

CHAPTER-II
TAXES ON SALES,
TRADE ETC.

CHAPTER – II: TAXES ON SALES, TRADE ETC.

2.1 Tax administration

The levy and collection of Sales Tax/Value Added Tax and Central Sales Tax are governed by the Jharkhand Value Added Tax (JVAT) Act, 2005, the Central Sales Tax (CST) Act, 1956 and Rules made thereunder. The Secretary-cum-Commissioner of Commercial Taxes is responsible for administration of these Acts and Rules in the Commercial Taxes Department (CTD) and is assisted by an Additional Commissioner and Joint Commissioners of Commercial Taxes (JCCT), Joint Commissioners of Commercial Taxes of Bureau of Investigation (IB), Vigilance and Monitoring, along with other Deputy/Assistant Commissioners of Commercial Taxes.

The State is divided into five commercial taxes divisions¹, each under the charge of a Joint Commissioner (Administration) and 28 circles², each under the charge of a Deputy/Assistant Commissioner of Commercial Taxes (DCCT/ACCT). The DCCT/ACCT of the circle, responsible for levy and collection of tax due to the Government, besides survey, is assisted by Commercial Taxes Officers. A Deputy Commissioner of IB is posted in each division to assist the JCCT (Administration) and a DCCT (Vigilance and Monitoring) is posted under the control of Headquarters in each division.

2.2 Results of audit

During 2014-15 test check of records of 26 units (having revenue collection of ₹ 7,178.65 crore) out of 46 units relating to Taxes on sales, trade etc. showed underassessment of tax and other irregularities involving ₹ 670.35 crore in 345 cases, which fall under the following categories as given in the **Table – 2.2**.

Table – 2.2

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1	“System of assessment under VAT” – A performance audit	1	393.45
2	Non/short levy of tax	74	164.30
3	Irregular allowance of exemption from tax	30	7.57
4	Non-levy of interest	48	45.42
5	Application of incorrect rates of tax	23	3.22
6	Non-levy of penalty	15	3.80
7	Short levy of tax due to incorrect determination of turnover	32	5.40
8	Irregular allowance of concessional rate of tax	21	0.66
9	Non-levy of penalty for excess collection of tax/mistake in computation	4	0.62
10	Other cases	97	45.91
Total		345	670.35

¹ Dhanbad, Dumka, Hazaribag, Jamshedpur and Ranchi.

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

During the course of the year the Department accepted under-assessment and other deficiencies of ₹ 598.32 crore in 136 cases, out of which ₹ 595.05 crore in 100 cases were pointed out by us in 2014-15 and rest in earlier years. An amount of ₹ 5 lakh was realised in 14 cases.

In this chapter we present a performance audit of “**System of assessment under VAT**” having financial implication of ₹ 393.45 crore and few illustrative cases having financial implication of ₹ 201.60 crore. The Department accepted all the audit observations having financial implication of ₹ 595.05 crore which are discussed in the succeeding paragraphs.

2.3 System of assessment under VAT

Highlights

There were only 12 cases of self-assessment during 2009-10 to 2013-14 and the Department took no initiative to popularise self-assessment among dealers which, coupled with shortage of personnel and constant growth of registered dealers, resulted in accumulation of arrear in assessment from 11,313 in 2009-10 to 22,614 in 2013-14.

(Paragraphs 2.3.8, 2.3.10.1 and 2.3.22.4)

Though provision for survey to distinguish unregistered dealers existed in the Act, but modalities for such surveys have not been prescribed. The department did not utilise the TDS details available in the assessment records to detect 54 unregistered dealers which resulted in non-levy of tax of ₹ 3.82 crore including mandatory penalty of ₹ 1.91 crore.

(Paragraphs 2.3.10.2 and 2.3.10.3)

There was suppression of sales/purchase turnover of ₹ 1,404.19 crore in case of 70 dealers out of 1,062 dealers test checked from 45,732 dealers registered in 13 circles leading to under-assessment of tax of ₹ 192.75 crore including mandatory penalty of ₹ 128.51 crore.

(Paragraphs 2.3.11)

There were irregularities in ITC claims like irregular/non admissible ITC claims, excess claims, non-reversal of ITC and non-charging of interest thereon of ₹ 8.35 crore in cases of 24 dealers out of 1,186 test checked from 35,129 dealers in nine circles.

(Paragraph 2.3.13)

There was short levy of tax of ₹ 6.27 crore due to misclassification of goods and application of incorrect rate of tax in case of 13 dealers out of 852 dealers test checked from 27,528 dealers in seven circles.

(Paragraph 2.3.14)

There was non-levy of interest of ₹ 38.43 crore on non/delayed payment of admitted tax/tax due, disallowed unsubstantiated claims, incorrect exemptions and concessions in case of 46 dealers out of 1,125 test checked from 43,000 dealers in 12 circles.

(Paragraph 2.3.16)

There was incorrect allowance of exemption against inter-State and intra-State stock transfer, transit sale, misuse of declaration forms and invalid forms in case of 34 dealers out of 2,075 test checked from 40,911 dealers in 10 circles which resulted in under-assessment of tax of ₹ 49.36 crore.

(Paragraph 2.3.20)

838 and 906 dealers were selected out of 39,061 and 45,732 dealers for VAT audit during 2010-11 and 2011-12 but only 170 and two dealers were audited by the VAT Audit Wing leaving arrear of 668 and 904 dealers respectively.

(Paragraph 2.3.22.1)

2.3.1 Introduction

The assessment, levy and collection of Value Added Tax (VAT) is governed by the Jharkhand Value Added Tax (JVAT) Act 2005, Jharkhand Value Added Tax (JVAT) Rules 2006 and notifications/instructions issued by the Government from time to time.

Commercial Tax Department is responsible for assessment, levy and collection of tax and ensures compliance of various provisions of the Act, Rules, and various notifications/circulars issued thereunder. In the process of assessment under VAT, the dealers have to submit return of their transactions regarding sale and purchase in their trading account attached with Annual Audited Account prepared by an accountant or tax practitioner in Form JVAT-409. On receipt of returns, from the dealers, it is the responsibility of the Assessing Authorities (AAs) to ensure that the returns are complete and correct in all respect such as amount of tax due, paid, claim of Input Tax Credit (ITC) and its adjustments against tax due, interest on delayed deposits of tax as well as its arithmetical accuracy. All documents as provided in the Act and Rules made thereunder shall be furnished by the dealers within time as provided in the Act.

Under the JVAT Act, 2005, registered dealers are eligible for ITC, concessions and exemptions of tax on submission of prescribed declarations forms³. The State Government grants these incentives to dealers for furtherance of trade and commerce. It is the responsibility of the Commercial Tax Department to ensure adequate safeguards against misutilisation of declaration forms/ certificates on which tax relief is allowed.

2.3.2 Organisational set-up

The Commercial Taxes Department is under the purview of the Secretary cum Commissioner, Commercial Taxes Department at the Government level. The Secretary cum Commissioner of Commercial Taxes is responsible for administration of the Acts and Rules in the Commercial Taxes Department (CTD). At the Department headquarters level, Commissioner of Commercial Taxes (CCT) heads the Department. He is assisted by Additional Commissioner and Joint Commissioners of Commercial Taxes, Joint Commissioners of Commercial Taxes of Bureau of Investigation (IB) along with other Deputy/Assistant Commissioners of Commercial Taxes and Commercial taxes Officers (CTO).

The State is divided into five Commercial Taxes Divisions⁴, each under the charge of a Joint Commissioner (Administration) who also heads the Divisional IB. There are 28 Circles⁵ functioning under the administrative control of Deputy/Assistant Commissioner of Commercial Taxes (DCCT/

³ **JVAT-404:** Input Tax Credit; **JVAT-506:** Intra-State Branch Transfer; **JVAT 400:** Tax deducted at source; **JVAT 407:** Non deduction of tax; **JVAT 403:** Tax paid sale of commodities under special rate of tax.

⁴ Dhanbad, Hazaribag, Jamshedpur, Ranchi and Santhal Pargana.

⁵ Adityapur, Bokaro, Chaibasa, Chirkunda, Deoghar, Dhanbad, Dhanbad Urban, Dumka, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamshedpur Urban, Jharia, Katras, Koderma, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi East, Ranchi South, Ranchi Special, Ranchi West, Sahebganj, Singhbhum and Tenughat.

ACCT). The DCCT/ACCT/CTO of the circle, besides market survey, is responsible for levy and collection of VAT/CST due to the Government.

The State is also divided into three Commercial Taxes Divisions⁶ (VAT Audit), each under the charge of a Joint Commissioner who is assisted by DCCTs, ACCTs and CTOs to conduct Tax Audit of selected dealers according to criteria defined by the Commissioner.

2.3.3 Audit objectives

The Performance Audit was conducted with the view to ascertain whether:

- the provisions of the JVAT Act and Rules made thereunder are adequate and enforced properly to safeguard the revenue of the State;
- the exemptions/concession of tax, deductions from turnover claimed by the dealers and allowed by the Assessing Authorities (AAs) were in order; and
- an internal control mechanism existed in the Department and was adequate and effective to prevent leakage of revenue.

2.3.4 Audit Criteria

- Jharkhand Value Added Tax Act 2005;
- Jharkhand Value Added Tax Rules 2006;
- Central Sales Tax (CST) Act 1956;
- Central Sales Tax (Registration and Turnover) Rules 1957;
- Central Sales Tax (Jharkhand) Rules 2006;
- Notifications/instructions issued from time to time; and
- Court judgements.

2.3.5 Audit Scope and Methodology

2.3.5.1 The Performance Audit on “System of assessment under VAT” was conducted from October 2014 to May 2015 pertaining to period 2009-10 to 2013-14 in respect of assessments finalised during 2010-11 to 2014-15. The audit was conducted in the office of the Commissioner, Commercial Taxes Department, three Divisional Joint Commissioner(s)⁷ of Administration, Appeal and VAT Audit Wing, Commercial Taxes Tribunal and 13 Commercial Taxes Circles (CTCs)⁸ out of 28 Circles in the State selected by the method of random sampling on the basis of revenue generated by each circle categorising them into high (₹ 150 crore and above), medium (between ₹ 25 crore and ₹ 150 crore) and low risk (below ₹ 25 crore).

2.3.5.2 We test checked periodical returns, trading accounts in JVAT-409, utilisation certificates of declaration Forms ‘C, and ‘F, utilisation of road permits in JVAT 504G and 504B, utilisation of declaration in Form JVAT-404 for Input Tax Credit, JVAT-506 for intra-State branch transfer, JVAT-400 for

⁶ Dhanbad, Jamshedpur and Ranchi.

⁷ Dhanbad, Jamshedpur and Ranchi.

⁸ Adityapur, Bokaro, Chaibasa, Deoghar, Dhanbad, Giridih, Jamshedpur, Jamshedpur Urban, Ramgarh, Ranchi East, Ranchi South, Ranchi West and Tenughat. Audit conducted in the current as well as in previous audit cycles.

tax deducted at source, JVAT-407 for non deduction of tax, JVAT- 403 for tax paid sale of commodities under special rate of tax and cross verified the data/information collected from State Government Department, private/public sector undertakings and assessment records of contractors to detect evasion of tax as well as unregistered contractors/ dealers. An entry conference on 13 February 2015 with the Additional Commissioner and Joint Commissioner (Headquarters) of Commercial Taxes Department, Jharkhand in which the audit objectives, scope and methodology was discussed in detail. An exit conference was held on 19 August 2015 with the Secretary cum Commissioner Government of Jharkhand in which the findings, conclusion and recommendations of the Performance Audit were discussed. The views of Government/Department have been suitably incorporated in the report.

2.3.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Taxes Department in providing the necessary information and records for audit.

2.3.7 Trend of revenue

The variation between Budget Estimates (BEs) and Actuals during 2009-14 was as shown in **Table – 2.3.7**.

Table - 2.3.7

Year	Budget Estimates	Actual Receipts as per Finance Accounts of the state	Variation Excess(+) Shortfall(-)		Percentage of variation
2009-10	4,200.00	3,597.20	(-) 602.80	(-) 14.35	
2010-11	4,503.00	4,473.43	(-) 29.57	(-) 0.66	
2011-12	5,633.25	5,522.02	(-) 111.23	(-)1.97	
2012-13	6,650.00	6,421.61	(-) 228.39	(-)3.43	
2013-14	7,874.50	7,305.08	(-) 569.42	(-)7.23	

Source: Departmental Figures and Finance Accounts of the State.

It would be seen from the above that after a shortfall of 14.35 *per cent* in 2009-10, the department recovered in 2010-12 which could be largely attributed to the increase in rate of tax.

2.3.8 Arrears in Assessment

The arrears in assessments of 12 Commercial Taxes Circles⁹ during 2009-14 was as shown in **Table – 2.3.8**.

Table – 2.3.8

Year	OB	Addition	Total	Clearance	Closing Balance
2009-10	2,550	29,610	32,160	20,847	11,313
2010-11	11,313	30,017	41,330	30,705	10,625
2011-12	10,625	34,455	45,080	27,656	17,424
2012-13	17,424	28,240	45,664	25,743	19,921
2013-14	19,921	30,349	50,270	27,656	22,614

⁹ Adityapur, Bokaro, Chaibasa, Dhanbad, Giridih, Jamshedpur, Jamshedpur Urban, Ramgarh, Ranchi East, Ranchi South, Ranchi West and Tenughat.

It would be seen from the above that there was cumulative increase in arrears in assessment over the years from 11,313 in 2009-10 to 22,614 at the end of 2013-14. It was observed that there was shortage of officers and supporting staff in the department which could have been the result of accumulation of these arrears.

2.3.9 Arrears in revenue

Arrears in collection of revenue in the 12 test checked circles¹⁰ as on 31 March 2014 were ₹ 1,225.51 crore as depicted in the **Table - 2.3.9**.

Table – 2.3.9

Period	Opening Balance	Addition during the year	Total	Recovery made during the year	(₹ in crore)
					Closing balance
2009-10	1,747.79	161.21	1,910.00	518.86	1,391.14
2010-11	1,381.94	81.14	1,463.08	71.28	1,391.80
2011-12	1,761.68	131.85	1,893.53	234.94	1,658.59
2012-13	1,583.33	395.33	1,978.66	414.34	1,564.32
2013-14	1,564.32	175.42	1,739.74	514.23	1,225.51

The reason for the arrears and action taken for their realisation though called for (June 2015) has not been received. The concerned circles also did not furnish the periodicity of the arrears and cases liable for institution of certificate cases along with the revenue involved. The age wise analysis of arrears could not be made due to non-availability of periodicity of the arrears.

Audit Findings

Though the JVAT Act came into force with effect from 1 April 2006 Audit reviewed the system of assessment and noticed a number of deficiencies which have been discussed in the succeeding paragraphs.

2.3.10 Deficiencies in assessment

Section 35 and Section 9 under the JVAT Act, 2005, CST Act 1956 and Rules made thereunder respectively contains the provisions of assessment and self-assessment of tax. Proper tax assessment and a sound collection mechanism are essential elements of efficient and effective tax management. Audit noticed deficiencies in implementation of provisions of the JVAT and the CST Act for assessment, collection of tax, interest and penalty.

2.3.10.1 Non-practicing of system of Self Assessment of tax

The Department continued with the assessment of registered dealers as in previous Sales Tax era and did not encourage the dealers to practice self assessment.

Section 35 of the JVAT Act provides that the amount of tax due in respect of a tax period from a registered dealer or a dealer liable to be registered shall be deemed to have been self assessed if the dealer has filed all the returns and the

¹⁰ Adityapur, Bokaro, Chaibasa, Dhanbad, Giridih, Jamshedpur, Jamshedpur Urban, Ramgarh, Ranchi East, Ranchi South, Ranchi West and Tenughat.

annual return with all the required documents within the prescribed time and the returns so filed are found to be in order and arithmetically correct.

We collected figures of self assessment from 13 circles¹¹ which were as under in **Table – 2.3.10.1**.

Table - 2.3.10.1

Year	Total number of registered dealers	Number of self assessment filed	Number of self assessment accepted
2009-10	35,090	12	1
2010-11	39,061	12	3
2011-12	45,732	11	2
2012-13	50,347	7	2
2013-14	55,835	8	4

It could be seen from the above table that during the period 2009-14 only 50 dealers opted for self-assessment and out of this, self-assessment was accepted in case of 12 dealers. As a result, in spite of existence of the provision of self-assessment since promulgation of the Act, almost all the cases were assessed by the AAs like the previous Sales Tax era over the years. There was substantial shortage of officers and supporting staff in the department to cope up with increasing numbers of registered dealers every year which resulted in cumulative increase in arrears in assessment from 11,313 in 2009-10 to 22,614 at the end of 2013-14 as pointed in Para 2.3.22.4 and 2.3.8 of this report. Considering the increasing arrears in assessment, the JVAT Act was amended in May 2011 (Ordinance 2 of 2011) to insert the word ‘assessment’ with self-assessment and time limit for assessment was increased from two years to three years.

Lack of initiative to popularise self-assessment had already been pointed out in the Audit Report for the year ended 31 March 2009 wherein the fund allocated for such purpose was not utilised for the same.

We reported the matter to the Government; their reply has not been received (October 2015).

We recommend that the Government may consider popularising self assessment among the registered dealers.

2.3.10.2 Non-conducting of proper survey

Modalities for surveys i.e. areas to be covered, periodicity of surveys and number of dealers to be covered in each survey have not been prescribed.

Section 25 of the JVAT Act provides that no dealer shall, while being liable to pay tax, carry on business unless he has been registered. Further, Section 71 provides for identification of dealers who are liable to pay tax, but remained unregistered, the prescribed authority shall from time to time cause a survey of unregistered dealers.

¹¹ Adityapur, Bokaro, Chaibasa, Deoghar, Dhanbad, Giridih, Jamshedpur, Jamshedpur Urban, Ramgarh, Ranchi East, Ranchi West, Ranchi South and Tenughat.

We collected information regarding conduct of survey and registration of dealers from 13 circles¹² and noticed that only 1,959 new dealers¹³ were registered during the period from 2009-10 to 2013-14 following 4,063 surveys conducted as depicted in the **Table – 2.3.10.2**.

Table – 2.3.10.2

Year Name of Circle	2009-10		2010-11		2011-12		2012-13		2013-14		Total	
	A	B	A	B	A	B	A	B	A	B	A	B
Adityapur	NF	NF	10	9	5	5	29	16	3	3	47	33
Bokaro	205	31	Nil	Nil	Nil	Nil	77	12	153	15	435	58
Chaibasa	77	15	72	15	50	8	31	6	66	10	296	54
Deoghar	103	25	62	28	72	49	84	52	44	31	365	185
Dhanbad	3	18	5	23	6	25	8	35	8	32	30	133
Giridih	38	32	2	2	18	15	34	28	191	162	283	239
Jamshedpur	261	175	77	43	70	32	124	65	150	78	682	393
Jamshedpur Urban	118	31	49	18	34	15	58	20	14	7	273	91
Ramgarh	35	10	25	8	85	57	69	62	83	23	297	160
Ranchi East	89	26	29	5	28	15	16	7	Nil	Nil	162	53
Ranchi South	NF	NF	17	Nil	14	NIL	16	3	73	3	120	6
Ranchi West	84	7	103	11	119	16	127	21	137	26	570	81
Tenughat	83	76	112	108	124	116	96	88	88	85	503	473
Total	1,061	436	538	262	540	296	700	353	927	452	4,063	1,959

'A' = Number of surveys conducted and 'B' = Number of dealers registered.

The provision of survey of unregistered dealers was made in the Act, yet modalities for such surveys i.e. areas to be covered, periodicity of surveys and number of dealers to be covered in each survey have not been prescribed. We further noticed that these surveys were not monitored at the apex level.

2.3.10.3 Non-detection of unregistered works contractors

The department did not utilise the TDS details available in the assessment records to detect unregistered contractor dealers.

Under the provisions of Section 8(5) (d) of the JVAT Act 2005, works contractors are liable to get registered and pay tax accordingly if the turnover exceeds of ₹ 25,000. Further under the provisions of section 38 (2) the dealer is liable to pay, by way of penalty, in addition to the amount of tax so assessed, a sum equal to the amount of tax assessed or a sum of rupees ten thousand whichever is greater.

We obtained information/data from assessment records of two assessee¹⁴ of Commercial Taxes Department (between June 2014 and January 2015) and noticed that the said assessee furnished list of 54 unregistered contractors to whom sub-contracts were awarded and payment of ₹ 15.29 crore was made to them during 2008-09 to 2010-11. The AAs assessed the assessee (between March 2011 and December 2013) but could not identify those 54 unregistered

¹² Adityapur, Bokaro, Chaibasa, Deoghar, Dhanbad, Giridih, Jamshedpur, Jamshedpur Urban, Ramgarh, Ranchi East, Ranchi South, Ranchi West and Tenughat.

¹³ Adityapur-33, Bokaro-58, Chaibasa-54, Deoghar-185, Dhanbad-133, Giridih-239, Jamshedpur-393, Jamshedpur Urban-91, Ramgarh-160, Ranchi East-53, Ranchi South-6, Ranchi West-81 and Tenughat-473.

¹⁴ National Building Construction Corporation registered in Ranchi East Circle (2008-09, 2009-10 and 2010-11) and Larsen and Toubro Ltd. registered in Jamshedpur Circle (2010-11).

sub-contractors due to absence of a mechanism for intra-departmental exchange of data.

Non-detection of dealers/contractors, liable for registration, by the AAs resulted in non-levy of tax of ₹ 3.82 crore including penalty of ₹ 1.91 crore (**Appendix-I**).

After we pointed this out, the Department/Government in the exit conference agreed to the audit observations and assured that corrective action would be taken. The Commissioner expressed her gratitude for pointing out observations and stated that action is being taken to identify the dealers through exchange of data from Treasury as well as with other Departments. It was further added that a new amendment has also been made in August 2015 in the JVAT Rule 2006 dispensing with security deposit against new registration of dealers to attract substantial number of dealers for registration under this policy. Regarding creating a database for registration of dealers below threshold limit, it was stated that it will be taken care of by the new computer software system being developed. Further reply has not been received (October 2015).

We recommend that the Government may consider periodic surveys and intra-departmental exchange of data to identify unregistered dealers with proper monitoring at the apex level to bring them under tax net.

2.3.11 Suppression of purchase/sales turnover

Under the provisions of Section 40(1) read with Section 37 (6) of the JVAT Act and the Section 9 of the CST Act, if the prescribed authority has reasons to believe that the dealer has concealed the particulars of such turnover or has furnished incorrect particulars of such turnover and thereby the returned figures are below the real amount, the prescribed authority shall direct the dealer to pay, besides the tax assessed on escaped turnover, by way of penalty a sum equivalent to twice the amount of the additional tax so assessed.

Our scrutiny revealed that there was suppression of sales/purchase turnover of ₹ 1,404.19 crore in case of 70 dealers out of 1,062 dealers test checked from 45,732 dealers registered in 13 circles leading to underassessment of tax of ₹ 192.75 crore including mandatory penalty of ₹ 128.51 crore as discussed in the following paragraphs.

2.3.11.1 Suppression of purchase/sales turnover under VAT

Actual purchase/sales for the period from 2009-10 to 2011-12 was ₹ 15,313.35 crore instead of ₹ 14,082.80 crore returned by the dealers. Concealment of turnover of ₹ 1,230.55 crore resulted in under assessment of tax of ₹ 157.25 crore.

We noticed (between February 2014 and May 2015) in 11 Commercial Taxes Circles¹⁵ that 53 dealers (assessed between February 2012 and March 2015)

¹⁵ Adityapur, Bokaro, Chaibasa, Dhanbad, Giridih, Jamshedpur, Jamshedpur Urban, Ramgarh, Ranchi East, Ranchi South and Ranchi West.

out of 1,045 dealers dealing in various goods¹⁶, had filed their returns for gross purchase/sales of ₹ 14,082.80 crore for the period from 2009-10 to 2011-12. However, our scrutiny of documents placed on assessment records¹⁷ indicated that these dealers had actually purchased/sold goods of ₹ 15,313.35 crore. The AAs while assessing the tax did not scrutinise the same and accepted the returns furnished by the dealers. Thus, these dealers had concealed turnover of ₹ 1,230.55 crore on account of purchase/sale in their returns. This resulted in under-assessment of tax of ₹ 157.25 crore including mandatory penalty of ₹ 104.84 crore (**Appendix-II**).

After we pointed this out, the Department/Government in the exit conference agreed and stated that the concerned Commercial Taxes Circles have been instructed to take appropriate action. Further reply has not been received (October 2015).

2.3.11.2 Suppression of sales/purchase detected by Cross Verification

Cross-verification of inter-departmental data/information revealed suppression of sale/purchase turnover and consequential under-assessment of tax of ₹ 35.50 crore.

We obtained data/information from other departments¹⁸ and other dealers registered in either same or other Commercial Taxes Circles in Jharkhand and cross-verified with the assessment records of dealer(s) in the seven Commercial Taxes Circles¹⁹ and noticed (between January 2015 and April 2015) that 17 dealers/works contractors, during the period between 2009-10 and 2010-11 had shown purchase/sales turnover of ₹ 959.99 crore through their periodical returns/annual, audited accounts on which the assessments were finalised between February 2011 and March 2014. However, our cross-verification revealed that the dealers/contractors had actually received/sold goods valued at ₹ 1,133.63 crore. Thus, the dealers had suppressed turnovers of ₹ 173.64 crore and were liable to pay tax ₹ 35.50 crore including mandatory penalty of ₹ 23.67 crore (**Appendix-III**).

After we pointed this out, the Department/Government in the exit conference agreed to the audit observations and assured that corrective action would be taken. Further reply has not been received (October 2015).

¹⁶ Forgings, Pig iron, Motor parts, Coal and coke, Iron and steel, HEMM parts, Computer, Petroleum products etc.

¹⁷ Periodical returns, Trading accounts in JVAT-409, Utilisation certificates of declaration Forms 'C', 'F', Utilisation of road permits in JVAT 504G and 504B.

¹⁸ Director, Airport Authority of India, Ranchi, Executive Engineer RDS, Bokaro, District Mining Officer Chaibasa and Executive Engineer RWD Bokaro, TATA Steel and assessment records of National Building Construction Corporation, Hindustan Steelworks Construction Ltd, Central Coalfield Ltd. Dhori and Argada Areas.

¹⁹ Adityapur, Bokaro, Chaibasa, Deoghar, Ramgarh, Ranchi West and Tenughat.

2.3.12 Incorrect determination of Gross Turnover under JVAT Act

Gross Turnover (GTO) was determined as ₹ 1,598.64 crore instead of actual GTO of ₹ 1,703.81 crore resulting in incorrect determination of GTO of ₹ 105.18 crore and consequential short levy of tax of ₹ 11.05 crore.

Under the provisions of the Section 2 (xxv) of the JVAT Act 2005, Gross Turnover (GTO) is the aggregate of all amounts received and receivable by a dealer, including the gross amount received or receivable for execution of works contract or sale of goods made outside the State, in the course of inter-state trade or commerce or export during any given period.

We test checked the assessment records of 622 dealers out of 717 dealers (between March 2014 and March 2015) in seven Commercial Taxes Circles²⁰ and noticed that in case of 13 dealers GTO was determined as ₹ 1,598.64 crore but the actual GTO was ₹ 1,703.81 crore for the period 2007-08, 2010-11 and 2011-12. It was observed that in all the cases either the documents like annual returns, audited accounts in Form JVAT 409, trading accounts were not properly scrutinised or the concerned section of the Act defining elements of sale turnover was not properly interpreted. The AAs while finalising the assessments (between March 2010 and March 2014) did not consider the figures mentioned in the returns/records resulting in incorrect determination of GTO by ₹ 105.18 crore and consequential short levy of tax of ₹ 11.05 crore (Appendix-IV).

After we pointed this out, the Department/Government in the exit conference agreed with the audit observations and stated that system is being updated to take care of the mismatch between the figures in returns and determination of gross turnover. It was assured to take steps for necessary amendment in the Act/Rules. Further reply has not been received (October 2015).

2.3.13 Irregularities in grant of Input Tax Credit (ITC)

Under the provisions of the Section 18 of the JVAT Act, 2005 and Rules framed thereunder, the ITC to which the registered dealer is entitled, shall be the amount of tax paid by the registered dealer on purchases made within the State during any tax period. Our scrutiny of records of the Department revealed irregularities in ITC claims like irregular/non-admissible ITC claims, excess claims, non-reversal of ITC and non-charging of interest thereon of ₹ 8.35 crore in cases of 24 dealers out of 1,186 test checked from 35,129 dealers in nine circles as discussed in the following paragraphs:

²⁰ Chaibasa, Deoghar, Jamshedpur, Jamshedpur Urban, Ramgarh, Ranchi South and Ranchi West.

2.3.13.1 Excess allowance of ITC

The dealer had claimed ITC of ₹ 156.76 crore on intra-State purchases of goods. However, on the basis of declarations in JVAT 404 submitted, the dealers were actually entitled for ITC of ₹ 148.50 crore only.

Section 18 of the JVAT Act, 2005, provides that when a registered dealer purchases any taxable goods within the State from another registered dealer after paying him a tax under Section 13 of the Act he is eligible to claim credit of input tax in the manner prescribed.

We noticed (between March 2014 and May 2015) in nine Commercial Taxes Circles²¹ that 20 dealers out of 1,002 dealers test checked had claimed ITC of ₹ 156.76 crore on intra-State purchases of goods between 2008-09 and 2011-12. The AAs while finalising the assessments (between March 2011 and March 2015) allowed ITC of ₹ 153.47 crore on the basis of declarations in JVAT 404 furnished by dealers and apportionment of ITC. Our scrutiny of declarations in JVAT 404 and details of taxable turnover, however, revealed that there were cases of intra-State stock transfers, inter-State sales to unregistered dealers, incorrect apportionment of inter-State stock transfer, ITC claim of purchase of goods of negative list etc. and these dealers were actually entitled for ITC amounting to ₹ 148.50 crore only. This resulted in allowance of excess ITC of ₹ 4.98 crore by the AAs. Besides, the dealers were also liable to pay interest of ₹ 2.80 crore for availing incorrect ITC (**Appendix-V**).

2.3.13.2 Incorrect allowance of ITC

The dealer had claimed ITC of ₹ 8.65 lakh on intra-State purchase of LPG Cylinders, treating it as packing materials. The AA had allowed the ITC in full. However, LPG cylinder is capital goods which are supplied to the consumers on payment of security money and not sold to the consumers.

Under Section 18 of the JVAT Act, 2005 and rules made thereunder a dealer claiming input tax in respect of capital goods shall apply in Form JVAT 118 to the prescribed authority within thirty days of commencement of commercial production or sale of taxable goods.

We noticed (January 2015) in Jamshedpur Commercial Taxes Circle that in case of a dealer, dealing in petroleum products had claimed ITC of ₹ 8.65 lakh on intra-State purchase of LPG Cylinders, treating it as packing materials. The AA while finalising the assessment for 2010-11 in November 2013 allowed the ITC in full. LPG cylinders are not sold by the Oil Companies but supplied to the consumers on payment of security money which is refundable at the time of surrender of LPG connection. Thus, treating LPG cylinders as packing materials (liable to be sold with the principal commodity) instead of capital goods was incorrect resulting in incorrect allowance of ITC of ₹ 8.65 lakh besides the dealer did not pay actual tax due of ₹ 8.65 lakh was also liable to

²¹ Bokaro, Chaibasa, Dhanbad, Jamshedpur, Jamshedpur Urban, Ramgarh, Ranchi South, Ranchi West and Tenughat.

pay interest amounting to ₹ 2.68 lakh for non-payment of actual tax on due date. Besides the dealer was also liable to pay penalty.

2.3.13.3 Incorrect allowance of ITC to work contractors

There was incorrect allowance of ITC of ₹ 46.22 lakh to works contractors who had not maintained the accounts to determine the correct turnover of goods.

Under Rule 22 of the JVAT Rules, 2006, where a contractor VAT dealer has not maintained the accounts to determine the correct value of the goods, he shall pay tax at the higher rate on the total consideration received and shall not be eligible to claim ITC.

We test checked 183 dealers (between January and March 2015) in Jamshedpur Urban and Ranchi South Commercial Taxes Circles and noticed that three contractor VAT dealers had claimed ITC of ₹ 47.99 lakh on intra-State purchase of goods involved in works contract and had adjusted it against output tax payable. As the contractors had not maintained the accounts, the AA while finalising the assessment for 2010-11 and 2011-12 (between June 2013 and March 2014) incorrectly allowed the ITC of ₹ 46.22 lakh on the basis of submission of requisite declarations in Form JVAT 404. This resulted in incorrect allowance of ITC of ₹ 46.22 lakh.

After we pointed this out, the Department/Government in the exit conference agreed with the fact and stated that corrective action would be taken. When pointed out about the probable misuse of declaration in Form JVAT 404, it was assured by the Commissioner that possible measures in this regard would be taken to ensure allowance of ITC only against the JVAT-404 being furnished within prescribed time limit. Further reply has not been received (October 2015).

2.3.14 Short levy of tax

The Assessing Authorities (AAs) while finalising the assessments, did not apply the correct rate of tax given in the schedule of rates, in some cases lower rate of tax was applied due to misclassification of goods.

Our scrutiny of assessment records in seven Commercial Taxes Circles²² revealed misclassification of goods and application of incorrect rate of tax in case of 13 dealers out of 852 dealers test checked from 27,528 dealers resulting in short levy of tax of ₹ 6.27 crore as discussed in the following paragraphs:

²² Adityapur, Jamshedpur, Jamshedpur Urban, Ramgarh, Ranchi South, Ranchi West and Tenughat.

2.3.14.1 Short levy of tax due to misclassification of goods

The dealers had filed their returns by admitting the rate of tax of four per cent on sale of goods instead of leviable rates of 12.5 per cent and consequential short levy of tax of ₹ 1.22 crore.

Under the provisions of the Sections 9 and 13 of the JVAT Act, 2005 and Schedule-II Part-D appended thereunder paints, coal briquette and glass are taxable at the rate of 12.5 per cent.

We noticed (between March 2014 and April 2015) in four Commercial Taxes Circles²³ that in case of six dealers out of 368 dealers test checked, dealing in paints, cement, coal briquette and glass, had filed their returns for the period between 2009-10 and 2010-11 admitting the rate of four per cent. The AAs while finalising the assessments of these dealers between March 2013 and March 2014 accepted the tax as submitted by the dealer in their returns instead of rate given in the schedule on sale of goods worth ₹ 14.41 crore. This resulted in short levy of tax of ₹ 1.22 crore as mentioned in the **Table – 2.3.14.1 (Appendix-VI)**.

Table – 2.3.14.1

Sl. No.	Name of the circle No. of dealer	Period Month of assessment	Nature of observations	(₹ in lakh)	
				Tax leviable Tax levied	Short levy
1	Ramgarh One	2010-11 March 2014	Though, tax on sale of glass was leviable at the rate of 12.5 per cent but tax was levied at the rate of four per cent.	52.23 16.71	35.52
2	Jamshedpur Urban One	2009-10 March 2013	Though, tax on sale of paints was leviable at the rate of 12.5 per cent but tax was levied at the rate of four per cent.	33.68 10.78	22.90
3	Tenughat Two	2010-11 Between August 2013 and January 2014	The AA in one case levied tax at the rate of four per cent on sale of coal briquettes instead of correct rate of 12.5 per cent. Further, in another case, the dealer had opted for Composition Scheme u/s 58 of the Act. Though, the turnover exceeded ₹ 50 lakh but the AA incorrectly levied tax at the rate of 0.5 per cent instead of correct rate of 4/12.5 per cent.	7.01 2.03	4.98
4	Ranchi West Two	2010-11 Between June and July 2013	The AAs incorrectly levied tax at the rate of four per cent on cement/ motor vehicle instead of leviable rate of 12.5 per cent.	86.57 27.70	58.87
Total				179.49 57.22	122.27

After we pointed this out, the Department/Government in the exit conference agreed with the fact and stated that concerned Commercial Taxes Circles have

²³ Jamshedpur, Ramgarh, Ranchi West and Tenughat.

been instructed to furnish replies/action taken reports. Further reply has not been received (October 2015).

2.3.14.2 Short levy of tax due to application of incorrect rate of tax

Due to non-production of requisite documents, the AAs at the time of finalising the assessments disallowed the claims for ₹ 59.41 crore and levied tax at the rate of 4 per cent instead the correct rate of 12.5 per cent.

Under the provisions of Rule 22 of the JVAT Rules, 2006, if the contractor VAT dealer has not maintained the accounts to determine the correct value of goods, he shall pay tax at the rate of 12.5 per cent (14 per cent w.e.f. 7 May 2011) on the total consideration received or receivable subject to deductions specified (30 per cent in case of other contracts).

We noticed (between January 2015 and March 2015) in five Commercial Taxes Circles²⁴ that in case of seven dealers (works contractors) out of 484 dealers that the dealers had filed their returns for the period between 2008-09 and 2011-12 determining the gross turnover of ₹ 316.45 crore, of which, the dealers had claimed exemption of ₹ 119.58 crore on accounts of labour and other non-taxable expenditures. However, due to non-production of requisite documents, the AAs at the time of finalising the assessments of these dealers, between March 2011 and March 2014, disallowed the claims of ₹ 59.41 crore and levied tax at the rate of four per cent instead of 12.5/14 per cent. This resulted in under-assessment of tax of ₹ 5.05 crore (**Appendix-VII**).

After we pointed this out, the Department/Government in the exit conference agreed with the fact and stated that concerned Commercial Taxes Circles have been instructed to furnish replies/action taken reports. Further reply has not been received (October 2015).

2.3.15 Non-levy of purchase tax

The AAs did not levy purchase tax on the purchase of goods consumed for manufacture of goods exempted from levy of tax.

Under the provisions of Section 10 of the JVAT Act 2005, every dealer liable to pay tax who purchases any goods from a dealer in the circumstances where no tax has been paid under this Act shall be liable to pay tax on the purchase price of such goods, if after such purchase, the goods are used or consumed in the manufacture of goods declared to be exempt from tax under this Act. Such tax shall be levied at the same rate at which tax would have been levied on the sale of such goods within the State.

We noticed (between May 2014 and March 2015) in Deoghar and Tenughat Commercial Taxes Circles that the AAs while finalising the assessments for the period 2009-10 and 2010-11 between February 2011 and January 2014 did not levy the purchase tax in case of two dealers out of 177 dealers test checked, who after purchasing goods worth ₹ 9.15 crore from unregistered dealers had consumed the same for manufacture of goods exempted from levy

²⁴ Adityapur, Jamshedpur Urban, Ramgarh, Ranchi South and Ranchi West.

of tax and in process of mining. This resulted in non-levy of purchase tax of ₹ 95.64 lakh.

After we pointed this out, the Department/Government in the exit conference agreed with the audit observations and assured that corrective action would be taken. Further reply has not been received (October 2015).

2.3.16 Non/short levy of interest for non/short payment of tax due

The AAs did not levy interest on disallowed claims/irregular adjustment of tax deducted at source (TDS).

Under Sections 30(1) and (3) of the JVAT Act 2005, if a dealer fails, without sufficient cause, to pay the amount of tax due as per the returns for any tax period, the AA shall direct the dealer to pay interest at the rate of one *per cent* per month and may direct the dealer to pay penalty at the rate of two *per cent* per month on the amount of additional tax assessed and interest payable, from the date of tax payable to the date of payment or the date of order whichever is earlier.

Our scrutiny of the assessment records of 46 dealers out of 1,125 test checked from 43,000 dealers in 12 circles revealed non-levy of interest ₹ 38.43 crore on non/delayed payment of admitted tax/tax due, disallowed unsubstantiated claims, incorrect exemptions and concessions as discussed in the following paragraphs:

2.3.16.1 Non-levy of interest on unsubstantiated claims of exemptions and concession

The AAs at the time of finalisation of assessments disallowed the claims of ₹ 2,068.53 crore due to non-furnishing of requisite declaration forms/proof of claimed exemptions/concessions/availing of ITC and levied additional tax of ₹ 112.12 crore but did not levy interest for non-payment of tax due.

We noticed (between February 2014 and May 2015) in 12 Commercial Taxes Circles²⁵ that in case of 45 dealers out of 1,037 dealers dealing in various goods²⁶, the dealers during the period between 2009-10 and 2011-12 had claimed payment of tax due, ITC, sale on concessional rate of tax and exemptions for stock transfer outside the State, export sale and transit sale for ₹ 29,205.83 crore and had paid the taxes accordingly.

The AAs at the time of finalisation of assessment between December 2012 and January 2015 disallowed the claims of ₹ 2,068.53 crore due to non-furnishing of requisite declaration forms/proof of such claimed exemptions/concessions and levied additional tax of ₹ 112.12 crore either by disallowing the ITC or levying tax at the appropriate rate leviable in the State.

²⁵ Adityapur, Bokaro, Chaibasa, Dhanbad, Deoghar, Giridih, Jamshedpur, Jamshedpur Urban, Ramgarh, Ranchi East, Ranchi South and Ranchi West.

²⁶ Iron & steel, Iron ore, Asbestos sheet, Coal, Scrap, Silico manganese, Glass, Mobile phones, Air Conditioners, Water Coolers, Fire Bricks, IT Products, Petroleum Products, Motor Vehicles, Machinery Parts etc.

We further observed that the periodical returns were not scrutinised by the AAs and allowing the dealers to retain the actual tax payable by them till the date of assessment. Thus, the dealers had actually furnished incorrect returns and had not paid the actual tax due. Though the AAs levied additional tax on the disallowed claims of the dealers but did not levy the interest of ₹ 38.28 crore for non-payment of tax payable. Besides, the dealers were also liable to pay penalty.

2.3.16.2 Non-payment of tax due and interest thereon

The dealer had adjusted amount of TDS deducted from its suppliers/agencies amounting to ₹ 10.84 lakh from tax payable though amount of TDS was required to be deposited separately.

We test checked 88 dealers (November 2014) in Ranchi East Commercial Taxes Circle and noticed that a dealer had shown payment of tax payable as per return for ₹ 246.52 crore during 2010-11 which was assessed by the AA (March 2014) and demand notice was issued accordingly by deducting the tax deposited from the assessed tax of ₹ 246.42 crore. However, our scrutiny revealed that out of ₹ 246.52 crore paid by the dealer, ₹ 10.84 lakh pertained to amount of TDS deducted by the dealer from its suppliers/agencies which was to be deposited separately under Rule 23 of the JVAT Rules, 2006. Thus, the dealer had not deposited actual tax due for ₹ 10.84 lakh and was also liable to pay interest of ₹ 3.80 lakh²⁷ for not depositing the actual tax payable.

After we pointed this out, the Department/Government in the exit conference agreed with the audit observations and stated that the matter would be looked upon with reference to the provisions under Sections 30 and 35 of the JVAT Act, 2005. The cases have been forwarded to the concerned Commercial Taxes Circles to take appropriate action. Further reply has not been received (October 2015).

2.3.17 Non-levy of interest under Section 40(2)

The AAs did not levy the mandatory interest after detecting non/short accounting of goods, under valuation of goods and furnishing incorrect, incomplete and unreliable books of accounts.

Under the provisions of Section 40(2) of the JVAT Act 2005, if the prescribed authority detects before assessment or otherwise, that any registered dealer has concealed any sale or purchase or any particular thereof, with a view to reduce the amount of tax payable by him or has furnished incorrect statement of his turnover or incorrect particulars of his sales or purchase in the return furnished by him, he shall direct the assessee, in addition to additional tax assessed on suppressed or concealed turnover, to pay by way of interest a sum at the rate of two *per cent* for each month.

We test checked (between March 2014 and May 2015) assessment records of 955 dealers out of assessment records of 1,138 dealers requisitioned for audit

²⁷ Interest calculated @ of one *per cent* per month on tax for 35 months.

in 10 Commercial Taxes Circles²⁸ and noticed that 16 dealers had filed their returns for purchase/sale conceding GTO of ₹ 2,045.15 crore for the periods between 2009-10 and 2011-12. The AAs while finalising the assessments of these dealers (between December 2012 and November 2014) determined the GTO at ₹ 2,587.89 crore, enhancing it by an additional amount of ₹ 542.74 crore, on the basis of non/short accounting of goods, under valuation of goods and furnishing incorrect, incomplete and unreliable books of accounts. However, our scrutiny indicated that though the AAs levied additional tax of ₹ 44.69 crore on the suppressed turnover but interest of ₹ 31.66 crore though leviable was, however, not levied. This resulted in non-levy of interest of ₹ 31.66 crore.

After we pointed this out, the Department/Government in the exit conference agreed with the audit observations and assured that corrective action would be taken. Further reply has not been received (October 2015).

2.3.18 Non levy of penalty on excess collection of tax

The dealers had collected tax in excess of their tax liability of ₹ 16.90 crore. However, the AAs did not levy penalty of ₹ 33.80 crore for excess collection of tax.

Under the provisions of the Section 47(1) (b) of the JVAT Act, 2005, if a registered dealer collects any amount by way of tax in excess of the tax payable by him shall be liable, in addition to the tax for which he may be liable, to a penalty of an amount equal to twice the sum so collected by way of tax.

We test checked (between March 2014 and March 2015) assessment records of 233 dealers out of assessment records of 271 dealers requisitioned in three Commercial Taxes Circles²⁹ and noticed that four dealers had collected tax of ₹ 55.00 crore for the periods between 2008-09 and 2010-11. The AAs while finalising assessments (between March 2011 and March 2014) assessed tax of ₹ 38.10 crore payable by the dealers. Therefore the dealers had collected tax in excess of their tax liability of ₹ 16.90 crore and were liable to pay penalty of an amount equal to twice the sum so collected by way of tax besides forfeiture of excess tax collected. This resulted in non-forfeiture of excess collected tax of ₹ 16.90 crore besides non-levy of penalty of ₹ 33.80 crore³⁰.

After we pointed this out, the Department/Government in the exit conference agreed with the audit observations in general and assured that corrective action would be taken. Further reply has not been received (October 2015).

²⁸ Adityapur, Bokaro, Chaibasa, Deoghar, Dhanbad, Giridih, Ramgarh, Tenughat, Ranchi South and Ranchi West.

²⁹ Jamshedpur, Jamshedpur Urban and Ranchi South.

³⁰ Twice the amount of excess tax collected of ₹ 16.90 crore.

2.3.19 Non/Short imposition of penalty u/s 63 of JVAT Act

Non/Short levy of mandatory penalty for non-furnishing of audited accounts in the prescribed Form under the JVAT Act.

According to Section 63 of the JVAT Act, 2005, where in any particular year, the gross turnover of a dealer exceeds ₹ 40 lakh then such dealer shall get his accounts audited in the prescribed manner and furnish it in Form JVAT-409 within nine months from the end of the tax period. If the dealer fails to do so, the prescribed authority shall impose upon him a sum by way of penalty equal to 0.1 *per cent* of the turnover as he may determine to best of his judgment.

We test checked (between January and February 2015) the assessment records of 189 dealers registered in Jamshedpur Urban and Deoghar Commercial Taxes Circles and noticed that in case of two dealers the AAs determined the GTO at ₹ 154.80 crore. In both the cases audited accounts were not furnished making them liable to pay penalty of ₹ 15.48 lakh. The AAs levied penalty of ₹ 6.83 lakh only in one case which resulted in short levy of penalty of ₹ 8.65 lakh.

After we pointed this out, the Department/Government in the exit conference agreed with the audit observations in general and assured that corrective action would be taken. Further reply has not been received (October 2015).

2.3.20 Incorrect allowance of exemption

Our scrutiny of the assessment records of 34 dealers out of 2,075 test checked from 40,911 dealers in 10 Commercial Taxes Circles³¹ revealed incorrect allowance of exemption against inter-State and intra-State stock transfer, transit sale, misuse of declaration Forms and invalid Forms which resulted in under assessment of tax of ₹ 49.36 crore as discussed in the following paragraphs:

2.3.20.1 Incorrect allowance of exemption on inter-State stock transfer

The AA allowed exemption from levy of tax on stock transfer of ₹ 15,271.46 crore though the dealer had furnished declarations in Form 'F' for ₹ 14,685.88 crore.

Under Section 6A of the CST Act, submission of declaration in Form 'F' is mandatory for availing exemption from tax on stock transfer of goods made outside the State. In case of transactions not supported by form 'F' tax is leviable at the appropriate rate applicable in the State.

We test checked the assessment records of 129 dealers in Jamshedpur Urban Commercial Taxes Circle and noticed in March 2014 that a dealer had claimed exemption from levy of tax on account of stock transfer of ₹ 15,271.46 crore during the period 2009-10. The AA, while finalising the assessment in March 2013 incorrectly allowed exemption from levy of tax on turnover of

³¹ Adityapur, Bokaro, Deoghar, Dhanbad, Jamshedpur, Jamshedpur Urban, Ramgarh, Ranchi East, Ranchi South and Ranchi West.

₹ 15,271.46 crore though the dealer had furnished declarations in Form 'F' for ₹ 14,685.88 crore only. This resulted in grant of excess exemption from levy of tax on ₹ 585.58 crore and consequential short levy of tax of ₹ 23.42 crore³².

After we pointed this out, the Department/Government in the exit conference agreed with the audit observations and assured that corrective action would be taken. Further reply has not been received (October 2015).

2.3.20.2 Incorrect allowance of exemption under JVAT Act

There was allowance of exemption from levy of tax on stock transfer made within the State, conversion charges, bonus and price difference valued at ₹ 22.15 crore not supported by declaration forms and requisite supporting documents.

According to Rule 44 of the JVAT Rules, 2006, where any dealer claims exemption from levy of tax on stock transfer of goods within the state to its branches, the dealer for this purpose shall furnish Form JVAT-506 duly issued by the transferee branch, failing which, the dealer was liable to pay tax at the appropriate rate applicable in the State. Further exemptions from levy of tax on account of conversion charges, price difference and labour charges is admissible only provided such claim is substantiated by the evidences of the same.

We test checked the assessment records of 289 dealers in three Commercial Taxes Circles³³ and noticed (between November 2014 and April 2015) that in case of seven dealers, the dealers had claimed exemptions of ₹ 37.89 crore during the period 2009-10 and 2010-11 from levy of tax on the grounds of stock transfer within the State, conversion charges, bonus and price difference which was allowed by the AAs while finalising the assessments (June 2013 and February 2014). However, we noticed that out of the allowed exemptions of ₹ 37.89 crore, the dealers were not eligible for the exemptions of ₹ 22.15 crore for the reasons of non-furnishing of requisite declaration in Form JVAT-506 and other supporting documents pertaining to non-allowance of labour charges on conversion job, non-depiction of labour charges in the debit side of trading account and price difference claim on inter-State stock receipts. This resulted in incorrect grant of exemptions and consequential under-assessment of tax of ₹ 1.61 crore (**Appendix-VIII**).

After we pointed this out, the Department/Government in the exit conference agreed with the audit observations and assured that corrective action would be taken. Further reply has not been received (October 2015).

³² Calculated at the rate of four *per cent* on ₹ 585.58 crore.

³³ Ramgarh, Ranchi East and Ranchi West.

2.3.20.3 Incorrect allowance of exemption under works-contract

Incorrect allowance of exemption from levy of tax on the claims of labour and other like charges valued at ₹ 1,073.42 crore against admissible claims of ₹ 987.45 crore.

Rule 22 of the JVAT Rules, 2006 provides for determination of taxable turnover for the purpose of works contract after deducting from gross turnover, charges of labour and other non-taxable expenditures. Where contractor/VAT dealer has not maintained the accounts to determine the correct value of goods, he shall pay tax at higher rate on the total consideration received. Further, the value of goods used in execution of work in the contract declared by the contractor shall not be less than the purchase value.

We test checked the assessment records of 715 contractors/dealers in eight Commercial Taxes Circles³⁴ and noticed (between July 2014 and May 2015) that 11 dealers/works contractors had claimed deductions of ₹ 1,078.56 crore from their gross turnover of ₹ 2,103.96 crore on account of labour and other like charges for the period 2010-11. The AAs while finalising the assessments (between July 2012 and July 2014) allowed the claim of turnover for exemptions at ₹ 1,073.42 crore on the basis of submission of corroborative evidences. However, the actual admissible turnover was ₹ 987.45 crore only, after deducting from gross turnover, certain charges such as labour charges, cost of consumables, cost of establishment relatable to supply of labour and profit earned relatable to supply of labour and payments made to sub-contractors etc. This resulted in allowance of excess deductions of ₹ 85.97 crore from their gross turnover and consequential under-assessment of tax of ₹10.75 crore (**Appendix-IX**).

After we pointed this out, the Department/Government in the exit conference agreed with the audit observations and assured that corrective action would be taken. Further reply has not been received (October 2015).

2.3.20.4 Incorrect allowance of exemption in transit sale

The AAs incorrectly allowed exemption on transit sales of ₹ 231.87 crore though the dealers were entitled for exemption of ₹ 136.44 crore only as the sales were intra-State sales and not inter-State sales.

Under Section 6(2) of the CST Act, a claim on account of transit sale is exempted from levy of tax, when the sale has been effected by transfer of documents of the title of the goods during the movement of goods and such subsequent sale should also take place during the same movement occasioned by the previous sale subject to furnishing of declarations in Form 'C' and Form 'E-I'.

We test checked the assessment records³⁵ of 339 dealers in four Commercial Taxes Circles³⁶ and noticed (between November 2014 and March 2015) that in

³⁴ Adityapur, Bokaro, Deoghar, Dhanbad, Jamshedpur, Jamshedpur Urban, Ramgarh and Ranchi South.

³⁵ Assessment order passed by the AA, statement of usage of EI/EII, Form C, JVAT-409 etc.

case of four dealers the AAs while assessing (between March 2013 and March 2014) incorrectly allowed exemption on transit sales amounting to ₹ 231.87 crore though our scrutiny revealed that the dealers were entitled for exemption of ₹ 136.44 crore only. Grant of excess exemption by the AA was in contravention to the provisions mentioned *ibid* resulted in excess allowance of exemption of ₹ 95.43 crore and consequent under assessment of tax of ₹ 4.73 crore.

After we pointed this out, the Department/Government in the exit conference agreed with the fact and stated that corrective action would be taken. The Commissioner was made aware of the possible evasion of tax by big works contractors by adopting the process of twin agreements, by splitting the contract into supply and erection works, against single NIT (Notice Inviting Tender) and supplying the goods to the contractee on transit sale. It was assured that matter would be looked into. Further reply has not been received (October 2015).

We recommend that the Government may consider issuing instructions to ensure proper scrutiny by the AAs before allowing exemptions and concessions to prevent leakage of revenue.

2.3.20.5 Misuse of declaration forms

The dealers had misused declarations in Form 'C' by utilising it for purchase of goods at concessional rate of tax for use in processing of goods which were not sold but were transferred to the manufacturer for further processing of finished goods.

Under the provisions of Section 8 of the CST Act, 1956, a registered dealer can purchase goods from outside the State at concessional rate of tax against declarations in Form 'C'. If such goods are not covered by his Registration Certificate (RC) under CST Act or the goods purchased from the outside the state at concessional rate of tax are used for the purpose other than that for which the RC is granted, the dealer liable to be prosecuted under Section 10 of the CST Act. However if the AA deems it fit, he in lieu of prosecution may impose penalty up to one and a half times of the tax payable on sale of such goods under Section 10A of the CST Act. Further, it has been judicially held in case of *Bentec Rubber Pvt. Ltd. vs State of Kerala* (1997) 106 STC 591 that the buyer must sell the goods received from job work, if he uses the goods for further manufacture, the concession is not available to the dealer doing job work.

We test checked (between January and March 2015) assessment records of 227 dealers in three Commercial Taxes Circles³⁷ and noticed that four dealers had purchased goods for use in manufacturing or processing valued at ₹ 77.72 crore at concessional rate of tax by utilising declarations in Form 'C' between 2008-09 and 2011-12 which were either transferred to another manufacturer for further processing or manufacturer of finished goods for sale or the goods were not covered by their RC. The buyer must sell the goods

³⁶ Jamshedpur, Ramgarh, Ranchi East and Ranchi West.

³⁷ Deoghar, Jamshedpur and Tenughat.

received from job work, if he uses the goods for further manufacture, the concession is not available to the dealer doing job work. The AAs while finalising the assessments between September 2010 and March 2014 neither cross-verified the RC under the CST Act nor did verify the utilisation of goods purchased on concessional rate by the dealers. This resulted in unauthorised use of declaration Form 'C' and consequential non-levy of penalty of ₹ 4.72 crore.

After we pointed this out, the Department/Government in the exit conference agreed with the fact and stated that corrective action will be taken. A few cases of Jamshedpur were discussed in detail. It was assured that matter would be looked upon. Further reply has not been received (October 2015).

2.3.20.6 Incorrect allowance of concessions/exemptions due to acceptance of invalid declaration Forms.

There was incorrect allowance of concessional rate of tax/exemptions of ₹ 4.13 crore on submission of 232 invalid declaration Forms 'C' and 'F' respectively valued at ₹ 194.06 crore.

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

We noticed (between July 2014 and April 2015) in four Commercial Taxes Circles³⁸ that in case of seven dealers out of 376 dealers test checked, the AAs while finalising the assessments (between November 2013 and March 2015) for the period 2010-11 and 2011-12 allowed concession/exemption from levy of tax on production of 4,299 declarations in Forms 'C'/'F'³⁹ containing transaction valued at 15,918.72 crore. However, out of 4,299 declarations in Form 'C'/'F', 232 declarations⁴⁰ valued at ₹ 194.06 crore were liable to be rejected on the grounds of submission of invalid forms, submission of duplicate copy of forms, submission of forms issued in the name(s) of another dealer, submission of forms covering transactions for more than a quarter and submission of Forms not containing sellers name and registration number etc. Exemption/concessional rate of tax granted on account of acceptance of such defective/invalid forms by the AAs resulted in short-levy of tax of ₹ 4.13 crore **(Appendix-X)**.

After we pointed this out, the Department/Government in the exit conference agreed with the audit observations and assured that corrective action would be taken. Further reply has not been received (October 2015).

³⁸ Bokaro, Dhanbad, Ramgarh and Ranchi South.

³⁹ Declaration in Form C- 4194 and Form F- 105.

⁴⁰ Declaration in Form C- 226 and Form F-6.

2.3.21 Assessment in pursuance to audit objections raised by the Comptroller and Auditor General of India

Section 42(3) of the JVAT Act, provides that where an objection has been made by the Comptroller and Auditor General of India in respect of an assessment/re-assessment/scrutiny of any return filed under this Act, the prescribed authority shall proceed to re-assess the dealers within one month of initiation of proceedings.

We noticed that the initial replies against the following Inspection Reports of Accountant General (Audit) were not furnished by the Department as depicted in **Table – 2.3.21**.

Table – 2.3.21

Sl. No.	Inspection Report Number	Name of the office	Number of paragraphs	Amount involved (Rupees in Lakh)
1	121 of 2011-12	DCCT, Deoghar Circle	20	510.61
2	55 of 2012-13	DCCT, Jamshedpur Circle	29	506.76
3	94 of 2012-13	DCCT, Deoghar Circle	15	736.85
4	46 of 2013-14	DCCT, Giridih Circle	25	984.69
5	68 of 2013-14	DCCT, East Circle Ranchi	14	366.77
6	100 of 2013-14	DCCT, Chaibasa Circle	22	912.47
Total			125	4,018.15

We reported the matter to the Government; their reply has not been received (October 2015).

2.3.22 Internal Control Mechanism

Internal controls are intended to provide reasonable assurance of proper enforcement of law, rules and departmental instructions. These also help in the prevention and detection of frauds and other irregularities. The internal controls also help in creation of reliable financial as well as management information systems for prompt and efficient services and for adequate safeguards against evasion of taxes and duties. It is, therefore, the responsibility of the Department to ensure that a proper internal control structure is instituted, reviewed and updated from time to time to keep it effective.

2.3.22.1 Working of VAT Audit Wing

Out of 1,744 dealers selected for VAT audit during 2010-11 and 2011-12, only 172 (9.98 per cent) were audited by the VAT Audit Wing leaving arrears of 1,572 dealers

Section 34 of the JVAT Act 2005 read with Rule 33 of the JVAT Rules, 2006 envisages tax audit of selected dealers by the Department at their business premises as per the provisions of Section 37. Though the JVAT Act, 2005 came into existence on 1 April 2006, yet the VAT Audit Wing was constituted in August 2009 in CTD Head Quarters with three VAT Audit Divisions⁴¹ with distinguished strength of JCCTs, DCCTs, ACCTs, CTOs and supporting staff.

⁴¹ Dhanbad, Jamshedpur and Ranchi.

The year wise sanctioned strength and men in position during 2009-10 to 2013-14 in all the three VAT Audit divisions were as shown in **Table - 2.3.22.1(i)**.

Table – 2.3.22.1(i)

Year	JCCT	DCCT	ACCT	CTO	Bill Clerk	Clerk	Computer operator	Driver	Group D Staff
Sanctioned strength	3	6	12	24	3	6	9	9	12
Men in position in VAT Audit Divisions									
2009-10	0	0	0	0	0	0	0	0	0
2010-11	0	2	0	0	0	0	0	0	0
2011-12	3	4	7	2	0	2	2	1	0
2012-13	3	4	4	6	0	3	3	2	4
2013-14	3	4	3	8	0	3	3	3	5

Our scrutiny of the VAT Audit Wing revealed the followings:

- Out of 84,793 dealers (2010-11: 39,061 and 2011-12: 45,732) 1,744 dealers with Gross Turnover (GTO) of ₹ 10 crore and above were selected by the Commissioner for Tax Audit to be conducted by the Head Quarter as well as Divisional units in 2010-11 and 2011-12. Tax audit conducted against the above stated selected dealers were as detailed in the **Table – 2.3.22.1(ii)**.

Table – 2.3.22.1(ii)

VAT audit unit	Number of selected dealers		Number of dealers audited		Numbers of dealers not audited		Total pending cases
	2010-11	2011-12	2010-11	2011-12	2010-11	2011-12	
Head Quarter	102	53	Nil	Nil	102	53	155
Dhanbad	186	240	48	Nil	138	240	378
Jamshedpur	199	453	95	2	104	451	555
Ranchi	351	160	27	Nil	324	160	484
Total	838	906	170	2	668	904	1,572

Thus, it could be seen from the above that out of 1,744 dealers selected in 2010-12, only 172 (9.86 per cent) were audited which was far short of the target set and there were huge arrears of 1,572 dealers.

- Due to above arrears, the Commissioner decided not to further select dealers for Tax Audit in 2012-13 and 2013-14.
- Lack of man power as shown above led to accumulation of arrears in Tax Audit.
- It was also noticed that out of 172 tax audit conducted so far, 115 tax audits were not conducted at the business premises of the dealers as envisaged in Section 34 of the JVAT Act, 2005.
- The Department has not prepared Audit Manual for the VAT Audit Wing. In absence of manual the Department was deprived from the procedure to be followed for day to day functioning of various activities.
- It was also noticed that during the period for 2011-12 to 2014-15 ₹ 13.48 lakh was spent for purchase of office automation equipment and furniture for all the three divisions of VAT Audit, most of which was lying unused.

After we pointed this out, the Department/Government in the exit conference agreed with the audit observations and assured that action would be taken to strengthen the VAT Audit wing.

We recommend that the Government may strengthen the VAT Audit Wing by framing a proper Manual of Tax Audit procedures, with proper man power and monitoring.

2.3.22.2 Working of Bureau of Investigation (IB)

The Bureau of Investigation (IB) did not execute its functions of collection of data regarding purchases/imports from different organisations/offices of Central/State undertakings, railway godowns and Commercial Banks for its cross verification to detect evasion of tax.

The JVAT Act, 2005 provides for the Bureau of Investigation to function under the control and supervision of the CCT and shall discharge such duties as may be assigned to it. We noticed that the IB remained non-functional due to non-assignment of work up to August 2009. However, by an order issued in August 2009 by the CCT, the Divisional IB under the JCCT (Administration) was entrusted with the task to:

- verify the additional place of business and their entries in the registration certificate in accordance with CST Act, 1956 for the dealers making inter-State stock transfers, inspect big manufacturers/dealers, collect data regarding purchases/imports made by big manufacturers, State/Central undertakings, railway godowns, transporters and Commercial Banks. It was also entrusted to inspect trucks at border areas in a planned and regular manner, verify the prescribed tax rate on particular commodities in course of inter-State purchases, arrival by way of stock transfer/imports and cross-verification of the correctness of declaration form.

We scrutinised the functioning of three Divisional IBs⁴² and noticed that the IB was mainly carrying out inspections of manufacturers/dealers and transport vehicles over these years but neither any data was found to have been collected from big manufacturers, Central/State PSUs, railway godowns, transporters, Commercial Banks etc. for its subsequent verification nor declarations forms were cross-verified.

- The Divisional IB was required to submit monthly reports/returns to the CCT but no monthly reports/returns were found to have been furnished regularly and there was no regular monitoring of the functioning of the IB at the apex level.
- There were considerable shortage of supporting staff in the divisional IB.

After we pointed this out, the Department/Government in the exit conference agreed with the audit observations and stated that their business intelligence system was fast progressing towards production of alerts.

⁴² Dhanbad, Jamshedpur and Ranchi.

The Government may consider strengthening the functions of IB for regular collection of data/information of various transactions and creation of database of Departments and undertakings of State/Central Government and others for cross-verification of transactions on regular basis to detect evasion of tax.

2.3.22.3 Computerisation

Computerisation of the Commercial Taxes Department (CTD) was not completed. Different modules of the Application Software 'VICTORY' were not developed.

Mission Mode Project for computerisation of Commercial Taxes Administration (MMPCT) of Government of Jharkhand was approved by Government of India in November 2010 with total project cost of ₹ 37.69 crore with share of Central Government and State Government of ₹ 24.51 crore (65 per cent) and ₹ 13.18 (35 per cent) crore respectively. The work was to be completed by the end of 2012-13. The work of setting up of application software of Commercial Taxes Department named VICTORY (VAT Information Computerisation to Optimize Revenue Yields) initially taken up by the Department was left by the executing agency M/s Rites India Limited mid-way and the Department had to start automation without required System Requirement Study (SRS) and designing with the help of National Informatics Centre (NIC) Jharkhand. In January 2013, an agreement was executed with M/s Tata Consultancy Services Limited at a cost of ₹ 35.18 crore for computerisation of the Department with the stipulated date of completion in March 2014. However, the work is still incomplete and till date expenditure of ₹ 16.54 crore was made by Jharkhand Promotion of Information and Technology (JAP-IT), an autonomous body under Information and Technology Department of Government of Jharkhand for the above work.

Modules like Dealer Information System, Return Processing System, Payment Management System and Form Control System were not made fully operational. Further, modules like Industrial Exemption System, Dealer Assessment System, and Personal Information System relating to administrative work of the Department were not considered for development. The Department did not furnish any documented plan to phase out the manual system and change over to the computerised system. The system developed was running in parallel with the manual system since its inception. Therefore the objective of discontinuance of manual registers and improving the efficiency of the working system of the Department was not achieved.

We reported the matter to the Government; their reply has not been received (October 2015).

2.3.22.4 Human resource management

In order to analyse the human resource management we called for (between May and June 2015) the circle-wise position of sanctioned strength and men in position of officers and other supporting staff in the circles during the period from 2009-10 to 2013-14. From the data furnished we noticed the following sanctioned strength and men in position as on March 2015 in **Table – 2.3.21.4.**

Table – 2.3.22.4

Sl. No.	Name of the circle	Sanctioned strength		Men-in-position		Shortage	
		Officers	Others	Officers	Others	Officers	Others
1	Adityapur	9	39	7	17	2	22
2	Bokaro	10	49	7	15	3	34
3	Chaibasa	6	22	6	11	0	11
4	Deoghar	8	26	5	13	3	13
5	Dhanbad	7	39	7	14	0	25
6	Giridih	6	27	4	13	2	14
7	Jamshedpur	11	44	9	17	2	27
8	Jamshedpur Urban	10	36	6	14	4	22
9	Ramgarh	8	31	7	13	1	18
10	Ranchi East	8	30	5	11	3	19
11	Ranchi South	11	35	4	10	7	25
12	Ranchi West	11	34	10	18	1	16
13	Tenughat	6	29	4	7	2	22
Total		111	441	81	173	30	268

From the above it could be seen that there was significant shortage of officers (27 per cent) and supporting staff (61 per cent) in the test checked circles which may affect administration of the Act. We noticed in 12 test checked circles that there were 22,614 pending cases of assessment at the end of 2013-14 which indicated that the shortage of manpower have affected the working of the Department.

We recommend that the Government may consider deployment of manpower in accordance with sanctioned strength for effective administration of the Act.

2.3.23 Conclusion

During Performance Audit we observed the following:

- In spite of the existence of provision of self assessment in the Act the department is still pursuing the assessment of dealers as in the earlier Sales Tax era i.e. where all the cases were assessed by the AAs and did not encourage dealers to practice self-assessment which, coupled with shortage of personnel and constant growth of registered dealers resulted in accumulation of huge arrear in assessment;
- Mechanism of survey in the Department to identify dealers who are liable for registration was inadequate. The department did not utilise the TDS details available in the assessment records to detect unregistered dealers;
- Suppression of purchase/sale turnovers, non/short levy of tax, irregular allowance of ITC, non/short levy of interest and penalty and irregularities in allowing of exemptions/concessions on inter-State and intra-State stock transfer, inter-State sale and transit sale led to leakage of revenue;
- The internal control framework was deficient in terms of inadequate internal audit conducted by VAT Audit Wing and non-execution of cross-verification assigned to the IB led to leakage of revenue; and
- Computerisation of the Department was not complete. Different modules like return processing system, payment management system, forms control system etc. are yet to be developed in the Software.

2.4 Results of cross-verification

Absence of co-ordination between the CTD and other Government Departments with regard to exchange of data/information for the purpose of cross verification of transactions resulted in short realisation of revenue of ₹ 13.82 crore pertaining to the period between 2006-07 and 2012-13 as discussed in paragraphs 2.4.1 and 2.4.2.

2.4.1 Non-registration of dealers

Dealers of stone chips and works contractor were found not registered with the department, although their sale turnover exceeded the threshold limit of ₹ 50,000 and ₹ 25,000 respectively required for registration.

We obtained data relating to dispatch of stone chips in respect of 44 mining lessees out of 313 lessees from District Mining Office, Sahibganj and payment to contractors against works contract from Public Works Divisions⁴³ and cross verified the same with the records of the three Commercial Taxes Circles⁴⁴ during December 2013 to March 2015. Our cross-verification revealed that 16 mining lessees had dispatched/sold 2.85 lakh cubic meter of stone chips valued at ₹ 6.77 crore and three contractors had received payment of ₹ 3.32 crore between 2008-09 and 2012-13.

The aforesaid figures were verified with the database as well as records of the circles and it was noticed that they were not registered in the circles. Since the sale turnover of the dealers of stone chips exceeded ₹ 50,000 and that of work contractor exceeded ₹ 25,000, they were liable to get registration and pay tax under the provisions of Section 8(5) of the JVAT Act, 2005. Thus, lack of co-ordination between the CTD and other Government Departments with regard to exchange of data/information for the purpose of cross verification of transactions resulted in non-levy of tax of ₹ 1.02 crore. Penalty of ₹ 1.02 crore, a sum equal to the amount of tax so assessed, was also leviable under Section 38 of the JVAT ACT 2005. This resulted in non-levy of tax ₹ 2.04 crore including penalty of ₹ 1.02 crore.

We reported the matter to the Department between July 2014 and April 2015. The Department/Government in the exit conference agreed to the audit observations and assured that corrective action would be taken. The Commissioner expressed her gratitude for pointing out observations and stated that action is being taken to identify the dealers through exchange of data from Treasury as well as with other departments (August 2015). Further reply has not been received (October 2015).

A similar issue was pointed out in Paragraph No. 2.10.1 of the Audit Report (Revenue Sector) for the year ending 31 March 2013; the Department accepted our observation. However, nature of lapses/irregularities still persist which shows ineffectiveness of internal control system of the Department to prevent

⁴³ BHEL at Maithan RBTPP, Building Construction Division-I, Ranchi and Road Construction Division, Sahibganj.

⁴⁴ Chirkunda, Ranchi Special and Sahibganj.

recurring leakage of revenue and lack of initiative to secure the revenues of the State.

2.4.2 Suppression of sales turnover detected in course of cross-verification of data with other Departments

Cross-verification of data relating to works done for public works divisions and State Companies with the returns filed by the contractors indicated suppression of turnover and consequential under-assessment of tax.

We obtained data relating to payment to contractors against works contract from seven public works divisions and three Companies⁴⁵ and cross verified the same with the records of the six Circles⁴⁶ and found that 16 contractors had filed their returns for ₹ 35.17 crore during the years 2006-07 to 2010-11. The assessments were finalised between June 2009 and March 2014 on the basis of returns filed by them. However, our cross verification with the data obtained from public works divisions revealed that the contractors had actually received payment of ₹ 67.20 crore, of which, ₹ 66.58 crore was taxable. As such, the contractors had concealed sale turnover of ₹ 31.41 crore. Thus, due to absence of a mechanism for inter-departmental exchange of information/data for cross verification purposes, there was short levy of tax of ₹ 11.78 crore including mandatory penalty of ₹ 7.85 crore under the provisions of Sections 40 (1) and 37 (6) of the JVAT Act (**Appendix-XI**).

We reported the matter to the Department (between July 2014 and April 2015). The DCCT, Chirkunda intimated (August 2015) that demand of ₹ 24.32 lakh has been raised in one case. Further, the Department/Government in the exit conference agreed with the fact and stated that suitable action will be taken (August 2015). Further reply has not been received (October 2015).

A similar issue was pointed out in Paragraph No. 2.10.2 of the Audit Report (Revenue Sector) for the year ending 31 March 2013. However, nature of lapses/irregularities are still persisting which shows ineffectiveness of internal control system of the Department to prevent recurring leakage of revenue.

⁴⁵ Building Construction Division, Ranchi, Road Construction Division, Dhanbad, Rural Development Special Division, Bokaro and Koderma, Rural Works Division, Dhanbad, DMC Dhanbad, Road Construction Division, Sahibganj, BHEL, Hindustan Steel Works Construction Ltd and Maithan Power Ltd.

⁴⁶ Chirkunda, Dhanbad Urban, Hazaribag, Katras, Ranchi Special and Sahibganj.

2.5 Irregularities in determination of actual turnover

Actual determination of turnover is essential for proper assessment and levy of taxes due. This paragraph contains suppression of sales/purchase turnover and incorrect determination of turnover resulting in non/short levy of tax and penalty of ₹144.96 crore as mentioned in the paragraphs 2.5.1 and 2.5.2.

2.5.1 Suppression of sales/purchase turnover under JVAT Act

The Assessing Authorities while finalising the assessments did not verify the returns with the additional information available in separate records resulting in suppression of actual turnover and consequential under-assessment of tax and penalty.

We test checked (between February 2012 and March 2015) the assessment records of 555 dealers out of 24,558 dealers registered in seven Commercial Taxes Circles⁴⁷ and noticed that 15 dealers had disclosed purchase/sales turnover of ₹ 3,878.52 crore during the period 2008-09 to 2011-12 through periodical returns and VAT audit report in Form JVAT 409 on which the assessments were finalised (between November 2010 and October 2014). However, our scrutiny of usage and requisition of Form C and F, annual return, trading account, annual audited accounts, profit and loss account and details of road permits submitted by the assesseees indicated that the assesseees had actually purchased/received/sold goods⁴⁸ worth ₹ 4,674.80 crore. Thus, assesseees had concealed turnovers of ₹ 796.28 crore on account of purchase/sale of commodities. This indicated that the AAs did not cross verify the returns with the relevant information available in records of the concerned dealers.

As the dealers had concealed or failed to disclose wilfully, the particulars of such turnover and thereby the returned figures were below the real amount, they were liable to pay, besides the tax of ₹ 46.86 crore on concealed turnover, by way of penalty a sum of ₹ 93.71 crore, equivalent to twice the amount of the additional tax so assessed under the provisions of Section 40 (1) read with Section 37 (6) of the JVAT Act. This resulted in under-assessment of tax of ₹ 140.57 crore including penalty of ₹ 93.71 crore (**Appendix-XII**).

We mention specific cases in respect of five dealers in five Commercial Taxes Circles based on highest financial implications as mentioned in the **Table – 2.5.1**.

⁴⁷ Dhanbad Urban, Hazaribag, Jharia, Katras, Pakur, Palamu and Singhbhum.

⁴⁸ Beer/IMFL, coal, copper concentrate, cement, foot wear, machinery spares, oxygen and industrial gas, stone chips and boulder, sponge iron and tyres.

Table – 2.5.1

Sl. No.	Name of the circle No. of dealer	Period Month of assessment	Nature of observations	(₹ in crore)	
				Suppressed turnover Rate of tax (%)	Short levy of VAT Penalty
1	Hazaribag One	2009-10 April 2012	As per audited annual accounts of the dealer, actual turnover was ₹ 2,617.53 crore but accounted for ₹ 2,097.32 crore on which assessment was finalised.	<u>520.21</u> 4	<u>20.81</u> 41.62
2	Singhbhum One	2008-09, 2010-11 January 2010, March 2014	The dealer had wilfully excluded excise duty of ₹ 158.85crore, a part of purchase turnover in accordance with the provisions of the Section 2(xlviii) of the JVAT Act 2005, to reduce the cost of production of cement and thereby returned the figures below the real amount on which assessment was finalised.	<u>158.85</u> 12.5	<u>19.86</u> 39.72
3	Jharia One	2010-11 August 2013	As per TDS statement in JVAT 400 alongwith attached statement of supply of goods, the sales turnover worked out to ₹ 16.75 crore whereas the dealer had shown sales turnover of ₹ 5.47crore only in trading account on which the assessment was finalised.	<u>11.28</u> 12.5	<u>1.41</u> 2.82
4	Pakur One	2009-10 February 2011	As per stone production statement furnished by the dealer, actual production was 1,62,87,937 cft calculated at ₹ 10.20 crore but the dealer had accounted for 1,19,74,207 cft valued at ₹ 7.50 crore in trading account on which the assessment was finalised.	<u>2.70</u> 12.5	<u>0.34</u> 0.68
5	Dhanbad Urban One	2010-11 June 2013	As per purchase statement and trading account, actual sale turnover worked out as ₹ 23.16 crore where as it was shown as ₹ 20.69 crore.	<u>2.47</u> 12.5	<u>0.31</u> 0.62

After we pointed out the cases (between February 2012 and March 2015), the AA, Singhbhum in case of a dealer, revised the assessment order in October 2014 and issued the additional demand notice for ₹ 28.59 crore while in other cases the AAs stated (between November 2013 and March 2015) that the matter would be reviewed.

We reported the matter to the Department between May 2012 and April 2015. The Department/Government in the exit conference agreed and stated that the concerned Commercial Taxes Circles have been instructed to take appropriate action (August 2015). Further reply has not been received (October 2015).

Similar issue was pointed out in Paragraph No. 2.4.1 of the Audit Report (Revenue Sector) for the year ended 31 March 2014, the Government/Department accepted our observation in 31 cases and issued demand of ₹ 74.30 lakh in two cases (December 2013). However, nature of these lapses/irregularities are still persisting which points to weak internal control of the Department to prevent recurring leakage of revenue.

2.5.2 Incorrect determination of taxable turnover under JVAT Act

Grant of incorrect exemption on labour like charges, royalty and TDS under Rule 22 of JVAT Rules 2006 resulted in short determination of taxable turnover by ₹ 35.11 crore and consequential under-assessment of tax of ₹ 4.39 crore.

2.5.2.1 We test checked (between April 2014 and December 2014) the assessment records of 323 dealers out of 13,621 dealers registered in four Commercial Taxes Circles⁴⁹ and noticed in case of 11 contractors, the taxable turnover (TTO) was incorrectly determined as ₹ 88.07 crore instead of ₹ 120.15 crore by grant of incorrect exemption on labour like charges, royalty and TDS during 2008-09 to 2010-11.

Rule 22 of the JVAT Rules, 2006 which provides for determination of taxable turnover for the purpose of works contract after deducting the labour charges and other non-taxable expenditures. The aforesaid Rule further provides for calculation of the aforesaid charges at the rate of 30 *per cent* of the total consideration received or receivable in case of civil works where the amount of such charges are not ascertainable from the account furnished by the contractor.

The AAs while finalising the assessments (between August 2009 and February 2014) did not work out taxable turnover as per rule *ibid*, resulting in short determination of taxable turnover by ₹ 32.08 crore and consequential under-assessment of tax at higher rate amounting to ₹ 4.01 crore (**Appendix-XIII**).

2.5.2.2 We test checked (October 2013) the assessment records of 130 dealers out of 4,167 dealers registered in Dhanbad Urban Commercial Taxes Circle and noticed that in case of a contractor, the TTO was determined at ₹ 11.13 crore instead of actual TTO of ₹ 14.16 crore for the period 2008-09 and 2009-10. The incorrect determination of TTO was on account of allowance of exemption on royalty, tax deducted at source and profit related to supply of materials.

The claim was not admissible under the provisions of Rule 22(1) (d) of the JVAT Rules 2006. The AAs while finalising the assessments (between February 2011 and March 2013) did not consider the figures mentioned in the returns/records resulting in incorrect determination of TTO by ₹ 3.03 crore and consequential short-levy of tax of ₹ 37.90 lakh.

We reported the matter to the Department (between July 2014 and May 2015). The Department/Government in the exit conference agreed with the audit observations and stated that system is being updated to take care of the mismatch between the figures in returns and determination of gross turnover. It was assured to take steps for necessary amendment in the Act/Rules (August 2015). Further reply has not been received (October 2015).

⁴⁹ Dhanbad Urban, Hazaribag, Katras and Koderma.

2.6 Non-levy of interest

Interest of ₹ 34.30 crore, though leviable under the provisions of JVAT Act on account of disallowance of claim of stock transfer outside/within the State, inter-state sale on concessional rate of tax, self consumption of materials/goods, input tax credit and GTO enhanced by the AAs, was not levied.

2.6.1 We test checked (August 2014 and January 2015) the assessment records of 372 dealers out of 13,969 dealers registered in four Commercial Taxes Circles⁵⁰ and noticed that six dealers had claimed exemptions through the periodical returns/JVAT-409 on stock transfer outside/within the State, inter-State sale on concessional rate of tax, self consumption of materials/goods and input tax credit (ITC) of ₹ 2,305.20 crore during 2010-11.

The AAs while finalising the assessments of these dealers (between November 2013 and March 2014), after making such adjustment as may be necessary including disallowance of exemptions and any other concessions not supported by requisite evidence, allowed exemptions and levy of concessional rate of tax on turnover valued at ₹ 1,734.51 crore. The balance turnover of ₹ 570.70 crore was levied to tax of ₹ 16.04 crore at the prescribed rates. However, interest amounting to ₹ 5.23 crore, though leviable under section 35(6) read with Section 30(1) of the Act at the rate of one *per cent* per month on levied tax, was not levied as mentioned in the **Table – 2.6.1**.

Table – 2.6.1

Sl. No.	Name of the circle No. of dealer	Period Month of assessment	Nature of observations	(₹ in crore)	
				Assessed additional tax	Interest leviable
1	Singhbhum One	2010-11 March 2014	The dealer had availed ITC of ₹ 1.71 crore and claimed exemption of tax on turnover of ₹ 1.07 crore on account of self consumption of material. The AA, however allowed ITC of ₹ 1.57 crore and reject the claim of exemption of tax on self consumption of material and assessed additional tax accordingly. However interest, leviable at the rate of one <i>per cent</i> , was not levied on assessed additional tax	0.28	0.10
2	Hazaribag One	2010-11 November 2013	The dealer had claimed concessional rate of tax on inter-State sale of ₹ 292.58 crore. The AA, however allowed concessional rate of tax on turnover of ₹ 286.98 crore against furnished Form 'C' and levied additional tax of ₹ 11.18 lakh accordingly. However interest, leviable at the rate of one <i>per cent</i> , was not levied on assessed additional tax.	0.11	0.04

⁵⁰ Dhanbad urban, Hazaribag, Katras and Singhbhum.

Table – 2.6.1

Sl. No.	Name of the circle No. of dealer	Period Month of assessment	Nature of observations	₹ in crore)	
				Assessed additional tax	Interest leviable
3	Dhanbad One	2010-11 March 2014	The dealer had claimed concessional rate of tax on inter-State sale of ₹ 2.99 crore. The AA, however allowed concessional rate of tax on turnover of ₹ 81.37 lakh against furnished Form 'C' and levied additional tax of ₹ 22.82 lakh accordingly. However interest, leviable at the rate of one <i>per cent</i> , was not levied on assessed additional tax.	0.23	0.08
4	Katras Three	2010-11 December 2013	The dealer had claimed concessional rate of tax on inter-State sale and tax exemption on stock transfer of ₹ 1,876.28 crore but furnished Form 'C' and F for ₹ 1365.70 crore. Further the dealer had availed ITC of ₹ 3.51 crore but had not furnished JVAT 404. Hence additional tax ₹ 15.42 crore was levied accordingly. However interest, leviable at the rate of one <i>per cent</i> , was not levied on assessed additional tax.	15.42	5.01
Total				16.04	5.23

After we pointed out the cases between August 2014 and January 2015, the assessing authorities of Hazaribag and Singhbhum Circles stated (January 2015) that the cases would be reviewed, whereas, the assessing authorities of Dhanbad Urban and Katras Circles stated that interest was not applicable in these cases. The reply was not satisfactory as the dealers had not furnished supporting documents/declaration forms in support of their claims and accordingly had not paid the tax due; as such the dealers were liable to pay interest.

We reported the matter to the Department between December 2014 and April 2015. The Department/Government in the exit conference agreed with the audit observations and stated that the matter would be looked upon with reference to the provisions under Section 30 and 35 of the JVAT Act 2005. The cases have been forwarded to the concerned Commercial Taxes Circles to take appropriate action (August 2015). Further reply has not been received (October 2015).

Similar issue was pointed out in Paragraph No.2.13.2 of the Audit Report (Revenue Sector) for the year ended 31 March 2013, the Government/Department issued demand of ₹ 1.12 crore in two cases and stated (September 2013) that in remaining cases the matter was under hearing.

2.6.2 We test checked (December 2014) the assessment records of 100 dealers out of 5,077 dealers registered in Hazaribag Commercial Taxes Circle and noticed that an assessee had filed returns for ₹ 2,515.62 crore as gross turnover for the period 2010-11. The Assessing Authority while finalising the assessment in October 2013 determined the GTO at ₹ 3,726.84 crore enhancing it by an additional amount of ₹ 1,211.22 crore due to non-reflection

of purchase/sales turnover and levied additional tax of ₹ 48.45 crore. However, our scrutiny indicated that interest of ₹ 29.07 crore⁵¹, though leviable under the provisions of Section 40(2) of the JVAT Act 2005 on the additional tax assessed, was not levied. Thus, non-adherence to the provisions of the Act, mentioned *ibid*, by the AA resulted in non-levy of interest of ₹ 29.07 crore.

After we pointed out the case in December 2014, the AA stated in January 2015 that the dealer had purchased capital goods on the basis of Form 'C'. It had nothing to do with his sale and collection of tax from consumer. The reply was not in order as the AA while finalising the assessment, detected discrepancies in purchase turnover from outside the State as well as in sales turnover of coal by comparing trading account with the audited annual accounts, enhanced the GTO and levied additional tax accordingly. The levy of additional tax on the aforesaid ground was also confirmed by the Appellate Authority when the dealer went in appeal. However interest, though leviable, was not levied.

We reported the matter to the Department in April 2015. The Department/Government in the exit conference agreed with the audit observations and assured that corrective action would be taken (August 2015). Further reply has not been received (October 2015).

Similar issue was pointed out in Paragraph No.2.13.1 of the Audit Report (Revenue Sector) for the year ended 31 March 2013, the Government/Department issued demand of ₹ 45.26 lakh in two cases and stated (September 2013) that in four cases the matter was under hearing.

2.7 Irregularities in compliance to the Central Sales Tax Act

Under the provisions of the CST Act, 1956 and the rules/notifications issued thereunder, different declaration forms are prescribed for claiming exemptions/concessions from levy of tax. The Act further provides for imposition of penalty for misuse of declaration forms.

We noticed that the AAs did not comply with the provisions of the Act and notifications issued thereunder resulting in short levy of tax and penalty of ₹ 4.63 crore. The cases are described in the succeeding paragraphs:

2.7.1 Misuse of declaration Forms

2.7.1.1 Misuse of Form 'C' for purchase of goods used for other purposes

The contractor was registered to provide services and supervision of the contract. As such the contractor was not authorised to supply the goods. Thus, the purchase of goods by the contractor on Form 'C' and making use of goods for other purposes i.e. subsequent sale to the contractee led to misutilisation of Form 'C'.

We test checked (November 2013) the assessment records of 51 dealers out of 1970 dealers registered in Chirkunda Commercial Taxes Circle and noticed

⁵¹ Calculated at the rate of two *per cent* on ₹ 48.45 crore for 30 months.

that the AA while finalising the CST assessments (between December 2011 and April 2013) for the period 2009-10 and 2010-11 allowed exemption from tax on supply of goods valued at ₹ 39.29 crore by way of transit sale to the contractee. We further noticed from the agreement executed between them and letter of intent that the contractor was required to provide services and supervision of transportation, site-work, erection, testing and commissioning of Boiler Turbine Generator (BTG) package to the contractee. As such, the contractor was not authorised to purchase goods by utilising Form 'C' for other purposes i.e. supply/sell the goods to the contractee. Non-verification of the agreement and letter of intent by the AA resulted in misuse of declarations in Form 'C' by the contractor and consequent non-levy of tax and penalty of ₹ 3.93 crore on such sale under Section 10A of the CST Act.

After we pointed out the case in November 2013, the AA stated in December 2013 that the dealer was neither registered under CST Act in this circle nor had received Form 'C' from this circle; however, the case would be reviewed.

2.7.1.2 Misuse of Form 'C' for purchase of goods used in processing of unfinished product

The dealer had misused Form 'C' by utilising it in purchase of goods at concessional rate of tax for use in processing of unfinished product which was transferred to the manufacturer for further processing of finished goods.

We test checked (January 2015) CST assessment records of 86 dealers out of 2,856 dealers registered in Singhbhum Commercial Taxes Circle and noticed that an assessee had purchased goods valued at ₹ 5.86 crore at concessional rate of tax by utilising declarations in Form 'C' during 2010-11 for use in processing of unfinished product (copper concentrate) which was transferred to the manufacturer for further processing of finished goods (copper) for sale.

Section 8(3)(b) of the CST Act, 1956 provides that a registered dealer can purchase goods from outside the State at concessional rate of tax by using prescribed declarations in Form 'C' for goods intended for resale by him or for use by him in the manufacture or processing of goods for sale, subject to such goods are covered by his registration certificate (RC). Further, it has judicially been held in case of Bentec Rubber Pvt. Ltd. Vs State of Kerala (1997) 106 STC 591 that the buyer must sell the goods received from job work, if he uses the goods for further manufacture, the concession of tax on purchase of goods against Form 'C' would not be available to the job worker.

Thus use of Form 'C' against purchase of goods on concessional rate of tax by the job worker was in contravention of the judicial pronouncement. This indicated that the AA did not verify the RC before issue of declaration Form 'C' to ascertain that goods were purchased on concessional rate for the purpose of job work by the assessee. The AA while finalising the assessment in November 2013 did not impose penalty, of a sum not exceeding one and a half times of the tax leviable, on misuse of Form 'C' under Section 10A of the Act. This resulted in unauthorised use of declaration Form 'C' and consequential non-levy of tax of ₹ 58.61 lakh includes penalty ₹ 35.17 lakh.

We reported the matter to the Department (between July 2014 and April 2015). The Department/Government in the exit conference agreed with the fact and stated that corrective action will be taken. It was assured that matter would be looked upon (August 2015). Further reply has not been received (October 2015).

Similar issue was pointed out in Paragraph No. 2.15.1 of the Audit Report (Revenue Sector) for the year ending 31 March 2013, the Department accepted our observation and raised demand of ₹ 1.20 crore in two cases and stated (September 2013) that matter was under hearing in remaining cases. However, nature of lapses/irregularities are still persisting which points to weak internal control of the Department to prevent recurring leakage of revenue.

2.7.2 Incorrect allowance of concessional rate of tax under CST

Claim of exemption from payment of tax on transit sale and stock transfer of ₹ 1.58 crore was incorrectly allowed though the transactions were not supported by declarations in Form 'C' and Form 'F'.

We test checked (between November 2013 and March 2015) the assessment records of 211 dealers out of 12,577 dealers registered in three Commercial Taxes Circles⁵² and noticed that two dealers of Palamu and Singhbhum Commercial Taxes Circles, dealing in electrical goods, appliances, accessories and chemicals had claimed exemption from levy of tax on transit sale and stock transfer outside the State valued at ₹ 1.58 crore for the period from 2009-10 to 2011-12.

The Assessing Authorities (AAs) while finalising the assessments (between March 2013 and February 2014) allowed exemption from payment of tax though the transactions were not supported by declarations in Form 'C' and Form 'F' respectively. Claim on account of transit sale is exempted from levy of tax, when such subsequent sale should also take place during the same movement occasioned by the previous sale subject to furnishing of declarations in Form 'C' and Form 'E-I' as per Rule 9 of the CST (Jharkhand) Rules, 2006. Submission of declaration in Form 'F' is mandatory for availing exemption from tax under the provisions of Section 6(A) of the CST Act.

We further noticed (November 2013) in Chirkunda Commercial Taxes Circle that the AA while finalising the assessment (April 2013) of a dealer for the period 2010-11 incorrectly allowed exemption from tax on account of excise duty of ₹ 31.05 lakh deducted from transit sale turnover in contravention of the provision of Section 2 (xlviii) of the JVAT Act, 2005 which provides that sale price includes the amount of duties or fees or any sum levied or leviable or charged on the goods under the Central Excise Act, 1944. This resulted in incorrect allowance of exemption and consequent non-levy of tax of ₹ 11.10 lakh by the AA.

We reported the matter to the Department between July 2014 and April 2015. The Joint Commissioner of Commercial Taxes (Admin), Dhanbad intimated (August 2015) that the entire amount of ₹ 1.24 lakh had been recovered in one

⁵² Chirkunda, Palamu and Singhbhum.

case pertaining to Chirkunda circle. Further, the Department/Government in the exit conference agreed with the audit observations and assured to take corrective action (August 2015). Further reply has not been received (October 2015).

Similar issue was pointed out in Paragraph No.2.15.2 of the Audit Report (Revenue Sector) for the year ending 31 March 2013, the Department accepted our observation and raised demand of ₹ 34.38 lakh in two cases and stated (September 2013) that matter was under hearing in the remaining cases. However, nature of lapses/irregularities are still persisting which points to weak internal control of the Department to prevent recurring leakage of revenue.

2.8 Irregularities in grant of Input Tax Credit (ITC)

ITC of ₹ 5.28 crore was allowed by the AAs against admissible ITC of ₹ 4.76 crore on account of incorrect application of Rules for calculation of ITC on stock transfer of goods outside the State and purchase of capital goods.

We test checked (between November 2013 and March 2015) the assessment records of 301 dealers out of 15,801 dealers registered in three Commercial Taxes Circles⁵³ for the period 2008-09 to 2010-11 and noticed that four dealers had adjusted ITC of ₹ 5.28 crore from payment of tax which included the claim on stock transfer of finished products, purchase of capital goods and returns of purchased goods.

The AAs while finalising the assessments (between February 2011 and March 2014) allowed the full ITC of ₹ 5.28 crore without taking into account the disallowance of ITC on stock transfer of finished products, purchase of capital goods and returns of purchased goods under the provisions of the Section 18 of the JVAT Act 2005, Rule 26(15) and Rule 27 of the JVAT Rules 2006. This resulted in allowance of excess ITC of ₹ 52.49 lakh besides interest of ₹ 2.04 lakh was also leviable for non-payment of actual tax due as mentioned in the **Table – 2.8.**

Table – 2.8

Sl. No.	Name of the circle No. of dealer	Period Month of assessment	Nature of observations	₹ in lakh	
				Excess ITC allowed	Interest leviable
1	<u>Ranchi Special</u> Two	<u>2009-10</u> <u>2010-11</u> March 2013, March 2014	The dealers were allowed ITC of ₹ 3.46 crore against intra-State purchase of goods. The actual admissible ITC worked out to ₹ 3.41 crore after deducting proportionate ITC not admissible on stock transfer of goods outside the State and capital goods.	<u>4.65</u>	<u>1.67</u>
2	<u>Palamau</u> One	<u>2009-10</u> March 2012	The dealer was allowed ITC of ₹ 24.83 lakh without reversing ITC of ₹ 1.53 lakh on availed discount of ₹ 12.17 lakh against intra- State purchase of goods.	<u>1.53</u>	<u>0.37</u>

⁵³ Jharia, Palamau and Ranchi Special.

Table – 2.8

				(₹ in lakh)
Sl. No.	Name of the circle No. of dealer	Period Month of assessment	Nature of observations	Excess ITC allowed Interest leviable
3	Jharia One	2008-09 February 2011	The dealer had claimed ITC of ₹ 1.11 crore in the annual return. The AA while finalising the assessments incorrectly allowed ITC ₹ 1.58 crore resulting in allowance of excess ITC of ₹ 46.31 lakh.	<u>46.31</u> 0.00
Total				<u>52.49</u> 2.04

We reported the matter to the Department between September 2014 and April 2015. The DCCT, Special Circle, Ranchi intimated (August 2015) that demand of ₹ 2.28 lakh had been raised in one case. Further, the Department/Government in the exit conference agreed with the fact and stated that corrective action will be taken (August 2015). Further reply has not been received (October 2015).

Similar issue was pointed out in Paragraph No. 2.7 of the Audit Report (Revenue Sector) for the year ending 31 March 2014. The Department/Government raised demand of ₹ 75.89 lakh in one case (September 2013). In the remaining 10 cases, the AAs stated (between February 2013 and February 2014) that the cases would be reviewed. However, nature of lapses/irregularities are still persisting which points to weak internal control of the Department to prevent recurring leakage of revenue.

2.9 Application of incorrect rate of tax under JVAT Act

Application of incorrect rate of VAT on retreaded tyres, platinum, diesel engine and turnover of labour like charges of works contractors rejected by the AAs resulted in short-levy of tax of ₹ 1.91 crore.

We test checked (between July 2013 and December 2014) the assessment records of 344 dealers out of 13,169 dealers registered in four Commercial Taxes Circles⁵⁴ and noticed that 15 dealers dealing in retreaded tyres, platinum, diesel engine and its spare parts and engaged in works contract had filed their returns for the period between 2008-09 and 2011-12 admitting the rates of one, four and five *per cent*, instead of leviable rates of 12.5 and 14 *per cent* from May 2011.

The Assessing Authorities at the time of finalising the assessments of these dealers, between March 2011 and February 2014, did not consider the figures mentioned in the returns/records *vis-à-vis* provisions of the Sections 9 and 13 of the JVAT Act, 2005, schedules appended thereunder for levying of tax and Rule 22(2) of the JVAT Rules, 2006, for levying of tax on disallowed turnover of labour or all like charges of works contractors. Thus, incorrect application of the provisions of Act by the AAs resulted in short-levy of tax of ₹ 1.91 crore (**Appendix-XIV**).

⁵⁴ Dhanbad Urban, Godda, Hazaribag and Katras.

We reported the matter to the Department (between July 2014 and April 2015). The Department/Government in the exit conference agreed with the fact and stated that concerned Commercial Taxes Circles have been instructed to furnish replies/action taken reports. Further reply has not been received (October 2015).

Similar issue was pointed out in Paragraph No. 2.12 of the Audit Report (Revenue Sector) for the year ending 31 March 2013. The Department/Government raised demand of ₹ 88.69 lakh in three cases and stated (September 2013) that matter was under hearing in the one case. However, nature of lapses/irregularities are still persisting which points to weak internal control of the Department to prevent recurring leakage of revenue.

2.10 Incorrect allowance of exemption under JVAT Act

The dealers were allowed incorrect tax exemptions of ₹ 7.80 lakh on bonus, incentive, trade discount and rebate.

We test checked assessment records (between August 2014 and March 2015) of 249 dealers out of 9,792 dealers registered in Dhanbad Urban and Ranchi Special Commercial Taxes Circles and noticed that three assessees had given bonus, incentive, trade discount and rebate of ₹ 1.01 crore on sale during 2010-11 which was taxable as per provisions of the Section 9(5) of the JVAT Act 2005 (effective from April 2010). The assessing authorities (AAs) while finalising the assessments (between February and December 2013) levied tax only on the turnover of ₹ 19.69 lakh and incorrectly allowed tax exemption on turnover ₹ 80.99 lakh. This resulted in incorrect grant of exemption and consequent under-assessment of tax of ₹ 7.80 lakh.

We reported the matter to the Department/Government between January and April 2015. The Department/Government in the exit conference agreed with the audit observations and assured that corrective action would be taken (August 2015). Further reply has not been received (October 2015).

2.11 Mistakes in computation of tax

The Assessing Authorities, while finalising the assessments inadvertently levied tax of ₹ 5.33 crore instead of correct amount of ₹ 5.96 crore.

We test checked assessment records (between July 2014 and January 2015) of 324 dealers out of 9,448 dealers registered in three Commercial Taxes Circles⁵⁵ and noticed that in case of three dealers the Assessing Authorities had erroneously levied tax of ₹ 5.33 crore instead of correct amount of ₹ 5.96 crore while finalising assessments in March 2014 for the period 2010-11. The Assessing Authority has to finalise the assessment with utmost care and efficiency under the provision of the CST/JVAT Act. He should see that computation of tax has been done accurately to the best of his knowledge and belief. Thus, mistake in computing the tax by the Assessing Authorities resulted in short levy of tax of ₹ 62.37 lakh.

⁵⁵ Dhanbad urban, Jharia and Singhbhum.

We reported the matter to the Department between January and April 2015. The Department/Government in the exit conference agreed with the audit observations and assured that corrective action would be taken (August 2015). Further reply has not been received (October 2015).

Similar issue was pointed out in Paragraph No. 2.11 of the Audit Report (Revenue Sector) for the year ending 31 March 2014. Department accepted our observation and in one case revised the assessment order and raised (May 2014) additional demand of ₹ 3.71 lakh. However, nature of lapses/irregularities are still persisting which points to weak internal control of the Department to prevent recurring leakage of revenue.

2.12 Non-imposition of penalty

Penalty of ₹ 55.72 lakh was not imposed for non-submission of the VAT audit report prescribed in Form JVAT-409.

We test checked (between October and November 2014) the assessment records of 95 dealers out of 4,564 dealers registered in Godda and Koderma Commercial Taxes Circles and noticed that two dealers had not submitted the VAT audit report in Form JVAT 409 for the period 2009-10 to 2011-12 though their turnover exceeded ₹ 40 lakh in the year.

Our scrutiny indicated that the AA, while finalising the assessments between March 2013 and March 2014, did not impose penalty of ₹ 55.72 lakh for non-submission of the VAT audit report on the determined gross turnover of ₹ 557.19 crore under the provision of Section 63 (3) of the JVAT Act, 2005 which provides that a dealer with gross turnover exceeding ₹ 40 lakh in a particular year is required to furnish VAT audit report in Form JVAT 409 failing which the Assessing Authority shall impose penalty equal to 0.1 *per cent* of the turnover as he may determine. This resulted in non-imposition of penalty of ₹ 55.72 lakh.

We reported the matter to the Department between April and May 2015. The Department/Government in the exit conference agreed with the audit observations in general and assured that corrective action would be taken (August 2015). Further reply has not been received (October 2015).

2.13 Non-deduction of Tax at Source (TDS)

A contractor had made payment of hire charges of ₹ 1.57 crore to a sub-contractor on which TDS was not deducted on the ground that the sub-contractor had been granted exemption certificate from this circle but the dealer was not registered in the circle.

We test checked (December 2013) the assessment records of 51 dealers out of 1,970 dealers registered in Chirkunda Commercial Taxes Circle and noticed that a contractor had made payment of hire charges of ₹ 1.57 crore to a sub-contractor on which TDS was not deducted on the ground that the sub-contractor had been granted exemption certificate from this circle. Further scrutiny indicated that the aforesaid dealer was not registered in the circle. As per the provisions of notification SO 209 issued in March 2006 under section 45 (1) of the JVAT Act, 2005, the person responsible for making payment

towards hire charges had to deduct TDS at the rate of four *per cent*. Failure to cross-verify the exemption certificate with the records of the circle by the Assessing Authority resulted in non-deduction of TDS of ₹ 6.29 lakh besides the dealer was also liable to pay penalty of ₹ 12.58 lakh under section 45(5) of the Act.

We reported the matter to the Department in July 2014. The Department/Government in the exit conference agreed with the audit observations in general and assured that corrective action would be taken (August 2015). Further reply has not been received (October 2015).