



**Report of the  
Comptroller and Auditor General of India  
on  
Revenue Sector  
for the year ended 31 March 2018**



**लोकहितार्थ सत्यनिष्ठा**

**Dedicated to Truth in Public Interest**



**Government of Tamil Nadu  
Report No. 2 of the year 2019**

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Comptroller and Auditor General of India  
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Revenue Sector**

**for the year ended 31 March 2018**

**Government of Tamil Nadu**

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## **PREFACE**

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2018 has been prepared for submission to the Governor of the State of Tamil Nadu under Article 151 of the Constitution of India.

The Report contains significant findings of audit of Receipts and Expenditure of major Revenue earning Departments under Revenue Sector conducted under the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

The instances mentioned in this Report are those, which came to notice in the course of test audit during the period 2017-18 as well as those which came to notice in earlier years, but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2017-18 have also been included, wherever necessary.

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



## OVERVIEW

The report contains 22 paragraphs, including one Performance Audit, relating to non / short levy of taxes, interest, penalty, etc. involving ₹ 3,984.52 crore. Some of the major findings are mentioned below:

### I General

The total revenue receipts of the State during 2017-18 were ₹ 1,46,279.76 crore, comprising tax revenue of ₹ 93,736.60 crore and non-tax revenue of ₹ 10,764.01 crore. ₹ 27,099.71 crore was received from the Government of India as State's share of divisible Union taxes and ₹ 14,679.44 crore as grants-in-aid. The revenue raised by the State Government in 2017-18 was 71 *per cent* of the total revenue receipts as compared to 68 *per cent* in 2016-17. Sales tax and Goods and Services Tax (₹ 70,945.46 crore) formed a major portion (76 *per cent*) of the tax revenue of the State. Interest receipts, dividends and profits (₹ 5,357.15 crore) accounted for 50 *per cent* of the non-tax revenue.

(Paragraph 1.1)

Test check of records relating to commercial taxes, motor vehicles tax, stamp duty and registration fee, mines and minerals and land revenue during the year 2017-18 revealed under-assessments, short levy, loss of revenue and other observations amounting to ₹ 4,432.44 crore in 3,544 cases.

(Paragraph 1.9)

### II Value Added Tax / Central Sales Tax

Audit of Transition to Goods and Service Tax in Tamil Nadu revealed the following:

- 96,854 dealers were not migrated into GST. Out of this, 11,793 dealers, had turnover more than ₹ 20 lakh in the year 2016-17. 1,790 dealers in 288 circles whose registration were cancelled under VAT regime were incorrectly migrated and bifurcated between Centre and State Tax Authorities.

(Paragraphs 2.4.2.1, 2.4.2.3 and 2.4.2.4)

- There were irregular claims of transitional credit of ₹ 1,451.02 crore in respect of 4,268 cases in 153 selected assessment circles.

**(Paragraph 2.4.3.3)**

Audit of IT Preparedness of the Commercial Tax Department for implementation of GST in Tamil Nadu revealed the following:

- There was incorrect claim of ITC by cancelled dealers, dealers who filed nil returns or did not file returns, amounting to ₹ 52.22 crore

**(Paragraph 2.5.3.2)**

- System accepted incorrect rates of tax that resulted in short levy of ₹ 11.65 crore

**(Paragraph 2.5.3.5)**

### **Other Audit Observations**

- Incorrect claim of input tax credit of ₹ 2.59 crore was noticed in 14 cases.

**(Paragraph 2.6.3)**

- Non / short reversal of input tax credit of ₹ 14.65 crore was noticed in 22 cases involving sale of exempted goods and stock transfer of goods to other States.

**(Paragraph 2.6.4)**

### **III Stamp Duty and Registration Fee**

- In 19 registering offices, misclassification of instruments by the registering authorities resulted in short collection of stamp duty and registration fee of ₹ 67.33 lakh.

**(Paragraphs 3.4.1 and 3.4.2)**

- Incorrect allocation of transfer duty surcharge of ₹ 62.66 lakh was noticed in 57 instruments.

**(Paragraph 3.4.3)**

#### **IV Taxes on Vehicles**

- Non-collection of life time tax from owners of old tourist motor cab amounted to ₹ 32.61 lakh.

**(Paragraph 4.4.2)**

- Misclassification of Private Service Vehicles as Educational Institution Vehicles resulted in short realisation of tax of ₹ 21.15 lakh.

**(Paragraph 4.4.4)**

- Misclassification of Contract Carriages as Private Service Vehicles resulted in loss of revenue of ₹ 18.53 lakh.

**(Paragraph 4.4.5)**

#### **V Non-Tax Receipts**

##### **Mines and Minerals**

Performance Audit of System of Mineral Wealth Management in Tamil Nadu revealed the following:

- Delay in formulation of State Mineral Policy and Granite Policy resulted in absence of viable exploration projects and non-exploration of Molybdenum.

**(Paragraphs 5.4.2.1, 5.4.2.2, 5.4.2.3 and 5.4.2.4)**

- Non-utilisation of Online Mining Tenement Registry System resulted in pit mouth violations in 42 cases involving cost of mineral of ₹ 1,586.00 crore.

**(Paragraph 5.4.4.1)**

- Independent analysis of Audit through UAV revealed illegal removal of limestone and granite that resulted in non-collection of SF and cost amounting to ₹ 79.24 crore

**(Paragraph 5.4.4.3)**

- Non-collection of cost of minerals in the cases of excess removal of Granite and Rough stone over and above the mining plan involving ₹ 548.95 crore.

**(Paragraph 5.4.4.4)**

# CHAPTER I

## GENERAL



## CHAPTER I GENERAL

### 1.1 Trend of revenue receipts

**1.1.1** Tax and non-tax revenue raised by the Government of Tamil Nadu during the year 2017-18, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in Table 1.1

**Table 1.1**  
**Trend of revenue receipts**

(₹ in crore)						
Sl. No.	Particulars	2013-14	2014-15	2015-16	2016-17	2017-18
<b>1.</b>	<b>Revenue raised by the State Government</b>					
	• Tax revenue	73,718.11	78,656.54	80,476.08	85,941.40	93,736.60
	• Non-tax revenue	9,343.27	8,350.60	8,918.31	9,913.76	10,764.01
	<b>Total</b>	<b>83,061.38</b>	<b>87,007.14</b>	<b>89,394.39</b>	<b>95,855.16</b>	<b>1,04,500.61</b>
<b>2.</b>	<b>Receipts from the Government of India</b>					
	• State's share of divisible Union taxes	15,852.76	16,824.03	20,353.86	24,537.77	27,099.71 <sup>1</sup>
	• Grants-in-aid	9,122.28	18,589.27	19,259.62	19,838.20	14,679.44
	<b>Total</b>	<b>24,975.04</b>	<b>35,413.30</b>	<b>39,613.48</b>	<b>44,375.97</b>	<b>41,779.15</b>
<b>3.</b>	<b>Total revenue receipts of the State Government (1 + 2)</b>	<b>1,08,036.42</b>	<b>1,22,420.44</b>	<b>1,29,007.87</b>	<b>1,40,231.13</b>	<b>1,46,279.76</b>
<b>4.</b>	<b>Percentage of 1 to 3</b>	<b>77</b>	<b>71</b>	<b>69</b>	<b>68</b>	<b>71</b>

Source: Finance Accounts of Government of Tamil Nadu

During the year 2017-18, the revenue raised by the State Government (₹ 1,04,500.61 crore) was 71 per cent of the total revenue receipts as against 68 per cent in the preceding year. The remaining 29 per cent (₹ 41,779.15 crore) of the receipts during 2017-18 was from the Government of India.

<sup>1</sup> For details please see Statement No. 14 – Detailed statements of revenue by minor heads of the Finance Accounts of the Government of Tamil Nadu for the year 2017-18. Figures under the head '0021 – Taxes on income other than Corporation Tax – Share of net proceeds assigned to States' booked in the Finance Accounts under 'A – Tax revenue' have been excluded from the revenue raised by the State and included in 'State's share of divisible Union taxes' in this statement.

**1.1.2** The following table presents the details of tax revenue raised during the period from 2013-14 to 2017-18.

**Table 1.2**  
**Details of Tax revenue raised**

(₹ in crore)

Sl. No.	Head of revenue	2013-14		2014-15		2015-16		2016-17		2017-18		Percentage of increase (+) or decrease (-) in 2017-18 over 2016-17
		Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	
1	Goods and Services Tax	-	-	-	-	-	-	-	-	24,589.31		*
2.	Sales tax/VAT	52,826.74	53,532.17	65,202.06	57,190.80	68,874.57	57,522.03	64,835.04	63,233.58	73,959.25	46,356.15	*
3.	State Excise	14,469.87	5,034.91	6,483.04	5,731.18	7,296.67	5,836.02	6,636.08	6,248.16	6,902.91	5,815.30	(-) 6.93
4.	Stamp Duty and Registration Fee	9,874.22	8,251.25	10,470.18	8,362.33	10,385.29	8,721.45	9,858.17	7,236.65	8,219.52	9,194.63	(+) 27.06
5.	Taxes on Vehicles	4,881.15	3,683.58	5,147.14	3,828.95	4,882.54	4,233.39	4,793.91	4,854.29	5,418.03	5,362.63	(+) 10.47
6.	Land Revenue	112.38	272.83	171.57	170.54	203.41	257.53	315.27	153.40	354.46	152.30	(-) 0.72
7.	Taxes on immovable property other than agricultural land (urban land tax)	18.09	11.52	18.09	10.06	18.09	7.91	18.09	10.20	18.09	8.36	(-) 18.04
8.	Others <sup>2</sup>	3,882.94	2,931.85	4,343.27	3,362.68	3,968.54	3,897.75	4,235.30	4,205.12	4,717.87	2,257.92	(-) 46.31
	<b>Total</b>	<b>86,065.39</b>	<b>73,718.11</b>	<b>91,835.35</b>	<b>78,656.54</b>	<b>95,629.11</b>	<b>80,476.08</b>	<b>90,691.86</b>	<b>85,941.40</b>	<b>99,590.13</b>	<b>93,736.60</b>	

\*New scheme of taxation i.e. Goods and Services Tax came into force with effect from 1 July 2017. Petroleum products and Liquor for human consumption which are not subsumed under Goods and Service Taxes are taxed under Value Added Tax.

Source: Finance Accounts of Government of Tamil Nadu

The following are the reasons for variation in receipts.

**Stamp Duty and Registration Fee:** The overall increase in revenue was mainly due to huge increase in 'Stamps and Registration' under (i) other Non-Judicial stamps, (ii) Un-stamped or insufficiently stamped documents and (iii) Fees for Registering documents. Also revision of Registration fees from one *per cent* to four *per cent* and reduction of Guideline value by 33 *per cent* resulted in increase in number of registration transactions during the year.

**Taxes on Vehicles:** The increase was mainly due to increase in fees for Registration of Licenses, Badges, Permits, Fitness Certificates etc., under the "Tamil Nadu Motor Vehicles Taxation Act 1974".

<sup>2</sup> 'Others' represent tax receipts pertaining to heads other than those mentioned above.

**1.1.3** The following table presents the details of non-tax revenue raised during the period from 2013-14 to 2017-18.

**Table 1.3**  
**Details of Non-tax revenue raised**

(₹ in crore)

Sl. No.	Head of revenue	2013-14		2014-15		2015-16		2016-17		2017-18		Percentage of increase (+) or decrease (-) in 2017-18 over 2016-17
		Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	
1.	Interest receipts, dividends and profits	1,548.98	3,422.77	2,240.28	2,588.83	2,750.67	3,093.50	2,874.85	4,503.90	3,816.36	5,357.15	(+) 18.94
2.	Crop Husbandry	120.04	213.77	93.16	150.00	145.06	44.93	128.46	56.94	123.40	76.47	(+) 34.30
3.	Forestry and Wildlife	98.65	193.87	44.86	141.30	143.02	85.52	158.59	34.22	161.72	57.51	(+) 68.06
4.	Non-Ferrous Mining and Metallurgical industries	1,078.64	933.28	1,094.08	976.59	1,191.80	981.12	1,180.99	983.90	1,186.10	1,146.11	(+) 16.49
5.	Education, Sports, Art and culture	1,565.12	1,693.29	1,606.33	1,932.01	1,985.40	1,355.04	2,404.56	1,195.23	1,606.50	1,153.45	(-) 3.50
6.	Other receipts <sup>3</sup>	2,353.66	2,886.29	3,005.27	2,561.87	2,855.55	3,358.20	2,976.50	3,139.57	5,423.92	2,973.32	(-) 5.30
	<b>Total</b>	<b>6,765.09</b>	<b>9,343.27</b>	<b>8,083.98</b>	<b>8,350.60</b>	<b>9,071.50</b>	<b>8,918.31</b>	<b>9,723.95</b>	<b>9,913.76</b>	<b>12,318.00</b>	<b>10,764.01</b>	

Source: Finance Accounts of Government of Tamil Nadu

The following are the reasons for variation in receipts.

**Interest receipts, dividends and profits:** The overall increase in Revenue was mainly due to increase as interest on Ways and Means Advances to Statutory Corporations, Boards and Government Companies.

**Crop Husbandry:** The overall increase in Revenue was due to increase in receipts under Bacterial Culture Packets and Vegetable Seed Production.

**Forestry and Wildlife:** The overall increase in Revenue was mainly due to Receipts from sale of Teak and Miscellaneous receipts.

<sup>3</sup> 'Other receipts' represent non-tax receipts pertaining to heads other than those mentioned above.

## **1.2 Analysis of arrears of revenue**

The arrears of revenue, as on 31 March 2018, on some principal heads of revenue amounted to ₹ 34,512.45 crore, of which ₹ 13,508.92 crore was outstanding for more than five years, as detailed in Table 1.4.

**Table 1.4**  
**Arrears of revenue**

(₹ in crore)

Sl. No.	Head of revenue	Total amount outstanding as on 31 March 2018	Amount outstanding for more than five years as on 31 March 2018	Replies of Department
1.	Sales Tax/ VAT	28,937.94	10,079.08	Recovery of ₹ 6,967.00 crore was being done through issue of Recovery Certificates through auction of property. Recovery of ₹ 9,255.38 crore was stayed by High Court and other judicial authorities. Government stayed the collection of ₹ 18.79 crore. Recovery of ₹ 2,915.84 crore was held up due to rectification / review application. Collection of ₹ 553.93 crore was held up due to persons becoming insolvent. Amount of ₹ 562.34 crore was likely to be written off. Remaining arrears of ₹ 8,664.66 crore were at various stages of recovery.
2.	Stamp Duty and Registration Fee	395.09	311.03	Recovery of ₹ 395.03 crore was being done by Recovery Certificates and collection of ₹ 0.06 crore stayed by High Court and other judicial authorities.
3.	State Excise	34.31	34.31	Recovery of ₹ 15.13 crore was being done by Recovery Certificates. Recovery of ₹ 0.63 crore was stayed by High Court and other judicial authorities. Recovery of ₹ 4.29 crore was covered by rectification / review application and persons becoming insolvent. Amount of ₹ 0.27 crore was likely to be written off. Arrears of ₹ 13.99 crore were at various stages of collection.
4.	Taxes on vehicles	1.45	0.00	Demands of ₹ 1.23 crore were being done by Recovery Certificates. An amount of ₹ 0.22 crore was stayed by High Court and other judicial authorities.
5.	Non-Ferrous Mining and Metallurgical industries	4,399.48	2,586.52	Demands of ₹ 1,433.83 crore were covered by Recovery Certificates, stayed by High Court, other judicial authorities and Government. Remaining arrears of ₹ 2,965.65 crore were at various stages of recovery.
6.	Electricity Taxes	744.18	497.98	Recovery of ₹ 39.17 crore was being done through issue of Recovery Certificates through auction of property. Recovery of ₹ 533.72 crore was stayed by High Court and other judicial authorities. Government stayed the collection of ₹ 26.78 crore. Collection of ₹ 9.46 crore was held up due to persons becoming insolvent. Remaining arrears of ₹ 135.05 crore were at various stages of recovery.
	<b>Total</b>	<b>34,512.45</b>	<b>13,508.92</b>	

Source: Replies of concerned Departments

The table further indicates that the amount of uncollected revenue as on 31 March 2018 was about one-third of the total revenue raised by the Government during the year 2017-18.

### 1.3 Arrears in assessments

As per the provisions of the Tamil Nadu Value Added Tax (TNVAT) Act, the returns filed by the dealers for the year shall be deemed to have been assessed as on 31 October of the succeeding year. The TNVAT Act provides for selection of cases which were deemed to have been assessed for detailed scrutiny. As on 1 April 2017, 30,350 assessments were pending completion. The Department stated that during the year 53,514 cases were selected for scrutiny. Department further stated that out of 83,864 assessments, 22,179 assessments were completed during the year leaving behind 61,685 assessments pending for completion. Department may fix a time plan to complete the assessments early.

### 1.4 Evasion of tax detected by the Department

The details of cases of evasion of tax detected by the Commercial Taxes and Home (Transport) Departments, cases finalised and the demands for additional tax raised are given in Table 1.5.

**Table 1.5**  
**Evasion of Tax**

Sl. No.	Head of revenue	Cases pending as on 31 March 2017	Cases detected during 2017-18	Total	Number of cases in which assessment / investigation completed and additional demand with penalty etc. raised		Number of cases pending for finalisation as on 31 March 2018
					Number of cases	Amount of demand (₹ in crore)	
1.	Sales Tax / VAT	9,045	10,608	19,653	10,692	2,282.47	8,961
2.	Taxes on Vehicles	75	84	159	84	0.95	75

*Source: Replies of concerned Departments*

The number of cases pending at the end of the year had decreased when compared to that at the beginning of the year in respect of Sales Tax / VAT.

### 1.5 Pendency of Refund Cases

The number of refund cases pending at the beginning of the year 2017-18, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2017-18 are given in Table 1.6.

**Table 1.6**  
**Details of pendency of refund cases**

(₹ in crore)

Sl. No.	Particulars	Sales tax / VAT		Taxes on vehicles	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	25,809	597.30	31	0.09
2.	Claims received during the year	6,468	489.41	243	0.83
3.	Refunds made during the year	15,004	591.78	259	0.86
4.	Balance outstanding at the end of the year	17,273	494.93	15	0.06

Source: Replies of concerned Departments

In addition, refund of ₹ 319 crore was granted under Goods and Services Tax. The TNVAT Act provides for payment of interest, at the rate of half *per cent* per month, if the excess amount is not refunded to the dealer within 90 days from the date of the order of assessment or revision of assessment. Due to slow pace of disposal of refund cases, Government may incur liability for payment of interest.

### **1.6 Response of the Departments / Government towards audit**

The Accountant General (Economic and Revenue Sector Audit), Tamil Nadu (AG) conducts periodical inspection of the Government Departments to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with Inspection Reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices / Government are required to comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial replies to the AG within one month from the date of issue of the IRs. Serious financial irregularities are referred to the heads of the Departments and the Government.

IRs issued up to 31 December 2017 disclosed that 29,373 paragraphs, involving ₹ 5,934.99 crore relating to 5,681 IRs, remained outstanding at the end of June 2018 as mentioned below along with the corresponding figures for the preceding two years in Tables 1.7 and 1.8.

**Table 1.7**  
**Details of pending IRs**

Particulars	June 2016	June 2017	June 2018
Number of IRs pending for settlement	6,830	5,692	5,681
Number of outstanding audit observations	28,599	29,696	29,373
Amount of revenue involved (₹ in crore)	4,624.91	5,792.97	5,934.99

Source: As per data maintained in office of the AG(E&RSA), Tamil Nadu, Chennai

**1.6.1** The Department-wise details of the IRs and audit observations outstanding as on 30 June 2018 and the amounts involved are mentioned in Table 1.8.

**Table 1.8**  
**Department-wise details of IRs**

(₹ in crore)

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Commercial Taxes and Registration	Sales tax / Value added tax	1,633	17,801	3,050.64
		Stamp duty and registration fee	1,791	5,712	1,841.78
		Entry tax	5	12	0.13
		Entertainment tax	28	31	0.30
		Luxury tax	19	33	0.05
		Betting tax	11	22	0.09
		Expenditure audit	9	29	0.01
2.	Revenue	Land revenue	1,085	3,345	309.24
		Urban land tax	118	235	15.71
3.	Home (Transport)	Taxes on vehicles	448	1,176	51.65
4.	Home (Prohibition and Excise)	State excise	198	307	298.55
5.	Industries	Mines and minerals	227	464	209.48
6.	Energy	Electricity tax	109	206	157.36
<b>Total</b>			<b>5,681</b>	<b>29,373</b>	<b>5,934.99</b>

*Source: As per data maintained in office of the AG(E&RSA), Tamil Nadu, Chennai*

The large pendency of the IRs, due to non-receipt of the replies is indicative of failure by heads of offices and departments to initiate action to rectify defects, omissions and irregularities pointed out by the AG through the IRs.

### **1.6.2 Departmental Audit Committee Meetings**

The Government has set up Audit Committees (during various periods) to monitor and expedite the progress of the settlement of paragraphs in the IRs. Three meetings of Departmental Audit Committee were held with the Commercial Taxes, Registration and Motor Vehicle Tax Departments during the year 2017-18. As a follow-up of the meetings, 2,354 paragraphs involving ₹ 119.25 crore were settled.

### **1.6.3 Non-production of records to audit for scrutiny**

The programme of local audit of commercial tax offices is prepared sufficiently in advance and intimated to the Department / offices one month

before the commencement of local audit to enable them to keep relevant records ready for audit scrutiny.

During 2017-18, 2,10,109 sales tax assessment records were called for in 83 offices, out of which 35,262 records in 76 offices were not made available for audit.

The delay in production of records for audit would render the audit scrutiny ineffective, as rectification of under-assessment, if any, might become time barred, by the time these files are produced to audit.

The matter regarding non-production of records in each office and arrears in assessment is brought to the notice of the Department through the local audit reports of the respective offices.

The non-production of assessment records is a serious lapse on the part of the executive authorities thereby defeating the very purpose of audit as it also hinders the discharge of duties of the Comptroller and Auditor General of India as enshrined in the Constitution.

#### **1.6.4 Response of the Departments to draft Audit Paragraphs**

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by AG to the Principal Secretaries of the concerned Department, drawing their attention to audit findings and requesting them to send their response within six weeks. The fact of non-receipt of replies from the Departments is indicated at the end of each such paragraph included in the Audit Report.

Twenty two draft paragraphs (including one Performance Audit) proposed for inclusion in the Report of the Comptroller and Auditor General of India for the year ended March 2018 were forwarded to the Principal Secretaries of the respective Departments between July 2018 and February 2019. However, replies to 21 paragraphs were not received (February 2019). These paragraphs have been included in the Report without the response of the Principal Secretary of the Departments concerned. However, replies of Assessing Authorities have been included in the paragraphs.

#### **1.6.5 Follow-up of Audit Reports**

With a view to ensure accountability of the executive in respect of the issues dealt with in the Audit Reports, the Public Accounts Committee (PAC) laid down in 1997 that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within two months of tabling the Report, for consideration of the Committee. In spite of these instructions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. We observed that 220 paragraphs included in the Reports of the Comptroller and Auditor General of India on the Revenue Receipts of the Government of Tamil Nadu upto the year ended March 2017 were pending discussion by PAC. Out of the above, the Departments have not furnished explanatory notes in respect of 190 paragraphs. Review of the outstanding action taken notes (ATNs) as of 31 January 2019 on paragraphs included in

the Report of the Comptroller and Auditor General of India, Revenue Receipts, Government of Tamil Nadu indicated that the Departments had not submitted ATNs for 1,621 recommendations pertaining to audit paragraphs discussed by PAC. Out of the pending 1,621 recommendations, even the first ATN had not been received in respect of 1,057 recommendations, the earliest of which related to the Audit Report for the year 1986-87.

## 1.7 Analysis of the mechanism for dealing with the issues raised by Audit

To analyse the system of addressing the issues highlighted in the IRs / Audit Reports by the Departments / Government, the action taken on the paragraphs and Performance Audits included in the Audit Reports of the last 10 years for one Department is evaluated and included in this Audit Report.

### 1.7.1 Position of Inspection Reports

The summarised position of the IRs issued to Home Department relating to State Excise during the last 10 years, paragraphs included in these reports and their status as on 31 March 2018 are tabulated in Table 1.9.

**Table 1.9**  
**Position of Inspection Reports**

(₹ in crore)

Year	Opening balance			Additions during the year			Clearance during the year			Closing balance		
	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value
2008-09	111	141	158.47	17	37	1.82	0	0	0	128	178	160.29
2009-10	128	178	160.29	33	55	9.66	3	3	44.63	158	230	125.32
2010-11	158	230	125.32	12	17	0.70	3	10	9.08	167	237	116.94
2011-12	167	237	116.94	24	36	1.55	12	14	0.47	179	259	118.02
2012-13	179	259	118.02	10	17	1.04	4	8	0.14	185	268	118.92
2013-14	185	268	118.92	23	56	3.12	4	15	50.37	204	309	71.67
2014-15	204	309	71.67	16	58	0.25	4	9	0.17	216	358	71.75
2015-16	216	358	71.75	16	37	1.10	2	14	0.12	230	381	72.73
2016-17	230	381	72.73	16	42	228.36	18	37	0.27	228	386	300.82
2017-18	228	386	300.82	0	0	0	27	70	2.25	201	316	298.57

Source: As per data maintained in office of the AG(E&RSA), Tamil Nadu, Chennai

As against 111 IRs involving 141 paragraphs which were pending at the beginning of 2008-09, the number at the end of 2017-18 had increased to 201 IRs involving 316 paragraphs. This indicates that response to the local audit reports was poor and adequate steps needs to be taken by the department to clear the outstanding IRs and paragraphs.

### 1.7.2 Recovery of accepted cases

The Department accepted audit observations involving ₹ 8.21 crore and recovered ₹ 0.18 crore relating to four draft paragraphs and one Performance Audit Report (included in CAG's Reports of last ten years on the Revenue Sector).

## **1.8 Audit planning**

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations, nature / volume of transactions, etc. The annual audit plan is prepared on the basis of risk analysis which, *inter alia*, includes statistical analysis of the revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during the past five years, etc.

During the year 2017-18, the audit universe comprised 1,467 auditable units, of which 241 units were planned and 242 units were audited during the year 2017-18 i.e., 16.50 *per cent* of the total auditable units. The details are shown in Annexure 1.

## **1.9 Results of audit**

### **Position of local audit conducted during the year**

The records of 104 commercial taxes offices out of 443 auditable units, 21 offices out of 93 auditable units relating to motor vehicles tax, 18 registration offices out of 599 auditable units relating to stamp duty and registration fee, 17 district offices out of 31 auditable units relating to mines and minerals and 82 offices out of 163 auditable units relating to land revenue were test checked during 2017-18 and under-assessment, short levy, loss of revenue and other observations amounting to ₹ 4,432.44 crore were noticed in 3,544 cases. During the year, the Departments accepted and recovered under-assessment and other deficiencies in 905 cases involving ₹ 207.63 crore. Out of these, 153 cases involving ₹ 1.80 crore were pointed out in 2017-18, and 752 cases involving ₹ 205.83 crore pertained to objections raised in earlier years.

## **1.10 Scope of this Report**

This Report contains paragraphs including one Performance Audit relating to Mineral Wealth Management in Geology and Mining Department and other audit observations involving financial effect of ₹ 3,984.52 crore. The Departments / Government accepted audit observations involving ₹ 93.78 crore of which, ₹ 1.21 crore had been recovered / adjusted by the Departments. These are discussed in succeeding Chapters II to V. The audit observations discussed in the subsequent paragraphs are observed from the test check of records in the selected offices. Most of the observations are of a nature that may reflect similar deficiencies/under assessments in other offices, not test checked by Audit. Department may, therefore, carry out internal audit in these offices to ensure that such irregularities and deficiencies, if any, stand rectified.

**CHAPTER II**  
**VALUE ADDED TAX /**  
**CENTRAL SALES TAX**



## **CHAPTER II**

### **VALUE ADDED TAX / CENTRAL SALES TAX**

#### **2.1 Tax administration**

The administration of the Commercial Taxes Department (CTD) is vested with the Commissioner of Commercial Taxes (CCT). The State has been divided into 40 zones, comprising 334 Assessment Circles including four Large Taxpayers units<sup>4</sup> (LTUs) at Chennai and one Divisional Large Taxpayers unit at Coimbatore. Assessment, levy and collection of tax are done by the Assessing Authorities (AAs) in charge of the Assessment Circles. Monitoring and control at the Government level is done by the Principal 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 2017-18 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 2017 to March 2018 revealed under-assessment of tax and other irregularities amounting to ₹ 1,662.86 crore in 2,645 cases, which broadly fall under the following categories.

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<sup>4</sup> Large taxpayers – Dealers whose taxable turnover for a year exceeds ₹ 200 crore

**Table: 2.1**

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1	Audit of Transition to Goods and Services Tax in Tamil Nadu	1	1,451.02
2	Audit of IT Preparedness of the Commercial Taxes Department for implementation of Goods and Services Tax	1	63.87
3	Incorrect exemption of tax	35	1.80
4	Incorrect rate of tax	147	30.06
5	Incorrect computation of taxable turnover	172	3.61
6	Non/short levy of tax	226	10.45
7	Non-levy of penalty/interest	154	7.86
8	Incorrect allowance of input tax credit	690	68.00
9	Others	1,219	26.19
	<b>Total</b>	<b>2,645</b>	<b>1,662.86</b>

During the course of the year 2017-18, the department accepted underassessments and other deficiencies in 495 cases and recovered an amount of ₹ 7.67 crore, out of which, ₹ 1.75 crore involved in 152 cases was pointed out during the year and the rest in earlier years.

Audit of Transition to Goods and Services Tax in Tamil Nadu, IT Preparedness of the Commercial Taxes Department for implementation of Goods and Services Tax and few illustrative cases involving ₹ 1,573.52 crore are discussed in the following paragraphs.

## **2.4 Audit of Transition to Goods and Services Tax in Tamil Nadu**

### **2.4.1 Introduction**

Introduction of the Goods and Services Tax (GST) with effect from 1<sup>st</sup> July 2017, through Constitutional amendment<sup>5</sup>, was a milestone in the history of tax reforms in India. The new form of tax subsumed several indirect and direct taxes and duties levied by the Centre and the States, such as Central Excise, Service Tax, Value Added Tax (VAT), etc. GST is an indirect tax (or consumption tax) levied on the supply of goods and services. The GST system is a federal tax structure system, consisting of two components, *viz.*, Central GST (CGST) and State GST (SGST), with both the Centre and States empowered to levy tax simultaneously, on every transaction of sale of goods and services, except exempted goods and services and goods, which are outside the purview of GST. Accordingly, Central Goods and Services Tax Act, 2017 (CGST Act) and Tamil Nadu Goods and Services Tax Act, 2017 (TNGST Act) were enacted. For successful implementation of any new tax regime, adequate preparedness and transition provisions are a prerequisite.

The transitional provisions relating to migration of existing taxpayers to GST and transitional arrangements for carrying forward the input tax credit (ITC) of taxes paid under existing laws are enumerated in Chapter XX of the CGST and TNGST Acts. The said Acts provide that on or from the appointed day, every person registered under any of the existing laws and having a valid Permanent Account Number (PAN) shall be issued a certificate of registration on provisional basis which shall be replaced by final certificate of registration subject to the conditions prescribed. The said Acts also entitle the registered dealers to carry forward the amount of credit available under the existing Acts, by submitting a declaration in FORM GST TRAN-1<sup>6</sup> and subject to the fulfilment of conditions prescribed for carry forward of such credit.

In Tamil Nadu, GST is administered by the Commercial Taxes Department (CTD). The Commissioner of State Tax (Commissioner) is the head of the Department, who is assisted by Additional Commissioners and Joint Commissioners (JCs). The Information Technology wing of the CTD is headed by the JC (Computer Systems) {JC(CS)}.

### **Trend of Revenue**

GST was implemented from July 2017 and total receipts under GST from July 2017 to March 2018 were ₹ 24,589.31 crore {including Integrated Goods and Services Tax (IGST) advance of ₹ 1,304 crore}. Receipts under Pre-GST including non-subsumed taxes were ₹ 46,356.15 crore as indicated in Table-2.2.

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<sup>5</sup> The Constitution (One Hundred and First Amendment) Act, 2016 published in the Gazette of India, Extraordinary, Part II – Section 1 vide No.55 dated 08 September 2016.

<sup>6</sup> Form of declaration by the dealers for claim of transitional credit.

**Table: 2.2**  
**Trend of Revenues for the period 2013-14 to 2017-18**

(₹ in crore)

Year	Budget Estimate	Receipts under Pre-GST taxes	Receipt under GST		Total receipts under Pre-GST and GST	Percentage of increase	Compensation received	Protected Revenue
			SGST	IGST Apportionment				
2013-14	52,826.74	53,532.17	--	--	53,532.17	--	--	--
2014-15	65,202.06	57,190.80	--	--	57,190.80	6.83	--	--
2015-16	68,874.57	57,522.03	--	--	57,522.03	0.58	--	--
2016-17	64,835.04	63,233.58	--	--	63,233.58	9.93	--	--
2017-18	73,959.25	46,356.15	23,772.43	816.88	70,945.46	12.20	632.00*	29,032.76**

Source: Finance Accounts of Government of Tamil Nadu

\*Compensation received for eight months for the period from July 2017 to February 2018.

\*\*Protected revenue for nine-month period from July 2017 to March 2018. Revenue collected under the respective SGST Act (₹ 23,772.43 crore), Revenue apportioned to the State under IGST Act (₹ 816.88 crore) and Arrears of revenue collected under Acts subsumed into GST (₹ 3,425.46 crore) are considered as actual revenue for the purpose of compensation. Accordingly, revenue collected for the purpose of GST compensation is worked out to ₹ 28,014.77 crore. The compensation due to Tamil Nadu Government was ₹ 1,017.99 crore and balance amount of ₹ 385.99 crore is yet to be received.

The Compliance Audit had been performed to ascertain and satisfy whether

- the CTD ensured migration of all existing taxpayers to the GST regime;
- the CTD ensured correctness of credit carried forward by the dealers in Form TRAN-1; and
- the CTD had taken adequate arrangements to finalise legacy assessments.

The audit objectives were benchmarked against the criteria drawn from the following sources.

- Tamil Nadu Value Added Tax Act, 2006 and Tamil Nadu Value Added Tax Rules, 2007;
- Central Sales Tax Act, 1956
- Tamil Nadu Goods and Services Tax Act 2017 and Tamil Nadu Goods and Services Tax Rules 2017.
- Central Goods and Services Tax Act 2017 and Central Goods and Services Tax Rules 2017.
- Notifications / instructions issued by the State/Central Government from time to time.

Migration process in the State was started in December 2016. Therefore, the transition period was reckoned from December 2016 to June 2017 (upto the

appointed day for implementation of GST) and period of coverage of audit was from June 2017 to December 2018.

The data relating to VAT administration, GST migration, TRAN-1 as obtained from the CTD, division of taxpayers as per the orders of State Level Committee for bifurcation of tax base and Central Excise Value Added Tax (CENVAT) credit details as obtained from Central Board of Indirect Taxes and Customs (CBIC) form the basis of data analysis.

There are 334 assessment circles under the jurisdiction of CTD, Tamil Nadu. Audit analysed the data dump relating to all the above circles. Based on the results of analysis, audit conducted the test check at 153 circles under the jurisdiction of six<sup>7</sup> divisions. The Offices of the Commissioner and JC(CS) were also visited to obtain details.

An Entry Conference was held with the CTD on 30 July 2018, wherein the objective, scope and methodology of audit were explained.

Exit conference was held on 28 February 2019. The views expressed by the Government and Department during the Exit Conference have been taken into account and suitably incorporated in the report-

Audit acknowledges the co-operation extended by the CTD in providing us the necessary information and records except those brought out in the respective paragraphs.

### **Audit findings**

#### **2.4.2 Migration of Tax payers**

Section 139 of TNGST Act, provided that on and from the appointed day, every person registered under any of the existing laws and having a valid PAN shall be issued a certificate of registration on provisional basis (PID), subject to such conditions as might be prescribed, which unless replaced by a final certificate of registration, shall be liable to be cancelled, if the conditions so prescribed were not complied with. As per Section 22 of the Act *ibid*, every supplier making a taxable supply of goods or services or both in the State shall be liable to be registered under this Act, if his aggregate turnover in a financial year exceeded ₹ 20 lakh. The Commissioner had issued<sup>8</sup> instructions to JCs and head of the assessment circles on training and setting up of special camps to assist the dealers during migration.

In Tamil Nadu, the process of migration started when the State sent the dealer details to GSTN. The username and password provided by GSTN to the CTD were in turn intimated to the dealers through their registered mobile number. Dealer details sent by CTD to GSTN, PID allotment details sent by GSTN to CTD and other related communications were not made available to audit.

The dealers were then required to login into the GSTN common portal to complete the enrolment process. Upon completion, the taxpayer would get a

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<sup>7</sup> Chennai Central, East, North and South, Coimbatore and Madurai.

<sup>8</sup> Circular No.18/2016 dated 21/12/2016.

provisional certificate of registration, which would have a GSTIN (Goods and Services Taxpayers Identification Number). The status of the dealer was marked as '**Provisional**' at this stage. Upon furnishing of further details / particulars, the dealer would be granted final certificate of registration, either after verification by AAs or by 'deemed registration'. This completes the migration process. Upon successful migration, the status of the dealer was set as '**Active**' in the GSTN portal.

### **Allocation of taxpayers between Centre and States**

As per recommendations of GST Council, 90 *per cent* of existing registered taxpayers having turnover upto ₹ 1.5 crore, and 50 *per cent* of existing registered taxpayers having turnover of more than ₹ 1.5 crore were allotted to the State. Accordingly, State was allotted the jurisdiction of 4,95,567 existing registered taxpayers (February 2018) as mentioned in Table- 2.3.

**Table: 2.3**

#### **Allotment of tax payers to State**

Allotted to	Tax payers having Turnover above ₹ 1.5 crore	Tax payers having Turnover below ₹ 1.5 crore	Total
Centre	44,009	50,175	94,184
State	43,977	4,51,590	4,95,567
<b>Total</b>	<b>87,986</b>	<b>5,01,765</b>	<b>5,89,751</b>

(Source: Details furnished by the Department)

Audit observed that PID was allotted to 6,46,878 dealers out of which 6,38,641 (98.73 *per cent*) were active dealers and 8,237 (1.27 *per cent*) were cancelled dealers as on 30.6.2017. Audit also observed that no PID was allotted to 3,465 active dealers and hence were not migrated to GST. Out of 6,38,641 dealers, who were allotted PID, 5,45,252 dealers (85.38 *per cent*) were migrated and 93,389 (14.62 *per cent*) dealers were not migrated. Thus, 96,854 dealers were not migrated to GST. Audit findings based on data analysis and field verification are enumerated below;

#### **2.4.2.1 Non-migration of liable dealers**

Audit observed that out of the 96,854 dealers who were not migrated, 11,793 dealers (12 *per cent*), registered in 328 Circles, had turnover of more than ₹ 20 lakh in the year 2016-17. The total turnover of these liable dealers (including 227 dealers, who were not allotted PID) for the year 2016-17, was ₹ 67,185.72 crore. Audit took up verification of the issue of non-migration of liable dealers in 149 out of the 153 selected circles and found that 6,027 liable dealers, accounting for a turnover of ₹ 29,309.83 crore for the year 2016-17, were not migrated to GST.

This was brought to the notice of Government in January 2019. During Exit conference, Government replied that out of 11,793 dealers, 3,000 were migrated through PID allotted by CBIC and 1,300 were subsequently migrated. Efforts were being taken to bring the remaining cases into tax ambit.

#### **2.4.2.2 Non-allotment of PID in respect of existing dealers**

As per Rule 4(9A)(a) of TNVAT Rules, 2007, as amended from 19 April 2010, PAN number was mandatory even in the TNVAT regime. Further, the need for updation of correct PAN number in the database was also highlighted in Paragraph 2.13.7.2 of the Report of Comptroller & Auditor General of India for the year ended 31 March 2012. Audit observed that CTD had taken up the process of PAN validation with National Securities Depository Limited (NSDL) and received discrepancy report in respect of 12,375 cases during October 2015. Accordingly, the Commissioner instructed (October 2015) the AAs to take action on those cases.

Analysis of 3,465 dealers to whom PID was not allotted, revealed that 1,657 dealers had issues relating to PAN validation. PAN of 1,573 dealers were incorrect and 84 dealers did not furnish PAN. Audit observed that 127 dealers (eight *per cent*) out of 1,657 had turnovers more than ₹ 20 lakh in the year 2016-17 and hence liable to be registered. Audit took up verification of PAN status in 153 selected assessment circles and observed 85 liable dealers in 50 circles, accounting for a turnover of ₹ 371.89 crore, were not migrated due to incorrect/non-furnishing of PAN.

In respect of the remaining 1,808 dealers, reasons for non-allocation of PID were not furnished by CTD. Audit observed that 100 dealers with a turnover of more than ₹ 20 lakh in the year 2016-17, did not migrate for reasons other than incorrect / non-availability of PAN. The total turnover of these 100 dealers was ₹ 531.25 crore.

This was brought to the notice of Government in January 2019. During Exit conference, Government stated that necessary steps would be taken to bring liable dealers under GST tax base.

#### **2.4.2.3 Migration of cancelled dealers due to non-scrutiny of applications for registration**

TNGST Act provides for processing of application for final registration filed by taxable persons, issuance of notices, scrutiny of responses made by the taxable persons and confirmation or cancellation of registrations. TNGST Rules further prescribes various forms through which the above process is facilitated. The applications for registration were to be scrutinised and approved by proper officers for issue of Registration Certificate (RC) by GSTN within a period of 15 days, beyond which, the registration would be deemed to be approved.

Audit noticed that the functionality for processing of registration applications was made available in the back office IT system of State Tax Officers, only with effect from August 2018. This had led to deemed registration of all dealers without statutory approval of Tax Authorities. Audit also observed that the registration module did not contain any MIS report for monitoring the receipt, processing of application or completion of final registration.

Audit analysis revealed that 1,790 dealers in 288 out of 334 assessment circles whose registration were cancelled under VAT regime were incorrectly migrated and bifurcated between Centre and State Tax Authorities. (1,598

were allotted to State and 192 to Central). Field verification in 153 selected circles revealed incorrect migration of 878 cancelled dealers in 139 circles.

This was brought to the notice of Government in January 2019. During Exit conference, Government replied that the audit observations would be attended to in a time bound manner and assured that action would be initiated and replies furnished.

#### **2.4.2.4 Assessment of non-migrated dealers**

Section 22(3-A) of the TNVAT Act, *inter-alia*, provided that the dealers in respect of whom the relevant assessment year was the last year of business, shall be assessed on the basis of the scrutiny of the returns with reference to the books of accounts, registers, records and any other document and on such enquiry as the assessing authority may consider necessary.

A total of 96,854 dealers in 328 assessment circles were not migrated to GST. Field verification in 153 assessment circles revealed that the AAs had not invoked above provision in 37,098 cases pertaining to 148 circles.

This was brought to the notice of Government in January 2019. During Exit Conference, Government agreed to take action.

#### **2.4.2.5 Pendency in completion of assessments**

As on 31 March 2018, 93,857 assessments under TNVAT scrutiny assessments, Central Sales Tax (CST) and Luxury Tax were pending finalisation. However, no instructions had been issued to complete the pending assessments and no target/time limit had been fixed for finalisation of pending assessments.

This was brought to the notice of Government in January 2019. During Exit conference, Government replied that a time bound action plan would be formulated for completion of pending legacy assessments.

### **2.4.3 Transitional credit**

On migration, the taxable persons are allowed to carryover credit balances of taxes paid under existing laws and utilize the same for payments due under GST. Section 140 and 141 of the TNGST and CGST Acts enumerate the necessary provisions governing the claim of transitional credits.

Under the jurisdiction of CTD of Tamil Nadu, 83,728 dealers had filed TRAN-1 returns. Audit analysed the claims of ₹ 1,831.71 crore under SGST and ₹ 7,402.97 crore under CGST made by these dealers.

#### **2.4.3.1 Inadequate and ineffective mechanism in collection / dissemination of data**

Verification of TRAN-1 returns by the AAs requires comparing the turnover and credit details furnished by the dealers in VAT returns, CST returns (already available with the department) and Central Excise and Service Tax returns (to be obtained from CBIC) with TRAN-1.

In the current set up, the tax authorities have been provided with three different interfaces, viz, (i) ectax<sup>9</sup>, (ii) Total Solution Project (TSP<sup>10</sup>) and (iii) GST<sup>11</sup> to access the data required for verification of TRAN-1 return. These interfaces were neither interlinked nor consolidated into one portal to provide wholesome details from single source to AAs. Necessity to use multiple interfaces for verification renders the verification process, time consuming. Also, the AAs did not have access to data relating to CENVAT credit as the same has not been obtained from CBIC.

#### 2.4.3.2 Inadequacies in parameters considered by the SAS manual

Audit observed that the CTD had conducted centralised analysis of the credit claims through TRAN-1 using Statistical Analytical Software tool<sup>12</sup> (SAS). The alerts in respect of discrepant cases were created and pushed to the back office system of AAs. Dealer-wise alerts were made available to the AAs in the Assessment module for carrying out further verification and assessment procedures. Detailed instructions were issued to the field offices in August 2018.

Analysis of TRAN-1 claims, made in the SAS tool is briefed in the user manual for SAS report viewer. Table 2.4 below depicts audit observations on the sufficiency and correctness of analysis made.

**Table 2.4: Analysis of SAS Tool**

Sl. No.	Description of the transitional claim	Table reference	Parameter considered in the manual	Deficiencies observed in the SAS analysis
1.	Amount of CENVAT credit carried forward to electronic credit ledger as central tax (Central excise and service)	5(a)	Not considered by the CTD	The data was not collected by the CTD. (December 2018).
2	Carry forward ITC availed under existing law	5(c)	Form-I (3 sources)	Admissibility checks not considered as below; a) correctness of closing balance under existing law b) eligibility to carry forward, with reference to filing of monthly returns under existing law
3	Unavailed ITC of capital goods	6(b)	Form-I (Annexures 13 & 14 to Form-I)	Admissibility checks not considered as below; a) claims beyond time limit (lapsed claims) b) payment of corresponding tax by the seller

<sup>9</sup> ectax is a Commercial Tax portal containing data relating to VAT and Central Sales Tax returns filed till May 2016.

<sup>10</sup> TSP is a CTD portal containing data relating to VAT and Central Sales Tax returns filed from June 2016 onwards.

<sup>11</sup> Data pulled from GSTN portal

<sup>12</sup> Statistical Analysis System is a software developed by TCS, used for data management and advanced data analytics. It provides user interface for data analysis and analytical reports for decision making.

4	Unavailed claim of ITC on goods in transit	7(b)	Annexure-1 of June'17	Admissibility checks not considered as below; a) declaration of sellers details in TRAN-1 b) payment of corresponding tax by the seller c) Double claims in respect of same transaction (as ITC under existing law and as transitional credit)
5	Unavailed credit of goods held in stock	7(c)	VAT dealer base Form I	Analysis did not consider the risk of non-availability of invoice level details in TRAN-1. Claims of higher value were not considered for detailed check.
6	Value of goods transferred as a job worker / principal	9 (a) & (b)	Not considered by CTD	
7	Credit of goods held on behalf of principal	10 (a) & (b)		
8	Credit of tax paid on supplies taxable under GST	11		

This was brought to the notice of Government in January 2019. During Exit Conference, Government replied that efforts have been taken to fill gaps and around 14,000 alerts have been sent based on the new analysis after being pointed out by audit.

#### **2.4.3.3 Independent data analysis of TRAN-1 returns**

Taxable persons are allowed to carry forward the taxes paid under existing laws under various categories by filing return in form GST TRAN-1. Audit analysed correctness of the credits claimed under the following categories and verified the material irregularities in 153 assessment circles. Component-wise description of each criteria, against which correctness of the claims measured / analysed is described in Table 2.5.

Table: 2.5

Category of carry forward claim	Criteria	Components of the criteria, against which the claims were tested	Audit Observation
Closing Balance of CENVAT credit on inputs	Section 140(1), Rule 117(1) of CGST Act / Rule 2017	The amount of CENVAT credit carried forward in the returns, filed under the Central Excise and Service Tax laws, for month of June 2017, is allowable as transitional credit.	Excess carry forward
Closing Balance of VAT credit on inputs	Section 19(1), (11),(15) of TNVAT Act, 2006	Under the TNVAT Act, ITC is allowed if; - The corresponding tax is paid by the selling dealer; - The claim of ITC should be made within 90 days or before the end of the financial year, whichever is later; - ITC is not available in respect of the purchases made from cancelled dealer.	Inadmissible closing balance under existing law
		The amount of VAT credit carried forward in the return for June'17 is eligible to be claimed as transitional credit if the registered person has filed all the returns required under TNVAT Act for the period of 6 months.	Ineligibility to carry forward
		The amount of VAT credit carried forward in the returns, filed under TNVAT Act, for the month of June 2017, is allowable as transitional credit.	Excess carry forward
		The amount of carried forward credit allowable as transitional credit is restricted to the extent of tax payable for the interstate sale / exempted turnover for which statutory forms were not filed.	Incorrect restriction
Unavailed VAT credit on capital goods	Section 140(2), Rule 117(2) of TNGST Act / Rule, 2017	The unavailed portion of ITC on capital goods is allowable as transitional credit if the credit is admissible under TNVAT Act, i.e. - The corresponding tax was paid by the selling dealer; - ITC in respect of capital goods should be availed within a period of three financial years	Inadmissibility under existing law / Excess carry forward
VAT credit on goods in transit during transition	Section 140(5), 117(2)(c) of TNGST Act / Rule, 2017	Credit of taxes paid under the TNVAT Act before the appointed day but the inputs were received after the appointed day, is allowable as transitional credit if - The corresponding tax is paid by the seller - The credit was not already claimed by the registered person (double claim) - The purchase was recorded in the books of accounts within 30 days from the appointed day	Inadmissibility under existing law / Ineligibility to carry forward / Double claim

VAT credit on goods held in stock	Section 140(3),(4),(6), 117(2)(b) of TNGST Act / Rule, 2017	Amount of the taxes paid in respect of the goods held in stock is allowable as transitional credit if <ul style="list-style-type: none"> <li>- The registered person is in possession of invoices</li> <li>- The invoices were issued within 12 months prior to the appointed day</li> <li>- ITC is eligible on the goods under this Act</li> </ul>	Non-verification of eligibility to carry forward
VAT credit of goods held on behalf of Principal	Section 142(14), Rule 119 of TNGST Act / Rule, 2017	Amount of taxes paid on goods / capital goods that are held in stock by the agent, on behalf of the principal, is allowable as transitional credit is <ul style="list-style-type: none"> <li>- Both the agent and principal declared the details of such goods in TRAN-1</li> <li>- The corresponding ITC is not availed / reversed by the principal</li> </ul>	Ineligible claim
VAT credit on supplies made after appointed date	Section 142(11), Rule 118 of TNGST Act / Rule, 2017	Amount of taxes paid under TNVAT Act, on the supplies made after the appointed day is allowable as transitional credit, if details of such taxes paid are declared in TRAN-1.	Ineligible claim

Audit observed 6,486 irregular claims of ₹ 2,333.40 crore transitional credit. Out of this, Audit verified claim of ₹ 1,837.39 crore (79 *per cent*) in respect of 4,280 cases in 153 selected assessment circles. It was noticed that the Department had initiated action and completed action in respect of two cases involving ineligible claim of ₹ one lakh. Further, it was found from the reply of the AAs that the claim was eligible in respect of 10 dealers involving claim of ₹ 386.36 crore. The AAs agreed to take action in 3,774 cases involving a claim of ₹ 1,379.00 crore and the reply of the AAs were not acceptable in respect of 42 cases involving claim of ₹ 2.41 crore. In the remaining 452 cases involving claim of ₹ 69.61 crore, reply of the Department is awaited. Results of audit analysis and field verification are mentioned in Table-2.6 and Table-2.7.

Table: 2.6

## Result of Independent Data Analysis by Audit

(₹ in crore)

Category of carry forward claim in TRAN-1	Claimed in TRAN-1		Criteria as per CGST/TNGST act and rule 2017	Irregular claims as per data analysis			Irregular claims taken up for audit		
	Number of cases	Carry forward		Num ber of circles	Num ber of cases	Irregular claim	Number of circles	Number of cases	Amount of irregular claim
Closing Balance of CENVAT credit on inputs	4,770	5,569.83	Section 140(1), Rule 117(1)	212	1,329	1511.40	130	1,045	1220.57
Closing Balance of VAT credit on inputs	62,953	1,740.40	Section 19(1), (11),(15)	265	943	58.78	136	579	43.52
			Section 140(1), 142(8), Rule 117(1)	119	325	32.14	50	73	4.09
				292	1316	207.61	138	718	148.31
				133	1138	386.82 <sup>13</sup>	128	995	331.66 <sup>14</sup>
Unavailed VAT credit on capital goods	2,355	55.78	Section 140(2) , Rule 117(2)	175	444	38.26	80	244	14.65
VAT credit on goods in transit during transition	2039	50.77	Section 140(5), 117(2)(c)	190	481	16.13	107	307	8.98
VAT credit on goods held in stock	1605	68.33	Section 140(3),(4),(6), 117(2)(b)	193	456	65.30	110	278	52.03
VAT credit of goods held on behalf of Principal	25	0.73	Section 142(14), Rule 119	22	25	0.73	15	17	0.54
VAT credit on supplies made after appointed date	31	16.49	Section 142(11), Rule 118	24	29	16.23	20	24	13.04
<b>Total</b>		<b>7,502.33</b>			<b>6,486</b>	<b>2,333.40</b>		<b>4,280</b>	<b>1,837.39</b>

<sup>13</sup> Includes additional demand of ₹ 246.81 crore due to non-submission of statutory forms in excess of carry forward credit claimed in Tran-1 returns.

<sup>14</sup> Includes additional demand of ₹ 246.24 crore due to non-submission of statutory forms in excess of carry forward credit claimed in Tran-1 returns.

**Table: 2.7**  
**Result of Field Verification**

(₹ in crore)

Category of Audit observations	Cases which were taken up for further field verification regarding action taken by AAs		Cases where action was already taken by the AA		Cases where AA accepted to take action after pointed out by audit		Cases where AAs reply was not accepted and observation was reiterated by audit		Cases dropped after considering reply of the AA		Cases in respect of which first reply is awaited	
	No. of taxable persons	Carry forward credit claimed	No. of taxable persons	Carry forward credit claimed	No. of taxable persons	Carry forward credit claimed	No. of taxable persons	Carry forward credit claimed	No. of taxable persons	Carry forward credit claimed	No. of taxable persons	Carry forward credit claimed
Excess carry forward of CENVAT credit	1,045	1,220.57	0	0	1,040	836.03	0	0.00	5	384.54	0.00	0.00
Inadmissible closing balance under TNVAT Act	579	43.52	0	0	545	42.78	12	0.22	0	0	22	0.52
Ineligible carry forward of VAT credit	73	4.09	0	0	68	3.98	2	0.04	0	0	3	0.07
Excess carry forward of VAT credit	718	148.31	2	0.01	663	141.80	18	1.68	3	1.8	32	3.02
Incorrect restriction of VAT credit	995	331.66	0	0	676	271.05	5	0.30	2	0.02	312	60.29
Inadmissible credit under existing law / Excess carry forward of unavailed credit on capital goods	244	14.65	0	0	222	13.51	1	0.01	0	0	21	1.13
Inadmissible under existing law / Ineligible to carry forward / Double claim	307	8.98	0	0	275	8.36	0	0	0	0	32	0.62
Non-verification of eligibility	278	52.03	0	0	244	47.91	4	0.16	0	0	30	3.96
Inadmissible claim	17	0.54	0	0	17	0.54	0	0	0	0	0	0
	24	13.04	0	0	24	13.04	0	0	0	0	0	0
<b>Total</b>	<b>4,280</b>	<b>1,837.39</b>	<b>2</b>	<b>0.01</b>	<b>3,774</b>	<b>1,379.00</b>	<b>42</b>	<b>2.41</b>	<b>10</b>	<b>386.36</b>	<b>452</b>	<b>69.61</b>

This was brought to notice of the Government in January 2019. During Exit Conference, Government, while replying to observation in respect of excess CENVAT credits carried forward, cited a circular empowering CBIC as the authority for verifying CENVAT and Service Tax credits and therefore Commissioner of Commercial Taxes (CCT) would have no jurisdiction in this regard. The reply was not acceptable since verification of transitional credit was part of GST Act and GST Act provided for cross empowerment between the Centre and the States. As per section 6(1) of the CGST Act, the officer appointed under the SGST Act is authorized as the proper officer to carry out any function to be performed under CGST Act. Transitional claim in respect of CENVAT credit is made through the TRAN-1 return prescribed under CGST Act. The jurisdictional officer under CGST is the authority to verify correctness of transitional credit claimed by a taxable person.

In respect of remaining issues, Government replied that the audit observations would be attended to in a time bound manner and assured that action would be initiated and replies furnished.

#### **2.4.3.4 Ineligible claim of exemption and input tax credit on goods under job-work led to loss of revenue**

Section 141 of the TNGST Act stipulates that where goods are received at the place of a job worker for further processing in accordance with the provisions of existing law, prior to the appointed day and such goods are returned by the job worker after completion of job work, then no tax is payable on such return of goods. The above exemption is subject to the condition that both the job worker and manufacturer declare the details of such goods in return in form TRAN-1 and the job worker returns the same within six months of the appointed date. If the goods were not returned within prescribed time, the ITC availed by the principal on such goods would be liable to be recovered.

Audit observed that with reference to Table 9 (a) and (b) of TRAN-1, the declaration details pertaining to value of goods sent by the registered person as principal to the job worker was incorrectly mapped as job work received by him in the GST portal of CTD. However, the same was correctly reflected in the data dump provided by the CTD.

Analysis of data relating to declaration of goods sent / held in stock by the principal / job worker as filed by the taxable person in TRAN-1 revealed that in respect 618 instances involving ₹ 1,767.90 crore, the corresponding movement was not declared by principal / job worker. Test check of the above discrepancy in 153 selected circles revealed that AAs did not take any action in respect of the claims involving ₹ 489.70 crore in 136 cases pertaining to 32 circles, where the corresponding movement was not declared by the job worker / principal. However, the AAs have not initiated any action to verify exemption claimed by the job worker / ITC availed by the principal and levy corresponding tax.

This was brought to notice of the Government in January 2019. During Exit conference, Government replied that the audit observation would be attended to in a time bound manner and assured that action would be initiated and replies furnished.

### **2.4.4 Other findings**

#### **2.4.4.1 Internal control**

Internal control is the integral part of the working of any system. Audit noticed that there was no MIS prescribed for migration, and migration module was not enabled for registering authorities to carry out registration work. Therefore, the CTD could not conduct prescribed checks. The instructions issued for preparation of SAS reports to check transitional credit did not cover all the risk areas to ensure correctness of transitional credit. The proper monitoring system for the supervisory officers to watch the progress of verification of transitional credit was absent. This resulted in inaction of AAs in verifying transitional credit to a large extent.

This was brought to notice of the Government in January 2019. During Exit conference, Government replied that the audit observation would be attended to in a time bound manner and assured that action would be initiated and replies furnished.

#### **2.4.4.2 Non-issuance of electronic Show Cause Notice**

According to Rule 99(1) of TNGST Rules, 2017 read with section 61 of TNGST Act, 2017, in case of discrepancies noticed by the proper officer during scrutiny of returns, he shall issue notice to the registered taxable person in form FORM GST ASMT-10, informing him of such discrepancies and amount payable in relation to the same and seek his explanation thereto. According to Rule 142 read with Section 73, in cases of non-payment or short-payment of taxes or erroneous refund or incorrect availing of ITC noticed by the proper officer, he shall serve summary of notice, electronically in form GST DRC-01, specifying therein the details of amount payable.

The CTD had issued circular instructions (August 2018) on incorporation of the above IT functionality in the back office system and issuance of electronic demand summary report in DRC-07. In 153 selected assessment circles, 4,287 audit observations pertaining to various transitional aspects including incorrect availing of transitional credits were raised. Notices were issued in respect of 525 cases out of which only two have been issued digitally and the remaining 523 notices had been issued manually.

This was brought to the notice of Government in January 2019. During Exit Conference, Government replied that steps were being taken to digitize the issue of Show Cause Notices (SCNs) and functionality was provided for issue of SCNs online in respect of alerts generated.

#### **2.4.5 Conclusion**

The Department did not have a mechanism to check and facilitate migration of dealers who were yet to migrate into GST and assessments under erstwhile Act were pending for a long time. There were excess, irregular and ineligible claims of substantial transitional credit, not verified by the CTD. While GST regime envisaged complete online environment, issue of manual notices had defeated the purpose, and the assessment process continued to lack transparency. With assessments under erstwhile tax regime, and rectificatory actions on claims during transition pending, the transition to GST has remained largely provisional and not final.

## **2.5 Audit of IT Preparedness of the Commercial Taxes Department for implementation of Goods and Services Tax**

### **2.5.1 Introduction**

The implementation of Goods and Services Tax (GST) from July 2017 was a very significant step in indirect tax reforms in India, that subsumed a large number of Central and State taxes. The common and shared IT infrastructure developed by Goods and Services Tax Network (GSTN), provided front-end interface for the taxpayers with facilities for filing of application for registration, returns and creation of challan for payment of tax. The portal also provided for settlement of Integrated Goods and Services Tax (IGST) payment, generation of business intelligence and analytics. All other statutory functions to be performed under GST, like approval of registration, assessment, audit, appeal, enforcement, etc., could be performed by the tax officials in the back-end applications developed by the respective tax departments in Model-I States<sup>15</sup>. Commercial Taxes Department (CTD), Tamil Nadu, had rolled out a comprehensive software application, namely, Total Solution Project (TSP), for Value Added Tax (VAT) in 2016. As a Model-1 State, Tamil Nadu opted to use the TSP to perform the statutory functions relating to implementation of GST.

The TSP was finalized in February 2015 with a bid value of ₹ 179.98 crore and M/s. Tata Consultancy Services Ltd was entrusted as the System Integrator for this Project. The project was introduced in January 2016, starting with online registration, followed by filing of returns through the portal from June 2016. The project covered all costs on the basis of requirements listed in the Request for Proposal (RFP), including cost for migration and transition to GST. The TSP contained modules viz (i) dealer e-services (ii) general (iii) online forms (iv) assessment (v) refund and (vi) appeal and enforcement modules. The Project was proposed to be compatible for both GST and VAT assessments and envisaged to be GST compliant even for non-GST goods.

The Commissioner of Commercial Taxes (CCT) is the head of the CTD and is assisted by the Additional Commissioners, Joint Commissioners (JCs) and Deputy Commissioners (DCs) who exercise administrative control and one JC (Computer Systems) {JC(CS)} to manage the Central Computer Centre of the CTD.

Audit was conducted to assess whether (i) complete, accurate and dependable data from GSTN portal and from other sources was available to the AAs for decision making and perform statutory functions (ii) adequate measures were taken by the Department to ensure continued availability of legacy data to complete pre-GST assessments (iii) TSP was able to handle the assessment of returns submitted by dealers in respect of goods that were not subsumed under GST and (iv) systems and controls in TSP module ensured information security, business continuity and disaster recovery.

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<sup>15</sup> Andhra Pradesh, Goa, Haryana, Karnataka, Kerala, Maharashtra, Meghalaya, Sikkim and Tamil Nadu.

The audit objectives were benchmarked against the criteria drawn from the following sources.

- Tamil Nadu Value Added Tax Act, 2006 and Tamil Nadu Value Added Tax Rules, 2007.
- Central Sales Tax Act, 1956.
- User Requirement Specification, System Requirement Specification and User manuals.
- Policies governing functioning of Application Program Interface (API) relating to GSTN data.
- Project proposals and Government orders for implementation of TSP and
- Data dictionary for conducting examination of data.

The audit findings based on data analysis was test checked in 153 selected out of 334 circles under the jurisdiction of six divisions<sup>16</sup>. In addition, the files at the office of the JC(CS) were scrutinised.

An Entry Conference was held with the Department on 30 July 2018, wherein the objective, scope and methodology of audit were explained.

Exit conference was held on 28 February 2019. The views expressed by the Government and Department during the Exit Conference have been taken into account and suitably incorporated in the report.

We acknowledge the co-operation extended by the CTD in providing the necessary information and records except in cases detailed in the relevant paragraphs.

### **Audit Findings**

Audit was conducted from July 2018 to December 2018 on an analysis of the TSP data dump relating to the period from 1 June 2016 to 30 June 2017 and off-line GST data for the period from 01 July 2017 to 23 August 2018 obtained from CTD. The discrepancies noticed during the analysis of data are mentioned in the following paragraphs.

#### **2.5.2 Availability of complete, accurate and dependable data from GSTN portal**

The GSTN portal was one single common portal for all GST related services such as registration, purchase details, filing of returns, etc. GST network was accessible over Intranet (TNSWAN<sup>17</sup>) by the CTD. The information from the GSTN Portal was shared through Application Program Interfaces (APIs) as JSON<sup>18</sup> files. To evaluate the completeness, accuracy and dependability of data received from GSTN Portal by the CTD, the data obtained by the department was compared with the summary of GST data obtained from GSTN portal and audit noticed the following discrepancies.

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<sup>16</sup> Chennai Central, Chennai East, Chennai North, Chennai South, Coimbatore and Madurai.

<sup>17</sup> Tamil Nadu State Wide Area Network

<sup>18</sup> JSON (JavaScript Object Notation) is a data-interchange format.

### **2.5.2.1 Non-reconciliation of data received from GSTN portal**

Audit noticed that the data received by the CTD from the GSTN portal and the summary data received from the GSTN portal did not tally. The number of returns as per CTD were less than that of received from GSTN portal in respect of all the GST returns (GSTR) as detailed in Annexure-2. In respect of GSTR-1 for the month of November 2017, it was found that the control total of CTD (3,67,789) was more than GSTN Portal (3,62,708). This indicated that no reconciliation was done to ensure the accuracy of data pulled from the GSTN Portal.

Audit also observed that though 108 APIs were functional as per GSTN, the department was pulling data only through 32 APIs and data relating to certain periodical returns like GSTR-5A and GSTR-11 was yet to be pulled by the department. Department needs to establish a mechanism in consultation with the system aggregator and GSTN in this regard. Data relating to GSTR-11, TRAN-01, TRAN-02, TRAN-03, RFD-10 etc., were called for (December 2018), but not made available to audit for verification.

During the exit conference, the Government stated that data was now being pulled through additional APIs and agreed to establish a mechanism in consultation with the system aggregator.

### **2.5.2.2 Lack of data integrity in migration data pulled from GSTN Portal**

The process of migration of dealers was initiated by the CTD by providing user-id and password to all the existing dealers under the erstwhile VAT regime to log into the GSTN portal and furnish the basic details and upload relevant documents, after which Acknowledgement Reference Number (ARN) would be generated. Through ARN, the dealer can download the provisional registration certificate. After verification of the documents/details by the tax authorities, final Goods and Service Taxpayers Identification Number (GSTIN) along with the GST Registration Certificate (RC) would be generated and sent to dealers by the GSTN Portal.

Audit noticed that GSTIN was allotted to those 65 out of 4,95,567 dealers also, falling under the State Jurisdiction, whose ARNs were not available in the GST data furnished by the CTD. This indicated incompleteness of the data pulled from GSTN Portal, as allotment of GSTIN was possible only after generation of ARN.

On this being pointed out, JC (CS) stated (November 2018) that 33 dealers were existing dealers of the State and the remaining 32 were erstwhile Central dealers allotted to State. The reply was not acceptable since all the 65 dealers had TIN numbers indicating that they were dealers in the VAT regime.

The matter was brought to notice of the Government in December 2018. During Exit Conference, Government replied that the audit observations would be attended to in a time bound manner and assured that action would be initiated and replies furnished.

### **Availability of complete, accurate and dependable data**

For the AAs to perform statutory functions, the department should integrate all sources of data available. In the GST scenario, the three main data sources (other than GSTN) were ectax<sup>19</sup>, TSP and Central Board of Indirect taxes and Customs (CBIC) Portal. The data of ectax and TSP was already with the CTD. The data from CBIC had not been obtained (December 2018).

#### **2.5.2.3 Non-utilisation of data available in TSP towards assessing migration and non-migration of dealers to GST**

Analysis of the TSP data and offline GST data revealed that out of 4,95,567 dealers, six dealers, who had requested for cancellation of RC and 56 dealers whose RC under the erstwhile VAT regime were cancelled, had migrated to GST. Further, 11,793 dealers with turnover in excess of the threshold limit of ₹ 20 lakh had not migrated to GST.

The matter was brought to the notice of the Government in December 2018. During Exit conference, Government replied that out of 11,793 dealers, 3,000 were migrated through PID allotted through CBIC and 1,300 were subsequently migrated. Efforts were being taken to bring the remaining cases into tax ambit.

#### **2.5.2.4 Non-utilisation of data available in TSP to verify claims of SGST transitional credit**

The transition provisions contained in Section 140 of the TNGST Act provided for carry forward of input tax credit (ITC) relating to VAT regime by submission of return in Form TRAN-1<sup>20</sup> by the dealers, subject to filing of all returns under existing law for a period of six months immediately preceding the appointed date.

Audit analysis of offline GST data and TSP data relating to TRAN-1 furnished by the department indicated excess claim of SGST credit of ₹ 239.75 crore on account of incorrect carry forward of ITC by 1,316 dealers and claim of transitional credit by 325 dealers, who had not filed returns for all six months immediately preceding the appointed date. Audit further noticed that credit carried forward in Column 5C(2) of TRAN-1 did not tally with the closing balance ITC of VAT and Entry tax as on 30 June 2017 as per TSP data. This indicated non-utilisation of TSP data by the CTD for verification of transitional claim of ITC by the dealers.

The matter was brought to the notice of the Government in December 2018. During Exit Conference, Government replied that the audit observations would be attended to in a time bound manner and assured that action would be initiated and replies furnished.

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<sup>19</sup> ectax is a Commercial Tax portal containing data upto May 2016.

<sup>20</sup> Form of declaration by the dealers for claim of transitional credit.

#### **2.5.2.5 Impact of non-collection of data from CBIC.**

Audit obtained the data on carry forward of CENVAT/Service Tax credit from CBIC and cross verified it with the TRAN I details furnished by the CTD to ascertain whether complete, accurate and dependable data was obtained from Central Excise Department by the AAs of the CTD. Such verification revealed excess claim of CGST credit of ₹ 836.03 crore in respect of 1,040 dealers due to incorrect carry forward of CENVAT credit. A mention of the same had been mentioned in the Compliance Audit on Transition to GST vide para no. 2.4.3.3 of this Report.

The matter was brought to notice of the Government in December 2018. During the Exit Conference, Government cited a circular empowering CBIC as the authority for verifying CENVAT and Service Tax credits and replied that CCT would have no jurisdiction in this regard. The reply was not acceptable since verification of transitional credit was part of GST Act and GST Act provided for cross empowerment between the Centre and the States. As per section 6(1) of the CGST Act, the officer appointed under the SGST Act is authorized as the proper officer to carry out any function to be performed under CGST Act. Transitional claim in respect of CENVAT credit is made through the TRAN-1 return prescribed under CGST Act. The jurisdictional officer under CGST is the authority to verify correctness of transitional credit claimed by a taxable person.

#### **2.5.3 Availability of legacy data to finalise pre-GST assessments**

The dealers registered under GST Act were allowed to carry forward the eligible unavailed CENVAT credit/ITC under the transitional provisions of TNGST Act 2017 subject to conditions therein. The AAs, were therefore, required to ensure fulfilment of such conditions to determine the eligible amount of carry forward credit. This required finalisation of pre-GST assessments by the AAs, for which, the legacy data should be made available to them.

- Audit observed that since TSP was rolled out from June 2016, data relating to April and May 2016 were not available for completion of assessment relating to assessment year 2016-17
- Data prior to Assessment year 2016-17, that was available in ectax was not fed into TSP. Since there was no interface between ectax and TSP, e-assessments could not be made through TSP and therefore all assessments were done manually.
- Absence of legacy data in TSP resulted in non-processing of refunds through e-remittance as envisaged while implementing GST. Refunds continued to be processed manually. Audit observed that though the Appeal and Internal Audit modules were rolled out in January 2016, data was not uploaded.

The matter was brought to notice of the Government in December 2018. During Exit Conference, Government stated that the previous VAT returns contained only four annexures, whereas in TSP, there were 29 annexures and hence merging of data from two different data structures was not possible. Audit suggested that the requisite details relating to April 2016 and May 2016

for finalising the assessments may be made available for the AAs in the TSP Portal and the Government agreed to look into the matter.

#### **2.5.3.1 Non-computerisation of annual return**

As per Section 63 of TNVAT Act, dealers, whose total turnover during a financial year was in excess of ₹ one crore were required to get the accounts audited by an accountant (Chartered Accountant/Cost Accountant) and submit statement of audited accounts in Form WW before 31 December of the succeeding financial year. Audit, however, observed that the details of audited statements in Form WW, the vital data for completion of assessment, was not made available to the AAs in digital form. Further, the assessments pertaining to transactions prior to the introduction of TSP were required to be handled through ectax, which did not have a dedicated module for handling assessments relating to tasks, issue and tracking of pre-assessment notices.

The AAs had to continue with manual process for issuing and monitoring of pre-assessment notices, issuing of assessment orders, etc., whereby the purpose of computerisation was defeated.

The matter was brought to notice of the Government in December 2018. During the Exit Conference, Government replied that the audit observations would be attended to in a time bound manner and assured that action would be initiated and replies furnished.

#### **2.5.3.2 Deficient assessment tools - MIS Reports**

As per Section 22(2) of the TNVAT Act, all the dealers whose returns are accepted by the AA after prescribed checks, were deemed to be assessed. In a computerized environment with large number of transactions, the AAs should be equipped with basic tools, viz., Management Information System (MIS) reports, alerts, etc. for finalising assessments effectively.

When the availability, correctness and efficiency of such tools were examined in respect of the claim of ITC by the dealers, Audit noticed incorrect claim of ITC by dealers in respect of purchases effected from (i) cancelled dealers, (ii) dealers who had filed “NIL” return and (iii) dealers did not file return with CTD amounting to ₹ 37.89 crore, ₹ 10.00 crore and ₹ 4.33 crore respectively (Table 2.8). However, the MIS report of the corresponding circles revealed no such incorrect claims.

**Table: 2.8**

Incorrect claim of Input Tax Credit on the purchases made from the Dealers	Incorrect claim in respect of all the circles		Incorrect claim in respect of audited circles		Incorrect claim in respect of all circles (confirmed after field audit)	
	No of dealers	ITC (₹ in crore)	No of dealers (Circles)	ITC (₹ in crore)	No of dealers	ITC (₹ in crore)
Cancelled dealers	34,528 (328)	361.57	178 (58)	40.65	158 (54)	37.89
‘Nil’ return filers	16,951 (328)	97.54	74 (21 )	12.27	57 (18)	10.00
Non-filers	32,818 (334)	107.10	45 (30 )	4.33	44(29)	4.33
<b>Total</b>						<b>52.22</b>

(Source: Details maintained in the office of the AG(E&RSA))

When the insufficiency of MIS Reports was pointed out, the JC (CS) stated (November 2018) that though many MIS reports were developed, only those reports which were used by AAs were made available. The JC (CS) further stated that the validations were placed at the back office and task was created for all mismatches, and MIS reports involving incorrect claim of ITC in respect of purchases effected from cancelled dealers/dealers, who did not file return / filed ‘Nil’ returns, were available.

Audit scrutiny, however, revealed that though MIS reports were available for incorrect claim of ITC in respect of purchases effected from cancelled dealers, it did not throw any output, indicating generation of defective/faulty MIS reports. One hundred and five AAs also confirmed that the MIS Reports were insufficient to finalise the assessments. As regards the claim of ITC in respect of purchases effected from dealers filing ‘Nil’ returns, the MIS report only indicated, the list of dealers who had filed ‘Nil’ return, but did not indicate the details of purchases effected from such dealers. Regarding the claim of ITC in respect of purchases made from dealers, who did not file return, the MIS report only indicated the defaulters’ list. In the absence of these details the AAs cannot take proper remedial action.

The matter was brought to notice of the Government in December 2018. During the Exit Conference, Government replied that the audit observations would be attended to in a time bound manner and assured that action would be initiated and replies furnished.

### **2.5.3.3 Mapping of business rule**

Business rules provided criteria and conditions for making a decision and hence these rules should be inbuilt in the system to monitor compliance. Audit

assessed the mapping of business rules in the system and following deficiencies were noticed.

#### **2.5.3.4 Incorrect carry forward of closing balance of Input Tax Credit**

Analysis of TSP data relating to 49,88,515 monthly returns for the period from June 2016 to June 2017 revealed difference between the closing balance and opening balance of the ITC being carried forward to the succeeding months in respect of 15,297 monthly returns (0.31 *per cent*) of 12,244 dealers. This indicated that there was no mechanism in place to auto-populate the closing balance of ITC of previous month as the opening balance of ITC of the succeeding month.

On this being pointed out, the JC (CS) stated (November 2018) that the discrepancy might be due to filing of refund application or due to filing of revised return for a month subsequent to filing of returns for the succeeding months.

The matter was brought to notice of the Government in December 2018. During the Exit Conference, Government replied that the audit observations would be attended to in a time bound manner and assured that action would be initiated and replies furnished.

#### **2.5.3.5 Incorrect rate of tax**

As per Section 8(2) of the CST Act, interstate sale of goods not covered by valid declaration form was assessable to tax at the local rate applicable to sale of such goods inside the State. As per entry 25 of Part B of First Schedule to the TNVAT Act, capital goods were taxable at the rate of five *per cent*. Any other goods, not specified elsewhere in any of the Schedules were taxable at the rates of 14.5 *per cent*. Section 2(11) of the TNVAT Act defined capital goods as plant, machinery, etc. used in the State for the purpose of manufacture.

Analysis of TSP data in Annexure 22 of VAT Form-I revealed payment of tax at the rate of five *per cent* by dealers in respect of interstate sale of machinery and parts not covered by declaration Forms. As the condition prescribed for capital goods, viz., “used in the State for the purpose of manufacture” was not fulfilled in respect of interstate sales, the same was required to be taxed at the rate of 14.5 *per cent* in the absence of declaration Forms. Audit, however, observed that no check was in place in the system to ensure payment of tax at correct rates by the dealers. Out of 4,833 dealers, 1,392 dealers (29 *per cent*) had paid tax at the rate of five *per cent* instead of at the correct rate of 14.5 *per cent* in respect of interstate of sale of machinery and parts not covered by declaration forms. This resulted in short levy of tax of ₹ 18.15 crore. This observation was further cross verified in 153 Assessment Circles, which indicated loss of revenue amounting to ₹ 11.65 crore (1,106 dealers) in 134 Assessment Circles.

The matter was brought to notice of the Government in December 2018. During the Exit Conference, Government replied that the audit observations would be attended to in a time bound manner and assured that action would be initiated and replies furnished.

#### **2.5.3.6 Acceptance of Revised return after 6 months**

As per Rule 7(9) of TNVAT Rules, if a dealer had filed a return, and later found any omission or error therein other than as a result of inspection or audit or receipt of any other information or evidence by the AA, he should file a revised return rectifying the omission or error within six months from the end of the month in which the original return was filed. Hence, the system should have been programmed to reject the revised return filed beyond the prescribed time.

Analysis of TSP data relating to filing of return revealed that out of 7,67,784 revised returns (1,91,419 dealers), 1,22,673 revised returns (33,290 dealers) were filed after the prescribed time limit of six months. The system, however, did not reject the belated returns but continued to accept them. The facts were also confirmed by 135AAs in respect of 48,209 returns (12,771 dealers).

The matter was brought to notice of the Government in December 2018. During the Exit Conference, Government replied that the audit observations would be attended to in a time bound manner and assured that action would be initiated and replies furnished.

#### **2.5.3.7 Non adherence to provisions of FRS in TSP**

As per Functional Requirement Specifications (FRS) relating to TNVAT registration, a dealer while applying for new registration had to submit a signed document of introducer, who was not a cancelled dealer at the time of registration, and the AA should verify the validation of TIN of the introducer uploaded in the XML file in the FRS.

Analysis of TSP data revealed that out of 2,01,094 newly registered dealers, 636 dealers who had been granted registration were introduced by 501 cancelled dealers, indicating non-verification of TINs of the introducers by the AAs.

The matter was brought to notice of the Government in December 2018. During the Exit Conference, Government replied that the audit observations would be attended to in a time bound manner and assured that action would be initiated and replies furnished.

#### **2.5.4 Ability of TSP to handle the assessment of returns submitted by dealers who deal with goods that are not subsumed under GST**

Though GST was introduced from 1 July 2017, there were certain goods viz. alcohol for human consumption and petroleum products, which were not subsumed under GST and the dealers reporting turnover relating to non-GST goods would continue to file the returns in VAT Form-I in the TSP Portal. One of the primary steps to ensure integrity of the data received was to have a robust input/validation control system in place to detect and prevent error in the system.

In TNVAT, the return to be filed by the dealers in Form-I, maintained in the TSP portal had 29 annexures, totally covering the transactions of every aspect of each type of dealer.

Audit applied various tests to evaluate the validation controls and input controls of the Annexures to Form-I. Audit observed that in 22 out of 29 annexures, the validation/input controls did not exist and therefore, the details available in the annexure were not correct and reliable. Audit remarks in annexures to Form-I and reply furnished by the Department are mentioned in Annexure-3.

The matter was brought to notice of the Government in December 2018. During the Exit Conference, Government replied that the audit observations would be attended to in a time bound manner and assured that action would be initiated and replies furnished.

### **2.5.5 Inadequacies in information security**

An effective IT Security Policy is important for protection of the information, assets created and maintained by an organization. By enunciating an IT security policy, the organisation demonstrates its ability to reasonably protect all business criticals. During the verification of controls, Audit detected the following lapses.

- Analysis of the log details in TSP data revealed that the retired officials had access to the database and it was found that 138 user-ids of the officials were active even after their superannuation, of which 7 users had logged into the system in 3,822 instances. On this being pointed out, the JC (CS) stated (November 2018) that at the time of creation of master data of officials, the date of birth information was either not/not properly received and wherever there was no proper date, dummy date was filled (01/01/1900) to complete the database and edit facility was provided to JCs. It was also stated that superannuation would be auto calculated based on date of birth entered. The reply was not acceptable for the reasons that if the superannuation date was auto-calculated, the system should have blocked the user-ids of the 138 users by calculating the date of superannuation. Further, out of 5 users, who had logged into the system after retirement, only one user had dummy date '01-01-1900'
- In TSP, the system captured log of errors. The error log id was oracle generated sequence. Analysis of the database revealed that in 16,31,400 error logs, there were 9,483 gaps indicating possible deletion of logs from back-end.
- As per the provisions contained in Para 5.4 of the Information Security Policy 2009 (Government of Tamil Nadu), the initial password was required to be reset, and changed at regular intervals (once in six months). Analysis of the user master revealed that out of 5,732 users, the initial password was not reset in respect of 64 users and 71 users had not changed their password after initial reset. In reply, the JC (CS) stated (November 2018) that system would not force the user to change the password unless the user logged in the back end and once the user

logged in, the system would force the user to change the first time login password and once the user logged in with the current password, the system would force the user to change the password with the message “your password expired”. The reply was not acceptable as it was seen that users had not changed their initial password indicating weak password control policy.

- The system automatically generated a unique user id for each user. On analysis of the TSP data furnished to audit regarding user master revealed that there were 970 gaps in the user master, which indicated unauthorized access to the data and deletion of the same. When this was pointed out the JC (CS) stated (November 2018) that due to delay in implementation of TSP, there was a time gap between creation of user master and roll out during which time the users got retired and were deleted from the master table. The reply was not acceptable since the retired users should have been flagged as ‘INACTIVE’ and not deleted from the master file and further no proof was provided that all the 970 gaps relates to retired users.
- As per Standard Operating Procedure (15.11) a mock Simplified Disaster Recovery (SDR) drill was proposed to be performed every 6 months from going live to ensure proper functioning of the SDR site and avoid any surprises during actual disaster situation. The department had conducted mock drill – failover and fall back on 03-04-2017. On analysis of the failover, it was noticed that drill on Public Natting, Mail Server, Antivirus & Portal were not done. Time for Data Synchronisation Status, File System Synchronisation, Start Web Servers, Start BackOffice Services exceeded the planned time. In fallback drill, Mail Server, Shut Down database services were not done and for Antivirus, Shut Down Business Intelligence Statistical Analytic System (SAS) services, Start Scheduler Services time exceeded the planned time. No action had been taken to rectify the defects and no drill was re-conducted.

The matter was brought to notice of the Government in December 2018. During the Exit Conference, Government replied that the audit suggestion of categorizing cases as high, medium and low risk would be considered and would seek guidance of audit in this regard. Government also agreed to take corrective action on observations relating to availability of system controls in TSP to ensure information security, business continuity and disaster recovery.

### **2.5.6 Conclusion**

The department’s user data was in different portals without connecting interface and therefore essential functions such as assessment, refund, etc. continued to be manual, defeating the purpose of computerisation. The legacy data were not transferred to TSP. Collection of data from GSTN portal was partial and all APIs were not utilised to pull data from GSTN. The validation controls and business continuity plan had deficiencies which needed to be rectified to strengthen the system. Therefore, the IT preparedness of the Department towards implementation of GST was incomplete and continued to be a work in progress.

## **2.6 Other Audit Observations**

### **Value Added Tax**

Audit scrutiny of assessment records at 104 out of 443 auditable units (23 *per cent*) revealed the following deficiencies.

#### **2.6.1 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 notwithstanding anything contained in sub-Section (2), 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 in eight<sup>21</sup> out of 22 Assessment Circles revealed that nine out of 26 dealers (35 *per cent*) who sold goods like Non-stick cookware, kitchen appliances, drugs, etc. for ₹ 6.12 crore during 2015-16 had paid tax at the compounded rate of 0.5 *per cent* on the sales turnover. However, further scrutiny of records revealed that while the turnover of six dealers during the previous year had exceeded ₹ 50 lakh, three dealers had indulged in interstate trading activities. As the conditions governing payment of tax at compounded rate were not fulfilled, the dealers were required to pay tax of ₹ 65.93 lakh at the scheduled rates applicable to the sale of goods. The dealers, however, had paid tax of ₹ 2.86 lakh. This resulted in short levy of tax of ₹ 63.07 lakh. The AAs, however, failed to ensure payment of tax at correct rates.

After being pointed out in Audit, the AA of Alwarpet Assessment Circle issued notice to the dealer. Report on action taken after issue of notice and reply in respect of the remaining cases is awaited.

#### **2.6.2 Escapement of taxable turnover**

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 22(1) of Act, the assessment in respect of a dealer shall be on the basis of return relating to his turnover submitted within the prescribed period. Section 22(4) of the Act provides for finalisation of assessment to the best of judgment of the AA, if no return is submitted by the

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<sup>21</sup> Alwarpet, Arisipalayam, Bodinayakanur, Mannargudi, Madhavaram, Pammal, Singanallur and Thuckalay

dealer for any period of the year or if the return filed is incomplete or incorrect. According to Section 27 of the Act, where, for any reason, the whole or any part of the turnover of business of a dealer has escaped assessment to tax, the AA may, at any time within a period of six years from the date of assessment, determine to the best of its judgment the turnover which has escaped assessment and assess the tax payable on such turnover after making such enquiry as it may consider necessary.

The CCT, while observing that monitoring the filing of returns by assesseees and scrutiny thereof to ensure its correctness are primary duties of every AA, had issued instructions (June 2015) of the steps to be taken by the AA regarding non-filers of monthly returns and in respect of assesseees whose return reveal huge mismatch of transactions with other assesseees. The instructions involve physical verification of the place of business of non-filers, followed by submission of fortnightly progress report by the Head of the Assessment Circle to the Deputy Commissioner and Joint Commissioner of the details of visits made and the follow-up action taken thereof.

The CCT issued instructions (January 2013) that all the returns received in a month should be scrutinised by the Assessing Authorities during the month of receipt. The CCT, while enumerating the detailed return scrutiny aspects in January 2014 stated that the return scrutiny menus available in MIS package of intranet of CTD may be utilised by the AAs and annual verification of consolidated and e-filed monthly returns may be undertaken in the return audit menus.

The failure to adhere to the instructions of CCT regarding physical verification of place of business and scrutiny of returns filed by the dealers resulted in cases of leakage of revenue remaining undetected by the AAs. These are mentioned below:

➤ Analysis of data of CTD revealed that 54 dealers in 29<sup>22</sup> out of 45 Assessment Circles who filed 'Nil' returns during the years 2015-16, had however, effected sale of goods. This was evident from the monthly returns of the purchasing dealers which indicated claim of input tax credit (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 ₹ 65.47 crore and the tax leviable on such sales was ₹ 3.92 crore.

After being pointed out in Audit, the AAs of 18<sup>23</sup> Assessment Circles issued notices to 26 dealers proposing levy of tax on the turnover that was not disclosed by the dealers. Report on action taken after issue of notice and reply in respect of the remaining cases is awaited.

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<sup>22</sup> Alwarpet, Amaindakarai, Avarampalayam, Bodinayakanur, Broadway, Guindy, Hosur (North), Hosur (South), Karur (East), Karur (West), Kodungaiyur, Kotturpuram, Lakshmi Nagar, Madhavaram, Manali, Mylapore, Pammal, Periamet, Porur, Royapuram, Royapettah, Saligramam, Thiruparankundram, Thiruvannamur, Thiruverkadu, Thuckalay, Trichy Road, Udumalpet (North) and Woraiyur

<sup>23</sup> Alwarpet, Guindy, Hosur (North), Hosur (South), Karur (West), Kodungaiyur, Kotturpuram, Madhavaram, Mylapore, Pammal, Periamet, Royapettah, Tiruvarur, Thiruvannamur, Thiruverkadu, Trichy Road, Udumalpet (North) and Woraiyur

➤ Analysis of data of CTD revealed that 125 dealers of 50<sup>24</sup> out of 60 Assessment Circles who did not file returns relating to the period 2013-14 to 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 ₹ 244.17 crore. The tax leviable on such sales turnover was ₹ 13.58 crore.

After being pointed out in Audit, the AAs of 25<sup>25</sup> Assessment Circles issued notices to 47 dealers proposing levy of tax on the turnover that was not disclosed by the dealers. Report on action taken after issue of notice and reply in respect of the remaining cases is awaited.

➤ As per Rule 7(7) of TNVAT Rules, every registered dealer who is not liable to pay tax under the Act shall file return for each year on or before the 20th day of May of the succeeding year showing the actual total turnover in respect of all goods dealt with by him.

Analysis of data obtained from CTD revealed claim of ITC of ₹ 1.68 crore in respect of purchase of goods for ₹ 26.45 crore effected from six dealers of five<sup>26</sup> Assessment Circles who had filed Annual return in Form I-1 during the period 2013-14 to 2015-16. This indicates that the selling dealers had failed to disclose to the CTD, taxable sale of goods effected by them, thereby resulting in non-payment of tax of ₹ 1.68 crore.

After being pointed out in Audit, the AAs of Bodinayakanur and Omalur Assessment Circles issued notices to the dealers proposing levy of tax. Report on action taken after issue of notice and reply in respect of the remaining cases is awaited.

➤ Analysis of data obtained from CTD indicated that 133 dealers of 48 out of 62 assessment circles, whose RC was cancelled by AAs were continuing 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 dealers whose RCs were cancelled by the AAs. However, the AAs had failed to assess the turnover of ₹ 291.84 crore that had escaped assessment from levy of tax. The tax due on such sales worked out to ₹ 17.30 crore.

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<sup>24</sup> Adyar, Alwarpet, Amaindakarai, Anna Salai, Ariyalur, Avadi, Avarapalayam, Avinashi, Broadway, Chengalpattu, Choolai, Egmore, Hosur (North), Hosur (South), Karur (East), Karur (West), Kelambakkam, Kilpauk, Kodungaiyur, Kothawalchavadi, Kotturpuram, Lakshmi Nagar, Loan Square, Madhavaram, Manali, Mylapore, N. H. Road Coimbatore, Nungambakkam, Oragadam, Patravakam, Porur, R G Street Coimbatore, Royapettah, Royapuram, Saidapet, Saligramam, Singanallur, Sriperumbudur, T Nagar, Tanjore-I, Thiruparankundram, Thiruvallikeni, Thiruvannamiyur, Thiruverkadu, Tiruppur (Rural), Tiruvarur, Tondiarpet, Tuticorin- II, Udumalaipet North and Vepery

<sup>25</sup> Adyar, Alwarpet, Ariyalur, Avadi, Chengalpattu, Egmore, Hosur(North), Hosur(South), Karur(West), Kilpauk, Kondungaiyur, Kotturpuram, Loansquare, Madhavaram, Mylapore, Oragadam, Pattaravakkam, Porur, RG Street Coimbatore, Saidapet, Saligramam, Tanjore-I, Thiruvannamiyur, Tiruverkadu and Tiruppur(Rural)

<sup>26</sup> Arisipalayam, Bodinayakanur, Omalur, Singanallur and Vepery

After being pointed out in Audit, the AAs of 20<sup>27</sup> Assessment Circles issued notices to 40 dealers proposing levy of tax, while in respect of 17 cases, the AAs issued cross check references to the Assessment Circles of the purchasing dealers suggesting reversal of ITC claimed by them. Report on action taken subsequent to issue of notice / cross check reference and reply in respect of the remaining cases is awaited.

### **2.6.3 Irregularities in claim of Input tax credit**

Section 19(1) of the TNVAT Act provides that there shall be ITC of the amount of tax paid or payable under this Act, by the registered dealer to the seller on this purchase of taxable goods specified in the First Schedule. The Section further provides that the registered dealer, who claims ITC shall establish that the tax due on such purchases has been paid by him in the manner prescribed. 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 use as inputs in manufacturing or processing of goods in the State or use as capital goods in the manufacture of taxable goods. 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 assessing authority shall reverse the ITC availed. Section 27(4) of the Act, *ibid*, provides for levy of penalty, at the first instance, at the rate of 50 per cent of the ITC wrongly claimed.

- Scrutiny of records in three<sup>28</sup> out of 37 Assessment Circles revealed that three dealers had, in the monthly returns of April 2015 to February 2016, claimed ITC of ₹ 45.21 lakh in respect of purchase of goods effected between March 2014 and December 2014. 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 ₹ 45.21 lakh was required to be reversed, besides attracting levy of penalty of ₹ 22.61 lakh.
- Scrutiny of records in Manali Assessment Circle revealed that four dealers purchased fire safety equipment, weighing scales, elevators, air conditioners, etc. and claimed ITC of ₹ seven lakh thereon during 2015-16. Since these goods are neither capital goods nor used as raw material in manufacture, the dealers were not eligible to claim ITC on these purchases. Thus, ITC of ₹ seven lakh was required to be reversed along with levy of penalty of ₹ 3.5 lakh.

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<sup>27</sup> Adyar, Avadi, Arsipalayam, Chengalpet, Guindy, Harbour, Hosur (North), Hosur (South), Karur (West), Madhavaram, Nandanam, Periamet, Pollachi (Rural), Saidapet, Saligramam, Tanjore-1, Tiruvarur, Tiruverkadu, Tondiarpet and Trichy Road

<sup>28</sup> Harbour, Hosur (North) and Thiruvannamiyur

- During test check of assessment records in five<sup>29</sup> Assessment Circles, Audit noticed that six dealers had reported in their monthly returns for the years 2014-15 and 2015-16, purchase of goods for ₹ 23.21 crore from dealers of five Assessment Circles and claimed ITC of ₹ 2.61 crore. Further cross verification of monthly returns filed by the selling dealers revealed that the sales effected by the selling dealers to the assesseees was only ₹ 12.32 crore involving tax of ₹ 1.59 crore. Thus, the assesseees incorrectly claimed ITC of ₹ 1.02 crore; which was required to be reversed. Penalty of ₹ 51.20 lakh was also leviable. The AAs, however, failed to ensure the correctness of the claim of ITC during scrutiny of monthly returns.
- Scrutiny of monthly returns and the statement of audited accounts in Form WW filed by a dealer for the year 2012-13 in Loan Square Assessment circle indicated that the dealer had reversed input tax credit of ₹ 1.03 crore. However, the AA while revising the assessment of the dealer, for the year 2012-13, in October 2016, determined the amount of ITC already reversed by the dealer in the monthly returns filed under the TNVAT Act as ₹ 1.30 crore and arrived at excess ITC which was eligible for being carried forward as ₹ 42.12 lakh. This resulted in affording of excess credit of ₹ 27 lakh to the dealer.

#### **2.6.4 Non/Short reversal of Input tax credit**

As per Section 19(4) of the TNVAT Act, ITC shall be allowed on tax paid or payable in the State, on the purchase of goods, in excess of three *per cent* of tax up to 10 November 2013 and in excess of five *per cent* thereafter relating to such purchases, if goods are transferred to a place outside the State otherwise than by way of sale; or they are used in manufacture of other goods and transferred to a place outside the State, otherwise than by way of sale. Provided, if a dealer has already availed ITC, it should be reversed. 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 Special Economic Zone (SEZ) located in other States is exempt as per Section 8(6) of the CST Act.

During scrutiny of records in 16<sup>30</sup> out of 77 Assessment Circles, 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 States and sale of exempted goods were effected by 22 dealers during the period from 2008-09 to 2015-16. Scrutiny of the returns filed by the dealers under the TNVAT Act, however, revealed non-reversal / short reversal of ITC availed by them on purchase of

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<sup>29</sup> Mylapore, Nandanam, Pammal, Saidapet and Thiruverkadu

<sup>30</sup> Avarapalayam, Amaindakarai, Broadway, Chepauk, DLTU-Coimbatore, Oragadam, Thiruvannmiyur, Tondiarpet, Esplanade, Karur (East), Kilpauk, Madhavaram, Manali, Nethaji Road, Singanallur and Udumalpet (North)

goods proportionate to such sales. The amount of non-reversal / short reversal of ITC worked out to ₹ 14.65 crore. The AAs, however, failed to enforce reversal of ITC during scrutiny of returns filed by the dealers.

After Audit pointed this out, AAs of 10 Assessment Circles issued notices to 16 dealers. The AA of Tondiarpet Assessment Circle stated that reversal of ITC was not warranted as stock transfer of imported scrap alone was made. The reply was not acceptable as the same was not corroborated by documentary evidences. Reply in respect of the remaining cases was awaited.

#### **2.6.5 Non-levy of interest for belated payment of tax**

As per Section 42(1) of the TNVAT Act, the tax assessed or that has become payable under this Act from a dealer shall be paid in such manner and in such instalments, if any, and within such time as may be specified in the notice of assessment, not being less than thirty days from the date of service of the notice. As per Section 42(3) of the TNVAT Act, on any amount remaining unpaid after the date specified for its payment as referred to in sub-section (1) or in the order permitting payment in instalments, the dealer or person shall pay, in addition to the amount due, interest at one and a quarter *per cent* per month upto 28 May 2013 and at two *per cent* per month thereafter of such amount for the entire period of default.

Scrutiny of records in nine<sup>31</sup> out of 21 Assessment Circles revealed that 17 dealers had paid tax of ₹ 13.22 crore relating to the period 2015-16 belatedly; the delay ranging from 3 days to 21 months. The belated payment of tax attracts levy of interest of ₹ 64.92 lakh. The AAs, however, failed to levy interest for belated payment of tax. This resulted in non-levy of interest of ₹ 64.92 lakh.

After being pointed out (between June 2017 and March 2018) in Audit, the AAs of six<sup>32</sup> Assessment Circles issued notices to 14 dealers. Report on action taken after issue of notice and reply in respect of the remaining cases is awaited.

#### **2.6.6 Incorrect grant of exemption**

As per Section 3(2) of the Tamil Nadu Value Added Tax Act (TNVAT Act), 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. Goods not specified elsewhere in any of the Schedules were taxable at the rate of 12.5 *per cent* (upto 11 July 2011) and thereafter at 14.5 *per cent* under entry 69 of Part C of the First Schedule. The CCT clarified in May 2007 that Coir Pith was taxable at the rate of 12.5 *per cent* under Part C of the First Schedule to the TNVAT Act.

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<sup>31</sup> Broadway, Chengalpattu, Guindy, Kelambakkam, Kotturpuram, Manali, Nandanam, Saidapet and Sriperumbudur

<sup>32</sup> Broadway, Kelambakkam, Kotturpuram, Manali, Nandanam and Saidapet

Scrutiny of records in Udumalpet (North) Assessment Circle revealed that a dealer, claiming exemption on the sale of Coir Pith Block, had not paid tax on the sales turnover of ₹ 1.99 crore during the years 2014-15 and 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 ₹ 28.79 lakh.

#### **2.6.7 Application of Incorrect rate of tax**

As per Section 3(2) of the TNVAT Act, 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. DVDs and CDs were taxable at the rate of 14.5 *per cent* as per entry 13A of Part C of First Schedule introduced with effect from 12 July 2011.

Scrutiny of records in Chepauk and Valluvarkottam Assessment Circles revealed that two dealers had paid tax at the rate of five *per cent* on the turnover of ₹ 3.04 crore pertaining to sale of CDs / DVDs during the years 2014-15 and 2015-16, instead of at the correct rate of 14.5 *per cent*. The assessing authorities (AAs) failed to ensure payment of tax at correct rate by the dealers. This resulted in short realisation of tax of ₹ 28.87 lakh.

#### **2.6.8 Non-levy of purchase tax**

Section 12 of the TNVAT Act provides that every dealer who purchases goods (the sale or purchase of which is liable to tax under the Act) in circumstances in which no tax was payable and consumes or uses such goods in or for the manufacture of other goods for sale, shall pay tax on the turnover relating to the purchase at the rate specified in the schedules to the Act. The Principal Secretary and Commissioner of Commercial Taxes (CCT) clarified in December 2013 that purchase of raw materials such as jelly, sand and bricks from unregistered dealers and use in works contract would attract levy of purchase tax at the rate of five *per cent*.

During scrutiny of records in three<sup>33</sup> Assessment Circles, Audit noticed that five works contractors had purchased bricks, blue metal, jelly, etc., from unregistered dealer and used the same in civil works contract. The purchase of these commodities without payment of tax and use in civil works attracted purchase tax at the rate of five *per cent* on the purchase value of ₹ 5.43 crore, which worked out to ₹ 27.13 lakh. In Amaidakarai Assessment Circle, Audit observed that a dealer engaged in the business of jewellery had failed to pay tax of ₹ 9.68 lakh at the rate of one per cent on purchase of old gold and silver from customers.

After Audit pointed this out (between August 2017 and March 2018), the AAs of Nandanam and Pudukottai II Assessment Circles issued notices to the dealers proposing levy of purchase tax. Report on action taken after issue of notice and reply in respect of the remaining cases is awaited.

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<sup>33</sup> Nandanam, Pudukottai-II and Woraiyur

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

In order to ensure the correctness of the accounts furnished by the dealers in the deemed assessment regime, the Government introduced Section 63-A in the TNVAT Act in August 2012 providing for audit of accounts of the dealer by a chartered accountant or a cost accountant.

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 including zero rate sale and sale in the course of interstate trade or commerce as specified in Section 3 of the CST Act, 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 2014-15 and 2015-16 filed by the dealers indicated that the Accountant had suggested payment of differential tax, interest and reversal of ITC amounting to ₹ 1.45 crore in respect of 34 dealers. The AAs of 12<sup>34</sup> Assessment Circles, however, did not initiate any action to recover the amounts due from the dealers on the basis of the suggestion of the Accountant made in Form WW.

**CENTRAL SALES TAX**

**2.6.10 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 25 of Part B of First Schedule to the TNVAT Act, capital goods as defined in Section 2(11) of Act *ibid* were taxable at the rates of four *per cent* upto 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* upto 11 July 2011 and at 14.5 *per cent* thereafter under entry 69 of Part C of the First Schedule. Section 2(11) of the TNVAT Act defines capital goods as plant, machinery, etc. used in the State for the purpose of manufacture. As per entry 67 of Part B of the First Schedule to the TNVAT Act, industrial inputs, that is to say, any goods falling under Part C of the Schedule, for use in

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<sup>34</sup> Avarampalayam, Broadway, Kelambakkam, Kotturpuram, Manali, Nungambakkam, Peelamedu (North), Periamet, Royapuram, Singanallur, Thiruverkadu and Vallalarnagar

manufacture, inside the State, of goods other than those falling under Second Schedule were taxable at the rate of four *per cent* upto 11 July 2011 and at five *per cent* thereafter.

During test check of records in three<sup>35</sup> Assessment Circles, Audit noticed that the AAs, while finalising the assessment of six dealers for the years 2010-11, 2012-13 and 2014-15 under the CST Act, levied tax at the rate of four / five *per cent* on inter-State sale of capital goods / industrial inputs 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*, on the turnover of ₹ 42.58 lakh for the year 2010-11 resulted in short levy of ₹ 3.62.lakh. Similarly, the turnover of ₹ 9.60 crore for the years 2012-13 and 2014-15 was taxed at five *per cent* instead of 14.5 *per cent* resulted in short levy of ₹ 91.17 lakh. Hence, the application of incorrect rate of tax on the turnover of ₹ 10.02 crore resulted in short levy of tax of ₹ 94.79 lakh. After being pointed out in Audit, the AAs issued notices to the dealers. Report on action taken after issue of notice is awaited.

#### **2.6.11 Incorrect computation of tax**

According to Section 8(2) of the 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.

Scrutiny of records (November 2017) in Hosur (North) Assessment Circle revealed that the Assessing Authority, while revising (July 2016) the Central Sales Tax assessment of a dealer for the year 2009-10 in July 2016, determined the taxable turnover not covered by declaration forms as of ₹ 2.69 crore. The AA, however, had incorrectly adopted the rate of tax as two *per cent* instead of 12.5 *per cent* and arrived at the tax due as ₹ 5.38 lakh instead of ₹ 33.62 lakh. This had resulted in short computation of tax of ₹ 28.24 lakh.

The matter was referred to the Government in October 2018 and reminded in February 2019. Government replied (March 2019) that the audit observations would be attended to in a time bound manner and assured that action would be initiated and replies furnished.

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<sup>35</sup> Singanallur, Thiruvannamipur and Thiruverkadu

**CHATER III**  
**STAMP DUTY AND REGISTRATION FEE**



## CHAPTER III

### STAMP DUTY AND REGISTRATION FEE

#### 3.1 Tax administration

The Registration Department administers the Indian Stamp Act, 1899 and the Registration Act, 1908 and the Rules made thereunder. The administration of the Department is vested with the Inspector General of Registration (IGR). There are 50 registration districts comprising 576 registration offices including three camp offices in the State. The levy and collection of stamp duty and registration fees are done by the registering authorities. The monitoring and control at the Government level is done by the Principal Secretary, Commercial Taxes and Registration Department.

#### 3.2 Internal audit

Internal audit is a vital component of internal controls to enable an organisation to assure itself that the prescribed systems are functioning reasonably well. The Department has a system of internal audit to ensure *cent per cent* audit of all the instruments registered. There are 45 audit units, each headed by a District Registrar and assisted by an Assistant, Junior Assistant and a Typist. The periodicity of audit of all offices is on monthly basis. The Registration Manual (Part II) provides guidance for establishment and working of internal audit in the department. The Department has also prepared and published a Hand Book of Internal Audit for instant and simplified guidance.

**Table 3.1**

Year	Number of audits due	Number of audits completed	Balance	Percentage of col.3 to 2
1	2	3	4	5
Upto 2013-14	2,332	2,332	NIL	--
2014-15	1,721	974	747	57
2015-16	1,617	980	637	61
2016-17	1,321	979	342	74
2017-18	2,426	1,916	510	79
<b>Total</b>	<b>9,417</b>	<b>7,181</b>	<b>2,236</b>	

*Source: Reply of the Department*

The table indicates an increasing trend in the number of offices in respect of which internal audit was in arrears. The Department attributed the reasons for arrears in audit to vacancy of Audit Registrars and stated that a special team has been formed to clear the backlog.

The Department may consider strengthening internal audit so that audit may be conducted for all the units due for audit.

As at the end of 31 March 2018, 30,322 paragraphs involving money value of ₹ 116.98 crore were outstanding as detailed in Table 3.2.

**Table 3.2**

**(₹ in crore)**

Year	Opening Balance		Observations raised		Observations settled		Observations pending	
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
Upto 2015-16	19,996	70.91	25,538	72.09	24,285	54.87	21,249	88.13
2016-17	21,429	88.13	27,147	67.09	25,798	58.91	22,598	96.31
2017-18	22,598	96.31	24,078	60.16	16,354	39.49	30,322	116.98

*Source: Reply of the Department*

It is suggested that action may be taken for speedy clearance of old outstanding objections.

### **3.3 Results of audit**

Test check of records of 18 departmental offices out of 599 auditable units conducted during the period from April 2017 to March 2018 revealed non/short levy of stamp duty and registration fee and other irregularities amounting to ₹ 8.29 crore in 85 cases, which broadly fall under the following categories:

Table 3.3

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1	Undervaluation of instruments	9	0.43
2	Misclassification of instruments	55	6.65
3	Incorrect grant of exemption	1	0.15
4	Excess/Incorrect allocation of Transfer Duty Surcharge	3	0.40
5	Others	17	0.66
	<b>Total</b>	<b>85</b>	<b>8.29</b>

During the course of the year 2017-18, the department accepted and recovered underassessments and other deficiencies amounting to ₹ 3.22 crore in 157 cases pointed out in earlier years.

After the issue of one draft paragraph, the Department collected an amount of ₹ 11.31 lakh.

Few illustrative cases involving ₹ 1.30 crore are discussed in the following paragraphs.

### 3.4 Audit Observations

#### 3.4.1 Short collection of stamp duty and registration fee in respect of Partition deeds

As per Article 45 (b) of Schedule I to the IS Act, instrument of partition among persons other than family members is chargeable to stamp duty at the rate of four *per cent* on the amount of the value of the separated share or shares of the property. In addition, registration fee is leviable at one *per cent* on the value of the property subject to partition. As per Article 45 (a) of Schedule I to the IS Act, instruments of partition involving transfer of properties in favour of family members attract stamp duty of one *per cent* on the value of properties partitioned, subject to a maximum of ₹ 10,000 (upto 30 September 2013) and ₹ 25,000 thereafter. Besides, registration fee at the rate of one *per cent* on the value of properties transferred was also leviable, subject to a maximum of ₹ 2,000 (upto 30 September 2013) and ₹ 4,000 thereafter. 'Family' as defined under the IS Act includes father, mother, husband, wife, son, daughter, grandchild, brother, sister and also adoptive father and mother, adopted son and daughter in the case of any one whose personal law permits adoption.

During test check (between June 2016 and March 2018) of 567 partition instruments in 11<sup>36</sup> Registering Offices, Audit noticed that through 22 instruments of partition (four *per cent*) executed and registered between November 2012 and February 2017, immovable properties valued at ₹ 55.50 crore were partitioned among family and non-family members. Scrutiny of the instruments revealed that the share of properties worth ₹ 5.79 crore allotted to non-family members were also classified by the Registering Officers (ROs) as partition among family members and stamp duty and registration fee were levied at concessional rates. Thus, against ₹ 44.51 lakh, the ROs collected stamp duty and registration fee of ₹ 16.84 lakh resulting in short collection of stamp duty and registration fee of ₹ 27.67 lakh.

After being pointed out by Audit (between June 2016 and March 2018), six<sup>37</sup> ROs replied (between August 2016 and March 2018) that as per the instructions of IGR, in the case of inheritance of property, the instrument could be directly classified under family partition and there was no need for verification of relationship between the parties. The ROs further stated that as per the orders of IGR issued in May 2012, legal heirs of the deceased family members were also to be considered as family members. The reply is not acceptable as the transfer of share in property through the partition deeds was made to persons other than family members and the concessional rate of stamp duty as per the IS Act was applicable only in respect of transfer to family members. Further, the Madurai Bench of Honourable Madras High Court<sup>38</sup> held in February 2014 that the definition of the term “family” given in the Explanation under Article 58 was exhaustive and the benefit of Explanation under Article 58 would not be applicable to persons other than those mentioned therein.

The matter was referred to the Government in June 2018 and reminded in February 2019. Reply was awaited (March 2019).

### **3.4.2 Misclassification of conveyance deeds as cancellation deeds**

As per Section 2(10) of the IS Act, conveyance includes a conveyance on sale and every instrument by which property whether movable or immovable, is transferred *inter vivos* and which is not otherwise specifically provided for in Schedule I. As per Article 23 of Schedule I to the IS Act, instrument of conveyance of immovable property attracts stamp duty at the rate of eight *per cent* upto 31 March 2012 and at seven *per cent* thereafter on the market value of the property. Registration fee is leviable at the rate of one *per cent* on the market value of the property. As per Article 17 of Schedule I to the IS Act, for instrument of cancellation, if attested and not otherwise provided for, stamp duty of ₹ 50 is to be levied on the same.

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<sup>36</sup> SR, Annur, SR, Athur, SR, Cheyyur, Joint-II SR, Pattukottai, Joint-IV SR, Kanchipuram, SR, Kodambakkam, SR, Nambiyur, SR, Pallikonda, SR, Poonamallee, SR, Sembium and SR, Thalavadi

<sup>37</sup> Athur, Kodambakkam, Nambiyur, Pallikonda, Poonamallee and Sembium

<sup>38</sup> Madurai Bench of Honourable Madras High Court in W.P.No.58 of 2012 in the case of T. Muthu Babu Vs IGR dated 24.02.2014

It was judicially held (cf Emperor Vs Rameshardoss 32 All 171 SIC 697) that there can be no such thing as cancellation of a conveyance under which right of property has already been passed. Property can be retransferred only by re-conveyance. Further, it was held (W.A.Nos.592 & 938 of 2009, in Latif Estate Line India Ltd. Vs. Registration Department) by the Madras High Court that cancellation of a sale deed by a deed of cancellation can be effected only when a condition that title will pass on payment of consideration, was included in the original sale deed.

During scrutiny (between July 2015 and January 2018) of records in eight<sup>39</sup> Sub-Registries, Audit noticed that conveyance of properties valued at ₹ 4.97 crore and effected through 28 conveyance deeds registered between the years 2014 and 2016 were cancelled by 'deeds of cancellation' citing reasons of non-receipt of consideration and failure to hand over possession of the properties. Scrutiny of original deeds of conveyance, however, indicated receipt of consideration by the sellers and handing over of properties to the purchasers. Since the original sellers had re-acquired right and interest over the properties from the original purchasers and the properties vested again in the vendors through cancellation deeds, these deeds were to be treated as re-conveyance deeds, involving levy of stamp duty and registration fee of ₹ 39.72 lakh. The ROs, however, treated the instruments as deeds of cancellation and collected ₹ 0.06 lakh. Thus, the misclassification of instruments resulted in short levy of stamp duty and registration fee of ₹ 39.66 lakh.

After audit pointed this out (between June 2015 and February 2018), the Department replied that the instruments did not indicate re-conveyance of properties by the purchasers to the vendors and the IGR had clarified in December 2011 that unless it was specifically recited in the instrument that the property was re-conveyed, it cannot be treated as re-conveyance. The Department further stated that as per Article 17 of Schedule I to the IS Act, instrument by which any instrument previously executed was cancelled was only a cancellation and the deed of cancellation cannot be treated as re-conveyance.

The reply is not correct because, after registering the cancellation deeds, necessary entries were made in the original sale deeds recording their cancellation and the same was also featured in the Encumbrance Certificate. The cancellation of a sale deed can be effected only when there was a condition in the original deed for cancellation and in the absence of such condition, the subsequent instruments retransferring the properties to the original vendors were to be classified as conveyance deeds falling under Article 23 of the IS Act.

The matter was referred to the Government in June 2018 and reminded in February 2019. Reply was awaited (March 2019).

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<sup>39</sup> Joint II SR Chennai South, SR Avadi, SR Cheyyur, SR Kodambakkam, SR Padappai, SR Rasipuram, SR Sivakasi and SR Thamaraiatti,

### **3.4.3 Excess allocation of Transfer Duty Surcharge**

As per Section 175 of the Tamil Nadu Panchayat Act, 1994 and Section 94 of the Tamil Nadu Urban Local Bodies Act, 1998, a duty, in the form of surcharge, shall be levied and collected on the instruments of sale, exchange, gift, mortgage with possession and lease in perpetuity and subsequently allocated to the concerned Director of Municipal Administration / Town Panchayats. The rate of surcharge is two *per cent* on the market value of the property.

Audit observed (between August 2015 and October 2017) from the periodical quarterly returns of transfer duty surcharge and registers in three<sup>40</sup> Registering Offices that during the period 2012 to 2017, in respect of 57 cases, ₹ 69.94 lakh was allocated to local bodies towards Transfer Duty Surcharge (TDS) as against ₹ 7.28 lakh due for allocation. This resulted in excess allocation of ₹ 62.66 lakh out of the revenue due to the Government. The excess allocation was due to arithmetical error, incorrect computation of value of properties and allocation of surcharge in respect of ineligible instruments.

When the matter was referred in June 2018, Government replied (September 2018) that the excess allocation of ₹ 39.10 lakh pertaining to Joint II SR, Chennai (South) was adjusted. Government further stated that excess allocation in respect of the remaining two offices would be adjusted in the ensuing quarter. Further report regarding adjustment of excess allocation in respect of the remaining two offices was awaited (March 2019).

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<sup>40</sup> DR, Tenkasi, Joint II SR, Chennai (South) and SR, Aruppukottai.

**CHAPTER IV**  
**TAXES ON VEHICLES**



## CHAPTER IV

### TAXES ON VEHICLES

#### 4.1 Tax administration

The receipts from the Transport Department are regulated under the provisions of the Motor Vehicles Act, 1988, the Central Motor Vehicles Rules, 1989, the Tamil Nadu Motor Vehicles Rules, 1989 and the Tamil Nadu Motor Vehicles Taxation Act and Rules, 1974. The Department is headed by the Transport Commissioner of the State, and implementation of the Act and Rules are carried out by the Regional Transport Offices (RTOs). The monitoring and control at Government level is exercised by the Additional Chief Secretary, Home (Transport) Department.

#### 4.2 Internal audit

Internal audit is a vital component of internal controls to enable an organization to assure itself that the prescribed systems are functioning reasonably well. Internal audit is functioning in the Department since 1978. The Department is having a system of internal audit to ensure cent *per cent* audit of all the offices. There are 12 audit units, each headed by an Assistant Accounts Officer. The periodicity of audit of all offices is 'annual' and as against the target of 86 offices, audit of 73 units were conducted during 2017-18.

As at the end of 31 March 2018, 3,194 paragraphs involving money value of ₹ 4.50 crore were outstanding as detailed in Table 4.1.

**Table 4.1**

(₹ in crore)

Year	Opening Balance		Observations raised		Observations settled		Observations pending	
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
Upto 2015-16	4,474	4.25	176	0.03	1,061	1.36	3,589	2.91
2016-17	3,589	2.91	807	0.11	980	0.46	3,416	2.56
2017-18	3,416	2.56	4,062	2.95	4,284	1.01	3,194	4.50

Source: Reply of the Department

It is suggested that action may be taken for speedy clearance of old outstanding objections.

### **4.3 Results of Audit**

Test check of records of 21 departmental offices (including 17 RTOs) out of 93, conducted during the period from April 2017 to March 2018 revealed under assessment of tax, fees and other observations amounting to ₹ 4.05 crore in 125 cases, which broadly fall under the following categories:

**Table 4.2**

(₹ in crore)			
<b>Sl. No.</b>	<b>Category</b>	<b>No. of cases</b>	<b>Amount</b>
1	Non/short collection of tax	93	3.96
2	Non/short collection of penalty	3	0.03
3	Others	29	0.06
	<b>Total</b>	<b>125</b>	<b>4.05</b>

*Source: As per data maintained in office of the AG(E&RSA), Tamil Nadu, Chennai*

During the course of the year 2017-18, the department accepted under assessments and other deficiencies in 71 cases and recovered ₹ 1.22 crore, out of which ₹ 0.05 crore in one case was pointed out during the year and the rest in earlier years.

Few illustrative cases involving 488 vehicles (13 *per cent*) out of a test checked universe of 3,652 vehicles (within a total population of 37,579 vehicles), across five categories, with a money value of ₹ 1.26 crore are discussed in the following paragraphs.

### **4.4 Audit Observations**

#### **4.4.1 Non-realisation of taxes from the owners of maxi cabs and goods vehicles**

As per Section 3 of the Tamil Nadu Motor Vehicles Taxation Act (TNMVT Act), tax shall be levied on every motor vehicle used or kept for use in the State of Tamil Nadu at the rate specified for such vehicle in the Schedules to the Act. As per Section 8 of the TNMVT Act, the tax due under this Act shall be paid by the owner of the vehicle within such period, not being less than seven days or more than 45 days from the commencement of the quarter, half-year as may be prescribed. Section 15 of the TNMVT Act provides for payment of penalty, if the tax due in respect of any motor vehicle is not paid within the prescribed period. Rule 3 of the TNMVT Rules provides that so long a transport vehicle is covered by permit issued by any transport authority, the vehicle shall be deemed to be kept for use in the State. Rule 8 of the TNMVT Rules provides for collection of penalty equal to the amount of quarterly tax where the delay in payment of tax is beyond 45 days after the expiry of the prescribed period. As per Section 15-A of the TNMVT Act, the licensing officer may, at any time, within a period of five years, from the expiry of the period to which the tax relates, issue notice to the owner of the motor vehicle and after making such inquiry as he may consider necessary, direct such owner or other person to pay the whole or any portion of such tax, which has not been paid.

Generation of reports from VAHAN<sup>41</sup> database regarding non-payment of taxes followed with further verification in “e-Services”<sup>42</sup> of the Department revealed that, in seven<sup>43</sup> RTOs, the owners of 31 maxi cabs and 135 goods vehicles (17 *per cent*), out of 953 test checked, did not pay the quarterly tax amounting to ₹ 14.23 lakh relating to the period from 1 April 2015 to 31 March 2017. However, no action was initiated by the RTOs for recovery of the tax from the defaulting vehicle owners. This resulted in non-realisation of tax of ₹ 14.23 lakh. Besides, penalty of ₹ 14.23 lakh for delay in payment of tax was also leviable.

After Audit pointed this out (between September 2017 and March 2018), RTO, Tambaram reported collection of ₹ Rs.0.29 lakh in respect of two maxi cab vehicles.

The matter was referred to the Government in September 2018 and reminded in February 2019. Reply is awaited (March 2019).

#### **4.4.2 Non-collection of life time tax from owners of old tourist motor cab**

As per Section 3 of The TNMVT Act read with Class 5-A of the First Schedule, tax of ₹ 6,500 for five years was payable in respect of tourist motor cab. By an amendment made in April 2012, Seventh Schedule was introduced in the TNMVT Act to provide for levy of life time tax in respect of tourist motor cab. The rate of tax in respect of old tourist motor cab was fixed at 8.5 *per cent* of the cost of vehicle, if the cost of vehicle did not exceed ₹ 10 lakh and at 14.5 *per cent* of the cost of vehicle, if the cost of the vehicle exceeded ₹ 10 lakh. The registered owners of such vehicles were required to pay life time tax at specified rates at the time of renewal of permit or during the currency of the existing permit.

Scrutiny of records in five<sup>44</sup> RTOs revealed that the owners of 81 vehicles (seven *per cent*) out of 1,146 test checked, had not renewed permits of old tourist motor cabs which were due for renewal during the period from April 2012 to March 2017. Since these vehicles were covered by valid permits as of April 2012, the owners of these vehicles were liable to pay life time tax in respect of these vehicles, notwithstanding the non-renewal of permits thereafter. The Department, however, failed to issue demand notices for recovery of life time tax from the owners of the vehicles. The amount of life time tax due in respect of 81 vehicles calculated on the basis of details of cost of vehicles available in the records worked out to ₹ 32.61 lakh.

After Audit pointed this out, the RTOs of Chennai (South East) and Chennai (South West) stated that action would be taken to collect the tax. Three<sup>45</sup> RTOs stated that tax would be collected from the owners on their visit to the

<sup>41</sup> Vahan is an application developed by NIC for registration of vehicles, issue of permits, collection of road tax and to record fitness of vehicles

<sup>42</sup> “e-Services” is the web portal of the Transport Department containing details of information on vehicles and particulars of payment of tax.

<sup>43</sup> Chennai (East), Chennai (North East), Chennai (South), Chennai (South East), Coimbatore South, Kanchipuram and Tambaram

<sup>44</sup> Chennai (East), Chennai (Central), Chennai (South East), Chennai (South West) and Sholinganallur

<sup>45</sup> Chennai (East), Chennai (Central) and Sholinganallur

concerned offices for renewal of permit or other permit related activities. The reply is not acceptable as the vehicles were covered by valid permits as of April 2012 and therefore the owners of these vehicles were liable to pay life time tax in respect of these vehicles, notwithstanding the non-renewal of permits.

The matter was referred to the Government in September 2018 and reminded in February 2019. Reply was awaited (March 2019).

#### **4.4.3 Non collection of tax in respect of Construction Equipment Vehicles**

As per clause 6C of First Schedule to the TNMVT Act, tax in respect of construction equipment vehicles, was collectable at ₹ 10,000 per annum.

Scrutiny of departmental records in 10<sup>46</sup> offices revealed that tax of ₹ 24.90 lakh relating to the years 2014-15 to 2016-17 was not paid by the owners of 212 (50 per cent) out of 424 construction equipment vehicles test checked.

After Audit pointed this out, the Department stated that since construction equipment vehicles are classified as non-transport vehicles, the owners of the vehicles were permitted to pay tax anywhere in the State. Further, the owners were permitted to remit the tax in Treasuries / Banks all over the State, where the taxes are collected manually, for which the database is not available in the RTO offices. Three<sup>47</sup> RTOs, however, reported collection of ₹ 1.70 lakh in respect of 11 vehicles.

The department's reply was not tenable as Rule 3 of the TNMVT Rules provides that in respect of a non-transport vehicle, so long as the vehicle remains on the records of the Registering Authority, it is deemed to be used or kept for use in the State of Tamil Nadu. The provision to pay tax anywhere in the State is only a citizen service, which did not, in anyway, take away the onus on the part of the jurisdictional Regional Transport Officer to ensure collection of tax.

The matter was referred to the Government in September 2018 and reminded in February 2019. Reply was awaited (March 2019).

#### **4.4.4 Short realisation of tax due to misclassification of Private Service Vehicles as Educational Institution Vehicles**

As per Section 2 (11) of the Motor Vehicles Act, (MV Act), "educational institution bus" means an omnibus, which is owned by a college, school or other educational institution and used solely for the purpose of transporting students or staff of the educational institution, in connection with any of its activities. As per class 8(a) of First Schedule to TNMVT Act, the rate of tax in respect of vehicles owned by schools is ₹ 50 per person per quarter, and in respect of vehicles owned by colleges and other educational institutions, the rate of tax is ₹ 100 per person per quarter.

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<sup>46</sup> Ambattur, Chennai (Central), Chennai (East), Chennai (South East), Chennai (South West), Chennai (West), Kanchipuram, Meenambakkam, Ramnad and Tambaram

<sup>47</sup> Ambattur, Ramnad and Tambaram

The Honourable Madras High Court held in January 2008 that the educational institution must own the vehicle and vehicles held in the name of Trust cannot be treated as ‘educational institution vehicles’(EIVs).

On a test check of the permit registers relating to 648 (21 *per cent*) vehicles out of total of 3,152 vehicles, Audit noticed in three<sup>48</sup> offices that, 24 vehicles (four *per cent*) owned by Trusts/Societies were classified as educational institution vehicles and permits were accordingly issued. These vehicles were classifiable as “private service vehicles” and attract tax of ₹ 500 per seat per quarter. The incorrect issue of permits and collection of tax at the rates applicable to EIVs led to short realisation of revenue of ₹ 21.15 lakh during the period 2016-17.

The matter was referred to the Government in September 2018 and reminded in February 2019. Reply was awaited (March 2019).

#### **4.4.5 Loss of revenue due to Misclassification of Contract Carriages as Private Service Vehicles**

As per Section 2(33) of the MV Act, ‘private service vehicle’ (PSV) means a motor vehicle constructed or adapted to carry more than six persons excluding the driver and ordinarily used by or on behalf of the owner of such vehicle for the purpose of carrying persons for, or in connection with, his trade or business otherwise than for hire or reward, but does not include a motor vehicle used for public purposes. As per Section 2(30) of the Act *ibid*, “owner” means a person in whose name a motor vehicle is registered, and in relation to a motor vehicle, which is the subject of a hire-purchase agreement, or an agreement of lease or an agreement of hypothecation, the person in possession of the vehicle under that agreement. Section 2(7) of the Act *ibid* defines Contract carriage as a motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum--

- a. on a time basis, whether or not with reference to any route or distance; or
- b. from one point to another, and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey

Government of Tamil Nadu, while clarifying (September 2002) on the issue of the PSV permits to leased vehicles owned by the companies, stipulated that the company should enter into an agreement with the registered owner and take over their vehicle on lease for company’s use. The Government of Tamil Nadu issued instructions in 2004 that there should be a lease deed evidencing transfer of vehicle and the lessee (in the capacity of “owner” of the vehicle in pursuance of the agreement) shall also have the liability to pay all taxes, fees, penalties, fines, damages, insurance claims and other necessities and requirements arising out of MV Act and its related rules.

During test check of records relating to 481 (25 *per cent*) out of a total of 1,902 PSVs, Audit noticed in the offices of RTO, Ambattur and Tambaram that

<sup>48</sup> Chennai (West), Kanchipuram and Sholinganallur

permits were issued to five motor vehicles classifying the same as PSV vehicles based on the agreement entered into between the companies and the original owners of the vehicles. Accordingly, tax of ₹ 500 per seat per quarter applicable to PSV as per class 8 (b) of the First Schedule to the TNMVT Act was collected in respect of these vehicles on the basis of permits issued.

Scrutiny of the agreements, however, revealed that the identity of specific vehicle, which was proposed to be given on lease was not mentioned. The liability of payment of tax vested with the original owner of the vehicle, which was in contravention of the instructions of the Government. The vehicles were not intended to be possessed by the lessee as there was contract agreement on per passenger charges, timings relating to entry and exit into and from the owner's premises, maintenance and insurance, etc. The agreements, therefore, were basically in the nature of a contract, and instead of the lease ownership of vehicle, only the services of the lessor were agreed upon. These vehicles should have been treated as contract carriages and tax of ₹ 3,000 per seat per quarter should have been collected as per Part II of Schedule VII of the TNMVT Act. However, tax of ₹ 500 per seat per quarter applicable to PSV was collected in respect of the vehicles. This resulted in a loss of revenue of ₹ 18.53 lakh relating to the period 2015-16 and 2016-17.

After Audit pointed this out, the RTO, Tambaram stated that the fresh lease agreements would be obtained from the permit holders.

The reply of the Department is not acceptable as the grant of permits was based on invalid lease deeds and since the vehicles were not in possession / control of the Employer / Company, whose staff were to be transported, the same could not be treated / classified as Private Service Vehicles. Reply from RTO, Ambattur was awaited.

The matter was referred to the Government in September 2018 and reminded in February 2019. Reply was awaited (March 2019).

**CHAPTER V**  
**NON-TAX RECEIPTS**



## CHAPTER V

### NON-TAX RECEIPTS - MINES AND MINERALS

#### 5.1 Tax administration

The Geology and Mining Department is entrusted with the general regulation of extraction and conservation of minerals in accordance with the relevant Acts, Rules and instructions of the Government of Tamil Nadu (GoTN). The Department is under the administrative control of the Commissioner of Geology and Mining (CGM), who is assisted by Deputy Directors of Geology and Mining (DDGMs) and Assistant Directors of Geology and Mining (ADGMs) and Geologists in each district. Monitoring and control at the Government level is done by the Principal Secretary, Industries Department.

#### 5.2 Internal audit

The details of offices programmed for conduct of internal audit and the offices in respect of which internal audit was done during the year 2017-18 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.

#### 5.3 Results of audit

In 2017-18, test check of 17 district offices revealed non / short levy of dead rent, seigniorage fee and other observations amounting to ₹ 2,451.28 crore in 177 cases, which fall under the following categories.

**Table 5.1**

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1	Performance Audit on “System of Mineral Wealth Management in Tamil Nadu”	1	2,376.27
2	Non / short levy of dead rent, seigniorage fees, royalty	36	44.79
3	Non-collection of brick mineral annual fee	6	3.34
4	Non-collection of interest / penalty	17	3.47
5	Others	117	23.41
	<b>Total</b>	<b>177</b>	<b>2,451.28</b>

During the course of the year 2017-18, the department accepted and recovered underassessments and other deficiencies amounting to ₹ 0.60 crore in 46 cases pointed out in earlier years.

The observations included in the Performance Audit on “System of Mineral Wealth Management in Tamil Nadu” involving ₹ 2,408.33 crore are discussed in the following paragraphs.

## 5.4 Performance Audit on System of Mineral Wealth Management in Tamil Nadu

### 5.4.1 Introduction

Tamil Nadu has rich deposits of mineral ores and minerals including Lignite, Granite, Petroleum and Natural gas. The resources are spread over various districts of the State. Deposits of Lignite, Vermiculite, Dunite and Molybdenum in the State form more than 50 *per cent* of the deposits of the entire country. Tamil Nadu has also significant deposits of rare minerals (atomic) such as garnet, titanium and sillimanite. The details of important mineral resources available in the State as compared to the availability in India is represented in Table 5.2.

**Table: 5.2**  
**Availability of mineral resources**  
(Quantity in million Metric Tonnes)

Sl. No.	Mineral	Available in India	Available in Tamil Nadu	Percentage of availability
1	Lignite	44,114.24	35,208.90	79.81
2	Vermiculite	2.35	1.87	79.57
3	Dunite	187.82	121.80	64.85
4	Molybdenum	19.37	10.05	51.88
5	Garnet	56.16	26.92	47.93
6	Titanium	413.63	114.40	27.66
7	Magnesite	393.98	98.23	24.96
8	Sillimanite	70.20	17.46	24.87

(Source: Indian Bureau of Mines' Yearbook 2016)

Minerals are broadly classified as major minerals and minor minerals for the purpose of regulating grants, and are governed by independent sets of rules. Except for those minerals, which are notified by Union Government (GoI) as minor minerals, all other minerals are termed as major minerals. Petroleum and Natural gas, although classified as minerals, are administered by separate regulations. Grant of concessions for major minerals and petroleum and natural gas are regulated by the GoI, while the States have been delegated the powers to prescribe regulations for minor minerals. The major minerals are classified into three categories viz., (i) hydrocarbon and energy minerals, (ii) atomic minerals and (iii) metallic and non-metallic minerals, and are placed under Schedule I of the MMDR Act and prior approval of GoI is mandatory for leasing of these minerals for the purpose of levy of royalty. While the term 'mining' is broadly used to denote extraction of minerals, the term 'quarrying' is specifically used to indicate extraction of minor minerals. The levy on major minerals and Petroleum and Natural gas is called royalty, whereas the levy on minor minerals is termed as Seigniorage Fee (SF). The rates of royalty are

prescribed by the GoI and the SF are fixed by the States. However, both royalty and SF are collected and administered by the States.

The Geology and Mining Department (Department) is entrusted with the general regulation of extraction and conservation of minerals in accordance with the relevant Acts, Rules and instructions of the Government of Tamil Nadu (GoTN). The department is under the administrative control of the Commissioner of Geology and Mining (CGM), who is assisted by Deputy Directors of Geology and Mining (DDGMs) and Assistant Directors of Geology and Mining (ADGMs) and Geologists in each district. The basic functions of the department are to (i) ensure proper exploitation of minerals with proper protection of environment, (ii) check illegal mining and transportation and (iii) maximisation of revenue to Government while conserving mineral reserve for future.

Receipts from mines and minerals mainly consist of royalty/SF which is levied either on specific rate or on *ad valorem* basis on the type and quantity of mineral removed or consumed from the mines. Dead rent is levied on the area leased out for mining activity, and is the minimum amount to be paid for the lease. Other receipts from mining are application fee for various permits and licences, lease amount, penalties and interest for belated payments of dues, *etc.* The receipts from mining, total non-tax revenue raised and the percentage of contribution by the mining sector towards non-tax revenue are given in the Table 5.3.

**Table: 5.3**  
**Trend of Revenue**

(₹ in crore)

Year	Receipts from mining	Total non-tax receipts of the State	Percentage of the mining receipts to total non-tax receipts
2013-14	933.28	9,343.27	9.99
2014-15	976.59	8,350.60	11.69
2015-16	981.12	8,918.31	11.00
2016-17	983.90	9,913.76	9.92
2017-18	1,146.11	10,764.01	10.65

(Source: Finance Accounts of Government of Tamil Nadu)

#### 5.4.1.1 Audit Objectives

The Performance Audit was taken up with the objectives to ascertain, whether

- the department employed appropriate system to facilitate scientific exploration and optimum exploitation;
- the system of issue of grant was regular;
- the controls of system of mineral administration were adequate and effective to facilitate revenue maximisation and sustainable mineral exploration;

#### **5.4.1.2 Scope of Audit**

The Performance Audit was conducted between May 2018 and September 2018 covering a five-year period from 2013-14 to 2017-18. The previous and subsequent periods were covered for relevance and continuity.

#### **5.4.1.3 Audit Methodology**

Audit followed top-down approach, by obtaining, ab-initio, information and data from the office of the CGM. Fourteen<sup>49</sup> district offices out of 28 were selected applying stratified sampling method based on revenue and number of leases. Out of 5,430 cases, 2,285 cases were selected for scrutiny in selected districts. The inputs obtained from the agencies/entities connected with mining activities, viz., Indian Bureau of Mines (IBM), Geological Survey of India (GSI), Directorate of Mines Safety, Institute of Remote Sensing, Anna University, Tamil Nadu Pollution Control Board (TNPCB) and State Environment Impact Assessment Authority (SEIAA) were also considered in the report wherever necessary. Audit also visited individual offices of the three Central Public Sector miners viz., Neyveli Lignite Corporation (NLC), Oil and Natural Gas Corporation Ltd. (ONGC), and Indian Rare Earths Ltd (IREL) and three State Public Sector miners namely Tamil Nadu Minerals Ltd. (TAMIN), Tamil Nadu Cements Ltd. (TANCEM) and Tamil Nadu Magnesite Ltd. (TANMAG) to verify relevant records.

Entry Conference was held with the Additional Chief Secretary to Government, Industries department on 24 April 2018, in which the audit objective, scope and methodology of audit including employing “Unmanned Aerial Vehicle (UAV) study” and “Satellite Images in Geographic Information System (GIS)” were explained in detail.

Exit conference was held on 01 March 2019. The views expressed by the Government and Department during the Exit Conference have been taken into account and suitably incorporated in the report.

#### **5.4.1.4 Audit Criteria**

The criteria for the performance audit were derived from following Acts and regulations:

- The Mines and Minerals (Development and Regulation) Act, 1957 and 2015 (MMDR Act)
- The Tamil Nadu Minor Minerals Concession Rules, 1959 (TNMMCR 1959)
- The Petroleum and Natural Gas Rules, 1959 and 2009 (P&G Rules)
- The Mineral Concession Rules, 1960 (MCR 1960)
- The Mineral Conservation and Development Rules, 1988 (MCDR 1988)
- The Granite Conservation and Development Rules, 1999 (GCDR 1999)

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<sup>49</sup> Ariyalur&Perambalur, Cuddalore, Dindugul, Kancheepuram, Kanyakumari, Karur, Krishnagiri, Madurai, Nagapattinam &Thiruvavarur, Ramanathapuram, Salem, Tirunelveli, Tiruvallur and Virudhunagar.

- The Tamil Nadu Prevention of Illegal Mining, Transportation and Storage of Minerals and Mineral Dealers Rules, 2011
- The Mineral (Evidence of Mineral content) Rule, 2015 and
- Notifications, orders and circulars issued by the Government and the Department.

#### **5.4.1.5 Acknowledgement and limitation**

Audit acknowledges the co-operation extended by the department in production of records and information required for the purpose of this audit. Audit expresses gratitude to Survey of India for supplying co-ordinates for ground control points falling in Kancheepuram, Tirunelveli and Virudunagar, the three districts selected for UAV study, and to the Madras Institute of Technology (MIT), affiliated to Anna University, Chennai, which conducted the UAV study and gave a report. However, UAV study could not be conducted in Kancheepuram district as the District administration requested Audit to defer the study, given that a writ petition had been filed against the study. Audit was named as the first respondent, and the Hon'ble High Court of Madras had passed oral orders<sup>50</sup> not to cause any inspection of quarries by Audit. While Audit filed counter-affidavit immediately, the department had not filed counter-affidavit till January 2019, resulting in postponement of hearing. Due to this, the UAV study in Kancheepuram district could not be conducted, despite having been selected on the grounds of high risk potential.

During the Exit Conference, the Government stated that as the reported oral orders was relating to inspection by audit team, there would be no bar on the department officials to do the same and therefore concerned officials of DGM could accompany the Technical Consultant, viz., Madras institute of Technology Campus, Anna University so that the UAV study of the third site could be completed.

### **AUDIT FINDINGS**

Audit findings as a result of examination of records of 14 out of 28 district offices are given in the succeeding paragraphs. Since these were the results of test check of sampled district offices only, Government may get the position examined in the remaining 14 district offices as this exercise is likely to yield considerable revenue to the exchequer.

#### **5.4.2 Exploration of mineral resources**

The mining reserves can be classified into two categories – undiscovered resources and identified resources. Undiscovered resources are believed to be existing, based on geological and remote sensing findings (reconnaissance operations), but the extent and quantity are not known. Based on geological findings, the persons interested in extracting the minerals for their business purposes, apply for a prospecting licence and explore the areas to identify and extract the minerals. The exploration of identified resources is carried out through obtaining of mining lease. Government's mineral policy shall necessarily focus on exploration of minerals and optimum utilisation of

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In WP Nos.28895 of 2018 and 30490 of 2018

discovered minerals. Observations relating to mineral policy and management of mineral resources are discussed in the following paragraphs.

#### **5.4.2.1 Delay in formulation of State Mineral Policy**

A mineral policy was required to identify opportunities, regularise and simplify mining process and also designed to check illegal mining. Although MMDR Act was introduced way back in 1957, the State had continued without a mining policy of its own. All the other Southern States, viz., Andhra Pradesh, Karnataka and Kerala have their own mineral policies. The first step towards a policy was contemplated only in December 2009, when a draft was prepared by the CGM on the lines of the NMP of the Union Government, and forwarded to the State Government. Later, the draft Policy was revised incorporating proposed provisions in the “Tamil Nadu Prevention of Illegal Mining Transportation and Storage of Minerals and Mineral Dealers’ Rules, 2011” (notified in January 2011) and resubmitted to Government in June 2011. As such, the State continued to administer mines and minerals without a comprehensive guidance through its own policy.

The matter was brought to the notice of Government in January 2019. During the Exit Conference, Government stated that due to change in policy of Government of India, exploration of major minerals had come down while the minor minerals continued to be governed by TNMMCR 1959. It was agreed that the State Mineral Policy would be reviewed in this context.

The amendments brought into the MMDR Act (January 2015) had entrusted all activities leading to mining of minerals to the State Government and also mandated auction of lease. The change in policy of GoI had actually necessitated review of mining policy for major minerals also. Therefore, the Government may reconsider.

#### **5.4.2.2 Delay in formulation of Granite Policy**

India possesses one of the best granite deposits in the world and has numerous varieties comprising over 200 shades. India accounts for almost 20 *per cent* of granite deposits in the world. A separate set of regulations in the form of GCDR had been formulated by GOI (1999) for mining of granite.

The State of Tamil Nadu have formulated separate regulations for granite within the TNMMCR 1959. Rule 8A of the rules *ibid* empowers the Government to lease its lands to any person for granite quarrying through open tender process. Rule 8C provides for granting of lease to public sector companies on Government lands by nomination basis. The first move to have a separate granite policy was contemplated way back in 2009 envisaging

- A transparent process for granting surface rights to be followed
- Mining near water bodies and archaeological monuments and in reserve forests to be discouraged
- Expeditious process of approval of leases
- Utilisation of granite waste for public purposes and thus reducing environmental impact of accumulation of such waste

Audit analysis revealed that the Government did not grant, during the period of Audit coverage, any lease under Rule 8A on open tender basis but all leases for quarrying granite on Government lands were issued to TAMIN under Rule

8C. This is because, the proposed granite policy in 2009 favoured continuation of lease of Government lands for granite quarrying only to PSUs.

Audit noticed, while verifying relevant records, that TAMIN had surrendered 40 out of 138 granite leases during the period of audit. Test check of seven of the surrendered leases (relating to four districts) revealed that they had a proven reserve of 25,47,005 cu.m valued at ₹68.47 crore (based on mining plan of TAMIN). This vast reserve had remained unexploited due to non-leasing of lands under Rule 8A.

A fresh draft policy was submitted to the State Government in 2012 but the State Government asked the CGM (June 2016) to modify the same based on the NMP of the Union Government. In the new draft granite policy 2017, the Government had proposed to introduce grant of granite leases under Rule 8A of TNMMCR 1959. However, GoTN decided that the policy would be notified only after the pronouncement of NMP of the Union Government. The NMP has since been approved by GoI on 28 February 2019. Thus, even after more than ten years had elapsed since an exclusive policy on granite mining in the State was proposed, the same was yet to see the light of the day.

The matter was brought to the notice of Government in January 2019. During the Exit Conference, Government agreed to review the need for State Mineral Policy.

#### **5.4.2.3 Non-utilisation of funds from National Mineral Exploration Trust (NMET)**

Exploration is an important activity to identify mineral resources. Under the erstwhile (prior to 2015) system of allotment of grants, the Reconnaissance Permit holders had preferential right to Prospecting Licences (PLs) and the holders of the licences had preferential right to mining leases, the allotment being made on first-come-first-serve basis. In the amended MMDR Act 2015, exploration was declared as isolated activity to be carried out by only Government or its agencies or to be outsourced to private entities without any further right or preference towards subsequent processes such as prospecting and mining.

The Mineral (Evidence of Mineral Contents) Rules, 2015 recognised four stages of exploration viz (i) G4 - Reconnaissance Survey, (ii) G3 - Preliminary Exploration, (iii) G2 - General Exploration and (iv) G1- Detailed Exploration. Auction of blocks would be conducted only after the exploration of all stages, preferably, by the Department. The State formed an exploration wing in 2007, for a period of five years. The wing consisted of geologists and assistant geologists to assist other officials and provide technical know-how in processing of documents relating to grants. The wing, however, was not continued to function beyond the first five-year tenure.

Consequent to closure of the exploration wing in 2012, the CGM, recommended (September 2015) to the Government that a preliminary prospecting/prospecting level exploration in respect of the 12 projects furnished by the GSI (three in respect of the mineral molybdenum, two in respect of limestone, three in respect of graphite and four in respect of iron ore). During the meeting held (April, 2016), among the officials of the Office of the CGM, IBM and GSI, in the capacity of the members of the

Comprehensive Regional Mineral Exploration, 12<sup>51</sup> blocks for mineral exploration identified were discussed. As a follow up, Mineral Exploration Corporation of India Ltd (MECL) requested (May 2016) to provide the Geological reports, basic data of the said blocks. However, there was no further action on this proposal (January 2019). Five more proposals forwarded by MECL in September 2017 also did not materialise due to shortfall in lease area proposed. The discontinuance of the exploration wing, which assumed importance after the year 2015 from when reconnaissance operations were entrusted to State Governments, thus, had a negative impact on the progress of exploration in the State.

The Union Government constituted the National Mineral Exploration Trust (NMET) in January 2015 to fund exploration projects of States. The trust was being funded by contribution of existing lessees at the rate of two *per cent* on the royalty paid by them. While seeking funds for the projects, the States had to enter into a tripartite agreement with the Ministry of Mines and MECL assuring payment of 50 *per cent* of the one-time lease amount accrued to the respective State on tendering the projects funded through NMET. The Trust was, therefore, meant to encourage exploration activities by the States to discover new resources and thus earn incremental revenue by tendering mineral extraction. The State had deposited ₹ 28.04 crore as contribution to NMET (upto March 2018), but could not seek any funds, since it had no viable exploration project in hand.

The matter was brought to the notice of the Government in January 2019. During Exit Conference, the Government replied that since the extents in all the projects under exploration were below the criteria specified, NMET had been addressed to relax the minimum area requirement. It was also stated that the NMET had approved five exploration projects that are carried out by MECL, NLC and KIOCL.

#### **5.4.2.4 Non-exploration of Molybdenum**

Molybdenum is a refractory metal used as an alloying agent in steel, cast iron and super alloys to enhance strength and as a corrosive resistant. The mineral is also employed in automobile industry to reduce the weight of steel parts whereby fuel efficiency is increased. As per IBM database, out of 19.37 million tonnes of Molybdenum resources in India, 10 million tonnes (52 *per cent*) are found in Tamil Nadu.

Audit scrutiny of relevant records revealed that GoTN granted (August 1995) PL to TAMIN to explore the molybdenum deposit over 201.665 hectares in Dharmapuri district for five years. The company entered into MOU with GSI and MECL for the exploration in 1998. But the project could not be completed within five years and extension was not granted since this was not permissible under MMDR Act. GSI prepared a feasibility report in 2007 for assessing sufficiency of reserve in Velampatti South Block and a sum of ₹ 6.84 crore was jointly incurred by GoI, GoTN and TAMIN. In 2015, it was found that the ore was of marginal grade and hence it was decided to explore North Block. Although this exploration was approved by Standing Committee

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<sup>51</sup> One containing Iron Ore, one containing Bauxite, one containing Copper, Lead, Zinc & Gold and another nine blocks containing Limestone.

on Promotional Projects Technical Committee in June 2015, no further progress was made (September 2018). Due to delay in exploration, the Molybdenum reserve in the State had remained unexploited, which resulted in loss of revenue in the form of royalty. Thus in the absence of an approved mineral policy, there were no major discoveries of mineral deposits in the State during the period covered by audit.

The matter was brought to the notice of Government in January 2019. During Exit Conference, the Government replied that the details of valuation of molybdenum had been sought for from IBM and upon receiving the same, leasing through auction would be contemplated. Land Availability report and Forest Clearance Report NOC for auctioning blocks have been sought for from the district Collectors.

#### **5.4.2.5 Inadequate efforts in taking up M-sand from Granite waste and Charnockite quarries**

GoTN (August 2011) decided to implement the project of manufacturing of M-sand<sup>52</sup> from Granite waste and Charnockite quarries by TAMIN as it was the best alternative to river sand as being eco-friendly, economical, more durable and stronger and there was also increasing demand.

TAMIN undertook efforts for exploration of Charnockite during the years 2012 to 2015. GoTN accepted the proposal of TAMIN (July 2016) for the allotment of Charnockite quarries in Vellore for establishing M sand unit in Arakonam Taluk at a total Project cost of ₹ 14.70 crore (contribution 60 *per cent* and Term loan 40 *per cent* - with conditions to rope in private partner).

GOTN (August 2016) permitted TAMIN to transport stones from four granite quarries in three<sup>53</sup> districts under Rule 36 (3) of TNMMCR. TAMIN (December 2017) requested the GoTN to reserve the areas and to grant lease under Rule 8 C (7) of TNMMCR 1959 as in the case of granite and not to collect lease rent as recommended by Commissioner of Land Administration. CGM, stating that TAMIN was not financially sound to make huge payments, did not grant the lease.

Though the M-sand project was perceived to have many advantages, manufacturing was not taken up, in spite of having the raw materials and necessary government approvals in hand. Since the allotment of lease and permission to remove and transport quarry waste granted in 2016, no concrete decision had been taken to launch the project.

The matter was brought to the notice of Government in January 2019. During Exit Conference, Government accepted the audit observation and instructed the department to complete the execution of the project as envisaged.

#### **5.4.3 Processing of grant of mineral concessions**

Extraction of minerals is authorised through leases by the Union and State Governments. Leases and quarrying permits issued, for the purpose of administration of minerals by Government, were termed as grants. As on 31 March 2013, there were 3,467 leases in the 14 selected districts. During the

<sup>52</sup> Manufactured sand

<sup>53</sup> Dharmapuri, Tiruvallore and Vellore

period of audit, 1,963 new leases were granted in 14 selected districts. Out of 5,430 cases, 2,285 cases (42 *per cent*) were selected for scrutiny in the 14 districts, audit found irregularities / discrepancies in 828 cases (36 *per cent*) as mentioned in the paragraphs 5.4.3.1 to 5.4.4.8.

#### **5.4.3.1 Pursuance/Granting of Leases on Applications that should have been rendered invalid**

The GoI introduced, inter alia, Sections 10A and 10B, through an amendment to MMDR Act 1957, with effect from 12 January 2015, rendering all applications made before 12 January 2015 ineligible and grant of mining lease in respect of notified minerals through auction. However, under Section 10A(2)(c), protection was given to applications wherein a letter of intent had been issued or previous approval of GoI under Section 5(l) had been obtained prior to 12 January 2015. The Supreme Court in the Bhushan Power and Steel Ltd. Vs Government of Odisha<sup>54</sup> observed that letter of intent could be valid only if issued by a competent authority. Section 6(1)(b) of MMDR Act and Rule 22D of MCR read with Section 13 of the MMDR Act empowered GoI to relax the prescribed maximum and minimum extents respectively for grant of leases.

During the check of files relating to 13 leases which were protected by the provisions contained in Section 10(A)(2)(c), audit noticed discrepancies in 5 cases. In these cases, wherein application for mining limestone was made before 12 January 2015, the GoTN issued letter of intent (in all cases the precise area communication was treated as letters of intent) prior to the notification and then proceeded on to grant lease/kept them pending, after 12 January 2015, in contravention of the provisions of the amended Act and observations of the Supreme Court. The details are as follows:

- (i) In the case of M/s. Dalmia Cements (Bharat) Ltd., the lessee applied for a lease in September 2001 and GoTN forwarded the application of relaxing minimum area requirement to GoI in August 2012. The relaxation was approved by GoI only on 29 January 2015, after the amendment of the Act on 12 January 2015. Since GoTN was incompetent to issue a letter of intent and as the relaxation by GoI was not received before amendment, the application should have been treated as invalid as per Section 10A(1) of the Act. Instead, GoTN proceeded to grant the lease in May 2015.
- (ii) In the case of M/s India Cements Ltd., the lessee had applied for a lease in 2005 for mining limestone in a non-contiguous area, which in total exceeded 10sq kms and hence had to be ratified by GoI. The GoTN approved the lease under Section 6(1) (c) and forwarded (treated as letter of intent) the proposal to GoI, recommending the lease proposal, in 2013. The proposal was not approved but GoI issued an order in 2016 that GoTN on its own could decide cases relating to ratification of 10 sq.km to 50 sq. kms of lease applied for. Since GoTN was not competent to issue the letter of intent before the amended

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<sup>54</sup>

Contempt petition (Civil) No. 275 of 2016 (Civil Appeal no. 2790 of 2012)

provisions, the application should have been rendered redundant. But the CGM granted the lease in January 2017.

- (iii) In two more cases of application for lease by M/s.Dalmia Cement (Bharat) Ltd. applied in February 1996, the letter of intent was issued in 2005 and the same was also communicated to GoI in 2005 but the GoI did not communicate any approval. In the meantime (July 2010), TANCEM requested GoTN to grant lease on the same extent. As GoTN did not decide the case, M/s. Dalmia Cement (Bharat) Ltd. went on appeal, and was granted (January 2017), as an interim measure, lease in its favour but was barred from mining till the final decision of GoTN. Instead of treating the application as invalid, GoTN remained indecisive, that resulted in appeal. Otherwise, the lease could have been granted on auction basis which would have been revenue-accretive to the Government.
- (iv) In the case of M/s. Madras Cements Ltd., which applied for lease in 2007, the precise area communication sent to applicant in 2011 was subsequently cancelled by GoTN (March 2013). Therefore, there was no letter of intent as on 12 January 2015. As the GoTN remained indecisive, the lessee went on appeal in December 2016 wherein it was granted lease as an interim measure but was barred from mining. Had the Government decisively treated the application as invalid under the revised provisions of MMDR 1957, the extent could have been auctioned and revenue earned.

Thus, in two cases, GoTN, granted leases on the basis of letters of intent issued without competence and in the remaining three cases, it remained indecisive, leading to valuable resources having been blocked for mining. The value of minable reserve involved in these cases was ₹ 1,849.84 crore.

This was brought to notice of the Government in January 2019. During Exit Conference, the Government replied that the delay in approval for relaxation of extent was on the part of GoI and the intention of GoI in granting the approval, even if after January 2015, was to facilitate approval of lease. The reply was not acceptable since the approval was only for the extent of land and the lease applications should have been treated as invalid as soon as MMDR was amended in January 2015. The reply had also not addressed the issues of invalid and cancelled letters of intent.

#### **5.4.3.2 Non-adherence to provisions of Acts / Rules while granting lease/permit**

Audit noticed non-adherence to the provisions of Acts/Rules while granting leases/permits in six cases as detailed below:

- (i) The District Collector shall by notification in the District Gazette, published in the month of April every year, call for applications for direct grant of leases of stone quarries to the registered Swarna Jayanthi Gram Swarozgar Yojana Groups (SGSY) or societies formed by released bonded labourers. As per one of the conditions of Rule 8(10-A) of the TNMMCR 1959 for direct grant of leases, all the

members of the applicant society should have worked in a stone quarry for not less than two years and a certificate from the District Collector to that effect should have been enclosed. Audit noticed in the office of the DDGM, Dindigul, that three societies did not furnish the certificate from the District Collector for leases applied during 2016 and 2017, but leases were granted.

This was brought to notice of the Government in January 2019. During Exit Conference, it was stated that requisite certification was available and would be produced.

(ii) A lessee was granted permit by DDGM, Tiruvallur on 4 August 2016 to remove 4,758 lorry loads of savudu (a form of gravel). While the period of grant was 60 days, the lessee removed the entire quantity in 17 days. A complaint was received by the department later (September 2016) that the lessee was not the person who originally applied for lease. Had the department been tracking the removal, it would have been alerted by hurried removal of mineral.

(iii) According to Rule 12 of TNMMCR 1959, a notification shall be issued inviting applications for quarrying in tanks in charge of Public Works Department (PWD) for which desilting is required. The information on the requirement would be made known to public only through the notification. However, in the office of the DDGM, Madurai, audit observed that an applicant made an application for quarrying in a tank bund in 2012, whereas the requirement was actually notified only in 2014. The application was also processed and quarrying granted in 2016 instead of treating the application invalid and premature. On this being pointed out (February 2018), the DDGM, Madurai replied (March 2018) that the issue was procedural and there was no irregularity in grant. The reply was not acceptable since the application was pre-mature and hence needed to be treated as invalid.

(iv) In District Office Madurai, a lessee was granted permission to quarry gravel for a period of one year from 23 November 2013 to 22 November 2014. It was noticed from the letter dated 12 March 2015 that the Permit Holder did not register the lease deed even after the expiry of the lease period. However, he was permitted to quarry and remove 4,320 m<sup>3</sup> of gravel, resulting in not casting contractual obligation on the permit holder, besides loss of stamp duty. On this being pointed out (July 2018), DDGM (Madurai) replied (July 2018) that the lease agreement was executed on 23 November 2013 in stamp papers and was sent to the Registering Officer through the lessee to register the document. Thus, it was contended that there was no loss of stamp duty. The department did not follow as to whether the deed was registered, but granted permit. The registered document was not obtained by the department till date. Therefore, the reply was not acceptable.

This was brought to notice of Government in January 2019. During Exit Conference, Government stated that comprehensive replies to all paras would be furnished.

### 5.4.3.3 Delay in processing of applications for lease of minor minerals

As of 31 March 2018, the total number of applications for grant of lease pending for approval was 1151 in the 14 selected districts as per the details furnished by the district offices. Audit noticed in three<sup>55</sup> district offices that 57 applications out of 1151 (five *per cent*), relating to major minerals, that should have been rendered ineligible from 12 January 2015 due to amendments introduced to the MMDR Act 1957, continued to be shown as pending.

Out of the remaining 1,094 applications relating to minor minerals, 317 applications (29 *per cent*) were selected for scrutiny. The duration of pendency of lease applications was mentioned in Table 5.4.

**Table: 5.4**

#### Year-wise analysis of pendency

Duration of pendency	No. of applications
<1 year	84
1-5 years	156
5-10 years	51
More than 10 years	26
<b>Total</b>	<b>317</b>

(Source: Details furnished by department)

While a small percentage of the pendency related to applications without necessary documents, most of the applications were pending with various departments as described in Table 5.5.

**Table: 5.5**

#### Reasons for pendency

Reason for pendency	No. of applications
Pending for want of documents from lessees	43
Pending with G&M department	47
Pending with Revenue department	201
Pending with other departments (PWD, Industries, etc.)	26
<b>Total</b>	<b>317</b>

(Source: Details furnished by department)

The pendency with Revenue Department was mainly because of field inspection report and land availability report not furnished by them. Shortage of personnel had been one of the reasons that contributed to delay in processing of lease proposals and consequent potential revenue loss by way of non-accrual of SF to Government.

This was brought to notice of the Government in January 2019. During Exit Conference, the Government replied that all the applications rendered invalid by law would be expeditiously disposed off and pending lease applications would be cleared through a special drive.

<sup>55</sup> Dindigul, Karur and Kanyakumari

#### **5.4.3.4 Registration of lease deed**

An amendment to MMDR Act, 1957 was introduced on 12 January 2015 introducing Section 6, among other Sections, mandating extension of all existing notified major mineral leases upto (a) the year 2030 or (b) fifty years from the date of original lease or (c) the currency of existing lease, whichever is later. It was laid down that the leases shall not be granted any further extension. As per Rule 31(2) of the MCR 1960 the date of commencement of the period for which a mining lease is granted should be the date, on which a duly executed lease deed was registered. According to Section 17 of the Indian Registration Act, 1908, any lease beyond the period of one year is a compulsorily registrable document. Besides compliance to above rules, registration of lease deeds is essential to protect the rights of the Government. Audit observed the following with regard to registration of lease deeds.

#### **Non-revision of lease deed**

In 14 selected districts, there were 275 major mineral leases in five<sup>56</sup> districts. Audit noticed that neither modified nor supplementary lease deeds, as prescribed in the format in the MCR, 2016, were executed and registered in 70 leases. The lessees were permitted to remove minerals on the strength of the conditions imposed by the erstwhile provisions of the Act. This, besides not casting contractual obligation in consonance with the amended provisions, also postponed the accrual of revenue, by way of stamp duty to the extent of ₹ 70.74 crore.

This was brought to notice of the Government in January 2019. During the Exit Conference, Government replied that format of new lease deeds were being vetted by Law Department and on completion of vetting, supplementary lease deeds would be executed.

#### **Non registration of lease deeds by ONGC**

As per Rule 5(1) of Petroleum & Natural Gas Rules, 1959, a Petroleum Exploration Licence (PEL) and Petroleum Mining Lease (PML) for On-land Exploration and Mining of Petroleum had to be issued by the State Government with the prior approval of GoI. Ministry of Mines (MoM) and Fuel directed (February 1963) that a fresh deed may be executed on every renewal, irrespective as to whether the original and renewal terms and conditions were identical or not.

Out of 25 PMLs held by ONGC, five Leases in Nagapattinam and Ramanathapuram Districts became due for renewal on expiry of the earlier Lease period. However, no lease deeds were executed and registered on such renewals. In all these leases, the lessee had started commercial production. Hence, non-registration of lease deeds in these five cases resulted in inadequate safeguard of Government's right to enforce contractual obligations, besides incidental loss of stamp duty to the extent of ₹ 8.09 crore.

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<sup>56</sup> Ariyalur, Dindugul, Karur, Tirunelveli and Salem.

The issue was initially pointed out in Para Number 9.2.18 of the report of Comptroller and Auditor General of India for the year ending 31 March 1989, and the PAC recommended that the issue might be taken up with the Union Government. On further being pointed in the report of Comptroller and Auditor General of India for the year ending 31 March 2004, the Government replied in 2014 that it was in touch with GoI regarding this issue and PAC had directed for updation of the case. For fourteen years, the issue had not been resolved.

### **Loss of revenue due to inoperative leases**

According to Rule 28 (1) of the MCR 1960, where mining operations were not commenced within a period of one year from the date of execution of lease or was discontinued for continuous period of two years after commencement of such operations, the State Government shall, by an order, declare the mining lease as lapsed and communicate the declaration to the lessee. However, explanation 2 under the Rule prescribed that where the discontinuance of mining operations for a continuous period of two years after the commencement of operations is on account of (a) orders passed by any statutory or judicial authority or (b) operations becoming highly uneconomical or (c) strike or lockout, the State Government may consider as sufficient reasons for discontinuance.

Audit noticed in four<sup>57</sup> of the 14 selected districts that in 77 cases, leases were rendered inoperative due to non-obtaining of Environment Clearance (EC).

This was brought to notice of Government in January 2019. During Exit Conference, Government stated that comprehensive replies to all paras would be furnished.

#### **5.4.4 Control of system of mineral administration**

Mining dues or receipts of the Geology and Mining Department include SF / royalty, dead rent, surface rent, area assessment, cost of mineral, fees, penalties, interest, one-time lease amount, application fees, etc. The audit observations relating to controls of system of mineral administration, assessment and collection of mining dues are detailed in succeeding paragraphs.

##### **5.4.4.1 Online Mining Tenement Registry System**

The NMP 2008 envisaged creation of Online Mining Tenement Registry System (OMTRS), which was a GIS based on geo-referenced cadastral maps with the details of mining lease areas displayed online. The objective of OMTRS was to attract investments into mining sector for exploiting geological potential through state-of-art technologies and simplify the process of grant of mineral concessions in the interest of greater transparency. An integrated database creation of OMTRS was initially proposed (October 2011) for three<sup>58</sup> districts at a cost of ₹ 36 lakh and Electronics Corporation of Tamil Nadu (ELCOT) was entrusted with the responsibility of finalising the agency

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<sup>57</sup> Ariyalur, Dindigul, Karur and Tirunelveli

<sup>58</sup> Coimbatore, Salem and Tirunelveli.

to develop the system. Extension of the system to six<sup>59</sup> more districts was accorded at a cost of ₹ 72 lakh in June 2012. However, ELCOT could finalise (February 2013) the tender for three districts originally planned at an elevated cost of ₹ 69.38 lakh. The Tiruchirappalli district was added to the proposal at a further cost of ₹ 11.52 lakh. The Government also granted (May 2013) ₹ 63.23 lakh towards purchase of four servers, GIS software, etc. The work was reported to be completed (March 2016) but data relating to three districts alone were uploaded in the State Data Centre. Almost 10 years since the commencement of the project, only four districts were mapped and, therefore, the objective of the project could not be fully achieved.

Audit individually checked the mappings of OMTRS by collecting the kmz<sup>60</sup> files of OMTRS data along with DGPS<sup>61</sup> points of the leases from the Department. When these files were loaded in Google Earth Pro<sup>62</sup>, the lease boundaries were automatically mapped in shapes of polygon and the details<sup>63</sup> relating to the lease was also automatically loaded. Each lease was analysed for existence of pit violation<sup>64</sup> and dumping violation<sup>65</sup>. During this check, audit noticed that-

- Out of the total of 342 leases in three districts, 77 leases (23 *per cent*) were not mapped.
- While Rule 12 of the Mineral Concession Rules, 1960 (MCR) bars grant of lease within a distance of fifty metres from, inter alia, reservoir, canal or other public works such as public roads or buildings, audit noticed 89 cases, wherein leases were granted within the proximity of water bodies, public roads, etc.
- There were 70 cases relating to dumping violations.
- There were 64 cases relating to pit mouth violations resulting in illegal mining.

Audit further investigated pit mouth violations, by obtaining the area of violation from the maps and adopting the depth of the mining plan approved for contiguous mine to estimate the quantity of mineral illegally removed. Audit calculated the extent (area) of violation from the Google Earth by drawing a polygon in the exact mined area. The depth of the pit was arrived taking the minimum depth (in case of more than one pit) from the mining plan of the respective lease. Then, the volume of illegally excavated mineral was calculated by multiplying the area and the depth. In case of minerals, other

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<sup>59</sup> Ariyalur, Krishnagiri, Madurai, Tiruchirappalli, Villupuram and Virudhunagar.

<sup>60</sup> KMZ is a compression version of KML. KML stands for Keyhole Markup Language containing information regarding geographic annotation and visualization within two-dimensional and three-dimensional maps of earth.

<sup>61</sup> Differential Global Positioning System is used to broadcast the difference between positions indicated by the satellite system and the known fixed positions in earth. These points help in aligning maps procured from two different sources.

<sup>62</sup> Google Earth Pro is a software application that helps in viewing satellite imagery and exploring the geographical content. It has an inbuilt package of satellite imagery of geographical locations of the earth across different time period.

<sup>63</sup> Details such as Government Order, approved Extent of area, latitude, longitude, name of the lessee, period of lease, etc.

<sup>64</sup> Pit violation refers to mining beyond the approved extent of lease.

<sup>65</sup> Dumping violation refers to dumping of waste material beyond the approved lease boundaries.

than granite, the weight of mineral was calculated by multiplying the volume and the specific gravity and/or bulk density specified in the mining plan. The volume and the weight were adjusted for the recovery factor mentioned in the mining plan. The cost of limestone was arrived by taking the price mentioned in the IBM's average sale price for March 2018 and pit mouth cost for the period from January 2016 to March 2018 as furnished by TAMIN was adopted for cost of granite. During the exercise, it was found that the potential loss on account of non-recovery of cost of mineral was ₹ 1,586.00 crore in 42 cases involving an area of 99.13 hectares in Salem and Tirunelveli districts. Due to non-furnishing of mining plans, audit could not estimate the cost of mineral recoverable in 22 cases of pit violations involving 76.06 hectares.

This was brought to notice of the Government in January 2019. During Exit Conference, Government replied that technology would be employed for effective administration and also agreed to utilize the existing OMTRS data as a control mechanism to detect illicit mining.

#### **5.4.4.2 Follow up action taken on triggers issued by Mining Surveillance System**

Mining Surveillance System (MSS) was a satellite-based monitoring system which aimed to establish a regime of responsive mineral administration, through public participation, by curbing instances of illegal mining activity through automatic remote sensing detection technology.

Ministry of Mines, through IBM, developed the MSS, in coordination with Bhaskaracharya Institute for Space Applications and Geo-informatics (BISAG), Gandhinagar and Ministry of Electronics and Information Technology (MEITY), to use space technology for curbing illegal mining activity in the country. In the MSS the Khasra<sup>66</sup> maps of the mining leases had been geo-referenced. The geo-referenced mining leases were superimposed on the latest satellite remote sensing scenes obtained from CARTOSAT and USGS<sup>67</sup>. The system checked a region of 500 meters around the existing mining lease boundary to search for any unusual activity which was likely to be illegal mining. Any discrepancy if found was flagged-off as a trigger.

Automatic software image processing technology would generate spontaneous triggers of unauthorized activities. These triggers would be studied at a Remote Sensing Control Centre of IBM and then transmitted to the district level mining officials for field verification. The reports of the field verification were sent to the Ministry through a mobile app named Mining Surveillance System.

Audit noticed that MSS had generated 45 triggers in six of the fourteen district offices visited during the selected period. Inspection were conducted by the

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<sup>66</sup> Khasra is a legal agricultural document that details all the fields and their area, measurement, who owns and what cultivators he employs, what crops, what sort of soil, what trees are on the land etc.

<sup>67</sup> The CARTOSAT series of satellites are a type of earth observation satellites indigenously built by India. They were specifically launched for Earth's resource management and monitoring. USGS - United States Geological Survey.

department in 44 cases and unauthorised activities were reported in 13 cases mentioned in Table 5.6.

**Table: 5.6**

**Details relating to verification of triggers communicated by MSS**

Office	Triggers issued by MSS	Report forwarded to CGM after verification	Unauthorised activity detected by DDGM	Notice issued to lessees
Ariyalur	10	9*	-	-
Dindigul	4	4	1	-
Kancheepuram	9	9	1 <sup>+</sup>	-
Karur	2	2	-	-
Salem	10	10	3 <sup>+</sup>	-
Tirunelveli	10	10	8	7**
<b>Total</b>	<b>45</b>	<b>44</b>	<b>13</b>	<b>7</b>

(Source: Details furnished by the Department)

\* DDGM Ariyalur stated that trigger information had been received by him only in respect of 9 cases.

\*\* No follow-up action has been taken in respect of any of 7 cases by DDGM Tirunelveli.

+ Illegal mining activity by unknown person(s).

Audit, however, analysed all 32 triggers in which the department did not find any illegal activity, and identified illicit activities in three triggers as detailed below.

➤ **Trigger TMN052018**

The DDGM Kancheepuram, on verification of the site in June 2018 reported that the area was plain tariff government land and no mining activity was found. Audit, on analysis of maps available for different periods in Google Earth, noticed presence of mining vehicles, such as excavators and trucks, in the mined area indicating mining activity. Further, a comparison of satellite imagery between two time periods (Between August 2017 and January 2018) revealed substantial mining activity around one trigger. Audit also observed that while the triggers issued as per the attachment specified two map co-ordinates for verification [ 12 44 55.069N 79 52 37.403E and 12 44 52.743N 79 52 42.955E], the recitals of the e-mail from IBM forwarded to the District Officer by the CGM actually indicated a different co-ordinate [12.748523564314, 79.87787715932463 [12° 44' 54.7"N, 79° 52' 40.4"E]. The District Officer verified the incorrect co-ordinate forwarded and reported nil activity. Neither the department nor the Government furnished details about clarification, if any, sought for from IBM about incorrect trigger and co-ordinates, to Audit. Thus, due to non-perusal of connecting map attached to the e-mail as an image, the purpose of trigger flagging illegal activity was defeated.



**Figure 1: Comparison of satellite imagery taken on 07.09.2017 and 07.01.2018 revealed that area around one of the trigger points was mined**



**Figure 2: DDGM (Kancheepuram) incorrectly verified co-ordinates (red circle) which are not mentioned in the MSS trigger report (green circles)**

### **Trigger TMN062018**

With regard to trigger TMN062018, DDGM (Kancheepuram), after inspecting the site in July 2018, reported the area as hilly terrain government land and found no mining activity. However, map analysis of time series maps in Google Earth photos (Between May 2017 and January 2018) revealed mining activity.

Audit also observed that while the triggers issued as per the attachment specified two map co-ordinates for verification [12 43 44.311N 79 50 53.093E and 12 43 45.078N 79 51 5.716E], the recitals of the e-mail from IBM forwarded to the District Officer by the CGM actually indicated a different co-ordinate [12.729071396372056, 79.8500245695893 12° 43' 44.7"N, 79° 51' 00.1"E]. The District Officer verified the incorrect co-ordinate forwarded and reported nil activity. Neither the department nor the Government furnished details about clarification, if any, sought for from IBM about incorrect trigger and co-ordinates, to Audit. Thus, due to non-perusal of connecting map attached to the e-mail as an image, the purpose of trigger flagging illegal activity was defeated.



**Figure 3: Analysis of satellite imagery on 04.05.2017, 07.09.2017 and 07.01.2018 revealed significant mining activity in both locations of the trigger**



**Figure 4: DDGM (Kancheepuram) verified co-ordinates (red circle) which are not mentioned in the MSS trigger report (green circles)**

➤ **Trigger TMN20**

In one of the trigger sites<sup>68</sup> jointly inspected by the members of the audit party and Department officials, the activity that raised the trigger was found to be dumping of waste outside the leased area. The waste remained in the same area and no further action was initiated by the Department for the illicit dumping of waste outside the leased area.

This was brought to notice of the Government in January 2019. During the Exit Conference, Government replied that a dedicated control room would be established to monitor suspicious activities over the leased areas and sufficient desk review would be undertaken before embarking on inspection. Further report was awaited (March 2019).

**5.4.4.3 Audit Analysis of Mines by using Unmanned Aerial Vehicle**

Based on analysis of OMTRS data and MSS triggers, audit selected three quarries (one each of rough stone, limestone and granite) in Kancheepuram, Tirunelveli and Virudunagar districts for mapping, volume calculation and modelling, by deploying UAV and Differential Global Positioning System (DGPS). The Centre for Aerospace Research (CASR), Anna University was engaged as a consultant for this purpose. However, due to aforesaid appeal and oral orders, UAV study could not be carried out in Kancheepuram District, wherein unauthorised mining activities, over an area of 24.7 Ha, beyond the period of lease, were identified by Audit through satellite imagery. Hence, volumetric quantification in respect of illegal removals in this district could not be projected and UAV analysis was restricted to Tirunelveli and Virudunagar districts. Audit accompanied the consultants along with department staff as well as Revenue Department during the site visits.

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<sup>68</sup> Chettinadu Cement Corporation, in the District of Dindigul

- The consultant's report for granite mines situated in Pillaiyarkulam village of Virudhunagar district revealed the following:
- The mining plan map of TAMIN did not match with actual lease boundaries and there was shift in boundaries indicating mining in unauthorised extent.
  - Time slider option in Google Earth, which provided historical images, indicated crane movements in the mining area between March 2011 and August 2018 during various periods.
  - Granite excavation was done in Survey No. 854A of Pillaiyarkulam village without approved mining plan.
  - Granite excavated in the above area were dumped in Survey Nos. 200/5A1 and 200/5A2 of Arasiyarpatti village, which was adjacent to Survey No.854A of Pillaiyarkulam village. These areas, according to revenue records, belonged to private persons.
  - Mining in unapproved extent was also traced in Survey No 800.



Figure 5: Inspection of Mines through UAV at Pillayarkulam Village

The total excess and illegal mining of granite in the above village as per the above report was quantified at 6,855.77 cu.m for which cost at the rate of ₹ 9,000 per cu.m and SF at ₹ 2,210 per cu.m. totally amounting to ₹ 7.69 crore due to be recovered (Annexure 4).

- The report by the consultant in the limestone mines situated in Sethurayaputhur, Ramayanpatti and Thenkulam villages of Tirunelveli district had the following findings:
- Limestone was excavated without proper mining plan and approval in Survey Nos. 501, 502, 503, 504, 393, 394, 396 and 397 of Ramayanpatti village.
  - Limestone was excavated without approval in Survey No.109 of Sethurayanputhur village.
  - Excess limestone excavated was dumped in Survey No.109 of Sethurayanputhur village.
  - Time slider option in Google Earth, which provided historical images, indicated presence of trucks, excavators and such heavy duty vehicles between the period from August 2003 and March 2016 in the mining area.

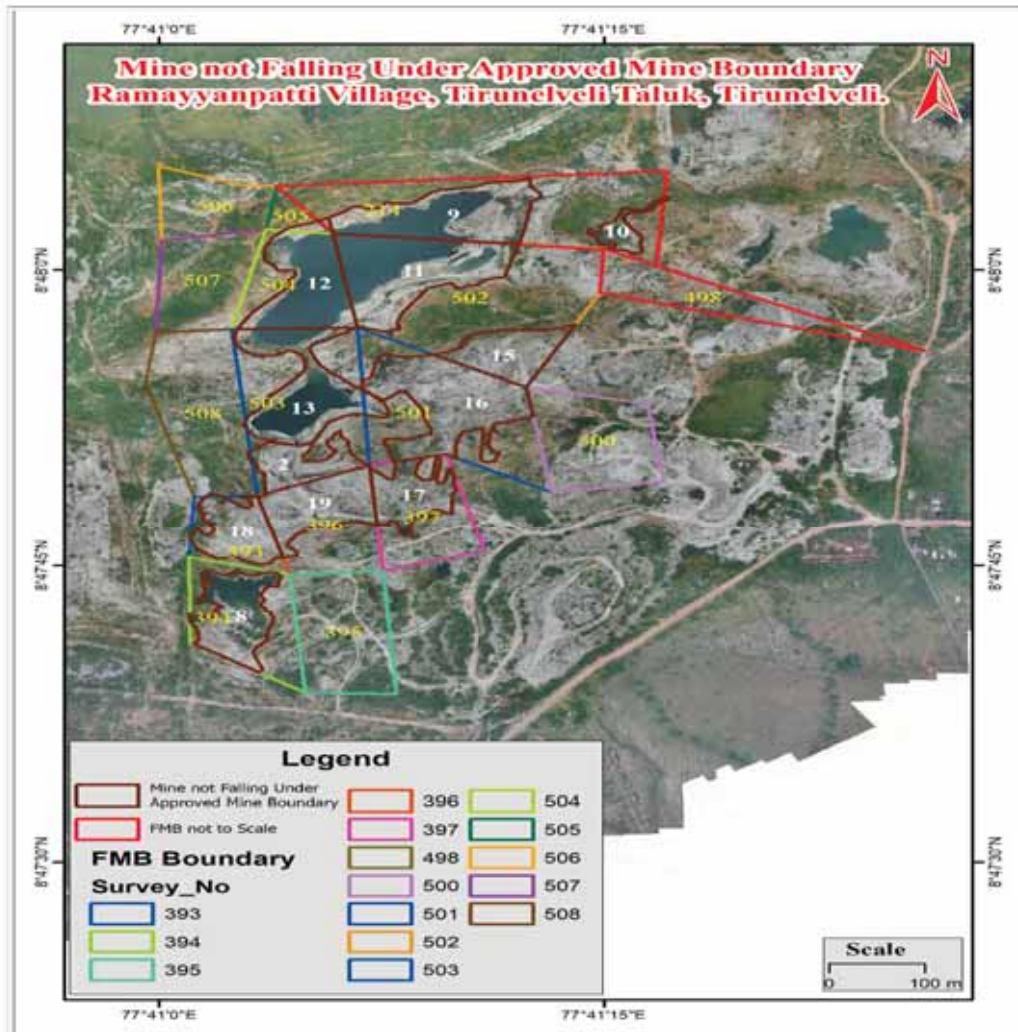


Figure 6: Inspection of Mines through UAV at Ramayyanpatti Village

From the above report it is clear that there were mining activities happened during that period. The quantity of illegal and excessive mining of limestone in the above case was computed at 15,48,819 Tonnes. The cost and royalty for the mineral removed amounting to ₹ 71.55 crore (cost at the rate of ₹ 382 per Tonne and SF at ₹ 80 per Tonne) was to be imposed by the department and collected (Annexure 5).

Thus, absence of proper surveillance and enforcement mechanism in the Department resulted in a loss of revenue of ₹ 79.24 crore due to illegal removal of minerals.

This was brought to notice of Government in January 2019. During Exit Conference, Government stated that comprehensive replies to all paras would be furnished.

#### **5.4.4.4 Removal of mineral without lawful authority**

The Honourable Supreme court of India in the case of Common cause Vs Union of India held<sup>69</sup> that minerals excavated without Environmental Clearance (EC) was illegal and cost should be recovered for quantity thus mined without EC. Section 21(5) of the MMDR Act stated that whenever any person raised, without any lawful authority, any mineral from any land, the State Government recover from such person, the mineral so raised, or where such mineral had already been disposed of, the price there of, as the case may be. Audit observed the following cases of removal of mineral without lawful authority.

#### **Removal of granite in excess of mining plan**

Rule 19 of Granite Conservation and Development Rules, 1999, governing the leases for granites, stated that mining operations should be carried out in accordance with the approved mining plan, with such conditions, as have been prescribed and with such modifications permitted. Government authorised CGM, as the proper authority to approve the mining plans relating to granite leases and any further modifications that are made to the mining plan.

Audit scrutiny of granite leases in the selected districts revealed that the district officers improperly permitted removal of granite beyond the quantity mentioned in the approved mining plan in 56 granite leases in seven<sup>70</sup> districts. These cases pertain to illegal mining as per Hon'ble Supreme Court's decision, and warranted recovery of cost of minerals under Section 21(5) of the MMDR Act. However, department did not treat the removals illegal and continued to collect SF only. This resulted in non-collection of cost of granite amounting to ₹ 328.62 crore due to excess mining as detailed in Table 5.7.

Audit requested the district offices to produce the invoice details. In the absence of invoice details, the pit mouth cost of production for a lease pertaining to TAMIN (₹ 12,000 per cu.M for black granite and ₹ 9,000 per cu.M for colour granite) was adopted. The cost of the mineral that was to be recovered from the lessees worked out to ₹ 328.62 crore.

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<sup>69</sup> WP (Civil) No.114/20145 dt.2.8.2017

<sup>70</sup> Ariyalur&Perambalur, Dindigul, Karur, Krishnagiri, Salem, Tirunelveli and Virudunagar

Table: 5.7

**Cases relating to removal of mineral in excess of mining plan**

Mineral	No. of leases	Excess Quantity removed (in cu.m)	Rate* of mineral per cu.m (in ₹)	Cost of mineral (3) X (4) (₹ in crore)
(1)	(2)	(3)	(4)	(5)
Black granite	14	52,659.927	12,000	62.96
Colour granite	42	295,172.412	9,000	265.66
<b>Total</b>	<b>56</b>	<b>347,832.339</b>		<b>328.62</b>

(Source: Details furnished by department)

\* In the absence of invoice details, cost of production by TAMIN adopted

**Removal of Rough stone in excess of mining plan**

A review of the rough stone leases in three districts revealed that 47 lessees removed mineral in excess of the quantity approved in the mining plan. Department did not take action to collect cost as per Section 21(5) of MMDR Act. Therefore, the total cost of the rough stone excessively removed amounting to ₹ 220.33 crore remained uncollected as detailed in Table 5.8.

**Table: 5.8 Excess removal of Rough stone**

Sl. No.	Name of the Office	No. of Lessees in which excess removal was observed	Quantity in Cu.m	Cost of mineral (₹ in crore)
1	Kancheepuram	42	65,53,624	<b>206.71</b>
2	Karur	1	66,805	<b>2.54</b>
3	Virudhunagar	4	3,20,485	<b>11.08</b>
<b>Total</b>		<b>47</b>	<b>69,40,914</b>	<b>220.33</b>

(Source: Details furnished by the Department)

This was brought to notice of the Government in January 2019. During Exit Conference, Government agreed to introduce a facility to watch, through e-permit system, the quantum of mineral extracted and to stop issue of permit after the quantity approved through mining plan was fully achieved.

**5.4.4.5 Non-determination of annual compensation fee for the leases in Government Lands**

Rule 72 of the MCR, 1960 provided for payment of compensation to owner of surface right by the holder of quarrying permit or mining lease. Rule 72(1) empowers the District Collector to determine the annual compensation payable by licensee or lessee to the owner of the land. Thus, the holders of quarrying permit or mining lease over the Government Lands were liable for the payment of annual compensation to the Government.

During the course of verification of connected records, it was noticed in four districts that the annual compensation in respect of 27 leases were not determined as mentioned below in table 5.9.

**Table 5.9: Annual compensation**

<b>Name of the District</b>	<b>No. of leases</b>	<b>Extent of land (In hectares)</b>	<b>Remarks</b>
Kanyakumari	3	11.83.71	Annual compensation of ₹ 3.78 crore for the period from 1987-88 to 2016-17 fixed by the Revenue Divisional Office in June 2017. Action was not taken to collect the annual compensation. Further, annual compensation for the year 2017-18 was not determined.
Cuddalore	1	4.04.70	Annual compensation was not fixed so far.
Madurai	3	11.54.10	
Salem	20	264.94.00	
<b>Total</b>	<b>27</b>	<b>292.36.51</b>	

(Source: Details furnished by the Department)

On this being pointed out, the District Collector, Kanyakumari, instructed (September 2018) the Sub-Collector to fix the annual compensation for government poramboke lands with reference to Rule 72 of MCR. The ADGM Cuddalore replied (July 2018) that action would be taken after collecting the report from the RDO. The DDGM Madurai replied (October 2018) that action would be taken to fix and collect the annual compensation amount. The DDGM Salem stated (August 2018) that report was awaited from the RDO.

This was brought to notice of Government in January 2019. During Exit Conference, Government stated that comprehensive replies to all paras would be furnished.

#### **5.4.4.6 Dead rent**

According to Section 9A of the MMDR Act 1959, and according to Rules 8(10)(b) and 8(C)(7) of TNMMCR 1959, royalty/SF on the mineral removed or dead rent as agreed in the lease deed, whichever is higher, shall be payable by the lessee. As per Rule 13 (2) (a) of Petroleum and Natural Gas Rules, 1959, read with amended Proviso to the Rule 13 (2) (a) vide PNG Amendment Rules 2009, on the grant of a lease, the lessee should pay the dead rent or the royalty, whichever is higher and shall pay dead rent in advance for every year from the grant of Petroleum Mining Lease.

### **Non demanding of dead rent for major minerals**

- In five<sup>71</sup> out of 14 test checked district offices, action to collect dead rent from 76 limestone lessees amounting to ₹ 12.07 lakh, was not initiated. On being pointed out, DDGM Ariyalur replied that an amount of ₹ 0.61 lakh was since collected.
- In five<sup>72</sup> out of 14 test checked district offices, dead rent, from 79 minor mineral lessees (other than granite), amounting to ₹ 6.35 lakh was not collected.
- In three<sup>73</sup> out of 14 test checked district offices, during the check of lease files relating to ONGC, audit found that dead rent of ₹ 2.31 crore for 2017-18 and differential dead rent of ₹ 9.65 crore for the period from 2013-14 to 2017-18, totally amounting to ₹ 11.96 crore was not collected. Besides, interest applicable at bank rate on belated payment should also be collected.

### **Lack of provision for levy of dead rent for granite in patta lands**

According to Rule 19A(16) of the TNMMCR 1959, the lessee, besides area assessment, should pay SF at the rate prescribed from time to time for quarrying of granites.

The provision did not take into account the broad principle of levy of royalty/SF on any mineral excavated which should assure a minimum revenue to the Government from the lease granted. While dead rent was levied for Government lands, no such levy was included for patta (land owned by private persons) lands. In fact, all mineral leases, including oil and gas and atomic minerals, except granite on patta land, had the provision to levy SF or dead rent, whichever was higher. The present provisions in Rule 19A(16), however, denied revenue to Government in case where the lease was retained without operation. A decision in Andhra Pradesh High Court<sup>74</sup> had expressed levy of dead rent for patta lands as legally valid.

The lack of provision for levy of dead rent had resulted in revenue foregone amounting to ₹ 0.83 crore in 122 cases in ten out of 14 selected districts.

It is recommended that Rule 19A of TNMMCR 1959 may be amended to include levy of dead rent for patta lands.

This was brought to notice of Government in January 2019. During Exit Conference, Government stated that comprehensive replies to all paras would be furnished.

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<sup>71</sup> Ariyalur, Dindigul, Karur, Madurai and Tirunelveli

<sup>72</sup> Cuddalore, Kancheepuram, Karur, Madurai and Nagappattinam&Tiruvarur

<sup>73</sup> Cuddalore, Nagappattinam&Tiruvarur and Ramanathapuram

<sup>74</sup> Enterprising Enterprises Private Limited Vs Govt of Andhra Pradesh 2003 (4) ALD 510 (519)/2003(3) ALT /2003 (8) ILD 610 (AP).

#### **5.4.4.7 Non-collection of cost of mineral of Earth/ Savudu for quarrying permits granted**

Permits for quarrying of minor minerals from unreserved waste lands other than bunds of water ponds or tanks were issued under Rule 7 of TNMMCR and quarrying permits for quarrying of sand, etc., from lands and tanks under the control of Public Works Department (PWD), Rural Development and Panchayat Raj Department were issued under Rule 12 *ibid*.

During verification of quarrying permits granted for earth/Savudu in the selected units, the following irregularities were noticed:

- (i) According to Rule 12, cost of mineral shall be collected on issue of permit to quarry. The department adopted the same cost for Rule 7 and Rule 12. However, there was no provision in Rule 12 to revise the cost as and when the cost under Rule 7 was revised. Therefore, for the identical quantities of same mineral, there was difference in cost determined under each of the Rules on a given date. Adopting the revised rates as applicable under Rule 7, audit identified that in 4 districts, there was a loss of revenue of ₹ 92.92 lakh in 33 cases. When this was pointed out, the department replied that there was no provision under Rule 12 to revise cost. But since Rule 12 was only a supplementary provision for left out areas under Rule 7, the difference in provisions was not justified and needed to be amended.
- (ii) In four out of 14 selected districts and in 32 cases, cost of minerals of ₹ 3.85 crore was not collected from the Executive Engineer of PWD department for removal of minerals and others. In respect of 30 cases, the department replied that cost was not collectible in case Government departments undertake quarrying but no reply was furnished in the remaining two cases. The reply was not acceptable since SF had been collected in all the cases. Further report was awaited (January 2019).
- (iii) As per the amended provisions of Rule 12 of TNMMCR, from 23 September 2015, both the cost of material to be quarried and SF should be collected before issue of quarrying permits. However, audit noticed in four out of 14 selected districts, in respect of 111 cases, both cost and SF were not collected prior to issue of permits. They were collected as and when the material was removed. This resulted in both short collection and postponement of collection of ₹ 26.45 crore by way of cost of the mineral and SF.
- (iv) As per existing provisions of Rule 7(5), whenever cost of minerals was revised, the revision would take effect from month of April retrospectively. Therefore, during every revision, the lessee had to pay differential cost calculated retrospectively. Audit observed in four out of selected 14 districts that the differential cost of minerals amounting to ₹ 19.58 lakh was not collected from seven lessees.

The ADGM (Dindigul) replied (July 2018) that unlike Rule 7, where lump sum amount is collected before issue of permits, Rule 12 includes collection of cost of mineral sought to be removed and hence, there was no short collection.

The reply overlooks the distinction between quarrying permits and quarrying leases. Under Quarrying permit, permit is obtained on payment of cost and SF for quantity sought to be removed. Hence, the liability to pay cost of mineral and SF arise at the time of quarrying permit.

This was brought to notice of Government in January 2019. During Exit Conference, Government stated that comprehensive replies to all paras would be furnished.

#### **5.4.4.8 Royalty**

As per Section 9 of the MMDR Act, 1957, read with Schedule II of the Act, every holder of a mining lease for lignite mined for captive consumption shall pay royalty for the mining of the minerals, at the rates prescribed therein. In the notification issued by Ministry of Coal (May 2012), the rate was fixed as 6 *per cent ad valorem* on the pit transfer price of lignite, as ratified by the Central Electricity Regulation Commission (CERC). According to Rule 64A of MCR 1960, interest at 24 *per cent* per annum shall be leviable for belated payment of any dues to Government.

#### **Short collection of Royalty**

- On verification of lease files and returns in the Office of DDGM, Cuddalore, audit noticed NLC adopted the rate of royalty fixed by CERC up to 2015-16 and adopted the same as provisional rate upto 31.3.2018. It was further noticed that CERC had determined the transfer price of lignite on 8 March 2017 for the period from 2013-14 to 2017-18. Since CERC rates were binding on the NLC for the purpose of payment of royalty, the lessee should have revised the rates retrospectively and paid the differential royalty latest by 7 April 2017. However, the differential rate of royalty on enhanced transfer price as fixed by CERC was not paid for 2016-17 and 2017-18 and the same was also not demanded by the department. The differential royalty worked out to ₹ 76.40 crore, besides interest leviable for the belated payment of royalty.
- During the verification of returns filed by NLC for the months of April 2014 and April 2015, audit noticed that the lessee returned a total production (both standalone and pooled) of 528239 MT of Lignite and paid a royalty of ₹ 3.47 crore. However, at the conservative rate of ₹ 81.72 per MT, that was applicable to standalone production, the royalty would work out to ₹ 4.32 crore. This resulted in a short collection of royalty and interest of ₹ 0.85 crore for which interest on belated payment upto 31 March 2017 would work out to ₹ 0.42 crore, resulting in a short payment of ₹ 1.27 crore. Taking into account the excess arrear amount of ₹ 0.83 crore paid during March 2017, the net short collection worked out to ₹ 0.44 crore. Interest of ₹ 0.11 crore upto 31 March 2018 was also payable by the lessee.

### Short collection of royalty due to non-adoption of revised rates

As per Section 9 of the MMDR Act, 1957, the holder of mining lease should pay royalty in respect of any mineral removed or consumed by him from the leased area at the rate for the time being specified in the Second Schedule to the Act. Second schedule prescribed royalty on tonnage for the minerals, *inter alia*, limestone and *ad valorem* for the minerals silica, fireclay, ball clay and garnet. As per Rule 64-D of the Mineral Concession Rules, 1960, the regional prices published in the Monthly Bulletins by the IBM were the benchmark value for collection of royalty for the major minerals subjected to *ad valorem* mode of royalty.

- While verifying the returns in Cuddalore and Kanyakumari districts, audit noticed that the sale prices of garnet and ball clay were revised by IBM, but royalty was continued to be collected at the old rates in two leases. This resulted in a short collection of ₹ 2 lakh.
- Further, in the case of minor minerals, it was observed that the revision effected for rough stone and gravel by GoTN was not considered by five<sup>75</sup> District Officers while collecting SF in 61 leases, resulting in a short collection of ₹ 12 lakh.

When this was pointed out by Audit, DDGM (Ariyalur and Perambalur) reported (November 2018) realisation of the amount of ₹ 1.00 lakh. DDGM (Krishnagiri) reported (December 2018) collection of ₹ 5.00 lakh. Specific reply from other offices was awaited.

### Short collection of SF following Reclassification of Major Minerals as Minor Minerals

With effect from 10 February 2015, GoI notified 31 major minerals as minor minerals of which 14 minerals were mined in the State. GoTN prescribed rates for these reclassified minerals only from 22 April 2016 without giving retrospective effect. Since these minerals were classified minor minerals and rate of SF were not prescribed for the interim period, the rates prescribed in Entry 8 of Table A of Appendix II to the TNMMCR 1959 have to be adopted for this period.

Audit verification of permit registers in five<sup>76</sup> districts revealed that the district officers continued to collect SF on fireclay, Silica sand, Ball clay and quartz and feldspar at old rates for this period also. This resulted in a short collection of SF of ₹ 1.13 crore.

When this was pointed out, the DDGM (Cuddalore) reported (October 2018) collection of SF relating to ball clay (₹ 0.15 crore) and silica sand (₹ 0.47 crore) in three cases after pointed out by audit. Specific reply from other offices was awaited (January 2019).

### Non collection of interest for belated payment of royalty

Ministry of Coal (MoC) notified (May 2012) the rate of royalty for Lignite as 6 per cent *ad valorem* on Lignite Transfer Price. The Lignite Transfer Price

<sup>75</sup> Ariyalur&Perambalur (8), Kancheepuram (22), Krishnagiri (14), Ramanathapuram (1) and Virudhunagar (16).

<sup>76</sup> Ariyalur & Perambalur, Cuddalore, Dindigul, Kancheepuram and Salem.

was calculated by considering the norms specified therein, for the cost of elements such as Capacity Utilisation, Depreciation, O & M Expenses, Interest on Working Capital, Statutory Payments, Foreign Exchange Rate Variation, Mine Closure Expenses, etc. The above specified O&M Expenses included Salary & Wages Expenses involved for all the Mines. It was seen from the payment of royalty by NLC for Lignite Excavation in Mine I, IA & II, that during March 2017, NLC had paid Royalty Arrears on Wage Revision effected for the period from 2007-09 vide CERC order no. 65/MP/2013 dated 12 May 2015. The Lignite Transfer Price per Tonne had to be revised based on above CERC order giving effect to such Wage Revision and Royalty Arrears on the above Wage Revision amounting to ₹ 3.91 Crore, became due at the end of 60 days on 11 July 2015. However, above Royalty Arrears was paid only on 28 March 2017. The belated payment attracts interest under Rule 64A of MCR 1960 at 24 *per cent* per annum amounting to ₹ 1.61 crore which was not demanded by the department from NLC.

This was brought to notice of Government in January 2019. During Exit Conference, Government stated that comprehensive replies to all paras would be furnished.

#### **5.4.5 Internal Control Mechanism**

The essential functions of the department include strict monitoring to prevent illegal mining, ensuring of returns filed by the lessees, issue of transport permits for removal of mineral and inspection of mines for compliance of lease agreement. To ensure this, the department should establish appropriate and adequate internal controls which had in-built checks in the system. Audit check of internal control of the department over its day-to-day functioning revealed the following:

#### **Joint Inspection of Mines/Quarry Sites with Departmental Officials**

As a part of performance audit to ensure controls of system of mineral administration was adequate and effective, Audit conducted physical joint-inspection with the Department personnel in 24 quarry sites in all the selected districts and found the following irregularities:

- (i) Boundary pillars, which were necessary to identify lease area, were not erected in eight quarry sites in seven<sup>77</sup> districts. Without boundary pillars, the area under authorised lease and area illegally exploited could not be separated.
- (ii) Four quarries in four<sup>78</sup> districts did not maintain the Pit's mouth production register required for reconciliation of quantity of minerals with permits issued.
- (iii) Five quarries in four districts did not have log books relating to machineries to track their movement and one site did not have weighing machine.

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<sup>77</sup> Cuddalore (1), Dindigul (1), Kanyakumari (1), Madurai (1), Nagapattinam (1), Ramanathapuram (1) and Tiruvallur (2).

<sup>78</sup> Cuddalore (1), Madurai (1), Ramanathapuram (1) and Tiruvallur (1).

This was brought to notice of Government in January 2019. During Exit Conference, Government stated that comprehensive replies to all paras would be furnished.

#### **Absence of follow up action on failure to file Form G and F returns**

As per Rule 41 of the GCDR 1999, the owner, Mining Engineer or Manager of every granite quarry should submit to the State Government or any person authorized in this behalf by that Government, a half yearly return for every half year ending 30 September and 31 March (Form F) within 15 days of the following month and an annual return (Form G) which should be submitted before the end of the month of June each year. Similar provisions existed, in respect of major minerals in Rule 45 of MCDR 1988, to submit the returns to the IBM and copy was to be submitted to the State Government under Rule 52 of the rules *ibid*. Prompt receipt of periodical returns would enable the Department to exercise effective control for reconciliation of quantity permitted to be mined and actual quantity removed.

In six districts out of 14 test checked, audit found that out of 66 operative major mineral leases, owners of 54 leases (82 *per cent*) did not furnish a copy of return to the department. In respect of granite leases, out of 152 operative leases owners of 135 leases (89 *per cent*) did not file returns.

This was brought to notice of the Government in January 2019. During Exit Conference, Government replied that the Department was working on design and implementation of online filing of statutory returns.

#### **Inadequate Field Inspection of Mines and quarries by District Officers**

In one of the Review Meetings (May 2013), the Secretary issued instructions to conduct at least fifteen inspections of mines/quarries per month i.e. 180 inspections per annum. During check of relevant records in 10 district offices, audit observed that only two district offices, viz, Krishnagiri and Karur conducted the prescribed number of field inspections. The remaining eight<sup>79</sup> district offices did not conduct the minimum number of inspections prescribed. In Madurai and Kancheepuram, the total number of inspections was less than 100 in all the five years put together, as against 180 per annum prescribed.

This was brought to the notice of Government in January 2019. During Exit Conference, Government accepted the observation and instructed to discuss the issue during Revenue Arrears Meeting.

#### **Non-follow-up of results of physical inspection**

Section 21(5) of MMDR Act and Rule 36A of TNMMCR envisage imposition of penalty for violation of provisions of Section 4 of MMDR Act.

Audit scrutiny in seven out of 14 selected offices revealed that follow up action in respect of findings of inspection reports was not taken promptly by the department. While 134 cases of illegal mining were identified, penalty was imposed only in 94 cases (70 *per cent*) and even the amount imposed

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<sup>79</sup> Cuddalore, Dindigul, Kancheepuram, Kanyakumari, Madurai, Nagappattinam & Tiruvarur, Ramanathapuram and Tiruvallur

amounting to ₹110.36 crore was not collected. Among the 94 cases pending for collection of penalty, seven cases were pending in appeal and the remaining cases were pending for want of action by the department. Further, more than 30 *per cent* (₹ 31.81 crore out of ₹ 110.36 crore) of the uncollected amount was pending for more than three years.

This was brought to the notice of Government in January 2019. During Exit Conference, Government accepted the observation and instructed to discuss the issue during Revenue Arrears Meeting.

### **Co-ordination with the Directorate of Mines Safety**

Directorate General of Mines Safety (DGMS), was the Regulatory Agency under the Ministry of labour and employment, Government of India in matters pertaining to occupational safety, health and welfare of persons employed in mines. As per Rule 57 of the MCR, 1960, each State Government shall supply, within two months of grant or renewal of reconnaissance permit, PL and the mining lease of major minerals, a copy of the permit, licence or lease to the Controller General, IBM and the DGMS.

There were 530 leases relating to major minerals in operation in the State during 2017-18, out of which only 294 (55 *per cent*) were reported upto the end of November 2017 as per details furnished by DGMS. In this connection, details of leases reported to DGMS, instructions and circulars, if any, issued to the field offices requested by audit were not furnished by the department.

This was brought to the notice of the Government in January 2019. During Exit Conference, Government accepted the audit observation and replied that the details of lease would be shared online with Directorate of Mines Safety.

### **Manpower position in the Department**

The Department of Geology and Mining was created in April 1983 with the imperative need to bring the entire mineral administration comprising of statutory, regulatory and development activities under a single authority and to facilitate planned development of the limited mineral resources both by exploration of new potential and by better and scientific administration of the existing areas. This was to ensure inspection of the mines by qualified geologists and regular and scientific checks on mining and production. Officials of the Department were obtained through transfer from various other departments. The original strength of staff sanctioned for the department in 1983 for eight revenue districts was 379. This had been increased to 394 despite formation of 24 additional revenue districts and 153 posts out of 394 (39 *per cent*) were vacant as on August 2017. Significant vacancies were noticed in key positions such as Assistant Director of Geology and Mining (16 out of 40) and Assistant Geologist (29 out of 41). The posts of DDGM/ADGM in eight districts were manned by additional charge.

The acute shortage of manpower in the department had contributed to delay in approval of lease applications, inadequate verification of illegal/excess mining and stagnation in exploration activities indirectly contributing to lesser revenue to Government. Further, functions related to vacant posts were performed by other officials as additional charge continuously.

This was brought to notice of Government in January 2019. During Exit Conference, Government stated that comprehensive replies to all paras would be furnished.

#### **Non-registration of stone crushing units**

According to Rule 7 of the Tamil Nadu Prevention of Illegal Mining Transportation and Storage of Minerals and Mineral Dealers' Rules, 2011, all traders in minerals shall register as dealers.

Information obtained from TNPCB revealed that there were 3,076 stone crushing units registered with the Board, out of which, there were 1,612 Stone Crushing Units in the 14 selected districts. However, only 94 units (six *per cent*) were registered with the department.

The matter was reported to the Government in January 2019. During Exit Conference, Government accepted the observation and instructed the department to collate details from TNPCB.

#### **Non-receipt of Triplicate (Department) copy of utilised dispatch slips**

As per Rule 36(5) (b) of the TNMMCR, 1959, the lessee or the permit holder was permitted to remove the minerals from the leased area only after obtaining bulk transport permit and facsimiled dispatch slips in the form prescribed in the rules except for the removal of minerals within the same or adjoining revenue Village, for *bona fide* domestic or agricultural purposes. One Transport Permit with the validity period of seven days was accompanied by dispatch slips. These dispatch slips were issued in triplicate of which one was retained in the quarry and another is accompanied with the movement of minerals and the third copy had to be returned to the issuing office on utilisation.

- During the verification of permit records in the selected offices, it was noticed that none of the selected District offices reported receipt of third copy of the utilised dispatch slips from the lessees. The District Offices also did not insist on the return of utilised dispatch slips, before issue of subsequent Transport Permits and Dispatch Slips.
- While verifying quarrying records in DDGM, Tiruvallur, it was observed that bulk permit was issued in seven cases to remove gravel from sites managed by the PWD, but no dispatch slips were issued. District office neither verified the quantum of mineral, nor obtained utilisation certificate from PWD. This posed potential misuse of the dispatch slips by repetitive use for transport of minerals.

This was brought to the notice of Government in January 2019. During Exit Conference, Government accepted the observation of Audit and stated that the proposed e-permit system would cover this aspect also.

### **Training of Personnel**

Information collected from fourteen District Offices revealed that periodical training was not imparted to the officers either by the Directorate or deputing the officers for the training offered by the IBM and by the GSI.

This was brought to the notice of Government in January 2019. During Exit Conference, Government accepted the observation of Audit and agreed to take necessary action.

### **Delayed formation of District Mineral Fund by GoTN**

According to Section 9B of MMDR Act, that States had to establish District Mineral Fund (DMF) for collection of Contributions from the ML Holders for the benefit of people and areas affected by mining related activities.

GoTN established the DMF for the state (May 2017) and started collecting contributions from the Lessees. However, as per the Supreme Court Judgement on DMF the date of coming into effect for Lignite for making such contributions was 20 October 2015 or date of establishing DMF by GoTN. GoI issued direction under Section 20A of the MMDR Act on 16th September, 2015 requiring the State Governments to issue a notification for setting up the DMF. The State Government formed DMF for Minor Minerals vide Gazette Notification (May 2017).

NLC had paid a royalty of ₹ 446.66 crore for the period from November 2015 to March 2017. Consequently, GoTN had foregone the Contributions to DMF at 30 *per cent* of the Royalty Amount collected from NLC, which worked out to ₹ 134 crore. This was brought to notice of Government in January 2019. During Exit Conference, Government stated that comprehensive replies to all paras would be furnished.

### **5.4.6 Conclusion**

The Department did not have adequate system in place to promote scientific exploration and optimal exploitation of minerals and no significant discoveries had been made during the period of coverage of audit. The OMTRS system, very vital for transparency and to check illicit mining, had not been implemented in all districts and the department did not utilise even the existing data. The Department did not have a response system in place to act upon detection of illegal mining activities. Control systems required for mineral administration were inadequate and the existing systems had also not been followed scrupulously. There is no co-ordination between the Department and allied agencies such as TNPCB and DGMS. The lack of manpower hindered efforts to maximise revenue through expeditious issue of grants, and measures for improving collection of royalty and SF and penalty were conspicuous by their absence. The department did not use new technologies for better administration of minerals. Given the significant deficiencies identified in vital functions, audit could not provide an assurance on economy, efficiency and effectiveness of the mineral wealth management system in the State.

#### 5.4.7 Recommendation

We recommend that

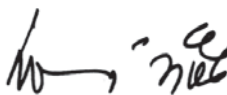
- Exploration activities in already identified projects may be expedited and fresh exploration may be prioritised through a mineral policy.
- Adequate measures may be contemplated using OMTRS mappings and other technological innovations to check and prevent leakage of vital mineral resources due to illegal mining and also to establish a quick response system to take prompt action on information about illegal activities.
- Existing controls meant for functioning of the department may be revisited and strengthened and departmental action may be considered in cases where there was loss of revenue due to inaction or incorrect action and Co-ordination between the department and other agencies may be strengthened.
- Amendments may be introduced to cap time limit for approval of leases and levy of dead rent for granite quarried on patta lands so as to plug leakage of revenue.



Chennai  
Dated 04 July 2019

(VISHWANATH SINGH JADON)  
Accountant General  
(Economic and Revenue Sector Audit)  
Tamil Nadu

Countersigned



New Delhi  
Dated 08 July 2019

(RAJIV MEHRISHI)  
Comptroller and Auditor General of India



# ANNEXURES



**Annexure 1**  
(Referred to in Paragraph 1.8)

**Statement showing the details of audits planned and conducted during the year**

Sl. No.	Name of the Department	Nature of receipts	Auditable units	Units planned	Units audited
1	Commercial Taxes and Registration	Sales Tax and other receipts	443	104	104
		Stamp duty and Registration fee	599	18	18
2	Revenue	Urban Land Tax	15	0	0
		Land Revenue	163	82	82
3	Home (Transport)	Taxes on vehicles	93	20	21
4	Home	Motor Vehicle Maintenance Organisation	21	0	0
5	Home (Prohibition and Excise)	State Excise	77	0	0
6	Industries	Mines and minerals	31	17	17
7	Energy	Electricity duty	24	0	0
8	Treasury and Accounts	Asst. Supdt. of Stamps	1	0	0
<b>Total</b>			<b>1,467</b>	<b>241</b>	<b>242</b>

**Annexure 2**  
**(Referred to in Paragraph 2.5.2.1)**  
**Instances where control totals of CTD was less than GSTN portal**

Particulars of Returns	As per GSTN summary data	As per data received from Commercial Taxes Department
GSTR-1 (Outward Supplies) (July'17)	5,36,988	5,19,523
GSTR-1 (Outward Supplies) (August'17)	3,51,518	3,43,259
GSTR-1 (Outward Supplies) (September'17)	5,73,831	5,55,365
GSTR-1 (Outward Supplies) (October'17)	3,58,987	3,55,450
GSTR-1 (Outward Supplies) (December'17)	5,75,636	5,69,727
GSTR-1 (Outward Supplies) (January'18)	3,60,994	3,58,156
GSTR-1 (Outward Supplies) (February'18)	3,62,029	3,59,239
GSTR-1 (Outward Supplies) (March'18)	5,75,902	5,70,651
GSTR-1 (Outward Supplies) (April'18)	3,94,372	3,91,756
GSTR-1 (Outward Supplies) (May'18)	3,97,896	3,94,997
GSTR-1 (Outward Supplies) (June'18)	5,80,659	5,75,505
GSTR-1 (Outward Supplies) (July'18)	3,96,643	3,92,469
GSTR-1 (Outward Supplies) (August'18)	3,91,262	3,83,226
GSTR-1 (Outward Supplies) (September'18)	5,62,238	5,56,784
GSTR-1 (Outward Supplies) (October'18)	3,59,373	3,54,088
GSTR-2 (Inward Supplies) (July'17)	2,24,448	2,22,605
GSTR-3B (Monthly Summary Return) (Jul'17)	5,94,851	5,69,925
GSTR-3B (Monthly Summary Return) (Aug'17)	6,30,526	6,03,639
GSTR-3B (Monthly Summary Return) (Sep'17)	6,50,559	6,23,314
GSTR-3B (Monthly Summary Return) (Oct'17)	6,31,793	6,21,813
GSTR-3B (Monthly Summary Return) (Nov'17)	6,29,118	6,20,208
GSTR-3B (Monthly Summary Return) (Dec'17)	6,31,594	6,24,846
GSTR-3B (Monthly Summary Return) (Jan'18)	6,34,386	6,28,939
GSTR-3B (Monthly Summary Return) (Feb'18)	6,40,705	6,35,877
GSTR-3B (Monthly Summary Return) (Mar'18)	6,46,093	6,41,309
GSTR-3B (Monthly Summary Return) (August'18)	6,53,928	6,43,382
GSTR-4 (Sep'17 quarter Return)	47,755	8,154
GSTR-4 (Dec'17 quarter Return)	73,624	13,070
GSTR-4 (Mar'18 quarter Return)	73,686	14,432
GSTR-4 (Jun'18 quarter Return)	69,605	15,017
GSTR-4 (Sept'18 quarter Return)	64,337	15,280
GSTR-5 (Return for Non Resident Taxable person) (June'18)	2	0
GSTR-5 (Return for Non Resident Taxable person) (July'18)	2	0
GSTR-5 (Return for Non Resident Taxable person) (Aug'18)	1	0
GSTR-5 (Return for Non Resident Taxable person) (Sept'18)	1	0
GSTR-5 (Return for Non Resident Taxable person) (Oct'18)	1	0
GSTR-6 (Input Service Distributor) - July'17	144	0
GSTR-6 (Input Service Distributor) - August'17	218	0
GSTR-6 (Input Service Distributor) - September'17	259	0
GSTR-6 (Input Service Distributor) - October'17	275	0
GSTR-6 (Input Service Distributor) - November'17	281	0
GSTR-6 (Input Service Distributor) - December'17	292	0
GSTR-6 (Input Service Distributor) - January'18	298	0
GSTR-6 (Input Service Distributor) - February'18	289	0
GSTR-6 (Input Service Distributor) - March'18	297	0
GSTR-6 (Input Service Distributor) - Apr'18	293	0

GSTR-6 (Input Service Distributor) - May'18	289	0
GSTR-6 (Input Service Distributor) - June'18	279	0
GSTR-6 (Input Service Distributor) - July'18	267	0
GSTR-6 (Input Service Distributor) - August'18	262	0
GSTR-6 (Input Service Distributor) - September'18	235	0
GSTR-6 (Input Service Distributor) - October'18	230	0
GSTR-7 (Return for Tax Deducted at Source) - October'18	1,064	0
GSTR-8 (Return for Tax Collected at Source) - October'18	52	0
GSTR-10	1,416	0

### Annexure 3

#### *(Referred to in Paragraph 2.5.4)*

#### Statement showing results of verification of validation controls

Annexure No	The tests conducted to evaluate the functioning of validation/Input control	Results of test conducted	Department reply	Remarks of Audit
Annexure-1 Claim of ITC (No of cases : 11,94,67,196 No of dealers: 3,45,038)	Whether the system rejected commodity code not in Schedule I and null value in commodity code?	System did not reject the Commodity code having null value in 40,088 cases (682 dealers), wherein ITC of ₹ 11.01 crore was allowed .	Though commodity code was mandatory there <b>was</b> no validation check for the same. Invoice date validation was available in excel template of TSP Portal and violations might be at the initial stages.	As the violations are found throughout the year and the input control set in the excel template should also be made available in the server. Absence of the control had led to incorrect claim of Input Tax Credit
	Whether the system rejected incorrect dates?	The system did not reject future invoice dates in 1,185 cases, (259 dealers) wherein ITC of ₹7.11crore was allowed.		
	Whether the system rejected invoices dates with dates after the date for which the return is filed?	System did not reject incorrect dates in 7,52,956 cases (15,110 dealers), wherein ITC of ₹.219.32 crore was allowed		
	Whether the system rejected seller other than TIN from Tamil Nadu ?	Yes		
Annexure-2 List of First goods received by Principal (No of cases: 33,695 No of dealers: 260)	Whether system rejected invalid Principal/ Agent TIN?	The system did not reject invalid TIN in respect of 490 cases (13 dealers) relating to Principal/ Agents	There is no validation in Annexure for checking whether dealer <b>was</b> entering the TIN of Principal/Agent because placement of validation checks slows down the system and the negative rate was not tax rate but mapping of exempted category	Since Annexure 2 contains only list of Schedule I goods, which are all taxable goods (1%, 5%, 14.5%) and further tax rate for exempted goods should have been zero and not negative. Further, cross verification of tax paid by Principal/Agent is not possible in the absence of this validation leading to consequential revenue loss.
	Whether system accepted correct rates for the commodity?	The system did not accept correct rates for the commodity in 25,490 cases. (169 dealers)		

Annexure-3 List of First Schedule goods purchased from Unregistered Dealer/ Registered Dealer without sufferance of tax (Net Purchases) (No of cases: 23,41,476 No of dealers: 23,509)	Whether system rejected null as invoice number?	The system did not reject 205 cases (66 dealers), wherein invoice number was null	Invoice date validation was available in excel template of TSP Portal and violations might be at the initial stages. Though, Commodity code was mandatory, the validation control is set as numeric of length <= 10	Violations were found throughout the year and the input control set in the excel template should also be made available in the server. In the absence of input controls the assessing officer could not ascertain the tax paid and could not verify the sales details of registered dealer making sales without sufferance of tax.
	Whether system rejected invalid invoice dates?	The system did not reject invalid invoice dates in 221 cases. (68 dealers)		
	Whether system rejected null as commodity code?	The system did not reject 883 cases. (7 dealers) wherein commodity code was null		
	Whether system rejected commodity code not listed in Schedule I?	The system did not reject 872 cases (99 dealers), where commodity code not listed in Schedule I.		
Annexure-4 List of Second Schedule goods purchased from Registered Dealer. (No of cases: 13,75,927 No of dealers: 6,566)	Whether system rejected null/invalid invoice dates?	The system did not reject future invoice dates in 50 cases (10 dealers)	Invoice date, it was stated that invoice date validation was available in excel template of TSP Portal and violations might be at the initial stages. Though, Commodity code was mandatory, the validation control was set as numeric of length <= 10	As the violations were found throughout the year and the input control set in the excel template should also be made available in the server.
	Whether system rejected commodity code not listed in schedule II?	The system did not reject commodity code not listed in schedule II in 1,22,176 cases. (2,806 dealers)		
Annexure-5 Purchase return of First Schedule goods (No of returns: 15,70,567 No of dealers: 29,586)	Whether system rejected invoice date after the purchase return date?	The system did not reject 5,107 cases (833 dealers), where invoice date after the purchase return date involving ITC claim of ₹ 38.52 lakh	Invoice date was not mandatory and hence validation was not placed and goods return date validation was placed in excel template.	The input control set in the excel template should also be made available in the server. Non availability of input control will lead to absence of data integrity.
	Whether system rejected date of goods return after the period for which the return is filed?	The system did not reject 107 cases, where date of goods return after the period for which return filed (11 dealers).		
Annexure-6 Compounding and below threshold dealers (No of cases: 3,09,080 No of dealers: 7,758)	Whether system rejected purchases made from invalid TIN?	The system did not reject 2874 cases (197 dealers), where purchases made from dealers whose TIN was invalid	Validation check for seller TIN was set to be 11 digits and no validation was set to check the genuineness of the TIN. Invoice date validation control was set in excel template of TSP portal and error data would be due to dealers using third party software.	As the seller TIN was a key to verify if the goods were sold interstate were genuine should be validated. Though validation was kept in the excel template it should also be made available in the server.
	Whether system rejected date of goods return after the period for which the return was filed?	The system did not reject 15 cases (14 dealers), where date of goods return after the period for which the return was filed		

Annexure-8 Total Value of Inter – State Purchase. (No of cases: 1,47,93,727 No of dealers: 1,41,289)	Whether system rejected purchases made from invalid TIN?	The system did not reject 1,15,800 cases (6550 dealers), where purchases made from the dealers whose TIN were invalid.	As different states had different TIN formats, no validation to check the genuineness of TIN was placed and proper validation for agreement was kept in excel template of TSP Portal.	As the seller TIN was a key to verify if the goods were sold interstate were genuine should be validated and agreement date cannot be a future date. Though validation was kept in the excel template it should also be made available in the server. In the absence of this validation control, genuineness of transaction could not be ascertained.
	Whether system rejected agreement date before return filed month?	The system did not reject 629 cases (131 dealers), where the agreement date before return filed month		
Annexure-9 Purchase return of goods purchased in Interstate (No of cases: 1,92,106 No of dealers: 8,220)	Whether system validated the seller TIN based on which purchase returns were made?	The system did not validate the seller TIN based on which purchase returns were made in 52,560 cases (3101 dealers).	No validation was placed to check the genuineness of TIN, and invoice number was not made mandatory. However, proper validation was kept for purchase return date and invoice date in the excel template (excel).	Validation should also be made available in the server. In the absence of these controls the genuineness of the transaction and correctness of reversal of input tax credit could not be ensured.
	Whether system rejected null as invoice number?	The system did not reject null as invoice number in 14310 cases (3241 dealers)		
	Whether the system rejected the transaction where the invoice date was after the date on which the purchase return is made?	The system did not reject 314 cases (97 dealers), where the invoice date was after the date on which the purchase return was made		
Annexure-10 Inter State Branch Transfer (No of cases: 43,58,443 No of dealers: 6,464)	Whether system rejected invalid TIN as Transferor TIN?	The system did not reject null values as Transferor TIN in 1546 cases. (43 dealers)	Though Transferor TIN field was mandatory the check placed was transferor TIN to be other state TIN with numeric values	It was observed that the system had accepted any random number. In the absence of these controls the genuineness of the transaction could not be ensured
	Whether system rejected null values for bill of entry (BOE)?	The system did not reject null values for bill of entry (BOE) in 2,68,099 cases. (3,718 dealers)	BOE and date of BOE were non mandatory fields.	Proof of goods imported was based on BOE number and date and in the absence of these details cross verification of the import details cannot be made by the AAs
Annexure -11 List of goods imported (No of cases: 13,39,581 No of dealers: 13,293)				

Annexure-14 ITC on Capital goods adjustments (No of cases: 6,43,764 No of dealers:13,787)	Whether system rejected null values for the date of bill of entry?	The system did not reject null values for the date of bill of entry in 3,09,833 cases (4901 dealers)		
	Whether system rejected claim of ITC on invoices prior to date of commencement of commercial production?	The system did not reject 48 cases (33 dealers), wherein claim of ITC of ₹ 5.11 lakh on invoices prior to date of commencement of commercial production.	Validation of date was set in template of excel sheet to be uploaded and validation for date of commencement of commercial production was set as 5 years from the invoice date. The seller TIN validation only set to 11 digits	Validation should also be made available in the server and business rules should be properly mapped. Absence of validation of seller TIN would lead to incorrect availing of ITC
	Whether system rejected null as date of commencement of commercial production?	The system did not reject 136 cases (46 dealers) involving incorrect claim of ITC where the date of commencement of commercial production was not available.		
	Whether system rejected claim of ITC on invoices beyond three years of commencement of commercial production?	The system did not reject 302 cases (18 dealers), wherein claim of ITC of ₹ 23.39 lakh on invoices beyond three years of commencement of commercial production.		
	Whether system rejected invalid seller TIN?	The system did not reject 210 cases (62 dealers), where seller TIN was invalid.		
Annexure-15 List of First Schedule goods (No of cases: 14,17,28,642 No of dealers: 2,29,403)	Whether system rejected commodity code other than commodities listed in Schedule I?	The system did not reject 6,61,326 cases (5,864 dealers) cases, where commodity code was other than commodities listed in schedule I involving potential additional demand of tax of ₹ 158.33 crore.	There was no validation to restrict only Schedule I commodities.	As the annexure should contain only Schedule I goods, the reply indicated that even the most vital control was not inbuilt in the system. In the absence of validation control, the genuineness of the transaction could not be verified.
	Whether system rejected HSN / random number as commodity code was HSN?	The system did not reject 21,87,627 (6,859 dealers) cases, where HSN / random number as commodity code involving potential additional demand of tax of ₹ 924.01 crore.		
	Whether system rejected invoice date beyond the date for which return was filed?	The system did not reject 468 cases (53 dealers), where invoice date was beyond the date for which		

			return was filed involving tax of ₹ 0.12 crore.		
Annexure-17 First Schedule goods sold by Agents (No of cases :32,046 No of dealers:316)	Whether system rejected commodity code other than commodities listed in Schedule I		The system did not reject 789 cases (12 dealers), where commodity code other than commodities listed in Schedule I involving potential additional demand of tax ₹1.26 crore	There was no validation to restrict only Schedule I commodities.	The reply indicated that even the most vital control was not inbuilt in the system.
Annexure-19 Sales return of First Schedule goods (No of cases: 25,60,508 No of dealers:26,555)	Whether system rejected value of goods refunded more than sale value?		The system did not reject 211 cases (66 dealers), where VAT refunded on value of goods returned, was more than sale value.	Data validation was already placed in the annexure and cross verification shall be done at back office and reflected in the cross verification report.	However, it was seen that no such validation existed as the system had accepted value of refund claimed to be more than the goods sold, refund more than tax paid and sales return after six months.
	Whether system rejected refund claimed more than tax paid?		The system did not reject 219 cases (82 dealers), where refund claimed was more than tax paid		
	Whether system rejected sales return beyond six months of invoice date?		The system did not reject 1173 cases (274 dealers), where sales return beyond six months of invoice date involving potential additional demand of ₹ 0.09 crore.		
Annexure-20 Local Zero-rated sales to Special Economic Zone located within Tamil Nadu and Fifth Schedule goods (No of cases:4,46,066 No of dealers:7,372)	Whether system rejected null value as IE code (IEC)?		The system did not reject 298348 cases, where the IE code (IEC) was null.	Initially IEC was captured as mandatory and on request from SEZ suppliers, who had no IEC code the check was removed.	The SEZ registration number field was also not made mandatory. In the absence of input control, the department could not verify the genuineness of the transaction and concession claimed by the seller.
Annexure-22 First & Second Schedule goods sold in Interstate (No of cases: 1,85,31,577 No of dealers:87,388)	Whether system rejected invalid buyer TIN?		The system did not reject 48196 cases, where TIN of the buyer was invalid.	Buyer TIN was non- mandatory field and so system had accepted null values/TINs of any format	Buyer TIN was mandatory field for verifying whether the goods were sold in the course of Inter-State Trade or Commerce.

Annexure-23 Sales return of goods in Interstate (No of cases: 7,81,557 No of dealers: 8,922)	Whether system rejected buyer TIN from Tamil Nadu?	The system did not reject 1088 cases, where buyer TIN from Tamil Nadu	No validation was placed against TIN field in the annexure, and hence, the system had accepted null values / TIN of any format. The date should be after date of invoice and if the dealer failed to enter the date, the software cannot verify the 180 days' check. Further, validation placed was that the date should fall in tax period or it should be within 6 months prior to tax period	In the absence of the controls the genuineness of transaction could not be ensured.
	Whether system rejected invalid buyer TIN?	The system did not reject 1230 invalid buyer TIN		
	Whether system rejected goods returned beyond six months of invoice date?	The system did not reject 1873 cases, where goods returned beyond six months of invoice date involving potential additional demand of tax of ₹0.45 crore.		
	Whether system rejected date of return of goods which were before invoice date?	The system did not reject 3 cases, where date of return of goods which were before invoice date?		
Annexure-24 Branch transfer (No of cases: 55,81,261 No of dealers: 6,812)	Whether system rejected invalid agent TIN?	The system did not reject 3376 (141 dealers) invalid agent TIN cases.	Agent TIN validation was numeric value of 11 digit and starts with '33' and there was no validation to check if the dealers were entering the agent TIN.	Genuineness of transaction could not be verified in the absence of these checks.
	Whether system rejected null values as Bill of lading (BOL)?	The system did not reject 164 (12 dealers) cases where Bill of lading (BOL) was null.	Details would not be available with the dealer at the time of filing returns and hence, these fields were made as non-mandatory. The validation set for Bill of lading / Bill of entry / IEC was the number should be alphanumeric with length less than or equal to 30 and hence the system had accepted special characters	These details would be available with the dealer before filing of return and in the absence of this validation control, genuineness of transaction could not be ascertained.
Annexure-25 Import turnover (No of cases: 21,929 No of dealers: 6,812)	Whether system rejected null values as Bill of entry (BOE)?	The system did not reject 8812 cases (675 dealers) where Bill of entry (BOE) was null.		
	Whether system rejected null values as Import Export Code (IEC)?	The system did not reject 743 cases (72 dealers) where Import Export Code (IEC) was null.		
	Whether system rejected incorrect IEC?	The system did not reject 1191 (87 dealers) cases, where the IEC was incorrect.	Details would not be available with the dealer at the time of filing returns and hence, these fields were made as non-mandatory. Validation placed for export country was alphanumeric values	These details would be available with the dealer before filing of return and in the absence of validation of such crucial data based on which the genuineness of the transaction could not be
Annexure-26 Export 5(1) (No of cases: 18,15,952 No of dealers: 1,283)	Whether system rejected null values as Bill date?	The system did not reject 773813 (5655 dealers) cases, where Bill Date had null values.		

	Whether system rejected null values of country to which goods are exported?	The system did not reject 173 cases (13 dealers), where the country to which goods were exported was null.	of length less than or equal to 100, and hence, system accepted special characters only. Further, in order to capture all export data at initial period, the date mismatches were allowed temporarily and the return module was launched in June 2016 and these data related to direct exports	verified.
	Whether system rejected Bill date after the month for which the return was filed?	The system did not reject 46 (36 dealers) cases, where Bill date was after the month for which the return was filed		
	Whether system rejected export invoice date beyond the period for which return was filed?	The system did not reject 16 cases (3 dealers), where export invoice date was beyond the period for which return was filed.		
Annexure-27 Export 5(3) (No of cases: 6,07,034 No of dealers: 9,180)	Whether system rejected null / wrong purchase date?	The system did not reject 135 cases (61 dealers), where purchase date was null or wrong.	Purchase date was mandatory field and system accepted date greater or less than return period date.	Genuineness of transaction could not be verified in the absence of these validation checks.
	Whether system rejected invoice date after the month for which the return was filed?	The system did not reject 25 cases (15 dealers), where invoice date was after the month for which the return was filed.		
	Whether system rejects invalid exporter TIN?	The system did not reject 8148 cases (187 dealers), where exporter TIN was invalid.		
Annexure-28 Exempted turnover (No of cases: 1,68,381 No of dealers: 1,788)	Whether system rejected incorrect seller TIN?	The system did not reject 616 cases (54 dealers), where seller TIN was incorrect.	Different states had different TIN formats and hence, validation to check the genuineness of buyer/seller TIN was not placed. It was also stated that validation was in excel template file and not at Server site.	Validation should not only be available in excel template file, but also at Server site. In the absence of the buyer/seller TIN, the genuineness of exemption claimed under section 6(2) of CST Act could not be verified leading to consequential revenue loss.
	Whether system rejected incorrect buyer TIN?	The system did not reject 429 cases (44 dealers), where buyer TIN was incorrect.		

**Annexure 4**  
(Referred to in Paragraph 5.4.4.3)

**UAV based mapping for Volume calculation and Modelling of  
Granite Quarry at Virudhunagar (Pillayarkulam,  
Srivilliputhur Taluk)**

Sl. No	Survey Number / Geographically Nearest Mine		Geo Location	Volume (in Cubic Meter)	Area (in Hectares)
	Name	Survey No			
1	Prithvi Granite	800/2	9.4393468N 77.5992747E	40,502.12	0.215
2	Prithvi Granite	800/3	9.4391858N 77.5956866E	7,084.85	0.0514
3	Granite Pit-1	854B	9.4417467N 77.5956866E	852.71	0.031
4	Granite Pit-1	854B	9.4409239N 77.5961543E	110.17	0.00895
5	Mountain Bottom Base	854A	9.4413204N 77.5946792E	22,680.95	0.3679
6	Mountain Mid	854A	9.4418830N 77.5944018E	2,793.81	0.0506
7	Mountain Top-2	854A	9.4417993N 77.5945982E	606.29	0.0429
8	Mountain Top-1	854A	9.4420286N 77.5946610E	1,544.34	0.04153
<b>Total</b>				<b>76,175.24</b>	<b>0.80928</b>

Total Volume	76,175.24 Cu.mtr
Recovery ratio	9 per cent
Net Volume	76,175.24 X 9 % 6,855.77 Cu.mtr
Cost of Mineral	At the rate of ₹ 9,000 per cu.mtr ₹ 6.17 crore
Seigniorage Fee	At the rate of ₹ 2,210 per cu.mtr ₹ 1.52 crore
Total cost and SF	₹ 7.69 crore

**Annexure 5**  
**(Referred to in Paragraph 5.4.4.3)**

**UAV based mapping for Volume calculation and Modelling of  
Limestone Quarry at Tirunelveli**

Sl. No	Survey Number / Geographically Nearest Mine		Location	Revenue Village Name	Volume (in Cubic Meter)	Area (in Hectares)
	Name	Survey No				
1	Jupiter Mine	92	8.7901625N 77.6553593E	Seturayanputtur	10,782.90	0.082
2	Jupiter Mine	93	8.7898890N 77.6556696E	Seturayanputtur	42,203.18	0.179
3	Jupiter Mine	109/1	8.7904218.N 77.6557889E	Seturayanputtur	26,713.69	0.114
4	Jupiter Mine	109/2	8.7904813N 77.6572989E	Seturayanputtur	1,23,712.07	0.529
5	Jupiter Mine	109/3	8.7905218N 77.6580182E	Seturayanputtur	7,185.20	0.078
6	Jupiter Mine	108	8.7903260N 77.6578779E	Seturayanputtur	18,123.48	0.168
7	Sri Ganapathy Mines	403	8.7902676N 77.6542152E	Abhishekapatti	5,636.98	0.039
8	India Cements	394	8.7951898N 77.6839170E	Ramayyanpatti	54,313.86	0.890
9	India Cements	214/1	8.8004763N 77.6074435E	Ramayyanpatti	13,001.56	0.234
10	India Cements	214/2	8.80066812N 77.6857476E	Ramayyanpatti	5,46,823.77	1.132
11	India Cements	502/1	8.8001595N 77.6852507E	Ramayyanpatti	7,22,903.54	1.977
12	India Cements	504	8.7996899N 77.6847000E	Ramayyanpatti	5,46,823.77	1.265
13	India Cements	503/1	8.7981014N 77.6845475E	Ramayyanpatti	5,40,151.07	1.944
14	India Cements	503/2	8.7972123N 77.6842532E	Ramayyanpatti	53,055.67	0.405315
15	India Cements	502	8.7988572N 77.6865715E	Ramayyanpatti	54,960.62	0.508385
16	India Cements	501	8.7981870N 77.6860190E	Ramayyanpatti	98,197.48	1.051679
17	India Cements	397	8.7967396N 77.6854791E	Ramayyanpatti	33,215.37	0.442739
18	India Cements	393	8.7963155N 77.6839417E	Ramayyanpatti	63,426.89	0.734422
19	India Cements	396	8.7965359N 77.6846797E	Ramayyanpatti	50,513.47	0.540679
<b>Total</b>					<b>30,11,744.57</b>	<b>12.314219</b>

Total Volume	30,11,744.57 Cu.mtr
Density	1.8 Tonne/Cu.mtr
Weight	54,21,140.23 (30,11,744.57 X 1.8 Tonne)
Ore to Waste	1: 2.5 i.e 28.57 <i>per cent</i>
Net Volume	28.5 <i>per cent</i> of 54,21,140.23Tonnes 15,48,819.76 Tonnes
Cost of Mineral	At the rate of ₹ 382 per tonne ₹ 59.16 crore
Seigniorage Fee	At the rate of ₹ 80 per tonne ₹ 12.39 crore
Total cost and SF	₹ 71.55 crore

# GLOSSARY



### GLOSSARY OF ABBREVIATIONS

AA	Assessing Authority
ADGM	Assistant Director of Geology and Mining
AG	Accountant General
API	Application Program Interface
ARN	Acknowledgement Reference Number
ATN	Action Taken Notes
CASR	Centre for Aerospace Research
CBIC	Central Board of Indirect Taxes and Customs
CCT	Commissioner of Commercial Taxes
CDs	Compact Discs
CENVAT	Central Excise Value Added Tax
CERC	Central Electricity Regulatory Commission
CGM	Commissioner of Geology and Mining
CGST	Central Goods and Services Tax
CST	Central Sales Tax
CTD	Commercial Taxes Department
Cu.m.	Cubic Metre
DGMS	Director General of Mine Safety
DDGM	Deputy Director of Geology and Mining
DMF	District Mineral Fund
DRO	District Revenue Officer
DVDs	Digital Video Discs
EC	Environment Clearance
EIV	Educational Institution Vehicles
ELCOT	Electronics Corporation of Tamil Nadu
FRS	Functional Requirement Specifications
GoI	Government of India
GoTN	Government of Tamil Nadu
GCDR	Granite Conservation and Development Rules
GIS	Geographic Information System
GSI	Geological Survey of India
GST	Goods and Services Tax
GSTN	Goods and Services Tax Network
GSTIN	Goods and Services Tax Taxpayers Identification Number
IBM	Indian Bureau of Mining
IGR	Inspector General of Registration
IR	Inspection Report
IGST	Integrated Goods and Services Tax
IREL	Indian Rare Earths Limited
IS Act	Indian Stamp Act

ITC	Input Tax Credit
JC	Joint Commissioner
JC(CS)	Joint Commissioner (Computer Systems)
LTU	Large Taxpayers Unit
MCDR	Mineral Conservation and Development Rules
MCR	Mineral Concession Rules
MECL	Mineral Exploration Corporation of India Limited
MIS	Management Information System
MIT	Madras Institute of Technology
MMDR Act	Mines and Minerals (Development and Regulation) Act
MoC	Ministry of Coal
MoM	Ministry of Mines
MOU	Memorandum of Understanding
MSS	Mining Surveillance System
MV Act	Motor Vehicles Act
NLC	Neyveli Lignite Corporation
NMET	National Mineral Exploration Trust
NMP	National Mineral Policy
NSDL	National Securities Depository Limited
OMTRS	Online Mining Tenement Registry System
ONGC	Oil and Natural Gas Corporation
PNG Rules	Petroleum and Natural Gas Rules
PAN	Permanent Account Number
PAC	Public Accounts Committee
PID	Provisional Identification
PML	Petroleum Mining Lease
PSV	Private Service Vehicle
PWD	Public Works Department
RC	Registration Certificate
RO	Registering Officer
RTO	Regional Transport Office
RR Act	Revenue Recovery Act
SAS	Statistical Analytical Software
SDR	Simplified Disaster Recovery
SEIAA	State Environment Impact Assessment Authority
SEZ	Special Economic Zone
SF	Seigniorage Fee
SGST	State Goods and Services Tax
SR	Sub-Registrar
TAMIN	Tamil Nadu Minerals Ltd.
TANCEM	Tamil Nadu Cements Ltd.
TANMAG	Tamil Nadu Magnesite Ltd.

TDS	Transfer Duty Surcharge
TSP	Total Solution Project
TNGST	Tamil Nadu Goods and Services Tax
TNMMCR	Tamil Nadu Minor Mineral Concession Rules
TNMVT Act	Tamil Nadu Motor Vehicles Taxation Act
TNPCB	Tamil Nadu Pollution Control Board
UAV	Unmanned Aerial Vehicle
VAT	Value Added Tax
TNVAT	Tamil Nadu Value Added Tax



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