

CHAPTER-II: Taxes on Sales, Trade etc.

2.1 Results of Audit

Test check of sales tax assessments, refund cases and other connected records conducted during the year 2004-05 revealed under assessments of sales tax amounting to Rs.140.61 crore in 735 cases, which broadly fall under the following categories:

Sl. No.	Particulars	Number of cases	Amount (Rupees in crore)
1.	Incorrect computation of turnover	14	2.29
2.	Application of incorrect rates	77	2.47
3.	Non-levy of interest	69	5.31
4.	Non-levy of penalty	15	16.09
5.	Under-assessment of turnover under CST Act	114	7.86
6.	Other irregularities	445	19.69
7.	Review on Delay in Disposal of Remand and Revision Cases	1	86.90
	Total	735	140.61

During the year 2004-05, the Department accepted under assessments of tax of Rs.91.31 crore involved in 125 cases of which 109 cases involving Rs.90.98 crore had been pointed out in audit during 2004-05 and the rest in earlier years. An amount of Rs.0.68 crore had been recovered in 66 cases during the year 2004-05, of which Rs.0.42 crore recovered in 41 cases related to earlier years.

A few illustrative cases involving Rs.1.92 crore and a review on “Delay in Disposal of Remand and Revision Cases” involving Rs.86.90 crore highlighting important cases are mentioned in this chapter.

2.2 Delay in Disposal of Remand and Revision Cases

Highlights

Number of appeal cases increased from 1,272 to 2,286 whereas remand cases increased from 684 to 1,623.

(Paragraph 2.2.5 and 2.2.7)

129 cases were not found entered in the appeal registers maintained by the District Sales Tax Offices.

(Paragraph 2.2.6)

Non fixation of time limit for completing reassessment of remand cases resulted in non finalisation of 369 cases and delayed finalisation of 154 cases involving amount of Rs.21.69 crore.

(Paragraph 2.2.7)

Penalty of Rs.87 crore though leviable was not levied in one case.

(Paragraph 2.2.9)

Delay in deciding cases in revisions resulted in blockage of revenue of Rs.27.18 crore in 72 cases.

(Paragraph 2.2.10)

Introductory

2.2.1 The Haryana General Sales Tax Act, 1973 (HGST Act), and Central Sales Tax Act, 1956 (CST Act) and the Rules framed thereunder govern the levy, assessment and collection of sales tax.

An assessee aggrieved with an order passed under the Acts or Rules can file an appeal to the departmental appellate authorities within 60 days from the date of receipt of the copy of the assessment order appealed against. The Act provides that no appeal shall be entertained unless the appellate authority is satisfied that the amount of tax assessed and penalty and interest, if any, recoverable has been paid. The appellate authority, if satisfied, that the assessee is unable to pay the whole amount of tax assessed, or the penalty imposed, or the interest due, may, for reasons to be recorded in writing, entertain the appeal and stay the recovery of balance amount subject to the furnishing of a bank guarantee or adequate security to his satisfaction. The appellate authority may either reject or accept the appeal and allow the relief sought or may remand the case back to the assessing authority for reassessment. No time limit has been prescribed under the Acts or Rules framed thereunder for reassessment of remand cases. The Excise and Taxation Commissioner, in his instructions of July 1997, directed all assessing

authorities (AA) to decide remand cases within six months from the date of receipt of the copy of the remand orders. In case it was not possible for any assessing authority to decide the case within this time, he shall submit a detailed quarterly report to the Deputy Excise and Taxation Commissioner incharge of the district, who was required to send the same to the Excise Taxation Commissioner after adding his own comments. But there is no provision under the Act/Rules for monitoring the receipt and disposal of remand cases at the ETC level.

Section 40 of the HGST Act and Rules framed thereunder provide that the Commissioner may on his own motion call for the records of any case pending before or disposed of, by any officer appointed under the Act to assist him or any assessing authority, for the purposes of satisfying himself as to the legality or to propriety of any proceeding of any order made therein and may pass such order in relation thereto as he may think fit. Provided that no order shall be so revised after the expiry of a period of five years from the date of the order.

Organisational set up

2.2.2 The monitoring and control at Government level is done by the Financial Commissioner and Secretary to Government, Haryana, Excise and Taxation Department. The overall control and superintendence of the Sales Tax vests with the ETC who is assisted by six Additional Excise and Taxation Commissioners (Addl. ETCs), 10 Joint Excise and Taxation Commissioners (JETCs), 21 Deputy Excise and Taxation Commissioners (DETCs), Excise and Taxation Officers (ETOs), Assistant Excise and Taxation Officers (AETOs), Taxation Inspectors, and other allied staff in the administration and implementation of the Acts.

There are four appellate authorities in the State, one each in four sales tax divisions at Ambala, Faridabad, Rohtak and Hisar, which function as JETCs (Appeals). ETC as the revisional authority may also remand the cases to the assessing authorities for reassessment.

Audit Objectives

2.2.3 The review was conducted with a view to:

- ascertain the extent of compliance of procedure/codal provisions and executive instructions to ensure timely disposal of remand cases.
- ascertain the lacunae in the Act/Rules responsible for blockage of revenue in remand/revision cases.
- ascertain whether there exists internal control mechanism to ensure disposal of remand cases in time.

Audit Coverage

2.2.4 Records of two* out of four appellate authorities and 12** out of 21 district sales tax offices for the years 2001-02 to 2003-04 were test checked between April 2004 and January 2005.

Audit findings as a result of test check of records of Excise and Taxation Department, Haryana were reported in May 2005 to the Government with a specific request in June 2005 for attending the meeting of the Audit Review Committee so that the view point of the Government may be taken into account before finalising the review. The meeting was held on 1 July 2005 which was attended by the Additional Excise and Taxation Commissioner, Haryana.

Trend of appeals filed and their disposal

2.2.5 The position of appeal and remand cases for the years 2001-02 to 2003-04 as compiled from the information furnished by the Department is as under:

Sr. No.	Particulars	2001-02	2002-03	2003-04
1	Number of appeal cases brought forward	1,272	1,610	1,633
2	Number of appeal cases arising during the year	2,185	2,299	3,110
3	Total	3,457	3,909	4,743
4	Number of appeal cases finalised/ transferred during the year.			
	Number of appeals rejected	874	1,129	909
	Number of appeals accepted and relief given	406	358	353
	Number of appeals transferred	07	01	-
	Number of appeals remanded/ revenue involved (Rs. in lakh)	560 (1,942.46)	788 (3,201.64)	1195 (3,650.00)
	Total	1,847***	2,276***	2,457
5	Number of appeal cases pending at the end of the year	1,610	1,633	2,286

From the above it would be seen that number of appeal cases increased from 1,272 to 2,286 during the above period.

Improper maintenance of control records of remand cases

2.2.6 To monitor remand cases, ETC in his instructions of July 1997 prescribed a register called appeal register to be maintained in each DETC

* Ambala and Rohtak.

** Ambala, Bahadurgarh, Gurgaon (East), Gurgaon (West), Jagadhri, Kaithal, Karnal, Kurukshetra, Panchkula, Panipat, Rohtak and Sonipat.

*** Eight cases of appeals (seven in 2001-02 and one in 2002-03) were transferred from one JETC (Appeals) to another.

office. The Register serves as a monitoring tool for watching the receipt and disposal of remand cases.

During the course of test check of records of districts sales tax offices, it was noticed in six* out of 12 DETCs that registers of remand cases were not maintained properly in as much as these did not contain complete particulars of remanded cases viz. date of receipt, date of disposal, tax effect, etc. It was noticed that 129 cases remanded by the appellate authorities involving sales tax of Rs.4.04 crore, between 2001-02 and 2003-04, were not found entered in the registers maintained by DETCs as mentioned below:

(Number of cases)				
Name of DETC Office	2001-02	2002-03	2003-04	Total
Panipat	23	7	15	45
Ambala	-	-	13	13
Jagadhri	2	7	8	17
Karnal	3	7	8	18
Bahadurgarh	8	6	3	17
Sonipat	1	-	18	19
Total				129

Failure to get these remand cases entered in the registers maintained in district sales tax offices shows lack of effective control and monitoring of the receipt and disposal of remand cases as per instructions of ETC of July 1997.

Disposal of remand cases

2.2.7 Under the HGST Act and Rules made thereunder, no time limit has been laid for completing reassessment of remand cases. Instructions issued by the ETC in July 1997, however, directed that decision in remand cases may be taken within six months from the date of receipt of copy of remand order. A quarterly report showing the number of cases pending finalisation for more than six months alongwith the reasons thereof was required to be sent to the ETC by the concerned assessing authority.

The position of receipt and disposal of remand cases as furnished by the Department was as under:

(Number of cases)						
Sr. No.	Year	Opening balance	Cases received during the year	Total	Cases disposed of	Cases pending disposal
1.	2001-02	684	560	1,244	464	780
2.	2002-03	780	788	1,568	550	1,018
3.	2003-04	1,018	1,195	2,213	590	1,623
	Total		2,543	5,025	1,604	

* Ambala, Bahadurgarh, Jagadhari, Karnal, Panipat, and Sonipat.

It would be seen from the above that the disposal of remand cases was far less than the cases received during the period 2001-02 to 2003-04. Consequently the number of cases pending disposal during the above period increased from 684 to 1,623 i.e. increase of 237.29 per cent.

Cases pending finalisation for more than six months

- Test check of records in 12 district sales tax offices revealed that 369 cases of 277 dealers involving tax of Rs.11.74 crore remanded between April 2001 and September 2003 were pending assessment though more than six months had elapsed from the date of their receipt. It was noticed in audit that no quarterly report giving reasons for delay was sent to ETC. The yearwise detail of these cases was as under:

(Rupees in crore)			
Year of remand	No. of cases	No. of dealers	Amount involved
2001-02	132	91	5.74
2002-03	151	122	4.26
2003-04	86	64	1.74
Total	369	277	11.74

A few remand cases are discussed as under:

(Rupees in crore)				
Sr. No.	Name of DETC	Assessment year/date of order and number of cases/dealers	Nature of observation	Amount involved
1.	Yamuna-nagar	1995-96, 1996-97 February 1999 1997-98 March 2001/ 3/1	Three cases of a dealer were remanded in September 2001, January 2002 and September 2003 by the appellate authority back to the assessing authority with the directions to make fresh assessments after examining each and every claim of the appellant thoroughly. The assessing authority had not finalised the assessments till March 2005.	2.26
2.	Panchkula	1992-93 October 1997 1993-94 November 1997 1995-96 April 1998/ 3/1	The appellate authority remanded the cases in September 2002 with the direction to make fresh assessment after giving an opportunity to the dealer. The assessing authority did not finalise the assessments till March 2005 though two years have elapsed.	0.35

(Rupees in crore)				
Sr. No.	Name of DETC	Assessment year/date of order and number of cases/dealers	Nature of observation	Amount involved
3.	Karnal	1996-97 December 2000 1997-98 December 2000/ 2/1	Assessments of a dealer were finalised exparte in December 2000. On appeal, the appellate authority remanded in December 2003 the cases back to the assessing authority with the direction that due opportunity may be given to the dealer before finalisation of the cases. The cases had not been decided till March 2005.	0.54
4.	Sonipat	2001-02 July 2002/ 1/1	On appeal, the appellate authority remanded in March 2003 the case back to the assessing authority with the observations to take action for individual offence if it remains unexplainable, after hearing the appellant patiently, and not to take action two times for a single offence. No action to decide the remand case had been taken till March 2005.	0.94
	Total			4.09

Cases finalised after a delay of six months

- It was noticed in nine* district units that in 154 cases of 123 dealers involving tax of Rs.9.95 crore, the reassessment of remand cases referred between September 1994 and June 2003, pertaining to the period from 1983-84 to 2001-02, were finalised between April 2000 and July 2004 i.e. after delay** ranging between one month and 114 months as detailed below:

(Rupees in crore)		
Reassessments finalised (excluding initial six months)	Number of cases	Amount
After one month but upto 12 months	66	8.41
After 12 months but upto 24 months	26	0.41
After 24 months but upto 36 months	28	0.66
After 36 months but upto 48 months	9	0.08
After 48 months but upto 60 months	18	0.07
After 60 months but upto 114 months	7	0.32
Total	154	9.95

* Ambala Cantt., Bhadurgarh, Gurgaon (East). Gurgaon (West), Jagadhri, Karnal, Kurukshetra, Panipat and Sonipat.

** Delay after expiry of prescribed period of six months.

The possibility of recovery of the amount in the cases finalised after considerable delay is remote as is evident from the following few cases:-

- It came to the notice of the Department in January 1990 that a dealer of Jagadhri had evaded tax during the years 1988-89 and 1989-90. Assessments for these years were finalised by the assessing authority ex parte in December 1995, after five years, by creating additional demand for tax of Rs.14.86 lakh. The cases were remanded by the appellate authority in November 2000. Remand case was decided by the assessing authority ex parte in December 2003, i.e. after three years and one month, creating a demand of Rs.44.57 lakh. The amount could not be recovered as the Department stated in June 2005 that the dealer had already closed his business and the proprietor of the firm was not traceable.
- In Gurgaon (west), a dealer did not pay the tax alongwith the returns for the year 1991-92. Penal action was taken in December 1992 creating a demand of Rs.1.45 lakh. On appeal, the appellate authority remanded in December 1993 the penal order back to the assessing authority with the direction to decide the same within one month from the date of receipt of remand order. The remand case alongwith regular assessment for the year 1991-92 was decided in November 2003 i.e. after a delay of nine years and six months creating demand of Rs.23.79 lakh. However, the amount could not be recovered as the dealer had already closed his business. The exact date of closure of business was not available with the Department.

Reasons for delay in deciding the remand cases and non sending of the quarterly reports to ETC and non monitoring at ETC level were called for from the Department in March 2005; reply had not been received (August 2005).

Delay in communication of remand orders

2.2.8 Under the HGST Rules, 1975, every order passed by the appellate authority under the Act shall be communicated to the appellant, the authority against whose order the appeal was preferred and the authority that passed the original order. No time limit for communication of the orders passed by appellate authority had been laid down in the Act/Rules or instructions issued by the Department.

During test check of records of JETC (Appeal), Ambala, it was noticed that 15 cases involving tax effect of Rs.60 lakh for the period 1996-97 to 2001-02 were decided by the appellate authority between August 2001 and March 2004. However remand orders were communicated between March 2002 and June 2004 after three to eight months of the decision of the appellate authority.

The delay in communication contributed to delayed action in reassessing the remand cases leading to huge pendency from year to year.

Non levy of penalty

2.2.9 Under the HGST Act and CST Act, if a dealer has maintained false or incorrect accounts or documents with a view to suppress his sales or purchases

or has furnished or produced before any authority any account, return, document or information which is false or incorrect in any material particular, he may direct the dealer to pay penalty equal to twice the amount of tax under section 9 (2) of CST Act read with section 48 of HGST Act. ETC issued instructions in September 1993 that penal proceedings must be completed within six months of the assessment.

During test check of records of DETC, Ambala, it was noticed in July 2004 that a dealer suppressed his inter state sales of petroleum products (HSD, SKO, ATF & MS) valued at Rs.297.53 crore by way of claims as branch transfers during the year 2000-01. While framing the assessment in March 2003, the assessing authority levied tax of Rs.43.45 crore on suppressed sales. Penal action was kept pending by the assessing authority. The appellate authority remanded the case back to the assessing authority in September 2003. Remand case was decided by the assessing authority in March 2004 and demand under CST Act for Rs.43.53 crore was created but the Department omitted to levy penalty of Rs.86.90 crore which resulted in non realisation of Government revenue to that extent. The case was to be decided within six months of assessment which was not done despite clear instructions of ETC.

After this was pointed out, the Department replied in June 2005 that a penalty of Rs.87 crore was imposed in March 2005.

Delay in deciding cases in Revision

2.2.10 Under HGST Act and notification of September 2001 made thereunder, revisional powers of the Commissioner have been conferred on AETC, JETC, DETC and ETO in respect of cases decided by or pending before any officer below that rank.

Details of consolidated revisional cases were not made available by the ETC office. After these were called for, the Department stated in June 2005 that information is being collected from the field offices and will be supplied in due course.

No time limit has been prescribed under the Act/Rules to decide cases by revisional authority after these are received from the assessing authority.

- Test check of records of eight* district offices revealed that 50 cases involving tax of Rs.1.46 crore were outstanding for more than six months as tabulated below:

(Rupees in lakh)		
Pendency in revision	Number of cases	Amount involved
After 6 months but upto 12 months	25	57.05
After 12 months but upto 36 months	7	55.64
More than 36 months	18	33.43
Total	50	146.12

* Ambala, Jagadhri, Kaithal, Kurukshetra, Panchkula, Panipat, Rohtak, and Sirsa.

- During test check of records of seven* sales tax offices, it was noticed that in 22 cases involving tax effect of Rs.25.72 crore, assessments of dealers pertaining to the period 1991-92 to 1998-99 were revised by the revisional authority after a delay of six months to 59 months as per details tabulated below:

(Rupees in lakh)		
Assessments revised	Number of cases	Amount involved
After 6 months but upto 12 months	4	2,508.94
After 12 months but upto 24 months	9	54.83
After 24 months but upto 36 months	3	4.45
After 36 months but upto 48 months	5	3.17
After 48 months but upto 59 months	1	0.34
Total	22	2,571.73

It would be seen from the above that there was a delay in deciding revision cases and consequently recovery of the amount also got delayed. A time limit needs to be fixed for finalisation of cases so as to safeguard Government revenue.

- During test check of records of DETC, Ambala, it was noticed that in the case of a dealer, assessment order for the year 1993-94, originally passed by the assessing authority on 21 April 1997, was sent to the revisional authority on 11 July 2000 for taking suo motu action. By the time action was taken by the revisional authority, the revisional proceedings had become time barred and the revisional authority vacated notice in March 2004 resulting in loss of revenue.

Conclusion

2.2.11 It would be seen from the above that there was lack of internal control mechanism in the Department to ensure disposal of remand/revision cases. The abnormal delay in finalisation of remand cases and revision cases resulted in non realisation of huge amount of Government revenue.

Recommendations

2.2.12 For speedy settlement of cases, the State Government may consider taking following steps to improve the effectiveness of the system:-

- Records like appeal register of remand cases essential for monitoring the remand cases at Joint Commissioner (Appeals)/ DETC/Assessing Authority-wise may be maintained as per the provisions of the Act.
- The State Government may prescribe time limit for finalisation of remand cases. Besides, time limit for communication of orders

* Ambala, Bahadurgarh, Gurgaon (East), Jagadhri, Kurukshetra, Panipat and Sonipat.

passed by the appellate authority to the assessing authorities may also be fixed.

2.3 Under assessment of notional sales tax liability due to incorrect deduction

As per provisions of the HGST Rules, notional sales tax liability means amount of tax payable on the sales of finished products of the eligible industrial unit, but for an exemption computed at the maximum rates and not at concessional rates.

During test check of records of DETCs, Kaithal, Panchkula, Gurgaon (West), Jind, Sonipat and ETO Hansi, it was noticed between August 2002 and October 2004 that seven dealers in nine cases availing the benefit of exemption during the years 1996-97 to 2002-2003 were under assessed. This resulted in short determination of notional sales tax liability by Rs.0.35 crore as detailed below:

- **Application of incorrect rate of tax**

In five cases of three dealers, sales tax liability was short assessed due to application of incorrect rate of tax. This resulted in short account of notional sales tax liability to the tune of Rs.16 lakh as detailed below:

(Rupees in crore)						
Sr. No.	Name of DETC/ Number of cases/ dealer	Assessment year and date of assessment	Value of raw material consumed	Rate of tax (In percentage)		Tax leviable
				leviable	levied	
1.	Kaithal/ 2/1	1996-97 and 1997-98/ June 2001	0.54/oil seed	7	1	0.03
Remarks: After this was pointed out in August 2002, the revisional authority raised the demand of Rs.3 lakh in April and September 2004.						
2.	Panchkula/ 1/1	2000-01/ August 2003	0.65/Goods	4	1	0.02
Remarks: After this was pointed out in May 2004, the assessing authority sent the case to Revisional Authority, Panchkula for taking suo motu action in May 2004.						
3.	Gurgaon (West)/ 2/1	1999-2000 and 2000-01/ August and September 2003	1.87/Goods	10	4	0.11
Remarks: After this was pointed out in May 2004, the assessing authority stated that in the case of exempted unit, reduced rate of tax had to be applied in respect of inter-State sales whether sale was made to the registered dealer or to unregistered dealer. Reply of the assessing authority was not tenable, as for the purpose of exemption limit the sales were liable to be taxed at maximum rates.						
Total						0.16

The matter was referred to the Government in June to December 2004; their reply had not been received (August 2005).

• **Under assessment of tax due to incorrect deduction**

Under HGST Rules, subsequent sale of goods purchased from exempted units and sold in inter State sales are liable to tax.

In four cases, four dealers made inter State sale of goods valued at Rs.4.67 crore which were purchased from the units availing exemption under the HGST Rules. The assessing authority incorrectly exempted the goods from levy of sales tax. This resulted in short realisation of Rs.19 lakh as detailed below:

Sr. No.	Name of DETC/ Number of cases/ dealer	Assessment year and date of assessment	Value of raw material consumed/ (Rs. in crore)	Rate of tax (In percentage)		Tax leviable (Rs. in crore)
				leviable	levied	
1.	Jind and Sonipat/ 2/2	2000-01 and 2001-02/ March 2003 and June 2003	1.47/cotton yarn	4	Nil	0.06
Remarks: After this was pointed out in audit, the Department intimated between January 2005 and March 2005 that the cases had been sent for suo motu action. Further progress had not been received (August 2005).						
2.	ETO Hansi/ 2/2	2001-02 and 2002-03/ March 2004	3.20/cotton yarn	4	Nil	0.13
Remarks: After this was pointed out in December 2004, the assessing authority stated in December 2004 that exemption was available at all the successive stages. Reply was not tenable as the exempted unit had not made the inter State sales itself, as such, tax was leviable on these sales.						
	Total					0.19

The cases were referred to the Government between March 2004 to January 2005; reply had not been received (August 2005).

2.4 Under assessment due to incorrect deduction from gross turnover

As per Haryana Government notification issued on 18 July 1997 under the HGST Act, tax on timber and its products is leviable at the first stage of sale in Haryana.

During test check of records of DETCs Gurgaon (West) and Kaithal, it was noticed that two dealers sold wooden boxes valued at Rs.1.30 crore between 1997-98 and 2001-03. However, the assessing authority while assessing the cases in August and September 2003 incorrectly excluded the turnover from levy of tax. This resulted in under assessment of tax of Rs.0.13 crore.

After this was pointed out between May and July 2004, the assessing authority accepted the audit observation and sent the case to the revisional authority for taking suo motu action in case of Gurgaon (West). In case of the dealer of Kaithal, the revisional authority raised a demand of Rs.0.02 crore. Further progress and report on recovery was awaited.

The cases were referred to the Government in September 2004; replies had not been received (August 2005).

2.5 Non levy of purchase tax

Under the HGST Act, cotton, paddy and oil seeds are taxable at the stage of last purchase when purchased from within the State. Further, a dealer is liable to pay purchase tax on goods (other than declared goods) purchased within the State and used in the manufacture of tax free goods or taxable goods which are disposed of otherwise than by way of sale. No deduction from dealer's gross turnover is admissible if such goods are indirectly exported out of India.

During test check of records of four DETCs, it was noticed between July and December 2004 that assessing authorities did not levy purchase tax of Rs.73 lakh in six cases during the years 1997-98 to 2000-2003 as detailed below:

(Rupees in crore)					
Name of DETC/ Number of cases/ dealers	Assessment year and date of assessment	Value of raw material consumed	Nature of irregularity	Rate of tax (In per- centage)	Tax leviable
Panipat/ 1/1	1997-1998 September 2003	1.16 Paddy	Purchased paddy within the State for extraction of rice and exported indirectly out of India. Purchase tax was not levied on the value of paddy.	4	0.05
Remarks: After this was pointed out in July 2004, the revisional authority raised an additional demand of Rs.0.05 crore in August 2004. Further report on amount recovered had not been received.					
Karnal/ 2/1	1998-99, 1999-2000 and 2000-01/ September 2003	1.12 Paddy	Purchased paddy within the State without payment of tax and exported indirectly out of India. There was no agreement between the dealers and the foreign buyers for such export.	4	0.04

(Rupees in crore)					
Name of DETC/ Number of cases/ dealers	Assessment year and date of assessment	Value of raw material consumed	Nature of irregularity	Rate of tax (In per- centage)	Tax leviable
Remarks: This was pointed out in January 2005, reply had not been received from the Department.					
Gurgaon/ 1/1	1997-98 May 2001	7.97 Wheat	Purchase tax was not levied on wheat purchased within the State without payment of tax and transferred outside the State otherwise than by way of sale.	4	(including interest of 0.28)
Remarks: After this was pointed out in July 2002, the Department sent the case to the revisional authority in August 2004 for taking suo motu action. Final reply had not been received (August 2005).					
Karnal/ 2/2	2000-01 February and March 2004	18.38 Shoes	Purchased goods without payment of tax within the State and used these in the manufacture of goods transferred outside the State otherwise by way of sale.	5-4=1	0.11*
Remarks: After this was pointed out in audit between October 2004 and December 2004, the Department intimated in March 2005 that additional demand of Rs.0.11 crore had been raised in February 2005 against the dealers. Report on recovery had not been received.					
Total					0.73

The cases were referred to the Government from October 2002 to January 2005; reply had not been received (August 2005).

2.6 Application of incorrect rate of tax

Under the HGST Act, tax is leviable in accordance with the rates prescribed in the notifications issued from time to time.

During test check of records of the two DETCs, it was noticed between August 2002 to June 2004 that assessing authorities applied incorrect rates while assessing three cases resulting in short levy of sales tax of Rs.37 lakh

* Out of tax of Rs.18.38 lakh, Rs.7.85 lakh paid and adjusted in respect of other goods.

during the years 1998-99 to 2000-2001 as detailed below:

(Rupees in crore)						
Sr. No.	Name of DETC/ Number of cases/ dealer	Assessment year and date of assessment	Value of goods sold	Rate of tax (In percentage)		Tax leviable
				leviable	levied	
1.	Gurgaon (West)/ 1/1	2000-01 July 2003	1.98 cement	12	4	0.16
Remarks: After this was pointed out in June 2004, the case was sent to revisional authority for suo motu action. Further progress had not been received (August 2005).						
2.	Gurgaon (West)/ 1/1	1998-99 March 2004	9.32 B/W television and its parts	12	10	0.19
Remarks: After this was pointed out in May 2004, the assessing authority raised an additional demand of Rs.0.19 crore in May 2004. Further progress had not been received (August 2005).						
3.	Kurukshetra / 1/1	2000-01 February 2002	3.24 Deoiled cake	4	NA	0.02
Remarks: A tax of Rs.11 lakh was levied instead of Rs.13 lakh. After this was pointed out in August 2002, the revisional authority raised an additional demand of Rs.2 lakh in January 2004. Further progress had not been received (August 2005).						
Total						0.37

The cases were referred to Government between October 2002 and September 2004; reply had not been received (August 2005).

2.7 Under assessment due to excess rebate

Under the HGST Act, sales tax on sale of rice is leviable at the point of first sale in the State and on purchase of paddy at the point of last purchase in the State. The sales tax levied on rice is, however, reduced by the amount of purchase tax paid in the State on paddy out of which rice has been husked. Further, if the rice manufactured is exported out of India indirectly, no rebate of tax on paddy is admissible.

During test check of records of the DETC, Ambala Cantt, it was noticed in February 2002 that while finalising assessment in September 2000 for the assessment year 1996-97, the assessing authority incorrectly allowed rebate of Rs.14 lakh to the dealer on the rice purchased from within Haryana and exported indirectly out of India under CST Act.

After this was pointed out in February 2002, the assessing authority created an additional demand of Rs.15 lakh. Recovery was awaited (August 2005).

The case was referred to the Government in April 2002; reply had not been received (August 2005).

2.8 Irregular refund of tax

Under the HGST Act, tax paid on goods used in the manufacture of goods shall be refundable, if such goods are leviable to tax at the last stage of sale or are sold in the course of export out of the territory of India.

During test check of records of DETCs Panchkula and Gurgaon (West), it was noticed between May 2003 and May 2004 that assessing authorities while finalising assessments in February 2003, March 2003 and February 2004 erroneously allowed refund of Rs.17 lakh in five cases of four dealers during the year 1998-99 to 1999-2000 on atta, maida and suji. The finished product had neither been sold to the registered dealers nor exported out of India. This resulted in irregular refund of Rs.17 lakh.

After this was pointed out between May 2003 to May 2004, the assessing authority, Panchkula sent the cases to the revisional authority for taking suo motu action in August 2003. The assessing authority, Gurgaon (West) rectified the mistake in July 2004 and recalculated the refund of Rs.3 lakh.

The cases were referred to the Government between July 2003 to September 2004; reply had not been received (August 2005).

2.9 Under assessment due to non levy of surcharge

Under the HGST Act, surcharge was payable at the rate of 10 *per cent* on the amount of tax payable by a dealer during the years 1994-95 and 1995-96.

During test check of records of DETCs Gurgaon (East) and Rewari, it was noticed that two dealers sold taxable goods valued at Rs.2.62 crore during the years 1994-95 and 1995-96. While finalising the assessments between May 2000 and January 2003, the assessing authorities omitted to levy surcharge. The omission resulted in under assessment of tax of Rs.3 lakh.

After this was pointed out in audit, the DETC, Gurgaon (East) raised an additional demand of Rs.2 lakh in February 2002 and DETC, Rewari sent the case for taking suo motu action in March 2004. Further progress on recovery had not been received (August 2005).

The cases were referred to the Government in August 2003 and March 2004; reply had not been received (August 2005).