

Executive Summary

Chapter I: Indirect Taxes Administration

In the CAG's first Audit Report¹ on Goods and Services Tax (GST), we noted the landmark achievement of the Government and other stakeholders in roll out of GST. We had further noted that an area where full potential of GST had not been achieved was the simplified tax compliance regime. The originally envisaged system-validated Input Tax Credit (ITC) through "invoice matching" had not been implemented. The complexity of return mechanism and technical glitches had resulted in roll-back of key GST returns, rendering the system prone to ITC frauds. Accordingly, we had recommended simplified tax compliance regime by introducing simplified return forms duly using technological solutions.

During the current audit, we noticed that owing to the continuing extensions in the roll out of simplified return forms, and delay in decision making, the originally envisaged system-verified flow of ITC through "invoice matching" is yet to be implemented and a non-intrusive e-tax system still remains unimplemented. The GST return system is still a work in progress despite more than three years of GST roll out. In the absence of a stable and simplified return mechanism, one of the main objectives of roll out of GST i.e. simplified tax compliance system is yet to be achieved.

It is recommended that a definite time frame for roll out of simplified return forms may be fixed and implemented as frequent deferments are resulting in delay in stabilisation of return filing system and continued uncertainty in the GST eco-system.

(Paragraph 1.4.1)

Indirect Taxes collections increased by ₹ 16,627 crore during FY20 over FY19. However, there is a declining trend in annual growth of Indirect Taxes during the last five years. The annual growth of Indirect Taxes (Y-o-Y) declined from 21.33 *per cent* in FY17 to only 1.76 *per cent* in FY20. Further, share of Indirect taxes in total revenue receipts declined from 38.95 *per cent* in FY17 to 36.92 *per cent* in FY20. Central GST taxes² revenue as percentage of GDP declined from 3.08 *per cent* in FY 19 to 2.95 *per cent* in FY20.

(Paragraph 1.3.1 & Paragraph 1.3.2.1)

CBIC has yet to put in place an effective system of scrutiny of returns based on detailed instructions/manual for the tax officers. As a result, an important

¹ Audit Report No. 11 of 2019 (Indirect Taxes- Goods and Services Tax)

² GST revenue included Central Goods and Services Tax, Integrated Goods and Services Tax, UT Goods and Services Tax and GST Compensation Cess.

compliance function of the department, as mandated by law, is yet to be effectively rolled out even after three years of GST implementation.

(Paragraph 1.4.2)

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

A very large number of audit observations were pending for compliance in the Local Audit Reports³ as on 31 March 2019. Department's response to these audit observations was intermittent and not substantive leading to persistent accumulation of outstanding paras. Department had not furnished reply to 52 *per cent* (13,475) of total LAR audit paras, pending as on 31 March, 2019, reflecting lackadaisical approach of the Department in replying to audit observations. Reply of the department in 6,474 (48 *per cent*) paras was pending for more than three years, as on 31 March 2019.

(Paragraph 2.5.3 & 2.5.4)

Chapter III: IT audit of GSTN

IT audit of GSTN (Phase – II) was undertaken to assess whether the Refund and Returns modules implemented by GSTN were in line with the provisions of the Acts and Rules governing the GST regime and the System Requirements Specifications (SRS). In addition, E-Way Bills module, which has been developed by National Informatics Centre, under the supervision of GSTN was also reviewed.

In 14 cases, the key validations / functionalities as existing in the rolled out modules were not found aligned to the applicable provisions even though SRS was correctly framed.

(Paragraph 3.5.1)

Refund module

Absence of adequate controls, risk of claiming refund on unverified ITC and deficiencies in integration of GST Portal with the Indian Customs EDI Systems (ICES) application for IGST refund on export of goods resulted in following deficiencies in Refund module:

- Due to GSTR 2 and 3 being held in abeyance, the envisaged buyer seller reconciliation mechanism could not be implemented resulting in unmitigated risk in the GST refund system.

(Paragraph 3.7.3.2)

³ Local audit report is issued by the field audit office to each audited departmental unit. Based on their reply significant observations are included in Audit Reports, which are placed in the Parliament.

- Non re-crediting of ITC ledger of taxpayers where Deficiency Memo was issued on second and subsequent occasion.

(Paragraph 3.7.3.3)

- The refund of ITC sanctioned was disproportionately more than the actual value of export in case of export without payment of tax (Letter of Undertaking).

(Paragraph 3.7.3.4)

- Verification of endorsement detail of invoices of supplies to SEZ with SEZ online was not made mandatory while processing the refund application.

(Paragraph 3.7.3.5)

- Due to non-implementation of “With-hold” request functionality at back office there is a possibility of further refunds to the non-compliant exporters.

(Paragraph 3.7.3.6)

- Absence of auto-exclusion functionality to deduct the ITC of Capital goods could lead to excess refund being claimed.

(Paragraph 3.7.3.9)

- Lack of validation in the system to verify the turnover of inverted rate of supply in Statement-1 with the corresponding entries as provided in Statement-1A could lead to excess claim of refund.

(Paragraph 3.7.3.10)

Returns module

We noticed lack of adequate validations in the return module, lack of auto calculation of interest liability of taxpayers in GSTR-3B, and incorrect mapping of rules to SRS, as follows:

- Incorrect creation of GSTR-2A, which is an important source of information on inward supply for the tax officers, could lead to irregular availability of ITC.

(Paragraph 3.8.3.3)

- Absence of validation on turnover, leading to no restriction being imposed on composition taxpayers, in regard to filing of GSTR-4, even after crossing the threshold limit.

(Paragraph 3.8.3.4)

- Absence of provisions in the system for Non-Resident Taxable Persons (NRTPs) to pay GST for services received on Reverse Charge Mechanism (RCM) basis.

(Paragraph 3.8.3.5)

E-Way Bill module

- Rejection of EWBs was allowed despite expiration of mandated 72 hours due to browser manipulation.

(Paragraph 3.9.5.1)

- Supply to or by SEZ was recorded as intra-state supplies with tax recorded under CGST and SGST, in place of IGST.

(Paragraph 3.9.5.2)

- Inherent weakness in periodic updation of Postal Index Number (PIN) Master resulted in incorrect automatic calculation of distance based on PIN Code.

(Paragraph 3.9.5.4)

- The quantity once entered while generating the EWB was amendable, which led to inconsistency of values in multivehicle mode of transport.

(Paragraph 3.9.5.5)

We have made 26 recommendations for consideration of the Ministry / GSTN. The recommendations pertain to implementation of adequate validations in the modules audited by us; appropriate changes in the rules/forms; and incorporation of functionalities in the system for effective implementation of GST laws and rules.

(Paragraph 3.11)

Chapter IV: Compliance Audit of GST

During the years 2018-19 and 2019-20, we focused mainly on audit of transitional credits (i.e. carry forward of Cenvat credit of legacy taxes regime to GST regime), GST registrations and refunds. Audit of GST returns is yet to be started as the original due date for filing annual return for 2017-18 by December 2018 has been subsequently extended to 5th/ 7th February 2020 in a staggered manner. Similarly, the original due date for filing annual return for 2018-19, by December 2019, has been subsequently extended to 31 December 2020.

(Paragraph 4.1)

Part A: Transitional credits

To conduct data analysis and identify areas of focus and to select units / cases for audit, we requested Department of Revenue to provide data relating to transitional credits. Despite repeated requests, we were not provided the requisitioned data⁴ during FY 19 and FY 20.

In the absence of data, we could carry out only a limited audit of transitional credit claims in the units which we selected for audit based on other revenue related risk parameters. We had to restrict audit to mostly those Tran-I cases that had already been verified by the department, as access to other Tran-I declarations was not provided through the GST IT system.

(Paragraph 4.5)

We verified 5,822 out of 77,363 transitional credit cases in 81 Central GST Commissionerates and five Audit Commissionerates, and noticed 1,182 instances (20 *per cent*) of non-compliance. We noticed instances of irregular claim of transitional credit on input services in transit, irregular availing of Cess of earlier regime as credit, excess carry forward of Cenvat credit, irregular availment of transitional credit on exempted goods etc. with money value of ₹ 543.70 crore.

(Paragraph 4.6.1)

Part B: Refunds

During the period October 2018 to March 2020⁵, we examined the records relating to 4,736 refunds out of 23,106 in 33 CGST Commissionerates. We noticed non-adherence to extant provisions in processing of refunds in 280 claims (6 *per cent*) involving an amount of ₹ 16.16 crore. We observed instances of irregular grant of refund due to non-consideration of minimum balance in electronic credit ledger, irregular sanction of refund of input tax credit availed on capital goods etc.

(Paragraph 4.7)

Part C: Other irregularities noticed during GST audit

During examination (August/September 2019) of the data of non-filers of GSTR-3B returns in Range-I and II of the Aligarh Division under Agra CGST Commissionerate, we noticed that 1,965 taxpayers, out of 12,694, had not submitted their GST-3B returns for a continuous period of six or more than six months. However, the registration of these defaulters were not cancelled by

⁴ The transitional credit data has now been provided in July 2020.

⁵ Audit observations upto September 2018 had been included in the CAG's Audit Report No. 11 of 2019.

the department after following the process laid down in Rule 22 of CGST Rules, 2017 as provided in Section 29(2)(b) and (c) of CGST Act, 2017.

(Paragraph 4.8.4)

For the audit observations relating to audit of transitional credits, refunds and non/short payment of GST/interest, the corresponding impact on the State Goods and Services Tax is given in **Appendix-VII**.

(Paragraph 4.9)

Chapter V: Show Cause Notices (SCNs) & Adjudication Process in CBIC

We had examined the SCN and adjudication process of the department in FY15 covering the period FY12 to FY14, and audit findings were included in CAG's Report No. 1 of 2016 (Service Tax) and Report No. 2 of 2016 (Central Excise). We followed up on the Ministry's Action Taken Notes on the aforesaid report, and during the course of current audit, noticed persistent compliance deviations with respect to issue of SCNs and Adjudication process despite Ministry's assurance in the action taken notes.

(Paragraph 5.4)

Out of 107 Executive Commissionerates, 48 Audit Commissionerates and 25 Zonal Units of DGGSTI, we selected 116 departmental units for examination of SCN and adjudication process of the department.

(Paragraph 5.6.1.1)

Disposal of SCNs reduced from 86.69 *per cent* in FY17 to 72.81 *per cent* in FY19 in respect of Central Excise. Similarly, disposal of SCNs in Service Tax reduced from 77.51 *per cent* in FY17 to 51.93 *per cent* in FY19.

(Paragraph 5.7.1)

We noticed significant deviations from law/rules such as incorrect computation of demand in SCNs, late issuance of SCNs, delay in adjudications etc. during audit of SCNs that were pending for adjudication as on 31 March 2019.

As for SCNs adjudicated between FY17 to FY19, the irregularities pertained to incorrect invocation of extended period, non-inclusion of demand for part period due to late issuance of SCN, incorrect computation of demand, delay in adjudication, delay in issuance of adjudication orders, non-availability of documents in the case file resulting in the dropping of demand etc.

As for SCNs kept in Call Book as on 31 March 2019, the irregularities observed pertained to non-issuance of periodical SCNs, short computation of demand in SCNs kept in Call Book, incorrect transfer of SCNs in Call Book, non/delayed retrieval of cases from Call Book, non-conducting the periodical review of Call

Book, and non-approval of competent authority before transfer of SCNs to Call Book.

We identified lack of effective monitoring mechanism, inadequate coordination among CBIC field formations, delay in issuing clarifications by the Board, delay in investigation/ verification by CBIC field formations, delay in appointment of common adjudicating authority, non-availability of records in the case files etc. as the reasons for many irregularities noticed by Audit. Further, the department cited transition to GST, shortage of staff, heavy pendency of cases, frequent change in adjudicating authority, delay in transfer of records etc. as the reasons for delays in adjudication and other irregularities observed in Audit.

(Paragraph 5.17)

We recommend end-to-end computerisation of the SCN and adjudication process, with the following components:

(i) The process of issuance of SCN may be computerized with inbuilt controls to ensure correct computation of demand, timely issuance of SCN, valid invocation of extended period of time and correctness of the SCN issued.

(ii) Computerization of adjudication process with inbuilt controls to ensure effective monitoring, conducting of personal hearings and timely issuance of adjudication orders.

(iii) Maintenance of Call Book may be computerized with inbuilt mechanism to ensure issuance of periodical SCNs, timely retrieval of SCNs from Call Book, intimation to the assessee regarding transfer of cases to Call Book, prior approval of competent authority before transfer of SCNs to Call Book and controls regarding transfer of valid cases to Call Book.

(Paragraph 5.18)

Chapter VI: Effectiveness of Tax administration and Internal Controls (Central Excise and Service Tax)

During 2018-19, we selected records of 2,939 assessee⁶ in 827 selected Ranges for detailed examination with respect to assessment and payment of Central Excise duty and Service Tax. During 2019-20, we selected records of 1,471 assessee in 451 selected Ranges for detailed examination.

(Paragraph 6.2)

Out of total 4,410 assessee, records of which were audited during 2018-19 and 2019-20, we noticed non-compliance of tax laws and rules in respect of 1,562

⁶ Assessee were selected on the basis of high revenue, high percentage of CENVAT credit, nature of commodities/service, nature of transaction, number of SCNs issued, confirmed demand cases, year of last CAG audit etc.

assesseees (35.42 *per cent*). We raised 2,712 audit observations having monetary impact of ₹ 1,036.35 crore. We observed instances of non/short payment of duty/tax, incorrect availing/utilization of CENVAT credit, non/short reversal of CENVAT credit, non-payment of cess, non-payment of interest etc.

Out of 4,410 assesseees, records of which were examined by us, 1,244 assesseees had already been audited by Internal Audit wing of the Department. We observed that Internal Audit had failed to detect lapses in 1,104 instances pertaining to 594 assesseees (48 *per cent*), having monetary impact of ₹ 420.39 crore.

(Paragraph 6.3)