

APPENDICES

Appendix-I

Reference to Paragraph: 2.3.6

System for registration, assessment and recovery of tax revenue under HPVAT

System of registration, assessment and recovery of tax revenue under HPVAT		
Registration of dealers	⇒	Section 4 and Section 14 of HPVAT Act, 2005 provide that no dealer shall, while being liable to pay tax under these Acts, carry on business as a dealer unless he has been registered and possesses a registration certificate.
Ascertainment of commencement of liability to pay tax for registration	⇒	Section 33 of HPVAT Act, 2005 provides that survey regarding ascertainment of commencement of liability to pay tax for registration under section 14 of this Act and extent of business in the jurisdiction/circle to be completed by an authority authorized by the commissioner.
Security/ Surety	⇒	Section 15 of HPVAT Act, 2005 provide for obtaining security in the shape of cash deposits, FDR, etc. to the satisfaction of AA. Besides, a dealer is also required to furnish personal bond with two sureties.
Payment of tax and Returns	⇒	Section 16 of HPVAT Act, 2005 requires a dealer to file his return, monthly/quarterly, alongwith treasury receipt of tax deposited.
Deemed/scrutiny Assessments of cases	⇒	Section 21 and rule 64 of the HPVAT Act/Rules, 2005 provides for Deemed assessments in respect of dealers having gross turnover up to a specified limit and not fall under the selection of cases for scrutiny.
Scrutiny of returns filed by the dealers	⇒	Section 21 of the HPVAT Act, 2005 read with Rule 66 of the HPVAT Rules, 2005 provides that returns furnished by a dealer shall be scrutinized in detailed and found any irregularity in respect of each selected cases, serve on the dealer a notice in the prescribed manner to attend in person or produce any evidence on which such dealer may rely in support of the return filed by him.
Notice for assessment	⇒	Rule 67 of HPVAT Rules provides for issue of notice for assessment to the dealer. Further, the assessment shall be completed within three months after service of notice.
Assessment and imposition of penalty	⇒ ⇒	Rule 69 of the HPVAT Rules, 2005 provides the procedure relating to assessment and imposition of penalty. As per Rule 69 (1), after considering any objection made by the dealer, any evidence produced in support thereof, the outcome of enquiries made under Rule 67 the appropriate Assessing Authority after giving the dealer an opportunity of being heard, shall assess the amount of tax and impose penalty, if any, paid by the dealer.
Tax demand notice		Rule 69(4) of the HPVAT Rules, 2005 provides for delivery of certified copy of assessment orders alongwith tax demand notice (TDN), if any, to the dealers free of cost.

Appendix-II

Reference to Paragraph: 2.3.7.2
Delay in finalizing the assessments

Sr. No.	Name of the district	No. of cases	Year/ date of assessment	Date of service of first notice/ Delay in service of notice	Nature of observations	Amount involved ₹ in lakh
1.	Baddi	6	2005-06/ 4-04-13	No notice was served/ 7 years	Due to incorrect computation, AA issued TDN of lesser amount, on ISS of ₹1.27 crore against short C and F forms and levied 4 per cent CST instead of 10 per cent as per prevailing rate up to 01-04-2007. ISS of ₹1.01 lakh and ₹3.06 lakh assessed at the rate of 4 per cent which the dealer made at the rate of 12 per cent and 10 per cent which resulted in under assessment of tax.	22.58
			2006-07/ 31-08-13	8/13/ 6 years	The exemption on interstate sale of ₹389.58 lakh was allowed against the strength of invalid Forms- F.	37.48
			2007-08/ 05-09-13	8/13 5 years	The exemption on interstate sale of ₹149.82 lakh was allowed against the strength of invalid Forms -F.	13.33
			2006-07/ 25-07-13	7/13 6 years	Concessional rate of tax allowed on ISS of ₹226.58 lakh against the strength of duplicate Form -C was not included in GTO.	33.83
			2007-08/ 30-04-13	4/13 5 years	Concessional rate of tax was allowed on ISS of ₹216.77 lakh against the strength of duplicate Forms- C.	14.47
			2007-08/ 22-07-13	7/13 5 years	The exemption on interstate sale of ₹55.66 lakh was allowed against the strength of invalid Forms- F.	4.95
2.	Una	3	2004-05/ 10-09-13	9/13 8 years	The exemption on interstate sale of ₹26.95 lakh was allowed against the strength of invalid Forms- F.	7.49
			2005-06/ 05-07-13	No notice was served/ 6 years	Concessional rate of tax was allowed on ISS of ₹1.61 lakh against the strength of duplicate form C.	0.12
			2006-07/ 05-07-13	No notice was served/ 5 years	Concessional rate of tax was allowed on ISS of ₹3.31 lakh against the strength of duplicate Form- C.	0.24
		9 cases	Total			134.49

Appendix-III

Reference to Paragraph: 2.3.11
Suppression of Purchase/ Sales

Name of AETC	No. of cases involved	Tax period/ assessment made between	Amount of tax ₹ in lakh	Amount of interest/ penalty	Nature of observations
Solan	02	<u>2011-12/</u> May 2013 and June 2013	4.03	8.06	In case of two dealers, ITC of ₹3.44 lakh was allowed on the local purchases of ₹27.94 lakh. It was noticed that neither any sale was made against these purchases nor were disclosed in the Trading & Profit & Loss Account. The AAs while finalizing the assessment did not levy tax and penalty on the suppressed turnover of purchases.
Baddi and Shimla	05	2008-09 to 2012-13/ May 2013 and Feb. 2015	0.82	0.39	The purchase account of return version and Trading & profit and loss account of five dealers for the period 2009-10 to 2012-13 were not match with each other. The AAs computed gross turnover of purchases at ₹9.65 crore on the basis of return filed by the dealer instead of ₹9.72 crore as shown in the trading account.
Baddi	01	<u>2012-13/</u> April 2014	8.84	4.60	In one case the opening stock figure of manufacturing and profit & loss account was disclosed ₹2.74 crore whereas closing stock figure of the previous year was ₹2.09 crore. The difference of ₹64.29 lakh was due to suppression of sales/ taxable turnover of the current year. The AA while finalizing the assessment did not include the difference of ₹64.29 lakh in the gross turnover.
Solan and Una	02	2008-09 to <u>2012-13/</u> July 2013 and Feb 2015	0.63	0.38	The AAs while finalizing the assessment of two dealers allowed deduction on account of other income/row material charges of ₹10.93 lakh which were not included in determining the GTO of ₹1.64 crore. In this way sales turnover of ₹10.93 lakh escaped from assessment
Total	10 cases		₹14.32	₹13.43	

Appendix-IV

Reference to Paragraph: 2.5
Acceptance of invalid, duplicate and defective statutory forms

Name of Unit	Name of the firm M/s	Year of assessment Date of assessment	Differential amount of tax leviable on Turnover exempted	Interest leviable u/s 19 (i) of HP VAT Act	Total	Reasons for rejection of the forms
AETC Chamba	Himachal States & Stones Chamba	2010-11 26.09.13	13,799	9,659	23,458	The forms were not available on record.
		2011-12 26.09.13	53,830	27,992	81,822	
	<i>1 dealer</i>	<i>2 cases</i>	<i>67,629</i>	<i>37,651</i>	<i>1,05,280</i>	
AETC Nurpur	Rachil Pharma, Ind. Area Sansarpur Terrace	2006-07 24.07.13	3,92,163	4,86,282	8,78,445	The dealer neither furnished declaration in form 'C' in support of his claim.
	<i>1 dealer</i>	<i>1 case</i>	<i>3,92,163</i>	<i>4,86,282</i>	<i>8,78,445</i>	
AETC Solan	Siemens Industry Software Pvt. Ltd.	2008-09 15.03.14	3,32,856	3,52,827	6,85,683	Three forms were duplicate copies and five copies had wrong address.
	Jain Industrial Manufacturing Company	2008-09 19.11.13	5,38,077	5,70,361	11,08,438	Two forms were duplicate copies.
	Lakshya Healthcare Pvt. Ltd.	2006-07 30.04.13	2,75,554	3,91,287	6,66,841	Three forms were duplicate copies.
	Prem Steel, Parwanoo	2010-11 05.08.13	1,20,089	84,063	2,04,152	One form had wrong address.
	Image Master Sec-5 Parwanoo	2008-09 09.07.13	14,108	14,955	29,063	Short 'C' forms
		2009-10 03.08.13	11,527	10,143	21,670	
	Biomarks Drug India Pvt. Ltd. Solan	2009-10 26.06.13	41,853	36,831	78,684	One form was duplicate and two forms had wrong address.
	<i>6 dealers</i>	<i>7cases</i>	<i>13,34,064</i>	<i>14,60,467</i>	<i>27,94,531</i>	
AETC Una	Ranger Breweries Ltd. Mehetpur	2006-07 13.09.13	24,330	34,549	58,879	In the year of 2006-07, the rate of tax was 4 per cent where as AA applied 2 percent under CST Act.
	<i>1 dealer</i>	<i>1 case</i>	<i>24,330</i>	<i>34,549</i>	<i>58,879</i>	
Total Sale exempted			18,18,186	20,18,949	38,37,135	

Appendix-V

Reference to Paragraph: 4.4
Non/short recovery of lease money due to non-execution/renewal of lease deeds

Sr. No.	Name of SR Unit	Name of project	Year of sanction/ measurement of Land	Period	Nature of irregularity	Amount involved ₹ in lakh
1.	Bharmour (Chamba)	Lanco Hydro Power Project a Hydro-electric company	2004 267-08-00 Bigha	40 Years	The Government land was granted in 2004 for establishment of 70 megawatt hydroelectric project in the Tehsil Bharmour, district Chamba. As per the lease Rules, the lease deed was required to be executed within six months, which were not executed by the SR. However, it was noticed that registering authority had imposed penalty of ₹53.60 lakh for unauthorised occupation of government land under section 163 of Land Revenue Act. Though, the company has started the production of electricity but no steps were taken to register the lease deed yet. After obtaining the price of the land (as on 2004) from concerned <i>Patwaris</i> audit has pointed out recovery.	244.00
2.	Bharmour (Chamba)	Chirchind Hydroelectric Company	2001 18-02-12 Bigha	40 years	Himachal Pradesh Government had entered an agreement in 2001 and sanction, for establishment of 5.00 megawatt (enhanced capacity) hydroelectric project for 40 years, was accorded in favour of company. Scrutiny of the records showed that neither lease deed was executed by the lessee nor any action was taken by the department in this regard. Whereas the lessee had occupied the Government land unauthorised.	11.14
3.	Churah at Tissa (Chamba)	M/s I.A.Energy, D-7 Lane-I Sector-1 New Shimla, Hydroelectric Company	2012 427-09-14 Bighah	40 years	Sanction for use of Government land was accorded in favour of company in July 2012 for establishment 36 Megawatt Hydroelectric Project for the period of 40 years. The lessee shall pay the annual lease amount of ₹42.05 lakh to the government. While executing the lease, this condition was not incorporated in the lease deed, therefore, the lessee had not deposited the lease money and the Sub Registrar had also not taken the cognigence of the sanction orders of Government.	84.08
4.	Holi Chamba	M/s G.M.R. Energy Pvt. Ltd.	2014 930-07-12 Bigha	40 years	Sanction for use of Government land was accorded in favour of company (July 2014) for establishment of 180 megawatt hydroelectric project in Holi, Chamba for the period of 40 years. As per lease rules possession for use of land will be given to the party after lease deed got executed. The department has incorrectly fixed the annual lease money of ₹89.05 lakh (October 2014) on the basis of lease Rules 2011 and recovered an amount of ₹2.16 crore from the lessee for the period October 2012 to July 2014. Whereas the annual lease money was to be assessed to ₹1,124.43 lakh on the basis of lease Rules (2014) at the prevailing circle rates. This resulted short recovery of revenue ₹9.08 crore.	908.00
Total		4 Projects	1,643.01-18 bigha			1,247.22 ₹12.47 crore

Appendix-VI

Reference to Paragraph: 4.5.1
Short recovery of lease money due to non-renewal of lease deed

Sr. No.	Name of the Unit	Name of lessee	Year of sanction/ Land leased out	Period	Nature of irregularity	Amount involved ₹ in lakh
1.	SR, Palampur (Kangra)	Himachal Pradesh State Electricity Board Ltd.	Dec-1994 0-96-82 hectare or 9,682 square meters	99 years	Sanction for the transfer of government land was accorded in favour of Himachal Pradesh State Electricity Board Ltd. (HPSEBL) and lease was executed on 15-12-94. The lease was required to be renewed on 15.12.2004 but the same had not been renewed. The market value of the land, however, correctly assessed of ₹1.25 lakh per annum at the rate of five <i>per cent</i> . Therefore, an amount of ₹12.50 lakh was required to be paid by the lessee for the period 2004-05 to 2013-14 but the lessee had paid only lease amount of ₹1.42 lakh (at the rate of ₹17,228 for the years 2004-05 to 2007-08 and ₹18,142 per annum for the years 2009-10 to 2013-14).	11.08
2.	SR, Sundernagar	Dr. Puran Chand Medical Charitable Trust, Yamunanagar	<u>Dec-1998</u> 21,212 square meters	45 years	The Government approval for transfer of government land was accorded for establishment of Dental College in Mohal Pung (Sundernagar) and lease deed was registered (December 1998) for the period of 45 years which was required to be renewed on December 2008 on the basis of prevailing market rates of the land. The market value of the land on the prevailing market rates was ₹773.52 lakh and lease money of ₹61.88 lakh per annum required to be fixed at the rate of eight <i>per cent</i> (as per condition of lease deed) on market value. Therefore, an amount of ₹ 433.16 lakh was required to be paid by the lessee for the period from 2008-09 to 2014-15. Whereas the department had incorrectly fixed/ revised the lease money of ₹3.09 lakh per annum and lease amount to ₹36.14 lakh for the period 2008-09 to 2017-18 was calculated and demanded by the lessee, out of which ₹20.29 lakh had been paid by the lessee.	413.00
Total		Two cases	30,894 sq.m			424.08