

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



ODISHA LEGISLATIVE ASSEMBLY

PUBLIC ACCOUNTS COMMITTEE

2020-2021

SIXTEENTH ASSEMBLY



2ND REPORT

ON

C & A. G OF INDIA (REVENUE SECTOR)

FOR THE YEAR 2015-16

OF

FINANCE DEPARTMENT

SECRETARIAT

OF

THE ODISHA LEGISLATIVE ASSEMBLY,

BHUBANESWAR-751001

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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

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Leader of Opposition.

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Hon'ble Government Chief Whip.

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

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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. Dumdung, 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 2nd Report of the C & A. G of India (Revenue Sector) for the year 2015-16 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, 12.11.2018, 17.12.2018, 03.01.2019 and 14.02.2019. The findings and conclusion which are based on the result of the examination of the Committee, 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 (Economic Sector) Chapter-II of Finance Department - 2015-16

1. 2.4: Audit of “Pendency and Disposal of Review and Appeal cases in Commercial Tax Department and their impact on revenue collection”.

The C & A. G Report stated that the assessment and collection of taxes under Odisha Value Added Tax (OVAT Act, 2004), Odisha Entry Tax (OET act, 1999) and Central Tax act, 1956 in the State is entrusted with the Commercial Tax (CT) wing of the Finance Department.

As per the provisions of the above Acts, any dealer, aggrieved by an assessment order passed for any tax periods is allowed to prefer appeal within 30 days of the receipt of the assessment order. While preferring an appeal the dealer is required to deposit 20 per cent of the tax or interest or both demanded in the disputed order. The balance is to be adjusted after disposal of the appeal.

Pendency of appeals and revision cases, having a direct impact on the Government revenues was taken up for audit between April and July, 2016. In four out of the total twelve cases covering the period from 2012-13 to 2014-15 it was to ascertain whether the cases were disposed of in time and in the manner prescribed under the Acts, the Rules made thereunder and the executive instructions issued from time to time.

After test check of records relating to monitoring and disposal of appeal and revision cases, audit observed that the percentage of disposal during the above 3 yrs against the total pending appeal cases ranged between 28.28 and 36.96. It was observed by AG that appeal cases as old as 28 years (since year 1988-89) were pending for disposal.

2. 2.4.3 System deficiencies

Para-2.4.3.1 Absence of executive instructions for timely disposal of first appeal cases.

Audit para stated that no executive instruction was issued by the CCT prescribing time limit for disposal of appeal cases. The absence of departmental instruction contributed significantly to the pendency of appeal cases.

The Department submitted that previously there was no time limit for disposal of first appeal cases. But the VAT amendment Act effective from 01.10.2005 has stated that all appeal cases have to be cleared within 4 yrs. The CCT after passing of the Act has reviewed the first appeal cases for the years 2015-16, 2016-17 and 2017-18. The Departmental compliance stated that disposal of appeal cases become

slow at some point because of non-availability of Appeal Officers or Lawyer's strike in Western Odisha, for two months, causing no hearings. But after all hindrances the Commissioner has regularly monitored the appeal and cases have been disposed off.

The Committee expressed their displeasure stating that the AG's observation of cases pending for 10 years is a real matter of concern. It was observed that the Department should take enough steps for review and timely disposal of the cases as it involves crores of rupees which has direct implication on the state Revenue. However, the para was dropped with the opinion that since it is part of the Act and it has to be disposed off within 4 yrs, the Department should take effective steps for timely disposal of the pending cases.

3. 2.4.4 Compliance Deficiencies

Para-2.4.4.1 Irregular acceptance of 1st appeals after the stipulated period.

As per section 77(3) of the OVAT Act, first appeal shall be preferred within 30 days from the date on which the order is served on the dealer.

Test check of records relating to appeals in the Additional CCT (Appeal), Central Zone, Cuttack and JCCT, Balasore Range showed that appeals of three dealers were admitted after 500/600 days. The AG objected that these appeal cases should not have been accepted after such delay as it involved contravention of the provisions of the Act.

The Department replied that the appellate authority relating to three appeal cases relating to Additional CCT, Central Zone, Cuttack were filed by two petitioners in Nov, 2011 within 30 days after receipt of assessment order in October and November 2011-In respect of the remaining four cases relating to Balasore Range, Government stated that the appellate authority had admitted the cases following the principle of natural justice considering the vested right of the petitioner and thereafter, the appeal portions were cancelled.

The Departmental officials replied that there is provision in the Act, for condonation of delay, but it depends on the appellate authority if he is going to condone the delay or not. Delay can be condoned on reasonable ground. The delay in the four reported cases were ultimately rejected due to filing of the same after 500-600 days. The Department did not condone the delay.

The Committee opined that since the para did not cause revenue loss and AG was satisfied with the reply, it should be dropped.

4. Para-2.4.4.2 Irregular acceptance of 1st appeals without mandatory deposit of 20% of tax in dispute.

The C & A. G Report stated that as per section 77(4) of the OVAT Act read with Rule 87 of the OVAT Rules, no appeal against any order shall be entertained by the appellate authority unless it is accompanied by satisfactory proof of payment of

admitted tax in full and twenty percent of the tax or interest or both in dispute along with Form – 501.

The CCT, Finance Department stated that 10 cases observed by AG, which were filed first appeal without 20 per cent deposit by the dealer. The AG's objection cases pertained to tax period from 2005-2006 and with mandatory 20% deposit. This provision in the CST Act changed in July, 2006. So, on account of appeal cases relating to tax period of 2005-06 the first Appeal Officers, accepted the cases without the 20% deposit amount. In the meantime, the appeals have been disposed off. There was no loss of revenue and all cases were disposed off.

The Committee went through the submission of the Department and settled the para since all the cases had been disposed off.

5. Para-2.4.4.3 Admission and disposal of appeals without having valid jurisdiction.

Under Sub-Rule (1) and (2) of Rule-86 of OVAT Rules, 2005, read with CCT's circular dated 12th Nov, 2013, the JCCT or DCCT (Appeal) has jurisdiction over all first appeal cases arising out of orders passed by Assistant Sales Tax Officers or Sales Tax Officers/Assistant Commissioners only.

The CCT, Finance Department replied to the objection raised by AG, Odisha stating that the first appeal cases pending before the Sales Tax Officers, Assistant Commissioner, Deputy Commissioner and Joint Commissioner are often assigned to be first appeal officers according to the load of cases pending before them. The CCT, Finance Department informed that if the department notices that the workload of Additional Commissioner or Deputy Commissioner is often adjusted after taking approval from the Government.

The Committee asked the Department to produce official order regarding procedural issues relating to timely disposal of first appeal cases and other issues relating to admission and disposal of appeals without having valid jurisdiction. After thorough scrutiny of Departmental Compliance and submission of CCT, Finance Department and also the opinion of the AG that validated steps had already been taken, the Committee dropped the para.

6. Para-2.4.4.4 Blocking of Government Revenue due to irregular assessment of cases set aside.

The test check of Appeal Disposal Register in Angul Range regarding assessment made against NALCO audit para revealed that the company went for 1st appeal which was done by the Deputy Commissioner rank officer who was the first appeal officer. The assessment officer stated that the dealer was referred for fresh assessment. The dealer went to High Court challenging the re-assessment order. The

High Court reassigned the case to another Deputy Commissioner rank officer. The case had been reassessed and completed and a demand had been raised.

The Committee opined that since the Department had complied with the objection of AG the para should be dropped.

7. Para-2.4.4.5 Blocking of Government Revenue due to admission of appeal cases without having jurisdiction.

The C & A. G Report stated that during test check of records 22 cases involving an amount of ₹ 3.87 crore were traced out over which the JCCT or DCCT (Appeal) of the ranges were not having appellate jurisdiction. Hence during the time of final disposal the appellate authorities of Balasore Range transferred the cases to the appropriate appellate authority, while the Angul Circle rejected the appeals. This led to undue pendency of appeals and consequent blocking of Government Revenue.

The Department submitted in its compliance that out of 22 cases transferred to appropriate appellate authority 19 had been disposed off and the remaining 3 cases would be disposed off within three/four months.

The Committee went through the compliance and opined that since the cases have been disposed off and the remaining cases would be disposed off quickly the para should be dropped.

8. Para-2.4.4.6 Irregular allowance of adjournment in hearings.

The C & A. G Report stated that as per the provisions of Rule 89 (i) of OVAT Rules, 2005, the appellate authority shall fix a day for hearing of the appeal and may from time to time adjourn the hearing provided that not more than three adjournments shall be granted to a party for hearing of the appeal.

During test check of pending as well as disposed of appeal cases in the four test checked ranges it was found that in 21 cases involving an amount of ₹ 25.29 crore, four to nine adjournments had been allowed to the appellants in contravention of the provisions.

The Departmental compliance stated that the audit had raised objection in the cases where the dealers had been allowed opportunities of being heard more than three adjournments. It is relevant to mention that providing natural justice/reasonable opportunities of being heard forms a basic structure of the constitution. Accordingly, considering the genuineness of the case, the same cannot be denied under the plea that OVAT Rules do not provide to allow more than three adjournments to party for hearing of appeal. Generally, rule prescribes the procedures and cannot override provisions laid down under the said Act. The rules of procedure are intended to advance the cause of justice and not to defeat it. However, for speedy disposal of appeal cases, the appellate authorities have been instructed by the CCT (O) not to allow more than three adjournments for disposal of appeal cases.

The Committee accepted the observation of AG. The Department submitted that to serve the purpose of justice more than three opportunities can be given but it should not be indefinite.

The CCT, Finance Department stated that tax matters are quite complicated and they are not as easy as Revenue cases since tax matters include lots of document verifications and calculations. In view of the above procedures the Finance Department submitted that time limit condonation is required in some appeal cases.

The Committee went through the submission and settled the para.

9. Para-2.4.4.7 Non-assessment of set-aside cases.

The C & A. G Report stated that the CCT has instructed JCCTs of ranges to monitor remanded/set-aside cases regularly, review those cases and take appropriate action on them. To monitor timely assessment of set-aside cases the CCT in his circular prescribed that a 'Set-Aside Register' shall be maintained at circle level.

The verification of the Set-Aside Register and information furnished nine circles showed that out of total set-aside cases of 109 no re-assessment proceedings has been initiated by the circles till the end of July, 2016 although a period of one to six years has elapsed.

The Report also stated that due to non-initiation of re-assessment proceedings, potential revenue involved in these cases remained unrealized.

The Department replied that they had taken immediate steps to dispose off all the set-aside cases pointed out by AG audit, by the 30th of September, 2018. The Balasore and Angul circles had 2 and 1 case pending respectively under the OVAT which they had taken immediate steps to comply at the earliest.

The Committee expressed their displeasure stating that Demand Collection Register was not maintained in accordance to the instruction of the CCT. Since it is a procedural kind of thing the circles should maintain it in accordance and in conformity to the instruction issued by the Department. However, since steps had been taken to dispose off the cases the para should be dropped.

10. Para-2.4.4.8 Shortfall in achievement of targets in disposal of appeal cases.

The Report of the C & A. G of India stated that in order to ensure achievement of target by the appellate authorities the CCT (O) had been reviewing the disposal position periodically and issued instructions to the first appellate authority to exercise more urgency in clearing up the backlog as well as present cases. As per the instruction the JCCT and DCCT (Appeal) of the 12 ranges had a target of disposing 360 first appeal cases during a year. But test check of records of different circles revealed that there was a major shortfall of achievement of target and no action was initiated by CCT against the JCCT and DCCTs.

The Department submitted that in order to ensure achievement of target by the appellate authorities the CCT (O) was reviewing the position periodically and issuing suitable instructions for speedy disposal of pending appeal cases. The Law Department had also instructed that all pending cases should be disposed of within a period of three years from the date of commencement of OVAT (Amendment) Act, 2015. The CCT also submitted that timely disposal of pending cases were being made. Regular reviews were being made every month through video conferencing.

The Department also submitted that appeal cases statutorily have no target. The only statutory restriction is that appeal cases are to be disposed of within three years which had been amended to four years. But sometimes adjudication process is hindered because of many constraints since the process of enforcement of twenty cases target can't be achieved.

The CCT also submitted that if the appellate authorities become too much target oriented the cases will be disposed off without giving reasonable opportunity to the parties which will be in violation of natural justice.

The Committee went through the submission of the Department and observed that since the disposal of pending cases were reasonable and the setting up targets for the disposal of pending cases was only a procedural instruction, the para be settled.

11. Para-2.4.4.9 Non-adherence to executive instructions for utilization of VATIS for appeal/revision cases:-

With the intention of streamlining the disposal of appeal/revision cases, a system was put in place by CT wing of Department to link the audit assessments with appeal cases through VATIS. Besides all the appellate/revision authorities were directed to scrupulously ensure that the petitions were entered and the appeal orders uploaded in the VATIS. Further, all the legacy data were also required to be entered in VATIS.

The test check of three out of the four test checked ranges revealed that they did not furnish any information regarding entry of appeal details and uploading appeal orders in VATIS. Thus the instructions of the CCT for entering and uploading data relating to appeals/revisions in the VATIS were not complied with and the purpose of linking of audit assessments with appeal cases for streamlining disposal of appeal cases could not be achieved.

The Department replied that the objection raised by audit in the above mentioned para relates to non-uploading of appeal and revision petition and legacy data in VATIS. Due to some technical problem in the system uploading of appeal cases and generation of receipts was not made before the time of audit visit. But the same had been rectified and all related data had been uploaded later.

The Committee opined that since it was a procedural error the para should be dropped.

12. Para-2.4.4.10 Non-production of records/information relating revision cases:-

During inspection of records and information relating to revision cases disposed during 2012-15 and cases pending for disposal as of March 2015 in the CT Wing of the Department and issue of subsequent reminders, it was found that the CCT did not produce such records/information. As a result audit could not ascertain the position of pendency and disposal of such cases.

The Department in its reply stated that as per audit observation no record and information relating to revision cases disposed of during 2012-15 and cases pending for disposal was produced before them for inspection. The objection raised in this regard was not correct. The audit officers during their inspection made requisition for submission of information on appeal and its disposal. The appeal/revision records relating to Addl. CCT (Appeal), South Zone and North Zone were maintained and available in their respective offices at Sambalpur and Berhampur for which the same could not be produced. The records were available for examination whenever the audit party desired.

The Committee opined that since the information was available the para be dropped.

Para-2.5.6 System Deficiencies.

The Report of the C & A. G of India stated that there were deficiencies in the system and non-adherence to the prescribed system.

13. Para-2.5.6.2 Ineffective system for review of arrear cases by the supervising authorities.

The audit observed that no periodical reports/returns were prescribed for the JCCTs for submission in support of reviews conducted by them. To an audit query, the TRDs of the test-checked circles stated that reviews of arrear cases on a monthly basis had been done. However, no periodical review report containing the suggestions/recommendations of the JCCT and the action taken there on by the circles was furnished to audit for verification.

The Department replied that pursuant to directions of the CCT the arrear cases exceeding 25 lac were reviewed from time to time by the JCCTs concerned and instruction were issued to the circle officers at the time of review. The JCCTs were also monitoring collection of arrear and intimating the monthly collection of arrear in respect of each circle under their jurisdiction to the CCT (O). The collection of arrear was monitored and regularly collected for each circle as a result of which arrear amounts were realized amounting to ₹ 343.92 crore .

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

14. Para-2.5.7.1 Certificate requisitions (Form-1) not issued in case of default in payment of tax after issue of show cause notices.

The Report of the C & A. G of India stated that as per Clause-2 of the Schedule-E to the OVAT Act, where an assessee or dealer is in default or is deemed to be in default in making payment of tax or any other amount due under the Act, the AA may forward to the TRO a certificate requisition in Form-1 under his signature specifying the amount of tax and any other amount due from the assessee or dealer. The CCT vide his letter dtd. 10.12.2012 issued instructions in this regard.

The audit observed that in nine out of ten test-checked circles relating to 213 cases the defaulting dealers did not pay the tax dues even after issue of show cause notices for realization of tax dues. The AAs did not issue certificate requisitions in Form-1 to the TROs for initiation of tax recovery proceedings.

The Department replied that certificate requisition in Form-1 to the TRO for initiation of tax recovery proceedings in most of the cases had already been initiated. Since the matter was *sub-judice* in some cases and recovery of the balance had been stayed those requisitions in Form-1 to the TRO had not been issued.

The Committee dropped the para.

15. Para-2.5.7.2 Non initiation of tax recovery proceedings in time led to loss of Government revenue.

As per Sub-Section-4 of Sect. 50 of the OVAT Act, the amount of tax not paid along with return and net tax and penalty payable as assessed under different sections of the Act shall be paid by the dealer within 30 days from the date of service of demand notice. In case the dealer fails to pay such tax and penalty within due date, the AA after giving him the opportunity of being heard through issue of a show cause notice, direct the dealer to pay, in addition to the amount due, a penalty at the rate of two per cent of such amount per month. All amounts remaining unpaid after the due date of payment in pursuance of the above notices, shall be recoverable as arrears of public demand in accordance with the provisions contained in Schedule-E appended to the Act.

During the examination made by audit it was observed that there were 142 cases in which after elapsing of 5 years, the AAs had not initiated any action for issue of TR proceedings by issuing certificate requisition for recovery of arrear dues which resulted in loss of Government revenue.

The Department submitted that initiation of TR proceedings had already been made by the AAs before becoming time barred by limitation. Also the department

submitted that the statutory period of 5 years had been amended to 7 years under the OVAT Act.

The Committee examined the compliance and dropped the para.

16. Para-2.5.7.3 Notices in Form-2 issued but not served due to closure of business.

The CCT in his letter dated 10th Dec, 2012, instructed that the certificate requisition in Form-1 to the TRO should be issued within six months from the date on which the demand becomes due for collection. He also instructed that the TRO should issue notice in Form-2 within 15 days from the date of receipt of Form-1.

The audit observed in the test checked four circles that in 12 cases involving arrears of ₹ 24.55 crore demanded during 2009-10 to 2013-14, the AAs had issued Form-1 after 6 to 57 months from the due dates of collection. Similarly in 3 out of the above 12 cases, the TROs had issued Form-2 with delays ranging from one to six months. Due to the delay in issue of Form-1 and Form-2, the said notices could not be served on the dealers concerned, as they had already left the place after closing their business. Thus due to delay in initiation of tax recovery proceedings despite instructions of CCT, arrear dues of ₹ 24.55 crore remained unrealized.

The Departmental compliance stated that out of 12 cases, re-assessment of two dealers had been made on the basis of exported fraud case report submitted by vigilance wings. In three more cases show cause notices remained unserved by the postal department with the remarks that “factory closed”. In the remaining seven cases, the closure of business led to delay in issue of Form-1 and Form-2. Some of dealers had disposed their plant and machinery by way of sale as scrap. Attachment of their bank account also did not yield any result. Tahalsidar and Sub-Registrar of the concerned place had been requested to furnish information regarding movable and immovable property of the defaulting dealers but the same also did not yield any result.

The Committee observed that the difficulties as apprised by the Commissioner relating to the process of recovering arrear from dealers, who had closed business were genuine and recommended to settle the para.

17. Para-2.5.7.4 Tax recovery proceedings initiated but not followed up.

The OVAT Act state that in case the amount mentioned in the notice issued in Form-2 is not paid within 15 days or such further time as the TRO may grant, he shall proceed to realize the amount by issue of warrant and attachment of property of the defaulter. The audit findings stated that in 54 cases involving arrears of ₹ 8.85 crore assessed during 2009-10 to 2014-15, although the TROs had initiated TR proceedings by issue of notices in Form-2 to the defaulting dealers, the said proceedings were not followed-up by the TROs. As per the provisions of the

schedule-E i.e. collection of information on movable and immovable properties of the defaulting dealers issue of warrants and attachment of the properties of the dealers for sale by public auction to recover Government dues should have followed. Absence of follow-up action by the TROs resulted in non-recovery of ₹ 8.85 crore.

The audit pointed out the cases. The TROs stated that appropriate action would be taken after examination of the cases.

The Department stated that after issue of notices in Form-2 the TROs had taken-up further steps to collect information regarding immovable and moveable properties of defaulting dealers for attachment of their properties.

The CCT also stated that as explained previously the tax recovery proceedings process is too tedious.

The Committee went through the compliance and settled the para.

18. Para-2.5.7.5 Non-levy of penalty despite default in payment of dues.

As per Section 50(5) of the OVAT Act, where a dealer fails to make payment of the tax assessed, interest payable or penalty imposed or any other amount due from him under the Act within 30 days of the date of service of the notice of demand, the AA shall after giving the dealer a reasonable opportunity of being heard, direct that such dealer shall pay, in addition to the amount due for payment by way of penalty or any other amount due, for every month for which payment has been delayed by him after the date on which such amount was due to be paid. In case a dealer fails to make payment of the tax assessed, interest payable or penalty imposed or any other amount due from him under the Act the AA may impose a penalty equal to two percent of such amount of tax, interest, penalty or any other amount due. If the dealer further fails to make payment a penalty of two and half percent may be imposed on the said amount and it should be paid within first three months of due date of payment failing which third party attachment to the movable and immovable must be made.

The audit observed that in 96 cases involving arrear dues of ₹ 25 crore, though show-cause notices had been issued to the concerned dealers, penalty of ₹ 7.04 crore was not imposed as per the provision of the Act. The same continued in three circles, where certificate requisitions in Form-1 were issued for realization of arrear dues of ₹ 25.76 crore in 37 cases imposing penalty of ₹ 10.16 crore.

The Department replied that arrear amount of ₹ 61,12,199/- (including tax and penalty) had been collected in 48 cases of Kalahandi, Jajpur and Keonjhar circles. In remaining 48 cases where there was no response tax recovery proceedings had been initiated for realization of tax including interest and penalty.

The Committee went through the objections of audit and departmental compliance. In view of steps taken by the Department the para was settled.

19. Para-2.5.7.6 Non-issue of show-cause notices and penalty leviable thereon.

The C & A. G Report stated that in 89 cases in Bhubaneswar-II Circle involving tax dues of ₹ 3.71 crore demanded during the period from 2012-13 to 2014-15 was not deposited within due date. Show cause notices had not been issued till the month of audit (May 2016) although such notices were required to be issued after the due dates of payment of the dues. The period elapsed from the due date till the date of audit ranged between 4 to 35 months. It contravened the provisions of the Act and the Rules as well as executive instructions. The departmental compliance stated that the DCCT had examined all the records of the 89 cases and found that all those cases were pending before different forums of appeal. He also found that in most cases show-cause notices were issued but as the same were not entered in the DCR, the discrepancies were reported in the para. Later DCRs had been updated and audit observation was complied with. In this regard, it may be mentioned that the quantum of penalty is depended upon the final outcome of appeal, provided that where any appeal/revision under the act or the rules made there under has been filed

- I) Such penalty shall be payable from the date so specified on the amount ultimately found due from the dealer;
- II) The tax or penalty if any is enhanced in such appeal or revision, such penalty on the excess amount shall be payable from the date by which the dealer is required to pay such excess amount.

Since all the cases were pending for disposal under appeal that's why the penalty amount was not calculated.

The Commissioner, CT and GST also submitted that all the defaulters had been issued show cause notices and it was reflected in the DCR which had been updated.

The Committee dropped the para in view of the compliance submitted by the Department.

20. Para-2.5.7.7 Non-maintenance of registers/records prescribed for monitoring of recovery of arrears.

The C & A. G Report stated that the CCT, in his Circular dated 28th April, 2008 had prescribed a register namely Demand Collection Register (DCR) for watching the status of collection of tax, interest and penalty etc. demanded during assessments. Similarly, the demanded revenue remaining non-realized at the end of the year is to be entered in a consolidated Demand Collection Register (CDCR) through which the status of the demand is watched and updated from time to time until final recovery/adjustment. The above registers are required to be reviewed periodically by the concerned AAs and updated with the latest position of recovery and/or appeals pending in the appellate forum/court.

The CCT in his letter dated 10th December, 2012 instructed the JCCTs (JCCTs) and other senior supervisory officers to record their remarks regarding correct maintenance of the said registers at the time of visits to the circle.

The audit findings stated that four out of ten circles had not maintained the CDCRs for the years from 2012-13 to 2014-15. Other than the above registers/records

- 1) Register for Recovery as per Tax Recovery Schedule.
- 2) Register of Show Cause under Section 50(5) of the OVAT Act.
- 3) Requisition Register for Tax Recovery and
- 4) Tax Recovery Register prescribed by CCT

In his circular dated 28th April, 2008 for monitoring recovery of arrears were not maintained by any of the test-checked circles. It was observed that neither the CCT had monitored the maintenance of these registers not any action was taken for non-maintenance of these records.

Non-maintenance of the above records showed that internal controls were lax. The audit was not able to examine timely payment of tax, time taken for issue of show-cause notices after failure in payment of tax by assesses and the average time taken for issue of Form-1 and Form-2 against the stipulated period of 15 days. In the absence of these registers audit was not able to ensure if the steps as enumerated in the codal provisions of the Act for the recovery of arrears were taken in a time bound manner.

The CCT (O) is monitoring maintenance of these registers in the monthly review meeting and verifying the same physically during inspection of circle offices. To ensure maintenance of these registers on regular basis, instructions had been issued by the CCT (O). Since, this is a procedural issue and AG had agreed to this earlier for settlement from time to time, the centre might have not maintained the same during audit review. But the department is taking regular steps for maintenance of registers.

The Committee went through the audit observations and in view of steps taken by the department dropped the para.

21. Para-2.5.7.8 Non-pursuance of cases of arrears stayed by appellate authorities.

The CCT had issued instructions (October 2012) to the first appellate authorities of the department that no appeal case should remain pending for more than 26 weeks. Further, the CCT had instructed (December 2012) the officers at all levels that in high value cases, action should be taken for filing petitions before different appellate authorities to vacate stays or dispose of appeals. The information furnished by CCT in respect of outstanding arrears, out of a total arrears of ₹ 6.63

crore under different Acts excluding OST pending for recovery as of March, 2015 sum of ₹ 3791.75 crore (57.26 per cent) had remained stayed at different levels. This included arrears of ₹ 1,121.65 crore which were stayed by the CCT and JCCTs without being disposed of. The audit analysed the information relating to the stayed cases and observed that out of the total arrears of ₹ 3,791.75 crore, the recovery of which was stayed by appellate authorities, an amount of ₹ 2,655.88 crore (70.04 per cent) related to the test-checked circles. Out of the same, arrears of ₹ 384.53 crore relating to the period from April 2005 to March 2015 were locked-up with the first appellate authorities of the department although more than one year had elapsed from the dates of appeal in each case. Thus, the appellate authorities had failed to comply with the instructions of the CCT for disposal of pending appeal cases within 26 weeks. Further, the AAs of the above circles could also not produce any document to audit in support of initiatives taken by them in filing petitions for vacation of stays and early recovery of the arrears. This underscores the fact that the instructions of the CCT were not complied with by the AAs.

The departmental compliance stated that there is no provision under the law empowering the assessing officer to move the 1st AAs for vacation of stay. The main cause of delay in disposal of appeal cases are due to late filing of appeal petition, consideration of condonation of delay and allowing reasonable opportunity of being heard before disposal of appeal petition. In the meantime the cases relating to more than three years have already been disposed of by the appellate authorities. The CCT (O) was also reviewing the disposal position of pending appeal cases periodically for which the disposals were 982 and 804 cases during 2013-14 and 2014-15 respectively. The appeal disposal during 2015-16 and 2016-17 stood at 1844 involving amount of ₹ 203.30 crore and 2345 cases involving ₹ 632.57 crore respectively. The high stake cases had already been disposed of by the 1st AA. Steps were being taken to collect arrear dues. The CCT also submitted that in cases stayed by the Tribunal or High Court, unless the stay was vacated and the case was finally settled the department could only pursue, not act. Pursuance of 1st appeal cases by the 1st Appellate Authorities were reviewed every month and disposal cases were reviewed. Virtually disposal of cases was more than the receipt due to regular monitoring by the Commissioner. The 1st appeal cases had to be made within four years as amendment of the OVAT Act.

The Committee went through the compliance notes and audit objections and dropped the para in view of the initiatives taken by the department.

22. Para-2.5.7.9 Details of arrear cases not uploaded into VATIS.

The C & A. G Report stated that as per the orders (Dec' 2012) of the CCT, all pending arrear cases were required to be entered in the arrear module of VATIS by

the circle office and updated regularly. The CCT had also been monitoring the updation of the arrear module in VATIS through monthly video conferencing.

The verification of DCRs and information collected from VATIS, audit findings reported that 360 cases involving arrears of ₹ 257.93 crore had not been uploaded into the arrears module of VATIS till the date of audit (between April and June 2016). As a result, the amount of arrears as per VATIS was less than the actual due to delay in uploading the cases on the software. Thus monitoring the compliance of the executive instructions was ineffective.

The department replied that at the time of audit the arrear cases for the period from 2012-13 to 2013-14 were not uploaded but the same have been entered in the arrear module of VATIS regularly by all circle offices.

The Committee dropped the para in view of the reply given by the department.

Para-2.5.8 Analysis of robustness of system for demand and collection of arrears.

23. Para-2.5.8.1 Delay in issue and service of demand notice.

Audit observation pointed out that out of the total 185 cases, demand notices were served within 30 days (67.57 per cent) involving demand of ₹ 31.08 crore, while in 48 cases involving demand of ₹ 2.80 crore, demand notices were served beyond 30 days and within 90 days and in cases involving ₹ 7.10 crore demand notices were served within 30 days and within 90 days and in 11 cases involving ₹ 7.10 crore, demand notices were served after 90 days. In a specified case a demand involving an amount of ₹ 6.55 lakh, demand notice was not served on the dealer till date of audit (July 2016) although the case was assessed in Feb, 2015. Thus, the circle did not ensure that demand notices were served, soon after finalization of assessments or within a reasonable period of 30 days.

The department stated that the delay in issue of demand notices beyond 30 days as pointed out by audit due to return of the notices sent through registered post by the Postal Department because of absence of the dealer in the declared place of business. In some cases, it was due to closure of the business of the dealer at declared place of business. The department replied that out of 185 cases, the full demand amount had already been collected in 101 cases and recovery in 37 cases were under stay. In balance 47 cases, tax recovery proceedings had been initiated and certificate of requisition in Form-1 issued and Form-2 had been served.

The CCT stated that during AG's visit there was some delay but subsequently after being pointed out by Accountant General, the notices had been sent. The matter related to Bhubaneswar-Circle-III, which had 185 cases, the full demanded amount

had already been collected in 101 cases and recovery in 37 cases was under stay by High Court. In balance 47 cases, tax recovery proceedings had been initiated.

In view of the reply given by the department the para was dropped.

24. Para-2.5.8.2 Non-issue/delay in show-cause notices.

The Report of the C & A. G of India stated that out of cases involving demand of ₹ 33.97 crore not stayed in appeal, 6 cases were set aside/reduced by appellate authorities. Out of the remaining 80 cases, show cause notices in respect of 37 cases involving demand of ₹ 9.62 crore were issued within 30 days and in 42 cases involving ₹ 6.93 crore such notices were issued after 30 days from the due dates of payment. The audit pointed out that the show-cause notice was not issued in the remaining one case involving demand ₹ 6.55 lacs.

The department replied that the delay in issue of demand notices beyond 30 days as pointed out by audit is due to return of the notices sent through registered post by the postal department because of absence of the dealer in the declared place of business. In some cases it is due to closure of the business of the dealer at the declared place of business. In the case pointed out by audit of one dealer M/s Achyotananda Traders involving demand of ₹ 6.55 lakh the demand notice was served on the dealer on dated 07.06.2015.

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

25. Para-2.5.8.3 Non-issue of certificate requisitions in Form-1 and notices to dealers in Form-2.

The Report of the C & A. G of India stated that out of 80 cases (excluding 6 cases set aside/reduced) involving demand of ₹ 16.63 crore, tax recovery were initiated only in two cases involving ₹ 11.51 lakh and in the remaining 78 cases (97.5 per cent) involving arrears of ₹ 15.48 crore, tax recovery proceedings through issue of certificate requisition in Form-1 by the AA and issue of notices to the dealers in Form-2 by the TRO had not been initiated till the date of audit (July, 2016) even after the lapse of 3 to 21 months.

The full collection of demanded amount had been made in 31 cases. In the remaining cases tax recovery proceedings had been initiated through issue of Form-1 and Form-2 before being time barred.

The Committee settled the para in view of the steps taken by the department.

26. Para-2.5.8.4 Delay in payment of demanded tax by dealers.

Audit para revealed that out of 65 cases in 29 cases, payment were made within the prescribed period of 30 days from the date of service of demand notices and in the remaining 36 cases (55 percent), payments were made with delays ranging

from 5 to 553 days from the due dates of payment. The circle did not take any action as per provisions of Act.

The department replied that steps were being taken by the assessing officers for calculating the interest and penal interest on the delayed payment and tax by 36 dealers.

The Committee recommended that since the department had taken steps for recovery of the amount the para be dropped.

27. Para-2.7.1 Short levy of tax and penalty due to application of lower rate of tax.

The Report of the C & A. G of India pointed out that as per section 14 of the OVAT Act, 2004 tax payable by a dealer under the Act shall be levied on his taxable turnover (TTO) in respect of different goods at the rates specified in schedules B and C appended to the Act. Goods not specified in Part II or IIA of schedule B as well as schedule C are taxable under Part-III of schedule B at the rate of 13.5 per cent.

Electrical goods and equipment such as battery and home UPS being unspecified under Part II or IIA of schedule B or schedule C are taxable Part III of schedule B of the OVAT Act. Further, as per section 42(5) of the Act, if any tax is additionally assessed during the audit assessment, penalty equal to twice the amount of tax so assessed has to be imposed on the dealer.

The test check of assessment records in Bhubaneswar-III Circle, revealed (November, 2015) that the sales turnover of a dealer dealing in batteries and home UPS was assessed on 31st March, 2015 from the tax period from 1st April, 2012 to 31st March, 2014 and the AA determined the TTO at ₹ 71.81 crore. The AA, while finalizing the assessment levied the tax at lower rate of interest which resulted in short levy of tax of ₹ 14.41 lakh. Besides, penalty of ₹ 28.82 lakh was also imposable.

The department in its submission stated that the dealer company M/s Amar Raja Batteries Ltd. was engaged in trading of Home UPS and Batteries and collects VAT @ 5% on UPSs. It stated that in accordance to various judgments passed by various High Courts as well as per decision of Apex Court in various cases relating to the nature of tax to be levied on UPS (Sl. No. 69(g) of Part-II of the schedule – B of Rate Chart under OVAT Act, 2004) the assessing authority taxed @5% on home UPS treating the same as static converter under the lead Uninterrupted Power Supplies. It was pointed out that the dealer was selling Home UPS to the customers and collecting 5% VAT thereon. So, the amount of tax assessed on the same by AAs was absolutely correct.

In view of the submission by the department, the Committee dropped the para.

28. Para-2.7.2 Short levy of tax and penalty due to irregular deduction of freight charges.

The Report of the C & A. G of India stated that the definition of sale price as per Section – 2 (46) of OVAT Act, 2004 was amended vide Law Department notification No. 5495/legis, dtd. 07.05.2008 and the said amendment was given effect from 01.06.2008. As per the amendment of the said provision, any sum charged for freight, delivery, distribution installation or insurance at the time of delivery or before delivery of such goods are to be included in the sale price.

The period of assessment related to the period both prior and subsequent to the amendment of the said section i.e. 01.04.2006 to 30.06.2010. The assessing officer completed the assessment not including the freight charge in the sale turnover keeping in mind the pre-amended provision.

The case related to the Angul Range, where the assessment records stated that a dealer engaged in manufacture of refractory bricks-monolithic and castables and mortar had effected sale of finished goods valued at ₹ 61.76 crore inside the state during tax assessment period from 1st April 2006 to 30th June 2010 which included tax exempted sale of goods valued at ₹ 2.75 crore to SEZ and freight charges of ₹ 4.58 crore. The AA, while assessing the dealer under the OVAT Act, for the above tax periods, had determined (August 2013) the gross turnover (GTO) of ₹ 61.76 crore. It was, however observed that though freight charge of ₹ 4.58 crore was a part of taxable turnover, the AA had deducted the same from GTO and levied tax on the remaining TTO of ₹ 54.43 crore. This resulted in underassessment of TTO by ₹ 4.58 crore and consequent short levy of tax of ₹ 18.53 lakh. Besides penalty of ₹ 37.06 lakh was imposable.

The department replied that on receipt of audit observation, the JCCT Angul Range, re-opened the cases and reassessed the dealer for the time period 01.04.2006 to 30.06.2010, u/s 43 of the OVAT Act raising extra tax of ₹ 18,53,512/- and penalty of ₹ 37,07,024/- totaling to ₹ 55,60,536/- vide order dated 24.05.2016. The dealer challenged the same in High Court.

The Committee considered the departmental compliance and dropped the para.

29. Para-2.7.3 Short levy of tax and penalty due to application of lower rate of retreaded tyres.

Audit para revealed that as per the Section 14 of the OVAT Act, 2004, tax payable by a dealer under the Act shall be levied on his TTO in respect of different goods at the rates specified in Schedules B and C appended to the Act. The Act states that tyres including retreaded tyres, not specified under Part II or IIA of Schedule B or Schedule C, are taxable under Part III of the Schedule B of the OVAT Act.

Further, as per Section 42 (5) of the Act, if any tax is additionally assessed during audit assessment, penalty equal to twice the amount of tax so assessed shall be imposed on the dealer.

The scrutiny of assessment records in Keonjhar Circle, Audit observed that the AA had assessed the sales turnover of a dealer, engaged in retreading of tyres under the OVAT Act for the tax periods from 1st April 2011 to 31st March 2013 and determined the TTO at ₹ 56.33 lakh. However, instead of levying tax at the rate of 13.55% on the entire TTO, the AA, while finalizing the assessment, levied tax at the rate of 4% on ₹ 25.63 lakh for the period from 1st April 2011 to 31st March 2012 and at 5% on ₹ 30.67 lakh for the period from 1st April 2012 to 31st March, 2013. This resulted in short levy of tax of ₹ 5.04 lakh. Besides penalty of ₹ 10.08 lakh was also imposable.

The findings of the assessments when informed to the department re-assessed the case and raised a demand of ₹ 15.12 lakhs. The department replied that the dealer in the instant case was granted Registration Certificate under OVAT Act for manufacturing and wholesale distribution of retreaded tyres. For the purpose, it used rubber goods and gum as raw material and manufactured retreaded tyres. Tyre relreating material including tread rubber was inserted newly at Entry-121-A of Part-II of Schedule-B to the OVAT Act, 2004 w.e.f 01.04.2014 vide FD notification No. 14302/dtd.31.03.2010 and @5% from 01.04.2012 onwards. The dealer manufactured retreaded tyres using raw materials such as retreading materials tread rubbers and consumables. The AO might have accepted collection of tax @ 4/5% as done by the dealer to be correct under the impression that the dealer is engaged in wholesale and retail distribution of retreaded material at per Entry No. 121-A of Part-II of Schedule-B of the OVAT Act, 2004. But still the department after receipt of the audit observation the tax recovery proceedings had been initiated and Bank attachment had been done and local Tahasildar had been moved for obtaining immovable property for attachment.

The Committee dropped the para since statutory action had been initiated against the dealer.

30. Para-2.7.4 Underassessment of sales turnover led to irregular allowance of excess input tax credit.

As per audit observation Section II of the OVAT Act, 2004 read with Rule 10 of the OVAT Rules, 2005 provides that tax shall be levied on TTO of goods sold inside the State, determined after deduction of sales turnover which is not taxable. The dealer is liable to pay the net tax after adjustment of ITC towards tax paid on purchase of such goods inside the State.

The assessment records of a dealer on scrutiny of a dealer in Cuttack-I Circle, during the period of 1st April 2011 to 31st March 2013, the dealer effected gross sales valued at ₹ 37.53 crore (excluding tax) under the OVAT Act, which included sales turnover of tax exempted goods and first point taxable goods worth ₹ 10.91 crore. The TTO was thus ₹ 26.62 crore on which output tax of ₹ 4.92 was leviable. Since, the dealer had paid tax of ₹ 0.05 crore while filing the return, the remaining tax of ₹ 4.87 crore was to be adjusted against the ITC admissible. The assessment finalization made by AA erroneously levied output tax of ₹ 3.48 crore only on the Sales Turnover relating to the period from April 2012 to 31st March 2013 by determining GTO at ₹ 20.09 crore (excluding tax) and TTO at ₹ 15.19 crore. It was further observed that although the AA had assessed the transactions for the period from 1st April 2012 to 31st March 2013 against the above output tax of ₹ 3.48 crore and allowed the dealer to carry forward the remaining ITC of ₹ 1.39 crore to the next tax period, erroneous underassessment of sales turnover led to irregular allowance of ITC of ₹ 1.39 crore.

The department was informed about the audit findings and on receipt of the same raised the extra demand of tax and penalty of ₹ 27,146/- which had already been paid by the dealer. The remaining audit findings were revised and restricted to ₹ 14,91,216/- which was carried forward to be filed by the dealer in 2013. In the meantime an extra demand of ₹ 13,537/- had been made.

The Committee dropped the para.

31. Para-2.7.5 Non-initiation of action against dealers for default in submission of certified audited annual accounts.

Audit para observed that as per Section 65 (2) of the OVAT says that the dealer is supposed to file its annual audited statement by a chartered accountant by 31st October of the next financial year to the AA concerned. Revised the CCT circular of October 2014 allowed the dealers to submit their audited accounts, both manually and electronically by 31st December 2014. In case the dealer fails to file the annual audited statement then per day of ₹ 100/- fine has to be paid and it does not have an upper limit as to how much penalty can be levied. The audit scrutinized the registers relating to receipt of audited annual accounts in 27 circles and observed (November 2015 and April 2016) that out of 14,344 dealers having GTO exceeding ₹ 60 lakh during 2013-14 as many 6,166 dealers had not submitted the copies of CAAA for that year. The delays in submission of CAAA ranged from 304 to 456 days till the dates of Audit and warranted levy of penalty of ₹ 22.43 crore after giving those dealers reasonable opportunities of being heard as per provisions of the Act. The AAs had not initiated any action against the dealers for non-submission of CAAA. The audit reported the matter to the CCT.

The CCT replied that the issue related to the section has been amended subsequently and Government of Odisha has passed a notification limiting the penalty maximum upto ₹ 10,000/-. The case findings of audit are all prior to amendment. The CCT had requested the Finance Department to waive penalty in excess of ₹ 10,000/- in all pre-amended cases. The circle officers have been instructed at the time of review meetings to ensure timely submission of audited accounts by the dealers in future to avoid litigation.

The Committee dropped the para with the direction that the department should furnish the amendment circular for the information of the Hon'ble Members of the Committee.

32. Para-2.8.1 Non levy of entry tax on Chemicals (Bhadrak Circle, M/s Krishi Rasayan).

Audit para revealed that as per Section 3(I) of OET Act, 1999, scheduled goods that have entered into a local area for consumption, use or sale therein are taxable at rates prescribed in the schedule appended to the Act. During scrutiny of assessment records under the OET Act, in Bhadrak Circle, audit observed that a dealer engaged in manufacture of pesticides had purchased goods valued at ₹ 237.54 crore during the period from 1st April 2007 to 31st March 2012 including raw materials such as 'Chemicals in technical grade pesticides' were nothing but chemicals and were therefore taxable at the rate of 0.5% when used as raw materials for production of pesticides. The AA while finalizing the assessment of the dealer under the OET Act for the above period, determined taxable turnover as ₹ 63.93 crore after deducting ₹ 173.61 crore from the gross purchase turnover of ₹ 237.53 crore towards value of goods declared by the dealer as non-scheduled and non-taxable under the OET Act. The underassessment of taxable turnover of ₹ 154.34 crore, treating the same as non-scheduled goods resulted in short levy of entry tax of ₹ 0.77 crore. Besides penalty of ₹ 1.54 crore was also imposable.

The department went through the observation of audit and stated that while completing the assessment the AA accepted the contention of the dealer and concluded that chemicals in technical grade pesticides were nothing but pesticides which were non-scheduled goods. The AA re-assessed the case and fixed up the demand of ₹ 23.51 lakh. The dealer went to the JCST, Balasore Range, Balasore. The JCST confirmed the appeal, but the dealer again went for the 2nd appeal before the Odisha Sales Tax Tribunal which was pending for disposal.

The Committee observed that since the matter was sub-judice it was to be settled after disposal of the court case.

33. Para-2.8.2 Short levy of entry tax due to allowances of excess set-off.

The audit observed that as per Section 3 of the OET Act, 1999, scheduled goods those entered into a local area for consumption, use or sale therein are taxable at the rates prescribed in the schedule appended to Act.

The AG pointed out that in Angul Circle and Rourkela-I two dealers M/s Inter-continental Tax Refineries and M/s Jagannath Aloys Pvt. Ltd. who were assessed by AAs, for the tax periods between 1st April 2007 and 31st March 2012 and determined the tax liability at ₹ 44.51 lakh. The audit observed that the AAs had determined the tax-liability at a lower rate of tax assessment which resulted in lower rate of tax.

The department submitted that the dealer had paid an amount of ₹ 76,470/- at the time of 1st Appeal Assessment set aside in appeal case disposed of in 16.08.2018 and fresh assessment proceeding was initiated.

In the 2nd case there was a demand of ₹ 5,24,809/- as per the AG's objection and assessment was made, demand had been made, money had been recovered and adjusted against refund claim of the dealer.

The Committee dropped the para.

34. Para-2.8.3 Non-levy of Entry Tax on Minor Minerals.

Audit objection pointed out that as per Section 3(I) of the Odisha Entry Tax (OET) Act, 1999, there shall be levied and collected a tax on entry of scheduled goods into the local area for consumption, use or sale therein. The rates at which tax is to be levied are prescribed in the schedule appended to the Act. The dealer is liable to pay such tax while filing return under Section 7 of the Act. Minerals are taxable at the rate of one per cent of purchase value as per entry no. 59 of Part I of schedule of the OET Act.

The audit inspected the records in Koraput Range and observed that a dealer had purchased stone chips and sand valued at ₹ 29.98 crore from unregistered dealers between April 2010 and 31st March 2013 and brought the same to another local area for utilization in various works related to work contracts. The dealer had to pay entry tax of ₹ 29.98 lakh at the rate of one percent on the said purchase. The audit pointed out that since the AAs failed to assess the tax the department should take steps for levying the tax.

The department went through the direction of AG and re-assessed and levied tax on the dealer at ₹ 29.98 lakh. The CCT submitted that the dealer had went to 1st appellate authority who confirmed the demand. The dealer preferred the 2nd appeal which was pending for disposal. The dealer in the meantime had deposited 12 lakh and the remaining amount had been stayed up by the CCT till the disposal of the pending case before the Tribunal.

The Committee went through the submissions of the department as well as the observations of the audit and suggested that since the matter was sub-judice it was to be settled after finalization of the court case.

**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