism; and the Department's performance with respect to the compliance verification functions such as scrutiny of returns, internal audit and anti-evasion activities; and monitoring of appeal cases. Chapter IV discusses the systemic and compliance issues, observed during the course of the Subject Specific Compliance Audit (SSCA) of Department's oversight on GST payments and return filing. The Department accepted audit observations or initiated examination in respect of 1,523 cases with money value of ₹ 2,201.42 crore and reported recovery of ₹ 78.43 crore in 355 cases at the instance of audit. Chapter V contains significant findings of the supplementary audit of Transitional Credits under GST which were noticed during the examination of claims under the jurisdiction of CBIC that were not produced to Audit during 2020-21. The Department accepted audit observations with money value of ₹ 44.70 crore in 128 cases and reported recovery of ₹ 3.65 crore in 48 cases at the instance of audit. Chapter VI and Chapter VII highlight audit findings relating to data analysis of GST returns data and Composition Levy Scheme Data. The highlights of the Report are as follows:

### **Chapter I: Indirect Taxes Administration and Revenue Trend**

The indirect taxes collections increased by ₹ 2,16,964 crore (20 per cent) during FY22 over FY21. The annual growth of indirect taxes (Y-o-Y), which

constantly decreased from 5.80 percent in FY 18 to 1.76 per cent in FY20, saw an upward trend in FY 21 and FY 22. Further, during FY 22 there was a rise in Indirect taxes to GDP ratio when it increased to 5.47 *per cent* in FY 22 from 5.44 *per cent* in FY 21. The increase in the Indirect taxes as a percentage of GDP was mainly due to significant increase in the Central GST revenue and Customs duty which increased by 27 per cent and by 48 per cent, respectively, during FY22.

Central GST revenue increased by 27.30 per cent (₹ 1,50,558 crore) during FY 22 over FY21. During FY22, Central GST revenue as a percentage of GDP increased to 2.97 per cent from 2.79 per cent in FY21.

**(Paragraph 1.3.1. Paragraph 1.3.1.1 & Paragraph 1.3.2)**

Audit was awaiting production of Compensation Fund Accounts for audit by the Government for certification audit under Section 10 (4) of the GST (Compensation to States) Act, 2017 (April 2023).

As a result, Audit was unable to perform its statutory auditing responsibility in respect of the financial years ended 31 March 2018, 31 March 2019, 31 March 2020 and 31 March 2021 as mandated by Section 10 (4) of the aforesaid Act.

**(Paragraph 1.4)**

**Chapter III: Effectiveness of Compliance Verification Mechanism under GST**

In the previous CAG's Audit Reports<sup>1</sup>, Audit had recommended that a definite time frame for roll out of simplified return forms may be fixed and implemented as frequent deferments were resulting in delay in stabilisation of the return filing system. In addition, Audit had recommended system-verified flow of Input Tax Credit (ITC) through "invoice-matching" and that the Ministry may rely more on preventive checks that are enforced through IT systems in the return forms, as originally envisaged, rather than relying on post-facto intervention by the tax offices in safeguarding Government revenue.

Audit further reviewed the progress made with respect to the GST return mechanism and observed that while some of the limitations were addressed by the changes in the GST return system, the existing GSTR-3B still had gaps and needed improvement.

**The Government, after considering suggestions of the stakeholders, may incorporate the requisite changes pertaining to amendment tables in GSTR-3B, modification in Table 4 of GSTR-3B for capturing line wise ITC reversals and allowing auto-population of values from GSTR-1 into GSTR-3B in the specific rows in GSTR-3B, as recommended by the sub-committee of officers**

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1 Audit Report No.1 of 2021 and Audit Report No.5 of 2022.

**on issues pertaining to IGST settlement and ITC reversals, in a time-bound manner so that the gaps in the existing return system can be addressed at the earliest.**

**(Paragraph 3.1)**

Section 61 of the Central Goods and Services Tax Act, 2017 stipulates that the proper officer may scrutinize the return and related particulars furnished by the taxpayers to verify the correctness of the returns and information.

The Board had issued a Standard Operating procedure (SOP) for scrutiny of returns for FY17 and FY18 in March 2022. Audit observed that the aforesaid SOP was issued as an interim measure as the Scrutiny Module for online scrutiny of returns has not been made available on the Department's back-end IT application i.e. CBIC-GST application.

**Audit recommends that the risk-based Scrutiny Module, with periodic review of risk parameters based on inputs received from Directorate General of Analytics and Risk Management (DGARM) reports and audit findings in earlier Audit Reports, may be implemented at the earliest to ensure full transparency and for robust oversight and monitoring of the scrutiny function of the Department.**

**(Paragraph 3.2)**

#### **Chapter IV: Department's Oversight on GST Payments and Returns Filing**

Audit assessed the departmental oversight mechanism to obtain assurance that taxpayers file their returns regularly and comply with the GST law by properly discharging their tax liability and other mandated obligations.

**(Paragraph 4.3)**

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

**(Paragraph 4.6)**

#### **Oversight function**

Out of a sample of 179 Ranges, Audit could not verify the monitoring mechanism on return filing in 113 Ranges as neither records nor data was provided to Audit. The monitoring mechanism in the remaining Ranges was deficient as MIS reports related to non-filers/late filers of normal and

composition taxpayers were not available to the Range Officers to take timely action.

The monitoring mechanism for recovery of demand from non-filers was deficient in 114 Ranges. In 95 Ranges where the relevant records related to issue of ASMT-13, DRC-07 and recovery details were available, Audit noticed that action was not taken on all cases of defaulters. Further, in 35 Ranges, the process of issuing GSTR-3A (notice for defaulters who have not filed GST returns) and following it with ASMT-13 (Best Judgement Assessment order in cases where the taxpayers have not complied with GSTR-3A notices) and DRC-07 (Summary of Demand order as a follow up of ASMT-13) was also not adhered to resulting in non-recovery of ₹ 128.58 crore from defaulters.

**The Department may provide MIS reports related to issue of notices (GSTR-3A), assessment order (ASMT-13) and demand orders (DRC-07), pending ASMT-13 assessments, recovery history and appeal cases on DRC-07, late and non-filers of composition taxpayers and other category of registrants such as Input Service Distributors etc. to tax officers in the CBIC-ACES back-end system for effective monitoring.**

**Further, the Department may consider increased use of automation through the CBIC-ACES backend IT system for supporting issue of notices, assessment orders, demand orders etc.**

**(Paragraph 4.8.2.1)**

Audit noticed that the necessary validations, alerts and effective dates of cancellation have not been deployed in the Registration Module as per the provisions of the Act and Rules. The effective date of suspension also was not captured in the back-end system. As a result, there was no mechanism to enforce the conditions prescribed in Rule 21A (3) of restricting the registered persons from making any taxable supplies and consequent passing on of credit during the period of suspension.

**Audit recommends that the Department shall deploy the requisite MIS reports/features on pendency of cancellation applications, issue of SCN for Cancellation of Registration (REG-17), and filing of final return (GSTR-10) in the cancellation workflow under Registration Module.**

**(Paragraph 4.8.3.3.2 & 4.8.3.3.5)**

#### **Centralised Audit**

Audit analyzed 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 such as mismatch of ITC availed between Annual returns and Books of accounts, short payment of interest, ITC mis-matches etc. Audit selected a sample of 10,667 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 Ranges between January 2022 and May 2022 without further scrutiny of taxpayer's records.

Out of 8,220 cases of mismatches/inconsistencies, for which the department provided responses, Audit noticed deviations from the provisions of the Act in 1,268 cases (constituting 15 per cent) involving a short levy of tax of ₹ 2,203.57 crore. A relatively higher rates of deviations were noticed in risk parameters such as short/non-payment of interest, ITC mismatch, excess Reverse Charge Mechanism (RCM) ITC availed, incorrect turnover declarations and short tax payments.

Audit noticed data entry errors by taxpayers in 1,368 cases (17 per cent) as the reasons for mismatches/inconsistencies in the return data. In 846 cases, constituting 10 per cent, the Department stated that it was examining the underlying deviation of ₹ 16,157.35 crore.

**Audit recommends that the Department may urgently pursue the 2,447 inconsistencies and deviations pointed out by Audit and analyse the reasons for such deviations to take necessary action to strengthen the system so that such deviations do not repeat in future.**

**(Paragraph 4.8.4.1 & Paragraph 4.8.4.2)**

#### **Detailed Audit**

Audit selected 1,103 cases for detailed audit which involved field visits for verification of records available with the jurisdictional Executive Commissionerates and Audit Commissionerates.

In spite of requisitions and follow up, the jurisdictional Ranges did not produce basic records such as financial statements, GSTR-9C, GSTR-2A etc. in 67 cases out of the sample of 1,103 cases. In 373 cases, the Department did not produce the corresponding records such as the supplementary financial ledgers, invoices, agreement copies etc. required for examining the causative factors for mismatches of ITC and tax liability.

**(Paragraph 4.8.5)**

Out of the 1,036 cases that were audited either fully or partially, Audit observed 657 compliance deficiencies with a revenue implication of ₹ 468.96 crore. The main causative factors were availing of ineligible and irregular ITC, misclassification of supplies, exclusion of supplies for taxation, undervaluation of supplies and incorrect discharge of tax under RCM. **Further, since one of the main causative factor for compliance deviation was availing of ineligible and irregular ITC, therefore, in order to safeguard the revenue, the Department needs to enforce the provisions of GST Act/Rules, especially section 54(10) of CGST Act, 2017 which provides that proper officer may withhold payment of refund until the taxpayer had furnished the return or paid the tax, interest or penalty, as the case may be; deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable**

**person is liable to pay, in letter and spirit while sanction of GST refunds of ITC.**

**The Department needs to**

- **Strengthen the institutional mechanism and quality of documentation in the Ranges to establish and maintain effective oversight on return filing, taxpayer compliance, tax payments, follow up of DGARM reports, cancellation of registrations and recovery of dues from defaulters.**
- **Strengthen validation controls and MIS features in the CBIC back-end application pointed out by Audit.**
- **Introducing additional validation controls in GST returns to improve data quality, and improve taxpayer compliance and facilitate scrutiny of returns.**

**(Paragraph 4.10)**

#### **Chapter V: Transitional Credits under GST**

In the Subject Specific Compliance Audit on Transitional Credits under GST reported in Chapter VI of the CAG Audit Report Number 5 of 2022 (Indirect Taxes: Goods and Service Tax) Audit had pointed out substantial scope limitation as records relating to 954 claims, constituting 11 per cent of the sample size of 8,514 claims, were not produced and records relating to 2,209 claims, constituting 26 per cent of the sample size were partially produced.

The supplementary audit was undertaken primarily to provide an opportunity to the Department to provide the records not produced or partially produced during the SSCA on Transitional Credits under GST and evaluate the claims for compliance with the Act /Rules.

Substantial scope limitation was experienced while auditing Transitional Credits under GST even during the supplementary audit. Out of sample of 3,163 cases (954 cases not produced earlier and 2,209 records partially produced earlier), records were not provided in respect of 362 claims (non-production) and 1,344 claims (partial production).

Notwithstanding the substantial non-production of records, out of 1,698 claims audited either fully or partially, deviations were noticed in 188 cases involving transitional credit of ₹ 55.15 crore.

**The Department shall**

- **Produce the documents to Audit for carrying out its statutory duties.**
- **Take remedial measures to address the compliance deviations pointed out before the claims get time-barred.**

**(Paragraph 5.6.9)**

## **Chapter VI: Reliability of GST data maintained by Goods and Services Tax Network**

Information Technology provides the platform for tax compliance required under law, constitutes the interface with taxpayers and aids tax administration in collection of revenue. Most processes in the GST system are performed online<sup>2</sup> and several processes are carried out without human intervention<sup>3</sup>. Tax payment is on the basis of self-assessment<sup>4</sup>. The tax officer is required to intervene only when he has reason to believe that there is a shortcoming in the information provided or when a taxpayer has defaulted.

Government has proposed selective scrutiny to Central and State GST administrations as it is not feasible to carry out the scrutiny of all the cases. In such a scenario, it is important to ensure quality and integrity of data, based on which tax administration can intervene effectively through a risk-based approach.

During 2021-22, Audit had analysed the GST returns data pertaining to the period 2017-18 to 2019-20, as filed by taxpayers up to August 2021, and noticed significant data inconsistencies between the taxable value and declared tax liability. Inconsistencies were also noticed between the CGST and SGST components of GST, and between ITC figures captured in monthly return and annual returns. Accordingly, Audit had recommended that the Ministry should consider introducing appropriate validation controls supplemented by post-facto data analytics in respect of important data elements. These findings were reported in Chapter-IV of Audit Report No. 5 of 2022.

During 2022-23, a follow-up audit was taken up for assessing quality of GSTN data and to ensure whether the Ministry/GSTN had addressed the issue of GSTN data inconsistencies, as reported by Audit during the previous audit.

### **(Paragraph 6.1 & 6.2)**

Audit observed persistent data inconsistencies such as inconsistency between ITC claim in monthly return (GSTR-3B) and declaration thereof in annual return (GSTR-9), inconsistencies between the CGST and SGST components of GST and inconsistencies between taxable values, rate and tax liability declared. In addition, Audit also observed data discrepancies in inconsistencies in auto

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2 Registration, change in registration types, amendments in registration details, cancellation, refunds, payment of taxes, filing of returns through various forms, tax officers' communications with taxpayers are done online.

3 Auto-drafted ITC availability, auto-drafted GSTR-3B etc.

4 Section 59 provides for Self-assessment.

population of input tax credit (ITC) in table 8A of GSTR 9 from GSTR 2A<sup>5</sup>, inconsistency in tax liability between monthly and annual returns, short computation of tax in GSTR-1<sup>6</sup> and instances of deviations by the taxpayers from the provisions of the Acts/Rules due to lack of adequate validations in GSTR-1. Further, Audit also observed that data entry mistakes are not being analysed by the GSTN/Department and no follow-up action thereon was being taken up to reduce such occurrences.

**Audit recommends that Ministry/GSTN may review the process of auto-population of non-editable fields of annual return; consider inclusion of an additional field in annual return for capturing additional tax liability declared in annual return; implement validations in annual return regarding matching of CGST and SGST components; and incorporate validation checks in monthly return for details of outward supplies of goods or services (GSTR-1) to ensure that no credit note and amendments of invoice details are allowed after the prescribed period.**

(Paragraph 6. 6)

#### **Chapter VII: Data Analysis of Composition Levy Scheme Data**

A Composition Levy Scheme (CLS) was prescribed, as another form of levy of GST, under the CGST Act, 2017, for small taxpayers. The CLS is available to taxpayers whose aggregate turnover, in the preceding financial year, has not exceeded ₹1.5 crore. For taxpayers in special category states, this limit is ₹75 lakh. The two major risk areas in respect of CLS taxpayers are under-declaration of the 'value of outward supply' by the taxpayers to continue in the scheme; and non-fulfillment of eligibility conditions for availing CLS.

Data analysis was conducted on the GSTN data pertaining to 8.66 lakh composition levy taxpayers under the central jurisdiction for the financial years 2019-20, 2020-21 and 2021-22. The data analysis revealed significant number of high risk taxpayers with the risk of crossing the turnover threshold for CLS. These high risk taxpayers were identified by Audit from the data contained in GST returns viz. GSTR-4A, GSTR-7 along with third party data sources such as IT returns, 'Vahan' database etc. and were flagged to the Ministry to ascertain whether any compliance verification had been carried out by the CBIC field formations in respect of these taxpayers. Audit also observed that there were certain CLS taxpayers who were continuing in the Scheme despite not fulfilling the eligibility criteria prescribed in the Act and the Rules and a substantial

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<sup>5</sup> Auto drafted monthly return indicating all the inward supply details of a taxpayer.

<sup>6</sup> Filed monthly/quarterly by suppliers showing all outward supplies, including invoice details of supplies to other registered taxpayers.

number of CLS taxpayers were not discharging their obligatory responsibilities of filing returns and payment of tax under reverse charge.

**Audit recommends that the Ministry should identify high risk taxpayers in the CLS on a periodical basis using a risk based approach and verify their declared value of outward supply from other sources including third party to minimize the possibility of misuse by ineligible persons.**

**(Paragraph 7.11)**



## Chapter I: Indirect Taxes Administration and Revenue Trend

This chapter gives an overview of the Indirect taxes administration and the revenue trends in indirect tax collection.

### 1.1 Nature of Indirect Taxes

This Audit Report deals mainly with the issues involving levy and collection of Goods and Services Tax. A few observations with respect to Central Excise and legacy Service Tax collections have been included to present a full picture of audit of indirect taxes. Audit findings on levy and collection of Customs duty are presented in a separate report. The indirect taxes covered in this report are discussed below:

- a) **Goods and Services Tax:** Goods and Services Tax (GST) is a tax on supply of goods or services or both except taxes on the supply of alcoholic liquor for human consumption, and five petroleum products<sup>7</sup>. GST came into effect from 1 July 2017<sup>8</sup>. Central Excise duty, Service Tax, Countervailing duty (CVD), and Special Additional duty (SAD) components of customs and most of the indirect taxes of States have been subsumed into GST. Central Excise duty is continued on five Petroleum products as these products are out of GST at present, and will be brought under GST later. Tobacco products are subject to both Central Excise and GST. GST is a consumption based tax i.e. tax is payable in the State where goods or services or both are finally consumed. In addition to GST, a cess termed as GST Compensation Cess is levied on some goods such as Tobacco products, Coal, Aerated water, Motor cars etc.

There are three components of GST as follows:

- **Central Goods and Services Tax (CGST):** payable to the Central Government on supply of goods and services within the State/Union Territory.
- **State/Union Territory Goods and Services Tax (SGST/UTGST):** payable to the State/Union Territory Government on supply of goods and services within the State/Union Territory.
- **Integrated Goods and Services Tax (IGST):** In case of inter-state supply of goods and services, IGST is levied by Government of India. IGST is also levied on imports into India. IGST shall be apportioned

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<sup>7</sup> Crude Oil, Natural Gas, High Speed Diesel, Motor Spirit (Petrol) and Aviation Turbine Fuel.

<sup>8</sup> With effect from 8 July 2017 in Jammu and Kashmir

between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

- b) Central Excise duty:** Central Excise duty is levied on manufacture or production of goods that have not been brought under the GST regime. Parliament has powers to levy excise duties on tobacco and five petroleum products (Entry 84 of List 1 of the Seventh Schedule of the Constitution).
- c) Service Tax (legacy):** Service Tax was levied on services provided within the taxable territory. Section 66B of the Finance Act, 1994 envisaged that there shall be a tax levied at the rate of 14 *per cent* on the value of all services, other than those specified in the negative list, provided or agreed to be provided in the taxable territory by one person to another and collected in such manner as may be prescribed.<sup>9</sup> 'Service' had been defined in section 65B (44) of the Finance Act, 1994 to mean any activity for consideration (other than the items excluded therein) carried out by a person for another and to include a declared service<sup>10</sup>.

## 1.2 Organizational Structure

The Department of Revenue (DoR) of the Ministry of Finance (MoF) functions under the overall direction and control of the Secretary (Revenue) and coordinates matters relating to all the Direct and Indirect Union Taxes through two statutory Boards namely, the Central Board of Indirect Taxes and Customs (CBIC), and the Central Board of Direct Taxes (CBDT) constituted under the Central Board of Revenue Act, 1963. Matters relating to the levy and collection of GST are looked after by the CBIC.

Indirect Tax laws are administered by the CBIC through its field offices. In view of implementation of GST, CBIC restructured its field offices into 21 Zones of GST headed by the Principal Chief Commissioner/Chief Commissioner vide circular dated 16 June 2017. Under these 21 Zones of GST, there are 107 GST Taxpayer Services Commissionerates that deal with GST and Central Excise, headed by the Principal Commissioner/Commissioner. Divisions and Ranges are the subsequent formations, headed by Deputy/Assistant Commissioner and Superintendents, respectively. Apart from these Commissionerates, there are 49 GST Appeal Commissionerates, 48 GST Audit Commissionerates and 22 Directorates dealing with specific functions such as DG (Systems) for

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<sup>9</sup> Section 66B was inserted by the Finance Act, 2012 with effect from 1 July 2012; section 66D lists the items the negative list comprises of.

<sup>10</sup> Section 66E of the Finance Act, 1994 lists the declared services.

management of Information Technology projects and DG, National Academy of Customs, Indirect Taxes & Narcotics (NACIN) for training needs.

### 1.3 Revenue Trend

#### 1.3.1 Indirect Taxes revenue trend

Tax revenue of the Union Government consists of revenue receipts from direct and indirect taxes. The overall resources of Government of India and details of tax revenue of the Union Government from 2017-18 to 2021-22 have been given in **Table No.1.1** below:

**Table 1.1: Resources of the Government of India**

	(₹ in crore)				
Tax component	2017-18	2018-19	2019-20	2020-21	2021-22
A. Total Revenue Receipts*	23,64,148	25,67,917	25,98,705	24,59,510	33,34,813
<i>i. Direct Tax Receipts</i>	10,02,738	11,37,718	10,50,685	9,47,174	14,12,422
<i>ii. Indirect Tax Receipts including other taxes</i>	9,16,445	9,42,747	9,59,374	10,79,929	12,96,893
<i>iii. Non-Tax Receipts</i>	4,41,383	4,86,388	5,88,273	4,30,654	6,24,192
<i>iv. Grants-in-aid &amp; contributions</i>	3,582	1,063	373	1,752	1,306
B. Miscellaneous Capital Receipts	1,00,049	94,979	50,349	37,897	14,638
C. Recovery of Loans and Advances	70,639	30,257	18,647	29,923	24,948
D. Public Debt Receipts	65,54,002	67,58,482	73,01,386	81,62,910	82,49,152
<b>Receipts of Government of India (A+B+C+D)</b>	<b>90,88,838</b>	<b>94,51,635</b>	<b>99,69,087</b>	<b>1,06,90,240</b>	<b>1,16,23,551</b>

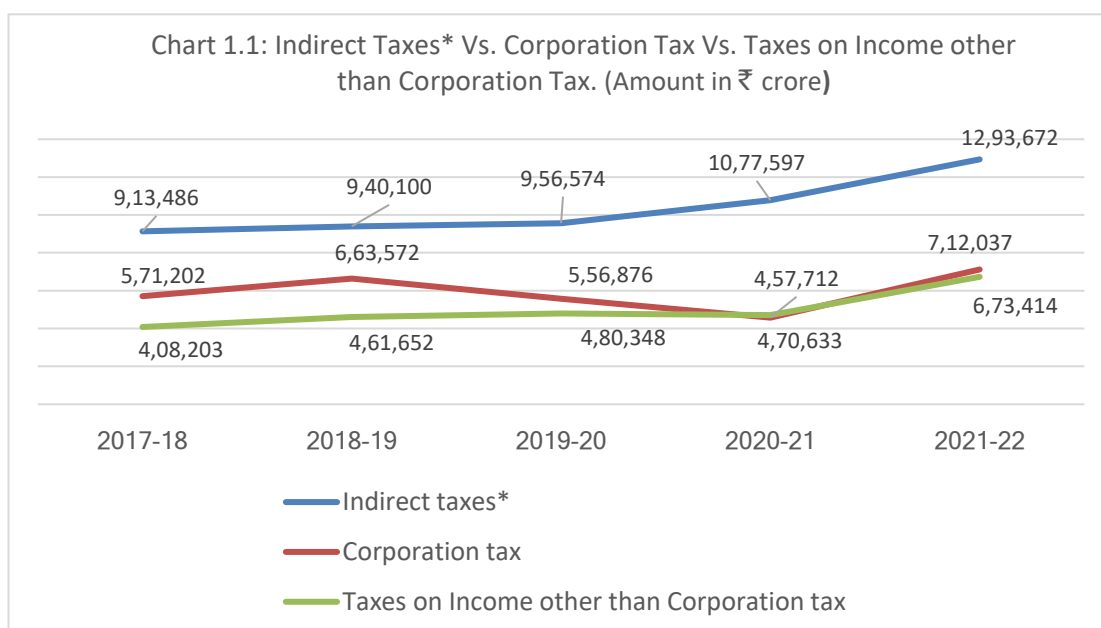
Source: Union Finance Accounts of respective years.

\* Total Revenue receipts include share of net proceeds of direct taxes and indirect taxes directly assigned to States.

Indirect taxes collections increased by ₹ 2,16,964 crore (20 per cent) during FY22 over FY21. The annual growth of indirect taxes (Y-o-Y), which constantly decreased from 5.80 percent in FY 18 to 1.76 per cent in FY20, saw an upward trend in FY 21 and FY 22. The growth in indirect taxes was due to increase in the receipts from Goods and Services Tax and Customs Duty, which increased, respectively, by ₹ 1,50,564 crore (27 per cent) and ₹ 64,978 crore (48 per cent) over the previous year (FY21); this is described in paragraph 1.3.2.

The share of indirect taxes in total revenue receipts had constantly declined from 38.76 per cent in FY18 to 36.92 per cent in FY20. The share of indirect taxes in total revenue receipts, however, increased to 43.90 per cent in FY21. During FY22, the share of indirect taxes in total revenue receipts decreased to 39 per cent owing to significant y-o-y increase in direct taxes (49 per cent) and non-tax receipts (45 per cent).

**Chart 1.1** shows the trends in the indirect taxes, corporation tax and taxes on income other than corporation tax during 2017-18 to 2021-22.



Source-Union Finance Accounts of respective years

\* Indirect taxes includes revenue from GST, Central Excise, Service Tax, Customs and other taxes on commodity and services (excluding equalization levy).

As seen from the chart above, during the period FY18 to FY22, receipts from the indirect taxes had constantly increased from ₹ 9,13,486 crore in FY18 to ₹ 12,93,672 crore in FY22 (42 per cent). However, receipts from corporation tax increased by 56 per cent (₹ 2,54,325 crore) during FY 22 over FY 21, after decreasing by 31 per cent (₹ 2,05,860 crore) from FY19 to FY21. Taxes on income other than corporation tax, after suffering a slump in FY21 over FY20, also grew by 43 per cent (₹ 2,02,781 crore) during the FY22 over FY 21. In this regard, it is also pertinent to mention that during the same period i.e. FY18 to FY22, corporate assesseees and non-corporate assesseees increased by 21 per cent (1.65 lakh) and 25 per cent (134.10 lakh), respectively, whereas CBIC administered GST taxpayers increased significantly by 71 per cent (23.05 lakh).

**1.3.1.1 Growth of Indirect Taxes - Trends and Composition**

**Table 1.2** depicts the relative growth of indirect taxes during FY18 to FY22, with respect to GDP and Gross Tax Revenue.

**Table 1.2: Growth of Indirect Taxes**

(₹ in crore)					
Year	Indirect Taxes*	GDP (At Current prices)	Indirect Taxes as per cent of GDP	Gross Tax revenue	Indirect Taxes as per cent of Gross Tax revenue
FY18	9,13,486	1,70,90,042	5.35	19,19,184	47.59
FY19	9,40,100	1,88,99,668	4.97	20,80,465	45.18
FY20	9,56,574	2,00,74,856	4.76	20,10,058	47.58
FY21	10,77,597	1,98,00,914	5.44	20,27,104	53.15
FY22	12,93,672	2,36,64,637	5.47	27,09,315	47.75

Source: Tax revenue - Union Finance Accounts, GDP – Press note of CSO<sup>11</sup>.

\*Indirect Taxes includes, Revenue from CX, ST, GST, Customs and other taxes on commodity and services (excluding equalization levy).

Indirect taxes as a percentage of GDP continued to decline from 5.35 per cent in FY 18 to 4.76 per cent in FY20. However, during FY 21 and FY 22 there was a rise in the Indirect taxes to GDP ratio when it increased to 5.44 per cent and 5.47 per cent in FY 21 and FY 22, respectively. Indirect tax buoyancy showed increasing trends from FY 19 to FY 20 and in FY22. The increase in the Indirect taxes as a percentage of GDP during FY21 was attributed mainly to the significant increase in the Central Excise Revenue in FY 21, which increased to ₹ 3,89,667 crore in FY 21 from ₹ 2,39,452 crore, an increase of 62 per cent, in FY 20. However, during FY 22 the increase in the Indirect taxes as a percentage of GDP was mainly due to significant increase in the Central GST revenue and Customs duty. During FY 22, Central GST revenue increased by 27 per cent to ₹ 7,02,105 crore from ₹ 5,51,541 crore in FY 21. Similarly, during FY 22, Customs duty increased by 48 per cent to ₹ 1,99,728 crore from ₹ 1,34,750 crore in FY 21.

Indirect taxes as a percentage of gross tax revenue showed an upward trend from FY 19 to FY 21 increasing from 45.18 per cent in FY 19 to 53.15 per cent in FY 21. During FY 22, the percentage of indirect taxes to Gross Tax Revenue decreased to 47.75 per cent from 53.15 per cent in FY 21. The decrease in the percentage of indirect taxes to Gross Tax Revenue may be attributed to the significant increase of 49.12 per cent in direct taxes collection during FY 22.

<sup>11</sup> Press note on GDP released on 31 May 2022 by Central Statistical Office (CSO), Ministry of Statistics and Programme Implementation.

When Audit pointed this out (November 2022), Ministry stated (March 2023) that indirect taxes are consumption based taxes which depend on macro-economic factors. Ministry further stated that growth in indirect taxes in FY 2021-22 with respect to FY 2020-21 was propelled by rapid economic recovery after successive waves of COVID, supplemented by better compliance efforts in taxation. Various efforts were taken by the indirect tax administration to nudge higher compliance through use of technology and artificial intelligence. Ministry also stated that the Government had undertaken comprehensive review and rationalisation of the Customs tariff structure through extensive consultations and crowd sourcing and had rationalised various exemptions and simplified the tariff structure.

### 1.3.2 Comparative growth of various components of Indirect Taxes

**Table 1.3** depicts the relative growth of various components of indirect taxes during FY 19 to FY 22:

**Table No.1.3: Comparative growth of various components of Indirect Taxes**  
(₹ in crore)

Tax component	2018-19	2019-20	2020-21	2021-22
<b>Central GST Taxes<sup>12</sup></b>	5,84,339 <sup>13</sup>	6,01,784 <sup>14</sup>	5,51,541 <sup>15</sup>	7,02,105 <sup>16</sup>
<b>Customs</b>	1,17,813	1,09,283	1,34,750	1,99,728
<b>Central Excise</b>	2,30,993	2,39,452	3,89,667	3,90,808
<b>Service Tax</b>	6,904	6,029	1,615	1,012
<b>Other taxes and duties</b>	51	26	24	19
<b>Indirect Taxes</b>	<b>9,40,100</b>	<b>9,56,574</b>	<b>10,77,597</b>	<b>12,93,672</b>

Source: Union Finance Accounts of the respective years.

As evident from the table above, Central GST revenue increased by 27.30 per cent (₹ 1,50,564 crore) during FY 22 over FY 21, after suffering a slump in FY21 over FY20. Customs duty also grew by 48.22 per cent (₹ 64,978 crore) during the same period, while Central Excise growth was minimal at 0.29 per cent (₹1,141 crore). The share of Central GST taxes in the indirect taxes during the years FY 19 and FY 20 was constant at 62 per cent. However, during FY21, the share of Central GST fell to 51 per cent of the total indirect taxes collections.

<sup>12</sup> Central GST revenue includes Central Goods and Service Tax, Integrated Goods and Service Tax, UT Goods and Service Tax and GST Compensation Cess.

<sup>13</sup> ₹ 13,944 crore was retained by the Centre from IGST account in contravention of IGST Act, which requires apportionment of IGST between Centre and States.

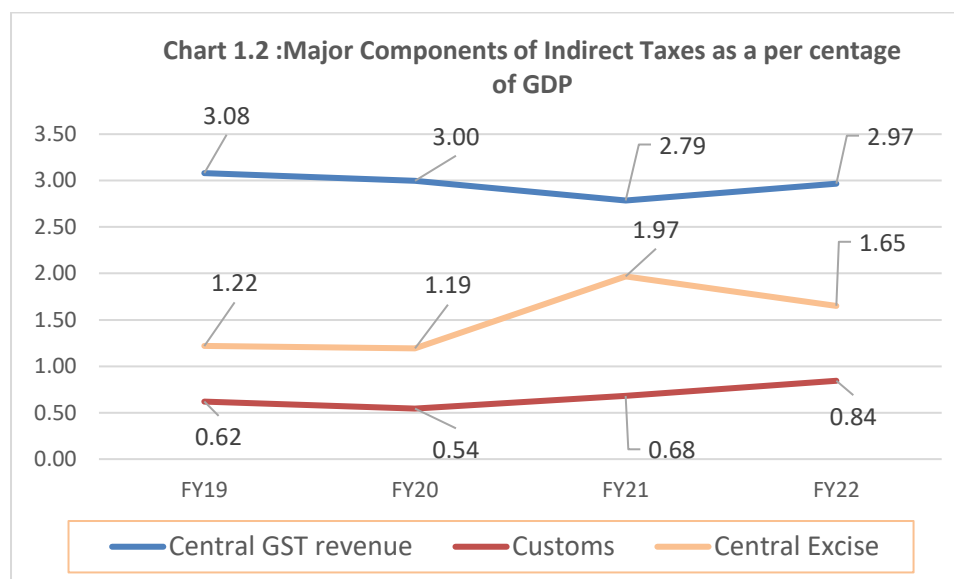
<sup>14</sup> ₹ 9,125 crore was retained by the Centre from IGST account in contravention of IGST Act, which requires apportionment of IGST between Centre and States.

<sup>15</sup> ₹ 7,251 crore was retained by the Centre from IGST account in contravention of IGST Act, which requires apportionment of IGST between Centre and States.

<sup>16</sup> ₹ 2,119 crore was retained by the Centre from IGST account in contravention of IGST Act, which requires apportionment of IGST between Centre and States.

The share of Central GST taxes to the total indirect taxes collection, however, increased to 54 per cent during FY 22. State wise GST (SGST) receipts from FY19 to FY22 are given in **Appendix-I**.

**Chart 1.2** shows the trends in the three major components of indirect taxes viz. Central GST revenue, Customs and Central Excise as a percentage of GDP.



As evident from the chart above, Central GST revenue as a percentage of GDP had decreased to 2.79 per cent in FY 21 from 3.00 per cent in FY 20 and 3.08 per cent in FY19. During FY 22, Central GST revenue as a percentage of GDP, however, showed an upward trend and increased to 2.97 per cent.

When Audit pointed this out (November 2022), Ministry stated (March 2023) that GST revenue is a result of prevailing GST rates, consumption of goods and services apart from other macro-economic factors. Ministry further stated that coupled with economic recovery, anti-evasion activities, easier and smoother compliances and strict enforcement action taken against errant tax payers had been contributing to the enhanced GST collections. Ministry also attributed the improvement in GST revenue to various rate rationalization measures undertaken by GST Council to correct inverted duty structure and legal and procedural changes that have been carried out for improving compliance by making return filing easier in order to nudge taxpayers to improve return filing behavior.

### **1.3.2.1 Retention of IGST in the Consolidated Fund of India**

During the FYs 2018-19, 2019-20, 2020-21 and 2021-22 the year-end IGST balance had been retained by the Central Government. The details are as follows:

**Table No.1.4: Year-end IGST balance retained in the Consolidated Fund of India**

(₹ in crore)

Financial Years	Central GST Revenue	Year-end IGST balance retained in the Consolidated Fund of India
2018-19	5,84,387	13,944
2019-20	6,01,784	9,125
2020-21	5,51,541	7,251
2021-22	7,02,105	2,119

Source: Union Finance Accounts of the respective years.

As per Section 17 (2A) of the Integrated Goods and Service Tax Act, 2017<sup>17</sup> (IGST Act, 2017), the amount not apportioned under sub-section 17(1) and sub-section 17(2) of the IGST Act, 2017, may for the time-being, on the recommendation of the council, be apportioned at the rate of fifty per cent to the Central Government and fifty per cent to the State Governments or the Union territories, as the case may be, on ad-hoc basis and shall be adjusted against the amount apportioned under the said sub-section.

In view of the above, the amount of year-end IGST balance, retained in the Consolidated Fund of India, may be apportioned between the Centre and the States/UTs as provided in the Section 17 (2A) of the IGST Act, 2017.

Ministry was requested (November 2022) to indicate whether year-end balances of IGST, as per Table 1.4, retained in the Consolidated Fund of India, were adjusted in the subsequent years. Ministry was also requested to provide the reasons for retention of year-end IGST balances in the Consolidated Fund of India and the details of apportionment of retained year-end IGST balances between the Centre and States in the subsequent years. Reply of the Ministry was awaited (January 2024).

### 1.3.3 GST revenue of Government of India: Budget Estimates vs Actual Receipts

Table 1.5 below presents a comparison of the Budget Estimates and the corresponding actuals for GST receipts.

**Table 1.5: Budget, Revised estimates and Actual receipts (GST)**

(₹ in crore)

Year	Budget Estimates (BE)				Revised Estimates (RE)				Actual Receipts			
	CGST <sup>18</sup>	IGST	Cess	Total	CGST	IGST	Cess	Total	CGST	IGST	Cess	Total
2018-19	6,03,900	50,000	90,000	7,43,900	5,03,900	50,000	90,000	6,43,900	4,57,534	28,945 <sup>19</sup>	95,081	5,81,560
2019-20	5,26,000	28,000	1,09,343	6,63,343	5,14,000	--	98,327	6,12,327	4,94,071	9,125	95,553	5,98,749
2020-21	5,80,000	---	1,10,500	6,90,500	4,31,000	---	84,100	5,15,100	4,56,334	7,251	85,192	5,48,777
2021-22	5,30,000	---	1,00,000	6,30,000	5,70,000	---	1,05,000	6,75,000	5,91,226	2,119	1,04,769	6,98,114

Source: Union Finance Accounts and receipt budget documents of respective years.

<sup>17</sup> Inserted by the Integrated Goods and Service Tax (Amendment) Act, 2018 with effect from 01 February, 2019

<sup>18</sup> This does not include UT Goods and Service Tax (UTGST).

<sup>19</sup> ₹ 15,001 crore was assigned to the States and balance ₹ 13,944 crore retained by the Centre

As could be seen from the table above, the Central GST revenue<sup>20</sup> was short of the Budget Estimates for the years 2018-19, 2019-20 and 2020-21. The shortfall vis-à-vis budget estimates was 22 per cent, 10 per cent and 21 per cent for the years 2018-19, 2019-20 and 2020-21, respectively. However, during 2021-22, Actual Receipts exceeded the Budget Estimates by 11 per cent. The actuals for 2018-19 and 2019-20 were also short of the Revised Estimates. During 2020-21 and 2021-22, however, the actual receipts exceeded the Revised Estimates, and were 107 per cent and 103 per cent of the Revised Estimates, respectively.

It is pertinent to mention that the Actual Receipts of the Central GST revenue also include the amount of year-end IGST balances retained in the Consolidated Fund of India which was ₹ 13,944 crore, ₹ 9,125 crore, ₹ 7,251 crore and ₹ 2,119 crore in FY 19, FY20, FY21 and FY 22, respectively as brought out in Para 1.3.2.1 of this report.

When Audit pointed this out (November 2022), Ministry stated (March 2023) that Budget Estimates for FY22 were fixed during the Annual Budget 2021-22 taking into account economic factors such as import volumes, rate of exchange of leading international currencies against INR, consumption of petroleum, economic growth in the country, level of domestic consumption for goods and services etc. These targets were reviewed along with the prevailing macro-economic conditions to fix the targets at Revised Estimate stage under certain assumptions and accordingly, estimates had been revised upward for 2021-22, keeping in view the robust rebound in economic activities and actual receipts of GST were in line with the revised estimates.

#### **1.4 Non-submission of Compensation Fund Account for the years 2017-18 to 2020-21**

Goods and Services Tax (Compensation to States) Act, 2017 (the Act) was enacted for providing compensation to the States for any loss arising on account of implementation of the goods and services tax with effect from the date from which the provisions of the Central Goods and Services Tax Act are brought into force (1 July 2017), for a period of five years or for such period as may be prescribed on the recommendations of the GST Council. GST compensation cess is levied on goods and services under Section 8 of the Act. The period for levy and collection of cess under Section 8 of the Act was extended upto 31 March 2026 vide notification No.1/2022-Compensation Cess, dated 24 June 2022.

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<sup>20</sup> CGST, IGST and GST Compensation Cess

Section 10 (1) of the Act stipulates that the proceeds of the cess leviable under Section 8 and such other amounts as may be recommended by the Council, shall be credited to a non-lapsable Fund known as the Goods and Service Tax Compensation Fund (the Compensation Fund) which shall form part of the Public Account of India and shall be utilised for purposes specified in the said Section.

As per Section 10 (4) of the Act, the accounts relating to the Compensation Fund shall be audited by the Comptroller and Auditor-General of India (CAG) or any person appointed by him at such intervals as may be specified by him. Further, as per Section 10 (5) of the Act *ibid*, the accounts of the Compensation Fund as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be laid before each House of Parliament.

In CAG's Audit Report No.1 of 2021 (Indirect Taxes- Goods and Services Tax, Central Excise and Service Tax) for the year ended March 2019 and March 2020 under Audit Paragraph No. 1.5, Audit had pointed out non-furnishing of Compensation Fund Accounts by the Government for audit.

In reply to the above paragraph, the Ministry (April 2021) informed that the Controller General of Accounts (CGA) would prepare the template of Compensation Fund Account in consultation with the CAG. Ministry further stated that the provisional year-wise GST Compensation Fund Account with credit and debit entries had been furnished to the CGA for preparation of GST Compensation Fund Accounts and their submission for audit.

In September 2021, CGA suggested that there appears to be no specific requirement for separate accounts for GST Compensation Fund Accounts. In response and after discussion, Audit suggested to include a note/annexure to the relevant Statement of the Finance Accounts containing vital information such as how much compensation is due to each State/UT, how much compensation has been paid to each State/UT and the balance, if any, and suggested a sample format for inclusion as a note to the relevant Statement of the Finance Accounts (June 2022). Later, Ministry, in its ATN to para No. 1.5 of Audit Report No. 1 of 2021, stated (December 2022) that the Department of Revenue had conveyed its "no objection" to the sample format of GST Compensation Fund Accounts. However, Audit was still awaiting preparation and production of Compensation Fund Accounts for audit in an appropriate format, as suggested by Audit, under Section 10 (4) of the GST (Compensation to States) Act, 2017 (June 2023).

As a result, Audit is still unable to perform its statutory auditing responsibility in respect of the financial years ended 31 March 2018, 31 March 2019, 31 March 2020 and 31 March 2021 as mandated by Section 10 (4) of the Act.

***The Ministry may expedite finalisation and submission of Compensation Fund Accounts, in the light of Audit's suggestion for a note to the relevant Statement in the Finance Accounts, so that the CAG's mandate of auditing the accounts under Section 10 of the Act could be completed.***

Audit pointed this out (March 2023). Reply of the Ministry was awaited (January 2024).

### **1.5 Conclusion**

The indirect taxes collections increased by ₹ 2,16,964 crore (20 per cent) during FY22 over FY21. The annual growth of indirect taxes (Y-o-Y), which constantly decreased from 5.80 per cent in FY 18 to 1.76 per cent in FY20, saw an upward trend in FY 21 and FY 22. Further, during FY 22 there was a rise in Indirect taxes to GDP ratio when it increased to 5.47 per cent in FY 22 from 5.44 per cent in FY 21. The increase in the Indirect taxes as a percentage of GDP was mainly due to significant increase in the Central GST revenue and Customs duty which increased by 27 per cent and by 48 per cent, respectively, during FY22.

Central GST revenue increased by 27.30 per cent (₹ 1,50,558 crore) during FY 22 over FY 21. During FY22, Central GST revenue as a percentage of GDP increased to 2.97 per cent from 2.79 per cent in FY21. The Central GST revenue to GDP ratio during FY22 was, however, lower than the corresponding figures of 3.08 per cent in FY19 and 3.00 per cent in FY20.

As regards audit of the Compensation Fund, Audit was still awaiting (April 2023) preparation and production of Compensation Fund Accounts for audit in the appropriate format under Section 10 (4) of the GST (Compensation to States) Act, 2017. This is despite Audit suggesting a sample format for the Compensation Fund Accounts as a note to the relevant Statement in the Finance Accounts.



## **Chapter II: Audit Mandate, Audit Universe and Response to Audit**

### **2.1 Audit Mandate**

Article 149 of the Constitution of India provides that the Comptroller and Auditor General of India (CAG) shall exercise such powers and perform such duties in relation to the accounts of the Union and of the states and of any other authority or body as may be prescribed by or under any law made by Parliament. Parliament passed the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act (CAG's DPC Act) in 1971. Section 16 of the CAG's DPC Act authorizes CAG to audit all receipts of the Government of India and of Government of each State and of each Union territory having a legislative assembly and to satisfy himself that the rules and procedures are designed to secure an effective check on the assessment, collection and proper allocation of revenue and are being duly observed. Regulations on Audit & Accounts (Amendments), 2020 lay down the principles for Receipt Audit.

#### ***2.1.1 Examination of systems and procedures and their efficacy***

Audit of receipts includes an examination of the systems and procedures and their efficacy mainly in respect of:

- a. identification of potential tax assessees, ensuring compliance with laws as well as detection and prevention of tax evasion;
- b. exercise of discretionary powers in an appropriate manner including levy of penalties and initiation of prosecution;
- c. appropriate action to safeguard the interest of the Government on the orders passed by appellate authorities;
- d. any measures introduced to strengthen or improve revenue administration;
- e. amounts that may have fallen into arrears, maintenance of records of arrears and action taken for recovery of the amounts in arrears;
- f. pursuit of claims with due diligence and to ensure that these are not abandoned or reduced except with adequate justification and proper authority.

#### ***2.1.2 Audit of Indirect Taxes***

Indirect Tax System is a self-assessment system in which the tax payers prepare their own tax returns and submit it to the Department. This system is guided by the fiscal laws including the Goods and Service Tax Act, 2017, Integrated Goods and Service Tax Act, 2017, Goods and Service Tax (Compensation to

States) Act, 2017 and legacy tax acts viz. Central Excise Act, 1944 and Finance Act, 1994. Indirect Tax administration assesses and scrutinizes the returns by way of scrutiny of returns, internal audit etc. and ensures the correctness of the tax so deposited by the tax payer.

To examine the efficacy of the systems and procedures of the Indirect Tax administration, Audit examines the records related to the returns submitted by the assesseees along with the records of the various field formations and functional wings of the Board.

## **2.2 Audit Universe**

The audit universe includes the Department of Revenue, CBIC, its subordinate organisations and field formations. The organisational structure of CBIC and the number of departmental units are discussed in Para 1.2 of this Report. Roles and duties of the CBIC and its field formations are discussed in the subsequent paragraphs.

### **2.2.1 CBIC**

The Central Board of Indirect Taxes and Customs, in the Ministry of Finance, is the apex body for administering the levy and collection of indirect taxes of the Union of India. It deals with the tasks of formulation of policy concerning levy and collection of indirect taxes, prevention of smuggling and administration of matters relating to indirect taxes and narcotics to the extent under CBIC's purview. CBIC is headed by a Chairman and consists of six members.

### **2.2.2 Zones**

Zones are the highest auditable field entities headed by Principal Chief Commissioner/Chief Commissioner. Principal Chief Commissioner/Chief Commissioner of Zone exercises supervision and control over the technical and administrative work of all the Commissionerates in the Zone. They monitor the revenue collection by each Commissionerate in the Zone and the proper implementation of Acts/Rules and Board's instructions/guidelines issued from time to time.

### **2.2.3 Commissionerates**

Commissionerates are divided into three categories viz. Executive Commissionerates, Commissionerates (Audit) and Commissionerates (Appeal).

The primary function of a Executive Commissionerates is to implement the provisions of the Central Goods and Service Tax Act, 2017, the Central Excise Act, 1944, rules framed under these Acts and other allied Acts of Parliament

under which duty of GST/Central Excise is levied and collected. Administratively, each Commissionerate is a 3-tier set-up with its Headquarters at the helm, four to six Divisions at the second level and on an average four to seven Ranges under each Division at the third and final level.

In each zone, there may be one or more Audit Commissionerates headed by a Commissioner (Audit). The main function of the Audit Commissionerate is to conduct internal audit of the taxpayers falling under its jurisdiction, convening of monitoring committee meetings, helping Executive Commissionerates in pursuing the cases against the assessee etc.

Commissioner (Appeal) acts as an appellate authority and passes orders on appeals in relation to adjudication orders passed by an authority subordinate to the rank of a Commissioner.

#### **2.2.4 Divisions**

Each Executive Commissionerate has four to six Divisions headed by a Deputy/Assistant Commissioner. The Divisional heads are responsible for proper compliance of laws and procedures within their jurisdiction. They are also responsible for provisional assessments, sanctioning of refund claims and performing quasi-judicial functions viz. adjudication of cases falling within their competence.

#### **2.2.5 Ranges**

Each Division consists of, on an average, four to seven Ranges. The Range, headed by a Superintendent, is the first office of contact between the trade and industry, and the Department. Scrutiny of the assessment is done by the Range on the basis of prescribed returns filed by the assessee. Apart from the assessment work, the Range officials also check the correctness of statutory declarations filed by the taxpayers.

### **2.3 Audit Sample, Audit Efforts and Audit Products**

During 2020-21, Audit was provided access to pan-India data and back-end systems of the CBIC. This facilitated Audit in transitioning from generic risk assessment at unit level (Ranges/Divisions) to a more comprehensive subject matter risk assessment with respect to GST. Accordingly, during 2021-22, nine field audit offices headed by Directors General (DsG)/Principal Directors (PDs) of Audit carried out subject specific compliance audit of the Department's oversight on GST payments and return filing to obtain assurance that taxpayers file their returns regularly and comply with the GST law by properly discharging their tax liability and other mandated obligations. Audit observed 2,264 compliance deviations with monetary impact of ₹ 2,813.62 crore. Audit

findings on the Department's oversight on GST payments and return filing are included in Chapter IV of this Report.

In addition, supplementary audit of transitional credit claims was conducted which was limited to the claims produced to Audit out of the non-produced/partially produced cases of subject specific compliance audit of transitional credits conducted during 2020-21 and reported in Chapter VI of the CAG's Audit Report Number 5 of 2022 (Indirect Taxes: Goods and Service Tax). Audit could examine 354 claims, involving transitional credit of ₹ 2,588.88 crore, in full measure out of 954 claims reported earlier as non-production in CAG's Audit Report Number 5 of 2022 (Indirect Taxes: Goods and Service Tax). Audit observed 188 compliance deviations with monetary impact of ₹ 55.15 crore. Audit observations pertaining to transitional credits are discussed in Chapter V of this Report.

Further, during 2022-23, a follow-up audit on reliability of GST data has been taken up with for assessing quality of GSTN data and to ensure whether the Ministry/GSTN has addressed the issue of GSTN data inconsistencies, as reported by Audit in CAG's Audit report No.5 of 2022. Audit also conducted analysis of data pertaining to 8.66 lakh composition levy taxpayers under central jurisdiction for the financial years 2019-20, 2020-21 and 2021-22. The findings of these data analysis are reported in Chapter VI and VII of this report.

Audit findings with respect to Indirect taxes administration, revenue trends and compliance verification mechanism under GST are included in Chapter I and Chapter III of this Report.

In addition to this, Audit had also issued nine draft paragraphs with money value of ₹ 6.63 crore pertaining to GST audit. These audit findings were noticed during the period prior to 2021-22. The details of these nine audit paragraphs are given in **Appendix-II**.

## **2.4 Follow-up of previous CAG's Audit Reports**

In the last four years (excluding FY22), we had included 866 audit paragraphs pertaining to Central Excise, Service Tax and Goods and Services Tax involving money value of ₹ 3,907.49 crore. The details of follow-up on audit observations are included in **Table 2.1**.

Table 2.1: Follow-up of Audit Reports

(Amount in ₹ crore)

Year		FY17	FY18	FY19 & FY20	FY21	Total	
Paragraphs/SSCA Included		No.	300	239	297	30	866
		Amt.	1,018.79	401.26	1,236.26	1,251.18	3,907.49
Paragraphs accepted	As on 28.02.2023	No.	269	216	205	28	718
		Amt.	548.56	200.39	1,101.12	757.69	2,607.76
Recoveries effected	As on 28.02.2023	No.	160	116	107	14	397
		Amt.	372.15	58.37	43.24	168.16	641.92

The Ministry had accepted audit observations in 718 audit paragraphs involving money value of ₹ 2,607.76 crore, and had recovered ₹ 641.92 crore in respect of 397 audit paragraphs.

## 2.5 Response by Ministry to audit observations included in this report

We gave six weeks to the Ministry to offer their comments on the audit observations issued to them before inclusion in the Audit Report. We have included two subject specific compliance audit (SSCA) reports with money value of ₹ 2,868.77 crore in this Audit Report. The Ministry, with respect to SSCA on Department's oversight on GST payments and return filing, accepted audit observations or initiated examination in 1,523 cases with money value of ₹ 2,201.42 crore and reported recovery of ₹ 78.43 crore in 355 cases at the instance of audit. With respect to the supplementary SSCA on transitional credits, the Ministry accepted audit observations with money value of ₹ 44.70 crore in 128 cases and reported recovery of ₹ 3.65 crore in 48 cases at the instance of audit.

We have also included nine draft paragraphs (with money value of ₹ 6.63 crore), that were noticed prior to 2021-22. Ministry accepted the audit observations in all the cases.

We have also issued data analysis findings on GST data quality and Composition Levy Scheme to the Ministry. Ministry's reply was awaited on SSCA on GST data quality (January 2024).

In addition to the above, we issued 11 draft paragraphs related to Compliance verification mechanism under GST, Indirect taxes administration, and Revenue Trends under GST. Ministry's reply was awaited in respect of two draft paragraphs (January 2024).



## **Chapter III: Effectiveness of Compliance Verification Mechanism under GST**

As per Section 59 of the Central Goods and Services Tax Act, 2017, every registered person shall self-assess the tax payable on supplies made during the tax period and file the return for each tax period. GST, therefore, continues to promote self-assessment just like Central Excise, VAT and Service Tax.

The introduction of self-assessment underscored the need for an effective tax compliance verification mechanism. Such a mechanism typically has three important components—returns' scrutiny, internal audit and anti-evasion functions. This chapter brings out the status of implementation of the simplified GST return mechanism and the Department's performance with respect to the aforesaid compliance verification mechanism and monitoring of appeal cases.

### **3.1 Status of implementation of simplified return mechanism**

In the previous CAG's Audit Reports<sup>21</sup>, Audit had recommended that a definite time frame for roll out of simplified return forms may be fixed and implemented as frequent deferments were resulting in delay in stabilisation of the return filing system. In addition, Audit had recommended system-verified flow of Input Tax Credit (ITC) through "invoice-matching" and that the Ministry may rely more on preventive checks that are enforced through IT systems in the return forms, as originally envisaged, rather than relying on post-facto intervention by the tax offices in safeguarding Government revenue.

Audit further reviewed the progress made with respect to the GST return mechanism.

The original return forms were based on "invoice-matching" which was to be achieved through the combination of GSTR 1, 2 & 3 returns where suppliers would file invoice-wise details of outward supplies made by them during the month through GSTR-1. The details of outward supplies so furnished by the supplier in GSTR-1 were to be made available electronically to the registered recipients through Form GSTR-2A as a system-verified input tax credit. Thereafter, based on details available in Form GSTR-2A, the taxpayer was supposed to furnish form GSTR-2 after including details of other inward supplies. GSTR-3 was supposed to be auto-generated from GSTR-1 and GSTR-2, while the taxpayer had to include the details of discharge of liability of tax, interest, penalty, refund claimed from electronic cash ledger and debit entries in electronic cash/credit ledger while filing GSTR-3.

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<sup>21</sup> Audit Report No.1 of 2021 and Audit Report No.5 of 2022.

However, owing to the unprepared GST ecosystem and complexity of return forms, the originally envisaged key returns, GSTR-2 and GSTR-3, were kept in abeyance and a new simpler temporary return, GSTR-3B, was introduced, initially for two months.

GSTR-3B was a self-assessed summary return instead of the originally envisaged system generated GSTR-3 return based on matched invoices. As a result of keeping GSTR-2 and GSTR-3 in abeyance, ITC and monthly returns were now not based on system-verified details, as originally envisaged. The other limitations of GSTR-3B were non-provision for amendments to outward supplies and inward supplies attracting reverse charge and non-capturing of item-wise details of ITC available along with ITC on account of amendments. Further, GSTR-3B did not differentiate outward and inward supplies attracting reverse charge between inter-state supplies and intra-state supplies which made settlement of Integrated GST a complex process.

Subsequently, a new return system, based on 'invoice-matching', was envisaged (ANX-I/ANX-II and RET-01) in the GST Council's 28th meeting (July 2018). Section 43A on Procedure for furnishing return and availing ITC was also inserted in the CGST Act vide CGST Amendment Act, 2018. In May 2019, a prototype of the offline tool was shared on the GST portal to give the look and feel of the new return forms to the taxpayer and from July 2019, the taxpayers were able to upload invoices on the trial basis for familiarisation. Some of the key features of the proposed new return system were the facility of continuous uploading and viewing facility for upload of invoices by the supplier and viewing by the recipient along with tax payment status of an invoice, and the facility for locking of invoices by the recipient before filing of the return. However, Section 43A was not notified and a new return system was, thus, not rolled out.

The GST Council, in its 42nd meeting (October 2020), decided to incorporate the features of the new return system in the existing GSTR-1 and GSTR-3B system, instead of rolling out a new return system. The changes allowed the taxpayer to view ITC available in his electronic credit ledger from all sources i.e. domestic supplies, imports and payments on reverse charge etc. prior to the due date for payment of tax, and enabled the system to auto-populate return (GSTR-3B) through the data filed by the taxpayer and all his suppliers in the present familiar GSTR-1/GSTR-3B scheme.

While some of the limitations were addressed by the recent changes in the GST return system, the existing GSTR-3B still has gaps and needs improvement. There is a need for amendment tables in GSTR-3B for reporting of various amendments in outward supplies, input supplies liable to reverse charge and ITC for the previous tax periods; modification in Table 4 of GSTR-3B for capturing line-wise ITC reversals and reclaimed ITC for streamlining the

process of settlement of IGST revenues; and modification in Table 3 of GSTR-3B for allowing auto-population of values from GSTR-1 into GSTR-3B in specific rows.

In the 47<sup>th</sup> meeting of the GST Council (June 2022), a sub-committee of officers, constituted to deliberate on issues pertaining to IGST settlement and ITC reversals, proposed comprehensive changes in GSTR-3B to address these issues. The GST Council recommended that the proposal for comprehensive changes in GSTR-3B be placed in the public domain for seeking inputs/suggestions of the stakeholders and to bring the suggestions before the GST Council for approval in a time bound manner. Accordingly, the Board had called for suggestions from stakeholders on proposed changes in GSTR-3B (July 2022). The suggestions of the stakeholders on the proposed changes were under consideration of Ministry for submission to the GST Council as of January 2023.

Ministry, while accepting the audit observation, stated (May 2023) that the suggestions received from the stakeholders regarding changes in Form GSTR-3B were being examined by the Law Committee of the GST Council.

**The Government, after considering suggestions of the stakeholders, may incorporate the requisite changes pertaining to amendment tables in GSTR-3B, modification in Table 4 of GSTR-3B for capturing line wise ITC reversals and allowing auto-population of values from GSTR-1 into GSTR-3B in the specific rows in GSTR-3B, as recommended by the sub-committee of officers on issues pertaining to IGST settlement and ITC reversals, in a time-bound manner so that the gaps in the existing return system can be addressed at the earliest.**

### **3.2 Scrutiny of Returns under GST**

Section 61 of the Central Goods and Services Tax Act, 2017 stipulates that the proper officer may scrutinize the return and related particulars furnished by the taxpayers to verify the correctness of the returns and information. Under Rule 99 of the Central Goods and Services Tax Rules, 2017, discrepancies noticed, if any, be communicated to the taxpayer for seeking his explanation. If the explanation offered is found acceptable by the proper officer, the proceeding shall be dropped, the taxpayer shall be informed and no further action in the matter shall be taken. If, however, the taxpayer

- does not furnish a satisfactory explanation within 30 days of being informed (extendable by the proper officer), or
- does not take any corrective action in his return in which discrepancy is accepted,

the proper officer may initiate appropriate actions including adjudication proceedings for determining the tax liability under Section 73 or Section 74.

In the CAG's previous Audit Report No. 5 of 2022, Audit had observed that Scrutiny of GST returns, an important compliance verification function of the department, was yet to be effectively rolled out even after more than four years of GST implementation. Accordingly, Audit recommended that an effective risk based standardized system of returns' scrutiny (with detailed instructions/standard operating procedure) should be implemented at the earliest so that the Department has sufficient time to take action against non-compliant taxpayers before time-barring of cases as per law. Such a scrutiny should involve risk-based selection of returns, and the results of the scrutiny (similar to scrutiny assessments in respect of income tax) should also be captured in real-time through the CBIC-GST System to ensure transparency and minimize arbitrariness.

During 2022-23, Audit examined further progress made in respect of scrutiny of returns. Audit observations are discussed in the following paragraphs.

### **3.2.1 Non-production of information**

As per Rule 99 of CGST rules, 2017, where any return furnished by a registered person is selected for scrutiny, the proper officer shall scrutinize the same in accordance with the provisions of Section 61 with reference to the information available with him, and in case of any discrepancy, he shall issue a notice to the said person in FORM GST ASMT-10, informing him of such discrepancy and seeking his explanation thereto within such time, not exceeding thirty days from the date of service of the notice or such further period as may be permitted by him and also, where possible, quantifying the amount of tax, interest and any other amount payable in relation to such discrepancy.

The registered person may accept the discrepancy mentioned in the notice issued under sub-rule (1), and pay the tax, interest and any other amount arising from such discrepancy and inform the same or furnish an explanation for the discrepancy in FORM GST ASMT-11 to the proper officer.

Where the explanation furnished by the registered person or the information submitted under sub-rule (2) is found to be acceptable, the proper officer shall inform him accordingly in FORM GST ASMT-12.

Audit requested CBIC (November 2022) to provide the details of ASMT-10, ASMT-11 and ASMT-12 issued/received by the departmental formations for the years 2018-19, 2019-20 and 2020-21 (at GSTN or CBIC premises) to plan and carry out audit of returns' scrutiny function of the department. However, the same was yet to be provided to Audit (March 2023).

In the absence of detailed information regarding the ASMT-10, ASMT-11 and ASMT-12 issued/received by the departmental formations for the years 2018-19, 2019-20 and 2020-21, Audit could not examine the efficacy of the scrutiny verification mechanism of the Department.

**Ministry may provide the details of ASMT-10, ASMT-11 and ASMT-12 issued/received by the departmental formations for the years 2018-19, 2019-20 and 2020-21 without further delay so that an important compliance verification function of the Department could be assessed by Audit.**

When pointed out (February 2023), Ministry stated (June 2023) that the granular data pertaining to ASMT-10, ASMT-11 and ASMT-12 for the year 2018-19 was not available in the CBIC-backend application as the functionality for scrutiny of returns was deployed in May 2023 only. However, the information pertaining to ASMT-10, ASMT-11 and ASMT-12 would be made available to Audit in due course.

### **3.2.2 Standard Operating Procedure (SOP) for Scrutiny of Returns**

The Board had issued a Standard Operating procedure (SOP) for scrutiny of returns for FY17 and FY18 in March 2022. Audit observed that the aforesaid SOP was issued as an interim measure as the Scrutiny Module for online scrutiny of returns has not been made available on the Department's back-end IT application i.e. CBIC-GST application.

Ministry informed<sup>22</sup> (December 2022) that the functionality viz. 'Risk-based Selectivity system' for enabling scrutiny of returns was under development in the CBIC back end application.

**Audit recommends that the risk-based Scrutiny Module, with periodic review of risk parameters based on inputs received from Directorate General of Analytics and Risk Management (DGARM) reports and audit findings in earlier Audit Reports, may be implemented at the earliest to ensure full transparency and for robust oversight and monitoring of the scrutiny function of the Department.**

When pointed out (February 2023), Ministry stated (June 2023) that the Part-I of the Risk based Selectivity System (RSS), which provides for Risk factor Creation, Risk Rule Creation and Risk based selection of Returns for scrutiny is under process and would be deployed to production shortly. The Part-II of the RSS, which provides for a Dashboard and Workflow for the field officers to perform scrutiny of returns by interacting with the taxpayers, i.e. issuance of

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<sup>22</sup> In Action Taken Note on Para 3.2 of Audit Report No. 5 of 2022.

notice to the taxpayers in ASMT-10, receipt of taxpayer’s reply in ASMT-11 and order of acceptance of reply in ASMT-12, had been deployed.

Therefore, risk-based Scrutiny Module was yet to be implemented fully as the important functionality related to Risk factor Creation, Risk Rule Creation and Risk based selection of Returns for scrutiny was yet to be implemented (June 2023).

### 3.2.3 Progress of Scrutiny of Returns for FY18 and FY19

Audit examined the reporting and monitoring mechanism for scrutiny of returns for the years FY18 and FY19, as provided in the SOP of March 2022. Audit noted from the SOP that the Directorate General of Analytics and Risk Management (DGARM) selects the GSTINs, registered with central tax authorities, on the basis of specific risk parameters and communicates them to the field formations from time to time through the DDM<sup>23</sup> portal. The proper officer, thereafter, issues notice for intimating discrepancy in ASMT-10 within the month. The field formations complete the scrutiny process either by issuance of ASMT-12 within 60 days of issuance of ASMT-10 or by initiation of appropriate action under Section 73 or Section 74, Section 65, Section 66 or Section 67 of CGST Act, 2017 within 45 days to 60 days of issuance of ASMT-10. Scrutiny of returns, therefore, should be completed by the field formations at the most within 90 days of receipt of scrutiny schedule.

Audit examined the Monthly Scrutiny Progress Report for the period April 2022 to October 2022. The monthly progress of the scrutiny of returns by the Department is given below in **Table 3.1**.

**Table 3.1: Monthly Progress of Scrutiny of Returns**

Month	Opening Balance	New cases allocated for scrutiny		ASMT-10 issued		Cases whose scrutiny has been culminated		Closing Balance
		During the Month	Up to the month	During the month	Up to the month	During the month	Up to the month	
Apr-22	0	3,923	3,923	2,359	2,359	124	124	3,799
May-22	3,799	9,298	13,221	7,666	10,025	445	569	12,652
Jun-22	12,652	10,023	23,244	9,866	19,891	1,759	2,328	20,916
Jul-22	20,916	5,694	28,938	5,353	25,244	2,904	5,232	23,706
Aug-22	23,706	2,569	31,507	2,833	28,077	3,268	8,500	23,007
Sep-22	23,007	1,087	32,594	1,373	29,450	3,035	11,535	21,059
Oct-22	21,059	492	33,086	892	30,342	3,083	14,618	18,468

Source: Monthly Scrutiny Progress Report of the Department.

<sup>23</sup> Directorate of Data Management (DDM)

It can be seen from the table above that as on 31 October 2022, 18,468 scrutiny cases were pending. In the absence of detailed data, Audit could not ascertain the exact extent of delay in completion of scrutiny cases beyond 90 days. However, after excluding 4,148 cases received during the three months period, i.e. August 2022 to October 2022, there was delay in culmination of at least 14,320 cases as on 31 October 2022.

In this regard, it is pertinent to mention that Section 73 of CGST Act, 2017 provides that where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under Section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder. The proper officer shall issue the order within three years<sup>24</sup> from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.

The due dates for filing of annual returns for FY 18, and FY 19 were 5/7 February 2020 and 31 December 2020, respectively. Therefore, the Competent Authority needed to issue notice (SCN), where necessary, for recovery of dues under section 73 (10) of CGST Act, 2017, if any, by June 2023<sup>25</sup> and September 2023 for FY18 and FY19, respectively to avoid time-barring of cases.

**Audit, therefore, recommends that the Department may ensure the completion of scrutiny within the prescribed time limit to ensure that demands, if any, do not become time-barred.**

When Audit pointed this out (February 2023), Ministry attributed (June 2023) non-completion of returns' scrutiny process within 90 days to various factors such as additional time sought by taxpayers and delay in filing of ASMT-11, technical glitches in the system, time consumed in reconciliation of GSTR-1 and GSTR-3B. Ministry further stated that all efforts were being made to ensure

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<sup>24</sup> Five years in cases of any wilful-misstatement or suppression of facts to evade tax under Section 74 of the CGST Act, 2017.

<sup>25</sup> The Board has extended the time limit specified under sub-section (10) of section 73 of order for recovery of tax paid or short paid or input tax credit wrongly availed or utilised, in respect of a tax period for 2017-18, up to 30 September 2023.

that the scrutiny is completed within the prescribed time limit to ensure that demands, if any, do not become time-barred.

### **3.3 Internal Audit under GST**

#### **3.3.1 Internal audit of GST Units**

Internal Audit<sup>26</sup> helps to assess the level of compliance by taxpayers in the light of the provisions of the Goods and Services Tax Act and rules made thereunder. The Board had issued detailed instructions for conducting Internal Audit in the form of the Goods and Services Tax Audit Manual (GSTAM) in July 2019. The internal audit provisions of the Department envisaged selection of taxpayers based on risk assessment using GST data, done by the Director General of Analytics and Risk Management (DGARM). The financial year for the purpose of internal audit is from July to June in respect of Central Excise and Service Tax, and from April to March in respect of GST.

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

##### **3.3.1.1 Non-Production of information/records**

Internal Audit is an important oversight function of the Department. CAG’s role as independent external auditors under Section 16 of the CAG (DPC) Act, 1971 encompasses evaluation of the internal audit functions of the Department towards suggesting systemic improvements.

The Directorate General of Audit (DG Audit), Indirect Taxes and Customs, under CBIC Ministry of Finance, Department of Revenue is responsible to monitor the performance and pendency related to internal audit in the Audit Commissionerates<sup>27</sup>; to evolve a mechanism for assessing and ensuring audit quality assurance by sample review of major audit reports; setting standards and norms for evaluating the quality of audit and to bring about uniformity in the audit system across the country; and to study the level of compliance including recovery of dues relating to important audit objections/points at all India, Zonal and Commissionerate level.

Further, the GST Audit Manual, 2019 (GSTAM) provides the method of selection of units/taxpayers for internal audit. It provides that the selection of

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<sup>26</sup> Section 65 of the CGST Act, 2017.

<sup>27</sup> As per the functional responsibilities of DG(Audit) provided in the Charter of Functions

registered persons would be done based on the risk evaluation method prescribed by the DG (Audit) in consultation with the Directorate General of Analytics and Risk Management (DGARM). Based on the risk methodology, a list of units is communicated to the Audit Commissionerates by DGARM / DG (Audit), for the purpose of conducting internal audit for the audit year. The Audit Commissionerates may select the units to be audited in a particular year after reviewing the list, in the context of local risk perceptions and parameters. However, only 20 per cent of the total taxpayers to be audited during a year, may be selected by the Audit Commissionerates on the basis of local risk factors.

Audit requested (January 2021, October 2021, November 2022) DG (Audit) to provide pan-India Commissionerate wise and taxpayer wise details of the units planned for and audited during 2018-19, 2019-20, and 2020-21. However, DG (Audit) informed (August 2020, February 2021) that the aforesaid information was not available with them and DGARM prepares a list of risky taxpayers and sends the same directly to the respective Audit Commissionerates. DG (Audit) further informed (November 2021) that the aforesaid details may be obtained from the concerned Audit Commissionerates. However, the details of internal audit undertaken by the Department during the period 2019-20 to 2021-22 was provided to Audit.

Audit requested the DGARM (February 2021) to provide the list of all India GST taxpayers forwarded to the Audit Commissionerates during the period 2018-19, 2019-20 and 2020-21. Reply was awaited (January 2024).

Audit also requested the Chairman, CBIC (November 2022) to provide consolidated data of internal audits planned and executed. However, the same had not been provided to Audit (January 2024).

Audit requested (February 2023) the Ministry to provide the pan-India Commissionerate wise and taxpayer-wise details of the units planned for and audited during 2018-19, 2019-20, and 2020-21 without any further delay so that an important compliance verification function of the Department could be assessed. Since consolidated details of internal audit were neither provided to Audit nor they were available with DG (Audit), Audit could not examine the efficacy of the monitoring functions of DG (Audit) and the internal audit function of the Department. Requesting each Audit Commissionerate separately for information was leading to delays and non-receipt of information in time.

Reply of the Ministry was awaited (January 2024).

**3.3.1.2** The details of internal audit undertaken by the Department during 2019-20, 2020-21 and 2021-22 for GST are as under: -

**Table 3.2: Total detection made vis-à-vis units audited by Internal Audit (GST)**

Year	Category	(Amount in ₹ crore)					
		Total units planned	Total units audited	Per cent of units audited	Short levy detected	Total recovery	Recovery as per cent of total detection
FY 20	Large Units	17,172	244	1	66	9	14
	Medium units	18,050	296	2	15	8	53
	Small Units	19,920	318	2	15	2	12
	<b>Total</b>	<b>55,142</b>	<b>858</b>	<b>2</b>	<b>96</b>	<b>19</b>	<b>20</b>
FY 21	Large Units	16,294	2,816	17	1,624	292	18
	Medium Units	14,904	4,405	30	510	138	27
	Small Units	15,464	4,781	31	347	84	24
	<b>Total</b>	<b>46,662</b>	<b>12,002</b>	<b>26</b>	<b>2,481</b>	<b>514</b>	<b>21</b>
FY 22	Large Units	12,442	5,673	46	7,640	946	12
	Medium Units	13,745	7,118	52	1,528	404	26
	Small Units	14,839	6,837	46	1,079	390	36
	<b>Total</b>	<b>41,026</b>	<b>19,628</b>	<b>48</b>	<b>10,246</b>	<b>1,740</b>	<b>17</b>

Source: Monthly Progress Report of the Department.

As is evident from the above table, the number of units audited during FY 20, FY 21 and FY 22 were 2 per cent, 26 per cent and 48 per cent, respectively, of the total units planned. Although there has been a substantial increase in the percentage of units audited in FY 22, there is still a huge gap between the number of units planned and audited.

The total recovery effected was 20 per cent and 21 per cent of the detected short levy in FY 20 and FY 21, respectively. However, during FY22, the total recovery effected declined to 17 per cent from 21 per cent in FY 21. Ministry, during 2021-22, had attributed the short coverage of units during internal audit to the shortage of officers in the Audit Commissionerates, especially in the grade of inspectors whose working strength was less than 50 per cent of the sanctioned strength in most of the Audit Commissionerates.

Reply of the Ministry was awaited (January 2024).

**In view of persistent short coverage of internal audit units due to shortage of officers in the Audit Commissionerates, Audit recommends that the Ministry may enhance the availability of human resources in the Audit Commissionerates and ensure optimal utilisation of resources for internal audit.**

### **3.3.2 Internal audit of Central Excise and Service Tax Units**

The details of internal audit undertaken by the Department during 2019-20, 2020-21 and 2021-22 for the Central Excise and Service Tax units are as under:-

**Table 3.3: Total detection made vis-à-vis units audited by Internal Audit (CX &ST)**

(Amount in ₹ crore)

Year	Category	Total units planned	Total units audited	Per cent of units audited	Short levy detected	Total recovery	Recovery as per cent of total detection
FY 20	Large Units	6,361	3,432	54	8,429	519	6
	Medium Units	12,075	6,678	55	1,698	365	21
	Small Units	35,383	21,649	61	1,210	412	34
	<b>Total</b>	<b>53,819</b>	<b>31,759</b>	<b>59</b>	<b>11,337</b>	<b>1,296</b>	<b>11</b>
FY 21	Large Units	4,075	1,421	35	5,532	185	3
	Medium Units	7,758	2,106	27	1,017	118	12
	Small Units	27,630	8,860	32	468	124	27
	<b>Total</b>	<b>39,463</b>	<b>12,387</b>	<b>31</b>	<b>7,017</b>	<b>428</b>	<b>6</b>
FY 22	Large Units	3,269	1,793	55	2,284	116	5
	Medium Units	5,171	2,268	44	598	83	14
	Small Units	18,327	6,047	33	219	59	27
	<b>Total</b>	<b>26,767</b>	<b>10,108</b>	<b>38</b>	<b>3,101</b>	<b>258</b>	<b>8</b>

Source: Monthly Progress Report of the Department.

It is observed that coverage of internal audit of units during FY20, FY21 and FY22 was 59 per cent, 31 per cent and 38 per cent, respectively of the planned units.

Further, the total recovery was 11 per cent, six per cent and eight per cent, of the amount detected during FY 20, FY21 and FY22, respectively.

Ministry was requested to intimate the reasons for shortage in the coverage of units in internal audit vis-à-vis planned units (February 2023). Reply of the Ministry was awaited (January 2024).

### 3.4 Anti-Evasion functioning of DGGI

Directorate General of Goods and Service Tax Intelligence-DGGI (formerly Director General of Central Excise Intelligence (DGCEI)) as well as the Goods and Service Tax Commissionerates have well-defined roles in the task of detection of cases of evasion of Goods and Services Tax, Central Excise duty and Service Tax. While the Commissionerates, with extensive database of units in their jurisdiction and presence in the field, are the first line of defence against duty evasion, DGGI specialises in collecting specific intelligence about evasion of substantial revenue. The intelligence so collected is shared with the Commissionerates. Investigations are also undertaken by DGGI in cases having all India ramifications.

### 3.4.1 Performance of DGGI in anti-evasion activities

The performance of DGGI<sup>28</sup> in terms of number and amount of cases detected and voluntary payments made by the taxpayers during the last five years is reflected in **Table 3.4**.

**Table 3.4 Anti-evasion performance of DGGI during 2017-18 to 2021-22**

(Amount in ₹ crore)

Year	Central Excise			Service Tax			Goods and Services Tax			Total		
	No.	Amt.	VP*	No.	Amt.	VP*	No.	Amt.	VP*	No.	Amt.	VP*
2017-18	283	5,349	247	2,042	21,378	2,555	136	7,879	7,438	2,461	34,606	10,240
2018-19	692	2,782	386	1,677	27,835	2,822	1,539	19,319	8,687	3,908	49,936	11,895
2019-20	483	8,366	231	1,417	13,489	1,166	2,466	21,739	13,065	4,366	43,594	14,462
2020-21	122	2,860	91	1,173	8,993	539	3,828	31,908	10,630	5,123	43,761	11,260
2021-22	42	811	127	630	3,753	199	3,835	50,325	21,183	4,507	54,889	21,509
<b>Total</b>	<b>1,622</b>	<b>20,168</b>	<b>1,082</b>	<b>6,939</b>	<b>75,448</b>	<b>7,281</b>	<b>11,804</b>	<b>1,31,170</b>	<b>61,003</b>	<b>20,365</b>	<b>2,26,786</b>	<b>69,366</b>

\*Voluntary Payment

As evident from Table 3.4, GST evasion detected through anti-evasion activities was ₹ 50,325 crore during FY22, an increase of 58 per cent over FY21. Voluntary payments as per cent of the amount detected also increased to 39 percent in FY22 as compared to 26 per cent during FY21.

### 3.4.2 Nature of anti-evasion cases during FY22

The nature of anti-evasion cases detected by DGGI involving Central Excise, Service Tax and GST during FY 2021-22 are highlighted in **Table 3.5**.

**Table 3.5: Nature of anti-evasion cases detected by DGGI**

Central Excise		Service Tax		Goods and Services Tax	
Nature	%	Nature	%	Nature	%
Clandestine Removal	33	Non-Payment of Service Tax for providing taxable Service	60	Wrong availment/non-reversal of Input Tax Credit	42
Wrong Availment of Exemption Notification	13	Non-Payment of Service Tax under reverse charge mechanism	25	Non-payment of Tax on supply of taxable goods and Services	23
Misclassification	13	Short Payment of service tax by undervaluing taxable service	4	Tax collected but not paid to Govt exchequer	4
Misuse of Cenvat Scheme	8	Misuse of Cenvat Credit Scheme	4	Short Payment of Tax by Undervaluing Taxable goods and Service	4
Undervaluation	5	Service tax collected but not paid to Govt exchequer	2	Non-payment of Tax under Reverse charge mechanism	3
Others	28	Others	5	Others	24

(Source: MPRs (CEI-CE-3, CEI-ST-2, CEI-GST-5) of the Department, provided in November 2022)

As could be seen from the table above that during FY22, wrong availment/non-reversal of Input Tax Credit and non-payment of Tax on

<sup>28</sup> The information related to anti-evasion performance of the GST Commissionerates was not provided to Audit.

supply of taxable goods and Services formed the major portion of evasion activities detected in Goods and Services Tax during FY22. Clandestine removal, misclassification and wrong availment of Exemption Notification formed the major portion of evasion activities detected in Central Excise. Similarly, Non-Payment of Service Tax for providing taxable service and Non-Payment of Service tax under reverse charge mechanism formed the major portion of evasion activities detected in Service Tax.

### 3.4.3 Cases taken up for investigation and disposals thereof

GST law empowers the proper officer to inspect, search, seize and investigate to check the cases pertaining to evasion of duties and taxes. The number of investigation cases pertaining to Goods and Services Tax and their disposal during 2017-18 to 2021-22 are detailed in **Table 3.6**.

**Table 3.6 – Investigation of cases (Fresh cases) and disposals thereof (as on 16 March 2023)**  
(Amount in ₹ crore)

FY	Description	Opening Balance as per MPR	Fresh cases taken up for Investigation	Total No. of cases	Cases disposed off	Closing Balance as per MPR
FY18	No. of cases	1	351	352	46 13.07%	306
	Duty Involved	0.02	1,041	1041.6	17.33 1.66%	1,023
FY19	No. of cases	306	6,362	6,668	1,311 19.66%	5,357
	Duty Involved	1023.3	40,670	41,693	2,236 5.36%	39,457
FY20	No. of cases	5,357	8,331	13,688	2,287 16.71%	11,401
	Duty Involved	39,457	38,070	77,527	9,167 11.82%	68,360
FY21	No. of cases	11,401	10,230	21,631	3875 17.91%	17,756
	Duty Involved	68,360	51,645	1,20,005	11,503 9.59%	1,08,501
FY22	No. of cases	17,756	12551	30,307	10,577 34.90%	19,730
	Duty Involved	1,08,501	75,125	1,83,626	38,953 21.21%	1,44,673

(Source: MPRs i.e., CEI-GST-7 of the Department and information provided by the Ministry in April 2023)

During FY22, Department disposed off 10,577 cases (34.90 per cent of total cases) where 17,756 cases were pending at the beginning of the year 2021-22. Duty involved in the disposed off cases amounted to ₹ 38,953 crore

(21.21 per cent of total duty amount) where duty amount of ₹ 1,08,501 crore was pending at the beginning of the year 2021-22.

#### 3.4.4 Age-wise pendency of cases pending for investigation

Age-wise pendency of cases pending for investigation as on March, 2022 is detailed in **Table 3.7**.

**Table 3.7-Closing balance of cases pending for investigation (as on 16 March, 2023)**

Stream	Total	(Amount in ₹ crore)				
		Less than 6 months	More than 6 months but less than 12 months	More than 1 year but less than 2 years	More than 2 years	
Central Excise	Number of cases	24	6	1	2	15
	Duty involved	184.74	173.55	1.14	0.25	9.80
Service Tax	Number of cases	458	119	49	31	259
	Tax involved	753.33	273.62	268.75	16.75	194.22
Goods and Services Tax	Number of cases	19,730	6,929	3,904	5,234	3,663
	Tax involved	1,44,672.78	53,442.93	27,239.59	32,575.12	31,415.14

(Source: MPRs of the Department (CEI-CE-5, CEI-ST-4, CEI-GST-7, as on 16 March 2023 and information provided by the Ministry in April 2023).

As is evident from the table above, overall 19,730 cases relating to GST with tax implication of ₹ 1,44,672.78crore were pending for investigation as of March, 2022 out of which 3,663 cases (19 per cent) with tax implication of ₹ 31,415 crore (22 per cent) were pending for more than 2 years.

When Audit pointed this out (February 2023), Ministry stated (April 2023) that disposal of GST cases pending investigation is a priority key result area and is being closely monitored for minimizing pendency beyond one year.

### 3.5 Monitoring of Appeals under GST and Legacy Taxes (Central Excise and Service Tax)

While collecting the Government revenue, there could be difference of opinion and disputes between the Department and the taxpayers. To provide a level playing field, a well-defined mechanism for dispute resolution is necessary.

Every proceeding starts with the issue of a Show Cause Notice (SCN) for recovery of revenue, due to non/short levy of tax or other reasons. The SCN puts forth the grounds on which the Department has made a particular opinion. While setting out the said grounds, the Department discloses all the relevant facts, evidences, reports and law to the noticee and gives the details of offences/irregularities committed and the action that is proposed against them along with the dues short-paid or non-paid. The SCN is then adjudicated

by the competent authority. Against the adjudication order, taxpayers as well as the Department can go for appeal.

### **3.5.1 Process of Appeals under GST**

Chapter XVIII of the GST Act, 2017 lays down the provisions for appeals. Both the taxpayer and the Department have been conferred with the right of multi-stage remedies against the orders passed under the Act and Rules.

Section 107, Section 112, Section 117 and Section 118 provide for appeals to the Appellate Authority, Appellate Tribunal, the High Court and in the Supreme Court, respectively.

### **3.5.2 Monitoring of Appeal Cases**

Appeal cases are monitored at the Commissionerates, Divisions and Ranges and the data on appeals is maintained by them. Appeals to be filed upto High Court level are decided by field formations while Appeals to be filed in the Supreme Court are decided at the Board level and monitored by the Directorate of Legal Affairs (DLA) in the Board through Monthly Performance Reports (MPRs), furnished by the field formations.

DLA is the nodal agency to monitor legal and judicial work of the Board and its field formations. DLA is also mandated to maintain and monitor the legal and judicial database of Appeals pertaining to Supreme Court, High Court and CESTAT on all India basis.

### **3.5.3 Pendency of appeal cases**

To ensure the adequacy of data maintenance and monitoring mechanism of Appeals, information for the period 2021-22 was collected and examined. The details of appeal cases, where the appeals filed by the Department or by the taxpayers in respect of Central Excise, Service tax and GST, as on 31 March 2022 were pending are mentioned in **Table 3.8**.

**Table 3.8: Pendency of Appeal cases in various fora as on 31 March 2022****(Amount in ₹ crore)**

Forum in which pending	Details of department appeals						Details of party's appeal						Total	
	Central excise		Service Tax		GST		Central Excise		Service Tax		GST			
	No. of appeals	Amt	No. of appeals	Amt	No. of appeals	Amt	No. of appeals	Amt	No. of appeals	Amt	No. of appeals	Amt	No. of appeals	Amt
Supreme Court	659	12,702	524	14,790	310	161	405	2951	352	7662	29	176	2,279	38,442
High Court	2,729	12,369	880	10,538	77	184	3,127	10,383	3,646	33,386	3,445	9,294	13,904	76,153
CESTAT	2,338	12,132	2,834	20,852	0	0	15,953	62,321	20,158	96,936	0	0	41,283	1,92,241
Settlement Commission	0	0	0	0	0	0	11	16	9	28	0	0	20	45
Commissioner (Appeals)	412	541	1,111	526	1,071	535	2,819	1,538	7,063	3,429	3,849	3,126	16,325	9,694
<b>Total</b>	<b>6,138</b>	<b>37,743</b>	<b>5,349</b>	<b>46,705</b>	<b>1,458</b>	<b>879</b>	<b>22,315</b>	<b>77,209</b>	<b>31,228</b>	<b>1,41,441</b>	<b>7,323</b>	<b>12,596</b>	<b>73,811</b>	<b>3,16,574</b>

Source: Figures provided by the Department

As seen from Table 3.8, a total of 73,811 appeals, involving revenue of ₹ 3,16,574 crore, were pending at various legal fora on 31 March 2022. 12,945 appeals (18 per cent) were filed by the Department and 60,866 appeals (82 per cent) were filed by the taxpayer/party. Further, the highest number of appeals were pending in CESTAT, where 41,283 appeals (56 per cent), involving revenue of ₹ 1,92,241 crore, were pending for disposal as on 31 March 2022. 36,577 appeals (50 per cent), pertaining to Service Tax with tax implication of ₹1,88,146 crore were pending in various legal fora as on 31 March 2022.

With respect to GST, as on 31 March 2022, 8,781 appeal cases (12 per cent), involving revenue of ₹13,475 crore, were pending in various fora.

When Audit pointed this out (February 2023), Ministry, while confirming the facts and figures (July 2023), stated that pendency of appeal cases in CESTAT is a function of both receipt and disposal of cases. Therefore, disposals of appeals have to be faster than receipt for pendency to be liquidated. Ministry further intimated that the COVID-19 pandemic had also impacted the hearing and disposal of pending appeals, resulting in slow disposal of CESTAT appeals. Ministry also attributed pendency of appeal cases to vacancies in CESTAT and some benches of Tribunal.

As regards continued large pendency of cases related to Service Tax, Ministry stated that a large number of SCN were issued on the basis of third party data/information received from CBDT for the period 2014-15 to 2016-17. The same was adjudicated in a time bound manner leading to filing of appeals in the tribunal.

### 3.5.4 Age-wise pendency of appeal cases

Table 3.9 below shows the age-wise pendency of appeal cases, as on 31 March 2021 and 31 March 2022, in Central Excise, Service Tax and GST.

Table 3.9: Age-wise pendency of appeal cases

		(Amount in ₹ crore)															
Fora		Central Excise						Service Tax						GST			
		Total no. of appeals	Amount	Less than 1 year	1-5 Yrs.	5-10 Yrs.	More than 10 Yrs.	Total no. of appeals	Amount	Less than 1 year	1-5 Yrs.	5-10 Yrs.	More than 10 Yrs.	Total no. of appeals	Amount	Less than 1 year	1-5 Yrs.
As on 31 March 2021	Supreme Court	1,079	14,691	259	425	256	139	943	20,390	272	440	222	9	200	1,012	125	75
	High Court	5,541	23,060	1,994	1,800	938	809	4,424	33,801	1,757	1,735	681	251	2,149	4,343	1,051	1,098
	CESTAT	19,843	71,413	5,511	9,161	4,392	779	23,196	1,09,147	6,844	11,981	3,978	393	2	0	2	0
	Settlement Commission	15	32	7	8	0	0	9	24	2	7	0	0	0	0	0	0
	Commissioner (Appeals)	3,777	1,950	1,668	1,678	306	125	6,547	3,917	3,712	2,473	267	95	3,133	2,079	2,962	171
	<b>Total</b>	<b>30,255</b>	<b>1,11,146</b>	<b>9,439</b>	<b>13,072</b>	<b>5,892</b>	<b>1,852</b>	<b>35,119</b>	<b>1,67,279</b>	<b>12,587</b>	<b>16,636</b>	<b>5,148</b>	<b>748</b>	<b>5,484</b>	<b>7,435</b>	<b>4,140</b>	<b>1,344</b>
As on 31 March 2022	Supreme Court	1,064	1,5653	207	446	255	156	876	22452	221	392	234	29	339	337	156	183
	High Court	5,856	22,751	2,289	1,770	922	875	4526	4,3924	1,792	1,794	673	267	3,522	9,478	1,719	1,803
	CESTAT	18,291	74,453	4,838	8,165	4,602	686	22,992	1,17,788	6,540	11,265	4,597	590	0	0	0	0
	Settlement Commission	11	16	1	9	1	0	9	28	6	3	0	0	0	0	0	0
	Commissioner (Appeals)	3,231	2,078	1,786	1,081	246	118	8,174	3,955	5,473	2,317	320	64	4,920	3,661	4,179	741
	<b>Total</b>	<b>28,453</b>	<b>1,14,952</b>	<b>9,121</b>	<b>11,471</b>	<b>6,026</b>	<b>1,835</b>	<b>36,577</b>	<b>1,88,146</b>	<b>14,032</b>	<b>15,771</b>	<b>5,824</b>	<b>950</b>	<b>8,781</b>	<b>13,476</b>	<b>6,054</b>	<b>2,727</b>

Source: Figures provided by the Department

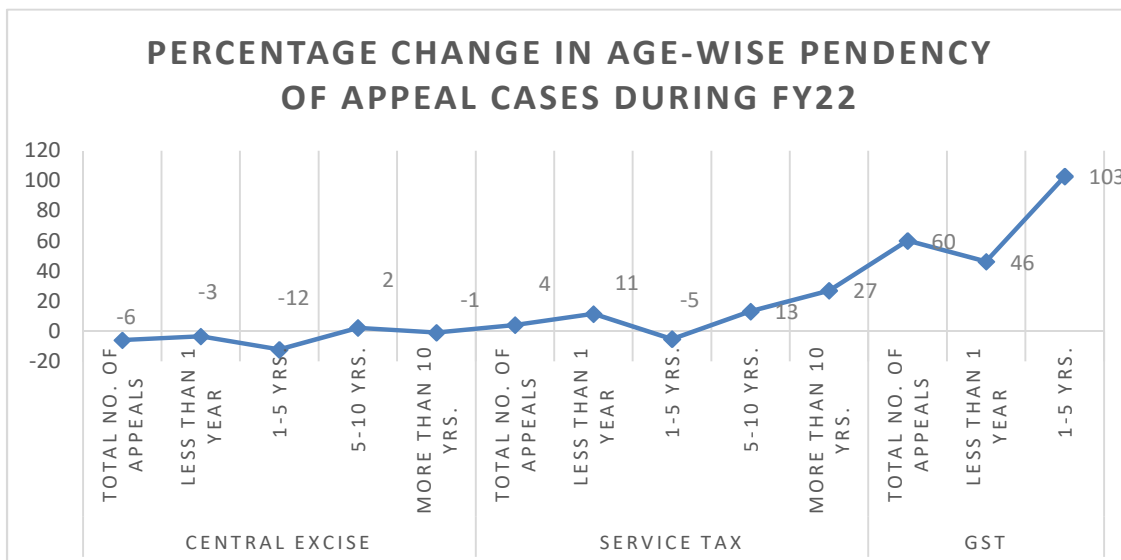
In respect of Central Excise appeal cases, out of a total 28,453 appeal cases pending as on 31 March 2022, 7,861 cases (28 per cent) were pending for more than five years; and 1,835 cases were pending for more than 10 years. However, there was a decrease of 1,802 appeal cases (six per cent) in Central Excise appeal cases pending in various fora, during 2021-22.

As regards Service Tax, out of a total 36,577 appeal cases pending as on 31 March 2022, 6,674 (19 per cent) were pending for more than five years. Further, there was increase of 1,458 Service Tax appeal cases (four per cent) in 2021-22. An increase of 878 cases (15 per cent) was also observed during 2021-22 in the Service Tax appeal cases pending at various legal forums for more than five years.

With respect to GST, there was an increase of 3,297 appeal cases (60 per cent) in 2021-22, with 2,727 appeal cases pending in various legal forums for more than one years. Further, there was an increase of 103 per cent (1,383 cases) in the GST cases pending for more than one years.

**Chart 3.3** below shows the percentage changes in age-wise pendency of appeal cases.

**Chart 3.3: Percentage changes in age-wise pendency of appeal cases**



When Audit pointed this out (February 2023), the Ministry, while confirming the facts and figures (July 2023), stated that field formations are actively pursuing old cases and cases with significant revenue implications by filing Miscellaneous Applications in various appellate fora for early hearing in an effort to reduce the pendency.

With respect to GST appeal cases, Ministry stated that significant increase in GST appeal cases is attributed to enhanced compliance monitoring by the Department by way of Return Scrutiny, Audit, Anti-evasion actions and issues related to revocation of cancellation of registration, late filing of returns, transitional credit, non-payment or short-payment of taxes.

### 3.6 Conclusion

Audit reviewed the progress made with respect to the GST return mechanism and observed that the existing GSTR-3B still has gaps and needs improvement. Audit notes that the Board called for suggestions from stakeholders on proposed changes in GSTR-3B, and that such suggestions on the proposed changes were under consideration. The Government, after considering suggestions of the stakeholders, may incorporate the requisite changes pertaining to amendment tables in GSTR-3B, modification in Table 4 of GSTR-3B for capturing line wise ITC reversals and allowing auto-population of values from GSTR-1 into GSTR-3B in the specific rows in GSTR-3B, as recommended by the sub-committee of officers on issues pertaining to IGST settlement and ITC reversals, in a time-bound manner so that the gaps in the existing return system can be addressed at the earliest. Audit requested CBIC

to provide the details of ASMT-10, ASMT-11 and ASMT-12 issued/received by the departmental formations for the years 2018-19, 2019-20 and 2020-21 (at GSTN or CBIC premises) to plan and carry out audit of returns' scrutiny function of the department. However, the same was yet to be provided to Audit (January 2024). In the absence of detailed information regarding the ASMT-10, ASMT-11 and ASMT-12 issued/received by the departmental formations for the years 2018-19, 2019-20 and 2020-21, Audit could not examine the efficacy of the scrutiny verification mechanism of the Department. Audit recommends that the Ministry may provide details of ASMT-10, ASMT-11 and ASMT-12 issued/received by the departmental formations for the year 2018-19, 2019-20 and 2020-21 without further delay so that an important compliance verification function of the Department could be assessed by Audit.

Similarly, Audit requested the Department and the Board to provide consolidated data of internal audits planned and executed. However, the same had not been provided to Audit.

In addition, Audit examined the Department's performance with respect to internal audit and anti-evasion functions. Audit observed that although there had been a substantial increase in the percentage of units audited in FY 22, there was still a huge gap between the numbers of units planned and audited in GST, Central Excise and Service Tax Units. With respect to anti-evasion functions, Audit observed that as on 16 March 2023, a total of 19,730 GST cases, with tax amount of ₹ 1,44,672.73 crore, were pending investigation, out of which 3,663 GST cases (19 per cent), with tax implication of ₹ 31,415.14 crore (22 per cent), were pending for more than two years.



## **Chapter IV: Department's Oversight on GST Payments and Returns Filing**

### **4.1 Introduction**

Goods and Services Tax (GST) is regarded as the biggest taxation reform in the indirect taxation system. The reform unified the divergent and varied indirect tax regime into a consolidated mechanism as one nation with one tax market. GST is levied on supply of goods and services, simultaneously by the Central and State Governments. Tax moves along with the supply, providing businesses with a seamless flow of Input Tax Credit (ITC) by removing the cascading effect and border restrictions on movement of goods. GST provisions envisage that every registered taxable person shall self-assess the taxes payable, pay the same and furnish a return for each tax period. The registered taxpayers have to ensure reconciliation of purchases data with their suppliers to claim full Input Tax Credit (ITC) and avert unnecessary payment of taxes.

The primary goal of any revenue authority is to oversee levy and collection of taxes in accordance with the law in an efficient and appropriate manner towards enhancing compliance and increase in tax base. The tax administration requires well-placed strategies and structures to ensure that non-compliance with the law is minimized. Good compliance outcomes begin with good legislation. The law should be clear and unambiguous about its intent and interpretation so that it provides a solid base to build administrative compliance programs and compliance risk management.

GST law and the envisaged procedures have been evolving and since the rollout of GST in July 2017, there have been regular amendments and digitalization of tax-related tasks, streamlining the processes. By the end of its first year of implementation about 256 notifications, 29 circulars and 12 orders had been issued. This Subject Specific Compliance Audit (SSCA) was taken up, considering the significance of the control mechanism envisaged for tax compliance and the Department's oversight mechanism in the new tax regime.

During 2017-18, there were a total of 1.05 crore GST taxpayers under the Central and State Government jurisdictions. A total GST of ₹ 7.41 lakh crore was collected during 2017-18, out of which ₹ 4.43 lakh crore pertained to CBIC-administered taxpayers.

### **4.2 Legal framework**

Section 59 of the CGST Act (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 Act defines the term 'supply', on which GST is payable. Tax liability on a supply is determined in accordance with the time, place, and nature of supply at prescribed rates. Generally, the liability to pay tax is vested with the suppliers, while the burden of tax is borne by the customer. However, on certain supplies, the registered persons shall be liable to pay tax as recipients under Reverse Charge Mechanism (RCM). GST envisages taxing only the value addition by allowing ITC at each stage of value addition. Detailed provisions are available for availing and utilizing ITC on inputs, input services and capital goods, ensuring seamless flow of input credit across the chain in the country.

Section 61 of the Act read with Rule 99 of CGST Rules (Rules) stipulates that the proper officer may scrutinize the return and related particulars furnished by taxpayers, communicate discrepancies to the taxpayers and seek an explanation. Section 46 of the Act stipulates issue of notice if the taxpayer had failed to file the return within the due date. Failure of taxpayers to file returns despite the notice empowers the proper officer to assess the tax liability of the said person on best judgment basis. Further, Sections 65 and 66 of the Act empower the Department to carry out an audit or special audit of registered persons. Similar provisions are contained in the corresponding Sections and Rules of State/Union Territory GST Acts and Rules.

### **4.3 Context and significance**

Payment of self-assessed tax and timely filing of periodical returns as prescribed in the Rules is key to tax administration under GST. The self-assessment mechanism underscores the need for an effective verification mechanism to ensure compliance by taxpayers. To sustain voluntary compliance, GST provisions envisaged Information Technology (IT) enabled compliance of the provisions by taxpayers.

The GST Portal was designed as an online system to promote and facilitate taxpayers' compliance. Automation of back-office processes was designed to enable effective administration of taxes and to significantly improve error and fraud detection. There were some teething problems mainly posed by the IT platform. Further, initially three basic returns were envisaged namely, GSTR-1 for outward supplies; GSTR-2 for inward supplies which were to be auto-populated from the GSTR-1 of the suppliers; and GSTR-3 the monthly return which was the summary of these two returns. However, in place of the initially envisaged returns, the implemented returns were GSTR-1, GSTR-2A - which is not a return but an auto-generated statement, and GSTR-3B - which is not auto-populated but has to be furnished by the taxpayer. This has resulted in increased complexities both from functional and technology-related

dimensions. These issues have been highlighted in the previous reports of the Comptroller and Auditor General of India (CAG)<sup>29</sup> and are also covered in paragraph 3.1 of this Report.

The declining trend of filing of GSTR-3B and GSTR-1 returns, both in terms of the extent of non-filing and return filing by the due date and the extent of ITC and tax liability mismatches in the returns from the pan-India data extracted from Goods and Services Tax Network (GSTN) also determined the context of this SSCA. Further, the Department in response to an unstarred question<sup>30</sup> in the Lok Sabha stated that GST evasions to the tune of ₹ 93,462.08 crore were identified in 20,233 cases from July 2017 to August 2020 by Central GST jurisdiction.

In view of the aforementioned implications, Audit decided to assess the departmental oversight mechanism to obtain assurance that taxpayers file their returns regularly and comply with the GST law by properly discharging their tax liability and other mandated obligations.

#### **4.4 Audit objectives**

This SSCA was undertaken with the following broad audit objectives:

- a) Whether the rules and procedures are designed to secure an effective check on tax compliance and are being duly observed by taxpayers; and
- b) Whether the scrutiny procedures and other compliance functions of the Departmental field formations are adequate and effective.

#### **4.5 Audit methodology and scope**

This SSCA was predominantly conducted based on data analysis, which highlighted risk areas and red flags pertaining to the period July 2017 to March 2018, i.e., the first period after the introduction of GST. Through data analysis, a set of 14<sup>31</sup> 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 centralized audit<sup>32</sup>, whereby these deviations were communicated to the relevant CBIC jurisdictional formations (Ranges) and action taken by the Ranges on the identified deviations was ascertained

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<sup>29</sup> CAG Audit Report No.11 of 2019 (Para 1.6.2), No.1 of 2021 (Para 1.4.1) and No.5 of 2022 (Para 3.1)

<sup>30</sup> Unstarred question 1184 dated 19 September 2020

<sup>31</sup> Availing of ITC, Availing of ITC under RCM and payment, ITC reconciliation, ISD credit distribution, ISD credit reversals, Tax liability mismatch, Unsettled tax liability, e-Commerce registrations filing as composition taxpayers, Undischarged interest liability on late filers and non-filers

<sup>32</sup> Centralised Audit did not involve seeking taxpayer's granular records such as financial statements related ledger accounts, invoices, agreements etc.

without involving field visits. The centralised audit was supplemented by a detailed audit involving field visits for verification of records available with the jurisdictional Executive Commissionerates and Audit Commissionerates. Returns and related attachments and information were accessed through the CBIC-ACES-GST application - the back-end system of the Department 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 Ranges. This apart, compliance functions of the Ranges such as scrutiny of returns were also reviewed in selected Ranges.

The review of the scrutiny of returns by the Department and verification of taxpayers records covered the period from July 2017 to March 2018, while the audit of the functions of selected Ranges covered the period from 2017-18 to 2020-21. The SSCA covered only the Centrally (CBIC) administered taxpayers. The field audit was conducted from April 2022 to October 2022.

The draft SSCA report was issued to the Ministry of Finance on 31 January 2023. An exit conference with the Ministry was held in May 2023 where Member CBIC stated that all the recommendations, made by Audit in the SSCA, have been noted and would be examined for implementation. The report was again issued to the Ministry on 11 September 2023. Response of the Ministry/Department received up to January 2024 has been suitably incorporated in the report.

#### **4.6 Audit sample**

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

The sample size for centralised audit was based on 14 risk dimensions involving 10,667 deviations. The sample of 1,103 taxpayers for detailed audit was selected by considering four risk parameters - ITC mismatch between GSTR-2A and GSTR-3B, liability mismatch between GSTR-1 and GSTR-3B, ratio of exempted and Nil rated turnover to total turnover, and ITC reversals. Further, 179 Ranges were selected for audit of compliance verification functions based on the number of detailed audit units under their jurisdiction.

## 4.7 Audit criteria

The source of audit criteria comprised the provisions contained in the CGST Act, IGST Act, and Rules made thereunder. The significant provisions are given in **Table 4.1**.

**Table 4.1: Source of criteria**

Sl. No.	Subject	Act and Rules
1	Levy and collection	Section 9 of CGST/SGST Act
2	Reverse Charge Mechanism	Section 9(3) of CGST/SGST Act and Section 5 (3) of IGST Act
3	Availing and utilizing ITC	Sections 16 to 21 under Chapter V; Rules 36 to 45 under Chapter V
4	Registrations	Section 22 to 25 of CGST/SGST Act; Rules 8 to 26 of CGST/SGST Rules
5	Supplies	Section 7 and 8 CGST/SGST Act. Schedule I, II and III of the Act
6	Place of supply	Section 10-13 of IGST Act
7	Time of Supply	Section 12 to 14 of CGST/SGST Act
8	Valuation of supplies	Section 15 of CGST/SGST Act; Rules 27-34 of CGST /SGST Rules
9	Payment of Tax	Sections 49 to 53 under Chapter X; Rules 85 to 88A under Chapter IX
10	Filing of GST Returns	Sections 37 to 47 under Chapter IX; Rules 59 to 68 and 80 to 81 under Chapter VIII. Part B of CGST Rules prescribing format of returns
11	Zero-rated supplies	Section 16 of IGST Act
12	Assessment and Audit functions	Sections 61, 62, 65 and 66 under Chapter XII & XIII; Rules 99 to 102 under Chapter XI

In addition, the notifications and circulars issued by CBIC relating to filing of returns, notifying the effective dates of filing of various returns, extending due dates for filing returns, rates of tax on goods and services, payment of tax, availing and utilizing ITC, scrutiny of returns and oversight of tax compliance also formed part of the audit criteria.

## 4.8 Audit findings

Audit carried out across all the 21 zones of CBIC has brought out both systemic and compliance issues which are discussed in the ensuing paragraphs. While systemic issues address the adequacy and effectiveness of the envisaged verification mechanism, compliance issues pertain to deviations from the provisions of the Act/Rules in individual instances. Considering that this SSCA was oriented towards evaluating the oversight mechanism of the Department, the audit findings have been categorized into the following three categories:

1. Lack of proper documentation
2. Oversight on return filing
3. Oversight on tax payments

#### **4.8.1 Lack of proper documentation**

According to Section 2 (91) of the Act, “Proper officer” in relation to any function to be performed under this Act means the Commissioner or the officer of the Central Tax, who is assigned with the function by the Commissioner in the Board. Similarly, the functions and nature of work of the Inspector and Superintendent were defined in circulars issued periodically by CBIC<sup>33</sup>. Apart from the demand and recovery-related function, their role also involves registration of new taxpayers, assessment of non-filers, scrutiny of returns, cancellation of registration and verification of high-risk cases identified by the Directorate General of Analytics and Risk Management (DGARM). In the sample of 179 Ranges, Audit observed that:

- a) Though the work of Ranges involves an entire gamut of activity related to tax administration, there were no specific instructions issued on the maintenance of records in the Ranges. The Department had developed a back-end system, but the Management Information System (MIS) Reports related to the returns module have only been partially deployed. Many processes such as the automation of GSTR-3A (notices issued to defaulters who have not filed returns within due date) and REG-17 (Show Cause Notice) were still in progress. In the meanwhile, it was noticed in all the selected Ranges that even manual records – files, registers and reports for main functions like monitoring filing of returns, pursuing cancellation of registrations or non-filers - were not being maintained and the documentation rigour was poor.
- b) There was no procedure of handing/taking over of charges in the Ranges at the cutting-edge levels of Superintendent and Inspector. This, coupled with Range Officers continuing to use third-party email services for exchanging communication with taxpayers and other departments resulted in the risk of new incumbents being completely unaware of past actions and historical information about the cases in the Ranges.

#### **Recommendation: The Department may**

- 1) expedite automation of back-end processes such as identification and issue of notices to non-filers (GSTR-3A), identification of mismatches in returns, issue of Show Cause Notice (REG-17), follow-up on assessment and demand orders and scrutiny of returns. Till such time automation is complete, Department may ensure proper maintenance of manual records/registers.**

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<sup>33</sup> CBIC circular No.1/1/2017 dated 26 June 2017, circular No.3/3/2017 – GST dated 5 July 2017 and circular No. 31/05/2018 – GST dated 9 February 2018

**2) enforce the procedure of handing over/taking over charge at Superintendent and Inspector levels.**

Ministry stated (May 2023) that issuance of GSTR-3A notices to non-filers of GSTR-3B returns directly from GSTN had been commenced and similar feature of issuing notices to non-filers of other returns was being expedited. Similarly, GSTN had commenced issuing the REG-17 notices for non-filing of returns, which is integrated with the CBIC-ACES back-end application. Ministry further stated that in order to identify mismatches in returns, a functionality "Comparison of Liability Report" had also been deployed (April 2022) in CBIC-ACES back-end application and made available to departmental officers.

Ministry also stated that functionality relating to ASMT-10 to ASMT-12 had been deployed and functionality related to ASMT-14 to ASMT-18 was under User Acceptance Testing.

Ministry also intimated that field formations had also been instructed (April 2023) to ensure proper maintenance of manual records/registers, and to follow the procedure of handing over/taking over charge at Superintendent and Inspector levels to facilitate smooth takeover and effective monitoring of the essential functions of Ranges.

**4.8.2 Oversight on returns filing**

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

**4.8.2.1 Trends in return filing**

The overall trend of return filing of monthly GSTR-3B and GSTR-1 returns is given in **Table 4.2**.

**Table 4.2: Trend of return filing of GSTR-1 and GSTR-3B**

FY	Number of returns to be filed		Number of returns filed by due date		Number of returns filed after due date		Total Returns filed		Filing <sup>34</sup> (%)		Filers by due date based on returns filed (%)	
	(2)		(3)		(4)		(5)		(6)		(7)	
(1)	GSTR-3B	GSTR-1	GSTR-3B	GSTR-1	GSTR-3B	GSTR-1	GSTR-3B	GSTR-1	3B	1	3B	1
2017-18	7,04,69,376	4,72,01,778	4,11,21,997	3,54,17,939	2,59,53,993	69,77,972	6,70,75,990	4,23,95,911	95	90	61	84
2018-19	11,57,07,817	7,56,97,667	6,96,28,789	2,77,20,033	3,35,00,577	3,13,23,794	10,31,29,366	5,90,43,827	89	78	68	47
2019-20	12,47,36,213	8,14,57,191	7,53,54,782	3,05,76,460	3,65,86,493	3,39,36,992	11,19,41,275	6,45,13,452	90	79	67	47
2020-21	11,94,16,108	9,80,45,251	6,13,23,805	3,83,83,812	4,86,68,301	3,46,87,987	10,99,92,106	7,30,71,799	92	75	56	53
2021-22	10,20,16,148	10,20,16,148	6,65,69,982	5,01,14,015	3,03,80,144	4,37,25,208	9,69,50,126	9,38,39,223	95	92	69	53

Source: GST website <https://www.gst.gov.in/download/gststatistics>

The above statistics indicate that there has been a lag in filing of tax returns right from the beginning of GST implementation, more so in the filing of GSTR-1 as compared to GSTR-3B. The filing percentage of GSTR-3B declined by about six per cent in 2018-19 and 2019-20 compared to the year 2017-18, while the percentage drop for GSTR-1 was about 12 per cent. The filing percentage for the subsequent period from 2019-20 to 2021-22 increased to 95 per cent in respect of GSTR-3B and 92 per cent in respect of GSTR-1, reaching the 2017-18 levels.

The percentage of GSTR-3B and GSTR-1 returns filed by due date is significantly lower. The percentage of return filing by due date of GSTR-3B returns declined from 68 per cent in 2018-19 to 56 per cent in 2020-21 but improved in 2021-22 to 69 per cent. The gap in the filing percentage and percentage of filers by the due date, could be due to taxpayers availing the benefit of various amnesty schemes<sup>35</sup> provided by the Department in the filing of the returns. However, as reported in para 2.3.1 of the CAG Audit Report No. 11 of 2019, while it was expected that compliance would improve as the system would stabilize with the passage of time, there was no trend of consistent improvement in the filing of GSTR-3B by due date.

The return filing percentages of GSTR-1 were less in comparison to the corresponding filing percentages of GSTR-3B. GSTR-1 filed by due date declined significantly from 84 per cent in the first year to about only 47 per cent in 2018-19 and 2019-20 and then improved in the subsequent years 2020-21 and 2021-22 to 53 per cent. The gap in compliance (or any difference in

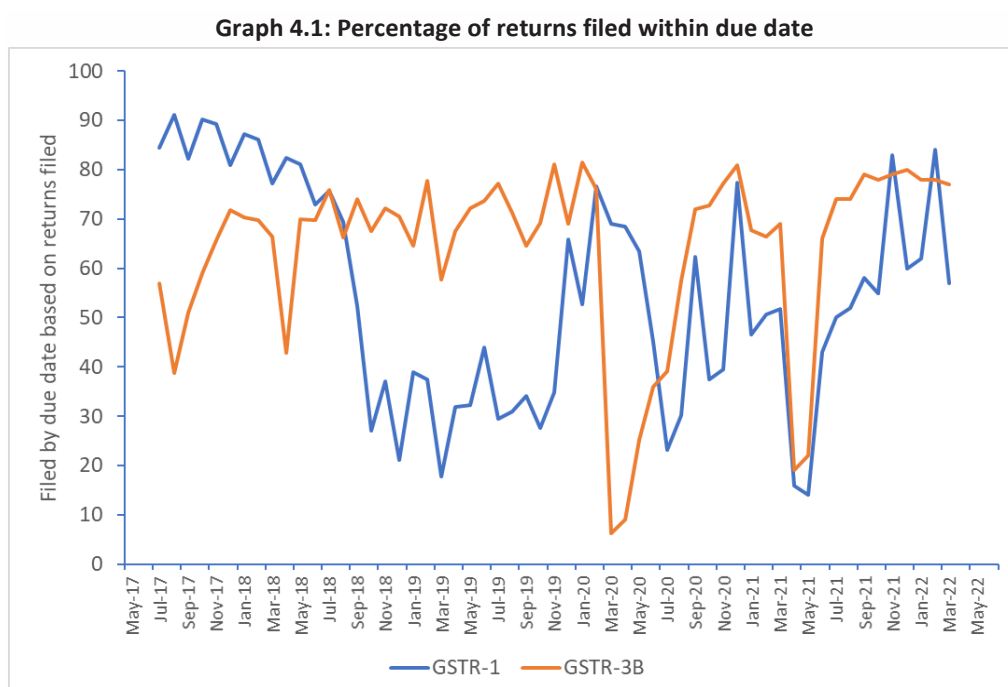
<sup>34</sup> As of August 2022

<sup>35</sup> The first scheme allowed filing of pending returns from July 2017 to September 2018 upto 31 March 2019. The second was introduced in December 2019 for pending GSTR-1 from July 2017 to November 2019 to be filed by 17 January 2020. Third scheme was introduced in June 2020 for pending GSTR-3B from July 2017 to July 2020 to be filed by 30 September 2020. Fourth was issued in June 2021, allowing pending GSTR-3B returns from July 2017 to April 2021 to be filed by 30 November 2021. All these extensions for return filing were allowed with a concession in levy of late fee.

filing obligations) between the filing of GSTR-1 and GSTR-3B, may aggravate mismatches in the tax information such as turnover, tax liability, and available ITC between GSTR-1 and GSTR-3B returns, making compliance functions of the Department more complex.

While the difference in return filing between GSTR-3B and GSTR-1 was 11 per cent in 2018-19, 2019-20 and, 2020-21 till the COVID-19 pandemic, it increased to 17 per cent during the pandemic and declined to about three per cent in 2021-22.

**Graph 4.1** indicates the trend of filing by due date of GSTR-1 and GSTR -3B from 2017-18 to 2021-22 as of August 2022.



Source: GST website <https://www.gst.gov.in/download/gststatistics>

Analysis of returns filing by due date in the above graph shows that GSTR-3B filing percentage within due dates remained low during first five months till November 2017 with the average filing percentage within due date being 54 per cent, which gradually increased to 70 per cent in the second half of 2017-18. After an initial dip in April 2018 (43 per cent), the rate of filing within due date almost plateaued with an average of 70 per cent. During the beginning of COVID-19 pandemic, filing percentage within due date declined sharply. This could be attributed to various relaxation measures taken by the government to cater to affected taxpayers such as waiving payment of interest, late fee and penalty for late filing of GST returns for taxpayers with annual turnover of less than Rupees five crore and reducing the penal interest rate to nine per cent for the remaining taxpayers. The due dates for filing of GSTR-3B returns for the months February to April were also extended till 24 June 2020 for

taxpayers of turnover more than ₹ 5 crore and for taxpayers of turnover less than ₹ 5 crore, the due dates for February and March 2020 was extended to 29 June 2020 and for April 2020 to 30 June 2020.

A similar analysis of filing of GSTR-1 indicated that the filing percentage of GSTR-1 within due date declined considerably from August 2018 and the average filing percentage within due date declined from about 78 per cent for the period prior to August 2018 to about 38 per cent for the period from September 2018 to March 2019. The declining trend continued in the first half of 2019-20, with the average filing percentage within due date further dipping to 33 per cent before showing a marked improvement to 66 per cent from December 2019 to March 2020 – pre COVID period. The improvement in filing indicated a positive effect of restriction of ITC on filing of GSTR-1 with the provisional ITC being reduced to 120 per cent during October 2019 to December 2019. The restriction on availing provisional ITC was subsequently further reduced to 110 per cent from January 2020 to December 2020 and to 105 percent from January to December 2021. During the first wave of the COVID-19 pandemic, the filing percentage within due date declined, which could be due to removal of the restriction of 110 per cent for availing provisional ITC from February to August 2020. After the second wave of COVID-19 pandemic, the filing percentage of GSTR-1 showed marked improvement from June 2021 onwards and the average filing within due date remained at 62 per cent peaking to 84 per cent in February 2022.

Analysis of the gap in return filing between GSTR-3B and GSTR-1 indicated that the gap in filing percentage within due date widened from September 2018 (22 per cent) and remained at an average of 38 per cent till November 2019, indicating the likelihood of substantial mismatches in the tax information between these two returns and a potentially high-risk exposure of short/non discharge of tax liability. The month wise return filing for the year 2017-18 for the returns GSTR-3B and GSTR-1 is given in **Table 4.3**.

**Table 4.3: Trend of return filing during 2017-18**

Period	GSTR-3B			GSTR-1		
	Filing %	Filers by due date % on population	Late filers % on population	Filing % on population	Filers by due date % on population	Late filers % on population
July 2017	98	56	42	92	78	14
August 2017	97	37	60	85	77	8
September 2017	97	49	48	92	75	17
October 2017	96	57	39	87	79	8
November 2017	95	62	33	88	78	10
December 2017	95	68	27	92	74	18
January 2018	94	66	28	86	75	11
February 2018	94	65	29	85	74	11
March 2018	94	62	32	91	70	21

Source: Data drawn from GST website

The above table shows that about six per cent of the registered taxpayers have not filed the GSTR-3B returns, which in absolute terms translates into 33,93,386 returns for the entire period with an average of about 3,77,043 returns per month. It is also seen that about 39 per cent have filed the returns belatedly which in absolute terms turns out to be 2,59,53,993 returns for the entire period with an average of 28,83,777 returns per month. Both these deviations potentially lead to unsettled liabilities or excess availing of ITC and warrants action under Section 62 of the Act.

In this backdrop, Audit sought to review the mechanism prevailing in a selected sample of Ranges for overseeing the filing of returns by taxpayers and initiating action on non-filers.

Out of a sample of 179 Ranges, Audit could not verify the overseeing mechanism on return filing in 113 Ranges as neither records nor data was provided to Audit. The monitoring mechanism in the remaining Ranges was deficient as MIS reports related to non-filers/late filers of normal and composition taxpayers were not available to the Range Officers to take timely action.

The monitoring mechanism for recovery of demand from non-filers was deficient in 114 Ranges. In 95 Ranges where the relevant records related to issue of ASMT-13, DRC-07 and recovery details were available, Audit noticed that action was not taken with respect to all defaulters. Further, in 35 Ranges, the process of issuing GSTR-3A (notice for defaulters who have not filed GST returns) and following it with ASMT-13 (Best Judgement Assessment order in cases where the taxpayers have not complied with GSTR-3A notices) and DRC-07 (Summary of Demand order as a follow up of ASMT-13) was not adhered to, resulting in non-recovery of ₹ 128.58 crore from defaulters.

The monitoring mechanism prevailing in the Ranges regarding filing of returns and pursuing action on non-filers is elaborated below:

#### **4.8.2.2 Follow up on non-filers**

Extant instructions<sup>36</sup> envisage that in cases where a taxpayer fails to furnish a return, the Range officer has to issue a notice in form GSTR-3A and seek documents like invoices, sales and purchase registers, financial statements and such other relevant documents related to business, which are required for assessment. In case the said return is still not filed by the defaulter within 15 days of the said notice, an assessment order in Form ASMT-13 under Section 62 of the Act read with Rule 100 should be issued to determine the liability of the taxpayer under Sub-Section (5) of Section 29 on the basis of information

<sup>36</sup> CBIC circular No. 129/48/2019-GST dated 24 December 2019

available with the proper officer. If the said return still remains unfurnished within the statutory period of 30 days from the issuance of order in ASMT-13, then the proper officer may initiate recovery proceedings under Section 79 of the Act. In case the defaulter furnishes a valid return within 30 days of the service of assessment order in Form ASMT-13, the said assessment order shall be deemed to have been withdrawn in terms of the provision of Sub-Section (2) of Section 62 of the Act.

A review of monitoring mechanism regarding non-filers in a sample of 179 Ranges, revealed the following:

**a) Action not initiated against non-filers:** A review of the taxpayers' profile of the Ranges and the returns filed by them vis-à-vis the late-filers/non-filers identified by the Ranges, disclosed that the Ranges had not taken cognizance of all default cases. From the 'Due Filer reports' available in CBIC back-end system, Audit observed that action was not initiated in 36,457 cases in 46 Ranges. In Bellary-C Range under Belagavi Commissionerate, and Baikampady Range under Mangalore Commissionerate, there were 13,954 and 4,005 non-filers respectively where no action was initiated. In the remaining ranges due to non-availability of the due filer reports and other MIS reports related to non-filers of GSTR-3B and GSTR-1 maintained by the Range officer, the number of cases could not be quantified.

Audit noticed lack of adequate systems for identification of non-filers and subsequent follow up action in the Ranges. The "View Non-filer" functionality in the CBIC back-end system, to enable the tax officer to identify and issue notices to non-filers of returns was introduced only in November 2019. Prior to this period, there was no system for the tax officer to identify the cases. Moreover, even at the end of 2021, this feature did not include GSTR-4 returns, filed by the composition taxpayers. Additionally, the issue of GSTR-3A and ASMT-13 were not automated and were being issued by email mode only as noticed till March 2021.

In response to audit query, Bellary C Range Officer mentioned that during the years 2017-18 to 2020-21, the action taken on non-filers and stop filers was primarily based on the data provided by Pr. Commissioners of Central taxes and no independent identification was carried out by the Ranges. This was also found practiced in all other Ranges audited in the Bengaluru Zone Responses had not been received from other zones.

**b) Action initiated on non-filers but not completed:** The due process of issue of GSTR-3A followed by ASMT-13 was not observed in all cases. Audit observed 13,010 cases across 33 Ranges during 2017-18 to 2020-21 where GSTR-3As notices were issued but assessment orders under ASMT-13 were not issued despite taxpayers not filing their returns within the stipulated time. In three Ranges where records were available, Audit observed that in nine cases the taxpayers filed their returns in pursuance of GSTR-3A, but the interest for the delayed payment of tax amounting to ₹ 0.11 crore was not recovered. In two ranges where the amount could be quantified, the non-recovery worked out to ₹ 1.93 crore.

Audit also observed 730 cases across 12 Ranges where DRC-07, summary order for demand of amounts payable under the Act, was not issued in spite of non-compliance by the taxpayer on ASMT-13. The underlying tax amount (where records were available) works out to ₹ 111.46 crore in 499 cases in eight Ranges. A few illustrative cases are highlighted below:

- i. In Kalunga I Range of Rourkela Central Tax Commissionerate, out of 355 notices issued in Form GSTR-3A during 2017-18 to 2020-21, only in 43 cases the taxpayers filed their returns in pursuance of notices issued. Out of the remaining 312 cases, ASMT-13 orders were issued only in six cases. The Range did not take any action in 306 cases. The information/details regarding issue of DRC-07 in these cases was not provided to Audit.

Ministry stated (May 2023) that out of 355 GSTR-3A notices, 119 cases had been disposed as returns were filed subsequently. In the remaining 236 cases, scrutiny was under process and after verification, ASMT-13 and DRC-07 would be issued in due course. In all cases wherein the taxpayers had failed to file statutory returns for a continuous period of six months and their status was showing as 'Inactive', the registration of the taxpayers had been cancelled.

- ii. In the Hospet C Range of Belagavi Central Tax Commissionerate, in 362 cases identified as non-filers, Audit noticed that demand order (DRC-07) was not issued after issuing assessment order (ASMT-13), though the taxpayer had not complied with the provisions completely. The reasons for not issuing DRC-07 in these cases were not ascertainable from the documents provided by the Range. The revenue due in these cases was ₹ 15.46 crore. Reply of the Ministry was awaited (January 2024).

**c) Liability discharged not tallying with DRC-07 demand:**

According to Rule 100 of CGST Rules, the proper officer may issue an order in Form ASMT-13 and upload the summary thereof in form DRC-07 (Summary of order), which will include the demand details such as tax/cess, interest, penalty and any other amounts payable by the taxpayer. The taxpayers can view the order on their dashboard and discharge the liability accordingly. Audit observed that the liability discharged was less than the demand raised in two Ranges. In 32 cases across two Ranges, where relevant information on DRC-07 issued and amount recovered was available, the short payment amounted to ₹ 2.36 crore, which are discussed below. The reasons for differential tax payment compared with the demand raised were not available.

- i. In Hospet C Range and Bellary C Range under Belagavi Central Tax Commissionerate, Audit observed that in 32 cases the liability discharged by the taxpayer was less than the DRC-07 demand amount. The Ranges did not take action either to recover the difference or to rectify the demand (by issuing DRC-08). The short recovery in these cases amounted to ₹ 2.36 crore. Out of these cases, the Department cancelled the registration in four cases, but recovery of the arrears amounting to ₹ 0.31 crore was pending. Reply of the Ministry was awaited (January 2024).

**d) Inadequate efforts to recover dues:** Section 78 stipulates that any amount payable by a taxable person in pursuance of an order passed under this Act, shall be paid by such person within a period of three months from the date of service of such order failing which recovery proceedings shall be initiated. The time period can be less than three months in some special circumstances, if it is expedient in the interest of Government. Audit observed that in 632 cases across 13 Ranges, the Ranges did not take action after issuing ASMT-13 and DRC-07 to pursue recovery of the dues amounting to ₹ 15.19 crore.

A few illustrative cases are discussed below:

- i. In Hospet C Range under Belagavi Central Tax Commissionerate, Audit observed that in 122 cases though ASMT-13 were issued, DRC-07 were not issued and no recovery proceedings were initiated despite lapse of 19 to 29 months (January 2023). The money value involved in these cases amounted to ₹ 5.68 crore.

Reply of the Ministry was awaited (January 2024).

- ii. In Bellary C Range under Belagavi Central Tax Commissionerate, Audit observed that out of 22 cases where DRC-07 were issued, in

19 cases no recovery proceedings were initiated despite lapse of 23 to 36 months (January 2023). The recovery pending worked out to ₹ 3.68 crore.

Reply of the Ministry was awaited (January 2024).

**Recommendations:**

- 3) (a) The Department may provide MIS reports related to issue of notices (GSTR-3A), assessment order (ASMT-13) and demand orders (DRC-07), pending ASMT-13 assessments, recovery history and appeal cases on DRC-07, late and non-filers of composition taxpayers and other category of registrants such as Input Service Distributors etc. to tax officers in the CBIC-ACES back-end system for effective monitoring.**
- (b) Further, the Department may consider increased use of automation through the CBIC-ACES back-end IT system for supporting issue of notices, assessment orders, demand orders etc.**

Ministry stated (May 2023) that the 'View Non-filer' functionality in the back-end application was deployed as an interim measure due to delay in implementation of the functionality of issuing GSTR-3A notices by GSTN. GSTN had deployed the functionality of issuing GSTR-3A notices for GSTR-3B returns from November 2020 onwards and GSTN had been requested to develop such functionality for non-filers of other GST returns also including non-filers from taxpayers who have opted for composition scheme. Ministry further stated that MIS reports for DRC-07 had been deployed and MIS reports for recovery and appeals was under development.

**4.8.3 Oversight on tax payments**

Compliance risk management is a continuous process demanding proactive action. With technology undergirding the entire process of return filing and tax administration, not only can the oversight on tax payments be maintained at different levels but a substantial part of it can also be non-intrusive and better targeted. The Department has created a Directorate General of Analytics and Risk Management (DGARM) and has been leveraging data analytics for tax administration. Effective oversight on tax payments also involves an effective and sustainable mechanism for scrutiny of returns and monitoring the discharge of tax liability by taxpayers.

Audit sought to examine the oversight on tax payments by reviewing the process of scrutiny of returns and follow up on DGARM reports in the Ranges; centrally identifying a sample of inconsistencies between various GST returns to review action taken by the Department in such cases, and by conducting a

detailed audit of a sample of cases, involving scrutiny of granular records such as invoices, to verify compliance to the provisions of the GST Act/Rules by the taxpayers.

Audit observed that the process for scrutiny of returns was institutionalized with a Standard Operating Procedure (SoP) only in March 2022, more than four years after implementation of GST. Prior to that, the Department primarily relied on DGARM inputs to discharge its compliance verification functions. The maintenance of records relating to verification and follow up of DGARM reports in the Ranges was deficient and hence Audit could not derive a systemic assurance on the quality and extent of verification carried out by the Ranges on DGARM reports. From the records made available, Audit observed that the issues in the DGARM reports were also not effectively followed up by jurisdictional formations in many cases.

Further, the data inconsistencies/deviations identified by Audit and their follow up with the Ranges (centralised audit) established irregular availing of ITC and non/short discharge of tax liability by taxpayers to the extent of ₹ 2,203.57 crore.

Audit also observed, in detailed audit, non-compliance to GST provisions by taxpayers in ITC availing and utilization as well as in tax payments amounting to ₹ 468.96 crore.

The detailed findings on the scrutiny process, follow up of DGARM reports, data inconsistencies and compliance to GST provisions by taxpayers are discussed in the ensuing paragraphs.

#### **4.8.3.1 Scrutiny of returns**

Section 61 of the Act provides for scrutiny of returns by the proper officer. Rule 99 lays down the procedure for taking action on the discrepancies noticed. An effective system of scrutiny of returns, an important compliance function of the Department was not institutionalized for over four years of GST implementation. This was commented upon in the earlier CAG Report<sup>37</sup> as well.

The Department introduced the Standard Operating Procedure (SoP) for scrutiny of returns only in March 2022<sup>38</sup> to ensure uniformity in selection of returns for scrutiny, methodology of scrutiny of such returns and other related procedures. The SoP envisages that the identification of units for scrutiny would be done by DGARM. It covered scrutiny of returns for the financial year 2017-18 and 2018-19 and it was stated that the SoP was an interim measure

<sup>37</sup> CAG Audit Report No.5 of 2022

<sup>38</sup> CBIC circular No.2/2022 dated 22 March 2022

till the time a scrutiny module for online scrutiny of returns is made available on the CBIC back-end system.

The progress of scrutiny of returns by the field formations from April 2022 to October 2022 was examined by Audit. The audit observations such as delay in completion of at least 14,320 scrutiny cases as on 31 October 2022 have been included in paragraph 3.2 of this report.

The audit noted a prescribed check in the SoP, which involves identifying instances where Input Tax Credit (ITC) was irregularly availed on GSTR3Bs filed after the last date specified for availing ITC on any invoice or debit note, as outlined in Section 16(4). Given the limitations imposed by the Act, it becomes crucial to establish a preventive control as a primary measure rather than relying solely on detective controls.

**Recommendation:**

- 4) The current system allows the taxpayer to avail ITC on belated filing of GSTR-3B after the cut-off period as provided in the CGST Act, 2017. An effective control to ensure that availed ITC auto-populated in table 6A of annual return from the monthly GSTR-3Bs, should exclude the GSTR-3Bs filed after the cut-off period.**

Ministry stated (May 2023) that the functionality relating to Scrutiny of Returns (Risk based Selectivity System) had been taken up for development and as and when deployed could target such issues by creation of appropriate Risk Rules. Ministry also stated that validations, as recommended by Audit, pertains to Front-end and therefore, needs to be addressed by GSTN since it pertains to Front end.

Ministry may take up the matter with the GSTN to incorporate the appropriate validation controls as recommended.

**4.8.3.2 Follow up of DGARM reports**

The Director General of Analytics and Risk Management (DGARM) was established as an attached office of the Central Board of Indirect Taxes and Customs with the aim to study, interpret and analyse indirect tax data and share the outputs with various stakeholders. It became functional in June 2018.

DGARM shares the lists of high-risk taxpayers with the CBIC field formations through various analytical reports on the Directorate of Data Management (DDM) portal for action. On completion of action, CBIC field formations are required to upload feedback on the respective DGARM reports incorporating details regarding detection and recoveries. Initially in the months of November

2018 to February 2019, there were 10<sup>39</sup> DGARM reports pertaining to deviations for the year 2017-18, which were subsequently extended to 37<sup>40</sup> reports based on different dimensions for subsequent years by the end of March 2021. Audit analysis of follow up of DGARM reports in the audit sample of 179 Ranges disclosed the following:

**a) Poor maintenance of records:** The earlier CAG Audit Report (No.5 of 2022), had commented that though the DGARM reports and the action taken by the field formations on these reports were being uploaded on the DDM portal, detailed action taken by the field formations on these reports like correspondence with the taxpayer to explain the nature of discrepancy noted and action taken to call for taxpayers' response on the same was still being done manually/offline. It was recommended that the entire set of activities should be end-to-end automated as part of the CBIC back-end system to facilitate transparency and effective real-time monitoring. The CAG Audit Report had also highlighted the issue of non-production of records related to verification of DGARM reports to Audit and it was recommended that in the absence of an effective risk-based system of scrutiny of returns, the DGARM inputs was the only source of verification, and access to such records was necessary to provide assurance on Department's performance.

Audit observed that in all the 179 sampled Ranges, the maintenance of records pertaining to verification of DGARM reports was deficient; either the relevant files were not available or the underlying records indicating the procedure adopted for the checks and the basis on which the Range Officer had arrived at conclusions were not forthcoming. In one Range, DGARM verification files were not made available to Audit.

In Jaipur Zone, CGST Range-XII Merta, coming under Jodhpur Central Tax Commissionerate, did not provide access to the DGARM reports citing reasons of confidentiality. It was stated that the DGARM Reports are intelligence inputs for targeted enforcement action by CBIC field formation and hence cannot be shared. The same was, however, provided by other Ranges. This position is not tenable as most of the DGARM reports are data driven red flags which have to be pursued for verification by the field formations and the entire system of scrutiny is based on DGARM inputs. Production of these reports to Audit along with

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<sup>39</sup> 1,2,3,4,5,6,6A,7 series,9,10 Series

<sup>40</sup> 1,2,3,4,5,6,6A,7 series,9,10 Series 11,12,13,14,15,15A,15B,15C,15D,15E,15F,15G,15H,15I, 15J,16 Series, 17A, 17B, 17C, 17D, 18A-N,18O,18P,18Q,18R,18S, 19 Series, 20 Series,21 Series,22A,22B,23,25,26 Series, 27, 29, 29B,29C,31,32,33,34 Series,35,36,37.

the records containing follow up action taken by Ranges is imperative to evaluate the basic functions carried out by the Ranges.

In view of the poor record maintenance, coupled with non-production of records by some Ranges, Audit could not derive assurance on the quality and extent of verification undertaken by the Ranges on the DGARM reports.

**b) Inadequate verification of red-flagged cases:** Six DGARM reports as at the end of 2020-21, namely reports under 10 series (Comparison of tax liability declared in E-way bills with GSTR-3B), 15 series (Stop filers), 18 series (Non-filers of GSTR-3B), 19 series (Difference in GSTR-3B and GSTR-1 tax liability), 20 series (ITC mismatch between GSTR-3B and GSTR-2A), 21 series (Claiming IGST refunds and not filing GSTR-3B) were red-flagged reports requiring an elaborate verification of taxpayer records, without limiting the checks to only the back-end system. In red-flagged cases, the Range officers were required to complete all procedures including recovery of the differential tax/credit with interest. In case of non-compliance, action was to be immediately taken by calling for necessary information. In case of non-production of the records/documents, summons had to be issued under Section 70 of the CGST Act, 2017 and Demand/Show Cause Notice (SCN) was to be issued wherever required for the protection of revenue.

In 30 Ranges out of 179 selected Ranges where the files relating to red-flagged cases were made available, Audit observed that the checks carried out by 22 Ranges on five red-flagged reports (in 10,15,18,19 and 20 series) in 411 cases were deficient.

An illustrative case is given below:

In Guindy Range-1, coming under the Chennai South Central Tax Commissionerate, four cases pertaining to DGARM Report 10<sup>41</sup> were red-flagged for the period April 2019 to June 2019. The report involved comparison of the tax liability declared in E-way bill with GSTR-3B returns. Audit observed that no action was taken by the Range on this red-flagged report.

When pointed out (October 2022), Ministry stated (May 2023) that in two out of the four cases the difference was identified and DRC-01A had been issued in September 2022. In remaining two cases, reply was awaited (January 2024).

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<sup>41</sup> Analysis of GST liability involved in E-Way bill reports.

Further, 149 Ranges, 83 per cent of the sampled 179 Ranges, did not provide the records/files related to red-flagged cases and therefore, Audit could not derive assurance whether the verification of red-flagged cases in these Ranges was adequate.

**c) Inadequate verification of other DGARM reports:** As per the instructions provided for the checks to be carried out by the Ranges, “No Action Required” option was to be chosen if the issue did not require scrutiny or if the case pertained to another CGST Jurisdiction or was transferred to the State jurisdiction. “Action completed without any detection/recovery” was to be chosen if the issue did not require scrutiny after submission of clarification from taxpayer. In all the 179 Ranges audited, the files related to DGARM reports were either not produced or the files did not contain the details of checks exercised or related documents perused. Therefore, Audit could not verify the veracity of the checks exercised. In the following Ranges, where some of the files were made available, Audit observed that the extent of checks carried out were inadequate as brought out below.

- i. In Angul 1 Range, under Rourkela Central Tax Commissionerate, in two DGARM Reports (19F<sup>42</sup> and 19L<sup>43</sup>) relating to the difference in liability reported in GSTR-1 and GSTR-3B pertaining to the period April 2018 to March 2019, the Range had furnished feedback as "No Action required" and "Issue does not require scrutiny". However, Audit observed that there was a discrepancy in taxable value of ₹ 8.53 crore having a tax effect of ₹ 1.48 crore. When pointed out (October 2022), Ministry stated (May 2023) that notices to the taxpayers in ASMT-10 had been issued in both the cases.
- ii. In Keonjhar Range I under Rourkela Central Tax Commissionerate, one case pertaining to report 19F<sup>44</sup> relating to difference in liability reported in GSTR-1 and GSTR-3B, was closed by indicating “No action required”. However, Audit observed that the discrepancy in liability of ₹ 0.19 crore still existed. When pointed out (September 2022), Ministry stated (May 2023) that demand notices have been issued to the taxpayer for ₹ 0.19 crore in December 2022.

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<sup>42</sup> Difference in liability of GSTR-3B and GSTR-1 for the period April 2018 to March 2019 (Difference above ₹ 5 lakh)

<sup>43</sup> Difference in liability of GSTR-3B and GSTR-1 for the period July to September 2019 (Difference above ₹ 10 lakh)

<sup>44</sup> Difference in liability of GSTR-3B and GSTR-1 for the period April 2018 to March 2019 (Difference above ₹ 5 lakh)

- iii. In Hospet C Range under Bellary Commissionerate, the DGARM Report No. 19P<sup>45</sup>, highlighted a difference of tax amount of ₹ 0.71 crore between GSTR-1 and GSTR-3B for the quarter October to December 2020. The Range Officer issued SCN for an amount of ₹ 0.43 crore as the taxpayer replied that the remaining amount of ₹ 0.28 crore was paid in February 2021. However, debit of ₹ 0.28 crore was not found in the Electronic Cash Ledger. This was pointed out in April 2022. Ministry's reply was awaited (January 2024).
- iv. In Shivamogga Range under Mysore Commissionerate, one case pertaining to a taxpayer was red-flagged by DGARM for GSTR-2A and GSTR-3B ITC mismatch<sup>46</sup> of ₹ 0.88 crore. Since no response was received from the taxpayer against ASMT-10, SCN was issued under Section 74(1) of the Act for availing ITC without possession of tax invoice. Cross-checking of vehicle details indicated in the E-way bills in the Vahan website revealed that the suppliers had shown transportation of 24,140 kg of iron through auto-rickshaw and 24,560 kg of Iron through Ashok Leyland Dost LGV, which was implausible. This indicated possibility of bigger violations like fraudulent ITC availing without receipt of inputs, which were not considered/examined by the Range while issuing the SCN. This was pointed out in August 2022. Ministry's reply was awaited (January 2024).

**d) Recovery not pursued:** Audit observed that recoveries were not pursued in 15,304 cases in six Ranges. In 32 other Ranges, the recovery details on the identified deviations were not made available to Audit, in the absence of which, Audit could not identify the number of cases and amount pending for recovery.

In Bhubaneswar II Range under Bhubaneswar Central Tax Commissionerate, in five cases<sup>47</sup>, involving ITC mismatch of ₹ 1.58 crore, though it was reported as 'action completed with detection and recovery' no recoveries were made. Only ASMT-10 that highlighted the discrepancy to the taxpayer was issued in these cases.

Similarly, in DED 7 Range coming under Bengaluru East Central Tax Commissionerate, in respect of six cases in non-filers report of DGARM there was non-payment/short-payment of interest on delayed remittance of tax amounting to ₹ 0.58 crore. Though the taxpayers had

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<sup>45</sup> Difference in liability of GSTR-3B and GSTR-1 for the period October to December 2020 (Difference above ₹ 1 crore)

<sup>46</sup> Report 3A/2021

<sup>47</sup> Report 19E and 19F

filed the returns belatedly, no action was taken by the Department to recover the interest.

**Recommendations:**

**5) The following recommendations contained in the earlier CAG Audit Report (No. 5 of 2022) are reiterated:**

- a. Workflow automation of the entire set of follow up activities relating to the DGARM reports may be done as a part of CBIC back-end system.**
- b. Department may ensure furnishing of DGARM reports and records/files related to verification of DGARM reports to Audit.**

Ministry stated (May 2023) that it had taken note of the audit observations and efforts were being made in this direction by ensuring workflow automation of entire set of activities in three aspects viz. Scrutiny of Returns, Refunds and Registration.

Further, during the exit conference (May 2023), Ministry stated that it would address the issue of non-production of DGARM reports to Audit.

**4.8.3.3 Other oversight functions- cancellation of registrations**

Section 29 of the CGST Act, 2017 read with Rule 20 of the CGST Rules allows for cancellation of registration by the taxpayer in certain situations like closure of business, turnover falling below threshold for registration, transfer of business/merger/amalgamation, change of PAN, non-commencement of business within the stipulated time period, and death of the proprietor. The taxpayer applying for cancellation of registration should apply in REG-16 on the GST common portal within a period of 30 days of the “occurrence of the event warranting the cancellation”.

Section 29(2) of the CGST Act allows for suo-moto cancellation of the registration of taxpayer by tax officer on the grounds of contravention of the Acts or Rules by the taxpayer, composition taxpayers not filing returns for three consecutive tax periods<sup>48</sup>, normal taxpayers not filing return for continuous period of six months, registered persons not commencing business within six months from date of registration and registration obtained by means of fraud, wilful misstatement or suppression of facts.

Section 45 of the CGST Act requires every registered person other than (a) Input Service Distributor (ISD) or a non-resident taxable person or (b) Composition taxable person (Section 10) or (c) persons paying tax under

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<sup>48</sup> With effect from 1 October 2022, the return for a financial year beyond three months from the due date of furnishing the said return.

Section 52 - Tax collection at source (TCS) or persons paying tax under Section 51 - Tax deducted at source (TDS), whose registration has been cancelled, to file a final return in GSTR-10, within three months of the effective date of cancellation or the date of order of cancellation, whichever is later. The purpose of the final return is to ensure that the taxpayer discharges the outstanding liability. In case of non-filing of GSTR-10, the same procedure as adopted for non-filing of any return must be followed by the tax officer.

Audit selected a sample of 179 Ranges for evaluating the cancellation function. Audit observed various deficiencies in cancellation of registrations, which are brought out below:

#### **4.8.3.3.1 Action for cancellation not initiated**

The data on suo-moto cancellation of registration of taxpayers was extracted from cancellation reports available in the back-end system. From the list of non-filers who had not filed GST returns for more than six consecutive tax periods, Audit observed that no action had been initiated to cancel such registrations in 16 Ranges out of 179 test checked Ranges.

Further, according to Section 49 of the CGST Act, failure to provide bank details within 45 days of issue of GSTIN or filing of first return after registering under GST, whichever is earlier, can lead to cancellation of registration.

Audit observed that there was no mechanism in the back-end system of CBIC to enable the tax officers to identify taxpayers who had not furnished the requisite bank details and to initiate cancellation proceedings. This was observed by Audit in all the Ranges.

Ministry stated (May 2023) that the functionality to provide alerts and initiate cancellation in instances where bank details have not been provided within 45 days was under development and would be deployed shortly.

#### **4.8.3.3.2 Inadequate monitoring mechanism**

Rule 22(3) of the CGST Rules provides that where a person who has submitted an application for cancellation (REG-16) of his registration is no longer liable to be registered, the proper officer shall cancel the registration with effect from a date to be determined by him and notify the taxable person, directing him to pay arrears of any tax, interest or penalty including the amount liable to be paid under Sub-Section (5) of Section 29. In any case the effective date should not be a date earlier than the date of application for the same.

Rule 21A of the CGST rules states that where a registered person has applied for cancellation of registration, the registration shall be deemed to be suspended from the date of submission of the application or the date from

which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation of registration.

Audit noticed that the necessary validations, alerts and effective dates of cancellation have not been deployed in the Registration Module as per the provisions of the Act and Rules. The effective date of suspension also was not captured in the back-end system. As a result, there was no mechanism to enforce the conditions prescribed in Rule 21A (3) of restricting the registered persons from making any taxable supplies and consequent passing on of credit during the period of suspension.

Audit observed 121 cases in three Ranges where the date of cancellation preceded the date of application for cancellation.

An illustrative case is given below:

In Hospet C Range, out of 331 cases of cancellation at taxpayers' request, it was noticed that in 39 cases the Range had irregularly cancelled registrations with effect from dates prior to the application dates. This was pointed out in April 2022 and the Ministry's reply was awaited (January 2024).

Ministry in respect of 121 cases stated (May 2023) that a validation to restrict cancellation prior to the date of surrender application would be considered. Ministry further stated that a new functionality enabling the tax officer to view the list of suspended registrations, had since been developed. In addition, the 'Inactive list' page has been re-modelled and deployed as "Cancelled/Expired Registrations" list and contains details of registrations which are cancelled/expired. With the deployment of this functionality the date of suspension and the effective date of cancellation are being captured and displayed.

#### **4.8.3.3 Non-adherence to prescribed procedure for suo-moto cancellation**

As per Section 29(2) of the Act, GST registration cannot be cancelled without a Show Cause Notice being given to taxpayer and a reasonable opportunity of being heard by the Tax Officer. It was noticed in 58 Ranges, out of sampled 179 Ranges, that out of 14,998 cases cancelled suo-moto, the Show Cause Notice (REG-17) had not been issued in 6,353 cases. In the remaining 8,645 cases where SCNs were claimed to have been issued by Range officers, Audit could not verify this aspect as the MIS reports related to issue and disposal of REG-17 are not available in the registration module of the back-end system. An Illustrative case is given below:

Ernakulam Range 1, under Kochi Central Tax Commissionerate, had cancelled registrations in 78 cases suo-moto without issuing Show Cause Notices in

form REG-17 during the period 2020-21. This was pointed out in September 2022 and Department's/Ministry's reply was awaited (January 2024).

#### **4.8.3.3.4 Delays in cancellation**

The cancellation order in REG-19 has to be issued within 30 days from the date of application (taxpayers request) or the date of reply to REG-17 in case of suo-moto cancellation. Out of 13,816 cases of cancellation on taxpayers' request and 14,998 cases of suo-moto cancellation, Audit noticed that in 8,543 cases falling under 58 Ranges, the cancellations were delayed beyond the stipulated period. The delay ranged from 1 to 1,334 days in 5,750 cases in 38 Ranges. In the remaining 2,793 cases pertaining to 20 Ranges, the figures furnished by Ranges could not be verified as the underlying files with GSTIN wise details were not produced to Audit and therefore, Audit could not determine the period of delay in these cases. In the remaining Ranges, such delays in cancellation were not noticed. An illustrative case is given below:

In Range-28 of Division-VI under Ghaziabad Commissionerate, the cancellation process against application of taxpayers was initiated in 1,221 cases for the period April 2020 to March 2021. In 799 cases, Audit noticed an average delay of 155 days ranging from 1 to 363 days. Department's response on inordinate delay in approval of cancellation was sought. Reply was awaited (January 2024).

#### **4.8.3.3.5 Inadequate follow up on non-filing of GSTR-10**

As per Section 45 of the Act, GSTR-10 – the final return, has to be filed within three months of the effective date of cancellation or the date of order of cancellation, whichever is later. The last date for furnishing of GSTR-10 by those taxpayers whose registration has been cancelled on or before 30 September 2018 was extended till 31 December 2018 vide notification No. 58/2018 – Central Tax dated the 26 October 2018.

As per the Rule 68 of CGST Rules, 2017 and circular<sup>49</sup> issued in this regard, GSTR-3A has to be issued to the taxpayer, where GSTR-10 has not been filed. If the taxpayer still fails to file the final return within 15 days of the receipt of notice, then an assessment order in FORM ASMT-13 under Section 62 of the CGST Act read with Rule 100 of the CGST Rules, 2017 shall be issued to determine the liability of the taxpayer. If the taxpayer files the final return within 30 days from the issue of order ASMT-13, then the said order shall be deemed to have been withdrawn. However, the liability for payment of interest and late fee shall remain. If the said return remains unfurnished within the statutory period of 30 days from the issue of order ASMT-13, then

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<sup>49</sup> Circular No. 129/48/2019 – GST dated 24 December 2019

the proper officer may initiate proceedings under Section 78 and recovery under Section 79 of the CGST Act.

Audit observed that there was no mechanism to monitor the pendency of filing of GSTR-10 by taxpayers. Audit observed that GSTR-10 was not filed in 40,347 cases across 66 Ranges. In the remaining Ranges, the information regarding filing of GSTR-10 was not made available to Audit.

A few illustrative cases are provided below:

- (i) In Range-II under Gandhinagar Commissionerate, out of 413 cases of cancellation for the years 2018-19 to 2020-21, GSTR-10 was filed only in 10 cases as of July 2022. In the remaining cases, no follow-up action was initiated with respect to filing of GSTR-10.

When pointed out (July 2022), Ministry stated (May 2023) that 269, out of 413 taxpayers, had been requested to file GSTR-10 and 10 taxpayers had filed GSTR-10. Ministry also stated that 33 taxpayers were falling under Composition/ISD taxpayer and therefore were not liable to file GSTR-10. Reminders were issued to the remaining taxpayers.

- (ii) In Hospet C, Bellary Commissionerate, the Range Officer stated that there were no information/reports available with them to track the filing of GSTR-10. In the absence of such a mechanism, no recovery proceedings were initiated by the Range. As per the ASMT-13 report submitted by the Range, an amount of ₹ 15.46 crore was pending recovery in such cases. This was pointed out in April 2022. Department's reply was awaited (January 2024). Similarly, in Bellary C Range, in the absence of a mechanism to monitor the filing of GSTR-10, no recovery proceedings were initiated by the Range. As per the ASMT-13 report submitted by the Range an amount of ₹ 3.54 crore was pending recovery in such cases. This was pointed out (April 2022). Ministry's/Department's reply was awaited (January 2024).

**Recommendations: Department may**

- 6) deploy requisite validation controls to prevent cancellation of registration prior to the date on which application for cancellation of registration was filed by the taxpayer.**
- 7) ensure issue of show cause notice by the field formations before suo-moto cancellation of GST registrations of the taxpayers.**
- 8) deploy the requisite MIS reports/features on pendency of cancellation applications, issue of SCN for Cancellation of Registration (REG-17) and filing of final return (GSTR-10) in the cancellation workflow under Registration Module.**

Ministry stated (May 2023) that checks were built in to ensure timely cancellation/suspension of registration and issue of Show Cause Notices and recovery is monitored regularly through monthly progress reports. However, audit recommendation had been noted and issued directions to field formations in April 2023 for necessary action and compliance.

Ministry also stated that audit recommendation regarding deployment of requisite MIS reports would be examined for implementation.

#### **4.8.4 Inconsistencies in GST Returns-Centralised Audit**

Audit analysed GST returns data pertaining to 2017-18 as made available by GSTN. Rule-based deviations and logical inconsistencies between GST returns filed by taxpayers were identified on a set of 14 parameters, which can be broadly categorized into two domains - ITC and Tax payments.

Out of the 13 prescribed GST returns,<sup>50</sup> the following basic returns that apply to normal taxpayers were considered for the purpose of identifying deviations, inconsistencies and mismatches between GST returns/data:

- GSTR-1: monthly return furnished by all normal and casual registered taxpayers making outward supplies of goods and services or both, and contains details of outward supplies of goods and services.
- GSTR-3B: monthly summary return of outward supplies and input tax credit claimed, along with payment of tax by the taxpayer to be filed by all taxpayers except those specified under Section 39(1) of the Act. This is the return that populates the credits and debits in the Electronic Credit Ledger and debits in Electronic Cash Ledger.
- GSTR 6: monthly return for Input Service Distributors providing the details of their distributed input tax credit and inward supplies.
- GSTR 8: monthly return to be filed by the e-commerce operators who are required to deduct TCS (Tax collected at source) under GST, introduced in October 2018.
- 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

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<sup>50</sup> GSTR-1, GSTR-3B, GSTR-4 (taxpayers under the Composition scheme), GSTR-5 (non-resident taxable person), GSTR-5A (Non-resident OIDAR service providers), GSTR-6 (Input service distributor), GSTR-7 (taxpayers deducting TDS), GSTR-8 (E-commerce operator), GSTR-9 (Annual Return), GSTR-10 (Final return), GSTR-11 (person having UIN and claiming a refund), CMP-08, and ITC-04 (Statement to be filed by a principal/job-worker about details of goods sent to/received from a job-worker).

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 ₹ 5 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 (Business to Business) B2B transactions of suppliers declared in their Form GSTR-1 / 5, ISD details from GSTR-6, details from GSTR-7 and GSTR- 8 respectively by the counterparty and import of goods from overseas on bill of entry, as received from Indian Customs Electronic Data Interchange Gateway (ICEGATE) Portal of Indian Customs.

The pan India data analysis pertaining to central jurisdiction on the 14 identified parameters and extent of mismatches/inconsistencies observed are summarised in **Table 4.4**. Compliance deviations, out of these mismatches/inconsistencies, are discussed in para 4.8.4.2 of this report.

**Table 4.4: Summary of pan India data analysis and extent of mismatches/inconsistencies**

Sl. No.	Parameter	Algorithm used	Number of mismatches/inconsistencies
D1	ITC mismatch between GSTR-2A and GSTR-3B	ITC available as per GSTR-2A with all its amendments was compared with the ITC availed in GSTR-3B in Table 4A(5) (accrued on domestic supplies) considering the reversals in Table 4B(2) but including the ITC availed in the subsequent year 2018-19 from Table 8C of GSTR-9	4,35,710
D2	ITC availed under RCM without payment of tax in GSTR-3B/ GSTR-9	RCM payments in GSTR-3B Table 3.1(d) was compared with ITC availed in GSTR-9 Table 6C, 6D and 6F. In cases where GSTR-9 was not available, the check was restricted within GSTR-3B - tax discharged in Table 3.1(d) vis-à-vis ITC availed Table 4A(2) and 4A(3)	49,947

Sl. No.	Parameter	Algorithm used	Number of mismatches/inconsistencies
D3	Short payment of tax under RCM versus ITC availed in GSTR-3B/ GSTR-9	RCM payments in GSTR-9 Table 4G (tax payable) was compared with ITC availed in GSTR-9 Table 6C, 6D and 6F (ITC availed). In 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.	40,301
D4	Incorrect availing 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	7,631
D5	Incorrect ISD credit reversal	GSTR-9 Table 7B/7H of the recipients was compared with sum of Table 8A (negative figures only) and Table 9A (negative figures only) of their GSTR 6s	34
D6	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	69,400
D7	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	10,63,780
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	65,635
D9	Mismatch in taxable turnover declared in GSTR-9C Table 7G	Negative figure in GSTR-9C Table 7G and examination of reasons provided in Table 8 for mismatch	57,047
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	1,06,562
D11	Unsettled liabilities	The greater of tax liability between GSTR-1 (Tables 4 to 11), considering advances and amendments, and GSTR-9 (Tables 4N, 10 and 11) was compared with tax payable details in GSTR-3B Tables 3.1(a) and 3.1(b). In cases where GSTR-9 was not available, GSTR-3B tax paid was compared with GSTR-1 liability.	8,49,111

Sl. No.	Parameter	Algorithm used	Number of mismatches/inconsistencies
D12	Composition taxpayer also availing e-commerce facility	E-commerce GSTR-8 became effective from 1 October 2018 when TCS provisions became effective. GSTINs declared in GSTR-8 who are also filing GSTR-4 under composition scheme.	157
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 available, indicating taxpayers carrying on the business without discharging tax.	1,704
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	24,25,284

#### **4.8.4.1 Non-submission of replies by the Department**

Audit selected a sample of 10,667 cases from amongst the top deviations /inconsistencies in the returns in each of the 14 parameters for the year 2017-18. The audit queries were issued to the respective Ranges between January 2022 and May 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, as of 31 January, 2024, for 2,447 inconsistencies communicated to the Department, with mismatches/inconsistencies amounting to ₹ 32,577.73 crore<sup>51</sup>. The top 10 cases where Department's response was yet to be received amounted to ₹ 2,244.22 crore. Risk dimension-wise details are given in **Appendix-III**.

Considering that the overall rate of conversion of inconsistencies into compliance deviations is significant as brought out in the next paragraphs, the Department is required to expedite verification of these cases as a priority.

#### **Recommendation:**

- 9) **Audit recommends that the Department may urgently pursue the 2,447 inconsistencies and deviations pointed out by Audit and analyse the reasons for such deviations to take necessary action to strengthen the system so that such deviations do not repeat.**

<sup>51</sup> The mismatch amount involves difference in turnover of ₹ 23,289.86 crore.

**4.8.4.2 Compliance deviations in GST Returns-Centralised Audit**

Based on responses received from the Department to the Audit Queries, the extent to which each of the 14 parameters translated into compliance deviations is summarized in **Table 4.5**.

**Table 4.5: Summary of deficiencies****(Amount in ₹ crore)**

Audit Dimensions	Sample		Cases where reply received		Department reply accepted by Audit includes DEE <sup>52</sup> , Action taken before query		Compliance deviations					
							Accepted by Department including cases where action is yet to be initiated		Department's reply not acceptable to Audit (Rebuttal)		Total	
	No.	Amt.	No.	Amt.	No.	Amount	No.	Amt.	No.	Amt.	No. (Col.8 + 10)	Amt. (Col. 9 +11)
1	2	3	4	5	6	7	8	9	10	11	12	13
ITC mismatch between GSTR-2A and GSTR-3B	1,088	7,913.03	858	6,161.62	511	3,819.67	118	696.87	21	184.84	139	881.71
ITC availed under RCM without payment of tax in GSTR-3B/ GSTR-9	1,020	1,017.12	814	854.29	582	617.72	104	64.78	3	1.85	107	66.63
Short payment of tax under RCM vs ITC availed in GSTR-3B/ GSTR-9	619	277.43	545	241.41	429	174.06	51	17.93	1	1.29	52	19.22
Incorrect availing of ISD credit	813	764.28	625	694.27	425	553.21	92	34.76	9	5.57	101	40.33
Incorrect ISD credit reversal	37	17.09	22	17.02	19	16.99	0	0.00	0	0	0	0.00
Mismatch of ITC availed between Annual returns and financials	846	6,089.34	631	5,340.20	445	4,226.14	53	165.83	5	15.78	58	181.61
Reconciliation of ITC between Annual returns and financials	850	33,499.30	651	28,620.52	545	23,590.80	12	210.26	0	0	12	210.26
Mismatch in turnover declared in GSTR-9C Table 5R <sup>53</sup>	1,020	91,413.77	772	75,126.49	569	70,874.07	33	-	5	-	38	-
Mismatch in taxable turnover declared in GSTR-9C Table 7G <sup>54</sup>	850	33,112.98	666	26,110.40	507	25,081.60	35	-	4	-	39	-

<sup>52</sup> Data Entry Error<sup>53</sup> This dimension is based on turnover. Therefore, tax liability under this dimension was not quantified.<sup>54</sup> This dimension is based on turnover. Therefore, tax liability under this dimension was not quantified.

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Audit Dimensions	Sample		Cases where reply received		Department reply accepted by Audit includes DEE <sup>52</sup> , Action taken before query		Compliance deviations					
							Accepted by Department including cases where action is yet to be initiated		Department's reply not acceptable to Audit (Rebuttal)		Total	
	No.	Amt.	No.	Amt.	No.	Amount	No.	Amt.	No.	Amt.	No. (Col.8 + 10)	Amt. (Col. 9 +11)
1	2	3	4	5	6	7	8	9	10	11	12	13
Mismatch in tax paid between books of accounts and returns	1,099	1,310.67	843	1,028.42	528	731.18	133	78.28	5	5.51	138	83.79
Unsettled liabilities	795	7,53,935.20	619	7,52,709.2	358	7,50,621.47	106	438.55	14	145.93	120	584.48
Composition taxpayer also availing e-commerce facility	145	0	91	0	61	0.04	9	0.02	1	0.02	10	0.04
GSTR-3B was not filed but GSTR-1 is available	637	233.54	446	174.75	122	86.48	203	42.50	6	1.97	209	44.47
Short payment of interest	848	399.44	637	326.89	301	111.73	236	77.00	9	14.03	245	91.03
<b>Total</b>							<b>1,185</b>	<b>1,826.78</b>	<b>83</b>	<b>376.79</b>	<b>1,268</b>	<b>2,203.57</b>

Audit noticed deviations from the statutory provisions in 1,268 cases involving an amount of ₹ 2,203.57 crore, constituting 15 per cent of the 8,220 inconsistencies/mis-matches in data, for which the Department provided responses. Relatively higher rates of deviations were noticed in risk parameters such as short/non-payment of interest, ITC mismatch, excess RCM ITC availed, incorrect turnover declarations and short tax payments.

In 5,402 cases, constituting 66 per cent of the responses received, where the Department's reply was acceptable to Audit, data entry errors by taxpayers comprised 1,368 cases (17 per cent), Department had proactively taken action in 510 cases (six per cent) and 3,524 cases (43 per cent) had valid explanations.

In 846 cases, constituting 10 per cent, the Department stated that it was examining the underlying deviation of ₹ 16,157.35 crore. In the remaining 704 cases, constituting 9 per cent, though the Department did not accept the deviations pointed out by Audit, its contention was not borne out by evidence, and was thus not amenable to verification by Audit.

**(1) Analysis of causative factors**

Considering the Department's response to 8,220 cases out of the sample of 10,667 data deviations/inconsistencies, the factors that caused the data deviations/inconsistencies are as follows:

a) **Deviations from GST law and rules:** Out of the 1,268 deviations summarized in Table 4.5 above, the Department has accepted the audit observations or initiated action in 1,185 cases with tax effect of ₹ 1,826.78 crore. Out of these cases, the Department has recovered ₹ 74.97 crore in 251 cases, issued SCN in 420 cases for ₹ 595.57 crore, issued notice conveying discrepancies to the taxpayer in Form ASMT-10 or issued DRC-01A<sup>55</sup> in 97 cases for ₹ 77.84 crore, and in 417 cases involving tax effect of ₹ 1,078.40 crore department accepted the audit contention and was in correspondence with the respective taxpayers. The top ten cases of deviations where the department accepted or initiated action amounted to ₹ 650.87 crore.

A few illustrative cases where the department accepted or initiated action are given below:

i. **Unsettled liabilities:** An Audit query on undischarged liability arising out of comparison between GSTR-1 and GSTR-3B amounting to ₹ 51.39 crore was raised in respect of a taxpayer, under Range III Vastrapur Division of Ahmedabad South Central Tax Commissionerate.

Department concurred with the Audit's rebuttal to the taxpayer's explanation and subsequently issued demand notice on 29 September 2023 addressing the deviation amount, involving IGST of ₹ 8.26 crore and CGST and SGST of ₹ 21.56 crore each.

ii. **ITC mismatch between GSTR-2A and GSTR-3B:**

- a. Audit identified a taxpayer under the Padappai Range of Chennai Outer Central Tax Commissionerate for an examination of an ITC mismatch between GSTR-3B and GSTR-2A, totalling ₹ 61.26 crore. Following the taxpayer's response, the Department determined an element of ineligible ITC, leading to the issuance of a demand notice on 26 October 2022 for an amount of ₹ 85.08 crore, involving IGST of ₹ 64.68 crore and CGST and SGST of ₹ 10.14 crore each.
- b. Audit query on ITC mismatch of ₹ 10.11 crore, as identified through data analysis, was issued to Range I under Ludhiana Central Tax Commissionerate. The Range recovered an excess ITC amounting to ₹ 10.30 crore vide DRC-03 dated 8 June 2022 from the taxpayer. The excess ITC worked out ₹ 19 lakh more than the deviation identified by Audit.

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<sup>55</sup> Intimation of tax ascertained as being payable under section 73(5)/74(5) of CGST Act, 2017.

**iii. ITC availed under RCM without payment of tax in GSTR-3B/GSTR-9:**

In reply to an Audit query concerning the availing of ITC under RCM amounting to ₹ 2.69 crore without making corresponding payment, the taxpayer, under Warangal Range of Secunderabad Central Tax Commissionerate, took corrective measures. The taxpayer reversed the excess ITC of ₹ 2.65 crore vide DRC-03 dated 10 March 2022 and settled the remaining amount of ₹ 0.04 crore by debiting Cash ledger vide DRC-03 dated 23 March 2022.

**iv. Mismatch in tax paid between books of accounts and returns:** In response to an Audit query on the difference in tax payment as declared in Table 9R (Total amount paid as declared in Annual Return (GSTR-9)) and payment declared in GSTR-9C, a taxpayer under Silod range of Aurangabad Central Tax Commissionerate, paid the differential amount ₹ 0.81 crore vide DRC-03 dated 22 June 2022.

**v. Mismatch in declared turnover between books of accounts and returns:**

- a. Gaya Range under Patna I Central Tax Commissionerate in response to a query on mismatch in declared turnover between financial statement and Annual return amounting to ₹ 955.92 crore, issued demand notice for an amount of ₹ 47.80 crore. The Range took this action after unsuccessful attempts to seek clarifications from the taxpayer, as intimations sent were being returned by postal authorities with the indication that "the company has closed its operations from the given address."
- b. In another case, in Range II under Division VI of Mumbai East Central Tax Commissionerate, involving a discrepancy in taxable turnover between Annual return and Financial statement, based on an Audit query, Department issued DRC-01A for ₹ 31.51 crore on 6 May 2022. This action was taken due to absence of a response from the taxpayer to the clarifications sought by the Range.

**vi. Incorrect availing of ISD credit:**

- a. Patnam Bazaar Range under Guntur Commissionerate issued demand notice to a taxpayer based on the audit query highlighting mismatch on the ITC availed under ISD mechanism amounting to ₹ 3.60 crore on 20 September 2023. It was noted that their ISD registrant had not filed GSTR-06 online. Taxpayer had taken ITC on the strength of invoices issued by their ISD registrant which was not reflected in their outward supply returns for the relevant period.

- b. In a case pertaining to incorrect availing of ISD credit, the taxpayer, under Range-36 of Gurugram Central Tax Commissionerate, reversed the ITC amounting to ₹ 0.72 crore vide DRC-03 dated 30 June 2022. Since the taxpayer had utilised the ITC, interest amounting to ₹ 0.29 crore was also demanded, payment of which was still awaited (January 2024). Ministry stated (May 2023) that jurisdictional Range office had issued summons in December 2022.

**vii. Mismatch of ITC between Annual returns and Books of accounts:**

- a. On an observation on unreconciled ITC declared in Table 12F of GSTR-9C, being mismatch of ITC availed in GST returns and ITC on items booked in financial statement, of a taxpayer under Range XXXVII under Division H of Jaipur Central Tax Commissionerate, Department conducted audit of the taxpayer and confirmed the validity of the discrepancy, leading to the issuance of Demand notice on 27 February 2023 requesting payment of excess ITC availed, amounting to ₹ 62.79 crore.
- b. In another instance, a similar discrepancy for an amount of ₹ 2.40 crore was observed in respect to a taxpayer under Maddilapalem Range under Visakhapatnam Central Tax Commissionerate, and communicated to the Department. In response, the Department stated that ASMT-10 was issued on 30 May 2022 and the unit had been taken up for detailed scrutiny. The final action taken report on the detailed scrutiny was awaited (January 2024).

**b) Compliance deviations where Audit did not agree with Department's response**

Out of the 1,268 non-compliance cases, Department has not accepted 83 cases amounting to ₹ 376.79 crore. In these cases, the Department only forwarded explanations of the taxpayers without explicitly commenting on the audit observations. The top ten cases where Audit did not agree with Department's response amounted to ₹ 272.45 crore. A few illustrative cases where Audit did not agree with the Department's response are given below:

- i. **ITC mismatch between GSTR-2A and GSTR-3B:** ITC mismatch between GSTR-3B and GSTR-2A amounting to ₹ 98.94 crore was noticed in respect of a taxpayer, under BED-8 Range of Bengaluru East Central Tax Commissionerate and communicated to the Department. The Department stated that the Internal Audit Party (IAP) had verified ITC figures and had identified excess availing of ITC of ₹ 44.89 crore, which was reversed during March 2018 (₹ 5.74 crore) and June 2018 (₹ 39.15 crore), and that non-payment of interest amounting to ₹ 4.31 crore was

noticed and commented. The reply is not acceptable, and the IAP seems to have short quantified the excess availing of ITC by the taxpayer. Verification of the Department's response revealed that there was no debit in the Credit Ledger for the reversal of ₹ 5.74 crore claimed to have been made in March 2018 and the reversal shown in GSTR-3B for June 2018 was ₹ 12.42 crore as against the available credit of only ₹ 4.48 crore resulting in negative balance of ₹ 7.94 crore. Further, the taxpayer had declared, in Table 8D of GSTR-9, excess availing of ITC of ₹ 92.65 crore vis-à-vis the ITC available in GSTR-2A, of which the IAP had addressed only ₹ 44.89 crore. Since the difference in Table 8D is calculated based on GSTR-2A ITC availed which is auto-populated and non-editable in Table 8A, which excludes transactions where GSTR-1s have not been filed by the supplier, there is a high likelihood of the difference resulting in excess ITC. The reasons for the remaining difference of ₹ 47.76 crore was awaited from the Department (January 2024).

- ii. **Unsettled liabilities:** A tax liability mismatch between GSTR-1 and GSTR-3B of ₹ 23.12 crore was noticed in the case of a taxpayer, under Umrer Range of Nagpur-I Central Tax Commissionerate and communicated to the Department. Department asserted that there was no undischarged liability as the tax discharged as per GSTR-9 and GSTR-3B matched with the tax liability shown in GSTR-1. However, the reply is not acceptable as the Department overlooked (Business to Consumer) B2C invoices of ₹ 23.12 crore, pertaining to 2017-18 declared in the GSTR-1s of subsequent years, constituting an undischarged liability. The Department needs to confirm whether the tax was paid on these transactions in the subsequent years and if so, whether interest was discharged on such delayed payments.
- iii. In the case of a taxpayer under AED 2 Range of Bengaluru East Commissionerate, mismatch of tax liability between GSTR-3B and GSTR-1/9 amounting to ₹ 6.96 crore was noticed and communicated to the Department. The Department stated that taxpayer had a total output tax liability of ₹ 277.16 crore against which a payment of ₹ 280.24 crore was made and hence there was no short payment. However, Audit noticed that the calculation by the Department had not considered adjustments to the tune of ₹ 10.03 crore in the form of amendments to credit/debit notes and invoices. Consequently, shortfall in tax payment of ₹ 6.96 crore remained.
- iv. A taxpayer, under Range II of Bhiwandi Central Tax Commissionerate, had not filed any GSTR-3B return during the period from July 2017 to

March 2018 but had been regularly filing GSTR-1. During this period, tax liability of ₹ 0.88 crore was declared in GSTR-1. Upon communication of this discrepancy, the Department's response indicated that the taxpayer's registration had been suo-moto cancelled effective from 9 December 2019, and the taxpayer had filed for liquidation with the National Company Law Tribunal (NCLT), Mumbai Bench. However, the Department has not initiated any follow-up action to recover the outstanding dues from the taxpayer. According to the provisions of the Insolvency and Bankruptcy Code (IBC), the proper officer is required to file claims related to GST dues before the NCLT. Further, as per IBC, any statutory dues should be claimed by the proper officer during the resolution process. Failure to claim such dues renders them non-maintainable at a later stage.

- v. Mismatch of tax liability between GSTR-1 and GSTR-3B amounting to ₹ 71.20 crore in the case of a taxpayer under Range III of Mumbai East Central Tax Commissionerate, was communicated to the Department. The liability declared by the taxpayer in GSTR-1 including the amendments carried out in the subsequent years pertaining to invoices issued in 2017-18 worked out to ₹ 880.68 crore; however, the tax discharged in GSTR-3B was ₹ 800.91 crore, excluding the tax paid under RCM (which is not declared in GSTR-1).

Ministry responded (May 2023), stating that the tax liability declared in GSTR-1 was only ₹ 791.63 crore, and this amount was duly discharged in GSTR-3Bs. The variance between GSTR-3B and GSTR-1 was rectified in GSTR-9, the annual return, where the corrected turnover and the corresponding GST liability were disclosed. The response is unacceptable as it fails to account for the tax payments associated with adjustments made in subsequent years. The liability as per GSTR-9 has already been considered, and the tax discharged is lower than the declared liability.

- vi. **Short payment of interest:** Non-payment of interest liability of ₹ 0.86 crore arising from the delayed filing of GSTR-3B returns was noticed in case of a taxpayer, under Chembukkavu Range of Kochi Central Tax Commissionerate, and communicated to the Department. In response, Department stated that technical issues led to the returns displaying zero value, and the bug was resolved only in December 2017, resulting in delayed payments for the months of July, August, and October 2017. However, this contention from the Department is not accepted, as no evidence was provided to demonstrate that the returns were filed

online on time. Moreover, there is no special dispensation for waiving interest in cases of delayed remittance.

- vii. **ITC availed under RCM without payment:** An instance involving the potential risk of claiming ITC under Reverse Charge Mechanism (RCM) amounting to ₹ 1.29 crore without the requisite tax being paid was identified in DED8 Range under Bengaluru East Central Tax Commissionerate. In response, the Department explained that out of the deviation value pointed out, ₹ 0.56 crore was a data entry error, where the taxpayer mistakenly declared ITC under Table 4A(3), "RCM ITC," instead of Table 4A(5) of GSTR-3B, categorized as "All other ITC." For the remaining amount of ₹ 0.73 crore, the department asserted that the taxpayer had been remitting the money on a monthly basis but was not offsetting the same. While the department's response addressing the data entry error is acceptable, further examination is necessary regarding the non-offsetting of the remaining amount. The department should assess the interest liability, especially considering that the tax was offset in November 2019. The Honourable High Court of Madras<sup>56</sup> has emphasized that the mere availability of credit cannot be presumed as payment of tax liability unless the credit is debited to discharge the liability.
- viii. **Mismatch in turnover declared in GSTR-9C Table 5R:** An instance of unreconciled turnover of ₹ 41.02 crore declared in Table 5R of GSTR-9C in case of a taxpayer engaged in manufacturing and supply of beer under various brand names under Uppal Nacharam Range of Secunderabad Central Tax Commissionerate was communicated to the Department. In response, Department stated that the unreconciled turnover was on account of transactions reflected in GSTR-9, which did not qualify as supply in GST (stock transfers under same GSTN of ₹ 1.27 crore, duties on alcoholic products of ₹ 0.40 crore and interest income on deposits of ₹ 0.02 crore), and "Economic Surplus" of ₹ 42.68 crore in GSTR-9. The reply is not acceptable particularly in treating the "Economic Surplus" of ₹ 42.68 crore as non-taxable. "Economic Surplus" represents surplus profit in the joint account of the brand owner and the Contract Brewing/Bottling units (CBU), excluding reimbursement of expenses by the CBU, ultimately appropriated by the brand owner. Karnataka Appellate Authority Advance Ruling<sup>57</sup> has ruled that surplus profits transferred by CBU to the brand owner qualify

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<sup>56</sup> India Yamaha Motor (P.) Ltd. v. Assistant Commissioner - [2022] 142 taxmann.com 369 (Madras)

<sup>57</sup> Order no. KAR/AAAR/03/ 2018-19 dated 23 October 2018

as consideration for services rendered, and GST is payable on such transfers. The services provided by the brand owner for appropriating the surplus profit are classified as right to use IPR (IPR service), franchise service and secondment of personnel. The Authority classified the service under SAC Code 999799 as "Other services nowhere else classified" and held that this service will attract GST of 18 per cent. Hence tax was required to be discharged on the unreconciled turnover pertaining to 'Economic Surplus' reported as revenue in the financial statements.

- ix. **Mismatch in taxable turnover declared in GSTR-9C Table 7G:** Unreconciled taxable turnover of ₹ 33.27 crore reported in Table 7G of GSTR-9C of a taxpayer, under Shyambazar Range-I of Kolkata North Central Tax Commissionerate, was noticed and communicated to the Department. The underlying revenue repercussion worked out to ₹ 5.99 crore (at 18 per cent tax rate). The Department replied that the letter seeking clarification was returned with the note "address moved" and therefore, the registration was cancelled suo-moto effective from 30 September 2022. However, Audit noticed that the Department was yet to initiate further action to recover the shortfall in taxes (January 2024).

**c) Inconsistencies where the Department's reply is accepted by Audit**

- (i) **Data entry errors by taxpayers:** Data entry errors constituted 17 per cent (1,368 cases) of the total responses received and 25 per cent of cases where the Department's responses were accepted by Audit. These data entry errors did not have any revenue implication. Most of the data entry errors relate to RCM, ISD, turnover, taxable turnover and tax paid (provided in GSTR-9C). An illustrative case is brought out below:

A deviation amounting to ₹ 7,47,681.39 crore was identified as tax liability mismatch between GSTR-1 and GSTR-9 return of the taxpayer, under Gandhinagar Central Tax Commissionerate, and communicated to the Department. On receipt of Department's reply, it was seen that the deviation was caused due to a typographical error. Taxpayer had declared IGST liability of ₹ 0.76 crore and ₹ 0.75 crore in GSTR-1s and GSTR-3Bs, respectively, during 2017-18. However, the taxpayer had erroneously indicated an IGST liability of ₹ 7, 47,682.15 crore in Table 4 of GSTR-9. This discrepancy underscores a potential vulnerability in the system, as proper validation controls could have prevented such data entry errors.

The CAG Audit Report (No.5 of 2022) 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 also recommended that the 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.

The Department has provided the facility of auto-filled GSTR-3B in PDF format from the tax period November 2020 onwards, to assist the taxpayers in filling the said return and alerts are prompted by the system if there is a difference between the input value and auto-populated value. However, Audit observed that the auto filled GSTR-3B form in PDF format is not available to the tax officers. Provision of a feature in the CBIC back-end system to enable Range officers to view the auto-filled form and the extent of variation in the filed GSTR-3B can facilitate better scrutiny of returns. Chapter VI of this report features a detailed analysis of the reliability of GST data maintained by GSTN.

- (ii) **Action taken before issue of Audit Queries:** As summarised in Table 4.5 above, the Department had already taken action in 510 cases, constituting six per cent of the 8,220 responses received. The top five zones which had proactively addressed the deviations/inconsistencies are indicated in **Table 4.6**.

**Table 4.6: Action taken before query - Zone wise**

Zone	Action taken before Audit Query	Responses received	Responses not received	Percentage of cases where responses received
Hyderabad	68	554	19	12
Mumbai	60	687	171	9
Bhopal	71	844	212	8
Jaipur	39	563	6	7
Ahmedabad	41	809	7	5
<b>Total</b>	<b>279</b>	<b>3,457</b>	<b>415</b>	<b>8</b>

#### **4.8.4.3 Analysis of input controls**

Additionally, Audit is of the view that the following validations would not only aid in curbing data entry errors but also potentially enhance taxpayer compliance and the quality of scrutiny of returns:

- i. The ITC reversal in GSTR-3B Table 4(B) includes reversals of ITC pertaining to past tax periods also. As such, a bifurcation of values for

the current and past tax periods may be provided with the data for current period auto populated from GSTR-2B<sup>58</sup> credit notes and reversals declared in GSTR-6 (Return filed by Input Service Distributors), without edit feature. This would be useful in identification of reversals arising on account of ineligible ITC or on account of other factors for the benefit of all taxpayers and the Department.

- ii. Currently the taxpayer declares all his payables including the current and the past dues in GSTR-3B. The taxable value declared in Table 3.1 of GSTR-3B (details of outward supplies and inward supplies liable to reverse charge) could be bifurcated into two parts. One part may be auto-populated from liabilities arising from GSTR-1 of the present month and made non-editable and the other part may allow the taxpayer to declare other additions with a description. This will assist in identifying the past dues and taking suitable follow up action.

When Audit pointed this out (January 2023), Ministry stated (May 2023) that building validations in returns would have an inverse relationship to the ease of filing returns. Further, building such validations may restrict actual data entry in the corner scenarios and will affect revenue adversely.

**Recommendation:**

**10) Department may consider introducing judicious mix of validation controls and soft alerts in GST Returns to curb data entry errors, enhance taxpayer compliance and facilitate better scrutiny. In addition, the Department may also consider including a provision for revision of GST returns by the taxpayers for optimal utilization of the scarce resources of jurisdictional offices.**

Ministry's reply was silent on Audit's recommendation to make provisions for revision of GST returns by the taxpayers.

**4.8.5 Detailed audit of GST returns**

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

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<sup>58</sup> GSTR-2B is a static monthly auto-drafted ITC statement which is generated for every normal taxpayer on the basis of the information furnished by the suppliers in their respective GSTR-1s (outward supplies). It was introduced since August 2020 on the GST portal.

From an external audit perspective, Audit focused on a data-driven risk-based approach. Thus, apart from identifying inconsistencies/deviations in GST returns through pan-India data analysis, a detailed audit of GST returns was also conducted as a part of this review. A risk-based sample of 1,103 taxpayers was selected for this part of the review. The methodology adopted was to initially conduct a desk review of GST returns and financial statements filed by the taxpayers as part of the GSTR-9C and other records available in the back-end system which were accessed through the SSOIDs provided to the CAG field audit officers to identify potential risk areas, inconsistencies/deviations and red flags. Desk review<sup>59</sup> was carried out in CAG field audit offices. Based on desk review results, detailed audit was conducted in CBIC field formations by requisitioning corresponding granular records of taxpayers such as financial ledgers, invoices etc. to identify causative factors of the identified risks and to evaluate compliance by taxpayers.

Rule 80 (3) of the CGST Rules, 2017 provides that every registered person, other than those referred to in the second proviso to Section 44, an Input Service Distributor, a person paying tax under Section 51 or Section 52, a casual taxable person and a non-resident taxable person, whose aggregate turnover during a financial year exceeds five crore rupees, shall also furnish a self-certified reconciliation statement in FORM GSTR-9C along with the annual return, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner. Further, the reconciliation statement in FORM GSTR-9C should be prepared and duly signed by the Auditor and other statements, as applicable, including financial statement, profit and loss account and balance sheet etc. must be uploaded with GSTR-9C. However, these records were not properly uploaded with the GSTR-9C. Further, there is no mechanism available with the Department to ensure the completeness of the financial statements uploaded with GSTR-9C.

**(1) Scope limitation**

In spite of requisitions and follow up, the jurisdictional Ranges did not produce basic records such as financial statements, GSTR-9C and GSTR-2A in 67 cases out of the sample of 1,103 cases. Thus, 6 per cent of the sample could not be audited.

Further, in another 373 cases comprising 34 per cent of the risk based sample, records were partially produced as granular taxpayer records, such as invoices, were not provided. Consequently, in these partially produced cases, Audit was restricted to the information available in the returns filed by the taxpayers.

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<sup>59</sup> Desk review at field audit offices was conducted through SSOID based remote access to CBIC back-end GST application.

Even though Audit had identified the granular records of the taxpayers for further examination on risk-based approach and accordingly, requisitioned the same from the Department, the Department did not provide the complete records. Thus, Audit could not assess eligibility of ITC claimed and extent of unsettled tax liability, which constituted a significant scope limitation.

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

**a) Non-production of records:** The jurisdiction-wise non-production of records is summarised in **Table 4.7**.

**Table 4.7: Non-production of records reported by Field Audit Offices**  
(₹ in crore)

Jurisdictional zone of CBIC	Sample	Non-production	
	Number of taxpayers	Number of taxpayers	Mismatch in ITC/tax liability
Ahmedabad	70	8	52.39
Bengaluru	70	2	3.19
Chandigarh	65	18	137.86
Chennai	61	2	217.06
Hyderabad	150	4	7.27
Jaipur	60	7	39.13
Kolkata	160	1	1.72
Mumbai	130	13	295.73
New Delhi	60	10	33.14
Ranchi	24	2	0.01
<b>Total</b>	<b>850<sup>60</sup></b>	<b>67</b>	<b>787.50</b>

As a result of non-production of records in 67 cases, mismatches/inconsistencies of ₹ 787.50 crore, identified through data analysis, could not be examined in Audit. The top ten cases of non-production are given in **Appendix-IV**.

**b) Partial production:** As mentioned in para 4.8.5 during the desk review of taxpayers' records available in the back-end system, Audit identified the risks related to excess ITC and tax liability mismatches for detailed examination. On the ITC dimension, the mismatches were identified by comparing GSTR-3B with GSTR-2A and GSTR-9, and the declarations made in Table 12 and 14 of GSTR-9C. On the tax liability dimension, the mismatches were identified by comparing GSTR-3B with GSTR-1 and GSTR-9 and the declarations in Table 5, Table 7 and Table 9 of GSTR-9C. However, in 373 cases, the Department did not produce the corresponding granular records such as the supplementary financial ledgers, invoices, agreement copies etc. required for examining the causative factors for mismatches of ITC and tax liability. Audit requisitioned these granular records of the

<sup>60</sup> Records were produced in all cases in Bhopal (74), Bhubaneswar (40), Guwahati (50), Lucknow (56) and Thiruvananthapuram (33).

taxpayers through the respective Ranges. The jurisdiction-wise partial production of records is summarized in **Table 4.8**.

**Table 4.8: Partial production of records reported by Field Audit Offices**  
(Amount in ₹ crore)

Jurisdictional zone of CBIC	Sample	Mismatch of ITC/tax liability	
	Number of taxpayers	Number of taxpayers	Amount of deviation
Ahmedabad	70	8	33.22
Bengaluru	70	34	334.51
Bhopal	74	39	258.77
Bhubaneswar	40	12	74.20
Chandigarh	65	2	3.72
Chennai	61	59	230.93
Guwahati	50	37	65.15
Hyderabad	150	21	164.57
Jaipur	60	21	221.65
Thiruvananthapuram	33	10	47.84
Kolkata	160	36	63.83
Lucknow	56	47	299.19
Mumbai	130	20	557.92
New Delhi	60	15	126.33
Ranchi	24	12	25.90
<b>Total</b>	<b>1,103</b>	<b>373</b>	<b>2,507.73</b>

The top ten cases of partial production in terms of mismatches in ITC and tax liability are given in **Appendix-V**.

The granular records were partially produced in 34 per cent of cases, as a result the identified risks relating to mismatches/deviations in ITC availing and tax liability of ₹ **2,507.73** crore could not be examined in detail by Audit.

#### **4.8.5.1 Detailed audit of GST returns – Audit findings**

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

#### **4.8.5.2 Audit findings on GST return filing and payment**

The detailed audit of returns filed by a sample of 1,103 taxpayers disclosed that interest payments were not discharged by taxpayers and data entry errors existed in the returns in a significant number of cases, which are brought out in the subsequent paragraphs.

**a) Non-payment of interest by taxpayers**

Audit observed in 290 cases, constituting 28 per cent of the 1,036 cases<sup>61</sup> audited, that taxpayers had either filed their returns belatedly or had erroneously utilised excess ITC credits, which were paid back but the interest payments were not discharged amounting to ₹ 29.47 crore.

When this was pointed out, Ministry/Department accepted the audit observations in 107 cases involving money value of ₹ 14.47 crore out of which recovery of ₹ 1.19 crore was made in 60 cases. The reply in the remaining 183 cases was awaited/rebutted. The top five irregularities noticed in this category amounted to ₹ 13.44 crore. A few illustrative cases are featured below:

- i. A taxpayer, under Amaravathi Capital City Range under Guntur Commissionerate had filed the returns of September 2017, and October 2017 to March 2018, belatedly in May and June 2018, respectively, and paid the tax dues in these returns by debiting the Electronic Cash Ledger. However, interest amounting to ₹ 5.58 crore was not paid. When this was pointed out, Department stated that the taxpayer could not file the returns online due to technical glitches and had filed the returns manually. The amount was credited to the Electronic Cash ledger in GST portal but could not be debited in the Electronic Cash Ledger. The reply is not tenable as mere availability of credit cannot be assumed as payment of tax liability unless it is debited for discharging liability. Therefore, interest is required to be paid by debiting Electronic Cash Ledger in respect of delayed filing of returns as availability of balance in Electronic Cash Ledger could not be assumed as payment of tax. The taxpayer could have used DRC-03<sup>62</sup> mode to pay the tax.

On this being pointed out (July 2022), Ministry stated (May 2023) that recovery proceedings were being initiated.

- ii. A taxpayer under Nellore-3 Range, Guntur Central Tax Commissionerate, had filed the GSTR-3B returns for the period July to October 2017 and January to March 2018 belatedly from January 2018 to September 2018. However, interest liability on delayed payment of tax amounting to ₹ 2.98 crore was not discharged.

When pointed out (October 2022), Ministry stated (May 2023) that demand notice for ₹ 2.36 crore had been issued to the taxpayer.

<sup>61</sup> 1,103 cases less 67 cases for which basic records were not produced.

<sup>62</sup> DRC-03 is a form under the GST law that is required to be filed for voluntary tax payments towards demand or tax shortfall.

- iii. A taxpayer, under DND 3 Range of Bengaluru North Commissionerate had availed SGST credit of ₹ 4.19 crore during August 2017 instead of eligible credit of ₹ 0.42 crore, which resulted in excess SGST credit of ₹ 3.77 crore in the Electronic Credit Ledger. The taxpayer paid back the excess ITC availed in May 2020 vide DRC-03. Nevertheless, the Audit observed that the excess ITC had been entirely utilized by the taxpayer to offset the SGST liability. Consequently, the taxpayer is now obligated to pay interest on the amount of excess ITC paid back by him. The interest liability worked out to ₹ 2.41 crore<sup>63</sup>.

This was pointed out in September 2022. The Department has acknowledged the observation and issued a demand notice to the taxpayer on 26 September 2023.

**b) Data entry errors**

Audit observed significant number of data entry mistakes by taxpayers while filing GST returns. The data entry errors in the returns were noticed in 345 cases, constituting 33 per cent of the audited cases. The errors were mainly in areas like discrepancy between taxable values and tax liability in GSTR-1/GSTR-3B, discrepancy in CGST and SGST payments in GSTR-1/GSTR-3B, discrepancy in ITC availed and reversals between GSTR-3B and GSTR-9 etc. An illustrative case is brought out below:

A taxpayer under Adilabad Range Medchal Central Tax Commissionerate, had exhibited a mismatch of ₹ 1.61 crore in ITC between GSTR-3B and GSTR-2A. On this being pointed out, the Department stated that the taxpayer had inadvertently entered ITC availed figures arising on account of RCM in the wrong field under “All Other ITC” (Column 4A(5)) instead of “Inward supplies liable to RCM” (Column 4A(3)) in his GSTR-3B of November 2017 and December 2017. This error was rectified by the taxpayer in his GSTR-3B of February 2019. The reply was found acceptable.

**4.8.5.3 Audit findings on Utilisation of Input Tax Credit**

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

Section 16 and 17 of the CGST Act prescribe the eligibility and conditions to avail ITC. Credit of CGST cannot be used for payment of SGST/ UTGST and credit

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<sup>63</sup> At the rate of 24 per cent for the period of two years and nine months, i.e. from August 2017 to May 2020.

of SGST / UTGST cannot be utilised for payment of CGST. Rule 36 to 45 of the CGST Rules prescribe the procedure for availing and reversal of ITC.

Audit observed 193 cases of compliance deficiencies amounting to ₹ 144.44 crore out of 1,036 cases examined. The deficiencies were due to availing ITC irregularly, availing ineligible ITC, non or short reversal of ITC and excess availing of ITC on Input Service Distribution.

**a) Irregular availing of ITC**

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

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

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

Further, in respect of Reverse Charge Mechanism<sup>64</sup> (RCM) as per Section 13(3) of the CGST Act 2017, the time of supply of services under RCM is considered as earlier of a) the date of payment as entered in the books of the recipient or the date on which the payment is debited in his bank account or b) 60 days from the date of issue of invoice. Where it is not possible to determine the time of supply by the above means, the time of supply would be the date of entry in the books of account of the recipient of supply.

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<sup>64</sup> Reverse Charge means the liability to pay tax is on the recipient of supply of goods or services instead of the supplier of such goods or services in respect of notified categories of supply.

Audit observed compliance deficiencies in 115 cases (out of 1,036 cases examined) where taxpayers had availed irregular ITC of ₹ 133.24 crore. The deficiencies were mainly on account of invoices being issued after the specified period, credit wrongly transitioned into GST regime and availed, tax paid documents being time barred, suppliers not filing returns and payments not made to suppliers within the prescribed time.

When this was pointed out, Ministry/Department accepted the audit observations in 68 cases involving money value of ₹ 65.74 crore out of which recovery of ₹ 0.10 crore was made in 12 cases. The reply in the remaining 47 cases was awaited/rebutted. The top five cases of irregular availing of ITC amounted to ₹ 66.16 crore. A few illustrative cases are featured below:

- i. In Hospet C Range under Belagavi Central Tax Commissionerate, a taxpayer had been regularly accounting for a District Mineral Foundation cess and National Mineral Exploration Trust cess as expenditure in the books of the accounts every month since July 2017 and utilising ITC without payment of GST on these cesses. As per the time of supply provisions contained in Section 13(3) of the CGST Act, the supply is considered to have happened in the financial year itself, as and when the concerned expenditure was booked in the books of accounts. The taxpayer is eligible to avail the ITC only if the GST is paid (under RCM) and the related invoices and amendments are made before September of the following year (i.e. September 2018 for 2017-18 tax period and September 2019 for tax period 2018-19). Audit noted that the taxpayer belatedly discharged tax payment of ₹ 16.70 crore under RCM only in February 2020. Consequently, the taxpayer had irregularly availed and utilised ITC of ₹ 16.70 crore, necessitating its reversal along with interest. This was pointed out in April 2022. Ministry/Department's reply was awaited (January 2024).
- ii. As per Section 16(2) of the Act, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both unless he has received them. Further, as per Section 25(5) of the Act, the establishment of a person in a State/Union Territory and his establishment in other State/Union Territory shall be treated as distinct persons<sup>65</sup> for the purposes of this Act.

A taxpayer, under Begumpet-III Range of Secunderabad Central Tax Commissionerate in Telangana State, had paid license fees and spectrum

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<sup>65</sup> A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

charges for the telecom circle, which extended to Andhra Pradesh and Telangana States. The establishments of the taxpayer in both these States are treated as distinct persons for the purpose of GST and the provisions of the Act apply thereon individually. On verification of the records of the taxpayer, it was observed that the taxpayer had paid the GST on entire spectrum charges applicable for the circle under RCM basis in the State of Telangana, though a distinct registration was obtained for their operations in Andhra Pradesh State. Further, it was noticed that the taxpayer had claimed ITC of ₹ 49.34 crore on the GST paid on the spectrum charges and utilised the credit for payment of tax. However, the spectrum services pertaining to Andhra Pradesh State was used by the distinct unit registered under the State and the tax paid on the services should have accrued to the State. Thus, the taxpayer was not entitled to avail the benefit of ITC attributable to the services used by their distinct unit registered in a different State. Hence, input services relating to the Andhra Pradesh unit amounting to ₹ 15.92 crore should have been transferred through ISD mechanism, for input tax claim under the State.

When pointed out in September 2022, the Range endorsed (December 2022) the reply of the taxpayer (stating that the Government issued the license based on the licensed service area (Telecom Circle) and not State wise. Therefore, the GST on license fees and spectrum charges for telecom circle consisting of Andhra Pradesh and Telangana States were paid at the nodal State of Telangana on RCM basis and the entire ITC was availed in Telangana State only. The reply is not acceptable as the services received by the taxpayer (Telangana unit) are not solely used for the operations undertaken by Telangana unit and hence did not satisfy the conditions stipulated in Section 16 of the Act for availing of ITC.

This issue is not limited to Andhra Pradesh alone; it could extend to other telecom circles that encompass more than one state, such as Madhya Pradesh - Chhattisgarh, Uttar Pradesh - Uttarakhand, Bihar – Jharkhand. It is also pertinent to note that this issue may be applicable to other telecom companies as well and therefore, needs to be addressed. Reply of the Ministry was awaited (January 2024).

- iii. As per the provisions of Section 140(1) of the Act, a registered person, other than a person opting to pay tax under Section 10, shall be entitled to take, in his Electronic Credit Ledger, the amount of CENVAT credit carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law.

A taxpayer, under Alandur Outer Range of Chennai Outer Central Tax Commissionerate, had availed transitional credit of ₹ 65.72 crore through Table 5(a) of Tran-I form as against closing balance of ₹ 51.23 crore in ST-3 return of June 2017, which consequently resulted in excess availing of ITC of ₹ 14.49 crore. This was pointed out in October 2022. Ministry's/Department's reply was awaited (January 2024).

**b) Availing of ineligible ITC**

Section 16 of the Act allows availing of ITC on any supply of goods or services or both which are used or intended to be used in the course or furtherance of his business. Section 17(5) of the Act provides a list of goods and supplies on which the Input Tax credit cannot be availed except when the outward taxable supply is of the same category of services.

Section 18 of the Act provides for availing of credit of input tax in respect of only inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which the taxpayer becomes liable to pay tax in cases where the person has applied for registration within 30 days from the date on which they become liable to registration.

Audit observed non-compliance in 50 cases (out of 1,036 cases examined) where taxpayers had availed ineligible ITC of ₹ 5.50 crore. The deficiencies were mainly on account of availing ITC on supply of goods and services not used in the business, credit availed on blocked/not allowed items and not obtaining GST registration within the time limit.

When this was pointed out, Ministry/Department accepted the audit observations in 26 cases involving money value of ₹ 3.47 crore out of recovery of ₹ 0.17 crore was made in 11 cases. The reply in the remaining 24 cases was awaited/rebutted. The top five irregularities related to availing of ineligible ITC amounted to ₹ 3.84 crore. A few illustrative cases of availing of ineligible ITC are featured below:

- i. A taxpayer, under Range V of Raipur Central Tax Commissionerate, had a mismatch of ITC of ₹ 1.61 crore in GSTR-3B when compared with GSTR-2A for the year 2017-18. When enquired, the Department stated that the taxpayer had obtained a fresh registration due to technical glitch while migrating the provisional GSTN and certain supplies received from one of the taxpayer's suppliers were through the non-functional GSTN. Since the Department's response is merely an endorsement of the taxpayer's response, the Department was requested to examine the issue and rule out the possibility of any misuse of provisions or evasions such as

clearance of said supplies without payment of tax under the old provisional registration.

When pointed out (October 2022), Ministry stated (May 2023) that demand for ₹ 1.61 crore was being issued.

- ii. As per Section 18(1), when registration is applied within 30 days from the date on which the person is liable for registration, the taxpayer shall be eligible to avail credit of input tax on only inputs<sup>66</sup> (goods) held in stock and inputs contained in semi-finished or finished goods held in stock and not input services. A taxpayer, under Monda Market II Range under Secunderabad Central Tax Commissionerate, had irregularly availed ITC of ₹ 0.72 crore on input services under Service Accounting Code 997332 (Licensing services for the right to broadcast and show original films, sound recordings, radio and television programme etc.), which is not eligible under Section 18(1) of the Act. The taxpayer was, therefore, required to reverse the ITC and pay applicable interest. The issue was pointed out in September 2022. The response of the Ministry/Department was still awaited (January 2024).
- iii. One taxpayer under Somajiguda Range under Hyderabad Commissionerate had irregularly availed ITC on Motor Cars amounting to ₹ 0.57 crore. Upon inquiry, it was informed that the vehicles were utilized for transporting materials at the site. However, the explanation is not acceptable, given that the vehicles were primarily designated for passenger transport, falling squarely within the category of blocked credits. The Department acknowledged the Audit's observation (October 2022) and subsequently issued a demand notice to the taxpayer on 27 September 2023.

**c) Non-reversal/Short reversal of ITC**

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

Audit observed non-compliance in 22 cases (out of 1,036 cases examined) where taxpayers had either not reversed or short reversed ITC of ₹ 2.44 crore, due to incorrect application of Rule 42 and 43.

<sup>66</sup> "input" is defined in the CGST Act under section 2(59) as any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business.

When this was pointed out, Ministry/Department accepted the audit observations in 9 cases involving money value of ₹ 2.31 crore out of which recovery of ₹ 0.36 crore was made in four cases. The reply in the remaining 13 cases was awaited/rebutted. The top five cases of non-reversal/short reversal of ITC amounted to ₹ 2.23 crore. An illustrative case of non-reversal/short reversal of ITC is given below.

- i. A taxpayer, under Baikampady Range of Mangalore Central Tax Commissionerate, is in the business of trading of coal. The taxpayer had written off an amount of ₹ 5.30 crore in the financial statements for the years 2018-19 and 2019-20 on account of loss of calorific value of coal lying at Navlakha port (Gujarat) and New Mangalore port (Karnataka) due to passage of time. Though the entire coal stock was claimed to have been burnt, the ITC availed on them was not reversed either in the monthly returns or in the annual returns of the taxpayer. Non-reversal of ITC amounted to ₹ 0.27 crore<sup>67</sup>. In response Department stated (November 2023) that in pursuance of audit observation the taxpayer reversed ₹ 14 lakh pertaining to ITC of Mangalore Commissionerate. However, no action has been initiated yet regarding the ITC availed by Gujarat unit (January 2024).

**d) Excess availing of ITC through Input Service Distribution**

Section 2(61) of the Act defines “Input Service Distributor” (ISD) as an office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services and issues a prescribed document for the purposes of distributing the ITC to a supplier of taxable goods or services or both having the same Permanent Account Number (PAN) as that of the said office.

Section 20 prescribes the manner of distribution of credit by ISD. As per Section 20(2), ISD may distribute the credit available for distribution in the same month in which it is availed. ISD shall issue invoice in accordance with the provisions made under Rule 39(1) of the CGST Rules. In this regard, Rule 54 (1A)(a)(iv) provides for a registered person, having the same PAN and State code as an ISD, to issue an invoice or, as the case may be, a credit or debit note to transfer the credit of common input services to the ISD.

Audit observed non-compliance in six cases (out of 1,036 cases examined) amounting to ₹ 3.26 crore where taxpayers had either irregularly availed ITC through ISD or had availed it in excess.

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<sup>67</sup> At the rate of 5 per cent applicable for coal

Department accepted the audit contention in two cases amounting to ₹ 2.97 crore. The reply in the remaining 4 cases was awaited/rebutted. An illustrative case is featured below:

The Central Goods and Services Tax (Second Removal of Difficulties) Order, 2018 inserted a proviso under Section 16(4) of the Act entitling the registered person to take ITC after the due date of filing of GSTR-3B for the month of September 2018 till the due date of furnishing of the GSTR-3B return for the month of March 2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the financial year 2017-18, the details of which have been uploaded by the supplier in GSTR-1 till the due date of filing of GSTR-1 for the month of March 2019. The extension was applicable only in cases where there is an amendment by the supplier to his GSTR-1 or when there is a missing invoice or debit note not declared in the previous GSTR-1.

Two taxpayers, falling under the jurisdiction of AND-4 Range under Bengaluru North Central Tax Commissionerate, had passed on ITC to their ISD registrations towards the common supplies received amounting to ₹ 2.21 crore and ₹ 0.76 crore, respectively, by issuing invoices on 31 March 2019. Though the proviso to Section 16 of the CGST Act extended the cut off period to avail ITC for financial year 2017-18 up to March 2019, it was applicable only when there is an amendment by the supplier to his GSTR-1 or when there is missing invoice or debit note. Since the suppliers of these common services had already reported their supplies in their GSTR-1 of the respective months, the extended time limit would not apply to these transactions. Consequently, the taxpayer was obligated to transfer the common credits by September 2018 itself. Further, as the taxpayer was not the supplier of common services, but only facilitated transfer of the ITC on the said supplies, the benefit of the proviso does not extend to the taxpayer. Hence, the ITC transferred to the ISD registrations amounting to ₹ 2.97 crore was irregular and therefore, required to be reversed. This discrepancy was highlighted in November 2022. Department has subsequently issued demand notices on 22 September 2023 and 27 September 2023.

**e) Issues relating to ITC having systemic implications**

Apart from a systemic issue relating to Rule 42 highlighted in para c) above, the other systemic issues that impact aspects of ITC availing, ITC reversal and ISD, observed by Audit are brought out below:

1. Section 16(2)(c) requires the recipient to reverse the ITC in case the tax has not been remitted by the supplier to the government. In this regard, Supreme Court, in the case of Commissioner of Trade & Taxes, Delhi and

others Vs. Arise India Limited and others, has observed that there was need to restrict the denial of ITC only to the selling dealers who had failed to deposit the tax collected by them and not punish bona fide purchasing dealers. Two writ Petitions had also been filed before the High Court of Madhya Pradesh at Indore<sup>68</sup> and High Court of Andhra Pradesh<sup>69</sup>. Further, a press release dated 4 May 2018 lays down that there should be no automatic reversal of ITC at the end of the recipient and reversal of ITC may only take place in exceptional situations such as missing supplier, closure of business by supplier or supplier becoming insolvent. In view of these developments and the Government's stance that ITC reversals can only take place in exceptional situations, CBIC needs to review the application of Section 16(2)(c).

2. Extant provisions restrict availing of ITC if the GSTR-3B returns are not filed before September of the following year (November from 2022 onwards). Currently there are no instructions on whether the extension of time allowed from April to September of the following year for availing ITC is only for missed out invoices and adjustments made to those documents/debit notes or it is applicable to new invoices as well raised during this period for the supplies made in the earlier period but where invoices were issued after the specified time period for issue of such invoice.

#### **4.8.5.4 Audit findings on Discharge of tax liability**

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

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

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<sup>68</sup> No. 9443/2020 titled 'M/s. Cummins Technologies vs Union of India.'

<sup>69</sup> No.7767 /2020 titled 'M/s. SPL Infrastructure Private Limited v. Assistant Commissioner of State Tax, Narasannapeta and Ors.

reverse charge levy on certain goods or services, wherein the recipient instead of supplier becomes liable to pay tax.

Audit observed 174 cases of compliance deficiencies amounting to ₹ 295.05 crore out of 1,036 cases examined. The deficiencies were mainly caused due to misclassification of supplies, exclusion of taxable supplies, incorrect availing of exemptions, under-valuation of supplies, not adhering to time of supply provisions and incorrect discharge of tax liability on reverse charge basis.

**a) Misclassification of supplies**

In the GST law, there is no separate dedicated tariff schedule or any separate tariff legislation. The rate of various goods and/or supplies are notified by the Government on the recommendations of GST council. Two Notifications, 1/2017 – Central Tax (Rate) and 1/2017- Integrated Tax (Rate), have been issued which contain six schedules for various tax rates. Explanation appended to these notifications clarifies that the rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of the notification.

Audit observed compliance deficiencies in 25 cases (out of 1,036 cases examined), amounting to ₹ 31.70 crore, due to misclassification of supplies of goods and services by the taxpayers and consequent discharge of tax liability at lower rates by the taxpayers.

When this was pointed out, Ministry/Department accepted the audit observations in 12 cases involving money value of ₹ 10.66 crore out of which recovery of ₹ 0.24 crore was made in three cases. The reply in the remaining 13 cases was awaited/rebutted. The top five irregularities on misclassification of supplies amounted to ₹ 27.95 crore. A few illustrative cases on misclassification of supplies are featured below:

- i. Rule 3 of general principles for the interpretation of the Customs Tariff Act specifies that the heading which provides the most specific description shall be preferred to headings providing a more general description. A taxpayer, under Amaravathi Capital City Range of Guntur Central Tax Commissionerate, had incorrectly classified the product “Thums Up Charged” under Chapter 22029990 – Other non-alcoholic beverages attracting GST of 18 per cent. “Thums Up Charged”, being carbonated caffeine packed drink is covered under specific tariff heading 22021090- Aerated drinks, attracting GST of 28 per cent and cess at 12 per cent. Misclassification by the taxpayer resulted in short payment of tax of ₹ 7.93 crore.

When this was pointed out (August 2022), Ministry stated (May 2023) that recovery proceedings were being initiated.

- ii. Notification No 11/2017-CT (Rate) dated 28 June 2017 allows a concessional rate of 12 per cent for works contract in relation to construction of road, bridge, tunnel, or terminal for road transportation for use by the general public. The notification also provides a concessional rate at 12 per cent for the works contract services rendered by a sub-contractor to the main contractor in relation to the construction of canal, dam or other irrigation works etc. This provision limits the concessional rate of 12 per cent only to projects where the main contractor is engaged in the construction of canal, dam, irrigation works, and similar projects.

A taxpayer, under the Angul I GST Range of Rourkela Central Tax Commissionerate, is providing subcontractor services in relation to rehabilitation and upgradation of National Highway – 42 project, at the concessional rate of 12 per cent under Notification 11/2017-CT (Rate) dated 28 June 2017. However, it has been observed that according to the aforementioned notification, the subcontract of a road work is not covered under the concessional rate of 12 per cent. Consequently, the taxpayer is obligated to pay tax at the rate of 18 per cent, resulting in a shortfall of ₹ 3.43 crore. Audit further noticed that the Directorate General of Goods and Services Tax Intelligence (DGGSI) had commenced an investigation against the taxpayer in June 2020. However, DGGSI failed to notice this aspect while working out the tax liability in DRC-01 dated 31 March 2022, wherein duty of ₹ 3.12 crore and ₹ 2.83 crore were demanded from the taxpayer pertaining to the months of February 2018 and March 2018 at 12 per cent. The short demand for these months additionally worked out to ₹ 2.98 crore. Thus, the total short levy was ₹ 6.41 crore, which is required to be paid along with interest.

This discrepancy was brought to attention in September 2022. Ministry responded (May 2023) by indicating that, as per entry 3(iv) of the Notification No.11/2017-CT(Rate) dated 28 June 2017 (as amended) pertaining to composite supply of works contract a road, bridge, tunnel, or terminal for road transportation for use by general public, a rate of 12 per cent (CGST and SGST) is applicable. Therefore, GST rate applicable to the main contractor is also applicable to the sub-contractor.

The reply is not acceptable as according to entry 3(ix) in a subsequent notification No.1/2018 dated 25 January 2018, exemption from 18% rate of tax is granted to supplies classified under 3 (iii) and 3 (vi). Notably, there is no specific inclusion of works contract services provided by sub-

contractor to main contractor in this context. The same argument was put forth by the Department in the Advance Ruling case of Shree Construction<sup>70</sup> and Core Construction<sup>71</sup>.

The above concession relating to execution of works contracts for Government projects as available to main contractors was not available to subcontractors, though the nature and utility of works executed were identical. Notification provided for concessional rate to main contractors, but not to subcontractors.

**Recommendation:**

**11) Department may review the applicability of concessions related to works contract services where sub-contractors are executing Government projects.**

Ministry stated (May 2023) that the recommendation was noted for examination.

- iii. A taxpayer, under Monda Market II Range under Secunderabad Central Tax Commissionerate, is engaged in supply of film distribution services. During Audit, it was noticed that the taxpayer had erroneously classified their supply as 'Leasing or rental services with or without operator' under the chapter heading 9973, paying tax at 12 per cent GST. Ideally, the supply in the instant case should have been classified under 'Film Distribution Service' (SAC 999614), attracting an 18 per cent GST rate. Further, the explanatory notes to the scheme of classification of services issued by CBIC, clarified that SAC 999614 essentially covers the transactions between the distributor and the exhibitor, television network, television station, video rental store etc. Thus, misclassification of 'Film Distribution Service' as 'Leasing or rental services with or without operator' had resulted in short payment of GST amounting to ₹ 6.39 crore. This was pointed out in September 2022. Ministry's/Department's reply was awaited as of January 2024.

**b) Exclusion of supplies**

Section 7 of CGST Act 2017 defines supplies to include all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. It also includes import of services for a consideration whether or not in the course or furtherance of business. This is an inclusive definition, main elements being (1) supply should

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<sup>70</sup> No.GST-ARA-09/2018-19/B-65, Dated 11 July 2018

<sup>71</sup> No.GST-ARA-08/2020-21/B-109, Dated 10 December 2021

be of goods or services, (2) supply has to be made for a consideration, (3) supply has to be made in the course or furtherance of business, (4) supply should be made by a taxable person, (5) supply should be a taxable supply, and (6) supply should be made within the taxable territory. Schedule I specifies certain activities which even made without a consideration shall be treated as supply. Schedule II specifies treatment of certain activities or transactions as either supply of goods or supply of services. Section 8 of CGST Act 2017 deals with composition and mixed supplies.

Audit observed compliance deficiencies in 28 cases (out of 1,036 cases examined), amounting to ₹ 29.76 crore, due to taxpayers excluding taxable supplies and consequently not discharging the due tax liability.

When this was pointed out, Ministry/Department accepted the audit observations in eight cases involving money value of ₹ 22.07 crore. The reply in the remaining 20 cases was awaited/rebutted. The top five cases on exclusion of supplies amounted to ₹ 26.23 crore. A few illustrative cases are featured below:

- i. A taxpayer under AND4 Range of Bengaluru North Central Tax Commissionerate, provided administrative support services to their other domestic group companies. Analysis of the General Ledger and the Balance Sheet for the year 2017-18 indicated that as against ₹ 522.22 crore worth of services provided, only ₹ 427.62 crore was declared in the annual GSTR-9 return. The short payment of tax due to exclusion of domestic taxable supply worked out to ₹ 17.03 crore. When pointed out in November 2022, Department issued demand notice on 22 September 2023.
- ii. In case of one taxpayer under DSD4 Range of Bengaluru South Central Tax Commissionerate, Audit noticed that the taxpayer has declared some supplies as zero-rated in the Annual return, but no such supplies were indicated in the monthly returns. When the risk of omission of these supplies from taxation was brought out (September 2022), the department acknowledged the Audit contention. Department found discrepancies in the Foreign Inward Remittance Certificates (FIRCs), where the indicated Bank account number did not align with the declared bank account details. Additionally, the details of the export invoices were omitted. Department issued Demand notice for an amount of ₹ 4.03 crore on 29 September 2023.

**c) Incorrect availing of exemptions**

Section 11 of the CGST Act states that in public interest and on the recommendations of the Council, the Government can exempt, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification. Explanation to this section clarifies that where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services, or both shall not collect the tax. About 149 items of goods and about 81 items of services were exempted from levy of CGST/IGST by notifications<sup>72</sup>.

Audit observed compliance deficiencies in eight cases (out of 1,036 cases examined), amounting to ₹ 9.78 crore, due to the taxpayers wrongly availing exemptions, thereby not discharging the tax liability.

When this was pointed out, the Ministry/Departemnt accepted the audit observations in seven cases involving money value of ₹ 9.78 crore out of which recovery of ₹ 0.04 crore was made in two cases. The reply in the remaining one cases was awaited. The top five cases of incorrect availing of exemptions amounted to ₹ 9.76 crore. A few illustrative cases are featured below:

- i. A taxpayer under DNWD-5 of Bengaluru Northwest Central Tax Commissionerate is engaged in execution of various civil works of government departments for which they receive funds in advance. The Kendra earns revenue through supervision charges at a fixed rate, which is recognised based on completion of works. Though the taxpayer had received an advance of ₹ 70.45 crore from various departments towards execution of civil works, Audit observed that the tax was discharged only on the supervision charges. This was incorrect as advances received from Government departments towards works contract services are not exempted under the Act. Non-payment of tax on these advances amounted to ₹ 8.34 crore. This discrepancy was pointed out in September 2022. Department responded, indicating that DRC-01 has been issued by State Authorities on 7 August 2023.
- ii. Notification 12/2017 Central Tax (Rate) dated 28 June 2017 at sl.no. 34 provides for exemption to 'Acquiring Banks' in relation to settlement of

<sup>72</sup> Notification No 2/2017 – Central Tax (Rate) and 2/2017– Integrated Tax (Rate) for goods and 12/2017 – Central Tax and 12/2017 – Integrated Tax (Rate) for services.

an amount upto ₹ 2000 in a single transaction, transacted through credit card, debit card, charge card or other payment card service.

A taxpayer under DSD4 Range of Bengaluru South Central Tax Commissionerate is providing payment processing service, facilitating secure transfer of payments to merchant accounts while charging a commission on the transaction amount deposited into these accounts. Audit observed that the taxpayer had been availing the benefit of exemption under Notification 12/2017 for the commissions charged for transactions less than ₹ 2000, a benefit exclusively extended to only Acquiring banks<sup>73</sup>. Since the taxpayer is only a payment processor, acting as a single point of contact for merchants and multiple third-party banks to handle their online payment transactions, they do not qualify as an Acquiring bank. Consequently, the exemption claimed is irregular. The resultant non-payment of tax amounted to ₹ 1.09 crore for services supplied to the tune of ₹ 6.03 crore. The issue holds relevance for other payment service intermediaries as well.

When pointed out (September 2022), Department issued demand notice on 29 September 2023 to recover the dues.

**d) Undervaluation of supplies**

Section 15 of the CGST Act deals with value of supply. The value of supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related, and price is the sole consideration for the supply. In cases where the value of the supply of goods or services or both cannot be determined under this method, Rules 27 to 35 of the CGST Rules prescribe the manner for determination of the value.

Audit observed compliance deficiencies in 19 cases (out of 1,036 cases examined) amounting to ₹ 121.15 crore, due to undervaluation of supplies by taxpayers leading to non-discharge of tax payments.

When this was pointed out, the Ministry/Department accepted the audit observations in nine cases involving money value of ₹ 108.78 crore. The reply in the remaining 10 cases was awaited/rebutted. The top five cases of under

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<sup>73</sup> As per the Notification 12/2017, Acquiring Bank means any banking company, financial institution including non-banking financial company or any other person, who makes payment to any person who accepts debit/credit card. In commercial parlance, Acquiring Bank is the bank that has the obligation with a merchant to process their online card payments. In cases of successful transactions, money is deducted from a customer's account by the issuing bank and then subsequently transferred to the acquiring bank.

valuation of supplies amounted to ₹ 117.39 crore. A few illustrative cases are featured below:

- i. As per Section 25(5) of the Act, the establishment of a person in a State/Union Territory and his establishment in another State/Union Territory shall be treated as distinct persons for the purpose of this Act. In this context, the establishment of a registered person and its corporate office shall be treated as distinct persons and transactions among them are chargeable under GST.

Two taxpayers under AND-4 Range of Bengaluru North Central Tax Commissionerate have different establishments registered as per Section 25 of the Act. The taxpayers were discharging tax on the cross charges<sup>74</sup> made to their distinct units. However, Audit noticed that they had discharged less taxes on cross charges as many of the expense heads were not considered for valuation. Expenses to the tune of ₹ 1,602.8 crore, which included administrative expenses, office power and fuel, rent, repair and maintenance, communication costs, CSR expenditures, travelling and conveyance, recruitment and relocation expenses, payment to auditor, and salary of staff and Director's remuneration were not considered for payment of tax. Audit also noticed that the taxpayer had raised invoices belatedly in these instances, which is not in accordance with Section 31 of CGST Act. Short payment of tax in these cases works out to ₹ 99.20 crore and ₹ 1.72 crore, respectively. When pointed out in November 2022, Department issued demand notices to the taxpayers on 22 September 2023 and 27 September 2023.

Two taxpayers under AND 4 Range of Bengaluru North Central Tax Commissionerate did not discharge tax on the reimbursements received from their other group companies. Taxpayer had the practice of cross charging their expenses between their group companies which was either received or paid in the form of reimbursements. The reimbursement was either on account of the amounts paid by the taxpayer on behalf of related parties (incomings) or amounts incurred by the group companies on behalf of the taxpayer (outgoings). Audit noticed from the General Ledger that the expenses of ₹ 22.49 crore cross

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<sup>74</sup> Cross Charge is specifically not defined under any of the GST Acts. However, it can be termed as a type of sharing of services between two or more Branches/Offices where one branch/office charges the other branches /offices for such sharing of services. Cost sharing among all units of an entity is an accounting requirement to assess the profitability of different units (Apportionment of cost/ Cross charge) wherein all common expenses are apportioned to all units on some reasonable basis.

charged were in nature of salary, gratuity, leave, lodging and travel expenses of employees and apportionment of employees' deposit linked insurance, groups personal accident insurance, medical and life insurance of staff and campus allocation. These activities of providing facilitation services to group companies for which the reimbursements were claimed either in the form of loaning of employees or cost associated with the employees were covered under the ambit of services and supply under Section 7(1)(a) of the Act. Non-payment of tax at the rate of 18 per cent worked out to ₹ 4.22 crore and ₹ 0.36 crore, respectively. When pointed out in November 2022, Department issued demand notices to the taxpayers on 22 September 2023 and 27 September 2023.

**e) Time of supply**

Sections 12, 13 and 14 of the Act deal with the provisions related to time of supply and by virtue of Section 20 of the IGST Act, 2017, these provisions are also applicable to inter-State supplies leviable to integrated tax. The provisions of Section 12 determine the time of supply of goods, Section 13 determines time of supply of services, and Section 14 deals with change of rates of tax on supply of goods and services.

Audit observed compliance deficiencies in 12 cases (out of 1,036 cases examined), amounting to ₹ 32.28 crore, due to taxpayers not adhering to the time of supply provisions, thereby not discharging tax liability.

When this was pointed out, the Ministry/Department accepted the audit observations in eight cases involving money value of ₹ 27.61 crore out of which recovery of ₹ 0.42 crore was made in five cases. The reply in the remaining four cases was awaited/rebutted. The top five irregularities on time of supply amounted to ₹ 32.21 crore. A few illustrative cases are featured below:

- i. Section 13(2)(a) and (b) of the CGST Act, 2017 determines the time of supply of services and envisages that where neither the provision of services is completed nor invoices are issued, the time of supply of services shall be the date of receipt of payment. Further, section 142 (11)(b) of CGST Act, 2017 provides that no tax shall be payable on services under this Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994. A taxpayer under the Angul I GST Range of Rourkela Central Tax Commissionerate, had received advances for the construction of National Highways from the NHAI during the year 2017-18. As per the advance register, the taxpayer had received an advance amount of ₹ 122.98 crore on 1 June 2017 and ₹ 4.01 crore on 31 July 2017. The taxpayer did not pay Service Tax on

advances received prior to the appointed date as services of 'construction of roads for use by general public' was exempt in the legacy regime vide Sl. No. 13 of Notification 25/2012 ST dated 20 June 2012. However, these services are now taxable in the GST regime. Audit observed that the taxpayer did not discharge GST on the unconsumed advances as of July 2017. The unconsumed advance could not be quantified as the related records were not produced to Audit. The outstanding amount, along with interest, needs to be recovered.

This was pointed out in September 2022. Ministry stated (May 2023) that demand notice has been issued to the taxpayer.

- ii. Section 50 of the Act specifies that every person who fails to pay the tax or any part thereof to the Government within the prescribed period, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding 18 per cent, as may be notified by the Government on the recommendations of the Council.

A taxpayer, under Hospet C Range of Belagavi Central Tax Commissionerate, paid tax under reverse charge mechanism towards District Mineral Foundation cess and National Mineral Exploration Trust cess belatedly, even though the expenditures were regularly accounted for in the books every month. However, the corresponding interest liability was not discharged. Considering the due dates for the submission of GSTR-3B, the interest liability for the years 2017-18 and 2018-19 is calculated to be ₹ 2.42 crore and ₹ 2.24 crore, respectively. Upon being brought to attention in August 2022, the Ministry/Department's reply was awaited (January 2024).

**f) Tax payment under Reverse Charge Mechanism**

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

Audit observed compliance deficiencies in 45 cases (out of 1,036 cases examined) amounting to ₹ 7.53 crore, due to taxpayers incorrectly discharging tax payments under the Reverse Charge Mechanism leading to short levy of tax.

When this was pointed out, the Ministry/Department accepted the audit observations in 10 cases involving money value of ₹ 0.85 crore. The reply in the remaining 35 cases was awaited/rebutted. The top five cases of incorrect tax payment under RCM amounted to ₹ 5.41 crore. A few illustrative cases are featured below:

- i. In the case of a taxpayer under Kolkata North Central Tax Commissionerate, the details of inward supplies in the GSTR-2A<sup>75</sup> statements showed 391 invoices where the taxpayer as recipient was required to pay tax under RCM having taxable value of ₹ 17.40 crore. Among these, 62 invoices showed a tax liability of ₹ 0.66 crore, while the remaining invoices of taxable value of ₹ 4.17 crore did not indicate any tax liability. However, it was noticed that the taxpayer had not discharged any tax under RCM at all, signifying a short payment of tax of at least ₹ 0.66 crore. This was pointed out in May 2022. Ministry's/Department's reply was awaited as of January 2024.
- ii. According to Notification No. 13/2017 dated 28 June 2017, entry number 5, tax on royalty is required to be paid on reverse charge basis by the recipient of services and taxed under SAC code 997337 at the rate of 18 per cent. A taxpayer, under Gulbarga A Range of Belagavi Central Tax Commissionerate, had not discharged tax on the royalty on minor minerals, recovered by the executing agencies from the Running Account bills. The non-payment of tax worked out to ₹ 0.59 crore under RCM.

Upon being brought to attention in November 2022, Department sought an explanation from the taxpayer, and further response from the Ministry/Department was awaited as of January 2024.

**g) Other observations**

Audit also observed isolated deficiencies in other dimensions of GST such as nature of supply, zero rated supply, registration and non-remittance of tax.

Audit noticed 37 compliance deficiencies in all these dimensions, amounting to ₹ 62.85 crore, and the significant issues amongst them are featured below.

When this was pointed out, the Ministry/Department accepted the audit observations in 23 cases involving money value of ₹ 15.72 crore out of which recovered ₹ 0.94 crore in six cases. The reply in the remaining 14 cases was awaited/rebutted.

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<sup>75</sup> GSTR-2A is an automatic return generated for a taxpayer based on returns filed by their suppliers, consisting details of all inward supplies declared by the suppliers.

- (i) **Irregular procedure followed in the issue of Credit Notes:** Section 34 of the CGST Act 2017 prescribes situations where credit notes can be issued. It states that credit notes may be issued by the registered person who has supplied the goods to the recipient for the supplies made in a financial year when the taxable value or tax charged in the tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient.

A taxpayer, under Hospet C Range of Belagavi Central Tax Commissionerate had issued GST invoices to the Monitoring Committee (MC) for the sale of the iron ore effected through the MC. In order to prevent indiscriminate and rampant mining activity in the State of Karnataka, Supreme Court constituted a Monitoring committee to regulate<sup>76</sup> sale of Iron ore through e-auction. It was expected that MC would be raising the GST invoices on the customers and would utilize the input tax credit of the GST billed by taxpayer while making payments to taxpayer as was done in the Central Excise regime. However, for the period from 1 July 2017 to 30 Sept 2017, MC did not acknowledge the invoices raised by taxpayer and paid the GST of ₹ 45.73 crore collected from customers to the government exchequer without utilizing the input tax credit of GST billed by taxpayer. MC did not pay the tax portion to taxpayer as only the net invoice value excluding tax was paid to them. Failing to recover the GST component from the MC for the period July to September 2017, taxpayer chose the modus operandi of issuing credit notes during August and September 2018 to adjust the ITC component for the sales executed during the said period which was not in line with the provision of Section 34 of the Act. Since the issue of credit notes have the effect of reducing the output tax liability of the supplier, the procedure

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<sup>76</sup> E-auctions are conducted by the Monitoring Committee constituted. The Monitoring Committee permits the lease holders to put up for e-auction the quantities of the iron ore planned to be produced. The quantity to be put up for e-auction, its grade, lot size, its base / floor price and the period of delivery are decided/provided by the respective leaseholders (Mining company). The final bidder (buyer) pays 90% of the sale price (excluding the royalty and the applicable taxes) received during the e-auction is paid by the buyer directly to the respective leaseholders (mining companies) and the balance 10% is deposited with the Monitoring Committee along with the royalty, Forest Development Tax (FDT), and other applicable Taxes/charges. The 10% retained amount is transferred to a 'Special Purpose Vehicle' created for taking ameliorating and mitigating measures around the mining leases in the identified three districts of Karnataka.

followed by the taxpayer resulted in nullifying the entire supplies which were discharged.

As the same approach was adopted by other mining companies in Karnataka, the procedural lapse needs to be examined by the Department, and appropriate measures should be taken to align the procedure with GST provisions. This observation was pointed out in August 2022, and the response from Ministry/Department was awaited as of January 2024.

- (ii) **Possible circular trading:** An offence report was booked by the Prevention unit based on the inputs received from DGARM in August 2021, on seven taxpayers for allegedly claiming the purchase of Palm oil from their parent companies without actual receipt and supply of goods. During the audit, it came to light that the taxpayer, under Virudhunagar Range II of Madurai Commissionerate, had also procured through these companies from July 2017 to March 2018. According to GSTR-9C, the taxpayer had procured Palm oil amounting to ₹ 135.37 crore during the period from July 2017 to March 2018 and availed ITC amounting to ₹ 6.77 crore. Additionally, the Income Tax 3CD report<sup>77</sup> of the taxpayer also confirmed that these suppliers were sister concerns of the taxpayer. Department was requested to investigate the matter further, considering the high likelihood of the taxpayer being involved in this chain, potentially leading to circular trading.

This observation was raised in October 2022. Ministry stated (May 2023) that searches were conducted by Commissionerate at the taxpayer's premises in November 2022 and based on the documents recovered, issuance of demand notices for an amount of ₹ 8.71 crore were under consideration.

**Recommendations: Department may**

- 12) provide records of taxpayers in 440 cases (67 cases of non-production and 373 cases of partial production) as it significantly limits the scope of audit of GST revenue.**
- 13) initiate remedial action for all the compliance deviations brought out in this report before they get time barred.**

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<sup>77</sup> Particulars, which are relevant from the angle of income-tax assessment, are required to be furnished under section 44AB in Form No. 3CD in cases of all types of assessee carrying on business or profession, whose accounts are to be audited under section 44AB.

#### **4.9 Impact on State Goods and Services Tax**

GST payments includes various components such as CGST, IGST, SGST, etc. and impact the revenue of both Union and the States/UTs. For the audit observations highlighted in this chapter, the monetary impact of findings on the revenue of the States/UTs is given in **Appendix-VI**.

#### **4.10 Conclusion and summary of recommendations**

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

This SSCA was predominantly driven by data analysis, which highlighted risk areas, red flags and in some cases, rule-based deviations and logical inconsistencies in GST returns filed for 2017-18. The SSCA entailed assessing the oversight functions of CBIC jurisdictional formations (Ranges) at two levels – at the data level through global data queries and at the functional level with a deeper detailed audit both of the Ranges and of the GST returns, which involved accessing taxpayer records on a risk-based approach. The audit sample therefore comprised 179 Ranges, 10,667 high value inconsistencies across 14 parameters selected through global queries and 1,103 taxpayers selected on risk assessment for detailed audit of GST returns for the year 2017-18.

The Department, after formulating a Standard Operating Procedure for scrutiny of returns (March 2022), has recently commenced scrutiny of returns for the year 2017-18. Until then, the Department was only pursuing GST returns related inconsistencies identified by DGARM. A review of the 179 Ranges disclosed that documentation of essential oversight functions of Ranges such as monitoring of return filing, taxpayer compliance and following up on DGARM reports was poor and were not amenable to evaluation. Though the Department had automated its back-end processes the CBIC back-end system, lacked validation controls and essential features/functionality to facilitate monitoring of return filing, pendency and cancellation of registrations etc. by Range Officers, which were highlighted in the earlier CAG Audit Reports.

Further, out of the 10,667 high value data inconsistencies identified by Audit the Department responded to 8,220 cases. Of these, 1,268 cases constituting 15 per cent, turned out to be clear compliance deficiencies with a revenue implication of ₹ 2,203.57 crore. A relatively higher rate of deficiencies was noticed in short/non-payment of interest, ITC mismatch, excess RCM ITC

availed, incorrect turnover declarations and short payment of tax. While data entry errors caused the inconsistencies in 17 per cent of the cases, in six per cent of the cases the Department had already taken proactive action. The Department has not responded to 2,447 cases of inconsistencies.

Detailed audit of GST returns also suggested significant instances of non-compliance. At the outset, essential records such as financial statements, GSTR-9C and 2A were not produced in 67 cases out of a sample of 1,103 taxpayers and in another 373 cases the granular taxpayer records sought on a risk-based approach were not forthcoming, which constituted a significant scope limitation. These cases represent a potential risk exposure of ₹ 2,507.74 crore towards identified mismatches in ITC availing and tax payments. Out of the 1,036 cases that were audited either fully or partially, Audit observed 657 compliance deficiencies with a revenue implication of ₹ 468.96 crore. The main causative factors were availing of ineligible and irregular ITC, misclassification of supplies, exclusion of supplies for taxation, undervaluation of supplies and incorrect discharge of tax under RCM. Further, since one of the main causative factor for compliance deviation was availing of ineligible and irregular ITC, therefore, in order to safeguard the revenue, the Department needs to enforce the provisions of GST Act/Rules, especially Section 54(10) of CGST Act, 2017 which provides that proper officer may withhold payment of refund until the taxpayer had furnished the return or paid the tax, interest or penalty, as the case may be; deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay, in letter and spirit while sanction of GST refunds of ITC.

Considering the significant rate of compliance deficiencies, the Department should initiate remedial measures before the cases pointed out by Audit get time barred. From a systemic perspective, the Department needs to strengthen the quality of documentation and reinforce the institutional mechanism in the Ranges to establish and maintain effective oversight on return filing, taxpayer compliance, tax payments, follow up of DGARM reports, cancellation of registrations and recovery of dues from defaulters. Certain validation controls and MIS features in the CBIC back-end application pointed out by Audit need to be deployed expeditiously. The Department may also consider introducing additional validation controls in GST returns to improve data quality, and taxpayer compliance and facilitate scrutiny of returns.

Summary of audit recommendations, brought out in this chapter, is as follows.

- 1) The Department may expedite automation of back-end processes (such as identification and issue of notices to non-filers (GSTR-3A), identification of mismatches in returns, issue of Show Cause Notice (REG-17), follow-up on Assessment and demand orders and scrutiny of

- returns. Till such time automation is complete, Department may ensure proper maintenance of manual records/registers.
- 2) The Department may enforce the procedure of handing over/taking over charge at Superintendent and Inspector levels.
  - 3(a) The Department may provide MIS reports related to issue of notices (GSTR-3A), assessment order (ASMT-13) and demand orders (DRC-07), pending ASMT-13 assessments, recovery history and appeal cases on DRC-07, late and non-filers of composition taxpayers and other category of registrants such as Input Service Distributors etc. to tax officers in the CBIC-ACES back-end system for effective monitoring.
  - 3(b) Further, the Department may consider increased use of automation through the CBIC-ACES back-end IT system for supporting issue of notices, assessment orders, demand orders etc.
  - 4) The current system allows the taxpayer to avail ITC on belated filing of GSTR-3B after the cut-off period as provided in the CGST Act, 2017. An effective control to ensure that availed ITC auto-populated in table 6A of annual return from the monthly GSTR-3Bs, should exclude the GSTR-3Bs filed after the cut-off period.
  - 5(a) Work flow automation of the entire set of follow up activities relating to the DGARM reports may be done as a part of CBIC back-end system.
  - 5(b) The Department may ensure furnishing of DGARM reports and records/files related to verification of DGARM reports to Audit.
  - 6) The Department may deploy requisite validation controls to prevent cancellation of registration prior to the date on which application for cancellation of registration was filed by the taxpayer.
  - 7) The Department may ensure issue of show cause notice by the field formations before suo-moto cancellation of GST registrations of the taxpayers.
  - 8) The Department may deploy the requisite MIS reports/features on pendency of cancellation applications, issue of SCN for Cancellation of Registration (REG-17), and filing of final return (GSTR-10) in the cancellation workflow under Registration Module.
  - 9) Audit recommends that the Department may urgently pursue the 2,447 inconsistencies and deviations pointed out by Audit and analyse the reasons for such deviations to take necessary action to strengthen the system so that such deviations do not repeat.

- 10) Department may consider introducing judicious mix of validation controls and soft alerts in GST Returns to curb data entry errors, enhance taxpayer compliance and facilitate better scrutiny. In addition, the Department may also consider including a provision for revision of GST returns by the taxpayers for optimal utilization of the scarce resources of jurisdictional offices.
- 11) The Department may review the applicability of concessions related to works contract services where sub-contractors are executing Government projects.
- 12) The Department may provide records of taxpayers in 440 cases (67 cases of non-production and 373 cases of partial production) as it significantly limits the scope of audit of GST revenue.
- 13) The Department may initiate remedial action for all the compliance deviations brought out in this report before they get time barred.

## Chapter V: Transitional Credits under GST

### 5.1 Introduction

A Subject Specific Compliance Audit (SSCA) on Transitional Credit under GST was conducted during the year 2020-21 and the findings were reported in Chapter VI of CAG Audit Report Number 5 of 2022 (Indirect Taxes: Goods and Service Tax). In this audit, apart from regular compliance deviations, Audit had highlighted non/partial production of transitional credit records as a result of which audit could not be conducted. A total of 954 claims involving transitional credit of ₹ 6,849.68 crore were not produced for audit. Further, in 2,209 claims involving transitional credit of ₹ 19,660.72 crore, records were partially produced, leaving out granular records such as duty paid documents for audit.

Ministry was requested to provide these records as non-production of records constituted substantive scope limitation. This was also specifically flagged in the Exit conference held with the Department (7 February 2022). Accordingly, a supplementary audit of SSCA on Transitional Credit, covering the claims produced for audit from the non-production/partial production cases reported earlier, was taken up during the year 2022.

### 5.2 Scope of audit

The scope of the supplementary audit of transitional credit claims was limited to the claims produced to Audit out of the non-produced/partially produced cases reported in para 6.8 of the CAG's Audit Report Number 5 of 2022 (Indirect Taxes: Goods and Service Tax). Audit covered the claims/records furnished by the jurisdictional Central Tax Commissionerates up to the end of October 2022.

The draft supplementary audit report was issued to the Ministry for comments on 30 January 2023. The Audit findings and recommendations were also discussed with the Ministry during the exit conference held on 19 May 2023. Ministry's/Department's replies received up to January 2024 have been incorporated in the Audit Report.

### 5.3 Audit objectives

The objective of this SSCA was to derive assurance on:

- i. whether the mechanism envisaged by the Department for verification of transitional credit claims was adequate and effective; and

- ii. whether the transitional credits carried over by the taxpayers into GST regime were valid and admissible.

#### **5.4 Audit criteria**

Section 140 of the CGST Act 2017 (Act) governs the transition of Cenvat credit from legacy Central Excise and Service Tax provisions. This Section read with Rule 117 of the CGST Rules 2017 (Rules), and relevant Notifications/Circulars issued by CBIC constituted the criteria for this audit.

#### **5.5 Status of record production**

Para 6.8 of the CAG's Audit Report Number 5 of 2022 (Indirect Taxes: Goods and Service Tax) detailed CBIC Zone-wise non-production and partial production of records for audit during the SSCA on Transitional Credit. During the supplementary audit, out of the 954 cases reported as non-production cases, records pertaining to only 354 cases were fully produced for Audit. Further, out of the 2,209 claims reported earlier under partial-production category, pending records in respect of 1,103 claims involving transitional credit of ₹ 12,388.27 crore were produced for audit scrutiny and records pertaining to the remaining 1,106 claims involving transitional credit of ₹ 7,272.45 crore were not furnished. The zone-wise status of record production under non-production and partial production categories during the supplementary audit is detailed in succeeding paragraph.

##### **5.5.1 Non-production cases**

The jurisdiction-wise non-production of transitional credit claims is given in **Table 5.1**.

Table 5.1: Non-production of records reported by Field Audit Offices

Jurisdictional zone of CBIC	Cases reported as non-production in CAG Audit Report No 5/2022		Non-production during this supplementary audit		Partial production out of cases not produced earlier	
	Number of claims	Amount of Credit	Number of claims	Amount of credit	Number of claims	Amount of Credit
Meerut	294	1,676.82	240	1,141	55	536.56
Lucknow	67	334.14	41	190	26	143.68
Mumbai	21	500.03	5	142	0	0
Bengaluru	61	542.19	16	122	0	0
Delhi	70	593.34	16	112	25	409.11
Bhopal	162	1,057.78	23	35	0	0
Chandigarh	19	42.33	3	2	0	0
Ranchi	111	792.93	0	0	0	0
Hyderabad	61	39.99	0	0	1	5.38
Visakhapatnam	48	204.62	0	0	0	0
Other zones <sup>78</sup>	40	1,065.51	18	487	132	940.51 <sup>79</sup>
<b>Total</b>	<b>954</b>	<b>6,849.68</b>	<b>362</b>	<b>2,231</b>	<b>238</b>	<b>2,029.86</b>

As detailed above, 362 claims, constituting 38 per cent, of the 954 cases reported as non-production in the earlier SSCA were not furnished for audit scrutiny even during the supplementary audit. Out of the 592 claims produced for audit, in 238 claims involving transitional credit claim of ₹ 2,029.86 crore, the records were partially produced. In these cases, the underlying records/information such as the duty paid documents, stock statements, asset ledgers etc., were not furnished for audit verification.

Thus, effectively only 354 claims, involving transitional credit of ₹ 2,588.88 crore, could be audited in full measure during the supplementary audit out of 954 claims reported earlier as non-production. Overall deviation rate arising out of these audited cases was 16 per cent, with significantly high number of deviations noticed in the category of ineligible credit on duty paid goods in stock.

As significant number of claims were not verified completely, Audit could not derive assurance on the effectiveness of departmental verification and

<sup>78</sup> Details of non-production reported in CAG Audit Report No 5/2022 – 40 cases: Kolkata- 13 cases (₹ 449.95 crore), Pune -9 cases (₹ 134.81 crore), Chennai – 5 cases (₹ 17.06 crore), Nagpur -5 cases (₹ 22.17 crore), Thiruvananthapuram- 2 cases (₹ 27.64 crore), Vadodara – 4 cases (₹ 410.31 crore), Panchkula- 2 cases (₹ 3.56 crore).

Details of non-production in supplementary audit -18 cases: Kolkata 11 cases (₹ 441.15 crore), Pune- 3 cases (₹ 12.44 crore), Panchkula-1 case(₹ 2.49 crore), Nagpur- 1 case (₹ 2.84 crore), Thiruvananthapuram-2 cases (₹ 27.64 crore)

<sup>79</sup> Details of partial production reported in CAG Audit Report No 5/2022- 138 cases: Bhopal- 50 cases (₹ 537.26 crore), Chandigarh- 41 cases (₹ 184.06 crore), Thiruvananthapuram-14 cases (₹ 14.35 crore), Ranchi- 25 cases (₹ 319.91 crore), Jaipur- 8 cases (₹ 60.96 crore).

Details of partial production in supplementary audit -198 cases: Ranchi-136 cases (₹ 1,112.85 crore), Bengaluru-7 cases (₹ 71.97 crore), Bhopal-11 cases (₹ 125.51 crore), Chandigarh-27 cases (₹ 93.78 crore), Jaipur-7 cases (₹ 45.91 crore), Thiruvananthapuram-9 cases (₹ 8.37 crore) and Chennai-1 case (₹ 5.39 crore).

taxpayers' compliance to the transitional credit provisions. Considering the higher percentage of deviations, it is recommended that the Department may verify the remaining cases on priority.

Ministry stated (May 2023) that out of the 362 cases where records were not produced, in 229 cases the records had since been produced by the field formations. However, these cases were produced after completion of audit. Further, the Ministry stated that it had verified the transitional credit claims in 112 cases and had initiated remedial action. Additionally, in six cases the verification was in progress. Ministry also stated that in 10 cases the taxpayers were either not traceable or their units have been closed/under NCLT proceedings, while in the remaining five cases status would be provided in due course.

### 5.5.2 Partial-production of records

The jurisdiction-wise partial-production of records is given in **Table 5.2**. In these cases, the underlying records<sup>80</sup> for evaluating the eligibility of the credit were not produced for audit scrutiny. Out of the 2,209 partially produced claims reported in the earlier CAG Audit Report Number 5 of 2022 (Indirect Taxes: Goods and Service Tax), 1,106 claims involving transitional credit of ₹ 7,272.45 crore, constituting 50 per cent of cases, were not furnished for audit even during this supplementary audit. The details are given in **Table 5.2**.

**Table 5.2: Partial production of records reported by Field Audit Offices**

Jurisdictional zone of CBIC	Cases reported as partial production in CAG Audit Report No 5/2022		Cases where pending records were produced		Cases where records are yet to be fully produced	
	Number of claims	Amount of Credit	Number of claims	Amount of Credit	Number of claims	Amount of Credit
Kolkata	917	2,157.56	398	744.79	519	1,412.77
Panchkula	226	6,157.92	177	5,180.59	49	977.33
Meerut	195	1,772.63	0	0	195	1,772.63
Delhi	167	1,164.26	74	516.75	93	647.51
Guwahati	151	1,343.08	85	703.00	66	640.08
Hyderabad	83	512.89	83	512.89	0	0.00
Lucknow	79	852.50	0	0	79	852.50
Visakhapatnam	76	430.12	76	430.12	0	0.00
Chennai	67	1,099.35	39	924.40	28	174.95
Ahmedabad	57	2,185.89	51	2,161.91	6	23.98
Vadodara	53	867.98	48	640.55	5	227.43
Other zones <sup>81</sup>	138	1,116.54	72	573.27	66	543.27
<b>Total</b>	<b>2,209</b>	<b>19,660.72</b>	<b>1,103</b>	<b>12,388.27</b>	<b>1,106</b>	<b>7,272.45</b>

<sup>80</sup> Duty paid documents, Asset ledger, Stock statements etc.,

<sup>81</sup> Details of partial production reported in CAG Audit Report No 5/2022- 138 cases: Bhopal- 50 cases (₹ 537.26 crore), Chandigarh- 41 cases (₹ 184.06 crore), Thiruvananthapuram-14 cases (₹ 14.35 crore), Ranchi- 25 cases (₹319.91 crore), Jaipur- 8 cases (₹60.96 crore).

Details of partial production in supplementary audit -198 cases: Ranchi-136 cases (₹ 1,112.85 crore), Bengaluru-7 cases (₹ 71.97 crore), Bhopal-11 cases (₹ 125.51 crore), Chandigarh-27 cases (₹ 93.78 crore), Jaipur-7 cases (₹ 45.91 crore), Thiruvananthapuram-9cases (₹ 8.37 crore), and Chennai-1 case (₹ 5.39 crore).

Ministry stated (May 2023) that departmental verification of transitional credit claims was carried out on the strength of the original records provided by taxpayers as per rules, and the field formations were not retaining copies of all these records. Ministry further stated that all records readily available with the Department were produced to Audit and additional records requisitioned by Audit, were being obtained from the respective taxpayers. Ministry also stated that the Department had verified some of the high value claims where records were partially produced to Audit, and identified ineligible claims of ₹ 62.18 crore. The recovery process in these cases had been initiated.

## 5.6 Audit findings

In the CAG's Audit Report Number 5 of 2022, Audit had reported 1,686 deviations, with a revenue implication of ₹ 977.54 crore. Audit findings covered both systemic and compliance deviations. While systemic issues addressed the adequacy and effectiveness of the envisaged verification mechanism adopted by the Department, the compliance issues addressed the deviations from the provisions of the Act/Rules in individual cases. As the supplementary audit was taken up as continuation of the SSCA on transitional credit to cover the claims not produced/partially produced earlier, the focus of the supplementary audit was oriented towards the compliance deviations arising out of these cases.

The compliance issues pertain to the validity and admissibility of the transitional credits carried over by the taxpayers into GST regime. The taxpayers were required to claim transitional credits through the various specified Tables<sup>82</sup> of Tran 1 and Tran 2 forms as applicable. Broadly, these tables provide for credit in respect of Cenvat credit carried over from the legacy Returns ER1 (Central Excise) and ST3 (Service Tax), unavailed Cenvat credit in respect of capital goods, Cenvat credit in respect of inputs/semi-finished goods/finished goods held in stock and Cenvat credit of inputs or input services in transit.

The audit findings have been categorized as per the sub-sections under Section 140 of the Act against which the claims were verified, as detailed in the following paragraphs. To have a broader perspective on the deviations, Audit analysed the extent of deviations noticed from the

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<sup>82</sup> Tran 1-Tables: 5(a)-Closing Credit balance of legacy returns; 6(a)-Unavailed credit on capital goods; 7a(A)-Credit on duty paid stock with invoices; 7a(B)-Credit on duty paid stock without invoices; 7(b)-Credit on inputs or input service in transit; 8-Transfer of credit by centrally registered units; 11-Credit of tax paid on advances: Tran 2-Table 4: Credit afforded on stocks without invoices

claims audited out of the non-production and partial production cases separately. A Relatively higher percentage of deviations were noticed from the cases where complete records were furnished for audit verification and audited in full measure. This indicates that in the category of cases where records production was partial, the deviation rate could have gone up had full records been produced. The summary of nature and extent of deviations noticed are given in **Table 5.3**.

**Table 5.3: Summary of nature of observations and deviation rates fully audited cases**

Nature of observations	Cases where complete records were produced		Deficiencies noticed		Deficiencies as percentage of audited cases	
	Number	Amount (₹ in crore)	Number	Amount (₹ in crore)	Number	Amount (₹ in crore)
Ineligible duties transitioned- All Tables	354	2,588.88	13	2.61	3.67	0.10
Irregular claim on closing balances- Table 5(a)	211	2,009.06	10	3.77	4.74	0.19
Irregular claim on unavailed credit on capital goods- Table 6(a)	126	131.63	8	9.29	6.35	7.06
Ineligible credit on duty paid goods in stock with documents- Table 7(a)A	213	279.08	24	9.97	11.27	3.57
Ineligible credit on duty paid goods in stock without documents- Table 7(a)B	17	*	3	0.25	17.65	--
Ineligible credit on inputs or input services in transit -Table 7(b)	147	147.45	4	0.86	2.72	0.58
<b>Total</b>			<b>62</b>	<b>26.75</b>		

\* Credit claim depends on supplies made under GST

As noticed from the above table, Audit noticed 62 irregularities involving transitional credit of ₹ 26.75 crore, out of the 354 claims audited in full measure, translating into a deviation rate of 17 per cent (number of cases). A relatively higher number of deviations were noticed in the categories of ineligible credit on duty paid goods in stock, ineligible duties transitioned, ineligible credit of inputs and input services in transit and irregular claim of un-availed credit on capital goods.

In addition to these cases, Audit noticed 127 deviations involving transitional credit of ₹ 30.55 crore out of 1,344 partial-production cases during the supplementary audit. Only a limited audit could be carried in these cases. The overall deviations out of 1,698 cases audited during supplementary audit are featured in **Table 5.4** below.

Table 5.4: Overall summary of observations

Nature of observations	Cases audited out of non/partial production		Deficiencies noticed	
	Number	Amount (₹ in crore)	Number	Amount (₹ in crore)
Ineligible duties transitioned- All Tables	1,698	17,006.99	65	12.23
Irregular claim on closing balances- Table 5(a)	1,119	13,567.72	21	9.32
Irregular claim on unavailed credit on capital goods- Table 6(a)	598	758.06	30	11.50
Ineligible credit on duty paid goods in stock with documents-Table 7(a)A	909	1,706.28	48	11.64
Ineligible credit on duty paid goods in stock without documents- Table 7(a)B	49	*	4	0.42
Ineligible credit on inputs or input services in transit -Table 7(b)	698	918.58	18	7.21
Irregular credit by centralised registered units- Table 8	59	#	2	2.83
<b>Total</b>			<b>188</b>	<b>55.15</b>

\*Credit claim depends on supplies made under GST, #Already featured under closing balance category

Overall, out of the 1,698 cases audited during the supplementary audit, 188 deviations were noticed involving transitional credit of ₹ 55.15 crore. Of these 1,698 cases, the departmental formations had already verified 1,224 cases involving transitional credit of ₹ 11,794.07 crore. However, Audit noticed irregularities in 128 (10 per cent) of these verified cases, indicating deficiencies in the departmental verification process.

The nature and extent of compliance deviations have been elaborated in the subsequent paragraphs. In each section, for a perspective on materiality, the money value of top five irregularities noticed in each section and illustrative cases have been featured for an appreciation of the nature and significance of the deviations.

### 5.6.1 *Ineligible duties carried forward*

Section 140 of the Act provides for transition of eligible duties paid on inputs and input services under existing laws into GST regime. Eligible duties for the purpose of this section are as defined under Explanation 1 and 2 under the Section. A retrospective amendment was carried out vide CGST Amendment Act, 2018 (No.31 of 2018) dated 29<sup>th</sup> August 2018, which restricted the applicability of 'Cenvat credit' under Section 140 of the Act, to 'Cenvat credit of Eligible duties' as specified in Explanation 1 and 2 thereunder. Further, Explanation 3 specifically excludes any cess which has not been specified in Explanation 1 or 2 and

any cess which is collected as additional duty of Customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975 from the expression 'credit of Eligible duties'. Thus, the Cenvat credit of Education Cess, Secondary and Higher Education Cess, Krishi Kalyan Cess, Swatch Bharat Cess and Clean Energy Cess were not eligible duties for transition to GST.

During the supplementary audit, Audit examined 1,698 transitional credit claims involving total transitional credit of ₹ 17,005.16 crore, including the partially produced cases, under the various sub-sections of Section 140 of the Act.

Audit noticed non-compliance in 65 cases involving ineligible duties carried forward to GST amounting to ₹ 12.23 crore. The deviations were in the category of ineligible cess credit carried forward; credit claimed on VAT; and credit claimed on Personal Ledger Account (PLA)<sup>83</sup> balances.

When this was pointed out, the Ministry/Department accepted the audit observations in 45 cases involving irregular credit of ₹ 7.71 crore and recovery of ₹ 0.79 crore was made in 19 cases. The top five irregularities noticed under this category amounted to ₹ 6.48 crore. Two illustrative cases are featured below.

**a)** A taxpayer coming under the jurisdiction of Gurugram Central Tax Commissionerate had claimed transitional credit of closing balance of eligible duties carried forward from the legacy returns under Section 140(1) of the Act. The total Cenvat credit balance in the legacy returns relating to the period ending with the day immediately preceding the appointed day was ₹ 35.49 crore. On verification of the Cenvat credit balance, Audit noticed that the carried forward credit included cenvat credit on Krishi Kalyan Cess, Educational Cess and Secondary and Higher Education Cess amounting to ₹ 1.93 crore. As the Cenvat credit of Education Cess, Secondary and Higher Education Cess and Krishi Kalyan Cess are not eligible duties for transition under the Act, the credit claimed by the taxpayer on these duties was irregular.

When this was pointed out (December 2021), the Ministry accepted (May 2023) the audit observation and stated that a Show Cause Notice (SCN) has been issued to the taxpayer.

**b)** A taxpayer coming under the jurisdiction of Mumbai East Central Tax Commissionerate had claimed closing balance of Cenvat

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<sup>83</sup> PLA is a mandatory requirement of Rule 8A of Central Excise Rules for deposit of Central Excise duty; Circular No.249/83/96-CX dated 11<sup>th</sup> October 1996

credit carried forward from legacy service tax returns under Section 140(1) of Act. Total Cenvat credit carried forward through table 5(a) of Tran 1 return amounted to ₹ 35.00 crore. During the verification of the claim, Audit noticed that the taxpayer had irregularly carried forward the closing balance of Education cess, Secondary and Higher Education Cess and Krishi Kalyan Cess along with the eligible credit balances. The ineligible duties of cess carried forward in this case amounted to ₹ 1.40 crore.

When this was pointed out (June 2022), the Ministry accepted the audit observation (May 2023) and stated that DRC-01A has been issued to the taxpayer.

#### **5.6.2 Closing balance of credit in the last returns (Table 5(a) of Tran 1)**

As per Section 140(1) of the Act, a registered person, other than a person opting to pay tax under Section 10, shall be entitled to take in his Electronic Credit Ledger the amount of Cenvat Credit of Eligible duties carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed. The registered person shall not be allowed to take credit in the following circumstances.

- (i) where the said amount of credit is inadmissible as input tax credit under the Act; or
- (ii) where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date; or
- (iii) where the said amount of credit relates to the goods manufactured and cleared under such exemption notification as are notified by the Government.

In order to claim the closing balance of credit in the last legacy returns under this Section, the taxpayers had to use Table 5(a) of the Tran 1 return. Audit examined 1119 claims under this category involving transitional credit of ₹ 13,565.94 crore.

Audit noticed that in 21 claims the taxpayers had transitioned credit in excess of the closing Cenvat credit balance in their legacy return filed for the period ending with the day immediately preceding the appointed day. Excess credit transitioned in these cases amounted to ₹ 9.32 crore.

When this was pointed out, the Ministry accepted the audit observations in 15 cases involving irregular credit of ₹ 7.98 crore recovery of ₹ 1.11 crore was made in four cases. The top five irregularities noticed

under this category amounted to ₹ 6.39 crore. An illustrative case is featured below.

A taxpayer coming under the jurisdiction of Gurugram Central Tax Commissionerate had claimed transitional credit of ₹ 6.44 crore in table 5(a) of Tran 1 under Section 140(1) of the Act. However, Audit noticed that the eligible credit as per the legacy ER1<sup>84</sup> returns for the period ending with the day immediately preceding the appointed day was only ₹ 4.71 crore, resulting in excess credit carried over amounting to ₹ 1.48 crore.

When this was pointed out (December 2021), the Ministry accepted the audit observation and stated that SCN is issued to recover excess credit claimed (May 2023).

### **5.6.3 Un-availed credit on capital goods (Table 6(a) of Tran 1)**

As per Section 140(2) of the Act, a registered person other than a person opting to pay tax under Section 10, shall be entitled to take in his Electronic Credit Ledger, credit of unavailed Cenvat Credit in respect of capital goods, not carried forward in a return, furnished under the existing law by him for the period ending with the day immediately preceding the appointed day. The Section also provided that the registered person shall not be allowed to take credit unless the said credit was admissible as Cenvat credit under existing law and is also admissible as input tax credit under this Act.

The unavailed Cenvat credit for this purpose means the amount that remains after subtracting the amount of Cenvat credit already availed in respect of capital goods by the taxable person under the existing law from the aggregate amount of Cenvat credit to which the said person was entitled in respect of the said capital goods under the existing law.

Credit in respect of unavailed portion of capital goods was to be claimed in Table 6(a) of Tran 1 return. Audit examined 598 claims involving transitional credit of ₹ 758.01 crore during the supplementary audit under this category.

Audit noticed irregularities in 30 claims, involving irregular transitional credit amounting to ₹ 11.50 crore. The deviations were due to ineligible or excess credit claimed; and availing of 100 per cent credit on capital goods as unavailed portion of Cenvat credit on capital goods, which was inadmissible.

<sup>84</sup> Under the legacy regime, every assessee had to submit a return electronically through the ACES system (Automation of Central Excise and Service Tax system) as specified under Rule 7 of Service Tax Rules 1994 and Rule 12(5) of the Central Excise Rules, 2002.

**(i) Irregular credit claimed**

As per the proviso under Section 140(2) of the Act, transitional credit shall not be allowed unless the credit was admissible as Cenvat credit under the existing Cenvat Credit Rules, 2004 and is also admissible as input tax credit under the Act. As per Rule 2(a) of Cenvat Credit Rules, 2004, capital goods means the goods, which were used:

1. in the factory of the manufacturer of the final products but does not include any equipment or appliances used in an office.
2. for providing output services

Thus, the credit on capital goods is permissible only on the goods, which were used in the manufacturing or provision of services under the existing laws and are also being used for taxable supply under GST.

In five claims, Audit noticed that the taxpayers had claimed credit on capital goods amounting to ₹ 0.30 crore, which were either ineligible for credit under the existing laws or claimed in excess.

When this was pointed out, the Ministry accepted the audit observation in all the cases and intimated recovery of ₹ 0.26 crore in three cases. An illustrative case is featured below:

A taxpayer coming under the jurisdiction of Chennai North Commissionerate had claimed transitional credit of unutilised Cenvat credit on capital goods amounting to ₹ 1.13 crore under Section 140(2) of the Act. During verification of the claim, Audit noticed that the transitional credit claim under this Section included 52 invoices pertaining to capital goods involving Cenvat credit of ₹ 0.11 crore on which the taxpayer had already claimed 100 per cent Cenvat credit under the legacy rules. Thus, the credit claimed under the Section was not eligible for transition. The ineligible credit claimed on these capital goods amounted to ₹ 0.11 crore.

When Audit pointed this out (July 2022), the Ministry stated (May 2023) that the amount was recovered along with interest of ₹ 0.09 crore.

**(ii) Availing of 100 per cent credit on capital goods**

As per Rule 4(2)(a) of Cenvat Credit Rules, the credit in respect of capital goods at any point of time in a financial year shall be taken only for an amount not exceeding 50 per cent of the duty paid on such capital goods in the same financial year. Hence, the Section provides for transition of 50 per cent of the credit in respect of capital goods on which credit was claimed under the legacy returns. The restriction is in line with the provisions of the existing rules to safeguard against potential misuse of credit on goods that are either ineligible for credit or on which benefit of

depreciation on the Cenvat credit portion was claimed under Section 32 of the Income Tax Act 1961.

This view was also expressed in para 5.1 of the CBIC's guidance note, which states that if no credit was availed earlier, the credit of entire amount cannot be claimed through Table 6(a).

Audit noticed irregularities in 25 claims, wherein the taxpayers had claimed 100 per cent credit on the capital goods as unavailed portion of Cenvat credit. Irregular transitional credit involved in these claims amounted to ₹ 11.20 crore.

When this was pointed out, the Ministry accepted the audit observations in 15 cases involving irregular credit of ₹ 10.69 crore and recovery of ₹ 0.13 crore was made in three cases. The top five deviations noticed under this category amounted to ₹ 10.03 crore. Two illustrative cases are featured below.

**a)** A taxpayer coming under the jurisdiction of Jabalpur Central Tax Commissionerate had claimed transitional credit of the unavailed portion of Cenvat credit on capital goods under Section 140(2) of the Act amounting to ₹ 36.25 crore. On scrutiny of the claim under this section, Audit noticed that the taxpayer had claimed 100 per cent credit in respect of some of the capital goods, which was not permissible under the existing law. The credit involved in these cases amounted to ₹ 6.83 crore.

When this was pointed out (May 2022), the Ministry accepted the audit observation and stated (May 2023) that SCN was issued to the taxpayer.

**b)** A taxpayer coming under the jurisdiction of Bhopal Central Tax Commissionerate had claimed transitional credit of ₹ 15.71 crore under section 140(2) of the Act. During the verification of the claim, Audit noticed that in respect of 55 invoices, the taxpayer had claimed transitional credit of ₹ 1.99 crore representing 100 per cent duty paid on capital goods. This was not permissible under the extant provisions.

When this was pointed out in (October 2022), the Ministry accepted the audit observation and stated (May 2023) that SCN was issued to the taxpayer.

#### **5.6.4 Credit on duty paid stock (Table 7(a) A and B of Tran 1)**

As per Section 140(3) of the Act, a registered person, who was not liable to register under the existing law or who was engaged in the manufacture of exempted goods or provision of exempted services or who was providing works contract service and was availing of the benefit

of notification No. 26/2012—Service Tax, dated 20th June, 2012 is entitled to take, in his Electronic Credit Ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions.

- (i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;
- (ii) the said registered person is eligible for input tax credit on such inputs under this Act;
- (iii) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs;
- (iv) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day; and
- (v) the supplier of services is not eligible for any abatement under this Act.

Provided that where a registered person, other than a manufacturer or a supplier of services, is not in possession of an invoice or any other document evidencing payment of duty in respect of inputs, then, such registered person shall also be allowed to take credit at such rate and in such manner, subject to such conditions as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient.

#### **A) Claims with duty paid documents**

The transitional credit under this Section was to be claimed under Table 7(a)A of tran 1 return, duly indicating the quantity of duty paid goods held in stock as on the appointed date. Audit examined 909 claims under this category involving transitional credit claim of ₹ 1,706.28 crore.

Audit noticed deviations in 48 claims involving irregular transitional credit of ₹ 11.64 crore. The deviations were in the nature of ineligible or excess credit claimed, credit claimed on time barred documents, credit claimed without supporting documents and credit claimed on duty paid goods either not in stock or in excess of declared stock.

Significant audit findings under each of these categories are discussed in the subsequent paragraphs.

**(i) Ineligible credit claimed**

Credit under Section 140(3) of the Act is permissible in respect of eligible duties paid on inputs held in stock and inputs contained in semi-finished goods or finished goods held in stock on the appointed day. Hence, the credit in respect of input services is not envisaged under the Section. Further, the eligibility of credit on the goods depends upon the condition that the goods are used or intended to be used for making taxable supplies under the Act for which input tax is eligible.

In 18 claims, Audit noticed that the taxpayers had transitioned ineligible credit of ₹ 3.67 crore. Deviations are in the nature of credit claimed on ineligible items, excess credit claimed, and credit claimed on capital goods.

When this was pointed out, the Department accepted audit observations in nine cases involving ineligible credit of ₹ 2.26 crore, and recovery of ₹ 0.02 crore was made in two cases. The top five deviations noticed under this category amounted to ₹ 3.00 crore. An illustrative case is featured below.

A taxpayer coming under the jurisdiction of Indore Central Tax Commissionerate was an importer dealer registered under the legacy central excise regime. The taxpayer had claimed transitional credit of Cenvat credit of duties paid in respect of goods under Section 140(3) of the Act, amounting to ₹ 2.02 crore. During verification of the claim, Audit noticed that the taxpayer had claimed ₹ 1.39 crore in respect of the goods which were supplied to the job workers under the erstwhile job-work provisions of the Central Excise Act. However, Audit noticed that the taxpayer was neither a registered manufacturer under Central Excise nor had taken necessary permission to manufacture excisable goods on job-work basis, under the Central Excise Act. The taxpayer was infact supplying the imported goods to the job-worker through Cenvat invoices as mentioned in the dealer return furnished by them. Thus, the credit claimed by the taxpayer was on the goods which were consigned to the job-worker duly passing on the Cenvat credit components. Hence, the credit claimed by the taxpayer in these cases was ineligible under the provisions of Section 140(3) of the Act. The irregular credit claimed in this case amounts to ₹ 1.39 crore.

When this was pointed out (May 2022) the Ministry accepted the observation and stated (May 2023) that SCN was issued to recover the irregular credit claimed.

**(ii) Credit claimed on time barred documents**

One of the conditions specified for claims under Section 140(3) of the Act was that the invoices or other prescribed documents should not have been issued earlier than twelve months immediately preceding the appointed day. Hence, the credit on documents or invoices issued earlier than 30<sup>th</sup> June 2016 were not eligible for credit under the Act.

In 18 claims, Audit noticed that the taxpayers had claimed transitional credit of duty paid on goods held in stock on the appointed day based on the documents issued earlier than 12 months from the appointed day. Irregular transitional credit claimed on these documents amounted to ₹ 0.42 crore.

When this was pointed out, the Ministry accepted the audit observations in 15 cases involving ineligible credit of ₹ 0.32 crore, and recovery of ₹ 0.29 crore was made in 13 cases. An illustrative case is featured below.

A taxpayer coming under the jurisdiction of Delhi South Central Tax Commissionerate had claimed transitional credit of ₹ 1.59 crore in Table 7a(A) of Tran 1 return for the duty paid goods held in stock on the appointed day. On verification of the duty paid documents produced in support of the claim, Audit noticed that some of the duty paid documents were issued earlier than 12 months from the appointed date. Hence, the same were time barred for claiming the credit under the Act. The irregular credit claimed on these time barred documents amounted to ₹ 0.09 crore.

When this was pointed out (September 2022), the Ministry accepted the audit observation and stated (May 2023) that the amount was recovered along with applicable interest.

**(iii) Credit claimed on duty paid goods either not in stock or not consigned to the taxpayer**

Transitional credit of duty paid on goods is available if the registered person had held such goods in stock on the appointed day and he is in possession of the invoices or other prescribed documents evidencing duty payment.

In 12 claims, Audit noticed that the taxpayers had claimed credit of duty paid on the goods not in possession or consigned to different geographical locations, and thus not eligible for credit. Irregular credit claimed in these cases amounted to ₹ 7.55 crore.

When this was pointed out, the Ministry accepted the audit observation in 10 cases involving irregular credit of ₹ 7.15 crore and recovery of ₹ 0.93 crore was made in one case, including interest of ₹ 0.45 crore. The top five cases noticed under this category amounted to ₹ 6.72 crore. Two illustrative cases are featured below.

**a)** A taxpayer coming under the jurisdiction of Indore Central Tax Commissionerate had claimed transitional credit of ₹ 3.46 crore in respect of duty paid goods held in stock on the appointed date under Section 140(3) of the Act. During verification of the duty paid documents, Audit noticed that in many cases the consignee was different from the claimant evidencing that the taxpayer was not in possession of the goods as on the appointed day, for which credit was claimed. The goods for which credit was claimed were consigned to different geographical locations across the country for usage and the taxpayer was not in possession of the goods. Thus, the credit ₹ 2.75 crore claimed on these documents was irregular.

When this was pointed out (April 2022), the Ministry accepted the audit observation (May 2023).

**b)** Another taxpayer coming under the Indore Central Tax Commissionerate had claimed transitional credit of duty paid on finished goods held in stock on the appointed day under Section 140(3) of the Act amounting to ₹ 2.86 crore. The taxpayer had filed the details of goods held in stock on the appointed date in respect of which duty paid documents were available. During verification of the claim, Audit noticed that in many instances either the consignee was different from the claimant evidencing that the taxpayer was not in possession of the goods, or the duty paid documents were not available with them. Thus, the taxpayer was not eligible for credit on the goods, which were not held in stock by them or without duty paid documents. The irregular credit claimed on these goods amounted to ₹ 2.52 crore.

When this was pointed out (May 2022), the Ministry accepted the audit observation (May 2023).

### **B) Claim without duty paid documents**

A registered person when not in possession of documents evidencing payment of duty, is also eligible for taking credit in respect of duty paid goods held in stock if he has passed on the benefit of such credit by way of reduced prices to the recipient. This scheme of deemed credit was available only to taxpayers other than a manufacturer or a supplier of services who was not in possession of invoice or any other document

evidencing payment of duty in respect of inputs held in stock as on the appointed day. The scheme was applicable for a period of six months from the appointed date and the credit was to be availed subject to the conditions specified under Rule 117(4) of CGST Rules.

The registered person availing this scheme had to specify separately the details of stock held on the appointed day in accordance with the provisions of clause (b) of Rule 117(2) of CGST Rules 2017. However, the benefit of input tax credit was restricted to 60% of tax payable on such goods, which attract CGST at the rate of nine per cent or more, and 40% of tax payable for other goods on supply of such goods after the appointed date. The amount of input tax credit shall be credited to Electronic Credit Ledger after the central tax applicable on such supply has been paid, as declared in Tran 2 return.

The transitional credit under this Section was to be claimed under Table 7(a)B of Tran 1 return. Audit examined 49 claims under this category.

Deviations were noticed in four claims involving irregular credit claim of ₹ 0.42 crore. The deviations were in the nature of credit claimed on stock through Tran 1 without filing Tran 2<sup>85</sup>.

When this was pointed out, the Ministry stated that in one case the taxpayer had filed revised Tran return; in two cases audit observations were accepted. An illustrative case is featured below.

**(i) Input tax credit claimed without filing Tran 2**

Taxpayers had to furnish details of stock held on the appointed date on which credit was claimed in Table 7(a)B of Tran 1 return. Eligible credit in respect of the goods was to be credited to Electronic Credit Ledger of the taxpayer on filing Tran 2 returns duly indicating the supply of these goods on payment of GST. The proportionate credit afforded to the Electronic Credit Ledger would be based on the rate of tax paid on the supplies as declared in Tran 2 returns.

A taxpayer coming under the jurisdiction of New Delhi West Central Tax Commissionerate had claimed credit in respect of duty paid goods held in stock under Table 7(a)B of Tran 1 return. An amount of ₹ 0.17 crore was claimed representing the duty paid on the goods held in stock for which the documentary evidence for payment of duty was not available. On verification of the claim, it was noticed that the amount claimed

<sup>85</sup> Details of inputs held on stock on appointed date in respect of which taxpayer is not in possession of any invoice/document evidencing payment of tax carried forward to Electronic Credit ledger.

through Tran 1 was credited to the Electronic Credit Ledger even when the taxpayer had not filed Tran 2 return. Thus, the credit afforded to Electronic Credit Ledger without effecting the supply of these goods on payment of GST, was irregular.

When this was pointed out (July 2022), the Ministry accepted the audit observation and stated (May 2023) that SCN was issued to the taxpayer demanding irregular credit.

#### **5.6.5 Inputs/Input services in transit**

Section 140(5) of the Act provides that a taxpayer shall be entitled to take credit of eligible duties and taxes in respect of inputs or input services received on or after the appointed day but the duty or tax in respect of which has been paid by the supplier under existing law, subject to the condition that the invoice or any other duty or tax paying document of the same was recorded in the books of account of such person within a period of 30 days from the appointed date or within such further extended 30 days period as permitted by the Commissioner<sup>86</sup>.

The credit under Section 140(5) was to be claimed under Table 7(b) of Tran 1 return. Audit examined 698 claims under this category involving transitional credit of ₹ 918.58 crore.

Audit noticed irregularities in 18 claims involving irregular transitional credit of ₹ 7.21 crore, which are in the nature of availing credit on invoices not accounted for within the prescribed time limit; transitioning ineligible or excess credit; and irregular credit claimed on capital goods.

Significant audit findings are discussed in the subsequent paragraphs.

#### **(i) Credit claimed on documents not accounted for within the prescribed time**

As discussed above, section 140(5) of the Act provides conditions for the Credit claimed on documents not accounted for within the prescribed time limit.

Audit noticed deviations in eight claims involving transitional credit of ₹ 1.69 crore where the taxpayers had claimed transitional credit on supplies not accounted within the time limit of 60 days.

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<sup>86</sup> The Commissioner has power to condone the delay in accounting the tax paid documents beyond 30 days from the appointed date, for a further period not exceeding 30 days on sufficient cause shown.

When this was pointed out, the Ministry accepted audit observations in five cases involving transitional credit of ₹ 1.00 crore. The top four deviations under this category amounted to ₹ 1.66 crore. An illustrative case is featured below.

A taxpayer coming under the jurisdiction of Gurugram Central Tax Commissionerate had claimed transitional credit of ₹ 0.68 crore for the duty paid on inputs and input services in transit under Section 140(5) of the Act. During the verification of the claim, Audit noticed that the duty paid documents on which credit claimed were accounted in the books of account after 100 days from the due date specified for accounting under the section. Hence, the credit claimed on these documents were ineligible for transition and ineligible credit involved in this case amount to ₹ 0.68 crore.

When this was pointed out (December 2021), the Ministry stated (May 2023) that taxpayer claimed credit on input services and not on goods, hence eligible for credit. Reply is not tenable as the credit taken documents were not accounted for in the books of accounts within the time limit specified under the Act.

**(ii) Ineligible or excess credit claimed**

Section 140(5) of the Act provides for the transition of eligible duties and taxes in respect of inputs or input services received on or after the appointed day. Hence, the provision does not envisage transition of Cenvat credit on capital goods received on or after the appointed day. Further, the eligibility of inputs or input services is determined by the usage of such supplies.

Audit noticed that in 10 cases taxpayers had claimed ineligible or excess credit on inputs or input services under section 140(5) of the Act, involving transitional credit of ₹ 5.52 crore.

When this was pointed out, the Ministry accepted the observation in six cases involving transitional credit of ₹ 4.40 crore. The top five deviations under this category amounted to ₹ 5.37 crore. An illustrative case is featured below.

A taxpayer coming under the jurisdiction of Raipur Central Tax Commissionerate had claimed transitional credit of ₹ 17.28 crore under Section 140(5) of Act on inputs and input services received on or after the appointed date. On verification of the claim under Table 7(b) of Tran 1 return, it was noticed that the taxpayer had claimed credit on various capital goods like Rotor assembly, storage tank, conveyor belts, pumps

and parts or accessories thereof in the Table, which are not eligible. Therefore, the credit claimed of ₹ 3.74 crore on these capital goods was irregular.

When this was pointed out (April 2022), the Ministry accepted the audit observation (May 2023).

**5.6.6 Credit in respect of registered persons with centralized registration under the existing law (Table 8 of Tran 1)**

As per Section 140(8) of Act, a registered person having centralised registration under the existing law who has obtained a registration under GST Act shall be allowed to take, in his Electronic Credit Ledger, credit of the amount of Cenvat credit carried forward in a return, furnished under the existing law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed. The credit claimed under the sub section is eligible for transfer to any of the registered persons having the same Permanent Account Number (PAN) for which the centralized registration was obtained under the existing law.

Credit under this category was to be claimed for transfer under Table 8 of Tran 1 return. Audit verified 59 claims under this category and noticed irregularities in two cases involving transitional credit of ₹ 2.83 crore. An illustrative case is detailed below:

**Excess credit claimed**

The transition of credit under Section 140(8) is subject to the condition that the registered person had furnished his return for the period ending with the day immediately preceding the appointed day within three months of the appointed day, and the said return is either an original return or a revised return. The revised return can only reduce the claim vis-à-vis the credit claimed earlier. Further, the credit should be admissible as input tax credit under GST Act.

A taxpayer who was centrally registered under the existing law falling under Delhi South Central Tax jurisdiction had claimed the transitional credit of Cenvat credit from the legacy service tax returns, under Section 140(8) of the Act. The taxpayer had carried forward closing balance of Cenvat credit of ₹ 99.78 crore (Net of cess credits claimed) from the revised ST3 return for the period ending with the day immediately preceding the appointed day, filed during September 2017. The amount claimed was credited to the Electronic Credit Ledger and was distributed among its other units having the same PAN number. During the verification of the claim, it was noticed that in the original ST3 return

filed during August 2017, the taxpayer had closing balance of Cenvat credit amounting to ₹ 97.08 crore (Net of cess credits claimed). Thus, the taxpayer had carried forward credit from their revised return which had higher amount of credit balance. This was in contravention to the rule provisions, which stipulate that revised return is permissible only when the credit had been reduced from that claimed earlier. Hence, the excess Cenvat credit carried forward representing the revised amount of credit from the legacy return amounted to ₹ 2.69 crore.

When this was pointed out (September 2022), the Ministry accepted the audit observation (May 2023).

#### **5.6.7 Non-payment of interest on ineligible transitional credit**

Rule 117(3) of CGST Rules, 2017 specifies that the amount of credit specified in the application in Form GST Tran 1 shall be credited to the ECL of the applicant maintained in Form GST PMT 2 on the common portal. As per Rule 121, the recovery of amount credited under sub-Rule (3) of Rule 117 may be initiated under Section 73 or Section 74 of the Act, as the case may be. The proceedings under Section 73 or 74 shall require the taxpayer to pay the credit along with interest payable thereon under Section 50 of the Act.

Further, Section 50(1) of the Act stipulates that every person liable to pay tax in accordance with the provisions of this Act or 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 18 per cent.

Audit noticed that in 11 cases, the Department had recovered irregular transitional credit claimed by the taxpayers amounting to ₹ 0.98 crore. However, Audit noticed that the interest payable on irregular credit claimed amounting to ₹ 0.21 crore was not recovered.

When this was pointed out, the Ministry accepted the audit observation in six cases amounting to ₹ 0.03 crore and interest amounting to ₹ 0.02 crore was recovered in four cases.

#### **5.6.8 Other cases**

Apart from the SSCA on transitional credit, Audit had also verified transitional credit claims during the compliance audits taken up during the years 2018-19 and 2019-20. The significant findings emerging out of these audits had already been communicated to the jurisdictional field formations of CBIC. Out of 22 deviations involving transitional credit of ₹ 10.60 crore noticed during these compliance audits, the Department

had accepted the observations in 21 cases, involving transitional credit of ₹ 10.50 crore. The top five deviations under this category amounted to ₹ 7.49 crore. An illustrative case is featured below.

A taxpayer coming under the jurisdiction of Mumbai-west Central Tax Commissionerate had claimed transitional credit of ₹ 2.53 crore representing closing balance of Cenvat credit as per legacy ST3 returns for the period ending with the day immediately preceding the appointed day, under section 140(1) of the Act. During the verification of the claim, it was noticed that the taxpayer was into renting of immovable property services and had claimed Cenvat credit on works contract services used for construction of the buildings. The Cenvat credit on works contract services was not permissible under erstwhile Cenvat Credit Rules as the taxpayer was not involved in provision of such services. Hence, the credit claimed was *ab initio* ineligible, and the amount of ineligible credit transitioned in this case amount to ₹ 2.53 crore.

When this was pointed out (February 2020), the Department/ministry accepted the audit observation and intimated (August 2021) the recovery of the entire credit and issue of SCN demanding interest of ₹ 1.35 crore.

#### **5.6.9 Conclusion and Recommendations**

In the Subject Specific Compliance Audit on Transitional Credits under GST reported in Chapter VI of the CAG Audit Report Number 5 of 2022 (Indirect Taxes: Goods and Service Tax), Audit had pointed out substantial scope limitation as records relating to 954 claims, constituting 11 per cent of the sample size of 8,514 claims, were not produced. Further, records relating to 2,209 claims, constituting 26 per cent of the sample size were partially produced.

The CAG Audit Report had also highlighted 1,688 compliance deviations out of 7,560 cases examined, with a revenue implication of ₹ 977.54 crore, constituting a deviation rate of 22 per cent. Since 79 per cent of these irregularities pertained to the cases that were already verified by the Department, Audit pointed out inadequacies in the Department's verification process. The report also highlighted significant deviations observed due to control lapses/lack of validations at data level, suggesting inherent risks involved in the transitional claim process.

The supplementary audit was undertaken primarily to provide an opportunity to the Department to provide the records not produced or partially produced during the SSCA on Transitional Credits under GST and evaluate the claims for compliance with the Act /Rules. However, even

in the supplementary audit, there was substantial non-production and partial production of records constituting a significant scope limitation. Out of the 954 claims not produced earlier, only 354 claims were fully produced. Overall deviation rate arising out of these audited cases was 17 per cent. Further, in 238 claims records were partially produced for audit as underlying records such as duty paid documents, asset ledger and stock statements etc. were not produced. As a result, Audit could not be completed in these cases.

Similarly, out of the 2,209 claims that were partially produced during the earlier audit exercise, in 1,106 claims no additional records were provided by the Department during the supplementary audit. This constitutes a significant scope limitation for this audit.

Notwithstanding the substantial non-production of records, out of 1,698 claims audited either fully or partially, deviations were noticed in 188 cases involving transitional credit of ₹ 55.15 crore. The deviations noticed were broadly in line with the deviations reported in the SSCA reported earlier and relatively higher number of deviations were noticed in the following categories viz: ineligible duties carried forward; ineligible credit on duty paid goods held in stock and irregular claim on unavailed credit on capital goods. In view of the above compliance findings, Audit reiterates the recommendations contained in Chapter VI of the CAG Audit Report Number 5 and recommends the following:

The Department may:

1. Ensure verification of the cases not produced/partially produced for audit and provide the outcome to Audit.
2. Initiate verification of high risk claims reflected in Table 6(a) of Tran 1 (irregular claim on unavailed credit on capital goods) and Table 7(a)(A) of Tran 1 (Credit on duty paid stock with invoices) identifiable through data level inconsistency.
3. Ensure remedial measures are taken for the compliance deviations pointed out during the audit of Transitional credit under SSCA as well as under supplementary audit of SSCA before the claims get time barred.



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

### 6.1 Introduction

Information Technology plays a vital role in the administration of Goods and Services Tax. It provides the platform for tax compliance required under law, constitutes the interface with taxpayers and aids tax administration in collection of revenue. Most processes in the GST system are performed online<sup>87</sup> and several processes are carried out without human intervention<sup>88</sup>. Tax payment is on the basis of self-assessment<sup>89</sup>. The tax officer is required to intervene only when he has reason to believe that there is a shortcoming in the information provided<sup>90</sup> or when a taxpayer has defaulted. The government initially envisaged rolling out “invoice-matching” to ensure system-verified flow of input tax credit. However, this has not been implemented so far. Later, the Government issued notifications restricting the claim of provisional ITC in excess of what was available to them to specific limits through the system<sup>91</sup> to restrict availing of excess/ineligible credit by taxpayers. Finally, vide Notification<sup>92</sup> issued in 2021, taxpayers were disallowed from availing ITC in excess of what is available through the system.

Since more than 1.36 crore taxpayers<sup>93</sup> are brought under this system, it is not feasible for Central and State GST administrations to scrutinize returns of all the taxpayers. Therefore, the government has proposed selective scrutiny<sup>94</sup>. In such a scenario, it is important to ensure quality and integrity of data, based on which tax administration can intervene effectively through a risk-based approach.

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<sup>87</sup> Registration, change in registration types, amendments in registration details, cancellation, refunds, payment of taxes, filing of returns through various forms, tax officers' communications with taxpayers are done online.

<sup>88</sup> Auto-drafted ITC availability, auto-drafted GSTR-3B etc.

<sup>89</sup> Section 59 provides for Self-assessment

<sup>90</sup> As per Section 61, the assessment officer may scrutinize the returns and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed.

<sup>91</sup> ITC available was shown to taxpayer in GSTR-2A, which is auto-drafted from GSTR-1 filed by their suppliers. Sub-rule (4) to Rule 36 has been inserted with effect from 09.10.2019 vide Notification No. 49/2019 – Central Tax dt. 09.10.2019, restricting claim of ITC in excess of 20 per cent, which was later reduced to 10 per cent and 5 per cent, with effect from 1.1.2020 and 1.1.2021, respectively

<sup>92</sup> Notification No. 40/2021 – Central Tax dated 29 December 2021.

<sup>93</sup> Source: <https://www.gst.gov.in/download/gststatistics>

<sup>94</sup> Instruction No. 02/2022-GST dated 22 March 2022 envisages selection of taxpayers for scrutiny of returns based on risk parameters. The assessment officer shall conduct scrutiny of return pertaining to minimum of 3 GSTINs per months.

During 2021-22, Audit analysed the GST returns data pertaining to the period 2017-18 to 2019-20, as filed by taxpayers up to August 2021, and noticed significant data inconsistencies between the taxable value and declared tax liability. Inconsistencies were also noticed between the CGST and SGST components of GST, and between ITC figures captured in GSTR-3B and GSTR-9 returns. As a result of such significant inconsistencies in the GST data, Audit could not establish the reliability of data for the purpose of finding audit insights and trends in GST revenue and assessing high risk areas such as tax liability and ITC mismatch at the pan-India level. Accordingly, Audit recommended that the Ministry should consider introducing appropriate validation controls (controls which prevent unreasonable data entries or alert the taxpayer to unreasonable data or both) supplemented by post-facto data analytics in respect of important data elements where data (such as tax amounts; taxable values; tax components, like CGST and SGST; validation of ITC and tax amounts, between the annual and monthly returns) is entered by the taxpayer. An effective review and follow up system needs to be developed at GSTN to review and address cases of data inconsistencies. In case of significant deviations, tax officers may be alerted to the inaccuracies and directed to take necessary action. These findings were reported in Chapter-IV of Audit Report No. 5 of 2022<sup>95</sup>.

## **6.2 Audit Objectives**

This is a follow-up audit that has been taken up with a larger number of checks for assessing the quality of GSTN data. This audit seeks an assurance on whether:

- (i) Data collected from taxpayers in various returns are comprehensive and accurate and can be reliably used by tax administration.
- (ii) A system is in place to detect significant data inconsistencies and these are being communicated to the taxpayers and tax administration.
- (iii) Whether the Ministry/GSTN has addressed the issue of GSTN data inconsistencies, as reported by Audit, and introduced adequate validation controls to restrict entry of unreasonable data by taxpayers.

## **6.3 Scope of audit**

The analysis of data was done on the following GST returns data, provided to Audit, for the period 2017-18 to 2020-21:

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<sup>95</sup> Report No.5 of 2022-: <https://cag.gov.in/en/audit-report/details/116623>

- (i) GSTR-1 (Filed monthly/quarterly by suppliers showing all outward supplies, including invoice details of supplies to other registered taxpayers)
- (ii) GSTR-2A (auto drafted monthly return indicating all the inward supply details of a taxpayer)
- (iii) GSTR-3B (monthly return, wherein suppliers declare summary of supplies, tax liability, ITC to be claimed on inward supplies and taxes paid)
- (iv) GSTR-9 (an annual return, containing taxpayer's declaration of the summary of the whole year's transactions, such as tax liabilities, payment of taxes, ITC claimed, ITC reversed, etc).

The description of various fields under GSTR 1, GSTR 2A, GSTR 3B & GSTR 9 are given in **Appendix-VII**.

#### **6.4 Methodology**

Audit analysed (June 2022) GST data covering the period 2017-18 to 2020-21. Data inconsistencies<sup>96</sup> were compiled and communicated to GSTN<sup>97</sup>. For this purpose, ten dimensions<sup>98</sup> of data inconsistencies were selected for detailed examination based on their criticality and associated risk. A sample of 200 cases<sup>99</sup> (20 cases for each of the ten selected criteria with highest deviations in terms of proportion) were test checked by Audit through field formations of CBIC, to corroborate the inconsistencies obtained through data analysis and to assess whether system alerts were generated and communicated to the Department regarding such data discrepancies/ inconsistencies. In none of the

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<sup>96</sup> Small inconsistencies in data were ignored, such as - (a) upto the difference of ₹ 1000 in general, (b) upto ₹ 100 for CGST and SGST difference, being transaction level data and could involve small amounts, and (c) upto 20 per cent in such cases where system allows taxpayers to declare additional liability such as in table-4 of GSTR-9 and also in table-6B to 6H of GSTR-9 where taxpayer may interchange ITC among different categories, which might have arisen due to oversight while declaring the same in GSTR-3B.

<sup>97</sup> Initial analysis was on GSTR-9 data for 2020-21 updated up to September 2021. Later, on receipt of updated data, for returns filed up to July 2022, the report was accordingly updated.

<sup>98</sup> Ten dimensions, for which field verification was carried out, are – (i) mismatch of ITC claimed in R3B and auto-populated ITC in R9 (ii) mismatch of ITC claimed in R3B and declared in R9, (iii) mismatch of ITC reversals in R3B and R9 (iv) Mismatch of tax liabilities between R3B and R9 (v) mismatch of tax payable and tax paid in R9 (vi) mismatch between CGST and SGST in R1, R3B and R9, (vii) effective tax rate exceeding 28per cent in R1, R3B and R9, (viii) short computation of tax payable in R1 (ix) Credit note availed after expiry of prescribed period and (x) amendments of invoice after expiry of prescribed period.

<sup>99</sup> 10 sample cases with highest deviations for each criteria in Kolkata Zone; 5 sample cases with highest deviations for each criteria in Bengaluru Zone; and 5 sample cases with highest deviations for each criteria in rest of India.

cases, test checked by Audit, the Department had received system alerts regarding discrepant/inconsistent data.

Audit also undertook analysis of three years' data in respect of sampled cases to examine whether the inconsistencies were isolated or persistent.

Prior to commencement of Audit, an entry conference was held with the CEO, Goods and Services Tax Network (October 2022) apprising the objective, methodology and scope of audit.

## 6.5 Audit findings

### 6.5.1 Inconsistency in input tax credit between monthly and annual returns

#### 6.5.1.1 Incorrect auto-population of ITC from monthly to annual return

(i) In terms of Section 39 of CGST Act 2017, read with Rule 67 and 80 of CGST Rule 2017, taxpayers claim ITC summarily, on a monthly basis, under different heads, such as from the import of goods/ services, received from ISD distributors<sup>100</sup>, on reverse charge<sup>101</sup> basis and other supplies, in Table 4A of GSTR-3B. As per the Instructions for filling GSTR-9 form, Table 6A of GSTR-9<sup>102</sup> is auto-populated from claims made in Table 4A of GSTR-3B, and it is non-editable. Since Table 6A of GSTR-9 is a non-editable field which is auto-populated from Table 4A of GSTR-3B by a taxpayer during a year, there should be no difference between amounts claimed as ITC as reflected in GSTR-3B and that reflected in GSTR-9, since the latter is an annual return of ITC based on the monthly amounts claimed.

Data analysis revealed that in 33,381 GSTR-9 returns, out of a total of 117 lakh GSTR-9 returns filed during 2017-21, **figures of Table 4A of GSTR-3B were not correctly auto-populated in table 6A of GSTR-9.** The year-wise details of inconsistencies are shown in the **Table-6.1** below.

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<sup>100</sup> Input Service Distributor (ISD) means an office of the supplier of goods or services, or both, which receives tax invoices towards receipt of input services and issues a prescribed document for the purposes of distributing the credit of central Tax (CGST), State Tax (SGST)/ Union Territory Tax (UTGST) or Integrated Tax (IGST), paid on the said services, to a supplier of taxable goods or services, or both having same PAN as that of the ISD.

<sup>101</sup> Reverse charge is a mechanism where the recipient of the goods or services is liable to pay Goods and Services Tax (GST), instead of the supplier.

<sup>102</sup> Total amount of ITC availed through Form GSTR-3B (sum total of table 4A of Form GSTR-3B).

**Table-6.1: Difference in ITC values between 4A of GSTR-3B and 6A of GSTR-9**  
(Amount in ₹ crore)

Return Year	ITC in 6A of GSTR-9 was less than ITC in 4A of GSTR-3B				ITC in 6A of GSTR-9 was more than ITC in 4A of GSTR-3B			
	Inconsistent GSTR-9 returns	ITC claims in 4A of R3B	ITC as per 6A of R9	Difference of 4A and 6A	Inconsistent GSTR-9 returns	ITC claims in 4A of R3B	ITC as per 6A of R9	Difference of 4A and 6A
<b>2017-18</b>	4,005	3,29,772	3,28,947	825	117	43,184	43,195	-11
<b>2018-19</b>	8,666	1,09,312	1,07,934	1,379	153	93,228	93,232	-4
<b>2019-20</b>	7,822	95,675	90,258	5,417	172	82,617	82,627	-10
<b>2020-21</b>	12,264	78,105	61,482	16,622	182	78,951	78,956	-5

*Difference amounts to 4 per cent of total ITC claimed in 4A of 3B.*

The data discrepancies in non-editable auto-populated fields of GSTR-9 cannot be attributed to data entry mistakes by the taxpayers and therefore, indicate deficiency in the GSTN system. Such data discrepancies may impact assessment of ITC claimed and could result in improper selection of cases for scrutiny by the department.

Audit pointed this out (August 2022). GSTN, while accepting the observation, attributed (October 2022) this to a system deficiency and assured to attend to the same on priority.

Audit examined 20 cases in detail. In 10 cases, the difference between 4A of GSTR-3B and auto-populated values in 6A of GSTR-9 was unusually high ranging from 13,625 per cent to 119 per cent of 6A values, which was implausible.

When Audit pointed this out (October 2022), the Department, in 10 cases, attributed (October 2022 to December 2023) the data discrepancy to the technical glitches and system error in the GST Portal. In one cases, the explanation was being sought from the taxpayer by the Department. In three cases, the Department was not aware of the discrepancy. In one case, the Department, on verification, found that the taxpayer had reversed the ITC. In the remaining five cases, the reply was awaited (January 2024).

A few illustrative cases are given below:

In the case of a taxpayer, GSTIN: 2XXXXXXXXXXXX4, of Pune-II CGST Commissionerate, the ITC claim as per table 4A of GSTR-3B for the year 2018-19 was ₹ 15.61 lakh, whereas auto-populated ITC amount in Table 6A of GSTR-9 was only ₹ 11,460.

When Audit pointed this out (October 2022), the Department stated (December 2022) that the taxpayer had reversed the ITC of ₹ 15.61 lakh.

Similarly, in another case, GSTIN: 0XXXXXXXXXXXXP, of Delhi West CGST Commissionerate, the ITC claim as per table 4A of GSTR-3B for the year 2020-21 was ₹ 10.70 crore, whereas auto-populated ITC amount in Table 6A of GSTR-9 was only ₹ 0.14 crore. Thus, the population of data from 4A of GSTR-3B to 6A of GSTR-9 in the above cases was incorrect.

When Audit pointed this out (October 2022), the Department stated (December 2022) that the mismatch was a technical/system issue.

Data discrepancies between ITC claim in GSTR-3B and declaration thereof in GSTR-9 were also reported by Audit in CAG's Audit Report No.5 of 2022. The persistent data discrepancies indicates that the action was yet to be taken by the Department to correct the deficiency in the system.

***Recommendation 1: Ministry/GSTN may address the persistent data discrepancies in auto-populated and non-editable fields of annual returns (GSTR-9).***

Audit pointed this out (January 2023). Reply of the Ministry was awaited (January 2024).

#### ***6.5.1.2 Incorrect auto-population of input tax credit (ITC) in the annual return from GSTR 2A***

As per Instruction (5) for filing GSTR-9, Table 8A of GSTR-9 records the total credit available for inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs) pertaining to a financial year and shall be auto-populated from GSTR-2A. Table 3 of GSTR-2A is the aggregate of the input tax credit available to a tax payer and is derived from declarations in GSTR-1 by all suppliers. Table 5 of GSTR-2A gives information on debit/credit notes in respect of supplies as stated in Table 3.

GSTR-2A of a recipient is dynamic in nature and its value may change on filing of GSTR-1/5 by his suppliers or on making amendments in old invoices. However, old invoices can be amended only upto September of the next FY to

which the original invoice pertains<sup>103</sup>. Due date of filing GSTR-9 is significantly later than the last date of allowing such amendments<sup>104</sup>. Further, as per the instructions for filing up of GSTR-9, Table 8A of GSTR-9 should aggregate all ITC that had been available in GSTR-2A on specific dates.<sup>105</sup>

Analysis of data of Table 8A of GSTR 9 and GSTR-2A (Table 3 and Table 5), revealed that in 1.96 lakh GSTR-9 returns, out of total 1.17 crore GSTR-9 returns filed, ITCs available in Table 8A were more than that in GSTR-2A (by at least rupees one lakh). Therefore, there was significant data discrepancy in the amounts populated in Table-8A of GSTR-9. The details are shown in **Table 6.2**.

**Table-6.2: ITC available as per 8A of GSTR-9 higher than ITC available in GSTR-2A**  
(Amount in ₹ crore)

Return Year	GSTR-9 returns with discrepancy (in lakhs)	GSTR-9 returns with discrepancy (in per cent)	ITC as per table 3 and 5 of GSTR 2A	ITC as per table 8A of GSTR 9	Difference in ITC available	Difference in ITC available (in per cent)
2017-18	0.87	2.0	5,25,000	5,37,046	12,046	2.3
2018-19	0.34	1.4	1,84,269	1,91,378	7,109	3.9
2019-20	0.32	1.2	1,62,765	1,66,424	3,659	2.2
2020-21	0.43	1.9	2,86,104	2,91,213	5,109	1.8

Table 8A of GSTR-9 provides the value of ITC available to the taxpayer, against which taxpayers is eligible to claim ITC. This information is useful for computation of ITC claimed in excess, if any. Hence, it is imperative to ensure correctness of information in Table 8A.

When pointed out (October 2022), GSTN stated (October 2022) that GSTR-2A, being a dynamic statement, would change even after filing of GSTR-9. GSTN provided a list of circumstances where GSTR-2A ITCs would not be included in Table 8A of GSTR-9: (i) GSTR-1/5 filed after filing of GSTR-9, (ii) Amendments made in GSTR-1/5 in the subsequent year, (iii) RCM table of GSTR-1 not taken into consideration, (iv) If the document falls under composition period of

<sup>103</sup> As per Section 37(3) of CGST Act, 2017, a taxpayer may rectify error or omission and shall pay the tax and applicable interest. No rectification of error or omission shall be allowed after filing of return for the month of September following the end of FY to which such details pertain, or filing of GSTR-9, whichever is earlier.

<sup>104</sup> Last date of filing GSTR-9 vis-à-vis last date of allowing amendments.

FY	Last date of permissible amendments in GSTR-1	Due date of Filing GSTR-9
2017-18	March 2019	5 <sup>th</sup> /7 <sup>th</sup> February 2020
2018-19	September 2019	30 June 2020
2019-20	September 2020	31 March 2021
2020-21	September 2021	28 February 2022

<sup>105</sup> For 2017-18- 1 May 2019; for 2018-19, 1 November 2019 and; for 2019-20, 1 November 2020

supplier (v) Documents uploaded after cancellation date are not accounted for in computation of ITC in Table 8A.

GSTN's reply that GSTR-1/5 filed after filing of GSTR-9 and subsequent amendments made therein led to the higher ITC in GSTR-9 than available in GSTR-2A is not acceptable in view of the fact that filing of GSTR-1/5 after GSTR-9 will lead to increase in ITC in GSTR-2A and thus, does not explain higher ITC in table 8A of GSTR-9. Further, filing of credit notes in GSTR-1 also does not explain such discrepancies as, out of 30 sampled cases<sup>106</sup>, in 21 cases the excess amount of 8A of GSTR-9 cannot be explained with downward amendments or credit notes appearing in GSTR-2A, even if they were posted by suppliers in GSTR-1 after filing of GSTR-9 by the recipient.

GSTN's reply that 'RCM table of GSTR-1 was not taken into consideration' is not acceptable as Audit took into account the impact of RCM table while comparing GSTR-2A with 8A of GSTR-9.

GSTN's reply that the "document may fall under composition period of supplier and documents uploaded after cancellation date are not accounted for in computation of ITC in Table 8A" is also not acceptable as these documents should equally impact GSTR-2A and 8A of GSTR-9.

One such case is illustrated below:

In respect of a taxpayer, GSTIN: 0XXXXXXXXXXXXU of Gurugram CGST Commissionerate, it was observed that against the non-RCM ITC available in GSTR-2A of ₹ 8.08 crore (as in September 2022), ₹ 29.46 crore was populated in Table 8A of GSTR-9, leading to a difference of 265 per cent. Further, Audit observed that the credit note of ₹ 0.42 crore, available as of September 2022 in GSTR-2A, cannot explain the difference of ₹ 21 crore between GSTR-2A and 8A of GSTR-9. Therefore, Table 8A of GSTR-9 was not correctly populated by the system from GSTR-2A.

***Recommendation 2: Ministry may review the process of auto-population of ITC value in table 8A of GSTR-9 (annual return) from GSTR-2A (details of auto-drafted supplies) to ensure correct amount is carried over from GSTR-2A to GSTR-9.***

Audit pointed this out (January 2023). Reply of the Ministry was awaited (January 2024).

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<sup>106</sup> These 30 samples were in addition to 200 samples for which field verification was done. The samples were shared with GSTN as an illustration only.

## 6.5.2 Inconsistency in tax liability between monthly and annual returns

### 6.5.2.1 Inconsistencies in liabilities on outward supplies between GSTR 9 and GSTR 3B

GSTR-3B is a monthly return in which taxpayers declare their tax liabilities summarily and settle them periodically. This includes liability on account of amendments of invoices filed in previous year and effected after the end of FY upto a prescribed period<sup>107</sup>. This information is captured in Tables 10 and 11 of GSTR 9. Thus, tax liability of GSTR-3B for the year is derived after making adjustment for payments/settlements on account of such amendments. Table 4N of GSTR-9 gives the total tax liability from all sources and adjustments on account of credit/debit notes and amendments brought into effect during the year. This also includes tax liability on inward supplies payable on reverse charge basis (declared in Table 4G of GSTR 9). So ideally, tax liability as available in GSTR-3B should correspond to tax liability as declared in Table 4N of R9.

Data analysis revealed that there was a difference of total outward tax liability between GSTR 9 and GSTR-3B, in 3.35 lakh out of 97.84 lakh returns, as shown in **Table 6.3**.

**Table-6.3: Difference<sup>108</sup> between outward tax liability settled in GSTR-3B and liability declared in GSTR-9**

(Amount in ₹ crore)

Return year	Population * (in lakhs)	R9 liability was more than R3B				R9 liability was less than R3B			
		Returns with significant differences (in lakhs)	R3B outward liability	R9 outward liability	Difference between R9 and R3B liability	Returns with significant differences (in lakhs)	R3B outward liability	R9 outward liability	Difference between R9 and R3B liability
2017-18	34.13	0.89	8,961	7,66,004	7,57,044	0.47	8,736	4,259	-4,477
2018-19	21.96	0.36	7,181	4,01,282	3,94,101	0.26	13,531	6,254	-7,277
2019-20	22.12	0.37	7,284	13,983	6,698	0.29	14,578	4,899	-9,679
2020-21	19.63	0.35	6,295	6,65,072	6,58,777	0.36	26,520	2,503	-24,017

\* Number of cases with outward tax liability and GSTR-9 filed.

As can be seen from the table above, in 1.97 lakh returns GSTR-9 liabilities exceeded GSTR-3B liabilities, while in 1.38 lakh returns, GSTR-9 liabilities were lower. Further, it was also observed that GSTR-9 does not capture the additional tax liability arising in cases where declared outward tax liability in GSTR-9 exceeded the settled tax liability in GSTR-3B.

<sup>107</sup> As per section 37 of CGST Act, up to September of the FY, next to FY in which invoice was issued, or filing of GSTR-9 whichever is earlier.

<sup>108</sup> by more than 20 per cent

Declaration of significantly large additional liability in GSTR-9 either indicates incorrect data capture or procrastination of tax payment by the taxpayer, which is liable to interest charge for delayed payment of taxes. It is important to mention here that additional tax liabilities declared in GSTR-9 are required to be made through DRC-03 challans.

When Audit pointed this out (October 2022), GSTN stated (October 2022) that Table 4 of R9 (except 4G) is auto-populated from GSTR-1 and there is no correlation with the values in GSTR-3B. Therefore, validation cannot be implemented based on both GSTR-1 and GSTR-3B. However, reports on difference between GSTR-1 and GSTR-3B liabilities are being shared with tax authorities for initiating necessary action. GSTN's reply was silent on the reasons for mis-match between outward tax liability between GSTR-9 and GSTR-3B.

Audit is of the view that GSTR-9 should capture the additional tax liability arising on account of difference between GSTR-9 and GSTR-3B so that both the taxpayer and the tax administration are aware of the excess tax liability.

During field verification of 20 sample cases with such discrepancies, Audit observed mis-matches in tax liability between GSTR3B and GSTR-9 ranging from ₹ 1.09 crore to ₹ 47.81 crore (260 per cent to 1, 86,991 per cent). Audit further observed that in seven cases, the difference in liability could be due to data entry error. Department admitted (November 2022) erroneous data entry by the taxpayers in four cases, sought explanation from the taxpayers in two cases and attributed system error in GST Portal in one case.

In five cases, taxpayers declared higher liability in GSTR-9 but did not pay the additional amount. The outstanding tax liability amounted to ₹ 32.61 core. In six cases, additional liability was paid with delay up to 21 months. In one case, the Department recovered ₹ 1.04 crore.

In the remaining one case, Audit could not ascertain the reasons for the discrepancies due to non-receipt of Department's response (January 2024).

Further, field verification indicated that the tax officers in the field formations had not received any alerts regarding the sample cases having significant differences between tax actually paid and that declared in GSTR-9. Similarly, out of 20 sampled cases, the Department was aware of the discrepancies in only three cases. This shows the lack of adequate post-facto data analytics in cases of mis-match between important data points.

Two illustrative cases are given below:

A taxpayer, GSTIN 2XXXXXXXXXXXXW in Bengaluru-North West CGST Commissionerate, declared outward tax liability under CGST as well as SGST in GSTR-9 totalling ₹ 7.15 crore, which was 10 times the amount of tax paid in GSTR-3B of ₹ 0.72 crore, in 2018-19. There was no mismatch among tax payable, paid amount in Table-9 of GSTR-9, tax liability as per GSTR-1 and possibly GSTR-3B amount. This indicates that the discrepant figure in GSTR-9 was due to data-entry error in GSTR-9 leading to difference in liabilities and actual amount paid by 900 per cent.

Audit pointed this out (October 2022). Reply of the Department was awaited (January 2024).

Another taxpayer (GSTIN: 22XXXXXXXXXXXXWD, in Bengaluru-North CGST Commissionerate) paid tax of ₹ 0.03 crore on outward supply in GSTR-3B but declared corresponding tax liability of ₹ 47.84 crore in GSTR-9 in 2018-19 filed in September 2020. There was similar difference between tax 'Payable' amount (including that on reverse charge) of ₹ 48.42 crore and 'paid' amount of ₹ 0.61 crore in Table-9 of GSTR-9. Thus, difference in outward tax liability between GSTR-3B and GSTR-9 was ₹ 47.81 crore (constituting 1,86,991 per cent of the actual tax paid).

Audit scrutiny further disclosed that the taxpayer had discharged his tax liability in subsequent months. The taxpayer paid ₹ 47.53 crore in March and August 2020, i.e. prior to filing GSTR-9 and remaining ₹ 0.29 crore in October 2020 i.e. after filing GSTR-9 in September 2020 i.e. 18 months after the due date (April 2019), as noted in Liability Register-II.

The above case study highlights lack of any provision in GSTR-9 to capture differential tax liabilities yet to be discharged by the taxpayer. Further, GSTR-9 form does not capture the payments made by the taxpayer in addition to the payments made at the time of filing GSTR-3B.

The Department stated (February 2023) that they took up the investigation, confirmed the demand for the period up to January 2020 and recovered the same.

**Recommendation 3: Ministry and GSTN may consider inclusion of an additional field in GSTR-9 for capturing additional tax liability declared in GSTR-9 from monthly returns (GSTR-3B). Net liability from Table 4 and tax payments made through GSTR-3B and DRC-challans should be auto populated and non-editable.**

Audit pointed this out (January 2023). Reply of the Ministry was awaited (January 2024).

#### 6.5.2.2 Difference between tax payable and tax paid

Tax paid amount against the liabilities declared is captured in Table-9 of GSTR-9. As per the instructions to fill the GSTR-9 Form, this should be the actual tax paid during the financial year. Further, the payment of tax under Table 6.1 of the monthly GSTR-3B returns may be used for filling up the tax payment details. However, no provision was made in GSTR-9 to capture tax paid through DRC-3 challans, in case liabilities declared in GSTR-9 are more than the tax paid through GSTR-9.

A comparison between data of the tax payable amount and the tax paid amount of table-9 of GSTR-9 was made. Data analysis revealed that during 2017-21, in 6.98 lakh returns, constituting 7.1 per cent GSTR-9 filed, tax paid was less than the declared tax payable amount. In 6.68 lakh returns, tax paid was more than the tax payable, as detailed in **Table-6.4**.

**Table- 6.4: Difference between tax payable and tax paid in Table 9**  
(Amount in ₹ crore)

Return year	Popu-lation * (in lakhs)	Table-9 tax Payable was more than Tax paid				Table-9 tax Payable was less than Tax paid			
		Returns with difference (in lakhs)	Tax Payable as per Table-9	Tax paid as per Table-9	Difference between tax Payable and tax paid of R9	Returns with difference (in lakhs)	Tax Payable as per Table-9	Tax paid as per Table-9	Difference between tax Payable and tax paid of R9
2017-18	34.13	2.59	11,86,725	5,77,303	6,09,422	1.73	5,64,392	5,78,922	-14,530
2018-19	21.97	1.59	27,40,381	7,34,532	20,05,849	1.88	8,80,087	11,96,884	-3,16,797
2019-20	22.12	1.51	7,54,187	7,36,925	17,262	1.77	7,14,567	8,04,454	-89,887
2020-21	19.63	1.28	17,26,833	5,90,927	11,35,907	1.30	5,99,038	6,14,397	-15,358

\* Number of GSTR-9 filed with tax liability.

The difference between tax payable and tax paid amount, in some cases, could be due to the reversal of more ITC than the ITC actually claimed resulting in additional tax liability for the taxpayer. However, GSTR-9 did not capture amounts paid through DRC-03 prior to filing of GSTR-9 as well as the outstanding amount.

During field verification of 10 sample cases with difference between tax payable and tax paid as per the table 9 of GSTR-9, ranging from 11 per cent to 1,04,945 per cent and in terms of GST amount ₹ 1 crore to ₹ 48 crore, it was found that the differential liability of ₹ 54.07 crore was paid fully in four cases, partially tax liability of ₹ 5.39 crore in two cases and no differential liability of ₹ 5.32 crore was paid in four cases.

A case is elaborated below by way of illustration:

A taxpayer (GSTIN: 1XXXXXXXXXXXXW, of Kolkata South Commissionerate) declared tax liability of ₹ 8.63 crore in table 9 of GSTR-9. However, the taxpayer had declared tax payment of only ₹ 1.50 crore in the same table of GSTR-9 for the year 2019-20, filed in March 2021. Therefore, there was a mis-match of ₹ 7.12 crore between the tax payable and tax paid.

It was further noticed that out of differential liability of ₹ 7.12 crore, the taxpayer made voluntary payments of ₹ 5.15 crore (in Sept 2020 and Jan 2021) through DRC-03 challan, with delay upto nine months after last date (April 2020). The tax liability of ₹ 1.98 crore for the tax period of 2019-20 was outstanding (November 2022). However, GSTR-9 did not capture amounts paid through DRC-03 prior to filing GSTR-9 as well as the outstanding amount.

When Audit pointed this out (October 2022), the Department (October 2022) stated that the explanation was being sought from the taxpayer.

***Recommendation 4: Actual tax amount paid, in table 9 of GSTR-9, should flow from GSTR-3B and DRC-03, taking into account payments/adjustments of previous year's liability.***

Audit pointed this out (January 2023). Reply of the Ministry was awaited (January 2024).

#### ***6.5.2.3 Inconsistencies in the amount of tax liability declared in Table 4 and Table 9 of the annual return***

Table-4 (supplies and advances on which tax is to be paid) of GSTR-9 provides for declaration of tax liability under various type of supplies such as supplies to registered person, unregistered person, SEZs, exports, deemed exports, inward supplies on reverse charge basis, apart from adjustments made on account of amendments, debit and credit notes and tax payable on advance receipts. Table 9 in Part IV of GSTR 9 provides the consolidated value of tax liability and tax paid as per the monthly returns, during the period for which the Annual Return is being filed. Therefore, the total of “tax payable” amount as declared in Table-4 (details) and Column-2 of table-9 (tax payable) of GSTR-9 should be the same.

Analysis of data of Table 4 and Table 9 of GSTR 9, revealed that in 19.34 lakh returns, constituting 20 per cent of GSTR-9 returns filed with tax liability, there was a difference<sup>109</sup> between the payable amounts in the two tables, as shown

<sup>109</sup> Differences of less than ₹ 1,000 were ignored for the analysis.

below. In 7.79 lakh returns, constituting 8 percent cases, tax payable declared in Table 9 was less than the tax payable in Table 4 of GSTR-9.

**Table-6.5: Mismatch of Liability declared in table 4 and tax payable declared in Table 9 of GSTR-9**

(₹ in crore)

Return year	Population * (in lakhs)	Table-9 Payable more than Table-4 payable				Table-9 Payable less than Table-4 payable			
		Returns with difference (in lakhs)	Tax liability as per Table-4	Tax Payable as per Table-9 of R9	Difference between tax Payable and liability of R9	Returns with difference (in lakhs)	Tax liability as per Table-4	Tax Payable as per Table-9	Difference between tax Payable and liability of R9
2017-18	34.13	3.21	4,13,488	12,61,859	8,48,372	3.26	10,19,253	2,60,747	-7,58,506
2018-19	21.96	3	6,28,010	26,56,140	20,28,130	1.59	6,92,981	2,99,105	-3,93,876
2019-20	22.12	2.92	5,29,506	5,66,198	36,692	1.53	2,70,949	2,58,168	-12,782
2020-21	19.63	2.42	5,35,044	16,82,513	11,47,468	1.41	9,34,125	2,49,759	-6,84,366

\* Number of GSTR-9 filed with tax liability.

When Audit Pointed this out (October 2022), GSTN stated (October 2022) that Table 4 (except 4G) is auto-Populated from GSTR-1, whereas Table 9 is auto-populated from GSTR-3B. Since, the source of auto-population is different in the two cases, values may differ. However, tax authorities have been provided consolidated GSTR-1 and GSTR-3B to initiate necessary action wherever required. It was further stated that although Table 9 of R9 is auto-populated from R3B, the values are editable. This provision has been made to allow taxpayers to report any short/excess liability as per books of accounts discovered at the time of filing annual return and therefore, would need to make adjustments in the figures auto populated by the system. Tax authorities are provided system computed GSTR-9 and the one filed by taxpayer to initiate necessary action in cases of significant differences.

Audit is of the view that since Table 4 is editable to allow tax payers to correct any mistakes, these figures should auto-populate table 9 as payable amount. There seems to be no apparent justification for keeping both Tables 4 and Table 9 as editable and allowing the taxpayer to declare different amount of tax liability in the same return.

During field verification of 10 sample cases with such discrepancies ranging from 155 per cent to 14,817 per cent and in terms of GST amount ₹ 1.28 crore to ₹ 28 crore, it was found that in four cases, taxpayers declared higher liability but did not pay the complete amount in two cases. Total outstanding liability in these cases amounted to ₹ 26.24 crore. In one case, the Department stated that the difference between the tax payable between table 4 of GSTR-3B and table 9 of GSTR-9 was due to system glitch. In four cases, the difference in liability could be due to data entry error, while in the remaining one case, the

Department stated that the tax liability for the month of March 2020 was inadvertently not reported in GSTR-3B and the same was reported in the month of April 2020 and due tax paid fully.

In three out of ten cases, this issue was observed in all three years. In four cases, the inconsistency existed either in the previous year or in the next year.

Two cases are illustrated below:

In the case of a taxpayer (GSTIN: 1XXXXXXXXXXXX2 of Haldia CGST Commissionerate), the tax payable was declared as ₹ 26.06 crore and ₹ 0.71 crore as per Table 4 and Table-9 of GSTR-9, respectively. The system did not restrict different amount of tax liability in the same GSTR-9 form.

It was further observed that out of the differential tax liability of ₹ 25.35 crore (26.06 - 0.71) only ₹ 0.15 crore was settled through DRC-03 challan 12 to 30 months after the due date of arising such liability.

Audit pointed this out (October 2022). Reply of the Department was awaited (January 2024).

Similarly, another taxpayer (GSTIN: 1XXXXXXXXXXXX4 in Siliguri CGST Commissionerate) declared tax payable amounts of ₹ 3.43 crore and ₹ 0.15 crore in Table-4 and table-9 of GSTR9, respectively. The difference was on account of erroneous SGST amount of ₹ 3.30 crore which was exactly 100 times of CGST amount of ₹ 3.30 lakh in Table 4(a) of GSTR-9.

Audit pointed this out (October 2022), reply of the Department was awaited (January 2024).

**Recommendation 5: Total tax payable in Table-9 should reconcile from total tax liability of Table-4 of GSTR-9 to avoid discrepancy within the same return.**

Audit pointed this out (January 2023). Reply of the Ministry was awaited (January 2024).

#### **6.5.2.4 Inconsistencies between amendment details in table 10 and 11, and tax payable in table 14 of GSTR-9**

Incorrect values/taxes in invoices issued in a Financial Year (FY) can be amended within a prescribed time limit after the end of FY and any excess tax already paid can be adjusted or short payment of taxes arising due to such amendments can be paid. The sum of all amendments of taxes done in GSTR-1 is to be declared in Table 10 (for increase in tax liability) and Table 11 (for decrease in tax liability) of GSTR 9 of the return year. Table 14 of GSTR 9

captures the net tax payable due to amendments to any of the invoices of the previous financial year.

Analysis of data pertaining to amendment details declared in Tables 10 and 11 and corresponding total tax payable on this account declared in Table-14 of GSTR 9 of the period 2017-21 revealed that in 4.86 lakh out of 7.63 lakh GSTR-9 returns with amendment entries, constituting 64 percent returns, tax payable as per Table 10/11 of GSTR-9 did not match with tax payable shown in Table 14, *ibid*. The details are given in **Table 6.6**.

**Table-6.6: Inconsistencies between amendments details (Tab.10/11) and declaration of tax payable thereof (Tab.14) in GSTR-9**

(₹ in crore)

Return year	Population*	Returns with differences	Net liability due to amendments (Tab.10-11)	Tax payable as per Tab.14	Absolute difference between net tax liability(10/11) and tax payable (Tab.14) of R9
2017-18	2,58,632	97,398	956	923	3,319
2018-19	1,84,911	1,17,016	938	1,832	4,807
2019-20	1,70,827	1,08,328	521	7,688	10,634
2020-21	1,49,014	1,63,631	2,501	4,198	8,280
<b>Total</b>	<b>7,63,384</b>	<b>4,86,373</b>	<b>4,916</b>	<b>14,640</b>	<b>27,039</b>

\* Total number of R9 returns having amendment entries

Since Table 14 of GSTR-9 captures the net of values filled in Table 10 and Table 11 of GSTR-9, discrepancies indicate deficiency in the system, resulting in capture of incorrect data. Lack of validations and data discrepancies in GSTR-9 put additional burden on tax administration leading to wasted effort in examination of cases selected on the basis of discrepant data.

GSTN attributed (October 2022) difference in figures to possibility of liability reported in Table 10, 11 and 14, being paid through Form GST DRC-03 GSTN's reply was, however, silent on discrepancy between tax payable amounts between Table 10/11 and Table 14 of GSTR-9.

Audit is of the view that the system should ensure that the net tax payable due to amendments as declared in table 10/11 should tally with tax payable of table-14 of GSTR-9 at the time of filing of the return.

**Recommendation 6: Ministry should implement validation check in Table 14 to ensure that only correct values on the basis of table 10 and 11 of GSTR-9 populate table 14; at the very least, a user alert pointing out the difference should be generated.**

Audit pointed this out (January 2023). Reply of the Ministry was awaited (January 2024).

### 6.5.3 Inconsistencies between the CGST and SGST components of GST

The rates of CGST and SGST, levied on goods or services, are equal<sup>110</sup>. Therefore, the amount of tax, declared under both CGST and SGST, by a taxpayer in the return, should be equal. However, data analysis revealed that there were significant differences between the declarations of these two categories of taxes as discussed below.

#### 6.5.3.1 Discrepancy in GSTR-1

Analysis of GSTR-1 data revealed that, in 1.22 lakh records<sup>111</sup> of GSTR-1 filed by 32,807 tax payers, there was a difference<sup>112</sup> between the CGST and SGST amounts, as detailed in **Table 6.7**.

Table-6.7: Data inconsistencies in GSTR-1 with regard to CGST/SGST

(₹ in crore)

Financial Year	No. of Records with discrepancy	No. of GSTINs	CGST	SGST	Absolute difference in CGST and SGST
2017-18	30,428	7,314	2,284	2,062	667
2018-19	39,019	9,734	9,037	3,483	6,250
2019-20	29,331	8,575	1,119	1,042	256
2020-21	23,231	7,184	347	434	179
<b>Total</b>	<b>1,22,009</b>	<b>32,807</b>	<b>12,787</b>	<b>7,021</b>	<b>7,353</b>

#### 6.5.3.2 Discrepancy in GSTR-3B

Difference in SGST and CGST amounts was noted in 43,443 records pertaining to tax payable in GSTR-3B filed by 34,994 tax payers as detailed in **Table 6.8**.

Table-6.8: Data inconsistencies in GSTR-3B with regard to CGST/SGST

(₹ in crore)

Financial Year	No. of Records with discrepancy	No. of GSTINs involved	CGST	SGST	Absolute difference in CGST and SGST
<b>2017-18</b>	35,795	30,127	14,016	14,065	1,148
<b>2018-19</b>	4,543	2,512	8,993	9,102	199
<b>2019-20</b>	2,440	1,747	3,314	3,374	70
<b>2020-21</b>	665	608	31	31	1
<b>Total</b>	<b>43,443</b>	<b>34,994</b>	<b>26,354</b>	<b>26,573</b>	<b>1,418</b>

<sup>110</sup> As per the GST council recommendations and various rate notifications issued by Union and states from time to time.

<sup>111</sup> Records of all debit/ credit notes including that of pre-GST regime were not covered in analysis.

<sup>112</sup> More than one thousand rupees

### 6.5.3.3 Discrepancy in GSTR-9

Data analysis revealed that in 19,020 records of GSTR-9 pertaining to the total taxable outward supply<sup>113</sup>, there was a difference between the tax declared against the SGST and CGST components, declared by 18,173 tax payers, as detailed in **Table 6.9**.

**Table-6.9: Data inconsistencies in GSTR-9 with regard to CGST/SGST**

(₹ in crore)					
Financial Year	No. of records with discrepancy	No. of returns involved	CGST	SGST	Absolute difference in CGST and SGST
2017-18	6,599	6,277	12,447	13,144	1,709
2018-19	4,154	3,986	5,694	6,294	1,285
2019-20	5,099	4,842	4,01,281	15,160	3,88,106
2020-21	3,168	3,068	3,369	6,56,914	6,54,489
<b>Total</b>	<b>19,020</b>	<b>18,173</b>	<b>4,22,791</b>	<b>6,91,512</b>	<b>10,45,590</b>

In response, GSTN stated (October 2022) that the different CGST and SGST amounts could be because of debit/credit notes of the earlier regime having different SGST/CGST component. The reply is not acceptable as Audit analysed the data of GSTR-1 by excluding the pre-GST period transactions. Further, Audit noticed discrepancies between CGST and SGST amounts for the period 2019-20 and 2020-21 also which cannot be explained by the pre-GST period as debit/credit notes of pre-GST period were time-barred in these years.

GSTN further stated that a check was built in GSTR-3B on the common portal in June 2018, in API in February 2020 and in GSTR-1 in November 2021 to ensure equal values of CGST and SGST. However, no check was built in GSTR-9, as it is the summary of GSTR-1 and 3B.

The reply is not acceptable as Audit found the difference between CGST/SGST amounts in GSTR-3B during the period 2020-21 also, that is, after implementation of the said check in June 2018/February 2020.

During field verification of 20 sample cases with such discrepancies, Audit noticed that in ten<sup>114</sup> cases, difference in figures was apparently due to data entry error by the taxpayers in the absence of validations controls in the systems. In two cases, the Department attributed this difference to debit/credit notes pertaining to pre-GST period invoices. In two other cases, though the Department stated that the differences were due to debit/credit notes against pre-GST invoices, the difference could not be explained fully by such debit/credit note. In one case, the taxpayer adjusted pre-GST advance irregularly by showing only CGST component. In one case, the taxpayer had

<sup>113</sup> Records relating to debit/ credit notes and amendments were not covered in analysis.

<sup>114</sup> One case pertaining to Raipur, Chattisgarh, four to Bengaluru Zone and five cases were pertaining to Kolkata Zone.

apparently declared different CGST and SGST values in GSTR-1 deliberately. In the remaining four cases, Audit could not ascertain the reasons for the discrepancies due to non-receipt of Department's response (January 2024).

Two cases are elaborated below:

A taxpayer (GSTIN: 2XXXXXXXXXXXXX0, Bengaluru-North West CGST Commissionerate) declared different CGST and SGST amounts as ₹ 0.28 lakh and ₹ 2,349 lakh, respectively for a taxable value of ₹ 2.71 lakh in table-4A (B2C supply) of GSTR-9 in 2019-20. Thus, there was a difference in CGST and SGST amount of ₹ 23.49 crore or 8,38,829 per cent apparently due to incorrect data. Such data entry errors by the taxpayer were possible in the system because there was no validations to ensure equal amounts of CGST and SGST component in the GSTN system.

Audit pointed this out (October 2022). Reply of the Department was awaited (January 2024).

A taxpayer (GSTIN: 1XXXXXXXXXXXXXV, of Bolpur CGST Commissionerate) declared different CGST and SGST amounts (total ₹ 0.36 lakh and ₹ 123.73 lakh, respectively) for each GST rate (5, 12, 18 and 28 per cent) against consolidated monthly supply to unregistered persons in GSTR-1 for the month of December 2020, though the total tax (i.e. sum of CGST and SGST) was commensurate with GST rates and taxable values declared therein. In case of invoices relating to registered taxpayers in the same month, equal CGST and SGST were declared. It was also noticed that the same total tax amount as computed in GSTR-1 was paid in GSTR-3B in the said month with equal CGST and SGST amount. Hence, it is apparent that the taxpayer entered different CGST and SGST in GSTR-1 deliberately, to allow recipient to avail ITC for setting off their CGST/SGST liabilities. It may be noted that CGST-ITC cannot be used to settle SGST liability and vice-versa.

Therefore, lack of validations in the system lead to capture of unreliable data but can also lead to tax evasion.

Audit pointed this out (October 2022). Reply of the Department was awaited (January 2024).

The above data inconsistencies indicate the existence of unreliable data and may have revenue implications by way of differential tax collections by the Union and States. Due to the lack of appropriate validation controls in the systems, the data captured is unreliable. These inconsistencies are liable to

increase the complexity and the resources needed for compliance functions that are required to be discharged by the tax administration.

The inconsistencies between the CGST and SGST component of GST were also reported by Audit in Audit Report 5 of 2022. In response GSTN stated that validation regarding equal SGST and CGST component in GSTR-9 may be incorporated on the directions from the Government/GST Council. Audit is of the view that matching of CGST and SGST components is a basic validation control. However, no action has been taken by GSTN or government in this regard.

#### **Recommendations**

**7. Validation controls for ensuring matching of CGST and SGST amounts in GSTR-1/3B returns may be reviewed and strengthened in view of discrepancies pointed out by Audit.**

**8. Similar validation regarding matching of CGST and SGST components may also be incorporated in GSTR-9 to mitigate the risk of unreliable R9 data and differential tax collections for the Union and the States.**

Audit pointed this out (January 2023). Reply of the Ministry was awaited (January 2024).

#### **6.5.4 Inconsistencies between taxable values, rate and tax liability declared**

All GST return forms have fields to enter taxable values and taxes due. In GSTR-1, the rate of tax can also be entered. Audit observed lack of range<sup>115</sup> validations in the GST Common Portal for accepting only reasonable values or flagging unreasonable values. Some significant issues noted by Audit are highlighted in the following paragraphs:

##### **6.5.4.1 Incorrect data in GSTR-1 with effective GSTR rate exceeding 28 per cent**

Data analysis of GSTR-1 data was undertaken by excluding cases where debit/credit notes were issued. The following table shows invoice-wise summary of records where average rate was more than 28 per cent, the highest tax rate under GST, indicating capture of incorrect amounts in the taxable values/tax amount in the returns filed by the taxpayers.

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<sup>115</sup> Tax rate (data) should be within a predetermined range of values.

**Table: 6.9: Records with incorrect data in GSTR-1 with effective GSTR rate exceeding 28 per cent**

(₹ in crore)

Invoice Type <sup>116</sup>	Record count	Number of tax payers	Taxable Value	IGST	CGST	SGST	Total GST	Average Effective Rate (in per cent)
B2B	7,40,977	56,490	3,170	2,780	1,475	1,307	5,562	175
EXPWP	83,937	607	1,149	769	-	-	769	67
B2CS	33,092	23,201	2,131	52	7,664	1,798	9,514	446
AT	660	426	67	6	23	24	53	79
TXPD	612	433	101	14	112	137	263	260
B2CL	322	126	13	7	-	-	7	56
<b>Total</b>	<b>8,59,600</b>	<b>81,283</b>	<b>6,631</b>	<b>3,630</b>	<b>9,273</b>	<b>3,266</b>	<b>16,169</b>	<b>244</b>

Declaration of incorrect/higher amount of tax payable in GSTR-1 has the potential risk of availing higher credit by recipients without payment thereof.

#### **6.5.4.2 Incorrect data in GSTR-3B with effective GSTR rate exceeding 28 per cent**

Discrepancies were also noted in GSTR-3B data in respect of 6.76 lakh records of outward supplies filed by 5.98 lakh tax payers as detailed below:

**Table-6.10: Data inconsistencies in GSTR-3B with regard to the applicable GST rates**

(₹ in crore)

Financial Year	Records count	No. of GSTINs	Taxable value	IGST	CGST	SGST	Average Effective Rate (in per cent)
2017-18	1,81,646	1,58,393	41,361	9,302	6,698	6,553	55
2018-19	1,75,640	1,55,347	34,267	8,317	6,009	6,003	59
2019-20	1,76,269	1,55,769	5,19,002	4,005	4,54,212	4,54,212	176
2020-21	1,42,390	1,28,319	17,190	5,903	5,018	5,018	93
<b>Total</b>	<b>6,75,945</b>	<b>5,97,828</b>	<b>6,11,820</b>	<b>27,527</b>	<b>4,71,937</b>	<b>4,71,786</b>	<b>159</b>

#### **6.5.4.3 Incorrect data in GSTR-9 resulting in effective GSTR rate exceeds 28 per cent**

In GSTR-9, the taxable values in the 'total outward supplies' were inconsistent with the tax amounts (IGST+CGST+SGST) entered therein, as detailed in **Table 6.11**.

<sup>116</sup> B2B: Supply to registered person, EXPWP: Export with payment of tax, B2CL: Supply to unregistered person (large invoices with value of more than ₹ 2.5 lakh), B2CS: Supply to unregistered person (other invoices), AT: Tax on Advance payment; TXPD: Tax adjusted paid on advance.

Table-6.11: Data inconsistencies in GSTR-9 with regard to applicable GST rates

(₹ in crore)

Financial Year	No. of Records	No. of GSTINs	Taxable value	IGST	CGST	SGST	Average Effective Rate (in per cent)
2017-18	4,820	4,788	7,440	7,49,474	1,551	1,946	10,121
2018-19	3,263	3,235	5,773	1,029	3,87,797	1,820	6,766
2019-20	2,847	2,837	5,082	1,087	1,034	1,590	73
2020-21	2,081	2,068	5,866	785	1,098	6,54,647	11,192
<b>Total</b>	<b>13,011</b>	<b>12,928</b>	<b>24,161</b>	<b>7,52,374</b>	<b>3,91,481</b>	<b>6,60,003</b>	<b>7,466</b>

When Audit pointed this out (October 2022), GSTN cited (October 2022) some circumstances, such as on account of difference in rounding-off methods followed by various companies and taxpayers, a single invoice can have multiple line items with different GST rates and hence final tax amount can have entirely different tax rates due to averaging and rounding off of the amounts. GSTN's reply is not acceptable in view of the large differences noticed by Audit where the tax rate was more than 28 per cent, which is implausible.

GSTN also stated that while reporting Schedule-1 items<sup>117</sup>, which are supplied without consideration, in GSTR 1, the taxpayer can include the same in any invoice without reporting taxable value. GSTN's reply is not acceptable as, as in the case of Schedule-1 items, though there is no actual transaction of money due to related party, for the purpose of the GST Act, taxpayers are required to declare appropriate taxable value for payment of taxes thereon.

Audit examined 20 sample cases with effective tax rate of 38 per cent to 1,03,28,20,80,000 per cent and observed that in 14 cases there were improbable tax rates on account of incorrect entry of taxable values or tax amount payable due to lack of adequate controls in the system. In five cases, the discrepancy was due to adjustments in tax amount through debit/credit note without changing the taxable value. In the remaining one case, Audit could not ascertain the reasons for the discrepancies due to non-receipt of Department's response (January 2024).

<sup>117</sup> The supply made between related persons for inadequate or no consideration is covered under Schedule I of the CGST Act, 2017.

An illustrative case is detailed below:

One taxpayer (GSTIN: 2XXXXXXXXXXXX7 in Surat CGST Commissionerate) mentioned taxable value as ₹ 0.01 in all five regular invoices issued to four registered taxpayers (all unrelated), in GSTR-1 for the month of December 2020; however, the total tax was declared as ₹ 1.44 crore at the rate of 18 per cent, which is not possible and indicates data entry mistakes. Taxpayer filed GSTR-3B for the month without any tax liability. Thus, there was no control in the system to validate tax amount corresponding to taxable value and rate, resulting in capture of incorrect data in the system.

Audit pointed this out (October 2022). Reply of the Department was awaited (January 2024).

Audit had highlighted the issue of presence of unreliable data due to inconsistencies between taxable values and tax liability earlier in Audit Report 5 of 2022. In response, GSTN stated that exact co-relation between the taxable values and the tax amount was not checked in the system on account of difference in rounding off method and issue of credit and debit notes.

**Recommendation 9: Soft control may be incorporated in GSTR-3B to this effect to alert taxpayers attempting to enter disproportionate value vis-a-vis tax amount. Tax payments where taxable value is not required to be declared, may be made through DRC challans.**

Audit pointed this out (January 2023). Reply of the Ministry was awaited (January 2024).

#### **6.5.5 Short computation of tax in GSTR-1**

The taxpayer declares taxable value, tax rate and tax amount in various tables of GSTR-1. Tax amount (sum of IGST, CGST and SGST but excluding Compensation Cess amount) should be equal to the taxable value multiplied by tax rate.

However, data analysis of GSTR-1 data revealed that, in more than 46.84 lakh records filed by 3.12 lakh taxpayers, the amount of tax payable (sum of IGST, CGST and SGST) was less than the amount that was required to be paid as per taxable value and tax rate entered by the taxpayer in GSTR-1. Further, for 2019-20, Audit also observed negative amount of tax payable, entered by taxpayers, which is implausible. Since information on taxable value, tax rate and tax payable are all editable fields, it appears that the taxpayers had reduced the value of tax payable. Details are given in **Table 6.12**.

**Table-6.12: Data inconsistencies in GSTR-1 with regard to the applicable GST rates****(₹ in crore)**

Financial Year	No. of Records	No. of GSTINs	Tax payable as computed by Audit*	Tax payable as entered by taxpayers			Short computation of tax
				IGST	CGST	SGST	
2017-18	9,21,449	59,815	10,987	850	2,332	2,389	5,416
2018-19	13,20,510	86,174	19,742	937	3,194	3,193	12,418
2019-20	13,50,891	88,918	21,917	-12,55,313	3,404	3,403	15,110
2020-21	10,91,602	77,234	16,440	819	2,948	2,950	9,723

\*Based on taxable value and applicable tax rates

When Audit pointed this out (October 2022), GSTN stated that taxpayers are allowed to edit the tax payable amount and there is no check in system to disallow negative values. GSTN further stated that several instances of inconsistent data pertain to B2C transactions where there is no impact on ITC. However, Audit found that 96 per cent of records (44,48,043 records) where the above discrepancy was noted pertained to B2B supplies and accounted for 93 per cent of total short computation of tax amount (₹ 40,979 crore).

During field verification of 20 sample cases, with short computation of GST in GSTR-1 from ₹ 569.17 crore to ₹ 13.29 lakh, Audit found that in 15 cases, the difference in figures was on account of incorrect entry of taxable value or tax rate in GSTR-1. However, in all these cases, based on analysis of similar invoices and/or returns filed in earlier months of the same year and of the previous year, tax paid as per GSTR-3B returns appeared to be correct. In two cases, there was incorrect computation as well as short payment of tax in GSTR-3B (for ₹ 3.64 crore). In the remaining three cases, Audit could not ascertain the reasons for the discrepancies due to non-receipt of Department's response (January 2024).

Two illustrative cases are detailed below:

In case of a taxpayer (GSTIN: 2XXXXXXXXXXXX5 of Mumbai East CGST Commissionerate), Audit noted that in respect of one invoice, taxable value was incorrectly mentioned as ₹ 3,162 crore whereas tax payable was declared as ₹ 51,608 at 18 per cent tax rate, in GSTR-1 of January 2019. Such outright mistake of the taxpayer was possible due to lack of any validation check or user alerts in the system for checking that tax amounts are corresponding to taxable value and GST rate.

When Audit pointed this out (October 2022), the Department stated (February 2023) that the difference in figures was on account of incorrect entry in GSTR-1.

Another taxpayer (GSTIN: 1XXXXXXXXXXXXR under Kolkata North Commissionerate) listed 88 invoices at 5 per cent and 64 invoices at 18 per cent tax rate in GSTR-1 of May 2019. However, total GST (IGST+CGST+SGST) was computed in all cases at 5 percent due to lack of validation check in the system to ensure calculation at 18 per cent for 64 invoices. Audit noted that the payment in GSTR-3B return was also made at the rate of 5 per cent.

Audit analysed GSTR-1 return of the taxpayer one month before and one month after the sample month. It was noticed that GSTR-1 had items with both rates of 5 per cent and 18 per cent, and taxes were accordingly computed at respective rates. Thus, it is highly likely that tax was incorrectly computed at five percent for 64 invoices instead of 18 per cent in GSTR-1 of May 2019, resulting in short payment of tax by ₹ 3.20 crore. The Department, therefore, may examine the invoices of the taxpayer to confirm the nature of supply and ensure correct payment of tax by the taxpayer.

When Audit pointed this out, the Department stated (October 2022) that the issue was not in the knowledge of the Department.

**Recommendation 10: Ministry may consider incorporating validation checks and system/user alert for ensuring compatibility of taxable value, tax rate and tax amount in GSTR-1.**

Audit pointed this out (January 2023). Reply of the Ministry was awaited (January 2024).

#### **6.5.6 Other discrepancies in GSTR-1**

In addition to the data discrepancies, analysis of GSTR-1 data revealed instances of non-compliance by the taxpayers from the provisions of the Acts/Rules. Such non-compliance/deviations were allowed by the GSTN system due to lack of adequate validations in the GSTR-1.

Audit findings are discussed in the following paragraphs.

##### **6.5.6.1 System allowed filing of credit notes after the expiry of prescribed time**

As per the provisions of Section 34(2) of CGST Act, 2017, any registered person who issues a credit note in relation to supply of goods or services or both, shall declare the details of such credit notes in the return for the month during which such credit note has been issued but not later than September of the

next financial year<sup>118</sup>, or the date of furnishing the relevant annual return, whichever is earlier.

Table 9 of GSTR 1 captures the details of credit notes furnished in the returns for earlier tax periods in tables 4, 5 and 6<sup>119</sup>.

Analysis of the data of table 9 of GSTR-1 revealed that, in 45,69,931 records involving tax amount of ₹ 888 crore, credit notes were reported in GSTR-1 of taxpayers after expiry of at least one year from the end of FY, in which supply was made, as shown in **Table 6.13**.

**Table- 6.13: Reporting of Credit note after expiry of prescribed period**

(₹ in crore)				
Invoice period	Credit note admissible in returns upto	Credit note declared in returns for	No of records	Tax amount
2016-17*	September 2018	2018-19 to 2020-21	18,10,679	227.97
2017-18	March 2019	2019-20 and 2020-21	23,42,735	551.53
2018-19	September 2019	2020-21	4,16,517	108.84
Total			<b>45,69,931</b>	<b>888.34</b>

\*or prior period.

Further, in 11.44 crore records, involving tax amount of ₹ 47,435 crore, date of original invoice for which credit note was issued was not found. GSTN system, in these cases, allowed filing of credit notes without declaration of original invoice date. In such cases, Audit could not ascertain whether the credit notes were issued within the prescribed time limit.

Thus, the lack of adequate validations in the GSTR-1 return system to prohibit the taxpayer from reporting the credit notes after the expiry of the time provided in the Act resulted in deviations from the provisions of the Act and potential undue reduction in their tax liability by ₹ 888.34 crore.

GSTN stated (November 2022) that credit notes for invoices of 2017-18 were allowed to be reported till February 2020 i.e. due date for filing of annual return, as per Notification No. 2/2018 dated 31 Dec 2018. It further stated that flexibility was kept due to on-going litigation.

GSTN reply is not acceptable, since, as per the said notification, credit note for 2017-18 invoices were allowed only till March 2019 or filing of annual return, whichever was earlier. In the absence of any legal provisions, allowing credit notes in GSTR-1 beyond the prescribed period was irregular.

<sup>118</sup> With effect from 1 October 2022 'the thirtieth day of November' following the end of the financial year

<sup>119</sup> Table-4 of GSTR-1 is for providing details of invoices for supplies to other taxpayers; Table-5 is for large invoices (with invoice value of more than ₹ 2.5 lakh) issued to end consumer; and table-6 is for export, deemed export and SEZ supplies.

During field verification of 20 sample records pertaining to 18 taxpayers under both the aforesaid categories, it was observed that in respect of four taxpayers there was no mention of original invoice number and date against 21,218 credit notes with a total tax effect of ₹ 875 crore reported in GSTR-1. Six taxpayers posted 71 credit notes, in the sampled month, after expiry of the prescribed period, involving tax amount of ₹ 78.38 crore. There was no irregularity or tax implication in one case, as credit note was reported within the prescribed period; however, the system allowed such entry without declaration of invoice detail. For the remaining eight taxpayers, Audit could not verify the reasons for deviations due to lack of reply from the Department.

When Audit pointed this out (October 2022), the Department admitted (October 2022) the audit observation in 10 cases and stated that the issue was not in the knowledge of the Department. Out of these 10 cases, two cases were being examined by the DGGI. In four cases, the Department stated (May 2023 to December 2023) that the discrepancy was due to data entry error by the taxpayers and that the credit notes were issued within the prescribed period. In the remaining six cases, replies were awaited (January 2024).

Two illustrative cases are given below:

A taxpayer (GSTIN: 1XXXXXXXXXXXXXE under Haldia CGST Commissionerate) filed six credit notes with total GST amount of ₹ 68.12 lakh in GSTR-1 of August 2020 against the invoices of March to September 2018, the prescribed period of which had expired in March 2019 and October 2019, respectively.

When pointed out (October 2022), the Department stated (October 2022) that they were not aware of the discrepancy.

Similarly, another taxpayer (GSTIN: 1XXXXXXXXXXXXD under Kolkata North Commissionerate) had posted 58 Credit Notes in GSTR-1 of June 2019 against the original invoices of February & March 2018, involving GST amount of ₹ 3.75 crore. The Department stated (October 2022) that the taxpayer was under investigation by Directorate General of GST Investigation.

Thus, due to system deficiency, taxpayers could unduly reduce their tax liability relating to old invoices beyond the time limit permitted as per law, thereby impacting tax collections.

**Recommendation 11: Ministry may consider incorporating validation checks in Table 9 of GSTR-1 to ensure that no credit note should be allowed after the prescribed period of reporting of the same.**

Audit pointed this out (January 2023). Reply of the Ministry was awaited (January 2024).

### 6.5.6.2 System allowed amendments of invoices after expiry of prescribed period

As per the provision of section 37(3) of CGST Act, 2017, upon discovery of any error or omission in invoice details furnished under the section for any tax period, taxpayer shall rectify such error or omission and pay the tax and interest, if any, in case there is a short payment of tax, in the return to be furnished for such tax period, provided that no such rectification shall be allowed after furnishing of GSTR-3B for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier. Table 9 of GSTR-1 captures amendments to taxable supply details furnished in Table 4, 5 and 6.

Analysis of Table 9 of GSTR-1 of 2017-18 to 2020-21 revealed that, in 3.35 lakh records pertaining to 22,444 taxpayers, invoices were amended after the prescribed time limit, thereby reducing net tax liability by ₹ 36.43 crore, as shown in **Table 6.14**.

**Table-6.14: Amendments after prescribed period**

(₹ in crore)

Original Invoice year	Amendments allowed till	Amendment done in Return year	No. of records	No. of GSTINs	Net Tax amount (Amended tax less original tax amount)
2017-18	March 2019	2019-20 and 2020-21	2,53,518	15965	-32
2018-19	Sept 2019	2020-21	81,281	6,479	-4.44
<b>Total</b>			<b>3,34,799</b>	<b>22,444</b>	<b>-36.44</b>

Thus, inadequate system controls allowed taxpayers to reduce their liability relating to old invoices thereby impacting revenue collections.

When pointed out, GSTN stated that in case of B2B transactions, validation check could not be implemented as provision of sub section (3) of section 37 was ambiguous regarding the last date for amending invoices. However, after amendment of the section through Finance Act 2022, this has been addressed.

Reply is not acceptable since there was no ambiguity in sub section 3 under section 37 regarding the last date for amending invoices. The amendment of the said provision made in 2022 changed the cut off criteria by which such amendments were to be made. Earlier it was 'filing of return for the month of September' after the FY to which invoice pertained and the same is now amended to '30<sup>th</sup> November'. It is important to mention here that Audit has pointed out only such cases where invoices were amended in the returns for the months after the end of the next financial year i.e. April 2019 onwards in case of invoices pertaining to 2017-18 for which amendments were allowed till September 2018.

Field verification of 20 sample invoice details pertaining to 15 taxpayers was done, where such irregular amendments were found in the data made available by GSTN. Audit noted that in eight cases the taxpayer amended the invoices beyond the prescribed period, which had the impact of reducing tax liability to the extent of ₹ 3.68 crore. In one case though there was irregular amendment in the tax amount, the tax liability was not adjusted accordingly. In two cases, duplicate original invoices were noticed corresponding to the amended invoices; therefore net impact could not be ascertained. In one case, the Department attributed the discrepancy to system glitch due to which invoice appeared multiple times, leading to amendments. In three cases, the Department claimed negligible difference due to amendments. However, no supporting documents were furnished in its support.

In the remaining five cases, Audit could not ascertain the reasons for the deviation due to lack of response from the Department.

A case is detailed below by way of illustration:

One taxpayer (GSTIN 1XXXXXXXXXXXXW of Kolkata-North Commissionerate) amended 12 invoices, pertaining to the period May 2018 to March 2019, in GSTR-1 of April 2020 i.e. after the prescribed period for amendments. The amendments of invoices had the effect of reducing net tax liability to the extent of ₹ 1.42 crore. Thus, lack of adequate validations in the system allowed amendments in the invoices even after expiry of the prescribed period provided in the CGST Act, 2017, for invoice amendments. On this being pointed out, the Department stated (October 2022) that the matter was under verification and necessary action was being initiated.

***Recommendation 12: The Ministry may consider incorporating validation checks in the GSTR-1 return for the amendment of invoice details within the prescribed period.***

Audit pointed this out (January 2023). Reply of the Ministry was awaited (January 2024).

#### **6.5.6.3 IGST levied for intra-state supplies**

The Integrated Goods and Services Tax (IGST) is levied by the Central Government on inter-state supply of goods and services i.e., supply of goods/services from one state to another. IGST-ITC can be used to settle IGST or CGST or SGST tax liabilities, whereas CGST-ITC cannot be used to settled SGST tax liability and vice versa.

Audit noticed that in 50.20 lakh records pertaining to 1.97 lakh taxpayers, the Integrated Goods and Services Tax (IGST) was recorded in GSTR-1, despite the fact that the supply of goods and services was within the same State, as shown in **Table 6.15**.

**Table-6.15: IGST levied on intra-state supply in GSTR-1**

*(₹ in crore)*

Financial Year	No. of Records	No. of GSTINs	Taxable value	IGST
2017-18	10,53,216	52,553	14,173	2,353
2018-19	15,18,740	55,446	25,344	4,220
2019-20	15,01,555	50,544	28,155	4,471
2020-21	9,45,688	38,309	25,208	4,369
<b>Total</b>	<b>50,19,199</b>	<b>1,96,852</b>	<b>92,880</b>	<b>15,414</b>

Since GSTR-1 is primarily used for availing ITC, the incorrect reporting of tax in the form of IGST may be used for availing tax credit for setting off CGST and SGST tax liability, which may otherwise not be permissible. It also could distort the correct sharing of GST revenues.

GSTN stated that in 22 out of 30 sample cases<sup>120</sup>, the supplier or recipient taxpayer is registered as an SEZ unit in the same state of supplies, for which IGST would be applicable. GSTN's reply is unacceptable in view of the fact that GSTR-1 separately captures SEZ supplies in Table 6 where there is no requirement of mentioning place of supply.

In the remaining eight cases, GSTN replied that IGST was levied incorrectly due to a defect in the system. GSTN was in the process of addressing the error (December 2022).

## 6.6 Conclusion and summary of recommendations

During 2021-22, Audit had analyzed the GST returns data pertaining to the period 2017-18 to 2019-20, as filed by taxpayers up to August 2021, and noticed significant data inconsistencies between the taxable value and declared tax liability. During 2022-23, a follow-up audit was been taken up for assessing the quality of GSTN data and to ensure whether the Ministry/GSTN had addressed the issue of GSTN data inconsistencies, as reported by Audit during previous audit.

During the current exercise, Audit observed persistent data inconsistencies such as inconsistency between ITC claim in GSTR-3B and declaration thereof in GSTR-9, inconsistencies between the CGST and SGST components of GST and inconsistencies between taxable values, rate and tax liability declared. In

<sup>120</sup> These 30 samples were in addition to 200 samples for which field verification was exercised. The samples were shared with GSTN as an illustration only.

addition, Audit also observed data discrepancies in auto population of input tax credit (ITC) in table 8A of GSTR 9 from GSTR 2A, inconsistency in tax liability between monthly and annual returns, short computation of tax in GSTR-1 and instances of deviations by the taxpayers from the provisions of the Acts/Rules due to lack of adequate validations in GSTR-1. Further, Audit also observed that data entry mistakes were not being analysed by the GSTN/Department and follow-up action was not being taken up to reduce such occurrences.

Presence of incorrect data is the result of various factors such as lack of validation checks and user alert in the system allowing taxpayers to input unrealistic amounts; incorrect auto-population of data from one return to the other owing to system deficiencies and lack of a system to analyse such inconsistencies post-facto in the system to alert taxpayers and tax officers.

Accordingly, Audit gives following recommendations to address the issue of GSTN data inconsistencies and to make it more reliable in future. Further, Ministry/GSTN may review all the cases with discrepancies noticed in audit to take appropriate measures as per Act/Rules.

1. Ministry/GSTN may address the persistent data discrepancies in auto-populated and non-editable fields of annual returns (GSTR-9).
2. Ministry may review the process of auto-population of ITC value in table 8A of GSTR-9 (annual return) from GSTR-2A (details of auto-drafted supplies) to ensure correct amount is carried over from GSTR-2A to GSTR-9.
3. Ministry and GSTN may consider inclusion of an additional field in GSTR-9 for capturing additional tax liability declared in GSTR-9 from monthly returns (GSTR-3B). Net liability from Table 4 and tax payments made through GSTR-3B and DRC-challans should be auto populated and non-editable.
4. Actual tax amount paid, in table 9 of GSTR-9, should flow from GSTR-3B and DRC-03, taking into account payments/adjustments of previous year's liability.
5. Total tax payable in Table-9 should reconcile from total tax liability of Table-4 of GSTR-9 to avoid discrepancy within the same return.
6. Ministry should implement validation check in Table 14 to ensure that only correct values on the basis of table 10 and 11 of GSTR-9 populate table 14; at the very least, a user alert pointing out the difference should be generated.

7. Validation controls for ensuring matching of CGST and SGST amounts in GSTR-1/3B returns may be reviewed and strengthened in view of discrepancies pointed out by Audit.
8. Similar validation regarding matching of CGST and SGST components may also be incorporated in GSTR-9 to mitigate the risk of unreliable R9 data and differential tax collections for the Union and the States.
9. Soft control may be incorporated in GSTR-3B to this effect to alert taxpayers attempting to enter disproportionate value vis-a-vis tax amount. Tax payments where taxable value is not required to be declared, may be made through DRC challans.
10. Ministry may consider incorporating validation checks and system/user alert for ensuring compatibility of taxable value, tax rate and tax amount in GSTR-1.
11. Ministry may consider incorporating validation checks in Table 9 of GSTR-1 to ensure that no credit note should be allowed after the prescribed period of reporting of the same.
12. The Ministry may consider incorporating validation checks in the GSTR-1 return for the amendment of invoice details within the prescribed period.

## **Chapter VII: Data Analysis of Composition Levy Scheme Data**

### **7.1 Introduction**

With the implementation of GST from 1st July 2017, business processes, such as registration, return filing and payment of taxes were required to be carried out online, over a common portal. While large taxpayers would be equipped with the required resources for adapting to the changes, small taxpayers may not be as well equipped for this purpose. Therefore, a Composition Levy Scheme (CLS) was prescribed, as another form of levy of GST, under the CGST Act, 2017, for small taxpayers. Under the scheme, many of the regular business processes were made inapplicable for eligible taxpayers. Further, such taxpayers were required to pay tax at a fixed rate on their turnover, subject to specific conditions and restrictions. Initially, this scheme was applicable only for goods (and not for services except for Restaurant services). Consequent to amendment in the CGST Act, 2017, supply of services, up to value not exceeding 10 *per cent* of the turnover of preceding year, or ₹ 5 lakh, whichever is higher, was permitted with effect from 01 February 2019. A separate CLS for suppliers of services (including suppliers of goods and services) was introduced under section 10(2A) of the Act with effect from 01 April 2019. Under this scheme, a registered person who is a supplier of services and is not eligible to opt to pay tax under normal CLS may opt to pay tax under this scheme if his aggregate turnover in the preceding financial year did not exceed fifty lakh rupees. The prescribed rate of tax for this scheme is 6 per cent (CGST+ SGST). Further, all restrictions/conditions applicable to normal CLS are *mutatis mutandis* applicable to this scheme.

### **7.2 Legal Provisions**

The provisions related to CLS are contained in Section 10 of the CGST Act, 2017 and Rules 3 to 7 of the CGST Rules, 2017 read with various notifications issued from time to time.

### **7.3 Salient Features of the Composition Levy Scheme**

#### **7.3.1 Threshold limit**

The CLS is available to taxpayers whose aggregate turnover, in the preceding financial year, has not exceeded ₹1.5 crore. For taxpayers in special category states, this limit is ₹ 75 lakh. Initially (i.e. with effect from 01.07.2017), the threshold limits were fixed at ₹ 75 lakh and ₹ 50 lakh (for special category states). These were changed to ₹ 1 crore and ₹ 75 lakh with effect from 14 October 2017 and these limits remained applicable up to 31.03.2019. From 1

April 2019 onwards, the applicable limits were ₹ 1.5 crore and ₹ 75 lakh. However, in cases of taxpayers opting to pay tax under the new CLS, in regard to supply of services, the threshold limit is ₹ 50 lakh.

### **7.3.2 Eligibility for the Composition Levy Scheme**

As per Section 10(2) and Section 10 (2A) of the Act, a registered person is eligible for the Scheme, if:

- (a) he is not engaged in the supply of services, except for restaurant services. However, supply of services up to 10 per cent of the turnover, or ₹ 5 lakh, whichever is higher, is permitted;
- (b) he is not engaged in making any supply of goods or services, which are not leviable to tax under the Act;
- (c) he is not engaged in making any inter-State outward supplies of goods or services;
- (d) he is not engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source;
- (e) he is not a manufacturer of such goods as may be notified by the Government. The goods notified to this effect are – ‘Ice-cream and other edible ice’ (Tariff Item: 2105 00 00), ‘Pan Masala’ (Tariff Item: 2106 90 20), ‘Tobacco and manufactured tobacco substitutes’ and ‘Aerated Water’;
- (f) he is neither a casual taxable person nor a non-resident taxable person.
- (g) Supplier of services may also opt to pay tax under this scheme if his aggregate turnover in the preceding Financial Year did not exceed 50 lakh Rupees.

In case there are more than one registrations having the same PAN, none of them would be eligible for the scheme, unless all of them opt for the scheme.

### **7.3.3 Other conditions and restrictions for Composition Levy Scheme**

The person exercising the option to pay tax under the scheme has to comply with the following conditions/restrictions as well:

- (1) The option to pay tax under the scheme shall lapse from the day on which his aggregate turnover, during a financial year, exceeds the prescribed limit;
- (2) He shall not collect any tax from the recipients on supplies made by him;
- (3) He shall not be entitled to any credit of input tax;

- (4) In case he is an existing taxpayer, the goods held, in stock, by him, on the appointed day, have not been purchased in the course of inter-State trade or commerce, or imported from a place outside India, or received from his branch situated outside the State, or from his agent or principal outside the State;
- (5) The goods, held in stock, by him, have not been purchased from an unregistered supplier, and, where purchased, he pays the tax under reverse charge;
- (6) He shall pay tax, under reverse charge, on inward supply of goods or services, or both
- (7) He shall mention the words "composition taxable person, not eligible to collect tax on supplies", at the top of the bill of supply, issued by him; and
- (8) He shall mention the words "composition taxable person" on every notice or signboard, displayed at a prominent place, at his principal place of business and at every additional place or places of business.

#### 7.3.4 Rates of tax for the Composition Levy Scheme

The rates prescribed for the Composition Levy taxpayers are given in **Table 7.1**.

**Table 7.1: The rates prescribed for the Composition Levy taxpayers**

Sl. No.	Category of registered persons	Rate of tax
1	Manufacturers	<b><u>With effect from 01.07.2017 to 31.12.2017</u></b> 1% CGST + 1% SGST of the Turnover in the State or UT. <b><u>With effect from 01.01.2018</u></b> ½% CGST + ½% SGST of the Turnover in the State or UT
2	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II (i.e. Restaurant Services)	<b><u>With effect from 01.07.2017</u></b> 2 ½% CGST + 2 ½% SGST of the Turnover in the State or UT.
3	Any other supplier eligible for the Composition Scheme (i.e. Traders)	<b><u>With effect from 01.07.2017</u></b> ½% CGST + ½% SGST of the Turnover in the State or UT <b><u>With effect from 01.01.2018</u></b> ½% CGST + ½% SGST of the Turnover of taxable supplies of goods in the State or UT
4	Registered persons opting for the Composition Scheme, under sub-section (2A) of Section 10 (i.e. suppliers of services or mixed supply of goods and services)	<b><u>With effect from 01.04.2019</u></b> 3% CGST + 3% SGST of Turnover in the State or UT

#### **7.4 Returns prescribed for the Composition Levy Scheme**

As per Section 39(2), read with Rule 62, taxpayers under the CLS, were required to file quarterly returns in Form GSTR-4 by 18th of the month, following the quarter. Subsequently, Rule 62 was amended with effect from 23 April 2019 by making return in Form GSTR-4 annual return to be filed by 30th of April of the following year, as against the quarterly returns prescribed earlier. Further, under the revised procedure, taxpayers were required to furnish a statement for every quarter, in Form GST CMP-08, by 18th of the month succeeding the quarter.

#### **7.5 Analysis of Pan-India data relating to the Composition Levy Scheme (data pertaining to CBIC)**

One of the main criteria for opting the scheme is the 'aggregate turnover' of the taxpayer in the preceding financial year. In addition, a taxpayer has to fulfill certain prescribed conditions for becoming eligible for CLS. Under CLS, a taxpayer pays tax at reduced rate on 'value of outward supply' made by him during a quarter and this 'value of outward supplies' is self-declared by the taxpayer in quarterly statements (Form GST CMP-08). Since the CLS taxpayers are not required to furnish 'bill of supply' level details along with their quarterly statements, the scope for verifying the annual turnover was limited to the 'value of outward supplies' declared in the statements GST CMP-08. Therefore, the two major risk areas in respect of CLS taxpayers are:

1. under-declaration of the 'value of outward supply' by the taxpayers to continue in the scheme; and
2. non-fulfillment of eligibility conditions for availing CLS.

Hence, analysis of the Pan-India data relating to the CLS was conducted with the objectives to identify the following:

- i. high risk taxpayers under the CLS;
- ii. taxpayers who had opted for the CLS despite being ineligible for the scheme and remained undetected;
- iii. taxpayers who did not discharge their obligatory liabilities, such as tax, interest and penalty, as per prescribed rules; and
- iv. taxpayers who did not file their returns and other prescribed forms, as per the prescribed rules.

#### **7.6 Scope of data analysis**

The return filing in CLS was streamlined from FY 2019-20 by introducing Form GST CMP-08 as quarterly statement and making Form GSTR-4 an annual

return. Therefore, the data analysis was conducted on the data for the financial years 2019-20 to 2021-22 (i.e. last 3 years).

As per updated data provided by GSTN in September 2022, there were 23.69 lakh taxpayers under CLS throughout the country. Out of this, 8.66 lakh taxpayers were under central jurisdiction (i.e. pertaining to CBIC). The analysis was conducted on the data pertaining to these 8.66 lakh composition levy taxpayers under central jurisdiction for the financial years 2019-20, 2020-21 and 2021-22. The results of the analysis are brought out in the succeeding paragraphs.

## **7.7 High risk taxpayers under the Composition Levy Scheme**

To assess departmental action with respect to high risk taxpayers in CLS, Audit identified taxpayers in whose case there was high probability of crossing the prescribed limit of aggregate turnover i.e. ₹1.5 crore (₹75 lakh for special category states) during a particular year but they may have under declared their turnover in the CLS returns in that year to continue in the Scheme. These high risk taxpayers have been identified in the following manner.

### ***7.7.1 Taxpayers having value of inward supply more than the threshold limit for Composition Levy Scheme***

Form GSTR-4A is auto-drafted details of inward supplies received by the CLS taxpayers from registered persons. It is auto-drafted from GSTR-1, GSTR-5 and GSTR-7. In cases where value of total inward supplies in a financial year reflected in GSTR-4A is more than ₹ 1.5 crore/₹ 75 lakh in all the three financial years (2019-20, 2020-21 & 2021-22), there is a high possibility of crossing the threshold limit of outward supply by such taxpayers.

During data analysis of CLS taxpayers, pertaining to the financial years 2019-20 to 2021-22, it was observed that there were 10,597 taxpayers whose value of total inward supply during a financial year was more than the threshold limit of ₹ 1.5 crore/₹ 75 lakh. Out of these 10,597 taxpayers, 6,236 taxpayers had received inward supply valuing more than the threshold limit in at least two consecutive years and 1,820 taxpayers had received inward supply valuing more than threshold limit in all the three consecutive years. The number of taxpayers with value of inward supply more than ₹ 1.5 crore during the period 2019-20 to 2021-22 is given in **Table 7.2**.

**Table 7.2: The number of taxpayers with value of inward supply more than ₹1.5 crore**

FY	General Category States		Special Category States	
	Ranges of value of Inward Supply	No. of GSTINs	Ranges of value of Inward Supply	No. of GSTINs
2019-20	>1.5 Cr and <=2Cr.	4,230	>75 Lakh and <= 1 Cr.	298
	>2 Cr and <=5Cr.	3,141	>1Cr. and <=2.5 Cr.	330
	>5 Cr.	111	>2.5 Cr.	27
2020-21	>1.5 Cr and <=2Cr.	2,868	>75 Lakh and <= 1 Cr.	245
	>2 Cr and <=5Cr.	2,337	>1Cr. and <=2.5 Cr.	232
	>5 Cr.	71	>2.5 Cr.	18
2021-22	>1.5 Cr and <=2Cr.	1,845	>75 Lakh and <= 1 Cr.	125
	>2 Cr and <=5Cr.	998	>1Cr. and <=2.5 Cr.	126
	>5 Cr.	35	>2.5 Cr.	1

Audit is of the view that 1,820 taxpayers, receiving inward supply valuing more than threshold limit in all the three consecutive years are high risk taxpayers for whom there was high possibility of crossing the threshold limit of outward supply but who were continuing in the CLS. Top five such taxpayers had average inward supplies of ₹38.29 crore during the period 2019-20 to 2021-22.

Further analysis revealed that out of these 1,820 taxpayers, 1,054 taxpayers (i.e. around 58 per cent) were dealers in pharmaceutical products. Such dealers of pharmaceutical products under the Scheme were procuring inputs in high values year after year, but were filing returns showing outward supply within the limits prescribed for the Scheme. Top five such taxpayers had an average inward supplies of ₹ 17.63 crore during the period 2019-20 to 2021-22.

Audit flagged these cases to the Ministry to ascertain whether any compliance verification has been carried out by the CBIC field formations in respect of these taxpayers (January 2023). GSTN in its reply stated (March 2023) that eligibility for CLS is based on value of outward supply declared by the taxpayer and not on the value of inward supplies. Hence, a validation check based on the outward supply has been placed in the system since August 2021.

While acknowledging the provision of the Scheme as stated by GSTN, Audit reiterates that this review was undertaken with the objective of identifying high risk taxpayers who may be availing the benefits of the Scheme despite not being eligible. Taxpayers whose value of inward supplies have consistently exceeded the threshold limit have the possibility of the value of their outward supplies exceeding the eligibility threshold, and are therefore high risk

taxpayers. It is, therefore, recommended that the system should have provision for red-flagging such cases for further verification by the Ministry.

Reply of the Ministry was awaited (January 2024).

**7.7.2 Taxpayers having value of inward supply more than the threshold limit as per GSTR-4A and engaged in supply of goods having GST rate of 28 per cent or 18 per cent**

A number of goods attracting tax rate of 28 per cent are high value goods, such as pneumatic tyres, air conditioners, motor vehicles, engine parts, electric accumulators etc. Therefore, the probability of crossing the turnover limit by the CLS taxpayers, dealing in these goods may be high.

A taxpayer has to declare HSN of top five goods supplied by him in his registration form (GST REG -01). On the basis of such information, the CLS taxpayers dealing in goods having normal GST rate of 28 per cent were identified. In the course of data analysis it was observed that there were 2,23,011 taxpayers who were dealing in goods attracting GST rate of 28 per cent out of which there were 1,100 taxpayers whose value of total inward supply in at least one of the financial years from 2019-20 to 2021-22 as per GSTR-4A was more than the threshold limit of ₹ 1.5 crore/₹ 75 lakh and who had continued under the Scheme. Further, out of these 1,100 taxpayers, it was observed that 356 taxpayers had total value of inward supply exceeding the threshold limit in at least any of the two financial years from 2019-20 to 2021-22 and 253 taxpayers had total value of inward supply exceeding the threshold limit in all the three years. Average value of inward supply for top five such taxpayers was ₹ 14.26 crore during 2019-20 to 2021-22.

Similarly, CLS taxpayers dealing in some specific goods falling under 18 per cent tax rate such as 'Mobile phones' (Heading 8517), 'Electronic Toys & Video Games' (Heading 9503 & 9504), 'TV Sets and Monitors not exceeding 32 inches' (Heading 8528) were also identified. Out of 56,195 such taxpayers, there were 151 taxpayers whose value of total inward supply during any of the financial year from 2019-20 to 2021-22 as per GSTR-4A was more than ₹ 1.5 crore/₹ 75 lakh and who had continued under the Scheme. Further, out of these 151 taxpayers, it was observed that 47 taxpayers had total value of inward supply exceeding the threshold limit in at least any of the two financial years from 2019-20 to 2021-22 and 29 taxpayers had total value of inward supply exceeding the threshold limit in all the three years. Average value of inward supply in top five such taxpayers was ₹ 8.57 crore during 2019-20 to 2021-22.

Therefore, all such taxpayers dealing in goods having normal GST rate of 28 per cent or 18 per cent and whose value of inward supply during any of the

financial years from 2019-20 to 2021-22, especially those exceeding the threshold limit for two financial years, as per their GSTR-4A was more than threshold limit for CLS, would also be considered as high risk taxpayers.

Audit flagged these cases to the Ministry to ascertain whether any compliance verification has been carried out by the CBIC field formations in respect of these taxpayers (January 2023). GSTN stated (March 2023) that turnover check is based on value of outward supplies and not on the basis of commodity in which a taxpayer deals in. Therefore, GSTN has no role in this aspect, being purely a policy issue.

Audit acknowledges that turnover check is not based on type/class of commodities. However, taxpayers as mentioned above have the potential risk of the value of their outward supplies crossing the threshold. Hence there should be a systemic provision for red-flagging such cases for further verification.

Reply of the Ministry was awaited (January 2024).

### ***7.7.3 Taxpayers having annual declared turnover in returns marginally below the threshold limit prescribed for Composition Levy Scheme***

There is possibility of under declaration of turnover by the CLS taxpayers whose total declared annual turnovers, in their CLS returns, were marginally below ₹ 1.5 crore (₹ 75 lakh for special categories states).

In course of data analysis, it was observed that there were 5,404 taxpayers whose annual declared turnover was between ₹ 1.4 and ₹ 1.5 crore (between ₹ 70 and ₹ 75 lakh for special categories states) in at least one of the last three years from 2019-20 to 2021-22 and who were continuing under the Scheme. Out of these 5,404 taxpayers, there were 178 taxpayers whose annual declared turnover was between ₹ 1.4 and ₹ 1.5 crore (between ₹ 70 and ₹ 75 lakh for special categories states) in each of the last three years. In all such cases there was possibility of crossing the threshold limit by the taxpayers, although, they were continuing in the Scheme. Therefore, these 178 taxpayers would be considered as medium risk CLS taxpayers.

Audit flagged these cases to the Ministry to ascertain whether any compliance verification has been carried out by the CBIC field formations in respect of these taxpayers (January 2023). GSTN in its reply stated (March 2023) that validation check is based on the exact threshold turnover. However, for convenience of taxpayer, an alert is given to the taxpayer on crossing 80% of the threshold turnover.

Audit is of the view that apart from the user alerts which are primarily for the benefit of taxpayers, assessee as suggested above may be red-flagged by the

system for compliance verification by the Ministry in view of the associated potential risk.

Reply of the Ministry was awaited (January 2024).

**7.7.4 Taxpayers whose annual value of supply to TDS deductors was more than or marginally below the threshold limit prescribed for Composition Levy Scheme**

As per provisions of Section 51 of the CGST Act, 2017, Government Departments, Local Authorities, Governmental agencies etc. are required to deduct GST TDS from the suppliers of goods and services where the total value of supply, under a contract, exceeds ₹ 2.5 lakh. Such deductors file monthly return GSTR-7 giving the details of suppliers from whom tax was deducted during a month.

From the analysis of monthly returns filed by the TDS deductors, during 2019-20 to 2021-22, it was observed that there were 42 CLS taxpayers whose total value of supply to the TDS deductors, during a year, was more than the threshold limit prescribed for being eligible for CLS (₹ 1.5 crore/₹ 75 lakh). As a result, the above 42 taxpayers were ineligible for continuing in the Scheme.

Further, it was observed that there were 29 CLS taxpayers whose annual value of supply to TDS deductors in any one of the last three years was between ₹ 1.3 and ₹ 1.5 crore/70 and 75 lakh. In such cases, there was a probability of crossing the threshold limit by the taxpayers and therefore, all such taxpayers would be considered as medium to high risk taxpayers.

Audit flagged these cases to the Ministry (January 2023). GSTN in its reply stated (March 2023) that taxpayers report the transaction in the statement/return in the tax period in which supply has been made whereas deductor deducts the TDS while making the payment to the supplier. One to one comparison of TDS deductor's statement with the suppliers statement is not possible due to spill over of information from one tax period into another tax period. GSTN also stated that it has provided necessary reports to field formations for scrutiny.

Audit is of the view that since it is possible to identify the CLS taxpayers whose total value of supply to the TDS deductors, during a year, was more than the threshold limit or marginally below the threshold limit, therefore, GSTN may consider providing report on such taxpayers to the department at regular interval for verification.

Reply of the Ministry was awaited (January 2024).

Overall, on the basis of the above four criteria a total 2,223(1,820+356+47) CLS taxpayers were found to be high risk taxpayers.

#### **7.7.5 Cross verification of value of outward supply declared by the high risk taxpayers**

Audit carried out a sample check from the high risk cases identified through data analysis (brought out in previous paragraphs). Audit cross-verified the value of outward supply declared by the taxpayer with the information available from the income tax returns and 'Vahan' database (i.e. motor vehicle registration database). The audit findings are as follows:

(a) A sample of top 10 high risk CLS taxpayers under Kolkata jurisdiction, identified from the aforementioned 2,223 taxpayers, were selected for cross verification of their value of outward supply as declared in CLS returns with the value of supply declared by them in their income tax returns of the respective years. Out of the selected 10 taxpayers, IT returns of only seven taxpayers were provided by the Income Tax department. It was observed that in case of two taxpayers, the value of supply as per IT return was more than the threshold limit but corresponding value as per CMP-08 was less than the threshold limit. These taxpayers were, therefore, not eligible under CLS. In respect of the rest of five taxpayers, there was no significant variation in the value of outward supply between both the returns.

(b) On the basis of HSN of goods declared by the CLS taxpayers at the time of registration, Audit noticed that there were 4,208 CLS taxpayers who were dealers of motor vehicles. Out of these 4,208 taxpayers, 848 taxpayers had continued in the Scheme during 2019-20 to 2021-22. Out of these 848 taxpayers, 42 taxpayers having either value of inward supply in their GSTR-4A of more than ₹ 1.5 crore in any of the last three years or whose declared value of outward supply was between ₹ 1.4 and ₹ 1.5 crore. These 42 taxpayers were selected for verification of their turnover in the 'Vahan' database. Out of these 42 taxpayers, sale records of 11 taxpayers were found in the 'Vahan' database. It was observed that in seven cases the taxpayers had annual value of sales more than the threshold limit prescribed for CLS, but had irregularly remained in the scheme by declaring turnover less than the threshold limit in the CMP-08.

***Recommendation 1: The Ministry should identify high risk taxpayers in the CLS on a periodical basis using a risk based approach and verify their declared value of outward supply from other sources including third party to minimize the possibility of misuse by ineligible persons.***

Audit pointed this out (January 2023). GSTN stated (March 2023) that this being administrative-cum-policy issue, response from GSTN is not warranted.

Ministry accepted (September 2023) the audit recommendation and stated that the data sources, including third party data are being examined to develop risk parameters in order to identify high risk taxpayers in the CLS category and cross-checking would aid checking eligibility of CLS category taxpayers.

## 7.8 Ineligible taxpayers under Composition Levy Scheme

### 7.8.1 Taxpayers whose value of supply during a year exceeded the threshold limit but who continued in the scheme

The option to pay tax, under the CLS, lapses from the day on which taxpayer's aggregate turnover, during a financial year, exceeds the prescribed limit of ₹1.5 crore (₹75 lakh for special category states). All the taxpayers who cross the prescribed limit of turnover, during the financial year, as per the turnover declared in the quarterly statements, are ineligible to continue in the Scheme.

In course of data analysis, it was observed that as per value of outward supply declared by the CLS taxpayers in their quarterly statement (CMP-08), there were 1,422 taxpayers<sup>121</sup> in general category states and 255 taxpayers in special category states who crossed the threshold limit of value of outward supply prescribed for the CLS taxpayers in at least one of the FYs 2019-20, 2020-21 and 2021-22. Out of this, 904 taxpayers in general category states and 178 taxpayers in special category states continued in the scheme in the following year despite becoming ineligible to continue in the Scheme.

**Table 7.3: Taxpayers continued in the scheme in the following year despite becoming ineligible to continue in the Scheme**

Year	No. of CLS taxpayers who had crossed the threshold limit of value of outward supply and continued in the Scheme	
	General Category States	Special Category States
2019-20	503	109
2020-21	367	64
2021-22	34	5
<b>Total</b>	<b>904</b>	<b>178</b>

Audit pointed this out (January 2023) GSTN stated (March 2023) that turnover check has been placed now from August 2021.

From the findings of the data analysis, it can be seen that since the placement of turnover check in the system in FY 2021-22, there has been a significant

<sup>121</sup> After excluding 70 taxpayers having unrealistic values in CMP-08 from 1,492 taxpayers as identified by Audit.

reduction in number of such cases in FY 2021-22 as compared to the number of such cases in FY 2019-20 and FY 2020-21.

Reply of the Ministry was awaited (January 2024).

### **7.8.2 Taxpayers who made supply of goods or services through e-commerce operator**

A taxpayer under CLS is not eligible for making any supply of goods or services through an electronic commerce operator who was required to collect tax at source. The e-commerce operators file monthly returns in form GSTR-08 giving the details of suppliers from whom tax was collected by them during a month.

In the course of analysis of data furnished through GSTR-08 returns by the e-commerce operators, it was observed that there were 1,442 instances of supplies through e-commerce operators involving 136 CLS taxpayers during the above three years. Supply by these taxpayers through e-commerce operator while being under composition levy was not in order and were, therefore, ineligible.

Audit pointed this out to the Ministry along with the list of ineligible taxpayers under CLS (January 2023). GSTN stated (March 2023) that before amendment of the Act, supply of services through ECO was allowed, hence there was no check. Now, again Government is allowing composition taxpayers to supply through ECOs.

Audit states that supply of goods through ECOs was disallowed from the beginning and supply of services (wherever allowed for CLS taxpayers) through ECOs was disallowed from 01 January 2021. However, there was no systemic check for detecting CLS taxpayers supplying goods or services through ECOs during the period of audit. Section 10 (2) of the CGST Act, 2017 has now been amended<sup>122</sup> to allow the supply of goods through ECOs. However, supply of services through ECOs is still disallowed even after the amendment and therefore, a check in this regard is required.

Reply of the Ministry was awaited (January 2024).

### **7.8.3 Taxpayers who had made interstate outward supply of goods while being under the Scheme**

A CLS taxpayer is not allowed to make interstate outward supply. In course of data analysis, e-way bills generated by the taxpayers during 2019-20 to 2021-22 were analysed to see whether any CLS taxpayers had generated interstate e-way bill for outward supply of goods. It was observed that there were 3,416

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<sup>122</sup> With effect from 1 October 2023 vide notification No. 28/2023–Central Tax dated 31 July 2023.

instances where e-way bills were generated by 2,885 taxpayers for interstate outward supply of goods while being under the CLS, thereby rendering them ineligible to continue in the scheme.

Audit pointed this out to the Ministry along with the list of ineligible taxpayers under CLS (January 2023). GSTN, while accepting the observation, stated (March 2023) that now the check has been built in the system.

Reply of the Ministry was awaited (January 2024).

#### **7.8.4 Multiple registrations under the same Permanent Account Number but all registrants not under Composition Levy Scheme**

As per Section 10(2) of CGST Act, 2017 where more than one registered persons are having the same Permanent Account Number (PAN), the registered person shall not be eligible to opt for the Composition Levy scheme unless all such registered persons opt to pay tax under the Scheme.

In the course of data analysis, it was observed that there were 69 distinct PAN holders having more than one GST registration, where at least one GSTIN was under the Scheme but all of them were not under the Scheme. As a result, none of the taxpayers registered on the basis of above PANs were eligible for the Scheme.

Audit pointed this out to the Ministry along with the list of ineligible taxpayers under CLS (January 2023). GSTN stated (March 2023) that system has validation checks to restrict taxpayers from registering as normal taxpayer when he is active in composition levy scheme (CLS) in same or any other state with the same PAN. In these cases, it was found that the taxpayers had immediately applied for another registration on the same PAN on the same day as a normal taxpayer when they had applied for self-cancellation in CLS.

GSTN's reply is not acceptable as audit scrutiny of these GSTINs as mentioned above revealed that in several cases, where the same PAN has been used to obtain multiple GSTINs, there is at least one GSTIN registered under the CLS and another as a Regular Taxpayer and both of these GSTINs are active.

Reply of the Ministry was awaited (January 2024).

#### **7.8.5 Multiple registrations under same Permanent Account Number where turnover of all the units taken together was more than threshold limit**

The aggregate turnover limit in case of multiple CLS taxpayers under same PAN is to be determined by adding the turnover of all the units registered under the same PAN. From data analysis, it was observed that there were 978 sets of CLS taxpayers registered under same PAN whose annual value of outward supply taken together (for the same PAN) was more than the threshold limit in at least

one of the last three years i.e 2019-20, 2020-21 and 2021-22. As a result, they were not eligible for the Scheme however, continued in the Scheme. Year wise number of such taxpayers is shown in the **Table 7.4**.

**Table 7.4: Taxpayers not eligible for the Scheme, however, continued in the Scheme**

Financial Year	No. of PANs where turnover of taxpayers having same PAN taken together was more than threshold limit.	No. of CLS taxpayers involved
2019-20	228	502
2020-21	276	600
2021-22	474	1020
Consecutive two years: 2019-20 & 2020-21	112	257
Consecutive two years: 2020-21 & 2021-22	169	381
Consecutive three years: 2019-20, 2020-21 & 2021-22	81	193

Audit pointed this out (January 2023). GSTN stated (March 2023) that it was in the process of analyzing these cases. Reply of the Ministry was awaited (January 2024).

#### **7.8.6 Taxpayers engaged in the manufacture of notified goods**

A taxpayer is not eligible to opt for the scheme if he is engaged in the manufacture of such goods as are notified under Section 10(2)(e). Such goods are 'Ice-cream and other edible ice' (Tariff Item: 2105 00 00), 'Pan Masala' (Tariff Item: 2106 90 20), 'Tobacco and manufactured tobacco substitutes' and 'Aerated Water'.

Further, a taxpayer has to declare HSN of top five goods supplied by him in his registration form (GST REG -01) along with the nature of business activities. On the basis of information supplied in this column, the taxpayers who were manufacturer of notified goods were identified. It was observed that 38 CLS taxpayers were manufacturers of notified goods and therefore, were not eligible for the scheme. However, they continued under the scheme.

**Recommendation 2: The Ministry may develop a system of identifying ineligible taxpayers and take action to exclude them from the Scheme in order to prevent misuse of the intended benefits of the Scheme.**

Audit pointed this out (January 2023). GSTN stated (March 2023) that there is validation check/restriction for taking registration in CLS with HSN

21050000<sup>123</sup>, 21069020<sup>124</sup>, 24<sup>125</sup> and 22021010<sup>126</sup> etc. Moreover, it seeks confirmation from applicant/taxpayers through mandatory declaration while applying for registration and applicants cannot proceed without providing declaration on the system.

The fact remains that 38 CLS taxpayers were found to be manufacturers of the notified goods; therefore it is evident that taxpayers are availing the Scheme benefits through false declarations. This indicates the need for further scrutiny of the database by the Department for detecting non-eligible beneficiaries.

Ministry stated (September 2023) that since the data elements based on which the fulfillment of eligibility criteria for CLS taxpayers, are already available with GSTN in the Front-end application, such 18 validations need to be built by GSTN in the Front-end Applications to ensure that such ineligible taxpayers are prevented from availing the benefit of the CLS Scheme. As the issue pertains to GSTN, further comments in this regard may be obtained from GSTN. A reference in this regard has already been sent to GSTN by CBIC.

## **7.9 Taxpayers who did not discharge their obligatory responsibilities**

### **7.9.1 *Non-payment of tax on reverse charge basis on supplies received from registered supplier (attracting reverse charge)***

Taxpayers under composition scheme are required to pay tax under reverse charge mechanism (RCM) at applicable rates when supplies attracting reverse charge is received. In cases where such supply is received from a registered person, the details of such supply gets auto populated in GSTR-4A. Further, the CLS taxpayers are required to give the details of such supply along with tax paid in the quarterly statement CMP-08 as well as in the annual return GSTR-4.

In course of data analysis, comparison of auto populated value of inward supply on which tax was payable under reverse charge as reflected in GSTR-4A was done with corresponding figures provided by the taxpayers in their quarterly statement CMP-08 for the FYs 2019-20, 2020-21 and 2021-22 and it was observed that there were 99,098 CLS taxpayers in whose case there were instances of inward supplies attracting reverse charge as shown in their GSTR-4A but payment of tax under reverse charge as per CMP-08 was found to be 'nil'. This shows that in these cases the tax payable under reverse charge was not paid by the taxpayers. Year-wise breakup of number of taxpayers and

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<sup>123</sup>Ice-cream and other edible ice, whether or not containing cocoa

<sup>124</sup> Pan Masala

<sup>125</sup> Tobacco and manufactured tobacco substitutes

<sup>126</sup> Aerated water

value of inward supply on which tax under reverse charge remained unpaid is shown in **Table 7.5**.

**Table 7.5: Year wise breakup of number of taxpayers and value of inward supply on which tax under reverse charge remained unpaid**

(₹ in crore)

Financial Year	No. of taxpayers who did not pay tax under reverse charge	Total value of inward supply on which tax was not paid under reverse charge
2019-20	33,075	90.11
2020-21	32,366	77.34
2021-22	33,657	62.47
<b>Total</b>	<b>99,098</b>	<b>229.92</b>

Value of inward supply on which tax was not paid under RCM by top five taxpayers was ₹ 5.16 crore during 2019-20 to 2021-22.

Audit pointed this out (January 2023). GSTN stated (March 2023) that it may not be feasible to implement validation checks in the System application software for such cases. It further stated that it would share Red Flag report with the tax officers shortly.

Reply of the Ministry was awaited (January 2024).

#### **7.9.2 Short-payment of tax on reverse charge basis on supplies received from registered suppliers (attracting reverse charge)**

As per the provisions of Rule 5(1)(d) of Central Goods and Services Tax Rules, 2017, taxpayers under composition scheme are required to pay tax under reverse charge at applicable rates on supplies received attracting reverse charge. Since the four main slabs of GST rate are 5 per cent, 12 per cent, 18 per cent and 28 per cent, therefore, on any inward supply received by the CLS taxpayers attracting reverse charge, the minimum tax payable should be at least 5 per cent.

In course of data analysis, it was observed that during FYs 2019-20, 2020-21 and 2021-22, out of 4,822 taxpayers who had paid tax under reverse charge as per statement CMP-08, there were 318 taxpayers who paid tax at the rate of one per cent on total value of inward supply amounting to ₹ 24.53 crore which shows that the tax was paid at the rate applicable on outward supply of CLS taxpayers instead of at normal applicable rates which should have been at least five per cent. The year wise breakup of such short payment was shown in **Table 7.6**.

Table 7.6: The year wise breakup of such short payment

(₹ in crore)

Financial Year	No. of taxpayers	Rate at which tax was paid under RCM (in per cent)	Total value of inward supply on which tax was paid under RCM
2019-20	152	1	13.37
2020-21	90	1	5.26
2021-22	76	1	5.90
<b>Total</b>	<b>318</b>	-	<b>24.53</b>

Audit pointed this out (January 2023). Reply of the Ministry/GSTN was awaited (January 2024).

### **7.9.3 Non-payment of tax as per applicable tax rate by suppliers of services under Composition Levy Scheme**

A registered person who opts for CLS and makes supplies as referred to in clause (b) of paragraph 6 of Schedule II (i.e. Restaurant Services) is required to pay tax at the rate of five per cent of the turnover in the State or UT.

On the basis of information supplied in registration form (GST REG -01), the taxpayers who were provider of restaurant services (SAC 996331) were identified. The rates at which these taxpayers had paid tax were derived from the declared turnover and tax paid by them.

On analysis of data, it was found that out of total 1,064 CLS taxpayers identified as provider of restaurant services, there were 92 taxpayers, 163 taxpayers and 220 taxpayers in the years 2019-20, 2020-21 and 2021-22, respectively, who had paid tax at a rate less than the applicable rate of five per cent.

Audit pointed this out (January 2023). GSTN stated (March 2023) that it may not be feasible to implement validation checks in the System application software for such cases. It further stated that it would share Red Flag report with the tax officers very soon.

Reply of the Ministry was awaited (January 2024).

### **7.9.4 Non-filing of intimation of ITC reversal/tax payment on stock at the time of opting for the scheme**

Registered taxpayers, opting for Composition Scheme, by filing GST CMP-02, under Rule 3(3) of Central Goods and Services Tax Rules, 2017, are required to file intimation of ITC reversal/tax payment on inputs held in stock, inputs contained in semi-finished and finished goods held in stock and capital goods

by filing GST ITC-03, under Rule 44(4), within a period of sixty days from the commencement of the relevant financial year. Under section 18(4) read with Rule 44(4) a registered person who has availed of input tax credit and opts to pay tax under section 10 and , where the goods or services or both supplied by him become wholly exempt, shall pay an amount by way of debit in the "Electronic Credit Ledger" or "Electronic Cash Ledger" equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished, finished goods held in stock and capital goods immediately preceding the date of exercising of option or date of such exemption. On payment of such amount, the balance of input tax credit, if any, lying in electronic credit ledger shall lapse".

During data analysis, it was observed that there were 1,67,189 registered taxpayers who opted for the Scheme by filing GST CMP-02 during 2019-20 to 2020-22 out of which 61,643 taxpayers had not filed intimation of ITC reversal/tax payment on inputs held in stock, inputs contained in semi-finished and finished goods held in stock and capital goods through GST ITC-03 in contravention of aforesaid provisions.

Audit pointed this out (January 2023). GSTN in its reply stated (March 2023) that facility to file the aforesaid form was available on the portal and it is for the tax authorities to initiate action for any violation. It also stated that details of such taxpayers would be shared with tax officers very soon.

Reply of the Ministry was awaited (January 2024).

#### **7.9.5 Non-filers of annual return GSTR-4**

As per Rule 62 of Central Goods and Services Tax Rules, 2017, taxpayers under CLS are required to furnish the yearly return in Form GSTR-4 by 30th April, following the end of the financial year. The due dates were extended through notifications from time to time. The extended due dates for the return period 2019-20, 2020-21 & 2021-22 were 31.10.2020, 31.07.2021 and 28.07.2022, respectively.

In course of data analysis it was observed that there were 2,62,160 instances involving 1,48,050 CLS taxpayers who had filed statement in Form CMP-08 at least for one quarter during the FYs 2019-20, 2020-21 and 2021-22; however,

they had not filed their annual return in Form GSTR-4 for the corresponding year. Year wise status of non-filing of GSTR-4 is shown in **Table 7.8**.

**Table 7.8: Year wise status of non-filing of GSTR-4**

Sl. No.	Return period (FY)	No. of non-filers of GSTR-4
1	2019-20	73,036
2	2020-21	84,293
3	2021-22	1,04,831
4	2019-20 & 2020-21	46,971
5	2020-21 & 2021-22	63,855
6	2019-20, 2020-21 & 2021-22	37,934

Audit pointed this out (January 2023). GSTN in its reply stated (March 2023) that facility to file the aforesaid form was available on the portal and it is for the tax authorities to initiate action for any violation.

Reply of the Ministry was awaited (January 2024).

#### **7.9.6 Unrealistic value of outward supply appearing in quarterly statement CMP-08**

In course of data analysis, it was noticed that out of 1,492 cases where annual value of outward supply declared by the taxpayers as per their quarterly statement CMP-08 was more than the threshold limit, there were 70 cases where value of outward supply declared in CMP-08 was unrealistic. On test check basis the value shown in the database was cross verified in the backend system and it was found that the backend system was also showing the same unrealistic values. This shows significant discrepancies in the CLS data.

Three such illustrative cases are given below:

(a) In the case of a taxpayer (GSTIN: 1XXXXXXXXXXXXXY) in Kolkata South Commissionerate, the taxpayer had declared its value of outward supplies as ₹ 2,47,77,10,12,388 in the CMP-08 for the quarter April-June 2020. It was, however, observed that the tax paid by the taxpayer in this return was ₹ 24,776. Hence, the declared value of outward supplies appears to be unrealistic for a composition levy taxpayer.

(b) In another case (GSTIN: 1XXXXXXXXXXXXXC) in Bolpur Commissionerate, the declared value of outward supplies in the CMP-08 for the quarter January-March 2020 was ₹ 61,05,27,10,527 whereas total tax paid was ₹ 6,105.

(c) In the case of a taxpayer (GSTIN: 1XXXXXXXXXXXXX3) in Siliguri Commissionerate, the declared value of outward supplies in the CMP-08 for the quarter October-December 2020 was ₹ 12,10,50,06,075. The total tax paid in this case was ₹ 12,150.

(c) In the case of a taxpayer (GSTIN: 1XXXXXXXXXXXX3) in Siliguri Commissionerate, the declared value of outward supplies in the CMP-08 for the quarter October-December 2020 was ₹ 12,10,50,06,075. The total tax paid in this case was ₹ 12,150.

Further, in these cases, due to the unrealistic value of outward supplies, the correctness of the tax paid by the taxpayer could not be ascertained.

***Recommendation 3: To prevent non-payment/short payment of tax under reverse charge by CLS taxpayers, the department may consider integrating Forms GSTR-4A (Auto-drafted details for registered person opting for composition levy) and CMP-08 (Statement for payment of self-assessed tax) so that 'value of inward supply attracting reverse charge' gets auto-populated in Table 3 of CMP-08. Further, validation controls for ensuring consistency between value of outward supply and tax paid in CMP-08 or, at the very least, user alerts may be reviewed in view of the discrepancies pointed out by Audit.***

Audit pointed this out (January 2023). GSTN stated (March 2023) that in some cases, there might be error while reporting taxable value leading to such discrepancies.

Ministry stated (September 2023) that the matter pertains to GSTN.

### **7.10 Absence of provision for declaring value of supply of services separately in the Composition Levy Scheme returns**

As per Section 10(2) of the CGST Act, 2017, taxpayers engaged in the supply of services were not eligible to opt for the Scheme, except for taxpayers engaged in the supply of Restaurant services. Consequent to amendment in the CGST Act, 2017, with effect from. 01.02.2019, supply of services, up to value not exceeding 10 *per cent* of the turnover of preceding year, or ₹5 lakh, whichever is higher, was permitted. However, information regarding the extent of supply of services, by such taxpayers, is not captured in the returns currently prescribed for the scheme.

During data analysis, it was observed that there were 14,419 CLS taxpayers who were suppliers of services (other than restaurant services). Out of these, 7,153 taxpayers had opted to pay tax under section 10(2A). Therefore, the remaining 7,266 taxpayers may have been availing the benefit of amendment mentioned above. However, in the absence of information regarding the extent of supply of services (as proportion of total turnover) by such taxpayers in their returns it was not possible to determine whether they supplied the services within the prescribed limit under section 10 (2).

***Recommendation 4: The CLS taxpayers opting to pay tax under section 10(1) of the Act may be required to declare the value of service (other than those referred to in clause (b) of paragraph 6 of Schedule II) supplied by them, along with mandatory reporting of HSN and SAC code, in statement CMP-08 separately. Ministry may consider modifying CMP-08 appropriately.***

Audit pointed this out (January 2023). GSTN in its reply (March 2023) stated that it has designed the form as per the law and any amendment in the form is a policy matter.

Ministry stated (September 2023) that the matter was being examined by CBIC. Thereafter, it would be put up before Law Committee for deliberation.

### **7.11 Conclusion and summary of recommendations**

In order to bring simplicity and reduce cost of compliance, a Composition Levy Scheme (CLS) was prescribed, as another form of levy of GST, under the CGST Act, 2017, for small taxpayers. The CLS is available to taxpayers whose aggregate turnover, in the preceding financial year, has not exceeded ₹1.5 crore. For taxpayers in special category states, this limit is ₹75 lakh. The two major risk areas in respect of CLS taxpayers are under-declaration of the 'value of outward supply' by the taxpayers to continue in the scheme; and non-fulfillment of eligibility conditions for availing CLS.

Data analysis was conducted on the GSTN data pertaining to 8.66 lakh composition levy taxpayers under the central jurisdiction for the financial years 2019-20, 2020-21 and 2021-22.

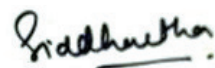
The data analysis revealed significant number of taxpayers with high risk of crossing the turnover threshold for CLS. These high risk taxpayers were identified by Audit from the data contained in GST returns viz. GSTR-4A, GSTR-7 along with third party data sources such as IT returns, 'Vahan' database etc. and were flagged to the Ministry to ascertain whether any compliance verification had been carried out by the CBIC field formations in respect of these taxpayers. Audit also observed that there were certain CLS taxpayers who were continuing in the Scheme despite not fulfilling the eligibility criteria prescribed in the Act and the Rules, and a substantial number of CLS taxpayers were not discharging their obligatory responsibilities of filing returns and payment of tax under reverse charge.

Summary of audit recommendations, brought out in this chapter, is as follows.

1. The Ministry should identify high risk taxpayers in the CLS on a periodical basis using a risk based approach and verify their declared value of outward supply from other sources including third party to minimize the possibility of misuse by ineligible persons.
2. The Ministry may develop a system of identifying ineligible taxpayers and take action to exclude them from the Scheme in order to prevent misuse of the intended benefits of the Scheme.
3. To prevent non-payment/short payment of tax under reverse charge by CLS taxpayers, the department may consider integrating Forms GSTR-4A (Auto-drafted details for registered person opting for composition levy) and CMP-08 (Statement for payment of self-assessed tax) so that 'value of inward supply attracting reverse charge' gets auto-populated in Table 3 of CMP-08. Further, validation controls for ensuring consistency between value of outward supply and tax paid in CMP-08 or, at the very least, user alerts may be reviewed in view of the discrepancies pointed out by Audit.

4. The CLS taxpayers opting to pay tax under section 10(1) of the Act may be required to declare the value of service (other than those referred to in clause (b) of paragraph 6 of Schedule II) supplied by them, along with mandatory reporting of HSN and SAC code, in statement CMP-08 separately. Ministry may consider modifying CMP-08 appropriately.

New Delhi



(SIDDHARTHA BONDADE)

Dated: 12 June 2024 Principal Director (Goods and Services Tax-II)

Countersigned



New Delhi

(GIRISH CHANDRA MURMU)

Dated: 21 June 2024 Comptroller and Auditor General of India



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# APPENDICES

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**Appendix-I: State GST (SGST) collections from 2018-19 to 2021-22**  
(Refer Para No. 1.3)

(Amount in ₹ Crore)

State	SGST Revenue			
	FY19	FY20	FY21	FY22
Andhra Pradesh	20,611	20,227	18,871	23,809
Arunachal Pradesh	601	802	859	1,131
Assam	8,393	8,755	8,550	10,580
Bihar	15,288	15,801	16,050	19,264
Chhattisgarh	8203	7895	7925	9484
Delhi	19,187	19,465	15,676	22,263
Goa	2,529	2,439	1,985	2,758
Gujarat	34,889	34,107	29,459	43,487
Haryana	18,613	18,873	18,236	22,922
Himachal Pradesh	3,343	3,550	3,467	4,482
Jammu & Kashmir and Ladakh	5,134	2,116	4,839	6,394
Jharkhand	8,201	8,418	7,931	9,557
Karnataka	41,956	42,147	37,711	49,929
Kerala	21,015	20,447	20,028	24,170
Madhya Pradesh	18,508	20,447	17,258	22,029
Maharashtra	82,352	82,602	69,949	97,305
Manipur	695	853	867	1,126
Meghalaya	806	910	823	1,118
Mizoram	455	532	458	632
Nagaland	470	613	664	830
Odisha	11,943	13,204	13,043	16,392
Puducherry	355	782	432	1,273
Punjab	13,273	12,751	11,819	15,542
Rajasthan	22,938	21,954	20,755	27,502
Sikkim	406	455	463	656
Tamil Nadu	38,533	38,376	37,942	45,277
Telangana	23,840	23,517	22,190	28,917
Tripura	977	1,027	1,056	1,283
Uttar Pradesh	46,108	47,232	42,860	54,594
Uttarakhand	4,802	4,931	5,053	5,973
West Bengal	27,068	27,308	26,013	31,271

Source: State Finance Accounts of respective State.

**Appendix-II: Audit findings noticed during the period prior to 2021-22  
(Refer Para No. 2.3)**

(Amount in ₹ Crore)

DAP No.	State	Commissionerate	Amount objected	Amount accepted	Amount recovered	SGST Components	Ministry's reply	Audit Comments
<b>Interest on delayed payment of GST</b>								
10	Jharkhand	Jamshedpur	0.29	0.29	0.29	0.145	Accepted	NIL
12	Jharkhand	Jamshedpur	0.30	0.30	0.12	0.15	Accepted	NIL
13	Jharkhand	Jamshedpur	0.36	0.36	0.38	0.19	Accepted	NIL
14	Jharkhand	Jamshedpur	0.11	0.11	0.06	0.55	Accepted	NIL
15	Jharkhand	Jamshedpur	0.18	0.18	0.02	0.09	Accepted	NIL
16	Jharkhand	Jamshedpur	0.30	0.30	0.30	0.15	Accepted	NIL
<b>Short payment of GST</b>								
11	Jharkhand	Jamshedpur	0.28	0.28	0.37	0.17	Accepted	NIL
21	Bihar	Patna-I	1.35	1.35	1.35	0.675	Accepted	NIL
<b>Inadmissible Input Tax Credit taken and utilized</b>								
22	Jharkhand	Jamshedpur	3.46	3.46	--	1.73	Accepted	NIL
<b>Total</b>			<b>6.63</b>	<b>6.63</b>	<b>2.89</b>	<b>3.35</b>	---	----

**Appendix-III Non-submission of replies by the Department****(Refer Para No.4.8.4.1)****(Amount in ₹ Crore)**

Audit Dimension	Sample		Department Reply not received		Percentage	
	Number	Amount of mismatch	Number	Amount of mismatch	Number	Amount
1	(2)	(3)	(4)	(5)	(6)	(7)
ITC Mismatch (D1)	1,088	7,913.03	230	1,751.41	21	22
RCM ITC availed (D2)	1,020	1,017.12	206	162.83	20	16
RCM payment (D3)	619	277.43	74	36.02	12	13
ISD ITC Mismatch (D4)	813	764.28	188	70.01	23	9
ISD Reversal (D5)	37	17.09	15	0.07	41	-
12F – Excess ITC (D6)	846	6,089.34	215	749.15	25	12
14T Ineligible ITC (D7)	850	33,499.30	199	4,878.78	23	15
5R Total Turnover (D8)	1,020	91,413.77	248	16,287.28	24	18
7G Taxable Turnover (D9)	850	33,112.98	184	7,002.58	22	21
9R – Tax paid (D10)	1,099	1,310.67	256	282.25	23	22
Unsettled Liability (D11)	795	7,53,935.20	176	1,226.02	22	-
E-commerce (D12)	145	0	54	0	37	-
No 3B but R1 available (D13)	637	233.54	191	58.78	30	25
Interest short paid (D14)	848	399.44	211	72.55	25	18
<b>Total</b>	<b>10,667</b>	<b>9,29,983.19</b>	<b>2,447</b>	<b>32,577.73</b>	<b>23</b>	<b>4</b>

**Appendix-IV List of top ten cases of non-production  
(Refer Para No.4.8.5)**

(Amount in ₹ Crore)

Sl. No.	Taxpayer	Jurisdictional zone of CBIC	Mismatches (ITC and liability)
1	Taxpayer 1	Mumbai	239.47
2	Taxpayer 2	Chennai	200.64
3	Taxpayer 3	Chandigarh	70.24
4	Taxpayer 4	Jaipur	29.70
5	Taxpayer 5	Ahmedabad	24.12
6	Taxpayer 6	Ahmedabad	20.50
7	Taxpayer 7	Mumbai	20.35
8	Taxpayer 8	Chandigarh	17.38
9	Taxpayer 9	Chennai	16.42
10	Taxpayer 10	Chandigarh	12.03

**Appendix-V Top ten cases of partial production  
(Refer Para No.4.8. 5)**

(Amount in ₹ Crore)

<b>Taxpayer</b>	<b>Jurisdictional zone of CBIC</b>	<b>List of records not produced</b>	<b>Mismatch Amount (ITC and Undischarged liability)</b>
Taxpayer 1	Mumbai	Contract/Agreements, Outward and Inward invoices along with Debit and Credit notes for selected months, Fixed Asset Register, Payment/receipt vouchers, Trial Balance, Rule 42/43 reversal details, ledger details of risky transactions identified in Desk review.	241.10
Taxpayer 2	Bengaluru	Contract/Agreements, Outward and Inward invoices along with Debit and credit notes for selected months, Fixed Asset Register, Payment/receipt vouchers, Trial Balance, Rule 42/43 reversal details, ledger details of risky transactions identified in Desk review.	165.53
Taxpayer 3	Lucknow	Contract/Agreements, Outward and Inward invoices along with Debit and Credit notes for selected months, Fixed Asset Register, Payment/receipt vouchers, 3CD Report Trial Balance, Rule 42/43 reversal details, ledger details of risky transactions identified in Desk review, Stock Account, CAS-4 certificate, Input invoices, Purchase Order, Sales invoices, declared in GSTR-1, Job work Challans.	152.81
Taxpayer 4	Jaipur	Contract/Agreements, Outward and Inward invoices along with Debit and credit notes for selected months, Fixed Asset Register, Payment/receipt vouchers, Trial Balance, Rule 42/43 reversal details, ledger details of risky transactions identified in Desk review.	128.57
Taxpayer 5	Gwalior	Contract/Agreement, Outward and Inward Invoices along with Debit and Credit notes for selected months, Payment/Receipt Vouchers of selected months, Trial Balance, Account/Statement of ITC, Availed and Utilised, Ledger details of specific risky transaction identified in desk review.	126.50
Taxpayer 6	New Delhi	Contract/Agreements, Outward and Inward invoices along with Debit and Credit notes for selected months, Fixed Asset Register,	103.24

Taxpayer	Jurisdictional zone of CBIC	List of records not produced	Mismatch Amount (ITC and Undischarged liability)
		Payment/receipt vouchers, Trial Balance, Rule 42/43 reversal details, ledger details of risky transactions identified in Desk review.	
Taxpayer 7	Mumbai	Trial Balance, Inward invoices along with Debit and credit notes for selected months. GSTR-1 for the Period August-17 to October-17, Debtors/creditors outstanding.	94.39
Taxpayer 8	Chennai	Inward supply invoices, Outward supply, Copy of Export Bill, Bill of Entry, Reconciliation statement of ITC availed as mentioned in GSTR-9C, TRAN-1 & TRAN-2 forms, Financial statements of Taxpayer for the years 2018-19 and 2019-20, Trial Balance, Age-wise breakup of Sundry creditors ledger account invoice, Statement of the capital goods for 2017-18, Sundry Debtor and Discounts ledger accounts for 2017-18, Payment and receipt vouchers for advance payments, Export of services, Statement of FIRC/BRCs received, Shipping bills, Export goods manifest, LUT, RFD-11, Debit notes, Credit notes, amendments to invoices, List of Refunds claimed, Purchase orders.	58.01
Taxpayer 9	Mumbai	Contract/Agreements, Debit and Credit notes for selected months, Ledgers, Payment/receipt vouchers, Trial Balance, Provision for write-off and obsolescence, Fixed Asset Register. Outward invoice, Inward invoices, Account/statement of input tax credit availed / output tax, payable and paid/goods or services imported or exported/ supplies attracting payment of tax on reverse charge, List of blocked credit invoices details and Details of ITC reversal done, Details of foreign currency transactions .	56.65
Taxpayer 10	Bengaluru	Contract/Agreements, Outward and Inward invoices along with Debit and Credit notes for selected months, Fixed Asset Register, Payment/receipt vouchers, Trial Balance, Rule 42/43 reversal details, ledger details of risky transactions identified in Desk review.	52.91

**Appendix VI: Impact on State Goods and Services Tax  
(Refer Para 4.9)**

(Amount in ₹ crore)

State/UT/Para Number	Number	SGST Amount involved	SGST amount accepted	SGST amount recovered
ANDHRA PRADESH	75	38.11	33.09	0.59
4.8.5.3(a)	3	2.40	2.36	0.00
4.8.5.3(b)	2	0.00	0.00	0.00
4.8.4	32	25.66	21.42	0.50
4.8.5.2(a)	24	4.48	4.42	0.09
4.8.5.4(a)	2	4.65	3.97	0.00
4.8.5.4(d)	1	0.91	0.91	0.00
4.8.5.4(e)	1	0.01	0.00	0.00
4.8.3.3.3	4	0.00	0.00	0.00
4.8.3.3.5	2	0.00	0.00	0.00
4.8.2.2(a)	2	0.00	0.00	0.00
4.8.2.2(b)	2	0.00	0.00	0.00
ARUNACHAL PRADESH	2	0.48	0.07	0.00
4.8.4	2	0.48	0.07	0.00
ASSAM	92	16.80	16.43	0.54
4.8.5.3(a)	3	0.02	0.02	0.00
4.8.4	57	16.40	16.40	0.54
4.8.5.2(a)	25	0.36	0.00	0.00
4.8.5.4(a)	2	0.00	0.00	0.00
4.8.2.2(b)	2	0.00	0.00	0.00
4.8.3.2(d)	0	0.00	0.00	0.00
4.8.5.4(g)	3	0.02	0.02	0.00
BIHAR	87	11.45	11.38	0.75
4.8.5.3(c)	1	0.01	0.00	0.00
4.8.4	67	11.39	11.38	0.75
4.8.5.2(a)	4	0.05	0.00	0.00
4.8.3.3.1	4	0.00	0.00	0.00
4.8.3.3.3	3	0.00	0.00	0.00
4.8.3.3.5	4	0.00	0.00	0.00
4.8.2.2(a)	4	0.00	0.00	0.00
CHATTISGARH	183	44.28	47.35	7.92
4.8.5.3(b)	1	0.81	0.81	0.00
4.8.4	176	43.05	46.55	7.92
4.8.5.2(a)	3	0.42	0.00	0.00
4.8.3.3.3	1	0.00	0.00	0.00
4.8.3.3.5	2	0.00	0.00	0.00
DELHI	151	198.48	181.396	2.65
4.8.5.3(a)	6	0.03	0.02	0.00
4.8.5.3(c)	1	0.00	0.00	0.00

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State/UT/Para Number	Number	SGST Amount involved	SGST amount accepted	SGST amount recovered
4.8.4	75	194.45	180.67	2.55
4.8.5.2(a)	25	3.21	0.13	0.10
4.8.5.4(d)	2	0.78	0.58	0.00
4.8.5.4(e)	1	0.00	0.00	0.00
4.8.5.4(f)	1	0.00	0.00	0.00
4.8.3.3.3	7	0.00	0.00	0.00
4.8.3.3.4	15	0.00	0.00	0.00
4.8.3.3.5	15	0.00	0.00	0.00
4.8.2.2(b)	3	0.00	0.00	0.00
GOA	2	0.30	0.27	0.00
4.8.5.3(b)	1	0.03	0.00	0.00
4.8.4	1	0.27	0.27	0.00
GUJARAT	146	91.72	91.40	1.18
4.8.5.3(a)	18	2.24	2.14	0.01
4.8.5.3(b)	3	0.28	0.28	0.00
4.8.4	63	51.05	51.00	0.67
4.8.5.2(a)	22	0.31	0.28	0.02
4.8.5.4(a)	9	0.38	0.29	0.09
4.8.5.4(b)	1	0.00	0.00	0.00
4.8.5.4(c)	4	0.03	0.03	0.02
4.8.5.4(g)	7	0.77	0.73	0.38
4.8.3.3.3	4	0.00	0.00	0.00
4.8.3.3.4	7	0.00	0.00	0.00
4.8.3.3.5	2	0.00	0.00	0.00
4.8.2.2(b)	2	36.66	36.66	0.00
4.8.3.2(b)	4	0.00	0.00	0.00
HARYANA	69	81.34	79.04	4.59
4.8.5.3(c)	1	0.03	0.03	0.03
4.8.4	54	81.10	78.80	4.39
4.8.5.2(a)	10	0.21	0.21	0.17
4.8.3.3.3	4	0.00	0.00	0.00
HIMACHAL PRADESH	2	7.05	7.05	0.00
4.8.4	2	7.05	7.05	0.00
JAMMU AND KASHMIR	2	0.575	0.575	0.305
4.8.4	2	0.58	0.58	0.31
JHARKHAND	5	0.18	0.178	0.13
4.8.4	3	0.18	0.18	0.13
4.8.3.3.3	2	0.00	0.00	0.00
KARNATAKA	279	170.01	42.103	1.50
4.8.5.3(a)	18	12.77	4.30	0.00
4.8.5.3(b)	3	0.20	0.00	0.00

State/UT/Para Number	Number	SGST Amount involved	SGST amount accepted	SGST amount recovered
4.8.5.3(c)	7	0.16	0.14	0.07
4.8.5.3(d)	3	0.81	0.75	0.00
4.8.4	88	80.34	17.42	1.43
4.8.5.2(a)	15	1.55	1.27	0.00
4.8.5.4(a)	6	3.40	0.33	0.00
4.8.5.4(b)	14	11.23	8.83	0.00
4.8.5.4(c)	3	4.35	4.35	0.00
4.8.5.4(d)	13	8.19	2.40	0.00
4.8.5.4(e)	6	2.35	0.02	0.01
4.8.5.4(f)	12	0.90	0.10	0.00
4.8.5.4(g)	12	25.06	2.19	0.00
4.8.3.3.1	8	0.00	0.00	0.00
4.8.3.3.2	2	0.00	0.00	0.00
4.8.3.3.3	6	0.00	0.00	0.00
4.8.3.3.4	9	0.00	0.00	0.00
4.8.3.3.5	10	0.00	0.00	0.00
4.8.2.2(a)	7	0.00	0.00	0.00
4.8.2.2(b)	12	10.97	0.00	0.00
4.8.2.2(c)	2	1.18	0.00	0.00
4.8.2.2(d)	9	5.95	0.01	0.00
4.8.3.2(b)	11	0.45	0.00	0.00
4.8.3.2(c)	2	0.14	0.00	0.00
4.8.3.2(d)	1	0.00	0.00	0.00
<b>KERALA</b>	<b>98</b>	<b>12.38</b>	<b>9.06</b>	<b>0.72</b>
4.8.5.3(a)	3	0.26	0.02	0.00
4.8.5.3(b)	7	0.10	0.09	0.02
4.8.5.3(c)	1	0.00	0.00	0.00
4.8.4	58	11.77	8.74	0.69
4.8.5.2(a)	12	0.25	0.21	0.00
4.8.5.4(d)	1	0.00	0.00	0.00
4.8.3.3.3	2			
4.8.3.3.4	4	0.00	0.00	0.00
4.8.3.3.5	5	0.00	0.00	0.00
4.8.2.2(a)	4	0.00	0.00	0.00
4.8.2.2(b)	1	0.00	0.00	0.00
<b>MADHYA PRADESH</b>	<b>38</b>	<b>13.19</b>	<b>13.11</b>	<b>0.12</b>
4.8.5.3(a)	1	0.01	0.00	0.00
4.8.4	28	13.07	13.07	0.09
4.8.5.2(a)	9	0.11	0.04	0.02
<b>MAHARASHTRA</b>	<b>143</b>	<b>148.20</b>	<b>69.22</b>	<b>1.66</b>
4.8.5.3(a)	7	0.49	0.00	0.00

Report No. 7 of 2024 (Indirect Taxes – Goods and Services Tax)

State/UT/Para Number	Number	SGST Amount involved	SGST amount accepted	SGST amount recovered
4.8.5.3(b)	2	0.01	0.00	0.00
4.8.5.3(c)	3	0.08	0.07	0.07
4.8.4	71	142.80	69.09	1.52
4.8.5.2(a)	16	0.22	0.07	0.07
4.8.5.4(g)	3	0.07	0.00	0.00
4.8.3.3.2	1	0.00	0.00	0.00
4.8.3.3.4	5	0.00	0.00	0.00
4.8.3.3.5	13	0.00	0.00	0.00
4.8.2.2(a)	13	0.00	0.00	0.00
4.8.2.2(b)	7	0.00	0.00	0.00
4.8.3.2(d)	2	4.54	0.00	0.00
MANIPUR	5	0.44	0.00	0.00
4.8.5.2(a)	5	0.44	0.00	0.00
MEGHALAYA	11	0.80	0.46	0.24
4.8.4	8	0.80	0.46	0.24
4.8.5.2(a)	2	0.00	0.00	0.00
4.8.2.2(b)	1	0.00	0.00	0.00
MIZORAM	5	0.006	0.005	0
4.8.5.2(a)	3	0.01	0.01	0.00
4.8.5.4(g)	2	0.00	0.00	0.00
ODISHA	146	69.08	47.68	0.68
4.8.5.3(a)	9	1.06	0.01	0.00
4.8.5.3(b)	3	0.05	0.03	0.00
4.8.5.3(d)	1	0.07	0.00	0.00
4.8.4	73	46.72	33.21	0.68
4.8.5.2(a)	15	1.24	0.00	0.00
4.8.5.4(a)	4	3.80	0.48	0.00
4.8.5.4(b)	3	0.18	0.00	0.00
4.8.5.4(c)	1	0.00	0.00	0.00
4.8.5.4(e)	1	11.43	11.43	0.00
4.8.5.4(f)	9	2.27	0.26	0.00
4.8.5.4(g)	1	0.00	0.00	0.00
4.8.3.3.3	1	0.00	0.00	0.00
4.8.3.3.4	3	0.00	0.00	0.00
4.8.3.3.5	3	0.00	0.00	0.00
4.8.2.2(a)	3	0.00	0.00	0.00
4.8.2.2(b)	5	0.00	0.00	0.00
4.8.2.2(d)	3	1.43	1.43	0.00
4.8.3.2(b)	4	0.00	0.00	0.00
4.8.3.2(c)	2	0.84	0.84	0.00
4.8.3.2(d)	2	0.00	0.00	0.00

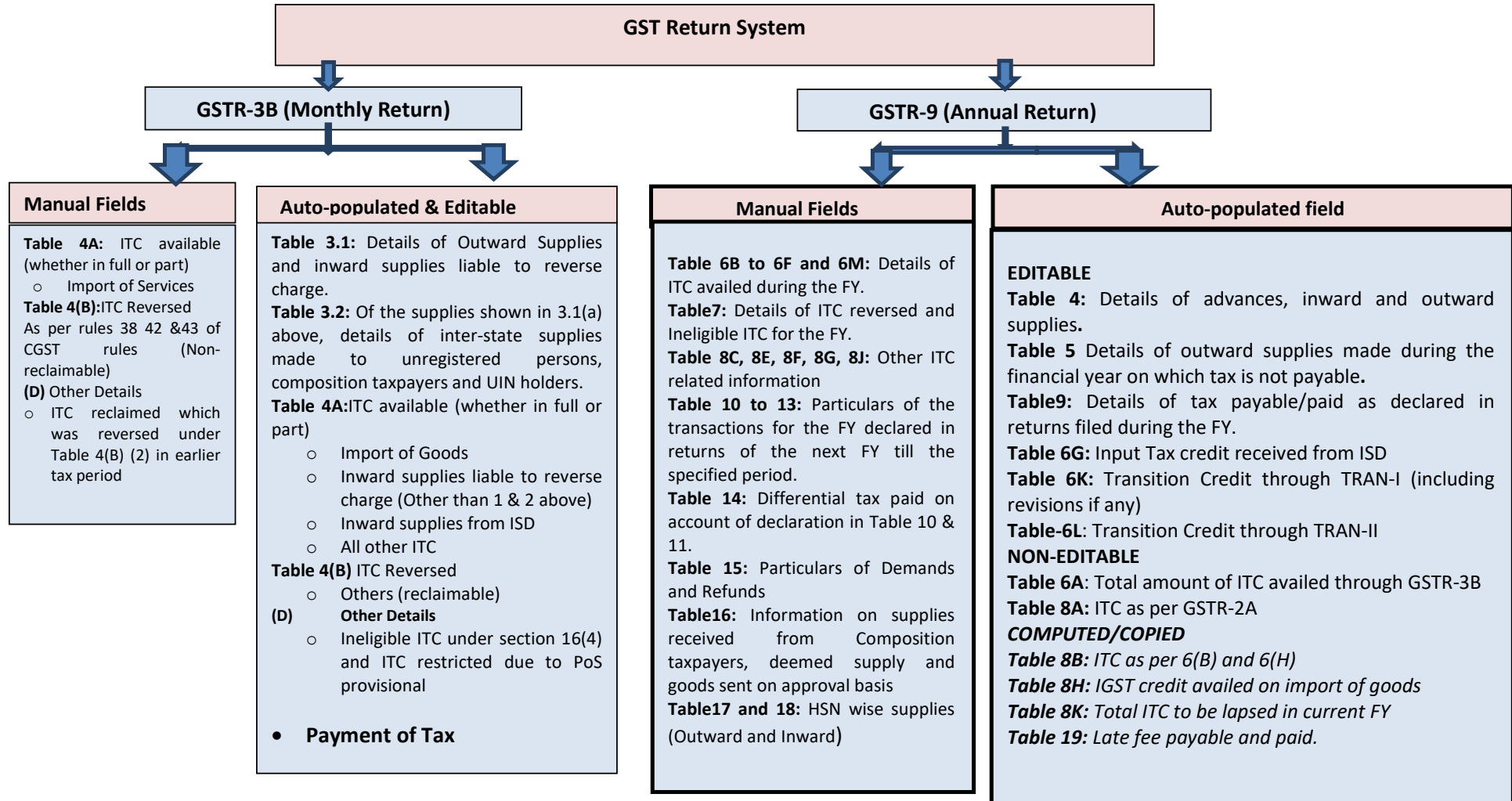
State/UT/Para Number	Number	SGST Amount involved	SGST amount accepted	SGST amount recovered
PUDUCHERRY	1	0.24	0.24	0.00
4.8.4	1	0.24	0.24	0.00
PUNJAB	32	50.29	45.73	6.02
4.8.5.3(a)	1	0.58	0.58	0.00
4.8.4	28	49.29	45.15	6.02
4.8.5.2(a)	2	0.00	0.00	0.00
4.8.5.4(g)	1	0.42	0.00	0.00
RAJASTHAN	111	39.75	39.51	1.66
4.8.5.3(a)	6	1.76	1.76	0.00
4.8.5.3(b)	8	0.03	0.03	0.02
4.8.5.3(c)	2	0.00	0.00	0.00
4.8.5.3(d)	1	0.01	0.00	0.00
4.8.4	68	37.23	37.23	1.44
4.8.5.2(a)	8	0.03	0.03	0.01
4.8.5.4(d)	1	0.19	0.00	0.00
4.8.5.4(e)	3	0.19	0.19	0.19
4.8.5.4(f)	6	0.07	0.03	0.00
4.8.5.4(g)	2	0.25	0.25	0.00
4.8.3.3.3	6	0.00	0.00	0.00
SIKKIM	4	0.65	0.65	0.12
4.8.4	3	0.65	0.65	0.12
4.8.5.2(a)	1	0.00	0.00	0.00
TAMIL NADU	165	106.90	104.57	5.60
4.8.5.3(a)	22	7.06	6.40	0.00
4.8.5.3(b)	2	0.05	0.00	0.00
4.8.5.3(c)	4	0.04	0.03	0.00
4.8.5.3(d)	1	0.00	0.00	0.00
4.8.4	100	98.93	97.95	5.47
4.8.5.2(a)	6	0.13	0.12	0.08
4.8.5.4(b)	4	0.61	0.00	0.00
4.8.5.4(f)	2	0.03	0.03	0.00
4.8.5.4(g)	1	0.04	0.04	0.04
4.8.3.3.3	5	0.00	0.00	0.00
4.8.3.3.4	10	0.00	0.00	0.00
4.8.3.3.5	6	0.00	0.00	0.00
4.8.2.2(a)	1	0.00	0.00	0.00
4.8.3.2(b)	1	0.00	0.00	0.00
TELANGANA	120	38.43	32.12	1.63
4.8.5.3(a)	5	4.00	2.11	0.00
4.8.5.3(b)	15	0.99	0.46	0.02
4.8.4	56	29.55	29.34	1.59

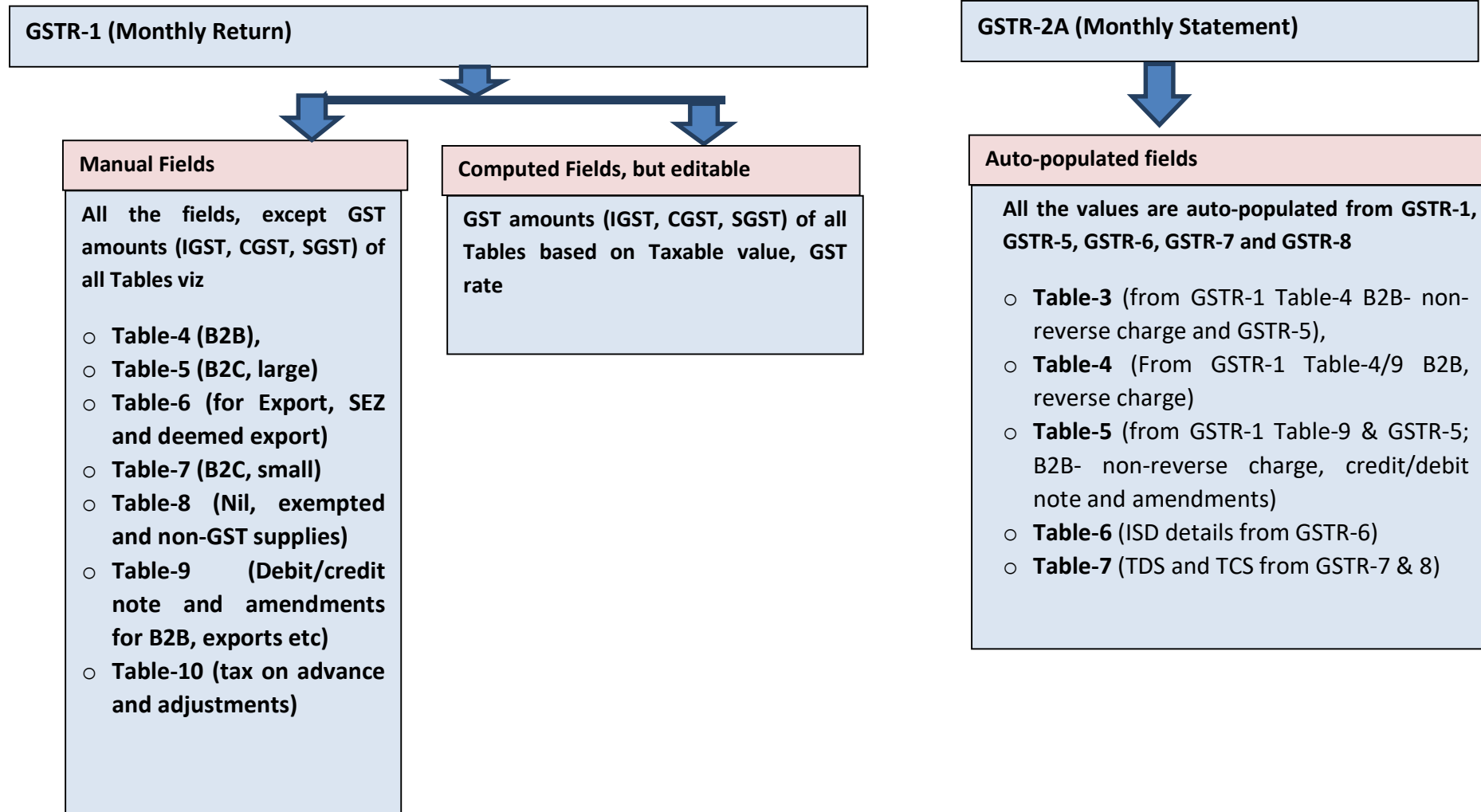
Report No. 7 of 2024 (Indirect Taxes – Goods and Services Tax)

State/UT/Para Number	Number	SGST Amount involved	SGST amount accepted	SGST amount recovered
4.8.5.2(a)	30	0.42	0.03	0.02
4.8.5.4(a)	1	3.19	0.00	0.00
4.8.5.4(b)	2	0.26	0.19	0.00
4.8.5.4(f)	1	0.01	0.00	0.00
4.8.3.3.3	3	0.00	0.00	0.00
4.8.3.3.4	2	0.00	0.00	0.00
4.8.2.2(a)	4	0.00	0.00	0.00
4.8.2.2(b)	1	0.00	0.00	0.00
TRIPURA	10	0.11	0.00	0.00
4.8.3.3.3	1	0.00	0.00	0.00
4.8.5.2(a)	4	0.00	0.00	0.00
4.8.5.4(f)	3	0.07	0.00	0.00
4.8.5.4(g)	2	0.04	0.00	0.00
UTTAR PRADESH	66	75.00	74.76	2.96
4.8.5.3(b)	1	0.01	0.00	0.00
4.8.4	30	74.86	74.74	2.96
4.8.5.2(a)	17	0.13	0.01	0.00
4.8.5.4(b)	1	0.01	0.00	0.00
4.8.3.3.1	2	0.00	0.00	0.00
4.8.3.3.3	2	0.00	0.00	0.00
4.8.3.3.4	2	0.00	0.00	0.00
4.8.3.3.5	4	0.00	0.00	0.00
4.8.2.2(a)	3	0.00	0.00	0.00
4.8.2.2(b)	3	0.00	0.00	0.00
4.8.3.2(b)	1	0.00	0.00	0.00
UTTARAKHAND	16	0.17	0.000	0.00
4.8.5.3(a)	3	0.01	0.00	0.00
4.8.5.3(b)	1	0.01	0.00	0.00
4.8.5.3(c)	2	0.00	0.00	0.00
4.8.5.2(a)	7	0.15	0.00	0.00
4.8.5.4(d)	1	0.00	0.00	0.00
4.8.5.4(f)	1	0.00	0.00	0.00
4.8.5.4(g)	1	0.00	0.00	0.00
WEST BENGAL	179	32.26	24.63	1.90
4.8.5.3(a)	3	0.60	0.55	0.00
4.8.4	114	29.41	23.10	1.90
4.8.5.2(a)	22	0.03	0.00	0.00
4.8.5.4(a)	1	0.02	0.00	0.00
4.8.5.4(b)	3	0.57	0.00	0.00
4.8.5.4(f)	10	0.42	0.00	0.00
4.8.5.4(g)	2	0.98	0.98	0.00

State/UT/Para Number	Number	SGST Amount involved	SGST amount accepted	SGST amount recovered
4.8.3.3.1	2	0.00	0.00	0.00
4.8.3.3.3	7	0.00	0.00	0.00
4.8.3.3.4	1	0.00	0.00	0.00
4.8.2.2(a)	5	0.00	0.00	0.00
4.8.2.2(b)	6	0.00	0.00	0.00
4.8.2.2(d )	1	0.22	0.00	0.00
4.8.3.2(b)	1	0.00	0.00	0.00
4.8.3.2(d)	1	0.02	0.00	0.00
<b>Grand Total</b>	<b>2,245</b>	<b>1,249</b>	<b>972</b>	<b>43</b>

**Appendix VII: Description of various fields under GSTR 1, GSTR 2A, GSTR 3B & GSTR 9  
(Refer Para 6.3)**





## Glossary

ACES	Automation of Central Excise and Service Tax
ADVAIT	Advanced Analytics in Indirect Taxation
AIO	All-in-one Systems
ATT	Adjusted Total Turnover
BIFA	Business Intelligence and Fraud Analytics
BIFR	Board for Industrial and Financial Reconstruction
CAG	Comptroller and Audit General of India
CBDT	Central Board of Direct Taxes
CBEC	Central Board of Excise and Customs
CBIC	Central Board of Indirect Taxes and Customs
CENVAT	Central Value Added Tax
CESTAT	Customs Excise and Service Tax Appellate Tribunal
CGST	Central Goods and Services Tax
CSO	Central Statistics Office
CVD	Countervailing duty
DDM	Directorate of Data Management
DDO	Drawing and Disbursing Officer
DGARM	Directorate General of Analytics and Risk Management
DGCEI	Directorate General of Central Excise Intelligence
DGFT	Director General of Foreign Trade
DGGI	Directorate General of Goods and Services Tax Intelligence
DGPM-TAR	Directorate General of Performance Management -Tax Arrears Recovery

DoR	Department of Revenue
DRI	Directorate of Revenue Intelligence
ECL	Electronic Credit Ledger
EOU	Export Oriented Unit
EXPWOP	Export without payment of tax
FTA	Free Trade Agreements
GDP	Gross Domestic Product
GST	Goods and Services Tax
GSTAM	Goods and Services Tax Audit Manual
GSTAT	Goods and Services Tax Appellate Tribunal
GSTIN	Goods and Services Tax Identification Number
GSTN	Goods and Services Tax Network
GSTR	Goods and Services Tax Return
HSN	Harmonised system of nomenclature
ICAI	Institute of Chartered Accountants of India
IFF	Invoice Furnishing Facility
IGST	Integrated Goods and Services Tax
ISD	Input Service Distributor
IT	Information Technology
ITC	Input Tax Credit
ITR	Income Tax Return
MIS	Management Information System
MoF	Ministry of Finance
MOU	Memorandum of Understanding

MPRs	Monthly Performance Reports
NACEN	National Academy of Customs, Excise & Narcotics
NACIN	National Academy of Customs, Indirect Taxes & Narcotics
OIA	Order-in-Appeal
OIOs	Orders-in-Original
PAN	Permanent Account Number
PFMS	Public Financial Management System
PIB	Press Information Bureau
PLA	Personal Ledger Account
QRMP	Quarterly return with monthly payment
RCM	Reverse Charge Mechanism
RMS	Risk Management System
SAC	Service Accounting Codes
SAD	Special Additional Duty
SCN	Show Cause Notice
SGST	State Goods and Services Tax
SOP	Standard Operating Procedure
SSCA	Subject Specific Compliance Audit
TDS	Tax Deducted at Source
UT	Union Territory
UTGST	Union Territory Goods and Services Tax
VAT	Value Added Tax

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