

CHAPTER-2

SALES TAX/ VALUE ADDED TAX

2.1 Tax administration

Value Added Tax (VAT) is a tax on value addition. It is a multi-point tax, which is levied at every stage of sale. It is collected at the stage of manufacture/resale and contemplates rebating of the tax paid on inputs and purchases, thereby providing revenue to the Government on value addition at every stage.

The receipts from VAT are administered by the Commissioner of the Department of Trade and Taxes (DTT) assisted by four Special Commissioners. There are ten zones each headed by the Joint Commissioners/Deputy Commissioners who work under the Additional Commissioners and supervise the work of the Value Added Tax Officers (VATOs) and the Assistant Value Added Tax Officers (AVATOs) and the Inspectors working in the wards under their control. Delhi has been divided into 108 wards headed by the VATOs.

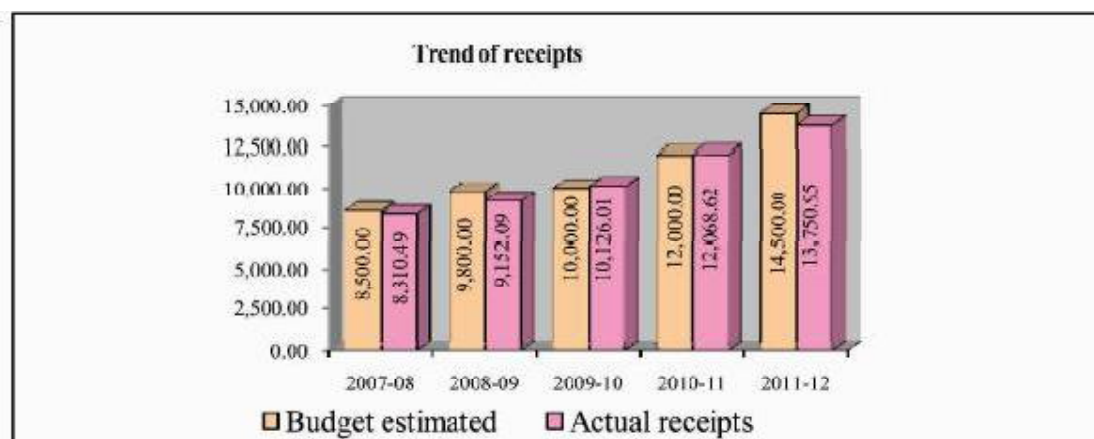
2.2 Trend of receipts

Actual receipts from VAT during the last five years 2007-08 to 2011-12 along with the total tax receipts during the same period is exhibited in the **Table 2.1** and **Graph**:

Table 2.1: Revenue receipts

(₹ in crore)

Year	Budget estimates (BEs)	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual VAT receipts vis-a-vis total tax receipts
2007-08	8,500.00	8,310.49	(-) 189.51	(-) 2.23	11,782.80	70.53
2008-09	9,800.00	9,152.09	(-) 647.91	(-)6.61	12,180.70	75.14
2009-10	10,000.00	10,126.01	(+) 126.01	(+)1.26	13,447.86	75.30
2010-11	12,000.00	12,068.62	(+) 68.62	(+)0.57	16,477.75	73.24
2011-12	14,500.00	13,750.95	(-) 749.05	(-) 5.17	19,971.67	68.85



2.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 amounted to ₹ 15249.16 crore of which ₹ 9253.44 crore were outstanding for more than five years. The position of arrears of revenue during the period 2007-08 to 2011-12 is given in **Table 2.2**:

Table 2.2: Arrears of revenue

(₹ in crore)

Year	Opening balance of arrears	Additions during the year	Amount collected during the year	Closing balance of arrears
2007-08	9253.44	193.23	982.71	8463.96
2008-09	8463.96	534.79	324.63	8674.12
2009-10	8674.12	2060.95	790.69	9944.38
2010-11	9944.38	2291.80	465.30	11770.88
2011-12	11770.88	3846.79	368.51	15249.16

It would be seen from the above table that the arrears of revenue have increased during the year 2007-08 to 2011-12. Major part of arrears of ₹ 7224.93 crore related to Delhi Sales Tax (DST) regime is also included in the closing balance of arrears of ₹ 15249.16 crore.

2.4 Assessee profile

The total number of dealers registered during 2011-12 was 233035 out of which monthly and quarterly dealers were 15825 and 217210 respectively. 1349 dealers were large tax payers based on tax deposited of more than one crore and 93387 dealers were small dealers based on tax deposited of less than one lakh. 233035 dealers were required to file the returns as on 31 March 2012 out of which 202632 dealers filed their returns.

2.5 Cost of VAT per assessee

The VAT per assessee during the year and the preceding three years is shown in **Table 2.3**:

Table 2.3: Cost of VAT per assessee

(₹ in lakh)

Year	Total number of assesseees	Cost of collection	Cost of VAT per assessee
2009-10	219902	5097.00	0.02
2010-11	231833	5080.00	0.02
2011-12	233035	5367.00	0.02

It may be seen from the given table that the cost of VAT per assessee is same during the last three years.

2.6 Arrears in assessment/scrutiny

The number of cases pending assessment/scrutiny at the beginning of the year, becoming due during the year, disposed during the year and pending at the end of the each year during 2009-10 to 2011-12 as furnished by the DTT on Sales/VAT etc. are as mentioned in **Table 2.4:**

Table 2.4: Arrear in assessment

Year	Opening balances		Cases which became due for assessment*/scrutiny**		Total		Cases disposed of during the year		Cases pending at the end of the year	
	DST Regime	DVAT Regime	DST Regime	DVAT Regime	DST Regime	DVAT Regime	DST Regime	DVAT Regime	DST Regime	DVAT Regime
2009-10	5559	80059	390	105185	5949	185244	1004	94131	4945	91113
2010-11	4945	91113	634	42553	5579	133666	994	84726	4585	48940
2011-12	4585	48940	555	207155	5140	256095	3214	143560	1926	112535

* as per Sec. 31 of the DVAT Act, 2004 where a return is furnished by a person as required under section 26 or 27 of this Act which contains the prescribed information and complies with the requirements of this Act and the rules. The return is deemed to be a notice of assessment and to be under the hand of the Commissioner.

** As per notification dated 23.6.05 issued by the Deptt. the VATO/AVATO would scrutinise the returns: (i) 100 per cent scrutiny for gross turnover of more than five crore, (ii) 50 per cent scrutiny for gross turnover between two and five crore, (iii) 25 per cent scrutiny for gross turnover between one and two crore, (iv) two per cent scrutiny for gross turnover below one crore.

2.7 Cost of collection

The gross collection in respect of the VAT revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2009-10 to 2011-12 along with the relevant all India average percentage of expenditure on collection to gross collection for the year 2010-11 are mentioned in **Table 2.5:**

Table 2.5: Cost of collection

(₹ in crore)

Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2009-10
Taxes on sales, trade etc.	2009-10	10126.01	50.97	0.50	0.75
	2010-11	12068.62	50.80	0.42	
	2011-12	13750.95	53.67	0.39	

From the above table, it is evident that the percentage of expenditure on collection of taxes on sales, trade etc. was less than the all India average percentage for all the years 2009-10 to 2011-12.

2.8 Analysis of collection

The collection of revenue on taxes on sales, trade etc. has increased from ₹ 10126.01 crore during 2009-10 to ₹ 13750.95 crore during the year 2011-12 whereas the percentage of expenditure on collection has decreased from 0.50 per cent to 0.39 per cent during the same period.

2.9 Revenue impact

During the last five years (including the current year's report), Audit through its audit reports 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 etc., with revenue implication of ₹ 5471.97 crore in 61 paragraphs. Of these, the Department/Government has accepted audit observations involving ₹ 516.25 crore and has since recovered ₹ 0.26 crore. The recovery position as compared to acceptance of objections was only 0.05 per cent. The details are shown in Table 2.6:

Table 2.6: Revenue impact (₹ in crore)

Year of Audit Report	Paragraphs included		Paragraph accepted*	Amount recovered*
	No	Amount	Amount	Amount
2006-07	12	59.71	16.54	0.08
2007-08	9	929.83	70.75	0.14
2008-09	12	1706.46	428.96	0.04
2009-10	15	1296.86	0.00	0.00
2010-11	13	1479.11	0.00	0.00
Total	61	5471.97	516.25	0.26

Note: *A review has been considered as one paragraph. Therefore, only amounts accepted by the Department have been taken into the 'Paragraph accepted' figure.

2.10 Internal audit

The DTT has an Internal Audit Cell (IAC) under the charge of the Additional Commissioner (Audit). This cell was to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria decided by the Steering Committee so as to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

On this being pointed out by Audit, the DTT stated that Annual plan for conducting Internal Audit by the Internal Audit Cell of the Department for the year 2008-09 and 2009-10 was laid down to decide the criteria for selection of cases. Annual Plan for further periods was not laid down.

In addition, the Directorate of Audit under the Finance Department is entrusted with the internal audit of all offices/Departments of the Government. The internal audit of

the Department has been conducted for expenditure only by the Directorate of Audit, Government of NCT of Delhi upto 2011-12.

2.11 Results of audit

Audit noticed, during the test check of the records of **53** units relating to VAT, an underassessment of tax and other irregularities involving ₹ **2667.19** crore in **1469** cases which fall under the categories as given in the **Table 2.7**:

Table 2.7: Category wise details of under assessment

(₹in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Irregular claim of exemption/concessional rate of tax on statutory forms	1104	2310.14
2.	Application of incorrect rate of tax	4	1.69
3.	Irregular deduction claimed on account of TDS	9	3.50
4.	Excess claim of input tax credit	15	8.08
5.	Irregular allowance of refund	4	0.75
6.	Irregular deduction allowed on account of labour and services	1	0.77
7.	Irregular adjustment of tax credit on account of purchase of second hand goods	1	1.19
8.	Incorrect claim of exemption on 'F' forms containing multiple month transactions	1	0.47
9.	Non reversal of input tax credit in respect of goods transferred on F forms	1	0.74
10.	Incorrect claim of concessional rate/exemption of tax on defective Statutory (C) forms	4	0.26
11.	Irregular claim of exemption on stock transfer	1	0.18
12.	Irregular claim of refund/reduction of tax through revised return	5	0.39
13.	Short payment of tax	1	0.15
14.	Others	318	338.88
Total		1469	2667.19

These cases are discussed in the succeeding paragraphs.

2.12 Audit observations

From the scrutiny of assessment records of value added tax (VAT), Audit observed several cases of claim of concession/exemption without production of prescribed statutory forms/or on defective forms, concealment of sale/purchase/stock, excess claim of deduction, irregular claim of exemption etc. which resulted in short levy of tax as discussed in the succeeding paragraphs. These cases are illustrative and are based on the cases noticed during the test check carried out by Audit. Audit pointed out such omissions on the part of Assessing Authorities (AA) each year; but not only do the irregularities persist but they remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that occurrence of such cases can be avoided, detected and corrected.

2.13 Irregular claim of exemption/concessional rate of tax on statutory forms

Under the provisions of the CST Act and Rules, a dealer may claim exemption/concessional rate of tax for the goods under the inter state trade (a) in respect of any goods on the ground that the movement of goods was occasioned by transfer of such goods by him to any other place of his business or to his branch or to his agent or principal as the case may be (b) sale of goods by one registered dealer if the dealer furnishes a declaration in form 'C' covering all the transactions of sales (c) where sale of any goods has been effected by a transfer of documents of title to such goods during their movement from one State to another (sale in transit), to the Government or to a registered dealer (d) in the case of export sale or sale made to a unit situated in a Special Economic Zone, exemption is admissible subject to the furnishing of 'H' forms or 'I' forms, as the case may be. For claiming the exemption/concessional rate of tax, the dealer is required to furnish the statutory forms, like Forms F, C, EI, EII, H and I as prescribed under the CST Acts and Rules. In case of default in submission of the forms, the transactions are required to be assessed at the rate applicable in the State.

Audit noticed during the test check of the records of Department of Trade and Taxes (DTT) between April 2011 and March 2012 that in 1104 cases, for the assessment year 2009-10, the dealers claimed exemption/concessional rate of tax on ₹ 28255.25 crore on account of branch transfer/consignment sale, transit sales, sales to SEZ and export out of India as disclosed by them in Form I and in Form DVAT 51. Audit scrutiny indicated that the dealers had not submitted the required statutory forms by the dates prescribed by the Department (31 December 2010) for the said cases. Audit also noticed that in 184 cases, dealers had sought extension for submission of the statutory forms. However, even after expiry of the extended date, they failed to submit the forms. The Department has not taken action to assess returns of these dealers and disallow the exemption claimed by them. This had resulted in irregular exemption of tax of ₹ 1905.84 crore. Besides, interest of ₹ 404.30 crore was also leviable for

non-payment of tax. The details are given in the **Table 2.8:**

Table 2.8: Details of irregular exemption

(₹ in crore)						
Sl. No.	Transaction details	Number of cases	Transaction value	Tax payable	Interest leviable	Total
1.	In 71 wards ¹ the dealers did not submit prescribed F forms in support of branch transfer/ consignment sale	359	19694.12	1427.73	302.76	1730.49
2.	In 81 wards ² the dealers did not submit prescribed C forms	638	5360.39	332.20	70.58	402.78
3.	In 49 wards ³ the dealers did not submit prescribed E1/E2 forms	88	2636.55	140.51	29.80	170.31
4.	In 14 wards ⁴ the dealers did not submit prescribed H forms	13	19.45	1.17	0.26	1.43
5.	In five wards ⁵ the dealers did not submit prescribed I forms	06	400.61	4.23	0.90	5.13
Total		1104	28111.12	1905.84	404.30	2310.14

After audit reported the matter, the Department accepted the audit observations and stated that in 14 cases involving ₹ 2.06 crore demand has been raised. Further, report and reply on the remaining cases has not been received.

Audit reported the matter to the Government in August 2012, but has not received any reply.

2.13.1 Irregular allowance of refund

As per Section 38 of DVAT Act 2004 read with rules made there under, the Commissioner shall refund to a person the amount of tax, penalty and interest, if any, paid by such person in excess of the amount due from him within one month after the date on which the return was furnished or claim for the refund was made, if tax period

¹ Ward Nos. 1, 3, 7, 8, 11, 12, 14, 15, 16, 17, 27, 28, 29, 33, 37, 39, 43, 44, 45, 48, 51, 52, 53, 54, 56, 60, 61, 62, 63, 64, 65, 67, 68, 70, 71, 72, 74, 75, 77, 79, 80, 81, 82, 83, 84, 85, 86, 88, 89, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 104, 105, 106, 107, KCS I, KCS II, KCS III, KCS-IV, KCS-V and KCS-VI.

² Ward Nos. 1, 2, 3, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 26, 27, 28, 29, 33, 36, 37, 39, 41, 43, 44, 45, 48, 51, 52, 53, 54, 55, 56, 58, 59, 60, 61, 62, 63, 64, 65, 67, 68, 69, 70, 71, 72, 74, 77, 79, 80, 81, 82, 83, 84, 88, 89, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 104, 105, 106, 107, KCS I, KCS II, KCS III, KCS-IV, KCS-V and KCS-VI.

³ Ward Nos. 2, 3, 7, 8, 11, 12, 13, 15, 19, 26, 28, 29, 33, 39, 41, 43, 44, 45, 51, 52, 53, 56, 62, 63, 64, 65, 66, 72, 74, 75, 77, 80, 82, 84, 89, 93, 94, 95, 96, 99, 100, 101, 102, 104, 104, KCS I, KCS II, KCS III and KCS-VI

⁴ ward Nos. 6, 8, 11, 17, 18, 33, 41, 62, 64, 71, 74, KCS-II, KCS III and KCS-IV

⁵ Ward Nos. 12, 19, 100, 102 and KCS-VI.

for the person claiming refund is one month or within two months if tax period for the person claiming refund is a quarter.

Further, as per circular No.2 of 2008-09 issued vide No.F6(58)/Policy-I/VAT/2008/237 dated 07.08.2008, the VATOs, before allowing the claim of refund, are required to check statutory forms received along with forms DVAT-51 with corresponding return(s) keeping in view the dates prescribed for submission of statutory forms. In case date(s) of filing such forms have already expired, the demand may be created in case of shortfall as per provision of Rule (4) of CST (Delhi) Rules 2005.

Audit noticed during the test check of records of two wards⁶ of DTT between April 2011 and March 2012 that in four cases relating to the assessment year 2009-10, the assessing authority had allowed the refund during 2009-10 and 2010-11 for ₹ 61.29 lakh to the dealers without scrutinising the tax liability of the dealers. In two cases, the dealers had not submitted the statutory forms and in other cases, the dealers had not submitted relevant document as per circular No.2 of 2008-09. This resulted in irregular refund of ₹ 61.29 lakh. Besides, interest of ₹ 13.62 lakh was also leviable.

Audit reported the matter to the Department and the Government in August 2012, but has not received any reply.

2.14 Application of incorrect rate of tax

Section 3 (2) of the DVAT Act, 2004 specifies that every dealer shall be liable to pay tax at the rate mentioned in schedules of Section 4 of the Act on every sale of goods effected by him. Section 86(12) of the Act, further provides that if any person furnishes incorrect returns, the Commissioner may assess or reassess the amount of tax due for a tax period. Short payment of tax attracts penalty at the rate of one *per cent* of tax deficiency per week or ₹ 100 per week for the period of default, whichever is higher and interest computed thereon on daily basis @ 15*per cent* per annum.

Audit noticed during the test check of the records of four wards⁷ of DTT between April 2011 and March 2012 that in four cases relating to the assessment year 2009-10, the dealers paid tax on sale valued at ₹ 13.07 crore at rates lower than those prescribed in the Act. However, the assessing authority did not scrutinize the returns of the dealers to ascertain the correctness of rate at which tax was required to be paid. This resulted in short payment of tax of ₹ 73.20 lakh. Besides, interest of ₹ 21.44 lakh and penalty of ₹ 74.67 lakh were also leviable.

Audit reported the matter to the Department and the Government in August 2012, but has not received any reply.

2.15 Irregular deduction claimed on account of Tax Deducted at Source

Under Section 36A of the DVAT Act 2004 and Rules made there under, any person, not being an individual or Hindu undivided family, who is responsible for making

⁶ Ward Nos. 16, 71

⁷ Ward Nos. 74, 84, 96 and KCS-I.

payment to any dealer/contractor for discharge of any liability on account of valuable consideration payable for the transfer of property in goods (whether as goods or in some other form) in pursuance of the works contract for value exceeding ₹ 20,000 shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by any other mode, whichever is earlier, deduct tax thereon at the rate of two *per cent*. Further, Rule 59(2) of the DVAT Rules, 2005 also provides that a person who has deducted the tax shall issue a certificate for deduction of tax in Form DVAT-43 in original in respect of the amount deducted, the rate at which it has been deducted and the details of deposit into the Government treasury.

Audit noticed during the test check of records of five wards⁸ of DTT between April 2011 and March 2012 that in nine cases relating to the assessment year 2009-10, the Assessing Authority failed to detect that the dealers claimed deduction on account of TDS without furnishing, in original, TDS certificates in the form DVAT-43. This resulted in incorrect claim of reduction of tax amounting to ₹ 2.56 crore. Besides, interest of ₹ 94.48 lakh was also leviable.

Audit reported the matter to the Department and the Government in August 2012, but has not received any reply.

2.16 Excess claim of input tax credit

Under Section 9 of the DVAT Act 2004, a registered dealer is entitled to a tax credit in respect of the turnover of purchases occurring during the tax period where purchase arises in the course of his activities as a dealer and the goods are to be used by him directly or indirectly for the purpose of making sales which are taxable under Section 3 of the Act or made in the course of interstate trade or export out of the territory of India. Incorrect claim of tax credit attract penalty equal to tax credit so claimed or ₹ 10,000 whichever is greater. The dealer shall also be liable to pay simple interest at the rate of 15 *per cent* per annum computed on a daily basis.

Audit noticed during the test check of the records of 10 wards⁹ of DTT between April 2011 and March 2012 that in 15 cases relating to the assessment year 2009-10 that the dealers claimed input tax credit of ₹ 17.31 crore as against allowable credit of ₹ 13.90 crore on the purchase of tradable goods locally for ₹ 795.94 crore. This resulted in excess claim of input tax credit of ₹ 3.40 crore with consequent short payment of tax by the like amount. Besides, interest of ₹ 1.27 crore and penalty of ₹ 3.40 crore were also leviable /recoverable.

Audit reported the matter to the Department and the Government in August 2012, but has not received any reply.

2.17 Irregular deduction allowed on account of labour and services

As per Rule 3 of the DVAT Rules 2005, in case of turnover arising from the execution of the works contract, the amount representing the taxable turnover shall exclude the charges towards labour and services subject to the dealer maintaining proper records evidencing payment of these charges to the satisfaction of the Commissioner. If the

⁸Ward Nos. 84, 86, 89, 98 and 107

⁹Ward Nos. 16,42, 54, 55, 60, 62, 74, 89, 96 and 97

amount of charges towards labour and services is not ascertainable from the accounts of the dealer, the same shall be deducted at the percentage prescribed.

Audit noticed during the test check of the records of ward 96 of DTT in December 2011 that in one case relating to the assessment year 2009-10, the dealer claimed deduction at higher than the prescribed rate from his gross turn over on account of labour and services charges without furnishing separate account which is mandatory for such deduction. The Department also did not scrutinise the return and disallow the deduction made by the dealer. Thus, excess deduction of ₹ 4.68 crore resulted in short payment of tax of ₹ 58.55 lakh. Besides, interest of ₹ 18.38 lakh was also leviable.

Audit reported the matter to the Department and the Government in August 2012, but has not received any reply.

2.18 Irregular adjustment of tax credit on account of purchase of second hand goods

As per Rule 9 of the DVAT Rules 2005, no input tax credit shall be claimed on second hand goods purchased by a registered dealer from a resident seller who is not registered under the Act, unless the registered dealer has in his possession adequate proof of the amount paid for such goods in the form of an invoice or receipt signed by such resident seller.

As per Section 15 (3) of the DVAT Act 2004, where the amount paid by the registered dealer for the goods exceeds ₹ 2,000, the tax credit shall be allowed in the tax period when the goods are sold by the registered dealer or the goods into which they have been incorporated are sold by the registered dealer. Section 86 (10) of the Act provides that incorrect claim of tax credit attracts penalty equal to tax credit so claimed or ₹ 10,000 whichever is greater. The dealer shall also be liable to pay simple interest at the rate of 15 *per cent* per annum computed on a daily basis.

Audit noticed during the test check of the records of ward 93 of DTT between April 2011 and March 2012 that in one case relating to the assessment year 2009-10, the dealer adjusted input tax credit amounting to ₹ 49.56 lakh on account of purchase of second hand goods without furnishing an invoice or receipt signed by resident seller. The assessing authority did not scrutinize the returns (DVAT-16) to ascertain the correctness of input tax credit claimed by the dealer in his returns. This resulted in excess claim of input tax credit of ₹ 49.56 lakh. Besides, interest of ₹ 19.59 lakh and penalty of ₹ 49.56 lakh were also leviable.

Audit reported the matter to the Department and the Government in August 2012, but has not received any reply.

2.19 Incorrect claim of exemption on 'F' forms containing multiple month transactions

Under Section 6-A of the CST Act read with Rule 12(5) of the CST (R&T) Rules, dealer may claim exemption of tax by filing a declaration in form 'F' covering transfer of goods effected during a period of one calendar month by a dealer to any other place

of his business or to his agent or principal outside the State as the case may be. Otherwise, the transactions are to be treated as inter-state sales and taxed accordingly.

Audit noticed during the test check of the records of ward 22 of DTT in August 2011 that in one case relating to the assessment year 2007-08 (default assessed case), the dealer claimed exemption of tax on account of branch transfer/consignment sale of ₹ 2.42 crore on the basis of 'F' forms which covered transactions beyond one calendar month and was thus, liable to be treated as inter-state sales not supported by valid declarations. This resulted in short realisation of tax of ₹ 30.22 lakh. Besides, interest of ₹ 16.50 lakh was also leviable.

Audit reported the matter to the Department and the Government in August 2012, but has not received any reply.

2.20 Non reversal of input tax credit in respect of goods transferred on F forms

Under Section 10(3) of the DVAT Act, 2004, a dealer is required to reduce the amount of tax credit originally claimed, by the prescribed proportion where-

- (a) goods were purchased by a dealer locally and
- (b) the dealer claimed a tax credit in respect of goods, and did not reduce the tax credit by the prescribed percentage; and
- (c) the goods were transferred from Delhi, other than by way of a sale, to a branch of the registered dealer or to a consignment agent.

Otherwise, excess claim of tax credit attracts penalty at the rate of one *per cent* of the tax deficiency per week or ₹ 100 per week whichever is higher for the period of default and simple interest computed thereon on daily basis @ 15*per cent* per annum.

Audit noticed during the test check of the records of ward no.104 of the DTT in September 2011 that in one case relating to the assessment year 2009-10, the dealer made branch transfer of ₹ 9.17 crore out of the goods purchased locally, amounting to ₹ 5.24 crore but did not reduce the input tax credit proportionate to the goods so transferred. The dealer had claimed input tax credit amounting to ₹ 30.97 lakh on purchase during the year. This resulted in excess claim of input tax credit of ₹ 30.97 lakh. Besides, interest of ₹ 9.72 lakh and penalty of ₹ 33.76 lakh were also leviable.

Audit reported the matter to the Department and the Government in August 2012, but has not received any reply.

2.21 Incorrect claim of concessional rate of tax on defective Statutory (C) forms

Under the provisions of the CST Act 1956 and Rules made there under, a dealer may claim exemption/concessional rate of tax for the goods transacted under the interstate trade. For claiming, the dealer is required to furnish the prescribed statutory forms (in original portion), like F, C, E-I, E-II, H and I. Transactions not supported by proper and valid statutory forms are not eligible for exemption/concessional rate of tax, the dealers are liable to pay tax alongwith interest at applicable rates as laid in the Act.

Audit noticed during the test check of the records of three wards¹⁰ of DTT between April 2011 and March 2012 that in four cases relating to the assessment year 2009-10, the dealers had claimed concessional rate of tax on interstate sale of ₹ 6.23 crore. Such claims were not supported by valid statutory forms. The assessing authority did not scrutinize the statutory forms submitted by the dealers and ascertain the correctness of claim of concessional rate of tax on interstate sale made by the dealers in their returns. This resulted in short realisation of tax of ₹ 21.30 lakh. Besides, interest of ₹ 4.53 lakh was also leviable.

Audit reported the matter to the Department and the Government in August 2012, but has not received any reply.

2.22 Irregular claim of exemption on stock transfer

Under Section 86(10) of the DVAT Act 2004, a person who furnishes a return under the Act, which is false, misleading, or deceptive in a material particular or omits from it any matter or thing without which the return is false, misleading in a material particular, shall be liable to pay, by way of penalty, a sum of ₹ 10,000 or the amount of tax deficiency, whichever is greater. In addition, interest on tax at the rate of 15 per cent per annum computed on daily basis is also leviable.

Audit noticed during the test check of the records of ward No.75 of DTT between April 2011 and March 2012 relating to the assessment year 2009-10 that the dealer had shown nil amount of transaction against stock transfer in DVAT-51 whereas as per DVAT-16 (return) the same was shown as ₹ 1.90 crore. This resulted in excess claim of stock transfer of ₹ 1.90 crore with consequent short payment of tax of ₹ 7.60 lakh. Besides, interest of ₹ 2.38 lakh and penalty of ₹ 7.60 lakh were also leviable.

Audit reported the matter to the Department and the Government in August 2012, but has not received any reply.

2.23 Irregular claim of refund through revised return

Section 28 of the DVAT Act, 2004 and Rule 29 made there under stipulate that, if, within four years of the making of an assessment, any person discovers a mistake or error in any of the returns filed by him under this Act and he has as a result of the mistake or error paid more tax than was due under this Act, he may lodge an objection against the assessment in the manner and subject to the conditions stipulated under Section 74 of the Act.

Audit noticed during the test check of the records of four wards¹¹ of DTT between April 2011 and March 2012 that in five cases relating to the assessment year 2009-10, the dealers revised the returns subsequently and increased the refund amount or reduced tax demand without lodging an objection against the assessment in accordance with the section 74 of the Act, which was irregular. The assessing authority did not scrutinize the returns of the dealers to disallow such reductions of tax demand or increased refunds claimed by the dealers in the revised returns. This resulted in incorrect allowance of claims of refund amounting to ₹ 16.01 lakh with consequent

¹⁰ Ward Nos. 15, 33 and 53

¹¹ Ward Nos. 74, 96, 97 and 98

short payment of tax to that extent. Besides, interest of ₹ 6.81 lakh and penalty of ₹ 16.01 lakh were also leviable.

Audit reported the matter to the Department and the Government in August 2012, but has not received any reply.

2.24 Short payment of tax

Under the DVAT Act, a person is entitled to rectify a mistake or error, within four years of submission of returns to the Department under the Act by revising the return voluntarily and paying tax, interest and reduced penalty thereon. Otherwise, short payment of tax attracts penalty at the rate of one *per cent* of the tax deficiency per week or ₹ 100 per week for the period of default, whichever is higher and interest computed thereon on daily basis @ 15 *per cent* per annum.

Audit noticed during the test check of the records of ward-92 of DTT between April 2011 and March 2012 that in one case relating to the assessment year 2009-10, the dealer incorrectly computed his tax liability aggregating to ₹ 4.75 lakh as against correct amount of ₹ 10.87 lakh. The Assessing Authority did not scrutinise the returns to ascertain the correctness of the payment of tax. This resulted in short payment of tax of ₹ 6.12 lakh. Besides, interest of ₹ 1.92 lakh and penalty of ₹ 6.67 lakh were also leviable.

Audit reported the matter to the Department and the Government in August 2012, but has not received any reply.