

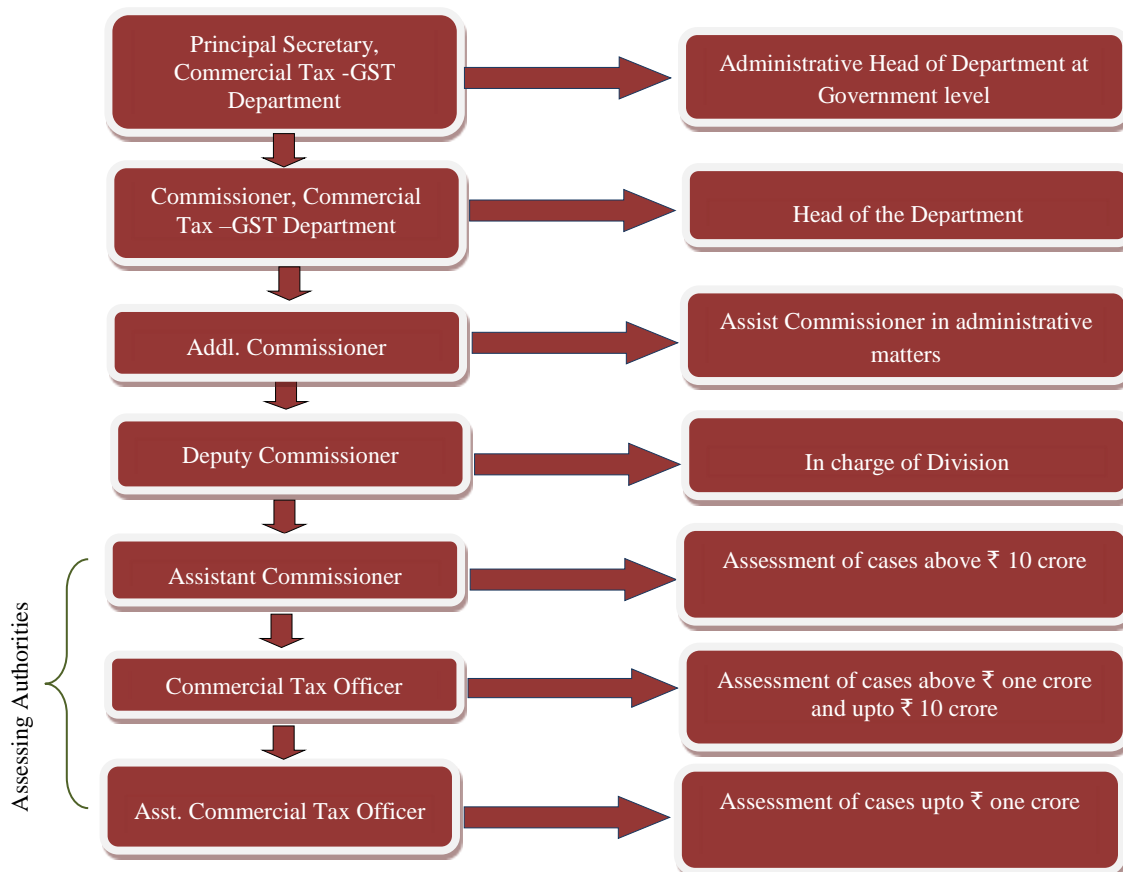
## CHAPTER II: COMMERCIAL TAX

### 2.1 Tax administration

Commercial Tax Department is one of the key revenue earning departments in the Government of Chhattisgarh. The Commercial Tax - Goods and Services Tax (GST) Department is responsible for levy and collection of Value Added Tax and Goods and Services Tax in the State through assessment of cases of dealers.

The Department is administered at the Government level by the Principal Secretary. The Commissioner is the Head of the Department, and is 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 performing such functions as may be assigned to them under the Chhattisgarh Value Added Tax (CGVAT) Act, 2005. Against the above sanctioned posts, two Addl. Commissioners, 10 DCs, 19 ACs, 71 CTOs, 18 ACTOs and 116 CTIs are currently working in the Department. In addition to the above, there is an Enforcement Wing at Headquarters headed by the Commissioner, comprising one Joint Commissioner, one DC, one AC, and two Inspectors to conduct surprise inspections to unearth evasion of tax. There are two regional branches located at Raipur and Bilaspur. Organisational set up of the Department is given in **Chart 2.1**.

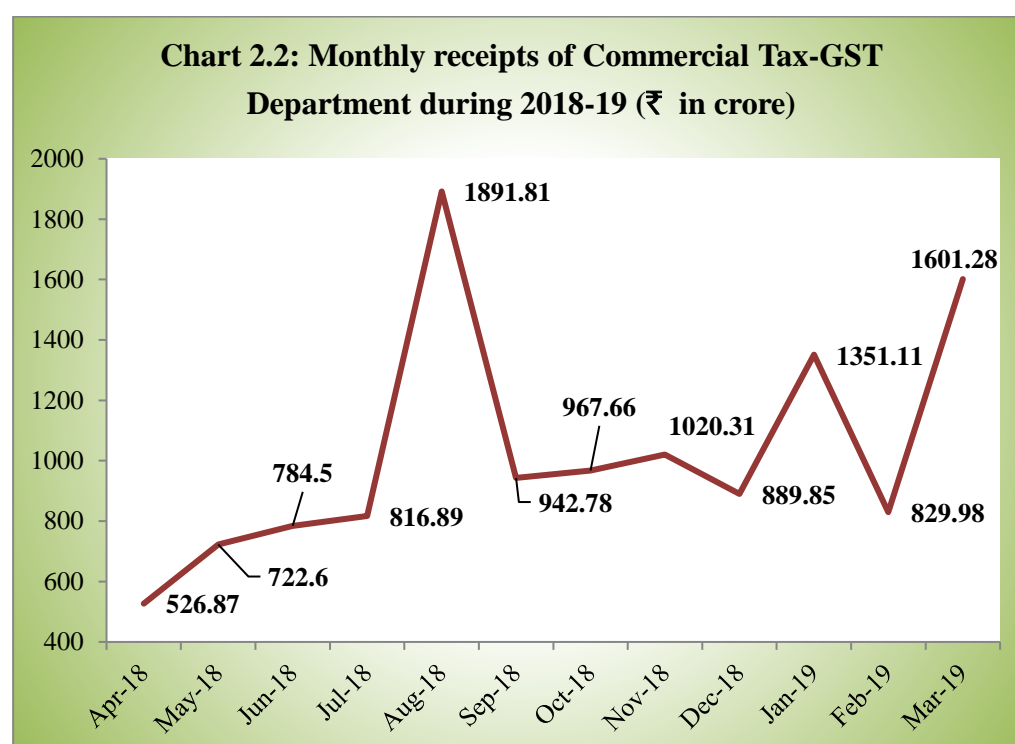
**Chart 2.1: Organisational set up**



Commercial Tax - GST forms the largest source of revenue for the State and accounts for 18.96 per cent of the total revenue of the State. It has been increasing from year-to-year and during 2018-19, it contributed 42.38 per cent of the State's own tax revenue and 18.96 per cent of the total revenue<sup>1</sup> of the State Government.

Revenue from SGST increased from ₹ 4,386.56 crore in 2017-18 (GST was introduced with effect from 1 July 2017) to ₹ 8,203.41 crore (87.01 per cent) during 2018-19.

There was wide fluctuation in receipts of Commercial Tax – GST across the months during 2018-19 with August 2018 accounting for the maximum receipts during the year at 15.32 per cent and April 2018 accounting for a minimum of 4.26 per cent of the total receipts of ₹ 12,345.64<sup>2</sup> crore for the year, as can be seen from the **Chart 2.2** given below:



The receipts of commercial taxes have been regulated (up to 30/6/2017) under the following Acts and Rules:

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

<sup>1</sup> Includes State's own revenue, Grants-in-aid, share of net proceeds of divisible Union taxes and duties.

<sup>2</sup> Actual revenue receipt for the month of March is ₹ 1,603.55 crore and journal entry of (-) ₹ 2.27 crore under MH 0006; 0040 and 0042 have been adjusted in the month of March.

Since 1 July 2017, Goods and Services Tax (GST) has been introduced and taxes are being administered under the provisions of:

- Chhattisgarh Goods and Services Tax Act, 2017
- Chhattisgarh Goods and Services Tax Rules, 2017

## 2.2 Lack of access to GST data

Union Government rolled out the Goods and Services Tax across the nation on July 01, 2017. It is a unified indirect tax<sup>3</sup> and is levied on same taxable event i.e., supply of goods and services (*except alcohol for human consumption and five specified petroleum products*<sup>4</sup>), simultaneously by both Centre (CGST) and the States (SGST)/Union Territories (UTGST). Further, Integrated GST (IGST) is levied on inter-state supply of goods or services (including imports) and the centre has exclusive power to levy IGST. Prior to implementation of GST, Value Added Tax (VAT) was levied on intra-state sale of goods as per Chhattisgarh Value Added Tax Act, 2005, and Central Sales Tax (CST) was levied on sale of goods in the course of inter-state trade or commerce as per CST Act, 1956.

State Government notified (June 2017) the Chhattisgarh Goods and Services Tax Act, 2017, the Chhattisgarh Goods and Services Tax Rules, 2017, and implemented GST with effect from 1 July 2017. With automation of the collection of GST, it is imperative for Audit to have access to GST data to transition from sample checks to a comprehensive check of all transactions so as to derive assurance on the revenue realised. Although the Government of India decided (June 2020) to provide access to Pan-India data at GSTN premises, administrative decision to implement the decision was at different stages. As of November 2020, Accountant General (Audit), Chhattisgarh was yet to receive access to the GST data.

## 2.3 Results of audit

Audit of Commercial Tax –GST Department was conducted through a test check of the assessment files and other related records in 15<sup>5</sup> units out of 61 units (24.59 *per cent*) during 2018-19, to gain assurance that the taxes were assessed, levied, collected and accounted for in accordance with the relevant Acts, Codes and Manuals, and the interests of the Government are safeguarded. Audit scrutinised 6,033 (2,924 self-assessed and 3,109 scrutiny) cases out of 30,650 (18,299 self-assessed and 12,351 scrutiny) cases in 15 units, which was 19.68 *per cent* of the total cases in selected units. Revenue generated by the Department during the year 2017-18 aggregated ₹ 6,927.26<sup>6</sup> crore, of which, the audited units accounted for ₹ 6,147.17 crore (89 *per cent* of total revenue). Audit noticed several issues of non-compliance with prescribed

<sup>3</sup> Central indirect taxes such as central excise duty, additional excise duty, excise duty levied under the Medicinal and Toiletries preparation Act, service tax, additional customs duty (CVD), special additional duty of customs (SAD); state indirect taxes such as value added tax, central sales tax, entry tax, entertainment tax and purchase tax.

<sup>4</sup> Petroleum products: crude oil, high speed diesel, petrol, aviation turbine fuel and natural gas.

<sup>5</sup> CTO-4, Raipur; CTO-3, Raipur; CTO-7, Raipur; CTO-1, Korba; CTO-1, Bilaspur; CTO-2, Korba; CTO-8, Raipur; CTO-2, Jagdalpur; CTO-2, Raipur; CTO-6, Raipur; CTO-9, Raipur; CTO-5, Raipur; CTO, Manendragarh; CTO-1, Raipur & CTO-2, Durg

<sup>6</sup> Including ₹ 477.66 crore receipt from Entry Tax

Acts/Codes/Manuals and irregularities involving ₹ 34.95 crore in 198 cases (149 self-assessed cases and 49 scrutiny cases), which fall under the following categories as given in **Table 2.1**:

**Table 2.1: Results of audit**

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1.	Short levy of tax/tax not levied	79	10.34
2.	Incorrect grant of exemption/deduction	36	8.85
3.	Application of incorrect rate of tax	30	6.64
4.	Incorrect determination of taxable turnover	6	1.08
5.	Other irregularities <sup>7</sup>	47	8.04
<b>Total</b>		<b>198</b>	<b>34.95</b>

After issue of factual statements, the Department recovered ₹ 0.68 lakh in two cases. There may be similar irregularities, errors or omissions in other units under the Department but not covered in the test audit. The Department may, therefore, examine all the units to ensure that taxes are levied as per provisions of the Acts and Rules.

## Value Added Tax

### 2.4 Short levy of tax

#### **Application of incorrect rate of VAT resulted in short levy of tax of ₹ 1.54 crore and penalty of ₹ 3.08 crore**

The Chhattisgarh Value Added Tax Act (CGVAT Act) 2005 provided for tax to be levied as prescribed in the schedule appended to it.

Test check (between September 2018 and November 2018) of the assessment records of 2,055 (953 self-assessed and 1,102 scrutiny) out of 6,823 (2,587 self-assessed and 4,236 scrutiny) cases (30.12 *per cent* of total cases) in four<sup>8</sup> units, revealed that in nine cases (two self-assessed and seven scrutiny) involving eight dealers, incorrect rate of tax of zero and five *per cent* was applied as against the applicable rates of five and 14 *per cent*. The Assessing Authorities (AAs) failed to detect the incorrect application of rates on the goods even in assessed cases, and levied no tax or lower rates of tax. Audit cross-checked the documents (sale/purchase details) enclosed with the returns, and found that these goods<sup>9</sup> were taxable at the rates of five or 14 *per cent*. This resulted in short levy of tax of ₹ 1.54 crore. Penalty of ₹ 3.08 crore was also leviable, as detailed in **Appendix-2.1**.

Audit further noticed that the Department was using CGCOMTAX IT system for assessment and levy of VAT. However, the system did not provide codes of each commodity/goods along with rates of tax to be fed by the dealers. In the absence of such a provision in the system to verify the rates applied on the

<sup>7</sup> Other irregularities include observations on claim of excess/inadmissible ITR; non-inclusion of the credit note or discount received in the turnover; non-inclusion of labour component etc.

<sup>8</sup> CTO-3, Raipur; CTO-6, Raipur; CTO-7, Raipur & CTO-9, Raipur

<sup>9</sup> Battery, Aluminium Composite Panel Sheet, Cement sheets, Poly films, Raw materials of chocolates, Bio-fertiliser and Electrical panel boards

commodity/goods by the dealers, it was not detected by the AAs over the years, resulting in short levy/payment of tax.

The matter was brought to the notice (December 2019 and January 2020) of the Government/Department. The Government replied (May and July 2020) that in six cases demand notices have been issued for ₹ 2.88 crore, two cases have been re-opened under section 22 (1) and in one case, notice has been issued for re-assessment of the case. Further progress relating to changes to the IT system to build this functionality is awaited (November 2020).

## Central Sales Tax

### 2.5 Irregularity in submission of statutory forms and supporting documents in interstate and export transactions under CST

**The Assessing Authorities (AAs) allowed incorrect exemption/concessional rates of tax against interstate sales, stock transfer, transit and export sales, resulting in non/short levy of tax of ₹ 1.53 crore**

Central Sales Tax (CST) Act, 1956 provided for levy of tax at the rate of two *per cent* with effect from June 2008 on inter-state sales of goods made against declaration in Form 'C'. In respect of transit sale, *i.e.*, sales made during 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, consignment sale (branch transfer) and export sale shall be exempted from payment of tax on production of statutory Forms-'F' and 'H' respectively. In the absence of the statutory forms and supporting documents, the tax on these goods is leviable at the rates prescribed in the CGVAT Act.

During a test check of 1,161 (654 self-assessed and 507 scrutiny) cases out of 3,925 (2,845 self-assessed and 1,080 scrutiny) cases *i.e.* 29.58 *per cent* of total cases in four<sup>10</sup> units, Audit noticed (between November 2017 and November 2018) that in five self-assessed cases of five dealers, Form 'C' valuing ₹ 6.05 crore were not furnished in support of inter-state sales. In the absence of Form 'C', the dealers were liable to pay tax at the rates of five or 14 *per cent* instead of zero or two *per cent*. The AAs should have levied tax as per the rates prescribed in CGVAT Act. However, the dealers availed exemption of tax, resulting in short realisation of tax amounting to ₹ 0.61 crore as detailed in **Appendix-2.2**.

Test check of 417 (221 self-assessed and 196 scrutiny) cases out of 776 (418 self-assessed and 358 scrutiny) cases *i.e.* 53.74 *per cent* of total cases in CTO-3, Raipur revealed (September 2018) that in two self-assessed cases of two dealers, Form 'F' valuing ₹ 1.38 crore were not furnished in support of branch transfer. In the absence of Form 'F', the dealers were liable to pay tax at the rate of 14 *per cent*. The AAs should have levied tax as per rules on the branch transfer without Form 'F'. However, the dealers availed of tax exemption, resulting in short realisation of tax amounting to ₹ 0.19 crore as detailed in **Appendix-2.3**.

<sup>10</sup> CTO-3, Raipur; CTO-9, Raipur; CTO-2, Korba and ACCT, Raigarh.

Further, during a test check of 1,897 (954 self-assessed and 943 scrutiny) out of 6,672 (4,424 self-assessed and 2,248 scrutiny) cases i.e. 28.43 *per cent* of total cases in five<sup>11</sup> units, Audit noticed (between August 2018 and March 2019) that in 10 (nine self-assessed and one scrutiny) cases of 10 dealers, Form 'E1/C' valuing ₹ 12.17 crore were not furnished in support of transit sales under section 6(2), but exemptions from payment of tax were claimed on these transactions. In the absence of statutory forms, the dealers were liable to pay tax at the rate of two/five *per cent*. However, all the dealers availed exemption of tax under CST Act, resulting in short realisation of tax amounting to ₹ 0.40 crore as detailed in ***Appendix-2.4***.

Similarly, during a test check of 721 (288 self-assessed and 433 scrutiny) out of 1,185 (300 self-assessed and 885 scrutiny) cases i.e. 60.84 *per cent* of total cases in CTO-7, Raipur, Audit noticed (September 2018) that in one self-assessed case of one dealer, Form 'H' valuing ₹ 6.56 crore was not furnished in support of export sale. In the absence of statutory forms, the dealer was liable to pay tax at the rate of five *per cent*. However, the dealer availed exemption of tax under CST Act, resulting in short realisation of tax amounting to ₹ 0.33 crore as detailed in ***Appendix-2.5***.

Thus, the AAs failed to check the completeness of the statutory returns submitted by the dealers which was required to be done as per the departmental circular (November 2012), resulting in short realisation of tax of ₹ 1.53 crore.

The matter was reported (December 2019 and January 2020) to the Government/Department for their comments. The Government stated (May and July 2020) that recovery of ₹ 2.83 lakh has been made in two cases and demands have been raised for ₹ 2.85 crore in 11 cases. Further six cases have been re-opened under section 22 (1) for re-assessment and in one case notice has been issued for re-assessment.

Since the above cases of non-compliance/irregularities have come to light during a test check, there may be similar irregularities, errors or omissions in other units under the Department which were not covered in the test audit. The Department may, therefore, examine all the units to ensure that taxes are levied as per the provisions of the Acts and Rules. Further, the Department needs to ensure that the concerned responsible officials scrutinize the returns more stringently and tax is assessed, levied and collected at the correct rates as per the prescribed Acts/Rules.

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<sup>11</sup> CTO-2, Korba; CTO-7, Raipur; CTO-2, Raipur; CTO-5, Raipur and CTO-8, Raipur