

## CHAPTER II SALES TAX

### 2.1 Results of audit

Test check of records relating to sales tax, conducted in audit during the year 2004-05, revealed underassessment of tax and other irregularities involving Rs.41.91 crore in 497 cases, which broadly fall under the following categories:

<i>(Rupees in crore)</i>			
Sl. No.	Categories	No. of cases	Amount
1.	Non/short levy of interest/penalty	219	22.87
2.	Irregular exemption	99	6.60
3.	Application of incorrect rate of tax and mistake in computation	34	1.55
4.	Underassessment of tax due to incorrect deduction	49	3.49
5.	Incorrect determination of gross turnover/taxable turnover	29	3.46
6.	Other cases	67	3.94
<b>Total:</b>		<b>497</b>	<b>41.91</b>

During the course of the year 2004-05, the concerned Department accepted underassessment etc. of Rs.11.18 crore involved in 151 cases of which 123 cases involving Rs.10.58 crore had been pointed out in audit during the year 2004-05 and the rest in earlier years. An amount of Rs.12.22 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.24.50 crore highlighting important observations are given in the following paragraphs:

## **2.2 Incorrect determination of turnover of sales**

Under the West Bengal Sales Tax Act (WBST Act), 1994, turnover of sales in relation to any period, means the aggregate of the sale prices or parts of sale prices receivable by a dealer, or if a dealer so elects, actually received by the dealer during such period. A dealer is liable to pay tax at the prescribed rate on the amount of turnover after allowing the permissible deductions.

Scrutiny of records of 18<sup>1</sup> charge offices in eight<sup>2</sup> districts revealed that while assessing 36 cases of 34 dealers between June 1999 and September 2003, for the different assessment years ending between March 1997 and March 2001, the assessing authorities incorrectly determined turnover at Rs.573.69 crore instead of Rs.605.62 crore due to non-inclusion of sale value of irregularly exempted goods, transactions of pre/post assessment period etc. in the turnover. This resulted in short determination of turnover of sales of Rs.31.93 crore with consequent short levy of tax including surcharge and additional surcharge of Rs.2.95 crore.

A few instances are given as under:

*(Rupees in lakh)*

<b>Name of the Charge No. of dealers</b>	<b>Period of assessment/ month of assessment</b>	<b>Nature of irregularities</b>	<b>Turnover determinable</b>	<b>Turnover determined</b>	<b>Turnover short determined</b>	<b>Short levy of tax (including Sc &amp; Asc)</b>
Corporate Division- II 1	<u>March 2000</u> June 2002	Short determination of turnover of sales due to allowance of exemption for transactions pertaining to pre-assessment period	8,610.15	8,003.57	606.58	35.13
<u>Durgapur</u> 1	<u>March 2001</u> June 2003	Non-inclusion of sale value of tender form, scrap and stores	2,302.25	1,965.06	337.19	33.72
Naren Dutta Sarani 1	<u>March 2000</u> June 2002	Short determination of turnover of sales due to excess allowance of export sale	2,584.69	2,370.55	214.14	29.55
<u>Park Street</u> 1	<u>March 2000</u> June 2002	Short determination of turnover of sales due to non-inclusion of sale value of irregularly exempted transactions	609.35	343.41	265.94	36.70

<sup>1</sup> Asansol, Barrackpore, Berhampore, Behala, Burdwan, Budge Budge, Corporate Division- II & III, Darjeeling, Diamond Harbour, Durgapur, Naren Dutta Sarani, Park Street, Postabazar, Salt Lake, Salkia, Serampore and Siliguri

<sup>2</sup> Burdwan, Darjeeling, Howrah, Hooghly, Kolkata, Murshidabad, North 24 Parganas and South 24 Parganas

After this was pointed out between May 2002 and August 2004, the Department admitted audit observations in 17 cases involving Rs.1.54 crore. Of these, 10 cases had been/were being proposed to the higher/appellate authority for revision and in two cases notices for review had been sent to the dealer. In 19 cases involving Rs.1.41 crore the Department did not furnish reply/specific reply.

The cases were reported to Government between July 2002 and October 2004 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

### **2.3 Underassessment of tax due to incorrect deduction**

Under the WBST Act and the Rules made thereunder, in determining the taxable turnover of a dealer, a deduction on account of tax collected by him is allowable from the aggregate of sales turnover in accordance with the prescribed formula. The Commissioner, Commercial Taxes, West Bengal, reiterating the provisions in a circular of December 1998, instructed all the assessing officers to restrict the deduction to the amount of sales tax collected by the dealers and included in the turnover.

Scrutiny of records of 24<sup>3</sup> charge offices in nine<sup>4</sup> districts revealed that while assessing 48 cases of 46 dealers between June 2000 and March 2004 for the different assessment years ending between March 1992 and March 2002, the assessing officers allowed deduction of Rs.59.42 crore against their actual collection of tax of Rs.36.92 crore. The excess allowance of deduction of Rs.22.50 crore resulted in short levy of tax of Rs.2.80 crore including surcharge and additional surcharge.

After this was pointed out, the Department accepted between January 2003 and November 2004 audit observations in 29 cases involving Rs.42.72 lakh of which 14 cases had been/were being proposed to the higher/appellate authority

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<sup>3</sup> Amratala, Asansol, Ballygunge, Barrackpore, Beliaghata, Berhampore, Behala, Bhowanipore, Budge Budge, Chinabazar, Corporate Division- I, II & III, Darjeeling, Jorasanko, Manoharkatra, Naren Dutta Sarani, Park Street, Raiganj, Salt Lake, Serampore, Shibpur, Siliguri and Ultadanga.

<sup>4</sup> Burdwan, Darjeeling, Hooghly, Howrah, Kolkata, Murshidabad, North 24 Parganas, South 24 Parganas and Uttar Dinajpur.

for revision/re-opening and one case was referred to certificate officer for realisation. In 11 cases involving Rs.90.21 lakh, the Department did not furnish reply/specific reply. In the remaining eight cases involving Rs.1.47 crore, the Department stated that deduction allowed as gross turnover was inclusive of all taxes. The reply was not tenable as the assessing authority in those cases had allowed a deduction of Rs.20.78 crore against actual collection of Rs.8.12 crore resulting in excess allowance of deduction of Rs.12.66 crore involving a tax effect of Rs.1.47 crore.

All the cases were reported to Government between March 2003 and January 2005 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

#### **2.4 Incorrect exemption on account of stock transfer**

Under the Central Sales Tax Act, 1956 and the Rules made thereunder, a dealer claiming exemption from his turnover on account of transfer of goods outside the state otherwise than by way of sale, is liable to furnish declarations in Form 'F' duly filled in and signed by the Principal Officer or his agent of the other place of business as a proof of transfer along with evidence of despatch. A single such declaration is required to cover transfer of goods effected during the period of one calendar month. Otherwise, such transfer of goods is liable to be taxed at the normal rate.

Scrutiny of records of seven<sup>5</sup> charge offices in four<sup>6</sup> districts revealed between August 2003 and November 2004 that while assessing 12 cases of 12 dealers between May 2002 and April 2004, for the different assessment years ending between March 2000 and March 2002, the assessing authorities allowed dealers' claim of stock transfer of goods to their branches outside the State for Rs.44.93 crore on the basis of declarations in form 'F'. Scrutiny of statement of declarations disclosed that out of this claim, an amount of Rs.2.99 crore was not admissible as the transactions were either found to have been made to non-

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<sup>5</sup> Ballygunj, Burdwan, Corporate Division- II, Esplanade, Park Street, Salt Lake, Siliguri.

<sup>6</sup> Burdwan, Darjeeling, Kolkata and North 24 Parganas.

existent dealers or were not supported by 'F' forms or individual 'F' form covered transactions beyond one calendar month. Incorrect allowance of exemption of such stock transfer resulted in underassessment of tax of Rs.20.57 lakh including surcharge and additional surcharge.

After this was pointed out, the Department admitted between December 2003 and December 2004 audit observations in seven cases involving Rs 10.64 lakh of which in one case the amount has been recovered while four cases had been proposed for revision/suo-motu revision to the concerned authorities. The Department did not furnish specific reply in five cases involving Rs.9.93 lakh.

All the cases were reported to Government between February 2004 and January 2005 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

## **2.5 Incorrect allowance of concessional rate of tax**

Under the WBST Act and the Rules made thereunder, a dealer is eligible for concessional rate of tax for sales of goods to registered resellers and manufacturing dealers if such sales are supported by prescribed declaration forms furnished by purchasing dealers. Further, intra state as well as inter-state sales of goods to Government Departments are also exigible to tax at the concessional rate subject to production of prescribed certificate from the purchasing Government Departments.

Scrutiny of records of 12<sup>7</sup> charge offices in five<sup>8</sup> districts revealed between August 2002 and December 2004 that while assessing 18 cases of 15 dealers between June 2001 and June 2003, for the different assessment years ending between March 1996 and March 2001, the assessing authorities incorrectly levied tax on sale of Rs.8.57 crore at concessional rate instead of prescribed rate as the sales were either not supported by requisite declaration forms/statements/certificates or were made to unregistered dealers/non-Government organisations. Besides, statement of sales for concessional rate of tax included sales preceding the date of purchase order/the period of

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<sup>7</sup> Alipur, Asansol, Ballygunj, Barrackpore, Behala, Corporate Division- II and III, Durgapur, Lalbazar, Lyons Range, Shibpur and Ultadanga

<sup>8</sup> Burdwan, Howrah, Kolkata, North 24 Parganas and South 24 Parganas

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assessment. Allowance of such incorrect concession resulted in short levy of tax of Rs.37.37 lakh as tabled below:

Period/Date of assessment	No. of dealers/cases	Nature of observation	Excess allowance (Rupees in crore)	Tax effect (Rupees in lakh)
Between March 1996 and March 2001 Between June 2001 and June 2003	11/14	Sales valued at Rs.68.01 crore were allowed as sales to registered dealers out of which an amount of Rs.5.85 crore was not supported by declaration forms/statements/certificates	5.85	27.87
March 2001 January 2003	2/2	Sales valued at Rs.2.75 crore were allowed as sales to Government Department out of which Rs.2.34 crore were sales to non-Government organisations	2.34	7.14
March 2000 June 2002	2/2	Sales valued at Rs.32.65 crore out of which Rs.38.48 lakh relates to the period preceding the dates of purchase order/period of assessment	0.38	2.36
<b>Total:</b>	<b>15/18</b>		<b>8.57</b>	<b>37.37</b>

After this was pointed out, the Department accepted between August 2002 and December 2004 audit observations in six cases involving Rs.10.98 lakh of which three cases involving Rs.2.62 lakh had been/were being proposed to the higher/appellate authority for revision and in one case revised demand notice was issued. The Department did not furnish reply/specific reply in 12 cases involving Rs.26.39 lakh.

All the cases were reported to Government between December 2002 and January 2005 followed by reminders issued upto June 2005; their reply has not been received (October 2005 ).

**2.6 Non/short levy of penalty for concealment of sales/purchases**

Under the WBST Act, if a dealer has concealed any turnover or furnished incorrect particulars thereof with an intention to reduce the amount of tax payable by him, the Commissioner of Commercial Taxes (CCT) may impose by way of penalty a sum which shall not be less than one and a half times and not more than thrice the amount of tax that would have been avoided by him. According to the instructions (June 1991) of the CCT, West Bengal, where the

assessing officer did not initiate penal proceedings in a case, he should record the reasons for not doing so in the assessment order.

Scrutiny of records of 11<sup>9</sup> charge offices in five<sup>10</sup> districts revealed that while assessing 28 cases of 27 dealers between January 2000 and December 2003, for various assessment periods ending between June 1993 and March 2001, the assessing authorities observed that the dealers had either concealed sales/purchases or made claim for exemption on stock transfer to non-existent dealers aggregating Rs.17.23 crore. Though the assessing authorities levied tax on the concealed/fake transactions, they did not levy/short levied minimum penalty of Rs.1.77 crore.

After this was pointed out, the Department accepted between August 2003 and January 2005 audit observations in 10 cases involving Rs.24.79 lakh. Of these, penalty of Rs.5.15 lakh in two cases had been/was being proposed to the higher/appellate authority for revision and in another case fresh demand of Rs.6.64 lakh had been raised. The Department did not furnish reply/specific reply in three cases involving Rs.30.25 lakh. In 15 cases involving Rs.1.22 crore, the Department stated that imposition of penalty was discretionary, as such it was not levied. The reply was not tenable as the assessing authority stated explicitly in the assessment order that the dealer had suppressed sale. Though the assessing authority levied tax for such suppression; no penalty was levied. No reason for non-imposition of penalty was stated in the assessment order as required as per the CCT's instruction. As such penalty was leviable.

The cases were reported to Government between September 2003 and January 2005 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

## **2.7 Undue allowance of benefit to the dealer**

Under the provisions of the WBST Act, if a dealer, liable to pay tax for any sale of goods, collects any amount in excess of the amount of tax payable by him for such sale, he is required to deposit such excess collected

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<sup>9</sup> Ballygunj, Barrackpore, Behala, Bhowanipore, Budge Budge, Corporate Division- I and III, Salt Lake, Serampore, Sealdah and Shibpur

<sup>10</sup> Hooghly, Howrah, Kolkata, North 24 Parganas and South 24 Parganas.

tax into Government Account, within 30 days from the date of collection under intimation to the CCT for arranging refund to the purchaser on application and submission of relevant documents.

Scrutiny of records of four<sup>11</sup> charge offices in Kolkata revealed that eight dealers in eight cases for various periods ranging between March 1999 and March 2001 collected tax of Rs.5.97 crore against tax payable of Rs.5.40 crore resulting in excess collection of tax of Rs.57 lakh which was to be deposited into Government account. Instead, while assessing between May 2001 and June 2003, the assessing authorities allowed the dealers to adjust the excess collected tax against their assessed tax dues. This resulted in allowance of undue benefit of Rs.57 lakh to the dealers.

After this was pointed out between February 2003 and July 2004, the Department accepted audit observations between May 2003 and August 2004 in three cases involving Rs.3.21 lakh of which two cases were proposed to the higher/appellate authorities for revision. In three cases involving Rs.5.71 lakh the Department stated that the dealer had deposited the excess collected tax and in remaining two cases involving Rs.48.08 lakh, the Department stated that late sanction of eligibility certificate had caused excess collection of tax. The reply was not tenable as the concerned dealers did not deposit excess collected tax into the Government account. Instead, the same was adjusted against assessed tax dues of the dealers.

All the cases were reported to Government between October 2003 and January 2005 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

## **2.8 Application of incorrect rate of tax**

Under the WBST Act, rate of tax depends on nature of sales and also on the nature of goods/commodities sold.

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<sup>11</sup> Beliaghata and Corporate Division- I, II and III



Scrutiny of records of 18<sup>12</sup> charge offices in eight<sup>13</sup> districts revealed that while assessing 31 cases of 30 dealers between December 1999 and September 2003, for the different assessment years ending between March 1998 and March 2002, there was short levy of tax of Rs.1.08 crore inclusive of surcharge and additional surcharge due to application of incorrect rate of tax.

After this was pointed out, the Department accepted between February 2003 and November 2004 audit observations in 13 cases involving Rs.10.71 lakh of which six cases had been/were being proposed to the higher/appellate authority for revision, in one case fresh demand notice was issued and in three cases notice had been/was being sent to the dealers for *suo motu* review. In one case involving Rs.0.94 lakh, the Department stated that sale of 'adhesive' was written in the assessment order in place of 'chemical' by mistake. The reply is not tenable as the supportive documents justify the commodities to be 'adhesive'. In the remaining 17 cases (Rs.96.09 lakh) the Department did not furnish reply/specific reply.

The cases were reported to Government between March 2003 and November 2004 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

## **2.9 Short realisation of tax due to incorrect credit**

Under the WBST Act, a dealer is liable to pay tax on the basis of self-assessment at the time of furnishing returns of his sales. The amount of tax so paid is adjusted against the tax assessed at the time of final assessment.

Scrutiny of records of Asansol charge office in the district of Burdwan revealed that in assessing two cases of two dealers between March and May 2003, for the assessment years ending between March 2001 and March 2002,

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<sup>12</sup> Alipur, Asansol, Ballygunj, Barrackpore, Behala, Belgachia, Bhowanipore, Burdwan, Chandni Chawk, Corporate Division- III, Durgapur, Fairly Place, Postabazar, Princep Street, Purulia, Shibpur, Siliguri and Suri

<sup>13</sup> Birbhum, Burdwan, Darjeeling, Howrah, Kolkata, North 24 Parganas, Purulia and South 24 Parganas

the assessing officers allowed credit of Rs.2.89 crore instead of Rs.2.71 crore as per tax payment challans. This resulted in allowance of excess credit of Rs.17.50 lakh with consequent short realisation of tax by identical amount.

After this was pointed out between May 2003 and August 2004, the Department admitted the audit observations and stated in one case involving Rs.17 lakh, that revision proposal would be sent to the higher authority.

The cases were reported to Government between July 2003 and October 2004 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

### **2.10 Short raising of demand**

Under the provision of the WBST Act, the assessing authority shall serve a notice of demand in the prescribed form to the dealer after final assessment showing the amount of demand for tax, interest, penalty etc. and specifying the date of payment therein.

Scrutiny of records of four<sup>14</sup> charge offices in three<sup>15</sup> districts revealed that while assessing six cases of four dealers between April 2002 and December 2003, for different assessment periods ending between March 1994 and March 2001, the assessing authorities assessed tax including interest and penalty at Rs.33.78 lakh whereas demand notices were issued only for Rs.12.18 lakh. This resulted in short raising of demand of Rs.21.60 lakh.

After this was pointed out, the Department admitted between May 2003 and August 2004 audit observations in five cases and stated that fresh/revised demand would be issued. In the remaining case the Department did not furnish specific reply.

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<sup>14</sup> Alipur, Amratala, Bankura and Behala

<sup>15</sup> Bankura, Kolkata and South 24 Parganas

The cases were reported to Government between March and September 2004 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

### **2.11 Mistake in Computation**

Under the WBST Act, tax, surcharge and additional surcharge are to be levied at the rate applicable from time to time along with interest and penalty, if any, on the goods/commodities sold.

Scrutiny of records of four<sup>16</sup> charge offices in three<sup>17</sup> districts revealed short levy of tax including surcharge and additional surcharge, interest and penalty of Rs.10.58 lakh due to mistake in computation in four cases of four dealers for the assessment years 1999-2000 to 2000-01 assessed between June 2001 and November 2002.

After this was pointed out between August 2002 and February 2004, the Department accepted between September 2002 and February 2004 audit observation in one case involving Rs.0.62 lakh and stated that proposal for *suo motu* revision had been sent to the higher authority. In three cases involving Rs.9.96 lakh the Department did not furnish any specific reply.

The cases were reported to Government between December 2002 and April 2004 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

### **2.12 Non/short levy of purchase tax**

Under the WBST Act, a manufacturer dealer is liable to pay purchase tax at the rate of four *per cent* on all his purchases of goods from unregistered dealers, intended for direct use in manufacture of goods for sale in West Bengal.

Scrutiny of records of nine<sup>18</sup> charge offices in six<sup>19</sup> districts revealed that in assessing 13 cases of 13 dealers between June 1999 and June 2003, the

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<sup>16</sup> Alipur, Barrackpur, Salt Lake and Siliguri

<sup>17</sup> Darjeeling, North 24 Parganas and South 24 Parganas

<sup>18</sup> Asansol, Barrackpore, Behala, Chandney Chowk, Collotola, Cossipore, Lalbazar, Raiganj and Siliguri

<sup>19</sup> Burdwan, Darjeeling, Kolkata, North 24 Parganas, South 24 Parganas and Uttar Dinajpur

assessing authorities incorrectly allowed exemption on purchases worth Rs.10.99 crore for the different assessment years ending between March 1997 and March 2002. Of these, in 12 cases purchases valued at Rs.10.75 crore were made from unregistered dealers. However, no purchase tax was levied. In one case purchase tax was levied at the rate of one *per cent* instead of four *per cent* on the purchase of Rs.23.73 lakh made from unregistered dealer. This resulted in non/short levy of purchase tax of Rs.37.46 lakh.

After this was pointed out, the Department admitted between August 2003 and January 2005 audit observations in six cases involving Rs.26.59 lakh of which five cases had been/were being proposed to the higher/appellate authorities for revision. In remaining seven cases involving Rs.10.87 lakh, the Department did not furnish specific reply.

The matter was reported to Government between September 2003 and December 2004 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

### **2.13 Non-levy of tax on sale of Import Replenishment licence/Special Import Licence/Duty Entitlement Pass Book**

Import replenishment (REP) licence, special import licence (SIL) and duty entitlement pass book (DEPB) which are granted by the Chief Controller of Imports and Exports can be transferred by way of sale without endorsement by the licensing authority and are goods taxable under the WBST Act, at the rates prescribed from time to time.

Scrutiny of records of three<sup>20</sup> charge offices in the districts of Kolkata and Darjeeling revealed that while assessing four cases of three dealers between June 1999 and June 2002, the assessing authorities did not include their sales of REP licence/SIL/DEPB aggregating Rs.6.07 crore in the gross turnover for the purpose of assessment. This resulted in non-levy of tax including surcharge and additional surcharge of Rs.10.04 lakh.

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<sup>20</sup> Bhowanipur, Siliguri and Taltala

After this was pointed out, the Department admitted between January 2000 and May 2004 audit observations in all the cases of which two cases had been proposed to the higher authority for *suo motu* revision and in another case fresh demand had been sent to Tax Recovery Officer for realisation.

The cases were reported to the Government between April 2000 and December 2003 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

#### **2.14 Non/short levy of surcharge/additional surcharge**

Under the WBST Act, a dealer liable to pay sales tax is also liable to pay surcharge at the rate of 10 *per cent* on the total amount of sales tax payable by him with effect from 1 May 1995. Moreover, a dealer, liable to pay surcharge, is also liable to pay additional surcharge at the rate of five *per cent* on the total amount of tax payable by him with effect from 1 May 1997. These stand abolished with effect from April 2000.

Scrutiny of records of seven<sup>21</sup> charge offices in four<sup>22</sup> districts revealed between January 2003 and October 2004 that in assessing 12 cases of nine dealers between December 1999 and April 2004, for the assessment years ending between June 1995 and March 2000, the assessing authorities either did not levy or short levied surcharge and additional surcharge although tax of Rs.83.38 lakh was levied. This resulted in non/short levy of surcharge/additional surcharge of Rs.9.69 lakh.

After this was pointed out, the Department accepted between February 2003 and December 2004 audit observations in nine cases of which five cases had been proposed to the higher/appellate authorities for revision. In remaining three cases involving Rs.1.14 lakh, the Department did not furnish specific reply.

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<sup>21</sup> Amratala, Asansol, Barrackpur, Behala, Jorasanko, Postabazar and Taltala,  
<sup>22</sup> Burdwan, Kolkata, North 24 Parganas and South 24 Parganas

All the cases were reported to Government between March 2003 and December 2004 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

### **2.15 Incorrect determination of Contractual Transfer Price**

Under the WBST Act, any transfer of property in goods for valuable consideration involved in the execution of works contract shall be deemed to be a sale of these goods by the person making such transfer attracting levy of tax at the prescribed rates on such Contractual Transfer Price (CTP).

Scrutiny of records of three<sup>23</sup> charge offices in three<sup>24</sup> districts revealed that in assessing five cases of five dealers between March 2002 and June 2004, for different assessment years ending between March 2001 and March 2002, the assessing authorities determined CTP at Rs.10.64 crore instead of Rs.13.64 crore due to less inclusion of value of taxable materials involved in the execution of works contract. This resulted in short determination of CTP by Rs.3 crore having a tax effect of Rs.53.45 lakh.

After this was pointed out between April and September 2004, the Department admitted the audit observation in one case and fresh demand had been issued. In four cases the Department did not furnish specific reply.

The cases were reported to Government between July and October 2004 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

### **2.16 Non/short levy of interest**

Under the WBST Act, a dealer who furnishes return in respect of any period by the prescribed date or thereafter but fails to make full payment of tax payable in respect of such period by such prescribed date or fails to furnish a return in respect of any period by the prescribed date or thereafter before assessment in respect of such period and on such assessment full amount of

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<sup>23</sup> Behala, Raiganj and Siliguri.

<sup>24</sup> Darjeeling, South 24 Parganas and Uttar Dinajpur

tax payable for such period is found not to have been paid by him by such prescribed date or fails to make payment of any tax demanded after assessment by the date specified in the demand notice, is liable to pay simple interest at the prescribed rate for each calendar month of default.

Scrutiny of records of 32<sup>25</sup> charge offices in 11<sup>26</sup> districts revealed between May 2002 and December 2004 that while assessing/initiating certificate proceedings between June 2000 and August 2004 of 142 dealers in 167 cases, the assessing authorities did not levy or short levied interest of Rs.13.15 crore leviable for delay in payment/non-payment of assessed/advance tax of Rs.25.26 crore.

After this was pointed out, the Department accepted audit observations in 120 cases involving Rs.8.12 crore of which 43 cases were being/had been proposed for revision/*suo motu* revision to the higher/appellate authorities and in 58 cases fresh demand notices were raised/referred to Certificate Officer/Tax Recovery Officer for realisation. In 46 cases involving Rs.4.87 crore, the Department did not furnish reply/specific reply. In one case involving Rs.16.04 lakh the Department stated that the dealer furnished return in time and no interest was leviable. The reply was not tenable as non-furnishing of returns was mentioned in the assessment order itself. Besides, assessed dues of tax was also not paid by the dealer; as such the dealer was liable to pay the interest.

All the cases were reported to Government between June 2002 and January 2005 followed by reminders issued upto June 2005; their reply has not been received (October 2005)

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<sup>25</sup> Alipur, Amratala, Asansol, Bally, Ballygunj, Bankura, Barrackpore, Behala, Bhowanipore, Bowbazar, Burdwan, Collotola, Corporate Division- I, II and III, Darjeeling, Diamond Harbour, Durgapur, Esplanade, Howrah, Maniktala, Park Street, Purulia, Raiganj, Rajakatra, Salkia, Salt Lake, Serampore, Shyambazar, Siliguri, Suri and Taltala

<sup>26</sup> Bankura, Birbhum, Burdwan, Darjeeling, Hooghly, Howrah, Kolkata, North 24 Parganas, Purulia, South 24 Parganas and Uttar Dinajpur