

## CHAPTER - 2

### SALES TAX

#### 2.1 Results of Audit

Test check of records in Sales Tax Offices, conducted in audit during the year 2001-2002 revealed under-assessments of tax, non-levy of penalty, etc. amounting to Rs.23.48 crore in 150 cases under the following categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
1.	Non-levy/short levy of tax	4	8.46
2.	Incorrect grant of exemption from tax	31	2.93
3.	Turnover escaped assessment	32	5.04
4.	Non-levy/short levy of interest	24	1.99
5.	Under assessment of tax	3	0.08
6.	Non-levy of penalty	3	0.15
7.	Other lapses	53	4.83
	<b>Total:</b>	<b>150</b>	<b>23.48</b>

During the year, the department accepted under-assessments of tax amounting to Rs.6.30 crore involved in 26 cases pointed out in audit during 2001-2002. The department also accepted short levy of tax etc. in 16 cases involving Rs.0.38 crore pointed out in audit in earlier years and Rs.0.11 crore was recovered in 12 cases during 2001-2002. A few illustrative cases involving Rs.10.68 crore are given in the following paragraphs:

#### 2.2 Non-levy of tax

Under the Assam General Sales Tax Act, 1993, vide Explanation 1 below section 8(i)(a) read with Rule 12 of the Assam General Sales Tax Rules 1993, where a person sells a substantial part of the goods manufactured by him to

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another person for resale as distribution or selling agent and the price charged on resale exceeds forty per cent of the original sale or purchase price, the resale of such goods by such person shall be deemed as first point of sales within the State and the rate of tax shall be specified in Schedule II for such items. Interest at the rate of 2 per cent for each month on the amount by which tax paid falls short of the tax payable is also payable by the dealer.

Test check of assessment records of the Superintendent of Taxes, unit-A, Guwahati, revealed (April – July 2001) that a registered dealer (M/s I.B.P. Co., Guwahati,) engaged in the business of petroleum products sold goods valued at Rs.5.55 crore and Rs.7.90 crore during the years 1995-96 and 1997-98 the purchase price of which were Rs.2.58 crore and Rs.3.23 crore respectively. As the resale price exceeded forty per cent of the original purchase price, the resale was therefore to be deemed as first point of sale within the State for the purpose of levy of tax. But the Assessing Officer while completing assessments (March 1999 and March 2001) did not levy tax on the ground that such sales were made out of the local purchase of tax paid goods. This resulted in non-levy of tax of Rs.2.20 crore. In addition, interest amounting to Rs.2.11 crore (calculated upto June 2001) was also leviable.

On this being pointed out (July 2001) the department accepted (March 2002) the audit contention and levied tax and interest of Rs.4.93 crore. Report on realization is awaited (December 2002).

The case was reported to the Government (October 2001) followed by reminder (February 2002); their reply has not been received (December 2002).

### **2.3 Concealment of turnover**

Under the Assam General Sales Tax Act, 1993, read with Central Sales Tax Act, 1956, if a dealer has concealed or failed to disclose fully and truly, the particulars of his turnover, the Assessing Officer may within eight years from the date of the relevant year make an assessment or re-assessment of the dealer. When a dealer conceals his turnover, he shall pay by way of penalty, in addition to tax and interest, a sum not exceeding one and half time the amount of tax sought to be evaded.

Test check of assessment records of the Superintendent of Taxes, Doomdooma, revealed (April 1999 – July 2001) that taxable turnover in respect of 2 dealers for the assessment periods 1993-94 to 1996-97 were determined (between August 1995 and October 1999) by the Assessing Officers at Rs.0.60 crore instead of Rs.0.74 crore as shown in annual returns furnished by the assesseees. Thus, turnover aggregating Rs.0.14 crore escaped assessment resulting in evasion of tax of Rs.4.28 lakh including interest and penalty. The details are given in the table below:

(Rupees in lakh)

Sl. No.	Name of the unit office	Name of the dealer. Nature of business	Opening stock as on	Purchase during the period	Closing stock as on	Turnover found assessable	Turnover assessed	Turnover concealed	Tax evaded Rate of tax	Interest leviable upto	Maximum penalty leviable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
1.	Doom-doma	<b>A</b> Electrical Goods	<u>NIL</u> 1 July 1993	<u>21.24</u> 1 July 1993 to 31 March 1997	<u>5.27</u> 31 March 1997	15.97	8.99	6.98	<u>0.84</u> 12 per cent	<u>0.40</u> April 1999	1.26
2.	-do-	<b>B</b> Hand sprayer, Tea leaf carry bag, insecticide	<u>13.48</u> 1 April 1994	<u>62.51</u> 1 April 1994 to 31 March 1997	<u>17.90</u> 31 March 1997	58.09	51.17	6.92	<u>0.55</u> 8 per cent	<u>0.40</u> April 1999	0.83
<b>Total:</b>			<b>13.48</b>	<b>83.75</b>	<b>23.17</b>	<b>74.06</b>	<b>60.16</b>	<b>13.90</b>	<b>1.39</b>	<b>0.80</b>	<b>2.09</b>

On this being pointed out the department accepted the audit observations and raised a demand of Rs.2.38 lakh. Report on realisation is awaited (December 2002).

The cases were reported to the Government (July 2000 and February 2002); their replies have not been received (December 2002).

#### 2.4 Turnover escaping assessment

Under the Assam General Sales Tax Act, 1993, read with Central Sales Tax Act, 1956, if upon any information which has come into his possession, the Assessing Officer has reasons to believe that any part of the turnover of a dealer in respect of any period has escaped assessment to tax, he may, within eight years from the date of the relevant year make a re-assessment of the dealer. If a dealer fails to pay the full amount of tax payable by him by the due date, he is liable to pay simple interest at the rate of two per cent for each month, on the amount by which tax paid falls short of the tax payable.

(A) In 3<sup>s</sup> sales tax unit offices, the taxable turnover for the assessment periods 1995-96 and 1996-97 in respect of 11 manufacturing dealers was determined (March 1999 and June 2001) by the Assessing Officers at Rs.54.60 crore. Cross verification by audit of assessment records of the dealers vis-à-vis value of excisable goods cleared, obtained from the Central Excise Department revealed (between April 2000 and June 2001) that taxable turnover aggregating Rs.13.33 crore escaped assessment. This resulted in short levy of tax of Rs.2.95 crore including interest.

<sup>s</sup> Tinsukia, Unit-B of Guwahati, Jorhat

On this being pointed out (December 2000 and June 2001) the department accepted audit observation in 3 cases and raised a demand of Rs16.80 lakh in 2 cases. Final reply in the remaining cases is awaited (December 2002).

The above matter was reported to the department / Government (December 2000, October 2001), followed by reminders (February 2002 and March 2002); no response was received (December 2002).

**(B)** The Commissioner of Taxes, Assam vide his Circular No.116 of 1987 instructed all the Superintendent of Taxes to obtain a detailed report from the area Inspector of Taxes regarding business activities in respect of a dealer who applied voluntarily for registration before granting him a registration certificate.

Test check of assessment records (between April 2000 and June 2000) of the Superintendent of Taxes, Tinsukia revealed that the tax liability of a dealer engaged in business of tea was fixed from 1<sup>st</sup> April 1995. But as per a report furnished by inspector of taxes to the Assessing Officer, the dealer had commenced his business on 15<sup>th</sup> November 1994 and transacted sales of Rs.48.08 lakh upto 31 March 1995. Thus an amount of Rs.48.08 lakh escaped assessment having a tax liability of Rs.9.68 lakh including interest of Rs.5.36 lakh

On this being pointed out (December 2000) the department stated (May 2002) that the dealer effected the first sale on 11 July 1995. The reply is not tenable as the report of the Area Inspector of Taxes clearly indicated that the first sale was effected on 15 November 1994.

The case was reported to the Government (October 2001), followed by reminder (February 2002); their reply has not been received (December 2002).

**(C)** Test check of assessment records of the Superintendent of Taxes, Unit-B, Guwahati revealed (between April and July 2001) that while finalising (October 2000) the assessment for the period 1997-98 sales valued at Rs.42.74 lakh was exempted from payment treating these as stock transfer. However, cross verification of the assessment records of the dealers with the records of the transferee revealed that the dealer had not received such stock back. Thus, the dealer's claim for exemption thereon was not correct. This resulted in evasion of tax of Rs.6.09 lakh including interest of Rs.2.67 lakh. Besides, for concealment of turnover, penalty of Rs.5.13 lakh was also leviable.

The case was reported to the department and the Government (February 2002) followed by reminder (March 2002); their reply has not been received (December 2002).

**(D)** Under the Central Sales Tax Act, 1956 and the Rules made thereunder, where a dealer transfers any goods to any place of his business or agent or principal in any other State, he is not liable to pay tax in respect of such goods provided the transfer is supported by declaration in Form-F obtained from the transferee or other evidence of despatch of the goods. Otherwise, tax is payable at the rate of 10 per cent or the rate of tax applicable on such goods under the State Act, whichever is higher.

Test check of assessment records of the Superintendent of Taxes, Karimganj, revealed (November 1999) that a dealer engaged in manufacture and sale of tea disclosed in his annual return, stock transfer of 1.77 lakh kgs. of tea valued at Rs.62.38 lakh for the period 1993-94. Of these, 1.09 lakh kgs. valued at Rs.37.02 lakh supported by 'F' form was brought to assessment (January 1999). The balance quantity of 0.68 lakh kgs. valued at Rs.25.35 lakh not supported by form 'F' or other evidence of despatch was not brought to assessment. This resulted in non-levy of tax of Rs.5.94 lakh including interest of Rs.3.40 lakh.

On this being pointed out (February 2000), the department stated (September 2001) that the assessment was revised (July 2001) raising a demand of Rs.6.85 lakh including interest of Rs.4.31 lakh. Report on realisation has not been received (December 2002).

The matter was reported to the Government (February 2002), their reply has not been received (December 2002).

**(E)** Under the Assam General Sales Tax Act, 1993 and Rules framed thereunder, a registered dealer may purchase goods from another registered dealer free of tax or at concessional rate of tax by utilizing AGST declaration Form-A, for either re-sale in the State or for packing of such goods for re-sale. The price of goods which are purchased after furnishing declaration Forms and used by the dealer for purpose other than those specified in such declaration shall be included in his taxable turnover.

Test check of assessment records of the Superintendent of Taxes, Tinsukia, revealed (between April and June 2000) that a dealer purchased goods valued at Rs.14.62 lakh against the declaration Form – A. However, instead of utilizing the goods for resale or for packing goods, the dealer made inter-State sales of these goods for the year 1996-97. This resulted in turnover escaping

assessment and under assessment of tax of Rs.1.03 lakh including interest (upto June 2000).

On this being pointed out (December 2000) the department stated (May 2002) that the dealer had been reassessed and served demand notice for payment of tax. Report on realization is awaited (December 2002)

The case was reported to the Government (December 2000), followed by reminders (March 2002, May 2002); their reply has not been received (December 2002).

## **2.5 Non-levy/short levy of interest**

Under the provisions of the Assam Finance (Sales Tax) Act, 1956 (effective upto 30 June 1993) and the Assam General Sales Tax Act, 1993 (effective from 1 July 1993), if a dealer fails to pay the full amount of tax by the due date, he is liable to pay simple interest at the prescribed rates varying from 12 to 24 per cent per annum upto 30 June 1993 and at the rate of 2 per cent for each month thereafter.

Test check of the assessment records of Sales Tax unit offices (Guwahati Unit – A, Unit – B and Bongangaon) revealed (between February 2000 and December 2001) that the assessing officers while finalizing the assessments of 12 dealers (between September 1998 and March 2001) in 14 cases either failed to levy or levied short the interest amounting Rs.1.23 crore.

On this being pointed out (between February 2000 and March 2002) the department stated (between July 2001 and June 2002) that a demand of Rs.1.26 crore has been raised (June – July 2000) against the dealers. Report on realisation is awaited (December 2002).

The cases were reported to the Government (October 2001, March 2002); their replies have not been received (December 2002).

## **2.6 Incorrect grant of exemption**

Under the Central Sales Tax Act, 1956, where a dealer transfers goods to any other place of his business or to his agent or principal in any other State, he is not liable to pay tax in respect of such goods, provided he can prove that the movement of goods from his State to the other State was not occasioned as a result of sale. However, if it is established that it is a sale in course of inter-State trade or commerce, tax is leviable at the rate of four per cent if such sale is supported by prescribed declaration form, other-wise tax is leviable at the normal rate of ten per cent or the rate of tax applicable under the State Act, whichever is higher. If a dealer makes any incorrect claim for exemption from

payment of tax, he shall pay by way of penalty, in addition to tax and interest a sum not exceeding one and one half time the amount of tax sought to be evaded.

**(A)** Test check of assessment records of the Superintendent of Taxes, Nagaon, revealed (January – February 2000) that inter-State sale turnover of Rs.19.48 lakh for the period 1998-99 in respect of a tea dealer was allowed exemption from payment of tax on the ground of stock transfer claimed by the dealer. However, scrutiny of records revealed that the goods were actually sold in the course of inter-State trade or commerce. This incorrect exemption resulted in underassessment of tax of Rs.2.34 lakh including interest of Rs.0.39 lakh (upto February 2000). Besides, penalty of Rs.2.93 lakh was also leviable.

On this being pointed out (January 2000) the department accepted (November 2000) the audit objection and revised the assessment. However, report on realisation has not been received (December 2002).

The case was reported to the Government (June 2000, March 2002); their reply has not been received (December 2002).

**(B)** Test check of assessment records of the Superintendent of Taxes, Tangla revealed (February – March 2000) that a dealer dealing in tea was exempted (June 1999) from payment of tax on the total turnover of Rs.1.68 crore for the assessment period 1996-97 on the ground that the transactions were supported by declarations in Form-‘F’. Scrutiny of the records disclosed that stock transfer valuing Rs.63.21 lakh were not supported by Form-‘F’. This resulted in under assessment of tax of Rs.6.32 lakh.

On this being pointed out (March 2000), the department stated (September 2001) that the assessment had been rectified and a notice of demand for Rs.9.11 lakh (including interest of Rs.2.95 lakh). Report on realisation is awaited (December 2002).

The case was reported to the Government (March 2000); their reply has not been received (December 2002).

**(C)** Under the provisions of the Act, the sale of other goods (other than the goods mentioned in the schedules I, II, IV and V) is taxable at the point of last sale in the State at the rate of 8 per cent. Dates (Pind Khajur) is not a fresh fruit but a preserved fruit and taxable at the rate of 8 per cent at the last point of sale.

Test check of assessment records of the Superintendent of Taxes, Guwahati, Unit-A revealed (April – July 2001) that the Assessing Officer while completing assessments in respect of 2 dealers allowed (between August 1997, and March 2001) exemption on the sale of ‘Dates’ (Pind Khajur) valued at Rs.97.64 lakh during the assessment periods between 1996-97 and 1998-99 treating the item ‘Dates’ as exempted goods. This incorrect grant of exemption resulted in non-levy of tax of Rs.14.33 lakh including interest of Rs.6.52 lakh.

The matter was reported to the department and the Government (October 2001); their replies have not been received (December 2002).

**(D)** Under the Assam Industries (Sales Tax Concession) Scheme, 1995, certain eligible industrial units are exempted from payment of tax on the sale of their finished products from the date of commencement of commercial production. Eligibility certificates are issued to the industries by the Industry Department on recommendation of the District Level Committee of which Deputy Commissioner of Taxes of the area is a member. The Commissioner of Taxes, Assam, clarified (March 1996) that industries engaged in conversion of rolled paper of bigger size into plain paper of different smaller sizes are not eligible for exemption and the taxation department should not agree to the issuance of such certificates in District Level Committee.

Test check of assessment records of 2 sales tax units Guwahati Unit –A&B revealed (November-December 1999 and July 2001) that sale of foolscap paper, duplicating paper, carbon sheets of Rs.4.40 crore for the period from 1996-97 to 1998-99 (assessed between December 1997 and March 2000) in respect of three dealers was exempted from payment of tax. This paper was obtained by converting paper rolls/carbon rolls of bigger sizes into paper/sheet of smaller sizes. Thus incorrect grant of exemption resulted non-levy of tax of Rs.60.57 lakh including interest.

The cases were reported to the department and the Government (June 2000 and October 2001); followed by reminders (March 2002 and May 2002), their replies have not been received (December 2002).

**(E)** Under the Assam Industries (Sales Tax Concession) Scheme, 1995, “tea” shall be excluded from the raw material entitled to the benefits of tax exemption under the scheme and cannot be purchased by a dealer free of tax.

Test check of assessment records of 2 sales tax units ( Unit-A, Guwahati and Karimganj) revealed (between April 2001 and November 2001) that sale turnover of Rs.57.78 lakh relating to the four years 1996-97 to 1999-2000 in respect of four dealers of tea was incorrectly exempted by the assessing officer (between April 1999 and February 2001) from levy of tax on the ground that such sales were exempted under the scheme. This error resulted in short realization of Government revenue of Rs.8.00 lakh



On this being pointed out (July 2001) the department stated (June 2002) that assessment would be revised in 2 cases. No reply has been received in the remaining cases. Further course of action is awaited (December 2002).

The matter was reported to the department and the Government (October 2001 and March 2002); their replies have not been received (December 2002)

## **2.7 Incorrect allowance of deduction**

Under the State Sales Tax Laws\* read with Central Sales Tax Act 1956, while determining taxable turnover, the tax included in the gross turnover is to be deducted according to the formula prescribed. No such deduction is admissible where the turnover is exclusive of tax.

(i) During the course of audit of the Superintendent of Taxes, Unit-B, Guwahati, it was noticed (April – July 2001) that two dealers were erroneously allowed deduction of Rs.33.72 lakh from their turnover though the turnover of the dealers were exclusive of tax. This resulted in short levy of tax of Rs.4.54 lakh including interest of Rs.1.02 lakh.

The case was reported to the department and the Government (February 2002), followed by reminder (March 2002); their replies have not been received (December 2002).

(ii) Test check of assessment records of the Superintendent of Taxes, Unit-A, Guwahati revealed (between April and July 2001) that while finalizing the assessment of 2 works contract dealers, the Assessing Officer deducted Rs.1.29 crore being tax element instead of Rs.0.22 crore embedded in the turnover. This resulted in excess deduction of Rs.1.06 crore having a tax effect of Rs.8.50 lakh. Besides, interest of Rs.5.50 lakh could have been levied. This resulted in short realization revenue of Rs.14.00 lakh.

On this being pointed out (July 2001) the department stated (June 2002) that the assessment of the dealers was revised and tax and interest as pointed out by audit was levied. However, report on realization is awaited (December 2002).

The cases were reported to the Government (October 2001), followed by reminder (March 2002); their replies have not been received (December 2002)

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\* Assam Sales Tax Act, 1947  
Assam General Sales Tax Act, 1993

**(iii)** Under Section 8(3)(iv) read with Rule 14 of the Assam General Sales Tax Act, 1993, every works contractor is required to pay tax at the rate of 8 per cent on his taxable turnover arrived at after deduction of turnover of declared goods, labour charges, freight and transportation charges etc. The item 'paper' is not specified in the list of declared goods.

Test check of assessment records of the Superintendent of Taxes, Unit-A, Guwahati revealed (between April and July 2001) that the Assessing Officer while determining taxable turnover in respect of 2 (two) works contractors engaged in printing works allowed (April 1999 and March 2001) deduction of Rs.94.44 lakh being the value of 'paper' utilised in the contract works from the turnover of Rs.1.58 crore pertaining to the periods 1997-98 to 1999-2000 treating 'paper' as declared goods. Since 'paper' is not an item specified in the list of declared goods, the deduction allowed was incorrect. This resulted in under assessment of tax of Rs.11.55 lakh including interest of Rs.4.15 lakh.

On this being pointed out (July 2001) the department accepted (July 2002) the audit contention and levied tax and interest of Rs.16.11 lakh. Report on realization is awaited (December 2002).

The cases were reported to the Government (October 2001), followed by reminder (March 2002); their replies have not been received (December 2002).

## **2.8 Evasion of Tax**

Under the Assam General Sales Tax Act, 1993, a dealer can purchase goods free of tax or at concessional rate of tax by utilizing declaration in form 'A' for the purpose of re-sale in the State. As per entry 15 of the schedule-IV attached to the Act, 'tea' is taxable at the rate of 6 per cent at the last point of sale in the State. Additional tax at the rate of ten per cent of the tax payable is also leviable.

Test check of assessment records of Superintendent of Taxes, Bongaigaon, vis-à-vis records of the Unit-A, Guwahati, revealed that dealer 'X' of Bongaigaon purchased Tea valued Rs.1.09 crore from another dealer but concealed the same. This resulted in evasion of tax of Rs.10.79 lakh including interest of Rs.2.81 lakh.

On this being pointed out (September 2001) the department accepted (March 2002) the audit contention and levied tax including additional tax, interest and penalty of Rs.11.85 lakh. The dealer paid tax of Rs.4.00 lakh (October 2001, June 2002). Report on realization of the balance amount is awaited (December 2002).

The case was reported to the Government (January 2002); their reply has not been received (December 2002).

### 2.9 Non-levy of penalty for misuse of ‘C’ form

Under the Central Sales Tax Act, 1956, if any registered dealer, falsely represents when purchasing any class of goods that the goods purchased are covered by his certificate of registration or after purchasing goods for any purpose specified in the certificate of registration fails without reasonable excuse, to make use of the goods for any such purpose, the registration authority may impose penalty not exceeding one and a half times of the tax, which would have been levied at the general rate in respect of sale to him of the goods.

Test check of assessment records of 3<sup>s</sup> sales tax unit offices revealed (June 2000, August 2000, July 2001) that 3 registered dealers engaged in the business of manufacture and sale of petroleum product and tea, purchased goods valued at Rs.1.11 crore from other State against declaration in Form-“C”, even though these goods were not used for manufacture of petroleum product and tea. Therefore, the purchases so made by the dealers attracted levy of penalty of Rs.16.50 lakh, which was not levied.

On this being pointed out (June 2000 and August 2001) the department accepted the audit objection (June 2002) and imposed penalty of Rs.16.50 lakh against the dealers. Report on realisation is awaited (December 2002).

The cases were reported to the Government (November 2000, December 2000 and October 2001) followed by reminders (March 2002, May 2002); their replies have not been received (December 2002).

### 2.10 Non-levy of additional tax

Under the provision of Assam General Sales Tax Act, 1993, every dealer who is liable to pay tax under this Act shall pay additional tax with effect from June 1998 at the rate of ten percent of the tax payable by him. Interest at the rate of two per cent for each month on the amount by which tax paid falls short of tax payable was leviable.

Test check of assessment records of sales tax unit offices<sup>#</sup> revealed (April – August 2001) that in 13 cases additional tax of Rs.11.10 lakh including interest of Rs.3.97 lakh was not levied.

<sup>s</sup> Guwahati Unit-A, Hojai and Tinsukia

<sup>#</sup> Golaghat and Guwahati Unit-B

On this being pointed out (April – August 2001) the department accepted (June 2002) the audit objection and levied additional tax and interest of Rs.0.85 lakh in respect of 3 (three) dealers of Unit-B, Guwahati. Replies in respect of other dealers have not been received (December 2002).

The cases were reported to the department and the Government (January 2002 and March 2002); their replies have not been received (December 2002).

### **2.11 Non-registration of dealer**

**(A)** Under the Assam General Sales Tax Act, 1993 and Rules made there under, every dealer liable to pay tax shall get himself registered with the Assessing Officer and shall possess a certificate of registration. The Act also empowers the Assessing Officers to register a dealer if in his opinion, the dealer is liable to registration but has failed to apply for the same. If a dealer being liable to pay tax, fails to get himself registered, he shall, in addition to any tax or interest payable by him, pay penalty not exceeding the amount of the assessed tax.

Cross verification by audit of records of the Superintendent of Taxes, Tinsukia, with the records of the Central Excise Department (Tinsukia) revealed (between April 2000 and June 2000) that 7 manufacturer dealers under the jurisdiction of the Tinsukia unit manufactured and sold steel fabrication, truss, grill, trunk, gates, G.I. wire fencing, machineries, mechanical appliances, storage tank, wire netting, ice-cream etc. valued at Rs.48.46 lakh during the periods from 1993-94 to 1998-99 but neither applied for registration nor the Assessing Officers registered them.. Thus, non-registration of the dealers resulted in evasion of tax of Rs.3.88 lakh. In addition to tax, interest of Rs.3.25 lakh and penalty not exceeding Rs.3.88 lakh were leviable.

The department accepted (June 2002) the audit contention and levied tax, interest and penalty as pointed out in audit. Report on realization is awaited (December 2002).

The cases were reported to the Government (December 2000), followed by reminder (April 2002); their replies have not been received (December 2002).

**(B)** No dealer, liable to pay tax under the Assam General Sales Tax Act, 1993 and Central Sales Tax Act, 1956, shall carry on business in taxable goods unless he has been registered as a dealer and possesses a certificate of registration. Under the taxation laws of the State, supari is taxable at the rate of 8 per cent at the point of last purchase inside the State. Further, for inter-

state sales of Supari, not covered by the prescribed declaration as provided in the Central Sales Tax Act, 1956, tax is leviable at the rate of 10 per cent.

Test check of records of the Superintendent of Taxes, Unit-B, Guwahati vis-à-vis records of the Boxirhat check post revealed (between April and July 2001) that an unregistered dealer under the jurisdiction of Unit-B sold supari valued at Rs.45.02 lakh during the period between 16 April and 25 April 1998 in the course of inter-State trade or commerce without payment of tax of Rs.8.10 lakh. However Rs.4.54 lakh was collected at the check post. No action was taken by the department to register the dealer and collect the tax due. Thus, due to non-registration of the dealer, revenue amounting to Rs.3.56 lakh was forgone.

The case was reported to the department and the Government (February 2002); their replies have not been received (December 2002)

### **2.12 Short levy of tax due to incorrect determination of turnover**

Under the provisions of AGST Act, 1993, tax payable by a dealer engaged in the execution of works contract of the nature of “supplying and fitting of electrical goods, supply and installation of electrical equipments including transformers” is 8 per cent (with effect from May 1997) on his taxable turnover and maximum allowable deduction towards labour and other charges is 10 per cent of the gross turnover.

Test check of assessment records of the Superintendent of Taxes, Jorhat revealed (May – June 2001) that a dealer engaged in the execution of works contract of the nature of supplying and fitting of electrical goods, supply and installation of electrical equipments including transformer was assessed (February 2000) to tax for the year 1998-99 allowing deduction of 20 per cent (Rs.78.24 lakh) towards labour and other charges from the turnover of Rs.3.91 crore instead of correct rate of 10 per cent. This resulted in excess deduction of taxable turnover of Rs.39.12 lakh and consequential short levy of tax of Rs.3.13 lakh. In addition, interest of Rs.1.56 lakh was also leviable.

On this being pointed out (June 2001) the department stated (March 2002) that the dealer executed labour oriented job and no transfer of property was involved in the works contract. It was also stated +that the materials required for the contract work were supplied by the contractee organization. The reply is not tenable since the tax payable was determined by the Assessing Officer after verification of books of accounts and the dealer also paid tax as such the work was not hundred per cent job oriented work. The maximum deduction admissible towards laour charges was 10 per cent of the turnover instead of 20 per cent allowed by the Assessing Officer.

The case was reported to the Government (October 2001), followed by reminder (March 2002); their reply has not been received (December 2002).

**2.13 Short levy of tax due to application of lower rate of tax.**

As per the Assam General Sales Tax Act 1993, the items vegetable ghee and vegetable oil are taxable at the rate of 8 per cent at the point of first sale in the State to an unregistered dealer.

Test check of assessment records of the Superintendent of Taxes, Tinsukia revealed (April 2000 – June 2000) that a registered dealer purchased vegetable ghee/vegetable oil for Rs.61.42 lakh from outside the State of Assam and sold it for Rs.62.23 lakh to unregistered dealer during the year 1998-99. However, the Assessing Officer levied (January 2000) tax at the rate of 4 per cent instead of 8 per cent. This resulted in short levy of tax of Rs.2.39 lakh. In addition, interest of Rs.0.62 lakh (calculated upto May 2000) was also leviable.

On this being pointed out (June 2000) the department stated (April 2002) that the dealer purchased goods from within the State but in the annual return it was wrongly mentioned that the goods were purchased from outside the State. The reply of the department is not tenable since the dealer purchased the goods from outside the State as per utilization statement of road permits furnished by the dealer.

The case was reported to the Government (October 2000) followed by reminder (March 2002); their reply has not been received (December 2002).