

CHAPTER-II: Sales Tax

2.1 Results of audit

Test check of records of the offices of the Commercial Taxes department conducted in audit during the year 2002-03, revealed under-assessment etc. of tax amounting to Rs.74.01 crore in 1597 cases, which broadly fall under the following categories:

(Rupees in crore)

S. No.	Category	Number of cases	Amount
1.	Non- assessment of taxable turnover	188	9.86
2.	Under assessment due to irregular or incorrect allowances of deductions	71	0.93
3.	Short levy of tax due to application of incorrect rate of tax	385	6.32
4.	Irregular grant of exemption	186	20.71
5.	Non-levy of purchase tax	64	1.56
6.	Non-levy of penalty/interest	131	1.68
7.	Loss of Sales Tax Revenue	154	16.16
8.	Other irregularities	418	16.79
Total		1597	74.01

During the year 2002-03, the department accepted under assessment etc. of Rs.5.78 crore involved in 405 cases, of which 167 cases involving Rs.1.63 crore had been pointed out in audit during 2002-03 and the rest in the earlier years. Further, the department recovered Rs.63.13 lakh in 68 cases during the year 2002-03, of which 22 cases involving Rs.13.97 lakh related to the year 2002-03 and the rest to the earlier years.

A few illustrative cases involving Rs.38.64 crore highlighting important audit observation are given in the following paragraphs:

2.2 Loss of Sales Tax Revenue

Under the Rajasthan Sales Tax Act, 1994, (RST Act) every dealer is required to keep and maintain a true and correct account showing the value and quantity of goods received, manufactured, sold or otherwise disposed of or held in stock by him. It has been judicially held¹ that the amount of excise duty whether included in the price charged by the dealer or shown as a separate item in the bill is part of the sale price. Further, if the dealer conceals any particulars in the returns furnished by him or has deliberately furnished inaccurate particulars therein or has not accounted for any transaction of sales or purchases in his books of accounts, he shall pay by way of penalty, in addition to the tax payable by him, a sum equal to double the amount of such tax. The dealer is also liable to pay interest on the amount of tax at the rate of 2 per cent per month.

A test check of records of Central Excise Department revealed that in 154 cases, manufacturing dealers had evaded payment of central excise duty during the period January 2001 and March 2003 either by way of clandestine removals or undervaluation or otherwise. Consequently demands aggregating Rs.10.27 crore of central excise duty on sale of goods valued Rs.84.34 crore were confirmed against them by adjudicating authorities of the Central Excise Department.

In the absence of a suitable system of exchange of information and coordination between Central Excise and Sales Tax Departments, the facts of evasion of Central Excise duty were not known to the Sales Tax Department. Since sales tax is chargeable on the value of goods including excise duty due thereon, the omission resulted in loss of sales tax of Rs.16.16 crore including interest and penalty.

The matter was reported to the Department and the Government in May 2003; their replies have not been received (August 2003).

2.3 Non-withdrawal of benefits on breach of condition

Under 'Sales Tax Incentive Scheme, 1987' industrial units were entitled to exemption of 100 per cent of their tax liability subject to the maximum quantum and period of benefit prescribed in the scheme. Further, the scheme provides that the eligible unit after having availed benefit of the scheme shall continue its production atleast for the next five years at a level not below the average production generated during the preceding 5 years. In case of breach of any condition, the dealer shall be liable to tax on the finished goods as if there was no exemption. Moreover, he is also liable to pay interest on the amount of tax so evaded at the prescribed rates.

¹ (1979) 43 STC 13 (page 28) M/s Hindustan Sugar Ltd., V/s State of Rajasthan (SC).

In 8 Commercial Taxes offices¹, it was noticed that 40 industrial units were granted eligibility certificates (EC) between July 1988 and October 1996. These units after availing the benefit of tax exemption of Rs.6.24 crore during the years 1988-89 to 2000-01 under the Scheme, stopped their production between 1992-93 and 2000-01. Although these units were required to continue their production even after availment of benefit for the next five years, no action was taken to withdraw the exemption availed by them. This resulted in non-recovery of tax of Rs.11.87 crore including interest.

On this being pointed out, the Department intimated in August 2003 that the matter has been referred to Finance Department for taking action in these cases.

The matter was reported to Government between February 2003 and April 2003; their reply has not been received (August 2003).

2.4 Short levy of tax due to application of incorrect rate of tax

2.4.1 Under the Central Sales Tax Act (CST), 1956 on inter-State sale of goods other than declared goods, tax is leviable at a concessional rate of 4 per cent if such sales are supported by prescribed declarations otherwise, tax is leviable at the rate of 10 per cent or at the rate of tax applicable to sale or purchase of such goods in the appropriate state under state sales tax law, whichever is higher. Further under the RST Act, by issue of notifications the State Government prescribed different rates of tax for different commodities. The commodities for which no specific tax rate had been prescribed, were to be taxed at the general residuary rate of tax as prescribed in these notifications. A surcharge at the rate prescribed from time to time was also leviable.

Scrutiny of the assessment records in 4 circles revealed that in 9 cases due to application of incorrect rate of tax, there was a short levy of tax, surcharge and

¹ Bhiwadi (4), Churu (8), 'A' Jaipur (1), Special Kota (1), Nagaur (1), Sikar (2), Sirohi (20) and 'A' Udaipur (3).

interest aggregating Rs.1.71 crore as detailed below:

(Rupees in lakh)

S. No.	Name of the Circle/ No. of units	Assessment year/ Month of assessment	Commodity	Turn-over	Short levy of tax, surcharge and interest	Remarks
1.	2.	3.	4.	5.	6.	7.
1.	Special Alwar (1)	2000-01/ March 2002	Auto-mobile bushes	161.40	9.68	The inter-state sale of goods not supported by requisite declaration was liable to be taxed at 10 per cent, but was incorrectly taxed at the rate of 4 per cent.
<p>On this being pointed out in audit, the Department intimated in January/ August 2003 that a demand of Rs.9.68 lakh had been raised and recovered by way of adjustment against the exemption limit provided to the dealer.</p> <p>The matter was reported to Government in January 2003; their reply has not been received (August 2003).</p>						
2.	Jhunjhunu (3)	1998-99/ between August 2000 and February 2001	Non-ferrous metal	1110.55	63.30	The inter-state sale of the goods was liable to be taxed at the rate of 4 per cent on the strength of 'C' form, but incorrectly taxed at the rate of 1 per cent.
<p>The omission was pointed out to the Department in August 2002 and reported to Government in March 2003; their replies have not been received (August 2003).</p>						
3.	Jhunjhunu (1)	1999-2000 (With effect from 19 January 2000 to 31 March 2000)/ December 2001	Industrial gases	252.98	23.27	Industrial gases were liable to tax at the rate of 12 per cent with effect from 19 January 2000, but were incorrectly taxed at the rate of 4 per cent.
<p>On this being pointed out in audit, the Assessing Authority stated in July 2002 that the notification dated 19 January 2000 did not supersede the notification dated 26 March 1999 prescribing concessional rate of 4 per cent. The reply is not tenable as the notification dated 19 January 2000 was issued in supersession of all other exemption notification issued in respect of commodities mentioned in the notification dated 19 January 2000.</p> <p>The matter was reported to Government in March 2003; their reply has not been received (August 2003).</p>						
4.	Special-II Jodhpur (1)	1999-2000 (after 1 February 2000) and 2000-01/ December 2001 and February 2002	Natural gases	1452.14	53.48	The goods were liable to tax at the rate of 12 per cent, but were incorrectly taxed at the rate of 10 per cent.
<p>The omission was pointed out to the Department in December 2002 and to Government in February 2003; their replies have not been received (August 2003).</p>						
5.	Special Rajasthan, Jaipur (2)	1998-99/ September 2001 1999-2000/ May 2001	Coal-tar Spare parts of motor car	305.58	13.92	Coal-tar and spare parts of motor car were liable to be taxed at the rate of 12 per cent and 6 per cent, but incorrectly taxed at the rate of 10 per cent and 4 per cent respectively.
<p>The omission was pointed out to the Department in February 2003 and reported to Government in April 2003; their replies have not been received (August 2003).</p>						

1.	2.	3.	4.	5.	6.	7.	
6.	Special Rajasthan, Jaipur (1)	1998-99/ January 2001	Mobil oil	25.58	6.87	The goods were liable to be taxed at the rate of 12 per cent, but incorrectly taxed at the rate of 4 per cent.	
On this being pointed out in audit, the Department intimated in April 2003 that a demand for Rs.8.90 lakh including interest of Rs.2.03 lakh had been raised in December 2002. Report on recovery has not been received (August 2003).							
The matter was reported to Government in April 2003; their reply has not been received (August 2003).							
Total					9	170.52	

2.4.2 Under the RST Act, sale or purchase of articles (other than raw material) are liable to tax at the concessional rate of 4 per cent if such goods are required by the dealer for use in manufacture/processing of goods for sale or in mining or in generation and distribution of electricity. To claim such concession the selling dealer shall furnish to the Assessing Authority a declaration in form ST 17C duly filled and signed by the purchasing dealer.

In Jaipur, it was noticed that a dealer sold diesel valued at Rs.6.02 crore during 1995-96 and 1996-97 against declaration forms in ST-17C. However, the Assessing Authority while finalising the assessments in September 1998 and September 1999 incorrectly levied tax at the rate of 3 per cent instead of at the correct rate of 4 per cent. This resulted in short-levy of tax of Rs.11.47 lakh including interest.

On this being pointed out in audit, the Department intimated in April 2003 that an additional demand of Rs.14.36 lakh had been raised in March 2002. Report on recovery had not been received (August 2003).

The matter was reported to the Government in April 2003; their reply has not been received (August 2003).

2.5 Excess grant of exemption to small/medium scale units

Under two sales tax incentive schemes for industries notified in 1987 and 1989 certain specified industrial units were exempted from payment of tax on the sale of goods manufactured by them subject to certain condition specified therein. The exemption under these schemes was linked with fixed capital investment (FCI). Under the 1987 scheme, new medium scale units were eligible for maximum sales tax exemption to the extent of 90 per cent of their FCI and for expansion/diversification the limit was 75 per cent of their FCI. However, under 1989 scheme, new small scale units (SSI) were eligible for maximum quantum of sales tax exemption to the extent of 125 per cent of FCI, the limit for expansion/diversification and for new medium scale units being 100 per cent of FCI.

2.5.1 In Bhiwadi it was noticed that 3 medium scale industrial units (2 new and 1 expansion/diversification unit) having FCI of Rs.1.28 crore, Rs.1.36

crore and Rs.1.34 crore respectively were found eligible by the District Level Screening Committee (DLSC) for exemption under 1987 scheme. However, test check of the assessments records of the above units for the years 1997-98 to 1998-99, finalised between May 2000 and March 2001, revealed that the Assessing Authority incorrectly issued eligibility certificates (EC) for 100 per cent of FCI instead of the admissible exemption of 90 per cent of FCI for new and 75 per cent of FCI for expansion/diversification. This resulted in excess grant of exemption of Rs.59.83 lakh.

On this being pointed out in audit, the Department intimated in March/August 2003 that EC had been revised in all cases and the amount of exemption had been restricted to the prescribed limit. In one case, for recovery of excess exemption allowed, notice had been issued. Further progress in the case had not been received (August 2003).

The matter was reported to Government in July 2002; their reply has not been received (August 2003)

2.5.2 In three Commercial Taxes Offices¹, it was noticed that 2 new medium scale units and one SSI unit for its expansion having fixed capital investment of Rs.1.59 crore, Rs.1.35 crore and Rs.29.94 lakh respectively were found eligible for exemption under the 1989 incentive scheme. However, test check of the assessment records of the above units for the years 1998-99 to 2000-01, finalised between February 2000 and February 2002, revealed that the Assessing Authorities incorrectly issued EC for 125 per cent instead of the admissible exemption of 100 per cent of FCI, resulting in excess grant of exemption of Rs.80.84 lakh.

On this being pointed out, the Department intimated in June 2003 that EC had been revised in all cases and the amount restricted to the prescribed limit.

The matter was reported to Government in February 2003; their reply has not been received (August 2003).

2.6 Under assessment due to computation error

Under the RST Act, the leviable tax at the prescribed rate is determined by the Assessing Authority on the taxable turnover of different commodities. The net recoverable amount is worked out after deducting advance tax deposited by the dealer from total amount of tax so determined.

2.6.1 In Dholpur, it was noticed that the Assessing Authority while finalising the assessment of a dealer in September 2000 for the year 1997-98, levied tax difference of Rs.58.47 lakh and interest of Rs.42.09 lakh on the sale of explosives of Rs.4.87 crore not supported by requisite declarations in Form 'C'. While raising the demand, he took only an amount of Rs.0.15 lakh instead

¹ 'A' Bikaner, Jalore and Special-II, Jodhpur.

of Rs.1.01 crore. This resulted in short levy of tax and interest of Rs.1.00 crore.

On this being pointed out, the Department intimated in January/April 2003 that a demand of Rs.1.00 crore had been raised in October 2002. However, on furnishing of some 'C' forms subsequently, the demand had been reduced by Rs.48.97 lakh. Report on recovery of the balance amount had not been received (August 2003).

The matter was reported to Government in February 2003; their reply has not been received (August 2003).

2.6.2 In Bhiwadi, it was noticed that the Assessing Authority while finalising the assessment in July 2001 of a dealer (a beneficiary of Incentive Scheme 1989) for the year 1999-2000, incorrectly computed the amount of tax at the rate of 1.5 per cent on the sale of polyester yarn valued at Rs.21.09 crore as Rs.3.16 lakh instead of the correct amount of Rs.35.85 lakh (including surcharge thereon of Rs.4.22 lakh). This resulted in short levy of tax of Rs.32.69 lakh.

On this being pointed out, the Department/Government intimated in August 2003 that the mistake had been rectified and demand had been recovered by way of adjustment against the exemption limit provided to the dealer.

2.7 Excess grant of exemption from tax to cement plants

Under 'Sales Tax Incentive Scheme for Industries, 1987', new industrial units were entitled to exemption of 100 per cent of their tax liability subject to the maximum quantum and period of benefit prescribed in the scheme. Further, the state government amended on 10 December 1996 the extent of exemption from tax in respect of cement units to 75 per cent of their total tax liability in the case of small scale units.

In two Commercial Taxes Offices¹, it was noticed that 11 small scale industrial units sold cement valued at Rs.18.11 crore in the course of inter-state trade and commerce and within the state during 1997-98 to 1999-2000. The Assessing Authorities while finalising the assessments between February 2000 and January 2002 of the dealers incorrectly allowed exemption from tax of Rs.2.64 crore (to the extent of 100 per cent of their tax liability) against the admissible tax exemption of Rs.1.98 crore (being 75 per cent). This resulted in excess grant of tax exemption of Rs.65.93 lakh besides interest of Rs.61.43 lakh.

The omission was pointed out to the Department between May 2002 and March 2003 and reported to Government between July 2002 and April 2003; their replies have not been received (August 2003).

¹ Bhiwadi and Special Alwar.

2.8 Incorrect determination of taxable turnover

Under the RST Act, the term "turnover" means the aggregate amount received or receivable by a dealer for sales including the purchase price of goods, subject to purchase tax under the Act. Further, sales include supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply is for cash, deferred payment or valuable consideration and such supply shall be deemed to be sale and the word purchase or buy shall be construed, accordingly.

A Government Company in collaboration with the Indian Railways are plying a luxury train "The Palace on wheels" as a package tour on payment of fixed amount for each person. The amount of the package is apportioned between it and the Indian Railways in the ratio of 42:58. The amount received by the company aggregating Rs.8.41 crore during the year 1997-98 to 1999-2000 comprised charges for accommodation, supply of meals & housekeeping services etc. Since charges for accommodation and other services provided were not shown separately and thus considering the same as 50 per cent of charges for supply of foods & breakfast and other services provided to the customers, the same worked out to Rs.4.21 crore and was liable to tax at the rate of 6 per cent besides surcharge.

In Jaipur, it was noticed that the Company received Rs.4.21 crore during the year 1997-98 to 1999-2000 as charges for supply of food & breakfast and other services to the train from Railways. It did not include this amount in its return. The Assessing Authority also failed to detect the irregularity and to levy tax. This resulted in non-levy of tax of Rs.1.12 crore including surcharge, interest and penalty.

On this being pointed out the Department and Government intimated in August 2003 that a demand of Rs.1.62 crore had been raised in July 2003. Report on recovery has not been received (August 2003).

2.9 Incorrect levy of concessional rate of tax on taxable turnover relating to time barred ST-17 declaration forms

The RST Rules, provide that a dealer can claim payment of tax at concessional rates on the sales made to a registered dealer of goods for use as raw material or for processing articles. In support of his claim he shall submit declaration forms in form ST-17 obtained from the purchasing dealer to Assessing Authority. Further, the validity of ST-17 form is for two years upto 25 March 1999 and thereafter for 3 years from the date of their issue by the issuing Authority.

In Jaipur, it was noticed that during 1995-96 to 1997-98 two dealers sold petroleum products valued at Rs.1.24 crore and Rs.1.39 crore to other dealers as raw material and as processing material at concessional rate of tax of 3 per

cent and 4 per cent respectively on the strength of declarations which were time barred and invalid. The sales were, thus, liable to tax at the prescribed rate of 16 per cent, the Assessing Authority while finalising between July 1998 and September 2000 the assessments of the dealers failed to reject these invalid declaration forms and to levy differential tax. This resulted in non-levy of tax of Rs.66.55 lakh including interest.

On this being pointed out in audit, the Department intimated in January 2003 that the demand of Rs.77.09 lakh (including interest) had been raised between March 2002 and January 2003. Report on recovery had not been received (August 2003).

The matter was reported to the Government in January and April 2003, their reply has not been received (August 2003).

2.10 Irregular grant of exemption

Under 'Sales Tax Incentive Scheme 1987', industrial units were entitled to the exemption linked with fixed capital investment (FCI). The scheme further provided that the restriction in terms of FCI shall not apply to an electronic industrial unit.

In Jaipur, it was noticed that an industrial unit engaged in the manufacture of copper wire and electric motor winding wire, was issued eligibility certificate (EC) in March 1997 under the scheme for the period March 1997 to March 2002 by treating the unit as an electronic unit. As the unit was manufacturing electrical goods and not electronic goods the eligibility certificate was irregular. Thus EC issued was irregular. However, the Assessing Authority allowed exemption of Rs.34.19 lakh upto 1998-99. This resulted in irregular grant of exemption of Rs.34.19 lakh and interest of Rs.38.02 lakh.

On this being pointed out, the Department stated in January 2003 that decision to treat the unit as an electronic unit was taken by the District Level Screening Committee (DLSC) and not by the Assessing Authority. The reply is not tenable as a representative of the Sales Tax Department nominated by the Commissioner Commercial Taxes is also a member of DLSC, who can prefer appeal before DLSC for review or reconsideration of the order passed by DLSC. The Department had been apprised in February 2003 accordingly.

The matter was reported to Government in March 2002; their reply has not been received (August 2003).

2.11 Non-recovery of deferred tax on default

Under the RST Act and the CST Act the state government notified on 29 September 1987 the "Sales Tax Deferment Scheme for Industries 1987". The eligible industrial units were allowed to defer payment of tax on the sales of goods, manufactured by them, subject to the conditions specified in the scheme. Further, when the limit of quantum of tax to be deferred as prescribed is availed, the deferred tax becomes payable in ten half-yearly instalments. If such instalment is not paid in time the total outstanding deferred amount otherwise payable in instalments, it shall be recovered immediately as arrears of land revenue with interest from the first day of default of such instalment.

In Churu, it was noticed that an industrial unit after having availed benefit of Rs.17.55 lakh under tax deferment scheme upto 30 September 2000 was required to pay the tax in 10 half-yearly instalments of Rs.1.76 lakh each with effect from 30 October 2000. But the dealer failed to deposit any instalment upto September 2002. Thus, due to non-payment of instalments in time, the total outstanding deferred amount of Rs.17.55 lakh became recoverable immediately, which the Assessing Authority failed to demand alongwith interest chargeable thereon. This resulted in non-recovery of tax of Rs.38.26 lakh including interest.

The omission was pointed out to the department in October 2002 and reported to Government in February 2003; their replies have not been received (August 2003).

2.12 Short levy of interest

Under the RST Act, if any dealer has not paid the tax due as per returns within the prescribed period, he is liable to pay interest on such tax at the prescribed rate from the date he was required to pay the tax until the date of payment.

In Jaipur, it was noticed that while finalising between July 1999 and January 2000 the assessments of 2 dealers for the year 1996-97, the Assessing Authority assessed the tax correctly and levied the tax of Rs.2.02 crore in both the cases. However, it levied interest of Rs.67.86 lakh only against the correct leviable interest of Rs.1.13 crore. This resulted in short levy of interest of Rs.45.05 lakh.

The omission was pointed out in May 2002 to the Department and reported to Government in December 2002; their replies have not been received (August 2003).

2.13 Short levy of penalty

Under the RST Act, if any dealer has concealed any particulars from any return furnished by him, he shall pay by way of penalty, in addition to payment of tax, a sum equal to double the amount of tax so avoided or evaded.

In Kota, it was noticed that the Department, as a result of survey conducted on 26 September 2000 of the premises of a dealer (a beneficiary of Incentive Scheme 1989) found suppression of turnover of sale of oil cakes valued at Rs.6.20 crore. On this escaped amount, tax and surcharge for Rs.28.51 lakh and penalty of Rs.57.01 lakh was required to be levied. Audit scrutiny, however, revealed that though the Assessing Authority, while finalising the assessment of the dealer for the year 1999-2000 in February 2001 levied tax correctly, penalty of Rs.11.40 lakh only was levied instead of Rs.57.01 lakh. This resulted in short levy of penalty of Rs.45.61 lakh.

On this being pointed out in audit, the Department intimated in April 2003 that a demand for Rs.45.61 lakh had been raised in March 2003. Report on recovery has not been received (August 2003).

Government to whom the matter was reported in February 2003, confirmed the reply of the Department in August 2003.

2.14 Short/non-levy of surcharge

Under the CST Act 1956, on the inter-state sale of goods other than declared goods, tax is leviable at a concessional rate of 4 *per cent* if such sales are supported by prescribed declaration, otherwise tax is leviable at the rate of 10 *per cent* or at the rate of tax applicable to sales or purchases of such goods in the appropriate state under state sales tax law, which ever is higher. A surcharge at the rates prescribed from time to time is also leviable.

2.14.1 In Jaipur, it was noticed that a dealer sold railway wagons and machinery valued at Rs.35.42 crore in the course of inter-state trade or commerce during the year 1998-99 and paid tax at the rate of 4 *per cent*. These sales were not supported by the requisite declaration in form "C". The Assessing Authority, while finalising in September 2001 the assessment of a dealer levied differential tax at the rate of 8 *per cent* and surcharge thereon. However, on non-submission of the requisite declaration, surcharge was leviable. This resulted in short levy of surcharge of Rs.17 lakh and interest for Rs.17.34 lakh.

The omission was pointed out to the Department in February 2003 and reported to Government in April 2003; their replies have not been received (August 2003).

2.14.2 In Jhunjhunu, it was noticed that four dealers (beneficiaries of incentive scheme) sold cement valued Rs.4.42 crore during the year 1998-99

and 1999-2000 without the requisite declarations in form 'C'. However, the Assessing Authority while finalising the assessments of the dealers between March 2001 and March 2002 though levied the tax correctly but failed to levy surcharge on the amount of tax due as aforesaid. This resulted in non-levy of surcharge of Rs.8.71 lakh.

On this being pointed out in audit, the Department intimated in April 2003 that a demand of Rs.9.51 lakh had been raised in March 2003. A sum of Rs.5.88 lakh had been recovered by way of adjustment against the exemptions provided under the incentive schemes to the dealers. Report on recovery of the balance amount has not been received.

Government confirmed the reply of the Department in July 2003.

2.15 Irregular waiver of interest and penalty

Under the RST Act, 1994, the Commissioner may reduce or waive the amount of interest or penalty or both payable by any dealer under this Act. On an application made in this behalf by a dealer and after conducting such enquiry as he deems necessary and after recording his reasons for doing so, he may reduce or waive the amount of interest or penalty or both, if he is satisfied that, (a) the dealer is under financial hardship and is not in a position to make full payment of the demand; or (b) to do otherwise would cause genuine hardship to the dealer.

In Jaipur, it was noticed that in two cases, the Commissioner Commercial Taxes waived between 5 July 2000 and 19 March 2001 an amount of Rs.39.79 lakh on account of interest and penalty. However, there was nothing on record which could prove that the dealers were in financial hardship and were not in a position to make payment of the demand or to prove that it could otherwise cause genuine hardship to the dealers. Thus, due to non-fulfillment of the conditions envisaged in the Act, the amount waived was not justified.

The omission was pointed out to the department in February 2003 and reported to Government in March 2003; their replies have not been received (August 2003).

2.16 Irregular refund of interest under CST

The CST Act, inserted retrospectively by Central Finance Act, 2000 provides that if the tax payable under this Act is not paid in time, the defaulter shall be liable to pay interest thereon as per provisions applicable under the State sales tax law.

In Jaipur, it was noticed that in case of a dealer, demand for interest aggregating Rs.15.19 lakh was levied at the time of assessment for the year from 1990-91 to 1993-94 under the CST Act. The said demand was set aside by the Appellate Authority in the light of the decision of the Supreme Court for want of provisions to this effect in the CST Act. The Assessing Authority, in compliance of the above orders reduced in June/August 1999 the demand for interest so levied during the relevant years. However, with the insertion of above provision in CST Act with retrospective effect, the interest became leviable. But the Assessing Authority despite these provisions, refunded the amount on 26 June 2001. Thus, due to non-observance of the provisions of the Act, *ibid*, led to refund of interest levied and collected which was irregular and liable to be recovered.

On this being pointed out, the Department intimated in August 2003 that a demand for Rs.26.59 lakh had been raised. Report on recovery has not been received.

The matter was reported to Government in April 2003; their reply has not been received (August 2003).