

CHAPTER - IV

REVENUE SECTOR

4.1 General

4.1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Nagaland during the year 2012-13, the State's share of net proceeds of divisible Union taxes and grant-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

Table No. 4.1

(₹ in crore)

Sl. No.	Particulars	2008-09	2009-10	2010-11	2011-12	2012-13
I	Revenue raised by the State Government					
	• Tax revenue	156.02	180.51	227.32	303.88	339.95
	• Non-tax revenue	180.55	126.35	183.14	232.95	207.17
	Total I	336.57	306.86	410.46	536.83	547.12
	Percentage of increase over previous year	34.17	(-) 8.83	33.76	30.79	1.92
II	Receipt from the Government of India					
	• States share of net proceeds of divisible Union taxes	421.84	434.03	689.46	803.20	917.14
	• Grants-in-aid	2642.48	2978.87	3900.07	4246.35	4740.03
	Total II	3064.32	3412.90	4589.53	5049.55	5657.17
III	Total receipts of the State Government (I+II)	3400.89	3719.76	4999.99	5586.38	6204.29
	Percentage of I to III	10	8	8	10	9

Thus, growth of revenue during 2012-13 over previous year was at 1.92 *per cent* against 30.79 *per cent* in the year 2011-12. Further, during the year 2012-13, the revenue raised by the State Government (₹ 547.12 crore) was nine *per cent* of the total revenue receipts against 10 *per cent* in the preceding year. The balance 91 *per cent* of receipts during 2012-13 was from the Government of India.

4.1.2 The following table presents the details of tax revenue raised during the period 2008-09 to 2012-13.

Table No. 4.2

(₹ in crore)

Sl No.	Head of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase (+) or decrease (-) in 2012-13 over 2011-12
1	Sales Tax/VAT	114.70	132.22	167.22	231.12	257.21	(+)11
2	State Excise	3.34	3.13	3.00	3.36	3.73	(+)11
3	Stamps and Registration Fees	1.01	1.19	1.35	1.85	1.58	(-)15
4	Taxes and duties on Electricity	0.03	0.11	0.05	0.04	0.05	(+)25
5	Taxes on vehicle	14.14	16.73	23.92	34.58	41.59	(+)20
6	Taxes on Goods and Passengers	2.34	3.96	6.62	4.85	6.71	(+)38
7	Other taxes on Income and expenditure	19.86	22.54	24.57	27.03	27.22	(+)01
8	Other taxes and duties on Commodities and Services	0.00	0.00	0.00	0.37	1.14	(+)208
9	Land Revenue	0.60	0.63	0.59	0.68	0.72	(+)06
	Total	156.02	180.51	227.32	303.88	339.95	(+)12

The reasons for variations were not reported by the departments.

4.1.3 The following table presents the details of Non-tax revenue raised during the period from 2008-09 to 2012-13.

Table No. 4.3

(₹ in crore)

Sl. No.	Head of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase (+) or decrease (-) in 2012-13 over 2011-12
1	Interest Receipts	11.57	10.02	14.35	9.62	5.90	(-)39
2	Housing	2.97	3.43	3.63	4.38	5.12	(+)17
3	Water Supply & Sanitation	0.98	0.94	1.29	1.62	1.74	(+)7
4	Forestry and Wildlife	4.78	7.70	10.18	8.87	7.76	(-)13
5	Education, Sports Art and Culture	0.55	0.43	8.74	12.16	45.57	(+)275
6	Miscellaneous General Services	28.05	7.04	12.43	29.01	6.60	(-)77
7	Power	111.49	75.17	74.01	94.28	102.83	(+)9
8	Medical & Public Health	0.17	0.09	0.09	0.21	0.35	(+)67
9	Co-operation	0.79	3.15	0.34	3.54	1.13	(-)68
10	Public Works	0.10	0.54	0.72	0.69	0.18	(-)74
11	Police	0.61	0.44	34.21	30.65	7.34	(-)76
12	Other Administrative Services	1.21	1.42	2.90	2.38	3.22	(+)35
13	Crop Husbandry	0.11	0.13	0.16	0.20	0.16	(-)20
14	Others	17.17	15.85	20.09	35.34	19.27	(-)45
	Total	180.55	126.35	183.14	232.95	207.17	(-)11

The reasons for variation were not stated by the departments.

4.1.4 Variation between the budget estimates and actuals

The variation between the budget estimates and actuals of revenue receipts under the principal heads of Tax and Non-Tax revenue for the year 2012-13 are mentioned in the following table:

Table No. 4.4

Sl. No.	Head of revenue	Budget Estimates (₹ in crore)	Actuals Receipts (₹ in crore)	Variation Increase (+) Decrease (-)	Percentage of variation
Tax Revenue					
1	Sales Tax/VAT	220.55	257.21	(+)36.66	17
2	State Excise	4.30	3.73	(-)0.57	(-)13
3	Stamps and Registration fees	1.39	1.58	(+)0.19	14
4	Taxes on vehicles	29.95	41.59	(+)11.64	39
5	Taxes on Goods and Passengers	3.01	6.71	(+)3.7	123
6	Land revenue	0.96	0.72	(-)0.24	(-)25
Non – Tax Revenue					
7	Interest Receipts	6.50	5.90	(-)0.6	(-)9
8	Other Administrative Service	4.87	3.22	(-)1.65	(-)34
9	Medical & Public Health	0.24	0.35	(+)0.11	46
10	Public Works	0.74	0.18	(-)0.56	(-)76
11	Forestry & Wildlife	11.88	7.76	(-)4.12	(-)35
12	Education, Sports, Art and Culture	0.38	45.57	(+)45.19	11892
13	Power	120.00	102.83	(-)17.17	(-)14

Source: Receipt Budget and Finance Account for the year 2012-13.

The reasons for variations were not stated by the departments.

4.1.5 Cost of Collection

The gross collection in respect of major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the period from 2010-11 to 2012-13 along with the relevant all India average percentage of expenditure on collection to gross collection for the year 2011-12 are as mentioned in the following table.

Table No. 4.5

Sl. No	Head of revenue	Year	Collection(₹ in crore)	Expenditure on collection of revenue(₹ in crore)	Percentage of Expenditure on collection of revenue	All India average percentage for the previous year
1	Sales Tax/VAT	2010-11	167.22	5.59	3.34	0.83
		2011-12	231.12	6.10	2.64	
		2012-13	257.21	5.75	2.24	
2	Taxes on Vehicles	2010-11	23.92	3.20	13.38	2.96
		2011-12	34.58	3.70	10.70	
		2012-13	41.59	4.25	10.22	
3	Stamp Duty and Registration Fees	2010-11	1.35	0.25	18.52	1.89
		2011-12	1.85	0.25	13.51	
		2012-13	1.58	0.72	45.57	

Source: Finance Accounts

The cost of collection in respect of Sales Tax/VAT, Taxes on Vehicles and Stamp Duty and Registration Fees was considerably higher than the All India Average during the year 2012-13 which needs to be looked into by the concerned departments.

4.1.6 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013 in respect of principal Heads of Revenue as reported by the departments was ₹ 2.37 crore of which ₹ 1.19 crore (50.21 per cent) was outstanding for more than five years as per details mentioned in the following table:

Table No. 4.6

(₹ in crore)

Sl. No	Head of Revenue	Amount outstanding as on 31 March 2013	Amount outstanding for more than for five years	Remarks
1	Taxes/ VAT on Sales, Trades etc.	2.37	1.19	-

4.1.7 Arrears in assessment

The details of Sales tax/ VAT assessment cases pending at the beginning of the year 2012-13, cases which were due for assessment during the year, cases disposed of during the year and number of cases pending at the end of the year 2012-13 as furnished by Deputy Commissioner of Taxes are mentioned in the following table:

Table No. 4.7

Head of Revenue	Opening Balance as on 1 st April 2012	New cases due for assessment during 2012-13	Total assessment due	Cases disposed of during 2012-13	Balance at the end of the 31 st March 2013	Percentage of cases disposed to the total assessment
1	2	3	4	5	6	7 (5 to 4)
Taxes /VAT on Sales, Trades etc.	330	4347	4677	3952	725	84.50

The arrear in assessment increased from 330 to 725 cases with the addition of another 4347 cases which became due for assessment during the year 2012-13 and 3952 cases got disposed during the year. The percentage (84.50) of cases disposed during the year was encouraging and needs to be maintained.

4.1.8 Response of the Departments/Government towards audit

Transactions and maintenance of important accounts and other records of the departments are test checked and Inspection Report containing audit findings is issued to the Head of the Office so audited for comments and/or compliance. Audit findings of serious nature are processed into draft paragraph and forwarded to the Administrative Head of the concerned Department through demi-official letter drawing their attention to the audit findings with a request to furnish their response within six weeks. The response of the Departments /Government towards audit is discussed in succeeding paragraphs.

4.1.8(a) Failure of senior officials to enforce accountability and protect the interest of the State Government

The Accountant General (Audit), Nagaland (AG) conducts periodical inspection of the Government Departments to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the Inspection Reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the Heads of the Offices inspected with copies to the next higher authorities for taking prompt corrective action. The Heads of the Offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the AG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the Heads of the Departments and the Government.

Inspection Reports issued upto June 2013 disclosed that 344 paragraphs involving ₹ 80.49 crore relating to 89 IRs remained outstanding as mentioned in the following table along with the corresponding figures for the preceding two years.

Table No. 4.8

	June 2011	June 2012	June 2013
Number of outstanding IRs	80	81	89
Number of outstanding audit observations	306	295	344
Amount involved (₹ in crore)	51.93	51.78	80.49

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2013 and the amount involved are mentioned in the following table:

Table No. 4.9

Sl. No.	Name of Department	Name of Receipts	No. of outstanding IRs	No. of Outstanding Audit Observations	Money Value Indicated (₹ in crore)
1	Finance	Taxes / VAT on Sales, Trade etc	27	164	58.52
2	Finance	Miscellaneous General Services/Lottery	04	18	2.59
3	Transport	Taxes on Vehicles /Taxes on Goods & Passengers	27	70	12.25
4	Forest & Environment	Forest & Wildlife	31	92	7.13
Total			89	344	80.49

Even the first replies required to be received from the Heads of Offices within one month from the date of issue of the IRs were not received for two IRs issued upto June 2013. This large pendency of IRs due to non-receipt of replies is indicative of the fact that the Heads of offices and Heads of departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by us in the IRs.

It is recommended that the Government takes suitable steps to install an effective procedure for prompt and appropriate response to audit observations as well as take action against officials / officers who fail to send replies to IRs /paragraphs as per prescribed time schedules and also fail to take action to recover loss / outstanding demand in a time bound manner.

4.1.8(b) Departmental Audit Committee Meetings

In order to expedite settlement of the outstanding audit observations contained in the IRs, Departmental Audit Committees are constituted by the Government. These Committees are chaired by the Secretaries of the concerned Administrative Department and attended by the concerned officers of the State Government and officers of the Accountant General (AG). The audit committees need to meet regularly in order to expedite clearance of the outstanding audit observations.

During 2012-13, no audit committee meeting was convened to clear the outstanding audit observations.

The Government may ensure holding of frequent meetings of these committees for ensuring effective action on the audit observations leading to their settlement.

4.1.8(c) Response of the Departments to the draft audit paragraphs

Three draft paragraphs proposed for inclusion in the Audit Report of the Comptroller and Auditor General of India for the year ending March 2013 were forwarded (June-

July 2013) to the Secretary/Commissioner of the Department through demi-official letter. The Administrative Secretary/Commissioner furnished replies (July 2013) in respect of one draft paragraph.

4.1.8(d) Follow up on Audit reports – summarised position

As per the recommendations made by the High Powered Committee (HPC) which were also accepted by the State Government in October 1993, *suo moto explanatory* notes on corrective remedial measures taken on all paragraphs included in Audit Reports are required to be submitted by the departments duly vetted by Accountant General to PAC in three months from the date of placing of Audit Reports in the Legislature.

However, *suo moto* explanatory notes were not received (January 2014) either from the departments or through the Nagaland Legislative Assembly Secretariat in respect of paragraphs/reviews appeared in the Audit Reports.

4.1.8(e) Compliance with the earlier Audit Reports

In the Audit Reports 2007-08 to 2011-12, cases of under assessments, evasion / non/short levy of taxes / penalty, loss of revenue, failure to raise demands etc., involving ₹ 5.41 crore were reported. As of March 2013, the departments concerned have accepted observations of ₹ 0.59 crore and recovered ₹ 0.16 crore which was 27 *per cent* of accepted money value. Audit Report wise details of cases accepted and recovered are given in the following table:

Table No. 4.10

(₹ in crore)

Year of Audit Report	Total Money Value	Accepted money value	Recovery made
2007-08	3.59	0	0
2008-09	0.22	0	0
2009-10	0.97	0.16	0.16
2010-11	0.43	0.43	0
2011-12	0.20	0	0
Total	5.41	0.59	0.16

4.1.9 Analysis of mechanism for dealing with the issues raised by Audit

In order to analyse the system of addressing the issues highlighted in the Inspection Reports/Audit Reports by the Department/Government the action taken on the paragraphs and Performance Audits included in the Audit Reports of the last five years in respect of one Department is evaluated and included in each Audit Report.

The succeeding paragraphs 4.1.9(a) and 4.1.9(b) discuss the performance of Taxation Department in dealing with the cases detected in the course of local audit conducted during the last five years and also the cases included in the Audit Reports for the years 2008-09 to 2012-13.

4.1.9(a) Position of Inspection Reports

A summarised position of Inspection Reports issued during the last five years, paragraphs included in these Reports and their status as on 30th June 2013 are given in the following table.

Table No. 4.11

Year	Opening Balance			Addition during the year			Clearance during the year			Closing Balance during the year		
	IRs	Paras	Money Value (₹ in crore)	IRs	Paras	Money Value (₹ in crore)	IRs	Paras	Money Value (₹ in crore)	IRs	Paras	Money Value (₹ in crore)
2008-09	33	166	24.61	2	27	13.73	0	4	0.03	35	189	38.31
2009-10	35	189	38.31	0	0	0	1	2	0.06	34	187	38.25
2010-11	34	187	38.25	1	2	0	3	14	0.62	32	175	37.63
2011-12	32	175	37.63	1	1	0	0	0	0	33	176	37.63
2012-13	33	176	37.63	1	2	0.03	0	10	0.22	34	168	37.44
Upto June 2013	34	168	37.44	1	4	0.98	0	0	0	35	172	38.42

We reminded the Department periodically to furnish the replies to the outstanding audit observations.

4.1.9(b) Assurances given by the Departments/Government on the issues highlighted in the Audit Reports

4.1.9(b)(i) Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last five years and those accepted by the departments and the amount recovered are mentioned in the following table:

Table No. 4.12

Year of Audit Report	No. of paragraphs included	Money value of the paragraphs (₹ in crore)	No. of paragraphs accepted	Money value of accepted paragraphs (₹ in crore)	Amount recovered during the year (₹ in crore)	Cumulative position of recovery of accepted cases
2007-08	2	0.44	0	0	0	0
2008-09	1	0.03	0	0	0	0
2009-10	0	0	0	0	0	0
2010-11	0	0	0	0	0	0
2011-12	1	0.20	0	0	0	0
Total	4	0.67	0	0	0	0

From the above table, it is seen that during the last five years nil amount was accepted. Consequently, there was nil amount recovered by the departments.

4.1.9(b)(ii) Action taken on the recommendations accepted by the Departments/Government

The draft Performance Audit (PAs) conducted by the AG are forwarded to the concerned Departments/Government for their information with a request to furnish their replies. These PAs are also discussed in the Exit Conference and the

Department's/Government's views are included while finalising the PAs for the Audit Reports.

During the period from 2002-03 to 2011-12, two Performance Audits in respect of Finance (Taxation) Department were featured in the Audit Report – 2008-09 and 2010-11. Details are given in the following table:

Table No. 4.13

Year of Audit Report	Name of the review	No. of recommendations	Details of the recommendations accepted
2008-09	Transition from Sales Tax to Value Added Tax	7	-
2010-11	Performance Audit on 'Utilisation of declaration forms in Inter State Trade'	5	-

4.1.10 Results of audit

4.1.10(a) Position of local audit conducted during the year

Test check of the records of 7 units of Transport, Forest and Finance (Taxes) departments conducted during the year 2012-13 revealed underassessment/short levy/loss of revenue/non-realisation of outstanding revenue aggregating ₹ 1.87 crore in 20 cases.

4.1.10(b) This Report

This Report contains three paragraphs involving financial effect of ₹ 1.20. The reply to one paragraph has been received (January 2014). The audit findings are discussed in succeeding paragraphs.

FINANCE (TAXATION) DEPARTMENT

4.2 Evasion of tax

Laxity on the part of the Assessing Authority to ensure the correctness of the information contained in the Return from other relevant records of the dealer led to evasion of tax amounting to ₹ 20.45 lakh. Besides, an amount of ₹ 8.57 lakh was also not levied as interest.

Section 32 of the Nagaland Value Added Tax (NVAT) Act, 2005 requires that the appropriate Assessing Authority (AA) on the basis of the information contained in the Return filed by the dealer scrutinise the correctness of the tax assessed by the dealer himself. Section 58 of the Act further states that where in any particular year, the gross turnover of a dealer exceeds forty lakh rupees, then such dealer shall get his accounts in respect of that year audited by an accountant¹ within six months from the end of that year and obtain a report of such audit in the prescribed form duly signed

¹ Chartered Accountant

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and verified by such accountant and setting forth such particulars as may be prescribed. A true copy of such report shall be furnished by such dealer to the Commissioner by the end of the month after expiry of the period of six months during which the audit would have been completed. Further as per Section 29 of the Act *ibid*, interest at 2 per cent per month is payable from the date the tax payable had become due to the date of its payment or to the date of order of assessment, whichever is earlier. Further under Section 57 of the NVAT Act, the Commissioner may for any purpose related to the administration or enforcement of the provisions of this Act, by notice, require any person to provide the Commissioner any information or additional information including return under this Act.

During scrutiny of Auditor's Report (Annual Accounts) of a registered dealer², dealing in medicines, submitted to audit for obtaining Audit Certificate³ it was seen that the dealer had sold medicines valued at ₹ 11.17 crore during 2009-10 to 2012-13. In order to ascertain the status of payment of NVAT, assessment records of the dealer were called for from the Deputy Commissioner of Taxes (DCT), Kohima. Further, audit observed that the firm had neither submitted any Returns nor paid any tax during the above period. Hence, it was pointed out in audit that there was an evasion of tax by the dealer.

On being pointed out by audit (April 2013) the dealer was served notice (May 2013) under various sections⁴ of the NVAT Act. As reported by the AA, the dealer appeared before the AA (May 2013) and furnished Returns along with all books of accounts such as sales & purchase registers and purchase bills. On the basis of those records, the dealer was assessed and levied ₹ 2.70 lakh as tax and ₹ 0.40 lakh as penalty (June 2013) after allowing Input Tax Credit (ITC) of ₹ 26.80 lakh by the AA as shown in the following table. However, the accounts audited by the Chartered Accountant was neither called for nor submitted by the dealer.

Table No. 4.14

Year	Gross Turn Over (₹)	Tax payable @ 4% for 2009-10 & 2010-11 and 4.75% for 2011-12 & 2012-13 (₹)	Input Tax Credit allowed (₹)	Output tax payable (₹) (col 3-4)	Penalty levied (₹)	Amount deposited (₹) (Col 5+6)
1	2	3	4	5	6	7
2009-10	13560475	542419	493072	49347	10000	59347
2010-11	14323814	572953	520863	52093	10000	62093
2011-12	15692128	745376	676999	68377	10000	78377
2012-13	21101052	1089411	989181	100230	10000	110230
Total	64677469	2950159	2680115	270047	40000	310047

Cross verification of the Returns & Trading Accounts submitted by the dealer to the AA with the Annual Accounts submitted to audit revealed that the dealer concealed GTO/Sales amounting to ₹ 4.70 crore resulting in evasion of tax to the tune of ₹ 20.45

² Bethel Medical Centre, Kohima.

³ Upgradation of Infrastructure at Bethel Medical Centre funded by North Eastern Council (NEC)

⁴ Section 35,36,37 and 39

lakh. Further, an amount of ₹ 8.57 lakh was also payable by the dealer as interest under Section 29 of the Act as shown in the following table:

Table No. 4.15

Year	GTO as per Return (₹)	Sales/GTO as per Annual Accounts (₹)	Amount of Sales escaped assessment (₹)	VAT payable on sales escaped assessment (₹)	Month of assessment	Period of interest	Interest @ 2 per cent per month on amount at col 5 + amount at col 5 of table 4.14 above (₹)
1	2	3	4	5	6	7	8
2009-10	13560475	26322905	12762430	510497	May 2013	1/5/2010 to 15/5/2013 (36.5 Months)	408686
2010-11	14323814	26903224	12579410	503176		1/5/2011 to 15/5/2013 (24.5 months)	272082
2011-12	15692128	28618395	12926267	613998		1/5/2012 to 15/5/2013 (12.5 months)	170594
2012-13	21101052	29877659	8776607	416889		1/5/2013 to 15/5/2013 (0.5 months)	5171
Total	64677469	111722183	47044714	2044560			856533

Thus, failure of the AA in ascertaining the correctness of the information furnished as per the Annual Return from Annual Accounts and other records of the dealer as required under the Act led to evasion of tax amounting to ₹ 20.45 lakh by the dealer by concealment of taxable turnover. Besides, an amount of ₹ 8.57 lakh was also payable as interest.

The matter was reported to the Government (July 2013). Reply had not been received (January 2014).

FINANCE (TAXATION) DEPARTMENT

4.3 Evasion of tax

Laxity on the part of the Assessing Authority to ensure the correctness of the information contained in the Annual Return from other relevant records of the dealer led to evasion of tax amounting to ₹ 15.51 lakh. Besides, an amount of ₹ 8.53 lakh was also not levied as interest.

Section 32 of the NVAT Act provides that the appropriate Assessing Authority (AA) on the basis of the information contained in the return filed by the dealer should scrutinise the correctness of the tax assessed by the dealer himself. For this purpose, the AAs may require the dealer to produce any account, documents or any other evidence as may be deemed necessary. Further as per Section 29 of the Act *ibid*, interest at 2 *per cent* per month is payable from the date the tax payable had become due to the date of its payment or to the date of order of assessment, whichever is earlier.

During scrutiny of Auditor's Report (Annual Accounts) of a registered dealer⁵ dealing in medicines submitted to audit for obtaining Audit Certificate⁶ it was seen that the dealer had sold medicines valued at ₹ 387.97 lakh during 2009-10 to 2011-12. In

⁵ M/s Oking Hospital and Research Clinic Pvt. Ltd.

⁶ Upgradation of Infrastructure at Oking Hospital & Research Clinic funded by NEC

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order to examine the status of payment of Value Added Tax, assessment records of the dealer from the Assistant Commissioner of Taxes, Kohima were called for. From the records obtained from the AA, it was observed that the dealer had submitted Annual Returns in all the three years and the AA completed scrutiny under Section 32 and completed assessment during September 2011 and April 2013. Cross verification of those records (Return in Form VAT-4 and Trading Accounts) with the Annual Accounts furnished to audit by the dealer showed that there was understatement of sales by ₹ 341.73 lakh during the period leading to evasion of tax amounting to ₹ 15.51 lakh as shown below:

Table No. 4.16

Year	Sales as per the firm's Annual Accounts (₹)	Gross Sales as per VAT Return (₹)	VAT levied) (₹)	Amount of Sales escaped assessment (2-3) (₹)	VAT payable on sales escaped assessment (2009-11 4% 2011-12 4.75%) (₹)
1	2	3	4	5	6
2009-10	5099618	233399	29175	4866219	194649
2010-11	5062714	252768	31596	4809946	192398
2011-12	28634565	4137905	38553 ⁷	24496660	1163591
Total	38796897	4624072	99324	34172825	1550638

Source:-Annual Accounts and assessment file of the dealer.

When the matter was brought to the notice of the Department (April 2013) the Superintendent of Taxes, Kohima served (April 2013) a demand notice to the dealer directing him to pay the remaining amount of tax within one month. However, the dealer sought (May 2013) extension of time for another one month which was further extended upto July 2013 and the matter was pending upto January 2014.

Further, an amount of ₹ 8.53 lakh was also leviable as interest @ 2 per cent of the tax amount payable, per month from the last date for filing the return⁸, till the date of passing the AO as per provisions contained in section 29 of the NVAT Act detailed in the table below:

⁷ Excluding Input Tax Credit of ₹ 182728 allowed at 4.75 % on VAT paid sales of 3846909

⁸ 30th April of the succeeding year

Table No. 4.17

Year	VAT payable on sales escaped assessment (Ref Col 6 of above table) (₹)	Month of reassessment	Period of interest	Amount of interest (₹)
2009-10	194649	April 2013	May 2009 to April 2013 (47 months)	182970
2010-11	192398		May 2010 to April 2013 (35 months)	134679
2011-12	1163591		May 2011 to April 2013 (23 months)	535252
Total				852901

Source:-Annual Accounts and assessment file of the dealer.

Thus, failure of the AA in ascertaining the correctness of the information furnished as per the Annual Return from Annual Accounts and other records of the dealer as required under the act led to evasion of tax amounting to ₹ 15.51 lakh by the dealer due to concealment of taxable turnover. Besides, an amount of ₹ 8.53 lakh was also payable as interest.

The matter was reported to the Government (June 2013); their replies had not been received.

GEOLOGY AND MINING DEPARTMENT

4.4 Loss of revenue

The Department's failure to revise the rate of royalty on coal in time resulted in a loss of revenue of ₹ 0.67 crore.

Government of India (GOI) Introduced⁹ the Mines and Minerals Development Regulations (MMDR) Act in 1957 for regulation of mines and the development of minerals under the control of the Union. This Act extends to the whole of India. Sub-section 3 of section 9 of the Act empowers GOI to levy, amend, enhance or reduce the rate of royalties payable by the licensee or prospecting licensee in respect of any mineral with effect from such date as may be specified in the notification. The Act *inter-alia* also provides that the Central Government shall not enhance the rate of royalty in respect of any mineral more than once during any period of four years. Based on the above MMDR Act, GOI¹⁰ fixed (August 2002) the royalty rate for coal at ₹ 165 per tonne which was subsequently enhanced (August 2007) to ₹ 230¹¹ per tonne.

⁹ 1st June 1958 vide notification number SRO 432 dated 29th May 1958.

¹⁰ G.S.R. 572 (E) dated 16th August 2002.

¹¹ calculated in formula $R=a+bp$ where R is the royalty rate, a = ₹ 130, b is 5 per cent and p is the pithead value of coal i.e. ₹ 2000. Thus the value of R in Nagaland is ₹ 230 per ton.

Government of Nagaland also introduced (July 1993) “The Nagaland Ownership and Transfer of Land and its Resources (NOTLR) Act, 1990” to provide, in public interest, for the ownership and transfer of land and its resources in the State of Nagaland, for the imposition of tax on mineral right. Section 15 of NOTLR, empowers State Government to make rules in respect of minerals and sub-section 2(h) stipulates that “the fixing and collection of rent, royalty, cess, dead rent, fines or other charges and the time within which and the manner in which these shall be payable”. The NOTLR Act *inter-alia* provides that the State Government shall not enhance the rate of royalty in respect of any mineral more than once during any period of two years.

On the basis of NOTLR Act, Government of Nagaland introduced¹² “The Nagaland Coal Mining Rules, 2006” and adopted the rates fixed by GoI for levying royalty on extracted coal @ ₹ 165 per tonne¹³ and continued to levy royalty at this rate till 2011-12 even though GOI had enhanced the royalty from ₹ 165 to ₹ 230 per tonne in August 2007.

During 2009-10 to 2011-12, the State extracted 1,03,666 MT of coal through 61 private coal extractors and received royalty of ₹ 1.71 crore from the private parties at the rate of ₹ 165 per tonne. Thus, non-revision of royalty as notified by GOI resulted in loss of Government revenue amounting to ₹ 0.67 crore (1,03,666 x ₹ 65 per tonne). In January 2014, the State Cabinet decided to enhance the existing coal royalty rate from ₹ 165 per tonne to ₹ 290 per tonne as fixed by GoI.

The Department replied (April 2013) that no Act of Parliament in respect of (i) Religious social practice of the Nagas, (ii) Naga Customary law and procedures, (iii) Administration of Civil and Criminal justice involving decisions according to the Naga Customary law and (iv) Ownership and transfer of land and its resources shall apply to State of Nagaland unless Legislative Assembly by a resolution so decides. Accordingly NOLTR Act 1990 was enacted and coal mining rules are framed and royalties are collected. It is true that State levied royalty on coal as per the NOLTR Act, 1990 but while fixing the royalty rate it followed the GOI’s gazette notification due to which royalty rates were fixed at ₹ 165 per tonne in 2006. The Government further stated that Section 10(3) of the NOLTR Act shall not allow enhancement of royalty more than once during the period of two years and the Act does not mandate any specific time frame for revision of royalty.

¹² No. GM-21/coal/1/2005 dated Kohima, the 18th March 2007.

¹³ This royalty rate was based on the rate introduced by the GOI in 2002.

The fact however, remained that the Department could have revised the rate of royalty after a lapse of two years i.e.in 2009 as permissible under the Act. The Department by delaying the enhancement of royalty therefore, lost the opportunity to raise an amount of ₹ 0.67 crore from the coal extracted during 2009-10 to 2011-12.