

CHAPTER-II

CHAPTER II

VALUE ADDED TAX

2.1 Tax administration

Value Added Tax (VAT) laws and rules framed thereunder are administered at the Government level by the Principal Secretary, Finance (Revenue) who is assisted by the Commissioner of Commercial Taxes (CCT), Special Commissioners, Additional Commissioners, Senior Joint Commissioners, Joint Commissioners, Deputy Commissioners and Commercial Tax Officers for administering the relevant Tax laws and rules.

2.2 Internal Audit

The Department has an Internal Audit Wing (IAW) under the charge of the CCT. This Wing was to conduct scrutiny and detect irregularities in the assessments of VAT cases as well as to check different records and registers to ascertain whether internal control system as envisaged in the Acts and Rules made thereunder were properly followed. In conducting the activities of IAW during 2013-14 CCT was assisted by one Additional Commissioner of Commercial Taxes (Addl. CCT), one Sr. Joint Commissioner (Sr.JCCT), one Joint Commissioner (JCCT) and one Commercial Tax Officer (CTO). The wing does not have any internal audit manual. The wing planned to audit six charge offices but audited only two out of total 78 auditable units (i.e. 67 charge offices, one Corporate Division and 10 Ranges) during the year 2013-14. Thus, coverage of internal audit wing during 2013-14 was only 2.56 per cent of the total auditable units which needs to be widened.

2.3 Results of audit

In 2013-14, test check of the records of 50 units relating to VAT assessments and other records showed underassessment of tax and other irregularities involving ₹ 371.33 crore in 704 cases, which fall under the following categories as given in Table – 2.1.

Table – 2.1

(₹ in crore)			
Sl. No.	Categories	Number of cases	Amount
1.	Incorrect determination of Contractual Transfer Price /turnover of sales	105	60.16
2.	Irregular allowance of transfer of goods /Input Tax Credit /remission	79	61.59
3.	Irregular allowance of compounded /concessional rate of tax	17	0.37
4.	Application of incorrect rate of tax/mistake in computation	90	22.64
5.	Non/short levy of additional sales tax /purchase tax/penalty/interest	271	121.77
6.	Others	142	104.80
Total		704	371.33

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 113.91 crore in 279 cases, of which in 247 cases involving ₹ 113.56 crore were pointed out in audit during the year 2013-14 and the rest in the earlier years. An amount of ₹ 28.47 lakh was realised in 32 cases during the year 2013-14.

A Performance Audit on “**Assessment, levy and collection of Value Added Tax from works contractors**” having money value of ₹ 237.95 crore and few illustrative cases involving ₹ 80.92 crore are discussed in the following paragraphs.

2.4 Performance Audit on “Assessment, Levy and Collection of Value Added Tax from Works Contractors”

2.4.1 Introduction

Works Contract, as per provisions of the West Bengal Value Added Tax Act, (WB VAT) 2003, means any agreement for carrying out construction, fitting out, improvement or repair of any building, road, bridge or other immovable property, or repair of any movable property. Any transfer of property in goods involved in the execution of works contract in West Bengal shall be deemed to be sale of those goods by the person making the transfer and a purchase of those goods by the person to whom such transfer is made. A contractual transfer price (CTP) towards execution of works contract in relation to any period, means the aggregate of the amount received or receivable for transfer of property in goods, used in the execution of works contract within West Bengal.

Performance Audit on “**Assessment, Levy and Collection of Value Added Tax from Works Contractors**” for the period 2008-09 to 2012-13 was taken up from April to July 2014.

Highlights

- Failure on the part of DCT to monitor deduction of tax at applicable rates from payments made to 30 works contractors with cancelled certificates of registration resulted in short deduction of tax of ₹ 0.78 crore.
(Paragraph 2.4.7.1)
- In the absence of a system for cross verification of data available with the STDS Cell with the returns/assessment status filed by 111 works contractors, the AAs failed to detect non/short disclosure of CTP with consequent evasion of tax of ₹ 5.82 crore.
(Paragraphs 2.4.7.2, 2.4.7.3 and 2.4.7.4)
- Absence of a system to detect non-deduction of tax from payments made to dealers for execution of works contracts resulted in non-deduction of tax at source of ₹ 0.65 crore.
(Paragraph 2.4.8)
- In the absence of a provision for levy of interest on delayed deposit of TDS into Government Treasury, 36 persons in 112 cases made delays

ranging between 20 days to two years and six months in deposit of tax deducted at source.

(Paragraph 2.4.9.1)

- In the absence of a provision to impose late fee on delayed submission of TDS certificates in Form 18 and scrolls in Form 19, compliance of the provisions of the Act for filing such returns within the prescribed time limit could not be enforced in 72 cases against 17 contractees.

(Paragraph 2.4.9.2)

- In assessing 45 cases of 40 works contractors for the assessment periods between 2006-07 and 2010-11, CTP was determined short of payments as per TDS allowed in assessment/returns/books of accounts resulting in short determination of CTP of ₹ 592.01 crore with consequent short levy of tax of ₹ 33.02 crore.

(Paragraphs 2.4.11.1 and 2.4.11.2)

- In assessing 17 cases of 12 dealers, deductions towards labour, service and other like charges and payments to sub-contractors were incorrectly allowed for ₹ 1,969.71 crore against deductions allowable for ₹ 606.66 crore resulting in short determination of taxable CTP of ₹ 1,361.18 crore with consequent short levy of tax of ₹ 131.62 crore.

(Paragraph 2.4.15.3)

2.4.2 Organisational Set up

The WB VAT Act, 2003 and the Central Sales Tax (CST) Act, 1956 are administered by the Directorate of Commercial Taxes (DCT) which is under the administrative control of the Principal Secretary, Finance (Revenue) Department. The overall control and superintendence of the Directorate is vested with the Commissioner of Commercial Taxes (CCT), West Bengal who is assisted by two special commissioners, 46 Additional Commissioners (Addl. CCTs), 129 Senior Joint Commissioners (Sr. JCCTs), 186 Joint Commissioners (JCCTs), 178 Deputy Commissioners (DCCTs), 515 Commercial Tax Officers (CTOs) and 1,220 Assistant Commercial Tax Officers (ACTOs). The Sales Tax Deducted at Source (STDS) cell in the office of the CCT is entrusted with the task of monitoring collection of Tax Deducted at Source (TDS) from the payments made to the works contractors by different Government and Non-Government Organisations (contractees). The STDS cell is headed by an Additional CCT and assisted by one Sr. JCCT and other sub-ordinate officers.

2.4.3 Audit objectives

The Performance Audit was conducted to seek assurance that:

- a proper mechanism existed for the identification of assesseees for the purpose of levy of tax on CTP;
- tax administration was efficient and effective in ensuring compliance with the applicable legislations and rules;
- effective internal controls were in place.

2.4.4 Scope, methodology and criteria of audit

Audit selected six⁷ out of 17 circles under the DCT and 18⁸ charge offices under them by adopting simple random sampling for the purpose of Performance Audit. Six⁹ other charge offices under an additional circle namely Kolkata (South) Circle were also selected considering the audit findings in local inspection reports. Two¹⁰ other charge offices were selected for appropriate geographical representation. Thus seven circles and 26 charge offices formed part of the Performance Audit. In addition, STDS Cell, Bureau of Investigation (BOI), Tax Recovery Officers (TRO) / Certificate Officers (CO) and Internal Audit Wing (IAW) were also selected. Audit collected information from contract awarding Government Departments, Corporations, Undertakings and Local Bodies etc. and cross verified them with the data available with the DCT. Audit findings in respect of similar issues during transaction audit also stand included in the report.

Provisions of the WBVAT Act, 2003 and West Bengal Value Added Tax Rules, 2005 (WBVAT Rules, 2005) were used as source of audit criteria for the Performance Audit. The performance audit was conducted during April 2014 to July 2014 covering the period from 2008-09 to 2012-13. Cases assessed in June 2013 in respect of assessment period 2010-11 have also been covered in the Performance Audit.

2.4.5 Acknowledgment

Audit acknowledges the co-operation of DCT in providing necessary records and information. Prior to commencement of the audit, objectives, scope, criteria and methodology etc. were discussed at an Entry Conference with the CCT and other representatives of the Directorate on 20 March 2014. Findings of the performance Audit were forwarded to the Directorate in August, 2014. The Exit Conference was held on 3 December 2014 and views of the Directorate have suitably been incorporated in the relevant paragraphs.

Audit findings

Effectiveness of the mechanism to identify and bring in potential assesseees into tax net for levy of tax on CTP

2.4.6 Absence of a system of cross verification of data with other Departments awarding contracts to identify and bring in potential assesseees into tax net.

Section 14 of the WBVAT Act, 2003 prescribes that if CTP of a dealer calculated from the commencement of any accounting year exceeds ₹ five lakh at any time within such year, he becomes liable to pay tax on all transfer of property in goods involved in the execution of works contract on and from

⁷ 24 Paraganas , Asansol , Behala, Corporate Division, Medinipur, and Siliguri.

⁸ Alipore, Asansol, Barasat, Barrackpore, Baruipur, Behala, Belgachhia, Budge Budge, Cossipore, Corporate Division, Darjeeling, Diamond Harbour, Midnapore, Purulia, Salt Lake, Siliguri, Tamuk and Ultadanga.

⁹ Ballygunge, Beliaghata, Bhowanipore, New Market, Park Street and Taltala.

¹⁰ Durgapur and Krishnanagar.

the day immediately following the day on which such CTP first exceeds ₹ five lakh. The Act provides for registration of the dealer within 30 days of the date of accrual of such liability and a penalty for failure to apply for registration.

During the course of Performance Audit, information in respect of payments made to works contractors was collected from five¹¹ divisions under the Public Works Department (PWD), two¹² divisions under the Public Works (Roads) Department (PWRD) and one¹³ Project Implementation Unit (PIU) under the West Bengal State Rural Development Agency (WBSRDA). Audit observed that 48 dealers in 63 cases¹⁴ during the period between 2008-09 and 2012-13 received payments exceeding ₹ five lakh in each financial year from the divisions / unit offices for execution of works contract. None of these works contractors were, however, found registered with the DCT. CTP of ₹ 21.53 crore remained out of tax net and as a result, there was evasion of tax of ₹ 0.71 crore.

Audit observed that the DCT did not put in place any system of cross verification of the database of the works contractor registered in other departments and undertakings of the Union and State Governments with the database of the dealers registered in the DCT. This resulted in non-detection of works contractors who had acquired eligibility for registration.

On being pointed out (July 2014), the STDS cell stated (October 2014) that the list of unregistered works contractors had been sent to respective charges and circles for necessary action.

Further, note below Section 23 of the Act provides a penalty of minimum ₹ 500 that 'can be imposed' for each month of default, the maximum penalty not exceeding ₹ 1,000. Imposition of any penalty that may act as a deterrent against non-registration by the dealers is not mandatory in that event.

The CCT in the Exit Conference (December 2014) stated that the Directorate has introduced annexure in the returns filed by the deductor and the deductee on the lines of Income Tax Department.

2.4.7 Absence of system for utilisation of data available in STDS cell in respect of Tax Deducted at Source.

Section 40 of the Act prescribes deduction of tax at source at the rate of two and four *per cent* from the registered and unregistered dealers respectively. The contractees making deduction from payments made to works contractors send copies of TDS certificates in Form 18 issued to works contractors along with scrolls in Form 19 showing therein the names and address of the works contractors with tax deducted from payments made and challans evidencing deposit of tax so deducted during the month to the STDS Cell of DCT.

In course of audit, information regarding payments made to works contractors and tax deducted at source by different contractees was collected and cross verified with the records relating to registration, returns and assessment of the

¹¹ Alipore Division, Bidhannagar Divisions-I & II, Darjeeling Division and South Sub-urban Division.

¹² 24 Paraganas Highway Division and Diamond Harbour Highway Division.

¹³ South 24 Paraganas.

¹⁴ One case = assessment for one year.

dealers in DCT. On cross verification of the data so collected, cases of evasion of tax were noticed which could have been prevented by utilising the TDS data available with the STDS cell as discussed in the following four sub paragraphs:

2.4.7.1 Non-detection of execution of works contracts by dealers with cancelled certificates of registration

Section 29 of the WBVAT Act, 2003 prescribes the conditions under which the certificates of registration of works contractors shall be cancelled.

Audit cross verified TDS details of the dealers to whom payments were made by three¹⁵ civil construction divisions under PWD, two¹⁶ divisions under PWRD, four¹⁷ divisions under Sunderban Development Board (SDB) and other three¹⁸ agencies with the dealer's registration data of DCT. Audit found that payments of ₹ 39.27 crore were made to 30 works contractors during the periods between 2009-10 and 2012-13 for execution of works contracts whose registration certificates were cancelled between June 2006 and February 2011. The divisions however made deduction of tax at the rate of two *per cent* instead of four *per cent* from payments so made to the dealers resulting in short deduction of tax of ₹ 0.78 crore. Due to non-detection of cancellation of registration certificates and subsequent non-assessment, evasion of tax by such dealers on payments so received stood at ₹ 2.03 crore.

Audit observed that though contractees in the TDS certificates sent to the STDS cell relevant information in respect of tax deducted from payments made to the works contractors, the same was not utilised by the DCT to detect execution of works contracts by dealers whose registrations had been cancelled to check evasion of tax. Misuse of cancelled certificates of registration, therefore, cannot be ruled out.

In the absence of any mechanism in the extant rules and procedures for cross verification of relevant data from all concerned departments, DCT failed to detect the cases and initiate necessary proceedings against them to prevent short deduction and evasion of tax.

On being pointed out (between February 2014 and July 2014), in seven¹⁹ charge offices where these dealers were previously registered, two²⁰ charge offices in nine cases accepted the audit observation (between April 2014 and October 2014), while five other charge offices did not furnish any reply/specific reply.

The CCT in the Exit Conference (December 2014) stated that effectiveness of the present system would be rechecked in such cases and corrective measures would be taken to prevent such short deduction of tax in respect of dealers with cancelled certificates of registration.

¹⁵ Alipur Division, Asansol Division and Barasat Division.

¹⁶ Barasat Highway Division-I and II.

¹⁷ Civil Engineering Divisions-I, II, III & IV.

¹⁸ West Midnapur Division under Irrigation and Waterways Department; WBSRDA (PIU), North 24 Parganas District and Airport Authority of India, Netaji Subhash Chandra Bose International Airport Project Division.

¹⁹ Asansol, Barasat, Budge Budge, Baruipur, Diamond Harbour, Midnapur and Salt Lake.

²⁰ Asansol and Diamond Harbour.

2.4.7.2 Evasion by registered works contractors

Rule 30(2) of the WBVAT Rules, 2005 framed under Section 114 of the WBVAT Act, 2003, read with Section 18 of the latter prescribes the manner by which tax is to be calculated in respect of works contracts on the basis of CTP.

As per information made available to audit by four²¹ civil engineering divisions under SDB, two²² divisions under PWD, two²³ under PWRD and West Midnapur Division under Irrigation & Waterways Department (I&WD), 29 works contractors registered under five²⁴ charges received payments of ₹ 12.82 crore during the period between 2008-09 and 2012-13 for execution of works contracts. The contractees deducted tax at source and also stated that they had sent the TDS certificates to the DCT. In course of audit it was found that the dealers did not furnish their returns to the respective charges. Audit calculated the amount of tax payable in these cases and the evasion of tax by the dealers was estimated at ₹ 0.58 crore (net of TDS of ₹ 0.26 crore). The assessing authorities failed to detect the evasion in the absence of a system to utilise the data available with the STDS cell by cross verification with the assessment status of the dealers.

On being pointed out (between February 2014 and July 2014), Diamond Harbour charge office accepted the audit observation (April 2014) in nine cases while other four charge offices did not furnish any reply.

Further, under the provision of Section 32 of the WBVAT Act, 2003 every registered dealer, liable to pay tax under the Act shall furnish returns within the next month from the date of expiry of each quarter, but there is no minimum penalty prescribed under the Act to enforce this provision.

The CCT in the Exit Conference (December 2014) stated that the existing system had since been corrected and with the help of a new system operational with effect from 25 August 2014, the assessing authorities at the time of assessment of cases by June 2015 in respect of assessment year 2012-13, would be able to ascertain the CTP of a works contractor from STDS details of contractors as furnished online by the contractees.

2.4.7.3 Evasion by registered works contractors making non disclosure of CTP in returns

As per information regarding payments made to contractors for execution of works contracts made available to audit by four²⁵ divisions under Public Works Department (PWD), five²⁶ divisions under Public Works (Roads) Department, four²⁷ Civil Engineering Divisions under the Sunderban Development Board (SDB), West Midnapur Division under the Irrigation and Waterways (I&W) Department, Sunderban Infrastructure Development

²¹ Civil Engineering Divisions-I, II, III & IV.

²² Alipur Division and Barasat Division.

²³ 24 Parganas Highway Division and Barasat Highway Division-I.

²⁴ Barasat, Baruipur, Behala, Diamond Harbour and Midnapur.

²⁵ Alipore Division, Asansol Division, Barasat Division and Bidhannagar Division-I.

²⁶ Barasat Highway Divisions-I & II, 24 Parganas Highway Division, Midnapore Highway Division-II and Tamluk Highway Division.

²⁷ Civil Engineering Divisions-I, II, III and IV.

Corporation, WBSRDA and the STDS Cell in respect of payments made by four²⁸ contractees, 73 works contractors registered under 16²⁹ charges received payments of ₹ 91.17 crore during the period between 2006-07 and 2012-13 for execution of works contracts and tax was deducted at source. Audit found that the dealers in their returns furnished to the respective charges, did not disclose CTP received from these contractees and filed returns as nil. The contractual transfer price as disclosed by the dealers in their returns was either accepted as correct or best judgment assessments were made that were less than the actual CTP. Evasion of tax by the dealers in these cases stood at ₹ 4.14 crore (net of TDS of ₹ 1.82 crore). The assessing authorities failed to detect the evasion in the absence of a system for cross verification of the data available with the STDS cell with the returns filed by these dealers.

On being pointed out (between February 2014 and July 2014), seven³⁰ charge offices accepted (between April 2014 and October 2014) the audit observation in 12 cases, Salt Lake charge accepted in two cases out of three while other charge offices did not furnish any reply/specific reply.

The CCT in the Exit Conference (December 2014) stated that the existing system had since been corrected and with the help of a new system operational with effect from 25 August 2014, the assessing authorities at the time of assessment of cases by June 2015 in respect of assessment year 2012-13, would be able to ascertain the CTP of a works contractor from STDS details of contractors as furnished online by the contractees.

2.4.7.4 Evasion by works contractors making short disclosure of CTP in returns

As per information of payments made to works contractors and tax deduction at source made available to audit by two³¹ civil construction divisions under PWD, two³² divisions under PWRD, WBSRDA-North 24 Paraganas District and Civil Engineering Division-II under SDB, nine works contractors registered under six³³ charges received payments of ₹ 29.33 crore during the period between 2008-09 and 2012-13 for execution of works contracts. Audit found that the dealers in their returns furnished to the respective charges, disclosed payments received from these divisions as ₹ 6.27 crore only. This resulted in short disclosure of CTP of ₹ 23.06 crore with consequent evasion of tax of ₹ 1.10 crore (net of TDS of ₹ 0.46 crore). Cross verification of the payment details sent by the contractees to STDS cell with those reflected in the returns filed by these dealers would have prevented evasion of tax.

²⁸ South Eastern Railway, Steel Authority of India Limited-Durgapur Steel Plant, Kolkata Port Trust and Kolkata Metropolitan Development Authority.

²⁹ Asansol, Barasat, Ballygunge, Barrackpore, Baruipur, Behala, Beliaghata, Bhabanipur, Diamond Harbour, Krishnanagar, Midnapur, Purulia, Salt Lake, Serampur, Taltala and Tamluk.

³⁰ Asansol, Ballygunge, Behala, Beliaghata, Bhawanipur, Krishnanagar and Purulia.

³¹ Alipore Division and Barasat Division.

³² 24 Paraganas Highway Division and Barasat Highway Division-II.

³³ Barrackpore, Behala, Beliaghata, Diamond Harbour, Purulia and Salt Lake.

On being pointed out (between February 2014 and October 2014), three³⁴ charge offices in five cases accepted (between July 2014 and October 2014) the audit observation while other three charge offices did not furnish any reply.

The CCT in the Exit Conference (December 2014) stated that the existing system had since been corrected and with the help of a new system operational with effect from 25 August 2014, the assessing authorities at the time of assessment of cases by June 2015 in respect of assessment year 2012-13, would be able to ascertain the CTP of a works contractor from STDS details of contractors as furnished online by the contractees.

2.4.8 Absence of a system to detect non-deduction of tax from payments made to works contractors

In terms of Section 40 of WBVAT Act, 2003, any person responsible for making payments to any dealer for execution of a works contract, shall at the time of payment, deduct tax at prescribed rates, on intra-State CTP arising from transfer of property in taxable goods in the execution of such works contract by him. If the person fails to deduct tax from payments made to a contractor, he shall be personally liable for such contravention and the CCT may, after giving him an opportunity of being heard, impose upon such person a penalty, not exceeding twice the amount required to be deducted and deposited by him into Government Treasury.

Audit found from the contractors' ledgers maintained in the Divisions that two³⁵ Civil Engineering Divisions under SDB made payments of ₹ 9.04 crore to two dealers on different dates between February 2008 and June 2010 for execution of works contract without making deduction of tax at source. This resulted in non-deduction of tax of ₹ 0.18 crore.

On being pointed out, the divisions involved in non-deduction of tax accepted (August 2014) the observation.

Further, in course of scrutiny of assessment case records in Bhawanipur Charge, it was noticed that a private contractee made payments of ₹ 23.48 crore to a contractor during the period 2011-12 for execution of works contract, but did not deduct tax at source. The amount of tax not deducted from payment so made to the dealer stood at ₹ 0.47 crore.

In the absence of any enabling or enforcing provision in the WBVAT Act or WBVAT Rules, DCT does not have any system in place to detect non-deduction of tax from payments made to the dealers for execution of works contracts. Hence no action could be taken under Section 40 of the WBVAT Act, 2003 against the persons who failed to deduct tax.

On being pointed out (August 2014), the DCT did not furnish any reply.

The CCT accepted the audit observation in the Exit Conference (December 2014) and stated that the Directorate has launched sustained campaign including various workshops and writing letters to the Government Departments.

³⁴ Beliaghata, Purulia and Salt Lake.

³⁵ Civil Engineering Division-I and Civil Engineering Division-II.

2.4.9 Deficiencies in administration of TDS

Section 40 of the Act and rules made thereunder provide that a person making deduction of tax at source from payments made to a works contractor, shall within 10 days from the expiry of each calendar month, deposit into Government Treasury the total amount so deducted from one or more dealers during the immediately preceding month. Such person shall, within 45 days from the date immediately after the date of expiry of the calendar month of deduction, send to the Commissioner— a scroll in Form No. 19 in respect of a month specifying therein, *inter alia*, the amount deducted and transferred or deposited from each dealer during such month, the particulars of each dealer from whose payment such amount had been deducted, number of the certificate of registration under the Act, if any, of such dealer, a copy of certificate of deduction in Form 18 and a copy of the challan evidencing deposit of tax into Government Treasury. Audit observed that there was no system in place to monitor deduction of tax at source and its timely payment by the enrolled contractees. Deficiencies in this regard arising from the Act not providing for deterrents are discussed in following two sub-paragraphs:

2.4.9.1 Levy of interest on delayed deposit of TDS

In course of Audit in the STDS Cell of the DCT, Audit noticed that 36 persons³⁶ in 112 cases deposited the tax deducted at source from the contractors during the period 2008-09 to 2011-12 with delays. In most number of cases it was observed that the delay ranged between 20 days to six months. An analysis of the delay is shown in the following table:-

Range of Delay (in months)	Number of cases
20 days to six months	94
Six months to 12 months	8
12 months to 18 months	2
18 months to 24 months	4
24 months to 30 months	4

Audit observed that unlike the provisions of levy of interest for delayed payment of tax, there is no provision in the Act for levy of interest for such delayed deposit of tax deducted at source by a person making such deductions. Such provision for levy of interest would have served as a deterrent to keeping Government money out of the treasury and in these 112 test checked cases, augmented revenue collection by ₹ 1.49 crore towards interest calculated at the rate of 12 *per cent* per annum as applicable in respect of delayed payment of tax. On being pointed out (between December 2013 and June 2014), the DCT did not furnish any reply.

The CCT in the Exit Conference (December 2014), stated that the issue comes under the jurisdiction of the legislature and therefore the matter might be brought to the notice of the Government.

³⁶ As per section 40 of the WB VAT Act, 2003 “Person” means any person responsible for paying any sum to any dealer for execution of a works contract within West Bengal.

2.4.9.2 Levy of late fee on delayed submission of TDS certificates and scrolls

Audit observed from the Daily Collection Registers of TDS certificates (Form 18) and TDS deposit scrolls (Form 19) maintained in the STDS cell that tax at source was deducted by 17 contractees in 72 cases during the period between August 2009 and October 2011. The delay in submission of scrolls in Form 19, TDS certificates and corresponding challans to the CCT in most number of cases ranged between three months to six months. An analysis of delay in submission is shown in the following table:-

Range of Delay	Number of cases
Up to three months	23
Three months to six months	33
Six months to nine months	9
Nine months to 12 months	7

Unlike the provision for levy of late fee on delayed submission of returns, there is no provision in the Act for levy of late fee on delayed submission of scrolls in Form 19 and copies of TDS certificates in Form 18.

On being pointed out (June 2014), the DCT did not furnish any reply.

The CCT in the Exit Conference (December 2014), stated that the issue comes under the jurisdiction of the legislature and therefore the matter might be brought to the notice of the Government.

Efficiency and effectiveness of tax administration in ensuring compliance with the applicable legislations and rules

2.4.10 Incorporation of interest in demand arising in garnishee proceedings under Section 60

Section 34 (1) of the WBVAT Act, 2003 provides for levy of interest on amount of tax due from a dealer where the dealer fails to make payment of any tax due after provisional or any other assessments by the date specified in the notice of demand for payment thereof. The dealer shall pay a simple interest at the rate of 12 *per cent* per annum for the period of default, calculated from the day next following the date specified in the such notice up to the day of full payment of such tax or up to the day preceding the day of commencement of proceedings under Section 55, whichever is earlier upon so much of amount of tax due from him according to such notice as remains unpaid. Further, Section 60 of the Act provides for special mode of recovery of tax, penalty and interest known as garnishee proceedings from a defaulting dealer by way of issuing a notice to any person who holds or may subsequently hold money on account of the defaulting dealer. The person is required to deposit such amount into treasury, not exceeding the amount due

from the dealer. Recovery proceedings by way of TROs³⁷ and garnishee proceedings may continue simultaneously.

Audit in Ballygunge Charge found that in two cases of a works contractor garnishee proceedings for recovery of assessed dues of ₹ 11.47 crore for the period 2008-09 and 2009-10 were initiated. Audit observed that though provisions for levy of interest for the period from due dates of payment to the day preceding the day of commencement of proceedings existed in the mode of recovery under Section 55 through TROs, there is no provision to levy such interest in the proceedings under Section 60. Had there been a provision, the Department could have raised a higher demand of ₹ 1.38 crore in form of interest in these two cases, calculated at the rate of 12 *per cent* per annum as applicable in respect of interest leviable in mode of recovery through the TROs.

On being pointed out (June 2014), the charge office replied (June 2014) that there was no provision in the Act to levy interest for the intervening period in garnishee proceedings.

2.4.11 Incorrect determination of CTP

In terms of Section 2(10) of the Act, CTP in relation to any period, is the amount received or receivable by a dealer in respect of transfer of property in goods in the execution of any works contract.

Sections 14 and 18 of the WBVAT Act prescribe that any transfer of property in goods involved in the execution of works contract shall be deemed to be a sale by the person making such transfer and tax at prescribed rates shall be levied on his CTP after allowing deductions towards labour charges, service charges and payments to sub-contractors etc. Further, where the taxable CTP for application of proper rate of tax is not ascertainable from the books of accounts maintained by the dealer or where a dealer does not maintain books of accounts worthy of credence, tax on CTP should be assessed according to the table given under Rule 30(2) of the WBVAT Rules, 2005.

.4.11.1 CTP determined short of payments as per TDS allowed in assessment.

Scrutiny of assessment case records in 11³⁸ charge offices for the assessment periods between 2008-09 and 2010-11 revealed that the AAs in 30 cases of 25 dealers allowed tax credit of ₹ 22.29 crore on the basis of TDS certificates produced by the dealers. As the tax was deducted at the rate of two *per cent* from payments made to the dealers, the CTP calculated from this would amount to ₹ 1,114.61 crore. In assessing the cases between June 2011 and June 2013, the AAs, however, determined CTP for the purpose of assessment at ₹ 952.54 crore only. This resulted in short determination of CTP of ₹ 162.07 crore with consequent short levy of tax by ₹ 12.58 crore.

³⁷ Tax Recovery Officer appointed by the State Government for recovery of net tax or any other tax, late fee, interest or penalty.

³⁸ Alipore, Asansol, Ballygunge, Bhawanipore, Corporate Division, Krishnanagar, Midinapore, Purulia, Salt Lake, Siliguri and Ultadanga.

On being pointed out, nine³⁹ charge offices in 17 cases accepted (between April 2014 and October 2014) the audit observation, of which in nine cases the AAs stated that proposal for revision had been sent to the higher authorities. In the remaining 13 cases, five charge offices did not furnish reply/specific reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

2.4.11.2 CTP determined short of payments disclosed in returns/books of accounts

Audit found in nine⁴⁰ charge offices that CTP of 15 dealers in 15 cases as per books of accounts/returns and other statements submitted by the dealers for the assessment periods between 2006-07 and 2010-11 stood at ₹ 739.79 crore. In assessing the cases between June 2009 and June 2013, the AAs however determined CTP at ₹ 309.88 crore. This resulted in short determination of CTP of ₹ 429.91 crore with consequent short levy of tax of ₹ 20.44 crore.

On being pointed out, seven⁴¹ charges in eight cases accepted (May 2014 and October 2014) the audit observation, of which in six cases the AAs stated that proposal for revision had been sent to the higher authorities. In the remaining seven cases, four charge offices did not furnish any reply/specific reply.

2.4.12 Non assessment of tax on CTP

In terms of Section 2(57) read with Section 2(10) of the WBVAT Act, receipts from transfer of property in goods involved in repairs of machinery affixed to an immovable property and job works shall be treated as CTP of a dealer in execution of works contract. Further, under Section 48 of the Act, a dealer who has been liable to pay tax under the Act in respect of any period but has failed to get himself registered or has not been registered, the CCT shall determine to the best of his judgment the amount of tax payable by the dealer in respect of such period.

Scrutiny of assessment case records, profit and loss accounts and TDS certificates in Corporate Division revealed that three trading dealers in three cases received payments of ₹ 4.05 crore in 2007-08 for works that fall under the above categories. While assessing the cases between May 2010 and June 2010, the AAs in two cases failed to detect CTP of ₹ 2.94 crore and in another case the AA determined CTP at ₹ 1.10 crore but did not levy tax thereupon. Further, in assessing a case of a dealer in Belgachhia Charge for the assessment period 2010-11, tax on CTP of ₹ 0.97 crore for the pre-registration period was not assessed. This resulted in non- assessment of tax of ₹ 0.37 crore.

³⁹ Alipore, Asansol, Ballygunge, Bhawanipore, Krishnanagar, Purulia, Salt Lake, Siliguri and Ultadanga.

⁴⁰ Asansol, Ballygunge, Cossipore, Corporate Division, Darjeeling, Durgapur, Midnapore, Salt Lake and Siliguri.

⁴¹ Asansol, Ballygunge, Cossipore, Darjeeling, Durgapur, Salt Lake and Siliguri.

On being pointed out, Belgachhia Charge accepted (August 2014) the audit observation and stated that notice for initiation of assessment proceedings under Section 48 had been issued to the dealer, while Corporate Division did not furnish any reply.

2.4.13 Incorrect determination of taxable CTP due to incorrect categorisation of works contracts

Under Section 18(3) of the Act, where taxable CTP for application of proper rates of tax are not ascertainable from the books of accounts and records maintained by the dealer or where a dealer does not maintain books of accounts and records worthy of credence as found by the assessing authority or the auditing authority, the taxable CTP and the application of proper rates of tax thereon, shall be determined under Rule 30(2). The Section provides different weights to be given to components of works contracts in respect of different categories of work for the purpose of determination of tax, altering the effective rate of tax according to such categorisation.

Audit found in seven⁴² charge offices that in 19 cases assessed between June 2011 and June 2013 for the assessment periods between 2008-09 and 2010-11, the AAs wrongly categorised the types of works contracts which resulted in short levy of tax by ₹ 6.51 crore.

On this being pointed (between October 2013 and July 2014), the four⁴³ charge offices in six cases accepted (between December 2013 and September 2014) the audit observation, of which in two cases the AAs stated that proposal for revision had been sent to the higher authorities. In the remaining 13 cases, seven⁴⁴ charge offices did not furnish reply/ specific reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

2.4.14 Incorrect determination of tax under composition scheme⁴⁵

Under Section 18(4) and rules made thereunder, a registered dealer engaged in the business of works contract, may, at his option, pay tax at compounded rate of two *per cent* of the aggregate amount of the CTP in lieu of tax payable by him on the taxable CTP at the prescribed rates. A dealer opting to pay tax at compounded rate shall be eligible to exercise his option for a maximum period of one year only at a time. The dealer shall communicate such option in Form 16 to the appropriate authority as prescribed under the Act within 90 days from the date of commencement of the year. The dealer opting to pay tax at compounded rate however shall not be eligible for making sale under CST Act, 1956. The dealer is also not eligible for reselling goods in West Bengal.

⁴² Asansol, Ballygunge, Darjeeling, Durgapur, Park Street, Salt Lake and Tamluk.

⁴³ Ballygunge, Durgapur, Park Street and Salt Lake.

⁴⁴ Asansol, Ballygunge, Darjeeling, Durgapur, Park Street, Salt Lake and Tamluk.

⁴⁵ A dealer under composition scheme opt to pay tax at the rate of two *per cent* of the aggregate contractual transfer price subject to conditions and restrictions as prescribed under the Act instead of paying tax applicable for goods used in execution of works contract.

2.4.14.1 Payment of tax at compounded rate by dealers engaged in resale

Audit found in two⁴⁶ charges that in assessing two cases between June 2012 and July 2012 for the assessment period 2009-10, the AAs assessed tax of ₹ 0.04 crore at compounded rate instead of ₹ 0.16 crore at the rates specified under Section 18(1) of the Act on CTP of ₹ 2.09 crore though the dealers were not eligible for such benefit as they were engaged in reselling of goods. This resulted in short levy and consequent short payment of tax of ₹ 0.12 crore.

After audit pointed out the cases (April 2014 and July 2014), Beliaghata Charge accepted the audit observation and stated that proposal for revision had been sent (September 2014) to the higher authority, while Midnapore charge did not furnish any reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

2.4.14.2 Non/delayed-exercise of option for payment of tax at compounded rate

Scrutiny of assessment case records in seven⁴⁷ charge offices revealed that in assessing 29 cases of 26 dealers between June 2011 and June 2013 for the assessment periods between 2008-09 and 2010-11, the AAs levied tax of ₹ 1.00 crore at compounded rate instead of ₹ 3.72 crore at the rates specified under Section 18(1), on CTP of ₹ 50.47 crore, though 21 dealers in 24 cases did not exercise their option in Form-16 while five dealers in five cases did not furnish Form 16 within the prescribed time limit for payment of tax under composition scheme. This resulted in short levy of tax of ₹ 2.72 crore.

On being pointed out (between April 2014 and June 2014), four⁴⁸ charge offices in five cases accepted (between April 2014 and August 2014) the audit observation and informed that action were being taken to reopen the cases. In the remaining 24 cases, the five charge offices did not furnish reply/specific reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

2.4.15 Incorrect determination of taxable CTP due to incorrect allowance of deduction

Section 18 of the Act provides for determination of the CTP chargeable to tax after the allowed deductions. Deductions are allowed in respect of contractual transfer of goods, charges towards labour, service and other like charges, payments to sub-contractors engaged by the dealer for execution of works contract etc.

⁴⁶ Beliaghata and Midnapore.

⁴⁷ Asansol, Ballygunge, Belgachhia, Darjeeling, Diamond Harbour, Durgapur and Midnapore.

⁴⁸ Asansol, Ballygunge, Belgachia and Diamond Harbour.

A dealer claiming deduction towards payment to sub-contractors from CTP, is required to furnish evidence to prove that the sub-contractors engaged by him for execution of works contract are registered dealers, that the amounts claimed for deduction were included in the returns of the sub-contractors and that tax under Section 18(1) was paid by them. Under Section 40, the dealer is also required to deduct, at the time of payment to sub-contractors, an amount towards payment of tax leviable on intra-State CTP, arising from transfer of property in taxable goods in execution of such works contract by him. The amount so deducted from one or more sub-contractors during the month shall be deposited within 10 days from the expiry of the month in which tax was deducted. The person who deducts and deposits the amount towards payment of tax in respect of works contract shall, within 15 days from the date of deposit, issue a certificate of deduction in Form 18 in respect of such dealer.

Further, where a dealer does not maintain proper books of accounts, or the accounts maintained by him are not worthy of credence, and the amount actually incurred towards deductible charges are not ascertainable, the taxable CTP shall be determined in accordance with Rule 30(2).

2.4.15.1 Incorrect allowance of deduction towards labour, service and other like charges.

In 15⁴⁹ charge offices, 29 dealers in 34 cases in their returns/statements filed for the periods of assessment between 2007-08 and 2010-11 claimed deduction towards labour, service and other like charges of ₹ 273.01 crore from CTP of ₹ 548.91 crore. In assessing the cases between June 2011 and June 2013 the AAs allowed deduction for ₹ 256.50 crore. On scrutiny of assessment case records of the dealers, Audit found that the dealers did not furnish evidences/books of accounts in 12 cases, whereas in remaining 22 cases AAs did not consider the supporting documents. Audit observed that dealers were eligible for deduction of only ₹ 112.39 crore as per the provisions of the Act. Thus, due to incorrect allowance of deduction taxable CTP was determined short by ₹ 144.11 crore with consequent short levy of tax of ₹ 15.04 crore.

On being pointed out, nine⁵⁰ charge offices in 15 cases accepted (between May 2014 and October 2014) the audit observation, of which in 11 cases the AAs stated that proposal for revision had been sent to the higher authorities. In the remaining 19 cases, eight charge offices did not furnish reply/specific reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

⁴⁹ Asansol, Ballygunge, Baruipur, Belgachhia, Budge Budge, Corporate Division, Cossipore, Darjeeling, Durgapur, Krishnanagar, Midnapore, Park Street, Salt Lake, Siliguri and Ultadanga.

⁵⁰ Asansol, Ballygunge, Cossipore, Darjeeling, Krishnanagar, Park Street, Salt Lake, Siliguri and Ultadanga.

2.4.15.2 Incorrect allowance of deduction towards payment to sub-contractors

Scrutiny of assessment case records in eight⁵¹ charges, 17 dealers in 20 cases for the periods of assessments between 2007-08 and 2010-11 claimed deduction towards payment to sub-contractors of ₹ 389.13 crore which was allowed for deduction by AAs from the CTP of ₹ 915.80 crore. Audit found that the dealers in support of their claims for deduction of ₹ 235.92 crore did not furnish the necessary evidence in respect of payments made to sub-contractors and also disclosure of the CTP by sub-contractors in their respective returns. The incorrect allowance of deduction of ₹ 235.92 crore resulted in short levy of tax of ₹ 14.48 crore.

On being pointed out, five⁵² charge offices in 12 cases accepted (between May 2014 and October 2014) the audit observation, of which in eight cases the AAs stated that proposal for revision had been sent to the higher authorities. In the remaining eight cases, four⁵³ charge offices did not furnish any reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

2.4.15.3 Incorrect allowance of deduction towards labour, service and other like charges and payment to sub-contractors

In six⁵⁴ charge offices, 12 dealers in 17 cases in their returns/statements for the assessment periods between 2006-07 and 2010-11, disclosed their CTP at ₹ 2,663.42 crore, of which claims for deduction towards labour, service and other like charges and payment to sub-contractors stood at ₹ 1,392.08 crore and ₹ 527.90 crore respectively. In assessing the cases between June 2009 and June 2013, the AAs determined CTP at ₹ 2,663.42 crore of which labour, service and other like charges and payment to sub-contractors for deduction from CTP was determined at ₹ 1,969.71 crore. After allowing the deductions, taxable CTP was determined at ₹ 669.04 crore.

Scrutiny of records however revealed that the dealers in support of their claims for deduction towards labour, service and other like charges did not furnish books of account/statement of labour charges /Annexure etc. As to claim for deduction towards payment to sub-contractors, the dealers did not furnish any evidence to prove that the sub-contractors filed their returns to their respective charge offices, disclosed the payments as claimed for deduction in the returns and paid tax on payments so received by them. These deductions hence were not allowable.

In the absence of evidence, dealers were eligible for deduction of ₹ 606.66 crore only as against deduction of ₹ 1,969.71 crore allowed by the AAs. The incorrect deduction of labour, service, and other like charges and payment to

⁵¹ Ballygunge, Baruipur, Belgachhia, Corporate Division, Durgapur, Park Street, Siliguri and Ultadanga.

⁵² Ballygunge, Durgapur, Park Street, Siliguri and Ultadanga.

⁵³ Ballygunge, Barrackpore, Baruipur and Corporate Division .

⁵⁴ Baruipur, Belgachhia, Corporate Division, Durgapur, Siliguri and Ultadanga.

sub-contractors resulted in short determination of taxable CTP of ₹ 1,361.18 crore, with consequent short levy of tax of ₹ 131.62 crore.

On these 17 cases being pointed out, four⁵⁵ charge offices in five cases accepted (between August 2014 and October 2014) the audit observation, of which in two cases the AA stated that proposal for revision had been sent to the higher authority.

In the remaining 12 cases, two charge offices did not furnish reply/specific reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

2.4.16 Incorrect allowance of tax credit against tax deducted at source

In terms of Section 40 of the Act and rules made thereunder, a person making deduction of tax from payments made to a dealer for execution of works contract shall deposit the amount so deducted into Government Treasury within 10 days from the expiry of the month in which tax was deducted. The person, who deducts and deposits tax, shall within 15 days from the date of deposit issue a certificate of deduction in Form 18 in respect of such dealer. In terms of Section 32(4), where a deduction of an amount is made from payment of any sum to a dealer for execution of works contract, and such amount is deposited into Government Treasury, the deduction shall be deemed to be payment of tax by such dealer on the date of such deduction. The dealer shall furnish along with his return a copy of the certificate of deduction as a proof of such payment of tax. The dealer shall be eligible to claim the amount deducted as payment of tax in the tax period during which the certificate of deduction has been issued.

2.4.16.1 Tax credit allowed against invalid DS certificates

Scrutiny of assessment case records in four⁵⁶ charge offices revealed that in 11 cases assessed between June 2011 and June 2013 for the assessment periods from 2008-09 to 2010-11, the AAs allowed tax credit of ₹ 1.55 crore instead of ₹ 0.73 crore though dealers were not eligible for tax credit of ₹ 0.82 crore as shown below:

- In two charge offices, three dealers in six cases were allowed excess tax credit of ₹ 0.69 crore based on incomplete TDS certificates where the amount of tax deposited in Government Treasury, Challan number, date of deposit and name of the treasury were not specified;
- In two charge offices, three dealers in three cases were allowed excess tax credit of ₹ 0.08 crore against TDS certificates not covered by the periods of assessments;
- In one case, a dealer was allowed excess tax credit of ₹ 0.04 crore against TDS certificates issued to other dealers;

⁵⁵ Belgachhia, Durgapur, Siliguri and Ultadanga.

⁵⁶ Asansol, Behala, Salt Lake and Siliguri.

- In one case, a dealer was allowed excess tax credit of ₹ 0.01 crore against TDS certificate of other State.

On being pointed out, three charge offices in six cases accepted the audit observation (July 2014 and October 2014) and stated that proposals for revision of the cases were being sent to the higher authorities. In the remaining five cases, two charge offices did not furnish any reply/specific reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

.4.16.2 Incorrect allowance of tax credit against claim without TDS certificates

Audit found in seven⁵⁷ charge offices that in 10 cases assessed between June 2011 and June 2013 for the assessment periods from 2008-09 to 2010-11, the AAs allowed tax credit of ₹ 18.49 crore instead of ₹ 0.37 crore though the dealers did not furnish TDS certificates against claim of tax credit of ₹ 18.12 crore. Non-submission of TDS certificates in two cases were recorded by the AAs at the time of scrutiny of returns filed by two dealers to whom credit of TDS of ₹ 14.31 crore was allowed. This resulted in excess allowance of tax credit of ₹ 18.12 crore.

On being pointed out, four charge offices in four cases accepted (between May 2014 and September 2014) and stated that the cases were being reopened. In the remaining six cases, five charge offices did not furnish any reply/specific reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

2.4.17 Incorrect allowance of Input Tax Credit

In terms of Section 22, a registered dealer who intends to claim ITC shall for the purpose of determining the ITC, maintain accounts and all other relevant records in respect of purchases made by him in West Bengal. A registered dealer can enjoy the benefit of ITC to the extent of tax paid or payable by him on purchase of taxable goods from registered dealers in West Bengal. Any amount of ITC that remains in excess at the end of a year shall be carried over to the next year. In terms of Rule 34(5) of WB VAT Rules, 2005, every registered dealer while filing return in Form-14 shall furnish in Part-I of Annexure-B to the return, details of purchases of goods, for direct use in business, effected by the dealer in excess of ₹ 50,000 from registered or unregistered dealers within West Bengal during the return period. Further, in terms of Section 41 of the Act, every return furnished by a dealer is to be scrutinised by the AAs to ascertain that the return so furnished is complete and self-consistent and is supported by necessary documents to be furnished therewith and correctness of the calculation of ITC, reverse credit, net tax and

⁵⁷ Baruipur, Budge Budge, Corporate Division, Durgapur, Salt Lake, Siliguri and Ultadanga.

late fee payable, if any, including proper rate of tax applicable and interest payable according to such return.

2.4.17.1 ITC allowed without verifying purchase documents

Audit in three⁵⁸ charge offices found that three dealers in three cases assessed between June 2011 and June 2013 claimed ITC of ₹ 1.86 crore for the assessment periods between 2008-09 and 2010-11 neither furnished any evidence in respect of purchases made by them in West Bengal nor furnished Part-I of Annexure-B with the returns filed. In assessing the cases between June 2011 and June 2013, the AAs allowed the claims despite the fact that the returns were incomplete and inconsistent and were not accompanied by the necessary evidences of purchase from dealers in West Bengal. No evidence was available on record to indicate that the returns were scrutinised by the AAs. This resulted in incorrect allowance of ITC amounting to ₹ 1.86 crore.

On being pointed out, Durgapur and Ultadanga Charge accepted (between May 2014 and August 2014) the audit observation, while Baruipur Charge did not furnish any reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

2.4.17.2 Allowance of inadmissible claim of excess ITC brought over from previous year

Audit found in four⁵⁹ charge offices that four dealers, in their returns filed for the assessment periods between 2008-09 and 2010-11 claimed excess unadjusted ITC of ₹ 2.03 crore brought forward from the previous assessment periods. In assessing these cases between June 2011 and June 2013, the AAs allowed such claims of excess ITC brought forward without verifying the assessment orders of the previous periods. Scrutiny of the assessment case records of previous years of the concerned dealers revealed that no excess ITC was available as the entire ITC allowed by the AAs had already been adjusted with the output tax payable by the dealers in the previous years. This resulted in irregular allowance of ITC of ₹ 2.03 crore.

On being pointed out, two⁶⁰ charge offices in two cases accepted (between July 2014 and October 2014) the audit observation while two⁶¹ charge offices in two cases did not furnish any reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

2.4.18 Non-levy of interest for non-reversal of ITC

In terms of Rule 23 of WB VAT Rules, 2005 read with Section 31(A) of Act, where ITC has been availed by a registered dealer on purchases of such goods or such other purchases or purchases for which ITC is not permissible under Section 22 of the Act, the ITC for such goods shall be deducted from the ITC

⁵⁸ Baruipur, Durgapur and Ultadanga.

⁵⁹ Corporate Division, Purulia, Taltala and Siliguri.

⁶⁰ Purulia and Siliguri.

⁶¹ Taltala and Corporate Division.

of the tax period in which the relevant transactions took place. Further, in terms of Section 33(3) of the Act, if the dealer fails to do so, he shall pay a simple interest at the rate of 12 *per cent* per annum for the period commencing on the date immediately following the prescribed date of payment of net tax for such period and up to the date prior to the date of payment of net tax or, up to the date of assessment, whichever is earlier.

In two⁶² charge offices three dealers in three cases in their returns filed for the period of assessment 2009-10 to 2010-11 claimed ITC of ₹ 1.31 crore in excess of the amount admissible to them under the provisions of the Act. The dealers however neither made reversal of the ITC so claimed in their returns nor paid any interest for non reversal of the ITC. While assessing the cases between April 2012 and June 2013 also, interest was not levied. This resulted in non-levy of interest of ₹ 0.39 crore.

On this was pointed out, Belgachia Charge accepted (August 2014) the audit observation while Baruipur Charge did not furnish any reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

Other Points of Interest

2.4.19 Mistake in computation

Under the WBVAT Act, 2003, tax is to be computed at the rates applicable from time to time along with interest and penalty, if any, on the goods sold or property transferred.

Scrutiny of assessment case records in two⁶³ charge offices revealed that in assessing four cases of four dealers between June 2011 and June 2012, for the assessment periods between 2008-09 and 2009-10, the AAs determined tax at ₹ 1.58 crore instead of ₹ 1.77 crore due to incorrect computation of taxable CTP. This resulted in short determination of net tax of ₹ 0.19 crore. In another case the AA computed tax credit claimed against TDS certificates and ITC at ₹ 1.61 crore instead of ₹ 1.27 crore. This resulted in excess allowance of tax credit of ₹ 0.34 crore.

On being pointed out Baruipur charge in three cases accepted (September 2014) the audit observation and informed that the cases were being reopened. Ballygunge charge in two cases did not furnish reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

2.4.20 ITC allowed on purchases made prior to period of assessment

Audit found in Baruipur Charge that a dealer in his returns filed for the period of assessment 2009-10 claimed ITC of ₹ 0.24 core on purchases made prior to the period of assessment. In assessing the case in June 2012, the AA allowed

⁶² Baruipur and Belgachhia.

⁶³ Ballygunge and Baruipur.

the claim without making verification of the purchase documents. This resulted in irregular allowance of ITC amounting to ₹ 0.24 crore.

On being pointed out, the charge office did not furnish any reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

2.4.21 Application of incorrect rate of tax

Under Notification No. 869-F.T., dated 13 June 2011, the tax leviable at the rate of 12.5 *per cent* was enhanced to 13.5 *per cent* with effect from 15 November 2010.

In assessing two cases of two dealers under Salt Lake charge for the assessment year 2010-11, the AAs applied tax at the rate of 12.5 *per cent* instead of the revised rate of tax of 13.5 *per cent*. This resulted in under assessment of tax of ₹ 0.29 crore.

On this being pointed out, the charge office accepted (July 2014 and September 2014) the audit observation and stated that cases were being reopened.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

2.4.22 Excess allowance of tax credit

Scrutiny of assessment case records in Park Street charge revealed that in an appellate order passed in respect of a case of a dealer for the period of assessment year 2009-10, the appellate authority allowed tax credit of ₹ 0.19 crore. While modifying the assessment order of the case in consequence of that appellate order, the AA allowed tax credit of ₹ 0.70 crore instead of ₹ 0.19 crore. This resulted in excess allowance of tax credit of ₹ 0.51 crore.

After audit pointed this out, the charge office accepted (December 2013) the observation and stated that modified notice of demand had been issued.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

Effectiveness of Internal Control Mechanism

2.4.23 Internal Control Mechanism

Internal Control is an integral component of an organisation's management processes established in order to provide reasonable assurance that the organisation's operations are carried out effectively, economically and efficiently. Evaluation of Internal Control Mechanism in the administration of VAT from works contractors revealed deficiencies in the administrative, operational and monitoring controls. Internal Audit arrangements were found to be deficient and did not provide complete assurance against irregularities. Deficiencies in the internal control mechanism are discussed in the following three sub-paragraphs:

2.4.23.1 Effectiveness of Internal Audit Wing

Internal Audit wing (IAW) of the DCT is a permanent in-house mechanism for scrutinising and detecting irregularities in the assessment of VAT cases as well as checking of different records and registers in the DCT to ascertain the effectiveness of the internal control system. The IAW of the Directorate started functioning since May 1991. The IAW of the Directorate is headed by an Additional CCT who is assisted by two Sr. JCCTs and one JCCT.

Audit observed that no manual was formulated on the working procedure of the IAW. Further, there was no structured plan or any periodical target set for conducting internal audit of works contractors registered in different charge offices during the last five years. It was also noticed that there was no separate report on irregularities regarding works contractors sent to the CCT. Number of cases audited by the IAW in respect of works contractors during the last five years was not intimated to audit though called for. The IAW could not provide specific information regarding the nature of irregularities detected in assessment of tax on CTP.

The CCT in the Exit Conference (December 2014) stated that the Administrative Sr. JCCTs and Additional CCTs of the circles have been impressed upon to inspect the work of their subordinates.

2.4.23.2 Absence of a database of collection of tax from works contractors

An exclusive database of revenue realised from works contractors is essential so that the department remains vigilant about the charge offices where the works contracts are executed in large numbers and also about the nature of such contracts. No such database is maintained in the DCT, in absence of which the department cannot quantify the amount of revenue collected from works contractors.

The CCT in the Exit Conference (December 2014) did not furnish any specific reply.

2.4.23.3 Failure of internal control to check utilisation of the data available with the DCT to bring unregistered works contractors into tax net.

In terms of Section 40 of the WBVAT Act, 2003 a contractee making deduction of tax from payments made to the works contractors for execution of works contracts, shall send copies of certificates of deduction and scrolls specifying therein the names of those works contractors from whose payments deductions of tax was made in a month, to the STDS Cell of the DCT. The information can be put to use to identify unregistered works contractors who are liable for registration. In course of audit it was observed that there was no system in place in DCT to utilise this data received from various contractees to monitor CTP of unregistered works contractors and identify those who are liable for registration. No registers or records were found to have been maintained by STDS Cell of the DCT to monitor transmission of such TDS certificates to the respective charge offices on receipt of those certificates from the contractees.

The CCT in the Exit Conference (December 2014) stated that the data will be utilised for registration of potential tax assesseees with the help of a new electronic register.

2.4.24 Conclusion

The Performance Audit noticed certain system deficiencies, deficiencies in the compliance to the provisions of the Act/Rules/orders etc. The Department has no effective system to utilise data available with it to bring unregistered works contractors into the tax net. There is no correlation between the STDS cell and charge offices for cross verification of data in respect of payments disclosed in TDS certificates by contractees with CTP disclosed by dealers in their returns to prevent tax evasion, suppression of revenue and excess claims of deductions. Lack of sufficient deterrents by way of mandatory/minimum penalty, non-deduction of tax from payments made to dealers, levy of interest for delayed deposit of TDS, imposition of late fee, levy of interest for recovery proceedings under Section 60 etc. were noticed. In determining CTP of the works contractors, payments as per TDS were not taken into account. Deductions towards labour, service and other like charges and payment to sub-contractors were allowed without verifying the correctness of the claims of works contractors. Tax credit was allowed against claims without TDS/invalid TDS certificates. There were weaknesses in the internal control mechanism. There was no working manual formulated for the IAW. The internal control mechanism with regard to revenue of works contractors was not effective as there was no exclusive database of registered works contractors available with the DCT.

2.4.25 Summary of recommendations

The Government may consider following steps to detect potential assesseees and prevent tax evasions to enhance revenue from works contracts.

- Establishing system of utilising intra-departmental data to bring all eligible works contractors into the tax net;
- Developing coordination between the STDS cell and Charge offices for cross verification of data in respect of payments disclosed in TDS certificates by contractees with CTP disclosed by dealers in their returns to prevent evasion of tax;
- Make provisions like prescribing interest/late fee or imposing penalty to check delayed remittance of TDS and delayed furnishing of TDS certificates and scrolls by contractees.

Other audit observations

2.5 Short determination of turnover of sale

Sections 2(55) and 16 of the West Bengal Value Added Tax (WBVAT) Act, 2003 prescribe that turnover of sales (TOS) in relation to any period means the aggregate of the sale prices or parts of sale prices receivable by a dealer, or if a dealer so elects, actually received by the dealer during such period. A dealer is liable to pay tax at prescribed rates on the amount of such turnover after allowing permissible deductions.

Audit found in 19⁶⁴ charge offices that in 35 cases assessed/reassessed between May 2009 and June 2013 for the assessment periods between

⁶⁴ Bally, Ballygunge, Behala, Beliaghata, Bhowanipore, Burtola, Chandni Chawk, Coochbehar, Corporate Division, Durgapur, Esplanade, Howrah, Lyons Range, Maniktala, Midnapore, Park Street, Postabazar, Raiganj and Salt Lake.

2005-06 and 2010-11, the Assessing Authorities (AAs) incorrectly determined TOS at ₹ 1,100.14 crore instead of at ₹ 1,274.35 crore. This resulted in short determination of TOS by ₹ 174.21 crore and consequent short levy of tax of ₹ 10.01 crore as detailed in the following table:

Table 2.2 - Short determination of turnover of sales

(₹ in lakh)

Sl. No.	Nature of irregularity	No. of cases	TOS to be determined	TOS determined by AAs	Short determination of TOS	Short levy of tax
1.	Determination of TOS less than the TOS disclosed by dealers in their returns/books of accounts	25	76,269.28	59,811.15	16,458.13	901.11
2.	Short disclosure of opening stock compared to closing stock of previous year	2	24,102.63	23,449.22	653.41	81.67
3.	Non-inclusion of disallowed inter-state sale/high sea sale in TOS	2	350.32	290.00	60.32	4.25
4.	Non-inclusion of excise duty in TOS	1	6,521.37	6,390.18	131.19	5.25
5.	Short inclusion of sale suppressed by dealer	1	10,280.35	10,270.35	10.00	1.25
6.	Double deduction from TOS of goods returned	1	898.71	883.36	15.35	0.61
7.	Other cases	3	9,012.30	8,919.56	92.74	6.64
	Total	35	1,27,434.96	1,10,013.82	17,421.14	1,000.78

Department admitted (between September 2011 and December 2013) the audit observations in 22 cases involving ₹ 7.44 crore, but did not furnish any report on levy and realisation of tax. In the remaining 13 cases involving ₹ 2.57 crore, the Department did not furnish any reply/ specific reply (November 2014).

The cases were reported to the Government between October 2011 and January 2014 followed by reminders issued upto February 2014; no reply has been received (November 2014).

2.6 Application of incorrect rate of tax

Section 16(2) of the WBVAT Act, 2003 prescribes the rate of tax on the goods sold depending upon classification of the goods. Section 8 of the Central Sales Tax (CST) Act, 1956 provides rates of tax on sales in the course of inter-state trade or commerce.

Audit found in nine⁶⁵ charge offices that in 18 cases assessed between June 2011 and June 2013 for the assessment periods from 2008-09 to 2010-11, the AAs in 12 cases levied tax on sales of ₹ 30.61 crore at the rate of four *per cent* instead of at 12.5 *per cent* under the WBVAT Act. Out of the remaining six cases under the CST Act, in three cases the AAs levied tax on TOS of ₹ 5.25 crore at the rate of two *per cent* instead of three *per cent* for inter-state

⁶⁵ Behala, Cossipore, Durgapur, Esplanade, Howrah, Park Street, Postabazar, Salt Lake and Taltala.

sales during April and May 2008⁶⁶. In the remaining three cases the AAs levied tax on inter-state sales to unregistered dealers at the rate of two *per cent* and four *per cent* instead of four *per cent* and 12.5 *per cent* respectively on inter-state sales of ₹ 12.92 crore. Thus, application of incorrect rate of tax resulted in short levy of tax of ₹ 2.66 crore on TOS of ₹ 48.78 crore.

The Department admitted (between June 2012 and June 2013) the audit observations in 10 cases involving ₹ 66.87 lakh; but did not furnish report on levy and realisation of tax. In the remaining eight cases involving ₹ 1.99 crore, the Department did not furnish any reply/specific reply (November 2014).

The cases were reported to the Government between June 2012 and September 2013 followed by reminders issued upto February 2014; their reply has not been received (November 2014).

2.7 Irregular allowance of input tax credit

Section 22 of the WBVAT Act, 2003 prescribes that a registered dealer can avail the benefits of input tax credit (ITC) to the extent of tax paid or payable by him in respect of purchases of taxable goods from the registered dealers of West Bengal. Further ITC shall be allowed to the extent of the amount of tax paid or payable by the purchasing dealer on his purchase of taxable goods, other than such taxable goods as specified in the negative list⁶⁷.

Audit found in nine⁶⁸ charge offices that in 19 cases assessed between June 2009 and September 2012 for the assessment periods between 2006-07 and 2009-10, the AAs allowed ITC of ₹ 5.43 crore instead of ₹ 3.84 crore by incorrectly bringing forward the balance of ITC, irregular allowance of ITC for purchases made from unregistered dealers etc. This resulted in irregular allowance of ITC of ₹ 1.59 crore as detailed in the following table:

Table 2.3 – Irregular allowance of input tax credit

(₹ in lakh)

Sl. No.	Nature of irregularity	No. of cases	ITC allowed	ITC allowable	Irregular allowance of ITC
1.	ITC was brought forward though no balance ITC was available in the previous year	1	69.29	0	69.29
2.	ITC allowed on purchases made from dealers whose registrations were cancelled	6	254.68	216.43	38.25
3.	ITC allowed on purchases from non-existent dealers	1	20.79	0	20.79
4.	ITC allowed on unregistered/inter-state purchases	2	10.82	3.90	6.92
5.	ITC allowed on items not covered by the WBVAT Act/goods in the negative list etc.	4	4.15	0	4.15
6.	Other cases of excess/irregular allowance of ITC	5	183.17	163.80	19.37
Total		19	542.90	384.13	158.77

⁶⁶ The rate of tax on inter-state sales of goods to a registered dealer from April 2007 to May 2008 was three *per cent*. It was reduced to two *per cent* from June 2008.

⁶⁷ Negative list (appended to Section 22 of the WBVAT Act) is the list of goods not eligible for ITC.

⁶⁸ Armenian Street, Bhowanipore, Corporate Division, Ezra Street, Krishnanagar, Maniktala, Siliguri, Taltala and Ultadanga.

It is seen from the table above that the AAs allowed ITC to the dealers without thorough scrutiny of the accounts and without cross-checking the status/ accounts of the selling dealers.

The Department admitted (between May and September 2013) the audit observations in 10 cases involving ₹ 1.11 crore; but did not furnish any report on levy and realisation of tax. In the remaining nine cases involving ₹ 0.48 crore, the Department did not furnish any reply/specific reply (November 2014).

The cases were reported to Government between May and December 2013 followed by reminders issued upto May 2014; their reply has not been received (November 2014).

2.8 Non-imposition of penalty

Sections 22(1) and 22(4) of the WBVAT Act, 2003 provide that ITC is allowable to a registered purchasing dealer to the extent of tax paid or payable by him on purchase of taxable goods against a valid tax invoice obtained against bonafide transactions from the registered selling dealers of West Bengal. Further, Section 96(1)(c) of the Act provides that if any registered dealer has claimed excess amount of ITC but has not reversed the same to the extent of his disentitlement with the intent to reduce the amount of the net tax payable by him, the AA may impose penalty not exceeding twice the amount of tax which would have been avoided if such excess claim was not detected.

Audit found in two⁶⁹ charge offices that in three cases assessed in June 2011 and June 2012 for assessment periods 2008-09 and 2009-10, the dealers had claimed excess amount of ITC of ₹ 18.93 lakh. In one case, the AA detected that a dealer had claimed ITC by furnishing invalid Registration Certificate (RC) number of the selling dealer. The AA, subsequently, disallowed ITC claim of the dealer, but did not initiate the penal proceedings. In the remaining two cases, audit cross verified the details of the dealers from which the purchases were made, with the dealers' registration data of the Department and observed that incorrect claims of ITC were allowed on purchases made from the dealers whose RCs were cancelled. However, the AAs while assessing the cases could not detect such excess claims and consequently, could not initiate penal proceedings. Had penal proceedings been initiated, appropriate penalty could have been levied. At the maximum it would have amounted to ₹ 37.86 lakh.

The Department admitted (June 2013) the audit observations and stated that show cause notice was issued or that penal proceedings would be initiated, but did not furnish any report on further action taken for levy and realisation (November 2014).

The cases were reported to the Government in July 2013 followed by reminders issued upto February 2014; their reply has not been received (November 2014).

2.9 Non/short levy of interest

Sections 33 and 34 of the WBVAT Act, 2003 prescribe that if a dealer, who fails to deduct inadmissible ITC from the amount of ITC for a period by

⁶⁹ Colootola and Maniktala.

prescribed date or fails to make payment of the tax demanded after assessment by the date specified in the demand notice, shall be liable to pay interest at the rate of one *per cent* per month.

Audit found in 18⁷⁰ charge offices that in 55 cases assessed between June 2009 and February 2013 for assessment periods between 2005-06 and 2009-10, AAs short levied interest of ₹ 0.27 crore in three cases and did not levy interest of ₹ 10.48 crore in 52 cases where the dealers did not pay tax by prescribed/specified dates or did not deduct the inadmissible ITC while filing their returns. Although such inadmissible ITC claimed by the dealers were disallowed by the AAs during assessment, no interest for the period from the dates of filing of returns to the dates of assessment was levied. This resulted in non/short levy of interest of ₹ 10.75 crore.

After Audit pointed out the cases, the Department admitted (between February and November 2013) audit observations in 24 cases involving ₹ 1.36 crore but did not furnish any report on realisation. In the remaining 31 cases involving ₹ 9.39 crore, the Department did not furnish any reply/specific reply (November 2014).

The cases were reported to the Government between December 2012 and September 2013 followed by reminders issued upto May 2014; they did not furnish any reply (November 2014).

2.10 Non-realisation of disallowed remission

Section 118 of the WB VAT Act, 2003 prescribes that a manufacturer dealer who holds an Eligibility Certificate⁷¹ (EC) issued by the Commercial Tax Directorate may avail the benefit of remission of tax for a specified period subject to prescribed conditions and restrictions. Further, under Rule 180 of the WB VAT Rules, 2005, if the application for renewal of EC made by a dealer is rejected, the dealer shall, within 30 days from the date of the order rejecting such application, make payment of the output tax which has been remitted, pending disposal of such application.

Audit found in Corporate Division that in one case of deemed assessment in October 2010 for the assessment period 2007-08, the dealer availed the benefit of remission of tax of ₹ 52.44 crore pending disposal of the application for renewal of EC by the dealer. In April 2011, the application for renewal was rejected for non-production of books of accounts required for remission and other contraventions of the provisions of the Act and Rules. However, no action, including revision of the assessment under Section 85 of the WB VAT Act, was taken by the Department to realise the disallowed remission till the date of audit (June 2013). Thus, failure of the Department to act resulted in non-realisation of tax of ₹ 52.44 crore.

⁷⁰ Armenian Street, Bally, Behala, Beliaghata, Bhowanipore, Bowbazar, Burtola, Colootola, Corporate Division, Esplanade, Fairlie Place, Maniktala, Midnapore, Postabazar, Salt Lake, Shibpur, Strand Road and Taltala.

⁷¹ Eligibility Certificate used to be issued under Section 41 of the West Bengal Sales Tax Act 1994 defining the term and eligibility of the medium and large scale industrial units for availing the facility of remission of tax as incentive. Such certificates are annually extended under Rule 185 (1) of WB VAT Rules 2005 till the term of its validity.

The Department admitted (February 2014) the audit observation and stated that the case would be re-opened; but did not furnish report on levy and realisation of tax (November 2014).

The case was reported to the Government in December 2013 followed by a reminder issued in February 2014; their reply has not been received (November 2014).

2.11 Irregular allowance of compounded rate of tax

Rules 38(4) and 39(4) of the WBVAT Rules, 2005 prescribe that a registered dealer who intends to avail the benefit of paying tax at compounded rate⁷² in lieu of normal rate shall have to exercise such option in Form 16 before the appropriate authority within 90 days from the date of commencement of the assessment year. Rule 38(6) further provides that the appropriate authority after making enquiry is of the opinion that the dealer is not entitled to pay tax at compounded rate of tax, may after giving such dealer an opportunity of being heard, pass an order and inform the dealer within 15 days.

Audit found in four⁷³ charge offices that in one case for assessment period 2008-09 and in three deemed assessment cases for assessment periods between 2007-08 and 2009-10, the dealers paid tax of ₹ 0.74 lakh at compounded rate instead of ₹ 14.09 lakh at normal rate on TOS of ₹ 1.23 crore though the dealers were not eligible for such benefit as they had exercised the option in Form 16 after the permissible time and neither did the appropriate authorities take any decision. This resulted in short levy of tax of ₹ 13.35 lakh.

The Department admitted (between December 2012 and August 2013) the audit observations in all four cases; but did not furnish any report on realisation of tax (November 2014).

The cases were reported to Government between January and June 2013 followed by reminders issued upto February 2014; their reply has not been received (November 2014).

2.12 Short raising of demand

Rule 59 of the WBVAT Rules, 2005 prescribes that after an order of assessment is passed by an AA, such authority shall serve a demand notice in Form 27 on the dealer directing to make payment of the amount of tax, interest and penalty due, if any, by the date as may be specified in such notice.

Audit found in three⁷⁴ charge offices that in three cases assessed between May 2010 and May 2012 for assessment periods between 2007-08 and 2009-10, the AAs assessed tax and interest etc. of ₹ 35.13 lakh. AAs, however, served demand notices for ₹ 26.92 lakh only. This resulted in short raising of demand of ₹ 8.21 lakh. This was due to non/short incorporation of assessed tax/interest in the demand notices.

The Department admitted (December 2012) the audit observation in one case involving ₹ 3.03 lakh and stated that revised demand notice had been issued; but did not furnish any report on realisation. In the remaining two cases

⁷² Two *per cent* in case of registered dealers making transfer of property in goods involved in the execution of works contract and 0.25 *per cent* in case of other registered dealers.

⁷³ Asansol, Cossipore, Jalpaiguri and Krishnanagar.

⁷⁴ Baruipur, Park Street and Raiganj.

involving ₹ 5.18 lakh, the Department did not furnish any specific reply (November 2014).

The cases were reported to the Government between January 2013 and December 2013 followed by reminders issued upto February 2014; their reply has not been received (November 2014).

2.13 Non-levy of tax on stock transfer

Section 6A of the CST Act, 1956 prescribes that a dealer seeking exemption for transfer of goods from one state to another to his agents/branches has to furnish declaration in form 'F'. Otherwise, such transfer of goods is liable to be treated as inter-state sale and taxed accordingly. Production of form 'F' in support of transfer of goods has been made mandatory from June 2002.

Audit found in three⁷⁵ charge offices that in five cases assessed between May 2011 and June 2012 for assessment periods 2008-09 and 2009-10, the AAs did not levy tax on stock transfer not supported by form 'F' or on stock transfer disallowed by AAs themselves. This resulted in non-levy of tax of ₹ 42.78 lakh.

The Department admitted (between November 2012 and August 2013) the audit observations in all five cases but did not furnish report on levy and realisation of tax (November 2014).

The cases were reported to the Government between January and September 2013 followed by reminders issued upto February 2014; their reply has not been received (November 2014).

2.14 Short levy of tax due to mistake in computation

Under the WBVAT Act, 2003 tax is to be computed at rates applicable from time to time along with interest and penalty, if any, on the goods sold.

Audit found in seven⁷⁶ charge offices that in 12 cases assessed between February 2010 and August 2012 for assessment periods between 2005-06 and 2009-10, the AAs assessed tax of ₹ 4.58 crore instead of ₹ 7.03 crore due to reasons like levy of tax on TOS less than the TOS actually determined by them, or calculation of tax at the rates lower than the rates actually determined by them, and other arithmetical mistakes/omissions, etc. Such mistakes in computation resulted in short levy of tax of ₹ 2.45 crore.

The Department admitted (between December 2012 and May 2013) the audit observations in eight cases involving ₹ 1.92 crore; but did not furnish any report on realisation of tax. In the remaining four cases involving ₹ 52.88 lakh, the Department did not furnish any reply/specific reply (November 2014).

The cases were reported to the Government between January and July 2013 followed by reminders issued upto February 2014; their reply has not been received (November 2014).

⁷⁵ Bowbazar, Esplanade and Park Street.

⁷⁶ Baruipur, Corporate Division, Jalpaiguri, Park Street, Salt Lake, Serampore and Taltala