

## CHAPTER II: COMMERCIAL TAX

### 2.1 Tax administration

The Chhattisgarh Commercial Tax Department is responsible for levy and collection of Value Added tax (VAT), Central Sales tax (CST), Entry tax (ET), Professional tax (PT) and Luxury tax (LT) in the State through assessment of cases of dealers. Commercial Tax Department contributes major part of the revenue for the State. The Department implements the under mentioned Acts and Rules made there under:

- Central Sales Tax Act, 1956;
- Chhattisgarh Entry Tax Act, 1976;
- Chhattisgarh Luxury Tax Act, 1988;
- Chhattisgarh Commercial Tax Act, 1994;
- Chhattisgarh Professional Tax Act, 1995; and
- Chhattisgarh Value Added Tax Act, 2005

### 2.2 Analysis of Budget preparation

The Budget estimates, as per the Chhattisgarh Budgetary manual, are prepared after taking into account the revenue realised during the previous year and the expected revenue increase in the current year. The Department sends the budget proposal to the Finance Department for approval. The budget, after discussion, is approved by the Finance Department.

### 2.3 Trend of Revenue Receipts

Actual receipts from Commercial Taxes during the years 2006-07 to 2010-11 along with the total tax receipts during the period is exhibited in the following table:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2006-07	2,903.20	2,843.04	(-) 59.96	(-) 2.07	5,045.70	56.34
2007-08	3,200.00	3,023.70	(-) 176.30	(-) 5.51	5,618.10	53.82
2008-09	3,470.00	3,610.94	(+) 140.94	(+) 4.06	6,593.72	54.76
2009-10	3,447.12	3,712.16	(+) 265.04	(+) 7.69	7,123.25	52.11
2010-11	4524.13	4840.79	(+)316.66	(+)7.00	9005.14	53.76

(Source: Finance Accounts of the State)

The contribution of Commercial Tax receipts to the tax revenue of the state during the last five years ranged between 52.11 to 56.34 *per cent*. It may be seen from the above table that the actual receipts during the above period except in

2006-07 and 2007-08, exceeded the budget estimates and the same ranged between four *per cent* and eight *per cent*.

The increase during the year as intimated by the Department was due to implementation of simple scheme for recovery of arrears under Commercial tax and increase in price of iron ore, cement and coal and increase in Inter-State Sales under Central Sales Tax Act.

## 2.4 Analysis of Arrears of Revenue

The arrears of revenue as on 31 March 2011 amounted to ₹ 450.85 crore of which ₹ 147.12 crore were outstanding for more than five years. The following table depicts the position of arrears of revenue during the period 2006-07 to 2010-11:

(₹ in crore)

Year	Opening balance of arrears	Demand raised during the year	Amount collected during the year	Closing balance of arrears
2006-07	147.12	215.79	206.38	156.53
2007-08	156.53	424.99	398.19	183.33
2008-09	183.33	171.26	160.20	194.39
2009-10	194.39	927.38	683.20	438.57
2010-11	438.57	324.42	312.14	450.85

(Source: Departmental figures)

The arrears of sales tax/VAT revenue were ₹ 450.85 crore at the end of 31 March 2011, which constituted 9.31 *per cent* of the actual collections (₹ 4840.79 crore) for the year collected during the year. In 2009-10 there was substantial increase in recoveries made during the year. We do not have information on the clearance of old outstanding arrears during this period.

## 2.5 Assessee Profile

As per the information received from the Commercial Tax Department the position of register dealer is mentioned in the following:

Year	Number of dealers registered	Large Tax Payers	Small Tax Payers	Number of dealers required to file returns	Number of returns received	Action taken by the department
2010-11	58,299	4,546	53,753	52,375	93,173	Advance Tax Notices issued to the dealers for collection of taxes due and action taken to recover the due amount.

## Auditee profile

### 2.6 Cost of VAT per assessee

Cost of VAT per assesses for the years from 2006-07 to 2010-11 is mentioned in the following table.

(₹ in crore)

Year	Number of Assessee	VAT Revenue	Revenue/Assessee
2006-07	57,353	3,161.72	0.0551
2007-08	59,499	3,545.77	0.0596
2008-09	63,446	4,044.39	0.0637
2009-10	69,727	3,085.12	0.0442
2010-11	58,289	4,047.58	0.0694

(Source: Departmental figures)

The above table indicates that after implementation of Chhattisgarh VAT Act (April 2006), the revenue per Assessee increased considerably and there was constant increase in collection of VAT from 2006-07 to 2010-11 except the year 2009-10 during which there was decline of 23.72 *per cent*.

### 2.7 Arrears in assessment

The number of pending cases at the beginning of the year 2010-11, becoming due during the year, disposed of during the year and pending at the end of the year 2010-11 as furnished by the Department are mentioned in the following table:

Name of tax	Opening balance (2010-11)	Addition during the year	Total number of assessment cases due	Cases deemed to have been assessed/scrutinised during the year	Cases pending at the end of the year	Percentage of clearance (column 5 to 4)
1	2	3	4	5	6	7
Value Added tax	23,748	89,297	1,13,045	60,840	52,205	53.82
Professional tax	3,179	26,423	29,602	21,197	8,405	71.61
Entry tax	8,295	41,001	49,296	27,441	21,855	55.67
Luxury tax	39	116	155	130	25	83.87
Tax on works contract	103	751	854	403	451	47.19
<b>Total</b>	<b>35,364</b>	<b>1,57,588</b>	<b>1,92,952</b>	<b>1,10,011</b>	<b>82,941</b>	<b>57.01</b>

The above table indicates that at the end of the year, only 57.01 per cent of the cases has been disposed by the Department. The Government may initiate timely actions for expeditious disposal of these pending cases.

## 2.8 Cost of collection

The expenditure incurred on collection of receipt and the percentage of such expenditure to gross collection during the years 2008-09, 2009-10 and 2010-11 along with the relevant all India average percentage of expenditure to gross collection of preceding years is indicated in the following table:

(₹ in crore)

Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of expenditure to gross collection of preceding year
Taxes/VAT on Sale, trade etc	2008-09	3610.94	16.38	0.45	0.83
	2009-10	3712.16	25.71	0.69	0.88
	2010-11	4840.79	29.99	0.62	0.96

It may be seen from the table that the expenditure on cost of collection is showing an increasing trend, and there is an increase of 14.27 *per cent* on collection during the year 2010-11 as compared to the previous year 2009-10. The reason for increase as intimated by the Department is due to implementation of sixth pay commission and also due to mission mode project in commercial tax.

## 2.9 Analysis of collection

The break-up of the total collection at the pre-assessment stage and after regular assessment of taxes on sales, trade etc. during the year 2010-11 and corresponding figures for the preceding five years as furnished by the Finance (Commercial Taxes) Department is mentioned below:

(₹ in crore)

Heads of revenue	Year	Amount collected at the pre-assessment stage	Amount collected after regular assessment	Penalty for delay in payment of taxes and duties	Amount refunded	Net collection as per department	Percentage of collection (column 3 to 7)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Taxes/ VAT on sales, trade etc.	2005-06	1,621.44	52.48	10.81	10.72	1,674.01	96.86
	2006-07	2,038.49	104.41	20.77	22.96	2,140.71	95.22
	2007-08	2,379.83	126.97	10.44	14.55	2,502.69	95.09
	2008-09	2,925.54	52.77	8.12	18.35	2,968.08	98.57
	2009-10	2,388.16	190.93	87.35	57.33	2,609.11	91.53
	2010-11	3678.40	387.55	41.78	60.15	4047.58	90.88

(Source: Departmental figures, the figures mentioned above do not contain CST figures)

It may be seen from the table that percentage of collection of taxes at pre-assessment was the highest in 2008-09 while it was the least during the year 2010-11.

## 2.10 Impact of Audit

**2.10.1 Position of Inspection Reports (IR):** During the last five years, audit through its IR had pointed out non/short levy, non/short realisation, underassessment/ loss of revenue, incorrect exemption, incorrect computation etc. with revenue implication of ₹ 36.96 crore in 956 cases. Of these, the Department/Government had accepted audit observations in 135 cases involving ₹ 0.963 crore. No recovery has been made by the Department in any of these cases. The details are shown in the following table:

(₹ in crore)

Year of IR	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2005-06	17	263	0.20	2	0.003	Nil	Nil
2006-07	10	176	0.18	97	0.11	Nil	Nil
2007-08	04	37	0.03	16	0.07	Nil	Nil
2008-09	20	185	0.62	10	0.48	Nil	Nil
2009-10	32	295	35.93	10	0.30	Nil	Nil
<b>Total</b>		<b>956</b>	<b>36.96</b>	<b>135</b>	<b>0.963</b>	<b>Nil</b>	<b>Nil</b>

The above table indicates that during the last five years no recovery was affected by the Department.

During discussion, the Department stated that the cases will be examined and efforts will be made for the early recovery.

**2.10.2 Position of Audit Reports:** In the Audit Report 2005-06 to 2009-10, cases of under assessment, non/short levy tax were indicated involving ₹ 60.77 crore. The Department accepted observations of ₹ 51.41 crore of which ₹ 0.08 crore had been recovered till March 2011 as shown in the following table:

(₹ in crore)

Sl. No.	Year of the audit report	Total money value	Amount accepted	Recovery made up to March 2011
1.	2005-06	5.10	Nil	Nil
2.	2006-07	2.11	0.24	0.08
3.	2007-08	0.74	0.32	Nil
4.	2008-09	49.46	47.49	Nil
5.	2009-10	3.36	3.36	Nil
<b>Total</b>		<b>60.77</b>	<b>51.41</b>	<b>0.08</b>

The above table indicates that only 0.15 per cent of recovery has been made by the Department against the accepted amount which is almost negligible.

## 2.11 Result of Audit

Test check of the records of 28 units relating to Commercial Tax Department revealed underassessment, non/short levy of tax/interest/penalty, application of incorrect rate of tax etc. amounting ₹ 55.08 crore in 362 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1	<b>Cross verification of declaration forms used in Inter-state trade or commerce – A Performance Audit</b>	1	15.99
2	Incorrect grant of exemption/deduction	103	11.18
3	Non/short levy of tax	66	4.32
4	Incorrect determination of taxable turnover	19	3.16
5	Application of incorrect rate of tax	19	1.14
6	Other irregularities	154	19.29
<b>Total</b>		<b>362</b>	<b>55.08</b>

During the year, the Department accepted underassessment of ₹ 2.59 crore in 73 cases.

After issue of draft paragraph, the Department had recovered ₹ 14.91 lakh in full in one case.

Performance Audit on “**Cross verification of declaration forms used in Inter-state trade or commerce**” involving financial effect of ₹ 15.99 crore and few illustrative cases involving financial effect of ₹ 2.43 crore are mentioned in the following paragraphs.

## 2.12 Cross-verification of declaration forms used in Inter-state Trade

The Central Sales Tax (CST) Act, 1956 and the rules framed thereunder provide for concessional rate of tax in respect of inter-state sales of goods and exemption from tax in respect of branch transfers and export sales. These concessions/exemptions are subject to furnishing of declarations in the prescribed forms viz. 'C', 'F' and 'E-I/II' etc. Failure to furnish the declarations or submission of defective or incomplete declaration forms will make the transactions liable to tax as applicable to sale in the appropriate State.

We conducted cross verification of declaration forms used in inter-state trade to check the genuineness of these declarations. All the information collected was verified with the Commercial/Sales Tax Departments of other States through our Accountant General offices and we found various irregularities as mentioned below:

### Highlights

- The Department did not have in place any system for cross verification of the Declaration Forms submitted by dealers in support of Inter-State Transactions, for verification of forms on TINXSYS website and for verification of the utilisation of Forms or any database of sales against declarations.

**(Paragraph 2.12.6)**

- Adjustment of the tax liability by the Assessing Officer (AO), despite expiry of the validity of the incentive scheme, led to undue benefit of ₹ 26.54 lakh to the dealers.

**(Paragraph 2.12.14)**

- Non-verification of 'C' forms by the AO enabled the dealer to suppress turnover of inter-state sale resulting in evasion of tax of ₹ 28.24 lakh including penalty.

**(Paragraph 2.12.20)**

- Allowance of concessional sales on 'F' forms on grant of tax exemption by the AO, branches not declared in registration certificates of the dealers led to non-levy of tax of ₹ 20.28 lakh besides penalty leviable of ₹60.84 lakh.

**(Paragraph 2.12.23)**

- Incorrect allowance of Inter-State Sales in absence of declaration forms resulted in non-levy of tax of ₹ 1.02 crore.

**(Paragraph 2.12.25)**

- Evasion of Tax on Fake 'C' forms resulted in evasion of tax of ₹ 40.62 lakh besides penalty leviable of ₹ 121.86 lakh in 61 cases pertaining to nine States.

**(Paragraph 2.12.27)**

- In 39 'F' forms not issued by five States, tax evaded was ₹ 1.15 crore besides penalty leviable of ₹ 3.46 crore.

(Paragraph 2.12.28)

- Suppression of actual value of goods purchased by 45 dealers and non-verification of the same by the Assessing Officer led to non-levy of tax of ₹ 2.89 crore including penalty.

(Paragraph 2.12.32)

### 2.12.1 Introduction

Under the Central Sales Tax Act, 1956 (CST Act), registered dealers are eligible for certain concessions and exemptions of tax on inter-State transactions on submission of prescribed declarations in Forms 'C', 'E-I/II' and 'F'. The State Governments grant these incentives to dealers for furtherance of trade and commerce, on production of these declaration forms. It is the responsibility of the Commercial Tax Department to ensure proper accountal of declaration forms and to take adequate safeguards against misutilisation of declaration forms/certificates on which tax relief is allowed involving large amount of revenue to the state exchequer.

### 2.12.2 Form 'C'

Under the provisions of the CST Act, every dealer, who in the course of inter State trade or commerce, sells to a registered dealer, goods of the classes, specified in the certificate of registration of the purchasing dealer, shall be liable to pay tax at the concessional rate of four *per cent* (two *per cent* w.e.f. 01.04.2010) of such turnover provided such sales are supported by declarations in form 'C'.

### 2.12.3 Form 'F'

Under Section 6A of CST (Amendment) Act 1972, transfer of goods not by reason of sales by a registered dealer to any other place of his business outside the State or to his agent or principal in other States is exempt from tax on production of declaration in form 'F', duly filled in and signed by the principal/officer of the other place of business or his agent or principal as the case may be, along with evidence of dispatch of such goods. Filing of declarations in form 'F' was not mandatory up to May 2002. However, the Act provided for the assessing authority to make such enquiries as he deemed necessary to satisfy himself on bonafides of the transfer such as sale *patties*<sup>1</sup>, dispatch particulars, way bills etc.

### 2.12.4 Form 'E-I' or 'E-II'

Under the CST Act, if a purchasing dealer makes a subsequent inter-State sale by transfer of documents of title to the goods during their movement from one state to another, no tax shall be leviable subject to the production of the prescribed

---

<sup>1</sup> Statement of sales



certificates in form EI or EII along with declarations in form C to be issued by the selling and purchasing dealer.

Form EI is issued (in duplicate) (i) by the selling dealer who first moved the goods from one State to another or (ii) by the dealer who makes the first inter State sale during the movement of the goods from one State to another.

Form EII is issued (in duplicate) (i) by the first or subsequent transferor in the series of sales or second or subsequent transfer in the series of sales in the course of inter-State trade or commerce.

If the chain of sale and purchase continues after the transactions as shown above, every subsequent purchaser shall issue form 'C' to his preceding seller and every subsequent seller shall also obtain Form 'E-II' from his preceding seller to claim the exemption.

### **2.12.5 Maintenance of accounts of receipts and use of declaration forms**

- The forms are obtained by the Commissioner, Commercial Tax (CCT) from the State Government press and supplied to the divisions for distribution amongst the circle offices under their jurisdiction.
- Declaration forms are issued to registered dealers by circle offices to enable them to issue it to another registered dealer for purposes specified in their registration certificate in order to avail exemption from levy of tax or to pay tax at concessional rate. Dealers have to submit periodical utilisation certificate to the circle office concerned for the declaration forms received and utilised by them, and the same is to be properly recorded by the Assessing Officer. No declaration form is to be issued by the circle office to the dealers till accounts of the utilisation of forms issued earlier to the dealer is submitted by him.

### **2.12.6 Receipt and issue**

- The receipt and issue of the aforesaid declaration forms are accounted for in separate stock registers by the division and circle offices indicating receipt and issue of various declaration forms. When the forms are issued to the dealer, the signature of the dealer as token of receipt is to be obtained in the register.
- Every registered dealer to whom any declaration form is issued by the appropriate authority shall maintain complete account of every such form. The dealer has to furnish utilisation certificate to the competent authority showing the name of dealer to whom the form is issued, bill number and date and description of goods with value.
- Section 10(b) read with Section 10-A of Central Sales Tax Act, 1956 stipulates that, if any registered dealer, falsely represents when purchasing any class of goods which are covered by his certificate of registration; or not being a registered dealer, falsely represents when purchasing goods in the course of inter-State trade or commerce that he is a registered dealer; and after purchasing any goods for any of the purposes without reasonable excuse, to make use of the goods for any such purpose shall be punishable

with simple imprisonment which may extend to six months, or with fine, or with both; and when the offence is a continuing offence, with a daily fine which may extend to fifty rupees for every day during which the offence continues and further, the authority may also impose penalty of a sum not exceeding one-and-a-half times of the tax evaded.

- Tax Information Exchange System (TINXSYS) is a centralised exchange of all interstate dealers spread across the various States and Union territories of India. TINXSYS is an exchange authored by the Empowered Committee of State Finance Ministers (EC) as a repository of interstate transactions taking place among various States and Union Territories. The website was designed to help the Commercial Tax Departments of various States and Union Territories to effectively monitor the interstate trade and TINXSYS can be used by any dealer to verify the counter party interstate dealer in any other State.
- Apart from dealer verification, Commercial Tax Department officials use TINXSYS for verification of central statutory forms issued by other State Commercial Tax Departments and submitted to them by the dealers in support of claim for concessions. TINXSYS also provides MIS and Business Intelligence Reports to the Commercial Tax Department to monitor interstate trade movements and enables the EC to monitor the trends in interstate trade.
- It is essential for every State to send the information to the Finance Ministry for uploading in the website of TINXSYS for easy verification of forms by any user. It was intimated that the Department was not sending the information of these statutory forms to the Finance Ministry, however, it was uploading the relevant information in TINXSYS.

#### **2.12.7 Organisational setup**

The Commercial Tax Department is under the overall administrative control of the Principal Secretary (Finance). The Commissioner is head of the department and he is assisted by four Additional Commissioners and eight Deputy Commissioners (DCs). There are five divisions and 27 circles in the State headed by DC at the divisional level and Commercial Tax Officers (CTOs) at circle level. In addition, 17 Assistant Commissioners (ACs) are posted in the circles for assessment of dealers whose turnover exceeds ₹ three crore.

#### **2.12.8 Audit objectives**

The review aimed to ascertain whether:

- a foolproof system for custody and issue of the declaration forms was in existence;
- exemption/concession of tax granted by the assessing authorities was supported by the original declaration forms;
- system of uploading the particulars in the TINXSYS website was in existence and the data available there was utilised for verifying the correctness of the forms;

- appropriate steps were taken on receipt and detection of fake, invalid and defective (without proper or insufficient details) forms; and
- an effective and adequate internal control mechanism existed.

### 2.12.9 Scope and methodology of audit

Test check of nine<sup>2</sup> ACs and six<sup>3</sup> CTO units was conducted between November 2010 and January 2011, covering all assessments completed for the period from 2007-08, 2008-09 and 2009-10. In addition earlier audit observations noticed during the regular audit of seven units<sup>4</sup> were also re-examined and incorporated at appropriate places in current performance audit. Audit scrutiny also included verification of transactions of goods relating to stock transfers made to branches/agents situated outside Chhattisgarh State and inter-state sale to different parts of the country with reference to various declarations in form 'C', 'F', 'E-I/E-II' and 'D' available on records.

### 2.12.10 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Department of Commercial Tax in providing the necessary information and records for audit. An entry conference was held with the department on 25 October 2010, in which the department was apprised of the objectives, scope and methodology of audit. The report was forwarded to the Government and the Commissioner on August 2011. An exit conference was held in November, 2011 where in the findings of the review were discussed with the Commissioner of Commercial Tax Department, Government of Chhattisgarh. The Department was also represented by the Additional commissioner and Deputy Commissioner of Commercial tax Department, Government of Chhattisgarh. The replies received during the Exit conference and at other point of time have been appropriately commented in the relevant paragraphs.

### 2.12.11 Trend of revenue under CST

Budget estimates and actual realisation of revenue under Central Sales Tax for five years are mentioned below:

(₹ in crore)

Year	Budget estimates	Actual realisation	Variations excess(+)/shortfall(-)	Percentage excess/ shortfall
2006-07	700.00	702.34	(+) 2.34	(+) 0.33
2007-08	664.00	521.00	(-) 143.00	(-) 21.53
2008-09	400.00	664.14	(+) 264.14	(+)66.03
2009-10	530.00	681.00	(+) 151.00	(+)28.49
2010-11	620.00	745.84	(+) 125.84	(+)20.29

<sup>2</sup> AC-I and II of Division-II, Bilaspur, AC-II of Durg, AC, Raigarh, four ACs of Raipur and AC, Rajnandgaon

<sup>3</sup> Circle-II of Durg, Circle-II, III, IV, V and VI of Raipur

<sup>4</sup> CTOs : Ambikapur, Bilaspur (CTO-II), Dhamtari, Korba, Janjigir-Champa, Manendragarh and Rajnandgaon

It may be seen from the above table that the actual realisation of revenue was more than the budget estimates except in 2007-08. The percentage of excess achievement during 2008-09 to 2010-11 ranged between (+) 20.29 and (+) 66.03 and the reasons for increase were increase in market price and increase in sale of coal, iron ore and cement. Though the actual realisation of revenue in comparison to budget estimates was on higher side during 2008-09 and 2010-11 continuously, yet it is evident that budget estimates were framed unrealistically by not taking into account the previous years' actual realisation.

As regards 2007-08, the actual realisation was less than 22 *per cent* and the same was due to reduction of the CST rate from four *per cent* to three *per cent* by the Government of India.

During the Exit conference the Commissioner informed that budget was prepared in anticipation of reduction in rate of tax. However, the fact remains the Department had not framed BEs correctly as the BEs framed by the Department for a financial year were always less than the actual collection of the preceding years.

## **Audit findings**

### **System deficiencies**

Section 8 of the Central Sales Tax Act, 1956 read with Rule 8 of the Central Sales Tax (Central) Rules, 1957 and Rule 12 of the Central Sales Tax (R&T) Rules, 1957 stipulates the process of custody, utilisation and maintenance of forms.

Scrutiny of the records revealed the following:

#### **2.12.12.1 Issue and accounting of declaration forms**

- It was noticed that the Department did not maintain any record/database to show the year-wise position of sales against 'C'/'F' forms to ascertain the revenue forgone on account of concessions/exemptions.
- There was no system in place to verify the utilisation statements of declaration forms while scrutinising the returns/conducting tax audits.

During the Exit conference the Commissioner informed that issue of declarations through online was started from 18<sup>th</sup> October 2011 and process of verification through on line will be taken up.

#### **2.12.12.2 Utilisation of declaration forms**

- The Department intimated that it had partly made mandatory for the dealers to furnish the declaration forms while submitting the returns in the wake of implementation of VAT Act;
- there was no system of calling for the utilisation statements from the dealers at the time of scrutiny of returns/conducting tax audits, in case these were not available in the case records;

- the Department had not installed a system of verification of each and every declaration form submitted by the dealers with the database available in the TINXSYS website before allowing exemption/concession of tax; and
- the AOs did not have any details of the branches of the dealers to verify the authenticity of the claims for exemption.

During the Exit conference the Commissioner assured that necessary instructions will be given to field offices. Commissioner informed that necessary instructions will be given to the assessing officers to ensure copy of utilisation certificates is enclosed in the cases; a copy of list of branches of the dealers will be made available to the concerned assessing authorities.

### **2.12.13 Enforcement measures**

Declaration in forms 'C' and 'F' found lost, destroyed, stolen by a dealer etc. or defective forms noticed are required to report to the concerned authority for taking necessary action to declare such forms as invalid by giving wide publicity through issue of circulars to all divisions etc. including defective forms noticed by the Department.

Scrutiny of the records revealed the following that:

- the Department had not issued any notifications/circulars regarding such cases and these details were not intimated to other State Governments also for publication in their gazettes, in case of bogus or non-existent dealers;
- the dealers who were found utilising invalid/fake declaration forms in the past were neither black listed nor circulated among various units and States;
- no data bank on forms declared invalid or dealers found to be fictitious or whose registration certificates were cancelled within and outside the State was maintained by the Department;
- the Department did not keep a sample of the colour, design and format of the forms prevailing in different States for comparison in order to identify the fake or forged declaration forms; and
- the Department had not set-up any Intelligence Wing to assist Commissioner, Commercial Tax. However, it was intimated that the assessing authority sends the doubtful forms to concerned Divisional Commissioner who further sends these to other States for cross verification but no records were shown in support of this.

During Exit conference the Commissioner assured the necessary completion of the online process relating to data bank will be prepared and in case of bogus/non-existent dealers the details of such cases will be intimated to the state Governments; the dealers who are found utilizing invalid/fake declarations will be black listed and the facts will be circulated among various units and States.

## Compliance deficiencies

### 2.12.14 Non-recovery of Central Sales Tax under incentive scheme

**Under the tax Exemption Scheme of 1994 notified in October 1994 (issued by Madhya Pradesh Government and adopted by Chhattisgarh Government), new industrial exempted units are eligible for exemption from payment of tax to the extent of the cumulative quantum of tax for specified period or for the period up to the date earlier to the date of expiry of the allowed period on which he achieves the said cumulative quantum allowed in the eligibility certificate. Further, as per Finance Act 2002, if any exempted unit makes interstate sale on the strength of 'C' forms, then the assessed tax will be adjusted in the balance cumulative quantum of tax otherwise the dealer will have to pay the assessed tax in cash.**

We found in the test check (January 2011) of the records of the AC-II, Durg that a dealer was engaged in the manufacture and sale of cast iron (C.I.) brake blocks, sleepers, socket etc. and was holding the eligibility certificate for exemption of tax for the period of 19 August 1999 to 18 August 2002 or the cumulative quantum of tax of ₹ 33.99 lakh which ever expired earlier. The above dealer was assessed in February 2006 and subsequently in November 2009 (after appeal) for the period April 2002 to March 2003. The AO granted exemption of tax of ₹ 26.54 lakh. We

observed from the records that the dealer had sold finished goods of ₹ 2.65 crore without 'C' form for the period 2002-03 and the quantum of tax allowed in certificate of ₹ 33.99 lakh had already expired in 2001. In view of the expiry of the certificate, the tax exemption granted by the AO was irregular and this resulted in non-levy of tax of ₹ 26.54 lakh (i.e. 10 *per cent* of ₹ 2.65 crore).

After we pointed out the case, the AO replied that action would be taken after verification.



### 2.12.15 Irregular acceptance of 'C' forms

**Section 8 of the CST Act read with Rule 12 of the CST (R & T) Rules, provides that every dealer, who in the course of interstate trade or commerce sells to a registered dealer located in other State shall be liable to pay tax under this Act at the rate of four *per cent* provided the sale is supported with declaration form on 'C' issued by the purchasing dealer of the other State duly filled and completed in all respect. Otherwise, tax shall be calculated at double the rate in case of declared goods and at the rate of 10 *per cent* or at the rate applicable for sale of such goods within the State, whichever is higher in case of goods other than declared goods.**

**2.12.15.1** We found in the test check (March 2010) of records of the CTO, Dhamtari, that a dealer engaged in processing and sale of timber and firewood was assessed in December 2008 for the period April 2005 and March 2006 and had made interstate sale of ₹ 27.95 lakh on the strength of 'C' forms. Further scrutiny of records revealed that date of issue (14 January 2009) of six 'C' forms of ₹ 14.53 lakh was after the date of assessment (24 December 2008).

However, the AO accepted these 'C' forms and allowed concession on tax. This incorrect acceptance of the 'C' forms resulted in non-levy of tax of ₹ two lakh.

After we pointed out the case, the AO replied that the date of assessment on assessment order was wrongly printed as 24 December 2008 instead of 24 February 2009.

The reply was not correct because from a note sheet attached with the case, it was apparent that the case was assessed on 24 December 2008 while the issue date appeared in the 'C' forms as 14 January 2009. Hence, it was clear that the AO accepted these forms after date of assessment.

**2.12.15.2** Similarly, we found in the test check (January, 2011) of the records of AC, Raigarh that a dealer engaged in manufacture and sale of steel ingots was assessed in March 2010 for the period April 2006 to March 2007 had availed concessional rate of tax on sale of ₹ 32.60 lakh on the strength of two 'C' forms. Further scrutiny revealed that the two 'C' forms submitted by the dealer included transactions which were pertaining to the period July to October 2007 and as such were not covered in the assessment year. This irregular acceptance resulted in short levy of tax of ₹ 1.96 lakh.

After we pointed this out, the AO replied that action would be taken after verification.

## 2.12.16 Irregular acceptance of 'F' forms

**Section 6-A of the CST Act read with Rule 12(5) of the CST (R&T) Rules stipulates that the declaration in form 'F' may cover transfer of goods during the period of one calendar month by a dealer to any other place of his business or to his agent or principal outside the State, as the case may be, otherwise the transaction has to be treated as inter-state sale without declaration and taxed accordingly.**

**2.12.16.1** We found in the test check (February 2011) of the records of CTO-4, Raipur that a dealer engaged in purchase and sale of electrodes, C.C. wire and aluminum wire was assessed in February 2010 for the period April 2006 to March 2007. The dealer had transferred the stock of ₹ 26.60 lakh to his branch (Angul, Orissa) on the strength of 'F' forms. Further scrutiny of records revealed that the date of issue (26 June 2010) of 'F' forms of ₹ 4.64 lakh was after the date of assessment (03 February 2010) but these were irregularly accepted by the AO. Thus, incorrect acceptance of these forms

resulted in non-levy of tax of ₹ 46,000.

After we pointed this out, the AO replied that no mistake was made in allowing exemption by accepting these forms because earlier the dealer submitted one 'F' form having more than one month transactions and was provided sufficient time to re-submit proper forms. Thus, the new forms were submitted after date of assessment.

The reply is not acceptable as no provision exists in the Act to accept forms after completion of assessment.

**2.12.16.2** Similarly, we found in the test check of the records of CTO-6, Raipur that a dealer engaged in purchase and sale of auto parts, claimed exemption of tax for the period April 2006 to March 2007 on account of branch transfer/consignment sale worth ₹ 16.62 lakh on the basis of four 'F' forms. These forms had declarations covering period of more than one month. Since these transactions were beyond one month, the same were liable to be rejected and treated as inter-state sales without valid declaration. Despite this, the AO allowed tax exemption without scrutinising returns and 'F' forms. This resulted in non-levy of tax of ₹ 2.08 lakh.

After we pointed out these cases, the AO replied that necessary action would be taken after verification.



### 2.12.17 Incorrect exemption under 'E-I' and 'C' sale

**Under the CST Act, if a purchasing dealer makes a subsequent inter State sale by transfer of documents of title to the goods during their movement from one State to another, no tax shall be leviable subject to the production of the prescribed certificates in form EI or EII along with declarations in form 'C' to be issued by the selling and purchasing dealer.**

The Delhi High Court also upheld<sup>5</sup> that movement of goods cannot extend beyond physical landing of goods in import in the State otherwise sale will be State sale not 'E-I' and 'C' sale.

**2.12.17.1** We found in the test check (December 2010) of the records of CTO-6, Raipur that a dealer engaged in purchase and sale of cables and electrical goods was assessed in December 2009 for the period 2006-07 and was allowed exemption on 'E-I' and 'C' sale of

₹ 20.96 lakh. Further scrutiny of records revealed that during the subsequent sale, the goods were purchased by the selling dealer from New Delhi, Mumbai, Nasik and Pune and delivered at Raipur after a period ranging from one to two months. Since the period was beyond physical landing of goods in import in the State, the exemption allowed was irregular as per above pronouncement. However, the AO did not check the documents while assessing the case and this resulted in non-levy of tax of ₹ 2.62 lakh.

After we pointed out the case, the AO replied that action would be taken after verification.

**2.12.17.2** We found in the test check of the records of CTO, Korba that a dealer engaged in purchase and sale of electrical motor and transformer was assessed in August 2008 for the period April 2005 to March 2006 and had availed exemption on the sale of ₹ 1.36 crore. Further scrutiny of 'E-I' and 'C' forms of ₹ 8.61 lakh revealed that date of purchase was shown after the date of sale. Despite this irregularity, the AO allowed exemption which resulted in non levy of tax of ₹ 86,000.

After we pointed out the case, the AO stated that goods were received on challan and bill was prepared after the delivery of goods.

The reply of AO, Korba is not correct as the Sale can never be done before Purchase of goods and the sales tax assessment is required to be done on the basis of purchase bills.

<sup>5</sup> In the case of M/s Arjun Das Gupta (2007) STJ 209

### 2.12.18 Short levy of tax due to incorrect determination of goods

As per the notification No.22, dated 30 March 2006 issued by the Government for the period 2006-07, the interstate sale of jute cloth and jute twine is taxable at the rate of one *per cent* on the strength of 'C' forms. It was also upheld in the case of CST Vs M/s Vijay Rope Centre (1995) 98 STC 105 (Bombay) that jute twine does not include Aloe Twine (A. Twine or A. Twills) even though jute twine and A.Twine look akin, use of both commodities are same and both were sold at similar price. Since Jute bags and Aloe twills bags are different commodities, hence, Aloe twills bags sold on the strength of 'C' forms are taxable at four *per cent*. Similarly, hessian cloth is also different and its sale on the strength of 'C' forms is taxable at four *per cent*.

We found in the test check (December 2010) of the records of AC-II, Durg, that two dealers engaged in purchase and sale of hessian cloth and A.Twills bags were assessed in November and December 2009 for the period April 2006 to March 2007 and had sold hessian cloth of ₹ 15.21 lakh and A.Twills bags of ₹ 11.18 crore. Since Hessian cloth and A.Twills bags were not mentioned in the notification, these are taxable at four *per cent*. As against this, the AO levied tax at one *per cent* which resulted in short levy of tax of ₹ 33.98 lakh.

After we pointed out the case, the AO replied that

action would be taken after verification.

### 2.12.19 Short levy of tax due to incorrect application of rate of tax

Under the provisions of the CST Act, every dealer, who in the course of inter State trade or commerce, sells to a registered dealer, goods of the classes, specified in the certificate of registration of the purchasing dealer, shall be liable to pay tax at the concessional rate of four *per cent* of such turnover provided such sales are supported by declarations in form 'C'.

We found in the test check (November 2010) of the records of AC, Raipur that a dealer engaged in manufacture and sale of steel semis and sponge iron. The dealer was assessed in August 2009 for the period April 2004 to March 2005 and had sold coal based lumps of ₹ 52.35 lakh against 'C' form. The AO levied tax at the rate of one *per cent* instead of four *per cent* treating it as

sponge iron. This resulted in short levy of tax of ₹ 1.57 lakh.

After we pointed out the case, the AO replied that action would be taken after verification.

### 2.12.20 Non levy of tax due to suppression of turnover

According to the notification No.23 dated 23 March 2004 issued by Government for period April 2004 to March 2005, interstate sale of sponge iron by a registered dealer against 'C' form is liable to tax at one *per cent*. Under the Tax Deferment scheme of 1994 notified in October 1994, only the registered dealer holding eligibility certificate for deferment of payment of tax can avail the facility.

Section 69 of the Chhattisgarh Commercial Tax (CGCT) Act 1994 stipulates that if the Commissioner or the appellate or the Revisional authority during any proceeding is satisfied that the dealer has concealed his turnover or the aggregate amount of purchase in respect of any goods or has furnished false particulars, the authority concerned may initiate proceedings for imposing penalty up to five times but not less than three times of the tax evaded. Submission of false or misleading or deceptive declaration, accounts or documents amounts to evasion of tax and attracts penalty on the tax evaded, in addition to amount of tax payable by the dealer.

We found in the test check (November 2010) of the records of the AC, Raipur that a dealer engaged in steel semis and sponge iron was assessed in August 2009 for the period April 2004 to March 2005 and had sold sponge iron of ₹ 28.72 crore during interstate sale. Further scrutiny of records revealed that 'C' forms for ₹ 7.06 crore which were attached with the case belonged to another dealer who had the facility of deferment from payment of tax. Thus, the dealer had suppressed the turnover and misrepresented the facts. However, the assessment was done by the AO without undertaking any preliminary checks. This incorrect acceptance of the forms by the AO resulted in non-levy of tax of ₹ 7.06 lakh besides

minimum three times penalty of tax evaded amounting to ₹ 21.18 lakh.

After we pointed out the case, the AO replied that action would be taken after verification.

### 2.12.21 Non levy of penalty under Section 10-A of Central Sales Tax Act

**As per the Section 10-A of Central Sales Tax, 1956 read with Section 10(b), if a registered dealer purchases such goods which are not mentioned in his registration certificate against 'C' forms, the authority can impose penalty upon the assessee equivalent to one and half times the tax which would have been payable.**

It has also been judicially<sup>6</sup> upheld that purchase against 'C' forms of goods not mentioned in registration certificate is an offence and penalty can be imposed.

We found in the test check of the records of CTO, Janjgir-Champa and Durg that three dealers engaged in manufacture and sale of *gitti* and works contract were assessed between January 2008 and December 2009 and had purchased Tata hitachi, JCB machine and Crane. However, these goods were not mentioned in their registration certificates. Despite this, the AO did not impose penalty on the purchases of ₹ 61.90 lakh. This resulted in non-imposition of penalty of ₹ 7.67 lakh.

After we pointed out the case, the AO, Janjgir replied that action would be taken after verification and the AO, Durg replied that the dealer had been engaged in works contract and purchase against 'C' form is justified.

The reply is not in consonance with the provisions of the Act because the goods purchased were not mentioned in the dealers' Registration Certificates.

### 2.12.22 Irregular exemption on 'duplicate' portion (second copy) of 'C' forms

**The 'C' form is issued by a purchasing dealer in two copies. The copy marked 'original' is enclosed by the selling dealer with his return and the copy marked 'duplicate' is retained in his records.**

It has been judicially<sup>7</sup> held by the Supreme Court of India that production of 'original' 'C' form claiming concessional rate of tax is mandatory to prevent the forms being misused for the commission of fraud and collusion with a view to evade payment of tax.

We found in the test check of the records of CTOs Dhamtari and Korba and ACs, Durg, Raigarh and Raipur that six dealers engaged in sale and purchase of iron and steel, timber, machinery parts and coal had submitted 'duplicate' portion of 'C' forms with their returns, involving sale value of ₹ 3.79 crore. As per the rules, the 'duplicate' portion of

<sup>6</sup> In the case of State of Tamilnadu Vs Akhtar (1998) 108 STC 510 (Madras High Court DB)

<sup>7</sup> M/s India Agencies Vs Addl. Commissioner of Commercial Tax (16 December 2004) (SC)

M/s Delhi Automobiles Private Limited Vs Commissioner of Sales Tax (1997) 104 STC 75 (SC)

forms should have been rejected and tax of ₹ 23.89 lakh should have been levied by treating the transactions as inter-state sale without 'C' form. However, it was found that the same was not done by the AOs.

After we pointed out the cases, AOs Korba, Durg and Raigarh replied that action would be taken after verification and AO Dhamtari replied that taxation was correct as per the judgement in the case of M/s Manganese Ore (India) Ltd. Vs CST (MP) 2005 7-STJ-412 (MP HC).

Reply of the AO, Dhamtari is not in consonance with the provisions of the Act and Supreme Court judgement.

### 2.12.23 Irregular deduction on transfer of goods to undeclared branch

**Sub section (1) of Section 7 of the CST Act stipulates that every dealer has to declare his places of business in other States at the time of seeking registration. Further, sub section (1) of Section 6-A read with Rule 12(5) of the CST (R&T) Rules provides that a declaration in form 'F' has to be submitted for transfer of goods to other places of business or to his agent or principal.**

The exemptions allowed during the assessment years 2007-08 to 2009-10 on account of branch transfer/consignment sale were not quantifiable by the department. The AO of the level of ACs did not have details of the branches of the dealers to verify the authenticity of the claims for exemption on account of branch transfer/consignment.

Further, we found in the test check of the records of CTOs, Manendragarh, Rajnandgaon and Raipur between December 2009 and October 2010 in five cases of four

dealers engaged in liquefied petroleum gas, sprinkler system, exothermic material and pesticides that the dealers availed exemption of tax on a turnover of ₹ 2.03 crore during the period April 2004 to March 2007 on account of branch transfer. Scrutiny of the registration certificates of the dealers indicated that the branches to which stock was claimed to have been transferred were not included in the registration certificates of the dealers. Failure of the AOs to scrutinise the 'F' forms with reference to the declared branches as per registration certificates resulted in non levy of tax of ₹ 20.28 lakh and penalty of ₹ 60.84 lakh.

After we pointed this out, the AO, Manendragarh stated (December 2009) that action would be taken after verification. The AO, Rajnandgaon replied (January 2010) that stock transfer was as per rules. In another case, the CTO, Raipur replied (October 2010) that branch at Vapi (Gujrat) was mentioned in the dealer's memorandum and articles of association.

The reply of CTO, Raipur is not in consonance with the provisions of the Act because list of branches of the dealer should be included in his Registration Certificate only. The reply of AO, Rajnandgaon is not acceptable because Ranchi (Jharkhand) and Coimbatore (Tamil Nadu) where goods were sent were not mentioned in the dealer's Registration Certificate.



We recommended that the Government may consider developing a database containing names of the dealers; names of the branches; registration number of the branches; nature and value of the goods transferred as branch transfer/consignment sale by dealers and exemption of tax allowed as it would institute an important control and assist in making assessments.

#### 2.12.24 Incorrect issue of bills on inter-state sale

**As per the Chhattisgarh Commercial Tax Act, 1994 tax paid goods means any goods specified in Schedule-II which have been purchased by a dealer from a registered dealer inside the State.**

We found in the test check of the records of AC-II, Bilaspur, CTO and AC, Rajnandgaon, that 10 dealers engaged in purchase and sale of bidi leaves and other goods from Forest Department and other dealers

for inter-state sale were assessed between November 2007 and December 2009 for the period April 2005 to March 2008 on the production of declaration forms ('C'/'D'). Our scrutiny of the assessment order and records revealed that though the 'C' and 'D' forms were obtained by the selling dealers registered in Chhattisgarh but sale invoices in respect of these sales were not issued by them, these invoices were issued by the Forest Department and other dealers directly to the purchasing dealers of other State. The issue of such sales invoices by the Forest Department/dealers directly to the purchasing dealers of other states was incorrect and is fraught with the risk of evasion of tax. The invoices should have been issued by the dealers who had made inter-state sales and furnished declaration forms. During the assessment, the AO did not scrutinise these sale invoices while finalising the assessments. This indicates absence of monitoring control to watch the documentary evidence in support of the inter-state sale shown in the returns filed by the dealer which is fraught with the risk of escapement of taxable turnover.

This was pointed out to the Department/Government in July 2011; their reply has not been received (October 2011).

### 2.12.25 Incorrect allowance of concessional rate of tax in the absence of declaration forms

**Section 8 of the CST Act read with Rule 12 of the CST (R &T) Rules, provides that every dealer, who in the course of interstate trade or commerce sells to a registered dealer located in other State shall be liable to pay tax under this Act at the rate of four per cent provided the sale is supported with declaration form on 'C' issued by the purchasing dealer of the other State duly filled and completed in all respect. Otherwise, tax shall be calculated at double the rate in case of declared goods and at the rate of 10 per cent or at the rate applicable for sale of such goods within the State, whichever is higher in case of goods other than declared goods.**

We found in the test check of the records of AC, Rajnandgaon, AC, Korba and AC-I (Div.I) Bilaspur that three dealers were engaged in manufacture and sale of edible oil, sodium nitrate, ferro alloys and mining machineries and were assessed between April 2007 and June 2009 for the period from April 2004 to March 2007. These dealers had availed concessional rate of tax on the sale of ₹ 10.53 crore. During scrutiny, no declaration forms were found in the cases and despite this, AOs allowed concessional rate of tax in these cases. This resulted in non-levy of tax of ₹ 1.02 crore.

After we pointed this out, the AOs replied that action would be taken after verification.

### 2.12.26 Incorrect application of concessional rate of tax on invalid 'C' forms

**According to the Rule 12(7) of Central Sales Tax (R&T) Rule 1957, as amended from 01.10.2005, a single declaration of 'C'/'D' may cover all transactions of sale which take place in a quarter of financial year.**

We found in the test check of the records of AC-I (Div.I), Bilaspur, AC-II, Durg and CTO, Ambikapur that three dealers engaged in purchase and sale of *bidi* leaves and manufacture and sale of iron and steel for the period April 2005 to March 2007 who were assessed

between February 2009 and February 2010 had sold goods of ₹ 3.52 crore. Further scrutiny revealed that eight 'C'/'D' forms had transactions of more than a quarter in a financial year. However, the AOs failed to scrutinise these invalid forms which led to short levy of tax of ₹ 30.90 lakh.

After we pointed this out, the CTO, Ambikapur accepted the case and raised the demand for ₹ 4.07 lakh. Others replied that action would be taken after verification.

### 2.12.27 Evasion of tax on fake 'C' forms and non-levy of penalty

Under the provisions of the CST Act, every dealer, who in the course of inter State trade or commerce, sells to a registered dealer, goods of the classes, specified in the certificate of registration of the purchasing dealer, shall be liable to pay tax at the concessional rate of four *per cent* (two *per cent* w.e.f. 01.04.2010) of such turnover provided such sales are supported by declarations in form 'C'.

Our Scrutiny revealed that the department did not have any prescribed system of selecting transactions for cross verification of declaration forms submitted by the dealers for claiming concessions/exemptions. In the absence of any fixed criteria or minimum *per cent* check, the extent of cross verification to be carried out is solely at the discretion of the AO.

During test check of the records of nine ACs and six CTOs, a sample of 596 'C' forms was selected by audit for cross verification.

Our Cross verification of declaration forms with the relevant States revealed that 61 forms involving sale of ₹ 5.97 crore produced by the Chhattisgarh dealers were not issued by the assessing authorities of relevant States. This indicated that the forms were not genuine. Thus acceptance of incorrect forms resulted in evasion of tax of ₹ 40.62 lakh besides non-levy of minimum penalty of ₹ 121.86 lakh as mentioned in the following table:

(₹ in lakh)

S. No.	Name of the issuing State	Number of 'C' forms found fake	Amount involved	Evaded Tax	Penalty leviable
1	Bihar	1	1.78	0.41	1.23
2	New Delhi	1	11.53	0.63	1.88
3	Madhya Pradesh	15	134.87	7.81	23.43
4	Maharashtra	5	83.59	5.63	16.89
5	Uttaranchal	9	107.68	7.55	22.65
6	Uttar Pradesh	1	55.58	4.46	13.40
7	West Bengal	2	5.87	0.38	1.14
8	Andhra Pradesh	13	112.36	6.38	19.13
9	Orissa	14	83.63	7.37	22.10
<b>Total</b>		<b>61</b>	<b>596.89</b>	<b>40.62</b>	<b>121.86</b>

It is recommended that the Department may consider fixing a criteria or minimum per cent check of cross verification to be carried out solely at the discretion of the AO and also initiating necessary steps to prepare a database for such forms verification.

### 2.12.28 Evasion of tax on fake 'F' forms and non-levy of penalty

During test check of the records of nine ACs and six CTOs, a sample of 307 'F' forms were selected by audit for cross verification as the authenticity of these forms *prima facie* appeared doubtful.



Cross verification with the relevant States revealed that 39 forms involving sale of ₹ 11.96 crore were fraudulently used by Chhattisgarh dealers to evade tax. The assessing authorities of relevant States certified that the dealers involved in these transactions were not issued these forms. This resulted in evasion of tax of ₹ 1.15 crore besides non-levy of minimum penalty of ₹ 3.46 crore as mentioned below:

(₹ in lakh)

Sl. No.	Name of the issuing State	Number of 'F' forms found fake	Amount involved	Evaded Tax	Penalty
1	Haryana	12	215.79	17.26	51.79
2	Maharashtra	20	780.62	78.20	234.59
3	New Delhi	5	138.60	13.86	41.58
4	Uttar Pradesh	1	53.56	5.36	16.07
5	Punjab	1	7.25	0.72	2.17
<b>Total</b>		<b>39</b>	<b>1195.82</b>	<b>115.40</b>	<b>346.20</b>

### 2.12.29 Irregular exemption of tax on incomplete 'C' forms

**Under the CST Act, and the rules framed thereunder, declaration form 'C' complete in all respects i.e. bearing registration number, date of issue by the transferee, transport details etc. should be furnished to avail exemption from levy of tax on account of the *inter-state* sale.**

We found in the test check of the records of AC-II, Durg and AC, Raigarh that two dealers availed concessional rates on sales worth ₹ 0.94 crore. Scrutiny of five 'C' forms revealed the discrepancies as mentioned in the following table:

Number of forms	Deficiency	Reply of the department	Audit comment
1	Date of issue, Name of selling dealer, registration no. etc. not mentioned in the forms.	The seal of issuing authority and name & RC no. of purchasing dealer mentioned.	Reply is not convincing because form with incomplete data was submitted by the dealer.
4	Purchaser's TIN not mentioned.	Action would be taken after verification.	

In the absence of these details, the forms were prima facie liable to be rejected and to be taxed as per the provisions of the Act. Failure of the AOs to scrutinise these forms resulted in non levy of tax of ₹ 5.08 lakh.

### 2.12.30 Short levy of tax due to incorrect application of rate of tax

**Rule 6 and 8(5) of Central Sales Tax (Central) Rules, 1957 stipulates that every registered dealer liable to pay tax shall maintain correct account of his purchases, sales and stocks showing value of different kinds of goods subject to different rates of tax. Further, every registered dealer to whom any declaration in Form 'C' is issued by authority shall maintain in a register in Form-VII a true and correct account of every such form received from the said authority.**

**As per CGVAT Act, 2005 read with Schedule-II, home appliances and plastic goods were taxable at 12.5 per cent and according to notification no. 57 dated June 2006, plastic buckets were taxable at four per cent. Section 54 of the CGVAT Act, 2005 stipulates that the Commissioner may impose penalty if the dealer has concealed his turnover or the aggregate amount of purchase prices in respect of any goods or has furnished false particulars of his sales or purchase in his return at three to five times of tax evaded.**

We found in the test check (January 2011) of assessment records of the CTO-IV, Raipur that a dealer engaged in purchase and sale of home appliances, bucket, cooker etc. for the period April 2006 to March 2007 and assessed in January 2010 mentioned import purchases of buckets in both Form-VII and purchase list of ₹ 48.88 lakh. As such, the AO also levied tax at four *per cent* on the sale of ₹ 45.59 lakh during the year. Further cross verification with Form 59-A and copy of accounts ledger issued by seller revealed that the dealer actually purchased home appliances/ plastic goods worth of ₹ 48.88 lakh but not the buckets. Thus, the AO assessed tax at lower rate without verifying the documents which resulted in short levy of tax of ₹ 3.88 lakh on the sale of ₹ 45.59 lakh at the differential rate of 8.5 *per cent* besides

non-levy of minimum penalty of ₹ 11.64 lakh.

After this case was pointed out (January 2011), the department intimated (July 2011) that the case was re-opened and demand of ₹ 11.63 lakh was raised.

### 2.12.31 Incorrect exemption in the absence of 'F' forms

**Section 6-A of the CST Act read with Rule 12(5) of the CST (R&T) Rules, provides that exemption of tax to a registered dealer is granted in case of branch transfer/ consignment sale, provided they are supported by a declaration in form 'F'.**

We found in the test check of the records of AC, Rajnandgaon that a dealer engaged in manufacture and sale of edible oil assessed in January 2008 for the period from April 2004 to March 2005 was granted exemption

on stock transfer of ₹ 31.98 crore. Further scrutiny revealed that no 'F' forms

were found to support the stock transfer. Thus, grant of exemption by the AO without verifying supporting documents led to non-levy of tax of ₹ 3.20 crore.

After we pointed this out, the AO replied that action would be taken after verification.

### 2.12.32 Short accountal of purchased/imported goods

**Section 41 of the Chhattisgarh Value Added Tax Act, 2005 stipulates that every registered dealer liable to pay tax shall maintain correct account of his purchases, sales and stocks showing value of different kinds of goods subject to different rates of tax.**

**2.12.32.1** During the cross verification with other States, it was found that 36 Chhattisgarh dealers accounted for lower purchases in 49 'C' forms involving an amount of ₹ 6.60 crore in their books of accounts thereby concealing purchases. These facts were confirmed by the relevant assessing authorities of other States after verifying with sellers records. Suppression by the Chhattisgarh dealers of actual value of goods purchased from other States and

non-verification of the same by the AO led to non-levy of tax of ₹ 31.22 lakh besides penalty of ₹ 93.65 lakh as mentioned below:

(₹ in lakh)

Sl.No.	Name of the receiving State	Number of 'C' forms	Difference amount	Evaded Tax	Penalty
1	Delhi	1	5.35	0.21	0.64
2	Gujarat	6	5.47	0.31	0.94
3	Haryana	2	48.40	1.94	5.81
4	Maharashtra	1	28.45	1.14	3.41
5	Orissa	27	369.43	15.25	45.74
6	Rajasthan	8	90.12	3.92	11.76
7	Tamil Nadu	2	46.60	5.82	17.47
8	Uttar Pradesh	2	65.68	2.63	7.88
<b>Total:</b>		<b>49</b>	<b>659.50</b>	<b>31.22</b>	<b>93.65</b>

**2.12.32.2** Similarly, nine Chhattisgarh dealers accounted for lower purchases in 24 'F' forms involving an amount of ₹ 8.98 crore in their books of accounts thereby concealing transferred (imported from other States) goods. These facts were confirmed by the relevant assessing authorities of other States. Suppression by the Chhattisgarh dealers of actual value of goods transferred from other States and non-verification of the same by the AO led to non-levy of tax of ₹ 41.01 lakh besides penalty of ₹ 1.23 crore as mentioned below:

(₹ in lakh)

Sl.No.	Name of the receiving State	Number of 'F' forms	Amount involved	Evaded Tax	Penalty
1	Bihar	1	18.00	2.25	6.75
2	Gujarat	3	7.72	0.32	0.96
3	Maharashtra	2	40.76	5.09	15.27
4	Orissa	17	826.17	33.12	99.36
5	West Bengal	1	5.80	0.23	0.69
<b>Total:</b>		<b>24</b>	<b>898.45</b>	<b>41.01</b>	<b>123.03</b>

### 2.12.33 Computerisation

The Department made filing of e-returns mandatory from July 2010 to the dealers whose turnover exceeds ₹ 40 lakh. However, the Department had not followed any procedure for on-line issue of statutory forms. Since the Department was not undertaking the uploading of utilisation of declaration forms like 'C'/ 'F'/ 'H'/ 'E-I, E-II' etc., it was not possible to cross verify the authenticity of these forms.

### 2.12.34 Internal Audit

Internal Audit is a vital component of the internal control mechanism and is generally defined as the control of all controls to enable an organisation to assure itself that the prescribed systems are functioning reasonably well. The Internal Audit Wing (IAW) attached to the office of the Commissioner consisted of only one officer of the rank of Assistant Commissioner and no other official was posted in the wing. The internal audits conducted by the wing during the last three years are mentioned below:

Sl. No.	Year	Total number of assessing units	Number of internal audits conducted		Number of IRs issued during the year	Number of IRs settled during the year
			Number of units audited	Number of assessment checked		
1	2008-09	43	3	117	3	Nil
2	2009-10	43	8	217	8	Nil
3	2010-11	43	1	21	1	Nil

Thus, the performance of the IAW in terms of coverage, periodicity and number of objections raised, had ranged between two and 18 *per cent* and the objections raised by the wing were not getting settled through appropriate action.

This indicates that the Department was not according due importance to internal audit and had not taken appropriate action to settle IRs.

### 2.12.35 Conclusion

The Department had not put in place any system to verify the utilisation statements of declaration forms while scrutinising the returns/conducting tax

audits. Further, there was no system installed for verification of each and every declaration form submitted by the dealers with the database available in the TINXSYS website before allowing exemption/concession of tax.

There were instances of failure of the AOs to cross verify the declarations submitted by the dealers claiming concessions/exemptions with other States. Appropriate steps were not taken by the Department on detection of fake, invalid or defective forms. Audit had recommended in the earlier review (Audit Report 2008-09) on “Levy and collection of Central Sales Tax” regarding obtaining the samples of declaration forms from other States for easier identification of forms. However, the Department could not collect samples even after lapse of one year. No central database of tax exemptions/concessions sanctioned and availed was maintained by the Department. Audit observed cases of irregular acceptance of ‘C’ and ‘F’ forms, irregular tax exemption on incomplete ‘C’ forms, short accountal of purchased/imported goods etc. Internal audit, as part of the internal control mechanism, was found to be inadequate.

### **2.12.36 Recommendations**

The Government may consider:

- obtaining of sample declaration forms from other States for easy reference to ascertain the genuineness at the time of assessment of cases;
- forwarding utilisation certificates of statutory forms submitted by the dealers from circles to ACs, for cross verification;
- creating a database to evaluate the extent of exemptions/concessions allowed;
- preparing checklist on various points to be checked essentially before acceptance of these forms;
- strengthening the Internal Audit Wing and ensuring time bound action on suggestions of the wing; and
- initiating a system for online issue of declaration forms.

### 2.13 Audit Observations on Assessments/ Returns

*We scrutinised assessment records of sales tax/value added tax (VAT) in Commercial Taxes Department and found several cases of non-observance of provisions of the Acts/Rules, non/short levy of tax/penalty/interest, incorrect application of rate of tax, incorrect deduction from taxable turnover, incorrect exemption and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are only illustrative and are based on a test check carried out by us. Such omissions on the part of assessing authorities (AA) are pointed out in audit each year, but not only do the irregularities persist but these also remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of the internal audit to ensure that such omissions are detected and rectified.*

### 2.14 Non-observance of the provisions of the Acts/ Rules

The Chhattisgarh Commercial Tax Act 1994 provides for:

- (i) levy of tax at the rates prescribed in the Acts and the notifications issued there under,
- (ii) levy of interest for non/delay in payment of tax, at the rates prescribed in the Acts.
- (iii) levy of penalty at the prescribed rate for contravention of the certain provisions of the Act and
- (iv) allowing exemption of turnover subject to fulfilment of the prescribed conditions.

We noticed that the AAs while finalising the assessment did not observe some of the provisions which resulted in non/short realisation of revenue as mentioned in succeeding paragraphs.

### 2.15 Incorrect exemption on taxable goods

**According to Notification No. A-3-46-2000-ST-V (52) dated 17.7.2000, tractor trailers for use in agriculture purpose is exempted from payment of sales tax; otherwise it is taxable at the rate of 4.6 per cent (with surcharge).**

We found in the assessment records of three Commercial tax Officers<sup>8</sup> (CTOs) between April 2009 and March 2010 that eight dealers engaged in manufacture and sale of tractor trailers for the period between 1 April 2002 and 31 March 2006 and assessed between June 2005 and January 2009 sold tractor trailers valued at ₹ 8.63 crore during the year 2002-

2006. The CTOs while finalising the assessment exempted the sale from levy of tax though no proof that the sale was made for agriculture purpose was produced by the purchasers. We found from their sale lists and other dealers' purchase accounts that the manufacturing dealers had sold goods to the dealers for sale and

---

<sup>8</sup> Dhamtari, Rajnandgaon and Raipur



not to the farmers. Thus, exemption granted was incorrect and resulted in loss of revenue of ₹ 39.70 lakh.

After we pointed this out, the Government re-opened (September 2011) five cases for further scrutiny and raised demand notices in three cases. Reply has not been received in the remaining cases.

## 2.16 Incorrect deduction from taxable turnover

**As per the Chhattisgarh Commercial Tax Rules, 1995, every registered dealer is required to furnish a copy of goods account, purchase list, computation sheet and documents relating to deductions shown in return along with the last return for the year, failing which tax as prescribed in the Schedule should be leviable. Medicine is taxable at the rate of 9.2 per cent including surcharge.**

We found in the assessment records of the Assistant Commissioner (AC), Commercial Tax, Raipur (June 2009), that a dealer engaged in clearing and forwarding of medicines for the period April 2004 to March 2005 and assessed in November 2007, availed deduction of life saving drugs of ₹ 2.57 crore for which no supporting documents were attached with the case. Despite this, the AO granted deduction on the entire amount which was irregular in view of the rules *ibid* and tax at the rate of 9.2 per cent (including surcharge on medicine)

should have been levied. Thus non-levy of tax has resulted in non-realisation of revenue of ₹ 23.61 lakh.

After we pointed this out, the Department intimated (December 2011) that the case was re-opened and notice has been issued to the dealer.

## 2.17 Non levy of penalty

**Raw *matar* is tax-free item under the CGVAT Act 2005. *Bhune matar*, is taxable at the rate of 12.5 per cent. Further, the Act provides that if a dealer conceals his turnover, or furnished false particulars of his sales or purchases, the Commissioner may initiate proceeding for imposition of penalty which shall not be less than three times but shall not exceed five times of the amount of tax evaded is payable by the dealer. This is in addition to the tax payable by the dealer.**

We found in the assessment records of the Commercial Tax officer-V, (CTO) Raipur (February 2011) that a dealer registered for the manufacturing of *bhuna matar* assessed in March 2010 for the year 2006-07 was exempted from payment of tax on sale of raw *matar* valued at ₹ 1.44 crore. On scrutiny of the Audit Report submitted by the dealer we found in the annexure attached with the Audit Report that the sale of raw material was shown as NIL and the sale of finished goods i.e *bhuna matar* are

taxable good was shown as 8.83 lakh kilograms valued at ₹ 1.43 crore. The dealer had inserted a forged white page in manufacturing and trading account which indicated that the accounts were forged. Thus exemption availed of by the dealer was incorrect.

We further cross verified the accounts of the dealer with records of Income Tax Department and found that in manufacturing and trading account the dealer had sold *bhuna matar* which is a taxable good and not raw *matar*. Thus, exemption availed of was incorrect and resulted in non-levy of tax of ₹ 17.89 lakh. As the dealer furnished wrong particulars for evading tax through manipulation of records, penalty amounting ₹ 89.43 lakh was also leviable under the Act.

After we pointed this out, the Government accepted (September 2011) our audit observation, re-opened the case under Section 22(1) and raised a demand notice of ₹ 1.07 crore against the dealer.

## 2.18 Application of incorrect rate of tax

**According to the Chhattisgrah Value Added Tax Act, 2005, goods are taxable at the rates prescribed from time to time.**

We found in the assessment records of the four Commercial Tax Officers (CTOs) Circles, (between July 2010 and February 2011), that the CTOs levied tax of ₹ 16.28 lakh at the rate of four *per cent* on the total sale

value of ₹ 439.27 lakh from five dealers on the sale of residuary goods as against the leviable at the rate of 12.5 *per cent*. In the case of another dealer, complete tax exemption was granted. Thus levy of tax at lower rate in four cases and grant of irregular tax exemption in one case resulted in loss of revenue of ₹ 32.86 lakh as detailed below:

Sl. No	Name of office	Residuary goods.	Sale Amount (in lakh)	Tax levied (@ 4%)	Tax leviable (@ 12.5%)	Short levy
1	CTO Circle II Durg	Copper scrap, Brass scrap	179.57	7.18	19.95	12.77
After we pointed this out, the Department intimated (December 2011) that copper scrap and brass scrap come under entry No. 48 of Annexure II of CGVAT Act, 2005 for which the rate of tax is 4 <i>per cent</i> and as such correct taxation has been done by the AO. The reply is not acceptable because as per Notification No. F-10/56/2006/CT/v (73) dated 26.9.2006 aluminium scrap was included as Industrial Input which is taxable at 4 <i>per cent</i> which clearly indicates that metal scrap was not included in entry 48 of Annexure II of CGVAT Act 2005.						
2	CTO Circle I Raipur	Surgical goods	90.35	3.56	10.04	6.48
After this being pointed out the Department stated that the dealer is engaged in the business of medical equipments not surgical goods, due to typographical error in the assessment order instead of medical equipments it was mentioned surgical goods. The reply is not correct as declaration form of import goods the form 59 (A) enclosed with the case indicates that the dealer had purchased surgical goods not the medical equipments.						
3	CTO Circle V Raipur	Dripline pipe	70.59	2.71	7.83	5.12
After this being pointed out the Department stated that the dealer had deposited the amount of ₹ 5.12 lakh through e-payment.						



4	CTO Circle VI Raipur	Glassware/ Crockery	73.62	2.83	8.18	5.35
This was intimated to the Department and to the Government in July 2011, their reply has not been received (October 2011).						
5	CTO Circle I Raipur	Tarpaulin	25.14	Nil	3.14	3.14
After this being pointed out by us the Department stated that the dealer had sold canvas cloth amounting to ₹ 25.14 lakh up to the period 30.9.06, and had sold tarpaulin only after 1.10.06 and as such correct assessment has been made by the AO. The reply is not correct as the purchase list and calculation sheet submitted by the dealer were found attached with the assessment order in the assessment file of this dealer which clearly shows that he had purchases and sold tarpaulin during the period in question.						
<b>Total</b>			<b>439.27</b>	<b>16.28</b>	<b>49.14</b>	<b>32.86</b>

## 2.19 Irregular exemption of entry tax

**Sugar is a tax free item under Chhattisgarh Commercial Tax Act, 1994, however under Chhattisgarh Entry Tax Act, 1976 entry of sugar from a local area to another local area is taxable at one per cent. If a dealer has concealed his turnover or has furnished false particulars, the authority concerned may initiate proceeding for imposing penalty of minimum three times of the tax evaded.**

We found in the assessment records (May 2009) of the Assistant Commissioner (AC) Raipur for the period 1 April 2003 to 31 March 2004 that a dealer assessed in December 2006 purchased sugar of ₹ 3.99 crore from outside of the State. Of this, the dealer made interstate sale of ₹ 3.87 crore to dealers of Orissa. We cross verified the lorry receipts enclosed with the assessment order with the Transport Department of Orissa and found that the vehicle number in which it was claimed to have been carried were

two wheelers not trucks. Thus, lorry receipts submitted by the dealer were fabricated and, the grant of exemption in this case was incorrect. The dealer was liable to pay entry tax of ₹ 3.87 lakh along with penalty of ₹ 11.61 lakh.

After we pointed this out, the Department intimated (December 2011) that the case was re-opened under section 22(1) and raised a demand notice of ₹ 7.74 lakh against the dealer.

## 2.20 Non-levy of entry tax

**According to Section 3 of Chhattisgarh Entry Tax Act, 1976 read with Schedule II, entry tax shall be paid on entry of goods in the local area by the person who receives the goods in that area. Entry tax on cement is one per cent and iron and steel is one and half per cent.**

We found (February, 2010) in the assessment records of the Assistant Commissioner-I (AO), Durg in four cases of three dealers, engaged in purchase and sale of cement, iron and steel and were assessed between November 2006 and December 2008 for the period April 2004 to March 2006. While assessing the entry tax, the

AO allowed exemption on the purchase value of ₹ 7.44crore (₹ 3.99 crore of cement and ₹ 3.45 crore of iron and steel) by treating it as direct sale to the customer from factory. However, our scrutiny of the purchase bills revealed that manufacturers raised bills only in the name of the registered dealers and in turn, these dealers simply issued *kachcha* sale invoices in a white paper to the customers i.e. purchasers. Despite non-submission of proof of direct sale, the AO allowed the exemption which was incorrect and resulted in non-levy of entry tax of ₹ 9.17 lakh.

After we pointed this out, the Department intimated (December 2011) that the case was re-opened under section 22 (1) and raised demand notice against the dealer.

## 2.21 Non-levy of tax on declaration sale

**According to Chhattisgarh Commercial Tax Act, 1994 read with notification No. 70 dated November 2001, sale of finished goods by manufacturer of iron and steel is exempt from payment of tax if they were manufactured out of those goods that had borne tax at the rate of two per cent.**

We found in the assessment records of the Assistant Commissioner-I (AC), Durg (February 2010) that a dealer engaged in manufacture and sale of re-rolled products like steel rounds, rods, flats, angles etc. for the period 2004-05 and assessed in January 2008 was allowed exemption on the sale of finished goods valued at ₹ 4.04 crore. Our scrutiny revealed that the dealer had purchased raw materials from exempted unit without paying any tax as such he was not entitled to any exemption from

payment of tax on the sale of finished goods. However the AC while assessing the case allowed exemption resulting in non- levy of tax of ₹ 8.08 lakh.

After we pointed this out, the Department intimated (December 2011) that tax was calculated on the sale of finished goods. Reply is not correct as in this case no tax was paid on the raw material, as such exemption on sale of finished goods was not admissible.

## 2.22 Incorrect allowance of input tax rebate

**According to Section 13 of Chhattisgarh Vat Act, 2005, read with entry no 2 and 4 of the Schedule III, capital expenditure on land and civil construction for use in manufacture or trade including office building and other related constructions, furniture and fixture including air conditioners and refrigerators are not eligible for input tax rebate.**

We found (February 2011) in the assessment records of the Assistant Commercial Tax Officer, (ACTO) Circle-V, Raipur that a dealer engaged in manufacture and sale of cement in the year 2006-07 and assessed in December 2009 was allowed input tax rebate (ITR) of ₹ 3.96 lakh on the purchase of mild steel (M.S.) round, M.S. angle, computer and electrical goods etc.

(capital goods) of ₹ 1.03 crore at the rate of four *per cent* and ₹ 0.62 lakh on cement purchase (capital goods) of ₹ 5.58 lakh at the rate of 12.5 *per cent* used in civil work for construction of cement plant. The allowed ITR was irregular in view of provision of the Act. This resulted in excess claim of ITR of ₹ 4.57 lakh.

After we pointed this out, the Department/ Government accepted the audit observation and stated (September 2011) that the case has been re-opened for further scrutiny. Further progress made has not been received (October 2011).

### 2.23 Incorrect exemption on sale of taxable goods

**According to Section 9 read with Schedule II of Chhattisgarh Commercial Tax Act 1994, tax on sale of electronic goods is 9.2 *per cent* (including surcharge).**

We found in the assessment records of Commercial Tax Officer-I (CTO), (September 2009) Raipur that a dealer engaged in purchase and sale of electronic goods for the period between 1 April 2004 and 31 March 2005 and assessed in December

2007 had total turnover of ₹ 1.50 crore, out of which ₹ 26.48 lakh were shown as tax free goods on account of re-charge voucher. Our scrutiny of the dealer's accounts revealed that the dealer had not purchased any recharge voucher but had shown purchases of only electronic goods as such the exemption allowed was incorrect which resulted in non levy of tax of ₹ 2.44 lakh.

After we pointed this out, the Department intimated (December 2011) that the case was re-opened under section 22(1) and raised a demand notice of ₹ 2.44 lakh against the dealer.