

Chapter-II Commercial Tax

2.1 Tax administration

Sales Tax/Value Added Tax Laws and Rules framed thereunder are administered at the Government level by the Principal Secretary (Excise and Taxation). The Commercial Tax Department (CTD) functions under overall control of the Commissioner of Commercial Tax (CCT) assisted by a Director. The Department is divided in four zones, each headed by a Zonal Additional Commissioner. Each zone comprises divisional offices headed by 15 divisional Deputy Commissioners (DCs). Under these divisions, there are 80 Circle offices and 33 Regional assistant commissioner offices headed by the Commercial Tax Officers/Assistant Commissioners (CTOs/ACs).

2.2 Internal Audit

Internal audit is a vital component of the internal control mechanism and is intended to provide reasonable assurance of proper enforcement of laws, Rules and departmental instructions. This also helps in creation of reliable financial and management information system for prompt and efficient services and for adequate safeguards against evasion of tax, prevention of excess refund and other irregularities. Audit scrutiny however revealed that, mechanism of internal audit of CTD, including the aspect of safeguards against evasion of tax, prevention of excess refund and Input Tax Rebate (ITR) was absent indicating a wide gap in the internal control framework.

2.3 Results of audit

Test check of the records of 121 units involving total revenue ₹ 11,493.59 crore out of 133 units relating to Commercial Tax during the year 2013-14 revealed underassessment of tax and other irregularities involving ₹ 161.73 crore in 863 cases, which fall under the following categories in the **Table-2.1**.

Table - 2.1

Sl. No.	Categories	₹ in crore)	
		No. of cases	Amount
1.	Performance Audit on “Rebate of input Tax under Section 14 of MP VAT Act, 2002”	1	58.84
2.	Non/Short levy of tax	236	24.88
3.	Application of incorrect rate of tax	181	8.09
4.	Incorrect determination of taxable turnover	97	12.42
5.	Incorrect grant of exemption/deduction	129	25.08
6.	Other irregularities	219	32.42
	Total	863	161.73

During the course of the year, the Department accepted underassessment of tax and other irregularities of ₹ 6.48 crore in 262 cases, which were pointed out in audit during the year 2013-14 and reported realisation of ₹ 12.00 lakh in 17 cases.

A Performance Audit on “**Rebate of Input Tax under Section 14 of MP VAT Act, 2002**” having money value of ₹ 58.84 crore and few illustrative cases involving ₹ 15.22 crore are discussed in the following paragraphs:

2.4 Performance Audit on “Rebate of Input Tax under Section 14 of MP VAT Act, 2002”

Highlights

Irregular allowance of Input Tax Rebate (ITR) of ₹ 16.97 crore in 115 cases due to absence of provisions in MP VAT Act and Rules, violation of provisions of the Act and deficiencies in the system of grant of ITR.

(Paragraph 2.4.8.1 to 2.4.8.4)

Assessing Authorities failed to abide by the instructions and accepted/allowed the claimed ITR of ₹ 3.69 crore in six cases of six dealers without verifying it with reference to details of purchases.

(Paragraph 2.4.8.5)

Inadmissible ITR of ₹ 2.28 crore in 28 cases of 26 dealers without filing the returns by these dealers as required under Section 14 (i) of MP VAT Act.

(Paragraph 2.4.8.6)

Acceptance/allowance of ITR of ₹ 29.18 crore in 78 cases of 77 dealers in absence of purchase bills/purchase details/purchase lists.

(Paragraph 2.4.9)

Carry forward ITR of ₹ 1.81 crore of previous year in 19 cases of 19 dealers was irregularly adjusted in the tax levied in current year though no carry forward ITR was claimed by the dealers in their first return.

(Paragraph 2.4.10.1)

Irregular acceptance/allowance of ITR of ₹ 2.40 crore in 13 cases of 13 dealers on the purchase of goods not eligible for ITR under Section 14 (6) of MP VAT Act.

(Paragraph 2.4.11.1 to 2.4.11.3)

Inadmissible ITR of ₹ 38.65 lakh in 13 cases of 13 dealers on sale of tax free goods obtained as co-product in manufacturing process.

(Paragraph 2.4.11.4)

Irregular acceptance of ITR of ₹ 1.34 crore in nine cases of nine dealers in the event of the goods/stock transferred out of State otherwise than by way of sale.

(Paragraph 2.4.11.5)

2.4.1 Introduction

With a view to bring more efficiency in the tax administration, equal opportunity of competition amongst the dealers & fairness in the taxation system, a multiple points of taxation, Value Added Tax (VAT) was introduced (2006) in Madhya Pradesh. Input Tax Rebate (ITR) is one of the vital components of Value Added Tax (VAT) environment of tax administration.

Input Tax Rebate mechanism

The governing provisions of ITR are contained in the Section 14 of the Madhya Pradesh VAT Act, 2002 (Act) and the Rules made thereunder. The Act governs the levy and collection of VAT in Madhya Pradesh at every point of sale. Goods pass through various stages in the manufacturing and distribution chain till they

reach the consumer. At each stage, some value is added. VAT is a multipoint tax with the provision for granting setoff or rebate for the tax paid on the purchases against the tax payable on sales. A registered dealer collects VAT from the purchasing dealer during sale of taxable goods within the State of Madhya Pradesh. Such registered purchasing dealer becomes eligible for rebate for the Tax already paid, called Input Tax Rebate. The Input Tax Rebate is given for both the manufacturers as well as traders for purchase of inputs/supplies from within the State irrespective of when ITR will be utilized. The tax paid on input procured from outside the State is not eligible for ITR.

The ITR is a set-off against the total tax liability on sales for the relevant period. The unadjusted ITR can be carried forward for two years and thereafter, will be refunded to the dealer.

2.4.2 Organisational Setup

The Principal Secretary, Commercial Tax Department (CTD) is the administrative head of the Department at the apex level. The Commissioner of Commercial Tax is the head of the Department. The Commercial Tax Department functions under overall control of the Commissioner of Commercial Tax, assisted by a Director, Additional Commissioners, Deputy Commissioners (DC), Assistant Commissioners (AC), Commercial Tax Officers (CTO), Assistant Commercial Tax Officers (ACTO) and Inspectors of Commercial Tax in performance of such functions as may be assigned to them under the Act.

2.4.3 Scope of audit and methodology

The Performance Audit (PA) covering a period of five years from 2009-10 to 2013-14, was carried out (January 2014 to July 2014) for the assessments done by the Assessing Authorities¹ (AAs) between 1 April 2012 and 31 March 2014, **43 units²** out of total 121 units were selected on the basis of Random Sampling Method. A total of 4,320 cases (i.e. 100 *per cent*) were scrutinised in the course of audit. An Entry Conference was held (February 2014) with the Commissioner, Commercial Tax in which the executive was informed about the selection of units as well as scope and methodology of the Performance Audit. The draft Performance Audit was forwarded to the Government and Department in August 2014 and discussed with the Commissioner, Commercial Tax Department in the exit conference held in October 2014. The views of the Department have been suitably incorporated in the Performance Audit.

2.4.4 Audit Objectives

Performance of the Department was assessed with a view to ascertain:

- Whether the system of claim of ITR with reference to the provisions of Section 14 of MP VAT Act, 2002, and its allowance was effective and efficient to enable proper verification of the VAT paid and ITR claimed;
- Whether the Rules, procedures prescribed in the Act, and directives of the higher authorities for submission of returns and cross verification of the

¹ The DC, AC, CTO and ACTO have been vested with the power of assessments

² **Circle offices (24):** Bhopal (2), Burhanpur, Dewas, Dhar, Gwalior(02), Indore(05), Jabalpur(02), Katni, Khandwa, Mandideep, Morena, Narsinghpur, Neemuch, Pithampur, Sagar, Sendhwa, Waidhan.

Regional offices (8): Bhopal (02), Dewas, Khandwa, Sagar (02), Satna, Ujjain.
Divisional offices (11): Bhopal(03), Chhindwara, Gwalior(1), Indore(03), Satna, Sagar and Ujjain.

- purchase details with selling dealers for verifying the claims of ITR and its allowance, were scrupulously followed; and
- Whether adequate internal control and monitoring mechanism exist for cross verification of sales and purchase for verifying the claims of ITR and its allowance to prevent loss or leakage of revenue in the form of ITR.

2.4.5 Audit Criteria

The audit findings are based on the following criteria;

- MP VAT Act, 2002,
- Rules and instructions, Circulars/exemption notification issued by the State Government.

2.4.6 Acknowledgment

The Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Tax Department in appointing a nodal officer for providing necessary information and records for the purpose of Performance Audit. This report has been prepared after discussions with the Department.

2.4.7 Trend of revenue

Actual receipt under Central Sales Tax (CST) and VAT along-with the tax receipts during the year 2009-10 to 2013-14, is exhibited in following **Table-2.2**.

Table - 2.2

(₹ in crore)					
Year	Receipts under CST	VAT	Total	ITR Claimed during the year	ITR allowed during the year
2009-10	569.99	7,153.83	7,723.82	The Department despite being requested did not furnish the information of ITR claimed and allowed.	
2010-11	682.72	9,574.04	10,256.76		
2011-12	871.98	11,644.75	12,516.73		
2012-13	857.22	13,999.07	14,856.29		
2013-14	943.48	15,549.89	16,493.37		
Total	3,925.39	57,921.58	61,846.97		

(Source:-Information provided by CTD)

Consolidated information on ITR claimed and allowed was not available with the Department. Therefore, comparative analysis of the revenue with respect to ITR claimed, allowed and carried forward to the next year for further adjustment could not be carried out. Further, the Department could not figure out the total liability of the Government in shape of carried forward ITR.

It was stated (October 2014) that instructions have been issued to the AAs concerned for compilation/providing the requisite information.

The Government/Department should ensure year wise compilation of consolidated database, having details of claimed, allowed and carried forward ITR.

Audit Observation

The Performance Audit revealed a number of deficiencies in the system and compliance and also in the provisions of the Act and Rules. Some of the important points are discussed in succeeding paragraphs:

2.4.8 Deficiencies in MP VAT Act and the Rules regarding ITR

During Performance Audit we observed absence of certain provisions in MP VAT Act and Rules, violation of provisions of the Act and deficiencies in the system of grant of ITR in 115 cases out of total 2,303 cases assessed between April 2012 and March 2014 for the period 2008-09 to 2011-12. ITR of ₹ 16.97 crore was allowed by the Department due to such deficiencies in MP VAT Act and the Rules/violation of the provision as discussed in subsequent paragraphs and detailed in **Annexure I**.

2.4.8.1 Inconsistencies in Form 10

Rule 21, 22 & 23 of MP VAT Rules (chapter VI) provide that every registered dealer shall furnish to the appropriate CTO for each quarter, a quarterly return in Form 10.

Format of quarterly return in Form-10 does not have column to accommodate name of commodity to enable proper verification of the VAT paid and ITR claimed. We observed that ITR in all the cases was accepted without this basic detail.

During the exit conference (October 2014), the Department stated that the mentioning of name of the commodity in the return is optional as per Rules.

Reply of the Department confirms that in audit period format of quarterly return in Form-10 did not have such column. Further as per the VAT Act, the ITR is allowed on the commodity therefore, return should mention the name of commodity to enable proper verification of the VAT paid and ITR claimed. However mentioning the name of the commodity in the return in Form-10 was made optional by the Department in April 2014.

The Department should consider amending the format of the quarterly return to accommodate the name of the commodity also to enable proper verification of the VAT paid and ITR claimed.

2.4.8.2 Inadequate provision to verify the accuracy for purchases below ₹ 25,000/40,000

As per the provisions of Section 14 of the Madhya Pradesh VAT Act, Rules made thereunder and CCT's instructions for claim of ITR of dealer has to be verified with reference to the details of purchase and the purchaser is required to give dealer-wise details of purchases, if the total value of purchases from a dealer exceeded ₹ 25,000.

From 01 April 2013, provision regarding sales and purchases has been further amended to necessitate declaration of dealer wise details only in respect of transactions of ₹ 40,000 and above in the returns in order to claim ITR.

The purchasing dealer would be allowed ITR on purchases, which would be adjustable/refundable against the taxes payable on the output. As the details of taxes collected from all the suppliers in the value addition chain would be available only in respect of sale/purchases of the value of ₹ 25,000/40,000 and

above, it would not be possible for the Department to verify the accuracy of all the input tax rebates claimed by the dealers. Thus, under the existing arrangement, the Department is bound to allow ITR, without actually being able to verify collection of the input tax in respect of all the transactions.

In order to ensure that the ITR is granted only against tax collected, it may be necessary that the purchasing dealers are allowed ITR only when such transaction is verified with the sales declared by the selling dealer. It was also observed that there was no centralised data of all transaction, considering the number of dealers that could form part of the supply chain. A centralised data of all the transactions of sale and purchase involving levy and collection of tax would have enabled the verification of tax collected before ITR is allowed.

During Performance Audit, we observed that in instant cases ITR of ₹ 16.61 lakh was allowed by the Department without verification of purchases which were less than ₹ 25,000/40,000 due to inadequate provision of the Act.

During the exit conference (October 2014), the Department agreed to the fact and stated that modification has been made (April 2014) in the Value Added Tax Information System (VATIS), the IT system to capture the transactions of all sale and purchases before allowing ITR.

The Department should ensure proper implementation of changes in module enabling proper verification of grant of ITR, irrespective of monetary limit, only against taxes collected.

2.4.8.3 Absence of mechanism for ensuring every purchase of ₹ 40,000 and above were made through crossed cheque

According to Section 14(6)(VII) of Madhya Pradesh VAT Act, ITR shall not be allowed in respect of goods, where the amount of bill, invoice or cash memorandum exceeds ₹ 40,000, and any payment of which has not been made by the crossed cheque.

We observed that though it is provided in the Act, yet there is no system in the Department for ensuring that payment of every purchase of ₹ 40,000 and above is made through crossed cheque. This resulted in allowance of ITR in instant cases, where every single purchase was ₹ 40,000 and above, however Department did not ensure that payment was made through crossed cheque.

During the exit conference (October 2014), the Department agreed to the fact and stated that the weakness would be overcome through computer based module.

2.4.8.4 Absence of mechanism for cross verification of sales and purchases

As per the provisions contained in the Act (Section 14 of the Act read with Rule 9 of MP VAT Rules, 2006) and also in compliance of the circulars issued by the CTD from time to time, the cross verification of sales and purchases, and verification of ITR is required to be done.

We reviewed the system of cross verification of sales and verification of ITR and observed that the Department introduced but could not pursue implementation of the system of cross verification of sales and verification of ITR.

During Performance Audit we observed that ITR of ₹ 16.97 crore in 115 cases as detailed in **Annexure I**, was allowed by the Department, ignoring the

provisions of the Act, in which cross verification of sales and verification of ITR was not carried out.

During exit conference (October 2014), the CCT agreed with the concern and stated that the tax compliance is being fully computerised and such deficiencies related to ITR verification are being rectified through computerised modules. **Department should introduce a mechanism for cross-linking/verification of every purchase details with respect to selling details.**

2.4.8.5 Non verification and allowance of ITR defying instructions to verify it before allowance

As per the instructions of the higher authorities issued to the Assessing Authorities the claim of ITR was required to be verified before accepting/allowing in certain cases.

We observed, in one Division office, one Regional office and three Circle offices in six cases of six dealers out of total six cases, assessed between January 2013 and July 2014 for the period 2010-11 to 2011-12, that the higher authorities clearly instructed the AAs to verify the claim of ITR before accepting/allowing it. In the instant cases, the AAs failed to abide by the instructions and accepted/allowed the claimed ITR without verifying it with reference to details of purchases. This resulted in irregular allowance of ITR of ₹ 3.69 crore as detailed in **Table-2.3**.

Table - 2.3

(₹ in lakh)					
Sl No	Detail of Unit	Dealer, TIN, Case No.	Period /Month of assessment	Amount of ITR claimed and accepted	Amount of ITR objected
1	2	3	4	5	6
1	CTO circle Sagar	M/s Badkul hardware Store Sagar 23657401775 CS000052142 (7 /2013) (Section 21)	2010-11 22.07.13	10.64	10.64
2	CTO circle 3 Bhopal	M/s Bhagvati & Company Bhopal 23103803038 409/12 VAT	2011-12 04.01.14	1.37	1.37
3	RAC Dn 1 Bhopal	M/s Rajaya Sahkari Upbhokata Sangh Bhopal 23099004011 179/11 VAT	2010-11 17.07.13	124.54	124.54
4	CTO circle-II Katni	M/s Battolal Mohanlal Nitrate Pvt. Ltd. 23656204407, Self assessed	2010-11	0.98	0.98
5	DC Satna	M/s Kamal Steel & Power Ltd Satna 23697002889 VAT 10/2010	2010-11 30.06.2013	11.81	10.04
6	DC Satna	M/s Northan Coal field Nigahi Project Singrauli 23507300638 33/11VAT	2010-11 16.01.2013	797.02	221.52
Total				946.36	369.09

During the exit conference (October 2014), the Department accepted the facts and assured that appropriate action will be taken up.

2.4.8.6 ITR allowed though no returns were filed by the dealers

Any claim in respect of ITR that may be made by a registered dealer under Sub-Section (1) of Section 14, shall be qualified by a bill, invoice or cash memorandum issued by the selling registered dealer indicating therein separately the amount of tax under Section 9 collected by him. Any such claim in respect of the input tax rebate shall be made by such registered dealer in his return in **Form 10**.

We observed, in one Division office³ and eight Circle Offices⁴, in 28 cases of 26 dealers out of total 1159 cases, assessed between April 2010 and September 2013 for the period 2008-09 to 2010-11, that the AAs incorrectly allowed ITR amounting to ₹ 2.28 crore in these cases, in which no return was filed by the dealer. This resulted in irregular allowance of ITR as detailed in **Annexure II**.

During the exit conference (October 2014), the Department took the matter seriously and stated that appropriate action will be taken up.

The Department should consider putting in place stringent penal measures for non-submission of returns within the prescribed time frame.

2.4.9 Acceptance of ITR in absence of purchase details

Any claim in respect of input tax rebate that may be made by a registered dealer under Sub-Section (1) of Section 14, shall be qualified by a bill, invoice or cash memorandum issued by the selling registered dealer indicating therein separately the amount of tax under Section 9 collected by him. Any such claim in respect of the input tax rebate shall be made by such registered dealer in his return in Form 10. No such claim shall be made or be allowed if the said bill, invoice or cash memorandum does not indicate separately the amount of tax under Section 9 collected by the selling registered dealer and as per Section 21(2) of the Act, dealer is liable to pay penalty not less than three times of tax re-assessed. Further ITR should be allowed to the dealers after due verification of returns submitted by them and purchases shown in certified audited accounts.

2.4.9.1 Acceptance of ITR even if the VAT was not charged separately in the bill

We observed in one Division office⁵, two Regional offices⁶ and eight Circle offices⁷ in 15 cases of 14 dealers out of total 1,320 cases, that tax amounting to ₹ 4.10 crore was not charged separately in the purchase bills, and still the dealer was allowed to avail the ITR. This resulted in irregular claim/acceptance and allowance of ITR of ₹ 6.20 crore including penalty of ₹ 2.10 crore as detailed in **Annexure III**.

During the exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

³ Sagar
⁴ Bhopal-III, Indore-(2), Khandwa, , Morena, , Pithampur, Sagar and Sendhawa
⁵ Tax Audit wing Bhopal

⁶ Dewas and Satna
⁷ Bhopal-V, Burhanpur, Dhar, Indore-X, Jabalpur-II Mandideep, Narsinghpur and Sagar.

2.4.9.2 Irregular grant of ITR in the absence of purchase list/bills

We observed in, one Regional Office⁸ and three Circle offices⁹, in 32 cases of 32 dealers out of total 466 cases, assessed between February 2012 and March 2014 for the period 2009-10 to 2012-13, that in clear disregard to the aforesaid provision, ITR of ₹ 20.71 crore was accepted/allowed to the dealers in the absence of purchase list/bills. Details have been shown in **Annexure IV**.

During exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

2.4.9.3 ITR allowed on the purchase not shown in the return

We observed in Jabalpur Circle-II office in two cases of two dealers out of total 36 cases that the AAs allowed ITR of ₹ 4.03 lakh for the purchases which were not substantiated by the relevant returns as the relevant returns were nil, consequently resulted in irregular acceptance and allowance of ITR of ₹ 6.54 lakh including penalty of ₹ 2.51 lakh thereon as detailed in **Table-2.4**

Table - 2.4

(₹ in lakh)						
Sl no	Detail of Unit	Dealer, TIN, Case No.	Period /Month of assessment	Total Amount of ITR claimed (accepted)	Amount of ITR objected/	Amount of penalty as per Section 21 of the Act
1	CTO, Circle-II Jabalpur	M/s Keshav Traders Jabalpur, 23415905100 727/09 VAT	2008-09 21.4.11	1.25	0.84	2.51
2	CTO Circle-II, Jabalpur	M/s Khilwani Brothers, Jabalpur, 23055902388 156/10 VAT	2009-10 22.11.11	7.24	3.19	0
Total				8.49	4.03	2.51

During exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

2.4.9.4 Irregular grant of ITR on previous years purchases

We observed in two Regional offices and one circle office, in three cases of three dealers out of total 365 cases, assessed between March 2013 to August 2013, for the period 2010-11, that the dealers were allowed inadmissible ITR of ₹ 0.69 lakh on previous years purchases. This resulted in irregular claim and acceptance of ITR of ₹ 2.78 lakh including penalty of ₹ 2.08 lakh thereon as detailed in the following **Table-2.5**.

⁸ Bhopal-I,

⁹ Dhar, Indore XIII, Jabalpur II

Table - 2.5

(₹ in lakh)							
S. No	Detail of Unit	Name of Dealer, TIN, Case No.	Period /Month of assessment	Amount of total ITR claimed	Amount of Irregular ITR accepted	Amount of penalty as per Section 21 of the Act	Amount of additional demand
1	RAC Khandwa	M/s Fatehguru Govind singh & company 23271908001 323/11 VAT	2010-11 14.08.2013	0	0.25	0.74	0.99
2	RAC Sagar	M/s Gandhi Refractorie s, 23627802353,19 3/11 (VAT)	2010-11 23.03.2013	1.52	0.23	0.68	0.91
3	CTO Circle 2, Gwalior	M/s Naman, Gwalior, 231935404197, CS00063609 (VAT)	2010-11/ 09.7.2013	136.64	0.22	0.66	0.88
Total				138.16	0.70	2.08	2.78

During exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

2.4.9.5 Excess amount of ITR allowed with respect to claimed ITR

We observed in one Divisional Office¹⁰ and eight circle offices¹¹ in 13 cases of 13 dealers out of 1334 cases, assessed between September 2011 and September 2013 for the period 2009-10 to 2011-12, that even though the total of ITR claimed by all the dealers was ₹ 7.35 crore yet the dealers were allowed ITR of ₹ 7.70 crore resulting in excess allowance of ITR of ₹ 35.20 lakh as detailed in **Annexure V**. The additional demand in these cases was ₹ 1.21 crore including penalty thereon ₹ 85.80 lakh.

During the exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

2.4.9.6 Grant of excess ITR on the purchases beyond certified purchases

We observed in two Regional Offices¹² and five Circle Offices¹³ in 10 cases of 10 dealers out of total 836 cases, assessed between June 2011 and September 2013 for the period 2008-09 to 2010-11, that as per the purchases certified in audited accounts, the dealers were eligible for ITR of ₹ 2.34 crore. However the dealers incorrectly claimed and AAs allowed ITR of ₹ 2.56 crore thus resulting in excess grant of ITR with reference to certified purchases of audited account of ₹ 22.00 lakh and consequently penalty of ₹ 61.67 lakh thereon as detailed in **Annexure VI**.

During exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

¹⁰ Indore-I

¹¹ Bhopal-III & V, Dhar, Gwalior-II, Jabalpur-II, Indore-X & XI and Waidhan

¹² Bhopal-II and Khandwa,

¹³ Indore-10, Jabapur-II, Narsinghpur, Pithampur and Sagar,

2.4.9.7 Irregular grant of ITR on discount on purchases/purchase return

We observed in three cases of three dealers out of total 346 cases, assessed between April 2013 and August 2013, for the period 2009-10 to 2010-11, that AA incorrectly allowed ITR on gross purchase without deducting discount on purchase and purchase return. This resulted in irregular grant and acceptance of ITR of ₹ six lakh and penalty of ₹ 7.56 lakh thereon as detailed in the following Table 2.6.

Table - 2.6

(₹ in lakh)							
Sl. No	Detail of Unit	Name of Dealer, TIN, Case No.	Period /Date of assessment	Amount of ITR claimed/ accepted	Amount of ITR objected	Amount of Penalty as per the provisions of Section 21	Amount of Proposed Additional demand ITR
1	CTO Circle Narsinghpur	M/s New Taz Agencies, Narsinghpur, 23406404089 77/2010	2009-10 29.6.2013	10.83	0.57	0	0.57
2	CTO circle 2, Gwalior	M/s Pramod Agency, 23355205375 , CS000053645	2010-11 26.4.2013	36.13	2.91	0	2.91
3	CTO Circle 5, Bhopal	M/s Balaji Distributor, 23034005564, 727/11	2010-11 6.8.2013	125.18	2.52	7.56	10.08
Total				172.14	6.00	7.56	13.56

During exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

The Government/Department should ensure that purchase details are properly authenticated/ substantiated by the documents and should comply with the audited accounts before accepting claims related to ITR.

2.4.10 Irregular acceptance and adjustment of ITR

As per Section 14 (3) of MP VAT Act 2002, the input tax rebate by a registered dealer under Sub-Section (1) shall be adjusted in such manner as may be prescribed towards the tax payable by him under this act or under the Central Sales Tax Act, 1956 and the difference, if any, shall be carried over for adjustment towards tax payable in the subsequent year. Further Rule 9 of MP VAT Rules, 2006, provides that any claim in respect of ITR shall be made by the dealers in his return in Form-10. Further as per Section 21(2) of the Act, dealer is liable to pay penalty not less than three times of tax re-assessed.

2.4.10.1 Irregular acceptance and adjustment of carried forward ITR from previous year

We observed in two Division offices¹⁴, one Regional office¹⁵ and seven Circle Offices¹⁶, in 19 cases of 19 dealers out of total 1109 cases, carried forward ITR

¹⁴ Indore-I and Khandwa

¹⁵ Dewas

¹⁶ Bhopal-I, Gwalior-II, Indore-XIII, Indore-XIV, Jabalpur-I, Morena and Waidhan.

of previous year was adjusted in the tax levied in current year, though the ITR was not claimed by the dealers in their first return. This resulted in irregular adjustment of carried forward ITR of ₹ 61.56 lakh. An additional demand of ₹ 1.81 crore was worked out including penalty of ₹ 1.19 crore as detailed in **Annexure VII**.

During exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

2.4.10.2 Irregular carry forward of ITR to next year with respect to return

We observed in one Division office¹⁷, one Regional office¹⁸ and five Circle Offices¹⁹ in 11 cases of 11 dealers of selected units out of total 820 cases, assessed for the period 2009-10 to 2011-12, that the assessed carried forward ITR for next year was ₹ 42.58 lakh by the AA. However carried forward amount of ITR by the dealers in their IVth quarterly return were ₹ 7.31 lakh only. This resulted in irregular carry forward of ITR by the AA of ₹ 36.24 lakh. An additional demand of ₹ 54.83 lakh was worked out including penalty of ₹ 18.59 lakh as detailed in **Annexure VIII**.

During exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

2.4.10.3 Double benefit of ITR

We observed in two circle offices in two cases of two dealers out of total 117 cases for the years 2009-10 to 2010-11 assessed between May 2012 and September 2013, that during assessment of VAT cases the AA has carried forward the unadjusted ITR for next year and no ITR was available for adjustment in CST cases.

It was further observed that there was demand in CST case which was irregularly adjusted from such carried forward ITR of VAT cases, resulting in double benefits of ITR amounting to ₹ six lakh to the dealers by the AAs as detailed in the following **Table 2.7**.

Table - 2.7

(₹ in lakh)							
Sl. No	Detail of Unit	Name of Dealer, TIN, Case No.	Period /Date of assessment	Amount of ITR allowed	Amount of ITR transferred to Central Cases from State cases	Amount of ITR adjusted in central cases	Irregular adjust-ment of ITR
1	CTO Circle-I Jabalpur	M/s Sunpet Pack, Pvt. Ltd. Jabalpur 23426003980 102/2011 CS0000000067222 (CST) CS0000000067221(State)	2010-11 25.9.2013	11.40	0	5.52	5.52
2	CTO Circle Neemuch	M/s Surajmal Chandmal Neemuch 23183203146 491/2010 VAT	2009-10 25.5.2012	0.80	0	0.48	0.48
Total				12.20	0	6.00	6.00

¹⁷ Indore-I,

¹⁸ Dewas

¹⁹ Bhopal V, Gwalior-II & III, Indore-XI and Mandideep.

During exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

Government/Department should consider strict adherence to the provision of the Act viz. claims of ITR of the dealers should be preferred through returns.

2.4.11 Irregular acceptance of ITR on the purchase of goods not eligible for ITR

2.4.11.1 Irregular acceptance of ITR on *Tendupatta*

According to Section 14 of the MP VAT Act, 2002, where a registered dealer purchased any goods specified in Schedule II of the Act other than those specified in Part III of the said Schedule, from another registered dealer after payment of Input Tax, he shall be allowed ITR of the amount of such input tax.

Tendupatta being enumerated at entry no.5 of Part III of schedule II of the Act, is not eligible for ITR.

We observed in four cases of four dealers out of total 208 cases assessed between February 2012 to December 2013 for the period 2009-10 to 2011-12, that ITR amounting to ₹ 1.38 crore was irregularly accepted by the AAs for purchase of *Tendupatta* which is not eligible for ITR. This resulted in irregular acceptance of ITR of ₹ 1.38 crore as detailed in **Annexure IX**.

During exit conference (October 2014), the Department accepted the facts and stated that appropriate action will be taken up.

2.4.11.2 Irregular acceptance of ITR on Soyabean and Cotton

Section 26-A (4) of the MP VAT Act, 2002, provide that no ITR shall be claimed or be allowed in respect of goods notified at Tax Deducted at Source (TDS) under Sub-Section (1) of the said Section. Mustard, Soyabean have been notified for TDS under the provision of aforesaid Sub-Section by the notification dated 4 January 2008 and Cotton by the notification dated 3 August 2008.

We observed in four cases of four dealers out of total 708 cases that ITR of ₹ 21.50 lakh was claimed and accepted by the Department on purchase of Soyabean and Cotton, resulting in irregular acceptance/allowance of ITR of ₹ 85.01 lakh including penalty of ₹ 63.76 lakh as detailed in **Annexure IX**.

During the exit conference (October 2014) Department accepted the fact and stated that the appropriate action will be taken up.

2.4.11.3 Irregular acceptance of ITR on Sand, Metal, Plant & Machinery

As per the provisions contained in Section 14 (6) (ix) of the Act no ITR shall be claimed or be allowed in respect of goods notified under Section 9-A. Sand & Metal (*Gitti*) have been notified for the purpose of Section 9-A of the Act vide notification no. (35) dated 27.01.2010. Further, as per provisions of Notification no.A-3-95-05-1-V (28) dated 17 August 2007 issued under Section 14(6) (vi) of the Madhya Pradesh VAT Act, notified goods viz. building material, office furniture, equipments and parts thereof are not eligible for ITR.

In five cases of five dealers out of total 400 cases, ITR of ₹ 4.24 lakh was accepted and allowed by the Department for purchase of sand & metal and also

on purchases of notified goods viz. plant and machinery, resulting in irregular acceptance/allowance of ITR of ₹ 16.83 lakh including penalty of ₹ 12.74 lakh as detailed in **Annexure IX**.

During exit conference (October 2014), the Department accepted the facts and stated that appropriate action will be taken up.

2.4.11.4 Non reversal of ITR on sale of tax free goods obtained as co-product in manufacturing process

As per Section 14(1)(a)(5a) of the MP VAT Act 2002, where a registered dealer purchases any goods specified in Schedule-II of the Act, other than those specified in part-III of the said schedule, for consumption or use for/ in the manufacture or processing or packaging in connection with sale of goods declared tax free under Section 16 of the Act, he shall be allowed ITR of the amount of such input tax which is in excess of four *per cent* of the purchase price of such goods.

We observed in one regional office²⁰ and eight circle offices²¹ in 13 cases of 13 dealers out of total 768 cases, assessed between April 2010 to October 2013, for the period 2007-08 to 2010-11, that the dealers were allowed inadmissible ITR of ₹ 12 lakh on proportionate sale of tax free goods obtained as co-product in manufacturing process. This resulted in irregular claim and acceptance of ITR of ₹ 38.65 lakh including penalty of ₹ 26.65 lakh thereon as detailed in **Annexure X**.

During exit conference (October 2014), the Department stated that there are various judgments of the Hon'ble court in these matters and action would be taken after considering the factual position.

2.4.11.5 Non reversal / less reversal of ITR in the event of the goods stock transferred out of State

As per Section 14(1)(a)(6)(i) of the MP VAT Act 2002, where a registered dealer purchases any goods specified in Schedule II of the Act, other than those specified in part III of the said schedule, for use or consumption in the manufacture of other goods and the dealer has claimed and adjusted ITR towards the tax payable by him, in the event of disposal of the goods otherwise than by way of sale within the State of Madhya Pradesh or in the course of inter-State trade of commerce or in the course of export out of the territory of India, he shall be liable to pay the amount of ITR at the rate of four *per cent* of the purchase price or net of input tax of such goods , whichever is lower.

We observed in two divisional offices²², two regional offices²³, and three circle offices²⁴, in nine cases of nine dealers out of total 835 cases, assessed between June 2011 to April 2013, for the period 2009-10 to 2011-12, that the dealers were allowed inadmissible ITR of ₹ 34.47 lakh for the goods sold otherwise than by way of sale within the State, in the course of inter-State trade of commerce or in the course of export out of the territory of India. This resulted in

²⁰ Khandwa

²¹ Burhanpur, Dhar , Dewas & Jabalpur-I & II, Khandwa, Narsinghpur and Neemuch

²² Indore-I and Khandwa

²³ Satna and Sagar

²⁴ Indore-XIII, Jabalpur and Mandideep

irregular claim and acceptance of ITR of ₹ 1.34 crore including penalty of ₹ one crore thereon as detailed in **Annexure XI**.

During exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

2.4.12 Internal Control Mechanism

2.4.12.1 Internal Audit

Internal audit is a vital component of the internal control mechanism and is intended to provide reasonable assurance of proper enforcement of laws, rules and Departmental instructions. This also helps in creation of reliable financial and management information system for prompt and efficient services and for adequate safeguard against evasion of tax, prevention of excess refund and other irregularities. Apart from this, audit by Finance Department of the State, of the Department involving financial implications to the exchequer, is a vital tool of Internal Control Mechanism.

Audit scrutiny however revealed that, mechanism of internal audit of CTD, including the aspect of ITR was absent indicating a wide gap in the internal control framework.

During exit conference (October 2014), the Department accepted the facts regarding absence of separate Internal Audit Wing.

2.4.12.2 Deficiencies in ITR verification mechanism

As per the provision contained in Section 14 of the Act, a rebate of input tax shall be claimed by or be allowed to a registered dealer subject to such restriction and conditions as may be prescribed.

The Act has entrusted the Department with a vital assignment of verifying and accepting the ITR claimed by the dealers. The Department has to formulate and maintain an ITR verification mechanism to accomplish the entrusted assignment. However, the Department could not ensure proper implementation of ITR verification mechanism.

After we pointed out the Department stated that there was a separate ITR verification unit in the Department for sanction and verification of ITR in the cases of cash refund. On further audit query, the Department could not furnish any reply for verification of ITR in other cases in which ITR was carried forward for adjustment in subsequent years.

However, deficiencies in the compliance issues as discussed in the previous paragraphs establish the fact that the prevailing system in the Department is not credible enough to look properly into all the cases of ITR verification. Therefore reasonable assurance to the prescribed system and its functioning with respect to verification of ITR before its acceptance could not be ascertained in audit.

The Department stated (Feb 2014) that due to lack of staff, ITR verification as required could not be taken up.

However during exit conference (October 2014), the CCT agreed with the concern and stated that the tax compliance is being fully computerized and ITR verification is being carried out through computerized modules.

The Department should consider strengthening/establishing an Internal Audit Wing/ITR verification mechanism in the Department.

Conclusion

The Performance Audit revealed a number of compliance and system deficiencies leading to significant leakage in revenue due to irregular grant of ITR, as discussed in preceding paragraphs and requires top attention at the Government/Department level.

We conclude that:

- in the absence of consolidated information on ITR claimed and allowed, the Department could not figure out the total liability of the Government in the shape of carried forward ITR;
- format of quarterly return in Form-10 does not have column to accommodate name of commodity to enable proper verification of the VAT paid and ITR claimed;
- though the VAT Act provided for strict adherence to the provisions of the Act, mandatory submission of returns and cross verification of the purchase details with the selling dealers, the CTD had not put in place a foolproof mechanism to monitor the task; and
- Department slacked in implementation of credible and operational ITR verification mechanism, therefore Department could not adequately monitor ITR related issues.

2.5 Other Audit observations

We scrutinised the assessment records of Value added tax, Central sales tax, Entry tax etc. in the Commercial tax Department and found several cases of non-observance of the provisions of the Acts/Rules, non/short levy of tax/penalty/interest, incorrect application of rate of tax, incorrect deduction from taxable turnover, incorrect exemption and other cases as mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions on the part of the assessing authorities have been pointed out in earlier Audit Reports, but not only do these irregularities continue to persist; these remain undetected till audit is conducted. There is need for the Government to improve the internal control system so that such omissions can be avoided.

2.6 Application of incorrect rate of tax

The MP Value Added Tax (VAT) Act, read with the Central Sales Tax (CST) Act, and notifications issued thereunder specify the rates of VAT leviable on different commodities. Under the MP VAT Act, a dealer is liable to pay interest at the rate of 1.5 *per cent* per month under Section 18(4) (a), if he fails to pay tax payable by him according to the periodic returns and liable to pay penalty under Section 21(2) of the Act *ibid* at minimum three times but not exceeding 3.5 times of assessed tax where omission leading to assessment is attributable to dealer.

We test checked records such as assessment orders, audited accounts, returns, purchase list etc. between February 2011 and November 2013 in six divisional offices²⁵, five regional offices²⁶ and 15 circle offices²⁷ and found that in 40 cases of 33 dealers, assessed between March 2010 and June 2013 for the period 2007-08 to 2012-13, the Assessing Authorities (AAs) levied tax at incorrect rates on sale turnover of ₹ 57.01 crore. This resulted in short levy of tax of ₹ 5.05 crore including interest of ₹ 40,000 and penalty of ₹ 28.17 lakh. A few instances are mentioned in the **Table-2.8**.

Table - 2.8

(₹ in lakh)							
Sl. No.	Name of auditee unit	Assessment period Month of assessment	Name of commodity	Turn-over	Rate of tax applicable (per cent)	Rate of tax applied (per cent)	Amount of short levy of tax
1.	CTO-VI Indore	2009-10 June 2012	CRGO Lamination	124.50	12.5	4/5	9.70
2.	RAC-I Jabalpur	2008-09 June 2013	Mouth freshener	112.31	12.5	4	9.55
3.	CTO-XIII Indore	2010-11 June 2012	LPG/CNG Auto Cylinder/ kit	61.07	13	5	4.89

²⁵ Gwalior, Indore-Tax Audit A&B, Jabalpur Tax Audit, Satna and Satna Anti Evasion

²⁶ Gwalior (2), Guna, Jabalpur and Satna.

²⁷ Bhopal (2), Chhindwara, Gwalior (3), Hoshangabad, Indore (3), Itarasi, Katni, Mandideep, Seoni and Shivpuri.

After we pointed out the cases (between February 2011 and November 2013), the AAs in six cases²⁸ raised demand of ₹ 11.54 lakh (between January and May 2013). In 23 cases of 17 dealers, AAs agreed to take action after verification/examination.

In remaining 11 cases of 10 dealers, departmental replies and our comments thereon are in the **Table-2.9**.

Table - 2.9

(₹ in lakh)						
Sl. No.	Name of auditee unit/No. of dealers	Amount involved	Rate of tax applicable /applied	Commodity	Reply of the Department	Our comments
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	<u>DCCT Satna</u> 1	402.66	<u>12.5</u> 4	Explosive	The AA stated that explosive was used/ consumed by the dealer himself.	We do not agree with the reply in view of the assessment order and calculation sheet which clearly shows that explosive was supplied to contractor and VAT was collected thereon.
2	<u>CTO Hoshangabad</u> 1	15.79	<u>13</u> 5	Steel Structure	The AA stated that though the dealer was registered for civil work, fabrication and trading but in practice the dealer traded in iron angles and sections. Thus levied tax was correct as per Section 14(V) of CST	We do not agree with the reply as the dealer had sold Steel Structural which is liable to tax at the rate of 12.5 per cent as per decision ²⁹ given by the CCT MP.
3	<u>RAC Guna</u> 1	4.88	<u>12.5</u> 4	Cement	The AA stated that audit objection was raised on the basis of variation in sale figure between returns and assessment order. However, assessment was finalised on the basis of audited a/c, returns and considering the fact furnished at the time of assessment about the discrepancy in returns.	We do not agree with the reply as reasons of variation in figures and information of facts were not recorded in documents.
4	<u>CTO-II, Bhopal</u> 1	3.41	<u>12.5</u> 4	Electronic goods(Security and alarm system)	The AA stated that tax was levied at the rate of 12.5 per cent.	We do not agree with the reply as the dealer had sold goods valued ₹ 65.69 lakh and tax was levied at the rate of 12.5 per cent only on sale value ₹ 26.69 lakh.

²⁸ DC Anti Evasion Bureau Satna, Tax Audit Jabalpur, RAC Jabalpur(2) CTO Bhopal-II and Chhindwara.

²⁹ M/s Tung Bhadra Steel Products Pvt. Ltd. V/s CST MP (2005) 6 STJ 650 (M.P. Board)

(₹ in lakh)						
Sl. No.	Name of auditee unit/No. of dealers	Amount involved	Rate of tax applicable /applied	Commodity	Reply of the Department	Our comments
5	<u>CTO Itarsi</u> 1(2 cases) DCCT Tax Audit <u>Jabalpur</u> 1 CTO <u>Mandideep</u> 1	5.84	<u>13</u> 5	Tractors accessories	The AA, Itarsi and Jabalpur stated that tax was levied at the rate of five <i>per cent</i> under entry no.90 of part II of Schedule –II of the VAT Act, where as the AA Mandideep stated that sold goods was tractor parts and attachments.	We do not agree with the reply as tractor accessories is not covered under stated entry. Reply of the AA Mandideep is contrary to the facts available in documents such as trading account, form-49 and purchase list etc., which clearly established the sale of tractor accessories.
6	CTO-V, <u>Bhopal</u> 1	2.59	<u>12.5</u> 4	Cooked food	The AA, stated that the dealer had applied for composition and accordingly tax was levied.	We do not agree with the reply as the AA neither furnished any evidence in support of his statement nor any document relating to composition are available in the assessment file.
7	DCCT Anti Evasion Bureau <u>Indore</u> 1	1.36	<u>13</u> 5	Coir mattresses	The AA stated that goods was foam which is taxable at the rate of five <i>per cent</i> under entry no.76 A of part II of the Schedule II of the Act	We do not agree with the reply in view of the available documents such as audited accounts, purchase list, Form 49 etc, showed that the goods were coir mattresses.
8	DCCT Anti Evasion Bureau <u>Indore-B</u> 1	1.25	<u>13</u> 5	Commercial veneer	The AA stated that commercial veneer was covered under entry no 5 C of part II of the Schedule II of the Act .	We do not agree with the reply as commercial veneer is not covered under stated entry.

We reported the matter to the Government and the Department in May, 2014; their replies have not been received (December 2014).

2.7 Incorrect determination of turnover

According to Section 2 of the Madhya Pradesh *Vanijyik Kar Adhiniyam*, (Adhiniyam) 1994 and the Madhya Pradesh VAT Act, 2002 turnover in relation to any period means the aggregate of sale prices received or receivable by a dealer in respect of any sale or supply of goods made during that period, excluding the amount of sales return within the prescribed period. For the purpose of determining taxable turnover (TTO), the *Adhiniyam* and the Madhya Pradesh VAT Act provides for deduction from turnover the sale price of tax paid goods and the amount of tax, if included in the aggregate of sale prices. As per provisions contained under Section 2(v) (iii), discount at the time of sale as evident from the invoice shall be excluded from the sale price but any *ex post facto* grant of discount or incentives or rebate or rewards and the like shall not be excluded.

2.7.1 We test checked records such as assessment orders, audited accounts returns and purchase lists etc. between February 2012 and February 2014 in three divisional Offices³⁰, five regional³¹ and 18 circle offices³² and found that

³⁰ Tax Audit Wing Gwalior, Tax Audit Wing Indore and Jabalpur.

³¹ Gwalior, Indore, Sagar, Satna and Ujjain.

³² Balaghat, Betul, Chhatarpur, Chhindwara, Dewas, Gwalior Guna, Indore (2), Itarasi, Mandsore, Mandideep, Mandla, Narsighpur, Pithampur, Sagar, Satna and Ujjain.

in 34 cases of 33 dealers, assessed between April 2010 and March 2013 for the period 2007-08 to 2011-12, the AAs, while finalising the assessment, under determined the taxable turnover by ₹ 24.55 crore against the aggregate turnover of the dealers recorded in their audited books of accounts/sale list/ relevant records. Thus, turnover aggregating ₹ 24.55 crore was not assessed to tax and resulted in non-levy of tax of ₹ 3.14 crore including penalty of ₹ 81.76 lakh. A few instances are mentioned below in the **Table-2.10**.

Table - 2.10

Sl. No.	Name of auditee unit	Assessment period / month of audit	Our observation	Reply of the Department
1.	DCCT-II, Jabalpur	<u>2009-10</u> June 2012	The AA did not include sale value of plant & machinery and profit thereon in taxable turnover aggregating ₹ 3.36 crore. This resulted in under determination of taxable turnover and non levy of tax of ₹ 41.95 lakh.	The AA stated (May 2013) that action would be taken after verification.
2.	RAC Sagar	<u>2010-11</u> November 2012	The AA incorrectly determined the taxable turnover of <i>bidis</i> as ₹ 21.46 crore as against actual ₹ 24.79 crore mentioned in trading accounts. Thus, there was under determination of taxable turnover by ₹ 3.33 crore resulting non levy of tax of ₹ 15.87 lakh.	The AA stated (August 2013) that action would be taken after verification.
3.	DCCT Tax Audit Indore	<u>2010-11</u> June 2012	The AA while determining the taxable turnover of a dealer, did not consider other income of ₹ 92.88 lakh received on account of sale of <i>Rui bale</i> . Thus, under determination of taxable turnover to that extent resulted in non levy of tax ₹ 3.71 lakh.	The AA stated (October 2013) that action would be taken after verification.

After we pointed out the cases (between February 2012 and February 2014), the AA accepted three cases and raised additional demand of ₹ 23.27 lakh in two cases. In other 28 cases of 27 dealers, AAs stated (between March 2012 and February 2013) that action would be taken after verification/examination, while in the remaining three cases of three dealers, the reply of the AAs and our comments are as follows in the **Table 2.11**.

Table - 2.11

Sl. No.	Name of auditee unit	Period Month of assessment	Our observation in brief	Reply of the Department/ Our comments
(1)	(2)	(3)	(4)	(5)
1.	RAC – Satna	<u>2009-10</u> April 2012	The AA under determined taxable turnover by ₹ 8.73 crore which resulted in non levy of tax of ₹ 1.09 crore.	The AA stated that the dealer had submitted consolidated balance sheet/accounts in which sales of <i>Chhattisgarh</i> and <i>Jharkhand</i> were also included. Tax was levied only on sale turnover relating to MP. We do not agree with the reply as in audited accounts only purchases of MP State was included which proves that the sale turnover pertained to M.P only.

2.	CTO-I, Gwalior	2010-11 December 2012	The AA considered taxable turnover ₹ 1.28 crore instead of actual turnover ₹ 1.64 crore. Thus, under determination of taxable turnover by ₹ 36 lakh which resulted in non levy of tax of ₹ 3.24 lakh.	The AA stated that the tax was levied on sale mentioned in audited trading, profit and loss accounts. We do not agree as reply is contrary to the facts available in documents such as consolidated audited account. In audited accounts, ₹ 1.64 crore was recorded as turnover.
3.	CTO-II, Chhindwara	2010-11 February 2013	The AA incorrectly allowed deduction ₹ 14.54 lakh of credit note. This resulted in under determination of taxable turnover and non levy of tax ₹ 1.89 lakh.	The AA stated that dealer issued credit notes for price drops in invoice bills. We do not agree as it is contrary to the provisions, which strictly disallows exclusion of any <i>post facto</i> allowance of discounts, from the sale price.

2.7.2 Under Section 11-A of VAT Act and rules made thereunder, any registered dealer who carries on wholly or partly the business of supplying goods in the course of execution of works contract entered into by him, may be permitted to pay, in lieu of tax payable by him under the Act, a lump sum at such rate as may be prescribed. Under the rules, the amount to be paid in lump sum by way of composition shall be determined on the total monetary consideration received or receivable by the registered dealer in respect of works/supply executed under the above said contract.

We test checked records such as assessment order, receipts and payment accounts etc. in divisional office, Sagar in February 2014 and found that a composition dealer, assessed in June 2012 for the period 2009-10, had received total monetary consideration of ₹ 48.77 crore. However, the AA, while finalising the case, considered turnover as ₹ 41.50 crore by excluding the amount of CENVAT (Central Value Added Tax), Service Tax and VAT ₹ 7.38 crore. This under determination of turnover resulted in non levy of tax of ₹ 29.52 lakh at the prescribed rate of four *per cent*.

After we pointed out the case (February 2014), the AA stated that action would be taken after examination.

We reported the matter to the Government and the Department May 2014, their replies have not been received (December 2014).

2.8 Non/Short levy of Entry Tax

Under the *Madhya Pradesh Sthaniya Kshetra Me Mal Ke Pravesh Par Kar Adhiniyam*, 1976 and rules and notifications issued thereunder, Entry Tax (ET) is leviable at the specified rates on the goods entering into local area for consumption, use or sale therein. Under the *Adhiniyam* and the MP VAT Act, 2002, a dealer is liable to pay penalty where omission leading to assessment is attributable to dealers.

We test checked records such as assessment orders, audited accounts, purchase list, returns etc. between May 2010 and March 2014 in seven divisional offices³³, nine regional offices³⁴ and 20 circle offices³⁵ and found that in 49 cases of 48 dealers assessed/re-assessed between June 2009 and March 2013 for the period 2006-07 to 2011-12, ET on goods like iron & steel, electronic goods, milk powder, LPG domestic/commercial, furnace oil, hexane, HDPE/PP woven

³³ Bhopal, Gwalior, Indore, Jabalpur (2), Satna and Ujjain.

³⁴ Gwalior, Indore (2), Jabalpur, Khandwa,, Sagar and Satna (3).

³⁵ Bhind, Bhopal (3), Chattarpur, Dewas, Gwalior (2), Indore (5), Itarasi, Pithampur, Satna (2), Sendhwa, Ujjain and Vidisha.

bags etc., valued at ₹ 76.31 crore entering into local area was either not levied or was levied at incorrect rate. This resulted in non/short realisation of ET of ₹ 2.58 crore including penalty of ₹ 1.12 crore.

After we pointed out the cases (between May 2010 and March 2014), the AAs in three cases raised additional demand of ₹ 66.22 lakh (between December 2012 and September 2013). In other 37 cases of 36 dealer, the AAs stated (between May 2010 and January 2014) that action would be taken after verification/examination. In remaining nine cases, the Department's reply and our comments are in the **Table-2.12**.

Table - 2.12

(₹ in lakh)						
Sl. No	Name of auditee unit/No. of dealers	Assessment period/ month of assessment	Name of Commodity /Cost of goods	Rate of tax applicable/ applied	Reply of the Department	Our comments
1.	2.	3.	4.	5.	6.	7.
1	DCCT-I <u>Jabalpur</u> 2 DCCT-II <u>Gwalior</u> 1	<u>2009-10</u> May/June 2012 <u>2009-10</u> June 2012	<u>Furnace oil</u> 1416.14	<u>1</u> Nil	The AAs stated that furnace oil was light diesel oil as per decision given in case of Indian Oil Ltd Bhopal STJ 68 and Prism Cement STJ 422 Vs Commissioner Commercial Tax MP (2006). Further, the AA, Gwalior added that in case of Indian Oil, tax on furnace oil was levied by treating it Schedule -II goods.	We do not agree with the reply as cited decision was delivered in VAT/CST cases. Entry tax has separate schedule, according to which Furnace oil is a schedule -III commodity.
2.	DCCT-II <u>Jabalpur</u> 1	<u>2009-10</u> <u>June 2012</u>	<u>Iron & Steel, Timber & Lubricant</u> 300.13	<u>2</u> 1	The AA stated that dealer opted for composition and was exempted from Entry tax under notification No. 16 (2007) except for petrol, diesel, capital goods & vehicles.	We do not agree with the reply as in assessment order the AA himself levied tax treating it as capital goods.
3	RAC-I <u>Indore</u> 2	<u>2010-11</u> March 2013	<u>Skimmed milk/ milk powder</u> 246.77	<u>2</u> 1	The AA stated that there is no specific entry of skimmed milk/milk powder in ET Schedule. Hence, it is taxable at the rate of one <i>per cent</i> under entry no.1 of part III of Schedule II of ET Act.	We do not agree with the reply as skimmed milk/milk powder is covered under entry no.31 of part II of Schedule II of ET Act and attract tax at the rate of two <i>per cent</i> .
4	DCCT-II, <u>Indore</u> 1	<u>2009-10</u> June 2012	<u>Hexane</u> 72.37	<u>10</u> 1	The AA, stated that it was actually hexanes (a basic drug) not hexane (a raw material) as assumed by audit .	We do not agree with the reply of the AA as hexanes and hexane are same commodity having same chemical composition (Hydrocarbon) which is obtained by refining of crude oil and is found in liquid form and used in industry as well as in laboratory.
5	CTO <u>Vidisha</u> 1	<u>2009-10</u> June 2012	<u>Burnt oil & packing material</u> 68.81	<u>1</u> Nil	The AA stated that the burnt oil is purchased from registered dealers of M.P. and after reprocessing, it was sold.	Reply is not acceptable as burnt oil being a schedule - III commodity is liable to tax.

(₹ in lakh)						
Sl. No.	Name of auditee unit/No. of dealers	Assessment period/ month of assessment	Name of Commodity /Cost of goods	Rate of tax applicable/ applied	Reply of the Department	Our comments
6	DCCT-I Bhopa 1	2009-10 June 2012	Furnace oil 12.69	10 Nil	The AA stated that furnace oil comes under Schedule III or Schedule –II was not clear and this matter was pending before appellate board/High court. In this situation, tax cannot be levied on furnace oil treating it schedule –III commodity.	We do not agree with the reply as the AA himself levied tax at the rate of 10 per cent on import purchase ₹ 84.76 lakh out of total Import purchase of furnace oil ₹ 97.45 lakh. In addition, audit objection is regarding amount and not the rate or Schedule.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

2.9 Allowance of inadmissible Input Tax Rebate

2.9.1 According to Section 14 of the MP VAT Act, 2002, where a registered dealer purchases any goods specified in Schedule II of the Act, other than those specified in Part III of the said Schedule within the state of Madhya Pradesh, from another registered dealer after payment of input tax, he shall be allowed input tax rebate (ITR) of the amount of such input tax for the same year. Under the MP VAT Act, Rule 9, no input tax rebate shall be claimed or be allowed if the bill, invoice or cash memorandum does not indicate separately the amount of tax, collected by the selling registered dealer. Further under Section 21(1) (d) and (2) of said Act, if rebate of input tax has incorrectly been allowed, while making the assessment, and it is attributable to the dealer, penalty not exceeding 3.5 times but not less than three times of the amount of assessed tax shall be imposed.

We test checked the records such as assessment orders, audited accounts, purchase list etc. between April 2011 and December 2013 in divisional office Tax Audit Jabalpur, seven regional offices³⁶ and eight circle offices³⁷, and found that in 19 cases of 18 dealers assessed between December 2009 and January 2013 for the period 2007-08 to 2010-11, the AAs allowed inadmissible ITR of ₹ 1.01 crore including interest of ₹ 0.90 lakh and penalty of ₹ 49.24 lakh.

After we pointed out the cases (between April 2011 and December 2013), the AAs, in three cases raised additional demand of ₹ 33.64 lakh as detailed in the **Table-2.13**.

Table - 2.13

Sl. No	Name of auditee unit No. of dealers	Period of assessment Month of assessment	Our observations
(1)	(2)	(3)	(4)
1	RAC-II, Ujjain 1	2008-09 February 2011	The AA incorrectly adjusted ITR of ₹ 3.36 lakh instead of carried forward ITR of ₹ 24,198 of the period 2007-08. This resulted in excess grant of ITR of ₹ 3.12 lakh and penalty of ₹ 9,35 lakh.

³⁶ Gwalior, Jabalpur (2), Khandwa, Morena and Ujjain (2)

³⁷ Chhindwara, Gwalior, Hosangabad, Indore, Jabalpur, Mandsaur, Sagar and Ujjain.

After this was pointed out, the AA raised demand of ₹ 9.73 lakh (December 2012) in respect of penalty and excluded the amount of tax.			
2	<u>RAC-I Jabalpur</u> 1	18/12/2008 to <u>31/03/2009</u> April 2011	The dealer was incorrectly allowed ITR of ₹ 9.57 lakh for the goods purchased before his registration as intending manufacturer u/s 17 (c) & (d). This resulted in incorrect grant of ITR of ₹ 9.57 lakh.
After this was pointed out, the AA raised demand of ₹ 9.57 lakh (February 2013) as proposed by audit.			
3	<u>RAC-I, Ujjain</u> 1	<u>2007-08</u> April 2010	The dealer purchased tractor parts, lubricants oil valued ₹ 56.93 lakh from his own branch. However, the AA incorrectly allowed ITR of ₹ 2.28 lakh on the same. This resulted in incorrect grant ITR to that extent.
After this was pointed out, the AA raised demand of ₹ 14.33 lakh (June 2013) including penalty.			

In other 14 cases of 13 dealers, the AAs stated (April 2011 and December 2013) that action would be taken after verification/examination. In remaining two cases of two dealers, the department's reply and our comments are in the **Table-2.14**.

Table - 2.14

Sl. No.	Name of auditee unit	Period Month of assessment	Our observation in brief	Reply of the Department/ our comments
(1)	(2)	(3)	(4)	(5)
1.	CTO-II, Chhindwara	<u>2009-10</u> June 2012	The dealer paid input tax ₹ 41.85 lakh on the purchase of oil, lubricant and cement. However, the AA incorrectly allowed ITR of ₹ 46.24 lakh. This resulted in excess grant of ITR of ₹ 4.39 lakh.	The AA stated that ITR was allowed as claimed by dealer. Reply is not acceptable as the AA levied tax on sale shown in trading a/c. Hence, ITR should have also been allowed as per the amount shown in the trading a/c.
2.	RAC - Morena	<u>2008-09</u> April 2011	The dealer paid input tax ₹ 30.13 lakh on the purchase of tractor. However, the AA incorrectly allowed ITR of ₹ 31.43 lakh. This resulted in excess grant of ITR of ₹ 1.30 lakh.	The AA stated granted ITR was correct. Reply is not acceptable as ITR should have been allowed as per the amount shown in the trading a/c.

2.9.2 In terms of Section 14 of the MP VAT Act 2002, where a registered dealer purchases any goods specified in Schedule II of the Act, other than those specified in part III of the said schedule, for use or consumption in the manufacture of other goods and the dealer has claimed and adjusted ITR towards the tax payable by him, in the event of disposal of the goods otherwise than by way of sale within the State, he shall be liable to pay the amount of ITR at the rate of four *per cent* of the purchase price or net of input tax of such goods, whichever is lower. The Act further provides that where a registered dealer purchases any goods after payment of input tax for consumption or use in the manufacture or processing or packaging in connection with sale of goods declared tax free under Section 16 of the Act, he shall be allowed ITR of the amount such input tax which is in excess of four *per cent* of the purchase price of such goods.

We test checked the records such as assessment orders, audited accounts, purchase list etc. between August 2010 and November 2013 in two regional offices of Ujjain and three circle offices³⁸ and found that in six cases of six

³⁸ Guna and Indore (2).

dealers assessed between June 2009 and June 2012 for the period 2006-07 to 2009-10, the AAs allowed ITR of ₹ 17.70 lakh though the rebate admissible to the dealers being excess of four *per cent* on goods disposed of otherwise than by way of sale or sale of tax free goods, worked out only to ₹ 5.93 lakh. This resulted in inadmissible grant of ITR of ₹ 11.77 lakh.

After we pointed out the cases (between August 2010 and November 2013), the AAs, raised additional demand of ₹ 4.14 lakh (May 2013) including penalty in one case. In remaining five cases of five dealers, the AAs stated (between August 2010 and November 2013) that action would be taken after verification/examination.

2.9.3 Section 26-A (4) of the MPVAT Act, 2002, provides that no input tax rebate shall be claimed or be allowed in respect of the goods notified for Tax Deducted at Source (TDS) under Sub-Section (1) of the said Section. Mustard and Soyabean have been notified for TDS under the provision of aforesaid Sub-Section by the notification dated 4th January 2008.

We test checked records such as assessment orders, audited accounts, purchase list etc. in regional offices Neemuch and Shajapur, circle offices Chhindwara and Indore, between July 2010 and June 2012, and found that in five cases of five dealers assessed between July 2009 and June 2011 for the period 2007-08 and 2008-09, the AAs incorrectly allowed ITR of ₹ 6.19 lakh on purchase value of Soyabean and Mustard. As these commodities were notified for TDS, ITR was not admissible in these cases. This resulted in inadmissible grant of ITR of ₹ 6.19 lakh .

After we pointed out the case (between July 2010 and June 2012), the AA, Circle-I Chhindwara raised demand of ₹ 1.37 lakh (May 2013) in two cases and in another case, the AA, Circle-I, Indore accepted (May 2012) the audit observation. In remaining two cases, the AA stated that action would be taken after verification (July 2010 and February 2011).

2.9.4. As per Section 14 of the MP VAT Act, 2002, where a registered dealer purchased any goods specified in Schedule II of the Act, other than those specified in Part III of the said Schedule within the state of Madhya Pradesh, from another registered dealer after payment of input tax, he shall be allowed input tax rebate (ITR) of the amount of such input tax .Further Sub-Section (6) (vi) and (ix) of said Section provide that no input tax rebate shall be claimed or be allowed to the dealer who opts for composition and goods notified under Section 9-A respectively. Building Material, Crane and Car have been notified under the provision of Section 14(6) (vi) by the notification dated 17th August 2007 and *Gitti* has been notified for the purpose of Section 9-A by the notification dated 27th January 2010.

We test checked records such as assessment orders, audited accounts, purchase list etc. in three circle offices³⁹ between May 2012 and September 2013 and found that in four cases of four dealers assessed between June 2010 and June 2012 for the period 2007-08 and 2009-10, the AAs incorrectly allowed ITR of ₹ 3.91 lakh on purchase of Building Material, Crane, Car and *Gitti*. As these commodities were notified, ITR was not admissible in these cases. This resulted in inadmissible grant of ITR of ₹ 3.91 lakh.

³⁹ Indore (II), Jaora and Satna

After we pointed out the cases (between May 2012 and September 2013), the AA, Circle-I Indore accepted (May 2012) the audit observation in one case and in remaining three cases, the AAs stated that action would be taken after verification.

2.9.5 As per Section 73 read with Section 82(7) of the Madhya Pradesh VAT Act, 2002, where a registered dealer holds the stock of any goods specified in the Schedule II, at the commencement of this Act, for sale in the state of Madhya Pradesh or in the course of interstate trade on or after the said date, such dealer shall claim or be allowed the input tax rebate in respect of such tax paid goods within a period of nine months from the date of commencement of the Act. Further, under Section 21(1) (d) and (2) of said Act, if rebate of input tax has incorrectly been allowed while making the assessment and it is attributable to the dealer, penalty not exceeding 3.5 times but not less than three times of the amount of assessed tax shall be imposed.

We test checked records such as assessment orders, audited accounts, etc. of circle office-I Jabalpur in August 2011 and found that in case of a dealer, assessed in May 2010 for the period 2007-08, the AA incorrectly adjusted the ITR of ₹ 72,149 in respect of inventory of 2005-06, held by the dealer, against the tax worked out for the period 2007-08 as claimed by the dealer. This resulted in inadmissible grant of ITR of ₹ 2.89 lakh including penalty of ₹ 2.17 lakh.

After we pointed out the case (August 2011), the AA raised additional demand of ₹ 2.89 lakh (May 2013) including penalty.

We reported the matter to the Government and the Department (between October 2010 and January 2014; their replies have not been received (December 2014).

2.10 Non-levy of tax on sales incorrectly treated as tax free

The Madhya Pradesh VAT Act, and notifications issued thereunder prescribe rates of tax levied on different commodities except those which are specified under Schedule-I of the Act or exempted through notifications. Under Section 21 (2) of the Act, a dealer is liable to pay penalty minimum three times but not exceeding 3.5 times of assessed tax where omission leading to assessment is attributable to dealer.

We test checked records such as assessment orders, audited accounts and purchase list etc. between April and December 2013 in seven circle offices⁴⁰ and found that seven dealers assessed between April 2011 and November 2012 for the period 2008-09 to 2010-11, had sold taxable commodities like washing soap, notebook, blanket, DTH, cotton seeds etc. valued at ₹ 5.45 crore. However, neither the dealers paid nor the AAs levied any tax treating them incorrectly as tax free goods. This resulted in non-levy of tax of ₹ 1.12 crore including penalty of ₹ 82.41 lakh as under which is mentioned in the **Table-2.15**.

⁴⁰ Balaghat, Betul, Chhindwara, Indore, Jabalpur., Sagar and Ujjain.

Table - 2.15

Sl. No	Commodity	Turnover (₹ in lakh)	Rate of tax applicable (%)	Amount of tax not levied (₹ in lakh)	Penalty (₹ in lakh)
(1)	(2)	(3)	(4)	(5)	(6)
1.	Washing soap	51.92	13	6.75	20.25
2.	PVC Pipe	26.64	5	1.33	4.00
3	Notebook	371.00	4 and 5	16.97	50.91
4	Blanket	36.23	4	1.45	4.35
5	DTH	7.74	12.5	0.97	2.50
6	Cotton Seed	38.67	4	1.55	0
7	Di-Calcium Phosphate	12.74	5	0.63	0
Total		544.94		29.65	82.41

After we pointed out the cases (between April and December 2013), the AA in all cases, stated that action would be taken after verification/examination.

We reported the matter to the Government and the Department between February and May 2014; their replies have not been received (December 2014).

2.11 Non imposition of penalty

2.11.1 According to Section 21 (2) of the MP VAT Act, 2002, where the omission leading to assessment or re-assessment made under Sub-section (1) is attributable to the dealer, penalty not exceeding 3.5 times and not less than three times of the amount of tax so assessed or re-assessed is leviable. Further, Under Section 26(4)(a) of Madhya Pradesh Commercial Tax Act, 1994 and 18(4)(a) of Madhya Pradesh VAT Act, 2002, if a dealer, required to furnish returns, fails to pay the amount of tax payable according to the return, such dealer shall be liable to pay interest in respect of the tax payable by him. Further, Clause(b) of Section 18(4) provides that if the dealer fails to pay the interest in accordance with the provisions of clause(a), the commissioner may direct him to pay penalty which shall not exceed 1.5 *per cent* per month of the amount of interest.

- We test checked records such as assessment orders, audited accounts etc. of divisional office-III Indore in September 2013 and found that the dealer, re-assessed in December 2012 on proposals of Anti Evasion Bureau (AEB), concealed purchase turnover for the period 2006-07. The AA while re-assessing the case, assessed evasion of tax of ₹ 24.14 lakh and imposed penalty 3.5 times of assessed tax. On appeal, penalty was waived off by the appellate authority, adding, dealer had no malicious intention. The AA instead of appeal at higher level preferred to accept appellate authority order resulting in non imposition of penalty of ₹ 72.42 lakh minimum at the rate of three times of assessed tax.

After we pointed out the case (September 2013), the AA defended the order of appellate authority and stated that dealer did not conceal any fact, hence penalty was waived by the appellate authority. The reply is not acceptable as the AA himself while re-assessing the case imposed penalty after establishing the fault of dealer. Even, AEB also proposed penalty in their report and quoted that the dealer evaded the tax deliberately. Thus, the omission is attributable to the dealer and attracts penalty.

• We test checked the records such as assessment orders, audited accounts etc. of Circle office Jhabua in April 2013 and found that the AA in case of a dealer, assessed u/s 20(6), in June 2010 for the period 2007-08, determined taxable turnover of ₹ 38.57 lakh and assessed tax of ₹ 1.54 lakh but did not impose penalty as per provisions of the Act. This resulted in non imposition of penalty of ₹ 3.09 lakh which is two times of assessed tax.

After we pointed out the case (April 2013), the AA stated that reply would be given after examination.

We reported the matter to the Government and the Department in May and September 2013; their replies have not been received (December 2014).

2.12 Non levy of interest

Under Section 20(6) of the MP VAT Act, 2002, any dealer being liable to pay tax in respect of any period has failed to apply for registration, the commissioner shall assess such dealer and assess him to tax to the best of his judgment in respect of the whole of such period and shall impose upon him, by way of penalty, a sum two times of the amount of tax so assessed.

We test checked the records such as assessment order, audited accounts etc. between January 2010 and November 2012 in regional offices Satna and Chhindwara and found that in five cases of four dealers, assessed between March 2009 and June 2011 for the period 2003-04 to 2008-09, tax aggregating to ₹ 2.28 crore was either not deposited or deposited with delay ranging between three and 99 days. In addition, the dealer did not pay interest due along with the amount of tax. However, the AA, while finalising the case did not levy interest and penalty as per provisions of the Act. This resulted in non levy of interest of ₹ 35.48 lakh and penalty of ₹ 5,322 as detailed in **Annexure-XII**.

After we pointed out the cases (between January 2010 and November 2012), the AA in all cases raised demand of ₹ 35.53 lakh including penalty (between March 2011 and July 2012).

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

2.13 Non levy of tax on intrastate sale incorrectly treated as interstate sale

As per Section 3 of the CST Act, 1956, sale of goods shall be deemed to take place in the course of inter-state trade, if the sale occasions the movement of goods from one state to another or is affected by a transfer of documents of title to the goods during their movement from one state to another. It further stipulates that if the movement of goods commences and terminates in the same state, it shall not be deemed to be a movement from one state to another.

We test checked the records such as assessment orders, audited accounts and interstate sale list etc., in March 2013 in Divisional Office-I, Jabalpur and found that two dealers, assessed in April 2010 and January 2012 for the period 2007-08 and 2009-10 respectively, sold *bidis*, energy meter scrap and copper winding valued at ₹ 7.72 crore to local registered dealers. The AA, while finalising the assessment treated the intrastate sale as interstate sale incorrectly and levied tax at concessional rate. This resulted in short-levy of tax of ₹ 29.80 lakh as given in the **Table-2.16**.

Table - 2.16

Sl. No	Name of Unit /No. of Dealer	Assessment Period	Our Observation	Reply of the Department / our comments
1	DC-I Jabalpur Central India Tobacco Product Pvt. Ltd.	2009-10	The dealer sold <i>bidis</i> valued ₹ 6.55 crore against declaration in C form to local registered dealers. However, the AA treated the local sale as interstate sale and levied tax at concessional rate of two <i>per cent</i> resulting in short levy of tax ₹ 19.64 lakh at the differential rate of three <i>per cent</i> .	The AA stated that tax was levied at concessional rates after verifying the C forms. We do not agree with reply as produced C Forms were issued by Commercial tax Department of Madhya Pradesh.
2	DC-I Jabalpur M.P.P.K.V.V. Co. Ltd.	2007-08	The dealer sold <i>copper winding</i> and energy meter valued ₹ 1.17 crore through the open tender on the basis of 'as is where is' (intra-state sale). However the AA treated the intra state sale as interstate sale and levied tax at concessional rate of three <i>per cent</i> . This resulted in short levy of tax ₹ 10.15 lakh.	The AA stated that this case did not come in audit purview as the audit had to be done of the cases relating to 2011-12. We do not agree as the reply did not address the issue raised by Audit.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

2.14 Short levy of tax due to allowing incorrect deduction

According to Section 2(x) (iii) of MP VAT Act, 2002 taxable turnover is determined after deducting amount of tax included in aggregate of sale price. It also provides that no deduction shall be allowed if the amount of tax is not included in the aggregate of sales price. Under Section 21(2) of the Act, a dealer is liable to pay penalty minimum three times but not exceeding 3.5 times of assessed tax where omission leading to assessment is attributable to dealer.

We test checked records such as assessment order, audited accounts and purchase list etc. between August 2011 and December 2013 in regional offices Satna and Shajapur and six circle offices⁴¹ and found that in eight cases of eight dealers assessed between June 2010 and December 2012 for the period 2006-07 to 2009-10, the AAs while determining the turnover allowed deduction of ₹ 11.95 lakh towards amount of tax included in the aggregate sale of price. We, however, noticed that tax was not included in the sale price and therefore no deduction should have been made. This irregular grant of deduction resulted in short levy of tax of ₹ 11.95 lakh along with interest/ penalty of ₹ 9.49 lakh.

After we pointed out the cases (between August 2011 and December 2013), the AA, Shajapur in one case raised demand of ₹ 75,382 in November 2012 and in remaining cases the AAs stated that action would be taken after verification/examination.

We reported the matter to the Government and the Department in May 2014; their replies have not been received. (May 2014).

⁴¹ Gwalior, Indore, Jaora, Jabalpur, Rewa and Sehore.

2.15 Non levy of purchase tax

Under Section 10(A) of Madhya Pradesh VAT Act, 2002, every dealer, who in course of his business purchase notified goods whose value exceed ₹ five crore in that year, shall be liable to pay tax at the rate of four *per cent* on the purchase value exceeding ₹ five crore. The Government has notified wheat for levy of purchase tax vide notification dated 26th November 2009.

We test checked the records such as assessment order, audited accounts and purchase list etc. of regional office Sagar in August 2013 and found that a dealer, assessed in August 2012 for the period 2010-11, purchased wheat valued ₹ 8.90 crore exceeding the limit by ₹ 3.90 crore on which purchase tax was leviable. However the AA while finalising the case did not levy purchase tax treating it as tax free. This resulted in non levy of purchase tax of ₹ 15.59 lakh.

After we pointed out the case (August 2013), the AA stated that action would be taken after examination.

We reported the matter to the Government and the Department in May 2014, their replies have not been received (December 2014).