

CHAPTER IV

REVENUE RECEIPTS

4.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of the Union Territory of Puducherry and the grants-in-aid received from the Government of India during the year 2009-10 and the corresponding figures for the preceding four years are given below:

(₹ in crore)

Sl. No.	Category	2005-06	2006-07	2007-08	2008-09	2009-10
I	Revenue raised by the Government					
	(a) Tax revenue	479.40	569.55	652.85	725.35	867.74
	(b) Non-tax revenue	510.99	549.92	625.82	628.64	642.93
	Total (I)	990.39	1,119.47	1,278.67	1,353.99	1,510.67
II	Receipts from the Government of India - Grants-in-aid	811.49	764.09	856.95	1,104.51	1,330.66
III	Total receipts of the Government (I + II)	1,801.88	1,883.56	2,135.62	2,458.50	2,841.33
IV	Percentage of I to III	55	59	60	55	53

The above table indicates that during the year 2009-10, the revenue raised by the Union Territory Government was 53 per cent of the total revenue receipts (₹ 2,841.33 crore) as against 55 per cent in the preceding year. The balance 47 per cent of the receipts during 2009-10 was obtained from the Government of India.

4.1.1 The details of tax revenue raised during the year 2009-10 along with the figures for the preceding four years are given below:

(₹ in crore)

Sl. No.	Heads of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+)/ decrease (-) in 2009-10 over 2008-09
1	Taxes on sales, trade, etc.	304.22	364.89	354.98	381.86	453.11	18.66
2	State excise	125.17	143.49	224.02	279.60	329.06	17.69
3	Stamp duty and registration fees	23.97	31.01	41.37	30.80	50.15	62.82
4	Taxes on vehicles	25.56	29.01	31.60	32.46	34.75	7.05
5	Land revenue	0.31	0.91	0.54	0.38	0.54	42.11
6	Others	0.17	0.24	0.34	0.25	0.13	(-) 48
	Total	479.40	569.55	652.85	725.35	867.74	

The reasons for variation in receipts in 2009-10 over 2008-09 as furnished by the departments concerned are mentioned below:

Taxes on sales, trade, etc.: The increase (18.66 *per cent*) was due to increase in the number of registered dealers and strict compliance of payment of taxes and collection of tax arrears.

State excise: The increase (17.69 *per cent*) was due to higher production of Indian Made Foreign Liquor (IMFL) and beer and increased collection of excise duty and additional excise duty.

Stamp duty and registration fees: The increase (62.82 *per cent*) was due to increased sale of non-judicial stamps.

Land revenue: The increase (42.11 *per cent*) was due to reimbursement of pay and allowances of the revenue staff by Puducherry Agro Services Industries Corporation, Puducherry Agro Products Services Corporation and Building Centre and remittance of undisbursed cash compensation for flood relief to Government account.

The other departments did not furnish (November 2010) the reasons for variation despite being requested.

4.1.2 The details of the non-tax revenue raised during the year 2009-10 along with the figures for the preceding four years are given below:

(₹ in crore)

Sl. No.	Heads of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+) / decrease (-) in 2009-10 over 2008-09
1	Power	486.88	508.95	570.36	545.90	549.39	0.64
2	Interest receipts, dividends and profits	4.13	7.23	21.41	47.60	56.98	19.71
3	Medical and public health	3.57	7.52	7.83	6.55	6.58	0.46
4	Education, sports, art and culture	0.46	0.47	0.48	0.46	0.45	(-) 2.17
5	Crop husbandry	0.53	0.43	0.34	0.29	0.39	34.48
6	Other receipts	15.42	25.32	25.40	27.84	29.14	4.67
	Total	510.99	549.92	625.82	628.64	642.93	

The reasons for increase (19.71 *per cent*) in interest receipts, dividends and profits in 2009-10 over 2008-09 as stated by the concerned department were due to investment of cash balance in 14 day treasury bills, lump sum

payment of interest on the advances availed by the government servants and receipt of dividends from Puducherry Power Corporation Limited and Puducherry Distilleries Limited.

The other departments did not furnish (November 2010) the reasons for variation despite being requested (July 2010).

4.2 Variation between the budget estimates and actuals

The variation between the budget estimates and actual revenue receipts for the year 2009-2010 in respect of the principal heads of tax and non-tax revenue are given below:

(₹ in crore)

Sl. No	Heads of Revenue	Budget estimates	Actuals	Variation Excess (+) or shortfall (-)	Percentage of variation
1	Taxes on sales, trade, etc.	500.00	453.11	(-) 46.89	(-) 9.38
2	State excise	300.00	329.06	29.06	9.69
3	Stamp duty and registration fees	60.00	50.15	(-) 9.85	(-) 16.42
4	Taxes on vehicles	45.00	34.75	(-) 10.25	(-) 22.78
5	Land revenue	0.79	0.54	(-) 0.25	(-) 31.65
6	Power	945.15	549.39	(-) 395.76	(-) 41.87
7	Interest receipts, dividends and profits	31.43	56.98	25.55	81.29
8	Medical and public health	6.30	6.58	0.28	4.44
9	Education, sports, art and culture	0.73	0.45	(-) 0.28	(-) 38.36
10	Crop husbandry	0.42	0.39	(-) 0.03	(-) 7.14

The departments did not furnish (November 2010) the reasons for variation despite being requested (July 2010).

4.3 Analysis of collection

The break-up of total collection at the pre-assessment stage and after regular assessment under the Pondicherry General Sales Tax Act and Puducherry Value Added Tax Act for the year 2009-2010 and the corresponding figures

for the preceding two years as furnished by the department are as follows:

(₹ in crore)

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection	Percentage of col. 2 to 6
1	2	3	4	5	6	7
2007-08	350.30	4.43	0.37	0.12	354.98	98.68
2008-09						
ST	2.85	1.11	0.11	1.95	2.12	134
VAT	379.38	----	0.36	----	379.74	99.91
2009-10						
ST	5.68	---	0.43	0.13	5.98	94.98
VAT	232.80	---	0.39	---	233.19	99.83
Non-VAT	213.76	---	0.18	---	213.94	99.91

The above table shows that the collection of revenue at the pre-assessment stage ranged between 94.98 and 134 per cent during 2007-08 to 2009-10.

4.4 Arrears of revenue

The arrears of revenue pending for collection as on 31 March 2010 under the principal heads of revenue, as reported by various departments, was ₹ 342.06 crore as indicated below:

(₹ in crore)

Sl. No.	Departments	Total arrears	Arrears outstanding for more than five years	Remarks
(1)	(2)	(3)	(4)	(5)
1.	Commercial Taxes	146.81	6.41	The arrears relate to collection of tax under PGST/CST and VAT Acts. Rupees 123.88 crore is covered under litigation. Rupees 2.25 lakh is covered under write off proposals, ₹ 61.43 lakh is under revision petition and ₹ 22.30 crore is pending at various stages of recovery.

(1)	(2)	(3)	(4)	(5)
2.	Electricity	163.65	28.91	The arrears comprise ₹ 49.50 crore due from the high tension (HT) consumers and ₹ 114.15 crore from low tension (LT) consumers. Out of the HT arrears, ₹ 25.90 crore is due from a UT Government owned company; ₹ 0.84 crore is pending with the Claims Commissioner, New Delhi; ₹ 12.80 crore is covered under litigation; ₹ 3.78 crore is proposed to be recovered through the Revenue Recovery Act and ₹ 6.18 crore is due from other consumers/ industries. Under LT category, ₹ 25.72 crore is due from Local Bodies and ₹ 11.56 crore from Government departments. Rupees 76.87 crore is due from other consumers/ industries.
3.	Public Works	16.88	2.72	The arrears relate to water charges due from consumers and licence fee due from Government servants.
4.	State Excise	12.07	11.04	Arrears are mainly due to non payment of <i>kist</i> by the lessees of arrack and toddy shops
5.	Government Automobile Workshop	2.11	---	The arrears are due from Government departments towards sale of petrol, oil and lubricants.
6.	Town and Country Planning	0.14	0.14	The arrears relate to enhanced cost of plots due from the allottees of various housing schemes.
7.	Stationery and Printing	0.14	0.02	The arrears relate to payments due from Government departments.
8.	Tourism	0.09	0.02	The arrears are mainly due from guests/Government Officials/MLAs/Hon'ble Ministers towards room rent.
9.	Co-operation	0.06	0.02	Arrears relate to audit fees and other receipts dues.
10.	Industries	0.05	0.05	Arrears relate to rent due from defunct industrial units and to be recovered under the Revenue Recovery Act.
11.	Judicial	0.04	0.03	In some cases, the accused are in prison and in some cases, appeals are pending in courts.
12.	Legislative Assembly Secretariat	0.01	0.01	The arrears relate to payment of rent by the lessees towards legislators' hostel canteen.
13.	Fisheries	0.01	0.01	Arrears are due from Fisheries Department, Kakinada, Government of Andhra Pradesh.
	Total	342.06	49.38	

The other departments *viz.*, Information and Publicity, Police and Agriculture did not furnish (November 2010) the details of arrears of revenue despite being requested (October 2010).

4.5 Fraud and evasion of tax

The details of cases of fraud and evasion of sales tax detected, cases finalised and the demands for additional tax and penalty levied as reported by the Commercial Taxes department are mentioned below:

Cases pending as on 1 April 2009	Cases detected during 2009-10	Total	Number of cases in which assessments/investigations were completed and additional tax and penalty levied		Number of pending cases as on 31 March 2010
			Number of cases	Amount demanded	
80	21	101	5	₹ 2.97 lakh	96

4.6 Failure to enforce accountability and protect the interest of the Government

Principal Accountant General (Commercial and Receipt Audit), Tamil Nadu arranges periodical inspection of the Government departments to test check the transactions and verify the maintenance of important accounts and other records as per the prescribed rules and procedures. These inspections are followed up with inspection reports (IRs). Important irregularities are included in the IRs issued to the heads of offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of offices/Government are required to comply with the observations contained in the IRs, rectify the defects and omissions promptly and report compliance to the office of the Principal Accountant General within two months from the dates of issue of the IRs. Serious irregularities are also brought to the notice of the heads of the departments by the office of the Principal Accountant General.

A review of IRs issued upto December 2009 disclosed that 632 paragraphs involving ₹ 121.29 crore relating to 186 IRs remained outstanding at the end of June 2010. The Department-wise break up of the IRs and audit observations outstanding as on 30 June 2010 are as given in the following table:

(₹ in crore)

Sl. No.	Tax Heads	Outstanding		Amount
		Inspection Reports	Audit Observations	
1	Sales tax	45	281	107.12
2	Land revenue	27	61	1.57
3	Stamp duty and registration fees	60	124	1.95
4	Taxes on vehicles	29	123	4.10
5	State excise	25	43	6.55
	Total	186	632	121.29

4.7 Status of recovery against audit observations accepted by the Government

A review of the replies of the Government to the paragraphs of the Audit Reports for the last five years from 2005-06 to 2008-09 shows that against the revenue effect of ₹ 97.21 crore of the audit observations accepted by the department, the actual recovery was only ₹ 21 lakh. The year-wise break up of the recovery of revenue till October 2010 is mentioned below:

(₹ in crore)

Year of Audit Report	Revenue effect of the chapter	Amount accepted by the department	Amount recovered
2005-06	22.13	22.13	0.00
2006-07	1.13	0.00	0.00
2007-08	9.49	1.80	0.20
2008-09	73.28	73.28	0.01
Total	106.03	97.21	0.21

It is recommended that the Government may revamp the recovery mechanism to ensure that the amount involved in accepted cases is promptly recovered.

4.8 Results of audit

Test check of the records of sales tax, state excise, stamp duty and registration fees and taxes on vehicles conducted during the year 2009-10 revealed under assessment/short levy/loss of revenue amounting to ₹ 9.88 crore in 28 audit observations. During the course of the year, the departments accepted ₹ 8.54 lakh in six audit observations of which ₹ 6.03 lakh pertaining to two cases were pointed out in earlier years. Rupees 6.12 lakh was recovered by the department.

This Chapter contains a review on “Transition from Sales tax to Value added tax” and two paragraphs involving money value of ₹ 34.33 lakh. The Government accepted the audit observation in one case amounting to ₹ 6.03 lakh and collected ₹ 3.61 lakh.

COMMERCIAL TAXES DEPARTMENT

4.9 Transition from Sales Tax to Value Added Tax

Highlights

- Large number of assessments (20,038) under the repealed Act are pending finalisation despite availability of enabling provisions facilitating deemed assessments.

(Paragraph 4.9.8)

- The return in form 'K' prescribed under the PVAT Rules was found to be deficient to elicit all the required details from the assessee and for ensuring the correctness of the claim of ITC.

(Paragraph 4.9.11.1)

- The Puducherry Value Added Tax Act does not provide for a fixed percentage of self assessments to be taken up for detailed scrutiny.

(Paragraph 4.9.12)

- Failure to re-fix turnover limits for claiming compounding rate of tax while introducing the Act in the middle of the year resulted in foregoing of revenue of ₹ 28.30 lakh during 2007-08.

(Paragraph 4.9.15)

- The department had not instituted a mechanism to assess the impact of VAT on the prices of commodities and to ensure that the benefit of reduction in tax rates had been passed on to the general public.

(Paragraph 4.9.17.4)

4.9.1 Introduction

The Government of India decided to implement State Level Value Added Tax in all the States on the basis of the decision taken on 23 January 2002 by the Empowered Committee of the State Finance Ministers. The Empowered Committee submitted its White Paper in January 2005 and anticipated that the introduction of VAT would result in the following benefits:

- elimination of cascading tax burden, by providing a set off for input tax as well as tax paid on previous purchases;

- rationalisation of the overall tax burden by abolition of other incidental taxes such as surcharge and additional sales tax;
- the overall tax would increase and there would be higher revenue growth;
- built in self assessment by dealers; and
- a simple and transparent tax structure.

The Government of Puducherry repealed the Pondicherry General Sales Tax Act, 1967 and promulgated the Puducherry Value Added Tax Ordinance, 2007 which came into force with effect from 1 July 2007. The Ordinance was replaced with an Act, viz., Puducherry Value Added Tax Act, 2007 (PVAT Act) after receiving the assent of the President of India on 1 December 2007. Some of the differences between the PVAT Act and the repealed Act are as under:

(i) VAT is a multi point taxation system unlike PGST which was a single point taxation system.

(ii) VAT is based on the value addition to the goods and the related VAT liability of the dealer is calculated by deducting input tax credit from the tax collected on sales during the tax period;

(iii) The VAT system relies on the dealers to pay the tax voluntarily by furnishing the returns prescribed under the PVAT Act. These returns shall be accepted as self-assessed. The selection of cases for detailed assessment by scrutiny of accounts is left to the discretion of the assessing authority or as directed by the Commissioner. However, under the PGST Act, cent *per cent* cases were required to be assessed by the department.

(iv) The VAT system simplifies the tax structure and reduces the control of the executive over the dealers whereas the repealed sales tax system was cumbersome with additional levy of turnover tax.

4.9.2 Organisational set up

The Commissioner of Commercial Taxes (CCT) is the head of the department of Commercial Taxes (CT) and is assisted by the Deputy Commissioner and Assistant Commissioner (Audit and Intelligence) who exercise administrative control. There are four assessment circles in Puducherry region and one each in the outlying regions of Karaikal, Mahe and Yanam. The Commercial Tax Officers, Deputy Commercial Tax Officers and Assistant Commercial Tax Officers are the assessing authorities responsible for the levy and collection of tax and arrears thereof in the respective assessment circles. In addition, there is a 'Mobile Wing' which has been formed for the purpose of conducting surprise inspections and unearthing suppression. The Appellate Wing headed by the Appellate Assistant Commissioner deals with appeal cases. The monitoring and

control at the Government level is done by the Principal Secretary, Finance Department.

4.9.3 Audit objectives

The review was conducted with a view to ascertain that

- the planning for implementation and transition from the PGST Act to PVAT Act was effected timely and efficiently;
- the organisational structure was adequate and effective;
- the provisions of the PVAT Act and the Rules made thereunder are adequate and enforced properly to safeguard the revenue of the Union Territory; and
- the internal control mechanism which exists in the department was effective and adequate to prevent leakage of revenue.

4.9.4 Scope and methodology of audit

The review was conducted between February 2010 and June 2010. The data and other related details pertaining to the period from July 2007 to March 2010 were gathered from the administrative sections and four assessment divisions of the CT department for macro level analysis.

4.9.5 Acknowledgment

Audit acknowledges the co-operation extended by the Commercial Taxes department in providing us the necessary records and information. An entry conference was held in April 2010 in the office of the Principal Secretary, Finance and Development Commissioner, Puducherry in which the audit objectives, scope and methodology were explained. The draft review was forwarded to the department and the Government in July 2010. An exit conference was held on 26 November 2010 with the Commissioner, Commercial Taxes Department. The reply received from the department has been incorporated in the review.

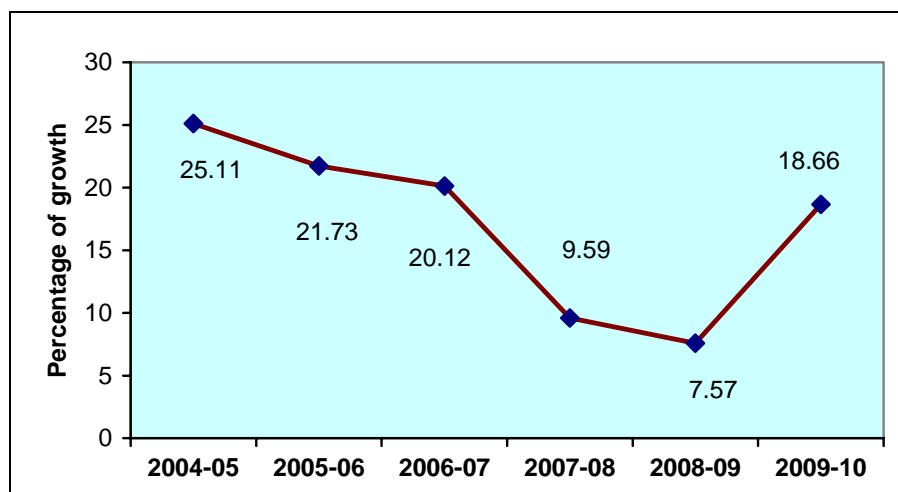
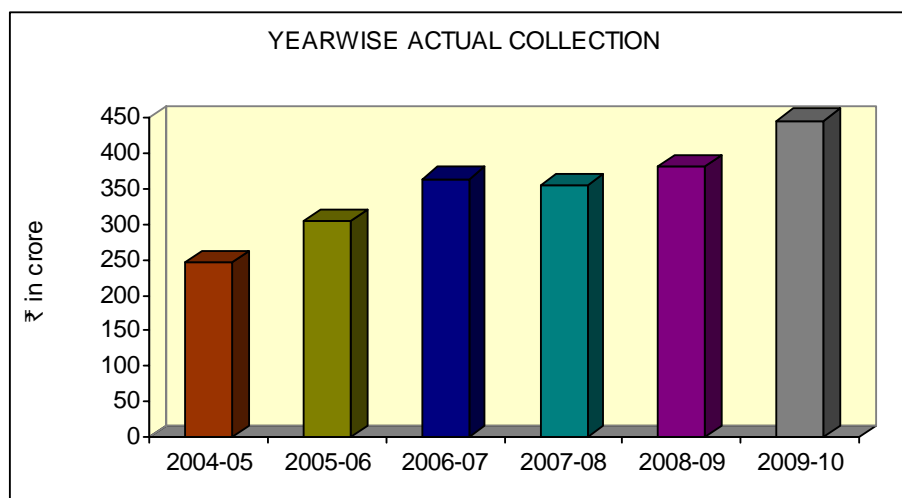
Audit findings

4.9.6 Pre-VAT and post-VAT collection

The comparative position of pre-VAT sales tax collection (2004-05 to 2006-07), composite sales tax and VAT collection (2007-08) and post-VAT tax collection (2008-09 and 2009-10) including the annual growth rate is mentioned below:

Pre VAT			Post VAT		
Year	Actual collection (₹ in crore)	Percentage of growth	Year	Actual collection (₹ in crore)	Percentage of growth
2004-05	246.48	21.27	2007-08*	354.98	(-) 2.72
2005-06	304.22	23.43	2008-09	381.86	7.57
2006-07	364.89	19.94	2009-10	453.11	18.66

*composite period of pre VAT and post VAT
The figures for the years 2004-05 to 2006-07 is inclusive of tax realised through sale of IMFL also.



The department attributed the reason for the decline in growth rate during the post-VAT period to the grant of exemption on sale of IMFL with effect from 22 April 2007 and continuance of the same during VAT regime. Even

after excluding the revenue earned on IMFL from the total revenue for the years 2004-05 to 2006-07, the rate of growth in tax revenue had decreased during the post-VAT period, being as low as 7.57 per cent in 2008-09. The department attributed the reason for increase in growth rate (18.66 per cent) during 2009-10 to increase in the number of registered dealers and strict compliance of payment of tax dues and collection of tax arrears.

4.9.7 Preparedness and transitional process

The department formed a VAT cell to attend to the VAT related issues such as drafting the PVAT Act, organising training, interacting with other States, etc. The PVAT ordinance was promulgated in the UT on 2 June 2007. The draft PVAT Bill, 2007 received the assent of the President of India on 1 December 2007 and the same was published in the Gazette on 3 December 2007.

As per the decision of the Empowered Committee, many States had introduced VAT with effect from 1 April 2005. However, VAT was introduced in the UT only from 1 July 2007. The delay in implementation of VAT was attributed to the apprehension among the trading community that introduction of VAT in the UT without Tamil Nadu implementing the same would seriously affect their trade and might adversely affect the economy of the UT.

4.9.7.1 Creation of awareness among the stakeholders

The department organised a number of training programmes for the officers of the CT department and stakeholders (Chambers of commerce and industries, traders, manufacturers and sales tax practitioners) during January 2007 to August 2007. The department also organised campaigns through the print media by issue of advertisements in newspapers, issue of pamphlets and erection of hoardings in connection with the implementation of VAT in the UT of Puducherry.

4.9.7.2 Analysis of staff requirement

The total staff strength of the department and vacancy position for the period from 2006-07 to 2009-10 is tabulated below:

Period	Sanctioned strength	Actual strength	Vacancy position
2006-07	159	152	7
2007-08	159	146	13
2008-09	159	135	24
2009-10	159	127	32

The above table indicates an increasing trend in vacancies. The department stated in October 2010 that no proposal was sent to the Government for

additional requirement of staff for the administration/implementation of VAT Act.

It is recommended that the Government consider filling up the vacancies in view of the large number of pending assessments as stated in Paragraph 4.9.8 below.

4.9.8 Pendency of assessments under the PGST Act

The Pondicherry General Sales Tax (Assessment) Rules 2007 empowered the assessing authorities to make deemed assessment, without calling for the accounts of the dealers. Despite the enabling provision, a large number of assessments under the erstwhile Act were kept pending as detailed in the table below:

Year	Opening Balance	Cases which became due for assessment	Total	Cases disposed	Cases pending	Percentage of disposal
2006-07	18,774	9,461	28,235	9,693	18,542	34
2007-08	18,542	10,870	29,412	12,053	17,359	41
2008-09	17,359	5,843	23,202	2,644	20,558	11
2009-10	20,558	---	20,558	520	20,038	3

The percentage of finalisation of assessments pertaining to the PGST Act has fallen sharply during 2008-09 i.e. after the implementation of VAT. Although the poor pace of finalisation of assessments is likely to affect the collection of taxes adversely, no action plan for fixation of targets in terms of number of cases for each assessing authority and the time period within which the pending cases should be disposed has been devised by the department.

The department stated in October 2010 that they are considering effective measures to complete the pending assessments.

The Government may formulate an action plan to facilitate the finalisation of assessments and closely monitor its implementation.

System deficiencies

4.9.9 Registration of dealers

Section 6 of the PVAT Act provides that all the dealers who were carrying on business before the commencement of the Act and who were registered under the PGST Act, shall be deemed to be provisionally registered under the PVAT Act. The dealers were requested to submit the prescribed application for registration within one month from the date of commencement of the Act. According to Section 4 of the PVAT Act, every

dealer whose total turnover in any year was not less than ₹ 10 lakh was required to be registered under the Act. The turnover limit for registration was reduced to ₹ five lakh with effect from 1 November 2008.

Audit observed that there has been a reduction in the number of registered dealers. The number which was 12,735 in 2006-07 had come down to 11,218 during 2007-08. The number of registered dealers during 2008-09 and 2009-10 were 11,707 and 12,531 respectively.

4.9.9.1 Database of dubious/risky dealers

In order to prevent evasion of tax, a database in respect of dubious/risky dealers needs to be maintained by the department on the basis of past history of the dealers under the PGST Act, listing cases of fraud/concealment/usage of fake declaration forms to get exemption or reduction in rate of tax. The assessing authorities should consult the database before finalising any assessment.

No database in respect of dubious/risky dealers was maintained by the department.

The department replied in October 2010 that the data generated through the VAT software regarding non-filers of returns was used by the assessing authorities for further follow up action. The department further stated that on receipt of specific information from outside agencies or the commercial tax authorities of other States, action was being initiated against the erring dealers. The fact remains that the purpose of keeping a constant watch over risky dealers was not secured due to non-maintenance of database of dubious/risky dealers.

4.9.10 Deficiencies in the Act and the Rules

4.9.10.1 Rule 17 (13) of the Puducherry Value Added Tax Rules, 2007 (PVAT Rules) prescribes that a registered dealer shall keep all original purchase invoices and connected documents relating to the claim for input tax credit, for a period of five years from the date of commencement of the Act and shall produce such documents to the authority for scrutiny, if required.

The PVAT Act provides for detailed assessment by scrutiny of accounts to be made within a period of three years from the end of the year to which the returns relate and for reversal of input tax credit at any time within a period of five years from the end of the year to which the return relates. Hence, the period of five years should be reckoned from the end of the year to which the return relates, instead of from the date of commencement of the Act.

After this was pointed out, the department initially agreed for necessary amendment of the rule but stated in November 2010 that Chapter VII of the PVAT Rules envisage preservation of records for five years from the end of

the year to which the accounts relates and sub-rule 13 of Rule 17 is only for regulating the input tax credit (ITC) on opening stock.

The reply is not acceptable as the said rule regarding the preservation of documents relating to claim of ITC is not restricted to opening stock alone and the expression “from the date of commencement of the Act” appearing therein is an error in drafting, which has to be set right by necessary amendment of the Rules.

4.9.11 Returns

Section 24 of the PVAT Act deals with filing of returns. Rule 19 of the PVAT Rules prescribes different returns for different classes of dealers and the due dates within which the returns are to be filed.

4.9.11.1 *Deficiencies in the format of the prescribed forms for submitting returns*

The Act provides for self assessment by the dealers and accounts are not required to be produced by the dealers except in cases selected for scrutiny. It is, therefore, necessary that the returns which form the basis for determination of tax payable by the dealers should have suitable columns/fields necessary for eliciting the requisite information and to ensure the correctness of the claim of ITC and output tax payable by the dealers.

The following deficiencies in the format of the return were noticed in audit.

Under the PVAT Act, any dealer who effects second and subsequent sale of goods purchased within the UT and whose total turnover under the PVAT Act and Central Sales Tax (CST) Act does not exceed ₹ 50 lakh in a year could opt for payment of tax at the compounded rate of 0.5 *per cent* on the taxable turnover. The Act also provides that the permission granted for payment of tax at compounded rate shall be deemed to have been cancelled from the end of that tax period in which his sales turnover under the PVAT Act and the CST Act exceeds ₹ 50 lakh. The return in ‘Form-K’ meant for such dealers does not have a provision to exhibit the seller’s TIN, in the absence of which the correctness of the claim as local purchases cannot be ensured. The return in ‘Form K’ also does not contain any column to indicate the month to which the return relates. A column for exhibition of cumulative monthly turnover in the return would be useful to easily identify the dealer’s eligibility for payment of tax at the compounded rate.

The department replied in November 2010 that the dealers who are registered under the PVAT Act alone are eligible for compounding scheme and not the dealers registered under the CST Act. The reply is not acceptable as the PVAT Act provides that a dealer who effects second and subsequent sale of goods purchased within the UT of Puducherry may opt to

pay tax at the compounded rate and the indication of the seller's TIN is essential to ensure that the purchases are made from local registered dealers.

The Government may consider modifying the prescribed form 'K' in order to make it compatible with the provisions of the Act/Rules.

4.9.12 Tax audit

The White paper on VAT submitted by the Empowered Committee provided for a certain percentage of dealers to be drawn up on a scientific basis for the purpose of tax audit. The PVAT Act, however, provides that the returns submitted by the dealer along with the tax due thereon shall be accepted as self-assessed. The assessing authority may select, either at his discretion or as directed by the Commissioner, any dealer for detailed assessment for a year by scrutiny of accounts.

The details of the number of cases which were taken up for scrutiny during the years 2007-08 to 2009-10 were sought by audit. In reply, the assessing authorities of the four assessment circles at Puducherry region replied that 24 cases pertaining to the assessment year 2007-08, one case pertaining to the assessment year 2008-09 and 25 cases pertaining to the assessment year 2009-10 were taken up for scrutiny.

When the fact of the small number of cases selected for scrutiny was brought to the notice of the department in July 2010, the department stated in November 2010 that the work of investigation undertaken to unearth massive evasion of tax, the handling of economic offences which required utmost care and devotion of the entire department, coupled with the paucity of man power hindered the department from undertaking more cases of scrutiny assessment.

The department, however, stated in October 2010 that 4,663 cases pertaining to the assessment year 2008-09 were selected for scrutiny/detailed assessment. The details of assessment cases taken up for scrutiny as subsequently furnished by the assessing authorities are mentioned below:

	2007-08	2008-09	2009-10
Number of assessments taken up for scrutiny (excluding Puducherry-I)	1,773	2,854	1,775*
Number of cases finalised	78	155	22
*Details pertain to two circles (Puducherry II and Industrial assessment circle) only; in respect of the other circles (Industrial wing, Mahe, Karaikal and Yanam), cases have not yet been selected.			

In view of the discrepancies in the figures furnished by the assessing authorities on two different occasions, audit was not able to ascertain the exact number of cases which were taken up for scrutiny.

The department further stated that the VAT audit manual prescribes that one third of the cases should be taken up for scrutiny every year so as to cover all the cases in a cycle of three years.

The above information furnished by the department indicates that the number of cases selected for tax audit did not conform to the standards laid down in the Manual. Further, the number of cases in which scrutiny had been completed was also extremely low.

The Government, may, therefore, consider bringing in suitable provisions in the PVAT Act to provide for a fixed percentage of self assessments to be taken up for detailed scrutiny each year and also prescribe a time limit within which the scrutiny should be completed.

4.9.13 Input tax credit

The essence of VAT lies in providing set off for the tax paid on purchases and this is accomplished by allowing the dealer input tax credit (ITC). The entire design of VAT with input tax credit is crucially based on the documentation of tax invoices. It is essential to ensure that the quantum of credits as claimed, have been paid into the Government exchequer by the preceding dealers and there should be zero tolerance on this aspect.

The return in 'Form I' did not have a provision for furnishing the details of purchases and sales upto October 2008. Audit noticed through test check of returns conducted between February 2010 and June 2010 that in 78 cases, claim of ITC for ₹ 1.59 crore was made during 2007-08. In the absence of the purchases and sales details, it would not be possible to ensure the correctness of the ITC claimed by the dealers.

By an amendment made in November 2008, Annexures II and III relating to sales turnover and purchase turnover details respectively were required to be filed along with the return in 'Form I'. However, the said annexures do not require furnishing of Tax Payers Identification Numbers of the dealers from whom or to whom the purchases or sales of goods had been effected.

In the absence of the above vital details in the returns, the correctness of the claim of ITC could not be ensured by cross verification. The department has not evolved any procedure for verification of tax invoices and no instructions were issued in this regard to the assessing authorities.

The department stated in November 2010 that in the model return form provided under the Commercial Taxes Mission Mode Program by the Ministry of Commerce, Government of India, there was no requirement for furnishing the TIN of the dealer from whom or to whom the purchase or sale of goods had been effected. The department further stated that while laying down the criteria for selection of general audit, cases which involve ITC

have been given higher weightage and there is a system for checking a dealer's ITC with the output tax of the seller.

The Government may consider prescribing that crucial information like TIN and details of purchases and sales may be submitted with the returns to enable cross verification of the information.

4.9.14 Reduction in rates of taxes/Grant of exemption – Deviations from the recommendations of the Empowered Committee

The main objective of the implementation of Value Added Tax Structure was to bring about a uniform rate of tax on commodities among the States. The White Paper on State level VAT emphasised that the unhealthy sales tax war among the States should end and the sales tax rates would need to be harmonised by implementing uniform floor rates of sales tax for different categories of commodities. The White Paper envisaged only two basic VAT rates of four *per cent* and 12.5 *per cent* and a special VAT rate of one *per cent* for gold and silver ornaments, etc. thereby doing away with multiple rates.

- At the time of introduction of PVAT Act, the tax structure contained three rates, viz., one, four and 12.5 *per cent* for goods. Subsequently, by issue of notifications, the rates of tax of about 208 commodities were reduced, apart from introduction of two new tax rates, viz., six *per cent* and eight *per cent*.
- The number of commodities prescribed by the Empowered Committee for inclusion in the exempted category was 56, whereas 86 commodities have been included in the list of exempted goods under the First Schedule to the PVAT Act.
- The Empowered Committee specified that small dealers with gross annual turnover not exceeding ₹ five lakh should not be liable to pay VAT and the States should have flexibility to fix the threshold limit within ₹ five lakh. However, the threshold limit of ₹ 10 lakh was adopted from 1 July.2007 to 31 October 2008.

The introduction of two more rates of tax, viz., six *per cent* and eight *per cent* and reduction of rates for a number of commodities to one *per cent*, which was reserved for gold and silver ornaments was against the principles of the VAT regime, which sought to rationalise the tax rates across the country.

The department justified the lower tax rates as the need for the UT administration to maintain the same revenue trend to meet its social obligation as higher tax rates would remove the attraction for the Puducherry market and result in flight of industries from the UT.

- The claim of VAT loss compensation of ₹ 44.72 crore preferred by the Government of Puducherry for the year 2007-08 was disallowed by the Government of India on the ground that the deviation in tax rates involved a tax loss of ₹ 68.57 crore and such loss was not entitled for compensation.
- By a notification issued on 1 July 2007, the rate of tax in respect of motor starters, wires and cables for agriculture purpose was reduced from 12.5 per cent to 4 per cent. However, no mechanism has been prescribed to ensure that the sale of these items was made for the intended purpose.

4.9.15 Absence of provision for proportionate fixation of turnover

Section 19(1) of the PVAT Act affords an option to the dealers of paying tax at the compounded rate of 0.25 per cent (0.5 per cent from October 2008) of his taxable turnover in cases where the sales turnover under the PVAT Act and under the CST Act in a year does not exceed ₹ 50 lakh. The PVAT Act, however, did not provide for proportionate restriction of turnover limit for claim of compounding payment of tax to ₹ 37.50 lakh for the year 2007-08 as it was introduced with effect from 1 July 2007.

Audit noticed that eight dealers whose turnover under the PVAT Act for the year 2007-08 was in excess of ₹ 37.50 lakh had exercised the option to pay tax at the compounded rate of 0.25 per cent instead of at the scheduled rates. This resulted in foregoing of revenue of ₹ 28.30 lakh.

4.9.16 Internal control mechanism

Internal control mechanism in an organisation provides reasonable assurance of accomplishment of objectives. It enables the controlling authorities to ensure proper discharge of the activities by various functionaries at different levels and adherence to the applicable rules and regulations. The existence of an effective internal control mechanism ensures correction of systems and procedures providing a concurrent support system to the administration.

Information regarding the prescription of periodical returns/reports for extracting information from the field offices, preparation of administrative report, existence of departmental manual, prescribing of registers for administering the Act, periodical inspections, etc. was sought by audit. The same, however, was not furnished. Hence, audit could not ascertain the efficiency or effectiveness of the internal control mechanism existing in the department.

4.9.16.1 Internal audit

Internal audit, which provides reasonable assurance of proper enforcement of the laws, rules and departmental instructions, is a vital component of internal control. It is generally defined as the control of all controls to

enable an organisation to assure itself that the prescribed systems are functioning reasonably well.

Audit observed that the internal audit of the assessments, receipts and refunds was not being conducted by the department. The department stated in October 2010 that under the VAT regime, no internal audit was conducted due to dearth of staff in the internal audit wing. As against the total sanctioned strength of five posts, the actual strength as on 30 September 2010 was one ACTO only and the remaining post of Assistant Commissioner (A&I), DCTO and two posts of ACTO were lying vacant.

The Government may take steps to operationalise the internal audit wing by filling up the vacancies. The scope and modalities of the functioning of the internal audit wing also needs to be defined.

4.9.17 Other points of interest

4.9.17.1 Time frame for claim of refund

According to Section 16(4) of the PVAT Act, where the dealer has not made a claim for refund within the prescribed period from the date of accrual of such ITC, such credit shall lapse to the Government.

According to the provisions of Rule 28(3) of the PVAT Rules, the claim for refund shall be preferred in 'Form W' before the assessing authority having jurisdiction over the assessee and the refund shall be made to the dealers within a period of ninety days from the date of receipt of such claim for refund.

Though the time frame for effecting refund has been prescribed, the time frame within which the claim has to be preferred by the dealers has not been prescribed so far.

The department stated in November 2010 that the Act provides for filing of revised return within three months from the close of the year to which such return relates. The department further stated that prescribing any time limit would not be a constitutionally valid exercise of the legislative powers of the State and would be struck down by the judiciary.

The reply is not acceptable as the Act provides that the claim of refund should be preferred within the prescribed period and such period should be defined in the Rules. Such a time limit has been prescribed in other Acts. For instance, the Tamil Nadu Value Added Tax Rules provides that the application for refund should be filed within 180 days from the date of accrual of the claim.

4.9.17.2 Terms not defined in the Act

According to Section 8(2) of the PVAT Act, in respect of medium and large scale industries, an application for registration shall be accompanied by a

fee of ₹ 10,000. However, the terms ‘medium and large scale industries’ have not been defined in the PVAT Act.

After we pointed this out, the department stated in November 2010 that the licences issued by the Ministry of Industries, Government of India have been adopted for the purpose of registration under the VAT Act.

In view of separate norms applicable for registration, the said terms should have been defined to that extent in the Act.

4.9.17.3 *System to watch the issue of pre-revision notices*

The assessment procedures mentioned in Sections 24, 25 and 30 of the PVAT Act require issue of pre-revision notices to the assesseees. However, no system exists for watching the disposal of revision cases.

The department stated in November 2010 that there was a system of submitting fortnightly information by the assessing officers in the assessment division and through this reporting system, the entire work of the field level officers were monitored.

It is recommended that a suitable register be maintained in the individual assessment circles for recording the details of issue of pre-revision notices and for monitoring timely finalisation of the revision cases.

4.9.17.4 *Absence of mechanism to evaluate the prices*

The Empowered Committee envisaged a fall in the prices of commodities after the introduction of VAT. Information regarding the attempt made by the department to evaluate the impact of the Act on prices through a comparison of the prices of the selected commodities prior to and subsequent to the introduction of VAT was called for. It was observed that the Government has not assessed the impact of VAT on the prices of commodities to check if the benefit of reduction in tax rates had been passed on to the general public.

The Government needs to monitor these prices so that the benefit of reduction in tax rates is passed on to the general public.

4.9.18 Conclusion

The review revealed that no specific order was received from the Government for formation of VAT cell. The constitution of the VAT cell was only an internal arrangement and no additional post was sanctioned. The department had not addressed the transitional issues sufficiently leading to a number of system deficiencies. The department failed to formulate a time bound action plan for finalisation of assessments pertaining to the erstwhile PGST Act. The format of various types of returns prescribed

under the PVAT Rules was found to be deficient to elicit all the required details from the assessee and for ensuring the correctness of the claim of ITC. The tax rate structure under the PVAT Act has deviated from the agreed concept of uniform floor rates of commodities across all the States.

4.9.19 Recommendations

The Government may consider:

- formulating an effective action plan to facilitate and monitor the finalisation of assessments at the earliest;
- modifying the return in form 'K' in order to make it compatible with the provisions of the Act/Rules;
- prescribing a statutory percentage of self assessment cases to be taken up for detailed scrutiny each year and a time limit within which the scrutiny has to be completed; and
- prescribing minimum information like TIN, details of purchases and sales to be submitted with the returns to make them self sufficient and eligible for cross verification.

4.10 Application of incorrect rate of tax

As per entry 20 of Part I of the First Schedule to the Pondicherry General Sales Tax Act, 1967, plastic articles were taxable at the rate of eight *per cent* at the point of first sale in the State. Similarly, as per entry 37 of Part I of the First Schedule to the PGST Act, cooked food was taxable at the rate of eight *per cent* at the point of first sale in the State. Accordingly, HDPE pipes and sweet and snacks sold under the brand name 'Haldiram' were taxable at the rate of eight *per cent*.

Test check of the records in Pondicherry-I assessment circle indicated that the assessing officer, while finalising the assessment of two dealers for the years 2004-05 and 2005-06 in December 2007 and March 2008, levied tax at the rate of three *per cent* on the sales turnover of HDPE pipes and branded sweets and snacks (Haldiram) amounting to ₹ 1.21 crore, instead of at the applicable rate of eight *per cent*. This resulted in short levy of tax of ₹ 6.03 lakh.

After this was pointed in February 2009, the assessing authority revised the assessments in July/October 2009 and raised an additional demand of ₹ 6.03 lakh.

The matter was reported to the Government in April 2010. The Government accepted the audit observations and stated that the amount of ₹ 3.61 lakh in

one case had been collected. The Government further stated that the appeal filed by the dealer in respect of the other case is pending. The outcome of the appeal filed by the dealer is awaited (November 2010).

ELECTRICITY DEPARTMENT

4.11 Non-collection of dues from defaulters due to delay in proposing recovery

As per the terms and conditions of supply of power, monthly electricity bills are to be paid by high tension (HT) consumers within 15 days from the date of issue of bills, failing which the consumers are liable to pay belated payment surcharge (BPSC) at prescribed rates. A sum equal to two times the average consumption for the preceding 12 months should be collected/held as security deposits for due payment of monthly electricity bills by the consumers. If the consumer fails to pay the bill amount within 15 days, the department may, after allowing seven days' grace time, order for disconnection of the power supply.

Scrutiny of records (January 2009) of the Superintending Engineer-I, Puducherry (SE) revealed that two HT consumers¹ had not paid electricity bills amounting to ₹ 3.76 crore since September 2006 and October 2006 respectively. Even though the consumers defaulted in payment, the power supply to the consumers was disconnected only in January 2007.

After this was pointed, the department adjusted the available security deposits² of the consumers and raised (August 2010) demand for ₹ 8.54 crore³. The department stated (November 2010) that action had already been initiated to recover the dues under the Revenue Recovery Act and the same was under process. However, it was noticed that the proposal for recovery under the Revenue Recovery Act was sent to the Collector, Puducherry in December 2010 only.

Thus, inaction on the part of the department resulted in non-collection of arrears from the HT consumers for more than four years.

The matter was referred to the Government in July 2010; their reply had not been received (November 2010).

¹ M/s Mittal Ispat Ltd. and M/s Sharda Castings Ltd

² ₹ 1.80 crore

³ Balance electricity charges ₹ 1.96 crore, belated payment surcharge of ₹ 3.21 crore and minimum demand charges of ₹ 3.37 crore.