Chapter 2

Performance Audit on E-Way Bill System under GST

CHAPTER 2

Performance Audit Observations

Finance Department

2.1 Electronic Way Bill System under Goods and Service Tax

EXECUTIVE SUMMARY

Goods and Services Tax (GST) has been introduced with effect from 1 July 2017 to ensure uniformity of tax structure throughout the country which facilitated hassle free movement of goods across the States. E-Way Bill (EWB) is a document required for the movement of goods and is designed to capture details of goods before being moved. Automation and standardisation of the entire process was intended to help check tax evasion and shore up GST collections. EWB is conceived as a shift from Government-monitored tax administration model to a self-reporting model by the taxpayer.

The Performance Audit (PA) on EWB System under GST was conducted covering the period 2018-22, with the objective to ascertain whether (i) EWB mechanism is effective in protecting revenue interest of the Government and (ii) Preventive/ Enforcement activities of the Department in enforcing EWB provisions are efficient and effective. Significant audit findings noticed during this audit are discussed below:

- Six taxpayers who generated 2,340 EWBs for outward supply for an assessable value of ₹79.81 crore during 2018-22, with tax implication of ₹11.90 crore, had not filed GST returns.
- Tax liability was not assessed in respect of four taxpayers, who had generated 43 EWBs after cancellation of their registration, for an outward supply of ₹1.93 crore with tax implication of ₹0.35 crore.
- Four taxpayers had used either same invoice or similar invoices to generate multiple EWBs for movement of goods involving an assessable value of ₹1.86 crore with GST liability of ₹0.10 crore.
- The Department had not initiated any action against four tax payers who had generated 96 EWBs for outward supply of ₹5.59 crore involving tax liability of ₹0.99 crore, but filed Nil returns.
- Fourteen taxpayers had generated 1,113 EWBs for an assessable value of ₹80.30 crore with tax implication of ₹13.78 crore using 235 suspicious vehicles (theft vehicles, surrendered, cancelled and suspended vehicles, two wheelers, *etc.*)

- Two taxpayers generated three EWBs with total assessable value of ₹0.23 crore with tax value of ₹0.04 crore where the distance mentioned in the EWB was as high as 630 *per cent* of actual distance between the place of supply to place of delivery, having a potential risk exposure of carrying out multiple trips with the same EWB.
- Deficiencies like inadequate monitoring of movement of vehicles through Radio Frequency Identification Device (RFID), non-usage of Comprehensive Analytics Report module, lack of adequate personnel, insufficient patrolling vehicles, etc. were noticed.
- After intercepting the vehicle, the Proper Officer collects the applicable tax and/or penalty, credits it to the taxpayer's electronic cash ledger and settles the liability by debiting the ledger to enable release of the vehicle. Audit observed delays of 6 to 1,257 days in crediting the amounts to the electronic cash ledger and settling the liability. These delays carried the risk of taxpayers utilising the deposited amounts against other tax liabilities, leading to deferred credit of revenue to the Government account.

It is recommended that:

2.1 The Department may take up the matter with the NIC to rectify the system deficiencies to prevent generation of EWBs by non-filers/ nil filers of returns, cancelled tax payers, composition taxpayers making inter-state supplies and generation of multiple EWBs with same invoice.

2.2 The Department may consider devising a suitable mechanism to identify taxpayers generating EWBs but not discharging tax liability and issue guidelines to prioritise the scrutiny of returns of such taxpayers.

2.3 The Department may consider devising a suitable mechanism to properly integrate VAAHAN system with EWB system to maintain an effective oversight over potentially suspicious transactions.

2.4 The Department may consider prioritising verification of EWBs and scrutiny of returns of taxpayers having multiple registrations with same PAN.

2.5 The Department may enhance its operational preparedness in terms of augmenting infrastructure and enhancing the utilisation of analytical reports to improve the efficiency of preventive functions.

2.6 The Department may issue instruction to the Proper Officers to promptly create and settle the demand of tax and penalty in the electronic liability ledger.

2.7 The Department may devise a system for passing on the information of interception to the authorities of GST jurisdictional Circles for assessing the tax liability, if any.

2.1.1 Introduction to E-Way Bills

Goods and Services Tax (GST) has been introduced with effect from 01 July 2017 to ensure uniformity of tax structure throughout the country which facilitated hassle free movement of goods across the States. E-Way Bill (EWB) is a document required for the movement of goods and is designed to capture details of goods before being moved. Automation and standardisation of the entire process was intended to help check tax evasion and shore up GST collections. EWB is conceived as a shift from Government-monitored tax administration model to a self-reporting model by the taxpayer.

EWB was introduced with effect from 01 April 2018 for all inter-State movement of goods having value exceeding ₹ 50,000. EWB was made mandatory for intra state movement of goods with value exceeding ₹ 50,000 and was implemented from 15 April 2018.

2.1.2 Information Systems used for EWBs

The EWB Common portal is developed and managed by National Informatics Centre (NIC) based in Karnataka. The portal was developed for uploading information on movement of goods in relation to supply or for reasons other than supply or due to inward supply from an unregistered person.

The Proper Officers[6] can access the EWB Portal through two means: - (i) Logging into EWB Common Portal through a web browser using the login credentials provided or (ii) Logging into the GST EWB System Mobile App. The functions performed by the Proper Officer are verification of EWBs, unblocking of EWBs, viewing and accessing Management Information System (MIS) reports etc.

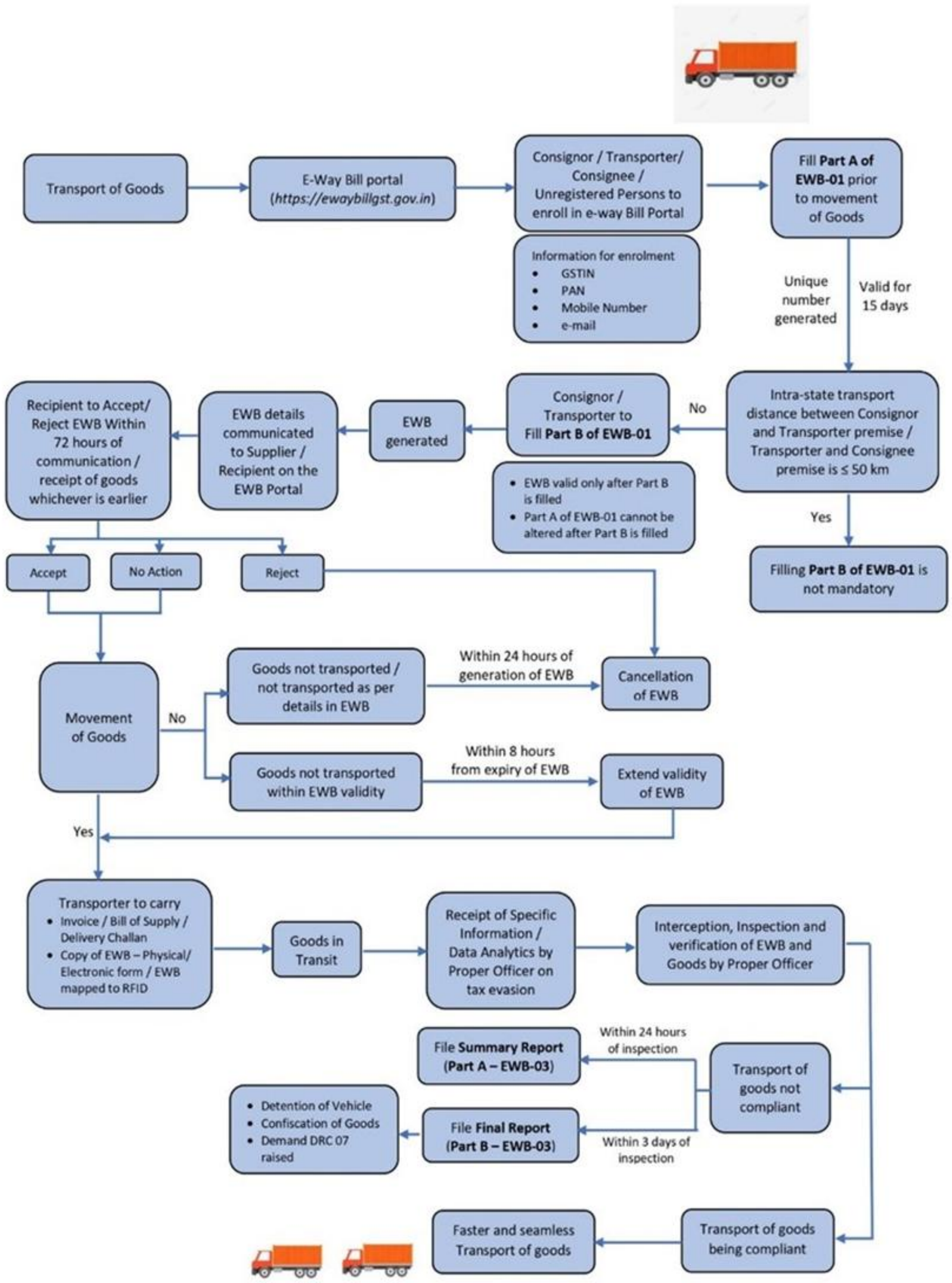
2.1.3 Processes involved in the EWB System

Rule 138 of the Odisha Goods and Services Tax Rules (OGST Rules), 2017, (amended from time to time) provides for the EWB mechanism. The EWB system includes various processes such as the enrollment of the required persons in the portal, Generation of E-Way bill, Extension, Cancellation and Rejection of the EWBs generated etc. The entire process flow of E-Way bill system under GST is depicted in **Figure 2.1.1.**

[6] Proper Officer is an officer who is assigned any function to be performed under the SGST Act, 2017.

Figure 2.1.1

E-Way Bill Mechanism – Process Flow Chart

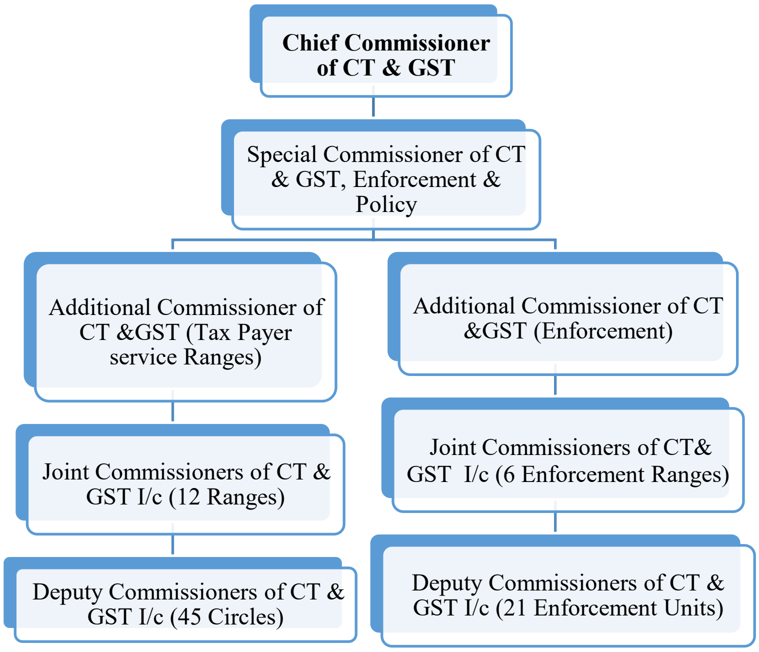


2.1.4 Organisational structure of the Department

The Commissionerate of CT & GST is Head of Department for the CT & GST Organisation, which is the nodal agency for the administration and collection of GST in the State of Odisha. The Commissionerate functions under the Finance Department, Government of Odisha. The structure of the organisation in relation to Taxpayer Services functions and enforcement functions are as shown in **Figure 2.1.2**.

Figure 2.1.2

Structure of the department



2.1.5 Audit Objectives

This Performance Audit (PA) on EWB System under GST was conducted to ascertain whether the

- EWB mechanism is effective in protecting revenue interest of the Government.
- Preventive/ Enforcement activities of the Department in enforcing EWB provisions are efficient and effective.

2.1.6 Audit Criteria

The criteria to assess the performance of EWB System were derived from

- Odisha Goods and Services Tax Act, 2017 (OGST Act),
- Odisha Goods and Services Tax Rules, 2017 (OGST Rules),
- Notifications/ Circulars/ Instructions authorised by GST Council and issued by OGSTD and
- Advisories/ Standard Operating Procedures issued by NIC and CT & GST Department.

2.1.7 Audit Scope

E-Way Bill transactions of the persons registered in the EWB portal pertaining to the period between 1 April 2018 and 31 March 2022 were covered in the audit. EWB data generated for the audit period has been extracted from Goods and Services Tax Network (GSTN) and analysed. Movement of conveyances by roadways alone have been considered for this Audit. Railway/Airway/ Seaway EWBs have been excluded from the scope of this Audit.

The scope of audit also includes evaluation of the preventive functions of the Department with reference to EWBs viz., interception of vehicles, verification of documents, inspection of goods and action taken thereof.

2.1.7.1 Audit Sampling and Methodology

A problem-centric approach has been attempted for this PA as EWB generation under GST is a necessary condition to precede any movement of goods subject to the threshold limit. Samples for Audit Objective-1 were evolved based on the Key Problem Areas (KPAs)/ Risk Dimensions identified. The KPAs that constrain revenue realization for the Government are provided in ***Appendix 2.1.*** A total of 80 E-Way Bills pertaining to 25 taxpayers in five Taxpayer Services Circles[7] were taken as sample for Audit Objective-1. Wherever discrepancies were noticed within the selected sample of 25 taxpayers, all EWBs generated by these taxpayers were scrutinised to verify compliance.

Audit Objective-2 evaluated the problems associated with enforcement/ preventive activities viz. Operational Preparedness, Effectiveness of Anti-Evasion measures and Intra-Department and Inter-Department coordination. For Audit Objective-2, out of six Ranges (with 21 Enforcement Units) of the Joint Commissioner of CT & GST Enforcement Offices, 63 *per cent* of the Offices, i.e., Three[8] Range Offices and 14 Enforcement Units were taken as sample using stratified sampling method. From each of the four[9] Range Offices, a sample of 50 cases was selected using a stratified sampling method, i.e., a total of 200 booked cases were taken for detailed audit.

2.1.8 Acknowledgement

An entry conference was held with the Special Commissioner, CT & GST in August 2023 wherein the Audit objectives and the sampling were discussed. The audit was conducted between October 2023 and March 2024. The exit conference was conducted with the Chief Commissioner, CT & GST in July 2024. The findings of the performance audit were discussed in detail with the Chief Commissioner. The views/ comments of the Department during the exit conference have been incorporated in the relevant paragraphs wherever applicable.

Audit acknowledges the co-operation and assistance extended by the Chief Commissioner, Special Commissioner, Additional Commissioner of CT & GST and other District and field level functionaries during the course of the Performance Audit.

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[7] Bhubaneswar-I, Bhubaneswar-III, Cuttack-II, Rourkela I, Rourkela-II

[8] **Cuttack Range**; Cuttack-I EU; Cuttack-II EU; Angul EU; Paradip EU; **Sambalpur Range**; Sambalpur-EU; Jharsuguda EU; Rourkela EU; Baragarh EU; Berhampur EU; Jeypore EU; Rayagada EU**; Bhawanipatna Range;** Bhawanipatna EU; Nuapada EU; Balangir EU.

[9] **Enforcement Ranges** are functional head offices under whose jurisdiction the Enforcement Units operate. During audit, three Ranges along with their respective units were selected. However, for one of the Ranges, only the field Units were audited, while the jurisdictional Range office itself was not included, as per the sampling data.

Audit findings

Audit findings have been categorised into two broad perspectives viz., effectiveness of EWB system in protecting the revenue and the shortfalls noticed in the enforcement functions of the Department.

2.1.9 Effectiveness of EWB System in protection of revenue

EWB is a document required for the movement of goods and is designed to capture details of goods before being moved. The EWBs generated for outward supplies are supported by invoices and the invoice details are required to be reported in their GST returns. The total number of EWBs generated for outward supply during the period from 2018-19 to 2021-22 is given in **Table 2.1.1.**

Table 2.1.1: Total number of EWBs generated by the taxpayers for the period 2018-22

Year	No. of EWBs generated for Outward supply	No. of EWBs generated for Inward supply
2018-19	81,03,310	40,03,938
2019-20	99,48,914	40,64,598
2020-21	1,05,19,861	39,43,955
2021-22	1,32,81,646	46,36,389
Total	**4,18,53,731**	**1,66,48,880**

(Source: Data supplied by CT & GST Commissionerate)

There is an overall increasing trend in the total number of EWBs generated for outward supplies over the years and the increase was 64 *per cent* from 2018-19 to 2021-22. Similarly, total number of EWBs generated for inward supplies showed an increase of 16 *per cent* over the year from 2018-19 to 2021-22 with a slight dip of 3 *per cent* in 2020-21 with respect to 2019-20.

Results of Audit

Audit selected 25 taxpayers for conducting Substantive Audit[10]. Succeeding paragraphs ***(2.1.9.1* to *2.1.9.11)*** bring out the extent of deficiencies and consequent revenue implication.

2.1.9.1 Non/ Short discharge of tax liability by the taxpayers identified as non-filers

Section 37 of the OGST Act, 2017, read with Rule 59(1) of OGST Rules, 2017, envisages that the details of all outward supplies in form GSTR 1 shall be furnished. Rule 138E of OGST Rules, 2017 restricts the generation of EWB in respect of a registered person who has not filed relevant GST Returns for prescribed consecutive period[11]. The auto-check functionality in this regard was enabled in EWB common portal with effect from December 2019.

Further, Rule 138E of OGST Rules also imposes restrictions on persons including consignors, consignees, transporters or an e-commerce operator or a courier agency to generate EWBs in respect of a registered person who has not filed relevant GST Returns for prescribed consecutive periods. The blocking

[10] Substantive Audit in this review indicates where the cases have been pursued by Audit in detail for cause analysis and to ascertain current developments.

[11] Form GST-CMP-08 for two consecutive quarters in respect of persons paying tax under Section 10 of the SGST Act ibid and GSTR-3B for normal taxpayers for two consecutive tax periods as applicable

functionality has been enabled on the EWB Common Portal with effect from 01 December 2019.

Audit verified the records of a sample of six taxpayers and noticed that they had generated 2,340 EWBs for outward supply for an assessable value of ₹79.81 crore during the period from 1 April 2018 to 31 March 2022 with tax implication of ₹11.90 crore. Out of the 2,340 EWBs, 122 EWBs were generated after the introduction of the blocking facility from 1 December 2019. Scrutiny of the records revealed that they have not filed GST return and consequently have not discharged the tax liability (***Appendix 2.2***) as detailed below:

- In respect of two[12] taxpayers who generated 136 EWBs, the Department did not initiate action to assess the tax liability as envisaged in the Act. The tax leviable amounts to ₹ 1.30 crore in respect of 136 EWBs with an assessable value of ₹ 7.21 crore.
- In respect of two[13] taxpayers who generated 1,803 EWBs with assessable value of ₹56.58 crore for GST liability of ₹7.94 crore, though the Department issued demand notice during February to November 2021, the amount was yet to be recovered till the date of audit (March 2023).
- In respect of other two[14] taxpayers who generated 401 EWBs for an assessable value of ₹ 16.03 crore with a GST liability of ₹ 2.66 crore, tax liability was created, the amount was not recovered as they were non-existent.

On this being pointed out (May 2024), the Department stated (July 2024) that the E-Way Bill system communicates with the GST Common Portal to find out the filing details of the taxpayers. Thus, systemic checks are present to prevent such cases. In case of detection of such cases where EWB is generated before being blocked by the system, they are being dealt on case-to-case basis by proper jurisdictional officer. The Department's reply is not acceptable. If effective systemic checks were in place, these cases should have been identified immediately after the returns were not filed. Instead, they were detected two to three years later, by which time the taxpayers had already cancelled their registrations and fraudulently used EWBs without paying the tax due.

2.1.9.2 Non-discharge of tax liability by the taxpayers who generated EWBs after cancellation of registration

As per Section 63 of the OGST Act 2017, where a taxable person whose registration has been cancelled; but who was liable to pay tax, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgement.

Audit verified the records of a sample of four[15] taxpayers whose registrations were cancelled. It was noticed that these taxpayers generated EWBs after the effective date of cancellation. A total number of 43 EWBs for an outward supply of ₹ 1.93 crore were generated after the effective date of cancellation, but the

12 21**********1ZC and 21**********1Z5 from Cuttack-II Circle

13 21**********1Z2 and 21**********1ZB from Rourkela-II Circle

14 21**********1Z1 and 21**********1ZB from Rourkela-I Circle

15 21**********1Z5, 21**********1ZC, 21**********1Z2 and 21**********1ZM

tax liability was not assessed. Tax payable in respect of 43 EWBs amounted to ₹ 0.35 crore (***Appendix 2.3***).

On this being pointed out (May 2024), the Department stated (July 2024) that these are the instances of ab-initio cancellation, i.e., retrospective cancellation from date of registration u/s 29(2) of the OGST Act, mostly in cases where the taxpayer was not found to be operating from declared place of business, i.e., fake taxpayer. In such cases, the taxpayers have already generated EWBs up to the actual date of cancellation which cannot be undone. The proper officers are communicating such cases to the recipient of the credit for realisation of the ineligible credit from the recipient taxpayers.

While Audit acknowledges that these were the instances of ab-initio cancellation with a retrospective effect and the taxpayers had already generated EWBs up to the actual date of cancellation, the reply of the Department does not address the fact that the proper officer should have assessed the taxpayer's GST liability while cancelling the registration. Thus, in light of audit observation an effective measure may be adopted to verify all such cases where cancellations were effected retrospectively to plug potential revenue leakages.

2.1.9.3 Short discharge of tax liability by the taxpayers identified as having multiple EWBs using same/ similar invoices

As per Rule 46 (b) of OGST Rules, 2017, a tax invoice shall be issued by the registered person containing consecutive serial number, not exceeding sixteen characters, unique for a financial year. As per Para 5.1 of the User Manual issued by the NIC, the taxpayer while generating the EWB is required to enter the Document Number relating to the consignment. The Document Number entered should be unique. Invoice Number is the Document Number in respect of consignments relating to supplies. Hence, only one EWB is required to be generated based on each invoice.

Audit noticed that four taxpayers falling under four Taxpayer Services Circles either used same invoice or similar invoices to generate multiple EWBs for movement of goods. Out of a total of 39 such EWBs generated by these four taxpayers, two to three EWBs were generated on a single invoice. Such multiple EWBs involved assessable value of ₹1.86 crore with GST liability of ₹0.10 crore as detailed in ***Appendix 2.4***.

This indicates lack of validation controls in the EWB Common Portal to restrict generation of multiple EWBs using same/ similar invoices.

On this being pointed out (May 2024), the Department noted (July 2024) the audit observation for guidance and further stated that it had no provision for mapping the invoices with that of transactions disclosed in GSTR-I.

2.1.9.4 Non discharge of tax liability by composition taxpayers

Section 10(1) of the OGST Act, 2017, provides that a registered person whose aggregate turnover in the preceding financial year did not exceed the threshold limit[16] may opt to pay tax under composition scheme. Section 10(2)(c) of the Act, *ibid*, provides that a registered person shall not be eligible to opt for

[16] Threshold limit per year for becoming eligible for composition scheme was ₹ 75 lakh and enhanced to ₹ One crore with effect from 13 October 2017 and to ₹ 1.5 crore from 1 April 2019.

composition scheme, if he is engaged in making any inter-State outward supplies of goods. As per Rule 6 of the OGST Rules, 2017, the taxpayer is liable to pay tax under Section 9(1) of Act, ibid, from the day he ceases to satisfy any of the conditions mentioned in Section 10.

During the scrutiny of records, it was observed that in one case the composition taxpayer[17] had generated 3 EWBs with an assessable value of ₹0.21 crore for inter-state outward supply of goods. The taxpayer was required to be brought out of the Composition Levy Scheme and should have paid tax at normal rate as regular taxpayer with effect from the date of effecting inter-state supply at first instance. However, it was observed that the taxpayer had not filed any return resulting in non-discharge of tax liability. The tax due till date of Audit (October 2023) was ₹0.03 crore ***(Appendix 2.5)***.

Thus, the system failed to prevent generation of EWBs for inter-state outward supply by composition taxpayers.

On this being pointed out (May 2024), the Department stated (June 2024) that in case of detection, they are being dealt with on case-to-case basis by proper jurisdictional officer.

However, instead of relying on manual detection, there is a need to adopt a robust mechanism in the form of automated control to ensure timely detection of all such cases and to avoid revenue leakage.

2.1.9.5 Non/ short discharge of tax liability by the taxpayers identified as Nil filers

As per Section 37 of the OGST Act, 2017 read with Rule 59(1) of OGST Rules, 2017, regular taxpayers shall furnish the details of outward supplies in GSTR-1. Further, in accordance with Section 39 of the Act, ibid, they are required to furnish Return in GSTR-3B declaring the details of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid. Section 61 read with Section 63 of Act, *ibid*, mandates the Proper Officer for the scrutiny of returns and assessment of the tax liability. It was noticed that four taxpayers[18] falling under three Taxpayer Services Circles[19] generated 96 EWBs for outward supply of ₹ 5.59 crore but filed NIL returns. However, the Department did not initiate action to assess the tax liability as specified under provisions of the OGST Act. The tax due amounted to ₹ 0.99 crore **(*Appendix 2.6*)**.

Thus, though the EWB portal has been integrated with GSTN portal with effect from December 2019, EWB transactions are not linked with the returns filed by the taxpayers.

On this being pointed out (May 2024), the Department stated (July 2024) that Red Flag reports by GSTN cover such type of transactions and Commissionerate filter such type of reports and send them to circles for follow up action.

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17 21**********1Z0

18 i) 21**********1ZP (ii) 21**********1ZM (iii) 21**********1Z2 and (iv) 21**********1ZB

19 Cuttack II, Bhubaneswar III and Rourkela II Circle

Effective follow up of the red flag reports, however, needs to be ensured for prompt detection and recovery of tax dues from defaulting taxpayers.

Recommendation 2.1:

The Department may take up the matter with the NIC to rectify the system deficiencies to prevent generation of EWBs by non-filers/ nil filers of returns, cancelled taxpayers, composition taxpayers making inter-state supplies and generation of multiple EWBs with same invoice.

2.1.9.6 Non-reporting of EWB transactions in GST Returns

Section 37 of the OGST Act, 2017, read with Rule 59(1) of OGST Rules, 2017, specifies that all outward supplies shall be reported in form GSTR 1. As per Rule 138 of OGST Rules, 2017, EWB is required for the movement of goods with value exceeding ₹ 50,000. Transportation of goods with value more than ₹50,000 without generating EWB is against the provisions of the Act, which attracts penalty under section 122(xiv) of OGST Act, 2017, at the rate specified therein.

Cross verification of EWBs generated by a sample of two taxpayers[20] along with the GST returns of Bhubaneswar III Circle, as detailed in ***Appendix 2.7,*** revealed the following:

- One taxpayer having GSTIN-21**********1ZM had generated six EWBs involving a supply of ₹0.24 crore attracting tax value of ₹0.02 crore, which were not reported in GSTR-1, resulting in loss of Government revenue to that extent.
- Conversely, in another case a taxpayer having GSTIN-21**********1Z6 had shown outward supply of taxable goods of ₹0.63 crore attracting tax value of ₹0.08 crore in GSTR-1 for which EWBs were not generated. It indicates a potential risk of genuineness of transactions along with wrongful availment of ITC.

On this being pointed out (May 2024), the Department stated (July 2024) that proceedings had already been initiated in both cases, however, the amount was yet to be recovered.

Recommendation 2.2:

The Department may consider devising a suitable mechanism to identify taxpayers generating EWBs but not discharging tax liability and issue guidelines to prioritise the scrutiny of returns of such taxpayers.

2.1.9.7 Generation of EWBs for the transactions effected through suspicious vehicles

As per Rule 138(2) of the OGST Rules, where the goods are transported by the registered person as a consignor, whether in his own conveyance or a hired one or a public conveyance, by road, the said person shall generate the EWB in FORM GST_EWB-01 electronically on the common portal after furnishing information in Part B of FORM GST EWB-01. Where the goods are handed

[20] 21**********1Z6 (Bhubaneswar III Circle) and 21**********1ZM (Bhubaneswar III Circle)

over to a transporter for transportation by road, the registered person shall furnish the information relating to the transporter on the common portal and the EWB shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A of FORM GST EWB-01. The vehicle number is required to be provided in Part-B of EWB-01.

As per Section 61 of the OGST Act, various returns filed by the taxpayers have to be scrutinised by the Proper Officer to verify the correctness of the returns, and suitable action has to be taken on any discrepancies or inconsistencies reflected in the returns.

Audit identified EWB transactions considered to be at risk as these were effected using suspicious vehicles (Theft Vehicles, Scrapped, Surrendered, Cancelled and Suspended Vehicles, Two Wheelers) and those transactions where multiple EWBs had been generated using same vehicle number across states on the same day. Audit observed that 14 taxpayers under six circles generated 1,113 EWBs of an assessable value of ₹80.30 crore with tax implication of ₹13.78 crore using 235 suspicious vehicles as detailed in ***Appendix 2.8 (i) to 2.8 (vi)***.

Table 2.1.2: Summary of EWBs generated using vehicles considered suspicious

Nature of vehicles	Taxpayers involved	Circles	Nos of EWBs	Nos of vehicle s used	Assessable value (₹ in crore)	Tax value (₹ in crore)
EWBs generated using two wheelers	6	5	38	34	2.44	0.20
EWBs generated using same vehicle starting from different places	1	1	1,065	193	77.13	13.45
EWBs generated using stolen vehicles	2	2	2	2	0.08	0.01
EWBs generated using surrendered vehicles	2	2	2	2	0.24	0.04
EWBs generated using vehicles whose registration was cancelled	2	1	4	3	0.31	0.06
EWBs generated using scrapped vehicles	1	1	2	1	0.10	0.02
TOTAL	**14**	**12**	**1,113**	**235**	**80.30**	**13.78**

On this being pointed out (May 2024), the Department stated (July 2024) that there is an integration between EWB portal and VAAHAN Portal through API (Application Programming Interface). However, as reported by the Circle/ Enforcement officers, there are certain cases of lagging/ synchronisation errors. Further, there is no specific provision under GST Act/Rules for disallowing EWBs on suspected vehicles as per VAAHAN database. Besides, in case of detection, they are being dealt on case-to-case basis by proper jurisdictional officer. The case for a holistic integration between VAAHAN and EWB database will be raised with GSTN in appropriate forums.

Since the Department is vested with responsibility of maintaining effective oversight, the integration issues with VAAHAN system needs to be resolved.

> ***Recommendation 2.3:***
>
> ***The Department may consider devising a suitable mechanism to properly integrate VAAHAN system with EWB system to maintain an effective oversight over potentially suspicious transactions.***

2.1.9.8 Cross-PAN analysis

Ministry of Finance, Department of Revenue, Government of India vide circular[21] issued a SoP for utilising the dataset of fake invoice issuers by GST authorities, which stated among others that transaction between multiple GSTINs with same PAN is a risk parameter, as can be potentially involved in issuing 'fake invoices' or other GST frauds.

Audit cross verified data relating to cross-PAN transactions and observed that one[22] taxpayer under Bhubaneswar III circle received goods of ₹1.55 crore from a taxpayer with same PAN registered in Uttar Pradesh and Telangana States and accumulated ITC of ₹0.26 crore.

It was further noticed that the taxpayer had generated 12 EWBs with assessable value of ₹0.77 crore and tax value of ₹0.12 crore for outward supply to taxpayers with same PAN registered in various other states. On further scrutiny, it was revealed that the registrations of all these taxpayers in all States were cancelled. It has resulted in improper availment/ adjustment of ITC of ₹0.38 crore ***(Appendix 2.9)***.

On this being pointed out (May 2024) the Department accepted (July 2024) the audit observation and conveyed that Show Cause Notice has been issued to the taxpayer under Section 74 of OGST Act 2017. The Department also stated that since the registration of the taxpayer has been cancelled under Section 29(1) of OGST Act 2017 on 29 May 2019, the communication letter could not be served at the declared place of business.

> ***Recommendation 2.4:***
>
> ***The Department may consider prioritising verification of EWBs and scrutiny of returns of taxpayers having multiple registrations with same PAN.***

2.1.9.9 Declaring abnormally high PIN to PIN distance than actual distance

The EWB portal has a system to auto calculate and display the estimated motorable distance between two PIN codes. User is also allowed to enter the actual distance as per the movement of goods. However, it will be limited to 10 *per cent* more than the auto calculated distance displayed. As per Rule 138(10) of OGST Rules, the validity of EWBs up to a distance of 100 km was one day and for part of 100 km, an additional day.

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[21] No.F.No.GST/INV/Fake Invoices/18-19 dated 12 May 2019

[22] 21**********1Z6

During the Substantive Audit of a sample of two[23] taxpayers under two[24] Circles, it was noticed that three EWBs were generated by these taxpayers with total assessable value of ₹0.23 crore with tax value ₹0.04 crore where the distance mentioned in the EWB was as high as 630 *per cent* of actual distance between the place of supply to place of delivery ***(Appendix 2.10)***.

Such transactions involving generation of EWBs with abnormally long distances and longer validity of EWBs have a potential risk exposure of carrying out multiple trips with the same EWB.

On this being pointed out (March 2024), the Department replied (June 2024) that the GSTN would be requested for a PIN-PIN Mapping facility which will address the issue.

2.1.9.10 High value EWBs generated within six months of registration by GSTIN

Audit observed that one[25] taxpayer under Rourkela II circle obtained registration in May 2018 and generated four EWBs in October 2018 with an assessable value of ₹0.52 crore within a short span of 10 days from 18 October 2018 to 28 October 2018. Further the registration of the entity was found cancelled within a year from the date of its registration. However, it was observed that the taxpayer had not submitted GSTR-3B return to discharge the tax liability of ₹ 0.09 crore ***(Appendix 2.11)***.

On this being pointed out (March 2024), the Department stated (July 2024) that such type of cases are being red flagged on almost daily basis. It was further stated that there are systemic checks of not allowing generation of EWBs in case of non-filing of returns for two consecutive months.

Notwithstanding that the Department is aware of this, it needs to maintain an effective follow up of red flag cases towards ensuring discharge of tax dues by defaulters.

2.1.9.11 EWBs with dis-proportionate Inward Supply ratio

As per Section 37 of the OGST Act, every registered person other than composition taxpayers shall furnish the details of outward supplies of goods or services or both effected during a tax period in GSTR-1 and to discharge tax liability thereon in GSTR-3B.

During the Substantive Audit it was noticed that in case of one[26] taxpayer under Cuttack-II circle, the percentage of inward supplies with respect to the generation of EWB for outward supplies was irrationally as low as 1.38 *per cent* for two consequent financial years. The registration of the taxpayer was suo moto cancelled by the Department while GST liability of ₹0.06 crore was still pending ***(Appendix 2.12)***.

On this being pointed out (May 2024), Department replied that (July 2024) generalised ratio analysis may not be fruitful since there are also over the counter and unregistered purchases. It was further stated that many other types

[23] 21**********1ZB and, 21**********1ZB
[24] Rourkela I and Rourkela II
[25] 21**********1Z2
[26] 21**********1ZC

of rational analysis are being done by the Commissionerate and are also available in Business Intelligence and Fraud Analysis module based on which the taxpayers are selected for GST audit each year. Such issues are being addressed on case-to-case basis by the proper officer in case of detection.

While Audit acknowledges the various types of analysis carried out by the Department, such macro ratio also suggests potential risks. The instant case serves as an evidence that the risk has manifested into a clear non-compliance.

2.1.9.12 Discrepancies identified through analysis of data of EWBs

Audit analysed data on EWBs generated during the period April 2018 to March 2022 based on KPAs and observed that discrepancies in tax compliance by the taxpayers could be ascertained directly from certain KPAs. In addition to the issues discussed under ***Paragraph 2.1.9*** above, the data extracted under these KPAs were forwarded to the Department as totality observations for considering further course of remedial action and summary report on action taken was called for. The details of totality observations shared with the Department are as given in the **Table – 2.1.3**.

Table-2.1.3: Details of totality observations

Sl. No.	Nature of Totality Observation	No. of taxpayers	Assessable Value involved (₹ in crore)
1	Generation of EWBs by Non-filers of GST Returns	544	90.43
2	Generation of EWBs by Cancelled taxpayers	78	81.52
3	Generation of duplicate EWBs using same Invoice	1,320	163.79
4	Generation of Inter-State EWBs by Composition taxpayers	35	7.95

On these being pointed out (August 2023), Government stated (December 2023) that action had been initiated on the merit of each and every individual case pointed out.

2.1.10 Enforcement functions/ Operational Preparedness of the Department

EWB system is a self-declaration model, whereby through a digital interface the person causing the movement of goods uploads the relevant information prior to the commencement of movement of goods and generates an authorization for transportation of the said goods. The self-declaration model emphasises the need for a compliance verification mechanism which can be done through verification of EWBs.

The check posts that operated manually during the pre-GST regime were abolished consequent to introduction of GST. EWB System was introduced with effect from 1 April 2018 to track both the inter-state and intra-state movement of goods having value above ₹ 50,000. Enforcement Squads were deployed to verify the EWBs by intercepting the vehicles.

Audit verified the functions *viz*., operational preparedness, effectiveness of anti-evasion measures and inter and intra departmental co-ordination in monitoring E-Way Bill related transactions. For this purpose, out of six Range Offices of CT & GST in Odisha with 21 Enforcement Units, Audit selected three Range Offices and 14 Enforcement Units, i.e., a total of 17 Preventive Units as sampled units and a sample of 200 cases booked by their Preventive Units.

Shortcomings noticed on verification of records relating to the period 1 April 2018 to 31 March 2022 are discussed below:

2.1.10.1 Inadequate monitoring of movement of vehicles through RFID database

As per Rule 138 A(4) of the OGST Rules, 2017, the Commissioner may, by notification, require a class of transporters to obtain a unique 'Radio Frequency Identification Device' (RFID) and get the said device embedded on to the conveyance and map the EWB to the RFID prior to the movement of goods. Through this, the transaction genuinely covered by EWB is duly recorded/ mapped to RFID and could be verified without loss of time avoiding the possibility of harassment.

It is observed that in the toll gates of State Highway of Sambalpur-Rourkela Highway (Biju Express Way), with a length of 162 km connecting eight districts of western Odisha with Southern Odisha, the RFID devices are yet to be installed. In absence of RFID devices, the persons in charge of the vehicles are still paying the toll charges through cash or debit cards while passing through these toll gates. Unless payment of toll charges is made through RFID tag of the vehicles, the movement of the vehicle cannot be monitored through RFID devices. In the absence of a digital mechanism to monitor physical movement of goods, utilisation of EWB system would be substantially restricted and enforcement will have to rely on manual interception.

On this being pointed out (May 2024), the Department stated (June 2024) that integration of toll gates of State highways with FASTAG is beyond the scope of the Commissionerate and that in the interest of revenue, the matter will be brought to the notice of the appropriate Government Department.

2.1.10.2 Use of EWB Officer module by departmental officers

The EWB Officer Module aims to automate verification and monitoring activities to enhance transparency and accountability among departmental officers, provide insightful MIS and analytical reports to aid in tax evasion identification, and improve efficiency by minimising routine paper-based tasks, allowing officers to focus on more strategic intelligence work. To facilitate verification of EWBs, the Enforcement Unit of CT & GST disseminates the following analytical reports of NIC related to EWBs to all the Enforcement Units of the State, at regular intervals as given in **Table 2.1.4**

Table 2.1.4: Details of insights provided by the Commissionerate Office to the field office on movement of vehicle

Report Name	Title of the Report
B1	EWB with No Vehicle Movement
B2	Vehicle Movement without EWB
B3	Vehicle Movement of Cancelled EWBs
B4	Recycling of EWBs using same Vehicles
B5	Recycling of EWBs using different Vehicles
B6	Vehicle Movement of EWB based on GSTIN
B7	Movement based on Vehicle Number
B8	Movement of Vehicles in Watch list
B9	Movement of Vehicles of Taxpayers in Watch list
B10	Vehicle Path Prediction Based on EWBs

(Source: MIS reports provided by the Commissionerate Office to the field office)

Audit observed that the departmental officers were not using the EWB officer module extensively as discussed below:

(i) Non-utilisation and non-sharing of Comprehensive Analytics Reports on EWBs

In all the selected Preventive Units, access to Comprehensive Analytics Reports[27]on EWBs was provided only to the Joint Commissioners or Deputy Commissioners in charge of the Preventive Units resulting in under-utilisation of the reports. It was observed that the Analytical Reports such as, B1, B2, B3 Reports etc., had not been shared with the jurisdiction officers concerned, thereby actual verification of EWBs was being done on a random basis. Further, it was observed that Analytics Reports like B4 and B5 were not utilised by field enforcements units. All the selected Preventive Units stated that due to shortage of personnel, they could not download the Analytical Reports at regular intervals and plan for risk-based vehicles interception.

(ii) Absence of a dedicated set up for usage of Comprehensive Risk Analytics Reports on EWB under Enforcement units

Establishment of a dedicated organisational Unit for EWB related enforcement activities like verification of EWBs during interception of vehicles and follow up action wherever required; utilising EWB Analytical Reports in planning the EWB verification, etc., will improve the efficiency of preventive functions.

However, Audit noticed that none of the selected Enforcement Units had established a dedicated organisational unit for EWB related enforcement activities or for verification of EWBs. The Enforcement Units formed Inspection Teams, as and when required, with the available staff. Further, the officials working under these units have been assigned with different types of work such as conducting mobile duties; inspections; search and seizure operations; and even administrative duties such as preparation of pay bills apart from the duty of verification of EWBs through mobile application/ EWB portal.

In the absence of a dedicated set up for usage of Comprehensive Analytics Reports on EWBs, none of the Enforcement Units had utilised these analytical reports for verification of EWBs.

On being pointed out (May 2024), the Department stated (July 2024) that due to the sensitivity of the EWBs data, the credentials for EWB analytics have been restricted to the heads of the CT & GST Enforcement Units. Leads generated by EWB analytics and Business Intelligence on Fraud Analysis (BIFA)[28] are distributed to the Enforcement Unit/Range Heads for taking action. Additionally, the GST Prime software is soon to be rolled out to all Enforcement Ranges, which would significantly enhance their analytical capabilities. Further, it was stated that although there are no separate functional EWB units, the head of the Enforcement Range/ Unit allots duties to the officers of the units.

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[27] These reports offer various analytical features to monitor and assess e-way bill data, providing insights into goods movement and highlighting potential irregularities. The analytics tools help detect patterns, anomalies, and possible instances of tax evasion."

[28] An analytical tool to detect various patterns of tax evasion.

The fact, however, remained that the EWB Analytics Reports were not effectively used to improve the quality of verification of EWBs through risk-based planning.

2.1.10.3 Lack of adequate personnel

On review of the enforcement manpower available in the selected Enforcement Units, Audit noticed that there were significant vacancies in the sanctioned strength of personnel in all the Enforcement Units.

The percentage of vacancies of enforcement personnel as on March 2022 ranged from 13 to 57 *per cent* as follows:

Table 2.1.5 Summary of manpower position

Name of the Unit	Sanctioned strength	Men-in-Position	vacancy	Percentage of vacancy
Cuttack Enforcement Range	**6**	**5**	**1**	**17**
Cuttack - I EU	12	8	4	33
Cuttack-II EU	8	6	2	25
Paradeep EU	7	5	2	29
Angul EU	7	5	2	29
Sambalpur Enforcement Range	**6**	**5**	**1**	**17**
Sambalpur EU	9	5	4	44
Jharsuguda EU	8	7	1	13
Bargarh EU	11	5	6	55
Rourkela EU	13	9	4	31
Berhampur EU	13	8	5	39
Jeypore EU	7	4	3	43
Rayagada EU	7	3	4	57
Bhawanipatna Enforcement Range	**6**	**6**	**0**	**0**
Bhawanipatna EU	8	5	3	38
Nuapada EU	6	6	0	0
Bolangir EU	6	3	3	50

(Source: Data as supplied by CT & GST Commissionerate)

Significant vacancies were noticed in Rayagada, Bargarh and Bolangir enforcement units of 57, 55 and 50 *per cent* respectively. Non-availability of dedicated organisational units and the high number of vacancies carries the material risk of impact on the number and quality of enforcement actions.

On being pointed out (May 2024), the Department stated (July 2024) that Government has recently added another four Investigation Units. The manpower, vehicles and other requirements would be made available shortly to the newly formed Investigation Units which would further strengthen the Enforcement Wing.

2.1.10.4 Lack of sufficient patrolling vehicles

Audit noticed that only four out of 17 selected Preventive Units had Government vehicles and remaining 13 preventive units had hired vehicles, as detailed in ***Appendix 2.13***.

It was observed that none of the Preventive Units had patrolling vehicles exclusively allocated for verification of EWB. The sole vehicle available in the Enforcement Units was typically used not only for verification of EWBs but also for other administrative purposes. It was further noticed that none of the Enforcement Units had made specific requisitions for additional patrolling vehicles.

On this being pointed out (May 2024), the Department stated (July 2024) that additional vehicles were being requested by the Investigation Units as and when required. The timing of EWB verification and other enforcement activities varies. Through meticulous planning and proper coordination, costs are minimised by utilising the same vehicle with one set of officers for EWB verification during night and early morning while activities such as investigation, search and seizure are performed during the day in permitted hours.

Audit is of the view that augmenting infrastructure in terms of additional patrolling vehicles would be more effective for verification of EWBs.

2.1.10.5 Targets and achievements

On review of records pertaining to the period 2019-20 to 2021-22, it was noticed that while targets had been fixed, for EWB verification, there were varying levels of shortfall across the Enforcement Units as detailed in ***Appendix 2.14***.

Except Enforcement Range Cuttack and Enforcement Unit Cuttack-I, none of the Enforcement Units could achieve the targets fixed. The shortfall in achieving the targets ranged between 09 and 75 *per cent.*

On this being pointed out (May 2024), the Department stated (July 2024) that the primary objective of Enforcement Section is being a deterrent and a preventive measure against the errant taxpayer, which is being achieved through data analysis, checking & utilisation of EWBs and mobile activities at strategic points and at key locations. Revenue collection is not the foremost goal of Enforcement Unit. Instead, each unit and range has set a target for effective control and monitoring.

The reply is not tenable, as out of 17 sampled Enforcement Units, 15 could not achieve the verification of the targeted number of EWBs for the period covered under audit.

> ***Recommendation 2.5:***
>
> ***The Department may enhance its operational preparedness in terms of augmenting infrastructure and enhancing the utilisation of analytical reports to improve the efficiency of preventive functions.***

2.1.11 Effectiveness of preventive functions

2.1.11.1 Partial production of records

Section 16 of the CAG's DPC Act 1971 details the Audit Mandate of the CAG regarding Audit of receipts. Further, Section 18(2) of the CAG's DPC Act 1971 imposes a statutory duty on Offices/Departments to comply with the requests for information in as complete as possible and with all reasonable expedition.

During the course of audit, six [29]out of 17 Enforcement Range/Units could not produce the records in respect of 10 booked cases out of a sample of 200 booked cases. Consequently, in these cases, audit was restricted to the partial information available in the records produced by the Department.

2.1.11.2 Delay in offsetting of demand raised at the time of interception of vehicle

As per Odisha Treasury Code Rule 6(1) Part-I, all moneys received by or tendered to Government servants on account of the revenues of the State without undue delay be paid in full within three days of receipt into the Government Account.

The CBIC, Ministry of Finance, Department of Revenue, New Delhi vide Circular No. 41/15/2018-GST dated 13th April 2018 prescribes detailed procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances. As per the instructions laid down in clause (h) of the circular, the Proper Officer shall, after the amount of levied tax and penalty has been paid in accordance with the provisions of the OGST Act and the OGST Rules, release the goods and conveyance by an order in FORM GST MOV-05. Further, the demand accruing from the proceedings shall be added in the electronic liability register and the payment made shall be credited to such electronic liability register by debiting the electronic cash ledger of the person concerned in accordance with the provisions of Section 49 of the OGST Act.

Accordingly, after interception of the vehicle, the Proper Officer collects the tax or penalty or both, as the case may be, through money receipts and deposits the amount into the electronic cash ledger of the concerned taxpayer (regular) or person in charge of the vehicle (temporary). Thereafter, the concerned Proper Officer settles the liability in the liability register for release of vehicle by corresponding debit to the electronic cash ledger.

However, during the course of audit, it was observed that:

i. Proper Officers of 11 out of 17 Enforcement Units had delayed (ranging between four and 247 days) in depositing the money into the electronic cash ledger of the taxpayer.

ii. There were delays upto 1,253 days in settling the liability by the Proper Officer by debiting the electronic cash ledger of the taxpayer after the money had been deposited.

iii. The cumulative delays by the Proper Officers in depositing and settling the liability ultimately resulted in delay in receipt of revenue of ₹18.04 lakh into the Government account, ranging from 6 to 1,257 days ***(Appendix 2.15)***.

The delay in settling the liability by the Proper officer is associated with the risk of the taxpayer utilising the amount deposited in the electronic cash ledger against other tax liabilities.

[29] 1. Cuttack Range, 2. Cuttack-II EU, 3. Angul EU, 4. Sambalpur EU, 5. Jharsuguda EU and 6. Rourkela EU

CASE STUDY
In Bolangir Enforcement Unit an amount of ₹2,26,564 was collected from a taxpayer having GSTIN No. 21********1ZV on 17 July 2021 and deposited into the electronic cash ledger on 03 August 2021. However, the liability was not settled by the Proper Officer. The credit of the electronic cash ledger was utilised by the taxpayer for setting off other liabilities under GST. However, after being pointed out by Audit, the amount was again deposited by the taxpayer into their electronic cash ledger and the liability was settled only on 21 December 2023, i.e. with delay of 887 days.**

On this being pointed out (May 2024), the Department stated (July 2024) that during initial years some delays occurred, however, care has been taken to avoid any such delay.

Recommendation 2.6:

The Department may issue instruction to the Proper Officers to promptly create and settle the demand of tax and penalty in the electronic liability ledger.

2.1.11.3 Non recording of summary report and final report on interception of goods in transit

Under Rule 138C of the OGST Rules, 2017, a summary report of every inspection of goods in transit shall be recorded online by the Proper Officer in Part A of FORM GST EWB 03[30] within twenty-four hours of inspection and the final report in Part B of FORM GST EWB 03 shall be recorded within three days of such inspection.

On verification of sampled records relating to EWB forms of the 17 Preventive Units for the period 2018-19 to 2021-22, the following deficiencies were noticed as Proper Officers were not following the due process after intercepting as envisaged in the rules. Details are in ***Appendix 2.16***.

- In 12 cases relating to four units, statements of person in charge of conveyance had not been recorded in GST-MOV-1 after interception of conveyance and EWB related documents were not available.
- In 14 cases relating to four units, order for physical inspection of conveyance was not issued in GST -MOV-2.
- In 17 cases relating to five units, Inspection Report in GST -MOV-4 had not been served to the person in charge of the conveyance.
- In 103 cases relating to 10 units, final Inspection Reports in GST -EWB-03 (Part-B) were pending.
- In 11 cases relating to five units, release order in FORM GST MOV-05 to allow the conveyance to move further was not issued.

30 Verification Report by the Enforcement Officers.

- In 10 cases relating to four units, order of detention in FORM GST MOV-06 had not been issued.
- In 13 cases relating to four units, notices in FORM GST MOV-07 under Section 129(3) specifying tax and penalty were not issued.

On this being pointed out (May 2024), the Department stated (July 2024) that the Proper Officers will be sensitised to follow the guidelines issued by CBIC.

2.1.11.4 Incorrect application of rule for collection of tax and penalty

Section 129 (1) of the OGST Act provides that where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the Rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released-

> (a) on payment of the applicable tax and penalty equal to one hundred *per cent* of the tax payable on such goods if the owner of the goods comes forward for payment of such tax and penalty[31], or
>
> (b) tax and penalty equal to fifty *per cent* of the value of the goods reduced by the tax amount paid thereon where the owner of the goods does not come forward for payment of such tax and penalty[32].

During substantive audit, it was noticed that 23 cases under four Enforcement Units out of a sample of 200 cases were incorrectly booked under Section 129(1)(a) of OGST Act 2017, even though neither evidence of ownership of the intercepted goods nor authorisation by the owner of the goods could be produced to the Proper Officer on detention. In absence of any records regarding ownership of the goods, the cases should have been booked u/s 129(1)(b) of the OGST Act against the person in charge of the conveyance. The booking of the cases u/s 129(1)(a) instead of 129(1)(b) involved a revenue implication of ₹1.55 crore (***Appendix 2.17****)*.

On this being pointed out (May 2024), the Department stated that (July 2024) the audit observation was noted for future guidance.

2.1.11.5 Incorrect method of quantification of tax and penalty

As per Rule 138 of OGST Rules, every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees (i) in relation to a supply; or (ii) for reasons other than supply; or (iii) due to inward supply from an unregistered person, shall, before commencement of such movement, furnish information relating to the said goods as specified in Part A of FORM GST EWB-01, electronically, on the common portal along with such other information as may be required on the common portal and a unique number will be generated on the said portal.

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[31] w.e.f. 01 January 2022 on payment of penalty equal to two hundred *per cent* of the tax payable vide Notification No. 39/2021-C.T, dated 21 December 2021

[32] w.e.f. 01 January 2022 on payment of penalty equal to fifty *per cent* of the value of the goods or two hundred *per cent* of the tax payable on such goods, whichever is higher, vide Notification No. 39/2021-C.T, dated 21 December 2021

The explanation 2 of the above Rule states that the EWB shall not be valid for movement of goods by road unless the information in Part-B of FORM GST EWB-01 has been furnished.

Further, Rule 138A of the EWB rules stated that (1) The person in charge of a conveyance shall carry-(a) the invoice or bill of supply or delivery challan, as the case may be; and (b) a copy of the EWB in physical form or the EWB number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner.

As per Government instruction in the circular No.41/15/2018-GST dated 13 April 2018, the Proper Officer has to inspect, detain and seize the goods as per the instructions laid down. If the person in charge is not carrying the supporting documents in consonance with the provisions, then the Proper Officer may book the case either under Sections 129 or 130 of the GST Act.

During audit, it was observed that after detecting non-compliance to EWB provisions on interception of vehicles, the method of quantification and levy of tax and penalty adopted by the Proper Officer, was not clear.

CASE STUDY
In case No. 89571/20 March 2019, the taxpayer (GSTIN **********TMP) was transporting 113 packets of readymade garment goods with the invoice of 96 packets but without an EWB. However, the Proper Officer (Sambalpur Enforcement Range) levied tax and penalty only on 17 packets of Readymade Garments, i.e., tax and penalty of ₹ 8.5 lakh (₹ 50,000/- per packet for 17 packets) was levied on the value of packets which were not covered by the invoice. The Proper Officer should have calculated the tax and penalty on the whole consignment of 113 packets.

On being pointed out (May 2024), the Department stated (July 2024) that Audit observation was noted for future guidance.

2.1.12 Inter and intra Departmental Co-ordination in monitoring EWB related transactions

The Enforcement Units are entrusted with enforcement functions related to EWB and the taxpayers discharge tax liability through periodic returns subject to scrutiny by jurisdictional authorities. The inter and intra departmental co-ordination was also verified in the sample of 200 offence cases booked by selected 17 Preventive Units and the findings are discussed below.

2.1.12.1 Sharing of information on booked cases with the Taxpayer Services Circles

As per Section 129 of the OGST Act, whenever any discrepancies found during the interception of the vehicles, tax and penalty were leviable up to 31 December 2021. In terms of Section 17(5)(1) of the OGST Act, ITC shall not be available on any tax paid under the provisions of Section 129.

Audit found that in 60 cases out of the 200 sample cases, the taxpayers were registered taxpayers. Thus, as per the stipulated provisions, the supplier whose vehicle was intercepted u/s 129 or 130, had to reflect such outward supply in the GSTR-1 returns and to discharge tax liability. However, the GST authorities did not share the fact of such interception with the concerned GST circle office. Due to this, the circle authorities had no scope to verify such transactions and tax liability thereon.

On this being pointed out (May 2024), the Department stated (July 2024) that audit observation was noted for future guidance.

2.1.12.2 Absence of exchange of information between Enforcement Units of various inter Departmental Units

Under Section 56 of Odisha Forests Act, 1972 when a person commits any offence such as illegally cutting and removing trees/forest produce like timber, Kendu leaf etc. for sale, such goods are liable to be seized/confiscated. Under Section 144 of Motor Vehicle Tax Act, 1988, a vehicle carrying excess goods than its permissible Registered Laden Weight as mentioned in its Registration Certificate damaging road crust is a traffic offence rendering the vehicle liable to be intercepted/seized. The provisions mandate that the excess load of goods to be offloaded thereon immediately before the vehicle is allowed to move. Under Section 129 of OGST Act, where any person transports any goods without proper documentation like Invoice/Delivery Challan, Waybills etc., the goods are liable to be seized until payment of due tax with penalty.

As there is involvement of sale of goods, Audit randomly verified some of the case records of Enforcement Squads of forests and Motor Vehicles Department to ascertain whether GST liability has been properly discharged in two[33] Enforcement Ranges.

It was observed that although Forest Department had seized/confiscated forest produce like timber, Kendu Leaf *etc*. worth ₹0.09 crore, the potential non-discharge of GST liability was not addressed due to absence of exchange of information between Forest and State GST Departments. Similarly, although Motor Vehicle Department seized overloaded goods worth 1893 tones, the potential non discharge of GST liability was not addressed due to absence of exchange of information between Motor Vehicle and State GST Departments ***(Appendix 2.18)***.

On this being pointed out, the Government stated (July 2024) that the audit observation was noted for future guidance.

2.1.12.3 Monitoring movement of goods by unregistered taxpayers

During the course of field audit it was observed that although 11 unregistered taxpayers were booked multiple times ranging from two to 10 times, no efforts were taken by the Enforcement Unit to get the taxpayer registered under GST system to widen the tax net. Instead, the temporary GSTIN created at the time of interception was treated as regular GSTIN.

The details of cases of temporary GSTIN intercepted multiple times are given in ***Appendix 2.19.***

On this being pointed out (May 2024), the Department stated (July 2024) that audit observations were noted for future guidance.

[33] Enforcement Range Bhawanipatna and Jeypore

Recommendation 2.7:

The Department may devise a system for passing on the information of interception to the authorities of GST jurisdictional Circles for assessing the tax liability, if any.

2.1.13 Conclusion

The Performance Audit on E-Way Bill system was conducted with a view to assessing the efficiency of EWB system in protecting Government revenue as well as efficiency and effectiveness of preventive activities in enforcing provisions.

Audit observed deficiencies in the EWB system as it allowed generation of EWBs for non-filers of GST returns, return filers who had with 'nil' turnover, by cancelled taxpayers and by composition taxpayers making interstate supplies. The system also allowed generation of multiple EWBs with same or similar invoices. These deficiencies had a consequential impact of non/short discharge of tax liability. Audit also observed cases where taxpayers generating EWBs were not reporting the transactions in GSTR 1 returns.

Audit identified EWB transactions, which were effected using suspicious vehicles and EWB transactions between multiple GSTINs with the same PAN.

Further, the operational preparedness of the Department for enforcement functions was deficient due to EWB module and the analytical reports being underutilised by Enforcement Units, inadequate manpower and patrolling vehicles.

Audit also observed that Proper Officers were delaying offsetting tax liabilities and were not following the due process, after interception of vehicles, as envisaged in rules.

The inter and intra departmental co-ordination in monitoring EWB related transactions was also deficient as information was not shared with taxpayers Service Circles, as well as between Enforcement units.

2.1.14 Recommendations

2.1. ***The Department may take up the matter with the NIC to rectify the system deficiencies to prevent generation of EWBs by non-filers/ nil filers of returns, cancelled taxpayers, composition taxpayers making inter-state supplies and generation of multiple EWBs with same invoice.***

2.2. ***The Department may consider devising a suitable mechanism to identify taxpayers generating EWBs but not discharging tax liability and issue guidelines to prioritise the scrutiny of returns of such taxpayers***

2.3. ***The Department may consider devising a suitable mechanism to properly integrate VAAHAN system with EWB system to maintain an effective oversight over potentially suspicious transactions.***

2.4. ***The Department may consider prioritising verification of EWBs and scrutiny of returns of taxpayers having multiple registrations with same PAN.***

2.5. ***The Department may enhance its operational preparedness in terms of augmenting infrastructure and enhancing the utilisation of analytical reports to improve the efficiency of preventive functions.***

2.6. ***The Department may issue instruction to the Proper Officers to promptly create and settle the demand of tax and penalty in the electronic liability ledger.***

2.7. ***The Department may devise a system for passing on the information of interception to the authorities of GST jurisdictional Circles for assessing the tax liability, if any.***