

## **CHAPTER-II**

# **VALUE ADDED TAX/ TAXES ON SALES, TRADE ETC.**

## EXECUTIVE SUMMARY

<b>Marginal increase in tax collection</b>	In 2010-11, the collection of taxes from VAT/CST increased by 24.36 <i>per cent</i> over the previous year which was attributed by the Department to better and effective tax administration.
<b>Internal audit not conducted</b>	Though an Internal Audit Wing had been set up at the CCT's office and divisional levels and guidelines for internal audit has been notified (July 2011), it is yet to assume a full fledged role and till October 2011 the same was regulated and controlled by the Finance Department (FD). However, information regarding audit conducted by the FD was not furnished, though called for.
<b>Recovery of observations pointed out by us in earlier years by the Department</b>	During the period 2005-06 to 2009-10, we had pointed out non/short levy, non/short realisation, under-assessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 2,639.02 crore in 1,832 cases. Of these, the Department/Government accepted audit observations in 238 cases involving ₹ 314.86 crore but recovered only ₹ 80.63 crore. The recovery position as compared to acceptance of objections ranged between 16.28 and 53.70 <i>per cent</i> during 2006-07 to 2008-09.
<b>Results of audits conducted by us in 2010-11</b>	<p>In 2010-11, we test checked the records of 24 units relating to taxes on sales/VAT and found non/short realisation/levy of tax, penalty etc. involving ₹ 470.62 crore in 400 cases.</p> <p>The Department accepted non/short realisation/levy of tax and other deficiencies of ₹ 324.03 crore in 62 cases pointed out by us during 2010-11. An amount of ₹ 4.17 crore was recovered in six cases during 2010-11 which included ₹ 4.13 crore in one case for the year 2010-11.</p>
<b>What we have highlighted in this Chapter</b>	<p>In this Chapter we present a review on "Utilisation of declaration forms in inter-State trade and commerce" conducted during test check of records and cross-verification of transactions with other States, where we found cases of utilisation of unauthorised forms, suppression of sales/purchase turnover, grant of irregular concessional rate of tax etc. Besides above, we also highlighted illustrative cases of ₹ 216.15 crore selected from observations noticed during our test check of records relating to assessment and collection of VAT/sales tax in the office of the DCsCT/ACsCT, where we found that the provisions of the Acts/Rules were not observed.</p> <p>It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.</p>
<b>Our conclusion</b>	<b>The Department needs to improve the internal control system so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future. It also needs to initiate immediate action to recover the non-realisation, under-charge of tax etc., pointed out by us, more so in those cases where it has accepted our contention.</b>

## CHAPTER-II: VALUE ADDED TAX/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 the 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 Secretary-cum-Commissioner of Commercial Taxes is responsible for administration of these Acts and Rules in the Commercial Taxes Department (CTD). He is assisted by Additional Commissioner 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. DCCT (Hqr.) is the co-ordinator for the computerisation of the CTD.

The State is divided into five commercial taxes divisions<sup>1</sup>, each under the charge of a Joint Commissioner (Administration) and 28 circles<sup>2</sup>, each under the charge of a Deputy/Assistant Commissioner of Commercial Taxes (DCCT/ACCT). The DCCT/ACCT of the circle, responsible for levy and collection of tax due to the Government, besides market survey, is assisted by Commercial Taxes Officers. A Deputy Commissioner of IB is posted in each division to assist the JCCT (Administration) and a DCCT (Vigilance and Monitoring) is posted under the control of Headquarters in each division.

### 2.2 Trend of receipts

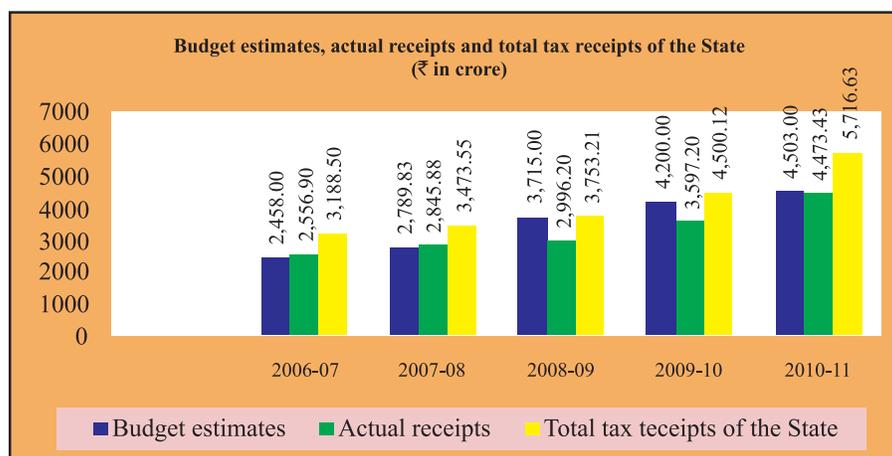
Actual receipts from taxes on sales, trade etc./VAT during the period 2006-07 to 2010-11 along with the total tax receipts during the same period is exhibited in the following table and chart:

(₹ 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
2006-07	2,458.00	2,556.90	(+) 98.90	(+) 4.02	3,188.50	80
2007-08	2,789.83	2,845.88	(+) 56.05	(+) 1.97	3,473.55	82
2008-09	3,715.00	2,996.20	(-) 718.80	(-) 19.35	3,753.21	80
2009-10	4,200.00	3,597.20	(-) 602.80	(-) 14.35	4,500.12	80
2010-11	4,503.00	4,473.43	(-) 29.57	(-) 0.66	5,716.63	78

<sup>1</sup> Dhanbad, Dumka, Hazaribag, Jamshedpur and Ranchi.

<sup>2</sup> Adityapur, Bokaro, Chaibasa, Chirkunda, Deoghar, Dhanbad, Dhanbad Urban, Dumka, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamshedpur Urban, Jharia, Katras, Koderma, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi East, Ranchi South, Ranchi Special, Ranchi West, Sahebganj, Singhbhum and Tenughat.



The reasons for shortfall against budget estimates during 2010-11 were attributed by the Department to reduction in the rates of tax on diesel and exemption of tax on foodgrains and other related items.

### 2.3 Cost of collection

The gross collection under sales tax/VAT receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during 2006-07 to 2010-11 are mentioned in the following table:

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of the preceding years
2006-07	2,556.90	14.29	0.56	0.91
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
2010-11	4,473.43	37.48	0.84	0.96

Source: Finance Account of the Government of Jharkhand for the year 2010-11 and Departmental figures.

### 2.4 Working of internal audit wing

Mention was made in paragraph 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. Though guidelines for internal audit have been notified (July 2011), the audit wing is yet to assume a full fledged role and the same is regulated and controlled by the Finance Department (FD) till now (October 2011). However, information regarding audit conducted by the FD was not furnished though called for.

### 2.5 Impact of audit

#### Revenue impact

During the last five years (2005-06 to 2009-10) we pointed out non/short levy, non/short realisation, under-assessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect

computation etc., with revenue implication of ₹ 2,639.02 crore in 1,832 cases. Of these, the Department/Government accepted audit observations in 238 cases involving ₹ 314.86 crore and recovered ₹ 80.63 crore. The number of cases in which recovery was effected was not intimated by the Department. The details are shown in the following table:

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount		
2005-06	22	371	608.39	34	1.78	5.03	282.58
2006-07	20	262	428.80	36	36.66	19.80	53.70
2007-08	19	446	663.08	84	138.42	22.54	16.28
2008-09	17	228	298.33	53	131.51	24.65	18.74
2009-10	22	525	640.42	31	6.49	8.61	132.66
<b>Total</b>	<b>100</b>	<b>1,832</b>	<b>2,639.02</b>	<b>238</b>	<b>314.86</b>	<b>80.63</b>	

During 2006-07 to 2008-09, the recovery position as compared to acceptance of objections ranged between 16.28 and 53.70 *per cent*.

**We recommend that the Government should take appropriate steps to improve the recovery position.**

## 2.6 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2011 were ₹ 1,737.74 crore, of which ₹ 751.01 crore were outstanding for more than five years. The year-wise position of arrears of revenue during the period 2006-07 to 2010-11 is depicted in the following table:

(₹ in crore)

Year	Opening balance of arrears	Closing balance of arrears
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
2010-11	1,856.26	1,737.74

The Department did not furnish the information regarding the addition and clearance of the arrears during the year. As per the information furnished by the Department, out of ₹ 1,737.74 crore, demands of ₹ 60.19 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 1,125.49 crore was stayed by the Courts and the Government. Specific action taken in respect of the remaining arrears of ₹ 552.06 crore has not been intimated (February 2012).

Thus, it would be seen from the above that 64.76 *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 3.46 *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.**

## 2.7 Arrears in assessment

The details of cases pending at the beginning of the year 2010-11, cases becoming due for assessment during the year, cases disposed during the year and number of cases pending finalisation at the end of the year as furnished by the Commercial Taxes Department is shown in the following table:

Opening balance	New cases due for assessment during 2010-11	Total assessments due	Cases disposed of during 2010-11	Balance at the end of the year	Percentage of column 5 to 3
1	2	3	4	5	6
21,126 <sup>3</sup>	65,864	86,990	69,097	17,893 <sup>4</sup>	21

From the above it would be seen that pendency in finalisation of assessments was 21 *per cent*, resulting in delay in corresponding realisation of revenue in these cases. The action plan to liquidate the outstanding assessment cases has not been furnished by the Department though called for (September 2011).

## 2.8 Analysis of collection

The break-up of the total collection at the pre-assessment stage and after regular assessment of VAT/taxes on sales, trade etc., during the year 2010-11 and corresponding figures for the preceding two years as furnished by the Finance (Commercial Taxes) Department is mentioned in the following table:

(₹ 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
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
2010-11 <sup>5</sup>	4,446.53	98.59	2.53	0.07	4,545.05	4,497.77	98.86

The Department collected ₹ 237.40 crore after completion of regular assessments during the years 2008-09 to 2010-11, while tax due in the cases detected during test check of selective cases conducted by us during the period from 2008-09 to 2010-11 amounted to ₹ 1,409.37 crore<sup>6</sup> which is almost six times higher.

**The high amount of leakage of revenue detected by us 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.**

<sup>3</sup> During 2009-10, the Department reported a closing balance of 10,941 cases, however, during 2010-11, the opening balance (arrear cases) have been shown as 21,126 cases.

<sup>4</sup> There was difference of 112 cases in the closing balance as reported by the Department (18,005 cases) and as per actual totaling (17,893 cases).

<sup>5</sup> The figures for 2010-11 includes amount collected under VAT, Luxury Tax and Entry Tax.

<sup>6</sup> Tax due in the cases detected by audit during 2008-09 : ₹ 298.33 crore, 2009-10: ₹ 640.42 crore and 2010-11: ₹ 470.62 crore.

## 2.9 Results of audit

During 2010-11 we test checked the records of 24 units relating to VAT/Taxes on sales, trade etc., and found under-assessment of tax and other irregularities having financial implication of ₹ 470.62 crore in 400 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1	<b>Utilisation of declaration forms in inter-State trade and commerce (A review)</b>	1	104.04
2	Non-levy or short levy of tax	122	195.20
3	Irregular allowance of exemption from tax	113	88.04
4	Application of incorrect rates of tax	36	20.19
5	Non-levy of penalty	56	10.13
6	Short levy due to incorrect determination of turnover	21	18.69
7	Irregular allowance of concessional rate of tax	14	1.14
8	Non-levy or short levy of additional tax and surcharge	3	0.29
9	Non-levy of penalty for excess collection of tax/mistake in computation	9	2.57
10	Other cases	25	30.33
<b>Total</b>		<b>400</b>	<b>470.62</b>

During the course of the year, the Department accepted under-assessment and other deficiencies of ₹ 324.03 crore in 62 cases pointed out by us during 2010-11. At the instance of audit, during 2010-11, the Department effected recovery of ₹ 4.17 crore involved in six cases, of which ₹ 4.13 crore involved in one case was pointed out by us during 2010-11 and the rest in earlier years.

In this Chapter we present a few illustrative cases including a review on **“Utilisation of declaration forms in inter-State trade and commerce”** having recoverable financial implication of ₹ 320.19 crore, of which the Government/Department accepted audit observations of ₹ 320.02 crore. These are discussed in the succeeding paragraphs.

## 2.10 Utilisation of declaration forms in inter-State trade and commerce

### Highlights

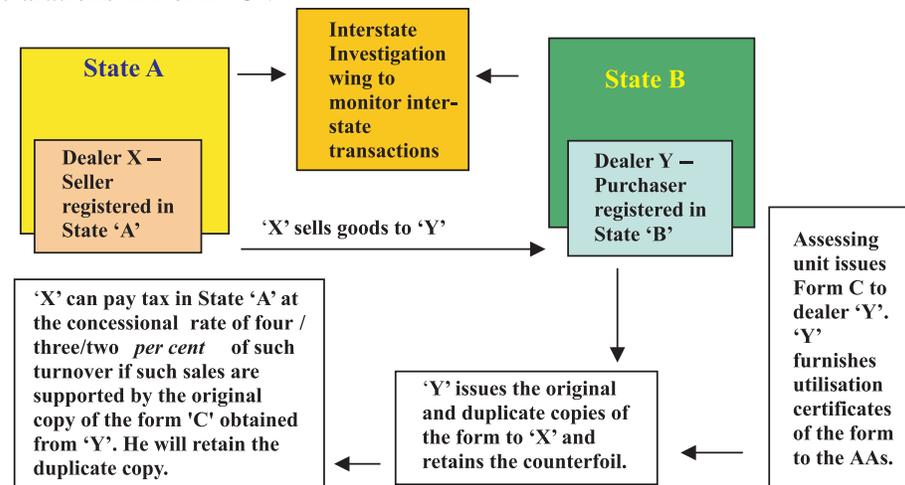
- There was no system in place for physical verification of central declaration forms which resulted in shortage in the number and risk of misuse of these forms. This is fraught with the possibility of loss of revenue.  
**(Paragraphs 2.10.7 and 2.10.8)**
- Data was not uploaded on the Tax Information Exchange System (TINXSYS) website.  
**(Paragraph 2.10.10.3)**
- Non-verification of utilisation of forms while scrutinising returns resulted in non/short levy of central sales tax (CST) of ₹ 3.55 crore including penalty of ₹ 2.40 crore.  
**(Paragraph 2.10.12)**
- Cross-verification of data/information received from other States indicated non/short accounting of purchase/stock receipt of ₹ 8.51 crore by four dealers of four Commercial taxes circles of the State during the period from 2004-05 to 2008-09 which resulted in short levy of CST of ₹ 2.86 crore including penalty of ₹ 2.04 crore.  
**(Paragraphs 2.10.13.1 and 2.10.13.2)**
- Cross-verification of data/information received from other States indicated that during 2006-08, nine dealers of five Commercial taxes circles of the State non/short accounted sales turnover of ₹ 24.62 crore, resulting in short-levy of CST of ₹ 2.96 crore including penalty of ₹ 1.97 crore.  
**(Paragraph 2.10.13.3)**
- Incorrect allowance of concessions/exemptions by the assessing officers in the assessments of 20 dealers of nine Commercial taxes circles resulted in short levy of CST of ₹ 24.10 crore.  
**(Paragraph 2.10.14.1)**
- Cross-verification of purchase/stock receipts of edible oil, iron ore, motor parts, marble and Fast Moving Commodity Goods (FMCG) worth ₹ 28.56 crore received from other States during the period from 2003-04 to 2008-09, indicated utilisation of 96 unauthorised C form and 21 unauthorised F form by 47 dealers registered in 15 commercial taxes circles of the State which resulted in non-levy of CST amounting to ₹ 4.88 crore including penalty of ₹ 3.48 crore.  
**(Paragraph 2.10.14.3)**
- The system of furnishing of declaration forms while submitting returns was not made mandatory resulting in non-levy of interest and penalty of ₹ 53.17 crore in case of 13 dealers.  
**(Paragraph 2.10.15)**

### 2.10.1 Introduction

Under the Central Sales Tax (CST) Act, 1956 read with the Central Sales Tax (Registration and Turnover) Rules (CST Rules) 1957 and the Central Sales Tax (Jharkhand) Rules 2006, registered dealers are eligible to certain concessions and exemptions of tax on inter-State transactions on submission of prescribed declarations in Forms 'C' and Form 'F' etc. The State Government grants these incentives to dealers for furtherance of trade and commerce. It is the responsibility of the Commercial Taxes Department (CTD), Government of Jharkhand to ensure proper accounting of these declaration forms and to take adequate safeguards against misutilisation of declaration forms/certificates on which tax relief is allowed involving large amounts of revenue to the State exchequer.

#### Form 'C'

Under the CST Act, every registered dealer who in course of inter-State trade and commerce sells to another registered dealer, goods of the class or classes, specified in the certificate of registration of the purchasing dealer, shall be liable to pay tax at four *per cent* upto March 2007, three *per cent* from April 2007 to May 2008 and two *per cent* from June 2008 of such turnover provided such sales are supported by declarations in Form 'C'.

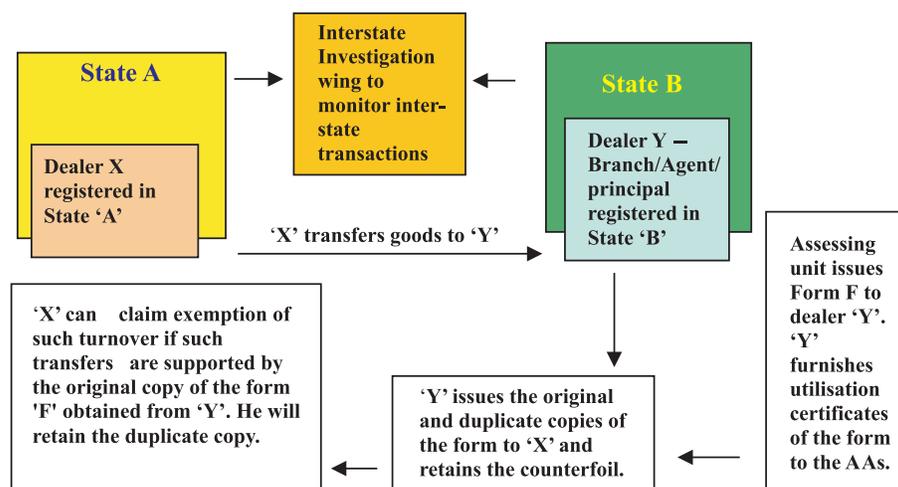


#### Form 'F'

Under Section 6A of CST (Amendment) Act 1972, transfer of goods claimed other than by way of sale made by a registered dealer to any other place of his business located outside the State or his agent or principal in other States is exempt from levy of tax on production of prescribed declarations in Form 'F', duly filled in and signed by the principal as the case may be, along with evidence of despatch of such goods. Filing of declaration in Form 'F' was not mandatory upto May 2002. However, the CST Act provided for the Assessing Authority (AA) to make such enquiries as he deemed necessary to satisfy himself about bonafides of the transfer of such sale *patties*<sup>7</sup>, dispatch particulars, way bills etc. Form F has been prescribed under Rule

<sup>7</sup> *Sale patties*: Sale notes defining transfer of title of documents with full particulars in the course of inter-State consignment sale of goods.

12(5) of the CST Rules, 1957. According to the proviso to Rule 12 (5), a single form F can be issued for all the transactions of transfer in one month.



### 2.10.2 Audit objectives

The objectives of the review were to assess whether:

- there exists a foolproof system for custody and issue of the declaration forms;
- exemption and concession of tax granted by the AAs was supported by original declaration forms;
- there is a system for ascertaining genuineness of the forms in order to prevent evasion of tax;
- there is a system of uploading the particulars in the TINXSYS website and the data available therein is utilised for verifying the correctness of the forms;
- appropriate steps are taken on receipt and detection of fake, invalid and defective (without proper and insufficient details) forms; and
- there exists an effective and adequate internal control mechanism.

### 2.10.3 Audit criteria

The review was conducted with reference to the provisions made under the following Acts and Rules:

- Central Sales Tax Act, 1956;
- Central Sales Tax (Registration and Turnover) Rules, 1957;
- Central Sales Tax (Jharkhand ) Rules, 2006;
- Jharkhand Value Added Tax Act, 2005;
- Jharkhand Value Added Tax Rules, 2006;
- Jharkhand Finance Act, 2001 and
- Executive and departmental orders issued from time to time.

### 2.10.4 Audit scope and methodology

The review on “Utilisation of declaration forms in inter-State trade and commerce” was conducted in course of audit of the nine Commercial taxes circles<sup>8</sup> from November 2010 to August 2011 and in respect of the assessments finalised during 2006-11 in the current as well as in previous audit cycle. Besides, declaration forms C and F issued by the Department were cross-verified on a sample basis in all the 28 circles in a phased<sup>9</sup> manner. The system of printing, custody, issue and utilisation of CST declaration forms in the State were also scrutinised from apex level to circle levels and the results of scrutiny have been included in the review.

### 2.10.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Taxes Department in providing the necessary records for audit. Before taking up the review, an entry conference was held on 7 March 2011 with the Secretary-cum-Commissioner, Commercial Taxes Department, Jharkhand in which the audit objectives, scope and methodology was discussed. The draft review report was forwarded to the Government/Department in August 2011 and discussed in the exit conference held on 12 November 2011 which was attended by the Secretary-cum - Commissioner and Additional Commissioner, Commercial Taxes Department. The formal reply of the Department received during the exit conference has been incorporated in the review.

### 2.10.6 Trend of revenue

The CST *vis-à-vis* sales tax/VAT collection of the State during 2006-11 was as under:

(₹ in crore)

Year	Revenue as reported by the department	Sales tax revenue as per Finance Accounts	CST collection	Percentage of Col.4 to Col.3	Difference between figures as furnished by the department and that of Finance Accounts
1	2	3	4	5	6
2006-07	2,482.60	2,556.90	614.14	24.01	(-) 74.30
2007-08	2,747.33	2,845.88	636.09	22.35	(-) 98.55
2008-09	2,893.49	2,996.20	570.58	19.04	(-) 102.71
2009-10	3,581.05	3,597.20	647.41	17.99	(-) 16.15
2010-11	4,468.52	4,473.43	792.29	17.71	(-) 4.91

It would be seen from the above that though rate of CST remained at two *per cent* during 2008-11, the percentage of CST collection decreased from 19.04 to 17.71.

Further, the wide difference between the departmental figures of revenue receipts with those shown in the Finance Accounts of the State Government indicates that there is a need for reconciliation of the figures.

<sup>8</sup> Chirkunda, Deoghar, Dhanbad, Jharia, Katras, Palamu, Pakur, Ranchi East and Ranchi Special.

<sup>9</sup> Phase-I: Collection of forms/data from circles in Jharkhand, Phase-II: Exchange of forms/data with other offices of the Pr. Accountant General/Accountant General of other States and Phase-III: Cross-verification of forms at respective circles in Jharkhand.

The Government in its reply during the exit conference (November 2011) attributed the decline in CST collection to Input Tax Credit (ITC) availment by dealers of CST against purchases within the State, decline in CST rates from four *per cent* to two *per cent* and amendment in Section 8 of the CST Act (April 2007) deleting the provision of double rates in case of sales to unregistered dealers. Regarding difference between departmental figures of revenue collection and that of Finance Accounts, the Government stated that it was due to incorrect booking in revenue major heads. It further stated that necessary amendment has been brought into the JVAT Rules defining colour of challans of different heads to avoid incorrect bookings in future.

## **Audit finding**

### **System deficiencies**

#### **2.10.7 Printing and custody of declaration forms**

The CST declaration forms are printed in the private press for which tenders are invited by the Department. After printing, these forms are received in the Department's central strong room (CSR) situated at Ranchi Treasury. From the CSR, the forms are issued to the DCCT/ACCT of the concerned circles as per their requirement. The DCsCT/ACsCT keep these forms in the respective district treasuries for further distribution to the dealers.

CST declaration forms are obtained by the registered dealers from the AAs, after payment of fee fixed by the Department from time to time. Two registers namely Stock Register and Ledger are maintained in the office of the CCT for keeping accounts of the receipt and circle wise issue of forms respectively. At the circle level, both Stock Register and Ledger are also maintained to keep account of the forms received from the CSR and dealer-wise issue denoting their serial numbers. It is incumbent upon the Department to ensure printing of these forms only after reviewing the existing stock and pace of its issue to avoid any possibility of misuse leading to leakage of revenue.

- As per the provisions of Rule 143 of Bihar Financial Rules (as adopted by Government of Jharkhand), a physical verification of all stores should be made at least once in every year under rules prescribed by heads of departments concerned.

We noticed that physical verification of the forms at CSR was neither prescribed nor conducted during the period covered under the audit. Thus, there was no assurance that forms shown in the stock and ledger registers at different levels were indeed physically available. This considerably increased the risk of non-detection of missing forms and their misuse which may lead to irregular concessions and tax exemptions and consequent loss of revenue to the State Government.

In reply the Government stated during the exit conference (November 2011) that the stock of forms as shown in ledger/stock register were always being verified in the Central Treasury, Ranchi. The reply was not in order as neither any verification certificate of the verifying officer was found recorded in the ledger/stock register nor was the same produced separately to us.

- We noticed that the Department ordered (March 2007) printing of 4,50,000 declaration forms 'C' and 2,00,000 declaration forms 'F' without inviting any tender and assessing the existing stock/requirement of the circles. The existing stock of 'C' and 'F' forms as on March 2007 were 2,30,000 and 38,000 respectively and there was no pending indent from the circles for supply of forms.

The year-wise receipt and distribution of declaration form 'C' and 'F' were as given below:

(Value in numbers)

Year	Opening balance	Receipts	Total	Distribution	Closing balance
<b>Declaration 'C'</b>					
2006-07	Nil <sup>10</sup>	4,50,000	4,50,000	2,20,000	2,30,000
2007-08	2,30,000	4,50,000	6,80,000	1,86,000	4,94,000
2008-09	4,94,000	Nil	4,94,000	1,20,000	3,74,000
2009-10	3,74,000	Nil	3,74,000	1,10,000	2,64,000
2010-11	2,64,000	Nil	2,64,000	1,46,000	1,18,000
<b>Declaration 'F'</b>					
2006-07	Nil	1,00,000	1,00,000	62,000	38,000
2007-08	38,000	2,00,000	2,38,000	40,000	1,98,000
2008-09	1,98,000	Nil	1,98,000	26,000	1,72,000
2009-10	1,72,000	Nil	1,72,000	16,000	1,56,000
2010-11	1,56,000	Nil	1,56,000	30,000	1,26,000

The Government in its reply during the exit conference stated (November 2011) that in March 2007 CST forms were printed by M/s Swaraswati Press Limited, Kolkata (Government of West Bengal Enterprise) after obtaining concurrence of the Finance Department and approval of the Finance Minister as it was lone bidder against Notice Inviting Tender issued for printing of forms. It further stated that number of form F printed in March 2007 was 1,00,000 only. However, the reply was not correct as Government referred to the procedure followed in March-April 2006. In March 2007 fresh printing order for printing 4,50,000 forms C and 2,00,000 forms F was placed to the same printing press at the same rate without inviting tender.

- Our scrutiny of the stock register, ledger and indent file of CST declarations forms maintained at the CCT office indicated that a new stock register was opened on 17 August 2006 with opening balance as Nil. The Stock Register prior to this date was not produced. As such, we could not ascertain the closing balance of the declaration forms prior to 17 August 2006.

### 2.10.8 Issue and accounting of declaration forms by the Department

Our scrutiny revealed that the Stock Registers of CST forms maintained in the CCT office exhibit box-wise stock of forms. Further, forms are not issued chronologically.

<sup>10</sup> A new stock register was opened on 17 August 2006 with opening balance as nil. The stock register prior to this date was not produced.

We found that as per the stock register of the CCT office, two boxes containing 2,000 Forms C each were shown issued to Ranchi Division on 25 August 2006. But the ledger showed issue of one box of form C to Palamu circle containing form numbers 329001 to 331000 only resulting in shortage of one box of 2,000 Forms C. In reply, the Government stated during the exit conference (November 2011) that the forms were issued to the Commercial taxes circle, Gumla of Ranchi division. However, due to clerical error the same was recorded in the ledger folio of form F instead of form C. Absence of periodical physical verification coupled with non-issue of forms chronologically led to non-detection of the above by the Department.

**The Government may ensure that forms are printed only after reviewing the existing stock, install a mechanism for periodic verification of stock registers of declaration forms and ensure issue of forms chronologically to prevent possible misuse. They may also prescribe standard formats of stock register and ledger.**

#### **2.10.9 Non prescription of standard register/ledger and periodical report/return**

We noticed that no standard formats have been prescribed by the CCT for maintaining stock registers and ledgers of CST declaration forms which resulted in usage of different formats by the Commercial taxes circles. For instance, stock and ledger are maintained in the same register in Deoghar circle.

We also noticed that no periodical report and returns were prescribed to be submitted either to the in-charge of the circle or to the CCT. Thus, the position of stock could not be monitored by the CCT.

The Government in its reply during the exit conference (November 2011) cited forms to be maintained by the dealers for CST transactions under CST (Jharkhand) Rule 2006. However, our observation was concerned with the Commercial taxes circle offices.

#### **2.10.10 Enforcement measures**

##### **2.10.10.1 Internal Audit**

Internal audit is defined as the control of all controls as it is a means to ensure that the prescribed systems were functioning reasonably well. The Finance (Audit) Department works as the internal auditor of the CTD. By an order of May 1960, the internal audit parties are required to conduct 100 *per cent* audit of all assessments finalised, examining *inter-alia* assessment orders, issue of demand notices, amount of tax collected and verification of deposit of amount in treasury. We observed that no internal audit had been conducted in the office of the Secretary-cum-Commissioner, CTD and in circles for the last five years.

The Government in its reply during the exit conference (November 2011) stated that after the audit observation was raised, the audit guidelines were notified (July 2011).

### **2.10.10.2 Working of Bureau of Investigation (IB)**

The JVAT Act provides for establishment of the Bureau of Investigation from 1 April 2006 to function under the control and supervision of the CCT and to discharge such duties as may be assigned to it. We observed that no provision exists in the JVAT Act and JVAT Rules for a system of regular sample cross-verification of CST declaration forms. However, by an order issued in August 2009 by the CCT, the Divisional IB under the JCCT (Administration) was entrusted with, among other things, the task of verifying the correctness of declaration forms.

We noticed that though the IB was established in April 2006, the notification regarding assignment of functions to it, under the provisions of the JVAT Act, was issued only in August 2009. We called for the information regarding assignment of work to/work done by the IB and reports and returns furnished by them to CCT during the period 2006-07 to 2010-11 but no information was furnished to us. As such, we were unable to comment on the efficacy of the functioning of the IB.

**The Government may consider strengthening the functions of IB for regular survey, collection of data/information regarding purchase/sale and creation of database from departments and undertakings of State/Central Government for cross-verification of transactions.**

### **2.10.10.3 Non-utilisation of TINXSYS website**

Tax Information Exchange System (TINXSYS) is a centralised exchange of all inter-State dealers spread across the various States and Union territories (UTs) of India. TINXSYS is an exchange authored by the Empowered Committee (EC) of State Finance Ministers as a repository of inter-State transactions taking place among various States and UTs.

The website was designed to help the CTDs of various States and UTs to monitor the inter-State trade. TINXSYS can be used by any dealer to verify the counterpart inter-State dealer in any other State. Apart from dealer verification, CTD officials use TINXSYS for verification of central statutory forms issued by other State CTDs and submitted to them by the dealers in support of claim for concessions from the database available in the website. TINXSYS also provides MIS (Management Information System) and Business Intelligence Reports to the CTDs to monitor inter-State trade movement and enables the EC to monitor the trends in inter-State trade.

We noticed that though ₹ 32 lakh was paid (August 2009) to the Government of India for TINXSYS as share of Jharkhand Government for uploading CST declaration forms, details of declaration forms and their utilisation of declaration forms were not uploaded (July 2011) and thus, the shared facility could not be utilised as yet.

The Government in its reply during the exit conference (November 2011) accepted the audit observation of non-utilisation of TINXSYS and stated that a new Rule 11 A was inserted in CST (Jharkhand) Rule 2006 for online downloading of CST

forms and it would be implemented by the end of 2011. It further stated that the forms would be automatically uploaded in TINXSYS after their online issuance.

**The Government may consider uploading data of dealers and forms issued to them along with a system of verification of forms submitted by them with the database available in TINXSYS at the time of assessment.**

### **2.10.11 Computerisation**

The National Informatics Centre (NIC) at the request of the Department developed a web-based VAT application software namely VICTORY (VAT Information Computerisation to Optimize Revenue Yields) which was commissioned on 1 April 2006. The application software (VICTORY) has five modules of which one is the Form Control System.

We noticed that the Form Control System module was not made operational by NIC. This resulted in non-issuance of online declaration forms both under the CST Act and JVAT Act.

The Department did not furnish any documented plan to phase out the manual system and change over to the computerised system. The system developed was being used for data entry of returns and all other activities related to assessment are manually carried out. Therefore the objective of discontinuance of manual registers and improving the efficiency of the working system of the Department were not achieved.

The Government in its reply during the exit conference stated (November 2011) that the Department was in process of computerisation. Online filing of returns, payment of taxes and registration modules were functioning. Online issue of forms would be launched within this year.

### ***Compliance deficiencies***

#### **2.10.12 Short accounting of goods imported through use of declaration forms**

Under the CST Act read with the JF Act, 2001 and JVAT Act, 2005, if the dealer has concealed, omitted or failed to disclose willfully the particulars of turnover or has furnished incorrect particular of such turnover, the competent authority shall assess or re-assess the amount of tax due from the dealer and shall direct the dealer to pay, besides the tax assessed on escaped turnover, as penalty a sum equal to twice the amount of additional tax assessed on the escaped turnover under the JVAT Act and maximum penalty of 300 *per cent* under the JF Act.

We noticed in 14 Commercial taxes circles<sup>11</sup> that 22 dealers filed their returns for a taxable turnover of ₹ 117.58 crore during 2004-09. The assessments were finalised (between June 2007 and March 2010) on the basis of returns filed. However, as per information available

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<sup>11</sup> Bokaro, Chirkunda, Dhanbad, Dhanbad Urban, Jamshedpur, Jamshedpur Urban, Jharia, Katras, Palamu, Ramgarh, Ranchi East, Ranchi South, Ranchi Special and Singbhum.

in the assessment records viz, utilisation statements of form 'C', blue<sup>12</sup> and green<sup>13</sup> road permits, the dealers had actually sold/purchased goods valued at ₹ 134.13 crore. Thus, the dealers concealed taxable turnover of ₹ 16.55 crore. Though the relevant information was available in the assessment records of the concerned dealers, the AAs did not cross-verify the information with these records. This resulted in non/short levy of tax of ₹ 3.55 crore including mandatory penalty of ₹ 2.40 crore.

A few specific cases are mentioned in the following table:

(₹ in crore)

Name of the circle TIN of the dealer	Period Month of assessment	Nature of observations	Suppressed turnover Rate of tax (%)	Short levy of VAT Penalty
Bokaro 20901405286	2007-08 March 2010	The dealer actually purchased goods from outside the State worth ₹ 13.75 crore (utilisation and requisition of form C) but accounted for ₹ 6.46 crore only.	7.29 4	0.29 0.58
Ranchi East 20770200915	2007-08 March 2010	The dealer received goods worth ₹ 27.10 crore on the strength of 79 numbers of Form 'F' and purchased goods for ₹ 31.14 lakh on the strength of Form 'C'. Thus, total receipt worked out to ₹ 27.41 crore but accounted for ₹ 25.52 crore only, on which assessment was made.	1.89 12.5	0.24 0.48
Jamshedpur Urban JU-112 (R)	2005-06 March 2009	The dealer actually purchased goods worth ₹ 1.52 crore on the strength of six declarations in form C but accounted for ₹ 17.71 lakh only.	1.34 8	0.11 0.33
Jharia 20791805374	2008-09 March 2010	<i>Pan Masala</i> valued at ₹ 1.88 crore was purchased by utilising green road permits and form C, whereas the dealer accounted for ₹ 1.47 crore.	0.41 12.5	0.05 0.10
Katras 20931500627	2006-07 March 2009	The dealer sold goods worth ₹ 50 lakh outside the State on the strength of road permit which were not covered under forms 'C'.	0.50 10	0.05 0.10

The Government in its reply during the exit conference (November 2011) accepted the audit observations and stated that the concerned circles were being directed to follow the same and it will be monitored at the Headquarters level of the Department.

<sup>12</sup> Blue Road permit in form 504B issued for transportation of goods to outside the State.

<sup>13</sup> Green Road Permit in form 504G issued for transportation of goods from outside the State.

## 2.10.13 Variation in the figures of transaction between issuing and utilising dealers

The JVAT Act and rules made thereunder provide that if the prescribed authority has reasons to believe that the dealer in order to evade or avoid payment of tax has concealed, omitted or failed to disclose wilfully particulars of such turnover or has furnished incorrect particulars of such turnover, the said authority shall assess or reassess the amount of tax due from him in respect of such turnover and shall direct the dealer to pay besides the tax assessed on escaped turnover, penalty equal to twice the amount of additional tax assessed.

**2.10.13.1** Cross verification of data on purchase/stock receipt with records of four dealers of four Commercial taxes circles<sup>14</sup> assessed/re-assessed between January 2009 and September 2011 indicated that the dealers had shown purchase/stock receipt turnover as ₹ 15.17 crore during 2006-07 and 2008-09 against the actual purchase/stock receipt of

₹ 17.42 crore. This resulted in suppression of taxable turnover of ₹ 2.25 crore and consequent short levy of tax of ₹ 80.79 lakh including mandatory penalty of ₹ 53.86 lakh.

Under the JF Act, if the prescribed authority has reason to believe that the dealer has concealed, omitted or failed to disclose willfully the particulars of turnover or has furnished incorrect particulars of such turnover, the said authority shall assess or reassess the amount of tax due from the dealer in respect of such turnover 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.

**2.10.13.2** Our cross-verification of data on purchase/stock receipt with records of one dealer of Jamshedpur Commercial taxes circle assessed in March 2009 indicated that the dealers had shown purchase/stock receipt turnover as ₹ 7.51 crore during 2004-05 against the actual purchase/stock receipt of ₹ 13.77 crore. This resulted in suppression of taxable turnover of ₹ 6.26 crore and consequent short levy of tax of ₹ 2.05 crore including mandatory penalty and surcharge of ₹ 1.50 crore.

**2.10.13.3** Cross-verification of data received from five States<sup>15</sup> on sale/stock transfer by nine dealers registered in five Commercial taxes circles<sup>16</sup> of the State indicated that the dealers had been allowed, between March 2009 and March 2010, concession/exemption against sale/stock transfer of ₹ 13.73 crore during 2006-08. However, the actual sale/stock transfer was ₹ 38.35 crore. This resulted in suppression of taxable turnover of ₹ 24.62 crore and

<sup>14</sup> Hazaribag, Jamshedpur, Palamu and Ranchi South.

<sup>15</sup> Bihar, Chhattisgarh, Orissa, Uttar Pradesh and West Bengal.

<sup>16</sup> Chirkunda, Dhanbad, Jharia, Palamu and Ranchi Special.

consequent short levy of tax of ₹ 2.96 crore including mandatory penalty of ₹ 1.97 crore.

## 2.10.14 Utilisation of declaration forms

### 2.10.14.1 Grant of incorrect concessional rate of tax on inter-State sales not supported by declaration forms

- We noticed in case of five dealers in five Commercial taxes circles<sup>17</sup> that the AAs while finalising the assessments (between June 2008 and March 2010) for the period 2005-08 incorrectly allowed concessional rate of tax on taxable turnover of ₹ 3.61 crore and levied tax of ₹ 11.67 lakh instead of correct amount of ₹ 24.09 lakh as the value of forms, on which concessions were allowed, were either inclusive of tax element or were deficient in value. This resulted in short levy of tax of ₹ 12.42 lakh.
- We noticed in case of 15 dealers in six Commercial taxes circles<sup>18</sup> that the AAs while finalising the assessments (between February 2008 and April 2010) for the period 2006-08 disallowed concessional rate of tax on taxable turnover of ₹ 579.30 crore due to non-furnishing of declarations in Form 'C' but incorrectly levied tax of ₹ 23.24 crore instead of ₹ 47.22 crore. This resulted in short levy of tax of ₹ 23.98 crore. A few illustrative cases are mentioned below:

(₹ in crore)			
Name of the circle TIN/Registration number of the dealer	Period Month of assessment	Nature of observations	Short levy of tax
Ranchi West 20790305657	2006-07 February 2009	Due to non-submission of declaration forms 'C', tax was levied incorrectly at the rate of four per cent instead of eight per cent.	21.83
Ranchi South 20280100353	2007-08 March 2010	Due to non-submission of declaration forms 'C', tax was levied incorrectly at the rate of four per cent instead of 12.5 per cent.	0.79
Tenughat 20442201285	2007-08 March 2010	Tax was incorrectly levied at the rate of eight per cent instead of correct rate of 12.5 per cent for non-submission of declaration forms	0.19
Katras KT 1210 (C)	2006-07 February 2009	Due to non-submission of declaration forms 'F', tax was levied incorrectly at the rate of four per cent instead of eight per cent.	0.08

The Government agreed (November 2011) with the audit observations and stated that the concerned circles were being directed to follow the same and it will be monitored from headquarter level.

<sup>17</sup> Chaibasa, Deoghar, Ramgarh, Ranchi Special and Tenughat.

<sup>18</sup> Chaibasa, Katras, Palamu, Ranchi South, Ranchi West and Tenughat.

### 2.10.14.2 Grant of incorrect exemptions on stock transfers of goods not supported by declaration forms

Under the provision of the CST Act, submission of declaration in Form 'F' is mandatory for availing exemption from tax. In case of inter-State stock transfer of declared goods not supported by Form 'F', tax was leviable at twice the rate applicable on sale of such goods in the State. In case of goods, other than the declared goods, tax is leviable at the rate of 10 *per cent* or at the rate applicable in the State, whichever is higher.

We noticed in case of four dealers in three Commercial taxes circles<sup>19</sup> that the AAs while finalising the assessments (between March 2008 and April 2009) for the period 2003-07 allowed exemption from payment of tax on stock transfer outside the State valued at ₹ 11.50 crore though the transactions

were not supported by declarations in form 'F'. This resulted in incorrect allowance of exemption and consequent non-levy of tax of ₹ 1.34 crore.

The Government agreed (November 2011) with audit observations and stated that the concerned circles were being directed to follow the same and it will be monitored from headquarters level.

### 2.10.14.3 Utilisation of unauthorised declaration forms by registered purchasing dealers

Under the CST Act, if any person furnishes a false certificate or declaration forms, the AA will assess, re-assess, collect and enforce payment of tax, including any interest or penalty, payable by a dealer under this Act as if the tax or interest or penalty payable by such a dealer under this Act is a tax or interest or penalty payable under the general sales tax law of the State. The repealed JF Act provided imposition of maximum penalty upto 300 *per cent* while JVAT Act, 2005 provides for penalty twice the amount of additional tax assessed.

• We noticed that 25 dealers registered in 13 Commercial taxes circles<sup>20</sup> received goods from 20 manufacturers of edible oil, motor parts, lubricants, medicine, food products, electronic goods etc., between 2006-09 against 42 forms 'C' and 17 forms 'F'. We verified from ledgers maintained in the respective commercial taxes circles and noticed that these forms were not found issued to these dealers. The AAs also could not detect these

erring dealers while finalising assessments between June 2008 and March 2011. This resulted in a turnover of ₹ 10.38 crore escaping assessment and consequent non-levy of tax of ₹ 1.42 crore including mandatory penalty of ₹ 0.95 crore.

<sup>19</sup> Dhanbad Urban, Deoghar and Ramgarh.

<sup>20</sup> Bokaro, Deoghar, Dhanbad Urban, Dumka, Giridih, Hazaribag, Jamshedpur, Jamshedpur Urban, Koderma, Palamu, Ranchi West, Singhbhum and Tenughat.

- We noticed that 21 dealers registered in nine Commercial taxes circles<sup>21</sup> received edible oil, marble and cement clinker during 2003-06 from 19 manufacturers of other three States<sup>22</sup> against 53 unauthorised 'C' forms and four unauthorised 'F' forms. We verified from ledgers maintained in the respective commercial taxes circles and noticed that these forms were not found issued to these dealers. The AAs also could not detect these erring dealers while finalising assessments between September 2004 and March 2009. This resulted in a turnover of ₹ 18.16 crore escaping assessment and consequent non-levy of tax of ₹ 3.46 crore including mandatory penalty of ₹ 2.53 crore.
- We further noticed that one dealer registered in Hazaribag Commercial taxes circle purchased goods (rice) valued at ₹ 1.81 lakh from Orissa during 2006-07 on the strength of one unauthorised Form 'C'. The assessment was finalised in July 2009. Since rice was exempted from levy of tax in Jharkhand the loss of revenue could not be quantified.

#### **2.10.14.4 Utilisation of unauthorised declaration forms by unregistered purchasing dealers**

Under the CST Act, if any person, not being a registered dealer, falsely represents when purchasing goods in the course of inter-State trade or commerce that he is a registered dealer, the authority competent to grant to him a certificate of registration under this Act, may by order in writing, impose upon him by way of penalty a sum not exceeding one-and-a-half times the tax which would have been levied under the Act.

We noticed in Hazaribag and Palamu Commercial taxes circles that six dealers utilised 11 numbers of unauthorised form 'C' to purchase edible oil worth ₹ 3.32 crore during the period from 2005 - 06 to 2007-08. But the AAs stated that the dealers

were not registered in the circle. This resulted in non-levy of tax amounting to ₹ 33.15 lakh including maximum penalty of ₹ 19.89 lakh.

#### **2.10.14.5 Utilisation of unauthorised declaration forms by selling dealers**

We noticed that seven dealers registered in four Commercial taxes circles<sup>23</sup> sold graphite, hard coke, machineries and hardware valued at ₹ 1.73 crore to the dealers of five States<sup>24</sup> against 23 CST declarations in form 'C' during the period 2006-08. However, results of cross-verification indicated that the above forms were not issued by the dealers of the outstation circles and thus, were fake. The AAs could not detect these fake declarations at the time of assessment between March

<sup>21</sup> Chaibasa, Deoghar, Dumka, Giridih, Hazaribag, Jamshedpur, Katras, Palamu and Singhbhum.

<sup>22</sup> Andhra Pradesh (2), Orissa (2) and Rajasthan (15).

<sup>23</sup> Chirkunda, Dhanbad, Jharia and Palamu.

<sup>24</sup> Chhattisgarh, Orissa, Maharashtra, Uttar Pradesh and West Bengal.

2009 and March 2010 due to non-verification of these forms through TINXSYS. This resulted in short-levy of tax of ₹ 4.24 lakh.

#### 2.10.14.6 Incorrect allowance of concessions/exemptions due to acceptance of invalid form

Under the CST Act and rules made thereunder, tax on branch transfer/inter-State sales of goods made to registered dealers supported by prescribed declaration forms 'F'/'C' is exempt/leviable at concessional rate of tax applicable from time to time. Furnishing of Form 'C' is made mandatory with effect from 11 May 2002. Further, a single declaration in Form 'C' shall cover transactions affected during a period of one quarter (three calendar months) only.

We noticed in seven Commercial taxes circles<sup>25</sup> that in case of 12 dealers, the AAs while finalising the assessments (between April 2008 and April 2010) for the period 2005-08 allowed concession/exemption from levy of tax on production of 118 declarations forms 'C'/'F' containing transactions valued

at ₹ 31.43 crore. However, all these forms were liable to be rejected on the grounds of submission of invalid forms; submission of duplicate copy of forms; submission of forms issued in the name(s) of another dealer; submission of forms not containing printed serial number(s); submission of forms being issued after the date of assessment; submission of forms covering transactions for more than a quarter and submission of forms not containing seller's name and registration number. Exemption/concessional rate of tax granted on account of acceptance of such defective forms resulted in short -levy of tax of ₹ 2.31 crore. A few specific cases are mentioned in the following table:

(₹ in lakh)

Name of the circle TIN/Registration number of the dealer	Period Month of assessment	Nature of observations	Short levy of tax
Tenughat TG 612 (C)	2007-08 March 2010	Out of 296 declaration forms C furnished by the dealer, 59 forms amounting to ₹ 9.80 crore were liable to be rejected as these were either issued in the name of other dealers or were blank forms or the forms were issued after the date of assessment.	93.05
Ranchi Special 20070402090	2007-08 March 2010	The dealer was allowed incorrect exemption on six numbers of duplicate declaration forms 'F' for ₹ 3.65 crore.	45.64
Chirkunda 20662000277	2007-08 February 2010	Out of 39 declaration forms 'C' furnished by the dealer, 14 forms amounting to ₹ 2.55 crore were liable to be rejected as these were issued in the name of other dealer/were blank forms/covering transactions of one quarter in more than one Form or one Form covering transactions of more than one quarter.	24.18

<sup>25</sup> Chaibasa, Chirkunda, Jamshedpur, Jharia, Palamu, Ranchi Special and Tenughat.

(₹ in lakh)			
Name of the circle TIN/Registration number of the dealer	Period Month of assessment	Nature of observations	Short levy of tax
Chaibasa CB-1116 (C)	2005-06 February 2010	Out of 50 declaration forms 'C' furnished by the dealer, three forms amounting to ₹ 2.25 crore were issued in the name of TISCO, Kolkata instead of TISCO, Noamundi, Chaibasa. Hence the forms were liable to be rejected but concessional rate of tax was allowed by the assessing authority. This resulted in short levy of tax of ₹ 15.74 lakh including surcharge of ₹ 2.25 lakh.	15.74
Ranchi Special 20660402202	2006-07 April 2008	The dealer had furnished form 'F' bearing no. 03Q 499609 for ₹ 15.07 lakh which was duplicate. However, the assessing authority incorrectly allowed exemption on it.	13.13

Though the Government in its reply during the exit conference (November 2011) accepted the audit observations but it did not furnish specific reply about realisation of short levy of taxes.

#### 2.10.14.7 Misuse of CST declaration forms

Under the CST Act, a registered dealer can purchase goods from outside the State at concessional rate of tax by using prescribed declarations for goods intended for resale by him or for use by him in the manufacture or processing of goods for sale or in mining or in the generation of distribution of electricity or any other form of power or in telecommunication network provided such goods are covered by his registration certificate (RC). Failing which, the dealer is liable to be prosecuted or in lieu of prosecution, the AA may impose upon him a penalty not exceeding one and a half times of the tax leviable as if the sale is not supported by the prescribed declaration in Form 'C'. A contractor can also avail the facility in the capacity of a dealer.

We noticed in Dhanbad Commercial taxes circle that a dealer during 2007-08 purchased B-Hoe Loader valued at ₹ 18.36 lakh on concessional rate of tax by utilising declarations in Form 'C' though the goods were not covered by his Registration Certificate. Further, during 2007-08, another dealer registered as a works contractor purchased High Speed Diesel (HSD), W beams, safety guards and auto spares valued at ₹ 16.82 crore and ₹ 65.47

lakh respectively at concessional rate of tax by utilising form 'C' and consumed the same which was not admissible as per the provisions of the CST Act. It has judicially been held<sup>26</sup> that a works contractor is eligible to purchase goods from

<sup>26</sup> BeeKay Engineering Corporation Vrs State of Bihar (1992) 87 STC 509 Patna.

outside the State at concessional rate by using form 'C' provided the goods are intended for re-sale. The AAs while finalising the assessments (between January and March 2010) neither verified the RC nor issued C forms correctly. This resulted in unauthorised use of declarations in form 'C' and consequential short levy of tax of ₹ 8.50 crore including penalty of ₹ 5.10 crore.

Though the Government in its reply during the exit conference (November 2011) accepted the audit observations but it did not furnish specific reply about realisation of short levy of taxes.

### **2.10.15 Under-assessment of inter-State sale**

The Jharkhand Value Added Tax (JVAT) Rules stipulates submission of all CST declarations forms by the end of December of next financial year. However, the CST (Jharkhand) Rules provide for furnishing of declaration forms upto the time of assessment (to be finalised within two years under JVAT Act) and even after assessment upto a particular period as would be allowed by the AA. The two aforesaid provisions are contradictory to each other. Absence of provision of mandatory furnishing of declaration forms along with the returns might result in short payment of tax due to submission of incorrect particulars of transactions in the returns.

During scrutiny, we came across several cases where the dealers admitted payment of concessional rate of tax in their returns but failed to furnish declaration forms at the time of assessment. Though the AAs assessed full rate of tax, they did not levy interest and penalty as per the provisions of the CST Act as indicated below:

Under JVAT Act read with the CST Act, if a dealer fails, without sufficient cause, to pay the amount of tax due as per the returns for any tax period or exemption/deduction and any other rebate not supported by requisite evidence is disallowed by the AA, interest at the rate of one *per cent* and penalty at the rate of two *per cent* on the amount of additional tax assessed are leviable. Interest is payable from the date of tax payable to the date of payment or the date of order whichever is earlier.

We noticed in four Commercial taxes circles<sup>27</sup> that 13 dealers, engaged in the business of coal and iron insert, returned inter-State sale of ₹ 1481.10 crore during 2006-08 at a concessional rate of tax of ₹ 57.50 crore. As the dealers did not furnish declarations in form 'C'

at the time of assessment, the AAs while finalising the assessments (between March 2009 and April 2010) levied tax of ₹ 120.89 crore accordingly. Though tax at full rate was levied, the AAs did not levy interest and penalty on the balance amount of ₹ 63.39 crore. This resulted in non-levy of interest and penalty of ₹ 53.17 crore.

The Government in its reply during the exit conference (November 2011) accepted the audit observation and also confirmed that Section 9(1) of CST Act deals with the Section 30 of JVAT Act for levying of interest and penalties under CST Act.

<sup>27</sup> Chirkunda, Dhanbad Urban, Jharia and Katras.

The Government further stated that following audit observation, a new rule 4A had been inserted in CST (Jharkhand) Rule (July 2011) for furnishing of CST forms for each quarter on or before the 20<sup>th</sup> day of the month after the end of the succeeding respective quarter.

#### **2.10.16 Conclusion**

The Department did not take adequate action in either prescribing internal control procedures/measures or effectively enforcing existing control procedures in respect of CST leading to leakage of revenue. The IB wing, which was entrusted with the task of verification of various declaration forms as well as inter-departmental cross-verification of data/information remained non-functional. Internal audit and tax audit, which are management tools for ensuring effective functioning of the Department and plugging leakages of revenue, was not operational. The review indicated that the deficiencies, mistakes, omissions which appeared in the report of Comptroller and Auditor General of India in earlier years still persisted in the working of the CTD in respect of CST receipts.

#### **2.10.17 Summary of recommendations**

The Government may consider:

- to standardise formats for stock register/ledger of central declaration forms for the circles and ensure issue of forms chronologically;
- to strengthen Tax Audit wing, functions of IB for regular survey, collection of data/information regarding purchase, sale and creation of database from departments and undertakings of State/Central Government for cross-verification of transactions;
- uploading the data of dealers and forms issued to them along with a system of verification of forms submitted by them with the database available in TINXSYS at the time of assessment; and
- to spell out a definite timeframe to switchover from manual system to online system after getting the departmental website and data-centre certified.

## 2.11 Other audit observations

Our scrutiny of assessment records of Sales tax and Value added tax (VAT) indicated several cases of non-observance of the provisions of the Acts/Rules and notifications issued thereunder, suppression of sales/purchase turnover, non registration of dealers, turnover escaping assessment, non/short levy of tax/penalty, incorrect adjustment of input tax credit (ITC), incorrect application of rate of tax 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. 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.

## 2.12 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 ₹ 7.68 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 2.12.1.1 to 2.12.1.2.

### 2.12.1 Suppression of sales turnover under JVAT/JF Act

The JVAT Act provides that if the prescribed authority has reason to believe that a dealer has failed to furnish a return or has furnished an incomplete or incorrect return with a view to avoid or evade payment of tax, he shall proceed to assess or re-assess the amount of tax due from the dealer on account of such evasion and shall direct the dealer to pay, besides the tax assessed on escaped turnover, penalty of a sum equivalent to twice the amount of the additional tax so assessed.

**2.12.1.1** We collected data relating to dispatch of iron ore from the District Mining Office (DMO), Chaibasa and cross verified the same with the records of Chaibasa Commercial taxes circle.

We noticed that two mining lessees of the Chaibasa Commercial taxes circle, had shown dispatch of iron ore of 28.78 lakh

metric tonne in their trading accounts during 2007-08 and were assessed accordingly in March 2010. However, the records of the DMO, Chaibasa indicated that the lessees had dispatched 30.38 lakh metric tonne of iron ore during the period. Thus, there was suppression of 1.60 lakh metric tonne valued at ₹ 17.43 crore<sup>28</sup>. This resulted in under assessment of tax of

<sup>28</sup> Suppressed value = A+B where,

Rate of Iron ore = value of sale/quantity dispatched = 1433285632.45/1835950.82 = 780.68 per MT thus, value of goods = 128892.32 x 780.68 = ₹ 100623656.38-(A)

Rate of Iron ore = value of sale/quantity dispatched = 2492001346.84 / 1042203.15 = ₹ 2391.09 per MT thus, value of goods = 30796.854 x 2391.09 = ₹ 73638040.07 - (B)

₹ 2.09 crore including mandatory penalty of ₹ 1.39 crore.

After we pointed this out (October 2010), the AA, in one case, revised (December 2011) the assessment and raised additional demand of ₹ 1.21 crore, while in the other case it was stated (October 2010) that the matter would be reviewed. Further reply has not been received (February 2012).

We reported the matter to the Government in June 2011 followed by a reminder issued in September 2011; their reply has not been received (February 2012).

Under the JF 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 prescribed 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.

**2.12.1.2** We collected data relating to dispatch of iron ore from the DMO, Chaibasa and cross-verified the same with the records of Chaibasa Commercial taxes circle.

We noticed that a mining lessee of the Chaibasa Commercial taxes circle had shown dispatch of 3.30 lakh metric tonne of iron ore in its trading account during 2005-06 and was assessed

accordingly in April 2010. However, the records of the DMO, Chaibasa indicated that the lessee had dispatched iron ore of 7.32 lakh metric tonne during the period. Thus, there was suppression of 4.02 lakh metric tonne valued at ₹ 26.61 crore<sup>29</sup>. This resulted in under assessment of tax of ₹ 5.59 crore including penalty of ₹ 2.66 crore.

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 this out (October 2010), the AA revised (December 2011) the assessment and raised additional demand of ₹ 5.59 crore. Further reply has not been received (February 2012).

We reported the matter to the Government in June 2011 followed by a reminder issued in September 2011; their reply has not been received (February 2012).

**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 to ensure that there is no leakage of revenue.**

<sup>29</sup> Rate of Iron ore = value of sale/quantity dispatched = 218700416 / 330397.960 = ₹ 661.93 per MT thus the suppressed value = 402012.04 x 661.93 = ₹ 266103829.64

## 2.13 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 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 ₹ 178.10 crore as mentioned in paragraphs 2.13.1 to 2.13.2.*

### 2.13.1 Suppression of sales/purchase turnover under JVAT/JF Act

Under the JVAT Act read with the CST Act, if the prescribed authority has reasons to believe that the dealer has concealed, omitted or failed to disclose wilfully, the particulars of such turnover or has furnished incorrect particulars of such turnover and thereby the returned figures are below the real amount, the prescribed authority shall proceed to assess or reassess the amount of tax due from the dealer in respect of such turnover and shall direct the dealer to pay, besides the tax assessed on escaped turnover, by way of penalty a sum equivalent to twice the amount of the additional tax so assessed.

**2.13.1.1** We noticed from the assessment records in 12 Commercial taxes circles<sup>30</sup> that 20 dealers had filed their returns for purchase/sale of ₹ 690.66 crore during the years 2006-07 and 2007-08. The assessments were finalised between July 2008 and March 2010 on the basis of returns filed by them. However, our scrutiny of records<sup>31</sup> indicated that the dealers

had actually sold/purchased goods worth ₹ 1087.62 crore. 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. Thus, the dealers concealed ₹ 396.96 crore on account of purchase/sale turnover in their returns. The concealment was on account of suppression of sale of detergent, chemicals, coal, silico manganese, MS ingots, empties, petroleum products etc. This resulted in non/short levy of tax of ₹ 160.65 crore including mandatory penalty of ₹ 107.10 crore. We mention specific cases in respect of five dealers in five Commercial taxes circles in the following table:

<sup>30</sup> Bokaro, Deoghar, Dhanbad, Dhanbad Urban, Giridih, Jamshedpur, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi East and Ranchi South.

<sup>31</sup> Utilisation certificate of declaration forms, audited annual accounts, trading and manufacturing account.

(₹ in crore)

Name of the Circle TIN of the dealer	Period Month of assessment	Nature of observations	Suppressed turnover Rate of tax (%)	Short levy of VAT Penalty
<u>Ranchi South</u> 20960100755	2006-07 and <u>2007-08</u> March 2009 and March 2010	Cross-verification with the assessment records of a dealer registered in other commercial taxes circle and utilisation of declarations in form 'C' indicated that the dealer company had actually purchased petroleum products valued at ₹ 144.79 crore but accounted for ₹ 2.76 crore only.	<u>142.03</u> 20, 12.5 and 4	<u>28.20</u> 56.40
<u>Ranchi East</u> 20430200811	<u>2007-08</u> March 2010	The assessment was finalised on the basis of trading account having incorrect opening balance of ₹ 40.95 crore whereas the closing balance of trading account for 2006-07 was ₹ 132.47 crore resulting in suppression of turnover of ₹ 91.52 crore.	<u>91.52</u> 20, 12.5 and 4	<u>17.64</u> 35.28
<u>Ramgarh</u> 20781905166	<u>2007-08</u> January 2010	Tax was levied on the turnover of ₹ 302.17 crore instead of the correct turnover of ₹ 361.15 crore.	<u>58.98</u> 4	<u>2.36</u> 4.72
<u>Giridih</u> 20232305009	<u>2007-08</u> July 2009	Purchases on the basis of information available in the records worked out to ₹ 129.47 crore but the dealer accounted for ₹ 94.32 crore only in the manufacturing and trading account.	<u>35.15</u> 4	<u>1.41</u> 2.82
<u>Dhanbad</u> 20561705175	2006-07 and <u>2007-08</u> February and March 2009	The dealer sold goods valued at ₹ 21.35 crore to a public sector undertaking which was not accounted for in its returns.	<u>21.35</u> 4	<u>0.85</u> 1.70

After we pointed out the cases between July 2009 and May 2011, the AAs of eight Commercial taxes circles<sup>32</sup> revised the assessments (between June and September 2011) and raised additional demand of ₹ 66.62 crore in eight cases. In the remaining cases, the AAs stated between July 2009 and May 2011 that the cases would be reviewed. Further reply has not been received (February 2012).

<sup>32</sup> Bokaro, Dhanbad, Dhanbad Urban, Deoghar, Jamshedpur, Pakur, Ramgarh and Ranchi South.

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.

**2.13.1.2** We noticed from the assessment records in four Commercial taxes circles<sup>33</sup> that four dealers had filed returns for purchase/sales turnover of ₹ 12 crore during 2004-05 and 2005-06 and the assessments were finalised between September 2007 and March 2010 on the basis of returns filed by them. However, our scrutiny of the information available in the assessment

records viz. audited annual accounts, trading and manufacturing account as well as cross verification with the information collected from other Commercial taxes circle indicated that the dealers had actually sold/purchased goods worth ₹ 81.31 crore. Thus, the dealers had concealed sale/purchase turnover of ₹ 69.31 crore. We further noticed that the AAs did not cross verify the returns with the relevant information/records furnished by the dealers. This resulted in non/short levy of tax of ₹ 15.75 crore including mandatory penalty of ₹ 7.50 crore.

After we pointed out the cases between November 2009 and August 2010, the AAs of three Commercial taxes circles<sup>34</sup>, in three cases, revised the assessment and raised an additional demand of ₹ 15.16 crore (between June and November 2011) while the other AAs stated between January and September 2010 that the cases would be reviewed. Further reply has not been received (February 2012).

We reported the matter to the Government in June 2011 followed by a reminder issued in September 2011; their reply has not been received (February 2012).

## **2.13.2 Incorrect determination of gross turnover under JVAT/JFAct**

Gross turnover (GTO) for the purpose of levy of sales tax is the aggregate of sale price received and receivable by a dealer including the gross amount received or receivable for the sale of goods made outside the State in the course of inter-State trade or commerce or export. Further, under the JF Act, every dealer is required to pay surcharge at the rate of 10 per cent of the tax so assessed.

**2.13.2.1** We test checked the assessment records of four assesseees registered in four Commercial taxes circles<sup>35</sup>, engaged in business of coal, MS ingots and scraps for the period 2006-07 and 2007-08. Our scrutiny of information available in the assessment records viz. audited annual accounts, trading, profit and

<sup>33</sup> Chirkunda, Jamshedpur, Jamshedpur Urban and Ranchi South.

<sup>34</sup> Jamshedpur, Jamshedpur Urban and Ranchi South.

<sup>35</sup> Chirkunda, Deoghar, Jharia and Katras.

loss accounts, VAT audit report, annual returns etc. indicated that the assessee had actually sold goods valued at ₹ 800.14 crore. However, the AAs while finalising the assessments between March 2009 and February 2010 did not cross verify these records and determined the gross turnover as ₹ 790.86 crore. This resulted in short determination of the GTO of ₹ 9.28 crore and consequent short levy of tax of ₹ 57.13 lakh.

After we pointed out the cases between November 2009 and December 2010, the AAs, Deoghar and Jharia raised additional demand (between August and September 2011) of the entire objected amount, while the AA of Chirkunda Commercial taxes circle stated (January 2010) that difference in gross turnover was due to 'grade slippage' on quantity of coal. The reply was not in order as the AA himself disallowed deduction on account of grade slippage while finalising the assessment. The AA, Katras stated in November 2009 that case would be reviewed. Further reply has not been received (February 2012).

**2.13.2.2** We noticed (March 2010) during test check of the assessment records of an assessee in Deoghar Commercial taxes circle that the AA while finalising the assessment for the period 2004-05 in March 2009, determined GTO as ₹ 33.64 crore. However, our scrutiny of the audited annual accounts of the assessee available in the assessment records indicated that the actual GTO was ₹ 46.46 crore during 2004-05. We further noticed that the AA did not cross-verify the returns with the relevant information submitted by the assessee. This resulted in short determination of the GTO by ₹ 12.82 crore and consequential short levy of tax of ₹ 1.13 crore including surcharge of ₹ 10.26 lakh.

After we pointed out the matter in March 2010, the AA raised additional demand of the entire amount under objection (September 2011). Further reply has not been received (February 2012).

We reported the matter to the Government in June 2011 followed by a reminder issued in September 2011; their reply has not been received (February 2012).

## 2.14 Application of incorrect rate of tax under JVAT Act

Under the provisions and schedules of rates of the JVAT Act, components and parts of motor vehicles, leather products, snacks items, kerosene oil sold to other than Public Distribution System (PDS) are taxable at the rate of 12.5 per cent. By a notification issued in March 2007, the rate of tax was reduced to four per cent from the earlier 12.5 per cent on sale of aluminium conductor steel reinforced (ACSR) and earth moving machines. Further, it has judicially been held\* that coal and coal briquettes are two different commercial commodities and briquettes made from coal are taxable separately at the rate of 12.5 per cent.

\* M/s Sonabhadra Fuels vs. CCT UP 14 STC SC

We test checked the assessment records of ten assesseees in four Commercial taxes circles which indicated that the AAs, while finalising the assessments between April 2008 and March 2010 for the period 2006-07 to 2008-09, levied tax at the rate of four per cent on sale of components and parts of motor vehicles, leather products, snacks items, superior kerosene oil (SKO), earth moving machines, ACSR and coal briquettes

valued at ₹ 113.71 crore instead of at the correct rate of 12.5 per cent. Incorrect application of the provisions of the Act and notifications by the AAs resulted in short levy of tax of ₹ 9.66 crore as mentioned in the following table:

(₹ in crore)				
Sl. No.	Number of dealers Circle	Period Month of assessment	Nature of observation	Short levy of tax
1.	Two Ranchi South	2006-07 and 2007-08 Between March 2009 and March 2010	Tax was levied at the incorrect rate of four per cent instead of the correct rate of 12.5 per cent on sale of SKO valued at ₹ 58.61 crore to Oil Marketing Companies (OMCs) during 2006-08 and on sales turnover of ACSR valued at ₹ 8.31 crore for the period from April 2006 to February 2007.	5.69
2.	Four Ranchi Special	2006-07 to 2008-09 Between April 2008 and March 2010	Tax was levied at the incorrect rate of four per cent instead of the correct rate of 12.5 per cent on sale of components and parts of motor vehicles, leather products, snacks items and inverter valued at ₹ 24.62 crore during 2006-07 to 2008-09.	2.09
3.	Three Ranchi East	2006-07 and 2007-08 Between June 2008 and March 2010	Tax was levied at the incorrect rate of four per cent instead of the correct rate of 12.5 per cent on sales turnover of components and parts of motor vehicles of ₹ 1.36 crore and on sale of SKO to OMCs valued at ₹12.44 crore respectively during 2006-08. Further, tax was levied at the incorrect rate of four per cent instead of 12.5 per cent on earth moving machines valued at ₹ 5.63 crore for the period from April 2006 to February 2007.	1.65
4.	One Tenughat	2007-08 March 2010	Tax was levied at the incorrect rate of four per cent instead of the correct rate of 12.5 per cent on sale of coal briquettes valued at ₹ 2.74 crore during 2007-08.	0.23
<b>Total</b>				<b>9.66</b>

After we pointed out the cases between March 2010 and January 2011, the AAs of three Commercial taxes circles<sup>36</sup> raised additional demand of ₹ 7.09 crore in seven cases between September 2010 and September 2011. The AAs in the remaining cases stated between September 2010 and January 2011 that the cases would be reviewed. Further reply has not been received (February 2012).

We reported the matter to the Government in June 2011 followed by a reminder issued in September 2011; their reply has not been received (February 2012).

### 2.15 Irregularities in grant of Input Tax Credit

Under the JVAT Act and rules made thereunder, the dealer claiming ITC shall substantiate such claim by producing a declaration in form JVAT 404, issued by the preceding VAT dealer evidencing that goods in question have already been subjected to tax at the preceding stage of their sale. Further, ITC shall not be claimed by the dealer until the tax period in which the dealer receives the invoices in original containing the prescribed particulars of sale evidencing the amount of input tax paid and in cases where the taxable sales of the dealer is five *per cent* or less of the total value, he shall not be eligible to claim ITC for that tax period. The AA shall also direct the dealer to pay by way of penalty a sum equivalent to twice the amount of the incorrect ITC availed.

We test checked (March 2010 to December 2010) the assessment records of three assesseees in three Commercial taxes circles for the period 2006-07 and 2007-08 which indicated that three dealers had claimed inadmissible ITC of ₹ 1.02 crore on intra-State purchases of goods valued at ₹ 67.93 crore. However, the AAs while finalising the assessments between December 2009 and October 2010 allowed the same. This resulted in inadmissible allowance of ITC of ₹ 3.06 crore including mandatory penalty of ₹ 2.04 crore as

mentioned in the following table:

(₹ in lakh)				
Sl. No.	Number of dealers Circle	Period Month of assessment	Nature of observation	Inadmissible ITC Penalty leviable
1.	One Ranchi Special	2006-07 October 2010	The dealer was allowed ITC of ₹ 84.07 lakh on intra-State purchases of goods valued at ₹ 23.36 crore though these purchases were not supported by declaration in form JVAT 404.	<u>84.07</u> 168.14
2.	One Jharia	2007-08 February 2010	The dealer was allowed ITC of ₹ 15.25 lakh on intra-State purchase of goods valued at ₹ 43.79 crore though taxable sales (₹ 10.79 crore) was less than five <i>per cent</i> of the gross turnover (₹ 267.83 crore).	<u>15.25</u> 30.50

<sup>36</sup> Ranchi East, Ranchi Special and Ranchi South.

(₹ in lakh)				
Sl. No.	Number of dealers Circle	Period Month of assessment	Nature of observation	Inadmissible ITC Penalty leviable
3.	One Chaibasa	2007-08 December 2009	ITC of ₹ 2.99 lakh on intra-State purchase of goods valued at ₹ 77.74 lakh made during 2006-07 was not admissible in 2007-08.	2.99 5.98
<b>Total</b>				<b>102.31 204.62</b>

After we pointed out the cases, the concerned AAs raised an additional demand of ₹ 1.35 crore between October 2010 and December 2011. Further reply has not been received (February 2012).

We reported the matter to the Government in June 2011 followed by a reminder issued in September 2011; their reply has not been received (February 2012).

## 2.16 Irregularities in grant of exemptions

*Exemptions from levy of VAT have been allowed under different provisions of the Act and rules made 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 Rules subject to fulfilment of specified terms and conditions.*

*Our scrutiny, however, indicated a number of mistakes in the assessments finalised by the AAs through which incorrect/excess exemptions were granted. A few instances involving non/short levy of tax of ₹ 11.99 crore are mentioned in the following paragraphs:*

Under the JVAT Act and rules framed thereunder, certain deductions are allowed from gross turnover of works contractors for computing their taxable turnover. In the cases where the amount of charges towards labour, services and other like charges are not ascertainable from the terms and conditions of the contract or the accounts furnished, the admissible amount of such charges shall be calculated at the rate of 30 per cent of the total value of the consideration received or receivable in case of civil contracts.

**2.16.1** We test checked the assessment records of three works contractors in Singhbhum and Deoghar Commercial taxes circles for the years 2006-07 and 2007-08 which indicated that these contractors had claimed deductions of ₹ 29.02 crore from their gross turnover of ₹ 38.22 crore on account of labour and other like charges. The AAs, while finalising the assessments

between March 2009 and January 2010, had limited the claim of deductions to ₹ 26.59 crore on the basis of submission of corroborative evidences. However, we calculated the admissible deductions towards labour and other like charges at ₹ 11.47 crore as per the provisions of the Act/Rules. Non-adherence to the provisions of the JVAT Rules by the AAs resulted in allowance of excess deductions of ₹ 15.12

crore from their GTO and consequential short levy of tax of ₹ 1.89 crore.

After we pointed out the cases, the AA of Singhbhum Commercial taxes circle revised (November 2011) the assessment in two cases and raised an additional demand of ₹ 1.74 crore. Further reply has not been received (February 2012).

Under the JVAT Act and rules framed thereunder, claims for exemption from payment of tax on stock transfer of goods from one branch to another in the State is required to be supported by declarations in Form JVAT 506 issued by the transferee. By a notification issued in July 2007, cigarette was deleted from the list of exempted goods and was made taxable at the rate of 12.5 *per cent* with effect from 1 April 2007.

**2.16.2** We noticed from the assessment records between December 2010 and February 2011 in Palamu and Ramgarh Commercial taxes circles that two assessee claimed exemption from levy of tax on stock transfer of coal valued at ₹ 230.32 crore during 2006-07 and 2007-08 to its branches

within the State. The declarations affecting the transfer were neither found on record nor was there any mention of their submission in the assessment finalised by the AAs between January 2009 and February 2010. In absence of these declarations, the assessee were not entitled to exemption from levy of tax. However, the AA incorrectly allowed exemption from payment of tax resulting in short levy of tax of ₹ 9.21 crore.

**2.16.3** We noticed (December 2010) from the assessment records in Deoghar Commercial taxes circle that an assessee claimed and was allowed (February and September 2010) exemption from payment of tax by the AA on sale of cigarette valued at ₹ 7.09 crore during 2007-08 and 2008-09 treating it as exempted good. As cigarette is taxable at the rate of 12.5 *per cent*, grant of incorrect exemption on the part of the AA resulted in short-levy of tax of ₹ 88.58 lakh.

We reported the matter to the Government in June 2011 followed by a reminder issued in September 2011; their reply has not been received (February 2012).

## 2.17 Incorrect allowance of exemption on transit sale

Under the CST Act, a claim on account of transit sale is exempted from levy of tax, when the sale has been effected by transfer of documents of title of goods during the movement of goods and such subsequent sale should also take place during the same movement occasioned by the previous sale subject to furnishing of declarations in Form 'C' and Form 'EI'.

We noticed between March 2010 and December 2010 from the assessment records that in case of four dealers in three Commercial taxes circles<sup>37</sup> the AAs while finalising the assessments (between February 2009 and March 2010) for the period 2005-06 to 2007-08 allowed

<sup>37</sup> Dhanbad Urban, Jharia and Ranchi Special.

exemption on transit sale valued at ₹ 27.37 crore though the sales were either not supported by Form 'C' or the subsequent sale did not take place during the movement of the goods. This resulted in incorrect allowance of exemption from tax of ₹ 3.23 crore.

After we pointed out the cases between March 2010 and December 2010, the AA of Ranchi Special Commercial taxes circle raised an additional demand of ₹ 4.23 lakh in two cases between November and December 2010, while the other AAs stated between June and December 2010 that the cases would be reviewed. Further reply has not been received (February 2012).

We reported the matter to the Government in June 2011 followed by a reminder issued in September 2011; their reply has not been received (February 2012).

## 2.18 Irregular grant of exemption on export sale

Under the CST Act and rules framed thereunder, no tax shall be payable on the sale of goods which have taken place in course of export out of territory of India, provided the sale is substantiated by a certificate in Form 'H' issued by the exporter along with other documentary evidences of export of such goods. Further, in case of export to Nepal, the claim was required to be supported by the bill of export granted by the Customs officials of India.

We noticed (between March and November 2010) from the assessment records in Katras and Ranchi Special Commercial taxes circles that in case of two dealers dealing in refractory bricks and cement, the AAs while finalising the assessments between March 2009 and March 2010 for the period 2006-07 and 2007-08, allowed

exemption from payment of tax on account of export sale to Nepal valued at ₹ 78.81 lakh, though the transactions were not supported by bill of export duly countersigned by the Customs officials of India. This resulted in incorrect allowance of exemption and consequent non-levy of tax of ₹ 5.56 lakh.

After we pointed out the cases between March 2010 and November 2010, the AA of Ranchi Special Commercial taxes circle, raised an additional demand of ₹ 3.54 lakh in April 2011 on the basis of the case remanded by the CCT, while the AA of Katras Commercial taxes circle stated in November 2010 that the case would be reviewed. Further reply has not been received (February 2012).

We reported the matter to the Government in June 2011 followed by a reminder issued in September 2011; their reply has not been received (February 2012).

## 2.19 Non/short imposition of penalty

Under the JVAT Act and rules framed thereunder, a dealer with GTO exceeding ₹ 40 lakh in a particular year 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.

**2.19.1** We test checked the assessment records in Jharia Commercial taxes circle which indicated that two assesseees had not submitted the VAT audit report in Form JVAT 409

for the period 2007-08. Our scrutiny indicated that the AA, while finalising the revised assessments between February 2010 and April 2010, did not impose penalty of ₹ 48.52 lakh for non-submission of the VAT audit report on the determined GTO of ₹ 485.23 crore. This resulted in non-imposition of penalty of ₹ 48.52 lakh.

After we pointed out the matter in January 2011, the AA revised (August 2011) the assessments and raised additional demand of ₹ 48.52 lakh.

We reported the matter to the Government in June 2011 followed by a reminder issued in September 2011; their reply has not been received (February 2012).

Under the JF Act, no registered dealer shall collect from any person any tax on sale of goods in excess of tax liability. In the event of any contravention of the said provisions, the prescribed authority shall direct the dealer to pay by way of penalty a sum equal to twice the amount of tax so collected.

**2.19.2** We noticed (November 2009) from assessment records in Chirkunda Commercial taxes circle that an assessee had collected tax of ₹ 2.01 crore on sale of goods during 2005-06. The AA while finalising the assessment in January 2009

levied tax of ₹ 1.93 crore. Thus, the assessee had collected tax in excess of his tax liability by ₹ 8.32 lakh. Mandatory penalty of ₹ 16.64 lakh, though leviable, was not levied.

After we pointed out the matter, the AA stated (January 2010) that the case would be reviewed. Further reply has not been received (February 2012).

We reported the matter to the Government in June 2011 followed by a reminder issued in September 2011; their reply has not been received (February 2012).

## 2.20 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.

We noticed in case of two dealers in Chirkunda and Tenughat Commercial taxes circles that the AAs while finalising (between January 2009 and March 2010) the CST assessments for the

period 2005-06 and 2007-08 incorrectly levied tax of ₹ 5.54 crore instead of correct amount of ₹ 7.27 crore due to arithmetical mistake. This resulted in short levy of tax of ₹ 1.73 crore.

The Government accepted (November 2011) the audit observations and stated that the concerned circles were being directed to follow the same and it would be monitored at the Headquarters level.