

# **CHAPTER – II**

## **COMMERCIAL TAX**

## Chapter-II Commercial Tax

### 2.1 Results of Audit

We test checked records of 106 units of Commercial Tax Department (24 Divisional offices, 22 Regional offices and 60 Circle offices) involving total revenue of ₹ 12,381.79 crore out of 134 units during the year 2014-15 and found underassessment of tax and other irregularities involving ₹ 296.08 crore in 855 cases, which fall under the following categories as mentioned in the **Table-2.1**.

**Table - 2.1**

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Performance Audit on “ <b>System of assessment under Value Added Tax</b> ”	1	213.30
2.	Non/Short levy of tax	204	10.04
3.	Application of incorrect rate of tax	123	10.63
4.	Incorrect determination of taxable turnover	84	4.83
5.	Incorrect grant of exemption/deduction	118	6.52
6.	Other irregularities	325	50.76
	<b>Total</b>	<b>855</b>	<b>296.08</b>

The Department accepted underassessment of tax and other irregularities of ₹ 51.67 crore in 206 cases, which were pointed out in audit during the year 2014-15 and reported realisation of ₹ 11.00 lakh in 17 cases.

Audit findings of the Performance Audit on “**System of assessment under Value Added Tax**” having money value of ₹ 213.30 crore and a few other illustrative audit observations involving ₹ 62.38 crore are highlighted in the succeeding paragraphs.

## 2.2 Performance Audit on “System of assessment under VAT”

### Highlights

The Performance Audit on "System of assessment under Value Added Tax" was conducted between October 2014 and June 2015. We found non-compliances of the provisions of the Act such as underdetermination of taxable turnover, incorrect application of tax rates, invalid/incorrect exemptions etc. involving financial effect of ₹ 213.30 crore. Some of the important findings are mentioned below:

The Assessing Authorities (AAs) underdetermined the taxable turnover of the dealers as against the aggregate turnover of the dealers recorded in their audited books of accounts, sale list and other records available in the case files. As a result, turnover aggregating ₹ 499.41 crore was not assessed to tax resulting in non-levy of tax of ₹ 82.08 crore including penalty of ₹ 41.84 crore in 160 out of 9063 assessment cases test-checked in 30 offices.

**(Paragraph 2.2.11)**

The AAs levied incorrect rates of tax on turnover of ₹143.54 crore which resulted in non/short levy of VAT amounting to ₹ 38.57 crore including penalty of ₹ 26.80 crore in 51 out of 5044 assessment cases test-checked in 24 offices.

**(Paragraph 2.2.12)**

The AAs while determining the turnover deducted the amount of tax from the aggregate of sale price although the amount of tax was not included in aggregate of sale price. This resulted in short levy of tax of ₹ 32.22 crore in 27 out of 5469 assessment cases test-checked in 17 offices.

**(Paragraph 2.2.13)**

Dealers sold taxable commodity and claimed it as tax free. AAs while assessing the cases had also not levied tax treating them incorrectly as tax free goods. This resulted in non-levy of tax of ₹ 1.82 crore including penalty of ₹ 1.26 crore in nine out of 4068 assessment cases test-checked in seven offices.

**(Paragraph 2.2.14)**

Allowance of ITR on purchases over and above the purchases certified in the Audited Accounts, ITR on non-eligible goods and non-reversal/less reversal of ITR in the event of the goods stock transferred out of State etc. resulted in incorrect/excess allowance of ITR of ₹ 10.37 crore in 79 cases out of 13840 assessment cases test-checked in 31 offices.

**(Paragraph 2.2.15)**

Interstate sales turnover of ₹ 267.72 crore was assessed without submission of C/F-form and also against defective C/F-form. This resulted in short levy of tax of ₹ 11.86 crore including penalty of ₹ 1.22 crore in 29 out of 1629 assessment cases test-checked in 17 offices.

**(Paragraph 2.2.17.1)**

Irregular grant of deduction in respect of transit sale under Section 6(2) of CST Act involving turnover of ₹ 229.21 crore resulted in short levy of tax of ₹ 9.87

crore including penalty of ₹ 9.33 lakh in seven out of 99 assessment cases test-checked in five offices.

**(Paragraph 2.2.17.3)**

The AAs allowed adjustment of TDS from assessed tax for the sale of soyabean and cotton against TDS certificates covering transactions of more than one calendar month. This resulted in irregular adjustment of TDS of ₹ 4.45 crore in 40 out of 4226 assessment cases test-checked in 13 offices.

**(Paragraph 2.2.18)**

### 2.2.1 Introduction

Madhya Pradesh Value Added Tax (MPVAT) Act, was introduced (2006) with a view to bring more efficiency in the tax administration, equal opportunity of competition amongst the dealers and fairness in the taxation system.

The MPVAT Act governs the levy and collection of VAT in Madhya Pradesh at every point of sale. Under the provisions of the MPVAT Act, the cascading effect of taxation at each stage of transaction of commodity till it reaches the final consumer was attempted to be minimised by setting off the amount of input tax (tax paid on purchase) termed as Input Tax Rebate (ITR) at each stage against the output tax (tax payable on the sale).

VAT is payable, when there is sale of taxable goods by a registered dealer within the state in the course of his business. The tax so charged or collected is shown separately in the books of accounts and should not form a part of the turnover of the dealer. Various commodities are classified into five<sup>1</sup> main categories under the Act for the purpose of application of different rates of VAT on their transactions.

Interstate transactions of goods are administered under Central Sales Tax Act, 1956 (CST Act). Interstate transactions of goods supported by the declaration forms are exempted/taxable at concessional rate of tax and inter-state transactions not supported by declaration forms are taxable at the rate of tax specified in the schedule of MPVAT Act.

### 2.2.2 System of Assessment under MPVAT Act

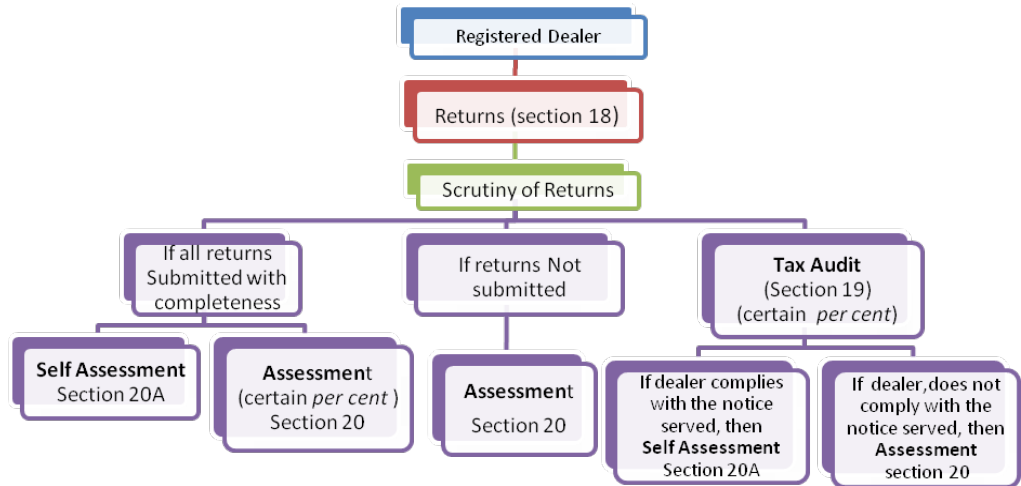
VAT collection and control procedures are based on self-assessment system. The overall objective of the VAT assessment system is to maximise the collection of VAT revenue by maximising the level of voluntary compliance and by deterring evasion. The dealer calculates his own liability and makes his payment of the tax due while the Commercial Tax Department (CTD) reviews the returns submitted by the dealer subsequently by means of Tax Audit and assessments to ensure that tax legally due is declared and paid by the tax payers.

System of Assessment under MPVAT Act comprises of Self Assessment, Assessment, Tax Audit, Re-assessment or revision of assessment and Special

<sup>1</sup> Tax free commodities are mentioned in Schedule-I, one *per cent* rate of tax –as mentioned in part I of Schedule II, four/five *per cent* rate of tax- as mentioned in part II of schedule II and 12.5/13 *per cent* rate of tax – as mentioned in part IV of schedule II. Apart from this there are certain commodities under part III of Schedule II which are one time taxable as per the rate of tax mentioned therein.

provision for assessment of cases relating to detection and prevention of tax evasion. The system and process of assessment has been shown in **chart 1** below:

**Chart 1: System and process of assessment**



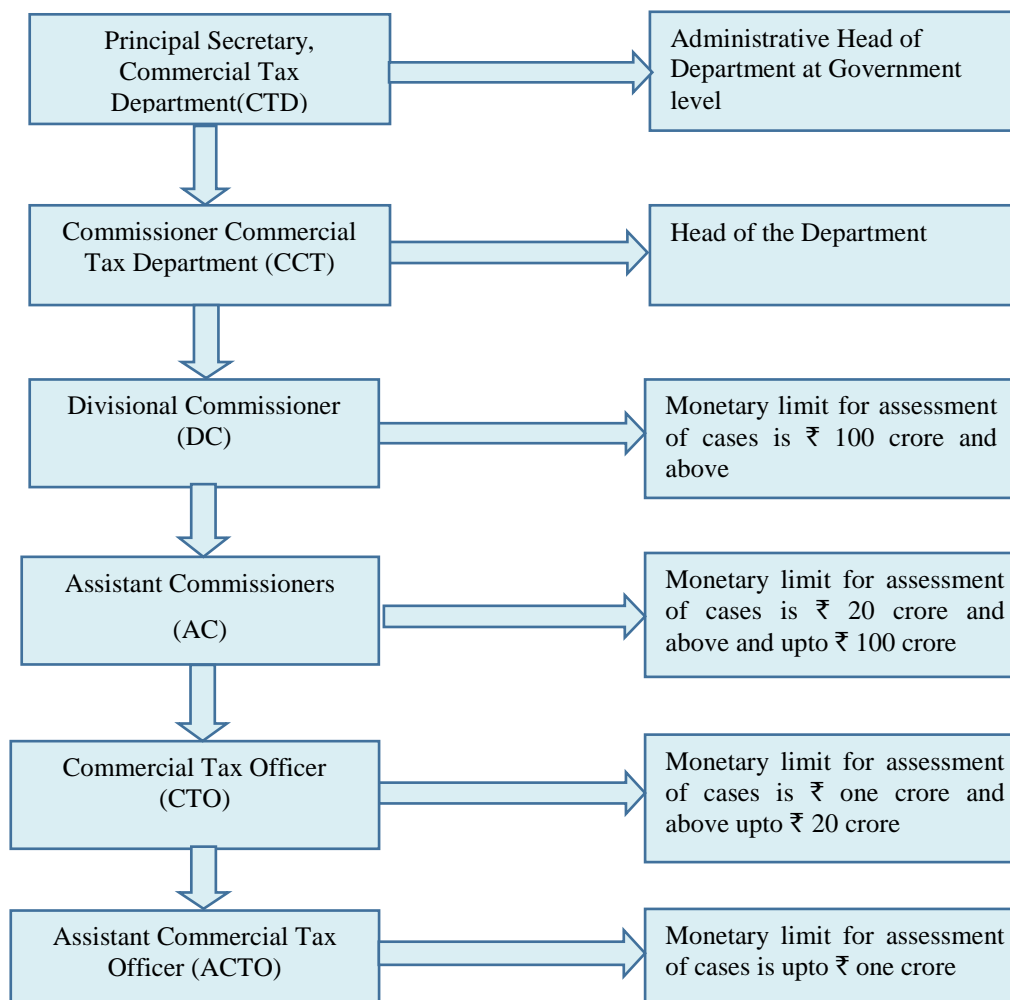
However, where sale or purchase of goods liable to tax under the MPVAT Act have been under-assessed/wrongly assessed or escaped assessment, the original assessment is re-opened (under Section 21) and in its place, a fresh assessment is made. Reassessment is an exercise to correct any mistake apparent in the assessment order. While re-assessing a dealer, the assessing authority does not merely assess him on the escaped turnover but he assesses him on his total estimated turnover and in that process, if required, he can resort to best judgment assessment also.

Further Section 9(2) the Central Sales Tax (CST) Act, 1956, provides that the authorities empowered to assess, reassess, collect and enforce payment of tax, including any interest or penalty, payable by a dealer under the CST Act for this purpose may exercise all or any of the powers they have under the MPVAT Act including provisions relating to assessment.

### 2.2.3 Organisational setup

The Commercial Tax Department is headed by Principal Secretary at the Government level. The Commercial Tax Department (CTD) functions under overall control of the Commissioner of Commercial Tax (CCT) assisted by a Director. The Department is divided in four zones; each headed by a Zonal Additional Commissioner. Each zone comprises divisional offices headed by 15 divisional Deputy Commissioners (DCs). Under these divisions, there are 33 Regional Assistant Commissioner (RACs) offices and 80 circle offices headed by Commercial Tax Officers (CTOs)/Assistant Commissioners (ACs). The hierarchy and responsibilities of the Department thereupon is shown in **Chart 2** below:

Chart 2: Chart showing organisational set up



#### 2.2.4 Audit scope and methodology

With a view to evaluate the efficiency and effectiveness of the system and procedures related to assessment of taxes and collection of revenue, records of Circle, Regional and Divisional offices, were examined for the period 2010-11 to 2014-15. Besides, information was also collected from the office of Commissioner, Commercial Tax Department.

The Performance Audit (PA) covering a period of five years from 2010-11 to 2014-15, has been carried out (from October 2014 to June 2015) for the assessments done by the Assessing Authorities (AAs) between 1 April 2013 and 31 March 2015<sup>2</sup>, in randomly selected 33 units<sup>3</sup> (10 Divisional, three Regional and 20 Circle Offices) out of total 130 units. A total of 12,466 cases out of 12,958 assessed cases were examined in audit.

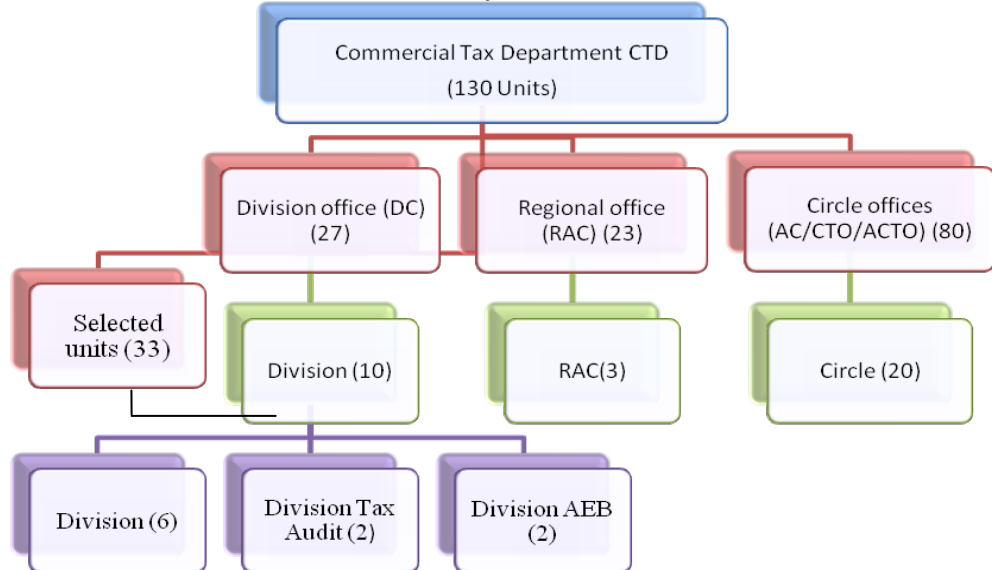
<sup>2</sup> Cases which were not produced in the previous audit but produced during performance audit have also been examined/incorporated in the PA

<sup>3</sup> **Circle offices (20):** Bhopal-I, Bhopal-III, Bhopal-V, Dewas, Gwalior-I, Gwalior-II, Indore VII, Indore IX, Indore X, Indore XI, Indore XII, Indore XIII, Indore XIV, Khargone, Mandideep, Ratlam-I, Satna-I, Sendhwa, Ujjain-I and Waidhan,  
**Regional offices (03):** Bhopal-I, Bhopal-II and Sagar-II

**Divisional offices (10):** Bhopal Anti Evasion Bureau (AEB), Bhopal-Tax Audit Wing (TAW), Bhopal-I, Bhopal-II, Indore TAW-I, Indore-I, Jabalpur (AEB), Jabalpur-II, Ratlam and Satna .

Hierarchy and selection of units has been shown in the flow **Chart 3** below:

**Chart 3: Hierarchy and selection of units**



### 2.2.5 Audit objectives

The PA was conducted to:

- check the compliance with Acts/Rules in assessments and examine whether instructions/orders contained in circulars/notifications were scrupulously followed,
- ascertain whether exemptions/concessions were supported by genuine and valid declaration forms,
- check whether correctness/timeliness of the information furnished in the tax returns/audited accounts was ensured, and
- evaluate whether provisions of MPVAT Act and rules were adequate to prevent leakage of revenue.

### 2.2.6 Audit criteria

The audit findings are based on the following criteria

- MP VAT Act, 2002 (MPVAT Act);
- MP Value Added Tax Rules, 2006 (MPVAT Rules);
- Central Sales Tax Act, 1956 (CST Act);
- Central Sales Tax (Registration and Turnover) Rules, 1957 (CST Rules) and
- Rules, Circulars, Exemption Notification and Instructions issued by the Department and State Government from time to time.

### 2.2.7 Acknowledgement

Indian Audit and Accounts Department acknowledges the cooperation of the CTD for providing necessary information and records to audit. The scope and methodology of audit was discussed with the Principal Secretary of the Department in an entry conference held on 18 February 2015. The draft Performance Audit was forwarded in July 2015 to the State Government.

The findings of the Performance Audit were discussed with the Principal Secretary of the Department in an exit conference held on 7 October 2015. The views of the Government/Department have been suitably incorporated in the Performance Audit. All the five recommendations of the audit were accepted by the Department.

### 2.2.8 Registered Dealers and conducting of survey of unregistered dealers

Year-wise position of registered dealers under MPVAT Act and percentage of their growth during the years 2010-11 to 2014-15 is shown in **Table 2.2** below:

**Table- 2.2**

Year	Registered dealers at the beginning of the year	Dealers registered during the year	Number of dealers whose registration cancelled during the year	Registered dealers at the end of the year	Percentage of growth of registered dealers over previous year
2010-11	232858	17678	9855	240681	-
2011-12	240681	28790	13644	255827	6.92
2012-13	255827	27903	20965	262765	2.71
2013-14	262765	26150	22454	266461	1.40
2014-15	266461	35378	24258	277581	4.17

(Source: - Information furnished by the Department)

It can be seen from the above table that the percentage of growth of registered dealers during the last five years ranged between 1.40 and 6.92 *per cent*. Regarding survey conducted by the Department to bring new dealers under tax net, no specific reply was furnished by the Department. It was however replied (October 2015) that continuous effort have been made through gathering of data from Income Tax Department, Central Excise Department and other Government Departments to bring new dealers under tax net.

Non furnishing of specific reply regarding survey is indicative of the fact that no effort was made by the Department by conducting survey of unregistered dealers who are liable to pay tax to increase the tax base.

### 2.2.9 Trend of revenue receipts

Actual receipt under Value Added Tax (VAT) and Central Sales Tax (CST) during the year 2010-11 to 2014-15, is shown in **Table 2.3** below:

**Table- 2.3**

(₹ in crore)

Year	Budget estimate	Total Receipt (VAT and CST)	Variations excess/ Shortfall	Percentage of variations w.r.t budget estimate ( <i>per cent</i> )	Percentage growth of actual receipts over previous year
2010-11	9320.00	10256.76	936.76	10.05	-
2011-12	11830.00	12516.73	686.73	5.80	(+) 22.03
2012-13	14000.00	14856.30	856.30	6.11	(+) 18.69
2013-14	16500.00	16649.85	149.85	0.90	(+) 12.07
2014-15	19500.00	18135.96	(-) 1364.04	(-) 7.00	(+) 8.92

(Source: Finance Accounts of Government of Madhya Pradesh)



It may be seen from the above table that though there was continuous growth of revenue from year to year but the percentage of growth of revenue was in downward trend and declined from 22.03 to 8.92 per cent during the last five years in spite of increase in number of registered dealers and increase in rate of tax. Moreover the actual receipts during 2014-15 were less than the Budget estimate by seven per cent.

During the exit conference, on the issue of downward trend of revenue the Department stated (October 2015) that due to slump in the market and due to fall in the prices of the petrol and diesel (which contribute to approximately 34 per cent of the VAT revenue) the revenue growth slowed down.

### 2.2.10 Arrears of Revenue

Details of arrears of revenue and arrears outstanding for more than five years are shown in **Table 2.4** below:

**Table-2.4**

(₹ in crore)

Period	Opening Balance at the beginning of the year	Addition during the Year	Total	Recovery during the year	Closing Balance at the end of the year	Amount outstanding for more than five years at the end of the year
2010-11	586.95	1214.02	1800.97	1271.17	529.80	194.53
2011-12	529.80	1667.19	2196.99	1679.06	517.93	202.45
2012-13	517.93	1748.39	2266.32	1708.57	557.75	180.75
2013-14	557.75	1898.24	2455.99	1879.52	576.47	320.92
2014-15	576.47	2761.02	3337.49	2733.58	603.91	305.80

(Source: - Information furnished by the Department)

It may be seen from the above table that arrears of revenue had increased from ₹ 529.80 crore in 2010-11 to ₹ 603.91 crore in 2014-15 and also shown increasing trend in last five years except the year 2011-12. Similarly arrears outstanding for more than five years had also considerably increased from ₹ 194.53 crore in 2010-11 to ₹ 305.80 crore in 2014-15. Moreover arrears of revenue as on 31 March 2015 amounted to ₹ 603.91 crore, out of which ₹ 483.73 crore pertains to arrears under the category of difficult cases such as court cases, appeal cases, sick units etc.

During the exit conference, Department stated (October 2015) that across the country the most updated assessment system is of MPCTD. This has been achieved by simplifying the procedure for assessment and Department is satisfied with the pace of recovery and also expecting to recover the same by end of this Financial Year.

We do not agree with the reply of the Government as the arrears of revenue, when compared year over year showed increasing trend.

### Audit Findings

The Performance Audit on system of assessment under VAT revealed deficiencies in compliance, violation of the provisions of the Act and Rules,

and also system deficiencies. Such deficiencies led to leakage of revenue as discussed in the subsequent paragraphs.

### 2.2.11 Incorrect determination of turnover

**The AAs underdetermined the taxable turnover of the dealers as against the aggregate turnover of the dealers recorded in their audited books of accounts, sale list and other records available in case files. Turnover aggregating to ₹ 499.41 crore was not assessed to tax resulting in non-levy of tax of ₹ 82.08 crore including penalty of ₹ 41.84 crore.**

We test-checked 9,063 cases out of 9,871 assessment cases between October 2014 and June 2015 in eight divisional Offices<sup>4</sup>, three regional offices (Bhopal-I,II and Sagar-II) and 19 circle offices<sup>5</sup> and found that in 160 cases of 157 dealers, assessed between April 2012 and March 2015 for the period 2009-10 to 2012-13, the AAs, while finalising the assessment, determined the taxable turnover of the dealers as ₹ 3,094.65 crore against the aggregate turnover of ₹ 3,594.07 crore recorded in their audited books of accounts, sale list and other records available in the case files.

Plant and machinery sales, excise duty and other miscellaneous taxable value were not included in the taxable turnover of the dealers. Moreover, excess deductions were allowed on account of contract work, job work, sales returns, discounts etc. Thus, turnover aggregating ₹ 499.41 crore was not assessed to tax due to non-observance of provisions of Section 2(z) of the MPVAT Act which prescribes that turnover means aggregate of sale prices received by a dealer in respect of sale or supply of goods made during that period excluding amount of sales return and discount at the time of sale.

This resulted in non-levy of tax of ₹ 40.24 crore. Besides, penalty of ₹ 41.84 crore under Section 21(2) of the MPVAT Act was also leviable as omission leading to short assessment was attributable to dealers as detailed in **Appendix I**.

During the exit conference, the Department directed the officials to check/rectify the issues within a time frame and also emphasised upon improvement of Internal Checking system for assessments. The Department also stated that there was a need to strengthen the system of assessment by moving towards the platform of e-assessments by incorporating necessary modules in the system. It was also stated that detailed reply/compliance of the audit observations of the Performance Audit would be submitted in due course. Further reply has not been received (November 2015).

### 2.2.12 Application of incorrect rate of tax

**The AAs applied incorrect rates of tax on turnover of ₹ 143.54 crore which resulted in non/short levy of Tax amounting to ₹ 38.57 crore including penalty of ₹ 26.80 crore.**

<sup>4</sup> **Divisional Offices(8):**TAW Bhopal, Bhopal-I, Bhopal-II, Indore-I, Indore-TAW-I, Jabalpur-II, Ratlam and Satna

<sup>5</sup> **Circle offices (19):** Bhopal-I, Bhopal-III, Bhopal-V, Gwalior-I, Gwalior-II, Indore VII, Indore IX, Indore X, Indore XI, Indore XII, Indore XIII, Indore XIV, Khargone, Mandideep, Ratlam, Satna, Sendhwa, Ujjain and Waidhan

We test-checked 5,044 cases out of 5,646 assessment cases between October 2014 and June 2015 in six divisional offices<sup>6</sup>, three regional offices (Bhopal-I,II and Sagar-II) and 15 circle offices<sup>7</sup> and found that while finalising the assessment in 51 cases of 48 dealers, assessed between January 2012 and March 2015 for the period 2009-10 to 2012-13, the AAs applied lower rate of tax on turnover of ₹ 143.54 crore, incorrectly classifying the goods in violation of provision of Section 9 of MPVAT Act and notifications issued thereunder, which provides for levy of tax on goods as specified in Schedule II, depending upon the classification of the goods.

This resulted in short levy of tax of ₹ 11.77 crore. Besides, penalty of ₹ 26.80 crore under Section 21(2) of the MPVAT Act was also leviable as omission leading to short assessment was attributable to dealer as detailed in **Appendix II**.

During the exit conference, the Department stated (October 2015) that it could be due to difference of opinion in regard to rate of tax for a commodity. It was also stated that in the absence of HSN (Harmonised System of Nomenclature) code there is probability of error related to application of rate of tax. It was also stated that detailed reply of the audit observations of the Performance Audit would be submitted in due course. Further reply has not been received (November 2015).

#### 2.2.13 Short levy of tax due to allowing incorrect deductions

**While assessing the cases the AAs allowed deduction on account of tax assuming that amount of tax was included in aggregate of sale price. However the same was not included in the aggregate of sales price. This resulted in short levy of tax of ₹ 32.22 crore.**

**2.2.13.1** We test-checked 3,229 cases out of 3,543 assessment cases between October 2014 and June 2015 in two divisional offices (Bhopal-II and Jabalpur-II) and 10 circle offices<sup>8</sup> and found in 14 cases of 13 dealers, assessed between May 2013 and February 2015 for the period 2010-11 to 2012-13, that the AAs while determining the turnover, deducted the amount of tax from the aggregate of sale price, although tax was not included in the sale price.

This was in contravention of Section 2(x) (iii) of MPVAT Act, 2002 which provides that no deduction shall be allowed if the amount of tax is not included in the aggregate of sales price. This resulted in short levy of tax of ₹ 47 lakh. Besides, penalty of ₹ 70.14 lakh was also leviable under Section 21(2) of the MPVAT Act as omission leading to short assessment of tax was attributable to dealer, as mentioned in **Appendix III**.

**2.2.13.2** We further test-checked 2,240 cases out of 2,246 assessment cases between October 2014 and June 2015 in divisional office Satna and four circle offices<sup>9</sup>, and found in 13 cases of 12 dealers, assessed between February

<sup>6</sup> **Divisional Offices(6):** Tax Audit Bhopal, Bhopal-I, Bhopal-II, Indore-I, Indore-TAW-I and Satna

<sup>7</sup> **Circle offices (15):**Bhopal-I, Bhopal-III, Bhopal-V, Dewas, Gwalior-I, Gwalior-II, Indore-VII, Indore-X, Indore-XI, Indore-XIII, Mandideep, Sendhawa, Satna-I, Ujjain and Waidhan

<sup>8</sup> **Circle offices (10):**Bhopal-I, Gwalior-I, Gwalior-II Indore-IX, Indore-XI, Indore-XIV, Khargone, Ratlam-I, Satna-I and Ujjain-I

<sup>9</sup> **Circle (4):** Bhopal-V, Indore X , Indore XI, Indore-XIII

2013 and February 2015 for the period between 2011-12 and 2012-13, that in certified VAT audit report<sup>10</sup> submitted by the dealers, cost of goods sold was derived on the basis of net purchases (i.e purchases without VAT) and sale value of goods were computed after adding profit to the cost of goods sold so calculated. As such, the sale value was also net sales (i.e without VAT) but in the certified VAT Audit Report, the sale value was wrongly depicted as sale value with VAT instead of net sales.

During assessment, the AAs allowed incorrect deduction on account of VAT as per certified VAT Audit Report without ascertaining the fact that sales figures shown in VAT Audit Report was actually net sales. This resulted in short levy of tax of ₹ 31.05 crore including penalty of ₹ 23.28 crore under Section 21 (2) of MPVAT Act, as detailed in **Appendix IV**.

During the exit conference (October 2015), the Department agreed to the concern and assured that necessary action would be taken. Further reply has not been received (November 2015).

#### **2.2.14 Non-levy of tax on sales incorrectly treated as tax free**

**Dealers sold taxable commodity and claimed it as tax free. The AAs while assessing the cases also not levied tax treating them incorrectly as tax free goods. This resulted in non-levy of tax of ₹ 1.82 crore including penalty of ₹ 1.26 crore.**

We test-checked 4,068 cases out of 4,093 assessment cases between October 2014 and June 2015 in one divisional office (Ratlam) and six circle offices<sup>11</sup> and found in nine cases of eight dealers, assessed between May 2013 and March 2015 for the period 2010-11 to 2011-12, that dealers sold taxable commodity under Schedule-II i.e. Agricultural Pipes, Sprinkler pipe & fittings, ventilators and tomato sauce, valued at ₹ 10.74 crore.

The AAs did not levy any tax treating them incorrectly as tax free goods due to incorrect classification of taxable goods of Schedule-II as tax free goods under Schedule-I, in contravention of provision of MPVAT Act and notifications issued thereunder. This resulted in short levy of tax of ₹ 55.55 lakh. Besides, penalty of ₹ 1.26 crore under Section 21(2) of the MPVAT Act was also leviable as omission leading to short assessment of tax was attributable to dealer, as mentioned in **Appendix-V**.

During the exit conference, the Department stated (October 2015) that, it is related to classification of the commodity and application of rate of tax accordingly. The Department assured that, necessary action would be taken if error is found due to gross negligence. Further reply has not been received (November 2015).

**We recommend that the provisions of Acts/Rules may be implemented scrupulously to avoid the leakages of revenue. Further, a strict regime of responsibility fixation may be established for cases of lapses in assessments to have deterrent effect.**

<sup>10</sup> As per Section 39 of the Act every registered dealer whose annual turnover having more than 10 crore, is required to submit VAT Audit report, electronically in Form 41-A w.e.f. 01.04.2012

<sup>11</sup> **Circle (6):** Bhopal-V, Dewas, Indore-IX, Indore XI, Indore XII and Mandideep

### 2.2.15 Input Tax Rebate (Section 14 of the Act)

**Allowance of ITR on purchases over and above the purchases certified in the Audited Accounts, ITR on non-eligible goods and non-reversal/less reversal of ITR in the event of the goods stock transferred out of State etc. resulted in incorrect/excess allowance of ITR of ₹ 10.37 crore.**

We observed irregular grant of ITR in 80 cases of 76 dealers assessed between April 2013 and March 2015 for the period 2011-12 to 2014-15 due to non-observance of provisions of Section 14 of the MP VAT Act as discussed below:

#### 2.2.15.1 Inadmissible grant of ITR against certified purchases.

We test-checked 7,551 cases out of 8,280 assessment cases between October 2014 and June 2015 in five divisional Offices<sup>12</sup> and in 15 Circle Offices<sup>13</sup> assessed between July 2012 and March 2015 for the period 2010-11 to 2012-13, and found that in 34 cases, dealers were eligible to avail the ITR of ₹ 32.47 crore as per the purchases certified in audited accounts.

However the dealers incorrectly claimed and AAs allowed the ITR of ₹ 36.11 crore on purchases over and above the purchases certified in the Audited Accounts. Similarly in 20 cases, dealers were allowed ITR of ₹ 3.71 crore in the absence of purchase list/bills and also where VAT was not charged separately in the bills though dealers were eligible to avail the ITR of only ₹ 2.35 crore.

This was in contravention of provisions of Section 14 (1) read with Rule 9 of MPVAT Act which stipulate that ITR should be allowed to the dealers after due verification of returns submitted by them and purchases shown in certified audited accounts. This resulted in inadmissible grant of ITR of ₹ 4.99 crore. Besides, penalty of ₹ 3.21 crore under Section 21(2) of the MPVAT Act was also leviable as omission leading to short assessment of tax was attributable to dealer as mentioned in **Appendix VI**.

#### 2.2.15.2 Allowance of ITR on certain goods not admissible for ITR

We test-checked 2,022 cases out of 2,071 assessment cases between October 2014 and June 2015 in two divisional offices (Bhopal-II and Ratlam) and five circle offices<sup>14</sup> and found in seven cases of seven dealers, assessed between April 2013 and September 2014 for the period 2010-11 to 2012-13, that ITR of ₹ 40.64 lakh was incorrectly allowed to the dealers on building material and mustard, also to the dealers who opted for composition.

This was in contravention of the provision of Section 14(6) of the MPVAT Act, which stipulates that no ITR shall be claimed or be allowed to a registered dealer, who opts for composition under Section 11A of the Act and also in respect of plant, machinery, equipments and parts thereof, as may be notified<sup>15</sup> by the State Government. Further as per Section 26-A(4) no ITR shall be

<sup>12</sup> **Divisional offices (5):** Tax Audit Bhopal, Bhopal-I, Bhopal-II, Indore-TAW-I and Satna  
<sup>13</sup> **Circle Offices (15):** Bhopal-I, Bhopal-V, Gwalior-I, Gwalior-II, Indore-IX, Indore-X, Indore-XI, Indore-XII, Indore-XIII, Mandideep, Ratlam-I, Satna-I, Sendhwa, Ujjain-I and Waidhan  
<sup>14</sup> **Circle offices (5):** Indore-IX, Indore-XI, Ratlam-I, Satna-I and Ujjain-I  
<sup>15</sup> Building material is notified under Section 14(6) (vi) by notification no.A-3-95-05-1-V (28) dated 17 August 2007

claimed or allowed in respect of Mustard. This resulted in short levy of tax of ₹ 40.64 lakh. Besides, penalty of ₹ 1.13 crore under Section 21(2) of the MPVAT Act was also leviable as omission leading to short assessment of tax was attributable to dealer as detailed in **Table 2.5 below**:

**Table-2.5**

(Amount in ₹)

Sl. No	Detail of Unit	Name of Dealer, TIN, Case No.	Period /Month of assessment and Name of Commodity	Amount of ITR Claimed/ Accepted	Amount of ITR objected	Amount of penalty
1	Circle-IX Indore	M/s Sai Shakti Agrotech pvt ltd. 23610905610 1074/11 (VAT)	2010-11 September 2013 Building Material (Iron & steel and Welding material)	1499750	184176	552528
2	DC CT Ratlam	Gujrat Ambuja Transport Private limited 23553104439 CS0000031519 (VAT)	2010-11 April 2013 Building Material	94084	94084	0
3	CTO-I Ratlam	G H Bijapur Company Ratlam 23473404795 505/11 (VAT)	2010-11 August 2013 Plant & Machinery (Composition under Section 11A)	2976242	2976242	8928726
4	DCCT II Bhopal	Crompton Greaves Ltd Transformer Div 23644104120 11/11(VAT)	2010-11 June 2013 Cement used in Building Construction	38873	38873	116619
5	CTO Circle I Satna	M/s Chela Ram Mannaram 23167000222 732/13 (VAT)	2012-13 September 2014 Sarson (Mustard)	489396	489396	1468188
6	CTO Circle XI Indore	M/s Mamta Transformers Pvt. Ltd 23981100037 6/12 (VAT)	2011-12 June 2014 Building Material	57631	57631	172893
7	CTO Circle XI Indore	M/s Mamta Transformers Pvt. Ltd 23981100037- 6/12 (VAT)	2011-12 June 2014 Building Material (Composition work)	40721	40721	122163
8	CTO Circle I Ujjain	M/s Lav Narang/ 232826-6638 2092/14 (VAT)	2011-12 August 2014 Building Material	183018	183018	0
<b>Total</b>				<b>53,79,715</b>	<b>40,64,141</b>	<b>1,13,61,117</b>

During the exit conference, the Department stated (October 2015) that the detailed compliance/reply of the audit observations would be submitted in due course. Further reply has not been received (November 2015).

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

We test-checked 4,267 cases out of 4,279 assessment cases between October 2014 and June 2015 in three divisional offices (Jabalpur-II, Ratlam and Satna) and eight circle offices<sup>16</sup> and found non reversal/less reversal of ITR in 18 cases of 17 dealers, assessed between April 2013 and February 2015 for the period 2010-11 to 2012-13. In 11 cases ITR of ₹ 8.63 lakh was not reversed while in remaining seven cases, there was short reversal of ITR of ₹ 21.39 lakh with respect to the ratio of sale and stock transfer.

<sup>16</sup> Circle(8):Bhopal-I, Bhopal-III, Bhopal-V, Indore-VII, Indore-X, Indore-XI Indore-XIII & Sendhwa

This resulted in irregular claim and acceptance of ITR of ₹ 30.02 lakh due to non observance of provision of Section 14(1)(a)(6) of the MPVAT Act, which stipulates that in the event of disposal of the goods otherwise than by way of sale within the State of Madhya Pradesh or in the course of inter-State trade or commerce or in the course of export out of the territory of India, he shall be liable to pay the amount of ITR (reversal) at the rate of four *per cent* of the purchase price or net of input tax of such goods, whichever is lower. Penalty of ₹ 32.62 lakh under Section 21(2) of the MPVAT Act was also leviable as omission leading to short assessment of tax was attributable to dealer as mentioned in **Appendix VII**.

During the exit conference, the Department stated (October 2015) that detailed compliance/reply of the audit observations would be submitted in due course. Further reply has not been received (November 2015).

#### 2.2.15.4 Non verification of ITR on Iron and steel and edible oil

**ITR of ₹ 21.22 crore on purchases of Iron and Steel and edible oil was allowed by the AAs without carrying out cross verification of purchases and sales and verification of ITR up to the logical end despite the instructions of the CCT.**

We test-checked 4,610 cases out of 4,720 assessment cases between October 2014 and June 2015 in five divisional offices<sup>17</sup>, three regional offices (Bhopal-I,II and Sagar-II) and nine Circle offices<sup>18</sup> and found in 45 cases of 45 dealers assessed between June 2012 and February 2015 for the period 2009-10 to 2012-13, that ITR of ₹ 21.22 crore on purchases of Iron & steel and edible oil was accepted by the Department.

However, compliance of the circulars<sup>19</sup> issued by the CTD prescribing cross verification of sales and purchases of Iron & steel and edible oil, and verification of ITR on these commodities up to the end point i.e. 'logical end' was not done. Details of cases of non-verification of ITR on Iron and steel and edible oil upto the logical end are mentioned in **Appendix VIII**.

During the exit conference, the Department stated (October 2015) that initially it was not possible to trace it manually, now it was being verified through online system.

The fact however remains that in the cases covered under Performance Audit; compliance of the circulars issued by the CTD regarding verification of ITR on Iron and steel and edible oil upto the logical end was not done.

#### 2.2.16 ITR verification mechanism

**The prevailing system in the Department is not robust to look properly into all the cases of ITR verification.**

There is a separate ITR verification unit in the Department for sanction and verification of ITR in the cases of cash refund. However in other cases there is

<sup>17</sup> **Divisional offices (5):** Bhopal-TAW, Bhopal-I, Bhopal-II, Indore-I & Ratlam

<sup>18</sup> **Circle Offices (9):** Bhopal-I, Bhopal-III, Indore-VII, Indore-IX, Indore-XI, Indore-XIV, Khargone, Mandideep & Ratlam

<sup>19</sup> Circular no. 81/2009-10/30/15/502 Indore dated 9<sup>th</sup> December 2009 and Circular no. 81/2009-10/30/15/588 Indore dated 26<sup>th</sup> October 2010

no mechanism to verify the purchases from selling dealers in order to authenticate the ITR as warranted under Section 14 (6-A) of the MPVAT Act, which stipulated that a rebate of input tax shall be claimed by or be allowed to a registered dealer subject to such restriction and conditions as may be prescribed.

We observed that deficiencies in the compliance issues as discussed in the previous paragraphs establish the fact that the prevailing system in the Department is not robust to look properly into all the cases of ITR verification.

During the exit conference, regarding failure of ITR verification mechanism it was stated by the Department (October 2015) that all the cases of ITR are being cross-verified after 2013-14 electronically. A special cell for ITR verification has been created for this. This has become possible due to implementation of online filing of return by every dealer.

The fact however remains that in the cases covered under Performance Audit; reasonable assurance to the prescribed system, its functioning with respect to verification and acceptance of ITR could not be ascertained in audit.

**We recommend that the Government/Department should ensure that purchase details are properly authenticated/substantiated through the documents and should be in conformity with the audited accounts before accepting claims of ITR.**

#### **2.2.17 Irregular utilisation of declaration forms in inter-State trade**

**There was incorrect allowance of exemption/concessional rate of tax without submission of declaration forms or against defective forms in cases of inter-state transactions. This resulted in non/short levy of tax of ₹ 22.56 crore.**

Under the provisions of the CST Act and rules made thereunder, registered dealers are eligible for certain concessions and exemptions of tax on inter-state transactions on submission of prescribed declarations in form 'C', 'E-1/E-II' and 'F'.

The State Government grant these incentives to dealers for furtherance of trade and commerce, on production of these declaration forms. While completing the assessment, the assessing authority is required to ensure that the concessional rate of tax is allowed only on the basis of genuine and valid statutory form issued by the respective authority of the issuing state during the course of interstate trade otherwise rate of tax applicable to the sale of such goods as prescribed in MPVAT Act shall be leviable.

Under Section 8 of the CST Act read with Rule 12 of CST (Registration and Turnover) Rules 1956 provides for levy of tax at the rate of three *per cent* between April to May 2008 and two *per cent* with effect from June 2008 on interstate sales of goods made against declaration in Form 'C'.

Further, under Section 6-A of the CST Act, consignment sale (branch transfer) shall be exempt from payment of tax on production of statutory Form-F. In the absence of the statutory forms and supporting documents, the tax on these goods is leviable at the rates prescribed in the Act.



Similarly under Section 6(2) of CST Act transit sale (i.e. sale during movement of such goods from one State to another effected by a transfer of documents of title to such goods) shall be exempted from Tax on submission of Form E-I/II and Form-C.

#### 2.2.17.1 Concessions/exemptions allowed without forms and against defective forms

**Interstate sales turnover of ₹ 267.72 crore was assessed without submission of C/F form and also against defective C/F-form. This resulted in short levy of tax of ₹ 11.86 crore including penalty of ₹ 1.22 crore in 29 cases of 28 dealers.**

We test-checked 1,629 cases out of 1,864 assessment cases between October 2014 to June 2015 in seven divisional offices<sup>20</sup> and 10 Circle offices<sup>21</sup> and found in 29 cases of 28 dealers, assessed between August 2012 and February 2015 for the period 2010-11 to 2012-13, that interstate sales turnover of ₹ 267.72 crore was assessed without submission/defective submission of C/F-form.

In 20 cases the dealers availed exemption/concessional rate of tax without submission of 'C'/F' forms. Similarly, in nine cases dealers submitted C/F' form not duly filled and signed by the purchasing dealer/agent containing the prescribed particulars<sup>22</sup> however the dealers availed concessional rate of tax under CST Act. This resulted in short levy of tax of ₹11.86 crore including penalty of ₹1.22 crore as detailed in **Appendix IX**.

During the exit conference, the Department stated (October 2015) that the generation of forms and assessment was being done through online system to rectify the errors. It was also stated that detailed compliance/reply of the audit observations would be submitted in due course. Further reply has not been received (November 2015).

#### 2.2.17.2 Forms covering transactions beyond the prescribed period

**Declaration forms (C & F) covering transactions beyond the prescribed period were accepted and tax was levied at a concessional rate on the entire turnover, resulting in short levy of tax amounting to ₹ 83.31 lakh.**

We test-checked 964 cases out of 1,106 assessment cases between November 2014 and June 2015 in two divisional offices (Bhopal-I and Ratlam), one regional office (Bhopal-I) and eight circle offices<sup>23</sup> and found in 20 cases of 20 dealers assessed between May 2011 and March 2015 for the period 2008-09 to

<sup>20</sup> **Divisional Offices(7):** Bhopal-I, Bhopal TAW, Indore-I, Indore-TAW-I, Jabalpur-II, Ratlam and Satna

<sup>21</sup> **Circle offices (10):** Bhopal-I, Gwalior-I, Gwalior II, Indore VII, Indore IX, Indore-XI, Indore-XII, Indore-XIII, Khargone and Ratlam-I

<sup>22</sup> **In case of 'C' form:** Date from which registration is valid, seal of the issuing authority, purpose of goods purchased, registration no. and date, name of the purchasing dealer along with registration no., signature of the purchasing dealer etc.

**In case of 'F' form:** Date from which registration is valid, seal of the issuing authority, description and quantity of goods, registration no. and date of transferor/transferee, name of the transferee and transferor along with registration no., signature of the transferee, date of delivery of goods etc.

<sup>23</sup> **Circle offices(8):** Bhopal-I, Dewas, Indore-XI, Indore-XII, Indore-XIII, Indore-XIV, Sendhwa and Ujjain-I

2012-13, that declaration forms (C & F) covering transactions beyond the prescribed period were accepted and tax was levied at a concessional rate on the entire turnover.

This was in violation of provisions of Section 8 of CST Act read with Rule 12 of MP (Central) Rule, which stipulate that furnishing of 'C' declaration forms on a quarterly basis with a proviso that a single declaration form can cover all transactions of sale which take place in a quarter of a financial year between the same two dealers. Similarly, the Rules provide for furnishing of 'F' declaration forms on a monthly basis and a single declaration could cover transaction of a particular month. This resulted in short levy of tax amounting to ₹ 83.31 lakh as mentioned in **Appendix X**.

During the exit conference, the Department stated (October 2015) that generation of forms and assessment was being done through online system to rectify the errors. It was also stated that detailed compliance/reply of the audit observations would be submitted in due course. Further reply has not been received (November 2015).

### 2.2.17.3 Irregular grant of deduction in respect of transit sale under Section 6(2) of CST Act

**Irregular grant of deduction in respect of transit sale under Section 6(2) of CST Act involving turnover of ₹ 229.21 crore resulted in short levy of tax of ₹ 9.87 crore including penalty of ₹ 9.33 lakh.**

We test-checked 99 cases out of 215 assessment cases in three divisional offices (Bhopal-II, Jabalpur-II and Indore-I) and two circle offices (Indore-IX and Indore-XII) between October 2014 and June 2015 and found in seven cases of six dealers assessed between June 2012 and September 2013 for the period 2009-10 to 2010-11 that there was violation of the provision of the Section 6 (2) of the Central Sales Tax Act, 1956 Act.

In four cases of three dealers we observed that irregular grant of deduction in respect of transit sale under Section 6(2) of CST Act was allowed though the document of title of goods was not in the favour of purchaser. This resulted in short levy of tax of ₹ 9.46 crore. Similarly in three cases of three dealers turnover valued ₹ 13.76 crore were not supported with E1-C form. The dealers were not entitled for exemption of tax availed by them. The AAs have allowed deduction to the dealers without submission of declarations E-1 and C, which resulted in short levy of tax of ₹ 41.58 lakh including penalty of ₹ 9.33 lakh as mentioned in **Table 2.6 below:**

**Table-2.6**

(Amount in ₹)

Sl. No	Detail of Unit	Name of Dealer, TIN, Case No.	Period /Month of assessment	Transit sale Accepted/ Allowable	Transit sale amount objected	Amount of Tax/ Penalty	Total
1	DCCT-I Indore	M/s Zeppelin Mobile India 23131504267 296/10	2009-10 June 2012	45070098 0	45070098	901402 0	901402
2	DCCT II Bhopal	M/s Sunil Hightech Engineer Limited Betul 23544704217	2010-11 September 2013	118635410 0	118635410	4745416 0	4745416

Sl. No	Detail of Unit	Name of Dealer, TIN, Case No.	Period /Month of assessment	Transit sale Accepted/ Allowable	Transit sale amount objected	Amount of Tax/ Penalty	Total
		44/2011 VAT 38/2011 CST					
3	DCCT II Bhopal	M/s Hythro Power Corporation Ltd Betul 23684705692 21/2011 CST,	2010-11 September 2013	<u>1157081365</u> 0	1157081365	<u>80676280</u> 0	80676280
4	DCCT II Bhopal	M/s Hythro Power Corporation Ltd Betul 23684705692 20/2011 ET	2010-11 September 2013	<u>826510373</u> 0	826510373	<u>8265103</u> 0	8265103
			<b>Total (A)</b>	<b>2147297246</b>	<b>2147297246</b>	<b><u>94588201</u></b> 0	<b>94588201</b>
5	Circle-IX Indore	M/s Parag Enterprises/23 890902352/C S0000000011 737	2010-11 May-2013	<u>9581125</u> 7189505	2391621	<u>310910</u> 932730	1243640
6	Circle XII Indore	M/s Union Enterprises 23601204812 CS000000074 952 CST	2010-11 September 2013	<u>6972550</u> 0	6972550	<u>348628</u> 0	348628
7	DCCT II Jabalpur	M/s Mahaveer Coal Resources Pvt Ltd 23787206297 2/11 CST	2010-11 September 2013	<u>128298387</u> 0	128298387	<u>2565968</u> 0	2565968
			<b>Total (B)</b>	<b><u>144852062</u></b> <b>7189505</b>	<b>137662558</b>	<b><u>3225506</u></b> 0	<b>4158236</b>
<b>Grand Total (A+B)</b>				<b>2292149308</b>	<b>2292149308</b>	<b><u>97813707</u></b> 0	<b>98746437</b>

During the exit conference, the Department stated (October 2015) that generation of forms and assessment was being done through online system to rectify the errors. It was also stated that detailed compliance/reply of the audit observations would be submitted in due course. Further reply has not been received (November 2015).

**We recommend that submission of prescribed forms with completeness for the verification of inter-state transactions may be ensured.**

### 2.2.18 Adjustment of irregular TDS against assessed tax

**The AAs allowed adjustment of TDS from assessed tax for the sale of soyabean and cotton against TDS certificates covering transactions of more than one calendar month. This resulted in irregular adjustment of TDS of ₹ 4.45 crore.**

We test-checked 4,226 cases out of 4,304 assessment cases in two divisional offices (Tax Audit Wing Bhopal and Indore-I), three regional office (Bhopal-I,II and Sagar-II), and eight circle offices<sup>24</sup> between October 2014 to June 2015 and found in 40 cases of 39 dealers assessed between February 2013 and February 2015 for the period 2009-10 to 2012-13 that the AAs allowed

<sup>24</sup> Circle offices (8): Bhopal-III, Dewas, Gwalior-II, Indore-X, Indore-XIV, Khargone, Mandideep and Sendhwa

adjustment of TDS for the sale of notified goods<sup>25</sup> against TDS certificates covering transactions of more than one calendar month.

This was in violation of the provisions of Section 26-A of the MPVAT Act which stipulates that the TDS certificate may cover the transactions effected during a period of one calendar month. This resulted in irregular adjustment of TDS of ₹ 4.45 crore, as mentioned in **Appendix XI**.

During the exit conference, the Department stated (October 2015) that revised TDS were being obtained from the concerned dealers. Further reply has not been received (November 2015).

### **2.2.19 Assessment of cases in the absence of complete documents**

Submission of Audited account along with requisite documents, mandatory forms and correct/complete declarations are necessary so that turnover reported, the ITR and exemptions claimed, if any, can be validated in the assessment. It was however noticed that the assessments were carried out by the AAs without such requisite documents as discussed below:

#### **2.2.19.1 Non-submission of certified Audited Accounts**

**The AAs finalised 33 assessment cases having total turnover of ₹ 1,380.21 crore based on the facts and figures mentioned in the accounts which were not duly authenticated by Chartered Accountant. However, the minimum prescribed penalty of ₹ 10,000 was imposed in 30 cases out of the 33 assessments, which was not sufficient to have a deterrent effect against non submission of audited accounts by the dealer.**

We test-checked 677 cases out of 840 assessment cases between November 2014 and June 2015, in four divisional offices<sup>26</sup> and eight circle offices<sup>27</sup> and found in 33 cases of 33 dealers assessed between June 2012 and March 2015 for the period 2009-10 to 2012-13, that the dealers did not submit the Audit Reports certified by the Chartered Accountant (CA).

However, AAs finalised the assessments in these cases having total turnover of ₹ 1,380.21 crore based on the facts and figures mentioned in the accounts which were not duly authenticated by Chartered Accountant.

Although penalty was imposed in 30 cases out of the above, as per Section 39 of MPVAT Act which stated that every dealer whose turnover in a year exceeds<sup>28</sup> ₹ one crore shall get his account audited by a Chartered Accountant and furnish the report of such audit in such manner and with in such time as prescribed. The Act further provided that if the said provisions are not complied, a penalty equal to 0.1 *per cent* of the turnover in the year or ₹ 10,000, whichever is less, may be imposed on the dealer.

However, mere imposition of nominal penalty of ₹ 10,000 was not sufficient to have a deterrent effect against non-submission of audited accounts by the dealer.

<sup>25</sup> Soyabean, Mustard and Cotton

<sup>26</sup> Divisional Offices (4): Bhopal-II, Indore-I, TAW-I Indore and Ratlam

<sup>27</sup> Circle (8): Bhopal-I, Bhopal-V, Indore XI, Indore XII, Indore-XIII, Indore-XIV, Ratlam and Waidhan.

<sup>28</sup> Up to 09.08.2010 “₹ 40 lakh” and 10.08.2010 to 31.03.2011 ₹ 60 lakh

During the exit conference (October 2015), the Department accepted the observation and assured if such negligence was being done then proper action would be taken as per provisions of Act and would issue necessary instructions. Further reply has not been received (November 2015).

**We recommend that the Department may enhance the amount of penalty to make penal provision stringent and sufficient to have a deterrent effect, for non submission of audited accounts.**

#### **2.2.19.2 Non bifurcation of opening and closing stock and misclassification of purchases and sales in the audited account**

**In 37 cases of 35 dealers assessments were carried out without ensuring proper tax compliance and Item/commodity-wise bifurcation of opening, closing stock and reporting of purchases and sales with its correct classification.**

We test-checked 796 cases out of 861 assessment cases in between November 2014 and March 2015 in two divisional offices (Indore-I and Ratlam), one regional office (Bhopal-I) and 11 circle offices<sup>29</sup> and found in 37 cases of 35 dealers assessed between June 2012 and February 2015 for the period 2009-10 to 2012-13, that bifurcation of opening stock, closing stock and reporting of purchases and sales with its correct classification was not mentioned in the audited account as required under Section 39 of the MPVAT Act.

However, the assessments were carried out without ensuring proper tax compliance. Item/commodity-wise bifurcation of opening, closing stock and reporting of purchases and sales with its correct classification should have been done for assessment as the misclassification may have cascading effect, as already elaborated in the preceding paragraphs.

During the exit conference (October 2015), the Department accepted the observation and assured if such negligence was being done then proper action would be taken as per provisions of Act and would issue necessary instructions. Further reply has not been received (November 2015).

#### **2.2.19.3 Non submission of Form 49**

**AAs while finalising the assessment did not ensure that Form-49 (from check posts) were received and attached with the concerned case files, in order to prevent evasion of tax on goods imported inside and exported outside MP.**

In order to prevent evasion of tax on goods imported inside and exported outside MP, the CTD has prescribed Form-49 for declaration of notified goods under Section 57(2). Form-49 duly authenticated by the check posts are required to be obtained and submitted with the concerned case files of the dealers in order to certify the physical verification of goods in accordance with the departmental norms.

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<sup>29</sup> Circle (11): Bhopal-I, Bhopal-III, Gwalior-II, Indore VII, Indore IX, Indore X , Indore-XI, Indore-XII, Indore-XIII Ratlam-I and Sendhwa

As per notification<sup>30</sup>, Form-49 should compulsorily be submitted and attached with each case file along with returns to make it self sufficient for any sort of future scrutiny in the interest of revenue. It should be mentioned in the order sheet of the case file that the purchases and sales of the dealer have been verified/compared with the details mentioned in Form-49 (received from check posts).

We test-checked 3,392 cases out of 3,628 assessment cases between October 2014 and March 2015 in three divisional offices (Bhopal-I, II and Indore-I) and eight Circle offices<sup>31</sup> and found in 32 cases of 31 dealers, assessed between June 2012 and February 2015 for the period 2009-10 to 2012-13, that the AAs while finalising the assessment, did not ensure that the supporting documents, viz Form-49 (from check posts) were received and attached with the concerned case files. In the absence of such basic documents, out of state purchases (commodity and quantum) of the dealers could not be reconciled with the records/schedule submitted by the dealers.

During the exit conference, the Department stated (October 2015) that the now it was being done through computerised system because goods entering into the state with the help of Form 49 were being captured electronically at the check posts and for analysis purpose it was available electronically to the officers.

## **2.2.20 Internal Control Mechanism**

### **2.2.20.1 Absence of Internal Audit**

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

Audit scrutiny revealed that internal audit wing was absent in the CTD. This was also pointed out in earlier Audit Reports however system of Internal Audit has not been established.

The Department accepted (April 2015) the facts regarding absence of separate Internal Audit Wing in the CTD.

### **2.2.20.2 Non-adherence to the criteria of Tax Audit under Section 19 of the Act**

**Details of the cases selected for Tax audit were neither available in selected Tax Audit offices Bhopal and Indore-I nor provided by the CCT. Moreover completion of tax audit was not carried out within the time frame.**

<sup>30</sup> Circular No./CT/VAT/15/06/1/Tech./294 Indore Dated 02.08.2006 and circular No. 4/2012-13/30/15/300 dated 27.04.2012

<sup>31</sup> Circle(8):Bhopal-I, Bhopal-III, Bhopal-V, Gwalior-II, Indore IX, Indore XII, Indore-XIII and Waidhan

Section 19 of the VAT Act and the circular<sup>32</sup> issued by the CCT provides for random selection of cases on the basis of parameters fixed for Tax Audit. It should be ensured that selection procedure and completion of tax audit should be carried out within the timeframe and as per the criteria fixed by the CCT. We observed in selected two Divisional Commissioner, Tax Audit offices Bhopal and Indore-I that year wise list of units selected for Tax Audit, on the basis of parameters/objective criteria issued every year by the Commissioner, were neither available with the division offices nor provided by the Commissioner office. It was intimated by the DC Tax Audit Bhopal and Indore that the cases for tax audit were being selected by the Commissioner office. However, at Commissioner Office the requisite details were not provided to audit. Therefore it could not be ascertained in PA that selected cases were taken up for Tax audit.

However year-wise position of number of cases available for Tax Audit and cases not taken up for Tax audit by DC Tax Audit Bhopal and Indore-I, during the year 2012-13, 2013-14 and 2014-15, were shown in **Table 2.7** below:

**Table-2.7**

Year	Name of Tax Audit Wing	Cases pending in the beginning of the year	Addition during the year	available Cases for Tax audit during the year	Cases Audited during the year	No. of cases not audited during the year	Percentage of cases not audited w.r.t the cases available for tax audit during the year
2012-13	Indore I	187	567	754	594	160	21.22
	Bhopal	314	1840	2154	541	1613	<b>74.88</b>
2013-14	Indore I	160	929	1089	722	367	33.70
	Bhopal	1613	1062	2675	2318	357	13.34
2014-15	Indore I	367	159	526	456	70	<b>13.30</b>
	Bhopal	357	560	917	615	302	32.92
<b>Total</b>		<b>2998</b>	<b>5117</b>	<b>8115</b>	<b>5246</b>	<b>2869</b>	

(Source: - Information furnished by the Department)

It is evident from the above table that cases ranging between 13.30 *per cent* and 74.88 *per cent* were not audited by the Tax Audit wings during the year 2012-13, 2013-14 and 2014-15.

Moreover in the absence of list of selected units, it could not be assured in audit that the selection criteria fixed by the CCT was scrupulously followed.

The Department stated (June 2015) that details regarding selection/list of units for tax audit selected on the basis of criteria were not available. It was intimated that the same was being compiled and would be submitted to audit.

During the exit conference, the Department stated (October 2015) that the units selected on the basis of criteria would be made available to audit and regarding shortfall it was stated that due to departmental constraints and shortfall of manpower sometimes cases selected and allotted cannot necessarily be taken up for tax audit.

<sup>32</sup>

Commissioner CTD Indore circular no. 15/06/VAT/187 Indore dated 21.06.2006

### 2.2.20.3 Absence of Department Manual

A manual maps the processes and provides a reference point to navigate the assessment under VAT regime. Manual, which is a guide for assessing authority conducting assessments of the dealers, outlines the policy, general rules and procedures to be followed. The manual also lays down a framework of internal control for effective monitoring.

We observed that there was no Departmental manual in CTD, which posed the risk of lack of control on the overall functioning of the CTD.

During the exit conference, the Department stated (October 2015) that preparation of the manual through an agency was under process and would be completed soon.

**We recommend that Department may improve the internal control system in the Department by setting up Internal Audit wing and complete preparation of Departmental Manual in order to outline the policy, general rules and procedures to be followed under the VAT assessment.**

### 2.2.21 Conclusion and Recommendations

The Performance Audit revealed the following:

- Non-adherence to the provisions of the MPVAT Act by the AAs, regarding, determination of the taxable turnover as against the aggregate turnover of the dealers recorded in their audited books of accounts/other records available in case files and application of incorrect rates, led to leakage of revenue ₹ 154.69 crore.

**Recommendation:** We recommend that the provisions of Acts/Rules may be implemented scrupulously to avoid the leakages of revenue. Further, a strict regime of responsibility fixation may be established for cases of lapses in assessments to have deterrent effect.

- The assessing authority allowed ITR of ₹ 10.37 crore on purchases over and above the purchases certified in the audited accounts, ITR on non-eligible goods and non-reversal/less reversal of ITR in the event of stock transferred and also without cross-verification of the purchase details with the selling dealers. The CTD had not put in place a foolproof mechanism to monitor the task.

**Recommendation:** We recommend that Department should ensure that purchase details are properly authenticated/substantiated through the documents and should be in conformity with the audited accounts before accepting claims of ITR.

- The assessing authority did not exercise due diligence as in many cases concessions in inter-state transactions were allowed without submission of forms and against defective/invalid forms which resulted in short levy of tax of ₹ 22.56 crore.

**Recommendation:** We recommend that submission of complete prescribed forms for the verification of inter-state transactions may be ensured.

- The Department carried out assessments without ensuring the mandatory submission of statutory reports/forms etc., and provision of nominal penalty for



non-submission of certified Audited Accounts was not sufficient to have a deterrent effect on dealers.

**Recommendation:** We recommend that the Department may enhance the amount of penalty to make penal provision stringent and sufficient to have a deterrent effect, for non-submission of audited accounts.

- The internal control framework was deficient in terms of absence of internal audit wing and non-prescribing of Departmental manual. Further selection criteria fixed by the CCT for Tax audit was not followed scrupulously.

**Recommendation:** We recommend that Department may improve the internal control system in the Department by setting up Internal Audit wing and preparation of Departmental Manual in order to outline the policy, general rules and procedures to be followed under the VAT assessment.

### 2.3 Other Audit observations

We scrutinised the assessment records of Value added tax, Central sales tax, Entry tax etc. in the Commercial tax Department and found several cases of non-observance of the provisions of the Acts/Rules, non/short levy of tax/penalty/interest, incorrect application of rate of tax, incorrect deduction from taxable turnover, incorrect exemption and other cases as mentioned in the succeeding paragraphs of this chapter.

These cases are illustrative and are based on a test check carried out by us. Such omissions on the part of the assessing authorities have been pointed out in earlier Audit Reports, but not only do these irregularities continue to persist; these remain undetected till audit is conducted. There is need for the Government to improve the internal control system so that such omissions can be avoided.

### 2.4 Incorrect determination of turnover

**The assessing authorities incorrectly determined the taxable turnover as ₹ 26.78 crore against the aggregate turnover of ₹ 31.64 crore as recorded in the audited books of accounts/sale list/relevant records of the dealers, resulting in non-levy of tax of ₹ 54.75 lakh including interest and penalty of ₹ 25.18 lakh.**

We noticed (between June 2013 and February 2015) during test check of 10,210 out of 10,629 assessment cases assessed in two divisional offices (Indore and Jabalpur), one Regional office (Gwalior) and nine circle offices<sup>33</sup>, that in 12 cases of 12 dealers assessed between December 2011 and September 2013 for the period between 2009-10 and 2011-12. The AAs while finalising the assessment, incorrectly determined the taxable turnover as ₹ 26.78 crore against the aggregate turnover of ₹ 31.64 crore as recorded in the audited books of accounts, sale list and other records available in the case file.

This was violation of the provision of Section 2(z) of the MPVAT Act which prescribes that turnover means aggregate of sale prices received by a dealer in

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<sup>33</sup> Indore, Jabalpur, Katni I, Mandsaur (2), Satna, Shahdol (2), Shajapur.

respect of sale or supply of goods made during that period excluding amount of sales return and discount at the time of sale.

As a result, turnover aggregating to ₹ 4.86 crore was not assessed to tax which resulted in non-levy of tax of ₹ 54.75 lakh including interest and penalty of ₹ 25.18 lakh under Section 18(4) and Section 21(2) of the MP VAT Act. (Appendix-XII). Two illustrative cases are mentioned below in the **Table-2.8**:

**Table-2.8**

Sl. No.	Name of auditee unit	Assessment Period/Month of audit	Our observation	Department's reply
1.	CTO-Katni	2010-11 June 2014	The AA did not include sale value of old vehicle, machinery & parts and earth moving machine in taxable turnover aggregating ₹ 1.20 crore as recorded in the audited accounts of the dealer. This resulted in under determination of taxable turnover and non levy of tax of ₹ 5.08 lakh. Besides, interest of ₹ 2.03 lakh is also leviable.	The AA stated (June 2014) that action would be taken after verification.
2.	CTO-4 Jabalpur	2010-11 January 2015	The AA incorrectly determined the taxable turnover as ₹ 31.71 crore against the actual turnover of ₹ 37.71 crore declared by the dealer in the proposal for assessment. Thus, under determination of taxable turnover resulted in non-levy of tax of ₹ 62,801.	The AA stated (January 2015) that action would be taken after verification.

After this was pointed out, AAs stated between June 2013 and February 2015 that the action would be taken after verification.

The matter was reported to the Commissioner Commercial Tax and the Government (May 2015); their replies have not been received (November 2015).

## 2.5 Application of Incorrect rate of tax

**The assessing authorities levied tax on various commodities at incorrect rates on turnover of ₹ 18.24 crore. This resulted in short levy of tax of ₹ 1.37 crore including penalty of ₹ 51.03 lakh.**

We test checked 8,929 out of 9,178 assessment cases in one divisional office (Ujjain), four regional offices<sup>34</sup> and eight Circle offices<sup>35</sup> between April 2013 and March 2015, and found that in 18 cases of 16 dealers, assessed between July 2010 and March 2014 for the period 2007-08 to 2012-13, the AAs applied lower rate of tax on turnover of ₹ 18.24 crore, incorrectly classifying the goods.

It was in violation of the provision of Section 9 of MPVAT Act, and notifications issued thereunder, which provides for levy of tax of goods as specified in scheduled II, depending upon the classification of the goods. This resulted in short levy of tax of ₹ 1.37 crore including penalty of ₹ 51.03 lakh

<sup>34</sup> Gwalior dn. II, Indore dn. I, Neemuch and Sagar.

<sup>35</sup> Bhopal, Dewas, Harda, Katni, Khandwa, Peethampur, Sehore and Ujjain.

under Section 21(2) of the MP VAT Act as omission leading to underassessment of tax was attributable to dealer (**Appendix-XIII**).

After we pointed out the cases, in 12 cases of 10 dealers, AAs agreed to take action after verification/examination. In one case of one dealer, the AA did not furnish the reply.

In the remaining six cases of six dealers, departmental replies and our comments thereon are shown in **Table 2.9**:

**Table-2.9**

Sl. No.	Name of auditee unit/No. of dealers	Amount involved (₹ in lakh)	Rate of tax applicable/applied	Commodity	Audit observation	Reply of the Department	Our comments
1.	<u>CTO</u> <u>Circle II,</u> <u>Ujjain</u> 1	1.01	13/5	Paper <i>dona</i>	Tax on the sale of bowls of paper was levied at the rate of five <i>per cent</i> instead of 13 <i>per cent</i> .	'Paper cup' is an English word which is commonly used and also called 'Dona' in Hindi.	Commodity 'Bowls' (Dona) is different from cup and glass. Bowls are inserted in entry no. II/II/29 from 1/4/11. So it is taxable as per entry II/IV/1 in 2010-11.
2.	<u>CTO II</u> <u>Bhopal</u> 1	2.29	12.5/4	Diesel oil engine	Tax on the sale of Diesel oil engines was levied at the rate of four <i>per cent</i> instead of 12.5 <i>per cent</i> .	Dealer deals in purchase and sale of pump set and not in engines.	It is evident by Form-49 that the dealer had purchased Diesel Engines from out of the State.
3.	<u>ACCT-</u> <u>Neemuch</u> 2	22.19	13/5	Felt & Felt component	Tax on the sale of felt and felt components was levied at the rate of five <i>per cent</i> instead of 13 <i>per cent</i> .	AA is not competent to assess the case against the order of the Appellate Authority, and in central case that the tax was levied by considering wool felt as cloth.	We do not agree with the reply in light of the CCT's order in the case of M/s Sealwell where the applicable rate of tax determined is 13 <i>per cent</i> .

Sl. No.	Name of auditee unit/No. of dealers	Amount involved (₹ in lakh)	Rate of tax applicable/applied	Commodity	Audit observation	Reply of the Department	Our comments
4.	CTO II Katni 1	5.20	13/5	Inverters, Home UPS	Tax on the sale of Inverters/ Home UPS was levied at the rate of five <i>per cent</i> instead of 13 <i>per cent</i> .	The assessing authority (AA), referring to a judicial pronouncement of Punjab VAT Act, stated that the dealer deals in UPS and External batteries. UPS is liable to tax at the rate of five per cent under the entry no. 51(8) ii VAT Act,	The schedule entry in MP VAT Act, 2002 is "Computer and parts thereof and Information Technology (IT) Products". In Punjab VAT Act there is no condition of IT Products. It has been discussed elaborately in the decision. According to the decision also the sold goods is liable to tax at the rate of 13 <i>per cent</i> .
5.	CTO II Katni 1	8.08	13/5	Machinery parts, Motor parts	Tax on the sale of Machinery parts, Motor parts was levied at the rate of five <i>per cent</i> instead of 13 <i>per cent</i> .	Tax is leviable at the rate of, five <i>per cent</i> on agricultural equipments. and at the rate of 13 <i>per cent</i> on sale of machinery parts.	Objection proposes levy of tax at the rate of 13 <i>per cent</i> on the sale of Machinery parts/Motor parts and not on the sale of agricultural equipments. Machinery parts/Motor parts is liable to tax at the rate of 13 <i>per cent</i> .

We reported the matter to the CCT, MP and the Government (May 2015); their replies have not been received (November 2015).

## 2.6 Non-realisation of tax on sales incorrectly treated as tax free

**The assessing authorities while assessing the cases did not levy tax on the taxable commodities like Auto LPG, Drip line, Pesticides, etc., valued at ₹ 3.84 crore by incorrectly treating them as tax free goods. This resulted in non-levy of tax of ₹ 1.41 crore.**

We test checked 4,173 cases out of 4,312 assessment cases between March 2014 and February 2015 in five circle offices<sup>36</sup> and found that, in five cases of five dealers assessed between February 2013 and March 2014 for the period from 2010-11 to 2012-13, the dealers had sold taxable commodities like Auto LPG, Drip line, Pesticides, etc., valued at ₹ 3.84 crore which were taxable at the rates prescribed in the schedule II of MPVAT Act and notifications issued thereunder.

The AAs while assessing the cases did not levy tax on the same incorrectly treating them as tax free goods. This resulted in non-levy of tax of ₹ 37.18 lakh. Besides, penalty of ₹ 1.04 crore under Section 21(2) was also leviable

<sup>36</sup> Dhar, Indore (2), Jabalpur, Neemuch.

where omission leading to assessment was attributable to dealer (**Appendix-XIV**).

After we pointed out the cases between April 2014 and February 2015, the AAs in three cases stated that action would be taken after verification. In another two cases, the Department's reply and our comments are shown in **Table 2.10**:

**Table-2.10**

Sl. No	Commodity	Turnover (₹ in lakh)	Rate of tax applicable (%)	Amount of tax not levied (₹ in lakh)
1.	Pesticides	51.17	5	02.60
After this was pointed out, the assessing authority (AA) stated (March 2014) that Bio-fertilisers and Bio-pesticides (Product of Dung) are tax free under entry no. 26 of schedule I. The reply is not acceptable as in schedule I, only Bio-fertilisers are tax free and there is no entry such as Bio-pesticides, therefore this pesticide is treated at par with other pesticides and taxable as per entry II/II/24 of the Act.				
2.	Pipes and Motors	57.77	5	02.89 08.67(Penalty)
After this was pointed out, the assessing authority stated (January 2015) that the sprinkler (Drip irrigation equipments) is tax free under entry I/72 of the Act. The reply is not acceptable as pipes and motors are not included in entry no. I/72 during 2011-12 and are taxable under entry II/II/64.				

We reported the matter to the CCT, MP and the Government (May 2015); their replies have not been received (November 2015).

## 2.7 Allowance of inadmissible Input Tax Rebate

**The Assessing Authorities (AAs) allowed Input Tax Rebate (ITR) of ₹ 71.67 lakh which was not in accordance with relevant provisions and rules. This resulted in short realisation of ₹ 1.90 crore including interest and penalty.**

During test check of 8,547 cases out of 8,907 assessment cases in three Regional offices (Chhindwara, Indore-II and Neemuch) and nine circle offices<sup>37</sup> between October 2013 and February 2015, we noticed that in 17 cases of 17 dealers assessed between June 2012 and February 2014 for the period 2009-10 to 2012-13, the dealers were eligible to avail the ITR of ₹ 4.41 crore as per the purchases certified in audited accounts.

The dealers incorrectly claimed and AAs allowed the ITR of ₹ 5.13 crore. This was in violation of the provisions of Section 14 (1) read with Rule 9 of MPVAT Act which stipulate that ITR should be allowed to the dealers after due verification of returns submitted by them and purchases shown in certified audited accounts. This resulted in excess grant of ITR of ₹ 71.67 lakh. Besides interest and penalty of ₹ 1.18 crore was also leviable under Section 18 (4) and 21 (2) of the MP VAT Act. (Details mentioned in **Appendix-XV**).

<sup>37</sup> Ashok Nagar, Gwalior, Harda, Indore (2), Sagar, Satna, Shahdol and Ujjain.

In 14 cases the AAs stated between October 2013 and February 2015 that action would be taken after verification; the reply of AAs in remaining three cases and our comments are shown in **Table 2.11**:

**Table-2.11**

Sl. No.	Name of auditee unit/ No of dealers	Period Month of assessment	Our observation in brief	Department reply/ our comments
1.	<u>AC I/c.Circle-III, Gwalior</u> 01	<u>2009-10</u> June-12	The audited accounts stated purchase price of soap ₹ 9.23 crore on which ITR was allowable. However the AA incorrectly allowed ITR to the dealer on purchase price of ₹ 9.64 crore. This resulted in inadmissible allowance of ITR of ₹ 5.09 lakh.	The AA stated that the ITR has been granted on the basis of purchase lists and bills produced. The reply is not acceptable as the objection is based on the purchases recorded in audited accounts.
2.	<u>AC.Div.-II, Indore</u> 01	<u>2010-11</u> April 2013	The dealer made stock transfer out of the State (SOS) valued at ₹ 3.54 crore being 76.92 per cent of the turnover of ₹ 4.60 crore. However, the assessing authority (AA), while finalising the assessment, agreeing to the proposal for assessment by the dealer, did not reverse the ITR for the stock transfer.	The AA stated that stock transfer has been made on the purchase of imported goods (from other State) on which ITR is not reversible. The reply is not in consonance with the fact as the deduction (benefits) of imported goods sold on the spot of purchase had already been given as reflected in the point No. 1 of the assessment order dated 15 April 2013. These deductions (benefits) of imported goods sold at the spot of purchase were duly reckoned in the observation.
3.	<u>CTO-I, Satna</u> 01	<u>2010-11</u> July 2013	The AA incorrectly allowed ITR of ₹ 77,072 on the interstate purchases.	The AA stated that ITR has been calculated after bifurcating interstate purchase from purchase list. The reply is not acceptable as it is evident from purchase list that ITR has incorrectly been allowed on the purchases from "SAIL" Nagpur. (Bill No. 381 and 384 dated 31 May 2010)

We reported the matter to the CCT, MP and the Government (May 2015); their replies have not been received (November 2015).

## 2.8 Non/ short levy of Entry tax

**Entry Tax on goods like milk powder, plastic packing material, tyre, electronic goods, mobile, explosives, bitumen, furnace oil, hexane, HDPE/PP woven bags, iron and steel, coal, oil seeds, diesel, pesticides etc., having turnover of ₹ 1,138.98 crore was either not levied or was levied at incorrect rates by the AAs. This resulted in non/short realisation of ET of ₹ 31.25 crore including interest and penalty of ₹ 17.85 crore.**

We observed during test check of records such as assessment orders, audited accounts, purchase list etc., of eight divisional offices<sup>38</sup>, six regional offices<sup>39</sup> and 28 Circle offices<sup>40</sup> between April 2013 and June 2015 and found that in 124 cases of 118 dealers, assessed/reassessed between May 2009 and March 2015 for the period 2006-07 to 2012-13 ET on goods like milk powder, plastic packing material, tyre, electronic goods, mobile, explosives, bitumen, furnace oil, hexane, HDPE/PP woven bags, iron and steel, coal, oil seeds, diesel, pesticides etc., valued at ₹ 1,138.98 crore was either not levied or was levied at incorrect rates.

This was in contravention of *Madhya Pradesh Sthaniya Kshetra Me Mal Ke Pravesh Par Kar Adhinyam*, 1976 and rules and notifications issued thereunder. This resulted in non/short realisation of ET of ₹ 31.25 crore including interest and penalty of ₹ 17.85 crore as per the provisions of the Section 18 (4) (a) and Section 21 (2) of the Act. The details along with the reply and our comments thereon are given in **Appendix XVI**.

We reported the matter to the CCT, MP and the Government (May 2015), their replies have not been received (November 2015).

## 2.9 Inadmissible grant of exemptions

**The assessing authority allowed exemptions to the dealers from payment of entry tax on purchase of goods other than those specified in the exemption certificates as well as on purchases of goods in excess of the exempted quantity which resulted in irregular exemption of entry tax of ₹ 25.91 crore including penalty of ₹ 19.43 crore.**

We observed between October 2014 and June 2015, in three divisional offices (Bhopal-II, Indore and Ratlam) and three circle offices (Indore X, XI and Sendhwa) that in 15 cases of 12 dealers, assessed between April 2013 and March 2015, for the period 2010-11 to 2012-13 that the assessing authority allowed exemptions to the dealers from payment of entry tax on purchases of goods other than those specified in the exemption certificates as well as on purchases of goods in excess of the exempted quantity.

This was in violation of Section 10 of the ET Act, which stipulated that Government may, by notification, and subject to such restrictions and conditions as may be specified therein, exempt dealer from payment of entry tax for such period subject to fulfillment of terms and conditions mentioned in the notification<sup>41</sup>. This resulted in irregular exemption of entry tax of ₹ 25.91 crore including penalty of ₹ 19.43 crore. The details along with the reply of the Department and our comments thereon are shown in **Appendix XVII**.

We reported the matter to the CCT, MP and the Government (July 2015), their replies have not been received (November 2015).

<sup>38</sup> Bhopal Dn-I, BhopalDn-II, Bhopal-TAW, Indore-Dn-I, Indore-TAW-I, Jabalpur Dn-II, Ratlam & Satna

<sup>39</sup> Bhopal Dn-I, Bhopal Dn-II, Gwalior Dn II, Indore Dn I, Katni and Sagar-II.

<sup>40</sup> Bhopal (5), Burhanpur, Dewas, Dhar, Gwalior (2), Indore(8), Katni, Mandideep, Narsinghpur, Ratlam, Shahdol, Satna (2) , Ujjain(2) and Waidhan.

<sup>41</sup> Notification No.A-3-68-2004-1-V(21), date 04.04.2005