

***CHAPTER - II***  
***TAXES ON SALES, TRADE ETC.***

Executive Summary: Chapter - II	
Increase in tax collection	In 2010-11 the collections of taxes on Sales, trade etc. from Commercial Taxes Department increased by 24 <i>per cent</i> over the previous year which was attributed by the Department to increase in VAT rates, increase in the enforcement activities, amendment of the Rajasthan Value Added Tax Act and arrear collection.
Very low recovery by the Department of observations pointed out by us in earlier years	<p>During the period 2005-06 to 2009-10 we had pointed out non/short levy, non/short realisation of tax, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation of tax etc., with revenue implication of ₹ 302.12 crore in 49 paragraphs.</p> <p>Of these, the Department/Government had accepted audit observations in 31 paragraphs involving ₹ 173.97 crore but recovered only ₹ 3.45 crore in 20 paragraphs. The recovery position as compared to acceptance of objections was only two <i>per cent</i>.</p>
Internal audit	The Internal Audit Wing conducted audit of the Commercial Taxes Department on the basis of importance and revenue realisation of the concerned circle/ward. There was a shortfall in conducting audit which ranged between 15 and 40 <i>per cent</i> during the year 2007-08 to 2010-11. We noticed that the Department had not made serious efforts to settle 19,018 paragraphs of internal audit which were outstanding at the end of the year 2010-11. Further 8,944 paragraphs of internal audit reports were pending since 2005-06. Thus, the very purpose of internal audit as an internal controls measure was defeated due to inaction of the Department on internal audit findings.
Results of Audits conducted by us in 2010-11	In 2010-11, we test checked the records of 77 units relating to taxes on Sales, Trade etc. and found non/short realisation/levy of tax, interest, penalty etc. involving ₹ 327.32 crore in 1,729 cases. The Department accepted non/underassessment of tax, irregular grant of exemption, non-levy of interest and other irregularities ₹ 4.69 crore in 530 cases, of which 45 cases involving ₹ 20 lakh were pointed out by us during the year 2010-11 and the rest in earlier years. The Department recovered ₹ 2.00 lakh in the year 2010-11 at the instance of audit in six cases.
What we have highlighted in this Chapter	In this Chapter we present a Performance Audit on ' <b>Cross verification of Declaration forms used in Inter-State Trade and Commerce</b> ' involving ₹ 98.98 crore and illustrative cases of ₹ 6.20 crore selected from observations noticed during our test check of the records

	<p>relating to non/underassessment of tax, irregular grant of exemption, non-levy of interest and other irregularities in the Offices of the Commercial Taxes Department, 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 in the Audit Reports for the past years, but the Department had not taken corrective action.</p>
Our conclusion	<p>The Performance Audit on Cross verification of Declaration Forms used in Inter State Trade and Commerce revealed a number of Systems and Compliance deficiencies which need correction. We have given specific recommendations to improve the administration of the Central Sales Tax Act and Rules. We have highlighted cases relating to assessment of dealers under composition of Tax Scheme, where the conditions of the scheme were not followed while giving the benefits of the Scheme.</p>
Our recommendation	<p><b>(i) that the Government strengthen the administration of the CST Act and Rules with reference to the specific recommendation given based on the Performance Audit of the 'Cross verification of Declaration Forms used in Inter State Trade and Commerce';</b></p> <p><b>(ii) administer the composition of Tax Scheme according to the strict conditions of the Scheme;</b></p> <p><b>(iii) that the Government may take timely and regular action to recover the arrears and to avoid piling of arrears;</b></p> <p><b>(iv) the Government may consider strengthening functioning of Internal Audit Wing in order to plug the leakage of revenue and comply with the provisions of the Act and Rules; and</b></p> <p><b>(v) efforts are required for recovery of accepted amount and settlement of other outstanding paragraphs.</b></p>

## CHAPTER-II: TAXES ON SALES, TRADE *ETC.*

### 2.1 Tax administration

The Commercial Taxes Department deals mainly with Value Added Tax, Central Sales Tax, Entry Tax, Luxury Tax, Entertainment Tax and Electricity Duty which are regulated by following Acts and Rules made there under:

1. Rajasthan Value Added Tax (RVAT) Act, 2003;
2. Central Sales Tax (CST) Act, 1956;
3. Rajasthan Tax on Entry of Goods into Local Areas Act, 1999 ;
4. Rajasthan Tax on Luxuries (in Hotels and Lodging Houses) Act, 1990;
5. Rajasthan Entertainments and Advertisements Tax Act, 1957; and
6. Rajasthan Electricity (Duty) Act, 1962.

The assessment, levy and collection of value added tax in Rajasthan is governed under the RVAT Act, 2003 effective from 1.4.2006. Besides, CST Act, 1956 and the rules made thereunder are also in operation for inter-state sales.

The Commissioner of Commercial Taxes is responsible for administration at the level of Department, while Secretary, Finance (Revenue) Department exercises administrative powers at the Government level. The Commissioner of Commercial Taxes is assisted by seven Additional Commissioners, 34 Deputy Commissioners, 48 Assistant Commissioners, 101 Commercial Taxes Officers and 523 Assistant Commercial Taxes Officers.

### 2.2 Analysis of budget preparation

The budget estimates and revised estimates under the head “Taxes on sales, trade *etc.*” during last five years ending 2010-11 were as under:

(₹ in crore)

Year	Budget estimates	Revised estimates	Variation excess (+) or shortfall (-)	Percentage of variation
2006-07	6,240.00	6,650.00	(+) 410	(+) 6.57
2007-08	7,676.00	7,600.00	(-) 76	(-) 0.99
2008-09	8,500.00	9,100.00	(+) 600	(+) 7.06
2009-10	10,030.00	10,200.00	(+) 170	(+) 1.69
2010-11	11,730.00	12,300.00	(+) 570	(+) 4.86

The budget estimates were prepared keeping in view inflationary trends and normal growth rate. During 2006-11, there was marginal variation ranging from (-) 0.99 to (+) 7.06 *per cent* between budget estimates and revised estimates. The fluctuation was mainly due to variation in rates of different tax on commodities.

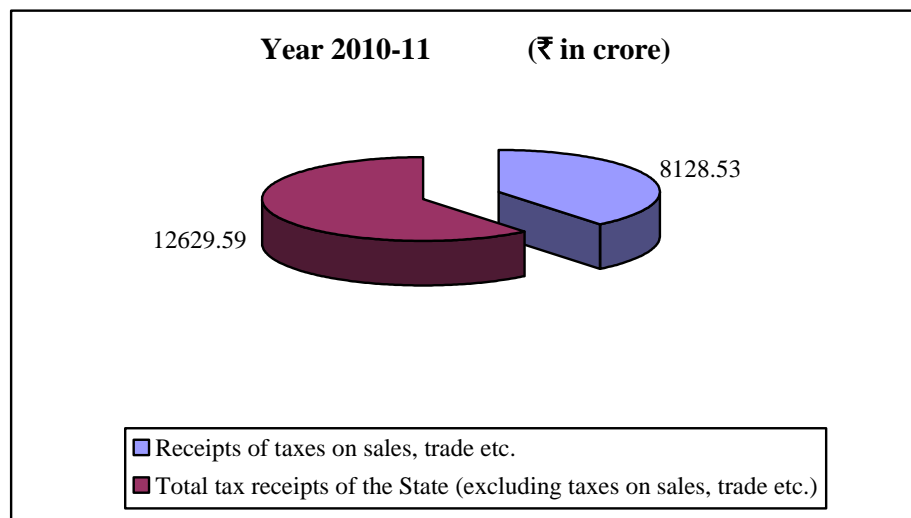
### 2.3 Trend of receipts

Actual receipts from the taxes on sales, trade *etc.* vis-à-vis revised estimates during the years 2006-07 to 2010-11 along with the total tax receipts of the State during the same period is exhibited in the following table:

(₹ in crore)

Year	Revised estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Rate of growth	Total tax receipts of the State	Percentage of actual receipts to total tax receipts
2006-07	6,650.00	6,720.71	(+) 70.71	(+) 1.06	20.15	11,608.24	57.90
2007-08	7,600.00	7,750.74	(+) 150.74	(+) 1.98	15.33	13,274.73	58.39
2008-09	9,100.00	8,904.50	(-) 195.50	(-) 2.15	14.89	14,943.75	59.59
2009-10	10,200.00	10,163.53	(-) 36.47	(-) 0.36	14.14	16,414.27	61.92
2010-11	12,300.00	12,629.59	(+) 329.59	(+) 2.68	24.26	20,758.12	60.84

Receipts of the taxes on sales, trade *etc.* during the year 2010-11 along with total tax receipts of the State (excluding receipts of taxes on sales, trade *etc.*) is shown in the following pie chart:



The receipts of the taxes on sales, trade *etc.*, remained 58 to 62 *per cent* of the total tax receipts of the State. We notice that there has been constant increase in the revenue collection under this head. The rate of growth in actual receipts after decreasing from 20.15 *per cent* in 2006-07 to 14 and 15 *per cent* during 2007-08 to 2009-10; has again gained a level of 24 *per cent* during 2010-11.

### 2.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2011 amounted to ₹ 3,019.69 crore, of which ₹ 857.26 crore were outstanding for more than five years. The

following table depicts the position of arrears of revenue as on 31 March 2011.

(₹ in crore)

Year of arrear	Opening balance of arrears as on 1.4.2010	Amount collected during the year 2010-11	Closing balance of arrears as on 31.3.2011
Upto 2005-06	899.74	42.48	857.26
2006-07	199.47	17.04	182.43
2007-08	353.91	66.79	287.12
2008-09	1,003.92	274.89	729.03
2009-10	2,120.99	1,157.14	963.85
<b>Total</b>	<b>4,578.03</b>	<b>1,558.34</b>	<b>3,019.69</b>

The total amount of arrears upto the year 2009-10 stood at ₹ 3,019.69 crore. We noticed that almost one third of the arrears (₹ 857.26 crore) are outstanding for more than five years, which will be difficult to pursue.

**We recommend that the Government should take timely and regular action to recover the arrears and to avoid piling of arrears.**

## 2.5 Cost of VAT per assessee

The following statement shows collection of Sales Tax/Value Added Tax per assessee during the last five years:

Year	Number of Assesseees	Sales Tax/Vat Revenue (₹ in crore)	Revenue per Assessee (₹ in lakh)
2006-07	3,00,909	6,720.71	2.23
2007-08	3,19,537	7,750.74	2.43
2008-09	3,44,852	8,904.50	2.58
2009-10	3,76,688	10,163.53	2.70
2010-11	4,09,323	12,629.59	3.09

## 2.6 Arrears in assessments

The details of cases pending assessment during the years 2006-07 to 2010-11 are mentioned below:

Year	Opening balance	New cases due for assessment	Total	Cases disposed	Cases pending at the end of year
2006-07	877	2,43,771	2,44,648	2,43,618	1,030
2007-08	1,030	2,57,923	2,58,953	2,57,609	1,344
2008-09	1,344	2,54,289	2,55,633	2,55,262	371
2009-10	371	3,03,950	3,04,321	3,04,222	99
2010-11	99	3,20,298	3,20,397	3,20,382	15

The word 'assessment' used in the paragraph denotes the number of self assessment returns finalised or to be finalised by the Department. The number of cases scrutinised for tax audit and tax audit completed has not been

intimated by the Department, since no case had been selected by them for audit. Matter was taken up (August 2011) with the State Government. During our discussion with the Commissioner, Commercial Taxes, it was intimated that the Department specified (November 2009) criteria for selection of cases for VAT Audit for the financial year 2008-09. Further, the Department intimated that the tax Audit for 2008-09 has been started under Rule 47 of RVAT Rules, 2006 (for the year 2006-07 and 2007-08 neither criteria was specified nor tax audit conducted).

## 2.7 Cost of collection

The gross collection of the revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the period from 2006-07 to 2010-11 along with the relevant all India average percentage of expenditure on collection to gross collection for same period are as follows:

(₹ in crore)

Sl. No.	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage
1.	2006-07	6,720.71	60.05	0.90	0.82
2.	2007-08	7,750.74	53.76	0.70	0.83
3.	2008-09	8,904.50	70.21	0.80	0.88
4.	2009-10	10,163.53	85.90	0.85	0.96
5.	2010-11	12,629.59	86.97	0.69	NA

## 2.8 Impact of Audit Reports

During the last five years upto 2009-10, through our audit reports, we had pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation of tax *etc.* with revenue implication of ₹ 302.12 crore in 48 paragraphs. Of these, the Department/Government had accepted audit observations in 31 paragraphs involving ₹ 173.97 crore and had since recovered ₹ 3.45 crore (December 2011). The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount	Number of paragraphs	Amount
2005-06	14	100.98	10	10.02	5	1.55
2006-07	11	150.60	6	144.26	3	0.14
2007-08	5	17.88	2	0.32	2	0.32
2008-09	10	28.24	8	17.79	6	0.96
2009-10	8	4.42	5	1.58	4	0.48
<b>Total</b>	<b>48</b>	<b>302.12</b>	<b>31</b>	<b>173.97</b>	<b>20</b>	<b>3.45</b>

The recovery involved in 18 accepted cases was ₹ 7.19 crore whereas the recovery actually effected was only of ₹ 3.45 crore. In some cases demands were pending against the dealers who were not traceable while in other cases demands were pending at various stages of recovery.

**Efforts are required to speed up recovery in accepted cases and for settlement of other outstanding paragraphs.**

## 2.9 Working of Internal Audit Wing

The Financial Advisor is the head of the Internal Audit Wing. In the Department, 13 internal audit parties are working, each headed by Assistant Accounts Officer. Planning for internal audit of units are made on the basis of importance and revenue realisation. The position of last five years' internal audit was as under:

Year	Pending units	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remained unaudited	Shortfall in per cent
2006-07	2	443	445	445	-	-
2007-08	0	443	443	378	65	15
2008-09	65	396	461	357	104	23
2009-10	104	393	497	299	198	40
2010-11	198	384	582	489	93	16

There was a shortfall in conducting internal audit ranging between 15 and 40 per cent during the years 2007-08 to 2010-11.

We further noticed that the Department had not made serious efforts to settle the 19,018 paragraphs of internal audit which were outstanding at the end of the year 2010-11. Year-wise break up of outstanding paragraphs is as under:

Year	Up to 2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	Total
No. of paras	8,944	1,966	2,087	2,002	2,143	1,876	<b>19,018</b>

We observed that 8,944 paragraphs of internal audit reports were outstanding upto the year 2005-06. Thus, the purpose of internal audit was defeated as the issues raised by internal audit were not paid due attention.

Internal audit is an essential part of the internal control mechanism.

**Government may consider strengthening functioning of Internal Audit Wing in order to plug the leakage of revenue and for compliance with the provisions of the Act and Rules.**



## 2.10 Results of Audit

During test-check of the records of 77 units of the Commercial Taxes Department conducted during the year 2010-11, we noticed non/under assessment of tax, irregular grant of exemption, non-levy of interest and other irregularities amounting to ₹ 327.32 crore in 1,729 cases, which broadly fall under the following categories:

(₹ in crore)			
Sl. No.	Category	Number of cases	Amount
1.	<b>Cross verification of Declaration Forms used in Inter State Trade and Commerce (A Performance Audit)</b>	1	98.98
2.	Non-assessment of taxable turnover	441	62.04
3.	Under-assessment due to irregular or incorrect allowances of deduction	112	2.33
4.	Short levy of tax due to application of incorrect rate of tax	71	4.83
5.	Irregular grant of exemption	119	11.92
6.	Non-levy of purchase tax	16	0.37
7.	Non-levy of penalty/interest	64	2.06
8.	Other irregularities	905	144.79
<b>Total</b>		<b>1,729</b>	<b>327.32</b>

During the year 2010-11, the Department accepted under-assessment and other deficiencies of ₹ 4.69 crore in 530 cases, of which 45 cases involving ₹ 20.00 lakh had been pointed out in audit during the year 2010-11 and the rest in the earlier years. The Department recovered ₹ 26 lakh in 36 cases during the year 2010-11, of which six cases involving ₹ 2.00 lakh related to the year 2010-11 and rest to the earlier years.

A Performance Audit on '**Cross verification of Declaration Forms used in Inter State Trade and Commerce**' involving ₹ 98.98 crore and few illustrative audit observations involving ₹ 6.20 crore are mentioned in the succeeding paragraphs.

## 2.11 Performance Audit on 'Cross verification of Declaration forms used in Inter-State Trade and Commerce'

### Highlights

- In 14 cases of 'C' Forms and eight cases of 'F' Forms, Assessing Authorities allowed concession/exemption of tax of ₹ 58.07 crore on belated submission of declaration forms by the dealers in contravention of the CST Act /Rules. Further in 103 cases in 18 Circle offices, demand of ₹ 18.52 crore raised was subsequently wrongly reduced on belated submission of forms without recording reasons for condonation of delay.  
**(Paragraph 2.11.10.1)**
- The Assessing Authority (AA) short levied tax of ₹ 48.24 lakh and interest ₹ 15.29 lakh on Inter-State sales made without submission of 'C' forms, due to incorrect application of differential rate of tax in two cases.  
**(Paragraph 2.11.10.3)**
- The AA irregularly granted exemption of tax of ₹ 23.26 crore on the 'F' forms which were not supported by the evidence of dispatch of such goods which was mandatory as per the Act.  
**(Paragraph 2.11.10.4)**
- The AA irregularly granted concession/exemption of tax of ₹ 10.40 lakh besides interest of ₹ 3.93 lakh on invalid declaration forms as the transactions in these declarations Form 'C' and 'F' was for more than one quarter/one month.  
**(Paragraph 2.11.10.5)**
- Though the Department had detected fake forms issued by certain dealers of Bihar State to the Rajasthan State dealers, they did not cross verify forms issued by the States other than Bihar to the same Rajasthan dealers and irregularly allowed tax concession of ₹ 3.15 crore.  
**(Paragraph 2.11.10.6)**
- There was evasion of tax of ₹ 4.73 lakh and interest of ₹ 2.60 lakh and penalty of ₹ 9.47 lakh was also leviable, due to suppression of purchases as well as sales by ₹ 118.33 lakh.  
**(Paragraph 2.11.10.8)**
- There was evasion of tax of ₹ 31.52 lakh due to short accountal of Inter State sales and evasion of tax of ₹ 8.98 lakh due to showing of excess transfer of goods to agents, against declaration form 'F'. Besides, interest of ₹ 24.62 lakh and penalty of ₹ 80.99 lakh was also leviable.  
**(Paragraph 2.11.10.9)**
- Mis-utilisation of CST declaration forms 'C' and 'F' by the dealers resulted in irregular concession/exemption of ₹ 34.15 lakh besides interest of ₹ 17.44 lakh and penalty of ₹ 67.39 lakh, as the declarations

forms were issued to the dealers other than the dealers who actually utilised them.

**(Paragraph 2.11.10.10)**

- There was evasion of tax of ₹ 4.04 lakh, due to use of fake declaration forms as these declaration forms 'C' and 'F' were not issued by the AAs of those States. Besides interest and penalty was also leviable.

**(Paragraph 2.11.11)**

- There was evasion of tax, interest and penalty of ₹ 2.59 crore on 'C' forms due to absence of a system of cross verification of declaration forms, the assessing authorities could not detect fake declaration forms and other irregularities..

**(Paragraph 2.11.12)**

- The Department had not put in place a system for verification of each and every Declaration Form submitted by the dealers with the database available in the TINXSYS Website before allowing exemptions/concession of tax. Further, the Department had not uploaded the information of dealers whose registration had been cancelled, thereby depriving the Department/dealers of other States from verifying genuineness of the dealers.

**(Paragraph 2.11.13)**

### **2.11.1 Introduction**

Under the Central Sales Tax (CST) Act, 1956, registered dealers are eligible to certain concessions and exemptions of tax on inter-State transactions on submission of prescribed declarations in forms 'C' and 'F'. The State Government grant these incentives to dealers for furtherance of trade and commerce. It is the responsibility of the Commercial Taxes Department (Department) to ensure proper account of declaration forms and to take adequate safeguards against misutilisation of declaration forms on which tax relief, involving large amount of revenue to the State exchequer is allowed.

#### **Form 'C'**

As per section 8 of the CST Act, every dealer who in the course of inter-State trade or commerce, sells to a registered dealer, goods of the classes, specified in the certificate of registration of the purchasing dealer, shall pay tax at the concessional rate of four *per cent* up to 31.03.2007, three per cent w.e.f. 1 April 2007 to 31 May 2008 and thereafter two *per cent* of such turnover provided such sales are supported by declarations in form 'C'.

#### **Form 'F'**

Under section 6A of the CST Act, transfer of goods not by reason of sales by a registered dealer to any other place of his business outside the State or to his agent or principal in other States is exempted from tax on production of declaration in form 'F', duly filled in and signed by the principal officer of the other place of business or his agent or principal as the case may be, along with

the evidence of despatch of such goods. If the dealer fails to furnish such declaration, then, the movement of such goods shall be deemed, for all purposes of this Act to have been occasioned as a result of sale.

### **Penal measures**

As per Section 9 (2A) of the CST Act read with Section 61 (1) of the Rajasthan Value Added Tax (RVAT) Act, 2003, if any dealer has avoided or evaded tax in any manner, the dealer is liable to pay the penalty, a sum equal to two times of the amount of tax avoidable or evaded.

As per Section 10 of the CST Act, if any person furnishes a declaration under sub-section (1) of Section 6A or sub section (4) of Section 8, which he knows, or has reason to believe, to be false, he shall be punishable with simple imprisonment which may extend to six months, or with fine or with both. Further, as per Section 10 A of CST Act, if any person purchasing goods is guilty of an offence under clause (c)<sup>1</sup> of Section 10, the authority who granted to him or, as the case may be, is competent to grant to him a certificate of registration under this Act may, after giving him a reasonable opportunity of being heard, 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 sub-section (2) of Section 8 in respect of the sale to him of the goods, if the sale had been a sale falling within that sub-section.

### **TINXSYS**

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. The website was designed to help the Commercial Taxes Departments of various States and UTs to effectively monitor the inter-State trade. TINXSYS can be used by any dealer to verify the counter party inter-State dealer in any other State. Apart from dealer verification, Departmental officials were required to use TINXSYS for verification of Central Statutory Forms issued by other State Commercial Taxes Departments and submitted to them by the dealers in support of claim for the concessions. TINXSYS also provides MIS and Business Intelligence Reports to the Commercial Taxes Departments to monitor inter-State trade movements and enables the Empowered Committee (EC) to monitor the trends in inter-State trade.

#### **2.11.2 Selection of Topic**

Since huge amount of tax relief is allowed under the CST on the basis of declaration forms 'C' and 'F', which may lure the dealers to misuse these provisions by means of fake/false declaration forms etc., we have selected this topic for Performance Audit.

#### **2.11.3 Organisational set up**

The Commissioner of Commercial Taxes (CCT) administers the CST receipts under the administrative control of Finance Department, Government of Rajasthan. The CCT is assisted by seven Additional Commissioners,

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<sup>1</sup> 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.

34 Deputy Commissioners (DC), 48 Assistant Commissioners (AC), 101 Commercial Taxes Officers (CTO) and 523 Assistant Commercial Taxes Officers (ACTO).

#### **2.11.4 Audit objectives**

We conducted the Performance Audit to get a reasonable assurance that:-

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

#### **2.11.5 Audit Criteria**

The performance of the Commercial Taxes Department was assessed against the provisions of:

- Central Sales Tax Act, 1956;
- Central Sales Tax (Registration and Turnover) Rules, 1957;
- Central Sales Tax (Rajasthan) Rules, 1957;
- Rajasthan Value Added Tax Act, 2003; and
- Rajasthan Value Added Tax Rules, 2006.

#### **2.11.6 Scope and methodology of audit**

The Performance Audit covered 20<sup>2</sup> out of 81 commercial taxes units audited as per the annual Audit Plan, covering assessments completed during 2007-08 to 2009-10 under the CST Act.

We forwarded the details of the declaration forms against which exemptions/concessions were granted to the concerned State Accountants General's offices for verification. The Accountants General verified the details from their State's Commercial Taxes Offices records. On receipt of the verification results, we made further scrutiny with the record of the concerned CTOs.

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<sup>2</sup> Circles: 'A' Alwar, Special Bharatpur, Special Bhilwara, 'B' Bhiwadi, Chittorgarh, Jaipur: 'A', 'E', 'I', 'J', Special-IV, Special-V, Jodhpur: Special-I, 'C', Kishangarh, Special-III Kota, Ramganjmandi, Rajsamand and Udaipur: 'B', 'C, Special.

### 2.11.7 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Taxes Department and their officers and staff in providing necessary information and records to audit. An Entry Conference was held on 07 December 2010 in the office of CCT, Jaipur wherein objectives of the Performance Audit were explained. The report was forwarded to the Government and the Commissioner on September 2011. An Exit Conference was held on 23 January 2012 with Secretary Finance (Revenue) wherein the findings of the Performance Audit were discussed. The reply on Performance Audit was awaited.

### 2.11.8 Trend of revenue under CST

The details of revenue receipts for the years 2006-07 to 2010-11 in respect of CST are as given below.

(₹ in crore)

Year	Revised estimate	Actuals Receipts	Variations shortfall (-)/ excess(+)	Percentage of variation
2006-07	378.53	448.55	(+) 70.02	(+) 18.50
2007-08	415.55	404.90	(-) 10.65	(-) 2.56
2008-09	455.36	462.48	(+) 7.12	(+) 1.56
2009-10	430.36	482.15	(+) 51.79	(+) 12.03
2010-11	630.00	728.35	(+) 98.35	(+) 15.61

We noticed that there were wide variations between the revised estimates and actual receipts of the CST revenue for the years 2006-07, 2009-10 and 2010-11. During 2010-11, even after increase in revised estimates by 46 per cent, actual receipts were 16 per cent more than the estimates and 51 per cent in comparison to year 2009-10.

When we pointed out this, the Department intimated (August 2011) that due to increase in trade and commerce there were increase in receipts during 2006-07. This shows that even the revised estimates failed to capture increase in the CST. Reasons for large variations in estimates and receipts during 2009-10 and 2010-11 and wide increase during 2010-11 were not intimated.

### 2.11.9 Audit findings

#### 2.11.9.1 System deficiencies

Section 8 of CST Act, 1956 read with Rule 12 of the CST (Registration and Turnover) Rules, 1957 and Rule 17 of CST (Rajasthan) Rules, 1957 stipulates the process of custody, utilisation and maintenance of forms.

Our test check of the records revealed the following:

### **2.11.9.2 Database of samples of current and obsolete declaration forms not kept by the Department**

(i) According to Rule 17(10) of the CST (Rajasthan) Rules, 1957, the CCT may, by notification, declare that the declaration form of a particular series, design or colour shall be deemed as obsolete and invalid with effect from such date as may be specified in the notification. A copy of such notification shall be sent to other State Governments for the publication in their official gazettes.

The information requested (March 2011) by us from the CCT for the compliance of these provisions had not been provided (December 2011).

(ii) We observed that the Department did not keep samples of the colour, design and format of the forms prevailing in different States for comparison in order to identify the fake or forged declaration forms. Therefore, there was a risk of acceptance of invalid, obsolete and forged declaration forms and consequent short levy of tax.

### **2.11.9.3 Absence of database of branches of dealers**

We observed that the assessing officers did not have details of the branches of the dealers under their jurisdiction to verify the authenticity of the claims submitted by the dealers for exemption of tax on account of branch transfer. The Department did not maintain any database in respect of exemption of tax allowed on account of branch transfer/consignment sale.

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

Registered dealers avail concessions/exemption of tax by using the CST forms in the course of inter-State trade. It is the duty of the Department to print the CST forms with high security standards and to keep the forms in safe custody.

We observed that the Department had not issued any guidelines for printing and safe custody of the declaration forms. During Performance Audit, we noticed the following irregularities/deficiencies:-

(a) Forms were got printed by co-operative printing press instead of the Government press. The Department intimated (June 2011) that instructions for printing were issued by the General Administration Department; however, the same were not made available to Audit. Hence, compliance of these instructions could not be ensured.

(b) Paper quality of E-I/E-II forms was very poor due to which forged forms could easily be printed and even the durability of forms was questionable.

(c) The form were not stored properly. We observed from stock register that 406 'F' forms at Central Store, Jaipur; 25 'C' forms at Chittorgarh and 175 'C' forms at Special Circle-I Jodhpur, were destroyed by termite.

(d) Central Store for declaration forms was situated in the Jaipur city in a separate building. Regarding safety of Store, audit enquiry was issued to the Department but no reply was received. Further, physical verification of store was not conducted since February 2004. Thus, possibility of theft of forms could not be ruled out.

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

#### (i) Non-checking of stock register by competent officers

As a general principal, the stock register of the declaration forms should be checked by the competent officer to ensure proper accounting of declaration forms. However no such instructions were issued by the Department. We observed (between November 2010 and January 2011) that stock registers were not checked by competent officers in ten<sup>3</sup> out of twenty test checked offices.

#### (ii) Irregular issuance of declaration forms

We have observed that proper receipts and issuance of declaration forms could not be ensured by the Departmental officers, as discussed below:

(a) Our scrutiny of stock register of declaration forms at DC office, Bharatpur revealed (November 2010) that despite showing 'nil' stock of 'C' forms, the Department had been issuing 'C' forms to the dealers. As on 31.01.2008, there was balance of only eight forms in the stock but Department issued 105 'C' forms during 31.01.2008 to 15.02.2008. We further noticed that form no. 1900001 to 1905000 were received on 13.02.2008 and previous balance was nil however the Department issued (26.03.2008) the 'C' forms bearing serial no. 1151751 to 1151765 (15 forms) and 1151776 to 1151800 (25 forms).

#### (b) Non-accountal of forms

Our scrutiny of the stock register of DC office, Bharatpur revealed that a new stock register for forms 'E-I/E-II' was opened and receipt of 2500 forms on 25.09.2006 was shown in the new stock register, however, the balance of 1,180 forms in old stock register as on 15.12.2006 was not carried forward in the new register resulting in unauthorised deduction of 1,180 forms from the stock register.

#### (c) Short receipt of forms

During audit of stock register of CTO Circle 'C' Udaipur, we noticed that storekeeper had recorded in the stock register that eight E-I forms (five on 15.05.2008 and three on 28.04.2009) were received short but this was not brought to the notice of the DC (Administration), Udaipur. Thus, there was possibility of misuse of these forms.

**These examples show that the maintenance of stock register was not proper. This implies that the issue entries cannot be relied upon and as such misuse of forms cannot be ruled out.**

<sup>3</sup> DC (Administration) Bharatpur and Circles: 'B' Bhiwadi; Chittorgarh; Jaipur-'J'; 'Special-IV', 'Special-V'; Jodhpur-'C', Ramganj Mandi; Rajsamand, and Udaipur-'C'.



### 2.11.9.6 Enforcement measures

Rule 16 A of the CST (Rajasthan) Rules, 1957, provides that every dealer who effects any sale in the course of inter-State trade or commerce shall furnish a Statement in Form CST 11 along with return in Form CST 1. Rule 19 of *ibid* rules provides that any person contravening any provision of these rules shall be punishable with fine which may extend to ₹ 500.

We observed (December 2010 and January 2011) during test check that 103 dealers of six circles<sup>4</sup> had not submitted form CST 11 for the inter-State sale of ₹ 467.83 crore during the years 2007-10. However, the Department did not impose penalty for non-submission of these forms.

Without submission of these forms Department could not ensure the description of goods sold, date from which RC of purchasing dealer is valid and rate of tax (CST) to be charged on the sale of ₹ 467.83 crore. It was further noticed that the Department did not impose penalty as per the provisions *ibid*.

### 2.11.10 Compliance deficiencies

#### 2.11.10.1 Irregular grant of concession/exemption on belated submission of Declaration Forms

As per rule 12(7) of the CST (Registration and Turnover) Rules, 1957, the declaration in form 'C' or form 'F' or the certificate in form 'E-I/E-II' shall be furnished to the prescribed authority within three months after the end of the period to which the declaration or the certificate relates. Provided that if the prescribed authority is satisfied that the person was prevented by sufficient cause from furnishing such declaration within the aforesaid time, that authority may allow such declaration to be furnished within such further time as that authority may permit. In the case of Kirloskar Brothers Ltd Vs State of Tamil Nadu (1999) 113 STC 496 (Mad), it was held that original assessment made by the assessing authority was final for all practical purposes and relief sought for, by the dealer as relatable to forms filed subsequent to the original order of assessment could not be granted.

(a) During test check of the assessment records of six CTOs<sup>5</sup> we noticed that while finalising the assessment, AAs had accepted 14 cases of 'C' and eight cases of 'F' forms which were submitted after the end of the prescribed period of three months with delay ranging from four to 606 days, without recording the cause for delay. This resulted in irregular concession/exemption of tax to dealers for ₹ 58.07 crore besides interest of ₹ 20.93 crore was also leviable.

<sup>4</sup> Circles: Jaipur 'I', 'A', 'Special-IV' and 'Special-V'; 'Special-I' Jodhpur and 'B' Udaipur.

<sup>5</sup> Circles: 'E', 'G', 'Special-V' Jaipur, Kishangarh, Rajsamand and Suratgarh.

(b) In 18 CTOs<sup>6</sup> we noticed that, in 103 cases demand of ₹ 18.52 crore (tax ₹ 14.34 crore and interest ₹ 4.18 crore) was reduced on submission of declaration forms by 92 assesses after assessment, without recording cause of delay, which was in-contravention of above mentioned provisions.

#### 2.11.10.2 Irregular concession on duplicate copies of 'C' forms

As per Rule 17(2) of CST (Rajasthan) Rules, 1957, a registered dealer who claims to have made sales to another registered dealer shall in respect of such claim attach to his return in form CST-I the portion marked 'Original' of the declaration form received by him from the purchasing dealer.

During test check of the records of Circle-I, Jaipur for the assessment year 2009-10 we noticed that one dealer (M/s Famous Industries) sold goods of ₹ 5.65 lakh in the course of inter-State trade against declaration forms 'C' and submitted copies of 'C' forms marked 'duplicate',

instead of copies marked 'original'. The AA, however, while finalising the assessment, allowed concession of tax on duplicate copies of these forms in contravention of the rules.

This resulted in irregular concession of tax of ₹ 0.54 lakh. Besides, interest of ₹ 0.20 lakh was also leviable.

#### 2.11.10.3 Short levy of tax on Inter-State sales due to application of incorrect rate of tax

As per Section 8 of the CST Act, every registered dealer who sells goods in the course of inter-State trade to another registered dealer shall pay tax at the concessional rate of three *per cent* w.e.f. 1.04.2007 to 31.05.2008 and two *per cent* thereafter, provided the selling dealer furnishes declarations in form 'C' in support of sales; otherwise tax is leviable at the rate applicable to the sale or purchase of such goods inside the State. As per RVAT Act, goods-Bush are chargeable to VAT at 12.5 *per cent*.

(i) During test check of the records of Special circle, Alwar, we noticed (March 2010) that one dealer (M/s Auto Bushing, Alwar) sold goods of ₹ 3.25 crore in course of inter-State trade without submitting 'C' forms in support of the aforesaid sales. However, the AA while finalising (March 2010) the assessment, charged the differential tax at the rate one *per cent* against the correct rate of difference of tax of 9.5 *per cent*. As the rate of tax on Bush is 12.50 *per cent* and not four *per cent*.

Thus, irregular assessment at the concessional rate of tax on the sales, not supported by 'C' forms, resulted in underassessment of tax of ₹ 27.59 lakh besides interest of ₹ 9.38 lakh.

<sup>6</sup> Circles: Alwar-A, Bhiwadi-B, Bhilwara-Special, Jaipur: " A, E, I, Special-IV & V, Jodhpur-Special- I, Kishangarh, Kota-Special-III, Rajsamand, Ramganj Mandi, Udaipur-B, C & special and Special-Rajasatahn.

When we pointed out (August 2010) it was intimated (November 2010) that demand of ₹ 37.52 lakh including interest, had been raised (September 2010). However, we have not received status of recovery (December 2011).

Under Section 8(2) of the CST Act, tax leviable on the inter-State sale not falling within Section 8(1) shall be at the rate prescribed by the appropriate State under the Sales Tax law of that State. The State rate of tax in Rajasthan was four *per cent* on *Vanspati Ghee*.

(ii) During test check of the assessment records of Commercial Taxes Officer, Circle B, Bhiwadi for the period 2009-10, we noticed (December 2010) that a dealer (M/s Swastik Oil Mills, Bhiwadi) made inter-State sale of ₹ 10.33 crore of *Vanaspati*

*Ghee* at the rate of one *per cent* against declaration forms 'C' during the year 2007-08. While finalising (March 2010) the assessment, the AA levied difference tax at the rate of one *per cent* for non-submission of declaration forms against the applicable difference of tax of three percent. This resulted in short levy of tax of ₹ 20.65 lakh and interest of ₹ 5.91 lakh.

When we pointed out this (January 2011), the AA intimated (January 2011) that a demand of ₹ 27.40 lakh, pertaining to tax and interest thereon had been raised (January 2011). The position of recovery has not been intimated (December 2011).

#### 2.11.10.4 Irregular exemption of tax on form 'F' without submitting evidences of dispatch of goods.

Under Section 6A of the CST Act, 1956, burden of proving that the movement of goods was occasioned by reason of transfer of such goods to any other place of his business or to his agent or principal, as the case may be and not by reason of sale, for avilment of tax exemption, shall be on the dealer. For this purpose he may furnish to the AA, within the prescribed time a declaration in form 'F' duly filled and signed by the principal officer of the other place of business **along with the evidence of dispatch** of such goods and if the dealer fails to furnish such declaration, then, the movements of such goods shall be deemed for all purposes of this Act to have been occasioned as a result of sale.

We observed (November 2010 to January 2011) that it was a general practice not to submit proofs of dispatch with 'F' forms and no instructions were issued to AAs to disallow the exemption in case of violation of the provisions.

Our scrutiny of 65 'F' forms submitted by one assessee to Circle Special-III Kota revealed (November 2010) that evidences of dispatch of goods of ₹ 186.09 crore were not enclosed with the forms. The AA, however, while finalising the assessment of the dealer for the relevant year irregularly accepted these

forms. The tax exemption allowed in these cases was ₹ 23.26 crore, which required investigation.

**We recommend that the Commissioner should issue instructions to all assessing authorities to follow the provisions of the Act regarding filing of 'F' form alongwith the evidence of the dispatch of such goods.**

#### 2.11.10.5 Irregular grant of concession/exemption on invalid forms

As per Rule 12(1) of the CST (Registration & Turnover) Rules, 1957, a single declaration form 'C and E-I/II' may cover all transactions of sale, which take place in a quarter of a financial year, between the same two dealers and Rule 12(5) provided that a single declaration form 'F' may cover transfer of goods, by a dealer, to any other place of his business or to his agent or principal, as the case may be, effected during a period of one calendar month.

During test check of the assessment records of five circles<sup>7</sup> for the assessment year 2008-09 and 2009-10, we noticed (May 2010 to January 2011) that seven dealers sold goods of ₹ 2.31 crore against declaration form 'C and E-I/II'. Scrutiny of declaration forms revealed that the transaction for more than one quarter was covered in the single forms for ₹ 95.88 lakh. The assessing authorities should disallow the exemption

allowed on these forms but the AAs, while finalising the assessment of the dealers for the relevant year accepted these forms. This resulted in irregular exemption of tax of ₹ 9.32 lakh and interest of ₹ 3.55 lakh.

Further, two dealers had transferred the goods valued at ₹ 53.76 lakh against 'F' form covering transactions for more than one month of ₹ 27.10 lakh in contravention of these rules. The AA, while finalising the assessment of the dealers for the relevant year accepted these forms. This resulted in irregular exemption of tax of ₹ 1.08 lakh besides interest of ₹ 0.38 lakh.

#### 2.11.10.6 Non-verification of declaration forms with the records of other States

The CCT, vide circular no. F16(57)TAX/ VAT/ CCT/ 08/64 dated 24.04.08, issued instructions to verify all transactions supported by 'C' forms for concessional rate of tax and have taken place after 26 September 2005 and to keep the record of such verification on the assessment record of the dealer.

(a) During test check of the records of two CTOs,<sup>8</sup> we noticed (January 2011) that there was no supporting document on the file to prove that the AA has verified the CST declaration forms for the inter-State sale amounting to ₹ 19.12 crore on which concession of tax of ₹ 1.14 crore was allowed.

(b) During test check of the records of two AAs<sup>9</sup> of Bharatpur we noticed (November 2010) that in 50 cases, 'C' forms issued by the dealers of Bihar

<sup>7</sup> Alwar Circle 'B' and Special Circle; Circle Chittorgarh; Special Circle 'I' Jodhpur and Circle Kishangarh,

<sup>8</sup> Circles: Chittorgarh and 'C' Udaipur

<sup>9</sup> Special Circle, and Anti evasion.

State for ₹ 121.82 crore submitted by 30 selling dealers of Rajasthan could not be verified when sent by the Department for verification to Commercial Taxes Offices of Bihar State, for which the Department levied ₹ 15.41 crore as tax, penalty and interest. Further, it was also noticed (July 2011) that three AAs<sup>10</sup> of Jodhpur had levied difference tax of ₹ 2.85 crore and interest of ₹ 34.16 lakh on non-verified 115 forms of 35 dealers for the assessment year 2007-08 to 2009-10. Similarly AA of Anti-evasion Kota had levied difference tax of ₹ 14.18 lakh and imposed penalty of ₹ 28.36 lakh for unverified forms submitted by three dealers.

We noticed following shortcomings:

- Despite the fact that 'C' forms issued by the dealers of Bihar State could not be verified, the AAs did not take any action to verify other 'C' forms involving ₹ 119.05 crore issued by the States other than Bihar to the same Rajasthan dealers and allowed tax concession of ₹ 3.15 crore.
- Three AAs<sup>11</sup> did not impose penalty for evasion of tax and AA, Anti-evasion Kota had not charged interest on the difference tax.
- AAs had not taken action as per Section 10<sup>12</sup> of CST Act.

When we test checked/cross-verified the CST forms of these Circles we noticed evasion of tax of ₹ 1.60 lakh. Besides, interest of ₹ 0.81 lakh and penalty of ₹ 3.21 lakh was also leviable as discussed in succeeding paragraph. Further in-contravention of CST Act read with RVAT Act, three AAs had not imposed penalty of ₹ 5.70 crore on 35 dealers. Non taking of action as per Section 10 of CST Act extended moral support to the dealers who willfully evaded legitimate tax due to the State.

Thus, opportunity to find out irregularities in utilisation of declaration forms was ignored and tax, interest and penalty of ₹ 5.76 crore could not be imposed by these AAs.

#### **2.11.10.7 Cross-verification of declaration forms**

Our cross-verification of 12,976 'C' and 'F' forms<sup>13</sup> of the selling and purchasing dealers of Rajasthan State, with the assessment records of other States revealed irregularities in 133 forms involving sale/purchase of ₹ 102.53 crore and evasion of tax, interest and penalty of ₹ 5.55 crore, which are discussed in the following paragraphs. These findings are mainly based on the cross verification of details given in the original declaration forms submitted by selling dealers, utilisation certificate submitted by the purchasing dealers and issue registers of declaration forms. It is essential for the Department to investigate these cases thoroughly and take necessary action as per the law.

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<sup>10</sup> Circles : Jodhpur: 'A', 'C' and 'D'.

<sup>11</sup> Circles: Jodhpur 'A', 'C', and 'D'.

<sup>12</sup> As per section 10 of CST Act, if any person furnishes a declaration under sub-section (1) of section 6 A or sub section (4) of Section 8, which he knows, or has reason to believe, to be false, he shall be punishable with simple imprisonment which may extend to six months, or with fine or with both.

<sup>13</sup> Purchasing dealer of Rajasthan's 'C' forms: 4495; 'F' forms 1006 and selling dealer of Rajasthan's 'C' forms 6358; 'F' forms 1117.

Further, there were 219 forms from 17 States, in which mistakes were pointed out by the other States but supporting key documents have not been received from the concerned Commercial Taxes Departments.

#### **2.11.10.8 Short accountal of goods received through use of declaration form 'F'**

Test check of records as well as cross verification of assessment records of purchasing dealers of Rajasthan State with the assessment records of transferring State of Haryana revealed that one dealer of Rajasthan under the control of Bhiwadi B circle had not accounted for the goods amounting to ₹ 118.33 lakh. Thus, dealer concealed purchases as well as sale of ₹ 118.33 lakh resulting in evasion of tax ₹ 4.73 lakh. Besides, interest ₹ 2.60 lakh and penalty of ₹ 9.47 lakh was leviable.

#### **2.11.10.9 Variation between the figures of the forms as disclosed by the selling dealer and those disclosed by the purchasing dealers**

##### **(a) Purchasing dealers of Rajasthan**

We noticed by cross verification of records that six purchasing dealers in five circles<sup>14</sup> had shown short purchase of goods of ₹ 40.75 lakh in six cases than the amount shown in the original 'C' form issued to the selling dealers of other States. The AAs while finalising the assessment could not detect the variation; this resulted in short accountal of purchases with tax effect of ₹ 2.67 lakh. Besides, interest ₹ 1.24 lakh and penalty of ₹ 5.33 lakh was leviable.

##### **(b) Selling dealers of Rajasthan**

- (i) Our cross verification of 25 'C' Forms in respect of 18 selling dealers of Rajasthan with the utilisation account of the purchasing dealers of other States revealed that the selling dealer of Rajasthan had shown sale short by ₹ 14.65 crore, which was not detected by the AAs while finalising assessments. This had resulted in evasion of tax of ₹ 28.85 lakh. Besides interest of ₹ 19.21 lakh and penalty of ₹ 57.70 lakh was also leviable.
- (ii) Our cross verification of 12 'F' Forms in respect of three transferring dealers of Rajasthan with the utilisation account of the transferee dealers of other States revealed that the Rajasthan dealers had shown excess transfer of goods by ₹ 36.57 crore, which was not detected by the AAs while finalising assessments. This had resulted in evasion of tax of ₹ 8.98 lakh. Besides, interest of ₹ 4.17 lakh and penalty of ₹ 17.96 lakh was also leviable.

<sup>14</sup> Circles: Bikaner A; Bhilwara Special; Bhiwadi B, Special-II and Circle Pali.

### 2.11.10.10 Irregular grant of concession/exemption on invalid form issued to other dealer

#### (a) Purchasing dealers of Rajasthan

We noticed during cross verification of declarations form that one dealer M/s Enexus Technologies India Ltd, Bharatpur used 'C' form for purchase of goods from the dealer of Jammu & Kashmir, which was not issued by the Department to him. This has resulted in misuse of declaration form for purchase of goods amounting to ₹ 13.11 lakh, on which irregular concession of tax of ₹ 1.80 lakh was allowed by the AA, besides interest ₹ 1.23 lakh and penalty of ₹ 2.70 lakh was also leviable.

#### (b) Selling dealers of Rajasthan

In offices of 14 AAs<sup>15</sup> our cross verification of declarations form 'C' and 'F' with the assessment records of purchasing dealers of other States revealed that in 47 cases, 24 selling dealers of Rajasthan State submitted 'C' and 'F' forms for concession of tax on the sale of goods in the course of inter-State trade which were issued to dealers other than the actual purchasing dealer to whom the sale was shown by the selling dealer.

This has resulted in irregular concession/exemption of tax of ₹ 32.35 lakh. Besides, interest of ₹ 16.21 lakh and penalty of ₹ 64.69 lakh was also leviable.

### 2.11.10.11 Evasion of tax due to goods not covered in the RC of the purchasing dealer

On cross verification of forms, we noticed (November 2010) that AA Bharatpur allowed concession to M/s Shri Bhagwati Udyog, Bharatpur on one 'C' form which was submitted by purchasing dealer of Arunachal Pradesh for purchasing of edible oil, which was not covered in the RC of that dealer. This resulted in irregular exemption of tax of ₹ 4.43 lakh. Besides, interest of ₹ 3.10 lakh and penalty of ₹ 8.85 lakh were also leviable.

### 2.11.11 Evasion of tax through use of fake Declaration Forms

If any dealer produces/issues, false/fake declaration and claims exemption/reduced rate of tax in support of these declarations, the dealer is liable to pay the penalty as per Section 61(1) of RVAT Act 2003 and under Section 10 of CST Act, if any person furnishes a declaration under sub section (4) of Section 8, which he knows, or has reason to believe, to be false, he shall be punishable with simple imprisonment which may extend to six months, or with fine or with both.

Our cross-verification of 'C' and 'F' forms pertaining of inter-State sale/transfer by the dealers/agent of Rajasthan with the utilisation account of declaration forms received through inter-State purchase/transfer by the dealers of six States<sup>16</sup> revealed that ten dealers/agent had

<sup>15</sup> Circles: Alwar A; Bharatpur A, B, Special, Anti-evasaion; Chittorgarh; Jaipur -I; Special-V; Jodhpur C; Kishangarh; Kota Special-III; Rajsamand and Udaipur C, B' Bhiwadi  
<sup>16</sup> Chhatisgarh, Nagaland, West Bengal, Maharashtra, Punjab and UP.

claimed and were allowed exemption/concessional rate of CST in 16 Forms (15 C Forms and one F Form) amounting to ₹ 1.67 crore against fake forms, which were not issued to the dealers. This resulted in short levy of CST of ₹ 4.04 lakh. Besides, interest of ₹ 2.15 lakh and penalty of ₹ 8.08 lakh was also leviable. Proceedings against these dealers under Section 10 of CST Act *ibid* should also be initiated by the concerned AAs<sup>17</sup>.

### 2.11.12 Other irregularities

On cross verification of assessment record of 9 AAs<sup>18</sup> in respect of selling dealers of Rajasthan, we noticed that in 22 'C' forms involving transaction of ₹ 34.24 crore, there were several irregularities such as irrelevant Registration Certificate (RC) number, un-traced dealer, non verified forms, cancelled RC and form not being issued to the circle etc. But AAs did not detect these irregularities and allowed concession/exemption of ₹ 70.40 lakh. Besides, interest of ₹ 47.53 lakh and penalty of ₹ 140.80 lakh was also leviable on these forms.

CCT had issued instructions (April 2008) to verify all transactions supported by CST forms for concessional rate of tax and have taken place after 26 September 2005. Due to non-compliance of the instructions AAs could not detect evasion of tax besides interest and penalty.

### 2.11.13 Non-utilisation of TINXSYS

TINXSYS website was designed to help the Commercial Taxes Departments of various States and UTs to effectively monitor the inter-State trade. Departmental officials were required to use TINXSYS for verification of Central Statutory Forms issued by other State Commercial Taxes Departments and submitted to them by the dealers in support of claim for concessions. It also provides MIS and Business Intelligence Reports to the Department to monitor inter-State trade movements and enables the EC to monitor the trends in inter-State trade.

(a) During the test check of data of cancelled dealers provided by 11 CTOs, we observed (March 2011) that information of cancelled dealers was not

<sup>17</sup> Circles: Bharatpur –'A'; 'Jodhpur -Special'-I and Jaipur- I.

<sup>18</sup> Circles: Bharatpur A; Chittorgarh; Jaipur A, E, I, J, Special-V; Kishangarh and Kota Special-III.



uploaded on TINXSYS. Results of test check are tabulated below:-

Sl. No.	Name of Circle	Total number of cancelled dealers	Dealers not found on TINXSYS	Number of cancelled dealers which were shown active dealers on TINXSYS	Could not be verified due to wrong TIN provided by CTO
1	'B' Udaipur	116	65	4	5
2	'B' Bhiwadi	3	0	3	-
3	'C' Udaipur	6	2	3	1
4	Special V Jaipur	5	1	4	-
5	Rajsamand	14	14	0	-
6	'J' Jaipur	73	10	36	-
7	Special-I, Jodhpur	11	6	2	-
8	Special-III, Kota	8	4	0	-
9	'C' Jodhpur	24	9	12	-
10	Ramganj Mandi	118	88	12	1
11	'E' Jaipur	13	2	11	-
<b>Total</b>		<b>391</b>	<b>201 (51%)</b>	<b>87 (22%)</b>	<b>7</b>

We observed that details of 51 *per cent* cancelled dealers were not uploaded on TINXSYS and 22 *per cent* cancelled dealers were shown as active dealers.

Due to non-uploading the information of cancelled dealers, the Department deprived CTOs/dealers of other States from verifying genuineness of the dealers.

(b) We noticed (October 2010) that a dealer M/s Shree Bhagwati Udyog, Bharatpur, submitted 'C' form for sale of ₹ 28.34 lakh to M/s Shankar Enterprises, Dhanbad. The AA allowed tax concession of ₹ 0.57 lakh on this 'C' form without verifying the genuineness of the dealer. When we checked the purchasing dealer on TINXSYS, it could not be verified.

(c) Test check (between November 2010 to January 2011) of 1,160 CST declarations forms of four zones<sup>19</sup> issued to selling dealers of other States revealed that 1,143 forms (98.53 *per cent*) were not uploaded on TINXSYS by concerned authorities of this State.

Thus, the objectives of this site could not be achieved by the Department.

#### 2.11.14 Non-production of records relating to cross verification of Form received from other States

Nine AAs<sup>20</sup> did not produce assessment record i.e. assessment orders, utilisation certificate submitted by purchasing dealers etc., relating to 146 declaration forms which were received from other States for verification,

<sup>19</sup> Alwar, Bharatpur, Bhilwara and Jaipur-I.

<sup>20</sup> Circles: Alwar: 'B', 'Special'; Bhiwadi: 'B', 'Special-I', 'Special-II'; Hanumangarh: 'B' and Udaipur: 'B', 'C', 'Special'.

to us (November 2010 to January 2011) during the course of Performance Audit. In absence of records, we could not verify details of these forms. Reasons for non-production of records were not intimated by the Department.

#### **2.11.15 Internal Audit**

Internal Audit Wing of an organisation is a vital component of the internal control mechanism which enables the organisation to assure itself of the degree of compliance with the prescribed systems.

We observed that Departmental manual for internal audit was not made available. No training was provided to internal audit parties for the audit of CST. Internal audit parties were also not using TINXSYS during audit.

#### **2.11.16 Conclusion**

The Performance Audit on Cross verification of Declaration forms used in Inter-State Trade and Commerce revealed a number of systems and compliance deficiencies. The Department did not keep samples of current and obsolete declaration forms of other States as well as of Rajasthan. The TINXSYS website was not utilised effectively by the Assessing Authorities. It also did not have a system of selecting transactions for cross verification of declaration forms of other States due to which the assessing officers could not detect fake/invalid forms and allowed inadmissible exemptions/reduced rates of taxes. Forms were accepted beyond the prescribed time limit for submission. Due to the absence of consolidated guidelines and prescribed checklist of points to be seen prior to acceptance of declaration forms, the assessing authorities accepted declaration forms which were not supported with evidences of transfer of goods. The internal control mechanism within the Department was weak as evident from the deficiencies pointed out in preceding paragraphs.

#### **2.11.17 Recommendations**

**We recommend that the Government may -**

- **obtain and circulate the samples of declaration forms of other States for easier identification of doubtful forms based on colour, design and series;**
- **prepare a checklist for scrutiny of genuineness of declaration forms and for allowing concession/exemption on declaration forms i.e. receipt of CST forms within prescribed time etc;**
- **prescribe criteria for selection of declaration forms for cross verification ;**
- **create a database of exemption of tax on account of branch transfer/consignment sale;**
- **the Commissioner should issue instructions to all assessing authorities to follow the provisions of the Act regarding filing of 'F' form alongwith the evidence of the dispatch of such goods; and**
- **to devise a system for uploading of details of declaration forms used on TINXSYS for verification of sale/purchase transactions.**

## **2.12 Other Compliance Audit observations**

We observed during test-check of the assessment records of sales tax/VAT in Commercial Taxes Department several cases of non-observance of provisions of Acts/Rules, non/short levy of tax/interest, incorrect computation of tax, incorrect grant of input tax credit, incorrect deferment of tax, incorrect grant of composition amount in lieu of tax liability under RVAT/CST Acts. We pointed out some of these omissions in earlier years also, but not only 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 so that occurrence of such cases can be avoided.

## **2.13 Non-observance of provisions of Acts/Rules**

The RVAT Act and Rules provides for:-

- (a) Levy of purchase tax where raw material purchased from unregistered dealer;
- (b) grant of input tax credit (ITC) in respect of purchases made by registered dealers from registered dealers within the State;
- (c) levy of reverse tax in cases where ITC was allowed wrongly;
- (d) levy of tax on taxable turnover including sale or purchases during inter-state trade; and
- (e) levy of tax at prescribed rates.

During test-check of records we noticed that some of the above provisions were not correctly observed by the assessing authorities in cases mentioned in paragraphs 2.13.1 and 2.13.2. This resulted in non/short levy/realisation of tax/interest of ₹ 31.00 lakh.

### **2.13.1 Non-levy of purchase tax**

Under Section 4(2) of the RVAT Act, every dealer who in the course of his business purchases any goods other than exempted goods in the circumstances in which no tax under sub section (1) is payable on the sale price of such goods and the goods are disposed off for the purpose other than those specified in clause (a) to (g) of sub section (1) of Section 18, shall be liable to pay tax on the purchase price of such goods at the prescribed rate. Besides, interest at 12 per cent per annum is also payable as per Section 55 of the *ibid* Act.

During test check of the assessment records of two offices (August 2010), we observed that while finalising the assessment of four dealers for the year 2006-07 and 2007-08, the assessing authorities did not levy purchase tax on the value of taxable raw material *Narma/Kapas (Cotton)* and *Maida/Flour* purchased without payment of tax and used it in the manufacture of exempted goods i.e. Certified Seeds and Bread respectively. This resulted in non-levy of

purchase tax of ₹ 16.82 lakh and interest ₹ 6.30 lakh (calculated up to March 2010) as mentioned below:

(₹ in lakh)

Sl. No.	Name of circle (No. of dealers)	Assessment year/ Month of assessment	Value of raw material used in exempted sale	Purchase tax leviable (@ 4%)	Interest @ 12% (up to 3/2010)
1.	'Special', Sriganganagar (1)	2006-07, to 2007-08 March 2009 and October 2009	254.94	10.20	3.65
2.	'B', Sriganganagar (3)	2006-07 to 2007-08 December 2008 to March 2010	165.42	6.62	2.65
<b>Total</b>				<b>16.82</b>	<b>6.30</b>

We pointed out this to the Department (August 2010 to September 2010) and reported to the Government (November 2010).

In respect of circle 'B' Sriganganagar, and Special Circle Sriganganagar, the Government stated (September 2011 and October 2011) that one dealer (M/s Sampat Industries) did not purchase raw material from unregistered dealers, he purchased tax paid raw material from registered dealers. We do not agree with the reply because as per part II of VAT Audit Report 2006-07, the dealer purchased raw material of ₹ 1.01 crore from unregistered dealers.

In respect of other two dealers (M/s Laxmi Seeds Corporation and M/s Dayal Seeds) Government stated that they purchased raw material from farmers. This reply of the Government is also not tenable because as per section 4(2) of RVAT Act every dealer who purchased any goods other than exempted goods without paying any tax and used it in manufacture of exempted goods, shall be liable to pay tax on the purchase price. In respect of one dealer (M/s Bihani Seeds) Assessing Authority intimated that demand of ₹ 16.05 lakh has been raised (December 2011).

### 2.13.2 Short-levy of tax on taxable turnover

Under Section 4 of the RVAT Act and Section 8 of the CST Act, the leviable tax at the prescribed rate is determined by the assessing authority on the taxable turnover of different commodities. Interest is leviable on delayed payment of tax under Section 55 of the RVAT Act.

During test check of the assessment records of the Commercial Taxes Office (CTO), Circle 'B', Bhiwadi for the period 2009-10, we noticed (January 2011) that one dealer (M/s. D.K. Trades Center, Bhiwadi) had depicted inter-state sale of ₹ 24.99 crore during the year 2007-08. The assessing authority, while finalising the assessment (March 2010) assessed and levied difference tax on turnover of ₹ 22.99 crore only. This resulted in short levy of tax ₹ 8.00 lakh (₹ 6.00 lakh at the rate of three *per cent* and difference tax ₹ 2.00 lakh at the rate of one *per cent*). Interest ₹ 0.30 lakh was

also payable on balance tax after adjustment of input tax credit (calculated upto March 2010).

When we pointed out this (December 2010) to the Department and reported to the Government (April 2011).

The Government intimated (September 2011) that a demand of ₹ 8.72 lakh pertaining to difference tax and interest thereon had been raised (January 2011) and adjusted it from ITC on 30<sup>th</sup> May 2011. We are awaiting information regarding the remaining recovery along with interest (December 2011).

## **2.14 Non-compliance of provisions of notifications**

*The Government notifications issued provides for:*

- (a) allowing benefit of the Composition Schemes for Saraffa/Gems and Stones dealers, Brick Kilns owners and Petroleum dealers subject to compliance of certain conditions specified therein;*
- (b) grant of exemption to exempted units after deduction of ITC, and partial exemption under CST;*
- (c) grant of benefit of composition to entitled units who applied within the prescribed due dates*
- (d) levy of entry tax; and*
- (e) levy of interest at prescribed rate.*

*During test check of the records, we noticed that some of the provisions of above notifications were not observed by the assessing authorities in cases mentioned in paragraphs 2.14.1 to 2.14.6. This resulted in incorrect grant of deferment/ non/short levy/realisation of tax/interest of ₹ 5.89 crore.*

### 2.14.1 Incorrect grant of benefit of composition of tax Scheme to Saraffa dealers

As per paragraph 4 of the Composition Scheme for *Saraffa* Dealers and Gems & Stones, 2006 issued under Section 5 of the RVAT Act, where the annual composition amount is less than ₹ 1.20 lakh, it shall be paid in four quarterly instalments, to be deposited by 7<sup>th</sup> of April, July, October and January of the relevant year. Where annual composition amount is ₹ 1.20 lakh or more it shall be paid in twelve equal monthly instalments, to be deposited upto 7<sup>th</sup> day of every month starting from April of the relevant year. If a dealer fails to deposit the composition amount in the specified period, he shall be allowed to avail the benefit of the scheme if he deposits the whole amount which has become due along with interest thereon and a late fee amounting to 25 *per cent* of due composition amount. If he deposits the due installment by 31 December and the late fee shall be 50 *per cent* of due amount if he deposits the due installment after 31 December but before 31 March of the relevant financial year. Further, in case the dealer violates any of the conditions of the scheme, the assessing authority may cancel the composition certificate under clause 7.6 (*Saraffa*) and 7.7 (Gems & Stone) of the scheme and in that case the dealer shall be liable for action under the provisions of the RVAT Act and rules made thereunder.

During test check of the assessment records of five offices<sup>21</sup> for the period 2006-07 and 2007-08, we observed (September 2010 to December 2010) that 14 dealers who had opted for the *Saraffa*/Gems and Stones composition schemes, failed to deposit the prescribed composition amount within the period specified in the scheme i.e. 31<sup>st</sup> March of the relevant financial year. Due to non-compliance of conditions of the schemes, these dealers were not eligible to avail the benefits of the scheme. However, the Assessing Authorities did not take action against these dealers for assessing them as normal assessee under the RVAT and realising the differential amount of tax. This resulted in non-levy of differential amount of tax ₹ 73.72 lakh besides interest ₹ 23.02 lakh (calculated up to March 2010).

These cases were pointed out to the Department (October 2010 to December 2010) and reported to the Government (February 2011 to March 2011). In case of CTO, Circle 'B' Jaipur, the Department intimated (December 2011) that a demand of ₹ 20.96 lakh has been raised. In respect of CTO, Circle 'J' Jaipur the Government intimated (December 2011) that a demand of ₹ 11.76 lakh has been raised and in the remaining cases, we are awaiting their replies (December 2011).

<sup>21</sup> Circle 'I' Jaipur, Circle 'B' Jaipur, Circle 'D' Jaipur, Special Circle 'V' Jaipur and Circle 'J' Jaipur,

## 2.14.2 Incorrect grant of benefit of composition of tax to brick kilns owners

By issue of a notification dated 6.5.2006 under Section 5 of the RVAT Act, Government introduced Composition Scheme for 'Brick Kilns 2006' (scheme), permitting dealers to opt for payment of a composition amount in lieu of tax on sale of brick manufactured by them. As per paragraph 3.1 of the scheme, the composition amount shall be valid for the composition period of two years and shall be determined for the first year as follows:

- (a) Where capacity of kiln per round is less than eight lakh bricks ₹ 90,000 per annum per kiln,
- (b) Where capacity of kiln per round is eight lakh or more but less than eleven lakh bricks ₹ 1,44,000 per annum per kiln, and
- (c) Where capacity of kiln per round is eleven lakh bricks or more ₹ 1,44,000 per annum per kiln for first eleven lakh and ₹ 1,300 for every addition of one lakh bricks or part thereof.

The composition amount for subsequent years shall be 110 *per cent* of the composition amount for immediately preceding year. The composition amount shall be payable in four equal instalments to be deposited upto 14<sup>th</sup> day of start of each quarter. Where a dealer has failed to deposit the composition amount in the period specified, he shall be allowed to continue to avail the benefits of the scheme, if he deposits the whole amount which became due with interest thereon at the rate notified under the RVAT Act. Besides he shall also deposit a late fee, amounting to 25 *per cent* of the due composition amount, where he deposits the due instalment by 31 December and this late fee shall be 50 *per cent* of due amount if he deposits the due amount after 31 December but before 31 March of the relevant financial year. Further, clause 7.6 of the scheme stipulates that in case the dealer violates any of the conditions of the scheme, the assessing authority may cancel the composition certificate and the dealer shall be liable for action under the provisions of the RVAT Act and rules made thereunder.

During test check of the assessment records of the CTO, Circle-I, Jaipur for the period 2008-10, we noticed (November 2010) that one brick kiln owner M/s Jai Shree Dayal Bricks, Jaipur opted for the composition scheme but no composition certificate was issued to him by the assessing authority. Even though the dealer availed the benefit of scheme for the year 2006-07 and 2007-08, with composition amount ₹ 1.44 lakh for both the years. We saw that the dealer deposited the amount of installments late and also did not deposit the due composition amount along with interest and late fee on or before 31 March for availing of benefit of the scheme.

We observed that the assessing authority, while finalising the assessment for the years 2006-07 and 2007-08, did not levy the tax under the RVAT Act on the basis of turnover as under:

(₹ in lakh)

Year	Turn over	Percentage rate of Tax	Amount of VAT due	Amount deposited	Balance tax due	Interest amount up to March 2010
2006-07	39.49	12.5	4.94	1.44	3.50	1.47
2007-08	39.66	12.5	4.95	1.44	3.51	1.05
<b>Total</b>			<b>9.89</b>	<b>2.88</b>	<b>7.01</b>	<b>2.52</b>

This resulted in non-levy of tax ₹ 7.01 lakh and interest ₹ 2.52 lakh (calculated upto 31.3.2010).

The omission was pointed out to the Department (December 2010) and reported to the Government (February 2011). We are awaiting their replies (December 2011).

### 2.14.3 Incorrect grant of benefit of composition of tax to Petroleum dealers

Government by issue of a notification dated 9 March 2007 under Section 5 of the RVAT Act, a Composition Scheme for registered dealers having retail outlets of petroleum companies (scheme), permitting such dealers to opt for payment of composition amount in lieu of Tax on sale of lubricant, yellow cloth, and fan belt. As per paragraph 4.01 of the scheme, the composition amount shall be paid in four quarterly instalments to be paid by 7<sup>th</sup> day of the month following the quarters ending June, September, December and March of the year. According to paragraph 5.4 where a dealer has failed to deposit the composition amount in the period specified, he shall be allowed to continue to avail the benefit of the scheme on fulfillment of condition that he shall deposit the whole of the amount which has become due under the scheme along with interest thereon at the rate notified under RVAT Act. Besides, he shall also deposit a late fee, amounting to 25 *per cent* of the due composition amount required to be deposited under the scheme where he deposited the due instalment within three months of the due date and this late fee shall be 50 *per cent* of due amount if he deposits the due instalments after aforesaid period of three months but before 31 March of the relevant financial year, and thereafter he shall not be eligible for the benefits under the scheme. Further, clause 8.8 of the scheme stipulates that in case the dealer violates any of the conditions of the scheme, the assessing authority may cancel the composition certificate and the dealer shall be liable for action under the provisions of the RVAT Act and rules made thereunder.

During test check of the assessment records of four offices, we observed (between August 2010 and March 2011) that 32 petroleum dealers who were



availing the benefit of above scheme did not pay the prescribed composition amount in specified period. Due to non-compliance of condition of the scheme; these dealers were not eligible for the benefit under the scheme. However, the assessing authority did not take action against these dealers under paragraph 8.8 of the scheme for assessing them as normal assessee under the RVAT and realising the differential amount of tax. This resulted in non-levy of difference amount of tax ₹ 30.37 lakh and interest ₹ 9.57 lakh (calculated up to March 2010) as mentioned in the following table:

(₹ in lakh)

Name of circle (no. of dealers)	Assessment year (month of assessment)	Total taxable turnover under the scheme	Tax levialble under RVAT Act @ 12.5 %	Composition amount deposited	Net tax recover-able	Interest (up to March 2010)
Jalore (18)	2007-08 (June 2009 to September 2009)	123.20	15.40	1.24	14.16	4.25
Sumerpur (Pali) (8)	2006-07, 2007-08 (March 2009 to March 2010)	38.77	4.85	0.26	4.59	1.55
'B' Jaipur (3)	2007-08 (August 2009, February 2010 and March 2010)	46.80	5.85	0.47	5.38	1.61
Gangapur-city (3)	2006-07, 2007-08 (March 2009 to March 2010)	54.46	6.81	0.57	6.24	2.16
	<b>Total</b>	<b>263.23</b>	<b>32.91</b>	<b>2.54</b>	<b>30.37</b>	<b>9.57</b>

When we pointed out this to the Department (September 2010 to April 2011) and reported to the Government (November 2010 to May 2011). In case of CTO Circle Jalore, the Government intimated (September 2011) that a demand of ₹ 19.07 lakh has been raised (May 2011) in all 18 cases and in 16 cases partial recovery of ₹ 6.13 lakh has also been made. Recovery of remaining demand in 14 cases has been stayed by Additional Commissioner (Appeals) Jodhpur and in case of Circle Gangapur city, the Government intimated (September 2011) that a demand of ₹ 9.70 lakh has been raised (July 2011) in all three cases and efforts are being made for recovery of demand. In case of CTO Circle Sumerpur (Pali), Government intimated (October 2011) that a demand of ₹ 5.30 lakh has been raised (July 2011) in seven cases out of eight cases and in case of Circle B Jaipur, Government intimated (October 2011) that a demand of ₹ 4.24 lakh has been raised in two cases and efforts are being made for recovery of demand.

### 2.14.4 Incorrect grant of deferment of tax

- The industrial units availing the benefit of exemption from tax, *inter alia*, under the Sales Tax New Incentive Scheme for Industries (Incentive Scheme), 1989, or the Rajasthan Sales Tax/the Central Sales Tax Exemption Scheme for Industries, 1998, were allowed to defer the payment of tax payable by them to the extent mentioned therein by issue of a notification dated 31.03.2006.
- The percentage of deferment of tax in the extended period shall be equal to the extent of the percentage of deferment of tax in the year immediately preceding such extension.
- As per notification dated 06.05.1986, any dealer manufacturing goods in the State of Rajasthan, may claim partial exemption from the tax payable in the course of inter-state trade or commerce. This partial exemption was also to be deducted from output tax before granting deferment.
- As per Section 17 of the RVAT Act, the term 'tax payable by a dealer' is the amount of tax leviable under the Act less the amount of ITC.

During test check of the assessment records of seven offices (between April 2010 and March 2011), we observed that while finalising the assessment of nine dealers the assessing authorities incorrectly allowed deferment of tax ₹ 3.11 crore, interest ₹ 97.95 lakh (calculated upto March 2010) was also leviable. Details are hereunder:

#### (i) Non-deduction of ITC

In five offices, we observed that the assessing authorities incorrectly allowed deferment of tax without deducting ITC from the output tax. This resulted in excess grant of deferment of tax ₹ 2.11 crore, and interest ₹ 58.87 lakh (calculated upto March 2010) was also leviable as mentioned in the **Annexure-D**.

The cases were pointed out to the Department (July 2010 to April 2011) and reported to the Government (March 2011 to April 2011). We are awaiting their replies (December 2011).

#### (ii) Adoption of incorrect rate of percentage CTO, Special Circle, Udaipur

We observed that a dealer (M/s Peacock Industries, Udaipur) was entitled to defer 30 *per cent* and 20 *per cent* of the tax payable during 2006-07 and 2007-08 respectively for remaining period of the scheme. The Assessing Authority while finalising the assessment assumed the remaining period as extended period of the scheme and incorrectly allowed 40 *per cent* deferment

of tax of ₹ 25.55 lakh during 2006-07 and ₹ 34.49 lakh during 2007-08 instead of allowable deferment of tax of ₹ 19.16 lakh and ₹ 17.24 lakh respectively. This resulted in excess deferment of tax ₹ 23.64 lakh and interest of ₹ 7.86 lakh (calculated upto March 2010).

When we pointed out this to the Department (March 2011) and reported to the Government (April 2011). Government intimated (October 2011) that benefit of deferment had been allowed to the dealer at the rate of 40 *per cent* as per paragraph 6 of notification dated 31.3.2006. We do not accept the reply as provisions of paragraph 6 are applicable for the extended period only, which starts after the completion of sanctioned period of the scheme. In this case, the year 2006-07 and 2007-08 was within the original sanctioned (remaining) period. Therefore the dealer was entitled for deferment at the rate of 30 and 20 *per cent* respectively only.

**(iii) Non-deduction of ITC and adoption of incorrect rate of percentage CTO, Circle 'B' Sriganganagar**

We observed that a dealer (M/s Sarawagi Roller Flour Mills Pvt. Ltd., Sriganganagar) was eligible for 30 *per cent* deferment of tax liability. The Assessing Authority, while finalising the assessment for the year 2007-08, incorrectly allowed deferment of tax without deducting input tax credit from output tax and allowed deferment of tax ₹ 9.57 lakh instead of allowable deferment ₹ 2.31 lakh. This resulted in excess deferment of tax of ₹ 7.26 lakh and interest of ₹ 2.18 lakh (calculated upto March 2010).

We pointed out this to the Department (August 2010) and reported to the Government (November 2010 and April 2011). Department intimated (June 2011) that benefit of deferment had been allowed to the dealer at the rate of 40 *per cent* as per paragraph 6 of notification dated 31.3.2006. We do not accept the reply as provisions of paragraph 6 are applicable for the extended period only, which starts after the completion of sanctioned period of the scheme. In this case, the year 2007-08 was within the original sanctioned (remaining) period. Therefore the dealer was entitled for deferment at the rate of 30 *per cent* only. We are awaiting their replies (December 2011).

**(iv) Non-deduction of partial exemption under CST  
Special Rajasthan Circle, Jaipur**

We observed that while finalising the assessment of a dealer (M/s Manglam Cement Ltd., Jaipur) for the year 2006-07, the assessing authority incorrectly allowed deferment of tax without deducting 'Partial exemption' under notification dated 06 May 1986 from the output tax (CST) before granting deferment. This resulted in excess deferment of ₹ 69.15 lakh and interest of ₹ 29.04 lakh (calculated upto March 2010) for the period 2006-07.

The case was pointed out to the Department and reported to the Government (April 2011). We are awaiting their replies (December 2011).

### 2.14.5 Non-levy of Entry Tax

By issue of a notification dated 08.03.2006 under Section 3 (1) of the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999, the State Government specified the tax payable by a dealer in respect of the specified goods at such rates as have been shown in the notification.

During test check of the assessment records of the Assistant Commissioner, Circle 'B', Alwar for the year 2009-10, we noticed (June 2010) that a dealer (M/s South Asia Breweries Pvt. Limited, Alwar) purchased goods from outside the State without paying entry tax, for consumption or use in business on which entry tax was leviable. Non-levy of entry tax resulted in non-recovery of ₹ 16.50 lakh of entry tax

and interest of ₹ 4.95 lakh (calculated up to 31.03.2010).

On being pointed out (June 2010), the assessing authority intimated (January 2011) that a demand of entry tax of ₹ 16.05 lakh and interest of ₹ 5.12 lakh had been raised (September 2010) and efforts were being made to recover the amount (April 2011).

This omission was pointed out to the Department (July 2010) and reported to the Government (September 2010). We are awaiting their replies (December 2011).

### 2.14.6 Non-levy of interest on delayed payment of tax

By issue of a notification dated 05.05.2006 under Section 55 (1) of the RVAT Act, the State Government has prescribed levy of 12 per cent interest on delayed payment of tax.

During test check of the assessment records of the CTO, Special Circle, Udaipur for the period 2009-10, we noticed (February 2011) that a dealer M/s Rajasthan Syntex Limited, Udaipur adjusted the interest subsidy and wages subsidy ₹ 64.95 lakh sanctioned under Rajasthan Investment Promotion Policy 2003 against the tax payable. As the subsidy was credited by the treasury in

March 2009 i.e. after the due date of payment of tax for the year 2007-08, interest ₹ 11.69 lakh was leviable for delayed payment of tax. However, the assessing authority did not levy the interest while finalising the assessment (January 2010). This resulted in non-levy of interest ₹ 11.69 lakh.

When we pointed out this to the Department (March 2011) and reported to Government (April 2011). Government intimated (September 2011) that a demand of ₹ 11.69 lakh had been raised (July 2011) and efforts were being made for recovery of demands.