

CHAPTER - IV
REVENUE SECTOR

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4.1 General

4.1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Nagaland during 2017-18, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grant-in-aid received from the Government of India (GOI) during the year and the corresponding figures for the preceding four years are given below:

Table 4.1
Statement showing trend of revenue receipts

(₹ in crore)

Sl. No	Particulars	2013-14	2014-15	2015-16	2016-17	2017-18
1	Revenue raised by the State Government					
	• Tax revenue	333.39	388.60	427.10	510.75	638.28
	• Non-tax revenue	216.57	270.61	256.39	345.52	388.53
	Total	549.96	659.21	683.49	856.27	1026.81
2	Receipts from the Government of India					
	• Share of net proceeds of divisible Union taxes and duties	1001.27	1062.69	2540.72	3032.63	3353.13
	• Grants-in-aid	4946.67	5929.04	4819.36	5553.38	6639.27
	Total	5947.94	6991.73	7360.08	8586.01	9992.40
3	Total revenue receipts of the State Government (1 and 2)	6497.90	7650.94	8043.57	9442.28	11019.21
4	Percentage of 1 to 3	8	9	8	9	9

Source: Finance Accounts.

The above table indicates that during the year 2017-18, the revenue raised by the State Government (₹ 1026.81 crore) was nine *per cent* of its total revenue receipts. The balance 91 *per cent* of the receipts during 2017-18 was from the GOI.

4.1.2 The details of tax revenue raised against the Budget Estimate (BE) during the period 2013-18 are given in the Table:

Table 4.2
Statement showing details of the tax revenue against the Budget Estimate (BE)
raised during the period 2013-14 to 2017-18

(₹ in crore)

Sl. No	Head of revenue	2013-14		2014-15		2015-16		2016-17		2017-18		Percentage of increase/decrease in 2017-18 over 2016-17
		BE	Actuals	BE	Actuals	BE	Actuals	BE	Actuals	BE	Actuals	
1	Sales Tax/VAT	252.61	250.20	294.36	294.29	332.78	328.58	400.00	400.12	410.00	287.55	(-) 28
2	Taxes on vehicle	36.23	36.15	46.00	46.46	46.00	53.09	57.63	57.39	58.00	101.52	77
3	Stamps and Registration Fees	1.52	1.77	1.67	1.93	1.98	2.04	2.14	2.05	2.31	2.62	28
4	State Excise	4.06	4.86	4.47	4.70	4.90	5.12	5.40	4.63	5.60	4.20	(-) 9
5	Taxes on Goods and Passengers	5.01	10.79	7.50	9.73	12.10	5.88	13.31	14.76	7.00	17.59	19
6	Land Revenue	0.74	0.70	0.81	0.74	0.89	0.75	0.98	0.82	1.08	0.90	10
7	Others ¹	31.97	28.92	31.97	30.76	35.81	31.64	35.85	30.98	32.16	223.90	623
Total		332.14	333.39	386.78	388.61	434.46	427.10	515.31	510.75	516.15	638.28	25

Source: Budget documents and Finance Accounts of the State.

The Departments did not furnish the reasons for variations in receipts from that of the previous year (2016-17).

4.1.3 The details of the Non-tax revenue against the Budget Estimate (BE) raised during the period 2013-14 to 2017-18 are indicated in the Table:

¹ Other taxes on Income and Expenditure, Taxes on Duties and Electricity, Other Taxes and Duties on Commodities and Services.

Table 4.3

Statement showing details of the Non-tax revenue against the Budget Estimate (BE) raised during the period 2013-14 to 2017-18

(₹ in crore)

Sl. No.	Head of revenue	2013-14		2014-15		2015-16		2016-17		2017-18		Percentage of increase/decrease in 2017-18 over 2016-17
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	
1	Police	4.02	3.37	4.30	1.45	4.73	1.68	5.11	31.54	2.00	2.70	(-) 91
2	Miscellaneous General Services	10.00	6.57	10.00	13.08	10.00	13.43	11.00	13.64	12.10	16.10	18
3	Education, Sports, Art and Culture	0.42	67.83	0.46	103.56	40.21	76.52	44.23	119.40	48.65	132.84	11
4	Power	110.00	88.31	125.00	98.91	100.00	111.1	125.00	114.58	156.25	127.89	12
5	Civil Aviation	8.00	0.99	8.80	1.43	9.68	1.04	10.64	20.77	11.71	2.09	(-) 90
6	Road Transport	14.26	12.17	15.69	12.97	17.26	10.81	18.12	9.00	9.03	7.35	(-) 18
7	Other Non-tax receipts	39.32	37.33	41.57	39.21	48.72	41.80	47.49	36.59	40.07	99.56	172
Total		186.02	216.57	205.82	270.61	230.6	256.38	261.59	345.52	279.81	388.53	12

Source: Budget documents and Finance Accounts of the State.

The Department did not furnish the reasons for variation in receipts from that of the previous year (2016-17).

4.1.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2018 on some principal heads of revenue amounted to ₹ 12.30 crore out of which ₹ 3.16 crore was outstanding for more than five years, as detailed in the Table:

Table 4.4
Arrears of revenue

(₹ in crore)

Sl. No.	Head of revenue	Total Amount outstanding as on 31 March 2018	Amount outstanding for more than 5 years as on 31 March 2018	Replies of Department
1	Nagaland Value Added Tax	7.03	0.67	Reply not furnished
2	Petroleum Tax	3.14	0.82	
3	Central Sales Tax	1.08	0.78	
4	Purchase Tax	0.43	0.43	
5	Professional Tax	0.18	0.02	
6	Nagaland Sales Tax	0.44	0.44	
	Total	12.30	3.16	

Source: Departmental figures.

It would be seen from the table that recovery of ₹ 3.16 crore was pending for more than five years and efforts were not being made to recover it. The entire arrears of ₹ 12.30 crore were pending with the departmental authorities.

4.1.5 Arrears in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and number of cases pending for finalisation at the end of the year as furnished by the Sales Tax Department in respect of Sales Tax/VAT on Sales, Trades etc. are shown in the Table:

Table-4.5
Statement showing arrears in assessments

(₹ in crore)

Head of Revenue	Opening Balance of arrears in assessment as on 1st April 2017	New cases due for assessment during 2017-18	Total assessment due	Cases disposed-off during 2017-18	Balance at the end of the 31st March 2018	Percentage of cases disposed to the total assessment due
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7 (5 to 4)</i>
Taxes /VAT on Sales, Trades, etc.	4352 ²	9028	13380	9727	3653	73%

Source: Departmental figures.

The arrears in assessment decreased from 4352 to 3653 cases with the addition of 9028 cases which became due for assessment during 2017-18 and 9727 cases disposed during the year. The percentage (73 per cent) of cases disposed during 2017-18 was encouraging and the pace needs to be maintained.

² Opening balance taken as per the figure furnished by the Department.

4.1.6 No case of evasion of tax detected by the Department

The details of cases of evasion of tax detected by the Department, cases finalised and the demands for additional tax raised were requisitioned (August 2018) from the Commissioner of Taxes Dimapur. The Commissioner of Taxes, Dimapur replied (September 2018) that there was no case of evasion of tax detected.

4.1.7 Response of the Government/Departments towards Audit

The Accountant General (Audit), conducts periodical inspection of the government departments to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the Inspection Reports (IRs) incorporating irregularities detected during the inspection and which are not settled on the spot, are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/departments are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the Accountant General (Audit) within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government for response. If replies to such serious and important audit observations are not found acceptable/ convincing, these are included in the Report of the CAG of India.

IRs issued upto June 2018 disclosed that 311 Paragraphs involving ₹ 183.27 crore relating to 93 IRs remained outstanding. Such details along with the corresponding figures for the preceding two years are shown in the Table:

Table-4.6
Statement showing details of outstanding audit observations

Particulars	June 2016	June 2017	June 2018
Number of outstanding IRs	76	85	93
Number of outstanding audit observations	228	261	311
Amount involved (₹ in crore)	73.37	107.89	183.27

4.1.7.1 Outstanding Inspection Reports and Audit Observations

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2018 and the amount involved are given in the Table:

Table-4.7
Statement showing department-wise details of the IRs and audit observations outstanding

Sl. No.	Name of Department	Name of Receipts	No. of outstanding IRs	No. of Outstanding Audit Observations	Money Value involved (₹ in crore)
1	Finance	Taxes/VAT on Sales, Trade, etc.	33	164	151.61
2	Finance	Miscellaneous General Services/Lottery	3	15	1.89
3	Transport	Taxes on Vehicles/ Taxes on Goods & Passengers	31	56	6.67
4	Forest & Environment	Forest & Wildlife	26	76	23.10
Total			93	311	183.27

In respect of one IR, even the initial reply was not received which was required to be received within one month from the date of issue of the IR. This pendency of IR due to non-receipt of replies was indicative of the fact that the Heads of offices/departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by the Accountant General (Audit) in the IR.

The Government may consider to have an effective system for prompt and appropriate response to audit observations.

4.1.7.2 Departmental Audit Committee meetings

In order to expedite settlement of the outstanding audit observations contained in the IRs, Departmental Audit Committees are constituted by the Government. These Committees are chaired by the Secretaries of the Administrative Department concerned and attended by the officers concerned of the State Government and officers of the Accountant General (Audit). The Audit Committees need to meet regularly in order to expedite clearance of the outstanding audit observations.

During 2017-18, no Audit Committee meeting was convened by any Department to clear the outstanding audit observations.

The Government may ensure holding of regular meetings of the Audit Committees for ensuring effective remedial action on the audit observations.

4.1.7.3 Response of the departments to the draft audit paragraphs

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the Accountant General (Audit) to the Principal Secretaries/Secretaries of the departments concerned, drawing their attention to audit findings and requesting them to send their response within six weeks.

The fact of non-receipt of the replies from the Departments/Government is invariably indicated at the end of such paragraphs included in the Audit Report of the CAG.

Three draft paragraphs were sent to the Principal Secretaries/Secretaries of the respective departments during June 2018 to August 2018. The reply in respect of all the three draft paragraphs were received and incorporated with suitable comments.

4.1.7.4 Follow up on the Audit Reports-summarised position

The internal working system of the Public Accounts Committee (PAC), notified in December 2002, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately.

Fifteen paragraphs and two Performance Audits included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Nagaland for the years 2011-12, 2012-13, 2013-14, 2014-15, 2015-16 and 2016-17 were placed before the State Legislative Assembly on 18 July 2013, 25 July 2014, 17 March 2015, 19 March 2016, 28 March 2017 and 20 September 2018 respectively.

PAC discussed nine paragraphs pertaining to the years 2011-12 to 2014-15. *Suo-moto* explanatory notes were not furnished to Accountant General (Audit) by the Departments and were also not received through Nagaland Legislative Assembly Secretariat in respect of paragraphs/reviews which appeared in the Audit Reports.

During 2017-18, one PAC meeting was held and two Action Taken Notes were received.

4.1.8 Analysis of the mechanism for dealing with the issues raised by Audit

To analyse the system of addressing the issues highlighted in the Inspection Reports/ Audit Reports by the departments/Government, the action taken on the paragraphs and performance audits included in the Audit Reports of the last 10 years for Taxation Department was evaluated.

The succeeding paragraphs 4.1.8.1 and 4.1.8.2 discuss the performance of Taxation Department in dealing with the cases detected in the course of local audit conducted during the last ten years and also the cases included in the Audit Reports for the years 2007-08 to 2016-17.

4.1.8.1 Position of Inspection Reports

The summarised position of IRs issued during the last 10 years, paragraphs included in these reports and their status as on 30 June 2018 are tabulated in the Table:

Table-4.8
Statement showing position of Inspection Reports

(₹ in crore)

Year	Opening Balance			Addition during the year			Clearance during the year			Closing Balance		
	IRs	Paras	Money Value	IRs	Paras	Money Value	IRs	Paras	Money Value	IRs	Paras	Money Value
Previous year	29	136	65.42	0	0	0	0	0	0	29	136	65.42
2007-08	29	136	65.42	0	0	0	0	0	0	29	136	65.42
2008-09	29	136	65.42	0	0	0	0	0	0	29	136	65.42
2009-10	29	136	65.42	0	0	0	0	0	0	29	136	65.42
2010-11	29	136	65.42	0	0	0	0	0	0	29	136	65.42
2011-12	29	136	65.42	0	0	0	0	2	0.66	29	134	64.76
2012-13	29	134	64.76	0	0	0	1	5	0.13	28	129	64.63
2013-14	28	129	64.63	0	0	0	1	8	0.49	27	121	64.14
2014-15	27	121	64.14	0	0	0	0	0	0	27	121	64.14
2015-16	27	121	64.14	1	5	0.19	0	5	8.03	28	121	56.30
2016-17	28	121	56.30	2	30	70.10	0	2	0.70	30	149	125.70
2017-18 Upto 6/2018	30	149	125.70	6	55	16.40	0	5	0.48	36	199	141.62

Source: Inspection Reports of Revenue Sector.

It is evident from the above table that against 29 outstanding IRs with 136 paragraphs at the start of 2007-08, the number of outstanding IRs increased to 36 with 199 paragraphs at the end of 30 June 2018. This indicated that adequate steps were not taken by the Department to settle the IRs resulting in accumulation of the outstanding IRs and paragraphs despite Audit reminding the Department periodically to furnish the replies for taking the things to their logical end.

4.1.8.2 Recovery in cases accepted by the department

The position of paragraphs included in the CAG's Audit Reports of the last five years, those accepted by the Department and the amounts recovered are mentioned in the Table:

Table 4.9

Statement showing position of recovery of accepted cases

(*₹in crore*)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases as of 31.03.2018
2012-13	2	0.53	2	0.17	0.17	0.17
2013-14	2	8.46	1	0.95	0.95	1.12
2014-15	3	1.64	3	0.25	0	1.12
2015-16	3	16.10	2	5.64	0	1.12
2016-17	3	25.59	1	11.47	0.12	1.24
Total	13	52.32	9	18.48	1.24	

Source: Inspection Reports issued by the Accountant General (Audit), Nagaland.

From the above table, it may be seen that during the last five years, an amount of ₹ 18.48 crore was accepted as against which only ₹ 1.24 crore was recovered by the Department. Thus, it is evident that the progress of recovery even in accepted cases was very slow during the last five years.

Audit, thus, recommends that the Department may take immediate action to pursue and monitor prompt recovery of the dues involved in the accepted cases.

4.1.8.3 Action taken on recommendations accepted by Government

The draft Performance Audits (PAs) conducted by the Accountant General (Audit) are forwarded to the departments concerned / government to furnish their replies. These PAs are also discussed during exit conference and views of department/Government are taken into account while finalising PAs for inclusion in Audit Reports.

During 2013-14 to 2017-18, two PAs relating to Finance Department, Transport and Communication Department were included in the Audit Report. Nine recommendations were made in CAG's Report for consideration by the Government. Status of acceptance of these recommendations is given in the following Table:

Table-4.10

Statement showing status of acceptance of audit recommendations made in PAs/Draft Paragraphs

Year of Audit Report	Name of the Performance Audits	Name of Administrative Department	No. of recommendations in PAs	No. of recommendations in Draft paragraphs	Status of acceptance of recommendations
2015-16	Nagaland State Lotteries	Finance	5	NIL	Not communicated
	Computerisation of Motor Vehicle Department	Transport and Communication	4		Not communicated
2016-17	Nil	Nil		NIL	

Source: CAG's Audit Reports for the year 2015-16 and 2016-17.

4.1.9 Audit Planning

The offices under various Departments are, for the purpose of audit, categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which inter-alia include critical issues in government revenues and tax administration *i.e.*, budget speech, white paper on state finances, Reports of the Finance Commission (State & Central), recommendations of the Taxation Reforms Committee, statistical analysis of revenue earnings during the past five years, factors of tax administration, audit coverage and its impact during past five years *etc.*

Out of 76 auditable units, 27 auditee units were planned for audit during 2017-18 and 22 units were covered in audit.

4.1.10 Results of audit

4.1.10.1 Position of local audit conducted during the year

Test check of the records of 22 offices during 2017-18 revealed under assessment/ short levy / loss of revenue/non-realisation of outstanding revenue/ evasion of tax *etc.*, in two offices aggregating ₹ 18.75 crore in 23 cases.

4.1.11 Coverage of this chapter

This chapter contains three compliance audit paragraphs (selected from the audit observations made during the local audit referred to above) and previous years involving financial effect of ₹ 19.86 crore. The Department accepted the audit observations involving ₹ 3.34 crore and recovered ₹ 5 lakh leaving the balance amount yet to be recovered.

Compliance Audits

4.2 Finance (Taxation) Department

The Nagaland Value Added Tax Act, 2005 provides that the Assessing Authority (AA) is required to consider all aspects during scrutiny to avoid any mistake, cross verify the items of inter-state purchase of goods through utilisation of statutory forms and the rate of taxes applicable in respect of those items submitted by the dealers.

Further, following provisions of NVAT Rules 2005 were required to be followed:

- (i) As per Section 27 of the Rules, a dealer who desires to submit a revised return under sub-section (3) of Section 28 of the Act on account of any omission or error in the return, shall do so in Form VAT-4 with explanatory note within two months, and pay the tax or additional tax as per the revised return with interest.
- (ii) As per Section 49 of the Rules, if a dealer fails to pay the amount of tax by the due date, interest at the rate of 2 *per cent* per month is payable on the balance amount of tax liable to be paid.
- (iii) As per Section 51 (2) of the Rules, the Assessing Authority (AA) may, on the basis of information contained in the return filed by the dealer under sub-section (1) or sub-section (2) of Section 25 and 28, as the case may be, scrutinize the correctness of the tax assessed by the dealer himself. For this purpose, the AA may require the dealer to produce any account, documents or other evidences as may be deemed necessary for such scrutiny. The AA is not required to pass any order of assessment if on such scrutiny, the return is found correct and complete.
- (iv) As per Rule 51 (3) of the Rules, if on scrutiny under sub-rule (2) the AA is of the opinion that any lawful tax has escaped assessment or has been under assessed, he may pass such order of assessment as may deem fit after due notice in Form VAT-30. A copy of the order passed along with demand notice in Form VAT-31 shall be served upon such dealer for payment within twenty-one days of the date of notice.

4.2.1 Failure of the Superintendent of Taxes to detect evasion of tax

Four dealers concealed inter-state purchase of ₹ 43.66 crore which was not detected by the Superintendent of Taxes and resulted in evasion of tax of ₹ 7.69 crore.

Section 28 of the Nagaland Value Added Tax (NVAT) Act, 2005 stipulates that every dealer registered under the Act shall furnish Annual Returns containing information in respect of gross purchases including exemption, non-taxable purchases, gross sales including export sales, interstate sales and consignment transfers, total tax due including interest and penalty less tax credit during the assessment year and tax payable and paid.

Section 32 of the Nagaland Value Added Tax (NVAT) Act, 2005 requires that the Assessing Authority on the basis of the information contained in the Return filed by the dealer scrutinises the correctness of the tax assessed by the dealer. For this purpose the Assessing Authority may require the dealer to produce any account details, documents or any other evidences as may be deemed necessary for such scrutiny. Further, as per Rule 49 of NVAT Rules 2005, interest at 2 per cent per month is payable on the balance amount of tax.

The office of the Deputy Commissioner of Taxes (DCT), Kohima is divided into three³ Wards, each headed by Superintendent of Taxes (ST). The STs are the AA and also the approving authority of all statutory forms to dealers who are in the business of manufacturing and resale of goods.

The audit of the accounts of the DCT, Kohima for the period from April 2015 to March 2017 was conducted in January-February 2018. As per records, there were 1255 registered dealers/suppliers/contractors/societies (Dealers running business: 339, Suppliers/Contractors/Societies: 852, and non-functional business/establishments: 64) out of which only 520 annual tax returns were submitted by the dealers for assessment of tax by the STs during the period in question.

Audit selected 207 returns (40 per cent) through stratified sampling method for the assessment year 2014-15 to 2016-17. Examination of records revealed that four⁴ dealers (**Appendix 4.2.1**) declared a gross purchase of ₹ 61.34 crore⁵ during the period 2014-16 by utilizing 'C' forms. Cross examination of utilisation of 'C' forms submitted by the dealers with the trading account and tax returns of the dealers revealed that the dealers had actually purchased taxable goods of ₹ 63.76 crore, taxable at various rates, as detailed below:

Table 4.11
Statement showing details of taxable purchases concealed by the dealers

(₹ in crore)

Particulars	Interstate purchase of goods of Taxable @						Total
	4.75%	5%	13.25%	14.50%	18%	25%	
Purchases as per 'C' forms	8.16	4.79	11.83	8.51	15.12	15.35	63.76
Taxable purchases declared by dealers	3.40	4.64	3.60	4.77	2.67	1.02	20.10
Taxable purchases concealed by dealers	4.76	0.15	8.23	3.74	12.45	14.33	43.66
Tax evaded	0.23	0.01	1.09	0.54	2.24	3.58	7.69

Source: Trading accounts and Tax assessment of the dealers furnished to the audit by the Assessing Authority.

³ Ward A Ward B and Ward C.

⁴ M/s New Kohima Agencies, M/s LK Hardware, M/s MK Angami Enterprises, and M/s Vizo & Sons.

⁵ Gross Purchases included non-taxable items, items at 4.75 per cent and items @ 5 per cent.

From the above table, it was evident that against the actual purchase of taxable goods of ₹ 63.76 crore, the dealers declared taxable purchases of ₹ 20.10 crore only. This resulted in concealment of taxable purchases of ₹ 43.66 crore and evasion of tax amounting to ₹ 7.69 crore.

Thus, it is evident that the AA had assessed the tax returns without cross verifying the utilisation certificate of 'C' forms in contravention of which resulted in evasion of tax of ₹ 7.69 crore by four dealers. Besides the dealers were liable to pay penal interest of ₹ 5.52 crore (up to December 2018) on the tax amount which had been evaded in accordance with Rule 49 of the Nagaland Value Added Tax Rules, 2005.

While accepting (October 2018) the facts in respect of three dealers the Department stated that as per audit recommendation, the assessing authority issued notice under section 39 and reassessed the tax liability of ₹ 3.34 crore⁶ including interest. In respect of one dealer, the Department stated that the dealer (M/s. L K Hardware, Kohima) had submitted a wrong trading account for the year 2014-15 and had now submitted duly corrected trading account which was scrutinized by the AA and found to be in order.

The reply of the Department was incorrect as the total taxable purchases concealed by the four dealers were amounting to ₹ 43.66 crore and the tax payable by them was ₹ 7.69 crore as per utilisation certificate of 'C' forms. The Department however, reassessed and served demand notice to three dealers for only ₹ 3.34 crore leaving ₹ 4.35 crore tax payable unassessed. In the case of M/s L K Hardware, the reply that the dealer had submitted corrected trading account was not true and misleading as the AA had assessed the tax on 15 June 2016 and the revised trading account was also received by the AA on the same day (15 June 2016). Besides, the dealer purchased goods valued for ₹ 5.92 crore through utilisation of 'C' forms but tax was assessed only on ₹ 3.28 crore. Therefore, the AA should reassess the tax payable on the concealed purchases of ₹ 2.64 crore by the dealer along with penal interest.

Thus, the failure of the AA to ensure cross verification of the utilisation of 'C' Forms with the tax returns as required under the provisions of Section 28 and 32 of the Nagaland Value Added Tax Act 2005 resulted in concealment of taxable turnovers and evasion of tax.

Recommendation (46):

- (i) **Responsibility of the AA should be fixed as he had failed to perform his duties as prescribed under Section 32 of the Nagaland Value Added Tax Act, 2005.**
- (ii) **Department should initiate action to re-assess the tax payable on total taxable purchases of ₹ 43.66 crore concealed by the dealers and recover the tax amount.**
- (iii) **The Department should collate the remaining tax returns assessed by them with the corresponding utilisation certificates of 'C' forms of the respective**

⁶ M/s. New Kohima Agencies (₹ 1.52 crore), M/s. L.K. Hardware, M/s. M.K. Angami Enterprises (₹ 1.04 crore) and M/s. Vizo & Sons (₹ 0.78 crore)

dealers with a view to assess the correctness of the purchases declared by them and effect recoveries, wherever the cases relating to concealment of tax are noticed.

4.2.2 Inadmissible Input Tax Credit

Assessing Authority allowed inadmissible input tax credit claim of ₹ 1.09 crore

As per Section 32 of the Nagaland Value Added Tax Rules 2005, a registered dealer shall be allowed to take credit of tax (Input Tax Credit) paid on any inputs or capital goods for use in business or furtherance of business received in stock on or after the 1st day of April, 2005. Provided that, while paying tax, the Input Tax Credit (ITC) shall be utilized only to the extent such credit is available on the last day of the month for payment of tax relating to the month.

As per sub-section (iv) of Section 37 of the Rules, no ITC shall be allowed unless the tax charged to such dealer have been paid by the selling dealer to the state. In case selling dealer defaults in depositing the tax collected on the goods sold to any dealer, the purchasing dealer in this case shall not be eligible to avail the said input tax credit.

The office of Deputy Commissioner of Taxes (DCT), Dimapur is divided into six Wards⁷ headed by Superintendent of Taxes (STs) and the STs are assessing authorities.

Compliance audit of the accounts of the DCT, Dimapur for the period 2013-17 and the assessment files under three wards⁸ was conducted in June 2017.

Examination of assessment file in respect of one dealer (TIN No.13010532093) under Superintendent of Taxes, Ward A, Dimapur revealed that the dealer had claimed ITC amounting to ₹ 12.77 crore for the year 2015-16 in his return. The AA accepted (December 2016) the return filed by the dealer under section 32 and 34 of NVAT Act.

Verification of desk review reports for the year 2015-16 in respect of the dealer revealed that, the dealer procured the goods from a Dimapur firm (TIN No. 130502479014). Cross verification of the returns and sales details of Dimapur firm, revealed that the dealer (TIN No.13010532093) had actually procured goods for ₹ 82.87 crore which included tax amount of ₹ 11.68 crore. The dealer, however, claimed ITC of ₹ 12.77 crore which was also allowed by the AA without collating the records concerned. This resulted in inadmissible ITC claim of ₹ 1.09 crore.

⁷ Ward A, Ward B, Ward C, Ward D, Ward E and Ward F.

⁸ Ward A, Ward C and Ward E.

As the accounting details were quite clear as indicated above, the AA, thus, failed to exercise necessary checks as required under the NVAT Rules, 2005, while assessing the returns and allowed the dealer to claim inadmissible ITC of ₹ 1.09 crore. Besides, the dealer was also liable to pay interest of ₹ 0.68 crore⁹ (calculated up to December 2018) under Section 49 of the NVAT Act, 2005.

Department stated in reply (January 2019) that the matter was under investigation.

Thus, an amount of ₹ 1.09 crore which was allowed wrongly due to lapse and failure on the part of AA should be recovered along with the penal interest of ₹ 0.68 crore.

Recommendation (47): Department should initiate action and fix responsibility of the AA for failing to exercise necessary checks which led to evasion of tax by the dealer.

4.2.3 Inadmissible stock transfer leading to evasion of Tax

Assessing Authority allowed inadmissible claim of stock transfer without supporting documents, resulting in evasion of tax of ₹ 2.53 crore.

Section 6A of Central Sales Tax (CST) Act provides that, where any dealer 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 agent or principal, as the case may be, and not by reason of sale, the burden of proving the movement of such goods shall be on that dealer. The dealer should furnish the proof to the AA within the prescribed time, a declaration, duly filled and signed by the principal officer of the other place of business, or his agent or principal, as the case may be, containing the prescribed particulars in the prescribed form obtained from the prescribed authority along with evidence of dispatch of such goods and if the dealer fails to furnish such declaration, the movement of such goods shall be deemed for all purposes of this Act to have been occasioned as a result of sale.

⁹ Calculated @ 2 per cent on ₹ 1.09 crore for 34 months

The Superintendent of Taxes, Mon is the AA and also the approving authority of all statutory forms to dealers who are in the business of manufacturing and resale of goods under his jurisdiction. The audit of the accounts of the Superintendent of Taxes, Mon for the period from January 2011 to June 2016 was conducted during July 2016.

Audit scrutiny of records of Superintendent of Taxes, Mon during July 2016 revealed that the dealer (M/s Shitala Enterprise, Naginimora bearing TIN No-13500556087) had obtained Certificate of Registration under Rule (1) of CST Rules, specifying the principal place of business at ADC Colony, Naginimora, Mon, Nagaland. The dealer had declared that there was no additional place of his business either within the State of Nagaland or in other States of India. The year-wise details of declared purchase, sales and transfer of goods shown in the annual returns by the dealer were as shown in the table below:

Table- 4.12

Statement showing details of declared purchase, sales and transfer of goods

(In rupees)

Year	Purchase	Sales	Transfer of stock	Tax paid on sales
2012-13	6,37,80,26,463	2,89,32,574	35,45,26,157	3,17,819
2013-14	7,07,75,680	47,84,935	6,62,34,731	95,698
2014-15	85,25,07,895	85,77,315	84,39,30,580	1,69,925
Total			126,46,91,468	5,83,442

Source: Department records.

The AA¹⁰ allowed the dealers' claim of ₹ 126.47 crore as stock transfer which was not supported by the prescribed forms¹¹ as required under the Act. The exemption allowed by AA for payment of tax without the mandatory forms was not in order as the dealer had declared, while obtaining the certificate of Registration, that he had no additional place of business either within the State of Nagaland or in other States of India. The entire amount of ₹ 126.47 crore claimed by the dealer and allowed as stock transfer was, therefore, required to be treated as sales within the ambit of section 2 (g) of CST Act. The dealer was liable to pay ₹ 2.53 crore as CST (@ two *per cent*) on the stock transfer. In addition, the dealer was also liable to pay interest of ₹ 2.35 crore on the tax evaded. Thus, the action of the AA to allow the stock transfer from Naginimora, Mon District, Nagaland to other place of business was contrary to the declaration made by the dealer which should not have been allowed.

¹⁰ Shri. Toshi Yimchunger.

¹¹ Statutory forms under CST Act for transfer of goods from the principal place to other branch or vice versa.

The Department stated in reply (January 2019) that the matter was under investigation.

Thus, the inadmissible stock transfer of ₹ 126.47 crore was allowed by the AA in contravention of Section 6A of CST Act, 1956 for which the dealer was liable to pay ₹ 2.53 crore as CST along-with interest.

Recommendation (48): The Department should initiate action to determine the tax actually payable and recovered from the dealer. Besides, the Department should also fix responsibility of the Assessing Authority for allowing stock transfer without valid records/documents.

