

## Executive Summary

Increase in tax collection	In 2011-12 the collection from sales tax/value added tax increased by 27 <i>per cent</i> over the previous year.
Internal audit	Internal audit of Commercial Taxes Department was conducted on an average of 29 <i>per cent</i> of the offices. The Department attributed lesser coverage of internal audit to shortage of man power in the Internal Audit Wing
Results of audit conducted by us in 2011-12	<p>In 2011-12, we test checked the records of 171 units and found underassessment of tax and other irregularities amounting to ₹ 631.96 crore in 1,155 cases.</p> <p>The Department accepted underassessments and other deficiencies amounting to ₹ 40.99 crore in 628 cases, out of which, ₹ 38.22 crore involved in 186 cases were pointed out during the year and the rest in earlier years. Out of this, an amount of ₹ five crore has been collected.</p>
What we have highlighted in this Chapter	<p>In this chapter we present a Performance Audit on <b>“Implementation of Value Added Tax in Tamil Nadu”</b> involving money value of ₹ 395.39 crore and illustrative cases involving ₹ 32.15 crore. These cases were selected from observations noticed during our test check of records where we found that the provisions of the Acts/Rules were not observed.</p> <p>It is pertinent to mention that though similar omissions were pointed out by us in earlier years, the Department has not taken corrective action. These mistakes were continued as apparent from the records made available to us.</p> <p>In the present Performance Audit, we observed that the absence of provision for exercising vital checks before the issue of Registration Certificates (RCs) resulted in cancellation of the RCs in many cases after identifying them as ‘bill traders’. This in turn, resulted in huge claim of fictitious ITC by such bill traders. Though the Department issued instructions for verification of the claim of ITC specifically with regard to evasion prone commodities, absence of effective monitoring mechanism to ensure adherence to the instructions led to huge loss of revenue to the exchequer. Instructions regarding implementation of the VAT audit reports within three months were also not followed by the lower authorities which is evidenced from the huge pendency in implementation of VAT audit reports. Lack of effective monitoring by the higher authorities resulted in continuation of such lapses. Absence of validation controls in the software made the information captured in the system unreliable.</p>
Our conclusion	The Department needs to take rectificatory action in the cases pointed out by us and also to ensure that such mistakes do not occur again by strengthening internal controls including internal audit. In the interest of revenue, the Department may expedite collection of tax in accepted cases on priority.

## CHAPTER II

### SALES TAX/VALUE ADDED TAX

#### 2.1 Tax administration

Assessment, levy and collection of sales tax, central sales tax and value added tax are governed by the erstwhile Tamil Nadu General Sales Tax Act, 1959 and the Rules made thereunder, the Central Sales Tax Act 1956 and the Rules made thereunder, the Tamil Nadu Value Added Tax Act, 2006 and the Tamil Nadu Value Added Tax Rules, 2007 respectively. Administration of the Department is vested with the Commissioner of Commercial Taxes. The State has been divided into 40 zones, comprising 323 assessment circles including four Large Taxpayers<sup>2</sup> Units (LTU) at Chennai and two Fast Track Assessment Circles (FTAC) at Coimbatore. Assessment, levy and collection of tax are done by the assessing authorities in charge of the assessment circles. Monitoring and control at the Government level is done by the Secretary, Commercial Taxes and Registration Department.

#### 2.2 Trend of receipts

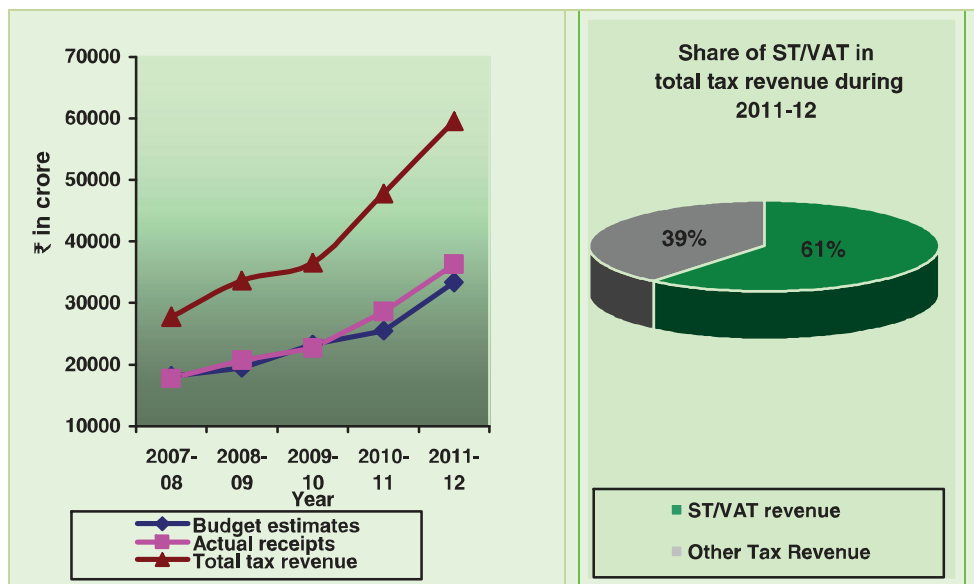
Actual receipts from sales tax/value added tax during the last five years from 2007-08 to 2011-12 along with the total tax receipts during the same period are exhibited in the following table:

(₹ in crore)

Year	Budget estimates	Actuals	Variation excess (+)/ short fall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	20,030.84	18,156.36	(-) 1,874.48	(-) 9.36	29,619.10	61
2008-09	19,417.74	20,674.70	(+) 1,256.96	(+) 6.47	33,684.37	61
2009-10	23,242.53	22,661.52	(-) 581.01	(-) 2.50	36,546.66	62
2010-11	25,504.65	28,614.23	(+) 3,109.58	(+) 12.19	47,782.17	60
2011-12	33,393.95	36,288.90	(+) 2,894.95	(+) 8.67	59,517.66	61

<sup>2</sup> Large taxpayers – Dealers whose taxable turnover for a year exceeds ₹ 200 crore.

A line graph of budget estimates, actual receipts and total receipts and a pie chart depicting the position of Sales Tax/VAT receipts in the total tax receipts are given below:



In 2011-12 the collection from sales tax/value added tax increased by 27 per cent over the previous year.

### 2.3 Analysis of arrears of revenue

As per the information furnished by the Department, arrears of revenue as on 31 March 2012 along with the figures for the preceding four years are given in the following table:

(₹ in crore)					
Year	Opening balance	Addition	Total	Amount collected* during the year	Closing balance
2007-08	10,972.64	279.10	11,251.74	3,030.15	8,221.59
2008-09	8,221.59	2,429.37	10,650.96	779.61	9,871.35
2009-10	9,871.35	1,937.68	11,809.03	818.97	10,990.06
2010-11	10,990.06	211.61	11,201.67	1,069.33	10,132.34
2011-12	10,132.34	1,397.50	11,529.84	695.90	10,833.94
*includes demands eliminated, waived and written off					

Arrears as on 31 March 2012 includes ₹ 5,826.76 crore outstanding for more than five years. Demands amounting to ₹ 2,554.26 crore were covered under the Revenue Recovery Act. Demands amounting to ₹ 1,581.21 crore were stayed by the Government/High Court and other judicial/appellate fora and an amount of ₹ 474.85 crore was held up due to rectification/review applications. A sum of ₹ 51.60 crore could not be recovered on account of assessee's becoming insolvent while a sum of ₹ 574.12 crore was likely to be written off/waived. An amount of ₹ 3,456.82 crore was covered under the deferral

scheme. An amount of ₹ 808.70 crore was proposed to be eliminated. A sum of ₹ 384.45 crore was covered under civil suits and Board for Industrial and Financial Reconstruction and a sum of ₹ 656.13 crore was under various stages of recovery. Further, as intimated by the Department an amount of ₹ 291.80 crore has since been collected between April and September 2012.

The above details indicate that the amount of uncollected revenue as on 31 March 2012 was nearly one third of the sales tax/VAT revenue realised by the Department during the year 2011-12 and substantial amounts were covered under the Revenue Recovery Act and on account of stays granted by the judicial/appellate fora.

**We recommend that special efforts be made to get the stay orders vacated and cases involving litigation speeded up. We further recommend that the Government may consider fixing targets for collection of old arrears in a time bound manner and closely monitor the performance of the Departmental officers *vis-à-vis* the set targets.**

## 2.4 Assessee profile

The number of registered dealers in 2011-12 was 5,93,061 comprising 5,90,927 VAT dealers and 2,134 non-VAT dealers. Of the above, large tax payers were 116 and the rest were classified as small tax payers. The number of dealers required to file returns during the year were 2,83,949 VAT dealers and 1,963 non-VAT dealers. The number of returns due from the dealers was 34,30,944 against which 26,94,588 returns were received. 7,24,561 and 11,795 returns were not received from VAT and non-VAT dealers respectively. These returns were due from 29,992 dealers.

The Department stated that notices were issued for cancellation of registration certificates to non-filers of returns. Details of the dealers whose registration certificates were cancelled for non-filing of returns were, however, not made available to us.

## 2.5 Collection of sales tax/VAT per assessee

Details on amount of sales tax/value added tax realised during the year, the number of assessees and the collection of sales tax/value added tax per assessee for the period from 2007-08 to 2011-12 as furnished by the Department are given in the following table:

Year	No. of assessees	Revenue (₹ in crore)	Revenue per assessee (₹ in lakh)
2007-08	2,24,074	18,156.36	8.10
2008-09	2,45,052	20,674.70	8.44
2009-10	2,70,159	22,661.52	8.39
2010-11	3,11,517	28,614.23	9.19
2011-12	3,63,462	36,288.90	9.98



## 2.6 Arrears in assessment

The number of cases pending for assessment at the beginning of the year 2011-12, due for assessment during the year, disposed during the year and pending at the end of the year 2011-12 along with the figures for the preceding four years as furnished by the Commercial Taxes Department are given in the following table:

Year	Opening balance	Cases which became due for assessment	Total	Cases disposed during the year	Cases pending at the end of the year	Percentage of disposal (Col.5 to 4 )
1	2	3	4	5	6	7
2007-08	99,548	1,78,414	2,77,962	76,814	2,01,148	28
VAT	---	1,44,759	1,44,759	22,108	1,22,651	15
2008-09	2,01,148	---	2,01,148	55,381	1,45,767	28
VAT	1,22,651	1,85,270	3,07,921	95,047	2,12,874	31
2009-10	1,45,767	---	1,45,767	84,600	61,167	58
VAT	2,12,874	2,21,166	4,34,040	1,14,638	3,19,402	26
2010-11	61,167	---	61,167	36,122	25,045	59
VAT	3,19,402	2,37,073	5,56,475	1,63,957	3,92,518	29
2011-12	25,045	---	25,045	22,682	5,151	91
VAT	3,92,518	3,41,487	7,34,005	4,72,411	2,61,594	64

The percentage of completion of assessments has considerably increased compared to earlier years.

**Still we recommend that the Government may issue appropriate instructions to ensure completion of assessments expeditiously.**

## 2.7 Cost of collection

The gross collection in respect of sales tax/VAT, expenditure incurred on collection and percentage of such expenditure to gross collection during the years 2009-10, 2010-11 and 2011-12 along with the relevant all India average percentage of expenditure on collection to gross collection for the preceding years are given 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 for the preceding years
Sales tax/ VAT	2009-10	22,661.52	205.10	0.91	0.88
	2010-11	28,614.23	219.30	0.77	0.96
	2011-12	36,288.90	224.05	0.62	0.75

The above table indicates that while the percentage of expenditure on collection was more than the all India average for the year 2009-10, it was less than the all India average for the years 2010-11 and 2011-12.

## 2.8 Analysis of collection

The break-up of total collection at the pre-assessment stage and after regular assessment of taxes on sales under the Tamil Nadu Value Added Tax Act for the years 2009-10, 2010-11 and 2011-12 as furnished by the Department are given in the following table:

(₹ in crore)

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes	Amount refunded	Net collection as per department	Net collection as per Finance Account	Percentage of col. 2 to 7
1	2	3	4	5	6	7	8
2009-10							
Sales Tax/ VAT	3,169.82	313.50	1,871.32	122.81	24,818.84	22,661.52	97
	18,803.53	783.48					
2010-11							
Sales Tax/ VAT	4,442.83	89.03	86.88	625.58	30,491.00	28,614.23	108
	26,399.77	98.07					
2011-12							
Sales Tax/ VAT	5,580.93	192.48	79.85	823.57	38,721.17	36,288.90	107
	33,374.80	316.68					

The collection of revenue at pre-assessment stage to the net collection as per finance accounts was 107 *per cent* during 2011-12 as against 97 *per cent* in 2009-10.

## 2.9 Impact of Audit Reports

### 2.9.1 Revenue impact

During the last five years, we had pointed in our Audit Reports 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 ₹ 344.27 crore in 62 paragraphs. Of these, the Department/Government had accepted audit

observations involving ₹ 34.73 crore and has since recovered ₹ 9.34 crore. Details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Accepted money value	Amount recovered
	Number	Money value		
2006-07	10	64.54	12.16	0.69
2007-08	14	50.77	4.73	1.50
2008-09	12	72.52	3.12	1.07
2009-10	13	134.99	7.94	5.69
2010-11	13	21.45	6.78	0.39
<b>Total</b>	<b>62</b>	<b>344.27</b>	<b>34.73</b>	<b>9.34</b>

**The Government may institute a mechanism to monitor the position of recoveries pointed out in the Audit Reports and take necessary steps for early collection.**

## **2.10 Amendments to the Acts/Rules/Notifications/Orders issued by the Government at the instance of audit**

Audit suggested (Para 4.2.10 of the Audit Report 2008-09) to the Government to expand the scope of the definition of “entertainment” in order to bring the Indian Premier League (IPL) matches and Direct to Home (DTH) services under the ambit of the Tamil Nadu Entertainments Tax Act, 1939. Accepting the audit suggestions, the Government amended the Tamil Nadu Entertainments Tax Act, 1939 and brought cricket tournaments conducted by the IPL and DTH services under the tax net.

Audit pointed out (Paragraph 2.13.12 of the Audit Report 2010-11) lapses noticed in check post records in capturing the movement of petroleum products in large quantity from Tamil Nadu to Puducherry and the possibility of the goods having been sold within Tamil Nadu by camouflaging the local sale as inter State sale to take advantage of the huge difference in the rates of tax existing in these two States. Accepting the audit observation, the Government amended Section 70 and the sixth schedule to the TNVAT Act, 2006 and extended the transit pass system to petrol and diesel oil to curb the menace of mid-dropping of petroleum products.

## **2.11 Working of internal audit wing**

The internal audit is organised in each CT district and consists of an Assistant Commissioner, one Commercial Tax Officer and four other supporting staff. Assessments finalised and refunds made in the preceding quarter are taken up for audit in the succeeding quarter. Details of the number of offices due for internal audit and those completed as furnished by the Department are given in the following table:

Year	Number of offices due	Number of offices completed	Balance	Percentage of col.3 to 2
1	2	3	4	5
2007-08	452	173	279	38
2008-09	452	155	297	34
2009-10	452	133	319	29
2010-11	443	83	360	19
2011-12	348	80	268	23

The Department attributed the reasons for less coverage of internal audit to vacancy in staff strength and stated that audit in respect of assessments finalised by assessing officers who were due for retirement and in respect of cases which would become time barred were only being conducted.

**We recommend that the Government may consider strengthening the internal audit so that audit may be conducted for all the units due for audit.**

## 2.12 Results of audit

We test checked the records of 171 units during the period from April 2011 to March 2012 and found underassessment of tax and other irregularities amounting to ₹ 631.96 crore in 1,155 cases, which broadly fall under the following categories.

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1	Performance audit on Implementation of VAT in Tamil Nadu	1	395.39
2	Incorrect exemption of tax	122	77.80
3	Incorrect rate of tax	125	31.56
4	Incorrect computation of taxable turnover	115	76.77
5	Non/short levy of tax	102	12.49
6	Non levy of penalty /interest	176	6.36
7	Affordal of incorrect input tax credit	383	22.85
8	Others	131	8.74
	<b>Total</b>	<b>1,155</b>	<b>631.96</b>

During the course of the year 2011-12, the Department accepted underassessments and other deficiencies amounting to ₹ 40.99 crore in 628 cases, out of which, ₹ 38.22 crore involved in 186 cases were pointed out during the year and the rest in earlier years. Out of this, an amount of ₹ five crore has been collected.

After the issue of draft paragraphs the Department collected an amount of ₹ 47.71 lakh.

### **2.13 Performance audit on “Implementation of Value Added Tax in Tamil Nadu”**

#### **Highlights**

- Registration certificates were issued to dealers without exercising basic/vital checks and without obtaining PAN which was mandatory. This encouraged the bill trading activities by the dealers which was evidenced from the fact that the Department itself had identified 1,037 dealers as ‘bill traders’ and cancelled the RCs retrospectively.

(Paragraph 2.13.7)

- Absence of validation checks in the software made the information captured in the system unreliable.

(Paragraph 2.13.9.2)

- The TNVAT Act provides for selection of assessments for detailed scrutiny. There was delay both in selection of such cases and in completion of detailed scrutiny.

(Paragraph 2.13.10)

- The head of the Department had issued periodical instructions for scrutiny of returns and verification of the ITC claims made by the dealers. However, huge claims of incorrect/inadmissible/fictitious ITC were made by the dealers. The ITC and penalty recoverable amounted to ₹ 280.64 crore.

(Paragraph 2.13.11)

- Application of incorrect rates of tax in 23 cases resulted in short levy of tax of ₹ 3.46 crore.

(Paragraph 2.13.12)

- Suppression of sales turnover by nine dealers resulted in non-levy of tax and penalty amounting to ₹ 19.96 crore

(Paragraph 2.13.13)

- Goods mentioned in the sixth schedule to the TNVAT Act require transit pass for passing through the State of Tamil Nadu. Transit passes issued for the transport of rubber (sixth schedule goods) at the entry check posts were not surrendered at the last exit check posts resulting in non-levy of tax and penalty amounting to ₹ 6.45 crore.

(Paragraph 2.13.14)

- TNVAT Act provides for levy of purchase tax on goods (the sale or purchase of which is liable to tax) in circumstances in which no tax was payable. Non-levy of purchase tax in respect of goods purchased by 24 dealers without payment of tax and consumed/used in manufacture amounted to ₹ 7.20 crore.

(Paragraph 2.13.15)

- TNVAT Act provides for levy of compounded rate of tax in respect of small dealers/works contractors. The Department failed to levy higher rate of tax amounting to ₹ 5.03 crore in respect of cases where the conditions for availing the compounded rates were violated.

(Paragraph 2.13.16)

- The Department identified iron and steel, timber etc as evasion prone commodities and also issued instructions for effective monitoring of claim of ITC in respect of such commodities. However, incorrect/excess/fictitious claim of ITC was made by iron and steel and timber dealers on which the tax and minimum penalty recoverable is ₹ 62.09 crore.

(Paragraph 2.13.17.1 (i), (ii) & (iii))

- Import purchases of timber were not accounted for by the dealers resulting in suppression of sales and consequent non levy of tax and penalty amounting to ₹ 10.55 crore.

(Paragraph 2.13.17.2)

### 2.13.1 Introduction

The Government of India decided to introduce State Level Value Added Tax (VAT) in all the States and Union Territories with effect from 1 April 2003 on the basis of the decision taken by the Empowered Committee of States' Finance Ministers in its meeting held on 23 January 2002. The Committee submitted (January 2005) a white paper defining the basic designs of the State level VAT. The VAT system is a destination/consumption based tax system and has provisions for set-off of tax paid on the previous purchases. It seeks to address the problems like double taxation, multiplicity of taxes, surcharge additional sales tax, etc. in the sales tax structure that resulted in cascading tax burden on the buyers. The VAT system also aimed at widening the tax base besides envisaging fall in prices of commodities.

The Government of Tamil Nadu repealed the Tamil Nadu General Sales Tax Act, 1959 (TNGST Act) and enacted the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) effective from 1 January 2007. Under the TNVAT Act, the goods are categorised as 'vatable' and 'non-vatable'. Vatable goods are mentioned in the first schedule and are taxable at different rates. They are taxed at every stage with the provision to deduct the tax paid on purchases from the tax payable on sales. The non-vatable goods are enumerated in the second schedule to the Act.

As part of e-Governance initiatives in Commercial Taxes Department, the assessment circles, check-posts and other offices are connected with the Central Computer Centre through Tamil Nadu State Wide Area Network (TNSWAN) in September 2009. Computerisation is covered under two applications namely web based integrated application (intranet application) and internet application.

### **2.13.2 Organisational set up**

The Commissioner of Commercial Taxes (CCT) is the head of the Department of Commercial Taxes (CT) and is assisted by Additional Commissioners (ADC), Joint Commissioners (JC) and territorial Deputy Commissioners (DC) who exercise administrative control. The Deputy Commissioners of Large Tax Payers Units (LTU), Fast Track Assessment Circles (FTAC), Assistant Commissioners (AC)/ Commercial Tax Officers (CTO) and Deputy Commercial Tax Officers (DCTO) are the assessing authorities responsible for levy and collection of tax and arrears thereof in the respective assessment circles. In addition, there is an Enforcement Wing, which has been formed for the purpose of conducting surprise inspections and unearthing evasion of tax. The monitoring and control at the Government level is done by the Secretary, Commercial Taxes and Registration Department.

### **2.13.3 Audit Objectives**

Performance Audit was conducted with a view to ascertain and evaluate:

- Compliance to the provisions of the TNVAT Act and the Rules made thereunder in safeguarding the revenue of the State;
- Adequacy and effectiveness of the system and procedure in place to ensure the correctness of input tax credit and the use and effectiveness of computer application in implementation of the value added scheme of levy and
- Adequacy and effectiveness of internal control mechanism in preventing leakage of revenue.

### **2.13.4 Audit Criteria**

The audit objectives are bench marked against the criteria drawn from the following sources:

- Tamil Nadu Value Added Tax Act, 2006;
- Tamil Nadu Value Added Tax Rules, 2007 and
- Instructions issued by the CCT from time to time.

### **2.13.5 Scope and methodology**

There are 323 assessment circles in Tamil Nadu divided into 10 divisions. We conducted the performance audit in 93 assessment circles. Out of the 93 assessment circles, 66 circles were selected on random sampling method without replacement. The remaining 27 circles, which were considered as high risk areas, were identified on the basis of revenue generation and nature



of business. Besides, records in the office of the Commissioner of Commercial Taxes and at the Government Secretariat were scrutinised. Audit was conducted from July 2011 to May 2012 covering the transactions from 1 January 2007 to 31 December 2011 and data relating to the period from January 2007 to July 2011 were examined. Audit observations in the local audit reports were also considered.

### 2.13.6 Acknowledgement

An Entry Conference was held with the Secretary to the Government, Commercial Taxes and Registration Department in September 2011, in which we explained the audit objectives, scope and methodology. The statement of facts was forwarded to the Department and the Government in May 2012. The Exit Conference was held with the Secretary to the Government, Commercial Taxes and Registration Department in June 2012. The views expressed by the Government at the time of Exit Conference and at other times were considered and suitably incorporated in the performance audit report.

We acknowledge the co-operation extended by the Commercial Taxes Department in providing us the necessary records and information.

### Audit findings

#### 2.13.7 Registration of dealers

The object of registration is to keep complete records of all the dealers in the State. According to Section 38 of the TNVAT Act, every dealer who purchases goods within the State and effects sale of those goods within the State and whose total turnover in any year is not less than ₹ 10 lakh and every other dealer whose total turnover in a year is not less than ₹ five lakh shall get himself registered under this Act.

Section 39 of the Act *ibid* read with Rules 4 and 5 of the TNVAT Rules provide that every such dealer shall submit an application for registration to the registering authority within 30 days from the date of commencement of the Act. In case of any other dealer intending to commence business, the application shall be submitted within thirty days on reaching the said turnover.

As per Rule 5(1)(c) of the Rules *ibid*, if the Registration Certificate (RC) is not issued within 30 days from the date of receipt of the application or if no notice is issued by the registering authority within the said period, the applicant shall be deemed to have been duly registered.

**2.13.7.1** We had commented in our Performance Audit Report on “Transition from Sales Tax to Value Added Tax” (Para 2.2.8.1 of the Audit Report 2008-09) of the ease with which RCs were granted to the applicants for registration, without verifying the veracity of the particulars furnished by them. We had suggested that the Act may be amended to enable the registering authority to exercise certain basic and vital checks to ensure the authenticity of the application for registration before granting RC.

The Department issued instructions only in

September 2010 in respect of new registrations relating to electrical goods and iron and steel (evasion prone commodities), that the registering authority shall take guidance of the territorial Deputy Commissioners (CT) who shall, in turn, satisfy the genuineness of the applicants with reference to (i) antecedents of the applicants, (ii) whether the applicant did business in other area and closed down (iii) whether the place of business is existing and genuine, (iv) whether the documents accompanying the application are genuine etc. The Department extended the procedure in respect of certain other commodities<sup>3</sup> identified as evasion prone, by issue of instructions in March 2011 and September 2011. In such cases, RCs could be issued only after making prior inspection at the place of business by the Enforcement Wing. However, this procedure was not extended to the dealers dealing in commodities other than evasion prone commodities.

We noticed during audit that as on 31 January 2012, 1,037 dealers had been identified by the Department itself as 'bill traders'<sup>4</sup> and their RCs were cancelled with retrospective effect, i.e. from the date of registration. We scrutinised the e-returns filed by those dealers. Such scrutiny revealed that 63 dealers had passed on fictitious ITC to the tune of ₹ 82.15 crore, before being identified as bill traders by the Department, thereby causing huge drain on the State exchequer.

Absence of statutory provisions in the Act for necessary enquiry by the registering authorities before the grant of RCs resulted in the above lapses.

**We reiterate our recommendation, made vide Para 2.2.8.1 of the Audit Report for the year ended March 2009, for incorporation of a specific provision in the Act to enable the registering authority to exercise basic and vital checks before granting registration to ensure the authenticity of the application for registration.**

As per the TNVAT Rules, as amended in April 2010, furnishing of Permanent Account Number (PAN) was made mandatory for obtaining new registration. The existing registered dealers were also required to furnish PAN within three months from the date of coming into force of the amended rule.

**2.13.7.2** We noticed during audit that PAN in respect of only 49 *per cent* of the registered dealers were available with the Department (March 2011).

An analysis of the dealer master data obtained from the Commercial Taxes Department revealed that in 31,286 cases, two or more RCs were obtained by the dealers using the same PAN.

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<sup>3</sup> Tiles and marbles, timber, edible oil and granites.

<sup>4</sup> A bill trader is one who issues bills without entering into genuine transactions involving transfer of goods

As the roll out of the Goods and Services Tax would involve issue of PAN linked TIN to the dealers, it is imperative that the Department updates the database of PAN of all the registered dealers and also rectify the errors therein.

### 2.13.8 Deficiencies in the format of the returns

Section 21 of the TNVAT Act requires the dealers to file their returns in the prescribed form.

According to Rule 7 of the TNVAT Rules, every registered dealer liable to pay tax other than a dealer who opted to pay tax under section 3(4) or section 6 or section 8 shall file return in Form I. Return in Form J and Statement in Form M are prescribed for the dealers liable to pay tax under section 3(5) and for the Department of Government respectively.

The basis for levy and collection of tax under the VAT system is the filing of correct and complete return by the dealers. The returns form the basis for determination of eligible ITC and the quantum of tax payable by the dealers. It is, therefore, necessary that the returns should be prescribed in such a manner as to capture all the relevant information. We observed several deficiencies in the format of the returns prescribed.

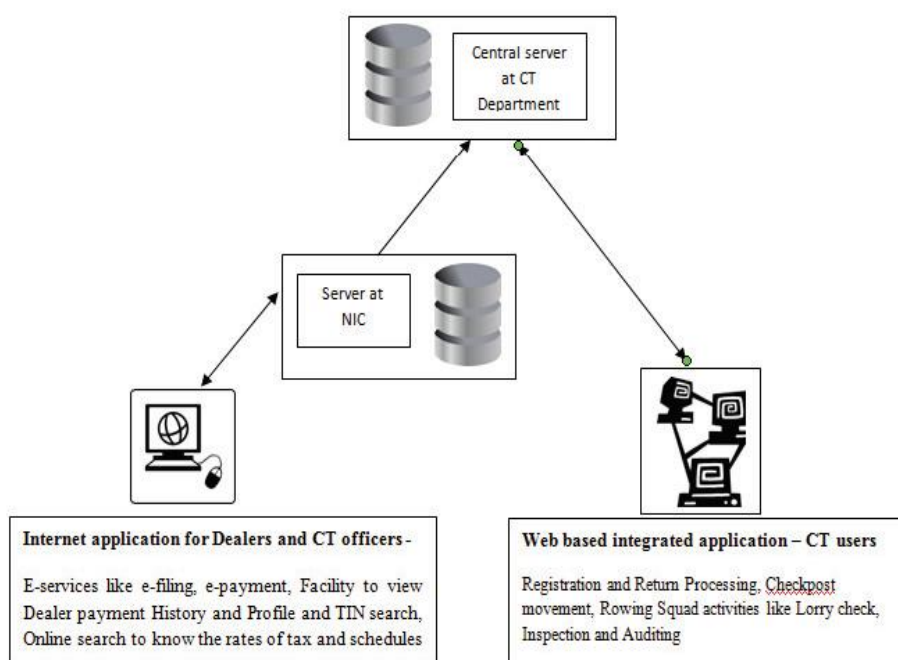
- Under the TNVAT Act, sale of petroleum products by one oil company to another oil company shall not be deemed to be the first sale in the State and is exempt. The oil companies are required to file a return in Form 'J' meant for goods mentioned in the second schedule to the Act. The return, however, does not contain provision to exhibit essential details like period of sale, sale value, name of the purchaser relating to the sale of petroleum products amongst the oil companies. In the absence of these details, the correctness of the claim of exemption by the oil companies could not be verified at the time of scrutiny of returns.
- Goods mentioned in Part C of the first schedule to the TNVAT Act have unique commodity code and are taxable at 12.5 *per cent*. If used as industrial inputs, these goods are taxable at the concessional rate of four *per cent*, under entry 67 of Part B of the first schedule. Industrial inputs are codified with a commodity code 2067. We noticed that in Annexure I to the monthly return (Form I), instead of mentioning the actual commodity code of the goods purchased, the general code 2067 is being mentioned when they were purchased as industrial inputs. As a result, the nature of goods purchased by the assessee and the correctness of purchase of those goods at concessional rate are not ascertainable from the returns.
- Rule 7(4) of the TNVAT Rules provides that every Department of the Government liable to pay tax under the Act shall file a statement in Form M showing the total and taxable turnover for each quarter on or before the 20<sup>th</sup> of the month succeeding the quarter along with proof of payment of tax. However, the Form M does not require the Government Departments to furnish the details regarding name and

TIN of the buyers, period and value of goods sold etc. as the Form M does not contain any column to provide these details. In the absence of these details, the claim of ITC by the dealers in respect of the purchases effected from the Government Departments is not susceptible of verification.

**We recommend that the Government may consider modifying the prescribed format of the return in order to make it compatible with the Act/Rule provisions.**

### **2.13.9 Computerisation**

Computerisation in CT Department is covered under two applications namely (i) Web based integrated application (Intranet application) for Department use and (ii) Internet application for Department and dealers' use.



The intranet application has been completely implemented (September 2010). Internet application has been completed to cover e-services like online application for allotment of TIN, e-filing of returns, e-payment of taxes through five banks, dealer payment history and profile, TIN search, online search to know the rates of tax and schedules of the commodities. The other services like online issue of statutory forms, online dealer registration/cancellation, e-assessment order, e-refund and automatic notice generation and delivery through e-mail and SMS are yet to be completed (June 2012).

### 2.13.9.1 e-filing of monthly returns

(i) e-filing of returns was made mandatory for all the dealers with effect from December 2010. However, 62,303 out of 3,28,559 dealers have not filed their monthly returns (as of October 2011) electronically. Prior to December 2010, the dealers were filing the monthly returns manually and the details in the returns were entered into the computer system. We scrutinised the monthly performance statistics of the Department for the month of March 2011 and found that out of 35.56 lakh returns pertaining to the period from 2006-07 to 2008-09, data entry of 6.79 lakh returns (19 *per cent*) was yet to be made as on 31 March 2011. In the absence of such data entry, it would not be possible for the Department to ensure the genuineness of the claim of ITC in respect of purchases effected from the dealers whose return details have not yet been entered in the system.

(ii) Though Rule 7(9) of the TNVAT Rules provides for filing of revised return, filing of such revised return in electronic mode is not possible and the dealers have to resort to manual filing of the revised returns. Further, the annual return in Form I-1 meant for registered dealers who are not liable to pay tax under the Act is not capable of being filed in electronic mode. Thus, the full benefits of computerisation viz., tracking the trail of transactions and conducting effective scrutiny of returns to detect evasion is not being achieved.

### 2.13.9.2 Validation controls

White Paper on State Level Value Added Tax prepared by the Empowered Committee of States' Finance Ministers envisaged that "computerised system should compare constantly State VAT system and those of Central Excise and Income Tax to reduce tax evasion". While going in for such a comprehensive system of cross-checking, the correctness and completeness of the information captured in the VAT database should be ensured.

e-filing of returns facilitates the dealers to file monthly returns electronically. According to Section 21 of the TNVAT Act, a dealer has to file monthly return containing the information like TIN, name of the dealer, month of return, ITC brought forward, purchase value, claim of ITC, sale value, output tax payable etc.

The monthly return in Form I, should consist of two annexures viz. Annexure-I containing the details of purchases made by the dealer like seller TIN, name, invoice number, date etc. and

Annexure-II containing the details of sales made by the dealer like buyer TIN, name, invoice number, date etc.

We analysed the returns data for the period from January 2007 to July 2011 in respect of 1,32,18,282 returns pertaining to 4,25,538 dealers provided by the Department and observed that lack of validation controls in the computer applications led to the following deficiencies.

- A comparison of the consolidated ITC claimed in the monthly returns (Form I) with the break up details of ITC furnished in Annexure I revealed that in 60,446 returns filed by 24,705 dealers, there was difference between the two sets of figures.
- In 2,36,423 returns filed by 56,789 dealers, there was difference between the consolidated tax payable as per monthly returns and the details of tax payable furnished in Annexure II of the returns.
- While entering the details in Form I, the system allows the dealers to enter sale value in the column provided for each slab rate of tax. The dealer has to enter the tax amount also manually instead of the system automatically calculating the tax. As a result, in 1,23,614 returns filed by 39,953 dealers, there was difference between the actual tax due and the tax manually entered, amounting to ₹ 5,706 crore. Similarly, there was difference between the actual tax due and the output tax calculated in Annexure II of the returns, amounting to ₹ 8.14 crore, filed by 869 dealers along with 2,063 returns.
- While furnishing the e-returns, system necessitates the dealer to enter the ITC brought forward from the previous month instead of automatically capturing the details from previous month. In 51,774 returns pertaining to 35,826 dealers, the ITC brought forward to succeeding month was more than the closing balance of the previous month. Similarly, the ITC brought forward to succeeding month was less than the closing balance of the previous month in 1,16,796 returns pertaining to 49,943 dealers.
- The Taxpayer Identification Number (TIN) is a new unique registration number that is used for identification of dealers registered under VAT. It consists of 11 digit numerals and will be unique throughout the country. The first two digits represent the State code. The States are codified from '01' to '35'. Accordingly, the first two digits cannot be more than '35'. We analysed the correctness of information furnished by the dealers in Annexure I of the returns and found that in 744 returns filed by 447 dealers, ITC of ₹ 4.39 crore was claimed providing the State codes beyond 35.
- 56,186 dealers have claimed ITC in 1,56,698 returns for the goods purchased from the dealers whose TIN does not exist in dealer master database relating to registered dealers.
- In 73,677 returns, the purchase details contained invalid seller TIN like '0', '-', 'Applied' etc. for which ITC has been claimed to the tune of ₹ 2,876.70 crore.
- Furnishing of invoice-wise information was made mandatory from September 2009. We analysed the data to ensure whether this rule was mapped with the system and found in 33,554 returns filed by 26,520 dealers, the purchase details did not contain invoice information.

After we pointed out the above, the Department replied that all validations which were made available initially were removed subsequently due to



difficulties faced by the dealers. The Department further stated that all the validation checks will form part of online filing of returns in the upcoming MMP-CT Project.<sup>5</sup>

Though the Department accepted the non-availability of validation checks in the existing software and stated that the validation will be part of the upcoming project, the reply of the Department is silent with regard to rectifying the deficiencies in the existing applications. In the absence of such validation checks, the Department would not be in a position to check the correctness of information furnished in the returns and also ensure the correctness of the revenue collection.

### 2.13.10 Delay in selection of cases for detailed scrutiny and completion of scrutiny

As per section 22(2) of the TNVAT Act, the assessing authority shall accept the returns filed by the dealers accompanied by proof of payment of tax and the documents prescribed and on such acceptance shall pass an assessment order. According to section 22(3) of the TNVAT Act, not exceeding 20 *per cent* of the total number of self assessments shall be selected by the CCT for the purpose of detailed scrutiny to ensure correctness of the returns submitted by the dealers. However, the TNVAT Act does not stipulate any time limit within which the scrutiny has to be completed by the assessing authority.

Selection of cases for scrutiny could be taken up only on passing of self assessment orders by the assessing authorities. We had pointed out in the Performance Audit on “Transition from sales tax to VAT” in the Audit Report 2008-09, of the huge pendency in finalisation of assessments under TNVAT Act. The delay in passing self assessment orders in turn delayed the selection of cases for scrutiny.

As per the details furnished by the Department, 61,681 assessments were selected for detailed scrutiny out of 3.08 lakh self assessments on three

different dates between July 2008 and September 2010, for the period 2006-07 and 2007-08. Selection of assessments for detailed scrutiny has not been made thereafter. Further, out of the 61,681 assessments selected, scrutiny had been completed only in respect of 11,933 assessment cases (19 *per cent*) as at the end of January 2012. Selection of self assessments for scrutiny pertaining to the years 2008-09 (2,21,166 assessments), 2009-10 (2,37,073 assessments) and 2010-11 (4,72,411 assessments) has not been made.

When we pointed this out (November 2011), the Department attributed the reason for delay in completion of the assessments to the existing vacancies both in official and clerical cadres and due to deployment of all the man power in achievement of the revenue target.

<sup>5</sup> MMP-CT project means Mission Mode Project for Commercial Taxes Department. This is sponsored by Government of India (GoI) under e-Governance scheme.



During the Exit Conference (June 2012) the Secretary assured that executive instructions would be issued for completion of the scrutiny cases within a fixed time period followed by proper monitoring.

**We recommend that the Government may consider introducing a suitable provision in the TNVAT Act/Rules for fixing a time limit for completing the scrutiny.**

### **2.13.11 Input Tax Credit**

The most important feature that distinguishes the VAT System from the erstwhile General Sales Tax is the concept of input tax credit (ITC). Section 19 (1) of the TNVAT Act provides for ITC of the amount of tax paid or payable under this Act, by the registered dealer to the seller on his purchases of taxable goods specified in the first schedule.

#### **2.13.11.1 Irregularities in the claim of ITC**

As per Section 19(1) of the TNVAT Act, a registered dealer shall be entitled to ITC of the amount of tax paid or payable under this Act to the seller on his purchase of taxable goods specified in the first schedule.

During Audit, we noticed in 18 assessment circles that there were irregularities in the claim of ITC in respect of 47 assesseees as detailed in the following paragraphs.

Section 19(2) of the TNVAT Act provides that ITC shall be allowed for the purchase of goods made within the State from a registered dealer and which are for the purpose of use as input in manufacturing or processing of goods in the State or use as capital goods in the manufacture of taxable goods. The term, 'capital goods', has been defined in Section 2(11) of the Act.

According to Section 19(16) of the Act, *ibid*, the ITC availed by any registered dealer shall be only provisional and the assessing authority is empowered to revoke the same if it appears to it to be incorrect, incomplete or otherwise not in order.

In the case of wrong availment of ITC at the first instance, penalty at the rate of 50 *per cent* of the ITC is also leviable as per section 27(4) of the TNVAT Act.

The CCT had clarified that generator sets are not eligible for ITC as capital goods.

(i) Earthmoving equipments, personal protection/safety wears, generator sets and fire fighting equipments which are neither used as inputs nor defined as capital goods under the TNVAT Act are not eligible for claim of ITC. We noticed in four assessment circles<sup>6</sup> that eight dealers had claimed ITC of ₹ 40.51 lakh in respect of purchase of the above goods during the period from 2006-07 to 2010-11. The ITC of ₹ 40.51 lakh claimed by the assessee has to be reversed and a penalty of ₹ 20.25 lakh is leviable.

After we pointed this out, the assessing authority, Tirupur (Rural) assessment circle reversed (March 2011) the ITC of ₹ 1.28 lakh besides levying penalty of ₹ 0.64 lakh. We are awaiting the reply of the Department in the remaining cases (December 2012).

Section 3(3) of the Act provides that the tax payable by a registered dealer shall be reduced to the extent of the tax paid on his purchase of goods specified in Part B or Part C of the first schedule. Gold falls under Part A of the first schedule.

In the case of wrong availment of ITC at the first instance, penalty at the rate of 50 *per cent* of the ITC is also leviable as per section 27(4) of the TNVAT Act.

(ii) We noticed that a manufacturer of needles in Coonoor assessment circle had claimed ITC, during the period from 2007-08 to 2010-11, on the purchase of gold which was used in the manufacture of needles. The assessee had adjusted the ITC of ₹ 2.94 lakh being the tax paid by him on the purchase of gold

against the output tax payable by him on the sale of needles. As gold is included under Part A of the first schedule, the adjustment of ITC availed on the purchase of gold against the output tax payable by the assessee on the sale of needles was not in order. The wrongly adjusted ITC of ₹ 2.94 lakh has to be reversed. Penalty at 50 *per cent* amounting to ₹ 1.47 lakh is also leviable.

Rule 7(9) of the TNVAT Rules introduced with effect from May 2010 provides that if a dealer having filed a return, finds any omission or error therein, other than as a result of an inspection or audit or receipt of any other information or evidence by the assessing authority, he shall file a revised return rectifying the omission or error within a period of six months from the last day of the relevant period to which the return relates. Where, as a result of such revised return, the tax payable by the dealer increases, the dealer shall furnish along with such revised return, proof of payment of tax and interest due thereon.

(iii) We noticed in three assessment circles<sup>7</sup> that four dealers had filed revised returns during the period from February 2008 to November 2008 and claimed ITC of ₹ 56.55 lakh, which the Department has also accepted. As the provision for filing revised returns was introduced with effect

<sup>6</sup> Nandanam, Royapettah-II, Sriperumbudur & Tirupur (Rural)  
<sup>7</sup> Kallakurichi, Karur (West) and Namakkal (Rural).

from May 2010 only, the claim of ITC by these dealers by filing revised returns was not in order.

Section 19(11) of the TNVAT Act provides that the claim of ITC shall be made before the end of the financial year or before 90 days from the date of purchase whichever is later.

(iv) We noticed in Chokkikulam and Sriperumbudur assessment circles that two dealers had claimed ITC of ₹ 6.36 lakh beyond the time limit prescribed under the Act. The

assessing officers failed to notice this aspect and allowed the claim of ITC while passing the assessment orders.

After we pointed this out, the assessing officer in Chokkikulam assessment circle accepted the audit observation and reversed the ITC of ₹ 5.05 lakh. We are awaiting the reply of the Department in the remaining case (December 2012).

Section 9 of the TNVAT Act, pertaining to levy of tax on bullion and jewellery, provides that the dealer who pays tax under this section shall be entitled to ITC on the goods specified in the first schedule, purchased by him in the State. There is no specific provision in the Act to adjust the ITC against the output tax payable in respect of goods falling under Part A of the first schedule. Gold falls under Part A of the first schedule.

(v) We noticed that 30 dealers (jewellers) pertaining to six assessment circles<sup>8</sup> had adjusted the ITC of ₹ 48.77 crore, being the tax paid on the purchase of goods falling under Part A of the first schedule against the output tax payable by them, which is against the provisions of the Act.

The assessing officers also failed to notice the above mistake. This resulted in incorrect adjustment of ITC amounting to ₹ 48.77 crore.

The TNVAT Act provides for ITC of the amount of tax paid or payable under the Act, by the registered dealer to the seller on his purchase of taxable goods specified in the first schedule.

(vi) We noticed in Adyar I and Annasalai II assessment circles that two assessee claimed ITC of ₹ 21.43 crore as against the entitled ITC of ₹ 19.64 crore. The assessing officers also failed to notice this mistake while passing the assessment

orders. This resulted in excess claim of ITC of ₹ 1.78 crore. The ITC of ₹ 1.78 crore has to be reversed besides levy of penalty ₹ 0.51 crore.

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<sup>8</sup> Hosur (North), Mahal, Peddunaickenpet (North), Sowcarpet III, T. Nagar (South) & Villupuram I.

After we pointed this out, the Department revised the assessment (March 2012) in respect of an assessee pertaining to Annasalai II assessment circle by reversing the ITC to the tune of ₹ 1.06 crore besides levying penalty of ₹ 15.30 lakh. We are awaiting reply in respect of the other case (December 2012).

### 2.13.11.2 Reversal of ITC

As per section 19(5)(c) of the TNVAT Act, no ITC shall be available on the purchase of goods if those goods are sold as such or used in the manufacture of other goods and sold in the course of inter-State trade or commerce, if such sales are not covered by valid declarations in Form 'C'.

As per section 19(4) of the TNVAT Act, ITC in excess of three *per cent* (four *per cent* upto 31 March 2007) is available when the goods purchased locally are either transferred to a place outside the State as such or used in the manufacture of other goods and such manufactured goods are transferred to a place outside the State otherwise than by way of sale, subject to the condition that such transfer is supported by Form 'F' declarations.

(i) We noticed in 12 assessment circles<sup>9</sup> that 22 dealers had either sold the goods in inter-State without declaration forms or sent the goods on stock transfer to other states during the period from 2006-07 to 2009-10. Such sale/transfer of goods warrants reversal of ITC claimed by the assessee which was omitted to be noticed by the assessing officer. This resulted in non-reversal of ITC of ₹ 2.12 crore.

After we pointed this out, the assessing authorities accepted the audit observation in nine cases and reversed the ITC of ₹ 1.32 crore. We are awaiting the

reply in respect of the remaining cases (December 2012).

According to Section 19(5)(a) of the TNVAT Act, no ITC shall be allowed in respect of sale of goods exempted under Section 15 of the TNVAT Act.

(ii) We noticed that in 15 assessment circles<sup>10</sup>, in respect of 24 dealers, reversal of ITC of ₹ 2.02 crore was not made in respect of sale of exempted

goods made by the dealers during the period from 2006-07 to 2009-10.

After we pointed this out, the assessing authorities accepted the audit observation and reversed the ITC of ₹ 1.35 crore by revision of assessments. We are awaiting the reply in the remaining cases (December 2012).

<sup>9</sup> Adyar I, Anna Salai II, Avinashi, Egmore I, Kilpauk, Palladam, Saligramam, Rockfort, Mooremarket (South), Podanur, T. Nagar (South) and Tiruvanmiyur

<sup>10</sup> Amaindakara, Chepauk, Egmore II, Kilpauk, Loansquare II, Mylapore, Palladam, Saidapet, Sowcarpet II, Sowcarpet III, Singanallur, Sriperumbudur, Srivilliputhur, Tirupur (North) & Valluvarkottam.

### **2.13.11.3 Cross verification of the claim of ITC**

According to Section 19(1) of the TNVAT Act, a registered dealer is eligible for ITC of the amount of tax paid or payable to the seller on his purchase of taxable goods specified in the first schedule.

The monthly return in Form I require the assessee to furnish the details of purchases and sales effected by them in Annexure-I and Annexure-II thereto respectively.

CCT had issued instructions in December 2008 that by way of scrutiny of returns, cross check references have to be issued in all cases by e-mail correspondence to the other end, where the claim of ITC exceeds ₹ 5,000 in a month and verification work has to be completed before the next month of the return date by the assessing officer. The instructions further stipulate that 25 *per cent* of such cross check references have to be monitored and verified by the concerned territorial Deputy Commissioner. The CCT had issued instructions in August 2009

regarding the checks to be exercised by the assessing officers and enforcement officers in respect of the returns filed by the dealers under the e-filing system. The CCT had further issued instructions in September 2010 that in order to make the scrutiny of returns more effective and result oriented, the territorial Joint Commissioners and Deputy Commissioners should also scrutinise the ITC claims pertaining to evasion prone commodities.

We undertook the exercise of ascertaining the genuineness of the claim of ITC by cross verifying the ITC relating to the purchase of goods disclosed in the Annexure I of the monthly returns of the purchasing dealers with the details of sales disclosed in Annexure II of the monthly returns filed by the selling dealers from whom the goods were purchased. Such cross verification revealed incorrect claim of ITC of ₹ 149.44 crore for which penalty of ₹ 74.72 crore was also leviable. They fall under the following categories:

**(i) Claim of ITC in respect of purchases from dealers who were identified by the Department as bogus dealers**

Section 27(2) of the TNVAT Act provides that where any dealer produces false bills, vouchers, declaration certificate or any other documents with a view to support his claim of ITC, the assessing authority shall reverse the ITC availed and determine the tax due. Section 27(4) provides for levy of penalty at 50 per cent of the tax due in respect of such claim.

We noticed in 70 assessment circles<sup>11</sup> that 314 dealers availed ITC of ₹ 90.87 crore during the period from August 2009 to October 2011 in respect of purchases effected from 141 dealers, who were identified as 'bill traders' by the Department and whose RCs were cancelled with retrospective

effect, i.e. from the date of registration. Inasmuch as the selling dealers were identified as 'bill traders' by the Department itself, there is no possibility of the purchasers having entered into genuine transactions of purchases with these selling dealers. The assessing authorities should have reversed the ITC of ₹ 90.87 crore availed by the dealers and collected the same along with penalty ₹ 45.44 crore as prescribed under Section 27(4) of the TNVAT Act.

**(ii) Claim of ITC in respect of purchases effected from dealers whose RCs were cancelled**

Section 19 (15) of the TNVAT Act provides that where a registered dealer has purchased any taxable goods from another dealer and has availed ITC in respect of the said goods and if the RC of the selling dealer was cancelled by the appropriate registering authority, such registered dealer who has availed ITC shall pay the ITC availed on the date from which the order of cancellation of the RC takes effect, along with interest.

According to Section 27(4) of the TNVAT Act, where a dealer wrongly availed ITC, he shall pay penalty in addition to reversal of such ITC.

A cross verification of the ITC claim of the dealers available in the data provided by the Department with the registration status of the selling dealers revealed that in 280 assessment circles, in respect of 23,811 returns, 3,022 dealers had claimed ITC in respect of purchases effected from the dealers after the date of cancellation of their RCs.

<sup>11</sup>

Adyar I, Adyar II, Amaindakara, Ambattur, Anna Salai III, Anna Salai-I, Ashok Nagar, Ayanavaram, Chengalpet, Chepauk, Chindadripet, Chokkikulam, Choolai, Esplanade, Ganapathy, Gandhipuram, Godown, Guindy, Harbour I, Harbour II, Harbour III, Harbour IV, Harbour V, Kilpauk, Kongunagar, Korattur, Kothwalchavadi, Koyambedu, Mailamchandai I, Mannady (East), Mannady (West), Moore Market (South), Mylapore, Nandanam, Nungambakkam, Park Town II, Peddunaickenpet (North), Peddunaickenpet (South), Peelamedu (North), Periamet, Ponneri, Purasawakkam, Rattanbazaar, Rockfort, Royapuram, Saidapet, Saligramam, Sowcarpet II, Sowcarpet III, Sriperumpudur, Srirangam, T.Nagar (East), T.Nagar (North), T.Nagar (South), Tallakulam, Tambaram I, Tambaram II, Thudiyalur, Tirupur (Rural), Tiruverambur, Tiruvottiur, Tondiarpet, Triplicane I, Vadapalani I, Vallalarnagar, Velacherry, Vepery, Villivakkam, Washermenpet and Woraiyur



We noticed during scrutiny that 422 dealers of 78 assessment circles<sup>12</sup> had availed ITC of ₹ 22.57 crore in respect of purchases effected from 407 dealers whose RCs were cancelled by the appropriate registering authority. The claim of ITC in respect of purchases effected from cancelled dealers is not in order. Thus, the amount of ₹ 22.57 crore was recoverable from the dealers along with a penalty of ₹ 11.28 crore. The assessing authorities, however, failed to initiate action to levy tax and penalty as prescribed under the Act.

**(iii) Claim of ITC in respect of purchases effected from the dealers who had not filed returns**

Section 21 of the TNVAT Act provides that every dealer registered under the Act shall file return, in the prescribed form showing the total and taxable turnover within the prescribed period in the prescribed manner, along with proof of payment of tax.

We noticed during Audit that 34 dealers of 21 assessment circles<sup>13</sup> had claimed ITC of ₹ 7.30 crore in respect of purchases effected from 56 dealers. The selling dealers had not filed any returns and had not paid tax to the Department. The ITC amount of ₹ 7.30 crore was recoverable along with a penalty of ₹ 3.65 crore.

After we pointed this out, the assessing authority, Mandaveli assessment circle, revised the assessment in one case (May 2012) and raised an additional demand of ₹ 67.86 lakh besides levying penalty of ₹ 33.93 lakh. We are awaiting reply of the assessing authorities in the remaining cases (December 2012).

**(iv) Claim of fictitious ITC**

We cross verified the details of purchases reported by 69 dealers of 28 assessment circles<sup>14</sup>, during the period from 2007-08 to 2011-12 (upto December 2011), with the sales details reported by 122 selling dealers and

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<sup>12</sup> Adyar I, Adyar II, Amaindakara, Anna Salai-I, Anna Salai-II, Aruppukottai, Ashok Nagar, Chinglepet, Chepauk, Chintadripet, Chokkikulam, Choolai, Egmore II, Esplanade I, FTAC I Coimbatore, Ganapathy, Gandhimarket, Gandhipuram, Harbour I, Harbour II, Harbour III, Harbour IV, Hosur (North), Karaikudi, Karur (West), Kilpauk, Kongunagar, Korattur, Koyambedu, Kumbakonam I, Lalgudi, Loansquare —, Mailamchandai I, Mailamchandai —, Mannady (East), Mannady (West), Moore market (South), Nandanam, Nungambakkam, Palakarai I, Palakarai II, Park Town II, Peddunaickenpet (South), Peddunaickenpet (North), Peelamedu (North), Pollachi (East), Ponneri, Purasawakkam, Ramnad, Ramnagar, Rattanbazaar, Rockfort, Saidapet, Singarathope, Sowcarpet II, Sowcarpet III, Sriperumpudur, Srirangam, T.Nagar (South), Tambaram I, Tambaram II, Thudiyalur, Tirupur (Rural), Tiruvarur, Tiruverambur, Tiruvottiyur, Trichy Road, Triplicane II, Tuticorin II, Tuticorin III, Vallalarnagar, Valluvarkottam, Velacherry, Vepery, Villivakkam, Washermenpet I, West Veli Street and Woraiyur

<sup>13</sup> Arakonam, Chepauk, Chintadripet, Choolai, Egmore II, Harbour I, Korattur, LTU I, Chennai, Mandaveli, Moore market (South), Peddunaickenpet (North), Ponneri, Purasawakkam, Royapuram, Thiruvottiyur, T.Nagar (North), Udumalpet (South), Vallalarnagar, Vellore (North), Villivakkam and West Veli Street

<sup>14</sup> Chepauk, Chintadripet, Choolai, Harbour I, Harbour II, Harbour IV, Kallakurichi, Kilpauk, Kongunagar, LTU I, Chennai, Mannady (West), Moore Market (South), Peddunaickenpet (South), Peddunaickenpet (North), Purasawakkam, Royapettah I, Royapettah-I, Royapuram, Saligramam, Sowcarpet II, T Nagar (East), T.Nagar (South), Thiruvottiyur, Tiruvanmiyur, Triplicane II, Vallalarnagar, Vepery, Villivakkam.



found that they had claimed ITC of ₹ 28.70 crore in respect of the purchases. The selling dealers, however, had not effected any sales to the said purchasing dealers or the sales made by them was not commensurate with the amount of ITC claimed by the purchasing dealers. This indicates that the claim of ITC was fictitious, warranting reversal of ₹ 28.70 crore along with penalty of ₹ 14.35 crore.

Had instructions of the CCT regarding the scrutiny of returns, the procedure to be followed by the assessing authorities regarding the huge claim of ITC and issue of cross check references been duly complied with by the assessing authorities, the above mentioned cases of ineligible claim of ITC by the dealers could have been easily identified by the Department. This indicates the lack of monitoring on adherence to the instructions issued in this regard.

#### 2.13.11.4 Absence of provision to restrict claim of ITC in specific cases

Inter-State sales to registered dealers covered by declarations in Form 'C' are taxable at two *per cent* under the Central Sales Tax Act, 1956, with effect from June 2008. The assessee avails ITC at four/12.5 *per cent* on the purchase of goods within the State and pay tax at two *per cent* on their inter-State sales, if such sales are covered by declaration forms, resulting in accumulation of ITC

Goods sold as industrial inputs within the State are taxable at four *per cent* under entry 67 of Part B of the first schedule to the Act. Accumulation of ITC occurs in these cases also, where the goods purchased at 12.5 *per cent* are sold, within the State as industrial inputs.

Inter-State sale of goods against declaration forms and sale of goods as industrial inputs within the State results in accumulation of ITC in cases where the goods are purchased at a higher rate and sold at lesser rate. We noticed during scrutiny of returns that by effecting inter-State sales out of locally purchased goods, the assessee accumulated ITC disproportionate to the value of closing stock. To avoid such

accumulation of ITC, an enabling provision may be incorporated in the VAT Act for reversal of ITC. (In Gujarat, notifications were issued (June and September 2010) restricting the ITC on certain goods in the event of those goods being sold in the course of inter-State trade).

During the Exit Conference (June 2012), the Secretary to the Government stated that the suggestion made by audit would be considered.

### 2.13.11.5 Goods held in stock at the time of stoppage of business

Section 19(19) of the TNVAT Act provides that where a dealer has availed ITC and has goods remaining unsold at the time of stoppage or closure of business, the amount of ITC availed has to be reversed on the date of stoppage or closure of such business and recovered.

As on 31 March 2012, 62,080 dealers had closed their business. Out of this, 18,188 dealers had done so in 85 assessment circles test checked by us. However, we noticed that the provisions of the TNVAT Act regarding the reversal of ITC in respect of

goods held in stock at the time of stoppage of business was not given effect to in such cases. In this circumstance, the possibility of the stock held at the time of stoppage of business being sold subsequently thereby causing loss of revenue to the Government on account of non-reversal of ITC and non-payment of tax cannot be ruled out.

**We recommend that the Government may consider evolving a system to ascertain the closing stock held by the dealers at the time of cancellation of their RCs, either due to closure of business or otherwise and to reverse the ITC availed thereon.**

### 2.13.12 Application of incorrect rates of tax

Under the TNVAT Act, sale of goods is taxable at the rates specified in the schedules to the Act.

**2.13.12.1** We noticed during our scrutiny that four assesseees, in four assessment circles<sup>15</sup>, paid tax at rates lesser than the rates prescribed, on the sale of fashion jewellery, digital linear tapes, rubber vulcanizing solution and

centering materials effected by them during the period from 2006-07 to 2008-09 (i.e. one *per cent* instead of four *per cent* on fashion jewellery and four *per cent* instead of 12.5 *per cent* on the other three commodities). The assessing officers who finalised the assessments also failed to notice this mistake and assess the above turnover at the correct rate of tax. Application of incorrect rates of tax resulted in short levy of tax of ₹ 23.51 lakh.

After we pointed this out, the assessing officers, Ayanavaram and Thiruvanniyur assessment circles revised (July 2011 and February 2012) the assessments and raised additional demand of ₹ 3.00 lakh; of which an amount of ₹ 1.13 lakh was collected. We are awaiting the reply in the remaining cases (December 2012).

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<sup>15</sup> Ashoknagar, Ayanavaram, Nandanam and Thiruvanniyur

As per Section 7(1)(a) of TNVAT Act, 2006, every dealer shall pay tax on the sale of ready to eat unbranded foods including sweets, savouries, unbranded non-alcoholic drinks and beverages served in or catered indoors or outdoors by star hotels recognised as such by the Tourism Department of the State Government or the Government of India and restaurants attached to such hotels at the rate of 12.5 *per cent* of the taxable turnover.

**2.13.12.2** We noticed in 13 assessment circles<sup>16</sup> that 19 hoteliers, who were recognised as star hotels by the Tourism Department of the Government of India paid tax at the rate of two *per cent* on the sales turnover of ₹ 35.31 crore during the period from 2006-07 to 2011-12, though they were liable to pay tax at

12.5 *per cent* which resulted in short payment of tax ₹ 3.22 crore.

After we pointed this out, the assessing authorities issued notices proposing revision of assessments. We are awaiting further report (December 2012).

### 2.13.13 Suppression of sales turnover

As per Section 27 of the TNVAT Act, if any part of the turnover of a dealer has escaped assessment to tax, the assessing authority may determine to the best of his judgement the turnover which has escaped assessment and assess the tax on such turnover.

Under section 27(3) of the TNVAT Act, besides tax, penalty at 150 *per cent* of the tax due on the turnover escaped assessment is also leviable.

**2.13.13.1** Scrutiny of monthly returns revealed that five dealers of Chintadripet and Vallalarnagar assessment circles had purchased and sold goods amongst themselves. All the five dealers had not furnished the details of dealer-wise sales in Annexure II of the returns filed by them in electronic mode. We found during cross verification that the total claim of ITC relating to purchase of goods by others

from these five dealers was in excess of the output tax disclosed by these dealers in their monthly returns. The dealers had disclosed a sales turnover of ₹ 122.34 crore involving an output tax of ₹ 10.13 crore in the Form I returns filed by them during 2009-10 & 2010-11. We, however, found that ITC of ₹ 16.72 crore was claimed in respect of purchases of goods valuing ₹ 184.41 crore having been effected from the five dealers during 2009-10 and 2010-11. Thus, it is evident that the dealers had suppressed the sales turnover of ₹ 62.07 crore involving tax of ₹ 6.59 crore and a penalty of ₹ 9.88 crore.

<sup>16</sup>

Arisipalayam, Egmore II, Gudalur, Ooty (South) Pollachi (West), Rajapalayam II, Salem (Town) (North), Thanjavur I, Tirunelveli (Junction), Trichy Road, Vadapalani I, Valluvarkottam & West Veli Street

As per entry 63 of Part C of the first schedule to the TNVAT Act, standing trees were taxable at the rate of 12.5 *per cent* upto 11 July 2012.

2.13.13.2 We noticed during scrutiny of assessment files and other records for the years 2007-08 to 2010-11 that a dealer in Nagercoil (Rural) assessment circle had not reported sales turnover relating to rubber trees amounting to ₹ 11.01 crore in the monthly returns. This resulted in non levy of tax of ₹ 1.38 crore and penalty of ₹ 2.06 crore

As per entry 119 of Part B of the first schedule to the TNVAT Act, rubber, raw rubber, latex etc. were taxable at the rate of four *per cent* upto 11 July 2012.

2.13.13.3 We noticed during cross verification of the details obtained from Rubber Board check post at Kavalkinaru, with the assessment records of three assesseees in Thukalay assessment circle that the local sales of rubber amounting to ₹ 54.43 lakh was not reported by the assesseees in their monthly returns. This resulted in non levy of tax and penalty amounting to ₹ 5.44 lakh.

#### **2.13.14 Non-surrendering of Transit Pass**

Section 70 of the TNVAT Act, 2006 provides that the person in charge of a goods vehicle carrying goods mentioned in the sixth schedule from any place outside the State and bound for any other place outside the State shall obtain a transit pass from the check post officer of the first check post after entry into the State and surrender the same to the check post officer of the last check post before exit out of the State. In case of failure to surrender the transit passes, the Act provides for levy of tax and penalty as if the goods were sold within the State.

As per Rule 15(17)(f) of the TNVAT Rules, 2007, the officer in-charge of the last check post shall intimate the delivery of transit pass to the officer in-charge of the first check post who issued the transit pass.

Raw rubber being included under the sixth schedule to the Act requires transit pass for passing through the State of Tamil Nadu.

We noticed during Audit that in respect of transit passes issued by the check post officers, Kaliyakkavillai and Puliয়ারai ('first' check posts after entry into the State) during the years from 2007-08 to 2010-11 for movement of rubber amounting to ₹ 242.23 crore through Tamil Nadu to other States, confirmation of surrender of the transit passes at the last check posts ('last' check post before exit out of the State) were not received for 1,507 transit passes to ensure that the goods were moved out of the State.

We cross verified with the records of Hosur check post ('last' check post) which

revealed that 388 transit passes issued by the 'first' check post, during the years 2009-10 and 2010-11, for transport of rubber amounting to ₹ 64.51 crore were not surrendered at the 'last' check post. Hence, the goods should be deemed to have been sold within the State. The check post officer, however, failed to initiate action to recover the tax and penalty as provided in the Act. The tax and penalty leviable worked out to ₹ 2.58 crore and ₹ 3.87 crore respectively.

### **2.13.15 Levy of purchase tax**

Section 12 of the TNVAT Act provides that every dealer who purchases goods (the sale or purchase of which is liable to tax under the Act) in circumstances in which no tax was payable and consumes or uses such goods in or for the manufacture of other goods for sale, shall pay tax on the turnover relating to the purchase at the rate specified in the schedule to the Act.

We noticed during scrutiny that 20 dealers of 15 assessment circles<sup>17</sup> had purchased vegetable oil, chillies and chilly powder, peas and peas dhal and pulses and grams without payment of tax during the period from 2007-08 to 2010-11 and used or consumed the same in manufacture. The sale of the above goods is exempt from tax upto a prescribed turnover limit. As the exemption under the Act is conditional, the

purchase of these commodities without payment of tax and use in manufacture would attract purchase tax. The dealers were liable to pay purchase tax of ₹ 4.05 crore as provided under Section 12 of the Act.

Similarly, four dealers of Nagercoil (Town) and Thuckalay assessment circles had purchased rubber logs and raw rubber from unregistered dealers during the period from 2007-08 to 2010-11 and utilised the same for the manufacture of packing cases and rubber gloves. As the goods were purchased without payment of tax and used in manufacture, purchase tax amounting to ₹ 3.15 crore was payable.

In the above two instances, the dealers had not paid the purchase tax under Section 12 of the Act. The assessing authorities failed to levy and collect the same.

After we pointed this out, the assessing authority, Thuckalay assessment circle revised the assessments in two cases and raised (November 2012) demand of ₹ 2.64 crore. We are awaiting the reply in respect of the other cases (December 2012).

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<sup>17</sup> Alandur, Egmore I, Egmore II, Hosur (North), Kilpauk, LTU I, LTU III, Mandaveli, Mylapore, Perambur II, Royapettah-II, T.Nagar East, Tiruparankundram, Tiruvanmiyur & Vadapalani-I

### **2.13.16 Admissibility of levy of tax at compound rates**

Based on the nature of trade and quantum of turnover, the Act contemplates two kinds of taxation viz (i) tax on actual turnover with provision for set off and (ii) compounding tax without provision for set off.

#### **2.13.16.1 Compounded rate of tax for small dealers**

Section 3(4) of the TNVAT Act provides that small traders effecting second and subsequent sales of goods purchased within the State and whose turnover is less than ₹ 50 lakh for a year may, at their option, pay tax at compounded rate. These dealers are required to file the monthly returns in Form 'K'. The Act further provides that such dealer whose turnover has reached ₹ 50 lakh during the previous year shall not be entitled to exercise such option for subsequent years.

Accordingly, dealers whose annual turnover is not less than ₹ 50 lakh during the current year or previous year and the dealers who purchases/sells goods from/to other States are not eligible for paying tax at compounded rates.

(i) We noticed during scrutiny of returns that 55 dealers pertaining to 31 assessment circles<sup>18</sup> whose turnover for the year was in excess of ₹ 50 lakh paid tax at compounded rate. The short payment of tax due to incorrect adoption of the compounding rate, for the period from 2006-07 to 2011-12, worked out to ₹ 2.70 crore.

After we pointed this out, the assessing authority, Vellore (Rural) assessment circle revised (March 2012) the assessment of a dealer and raised an additional demand of

₹ 6.79 lakh. We are awaiting the reply in respect of the remaining cases (December 2012).

Had the recommendation made by audit in the Audit Report 2008-09 to provide a column in the Form 'K' return to exhibit the cumulative monthly turnover been implemented, assessing authorities could have detected the incorrect claim of compounded rate of tax by the assesseees.

As per Section 3(4)(a) of the TNVAT Act, 2006, every dealer who effects second and subsequent sale of goods purchased within the State may opt to pay tax at compounded rate.

(ii) A cross verification of the check post data of the Department revealed that 365 dealers purchased goods from outside the state and paid tax at compounded rates by filing Form K which is not in order.

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Adyar I, Amaidakarai, Anna Salai I, Brough Road, Coonoor, Egmore II, Kallakurichi, Karaikudi, Karur (North), Karur (West), Kumbakonam I, Mannady (West), Mahal, Namakkal (Rural), Westveli Street, Park Town I, Peddunaickenpet (North), Pollachi (East), Rockfort, Saidapet, Salem (Rural), Sankarankoil, Thanjavur II, Tiruvanmiyur, Tiruverumbur, Tiruvottiyur, T. Nagar (East), T. Nagar (South), Tuticorin I, Vellore (Rural) and Villupuram I



We test checked the above cases and found that 55 dealers pertaining to 23 assessment circles<sup>19</sup> who purchased/sold goods from/to other States had paid tax at compounded rates. The short payment of tax by these dealers, for the period from 2006-07 to 2011-12, worked out to ₹ 1.38 crore.

### 2.13.16.2 Compounded rate of tax for works contractors

As per Section 6 of the TNVAT Act, every dealer (works contractor), other than the dealer who purchases goods from outside the State or imports goods from outside the country, may at his option, pay tax at compounded rate of two or four *per cent* of the total contract value of the civil works and all other works respectively, executed by them.

(i) We noticed in nine assessment circles<sup>20</sup> that 18 contractors involved in civil works, paid tax at the compounded rate of two *per cent* on the total value of works executed by them, during the period from 2006-07 to 2010-11. As there was evidence of inter-state purchase of goods effected by them during the corresponding period, adoption of the compounding rate of tax

was not in order. The minimum short levy of tax on the value of transfer of materials as provided in the TNVAT Rules, worked out to ₹ 0.95 crore.

Similarly, we also noticed that 19 dealers pertaining to 13 assessment circles who were involved in other than civil works contracts had paid tax at compounded rate of four *per cent*, though they were not eligible to do so as they purchased goods from outside the State.

We ascertained the details of inter State purchases from the check post module of the intranet website of the Department. The assessing authorities, however, failed to utilise the information available in the website to ensure due adherence to the provisions of the Act and thereby safeguarding the interest of revenue. These cases, therefore, remained undetected by the assessing authorities.

(ii) As per the provisions of the TNVAT Act a works contractor cannot opt for compounded rate of tax on individual contracts as the option for payment of tax at compounded rate has to be exercised in respect of all the contracts executed by him during the assessment year.

<sup>19</sup> Coonoor, Chokkikulam, Dharapuram, Egmore II, Hosur (North), Mannady (West), Namakkal (Rural), Kallakurichi, Kilpauk, Kumbakonam I, Oppanakara Street, Peddunaickenpet (North), Pollachi (East), Ponneri, Royapettah II, Sathyamangalam, Sowcarpet III, Tirupur (Rural), Tiruvellore, Vellore (North), Villivakkam, Villupuram I & West Veli Street.

<sup>20</sup> Brough Road (Erode), Hosur (North), Peelamedu (North), Sowcarpet III, Tirupur (Rural) T. Nagar (East), Trichy Road, Virudhunagar III & West Veli Street.



We noticed during scrutiny in eight assessment circles<sup>21</sup> that 10 dealers filed returns both in Form I and Form L and paid tax at compounded rate for some works contracts and also paid tax at schedule rates on the deemed sale value of goods transferred during the execution of some contracts as well, instead of paying tax at compounded rate on all the works contracts executed by them during the year. This was not in accordance with the provisions of the Act.

### **2.13.16.3 Absence of penal provisions**

In the cases mentioned in paras 2.13.12.2, 2.13.16.1 and 2.13.16.2, the payment of tax at lesser/compounded rate was subject to the fulfilment of conditions prescribed in the respective sections. Though the assessee contravened the provisions of the Act, they continued to pay the tax at lesser rates. However, no penal provision has been stipulated in the Act against violation of conditions prescribed in the Act for availing the compounded rate of tax. Introduction of a penal provision may act as a deterrent and the tax at applicable rate would be realised by the Government in time.

After we pointed this out, the Secretary to the Government during the Exit Conference (June 2012) assured that the suggestion of audit for inclusion of penal provisions in such cases would be considered.

### **2.13.17 Evasion prone commodities**

**2.13.17.1** The Department identified certain commodities like iron and steel, rubber, electrical goods, tiles and marbles, timber, edible oil and granites as evasion prone commodities and had issued instructions on various aspects including prior inspection of the intended place of business of the applicant, by the Enforcement Wing, before issue of new RCs.

The CCT had issued instructions in December 2008 regarding scrutiny of returns in respect of evasion prone commodities. The Territorial Joint Commissioners and Deputy Commissioners were also instructed to supervise the scrutiny of returns by the assessing authorities. The CCT had also issued instructions (between September 2010 and September 2011) regarding procedure to be followed in respect of issue of new registration for dealers dealing in commodities identified as evasion prone.

We reviewed the transactions of the dealers of iron and steel and timber to ensure the correctness of the information furnished by the dealers in the returns. The findings are given in the following paragraphs:

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<sup>21</sup> Alandur, Ashok Nagar, Hosur (North), Loansquare II, Peelamedu (North), Pollachi (East), T.Nagar (North) & T.Nagar (South)

**(i) Claim of fictitious ITC**

As per Section 19(1) of the TNVAT Act, there shall be ITC of the amount of tax paid or payable under this Act, by the registered dealer to the seller on his purchases of taxable goods specified in the first schedule, provided that the registered dealer establish that the tax due on such purchase has been paid by him in the manner prescribed.

According to Section 27(4) of the TNVAT Act, where a dealer wrongly availed ITC, he shall pay penalty in addition to reversal of such ITC.

We cross verified the claim of ITC made by the dealers in iron and steel with the corresponding sales reported by the sellers in Annexure-II of the VAT returns filed by them online and found that the ITC amounting to ₹ 27.74 crore was claimed fictitiously, for the years from 2009-10 to 2011-12, by 37 dealers who formed a group and reported fictitious purchases amongst themselves only for the purpose of claiming ITC.

The penalty leviable at 50 *per cent* worked out to ₹ 13.87 crore. Out of the said 37 dealers, 32 dealers became inactive as on April 2012.

In respect of the above 37 dealers, we, further noticed that ITC of ₹ 19.71 crore was claimed by them for the years 2007-08 and 2008-09. We made an attempt to cross verify the correctness of the ITC claimed by the dealers. As complete set of records was not made available by the Department to audit, the correctness of the claim of ITC could not be vouchsafed.

Had instructions issued by the CCT in September 2010, March and September 2011 been followed scrupulously, such fictitious transactions/claim of ITC could have been detected by the Department.

**(ii) Incorrect claim of ITC made by dealers in iron and steel**

We cross verified the claim of ITC made by 19 dealers of iron and steel in nine assessment circles<sup>22</sup>, during the period from 2009-10 to 2011-12 with the corresponding sales reported by the sellers in Annexure-II of the VAT returns filed by them and noticed that no corresponding sales turnover have been reported by the sellers. However, ITC amounting to ₹ 8.68 crore was incorrectly claimed by the dealers. The incorrect claim of ITC warrants levy of a minimum penalty of ₹ 4.34 crore besides reversal of the ITC claimed.

<sup>22</sup> Ayanavaram, Chengalpet, Harbour-I, Manali, Tambaram-I, Tambaram-II, Tondiarpet, Tiruvottiyur and Villivakkam

**(iii) Excess claim of ITC made by dealers in timber**

We cross verified the claim of ITC made by 39 dealers in timber in 21 assessment circles<sup>23</sup>, during the period from 2007-08 to 2011-12, with the corresponding sales reported by the sellers in Annexure-II of the VAT returns filed by them and noticed that in all the cases the sales turnover were not reported by the sellers. This resulted in incorrect claim of ITC amounting to ₹ 4.97 crore. The incorrect claim of ITC has to be reversed along with a minimum penalty of ₹ 2.49 crore.

**We recommend that the Government may consider incorporating a provision in the TNVAT Act requiring the assessing authorities to undertake scrutiny of all tax returns.**

**2.13.17.2 Non-accounting of import of timber**

As per Section 27 of the TNVAT Act, if any part of the turnover of a dealer has escaped assessment to tax, the assessing authority may determine to the best of his judgement the turnover which has escaped assessment and assess the tax on such turnover.

According to Section 27(4) of the TNVAT Act, where a dealer wrongly availed ITC, he shall pay penalty in addition to reversal of such ITC.

We cross verified the import details of timber obtained from the Customs Department, for the period from 2007-08 to 2010-11, with the assessment records available in the concerned assessment circles and found that 27 dealers pertaining to six assessment circles<sup>24</sup> had not accounted for the imports made by them amounting to ₹ 51.19 crore resulting in sales suppression of ₹ 56.30 crore and consequent non-levy of tax of ₹ 7.04 crore

and penalty of ₹ 3.51 crore.

**2.13.17.3 Non-reporting of imports / purchases**

As per the TNVAT Act, the dealers who are claiming ITC are required to file monthly returns in Form-I along with purchase/sales details in Annexures-I and II. In Annexure-I, the details of all the purchases including import have to be furnished by the dealers.

We cross verified the import details of iron and steel effected by the dealers, obtained from the Customs Department and the purchase details obtained from Tamil Nadu Electricity Board with the monthly returns filed by them in the concerned assessment circles and found that 55 dealers pertaining to 28 assessment circles failed to report their imports of iron and steel valued at ₹ 132.90 crore in the Annexure-I of the

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<sup>23</sup> Chengalpet, Choolai, Dindigul-V, Egmore-I, Egmore-II, Korattur, Kuzhithurai, Manali, Nagercoil (Rural), Nungambakkam, Pollachi (Rural), Porur, Senkattah, Tambaram-II, Tenkasi-II, Thankkalai, Thiruverumbur, Tuticorin-I, Tuticorin-II, Vallalarnagar and Veperi.

<sup>24</sup> Mylapore, Palayamkottai, Senkottah, Tenkasi, Tuticorin-III and Veperi.

returns during the period 2008-09 and 2009-10. Similarly, in 32 assessment circles 50 dealers did not report their purchases of iron and steel from the Tamil Nadu Electricity Board amounting to ₹ 13.52 crore during the period from 2007-08 to 2011-12.

In respect of timber also we obtained the details of imports from the Customs Department and inter-State purchase details from Commercial Taxes Department check posts and on verification found that in 24 assessment circles, 95 dealers did not report/short reported the imports of timber amounting to ₹ 413.35 crore in the Annexure-I of their VAT returns. Similarly, 68 dealers pertaining to 26 assessment circles did not report their purchases of timber from other States amounting to ₹ 87.98 crore.

Even though the Annexure-I of the Form I return requires reporting of all the purchases including imports, the assessing authorities did not ensure the correctness of the details furnished in the Annexure-I of the returns, by scrutiny of returns as per the instructions issued by the Department. In these cases, the possibility of the sales suppression could not be ruled out.

#### **2.13.17.4 Import of timber by unregistered dealers**

Rule 4 of the TNVAT Rules, 2007, contemplates that every dealer who intends to commence business in this State is required to submit an application for registration under the TNVAT Act to the registering authority in whose jurisdiction the principal place of business is situated.

We cross verified the importers' details like name, address, PAN etc., given in the bills of entry, with the registration data provided by the Department and found that there was no corresponding TIN available in registration data in respect of 26 importers. In the absence of registration under the Act, assessment, levy and collection of

tax may not be possible on the total value of timber/plywood imported to the tune of ₹ 93.76 crore effected by these dealers.

**We recommend that the Government may consider taking up the issue with the Union Government for providing a column in the bill of entry to mention the TIN of the importing dealer which would enable the Department to identify the importers.**

After we pointed this out, the Department during the Exit Conference agreed (June 2012) to take up the issue with the Union Government.

#### **2.13.17.5 Import of timber by other State dealers**

We have already commented in paragraph 2.12.7.1 of the Audit Report for the year 2009-10 that capturing of details of movement of vehicles passing through the check posts was very low.

We noticed from data obtained from the Customs Department that 612 importers from other States had imported timber for a value of ₹ 880.17 crore during the period from 2007-08 to 2010-11. We cross verified the movement

of these goods to other State through the check post movement records details available in the CT Department. We, however, found that no documentary evidence in support of their movement to other States were captured or available in the check post records. Timber being an evasion prone commodity, the possibility of disposal of timber within the State could not be ruled out.

**We recommend that the Government may consider including timber under the ambit of transit pass system to check the evasion of tax. We also recommend capturing the movement of all vehicles passing through the check posts.**

### **2.13.18 Internal control system**

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and Departmental instructions. Monitoring is a key component of the internal control system. The existence of continuous and effective monitoring system is essential to secure the success of the internal control system.

- Internal audit is an integral part of internal control to enable an organisation to assure itself that the prescribed systems are functioning reasonably well. However, internal audit is not being undertaken on a regular basis and the details provided by the Department indicated that, only 30 *per cent* of the total number of 1,799 units planned for audit for the period from 2007-08 to 2010-11 has been completed.
- The assessing authorities issue pre revision notices whenever they find defects in the completed assessments. The Department has no mechanism to watch whether action has been taken on such notices issued by the assessing authorities.
- Detailed instructions have been issued regarding the time limit within which the VAT audit reports have to be finalised. As per the instructions of the CCT (June 2010), VAT audit reports should be implemented by the assessing authorities within three months from the date of receipt of such reports. Despite these instructions, 4,332 VAT audit reports are pending implementation as at 31 March 2011. Absence of proper control mechanism has made the internal control system weak.
- In order to ensure effective tax management, CCT issues regular instructions to the field formations regarding the scrutiny of returns, the procedure to be followed by the assessing authorities regarding the huge claim of ITC in respect of evasion prone commodities, issue of cross check references etc. However, non-adherence to such instructions by the field formations and non-monitoring of its compliance by the higher authorities is indicative of weak control mechanism.

## Enforcement Wing

Section 64(4) of the TNVAT Act provides that the CCT may order for audit (VAT audit) of the business of any registered dealer. Section 65 (1) of the Act provides that any officer prescribed by the Government in this regard may for the purposes of this Act require any dealer to produce before him the accounts, registers, records and other documents and to furnish any other information relating to his business.

The Enforcement Wing headed by a Joint Commissioner (CT) has eight Divisions and it conducts inspection at the place of business of the dealers to detect evasion of tax and also conducts field

audits (VAT audits) to verify the accounts of the dealers in their business premises.

The CCT authorises the Enforcement officers for conduct of field audit at the place of business of the dealers. The selection of VAT audit is based on the risk assessment criterion. Dealers defaulting on payment of VAT, defaulting on filing of returns, delayed filing of returns, claim of huge exemption, ITC or refunds are classified as high risk category. The CCT has selected cases for field audit during January 2009 only, after a lapse of two years since the implementation of the TNVAT Act in the State.

On completion of VAT audit, the Enforcement Wing forwards its findings in the form of reports to the assessing officers concerned for implementation. The CCT had issued instructions in June 2010 that VAT audit reports/inspection proposals should be implemented by the assessing authorities within three months from the date of receipt of such reports/proposals.

Monthly Performance Review Report of the Department indicates that 3,812 VAT audit reports were pending implementation, for more than three months, as at 31 March 2011. We noticed during Audit in 49 assessment circles that out of 1,526 VAT Audit Reports received by the assessment circles, only 473 reports were implemented. Despite instructions issued by the CCT for implementation of VAT audit reports within three months, there was a huge pendency which indicated lack of monitoring by higher authorities.



## **2.13.19 Other points of interest**

### **2.13.19.1 Issue of Form 'S' certificate in violation of the provisions of the Act**

According to Section 13 of the TNVAT Act, every person responsible for paying any sum to any dealer for execution of works contract shall, at the time of making payment, deduct tax at prescribed rates from the total amount payable to the dealer.

As per Section 13(1)(c) of the Act, if the dealer furnishes a certificate, in Form S, issued by the assessing authority to the effect that he has no liability to pay or had paid the tax, no such deduction shall be made from him.

The TNVAT Act provides for issue of Form S certificate only in cases where assessing officer is satisfied that there is no tax liability or the assessee had paid the tax due.

We noticed in Omalur assessment circle that during the period 2010-11 and 2011-12 in respect of 253

dealers, Form 'S' certificates were issued by the assessing authority by collecting 0.4 *per cent* of the total value of the contracts executed by them. Action of the assessing officer was in contravention of the provisions of the Act.

We reported the above matters to the Department and the Government in May and June 2012 and are awaiting their replies (December 2012).

## **2.13.20 Conclusion**

VAT is a significant component of the State revenues. Any leakage from the VAT revenue base will have a serious impact on the Governments and their ability to balance budgets. Therefore a sound internal control system is essential for successful implementation of any taxation system.

Performance Audit of the implementation of VAT system in Tamilnadu revealed that the process involved in the registration of dealers, computerisation service provided by the Department and the effectiveness of internal control are some of the areas which require immediate attention. Registration Certificates are issued without due veracity of the applications for registration which paved the way for 'bill trading' activities. This in turn, resulted in huge claims of fictitious ITC by such bill traders.

Though the Department issued instructions with regard to evasion prone commodities, absence of effective monitoring mechanism to ensure adherence to the instructions led to huge revenue loss to the exchequer.

There was delay in selection of assessments for scrutiny and also delay in completion of scrutiny. Absence of validation controls in the e-filing module resulted in incorrect data being fed into the system which in turn hampered the scrutiny of returns. Instructions on implementation of the VAT audit reports

within three months were also not followed by the lower authorities which is evidenced from the huge pendency in implementation of VAT audit reports. The overall internal control mechanism was weak as evidenced by the above deficiencies and absence of vital checks. Lack of effective monitoring by the higher authorities resulted in such lapses.

### **2.13.21 Recommendations**

The Government may consider

- incorporating a provision in the TNVAT Act to enable the registering authorities to exercise certain basic/vital checks before granting registration certificates to ensure the authenticity of the application for registration;
- modifying the prescribed format of the returns in order to make them more compatible with the provisions of the Act/Rules;
- providing necessary validation checks in the software to ensure error free database;
- incorporating a provision in the Act requiring the assessing authorities to exercise scrutiny of all the tax returns;
- introducing a suitable provision in the TNVAT Act/Rules for fixing a time limit for completing the detailed scrutiny;
- incorporating a penal provision in the Act for violation of conditions for availing compounding rate of tax;
- providing a column in the bill of entry form for indicating the TIN of the importing dealers, in consultation with the Central Government, which could enable the Department to easily identify the importers;
- to include timber under the ambit of transit pass system to check evasion of tax;
- putting in place a suitable mechanism to enforce the surrender of transit passes at the 'out' check posts; and
- revisiting the penalty provisions to ensure that they have a truly deterrent effect, particularly in cases of bill trading, fraudulent claims of ITC, etc. in view of the scope and prevalence of large scale evasion of tax under the TNVAT Act.

## **2.14 Other audit observations**

*We scrutinised the records in the offices of the Commercial Taxes Department and noticed several cases of non-observance of provisions of the Acts/Rules, resulting in incorrect grant of exemption, incorrect computation of tax, application of incorrect rate of tax, incorrect allowance of concessional rate of tax, non-levy of additional sales tax and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and based on test checks carried out by us. Although such omissions are pointed out every year, the irregularities persist. There is a need for the Government to consider directing the Department to improve the internal control systems including strengthening of internal audit so that such omissions can be avoided, detected and corrected.*

## **2.15 Non-compliance of the provisions of the VAT Act/Rules**

*The Tamil Nadu Value Added Tax (TNVAT) Act and the Rules made thereunder provide for:*

- (i) Levy of tax as per the rates prescribed in the schedules to the Act: and*
- (ii) Scrutiny of returns by the assessing officers to determine the tax payable by the dealer in the event of filing of incorrect/incomplete returns by the dealers.*

*We noticed non-compliance of the provisions of the Act/Rules in some cases involving non/short realisation of ₹58.15 lakh. These cases are mentioned in paragraphs 2.15.1 and 2.15.2.*

### **2.15.1 Incorrect grant of exemption**

Sale of goods not specified in any of the schedules to the TNVAT Act was taxable at 12.5 per cent at every point of sale in the State from 1.1.07 to 11.7.07 under Part C of the first schedule to the Act. Accordingly, LPG being an item not specified in any of the schedules to the Act was taxable at 12.5 per cent under Part C of the first schedule.

By a notification issued under section 30 of the Act, the tax payable on the second and subsequent sales of LPG for domestic use to the consumer by any distributor was granted exemption with effect from 1 January 2007. Accordingly, LPG for commercial purpose, not being covered under the notification, was taxable at the rate of 12.5 per cent under Part C of the first schedule to TNVAT Act.

**2.15.1.1** In Kilpauk assessment circle, we noticed that a dealer had claimed exemption on the sale of LPG used as fuel for vehicles on a turnover of ₹ 1.20 crore by filing return in Form J for the year 2006-07 (January 2007 to March 2007), which was also accepted by the assessing officer. The assessing officer, however, failed to notice the incorrect claim of exemption. This resulted in non-levy of tax of ₹ 15 lakh.

After we pointed this out (August 2011), the assessing authority revised (November 2011) the assessment and raised an additional demand of ₹ 15 lakh. We are awaiting collection particulars (December 2012).

As per entry 69 of Part-C of the first schedule to the Act, goods not specified in any of the schedules were taxable at 12.5 *per cent* from 12 July 2007. Shoe lace, an item not specified in any of the schedules to the Act, was taxable at 12.5 *per cent*

**2.15.1.2** We noticed during audit (July 2011) in Chintadripet assessment circle that three dealers wrongly claimed exemption from levy of value added tax on the sale of shoe laces for ₹ 98.82 lakh during the years 2007-08 and 2008-09 in their monthly returns. The assessment was finalised accepting the

returns, though shoe lace was taxable at 12.5 *per cent*. This resulted in non-levy of tax amounting to ₹ 12.35 lakh.

After we pointed this out (July 2011), the assessing authority replied (July 2011) that shoe laces are braided cords only and would fall under Entry 61(iii) of Part B of the fourth schedule to the Act and exempt from tax.

The reply is not tenable as shoe laces are not braided cords but classifiable as accessories to shoes and hence taxable at 12.5 *per cent*. Further, the Commissioner of Commercial Taxes had also clarified (February 2008) that shoe laces are taxable at 12.5 *per cent*. We are awaiting further reply (December 2012).

### **2.15.2 Incorrect computation of tax**

As per Section 25 of the TNVAT Act, if the return submitted by the dealer appears to the assessing authority to be incomplete or incorrect, the assessing authority may determine the tax payable by the dealer to the best of its judgement.

We noticed during the scrutiny (January 2012 and March 2011) in Annasalai II and T. Nagar (East) assessment circles that though the tax payable by two dealers during the period 2006-07 and 2007-08 on the basis of the monthly returns filed by them worked out to ₹ 542.96 lakh, tax was incorrectly computed as

₹ 512.16 lakh and paid by them resulting in short payment of tax amounting to ₹ 30.80 lakh.

After we pointed this out, the assessing authorities revised (March 2011 and March 2012) the assessments in both the cases and raised additional demand as suggested by audit; of which an amount of ₹ 2.08 lakh pertaining to T. Nagar (East) assessment circle had been collected (March 2011).

## **2.16 Non-compliance of the provisions of the Sales Tax Act/Rules**

*The Tamil Nadu General Sales Tax (TNGST) Act, 1959, the Central Sales Tax (CST) Act, 1956 and the Rules made thereunder provide for:*

- (i) Payment of tax on sale or purchase of goods at the rates prescribed in the Rules/Schedules to the Acts; and*
- (ii) Payment of tax on the turnover reported in the returns and in case of default, payment of penalty/interest at the rates prescribed in the Act.*

*We noticed non-compliance of the provisions of the Act/Rules in some cases involving non/short realisation of ₹ 31.57 crore. These cases are mentioned in paragraphs 2.16.1 to 2.16.4.*

### **2.16.1 Incorrect grant of exemption**

According to erstwhile Section 8(2)(b) of the CST Act, 1956, the tax payable by any dealer on his inter-State sales, not covered by declaration forms shall be calculated at the rate of 10 *per cent* or at the rate applicable to the sale inside the appropriate State, whichever is higher.

According to Section 16(2) of the TNGST Act, 1959, read with Section 9(2-A) of the CST Act, 1956 penalty was leviable at 150 *per cent* of the tax due on the assessable turnover that was willfully not disclosed, if the tax due on such turnover was more than 50 *per cent* of the tax paid as per the return.

As per entries 12 & 58/Part B of first schedule to the TNGST Act, cardamom and pepper were taxable at the rate of four *per cent*. Inter-State sales of these goods not covered by 'C' form declarations were taxable at 10 *per cent*.

Section 6A of the CST Act, provides for exemption where movement of goods from one State to another was occasioned by reason of transfer of such goods to other State otherwise than by way of sale. The burden of proving that the movement of those goods was so occasioned shall be on the dealer. For this purpose, the dealer shall produce declaration in Form 'F' prescribed in Rule 12(5) of the Central Sales Tax (Registration and Turnover) Rules, 1957, 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.

We noticed (November 2010 – July 2011) in Bodinayakanur assessment circle that 11 assesseees claimed exemption on the goods sent on consignment basis, valued at ₹ 17.48 crore by producing 19 declarations in Form 'F'. Our cross

verification of these declarations with the Delhi and Karnataka sales tax authorities revealed that the said consignment transactions were not genuine as the declaration forms produced by the assesseees in support of their claim of exemption were found to be either not printed by the sales tax Department concerned or not issued by the concerned office or issued to some other dealers. The assessing authority failed to cross verify the genuineness of the transactions while finalising the assessments. This resulted in non-levy of tax amounting to ₹ 1.75 crore. Besides, a penalty of ₹ 2.62 crore was also leviable.

The Department should evolve a system to ensure genuineness of exemption claimed on inter-State sale of goods in the guise of consignment sales/stock transfer. This would guard against the leakage of revenue.

We communicated the matter (June 2012) to the Government and are awaiting their reply (December 2012).

### 2.16.2 Application of incorrect rate of tax

As per section 16(1)(b) of the erstwhile TNGST Act, 1959, where for any reason, the whole or any part of the turnover of business of a dealer has been assessed at a rate lower than the rate at which it was assessable, the assessing authority may, at any time within a period of five years from the date of order of final assessment by the assessing authority, reassess the tax due.

Under entry 20 of Part G of the first schedule to the Act *ibid*, aerated waters including soft drinks sold under brand name and the maximum retail price (MRP) of which was ₹ 29 and above per litre was taxable at the rate 20 *per cent*. The said goods were taxable at the rate of 12 *per cent* if the MRP was below ₹ 29 per litre, as per entry 2(i) of Part DD of first Schedule.

We noticed during audit (July 2011) of Large Tax Payers Unit-I, Chennai that the assessing authority while finalising (October 2010) the assessment of a dealer for the year 2000-01, incorrectly assessed the sales turnover of the soft drinks (branded) amounting to ₹ 12.74 crore, the MRP of which was ₹ 29 and above per litre, at the rate of 12 *per cent* instead of at the rate of 20 *per cent*. The adoption of incorrect rate of tax resulted in short levy of tax of ₹ 1.02 crore.

After we pointed this out (August 2011), the Department revised (November 2011) the assessment. We are

awaiting further report (December 2012).

We communicated the matter (March 2012) to the Government and are awaiting their reply (December 2012).



### 2.16.3 Incorrect grant of concessional rate of tax

Section 3(3) of the erstwhile TNGST Act, 1959, provided for levy of concessional rate of tax of three *per cent* on first sale of any goods including consumables, packing material and labels but excluding plant and machinery to another dealer for use by the latter in the manufacture, and assembling, packing or labeling in connection with such manufacture in the State subject to certain conditions and production of declaration in Form XVII obtained from the purchaser.

In terms of Section 3(5) of the Act *ibid*, the concessional rate was also extended to sale of generators, machineries and certain other goods mentioned in eighth schedule.

As per entry 22(vi) of Part-D of the first schedule to the Act, concrete mixer lorries were taxable at the rate of 12 *per cent* at the point of first sale in the State upto 31 December 2006. Under sub-entry (iv) of the said entry, all varieties of trailers by whatever name known, other than trailers of tractors were also taxable at the rate of 12 *per cent* at the point of first sale in the State.

**2.16.3.1** We noticed (August 2011) during audit in Sriperumbudur assessment circle that the assessing authority while finalising the assessment (August 2010 and February 2011) of a dealer, for the years 2005-06 and 2006-07, allowed concessional rate of tax of three *per cent* on sale of concrete mixer lorries and mobile concrete trailer pumps amounting to ₹ 2.97 crore and ₹ 5.16 crore for the years 2005-06 and 2006-07 respectively. As the above mentioned goods did not fall under the eighth Schedule but included under entry 8 of Part D of the first Schedule, the concessional rate of tax allowed by assessing authority was not in order. This resulted in short levy of tax and surcharge of ₹ 73.22 lakh and ₹ 3.66 lakh respectively.

After we pointed this out (August 2011) the assessing

officer, Sriperumbudur assessment circle, citing certain judicial decisions<sup>25</sup>, equated the concrete mixer lorry to special packing material, since it enables the reinforced cement concrete (RCC) marketable, by preventing solidification during its transit to the customers' site and contended that since manufacture could not be said to be complete at the factory, the lorry would be eligible to be sold under Section 3(3) of the Act. The assessing officer also invited reference to another judicial decision<sup>26</sup> and stated that the seller has to accept the declaration in form XVII furnished by the buyer.

The reply of the assessing officer was not acceptable for the following reasons:

<sup>25</sup> (a) Indian Copper Corporation Ltd. Vs Commissioner of Commercial Taxes 16 STC 259.

<sup>26</sup> (b) Commissioner of Sales Tax Vs Kolhapur Electric Supply Co. – 37 STC 587. Sri Murugan Engineering Vs CTO / 148 STC 419.

- The concrete mixer lorry is a vehicle used for transportation of RCC. As it is a capital asset, it cannot be equated to packing material. Hence, it was not eligible for concessional rate under Section 3(3) of the Act. Further, the concessional rate cannot be extended under Section 3(5) also as the commodity was specifically mentioned in the first schedule and it does not fall under the eighth schedule. In view of this, the decision of the Madras High Court reported in 148 STC could not be applied in this case.
- The judicial decisions cited in 16 STC and 37 STC are also not applicable to the present case as the judgments relate to application of the provisions of the Central Sales Tax Act and Bombay Sales Tax Act.

Under Section 8(1) of the Central Sales Tax Act, 1956, tax was leviable at the rate of four *per cent* on sale of goods to Government Departments, upto 31 December 2006, if the sales were covered by valid declarations in Form 'D'.

As per the Section 8 (2) (b) of the Act, *ibid*, if such sales were not covered by valid declarations, tax shall be calculated at the rate of 10 *per cent* or at the rate applicable to the sale inside the appropriate State, whichever is higher.

**2.16.3.2** We noticed during audit (June 2011) in Annasalai-III assessment circle that in respect of a dealer, the sale of printed materials amounting to ₹ 17.17 lakh to I.I.T., Kanpur during 2004-05 was taxed at four *per cent* on the strength of declarations furnished in Form D. Since, I.I.T. Kanpur is an autonomous body and not a Government Department, the concession allowed was not in order. This resulted in short levy of tax of ₹ 1.12 lakh.

After we pointed this out (June 2011), the Department revised

the assessment and raised an additional demand of ₹ 1.12 lakh (May 2012).

We communicated the matter to the Government (December 2011) and are awaiting their reply (December 2012).

#### **2.16.4 Non-disclosure of inter-State transactions**

As per Rule 5(1) of the Central Sales Tax (Tamil Nadu) Rules, 1957, the provisions of the Tamil Nadu Value Added Tax Act, 2006 and Rules made thereunder shall apply, *mutatis mutandis*, for the purpose of making provisional assessment, best of judgement assessment, final assessment, re-assessment and payment of tax under the CST Act, 1956.

As per entry 119 of Part-B of the first schedule to the Tamil Nadu Value Added Tax Act 2006, rubber including raw rubber and dry ribbed sheets are taxable at the rate of four *per cent*.

Under Rule 43-B of the Rubber Rules, 1955, no person shall transport or cause to be transported rubber from one State or Union Territory to another State or UT without being accompanied by a valid declaration in the prescribed Form issued by the Rubber Board to such person.

As per the details of inter-State transactions of raw rubber obtained from the Rubber Board, 37 dealers in Tamil Nadu transported rubber for a value of ₹ 375.55 crore during the years 2009-10 and 2010-11 to other States.

We cross verified (February 2012 to May 2012) the details with the assessment records viz. monthly returns filed by these dealers under the CST Act, 1956 with the Commercial Taxes Department.

We noticed during such cross verification in Sattur assessment circle that in respect of one dealer, the inter-State sales turnover of rubber was assessed to tax on a turnover of ₹ 5.90 crore for the year 2010-11, even though the dealer had transported rubber for a value of ₹ 13.21 crore as per the details obtained from the Rubber Board. The tax and penalty leviable on the turnover of ₹ 7.31 crore omitted to be assessed worked out to ₹ 29.23 lakh and ₹ 43.84 lakh respectively.

Similarly, we noticed from the details obtained from the Rubber Board that 21 dealers transported raw rubber amounting to ₹ 281.17 crore to various places in other States by using declaration forms obtained from the Rubber Board. We observed from the monthly returns filed by these dealers in Thuckalay and Kuzhithurai assessment circles that they had reported a sales turnover of ₹ 11.42 crore only against the turnover of ₹ 281.17 crore for the years 2009-10 and 2010-11. The tax and penalty leviable on the suppressed turnover worked out to ₹ 10.79 crore and ₹ 16.19 crore respectively.

After we pointed this out, the assessing authority, Thuckalay assessment circle replied during audit that the transactions were undertaken without the knowledge of the CT department and that the information furnished by audit would be considered. After getting full details from the Rubber Board, further action would be taken. The said assessing authority subsequently assessed (October/November 2012), after examining the accounts, the sales turnover not reported by 20 dealers and raised additional demand of ₹ 24.19 crore (tax ₹ 9.67 crore and penalty of ₹ 14.52 crore), as against the tax and penalty of ₹ 26.98 crore pointed out in audit. We await the collection details in respect of these cases and reply in respect of the remaining cases from Sattur and Kuzhithurai assessment circles.

Evolving an effective mechanism to interact with other Departments, Boards etc. would help the Commercial Taxes Department to unearth suppression of sales by the dealers and finally to curb tax evasion.

We communicated the matter (June 2012) to the Government and are awaiting their reply (December 2012).