

*PRESENTED TO THE
ODISHA LEGISLATIVE ASSEMBLY
ON THE 3RD October, 2020*



सत्यमेव जयते

ODISHA LEGISLATIVE ASSEMBLY

PUBLIC ACCOUNTS COMMITTEE

2020-2021

SIXTEENTH ASSEMBLY



1ST REPORT

ON

C & A. G OF INDIA (REVENUE RECEIPT)

FOR THE YEAR 2007-08

OF

FINANCE DEPARTMENT

SECRETARIAT

OF

THE ODISHA LEGISLATIVE ASSEMBLY,

BHUBANESWAR-751001

Sl. No.	<u>CONTENTS</u>	Page
1.	Composition of the Public Accounts Committee, 2020-21	i
2.	Composition of the Public Accounts Committee, 2019-20	ii
3.	Composition of the Public Accounts Committee, 2018-19	iii
4.	Composition of the Sub-Committee-V of the Public Accounts Committee, 2018-19	iv
5.	Introduction	v
6.	Report	1-17
7.	Minutes of the meeting held on 20.03.2020	18
8.	Minutes of the meeting held on 01.10.2020	19

COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE, 2020-21

CHAIRMAN

Shri Pradipta Kumar Naik,
Leader of Opposition.

MEMBERS

Smt. Pramila Mallik,
Hon'ble Government Chief Whip.

Shri Mohan Charan Majhi,
Hon'ble Chief Whip, Bharatiya Janta Party

Shri Narasingha Mishra, M. L. A.

Shri Debiprasad Mishra, M. L. A.

Shri Jaya Narayan Mishra, M. L. A.

Shri Sarada Prasad Nayak, M. L. A.

Shri Pranab Prakash Das, M. L. A.

Shri Rajendra Dholakia, M. L. A.

Shri Braja Kishore Pradhan, M. L. A.

Shri Priti Ranjan Gharai, M. L. A.

Shri Ananta Narayan Jena, M. L. A.

SECRETARIAT

Shri Dasharathi Satapathy, I. A. S., Secretary.

Smt. Sushila Mallick, Deputy Secretary.

Smt. Baijayanti Pattanayak, Under Secretary.

Shri Partha Sarathi Das, Section Officer.

Smt. Geetarani Panda, Assistant Section Officer.

COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE, 2019-20

CHAIRMAN

Shri Pradipta Kumar Naik,
Leader of Opposition.

MEMBERS

Smt. Pramila Mallik,
Hon'ble Government Chief Whip.

Shri Mohan Charan Majhi,
Hon'ble Chief Whip, Bharatiya Janta Party

Shri Narasingha Mishra, M. L. A.

Shri Debiprasad Mishra, M. L. A.

Shri Jaya Narayan Mishra, M. L. A.

Shri Sarada Prasad Nayak, M. L. A.

Shri Pranab Prakash Das, M. L. A.

Shri Rajendra Dholakia, M. L. A.

Shri Braja Kishore Pradhan, M. L. A.

Shri Priti Ranjan Gharai, M. L. A.

Shri Ananta Narayan Jena, M. L. A.

SECRETARIAT

Shri Dasharathi Satapathy, I. A. S., Secretary.

Smt. Sushila Mallick, Deputy Secretary.

Smt. Baijayanti Pattanayak, Under Secretary.

Shri Partha Sarathi Das, Section Officer.

Smt. Geetarani Panda, Assistant Section Officer.

COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE, 2018-19

CHAIRMAN

Shri Narasingha Mishra
Leader of Opposition.

MEMBERS

Shri Debiprasad Mishra, M. L. A.

Smt. Pramila Mallik, M. L. A.

* Shri Dilip Kumar Ray, M. L. A.

Shri Pravata Kumar Tripathy, M. L. A.

Shri Pravat Ranjan Biswal, M. L. A.

Shri Mahesh Sahoo, M. L. A.

Shri Saroj Kumar Samal, M. L. A.

** Shri Naba Kishore Das, M. L. A.

Shri Samir Ranjan Dash, M. L. A.

Shri Chiranjib Biswal, M. L. A.

Shri Debasish Samantaray, M. L. A.

SECRETARIAT

Shri Amiya Kumar Sarangi, Secretary.

Shri S. K. Swain, Joint Secretary.

Shri M. Dungdung, Under Secretary.

Shri Prafulla Kumar Parida, Desk Officer.

Smt. Baijayanti Pattanayak, Desk Officer.

N. B.:-

* The Membership of Shri Dilip Kumar Ray, M. L. A. was ceased w.e.f. 30.11.2018 vide notification No. 10486/L. A., dated 5th December 2018.

** The Membership of Shri Naba Kishore Das, M. L. A. was ceased w.e.f. 28.01.2019 vide notification No. 742/L. A., dated 30th January 2019.

**COMPOSITION OF THE SUB-COMMITTEE-V OF THE PUBLIC
ACCOUNTS COMMITTEE, 2018-19**

CHAIRMAN

Shri Saroj Kumar Samal, M. L. A.

MEMBERS

Shri Pravat Kumar Tripathy, M. L. A.

Shri Mahesh Sahoo, M. L. A.,

SECRETARIAT

Shri Amiya Kumar Sarangi, Secretary.

Shri Shishir Kanta Swain, Joint Secretary.

Shri M. Dungdung, Under Secretary.

Shri Prafulla Kumar Parida, Desk Officer.

Smt. Baijayanti Pattanayak, Desk Officer.

Smt. Geetarani Panda, Assistant Section Officer.

(v)

INTRODUCTION

I, the Chairman of the Public Accounts Committee having been authorised by the Committee on their behalf present this 1st Report of the C & A. G of India (Revenue Receipt) for the year 2007-08 relating to Finance Department.

The Sub-Committee-V of Public Accounts Committee had examined the above subject in their meetings held on 25.05.2018, 24.09.2018, 17.12.2018, 03.01.2019 and 14.02.2019. The findings and conclusions based on the result of the examination of the Committee, are presented herewith.

The Public Accounts Committee, 2019-20, finalized the Report in their sitting held on 20.03.2020 and reapproved by the Public Accounts Committee 2020-21 on 01.10.2020.

The Committee place on record their appreciation of the assistance rendered by the officers of the Finance Department and Office of the Principal Accountant General (E & RSA), Odisha during the course of examination.

The Committee further express their thanks to the Officers and Staff of the Odisha Legislative Assembly Secretariat for their Secretarial assistance.

Sd/-

Bhubaneswar
Date: 01.10.2020

(PRADIPTA KUMAR NAIK)
CHAIRMAN
PUBLIC ACCOUNTS COMMITTEE

REPORT

Report of the C & A. G of India (Revenue Receipts) Chapter-II of Finance Department-2007-08

The Central Sales Tax (CST) Act, 1956 and Rule made thereunder read with Government notifications and executive orders issued from time to time provide that the calculation of tax on the dealer should be based on :

- i. completion of audit assessment based on Audit Visit Report (AVR) and levy of tax at the assessment stage at the prescribed rates, subject to certain conditions on the Net Taxable Turnover (NTO) of goods correctly determined at such stage and adjustment of admissible Input Tax Credit (ITC); and
- ii. imposition of penalty at the prescribed rate, for contravention of provisions of the Act and Rules, on the tax liability determined by the AA in audit assessment including penalty for mis-utilization of declaration in prescribed forms.

Audit noticed that while finalizing the assessments, the AA did not observe some of the above provisions read with Government notifications/orders as mentioned in the following paragraphs.

System deficiencies

1. Para-2.2.6. Acceptance of declaration forms on interstate sales.

As per the provisions of the CST Act and the Rules made thereunder interstate sale of goods covered by valid declaration in form 'C' is eligible for tax at a concessional rate of four percent. A dealer who claims concessional rate of tax is required to obtain the declaration in form 'C' marked as 'original' from the purchasing dealer and produce it before the assessing officer (AO) at the time of finalization of the assessments. Further, penalty not exceeding one and a half times the tax assessed is also liable for concealment/furnishing incorrect particulars of turnover.

To check the misuse of the form 'C' and various other malpractices associated therewith, the CCT issued instructions in October, 1972 and December, 1977 to all the AOs to select a certain percentage of the declaration forms for reference to the AOs of the concerned state for cross verification. Further, every circle and assessment unit is required to maintain two registers in the prescribed proforma, one for declaration form 'C' received from other states and the other for declaration form 'C' sent to other states, for verification.

Test check of records of the circles covered in the review revealed non-maintenance of register for cross verification of declaration forms, acceptance of defective, duplicate, photocopied and manipulated forms while allowing concessional rate of tax by the AOs at the time of finalizing the assessments led to underassessment, non/short levy of tax mentioned in the succeeding paragraphs.

2. Para-2.2.6.1 Acceptance of declaration forms on interstate sales.

The Department complied the audit objection with the explanation that though it had taken initiative to cross verify the declaration forms on several occasions, it was felt that practically it is not feasible within the available resources and limited time period. It would be possible to do so only after a systematic improvement. At time of test check, the cross verification of forms were done through TINXSYS (Tax Information Exchange System). This was a Central Government scheme under which all states shared information on central network regarding issue and utilization of waybills, 'C' and 'F'. Forms at the time of assessment verification of issue and utilization of statutory forms were made through TINXSYS or from the respective state websites. During VAT regime and also in non-VAT goods using GST regime, issuance and utilization of way bills, statutory forms are being done online.

The Committee felt that the Department had taken appropriate steps and settled the para.

3. Para-2.2.6.2 Acceptance of declaration forms on interstate sales.

Audit para pointed out that in Bolangir-II Circle, only three declaration forms were sent to the issuing authority of the forms at Delhi in October, 2006. Although no reply was received till March, 2008 the AO did not bring the fact to the notice of ACCT (Intelligence) for further action.

The Department had submitted three declaration forms which were sent to the issuing authority at Delhi in October, 2006. No reply had been received as if the matter was not referred to ACCT (Intelligence). The fact remand that in spite of attempt by the department there was no response from other states. It was ascertained that such a gap existed in all other states.

The Committee examined the compliance notes and dropped the para with the direction to obtain relevant data from other States of India.

4. Para-2.2.6.3 Acceptance of declaration forms on interstate sales.

The Departmental compliance stated that 46 declaration forms were sent to the ACCT (Intelligence) for cross verification. As submitted by Jajpur Circle, since the case related to 2002-03 and the details of correspondence were not available, the exact position could not be ascertained. Now-a-days cross verification of declaration forms wherever required is made through TINXSYS and VATIS.

The Committee considered the compliance and settled the para.

5. Para-2.2.6.4 Acceptance of declaration forms on interstate sales.

As submitted by Cuttack-I-Central Circle, case of M/s Sailashree Enterprises, basing on AG objection, proceeding U/r 10 of the CST (O), Rules had been disposed off. The dealer submitted the original 'C' forms involving ₹16.77 lakh which were verified and found correct by the AO. Accordingly, the proceeding was dropped.

The Committee settled the para after going through the departmental compliance.

6. Para-2.2.6.4(i) Acceptance of declaration forms on interstate sales.

Shreejee Combine Coke (P) Ltd., Cuttack-II-766, 2002-03

As submitted by Cuttack-II-Circle, in case of Shreejee Combine Coke (P) Ltd., an amount of ₹1,67,061/- had been demanded vide DCR-Sl. No.1-09-10. As per DCR, the dealer had been show caused for recovery of tax.

Reassessment proceeding had been initiated and the case was under examination. The Committee asked the department to apprise the recovery position of the firm for further consideration.

i) Dhenkanal- M/s Uma Shankar Agarwalla-DLC-106, 2002-03.

The Departmental compliance stated that, as submitted by Dhenkanal Circle, the case related to Angul Circle. Angul Circle submitted that case assessment for the period 2003-04 had been completed on 18.03.2005 raising a demand of ₹78.463/-. Against the order, the dealer preferred revision before the CCT (O), Cuttack on 06.06.2005, wherein Addl. CST (CZ), Cuttack granted stay with the order to the dealer to deposit ₹9.977/- by 27.06.2005. In the meantime, the ACST Cuttack-II returned the assessment record alongwith the audit objection to Angul Circle on 13.08.2008 and Angul Circle intimated the audit objection to the Addl. CCT to consider it at the time of disposal of appeal case.

The Department was directed to apprise the present position of the appeal case to Hon'ble Public Accounts Committee.

ii) Ganjam-I- M/s Monigi Store, GAC-507, 2003-04.

Proceedings initiated u/r 10 of the CST (O) Rule had been disposed off on 25.10.2008 by raising an extra demand of ₹31.332/-. As submitted by the Ganjam Circle-I, proceedings initiated u/s 10 of the CST (O) Rule in case of M/s Monigi Store had been disposed of on 25.10.2008 by raising an extra demand of ₹31.332/-.

The Committee accepted the departmental compliance and settled the para.

iii) Keonjhar M/s ABS Merchants Pvt. Ltd., RC No-KJC-633, 2002-03.

As per audit observation cross-verification of C forms bearing no-95C No.168470 by the ACST, Enforcement Range & Balasore Range revealed discrepancies of forms which resulted tax and penalty demand of ₹6,13.932/- which had been paid by the dealer.

The compliance notes stated that as submitted by the Keonjhar Circle, the cross verification of C form by the ACST enforcement Range, Balasore revealed discrepancies in case of M/s ABS Merchants Pvt. Ltd., which resulted in demand of tax and penalty of ₹6,13.932/- vide DCR No. 01/2008-09. The dealer had paid the entire amount vide PCR Sl. No.29/dtd.30.08.2008 and PCR Sl. No.15/dtd. 20.03.2009. Since the amount had already been paid the Department requested to drop the para.

The Committee observed that since the tax amount had been realized the para be dropped.

iv) **Mayurbhanj M/s Nicco Corporation Ltd., MBC-745, 2004-05 under CST Act.**

Proceedings u/r 10 of the CST (O) Rules 1957 had been initiated on the dt. 14.08.2008 and disposed of on dt. 30.06.2011 raising no extra demand as the 'C' declaration forms were in order.

The Committee accepted the compliance.

v) **M/s Bright Glass Works (P) Ltd. K. C. Pur, Baripada, MBC-14 for the year 2003-04.**

As pointed out by the audit proceeding u/r 10 of the CST(O) Rules had been initiated and the proceeding had been disposed off on 12.03.2010 raising an extra demand of ₹7,89.590/-

vi) **M/s Nabadurga Minerals, Rairangpur, Mayurbhanj, MBC-873 for the year 2005-06 under CST Act.**

Proceeding u/r 10 of the CST (O) Rules was initiated after getting the AG objection. On 31.03.2008, the STO verified the original 'C' forms submitted by the dealer and found those to be correct. The proceeding initiated u/r 10 of the CST Rules for the material period was dropped.

The Committee dropped the para.

vii) **Rourkela-I-M/s Anurag Ferro Products Pvt. Ltd., RI-I-C-2008.**

Audit objection stated that the dealer submitted duplicate declaration form during assessment.

In reply the department submitted that as per the submission of the Rourkela-I Circle, the audit had objected that 34 nos. of 'C' form, (26 nos. for 2003-04 and 8 nos. for 2004-05) submitted by the dealer at the time of assessment were not in order and annexure separately provided had not been by the same person (purchasing dealer) signing the original declaration forms on the front face of the form as required under the provision of the rule 8 (4) read with rule-12 of the CST (O) Rules. The dealer was also lagging behind by not filling the forms properly and the date of registration certificate no. were also not recorded. In this connection notice u/r 10 of

the CST (O) Rules was issued to the dealer vide no. 1174, dtd. 28.02.2008 fixing the date to 27.03.2008. The case was examined and the dealer furnished a written submission that the 'C' form submitted earlier were in order and though signed by different persons in the front and in the annexure, belonged to the same dealer. He also submitted that 'C' forms were original and the amounts tallied with the transactions. He further submitted that Registration Certificates of the purchasing dealers were valid at the time of effecting interstate purchase and the payments were received through banks. It is also submitted that genuineness of 'C' forms might be verified at the official level by making correspondence with outside State Sales Tax Authorities. Considering the written submission of the dealer and taking into account the particulars available in the 'C' form the re-assessment proceeding u/r 10 was dropped.

The Committee settled the para.

viii) **M/s Shree Salasar Cashings Pvt. Ltd.**

Audit para stated that the dealer had furnished a duplicate copy of 'C' form for ₹19,12,477/- on sales made to M/s Laxmi Steel Overseas (P) Ltd., Bangalore. The case was reopened u/r 10 of the CST (O) Rules and was dropped as the dealer furnished a fresh 'C' form of the total amount. The department in view of the steps taken by the dealer urged the Public Accounts Committee to drop the para.

The Committee observed that since the amount had been realized the para be dropped.

ix) **M/s Shree Jagannath Alloys Pvt. Ltd.-RI-I-C 2253, 2004-05.**

Audit pointed out that the dealer was unassessed for tax.

The department submitted that basing on the audit objection the case was reopened u/s 12 (8) of the OST Act and assessment was completed raising an extra demand of ₹ 7,19,984/-. Show case notice u/s 13 (5) of the OST Act had been issued for realization of dues. An amount of ₹ 7,19,894/- had been realized from the dealer in 3 (three) phases.

The Committee observed that since the tax amount had been realized the para be dropped.

x) **Balasore-M/s JK Darsmall Jute Products Ltd.**

The department stated that on the basis of audit objection the reassessment proceedings was done on the dealer and an extra demand of ₹82,938/- was raised. The dealer preferred 1st appeal where it submitted the C forms after due rectification and with supporting documents. After verification of the same the appellate authority reduced the demand to original assessment figure.

The Committee observed that since the C forms submitted by the dealer during reassessment were certified and were in order the objection be dropped.

xi) M/s Oriplast Ltd.

The department stated that the as per audit objection reassessment in case of the dealer was done as per audit objection and the amount was raised to ₹3,47,760/-. The dealer went for 1st appeal and submitted the C forms after due rectification and with supporting documents. After due verification of C forms submitted by the dealer the appellate authority reduced the demand to Nil. The department submitted that C forms produced by the dealer were in order.

Since the C forms submitted by the dealer were in order, the para was settled.

xii) M/s Emami Paper Mills Ltd.

The audit objection revealed that the dealer was under assessed.

The department complied that reassessment was done and the demand was increased to ₹ 3,22,132/-.

The Committee examined the submissions made by the department and dropped the para.

xiii) Bolangir-II (Now Kantabanjhi).

As per audit objection a dealer registered Bolangir-II circle effected interstate sale of rice worth of ₹19.83 crore during June to December 2004 and claimed exemption by furnishing declaration in five 'C' forms after having paid purchase tax on the corresponding paddy. The dealer went for 1st appeal and submitted the C forms after due ratification and with supporting documents.

The Committee observed that since the C forms submitted by the dealer were certified and were in order the objection be dropped.

xiv) Bhubaneswar-M/s Konark Cylinder and Container (P) Ltd., BHC-I-1273-2002-03.

Though emphasis had been given to collect correct supporting declaration forms at the time of assessment, sometimes in some cases, defective/duplicate photocopied declaration forms have been received by assessing officers due to overload of work.

The department submitted that the Bhubaneswar Circle records were not readily traceable. The dealer was issued a demand notice of ₹5.31 crore. But the dealer was residing at Raipur after closing down his business in Odisha. The department was asked as to how it was going to collect the amount.

The AG commented that legal course of action should be taken for recovering the amount.

The Committee went through all the submissions made for all the circles and dealers respectively. The Committee was of the opinion that the department is not sincere regarding the submission of C forms in time by the dealers. Since most of

the amount had been recovered the department requested the Committee make take steps to settle the para.

On the assurance of the department that it was initiating steps for recovering the amounts the Committee dropped the para with the instruction to submit the recovery position to the Committee.

7. Para-2.2.7 Deficiency in the proforma prescribed for utilization statement of declaration forms.

According to the CST (Odisha) Rules, every registered dealer to whom any declaration form 'C' and 'F' is issued shall maintain a true and complete account of utilization of every such form. The proforma prescribed in CST (Orissa) Rules for utilization accounts of the declaration forms does not provide columns for capturing basic information such as Registration Certificate (RC), number of the dealers to whom these forms are issued on purchase of goods or on receipt of goods by stock transfer. In absence of the above information the scope for cross verification of the genuineness of the transactions covered in declarations by referring the details to the assessing authorities of other states appears to be limited.

After the case was pointed out, the Government in August 2008 stated that action was being taken to amend the proforma.

The department submitted that since it was a procedural problem and has been rectified the para may be dropped.

The Committee went through the observations and dropped the para.

8. Para-2.2.8 Internal audit.

Internal audit is one of the most vital tools of the internal control mechanism and functions as the 'ears' and 'eyes' of the management and evaluates the efficiency and effectiveness of the mechanism. It also independently appraises whether the activities of the organization/department are being conducted efficiently and effectively.

An Internal Audit Wing (IAW) was introduced in the Sales Tax Department in 1975-76 with seven audit parties headed by the CTOs (Inspection). In course of this review, it was seen that the IAW did not carry out a single inspection during 2003-04 to 2006-07 and was rendered defunct. Due to the failure of the Government to strengthen the IAW, adherence to the provisions of the statutes and instructions for reduction of the risk of committing errors and irregularities to guard against leakage of revenue, was not ensured. The Government, while agreeing to the audit observations, stated (August 2008) that over a period of time though the number of dealers increased manifold, yet proportionately the number of field officials remained more or less the same.

The audit comment stated that the Government might take immediate steps to strengthen the IAW at the earliest to ensure strict compliance with the provisions of the Act and the rules by various wings of the department and to prevent leakage of revenue.

The Committee dropped the para with the observation that since internal audit is obsolete and does not hold on any repercussion in today's GST regime, there is no justification to linger the matter anymore.

9. Para-2.2.9 Interstate sales.

As per provision of the CST Act, tax on interstate sales is leviable at the concessional rate of four per cent subject to production of declaration in form (C). In case a dealer fails to obtain and produce such a declaration, tax is leviable in respect of declared goods at twice the rate applicable to the sale or purchase of such goods inside the state and in case of other goods, at the rate of 10 percent or at the rate applicable to the sale or purchase of such goods within the state, whichever is higher.

10. Para-2.2.9.1 Test check of records revealed discrepancies in 23 cases of seven circles of the AOs while finalizing the assessments between May, 2003 and August 2007 for the years between 2002-03 and 2004-05. The Committee examined all the cases one by one.

i) M/s Hi-Tech Powercon (P) Ltd.

The amount was set-aside for re-assessment. The dealer furnished the 'C' declaration forms covering total turnover 5.28 crore, there was no extra demand.

Since, the case was re-opened by the assessing officer and the dealer could produce the 'C' forms. The para was dropped.

ii) M/s Shree Trading Co-Dhenkanal.

Assessment proceeding u/r 10 of the CST (O) Rule had been disposed of on a demand of ₹ 34,59,389/-. In the meantime the dealer had closed his business and attachment notice had been issued to the 3rd party.

The Committee directed the Department to take steps for recovery and dropped the para.

iii) M/s Subudhi Brother, Ganjam-I.

Proceedings were initiated against the dealer and the original demand was reduced in the 1st appeal. The dealer went to Tribunal and the reduced amount was confirmed. The dealer had paid-up the amount.

The Committee dropped the para.

iv) M/s Ganesh Rice Mill.

The Department replied that the case had been set aside by the Tribunal.

The para was dropped by the Committee.

v) **M/s Gayatree Traders.**

The Department replied that the dealer had already paid the amount.

The para was dropped by the Committee.

vi) **M/s Harekrishna Traders.**

The Department replied that the dealer went for 1st appeal on the amount and the amount was reduced. The dealer paid-up the reduced amount.

The Committee dropped the para.

vii) **M/s Janata Rice Mill.**

The Department replied that the dealer went for 1st appeal and the amount was reduced to nil in the first appeal.

The Committee dropped the para.

viii) **M/s MSP Sponge Iron (P) Ltd. -Keonjhar**

The Department replied that the demand was reduced in the 1st appeal and the dealer was issued a notice to realize the amount.

The para was dropped.

ix) **M/s Bright Glass Works (P) Ltd.-Mayurbhanj**

The Department replied that dealer was charged an extra demand and was issued a notice for collection.

The para was dropped.

x) **M/s Rourkela Steel Corporation**

The Department replied that there was a demand of ₹ 1.39 crore on the dealer. The dealer, went to High Court. As per the direction of the High Court the dealer paid ₹ 72 lakh and the balance had been stayed by the High Court.

The case was *sub-judice*.

The Committee opined that since the matter was sub-judice the para can't be dropped. The Department should expedite the court case and apprise the Committee after disposal of the case.

xi) **M/s Odisha Food Supply Syndicate**

The Department replied that the dealer had been issued a bank attachment order for the demand raised against him for submitting the demand.

The Committee dropped the para.

xii) **M/s Ashok Ispat Udyog**

The Department replied that from 1994 to October, 2003 there was no requirement of 'C' form for interstate sale of iron and steel good. In 2002 the CST Act was amended by Government of India and the Government of India asked the states to make respective rules. Our state made the rule by inserting coverage of C forms w.e.f. 13.10.2003. Hence the interstate sale of tax paid

Iron and Steel from 13.05.2002 to 13.10.2003 took place without coverage of 'C' form.

The Committee dropped the para.

M/s Barbil Khanija Udyog
M/s S. L. Agarwalla & Co.
M/s Utkal Trading Co.
M/s Manjit Trader
M/s Gulf Oil Corporation
M/s R. M. Steel Metal
M/s Rashi Steels

The Department replied all the above cases had gone to the Tribunal for the tax recovery amount. The Tribunal had set aside the demand.

In view of the submission of the Tribunal the Committee dropped the para.

11. Para-2.2.9.2 Interstate sales.

i) M/s Ramaprasad Rice and Chuda Mills, Bolangir-II.

The AG's objection was that the dealer was liable to pay on its purchases. The assessing officer said that he was not liable to pay on its purchases because he was paying on his sales. The AG's objection was considered and found not correct.

The Committee dropped the para.

ii) M/s Neelachal Ispat Nigam Ltd.

The demand of ₹ 1.84 crore was made against which ₹ 33 lakh 50 thousand was paid. Then the dealer went for 1st appeal. In the 1st appeal the demand was redetermined at ₹ 3.02 crore. The dealer had gone to Tribunal.

The Tribunal had to finalise the case.

The Committee went through the compliance and decided that since the case was with Tribunal it would be decided by the Tribunal. Whatever might be the decision the department would have to enforce it after communicating the decision to the Public Accounts Committee.

The Committee accepted the compliance and dropped the para.

12. Para-2.2.10.1 Interstate sales.

M/s Spaa Straw Board Industries Pvt. Ltd.

The AG's point was examined by the department. The dealer had all the supporting documents *vis-à-vis* 'F' form. The original F form was submitted by the dealer alongwith the supporting documents.

The Department also submitted that the dealer submitted the F form alongside supporting documents, after the audit objection was communicated to him.

The Committee settled the para with the observation that the Department had to establish that the case was under the CST Act.

13. Para-2.2.10.2 to 2.2.10.5 Branch Transfer.

The above paras involved cases of Branch Transfer relating to -
M/s Satyam Castings Pvt. Ltd.
M/s Shri Jagannath Roller Flour Mill
M/s Jwala Flour Mills

The Cases were considered because of underassessment of tax due to acceptance of F forms.

The Committee considered the cases and dropped the para.

14. Para-2.3.1 Irregular/excess grant of exemption under the sales incentive scheme.

M/s Neelachal Ispat Nigam Ltd.

The AG's objection a demand was raised for ₹ 73.92 lakh but M/s Neelachal Ispat Nigam Ltd. went to 1st appeal and also the High Court. As per High Court order he paid 50% that is ₹ 36.50 lakh. The 1st appeal was disposed off. The dealer has again gone for 2nd appeal.

The Committee was of the opinion that since the case is before the Hon'ble Tribunal the final result may be intimated to the Public Accounts Committee.

With these observation the Committee dropped the para.

15. Para-2.3.2 Irregular/excess grant of exemption under the sales tax incentive scheme.

M/s Anurag Ferro Products Pvt. Ltd.

The AG's objection was that CR coils and strips was not a manufacturing projects. Therefore the dealer was not entitled for the benefit. The assessing officer on the basis of Supreme Court order ultimately held that it was nothing but a manufacturing project and the dealer was entitled for the benefit. The Industries Department had also given the certificate to the dealer entitling it for the benefit of tax exemption.

In the case of 'Jindal Steel and Power' the AG was asked to give his opinion to which AG replied that as per the judgment of West Bengal Sales Tax Tribunal CR strips produced through a manufacturing process. Raw materials (HR strips) and the end products (CR strips) were different commercial commodities involving process which amounted to manufacture. Hence, the exemption was allowed under sales tax incentive schemes.

The Committee went through the submission of the Department and dropped the para.

16. Para-2.3.3 Irregular/excess grant of exemption under the sales tax incentive scheme.

The objection in accordance to C & A. G Report was done and demand of ₹ 5.42 lakh for 2002-03 was made. This was reduced to ₹ 2.16 lakh by the 1st appellate authority. The dealer had deposited the entire amount as reduced by the 1st appellate authority. In the year, 2003-04 also the original demand was ₹ 7.46 lakh which was reduced to ₹ 2.98 lakh by the 1st appellate authority. The dealer had also paid the amount.

The Committee recommended that since the dealer had paid-up the amount the para should be dropped.

17. Para-2.4.1 Underassessment of tax due to suppression of purchase.

The Department replied that it was time-barred. The para was dropped.

18. Para-2.4.2 Underassessment of tax due to suppression of purchase.

The Department compiled that the para was *sub-judice* as the case was pending in the Tribunal. The dealer was asked to pay off the amount as raised by audit objection. The dealer had got a legal right to challenge it. The Department requested that since demand had been raised the para may be dropped.

The Committee pointed out that the *sub-judice* cases could not be settled as the dealer could approach the Tribunal and if he was defeated in the Tribunal then he could go to the High Court and then to Supreme Court.

The Sub-Committee referred the sub-judice cases to the Main-Committee with the submission that the Department had complied appropriately with the audit objection.

The Main-Committee considered the matter and asked the Department to apprise the Committee after disposal of Court Case.

19. Para-2.5 Non-levy of penalty.

The Department replied that the audit objection raised by AG had been communicated to the dealer. The dealer had approached the High Court and the petition was allowed by the High Court.

The Committee dropped the para as the High Court had allowed the decision.

20. Para-2.5 Non-levy of penalty.

The Department replied that as per audit objection the additional demand was raised against the dealer. The dealer went to 1st appeal where the demand was confirmed. Then he approached the Tribunal and the case was *sub-judice*. In the

mean-time the dealer had paid-up half of the demand, but the case was pending in the Tribunal.

The Sub-Committee was satisfied with the reply furnished by the Department and referred the matter to the Main Committee. The main Committee directed the Department to expedite the case and apprise the Committee after finalization of the case.

21. Para-2.6 Evasion of Tax.

The Department stated that the objection raised by AG has been met with. The AG replied that they were satisfied with the Report furnished by the Department relating to the case pointed out.

The Committee went through the compliance and dropped the para.

22. Para-2.7 Non-levy of Tax for contravention of declaration.

The Department replied that in this case also the audit objection was compiled with and an extra demand of ₹ 2.08 lac was raised. The dealer took the matter to the Tribunal and in the meantime the dealer paid-up 50% of the raised demand. The matter was still pending for decision.

The Sub-Committee opined that since the objection had been complied with and the matter was pending for finalization Main Committee would consider the objection.

Main Committee examined the matter and settled the para with the observation that the Department should submit report to the Public accounts Committee after disposal of Tribunal case.

23. Para-2.8 Underassessment of tax due to non-inclusion of entry tax in the taxable turnover.

The matter was sub-judice, Committee asked the Department to expedite finalization of the case and apprise the Committee.

24. Para-2.9.1 Short levy due to application of lower rate of tax.

The C & A. G Report stated that a work contract dealer had purchased cement and chemicals valued at ₹ 6.82 crore on the strength of declaration in form 'C' during 2003-04 and 2004-05 and utilized those in work contract. The AG objection resulted in increasing an additional demand of ₹ 30.01 lakh.

The Department replied that they had initiated tax recovery proceedings against the dealer, but nothing had been recovered since the dealer was not physically traceable. The Department however ensured that they maintain a DCR (Demand Collection Register) where the unrealized amounts were recorded so that the Department could monitor the demand.

The Committee opined that since this was a continuous legal process the para be dropped.

25. Para-2.9.2 Short levy due to application of lower rate of tax.

The para involved two cases; one relating to Hindustan Lever which had already been realized. Another case pertaining to Park Enterprises also remained unrealized since nothing could be recovered from the dealer. The AG was of the opinion that the Department should take adequate measures for the recovery. Accordingly 3rd party attachment of demand had been done.

The Committee dropped the para after going through the submission.

26. Para-2.10 Evasion of purchase tax.

The C & A. G Report stated that the dealer was reassessed for an additional demand of ₹ 12.23 lakh and the demand order had been served on the proprietor at his Kolkata address.

The Department replied that the tax recovery proceedings had been initiated on 25.06.2018 for realization of the demand dues. The Department also stated that the original 12 lakh was enhanced to 33 lakh in the 1st appeal. The 1st appeal is also an extended form of assessment.

The Committee dropped the para.

27. Para-2.11 Underassessment due to incorrect application of concessional rate of tax.

As per the audit objection extra demand of ₹ 9.76 lakh and ₹ 10.80 lakh roughly aggregating to ₹ 20 lakh pertaining to two years i.e. for 2003-04 and 2004-05 was raised against M/s Akhandalamani Saw Mill.

The Department submitted that the dealer went to the Tribunal, but the Tribunal disposed off the case in favour of Revenue. Next the dealer approached the High Court but no stay was granted by the High Court. Therefore the Department have started the tax recovery proceedings.

In view of the submission of Department the Committee dropped the para.

28. Para-2.12.1 Underassessment of entry tax.

a) The C & A. G Report stated that as per the audit objection extra demand of ₹ 5.68 lakh for another year had been raised against M/s SAIL (RSP) for the year 2002-03 and 2003-04.

The Department had started the tax recovery proceedings. Since it was a state PSU their account could not be attached still then the tax recovery proceedings had been initiated against the dealer. It was further stated that the objection was not sustainable as per rule 3 (4) of the OET Act, 1999.

The Committee dropped the para.

b) It was compiled that recovery proceedings had also been initiated against M/s Ferrochrome & Alloys Ltd. (2002-03).

The Committee settled the objection.

29. Para-2.12.2 Underassessment of entry tax.

The C & A. G Report stated that the demand had been raised to 1.94 crore against Hindalco Industries Ltd.

The Department stated that as per the submission of Sambalpur Range, the said para had already been settled. It also submitted that due to the Western Odisha High Court Bench demand, the Sambalpur offices were not opening. The Department also submitted that since the dealer had a captive power plant and used coal as raw material. Whether coal could be treated as a raw material or not was still *sub-judice* at the Supreme Court. Since, the matter was *sub-judice*, High Court had opined that the assessment could be done only after the case had been disposed off at Supreme Court. The Department was waiting for the High Court order.

The Committee opined that the Department should apprise the latest position.

The Department stated that regarding Hindalco the matter had been disposed of by the Supreme Court and demand had been raised on the company. The case was Entry Tax case, in which 300 dealers had gone to the High Court. Since the State Government had won the case the demand had been made and some amount had been realized from Hindalco. It was also submitted that since Supreme Court had disposed of the Entry Tax case, all interim orders had been vacated. As the matter related to a number of parties the entire amount required time for realization.

The Committee observed that the department should submit a report after realization of the entire amount.

30. Para-2.13 Loss/Non-Realisation of entry tax.

This para is not a commercial tax subject.

31. Para-2.14.1 Short levy of entry tax due to application of low-rate.

The Department replied that the para involved many cases.

First was from Cuttack-II one dealer named M/s Hindustan Construction Co. Ltd.

The para involved a lot of old records which was hard to get by the Department.

Secondly cases involving Rourkela-I and II and Sambalpur-I and Jajpur were dropped after discussion and submission by the Department and AG.

M/s Bhusan Power & Steel Ltd.- (Lower rate)

(Goods specified in part-III can be taxed maximum to the extent of 12% as under OST Act)

The Department replied that the dealer went to Supreme Court, but the Supreme Court had disposed of this case. All Entry Tax cases had been disposed of together by the Supreme Court.

Bhusan Power & Steel Ltd. had gone under Insolvency and Bankruptcy and there was a moratorium that till the IBC proceeding was taken to a logical end no demand could be coercively collected from the defaulter.

The Sub-Committee went through the compliance notes and opined that since the case was pending before Hon'ble High Court it should be referred to the main Committee for discussion. Main Committee considered the para and observed that the para would be settled after finalization of Court case.

32. Para-2.15 Non-levy of penalty.

The C & A. G Report stated that under the OET Act and Rules made thereunder every registered dealer shall submit to the concerned AA a statement containing the particulars of scheduled goods brought into the local area during the month or quarter as the case may be within the prescribed time limit accompanied by a receipt towards the full payment of the admitted tax.

The Department submitted that the AG had gone through each individual case separately and verified the records. The cases were thoroughly examined with reference to compliance as well as submission of the Department.

The Committee went through the compliance of the Department and AG and settled the para.

33. Para-2.16 Non-levy of entry tax due to escapement of taxable turnover.

The Department submitted that four dealers; i.e.;

1. M/s Agarwal Spices & Food Processortc Pvt. Ltd.
2. M/s Shivani Vanaspati Ltd.
3. M/s Mahavir Vanaspati (P) Ltd.
4. M/s Divine Construction related to Cuttack-II which were examined by AG and detailed submission was provided by the dealers.

The Committee went through the Departmental submission relating to various dealers of Rourkela I and II and opined that AG had examined and was satisfied with the action taken by the Department on the dealers.

The Department stated that AG had gone through each case of individual circle and asked for detailed documentation of the action taken by the Department on the dealers.

The Committee opined that since the Departmental compliance had been thoroughly verified by AG and the action taken on the dealers relating to payment of entry tax had been dully assessed the para be dropped.

34. Para-2.17 Short levy of entry tax due to incorrect determination of taxable turnover.

The Report of the C & A. G of India stated that the OET Act and the Rules made thereunder provide for levy and collection of tax on entry of scheduled goods

into a local area for consumption use or sale therein at the prescribed rates on the purchase value inclusive of incidental charges, excise duties, countervailing charges, sale tax, transport charges, etc.

Test check of records stated that the AA of Cuttack-I (Central), Anugul and Rourkela-I and Rourkela-II assessed the records of dealers relating to the above circles and finalized the taxable amounts.

Ambuja Cement- The dealer was assessed for in the first appeal. The dealer went to Tribunal which set aside the case and asked for re-assessment. After the case was set aside the dealer went for fist appeal which was *sub-judice*.

The Department submitted similar cases of

Lafarge India Ltd.

Orissa Pump Ltd.

Ashok Coal Agency

M/s Nalco

M/s Century Fiber Places (P) Ltd.

M/s Methodex Systems Ltd.

M/s Jaico India Ltd.

M/s Vishnu Traders.

M/s Swaraj Motors.

All the dealers were assessed on the basis of short levy of entry tax, whose assessment proceedings were assessed on the basis of short levy of entry tax due to incorrect determination of taxable turnover.

The AG stated that it had gone through the compliance of each dealer separately and examined the assessment proceedings made by the department on each dealer and the payments made by them.

The Committee asked AG that if it was satisfied with the compliance submitted by the Department for each dealer.

AG stated that since each dealer who was under assessed had been booked by the Department and the correct determination of the amount had been done.

Some dealers had gone for first appeal and Tribunals and cases were *sub-judice* and some dealers had made part payment of the taxable amount.

The Committee went through the entire compliance and dropped the para with the observation that sub-judice cases should be referred to the main Committee for action. Main Committee examined the matter and the para was settled.

**MINUTES OF THE TENTH MEETING OF PUBLIC ACCOUNTS COMMITTEE, 2019-20
HELD AT 04:00 P. M. ON 20.03.2020 IN ROOM NO. 54 OF THE ODISHA LEGISLATIVE
ASSEMBLY BUILDINGS, BHUBANESWAR.**

P R E S E N T

Shri Pradipta Kumar Naik.

CHAIRMAN

Leader of Opposition.

Shri Mohan Charan Majhi,

Hon'ble Chief Whip, Bharatiya Janta Party

Shri Debiprasad Mishra, M. L. A.

Shri Jaya Narayan Mishra, M. L. A.

Shri Rajendra Dholakia, M. L. A.

Shri Ananta Narayan Jena, M. L. A.

MEMBERS

S E C R E T A R I A T

Shri Dasharathi Satapathy, I. A. S., Secretary.

Smt. Sushila Mallick, Deputy Secretary.

Smt. Baijayanti Pattanayak, Under Secretary.

Shri Partha Sarathi Das, Section Officer.

The Committee met as scheduled and approved the following Reports:-

1. 1st Report of PAC, 2019-20 on the Report of the C & A. G of India (Revenue Receipt) for the year 2007-08 relating to Finance Department.
2. 2nd Report of PAC, 2019-20 on the Report of the C & A. G of India (Revenue Receipt) for the year 2015-16 relating to Finance Department.
3. 3rd Report of PAC, 2019-20 on the Report of the C & A. G of India (G & SSA - Report No. 4 of the year 2016) relating to Electronics & Information Technology Department for the year, 2014-15.
4. 4th Report of PAC, 2019-20 on the Report of the C & A. G of India (G & SSA) for the year 2016-17 relating to Higher Education Department.
5. 5th Report of PAC, 2019-20 on the Report of the C & A. G of India (G & SSA) for the year 2014-15 relating to Home and Women & Child Development Department.
6. 6th Report of PAC, 2019-20 on the Report of the C & A. G of India (G & SSA) for the year 2013-14 relating to Rural Development Department.
7. 7th Report of PAC, 2019-20 on the Report of the C & A. G of India (G & SSA) for the year 2013-14 relating to Rural Development Department.
8. 8th Report of PAC, 2019-20 on the Report of the C & A. G of India (G & SSA) for the year 2014-15 relating to School & Mass Education Department.

The Committee also authorized the Chairman to present the same to the Assembly.

The meeting of the Committee adjourned *sine-die*.

Sd/-

PRADIPTA KUMAR NAIK
CHAIRMAN
PUBLIC ACCOUNTS COMMITTEE

**MINUTES OF THE TENTH MEETING OF PUBLIC ACCOUNTS COMMITTEE, 2020-21
HELD ON 01.10.2020 AT 03:00 P. M. IN ROOM NO. 54 OF THE ODISHA LEGISLATIVE
ASSEMBLY BUILDINGS, BHUBANESWAR.**

P R E S E N T

Shri Pradipta Kumar Naik.

CHAIRMAN

Leader of Opposition.

Shri Mohan Charan Majhi,

Hon'ble Chief Whip, Bharatiya Janta Party

Shri Debiprasad Mishra

MEMBERS

Shri Jaya Narayan Mishra, M. L. A.

Shri Pranab Prakash Das, M. L. A.

Shri Braja Kishore Pradhan, M. L. A.

S E C R E T A R I A T

Shri Dasharathi Satapathy, I. A. S., Secretary.

Smt. Sushila Mallick, Deputy Secretary.

Smt. Baijayanti Pattanayak, Under Secretary.

Shri Partha Sarathi Das, Section Officer.

The Committee met as scheduled and approved the following Reports finalized previously by the Public Accounts Committee, 2019-20 on 20.03.2020 for presentation in the House during the 4th Session of the 16th Assembly.

1. 1st Report of PAC, 2020-21 on the Report of the C & A. G of India (Revenue Receipt) for the year 2007-08 relating to Finance Department.
2. 2nd Report of PAC, 2020-21 on the Report of the C & A. G of India (Revenue Receipt) for the year 2015-16 relating to Finance Department.
3. 3rd Report of PAC, 2020-21 on the Report of the C & A. G of India (G & SSA - Report No. 4 of the year 2016) relating to Electronics & Information Technology Department for the year, 2014-15.
4. 4th Report of PAC, 2020-21 on the Report of the C & A. G of India (G & SSA) for the year 2016-17 relating to Higher Education Department.
5. 5th Report of PAC, 2020-21 on the Report of the C & A. G of India (G & SSA) for the year 2014-15 relating to Home and Women & Child Development Department.
6. 6th Report of PAC, 2020-21 on the Report of the C & A. G of India (G & SSA) for the year 2013-14 relating to Rural Development Department.
7. 7th Report of PAC, 2020-21 on the Report of the C & A. G of India (G & SSA) for the year 2013-14 relating to Rural Development Department.
8. 8th Report of PAC, 2020-21 on the Report of the C & A. G of India (G & SSA) for the year 2014-15 relating to School & Mass Education Department.

The Committee also authorized the Chairman to present the same to the Assembly.

The meeting of the Committee adjourned *sine-die*.

Sd/-

PRADIPTA KUMAR NAIK

CHAIRMAN

PUBLIC ACCOUNTS COMMITTEE