

CHAPTER – II : SALES TAX

2.1 Results of Audit

Test check of records in Sales Tax Offices, conducted in audit during the year 2003-2004 revealed turnover escaping assessment, under assessment of tax, irregular exemptions, etc. amounting to Rs.100.94 crore in 227 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Turnover escaping assessment	52	31.27
2.	Under assessment of tax	60	5.00
3.	Non-levy of penalty	4	0.08
4.	Irregular exemptions	33	2.50
5.	Non-levy of interest	11	3.21
6.	Review on Working of Sales Tax Check-Posts	1	32.71
7.	Other lapses	66	26.17
Total		227	100.94

During 2003-2004, the Department accepted under assessments of tax amounting to Rs.3.84 crore pointed out during 2003-2004 and in earlier years and recovered Rs.0.05 crore.

A few illustrative cases involving Rs.14.05 crore and a review on **Working of Sales Tax Check-Posts** involving financial effect of Rs.32.71 crore are given in the following paragraphs:

2.2 Review on Working of Sales Tax Check-Posts

Highlights

- As against required norms of physical verification of 10 *per cent* goods vehicles at Check-posts, actual verification conducted during 1998-99 to 2002-2003 ranged between 0.76 and 1.14 *per cent*.
(Paragraph 2.2.5)
- There was short realisation of security of Rs.11.75 lakh from 64 goods vehicles in the two Check-posts.
(Paragraph 2.2.7)
- Short determination of turnover of coal led to short levy of tax of Rs.3.32 crore including interest Rs.0.96 crore.
(Paragraph 2.2.8)
- Failure to pass on the information collected at the Check-post to the Assessing Authorities resulted in non-verification of turnover of goods leading to evasion of tax of Rs.2.98 crore.
(Paragraph 2.2.9)
- Absence of control over the transit of goods by road through the state resulted in loss of revenue of Rs.26.28 crore including penalty of Rs.19.71 crore.
(Paragraph 2.2.11)

Introduction

2.2.1 With a view to preventing or checking evasion of taxes on taxable goods imported from and exported to other States by dealers in Assam, the Taxation Department of the State Government has been empowered to establish Check-posts at any place in the State, as may be notified by it, where traffic can be intercepted, detained and searched by the officer-in-charge of the Check-post.

The Assam General Sales Tax (AGST) Act, 1993, as amended from time to time and earlier repealed Acts, empowers the State Government to establish sales tax Check-posts at notified places. Accordingly 12¹ Check-posts were established between July 1971 and June 2002. In addition nine² Unit offices were empowered to issue and endorse Transit Passes (an authority to allow a vehicle carrying goods from other State meant for delivery

¹ Damra, Baxirhat, Khanapara, Dholaibazar, Churaibari, Biswanath Chariali, Sukhanjan, Kabaitary, Jalukbari, Digharkhal, Batamari, Bhalukdubi

² Sr. Superintendents /Superintendents of Taxes Doom Dooma, Digboi, Naharkatia, Dhemaji, Tezpur, Jorhat, Golaghat, Inspector of Taxes Silapathar, Sonari

outside the State passing through the State of Assam) where there are no Check-posts. Each Check-post/unit is working under the charge of a Sr. Superintendent/Superintendent of Taxes. Out of 12 Check-posts the Sr. Superintendent/ Superintendent of Taxes incharge of two Check-posts (Jalukbari and Kabaitary) are also empowered to assess the coal dealers.

After establishment of the Check-posts, any person who seeks to import any goods by road into the State from any place outside the State or export any goods by road from the State to any place outside the State, is required to furnish a declaration, in the prescribed form, in triplicate containing the prescribed particulars. The officer-in-charge of the Check-post, on being satisfied about the correctness of the particulars furnished in the declaration, shall countersign all copies of the declaration. Two copies of declaration shall be returned to the person filing it after endorsing on one of those copies, the particulars of the officer to whom it shall be surrendered. One copy is to be retained at the Check-post which is required to be sent within three days to the Superintendent of Taxes of the area where the consignor or consignee has his place of business in the State for checking the particulars furnished in Way Bills/Despatch Notes/Delivery Notes with reference to the accounts/records of the consignor/consignee.

For the purpose of entry of vehicles into North –Eastern Region, there are only two Check-posts, at Baxirhat and Damra and six Check-posts for exit of vehicles meant for other states at Batamari, Biswanath Chariali, Churaibari, Dhalabazar, Khanapara and Sukhanjan.

Organisational Set up

2.2.2 The Check-posts are headed by Senior Superintendents / Superintendents of Taxes. Each Check-post is under the administrative control of a Zonal Deputy Commissioner of Taxes and the overall control of the Zones lies with the Joint Commissioner of Taxes. The Commissioner of Taxes is the head of the Department with responsibility for administration of the Act.

Audit objectives

2.2.3 A review of the records of 10³ out of 12 Check-posts and the related records maintained in the office of the Superintendents of Taxes for the years 1998-99 to 2002-2003 was conducted between October and December 2003 to -

- assess the overall efficiency of the system and procedure regulating their working.
- assess the effectiveness of the Check-posts in preventing evasion of taxes.

³ Damra, Baxirhat, Khanapara, Dholabazar, Churaibari, Digharkhal, Sukhanjan and Batamari Check-posts & Senior Superintendents / Superintendents of Taxes Jalukbari and Kabaitary

- extent of compliance to rules and orders in the functioning of the Check-posts.

Trend of revenue

2.2.4 The collection of revenue at the Check-posts during the year 1998-99 to 2002-2003 and percentage thereof to the revenue collected by the Sales Tax Department are indicated below:

(Rupees in crore)

Year	Collection of revenue by the Check-posts			Total revenue collected by Sales Tax Department	Percentage of revenue collected
	Having assessment power	Having no assessment power	Total collection		
1998-1999	21.21	6.45	27.66	550.40	5.03
1999-2000	18.81	8.05	26.86	742.32	3.62
2000-2001	15.54	7.29	22.83	917.90	2.49
2001-2002	26.47	9.54	36.01	1,072.76	3.36
2002-2003	29.51	13.97	43.48	1,440.90	3.02

The Department attributed that the increase or decrease of revenue depends upon the collection of revenue at Jalukbari Check-post from coal dealers.

Physical verification of goods vehicles

2.2.5 The Public Accounts Committee (PAC) while discussing the review on working of the Sales Tax Check-posts included in the Report of the Comptroller & Auditor General of India (Revenue Receipts) for the year ended 31 March 1991 observed in June 1998 that every Check-post officer should conduct physical verification of at least 10 *per cent* of goods vehicles at the time of crossing the Check-post. However, the Government has not prescribed any norms in the light of observations made by the PAC.

Scrutiny of the records of eight Check-posts⁴, revealed that against 37.46 lakh vehicles which crossed the Check-posts during 1998-99 to 2002-2003, the concerned officers of the Check-posts physically verified only 36,734 vehicles. The percentage of vehicle checked ranged between 0.76 and 1.14 *per cent* as shown below:

Year	Number of goods vehicles passed through the Check-post	Vehicles required to be physically verified	Vehicle physically verified	Shortfall in physical verification	Percentage of vehicles checked	Percentage of shortfall in physical verification
1998-1999	7,16,088	71,609	5,476	66,133	0.76	9.24
1999-2000	7,39,083	73,908	6,608	67,300	0.89	9.11
2000-2001	7,22,735	72,273	7,945	64,328	1.09	8.91
2001-2002	7,63,634	76,363	7,511	68,852	0.98	9.02
2002-2003	8,04,136	80,414	9,194	71,220	1.14	8.86
Total:	37,45,676	3,74,567	36,734	3,37,833	0.97	9.03

⁴ Damra, Baxirhat, Khanapara, Dholaibazar, Churaibari, Digharkhal, Sukhanjan and Batamari

Further, in 1,844 cases out of 36,734 cases physically verified, the Check-post authorities realised an additional tax-penalty of Rs.1.87 crore. Had the Government made it mandatory for Check-post authorities to conduct physical verification of ten *per cent* of goods vehicles as desired by the PAC, more evasion cases could have been detected.

As per circular number 5/97 dated 28 July 1997 every Inspector of Taxes of the Check-posts other than Damra and Baxirhat shall detect at least one evasion case per month and minimum three cases in case of Damra and Baxirhat.

Scrutiny in audit of the records of eight⁵ Check-posts revealed that the numbers of Inspector of Taxes posted in the said Check-posts ranged from 30 to 40 and they could detect 1,844 evasion cases during 1998-99 to 2002-2003 as against the requirement of 4,140 cases as shown below:

Year	Number of Inspector posted	No. of evasion case to be detected	No. of cases actually detected	Shortfall (No. of cases)	Percentage of shortfall
1998-1999	38	744	282	462	62
1999-2000	36	720	318	402	56
2000-2001	40	960	423	537	56
2001-2002	35	900	442	458	51
2002-2003	30	816	379	437	54
Total:		4,140	1,844	2,296	55

Shortfall in detection of evasion cases was mainly due to shortfall in physical verification of goods vehicles that ranged between 51 and 62 *per cent*.

Short-realisation of security money and Short /Non-levy of tax and penalty

2.2.6 Under Section 46 (2) (c) of the AGST Act, 1993, in a case where a carrier or bailee or person in-charge of the goods fails to produce any evidence or satisfy the said authority regarding the proper accounting of goods, impose a penalty, after giving a reasonable opportunity of being heard to such carrier or bailee or the person in-charge of the goods, which shall be equal to three times the amount of tax calculated on the value of such goods and the goods shall be released as soon as the penalty is paid.

Scrutiny of vehicles detention register revealed that out of 1,844 evasion cases detected during 1998-99 to 2002-2003, in 12 cases, Check-post Authorities (Sukhanjan and Khanapara) levied penalties in lump-sum instead of three times the amount of tax so calculated. This resulted in short levy of penalty of Rs.0.93 lakh.

2.2.7 According to the circular dated 19 August 1997 issued by the Department, security money equivalent to the amount of tax on the value of the supari carried by a particular vehicle shall be realised irrespective of whether the supari is sent outside the State by a registered dealer or unregistered dealer.

⁵ Damra, Baxirhat, Khanapara, Dholaibazar, Churaibari, Digharkhal, Sukhanjan and Batamari

Test check of records of two⁶ Check-posts revealed that during 1998-99 to 2002-2003, 64 vehicles carrying supari valued at Rs. 4.34 crore involving tax of Rs.37.92 lakh were allowed to cross the Check-post on realisation of security of Rs.26.17 lakh against Rs.37.92 lakh. This has resulted in short realisation of security of Rs.11.75 lakh.

2.2.8 Under Section 2(34)(d) of the AGST Act, 1993, read with explanation below the said section, sales price means the amount received or receivable by a dealer as valuable consideration for the sale of goods including any sum charged, whether stated separately or not for anything done by the dealer in respect of the goods at the time of or before delivery thereof or undertaken to be done after the delivery of the goods.

As per clarification (October 2000) of the Commissioner of Taxes, Meghalaya, the minimum purchase price of Bapung Coal (Jowai) at Guwahati during the year 1998 was Rs.1,000 per metric tonne (M.T) exclusive of freight and sales tax (Meghalaya). Taking freight charges as Rs.200 per MT on the basis of invoices for similar period for market value of coal worked out to Rs.1,200. The Superintendent of Taxes, Kabaitary Check-post intimated in December 2001 to the Deputy Commissioner of Taxes, Dhubri, that prevailing market price of Nangal coal (Garo Hills) at Kabaitary was Rs.1,050 per M.T.

Test check of assessment records of the Superintendent of Taxes, Jalukbari and Kabaitary Check-post revealed that in 38 cases (18 in Jalukbari and 20 in Kabaitary Check-post), the Assessing Officer determined between December 2000 and March 2003 the inter-state sales turnover for the assessment year 1999-2000 to 2001-2002 at Rs.116.01 crore based on purchase price of coal at the rates ranged between Rs.854 and Rs.1,004 per MT. But, as per minimum purchase price of Rs.1,050 and Rs.1,200 per MT of Bapung coal and Nangal coal respectively, the turnover comes to Rs.145.50 crore. This difference resulted in short determination of turnover of Rs.29.49 crore and consequently there was short levy of tax of Rs.3.32 crore including interest of Rs.0.96 crore.

Lack of co-ordination between Check-posts and unit offices

2.2.9 Under the AGST Act and Rules made thereunder, no person shall transport goods across or beyond a Check-post, except after filing before the officer incharge of the Check-post, if so directed by him, a declaration (in triplicate) of the goods in prescribed form. The officer-in-charge of the Check-post is required to send within three days, one copy of declaration to the Superintendent of Taxes of the area where the consigner or consignee has his place of business in the State for checking the particulars furnished in the Despatch Notes/Delivery Notes with reference to the accounts / records of the consigner / consignee. The Act further provided that no assessment shall be made after the expiry of three years from the end of the relevant year. Further, if a dealer fails to pay the full amount of tax payable by him, by the due date,

⁶ Baxirhat and Damra

he is liable to pay simple interest at the prescribed rates of two *per cent* for each month, on the amount by which tax paid falls short of the tax payable.

The system of issue of Despatch Note for carrying taxable goods to outside the State of Assam was operative with effect from 12 September 2000 to 9 October 2002. During the period from 2000-2001 to 2002-2003, 1,17,336 Despatch Notes were issued by Jalukbari Check-post to the dealers registered there for carrying coal to outside the State of Assam against which 1,20,861 Despatch Notes were received and sent back by Boxirhat and Damra Check-posts to Jalukbari Check-post. Similarly, 12,097 Despatch Notes were received by Boxirhat and Damra Check-posts against the issue of 3,750 Despatch Notes by Unit-B Guwahati. The reason for receipt of 11,872 Despatch Notes by the said exit Check-posts in excess of total number of Despatch Notes issued by Jalukbari Check-post and Unit – B Guwahati was not on record. Hence, possibility of using forged Despatch Notes by some unscrupulous transporters cannot be ruled out.

Scrutiny revealed that during the year 1999-2000, Damra Check-post sent back 2,064 Delivery Notes in respect of cement dealers to Kokrajhar and Goalpara against which 953 Delivery Notes were received by the said units. Out of 2,064 Delivery Notes sent back by Damra Check-post, 1,273 Delivery Notes were in respect of four[#] dealers who imported cement (taxable at the rate of 13.2 *per cent* including additional tax) valued at Rs.7.47 crore during the said period. Verification of records of the said dealers maintained in the units concerned revealed that these dealers either did not file the returns or filed Nil/incorrect returns with the Sales Tax Departments. Moreover, the assessments were kept pending and subsequently became time barred. This resulted in non-realisation of tax of Rs.2.98 crore including interest of Rs.0.76 crore and penalty of Rs.1.32 crore.

Non- issue of Delivery Notes and non-checking of vehicles importing coal

2.2.10 Under the provision of the Act and Rules made thereunder, in case of import of taxable goods into Assam for re-sale, Delivery Note in triplicate must be obtained from the concerned Assessing Officer and shall be produced by the transporter to the Check-post authority for verification.

As per records of Jalukbari Check-post, 3,96,871 trucks of coal were despatched to outside the State of Assam during the period from 1998-99 to 2002-2003 purchasing the same from Meghalaya. But no Delivery Notes were issued to the coal dealers during the said period for importing coal from Meghalaya.

Cross verification of records maintained at Jalukbari Check-post with the records of Khanapara Check-post revealed that there was no system of checking of vehicles at Khanapara Check-post, which imported coal from Meghalaya. Non-issue of Delivery Notes by Jalukbari Check-post Authority to

[#] M/s United Trading Company, M/s P.K. Distributors, M/s Tripathi Trade Agency of Kokrajhar and M/s Sahara Trading Company of Goalpara

the dealers in respect of importing of coal from Meghalaya and absence of system of checking of vehicles at Khanapara Check-post may lead to evasion tax in case of importing excess quantity of coal to Assam.

Absence of control over the transit of goods by road through the State

2.2.11 According to the AGST Act, 1993, and Rules made thereunder, when a vehicle carrying goods from another State meant for delivery outside the State passes through Assam, the driver of the vehicle is required to obtain a Transit Pass (TP) at the entry Check-post and produce it at the time of his exit from the State to the officer-in-charge of the exit Check-post within thirty days from the date of entry and obtain his endorsement with seal and signature as a proof of such exit from the officer-in-charge of exit Check-post. If the Officer-in-charge of the entry checkpost or any other Officer from whom TP was obtained, is satisfied that the owner, driver or person in-charge of the goods vehicle has failed to deliver the TP without any reasonable cause, such officer may after giving the person concerned a reasonable opportunity of being heard, impose upon him, in addition to tax, the penalty equal to three times of such tax.

- Between 1998-1999 and 2002-2003, two Check-posts (Damra and Baxirhat) issued 3,46,161 TPs, of which 3,12,389 were received back. The balance 33,772 TPs were not received back by the said Check-posts so far (August 2004). Test check of 1,270 TPs, out of 33,772 TPs revealed that the goods valued at Rs.68.73 crore involving tax of Rs.6.57 crore was meant for other States (Mizoram, Meghalaya, Manipur, Nagaland and Tripura). However, the Check-post Authorities failed to impose, in addition to tax, penalty equal to three times of such tax after giving the person concerned a reasonable opportunity of being heard. This resulted in non-levy/ non-realisation of tax of Rs.26.28 crore including penalty of Rs.19.71 crore.

Internal audit

2.2.12 The system of internal audit was introduced in the Department in June 1998. During the period of five years from 1998-99 to 2002-2003, internal audit was conducted in three Check-posts twice in Jalukbari Check-post and once in Khanapara and Damra Check-posts against annual coverage of 11 Check-posts. This indicates shortfall of internal audit coverage in respect of Check-posts. The Department stated (July 2004) that the shortfall was due to shortage of staff in Internal Audit Wing.

Recommendations

2.2.13 Lack of co-ordination between the Check-post Authorities and the Assessing Authorities on dissemination of information in respect of declaration made by the transporter in respect of goods carried by them and absence of control mechanism to detect offence cases in respect of transit of

goods for other States through the State of Assam led to evasion of taxes as highlighted above.

Government / Department may consider taking following steps to ensure effective functioning of the Check-posts:

- Put a mechanism in place that would ensure levy of penalty for offence as per provisions of Act and Rules and their proper accounting.
- Ensure complete transmission of information regarding goods mentioned in the declaration Forms/ Despatch Notes/ Delivery Notes as furnished by the transporters to the concerned Superintendent of Taxes for cross checking during assessments.

Matters were reported to the Government in May 2004; the reply is awaited (December 2004).

2.3 Concealment of turnover

Under the AGST Act, 1993, read with Central Sales Tax Act (CST), 1956, if a dealer has concealed or failed to disclose fully and truly the particulars of his turnover, the Assessing Officer (AO) may within eight years from the date of the relevant year make an assessment or 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 interest at the prescribed rate, a sum not exceeding one and one half times the amount of tax sought to be evaded.

2.3.1 In two Sales Tax Offices (STO) (Tinsukia and Sibsagar) the AO determined between March 2000 and October 2002 taxable turnover of four manufacturing dealers for the assessment years 1996-97 and 2000-2001 as Rs.130.22 crore. Cross verification by audit of assessment records of the dealers vis-à-vis value of excisable goods cleared, by the Central Excise Department revealed that taxable turnover aggregating Rs.16.69 crore was suppressed by the dealers and escaped assessments due to short accountal of goods. This resulted in evasion of tax of Rs.1.16 crore alongwith interest and penalty of Rs.2.58 crore as detailed below:

Audit Report (Revenue Receipts) for year ended March 2004

(Rupees in lakh)

Name of the dealer/Unit office	Name of commodity	Assessment years	Turnover suppressed Tax evaded/ short levied	Interest Penalty	Total	Remarks
	Rate of tax	Month of assessment				
M/s Keshan Ply Industries/ Tinsukia	<u>Plywood</u> 8%	<u>1996-97</u> March 2000	<u>24.03</u> 1.92	<u>3.19</u> 2.88	7.99	After this was pointed out, the Department stated in July 2004 that the value of goods declared by the dealers were inclusive of excise duty paid. The reply is not acceptable since as per the information furnished by the Central Excise Department, the assessable value of goods cleared were exclusive of excise duty paid. The cases were referred to the Government in July 2003; the replies were awaited (December 2004).
M/s Purbanchal Udyog/ Tinsukia	<u>Veneer</u> 8%	<u>1996-97</u> March 2000	<u>12.14</u> 0.97	<u>1.61</u> 1.46	4.04	
M/s ONGC Ltd./ Sibsagar	<u>Crude Oil</u> 4%	<u>2000-01</u> October 2002	<u>1,114.00</u> 44.56	<u>31.19</u> 66.84	142.59	The cases were reported to the Department and the Government in July 2003; their replies have not been received (December 2004).
M/s Gas Authority of India Ltd./ Sibsagar	<u>LPG</u> 13.2%	<u>2000-01</u> February 2002	<u>518.66</u> 68.46	<u>47.92</u> 102.69	219.07	
Total:			<u>1,668.83</u> <u>115.91</u>	<u>83.91</u> <u>173.87</u>	373.69	

2.3.2 As per instructions (January 1996/1998) issued by the Commissioner of Taxes, Assam, every AO, while completing assessment of Tea Estates, should compare the details of turnover supplied to Sales Tax Department with those submitted to the Central Excise Department through statutory returns to prevent leakage of Government revenue.

Cross verification of assessment records of three dealers engaged in manufacture of black tea leaves available in two STOs (Tinsukia and Biswanath Chariali) with the information regarding quantity manufactured and cleared, obtained by audit from the Central Excise Department (CED) revealed that clearance of tea aggregating 4,73,873 kgs was suppressed by the dealers. Non-verification of copies of statutory returns by the AOs at the time of assessments of turnover of Rs.3.54 crore resulted in evasion of tax of Rs.30.94 lakh alongwith interest and penalty of Rs.81.11 lakh was also to be levied as detailed below:

(Rupees in lakh)							Remarks
Name of the dealer	Assessment years	Clearance (in kgs)	Clearance suppressed (in kgs)	Rate per kg	Tax, additional tax evaded	Interest (Period of interest calculation)	
(1)	Month of assessment	As per CE records As per sales tax records	Turnover suppressed (Rs. in lakh)	(Rs.)	(Rate of tax)	Penalty	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
M/s- Padumani Tea Estate	1998-99 September 1999	<u>4,71,185</u> 4,56,502	<u>14,683</u> 10.62	72.33	<u>0.93</u> (8.8%)	1.10 <u>(5/99 to 3/04)</u> 1.40	After these cases were pointed out in audit in July 2003, the Department stated in July 2004 that as per certificates obtained from the CED, Tinsukia, quantities cleared by the dealers during the years 1998-99 and 1999-2000 were 4,68,475 kgs and 4,50,814 kgs respectively and there were no concealment of quantity and evasion of tax. The reply is not acceptable as the information contained in the certificates obtained by the Department were contrary to the information supplied by the CED to audit. The matter was referred to the Government in March 2003; their reply has not been received (December 2004).
	1999-2000 November 2000	<u>4,32,819</u> 2,99,491	<u>1,33,328</u> 106.13	79.60	<u>9.34</u> (8.8%)	8.78 <u>(5/00 to 3/04)</u> 14.00	
M/s Bazaloni Tea Estate	<u>1997-98</u> March 2001	<u>26,76,077</u> 26,35,714	<u>40,363</u> 21.69	53.73	<u>1.73</u> (8%)	2.46 <u>(5/98 to 3/04)</u> 2.60	After this was pointed out in audit in July 2003, the Department stated in July 2004 that the actual clearance was 26,57,640 kg which included 18,418 kg of package tea and 22,797 kg of complementary and sample tea. The reply is not acceptable since as per records of the CED, package tea of 18,418 kgs was not included in the total clearance of tea as claimed by the Department. Thus, turnover of 18,418 kg relating to package tea was suppressed by the dealer resulting in evasion of tax of Rs.3.17 lakh including interest (upto 7/04) of Rs.1.19 lakh and penalty of Rs.1.19 lakh.
M/s- Mahalaxmi Tea Estate	1998-99 September 2000	<u>7,41,467</u> 4,55,968	<u>2,85,499</u> 215.27	75.40	<u>18.94</u> (8.8%)	22.35 <u>(5/99 to 3/04)</u> 28.42	The case was reported to the Department and the Government between September 2002 and July 2003; their replies have not been received (December 2004).
Total:		<u>43,21,548</u> 38,47,675	<u>4,73,873</u> 353.71		30.94	<u>34.69</u> 46.42	

2.3.3 Test check of assessment records of the Superintendent of Taxes (ST), Guwahati, Unit-B, revealed in September 2002 that a cement dealer in his annual returns for the years 1999-2000 and 2000-2001 had disclosed receipts of goods by way of stock transfer/purchases from outside the state aggregating Rs.6.26 crore. The AO while completing the assessments in May 2002 accepted the same. However, cross verification of assessment records of the dealer with the records of a Meghalaya based dealer and records

maintained in the Unit office viz. delivery permits (Form-B), registers of delivery permits etc. revealed that the dealer had received/purchased goods valued at Rs.7.67 crore against 'F' Forms. Failure of the AO to verify the purchase particulars available in the office and utilisation of 'F' Forms resulted in escapement of turnover of Rs.1.41 crore and under-assessment of tax of Rs.18.61 lakh. Besides, interest of Rs.9.21 lakh (calculated upto October 2002) and penalty not exceeding Rs.27.91 lakh was also leviable.

After this was pointed out in audit in March 2003, the Assessing Officer stated in August 2003/February 2004 that the assessments had been revised and demand notices for Rs.41.78 lakh were issued. Report on realisation has not been received (December 2004).

2.3.4 Test check of assessment records of the ST, Tezpur, revealed in March 2003 that the AO while finalising assessment of a dealer for the year 1998-99 in March 2002, fixed 'NIL' liability under the CST Act stating that there was no turnover under the Act. But the statement with details of sales for the year 1998-99 which was available in the office revealed that the dealer made inter-state sale of cement valued at Rs.33.28 lakh and Agro-chemicals valued at Rs.3.03 lakh to Tripura and West Bengal respectively which was not disclosed in his annual return. Thus, due to non-verification of details of sales for the year 1998-99 which were available in the office, resulted in under assessment of tax of Rs.9.20 lakh including interest of Rs.4.90 lakh. Besides, penalty of Rs.6.45 lakh was also leviable.

The case was reported to the Department and the Government in June 2003; their replies have not been received (December 2004)

2.4 Incorrect grant of exemption

2.4.1 Under the AGST Act, 1993, the AO may, 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. The items 'Kum kum and Bindi' were taxable with effect from 1 July 1996 at the rate of eight *per cent* at the last point of sale in the state as unclassified items. In case of default, interest at the prescribed rate is also leviable.

Test check of assessment records of the ST, Guwahati, Unit-B, revealed in October 2002 that a dealer sold 'Kumkum and Bindi', worth Rs.40.65 lakh between 1 July 1996 and 31 March 1999. But, the AO, while finalising assessments between April 1999 and August 2000 of the dealers for the years 1996-97 to 1998-99, allowed exemptions on the sales turnover of 'Kum kum and Bindi' treating these items as exempted. Thus, incorrect allowance of exemption resulted in non-levy of tax of Rs.7.02 lakh inclusive of interest of Rs.3.68 lakh upto October 2002.

After this was pointed out in audit in March 2003, the Department stated in August 2003 and February 2004 that the assessments were rectified and

demand for Rs.7.26 lakh was raised. Report on realisation is awaited (December 2004).

The matter was reported to the Government in March 2003; the reply has not been received (December 2004).

2.4.2 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 the Deputy Commissioner of Taxes of the area is a member. The Commissioner of Taxes, Assam clarified in March 1996 that industries engaged in conversion of rolled paper of bigger size into plain paper of different sizes are not eligible for such exemption and the taxation department should not agree to the issuance of such certificates in District Level Committee. Paper is taxable at the rate of eight *per cent* under AGST Act, 1993, and at the rate of ten *per cent* under the CST Act, if not supported by any declaration form. Additional tax is also leviable at the rate of ten *per cent* of tax with effect from 5 June 1998. In case of default, interest is chargeable at the rate of two *per cent* per month.

Test check of assessment records of the ST, Guwahati, Unit-D revealed in June 2003 that a dealer manufactured among others cutting and sizing of paper after purchasing paper by utilising Form VII required in case of Relief Undertaking Unit for getting tax benefit. While making assessments for the year 1997-98 to 2000-2001 between February 1999 and January 2003 of the dealer being exemptee unit under Sales Tax Exemption Scheme, 1995, the assessing authority allowed exemption from payment of tax on turnover of Rs.19.44 crore being cutting and sizing of big size paper into small size as shown below which was not admissible.

(Rupees in crore)

Assessment year Date of assessment	Total turnover exempted under		Turnover relating to cutting and sizing of paper exempted		Tax effect with interest in respect of exempted turnover (interest upto 4/03)		Total tax effect with interest
	AGST Act	CST Act	AGST Act	CST Act	AGST Act	CST Act	
1997-1998 10.02.1999	6.68	0.30	2.70	0.11	0.47	0.03	0.50
1998-1999 14.06.2000	7.54	0.15	4.93	0.07	0.85	0.01	0.86
1999-2000 10.01.2003	5.49	0.25	4.50	----	0.68	--	0.68
2000-2001 10.01.2003	10.39	0.27	7.13	----	0.93	--	0.93
Total:	31.07		19.44				2.97

Thus, incorrect allowances of exemption resulted in non-levy of tax of Rs.2.97 crore including interest of Rs.1.28 crore.

The case was reported to the Department and the Government in July 2003; their replies have not been received (December 2004).

2.4.3 Under the AGST Act, 1993, the sale of goods (other than the goods mentioned in Schedule I, II, IV and V) is taxable at the point of last sale

in the State at the rate of eight *per cent*. Dates (Pind Khajur) is not a fresh fruit but a preserved fruit and taxable at the rate of eight *per cent* at the last point of sale.

Test check of assessment records of the ST, Guwahati, Unit-A, revealed in August 2003 that while finalising the assessment of a dealer for the year 1998-99 in October 2001, the AO allowed exemption on the sale of “Dates” (Pind Khajur) valued at Rs.53.07 lakh treating the same as exempted goods. Thus, incorrect grant of exemption resulted in non-levy of tax of Rs.9.09 lakh inclusive of interest of Rs.4.84 lakh (upto January 2004).

After this was pointed out in audit in February 2004, the Department stated in July 2004 that a proposal for suo-motu revision was submitted to higher authority for re-assessment. Further outcome is awaited (December 2004).

The case was reported to the Government in March 2004; their reply is awaited (December 2004).

2.5 Turnover escaping assessment

Under the AGST Act, 1993, ‘Taxable turnover’ in respect of works contract is determined by reducing the gross turnover by the turnover relating to declared goods and thereafter deducting the labour and other charges incurred by the dealer or at the option of the dealer. Further, the Hon’ble Supreme Court in its verdict⁷ held that the charges towards the profit earned by the contractor to the extent related to supply of labour and services should be deducted.

Test check of assessment records of the ST, Golaghat revealed in June 2003 that the AO while finalising the assessments in March 2003/July 2002 for the year from 1998-1999 to 2000-2001 of two dealers engaged in works contract, allowed deductions of Rs.10.05 crore⁸ instead of Rs.8.47 crore which comprised of cost of consumables Rs.0.68 crore, profit on the amount for supply of labour and services in terms of verdict of Hon’ble Supreme Court of India Rs.0.51 crore and labour and other charges Rs.7.28 crore as per annual returns and accounts of the dealer. The excess allowance of deductions led to escapement of turnover of Rs.1.58 crore and under assessment of tax of Rs.16.46 lakh.

After this was pointed out in audit in October 2003, the Department accepted the audit contention and revised the assessments in May 2004 levying tax and additional tax of Rs.60.98 lakh.

The cases were reported to the Government in October 2003; their reply is awaited (December 2004).

⁷ Gannon Dunkerley & Co. Ltd. v/s State of Rajasthan (1993) 88-STC 204.

⁸ Cost of consumables – Rs.0.89 crore; gross profit – Rs.0.65 crore; labour and other charges – Rs.8.51 crore.

2.6 Incorrect allowance of deduction

2.6.1 Under the AGST Act, 1993, ‘taxable turnover’ is determined after allowing deduction of tax included in the gross turnover according to a prescribed formula. No such deduction is admissible where the turnover is exclusive of tax.

Test check of assessment records of the ST, Guwahati, Unit-B, revealed in September 2002 that the AO while finalising assessment of a dealer for the years 1997-98 and 1998-99, in March/December 2001 allowed deduction of Rs.59.35 lakh from the gross turnover of Rs.15.43 crore though the turnover was exclusive of tax element.. Thus, allowance of incorrect deduction resulted in under-assessment of tax of Rs.2.37 lakh and interest of Rs.2.18 lakh.

After this was pointed out in audit in March 2003, the AO stated in January 2004 that the assessment rectified in April 2003 and the dealer was served with a demand notice for Rs.1.27 crore including interest of Rs.0.71 crore.

The case was reported to the Government in March 2003; their replies have not been received (December 2004).

2.6.2 Under the AGST Act, 1993, ‘Taxable turnover’ in respect of 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 ST, Unit-B, Guwahati, revealed in September 2002 that the AO while finalising assessments for the year 2000-2001 of two dealers engaged in civil works allowed, in February 2002, deduction aggregating to Rs.1.72 crore towards labour and other charges at the rate of 25 *per cent* of the gross value of works contract instead of Rs.1.25 crore arrived at after deducting the value of declared goods from the gross turnover. This resulted in escapement of turnover of Rs.46.59 lakh and under assessment of tax of Rs.3.76 lakh and interest of Rs.1.36 lakh.

After this was pointed out in audit in September 2002, the Department stated in February 2004 that the assessments had been revised and demand notices had been issued. But the dealer filed an appeal before Appellate Authority against the revised assessment. The Deputy Commissioner of Taxes (Appeal) in February 2004 stayed the realisation of taxes till final disposal of appeal petition. Final order is awaited.

2.7 Non / short levy of interest

Under the AGST Act, 1993, read with CST Act, 1956, 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.

Audit Report (Revenue Receipts) for year ended March 2004

Test check of assessment records of five STOs⁹ revealed that in 14 assessments of nine dealers finalised between March 1999 and March 2003 relating to the periods ending 1995-96 to 1999-2000, the AOs either failed to levy or levied short the interest amounting to Rs.3.04 crore on outstanding tax amounting to Rs.5.20 crore as detailed below:

(Rupees in lakh)

Name of the dealer/Unit	Assessment period / month of assessment	Name of the Act Tax due	Interest leviable levied	Period of interest calculation Interest not/ short levied	Remarks		
(1)	(2)	(3)	(4)	(5)	(6)		
M/s Brahmaputra Iron & Steel Co. (P) Ltd./ Guwahati Unit-B	1997-98	<u>AGST</u>	<u>2.34</u>	<u>4/01 to 7/01</u>	After this was pointed out in audit, the Department stated in August 2003 that the assessments were rectified; and levied interest of Rs.71.09 lakh. Report on realisation is awaited (December 2004).		
	March 2001	29.29	NIL	2.34			
	1998-99	<u>AGST</u>	<u>3.89</u>	<u>12/01 to 7/02</u>			
	December 2002	24.29	NIL	3.89			
M/s Geo Miller & Co. Ltd./ Bongaigaon	1997-98	<u>AGST</u>	<u>3.33</u>	<u>5/98 to 12/03</u>	After this was pointed out in audit, the Department stated in July 2004 that the dealer had made excess payment of tax of Rs.2.50 lakh in previous years. The reply is not acceptable since neither the assessment order was revised nor proof of excess payment made in earlier years was submitted (December 2004).		
	March 2001			2.45		NIL	3.33
M/s Hindustan Lever Ltd./ Guwahati Unit-D	1995-96	<u>CST</u>	<u>0.99</u>	<u>5/96 to 7/99</u>	The cases were reported to the Department and the Government between March 2003 and July 2003; their replies have not been received (December 2004).		
	March 1999	1.26	NIL	0.99			
	1996-97	<u>CST</u>	<u>248.24</u>	<u>5/97 to 2/00</u>			
	March 2000	365.06	NIL	248.24			
	1999-2000	<u>CST</u>	<u>3.79</u>	<u>5/00 to 2/03</u>			
March 2003	5.57	0.05	3.74				
M/s Necem Cements Ltd./ Guwahati Unit-D	1998-99	<u>AGST</u>	<u>59.09</u>	Interest calculated	After this was pointed out in audit, the Department stated in July 2004 that the assessment had been rectified and raised the demand of Rs.5.35 lakh. Report on realisation is awaited (December 2004).		
	December 2001			62.09		49.67	month-wise
	June 2002						9.42
M/s Keshan Ply Industries/ Tinsukia	1996-97	<u>AGST</u>	<u>5.46</u>	<u>5/97 to 2/03</u>	The cases were reported to the Department and the Government between March 2003 and July 2003; their replies have not been received (December 2004).		
	March 2000			3.90		NIL	5.46
M/s ICI India Ltd./ Jorhat	1995-96	<u>AGST</u>	<u>1.50</u>	<u>5/96 to 1/04</u>	After being pointed out, the Department stated in July 2004 that the assessment had been rectified levying interest of Rs.6.17 lakh. Report on realisation is awaited (December 2004).		
	March 1999	0.81	NIL	1.50			
	1996-97	<u>AGST</u>	<u>5.11</u>	<u>5/97 to 1/04</u>			
March 2000	3.15	NIL	5.11				
M/s B.L. Agarwalla /Jorhat	1997-98	<u>AGST</u>	<u>7.91</u>	<u>5/98 to 1/04</u>	After being pointed out, the Department stated in July 2004 that the assessment was revised and demand raised was of Rs.17.92 lakh. The dealer preferred appeal against the rectification before the Appellate Authority. Final order is awaited (December 2004)		
	March 2001			5.73		NIL	7.91

⁹ Guwahati Unit-B, Guwahati Unit-D, Bongaigaon, Tinsukia and Jorhat

(1)	(2)	(3)	(4)	(5)	(6)
M/s Paramount Builders & Suppliers/ Jorhat	1997-98	AGST	8.98	5/98 to 1/04	After being pointed out, the Department stated in July 2004 that the assessment had been revised and raised demand of Rs.32.06 lakh. The dealer filed petition before the Appellate Authority against the rectification. Final order is awaited (December 2004)
	March 2001	6.50	NIL	8.98	
	1998-99	AGST	2.23	5/99 to 1/04	
March 2001	1.95			NIL	2.23
M/s New Medicals/ Jorhat	1997-98	AGST	0.94	5/01 to 10/01	After being pointed out, the Department stated in July 2004 that the assessment had been rectified and levied interest of Rs.1.33 lakh. The dealer preferred appeal before the Appellate Authority. Final order is awaited (December 2004).
	March 1999, March 2000			7.85	
Total:		519.90	353.80 49.72	304.08	

The cases were reported to the Government in between March 2003 and July 2003; their replies has not been received (December 2004).

2.8 Acceptance of invalid declaration Forms

2.8.1 Under the AGST Act, 1993, and Rules framed thereunder, a registered dealer may sell goods to another registered dealer free of tax or at concessional rate of tax, if such sales are supported by valid declaration in Form 'A' furnished by the purchasing dealers. Otherwise, tax is leviable at the rate of tax applicable under the Act.

The Commissioner of Taxes, Assam vide circular dated 2 February 2000, declared all the old declaration Form 'A', printed on plain paper and not used before 21 February 2000 as obsolete and invalid.

Test check of assessment records of two STOs revealed that while finalising the assessments of three dealers for the year 1999-2000 between April 2001 and February 2003, the AOs either exempted from levy of tax or levied tax at concessional rate on turnover amounting to Rs.1.05 crore supported by 41 numbers of declaration in Form 'A' which were actually invalid. Allowance of exemption from levy of tax and concessional rate of tax supported by invalid declaration Forms resulted in short levy of tax of Rs.5.58 lakh and interest of Rs.5.02 lakh as detailed below:

						(Rupees in lakh)
Name of the Unit Office Dealer	Assessment period/ Month of assessment	Turnover of invalid declaration Form	Tax leviable levied	Short levy of tax interest	Total short levy	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Barpeta Road M/s Gajanand Agency	1999-2000 April 2001	45.69	1.83 NIL	1.83 1.64	3.47	After being pointed out, the Department stated in July 2004, that the assessment was revised levying tax and interest of Rs.3.83 lakh.

(1)	(2)	(3)	(4)	(5)	(6)	(7)
Guwahati Unit-A M/s Lafarge India Pvt. Ltd	1999-2000	40.71	<u>5.37</u> 3.29	<u>2.08</u> 1.87	3.95	After being pointed out, the Department stated in July 2004 that the proposal of suo-motu revision was sent to higher Authority for re-assessment.
	August 2002					
Guwahati Unit-A M/s Luxor Writing Instrument	1999-2000	19.00	<u>1.67</u> NIL	<u>1.67</u> 1.51	3.18	After being pointed out, the Department stated in July 2004 that the assessment had been rectified. But the dealer preferred appeal before the Deputy Commissioner of Taxes (Appeal), Guwahati who stayed realisation of the demand. Final order is awaited (December 2004).
	February 2002					
		105.40		<u>5.58</u> 5.02	10.60	

2.8.2 Under the CST Act, 1956, and rules made there under, inter-state sale of goods other than declared goods to registered dealers are taxable at the concessional rate of four *per cent*, if such sales are supported by valid declaration in Form 'C' furnished by the purchasing dealers. Otherwise, tax is payable at the rate of ten *per cent* or at the rate of tax applicable whichever is higher under the State Act.

- The Commissioner of Taxes, Nagaland, Dimapur vide letter No. CT/STS/01/2001 dated 20 February 2002 intimated the Commissioner of Taxes, Assam, Guwahati that a number of series of Form 'C' and Form 'F' had been declared obsolete and invalid w.e.f. 11 June 2001. The Commissioner of Taxes, Nagaland further clarified that the said declaration Forms neither be used nor issued after 11 June 2001.

Test check of assessment records of the ST, Guwahati Unit-A revealed that the AO while finalising the assessment of a dealer for the year 2001-02, accepted three invalid declaration Form 'C' involving turnover of Rs.70.23 lakh, as these had been issued after 11 June 2001 and allowed concessional rate of tax. Acceptance of invalid declaration Forms and allowance of concessional rate thereagainst resulted in short levy of tax of Rs.4.32 lakh and interest of Rs.1.82 lakh.

After this was pointed out in audit in July 2003; the Department stated in July 2004 that the action for re-assessment was under process.

The case was reported to the Department and the Government in July 2003; their replies have not been received (December 2004).

- Test check of assessment records of the ST, Naharkatia revealed in September 2003, that while finalising assessment in July 2002 of a dealer engaged in exploration, production, selling of crude oil, LPG, etc., for the year 1999-2000, the AO levied tax at the concessional rate of four *per cent* on turnover of inter-state sales of LPG to Manipur and Nagaland amounting to Rs.4.31 crore based on two declarations in Form 'C' of Assam as submitted by

the dealer. But, the dealer was required to submit declaration Forms issued by the Sales Tax Authority of Manipur and Nagaland to the purchasing dealers in terms of provision of the Act *ibid* for availing of concessional rate. Thus, allowance of concessional rate on invalid declaration Forms led to short levy of tax of Rs.34.49 lakh and interest of Rs.32.41 lakh.

After this was pointed out in audit in December 2003, the Department accepted in April 2004 the audit contention and levied tax of Rs.34.48 lakh and interest of Rs.33.46 lakh. Report on realisation is awaited (December 2004).

2.9 Evasion of tax

2.9.1 Under the AGST Act, 1993, every registered dealer is required to submit monthly statement/annual return of turnover within the prescribed date supported by a copy of the treasury challans 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 AO may assess the dealer provisionally for that month to the best of his judgement and proceed to demand and collect the tax due.

Test check of assessment records of the ST, Tinsukia, revealed in March 2003 that a cement dealer neither filed monthly statements of turnover/annual return nor paid any tax for the year 1998-99. The AO did not take any initiative to assess the dealer provisionally. Meanwhile, the dealer had closed his business in April 1998 and left the State in December 1998 as reported by the Inspector of Taxes in March 2002. The assessment for the year was, however, completed on best judgement basis in March 2002 and determined turnover as 'nil'. But cross verification of assessment records of the dealer with that of another dealer registered under the Meghalaya Taxation Department revealed that the dealer had imported cement valued at Rs.79.33 lakh from a dealer of Meghalaya during 1998-99 by utilising three declaration in Form 'F' issued to him by the AO. It also transpired from the records that the dealer submitted on 26 August 2002 annual returns for the years 1999-2000 and 2000-2001 showing stock, purchase and sale as 'nil'. But the AO did not take any action to revise the assessment and collect the tax due. Thus, failure of the AO on re-assessing the dealer resulted in evasion of tax of Rs.10.47 lakh. Besides, interest of Rs.9.48 lakh (upto March 2003) and penalty of Rs.15.71 lakh leviable was also not levied.

After this was pointed out in audit in July 2003, the Department stated that due to closure of his business, the show-cause notice could not be served upon the dealer and further added that step would be taken to re-assess the dealer and to issue demand notice after ascertaining the address of the dealer. Further development is awaited (December 2004).

The case was reported to the Government in July 2003; their reply has not been received (December 2004).

2.9.2 Under the AGST Act, 1993, and the Rules made thereunder, intermediary sale of goods mentioned in Schedule-IV of the Act are exempt from tax provided such sales are supported by declaration in Form-A obtained from the purchasing dealers and the goods so sold are purchased from within the state.

Test check of assessment records of the ST, Unit-B, Guwahati, revealed in September 2002 that a cement dealer was allowed exemption in March 2002 from payment of tax on turnover of Rs.31.60 lakh relating to the period 2000-01 on the ground that the sales were intermediary sales of goods purchased from within the State. But, scrutiny of annual returns, trading accounts etc revealed that the sales were made from the goods purchased from outside the State and not from locally purchased goods as the dealer had not purchased goods within the State during the period. Thus, improper verification of books of accounts resulted in evasion of tax of Rs.4.17 lakh. Besides, interest of Rs.1.50 lakh and penalty not exceeding Rs.6.26 lakh were also leviable.

After this was pointed out in audit in March 2003, the AO stated in August 2003 and March 2004 that the assessment had been revised and the demand notice for Rs.20.88 lakh have been issued. Report on realisation has not been received (December 2004).

2.9.3 Under the AGST Act 1993, every registered dealer is required to file annual return of his turnover and pay the tax due thereon. As per Schedule V, supari is taxable at the rate of eight *per cent* at the point of last purchase within the state. Further, for inter-state sales of supari, not covered by the prescribed declaration as provided in the CST Act, 1956, tax is leviable at the rate of ten *per cent*.

Test check of assessment records of the ST, Guwahati, Unit-C, revealed that the AO while finalising assessment in March 2002 of a dealer for the year 1996-97 and 1997-98, accepted the dealer's return. The dealer did not disclose sale of any item under Schedule-V in his annual return. The AO also did not assess turnover in respect of any item (supari) of Schedule-V. However, cross verification of records revealed that the dealer had despatched supari valued at Rs.53.12 lakh outside the State of Assam during 1996-97 and 1997-98. Thus, due to non-verification of particulars in details at the time of assessment, the AO failed to levy tax on turnover of Rs.53.12 lakh, which resulted in evasion of tax of Rs.23.92 lakh including CST of Rs.5.31 lakh and interest of Rs.14.36 lakh (upto January 2004).

After this was pointed out in audit in August 2003, the Department stated in July 2004 that the dealer was assessed and demand of Rs.24.03 lakh including interest of Rs.17.20 lakh was raised. Report on realisation is awaited (December 2004).

2.10 Application of incorrect rate of tax

Under the CST Act, 1956, and rules made thereunder, inter-state sale not covered by declaration Forms (C or D) are taxable at the rate of ten *per cent* or at the rate applicable under the State Act, whichever is higher. As per the AGST Act, 1993, electronic goods, music system and colour televisions are taxable at the rate of 14 *per cent* with effect from 1 May 1997 to 6 October 1999 and thereafter at the rate of 12 *per cent* and mineral water is taxable at the rate of 12 *per cent* at the point of first sale in the State of Assam during 2001-2002.

Test check of assessment records of three STOs¹⁰, revealed in March-June 2003 that while finalising assessments of three dealers for the years 1998-99, 1999-2000 and 2000-2001, the AOs levied tax at incorrect rates resulting in short levy of tax of Rs.8.24 lakh alongwith interest of Rs.6.89 lakh as shown below:

(Rupees in lakh)

Name of Unit/ No. of dealers	Dealer's Business	Assessment year Month of assessment	Taxable turnover	Rate of tax (<i>per cent</i>) leviable levied	Short levy of tax	Interest	Total
Guwahati Unit-C/1	Electronic Goods	1998-99 30.03.2002	136.67	14 12	4.49	5.12	9.61
Guwahati Unit-D/1	Hair Oil, Cosmetics, etc.	1999-2000 31.03.2003	75.71	10 8	1.96	1.77	3.73
Jorhat/1	Mineral water	2001-2002 21.08.2002	34.36	13.2 8	1.79	--	1.79
			246.74		8.24	6.89	15.13

After these cases were pointed out in audit in July-August 2003, the Department stated July 2004 that in two cases the dealers were assessed and demand of Rs.14.15 lakh including interest of Rs.5.12 lakh was raised. Report on realisation has not been received (December 2004)

The cases were reported to the Government in July-August 2003; their reply has not been received (December 2004).

2.11 Non-levy of additional tax

Under the AGST Act 1993, 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 four STOs¹¹ revealed that the AOs, while finalising assessments between May 2001 and March 2003 of eight dealers relating to the assessment years 1998-99 to 2000-2001, failed to levy

¹⁰ Guwahati Unit-C, Guwahati Unit-D and Jorhat.

¹¹ Jorhat, Guwahati Unit-B, Nagaon and Doomdooma

additional tax on the assessed tax of Rs.1.92 crore. This resulted in non-levy of additional tax of Rs.18.66 lakh alongwith interest of Rs.15.37 lakh.

After these cases were pointed out in audit, the Department stated between February 2004 and July 2004 that the assessments in respect of seven dealers had been revised and demands for Rs.20.80 lakh including interest of Rs.9.07 lakh had been raised. But, out of them one dealer filed an appeal before appellate authority against the revised assessment. The appellate authority directed the dealer to deposit Rs.0.50 lakh in the treasury which was deposited by the dealer on 25 August 2003. The realisation of balance amount of demanded taxes was stayed till disposal of appeal petitions. Final order is awaited. In case of another dealer, Rs.0.47 lakh was adjusted from the additional tax deposited by him, which was not taken into account during assessment.

2.12 Internal Audit System

Internal Audit in Sales Tax Department was introduced in June 1988. During 2003-2004, internal audit was conducted in nine units as against annual coverage of 45 units and 188 numbers of observations involving Rs.1.06 crore were raised through nine audit notes. There was shortfall of coverage of 36 units which was attributed to shortage of staff by the Department.

78 audit notes containing 741 paragraphs involving Rs.3.62 crore were outstanding as on 31 March 2004, out of which 23 numbers of audit notes were outstanding for more than 5 years. Reason for huge pendency and slow progress in disposal was attributed to shortage of staff in the Internal Audit Wing (September 2004).