

CHAPTER II
SALES TAX/VALUE ADDED
TAX

EXECUTIVE SUMMARY

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|---|--|
| Marginal increase in tax collection | In 2010-11, the collection of tax from Sales Tax/Value Added Tax which stood at ₹ 12068.62 crore increased by ₹ 1942.61 crore over the previous year. |
| Internal audit | The DTT has an Internal Audit Cell (IAC) under the charge of Addl. Comm. (Audit). This cell was to conduct test check of cases of assessment as per approved plan. In addition, the Directorate of Audit under the Finance Department is entrusted with the internal audit of all offices/Departments of the Government. Annual Audit Plan for the year 2008-09 and 2009-10 was laid down and internal audit of the Department has been conducted upto 2009-10 only. After 2009-10 onwards, annual plan was not laid down and no audits for the period after 2009-10 was conducted by the IA Wing. |
| Very low recovery by the Department of observations pointed out by us in earlier years | During the period 2005-06 to 2009-10 we had pointed out several cases of claim of concession/exemption without production of statutory forms or on defective forms, excess claim of deduction, non/short realisation/levy of tax etc. with revenue implication of ₹ 4062.66 crore in 59 cases. Of these, the Department accepted audit observations involving ₹ 628.45 crore but recovered only ₹ 14.37 crore. The recovery position as compared to acceptance of objections was very low. |
| Results of audit conducted by us in 2010-11 | <p>In 2010-11 we test checked the records of 68 units relating to Sales Tax/ Value Added Tax and found irregular claim of exemption/concessional rates of tax without production of prescribed statutory forms/ or on defective forms, excess claim of deduction, non/short realisation/levy of tax etc. involving ₹ 2014.38 crore in 2397 cases.</p> <p>The Department accepted underassessment and other deficiencies of ₹ 57.56 crore in 277 cases which were pointed out in audit during the year 2010-11 and realised ₹ 0.50 lakh in four cases.</p> |

| | |
|-----------------------------------|--|
| Highlights of this Chapter | <p>In this Chapter, we present some illustrative cases selected from observations noticed during our test check of records relating to assessment and collection of sales tax in the office of the Department of Trade and Taxes, Govt. of NCT of Delhi where we found that the provisions of the Act/Rules were not observed, besides one Performance Audit.</p> <p>In the Performance Audit on "Utilisation of Declaration Forms in Interstate Trade and Commerce" we have pointed out various systems and compliance deficiencies in the administration of the Central Sales Tax Act and Rules, with reference to the Declaration Forms which enable dealers to sell/buy at concessional rates of tax.</p> <p>We have pointed out cases of concession/ exemption claimed on fake declaration form C and F, misutilisation of declaration forms and concealment of sales etc.</p> |
| Our conclusion | <p>The Department needs to improve the internal control systems including strengthening of internal audit so that the number of assessment/scrutiny cases are increased and weaknesses in the system are addressed and omission of the nature deducted by audit are avoided in future.</p> <p>It also needs to initiate action to recover the non-realisation, undercharge of tax pointed out by us, more so in those cases where it has accepted our contention.</p> |

CHAPTER II

SALES TAX/VALUE ADDED TAX

2.1 Tax administration

Value Added Tax (VAT) is a tax on value addition. It is a multi-point tax, which is levied at every stage of sale. It is collected at the stage of manufacture/resale and contemplates rebating of the tax paid on inputs and purchases, thereby providing revenue to the Government on value addition at every stage.

The receipts from VAT are administered by the Commissioner of Department of Trade and Taxes (DTT) assisted by four Special Commissioners. There are ten zones each headed by the Joint Commissioners/Deputy Commissioners who work under the Additional Commissioners and supervise the work of the Value Added Tax Officers (VATOs), Assistant Value Added Tax Officers (AVATOs) and Inspectors working in the wards under their control. Delhi has been divided into 108 wards headed by VATOs.

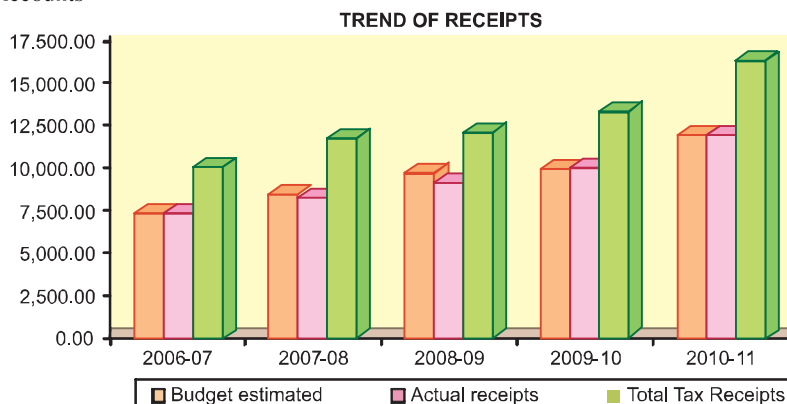
2.2 Trend of receipts

Actual receipts from Taxes on Sales, Trade etc. / VAT during the last five years 2006-2007 to 2010-11 along with the total tax receipts during the same period is exhibited in the following table and graph.

(₹ in crore)

| Year | Budget estimates | Actual receipts | Variation excess (+)/ shortfall (-) | Percentage of variation | Total tax receipts of the State | Percentage of actual VAT receipts vis-a-vis total tax receipts |
|---------|------------------|-----------------|-------------------------------------|-------------------------|---------------------------------|--|
| 2006-07 | 7,400.00 | 7,365.79 | (-) 34.21 | (-) 0.46 | 10,155.80 | 72.53 |
| 2007-08 | 8,500.00 | 8,310.49 | (-) 189.51 | (-) 2.23 | 11,782.80 | 70.53 |
| 2008-09 | 9,800.00 | 9,152.09 | (-) 647.91 | (-) 6.61 | 12,180.70 | 75.14 |
| 2009-10 | 10,000.00 | 10,126.01 | (+) 126.01 | (+) 1.26 | 13,447.86 | 75.30 |
| 2010-11 | 12,000.00 | 12,068.62 | (+) 68.62 | (+).0.57 | 16,477.75 | 73.24 |

Source: Finance Accounts



It is seen that the variation between BEs and actual receipts which was as low as 6.61 *per cent* during 2008-09 and as high as 1.26 *per cent* during 2009-10 came down to 0.57 *per cent* during 2010-11.

2.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March, 2011 amounted to ₹ 11770.88 crore of which ₹ 9615.38 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 | Additions during the year | Amount collected during the year | Closing balance of arrears |
|---------|----------------------------|---------------------------|----------------------------------|----------------------------|
| 2006-07 | 9615.38 | 23.65 | 385.59 | 9253.44 |
| 2007-08 | 9253.44 | 193.23 | 982.71 | 8463.96 |
| 2008-09 | 8463.96 | 534.79 | 324.63 | 8674.12 |
| 2009-10 | 8674.12 | 2060.95 | 790.69 | 9944.38 |
| 2010-11 | 9944.38 | 2291.80 | 465.30 | 11770.88 |

It would be seen from the above table that the arrears of revenue have decreased during the year 2006-07 and 2007-08 but increased during the year 2008-09, 2009-10 and 2010-11. The Department stated that the major part of arrears of ₹ 7443.73 crore related to DST Regime. The fact remains that the cases are pending recovery and should be collected before they become irrecoverable.

2.4 Assessee profile

The total number of dealers registered during 2010-11 was 231833 out of which monthly, quarterly, half yearly and yearly dealers were 14465, 102530, 60121 and 54717, respectively. 1232 dealers were large tax payers based on tax deposited of more than one crore and 91432 dealers were small dealers based on tax deposited of less than one lakh. 231833 dealers were required to file the returns as on 31st March, 2011 out of which 183241 dealers filed their returns.

2.5 Cost of VAT per assessee

The Cost of Collection during the year and the preceding two years is shown below:

(₹ in lakh)

| Year | Total number of assessees | Cost of collection | Cost of VAT per assessee |
|---------|---------------------------|--------------------|--------------------------|
| 2008-09 | 203358 | 4761.00 | 0.02 |
| 2009-10 | 219902 | 5097.00 | 0.02 |
| 2010-11 | 231833 | 5080.00 | 0.02 |

It may be seen from the given table that the cost of VAT per assessee is same during the last three years.

2.6 Arrears in assessment/scrutiny

The number of cases pending assessment/scrutiny at the beginning of the year, becoming due during the year, disposed during the year and pending at the end of the each year during 2008-09 to 2010-11 as furnished by the Department of Trade and Taxes on Sales/VAT are as mentioned below:

| Year | Opening balance | | Cases which become due for assessment/scrutiny | | Total | | Cases disposed during the year | | Cases pending at the end of the year | |
|---------|-----------------|-------------|--|-------------|------------|-------------|--------------------------------|-------------|--------------------------------------|-------------|
| | DST Regime | DVAT Regime | DST Regime | DVAT Regime | DST Regime | DVAT Regime | DST Regime | DVAT Regime | DST Regime | DVAT Regime |
| 2008-09 | 6289 | 117133 | 1325 | 65576 | 7614 | 182709 | 2055 | 102650 | 5559 | 80059 |
| 2009-10 | 5559 | 80059 | 390 | 105185 | 5949 | 185244 | 1004 | 94131 | 4945 | 91113 |
| 2010-11 | 4945 | 91113 | 634 | 42553 | 5579 | 133666 | 994 | 84726 | 4585 | 48940 |

* as per Sec. 31 of DVAT Act, 2004 where a return is furnished by a person as require under section 26 or 27 of this Act contains the prescribed information and complies with the requirements of this Act and the rules. The return is deemed to be a notice of assessment and to be under the hand of the Commissioner.

** As per notification dated 23.6.05 issued by the Deptt. The VATO/AVATO would scrutinise the returns; (i) 100% scrutiny for Gross turnover more than five crore, (ii) 50% scrutiny for Gross turnover between two to five crore, (iii) 25% scrutiny for Gross turnover between one to two crore, (iv) 2% scrutiny for Gross turnover below one crore.

2.7 Cost of collection

The gross collection in respect of the value added tax revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2008-09 to 2010-11 along with the relevant all India average percentage of expenditure on collection to gross collection for the year 2009-10 are mentioned below:

(₹ in crore)

| Head of revenue | Year | Collection | Expenditure on collection of revenue | Percentage of expenditure on collection | All India average percentage for the year 2009-10 |
|----------------------------|---------|------------|--------------------------------------|---|---|
| Taxes on sales, trade etc. | 2008-09 | 9,152.09 | 47.61 | 0.52 | 0.96 |
| | 2009-10 | 10126.01 | 50.97 | 0.50 | |
| | 2010-11 | 12068.62 | 50.80 | 0.42 | |

Source: Finance Accounts

From the above table, it is evident that the percentage of expenditure on collection of taxes on sales, trade etc. was less than the all India average percentage for all the years 2008-09 to 2010-11.

2.8 Analysis of collection

The collection of revenue on taxes on sales, trade etc. has increased from ₹ 9152.09 crore during 2008-09 to ₹ 12068.62 crore during the year 2010-11 whereas the percentage of expenditure on collection has decreased from 0.52 per cent to 0.42 per cent during the same period.

2.9 Revenue impact

During the last five years (including the current year's report), audit through its audit reports had pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 4062.66 crore in 59 paragraphs. Of these, the Department/Government has accepted audit observations involving ₹ 628.45 crore and has since recovered ₹ 14.37 crore. The details are shown in the following table:

(₹ in crore)

| Year of Audit Report | Paragraphs included | | Paragraph accepted* | Amount recovered* |
|----------------------|---------------------|----------------|---------------------|-------------------|
| | No | Amount | Amount | Amount |
| 2005-06 | 11 | 69.80 | 11.52 | 0.11 |
| 2006-07 | 12 | 59.71 | 16.54 | 0.08 |
| 2007-08 | 9 | 929.83 | 70.75 | 0.14 |
| 2008-09 | 12 | 1706.46 | 529.64 | 14.04 |
| 2009-10 | 15 | 1296.86 | 00 | 00 |
| Total | 59 | 4062.66 | 628.45 | 14.37 |

Note: *A review has been considered as one paragraph. Therefore, only amounts accepted by the Deptt. have been taken into the 'Paragraph accepted' figure.

2.10 Internal audit

The DTT has an Internal Audit Cell (IAC) under the charge of the Addl. Commissioner (Audit). This cell was to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria decided by the Steering Committee so as to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

On this being pointed out by Audit, the DTT stated that Annual plan for conducting Internal Audit by the Internal Audit Cell of the Department for the year 2008-09 and 2009-10 was laid down to decide the criteria for selection of cases. Annual Plan for further periods was not laid down.

In addition, the Directorate of Audit under the Finance Department is entrusted with the internal audit of all offices/Departments of the Government. The internal audit of the Department has been conducted by the Directorate of Audit, Govt. NCT of Delhi upto 2009-10.

2.11 Results of audit

We noticed during the test check of the records of 68 units relating to VAT, an underassessment of tax and other irregularities involving ₹ 2014.38 crore in 2397 cases which fall under the following categories:

| (₹ in crore) | | | |
|--------------|---|--------------|---------|
| Sl. No. | Categories | No. of cases | Amount |
| 1. | PA on “Utilization of declaration forms in interstate Trade and Commerce” | 1 | 0.42 |
| 2. | Irregular claim of exemption/ concessional rate of tax on statutory forms | 1408 | 1773.94 |
| 3. | Excess claim of input tax credit | 2 | 0.63 |
| 4. | Application of incorrect rate of tax | 6 | 06.35 |
| 5. | Irregular deduction claimed on account of TDS | 16 | 06.08 |
| 6. | Incorrect claim of concessional rate/exemption of tax on defective Statutory (F, C, E-I, E-II, H & I) forms | 16 | 07.21 |
| 7. | Sale on Statutory forms without disclosing off in DVAT-51 | 3 | 02.26 |
| 8. | Incorrect claim of exemption on ‘F’ forms containing multiple month transactions | 4 | 01.13 |
| 9. | Irregular claim of refund/reduction of tax through revised return | 2 | 0.21 |
| 10. | Short payment of tax | 1 | 0.17 |

| | | | |
|--------------|---|-------------|----------------|
| 11. | Excess claim of Input tax credit on purchase of capital goods | 1 | 0.08 |
| 12. | Non-reduction of tax credit on goods destroyed/reduced from the stock | 1 | 0.15 |
| 13. | Non reversal of input tax credit in respect of goods transferred on F forms | 1 | 0.12 |
| 14. | Others | 935 | 215.63 |
| Total | | 2397 | 2014.38 |

During the year, the Department accepted underassessment and other deficiencies of ₹ 57.56 crore in 277 cases which were pointed out in audit during the year 2010-11 and realised an amount of ₹ 0.50 lakh in four cases. The Performance Audit on “**Utilisation of Declaration Forms in interstate Trade and Commerce**” involving ₹ 0.42 crore and few illustrative audit observation involving ₹ 1478.69 crore are discussed in succeeding paragraphs.

2.12 Performance Appraisal on ‘Utilisation of Declaration Forms in interstate Trade and Commerce’

Highlights

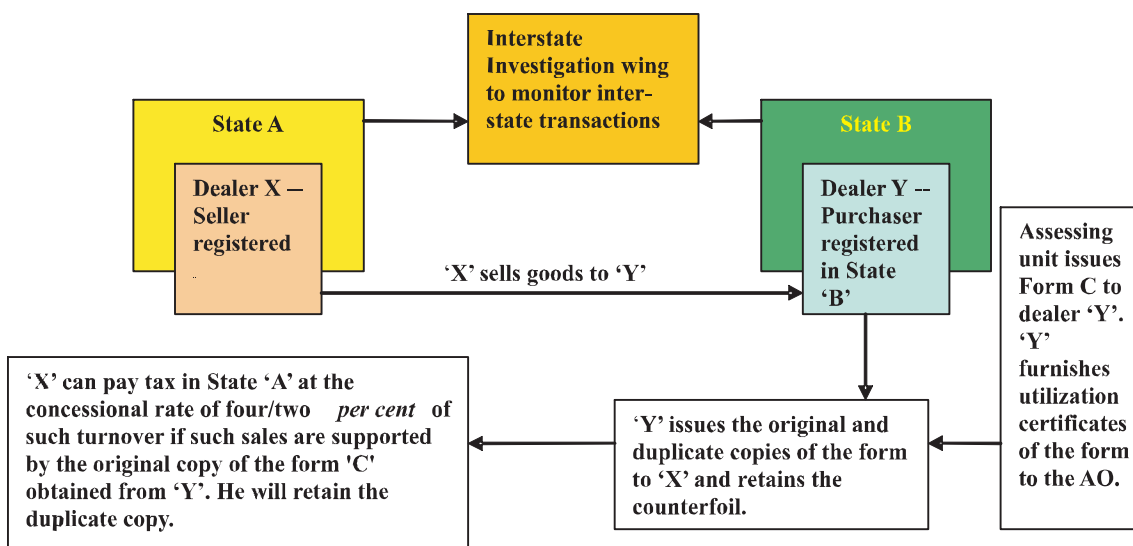
- We came across irregular claims of concessional rate of tax/exemption of tax against fake forms submitted by the dealers in support of Inter-state sale. The revenue involved in these 10 cases was ₹ 8.13 lakh, besides penalty leviable for misdeclaration.
(Paragraph 2.12.6.1)
- There were instances of Forms C utilised by dealers other than those to whom they were issued. The revenue involved in these seven cases of misutilisation of forms was ₹ 9.54 lakh.
(Paragraph 2.12.6. 2)
- Concealment of sale by the dealers on Declaration Forms C and F, led to non-realisation of revenue of ₹ 12.50 lakh in seven cases.
(Paragraph 2.12.6.3)
- Excess claim of concession/exemption by the dealers on declaration forms led to non-realisation of revenue of ₹ 11.97 lakh. in 22 cases.
(Paragraph 2.12.6.4)
- The Department had not put in place mechanism to verify whether every Declaration Form submitted by the dealers were verified with the database available in the TINXSYS website or otherwise, before allowing exemptions/concession of tax
(Paragraph 2.12.7)
- Due dates for filing of Declaration Forms under the CST Act/Rules were routinely extended by the Commissioner of Sales Tax, defeating the objectives for timely filing of the declaration forms.
(Paragraph 2.12.9.4)

2.12.1 Introduction

Under the Central Sales Tax (CST) Act, 1956, (CST Act) registered dealers are eligible to certain concessions and exemptions of tax on interstate transactions on submission of prescribed declarations in Form 'C', 'E-I/E-II' and 'F'. The Central Act is administered by the State Government. The concessional rates of tax are given in furtherance of interstate Trade and Commerce, on production of these Declaration forms. It is the responsibility of the Commercial Tax Department to ensure proper account 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 this State exchequer.

Form 'C' Under the provisions of the Central Sales Tax (CST) Act, 1956, read with CST (Registration and Turnover) Rules, 1957 and CST (Delhi) Rules, 1957, every dealer who in the course of interstate trade or commerce, sells to a registered dealer, goods of the class or classes specified in the certificate of registration of purchasing dealer shall be liable to pay tax at the concessional rate (four *per cent* of his turnover up to 31st March 2007, three *per cent* of his turnover with effect from 1st April 2007¹ and two *per cent* of his turnover with effect from 1st June 2008²), if such sales are supported by declaration in form 'C' covering all transactions of sale, which take place in a quarter of a financial year between the same two dealers.

The steps involved in the process are illustrated below:

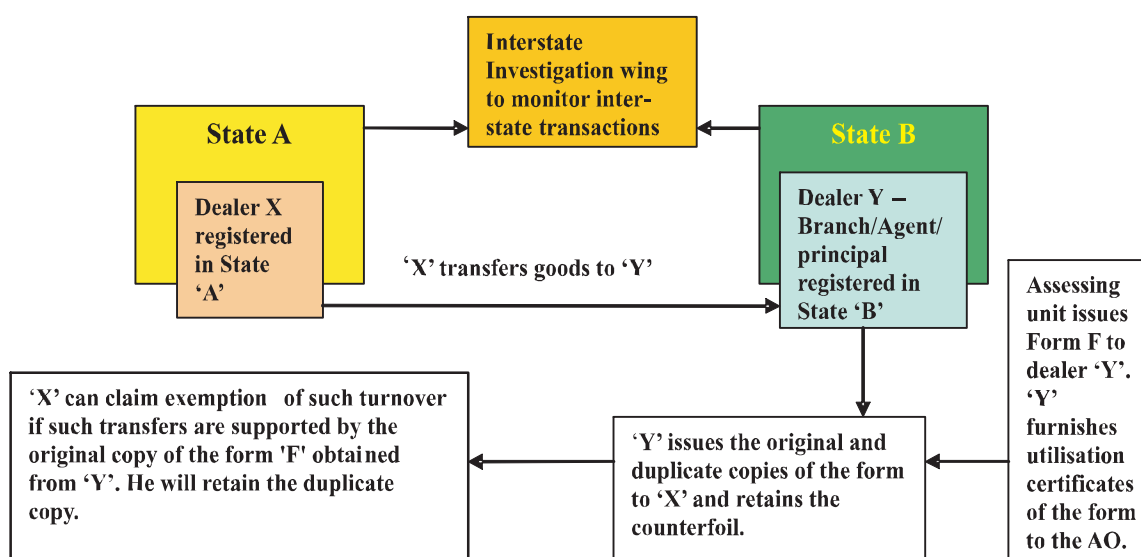


¹ Amendment vide Taxation Laws (Amendment) Act, 2007.

² Notification No.-1/2008-CST-F.No.-28/11/2007-ST dated 30.5.2008

Form 'F' As per provisions of the Central Sales Tax Act (CST Act), 1956, read with the Central Sales Tax (Registration and Turnover) Rules, 1957, {CST (R&T) Rules} and the Central Sales Tax (Delhi) Rules {CST (Delhi) Rules}, 2005, every dealer is required to declare his place of business in other states at the time of seeking registration. Transfer of goods claimed otherwise than by way of sale made by a registered dealer to any other place of his business located outside the state is exempted from tax on production of prescribed declaration in Form 'F' dully filled in and signed by the principal officer of the other place of his business or his agent as the case may be along with the evidence of dispatch of such goods.

The steps involved in the process are illustrated below:



For contravention of the provisions of the CST Act or Rules made there under, the dealer/transferor is liable to pay tax, interest and penalty as prescribed under the DVAT Act³.

TINXSYS Tax Information Exchange System (TINXSYS) is a centralized 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. TINXSYS can be used by any dealer to verify the counter party interstate dealer in any other State. Apart from dealer verification Commercial Tax

³ Section 9.2 of CST Act

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 Departments to monitor interstate trade movements and enables the EC to monitor the trends in interstate trade.

This report reviews the mechanism in the Department of Trade and Taxes (DTT) for ensuring that the concession/exemptions on account of declaration in form 'C' and 'F' were allowed correctly. The Performance Audit revealed many systemic and compliance deficiencies which are discussed in the report.

2.12.2 Organisational setup

The Commissioner is responsible for the administration of the Acts and Rules in the Department of Trade and Taxes. He is assisted by four Special Commissioners, fifteen Additional Commissioners and three Joint Commissioners. There are 10 zones, each headed by an Additional/Joint Commissioner and 106 wards headed by Value Added Tax Officers (VATO). In addition one Key Customer Services (KCS) unit, one Special Zone and one Export Import (EXIM) Cell is headed by Special Commissioner.

2.12.3 Audit objectives

The Performance Audit aims to ascertain whether:

- There exists a foolproof system for custody and issue of the declaration forms;
- exemption/concession of tax granted by the assessing authorities was supported by the original declaration forms;
- there is a system for ascertaining genuineness of the forms for preventing evasion of tax;
- there is a system of uploading the particulars in the TINXSYS website and the data available there is utilised for verifying the correctness of the forms;
- appropriate steps are taken on the receipt and detection of fake, invalid and defective (without proper or sufficient details) forms; and
- there exists an effective and adequate internal control mechanism.

2.12.4 Scope and methodology of Audit

We conducted a test check of the assessment records/returns of 26 wards⁴ between November 2010 and January 2011 covering assessments completed during the period from 2007-08 to 2009-10 where concessions/exemptions were granted under the CST Act and captured the data of 1673 'C' Forms and 1309 'F' Forms. This information was consolidated and forwarded to our

⁴ Ward 19,20,33,48,49,52,54,61,63,70,74,75,76,77,78,79,80,82,83,88,91,94,95,96,100 and KCS(I,II,IV)

Accountants General Offices (AG) of the concerned States/Union Territories⁵ for verification of the genuineness of the Forms against which exemptions/concessions were granted. Similarly we received from the concerned A.G. offices 4505 'C' forms and 2292 'F' forms issued by DTT, Govt. of NCT of Delhi, for verification.

2.12.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the DTT in providing the necessary information and records for audit. An entry conference was held with the Department in January 2011 wherein the Department was apprised of the audit objectives, scope and methodology. The draft review report was forwarded to the Government and the Department in October 2011 and was discussed in exit conference meeting held in January 2012. The final reply of the Department is still awaited.

AUDIT FINDINGS

Compliance Deficiencies

2.12.6 Absence of data base for verification of Declaration Forms

Instructions issued in June 2005⁶ provide that in case of large value transactions claimed to have been made on the basis of central declaration forms H, C, F, etc., the genuineness of the forms must be got verified from the concerned issuing authority of the State/Union Territory through enforcement branch or by sending the officials posted in the ward to different destinations and the Zonal DCs/JCs were required to monitor compliance of the instructions on a weekly basis. However, the Department had no mechanism in place to verify the extent of compliance to these Departmental instructions.

The instructions issued in December 2007⁷ provide that all the Assessing Authorities should verify statutory central forms received from other States along with DVAT 51 through the Tax Information Exchange System (TINXSYS) for which access had been given to all the Zonal Deputy Commissioners and in case the details of such forms were not available on TINXSYS, the forms were to be got verified from the concerned issuing authority.

There was however, no information available with the Department⁸ regarding cross verification done by the Assessing Officers of declaration Forms

⁵ Andhra Pradesh, Assam, Bihar, Chandigarh(UT), Chhattisgarh, Dadra & Nagar Haveli(UT), Daman & Diu(UT), Gujarat, Goa, Haryana, Himachal Pradesh, Jammu & Kashmir, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Puducherry(UT), Punjab, Rajasthan, Tamilnadu, Tripura, Uttarakhand, Uttar Pradesh and West Bengal

⁶ No.STO/Policy-III/2005-06/809 dated 22nd June 2005.

⁷ F6(48)/Policy-I/VAT/2007/611 dt.7.12.2007

⁸ Zone-VI, Ward-30,31 &32, 33 &37, 34, 35, 36 & 39, 38 & 40, 89

submitted by the dealers, with the records of the issuing authorities of other States.

In our cross-verification conducted during the period May to July 2011, the following findings emerged.

2.12.6.1 Concessional rate of tax claimed on fake forms

Cross verification of C Forms pertaining to interstate sales made by the dealers of Delhi with the utilisation account of declaration forms received through interstate purchases made by the dealers of three States under the control of four wards⁹ had claimed concessional rate of CST in six 'C' Forms amounting to ₹ 55.13 lakh for the assessment year 2007-08 and 2009-10 against 'C' Forms which were either non-existent or that the forms had not been issued by the Commercial Tax Officer of the States¹⁰ concerned to the purchasing dealers. Thus, these forms being prima facie 'fake', the sales made against these forms should be disallowed and differential tax of ₹ 3.68 lakh is recoverable. Besides, interest for delay in payment of tax was also leviable.

Similarly, one dealer of KCS-I Ward, availed exemption of tax on branch transfer of ₹ 35.60 lakh against four forms. Cross verification of these 'F' Forms with the records of Commercial Tax Officer concerned of the branches in Maharashtra State revealed that these forms had not been issued to the transferee branches by the Commercial Tax Officer. Thus these forms being prima facie 'fake', the transfer made against these forms should be disallowed and incorrect claim of exemption of tax of ₹ 4.45 lakh is recoverable. Besides, interest for delay in payment was also leviable.

2.12.6.2 Mis-utilisation of forms

During the assessment years 2007-08 to 2009-10, six dealers of three wards¹¹ availed concessional rate of tax on interstate sale of ₹ 145.40 lakh made against seven 'C' forms. Cross verification of these forms with the records made available by the Commercial Tax Department concerned of the issuing States¹² revealed that the forms had not been issued to the dealers who had claimed the concessional rate of tax but had been issued to some other dealers. The incorrect claim of concessional rate of tax resulted in under charge of tax of ₹ 9.54 lakh. Besides, interest for delay in payment of tax was also leviable.

⁹ Ward 52, 82, 100 and KCS-I

¹⁰ Madhya Pradesh, Uttarakhand and Uttar Pradesh

¹¹ Ward – 54, 83 and KCS-I

¹² Assam, Odisha and Uttar Pradesh

2.12.6.3 Concealment of sale

During the assessment years 2007-08 and 2009-10, five dealers in five wards¹³ availed concessional rate of tax on interstate sale of ₹ 55.93 lakh against six 'C' forms. Cross verification of these forms with the records made available by the Commercial Tax Department concerned of the issuing dealers in their States¹⁴ revealed that the issuing dealers of these forms exhibited the amount of purchase as ₹ 180.64 lakh against these forms in their utilisation accounts. This resulted in likely suppression of sale of ₹ 124.71 lakh with consequent short payment of tax of ₹ 11.73 lakh. Besides, interest was also leviable.

Similarly one dealer of KCS-II Ward availed exemption of tax on branch transfer of ₹ 8.99 lakh against one 'F' form. Cross verification of the form with the records made available by the Commercial Tax Department concerned of the issuing dealers in Uttar Pradesh revealed that the goods amounting to ₹ 16.71 lakh were transferred on that 'F' form. This resulted in likely suppression of Sale of ₹ 7.72 lakh with consequent short payment of tax of ₹ 0.77 lakh. Besides, interest was also leviable.

2.12.6.4 Excess claim of concession

During the assessment years 2007-08 and 2009-10, 11 dealers of six wards¹⁵ availed concessional rate of tax on interstate sale of ₹ 633.55 lakh against 20 'C' forms. Cross verification of these forms with the records made available by the Commercial Tax Department concerned of the issuing dealers in their States¹⁶ revealed that the purchase of ₹ 473.48 lakh was made on these forms. This resulted in excess claim of concessional sale of ₹ 160.06 lakh with consequent excess claim of concessional tax of ₹ 10.06 lakh. Besides, interest was also leviable.

Similarly two dealers of Ward KCS (I and II) availed exemption of tax on branch transfer of ₹ 38.18 lakh against two 'F' form. Cross verification of the forms with the records made available by the Commercial Tax Department concerned of the issuing dealer in two States¹⁷ revealed that purchases of ₹ 19.09 lakh was made on these forms. This resulted in excess claim of exemption on branch transfer of ₹ 19.09 lakh with consequent short payment of tax of ₹ 1.91 lakh. Besides, interest was also leviable.

¹³ Ward - 49, 52, 61, 63 and KCS-I

¹⁴ Gujarat, Himachal Pradesh, Madhya Pradesh, Uttarakhand and Uttar Pradesh

¹⁵ Ward -48, 49, 52, 61,77 and KCS-I

¹⁶ Chhattisgarh, Dadra & Nagar Haveli(UT), Jammu & Kashmir, Haryana, Himachal Pradesh, Rajasthan, Uttarakhand and Uttar Pradesh

¹⁷ Uttar Pradesh, West Bengal

2.12.7 Incomplete data in TINXSYS

2.12.7.1 The Department was asked whether the information regarding the dealers and the Forms issued to the dealers was being uploaded in TINXSYS website promptly and whether there is a system of uploading the details of utilisation of declaration Forms in the website.

The Department informed that the information is uploaded through 'automatic scheduler' on daily basis. The Department, however, conceded that the details of utilisation of declaration forms were not available on TINXSYS website.

2.12.7.2 We verified 6797 Forms issued between 2005-06 and 2008-09 by the Department and found the details of issuing dealers in respect of only 2374 Forms in TINXSYS. The remaining 4423 Forms i.e. 65% of Forms could not be verified through TINXSYS.

2.12.8 Records not produced to audit

2.12.8.1 Out of the 6797 forms issued by DTT cross-verified by us, in 372 cases (308 'C' and 64 'F' forms), the utilization details were not made available by the Department.

2.12.8.2 Records of 11 forms (9 'C' and 2 'F' forms) were not made available by the Department.

System deficiencies

2.12.9 Internal control

Every Department is required to institute appropriate internal controls for its efficient and cost effective functioning. The internal controls should help in creation of reliable financial and management information systems and provide for adequate safeguard against non/short collection or evasion of taxes. The internal controls instituted need to be reviewed and updated from time to time to keep them effective.

2.12.9.1 Absence of database of black listed dealers

The Department was asked whether there is a system of (i) black listing the dealers who have been found utilising invalid/fake declaration Forms (ii) circulation of names of such dealers among various States.

In the reply, seven¹⁸ VATOs and Additional Commissioner of Zone-VI stated that they had no information on the subject and one¹⁹ VATO stated that there was no system of blacklisting the dealers.

¹⁸ Ward- 30-31 & 32, 33 & 37, 34, 35, 36 & 39, 38 & 40, 89

¹⁹ Ward- 103

2.12.9.2 Improper maintenance of records in Form Branch

The Delhi Sales Tax Rules, 1975 and Delhi Value Added Tax (DVAT) Rules 2005, stipulate that all statutory forms are to be printed at the Government Press under the authority of the Commissioner. Such forms can be obtained from the Commissioner or his agent on payment of such charges as may be specified by him from time to time. In October 2005²⁰, the Department prescribed the procedure for receipt, custody, issue of statutory forms and physical verification. As per these instructions, the Form Branch responsible for receipt, custody and issue of statutory forms was required to reconcile the forms at the end of the day and all such entries were to be attested by the VATO (Forms) and an inventory of the forms was to be made after physical verification at the end of every quarter by a team of officers deputed for this purpose. Prior to October 2007, statutory forms were being issued to the dealers from their respective wards. The Department of Trade and Taxes established Centralised Form Cell (CFC) with effect from 1st October 2007 for issue of various types of statutory forms. At present, statutory forms are being issued to the dealers by the respective wards as well as by CFC. The test check of the stock registers of forms 'C' and 'F' revealed that: -

- There were two registers maintained in the Form Branch (i) stock register and (ii) issue register. The forms received from Government Press were entered in the stock register and the forms issued to CFC/Wards were watched through issue register. These were not maintained in the prescribed form GFR 41.
- Summary of stock at regular intervals was not being prepared in stock register.
- The series and serial number of the 'C' forms received from Government Press during 2007-08 was not mentioned in the stock register.
- No physical verification of stock was ever conducted as per the instruction issued in October 2005.
- There were a lot of cuttings & overwriting in the stock register, e.g. in case of 'C' Forms on page 3 (01/06/2010); page 4 (09/07/2010) page 5 (11/08/2010) and in case of 'F' Form page no. 33 (01/06/2010) page 34 (04/08/2010) page 35 (03/01/2011) and in the case of 'H' Form page no. 51 (03/09/2010). These cuttings/overwriting were not attested by the VATO in-charge.

²⁰ Circular No.-38 of 2005-06 dated 24.10.2005

2.12.9.3 Non-monitoring of utilisation of Declaration Forms

Rule 5(15) and 8(13) in the CST (Delhi) Rules provide that every registered dealer to whom declaration form 'C' and 'F' is issued, shall furnish to the Commissioner, utilisation account in Form 2B within a period of three months after the end of the quarter to which the declaration relates, irrespective of whether any declaration form is utilised during the quarter or not.

However, during the course of audit it was noticed that the utilisation account in form 2B is only being furnished by the registered dealer at the time of subsequent issue of forms. The Department had not monitored the utilisation of the Forms as envisaged under the Departmental State Rules.

2.12.9.4 Extension of time for submission of DVAT-51

Rule 4 of CST (Delhi) Rules 2005 provide that every dealer effecting sale in the course of Inter-State trade or commerce shall furnish a reconciliation return with the prescribed statutory forms in form DVAT-51 within three months after the end of each quarter.

Test check of the records revealed that the DTT had been extending the dates for submission of DVAT-51 and statutory forms from time to time as a matter of routine as detailed below:

| Period | Quarter | Due Date | Extended Date |
|---------|-----------------|------------|---------------|
| 2005-06 | 1 st | 30-09-2005 | 30-04-2007 |
| | 2 nd | 31-12-2005 | |
| | 3 rd | 31-03-2006 | 19-02-2008 |
| | 4 th | 30-06-2006 | |
| 2006-07 | 1 st | 30-09-2006 | 30-04-2007 |
| | 2 nd | 31-12-2006 | |
| | 3 rd | 31-03-2007 | 15-03-2008 |
| | 4 th | 30-06-2007 | |
| 2007-08 | 1 st | 30-09-2007 | 05-09-2008 |
| | 2 nd | 31-12-2007 | |
| | 3 rd | 31-03-2008 | 20-12-2008 |
| | 4 th | 30-06-2008 | |
| 2008-09 | 1 st | 30-09-2008 | 31-12-2009 |
| | 2 nd | 31-12-2008 | |
| | 3 rd | 31-03-2009 | |
| | 4 th | 30-06-2009 | |
| 2009-10 | 1 st | 30-09-2009 | 31-12-2010 |
| | 2 nd | 31-12-2009 | |
| | 3 rd | 31-03-2010 | |
| | 4 th | 30-06-2010 | |

This extension is against the spirit and provisions of the Act and also delays the process of assessment under the CST Act.

The Government may consider taking steps for streamlining the system of submission of forms and furnishing of reconciliation statements in time as provided in the Act/Rules.

2.12.9.5 Unused declaration Forms not taken back

Rule 5(9) of CST(Delhi) Rules, 2005 provide that any unused Declaration Forms remaining in stock with a registered dealer on the cancellation of his Certificate of Registration shall be surrendered to the Commissioner.

However seven VATOs,²¹ one Additional Commissioner, Zone-VI stated that the Department does not take back the unused declaration Forms remaining in stock with a registered dealer on the cancellation of his registration. Only four VATOs (Ward- 8, 65 & 66, 81 and 103)

stated that the unused declaration forms were taken back but no details were furnished. Not taking back the unused declaration forms may lead to mis-utilisation of the Forms, which is a very serious matter.

2.12.9.6 Internal audit

The DTT has an Internal Audit Cell (IAC) under the charge of the Additional Commissioner (Audit). This cell was to conduct test check of cases of the assessment years 2005-06 to 2007-08 as per the approved action plan and in accordance with the criteria decided by the 'Steering Committee'²² so as to ensure adherence of the provisions of the Acts and the Rules as well as the Departmental instructions issued from time to time.

It was noticed that the Department had prepared action plan in 2007-08 (for two and a half months in the meeting held on 14.01.2008) and 2009-10 for conducting internal audit of the cases relating to assessment year 2005-06 and 2006-07. However, no internal audit was conducted. In the absence of any internal audit being conducted, the management had no means of knowing the areas where system were malfunctioning and therefore, did not have the opportunity of taking remedial action at the appropriate time.

The Government may consider taking immediate remedial measures for effective functioning of the internal audit cell of the Department.

2.12.10 Conclusion

Thus it is seen that the systems and procedures in the Department of Trade and Taxes did not provide assurance of proper administration of the CST Act

²¹ Ward-30-31 & 32, 33 & 37, 36 & 39, 34, 35, 38 & 40, 89

²² Steering Committee comprises the Commissioner, three Additional Commissioners, Joint Commissioner (Audit) and Joint Commissioner (System) of the DTT.

and for preventing leakages of revenue. The mechanism instituted for cross verification of forms 'C' and 'F' was non functional. The Department was not insisting on submission of quarterly utilisation account by the dealers in form 2B. Hence there was insufficient assurance on the correctness of assessment of the interstate purchases of the dealer. By continuously extending the due dates for submission of Declaration forms along with Reconciliation of their utilisation in form DVAT-51 the Department was delaying assessment. Finally, there was no internal system to alert the Department to the errors and lapses in the system. In view of these compliance deficiencies, audit noticed many instances of failure on the part of the VATOs to detect cases of fake forms, mis-utilisation of statutory forms, likely suppression of sale and excess claim of concession/exemption which had resulted in misuse of the concessional rate of tax/exemption under the CST and consequential short levy/non-levy of tax under the State Act.

2.12.11 Summary of recommendations

In the interest of generating additional revenue the Government may:

- prescribe a periodical return by the AAs to their superior authorities about the number of 'C' forms and 'F' forms required to be cross verified, actual number of forms verified, shortfall, if any.
- in consultation with the service provider take steps to overcome the deficiency of non-availability of the requisite data in the TINXSYS website so as to ensure its effective utilization for cross verification of the Declaration Forms by all stakeholders.
- take effective steps for submission of the forms and reconciliation statements in time as provided in the Act.
- consider taking immediate remedial measures for effective functioning of the internal audit cell of the Department.

2.13 Compliance Deficiencies in Transaction Audit

From scrutiny of assessment records of value added tax (VAT), we observed several cases of claim of concession/exemption without production of prescribed statutory forms/or on defective forms, excess claim of deduction, short payment and irregular claim of exemption etc. which resulted in short levy of tax as mentioned in the succeeding paragraphs. These cases are illustrative and are based on the cases noticed during the test check carried out by us. We pointed out such omissions on the part of Assessing Authorities (AA) each year; but not only do the irregularities persist but they remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that occurrence of such cases can be avoided, detected and corrected.

2.13.1 Irregular claim of exemption/ concessional rate of tax on statutory forms

We noticed during the test check of the dealer files of DTT between April 2010 and March 2011 that in 1408 cases, for the assessment years 2008-09, the dealers claimed exemption/ concessional rate of tax on

Under the provisions of CST Act and Rules a dealer may claim exemption/concessional rate of tax for the goods under the Inter State Trade:

- in respect of any goods on the ground that the movement of goods was occasioned by transfer of such goods by him to any other place of his business or to his branch or to his agent or principal as the case may be;
- sale of goods by one registered dealer if the dealer furnishes a declaration in form 'C' covering all the transactions of sales;
- where sale of any goods has been effected by a transfer of documents of title to such goods during their movement from one state to another (sale in transit) to the Government or to a registered dealer;
- in the case of export sale or sale made to a unit situated in a Special Economic Zone, exemption is admissible subject to the furnishing of 'H' forms or 'I' forms, as the case may be.

For claiming the exemption/concessional rate of tax, the dealer is required to furnish the prescribed statutory forms, like Forms F, C, EI, EII, H & I as prescribed under the CST Acts and Rules.

In case of default in submission of the forms, the transactions needed to be assessed at the rate applicable in the State.

₹ 21100.22 crore on account of branch transfer/ consignment sale, concessional rate of tax of two per cent, transit sales, sales to SEZ and export out of India disclosed by them in Form I and in Form DVAT 51. Our scrutiny indicated that the dealers had not submitted the required statutory forms by the dates prescribed by the Department for the said cases. We also noticed that some of the dealers have sought extension for submission of the statutory forms. However, even after expiry of the extended date the dealers failed to submit the forms. Further, it was also noticed that KCS wing have the maximum number of cases of non-submission of statutory forms. The Department has not taken action to assess these dealers and disallow the exemption sought by them. This had resulted in irregular

exemption of tax of ₹ 1463.56 crore. Besides, interest and penalty was also leviable for irregular claims. The details are given in the following table:

| (₹ in crore) | | | | |
|--------------|---|-----------------|-------------------|----------------|
| Sl. No. | Transaction details | Number of cases | Transaction value | Tax payable |
| 1. | In 84 wards ²³ the dealers did not submit prescribed F forms in support of branch transfer/ consignment sale | 457 | 12011.34 | 925.34 |
| 2. | In 97 wards ²⁴ the dealers did not submit prescribed C forms | 764 | 5833.56 | 330.29 |
| 3. | In 64 wards ²⁵ the dealers did not submit prescribed E1/E2 forms | 136 | 2771.98 | 196.21 |
| 4. | In 28 wards ²⁶ the dealers did not submit prescribed H forms | 45 | 120.05 | 6.42 |
| 5. | In six wards ²⁷ the dealers did not submit prescribed I forms | 6 | 363.29 | 5.30 |
| | Total | 1408 | 21100.22 | 1463.56 |

After we reported the matter, the Department accepted the audit observations and stated that in 248 cases involving ₹ 50.58 crore demand has been raised, out of which in four cases recovery of ₹ 0.50 lakh has been made. Further, report and reply on the remaining cases has not been received.

We reported the matter to the Government in July, 2011 but have not received any reply (January, 2012).

²³ Ward Nos. 1, 2, 3, 7, 8, 9, 14, 15, 17, 20, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 43, 44, 45, 46, 48, 49, 50, 52, 53, 54, 56, 57, 58, 60, 61, 62, 63, 64, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 77, 78, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 104, 105, 106, KCS I, KCS II, KCS III KCS IV, KCS V, KCS VI and Spl. Zone.

²⁴ Ward nos 1, 2, 3, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 43, 44, 45, 46, 48, 49, 50, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 66, 67, 68, 69, 71, 72, 73, 74, 75, 76, 77, 78, 82, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, KCS I, KCS II, KCS III, KCS IV, KCS-V, KCS-VI and Spl. Zone.

²⁵ Ward nos. 1, 2, 7, 9, 10, 11, 14, 15, 19, 21, 24, 25, 26, 27, 28, 29, 31, 33, 34, 35, 41, 43, 45, 46, 49, 50, 52, 53, 56, 59, 60, 61, 62, 63, 64, 67, 68, 69, 71, 72, 77, 83, 84, 85, 86, 87, 88, 89, 91, 94, 95, 96, 98, 100, 101, 102, 103, 104, KCS-I, KCS-II, KCS-III, KCS-IV, KCS-VI & Spl. Zone.

²⁶ Ward Nos. 2, 13, 17, 30, 33, 34, 35, 43, 49, 52, 57, 66, 71, 72, 74, 80, 83, 84, 87, 93, 96, 97, 105, 106, KCS-III, KCS IV, KCS-VI and Spl Zone.

²⁷ Ward Nos. 53, 61, 71 KCS II, KCS III and KCS VI

2.13.2 Incorrect claim of concessional rate/exemption of tax on defective Statutory forms

Under the provisions of CST Act and Rules a dealer may claim exemption/concessional rate of tax for the goods under the Inter State Trade. For claiming such exemption/ concessional rate of tax, the dealer is required to furnish the prescribed statutory forms (in original portion), like F, C, E-I, E-II, H & I. Transactions not supported by proper and valid statutory forms are treated as interstate sales and attract tax and interest accordingly.

We noticed during the test check of records of 10 wards²⁸ of DTT between April 2010 and March 2011 that in 16 cases dealers claimed concessional rate of tax on interstate sale/exemption on branch transfer of ₹ 71.84

crore in the year 2008-09. Such claims were not supported by (1) valid statutory forms, (2) transactions mentioned in the forms relating to the previous year or (3) duplicate portion of forms. The assessing authority did not scrutinise the statutory forms submitted by the dealers to ascertain the correctness of claim of concessional rate of tax on interstate sale/exemption on branch transfer made by the dealers in their returns. This resulted in under assessment of tax of ₹ 5.95 crore. Besides, interest was also leviable.

After we reported the matter, the Department accepted the audit observations and stated that in one case involving ₹ 11.57 lakh demand has been raised Further, report and reply on the remaining cases has not been received.

We reported the matter to the Government in July, 2011 but have not received any reply (January, 2012).

2.13.3 Irregular claim of exemption on Inter State sale/Branch Transfer not/short accounted for

Under the DVAT Act, a person who furnishes a return under the Act, which is false, misleading, or deceptive in a material particular or omits from it any matter or thing without which the return is false, misleading in a material particular, shall be liable to pay, by way of penalty, a sum of ₹ 10,000 or the amount of tax deficiency, whichever is greater. In addition, interest on tax is computed at the rate of 15 per cent per annum computed on daily basis is also leviable.

We noticed during the test check of the records of two wards²⁹ of the DTT for the period from April 2010 to March 2011 that in three cases the dealer had shown interstate sale/branch transfer or consignment sale for ₹ 2.41 crore in DVAT-51 and furnished statutory forms accordingly, as against

²⁸ Ward nos 11, 20, 32, 38, 57,60,71,75, KCS-II and KCS-VI

²⁹ Wards Nos. 20 and KCS-II

disclosed interstate sale/ branch transfer of ₹ 22.54 crore in their returns (DVAT-16), filed for the assessment year 2008-09.

This resulted in non/short account of sale against statutory forms of ₹ 20.13 crore in DVAT-51 and consequent non/short submission of statutory forms. This resulted in short payment of tax of ₹ 97.67 lakh. Besides, interest and penalty was also leviable.

We reported the matter to the Department and to the Government in July, 2011 but have not received any reply (January, 2012).

2.14 Incorrect claim of exemption on 'F' forms containing multiple month transactions

Under Section 6-A of the CST Act read with Rule 12(5) of the CST (R&T) Rules, dealer may claim exemption of tax by filing a declaration in form 'F' covering transfer of goods effected during a 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 transactions are to be treated as inter state sales and taxed accordingly.

We noticed during the test check of the records of three wards³⁰ of DTT between the period from April 2010 and March 2011 that in four cases relating to the assessment year 2008-09, the dealers claimed exemption of tax on account of

branch transfer/ consignment sale of ₹ 21.85 crore on the basis of 'F' forms which covered transactions beyond one calendar month and was thus, liable to be treated as inter state sales without valid declarations and tax at the normal rate had to be paid. This resulted in short realisation of tax of ₹ 92.88 lakh. Besides, interest was also leviable.

We reported the matter to the Department and to the Government in July, 2011 but have not received any reply (January, 2012).

2.15 Application of incorrect rate of tax

The DVAT Act specifies tax rates payable by a dealer in respect of the goods or classes of goods mentioned in the various schedules appended to the Act. If any person furnishes incorrect return, the Commissioner may assess or reassess the amount of tax due for a tax period. Short payment of tax attracts penalty at the rate of one *per cent* of tax deficiency per week or ₹ 100 per week for the period of default, whichever is higher and interest at prescribed rates.

We noticed during the test check of the records of six wards³¹ of the DTT between April 2010 and March 2011 that in six cases for the assessment year 2008-09, the dealers had shown exempt sale

³⁰ Ward Nos. 60, 63 and KCS-VI

³¹ Ward nos. 48, 60, 63, 78, 81 and KCS-III.

amounting to ₹ 56.51 crore in the return without any supporting details and the items sold by the dealers are not in the Schedule of exempt goods. The assessing authority did not scrutinise the returns of the dealers to ascertain the correctness of tax paid. This resulted in short payment of tax of ₹ 2.30 crore. Besides, interest and penalty were also leviable.

After we reported the matter, the Department accepted the audit observations and stated that in one case (M/s. SRS Ltd.) involving ₹ 2.40 crore demand has been raised. Further, report and reply on the remaining cases has not been received.

We reported the matter to the Government in July, 2011 but have not received any reply (January, 2012).

2.16 Irregular deduction claimed on account of TDS

Under the provisions of the DSTWC Act 1999 and the DVAT Act 2004 and Rules made thereunder, any person, not being an individual or HUF, who is responsible for making payment to any dealer/contractor for discharge of any liability on account of valuable consideration payable for the transfer of property in goods in pursuance of the works contract for value exceeding rupees twenty thousand, shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by any other mode, whichever is earlier, deduct tax thereon at the rate of two *per cent*. And also furnish to the contractor, from whose bills or invoices such deduction is made, a certificate in Form DVAT-43 in original in respect of the amount deducted, the rate at which it has been deducted and the details of deposit into the Government treasury.

We noticed during the test check of periodical returns of five wards³² of DTT between April 2010 and March 2011 that in 16 cases relating to the assessment year 2008-09, the Assessing Authority failed to detect that the dealers claimed deduction of TDS without furnishing the TDS certificates in original in the form DVAT-43. This resulted in incorrect claim of reduction of tax amounting to ₹ 4.47 crore. Besides, interest was also leviable.

After we reported the matter, the Department accepted the audit observations and stated that in two cases involving ₹ 8.45 lakh demand has been raised. Further, report and reply on the remaining cases has not been received.

We reported the matter to the Government in July, 2011 but have not received any reply (January, 2012).

³²ward Nos. 44, 81, 83, 84 & 107(Spl. Zone)

2.17 Irregular claim of refund/reduction of tax through revised return

Section 28 of the DVAT Act, 2004 and Rule 29 thereunder stipulate that, if, within 4 years of the making of an assessment, any person discovers a mistake or error in any of the returns filed by him under this Act and he has as a result of the mistake or error paid more tax than was due under this Act, he may lodge an objection against the assessment in the manner and subject to the conditions stipulated under Section 74 of the Act.

We noticed during test check of the records of ward 14 of the DTT between April 2010 and March 2011 for the assessment year 2008-09 that in two cases the dealers revised the returns subsequently and increased the refund amount or reduced tax demand without lodging an objection against the assessment in accordance

with Section 74 of the Act, which was irregular. The assessing authority did not scrutinise the returns of the dealers to disallow such reductions of tax demand or increased refunds made by the dealers in the revised returns. This resulted in incorrect allowance of claims of reduction of tax/refund, amounting to ₹ 8.59 lakh with consequent short payment of tax by the like amount. Besides, interest and penalty were also leviable.

We reported the matter to the Department and to the Government in July, 2011 but have not received any reply (January, 2012).

2.18 Short payment of tax

Section 8(4) of the CST Act read with rules made there under stipulates that sale of good by one registered dealer to another registered dealer in the course of interstate sale may be allowed at the concessional rate of tax of three percent and two percent w.e.f. 1.6.2008 if the dealer furnished a declaration of sales in form 'C', otherwise tax is leviable at the rate applicable in the state and short payment of tax attracts penalty at the rate of 1 per cent of the tax deficiency per week or ₹ 100 per week for the period of default whichever is higher and interest at prescribed rates.

We noticed during the test check of the records of one ward 84 of the DTT between April 2010 and March 2011 that in one case for the assessment year 2008-09, the dealer incorrectly computed their tax liability aggregating to ₹ 11.24 lakh @ 2% on interstate concessional rate of tax sale amounting to ₹ 5.62 crore in the months of April, 2008 and May, 2008 as against correct amount of ₹ 16.86 lakh. The Assessing

Authority did not scrutinise the returns to ascertain the correctness of the payment of tax. This resulted in short payment of tax of ₹ 5.62 lakh. Besides, interest and penalty were also leviable.

We reported the matter to the Department and to the Government in July, 2011 but have not received any reply (January, 2012).

2.19 Non-reversal of tax credit in respect of goods transferred on 'F' forms

Under Section 10(3) of the DVAT Act, 2004 the dealer is required to reduce the amount of tax credit originally claimed by the prescribed proportion where-

- (a) goods were purchased by a dealer; locally and
- (b) the dealer claimed a tax credit in respect of goods, and did not reduce the tax credit by the prescribed percentage; and
- (c) the goods were transferred from Delhi, other than by way of a sale, to a branch of the registered dealer or to a consignment agent.

Otherwise, excess claim of tax credit attracts penalty at the rate of 1 *per cent* of the tax deficiency per week or Rs.100 per week for the period of default whichever is higher and interest at prescribed rates.

We noticed during the test check of the records of one ward 12 of the DTT for the period from April 2010 to March 2011 that in one case relating to the assessment year 2008-09 the dealers had made branch transfer out of the goods purchased locally, but did not reduce the input tax credit proportionate to the goods so transferred. This resulted in excess claim of input tax credit of ₹ 4.83 lakh. Besides, interest and penalty was also leviable.

We reported the matter to the Department and to the Government in July, 2011 but have not received any reply (January, 2012).

2.20 Non-reduction of ITC on goods destroyed/reduced from stock

Under Rule 7(3) of DVAT Rules, 2005, if any goods or goods manufactured out of such goods are lost or destroyed the dealer shall not be eligible to claim tax credit on such goods and the credit taken in any earlier tax period shall be recovered in the tax period in which goods are claimed to have been lost or destroyed. Irregular claim of credit attracts penalty one *per cent* of the tax short paid per week or ₹ 100/- per week whichever is higher.

We noticed during the test check of the records of ward-87 of DTT for the period from April 2010 and March 2011 that in one case relating to the assessment year 2008-09, the dealer

had written off his stock of ₹ 1.54 crore. As per return he had claimed ITC of ₹ 1.38 crore. We are unable to verify whether proportionate ITC was reduced due to the write off. The Department may issue notice for this verification. The excess claim of input tax credit involved is ₹ 6.16 lakh. Besides, interest and penalty was also leviable.

We reported the matter to the Department and to the Government in July, 2011 but have not received any reply (January, 2012).

2.21 Excess claim of input tax credit on purchase of capital goods

Under Section 2(i)(f) of DVAT Act, 2004 'capital goods' mean plant, machinery and equipment used, directly or indirectly in the process of trade or manufacturing or for execution of works contract. The Act also provides that a dealer can claim ITC during the first year only up to the extent of 1/3rd against the purchase of capital goods and rest of it during the subsequent two years. Incorrect claim of tax credit attracts penalty equal to tax credit so claimed or ₹ 10,000 whichever is greater. The dealer shall also be liable to pay simple interest at the rate of 15 *per cent* per annum computed on a daily basis.

Test check of the records of one ward 84 of the DTT during April 2010 to March 2011 revealed that in one case dealer had purchased capital goods amounting to ₹ 1.20 crore and claimed input tax credit to the tune of ₹ 4.79 lakh during the year 2008-09 as against admissible amount of ₹ 1.60 lakh being 1/3rd of the ITC. This resulted in incorrect claim of input tax credit of ₹ 3.19 lakh. Besides, interest and penalty was also leviable.

We reported the matter to the Department and to the Government in July, 2011 but have not received any reply (January, 2012).

2.22 Incorrect claim of input tax credit

Under the DVAT Act, a registered dealer is entitled to a tax credit in respect of the turnover of purchases occurring during the tax period where purchase arises in the course of his activities as a dealer and the goods are to be used by him directly or indirectly for the purpose of making sales which are taxable under the Act or made in the course of interstate trade or export out of the territory of India. Incorrect claim of tax credit attract penalty equal to tax credit so claimed or ₹ 10,000 whichever is greater. The dealer shall also be liable to pay simple interest at the rate of 15 *per cent* per annum computed on a daily basis.

We noticed during the test check of the records of two wards³³ of DTT between April 2010 and March 2011 that in two cases the dealers had shown nil purchases but they claimed input tax credit of ₹ 27.44 lakh in the year 2008-09 on the purchase of tradable goods locally as against allowable credit of NIL. This resulted in incorrect claim of input tax

credit of ₹ 27.44 lakh with consequent short payment of tax by the like amount. Besides, interest and penalty was also leviable.

We reported the matter to the Department/Government in July, 2011, no reply has been received (January, 2012).

³³Ward Nos. 1 and 87.