

**Chapter-II**  
**Taxes/VAT on Sales, Trade etc.**

## CHAPTER-II Taxes/VAT on Sales, Trade etc.

### 2.1 Tax administration

The Financial Commissioner Taxation and Principal Secretary to the Government of Punjab is overall in-charge of the Excise and Taxation Department. Subject to overall control and superintendence of the Excise and Taxation Commissioner (ETC), the administration of the Punjab Value Added Tax Act (PVAT Act)/Central Sales Tax Act (CST Act), is carried out with the help of Additional Excise and Taxation Commissioner (Addl. ETC), Joint Excise and Taxation Commissioners at the headquarters (JETCs), Deputy Excise and Taxation Commissioners (DETCs) at the divisional level and Assistant Excise and Taxation Commissioners (AETCs), Excise and Taxation Officers (ETOs) and other allied staff at the district level. The authorities performing duties within jurisdictions as specified by the Government under the PVAT Act are called as Designated Officers (DOs).

### 2.2 Results of audit

Test check of the records of 44 units relating to Sales tax/VAT during 2013-14 showed under assessment of tax and other irregularities involving ₹ 118.48 crore in 341 cases under the following categories as mentioned in **Table 2.1**:

**Table 2.1**

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Excess claim/carry forward of Input Tax Credit	78	31.04
2.	Loss of revenue due to excess refund of VAT	92	17.22
3.	Non/short levy of sales tax/VAT	4	0.98
4.	Incorrect grant of exemption from tax	12	0.16
5.	Non/short levy of penalty	25	34.78
6.	Other irregularities	130	34.30
<b>Total</b>		<b>341</b>	<b>118.48</b>

In 2013-14, the Department informed audit that the audit observations of ₹ 1.33 crore in 38 cases were accepted, out of which ₹ 0.25 crore involved in five cases were pointed out in 2013-14 and rest in the earlier years. The Department further informed that they had recovered ₹ 1.32 crore in 38 cases, out of which ₹ 0.25 crore involved in five cases relates to the year 2013-14 and rest to the earlier years.

A few illustrative audit observations involving ₹ 61.53 crore are discussed in the succeeding paragraphs.

### 2.3 Excess allowance of Notional Input Tax Credit

Condition No. 5(4) of New Conditions regarding availment of Deferment and Exemption under Punjab VAT Act 2005 and the PGST (Deferment and Exemption) Rules, 1991 provides that if the goods purchased from an exempted unit are exported out of India, in that case, no notional input tax credit (NITC) shall be admissible. Condition No. 5(5)(ii) provides that if the goods are sold by way of inter-State sales, the NITC shall be available only to the extent of the Central Sales Tax chargeable under the Central Sales Tax Act of 1956.

Audit noticed (between September 2012 and May 2013) that in four cases in three circles, excess NITC of ₹ 22.42 lakh was allowed to four dealers in contravention of the provision mentioned *ibid* as detailed in **Table 2.2:**

**Table 2.2**

Sl. No.	Name of units	Period of Refund/ Assessment	Excess NITC (₹ in lakh)	Nature of Irregularities
1.	Mukatsar	2006-07	2.15	Excess allowance of NITC due to non-reversal on exported goods.
2.	Amritsar-I	2011-12	5.16	Excess allowance of NITC due to non/short reversal on account of goods purchased and sold as zero rated/inter State sale.
3.	Patiala	2008-09 and 2009-10	15.11	Excess allowance of NITC due to non/short reversal on account of goods purchased and sold as zero rated/inter State sale.
		<b>Total</b>	<b>22.42</b>	

The matter was reported to the Government/Department (between December 2013 and March 2014), their replies were awaited (November 2014).

### 2.4 Short levy of tax due to suppression of sale

Audit noticed (between November 2011 and December 2013) in the 15 cases in seven circles for the years 2005-06 to 2011-12 that the designated officer while finalizing the assessments (between September 2010 and April 2013) short levied output tax of ₹ 2.22 crore on account of suppression of turnover as per details given in **Table 2.4:**

Table 2.4

Sl. No.	Name of units	Period of Refund	Short levy of tax (₹ in lakh)	Nature of Irregularities
1.	Mohali	2005-06	13.30	GTO of ₹ 82.46 crore taken in assessment order instead of ₹ 85.78 crore resulted in short levy of tax due to suppression of turnover.
2.	Mohali	2008-09	6.14	Gross sale was considered ₹ 18.99 crore instead of ₹ 19.48 crore as per profit and loss account which resulted in short levy of output tax.
3.	Jalandhar-II	2010-11	3.00	Inter-State purchases shown as ₹ 10.03 crore whereas inter State purchase corresponding to entry tax allowed comes to ₹ 10.79 crore resulting in short levy of tax.
4.	Amritsar-I	2008-09	47.00	Dealer claimed and DO allowed deduction on account of labour to the tune of ₹ 4.99 crore at the rate of 50 per cent instead of admissible 15 per cent to the tune of ₹ 1.23 crore.
5.	Amritsar-II	2007-08	3.39	Suppression of sale due to non accountal of opening stock of ₹ 27.50 lakh in certified trading account resulted in short levy of output tax.
6.	Fatehgarh Sahib, Ludhiana-I and Ludhiana-III	2006-07, 2007-08, 2008-09, 2011-12	116.79	In <b>nine cases</b> , Inter-State purchases shown as ₹ 90.25 crore whereas inter State purchase corresponding to entry tax allowed comes to ₹ 119.48 crore.
7.	Ludhiana-III	2011-12 (14.2.13)	32.40	Gross deemed sale was considered ₹ 11.91 crore instead of ₹ 15.80 crore as per attached TDS certificates and also availed benefit of sales return ₹ 2.00 crore twice resulted in short levy of tax.
	<b>Total</b>		<b>222.02</b>	

The matter was reported to the Government/Department (January 2014 to July 2014), their replies were awaited (November 2014).

### 2.5 Short levy of tax on works contracts

Audit noticed (between November 2011 and December 2013) in four cases in four assessment circles for the years 2006-07 to 2010-11 that the designated officer while finalizing the assessments (between September 2010 and April 2013) short levied output tax of ₹ 43.18 lakh due to excess/inadmissible deductions from gross receipts as per details given in **Table 2.5:**

**Table 2.5**

Sl. No.	Name of units	Period of Refund	Short levy of tax (₹ in lakh)	Nature of Irregularities
1.	Mohali	2007-08	16.00	Tax was not levied on the material valuing ₹ 4.00 crore supplied by contractee to the contractor.
2.	Jalandhar-II	2009-10	3.99	Short levy of tax due to excess allowance of deduction of ₹ 99.66 lakh on account of labour and services.
3.	Jalandhar-II	2010-11	4.29	Irregular allowance of deduction from GTO under Rule 15(4) on account of GSB (Grannual Sub Base) of ₹ 77.95 lakh in works contract resulted in short levy of output tax.
4.	Fatehgarh Sahib	2006-07	18.90	i) Tax of ₹ 11.96 lakh was not levied on the material valuing ₹ 299.12 lakh consumed in job work. ii) Suppression of inter State purchases of ₹ 173.48 lakh and consequently short levy of tax of ₹ 6.94 lakh.
	<b>Total</b>		<b>43.18</b>	

The matter was reported to the Government/Department (January 2014 to July 2014), their replies were awaited (November 2014).

### 2.6 Short levy of tax due to mis-classification of material

Audit noticed (between November 2011 and December 2013) in the seven cases in seven assessment circles for the years 2006-07 to 2010-11 that the designated officer while finalizing the assessments (between September 2010 and April 2013) short levied output tax of ₹ 82.40 lakh due to mis-classification of materials as per details given in **Table 2.6:**

Table 2.6

Sl. No.	Name of units	Period of Refund/ Assessment	Short levy of tax (₹ in lakh)	Nature of Irregularities
1.	Jalandhar-II	2007-08	17.89	Bidi and Cigarette taxable at the rate of 12.5 <i>per cent</i> purchased prior to Registration Certificates were not considered for tax purpose resulting in non-levy of output tax of ₹ 17.89 lakh.
2.	Kapurthala	2008-09	2.33	Tax at the rate of four <i>per cent</i> instead of 12.5 <i>per cent</i> was levied on unclassified items such as Scooter and spare parts, Mobil oil, DVD player etc. of ₹ 27.44 lakh resulting in short levy of output tax.
3.	Moga	2010-11	4.11	Tax on Cement, an unclassified item was calculated at the rate of 5.5 <i>per cent</i> instead of 13.75 <i>per cent</i> on ₹ 49.84 lakh.
4.	Faridkot	2008-10	21.96	Tax at the rate of four <i>per cent</i> was not levied on sale of raw material i.e. chemical worth ₹ 548.94 lakh.
5.	Ludhiana-I	2006-07	18.95	Tax at the rate of four <i>per cent</i> instead of 12.5 <i>per cent</i> was levied on Cement of ₹ 222.97 lakh.
6.	Ludhiana-II	2006-08	5.10	Tax at the rate of four <i>per cent</i> instead of 12.5 <i>per cent</i> was levied on Hardware of ₹ 60.03 lakh.
7.	Ludhiana-III	2007-08	12.06	Tax at the rate of four <i>per cent</i> instead of 12.5 <i>per cent</i> was levied on hardware goods of ₹ 141.93 lakh.
	<b>Total</b>		<b>82.40</b>	

The matter was reported to the Government/Department (January 2014 to July 2014), their replies were awaited (November 2014).

### 2.7 Short levy of Central Sales Tax

Audit noticed (between November 2011 and December 2013) in the two assessment cases for the year 2008-09 that the designated officer while finalizing the assessments (between September 2010 and April 2013) short levied CST of ₹ 9.75 lakh due to irregular allowance of concessions in absence of statutory declarations as per details given in **Table 2.7**:

**Table 2.7**

Sl. No.	Name of units	Period of Refund/ Assessment	Short levy of tax (₹ in lakh)	Nature of Irregularities
1.	Mohali	2008-09	5.35	Levy of CST at concessional rate in two cases without production of declaration in Form 'C' resulted in short levy of CST.
2.	Jalandhar-II	2008-09	4.40	
	<b>Total</b>		<b>9.75</b>	

The matter was reported to the Government/Department (January 2014 to July 2014), their replies were awaited (November 2014).

**2.8 Excess allowance of Input Tax Credit**

Section 13 of PVAT Act provides that a taxable person shall be entitled to input tax credit (ITC), in such manner and subject to such conditions, as may be prescribed, in respect of input tax on taxable goods, including capital goods, purchased by him from a taxable person within the State during the tax period.

Audit (between September 2012 and December 2013) noticed in 16 cases of assessments for the period 2005-12 showed that the dealers were allowed excess claim of ITC of ₹ 267.94 lakh in contravention to the various provisions of the Act as per details given in **Table 2.8:**

**Table 2.8**

Sl. No.	Name of units	Period of Refund	Excess ITC (₹ in lakh)	Nature of Irregularities
1.	Mohali	2007-08	6.43	Excess claim of ITC of ₹ 14.44 lakh in two cases due to non/short reversal of ITC on account of branch transfer.
2.	Jalandhar-II	2008-09	3.56	
		2009-10	4.45	
3.	Mohali	2008-09	9.00	Non reversal of ITC in two cases on account of entry tax and non-apportionment in respect of branch transfer.
4.	Hoshiarpur	2007-08	33.40	
5.	Mohali	2008-09	6.87	ITC of ₹ 139.93 lakh was allowed instead of ₹ 133.06 lakh resulting in excess allowance of ITC.

Sl. No.	Name of units	Period of Refund	Excess ITC (₹ lakh) in	Nature of Irregularities
6.	Mohali	10/2009 to 06/2010	12.91	Excess allowance of ITC on purchases due to incorrect calculation.
7.	Mohali	2010-12	34.45	Excess claim of ITC due to non-reversal of ITC on account of entry tax.
8.	Jalandhar-II	2008-09	10.54	Excess allowance of ITC in two cases due to short reversal of ITC on account of tax free sale.
9.	Faridkot	2007-08	7.63	
10.	Jalandhar-II	2010-11	2.49	Non reversal of ITC on account of manufacturing of tax free goods of ₹ 54.50 lakh resulting in excess allowance of ITC.
11.	Moga	2008-09	2.21	Excess allowance of ITC on account of TDS of ₹ 22.35 lakh instead of ₹ 20.14 lakh.
12.	Fatehgarh Sahib	2005-07	46.77	<ul style="list-style-type: none"> <li>• Excess allowance of ITC of ₹ 8.84 lakh due to short debit against refund allowed.</li> <li>• ITC of ₹ 115.46 lakh was adjusted against available ITC of ₹ 108.50 lakh.</li> <li>• Refund of ₹ 30.97 lakh was claimed and allowed for the year 2006-07 but not deducted from the available ITC during assessment.</li> </ul>
13.	Ludhiana-I	2008-09	10.66	Excess allowance of ITC due to short reversal on account of branch transfer.
14.		2007-08	40.03	The exempted unit was not entitled for ITC on account of entry tax paid on inter State purchases.
15.		2009-10	14.64	Excess allowance of ITC in two cases was allowed due to short reversal on account of tax free sale.
16.		2010-11	21.90	
<b>Total</b>			<b>267.94</b>	

The matter was reported to the Government/Department (November 2013 to March 2014). In case of Hoshiarpur at Sl. No. 4, the Department accepted



the audit objection and created additional demand of ₹ 163.30 lakh. Final recovery awaited (November 2014). Reply in respect of other cases awaited (November 2014).

## **2.9 Refunds in VAT**

Under Section 39(1) of the Act, the Commissioner or the designated officer shall, in such manner and within such period, as may be prescribed, refund to a person, the amount of tax, penalty or interest, if any, paid by such person in excess of the amount due from him and also the excess of input tax credit (ITC) over output tax payable under this Act. Sub Section 1-A of Section 39 provides that provisional refund can be applied on the basis of monthly and quarterly return. Rule 52-A of PVAT Rules, 2005 provides that where a refund is being allowed provisionally under Sub Section (1-A) of Section 39 on account of excess ITC, the provisions of Sub Rule 4 of Rule 52 shall not apply till 31 March following the close of financial year, for which refund is issued, or till the time provisional refund exceeds one crore, whichever is earlier provided that only those taxable persons shall be eligible to apply for provisional refund, who have deposited the statutory declaration forms as specified under Sub Rule 4 of Rule 52 for all the previous financial years or have deposited the tax due on account of their failure to submit the said forms, for the said previous years. Further, Sub Rule 5 of Rule 52-A provides that the designated officer shall maintain a register of provisional refund (taxable person wise) in Form VAT 60 from which a designated officer can check admissibility of provisional refund to a dealer.

Audit was conducted (April to June 2014) for the period of 2011-12 to 2013-14 and covered six offices of AETCs<sup>1</sup> selected on the basis of statistical sampling based on probability proportionate to size method. The findings also contain cases of similar nature of other districts which came to the notice during compliance audit.

### **2.9.1 Trend of Refunds**

Audit noticed that the Department issued refunds of ₹ 661.61 crore, ₹ 616.70 crore and ₹ 391.96 crore during 2011-12, 2012-13 and 2013-14 respectively. Thus, refund showed decreasing trend in this period. Test check of records relating to refunds showed the following:

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<sup>1</sup> Bathinda, Fatehgarh Sahib, Ludhiana-I, II, III and Patiala.

### 2.9.2 Irregular refund

Rule 52-A of PVAT Rules, 2005 provides that where a refund is being allowed provisionally under Section 39(1-A) on account of excess input tax credit, the provisions of Sub Rule 4 of Rule 52 shall not apply till 31 March following the close of financial year, for which refund was issued, or till the time provisional refund exceeds one crore, whichever is earlier provided that only those taxable persons shall be eligible to apply for provisional refund, who have deposited the statutory declaration forms as specified under Sub Rule 4 of Rule 52 for all the previous financial years or have deposited the tax due on account of his failure to submit the said forms.

Further, Sub Rule 5 of Rule 52-A provides that the Designated Officer (DO) shall maintain a register of provisional refund (taxable person wise). This register shall be in Form VAT-60 from which a DO can check regarding admissibility of provisional refund to a dealer.

Further, Sub Section 1-A of Section 39 provides that provisional refund can be applied on the basis of monthly and quarterly return. Non-compliance of terms and conditions prescribed for provisional refund attracts penalty at the rate of two *per cent* per month and interest in accordance with the provisions under Section 32.

During test check of cases/registers of refund issued during 2011-12 to 2013-14 in three AETC offices<sup>2</sup>, Audit noticed in 532 cases of 167 dealers, that the DO allowed provisional refunds in contravention of the rules/provisions *ibid* as given below:

1. In 134 cases, provisional refunds of ₹ 3.24 crore were issued to 49 dealers relating to transactions for the financial years after 31 March of the year following the close of the respective financial year. The DO allowed provisional refunds in these cases even after the expiry of mandatory deadline for furnishing of the statutory forms i.e. one year after the close of the financial year.
2. Provisional refunds of ₹ 6.62 crore were issued in 37 cases to 32 dealers on the basis of annual returns. Whereas, no provision in PVAT Act exists to allow provisional refunds after filing the annual returns.
3. In case of one dealer, provisional refund of ₹ 1.009 crore for a financial year was issued.
4. Audit found (July 2014) that provisional refunds of ₹ 37.96 crore in respect of 111 dealers covering 360 cases were issued without ensuring whether complete 'C' forms of previous financial years were received in time or not, as in case complete 'C' forms were not

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<sup>2</sup> Ludhiana-I, Ludhiana-III and Patiala.

received, due tax for non-submission of 'C' forms was required to be levied. However, none of the AETCs<sup>3</sup> maintained VAT-60 to check the admissibility of subsequent provisional refunds. Thus, statutorily prescribed internal control was not maintained, in the absence of which the Department could not ensure the receipt of complete 'C' forms of previous financial years. Without ensuring the same, the provisional refunds issued to the dealers were in contravention to the provisions of the PVAT Act and were irregular.

AETCs<sup>4</sup> replied (November 2014) that 'the data was voluminous and due to shortage of staff, whole of the record could not be made available. But, the assessment proceedings in these cases had been started. The assessment would be framed and in respect of the interstate sales for which 'C'/other statutory forms could not be submitted, would be taxed accordingly'. The reply of AETCs makes it clear that the Department does not satisfy itself about submission of statutory 'C' forms for previous financial years before issuing provisional refund of a financial year.

Further, complete 'C' forms only in respect of 11 dealers covering 59 cases were produced to Audit (November 2014). Even in these cases, the Department did not maintain prescribed records in VAT-60 to ensure receipt of statutory declarations in time.

Audit cross verified inter State and export sales of dealers who were granted provisional refunds with ICC data of the Department. Further, cross verification of ICC data with the office of DTO Ludhiana in respect of registration details of vehicles used in inter State sales showed that:

- i) 39 dealers who had taken provisional refunds used 8 two wheelers<sup>5</sup> in 767 transactions on which goods worth of ₹ 4.53 crore were shown to have been transported to dealers in States like Tamil Nadu, Assam, Maharashtra, Jharkhand etc.
- ii) Seven dealers out of 39 above mentioned dealers, had transported goods worth of ₹ 1.50 crore on two wheelers and had also submitted statutory declarations.

The above transactions regardless of the fact whether 'C' forms had been submitted or not, were involved in transportation of goods such as iron and steel, cycle parts, motor parts etc. over long distances on two wheelers. Since the same two wheelers were shown to have been used for multiple transactions, the matter needs further investigation.

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<sup>3</sup> Bhatinda, Fatehgarh Sahib, Ludhiana I, II and III and Patiala.

<sup>4</sup> Ludhiana-I, III.

<sup>5</sup> Only those two wheelers which have been used in more than 50 transactions.

### 2.9.3 Excess refund due to short reversal of ITC on account of manufacturing tax free goods

Section 13 of PVAT Act provides that a taxable person shall be entitled to input tax credit (ITC), in such manner and subject to such conditions, as may be prescribed, in respect of input tax on taxable goods, including capital goods, purchased by him from a taxable person within the State during the tax period. Further, Section 17 of PVAT Act 2005 provides that 'where any taxable goods are exported outside the territory of India or are supplied in the course of such export falling within the scope of Section 5 of the Central Sales Tax Act 1956, such sales shall be zero-rated. On such sale, no output tax is payable by any person provided that a taxable person making zero-rated sale shall be eligible for input tax credit in relation to such sales'.

(a) The dealer had gross purchases of ₹ 122.90 crore, gross sale of ₹ 130.31 crore and total export of ₹ 114.26 crore. As per ICC data, there was export of ₹ 42.43 crore out of which ₹ 20.72 crore was tax free against which the DO reversed ITC of ₹ 4.86 lakh against the actual reversal of ₹ 69.20 lakh. It resulted into excess refund of ₹ 64.34 lakh.

The matter was brought to the notice of the Government/Department (July 2014), AETC Ludhiana-II denied the audit observations and stated that the commodity sold by the dealer was baby blanket which was taxable and since commodity master of ICC data was not updated, the same was entered as blanket. The reply of the Department was not acceptable, since as mentioned in Schedule 'A' of P VAT Act blanket was tax free.

(b) Audit noticed from the records of two AETC offices<sup>6</sup> that in two refund cases for the period 2010-11, ITC of ₹ 37.13 lakh was short reversed on account of manufacturing of tax free goods.

The matter was reported to the Government/Department (between March and July 2014). In case of Ludhiana-III, the Department admitted the observation and initiated assessment proceeding. Final action and the reply of the Government were awaited (November 2014).

### 2.9.4 Inadmissible refund due to wrong allowance of ITC on entry tax

Section 13 A of PVAT Act provides that 'subject to the provisions of this Act, a taxable person shall be entitled to ITC in respect of the tax, paid by him under the Punjab tax on entry of goods into local area Act, 2000, if such goods are for sale in the State or in the course of inter State trade or

<sup>6</sup> Ludhiana-I and III.

commerce or in the course of export or for use in the manufacturing, processing or packing of taxable goods’.

Section 13(4) of PVAT Act provides that input tax credit on furnace oil, transformer oil, mineral turpentine oil, water methanol mixture, naphtha and lubricants, shall be allowed only to the extent by which the amount of tax paid in the State exceeds four *per cent*.

In three AETCs<sup>7</sup>, audit noticed in 50 refund cases of 25 dealers that the DOs allowed refund of full entry tax paid on inter State purchases of goods covered under Section 13(4) and 13(5) of PVAT Act 2005. Whereas it should be allowed only to the extent by which the amount of tax paid exceeds four *per cent*. This resulted in inadmissible refund of ₹ 1.09 crore.

The matter was reported to the Government/Department (July 2014); their replies were awaited (November 2014).

#### **2.9.5 Excess allowance of refund**

a) Sub Section (1) of Section 39 of PVAT Act provides that the Commissioner or the designated officer shall, in such manner and within such period, as may be prescribed, refund to a person, the amount of tax, penalty or interest, if any, paid by such person in excess of the amount due from him and also the excess of input tax credit over output tax payable under this Act.

In six AETCs<sup>8</sup>, audit noticed (between September 2012 and May 2014) that in 14 cases of refunds for the period 2006-07 to 2012-13, the dealers were allowed excess refund of ₹ 258.12 lakh due to short reversal of ITC on account of schedule 'H' goods, non-debit of exemption and short computation of taxable turn over in contravention of the provision of the Act *ibid*.

The matter was brought to the notice of the Government/Department (between November 2013 and July 2014). In three cases of AETC Ludhiana-III the Department admitted the objection and in one case of AETC Faridkot created (June 2014) an additional demand of ₹ 1.09 crore including interest. Final action of the Department and replies of the Government were awaited (November 2014).

b) Rule 21(2-A) provides that ITC shall be allowed to a taxable person to the extent of tax payable on the resale value of good or sale value of

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<sup>7</sup> Fatehgarh Sahib, Ludhiana-I and III.

<sup>8</sup> Faridkot, Ludhiana-III, Moga, Mohali, Patiala and Sangrur.

manufacturing goods where such goods are sold at a price lower than the purchase price of such goods in the case of resale. Further, readymade garments are taxable as per Schedule B of PVAT Act.

Audit noticed (May 2014) in two cases of refunds in AETC, Ludhiana III for the period 2012-13 and 2013-14 that the dealers had sold goods at a loss of ₹ 8.17 crore resulting in excess allowance of ITC of ₹ 49.43 lakh in contravention to the provision of the Act *ibid*.

The matter was brought to the notice of the Government/Department (July 2014), the Department while admitting the observation, initiated the assessment proceedings under Section 29(2). Final action of the Department and replies of the Government were awaited (November 2014).

#### **2.9.6 Excess refund due to evasion of tax**

Section 51 of Punjab VAT Act 2005 provides that if, with a view to prevent or check avoidance or evasion of tax under this Act, the State Government considers it necessary so to do, it may by notification, direct for the establishment of an information collection centre at such places, as may be specified in the notification. The incharge of the goods vehicle entering the limit or leaving the limit of the State shall stop the vehicle and keep it stationary and shall furnish in triplicate declaration alongwith the document in respect of the goods carried and allow the officer incharge of the ICC to check the contents in the vehicle by breaking open the package or packages, if necessary and inspect all records relating to the goods carried. The officer incharge shall return a copy of the declaration duly verified by him to the owner of the goods vehicle.

In 10 cases of three assessment circles<sup>9</sup> for the period of 2010-11 to 2013-14, audit verified status of some vehicles as available in the ICC data of the Department with District Transport Office. These vehicles were used in transportation of goods of ₹ 3.94 crore like Readymade Garments and Iron and Steel etc. in the course of inter State sale/intra State purchase and were found to be vehicles like motorcycle, car and scooter.

The above transactions were not probable and it seems that no such transactions took place out of the State and the entries at the barrier were made in the ICC data merely to pay concessional CST and avoid tax liability against sale of goods within the State. Thus, there were sufficient grounds to disclaim the inter State sales and export shown at least in these transactions. Possibilities of forged claim of refunds at a larger scale also cannot be ruled

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<sup>9</sup> Ludhiana-I, Ludhiana-II and Ludhiana-III.

out. This resulted in excess refund due to suspected evasion of tax of ₹ 13.78 lakh.

The matter was brought to the notice of the Government/Department (July 2014), the Assessing Authority Ludhiana-I, while accepting the audit observation issued notices to the dealers. Final action and replies in remaining cases were awaited (November 2014).

### **2.9.7 Short levy of output tax due to suppression of sales/purchase**

Sub Section (zc) of Section 2 of PVAT Act provides that “return” means a true and correct account of business pertaining to the return period in the prescribed form.

Audit noticed (May 2014) in six cases of refunds that the dealers were allowed excess refund of ₹ 68.47 lakh in contravention to the provision of the Act *ibid* as per details given in **Table 2.9:**

**Table 2.9**

<b>Sl. No.</b>	<b>Districts</b>	<b>Period</b>	<b>Excess allowance of refund (₹ in lakh)</b>	<b>Remarks</b>
1.	Ludhiana-I	2010-11	3.74	Inter State purchases shown as ₹ 37.84 lakh, whereas inter State purchase corresponding to entry tax allowed comes to ₹ 1.31 crore resulting in excess allowance of refund on suppression of sales.
2.	Ludhiana III	7/2013 to 9/2013	24.11	The assessee as well as DO calculated output tax liability on ₹ 11.17 crore instead of ₹ 15.16 crore resulting in short levy/excess allowance of refund.
3.	Bathinda	2009-10	5.82	The contractor claimed and allowed by the DO irregular deduction of ₹ 76.93 lakh from Deemed TTO on account of sale of cement/brick.
4.	Bathinda	7/2012 to 6/2013	9.58	The contractor had not paid tax on profit margin of ₹ 1.58 crore on sub-let the contract to the sub-contractor.

Sl. No.	Districts	Period	Excess allowance of refund (₹ in lakh)	Remarks
5.	Fatehgarh Sahib	7/2009 to 12/2009	25.22	In two cases, Inter State purchases shown as ₹ 60.30 crore whereas inter State purchase corresponding to entry tax allowed comes to ₹ 66.61 crore resulting in excess allowance of refund due to suppression of sales.
	<b>Total</b>		<b>68.47</b>	

The matter was brought to the notice of the Government/Department (between November 2013 and July 2014), the Department stated that objection raised by audit has been examined and notice has been issued to concerned dealers to explain the deficiencies pointed out by the audit. Final action of the Department and replies of the Government were awaited (November 2014).

### 2.9.8 Excess refund due to non/short levy of Central Sales Tax

Sub Section 3 and 4 of Section 5 of Central Sales Tax Act 1956 provides that a transaction shall not be treated as indirect export unless the dealer selling the goods furnishes to the prescribed authority in the prescribed manner a declaration duly filled and signed by the exporter to whom the goods are sold in a prescribed form obtained from the prescribed authority.

Further, Sub Section 1 and 4 of Section 8 of Central Sales Tax 1956 provides that 'inter State sale to a registered dealer will be taxed at the rate of two *per cent* or the rate applicable to the sales tax law of the State whichever is lower only if the dealer selling the goods furnishes to the prescribed authority in the prescribed manner a declaration duly filled and signed by the registered dealer to whom the goods are sold containing the prescribed particulars in a prescribed form obtained from the prescribed authority'.

Audit noticed (May 2014) in four refund cases that the dealers were allowed excess refund of ₹ 22.43 lakh in contravention to the provision of the Act *ibid* as per details given in **Table 2.10**:



**Table 2.10**

Sl. No.	Districts	Excess refund (₹ in lakh)	Remarks
1.	Ludhiana I	4.37	The DO had calculated output CST at the rate four <i>per cent</i> on ₹ 2.91 crore instead of 5.5 <i>per cent</i> without production of declaration in Form C.
2.	Ludhiana III	13.14	The dealer had claimed and allowed deduction on account of Zero rated sale for ₹ 2.17 crore on supporting documents i.e. invoices alongwith shipping bills which did not pertain to the period of refund.
3.		2.16	The dealer claimed and allowed indirect export of ₹ 6.36 crore against the actual indirect export of ₹ 5.97 crore resulted in excess allowance of exemption amounting to ₹ 39.00 lakh as verified from ICC data.
4.	Fatehgarh Sahib	2.76	The dealer had claimed and the DO allowed concessional rate of tax on ₹ 2.17 crore against actual amount of interstate sale of ₹ 78.93 lakh.
	<b>Total</b>	<b>22.43</b>	

The matter was brought to the notice of the Government/Department (between February and July 2014), the Department admitted the para in three cases (Sl. nos. 1 to 3) and stated that notice has been issued and for Sl. No. 4 no reply was furnished. Final replies were awaited (November 2014).

Thus, the system to monitor provisional refunds by maintaining a dealer wise ledger in VAT-60 was not being implemented. Provisional refunds were allowed to dealers without verifying genuineness of transactions and admissibility of refund. Audit also found cases of non-reversal of ITC/excess allowance of refunds etc. Refunds of a financial year were granted without finalizing the tax liability of previous financial year as prescribed in Act and Rules.

The above points were reported to the Government (July 2014); the reply was awaited (November 2014).