CHAPTER-4

TAXES/VAT ON SALES, TRADE

4.1 Tax administration

The Haryana Value Added Tax Act, 2003 (HVAT Act)[1] and rules framed thereunder are administered by the Additional Chief Secretary (Excise and Taxation). The Excise and Taxation Commissioner (ETC) is the head of the Excise and Taxation Department who is assisted by Additional ETCs, Joint ETCs (JETCs), Deputy Excise and Taxation Commissioner (DETCs) and Excise and Taxation Officers (ETOs). They are assisted by Excise and Taxation Inspectors and other allied staff for administering the relevant tax laws and rules.

4.2 Results of audit

In 2022-23, test check of the records of 10 (Eight Revenue and two expenditure) out of 46 units relating to VAT/Sales tax assessments revealed under-assessment/evasion of tax and other irregularities involving ₹ 176.80 crore in 376 cases, falling under the following categories as depicted in ***Table 4.1***.

Table 4.1: Results of Audit

Revenue			
Sr. No.	**Category**	**Number of Cases**	**Amount (₹ in crore)**
1.	Under-assessment of tax	93	72.39
2.	Irregular/Incorrect/Excess allowance of Input Tax Credit (ITC)	119	32.97
3.	Evasion of taxes due to suppression of sales/purchases	51	18.94
4.	Acceptance of defective statutory forms	23	15.64
5.	Other irregularities	87	36.45
	Total (I)	**373**	**176.39**
Expenditure			
1.	Other irregularities	3	0.41
	Total (II)	**3**	**0.41**
	Grand Total (I+II)	**376**	**176.80**

The Department accepted under-assessment and other deficiencies of ₹ 0.06 crore in four cases which were pointed out during the year and recovered ₹ 26,543 in one case in the year 2022-23.

[1] Though Goods and Services Tax (GST) was implemented from 1 July 2017, there were huge number of assessment cases of Value Added Tax (VAT) which were pending at the end of the year 2017-18. In September 2015, through the amendment under Section 17 of the HVAT Act, the assessing authority (AA) at any time before the expiry of eight years following the close of that year or before the expiry of three years following the date when the assessment for that year becomes final, whichever is later, can reassess the tax liability of the dealer for the year for which the reassessment is proposed to be made. Thus, the cases ending in 2017-18 can be reopened upto 2024-25. The VAT cases audited during the year are considered in the Report.

Significant cases involving ₹ 9.47 crore are discussed in the following paragraphs.

4.3 Under assessment of tax due to allowing concessional rate of tax against invalid forms 'C' resultantly undue benefit to the dealers

The Assessing Authorities, while finalising the assessments, allowed concessional rate of tax without verification of statutory forms, resulting in under assessment of tax of ₹ 1.97 crore. In addition, penalty of ₹ 5.90 crore was also leviable.

Section 8 (4) of the Central Sales Tax Act (CST Act), 1956 provided that concession under sub section (1) shall not apply to any sale in the course of inter-State trade or commerce unless the dealer selling the goods furnishes to the Assessing Authority (AA), a declaration duly filled and signed by the registered dealer to whom the goods are sold containing the prescribed particulars in a prescribed form obtained from the prescribed authority. Further, Section 38 of the HVAT Act 2003 provided for penal action (three times of tax avoided/benefit claimed) for claims on the basis of false information and incorrect accounts or tax. Further, the Government of Haryana issued Standard Operative Procedure (SoP) (January 2018) that in cases, where verification report is not received within six months from the date of assessment order or from the dispatch of verification letter whichever is later, AA should levy tax and penalty as provided in the HVAT Act or Rules.

Scrutiny of records (October to November 2022) of the office of DETC (Sales Tax), Rewari for the years 2016-17 to 2017-18 revealed that three dealers in three cases claimed concessional rate of tax on their respective inter-State sales amounting to ₹ 17.69 crore. In support of the claims, the dealers submitted three 'C' forms. The concerned AA finalised the assessments between May 2019 and March 2021 and allowed the concessional rate of tax at the rate of two *per cent* instead of actual rate of tax 13.125 *per cent* (12.5 *per cent* tax plus five *per cent* surcharge) against the declaration forms duly filled without verification as per instructions *ibid*. Although, the AA was to send verification letter within six months, it was observed that letters were issued after a delay of 16 to 44 months.

On this being pointed out, verifications were carried out by ETO-cum-AA, Rewari (February 2023) with Assistant Commissioner, Department of Trade and Taxes, New Delhi which revealed ingenuine 'C' Forms in two cases.

Further, ETO Rewari while accepting the audit observation stated (February 2025) that in two cases additional demand had been created under HVAT Act and CST Act after reassessment. Moreover, recovery proceedings had also been

initiated against the dealers. In one case, ETO Rewari stated that reassessment proceedings would be finalised shortly.

Thus, allowing concessional rate of tax, without due verification of prescribed 'C' forms resulted in under assessment of tax of ₹ 1.97 crore and also undue benefit extended to the dealers. In addition, penalty of ₹ 5.90 crore was also leviable.

The matter was referred to the Excise and Taxation Department in January 2024 and reported to the Government in June 2024; their replies were awaited (May 2025).

4.4 Under assessment of tax due to non inclusion of excise duty in gross turnover

The Assessing Authorities, while finalising the assessments, assessed the cases on Gross Turnover/Taxable Turnover as ₹ 25.34 crore instead of ₹ 33.04 crore, resulting in under assessment of tax of ₹ 87.87 lakh.

Section 2 (1) (zg) of the HVAT Act, defines 'sale price' as the amount payable to a dealer as consideration for the sale of any goods, less any sum allowed at the time of sale as cash or trade discount according to the practice, normally prevailing in the trade, but inclusive of any sum charged for anything done by the dealer in respect of the goods at the time of or before the delivery thereof would include any sum charged on account of freight, storage demurrage, insurance, handling charges, cess, excise duty, weighment, packing charges, warranty, drawing and designing, service charges and other incidental expenses.

Scrutiny of the records (August to September 2022) of the office of DETC (ST) Faridabad (East), revealed that while finalising the assessments (November 2019 to January 2020) of two dealers for the year 2016-17, the AAs did not include excise duty[2] of ₹ 7.70 crore in gross turnover (GTO)[3]. The AAs assessed GTO wrongly as ₹ 25.34 crore instead of correct amount of ₹ 33.04 crore. This resulted in under assessment of tax of ₹ 87.87 lakh.

On this being pointed out, the ETOs, Faridabad (East, Ward 1 & 2) accepted the audit observation (September 2023 to October 2024) and stated that VAT N2 notice has been served to the dealer after re-assessment in one case, and in another case demand notice has been issued against the dealer under Section 17 of HVAT Act. Final outcome would be intimated in due course.

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2 The excise duty charged by the dealer from the customer is includible in the turnover for being taxed as it is a part of the sale price charged even though shown separately in the bill issued.

3 "Gross turnover" when used in relation to any dealer means the aggregate of the sale prices received or receivable in respect of any goods sold, whether as principal, agent or in any other capacity, by such dealer and includes the value of goods exported out or State or disposed of otherwise than by sale.

The matter was referred to the Excise and Taxation Department in October 2023 and reported to the Government in June 2024; their replies were awaited (May 2025).

4.5 Excess benefit of Input Tax Credit due to non-reversal

The Assessing Authority, while finalising the assessment, did not reverse input tax credit on account of inter-State sales which resulted in allowing excess benefit of ₹ 33.90 lakh.

As per Schedule 'E', Entry 3(b) read with Section 8(1) of HVAT Act, 2003, when goods are sold in the course of inter-state trade or commerce, input tax is admissible to the extent of amount of tax actually paid on the purchase of such goods in the State under the Act or tax payable on sale of such goods under the CST Act, 1956, whichever is lower.

Scrutiny of records (November 2022) of the office of DETC (ST), Rewari revealed that two dealers had shown purchases of ₹ 6.28 crore and claimed input tax credit (ITC) of ₹ 80.79 lakh on purchase value. As per the provisions of the Act, ITC of ₹ 33.90[4] lakh was to be reversed on account of inter-State sales of ₹ 3.05 crore. While finalising the assessment (September 2020) for the year 2017-18, the AA did not reverse the ITC. This resulted in allowing excess benefit of ITC of ₹ 33.90 lakh due to non-reversal of ITC.

On this being pointed out, the ETO-cum-AA, Rewari stated (November 2024) that final notice had been issued to both the dealers and the cases were under process and would be decided shortly. Final outcome would be intimated in due course.

The matter was referred to the Excise and Taxation Department in December 2023 and reported to the Government in June 2024; their replies were awaited (May 2025).

4.6 Non-levy of tax on Closing Stock

The Assessing Authorities did not verify details of sales with reference to opening and closing stock, resulting in non-levy of tax of ₹ 10.56 lakh on closing stock of ₹ 1.01 crore. In addition, penalty of ₹ 15.84 lakh was also leviable.

Under Section 38 of HVAT Act, 2003 if a dealer has maintained false or incorrect accounts or documents with a view to suppressing his sales, purchases, imports into State, exports out of State, or stocks of goods, or has concealed any particulars in respect thereof or has furnished to or produced before any authority under this Act or the rules made thereunder any account, return,

[4] ₹ 33,90,254 = ₹ 3,04,74,188 × 11.125 *per cent* (ITC claimed @13.125 *per cent* on purchase and out-put tax paid @ 2 *per cent* on inter-state sale).

document or information which is false or incorrect in any material particular, such authority may, after affording such dealer a reasonable opportunity of being heard, direct him to pay by way of penalty, in addition to the tax to which he is assessed or is liable to be assessed, a sum thrice the amount of tax which would have been avoided, had such account, return, document or information, as the case may be, been accepted as true and correct.

Scrutiny of records (November 2022) of the office of DETC (ST), Rewari revealed that a dealer had filed 'Nil' return for the assessment year 2017-18 but his trading account for the year 2016-17 was showing closing stock of ₹ 1.01 crore. The registration of the dealer was cancelled with effect from 1 July 2017. The AA while finalising the assessment in December 2019 did not verify details of sales with reference to opening and closing stock for the years 2016-17 and 2017-18 resulting in non-levy of tax of ₹ 10.56 lakh including interest of ₹ 5.28 lakh on closing stock of ₹ 1.01 crore. In addition, a sum thrice the amount of tax on account of penalty of ₹ 15.84 lakh was also leviable under Section 38 of the HVAT Act.

On this being pointed out, the Excise and Taxation Officer, Rewari (October 2024) while accepting the audit observation, stated that recovery proceedings for ₹ 26.41 lakh against the dealer have been initiated and after serving three recovery notices, the dealer was untraced. Thereafter, letter has been sent to the concerned Tehsildar to know the property details of taxpayer as well as notice of recovery has also been issued to the sureties of the taxpayer.

The matter was referred to the Excise and Taxation Department in September 2023 and reported to the Government in June 2024; their replies were awaited (May 2025).

4.7 Under assessment of tax due to allowing benefit of E-1 subsequent sale during movement

The Assessing Authority, while finalising the assessment, assessed the sale (even though the dealer had not submitted E-1 forms) and treated commodity as tax free guar instead of cotton which resulted in loss of revenue to the extent of ₹ 12.15 lakh to the Government.

Section 6 (2) of the CST Act provides for exemption of tax on subsequent sale during movement of goods from one State to another on production of declaration in form E-1. Section 17 provides for reassessment of tax. The amendment in September 2015 has increased the time limit within which the AA can reassess the tax and the Commissioner was allowed to reassess at any time before the expiry of eight years, following the close of that year or before the expiry of three years following the date when the assessment for that year becomes final, whichever is later.

Scrutiny of records (September 2022) of the office of DETC (ST), Sirsa revealed that a dealer in one case had purchased Cotton for ₹ 15.45 crore and sold Cotton for ₹ 15.73 crore and claimed E-1 (subsequent sales of Cotton J-34) during movement worth ₹ 6.07 crore for the year 2015-16. However, the AA while finalising the assessment in January 2018 assessed the sale (even though the dealer had not submitted E-1 forms) and treated commodity as tax free guar instead of cotton which resulted in loss of revenue to the extent of ₹ 12.15 lakh to the Government.

On this being pointed out, the ETO, Sirsa admitted the para and stated that the case had been reassessed in February 2024 and an additional demand for ₹ 24.30 lakh (including interest of ₹ 12.15 lakh) had been created by disallowing the claim of E-1 forms. Tax demand notice has also been issued to the dealer for recovery.

The matter was referred to the Excise and Taxation Department in August 2024 and reported to the Government in September 2024; their replies were awaited (May 2025).