

CHAPTER-II

TAXES ON SALES, TRADE, *etc.*

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2.1 Tax administration

Entry Tax/Value Added Tax/Central Sales 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 (Department) and is assisted by 23 Additional Commissioners, 46 Deputy Commissioners (DC), 91 Assistant Commissioners (AC), 136 Commercial Taxes Officers (CTO), 405 Assistant Commercial Taxes Officers (ACTO) and a Financial Advisor (FA). They are assisted by Junior Commercial Taxes Officers (JCTO) and other allied staff for administering the relevant tax laws and rules.

The Rajasthan Value Added Tax (RVAT) Act, 2003, the Central Sales Tax (CST) Act, 1956, the Rajasthan Tax on Entry of Goods into Local Areas (RET) Act, 1999, Rules framed thereunder and notifications issued from time to time govern the levy and collection of value added tax, central sales tax and entry tax.

2.2 Internal audit

Financial Advisor is the head of the Internal Audit Wing. There were 17 internal audit parties each headed by Assistant Accounts Officer. Planning for internal audit of units is done on the basis of importance and revenue realisation.

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
2012-13	66	384	450	267	183	41
2013-14	183	414	597	287	310	52
2014-15	310	413	723	471	252	35
2015-16	252	413	665	181	484	73
2016-17	484	468	952	426	526	55

There was shortfall in conducting internal audit ranging between 35 and 73 per cent during the years 2012-13 to 2016-17.

It was further noticed that 17,417 paragraphs of internal audit were outstanding at the end of the year 2016-17. The year-wise break up of outstanding paragraphs is as under:

Year	Up to 2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	Total
Paragraphs	11,677	1,276	1,152	942	1,382	988	17,417

Non-settlement of large number of outstanding paragraphs indicates lack of monitoring and effective follow up action by the Department on the observations raised by its own Internal Audit Wing.

2.3 Results of audit

In 2016-17, test check of records of 71 units relating to VAT/Central Sales Tax/Entry Tax assessment and other records showed underassessment of tax and other irregularities involving ₹ 103.87 crore in 1,698 cases, which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1	Underassessment of tax	461	68.71
2	Acceptance of defective statutory forms	31	3.00
3	Evasion of tax due to suppression of sales/ purchase	114	13.41
4	Irregular/incorrect/excess allowance of Input Tax Credit	183	11.53
5	Other irregularities relating to		
	(i) Revenue	823	7.03
	(ii) Expenditure	86	0.19
Total		1,698	103.87

During the year 2016-17, the Department accepted underassessment and other deficiencies of ₹ 36.05 crore in 426 cases, of which 72 cases involving ₹ 1.25 crore were pointed out in audit during the year 2016-17 and the rest in the earlier years. During the year 2016-17, the Department recovered/adjusted ₹ 1.33 crore in 48 cases, of which 6 cases involving ₹ 0.05 crore pertained to the year 2016-17 and the rest to earlier years.

In one case, the Department recovered ₹ 20.84 lakh after issue of factual statement to the Government as such this case has not been discussed in the Report.

A few illustrative cases involving ₹ 53.63 crore are discussed in the succeeding paragraphs.

2.4 Inadequate utilisation of *RajVISTA* for efficient revenue collection

The levy and collection of value added tax is governed by the Rajasthan Value Added Tax Act, 2003 and the rules made thereunder. The levy and collection of entry tax is governed by the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999 (RET Act) and Rajasthan Tax on Entry of Goods into Local Areas Rules, 1999 (RET Rules) and notifications issued thereunder. By issue of notification dated 9 March 2011, the State Government specified the tax payable by a dealer in respect of notified goods brought into any local area for consumption or use or sale therein. Besides, interest is also payable for delayed payment under the Act.

The Department had introduced a web-based application *RajVISTA* for the use of departmental authorities wherein various modules were provided to facilitate collection, assessment of the tax on sale and purchase of goods and thus safeguard the revenue collection system. The *RajVISTA*, however, did not indicate the name/TIN of the dealers who were liable to pay entry tax on the notified goods. Assessing Authorities (AAs) had also not utilised the system to trace out the dealers who were registered under the VAT Act but had not paid entry tax. A few evasion prone commodities were selected by the Audit for test check. Information regarding these commodities was collected from *RajVISTA* and two selling dealers of other States for the financial years 2012-13 and 2013-14. Audit cross checked this information with the assessment records available with the Department and found short levy of entry tax and VAT amounting to ₹ 26.27 crore as discussed in the following:

2.4.1 Results of cross check disclosed that 270 dealers had imported various goods *i.e.* air conditioners, explosives, furnace oil, tyre and tubes, petcoke, high speed diesel, computers and their accessories, electrical and electronic goods, generating sets, transformers, lubricant oil, weigh bridges, HDPE bags, hydraulic excavators, cranes and loader (earth moving and mining machinery) *etc.* valuing ₹ 1,926.75 crore during the period 2012-14. These dealers had not mentioned the sale of these goods in their respective VAT returns. This indicated that the goods were not sold by the purchasing dealers. The dealers had not paid the entry tax amounting to ₹ 19.38 crore on these goods. The dealers were also liable interest of ₹ 6.17 crore.

All the information regarding purchase of goods was available on the web based application *RajVISTA* and accessible to all AAs. The AAs, however, had not utilised the information to plug the revenue leakage and imposition of entry tax. This resulted in non-levy of entry tax and interest of ₹ 25.55 crore.

The omissions were pointed out to the Department (June 2016 to July 2017) and reported to the Government (May to July 2017). The Department accepted the audit observations in 65 cases and raised demand of ₹ 18.85 crore. Out of this ₹ 0.46 crore was recovered. Position of recovery and reply for the remaining cases is awaited.

2.4.2 Scrutiny of information available on *RajVISTA* disclosed that in Circle Special-VII, Jaipur a dealer had received goods¹ valued at ₹ 9.93 crore from outside the State against CST declaration forms 'F'². Cross check of the information with returns filed by the dealer disclosed (June 2016) that the dealer had shown goods valued at ₹ 8.18 crore as received in annual VAT return for the year 2012-13. Thus, there was a difference of ₹ 1.75 crore³ between the goods received against forms 'F' and as shown in the annual return. The AA, however, while finalising (November 2014) the assessment of the dealer, could not detect the short accounting of the goods. This resulted in short levy of VAT of ₹ 24.47 lakh on goods valuing ₹ 1.75 crore and interest of ₹ 10.28 lakh (March 2016).

The omission was reported to the Government (July 2017). The Government intimated (August 2017) that demand of ₹ 36.22 lakh (tax ₹ 24.47 lakh and interest ₹ 11.75 lakh) had been raised and tax of ₹ 2.45 lakh had been recovered. Further, progress was awaited (November 2017).

2.4.3 Information available on *RajVISTA* (dealer payment search report) disclosed (December 2016) that in Circle Special-II, Bhiwadi a dealer had deposited tax amounting to ₹ 2.56 crore for the year 2012-13. The AA, however, while finalising (June 2015) the assessment of the dealer allowed adjustment of tax of ₹ 2.82 crore. This resulted in excess adjustment of tax amounting to ₹ 25.76 lakh. Besides interest of ₹ 10.82 lakh was also leviable (March 2016).

The omission was reported to the Government (March 2017). The Government intimated (April 2017) that demand of ₹ 39.16 lakh (tax ₹ 25.76 lakh and interest ₹ 13.40 lakh) had been raised. It was also intimated (June and August 2017) that ₹ 13.05 lakh has been recovered from the dealer of which ₹ 12.67 lakh was adjusted against the ITC available with the dealer and ₹ 0.38 lakh has been recovered in cash. Further progress made for recovery of the remaining amount has not been received (November 2017).

2.5 Irregular allowance of input tax credit

As per Section 18 of RVAT Act, input tax credit (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. ITC shall be allowed only after verification of the deposit of tax payable by the selling dealer. Further, as per Section 61(2) (b) of the Act, where any dealer has availed ITC wrongly, the AA shall reverse such credit of input tax and shall impose on such dealer penalty equal to double the amount of such wrong credit.

¹ Safety razor blades taxable at the rate of 14 per cent.

² CST form F: F form is issued when a dealer who claims that he is not liable to pay tax under the CST Act, in respect of any goods, on the ground that the movement of such goods from one State to another was occasioned by reason of transfer of such goods by him to any other place of his business or to his business or to his agent or principal.

³ ₹ 9.93 crore - ₹ 8.18 crore.

2.5.1 During test check of assessment records of three circles⁴, it was noticed (between August 2016 and October 2016) that five dealers (purchasing dealers) had purchased taxable goods from a selling dealer and availed ITC of ₹ 2.07 crore during the year 2012-13. The selling dealer had not deposited the tax payable despite a demand (₹ 2.70 crore) raised by the concerned AA of the selling dealer. It had intimated (June 2014) the AAs of purchasing dealers not to allow ITC to these purchasing dealers. The AAs of purchasing dealers, however, while finalising (between April 2015 to June 2015) assessment orders of the purchasing dealers, incorrectly allowed ITC amounting to ₹ 2.07 crore.

The omission was reported to the Government (July 2017). The Government intimated (September 2017) that a demand of ₹ 2.07 crore for tax and ₹ 1.10 crore for interest has been raised against the purchasing dealers. The position of recovery is awaited (November 2017).

2.5.2 Sub-section 1(e) and (g) of Section 18 of RVAT Act provides that ITC on purchase of raw material and capital goods used in manufacture of exempted goods shall not be allowed. During test check of assessment records for the year 2013-14 of Circle 'C' Jaipur, it was noticed (December 2016) that a dealer engaged in manufacture and sale of exempted goods, claimed ITC of ₹ 57.08 lakh⁵ for purchase of capital goods and raw material⁶.

Scrutiny of assessment record disclosed that the dealer used the raw material and capital goods in manufacturing of goods exempted under RVAT Act. The AA, while finalising (October 2015) the assessment of the dealer, irregularly allowed ITC instead of reversal of such wrong credit. This resulted in irregular allowance of ITC of ₹ 57.08 lakh. Besides penalty of ₹ 1.14 crore was also leviable.

The omission was reported to the Government (May 2017). The Government intimated (June 2017) that ITC of ₹ 57.08 lakh claimed by the dealer had been reversed. It was further intimated (September 2017) that a demand of ₹ 1.14 crore for penalty had been raised. The position of recovery is awaited (November 2017).

2.6 Non/short levy of tax under Central Sales Tax Act

As per Section 10 A read with Section 10 (c) of CST Act, if any person, not being a registered dealer, falsely represents when purchasing goods in the course of inter-State trade or commerce that he is a registered dealer, the authority who is competent to grant to him a certificate of registration under this Act may, after giving him a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty a sum not exceeding one and a half times of the tax⁷ on the goods. Various declaration forms are prescribed under CST Act for partial/full exemption from tax *i.e.* C, F, H, E-I

⁴ Circle: Special-III, Jaipur; Special-V, Jaipur and 'N', Jaipur.

⁵ ITC ₹ 57.08 lakh: ₹ 42.52 lakh on purchase of capital goods and ₹ 14.56 lakh for raw materials used in manufacturing of exempted goods.

⁶ The dealer dealt in building stone, grit and gitti as per the registration certificate which are exempted goods.

⁷ Tax which would have been levied under sub-section (2) of Section 8 in respect of the sale of the goods to the dealer if the sale had been a sale falling within that sub-section.

and E-II etc. However, if the dealer did not furnish required declaration forms partial/full exemption of tax would not be allowed.

Further as per sub-rule (20) of Rule 17 of CST (Rajasthan) Rules, 1957, read with Section 67 of RVAT Act, where any person knowingly prepares or produces false accounts, sales and purchase invoices, or knowingly furnishes false returns in relation to his business or in any declaration required to be filed under this Act he shall, on conviction by a Judicial Magistrate having jurisdiction, be punishable with simple imprisonment for a term which may extend up to six months and also be liable to fine.

2.6.1 As per Section 8 of the CST Act, every registered dealer who sells goods in the course of inter-State trade to another registered dealer shall pay tax at the concessional rate of two *per cent* with effect from 1 June 2008, provided that the sales are supported by declaration in form 'C'; otherwise tax is leviable at the rate applicable to the sale or purchase of such goods inside the State. As per RVAT Act, goods-'Bitumen' was chargeable at the rate of 14 *per cent*.

During test check of the records of Circle B, Bikaner, it was noticed (November 2016) that during the year 2013-14 a dealer sold/transferred Bitumen amounting to ₹ 5.73 crore in the course of inter-State trade without submitting mandatory CST declaration forms in support of the aforesaid transactions. The AA, however, while finalising (March 2016) the assessment of the dealer applied incorrect rate of tax at the rate of five *per cent* instead of 14 *per cent*. This resulted in underassessment of tax of ₹ 51.61 lakh, besides interest of ₹ 15.48 lakh (March 2016) as detailed below:

(₹ in crore)

Sl. No.	Type of sale under CST Act and name of required Form	Amount of transactions for which CST declarations forms were not submitted	Rate of tax applied by the AA	Rate of tax short applied	Under assessment of tax
1	Section 8(1) Form 'C'	1.13	5	9	0.10
2	Section 6(A) Form 'F'	0.18	5	9	0.02
3	Section 6(2) Form 'C' and 'E-II'	4.42	5	9	0.40
Total		5.73			0.52

The omission was reported to the Government (July 2017). The Government intimated (August 2017) that demand of ₹ 70.71 lakh (tax ₹ 51.61 lakh and interest ₹ 19.10 lakh) had been raised. The position of recovery is awaited (November 2017).

2.6.2 During test check of assessment records of two Circles⁸, it was noticed (September 2016 and January 2017) that eight dealers had shown

⁸ Circle: A Jaipur and C Jaipur.

purchases of goods amounting to ₹ 287.84 crore from 11 States against declaration forms 'C'. The dealers had generated these forms through official website of the Department. As per returns filed by seven dealers, the purchased goods valued at ₹ 277.73 crore against declaration form 'C' were shown transferred to their branches/agents situated out of State against declaration forms 'F'. No 'F' forms had been produced in support of transactions. In another case the dealer had generated 'C' forms for goods valued at ₹ 10.11 crore but had shown nil purchases and nil turnover in his return. The Department had conducted (November 2011 to June 2015) the investigation and had found that no business activities were being carried out at the business places of these dealers. The registration certificates of all these eight dealers were cancelled (between June 2015 and July 2016) with effect from their registration date.

Scrutiny of assessment records available on *RajVISTA* disclosed that the AAs had not assessed the liability of the dealers. Neither any action was taken to levy penalty of ₹ 22.44 crore nor action was initiated to prosecute the dealers under Section 67 of the Act.

The omission was reported to the Government (Between July and August 2017). The Government intimated (August and October 2017) that prosecution under Section 67 is being initiated in these cases.

2.7 Short realisation of revenue due to irregularities in assessments made by the Assessing Authorities

Test check of assessment records of three circles revealed that the AAs incorrectly finalised assessments of dealers resulting in short assessment of tax and excess grant of subsidy of ₹ 46.35 lakh and leviabale interest of ₹ 0.20 lakh as discussed in the following table:

Sl. No.	Name of Circle	Relevant provisions	Observations
1	Special-II, Bhiwadi	Rules 40(2) and 5(a) of the RVAT Rules, 2006 provides that the amount deducted in lieu of tax shall be deposited by the awarder through a challan in the Government account. A monthly statement mentioning the details of tax deducted and deposited of each contractor shall be furnished to the concerned authority within one month from the date of such deposits.	A dealer, while making payment of ₹ 4.83 crore to seven contractors for works contract, deducted an amount of ₹ 14.49 lakh as tax deducted at source (TDS) during the year 2012-13. The dealer deposited (between June 2012 and May 2013) the TDS amount in Government account and submitted the statement to the AA. The AA while finalising (June 2015) the assessment of the dealer for the year 2012-13 did not assess the liability of the dealer as awarder and adjusted the TDS amount towards the liability of regular business of the dealer. This resulted in irregular adjustment of ₹ 14.49 lakh.
The omission was reported to the Government (June 2017). The Government intimated (August 2017) that demand of ₹ 14.49 lakh had been raised. Further progress for recovery is awaited (November 2017).			

Sl. No.	Name of Circle	Relevant provisions	Observations
2	Special-III, Jaipur	Section 2 (33) of RVAT Act provides that the ITC availed in contravention of provisions of Section 18 will be reversed. Further, as per Section 17(1) of RVAT Act, the net tax payable by a registered dealer, for a tax period shall be calculated as per the prescribed formula ⁹ .	A dealer had shown output tax of ₹ 9.53 lakh and reverse tax of ₹ 18.25 lakh in annual return for the year 2012-13. The AA, however, while finalising (June 2015) the assessment levied output tax and additional tax for non-submission of prescribed forms and raised a demand of ₹ 1.30 crore, however, omitted to levy reverse tax amounting to ₹ 18.25 lakh. This resulted in short raising of demand to that extent.
The omission was reported to the Government (June 2017). The Government accepted the facts and intimated (July 2017) that demand of ₹ 27.92 lakh (tax ₹ 18.25 lakh and interest ₹ 9.67 lakh) had been raised. The position of recovery is awaited (November 2017).			
3	Special-VII, Jaipur	As per clause 4E of Rajasthan Investment Promotion Scheme-2010 (RIPS), the amount of employment generation subsidy is ₹ 15,000/18,000 per employee ¹⁰ per year of completed service. Further, as per clause 11 of the RIPS, authority competent to disburse subsidy may rectify its order with a view to rectify any mistake apparent on the record in computation of amount of subsidy under the scheme and recover the excess amount, if any, along with interest at the rate of 18 per cent per annum from such enterprise.	A dealer claimed employment subsidy of ₹ 27.26 lakh for 293 working employees. Scrutiny of subsidy records revealed that only 90 employees (85 males and 5 female employees) had worked throughout the financial year. Subsidy should have been, therefore, sanctioned for 90 employees only. The AA, however, sanctioned and disbursed subsidy as claimed by the dealer for all 293 employees. This resulted in excess grant of employment subsidy of ₹ 13.61 lakh. Further, interest of ₹ 0.20 lakh (March 2016) was also leviable.
After the case was pointed out (June 2016), the Government intimated (September 2017) that demand of ₹ 16.59 lakh (excess subsidy ₹ 13.61 lakh and interest ₹ 2.98 lakh) had been raised and ₹ 8.97 lakh had been recovered. It was also intimated that the Rajasthan Tax Board, Ajmer had stayed the recovery of remaining demand. Further, progress is awaited (November 2017).			

⁹ $T = (O+R+P) - I$ where T is net tax payable; O is amount of output tax; R is amount of reverse tax; P is the amount of tax payable under sub-section (2) of Section 4 and I is the amount of input tax.

¹⁰ ₹ 15,000 for general employee and ₹ 18,000 for woman, SC/ST employee.