

CHAPTER - II
COMMERCIAL TAX

2.1 Results of Audit

Test-check of assessment cases and other records relating to Commercial Tax Department during the year 2003-2004 revealed under-assessment, non/short-levy of tax and penalty, application of incorrect rate of tax etc., involving Rs.135.46 crore in 1282 cases which can broadly be categorised as under:

(Rupees in crore)

S. No.		Number of cases	Amount
1.	Review on Exemption and Concessions in Commercial Tax against declaration forms/certificates	01	64.90
2.	Non/short-levy of tax	212	6.94
3.	Application of incorrect rate of tax	150	3.38
4.	Incorrect determination of taxable turnover	113	6.42
5.	Incorrect grant of exemption/deduction/set off	295	17.87
6.	Others	511	35.95
	Total	1,282	135.46

During the year 2003-2004, the Department accepted under-assessment of tax etc. of Rs.35.51 crore in 506 cases.

A review, '**Exemptions and Concessions in Commercial Tax against Declaration Forms/Certificates**' and other important observations involving Rs.71.19 crore are given in the following paragraphs:

2.2 Review on Exemption and Concessions in Commercial Tax against declaration forms/certificates

Highlights

- Declarations furnished in support of sales valued at Rs.509.76 crore involving tax of Rs.20.76 crore were not referred to concerned authorities for cross verification.
(Paragraph 2.2.5)
- Non/short-levy of tax of Rs.22.56 crore due to incorrect allowance of exemption and incorrect levy of concessional rate of tax against incomplete declarations was noticed.
(Paragraph 2.2.6)
- There was under-assessment of tax of Rs.11.58 crore due to incorrect allowance of transfer of goods to places not included in the registration certificates.
(Paragraph 2.2.7)
- Exemptions/deferment of payment of tax of Rs.5.25 crore on eligibility certificates was incorrectly granted.
(Paragraph 2.2.8)
- Purchase tax and penalty of Rs.4.07 crore was not levied/imposed in 27 cases.
(Paragraph 2.2.9)

2.2.1 Introduction

The Madhya Pradesh *Vanijyik Kar Adhiniyam*, 1994 (*Adhiniyam*) provides that the State Government may, by notification and subject to such restrictions and conditions as may be specified therein, exempt any class of dealers; or any goods or class of goods, in whole or in part from the payment of tax under this Act for such period as may be specified in the notification. The State Act, also required that the registered dealer purchasing the goods exempted in whole or in part, from the payment of tax under this Act, shall furnish a declaration or certificate to the effect that the goods purchased were used by him for the purpose/in the manner and within the period specified in the notification granting such exemption/concession.

Under the Central Sales Tax Act, 1956 (CST Act) registered dealers are eligible for certain exemptions and concessions of tax on inter-State sales to registered dealers, to the Government, for transfer of goods to branches/agent and on export of goods out of the territory of India on the strength of prescribed declaration forms.

2.2.2 Organisational set-up

The Commercial Tax Department functions under the overall control of the Commissioner, Commercial Tax (CCT) with Headquarters at Indore, assisted by eight

Additional Commissioners at Headquarters and Zonal levels, 23 Deputy Commissioners (DCs) both at Zonal and Divisional level, 59 Assistant Commissioners (ACs), 155 Commercial Tax Officers (CTOs), 266 Assistant Commercial Tax Officers (ACTOs) and 306 Commercial Tax Inspectors at Circle level. The Principal Secretary, Commercial Tax Department is the administrative head of the department.

2.2.3 Audit objective

Test check of records was conducted with a view to ascertain :

- compliance of the various provisions of the Act, Rules and Procedures;
- effectiveness of regulations and procedures laid down by the department for verification of declaration forms;
- adequacy of internal control for verification of declaration forms and their proper use by the departmental authorities;

2.2.4 Scope of Audit

Assessment cases of 36 Assessing Officers out of 94 Assessing Officers, assessed during the period between April 1998 and March 2003, were test checked between July 2003 and April 2004.

2.2.5 Lack of internal controls in verification of declaration forms

- The Commissioner, Commercial Tax in his instructions of June 1984 and June 1997 directed all the Assessing Authorities to send a list of all declarations exceeding Rs.20,000/- for verification to those circle offices within whose jurisdiction declarations/certificates were issued. The verification report in this regard was required to be received from the concerned circles within one month from the date of their despatch. However, no return was prescribed at apex level to watch such verification.

Test-check of records of 10 units¹ revealed that neither records of cases that required cross verification by the assessing authority were maintained in any unit by the assessing authority nor was any list of declaration forms/certificates sent by them to the concerned circle offices. It was noticed that in nine offices, 146 cases valued at Rs.491.83 crore involving tax effect of Rs.19.08 crore were finalised between April 2001 and March 2003 without getting the declarations verified from the concerned circles though the declarations exceeded the prescribed limit of Rs.20,000/-.

After this was pointed out in audit, the Assessing Authorities stated that list for cross verification could not be sent due to rush of work and shortage of staff. This is a clear indication of violation of the instructions. Besides, there was no monitoring at the apex level to watch the verification of the declaration forms.

- The CCT of the State of Bihar intimated in February 1996 to the CCT of M.P. that forged declarations in Form C/F were being used by the dealers of Bihar in

¹ AC Bhopal, Dewas, Indore (3), Ratlam, Ujjain, CTO-2 and 3 Bhopal and CTO-I Ratlam

respect of purchase/transfer of goods against C/F forms. The CCT, Bihar had also requested CCT, M.P. not to accept the C/F Forms issued by the dealers of Bihar till verification by the issuing CTOs. The CCT, M.P. also issued instructions in July 1996 to all the Assessing Authorities of the State for cross verification of those transactions supported by such declarations before finalisation of the assessments.

Test-check of the records of five units² revealed that concessional rate of tax/exemption from payment of tax was allowed in nine cases of sales/transfers of goods valued at Rs.17.93 crore against declarations in Form C/F issued by the dealers of Bihar assessed between April 2001 and November 2002. No cross verification was done by the assessing authority inspite of the instructions though tax effect of Rs.1.68 crore was involved.

After this was pointed out in audit, the Department stated that cross verification of these transactions would be conducted in future. Further report on action taken in the matter had not been received (May 2005).

- In accordance with the instructions dated 29 June 1984 issued by CCT, internal audit wing was required to scrutinise the working of assessing officers to ensure the correctness of declarations/certificates on the basis of which exemptions were allowed. A report of the verification was required to be sent to CCT by internal audit wing.

During the course of audit, it was noticed that no internal audit was conducted in the units test-checked. Consequently, the correctness of the declarations made/certificates produced could not be verified or checked/brought to the notice of the CCT.

After this was pointed out, the Department confirmed the non-verification of the declaration forms/certificates and stated that internal audit wing was not at all functioning in four out of six units formed for internal audit due to non-posting of staff.

2.2.6 Incorrect allowance of exemption/concession on incomplete declaration forms

Tax was exempted on sales made in the course of export out of the territory of India provided that such sales were supported by valid certificates in Form- H along with proof of export and export agreement. Similarly in case of branch transfer out of the state, in interstate trade or commerce and supplies to the Government were required to be supported by valid F, C, D Forms.

During the course of audit it was noticed that 68 dealers furnished incomplete declaration forms in support of sales made by them. However, the Assessing Authorities incorrectly allowed the exemption/concession resulting in short-levy of tax of Rs.22.56 crore as detailed under:-

² AC Dewas and Indore (4)

Cases relating to Export*(Rupees in crore)*

Sl. No.	Assessment Year/ No. of Units	No. of dealers/ cases	Nature of observations	Amount
1.	April 2001 to <u>March 2003</u> 09 Units	23	The declaration forms produced in support of export sales Rs.199.31 crore did not contain full particulars such as date of issue of purchase order, agreement between foreign buyers and the exporters. Besides, none of the assessments were based on export agreements between exporter and foreign purchaser. The declaration forms were liable to be rejected and the goods were liable to be taxed by the Assessing Authority.	8.43
Remarks- After this was pointed out, the Department stated that there was sufficient evidences in the case file to prove the export goods outside India. Reply is not tenable as exemption was allowed on the basis of incomplete declaration forms, which should have been rejected. Besides, there was no agreement between foreign purchaser and exporter.				

Cases relating to Branch transfer*(Rupees in crore)*

Sl. No.	Assessment Year/ No. of Units	No. of dealers/ cases	Nature of observations	Amount
2.	April 2001 to <u>March 2003</u> 08 Units	15	Declarations produced in Form 'F' in support of transfer of goods to branches valued at Rs.112.86 crore did not contain full particulars such as date of delivery of goods, number and date of railway receipt/lorry, annexures were not signed by authorised persons. The Assessing Authority instead of rejecting the declaration forms exempted the sales from levy of tax.	11.71
Remarks - After this was pointed out, the Department stated that there were sufficient evidences in the case file to prove to the transfer of goods to other States. Reply was not tenable as exemption was allowed on the basis of incomplete declaration forms, which should have been rejected. No other evidence except Form F, which is incomplete was in the case file.				

Cases relating to interstate sale/sale to Government department*(Rupees in crore)*

Sl. No.	Assessment Year/ No. of Units	No. of dealers/ cases	Nature of observations	Tax leviable
3.	May 2001 to <u>March 2003</u> 11 Units	20	The declarations in form "C" and "D" produced in support of interstate sale valued at Rs.26.05 crore did not contain full particulars such as registration numbers, effective date, invoice number, date and amount and purchase order number and date/challan number and date. The declarations were liable to be rejected and tax was liable to be levied at 10 per cent or at the rate applicable to the sale inside the State, which ever is higher, instead of 4 per cent levied by the department.	1.49
Remarks- After this was pointed out, the Department stated that action would be taken after verification. Further reply had not been received.				

- Under the CST Act and Rules made thereunder, any subsequent sale during the movement of goods from one State to another, is exempt from payment of tax, provided certificates in Form E-1 and declaration in Form C, containing the prescribed particulars duly signed by the concerned registered dealer, are furnished at the time of assessment.

(Rupees in crore)

Sl. No.	Assessment Year/ No. of Units	No. of dealers/ cases	Nature of observations	Tax leviable
4.	April 2001 March <u>2003</u> 05 Units	10	The certificates in form E-1 produced in support of subsequent inter-State sales valued at Rs.17.29 crore did not contain number and date of railway receipt, description of quantity of goods, registration certificate numbers of the dealers who issued the certificates, name of the place and State from which the movement of goods commenced and that to which consigned and number and date of declaration in form-C received.	0.93
Remarks: After this was pointed out, the Department stated that action in two cases would be taken after verification and exemption in remaining cases was allowed correctly. Reply in remaining cases was not acceptable as the exemption was allowed on the basis of incomplete certificate, which should have been rejected.				

It was further seen that there was no monitoring at the apex level to verify the genuineness of the declarations, once these were accepted by the assessing authority.

2.2.7 Incorrect acceptance of transfer of goods

Under the CST Act, and Rules made thereunder, places of business in or outside the State(s) along with the address and other necessary particulars are required to be mentioned in the registration certificate of the dealer.

Test-check of records of three units³ revealed that in seven cases of six dealers, assessed between May 2001 and June 2002, exemption from payment of tax on branch transfer of goods valued at Rs.115.84 crore to the places which were not specified as their branches in their registration certificates, was allowed. This resulted in under-assessment of tax of Rs11.58 crore.

After this was pointed out in audit, the Department stated that action would be taken after verification. Further report on action taken in the matter had not been received (May 2005).

2.2.8 Incorrect grant of exemption/deferment of tax on eligibility certificates.

According to different exemption schemes introduced by the State Government from time to time, exemption from payment/deferment of tax was not available, to a dealer who did not possess a valid eligibility certificate or manufactured/sold those goods that are not mentioned/specified in his eligibility certificate or sold goods beyond the exemption limits as specified in the eligibility certificate.

³ AC Dewas, Gwalior and Indore

Test-check of records of eight units⁴ in 21 cases of nine industrial units assessed between January 2000 and December 2002, revealed that the units claimed and were allowed exemption either in respect of those goods which were not mentioned in their eligibility certificates or the exemption was allowed beyond the permissible limits/period. This resulted in incorrect deferment/exemption of Rs.5.25 crore. A few illustrative cases are as under:-

- At Regional Office, Gwalior in two cases assessed in December 2002, a dealer was allowed exemption from payment of tax of Rs.3.14 crore on sale of Fluorescent Tube Lamp Shell valued at Rs.32.28 crore though this product was not mentioned in the eligibility certificate issued to the dealer under the tax exemption scheme of 1994 for the period 22 August 1996 to 21 August 2005. After this was pointed out, the Department agreed to take action.
- At Regional Office, Dewas in 12 cases assessed between January 2000 and June 2002, two dealers were entitled to tax deferment of Rs.3.12 crore against which the dealer had availed the deferment of tax of Rs.4.95 crore. This resulted in excess availment of deferment of tax of Rs.1.83 crore. After this was pointed out, the Department agreed to take action.
- At Regional Office, Gwalior in two cases assessed in November 2002, the dealer was allowed deferment of tax on the strength of provisional eligibility certificate issued in March 1998 and valid upto September 1998. However, the Assessing Authority allowed deferment of tax on sales of Rs.3.41 crore made during the year 1999-2000 which was incorrect. This resulted in non-levy of tax of Rs.13 lakh. After this was pointed out, the Department agreed to take action.

2.2.9 Non-levy of purchase tax/penalty

Under the *Adhiniyam*, a dealer who purchases goods on declarations without payment of tax for use or consumption as raw material in the manufacture of other goods for sale, is liable to pay tax at concessional rates on the purchase price of such goods. Further, if the tax free raw material purchased, is not used or consumed in the manufacture of goods specified in the eligibility certificate or the finished goods manufactured out of such raw material, is not sold within the State or in interstate trade, the dealer is liable to pay tax at full rate/ differential rate of tax, as the case may be, on the purchase price of such goods. Penalty equal to 25 per cent of the amount of tax is also payable under the *Adhiniyam*.

Test-check of records of 10 units⁵ revealed that purchase tax and penalty amounting to Rs.4.07 crore was not levied by the assessing officers in 27 cases. A few illustrative cases are as under:

- At Regional Office, Gwalior in a case assessed in June 2002, raw material (Caprolactum) valued at Rs.68.01 crore was purchased on declarations without payment of tax. Purchase tax of Rs.78 lakh though leviable was not levied. After this was pointed out, the Department levied purchase tax of Rs.78 lakh.
- At Regional Office, Dewas in two cases assessed in March 2001 and May 2002, the Industrial Unit purchased Viscos Staple Fibre valued at

⁴ AC Dewas, Gwalior (3), Indore, CTO Dhar, Gwalior and CTO V Indore

⁵ AC Dewas, Gwalior, Indore (5), Ujjain, CTO Ratlam and CTO Vidisha

Rs.13.31 crore without payment of tax and consumed in the manufacture of Synthetic yarn. The purchase tax amounting to Rs.33.25 lakh though leviable was not levied. This resulted in non-levy of purchase tax of Rs.33.25 lakh. After this was pointed out, the Department agreed to take action.

- At Regional Office, Ujjain in one case assessed in December 2002, the industrial unit purchased raw material (Paper, Plastic, Gum etc.) amounting to Rs.3.50 crore without payment of tax and consumed in the manufacture of corrugated boxes. The purchase tax though leviable was not levied. This resulted in non-levy of the purchase tax of Rs.16.12 lakh. After this was pointed out, the Department agreed to take action.
- At Regional Office, Indore in one case assessed in June 2002, the industrial unit purchased raw material (Wheat) of Rs.10.87 crore without payment of tax and consumed in the manufacture of atta. But the atta was transferred to headquarters/branches situated outside the State on consignment basis. The purchase tax though leviable on purchase price of raw material was not levied. This resulted in non-levy of purchase tax of Rs.54.00 lakh.

This was pointed out to the Department in June 2004. Final reply was awaited.

2.2.10 Unauthorised exemption from production of declarations

Under the *Adhiniyam* and Rules made thereunder, the goods used inside the State for generation or distribution of electric energy, shall be levied at the concessional rate of four per cent on production of a declaration in Form 32, otherwise, tax at full rate is leviable. Further, the State Government may by notification exempt any dealer from any provision of the *Adhiniyam* or any provision of a rule made thereunder.

Test-check of the records of four units⁶ revealed that in 11 cases of eight dealers, the sales were not supported by declaration in Form 32 and the assessments for sale of transformers valued at Rs.14.03 crore were made between April 2001 and March 2003 at concessional rate. This resulted in under-assessment of tax of Rs.68 lakh.

After this was pointed out (between September 2003 and March 2004), the Department stated that the Commissioner, Commercial Tax in his instruction (December 1991) had exempted the dealer from production of declaration. The reply is not tenable as the concessional rate is allowable only on the basis of a notification by the State Government.

2.2.11 Recommendations

The Government may consider to:

- evolve a system to ensure cross verification of declaration forms with other states/circles before allowing exemption.
- ensure that exemptions/deferments are supported by declaration forms properly filled in and with evidences.

⁶ AC Indore, Mandsaur, Ratlam and CTO-1 Ratlam

- strengthen internal control mechanism with a view to monitor that exemptions/deferments are within prescribed limits and as per eligibility certificates.

The matter was reported to the Commissioner, Commercial Tax and the Government in June 2004; their reply had not been received (May 2005).

2.3 Incorrect exemptions/determination of taxable turnover

Under *Adhiniyam*, and rules made thereunder, transfer of goods in kind, in job work, is sale and is taxable. Dyes and chemicals are taxable at the rate of 13.8 and 4.6 per cent respectively.

2.3.1 Test-check of records at Regional Office, Dewas revealed that a dealer used dyes and chemicals valued at Rs.3.43 crore in job work during 1998-99. However, while finalising the case in June 2002, the Assessing Authority exempted the turnover from payment of tax. This resulted in non-levy of tax of Rs.36.37 lakh.

After this was pointed out in audit, the Department raised the demand of Rs.36.37 lakh in August 2003. Details of recovery are awaited (May 2005).

2.3.2 Under *Adhiniyam*, and rules made thereunder, taxable turnover is determined after allowing admissible deductions. Every dealer is required to maintain a correct account of his transactions and pay tax accordingly. Further, packing material sold alongwith taxable goods is taxable under the provisions of Act.

In three regional offices⁷ and five circle offices⁸ in 10 cases assessed between March 1999 and January 2003, taxable turnover was determined less by Rs.1.58 crore due to non-inclusion of hire charges, packing material and non-reconciliation of figures between the returns furnished and trading account/balance sheet etc. This resulted in short-levy of tax of Rs.8.12 lakh.

After this was pointed out in audit between July 2000 and October 2003, the Assessing Authorities agreed to take action in three cases and final reply in other cases is awaited.

The matter was reported to the Government between January 2003 and February 2004; their final reply had not been received (May 2005).

2.4 Non-levy of tax on sales incorrectly treated tax-free

Under *Adhiniyam*, read with CST Act, commercial tax is leviable on the sale of PVC pipes, paddy and cotton bandage at the rates specified in the schedule/notifications issued time to time.

2.4.1 Test-check of records of Regional Office, Dewas revealed that a dealer assessed in May 2002 had purchased whole pulses (*gram*) in 1998-99 without payment of tax and sold it outside the state, without undergoing any manufacturing

⁷ Regional office- Gwalior and Indore (2)

⁸ Circle office- Gwalior and Indore (4)

process. But the Assessing Officer treated it as sale of separated pulses and did not levy tax on these whole pulses valued at Rs.2.66 crore. This resulted in non-levy of tax of Rs.5.33 lakh.

After this was pointed out in audit, the Assessing Authority stated that action would be taken after verification.

2.4.2 In three cases of Regional Offices, Indore and Gwalior and Circle Office, Rewa assessed between December 1999 and January 2003 for the period April 1996 to March 2000, incorrect deduction of tax free sale of PVC pipes, paddy and cotton bandage valued at Rs.2.47 crore involving tax effect of Rs.9.46 lakh was allowed. This resulted in non-levy of tax of Rs.9.46 lakh.

After this was pointed out in audit between March 2001 and August 2003, the demand of Rs.6.03 lakh was raised in May 2004 by the Regional office, Indore. Final reply had not been received in other cases.

The matter was reported to the Government between December 2003 and February 2004; their final reply had not been received (May 2005).

2.5 Non-levy of value added tax

Under section 9-B of Madhya Pradesh *Vanijyik Kar (Sanshodhan) Adhiniyam*, 1997 value added tax (VAT) is leviable on added value of resale of any goods specified in Schedule-II, Part-II to VII of the Act, arrived at after prescribed deductions, in the case of turnover exceeding Rs.1 crore during the period 1997-99 and Rs.50 lakh thereafter. VAT is also leviable on added value of goods purchased from exempted unit and cash discount received but not deducted from purchase price of the goods.

Test-check of records of five Regional Offices⁹ and Circle Office, Indore, revealed that in 12 cases assessed, for the period April 1997 to March 2000 between August 2000 and March 2003, VAT amounting to Rs.20.23 lakh was not levied on the added value of Rs.2.47 crore on resale of goods.

After this was pointed out in audit between January and September 2003, the Assessing Authority at Dewas, Guna, Gwalior and Indore raised additional demand of Rs.11.11 lakh including penalty. Further report on recovery is awaited. Final reply in other cases had not been received.

The matter was reported to the Government between December 2003 and February 2004; their final reply had not been received (May 2005).

2.6 Application of incorrect rate of tax

Schedule-II to Madhya Pradesh General Sales Tax Act, (MPGST Act) 1958 and *Adhiniyam* 1994, specify the rates at which Sales Tax/Commercial Tax is leviable on different commodities.

⁹ *Regional office-Dewas, Guna, Gwalior and Indore (2)*

Test-check of records between September 1998 and October 2003 in six regional offices¹⁰ and 5 circle offices¹¹ revealed that in 13 cases assessed between April 2001 and January 2003 for the period from April 1998 to March 2000, tax on sales aggregating Rs.16.51 crore was levied at lower rates. This resulted in short-levy of tax amounting to Rs.45.66 lakh.

After this was pointed out in audit, the Assessing Authorities raised demand of Rs.12.34 lakh in five cases. In other cases final reply was awaited.

The matter was reported to the Government between April 2003 and January 2004; their final reply was awaited (May 2005).

2.7 Non-recovery of tax from closed Industrial units.

Under MPGST Act and *Adhiniyam* 1994, and notifications issued thereunder, industrial units availing exemption from payment of tax under tax exemption schemes, 1986 and 1994, shall keep the unit running during the period of eligibility and continue to do so for a further period of five years from the date of expiry of eligibility certificate, failing which, shall render the eligibility certificate liable for cancellation with consequent recovery of the amount of exemption availed by the Unit.

2.7.1 Test-check (between September 2002 and July 2003) of records at Regional Office, Gwalior revealed that an industrial unit exempted from payment of tax under tax exemption scheme, 1986 for the period from 23 September 1991 to 22 September 2000, was required to run up to 22 September 2005. The unit was, however, closed on 3 January 2001 i.e. within the stipulated period and the registration certificate was also cancelled with effect from 3 January 2001. The exemption of tax of Rs.11.28 crore so allowed during the aforesaid period though recoverable was not recovered.

After this was pointed out in audit, the Assessing Authority stated in July 2003 that eligibility certificate was not cancelled by Director of Industries. However, a reference for cancellation of eligibility certificate had been made to DIC Gwalior. Further action is awaited (May 2005).

2.7.2 Similarly in four Regional Offices¹², four industrial units were granted eligibility certificates under 1986 and 1994 schemes, for the period from 2 January 1992 to 17 July 2003. All the units were closed during the exemption period, therefore, the amount of tax exemption availed was recoverable. No action was, however, taken by the Department for recovery. This deprived the Government of revenue of Rs.14.23 crore as detailed below:-

¹⁰ Regional office- Bhopal, Dewas, Gwalior (2), Jabalpur and Ujjain

¹¹ Circle Office- Bhopal, Dewas, Indore (2) and Jabalpur

¹² Regional offices - Gwalior, Indore (2), Ratlam

Sl. No.	Name of Unit	Period of assessment/ Date. of order	Commodity	Tax effect (in crore)
1.	2.	3.	4.	5.
1.	A.C. Gwalior	<u>1995-96 to</u> 1998-99	C.R. Steel strips	3.77
Remarks :- The unit was allowed exemption w.e.f. 21.11.1992 to 20.11.2001 but was closed in June 1999 hence the amount of exemption of tax availed during the period from April 1995 to March 1999 was recoverable. The Assessing Authority accepted the audit observation.				
2.	RAC Indore	<u>1998-1999</u> 26.6.2002	PVC Pipes & PVC Compound	1.26
Remarks :- The dealer was allowed exemption w.e.f. 29.8.1995 to 28.8.2004, but the unit was closed during the exemption period, hence the amount of tax exemption availed during the year 1995-96 and 1996-97 was recoverable. The Assessing Officer stated that the unit had been closed, however, the eligibility certificate once issued can not be cancelled retrospectively. Reply was not tenable since on breach of condition of notification, the amount of tax availed was recoverable.				
3.	RAC Indore	<u>1997-1998</u> 30.3.2001	Medicines	0.66
Remarks :- The industrial unit was exempted from payment of tax under 1986 exemption scheme for the period w.e.f. 1.2.1992 to 31.1.2001. The unit was required to run upto 31.2.2006 but was closed in February 1998. The eligibility certificate was required to be cancelled with consequent recovery of amount of tax exemption availed. After this was pointed out the Department stated that exemption was allowed on the basis of eligibility certificate. Reply is not tenable as because of violation of conditions, the tax exemption availed was required to be recovered.				
4.	A.C. Ratlam	<u>April 1997</u> March 1999	Edible oil & Ghee	8.54
Remarks :- The unit was granted exemption under 1994 scheme for the period w.e.f. 18.7.1997 to 17.7.2003. The unit was required to run upto 17.7.2009 but was closed in July 2001. The amount of tax exemption availed was recoverable. After this was pointed out the Department stated that the factory was given on lease and was operating. Reply was not tenable as the factory was leased on 25 August 2003 i.e. after the expiry of the exemption period.				

The matter was reported to the Government between February 2002 and September 2003; their final reply had not been received (May 2005).

2.8 Incorrect deduction of tax paid sales

Under *Adhiniyam*, 1994 and rules made thereunder, goods other than iron and steel manufactured out of tax paid iron and steel is taxable. In view of decision of Hon'ble Supreme Court of India¹³, manufacture of fabricated steel structures iron and steel is a manufacturing process.

Test-check of records at Circle Office, Jabalpur revealed that in a case, deduction of tax paid sale of fabricated steel structure manufactured out of tax paid iron & steel

¹³ M/s Ashirwad Ispat Udhog and others V/s S.L.C. and other (1999) 32 VKN 65

was allowed in April 2001, though it was taxable. This resulted in non-levy of tax of Rs.7.82 lakh on aggregated sale of Rs.84.97 lakh.

After this was pointed out in audit, the Department stated that conversion of Iron & Steel into structure is not a manufacturing process. Reply is not tenable in view of decision of Hon'ble Supreme Court of India.

The matter was reported to the Government; their final reply had not been received (May 2005).

2.9 Non-levy of entry tax

Under the Madhya Pradesh *Sthaniya Kshetra Me Mal Ke Pravesh Par Kar Adhiniyam*, 1976 and notifications issued thereunder, entry tax is leviable on goods entering in local area for sale, use or consumption as raw material or as incidental goods or as packing material at specified rates.

Test-check between December 2002 to August 2003 of records of four Regional Offices¹⁴ revealed that in eight cases assessed between April 2001 to December 2002, entry tax was not levied on entry of poultry feed, paper, carbofarum tech, iron and steel, and machinery and parts valued at Rs.20.55 crore. This resulted in non-levy of entry tax of Rs.20.76 lakh.

After this was pointed out in audit between December 2002 and August 2003, in three cases the assessing officers raised the demand for Rs.5.76 lakh, while in the remaining five cases, final reply is awaited.

The matter was reported to the Government between December 2002 and December 2003; their final reply had not been received (May 2005).

¹⁴ Regional Offices- Bhopal, Gwalior, Indore and Jabalpur

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