

CHAPTER-II: TAXES/VAT ON SALES, TRADE, ETC.

2.1 Tax administration

Sales Tax/Value Added Tax laws and rules framed thereunder are administered at the Government level by the Principal Secretary (Finance). The Commissioner is the head of the Commercial Taxes Department (CTD) and is assisted by 26 Additional Commissioners, 47 Deputy Commissioners (DC), 91 Assistant Commissioners (AC), 136 Commercial Taxes Officers (CTO), 402 Assistant Commercial Taxes Officers (ACTO) and a Financial Adviser (FA). They are assisted by Junior Commercial Taxes Officers and other allied staff or administering the relevant Tax laws and rules.

The Rajasthan Value Added Tax (RVAT) Act, Rajasthan Tax on Entry of Goods into Local Areas (RET) Act, Rules framed thereunder and notifications issued from time to time govern the levy and collection of value added tax and entry tax, levy of interest and penalty.

2.2 Internal audit conducted by the Department

The Department has an Internal Audit Wing under the charge of Financial Adviser. The Wing has to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria decided by the Steering Committee so as to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

The position of units audited by the Internal Audit Wing during the last five years is as under:

Year	Pending units for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in per cent
2010-11	198	384	582	489	93	16
2011-12	93	384	477	411	66	14
2012-13	66	384	450	267	183	41
2013-14	183	414	597	287	310	52
2014-15	310	413	723	471	252	35

There was a shortfall in conducting internal audit ranging between 14 and 52 per cent during the years 2010-11 to 2014-15.

It was further noticed that 18,459 paragraphs of internal audit were outstanding at the end of the year 2014-15. The year-wise break up of outstanding paragraphs is as under:

Year	Up to 2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	Total
No. of paras	11,827	1,255	1,661	1,386	1,250	1,080	18,459

Non-settlement of large number of outstanding paragraphs indicates that the Department is not monitoring settlement of the observations raised by its own Internal Audit Wing.

2.3 Results of audit

In 2014-15, test check of records of 70 units relating to VAT/Sales Tax assessment and other records showed underassessment of tax and other irregularities involving ₹ 224.14 crore in 1,581 cases, which fall under the following categories as given below:

(₹ in crore)

Sl. no.	Category	Number of cases	Amount
1.	A Performance Audit on 'System of Registration, Assessment and Collection under VAT'	1	164.13
2.	Underassessment of tax	502	46.53
3.	Acceptance of defective statutory forms	86	3.92
4.	Evasion of tax due to suppression of sales/purchase	15	0.54
5.	Irregular/incorrect/excess allowance of Input Tax Credit	367	4.78
6.	Other irregularities relating to		
	(i) Revenue	561	2.93
	(ii) Expenditure	49	1.31
Total		1,581	224.14

During the year 2014-15, the Department accepted underassessment and other deficiencies of ₹ 38.36 crore in 1,074 cases of which 86 cases involving ₹ 1.35 crore were pointed out in audit during the year 2014-15 and the rest in the earlier years. During the year 2014-15, the Department recovered/adjusted ₹ 4.15 crore in 177 cases of which 18 cases involving ₹ 1.94 crore pertained to the year 2014-15 and the rest to earlier years.

The Department accepted and recovered the entire amount of ₹ 40.49 lakh in eight cases pointed out by audit after issue of draft paragraphs to the Government. These paragraphs have not been discussed in the Report.

A Performance Audit on 'System of Registration, Assessment and Collection under VAT' involving ₹ 164.13 crore and a few illustrative cases involving ₹ 2.14 crore are discussed in the paragraphs from 2.4 to 2.7.

2.4 Performance Audit on ‘System of Registration, Assessment and Collection under VAT’

Highlights

- More than one Registration Certificate, aggregating to 742, was issued to 366 persons against the provisions of the RVAT Act. This resulted in non-levy of tax of ₹ 14.73 lakh on turnover of ₹ 3.27 crore in five cases.

(Paragraph 2.4.9)

- Cross verification of information collected from Department of Mines and Geology revealed that 142 mine owners/lease holders were not brought under the tax net and tax amounting to ₹ 9.49 crore could not be levied on turnover of ₹ 189.87 crore.

(Paragraph 2.4.11.2)

- Return formats were inadequate to capture all essential details to ascertain the correct tax liability. Absence of information resulted in non-levy of tax including interest and penalty of ₹ 6.37 crore on 22 dealers.

(Paragraph 2.4.13.1 and 2.4.13.3)

- Shortfall ranging between 36 to 67 *per cent* in conducting business audit of selected dealers was noticed. Due to shortfall in conducting business audit, 3,206 assessment cases for business audit got time barred. Besides, the shortfall in conducting the business audit provides leeway to tax Assessing Authorities to pick and choose the cases for actually conducting business audit and may provide scope for unethical practices.

(Paragraph 2.4.15.1)

- It was noticed that 1,440 dealers had collected tax of ₹ 11.39 crore but showed *nil* turnover in their returns. However, the Assessing Authorities could not detect the evasion and did not levy tax including interest and penalty of ₹ 38.95 crore.

(Paragraph 2.4.15.4)

- Input Tax Credit (ITC) of ₹ 1.93 crore was claimed by 189 dealers, who had shown purchases from selling dealers whose registration certificates were cancelled. However, these dealers were deemed assessed by Assessing Authorities resulting in wrong allowance/non-levy of input tax credit, interest and penalty of ₹ 6.61 crore.

(Paragraph 2.4.19.1)

- In 144 cases the Assessing Authorities allowed input tax credit of ₹ 1.44 crore claimed by the dealers though registration certificates of the selling dealers from whom purchases were made already been cancelled. This resulted in non-levy of reverse tax, interest and penalty of ₹ 4.93 crore.

(Paragraph 2.4.19.2)

- Assessing Authorities did not impose penalty of ₹ 3.24 crore while levying reverse tax on 117 dealers who had claimed input tax credit on the goods purchased from dealers whose registration certificates were cancelled.

(Paragraph 2.4.19.3)

- Audit noticed that 159 dealers had irregularly claimed input tax credit in respect of purchases of ineligible goods. However, Assessing Authorities did not levy reverse tax, penalty and interest of ₹ 21.04 crore.

(Paragraph 2.4.20)

- It was noticed that 100 dealers had either not shown re-imported goods or shown less amount in their returns which resulted in non-levy of tax, interest and penalty of ₹ 5.38 crore.

(Paragraph 2.4.23)

- State Excise Department had issued bar licences to 11 dealers as three stars and above or heritage hotels (B-category). However, these dealers had paid tax at lower rates on the sale of food cooked and served by them treating the hotels as below three star status. The Assessing Authorities did not levy tax, interest and penalty of ₹ 15.18 crore.

(Paragraph 2.4.25.1)

2.4.1 Introduction

The Rajasthan Value Added Tax Act, 2003 (RVAT Act) and the Rajasthan Value Added Tax Rules, 2006 (RVAT Rules) framed thereunder govern the levy, assessment and collection of Value Added Tax (VAT) in the State. Under RVAT Act, tax is levied at each stage of sales with allowance of credit of tax paid on purchases (called input tax credit) to nullify cascading effect of multiple taxation. Thus, all the registered dealers are liable to pay tax only on value addition. The RVAT Act is administered by the Commercial Taxes Department (Department) of the Government of Rajasthan (GoR).

The RVAT Act provides for registration of dealers, filing of periodical returns, self-assessment by the dealers and business audit assessment of the cases selected by the Department to ascertain the correctness of levy and payment of tax, etc. The relevant provisions in the RVAT Act are briefly mentioned as under:

Registration of Dealers

Section 3 read with Section 11 of RVAT Act stipulates that any dealer whose total turnover exceeds threshold limit of ₹ ten lakh in a year, a manufacturer of goods whose annual turnover exceeds ₹ five lakh and an importer of goods shall not carry on business unless he possesses a valid certificate of registration. Any dealer whose turnover does not exceed the threshold limit or deals in tax free goods mentioned in Schedule-I of the Act, can however, carry on the business as un-registered dealer.

Filing of returns by the Dealers

The registered dealer has to assess his tax liability and furnish returns in Form VAT-10 and VAT-10A/11 within the prescribed time to the Assessing Authority. The return is supported by the necessary statutory forms.

Deemed / Scrutiny Assessment

Section 23 and 24 of the Act stipulates that every registered dealer who has filed annual return for the year within the prescribed time is deemed to be assessed for that year on the basis of annual return filed unless any error is detected on scrutiny of returns based on criteria prescribed by the Commissioner, Commercial Taxes. If any error is detected and the dealer files revised return within specified period he shall be deemed to have been assessed. If the dealer does not rectify errors in returns within the prescribed period, the Assessing Authority shall on the basis of material available on record assess the dealer to the best of his judgment.

**Business
Audit
Assessment**

Section 27 of the Act stipulates that the Commissioner, Commercial Taxes may arrange for ‘audit of the business’ of selected registered dealers. If on audit, the returns filed by the dealers are not found to be correct, or any avoidance or evasion of tax is detected, the Assessing Authority will assess his tax and other liabilities.

**Payment of
Tax**

Section 20 read with Section 38 of the Act stipulates that the dealer shall deposit the tax payable on the basis of his accounts in such manner and at such intervals as notified by the GoR. The tax paid by a dealer or a person shall be adjusted against the tax assessed and the balance of the amount shall be payable by such dealer within thirty days from the date of service of the notice.

2.4.2 Trend of Revenue

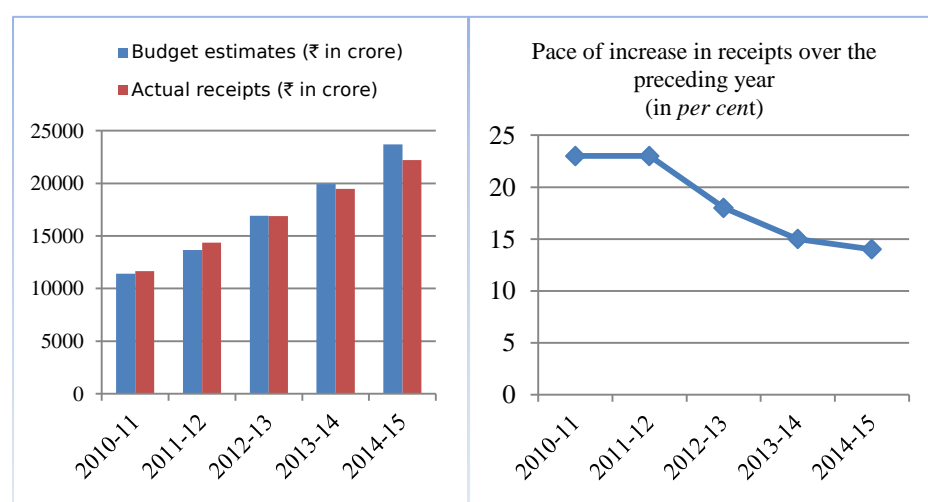
Actual receipts from VAT alongwith budget estimates during the years 2010-11 to 2014-15 and increase in receipts over the preceding year are shown in the following table:

(₹ in crore)

Year	Budget estimates	Actual receipts	Increase in receipts over the preceding year (in per cent)
2010-11	11,394.21	11,638.74	23
2011-12	13,653.06	14,371.53	23
2012-13	16,912.99	16,887.48	18
2013-14	19,944.29	19,490.41	15
2014-15	23,712.99	22,214.88	14

Source: Budget document of State Government and Finance Accounts.

Trends of revenue are shown in the following charts:



It would be seen from the above that though the revenue increased every year, the pace of increase in receipts during the years 2012-13 to 2014-15 could not maintain trend in comparison to preceding years. However, the Department

had increased its revenue up to 91 *per cent* as compared to 2010-11, which is significant.

2.4.3 Organisational set-up

The Department functions under the control and supervision of the Principal Secretary, Finance Department, Government of Rajasthan. The Department is headed by Commissioner of Commercial Taxes. He is assisted by 26 Additional Commissioners.

The Department has 15 zones, headed by Deputy Commissioners. There are 130 circles¹ under these zones. The assessment and recovery of tax is undertaken by Assessment Authority at the level of Assistant Commissioners/ Commercial Taxes Officers and Assistant Commercial Taxes Officers posted in circles and wards respectively.

2.4.4 Audit objectives

The Performance Audit was conducted with a view to ascertain:

- whether the system of registration of dealers was efficient and effective to bring the eligible dealers into the tax net;
- whether the provisions existing in Act and Rules were adequate to safeguard the interest of the Department;
- the level of compliance of the provisions existing in Act and Rules and notifications/circulars issued thereunder; and
- the adequacy and effectiveness of the internal control mechanism.

2.4.5 Audit criteria

The audit criteria for Performance Audit were derived from the provisions of the following Acts, Rules and notifications/circulars issued thereunder which govern the system of registration, assessment and collection under VAT by the Department:

State Laws

- Rajasthan Value Added Tax Act, 2003; and
- Rajasthan Value Added Tax Rules, 2006;

Central Laws

- Central Sales Tax Act, 1956; and
- Central Sales Tax (Registration and Turnover) Rules, 1957.

2.4.6 Scope and methodology of Performance Audit

The Performance Audit on ‘System of Registration, Assessment and Collection under VAT’ was conducted between January and June 2015 covering the period 2011-12 to 2013-14, wherein the assessments for the

¹ Special circles- 25, Regular circles-73, Works contracts and leasing tax circles-12, Anti-evasion circles-20.

financial year from 2009-10 to 2011-12 were finalised. Out of the 98 circles², 11 circles³ were selected on the basis of probability proportion to size sampling method. These 11 circles together contributed 59 per cent of the VAT receipts during the years 2009-10 to 2013-14. Records of the office of the CCT and data available on the departmental website 'Raj VISTA' were also examined. Besides, information from other Government Departments i.e. Mines and Geology, State Excise, Central Excise and Customs were also obtained and cross checked with the data available on the departmental website. As a Performance Audit on 'Recovery of arrears in Commercial Taxes Department' was conducted and incorporated in the Audit Report for the year ended 31 March 2013, the system of collection of VAT was excluded from this Performance Audit.

2.4.7 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation extended by the Commercial Taxes Department, their officers and staff in providing necessary information and records to audit.

An Entry Conference was held on 12 February 2015 with Commissioner, Commercial Taxes wherein objectives, scope and methodology of Performance Audit were explained. The Factual Statement/Draft Paragraph was forwarded to the Government and the Department in August/October 2015. An Exit Conference was held on 24 November 2015 with Commissioner, Commercial Taxes and Secretary, Finance (Revenue) Department wherein the findings of the Performance Audit were discussed. The replies received during the Exit Conference and at other points of time have been appropriately considered in the relevant paragraphs.

Audit findings

Registration

As per Section 3 read with Section 11 of RVAT Act, a dealer, who is liable to get registration, shall get himself registered under RVAT Act by submitting an application in Form VAT-01. The authority competent to grant registration, after making necessary enquiry, shall grant a certificate of registration in the prescribed Form VAT-03. Where a dealer is liable to be registered under the Act but does not make application for the same, the authority competent to grant registration, shall compulsorily register him. The dealer is however given a chance to explain the reason for not applying for registration and in case the reasons are not found satisfactory, penalty not exceeding ₹ two thousand shall be levied.

² Since a Performance Audit on 'Levy and collection of VAT on works contract' was included in the Audit Report for the year ending 2014, 12 works contracts and leasing tax circles were excluded from scope of PA and 20 circles involved in anti-evasion activities were also excluded.

³ **Special Circles:** Bhilwara, Jaipur-III, Pali and Rajasthan Jaipur.

Regular Circles: Bhiwadi-B, Jaipur-D, Jaipur-J, Jaipur-N, Jodhpur-A, Nagaur and Udaipur-B.

The position of dealers registered under RVAT Act is given below:

Year	Number of dealers in the beginning of the year	Number of dealers registered during the year	Total	RC Cancellation of dealers during the year	Number of registered dealers at the end of the year
2009-10	3,44,852	33,314	3,78,166	1,478	3,76,688
2010-11	3,76,688	39,516	4,16,204	6,881	4,09,323
2011-12	4,09,323	49,437	4,58,760	17,918	4,40,842
2012-13	4,40,842	45,192	4,86,034	14,529	4,71,505
2013-14	4,71,505	22,087	4,93,592	37,026	4,56,566

The above table indicates that there was an increase of 1,11,714 *i.e.* 32 *per cent* registered dealers during the last five years despite cancellation of registration of 77,832 dealers.

2.4.8 Verification of dealer's status

Rule 14 of RVAT Rules provides that the registration authority having satisfied that the application for registration is complete in all respect and is accompanied with the required documents shall issue registration certificate (RC) within twenty four hours of receipt of such application. Thereafter, the registration authority or the assessing authority shall, within forty-five days of such issuance, conduct an enquiry to verify the facts and statements made in the application for registration.

Information available on *RajVISTA*⁴ as on 6 July 2015 disclosed that verification of the facts and statements made in the applications for registration was pending in 726 cases out of 4,554 registrations processed in selected circles⁵ for a period ranging between 46 and 365 days.

Absence of module in this system for verification of RCs: To ascertain the level of compliance, the month of April 2011 was selected and it was noticed that 422 RCs were issued in the selected seven circles⁶. On being enquired, CTOs/ACTOs of these circles did not furnish the date of verification of the facts and statements as there was no module available to monitor verification of RCs within stipulated period by the concerned officer. In absence of required module and desired information, the delay in verification of RCs could not be ascertained.

The Government replied (November 2015) that due to shortage of Junior Commercial Taxes Officers (JCTOs), verification of the status of the newly registered dealers could not be conducted in the prescribed period. It was also stated that verification of most of the cases had been done and some cases were shown pending due to non-uploading of verification report on *RajVISTA*. Further, it was also intimated that declaration forms were not being issued until verification of dealer's status.

⁴ *RajVISTA*: It is a website for official use only by the Department.

⁵ **Circles:** Bhiwadi-B, Jaipur-D, Jaipur-J, Jodhpur-A and Udaipur-B.

⁶ **Circles:** Bhiwadi-B, Jaipur-D, Jaipur-J, Jaipur-N, Jodhpur-A, Nagaur and Udaipur-B.

The Department may ensure timely verification of dealer's status to avoid hindrances in business to genuine dealers and any tax evasion by unscrupulous dealers.

2.4.9 Business with multiple RCs

Section 11 of RVAT Act read with Rule 14 of RVAT Rules provides that a dealer who intends to do business at one or additional places in the State shall be granted one registration certificate for principal place of business and branch certificates will be issued for the additional places. Thus, a registered dealer shall be allotted only one Tax Identification Number (TIN).

Scrutiny of information available on *RajVISTA* revealed that 366 persons were granted 742 RCs and these dealers were doing business at two or more places with separate RCs for each place of business in the selected circles upto March 2015. However, the Department had not initiated action to cancel the additional RCs of these dealers.

Impact of double registration: Scrutiny of information available on *RajVISTA* disclosed that 37 persons having 74 RCs had opted for payment of tax at the rate of 0.50 per cent under Section 3(2)⁷ of RVAT Act either on one RC or on both RCs during the year 2011-12. Scrutiny of annual returns disclosed that there were dealers who were not eligible to opt for payment of tax at the rate of 0.50 per cent under Section 3(2) as gross turnover of these dealers was more than the eligibility criteria. Due to non-availability of commodity wise details, the rate of tax on these turnovers could not be ascertained. This resulted in non-levy of tax of ₹ 14.73 lakh in few cases is mentioned in table 2.4.9.

Table 2.4.9

Sl. no.	PAN number ⁸	TIN number	Dealer category	Gross Turnover	Turnover on which tax at lower rate was paid	Differential tax leviable at the rate of 4.5 per cent ⁹
1.	AAWPA3060A	08130300017	3(2)	33,95,420	33,95,420	1,52,794
		08720246197	VAT	93,35,454		
2.	ACXPG1695G	08182154484	3(2)	59,22,683	1,06,68,562	4,80,085
		08242156003	3(2)	47,45,879		
3.	APKPG5912L	08702191931	3(2)	25,40,432	25,40,432	1,14,319
		08452190565	VAT	1,60,49,523		
4.	AAHPL5243M	08972558006	3(2)	51,69,616	51,69,616	2,32,633
		08922558761	VAT	12,71,996		
5.	AARFS0965P	08762553805	3(2)	57,32,469	1,09,60,663	4,93,230
		08162560537	3(2)	52,28,194		
Total					3,27,34,693	14,73,061

⁷ Those dealers who had their annual turnover not exceeding ₹ 50.00 lakh (up to 14 April 2011), ₹ 60.00 lakh (15 April 2011 to 8 April 2013) and ₹ 75 lakh (after 8 April 2013) and purchase goods from a registered dealer of State could opt to pay tax under this Section. The rate of tax for these dealers is 0.50 per cent only.

⁸ PAN means Permanent Account Number allotted by Income Tax Department.

⁹ Due to non-availability of commodity wise details, these turnovers were treated taxable at the rate of five per cent.

The Government accepted the audit finding and replied (November 2015) that process of cancellation of RCs or issuing branch certificates where more than one RC was issued, was under progress. It was further stated that the system had been upgraded for issuing only one RC on one PAN.

2.4.10 Surety to more than four dealers

Section 15 of RVAT Act provides that at the time of grant of obligatory registration to the dealers, the initial security shall be in the form of surety of two dealers registered under RVAT Act, and where the dealer is not in a position to furnish such surety, he shall submit security in the form of national saving certificate or in cash or in the form of three years bank guarantee of a nationalised bank. As per circular dated 24 March 2009, a single registered dealer cannot furnish surety to more than two dealers. Further, *vide* circular dated 23 September 2010, this limit was increased to four dealers.

The Department had not evolved a system in the *RajVISTA* or otherwise to ensure compliance with the above criteria. Scrutiny of information available on *RajVISTA* disclosed that:

- In case of 1,921 dealers, the surety was provided by 241 dealers. Each dealer had given the surety to more than four dealers ranging between 5 to 29 dealers in the selected circles.
- In case of 8,302 dealers, the RC of either both or one of the dealers who had given the surety was cancelled.

The provisions of the Act were not followed and in case of default, the surety may not be in a position to make payment *in lieu of* these 10,223 dealers.

The Government accepted the audit finding and replied (November 2015) that a system had been developed on *RajVISTA* to ensure that a dealer does not provide surety to more than four dealers. It was also stated that a module was being developed to monitor cases where RCs of the surety providing dealers are cancelled.

2.4.11 Identification of dealers for registration for VAT

Section 11(6) of RVAT Act provides that when a dealer, who is liable to get registration, does not make application for registration, the authority competent to grant registration, after affording an opportunity of being heard to such dealer, shall grant him a certificate of registration under this Act. Survey is an important tool to detect unregistered dealers and to widen the tax base. The CCT instructed (September 2011) to conduct surveys to bring eligible dealers under the tax net.

2.4.11.1 To evaluate the level of compliance of the above instructions, information regarding surveys conducted by 41 AAs of selected circles¹⁰ was sought. However, the desired information was not provided by 10 AAs and 26 AAs intimated that no survey was conducted. Five AAs had granted registration to 92 dealers on the basis of surveys conducted during the period

¹⁰ **Circles:** Bhiwadi-B, Jaipur-D, Jaipur-J, Jaipur-N, Jodhpur-A, Nagaur and Udaipur-B.

2011-12 to 2013-14. Results of test check disclosed that 84 *per cent* AAs did not conduct surveys to widen the tax base.

2.4.11.2 To detect unregistered dealers, information was collected from Departments of Mines and Geology, Central Excise and Customs for the year 2011-12 and cross checked with the information available on *RajVISTA*. PAN was used for cross checking the information. The findings are discussed in the following paragraphs.

- **Non-registration of mining lease holders**

Department of Mines and Geology, Government of Rajasthan allots mining lease to various persons/entities. Information collected from 14 Mining Engineers/Assistant Mining Engineers was cross checked with the information made available to Audit by Commercial Taxes Department and it was noticed that 142 mine owners/lease holders were not registered under RVAT Act though they had excavated minerals more than the value liable for their registration during the year 2011-12. These dealers could not be brought under the tax net and hence tax amounting to ₹ 9.49 crore could not be levied on the turnover of minerals worth ₹ 189.87 crore.

- **Non-registration of importers**

Information collected from Central Excise and Customs Departments, cross checked with the information obtained from the Department disclosed that 390 importers were not found registered under RVAT Act though every dealer who imported goods was liable to be registered under RVAT Act. These importers had imported goods valuing ₹ 306.07 crore during the year 2011-12. In the absence of registration under the RVAT Act, levy, assessment and collection of tax of ₹ 6.05 crore could not materialise on the total value of the goods imported by these dealers.

These findings were based on the data for one year only *i.e.* 2011-12; the actual volume may be higher if the turnover details of other years could also be captured. It is essential for the Commercial Taxes Department to investigate these cases thoroughly and take necessary action as per the law. These findings highlight the need to devise a regular system for registering the dealers by way of obtaining information from other Government departments or by conducting surveys.

The Government replied (November 2015) that Regional Economic Intelligence Council (Council) was formed for co-operation among the Income Tax Department, Central Excise and Customs Department and the Department. On the basis of information received during the meetings of the Council, action was being taken in tax evasion cases.

In case of importer of goods, the Department replied that the importer details of the Customs Department do not capture the destination/business palace of the importer. It was further stated that address mentioned in the PAN of the dealer can be of Rajasthan but he may be working in other State and thus the import cannot be taken as sale in Rajasthan.

The fact, however, remains that the Department had not used the information available with the other Departments to identify unregistered dealers. Further, the department had not made any efforts to verify the business destination of

the importers who were importing goods in the State. The Department was, therefore, not vigilant about identifying dealers who may be evading tax.

The Government may devise a regular system for registering the dealers by way of obtaining information from other Government departments or by conducting surveys.

Assessment

2.4.12 Non-monitoring of dealers who had not filed returns

2.4.12.1 Non-filing of returns by dealers who collected tax

Scrutiny of information collected from selected circles¹¹ disclosed that 11 per cent dealers had not filed returns during the year 2011-12. To check the possible evasion of tax by such dealers in the State, the Department was requested to generate a report for the year 2011-12 through *RajVISTA* showing purchases made from such dealers by other registered dealers. Scrutiny of the report provided by the Department disclosed that 6,776 dealers had sold goods valuing ₹ 4,201.46 crore and collected tax of ₹ 102.39 crore. However, these dealers had not filed returns.

Scrutiny of transactions of 112 dealers of selected four circles¹² available on *RajVISTA* disclosed that these registered dealers had sold goods valuing ₹ 7.52 crore and collected tax of ₹ 41.66 lakh but had not submitted their returns. As per Demand and Collection Register (DCR) available on *RajVISTA*, no demand was raised against these dealers. This resulted in non-levy of tax of ₹ 41.66 lakh besides interest of ₹ 17.50 lakh and penalty of ₹ 83.32 lakh.

The Department should investigate all the above cases involving tax effect of ₹ 102.39 crore to check the revenue leakage. Further, the *RajVISTA* system did not have a module to generate a report regarding turnover of these dealers by using available information provided by the purchasing dealers.

The Government accepted and replied (November 2015) that a module had been developed for identifying the dealers who had not filed returns or filed return with nil turnovers though they had sold/purchased goods.

2.4.12.2 Non-assessment of dealers who had not filed returns

As per Section 22 of RVAT Act, where a dealer has failed to deposit tax within the notified period or to submit a return within the prescribed period, the AA shall assess tax for that period to the best of his judgment. However, no order under this Section shall be passed after the expiry of nine months from the last date for submission of return.

As per information available on *RajVISTA*, 2,212 dealers of selected circles had not filed their annual returns for the year 2011-12. Scrutiny of DCRs

¹¹ Information provided by eight Circles: Bhiwadi-B, Bhilwara-Special, Jaipur-D, Jaipur-Special Rajasthan, Jodhpur-A, Nagaur, Pali-Special and Uaipur-B. Information not provided by three Circles: Jaipur-J, Jaipur-N and Jaipur-Special III.

¹² Circles: Jaipur-D, Jaipur-J, Jaipur-N and Jaipur-Special III.

available on *RajVISTA* disclosed that AAs of eight circles¹³ did not assess 151 dealers. Further, scrutiny of information provided by the Department revealed that out of these 151 dealers, 11 dealers had collected tax of ₹ 3.09 lakh on the sale of goods valued at ₹ 60.95 lakh from 51 registered dealers. This resulted in non-levy of tax, interest and penalty of ₹ 10.67 lakh.

The reasons for non-assessment of these cases were not available on *RajVISTA*. All these cases had become time barred in February 2014. Consequently, evasion of tax and loss of revenue cannot be ruled out due to non-assessment of these cases and similar cases in other circles.

The Government replied (November 2015) that all assessments for the year 2011-12 had been made under Section 23 and 24 of RVAT Act and where dealers had not submitted their annual returns, the assessments had been made on the basis of quarterly returns.

The reply was not acceptable as details of assessment of the above mentioned cases were not available in the DCR on *RajVISTA* which is the principal document for monitoring the raising of demand.

2.4.13 Inadequate Return format

The basis for levy and collection of tax under the VAT system is the filing of correct and complete return by the dealers. It is, therefore, necessary that the returns should be prescribed in such a manner so as to capture all the relevant information. Audit observed several deficiencies in the format of the VAT returns as discussed below:

2.4.13.1 Absence of information in Form VAT-10 relating to name of exempted commodity

Goods exempted from tax classified in 136 entries were mentioned in Schedule-I of RVAT Act. These entries were available on the Department's website '*Rajtax*' with open access to all. For transparency and assessment of correct tax, it is essential to mention the name of the exempted commodity in the return filed by the dealer.

It was observed that there were columns to mention the name of the taxable commodity. However, no column was prescribed to mention the name of commodity sold as exempted goods by the dealer in the quarterly return Form VAT-10. Scrutiny of the information available on *RajVISTA* revealed that 7,101 dealers of the selected circles had sold goods worth ₹ 37,601.02 crore as exempted goods during the year 2011-12. In absence of the name of goods, Audit could not ascertain whether the dealers had correctly classified the goods as exempted.

Scrutiny of other information available in the assessment records of the test checked circles disclosed that the goods mentioned by the dealers as exempted were not exempted under RVAT Act. A few instances are mentioned below:

- (i) As per entry number 172 of Schedule-IVB of RVAT Act, 'Sacks and bags, of a kind used for the packing of goods of jute, or of other textile base

¹³ **Circles:** Bhiwadi-B, Bhilwara-Special, Jaipur-D, Jaipur-J, Jaipur-N, Jodhpur-A, Nagaur and Udaipur-B.

fibers' were taxable at the rate of five *per cent*. However, according to entry number 63 of Schedule-I of RVAT Act, 'old jute bags and old HDPE bags' were exempted for levy of tax subject to the condition that the goods were mentioned in the RC of the selling dealer.

Test check of assessment records of Special Circle-III, Jaipur revealed that two dealers (M/s N. K. Proteins Ltd, TIN 08561705747 and M/s Pinkcity Oil Products Pvt. Ltd, TIN 08601650823) declared sale of exempted goods valuing ₹ 34.62 crore in their returns during the year 2011-12. The AA while finalising the assessments erroneously treated old *bardana* (bags) as exempted goods which was not mentioned in the RCs of the dealers. However, the AA did not levy tax of ₹ 1.73 crore at the rate of five *per cent* on this turnover besides interest of ₹ 72.66 lakh.

(ii) Another dealer (M/s Bharat Potteries Ltd., TIN 08371652938) had declared sale of goods valuing ₹ 4.71 crore during the year 2011-12 as exempted under Schedule-I. The AA while finalising the assessment did not levy tax on these goods. Scrutiny of the RC of the dealer available on *RajVISTA* revealed that the dealer was not dealing in any goods which were exempted under Schedule-I. However, in absence of the name of goods, tax leviable on this turnover could not be worked out.

The Government replied (November 2015) that details regarding exempted goods were not being obtained as it was not feasible in absence of Harmonised System of Nomenclature (HSN). The Government further stated that it was essential for the AAs to verify the goods mentioned in RC in case of conditional exemption.

The reply was not acceptable as name of exempted commodities had already been mentioned in the Schedule-I of RVAT Act. Further, in absence of name of commodity, the AAs could not ascertain the correctness of the exempted turnover of the dealers even in case of conditional exemption.

2.4.13.2 Absence of essential details in Form VAT-10 to verify ITC availed by oil companies

As per notification dated 10 November 2008, where sale of high and light speed diesel oil and petrol takes place among the oil companies within the State, the purchasing oil company shall be allowed to claim Input Tax Credit (ITC) in respect of such purchases to the extent of five *per cent* (four *per cent* upto 6 June 2010) of the net retail sale price or purchase price, whichever is less. The return form VAT-10, however, does not contain any column to exhibit purchase price and net sale price of the goods related to these transactions. These companies had claimed ITC of ₹ 73.36 crore for the purchases of goods valued ₹ 1,467.20 crore from each other during the year 2011-12. The AA allowed the entire amount of the ITC claimed by the oil companies without verifying the sale or purchase price. In absence of these details, the correctness of the claim of ITC by the oil companies could not be verified by Audit.

The Government replied (November 2015) that only three oil companies are working in the State and purchase/sales made by these companies and ITC are fully monitored. However, no regular mechanism was found or prescribed by the Department for monitoring the correctness of the ITC claimed by these

companies. The reply was also not acceptable as in absence of columns in the return to capture the details regarding purchase price and net retail sale price, the AAs could not ascertain the correctness of the ITC without collecting the related information from the companies.

2.4.13.3 Absence of information in Form VAT-10 and 10A relating to sales at subsidised price

The State Government had inserted (March 2011) a sub-section 3A in Section 18 of RVAT Act. Statement of objects and reasons (Finance Bill 2011-12) to insert the sub-section was as under:

‘In certain trades, goods are being sold and tax on such sales is being recovered from the purchaser, but at later stage seller provides incentive to the purchasing dealer in the form of credit notes or subsidy *etc.* Such purchasing dealers after selling goods at subsidised rates claim refund of tax paid at earlier stage. In order to check this tendency, a new sub-section (3A) is proposed to be inserted in Section 18 of the Rajasthan VAT Act, 2003’. Accordingly, if any goods purchased in the State are subsequently sold at subsidised price, the ITC allowable under this sub-section in respect of such goods shall not exceed the output tax payable on such goods.

To ensure compliance of the above provisions two information were essential in return *i.e.* incentive/discount/subsidy received by the purchaser and purchase value of the goods sold. However, scrutiny of ‘Return-Forms’ *i.e.* VAT-10 and 10A revealed that there was no column to show these details. To check the extent of compliance by dealers, details of credit notes issued for incentive/discount/subsidy to the purchasing dealers by a selling dealer of tyres registered in circle Special-Rajasthan, Jaipur were collected for the year 2011-12 and cross-checked with the VAT returns of 55 purchasing dealers¹⁴ available on *RajVISTA*. It was observed that 22 purchasing dealers had sold goods at subsidised¹⁵ rates. However, these dealers had not shown reverse tax in their returns amounting to ₹ 1.17 crore leviable as per Section 18(3A).

As per information available on *RajVISTA*, the AAs while finalising the assessments of 20 dealers had not raised any demand. Assessments of two dealers were not available on *RajVISTA*. Thus, in absence of required information in the returns, the AAs could not levy reverse tax of ₹ 1.14 crore besides penalty of ₹ 2.29 crore and interest of ₹ 48.06 lakh on 20 dealers. Further, in four cases, the dealers had not submitted trading accounts with their annual returns. As a result, the implication of Section 18(3A) could not be checked by Audit in these four cases.

The CCT during Exit Conference assured to examine the feasibility of obtaining the information in returns.

¹⁴ Selection of purchasing dealers was based on the highest purchases made from the selling dealer during any quarter of 2011-12.

¹⁵ Sale value of goods was less than the purchase value and the dealer got incentive/discounts/subsidy.

2.4.14 Deemed assessments without complete information in returns

Every dealer is required to make self-assessment of his tax liability under the Act and to file a return in prescribed time and Form. Every return filed by the dealer is subject to scrutiny by the AA in accordance with the directions issued by the CCT. Further, the CCT issued instructions (22 April 2013) that where a dealer has filed the return in time and has paid his tax in time, the dealer shall be deemed to have been assessed by the Department. However, it is implied that every dealer shall furnish a correct and complete return in respect of all transactions made by him.

To ensure the compliance of the above provisions by the dealers as well as by the AAs, annual returns for the year 2011-12 of top 550 dealers on the basis of highest turnover in the selected circles were test checked. It was noticed that out of these dealers, 295 dealers were deemed assessed. Scrutiny of these deemed assessment cases revealed that incomplete information was given in the returns by the dealers *i.e.* trading accounts were not furnished in 69 returns, details of used declaration forms were not given in 96 returns, difference in figures were noticed in 20 returns and the nature of business was not shown in 37 returns. Despite these shortcomings, the dealers were deemed assessed. Hence, these cases were required to be assessed after proper hearing and on the basis of material available on the record. It was observed that in all these cases, the AAs overlooked the missing information in the returns while declaring the cases as deemed assessed. Thus, allowance of irregular ITC and short levy of tax could not be ruled out.

In this regard, provisions regarding submission of information by dealers in other States were reviewed. It was noticed that Commercial Taxes Department, Karnataka issued a notification (29 April 2014) regarding online submission of details of invoice-wise purchase/sale of goods including any debit notes or credit notes issued or received and transfer/receipt of goods otherwise than by way of sale or purchase on departmental website. Implementation of similar provisions in the RVAT Act/Rules may help the Department to prevent leakage of revenue.

The Government replied (November 2015) that trading account had been made a mandatory part of the VAT-10A since 14 July 2014. It was further stated that as regard to requirement of re-assessment of such cases, Section 26 does not permit to take action for re-assessment just on the basis of incomplete information.

The reply did not indicate the measures taken by the Department for ensuring correct and complete scrutiny of the returns on their submission by the dealers.

2.4.15 Business Audit assessments

Section 27 of RVAT Act provides that the CCT may arrange for audit of the business of selected¹⁶ registered dealers to promote compliance to the Act. During audit, if the returns filed by the dealer are not found to be correct, or

¹⁶ CCT may select the dealers on the basis of application of any criterion or on random selection basis or in respect of whom there are reasons to believe that detail scrutiny of their business is required

any avoidance or evasion of tax is detected, the AA will issue a show cause notice to the dealer and after considering the reply of the dealer will assess his tax and other liabilities and get such order approved from his immediate higher officer before its issuance to the dealer along with the demand notice. If the dealer fails to submit the reply, the AA will assess the liability of the dealer to the best of his judgment. Further, Rule 47(3) of RVAT Rules provides that after completion of the audit, the auditor shall prepare an audit report mentioning therein the discrepancies found, if any, at the time of audit. Scrutiny of the information/records provided by the Department revealed the following deficiencies:

2.4.15.1 Business Audit and the resultant assessments are crucial to ensure revenue realisation in a smooth manner and in bridging the gap between the tax due and the tax declared by the dealers. Further, as per Section 27(6) of RVAT Act, no notices can be issued for Business Audit after a lapse of five years from the end of the relevant year. The overall position of dealers selected for Business Audit and audited was as under:

Business Audit for the Year	Total number of registered dealers	Number of dealers to be selected as per norms/criteria	Actual number of dealers selected (shortfall in percentage)	Actual number of Business Audit conducted up to the year 2014-15	Actual Shortfall (shortfall in percentage)
(1)	(2)	(3)	(4)	(5)	(6)
2009-10	3,76,688	18,834	5,776 (69)	2,570	3,206 (55)
2010-11	4,09,323	20,466	7,313 (64)	2,352	4,961 (67)
2011-12	4,40,842	22,042	1,297 (94)	827	470 (36)

It would be seen from the above table that there was a huge short fall ranging between 36 to 67 *per cent* in conducting the business audit of selected dealers. Due to shortfall in conducting business audit, 3,206 assessment cases for business audit got time barred. Besides, the shortfall in conducting the business audit provides leeway to tax Assessing Authorities to pick and choose the cases for actually conducting business audit and may provide scope for unethical practices.

Scrutiny of zone wise position of business audit disclosed that:

- five zones¹⁷ had not selected any dealer for business audit for the years 2009-10 and 2010-11;
- five zones had not selected any dealer, six zones¹⁸ had selected only 17 dealers and two zones¹⁹ had selected 1280 dealers *i.e.* 99 *per cent* of the total selection for the year 2011-12.

The above facts indicated that the departmental officers did not follow the instructions issued by the CCT. Failure to conduct business audit adequately resulted in non-ensuring the correctness of the returns submitted by the dealers and prevention of leakage of revenue.

¹⁷ Zones: Bhilwara, Bikaner, Jodhpur, Pali and Udaipur.

¹⁸ Zones: Bhilwara, Bikaner, Jaipur-I, Jodhpur, Sriganganagar and Udaipur.

¹⁹ Zones: Alwar and Kota.

The Government accepted the audit contention and replied (November 2015) that business audit was not conducted as per prescribed norms during the years 2009-10 to 2011-12 as maximum time of AAs was spent in solving the problems related to assessments and ITC verification.

2.4.15.2 No audit manual was prepared by the Department even after a lapse of nine years incorporating various procedural and other aspects of audit for streamlining the audit process and making it effective. Such manuals were prepared by Commercial Taxes Department of Utter Pradesh, Maharashtra and Andhra Pradesh.

The Government replied (November 2015) that instructions regarding business audit were issued from time to time through letters, circulars and detailed instructions had been issued on 1 May 2013.

2.4.15.3 The CCT prescribed norms in 2011, 2012 and 2013 for selection of five *per cent* of total number of registered dealers for business audit. During the examination of the database of the Department on *RajVISTA*, it was observed that the data required for selection of dealers as per norms *i.e.* dealers availing benefit under incentive/deferment schemes, dealers dealing in evasion prone commodities, dealers against whom cases of evasion/avoidance of tax had been noticed, *etc.* were not available. In absence of required data for selection of dealers, the selection process lacked transparency.

The Government replied (November 2015) that online submission of return was not mandatory during the referred years and hence *RajVISTA* system was not fully effective for this purpose. It further stated that currently the selection of cases was being done on scientific method.

2.4.15.4 During the scrutiny of the criteria prescribed for selection of dealers for Business Audit for the year 2009-10 to 2011-12, it was found that instead of selection from all types of registered dealers, selections were made from either the tax paying dealers or dealers who had not filed their returns. However, no attention was given to those dealers who had filed returns with *nil* turnovers.

To check the possible evasion of tax by such dealers in the State, the Department was requested to generate a report for the year 2011-12 through *RajVISTA* showing purchases made from such dealers by other registered dealers. Scrutiny of this report revealed that 1,440 registered dealers who had sold goods valuing ₹ 176.37 crore and collected tax of ₹ 11.39 crore had shown *nil* turnovers in their returns. As per DCR available on *RajVISTA*, no demand was raised against these dealers. This resulted in non-levy of tax of ₹ 11.39 crore besides penalty of ₹ 22.78 crore and interest of ₹ 4.78 crore.

Further, as per information of DCR available on *RajVISTA*, the AAs had raised demand of ₹ 18 lakh only against 145 registered dealers, who had sold goods valuing ₹ 971.52 crore and collected tax of ₹ 12.03 crore but shown *nil* turnovers in their returns. This resulted in short levy of tax of ₹ 11.85 crore besides penalty of ₹ 23.71 crore and interest of ₹ 4.98 crore.

The Government replied (November 2015) that conducting business audit of dealers who had declared *nil* turnover was not justified as such cases are dealt

by anti-evasion wings. However, outcome of such cases dealt by anti-evasion wing was not furnished.

2.4.15.5 Deficient business audit assessments

RVAT Act was implemented in the State since 2006. However, the CCT belatedly issued (1 May 2013) guidelines for conducting audit of dealers under Section 27 of the RVAT Act. Thereafter, in the entire State 1,818 business assessments were made during the year 2013-14 as intimated by Department (June 2015).

Scrutiny of the information disclosed that out of 11 circles selected for PA, the Department had conducted business audit of 336 dealers during 2013-14 in five selected circles²⁰. On being asked to provide these business audit assessment orders, the Department could provide only 182 business audit assessment orders pertaining to four selected circles²¹. Business audit assessment orders of circle Jaipur Special-III had not been provided by the Department. The remaining six circles²² did not conduct business audit assessments during 2013-14. Scrutiny of these business audit assessments disclosed that the AAs did not fill the prescribed questionnaire in 109 cases; the AAs had not followed the prescribed check list in 59 cases; the income tax return was not cross checked in 17 cases; and the AAs had not shown even the name of commodities dealt by the dealers in 23 cases. The guidelines were not at all followed in 22 cases. Further, the business audit was not conducted in nine cases because the dealers had closed the business.

The Government accepted the audit contention and replied (November 2015) that regular AAs had conducted the business audits and due to shortage of time and manpower, business audit was not conducted properly. It was further stated that two audit circles had been now established in each zone to strengthen the business audit and detailed instructions had been issued to conduct business audit effectively.

2.4.16 Assessment of dealers without having jurisdiction

As per order issued by CCT (31 March 2011), ACTO could assess the dealers having annual turnover upto one crore. During scrutiny of information available on *RajVISTA* for the financial year 2011-12, it was noticed that 22 ACTOs of selected circles²³ had assessed 143 dealers having turnover of more than one crore. The ACTOs had, therefore, assessed the dealers without having jurisdiction to assess them. The monitoring authorities also could not detect this irregularity.

The CCT during Exit Conference stated that out of above referred cases some cases were examined and found that these were assessed by ACs/CTOs and the discrepancies could be due to non-depiction of upgraded posts.

²⁰ **Circles:** Bhiwadi-B, Jaipur-D, Jaipur-J, Jaipur-N and Jaipur-Special-III.

²¹ **Circles:** Bhiwadi-B, Jaipur-D, Jaipur-J and Jaipur-N

²² **Special Circles:** Bhilwara, Pali and Rajasthan Jaipur, **Regular Circles:** Jodhpur-A, Nagaur and Udaipur-B.

²³ **Circles:** Bhiwadi-B (3 ACTOs), Jaipur-D (5 ACTOs), Jaipur-J (3 ACTOs), Jaipur-N (2 ACTOs), Jodhpur-A (5 ACTOs), Nagaur (3 ACTOs) and Udaipur-B (1 ACTOs).

2.4.17 Audit of accounts

As per Section 73 of RVAT Act, every registered dealer, other than the dealer who has opted for payment of tax under sub-section (2) of Section 3 or under Section 5 or the dealer or class of dealers as may be notified by the State Government, shall, if his turnover exceeds rupees one crore in any year, get his accounts in respect of such year audited by a Chartered Accountant/Cost Accountant²⁴ within the prescribed period from the end of that year.

However, *vide* notification dated 25 February 2008, the dealers who filed e>Returns with prescribed documents were exempted from audit of accounts under this Section. Further, *vide* notification dated 9 March 2011, every dealer was liable to submit the returns electronically. The effect of these amendments was that no dealer was liable to get his accounts audited by Chartered/Cost Accountant.

The object of the Section 73, therefore, to get the accounts of the dealers having turnover of more than one crore audited was rendered ineffective.

Thus, neither the Business Audit was being conducted by the Departmental officers nor the Chartered/Cost Accountants audited the accounts of the dealers having turnover of more than one crore.

The Government replied (November 2015) that Form VAT-10A had been designed to obtain almost all the information which were available in VAT report proforma.

The reply was not acceptable as proforma of trading account prescribed in annual return VAT-10A does not contain the information like entry number of schedule in which goods sold were covered, sale of fixed assets, capitalisation of fixed assets on which ITC was claimed as capital goods, purchase against declaration forms (VAT-15, C Form, H Form, etc.). Therefore, either proforma of VAT-10A should be modified or VAT audit should be made mandatory.

Input Tax Credit

As per Section 18 of RVAT Act, ITC shall be allowed to registered dealers in respect of purchase of any taxable goods made within the State from a registered dealer to the extent and in such manner as may be prescribed for the purposes and the claim of ITC shall be allowed on the tax deposited on the basis of original VAT invoice. As per Rule 19(5) of RVAT Rules, quarterly return shall be submitted by the dealers along with statement of purchases in Form VAT-07A and statement of sales in Form VAT-08A.

Section 61 of RVAT Act provides that where any dealer has availed ITC wrongly, the AA shall reverse such credit of input tax and shall impose on such dealer a penalty equal to double the amount of such wrong credit. Scrutiny of assessment orders and information available on *RajVISTA* disclosed the following irregularities:

²⁴ (i) A Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 (Central Act No. 38 of 1949); and (ii) a Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959 (Central Act No. 23 of 1959).

2.4.18 Allowance of ITC without verification

CCT had issued instructions in August 2009 that claim of ITC must be verified by the AAs within six months from the date of filing of quarterly return.

2.4.18.1 Scrutiny of 35 assessment cases out of 80 assessments selected in four circles²⁵ revealed that in nine cases, ITC of ₹ 27.19 crore was allowed by the AAs at the time of finalisation of assessments subject to verification at a later stage. However, even after a lapse of two years, verification of ITC was not done in these cases. Further, in 26 cases, ITC of ₹ 10.56 crore was allowed by the AAs, without making any statement in the assessment order that verification of ITC was done. In these cases, Audit was not able to ascertain whether ITC was allowed after due verification.

2.4.18.2 During test check of assessment records in circle Jaipur-J, it was noticed that a dealer M/s Omega Enterprises (TIN: 08344101089) (purchasing dealer) had shown purchases of ₹ 2.40 crore from M/s Rishabh Computronics Ltd. (TIN: 08742200154) (selling dealer) and claimed ITC of ₹ 33.59 lakh during the year 2010-11 and 2011-12. It was noticed that the selling dealer did not deposit the collected tax. Thus, as per provision of Section 18(2) of RVAT Act, the purchasing dealer could not avail ITC. To check the overall effect on the revenue in this case, the sales made by the selling dealer were cross verified with the ITC claimed by other purchasing dealers.

Cross verification revealed that nine purchasing dealers had availed ITC of ₹ 84.39 lakh for the purchases made from the selling dealer (M/s Rishabh Computronics Ltd.) during the years 2010-11 and 2011-12. However, at the time of assessments of these purchasing dealers, the AAs of eight circles did not levy reverse tax of ₹ 84.39 lakh besides interest of ₹ 42.34 lakh. This resulted in non-levy of reverse tax amounting to ₹ 1.18 crore besides interest of ₹ 59.56 lakh.

Had the instructions of CCT regarding verification of ITC been complied by the AAs, the above mentioned cases of ineligible claim of ITC by the dealers could have been easily identified by the Department.

The CCT during Exit Conference stated that the cases were being examined.

2.4.19 Incorrect grant of ITC on purchases made from dealers whose RCs were cancelled

To avoid penalty for irregular claim of ITC on the goods purchased from dealers whose registrations were cancelled, the website *Rajtax* provides facility to check the registration status (active/cancelled) of any dealer registered under RVAT Act. Further, *RajVISTA* also had a module to assist the AAs to check such irregular ITC. Audit scrutinised the data/information available on *RajVISTA* to ascertain the genuineness of the claim of ITC and allowance thereof. The results are discussed as under:

²⁵ **Circles:** Bhilwara Special, Jaipur-D, Jodhpur-A and Udaipur-B.

2.4.19.1 It was noticed that during the period 2011-12, 189 dealers of 10 selected circles²⁶ had shown purchases of goods valuing ₹ 39.58 crore from the selling dealers whose RCs were cancelled before the date of transactions. These dealers had claimed ITC of ₹ 1.93 crore in their returns. These purchasing dealers were deemed assessed by the Department. As a result, there was wrong allowance of ITC of ₹ 1.93 crore and non-levy of penalty of ₹ 3.87 crore besides interest of ₹ 81.24 lakh.

2.4.19.2 In 144 cases of scrutiny assessments, it was noticed that the dealers had shown purchases of goods valuing ₹ 20.89 crore during the year 2011-12 from the selling dealers whose RCs were cancelled before the date of transactions. These dealers had claimed ITC of ₹ 1.44 crore in their returns. However, while finalising the scrutiny assessments of these purchasing dealers, the AAs of selected circles neither detected the irregularities nor asked the dealers to revise the returns or levied reverse tax of ₹ 1.44 crore besides penalty of ₹ 2.88 crore and interest of ₹ 60.58 lakh for claiming irregular ITC.

2.4.19.3 It was noticed that 117 dealers had purchased goods valued at ₹ 22.44 crore during the year 2011-12 from the selling dealers whose RCs were cancelled before the date of transactions. These purchasing dealers had claimed ITC of ₹ 1.62 crore in their returns. The AAs while finalising the assessments levied reverse tax for claiming irregular ITC. However, the AAs did not impose penalty of ₹ 3.24 crore on irregular claim of ITC.

In spite of availability of relevant module on *RajVISTA*, the AAs did not levy reverse tax, interest and penalty of ₹ 14.78 crore on the dealers.

The CCT during Exit Conference stated that the cases were being examined.

2.4.20 Irregular claim of ITC

As per Section 18(1) of RVAT Act, ITC shall be allowed to registered dealers in respect of purchases of any taxable goods made within the State from a registered dealer for being used as raw material in the manufacture of goods other than exempted goods for sale within the State or in the course of inter-State trade or commerce and for being used in the State as capital goods²⁷ in manufacture of goods other than exempted goods.

2.4.20.1 There was a provision for showing name of goods while claiming ITC in quarterly return. However, it was noticed that the dealers did not mention the name of goods for which ITC was claimed. Due to lack of information, the AAs could not levy reverse tax on wrong availment of ITC on ineligible goods. To assess the impact, few commodities *i.e.* generator sets, firefighting equipments and transformers which were neither used as inputs nor used as capital goods in manufacture were selected for cross-verification. For cross-verification, 16 selling dealers of these commodities were selected from the statistical abstract published by the Department and other available

²⁶ **Circles:** Bhiwadi-B, Jaipur-D, Jaipur-J, Jaipur-N, Jodhpur-A, Nagaur, Udaipur-B Special-Bhilwara, Special-Jaipur-III and Special-Pali.

²⁷ As per Section 2(7) of RVAT Act, 'capital goods' means plant and machinery including parts and accessories thereof, meant for use in manufacture unless otherwise notified by the State Government from time to time in the Official Gazette.

information. Sales shown in VAT-08A by these dealers were cross verified with VAT-07A of the purchasing dealers. It was noticed that 152 dealers had claimed ITC of ₹ 64.80 lakh in respect of purchases of the ineligible goods valuing ₹ 9.84 crore during the period 2011-12. As per information available on *RajVISTA*, no demand was raised against these purchasing dealers. Thus, ITC of ₹ 64.80 lakh claimed by the dealers was to be reversed and a penalty of ₹ 1.30 crore besides interest of ₹ 27.22 lakh was leviable.

The CCT during Exit Conference stated that the cases were being examined.

2.4.20.2 Scrutiny of assessment records of selected circles and results of cross verification of ITC availed by dealers revealed that seven dealers had claimed ITC for the ineligible goods as discussed in the following table:

Sl. no.	Name of purchasing dealer, TIN and year	Name of commodity for which ITC was availed	Nature of observations
1.	M/s Hindustan Zinc Ltd TIN: 08059017658 Year: 2010-12 Circle: Udaipur-Special	Explosive	M/s Indian Oil Corporation Ltd, Bhilwara TIN 08041002395(Circle: Bhilwara-Special) had sold explosives to the dealer M/s Hindustan Zinc Ltd. during the years 2010-11 and 2011-12. Cross verification of the transactions disclosed that the purchasing dealer had claimed ITC of ₹ 5.16 crore in his returns on these purchases. Business of the purchasing dealer was mining, manufacturing and selling of non-ferrous and precious metals. Since explosive was not used as raw material in the goods manufactured by the dealer, ITC was not admissible to the dealer. However, while finalising the assessment, the AA had not levied reverse tax of ₹ 5.16 crore, interest of ₹ 2.51 crore and penalty of ₹ 10.32 crore.
2.	M/s Govind Sweets Pvt. Ltd. TIN: 08434101961 Year: 2010-12 Circle: Jaipur-J	Air-conditioners, Generator sets, EPABX system, firefighting equipment, etc.	The dealer was manufacturer and seller of sweets. Since these purchased goods were not meant for use in manufacturing of sweets, ITC was not admissible. However, while finalising the assessment the AA had not levied reverse tax of ₹ 4.86 lakh, interest of ₹ 2.33 lakh and penalty of ₹ 9.73 lakh.
3.	M/s Honda Motorcycle and Scooter India Pvt. Ltd., TIN: 08134201066 Year: 2011-12 Circle: Bhiwadi-B	Generator sets	The dealer was manufacturer and seller of two wheelers. Generator sets were not capital goods for the dealer and hence the AA disallowed the ITC on generator sets. However, the AA levied reverse tax of ₹ 6.50 lakh only instead of ₹ 10.82 lakh and did not levy penalty for irregular availment of ITC. This resulted in short levy of reverse tax of ₹ 4.33 lakh besides interest of ₹ 1.82 lakh and penalty of ₹ 21.64 lakh.
4.	(i) M/s Shree Balaji foods TIN: 08302156940	Wheat	The dealers were manufacturers of wheat flour. These dealers had availed ITC of ₹ 7.68 lakh on the purchases of wheat during the year 2010-11 which was subsequently used for manufacturing

	(ii)M/s Anand Flour Mills Bassi TIN: 08504100129 (iii)M/s Radha Govind Food Products TIN:08024100489 Year 2011-12 Circle: Jaipur-J		of exempted commodity <i>i.e.</i> wheat flour during the year 2011-12. Thus, ITC was not admissible to the dealers. However, while finalising the assessment, the AA had not levied reverse tax of ₹ 7.68 lakh, interest of ₹ 3.69 lakh and penalty of ₹ 15.36 lakh.
5.	M/s Param Products Pvt. Ltd TIN:08211650892 Year 2011-12 Circle: Jaipur Special-III	Rubber rings	The dealer was manufacturer and seller of pipes and fittings. The dealer purchased rubber rings and availed ITC of ₹ 3.29 lakh at the rate of 14 <i>per cent</i> . However, the dealer had not sold any goods taxable at the rate of 14 <i>per cent</i> . Rubber rings are finished goods and could not be used in manufacturing of pipes. Thus, ITC availed by the dealer was not admissible. However, while finalising the assessment, the AA had not levied reverse tax of ₹ 3.29 lakh, interest of ₹ 1.38 lakh and penalty of ₹ 6.58 lakh.

The above cases indicate that the dealers had availed ITC for inadmissible goods. However, the AAs could not detect the irregularity in six cases and in one case, the AA did not levy correct amount of reverse tax. This resulted in non/short levy of reverse tax, interest and penalty amounting to ₹ 18.82 crore.

The CCT during Exit Conference stated that the cases were being examined.

2.4.21 Refunds

As per Section 53 of RVAT Act, where any amount is refundable to a dealer under the provisions of the Act, after having duly verified the fact of deposit of such amount, the AA shall refund to such dealer the amount to be refunded.

2.4.22 Increase in VAT refunds

Year-wise position of VAT receipts and refunds was as under:

(₹ in crore)		
Year	VAT Receipts	VAT refunds
2009-10	9,436.29	4.50
2010-11	11,638.74	1.24
2011-12	14,371.53	14.47
2012-13	16,887.47	88.94
2013-14	19,490.41	323.37

It would be seen from the above table that there was only 106 *per cent* increase in VAT receipts during the period 2009-10 to 2013-14. However, there was an alarming increase of 7,086 *per cent* in VAT refunds during the same period.

The reasons for abnormal increase in refunds during the year 2013-14 were not analysed by the Department. Audit also could not verify the reasons

behind the abnormal increase in refunds because of non-furnishing of detailed information by the Department.

Levy of tax

2.4.23 Escaped turnover

Information collected from Central Excise and Customs Department for the year 2011-12, cross checked with the data available on *RajVISTA* disclosed that 100 registered dealers had either not shown their transactions related to re-import of goods or shown less value of transactions. The findings are discussed as under:

2.4.23.1 Eighty eight registered dealers had re-imported goods worth ₹ 112.84 crore. However, these dealers had not shown these transactions in their trading accounts submitted with annual returns. This resulted in non-levy of tax of ₹ 1.13 crore besides interest of ₹ 47.39 lakh on escaped turnover and penalty of ₹ 2.26 crore.

2.4.23.2 Twelve registered dealers had re-imported goods worth ₹ 54.40 crore. However, these dealers had shown goods returned amounting to ₹ 9.90 crore only in their annual returns. This resulted in non-levy of tax of ₹ 44.50 lakh besides interest of ₹ 18.69 lakh on escaped turnover and penalty of ₹ 89 lakh.

The Government replied (November 2015) that the re-import data of three dealers had been examined by the anti-evasion team and it was found that all the re-imported goods had been shown in the books and thus taken into stock.

The reply was not acceptable as the dealers had not shown or shown less value of transactions related to re-import in their annual returns which form the basis of assessment.

2.4.24 Goods held in stock at the time of cancellation of RC

Section 17(4) of RVAT Act provides that every person whose registration is cancelled under this Act shall pay tax in the manner prescribed in respect of every taxable goods held in stock and capital goods on the date of such cancellation.

During the period 2013-14, 2014 dealers had got their RCs cancelled with effect from April 2011 or thereafter in the selected circles²⁸. The information regarding submission of returns, verification of RCs and turnover according to last return was called for but the desired information was not provided by any circle.

To assess the level of compliance, a sample of 1,532 dealers whose registrations were cancelled with effect from 31 March 2012 or 1 April 2012 was selected. Scrutiny of information available on *RajVISTA* revealed that out of these 1,532 dealers, 1,247 dealers had not filed their returns and 18 dealers had not submitted trading accounts with their annual returns for the year

²⁸ Circles: Bhiwadi-B, Jaipur-D, Jaipur-N, Jodhpur-A, Nagaur and Udaipur-B.

2011-12. However, no demand was levied by the AAs in these cases. Further, in seven cases, though the dealers had declared closing stock but the AAs had not levied tax, interest and penalty.

It was noticed that provision of the RVAT Act regarding levy of tax in respect of goods/capital goods held in stock at the time of stoppage of business was not given effect to in such cases. In such circumstances, the possibility of the stock held at the time of stoppage of business, being sold subsequently thereby causing loss of revenue to the Government on account of non-payment of tax, cannot be ruled out.

2.4.25 Application of incorrect rate of tax

As per Section 4 of RVAT Act, sale of goods is taxable at the rates specified in the Schedules appended to the Act. Further Section 8(3) of RVAT Act provides that the State Government, by issue of notification, may exempt from tax the sale or purchase by any person or class of persons as mentioned in Schedule-II, without any condition or with such condition as may be specified in the notification. To assess the level of compliance, two commodities *i.e.* cooked food and capital goods for which conditional exemption were provided were selected. The results of test check are discussed as under:

2.4.25.1 The rate of tax on cooked food was 14 *per cent*. However, the State Government *vide* notification dated 9 March 2010 exempted the restaurant and hotels below three stars category from payment of tax to the extent the rate of tax exceeded five *per cent* on the sale of food cooked and served.

Information regarding hotels having bar licences issued by State Excise Department as three stars and above category hotels or heritage hotels (B-category) was collected. Scrutiny of returns submitted by these dealers for the year 2011-12 revealed that 11 dealers had paid tax at the rate of 5 *per cent* instead of correct rate of tax at 14 *per cent* on cooked food. This resulted in short payment of tax of ₹ 4.39 crore besides interest of ₹ 2.02 crore and penalty of ₹ 8.77 crore. The information available on *RajVISTA* revealed that no demand was raised by the AAs at the time of assessments of these cases.

Secretary Finance (Revenue) during Exit Conference informed that a committee had been constituted for issuing status certificates to hotels.

2.4.25.2 The State Government *vide* notification dated 27 August 2008 exempted from payment of tax to the extent the rate of tax exceeded five *per cent* on the purchase of capital goods, their parts and accessories by a manufacturing registered dealer subject to the condition that such purchasing dealer of the State shall furnish a prescribed declaration form to the selling registered dealer of the State.

(i) Scrutiny of the assessment records of selected circles²⁹ revealed that five dealers had sold plant and machinery as capital goods amounting to ₹ 1.97 crore at the rate of five *per cent* without obtaining prescribed declaration forms from the purchasing dealers during the period 2011-12. While finalising the assessments, the AAs did not levy the correct rate of tax

²⁹ Circles: Bhiwadi-B and Udaipur-B.

i.e. 14 per cent. This resulted in short levy of tax of ₹ 17.69 lakh besides interest of ₹ 7.43 lakh and penalty of ₹ 35.39 lakh.

(ii) Generating sets are used for generation of electricity. Thus, a selling dealer cannot sell the generating sets as capital goods against declaration forms. During scrutiny of assessment records of circle Bhiwadi-B, it was observed that a dealer (M/s Honda Motor Cycle and Scooter India Pvt. Ltd. TIN 08134201066) had purchased generating sets at the rate of five per cent from selling dealer (M/s Sudhir Power Projects Ltd., TIN 08401764617). Cross verification of these facts with the returns of the selling dealer available on *RajVISTA* revealed that the selling dealer had sold generating sets of ₹ 1.93 crore at the rate of five per cent as capital goods during the year 2011-12. Further scrutiny of DCR available on *RajVISTA* revealed that the AA (Circle Jaipur-B) did not raise demand against the selling dealer for charging lower rate of tax. This resulted in short payment of tax of ₹ 17.41 lakh besides interest of ₹ 7.31 lakh and penalty of ₹ 34.82 lakh.

The above observations revealed that the Department had not developed an effective system to check the misutilisation of declaration forms³⁰ issued by the purchasing dealers for purchase of goods at concessional rate. Further, there was no provision in the RVAT Act regarding imposition of penalty for misutilisation of declaration forms by purchasing dealer.

2.4.26 Irregular allowance of exemption from tax

As per Rule 21(1) of RVAT Rules, a dealer, who claims partial or full exemption from payment of tax on sale of goods to another dealer in the State or in the course of export of goods out of the territory of India, shall furnish declaration form/certificate prior to the date of filing of annual return. Provided that the CCT on being satisfied and after recording reasons for doing so, may by notification in the Official Gazette, extend the period of furnishing such declaration form/certificate for a period not exceeding one year. Provided further that for the assessments completed up to 30 September 2012, the dealers were allowed to furnish declaration forms/certificates up to 30 June 2013.

During test check of assessment records of selected circles³¹, it was noticed that demand of ₹ 1.15 crore was reduced during the year 2013-14 by AAs on submission of declaration forms by eight dealers after prescribed time. It was noticed that these declaration forms were accepted in-contravention of above mentioned rule. This resulted in irregular reduction of demand of ₹ 1.15 crore.

The Government replied (November 2015) that Rules had further been amended on 9 March 2015 as follows 'Provided further that for the assessment completed upto September 30, 2014 the dealer may furnish the declaration forms or certificates upto June 30, 2015'. In the light of above amendment, the declaration forms/certificates submitted during the year 2013-14 was valid. The reply was not correct as the amendment for extension of time period was

³⁰ The purchasing dealer can issue a self-printed declaration form for purchase of capital goods on concessional rate without any permission from the Department.

³¹ Circle: Bhillwara-Special, Jaipur-Special-III, Jaipur-J and Udaipur-B.

notified on 9 March 2015 and the AAs were not empowered to reduce prior to the notification the demand. Thus acceptance of declaration was incorrect. This was again pointed out to the Department and Secretary Finance (Revenue) directed the Department to prescribe a time limit for submission of declaration forms/certificates.

2.4.27 Short/Non-levy of interest

As per Section 55 of RVAT Act, where any dealer commits a default in making the payment of any amount payable by him within the specified time, he shall be liable to pay interest on such amount at 12 *per cent* per annum for the period commencing from the day immediately succeeding the date specified for such payment and ending with the day on which such payment is made.

Scrutiny of the records of selected circles³² revealed that in 408 cases, the dealers had deposited demand of ₹ 1.15 crore with delay ranging between 3 to 232 months. It was noticed that neither the dealer had deposited the interest at the time of depositing the demand nor the AAs demanded the interest for the delayed deposit of the demand even at the time of making entries in the next year's DCR. This resulted in non-raising of demand for interest of ₹ 49.55 lakh.

2.4.28 Non-monitoring of declaration required to be carried with the goods in movement for import

As per Rule 53 of RVAT Rules, a registered dealer, (i) who imports from any place outside the State, any taxable goods, as may be notified by the State Government, for sale; or (ii) who receives any taxable goods as may be notified by the State Government, consigned to him from outside the State or by way of branch transfer/depot transfer/stock transfer; or (iii) who intends to bring, import or otherwise receives any taxable goods as may be notified by the State Government, from outside the State for use, consumption, or disposal otherwise than by way of sale; shall furnish or cause to be furnished a declaration in form VAT-47, completely filled in all respect in ink and ensure that the value, date and month of use of such form shall be punched at the specified place provided for in the form. The counterfoil of the declaration form shall be retained by such dealer and its portions marked as 'Original' and 'Duplicate' shall be carried with the goods in movement. Further, the registered dealer shall submit a statement of import of goods in Form VAT-48 along with the duplicate portions of Form VAT-47 and in case the original portion of the Form VAT-47 has not been retained by any officer, it shall also be furnished along with duplicate portion of Form VAT-47 to the assessing authority along with the return.

Scrutiny of 284 VAT-47 forms used and available in the assessment records of 22 dealers of selected circles³³ disclosed that the dealers had submitted incomplete forms as shown in the following table:

³² Circle: Bhiwadi-B, Jaipur-D, Jaipur-J, Jaipur-N and Udaipur-B.

³³ Circle: Bhiwadi-B (6 dealers), Jaipur-J (6 dealers), Jaipur Special-III (5 dealers) and Pali-Special (5 dealers).

Sl. no.	Description of shortcomings	Number of dealers	Number of forms
1.	Details were not filled by the consigner	22	174
2.	Details were not filled by the transporter	19	98
3.	Dealers had not punched the value	22	254
4.	Dealers had not punched the date of the use of the forms	22	254

With a view to prevent or check avoidance or evasion of tax, check-posts were set-up by CCT at 63 places in the State. However, these check-posts were abolished with effect from 1 May 2008. Due to non-existence of any check-posts, VAT-47 form is the only control in existence to check unauthorised movement of the goods. The above VAT-47 forms declared movement of goods worth ₹ 38.08 crore. However, due to the above deficiencies, possibility of non-accounting/short accounting of goods purchased from outside the State by these dealers cannot be ruled out.

The Government replied (November 2015) that with effect from 1 July 2015, the dealer having annual turnover of ₹ 25 lakh in the year 2014-15 or any succeeding year is under obligation to generate VAT-47A through official website. Therefore, no blank or incomplete form can be generated.

The Department may monitor the declaration forms used prior to 1 July 2015 to prevent any leakage of revenue and ensure submission of statement in form VAT-48 alongwith used VAT-47 forms.

2.4.29 Internal control system

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. Monitoring is the key component of the internal control system. The existence of continuous and effective monitoring system is essential to secure the success of the internal control system. In order to ensure effective tax management, CCT issues instructions to the field formations regarding jurisdiction for assessments, scrutiny of returns, verification of ITC, business audit *etc.* However, non-adherence to such instructions by the field formation as discussed in preceding paragraphs and non-monitoring of its compliance by the higher authorities is indicative of weak control mechanism. Further, the following shortcomings were noticed:

2.4.29.1 As per Section 24 of RVAT Act, every return furnished by a registered dealer shall be subject to such scrutiny as may be determined by the CCT, to verify its correctness and if any error is detected, the assessing authority shall serve a notice in the prescribed form on the dealer to rectify the error.

It was noticed in the selected circles that no register was maintained by any AA to monitor the compliance of the notices issued to the dealers. In absence of such register, it was difficult to ensure that compliance was made by the dealers and in case of non-compliance, if any, penal action was taken.

Further, the AAs issue pre-revision notices whenever they find defects in the completed assessments. The Department had no mechanism to watch whether

any action had been taken on such notices issued by the AAs. Consequently, tax evasion by the dealers who did not comply with the notices cannot be ruled out.

Secretary Finance (Revenue) during Exit Conference directed the Department to issue all notices through the online system.

2.4.29.2 CCT issued circular (3 January 2008) and instructed AAs to maintain DCR in the prescribed form. Scrutiny of DCRs maintained by five AAs of circle Jaipur-J revealed that these AAs had kept 52 serial numbers of DCRs (2012-13 and 2013-14) blank at the time of making entries regarding assessments orders. Further, these AAs had used one serial number of DCR twice by using sub-number in case of making entries of 30 assessment orders. These irregularities put a question mark on the authenticity of the DCRs.

CCT during Exit Conference stated that presently DCRs were being maintained on *RajVISTA*.

2.4.29.3 It was noticed that there was no control mechanism to watch whether all entries of outstanding demands had been carried forward by the AAs in the DCR of the current year. During test check of DCRs (Year 2013-14 and 2014-15) of circles Jaipur-J and Jaipur-N, it was noticed that demand of ₹ 3.96 lakh outstanding in 28 cases was not carried forward in the DCRs of the next year by two AAs³⁴. This resulted in deletion of demand of ₹ 3.96 lakh from DCRs.

CCT during Exit Conference stated that presently DCRs were being maintained on *RajVISTA*.

2.4.29.4 RVAT Act provides for tax deduction at source, its timely remittance to Government account by the awarder and in case of violation of statutory provisions, penalty on the awarder. It was noticed that neither any control register nor individual files of the awarders were prescribed for monitoring the submission of monthly statement up to the year 2013. As a result, the AAs did not have any mechanism to ensure that awarders had correctly deducted TDS and deposited it in time. Thereafter, CCT issued (19 July 2013) instructions to maintain prescribed registers to monitor the awarder's liabilities. On being enquired by Audit, the prescribed registers were not provided by the selected circles³⁵ for scrutiny. It could not, therefore, be ensured whether registers were maintained by these circles or how the awarder's liabilities were ascertained by AAs.

2.4.30 Conclusion and Recommendations

VAT is a significant component of the State revenues. Any leakage of tax will have a serious impact on the Government's revenue and its ability to balance budget. A sound system for registration, assessment and collection of VAT is, therefore, essential for successful implementation of taxation system. The Department has introduced some significant changes like online filing of returns by dealers and assessment thereof, verification of ITC claims through IT module, etc. However, the following areas require special attention:

³⁴ **Circle:** Jaipur-J ACTO ward III and Jaipur-N ACTO ward III.

³⁵ **Circle:** Bhilwara-Special, Bhiwadi-B, Jaipur-D, Jaipur-J, Jaipur-N, Jodhpur-A, Jaipur-Special III, Pali Special, Nagaur and Udaipur-B.

- Mechanisms in the Department to unearth dealers who are liable for registration were inadequate. *The Government may consider incorporating a provision in RVAT Act for obligatory registration of every mining lease holder of taxable minerals and requesting the Central Excise & Customs Department to add a column in the 'bill of entry form' for TIN of the importing dealers to easily identify the importers. The Government may also consider devising a system to use information available with other departments/within the department so as to bring eligible unregistered dealers into tax net.*
- Returns formats were inadequate to capture essential details to ascertain the correct tax liability of the dealers. Further, the dealers had furnished incomplete returns or contradictory information in the returns. Enforcement of provision relating to scrutiny of returns as well as monitoring was poor. *The Government may consider modifying the prescribed format of the returns in order to make them more compatible with the provisions of the RVAT Act/Rules. The Government may also consider improving the system of RajVISTA to ensure that incomplete returns are not accepted. Till such change is made in the RajVISTA, the CCT may direct the AAs to scrutinise incomplete returns.*
- There was lack of compliance to the provision of RVAT Acts/Rules and large numbers of dealers who had collected tax were either not filing returns or filing returns with nil turnovers. *The Government may consider formulating modules in RajVISTA to check tax evasion by dealers who file returns with nil turnovers or do not file returns. The Government may also consider incorporating a provision in RVAT Rules to upload invoice-wise details of all purchases, sales, purchase returns, sales returns, credit/debit notes by dealers as provided by Commercial Taxes Department, Karnataka;*
- Business Audit being a vital part of the tax administration was neglected, as there was shortfall in conducting business audit up to 67 per cent of selected cases and 3,206 cases got time barred. *The Government may strengthen the process of Business Audit to plug leakage of revenue. It may also consider preparing a Business Audit manual to streamline the Business Audit process.*

These recommendations were also discussed during Exit Conference. The Secretary, Finance (Revenue) assured to adopt the recommendations after due examination.

2.5 Non-levy of Penalty

As per Section 10A read with Section 10(d) of the Central Sales Tax Act (CST Act), 1956, if any person, after purchasing any goods for any of the purposes specified in clause (b) of Section 8(3) fails to make use of the goods for any such purpose specified, the authority who granted to him a certificate of registration under this Act, after giving him a reasonable opportunity, may impose upon him by way of penalty a sum not exceeding one and a half times the tax leviable in respect of sale of the goods within the State.

During test check (June 2014) of assessment records of Commercial Taxes Officer, Circle B, Udaipur, it was noticed (July 2014) that a dealer (M/s The Lake Palace Hotel & Motels Pvt. Ltd.) who deals in hotel business, purchased electrical & electronic goods, furniture, lift and bath fitting accessories, etc, from other State in support of form 'C' valuing ₹ 139.58 lakh during the years 2010-11 and 2011-12. These goods were not used for the purposes as specified in clause (b) of sub-section (3) of Section 8. The dealer was, therefore, liable for a penalty of ₹ 29.31 lakh, *i.e.* one and half time of tax leviable at the rate of 14 *per cent* on these goods. The Assessing Authority while finalising the assessments (February 2013 and March 2014) of the dealer did not take any action for imposition of penalty.

The omission was pointed out to the Department (July 2014) and reported to the Government (March 2015). Government intimated (July 2015) that demand of VAT and CST of ₹ 60.29 lakh had been raised and ₹ 6.03 lakh had been recovered. Reply on remaining recovery is awaited (November 2015).

2.6 Incorrect grant of benefit of Composition Scheme to the Petroleum dealers

Government by issue of a notification dated 9 March 2007 under Section 5 of the RVAT Act, 2003 notified a Composition Scheme for registered dealers having retail outlets of petroleum companies, permitting such dealers to opt for payment of composition amount *in lieu* of tax on sale of lubricant, yellow cloth, and fan belt. According to paragraph 5.04(ii), where a dealer has failed to deposit the composition amount in the period specified, he shall be allowed to continue to avail the benefit of the scheme on fulfillment of condition that he shall deposit the whole of the amount which has become due under the scheme along with interest thereon at the rate notified under RVAT Act. Besides, he shall also deposit a late fee amounting to 25 *per cent* of the due composition amount if he deposits the due installment within three months of the due date. This late fee shall be 50 *per cent* of due amount if he deposits the due instalments after aforesaid period of three months but before 31 March of the relevant financial year, and thereafter he shall not be eligible for the benefits under the scheme.

The Government *vide* notification dated 21 June 2012, amended the above notification dated 9 March 2007 and allowed benefits of scheme to the dealers who had furnished the details of their turnover to the assessing authority for the period prior to 31 March 2011 but failed to deposit composition amount or late fee or interest before 31st March of relevant year. It was required in the amendment that the defaulting dealer shall deposit the whole of the amount which had become due under the scheme along with interest thereon at the rate

notified under RVAT Act in addition to a late fee amounting to 100 *per cent* of the due composition amount by 15 July 2012.

During test check (June 2014) of the assessment records of Commercial Taxes Officer, Circle 'C' Bhilwara for the period 2011-12 to 2013-14, it was noticed (June 2014) that five dealers who had opted for Composition scheme for registered dealers having retail outlets of petroleum companies, failed to deposit the prescribed composition amount and late fee within the specified period. Due to non-compliance of condition of the scheme, the dealers were not eligible for the benefit under the scheme. However, the Assessing Authority did not initiate action against the dealers for regular assessment under RVAT. This resulted in non-levy of differential amount of tax of ₹ 13.19 lakh and interest of ₹ 5.57 lakh.

The omission was pointed out to the Department (July 2014) and reported to Government (April 2015). The Government replied (July 2015) that demand of ₹ 13.19 lakh for tax and ₹ 7.14 lakh for interest had been raised and ₹ 10.62 lakh had been recovered. Reply on remaining recovery is awaited (November 2015).

2.7 Non-levy of Entry Tax

By issue of notifications dated 8 March 2006 and 9 March 2011 under Section 3(1) of the Rajasthan Tax on Entry of Goods into Local Area Act, 1999, the State Government specified the tax payable by a dealer in respect of the specified goods brought into any local area for consumption or use or sale, at such rates as shown in the notification.

During test check (between June 2014 and February 2015) of Entry Tax assessment records with VAT assessment records of eight Commercial Taxes Offices³⁶, it was noticed that 16 dealers purchased various goods amounting to ₹ 35.71 crore from outside the State during the period 2009-10 to 2012-13 for consumption or use in business on which entry tax was leviable. However, these dealers did not pay any entry tax. The Assessing Authority, while finalising the entry tax assessment of the dealers, failed to link the purchases made by these dealers with the purchases shown in the documents enclosed with VAT returns (Form VAT-47, 'C' form, Audit Report and VAT-10A) to levy entry tax. This resulted in non-levy of entry tax of ₹ 1.21 crore and interest of ₹ 45.41 lakh (up to March 2014).

The omission was pointed out to the Department (between July 2014 and April 2015) and reported to the Government (April 2015). The Government replied (August 2015) that demand of ₹ 1.60 crore (entry tax ₹ 71.02 lakh, interest ₹ 32.53 lakh and penalty ₹ 56.65 lakh) had been raised and ₹ 49.35 lakh had been recovered. Reply on remaining recovery is awaited (November 2015).

³⁶ CTO Spl. Pali, CTO Sikar, CTO 'B' Ajmer, CTO (WT) Bharatpur, CTO 'B' Udaipur, CTO Spl.-VII Jaipur, CTO Spl-II Bhiwadi and CTO 'C' Jaipur.