CHAPTER IV: COMMERCIAL TAX

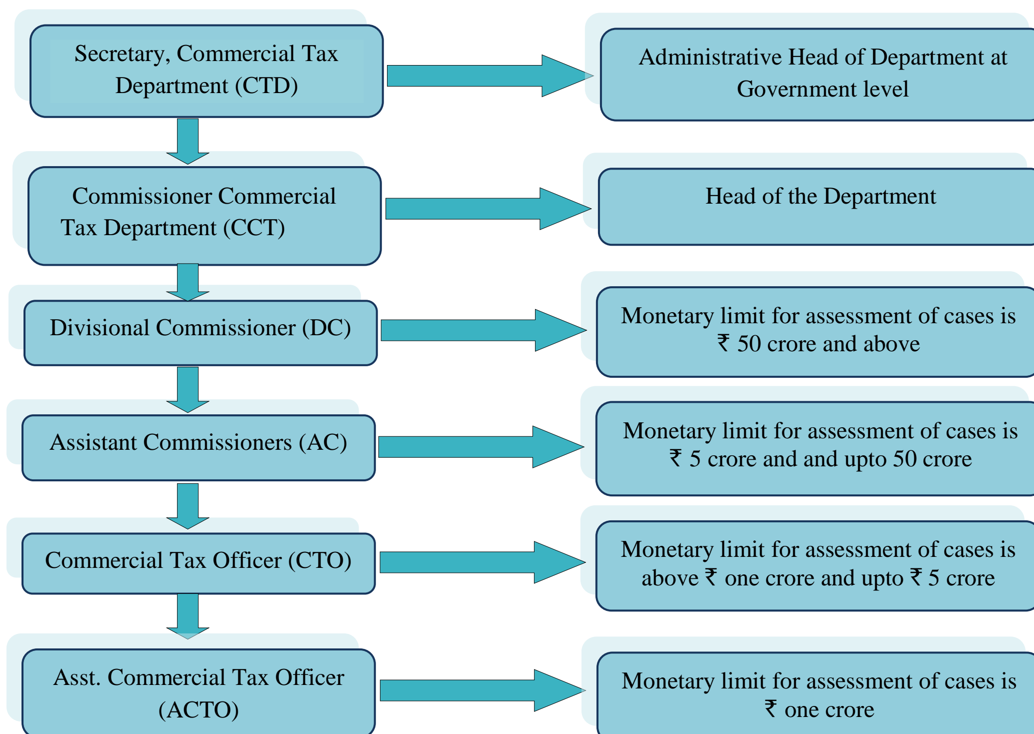
4.1 Tax administration

The Chhattisgarh Value Added Tax Act, 2005 (CGVAT Act) governs the levy, assessment and collection of Value Added Tax (VAT) in Chhattisgarh. VAT is a multi-stage tax levied at each stage of value addition chain, with a provision to allow Input tax Rebate (ITR) on tax paid at an earlier stage, which can be apportioned against the VAT liability on subsequent sale The receipts of commercial taxes are administered under the provisions of:

- Chhattisgarh Value Added Tax Act, 2005 (CGVAT Act)
- Chhattisgarh Value Added Tax Rules, 2006 (CGVAT Rules)
- Central Sales Tax Act, 1956 (CST Act)
- Central Sales Tax Rules, 1957 (CST Rules)
- Chhattisgarh Entry Tax Act, 1976 (CGET Act)
- Rules, circulars, exemptions, notifications and instructions issued by the Department and State Government from time to time.

The Commissioner of Commercial Tax (CCT) assisted by four Additional Commissioners (Addl. Commissioners), 12 Deputy Commissioners (DCs), 26 Assistant Commissioners (ACs), 72 Commercial Tax Officers (CTOs), 121 Assistant Commercial Tax Officers (ACTOs) and 174 Inspectors of Commercial Tax (CTIs) in performance of such functions as may be assigned to them under the Act. Against the above sanctioned posts, nine DCs, 20 ACs, 36 CTOs, 68 ACTOs and 95 CTIs are presently working in the Department.

Chart 4.1: Organisational setup



4.2 Internal Audit

The Internal Audit Wing (IAW) of a Department is a special vehicle of the Internal Control Mechanism and is generally defined as the control of all controls to enable an organisation to assure itself that the prescribed systems are functioning reasonable well.

Audit scrutiny of the existence of Internal Control Mechanism consisting of IAW, ITR verification mechanism revealed (October 2016) that there are four Chartered Accountants (CAs), which functions as an internal auditor at the Head Office.

The Department did not intimate the number of cases checked and the observation made by the internal auditor along with the action taken by the Department.

We recommend that the Government may strengthen the internal audit wing so that timely detection and correction of errors in levy and collection of revenue are ensured.

4.3 Results of Audit

In the course of audit of 35 out of 53 units relating to VAT/ Sales tax/Entry Tax assessments and other records we noticed short levy of tax/tax not levied, incorrect grant of exemption/deduction, application of incorrect rate of tax and other irregularities involving ₹ 131.27 crore in 402 cases, which fall under the categories as given in **Table 4.1:**

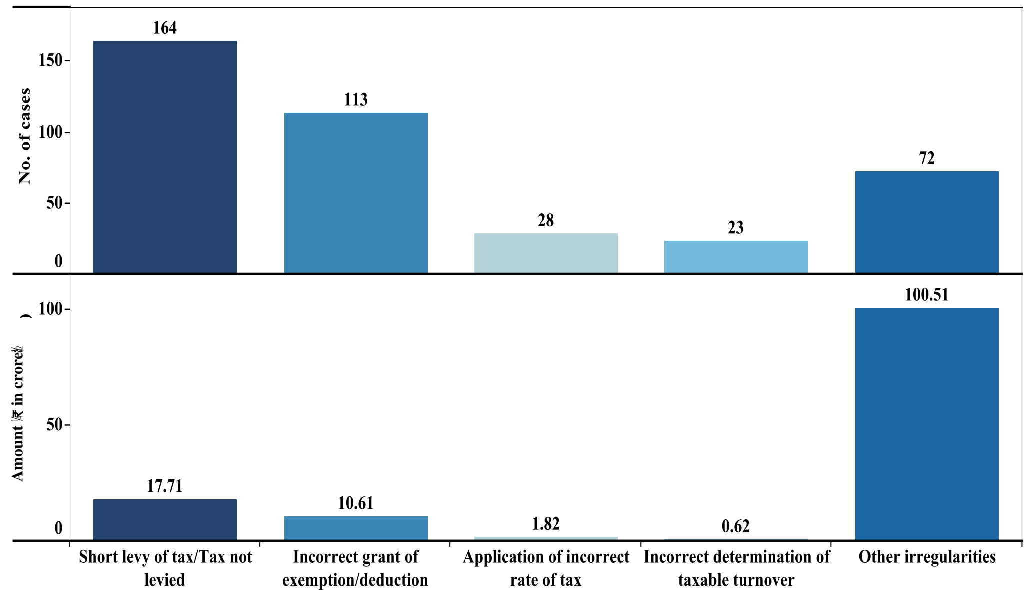
Table 4.1 Results of Audit

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1.	Short levy of tax/Tax not levied	164	17.71
2.	Incorrect grant of exemption/deduction	115	10.61
3.	Application of incorrect rate of tax	28	1.82
4.	Incorrect determination of taxable turnover	23	0.62
5.	Other irregularities	72	100.51
Total		**402**	**131.27**

The Department accepted underassessment of ₹ 4.38 crore in 61 cases and recovered ₹ 70.17 lakh in four cases.

Chart 4.2: Category-wise classification of paras



Out of the 35 units audited, 77 *per cent* of the paras raised relates to other irregularities, 13 *per cent* in respect of short levy of tax/tax not levied and eight *per cent* pertaining to incorrect grant of exemption/deduction.

After issue of Draft Paragraphs the Department recovered ₹ 3.39 lakh in one case.

Few illustrative cases involving financial impact of ₹ 14.03 crore are discussed in the following paragraphs.

Value Added Tax

4.4 Incorrect allowance of Input Tax Rebate (ITR)

The Assessing Officers (AOs) allowed ITR of ₹ 97.93 lakh, which was not in accordance with relevant provisions and rules. This resulted in incorrect/excess allowance of ITR of ₹ 13.47 lakh. Besides penalty of ₹ 1.74 lakh was also leviable.

Section 13 (1) (b) of CGVAT Act, 2005 read with Rule 9 of CGVAT Rules, 2006 provides that when a registered dealer purchases any goods specified in

part I, II and IV of Schedule II, other than those Specified in Schedule III within the State from another registered dealer after payment of input tax, for use or consumption in manufacture of any goods specified in Schedule II for sale within the State or in the course of inter-state trade or commerce, he shall be allowed the ITR. Further as per the circular (September 2013) issued by the Commissioner, Commercial Tax, Raipur, the amount received from the seller under credit note shall not form the part of sale price if the dealer submits a declaration as prescribed by the department. In cases of not submitting of prescribed declaration form, discount received shall form part of sale price.

- During test check (between October 2015 and January 2016) of 1,254 out of 2,289 assessment cases of two Commercial Tax Officers (CTOs)[1],we found that eight dealers assessed (between March 2012 and February 2015) were allowed ITR of ₹ 90.93 lakh on the purchases of ₹ 11.46 crore made between 2008-09 and 2013-14. In these cases the dealers incorrectly increased the purchase value in the annual returns as compared to the purchases mentioned in the Chartered Accountant's (CA) reports and availed an excess ITR of ₹ 6.47 lakh as detailed in ***Appendix 4.1***.

During exit conference, the Government replied (October 2016) that in seven cases amount of ₹ 5.16 lakh and penalty of ₹ 1.74 lakh have been levied on the excess ITR claimed by the dealer. In another case, the Government stated (October 2016) that the input tax claimed by the dealer was correct.

Reply is not acceptable as the dealer who receives cash discount on the purchases has to furnish prescribed declaration form as per the instruction of Commissioner *ibid* and the same was not produced at the time of assessment.

- Further in CTO-IV, Raipur, test check of 673 cases out of 1,181 cases (October 2015) revealed that a dealer availed ITR of ₹ 7 lakh on the purchases made during 2010-11. However the annual returns (Form-18) 2010-11 showed that the dealer had no turnover for the period and the goods purchased were of capital nature and were used in civil constructions. The AO did not scrutinise the cases properly and incorrectly allowed ITR of ₹ 7 lakh.

After being pointed (May 2016) out the Department replied (July 2016) that the case was being reopened under Section 22(1) of the Act.

4.5 Short levy of tax

Application of lower rate of VAT resulted in short levy of tax of ₹ 67.43 lakh. Besides penalty of ₹ 43.72 lakh was also leviable.

According to entry I of part IV of Schedule II of the CGVAT Act, all other goods not included in Schedule I and in part I, II and III of Schedule-II are taxable at the rate of 12.5 *per cent* up to December 2009 and at 14 *per cent* thereafter. Goods such as multimedia speaker, Direct-to-Home (DTH), set-top box, sports apparels and cooked food were covered under residuary entry. Further, petrol and diesel covered under Part-III of Schedule-II were taxable at 22 *per cent* upto May 2009 and 25 *per cent* thereafter.

During test check of the assessment cases of 5,372 out of 10,568 dealers, we noticed (between November 2015 and February 2016) that the Assessing

[1] CTO-II, Raipur and CTO-II, Raigarh

Officers (AOs) applied lower rate of VAT in 10 assessment cases on the turnover of ₹ 7.92 crore which resulted in short levy of tax of ₹ 67.43 lakh. Further penalty of ₹ 43.72 lakh was also leviable as mentioned in **Table 4.2**:

Table 4.2: Details of short levy of tax

Sl. No.	Name of the unit	Assessment year(Month and year of assessment)	Audit observation
1	CTO-I, Raipur	2011-12 (May 2014)	A dealer engaged in trading of sports apparels and music systems assessed for the period 2011-12, sold sports apparels of ₹ 1.26 crore, which is taxable at the rate of 14 *per cent*. However, the AO incorrectly levied tax at five *per cent* treating it as readymade garments, which resulted in short levy of tax amounting to ₹ 11.35 lakh. During Exit Conference, the Government replied (October 2016) that there is no specific entry as "sports apparel" in the Schedule and the same would be covered under "readymade garments". The reply is not acceptable as the entry no. 106 of VAT Act, 2005 states that "Sports item excluding apparels and footwear" which itself substantiates that the Sports apparel will be treated under residual entry.
2	ACCT Hqr. (Smt. Bhavana Ali), Raipur	2009-10 (January 2014)	Rate of tax on sale of petrol and diesel was 22 *per cent* up to May 2009 and at 25 *per cent* thereafter. We noticed from the quarterly returns of a dealer engaged in trading of petrol and diesel that the dealer sold goods valuing ₹ 1.44 crore for the period April and May 2009 and paid tax of ₹ 31.71 lakh at 22 *per cent*. But in the assessment order the AO had considered turnover of April and May 2009 as ₹ 3.47 crore. It is derived from the quarterly return of the dealer that ₹ 2.03 crore (₹ 3.47 crore- ₹ 1.44 crore) relates to period after May 2009.The AO wrongly determined the turnover and levied tax of ₹ 62.65 lakh at 22 *per cent*. Thus, the AO did not notice the turnover in the returns which led to short levy of tax of ₹ 6.09 lakh on the excess turnover of ₹ 2.03 crore at 3 *per cent* (25 *per cent* – 22 *per cent*). During Exit Conference, the Government accepted the fact and stated (October 2016) that demand of ₹ 6.09 lakh have been raised.
3	CTO-V, Raipur	2010-11 (Self assessment)	Annual returns (Form 18) of a dealer engaged in trading of electronic goods such as multimedia speaker, TV, refrigerator etc. revealed that the dealer had paid tax of ₹ 6.59 lakh on the sale of ₹ 1.32 crore at the rate of five *per cent*. Further scrutiny of "C" form revealed that the dealer had purchased multimedia speakers, DVD players which is covered under residuary entry of the Schedule-II and taxable at 14 *per cent*. However, the dealer wrongly paid the tax at five *per cent* in the annual returns instead of 14 *per cent* which resulted in short levy of tax of ₹ 11.88 lakh. During Exit Conference, the Government stated (October 2016) that the case would be reopened under Section 22(1).
4	CTO-I, Jagdalpur	2008-09 (April 2012) 2009-10 and	The dealer engaged in trading of DTH, set-top box had shown sale of ₹ 80.53 lakh and paid tax of ₹ 3.35 lakh at the rate of four *per cent* up to December 2009 and at five *per cent* thereafter treating it as Information Technology

		2010-11 (Self-assessment)	(IT) products. The Commissioner, Commercial tax clarified (July 2013) that sale of DTH and set-top box are covered under residuary goods and taxable at 12.5 *per cent* up to December 2009 and at 14 *per cent* thereafter. However, the AO did not observe the instructions of the Commissioner which led to short realisation of tax of ₹ 6.88 lakh. During Exit Conference, the Government replied (October 2016) that the case was reopened and the amount of ₹ 6.85 lakh and penalty amounting to ₹ 10.27 lakh for the year 2008-09 to 2010-11 have been levied.
5	CTO-II, Raipur	2008-09 (June 2013)	The dealer engaged in trading of DTH, set-top box shown had shown sale of ₹ 1.18 crore and did not pay tax treating the sale as installation and service charges. The Commissioner, Commercial tax clarified (July 2013) that sale of DTH and set-top box covered under residuary goods and taxable at 12.5 *per cent.* However, the AO did not observe the instructions of Commissioner, Commercial Tax which led to short realisation of tax of ₹ 14.74 lakh. During Exit Conference, the Government accepted (October 2016) the observation and replied (October 2016) that demand for ₹ 11.74 lakh had been raised.
6	CTO-III, Bilaspur	2007-08 (June 2011); 2008-09 (June 2013); 2009-10 (January 2014)	In three cases of a dealer who was engaged in catering, hoteling and trading of edible items purchased raw material of cooked food valuing ₹ 83.73 lakh and sold ₹ 1.32 crore of cooked food for the period 2007-08 to 2009-10. However, the AO did not levy the tax on the sales of cooked food of ₹ 1.32 crore treating it as tax-free sales while cooked food being residuary goods is taxable at 12.5 *per cent.* This resulted in short levy of tax of ₹ 16.49 lakh. During Exit Conference, the Government accepted the observation and replied (October 2016) that demand for ₹ 16.49 lakh and penalty of ₹ 33.45 lakh have been raised.

4.6 Concealment of sale led to evasion of tax

The AO did not cross verify the transactions of the dealers before assessing the tax. This has led to concealment of sale in three cases which resulted in evasion of tax of ₹ 1.11 crore. Besides penalty of ₹ 1.99 crore was also leviable.

Section 8 of CGVAT Act, 2005, provides that tax will be levied at the rate of four *per cent* upto December 2009 and five *per cent* thereafter on goods specified in Part I, II and III of Schedule II and all those goods not falling in the Part I, II and III of Schedule II will be taxed at the rate of 12.5 *per cent* upto December 2009 and 14 *per cent* thereafter. Nails and laminates being the residual items are taxable at the rate of 12.5/14 *per cent*. Petrol and diesel are taxable at the rate of 22 *per cent* up to May 2009 and 25 *per cent* thereafter. Similarly wire is taxable at the rate of four *per cent* upto 15 April 2011 and at the rate of five *per cent* thereafter. As per Section 54 (2) of CGVAT Act, 2005, the dealer shall, in addition to the tax payable by him, has to pay penalty of not less than three times and not exceeding five times of the amount of tax evaded.

During test check (between October 2015 and February 2016) of 1,716 out of 2,974assessment cases of two Commercial Tax Offices (CTO) and one ACCT,

we noticed that three dealers had concealed their turnover to the tune of ₹ 5.80 crore and resulted in evasion of tax of ₹ 1.11 crore .Besides penalty of ₹ 1.99 crore was also leviable on the evaded tax as detailed in the table below:

Table 4.3: Details of concealment of sales

(₹in lakh)

Sl. No.	Name of the unit	Assessment year(month and year of assessment)	Audit observations
1.	ACCT Hqr, (Smt. Bhavana Ali) Raipur	2009-10 (January 2014)	A dealer engaged in the business of trading of Motor Spirit (MS), High Speed Diesel(HSD), Mobil oil, Grease, Lubricants and Medicines and not bitumen had shown purchase of ₹ 2.58 crore bitumen from M/s Essar Oil Ltd. The dealer had shown the sale of bitumen as ₹ 2.99 crore (2009-10) in CA's audit report and paid tax on the same (4 *per cent* on ₹ 1.74 crore upto December 2009 and 5 *per cent* on ₹ 1.25 crore thereafter). Scrutiny of the register of details of 'C/F' forms (utilisation certificate) submitted by the dealer to the Department revealed that the dealer had mentioned the purchase of MS and HSD and not bitumen. However the bills showing the purchases of bitumen were actually the purchases of MS/HSD. Thus, the dealer had shown the sale of MS and HSD as sale of bitumen and evaded tax to the tune of ₹ 56.43 lakh (differential rate of 18 *per cent* of ₹ 1.74 crore + 20 *per cent* of ₹ 1.25 crore). The dealer is also liable to pay minimum penalty of ₹ 1.69 crore (three times of ₹ 56.43 lakh) as per Section *ibid*. During Exit Conference, the Government accepted (October 2016) the observation and replied (October 2016) that demand of ₹ 81.14 lakh had been raised and order for penalty will be issued in due course of time.
2.	CTO IV Raipur	2008-09(June 2012) 2009-10 (August 2012), 2010-11	A dealer engaged in manufacturing and trading of Hard Black (HB) wire and wire nails was assessed for the period between 2008-09 and 2010-11 had paid tax at the rate of four *per cent* for the sale of wire of ₹ 1.74 crore which was allowed by AO. Scrutiny of the CA's report of the above period revealed that the dealer had purchased wire and manufactured and sold nails valuing ₹1.74 crore using the above wire, which was taxable at 12.5/14*per cent* instead of four *per cent.* As the dealer had concealed the above facts and exhibited sale of nails as wire resulting in evasion of tax amounting to ₹ 15.24 lakh[2]. Besides penalty of ₹ 29.52 lakh was also leviable. During Exit Conference, the Government replied (October 2016) that the demand for tax amounting to ₹ 8.94 lakh and penalty of ₹ 17.89 lakh had been levied for the year 2009-10 and 2010-11. No reply regarding 2008-09 was given by the Government.
3.	CTO VIII Raipur	2009-10 (Self	A dealer engaged in the trading of laminates and plywood had shown sale of ₹ 1.03 lakh at 12.5 *per*

[2] (12.5-4)=8.5 *per cent* of ₹ 1.44 crore and (14-4)= 10 *per cent* of ₹ 0.30 crore

		assessment September 2012)	*cent* and ₹ 1.08 crore at four *per cent* respectively in Form 18 (annual statement). Further, it was noticed (December 2015) that the dealer had purchased laminates of ₹ 107.42 lakh from outside State which was taxable at 12.5 *per cent*. The dealer concealed the sale of laminates as sale of plywood taxable at the rate of four/five *per cent* instead of 12.5 *per cent* which resulted in evasion of tax of ₹ 14.83 lakh. During Exit Conference, the Government stated (October 2016) that during the period 2009-10 the rate of tax on laminates, as per notification (May 2009) was four/five *per cent* and accordingly the tax have been realised from the dealer. Reply is not acceptable as per the notification the Central Excise Tariff item 4412 pertains to "Decorative plywood" but not of laminates. Thus laminates was leviable at the rate of 12.5/14 *per cent* for the period 2009-10.

Central Sales Tax

4.7 Concessional rate of tax allowed under Central Sales Tax (CST) Act without declaration forms

The AOs allowed the concessional rate of tax without ensuring submission of declaration form "C" resulting in short levy of CST amounting to ₹ 64.80 lakh.

Section 8 of the CST Act, 1956 provides for levy of tax at the rate of two *per cent* with effect from June 2008 on interstate sales of goods made against declaration in Form "C" and further in absence of statutory forms, the dealer is liable to pay tax at the rates prescribed in the CGVAT Act, 2005. Further as per Rule 12 of Central Sales Tax (Registration and Turnover) Rules, 1957 the declaration in Form 'C' or Form 'F' or the certificate in Form 'E-I' or Form 'E-II' shall be furnished to the prescribed authority within three months after the end of the period to which the declaration or the certificates relates. As per the directions issued under section 21(2) of CGVAT, 2005 in respect of self-assessed cases by the department (November 2012), the assessing authorities should make preliminary scrutiny regarding the completeness, timeliness and correctness of information while accepting the annual statement and other documents for finalising self-assessment cases.

During test check (between March 2015 and January 2016) of 9,140 out of 15,236 assessment cases of seven[3] units, we noticed that in 14 cases of 12 dealers who were self-assessed for the financial year 2009-10 and 2010-11 had not furnished Form "C" valuing ₹ 9.77 crore in support of interstate sales and availed concessional rate of tax under CST. In absence of form "C", the dealers were liable to pay the tax at the rates prescribed in the CGVAT Act, 2005. Failure on the part of assessing authorities to make preliminary scrutiny resulted in short realisation of tax amounting to ₹ 64.80 lakh as detailed in ***Appendix 4.2.***

[3] AC-II, Durg; ACCT (Hqr.)(Smt. Bhavana Ali), Raipur; CTO-II, Raigarh; CTO-I, Raipur; CTO-II, Raipur; CTO-IV, Raipur and CTO-V, Raipur

During Exit Conference, the Government reported (October 2016) that after the case was reopened under Section 22(1) interstate transactions involving ₹ 3.24 crore was not supported with "C" forms of 11 dealers. Accordingly demand of ₹ 16.64 lakh have been raised from the dealers.

Reply is not acceptable with regard to acceptance of "C" forms as the forms enclosed was not submitted within prescribed period, details of goods not mentioned as well as some of them were not enclosed.

4.8 Exemption of tax allowed in transit sales and branch transfer under Central Sales Tax (CST)Act without statutory forms

The AOs allowed exemption of tax to the tune of ₹ 4.74 crore without submission of statutory forms "E-1/C" and "F". Further penalty of ₹ 3.94 lakh was also leviable.

Section 6(2) of the CST Act, 1956 states that in respect of transit sale (sales made during the movement of goods), selling dealers are required to furnish Form E-I/II and Form-C in support of such sale for claiming exemption from payment of tax. Further under Section 6(A) of the CST Act, consignment sale (branch transfer) shall be exempted from payment of tax on production of statutory Form-F. In the absence of E-I/II/C (transit sale) and Form "F" for consignment sale (branch transfer), the tax on these goods is leviable at the rates prescribed in the CGVAT Act and section 8 of the CST Act.

Rule 12 of Central Sales Tax (Registration and Turnover) Rules, 1957 provides that the declaration in Form 'C' or Form 'F' or the certificate in Form 'E-I' or Form 'E-II' shall be furnished to the prescribed authority within three months after the end of the period to which the declaration or the certificates relates.

4.8.1 During test check (between March 2015 and December 2015) of 1,262 out of 2,213 assessment cases in four[4] units, we found that 13 dealers did not furnish E1-C form of ₹ 117.08 crore but claimed exemptions from payment of tax on the transit sale. In absence of statutory forms, the dealers were liable to pay the tax at the rates prescribed in the CGVAT Act, 2005 and under Section 8 of the CST Act, 1956. However, the AOs without verifying the statutory forms, allowed (between August 2012 and July 2014) exemption of tax which resulted in short realisation of tax amounting to ₹ 4.70 crore as detailed in ***Appendix 4.3.***

4.8.2 Further, during the test check (December 2015) of 671 out of 1,139 assessment cases in two[5] units, we noticed that three dealers did not furnish form "F" of ₹ 99.05 lakh for branch transfer but claimed exemption from payment of tax. In the absence of form "F", the AOs should have levied tax as per rates prescribed in CGVAT Act, 2005. However, the AOs without verifying the statutory forms allowed (between November 2010 and September 2012) exemption of tax which resulted in short realisation of tax amounting to ₹ 3.96 lakh Further penalty of ₹ 3.94 lakh was also leviable as detailed in ***Appendix 4.4.***

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[4] AC-II, Durg ;ACCT (Hqr.)(Smt. Bhavana Ali), Raipur; CTO-I, Raipur and CTO-V, Raipur

[5] CTO-I, Raipur and CTO-VIII, Raipur

Thus, due to excess allowance of exemption to the dealers in inter-state transactions, tax amounting to ₹ 4.74 crore and penalty of ₹ 3.94 lakh was not levied.

During Exit Conference, the Government replied (October 2016) that cases were reopened under Section 22(1) and in 14 dealers transaction amounting to ₹ 31.39 crore and ₹ 99.05 lakh was not supported with "E1C" and "F" forms and accordingly demand of ₹ 95.61 lakh and penalty of ₹ 3.94 lakh have been raised from the concerned dealers, out of which ₹ 66.78 lakh have been recovered from three dealers.

Reply is not acceptable with regard to acceptance of "E1C" forms as the "C" forms enclosed was not submitted within prescribed period, details of goods not mentioned as well as some of them were not enclosed.

Entry Tax

4.9 Entry tax short levied/not levied due to incorrect application of rates

Application of incorrect rate of Entry Tax (ET) on the entry of the goods by the AOs resulted in short realisation of ET amounting to ₹ 4.22 crore. Besides penalty of ₹ 2.15 lakh was also leviable.

According to Section 3 of CGET Act, 1976 a dealer is liable to pay entry tax on the entry in the course of business of a dealer of goods specified in Schedule II, into each local area for consumption, use or sale therein. Further, entry tax at the rate of one *per cent* is leviable on goods specified in Schedule III entered into each local area for consumption or use but not for sale therein.

During scrutiny of the assessment records of eight units[6] we noticed (between January 2015 and February 2016) that the AOs did not apply correct rates of entry tax while assessing/filing the cases/returns as detailed in the following table:

Table 4.4: Details of Entry tax not levied/short levied

(₹ in lakh)

Sl. No.	Name of Unit	Commodity	Assessment Year (month and year of assessment or self-assessment)	Schedule/ Noti. No. & Date	Purchase value	Rate of tax leviable / levied	Tax short/not levied
1.	CTO-VIII, Raipur	Concrete sleepers, Ballast, Mild Steel Liners, Fish bolt and Fish plate etc.	2009-10 (May 2013)	III	251.00	1/0	2.51
Concrete sleepers, ballast, mild steel liners, fish bolt and fish plate etc. were consumed in							

[6] ACCT-II, Division I, Bilaspur; ACCT, Durg; ACCT (Hqrs.) (Smt. Bhavana Ali), Raipur; CTO-II, Raipur; CTO-IV, Durg; CTO-IV, Raipur; CTO-VIII, Raipur and DC, Durg

<table>
<tr><td colspan="8">construction of rail system. As these goods are covered under Schedule III of CGET Act, entry tax at rate of one per cent was leviable. However, the AO did not levy entry tax. During Exit Conference, the Government replied (October 2016) that as the contractor had purchased the item consumed in the construction of rail system were Schedule II tax-paid goods and remaining Schedule III goods were directly delivered, hence liability of payment of entry tax does not arise. The reply is not acceptable because regarding Schedule II goods the bills were not affixed "entry tax paid" and regarding Schedule III goods, the bills did not show that the goods were directly delivered.</td></tr>
<tr><td>2.</td><td>DC, Durg</td><td>Soya crude oil</td><td>2008-09 (February 2014)
2010-11 (December 2014)</td><td>III</td><td>5,976.73
18,314.89</td><td>1/0</td><td>59.77
183.15</td></tr>
<tr><td colspan="8">The dealer availed exemption from payment of entry tax on consumption of soya crude oil under exemption certificate. We scrutinised the dealer's registration certificate and found that soya crude oil was not mentioned as raw material. However, the AO did not scrutinise the registration certificate and allowed deduction on purchases and consumption of soya crude oil of ₹ 24,291.62 lakh on which entry tax of ₹ 242.92 lakh was leviable at one per cent. During Exit Conference, the Government stated (October 2016) that the case would be reopened under Section 22(1).</td></tr>
<tr><td>3.</td><td>CTO-II, Raipur</td><td>Industrial chain</td><td>2008-09 (June 2013)</td><td>II</td><td>215.00</td><td>1/0</td><td>2.15</td></tr>
<tr><td colspan="8">The AO allowed exemption from payment of entry tax on purchase of industrial chain from outside the local area treating it as Schedule III goods. As per entry no. 54 of Schedule II, industrial chain covered under 'machinery and its parts'. Entry tax of ₹ 2.15 lakh is leviable on purchase of industrial chain of ₹ 215 lakh. During Exit Conference, the Government while accepting the fact replied (October 2016) that "Industrial Chain" is covered under machinery and its parts and levied the Entry tax and penalty of ₹ 2.15 lakh on each.</td></tr>
<tr><td>4.</td><td>ACCT II, Div. I, Bilaspur</td><td>Extra Neutral Alcohol (ENA)</td><td>2009-10 (October 2013)</td><td>III</td><td>1,279.00</td><td>1/0</td><td>12.79</td></tr>
<tr><td colspan="8">The Hon'ble Madras High Court in the case of Commissioner of Income Tax versus Vinbros and Company (29 October 2007) and Hon'ble Jharkhand High Court in the case of M/s. Ajanta Bottlers and Blenders Vs. Excise department (July 2013) held that ENA is a raw material for production of alcohol. As per CGET Act read with Schedule I of Chhattisgarh VAT Act, 2005, goods on which duty is or may be levied under the Chhattisgarh Excise Act, 1915 are tax-free. Thus, liquor is excisable commodity and ENA is raw material on which duty is not paid. The dealer purchased ENA from other local area and entry tax at one per cent is leviable. However, the AO did not levy entry tax. During Exit Conference, the Government replied (October 2016) that ENA being excisable goods are covered under Entry I of Schedule I of CGET Act, 1976 and as per Hon'ble High Court of Uttarakhand in M/s India Glycols Ltd. versus State of Uttarakhand and others (January 2012) ENA is not a raw material for manufacturing of liquor. Thus Entry tax is not leviable on purchase of ENA. Reply is not acceptable as ENA is a raw material for manufacturing of alcohol and thus it is to be treated as Schedule III items for which Entry tax at the rate of one per cent is leviable.</td></tr>
<tr><td>5.</td><td>CTO-IV,Durg</td><td>Iron and steel</td><td>2007-08 (February 2011)</td><td>II</td><td>73.32</td><td>1.5/0</td><td>1.10</td></tr>
<tr><td colspan="8">The dealer had purchased iron and steel worth of ₹ 1.03 crore, out of which iron and steel worth of ₹ 73.32 lakh was from outside the local area. Entry tax of ₹ 1.10 lakh is leviable at 1.5 per cent. However, the AO did not levy entry tax treating the entire purchase as tax paid goods. During Exit Conference, the Government replied (October 2016), that the case was opened under Section 22(1) and Entry tax of ₹ 1.23 lakh on the purchases of iron and steel of ₹ 81.69 lakh was levied to dealer.</td></tr>
<tr><td>6.</td><td>ACCT</td><td>Mobile</td><td>2010-11</td><td>II</td><td>785.00</td><td>1/0</td><td>7.85</td></tr>
</table>

<table>
<tr><td></td><td>(Hqrs.), (Smt. BhavanaA li), Raipur</td><td>handset</td><td>(October 2012)</td><td></td><td></td><td></td><td></td></tr>
<tr><td colspan="8">Hon’ble Madhya Pradesh (MP) High court held (2011) in the case of M/s Drive India Dot Com versus State of Madhya Pradesh and others that mobile handset is covered under wireless reception instruments and apparatus. The Commissioner, Commercial tax, Raipur also clarified (October 2012) that entry tax at one per cent on mobile handset was leviable. The dealer imported mobile handsets of ₹ 7.85 crore outside State but did not pay entry tax on the above goods. During Exit Conference, the Government accepted the facts and replied (October 2016) that demand for entry tax of ₹ 7.54 lakh had been raised.</td></tr>
<tr><td>7</td><td>ACCT, Durg</td><td>Conductor
transformer
insulator</td><td>2007-08(June 2011)</td><td>II</td><td>108.92
921.49
1,210.64</td><td>5/1
5/1
10/1</td><td>4.36
36.86
108.96</td></tr>
<tr><td colspan="8">The AO levied entry tax of ₹ 59.08 lakh on the purchase of ₹ 59.08 crore at one per cent. Further, we noticed that the dealer had purchased conductors, transformers, insulators and other ancillary equipments of sub-stations from outside the local area amounting to ₹ 22.41 crore. The AO levied entry tax at the rate of one per cent treating them as consumable goods under Schedule III of CGET Act, 1976. As per notifications no. 78 of September 1997 and 37 of April 2006, these goods are taxable at five and 10 per cent. During Exit Conference, the Government stated (October 2016) that the dealer is engaged in “transfer of power” work and maintenance of transmission line and sub-station, which cannot be classified as manufacturing work. Thus Entry tax at the rate of one per cent has been levied from the dealer. Reply is not acceptable as the dealer had purchased equipments for use in construction of sub-stations. Thus the constructions of sub-stations is itself the manufacturing process and thus Entry tax as per Section 4A of CGET Act, 1976 is leviable. Also as per Consumer Protection Act, 1986 the definition of “manufacturer” includes the person assembling any items and prepares a new product. Hence the dealer has to be treated as “manufacturer”.</td></tr>
<tr><td>8.</td><td>CTO-IV, Raipur</td><td>Tools</td><td>2007-08
2009-10(August 2012)</td><td>II</td><td>45.48
101.00</td><td>1.5/0
1.5/0</td><td>2.20</td></tr>
<tr><td colspan="8">The dealer purchased tools from outside the local area and did not pay entry tax treating them Schedule III goods. Further the Commissioner, Commercial Tax clarified (2008) that tools was covered under “Iron and steel” which attracts entry tax at 1.5 per cent. Thus, entry tax was leviable on the purchase of tools. During Exit Conference, the Government accepted (October 2016) the audit observation and the demand for ₹ 2.11 lakh on the purchase of tools have been raised.</td></tr>
<tr><td colspan="5">Total</td><td>29,282.47</td><td></td><td>421.70</td></tr>
</table>

The above table shows that while assessing/filing the cases/returns, the AOs/dealers did not apply the correct rates of entry tax as prescribed in the Schedules and notifications. Thus entry tax of ₹ 4.22 crore was not collected/received by the Department. Further penalty of ₹ 2.15 lakh was also leviable.