

CHAPTER II
COMMERCIAL TAXES

CHAPTER II COMMERCIAL TAXES

Audit of Commercial Taxes Department was conducted through a test check of the assessment files and other related records in 19 out of 120 offices (15.83 *per cent*) during 2021-22, to gain assurance that the taxes were assessed, levied, collected and accounted for in accordance with the relevant Acts, Codes and Manuals, and the interests of the Government are safeguarded. Audit brought out instances of deviations/ non-compliance with the relevant Acts/ Codes/ Manuals leading to under assessment of VAT/ GST in 206 cases involving an amount of ₹ 165.89 crore, due to reasons like under-declaration of tax, irregular exemption of tax, non-levy of penalty, Excess allowance of ITC, *etc.*

This Chapter contains seven paragraphs and a Subject Specific Compliance Audit on ‘Department’s Oversight on GST Payments and Return filing’ involving money value of ₹ 1,821.26 crore. The Department/ Government had accepted audit observations involving ₹ 246.52 crore, out of which ₹ 9.93 crore had been recovered. Audit findings are detailed in the succeeding paragraphs.

2.1 Subject Specific Compliance Audit on ‘Department’s Oversight on GST Payments and Return Filing’

2.1.1 Introduction

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

Section 59 of the APGST Act, 2017 stipulates GST as a self-assessment-based tax, whereby the responsibility for calculating tax liability, discharging the computed tax liability and filing returns is vested on the taxpayer. The GST returns must be filed online regularly on the common GST portal, failing which penalties will be payable. Even if the business has had no tax liability during a particular tax period, it must file a nil return mandatorily. Further, Section 61 of the Act read with Rule 99 of APGST Rules, 2017 stipulate that the proper officer may scrutinise the return and related particulars furnished by taxpayers, communicate discrepancies to the taxpayers and seek an explanation.

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

2.1.2 Audit objectives

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

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

2.1.3 Audit methodology and scope

This SSCA was predominantly conducted based on data analysis, which highlighted risk areas and red flags pertaining to the period July 2017 to March 2021. Through data analysis a set of 14 deviations were identified across the domains of input tax credit (ITC), discharge of tax liability, registration and returns filing. Such deviations were followed up through a **Centralised Audit** (Limited Audit)¹⁶, whereby these deviations were communicated to the relevant State Departmental field formations (Circles) and action taken by the jurisdictional formations on the identified deviations was ascertained without involving field visits. The centralised audit was supplemented by a **Detailed Audit** involving visits for verification of records available with the jurisdictional field formations. Returns and related attachments and information were accessed through the back-end system of Commercial Taxes Department *i.e.*, GSTN-Boweb (Back Office Web) 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 (through the respective field formations) relevant granular records from the taxpayers such as invoices. This apart, compliance functions of the Departmental formation such as scrutiny of returns were also reviewed in selected Circles.

Department’s performance in respect of action on non-late filer of returns, scrutiny of returns, Delay in audit of taxpayers, lack of action on DGARM and other analytical report and cancellation of registration was analysed on the information provided by the Departmental units. However, the granular backend data of the Department was neither provided by the selected circles nor by the GSTN, due to which Audit could not independently verify the accuracy, correctness and validation of the facts and

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

figures provided by the circles and hence, audit observations are primarily based on information provided by the circles.

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

Entry conference of this SSCA was held on 07 January 2022 with the Commissioner of State Tax, Andhra Pradesh along with the officers of the Department wherein the audit objectives, sample selection, audit scope and methodology were discussed. Exit Conference was held with the Chief Commissioner of State Tax, Andhra Pradesh along with the officers of the Department on 27 June 2023 wherein audit observations were discussed. Response of the Department obtained and incorporated suitably in the relevant paragraphs.

2.1.4 Audit sample

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

There were three distinct parts of this SSCA as under:

(i) Part I – Audit of Circles

Ten (out of total 18) Circles¹⁷ having jurisdiction over more than one selected sample of cases for Detailed Audit were considered as the sample of Circles for evaluation of their oversight functions.

(ii) Part II – Centralised Audit (Limited Audit)

The sample for Centralised Audit was selected by identification of high-value or high-risk deviations from rules and inconsistencies between returns through data analysis for evaluation of the adequacy and effectiveness of the scrutiny procedure of the Department. Accordingly, 416 cases were selected for Centralised Audit under this SSCA.

(iii) Part III – Detailed audit

It was conducted by accessing taxpayers' records through Circles for evaluation of the extent of tax compliance by taxpayers. The sample of taxpayers for Detailed Audit was selected on the basis of risk parameters such as excess ITC, tax liability mismatch, unreconciled turnovers, irregular ITC reversal, *etc.* The 68 taxpayers selected for

¹⁷ Autonagar, Benz Circle, Daba Gardens, Dwarakanagar, Gajuwaka, Kadapa-II, Kothapet NRP, Kurupam Market, Machilipatnam and Suryabagh

Detailed Audit comprised of Large¹⁸, Medium¹⁹ and Small²⁰ strata taxpayers as well as taxpayers selected randomly.

The details of sample for Centralised Audit, Detailed Audit and Audit of Circles selected for this SSCA are brought out in **Appendices-2.1, 2.2** and **2.3**.

2.1.5 Audit criteria

The source of audit criteria comprised the provisions contained in APGST and IGST Acts, and Rules made thereunder. The significant provisions are given in **Table-2.1**:

Table-2.1: Source of criteria

Sl. No.	Subject	Act and Rules
1	Levy and collection	Section 9 of APGST Act, 2017
2	Reverse Charge Mechanism	Section 9(3) of APGST Act, 2017; and Section 5(3) of IGST Act, 2017
3	Availing and utilising ITC	Sections 16 to 21 under Chapter V of APGST Act, 2017; Rules 36 to 45 under Chapter V of APGST Rules, 2017
4	Registrations	Sections 22 to 25 of APGST Act, 2017; Rules 8 to 26 of APGST Rules, 2017
5	Supplies	Sections 7 and 8 of APGST Act, 2017 and Schedules I, II and III of APGST Act, 2017
6	Place of supply	Sections 10 to 13 of IGST Act, 2017
7	Time of supply	Sections 12 to 14 of APGST Act, 2017
8	Valuation of supplies	Section 15 of APGST Act, 2017; Rules 27 to 34 of APGST Rules, 2017
9	Payment of Tax	Sections 49 to 53 under Chapter X of APGST Act, 2017; Rules 85 to 88A under Chapter IX of APGST Rules, 2017
10	Filing of GST Returns	Sections 37 to 47 under Chapter IX of APGST Act, 2017; Rules 59 to 68 and 80 to 81 under Chapter VIII, Part B of APGST Rules, 2017 prescribes format of returns
11	Zero-rated supplies	Section 8 of IGST Act, 2017
12	Assessment and Audit functions	Sections 61, 62, 65 and 66 under Chapter XII & XIII of APGST Act, 2017; Rules 99 to 102 under Chapter XI of APGST Rules, 2017

In addition, the notifications and circulars issued by CBIC/ Commercial Taxes Department relating to filing of returns, notifying the effective dates of filing of various returns, extending due dates for filing returns, rates of tax on goods and services, payment of tax, availing and utilising ITC, scrutiny of returns and oversight

¹⁸ First strata comprise large taxpayers – top two *per cent* of taxpayers based on turnover

¹⁹ Second strata comprise medium taxpayers – next eight *per cent* of taxpayers based on turnover

²⁰ Third strata comprise small taxpayers – remaining 90 *per cent* of taxpayers

of tax compliance and Standard Operating Procedures (SOP) containing instructions to Departmental officers on various aspects related to filing returns, scrutiny of returns, cancellation of registrations and verification of Director General of Analytics and Risk Management (DGARM) reports, *etc.*, also formed part of the audit criteria.

Audit findings

The audit findings are categorised into the following three categories:

- Oversight on Circle functions– Audit of Circles
- Centralised Audit (Limited Audit)
- Detailed Audit

2.1.6 Oversight on Circles functions - Audit of Circles

The role of Circles is to provide oversight for ensuring compliance by taxpayers in respect of accuracy of the taxable value declared, calculation and payment of tax liabilities, filing of returns, *etc.* For evaluating the functions of the Circles, the audit areas include (i) Action on late-filers and non-filers (ii) Effectiveness of scrutiny and audit, (iii) Compliance to DGARM reports/ other analytical reports and (iv) Cancellation of registration.

2.1.6.1 Monitoring mechanism on return filing/ non-filers and late filers

A return is a statement of specified particulars relating to the business activity undertaken by a taxpayer during a prescribed period. Every taxpayer is legally obligated to furnish a complete and correct return, discharging 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.

Section 46 of the APGST Act, 2017 read with Rule 68 of APGST Rules, 2017 stipulates issue of a notice in Form GSTR-3A requiring filing of return within fifteen days if the taxpayer had failed to file the return within the due date. In case the taxpayer fails to file the returns even after such notice, the proper officers may proceed to assess the tax liability of the said person to the best of their judgment, taking into account all the relevant material which is available or gathered and issue an assessment order in Form ASMT-13 and a summary of DRC-07 (as a follow up of ASMT-13) is to be issued to the taxpayers concerned.

The statistical information relating to number of non-filers/ late filers, GSTR-3A issued cases, returns filed in pursuance of GSTR-3A, ASMT-13 and DRC-07 issued during the period 2017-18 to 2020-21 was called for by Audit from 10 sampled Circles. Two Circles²¹ provided the data during the audit and five Circles²² provided the same after the Exit Conference.

²¹ Daba Gardens and Suryabagh

²² Autonagar, Benz Circle, Kadapa-II, Kothapet NRP and Machilipatnam

Due to non-furnishing of details by remaining three Circles²³, Audit could not ascertain the adequacy of action taken by the authorities on the late filers/ non-filers in these three circles.

Statistical information provided by seven sampled Circles is given in **Table-2.2**.

Table-2.2: Circle-wise details of late filers/ non-filers

Name of the Circle	Period	No. of late filers and non-filers identified	GSTR-3A issued cases	Reruns filed on pursuance of GSTR-3A	Non-filers after GSTR-3A notices (to be considered for best judgment)	Best judgment assessment (ASMT-13) initiated	Best judgment assessment (ASMT-13) not initiated
Autonagar	2018-19 to 2020-21	1,174	1,174	1,092	82	82	0
Benz Circle	2019-20 to 2020-21	Details not provided	72	72	0	Not applicable	Not applicable
Daba Gardens	2017-18 to 2020-21	46,266	46,266	42,016	4,250	18	4,232
Machilipatnam	2018-19 to 2020-21	4,246	4,246	3,273	973	312	661
Kadapa-II	2017-18 to 2020-21	385	143	Nil	143	0	143
Suryabagh		37,199	28,355	28,117	238	238	0
Kothapet NRP		40	40	40	0	Not applicable	Not applicable
Total		89,310	80,296	74,610	5,686	650	5,036

Source: Information provided by the respective Circles

Table-2.2 indicates that:

- With respect to the number of late filers and non-filers identified, there is a variation ranging from 40 to 46,266 in the seven Circles.
- Kadapa-II and Suryabagh Circles had not issued GSTR-3A notices to all the late filers and non-filers identified.
- Daba Gardens, Machilipatnam and Kadapa-II Circles had not initiated Best-judgment assessments (ASMT-13) to 5,036 late filers and non-filers who did not file the pending returns even after issuance of GSTR-3A notice.
- Details of summary of demand (DRC-07) issued were not provided by any of the Circles.
- Benz Circle has not provided the data of the number of late filers and non-filers identified.

Since filing of returns is related to payment of tax also, non-filing implies the risk of non-payment of tax. Hence, the Department needs to monitor the performance of Circles in respect of action taken on late filers/ non-filers.

When the status of non-filers/late filers and details of action taken thereon was pointed out (June 2023), the Chief Commissioner (State Tax) during the Exit Conference (June 2023) stated that the Department had issued (January 2020) a Standard Operating

²³ Dwarakanagar, Gajuwaka and Kurupam Market

Procedure (SOP) for monitoring of return filings (*i.e.*, late filing/ non-filing) by the taxpayers. Further, added that most of the late filers were works contractors who would file their return after passing their pending bills.

The reply is not acceptable since every registered person who is required to furnish a return under Section 39(1) / 39(2) should furnish a return for every tax period within the due dates. The date of filing of returns is not related to passing of pending bills.

2.1.6.2 Slow pace of scrutiny of returns/non-initiation of scrutiny of returns

As per Section 61 of the APGST Act 2017, various returns filed by taxpayers have to be scrutinised by the proper officer to verify the correctness of the returns, and suitable action should be taken on any discrepancies or inconsistencies reflected in the returns. The proper officer designated for this purpose is the Assistant Commissioner (State Tax).

Further, Rule 99 of APGST Rules, 2017, envisages procedure for scrutiny of returns which included issuance of notices by the proper officer for intimating discrepancies in Form GST ASMT-10, wherever required, reply of taxpayer in ASMT-11, order of acceptance in ASMT-12 and initiation of action under Sections 73/74.

As per sub-section (10) of Section 73/ 74 of the APGST Act, 2017, order for recovery of any tax short paid/ wrongly availed/ utilised is to be issued within three years (in the cases of other than fraud or wilful misstatement of facts) or five years (in the cases of fraud or wilful misstatement of facts) 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.

Relevant details have been called for by Audit from 10 sampled Circles for the period 2017-18 to 2020-21 to verify compliance about scrutiny of returns. Two Circles²⁴ provided the requisite data during the audit and five Circles²⁵ provided the same after the Exit Conference.

Due to non-furnishing of the data by other three²⁶ Circles, Audit could not assess the effectiveness of the scrutiny and assessment of returns in these three Circles.

The information provided by seven Circles is given in **Table-2.3**.

Table-2.3: Circle-wise details about scrutiny of returns

Name of the Circle	Period	No. of tax-payers selected for scrutiny	No. of returns scrutinised	ASMT-10 issued cases	No. of cases accepted by tax-payers	No. of SCNs issued	Amount recovered (in ₹ crore)
Autonagar	2018-19 to 2020-21	47	185	47	2	0	1.00
Benz Circle	2017-18 to 2020-21	NIL					
Daba Gardens		1,988	1,988	10	10	0	0.65

²⁴ Daba Gardens and Suryabagh

²⁵ Autonagar, Benz Circle, Kadapa-II, Kothapet NRP and Machilipatnam

²⁶ Dwarakanagar, Gajuwaka and Kurupam Market

Name of the Circle	Period	No. of tax-payers selected for scrutiny	No. of returns scrutinised	ASMT-10 issued cases	No. of cases accepted by tax-payers	No. of SCNs issued	Amount recovered (in ₹ crore)
Machilipatnam	2018-19 to 2020-21	255	262	212	6	0	0.09
Kadapa-II	2019-20 to 2020-21	36	36	36	24	12	0.52
Suryabagh	2017-18 to 2018-19	7	72	7	0	7	0
Kothapet NRP	2017-18 to 2020-21	146	0	4	12	119	0.20
Total		2,479	2,543	316	54	138	2.46

Source: Information provided by the Circles concerned

Table-2.3 indicates that:

- Scrutiny of returns for the year 2017-18 was not taken up by three²⁷ (out of seven) Circles.
- Benz Circle had not taken up scrutiny of returns at all during the period covered in audit.
- Daba Gardens Circle issued ASMT-10 only in 0.50 *per cent* returns scrutinised.
- ASMT-10 notices were issued in 316 cases of five Circles. In 54 cases, the deficiencies were accepted by the taxpayers whereas in 138 cases SCNs were issued. An amount of ₹ 2.46 crore was recovered.
- Details of further action taken after issuance of ASMT-10 in Autonagar (45 cases) and Machilipatnam (206 cases) were not provided.

Time limit for issuing order/ adjudication for the returns pertaining to the years 2017-18 and 2018-19 were December 2023 and April 2024 respectively. However, in the absence of case-wise details, Audit could not ascertain the status about action taken on the cases where notices were issued and number of time barred cases.

The Department may expedite the returns scrutiny process for completing the same before the cases become time barred.

Recommendation 2.1: Department may verify the status of scrutiny of returns of the years 2017-18 and 2018-19 and fix responsibility against the official concerned for the lapse of non-scrutiny of returns/ not taking further action after issuing ASMT-10 notices to the dealers.

Government in their reply (May 2024) stated that the lapses identified in Audit based on data obtained from 10 circles were related to the period where proper system for returns scrutiny was not developed. In these cases, ASMT-10 notices were issued manually during the initial stage of GST implementation. The matter will be reviewed with the circle offices concerned and a comprehensive report will be submitted in due course and lapses if any noticed during such review, responsibility will be placed on the officers concerned.

²⁷ Autonagar, Machilipatnam and Kadapa-II

2.1.6.3 Delay in audit of taxpayers by the authorities

As per Section 65 of the APGST Act, 2017, the Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed. Section 2 (13) of the APGST 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 stipulations.

The information relating to audit of taxpayers was called for by Audit from 10 sampled Circles to verify the compliance. Two Circles²⁸ provided the data during the audit and four Circles²⁹ provided the data after the Exit Conference. Remaining four Circles³⁰ did not provide the requisite details hence audit could not ascertain the efficacy and effectiveness of selection of cases and their scrutiny.

Out of the six Circles where data was provided, Audit noticed that only Daba Gardens Circle had selected 15 taxpayers for audit during the years 2017-18 and 2018-19 but no case was finalised as of June 2022. None of the taxpayers was selected for Audit under Section 65 of APGST Act, 2017 in the remaining Circles.

During Exit Conference (June 2023), the Chief Commissioner (State Tax) stated that audit as per the provisions of APGST Act had been taken up from the year 2019 and the same was being monitored through a dashboard developed by the Department.

Though the Department stated that audits have been taken up from the year 2019, the audits were initiated in 15 cases of one circle only and the same were incomplete as of June 2022 also. This clearly shows the delay in the audit of taxpayers.

2.1.6.4 Lack of action on DGARM and other analytical reports³¹

The CBIC (Board) formed Directorate General of Analytics and Risk Management (DGARM) vide OM F.No. A-11013/19/2017-Ad.IV dated 11 July 2017 with the aim of studying, interpreting and analysing the GST data and sharing the results with various stakeholders under the Board and also with the respective Tax Departments of the states. DGARM started functioning from June 2018 by generating reports on taxpayers on various risk parameters. The Department sends the reports to the Circles received from DGARM for verification and necessary action. The Circle officers are required to take action on such reports and after due verification.

Data relating to verification of DGARM reports and other analytical reports was called for by Audit from 10 sampled Circles for the verification of action taken on risk areas

²⁸ Daba Gardens and Suryabagh

²⁹ Autonagar, Benz Circle, Dwarakanagar and Machilipatnam

³⁰ Gajuwaka, Kadapa-II, Kothapet NRP and Kurupam Market

³¹ SAS and BIFA reports

identified. Three Circles³² provided partial information during the audit and two Circles³³ provided partial information after the Exit Conference. The requisite details were not made available to Audit by remaining five Circles³⁴, hence Audit could not ascertain the action taken on these reports.

The details of DGARM reports and other analytical reports are given in **Table-2.4**.

Table-2.4: Details of Circle-wise cases covered in DGARM and other analytical reports

Name of the Circle	Number of cases covered in reports marked for verification	Action taken cases by the Circle		Initiated and pending verification (as on 31 March 2021)	No action required cases
		Number of cases	Amount recovered (₹ in crore)	Number of cases	
Daba Gardens	465	77	0.60	0	388
Kadapa-II	4	0	0	4	0
Machilipatnam	161	161	0.09	0	0
Suryabagh	536	0	0	67	441
Kothapet NRP	1	0	0	1	0
Total	1167	238	0.69	72	829

Source: Information provided by the respective Circles

It can be seen from the above table that a total 1,167 cases for the period 2017-18 to 2020-21 were forwarded to the five Circles for verification. Of these, the Department concluded that no action was required in 829 cases (71.04 per cent). In 238 cases, action was completed and ₹ 0.69 crore was recovered. In 72 cases, action was initiated but completion was pending. Suryabagh Circle did not provide the details of the action taken in the remaining 28 cases³⁵.

Further, details relating to 'no-action required' cases were not furnished to Audit for verification. Hence, Audit could not check the quality and extent of verification undertaken by the Circles on the reports. Non-production of details indicates inadequate response of the Department.

2.1.6.5 Cancellations of registrations

Section 29 of the APGST Act, 2017, read with Rule 20 of the APGST Rules 2017, 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, death of the proprietor, etc. The taxpayer applying for cancellation of registration should apply in Form REG-16 on the GST common portal within a period of 30 days of the 'occurrence of the event warranting the cancellation'.

³² Daba Gardens, Kothapet NRP and Suryabagh

³³ Kadapa-II and Machilipatnam

³⁴ Autonagar, Benz Circle, Dwarakanagar, Gajuwaka and Kurupam Market

³⁵ Total No. of cases (-) cases where no action was required (-) cases where action initiated but not completed (i.e., 536 – 441 – 67 = 28)

Section 29(2) of the 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 return for three consecutive tax periods, 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 Act stipulates every registered person other than (a) ISD or a non-resident taxable person or (b) composition taxable person (Section 10) or (c) persons paying tax under Section 51 - tax collection at source (TCS) or persons paying tax under Section 52 - tax deducted at source (TDS), whose registration has been cancelled, to file a final return in GSTR-10, within three months of the effective date of cancellation or the date of order of cancellation, whichever is later. The purpose of the final return is to ensure that the taxpayer had discharged 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.

The details of cancellations made by Circles have been called for by Audit from 10 sampled Circles for the period 2017-18 to 2020-21 to evaluate the functions of the Circles in respect of the cancellations of registrations. Two Circles³⁶ provided the requisite data during the audit and four Circles³⁷ provided the same after the Exit Conference. The details are given in two succeeding paragraphs.

Due to non-furnishing of the cancellation details by the other four sampled Circles³⁸, Audit could not evaluate the cancellation of registration functions in these four Circles.

i) Delays in cancellation

As per Rule 22(3) of APGST Rules 2017, cancellation order (*i.e.*, REG-19) must be issued within 30 days from the date of application (at taxpayers' request) or the date of reply to show cause notice (*i.e.*, REG-17) in case of *suo moto* cancellation.

From the details of cancellations provided partially by six (out of 10) Circles, two Circles provided cases-wise details of cancellations. Audit noticed the delay in cancellation of 343 cases in these two Circles which ranged between 01 to 881 days as detailed in **Table-2.5**.

³⁶ Kothapet NRP and Suryabagh

³⁷ Autonagar, Benz Circle, Kadapa-II, Kothapet NRP and Machilipatnam

³⁸ Daba Gardens, Dwarakanagar, Gajuwaka and Kurupam Market

Table-2.5: Circle-wise status of cancelled cases

Name of the Circle	No. of cancellation cases			Show cause notice (REG-17) issued cases	Cancellation order (REG-19) issued cases	Cases where details of action taken were not provided	Delay
	On taxpayers' request	<i>Suo moto</i> cases	Total				
Suryabagh	429	233	662	243	243	419	Delay ranged between 01 to 881 days in 73 cases
KothapetNRP	389	689	1,078	701	1,078	0	Delay ranged between 01 to 525 days in 270 cases
Autonagar	701	1,174	1,875*	1,200	572	1,098	Case-wise details not provided; hence, delay could not be worked out
Benz Circle	679	26	705	919	Not furnished	NA	
Machilipatnam	968	661**	1,629**	1,629	1,629	0	
Kadapa-II	782	1,007	1,789***	1,007	1,789	0	
Total	3,948	3,790	7,738	5,699	5,311	1,517	

Note: Inclusive of cancellation revoked cases: * Autonagar: 205; ** Machilipatnam: 49 and *** Kadapa-II: 103

Table-2.5 indicates that:

- In two Circles (Autonagar and Suryabagh Circles), the details of action taken on the 1,517 cancellations were not provided to audit.
- Benz Circle provided inconclusive information.

Delay in cancellation of registrations is fraught with the risk of filing of GSTR-1 (for outward supplies) to facilitate other party to claim ITC and non-filing of corresponding GSTR-3B (relating to sales) to evade tax liability by the taxpayers.

In the Exit Conference (June 2023), the Chief Commissioner (State Tax) expressed concern over *suo moto* cancellations since the Department would not get a hold on the taxpayers.

ii) Inadequate follow-up on non-filing of GSTR-10

As per Section 45 of the Act, final return (GSTR-10) must 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.

Section 46 of the Act read with rule 68 of the APGST Rules, 2017 and Circular No. 129/48/2019-GST dated 24 December 2019, stipulates to issue a notice in Form GSTR-3A to the taxpayer, where GSTR-10 was not filed. If the taxpayer still fails to file the final return within 15 days from the date of receipt of notice, then an assessment order in Form ASMT-13 under Section 62 of the APGST Act, 2017, read with Rule 100 of the APGST Rules 2017, should be issued to determine the liability of the taxpayer under sub-section (5) of Section 29 (*i.e.*, debit ITC equivalent to inputs, inputs contained in semi-finished and finished goods held in stock or capital goods or the output tax payable on such goods whichever is higher). If the taxpayer files the

final return within 30 days from the issue of order ASMT-13 then the said order should be deemed to have been withdrawn. However, for the delayed period interest and late fee should be levied. If the said return remains unfurnished within the statutory period of 30 days from the issue of order (ASMT-13), then the proper officer may initiate proceedings under Section 78 and recovery under Section 79 of the APGST Act.

Analysis of the details provided by five (of the 10) sampled Circles revealed that the Circles had issued cancellation orders in 4,954 cases (after considering 357 cases where cancellation proceedings were dropped in three Circles (*Table-2.5 refers*)). Of these, the number of GSTR-10 filed cases was only 450³⁹ and in the remaining cases status was not known.

In the absence of case-wise records/ details, Audit could not ensure issue of summary of demand (DRC-07), best judgment assessments order (ASMT-13), action taken under Section 78, recovery effected under Section 79, levy of interest wherever applicable, *etc.*

On this being pointed out (July 2022), the authorities of Suryabagh Circle stated (July 2022) that reply would be submitted after verification of the MIS reports. Replies from other five circles were awaited (July 2024).

Recommendation 2.2: The Department may monitor the status of cancellation of registrations and action taken thereon in consonance with the Act provisions to check undischarged tax liabilities through valid inputs in the cancellation module of dashboard.

Government stated (May 2024) that to maintain uniformity across the field formations the Department had issued a Standard Operating Procedure (SOP) in October 2022 to cancel GST registration. Regarding filing of final return in form GSTR-10, there would not be any issues with taxpayers cancelling their registration voluntarily. However, in cases of *suo moto* cancellations due to non-filing return for six consecutive months or three successive quarters, it is often difficult to obtain the final return. The matter will, however, be reviewed with the circle offices concerned and a comprehensive report would be submitted in due course.

2.1.7 Inconsistencies in GST returns – Centralised Audit (Limited Audit)

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

³⁹ Autonagar (78); Kadapa-II (120); Kothapet NRP (82); Machilipatnam (77) and Suryabagh (93)

Of the 13 prescribed GST returns⁴⁰, the following basic returns that apply to normal taxpayers were considered for the purpose of identifying deviations, inconsistencies and mismatches between GST returns/ data.

- **GSTR-1:** monthly return furnished by all normal and casual registered taxpayers making outward supplies of goods and services or both and contains details of outward supplies of goods and services.
- **GSTR-3B:** monthly summary return of outward supplies and input tax credit claimed, along with payment of tax by the taxpayer to be filed by all taxpayers except those specified under Section 39(1) of the Act. This is the return that populates the credit and debits in the Electronic Credit Ledger and debits in Electronic Cash Ledger.
- **GSTR-6:** monthly return for Input Service Distributors (ISD) 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 ISD, TDS/ TCS, Casual Taxable Person and Non-Resident taxpayer. This document contains the details of all supplies made and received under various tax heads (CGST, APGST and IGST) during the entire year along with turnover and audit details for the same.
- **GSTR-9C:** annual audit form for all taxpayers having a turnover above ₹ five crore in a particular financial year. It is basically a reconciliation statement between the annual returns filed in GSTR-9 and the taxpayer's audited annual financial statements.
- **GSTR-2A:** a system-generated statement of inward supplies for a recipient. It contains the details of all 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 ICEGATE portal of Indian Customs.

The pan-State data analysis (*Appendix-2.1*) pertaining to Andhra Pradesh State jurisdiction on the 14 identified parameters and extent of deviations/inconsistencies observed are summarised in **Table-2.6 (a) and (b)**.

⁴⁰ 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)

Table-2.6 (a): Data analysis summary of sampled cases of Andhra Pradesh State

		(₹ in crore)
Sl. No.	Parameter Algorithm used	Amount (Number of deviations)
Mismatch in availing of ITC		
1	<u>2A vs. 3B:</u> ITC available as per GSTR-2A (with all its amendments) is compared with the ITC availed in GSTR-3B {Table 4A(5) for domestic supplies) after considering (i) reversals of ITC (Others pertaining to Table 4(B)(2)) and (ii) ITC availed in subsequent year (Table 8(C) of GSTR-9)	311.15 (50)
2	<u>Under Reverse Charge Mechanism⁴¹ (RCM):</u> RCM in GSTR-3B Table 3.1(d) (with proof of tax paid) is compared with ITC availed due to RCM in GSTR-9 Table (6C+6D+6F); OR if GSTR-9 is not available, RCM liability in GSTR-3B Table 3.1 (d) is compared with ITC availed in GSTR-3B Table {4A(2) + 4A(3)}.	24.86 (50)
3	<u>Annual check of Reverse Charge Mechanism</u> (ignoring proof of tax paid) RCM liability declared in GSTR-9 Table 4G is compared with ITC availed in GSTR-9 Table (6C+6D+6F); (in case GSTR-9 is not available it reverts to Parameter No. 2)	5.91 (17)
Mismatch in Annual Return and financial statements (FS)		
4	<u>Negative figure in GSTR-9C Table 9R:</u> Lower figure of tax paid between books of accounts and annual return	50.21 (50)
5	<u>Positive figure in GSTR-9C Table 12F:</u> Higher amount of ITC claimed than credit that is due when compared between annual return and financial statements (Table 12F of GSTR-9C)	131.53 (25)
6	<u>Positive figure in GSTR-9C Table 14T:</u> Higher amount of ITC claimed after reconciliation between ITC declared in annual return with expenses and in financial statement (Table 14T of GSTR-9C)	856.21 (25)
Shortfall in Tax paid or Interest and Other deviations		
7	<u>Tax not remitted due to GSTR-3B not filed:</u> Cases where GSTR-3B not filed but GSTR-1 or GSTR-2A available Taxpayers who had not filed GSTR-3B but filed GSTR-1 or where GSTR-2A available, indicating taxpayers had carried the business without discharging tax.	11.83 (25)
8	<u>Tax short-paid:</u> Compare GSTR-1 (Table 4 to 11) or GSTR-9 (Table 4N, 10 & 11) with tax paid details declared in Tables 9 and 14 of GSTR-9. In cases where GSTR-9 is not available, tax paid details declared in Table 3.1(a) ⁴² and 3.1(b) ⁴³ in GSTR-3Bis compared with GSTR-1 liability. The amendments and advance adjustments declared in GSTR-1 and GSTR-9 are duly considered.	268.87 (25)
9	<u>Short payment of interest on delayed payments:</u> Interest calculated at the rate of 18 <i>per cent</i> on cash portion of tax payment on delayed filing of GSTR- 3B vis-à-vis interest declared in GSTR-3B Table 6.1.	13.11 (25)

⁴¹ In Reverse Charge Mechanism the liability to pay tax is fixed on the recipient of supply of goods or services or both instead of the supplier or provider for certain notified categories of goods or services or both

⁴² Outward taxable supplies (other than zero-rated, nil rated and exempted)

⁴³ Outward taxable supplies (zero-rated)

Sl. No.	Parameter Algorithm used	Amount (Number of deviations)
10	<u>Composition taxpayers also availing e-commerce facility:</u> E-commerce GSTR-8 became effective from 01.10.2018 when TCS provisions became effective. GSTINs declared in GSTR-8 who are also filing GSTR-4 under composition scheme.	NA (13)
11	<u>ISD credit incorrectly availed by the recipients:</u> ISD received in GSTR-9 Table 6G or GSTR-3B Table 4(A) (4) of the recipients was compared with ITC transferred in GSTR-6 of the distributor.	17.47 (25)
12	<u>Incorrect reversal of ISD credit:</u> 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.	0.005 (1)
	Total	1,691.15 (331)

NA: Not assessable

Table-2.6 (b): Data analysis summary of sampled cases (Turnover mismatch)

Sl. No.	Turnover mismatch in Annual Return and financial statements (FS)	Amount (Number of cases)
1	<u>Negative in GSTR-9C Table 5R:</u> Comparison of turnover furnished in GSTR-9 with GSTR-9C and cases are identified where 9C shows lower figure than FS <i>i.e.</i> , negative.	2,303.42 (50)
2	<u>Negative in GSTR-9C Table 7G:</u> Taxable turnover that is unreconciled after adjustments made from turnover in the Financial statements and turnover under GSTR-9 is lower <i>i.e.</i> , negative	565.69 (35)
	Total	2,869.11 (85)

Audit selected a sample of 416 cases from amongst the top deviations/ inconsistencies in each of the 14 parameters for the year 2017-18. The audit queries were issued to the respective Circles between April 2022 and July 2022 without further scrutiny of taxpayer's records. The audit check in these cases was limited to verifying the Department's action on the identified deviations/ mismatches.

Department provided responses to 415 cases. In one case of Patamata circle, reply of the department was awaited (July 2024).

2.1.7.1 Results of Centralised Audit

Based on responses received from the Department to the audit queries, the extent to which deviations identified on each of the 14 parameters translated into validations or acceptance or otherwise by the department is summarised in **Table-2.7 (a) and (b)**.

Summary of Centralised Audit

Audit noticed deviations from the provisions of the Act in 81 cases (Column Nos. 4,6,8 and 10 of Table-2.7 (a)) involving mismatches of ITC/Tax liability of ₹ 208.49 crore (Column Nos.5, 7, 9 and 11) constituting 24.55 *per cent* of the 330 inconsistencies/ mismatches in data, for which the Department provided responses. Relatively higher rates of deviations were noticed in risk parameters such as mismatch in availing of ITC, mismatch in tax paid between books of accounts and annual return, cases where GSTR-3B not filed but GSTR-1 or GSTR-2A available, short payment of interest on delayed payments, undischarged liability *etc.*

In 185 cases (Column Nos. 14,16, and 18), constituting 56.06 *per cent*, where the replies were acceptable to Audit; data entry errors by taxpayers comprised 72 cases (Column No. 14); the Department had proactively taken action in 32 cases (Column No. 16) and 81 cases (Column No. 18) had other valid explanations.

In 29 cases (Column No. 20) , constituting 8.79 *per cent* , the department reply is not acceptable to the audit and rebutted accordingly. In the remaining 35 cases (Column No. 22), constituting 10.61 *per cent*, though the Department did not accept the deviations pointed out by Audit, their contention was not borne out by evidence, and was thus not amenable to verification by Audit.

Audit also noticed turnover related mismatches (Table-2.7 (b)), in 85 cases (Column No. 2). Of these, in three cases (Column Nos. 4 and 6), constituting 3.53 *per cent* the Department had initiated/ taken action on the audit observations. In 53 (62.35 *per cent*) cases (Column Nos. 14 and 18) replies were acceptable to Audit. In nine cases (Column 20), constituting 10.59 *per cent*, the Department's reply is not acceptable to the Audit. In 19 cases (Column 22) constituting 22.35 *per cent*, Department had not provided relevant documents in support of their contention; hence reply could not be verified.

Table-2.7 (a): Dimension-wise summary of deficiencies

(₹ in crore)

Sl. No.	Audit Dimension	Cases where reply received #		Accepted by Dept. and status of the case										Department reply accepted by Audit						Department's reply not acceptable to Audit (Rebuttal)		Department reply not furnished with appropriate documentary evidence	
				Recovered/ Demand Order issued		SCN* issued		ASMT-10		Under correspondence with taxpayer		Total (Col. 12= 4+6+8+10 and Col. 13 = 5+7+9+11)		Data entry errors		Action taken before query		Other valid explanations					
		No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
1	Mismatch in availing of ITC	50	286.53	11	22.61	0	0.00	2	5.89	3	31.67	16	60.17	1	4.62	5	14.05	15	64.89	5	49.83	8	92.97
2	Mismatch in availing of ITC under Reverse Charge Mechanism (RCM)	50	23.95	1	0.16	1	0.15	2	0.82	0	0.00	4	1.13	27	15.79	4	0.89	5	0.95	3	0.74	7	4.45
3	Mismatch in availing of ITC under RCM without payment	17	5.91	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	14	4.56	0	0.00	1	0.74	1	0.22	1	0.39
4	Mismatch in tax paid between books of accounts and annual return (Table 9R of GSTR-9C)	50	50.21	5	7.39	0	0.00	3	4.13	4	6.37	12	17.89	2	1.19	5	3.51	16	14.39	9	9.47	6	3.76
5	Mismatch in ITC availed between annual return and financial statements (Table 12F of GSTR-9C)	25	131.53	1	2.58	1	3.97	1	2.88	1	27.61	4	37.04	3	26.56	1	2.60	7	30.58	2	3.67	8	31.08
6	Reconciliation between ITC declared in annual return with expenses and in financial statement (Table 14T of GSTR-9C)	25	856.21	2	22.32	0	0.00	0	0.00	0	0.00	2	22.32	1	15.71	1	106.96	17	599.14	3	65.03	1	47.05
7	Cases where GSTR-3B not filed but GSTR-1 or GSTR-2A available	25	11.83	12	1.43	0	0.00	3	0.22	1	0.07	16	1.72	0	0.00	4	9.23	3	0.12	0	0.00	2	0.76
8	Unsettled liabilities	25	256.09	7	34.79	0	0.00	1	21.56	1	4.32	9	60.67	4	33.21	4	14.76	5	30.29	3	117.16	0	0.00
9	Short payment of interest on delayed payments	24	10.95	10	4.88	2	0.76	1	0.42	3	1.18	16	7.24	0	0.00	5	2.71	0	0.00	2	0.62	1	0.38
10	Composition taxpayers also availing e-commerce facility	13	0.00	1	0.00	0	0.00	0	0.00	0	0.00	1	0.00	0	0.00	0	0.00	12	0.00	0	0.00	0	0.00
11	ISD credit incorrectly availed by the recipients	25	17.47	0	0.00	0	0.00	0	0.00	1	0.31	1	0.31	20	15.39	2	0.47	0	0.00	1	0.63	1	0.67
12	Incorrect reversal of ISD credit	1	0.005	0	0	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	1	0.005	0	0.00	0	0.00	0	0.00
	Total	330	1650.69	50	96.16	4	4.88	13	35.92	14	71.53	81	208.49	72	117.03	32	155.19	81	741.10	29	247.37	35	181.51

col. 2 = col. 12+14+16+18+20+22 and col. 3 = col. 13+15+17+19+21+23

* Show Cause Notice (SCN)

Table-2.7 (b): Summary of deficiencies (turnover mismatch)

(₹ in crore)

Sl. No.	Audit Dimension	Cases where reply received #		Accepted by Dept. and status of the case										Department reply accepted by Audit						Department's reply not acceptable to Audit (Rebuttal)		Department reply not furnished with appropriate documentary evidence		Department Stated they are examining the audit observation	
				Recovered/ Demand Order issued		SCN* issued		ASMT-10		Under correspondence with taxpayer		Total (Col. 12= 4+6+8+10 and Col. 13 = 5+7+9+11)		Data entry errors		Action taken before query		Other valid explanations							
		No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
1	Mismatch in turnover between annual return and financial statements (Table 5R of GSTR-9C)	50	2303.42	1	47.82	2	35.34	0	0.00	0	0.00	3	83.16	1	115.81	0	0.00	26	1058.53	8	522.59	12	523.33	0	0.00
2	Mismatch in taxable turnover between annual return and financial Statements (Table 7G of GSTR-9C)	35	565.69	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	4	92.50	0	0.00	22	331.71	1	10.00	7	110.53	1	20.95
	Total	85	2869.11	1	47.82	2	35.34	0	0.00	0	0.00	3	83.16	5	208.31	0	0.00	48	1390.24	9	532.59	19	633.86	1	20.95

col. 2 = col. 12+14+16+18+20+22+24 and col. 3 = col. 13+15+17+19+21+23+25

* Show Cause Notice (SCN)

Table-2.8: Top case for each dimension⁴⁴ of Centralised Audit (for compliance deviation pertaining to cases of recovery, ASMT-10, SCN issued and correspondence in progress with taxpayer)

Sl. No.	Dimension	GSTIN	Jurisdictional Circle	Mismatch (₹ in crore)	Action taken
1	Mismatch in availing of ITC	3XXXXXXXXXXXXXX7	Gajuwaka	16.06	Under correspondence with taxpayer
2	Mismatch in availing of ITC under Reverse Charge Mechanism (RCM)	3XXXXXXXXXXXXXX R	Eluru-I	0.71	ASMT-10 issued
3	Mismatch in turnover between annual return and financial statements (Table 5R of GSTR-9C)	3XXXXXXXXXXXXXX K	Dwarakanagar	47.82	Demand order (DRC-07) issued
4	Mismatch in tax paid between books of accounts and annual return (Table 9R of GSTR-9C)	3XXXXXXXXXXXXXX K	Dwarakanagar	5.77	Demand order (DRC-07) issued
5	Mismatch in ITC availed between annual return and financial statements (Table 12F of GSTR-9C)	3XXXXXXXXXXXXXX7	Gajuwaka	27.61	Under correspondence with taxpayer
6	Reconciliation between ITC declared in annual return with expenses and in financial statement (Table 14T of GSTR-9C)	3XXXXXXXXXXXXXX U	Steel Plant	21.28	Demand order (DRC-07) issued
7	Cases where GSTR-3B not filed but GSTR-1 or GSTR-2A available	3XXXXXXXXXXXXXX Y	Steel Plant	0.43	Demand order (DRC-07) issued
8	Unsettled liabilities	3XXXXXXXXXXXXXX M	Suryabagh	21.56	ASMT-10 issued
9	Short payment of interest on delayed payments	3XXXXXXXXXXXXXX W	Kurnool-III	0.95	Under correspondence with taxpayer
10	ISD credit incorrectly availed by the recipients	3XXXXXXXXXXXXXX S	Brodipet	0.31	Under correspondence with taxpayer

Illustrative cases are discussed below:**(i) Dimension - Mismatch in availing of ITC**

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

⁴⁴ Money value cases

To analyse the veracity of ITC utilisation, relevant data were extracted from GSTR-3B and GSTR-2A for the year 2017-18 and the ITC paid as per suppliers' details was matched with the ITC credit availed by the taxpayer. The methodology adopted was to compare the ITC available as per GSTR-2A with all its amendments and the ITC availed in GSTR-3B in Table 4A(5)⁴⁵ considering the reversals in Table 4B(2)⁴⁶ but including the ITC availed in the subsequent year 2018-19 from Table 8C of GSTR-9.

Audit observed that in the case of a taxpayer (GSTIN: 3XXXXXXXXXXXXX7) under the jurisdiction of Gajuwaka Circle, the ITC available as per GSTR-2A was ₹ 157.10 crore and the ITC availed in Table 4A(5) of GSTR-3B was ₹ 173.16 crore. This resulted in mismatch of ITC availed amounting to ₹ 16.06 crore which was communicated to the Department (April 2022). In response, the Department stated (June 2023) that taxpayer had furnished Financial Account for their transactions all over India and the discrepancy would be resolved after obtaining state specific reconciliation statement. However, the supporting documents were not furnished to audit.

(ii) Dimension - Mismatch in availing of ITC under Reverse Charge Mechanism

In reverse charge mechanism (RCM), the liability to pay tax is fixed on the recipient of supply of goods or services instead of the supplier or provider in respect of certain categories of goods or services or both under Section 9(3) or Section 9(4) of the APGST Act, 2017 and under sub-section (3) or sub-section (4) of Section 5 of IGST Act, 2017.

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

To analyse the veracity of ITC availed on tax paid under RCM for the year 2017-18, the datasets pertaining to monthly return GSTR-3B and annual return GSTR-9 were compared to check whether the ITC availed on RCM was restricted to the extent of tax paid. The methodology adopted was to compare the RCM payments in GSTR-3B Table 3.1(d)⁴⁷ with ITC availed in GSTR-9 Table 6C⁴⁸, 6D⁴⁹ and 6F⁵⁰. In cases where GSTR-9 was not available, the check was restricted within GSTR-3B where the tax discharged part in Table 3.1(d) was compared with the ITC availed part of Table 4A(2)⁵¹ and 4A(3)⁵².

Audit observed that in the case of a taxpayer (GSTIN: 3XXXXXXXXXXXXXR) under the jurisdiction of Eluru-I Circle, the ITC available in Table 3.1(d) of GSTR-3B was 'Nil' and the ITC availed in Table 6C, 6D and 6F of GSTR-9 was ₹ 0.71 crore resulting

⁴⁵ all other eligible ITC

⁴⁶ other ITC reversed

⁴⁷ Inward supplies (liable to reverse charge)

⁴⁸ Inward supplies received from unregistered persons liable to reverse charge

⁴⁹ Inward supplies received from registered persons liable to reverse charge

⁵⁰ Import of services

⁵¹ Import of services

⁵² Inward supplies liable to reverse charge (other than Import of Goods and Services)

in mismatch of ITC availed amounting to ₹ 0.71 crore which was communicated to the Department (May 2022). In response, the Department stated (December 2022) that a notice (ASMT-10) intimating about discrepancy was issued to the taxpayer.

(iii) Dimension - Mismatch in turnover between annual return and financial statements (Table 5R of GSTR-9C)

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

Table 5R of GSTR-9C captures unreconciled turnover between the turnover declared in annual return GSTR-9 and that declared in the financial statements for the year after the requisite adjustments.

Audit query on unreconciled turnover in Table 5R of GSTR-9C in respect of a taxpayer (GSTIN:3XXXXXXXXXXXXXK) under the jurisdiction of Dwarakanagar Circle amounting to ₹ 47.82 crore was communicated to the Department (May 2022). In response, the Department stated (July 2024) that the demand order in form DRC-07 was issued for an amount of ₹ 5.74 crore.

(iv) Dimension - Mismatch in tax paid between books of accounts and annual return (Table 9R of GSTR-9C)

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

Unreconciled payment of tax declared in Table 9R of GSTR-9C, amounting to ₹ 5.77 crore in the case of a taxpayer (GSTIN: 3XXXXXXXXXXXXXK) under the jurisdiction of Dwarakanagar Circle was communicated to the Department (May 2022). In response, the Department stated (July 2024) that the demand order in form DRC-07 was issued for an amount of ₹ 5.77 crore.

(v) Dimension - Mismatch in ITC availed between annual return and financial statements (Table 12F of GSTR-9C)

Table 12F of GSTR-9C reconciles ITC declared in annual return (GSTR-9) with ITC availed as per audited annual financial statement/ books of accounts.

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

Unreconciled ITC of ₹ 27.61 crore declared in Table 12F of GSTR-9C, being ITC availed in GST returns in excess of eligible ITC based on financial statements, in the case of a taxpayer (GSTIN: 3XXXXXXXXXXXXX7) under the jurisdiction of Gajuwaka Circle, was noticed and communicated to the Department (May 2022). In response, the Department stated (June 2023) that the taxpayer had furnished Financial Account for their transactions all over India and the discrepancy would be resolved after obtaining state specific reconciliation statement. However, the supporting documents were not furnished to audit.

(vi) Dimension - Reconciliation between ITC declared in annual return with expenses and in financial statement (Table 14T of GSTR-9C)

Table 14T of GSTR-9C reconciles ITC declared in annual return (GSTR-9) with ITC availed on expenses as per audited annual financial statement/ books of accounts.

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

Unreconciled ITC of ₹ 21.28 crore declared in Table 14T of GSTR-9C, being ITC availed in GST returns in excess of eligible ITC based on expenses reported in financial statements, in the case of a taxpayer (GSTIN: 3XXXXXXXXXXXXXU) under the jurisdiction of Steel Plant Circle, was noticed and communicated to the Department (April 2022). In response, the Department stated (June 2024) that DRC-07 order was issued for ₹ 21.28 crore.

(vii) Dimension – Non-discharge of tax liability in cases where GSTR-3B was not filed but GSTR-1 or GSTR-2A available

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

Audit observed that, in the case of a taxpayer (GSTIN: 3XXXXXXXXXXXXXXY) under the jurisdiction of Steel Plant Circle, though the taxpayer had a tax liability of ₹ 0.43 crore as per GSTR-1, he had not filed a single GSTR-3B in 2017-18, leaving the tax liability undischarged. On this being communicated to the Department (April 2022), it was replied (June 2024) that DRC-07 order was issued.

(viii) Dimension - Unsettled liabilities

GSTR-1 depicts the monthly details of outward supplies of Goods or Services. Relevant columns in annual return GSTR-9 also provide these details as assessed by the taxpayer. Further, taxable value and tax paid thereof details are shown in GSTR-3B.

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

For the algorithm, Tables 4 to 11 of GSTR-1 and Tables 4N, 10 and 11 of GSTR-9 were considered. The greater of the tax liability between GSTR-1 and GSTR-9 was compared with the tax paid declared in Tables 9 and 14 of GSTR-9 to identify short payment of tax. In the case of GSTR-3B, Tables 3.1(a) and 3.1(b) were taken into account.

Audit observed that, in the case of a taxpayer (GSTIN: 3XXXXXXXXXXXXXM) under the jurisdiction of Suryabagh Circle, the tax payable as per GSTR-1 and GSTR-9 were ₹ 259.78 crore and ₹ 224.63 crore respectively. Comparison of the greater of tax liability with the tax paid amount of ₹ 238.22 crore as declared in GSTR-9 resulted in mismatch of tax liability amounting to ₹ 21.56 crore, which was communicated to the Department (May 2022). In response, the Department stated (December 2022) that a notice under ASMT-10 was issued to the taxpayer.

(ix) Dimension - Short payment of interest on delayed payments

Section 50 of APGST Act, 2017, stipulates that every person liable to pay tax in accordance with the provisions of this Act or the rules made thereunder but fails to pay the tax or any part thereof to the Government within the period prescribed should, for the period for which the tax or any part thereof remains unpaid, pay interest at the rate notified.

The extent of short payment of interest on account of delayed remittance of tax during 2017-18 was identified using the tax paid details in GSTR-3B and the date of filing of the GSTR-3B. Only the net tax liability (cash component) has been considered to work out the interest payable.

Audit observed in the case of a taxpayer (GSTIN: 3XXXXXXXXXXXXXXW)' under the jurisdiction of Kurnool-III Circle that there was short payment of interest (due to belated payment of tax) amounting to ₹ 0.95 crore which was communicated to the Department (May 2022). In response, the Department stated (July 2023) that an interest notice was issued to the taxpayer and report would be submitted accordingly.

(x) Dimension – ISD Credit incorrectly availed by the recipients

To analyse whether the ITC availed by the taxpayer is in excess of the amount transferred by the Input Service Distributor (ISD), ITC availed as declared in the returns of the taxpayer is compared with the ITC transferred by the ISD in their GSTR-6. The methodology adopted was to compare Table 6G⁵³ of GSTR-9 or Table 4A(4)⁵⁴ of GSTR-3B of the recipient taxpayers under the jurisdiction of this State with the sum of Table 5A⁵⁵, Table 8A⁵⁶, and Table 9A⁵⁷ of GSTR-6 of the respective ISD.

In the case of a taxpayer (GSTIN: 3XXXXXXXXXXXXXXS) under the jurisdiction of Brodipet Circle, Audit observed that the ITC availed in Table 6G of GSTR-9 was ₹ 0.34 crore and the ITC transferred by the ISD in Table (5A+8A+9A) of GSTR-6 was ₹ 0.03 crore only. This resulted in irregular availing of ITC by recipient on ISD credit amounting to ₹ 0.31 crore which was communicated to the Department (May 2022). In response, the Department stated (December 2022) that due to reorganization and bifurcation of circles, audit of the taxpayer was taken up by Special Circle-II, Guntur. Further reply is awaited (July 2024).

2.1.7.2 Analysis of causative factors

Considering the Department's responses to 415 cases against the sample of 416 data deviations/inconsistencies, the factors that caused the discrepancies are detailed in subsequent paragraphs.

(I) Deviations from GST law and rules

Of the 415 deviations summarised in **Table-2.7 (a) and (b)**, the Department has accepted the audit observations/initiated examination in 84 cases having mismatches of ITC/Tax liability/turnover of ₹ 291.65⁵⁸ crore. Of these cases, the Department has recovered/issued demand orders for ₹ 143.98⁵⁹ crore in 51 cases, issued SCNs in 6 cases for ₹ 40.22⁶⁰ crore, issued notices conveying discrepancies to the taxpayers in Form ASMT-10 in 13 cases for ₹ 35.92 crore and was in correspondence with the respective taxpayers in 14 cases for ₹ 71.53 crore. Details are given in **Appendix-2.4** and the top five accepted cases are shown in **Table-2.9**.

⁵³ ITC received from ISD

⁵⁴ Inward supplies from ISD

⁵⁵ Distribution of the amounts of eligible ITC for the tax period

⁵⁶ Mismatch of ITC reclaimed and distributed

⁵⁷ Redistribution of ITC distributed to a wrong recipient

⁵⁸ The mismatch amount involves difference in turnover of ₹ 83.16 crore.

⁵⁹ Recovery amount includes turnover amount of ₹ 47.82 crore (actual recovery made was ₹ 5.74 crore i.e., 12 per cent of ₹ 47.82 crore)

⁶⁰ SCN issued amount includes the turnover mismatch of ₹ 35.34 crore

Table-2.9: Top five cases accepted/action initiated by the Department

Sl. No.	GSTIN	Circle	Dimension	Tax (₹ in crore)/ Amount of mismatch	Action taken
1	3XXXXXXXXXXXXXXK	Dwarakanagar	Mismatch of Turnover Table 5R of GSTR-9C	47.82	Demand order (DRC-07) issued
2	3XXXXXXXXXXXXXX7	Gajuwaka	Unreconciled ITC Table 12F of GSTR-9C	27.61	Under correspondence with taxpayer
3	3XXXXXXXXXXXXXXB	Steel Plant	Mismatch of Turnover Table 5R of GSTR-9C	23.17	SCN(DRC-01) issued
4	3XXXXXXXXXXXXXXM	Suryabagh	Unsettled liability	21.56	ASMT 10 issued
5	3XXXXXXXXXXXXXXU	Steel Plant	Unreconciled ITC Table 14T of GSTR-9C	21.28	Demand order (DRC-07) issued

Cases mentioned at Sl. Nos. 1, 2, 4 and 5 are detailed in point numbers (iii), (v), (viii) and (vi) respectively of *Paragraph No. 2.1.7.2 supra*. Case at Sl. No. 3 is illustrated below:

Table 5R of GSTR-9C captures unreconciled turnover between the turnover declared in annual return GSTR-9 and that declared in the financial statements for the year after the requisite adjustments.

Audit query on unreconciled turnover in Table 5R of GSTR-9C in respect of a taxpayer (GSTIN: 3XXXXXXXXXXXXXB)' under the jurisdiction of Steel Plant Circle amounting to ₹ 23.17 crore was communicated to the Department (April 2022). In response, the Department stated (July 2023) that a notice in DRC-01 was issued to the taxpayer.

(II) Cases where Department's reply is not acceptable to Audit

Of the 415 cases for which replies received, Department's contention in 38 cases having mismatches in ITC/ tax liability/ turnovers of ₹ 779.96⁶¹ crore was not acceptable to Audit. Details of these cases are given in *Appendix-2.5* and the top five cases are shown in **Table-2.10**.

⁶¹ The mismatch amount includes the turnover mismatches of ₹ 532.59 crore

Table-2.10: Top five cases in terms of mismatches of tax liability/ turnovers where Department's responses were rebutted

Sl. No.	GSTIN	Dimension	Circle	Mismatch amount (₹ in crore)
1	3XXXXXXXXXXXXX8	Mismatch in turnover between annual return and financial statements (Table 5R of GSTR-9C)	Suryabagh	196.09
2	3XXXXXXXXXXXXX4	Undischarged Tax liability	Suryabagh	100.08
3	3XXXXXXXXXXXXXJ	Mismatch of Turnover Table 5R of GSTR-9C	Chittoor-I	83.81
4	3XXXXXXXXXXXXXU	Mismatch of Turnover Table 5R of GSTR-9C	Chittoor-I	79.20
5	3XXXXXXXXXXXXXT	Mismatch of Turnover - Table 5R of GSTR-9C	Steel Plant	59.64

Above cases are illustrated below.

1. In the case of a taxpayer (GSTIN:3XXXXXXXXXXXXX8), under the jurisdiction of Suryabagh Circle, unreconciled turnover of ₹ 196.09 crore between annual returns and financial statements noticed in Table 5R of GSTR-9C was communicated (May 2022) to the Circle. The Department stated (June 2023) that the unreconciled turnover relates to turnovers of the taxpayer in other States and furnished relevant copies of GSTR-9s. On scrutiny of the same it was noticed that the turnover of other States was ₹ 111.69 crore. Since there was still a difference of ₹ 84.40 crore the details need to be verified by the Department.
2. A tax liability mismatch between GSTR-1 and GSTR-9/3B of ₹ 100.08 crore was noticed in the case of a taxpayer (GSTIN:3XXXXXXXXXXXXX4) under the jurisdiction of Suryabagh Circle which was communicated (May 2022) to the Circle. The Department stated (June 2023) that the taxpayer had reported CESS in GSTR-1 return for September 2017 as ₹ 101.66 crore instead of ₹ 1.66 crore. The reply could not be verified since the Circle has just reiterated the remarks offered by the taxpayer and no supporting document was provided.
3. In the case of a taxpayer (GSTIN:3XXXXXXXXXXXXXJ) under the jurisdiction of Chittoor-I Circle, unreconciled turnover of ₹ 83.81 crore declared in Table 5R of GSTR-9C was communicated (May 2022) to the Circle. The Department replied (July 2023) that taxpayer had shown all turnovers relating to their branches in other States and furnished copies of GSTR-9Cs filed in the States of Tamil Nadu, Maharashtra, Puducherry and Andhra Pradesh. However, on verification of the above, it was noticed that the total turnover declared (₹ 37.60 crore) in all the branches was less than the unreconciled turnover by an amount of ₹ 46.21 crore, which needs to be verified.

4. In the case of a taxpayer (GSTIN: 3XXXXXXXXXXU), under the jurisdiction of Chittoor-I Circle, unreconciled turnover of ₹ 79.20 crore between annual returns and financial statements noticed in Table 5R of GSTR-9C was communicated (May 2022) to the Circle. The Department stated (July 2023) that out of the turnover (₹ 91.87 crore) declared in Table 5P of GSTR-9C, ₹ 76.90 crore pertains to the State of Tamil Nadu and ₹ 12.67 crore pertains to the State of Andhra Pradesh. However, there was still a difference of ₹ 2.30 crore in unreconciled turnovers.
5. Unreconciled turnover of ₹ 59.64 crore declared in Table 5R of GSTR-9C was noticed in the case of a taxpayer (GSTIN:3XXXXXXXXXXT) of Steel Plant Circle was communicated (April 2022) to the Department. The Department stated (July 2024) that on issuance of DRC-01, the taxpayer had registrations in five states and submitted the declaration of state-wise turnovers certified by the CA and enclosed the GSTR-9 and GSTR-9C along with the CA certificate.

On verification of the details, Audit observed that the taxpayer had declared pre-GST turnover to the tune of ₹ 15.85 crore. Of this, turnover pertaining to Andhra Pradesh was ₹ 3.31 crore. However, from the VAT returns on VATIS portal, it was observed that turnover declared in VAT returns for the months April 2017 and May 2017 was 'NIL'. The VAT return for June 2017 was also not filed. Hence, the details are to be verified by the Department.

(III) Data entry errors by taxpayers:

Data entry errors constituted 18.55 *per cent* (77 cases) of the total 415 responses received and 32.35 *per cent* of cases where the Department's responses (238) were accepted by Audit. These data entry errors did not have any revenue implication. These data entry errors relate to mismatches in availing of ITC (66 cases), liability (six cases) and turnovers (five cases) as detailed in *Appendix-2.6*.

An illustrative case is detailed below.

A deviation amounting to ₹ 6.65 crore was identified as excess availing of ITC under reverse charge mechanism between the GSTR-3B and the GSTR-9 returns of a taxpayer (GSTIN: 3XXXXXXXXXX9) in the jurisdiction of Amadalavalasa Circle (erstwhile Rajam Circle) and communicated (May 2022) to the Department. The Department replied (December 2022) that the deviation was caused since the taxpayer had erroneously shown ITC under import of services instead of import of goods.

(IV) Action taken before issue of audit observations

As summarised in Table-2.7 above, the Department had taken action in 32 cases before issue of audit observations which constituted 7.71 *per cent* of the responses received.

Recommendation 2.3: The Department may incorporate suitable validation controls in GST modules to curb data entry errors, to enhance taxpayer compliance and to facilitate better scrutiny.

Government replied (May 2024) that the GST portal is being maintained and updated by Goods and Services Tax Network, a Government of India enterprise. Since, State Government had no direct control over the portal, the GST network will be addressed to incorporate suitable validation controls in GST modules to curb data entry errors.

2.1.8 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 a finite level of resources, for an effective tax administration, to ensure compliance with law and collection of revenue, an efficient governance mechanism is essential. An IT driven compliance model enables maintaining a non-discretionary regime of governance on scale and facilitates a targeted approach to enforce compliance.

From an external audit perspective, Audit also focused on a data-driven risk-based approach. Thus, apart from identifying inconsistencies/deviations through the data analysis of the GST returns pertaining to State Jurisdiction taxpayers, a detailed audit of GST returns was also conducted as a part of this review. A risk-based sample of 68 taxpayers was selected for this part of the review. The methodology adopted was to initially conduct a desk review of GST returns and financial statements filed by the taxpayers as part of the GSTR-9C and other records available in the back-end system to identify potential risk areas, inconsistencies/deviations and red flags. Desk review was carried out in field audit office. Based on desk review results, detailed audit was conducted in Departmental field formations by requisitioning from State GST field formations, 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.

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 Departmental field formations. Non-compliance by taxpayers at various stages ultimately impacts the veracity of returns filed, utilisation of ITC and discharge of tax payments. The audit findings are therefore categorised under (a) Returns (b) Availing of ITC and (c) Discharge of tax liability.

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

There was scope limitation of audit due to non-production of granular record by the State GST Department. During the desk review of taxpayers' returns 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 61⁶² (**Appendix-2.7**) of the selected 68 cases, the Department did not provide 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 taxpayers through the respective Circles.

Non-production of records constituted 89.71 *per cent* (61 cases) of the sample size (68 cases). Due to non-production of records during field visits to state GST offices, Audit could not verify the ITC and tax liability mismatches. However, Audit identified 16 instances of observations involving amount of ₹ 41.67 crore based on the available information/returns and records produced by the department. In 140 cases, audit could not verify the deviation and the same were reported as mismatches in the report. Thus, instances of availing excess ITC/ undischarged liability cannot be ruled out which would impact revenue realisation.

When the issue of non-production of records was brought to the notice of the Chief Commissioner (State Tax) during the Exit Conference (June 2023), the Department forwarded replies to the mismatches and the following observations were made duly verifying the replies with the supporting documents made available to Audit.

Recommendation 2.4: The Department must assess all cases where data not furnished to Audit since from the few cases scrutinised within the audit sample the tax leakage is high.

2.1.8.2 Returns

The Detailed Audit of returns filed by the sampled 68 taxpayers disclosed that interest payments were not discharged by taxpayers and mismatch of details declared in various returns in a significant number of cases, which are detailed below.

(I) Non-payment of interest by taxpayers

Audit observed in four cases (5.88 *per cent*) of the sampled 68 cases, that taxpayers had either filed their returns belatedly or had erroneously utilised excess ITC credits, which were paid back but the interest payments amounting to ₹ 1.38 crore were not discharged (**Appendix-2.8**). In two⁶³ cases, the department had levied and collected the interest amount of ₹ 1.31 crore at the instance of audit.

One case is illustrated below.

A taxpayer (GSTIN: 3XXXXXXXXXXXXXV) under Auto agar Circle had filed GSTR-3B returns for the period August 2017 to March 2018 belatedly (with a delay

⁶² Out of 61 cases, in three cases *viz.*, (i) GSTIN: 3XXXXXXXXXXXXXD of China Waltair Circle, (ii) GSTIN: 3XXXXXXXXXXXXX0 and (iii) GSTIN: 3XXXXXXXXXXXXXI) of Daba Gardens Circle, Department provided partial information *i.e.*, Financial Statements, Ledgers and Notes

⁶³ GSTIN: 3XXXXXXXXXXXXXK of Suryabagh circle (₹ 1.30 crore) and GSTIN: 3XXXXXXXXXXXXXX of Nidadavolu circle (₹ 0.01 crore)

ranged from eight to 113 days) in the months between September 2017 and June 2018. However, interest liability of ₹ 0.06 crore on delayed payment of tax was not discharged. On this being pointed out (June 2022), the Department intimated (July 2023) that the ADT-02 was issued in April 2024 which includes the interest payable on delayed filing of GSTR-3Bs.

(II) Non-filing of annual return (GSTR-9) and reconciliation statement (GSTR-9C)

As per Section 44(1) of APGST Act, 2017, every registered person, other than an Input Service Distributor, a person paying tax under Section 51 or Section 52, a taxable person including non-residents, should furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year.

Further, as per sub-section (2) of Section 44 of the Act, every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of Section 35 should furnish, a copy of audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed, duly certified, in Form GSTR-9C, electronically.

In this regard, every registered person whose aggregate turnover during a financial year exceeds two crore rupees should get his accounts audited as specified under Section 35(5) of the APGST Act, 2017.

Further, as per Section 46 of the said Act where a registered person fails to furnish a return under Sections 39 or 44 or 45, a notice should be issued requiring him to furnish such return within fifteen days in such form and manner as may be prescribed.

Audit noticed that in six (8.82 *per cent*) out of 68 cases (as detailed in **Appendix-2.9**), the taxpayers did not file GSTR-9 and GSTR-9C. When the details of notices issued and late fee collected, if any, were called for (between July 2022 to November 2022), it was replied (between July 2022 and July 2023) that in three cases notices were issued and in one case matter would be examined and detailed reply submitted in due course. In one case, the Department replied (July 2024) that due to technical glitches in the GST portal the taxpayer was unable to submit the returns and penalty has been paid by the taxpayer. It was, however, noticed that the taxpayer has not submitted (July 2024) the reconciliation statement in GSTR-9C.

In another case, the Department intimated (May 2024) that late fee of ₹ 0.52 lakh was recovered for non-filing of annual return. However, the taxpayer has not submitted (July 2024) the reconciliation statement in GSTR-9C.

2.1.8.3 Availing of ITC

Section 16(2) of the APGST Act prescribes the conditions for availing ITC. The prerequisites for availing ITC are (a) Taxpayer should be in possession of tax invoice or any other specified taxpaying document, (b) taxpayer has received the goods or

services, (c) tax has actually been paid by the supplier and (d) taxpayer has furnished the return to avail the ITC and 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 APGST Rules 2017 prescribes 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.

Observations related to irregular/excess ITC availment are detailed in subsequent paragraphs.

2.1.8.4 Irregular/ Excess claim of ITC

Audit observed compliance deficiencies in five cases (7.35 per cent) out of 68 cases where taxpayers had availed excess/irregular ITC of ₹ 7.32 crore. Case-wise details are given in **Table-2.11**.

Table-2.11:Case-wise details of irregular availing of ITC

Sl. No.	GST Number	Circle	Reasons for irregular availment of ITC	Amount involved in deviation (₹ in crore)
1	3XXXXXXXXXXXXXR	Krishnalanka	Availing more than 50 per cent of ITC available despite being a banking/ financial Institution in contravention to Section 17(4) of GST Act	2.62
2	3XXXXXXXXXXXXXM	Sitharampuram	Suppliers not filed returns and payments not made to suppliers within the prescribed time	2.09
3	3XXXXXXXXXXXXXB	Gudivada	Non-payment of tax by the Supplier	1.67
4	3XXXXXXXXXXXXXK	Alcot Gardens	Irregular ITC claimed on Credit Notes instead of reducing output tax liability	0.61
5	3XXXXXXXXXXXXX8	Chirala	Excess credit of IGST on imports claimed in excess of payment of tax	0.33
Total				7.32

Source: Returns of relevant taxpayers

On this being pointed out (June 2022 to November 2022):

- Governorpet Circle (erstwhile Krishnalanka circle) replied (December 2022) that the taxpayer being a Non-Banking Financial Company (NBFC) had opted for Section 17(4) *i.e.*, availing 50 *per cent* ITC available. Hence, proportionate reversals under Section 17(2) doesn't apply in this case.

The reply is not acceptable as scrutiny of Table 8 of GSTR-9, revealed that the taxpayer claimed less than 50 *per cent* ITC available in respect of CGST and SGST. However, in respect of IGST, total ITC available was ₹ 6.72 crore, 50 *per cent* of which was ₹ 3.36 crore but the taxpayer availed ITC of ₹ 5.98 crore, resulting in excess claim of ₹ 2.62 crore.

- DC(ST), Special Circle Vijayawada (erstwhile Sitharampuram circle) replied (June 2023) that the excess ITC pertained to IGST, CGST and SGST of which IGST credit was allowed to the taxpayer on appeal by the Appellate Additional Commissioner (ST), Vijayawada. It was further stated that the taxpayer did not submit any reply in respect of ITC of CGST and SGST amounting to ₹ 2.09 crore. DRC-01A has been issued to the taxpayer.
- Gudivada Circle replied (March 2023) that GVR infra was the only supplier to the taxpayer (3XXXXXXXXXXXXXB) and discharged the liability of ₹ 7.64 crore as declared in GSTR-9 of the supplier.

The reply is not acceptable since the taxpayer's supplier declared the tax paid details as ₹ 7.64 crore in GSTR-9 but the same was not actually discharged. This was also certified in the reconciliation statement as on the date of filing of GSTR-9C. It was further observed from the GSTR-3Bs of GVR Infra that the supplier has paid the output tax to the extent of ₹ 3.95 crore during the period July 2017 to March 2018 only in relation to the supplies made to GVR-PREMCO JV. However, the taxpayer claimed ITC of ₹ 5.62 crore. This resulted in excess claim of ITC amounting to ₹ 1.67 crore.

- Alcot Gardens Circle replied (April 2023) that the taxpayer (3XXXXXXXXXXXXXK) issued credit note involving tax of ₹ 0.61 crore. However, instead of reducing tax liability against credit notes issued, the taxpayer claimed ITC of ₹ 0.61 crore.

The reply is not acceptable since Section 34(2) of APGST Act provides for reduction of tax liability of taxpayer against the credit notes issued and the corresponding purchaser has to reduce his ITC. Thus, the ITC availed on credit notes by the taxpayer was irregular.

- Special Circle, Guntur-2 division (erstwhile Chirala circle) replied (July 2023) that the taxpayer has paid IGST of ₹ 0.33 crore on imports. However, the same was claimed erroneously under Table 4A (5) as 'all other ITC' instead of 4A (1) as 'ITC on imports'. However, no supporting documents were provided to audit.

2.1.8.5 Irregular availing of ITC under RCM without making payment

In Reverse Charge Mechanism the liability to pay tax is fixed on the recipient of supply of goods or services instead of the supplier or provider in respect of certain categories of goods or services or both.

Audit noticed that a taxpayer (GSTIN: 3XXXXXXXXXXXXD) under the jurisdiction of China Waltair circle availed ITC of ₹ 1.14 crore under RCM for the year 2017-18 in GSTR-3B whereas ITC paid under RCM in GSTR-3B was ₹ 0.74 crore. This resulted in excess availing of ITC of ₹ 0.40 crore under RCM.

On this being pointed out (October 2022), the Department stated (May 2024) that the taxpayer had reported the ITC in Table 4A(3) - 'Inward supplies liable to reverse charge' instead of Table 4A(5) - 'All other ITC - Supplies from registered persons other than reverse charge' in the GSTR-3B return. However, the supporting documents were not furnished to audit for verification.

2.1.8.6 Observations on Undischarged liability

The taxable event for levying GST is supply of goods and/or services. Section 9 of the APGST Act, 2017, is the charging section authorising 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 the 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*. Section 5 of the IGST deals with the levy and collection of IGST on inter-state supply of goods or services or both. The maximum leviable rate is 40 *per cent*.

As per Section 8 of the GST (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 APGST Act and Sections 5(3) and 5(4) of the IGST Act provide for reverse charge levy on certain goods or services, wherein the recipient instead of supplier becomes liable to pay tax.

Audit observed undischarged liabilities in six (8.82 *per cent*) out of 68 sampled cases having money value of ₹ 32.57 crore (details are given in **Appendix-2.10**) and significant cases are detailed below.

Turnovers declared in various returns *viz.*, GSTR-9, GSTR-9C, financial statements and the incomes under various heads of income tax returns have been compared and observations on under-declaration of turnovers are detailed in subsequent paragraphs.

(A) Undischarged tax liability (Turnover differences between GSTR-3B and Annual Financial Statements)

In the following two cases, Audit noticed undischarged liability of ₹ 0.87 crore due to declaring of less turnover in GSTR-3B than the turnover declared in Annual Financial Statement for the year 2017-18. The details are given in **Table-2.12**.

Table-2.12: Undischarged tax liability**(₹ in crore)**

Sl. No.	GSTIN	Circle	Output Turnover declared in Table 3 of GSTR-3B	Turnover declared in Annual Financial Statement	Under-declared turnover	Tax liability
1	3XXXXXXXXXXXXXB	Gudivada	49.43	56.10	6.67	0.80 ⁶⁴
2	3XXXXXXXXXXXXXP	Suryabagh	2.53	3.87	1.34	0.07 ⁶⁵

Source: Returns of relevant taxpayers

On this being pointed out (July 2022 to September 2022), AC (ST) Gudivada Circle replied (March 2023) that the differential turnover was due to unbilled revenue of ₹ 6.67 crore for the year 2016-17 which was reported in the Annual Financial Statement for the year 2017-18. The same was disclosed in VAT return as exempted sales and VAT paid was Nil.

The reply could not be verified as a reconciliation statement in form GSTR-9C was not filed by the taxpayer for ascertaining the reasons of unreconciled turnover. Further, no supporting documents evidencing the facts mentioned in the reply were provided. Department needs to verify the taxpayer's claim and intimate to audit with supporting documents.

In other case, Suryabagh Circle replied (May 2024) that demand was confirmed to the taxpayer.

(B) Undischarged tax liability (Turnover differences in Annual Return and Annual Financial Statements)

- i) As per the audited financial statements of a works contractor (GSTIN:3XXXXXXXXXXXXXL) of Steel Plant Circle, the taxable turnover for the year 2017-18 was ₹ 1.24 crore. Of the total turnover, as per Chartered Accountant certification, an amount of ₹ 0.26 crore pertains to the period April 2017 to June-2017. It was also observed from the taxpayer's profile that the dealer was registered under GST on 13 September 2017. As seen from VATIS portal, the dealer was not registered under VAT regime. During scrutiny of invoice statement of the dealer, produced by the Department, it was observed that an invoice for an amount of ₹ 0.22 crore raised on 13 March 2018 in the name 'M/s Devalaya Ventures (P) Limited' was not included in the taxable turnover. Thus, an amount of ₹ 0.48 crore was under-declared with a consequential short reporting of tax liability of ₹ 0.06 crore (at the rate of 12 per cent on ₹ 0.48 crore).

On this being pointed out (June 2022) to the Department, it was replied (June 2022) that the case would be examined and reply furnished in due course.

⁶⁴ 12 per cent tax on under declared turnover of ₹ 6.67 crore

⁶⁵ 5 per cent tax on under declared turnover of ₹ 1.34 crore

- (ii) In the following three cases, the taxpayers had declared less turnover in GSTR-9C than the turnover reported in the financial statements resulted in under-declaration of turnover thereby undischarged liability of ₹ 31.64 crore as detailed in **Table-2.13**.

Table-2.13: Undischarged tax liability due to incorrect reporting of turnover

(₹ in crore)

Sl. No.	GSTIN	Circle	Turnover declared in GSTR-9C	Turnover as per Annual Financial Statement	Under-declared turnover	Tax liability ⁶⁶
1	3XXXXXXXXXXXX4	Gajuwaka	27.81	129.31	101.50	18.27
2	3XXXXXXXXXXXXV	Gajuwaka	865.39	939.51	74.12	13.34
3	3XXXXXXXXXXXXP	Suryabagh	66.31	66.50	0.19	0.03
Total						31.64

Source: Financial statements of the taxpayers concerned

On this being pointed out (October 2022), the Department replied (July 2024) that in one case, DRC-01 was issued. The Department further stated that as per the taxpayer's reply the turnover belongs to various States. However, no documentary evidence was furnished for verification. In another case, it was replied (June 2023) that the audit was initiated by the CCST Office. In one case, the Department replied (July 2024) that the deviations were covered by the audit proceedings under Section 65 and an amount of ₹ 0.14 crore was paid by the taxpayer.

2.1.8.7 Mismatches/ Discrepancies in the returns on ITC and Tax liabilities

To verify the cases of mismatches of ITC and Tax liabilities, additional records were called for from the Department. Due to non-production of records and in the absence of specific replies, following cases remained as mismatches in various dimensions as detailed below.

(i) Mismatch between ITC availed in GSTR-9/GSTR-3B and ITC available in GSTR-2A

To ensure the veracity of ITC utilisation, Audit scrutinised the relevant data in GSTR-9/ GSTR-3B and GSTR-2A for the year 2017-18. The ITC available as per suppliers' details was compared with the ITC credit availed by the taxpayer and noticed that the details were not matched in 32 (47.06 per cent) out of 68 of sampled cases having mismatches of ₹ 87.57 crore (as detailed in **Appendix-2.11**).

On this being pointed out (June 2022 to November 2022), the Department replied (between June 2022 and July 2024) that in one case, an amount of ₹ 3.33 crore was recovered from the taxpayer. In four cases, DRC-07 was issued. In one case, Audit order (ADT-02) was issued. In two cases, DRC-01A was issued. In five cases, notices seeking the clarifications/information were issued and in three cases, ASMT-10 was issued. In one case, the Department reiterated the reply of the

⁶⁶ Tax at the rate of 18 per cent

taxpayer without offering the verification remarks. In five cases, the Department furnished the replies without supporting documents. In five cases, it was replied that the matter would be examined and reply submitted in due course. In two cases, it was replied that the taxpayers were transferred to other circles. However, further reply was awaited (July 2024). In one case, it was replied that the GSTR-2A, does not include ITC under RCM, as it is auto populated from B2B transactions only. Due to non-inclusion of RCM ITC in 2A, the difference / excess ITC arose. The reply is not acceptable since, the excess ITC was arrived by audit only on the basis of inward supplies (excluding the RCM ITC). In one case, it was replied that the taxpayer had already reversed ITC of ₹ 16.82 lakh. However, the observation involved an amount of ₹ 18.19 lakh and no reply was furnished for the remaining excess ITC of ₹ 1.37 lakh. In one case, reply was awaited (July 2024).

(ii) *Mismatches between ITC available as per GSTR-2A and availed in GSTR-3Bs after considering subsequent period's adjustments*

Table 8D of GSTR-9 captures the difference between ITC available as per GSTR-2A and availed as per GSTR-3Bs after considering adjustments in subsequent period. The negative value in Table 8D indicates that the taxpayers availed more ITC than available. Audit verified relevant columns in GSTR-9 pertaining to ITC for the year 2017-18 and noticed from Table 8D that the registered persons might have availed excess ITC due to mismatch.

During the scrutiny of available returns, Audit observed in 21 (30.88 *per cent*) out of 68 sampled cases that there were mismatches of ₹ 70.74 crore between ITC available as per GSTR-2A and ITC availed in GSTR-3B, after considering adjustments in subsequent period (as detailed in **Appendix-2.12**).

On this being pointed out (June 2022 to November 2022), Department replied (between June 2022 and July 2024) that in one case, DRC-07 was issued. In one case DRC-01A was issued. In three cases, notices seeking the clarifications/information were issued and in three cases, ASMT-10 was issued. In three cases, it was replied that cases were under examination and reply would be submitted in due course. In one case, the Department only reiterated the reply of the taxpayer without offering the verification remarks. In three cases, the Department furnished the replies without supporting documents. In two cases, it was replied that the taxpayers were transferred to other circles. However, further reply was awaited (July 2024). In one case, Department replied that the taxpayer had inadvertently claimed ITC on cancelled invoices and reduced the ITC amount in the month of March 2019. Audit could not verify the correctness of reply due to non-furnishing of the supporting documents. In three cases, specific reply to audit observation was not furnished (July 2024).

(iii) Mismatch in ITC availed as per GSTR-3B and modified value in GSRT-9 (due to negative figures of Table 6J)

ITC claims are to be credited to electronic credit ledger of taxpayers through GSTR-3B. Table 6A of GSTR-9 depicts the total amount of ITC availed during the year in GSTR-3B which is auto-populated and non-editable. Through Tables 6B to 6H of GSTR-9, the taxpayer provides break-up of ITC available in the form of inputs, input services and capital goods. A comparison of these tables with Table 6A projects the possibility of availment of excess ITC. Table 6J of GSTR-9 brings out the difference of ITC actually availed through GSTR-3B and the ITC declared in Table 6B to 6H of GSTR-9. Where 6J is negative, it indicates excess availment of ITC. The same should be reversed.

During the scrutiny of available returns, Audit observed in two (2.94 *per cent*) out of 68 sampled cases that there were negative values in Table 6J of GSTR-9 depicting mismatches of ₹ 12.68 crore (details are given in **Appendix-2.13**). However, corresponding reversals were not found in GSTR-9 filed by the taxpayer.

On this being pointed out (October 2022 to November 2022), Department replied (between November 2022 and July 2024) that one case was under examination and detailed reply would be submitted in due course and in another case, it was replied that the jurisdiction of taxpayer was transferred to Special Circle-I, State office. Further reply was awaited (July 2024).

(iv) Mismatch in availment of ISD credit

An Input Service Distributor (ISD) is a taxpayer who receives invoices for services used by his branches. He distributes the tax paid *i.e.*, ITC to such branches proportionally to the turnover by issuing ISD invoices. The branches can have different GSTINs but must have the same permanent account number (PAN) as that of ISD. Rule 54 of APGST Rules, 2017, provides the distribution of ISD credit to its branches through raising invoices in the same month by filing GSTR-6.

Table 6G of GSTR-9 and Table 4(A)(4) of GSTR-3B captures ITC received from ISD. Comparison of figures from the ISD through GSTR-6 with the recipients' annual return and actual ISD credit availed in GSTR-3B showed anomalies in ITC availed on this account.

Audit observed in three (30 *per cent*) out of 10 sampled cases availment of excess ISD credit of ₹ 0.76 crore (details are given in **Appendix-2.14**).

On this being pointed out (October 2022 to November 22), the Department replied (between October 2022 and July 2023) that in two cases, taxpayers were transferred to Special Circle-I of the State Office. Further reply was awaited (July 2024). In one case, it was replied that the taxpayer voluntarily reversed the ITC through DRC-03 (December 2020). However, Audit observed that the period covered in

DRC-03 was 2018-19 whereas the excess ISD credit was for the period 2017-18. The case needs to be reverified.

(v) Mismatches in reversals declared by the taxpayers vis-à-vis to be reversed as per Rules 42 and 43

As per Section 17(2) of the APGST Act 2017, where goods or services or both are used partly for effecting taxable supplies (including zero-rated) and partly for exempt/ non-business use then the amount of credit as attributable to exempt supplies or non-business use should be reversed as per Rules 42 (for exempted supplies) and 43 (for capital goods) of APGST Rules, 2017.

Rules 42⁶⁷ and 43⁶⁸ of APGST Rules 2017 prescribe that ITC is to be reversed for that portion of common credit⁶⁹ and Capital Goods which is attributable to exempt supplies or non-business use.

A) Audit examined the reversals made by the taxpayers in respect of common credit attributable to exempt supplies or non-business use and noticed discrepancies in the reversals to be made in ten (14.71 *per cent*) out of 68 sampled cases having mismatches of ₹ 11.35 crore (details are given in **Appendix-2.15**).

On this being pointed out (June 2022 to November 2022), the Department replied (between June 2022 and July 2024) that in one case, demand order in DRC-07 for an amount of ₹ 2.52 crore was issued. In one case, DRC-01 was issued and in one case, audit under Section 65 was taken up. In four cases, the Department furnished the replies without supporting documents. In one case, Department stated that orders were passed in December 2023. However, Audit noticed that the aspect of common inputs were not covered in the orders; hence needs further verification. In one case, reply furnished was not specific to audit observation. In one case, it was stated that taxpayer was transferred to other Circle. However, further reply was awaited (July 2024).

B) Similarly, in the case of ITC reversals pertaining to capital goods, Audit observed mismatches of ₹ 0.21 crore in three (4.41 *per cent*) out of 68 of sampled cases (details are given in **Appendix-2.16**).

On this being pointed out (October 2022 to November 2022), the Department replied (between April 2023 and July 2023) that in one case, the taxpayer showed

⁶⁷ ITC reversed as per GSTR-9 Table 7C/7H should not less than ((exempted and 'Nil' rated turnover)/(Total turnover – Non-GST turnover)) X (ITC (on inputs and services + Imports + ISD + availed in subsequent year till specified period)) – (ITC availed in GSTR-3B + blocked credit + reversals made in previous year)

⁶⁸ ITC reversed as per GSTR-9 Table 7D should not less than ((exempted and 'Nil' rated turnover)/(Total turnover – Non-GST turnover) X ITC (capital goods + Imports + ISD + availed in subsequent year till specified period) – (ITC availed in GSTR-3B + blocked credit)

⁶⁹ The expression, 'common credit' means that part of ITC which cannot be identified specifically to taxable supplies including zero-rated or exempt supplies or non-business rather commonly used for taxable supplies, exempt supplies or/and for non-business use

taxable supply under RCM as exempted turnover and there was no common credit. The reply is not acceptable since, in GSTR-9C Chartered Accountant certified that there exists an exempted supply. In one case, though the taxpayer reversed an amount of ₹ 0.11 crore in July 2020, still an amount of ₹ 0.02 crore has to be reversed. In the remaining case, it was replied that the taxpayer was transferred to Special Circle-I, State Office. However, further reply is awaited (July 2024).

(vi) Mismatch of ITC between annual return and financial statements (GSTR-9C)

Sections 35(5) and 44(2) of APGST Act, 2017 read with Rule 80(3) of APGST Rules 2017, stipulate that every registered person whose aggregate turnover during a financial year exceeds ₹ two crore (for 2017-18) should get his accounts audited and furnish a copy of audited annual accounts and a reconciliation statement in Form GSTR-9C.

The details furnished in the GSTR-9C were analysed with that of annual return (GSTR-9) and observed that there were unreconciled ITC between the amounts declared in the annual return and ITC availed (Table 12F)/ availed on expenses (Table 14T) as per GSTR-9C.

(A) The discrepancy was noticed in three (4.41 *per cent*) out of 68 sampled cases related to Table 12F involving mismatches of ₹ 10.76 crore (details are given in *Appendix-2.17*).

On this being pointed out (October 2022 to November 2022), the Department replied (between November 2022 and July 2023) that in one case, ASMT-10 was issued, In one case, notice seeking the clarifications/information was issued and in one case, Audit under section 65 was taken up.

(B) Further, the discrepancy was also noticed in two (2.94 *per cent*) out of 68 sampled cases related to Table 14T involving mismatches of ₹ 10.67 crore (as detailed in *Appendix-2.17*).

On this being pointed out (June 2022 to November 2022), in one case the Department Stated (April 2023) that notice seeking the clarifications/information was issued to taxpayer and in the other case reiterated taxpayer's reply without offering the verification remarks.

(vii) Mismatch in turnovers between Annual return and Financial Statements

As per Section 61 (1) of the APGST Act, 2017, the proper officer may scrutinise the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any, and seek his explanation thereto. Further, as per Section 20 of IGST Act, 2017, the provisions mentioned above are applicable for levy of IGST also.

As per Section 35(5) and Section 44(2) of APGST Act read with Rule 80(3) of APGST Rules, 2017, every registered person specified and whose turnover during a financial year exceeds two crore rupees should get his accounts audited by a Chartered Accountant or a Cost Accountant and should submit a copy of the audited annual accounts, the reconciliation statement duly certified in Form GSTR-9C. Table 5R of GSTR-9C captures the unreconciled amounts of total turnover whereas Table 7G captures the unreconciled amounts of taxable turnover between the annual return GSTR-9 and that declared in the annual financial statement for the year after the requisite adjustments.

(A) Audit noticed instances of unreconciled total turnovers (Table 5R of GSTR-9C) in respect of five (7.35 *per cent*) out of 68 sampled cases amounting to ₹ 602.43 crore (details are given in *Appendix-2.18*).

On this being pointed out (June 2022 to November 2022), the Department replied (between June 2022 and July 2024) that in two cases, notices seeking the clarifications/information were issued. In one case, it was replied that the taxpayer reported wrong turnovers in GSTR-9C under table-5, which leads to the excess un-reconciled turnover of ₹ 1.98 crore. AC(ST) has allowed all the incomes excluding the ground rent interest received and levied a tax amount of ₹ 4.95 lakh along with the penalty and interest. The reply is not acceptable since, the unreconciled turnover declared in the GSTR-9C was ₹ 3.51 crore whereas the assessed unreconciled amount is only ₹ 1.98 crore. Further, the details of unreconciled turnover were also not furnished audit. Due to this, audit could not verify the applicability of GST on the assessed unreconciled turnovers. In one case, it was stated that reply would be furnished in due course and in one case, specific reply to the audit observation was not furnished.

(B) Audit also noticed instances of unreconciled taxable turnovers (Table 7G of GSTR-9C) in respect of three (4.41 *per cent*) out of 68 sampled cases amounting to ₹ 72.82 crore (details are given in *Appendix-2.18*).

On this being pointed out (August 2022 to November 2022), the Department replied (November 2022 to December 2022) that in one case, audit has been taken up under section 65. In one case, the Department stated that the unreconciled turnover pertains to other States, however, supporting documents were not provided. In the remaining case, it was replied that the mismatch arose due to non-receipt of pending bills amounts. Reply is not acceptable as discharging of liability doesn't depend on the realisation of pending bills.

(viii) *Mismatch in tax paid between Annual Returns and books of accounts*

Table 9 of the GSTR-9C attempts to reconcile the tax paid by segregating the turnover rate-wise and comparing it with the tax discharged as per annual return GSTR-9.

Audit compared the tax payable as per GSTR-9C with tax actually paid in GSTR-9 and noticed mismatches of ₹ 9.71 crore in 15 (22.06 *per cent*) out of 68 sampled cases (details are given in **Appendix-2.19**).

On this being pointed out (June 2022 to November 2022), the Department replied (between June 2022 and July 2024) that in one case, an amount of ₹ 0.16 crore was collected. In one case DRC-07 was issued. In three cases, notices seeking the clarifications/information were issued and in one case, ASMT-10 was issued. In one case, the Department forwarded the taxpayer's reply without offering any verification remarks and in three cases, supporting documents were not provided along with the replies. It was further stated that two cases were under examination and reply would be submitted in due course. Specific replies to the audit observations were not furnished in the remaining three cases (July 2024).

(ix) Mismatches in liabilities declared in GSTR-1, GSTR-3B and GSTR-9

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

Audit compared the greater of the tax liability between GSTR-1 and GSTR-9 with the tax paid amount declared in GSTR-9/GSTR-3B and noticed un-discharged tax liability in 25 (36.76 *per cent*) out of 68 sampled cases having mismatches of ₹ 33.75 crore (details are given in **Appendix-2.20**).

On this being pointed out (June 2022 to November 2022), Department replied (between June 2022 to July 2024) that in one case, demand notice was issued. In two cases, audit under Section 65 was taken up. In one case, DRC-01 was issued and in two cases, DRC-01A was issued. In four cases, notices seeking the clarifications/information were issued and in one case, ASMT-10 was issued. In one case, the Department reiterated taxpayer's reply without offering any verification remarks and in five cases supporting documents were not provided along with the replies. In one case, it was replied that the undischarged liability of ₹0.12 crore was discharged in subsequent periods. On verification, it was observed that only an amount of ₹ 0.09 crore was discharged and still the liability of ₹0.03 crore remains undischarged. In one case, it was replied that the undischarged liability was due to credit notes issued, however even after considering the credit notes, there still exist a liability mismatch of ₹0.03 crore. In four cases, it was stated that the cases were under examination and reply would be submitted in due course. In one case, it was replied that the taxpayer was transferred to other Circle. However, further reply was awaited (July 2024). In remaining one case, specific reply to the audit observation was not furnished.

(x) Non-verification of the sundry creditors details

As per the provisions of Rule 37(1) of the APGST Rules, 2017, a registered person, who receives supplies but fails to pay the value of supply to the supplier within 180 days from the date of issue of invoice, the proportionate ITC claimed on the supply should be reversed.

The Department had provided balance sheets to the end of March 2018 in 16 (23.53 per cent) out of 68 cases and scrutiny showed that the total amount of trade payables in these cases was ₹ 33,811.15 crore (details are given in **Appendix-2.21**). The Department, however, did not furnish ledgers as on 31 March 2018 relating trade payable in these cases. Hence, Audit could not identify the instances where payments were not made even after completion of 180 days.

On this being pointed out (June 2022 to November 2022), Department replied (between June 2022 to January 2024) that in one case, Audit was taken up under Section 65. In one case, notice seeking the clarification/information was issued and in three cases, ASMT-10 was issued. In two cases supporting documents were not provided along with the replies. In two cases, it was replied that the cases were under examination and reply would be submitted in due course. In two cases, it was replied that the cases were transferred to Special Circle. However, further reply is awaited (July 2024). Specific replies to audit observation were not received in remaining three cases (July 2024). Reply was awaited in two cases (July 2024).

During the Exit Conference (June 2023), the Chief Commissioner (State Tax) Department stated that the issues were being pursued by Circle offices. Regarding production of ledger accounts of sundry creditors to Audit for ensuring that payments were made within 180 days and to ascertain the eligible amount of ITC, the Chief Commissioner admitted about the need of verification of sundry creditor's ledgers. Government replied (May 2024) that the proper officer will verify the details as and when the books of accounts are audited as authorised by the State Monitoring Committee. However, if any officer fails to verify this aspect during inspection responsibility will be fixed against the officer.

Recommendation 2.5: The Department may introduce a module to prompt alerts on mismatches in various returns viz., annual return (GSTR-9), reconciliation statement (GSTR-9C), monthly returns (GSTR-1 and GSTR-3B) etc., to aid the proper officer for identifying and verifying the mismatches.

Government replied (May 2024) that GSTN will be addressed to introduce such a module. Further stated that a 'Returns Scrutiny Tool' was developed in department's network (APTIS) to generate reports on mismatches in respect of ITC, output tax liability, tax liability under RCM, restriction of ITC proportionate to exempt supplies, etc., and suitable action are being taken on those mismatches.

Recommendation 2.6: The Department may initiate remedial action for all the compliance deviations brought out in this report before they get time barred.

Government in the reply (May 2024) assured for taking remedial action to address all the deviation noticed by audit. Further stated that these issues will be resolved before they become time barred.

Regarding case-wise audit observations included in the report, Government stated (May 2024) that, since the proper officers of the department are engaged in inspection/ audit of cases for the year 2019-20 which were becoming time barred by 31 May 2024, specific remarks would be submitted in due course

2.1.9 Conclusion

Subject specific compliance audit on ‘Department’s Oversight on GST Payments and Return Filing’ revealed deficiencies like mismatches in turnovers/ taxable turnovers and tax paid amounts, excess availment of ITC, undischarged tax liability, under-declaration of turnovers, short payment of interest on delayed payments *etc.* which indicates non-compliance with the provisions by the taxpayers and ineffective verification by the Department. It was noticed further that compliance by the Department regarding scrutiny of returns, cancellation of registrations and action taken on late filers/ non-filers was inadequate.

The Department had accepted audit observations in 84 (out of total 416) cases and in 51 cases amounting to ₹ 143.98 crore, recoveries made/ demand notices were issued (July 2024). Department needs to increase its efforts in scrutiny of returns and internal audit to verify the correctness of self-assessment of tax liability by the taxpayers.

The Department also needs to respond expeditiously to audit observations so that mismatches pointed out by the Audit through Limited and Detailed audit are resolved quickly and recovery of dues to the Government is ensured.

The Department did not provide the additional records of taxpayers sought by Audit due to which the Audit could not establish the mismatches noticed in the returns filed by the taxpayers into logical conclusions. The Department needs to provide records to the Audit so that audit process reaches its logical conclusion through detailed examination of records of taxpayers.

Considering the significant rate of compliance deficiencies, the Department must initiate remedial measures before they get time barred. From a systemic perspective, the Department needs to strengthen the scrutiny of returns and internal audit and reinforce the institutional mechanism in the Circles to establish and maintain effective oversight on return filing, taxpayer compliance, tax payments, follow up of other tax authorities’ reports, cancellation of registrations and recovery of dues from defaulters.

2.2 Non-levy of interest and penalty for belated payment of tax under VAT Act

Assessing Authorities in nine cases did not levy interest and penalty of ₹ 74.91 lakh on belated payments of tax under VAT Act.

As per Section 22(2) of APVAT Act, 2005 (VAT Act), if any dealer fails to pay the tax due within the time prescribed, he shall be liable to pay interest at the rate of 1.25 per cent per month for the period of delay in addition to such tax or penalty. Under Section 51(1) of the Act, if a dealer fails to pay tax on the basis of the return submitted by him by the last day of the month in which it is due, penalty at the rate of 10 per cent of the amount of tax due is to be paid, in addition to such tax.

During test check of the VAT returns and payment records of two circles⁷⁰, it was observed⁷¹ that in nine cases, the dealers paid tax after the due dates with delays ranging from 5 to 1,644 days. The Assessing Authorities (AA), however, did not levy any interest and penalty for belated payments of tax which was contrary to the provisions. This resulted in non-levy of interest (₹ 22.12 lakh) and penalty (₹ 52.79 lakh) amounting to ₹ 74.91 lakh.

In response, Government accepted (December 2022) the audit observation in all the nine cases and stated that the amounts were taken to Debt Management Unit (DMU).

2.3 Non-levy/ short levy of penalty for under-declaration of tax

Assessing Authorities did not levy penalty or levied penalty at lower rate on account of under-declaration of output tax, excess claim of Input Tax Credit by the dealers for reasons other than fraud/wilful neglect in five cases. Non-levy/ short levy of penalty amounted to ₹ 33.50 lakh.

As per Rule 25 (8) (a) and (b) of APVAT Rules, 2005, the tax under-declared means the excess of Input Tax Credit (ITC) claimed over and above the ITC actually entitled or the difference between output tax actually chargeable and the output tax declared in the returns. As per Section 53 (1) of VAT Act, where any dealer has under-declared tax and where it has not been established that fraud or wilful neglect has been committed and where the under-declared tax is less than 10 per cent of the tax, a penalty at 10 per cent of such under-declared tax shall be imposed and if the under-declared tax is more than 10 per cent of the tax due, penalty at 25 per cent shall be levied.

During test check of records of three circles⁷², Audit observed⁷³ from the VAT assessment files of five dealers that there were cases of under-declaration of output tax and excess claim of ITC for reasons other than fraud/ wilful neglect. However, the AAs

⁷⁰ China Waltair (7 cases) and Suryabagh (2 cases)

⁷¹ between February 2022 and March 2022 covering the period from November 2014 to June 2017

⁷² China Waltair, Dwarakanagar and Gajuwaka (3 cases)

⁷³ between February 2022 and March 2022 covering the period from 2013-14 to 2017-18 (up to June 2017)

either short levied or did not levy any penalty in these cases. This had resulted in non-levy/short levy of penalty of ₹ 33.50 lakh over the under-declared tax of ₹ 1.44 crore.

In response, Government replied (December 2022) that in three cases⁷⁴, assessment files were submitted to Deputy Commissioner (ST), Visakhapatnam for revision. The AA, Visakhapatnam-II circle, in the case of a taxpayer, replied (January 2024) that revision order was passed (July 2023) for ₹ 97,763 and collected the amount. Audit verified the revision order and observed that full amounts of 'Salary and Bonus' were allowed to deduct from taxable turnover instead of prorata basis with reference to 'Labour and Services' component. This resulted in excess exemption of ₹94.46 lakh and thus escaped from tax liability of ₹ 6.41 lakh. The case needs re-examination.

In respect of another case, the AA replied (October 2023) that the dealer had neither utilised nor adjusted the ITC against output tax. Hence, there was no excess input tax availed by the dealer. The reply is not acceptable since, as noticed from the DCB report, the dealer had adjusted an amount of ₹10.18 lakh towards CST (₹6.93 lakh) and output tax (₹3.25 lakh) in the months of May and June 2017 respectively.

In one case relating to Gajuwaka circle show cause notice was issued to the dealer. In remaining one case relating to China Waltair circle Government replied that penalty cannot be levied under Section 53(3) of APVAT Act as the AA had not established the offence as fraud or wilful neglect during the assessment and the assessments were barred by limitation of time. The reply is not acceptable. Though there was no wilful under-declaration of tax in this case, penalty was to be levied at 25 *per cent* since the under-declared tax was more than 10 *per cent* of the tax. Further, as per the Orders (10 January 2022) of the Hon'ble Supreme Court, the period from 15 March 2020 to 28 February 2022 shall stand excluded for the purpose of limitation of time.

2.4 Short/ non-levy of interest on belated payment of deferred tax

Assessing Authority did not levy/ short-levied interest of ₹ 29.04 lakh on belated payments of deferred tax in three cases.

Under 'Target 2000 sales tax incentives scheme' promulgated by the State Government in 1996, industrial units were allowed deferment of sales tax for a period of 14 years or sales tax exemption for a period of seven years to the extent of incentive limit as mentioned in Final Eligibility Certificate. As per Section 69 of VAT Act read with Rule 67 of VAT Rules, 2005, all sales tax exemption cases sanctioned prior to the enactment of VAT Act were converted as sales tax deferment cases by doubling the period left over⁷⁵ without change in monetary limit of the amount sanctioned. The units, already availing tax deferment prior to commencement of the VAT Act, shall continue to be eligible to avail the balance amount available as on 31st day of March 2005 and for the period as mentioned in the eligibility certificate. In case of

⁷⁴ Dwarakanagar and Gajuwaka (2 cases)

⁷⁵ period left over means the difference of period between date of completion of eligibility shown in the certificate of eligibility and 1st day of April 2005

non-remittance of deferred sales tax⁷⁶ on the due dates under the ‘Target 2000 sales tax incentives scheme’, interest⁷⁷ at 21.5 *per cent* per annum was to be paid.

During test check of records of Gajuwaka circle, Audit observed⁷⁸ that in two cases, the dealers availed sales tax deferment and in one case the dealer availed sales tax holiday (sales tax exemption). The dealers paid the deferred tax after the due dates with delays ranging from 5 to 704 days. However, the AA either short levied or did not levy any interest in these cases. This had resulted in non-levy/short levy of interest of ₹ 29.04 lakh on belated payments of deferred tax.

In response, Government replied (December 2022) that notices were issued (between June 2022 and July 2022) to the dealers and rectification report would be submitted in due course. In one case, the AA, Gajuwaka circle replied (October 2023) that an amount of ₹ 7.17 lakh (against ₹ 8.36 lakh) was collected from the dealer.

2.5 Tax on interstate sales

2.5.1 Short levy of tax due to application of incorrect rate of tax under CST Act

Application of incorrect rate of tax on interstate sales resulted in short levy of tax of ₹ 17.28 lakh in five cases.

As per Section 8 (1) of the CST Act, 1956 read with Rule 12 (1) of CST (Registration and Turnover) Rules, 1957, interstate sales not supported by ‘C’ declaration forms are liable to tax at the rate applicable to sale of such goods inside the appropriate State. Taxes on interstate sales supported by ‘C’ declaration forms are liable to tax at the rate of two *per cent* as per Section 8(1) of the Act. Under Section 4(3) of the AP VAT Act, 2005, every VAT dealer shall pay tax on sale of taxable goods at the rates specified in the Schedules to the Act. Further, as per Section 6(2) of the CST Act, read with Rules 12(1) and (4) of CST (R&T) Rules, transit sales not supported by ‘E’ declaration forms along with ‘C’ declaration forms are liable to tax at the rate applicable to sale of such goods inside the appropriate State.

The commodities ‘electrical goods, fire safety equipment, gas stoves and accessories, waste oils and wooden scrap’ are not specified in any of the Schedules to the VAT Act, 2005 and therefore fall under Schedule-V and are liable for tax at the rate of 14.5 *per cent*.

During test check of CST records of three circles⁷⁹, Audit observed⁸⁰ that in five cases, the AAs had levied tax at the rate of five *per cent* instead of 14.5 *per cent* on the

⁷⁶ the deferred tax would be treated as deemed loan and the deferment allowed to in the first year should be paid back in lumpsum at the end of the 14th year thereof without interest. Similarly, the deferment allowed in the second year should be paid back in lumpsum at the end of the 15th year and so on.

⁷⁷ as per G.O. Ms. No.108, Industries & Commerce (IP) Department, dated 20 May 1996

⁷⁸ in March 2022 (deferred tax payments) for the period from 1999-00 to 2012-13

⁷⁹ Krishnalanka (2 cases), Steel Plant (2 cases) and Suryabagh

⁸⁰ between March 2020 and March 2022 covering the period from 2014-15 to 2017-18 (up to June 2017)

interstate sales turnover not supported by 'C/E' declaration forms. This had resulted in short levy of tax of ₹ 17.28 lakh on the turnover of ₹ 1.82 crore.

In response, Government replied (December 2022) that in two cases relating to Steel Plant circle, show cause notices were issued to the dealers. The AA, Steel Plant circle replied (June 2023) that effectual orders have been passed duly considering taxable turnover of commodities leviable with five *per cent* and 14.5 *per cent* tax rates. An amount of ₹ 1.77 lakh (against ₹ 8.50 lakh) was collected. Supporting documentary evidence about supply of five *per cent* taxable items (*viz.*, LD Covers, Scrap, MS Scrap, Plastic Scrap) were however, not furnished along with the reply for verification.

In one case relating to Suryabagh circle, the assessment file was submitted to Deputy Commissioner (ST), Visakhapatnam for revision. In remaining two cases relating to Krishnalanka circle, Department accepted (November 2022) the audit observation and stated that the amounts were taken to DMU.

2.5.2 Non-levy of interest for belated payment of tax under CST Act

Assessing Authority in two cases did not levy interest of ₹ 8.11 lakh on belated payments of tax under CST Act.

As per Section 9 (2B) of CST Act, 1956, if the tax payable by any dealer under this Act was not paid in time, the dealer shall be liable to pay interest for delayed payment of such tax. For this, all the provisions for delayed payment of such tax and all the provisions relating to due date for payment of tax, rate of interest for delayed payment of tax of APVAT Act, 2005 shall apply.

As per Section 22(2) of VAT Act, if any dealer fails to pay the tax due within prescribed time, interest at the rate of 1.25 *per cent* per month for the period of delay was liable to be paid in addition to such tax or penalty.

During test check of the CST returns and payment records of China Waltair circle, it was observed⁸¹ that in two cases, the dealers paid tax after the due dates with delays of 1,292 days and 1,764 days respectively. The AA, however, did not levy any interest for belated payments of tax which was contrary to the provisions. This had resulted in non-levy of interest of ₹ 8.11 lakh on belated payments of CST.

In response, Government accepted (December 2022) the audit observation and stated that the amounts were taken to DMU.

⁸¹ in February 2022 covering the period from April 2016 to June 2017

2.5.3 Short levy of tax due to variation of turnover adopted in CST assessment and P&L account

Assessing Authority did not levy tax of ₹ 6.57 lakh on turnover varied between P&L account and CST assessment order.

As per Rule 17 of APCST Rules, 1957 the provisions contained in the VAT Act relating to the inspection of books, accounts or documents kept and maintained by the dealer, the entry into any premises at all reasonable times by the officers duly empowered for the purposes of search for any such books, accounts or documents kept or suspected to be kept in such premises and the seizure of such books, accounts or documents shall so far as may be, apply in relation to those matters under CST Act.

Rule 25(10) of the APVAT Rules, 2005 requires all the VAT dealers to furnish for every financial year to the prescribed authority, the statements of manufacturing/trading, profit and loss accounts, balance sheet and annual report duly certified by a Chartered Accountant on or before 31 December subsequent to the financial year to which the statements relate. As per para 5.12 of the VAT Audit Manual 2012, audit officer has to reconcile the figures given by the dealer on VAT returns with certified annual accounts.

During test check of CST Assessment files and Profit & Loss (P&L) accounts in China Waltair circle, Audit observed⁸² that in one case, there was variation of turnover reported in P&L Account and CST assessment order. The dealer had shown consignment sales of VKGUY⁸³ licenses for an amount of ₹ 15.78 crore in the CST assessment and got exemption from the CST by submitting 'F' forms. However, as per the P&L account the dealer made MEIS⁸⁴ sales of ₹ 17.09 crore. Thus, there was an escaped turnover of ₹ 1.31 crore for which tax was to be levied at five *per cent*. This had resulted in short levy of tax to the extent of ₹ 6.57 lakh.

In response, Government accepted (December 2022) the audit observation and stated that the amount was taken to DMU.

2.6 Short levy of tax due to incorrect determination of taxable turnover under works contract

Incorrect determination of taxable turnover due to adoption of wrong formulas had resulted in short levy of tax of ₹ 8.87 lakh.

Under Section 4(7)(a) of the VAT Act, tax on works contract receipts is to be paid on the value of goods at the time of their incorporation in the work, at the rates applicable under the Act. To arrive at the value of goods at the time of incorporation, the deductions prescribed under Rule 17(1)(e) of AP VAT Rules, 2005, such as

⁸² in February 2022 for the Financial Year 2016-17

⁸³ Vishesh Krishi and Gram Udyog Yojana

⁸⁴ VKGUY scheme was replaced with MEIS (Merchandise Exports from India Scheme) vide Foreign Trade Policy 2015-20

expenditure towards labour charges, hire charges *etc.*, incurred by the contractor, are to be allowed as deductions from the total consideration and on the balance turnover, tax is to be levied at the same rates at which purchase of goods were made and in the same proportions.

During test check of the VAT assessment files in Suryabagh circle, Audit observed⁸⁵ that the AA, in one case of a dealer while finalising the assessment, had incorrectly determined the taxable turnover by adopting wrong formulas for assessing portion of establishment charges and profit relatable to labour and services⁸⁶; and also for computing tax⁸⁷ on taxable turnover. Further, for the year 2016-17 the AA adopted incorrect purchase values in working out ratio of purchases for calculating output tax on prorata basis. This had resulted in short levy of tax of ₹ 8.87 lakh.

In response, Government replied (December 2022) that the VAT assessment file was submitted to Deputy Commissioner (ST), Visakhapatnam for revision.

⁸⁵ in March 2022 covering the period from 2012-13 to 2016-17

⁸⁶ adopted labour, services and material components in the denominator instead of gross consideration received

⁸⁷ adopted $100 + \text{rate of tax}$ in the denominator instead 100 while computing tax (at five *per cent* / 14.5 *per cent*)
