

CHAPTER II

GOODS AND SERVICES TAX / VALUE ADDED TAX / CENTRAL SALES TAX

PART-A
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2.1 Tax administration

The administration of the Commercial Taxes Department is vested with the Commissioner of Commercial Taxes. The State has been divided into 40 zones, comprising 334 assessment circles including four Large Taxpayers units¹ at Chennai and one Divisional Large Taxpayers unit at Coimbatore. Assessment, levy and collection of tax are done by the Assessing Authorities in charge of the assessment circles. Monitoring and control at the Government level is done by the Secretary, Commercial Taxes and Registration Department.

2.2 Internal audit

The Internal Audit wing is organised in each Zone and consists of an Assistant Commissioner, Commercial Tax Officer and two supporting staff. The assessments finalised and the refunds made in the preceding quarter were to be taken up for audit in the succeeding quarter.

The details of offices programmed for conduct of internal audit and the offices in respect of which internal audit was done during the year 2018-19 were not furnished by the Department. The year-wise break up of outstanding inspection reports was also not furnished by the Department. In the absence of information, Audit could not comment on the efficacy of internal audit.

2.3 Results of audit

Test check of records of departmental offices conducted during the period from April 2018 onwards revealed under-assessment of tax and other irregularities amounting to ₹ 1,287.83 crore in 3,988 cases, which broadly

¹ Large taxpayers – Dealers whose taxable turnover for a year exceeds ₹ 200 crore.

fall under the following categories:

Table 2.1: Results of Audit

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1	Compliance Audit on 'Processing of GST Refunds'	1	966.04
2	Incorrect allowance of input tax credit	1,104	126.35
3	Non/short levy of tax	374	24.33
4	Non-levy of penalty/interest	256	11.63
5	Incorrect computation of taxable turnover	218	24.08
6	Incorrect rate of tax	161	56.55
7	Incorrect exemption of tax	58	1.45
8	Others	1,816	77.40
	Total	3,988	1,287.83

After Audit pointed this out, the department accepted underassessments and other deficiencies in 613 cases and recovered an amount of ₹ 42.38 crore, out of which, ₹ 38.72 crore involved in 307 cases was pointed out during the year and the rest in earlier years.

Compliance Audit on 'Processing of GST Refunds' and few illustrative cases involving ₹ 1,074.91 crore are discussed in the following paragraphs.

Goods and Services Tax

2.4 Compliance Audit on 'Processing of GST Refunds'

2.4.1 Introduction

The Goods and Services Tax (GST) regime has a system of repayment of excess tax paid / unutilised Input Tax Credit (ITC). A claim of refund may arise on account of claim of remittances on account of export of goods and services, supplies to Special Economic Zone (SEZ) units, Deemed exports, finalisation of provisional assessment, arithmetical errors, judicial pronouncements, etc. Refund may also arise on account of accumulated ITC due to inverted duty structure². Timely refund mechanism is essential in tax administration as it facilitates trade by releasing the blocked funds for the purpose of working capital, expansion and modernisation of existing business. At the same time, a robust system for identifying unlawful / incorrect refund claims to arrest revenue leakage and undue enrichment is also an inevitable part of the refund mechanism. To achieve the same, the claim and sanctioning procedure under GST was envisaged to be completely online. Various forms and statements required for claiming refunds were standardised. However, due to non-availability of refund module on the common portal, the Commercial

² Tax structure wherein rates of tax on input being higher than the rates of tax on output.

Taxes Department in its Circulars³ allowed manual filing and processing of refunds.

Organisational Structure

In Tamil Nadu, State Goods and Services Tax (SGST) is administered by Commercial Taxes Department (CTD) in respect of dealers allotted to State. The Commissioner of State Tax (Commissioner) is the head of CTD. He is assisted by Additional Commissioners and Joint Commissioners. There are three refund circles and 334 assessment circles including four Large Taxpayers Units (LTUs). The Deputy Commissioners, Assistant Commissioners, State Tax Officers, Deputy State Tax Officers are the Assessing Authorities (AAs) who are entrusted with assessment and collection of taxes. The monitoring and control at the Government level is done by the Secretary, Commercial Taxes and Registration Department.

Audit Objective and Criteria

The audit was performed to ascertain and derive an assurance that

- adequate system has been established in the department for correct and efficient processing of refund claims;
- the extant provisions relating to processing of refund claims are followed by the tax authorities; and
- efficient internal control mechanism existed for expedient processing of refund claims while safeguarding revenue.

The audit objectives were benchmarked against the following criteria:

- Tamil Nadu Goods and Services Tax Act, 2017 (TNGST Act)
- Tamil Nadu Goods and Services Tax Rules, 2017 (TNGST Rules)
- Central Goods and Services Tax Act, 2017 (CGST Act)
- Central Goods and Services Tax Rules, 2017 (CGST Rules)
- Integrated Goods and Service Tax Act, 2017 (IGST Act)
- Integrated Goods and Services Tax Rules, 2017 (IGST Rules)
- Notifications and circulars issued up to 31 March 2019.

Audit Scope and Methodology

As per the MIS Reports furnished by the Department, 20,635 refund applications involving a total amount of refunds of ₹ 6,281.53 crore (including SGST, CGST and IGST) were processed during the period from 1 July 2017 to 31 March 2019. Out of this, 9,328 applications processed by 39⁴ out of 334

³ Circular Nos. 1 and 2/2018-TNGST-Refund dated 02 February 2018.

⁴ Adyar, Alwarpet, Amaindakarai, Avinashi, Ayyappanthangal, Chengalpattu, Chithode, Ganapathy, Guindy, Hosur North, Karur East, Karur North, Karur South, Karur West, Kongu Nagar, Lakshmi Nagar, LTU-II, Manali, Muthialpet, Nandanam, Oragadam, Palladam, Pallavaram, Peelamedu North, Podhanur, Ranipet Sipcot, Royapuram, Sholinganallur, Sriperumbudur, Thudiyalur, Tiruchengodu Rural, Tiruppur Bazaar, Tiruppur Central-I, Tiruppur Central-II, Tiruppur North, Tiruppur Rural, Tiruppur South, Tuticorin-III and Vepery.

assessment circles and all the three⁵ refund circles, selected based on stratified sampling, involving refunds of ₹ 5,682 crore, i.e. 90 per cent of total refund amount, were covered in audit. The office of the Commissioner of State Taxes and other assessment circles were also visited for collection of materials.

Acknowledgement

An entry meeting was held with the CTD on 6 August 2019 in which audit objectives, criteria, scope and methodology were explained. Audit had requested for data dump. However, the Department shared only the details of refund applications filed by the dealers and the details such as returns filed by the dealers who claimed refunds were not shared by the department. Therefore, observations were based only on the limited audit carried out in the field. The department expressed its inability to hold Exit Conference due to COVID-19 situation. However, the Government furnished replies in June and September 2020, which have duly been incorporated in the report. During the audit, various compliance issues involving ₹ 966.04 crore were raised and based on these audit observations, the Department already collected ₹ 34.97 crore till date.

Audit Findings

The audit observations discussed in the subsequent paragraphs are observed from the test check of records in the selected offices. The observations are of a nature that may reflect similar deficiencies / under assessments in other offices, not test checked by Audit. The Department may, therefore, carry out checks in these offices to ensure that such irregularities and deficiencies, if any, stand rectified.

2.4.2 Deficiencies in system of processing of refunds

2.4.2.1 Circular issued not in tune with the provisions of the Act

According to Sections 41 and 42 of the TNGST Act, (i) accepted / confirmed ITC claims, arrived at after matching with the corresponding outward supplies alone should be included in the calculation of provisional or final refund amount and (ii) unmatched discrepant / excess claims of ITC are disallowed through raising of output tax liability in respect of the recipient of the supply and the balance of electronic credit ledger of the refund claimant would be reduced to the extent of the above output tax liability. The Central Board of Indirect Taxes and Customs (CBIC), however, instructed (Circular⁶ in September 2018) that while processing refund applications (i) the AAs may call for hard copies of invoices for processing of refund claims in cases where the GSTR-2A⁷ of the claimant did not contain the details of all invoices

⁵ Karur Special Circle, Tiruppur Special Circle-I and Tiruppur Special Circle-II.

⁶ Circular No 59/33/2018 dated 4 September 2018 of Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance.

⁷ GSTR 2A is an auto-populated form created when the goods or service provider files GSTR 1. Through GSTR 1, the tax payer provides the details of invoices and the buyer gets an intimation of the same in the form of GSTR 2A. This is a read-only document which has Accept/Decline option against each of the invoice details for ratification.

relating to the ITC availed, because the supplier's return in GSTR-1 was delayed or not filed, and (ii) the claimant is to submit details of invoices on the basis of which ITC had been availed along with declaration on its eligibility.

As per provisions of the Act *ibid*, claims of refund shall be restricted only to the amount of ITC reflected in Form GSTR 2A. Therefore, the CBIC instructions issued to process the claims of refund based on physical invoices beyond the information reflected in Form GSTR 2A is not in tune with the mandate of the Act.

After Audit pointed this out in April 2020, the Government replied (June 2020) that the GST Council (GSTC) has taken decision to issue refund based on GSTR-2A and details of invoices in the context of providing relief to the refund claimants consequent to implementation of GST and based on the above approval by the GSTC, the circular was issued. The Government further replied that the issue would be referred to the GSTC Secretariat.

2.4.2.2 Absence of provisions to restrict the refund claim proportionate to part-receipts for exports

Rule 89(4) of TNGST Rules provides a formula⁸ for granting refund of ITC in the case of zero-rated⁹ supply of services. Rule 89(4)(D) defines the turnover of zero rated supply of services as the aggregate of payments and advances received. Rule 89(4)(E) defines the adjusted total turnover as the aggregate of payments and advances received for the value of the turnover of zero-rated supply of services determined as per Rule 89(4)(D) and non- zero-rated supply of services. Therefore, in cases of exporters dealing with zero-rated supply of services alone, the numerator and the denominator in the formula cited are one and the same. Thus, effectively in cases of zero-rated supply of services, the refund allowable is the net ITC claimed by the dealer. Since the 'turnover' factor has no effect in the formula, an exporter of services can claim the entire ITC at credit as refund even if only a part of the value of exports is realised as foreign remittance.

After Audit flagged this issue (April 2020), the Government replied (June 2020) that the issue would be brought to the notice of the GSTC Secretariat and the formula would be corrected.

2.4.2.3 Absence of provision to furnish FOB value in Form GSTR-1

Through a Circular¹⁰ issued in March 2018, the Commissioner clarified that in cases of discrepancy between the values of GST invoice and shipping bill or bill of export, the lower of the two values shall be sanctioned as refund.

In this connection, it is pointed out that the Table-6A (Exports) of FORM GSTR-1 provides for furnishing of details of Invoice Number, Invoice value and Invoice amount, shipping bill number and shipping bill date. However, it

⁸ Refund Amount = $\frac{\text{(Turnover of zero rated supply of services)} \times \text{Net ITC}}{\text{Adjusted Total Turnover}}$

⁹ Supply of goods or services for the purpose of export or supply to SEZ.

¹⁰ Circular No.4/2018-TNGST-Refund dated 27 March 2018.

does not provide for furnishing of shipping value (FOB) in GSTR-1 under Table-6A. If a provision to furnish FOB value in GSTR-1 is made, it would facilitate speedy processing of refunds as it becomes easier for the AAs to verify the shipping value to ascertain the export turnover in compliance with the above said circular. This would also facilitate issue of GST refunds on account of export of goods with payment of tax by the Customs authorities, as the FOB value as per returns can be matched with shipping bill value in Indian Customs Electronic Data Interchange System portal. The implications of lack of FOB details have been brought out in paragraph 2.4.3.3.

After Audit pointed this out in April 2020, Government replied (June 2020) that the issue would be taken up with the GSTC for amendment of Table 6A in GSTR-1.

2.4.2.4 Absence of mechanism to verify ITC availed on imports

According to Section 42(2), 42(5), 42(6) of TNGST Act, the ITC claims of the taxable person shall be matched with the corresponding outward supply. The claims of ITC which were found to be discrepant / excess would be added as output tax liability. Further, as per section 54(6) of TNGST Act, provisionally accepted ITC shall not be included in the calculation of provisional refund value. From the above, it is clear that only accepted / confirmed ITC claims, arrived after matching with the corresponding outward supplies, should be included in the calculation of provisional or final refund amount.

During the audit of processing of GST refund applications in 42 circles, mismatch between ITC as per GSTR-2A and ITC as per GSTR-3B was noticed in Oragadam, LTU-II and Manali assessment circles in respect of three dealers. Although the mismatch is due to IGST paid on imports which will not reflect in GSTR-2A, the assessing officer did not have a mechanism to verify the differences, since no details were obtained from the Customs Department before processing the applications.

After Audit pointed this out in April 2020, Government replied (June 2020) that the GSTC has already taken note of the need to establish a mechanism for verification of IGST paid on imports while processing refunds and the matter would be pursued further with the GSTC.

2.4.2.5 Non-availability of MIS reports to Assessing Authorities

According to Section 16(2) of TNGST Act, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless (a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other taxpaying documents as may be prescribed; (b) he has received the goods or services or both; (c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of ITC admissible in respect of the said supply; and (d) he has furnished the return under Section 39. Refund denotes repayment of the taxes already credited to the Government Account. Hence, ensuring that the tax has been credited to the Government Account before issuing refund is an essential verification to be done by the assessing officers while processing refund.

Audit scrutiny of the Management Information System (MIS) reports available to the AAs revealed that the MIS reports relating to claim of ITC from (i) cancelled dealers, (ii) Return not filers and (iii) NIL return filers were not available.

Test check (May 2020) of audit of the returns filed by the suppliers of refund claimants indicated the following deficiencies:

- In respect of 24 dealers assessed in 22¹¹ circles, there was mismatch between tax due as per GSTR-1 and tax paid as per GSTR-3B for the respective tax periods. Out of this, nine dealers did not pay tax even to the extent of ITC availed by the refund claimants. The department replied that for one case in Gandhinagar circle, an amount of ₹ 15.13 lakh along with an interest of ₹ 4.80 lakh was since collected.
- In Kancheepuram and Mettur assessment circles, in case of two dealers who were not paying taxes and registrations were cancelled, it was noticed that refund claimants had availed ITC to the tune of ₹ 15.76 lakh.
- In respect of one dealer assessed in Gudiyatham West assessment circle, supplies were stated to be made to the refund claimants in GSTR-1 but GSTR-3B was not filed and tax amounting to ₹ 7.78 lakh was not paid.

After Audit pointed this out (April and May 2020), the Government replied (June 2020) that MIS reports relating to cancelled dealers, non-filers of returns and NIL return filers would be made available to the concerned officers to enable them to take action.

2.4.2.6 Non-availability of Import and Export details

In order to verify the correctness of refund claims of the dealers, the details of imports and exports are essential. When audit called for these details, Business Intelligence Unit¹² replied that the details of imports were received from Customs Department for the months of July and August 2017 only, the details of exports were not called for and the details of GSTIN, IGST and Cess paid details were not received. Audit obtained the details of IGST refunds on account of zero rated supply with payment of Integrated Tax, issued by Customs Department during the period from 1 July 2017 to 31 March 2019 through six ports. Test check of these details with the returns filed by the dealers and refund claimed on account of zero rated supply without payment of tax from the assessment circles revealed the following:

- As per the Notifications¹³ issued by the Government of India as a

¹¹ Anupparpalayam, Gandhinagar, Kelambakkam, Koyambedu, LTU-I, LTU-III, Madhavaram, Mettupalayam Road, PN Palayam, Panruti Rural, Porur, Ranipet Sipcot, Rasipuram, Sattur, Selaiyur, Sriperumbudur, Tirupattur, Tirumazhisai, Tiruppur Central-I, Velachery, Vellakovil and Vellore South.

¹² Business Intelligence Unit was established in CTD in December 2012 to improve revenue collection, check evasion of tax and to carry out analysis of various data gathered internally and externally, on commodities, dealers, exports and imports.

¹³ Notifications No. 12020/03/2016-IT dated 12 August 2016 and 31 July 2017 & Notification No.12015/47/2016-IT dated 3 January 2017.

transition measure, the exporter may claim Rebate of State Levies (ROSL) under export of garments and made-ups scheme at the notified rates¹⁴ provided that the exporter gives an undertaking that he has not claimed or shall not claim credit / rebate / refund reimbursement of these specific State Levies and SGST and / or IGST under any other mechanism. According to third proviso to Section 54(3) of the CGST Act, no refund of ITC shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies. Two dealers assessed in Kovilpatti and Jaihindpuram assessment circles who availed Rebate of State Levies on 145 shipping bills during the period from July to September 2017 had claimed incorrect ITC amounting to ₹ 1.08 core. Another dealer assessed in Villivakkam assessment circle had availed duty drawback on three shipping bills and also claimed ITC amounting to ₹ 2.11 lakh.

- As per Section 16(3)(b) of the IGST Act, a registered person making zero rated supply shall be eligible to claim refund of IGST paid on such supplies. Test check of returns filed by the dealers, who had obtained IGST refunds from Customs Department, revealed that in respect of 14 dealers assessed in 13¹⁵ circles, there was mismatch between tax due as per GSTR-1 and tax paid as per GSTR-3B.
- Two dealers who were granted IGST refunds on four shipping bills did not pay tax and did not submit the bills. In another case, a dealer paid lesser tax but claimed a higher amount of refund.
- As per Rule 89(4)(C) of the TNGST Rules, 2017 "Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking. However, audit noticed that three dealers in three¹⁶ assessment circles, obtained refund from Customs Department with payment of tax, had claimed refund from assessment circles without excluding the turnover for which refund was claimed from the Customs Department. This resulted in incorrect issue of refund to the tune of ₹ 7.86 lakh. After Audit pointed this out (March 2020), it was replied (June 2020) that a sum of ₹ 4.17 lakh was collected in one case.
- A dealer in Tuticorin-I assessment circle availed ITC of ₹ 54.22 crore towards IGST paid on import of services in August 2018. Though the payment for this IGST was made before filing return for August 2018 the discharge of liability by way of debit entry from Electronic cash ledger was made only in October 2018.

After Audit pointed this out in April 2020, Government replied (June 2020) that no fresh instructions regarding obtaining of data from Customs

¹⁴ Notifications No. 12020/03/2016-IT dated 13 August 2016 and 04 November 2016 & Notification No.12015/47/2016-IT dated 15 March 2017

¹⁵ Ambattur Industrial Estate, Avanashi Road, Kovilpatti, Kuniyamuthur, LTU-II, LTU-III, LTU-IV, Peelamedu North, Podhanur, Ranipet Sipcot, Sriperumbudur, Thudiyalur and Tiruppur Lakshmi Nagar.

¹⁶ Podhanur, RS Puram and Tuticorin-III.

Department was issued during GST regime. As the matter involves policy issue and is an All India issue, this would be taken up with the GSTC.

2.4.2.7 Non-creation of Consumer Welfare Fund

As per Section 57 of TNGST Act, the Government shall constitute a Consumer Welfare Fund, and credit the same with amounts prescribed. As per Section 58, all sums credited to the Fund shall be utilised by the Government for the welfare of the consumers. Rule 97 of TNGST Rules envisages constitution of a committee in this regard, composition and powers thereof and also method of utilisation of money from the fund. Audit noticed that the Government did not establish Consumer Welfare Fund as prescribed in the Statute.

After Audit pointed this out in April 2020, Government replied (June 2020) that the proposal to constitute a Committee is under consideration.

2.4.3 Discrepancies in processing of refunds

2.4.3.1 Delay in issue of acknowledgement, deficiency memo, provisional and final refunds

Audit analysed 6,287 out of 9,328 refund applications from Refund register and found delays in various stages of processing of refund applications as detailed in the **Annexure 2**. As per the Rules 90 (2) and 90 (3), acknowledgement and deficiency memos are to be issued within 15 days of filing of refund application. The final order of refund should be made within 60 days as mentioned in Section 54 (7) of the TNGST Act. Audit identified delays ranging from one day to 490 days in various processes of issue of refunds. It was also seen that in 789 cases, the Department had not issued final orders although the 60-day time limit prescribed in Section 54(7) of the TNGST Act had elapsed.

After Audit pointed this out in April 2020, Government replied (June 2020) that the delays were due to manual processing and issuance of refund order. With the development of online refund module (September 2019) which has the necessary MIS for review, delays have been substantially reduced. However, replies to individual cases would be furnished to Audit separately. It is pertinent to point out that delay in processing of refund would result in payment of interest at six *per cent* to the dealers, which is avoidable.

2.4.3.2 Incorrect availing of Input Tax Credit and refund on account of subsidy

As per Section 17(2) of TNGST Act, “Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the IGST Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.” As per Section 15(2)(e) of TNGST Act, the value of supply shall include subsidies directly linked to the price excluding subsidies provided by the Central and State Governments.

Fertilizer companies received subsidy from the Central Government as compensation for selling their products at a price fixed by the Central Government. Since as per Section 17(2), ITC is claimable only on taxable supplies and as per Section 15(2)(e) subsidy received from Central Government is not part of value of supply, the dealers are not entitled to ITC which is attributable to the subsidy accrued/received. Audit scrutiny revealed that two dealers assessed in Tuticorin-III and Manali assessment circles, had availed ITC for the subsidy received by them from the Central Government and claimed refund of ₹ 425.22 crore. The claim in both cases was allowed by the AAs that resulted in incorrect availing of ITC of ₹ 371.44 crore and excess refund of ₹ 298.02 crore.

After Audit pointed this out in April 2020, the Government replied (June 2020) that the supplies made by the dealers are entirely taxable with no component of exempt supplies and therefore Section 17(2) does not apply in these cases. It was also stated that since Section 15(2)(e) says that the value of such supply does not include the fertiliser subsidy, the MRP does not include fertiliser subsidy and the value of supply less taxable portion becomes MRP. It is contended that value of outward supply has no bearing on the claim of ITC and therefore provisions on restriction of ITC, which is governed by Chapter V, will not apply here.

The reply requires reconsideration due to the following:

Section 17(2) provides that when the inward goods or services or both used partly for effecting taxable supplies and partly for effecting exempt supplies, ITC shall be restricted to the said taxable supplies only. Further, when Government¹⁷ (June 2017) notified concessional GST rates for certain services, it was clearly specified that ITC shall not be available for such supplies. Explanation 4(iv)(b) of the above notification clarified that credit of input tax charged on goods or services used partly for supplying such service and partly for effecting other supplies eligible for input tax credits, is reversed as if supply of such service is an exempt supply and attracts provisions of sub-section (2) of Section 17 of TNGST Act and rules made thereunder. However, while specifying that the value of subsidy received from Government has to be excluded from value of supply under section 15(2)(e), the Act does not provide any explicit provision with regard to manner of availing of ITC when a part of value of outward supply is received through subsidy and not subjected to tax. Hence, it is imperative from the above that the broader principle of claim of ITC is restricted to the turnover on which tax is paid and this was absent in the case of subsidy. Absence of such a provision resulted in availing of full ITC on the inward supplies without taking into account the ITC attributable to the value of subsidy received and consequent excess refund. The audit observation, therefore, is reiterated.

2.4.3.3 Incorrect computation of refund in the case of zero-rated supply of goods/services

Rule 89(4) of TNGST Rules provides that in the case of zero-rated supply of goods or services or both without payment of tax under bond or letter of

¹⁷ G.O.Ms.No.72 dated 29 June 2017 of Commercial Taxes and Registration (B1) Department, Tamil Nadu.

undertaking in accordance with the provisions of sub-section (3) of section 16 of the IGST Act, refund of ITC shall be granted as per the formula¹⁸ prescribed. The Commissioner of Commercial Tax (CCT) had clarified¹⁹ that where there was a discrepancy between the values of GST invoice and shipping bill or bill of export the lower of the two values should be sanctioned as refund. Audit scrutiny of the refund claims revealed discrepancies as mentioned below:

- A dealer is entitled to take credit of input tax paid on purchases based on GSTR-2A which is auto populated from the GSTR-1 returns filed by the suppliers. Audit noticed in 20²⁰ assessment circles that ITC as per GSTR-2A was less than the ITC claimed in GSTR-3B by 81 dealers in 195 cases. The difference in Net ITC worked out to ₹ 37.19 crore. The Government replied (September 2020) that all invoices were physically verified and ITC had to be worked out on the basis of GSTR 3B. The reply is not acceptable since payment of tax by suppliers was not verified during issue of refund and, according to the provisions of Act, the claim of ITC in GSTR 3B shall be matched with GSTR 2A and refund shall be restricted to the amount available in GSTR 2A.
- 43 dealers in 14²¹ circles in respect of 187 cases, adopted incorrect turnover of zero rated supply of goods or services or both to the extent of ₹ 54.12 crore. The Government replied (September 2020) that in one case ₹ 0.07 lakh was collected. In 43 cases, it was contended that Audit has determined zero-rated turnover based on the FOB value but the adjusted turnover was determined based on invoice value. If FOB value is adopted at both points, then there will be no excess refund. The reply is not acceptable since adoption of FOB value for adjusted turnover is not prescribed in the said Circular.
- 19 dealers in 10²² assessment circles in respect of 49 cases, adopted incorrect adjusted total turnover value in their refund applications. The incorrect adjusted total turnover worked out to ₹ 315.62 crore. In 13 cases, the Government replied (September 2020) that adjusted turnover was also to be reduced. The reply, however, was general and not specific to the cases pointed out. In one case, it was stated that there was typographical error. However, Audit verified that there was no such error. In one more case, the Government replied that the dealer had actually claimed refund on a reduced adjusted turnover. The reply

¹⁸ Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover. "Net ITC" means input tax credit availed on inputs and input services during the relevant period.

¹⁹ Circular No.4/2018-TNGST-Refund dated 27 March 2018.

²⁰ Adyar, Alwarpet, Avinashi, Ayyappanthangal, Chengalpattuu, Guindy, Karur Special Circle, Muthialpet, Nandanam, Oragadam, Pallavaram, Peelamedu North, Podhanur, Ranipet Sipcot, Sriperumbudur, Thiruchengodu Rural, Thudiyalur, Tiruppur Special Circle-I, Tiruppur Special Circle-II and Tuticorin-III.

²¹ Adyar, Avinashi, Ayyappanthangal, Chengalpattu, Karur Special Circle, Muthialpet, Peelamedu North, Podhanur, Royapuram, Sriperumpudur, Thudiyalur, Tiruppur Special Circle-I, Tiruppur Special Circle-II and Vepery.

²² Alwarpet, Adyar, Karur Special Circle, Nandanam, Pallavaram, Podhanur, Ranipet Sipcot, Thudiyalur, Tiruppur Special Circle-II and Vepery.

requires reconsideration since reduction of adjusted turnover would result in higher refund.

The excess refund issued on account of the above discrepancies worked out to ₹ 32.36 crore in 22²³ assessment circles in respect of 367 cases pertaining to 106 dealers.

2.4.3.4 Incorrect computation of Refund on account of inverted duty structure

Rule 89(5) of TNGST Rules, provides that in the case of refund on account of inverted duty structure²⁴, refund of ITC shall be granted as per the formula²⁵ prescribed. Audit scrutiny of the refund claims revealed discrepancies as mentioned below:

- A dealer is entitled to take credit of input tax paid on purchases based on GSTR-2A which is auto populated from the GSTR-1 returns filed by the suppliers. Audit noticed in four²⁶ assessment circles that ITC as per GSTR-2A was less than the ITC claimed by the dealers in GSTR-3B in respect of eight cases pertaining to six dealers. However, the dealers had adopted higher values under Net ITC than what was available in GSTR-2A. The difference in Net ITC worked out to ₹ 10.30 crore. In six cases, the Government replied (September 2020) that refund was granted as per instructions in circular No 59/33/2018 dated 4 September 2018 of Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance. It was also stated that in GSTR 2A import details would not get reflected and therefore there were no excess refunds. The reply is not acceptable since the circular itself was against the provisions of the Act which mandate matching of invoices. The Government also did not furnish details of imports that did not get reflected in GSTR 2A. In two cases, the specific reply of the Government was not given.
- Audit scrutiny of the refund applications processed by the AAs in six²⁷ assessment circles revealed that in respect of 15 cases pertaining to eight dealers, the adjusted total turnover value was wrongly adopted as verified from returns. The difference in adjusted total turnover worked out to ₹ 31.84 crore.

²³ Adyar, Alwarpet, Avinashi, Ayyapanthangal, Chengalpattu, Guindy, Karur Special Circle, Muthialpet, Nandanam, Oragadam, Pallavaram, Peelamedu North, Podhanur, Ranipet Sipcot, Royapuram, Sriperumbudur, Thudiyalur, Tiruchengodu Rural, Tiruppur special Circle-I, Tiruppur Special Circle-II, Tuticorin-III and Vepery.

²⁴ Tax structure wherein rates of tax on input being higher than the rates of tax on output.

²⁵ Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC ÷ Adjusted Total Turnover} - tax payable on such inverted rated supply of goods and services.

²⁶ Manali, Palladam, Thudiyalur and Tiruppur North.

²⁷ Palladam, Royapuram, Thudiyalur, Tiruchengodu Rural, Tiruppur Bazaar and Tiruppur North.

The excess refund issued on account of the above issues viz., incorrect adoption of Net ITC and adjusted total turnover worked out to ₹ 11 crore in seven²⁸ assessment circles in respect of 21 cases pertaining to 11 dealers.

2.4.3.5 Incorrect availing of ITC and Refund by Rebate of State Levies and Duty Drawback beneficiaries

As per the Notifications²⁹ issued by Government of India as a transition measure, the exporter may claim Rebate of State Levies (ROSL) under export of garments and made-ups scheme at the notified rates³⁰ provided that the exporter gives an undertaking that he has not claimed or shall not claim credit / rebate / refund reimbursement of these specific State Levies and SGST and / or IGST under any other mechanism. According to third proviso to Section 54(3) of the CGST Act, no refund of ITC shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

- It was noticed that 26 dealers in eight³¹ assessment circles who had availed ROSL and duty drawback benefits during the period from July to September 2017 had also claimed refund for the same period. The incorrect grant of refund worked out to ₹ 4.11 crore. This includes provisional refund of ₹ 7.50 lakh issued to a dealer assessed in Muthialpet assessment circle whose registration was cancelled subsequently. The Government replied (September 2020) that a sum of ₹ 57.99 lakh with an interest of ₹ 0.40 lakh was collected in respect of two dealers. Reply in respect of the remaining cases are awaited.
- It was noticed that in four³² assessment circles, 384 dealers who had availed ROSL and Duty drawback benefits during the period from July to September 2017, had also availed ITC in respect of their inward supplies. The total ITC availed incorrectly by these dealers worked out to ₹ 98.26 crore. After Audit pointed this out, AAs of Tiruppur Special Circle-I and Tiruppur Special Circle-II had replied that ITC amounting to ₹ 33.26 crore was since reversed in respect of 37 dealers. Government replied (September 2020) that in 2 cases an amount of ₹ 2.67 lakh was collected/adjusted. Government also stated that in one case dealer did not avail ROSL but audit verified and confirmed that the dealer had availed ROSL. Reply in respect of the remaining cases are awaited.

²⁸ Manali, Palladam, Royapuram, Thudiyalur, Tiruchengodu Rural, Tiruppur Bazaar and Tiruppur North.

²⁹ Notifications No. 12020/03/2016-IT dated 12 August 2016 and 31 July 2017 & Notification No.12015/47/2016-IT dated 3 January 2017.

³⁰ Notifications No. 12020/03/2016-IT dated 13 August 2016 and 04 November 2016 & Notification No.12015/47/2016-IT dated 15 March 2017.

³¹ Avinashi, Chengalpattu, Karur Special Circle, Muthialpet, Pallavaram, Peelamedu North, Tiruppur Special Circle-II and Vepery.

³² Karur Special Circle, Tiruppur Special Circle-I, Tiruppur Special Circle-II and Vepery.

2.4.3.6 Incorrect / Excess grant of refund

- According to Rule 91(3) and 92(4) of TNGST Rules, payment advice in RFD-05 for the amount sanctioned shall be issued by the proper officer. The payment advices are sent to PAO/Treasury for credit of refund to the dealers. Audit scrutiny of refunds credited to the dealers available in the PAO/Treasury revealed that double payments amounting to ₹ 4.00 crore were made to the dealers in respect of 27 refund claims in 18³³ assessment circles. Out of this, in nine cases in six³⁴ assessment circles, the dealers themselves had remitted back the double payment amount of ₹ 3.58 crore and in respect four cases in four³⁵ assessment circles, the department had detected and recovered the excess payments amounting to ₹ 0.17 crore. When the double refund in the remaining 14 cases amounting to ₹ 0.25 crore was pointed out, AAs of 10³⁶ assessment circles replied that a sum of ₹ 0.23 crore along with interest of ₹ 2.53 lakh had since been recovered in 12 cases. Reply in respect of the remaining two cases is awaited.
- A dealer assessed in Adyar assessment circle had claimed refund of ₹ 47.84 lakh on account of export of services made during pre-GST regime but proceeds realised in July 2017. A provisional refund of ₹ 43.06 lakh was issued in August 2018. Since the services rendered prior to the implementation of GST are not export of services as per TNGST Act, they are not eligible for claim of refund and the provisional refund granted was not in order as per Section 142(4) of the TNGST Act. This had resulted in incorrect grant of refund to the tune of ₹ 43.06 lakh. The Government replied (September 2020) that notice was issued and further reply would be furnished.
- A dealer assessed in Tuticorin-III assessment circle had claimed refund of ₹ 21.57 crore on account of inverted duty structure as per Section 54(3)(ii) of TNGST Act read with Rule 89(5) of TNGST Rules. The AA issued deficiency memo pointing out various deficiencies. The dealer had reduced ineligible ITC to the tune of ₹ 18.38 lakh and capital goods ITC of ₹ 11.09 lakh from the refund claim and revised the refund to ₹ 21.27 crore. However, the AA refunded the entire amount of ₹ 21.57 crore without considering the revised refund claim. This had resulted in excess grant of refund of ₹ 29.47 lakh. After Audit pointed this out (September 2019), the AA replied (January 2020) that the department had collected excess refund of ₹ 29.47 lakh from the dealer in January 2020.

³³ Adyar, Alwarpet, Amaindakarai, Ambattur, Chithode, Karur Special Circle, Mylapore, Nandanam, Nolambur, Perambur, Saidapet, Saligramam, Sankarankoil, Sriperumbudur, T.Nagar, Tiruppur Special Circle-II, Tiruvanmiyur and Tondiarpet.

³⁴ Adyar, Alwarpet, Nandanam, Tiruppur Special Circle-II, Tiruvanmiyur and Tondiarpet.

³⁵ Amaindakarai, Ambattur, Mylapore and Saidapet.

³⁶ Adyar, Chithode, Karur Special Circle, Nolambur, Perambur, Sankarankoil, Sriperumpudur, T.Nagar, Thirvanmiyur and Tiruppur Special Circle-II.

- According to Rule 89(4) of TNGST Rules, ‘net ITC’ means ITC availed on inputs. As per Section 2(59) of the TNGST Act, ‘input’ means any goods other than capital goods. Therefore, refunds are not available for ITC availed on capital goods. Audit noticed that four dealers assessed in three³⁷ assessment circles had incorrectly included ITC availed on capital goods amounting to ₹ 97.03 lakh while claiming refund in respect of 12 cases. This has resulted in excess grant of refund to the tune of ₹ 31.33 lakh. After Audit pointed this out, the department replied that it had collected amount of ₹ 31.57 lakh in respect of all the 12 cases (July to September 2019).
- Audit noticed that, a dealer assessed in Hosur North assessment circle was granted a refund of ₹ 23.62 lakh for the month of July 2017. However, balance in the electronic credit ledger of the claimant at the end of the tax period was ₹ 17.34 lakh only. This has resulted in excess grant of refund of ₹ 6.28 lakh. The Government replied (September 2020) that notice was issued and further reply would be furnished.

2.4.3.7 Non-reversal of ITC

Government of Tamil Nadu issued orders³⁸ in June 2017, (i) permitting the Canteen Stores Department (CSD) a refund of 50 *per cent* of the applicable State Taxes paid by it, on all inward supplies of goods received by it, for the purposes of subsequent supply of such goods to the Unit Run Canteens and to authorised customers of the CSD and (ii) exempting the state tax leviable on the supply of goods by the CSD to the Unit Run Canteens and authorised customers.

During verification it was found that CSD, assessed in Chrompet assessment circle, was granted a refund of ₹ 73.94 crore (IGST ₹ 5.95 crore, CGST ₹ 33.96 crore and SGST ₹ 34.03 crore) being 50 *per cent* of ₹ 147.88 crore paid on inward supplies from July 2017 to September 2018. However, it was noticed that CSD had not adjusted and reduced the ITC in the electronic credit ledger in proportion to refund and carried over the ITC to subsequent periods. This resulted in reflection of excess credit of ITC to the tune of ₹ 147.88 crore in the electronic credit ledger, which is to be reversed.

After Audit pointed this out in April 2020, Government replied (June 2020) that the tax payer does not have an option of reducing 50 *per cent* from IGST, CGST, SGST separately but can only reduce the IGST amount completely first and then proceed to CGST and SGST. Due to this, the tax payer had not reduced the 50 *per cent* of IGST, CGST and SGST remaining in their electronic credit ledger. It was further replied that the assessing officer had issued notice to CSD to reverse 50 *per cent* ITC as there is a provision for reversal under the head “OTHERS”.

³⁷ Chithode, Tiruppur Central-I and Tiruppur Special Circle-I.

³⁸ G.O.Ms.No.67 and 68 dated 29 June 2017 of the Commercial Taxes and Registration Department, Tamil Nadu, Chennai

2.4.3.8 Non-payment of Interest on belated issue of refunds

As per Section 56 of TNGST Act, if any tax ordered to be refunded under sub-section (5) of Section 54 to any applicant is not refunded within sixty days from the date of receipt of application under sub-section (1) of that Section, interest at such rate not exceeding six per cent as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax. Government notified³⁹ interest rate as six *per cent*.

Audit scrutiny of the refund applications processed in 36 assessment circles revealed that the AAs had issued final refund order after the expiry of 60 days from the date of application in respect of 1,006 cases. The delay ranged from one to 323 days. However, no interest was paid on these refunds which were issued belatedly. Ideally, while sanctioning refund, the system should calculate interest automatically for the delayed period. However, no such facility has been provided in the system.

After Audit pointed this out in April 2020, Government replied (June 2020) that at present, there is no inbuilt mechanism in the system to sanction interest automatically for belated issue of refunds and necessary backend applications would be developed at the earliest.

2.4.4 Internal Control Mechanism

2.4.4.1 Non-reconciliation of refunds with treasury

Under Value Added Tax (VAT) regime, Refund advices issued by the various officers were reconciled with the payments recorded in the treasury. This reconciliation was done on quarterly basis and monitored by the Deputy Commissioners. However, no such procedure was being followed in respect of GST Refunds by assessment circles.

After Audit pointed this out in April 2020, the Government replied (June 2020) that, there is no proper mechanism for reconciling the actual refunds ordered and the total deductions made in the settlement orders. This issue will be taken up with GSTC secretariat and GSTN for finding the solution.

2.4.4.2 Non-updation of TNGST Act and Rules in the Department website

Several notifications were issued by the Government of Tamil Nadu amending various provisions of the TNGST Act and Rules from time to time. The CGST Act and Rules are updated based on these notifications and a reference to these notifications is placed under the relevant portion of the Act. However, similar updation is not contemplated by the Government of Tamil Nadu. The

³⁹ G.O.(M.S) No. 61 dated 29 June 2017 of the Commercial Taxes and Registration Department, Tamil Nadu.

notifications are available only in the website but the same are not incorporated in the Acts and Rules for ready reference. It is suggested that the Act and Rules may be updated with relevant notifications and made available in the website as done by Central Government from time to time for use of common public.

After Audit pointed this out in April 2020, the Government replied (June 2020) that the preparation of updated annotated versions of Act and Rules is underway.

2.4.5 Conclusion

Due to continued delay in introducing the facility of matching the invoice amounts with returns available in GST system, instances of excess claims of refunds were noticed. Further, instructions issued to grant refunds by verification of physical invoices did not take into account the enormous risks involved in the process. There is no mechanism to watch receipts of payments for exports of services since entire ITC is allowable as per the formula in the Rules, even a part of the value of exports realised. Refunds were granted for turnovers that were not assessable under GST. Absence of MIS reports and processing of refunds without obtaining data from CBIC has resulted in refund of amounts of unpaid tax. The Department is yet to introduce reconciliation of refunds granted.

2.4.6 Recommendations

The Government may

- Utilise the provision relating to matching of invoices to grant refunds online and avoid granting of refunds based on physical checking of invoices.
- Consider to amend the rule provisions so that the ITC can be restricted to the actual amount realised in the case of exports of services.
- Consider amending Table 6A in GSTR-1 so that the FOB value as per returns can be matched with shipping bill value.
- Introduce provision for restriction on claim of ITC in respect of subsidy granted by State and Central Governments.
- Obtain information from Customs Department for all the dealers under the State purview and this data may be used in assessments and refunds.
- Provide the facility to generate MIS reports to all the assessing authorities and refunds may be granted only after verification of the MIS reports.
- Strengthen the internal control by undertaking periodical reconciliation.

2.5 Other Audit Observations

Audit scrutiny of assessment records at 150 out of 443 auditable offices (34 *per cent*) revealed the following deficiencies:

Value Added Tax

2.5.1 Incorrect allowance of compounded rate of tax

Section 3(2) of the TNVAT Act provides that in the case of goods specified in Part B or Part C of the First Schedule, the tax shall be payable by a dealer on every sale made by him within the State at the rate specified therein.

Section 3(4)(a) of the TNVAT Act read with Notification dated 1 January 2007 provides that every dealer who effects second and subsequent sales of goods purchased within the State and whose turnover relating to taxable goods for a year is less than ₹ 50 lakh, may at his option, pay tax at the compounded rate of 0.5 *per cent*. Section 3(4)(b) of the TNVAT Act provides that such dealer whose turnover has reached ₹ 50 lakh during the previous year shall not be entitled to exercise such option for subsequent years.

Scrutiny of records (April 2018 to March 2019) in 19⁴⁰ assessment circles revealed that 31 dealers who sold goods for ₹ 25.75 crore during 2012-13 to 2016-17 had paid tax at the compounded rate of 0.5 *per cent* on the sales turnover. However, further scrutiny of records revealed that the turnover of dealers during the previous year had exceeded ₹ 50 lakh. As the conditions governing payment of tax at compounded rate were not fulfilled, the dealers were required to pay tax of ₹ 1.23 crore at the scheduled rates applicable to the sale of goods. The dealers, however, had paid tax of ₹ 0.18 crore only. This resulted in short levy of tax of ₹ 1.05 crore. The Assessing Authorities (AAs), however, failed to ensure payment of tax at correct rates.

After Audit pointed this out (April 2018 to March 2019), the AA of Selaiyur assessment circle had revised the assessment of the dealer for the year 2015-16 and collected a sum of ₹ 1.25 lakh and the action taken to revise the assessment for the year 2016-17 is awaited. The AA of Pammal assessment circle had revised the assessment and collected a sum of ₹ 1.44 lakh for the year 2016-17 and the action taken to revise the assessment for the year 2015-16 is awaited. The AA of Tiruppur Central I assessment circle had revised the assessment for one dealer for the year 2014-15 and collected a sum of ₹ 2.26 lakh and the action taken to revise the assessment for the year 2013-14 is awaited. Further, AAs of 11⁴¹ assessment circles replied that

⁴⁰ Adayar, Chinthadripet, Ganapathy, K.K.Nagar, Manali, Mandaveli, Nanganallur, Pammal, Peddunaickenpet, Perambur, Podhanur, Pollachi West, Royapettah, Selaiyur, Sembium, Tiruppur Central-I, Tiruppur Central-II, Tiruppur South and Vadapalani.

⁴¹ Adayar, Ganapathy, Manali, Nanganallur, Peddunaickenpet, Perambur, Podhanur, Royapettah, Sembium, Tiruppur South and Vadapalani.

notices were issued to dealers and final reply would be furnished to Audit. Reply in respect of the remaining five assessment circles is awaited.

Recommendation: The Department may ensure that cases of composition are clearly eligible under the provisions of Sections 3(4)(a) and 3(4)(b) and suitable action may be taken to collect the deficit tax in case of ineligible claim.

2.5.2 Incorrect grant of exemption

As per entry 69 of Part C of the First Schedule to the TNVAT Act, goods, for which no rate is specified elsewhere in the Schedule, are taxable at the rate of 14.5⁴² *per cent* from 12 July 2011. The CCT had clarified in May 2007 that coir pith would be classified as falling under entry 69 of Part C of the First Schedule.

Scrutiny of records in Pollachi East assessment circle (December 2018) revealed that a dealer, claiming exemption on the sale of Coir Pith Block, had not paid tax on the sales turnover of ₹ 1.09 crore during the year 2015-16. In the absence of specific entry and as per the clarification issued by the CCT, the Coir Pith Block are to be classified under entry 69 of Part C of the First Schedule and the sales turnover was required to be taxed at 14.5 *per cent*. The incorrect grant of exemption resulted in non-levy of tax of ₹ 15.76 lakh.

After audit pointed this out, the AA replied that notice was issued to the dealer. Further reply is awaited.

Recommendation: The Department may ensure that the exemption claimed by the dealers is in accordance with Act / Rule provisions and instructions issued by the CCT.

2.5.3 Incorrect computation of taxable turnover

As per Section 5 of the TNVAT Act, a works contractor shall pay tax on his taxable turnover, relating to his business of transfer of property in goods involved in the execution of works contract, at such rates as specified in the First Schedule. As per Rule 8(5)(d) of the TNVAT Rules 2007, while arriving at the taxable turnover, the amount towards labour charges and other charges shall be deducted from the contract value. If such amount is not ascertainable, the amount shall be calculated at the rate specified in column (3) of the Table below the Rule 8(5)(d) of the TNVAT Rules 2007. As per section 6 of the TNVAT Act, the works contractors opting to pay tax at the compounded rate, shall pay tax at the rate of two *per cent* on civil works contracts and at the rate of five *per cent* on other works contracts of the total contract value of works contract executed.

- Audit scrutiny (October 2018 to February 2019) in four⁴³ assessment circles revealed that six works contractors involved in dyeing, printing and other works contract (Coach building) had paid tax for the taxable

⁴² Taxable rate 12.5 *per cent* upto 11 July 2011.

⁴³ Adyar, Mettupalayam, Tiruppur South and Velachery.

turnover after deducting the labour and other charges as per the rate specified in column 3 of the Table below the Rule 8(5)(d), even though the actual quantum of labour charges and other charges were available in their annual accounts. Deduction of actual labour charges would increase the turnover of the dealers to ₹ 157.12 crore as against ₹ 102.14 crore adopted. Thus claiming of excess deduction towards labour charges (₹ 54.98 crore) resulted in short payment of tax of ₹ 2.90 crore. After audit pointed this out (October 2018 to February 2019), the AAs of Mettupalayam and Velachery assessment circles had replied that notices were issued to the dealers. Specific reply in respect of other cases are awaited.

- Audit scrutiny in Koyembedu and Sholinganallur assessment circles (April and October 2018) revealed that three works contractors paid compounded rate of tax on a turnover of ₹ 46.78 crore instead of the turnover of ₹ 75.22 crore declared in Form WW. The short computation of turnover by ₹ 28.44 crore resulted in short payment of tax of ₹ 56.87 lakh by the contractors. After audit pointed this out (April and October 2018), the AA of Sholinganallur assessment circle replied that tax is payable only on the construction value. The reply of the department is not acceptable to audit as the circular issued by the CCT dated 14 November 2014 stated that the compounded rate of tax has to be paid on the total value of work contract without deductions. The AA of Koyembedu assessment circle replied that notice was issued to the dealer. Further reply is awaited.

Recommendation: The Department may ensure that the taxable turnover in the monthly returns is determined as per Rule 8(5)(d) and tax paid accordingly.

2.5.4 Non-levy of purchase tax

Section 12 of the TNVAT Act specifies the circumstances under which a dealer had to pay the purchase tax at the rate specified in the TNVAT Act. As per entry 68 of fourth schedule read with entry 110 of first schedule to the TNVAT Act and section 12 of the Act, if the pulses and grams are purchased without payment of tax and stock transferred to other states without payment of tax then purchase tax at the rate of five percent had to be levied on the purchase price involved.

During the scrutiny of records in Royapuram assessment circle (May 2018), audit noticed that two dealers, who purchased pulses and grams for a value of ₹ 17.78 crore without payment of tax, had effected inter-State stock transfer of these goods. Hence, the dealers were liable to pay purchase tax on these goods. The non-payment of tax works out to ₹ 88.91 lakh on the value of purchases.

After Audit pointed this out (May 2018) in audit, the AA replied that notice would be issued to the dealer and the facts would be intimated to Audit. Response is awaited.

Recommendation: The Department may ensure that purchase tax is paid by dealers as per Section 12 of the TNVAT Act.

2.5.5 Taxable turnover escaping assessment

According to Section 21 of the TNVAT Act 2006, every dealer, liable to pay tax shall file return, in the prescribed form along with proof of payment of tax. According to Section 27 of the Act, the AA may assess any turnover escaped, within a period of six years from the date of original assessment after making such enquiry, as it may consider necessary. Section 27(3) provides for penalty up to 150 *per cent* of tax due on the assessable turnover.

The CCT, had issued detailed instructions in January 2013, January 2014 and June 2015, on the procedures to be adopted for assessment of monthly returns. Analysis of CTD data revealed the following instances of leakage of revenue due to failure to adhere to the instructions of CCT:

- Seventy five dealers of 43⁴⁴ assessment circles, whose RC was cancelled between April 2007 to December 2015 by AAs, continued to carry on business even after such cancellation, as Annexure I of the monthly returns of purchasing dealers revealed claim of ITC in respect of purchases effected from these dealers. However, the AAs had failed to assess the turnover of ₹ 135.17 crore that had escaped assessment from levy of tax. The tax due on such sales worked out to ₹ 10.85 crore besides penalty of ₹ 16.28 crore. After audit pointed this out (from April 2018 to March 2019), the AAs of Palladam, Podhanur and Tiruppur (North) assessment circle had raised demand of ₹ 16.69 lakh and penalty of ₹ 24.03 lakh (Between November 2019 and January 2020) for three dealers for which collection particulars are awaited. The AA of Velandipalayam assessment circle had stated (March 2020) that the AA of the purchasing circle dealers were addressed (February 2020) for reversal of ITC along with interest. The AAs of 24⁴⁵

⁴⁴ Ambattur, Big Bazaar Street, Chrompet, Evening Bazaar, Ganapathy, Gandhipuram, J.J.Nagar, Korattur, Mandaveli, Moore Market, Muthialpet, Nanganallur, Nanjappa Road, NSC Bose Road, Oppanakara Street, P.N.Palayam, Palladam, Pallavaram, Peddunaickenpet, Peelamedu South, Perambur, Perur, Podhanur, Pollachi East, Ponneri, Purasavakkam, R.S.Puram East, Ram Nagar, Saibaba Colony, Sembium, Sholinganallur, Tambaram, Thirukazhukundram, Tirumudivakkam, Thudiyalur, Tiruppur Central-II, Tiruppur North, Tiruppur South, Udumalaipet South, Vadapalani, Velandipalayam, Villivakkam and Washermanpet.

⁴⁵ Ambattur, Chrompet, Evening Bazaar, Ganapathy, Korattur, Nanjappa Road, Oppanakara street, Palladam, Pallavaram, Peddunaickenpet, Peelamedu South, Podhanur, Pollachi East, Ram Nagar, R.S.Puram East, Saibaba colony, Sholinganallur, Thirukazhukundram, Tirumudivakam, Thudiyalur, Tiruppur South, Tiruppur North, Vadapalani and Villivakkam.

assessment circles replied that notices were issued to 34 dealers. Further action taken in the remaining cases are awaited.

- Forty seven dealers of 27⁴⁶ assessment circles who did not file returns relating to the period 2015-16, had however, effected sale of goods as the monthly returns of the purchasing dealers indicated claim of ITC in respect of purchase of goods effected from these dealers who failed to file returns with CTD. The sales turnover that was not reported by the dealers was ₹ 79.57 crore. The tax leviable on such sales turnover was ₹ 5.96 crore besides penalty of ₹ 8.94 crore. After audit pointed this out (April 2018 to March 2019), the AA of Madipakkam assessment circle had revised the assessment of three dealers (November 2018 and July 2019) and raised demand of tax of ₹ 30.81 lakh and penalty of ₹ 35.09 lakh of which tax of ₹ 7.42 lakh was collected in December 2018. In respect of one dealer transferred from Podhanur assessment circle, the AA of Kuniyamuthur assessment circle replied that ₹ 0.59 lakh was collected by way of tax and penalty in June 2019. The AAs of 17⁴⁷ assessment circles replied that notices were issued to 22 dealers. Reply in respect of the remaining cases are awaited.
- Thirteen dealers in 11⁴⁸ assessment circles who filed 'Nil' returns during the year 2015-16, had however, effected sale of goods. This was evident from the monthly returns of the purchasing dealers which indicated claim of ITC in respect of purchase of goods effected from these dealers, who had filed 'Nil' returns with CTD. The turnover that was not disclosed by the dealers was ₹ 19.36 crore and the tax leviable on such sales was ₹ 1.57 crore besides penalty of ₹ 2.36 crore. After audit pointed this out (April 2018 to March 2019), the AA Gandhipuram replied (August 2019) that the assessment of two dealers were completed and demand of ₹ 9.38 lakh was raised. The AAs of the remaining 10 assessment circles replied that notices were issued to the dealers.

Recommendation: The Department may utilise the CTD data to identify escapement of turnover in the case of cancelled dealers, Non-filers of monthly returns and 'Nil' return filers and make timely revision of assessments.

⁴⁶ Ayanavaram, Ayyapanthangal, Gummidipoondi, J.J.Nagar, Kodambakkam, Koyambedu, Madipakkam, Medavakkam, Mettupalayam Road, MMDA Colony, Muthialpet, NSC Bose Road, Perambur, Podhanur, Pollachi East, Pollachi West, Poonamallee, Ramapuram, Sembium, Sholinganallur, Thirukazhukundram, Tiruvottiyur, Tiruppur Central-II, Tiruvallur, Vadapalani, Velacherry and Villivakkam.

⁴⁷ Ayyapanthangal, Kodambakkam, Koyambedu, Medavakkam, Mettupalayam Road, MMDA Colony, Muthialpet, Podhanur, Pollachi West, Poonamallee, Sembium, Sholinganallur, Thirukazhukundram, Tiruvottiyur, Tiruvallur, Velacherry and Villivakkam.

⁴⁸ Alandur, Ambattur, Anna Nagar, Gandhipuram, K.K.Nagar, MMDA Colony, Pallavaram, Thudiyalur, Tiruvallur, Vadapalani and Villivakkam.

2.5.6 Irregularities in claim of Input Tax Credit

i) Section 19(1) of the TNVAT Act as amended with effect from 14 October 2015 stipulates that there shall be ITC of the amount of tax paid under the Act, by the registered dealer to the seller on his purchases of taxable goods specified in the First Schedule, provided that the registered dealer, who claims ITC, shall establish that the tax due on purchase of goods has actually been paid in the manner prescribed by the registered dealer who sold such goods and that the goods have actually been delivered. Sec 19(15) of TNVAT Act, stipulates that where a registered dealer has purchased any taxable goods from another dealer and has availed ITC in respect of said goods and if the registration certificate (RC) of the selling dealer is cancelled by the appropriate registering authority, such registered dealer who has availed by way of ITC, shall pay the amount availed on the date from which the order of cancellation of RC takes effect. In addition to the amount due, such dealer shall be liable to pay interest at the rate of two percent per month on the amount of tax so payable for the period commencing from the date of claim of ITC by the dealer to the date of its payment. As per Rule 7(7) of the TNVAT Rules, 2007, every registered dealer who deals exclusively in goods specified in the Fourth Schedule to the Act or exempted from the levy of tax by a notification under Section 30, shall file return for each year in electronic Form I-1 on or before the 20th day of May of the succeeding year showing the actual total turnover for the year.

Data analysis of claims of ITC revealed that the purchasing dealers had claimed ITC of ₹ 35.93 crore on the purchases made from the dealers whose RCs were cancelled, who had not filed returns, who had filed annual returns etc., as detailed below. As the tax on such claim of ITC was not paid by the selling dealers and not remitted to the exchequer, the claim of ITC of ₹ 35.93 crore had to be recovered.

- 95 dealers in 39⁴⁹ assessment circles had claimed incorrect ITC of ₹ 24.60 crore based on the purchases of ₹ 402.39 crore effected from April 2016 to March 2017, in respect of invoices raised by cancelled dealers. After audit pointed this out, AA of the Avinashi assessment circle had replied that the dealer had paid the tax for the purchases made. The reply of the department requires reconsideration in view of the amended provision⁵⁰ which mandate establishing of payment of tax on purchase of goods. The AA of Saibaba Colony assessment circle had stated that an amount of ₹ 2.41 lakh was collected in respect of one dealer. The

⁴⁹ Adayar, Amaindakarai, Ambattur, Ashok Nagar, Avinashi, Ayyappanthangal, Chepauk, Choolai, Chrompet, DLTU Coimbatore, Evening Bazaar, Harbour, Korattur, Koyambedu, LTU-II Chennai, LTU-III Chennai, LTU-IV Chennai, Muthialpet, Nandanam, Nungambakkam, Oragadam, Pallavaram, Periamet, Pollachi Rural, Pandy Bazaar, Poonamallee, Purasaiwakkam, Royapettah, Saibaba Colony, Saidapet, Sriperumbudur, Thirukazhukundran, Thiruvanmiyur, Tiruvottiyur, Tiruppur Central-I, Tiruppur Rural, Udumalaipet South, Velacherry and Washermenpet.

⁵⁰ Amended provision w.e.f. 14 October 2015.

AAs of 27⁵¹ assessment circles had replied that notices were issued to the dealers. Reply in respect of other cases are awaited.

- 49 dealers in 32⁵² assessment circles had claimed incorrect ITC of ₹ 7.02 crore based on the purchases of ₹ 106 crore effected from April 2016 to March 2017, in respect of invoices raised by dealers who had not filed returns. After audit pointed out this, the AA of the Tiruvottiyur assessment circle citing the Honourable High Court of Madras judgment wherein it was held that ITC availed by the petitioner could not have been proposed to be reversed or reversed on the grounds that the selling dealer had not filed returns or not paid taxes. The reply of the department requires reconsideration in view of the amended provision which mandate establishing of payment of tax on purchase of goods. The AA of Chrompet assessment circle had revised the assessment of the dealer (December 2018) and raised an additional demand of ₹ 11 lakh and the collection particulars thereof is awaited. The AAs of 18⁵³ assessment circles had replied that notices were issued to the dealers. Reply in respect of the remaining cases are awaited.
- 13 dealers in 6⁵⁴ assessment circles had claimed incorrect ITC of ₹ 2.38 crore based on the purchases of ₹ 45.90 crore effected from April 2016 to March 2017, in respect of invoices raised by dealers who had filed annual returns. After audit pointed this out, the AA of Ganapathy assessment circle had revised the assessment of the dealer and raised an additional demand of ₹ 3.15 lakh. The AAs of three⁵⁵ assessment circles replied that notices were issued to dealers. Reply in respect of the remaining cases are awaited.
- Scrutiny of records (January 2019) in the office of the Divisional Large Tax Payers Unit, Coimbatore revealed that a dealer had taken ITC credit of ₹ 1.93 crore during the period 2016-17 for the purchases stated to have been effected from Indian Overseas Bank, Chennai. Further scrutiny of details of sales effected by Indian Overseas Bank, Chennai indicated that no such sales was made to the dealer, resulted in incorrect claim of ITC of ₹ 1.93

⁵¹ Amaindakarai, Ambattur, Ashok Nagar, Ayyappanthangal, Choolai, DLTU Coimbatore, Evening Bazaar, Harbour, Koyambedu, LTU-II Chennai, LTU-III Chennai, Nandanam, Nungambakkam, Oragadam, Pallavaram, Periamet, Pollachi Rural, Pandy Bazaar, Poonamallee, Purasaiwakkam, Royapettah, Sriperumbudur, Thirukazhukundran, Thiruvanniyur, Tiruppur Central-I, Tiruppur Rural and Velacherry.

⁵² Amaindakarai, Avarampalayam, Avinashi, Ayyappanthangal, Big Bazaar Street, Chrompet, DLTU Coimbatore, Eakattuthangal, Esplanade, Harbour, Kanchipuram, Korattur, Koyambedu, LTU-III Chennai, LTU-IV Chennai, Muthialpet, Mylapore, Nungambakkam, Peelamedu North, Pandy Bazaar, Poonamallee, Porur, Royapettah, Saidapet, Sriperumbudur, Thirukazhukundran, Thirumudivakkam, Thiruverkadu, Tiruvottiyur, Tiruppur Rural, Vanagaram and Velacherry.

⁵³ Amaindakarai, Avinashi, Ayyappanthangal, Big Bazaar Street, DLTU Coimbatore, Eakattuthangal, Kanchipuram, Koyambedu, LTU-III Chennai, Mylapore, Pandy Bazaar, Poonamallee, Royapettah, Saidapet, Thirumudivakkam, Thiruverkadu, Tiruvottiyur and Vanagaram.

⁵⁴ Alandur, Chindadripet, Ganapathy, Gummidipoondi, Manali and Tiruvallur.

⁵⁵ Alandur, Chindadripet and Tiruvallur.

crore. After audit pointed this out, the AA replied that notice was issued to the dealer. Further reply is awaited.

ii) As per Section 19(11) of the TNVAT Act, in case any registered dealer fails to claim ITC in respect of any transaction of taxable purchase in any month, he shall make the claim before the end of the financial year or before 90 days from the date of purchase, whichever is later. As per Section 27(2) of the TNVAT Act, where for any reason, the ITC has been availed wrongly, the AA shall reverse the ITC availed. Section 27(4) of the Act, *ibid*, provides for levy of penalty at the specified rates.

- Scrutiny of records (April 2018 to February 2019) in eight⁵⁶ assessment circles revealed that 9 dealers had, in the monthly returns of July 2014 to April 2016, claimed ITC of ₹ 2.94 crore in respect of purchase of goods effected between August 2013 and December 2015. As the claim of ITC was not preferred within the prescribed time, the same had to be disallowed and the amount recovered from the dealers. The AAs, however, failed to invoke the provisions of Section 19 (11) of the Act and allowed the time barred claim of ITC. The incorrect claim of ITC of ₹ 2.94 crore was required to be reversed, besides levying of penalty.

After audit pointed this out (April 2018 to February 2019), the AA, Nandambakkam assessment circle replied that the claim of ITC was made after payment made by the purchasing dealer as per the amended provisions in Section 19(1). The reply requires reconsideration since the ITC has to be claimed within the time limit as prescribed in Section 19(11) of the Act *ibid* and the amended provision will not alter the time limit fixed for claim of ITC. The AAs of Palladam, Thudiyalur and Tiruthani assessment circles have stated that notices were issued to the dealers. Reply in respect of other assessment circles is awaited.

iii) Section 19(2) of the TNVAT Act provides that ITC shall be allowed for the purchase of goods made within the State from a registered dealer and which are for the purpose of using as inputs in manufacturing or processing of goods in the State or use as capital goods in the manufacture of taxable goods.

- Scrutiny of records (July 2018) in N.S.C.Bose Road assessment circle revealed that a dealer who is not dealing in the business of AC had claimed ITC of ₹ 12.28 lakh during the period 2016-17, on purchase of AC equipment.
- Scrutiny of records (March 2019) in LTU-III assessment circle, Chennai revealed that one dealer had claimed ITC of ₹ 44.62 lakh on safety equipment which is neither an input nor capital goods.

⁵⁶ Alandur, Nandambakkam, N.S.C. Bose Road, Palladam, Purasaivakam, Ramapuram, Thudiyalur and Tiruthani.

After audit pointed this out (July 2018 and March 2019), AA of LTU-III, Chennai assessment circle has replied that notice was issued to the dealer. Reply in respect of other assessment circle is awaited.

iv) The Government of India, Ministry of Textiles vide Notification No.12020/03/2016-IT dated 12 August 2016, had introduced the Rebate of State Levies on Export of Garments 2016 (ROSL scheme) so as to give rebate on State levies like VAT/Central Sales Tax (CST) along with duty drawback scheme. This scheme came in to effect from 20 September 2016. As per para 4.2 of the Notification, the rate and rebate shall be applicable only to exporters if the exporter has not claimed or shall not claim credit/rebate/refund/reimbursement of these specific State Levies under any other mechanism.

Audit scrutiny of monthly returns, Form WW and Balance Sheet of the six dealers in three⁵⁷ assessment circles revealed that though the dealers had received an amount of ₹ 10.93 crore under ROSL scheme during the year 2016-17, they had also availed ITC of ₹ 3.42 crore for the same period. The incorrect availing of ITC of ₹ 3.42 crore, which was against the provisions of ROSL scheme, needs to be recovered from the dealer.

After audit pointed this out (April 2018 to March 2019), AA, Harbour assessment circle replied that notice was issued to the dealer and accounts were rechecked and the dealer had paid ₹ 29.10 lakh including interest of ₹ 9.77 lakh (January 2019). Reply in respect of the remaining two assessment circles is awaited.

Recommendation: The Department may make use of data available to verify the veracity of ITC claims in accordance of various provisions of Act and Rules and also to identify and disallow time-barred and excess claims.

2.5.7 Non/Short reversal of Input Tax credit

As per Section 19(5)(c) of the TNVAT Act, no ITC shall be allowed on the purchase of goods sold as such or used in the manufacture of other goods and sold in the course of interstate trade or commerce without declaration in Form C. As per Section 19(5)(a) of the TNVAT Act, ITC is not available in respect of sale of goods exempt from levy of tax. Sale of goods to SEZ located in other States is exempt as per Section 8(6) of the CST Act.

During scrutiny of records in 27⁵⁸ assessment circles (between April 2018 and March 2019), Audit noticed from the CST returns and Form WW filed by the dealers that interstate sale of goods without declarations in Form C, interstate sale of goods to SEZ located in other States, stock transfer of goods to other

⁵⁷ DLTU Coimbatore, Harbour and Tiruppur Rural.

⁵⁸ Alwarpet, Anna Salai, Avinashi, Chrompet, DLTU Coimbatore, K.K.Nagar, Kancheeruram, Kotturpuram, LTU-II Chennai, Medavakkam, Moore Market, Nandambakkam, Nanganallur, Park Town, Peelamedu South, Purasawakkam, R.S.Puram West, Ramapuram, Saibaba Colony, Thiruverkadu, Thudiyalur, Tiruppur Central-I, Tiruppur Central-II, Tiruppur North, Vadapalani, Valluvarkottam and Villivakkam.

States and sale of exempted goods were effected by 51 dealers during the period from 2008-09 to 2016-17. Scrutiny of the returns filed by the dealers under the TNVAT Act, however, revealed that the above dealers had claimed ITC of ₹ 149.20 crore during the above period and sold goods in the interstate without declaration forms, effected sale of exempted goods and made stock transfer of goods for a total value of ₹ 1,586.06 crore. Though the reversal of ITC on the above account worked out to ₹ 20.18 crore, the dealers had effected reversal of ITC only for ₹ 11.69 crore resulting in non/short reversal of ITC of ₹ 8.49 crore proportionate to such sales.

After Audit pointed this out (April 2018 to March 2019), the AA of Vadapalani and Tiruppur Central-I assessment circles had rechecked the accounts of three dealers and revised the assessment (October 2019) raising an additional demand of ₹ 25.91 lakh out of which an amount of ₹ 11 lakh pertaining to Vadapalani assessment circle was collected. Collection particulars in respect of Tiruppur Central-I assessment circle is awaited. The AAs of 11⁵⁹ assessment circles replied that notices were issued to fourteen dealers. Further action taken on the notices issued and reply in respect of the remaining cases were awaited.

Recommendation: The Department may ensure restriction of claims to eligibility and add back ineligible claims to tax demand.

2.5.8 Non-levy of interest for belated payment of tax

According to Section 42(3) of the TNVAT Act, interest at the rate of 2 *per cent* per month is payable on the belated payment of unpaid tax.

Scrutiny of records in LTU-I and II assessment circles, Chennai (February and March 2019) revealed that seven dealers had paid tax of ₹ 131.44 crore belatedly; the delay ranging from two days to 224 days. The belated payment of tax attracts levy of interest of ₹ 2.35 crore. The AAs, however, failed to levy interest for belated payment of tax. This resulted in non-levy of interest of ₹ 2.35 crore.

After Audit pointed this out (February and March 2019), the AA of LTU-I, Chennai replied that notices were issued to two dealers. Reply in respect of the LTU-II, Chennai assessment circle is awaited.

Recommendation: The Department may establish a mechanism for automatic levy of interest for belated payment of taxes.

⁵⁹ Medavakkam, Nanganallur, Thiruverkadu, Saibaba colony, Purasawakkam, Moore market, Alwarpet, Tiruppur (North), LTU II Chennai, Valluvarkottam and R.S.Puram.

2.5.9 Failure to initiate action on the advice of the auditor contained in the certificate of audited accounts in Form WW

Section 63-A(1) of the TNVAT Act read with Rule 16-A of the TNVAT Rules provides that every registered dealer whose total turnover in a year exceeds ₹ one crore, shall get his accounts in respect of that year, audited by an Accountant and submit a report of such audit in Form WW duly signed and verified by the Accountant to the AA within nine months from the closure of the financial year.

The CCT instructed (February 2014) the AAs to undertake the exercise of verification of consolidated monthly returns submitted in the financial year and the extracts of defects noticed in return scrutiny / audit menus available in the MIS package of intranet along with the corresponding audited statement to identify prospective revenue.

Scrutiny of the certificate of audited accounts in Form WW relating to the years 2013-14 to 2016-17 filed by the dealers indicated that the Accountants had suggested payment of differential tax, interest and reversal of ITC amounting to ₹ 2.06 crore in respect of 222 dealers. The AAs of 27⁶⁰ assessment circles, however, did not initiate any action to recover the amounts due from the dealers based on the suggestion of the Accountant made in Form WW.

After Audit pointed this out, the AA of four⁶¹ assessment circles had collected a sum of ₹ 15.83 lakh in respect of 19 dealers (Between December 2018 and July 2019). The AAs of nine⁶² assessment circles replied that notices have been issued to the dealers. Specific reply from the remaining AAs are awaited.

Recommendation: The Department may make use of auditors' advice in Form WW to identify deficit payments of tax and act accordingly.

⁶⁰ Amaindakarai, Ashok Nagar, Broadway, Chengalpet, Chindadripet, Chrompet, Gandhipuram, Manali, Mandaveli, Nanganallur, Nolambur, Oragadam, Poonamallee, Ram Nagar, Ramapuram, Saidapet, Sembium, Sowcarpet, Sriperumbudur, Tambaram, Thirukazhukundram, Tiruppur Central-I, Tirupur Bazaar, Tiruvallur, Vadapalani, Villivakkam and Washermenpet.

⁶¹ Chindadripet, Chrompet, Gandhipuram and Ram Nagar.

⁶² Amaindakarai, Broadway, Nolambur, Poonamallee, Ram Nagar, Thirukazhukundram, Tiruppur Bazaar, Tiruvallur and Villivakkam.

Central Sales Tax

2.5.10 Application of Incorrect rate of tax

According to Section 8(2) of the Central Sales Tax Act, 1956 (CST Act), inter-State sale of goods not covered by valid declarations in Form 'C' is assessable to tax at the local rate applicable to sale of such goods inside the State. As per entry 67 of Part B of the First Schedule to the TNVAT Act, industrial inputs, for use in manufacture, inside the State, of goods other than those falling under Second Schedule were taxable at the rate of four *per cent* up to 11 July 2011 and at five *per cent* thereafter. Any other goods not specified in any of the Schedules were taxable at the rates of 12.5 *per cent* up to 11 July 2011 and at 14.5 *per cent* thereafter under entry 69 of Part C of the First Schedule.

Scrutiny of records (April 2018 to February 2019) in six⁶³ assessment circles revealed that the AAs while finalising the assessment of seven dealers for the years 2009-10 to 2016-17 under the CST Act, levied tax at the rate of four / five *per cent* on inter-State sale of capital goods / industrial inputs namely, panel cooler, moulds, auto components, machineries, conveyor belts and cement products not covered by declarations in Form 'C'. As inter-State sales of capital goods and industrial inputs do not satisfy the condition "used in the State for the purpose of manufacture", the sales were taxable at the rate of 12.5 *per cent* / 14.5 *per cent* in terms of Section 8(2) of the CST Act. The application of incorrect rate of tax at the rate of four *per cent* instead of 12.5 *per cent* (up to 11 July 2011) and at five *per cent* instead of 14.5 *per cent* with effect from 12 July 2011, on the interstate sale value of ₹ 12.15 crore had resulted in short levy of tax of ₹ 1.15 crore.

After audit pointed this out (April 2018 to February 2019), the AAs of three⁶⁴ assessment circles had revised assessment of three dealers (Between September 2018 and June 2019) and raised demand of ₹ 26.44 lakh out of which a sum of ₹ 15.50 lakh was collected in respect of two dealers in Big Bazaar and Selaiyur assessment circles and in the remaining one case, collection particulars are awaited. The AA of Tiruvallur assessment circle stated that the goods sold is not the final product and relates to import of mould. The reply is not acceptable since the rate of tax to be levied is based on the classification of goods irrespective of whether it is final product or imported. The AAs of Kotturpuram and Nanganallur assessment circles replied that notices were issued to the dealers. Further action taken is awaited.

Recommendation: The Department may ensure correctness of rates of tax and classification of goods while completing assessments.

⁶³ Big Bazaar Street, Kotturpuram, Nanganallur, R.S.Puram East, Selaiyur and Tiruvallur.

⁶⁴ Big Bazaar Street, R.S.Puram East and Selaiyur.

2.5.11 Short levy of tax due to arithmetical inaccuracy

According to Section 8(2) of the CST Act, inter-State sale of goods not covered by valid forms is assessable to tax at the local rate applicable to sale of such goods inside the State.

Audit scrutiny at KK Nagar assessment circle (August 2018) revealed that the AA while finalising the assessment of a dealer had computed the tax at the rate of 14.5 *per cent* for the export turnover of ₹ 3.33 crore as ₹ 4.79 lakh instead of ₹ 47.94 lakh due to arithmetical error. This had resulted in short levy of tax of ₹ 43.15 lakh. After audit pointed this out (August 2018), the AA replied that notice would be issued to the dealer.

Recommendation: The Department may avoid, while making assessments, *prima-facie* errors that result in short collection of tax.

The issues mentioned in the Paragraphs No. 2.5.1 to 2.5.11 were referred to the Government in October 2019 and reminded in January, March and June 2020. Reply is awaited (October 2020).