

CHAPTER II SALES TAX

2.1 Results of audit

Test check of assessment files, refund records and other connected documents of Commercial Taxes Department conducted during 2005-06 revealed under assessments of sales tax amounting to Rs.210.16 crore in 1,577 cases, which broadly fall under the following categories.

(Rupees in crore)

Sl. No.	Nature of irregularity	No. of cases	Amount
1.	Short levy of tax due to incorrect exemption	240	30.88
2.	Short levy of tax due to application of incorrect rate of tax	165	14.36
3.	Short levy of tax due to misclassification of goods	41	2.71
4.	Short levy of tax due to incorrect/excess allowance of set off	72	1.02
5.	Short/non-levy of tax on works contracts	218	32.36
6.	Non/short levy of penalty/interest	55	21.14
7.	Non-levy of turnover tax (T.O.T)	228	3.53
8.	Non forfeiture of excess tax collection	35	0.59
9.	Sales tax incentives to industrial units	110	65.21
10.	Cross verification of transit passes at integrated check posts (ICPs)	17	-
11.	Short levy of tax on inter State sales	109	30.35
12.	Other irregularities	287	8.01
	TOTAL	1,577	210.16

During the year 2005-06, the department accepted under assessments etc., of Rs.48.01 crore in 910 cases of which 283 cases involving Rs.36.05 crore were pointed out in audit during the year 2005-06 and the rest in earlier years. Out of this, an amount of Rs.2.33 crore in 58 cases was realised.

A few illustrative cases involving Rs.52.22 crore and 'I.T. review on Integrated Check Post Software (ICPS) in commercial taxes department' are mentioned in the following paragraphs.

2.2 Cross verification of transit passes issued at Integrated Check Posts and working of check posts

2.2.1 Scope of Audit

A review on 'cross verification of transit passes issued at integrated check posts and working of check posts' was conducted during the period from August 2005 to February 2006 covering the period from 2000-01 to 2004-05. Data relating to all Integrated Check Posts (ICPs) and Border Check Posts (BCPs) was collected/obtained from the Commissioner of Commercial Taxes (CCT) office, concerned circle offices and check posts. The data was analysed and audit findings noticed are brought out in the succeeding paragraphs.

2.2.2 Lack of internal control

Non preparation of manual

The department had not prescribed any working manual on the functioning of check posts till 31 March 2005. A working manual was issued only in July 2005. In the absence of a manual till June 2005, there were no consolidated set of instructions to be followed by check post officials except Act and rules therein to assist them in discharge of their duties and ensure standardised operations across the state.

Non conducting of physical verification of goods vehicles

Section 29(2) of Andhra Pradesh General Sales Tax (APGST) Act empowers the officer incharge of check post to examine the contents of the vehicles which pass through the check post and to inspect all records relating to the goods being carried. Transport of goods not covered by valid documents are liable to seizure and levy of tax thereon including penalty.

According to the instructions issued by the Commissioner of Commercial Taxes (November 1987), atleast 20 lorries per day were required to be physically checked by unloading the goods thereon. Accordingly, 7,300 goods vehicles were to be checked at each check post per annum.

Complete information regarding physical verification of the goods vehicles for period 2000-01 to 2004-05 was not available in all check posts. In five check posts where complete information was available, the position of physical verification of goods vehicles was as follows:

		ICP		BCP		
		Naraharipeta	Saloor	Chiragpally	Thumakunta	Zaheerabad
2000-01	No. of vehicles passed	2,42,067	78,726	1,29,141	35,703	1,35,264
	No. of vehicles physically checked	2,373	--	--	--	--
	Shortfall in percentage	82	100	100	100	100

		ICP		BCP		
		Naraharipeta	Salooru	Chiragpally	Thumakunta	Zaheerabad
2001-02	No. of vehicles passed	2,00,963	79,332	1,88,522	41,344	88,184
	No. of vehicles physically checked	1,811	--	223	--	143
	Shortfall in percentage	75	100	97	100	98
2002-03	No. of vehicles passed	2,00,135	65,418	1,82,436	38,861	83,713
	No. of vehicles physically checked	3,426	12	185	--	14
	Shortfall in percentage	53	100	97	100	100
2003-04	No. of vehicles passed	1,97,826	45,259	1,22,537	41,538	68,943
	No. of vehicles physically checked	1,468	--	1,021	--	1,637
	Shortfall in percentage	80	100	86	100	78
2004-05	No. of vehicles passed	2,20,008	48,392	2,47,303	53,615	1,57,094
	No. of vehicles physically checked	530	28	26	3	23
	Shortfall in percentage	93	99	100	100	100

It may be seen from the above table that the shortfall was 53 *per cent* in one check post at Naraharipeta in 2002-03, while in all other cases the shortfall ranged between 75 and 100 *per cent*. Even though the position of physical verifications was informed every month to the superior officers, no rectification action was taken at any level to adhere to the norms. Due to non conducting of physical verification, the correctness of commodity, quantity and value of the goods that have passed through the check posts could not be verified in audit.

Government replied (October 2006) that the check posts were manned by DCTO/ACTOs and supplementary staff round the clock all 365 days. Special teams were deployed to all check posts to make benchmark studies. The senior officers i.e., joint commissioner cadre of CT department visit the check posts, scrutinise the data and also check the vehicles outside the check posts. Therefore, there was effective control on check posts. The reply was silent about adherence to norms prescribed by the department itself. Further, evidence of having conducted physical verification of goods vehicles was not available in more than 50 *per cent* check posts.

Internal audit

Internal audit plays an important role for monitoring internal control and for better performance of the organisation. No separate internal audit wing existed in CCT's office. However, procedural audit was being done by deputy commissioners (CT). An analysis of the information collected at the check posts revealed that internal audit was conducted by the deputy commissioners (CT) in only five check posts during 2004-05.

Non/defective maintenance of stock registers of receipt books

According to Article 133(a) of A. P. Financial Code Vol. I, the head of the office or any other Government servant who is entrusted with stores of any kind should take special care in arranging for their safe custody. He should also maintain suitable stock account or inventories for the stores in his custody with a view to prevent losses to Government through theft, fraud, negligence or accident and to make it possible to check the actual balance with the book balances and the expenditure on stores at any time. Further, Article 143 of the code requires all stores to be verified periodically in the manner prescribed for each department and at least once in a year. Collection of tax and penalty etc., are acknowledged by issue of receipts. As such stock account of receipt books is to be maintained properly. It was, however, noticed that stock registers of receipt books were not maintained properly.

In Border Check Post, Zaheerabad and Integrated Check Post, Bheemunivaripalem, stock registers of receipt books were not maintained. Similarly, in Border Check Post, Madnoor, stock account of receipt books from April 2000 to October 2001 was not produced to audit. In five♦ check posts, the opening balances, receipts, issues and closing balances were not worked out. Issues were not supported by indents, acknowledgements and attestations. Physical verification of receipt books was not conducted in any of the check posts during the last five years to ensure that there was no misuse of receipts/receipt books. In the absence of stock account of receipt books and non conducting of physical verification thereof, it could not be ascertained whether all the receipt books supplied to the check posts were properly accounted for, utilised and revenue realized thereof was remitted to Government account.

Non maintenance of register of detained goods

According to the provisions of APGST Act and Rules, if goods are detained at a check post for any reason and claim is not received within 30 days from their detention, the goods shall be transferred to the DCTO of the area having jurisdiction over the check post. The same shall be auctioned after giving a final notice of 15 days. The auction shall be knocked down in favour of the highest bidder subject to confirmation by the CTO having jurisdiction over the check post. To check the correctness of the transactions relating to detained goods, a register is to be maintained at each check post. This register was not maintained in five♥ border check posts. In the absence of this register, information in respect of detained goods could not be verified in audit.

♦ ICPs Bhoraj and Saloora, BCPs Madnoor, Tadukupet and Wankidi

♥ Bhainsa, Nagalapuram, Thumakunta, Wankidi and Tadukupet (2000-01 to 2002-03)

2.2.3 *Non maintenance of separate records for entry tax*

The provisions of AP Tax on Entry of Motor Vehicles into Local Areas Act 1996 and AP Tax on Entry of Goods into Local Areas Act 2001, envisage levy and collection of entry tax on certain commodities at the check posts such as motor vehicles, HSD oil, furnace oil etc.

It was noticed that separate records were not maintained for entry tax in any of the check posts. Consequently, the correctness of entry tax levied and collected could not be verified in audit. This implies lack of control over a substantial quantum of revenue which is indicating a steep rising trend.

Government replied (October, 2006) that effective measures were being initiated to evolve a computer package to record all the transactions and to analyse the details pertaining to entry tax.

2.2.4 *Non provision of infrastructural facilities*

For efficient functioning of any check post, facilities such as permanent building, parking yard and godowns are necessary as also equipment support i.e., crane, weigh bridge, generator etc., are considered essential, as the check posts are required to work round the clock.

It was, however, noticed that

- General facilities such as parking place, godowns and bye lanes which are integral part of the check posts were not provided at four^o check posts. Further, since permanent buildings are not provided to two check posts at Palamaner and P.Konayavalasa, these are functioning from temporary structures. Erection of barricades, essential for stopping passing vehicles, was not done in 10^y check posts.
- Crane, generator and weigh bridge, essential for conducting physical verification are not available at 13^{oo} check posts.
- The officials at check posts work round the clock. As such, minimum amenities such as drinking water, toilets and rest rooms are to be provided. These facilities are not available at five^f check posts. Further, telephone connection is also not available at four^{*} check posts.

Government replied (October, 2006) that budgetary provisions were being made and the process would be completed in the near future. However, no time frame was furnished for completion of the above process.

^o BCPs Bhainsa, Madnoor, P.Konayavalasa and Wankidi

^y ICPs Bhoraj and Saloor; BCPs Bhainsa, Chiragpalli, Madnoor, Palamaner, P.Konayavalsa, Tadakupet, Wankidi and Zaheerabad

^{oo} ICPs Bheemunivarpalem, Bhoraj, Saloor, and Purushothapuram, BCPs Madnoor, Thumakunta, Bhainsa, Tana, Kodikonda, Nagalapuram, P.Konayavalasa, palamaner and Wankidi

^f ICPs Bhoraj, Naraharipeta, BCPs Bhainsa, Nagalapuram and P.Konayavalasa

^{*} Zaheerabad 'X' Road, Bhainsa, Tadakupeta and Tana

2.3 I.T. Review on Integrated Check Post Software (ICPS) in Commercial Taxes Department

Computerisation at check posts in Commercial Taxes Department

Andhra Pradesh has five Integrated Check Posts situated at strategic locations bordering with other States. These check posts facilitate six major Government departments viz. Commercial taxes, Transport, Marketing, Excise and prohibition, Mines and geology and Forest to track the movement of goods. To provide quality services by automating processes and to implement different Acts by respective departments through single window checking facility, a common software for integrated check posts (ICP) was developed (April 2003).

HIGHLIGHTS

Procurement of software without following the tender process and lack of planning in implementation

[Paragraphs 2.3.5 and 2.3.6]

Non utilisation of application by other participating departments defeated the primary objective of implementation

[Paragraph 2.3.7]

Improper input validations resulted in misclassification of movement types of vehicles

[Paragraph 2.3.8.1]

Non finalisation of assessments in all cases of unsurrendered transit passes led to potential loss of revenue

[Paragraph 2.3.8.5]

Non elimination of manual intervention in arriving at details of unsurrendered transit passes and blacklisting of vehicles

[Paragraph 2.3.8.2]

Non utilisation of employee module due to training not having been imparted to departmental personnel

[Paragraph 2.3.9]

2.3.1 Introduction

Integrated Check Post Software (ICPS) application was developed (April 2003) by M/s Holool e-Business Private Limited for better functioning of the five Integrated Check Posts[~] (ICPs) through single window checking facility. The application mainly emphasises on tracking movement of vehicles/consignment passing through these check posts. The objectives of the application were reduction of duplication of work, optimising transaction-processing time, reduction of traffic disruption at check posts, to prevent tax evasion and augment state revenues.

Earlier, Compact 2020; a package developed by M/s Ram Informatics Limited (RIL) was in force at the ICPs and Border Check Posts (BCPs). The ICPS application was implemented in one[⊗] ICP in June 2003 and in the remaining four[♦] ICPs in June 2004.

Subsequently, COACH^{*}, a package developed by M/s Holool e-Business, to maintain data integrity between ICPs and BCPs was implemented at 10 BCPs during the period May and November 2005 and in the remaining two BCPs[⊕] thereafter.

2.3.2 IT organisational structure in the department

IT organisation in the Commercial Tax Department(CTD) is headed by a Committee on Information Technology & e-Governance for Commercial Taxes which is assisted by one Advisory-cum-tender-cum-purchase committee, Commissioner (CT), one Special Commissioner, one Joint Commissioner who is assisted by one Assistant Commissioner, one CTO/DCTO and data entry operators (DEOs).

For administrative purposes the CTD is divided into divisions, circles and unit offices. Each check post operates under the jurisdiction of a Commercial Tax Officer (CTO) at the circle level and Deputy Commissioner (DC) at Division level, who in turn function under the control of Joint Commissioner (Enforcement).

2.3.3 Information Systems set up

The ICPS application was developed on VERSATA™ platform with Oracle 9i and 10g as backend. The operating systems in use were Windows 2000 server family & professional and the networking software and the system management was through CA Unicentre®. The IT system architecture was web based-central and distributed.

[~] Integrated Check Posts at Borhraj-Adilabad district, Ichapuram-Srikakulam District, Tada-Nellore district, Naraharipet-Chittoor district and Saloora-Nizamabad district

[⊗] ICP, Tada

[♦] ICP-Bhoraj, Ichapuram, Saloora and Naraharipet

^{*} Comprehensive Application for Check Posts

[⊕] BCP Tadukupet and Chiragpally

The Central Computer Wing (CCW) in Office of the CCT is connected through BSNL leased line (2 Mbps) to each division/circle/check post. The data gets updated in the central server at the CCW from all the ICPs and the database is synchronised on a 'real time' basis every four hours among these locations. In case of connectivity problems, mainly due to problems in power supply, the data is stored in CDs and sent to CCW and the database is updated.

2.3.4 Objectives, scope and methodology of audit

Audit had the following objectives:

- Obtain assurance regarding IT controls and resultant effect on efficiency, economy and effectiveness of the performance of Commercial Taxes Department (CTD);
- Examine IT system development, maintenance and operations in the department; and
- Review the system followed by the department to maintain data integrity as different packages were in force till March 2005 at ICPs (Holool) and BCPs (compact 2020).

The data relating to the period June 2003 to March 2005 was analysed using IDEA[♥] and MS Excel as CAAT[♣]s. An entry conference was also conducted with the CCT in October 2005, where the officers in charge of the ICPs and BCPs were also present.

AUDIT FINDINGS

2.3.5 Procurement of software without following tender process

It was noticed that the vendor (Holool) had approached the department directly with a letter of introduction and offered to develop a 'proof of concept'. After demonstration, without following tender process as per financial rules, CTD agreed to the proposal of the vendor to develop a pilot project at one of the ICPs (in June 2003) free of development charges. However the application was further replicated at the other four ICPs in June 2004 at a project cost of Rs.34.38 lakh, including development charges.

Department replied (July 2006 and August 2006) that merely not following the financial rules and procedural labyrinth may not be considered as a serious lapse and the deviation might have occurred due to engrossment in following more of the technical aspects than the financial procedures in vogue. The reply is not tenable because a tender process would have given the department not only financial leverage but greater technical options as well. Further, it is evident from the findings of this report, that application has not been able to achieve the objectives in entirety.

[♥] Interactive Data Extraction and Analysis

[♣] Computer Assisted Audit Techniques

2.3.6 *Lack of planning in implementation*

The ICPS application was implemented at the five ICPs only (from June 2003 to June 2004). Compact 2020, software (developed by M/s RIL) was in use before the implementation of ICPS at ICPs and was in use at the BCPs till 2005. As assessments are required to be completed within four years, data of earlier years (four at the least) need to be captured/ported from the legacy system. Directions issued to M/s RIL to make necessary changes in their package to suit the requirements of ICPS package were not acted upon till December 2004.

As the data in the earlier software was not integrated with ICPS, data relating to earlier years were not available at ICPs to enable the assessing authorities to cross verify the facts while finalising the assessments.

A transit vehicle passes through the State to other neighbouring States which may enter through an ICP and exit through a BCP. Operation of two non-integrated packages resulted in non-generation of transit pass mis-match reports^o between 2003 and 2005. Ultimately, to maintain data integrity, a new package (COACH) was developed at a cost of Rs.7.58 lakh by M/s. Holool India Ltd and implemented at BCPs.

Department replied (July and August 2006) that a need based approach was adopted, mis-match reports could be generated at the head office by synchronising the data received from ICPs and BCPs. Further, 'GIS', a module being developed by M/s TCS as a part of VATIS[♦] to administer check post functions will replace the existing application in due course and efforts would be taken to rationalise the entire procedure.

However, verification showed that nine out of twelve BCPs forward the data only in hard copies and even the data transmitted electronically from remaining BCPs, was not communicated to the jurisdictional CTOs for reference. The generation of the mis-match reports was therefore not possible. Thus, lack of proper planning had resulted in operation of two different software packages[#] between 2003 and 2005 paralysing the basic functions of the check post.

2.3.7 *Non utilisation of package by participating departments*

The primary objective of the ICPS package was to provide single window checking facility for various departments. However, it was noticed that except CTD other participating departments were not using ICPS and still operating through separate counters. Further, the entire project cost was also borne by the CTD. It was also noticed that, Excise and Prohibition Department, one of the participating departments, could not utilise ICPS in view of the denial by CTD.

Department replied (August 2006) that since the real purpose is served for the

^o Report on transit incoming vehicles which have entered the state of Andhra Pradesh through entry check post but corresponding entry is not available at the exit check post as a proof of exit from the state of Andhra Pradesh

[♦] VATIS: Value Added Tax Information System

[#] ICPS for ICPs by M/s Holool and Compact 2020 by M/s Ram Informatics Ltd

CTD, which is the largest revenue yielding department, the project cost was borne by CTD and other participating departments were also being encouraged to utilise the package.

2.3.8 Input control and validation checks

2.3.8.1 Incorrect classification of movement types of vehicles

Vehicles moving through the check posts are classified according to their movement type as incoming, outgoing, transit incoming and transit outgoing vehicles. Origin state denotes the place from where the vehicle commences its journey, while destination point is marked by the term destination state. Analysis of data relating to 18,28,632[♦] vehicles revealed absence of input and validation controls in respect of movement type (incoming, outgoing etc.), origin and destination points which resulted in incorrect classification as detailed below:

- *Destination state* in 3,631 ‘incoming[♣]’ vehicles records was indicated as States other than Andhra Pradesh viz., West Bengal, Uttar Pradesh, Sikkim etc., although these were to terminate in Andhra Pradesh.
- *Origin state* in 2,089 incoming vehicles was indicated as Andhra Pradesh, which was evidently incorrect since these vehicles were entering Andhra Pradesh from other states.
- *Destination state* in 2,431 ‘outgoing[♥]’ vehicles were indicated as Andhra Pradesh, which is not possible since these vehicles were leaving Andhra Pradesh for other destinations.
- *Destination state* in 398 ‘transit incoming[♠]’ vehicles was indicated as Andhra Pradesh. Further analysis revealed that the transit passes issued in these cases were not surrendered indicating that these were incoming vehicles and not transit vehicles.
- Both ‘*origin*’ and ‘*destination*’ states were indicated as Andhra Pradesh in 1,094 vehicles. Further analysis revealed that out of these, 263 vehicles carrying liquor, general goods and cement had moved repeatedly ranging between two to fifteen times through Naraharipet and Tada check posts.

Besides bringing out inadequacies in input control and validation checks, these instances of misclassification also point to the fact of possible tax evasion in cases where transit passes were issued to incoming vehicles which are actually liable to tax in Andhra Pradesh.

Department replied (August 2006) the observations shall be kept in mind and scrupulously followed while fine-tuning the application.

2.3.8.2 Non elimination of manual intervention for arriving at unsurrendered transit passes

[♦] Break-up vide Annexure I

[♣] Incoming vehicle is that, which is coming into the state of Andhra Pradesh from other states i.e., destination state should be Andhra Pradesh

[♥] Outgoing vehicle is that which is moving out of the state of Andhra Pradesh and destination state should be other than Andhra Pradesh since originating state is Andhra Pradesh

[♠] Transit incoming vehicle is one with origin and destination state other than Andhra Pradesh but which passes through Andhra Pradesh enroute. Transit pass is issued for such vehicles

Even after implementation of ICPS package, transit passes (TP) received back from the exit check post are being manually rounded off for arriving at the number of unsurrendered TPs.

Department replied that (August 2006) manual intervention existed due to the connectivity and power problems.

2.3.8.3 Lack of control over blacklisted vehicles

Vehicles, which do not surrender 'transit pass' at the exit check post, are blacklisted from re-entering the state. If the owner or driver of a vehicle proves that he had in fact exited from the state, the vehicle is deblacklisted. It was observed that blacklisting and deblacklisting is being done manually.

Such manual intervention diluted control over blacklisted vehicles and resulted in allowing a blacklisted vehicle to pass through the state 19 times during the blacklisted period between 17 October 2003 and 29 March 2005.

Analysis of 1,96,691 cases of unsurrendered transit passes revealed that the passes were given to 25,700 vehicles repeatedly ranging between 2 to 57 times even though they had not surrendered the transit passes issued on earlier occasions. Test check of blacklisting status, at ICP Tada revealed that out of 300 vehicles that had not surrendered passes on earlier occasions, only 193 have been blacklisted (between April 2004 and January 2005).

Department replied (August 2006) that the discrepancies were due to operation of two different softwares at ICPs and BCPs and other connectivity problems and blacklisting is being resorted to as a precautionary measure. Though the Act provides for only 30 days to surrender the TPs, the CCT has extended the limit to 45 days (July 2006).

2.3.8.4 Numbers of transshipment vehicles being same

The same vehicle carrying goods which has entered the State has to pass through exit check post (details of which are given in the TP). However, in case of break downs/accidents/non availability of permits, goods are moved into another vehicle. Such vehicles are indicated as transshipment vehicles. Analysis revealed that reasons for transshipment were recorded only in 690 out of 11,641 cases. Out of the remaining, in 99 cases, the old and new vehicle numbers were the same. The transshipment had taken place mostly at four^v check posts. It was evident that in the absence of mandatory requirement to record the reasons for transshipment and since reporting is not being done to higher authorities; the management was not in possession of adequate and accurate information to wield control in this area.

Further, for the management to ascertain the total number of cases transshipped and to enable fixing targets for physical verification of transshipped vehicles, it is essential that a report is generated.

Department attributed (August 2006) data entry errors as the cause for the mistakes and stated that the issue of generating a report on transshipment would be taken up with the software vendor.

^v A.S.Peta, Ichapuram, Hyderabad and Vijayawada

2.3.8.5 Assessments not conducted on unsurrendered transit passes

Under Section 29-B of APGST Act, 1957 read with rule 46 A (9) of APGST Rules, if the original copy of transit pass was not received back within thirty days of issue, the officer shall send a report to CTO of the concerned check post or barrier for further action on the owner of the goods vehicle and levy tax. However, no such provision was made in the application software. Further, information regarding unsurrendered TPs was not sent to the respective CTOs manually too.

Data analysis revealed that

- 1,96,691[^] out of 2,97,622 TPs, issued between June 2003 and March 2005, were not surrendered. Tax in respect of goods transported through these vehicles as per applicable tax rates was Rs.2,691.20 crore. Further analysis revealed that a tax of Rs.1,467.12 crore related to 256 cases, and out of that Rs.1,169.40 crore related to only three cases indicating unreliability of the database.
- Out of 1,96,691 TPs, 38,135^{*} allowed vehicles to cross the border at 28 exit points, other than the five ICPs and 12 BCPs, in contravention of the executive instructions[#] and despite the fact that there is no mechanism/ infrastructure existing in the department to watch surrender of TPs at such exit points. Lack of input validation allowed entry of such points, which were neither ICPs nor BCPs. Further 151 transit passes were issued for which exit check post was not indicated.
- Analysis of the commodity tax rates and commodity details incorporated in master tables in the application revealed that, out of 319 commodities, in respect of 67 commodities[⊕] there was huge variation in tax rates included in the application and the existing tax rates.

[^] Details vide Annexure II

^{*} 2003-04:1571 cases and 2004-05:36564 cases

[#] JC (CT) Enforcement Ref No.D2/88/96 Dated 24.7.2003

[⊕] Details of 67 commodities vide Annexure III of this report

- As against 1,96,691 TPs compiled through database, the number of unsurrendered TPs as per manual record were only 76,683, indicating unreliability of the database.

Following interesting instances were also noticed

25,760 out of 38,135^ϕ TPs were issued from ICP, Ichapuram where the destination points indicated certain northern/eastern states in the country, whereas

- 810 TPs were issued to an exit point ‘CFM’ which borders southern part of Karnataka.
- 11,746 TPs were issued to an exit point ‘BVP’ which borders northern part of Tamilnadu.
- 5,600 TPs were issued to an exit point ‘KOD’ which borders southern part of Karnataka.

Department replied (August 2006) that

- manual system of watching the unsurrendered TPs is still in vogue and when reliability of the software was not established dependence on the software alone for all the functions at the check posts gives rise to many problems;
- few observation points other than the scheduled exit points were set up temporarily during agricultural seasons to watch movement of vehicles not entering through regular check posts. As such there was variation in the entry/exit points being more than the notified check posts and accordingly some TPs and mismatches and
- there is a provision in the application to generate a list of unsurrendered transit passes.

The reply of the department is not tenable because using ICPS application built in with proper input and validation controls could facilitate enforcing various provisions of the APGST Act in an accurate and reliable manner. Further, creation of temporary exit points was also against the said executive instructions and transit passes should not have been issued in respect of those vehicles. Provision to generate report of unsurrendered TPs could not be accepted as creation of such report was not provided for in the application.

2.3.8.6 Logical access controls

In one check post^ψ, it was observed that user identification and user authentication were same for all the users.

Department noted the observation (August 2006) for compliance.

2.3.9 Training

^ϕ Details vide Annexure IV

^ψ Integrated Check Post, Boraj, Adilabad District

The entire data entry work at check posts was outsourced (to M/s APTECH) with a view to bring administrative reforms at the check posts and reduce unethical practices. Audit observed that an amount of Rs.97, 94,196 was spent on training and data entry work towards the personnel of M/s APTECH for the period June 2003 to June 2005. The contract was then awarded to M/s RIL with effect from July 2005. As a result, Rs.1,50,000 had to be spent again on training to personnel of M/s RIL (September 2005). As none of the departmental staff* presently working at the check posts were trained in ICPS package, the employee module that enables the departmental officer (ACTO) to monitor the transactions, could not be put to use even after two and half years of implementation and transactions are still monitored manually.

The department replied (August 2006) that efforts are being made to train the officials and the employee module will be put to use.

2.3.10 Other observations

Large amount of data is being captured at the check posts from all the four types of goods vehicles i.e., incoming, outgoing, transit incoming, transit outgoing vehicles. Cross verification of data with the books of consignee/consignor would provide enormous scope for improving tax revenues.

It was noticed that

- 18 out of 24 DC/circle offices were not aware of the provision to access and utilise check post data;
- crucial information viz., registration numbers of sales tax, central sales tax, value added tax relating to consignors, which could be referred to during finalisation of annual assessment, were not captured in respect of 8,127 outgoing vehicles and
- report on sensitive commodities could not be generated as updated commodity codes and tax rates were not captured in the system.

All check posts are provided with valuable IT assets such as servers, monitors, video cameras, CCTVs, printers and other net working infrastructure. Proper maintenance of stock registers therefore assumes significance. Certain deficiencies in maintenance of stock register of IT assets such as non availability of check post wise details of hardware issued, cost of assets, non conducting of physical verification as required under Andhra Pradesh Financial Code (APFC) were noticed. In one check post the stock register was not even maintained.

* Deputy Commercial Tax Officer, Assistant Commercial Tax Officers and Senior Assistants

Department replied (August 2006) that the observation made by audit is noted, instructions would be issued to maintain proper records and more emphasis shall be laid on popularising the link across all offices in the State. A feature is also being introduced to check existing drawbacks.

2.3.11 Conclusion

Government decided to implement integrated check post software, to facilitate data integration between the six participating departments at ICPs, to reduce transaction processing time and to facilitate enforcement of different acts by respective departments. Not only was data relating to vehicles only partially captured, the objective of providing a single window facility could not be achieved due to non utilisation of the application by all except one participating department. The functions of Commercial Taxes Department at the check posts also could not be totally automated due to operation of different applications at ICPs and BCPs during the period 2003-2005. Serious defects in data validations and very low data reliability were noticed. This coupled with absence of some core functions rendered the system incapable of generating accurate information on unsurrendered TPs for being forwarded to CTOs concerned for assessments to be conducted in such cases. Absence of trained departmental manpower also resulted in non utilisation of various modules.

2.3.12 Recommendations

- All the user departments should be made to use the system.
- All the ICPs and BCPs should be interconnected so as to have a fool-proof mechanism to generate reports on unsurrendered transit passes on-line, at the ICP or BCP itself without manual involvement.
- Distinct user identification and authentication should be provided to all the DEOs and employees for better security and monitoring.
- Proper input and validation controls should be ensured.
- Data captured at check posts should be made available to all divisions/circles for the purpose of cross verification.
- The system should be utilised for generating comprehensive MIS reports to provide the management with adequate information for exercising control over the functioning of check posts.

Government accepted (October 2006) the major audit observations. The above points were also discussed with the Principal Secretary (Revenue) and Commissioner of Commercial Taxes in an Audit Review Committee meeting held in November 2006. The recommendations were also discussed. Government stated that rectificatory measures would be taken.

2.4 Short levy of tax on works contracts

Under Section 5F of the APGST Act, every dealer has to pay tax at the rate of eight *per cent* on his turnover of transfer of property either as goods or in some other form involved in the execution of works contract subject to exemptions and deductions provided for, under sub clauses (a) to (l) of Rule 6(2) of APGST Rules. Under Section 5A of the Act, every dealer whose total turnover in a year exceeds Rs.10 lakh is liable to pay turnover tax on works contracts at one *per cent* on taxable turnover from 1 August 1996 to 2 January 2000. Thereafter Government exempted levy of turnover tax.

2.4.1 Incorrect computation of turnover

In determining turnover of a dealer, deductions specified under APGST Rules, 1957, shall be allowed from turnover of the dealer if accounts are maintained as required under Rule 45(1-C) of APGST Rules. If detailed accounts are not maintained and the amounts specified under Rule 6(2) are not ascertainable from the accounts of dealer his turnover shall be determined after deducting the amount calculated at percentage prescribed under Rule 6(3)(ii). Value of material at the time of incorporation in works contract during that year shall be the taxable turnover under Rule 6(3)(i).

When execution of a works contract extends over a period of more than one year, total turnover for the purpose of levy of tax under Rule 6(3)(i) would be the value of goods supplied or used in works contract during the year. Material supplied by the contractee on recovery basis shall also be included in the taxable turnover.

During the course of audit of two LTUs[♦] and 43 circles^{*}, it was noticed between November 2003 and January 2006 that assessing authorities (AAs) while finalising assessments between June 2001 and March 2005 in 101 cases relating to assessment years 2000-01 to 2003-04 incorrectly determined taxable turnover as Rs.137.50 crore instead of Rs.359.97 crore. The short determination of taxable turnover of Rs.222.47 crore with tax effect of Rs.13.18 crore was due to allowance of inadmissible deductions on account of printing, postage, bank charges, cost of establishment, labour charges, tools and plant etc.

[♦] Large taxpayers units, Hyderabad (Abids and Saroornagar)

^{*} Adilabad, Chilakaluripet, Eluru, Hyderabad (Agapura, Ashoknagar, Basheerbagh, Charminar, Hyderguda, Hydernagar, Lord Bazar, Jeedimetla, Keesara, Khairatabad, Madhapur, Musheerabad, Nampally, Punjagutta, Rajendranagar, Sanathnagar, Tarnaka, Vengalaraonagar, Vidyanagar), Janagaon, Kakinada, Kothagudem, Mahaboobabad, Mancherial, Mandapeta, Nandyal-II, Ongole-I, Peddapally, Peddapuram, Rajahmundry (Aryapuram), Sangareddy, Secunderabad (Hissamgunj, M.G. Road, R.P. Road, S.D. Road), Suryapet, Vijayawada (Autonagar, Convent street), Visakhapatnam (Dwarakanagar, Gajuwaka)

After this was pointed out, Government accepted audit observation in 97 cases involving Rs.13.01 crore out of which, 22 cases were revised, eight cases were under revision, in three cases an amount of Rs.1.25 lakh was collected and show cause notices were issued in 64 cases. Final reply in remaining four cases was not received.

Incorrect composition of tax

2.4.2 Tax payable on works contracts can be compounded under Section 5-G at four *per cent* with effect from 1 January 2000. However, when an assessee opts for composition of tax, no deduction is admissible and tax is payable on the total amount paid or payable to the dealer towards execution of works contract subject to deduction of turnover entrusted to registered sub contractors.

Government by a notification* dated 21 September 1996 stated that installation of air conditioning, erection of lifts, refrigeration work and all other types of electrical contracts were not eligible for composition of tax.

During the course of audit of LTU, Saroornagar and 16 circles[⊗], it was noticed between January 2004 and January 2006 that AAs while finalising assessments between March 2003 and March 2005 in 24 cases relating to the years 1999-2000 to 2003-04 allowed inadmissible deduction of Rs.6.87 crore and incorrect composition of turnover of Rs.8.19 crore resulting in short levy of tax of Rs.54.69 lakh as detailed below:

- Deductions on account of labour charges, departmental recoveries etc., were incorrectly allowed by 15 AAs in 20 cases who had opted for composition. This resulted in short levy of tax of Rs.25.69 lakh.
- Incorrect composition of tax by three AAs in four cases resulted in short levy of tax of Rs.29 lakh, though electrical contracts are not eligible for composition of tax under the Act.

After this was pointed out, Government accepted audit observation in eight cases; of these assessments were revised in six cases and Rs.0.69 lakh recovered in one case, while one case was under revision. Further, show cause notices under Section 14 were issued to dealers in 14 cases. Final reply in two cases has not been received.

2.4.3 Under Section 5G(4) of the APGST Act, composition is not admissible to a dealer who purchases or receives goods from outside the State for the purpose of using such goods in the execution of works contract with effect from 15 February 2003.

* G.O.Ms.No.787 Rev.(CT II) Department, dated 21 September 1996

⊗ Hyderabad (Ashoknagar, Barkatpura, Begumpet, Bowenpally, Gandhinagar, Hyderguda, Punjagutta, Rajendranagar, Sanathnagar), Janagaon, Puttur, Secunderabad (General Bazar, Hissamgunj, Market street, M.G. Road, S.D. Road)

During the course of audit of two circles* it was noticed between June and September 2005 that three assesseees purchased material valued Rs.5.37 crore from outside the State and used them in execution of works contract. While finalising assessments between October 2004 and February 2005 for the years 2002-03 and 2003-04 AAs incorrectly allowed composition of tax resulting in short realisation of tax of Rs.31.25 lakh.

After this was pointed out, Government in two cases stated in October 2006 that assessments were revised of which an amount of Rs 0.55 lakh was collected in one case. Final reply has not been received in other case.

2.5 Sales tax incentives for industrial units

With a view to encourage growth of industries in the State, Industries Department has been notifying various incentive schemes from time to time providing sales tax incentives in the form of sales tax deferment and sales tax holiday (exemption) to industrial units.

For according sanctions under various incentive schemes, Government constituted State level committee (SLC) and district level committee (DLC). On the basis of sanctions, Commissioner of Industries issues final eligibility certificates (FEC) indicating the extent and duration of incentives for implementation by the Commercial Taxes Department.

Irregularities in course of sanction and availment of tax incentives noticed during audit of Commercial Taxes Department are enumerated in the following paragraphs.

2.5.1 Short debit to incentive

Under Target 2000 scheme# sales tax incentives would be inclusive of any similar incentives of State/Central Government.

During the course of audit of Mehdipatnam circle, it was noticed in October 2005 that the AA levied tax of Rs.7.90 crore on sale turnover of Rs.65.83 crore. Out of the tax levied, an amount of Rs.65.83 lakh was only debited to the scheme. This resulted in short debit of Rs.7.24 crore.

The matter was reported to the department and Government in March 2006; their reply has not been received.

* Secunderabad (Malkajgiri) and Vijayawada (Benz circle)

G.O.Ms. No. 108 Industries and Commerce dated 20 May 1996

2.5.2 Non recovery of sales tax incentives due to closure of production before stipulated period

One of the conditions for availing incentive as envisaged in Target 2000 scheme is that the unit should be in continuous production upto exemption date. The incentives granted shall be liable to be recovered if the unit goes out of production for a period exceeding one year[⊗] during the period of exemption.

During the course of audit of four[#] circles it was noticed between January and September 2005 that six industrial units availing sales tax incentives stopped production during the period of availment between 2001-02 and 2004-05. Incentives of Rs.2.52 crore availed of by these units were not recovered by the department.

After this was pointed out, Government accepted (October 2006) audit observations in four cases out of which in three cases assessments were revised. Show cause notices were issued in two cases.

2.5.3 Non recovery of deferred sales tax/interest

As per guidelines of New Comprehensive Scheme of State Incentives/ conditions as laid down in FECs, total sales tax deferred in a year should be repaid at the end of the tenth year without interest. In case of non remittance, interest at prescribed rates is chargeable from due date till the date of payment.

During the course of audit of two circles[♦], it was noticed between June and September 2005 that deferment of sales tax of Rs.1.20 crore was availed by two units. These two units paid tax belatedly between December 2003 and June 2004. Interest payable on this worked out to Rs.10.37 lakh for which demand was not raised by concerned AAs.

After this was pointed out, Government accepted audit objection in one case and issued show cause notice in another case.

2.5.4 Irregular sanction without fixing base turnover

According to Target 2000 scheme guidelines, quantum of incentives to different units for manufacture of the same end product or for manufacturing intermediate product of the same end product set up by same group of management from time to time, will be limited to the maximum allowed to the new industrial unit. Such cases are to be treated as expansion to the existing units and incentives are to be allowed on the turnover manufactured over and above the base turnover^{*}.

⊗ Para 22.2 of guidelines issued in G.O.Ms.No.317 Ind. & Com. Department dated 14 September 1993 read with GO Ms.No.243 dated 15 July 1998

Hyderabad (Sanathnagar, Jeedimetla), Nalgonda, Siddipet

♦ Hyderabad (Punjagutta, Saroornagar)

* Base turnover means best production achieved during three years preceding the year of expansion or maximum capacity expected to be achieved by the industry whichever is higher

During the course of audit of LTU Kurnool and two circles^u it was noticed between August 2004 and January 2006 that three existing industries set up new units for the same end product in the same premises or adjacent to the existing units and sanctions were accorded without fixing base turnover. While finalising assessments between February 2004 and March 2005 AAs allowed incentives in these three cases. Thus sanction of incentives without fixing base turnover resulted in incorrect availment of incentives of Rs.91.10 lakh.

After this was pointed out, Commissioner stated (July 2006) in respect of one case, that the matter was referred to Government; while in two cases audit objection was not accepted on the ground that these units were manufacturing different products. The reply is not tenable as in these two cases, units are manufacturing same products namely prestressed concrete sleepers and containers respectively.

2.5.5 Allowance of incentives to products not covered by sanction

Sales tax incentives are admissible only to the products manufactured and sold by industries as approved in FEC.

During the course of audit of five^{*} circles it was noticed between June and November 2005 that in respect of seven cases finalised between August 2004 and March 2005 sales tax exemption/deferment of Rs.35.32 lakh was granted for the period 2001-02 to 2003-04 on products that were not covered by FECs. Incorrect incentives so allowed were required to be recovered.

After this was pointed out, Government replied (November 2006) that assessments were revised in six cases out of which an amount of Rs.8.51 lakh was realised in three cases. AA of SD Road replied in June 2005 that assessee was entitled for incentive in terms of new tourism policy 1998^ψ and sanction was awaited.

2.5.6 Allowance of incentives to products not involving manufacturing activity

As per Target 2000 Scheme, sales tax incentives are admissible for the products manufactured and sold.

During the course of audit of four circles[♦] it was noticed between May 2004 and November 2005 that five assesseees were allowed sales tax incentives of Rs.26.45 lakh on a turnover of Rs.3.63 crore though not involved in manufacturing activity.

^u Hyderabad (Tarnaka) and Sangareddy

^{*} Hyderabad (Fatehnagar, Jeedimetla, Punjagutta, Rajendranagar), Secunderabad (S.D.Road)

^ψ G.O.Ms.No.6 YAT & C(T) Department, dated 18 December 1998

[♦] Hyderabad (Jeedimetla), Nandyal, Nellore-II and Srikakulam

After this was pointed out, Government replied (October 2006) that assessments were revised in one case and show cause notice was issued in another case. It was contended (October 2006) by Government in two other cases that assessments were in accordance with provisions. These replies are not tenable as the units were involved in tyre retreading which does not involve any manufacturing activity. Reply in the remaining case has not been received (November 2006).

2.5.7 Excess availment of sales tax incentive

During the course of audit of three circles³¹ it was noticed between June 2004 and November 2005 in three cases that AAs debited between November 2003 and November 2004 an amount of Rs.5.67 crore for the years 2001-02 and 2002-03 as against sanctioned amount of Rs.5.48 crore. This resulted in excess availment of incentive to the tune of Rs.18.96 lakh.

After this was pointed out, Government replied in October/November 2006 that show cause notices were issued to reassess the case.

2.6 Non levy of interest

2.6.1 According to Section 16(3) of APGST Act, interest is leviable on tax, penalty or any other amount due to Government if such dues are not paid within the time specified for payment. These provisions are also applicable to dues under Central Sales Tax (CST) Act with effect from 12 May 2000. Failure to pay taxes on due dates attracts levy of interest at the prescribed rates.

During the course of audit of LTU Warangal and six circles* it was noticed between March and November 2005 that tax collected from customers was retained by assesseees without remitting to Government account in eight cases for the years from 2000-01 to 2002-03. AAs while finalising the assessments (APGST and CST) between February 2004 and March 2005 did not levy interest of Rs.4.04 crore on the amounts so retained.

After this was pointed out, Government stated in November 2006 that the assessments were revised in five cases and show cause notices to reassess the assessments were issued in three cases.

2.6.2 Under Rule 17 (1) of APGST Rules, amount of tax payable for the month shall be paid along with monthly return.

³¹ Ananthapur, Hyderabad (IDA Gandhinagar) and Secunderabad (Ramgopalpet)

* Hyderabad (Hydernagar, Nacharam, Vengalraonagar, Vidyanagar), Kodad and Narsampet

In two^Ψ circles it was noticed between February and October 2005 that interest of Rs.39.71 lakh was not levied on unpaid monthly taxes along with returns in four cases under APGST Act for the years from 2000-01 to 2002-03 finalised between January 2004 and March 2005.

After this was pointed out, Government stated in November 2006 that the assessments were revised between October 2005 and May 2006 in three cases and show cause notice to reassess the assessment was issued in one case.

2.6.3 Under Rule 17 (7) of APGST Rules, tax finally assessed shall be paid as per demand notice. For belated payment of tax interest is leviable.

In three circles[∇] it was noticed between July 2004 and February 2005 that in three cases under APGST Act for the assessment years 2000-01 and 2001-02 finalised between May 2002 and September 2003 assesseees did not pay tax due after issue of final demand notice for the period between March 2002 and March 2004. The amount of interest in these cases worked out to Rs.9.02 lakh.

After this was pointed out, Government stated in November 2006 that assessments were revised in two cases and demand notice issued in June 2006 in another case.

2.7 Incorrect grant of exemption

2.7.1 APGST Act and Rules made thereunder provide for certain exemptions from turnover before the turnover is assessed to tax.

During the course of audit of 13 Circles^{*}, it was noticed (between June 2004 and January 2006) in 17 cases that while finalising assessments between April 2002 and March 2005 for the years 1999-2000 and 2001-02 to 2003-04 AAs incorrectly exempted turnover of Rs.18.85 crore out of total turnover of Rs.206.79 crore relating to finished leather, tractor spares, drugs and medicines, tarpaulin, cattle feed etc., from levy of tax resulting in short levy of tax of Rs.1.32 crore.

After this was pointed out, Government stated in October/November 2006 that assessments were revised in three cases, out of which an amount of Rs.0.40 lakh was collected in one case. In nine cases, it was stated that show cause notices were issued, while two cases were under revision. Final replies in remaining cases have not been received.

^Ψ Hyderabad (Somajiguda), Nandigama

[∇] Hyderabad (Rajendranagar), Mahaboobabad and Nizamabad III

^{*} Ananthapur-II, Eluru, Hyderabad (Basheerbagh, Begum Bazar, Jeedimetla, Maharajgunj, Mehdipatnam, Nampally, Rajendranagar, Sultan Bazar, Saroornagar), Kothagudem, Secunderabad (General Bazar)

2.7.2 Under entry 50 of first schedule to the Act, molasses are taxable at the rate of 20 *per cent* at the point of first sale in the State.

During the course of audit of LTU, Secunderabad, it was noticed in one case for the assessment year 2001-02 that AA while finalising the assessment in March 2005 incorrectly exempted sale turnover of molasses amounting to Rs.4.91 crore out of total turnover of Rs.119.59 crore. This resulted in short levy of Rs.98.29 lakh.

After this was pointed out in November 2005, Government stated in November 2006 that show cause notice to reassess the assessment was issued to the assessee in March 2006.

2.7.3 Under proviso to Section 5-F, tax shall be leviable on the turnover of goods either obtained or purchased from other states by the contractor and used in the execution of works contracts.

During the course of audit of nine circles[♦], it was noticed (between December 2003 and January 2006) in 11 cases AAs while finalising assessments between February 2002 and March 2005 for the years 1999-2000 to 2003-04 that turnover of Rs.10.08 crore relating to purchase of material from other States by contractors and used in the execution of works contracts was incorrectly exempted from total turnover of Rs.184.91 crore resulting in short levy of tax of Rs.80.14 lakh.

After this was pointed out, Government replied in November 2006 that assessments were revised between October 2005 and April 2006 in four cases. Show cause notices were issued in four cases, revision was pending in one case. In two cases final reply has not been received (November 2006).

2.8 Short levy of tax on inter State sales

2.8.1 Under Section 6-A of CST Act, read with Rule 9 A (2) of CST (AP) Rules and Rule 12 (5) of CST, Registration and Turnover (R&T) Rules 1957, each declaration in form 'F' shall cover transactions effected during a period of one calendar month to any other place of business or to an agent or principal as the case may be. As such, a single declaration issued to cover transfer of goods for more than one month is to be treated as invalid and the turnover has to be brought to tax treating it as inter State sales not covered by proper declarations.

[♦] Hyderabad (Agapura, Hyderguda, Hydernagar, Mehdipatnam, Rajendranagar, Saroornagar), Proddutur-II, Rajahmundry (Aryapuram) and Sangareddy

During the course of audit of two LTUs^ψ and nine circles^φ it was observed in 21 cases that exemptions on branch/consignment transfer were allowed on 'F' forms covering transactions of more than one month. These transactions were valued at Rs.20.38 crore relating to years 2001-02 and 2003-04. Forms were liable to be rejected and attract a tax of Rs.1.99 crore. However, AA incorrectly allowed the deduction resulting in non levy of tax to that extent.

After this was pointed out, Government replied in October and November 2006 that assessments were revised in six cases and show cause notices were issued in 13 cases. Final replies have not been received in remaining two cases.

2.8.2 During the course of audit of LTU, Adilabad, it was noticed from an assessment of a cement manufacturer for the year 2001-02 that instead of allowing exemption on Rs.123.70 crore being the value of cement and clinker^β transferred to branches covered by 'F' forms, exemption was allowed on Rs.164.27 crore representing sale value of cement and notional value of clinker at branches resulting in excess exemption of Rs.40.57 crore. This resulted in short levy of tax of Rs.6.49 crore.

After this was pointed out in January 2006, Government stated (October 2006) that show cause notice was issued to the assessee.

2.8.3 In Maharajgunj circle, it was noticed in January 2006 that while finalising assessment of a dealer for the year 2002-03 in September 2004 AA allowed exemption on sale patties relating to years 1992-93, 1998-99 to 2001-02 on a turnover of Rs.1.22 crore resulting in non levy of tax of Rs.10.71 lakh.

After this was pointed out, Government stated (October 2006) that show cause notice was issued.

2.8.4 Under Section 8(2) of CST Act, inter State sales not supported by declaration in form 'C' are taxable at twice the rate applicable to sale or purchase of these goods inside the appropriate State in respect of declared goods and in respect of other than declared goods at 10 *per cent* or at the rate applicable to sale or purchase of such goods within the State under State laws, whichever is higher.

^ψ Hyderabad (Charminar) and Nellore

^φ Chilakaluripet, Hyderabad (Begumpet, Jeedimetla, Madhapur, Maharajgunj, M.J. Market, Rajendranagar), Nandyal-II and Parvathipuram

^β Limestone residue from burnt coal

During the course of audit of 18^o circles, it was noticed between August 2004 and January 2006 that in 20 cases relating to assessment years from 2000-01 to 2003-04 involving electronic goods, cotton seed cake, telecom equipment, cement, bio fertilisers, fresh water pearls and *ajwai*^m etc., finalised between April 2003 and March 2005 that tax was levied at concessional/ incorrect rate though transactions were not supported by relevant ‘C’ forms resulting in short levy of tax of Rs.1.67 crore.

After this was pointed out, Government replied in October/November 2006 that assessments were revised in 10 cases out of which an amount of Rs.15.91 lakh was collected/adjusted in four cases. Show cause notices were issued in six cases. Revision was to be taken up in three cases. Final reply in one case has not been received.

2.9 Short levy of tax due to misclassification

2.9.1 Tax is leviable at the rates laid down in the Schedules to the APGST Act. However, when the goods are not covered under first to sixth schedules, tax is leviable under seventh schedule at the rates of tax applicable from time to time. Further, it was judicially held^f that where there is a specific entry for an item under the Act, it would prevail upon a general entry.

During the course of audit of two LTUs[♦], 22 circles[♥] and one unit office at Vidyanagar, between November 2003 and January 2006 it was noticed in 43 cases while finalising assessments between November 2002 and March 2005 (for the years 1996-97, 1998-99 and 2000-01 to 2003-04) that AAs incorrectly levied tax of Rs.2.90 crore instead of Rs.6.60 crore on paper spindles, electrical stabilisers, photo copier machines, synthetic resins, rolling shutters, microwave ovens, engine and lubricant oils, electronic balances, empty capsules etc. Short levy was due to misclassification of goods and tax at lesser rates was applied. This resulted in short levy of tax amounting to Rs.3.70 crore.

^o Adilabad, Adoni, Hyderabad (Ashoknagar, Basheerbagh, Begumpet, Bowenpally, Ferozguda, Hyderguda, Malakpet, Nacharam, Narayanaguda, Rajendranagar, Sanathnagar, Saroornagar), Podili, Mahaboobnagar, and Secunderabad (Mahankali street and Market street)

^m used for digestive purpose

^f Replica Agency Vs State of AP (2002) 124 STC 271 APHC

[♦] Abids, Hyderabad

[♥] Hyderabad (Bowenpally, Ferozguda, Gowliguda, Jeedimetla, Malakpet, Mehdiptnam, Osmangunj, Rajendranagar, Sultan Bazar, Tarnaka, Vidyanagar), Kadapa, Secunderabad (General Bazar, Hissamgunj, M.G. Road, Malkajgiri, Marredpally, S.D. Road), Vijayawada (Autonagar, Sivalayam street), Visakhapatnam (Suryabagh) and Warangal (Beet Bazar)

After this was pointed out, Government replied (October and November 2006) that assessments were revised between April 2005 and June 2006 in 16 cases, out of which an amount of Rs.1.60 crore was collected/adjusted in nine cases. Show cause notices were issued between September 2005 and October 2006 in 21 cases. Final replies from three circles[≈] constituting six cases where departmental replies are at variance with audit have not been received.

2.9.2 Misclassification of sale as works contracts

As per the definition given in section 2(t) of APGST Act, works contract includes any agreement for carrying out for cash or for deferred payment or for any other valuable consideration, building construction, manufacture, processing, fabrication, erection, installation, improvement, modification, repair or commissioning of any movable or immovable property. It has been judicially held* that if things delivered had individual existence before delivery, as the sole property of the party who is to deliver it, then it is a sale.

During the course of audit of three circles* it was noticed between August 2005 and January 2006 in three cases that sale/supply contracts relating to aluminum steel windows and doors, HDPE pipes and lifts were incorrectly assessed as 'works contracts'. This resulted in short levy of tax of Rs.32.06 lakh for the years 2001-02 and 2002-03 due to differential rates of tax.

After this was pointed out, Government replied in October 2006 that assessments were revised in two cases and show cause notice was issued in one case.

2.10 Short levy of tax due to incorrect concession

2.10.1 Under section 5-B of the APGST Act, concessional rate of four *per cent* is admissible to manufacturers on raw material purchased by them. However, as per Government order^Ω dated 17 July 2001 beedi leaves and cement except when utilised in manufacture of finished goods are ineligible for concessional rate of tax under section 5-B. Further, bus bodies are taxable at the rate of eight *per cent* at the point of first sale in the State.

During the course of audit of two LTUs[♯] and Nizamabad-II circle it was noticed in October and November 2005 that AAs while finalising assessments in three cases between January and March 2005 for the years 2001-02 and 2003-04 incorrectly allowed concessional rate of four *per cent* on cement, beedi leaves valued at Rs.1.02 crore instead of taxing at 16 *per cent* and eight *per cent* respectively. Bus bodies valued at Rs.24.33 crore taxable at the rate of eight *per cent* were taxed at four *per cent*. This resulted in short levy of tax

[≈] Hyderabad (Gowliguda), Kadapa and Secunderabad (M.G. Road)

^{*} M/s Hindustan Shipyard Vs CTO Visakhapatnam (2000) 31 APSTJ 37

[♯] Hyderabad (Agapura, Nacharam) and Secunderabad (R.P. Road)

^Ω G.O.Ms.No.496 Rev (CT-II) Dept dated 17 July 2001

[♯] Nizamabad and Secunderabad

of Rs.1.03 crore on a turnover of Rs.25.35 crore.

After this was pointed out, Government replied between October and November 2006 that show cause notice was issued in two cases and revision was to be taken up in another case.

2.10.2 As per provisions of APGST Act, read with Government order^o dated 13 January 2000 tax is leviable at the rate of four *per cent* if supported by form 'N' in respect of sales (other than petrol, diesel oil, all kinds of petroleum gases and other petroleum products) to departments of Government situated within the State.

During the course of audit of three^l circles, it was noticed between August 2004 and October 2005 that AAs while finalising assessments in three cases for the years 2001-02 to 2003-04 between May 2003 and December 2004 allowed concessional rate on sales made to other than Government departments viz., a Government company, undertaking and a corporation. This resulted in short levy of tax of Rs.6.66 lakh on turnover of Rs.82.17 lakh.

After this was pointed out, Government accepted audit observation in two cases in November 2006. Out of this, one assessment was revised in May 2006 and show cause notice was issued in the other case.

2.11 Non levy of turnover tax

According to Section 5A of APGST Act, when total turnover of a dealer in a year exceeds Rs.10 lakh, turnover tax (TOT) at one *per cent* is leviable with effect from 1 August 1996 on second and subsequent sales of goods specified in first, second, fifth and seventh schedules to the Act.

During the course of audit of 14[▲] circles, it was noticed between August 2003 and January 2006 that AAs while finalising assessments between March 2003 and March 2005 for the years 1999-2000 to 2003-04 in 18 cases failed to levy turnover tax of Rs.32.93 lakh relating to baby food, rice bran oil, engine oil, confectionery, drilling tools, telephones, cement etc., though turnover in these cases exceeded Rs.10 lakh.

^o G.O.Ms.No.26, Rev (CT-II) Dept dated 13 January 2000

^l Hyderabad (Punjagutta), Tenali (Gandhi Chowk) and Vijayawada (Convent Street)

[▲] Adilabad, Hyderabad (Ashoknagar, Basheerbagh, Fatehnagar, Gandhinagar, Malakpet, Osmangunj), Nizamabad-II, Secunderabad (M.G.Road, Musheerabad and S.D.Road), Vijayawada (Autonagar, Convent Street) and Visakhapatnam (Suryabagh)

After this was pointed out, Government accepted between October and November 2006 audit observations in nine cases. Of these, six assessments were revised, out of which an amount of Rs.2.87 lakh was collected in two cases, while three cases were under revision. Show cause notices were issued between January and April 2006 in remaining nine cases.

2.12 Short levy of tax due to application of incorrect rate

Tax at the rates specified in Schedules I to VI to the APGST Act, is leviable on commodities included in these schedules. Commodities not specified in any of the Schedules were taxable under VII Schedule at 10 *per cent* between 1 April 1995 and 31 December 1999 and 12 *per cent* thereafter.

During the course of audit of LTU Abids and 23* circles, it was noticed between June 2003 and January 2006 that AAs while finalising assessments in 31 cases between July 2002 and March 2005 for the years 2000-01 to 2003-04 levied tax at lesser rates than specified in the Act on microwave ovens, drugs, machinery, paints, confectionery, tractors etc., resulting in short levy of tax of Rs.1.14 crore.

After this was pointed out, Government accepted between October/November 2006 audit observations in 13 cases. Of these, 11 assessments were revised between February 2004 and March 2006 and an amount of Rs.11.17 lakh was collected between December 2004 and March 2006 in eight cases. Show cause notices were issued between March and July 2006 in 10 cases. In respect of another case Government replied in November 2006 that 'torches' were taxable at eight *per cent* by its inclusion under entry 6 (iii) of VI Schedule by an order[⊗] dated 8 November 2000. The reply was not tenable, as the rate of tax on torches is 12 *per cent* from 1 January 2000 under entry 6B(ii) though sub entry was inserted with effect from 15 November 2000 by deleting sub entry 6(iii). Final replies in respect of remaining cases have not been received.

2.13 Non levy of penalty

2.13.1 Under Section 5-B of APGST Act, purchases of a dealer for use in manufacture attract a concessional rate of tax of four *per cent* on production of 'G' form. Under sub section 2(ii), misuse of 'G' form attracts penalty of not less than three times the tax leviable on sale of such goods so purchased.

During the course of audit of Rajendranagar circle it was noticed in

* Gudivada, Hyderabad (Agapura, Ashoknagar, Basheerbagh, Begumpet, Ferozguda, IDA Gandhinagar, Hydernagar, Nacharam, N.S.Road, Rajendranagar, Sanathnagar, Sultan Bazar, Tarnaka, Vengalaraonagar, Vidyanagar), Nalgonda, Piduguralla, Secunderabad (General Bazar, Hissamgunj, MG Road, SD Road) and Vijayawada (Governorpet)

⊗ G.O.Ms.No.795, Revenue CT(II) Department dated 8 November 2000

August 2005 that an assessee purchased cement valued Rs.76.30 lakh against 'G' form and sold it during the years 2001-02 and 2002-03 instead of utilising it in manufacture. Penalty leviable on tax of Rs.12.21 lakh for misutilisation of 'G' form worked out to Rs.36.63 lakh.

After this was pointed out, Government replied in November 2006 that notice for reassessment was issued.

2.13.2 Under CST Act, penalty not exceeding one and a half times the tax, is leviable for misuse of 'C' form by a registered dealer.

During the course of audit of Aryapuram circle, it was noticed in August 2005 that a dealer registered for surgical, medical equipment and machinery purchased furniture, electrical cables, diesel generator, electrical transformers from outside the State by issuing 'C' form. Hence, issue of 'C' forms for items other than those mentioned in registration certificate is liable for levy of penalty. Non levy of penalty on tax of Rs.21.52 lakh worked out to Rs.32.29 lakh.

After this was pointed out, Government replied in November 2006 that a show cause notice was served in July 2006.

2.14 Incorrect/excess grant of set off of tax/rebate

Under the provisions of APGST Act and notifications issued thereunder, set off can be allowed on sale of finished goods for tax paid on purchase of raw materials and used in the manufacture of goods, provided transactions at both ends take place within the State.

If goods were purchased from unregistered dealers no set off of tax is admissible.

During the course of audit of 20 circles[∞], it was noticed (between October 2003 and January 2006) that set off/rebate of Rs.2.38 crore was allowed between April 2002 and March 2005 against admissible set off/rebate of Rs.1.77 crore during assessment years 2000-01 to 2003-04 in 28 cases relating to timber, plastic granules, PVC pipes, cement, paddy, sago, ghee purchased from unregistered dealers etc. Set off was either allowed in excess of tax already paid or was incorrectly determined. In respect of ghee it was purchased from unregistered dealers for which no set off was admissible. Excess/incorrect grant of set off/rebate resulted in short levy of tax of Rs.61.14 lakh.

[∞] Eluru, Hyderabad (Begumpet, Charminar, Hydernagar, Jeedimetla, Mehdipatnam, Nacharam, Punjagutta, Rajendranagar, Saroornagar), Nandyal-II, Nandigama, Nellore-II, Nizamabad, Rajahmundry, Ramachandrapuram, Secunderabad (R.P.Road), Suryapet, Vijayawada (Seetharamapuram), Vizianagaram (M.G. Road -West)

After this was pointed out, Government accepted between October and November 2006 audit observations in 18 cases. Out of this, assessments were revised in 15 cases, out of which, an amount of Rs.13.15 lakh was collected/adjusted between April and October 2005 in nine cases. Revision was pending in three cases and show cause notices were issued between November 2005 and April 2006 in nine cases. The Government did not accept audit observation in one case.

2.15 Non levy of tax on sale of duty entitlement pass book (DEPB) licences

Under entry 197 of the first Schedule to APGST Act, goods of incorporeal or intangible character, including patents and trademarks are taxable at eight *per cent* at the point of first sale in the State with effect from 1 January 2000.

During the course of audit of LTU Chittoor and two circles^Δ it was noticed in three cases between March and November 2005 that sale turnover of DEPB of Rs.4.78 crore and inter State sale turnover of DEPB licences of Rs.64.29 lakh for the assessment years 2001-02 to 2003-04 were not assessed to tax while finalising the assessment between March 2004 and November 2005 by AAs resulting in non levy of tax of Rs.44.71 lakh.

After this was pointed out, Government replied in October and November 2006 that assessment was revised and demand was taken to DCB register in one case. In respect of Jeedimetla circle it was replied (November 2006) that assessee had a manufacturing unit in Andhra Pradesh and balance sheet reflects entire business activity both within and outside the State. The reply is not sustainable because as verified from records, the entire sale turnover of Andhra Pradesh unit took place within the State. Final reply in respect of another case has not been received.

2.16 Non forfeiture of excess tax collected

Under Section 30-B of APGST Act, dealers shall not collect any amount by way of tax in excess of the amount of tax already paid by them at the time of purchase and payable on sales under provisions of the Act. Any sum so collected in contravention shall be forfeited to Government in terms of Section 30C.

During the course of audit of nine circles^Ψ between December 2003 and September 2005, it was noticed in 14 cases that excess tax amounting to Rs.24.60 lakh collected during the years 2000-01 to 2003-04 was not forfeited to Government account.

^Δ Hyderabad (Jeedimetla) and Guntur (Eluru Bazar)

^Ψ Bodhan, Hindupur, Hyderabad (Agapura, Hydernagar, Khairatabad, Nacharam, Nampally, Punjagutta) and Nidadavolu

After this was pointed out, Government replied in October 2006 that assessments were revised in seven cases out of which Rs.5.74 lakh was forfeited in June 2005 and March 2006 in two cases. Show cause notices were issued in two cases. In remaining five cases final replies have not been received.

2.17 Short levy of tax due to arithmetical mistake

Under APGST Act and Rules made thereunder, tax on goods/commodities sold is to be levied at rates specified under Schedules I to VII to the Act.

During the course of audit of three circles[♦], it was noticed between August 2003 and November 2004 that AAs while finalising assessments between March 2003 and February 2004 for the years 1999-2000 and 2002-03 in four cases erroneously worked out tax payable as Rs.20.91 lakh against correct amount of Rs.34.34 lakh due to arithmetical mistake. This resulted in short levy of tax of Rs.13.43 lakh.

After this was pointed out, Government replied in October / November 2006 that assessments were revised between May 2004 and June 2006 in three cases out of which an amount of Rs.5.61 lakh was adjusted to tax holiday in two cases. Final reply has not been received in one case.

[♦] Ananthapur-I, Ongole and Secunderabad (Mahankali Street)