

CHAPTER - II

SALES TAX

2.1 Results of Audit

Test check of records in Sales Tax Offices, conducted in audit during the year 2002-2003 revealed under assessments of tax, incorrect grant of exemptions, etc. amounting to Rs.54.79 crore in 131 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Turnover escaping assessment	44	7.09
2.	Incorrect exemption	26	1.91
3.	Under assessment of tax	05	0.33
4.	Non-levy/short levy of interest	14	0.17
5.	Review : Exemption and concession of tax against declaration Forms	01	39.25
6.	Other lapses	41	6.04
Total		131	54.79

During the course of the year 2002-2003, the Department accepted under assessments of tax amounting to Rs.4.45 crore pointed out during 2002-2003 and in earlier years. Of these, Rs.0.24 crore were recovered.

A few illustrative cases involving Rs.10.54 crore and a review, **Exemption and concession of tax against declaration Forms**, involving financial effect of Rs.39.25 crore are given in the following paragraphs:

2.2 Review : Exemption and concession of tax against declaration Forms

Highlights

- **Incorrect levy of concessional rate of tax against Form ‘C’ resulted in short levy of tax of Rs.9.19 crore.**
(Paragraphs 2.2.5)
- **Irregular allowance of exemptions against Kolkata Auction resulted in short levy of tax of Rs.13.90 crore.**
(Paragraph 2.2.9)
- **Irregular allowance of deduction of goods consigned to branches/agents in other states against incomplete/unsigned/invalid declarations in Form ‘F’ resulted in non-levy of tax of Rs.4.91 crore.**
(Paragraph 2.2.10)
- **Exemptions/concessional rate of tax allowed against invalid declaration Forms resulted in non-levy/short levy of tax of Rs.6.92 crore.**
(Paragraph 2.2.11)
- **Incorrect allowance of deductions against Forms ‘E-I’ or ‘E-II’ during inter-state sales resulted in short levy/non-levy of tax of Rs.3.23 crore.**
(Paragraph 2.2.12)
- **There was evasion of tax of Rs.22.94 lakh due to suppression of turnover and non-submission of returns by the dealer**
(Paragraph 2.2.16)

Introduction

2.2.1 The Assam General Sales Tax Act, 1993 (AGST Act) provides that a registered dealer can purchase goods without payment of tax or at concessional rate of tax, if the goods so purchased are for resale within the state, provided the purchasing dealer furnishes a prescribed declaration Forms A to the selling dealer.

Under the Central Sales Tax Act, 1956, (CST Act) registered dealers are eligible to certain exemptions and concession of tax, on inter-state sales,

on the strength of prescribed declarations such as Form C, D, E-I, E-II, F and H etc.

Organisational set up

2.2.2 The Finance (Taxation) Department is responsible for sales tax administration in the State. The Commissioner of Taxes is the head of the Department who is assisted by Additional Commissioner of Taxes. There are 36 Sale Tax Offices in the state headed by Senior Superintendents/Superintendents of Taxes who are responsible to check the validity and correctness of the Forms before allowing exemptions and concessions claimed by the dealers at the time of finalisation of their assessments. Moreover, there are two check posts also besides these units.

Audit objectives

2.2.3 Detailed scrutiny of the assessment records of 14 out of 36 offices for the period 1997-98 to 2001-2002 was conducted in audit during October 2002 to March 2003 to -

- (a) seek assurance that concessional rate of tax was allowed correctly against valid, duly filled and signed declaration Forms as prescribed in the State Act and CST Act;
- (b) ascertain whether exemption was allowed correctly.

Receipt and issue of declaration Forms

2.2.4 As per the records of the Commissioner of Taxes, the receipt and issue of declaration Forms to various Sales Tax Offices under the Central and State Acts during the years 1997-98 to 2001-2002 were as under:

Name of Act	Year	Opening stock	Received	Issued	Closing stock
(1)	(2)	(3)	(4)	(5)	(6)
Central Act		(Number of books each containing 25 leaves)			
Form 'C'	1997-98	20,647	Nil	1,097	19,550
	1998-99	19,550	Nil	2,380	17,170
	1999-2000	17,170	Nil	1,570	15,600
	2000-2001	15,600	Nil	1,420	14,180
	2001-2002	14,180	Nil	2,240	11,940
		(Number of books each containing 100 leaves)			
Form 'F'	1997-98	1,030	Nil	110	920
	1998-99	920	Nil	152	768
	1999-2000	768	Nil	10	758
	2000-2001	758	Nil	58	700
	2001-2002	700	Nil	150	550
		(Number of books each containing 25 leaves)			

(1)	(2)	(3)	(4)	(5)	(6)
Form 'H'	1997-98	7,121	Nil	Nil	7,121
	1998-99	7,121	Nil	45	7,076
	1999-2000	7,076	Nil	Nil	7,076
	2000-2001	7,076	Nil	Nil	7,076
	2001-2002	7,076	Nil	Nil	7,076
State Act	(Number of books each containing 25 leaves)				
Form 'A'	1997-98	1,51,688	Nil	1,409	1,50,279
	1998-99	1,50,279	Nil	1,769	1,48,510
	1999-2000	1,48,510	Nil	1,075	1,47,435*
	2000-2001	270	1,000(new) 2,640	730	270
	2001-2002	735	6,360	2,175	735
				2,565	4,530

It would be seen that 1,47,435 books of declaration Form 'A' remained inoperative and were declared invalid with effect from 21 February 2000. This led to an infructuous expenditure of Rs.18.31 lakh (based on expenditure of Rs.24.84 lakh being cost of 2 lakh books printed in 1994). It is evident from the number of Forms issued between 1997-98 to 1999-2000 that the estimates by the Commissioner of Taxes, Assam for printing of Forms were not realistic.

Incorrect grant of concessional rate of tax on sales against Form 'C'

2.2.5 Under the CST Act, inter-state sale of goods, other than declared goods, to registered dealers if supported by duly filled in and signed declaration in Form 'C' are taxable at the concessional rate of four per cent. Otherwise, tax is payable at the rate of ten per cent or at the rate of tax applicable under the State Act, which ever is higher. In addition, interest at the prescribed rate is leviable.

- In six¹ Sales Tax Offices, tax was levied between December 1997 and March 2002 for the assessment years 1993-94 to 2000-01 at the concessional rate of four per cent on sale of goods amounting to Rs.9.76 crore supported by Forms 'C' in 19 cases. It was, however, seen that the declaration Forms were defective, as the names of the dealers to whom the Forms 'C' were issued by the purchasing dealers were not mentioned therein. Allowance of the concessional rate of tax on the basis of defective declarations was irregular and resulted in short levy of tax amounting to Rs.1.95 crore including interest.

On this being pointed out, the Department stated in July-August 2003 that assessments in two cases (Jorhat and Unit-C of Guwahati) were rectified

* Old declaration Forms were declared inoperative with effect from 21 February 2000

¹ Digboi, Unit-A, Unit-B, Unit-C, Unit-D of Guwahati and Jorhat.

and additional demand raised for Rs.5.18 lakh. Report on recovery and final reply in respect of other cases are awaited (August 2003).

- Test check of the assessment records of seven² Sales Tax Offices for the assessment years 1994-95 to 1999-2000 revealed that while finalising assessments between March 1998 and March 2002, the Assessing Officers levied tax in 12 cases at concessional rate on sale of goods amounting to Rs.3.93 crore. However, the scrutiny of the declaration Forms 'C' revealed that the declarations were issued by the purchasing dealers in the names of some other dealers. The Assessing Officers' failure to verify the name of the dealer availing of concessional rate resulted in short levy of tax of Rs.77.78 lakh including interest.

- Test check of the assessment records of three³ Sales Tax Offices for the assessment years 1995-96 to 1998-99 revealed that while finalising the assessments in four cases, the Assessing Officers levied tax between March 1999 and March 2002 at concessional rate of tax on sale of goods amounting to Rs.82.93 lakh in the course of inter-state trade or commerce. But the transactions were not supported by the prescribed declarations. Failure of the Assessing Authorities to detect the irregularity resulted in short levy of tax of Rs.8.06 lakh including interest.

On this being pointed out, the Department stated in July 2003 that assessment in one case (Dibrugarh) was rectified and additional demand of Rs.0.74 lakh raised. Report on recovery and reply in other cases are awaited (August 2003).

- Test check of the assessment records of three⁴ Sales Tax Offices for the assessment years 1995-96 to 1999-2000 revealed that tax was levied between March 1999 and March 2001 at concessional rate of tax on sale of goods amounting to Rs.1.51 crore. Scrutiny of declaration Forms 'C' revealed that the Forms did not pertain to transactions for the period of assessments. Failure of the Assessing Officers to detect the irregularity resulted in short levy of tax amounting to Rs.17.82 lakh including interest.

- Test check of the assessment records of five⁵ Sales Tax Offices, for the period between 1993-94 and 2000-2001 revealed that tax was levied between March 1998 and March 2002 at concessional rate on the sale of goods valued at Rs.17.40 crore. Scrutiny of declaration Forms revealed that the transactions were recorded in Form 'C' subsequent to the dates of issue of declaration Forms by the purchasing dealers. Failure of

² Bongaigaon, Digboi, Unit-B, Unit-C, Unit-D of Guwahati. Jorhat and Tezpur..

³ Dibrugarh, Unit-A and Unit-D of Guwahati,.

⁴ Unit-A, Unit-C and Unit-D of Guwahati.

⁵ Unit-A, Unit-B, Unit-C, Unit-D of Guwahati and Tezpur.

the Assessing Officers to detect the irregularity resulted in short levy of tax amounting to Rs.2.79 crore including interest.

On this being pointed out, the Department in respect of three cases (Unit-C, Guwahati) stated in August 2003 that the cases had been sent to Zonal Deputy Commissioner of Taxes for suo motu revision.

- Test check of the assessment records of six⁶ Sales Tax Offices, for the assessment years 1995-96 to 2000-2001 revealed that tax was levied between June 1997 and March 2002 at concessional rate on the sale of goods amounting to Rs.32.27 crore. Scrutiny revealed that the declaration Forms were defective, as registration certificate number and date of validity of registration, invoice/ bill numbers and dates were not recorded; in some cases the transactions were also not authenticated by the purchasing dealers. Allowance of concessional rate of tax on the basis of defective declarations was irregular and resulted in short levy of tax amounting to Rs.3.33 crore.

On this being pointed out, the Department stated in August 2003 that assessment in two cases (Unit-C, Guwahati) were rectified and tax of Rs.4.28 lakh was levied. Report on recovery and reply in other cases are awaited (August 2003).

- Test check of the assessment records of four⁷ Sales Tax Offices for the assessment years 1995-96 to 1999-2000 revealed that tax was levied between March 1999 and September 2001 at concessional rate of tax. On scrutiny of the declarations, it was, however, seen in audit that the concessional rate of tax was allowed against photo/duplicate copies of Forms 'C' valued at Rs.73.85 lakh. Since the submission of original Form 'C' is mandatory, allowance of the concessional rate of tax on the basis of duplicate/photo copy was irregular and resulted in short levy of tax amounting to Rs.8.34 lakh.

Transaction not supported by valid declaration Form 'D'

2.2.6 Under the CST Act, a dealer, who in the course of inter-state trade or commerce sells to the Government any goods other than declared goods, is taxable at the concessional rate of four per cent if supported by duly filled and signed declaration Form 'D'. Otherwise, tax is payable at the rate of 10 per cent or at the rate of tax applicable under the State Act, whichever is higher. In addition, interest at the prescribed rate is also leviable.

⁶ Digboi, Unit-A, Unit-B, Unit-C and Unit-D of Guwahati and Tinsukia.

⁷ Unit-A, Unit-C, Unit-D of Guwahati and Jorhat

Test check of the assessment of two* Sales Tax Offices for the assessment period 1996-97 and 1997-98 revealed that tax was levied between May 1998 and March 2001 at the concessional rate of tax on sale of goods of Rs.1.03 crore. Scrutiny of declaration Forms 'D' revealed that these did not pertain to transactions for the period of assessments. Failure of the Assessing Officers to detect the irregularity, resulted in short levy of tax amounting to Rs.9.53 lakh including interest of Rs.4.96 lakh.

Application of incorrect rate of tax

2.2.7 Under the AGST Act, the items medicine, lubricant and motor parts were taxable at the rate of 8, 12 and 14 per cent respectively at the point of first sale in the state.

Test check of assessment records of the Superintendent of Taxes, Unit-D, Guwahati revealed that inter-state sale of medicine, lubricant and motor parts aggregating Rs.69.64 lakh, not supported by declaration Form 'C' in respect of 3 dealers relating to the assessment years 1995-96 to 1997-98 were assessed between March 1999 and March 2001 to tax at incorrect rates. This resulted in short levy of tax of Rs.4.34 lakh including interest of Rs.2.45 lakh.

On these being pointed out in audit, the Department stated in June 2003 that assessment in one case was rectified and additional demand raised. Report on recovery and final reply in respect of the remaining cases have not been received (August 2003).

Non-levy of penalty

2.2.8 Under the CST Act, if any registered dealer, falsely represents that the goods purchased by him are covered by his certificate of registration, or after purchasing the goods utilises the same for other purposes, the Assessing Authority may impose by way of penalty an amount not exceeding one and a half times of the tax, which would have been levied at the general rate in respect of sale of the goods.

Test check of records of three# Sales Tax Offices for the assessment periods 1998-99 and 2000-2001 revealed that 3 registered dealers engaged in the business of manufacture and sale of tea, purchased goods valued at Rs.43.63 lakh from other states against declarations Form 'C'. These goods were not used for manufacture of tea. The Assessing Authority failed to levy penalty of Rs.7.59 lakh.

* Dibrugarh and Unit-D of Guwahati.

Doomdooma, Sibsagar and Tezpur.

On this being pointed out in audit, the Department raised demand of Rs.0.48 lakh in one case in July 2003. Report on recovery and reply in other cases are awaited (August 2003).

Irregular grant of exemption

Under the CST Act, when any dealer claims exemption of tax in respect of any goods by reason of transfer of such goods to any other place of his business out of the state, he may furnish to the Assessing Authority, a declaration in Form 'F' duly filled in and signed by the transferee, along with the evidence of despatch of such goods. As per rules, one Form 'F' should cover the transaction of one calendar month.

2.2.9 Scrutiny of the assessment records of nine* Sales Tax Offices revealed that 14 dealers despatched tea valued at Rs.64.00 crore during the assessment years 1993-94 to 2000-2001 and claimed exemption from payment of tax on the ground that the tea was sold at Kolkata (Calcutta) Auction. Since sale of tea at Kolkata (Calcutta) Tea Auction was neither supported by Form 'F' nor other evidence of despatch of goods to the branch offices of the dealers, the exemption allowed between January 1998 and March 2002 by the Assessing Officers was incorrect resulting in non-levy of tax of Rs.13.90 crore including interest of Rs.7.50 crore.

On this being pointed out, the Department stated in July 2003 in five cases of Jorhat office that exemptions from tax were allowed on the basis of brokers' certificates that the sales of tea were effected in Kolkata Tea Auction Centre. The reply of the Department is not tenable as the exemption allowed on the basis of brokers' certificates for the sale of tea in Kolkata Tea Auction Centre was irregular as the goods were not transferred to principals or commission agents by the dealers and as such it was sale. Moreover, the Act does not provide for exemption of sale of tea in Kolkata Tea Auction Centre. Replies in respect of the remaining cases were not received (August 2003).

2.2.10 Test check of records of eleven Sales Tax Offices revealed that while finalising the assessments of 31 dealers, the Assessing Authorities irregularly allowed exemptions on account of branch transfer of goods valued at Rs.20.46 crore, as the exemptions were either not covered by Form 'F' or covered with defective declarations. This resulted in non-levy of tax amounting to Rs.4.91 crore including interest as detailed below:

* Digboi, Doomdooma, Golaghat, Jorhat, Naharkatia, Sibsagar, Silchar, Tangla and Tinsukia (6 selected unit offices and 3 from information available).

(Rupees in crore)

Sl. No.	Name of unit (number of dealer)	Period of assessment	Date of assessment	Nature of irregularities	Amount of tax including interest
(1)	(2)	(3)	(4)	(5)	(6)
1.	Golaghat (2), Jorhat (2), Sibsagar (2), Tangla (1) and Bongaigaon (1)	1994-95 to 1999-2000	Between January 1998 and February 2002	Goods valued at Rs.7.58 crore were transferred to the branches of the dealers against Form 'F'. Scrutiny of declarations, however, revealed that the Forms were issued by the transferees to dealers of some other states and were liable to be rejected.	1.55
2	Doomdooma (2) Guwahati Unit-A (1)	1996-97 to 1999-2000	Between March 2000 and December 2001	Exemption of turnover on account of branch transfer valued at Rs.4.67 crore were allowed, though the declaration Forms 'F' covered the transactions for more than one calendar month.	0.89
3	Tinsukia (3) Doomdooma (1), Guwahati Unit-B (1) Jorhat (1)	1994-95 to 1998-99	Between August 1997 and March 2002	Goods valued at Rs.3.04 crore were transferred to branches of dealers outside the state against Forms 'F'. However, details viz. invoice numbers, date, quantity, value of goods transferred, mode of transportation, lorry receipt numbers, date on which delivery was taken by the transferees etc, were not recorded in the declaration Forms 'F'.	1.55
4.	Jorhat (1)	1998-99 to 1999-2000	Between September 2000 and March 2002	The claims of branch transfer of goods valued at Rs.3.34 crore against Form 'F' were allowed. Scrutiny revealed that the transferee had not mentioned the name of the dealer to whom the Forms were issued. As such the claim was liable to be rejected.	0.53
5.	Dibrugarh (7), Silchar (3), Guwahati Unit-A (1) and Sibsagar (1)	1996-97 to 1999-2000	Between January 1998 and October 2001	The claim for branch transfer of goods valued at Rs.1.58 crore against Form 'F' was allowed. Scrutiny revealed that the transactions mentioned in the declarations were not related to the period of assessments.	0.33
6.	Sibsagar (2)	1995-96 to 1996-97	Between March 1999 and September 1999	Exemption of turnover on account of branch transfer of goods valued at Rs.24.85 lakh were allowed but neither the Form 'F' nor the details regarding despatch of goods to branch offices outside the state were obtained and kept on record.	0.06
Total:					4.91

On this being pointed out, the Department stated in July 2003 that assessment in one case (Jorhat against Sl. No.1) was rectified and demand of Rs.1.27 lakh raised. Report on recovery and reply in respect of other cases are awaited (August 2003).

Deduction allowed against invalid declaration Forms

2.2.11 Under the AGST Act, the Assessing Officer may of his own motion, rectify an assessment for any mistake of a factual nature apparent from the record at any time within three years from the end of financial year in which such assessment was made.

The Commissioner of Taxes, Nagaland, Dimapur vide his letter of February 2002 had intimated the Commissioner of Taxes, Assam, Guwahati that a series of declaration Forms 'C' and 'F' were cancelled and invalidated with effect from 11 June 2001. This information was circulated to the unit offices by the Commissioner of Taxes, Assam during December 2002.

Test check of records of four* Sales Tax Offices revealed that while finalising the assessments for the years 1995-96 to 2000-01 between July 2001 and March 2002, the Assessing Officer had exempted from levy of tax or levied tax at concessional rate on turnover amounting to Rs.48.83 crore as the same were supported by declaration in Form 'F' and 'C' declared invalid by the Nagaland Government. The Assessing Authorities failed to reassess these assessments inspite of information regarding invalid declarations being available with them in December 2002. This resulted in non-levy of tax of Rs.6.92 crore including interest of Rs.2.57 crore.

On this being pointed out in audit, the Department in respect of four cases (three of Unit-A and one of Unit-C, Guwahati) stated in June-August 2003 that the cases had been sent to the Zonal Deputy Commissioner of Taxes for suo motu revision. In one case (Unit-D, Guwahati), a notice was served to the dealer for re-opening of the case and in another case (Unit-C, Guwahati) tax of Rs.25.79 lakh was levied after re-assessment. Report on recovery and reply in other cases are awaited (August 2003).

Incorrect allowance of exemption against transfer of documents during inter-State sales against Form 'E-I', 'E-II'

2.2.12 Under the CST Act, any subsequent sale of goods during their movement from one state to another effected by a transfer of documents of title to such goods to the Government, or to a registered dealer shall be exempted from levy of tax provided such sale is supported by a certificate in form 'E-I' or 'E-II' duly filled and signed by selling dealer alongwith Form 'C' or 'D'. It has been judicially** held that where a dealer books goods to self without a purchaser and subsequently finds a purchaser and transfers title to the goods while the goods are in transit is eligible for exemption under the Act.

- Test check of assessment records of two Sales Tax Offices (Sibsagar and Unit-A, Guwahati) revealed that while finalising assessments of two dealers for the years 1994-95 to 1997-98, the Assessing Officers allowed between March 1998 and May 1999 exemption from payment of tax on the turnover of Rs.24.98 crore on the

* Unit-A, Unit-B, Unit-C and Unit-D of Guwahati

** Tata Iron and Steel Co. Ltd Vs S.R. Sarkar ((1960) 11 STC 665(SC))

ground that the sales were effected while goods were in transit. But, scrutiny of Forms 'E-I' and 'C' revealed that the dealers purchased goods on receipt of prior orders from the subsequent purchasers. Hence, dealers were not entitled to exemptions. Thus, allowance of incorrect exemption resulted in non-levy of tax of Rs.2.82 crore including interest.

- In the assessments of four dealers for the assessment years 1994-95 to 1997-98, finalised between July 1997 and March 2001, it was noticed that exemption of tax was incorrectly allowed resulting in short levy of tax of Rs.40.57 lakh as detailed below:

(Rupees in lakh)

Sl. No	Name of the unit office	No. of dealer	Period of assessment	Date of assessment	Nature of irregularity	Non-levy/ short levy of tax
1.	Guwahati Unit-B	3	1994-95 to 1995-96	Between July 1997 and March 1999	Exemption of sales of Rs.2.06 crore was allowed. Scrutiny revealed that the name of the dealers, invoice number and dates etc. were not filled in the declaration Forms.	37.88
2.	Guwahati Unit-D	1	1997-98	March 2001	The dealer was allowed exemption of Rs.13.16 lakh on the basis of statement of Form 'C' attached with return whereas as per Form 'C' furnished by the assessee, total worked out to Rs.1.56 lakh. Thus, the dealer had inflated the amount of Form 'C' in the statement by Rs.11.60 lakh and the Assessing Officer allowed the same without verifying the figure shown in Form 'C'.	2.69
Total						40.57

Acceptance of incomplete certificate in Form 'H'

2.2.13 Under the Central Sales Tax (Registration & Turnover) Rules, 1957, a dealer may claim exemption from payment of tax on sale of goods on the ground that such sale is a sale in course of export provided that the sales are supported by certificate in Form 'H' along with the evidence of export of such goods.

Test check of records in two[^] Sales Tax Offices, it was noticed in the assessments of two dealers that the Assessing Authorities had accepted between June 1997 and October 2001 incomplete certificate in Form 'H' for export sales of Rs.2.00 crore. It was, however, noticed that the export was made from Kolkata instead of from Assam and other required evidences/documents namely name of consignees, bills of lading and proof

[^] Sibsagar and Tinsukia.

of export etc. were not furnished by the dealers. This resulted in irregular exemption of tax of Rs.30.75 lakh.

On this being pointed out, the Department stated in July 2003 in respect of one case (Tinsukia) that the dealer had closed down his business and records could not be verified. In respect of the other case, no reply was received (August 2003).

Incorrect grant of deduction against Form 'A'

2.2.14 Under the AGST Act, a registered dealer may sell taxable goods to another registered dealer free of tax or at concessional rate of tax provided such sales are covered by declaration Form 'A' for resale in the State. The Act further provides that if any dealer fails to pay the full amount of tax by the due date, he shall pay interest at the prescribed rate.

Test check of records of two Sales Tax Offices (Unit-B and Unit-D, Guwahati), revealed that the Assessing Officers allowed between March 1998 and March 2001 exemption from payment of tax on the turnover of Rs.1.22 crore for the years 1996-97 and 1997-98 while the turnover was not supported by declarations in Form 'A'. This incorrect allowance of exemption resulted in non-levy of tax of Rs.13.79 lakh including interest.

Concealment of turnover

2.2.15 Under the AGST Act, if a dealer conceals or has failed to disclose fully and truly the particular of his turnover or furnished incorrect or incomplete 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. The Act further provides that if a dealer conceals the particulars of his turnover, he shall pay by way of penalty a sum not exceeding one and a half times the amount of tax. Interest is leviable at the prescribed rate.

In four Sales Tax Offices (Barpeta Road, Guwahati Unit-A/Unit-C and Jorhat), four dealers imported taxable goods valued at Rs.4.19 crore from outside the state during the year 1997-98 and 1998-99 against which goods valued at Rs.3.29 crore were accounted for by them in their books of accounts. This resulted in suppression of turnover of Rs.90.17 lakh and evasion of tax of Rs.21.57 lakh including interest and penalty.

On this being pointed out, the Department in respect one case (Unit-C, Guwahati) stated in August 2003 that the dealer had been re-assessed on escaped turnover. Report on recovery and reply in other cases are awaited (August 2003).

Evasion of tax

2.2.16 Under the AGST Act, every registered dealer is required to submit annual return of turnover, pay the admitted tax within the prescribed date and produce books of accounts. Otherwise, the Assessing Officer shall complete the assessment on best judgement basis and determine the tax payable by him.

During test check of assessment records of the Superintendent of Taxes, Jalukbari Check Post, it was noticed that a coal dealer did not file returns for the assessment periods 1998-99 to 2000-2001. Neither did the dealer pay any tax nor did the Assessing Officer complete the assessments on best judgement basis. However, cross verification by audit with the records of another dealer registered under the Meghalaya Taxation Department revealed that the dealer had purchased goods valued at Rs.2.07 crore during the period 1998-99 to 2000-2001 by utilising declaration Forms ‘C’ which were not actually issued to him. Thus, failure of the Assessing Officer to complete the assessments of the dealer on best judgement basis resulted in evasion of tax of Rs.22.94 lakh including interest and penalty.

Recommendations

2.2.17 The audit findings revealed that the Administrative Authorities were not enforcing the statutory provisions regarding allowances of deductions on the strength of various Forms. Deductions were allowed against unsigned, invalid, and incomplete Forms without proper scrutiny/cross verifications.

Government may consider evolving a sound mechanism {

- to ensure prompt dissemination of information in respect of invalid declaration Forms with a view to curb their misuse.
- for scrutiny and cross verification of Forms before allowance of exemptions or concessional rate of tax.

Matters were reported to the Government in May 2003; reply from the Government had not been received (August 2003).

2.3 Concealment of turnover

Under the AGST Act, 1993, read with CST 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 a re-assessment of the dealer. When a dealer conceals the particulars of his turnover, he shall pay by way of penalty, in addition to tax and additional tax (from 5 June 1998) and interest, a sum not exceeding one and one half times the amount of tax sought to be evaded.

2.3.1 In four Sales Tax Offices (Dibrugarh, Guwahati Unit-A, Sibsagar and Tezpur), taxable turnover for the years 1994-95 to 1999-2000 in respect of four manufacturing dealers was determined by the Assessing Officers at Rs.44.63 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 that taxable turnover aggregating Rs.11.45 crore was suppressed by the dealers. This resulted in evasion of tax of Rs.4.18 crore including interest and penalty as detailed below:

(Rupees in lakh)

Sl No	Name of the dealer/ Unit office	Name of commodity	Assessment year (Month of assessment)	Turnover suppressed/ under stated	Tax evaded Short levied	Interest	Penalty	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	M/s Gas Authority of India Ltd, Sibsagar	Liquefied petroleum gas (LPG)	<u>1998-99</u> (August 1999)	79.49	10.49	9.86	15.74	36.09
			<u>1999-2000</u> (October 2000)	738.27	97.45	68.22	146.18	311.85
Remarks : On this being pointed out, the Department stated in June 2003 that the sale price was determined for payment of sales tax by taking into account basic price i.e. ex-factory price plus excise duty paid on assessable value. The reply is not tenable as freight, handling charges, insurance etc. were not included in the taxable turnover.								
2.	M/s Green Valley Industries, Tezpur	Hume pipe, Septic tank	<u>1996-97</u> (June 1999)	35.81	4.30	3.70	6.45	14.45
			<u>1997-98</u> (June 1999)	24.06	2.89	1.79	4.33	9.01
			<u>1998-99</u> (June 1999)	8.13	1.07	0.67	1.61	3.35
Remarks : On this being pointed out, the Department stated in July 2003 that assessments have been revised.								
3.	M/s Rafiulla Tea & Industries, Dibrugarh	Plywood, Block board	<u>1994-95</u> (March 1998)	6.87	0.55	0.71	0.82	2.08
			<u>1995-96</u> (March 1999)	15.26	1.22	1.29	1.83	4.34
			<u>1996-97</u> (August 1999)	18.90	1.51	1.24	2.27	5.02
Remarks : On this being pointed out, the Department stated in July 2003 that assessments have been revised.								

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
4.	M/s Assam Carbon Products Ltd, Guwahati Unit-A	Carbon block, Cabron brushes, Mechanical carbon etc.	1998-99 (March 2002)	218.66	9.62	7.31	14.43	31.36
Remarks : On this being pointed out, the Department stated in August 2003 that the dealer actually cleared goods valued at Rs.27.65 crore (including central excise duty) during the year 1998-99. Of these, goods valued at Rs.3.67 crore used for captive consumption, sample and fabrication being internal transactions of the dealer not involving any sale, were not included in the sale price. Scrutiny of the details enclosed with the reply revealed that the transactions on account of captive consumptions etc. was only at Rs.1.03 crore and not Rs.3.67 crore. Thus, there was suppression of sales of Rs.2.64 crore having a tax effect of Rs.37.18 lakh including interest (March 2003) and penalty.								
Total:				1,145.45	129.10	94.79	193.66	417.55

The cases were reported between January 2001 and January 2003 to the Government; their reply has not been received (November 2003).

2.3.2 As per instructions issued (January 1996 / 1998) by the Commissioner of Taxes, Assam, every Assessing Officer while completing assessment of the Tea Estates should verify records maintained by the Central Excise Department to prevent leakage of Government revenue.

Cross verification of assessment records of five dealers engaged in manufacture of black tea leaves as available with two Sales Tax Offices (North Lakhimpur and Dibrugarh) with the information regarding quantity manufactured and cleared, obtained in audit from the Central Excise Department revealed that production and clearance of tea aggregating 7.20 lakh kgs was suppressed by the dealers. Thus, due to the Assessing Officers' non-verification of Central Excise records at the time of assessments, turnover of Rs.5.08 crore escaped assessment which resulted in evasion of tax of Rs.1.44 crore including interest and penalty as detailed below:

(Rupees in lakh)

Sl. No	Name of the dealer	Assessment year (Month of assessment)	Production / clearance suppressed (Kgs in lakh)	Turnover suppressed	Tax and additional tax short levied	Interest	Penalty	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
North Lakhimpur								
1.	M/s Dolohat Tea Estate	1998-99 (April 2000)	2.01	148.67	13.09	9.16	19.63	41.88
Remarks : Matter was reported in March 2002; no reply was received (November 2003).								
2.	M/s Dejoo Tea Estate	1998-99 (November 1999)	1.12	71.61	6.30	4.41	9.45	20.16
	M/s Silonibari Tea Estate	1997-98 (March 2001)	0.12	8.03	0.64	0.60	0.96	2.20
		1998-99 (August 2001)	0.25	19.28	1.70	1.19	2.55	5.44
Remarks : On this being pointed out, the Department stated in September 2003 that as per certificates produced by the dealers from the Central Excise Department (North Lakhimpur) quantities shown in their books of accounts were correct. The reply is not acceptable as the information contained in the certificates obtained by the dealers were contrary to the information supplied by the Central Excise Department to audit. Moreover, the Assessing Officers relied on the certificates produced by the dealers without verifying the records of the Central Excise Department.								

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Dibrugarh								
3.	M/s Jamirah Tea Co.	1998-99 (May 2000)	3.27	229.20	20.17	14.93	30.25	65.35
Remarks : On this being pointed out, the Department stated in September 2003 that the assessment has been revised and demand for Rs.38.62 lakh was raised. Report on recovery was awaited (November 2003).								
4.	M/s Durgapur Tea Estate	1998-99 (May 2000)	0.43	30.94	2.72	2.01	4.08	8.81
Remarks : Matter was reported in March 2002; no reply was received (November 2003)								
Total			7.20	507.73	44.62	32.30	66.92	143.84

The cases were reported to the Government between June and September 2002; their reply has not been received (November 2003).

2.3.3 Test check of assessment records of the Superintendent of Taxes, Unit-C, Guwahati, revealed that a dealer engaged in the business of electrical goods showed in his books of accounts closing stock of taxable goods valued at Rs.31.50 lakh as on 31 March 1997. But in his annual return for the year 1997-98, the opening stock as on 1 April 1997 was shown as Rs.18.19 lakh which the Assessing Officer accepted and accordingly finalised in November 1998 the assessment for that year. Thus, the dealer had concealed turnover of Rs.13.31 lakh resulting in short levy of tax of Rs.1.60 lakh. Besides, interest of Rs.0.73 lakh and penalty of Rs.2.40 lakh was also leviable.

On this being pointed out in audit, the Department stated in November 2002 and March 2003 that the dealer was re-assessed in August 2002 and the case was referred in December 2002 to the Tax Recovery Officer for realisation of the dues. The report on realisation has not been received (November 2003).

The case was reported to the Government in August 2000; their reply has not been received (November 2003).

2.4 Short demand of tax due to double/incorrect adjustment of challans

2.4.1 Under the AGST Act, 1993, every registered dealer is required to submit a copy of treasury challan as a token of full payment of tax paid on his taxable turnover along with the monthly statement of turnover. If the dealer fails to pay the full amount of tax payable within the prescribed 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.

Test check of assessment records of the Superintendent of Taxes, Guwahati, Unit-A, revealed that a dealer against his tax liability of Rs.88.18 lakh and Rs.82.45 lakh for the assessment periods 1996-97 and 1997-98, deposited Rs.51.45 lakh and Rs.79.21 lakh respectively. But, the Assessing Officer erroneously adjusted in March and September 2001

Rs.88.97 lakh and Rs.85.54 lakh in the assessments of 1996-97 and 1997-98 respectively. This incorrect adjustments resulted in short demand of tax Rs.43.85 lakh. Besides, Government had to forgo revenue of Rs.52.86 lakh by way of interest.

On this being pointed out in audit, the Assessing Officer accepted the audit observations and stated in July 2002 and June 2003 that the assessments for the years 1996-97 and 1997-98 were rectified in July 2002 and demands for Rs.22.27 lakh were raised and Rs.13.50 lakh recovered. The discrepancy between the amount objected to and the demands raised was due to wrong/non-adjustments of challans for Rs.40.37 lakh in earlier assessments of 1996-97 and 1997-98.

The case was reported to the Government in January 2003; their reply has not been received (November 2003).

2.4.2 Under the AGST Act, the Assessing Officer may, of his own motion, rectify an assessment for any mistake of a factual nature apparent from the record at any time within three years from the end of the financial year in which such assessment was made

Test check of assessment records of the Superintendent of Taxes, Haflong, revealed that tax amounting to Rs.14.94 lakh deposited into the Government treasury by a dealer under the CST Act for the year 1997-98 was wrongly adjusted in March 2002 by the Assessing Officer against the year 1998-99. This resulted in short demand of tax of Rs.14.94 lakh and interest of Rs.10.75 lakh.

On this being pointed out in audit, the Department stated in June 2003 that the assessment was rectified and a demand notice for Rs.33.16 lakh including interest was issued. Report on recovery has not been received (November 2003).

The case was reported to the Government in September 2002; their reply has not been received (November 2003).

2.4.3 Under the AGST Act, every works contractor is required to furnish to the Assessing Officer copies of tax deduction certificates (TDC) issued by the Drawing and Disbursing Officer of the contractee Government Department / Undertaking together with attested copies of challans for the amount deducted at source and deposited into Government account. The Assessing Officer while finalising assessment of the dealer shall adjust such deposits against the tax assessed.

Test check of assessment records of the Superintendent of Taxes, Unit-B, Guwahati, revealed that while finalising in March 2001 assessment for the year 1997-98 of a works contractor, the Assessing Officer adjusted Rs.13.68 lakh as tax paid by the dealer and deducted at source by

Government Undertakings against actual deposits and TDCs of Rs.10.18 lakh. This incorrect adjustment resulted in short demand of tax of Rs.3.50 lakh. Besides, interest of Rs.2.72 lakh (upto July 2001) was leviable.

On this being pointed out in audit, the Assessing Officer stated in June 2002 and December 2002 that the assessment was rectified and demand notice issued. The dealer had filed petition before the Revisional Authority against the rectification. The decision of the Revisional Authority had not been received (November 2003).

The case was reported to the Government in February 2002; their reply has not been received (November 2003).

2.5 Incorrect allowance of deduction

2.5.1 Under the CST Act, where the aggregate of sale price shown by a dealer in his return includes tax collected by him, a deduction on account of tax collected is allowed from the aggregate sale price by applying a Formula prescribed in the Act for the purpose of arriving at the net turnover.

Test check of assessment records of two Sales Tax Offices (Guwahati Unit –A and Unit-D) revealed that while determining net turnover in respect of five dealers for the years 1993-94, 1996-97 and 1997-98, the Assessing Officers allowed in March 2000 and March 2001 deduction aggregating Rs.6.06 crore instead of Rs.88.66 lakh towards element of tax from their inter-state sales turnover. This resulted in under assessment of tax of Rs.97.62 lakh including interest of Rs.55.96 lakh.

On these cases being pointed out in audit, the Department reported in June 2003 rectification of assessment in two cases raising additional demand of Rs.12.26 lakh. In another case it was stated in January 2002 and September 2003 that the aggregate sale price of the dealer was inclusive of tax at appropriate rates realised from the concerned buyers who failed to submit the required 'C' Forms. The reply is not tenable since the dealer sold goods to the registered dealers as inter-state sale and the aggregate sale price was inclusive of 4 per cent tax only.

In another case, Department stated in June 2003 that the Formula was correctly applied to determine taxable turnover in consonance with the definition of sale price. The reply is not tenable as the Formula was devised to deduct the sales tax component from aggregate turnover so that tax on tax was not levied. In the instant case a portion of turnover included 4 per cent tax and the other portion included no tax, but the deduction was allowed at the rate of 10,12 or 14 per cent. The other case was sent in June 2003 to the Zonal Deputy Commissioner of Taxes for suo motu revisional order. Final report has not been received (November 2003).

The cases were reported to the Government between October 2001 and April 2002; their reply has not been received (November 2003).

2.5.2 Under the AGST Act, ‘taxable turnover’ is determined after allowing deduction of tax included in the gross turnover according to the Formula prescribed.

Test check of assessment records of the Superintendent of Taxes, Guwahati, Unit-D, revealed that while finalising assessment in respect of a cement dealer for the year 1998-99, the Assessing Officer allowed in September 1999 deduction of Rs.57.04 lakh from the gross turnover of Rs.5.32 crore though the turnover was on account of tax free sale. This incorrect deduction resulted in under assessment of tax of Rs.12.65 lakh including interest of Rs.5.12 lakh.

On this being pointed out in audit, the Department stated in June 2003 that the gross turnover which had been brought to assessment was the total consideration received / receivable by the dealer and whether tax had been separately charged or not in the sale price was immaterial for the determination of gross turnover. The contention of the Department is not tenable since the turnover shown by the dealer in the annual accounts was exclusive of tax, and thus the deduction allowed was incorrect.

The case was reported to the Government in April 2002; their reply has not been received (November 2003)

2.6 Non-levy / short levy of interest

Under the AGST Act, read with CST Act, 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 prescribed rate.

Test check of assessment records of four Sales Tax Offices (Barpeta, Guwahati Unit-C, Unit-D and Sibsagar) revealed that in the case of 15 assessments of 9 dealers finalised between March 1998 and March 2001 relating to the years 1994-95 to 1997-98, the concerned Assessing Officer either failed to levy or levied short, interest amounting to Rs.71.54 lakh.

On these cases being pointed out in audit, the Department stated in between January 2002 and June 2003 that interest of Rs.80.53 lakh in six cases was levied. Further report on recovery from these dealers and action taken in other cases have not been received (November 2003).

The cases were reported to the Government between October 2001 and April 2002; their reply has not been received (November 2003).

2.7 Loss of revenue due to delay/non-finalisation of assessment

2.7.1 Under the AGST Act, read with CST Act, every registered dealer is required to submit monthly statement / annual return of turnover within the prescribed date supported by a copy of the treasury challan in proof of full payment of tax due on the basis of such statement/return. In a case where a dealer fails to submit monthly statement of turnover before the due date along with payment of tax due, the Assessing Officer may assess the dealer provisionally for that month to the best of his judgement and proceed to demand and collect the tax due. In the event of default in payment of assessed tax, the Assessing Officer is required to send such case to Tax Recovery Officer for realisation of dues as arrears of land revenue.

Test check of assessment records of the Superintendent of Taxes, Unit-D, Guwahati, revealed that a tea dealer did not submit monthly statements of turnover for the period from 1 April 1996 to 30 June 1998 but submitted annual return for the year 1996-97 and quarterly statements of turnover for the periods from 1 April 1997 to 30 June 1998 on 17 August 1998 showing inter-state sale of goods aggregating Rs.3.08 crore without payment of tax. The Assessing Officer did not take any initiative to assess the dealer provisionally. The assessment for the year 1996-97 was, however, completed on best judgement basis on 31 March 2000 and tax levied worth Rs.15.29 lakh after the dealer closed his business and became untraceable. Neither tax assessed was realised nor any recovery certificate issued to the Tax Recovery Officer for realisation of the dues. The assessments for the periods from April 1997 to June 1998 were also not finalised.

On this being pointed out in audit, the Assessing Officer stated in December 2001 that the assessment for the year 1997-98 was completed in November 2001 but the demand notice could not be served as the dealer was not traceable. The reply was, however, silent as to why the assessments were not completed at the time the dealer was continuing his business without payment of tax. Thus, failure of the Assessing Officer to complete the assessments for the years 1996-97, 1997-98 and the quarter ending 30 June 1998 provisionally on best judgement basis in time and laxity in vigilance coupled with failure to report to Recovery Officer resulted in loss of revenue of Rs.44.24 lakh including interest.

The case was reported to the Government in April 2002; their reply has not been received (November 2003).

2.7.2 Under the AGST Act, every registered dealer is required to submit annual return of turnover, pay the admitted tax within the prescribed date and produce books of accounts. Otherwise, the Assessing Officer shall complete the assessment on best judgement basis and determine the tax payable by him. The Act further provides that no

assessment shall be made after expiry of three years from the end of the year in respect of which the assessment is made. However, where a return has been furnished by a dealer, but no assessment has been made within the specified time limits, the assessment shall be made within four years from the date of expiry of the limitation period with prior sanction of the Commissioner. “Tea” is taxable at the rate of 8 per cent at the point of first sale in the State or 2 per cent to a registered dealer provided such sale is supported by declaration in Form ‘A’ issued by the purchasing dealer and 6 per cent at the point of last sale in the State.

During test check of assessment records of the Superintendent of Taxes, Unit-C, Guwahati, it was noticed in January 2002 that a dealer engaged in the business of tea disclosed a turnover of Rs. 1.58 lakh in the annual return for the year 1997-98. Neither did the dealer pay any tax nor did the Assessing Officer complete the assessment on best judgement basis. However, cross verification of assessment records of the dealer by audit with the records of another registered dealer of Tinsukia Sales Tax Office revealed that the dealer had purchased tea valued at Rs.76.19 lakh during the period August 1997 to January 1998 by utilising six declaration Forms ‘A’. Thus, due to failure of the Assessing Officer to ensure the correctness of the declaration and to complete the assessment of the dealer within the prescribed period, the assessment became bared by limitation and led to loss of revenue of Rs.4.57 lakh.

On this being pointed out in audit, the Department stated in May 2003 that the assessment was completed in March 2002 on best judgement basis and a demand notice of Rs.10.93 lakh including interest of Rs.5.87 lakh was issued. Report on recovery is awaited (November 2003).

The case was reported to the Government in May 2002; their reply has not been received (November 2003).

2.8 Application of incorrect rate of tax

Under the AGST Act, tax is payable by a works contractor on his taxable turnover at prescribed rates. Additional tax at the rate of 10 per cent of tax assessed is payable with effect from 5 June 1998. A simple interest at the rate of 2 per cent for each month on the unpaid amount is also leviable.

Test check of assessment records of three Sales Tax Offices (Guwahati Unit-D, Sibsagar and Tezpur) revealed that while finalising assessments of four dealers for the years 1996-97 to 1999-2000, the Assessing Officer levied tax at incorrect rates resulting in short levy of tax of Rs.34.01 lakh including interest as shown below:

(Rupees in lakh)

Sl. No.	Name of Unit Name of dealer Business	Assessment year Month of assessment	Taxable turnover	Rate of tax (per cent) leviable / levied	Short levy of tax and additional tax	Interest	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Guwahati Unit-D, 'A' Works contract	1998-99 April 2000	135.89	$\frac{8.8}{2}$	9.08	5.99	15.07
		1999-2000 January 2001	106.66	$\frac{8.8}{2}$	6.91	2.90	9.81
2.	'B' Works contract	1998-99 April 2000	46.61	$\frac{8.8}{2}$	3.08	2.04	5.12
3.	Sibsagar 'C' Works contract	1997-98 May 1999	29.69	$\frac{8}{2}$	1.66	0.86	2.52
4.	Tezpur 'D' Hume pipe	1996-97 June 1999	19.94	$\frac{12}{8}$	0.80	0.69	1.49.
		Total:	338.79		21.53	12.48	34.01

On these cases being pointed out in audit, the Department stated in June and September 2003 that the assessment of three dealers were revised and demand of Rs.13.58 lakh was raised, of which Rs.0.40 lakh was recovered. Further report on recovery from these dealers and action taken in other case has not been received (November 2003).

The cases were reported to the Department and the Government between October 2000 and April 2002; their replies have not been received (November 2003).

2.9 Turnover escaping assessment

Under the AGST Act, read with CST Act, if any part of the turnover of a dealer in respect of any period has escaped assessment to tax, the Assessing Officer may within four years from the end of the relevant year make a reassessment 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 2 per cent for each month on the amount by which tax paid falls short of the tax payable.

2.9.1 Test check of assessment records of the 2 Sales Tax Offices (Guwahati Unit – D and Sibsaagar) revealed that the turnover in respect of 5 dealers for the years 1994-95 to 1997-98 was determined between March 2000 and March 2001 by the Assessing Officers at Rs.5.07 crore instead of Rs.7.15 crore shown in their books of accounts, statements of sales, sales tax declaration Forms 'A' and annual return etc. Thus, a turnover of Rs.2.07 crore escaped assessment resulting in short levy of tax of Rs.22.08 lakh including interest of Rs.10.77 lakh as detailed below:

(Rupees in lakh)

Name of the unit office No. of dealer	Commodity	Assessment period Month of assessment	Turnover escaped assessment	Tax levied short	Interest	Nature of irregularities
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Superintendent of Taxes, Guwahati Unit-D (3)	Motor parts	1997-98 March 2001	24.77	3.48	3.13	Aggregate sales turnover was determined at Rs.1.17 crore instead of Rs.1.52 crore shown in the books of accounts
	Moulded suitcase	1995-96 March 2000	9.88	0.38	0.53	
	Edible oil	1997-98 March 2001	145.77	5.61	5.16	Sales made worth Rs.1.46 crore was omitted from the assessment.
Superintendent of Taxes Sibsagar (2)	Tea	1996-97 March 2000	13.19	1.32	1.00	Claim for exemption from payment of tax of stock transfer of goods valued Rs.48.61 lakh not supported by 'F' Form or evidence of despatch was disallowed, but only Rs.35.42 lakh was assessed to tax. Inter-state sales turnover determined at Rs.3.53 crore instead of Rs.3.66 crore supported by 'C' Forms as shown in the statement of sales
	Tea	1994-95 August 2000	13.61	0.52	0.95	
Total:			207.22	11.31	10.77	

On these cases being pointed out in audit, the Department accepted between September 2001 and June 2003 audit observations involving Rs.15.13 lakh in 4 cases and recovered Rs.7.96 lakh. Further report on recovery of the balance amount and reply in the other case have not been received (November 2003)

The cases were reported to the Government between October 2000 and April 2002; their reply has not been received (November 2003).

2.9.2 Test check of assessment records of the Superintendent of Taxes, Guwahati, Unit-A, revealed that a dealer engaged in the business of motor car and motor parts submitted monthly returns for the year 2000-01 showing aggregate turnover at Rs.12.81 crore. On his failure to submit annual return and produce books of accounts, the assessment for the year was completed in October 2001 on best judgement on the basis of a statement of sales determining turnover at Rs.12.00 crore. Thus, non-finalisation of assessment on the basis of turnover shown in the monthly returns by the dealer resulted in escapement of turnover amounting to Rs.80.91 lakh and under assessment of tax of Rs.11.05 lakh including interest of Rs.2.14 lakh

On this being pointed out in audit, the Assessing Officer stated in June 2002 that the discrepancy of Rs.80.91 lakh was due to wrong inclusion of sale turnover of Rs.60.00 lakh pertaining to the month of April 2001 in the monthly return of March 2001. Thus, the balance turnover of Rs.0.21 crore

escaped assessment resulting in under assessment of tax of Rs. 2.75 lakh including interest (March 2003).

The case was reported to the Government in January 2003; their reply has not been received (November 2003).

2.10 Non-registration of dealers

Under the AGST Act, every dealer liable to pay tax shall get himself registered with the Assessing Officer and possess a certificate of registration. The Act also empowers the Assessing Officer to register a dealer compulsorily, who, in his opinion is liable to register himself but fails to do so. Besides, simple interest at the rate of 2 per cent for each month on the unpaid amount of tax and penalty not exceeding the assessed tax for failure to get registered are also leviable.

2.10.1 'Bamboo' is taxable at the point of last purchase in the State. According to the Act, every purchase by a dealer shall be deemed to be last point purchase if such goods are sold in the course of inter-state trade or commerce.

During test check of assessment records of the Superintendent of Taxes, Dhubri, it was noticed that 11 dealers registered under the CST Act, made inter-state sales of 'bamboo' aggregating Rs.3.07 crore during the year 1999-2000. Since the dealers made inter-state sales, the last purchase value of goods amounting to Rs.2.27 crore was taxable under the AGST Act. But, the Assessing Officer neither registered the dealers under the State Act nor realised the tax due. Thus, failure to register the dealers resulted in non-levy of tax of Rs.18.66 lakh including interest of Rs.6.18 lakh.

On these cases being pointed out, the Department stated in April and September 2003 that the dealers were registered compulsorily and realisation of taxes due along with interest was under progress. Final report on the cases have not been received (November 2003).

The cases were reported in October 2000 to the Government; their reply has not been received (November 2003).

2.10.2 The items 'sand' and 'gravel' being not specified as taxable in any of the schedules attached to the Act are taxable as unspecified goods at the rate of 8 per cent at the point of last sale in the State.

Cross verification by audit of records of the Superintendent of Taxes, Kokrajhar, with the records of the Divisional Forest Officer (DFO), Aie Valley Division, Bongaigaon, revealed that three Forest Mahaldars under the jurisdiction of Kokrajhar Sales Tax Office took settlement of sand and gravel mahal valued at Rs.44.91 lakh during the period from October 1993

to March 2000. The Mahaldars neither applied for registration nor did the Assessing Officer register them compulsorily. Thus, failure of survey and consequent non-registration of the Mahaldars resulted in evasion of tax of Rs.3.68 lakh. Besides, interest of Rs.3.91 lakh and penalty not exceeding Rs.3.68 lakh were also leviable.

On these cases being pointed out in audit, the Assessing Officer stated in May 2002 and March 2003 that the Mahaldars applied for registration in March 2003 and were liable to pay tax on the amount of difference between sale price and the purchase price since tax on royalty had already been paid. The contention of the Assessing Officer is not correct as the goods dealt with were taxable at the point of last sale.

The cases were reported to the Government in July 2002; their reply has not been received (November 2003).

2.10.3 A test check of assessment records of the Superintendent of Taxes, Dibrugarh, revealed that a dealer engaged in the manufacture of 'ice cream' was registered under the CST Act, 1956, but not under the AGST Act. Cross verification by audit of the records of the dealer with the records of the Central Excise Department revealed that the dealer manufactured and sold goods valued at Rs.6.07 lakh during the period from 1996-97 to 1998-99. But, neither did the dealer apply for registration under the State Act nor did the Assessing Officer register him. This resulted in evasion of tax of Rs.1.23 lakh including interest and penalty.

On this being pointed out in audit, the Department stated in April and July 2003 that the dealer had been registered compulsorily under the State Act and assessments for the years 1994-95 to 1999-2000 was completed raising demands for Rs.4.44 lakh including interest and penalty. Final report on recovery has not been received (November 2003).

The case was reported to the Government in January 2001; their reply has not been received (November 2003).

2.11 Non-levy /short levy of additional tax

Under the AGST Act, every dealer who is liable to pay tax shall pay additional tax with effect from 5 June 1998 at the rate of 10 per cent of the tax payable by him.

Test check of assessment records of three Sales Tax Offices (Guwahati Unit- A/Unit-D and Sibsagar) revealed that while finalising the assessments of 9 dealers for the year 1998-99, the Assessing Officers either did not levy or levied short additional tax on the tax assessed of Rs.1.17 crore. This resulted in non / short levy of additional tax of Rs.13.95 lakh including interest.

On these cases being pointed out, the Department stated between March and September 2003 that the assessments were rectified and demands for Rs.12.92 lakh including interest was raised, of which Rs.1.49 lakh was recovered. Further report on recovery of the balance amount has not been received (November 2003).

The cases were reported to the Government between January 2002 and January 2003; their reply has not been received (November 2003).

2.12 Short levy of tax due to incorrect determination of turnover

According to AGST Act, 'taxable turnover' in respect of a works contractor of the nature of civil works is determined after reducing the gross turnover by the turnover relating to declared goods and thereafter deducting not more than 25 per cent of the charges incurred towards labour and other charges.

Test check of assessment records of the Superintendent of Taxes, Naharkatia, revealed that the Assessing Officer while finalising assessments for the years 1995-96 and 1997-98 of a dealer engaged in civil works allowed in March 2001 deduction of Rs.7.83 crore towards labour and other charges at the rate of 25 per cent of the gross value of works contract instead of allowing deduction of Rs.5.13 crore arrived at after deducting the value of declared goods from the gross turnover. This resulted in escapement of turnover of Rs.2.70 crore and under assessment of tax of Rs.12.29 lakh including interest.

On this being pointed out in audit, the Department stated in March 2003 that the assessments were revised in March 2002 and the case was referred to the Tax Recovery Officer in September 2002 for realisation of the dues. The report on realisation has not been received (November 2003).

The case was reported to the Government in March 2002; their reply has not been received (November 2003).

2.13 Non-levy of tax

Under the AGST Act, where goods are liable to tax only at the point of last purchase, every purchase by a dealer shall be deemed to be a last purchase, if such goods are consumed in any way or used in manufacture of some other goods. 'Raw Jute' is taxable at the rate of 4 per cent at the point of last purchase in the State.

Test check of assessment records of the Superintendent of Taxes, Guwahati, Unit-B, revealed that while finalising assessments in March 1999 and March 2000 for the years 1995-96 and 1996-97 of a

manufacturer of jute yarn, the Assessing Officer did not levy tax on the purchase of 'raw jute' valued at Rs.77.48 lakh and used in the manufacture of finished goods. This resulted in non-levy of tax of Rs.6.56 lakh including interest.

On this being pointed out in audit, the Department stated in March and June 2003 that the dealer was assessed to tax and demands for Rs.7.29 lakh including interest was raised and the case was referred to the Tax Recovery Officer in March 2003 for effecting recovery. Report on realisation is awaited (November 2003)

The case was reported to the Government in February 2002; their reply has not been received (November 2003).

2.14 Incorrect grant of exemption

Under the AGST Act, 'sale' includes any transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract. Under the Act, 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 2 per cent for each month on the amount by which tax paid falls short of the tax payable.

Test check of assessment records of the Superintendent of Taxes, Guwahati Unit-C, revealed that a turnover aggregating Rs.1.85 crore relating to the years 1994-95 to 1996-97, of a dealer engaged in printing works was allowed in June 1998 exemption from payment of tax on the ground of sales of non-taxable goods although the turnover was of works contract executed by the dealer where transfer of property in goods were involved. This incorrect allowance of exemption resulted in under assessment of tax of Rs.5.60 lakh including interest.

On this being pointed out in audit, the Department stated in April 2002 that the dealer was re-assessed and demand notices were issued. Report on realisation has not been received (November 2003).

The case was reported to the Government in August 2000; their reply has not been received (November 2003).

2.15 Internal Audit System

2.15.1 Internal Audit was introduced in the Department in June 1988. During 2002-2003, as against annual coverage of 38 units, internal audit was conducted in 8 units raising 124 observations involving Rs.29.60 lakh in 29 Audit Notes. The shortfall of 30 per cent in coverage of units was attributed to shortage of staff by the Department.

2.15.2 70 Audit Notes containing 605 paragraphs involving Rs.2.64 crore were outstanding as on 31 March 2003, out of which 13 Audit Notes were more than 5 years old. Reasons for the pendency and tardy progress in disposal was stated to be due to shortage of staff in the Department (September 2003).