

SUBJECT-SPECIFIC COMPLIANCE AUDIT ON GST REFUNDS

MINISTRY OF HOME AFFAIRS (UT)

**PUBLIC ACCOUNTS COMMITTEE
(2023-24)**

ONE HUNDRED AND FORTY- SIXTH REPORT

SEVENTEENTH LOK SABHA



सत्यमेव जयते

**LOK SABHA SECRETARIAT
NEW DELHI**

**ONE HUNDRED AND FORTY-
SIXTH REPORT**

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(SEVENTEENTH LOK SABHA)

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ON GST REFUNDS**

MINISTRY OF HOME AFFAIRS



Presented to Hon'ble Speaker, Lok Sabha on 29.4.2024

Presented to Lok Sabha on:

Laid in Rajya Sabha on:

**LOK SABHA SECRETARIAT
NEW DELHI**

April 2024/ Chaitra 1945 (Saka)

CONTENTS		
	COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE (2023-24)	(iii)
	INTRODUCTION	(iv)
	PART- I	
REPORT		
	PART – II	
	OBSERVATIONS/ RECOMMENDATIONS OF THE COMMITTEE	
	APPENDICES	
	*Minutes of the adoption of the Public Accounts Committee (2023-24) through digital circulation on 20.4.2024	

*Not appended in the report

**COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE
(2023-24)**

Shri Adhir Ranjan Chowdhury - **Chairperson**

MEMBERS

LOK SABHA

2. Shri Thalikkottai Rajuthevar Baalu
3. Shri Subhash Chandra Baheria
4. Shri Bhartruhari Mahtab
5. Shri Jagdambika Pal
6. Shri Pratap Chandra Sarangi
7. Shri Vishnu Dayal Ram
8. Shri Rahul Ramesh Shewale
9. Shri Gowdar Mallikarjunappa Siddeshwara
10. Dr. Satya Pal Singh
11. Shri Rajiv Ranjan Singh alias Lalan Singh
12. Shri Jayant Sinha
13. Shri Balashowry Vallabhaneni
14. Shri Ram Kripal Yadav
15. Vacant¹

RAJYA SABHA

16. Shri Shaktisinh Gohil
17. Dr. K Laxman
18. Shri Derek O'Brien
19. Shri Tiruchi Siva
20. Dr. M. Thambidurai
21. Shri Ghanshyam Tiwari
22. Vacant²

SECRETARIAT

Dr. Sanjeev Sharma - Joint Secretary
Shri Partha Goswami - Director
Shri Pankaj Kumar Sharma - Deputy Secretary

¹ Shri Brijendra Singh resigned w.e.f 12 March 2024

² Dr. Sudhanshu Trivedi retired from Rajya Sabha w.e.f. 2 April 2024

INTRODUCTION

I, the Chairperson, Public Accounts Committee (2023-24) having been authorized by the Committee, do present this One Hundred and Forty-Sixth Report (Seventeenth Lok Sabha) on “**SUBJECT-SPECIFIC COMPLIANCE AUDIT ON GST REFUNDS** based on Para 3.3 of Comptroller and Auditor General's Report No. 24 of 2022.

2. The Report of Comptroller and Auditor General of India was laid on the Table of the House on 20.12.2022.

3. The Public Accounts Committee took oral evidence of the representatives of Ministry of Home Affairs on 20.11.2023. The Committee considered and adopted this Report *vide* digital circulation on 20.4.2024.

4. For facility of reference and convenience, the Observations and Recommendations of the Committee have been printed in bold and form Part-II of the Report.

5. The Committee would like to express their thanks to the representatives of the Ministry of Home Affairs for tendering evidence before them and furnishing the requisite information to the Committee in connection with the examination of the subject.

6. The Committee also place on record their appreciation for the assistance rendered to them in the matter by the Committee Secretariat and the Office of the Comptroller and Auditor General of India.

NEW DELHI
20 April, 2024
31 Chaitra, 1945 (Saka)

ADHIR RANJAN CHOWDHURY
Chairperson,
Public Accounts Committee

DRAFT REPORT

PART – I

INTRODUCTION

The Public Accounts Committee decided to take up for detailed examination and Report **Para 3.3 of C&AG Report No. 24 of 2022** on the subject “**Subject-specific compliance audit on GST Refunds**”. The above para relates to various irregularities viz inadmissible grant of refund, irregular grant of refund due to non-debiting the Electronic Credit Ledger and Cash Ledger, non-following the order of debit to IGST, CGST and UTGST, acknowledgment not issued/not issued within time in Goods & Services Tax (GST) refund cases under Pre & Post Automation Process, GST Refunds not sanctioned within the stipulated time, and improper maintenance of Records in office of the Excise and Taxation Commissioner, UT, Chandigarh from July 2017 to July 2020.

2. The Committee learnt that in order to streamline and standardise the refund procedures under GST regime, it was decided (18 November, 2019) by Central Board of Indirect Taxes and Customs that the claim and sanctioning procedure would be completely online. Due to unavailability of electronic refund module on the common portal, a temporary mechanism was devised and implemented. In this electronic-cum-manual procedure, the applicants were required to file the refund applications in Form GST RFD-01A on the common portal, take a print out of the same and submit it physically to the jurisdictional tax office along with all supporting documents. Further processing of those refund applications, i.e. issuance of acknowledgement, issuance of deficiency memo, passing of provisional/final refund orders, payment advice etc. was being done manually. In order to make the process of submission of the refund application electronic, the refund applications in Form GST RFD-01A, along with all supporting documents, had to be submitted electronically. However, various post submission stages of processing of the refund applications continued to be manual.

3. The Committee further learnt that with effect from 26 September 2019, the refund procedure has been made fully electronic, wherein all the steps from submission of applications to processing thereof could be undertaken electronically (also called

Automation of Refund Process). Accordingly, the Circulars issued earlier laying down the guidelines for manual submission and processing of refund claims have either been superseded or modified. A fresh set of guidelines have been issued for electronic submission and processing of refund claims vide Master Circular No.125/44/2019-GST dated. 18 November 2019. In order to ensure uniformity in implementation of the provisions of law across field formations, several earlier Circulars have been superseded vide para 2 of the aforesaid Master Circular. However, the provisions of the said Circulars shall continue to apply for all refund applications filed on the common portal before 26 September 2019 and the said applications shall continue to be processed manually, as were done prior to deployment of new system.

4. While examining the Audit Para, the Committee found that on the basis of GST refund data, the Audit had selected 112 GST refund cases, processed in office of the Excise and Taxation Commissioner, UT, Chandigarh from July 2017 to July 2020 for examination. Various audit objections were pointed out by Audit viz, inadmissible grant of refund, irregular grant of refund due to non-debiting of the Electronic Credit Ledger and Cash Ledger, non-following of the order of debiting out of various heads of GST (when application for refund is filed), acknowledgement not issued/not issued within time in GST refund cases under Pre & Post Automation Period, GST Refunds not sanctioned within the stipulated time, and improper maintenance of records. These objections have been examined by the Committee in detail in the succeeding paragraphs.

Inadmissible grant of refund

5. The Committee have found from Audit para that M/s Kalima Shoes had submitted refund claim of ₹ 8.61 lakh (IGST) for the period July 2017 to March 2018 in February 2020 and M/s Positive Automation submitted refund claim of ₹ 0.95 lakh (UTGST) for the period July 2017 to March 2018 in June 2020 on account of inverted duty structure. Accordingly, the Proper officer i.e. Excise and Taxation Officer allowed refunds of ₹ 8.58 lakh to M/s Kalima Shoes and ₹ 0.95 lakh to M/s Positive Automation. However, Audit scrutiny revealed that M/s Kalima Shoes had submitted refund claim of ₹ 3.37 lakh out of refund claims of ₹ 8.61 lakh and M/s Positive Automation submitted refund claims of ₹ 0.95 lakh after the expiry of two years from the relevant date. The

Proper officer in the office of the Excise and Taxation Commissioner, UT, Chandigarh, allowed these refund claims without verifying the date of submission of refund claims, thereby resulting in inadmissible grant of refund claims of ₹ 4.32 lakh (₹ 3.37 lakh and ₹ 0.95 lakh, respectively).

6. The Committee learnt that in these cases, after being pointed out by the Audit, due recoveries have been made from the concerned applicants alongwith interest.

Irregular grant of refund

7. Audit highlighted that due to no debiting the Electronic Credit Ledger and Cash Ledger in two cases, whereby refunds were allowed but the said amount was not found debited from their electronic credit ledger or electronic cash ledger. The Proper officer in both the cases allowed refund of ₹ 0.80 lakh and ₹ 0.09 lakh without verifying the debit entry in the electronic credit ledger and electronic cash ledger respectively, thereby resulting in irregular grant/ allowance of refund of ₹ 0.89 lakh.

8. The Committee learnt that on being pointed out (August 2021 & September 2021) by the Audit, the Department of Excise and Taxation, Chandigarh Administration, while admitting the objection, stated (January 2022) that M/s MID Town Associates had debited the objected refund amount of ₹ 0.80 lakh from the electronic credit ledger and in respect of M/s Genius Computer Systems, the taxpayer had paid the amount of ₹ 0.09 lakh, with interest of ₹ 0.03 lakh.

Non-following the order of debit to IGST, CGST and UTGST

9. The Committee note that the Board vide Circular dated 4 September 2018 clarified that after determination of amount refundable, the equivalent amount is to be debited to electronic credit ledger by the taxpayer in the following order: First, against Integrated Tax to the extent of balance available and thereafter to Central tax and State/Union territory tax equally to the extent of balance available and in the event of shortfall in the balance available in a particular electronic credit ledger, the differential amount is to be debited from the other electronic credit ledger (i.e., State tax/Union

Territory tax, in this case). Further, this procedure was to be followed for all refund application filed after the date of issue of aforesaid circular.

10. Audit observed that the Department of Excise and Taxation, Chandigarh Administration, had not followed the order of debiting the refund amount from electronic credit ledger in the refund cases as envisaged in circular dated 4 September 2018.

Acknowledgement not issued within time in GST Refund cases under Pre & Post Automation Period.

11. The Committee learnt that that in pre-automation period acknowledgement was not issued in 38 GST Refund cases and in post-automation period, acknowledgment was delayed in 13 cases.

12. The Committee further learnt that, in post automation period, various GST online portal issues cropped up, which was duly informed to the Infosys Production Support Team by raising tickets, which led to delayed acknowledgement of refunds.

13. During oral evidence of the representatives of the Chandigarh Administration, the Committee desired to know about the reasons for non-issuance or delay in issuance of acknowledgement to the refund applicants under the pre-automation process. In response, the Excise and Taxation Commissioner, Chandigarh Administration submitted as under:

“.....in pre-automation period, since GST was a new law, there were issues of lack of knowledge on the part of the officers who were dealing with this, and also, there was issue of lack of knowledge on the part of the tax payers also. Hence, there was this issue that in the pre-automation time period, acknowledgement was not given.”

14. When further queried on the matter, he added as under:

“I admit that there have been issues in the starting period of the GST, but after the post-automation, things have improved a lot. In the post-automation period, whenever the Department faces any issue, it is immediately highlighted. Now, since we have a post-audit mechanism also in place for each and every case,

these things are checked, so that in future we do not have these kinds of occurrences.”

15. The Committee further desired to know whether post automation, acknowledgment is auto-generated for refund cases. In this regard, the representative of the Chandigarh Administration submitted as under:

“..the acknowledgement is to be generated by the concerned proper officer who receives the refund application. It has been done in a way so that the officer concerned acknowledges it himself that there is something pending in his inbox which has to be processed. So, to put responsibility on the concerned officer itself, this has been kept in such a manner, and when we found this post Audit Cell, these issues are highlighted on a real-time basis.”

GST Refunds not sanctioned within the stipulated time period of 60 days

16. Audit highlighted that for pre-automation period there was a delay in 19 cases which was mainly due to delayed submission of manual files by the applicants and for the post-automation period delay was mainly on account of onset of COVID pandemic. Various amendments were brought by the GST Council to extend the time limit for issuance of orders keeping in view the COVID pandemic.

17. Further, in some cases Show Cause Notices were issued to provide certain additional documents, the response to which was not submitted by the applicants timely, thus resulting in delayed processing of refund.

18. The Committee learnt that since delay was attributable to the applicants, so interest has not been claimed by applicants from the Department for delay in processing of refund.

19. The Committee have been informed that to avoid such lapses in the future, directions have been issued by the Competent Authority to the Ward in-charge that such irregularity does not occur in future and procedure as per extant Act and Rule must be followed. Further, an internal review mechanism in the form of Post Refund Audit Cell has also been created.

20. Explaining upon the Audit objection, the representative deposed as under:

“In these cases, GST refund was not sanctioned within the stipulated time. As per the law, GST refund has to be done within 60 days of the receipt of the application. In the cases which were audited, it was found that in some cases, there was a delay in sanctioning of the refund and primarily when we examined it, we realized that the delay has been primarily in the pre-automation and the post-automation period because of the queries which were raised by the officers while processing these refunds. Initially there was no concession given for deducting this timeline from the 60 days’ timeline, but subsequently CBIC now has issued a circular, wherever there is any query given by the proper officer to any assessee for clarification of their refund case, that amount of time is deducted from 60 days and that is not calculated for calculating the 60 days’ timeline.”

21. Adding to the issue, he further stated:

“..whenever there is a query raised, the time taken by the assessee to reply to the query is not added to the 60 days’ timeline. Now, the change in the software has been done and 60 days’ timeline does not include the time taken by the applicant or the assessee to answer the query.”

22. To a specific query regarding the steps taken by the Department to ensure timely submission of offline files by the tax payer in the pre-automation refund cases, he submitted as under:

“Sir, in pre-automation refund period, there was a system of manual submission of files and whenever a file is submitted, then the time period of 60 days started. In few cases where the queries were not answered or the proper files were not submitted, the concerned officer should have rejected the refund which they did not, but now this anomaly has been corrected by the automation of the system. Hence, we do not face those pre-automation type period problems.”

Improper maintenance of Records

23. Audit pointed out that the Department had not maintained records related to payment advise forwarded and received from the concerned counterpart tax authorities

of the central jurisdiction. Point No.6.0 of Circular No.24/24/2017 dated 21.12.2017 provided that the Nodal Officer of Centre and State would be required to share the information via email. Since, there were no specific guidelines laid down to maintain any register same was not maintained.

24. The Committee have learnt that there is no financial implication related to this para and now, after introduction of automation system of GST refunds through common GST Portal, this record is being maintained on the common portal itself.

25. When asked about measures been taken to ensure proper maintenance of records relating to the date of communication of payment advice, timeline for payment of sanctioned amount of tax or cess, etc., the representative of Department of Excise & Taxation, Chandigarh Administration submitted as under:

“Sir, this issue was primarily before the automation started. Before automation what used to happen is that GST Central and State used to issue refunds and used to transfer or communicate to their counterpart for giving their part of refund. So, a common refund will be calculated which will have Centre and State part. If Centre is issuing that refund, then they will advise the States to issue their part of the refund. This used to happen in the pre-automation period. In the post-automation period, this is being done automatically, electronically.

We have taken corrective measures. An institutional mechanism has been made. Action has been taken against the erring officials.”

26. Elaborating on the disciplinary action against the erring officials, he submitted as under:

“Sir, in these cases there are two kinds of officials, one who are still working with us and those who came on deputation. Those who came on deputation, their cadre controlling authorities have been requested for taking action. Those who are with us, their chargesheets have been issued and disciplinary action has been initiated.”

27. The Committee further learnt from oral submission of the representative of the Chandigarh Administration that the proceedings are on the final stage and necessary action will be taken. The Committee also note the candid submission of the representatives of the Chandigarh Administration that the erring officials were detected on the findings of the audit.

Recommendation for post Audit of Refund Orders

28. The Committee have learnt that the Central Board of Excise and Customs (now Central Board of Indirect Taxes and Customs) had instructed all Central Tax Authorities to continue post audit of refund orders as per extant guidelines vide circular no. 17/17/2017-GST dated 15 November 2017. They have also learnt that a Post Audit Cell has been created for U.T. Chandigarh. All refund cases are being put up before the Post Audit Cell, which are thoroughly being checked and the irregularities in the refund cases are being communicated to the concerned Proper Officer for taking necessary action under GST law.

PART – II
OBSERVATIONS/RECOMMENDATIONS

1. Consequent to sifting of all the information and documents available before them, the Committee note that timely refund mechanism is a significant aspect of tax administration. To streamline and standardise the refund procedures under GST regime, Central Board of Indirect Taxes and Customs decided (18 November, 2019) that the refund process would be completely online. Audit Scrutiny of 112 GST refund cases processed in office of the Excise and Taxation Commissioner, UT, Chandigarh from July 2017 to July 2020 revealed various irregularities viz inadmissible grant of refund, irregular grant of refund due to non-debiting the Electronic Credit Ledger and Cash Ledger, not following the order of debit to IGST, CGST and UTGST, acknowledgment not issued/not issued within time in GST refund cases under Pre & Post Automation Process, GST Refunds not sanctioned within the stipulated time, and improper maintenance of Records.
2. In regard to the audit para under reference, the Committee note from oral submission of the representatives of the Chandigarh Administration and the information available before them that in certain cases scrutinized by Audit, there was either no financial implication or due recoveries have been made from the concerned applicants alongwith interest. The Committee, in this regard cannot ignore the fact that such lapses were highlighted only after being pointed out by C&AG. Therefore, at this stage the Committee recommend that internal audit mechanism may be strengthened by the Department of Excise & Taxation, Chandigarh Administration to obviate any possibility of loss of revenue *sans* intervention of C&AG in future.

3. The Committee learn that consequent to Audit observations in certain cases, necessary action under disciplinary rules has been initiated against erring Officials. The Committee while expressing satisfaction that disciplinary proceedings against officials concerned have been initiated, nevertheless, recommend that such proceedings should be completed in a time-bound manner in order to fix responsibility for the lapses so that it serves as a deterrent for other Officials too. The Committee would like to be apprised of the action taken in this regard at the earliest.

NEW DELHI
20 April, 2024
31 Chaitra, 1945 (Saka)

ADHIR RANJAN CHOWDHURY
Chairperson,
Public Accounts Committee