

**CHAPTER-V**  
**REVENUE SECTOR**



## CHAPTER-V

### REVENUE SECTOR

#### 5.1 General

##### 5.1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Nagaland during 2018-19, 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 in table 5.1 below:

Table 5.1 showing trend of revenue receipts

(₹ in crore)

Sl. No.	Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
1	<b>Revenue raised by the State Government</b>					
	• Tax revenue	388.60	427.10	510.75	638.28	846.43
	• Non-tax revenue	270.61	256.39	345.52	388.53	255.24
	<b>Total</b>	<b>659.21</b>	<b>683.49</b>	<b>856.27</b>	<b>1026.81</b>	<b>1101.67</b>
2	<b>Receipts from the Government of India</b>					
	• Share of net proceeds of divisible Union taxes and duties	1062.69	2540.72	3032.63	3353.13	3792.41
	• Grants-in-aid	5929.04	4819.36	5553.38	6639.27	6543.33
	<b>Total</b>	<b>6991.73</b>	<b>7360.08</b>	<b>8586.01</b>	<b>9992.40</b>	<b>10335.74</b>
3	<b>Total revenue receipts of the State Govt. (1 and 2)</b>	7650.94	8043.57	9442.28	11019.21	11437.41
4	<b>Percentage of 1 to 3</b>	9	8	9	9	10

(Source: Finance Accounts)

The above table indicates that during the year 2018-19, the revenue raised by the State Government (₹ 1101.67 crore) was 10 per cent of its total revenue receipts. The balance 90 per cent of the receipts during 2018-19 was from the GOI.

The details of tax revenue raised against the Budget Estimate (BE) during the period 2014-19 are given in table 5.2 below:

**Table 5.2 showing details of the tax revenue against the Budget Estimate (BE) raised during the period 2014-15 to 2018-19**

*(₹ in crore)*

Sl. No.	Head of revenue	2014-15		2015-16		2016-17		2017-18		2018-19		Percentage of 2018-19 over 2017-18
		BE	Actuals	BE	Actuals	BE	Actuals	BE	Actuals	BE	Actuals	
1	SGST	0	0	0	0	0	0	0	187.57	250.00	469.64	150
2	Sales Tax/VAT	294.36	294.29	332.78	328.58	400.00	400.12	410.00	287.55	225.00	186.69	(-35)
3	Taxes on vehicle	46.00	46.46	46.00	53.09	57.63	57.39	58.00	101.52	105.00	126.22	24
4	Stamps and Registration Fees	1.67	1.93	1.98	2.04	2.14	2.05	2.31	2.62	2.40	2.53	(-) 3
5	State Excise	4.47	4.70	4.90	5.12	5.40	4.63	5.60	4.20	5.10	4.65	11
6	Taxes on Goods and Passengers	7.50	9.73	12.10	5.88	13.31	14.76	7.00	17.59	14.60	20.16	15
7	Land Revenue	0.81	0.74	0.89	0.75	0.98	0.82	1.08	0.90	0.65	1.13	26
8	Others <sup>1</sup>	31.97	30.76	35.81	31.64	35.85	30.98	32.16	36.33	37.81	35.41	(-3)
<b>Total (Own Tax Revenue)</b>		<b>386.78</b>	<b>388.61</b>	<b>434.46</b>	<b>427.10</b>	<b>515.31</b>	<b>510.75</b>	<b>516.15</b>	<b>638.28</b>	<b>640.56</b>	<b>846.43</b>	<b>33</b>

*(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 (2017-18). The GST collection of the State had increased by 150 *per cent* from ₹ 187.57 in 2017-18 to ₹ 469.64 crore in 2018-19. Taxes on vehicles and land revenue receipts increased by 24 and 26 *per cent* respectively over the previous year.

The details of the Non-tax revenue against the Budget Estimate (BE) raised during the period 2014-15 to 2018-19 are indicated in Table 5.3 below:-

<sup>1</sup> Other taxes on income and expenditure, taxes on duties and electricity, other taxes and duties on commodities and services

**Table 5.3 showing details of the Non-tax revenue against the Budget Estimate (BE) raised during the period 2014-15 to 2018-19**

(₹ in crore)

Sl. No.	Head of revenue	2014-15		2015-16		2016-17		2017-18		2018-19		Percentage of 2018-19 over 2017-18
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	
1	Police	4.30	1.45	4.73	1.68	5.11	31.54	2.00	2.70	2.50	1.86	(-) 31
2	Miscellaneous General Services	10.00	13.08	10.00	13.43	11.00	13.64	12.10	16.10	14.50	24.15	50
3	Education, Sports, Art and Culture	0.46	103.56	40.21	76.52	44.23	119.40	48.65	132.84	100.00	4.33	(-) 97
4	Power	125.00	98.91	100.00	111.1	125.00	114.58	156.25	127.89	158.00	147.97	16
5	Civil Aviation	8.80	1.43	9.68	1.04	10.64	20.77	11.71	2.09	20.00	6.70	221
6	Road Transport	15.69	12.97	17.26	10.81	18.12	9.00	9.03	7.35	11.00	8.74	19
7	Other Non-tax receipts	41.57	39.21	48.72	41.80	47.49	36.59	40.07	99.56	41.45	61.49	(-) 38
<b>Total (Non-Tax Revenue)</b>		<b>205.82</b>	<b>270.61</b>	<b>230.6</b>	<b>256.38</b>	<b>261.59</b>	<b>345.52</b>	<b>279.81</b>	<b>388.53</b>	<b>347.45</b>	<b>255.24</b>	<b>(-) 34</b>

(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 (2017-18).

### 5.1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2019 on some principal heads of revenue amounted to ₹ 9.75 crore out of which ₹ 2.20 crore was outstanding for more than five years, as detailed in Table 5.4 below:

**Table 5.4 showing arrears of Revenue**

(₹ in crore)

Sl. No.	Head of revenue	Total Amount outstanding as on 31 March 2019	Amount outstanding for more than 5 years as on 31 March 2019	Replies of Department
1	Nagaland Value Added Tax	5.67	0.64	Reply not furnished
2	Petroleum Tax	2.91	0.60	
3	Central Sales Tax	0.70	0.61	
4	Purchase Tax	0	0	
5	Professional Tax	0.13	0.01	
6	Nagaland Sales Tax	0.34	0.34	
<b>Total</b>		<b>9.75</b>	<b>2.20</b>	

(Source: Departmental figures)

The entire arrears of ₹ 9.75 crore were pending with the departmental authorities of which recovery of ₹ 2.20 crore was pending for more than five years. The Departments may review the arrears and take action for recovery under the law.

### 5.1.3 Arrears in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed off 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 Table 5.5 below:

**Table 5.5 showing arrears in assessments**

(₹ in crore)

Head of Revenue	Opening Balance of arrears in assessment as on 1st April 2018	New cases due for assessment during 2018-19	Total assessment due	Cases disposed-off during 2018-19	Balance at the end of the 31st March 2019	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.	3651 <sup>2</sup>	778	4429	2916	1513	66%

(Source: Departmental figures)

The arrears in assessment decreased from 3651 to 1513 cases with the addition of 778 cases, which became due for assessment during 2018-19 and 2916 cases were disposed during the year.

### 5.1.4 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 2019) from the Commissioner of Taxes Dimapur. The Commissioner of Taxes, Dimapur replied (November 2019) that there was no evasion of tax detected.

### 5.1.5 Response of the Government/Departments towards Audit

The Principal 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.

<sup>2</sup> Opening balance taken as per the figure furnished by the Department.

IRs issued upto March 2019 disclosed that 318 paragraphs involving ₹ 376.96 crore relating to 78 IRs remained outstanding. Such details along with the corresponding figures for the preceding two years are shown in the Table 5.6:

**Table 5.6 showing details of outstanding audit observations**

Particulars	March 2017	March 2018	March 2019
Number of outstanding IRs	70	71	78
Number of outstanding audit observations	309	324	318
Amount involved (₹ in crore)	344.73	404.63	376.96

#### 5.1.5.1 Outstanding Inspection Reports and Audit Observations

The Department-wise details of the IRs and audit observations outstanding as on 31 March 2019 and the amount involved are given in the Table 5.7:

**Table 5.7 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.	32	197	147.73
2	Finance	Miscellaneous General Services/Lottery	4	17	214.88
3	Transport	Taxes on Vehicles/ Taxes on Goods & Passengers	33	82	10.58
4	Forest & Environment	Forest & Wildlife	9	22	3.77
<b>Total</b>			<b>78</b>	<b>318</b>	<b>376.96</b>

The pendency of IR due to non-receipt of replies was indicative of the fact that the Heads of Offices/Departments had not initiated action to rectify the defects, omissions and irregularities pointed out by the Principal Accountant General (Audit) in the IRs.

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

#### 5.1.5.2 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 2018-19, the Department did not convene any Audit Committee meeting 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.

### **5.1.5.3 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 Principal 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 November 2019 and December 2019. The reply in respect of the three draft paragraphs were received and incorporated with suitable comments.

### **5.1.5.4 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.

Eighteen paragraphs<sup>3</sup> and two Performance Audits<sup>4</sup> 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, 2016-17 and 2017-18 were placed before the State Legislative Assembly on 18 July 2013, 25 July 2014, 17 March 2015, 19 March 2016, 28 March 2017, 20 September 2018 and 15 February 2020 respectively.

PAC discussed nine paragraphs<sup>5</sup> pertaining to the Reports of the years 2011-12 to 2014-15. The Departments did not furnish *Suo-moto* explanatory notes to Principal Accountant General (Audit) through Nagaland Legislative Assembly Secretariat in respect of paragraphs/reviews which appeared in the Audit Reports.

During 2018-19, one PAC meeting was held and one Action Taken Note<sup>6</sup> was received.

### **5.1.6 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.

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<sup>3</sup> During 2011-12 = 1 para, 2012-13 = 3 paras, 2013-14 = 2 paras, 2014-15 = 3 paras, 2015-16 = 3 paras, 2016-17 = 3 paras, 2017-18 = 3 paras.

<sup>4</sup> During 2015-16 = 2 PAs.

<sup>5</sup> During 2011-12 = 1 para, 2012-13 = 3 paras, 2013-14 = 2 paras and 2014-15 = 3 paras.

<sup>6</sup> ATN on CAG Report 2011-12 (Report No. 119<sup>th</sup>)



The succeeding paragraphs 5.1.6.1 and 5.1.7 discuss the performance of Taxation Department in dealing with the cases detected in the course of local audit conducted and also the cases included in the Audit Reports for the years 2013-14 to 2017-18.

### 5.1.6.1 Position of Inspection Reports

The summarised position of IRs issued during the last five years, paragraphs included in these reports and their status as on 30 June 2019 are tabulated in the Table 5.8:

**Table 5.8 showing position of Inspection Reports**

(₹ in crore)

Year	Opening Balance			Addition during the year			Clearance during the year			Closing Balance		
	IR	Paras	Money Value	IR	Paras	Money Value	IR	Paras	Money Value	IR	Paras	Money Value
Upto												
2014-15	92	376	306.57	4	24	22.39	30	103	32.81	66	297	296.15
2015-16	66	297	296.15	2	27	26.58	7	48	9.47	61	276	313.26
2016-17	61	276	313.26	11	45	32.84	2	12	1.37	70	309	344.73
2017-18	70	309	344.73	3	30	70.93	2	15	11.03	71	324	404.63
2018-19	71	324	404.63	9	49	23.10	2	55	50.77	78	318	376.96

(Source: Inspection Reports of Revenue Sector)

It is evident from the above table that against 92 outstanding IRs with 376 paragraphs as on 1 April 2014, the number of outstanding IRs decreased to 78 with 318 paragraphs at the end of March 2019. The Department needs to take adequate steps to settle the outstanding IRs to avoid accumulation of the IRs and paragraphs.

### 5.1.7 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 5.9:

**Table 5.9 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
2013-14	2	8.46	1	0.95	0.95	0.95
2014-15	3	1.64	3	0.25	0	0.95
2015-16	3	16.10	2	5.64	0	0.95
2016-17	3	25.59	1	11.47	0.12	1.07
2017-18	3	19.86	1	3.34	0.05	1.12
<b>Total</b>	<b>14</b>	<b>71.65</b>	<b>8</b>	<b>21.65</b>	<b>1.12</b>	

(Source: Previous CAG Reports)

From the above table, it may be seen that during the last five years the Department accepted paras with an amount of ₹ 21.65 crore as against which they recovered only ₹ 1.12 crore. 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.

#### **5.1.7.1 Action taken on recommendations accepted by Government**

The draft Performance Audits (PAs) conducted by the Principal 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 2014-15 to 2018-19, two PAs relating to Finance Department and Transport 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 5.10:

**Table 5.10 showing status of acceptance of audit recommendations made in PAs/Draft Paragraphs**

<b>Year of Audit Report</b>	<b>Name of the Performance Audits</b>	<b>Name of Administrative Department</b>	<b>No. of recommendations in PAs</b>	<b>No. of recommendations in Draft paragraphs</b>	<b>Status of acceptance of recommendations</b>
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	Nil	--
2017-18	Nil	Nil	Nil	3	Not communicated

(Source: CAG's Audit Reports)

#### **5.1.8 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 80 auditable units, 16 auditee units were planned for audit during 2018-19 and 11 units were covered in audit.

#### **5.1.9 Results of audit**

##### **5.1.9.1 Position of local audit conducted during the year**

Test check of the records of 11 offices during 2018-19 revealed under assessment/short

levy/loss of revenue/non-realisation of outstanding revenue/ evasion of tax *etc.*, in two offices aggregating ₹ 4.92 crore in 24 cases.

### 5.1.10 Coverage of this chapter

This chapter contains two compliance audit paragraphs (selected from the audit observations made during the local audit referred to above) and previous years involving financial effect of ₹ 21.01 crore. The Department in reply stated (March 2020) that show cause notices were issued (November 2019), and the assessees sought more time to respond.

## Compliance Audits

### 5.2 Finance (Taxation) Department

#### 5.2.1 Evasion of Tax due to concealment of sales turnover and incorrect assessment of tax

**Two dealers concealed sales turnover and evaded tax of ₹ 5.24 crore and sixteen dealers concealed applicable taxable rate of interstate purchase and evaded tax of ₹ 14.41 crore**

Section 28 of the Nagaland Value Added Tax (NVAT) Act, 2005 stipulated 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 NVAT Act, 2005 provides that each and every return in relation to any tax period furnished by a dealer to whom notice has been issued by the Commissioner under Section 28 shall be subject to scrutiny by the Assessing Authority (AAs) to verify the correctness of calculation, application of correct rate of tax and interest and input tax credit claimed therein, and full payment of tax and interest by dealer during such period. Further, as per Rule 49 of the NVAT Rules 2005, if the dealer fails to pay the amount of tax by the due date interest at 2 *per cent* per month is payable on the balance amount of tax.

The rates of taxes are specified in the Schedules appended to the VAT Act, transfer on 'C' and 'F' form are at differential lower rates as specified from time to time (C Form-2 *per cent*, F Form-Nil). The office of the Deputy Commissioner of Taxes (DCT), Dimapur is divided into eight Wards, each headed by Superintendent of Taxes (ST). The STs are the Assessing Authorities (AA) and also the approving authority of all statutory forms to dealers who are in the business of manufacturing and resale of goods.

Compliance Audit on the accounts of the Deputy Commissioner of Taxes, Dimapur for the period from April 2017 to August 2019 was held during August and September 2019. Audit test checked five Superintendent of Taxes, (AAs for Ward A, B, C, D &

E) and as per records, 2286 out of 2920 dealers were assessed by the AAs for the assessment period of 2015-16, 2016-17 & 2017-18.

**Evasion of Tax due to concealment of sales turnover**

Examination of assessment records under the above Superintendent of Taxes (September 2019) revealed that the two dealers, viz., **M/S Gujarat Co-operative Milk Marketing Federation Ltd under Ward B** and **M/S Nestle India Ltd. of Ward C** declared a consolidated gross receipt of goods valued at ₹ 252.36 crore (**Appendix 4.1**) from outside the State during the period 2013-18 by utilizing F<sup>7</sup> forms. The returns filed by these dealers were scrutinized and accepted by the AAs under sections 32 of the NVAT Act, 2005 with a tax liability of ₹ 29.34 crore on total sales turnover of ₹ 244.53 crore as detailed below:

(₹ in crore)

Name of dealers	Stock received	Sales declared	Total Tax paid
M/S Gujarat Co-operative Milk Marketing Federation Ltd.	102.16	104.56	10.61
M/S Nestle India Ltd	150.20	139.97	18.73
<b>Total</b>	<b>252.36</b>	<b>244.53</b>	<b>29.34</b>

(Source: Compiled from the records of the Department)

Cross examination of the Trading Accounts submitted by the dealers with the invoice details obtained from the TAX soft – VAT e-Filing System<sup>8</sup> revealed that the stock transfer of goods<sup>9</sup> through utilisation of “F” forms by the firms were taxable at 13.25/14.50 per cent<sup>10</sup>. However, the firms had declared sales as taxable at 14.50 per cent, 13.25 per cent, 4.75 per cent and 5 per cent and paid ₹ 29.34 crore only against the actual total tax liability of ₹ 34.58 crore (**Appendix 4.2**), resulting in short levy of tax amounting to ₹ 5.24 crore.

Hence, the dealers were liable to pay ₹ 5.24 crore and penal interest of ₹ 5.15 crore<sup>11</sup> in accordance with Rule 49 of the Nagaland Value Added Tax Rules, 2005.

The Department in reply stated (March & July 2020) that:

- a) Show cause notice was served (November 2019) to the two dealers against which, M/s Gujarat Co-operative Milk Marketing Federation Ltd. has requested more time for further consultation to give proper reply with facts and figures.

<sup>7</sup> Form used for transfer of goods from one State to another without recognizing it as sale

<sup>8</sup> Mission Mode Project under NeGP implemented by Government of Nagaland which aims to simplify tax administration & compliance through Information Communication & Technology intervention.

<sup>9</sup> “Milk products including condensed milk, ghee, cheese, butter, oil, ice creams, margarine, whether or not bottled canned or packed

<sup>10</sup> 13.25 per cent till 31/7/2015 and thereafter 14.5 per cent

<sup>11</sup> @ 2 per cent as per illustration shown under Rule 49 of NVAT

- b) The Department stated (October 2020) that in reply to the show cause notice issued, the dealer (M/s Nestle India Ltd.) stated that some of their best selling products fall under Schedule-IV, Sl. No. 36 taxable at 4.75 per cent up to 31 July 2015 and 5 per cent w.e.f 1 August 2015.

The reply of the Department regarding claim of lesser tax rates by M/s Nestle India Ltd. is not acceptable as records available with the Department (Tax soft-VAT e-filing system) disclosed that all the items imported by the dealer from outside the State were listed at Serial Number 104 of Schedule-V of NVAT Act<sup>12</sup> as Milk and allied products which are taxable at 13.25 per cent and 14.50 per cent up to 31 July 2015 and w.e.f 1 August 2015, respectively. The taxes avoided of ₹ 5.24 crore need to be recovered along with penal interest.

#### **Evasion of Tax due to incorrect assessment of tax**

Examination of assessment records under the above Superintendent of Taxes (September 2019) revealed that 16 dealers<sup>13</sup> declared consolidated gross purchases of ₹ 183.84 crore<sup>14</sup> during the period 2015-18 by utilizing C<sup>15</sup> and F<sup>16</sup> forms. The returns filed by these dealers were scrutinised and accepted by the AAs under section 32 of the NVAT Act, 2005.

Examination of category-wise purchases/receipt of goods with the invoice details obtained from the TAX soft – VAT e-Filing System revealed that 16 dealers made interstate purchase of ₹ 183.84 crore under different tax rates against which tax payable is ₹ 25.88 crore (**Appendix 4.3**). However, trading accounts submitted by the dealers revealed that goods valuing ₹ 176.47 crore was purchased by the dealers and tax payable assessed by the AAs was ₹ 15.46 crore (**Appendix 4.4**) against which the dealers paid ₹ 11.47 crore with outstanding tax liability of ₹ 3.99 crore.

The omission on the part of Superintendent of Taxes in assessing the returns resulted in evasion of tax amounting to ₹ 10.42 crore<sup>17</sup> by these dealers. The dealers were liable to pay ₹ 25.82 crore including concealed tax liability of ₹ 10.42 crore, previous tax liability of ₹ 3.99 crore and penal interest of ₹ 11.41 crore<sup>18</sup> in accordance with Rule 49 of the Nagaland Value Added Tax Rules, 2005 (**Appendix 4.5**).

The Departmental reply (July 2020) is summarised in the table below with suitable audit remarks. A total amount of ₹ 26.89 lakh was realised by the Department at the instance of audit.

<sup>12</sup> Milk products including power milk, condensed milk, ghee, cheese, butter, oil, ice creams, margarine, whether or not bottled canned or packed

<sup>13</sup> Appendix 4.2.2.1

<sup>14</sup> Gross Purchases includes non-taxable items, capital goods, goods damaged/ expired/ returned.

<sup>15</sup> Form used for Interstate purchase

<sup>16</sup> Form used for transfer of goods to another State

<sup>17</sup> ₹ 25.88 crore - ₹ 15.46 crore = ₹ 10.42 crore

<sup>18</sup> @ 2 per cent as per illustration shown under Rule 49 of NVAT, calculated upto April 2020

Sl. No.	Department Reply	Audit Remarks
1.	In respect of 10 dealers, audit has calculated the tax liability amount by taking into account all purchases without taking the stock in hand, goods damaged and goods returned [ <b>Appendix 4.6(i)</b> ].	The Department did not produce statutory documents in support of damaged and returned goods viz. verification report and credit/debit note [Section 23(3) of NVAT Act 2005]. Therefore, claims for damaged and returned goods could not be accepted.
2.	In respect of five dealers (including three dealers in Sl. No. 3), certain commodities fall under lower tax rates than the rates calculated by audit. [ <b>Appendix 4.6(ii)</b> ].	Tax liability amount was determined as per commodities/items mentioned in C & F Forms utilised by the dealers and corresponding tax rates in Schedules of NVAT Act 2005. Therefore, Department's claim of lower tax rates is incorrect.
3.	Four dealers were re-assessed and total tax liability was realised from three dealers and one dealer was served with demand notice for outstanding amount [ <b>Appendix 4.6(iii)</b> ].	Documents in support of re-assessment of the dealers were not furnished. Total tax liability amount of one dealer was realised along with penal interest, and thus accepted.

Thus, the department may take steps to recover the taxes along with penal interest amounting to ₹ 25.82 crore.

**Recommendation:** (1) *The Department may collate the remaining tax returns assessed by them with the corresponding utilisation of statutory forms of the respective dealers to assess the correctness of the purchases declared by them and rates declared for appropriate collection of tax dues.*

(2) *It is recommended that the Government may look into all cases of utilization of C & F forms in the State and taxes evaded may be recovered before expiry of statutory period of five years.*

### **5.2.2 Short payment of entry tax on stock transfers**

**The Assessing Authority did not scrutinise the utilisation of statutory forms for import of goods into the State and also did not invoke the relevant provisions of Nagaland Entry Tax Act 2013 which resulted in short payment of entry tax of ₹ 1.37 crore**

Section 3 (1) of Nagaland Entry Tax (NET) Act, 2013 stipulated that there shall be levied and collected an entry tax on the entry of specified goods into local area for consumption, use or sale therein, at the rates respectively specified against each item in the Schedule. The entry tax shall be leviable on the import value of the specified goods



and shall be paid by every importer of such goods provided that no entry tax shall be levied under this Section on the entry of specified goods into local area, if it is proved to the satisfaction of the Assessing Authority, in such manner as may be prescribed, that such goods have already been subjected to entry tax or that the entry tax has been paid by the importer or any other person under this bill in respect of the same goods.

As per Rule 12 of NET Rules, 2013, the relevant provision of the Nagaland Value Added Tax Rules, 2005 shall *mutatis mutandis* apply in respect of all such procedural and other matters incidental to carrying out the purposes of this Act for which no provision has been made in these Rules. Further, as per Rule 12 (5) of CST Rules, 1957, the declaration referred to in Sub-section 1 of Section 6-A shall be in Form ‘F’<sup>19</sup> provided that, a single declaration may cover transfer of goods by a dealer, to any other place of his business or to his agent or principal, as the case may be, effected during a period of one calendar month. As per Section 49 of the NVAT Rules 2005, if a dealer fails to pay the amount of tax by the due date, interest at the rate of two *per cent* per month is payable on the balance amount of tax liable to be paid.

Examination of assessment records (September 2019) of 330 dealers out of 684 dealers with gross turnover of more than ₹ 1.00 crore under the five Superintendent of Taxes under Deputy Commissioner of Taxes, Dimapur revealed that M/s Reliance Jio Infocom Ltd. under Ward D of Deputy Commissioner of Taxes, Dimapur Zone submitted a zero sales turnover for the period from 2013-14 to 2015-16 in the quarterly/annual returns. It was also observed that the Assessing Authority of Ward D issued (January 2016) a show cause notice under Section 5 (iii) of the Nagaland Entry Tax Act 2013 for submission of the returns stating that the firm imported goods for ₹ 55.94 crore<sup>20</sup>. However, the dealers did not comply with the show cause notice.

Cross verification of the returns submitted by the firm with the TAX soft – VAT e-Filling System<sup>21</sup> revealed that the firm utilised thirty-three “F” forms valued for ₹ 61.52 crore as inter-state stock transfer of goods to the State of Nagaland from Assam, Manipur and Maharashtra. It was also observed that the goods received through stock transfer from outside the state through utilisation of “F” forms were not taxed under NVAT Act 2005, as such the value of goods imported into the State of Nagaland was taxable under Section 3 (1) of NET Act 2013 at 4 *per cent* as detailed below:

Year	Number of F forms	Number of Invoices	Stock Transfer (in ₹)	Taxable entry tax @4% (in ₹)	Tax paid (in ₹)	Tax due (in ₹)
2013-14	8	99	42846380	1713855	0	1713855
2014-15	12	536	166779447	6671178	0	6671178
2015-16	13	1412	405554577	16222183	10880331	5341852
<b>Total</b>	<b>33</b>	<b>2047</b>	<b>615180404</b>	<b>24607216</b>	<b>10880331</b>	<b>13726885</b>

<sup>19</sup> “F” form is required for stock transfer to branches or consignment agents or vice-versa from one State to another without attracting charge of Central Sales Tax.

<sup>20</sup> 2013-14=₹ 4.54 crore; 2014-15=₹ 18.34 crore and 2015-16= ₹ 33.06 crore

<sup>21</sup> Mission Mode Project under NeGP implemented by Government of Nagaland which aims to simplify tax administration & compliance through Information Communication & Technology intervention.

As could be seen from the above table, the firm did not pay the entry tax of ₹ 83.85 lakh for the assessment years of 2013 -14 (₹ 17.14 lakh) and 2014-15 (₹ 66.71 lakh) against twenty 'F' forms. Further, the firm had paid entry tax of ₹ 1.09 crore out of the payable amount of ₹ 1.62 crore during 2015-16 against thirteen 'F' forms on transfer of stock received from outside the State of Nagaland. This resulted in short payment of entry tax of ₹ 1.37 crore (₹ 0.84 crore + ₹ 0.53 crore). Besides the firm was liable to pay penal interest of ₹ 1.56 crore<sup>22</sup> as interest on tax amount which had been evaded in accordance with Rule 49 of the Nagaland Value Added Tax Rules, 2005 (**Appendix 4.7**).

Thus, failure on the part of the Assessing Authority to scrutinise the statutory forms utilised and invoke the relevant provisions of the NET Act 2013, resulted in concealment of stock transfer and subsequent evasion of entry tax of ₹ 1.37 crore and penal interest of ₹ 1.56 crore for the due amount.

The department in reply stated (March 2020 & June 2020) that the firm had paid tax amount of ₹ 1.94 crore for three years<sup>23</sup> and the goods bought on stock transfer were capital goods and not for resale. The department also stated that it had allowed extension of time as requested by the dealer to prove the claim of exemption of entry tax.

The reply of the department is not acceptable since deposit challans for the year 2013-14 and 2014-15 were not furnished along with the reply. Further, the extension of time allowed by the department is not in accordance with Section 3 (1) of Nagaland Entry Tax (NET) Act, 2013 as entry tax of specified goods into local area for consumption, use or sale therein, at the specified rates against each item in the Schedule are to be compulsorily levied and collected.

***Recommendation: The Department may initiate action to determine the tax payable and recover the same from the dealer along with penal interest.***

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<sup>22</sup> @ 2 per cent as per illustration shown under Rule 49 of NVAT, calculated upto April 2020

<sup>23</sup> ₹ 17.12 lakh (2013-14); ₹ 67.82 lakh (2014-15); ₹ 108.80 lakh (2015-16)