

CHAPTER – II: TAXES ON SALES, TRADE ETC.

2.1 Tax administration

The levy and collection of commercial taxes which include sales tax/value added tax, central sales tax, etc., are governed by Jharkhand Finance (JF) Act, 2001 (repealed from 1 April 2006), Jharkhand Value Added Tax (JVAT) Act, 2005 and the Central Sales Tax (CST) Act, 1956. The Principal Secretary-cum-Commissioner of Commercial Taxes is responsible for administration of these Acts and Rules in the Commercial Taxes Department. He is assisted by Additional Commissioners and Joint Commissioners of Commercial Taxes, Joint Commissioners of Commercial Taxes of Bureau of Investigation (IB), Vigilance and Monitoring along with other Deputy/Assistant Commissioners of Commercial Taxes.

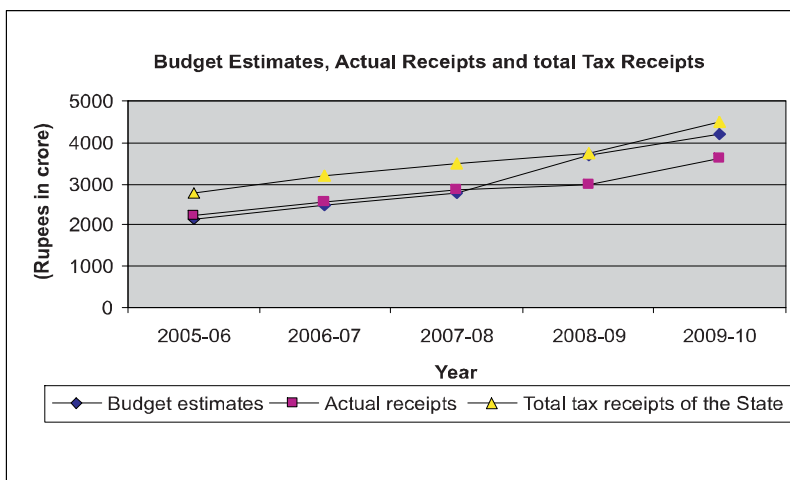
The State is divided into five commercial taxes divisions, each under the charge of a Joint Commissioner (Administration) and 28 circles, each under the charge of a Deputy/Assistant Commissioner of Commercial Taxes. The DCCT/ACCT of the circle, responsible for levy and collection of tax due to the Government, besides market survey, is assisted by Commercial Tax Officers.

2.2 Trend of receipts

Actual receipts from taxes on sales, trade etc./VAT during the period 2005-06 to 2009-10 along with the total tax receipts during the same period is exhibited in the following table and graph:

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual Sales Tax/VAT receipts vis-à-vis total tax receipts
2005-06	2,149.95	2,212.03	(+) 62.08	(+) 3	2,758.04	80
2006-07	2,458.00	2,556.90	(+) 98.90	(+) 4	3,188.50	80
2007-08	2,789.83	2,845.88	(+) 56.05	(+) 2	3,473.55	82
2008-09	3,715.00	2,996.20	(-) 718.80	(-) 19	3,753.21	80
2009-10	4,200.00	3,597.20	(-) 602.80	(-) 14	4,500.12	80



From the above it would be seen that during the period 2005-06 to 2009-10, Sales Tax/VAT receipts accounted for 80 *per cent* of the total tax receipts of the State except for the year 2007-08 when it was 82 *per cent*. The reasons for shortfall against budget estimates during 2008-09 and 2009-10 were attributed by the Department to reduction in the rates of tax on diesel, Central Sales Tax (CST) and economic recession from October 2008.

2.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2010 amounted to ₹ 1,856.26 crore, of which ₹ 457.33 crore were outstanding for more than five years. The year-wise position of arrears of revenue during the period 2005-06 to 2009-10 is as follows:

(Rupees in crore)		
Year	Opening balance of arrears	Closing balance of arrears
2005-06	1,361.37	1,296.65
2006-07	1,296.65	1,256.80
2007-08	1,256.80	1,261.41
2008-09	1,261.41	1,737.21
2009-10	1,737.21	1,856.26

The Department did not furnish the information regarding the addition and clearance of the arrears during the year. However, the above table indicates that the amount of arrears increased from ₹ 1,296.65 crore as on 31 March 2006 to ₹ 1,856.26 crore as on 31 March 2010, registering an overall increase of 43 *per cent*.

As per the information furnished by the Department, out of ₹ 1,856.26 crore, demands amounting to ₹ 153.04 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 982.78 crore was stayed by the courts and the Government. Recovery of ₹ 1.73 crore was held up due to rectification/review of applications. Specific action taken in respect of the remaining arrears of ₹ 718.71 crore has not been intimated (March 2011).

Thus, it would be seen from the above that 53 *per cent* of the total amount of arrears was pending settlement with the courts or with the Government. The

arrears recoverable as arrears of land revenue by invoking the provisions of the Bihar and Orissa Public Demands Recovery Act, 1914 were only eight *per cent* of the total amount pending settlement.

The Government may consider issuing directions to the Department for speedy settlement of the arrear cases by constant monitoring and recovering the arrears as arrears of land revenue by invoking the provisions of the Bihar and Orissa Public Demands Recovery Act, 1914.

2.4 Arrears in assessment

The details of cases pending at the beginning of the year 2009-10, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of the year as furnished by the Commercial Taxes Department are as follows:

Opening balance	New cases due for assessment during 2009-10	Total assessments due	Cases disposed of during 2009-10	Balance at the end of the year	Percentage of column 5 to 3
1	2	3	4	5	6
11,337	32,883	44,220	33,398	10,822 ⁸	24

From the above it could be seen that pendency in finalisation of assessments was 24 *per cent*, resulting in delay in corresponding realisation of revenue in these cases.

2.5 Cost of collection

The gross collection of sales tax/VAT receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during 2007-08 to 2009-10 alongwith the relevant all India average percentage of expenditure on collection to gross collections of the preceding years are mentioned below:

(Rupees in crore)

Sl. No.	Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the preceding year
1	VAT/Taxes on sales, trade etc.	2007-08	2,845.88	16.66	0.59	0.82
		2008-09	2,996.20	24.88	0.83	0.83
		2009-10	3,597.20	31.17	0.87	0.88

The percentage of expenditure on gross collection indicated an increasing trend for the past three years although it was lower than the All India average.

⁸ There was a discrepancy of 119 cases due for assessment at the end of 2009-10 as reported by the Department (10,941).

2.6 Analysis of collection

The break-up of the total collection at the pre-assessment stage and after regular assessment of taxes on sales, trade *etc.*, during the year 2009-10 and corresponding figures for the preceding two years as furnished by the Finance (Commercial Taxes) Department is mentioned below:

(Rupees in crore)

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Penalties for delay in payment of taxes	Amount refunded	Net collection as per Department (2+3-5)	Net collection as per Finance Accounts	Percentage of column 2 to 7
1	2	3	4	5	6	7	8
2007-08	2,684.60	50.57	0.73	5.04	2,730.13	2,845.88	94.33
2008-09	2,797.40	54.07	0.56	0.47	2,851.00	2,996.20	93.36
2009-10	3,319.44	84.74	0.82	0.06	3,404.12	3,597.20	92.27

Thus, the percentage of tax collected before regular assessment showed a decreasing trend. The Department collected ₹ 189.38 crore after regular assessments conducted during the years 2007-08 to 2009-10, while tax due in the cases detected during test check of selective cases conducted by audit during the period from 2007-08 to 2009-10 amounted to ₹ 1,601.83 crore⁹ which is almost nine times higher. **The high amount of leakage of revenue detected by audit only in the test checked cases vis-à-vis the amount collected after regular assessments points towards a need for the Government to strengthen the tax administration. Further, there is also a need to reconcile the figures of Departmental receipts with that of the figures as per the Finance Accounts prepared by the Accountant General (A&E).**

2.7 Revenue impact of Audit Reports

During the last five years, we have pointed out through our audit reports non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation *etc.*, with revenue implication of ₹ 1,255.51 crore in 48 paragraphs. The details are shown in the following table:

(Rupees in crore)

Year of Audit Report	Paragraphs included	Amount	Amount of acceptance ¹⁰	Recovery made
2004-05	9	47.34	6.54	7.13
2005-06	1	375.50	0.00	4.28
2006-07	13	338.59	52.29	2.73
2007-08	16	294.95	76.27	2.48
2008-09	9	199.13	11.20	11.20
Total	48	1,255.51	146.30	27.82

⁹ 2007-08: ₹ 663.08 crore, 2008-09: ₹ 298.33 crore, 2009-10: ₹ 640.42 crore.

¹⁰ The information regarding amount accepted by the Department as on 31 March 2010 was not intimated. The figures mentioned are those that have been accepted by the Department at the time of issue of the respective Audit Reports.

Thus, the recovery in the cases accepted by the Department was only 19.02 per cent.

We recommend that the Government may revamp the system to ensure prompt recovery at least in the cases already accepted by the Government.

2.8 Working of internal audit wing

Mention was made in Paragraph No. 2.2.6 of Comptroller and Auditor General's Audit Report (Revenue Receipts) 2008-09 regarding non-conducting of internal audit in the Commercial Taxes Department. The Department has now reported that an audit wing had been set up at the CCT's office and divisional levels. It was further stated that the audit procedure was being formulated by them.

2.9 Results of audit

During 2009-10, we test checked the records of 22 units relating to VAT and found under-assessment of tax and other irregularities involving ₹ 640.42 crore in 525 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Non/short levy of tax	143	190.47
2.	Irregular allowance of exemption from tax	129	78.96
3.	Non-levy of penalty	52	105.13
4.	Irregular allowance of concessional rate of tax	17	1.38
5.	Non/short levy of additional tax and surcharge	9	0.08
6.	Application of incorrect rates of tax	49	43.20
7.	Short levy of tax due to incorrect determination of turnover	33	76.80
8.	Non-levy of penalty for excess collection of tax/due to computation mistake	16	3.59
9.	Other cases	77	140.81
Total		525	640.42

During the course of the year, the Department accepted under-assessment and other deficiencies of ₹ 17.14 crore in 20 cases pointed out in audit in earlier years.

A few illustrative cases involving ₹ 208.10 crore observed during 2009-10 and in earlier years are mentioned in the succeeding paragraphs:

2.10 Audit observations

Our scrutiny of assessment records of sales tax, value added tax (VAT) and central sales tax (CST) indicated several cases of non-observance of the provisions of Acts/Rules and notifications issued thereunder, suppression of sales/purchase turnover, non/short levy of tax/penalty/surcharge, incorrect adjustment of input tax credit (ITC), irregular concession/exemption, incorrect application of rate of tax, misuse of declaration forms etc. as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us in audit. Such omissions on the part of assessing authorities (AAs) are pointed out by us each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of internal audit.

2.11 Results of cross-verification

The JVAT Act and Rules made thereunder provide that for widening the tax base the Circle in-charge and Investigation Bureau shall identify through survey, those dealers who though liable to pay tax under the Act, remained unregistered.

During our scrutiny we detected short realisation of revenue of ₹ 15.06 crore due to non-conducting of survey and cross verifying the information available in the records of other departments of the State Government by the AAs as discussed in paragraphs 2.11.1 and 2.11.2.

2.11.1 Non-registration of dealers

Section 71 of the JVAT Act read with JVAT Rule 57 provides for survey by the circle in charge of the local circle. Further, Section 38 provides that if a dealer, liable to pay tax, fails to get himself registered under the Act, the prescribed authority shall proceed to assess the dealer to tax to the best of his judgement and may also direct the dealer to pay by way of penalty a sum equal to the amount of tax so assessed or a sum of rupees ten thousand whichever is greater.

We collected data relating to sale of stone chips in respect of mining lessees from the District Mining Office, Sahebganj and cross verified the same with the records of Sahebganj commercial taxes circle during 2009-10.

Our cross verification revealed that 37 mining lessees had sold 10.33 lakh cubic meter stone chips

during the period 2006-07 to 2008-09, valued at ₹ 52.78 crore, involving VAT of ₹ 6.60 crore, but these lessees were not registered in the Sahebganj commercial taxes circle. As such, all the dealers had remained outside the tax net resulting in non-realisation of Government revenue of ₹ 13.20 crore including penalty of ₹ 6.60 crore.

After we pointed out the cases, the AA intimated that demand amounting to ₹ 61.41 lakh in 12 cases have been raised in September 2010. Further action taken to recover the amount and reply in the remaining cases has not been received (March 2011).

We reported the above cases to the Government in June 2010; their replies have not been received (March 2011).

2.11.2 Suppression of sales turnover

Section 37(5) of the JVAT Act provides that if the AA has reasons to believe that a dealer has failed to furnish a return or has filed an incomplete or false return with a view to avoid or evade the tax, he shall proceed to assess or re-assess the amount of tax due from the dealer on account of such evasion. He may also direct the dealer to pay by way of penalty a sum equivalent to twice the amount of the additional tax so assessed.

We collected data relating to sale of stone chips by the mining lessees from the District Mining Office, Sahebganj and cross verified the same with the records of commercial taxes circle, Sahebganj.

We noticed that 11 mining lessees registered with the commercial taxes circle, Sahebganj had reflected sale of stone chips of 48.87 lakh cft in

their VAT returns during 2006-07 to 2008-09 and were assessed accordingly between June 2008 and August 2009. However, the records of the Mines and Geology Department reflected that the lessees had sold stone chips of 83.02 lakh cft during the period. Thus, there was suppression of 34.15 lakh cft valued at ₹ 4.94 crore. This resulted in under assessment of VAT of ₹ 61.76 lakh. Besides, penalty of ₹ 1.24 crore was also leviable.

We further noticed that there was no co-ordination between the two departments for exchange of information relating to the sale of minerals made by the mining lessees. The AA had also made no effort to obtain the information from the mining Department in the interest of revenue.

After we pointed out the cases in March 2010, the AA stated that the cases would be reviewed. We have not received any further reply (March 2011).

We reported the above cases to the Government in June 2010 and to the Department in May 2010. Their replies have not been received (March 2011).

We recommend that the Government may consider evolving a mechanism for inter-Departmental exchange of information/data for cross verification purposes in the Commercial Taxes Department.

2.12 Irregularities in determination of turnover

Turnover means the aggregate of sale prices received or receivable and purchase prices paid or payable during any given period. Correct determination of turnover is essential for proper assessment and levy of taxes due. The gross turnover of a dealer is taken into account for the purpose of determining his liability for tax, surcharge and additional tax but for the purposes of actual levy of taxes, certain deductions are allowed in order to arrive at the taxable turnover.

We noticed that the AAs while finalising the assessments had not assessed the taxable turnover of the dealers correctly as per the provisions of the Act. This resulted in non/short levy of tax and penalty of ₹ 79.95 crore as mentioned in paragraphs 2.12.1 and 2.12.2.

2.12.1 Turnover escaping assessment

Sec 40(1)(a) of JVAT Act read with the CST Act provides that in cases where after a dealer is assessed and the AA has reasons to believe that whole or any part of the turnover of the dealer has escaped assessment he shall proceed to assess or re-assess the amount of tax due in respect of such turnover. He may also direct the dealer to pay by way of penalty a sum equivalent to twice the amount of the additional tax assessed.

We noticed in 10 commercial taxes circles¹¹ that 24 dealers had filed their returns for purchase/sale of ₹ 464.80 crore during 2006-07. The assessments were finalised between May 2008 and March 2009 on the basis of returns filed by them. However, our scrutiny of records¹² indicated that the dealers had actually sold/purchased goods worth ₹ 568.53 crore. Thus, the dealers concealed ₹ 103.73 crore on account of purchase/sale turnover in

their returns. The concealment was on account of suppression of sale of empties, purchase/sale of goods for higher values but showing less value in the returns, non-inclusion of administrative and manufacturing expenses in the cost of sales etc. This resulted in non/short levy of the tax of ₹ 13.83 crore. Besides, penalty of ₹ 27.66 crore was also leviable. We mention specific cases in respect of five dealers in four commercial taxes circles in the table below:

(Rupees in crore)

Name of the circle Registration number of the dealer	Period Date of assessment	Nature of observations	Suppressed turnover Rate of tax (%)	Short levy of VAT Penalty
Ranchi South 20820100056	2006-07 March 2009	Profit on sale of stores, valued at ₹ 1.85 crore, forming part of other revenues of annual audited accounts was not accounted for in the sales turnover.	1.85 12.5	0.23 0.46
Chirkunda 20632001021	2006-07 March 2009	The dealer was allowed deduction of ₹ 11.87 crore from the GTO on account of payment to sub-contractors, though as per records furnished, the dealer was entitled for deduction of ₹ 10.81 crore only.	1.06 12.5	0.13 0.26

¹¹ Adityapur, Bokaro, Chirkunda, Dhanbad, Giridih, Jharia, Palamu, Ramgarh, Ranchi East and Ranchi South.

¹² Utilisation certificate of declaration forms, audited annual accounts, trading and manufacturing account.

<u>Bokaro</u> 20581402316	<u>2006-07</u> March 2007	Sale of empties, valued at ₹ 21.68 crore, forming part of annual audited accounts though taxable under the Act, was not accounted for in the sales turnover.	$\frac{21.68}{4}$	$\frac{0.87}{1.74}$
<u>Ramgarh</u> 20121900276	<u>2006-07</u> March 2010	As per utilisation of Green Road Permit (JVAT 504G) the dealer had received spare parts valued at ₹ 23.04 crore but accounted for ₹ 17.51 crore only.	$\frac{5.53}{12.5}$	$\frac{0.69}{1.38}$
<u>Ramgarh</u> 20231901040	<u>2006-07</u> March 2009	As per utilisation of declaration form C and road permits dealer had purchased raw materials and consumables valued at ₹ 7.07 crore but accounted for ₹ 6.30 crore only.	$\frac{0.77}{4}$	$\frac{0.03}{0.06}$

After we pointed out the cases between August 2009 and March 2010 the AA, Chirkunda intimated that an additional demand of ₹ 39.90 lakh has been raised in one case in September 2010. The progress made in recovering the amount and action taken in the remaining cases has not been followed (March 2011).

We further noticed that the AAs did not cross verify the returns with the relevant information/records available in the records submitted by the concerned dealers.

We reported the cases to the Government/Department in June 2010; their replies have not been received (March 2011).

2.12.2 Suppression of sales/purchase turnover under JF Act

Under the JF Act, read with the CST Act, if the dealer has concealed, omitted or failed to disclose wilfully the particulars of turnover or has furnished incorrect particulars of such turnover, the competent authority shall assess or reassess the amount of tax due from the dealer and shall direct the dealer to pay, besides the tax assessed on escaped turnover, penalty not exceeding three times but not less than an amount equivalent to the amount of tax on the escaped turnover.

We noticed in eight commercial taxes circles¹³ that 21 dealers had filed returns for purchase/sale of ₹ 21,663.48 crore during 2003-04 to 2005-06. The assessments were finalised between May 2006 and March 2009 on the basis of returns filed by them. However, our scrutiny of the information available in the assessment records viz. utilisation certificate of declaration forms, audited annual accounts, trading and

manufacturing accounts etc, indicated that the dealers had actually sold/purchased goods worth ₹ 21,869.47 crore. Thus, the dealers concealed sale/ purchase of ₹ 205.99 crore. We further noticed that the AAs did not cross verify the returns with the relevant information/records submitted by the concerned dealers. This resulted in non/short levy of tax, including additional tax and surcharge, of ₹ 20.14 crore. Besides penalty of ₹ 18.32 crore was also leviable.

We mention specific cases in respect of five dealers in two commercial taxes circles in the following table:

¹³ Adityapur, Bokaro, Chirkunda, Jharia, Ramgarh, Ranchi East, Ranchi South and Singhbhum.

(Rupees in crore)

Name of the circle Registration number of the dealer	Period Date of assessment	Nature of observations	Suppressed turnover Rate of tax (%)	Short levy of tax, additional tax and surcharge, minimum penalty
Ranchi South RNS 1 (R)	2004-05 March 2009	Profit on sale of stores, valued at ₹ 1.88 crore, forming part of annual audited accounts though taxable under the Act, was not accounted for in the sales turnover.	1.88 8	0.17 0.15
Ranchi South RNS 1936(R)	2005-06 September 2008	Receipt of payment on account of works sublet to registered and unregistered works contractors was short accounted by ₹ 63.96 lakh.	0.64 8	0.06 0.05
Ranchi South RNS 185 (R)	2004-05 August 2008	Actual sales turnover of lubricant was worked out to ₹ 2.75 crore on the basis of manufacturing and trading account instead of ₹ 2.36 crore as returned by the dealer.	0.39 16	0.07 0.06
Ranchi South RNS 2300 (R)	2005-06 October 2008	Utilisation statement of Green Road Permit indicated that the dealer had actually received computers valued at ₹ 42.52 crore on stock transfer as well as on inter state purchases but accounted for as ₹ 41.56 crore.	0.96 4	0.04 0.04
Adityapur AP 1978(R)	2005-06 October 2007	As per the audited annual accounts, the sales turnover of the dealer was ₹ 58.17 crore but accounted for as ₹ 46.64 crore only in the returns.	11.53 4	0.51 0.46

After we pointed out the cases between August 2009 and March 2010, the AA of Ranchi South circle intimated that demand for ₹ 45.56 lakh as pointed out by audit has been raised between July and September 2010 in three cases. Further action taken to recover the amount and reply in the remaining cases has not been received (March 2011).

We reported the matter to the Government/Department in June 2010; their replies have not been received (March 2011).

2.13 Application of incorrect rate of tax under JVAT/JF Act

Our scrutiny of assessment records of six Commercial Taxes Circles indicated that the AAs had not levied tax correctly resulting in short levy of tax of ₹ 22.78 crore as mentioned in the succeeding paragraphs:

Under the provisions of the JVAT Act, 2005 component and parts of motor vehicle/ excavator, graphite and limestone were taxable at the rate of 12.5 *per cent* under Part D of Schedule II. By a notification issued in March 2007 these commodities, excluding motor parts were made taxable at the reduced rate of 4 *per cent* with effect from 6 March 2007. Further, stone chips are taxable at the rate of 12.5 *per cent* in Part D of Schedule II.

2.13.1 We test checked the records of eight assesseees of Adityapur and Palamu commercial taxes circles which revealed that the AAs while finalising assessments between February and March 2009 for the period 2006-07 levied tax at the reduced rate of four *per cent* on sale of components and parts of excavators, graphite, limestone

and stone chips instead of the correct rate of 12.5 *per cent*. This resulted in short levy of tax of ₹ 22.03 crore as mentioned below:

(Rupees in crore)

Sl. No.	Number of dealers Circle	Period Month of assessment	Nature of observation	Short levy of tax
1.	Three Adityapur	2006-07 March 2009	Tax was levied at the incorrect rate of four <i>per cent</i> instead of the correct rate of 12.5 <i>per cent</i> on sale of auto and excavators parts valued at ₹ 255.96 crore for the period from April 2006 to February 2007, i.e., prior to notification dated 06.03.2007.	21.76
2.	Five Palamu	2006-07 Between February and March 2009	Tax was levied at the incorrect rate of four <i>per cent</i> instead of the correct rate of 12.5 <i>per cent</i> on sale of graphite, limestone and stone chips valued at ₹ 3.27 crore during the period April 2006 to February 2007.	0.27
Total				22.03

After we pointed out the cases, the AAs stated between January and March 2010 that the cases would be reviewed. We have not received any further reply (March 2011).

Under the JF Act, the State Government may from time to time, by notification, specify the rate of tax on any class or description of goods.

2.13.2 We test checked the records of one assessee in Dhanbad Urban commercial taxes circle for the period 2004-05 and 2005-06 and three assesseees in Ranchi South commercial taxes circle for the period 2002-03 to

2004-05 assessed between February 2007 and January 2009, which revealed that the assesseees sold cement, LPG and tiles valued at ₹ 1.32 crore, ₹ 2.15 crore and ₹ 1.15 crore respectively and tax was levied at the incorrect rate of 8 *per cent* instead of correct rates of 9, 11 and 13 *per cent*. This resulted in short levy of tax amounting to ₹ 19.66 lakh as mentioned in the following table:

(Rupees in lakh)

Sl. No.	Name of the circle Number of dealers	Period Month of assessment	Nature of observation	Short levy of tax + AT + SC
1.	<u>Ranchi South</u> Three	<u>2002-03 to 2004-05</u> Between February 2007 and January 2009	The dealers sold cement and LPG valued at ₹ 1.32 crore and ₹ 2.15 crore respectively and were levied tax at the rate of 8 per cent though tax was leviable at the correct rates of 11 and 9 per cent respectively.	6.94
2.	<u>Dhanbad Urban</u> One	<u>2004-05 and 2005-06</u> August 2007	The dealer sold tiles valued at ₹ 1.16 crore and ₹ 1.15 crore during 2004-05 and 2005-06 respectively and was levied tax at the rate of 8 per cent though tax was leviable at the correct rate of 13 per cent.	12.72
Total				19.66

After we pointed out the cases, the AA of Ranchi South circle intimated that demand for ₹ 2.18 lakh as pointed out by audit has been raised in February 2010 in one case. Further action taken to recover the amount and reply in the remaining cases has not been received (March 2011).

We reported the matter to the Government/Department in June 2010; their reply has not been received (March 2011).

Under the provisions of the JF Act and notification issued thereunder Government prescribed concessional rate of sales tax of two per cent on purchase of raw materials. Such concession would be admissible only to those industrial units which came under the set off scheme prescribed by the notification S.O 67 issued in January 2002.

2.13.3 Our scrutiny of the records of eight assessees in three commercial taxes circles (Adityapur, Ranchi East and Tenughat) for the period 2003-04 to 2005-06, revealed that the AAs while finalising the assessments between January 2006 and March 2009 levied inadmissible concessional

rate of tax of two per cent instead of three per cent on sale of aluminum alloy casting, refractory materials, chemicals, HDPE woven fabrics and bags, cement, timber and wooden windows and doors valued at ₹ 49.86 crore in spite of non-furnishing of eligibility certificate under the notification. This resulted in short levy of tax of ₹ 54.85 lakh including additional tax and surcharge as mentioned in the following table:

(Rupees in lakh)

Sl. No	Number of dealers Circle	Period Date of assessment	Nature of observations	Short levy of tax + AT+SC
1.	Three Adityapur	2004-05 and 2005-06 Between November 2006 and February 2008	The dealers sold goods ¹⁴ of ₹ 22.21 crore. They were liable to pay tax at the concessional rate of three per cent instead of two per cent levied by the AA.	24.43
2.	Two Tenughat	2004-05 and 2005-06 Between January 2006 and March 2009	The dealers sold goods ¹⁵ of ₹ 24 crore. They were liable to pay tax at the concessional rate of three per cent instead of two per cent levied by the AA.	26.40
3.	Three Ranchi East	2003-04 to 2005-06 Between April 2007 and March 2009	The dealers sold goods ¹⁶ of ₹ 3.65 crore. They were liable to pay tax at the concessional rate of tax of three per cent instead of two per cent levied by the AA.	4.02
Total				54.85

After we pointed the cases, the AA of Adityapur commercial taxes circle intimated that demand for ₹ 13.54 lakh as pointed out by audit has been raised in July 2010 in one case. Further action taken to recover the amount and reply in the remaining cases has not been received (March 2011).

We reported the matter to the Government/Department in June 2010; their reply has not been received (March 2011).

2.14 Irregularities in grant of Input Tax Credit

Input Tax Credit (ITC) shall be allowed to a dealer for the tax paid or payable in respect of all taxable sales other than any other sales as may be prescribed, or purchases within the State during that period.

Our scrutiny, however, indicated a number of discrepancies in the assessments finalised by the AAs through which ITC was incorrectly allowed. A few instances involving excess/incorrect allowance of ITC for ₹ 25.27 crore are mentioned in the following paragraphs:

Under the provisions of the JVAT Act, 2005, every registered dealer holding stock of any goods as on the appointed day i.e., 1 April 2006 shall declare such stock, in the prescribed form, for claiming ITC on the opening stock. Further, the dealer shall not claim ITC until the tax period in which the dealer receives the tax invoice in original containing the prescribed particulars of sale evidencing the amount of input tax paid. Further, if the dealer has availed ITC for which he was not entitled, he shall be liable to pay penalty equal to twice the amount of additional tax assessed on account of said reasons.

2.14.1 We noticed in Bokaro commercial taxes circle that an assessee was allowed input tax credit of ₹ 33.86 crore on intra-state purchase of goods valued at ₹ 857.53 crore for the period 2006-07. Our scrutiny of records/ declaration form JVAT 404 revealed that these intra-state purchases of goods also included one bill of ₹ 1.09 crore,

¹⁴ Aluminium alloy casting, Laminated HDPE fabrics, Refractory and minerals.

¹⁵ Fire bricks and refractory.

¹⁶ Cement, timber, plywood etc.

pertaining to 2005-06, which was not declared as opening stock on 1 April 2006 in the prescribed form as required under the provisions of the Act. Further, three bills valued at ₹ 77.11 crore pertained to 2007-08 on which ITC was inadmissible during 2006-07. However, we noticed that the AA while finalising the assessment in March 2009 allowed ITC of ₹ 8.31 crore on these purchases without verifying the records. This resulted in incorrect allowance of ITC of ₹ 24.92 crore including penalty of ₹ 16.61 crore.

Under the provisions of the JVAT Act and Rules framed thereunder, ITC shall not be allowed to a registered dealer in respect of sales exempted from levy of tax as specified in Schedule I and in respect of goods used for manufacture of goods for transfer of stock or other than by way of sale or for sale outside the State.

2.14.2 We test checked the records of five assesseees in four commercial taxes circles¹⁷ for the period 2006-07 which revealed that ITC of ₹ 35.01 lakh was claimed on exempted goods and stock transfer outside the state though ITC was not admissible. However, we noticed that the AAs while finalising the assessments between

December 2008 and March 2009 allowed the same. This resulted in allowance of excess ITC of ₹ 35.01 lakh.

After we pointed the cases, the AA of Bokaro commercial taxes circle intimated that demand for ₹ 4.48 lakh as pointed out by audit has been raised in September 2010 in two cases. Further action taken to recover the amount and reply in the remaining cases has not been received (March 2011).

We reported the matter to the Government/Department in June 2010; their reply has not been received (March 2011).

2.15 Irregularities in grant of exemptions

Exemptions from levy of sales tax have been allowed under different provisions of the Act and notifications issued thereunder with specific objectives, terms and conditions. It is essential that the AA should ensure that the exemptions are granted in accordance with the provisions of the Act and notifications and subject to fulfilment of specified terms and conditions.

Our scrutiny however indicated a number of discrepancies in the assessments finalised by the AAs through which incorrect/excess exemptions were granted. A few instances involving non/short levy of tax of ₹ 28.93 crore are mentioned in the following paragraphs:

Under the provisions of the JF Act and Rules made thereunder a dealer is not liable to pay tax in respect of goods transferred by him to any other dealer or to his agent for sale within the state provided that he furnishes, before the prescribed authority, a declaration in form 'IXD' issued by the transferee.

2.15.1 We noticed in Jharia commercial taxes circle that an assessee claimed exemption from payment of tax on transfer of coal valued at ₹ 353.86 crore to its steel plant for (self) consumption during

¹⁷ Bokaro, Dhanbad, Jharia and Ranchi East.

the period 2004-05 and 2005-06. The declarations affecting the transfer were neither found on record nor was any mention of their production made in the assessment order finalised by the AA in December 2008 and January 2009 respectively. In absence of these declarations, the assessee was not entitled to exemption. However, the AA while finalising the assessments incorrectly allowed exemption from the payment of tax resulting in short realisation of tax of ₹ 14.15 crore.

After we pointed the case in March 2010, the AA intimated in August 2010 that form IX D was not required for stock transfer for internal consumption. The reply of the AA is not in consonance with the provision of Section 21 (1A) of the repealed Act as submission of declaration form IX D to substantiate claim for exemption on account of intra-state stock transfer is necessary.

We reported the matter to the Government/Department in June 2010; their reply has not been received (March 2011).

As per notifications issued from time to time under the provisions of the JF Act, a new industrial manufacturing unit may be exempted from payment of tax for a specified time period and up to a certain monetary limit. The exemption certificate, in this regard, issued by the Commercial Taxes Department mentions the monetary limit of exemption and the period of its validity.

2.15.2 We test checked the exemption certificates and assessment records of three assesseees in Adityapur and Ramgarh commercial taxes circles for the period from 2000-01 to 2005-06, which revealed that these dealers were entitled to exemption from payment of tax up to a limit of ₹ 19.52 crore only.

However, against this limit the dealers availed exemption from payment of tax up to ₹ 34.30 crore. The AAs while finalising the assessments between October 2004 and June 2008 did not detect the mistake. This resulted in excess allowance of exemption of sales tax of ₹ 14.78 crore.

After we pointed out the cases between April 2009 and February 2010, the AA of Ramgarh commercial taxes circle intimated that demand for ₹ 1.42 crore as pointed out by audit has been raised in June 2010 in one case. Further action taken to recover the amount and reply in the remaining cases has not been received (March 2011).

We reported the matter to the Government/Department in June 2010; their reply has not been received (March 2011).

2.16 Non/short imposition of penalty

Under the provisions of Section 40 (1) of the JVAT Act, if the dealer has concealed, omitted or failed to disclose wilfully the particulars of turnover or has furnished incorrect particulars below the real amount, the prescribed authority shall assess or reassess the amount of tax due from the dealer in respect of such turnover and direct the dealer to pay tax and penalty equal to twice the amount of additional tax assessed. If assessed under Section 40 (2), interest at the rate of two *per cent* is leviable.

2.16.1 We noticed in Ramgarh commercial taxes circle that three assessee engaged in the business of sponge iron (two assessee) and coal (one assessee) had furnished turnover of ₹ 353.28 crore during 2006-07. The AAs while finalising the assessments between December 2008 and February 2009 enhanced the gross turnover by an additional amount of ₹ 645.93 crore on the basis of data procured from the Railways by the circle. Thus, ex-parte assessment was made on the ground that necessary details/documents were not furnished by the dealers and they did not turn up despite allowing several

extension of dates and levied tax on the enhanced additional turnover. Our scrutiny, however, indicated that in one case penalty of ₹ 69.83 crore on the assessed additional tax, though leviable as per the Act, was not levied. In the other two cases interest amounting to ₹ 0.67 crore though leviable was also not levied.

After we pointed out the cases in February 2010, the AA stated that the cases would be reviewed. We have not received any further reply (March 2011).

We reported the matter to the Government/Department in June 2010; their reply has not been received (March 2011).

Under the provisions of the JVAT Act and Rules made thereunder, a dealer with gross turnover exceeding ₹ 40 lakh is required to furnish VAT audit report in Form JVAT 409 within nine months from the end of that year, failing which the assessing authority shall impose penalty equal to 0.1 *per cent* of the turnover as he may determine.

2.16.2 We test checked the records in Dhanbad Urban and Ramgarh commercial taxes circles which revealed that two assessee had not submitted VAT audit report in Form JVAT 409 for the period 2006-07. Our scrutiny revealed that the AAs while finalising the assessments

between January and March 2009 determined the gross turnover at ₹ 830.49 crore and imposed penalty of ₹ 25.36 lakh only instead of ₹ 83.05 lakh for not submitting the VAT Audit Report. This resulted in non/short imposition of penalty for ₹ 57.69 lakh due to non-submission of VAT audit report.

After we pointed out the cases between August 2009 and January 2010, the AAs stated between August 2009 and February 2010 that the cases would be reviewed. We have not received any further reply (March 2011).

The JF Act provides for imposition of penalty for failure to pay the tax demanded which may extend to five *per cent* of the amount of tax for the first three months or part thereof and to 10 *per cent* for each subsequent month or part thereof.

2.16.3 We test checked the records in Bokaro and Ramgarh commercial taxes circles which revealed that two assesseees had failed to pay outstanding demand of assessed tax of ₹ 23.76 crore for the period 2003-04 and 2005-06, assessed

in August 2006 and January 2009 respectively, till the date of audit (February 2010). The delay ranged between 10 months 4 days and 40 months 6 days. Our scrutiny revealed that the AAs after issuing notice for imposing penalty (February 2009) neither imposed penalty nor instituted certificate case till the date of audit (February 2010). These resulted in non-imposition of penalty of ₹ 50.01 crore for non-payment of assessed tax as provided in the Act.

After we pointed out the cases in February 2010, the AA in the case of Bokaro stated in March 2010 that the case would be re-examined, while the AA of Ramgarh did not furnish any reply. We have not received any further reply (March 2011).

We reported the matter to the Government/Department in June 2010; their reply has not been received (March 2011).

2.17 Irregularities in compliance to the Central Sales Tax Act

Under the provisions of the CST Act, 1956 and the rules/notifications issued thereunder, different declarations forms are prescribed for claiming exemptions/concessions from levy of tax. The Act further provides for imposition of penalty for misuse of declaration forms.

We noticed that the AAs did not comply with the provisions of the Act and notifications issued thereunder resulting in short levy of tax and penalty of ₹ 21.95 crore. The cases are described in the succeeding paragraphs:

Mistakes in computation of tax

Under the provisions of the CST Act, the AA is to finalise the assessment with utmost care and efficiency. He should see that computation of tax has been done accurately to the best of his knowledge and belief.

2.17.1 We noticed (July 2009) in five commercial taxes circles¹⁸ that five dealers had made inter-state sale of coal, bright bars, wire ropes and explosives valued at ₹ 311.36 crore during 2004-05 and 2006-07. Our scrutiny

revealed that out of these, sales valued at ₹ 60.86 crore were not supported by prescribed declarations in Form 'C' or 'D'. However, the AAs while finalising the assessments between March 2005 and March 2009 incorrectly computed tax at the concessional rates. This resulted in short levy of tax amounting to ₹ 2.47 crore.

¹⁸ Adityapur, Katras, Ranchi South, Sahebganj and Tenughat.

Under the provisions of the CST Act, tax is levied at twice the rate applicable on the inter-state sale of declared goods not supported by declarations in form 'C'.

2.17.2 We noticed (July 2009) in Ramgarh commercial taxes circle that an assessee had furnished 20 declaration forms (19 declaration in form 'C' and one declaration in form

'D') for ₹403.53 crore in support of inter-state sale of coal valued at ₹410.38 crore during 2005-06. Our scrutiny of records revealed that out of these declaration forms eight declaration forms amounting to ₹235.11 crore were issued in favour of another dealer and were liable to be rejected. Failure of the AA to detect the same while finalising the assessment in January 2009 resulted in under assessment of tax of ₹9.40 crore.

Misuse of declaration forms

Under the CST Act, if a registered dealer falsely represents when purchasing any class of goods that goods of such class are covered by his certificate of registration (RC), he is liable to be prosecuted. However, the Act provides that the authority competent to grant the RC may impose penalty not exceeding one and a half times of the tax leviable.

2.17.3 We noticed (July 2009) in Dhanbad and Tenughat commercial taxes circles that three assesseees had purchased signaling and telecommunication equipment, sleepers, rails, safety shoes, copper, graphite, HSD and spare parts etc. valued at ₹30.20 crore from outside the State at concessional rate of tax by using declarations in form 'C' during 2005-06 and 2006-07. Our

scrutiny revealed that these goods were not covered by their Registration Certificate (RC). However, the AAs while finalising the assessments between December 2007 and February 2009 did not check the RCs to verify whether the goods procured were covered by the RC. This resulted in unauthorised use of declaration form 'C' and consequential short determination of tax of ₹10.08 crore including penalty of ₹5.90 crore.

We reported the matter to the Government/Department in June 2010; their reply has not been received (March 2011).