

CHAPTER II: COMMERCIAL TAX

2.1 Results of audit

Test check of the records of the Commercial Tax Department conducted during the year 2008-09 indicated underassessment, non/short levy of tax/interest/ penalty, application of incorrect rate of tax etc. amounting to Rs. 61.81 crore in 185 cases, which fall under the following categories:

(Rupees in crore)

Sl. no.	Category	Number of cases	Amount
1.	“Levy and collection of Central Sales Tax” – A review	1	47.49
2.	“Transition from Chhattisgarh Commercial Tax to Chhattisgarh Value Added Tax” – A review	1	Nil
3.	Incorrect grant of exemption/ deduction/set-off	64	4.82
4.	Application of incorrect rate of tax	27	1.04
5.	Incorrect determination of taxable turnover	10	0.56
6.	Non/short levy of tax	28	0.54
7.	Other irregularities	54	7.36
Total		185	61.81

During the year 2008-09, the department accepted underassessment of tax of Rs. 48.01 crore in 10 cases.

Two reviews on **i) Levy and collection of Central Sales Tax** involving Rs. 47.49 crore, **ii) Transition from Chhattisgarh Commercial Tax to Chhattisgarh Value Added Tax** and few illustrative audit observations involving Rs. 1.97 crore have been discussed in succeeding paragraphs.

2.2 Review on “Levy and collection of Central Sales Tax”

Highlights

- There was no system of keeping the samples of colour, design and format of the declaration forms prevailing in other States due to which the departmental officers could not detect fake/forged declaration forms.

(Paragraph 2.2.7)

- Due to absence of a system of cross verification of declaration forms, the assessing authorities could not detect fake declaration forms. Consequently, there was evasion of tax and penalty on fake ‘C’ forms of Rs. 3.78 crore.

(Paragraph 2.2.8.1)

- Absence of a guidelines prescribing check list of points to be examined prior to accepting declaration forms led to irregular allowance of concession/exemption of tax of Rs. 13.32 crore.

(Paragraph 2.2.8.2 and 2.2.9.2)

- Evasion of tax and penalty of Rs. 25.20 crore due to suppression of sales.

(Paragraph 2.2.12)

- Non-levy of tax and penalty of Rs. 1.19 crore due to irregular grant of deduction on transfer of goods to undeclared branch.

(Paragraph 2.2.15)

- Non-levy of tax and penalty of Rs. 1.82 crore due to exemption on invalid ‘F’ forms.

(Paragraph 2.2.16)

- Incorrect exemption of Rs. 89.14 lakh on invalid forms ‘E1’ and ‘C’.

(Paragraph 2.2.19)

2.2.1 Introduction

Central Sales Tax (CST) is an indirect tax levied by the Central Government for interstate sales and the tax is collected and retained by the State Government from where the movement of the goods commences. The CST is levied under the provision of the Central Sales Tax Act, 1956 read with the Central Sales Tax (Registration and Turnover) Rules, 1957 {CST (R&T) Rules} and Chhattisgarh Sales Tax (Central) Rules, 1957 under which every dealer is required to declare his places of business within the States and details of branches in other States, at the time of registration.

The Central Sales Tax (CST) Act, 1956 and the rules framed thereunder provide for concessional rate of tax in respect of inter-state sales of goods and exemption from tax in respect of branch transfers and export sales. These concessions/exemptions are subject to furnishing of declarations in the prescribed forms viz. ‘C’, ‘F’ and ‘H’ respectively. Failure to furnish the

declarations or submission of defective or incomplete declaration form will make the transaction liable to tax applicable to sale of goods in the appropriate State.

It was decided by audit to review the accuracy of the levy and collection of the Central Sales Tax. The review revealed a number of system and compliance deficiencies which have been discussed in the subsequent paragraphs.

2.2.2 Organisational set up

The department is under the overall administrative control of the Principal Secretary, Finance. The Commissioner of Commercial Tax (Commissioner) is the head of the department and he is assisted by five deputy commissioners. There are three divisions and 19 circles in the State headed by deputy commissioner at the divisional level and commercial tax officers (CTOs) at the circle level respectively. In addition, 21 assistant commissioners (ACs) are posted in the 19 circles for assessment of dealers whose turnovers exceed Rs. 2 crore. The department operates six check posts.

2.2.3 Audit objectives

The review was conducted with a view to ascertain:

- Whether exemption/concession of tax allowed by the assessing authorities (AA) at the time of assessment had correctly been worked out and was based on authentic declaration forms in accordance with the provisions of the applicable Act and Rules on interstate sales, branch transfer/ consignment sale; and
- Whether internal controls existed in the department to ensure proper use of declaration in form 'C'/'F'/'H' so as to prevent leakage of revenue.

2.2.4 Scope and methodology of audit

The audit was conducted between April 2009 and September 2009 covering nine out of 19 circles, 11 out of 21 ACs and two out of six check posts¹. The circles were selected on the basis of their high revenue collection. The audit methodology included cent *per cent* scrutiny of assessments with gross turnover of more than Rs. 1 crore, assessments of dealers with turnover below Rs. 1 crore and having inter-state sales during the year 2004-05 to 2008-09 and cross verification of 'C' and 'F' forms, involving transactions above Rs. 50,000, with the records of commercial tax offices of the States² where goods were sent.

¹ Circle-II, III of Durg; Jagdalpur; Korba; Manendragarh; Raigarh and Circle-III, IV and V of Raipur.

Check Post – Bhagat Devri and Chichola.

² Andhra Pradesh, Delhi, Gujrat, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Punjab and West Bengal.

2.2.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Department of Commercial Tax in providing the necessary information and records for audit. An entry conference was held with the department on 19 March 2009, in which the department was apprised about the scope and methodology of audit. The report was forwarded to the Government and department in September 2009. An exit conference was held with the Commissioner on 26 October 2009, during which the results of audit and recommendations were discussed. All the recommendations made by audit were accepted by the commissioner (Commercial Tax) and departmental commitments made during the exit conference have been incorporated in the relevant paragraphs.

2.2.6 Trend of revenue under CST

Budget estimates and actuals of revenue receipts for the years 2004-05 to 2008-09 in respect of CST are given below:

(Rupees in crore)

Year	Budget estimate as per budget document	Actuals as per finance account	Variations shortfall(-)/surplus(+)	Percentage of variation (Col.2 to 3)
(1)	(2)	(3)	(4)	(5)
2004-05	376.91	326.69	(-) 50.22	(-) 13.52
2005-06	495.58	486.35	(-) 9.23	(-) 1.86
2006-07	700.00	702.33	(+) 2.33	(+) 0.33
2007-08	664.00	521.00	(-) 143.00	(-) 21.54
2008-09	400.00	664.16	(+) 264.16	(+) 66.04

Reasons for the large variations in 2007-08 and 2008-09 between the budget and actual collection were being examined by the department and during the exit conference, it was intimated that the reasons for variations would be intimated to audit. The reasons have not been received (November 2009).

Audit findings

System deficiencies

2.2.7 Samples of current and obsolete declaration forms of other states not kept by the department

According to Rule 8(10) of Chhattisgarh Sales Tax (Central) Rules, 1957, the Commissioner may by notification, declare that declaration form of a particular series, design or colour shall be deemed as obsolete and invalid with effect from such date as may be specified in the notification and a copy of such notification may be sent to other State Government for the publication in their official gazette. It was observed that the department did not keep a sample of the colour, design and format of the forms prevailing in different States for comparison in order to identify the fake or forged declaration forms. Therefore, there was a risk of short levy of tax due to acceptance of invalid,

obsolete and forged forms. Some such cases detected by audit are discussed in subsequent paragraphs.

It was recommended that the samples of valid declaration forms of all States to all assessing officers for reference in case of doubt. They can also be scanned and uploaded on the departmental website.

During the exit conference, the Commissioner accepted the recommendation and directed the departmental officers to call for samples of 'C'/F' forms prevailing in other States, to send the samples of this State to other States and examine the feasibility of scanning and hosting the sample forms on the departmental website.

2.2.8 Deficiencies noticed in the interstate sales

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

The Chhattisgarh Commercial Tax Rules provides for levy of minimum penalty of at least three times the tax sought to be evaded in case of concealment of turnover or furnishing false information of sales/purchases.

2.2.8.1 Evasion of tax on fake 'C' forms and penalty

Audit scrutiny indicated that the department was not having any prescribed system of selecting transactions for cross verification of declaration forms submitted by the dealers for claiming exemptions. The Commissioner, Commercial Tax vide circular dated 11 August 2008 had directed all the assessing officers that in case of doubt the declaration forms may be got verified from the issuing States, through the enforcement wing of the concerned division. In the absence of any fixed criteria or minimum *per cent* check, the extent of cross verification to be carried out is solely at the discretion of the assessing officer.

During the scrutiny of the records of four ACs and six CTOs, a sample of 210 'C' forms in 58 cases were selected by audit for cross verification because *prima facie* they appeared to be of doubtful authenticity due to the reasons mentioned in *Appendix 2.1*.

Verification reports of 129 forms had been received from the States. Of these, 108 forms involving sale of Rs. 11.10 crore were fraudulently used to evade tax as it was verified that the dealers involved in these transactions were either non-existent or the forms were not issued to them by the taxation authorities of the concerned States³. This resulted in evasion of tax of Rs. 81.44 lakh, for which dealers were liable to pay interest

³ Andhra Pradesh, Delhi, Madhya Pradesh, Maharashtra, Orissa and Punjab.

of Rs. 52.58 lakh and minimum penalty Rs. 2.44 crore aggregating to Rs. 3.78 crore.

It was recommended that the department should prescribe a system of selection, based on specific criteria, of a minimum number of transactions for cross verification and improve the system of scrutiny.

During the exit conference, the department agreed to prescribe criteria for selecting 'C' forms for cross verification, frame a check list for scrutiny and take action to levy penalty in cases pointed out by audit, after examining the cases.

2.2.8.2 Incorrect allowance of concessional rate of tax on defective statutory forms

Under the CST Act and the rules framed thereunder, declaration forms complete in all respects i.e. bearing registration number and date of issue by the purchasing dealer, purchase order, number and date etc. should be furnished to avail concessional rate of CST.

Audit scrutiny revealed that the department has not issued guidelines prescribing check list of points to be seen prior to acceptance of declaration forms. Cases of irregular acceptance of defective forms noticed during the review are mentioned in the succeeding paragraph.

Test check of the records of five ACs and three CTOs⁴ indicated that in 293 'C' forms, essential details as mentioned below were not available and in five⁵ cases they were issued after the date of assessment order.

Sl. no.	Number of forms	Deficiency
1.	68	Date from which registration is valid is not mentioned.
2.	97	Date of issue is not mentioned.
3.	4	Name and address of the seller with the name of State is not mentioned.
4.	5	"C" forms were issued after the date of assessment order.
5.	70	Purchase order number and date not mentioned.
6.	49	The purpose of goods purchased is not mentioned.

In the absence of these details, the forms were liable to be rejected and the transactions should have been taxed as per commercial tax rates. These forms relate to sale valued at Rs. 62.49 crore by 47 dealers and their acceptance resulted in short levy of tax of Rs. 5.30 crore.

It was recommended that the department should issue instructions on how to treat incomplete 'C' forms.

During the exit conference, the department agreed with the recommendation and stated that the assessing officers will be directed to reject incomplete forms or to get entries completed before accepting the declarations and allowing exemptions.

⁴ AC-I and AC-II of Bilaspur, AC-II and AC-III of Durg and AC of Raipur.

CTO – II Durg, CTO- Circle – IV and Circle – V of Raipur.

⁵ Four cases of AC, Raipur and one of CTO-V, Raipur.

2.2.9 Branch transfers

2.2.9.1 Absence of database of tax exemption on branch transfer/consignment sale

It was noticed in audit that no database was maintained in respect of exemption of tax allowed on account of branch transfer/consignment sale. Consequently, the exemptions allowed during the assessment years 2004-05 to 2008-09 on account of branch transfer/consignment sale was not quantifiable by the department. The assessing officer of the level of Assistant Commissioners do not have details of the branches of the dealers to verify the authenticity of the claims for exemption.

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

During the exit conference, the department accepted the recommendation and agreed to prepare such a database.

2.2.9.2 Deficiencies noticed in branch transfer

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

Section 69 of the Chhattisgarh Commercial Tax (CGCT) Act 1994 stipulates that if the Commissioner or the appellate or the revisional authority during any proceeding is satisfied that the dealer has concealed his turnover or the aggregate amount of purchase in respect of any goods or has furnished false particulars, the authority concerned may initiate proceedings for imposing penalty. **Submission of false or misleading or deceptive declaration, accounts or documents amount to evasion of tax and attracts penalty and interest on the tax evaded, in addition to amount of tax payable by the dealer.**

Test check of the records of CTO-V, Raipur and AC, Raipur indicated that three dealers availed exemption on the sale of Rs. 18.96 crore against 75 'F' forms. *Prima facie* all the 'F' forms appeared to be of doubtful authenticity due to the reasons as mentioned below.

Sl. No.	Name of state	No. of form	Basis of doubt
1	Andhra Pradesh	30	The series on the doubtful forms was different from the series on the authentic forms of the same state following printing/spelling errors प्राधिकारी – प्रधिकारी प्राधिकारी – प्राउधिकारी धारा 13(4) (e)–धारा 13(4) केन्द्रीय – केन्द्रिय घोषणा – धोषणा Is valid – in valid
2	Maharashtra	17	The series on the doubtful forms was different from

			the series on the authentic forms of the same state. Date of issue, Name of issuing office with designation and code not mentioned.
3	Maharashtra	17	The series on the doubtful forms was different from the series on the authentic forms of the same state.
4	Madhya Pradesh	11	Poor printing quality

It was detected by audit through cross verification of the data relating to Commercial Tax Department of the respective States⁶ that in ten cases the issuing dealers of the forms were non-existent, in 65 cases the forms were not issued by sales tax officers of the concerned States to the purchasers. Absence of any fixed criteria or minimum *per cent* check to cross verify the forms from the concerned States resulted in evasion of tax of Rs. 1.69 crore and interest of Rs. 1.26 crore. This will also attract minimum penalty of Rs. 5.07 crore.

It was recommended that the department should prescribe a system of selection, based on specific criteria, of a minimum number of transactions for cross verification and improve the system of scrutiny.

During the exit conference, the department agreed to prescribe criteria for selecting 'F' forms for cross verification, frame a check list for scrutiny and take action to levy penalty in cases pointed out by audit, after examining the cases.

2.2.9.3 Exemption of tax on incomplete 'F' forms

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

Absence of guidelines, prescribing check list of points to be seen prior to acceptance of declaration forms, had been highlighted in paragraph 2.2.8.2. Verification of declaration forms 'F' revealed the following deficiencies.

Test check of the records of AC, Raipur; CTOs, circle IV and V, Raipur indicated that six dealers availed exemption on branch transfer worth Rs. 3.03 crore. Scrutiny of 38 'F' forms indicated the discrepancies as mentioned below:

No. of forms	Deficiency	Reply of the department	Audit comment on reply
7	Date from which registration is valid is not mentioned.	Stock transfer occurred between company headquarters and branch.	Reply is not specific to audit observation.
2	Information on quantity and weight not mentioned.	Deduction was allowed after verification at the time of assessment.	Reply is not acceptable because in the absence of essential data mentioned in column 2, verification is not possible.
4	Name of railway, steamer or ferry station or airport or post office from where goods dispatched were not	Due to clerical mistake, the data was not mentioned.	<i>Prima facie</i> these forms should have been rejected at the time of assessment.

⁶ Andhra Pradesh, Madhya Pradesh and Maharashtra.

	mentioned.		
3	Number and date of railway receipt (RR)/ <i>bilti</i> , postal receipt or goods receipt were not mentioned.	Deduction was allowed after verification at the time of assessment.	Reply is not acceptable because in the absence of essential data mentioned in column 2, verification is not possible.
4	Date and no. of invoice/challan were not mentioned.	Due to clerical mistake, the date was not mentioned.	<i>Prima facie</i> these forms should have been rejected at the time of assessment.
6	Date of issue was not mentioned.	Deduction was allowed after verification at the time of assessment. (in case of 2 forms).	Reply is not acceptable because in the absence of essential data mentioned in column 2, verification is not possible.
		Action would be taken after verification. (in case of 4 forms).	Result of verification has not been received.
3	Date on which delivery was taken by transferee was not mentioned.	Due to clerical mistake, the data was not mentioned.	<i>Prima facie</i> these forms should have been rejected at the time of assessment.
3	Photocopies of forms instead of original were attached.	Action would be taken after verification.	Result of verification has not been received.
6	Date of issue is subsequent to the date of assessment. Further, number and date of RR etc. are not mentioned.	Action would be taken after verification.	Result of verification has not been received.

In the absence of these details, the forms were *prima facie* liable to be rejected and to be taxed as per the provisions of the Act. Failure of the AAs to scrutinise these forms resulted in non-levy of tax of Rs. 30.25 lakh.

It was recommended that the department should issue instructions on how to treat incomplete 'F' forms.

During the exit conference, the department agreed with the recommendations and stated that assessing officers will be directed to reject incomplete forms or to get entries completed before accepting the declarations and allowing exemptions.

2.2.10 Utilisation certificates submitted by dealers not available with assessment records

According to Rule 8 (1A)(b) of Chhattisgarh Sales Tax (Central) Rules, the dealers have to submit requisitions and challans for cost of forms to the circle offices for obtaining the declaration forms 'C'/'F'/'H'. The dealers also submit along with requisitions, the utilisation certificates for the declaration form issued earlier to them. These certificates give the details of transactions for which the forms were used including details of dealers to whom issued.

Audit scrutiny of the records of six circles⁷ showed that the utilisation certificates of declaration forms submitted by the dealers are retained with circle offices by the officials dealing with the issue of declaration forms and are not forwarded to the assessing authorities. For want of the

⁷ CTO-II, III Durg, CTO-Jagdalpur and CTO-III, IV, V Raipur

utilisation certificate the assessing officers are not in a position to compare the transactions shown in the utilisation certificates with the transactions declared by the assesseees.

It was recommended that the utilisation certificates of forms may be forwarded to the assessing officers concerned for cross verification.

During the exit conference, the Commissioner agreed with the recommendation and directed the departmental officers to keep the utilisation certificate in assessment file in future.

2.2.11 Internal control

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. They help in prevention of frauds and other irregularities. Internal controls also help in the creation of reliable financial and management information systems for prompt and efficient service and for adequate safeguards against evasion of Government revenue. Internal Audit Wing (IAW) of an organisation is a vital component of the internal control mechanism which enables the organisation to assure itself of the degree of compliance with prescribed systems.

The IAW attached to the office of the Commissioner consists of only one officer of the rank of Assistant Commissioner. No other official is posted in the wing. The internal audits conducted by the wing during the last five years are mentioned below:

Sl. no.	Year	Total no. of assessing units	No. of internal audits conducted		No. of IRs issued during the year	No. of IRs settled during the year
			No. of units audited	No. of assessment checked		
1.	2004-05	35	Nil	Nil	Nil	Nil
2.	2005-06	35	3	231	3	Nil
3.	2006-07	35	10	307	10	Nil
4.	2007-08	35	4	465	4	Nil
5.	2008-09	35	3	117	3	Nil
Total			20	1,120	20	Nil

Thus, the performance in terms of coverage, periodicity and number of objections raised, had ranged from zero to 28.5 *per cent* and the objections raised by the wing were not getting settled through appropriate action.

The internal audit system prevailing in the department was not providing reasonable assurance to the department on the adequacy of safeguards against evasion of tax.

The Government may consider strengthening the internal audit wing and prescribe a timeframe for taking remedial measures on its observations.

Compliance deficiencies

2.2.12 Evasion of tax due to suppression of sales

According to Section 26(1) (ii) of the Chhattisgarh Commercial Tax Act 1994, every registered dealer shall furnish return in such form, in such manner, for such period, by such dates and to such authority as may be prescribed.

Further, Rule 10 (B) of Chhattisgarh Sales Tax (Central) Rules, 1957 provides that the provisions of Chhattisgarh Commercial Tax Act and the rules made thereunder shall apply *mutatis mutandis* to all proceedings or other matters incidental to the operation of the CST Act. Section 69 of the Chhattisgarh Commercial Tax (CGCT) Act 1994 stipulates that if the Commissioner or the appellate or the revisional authority during any proceeding is satisfied that the dealer has concealed his turnover or the aggregate amount of purchase in respect of any goods or has furnished false particulars which amounts to evasion of tax, the authority concerned may initiate proceedings for imposing penalty upto five times of the tax evaded, but not less than three times.

Test check of the records of four ACs⁸ and CTO, Circle-III, Raipur indicated that seven dealers availed of concessional rate of tax, on sales of Rs. 59.41 crore but the transactions declared by the dealer did not conform to the transaction mentioned in the 'C' form due to the reasons mentioned below:

(Rupees in crore)

Name of the Unit	No. of cases	Tax evaded alongwith penalty	Irregularities noticed	Reply of the AA	Audit comments
AC	1	0.92	Transactions mentioned in the sale list differed from 'C' forms.	All purchases were tax paid purchase.	Reply of the AA is not specific to the audit observation.
AC	1	0.99		Deduction had been allowed on the strength of 'C' forms.	
CTO, Circle-III Raipur	1	0.04	Dealer declared gross turnover as NIL. Further it was found from 59-A declarations that dealer sold goods of Rs. 3.79 lakh.	Action would be taken after verification.	Report has not been received.
AC-II Durg	1	0.21	Inter-state sale of Rs. 53.13 lakh was suppressed.	Action would be taken after verification.	Report has not been received.
AC-I Bilaspur	1	0.62	Sale to dealers located in Bihar and Jharkhand has been made (as per Form 59-A) but not disclosed in the inter state sale list and hence the transactions escaped assessment.	Purchases were tax paid and goods sold by different challans through other States.	Reply does not explain the reasons for not disclosing the sale to dealers located in Bihar and Jharkhand.
AC-I Bilaspur	1	0.07	Goods of Rs. 23.20 lakh were dispatched to Maharashtra which was found in 59-A declarations and which was not disclosed by the dealer.	Action would be taken after verification.	Report has not been received.
AC-III Durg	1	22.35	Sale of Rs. 55.86 crore to Puducherry	The name of dealer M/s	The reply is not specific to the

⁸ AC-I, Bilaspur, AC-II, Durg; AC-III, Durg and AC, Raipur.

			was not disclosed by the dealer.	NEG Micon (I) Pvt. Ltd had been changed to M/s Vestas Wind Technology India Pvt. Ltd. and 'C' form had been furnished by M/s Vestas Wind Technology India Pvt. Ltd under changed name.	audit observation. In this case, as per sale list, sale has been made to M/s NEG MICON (India) Pvt. Ltd. Chennai but 'C' forms attached with the case are from the dealers located in Chennai and Puducherry (Union Territory) which do not clarify the audit observation.
Total :		25.20			

The above defects/irregularities were not detected by the assessing officers. This resulted in short levy of tax of Rs. 6.30 crore and penalty of Rs. 18.90 crore was also leviable, aggregating to Rs. 25.20 crore.

During the exit conference, the department stated that action would be taken after examination of the cases. Further development has not been reported (November 2009).

2.2.13 Short levy of tax due to excess exemption

Test check of the records of ACs, Durg and Raipur and CTO, circle V, Raipur indicated that in six cases assessed between April 2004 and March 2009 against the declared inter-state sales worth Rs. 5.12 crore, 'C' forms for Rs. 3.04 crore only were found attached. This resulted in excess exemption of inter-state sale worth Rs. 2.08 crore resulting in short levy of tax of Rs. 18.71 lakh.

After the cases were pointed out (April to September 2009), in three cases the AAs stated (April to July 2009) that the deductions allowed are as per rule. However, the requisite 'C' forms were not produced to audit in support of the replies of the AAs. In the remaining three cases the AAs replied that action would be taken after verification.

During the exit conference, the department stated that action would be taken after examination of the cases. Further development has not been reported (November 2009).

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

The 'C' form is issued by a purchasing dealer in two copies. The copy marked 'original' is enclosed by the selling dealer with his return and the copy marked 'duplicate' is retained in his records. It has been judicially⁹ held that

⁹ Commissioner, Sales Tax Vs M/s Prabhudayal Prem Narayan (1988) 71 STC (SC); M/s Delhi Automobiles Private Limited Vs Commissioner of Sales Tax (1997) 104 STC 75 (SC)

production of 'original' 'C' form claiming concessional rate of tax is mandatory to prevent the forms being misused for the commission of fraud and collusion with a view to evade payment of tax.

2.2.14.1 Test check of the records of AC-II, Durg indicated that at the time of assessment of a dealer, the AA found that the 'C' form for sale value of Rs. 1.80 lakh had not been submitted by the dealer and he therefore, levied tax of Rs. 14,398. The dealer went into appeal and submitted the 'duplicate' copy of 'C' form No.QH/16 798325 for Rs. 1.80 lakh. It was detected by audit that the 'original' copy of this form actually pertained to another transaction for Rs. 27.02 lakh and was attached with that assessment record. Therefore, the dealer misused 'duplicate' copy of 'C' form and availed the concessional rate of tax by misleading the appellate authority.

2.2.14.2 Test check of the records of ACs, Durg and Raipur and CTO, circle V, Raipur indicated that, five dealers engaged in sale and purchase of bricks, aluminium, copper and iron and steel submitted 'duplicate' copies of 'C' forms with their returns, involving sale value of Rs. 4.36 crore. These cases were fraught with risk of mis-utilisation as detected in the case cited above. As per the rules, the 'duplicate' 'C' forms should have been rejected and tax amounting to Rs. 35.95 lakh should have been levied by treating the transactions as inter-state sale without 'C' form.

After this was pointed, the AA circle-V, Raipur replied that the 'original' copy of the said forms would be provided to audit. The 'original' forms have not been received (November 2009).

During the exit conference, the department appreciated the risk involved and intimated that action would be taken after verification of the cases. Further development has not been received (November 2009)

2.2.15 Irregular grant of deduction on transfer of goods to undeclared branch

Absence of a database of dealers with their branches and exemption allowed had been highlighted in paragraph 2.2.9. As a result, irregular grant of exemption on branch transfer is discussed below.

Test check of the records of ACs, Durg and Raipur in July 2009 indicated that in two cases for the period 2008-09 the dealers availed exemption of tax on a turnover of Rs. 2.96 crore on account of branch transfer. Scrutiny of the registration certificates of the dealer indicated that the branches to which stock was claimed to have been transferred were not included in the registration certificates of the dealer. Failure of the AAs to scrutinise the 'F' forms with reference to the declared branches as per registration certificates resulted in non-levy of tax of Rs. 29.63 lakh and penalty of Rs. 88.89 lakh.

After the cases were pointed out (July 2009), the AA, Durg stated (July 2009) that in one case the dealer had a branch at Nagpur. However, it was observed that the said dealer had applied for inclusion of Nagpur branch in his registration certificate but the competent authority had disallowed his request vide his order dated 30.06.2003. In another case, the AC, Raipur replied that action would be taken after verification.

During the exit conference, the department intimated that action would be taken after examination of the cases. Further development has not been received (November 2009).

2.2.16 Exemption of tax on invalid 'F' forms

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

2.2.16.1 Test check of the records of AC, Raipur and CTO, circle III and IV, Raipur indicated that six dealers claimed exemption of tax during assessment year 2004-05 to 2008-09 on account of branch transfer/consignment sale worth Rs. 1.96 crore on the basis of nine 'F' forms. These forms had declarations covering period of more than one month and thus transactions beyond one month were liable to be rejected and treated as inter-state sales without valid declaration. Failure of the AAs to scrutinise the returns and 'F' forms and Act as per provision resulted in non levy of tax of Rs. 13.24 lakh.

After the cases were pointed out, the AAs replied that necessary action would be taken after verification.

2.2.16.2 Test check of the records of AC-III, Durg indicated that a dealer dealing in manufacture and sale of machinery spare parts, assessed in February 2006 for the period April 2002 to March 2003, claimed deduction on account of branch transfer worth Rs. 4.21 crore. Scrutiny of the records showed that the form 'F' attached in the assessment records was issued by Visakhapatnam (Andhra Pradesh) branch of the dealer, whereas as per form 59-A (declaration submitted by the transporters at check post) the goods were actually sent to SHAR centre ISRO, Shriharikota (Andhra Pradesh). Therefore, the 'F' form was not valid and the transaction should have been treated as inter-state sale without 'C' form and taxed at ten *per cent*. Since the receiving agency at SHAR centre had not issued an 'F' form, the AA had no reason to treat the transaction as branch transfer which resulted in non-levy of tax of Rs. 42.13 lakh and penalty of Rs. 1.26 crore for concealing the interstate sale, aggregating Rs. 1.69 crore should have been imposed.

After this was pointed out (March 2009), the AA replied in March, 2009 that the dealer has opened a branch at SHAR centre ISRO to receive the goods and is registered in the State of Andhra Pradesh but the proof of opening of branch at Shriharikota and registration number in the State of Andhra Pradesh were not furnished to audit.

During the exit conference, the department stated that action would be taken to disallow the transactions of subsequent months in 'F' form and tax will be levied accordingly. As regards branch transfer to an undeclared branch, it was stated that action would be taken after verification. Further development has not been received (November 2009).

2.2.17 Short levy of tax due to irregular deduction from taxable turnover

According to Section 2w(2) of Chhattisgarh Commercial Tax Act, 1994 taxable turnover in relation to any period means that part of a dealer's turnover, for such period, which remain after deduction there from the sale price of goods which are in the nature of tax paid goods in the hands of such dealer.

Test check of the records of AC Raipur indicated that in case of a dealer dealing in purchase and sale of galvanised structure, assessed in December 2006 for the period April 2003 to March 2004, the deduction on account of sale of galvanised structure valued at Rs. 1.47 crore has been deducted from the taxable turnover of the dealer as tax paid sales. Scrutiny of the purchase list of the dealer indicated that the dealer has never purchased galvanised structures, so treating it as tax paid material was incorrect on the part of the AA. Moreover, as per the purchase list, dealer has purchased iron and steel, zinc, lead, furnace oil and lubricants, which indicates that the dealer has manufactured galvanised structures and sold the same against 'C' form. As such dealer has actually sold manufactured product against 'C' form and tax should be levied at four *per cent*. The irregular grant of deduction of tax paid material has resulted in short levy of tax of Rs. 5.89 lakh.

After the case was pointed out (July 2009), the AA replied (July 2009) that dealer has sold galvanised iron and steel which does not come under the process of manufacturing, as held in the case of M/s Unique Structures and Towers Ltd Vs Commissioner of Commercial Tax, Chhattisgarh (2002) 35 VKN 244. However, the judgment quoted relates to fabrication of steel structure for manufacturing tower whereas the Madhya Pradesh Board of Revenue had held in the case of M/s Sanjay Corporation vs Commissioner Sales Tax (1992) 25 VKN 32, 7 TLD 324 that after the process of hot dip galvanisation with zinc, a new product different in appearance, quality, value and utility emerges. The case decided by Madhya Pradesh Board of Revenue is similar to the instant case.

During the exit conference, the department stated that the matter shall be examined in the light of judgments quoted by the AA and by audit and action would be taken accordingly. Further development has not been received (November 2009).

2.2.18 Irregular grant of exemption on sale in the course of export against incomplete document

According to Section 5 of the CST Act read with Rule 12 of the CST (R&T) Rules, a sale or purchase of goods shall be deemed to take place in the course of export of the goods out of the territory of India and shall be allowed as deduction from the turnover of the selling dealer on his furnishing form 'H' duly filled and signed by the exporter alongwith the evidence i.e. bill of lading, proof of despatch of goods and copy of agreements etc. of export of such goods.

Test check of the records of AC II, Durg and AC, Raipur indicated that in case of three dealers engaged in manufacturing of ferro alloys and re-rolled

products, assessed between December 2007 and February 2009 for the period between 2004-05 to 2005-06 deduction on account of export worth Rs. 4.83 crore had been allowed from the gross turnover against 'H' forms submitted by the dealers. The bills of lading, custom clearance, copy of agreement etc. to prove export were not found attached with the assessment records. This resulted in non-levy of tax of Rs. 38.68 lakh.

After the cases were pointed out (July 2009), the AC-II, Durg replied in July 2009 that the deductions have been allowed against declarations submitted by the dealer. The reply is not consonant with the provisions of the Act and Rules, in which it has clearly been laid down that deductions are to be allowed only after submission of the prescribed documents as proof of export. AC, Raipur stated that action would be taken after verification.

During the exit conference, the department replied that action in the matter would be taken after examination of the cases. Further development has not been received (November 2009).

2.2.19 Incorrect exemption of transit sales on invalid forms 'E1' and 'C'

Section 6(2) of the CST Act stipulates that where sale of any goods in the course of inter-state trade or commerce has either occasioned the movement of such goods from one State to another or has been effected by a transfer of documents of title to such goods during their movement from one State to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods (sale in transit) to the Government or to a registered dealer shall be exempt from tax. However, the exemption is subject to production of a declaration in form "E-I" or "E-II"¹⁰ duly filled and signed by the registered dealer from whom the goods were purchased and declaration in form 'C' obtained from the buyer.

Test check of the records of two ACs and three CTOs¹¹ indicated that in 12 cases assessed between December 2004 and December 2008 the AAs allowed exemption for Rs. 10.56 crore on subsequent sale without valid declarations in 'C'/'E-I' forms leading to non-realisation of revenue of Rs. 89.14 lakh as mentioned below :

Name of the Unit	No. of cases	Tax evaded (Rs.)	Irregularities noticed	Reply of the AA	Audit comments
AC, Raipur	1	29,16,704	Transactions mentioned in the sale list differs with the data shown in 'C' forms and submitted 'E1' issued by himself.	Sale of <i>tendu</i> leaves is tax paid and bills are issued after sale of lot. So exemption on 'E-I' and 'C' is valid.	Dealer is the first seller, so exemption on 'E-I' and 'C' is not valid.

¹⁰ E-I – declaration furnished by the selling dealer effecting the first sale and E-II – declaration furnished by the subsequent seller.

¹¹ AC, Korba and AC, Raipur.
CTO Circle Jagdalpur , Circle IV Raipur and Circle V Raipur.

CTO Raipur, Circle-V	1	59,045	Date of issue of 'E'-I is subsequent to the date of assessment order.	Date was mentioned by the issuing dealer.	<i>Prima facie</i> at the time of assessment this form should have been rejected by the AA.
AC, Raipur	1	15,07,144	'C' form is not enclosed with the case.	Action would be taken after verification.	Results of verification has not been received.
AC, Raipur	1	22,232	'E-I' form is not enclosed with the case.	Action would be taken after verification.	
CTO Raipur, Circle-IV	1	32,056	'C' form enclosed pertains to another firm.	Action would be taken after verification.	
AC, Raipur	1	11,88,531	'E-I' form not attached with the case.	Exemption allowed U/s 6(2) of the Act.	According to Section 6(2) 'E-I' form is mandatory, which was not enclosed.
AC, Korba	5	16,46,191	Proof of despatch of goods purchasing dealer viz. name of transporter etc. not found attached.	Action would be taken after verification.	Results of verification has not been received.
		2,78,178	'E-I' found attached with the assessment pertains to a year (2001-02) other than that of year of assessment (2002-03).		
		1,12,066	Sale to a local dealer where 'C' form from other State.		
		2,47,442	'E-I' not found.	Concessional rate of tax has been allowed on 'C' forms.	
		2,77,616	'E-I' not found	Due to direct delivery exemption allowed on 'C' forms.	
CTO, Jagdalpur	1	6,27,207	Duplicate portion of 'E-I' form submitted and 'C' form not found attached	Action would be taken after verification.	Results of verification has not been received.
	12	89,14,412			

During the exit conference, the department stated that action would be taken after examination of the cases.

2.2.20 Conclusion

The review on levy and collection of Central Sales Tax revealed a number of system and compliance deficiencies. The department did not keep samples of

current and obsolete declaration forms of other States. It also did not have a system of selecting transactions for cross verification of declaration forms of other states due to which the assessing officers could not detect fake/invalid forms and allowed inadmissible exemptions/reduced rates of taxes of Rs. 42.57 crore. Due to the absence of guidelines and prescribed checklist of points to be seen prior to acceptance of declaration forms, the assessing officers accepted declarations which were *prima facie* defective. The internal control mechanism within the department was weak as evident from the deficiencies noted above and also from the fact that the coverage of internal audit wing was very low ranging between 0 to 28.5 *per cent* with low compliance by the management with its observations.

2.2.21 Summary of recommendations

The Government may consider the following recommendations to rectify the system and compliance deficiencies:

- obtaining and circulating the samples of declaration forms from other States for easier identification of doubtful forms based on colour, design and series;
- preparing check lists for scrutiny of genuineness of declaration forms;
- prescribing criteria for selection of declaration forms for cross verification;
- creating a database of exemption of tax on account of branch transfer/consignment sale; and
- forwarding utilisation certificates of forms from circles to assessing officers, for cross verification.

During the exit conference, the Commissioner, Commercial Tax accepted all the above recommendations.

2.3 Transition from Chhattisgarh Commercial Tax to Chhattisgarh Value Added Tax

Highlights

- Due to the absence of a provision for disclosing the opening stock of the dealers under the VAT Act, the department was not in a position to ascertain the correctness of the returns submitted by the dealers.

(Paragraph 2.3.8)

- Neither the Act/Rules nor any departmental instruction prescribed any provision for preliminary checks, such as correctness of calculation, application of correct rate of tax, completion of the returns etc., due to which the returns were not being scrutinized by the assessing authorities.

(Paragraph 2.3.10)

- There was no system prescribed for verifying the input tax credits claimed by the dealers. Consequently, input tax credits were being allowed to the dealers without any verification or checks.

(Paragraph 2.3.12)

- Though the check gates had been computerised, these were not inter-linked with the assessing officers due to which the assessing officers could not effectively utilize the records of the check gates while verifying the returns/completing the assessments.

(Paragraph 2.3.13)

2.3.1 Introduction

With a view to making the tax structure simple and more transparent, the Government of India, Ministry of Finance, constituted an Empowered Committee of State Finance Ministers. The design of State level Value Added Tax (VAT) has been worked out by the Empowered Committee through several rounds of discussion. The committee decided to implement VAT system in its meeting (January 2002) with a common basic design.

The benefits aimed by the implementation of VAT included, inter alia, eliminating the cascading effect by giving a set off for input tax as well as tax paid on previous purchase, abolishing other taxes such as turnover tax and surcharge, the over all tax burdens were to be rationalised and there would be self assessment by dealers.

As VAT is a State subject, the States were given freedom for making appropriate variations in their State level laws.

The Government of Chhattisgarh repealed the CG Commercial Tax Act (CGCT Act) and enacted the CG Value Added Tax Act (CGVAT Act), 2005 for implementation with effect from 1 April 2006 with a delay of one year

against the commitment of all the States as per paragraph 1.7 of white paper. A dealer registered under the repealed Act, who continued to be so registered on the day immediately before 1 April 2006 and was liable to pay tax, was deemed to be registered under the CGVAT Act. Every registered dealer of any specific class or category, as the Government may by notification direct, would have to pay turnover tax and would be assigned with unique "Taxpayers' Identification Number (TIN)". As per the Act, a dealer is liable to pay tax on the value added to the purchase value of goods in the course of his business.

Differences between CG Commercial Tax Act and CG VAT Act

Some of the differences between the existing VAT Act and Commercial Tax Act were as under:

- VAT is multipoint tax system while commercial tax was single/double point tax system;
- VAT system relies more on the dealers to pay the tax willfully and submit their returns and deemed self assessment; whereas supporting documents were required along with returns in the repealed Act;
- a fixed percentage of cases is provided for detailed check in CGVAT Act; while 100 *per cent* cases were to be assessed under the repealed Act; and
- reduced controls of the executive on the dealers in VAT system while many other kinds of taxes such as additional tax, turnover tax etc. were there in the repealed Act.

A review was undertaken to ascertain the measures taken by the Government for smooth transition from CGCT Act to CGVAT Act which reveals a number of deficiencies which are discussed in the succeeding paragraphs.

2.3.2 Organisational set up

The receipts from Value Added Tax are administered by the Commissioner of Commercial Taxes (CCT) under the overall control of the Principal Secretary, Finance, Government of Chhattisgarh. He is assisted by two Additional Commissioners (Addl. CCTs), five Dy. Commissioners (DCs), 21 Assistant Commissioners (ACs) and 19 Commercial Tax Officers (CTOs).

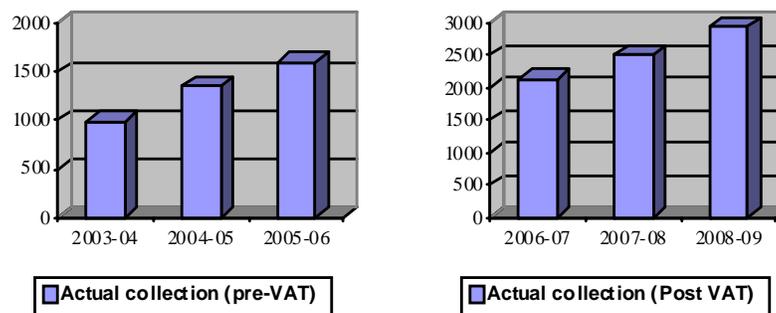
2.3.3 Audit objectives

The review was conducted to ascertain whether:

- the planning for implementation and the transition from the CGCT Act to CGVAT Act was effected timely and efficiently;
- the organisational structure was adequate and effective;
- the provisions of the VAT Act and the rules were adequate and enforced properly to safeguard revenue of the State;
- an adequate and effective internal control mechanism existed in the department to prevent leakage of revenue; and
- to check the status of system which has been in place for three years.

2.3.4 Scope of audit and methodology

The review was conducted in seven circles¹² and two divisions¹³ covering the period from 2006-07 to 2008-09. The circle IV, Raipur was selected initially for pilot study and the remaining six circles and two divisions were selected by stratified random sampling.



The average growth during 2003-04 to 2005-06 (pre-VAT period) was 27.98 per cent while the average growth from 2006-07 to 2008-09 (post-VAT period) was 22.74 per cent.

2.3.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Taxes Department in providing the necessary information and records for audit. In the entry conference held with the Department on 19 March 2009 in respect of the review on 'levy and collection of central sales tax', mention was also made of the audit objective, scope and methodology of this review. The draft review was forwarded to the Government and the department in September 2009. An exit conference was held on 26 October 2009 in which the results of audit and the recommendations were discussed with the Commissioner. The replies of the government received during the exit conference and at other points of time have been appropriately included in the respective paragraphs.

Audit findings

2.3.6 Pre-VAT and post-VAT tax collection

The comparative positions of pre-VAT commercial tax collection (2003-04 to 2005-06) and post-VAT (2006-07 to 2008-09) tax collection and the growth rates are shown below:

(Rupees in crore)

Pre-VAT			Post VAT		
Year	Actual collection	Percentage of growth (over previous year)	Year	Actual collection	Percentage of growth (over previous year)
2003-04	989.23	28.79	2006-07	2,140.71	33.56
2004-05	1,347.17	36.18	2007-08	2,502.70	16.91
2005-06	1,602.85	18.98	2008-09	2,946.78 (tentative)	17.74

¹² Circle II, III Durg and Circle I, II, III, IV, V Raipur.

¹³ Durg and Raipur.

System issues

2.3.7 Deficiencies in the Act and the Rules

The review indicated a number of deficiencies in the provisions of the VAT Act and the Rules, which persisted during the period covered under the review. Some of the important deficiencies are discussed below.

2.3.8 Registration and filing of returns under the Act

According to Section 4 of CG VAT Act, 2005 every dealer has to get registered in the prescribed manner within thirty days of the commencement of the Act. On registration, the dealers are assigned a unique Taxpayer's Identification Number (TIN).

Scrutiny of the procedure for registration of dealers indicated that they are not required to disclose their opening stock under CGVAT Rules 2006. As this could lead to evasion of VAT, it is recommended that such a provision may be made.

Test check of the records of seven circles indicated that large number of dealers registered under VAT Act have not filed their quarterly returns in Form-17, consecutively for three years, as depicted in the table below:

Year	Total number of TIN dealers	Number of TIN dealers that did not file returns for three years	Percentage of dealers not filing returns
2006-07	24,280	8,368	34.46
2007-08	26,190	9,933	37.92
2008-09	27,946	13,081	46.80

The department had not taken action to verify the reasons for non-submission of the returns. It is recommended that the cases should be scrutinised.

During the exit conference, the department agreed with the recommendation and decided that a special drive would be undertaken to do spot verification of the defaulting dealers to ascertain the reasons for non-filing of returns and corrective action would be taken, wherever necessary.

2.3.9 Deficiencies in uploading data in TINXSYS

Tax Information Exchange System (TINXSYS) is a centralised database of all inter-state transactions between dealers and details of statutory forms issued by States and Union Territories. TINXSYS will help the Commercial Tax Departments of various States and Union Territories to effectively monitor the interstate trade and verify the genuineness of statutory forms submitted by dealers in support of claims for concessions under the CST Act.

During the course of audit, the department stated that it had not prepared a database of dubious/risky dealers as required by the TINXSYS. However, with effect from 17 April 2009, it is using the system to view the data uploaded by other States. Audit observed that the department has not uploaded the information of declaration forms issued to its dealers in the website.

Scrutiny of the website revealed that though the site was showing the name of the dealer to whom a declaration form is issued, yet in some cases the other fields were not filled up and thus other vital information are not available from the site. **Thus, due to not uploading the entire data or without full details, the information available in the site could not serve the very purpose for which it was created.**

The Government may consider initiating steps to upload the information regarding declaration forms issued to its dealers, to make the site more useful.

2.3.10 Absence of system for scrutiny of return

According to Section 21(2) of CGVAT Act, if a registered dealer has furnished all quarterly returns in the prescribed manner and within the prescribed time, has deposited the tax payable according to the returns and has furnished all the statements under clause (b) of sub Section 1 of Section 19 within the prescribed time, then the returns shall be accepted and assessment shall be deemed to have been made.

Neither the Act nor the rules made thereunder provide for any preliminary checks, such as correctness of calculation, application of correct tax rate, completeness of return etc. The Department has also not prescribed any procedure for the same. It is, therefore, recommended that some system for preliminary scrutiny be prescribed to minimise the risk of tax evasion by submitting incorrect or incomplete returns.

During the exit conference, the department intimated that, in practice, most of the returns were not fulfilling the criteria for being considered as deemed to be assessed and would be subject to assessment. Therefore, all aspects of the return would automatically get scrutinised. However, the recommendation should be examined further by the department because in subsequent years, with increasing familiarity with the provisions, more and more returns would be categorised as deemed to be assessed and would, therefore, not be subjected to any form of scrutiny.

2.3.11 Absence of provisions in the Act/Rule to include purchase from unregistered dealers

According to Section 4 of CGVAT Act, a registered dealer purchasing goods as specified in Schedule II from another such dealer within the state after payment to him of tax and/or purchasing goods specified in Schedule I and whose turnover in a year does not exceed Rs. 50 lakh, may opt, in the prescribed form, for payment, in lieu of tax, a lump sum at such rate not exceeding *four per cent*. **The quarterly return prescribed in this Section (Form 17), however, does not have the provision to capture purchase from unregistered dealers for levy of purchase tax.**

The Government may consider providing purchase details in the interest of revenue.

2.3.12 Absence of system for verification of input tax credit

According to Section 13 of CGVAT Act a rebate of input tax shall be claimed by or be allowed to a registered dealer, after payment of tax, when he purchases any goods specified in Schedule II within the State of Chhattisgarh for sale within the State/for inter-state sale/for export/for stock transfer to its branch in other State. Dealer will claim the same in his quarterly return submitted in Form-17.

Scrutiny of the returns filed by the dealers indicated that they are claiming the rebates as provided in the Act, but the departmental officers have no way of verifying their correctness. This could lead to claiming of incorrect rebates, which would remain undetected. **It is recommended that sale/purchase lists of all dealers should be brought online as this would enable the assessing officers to verify the purchases claimed by the assesseees, from the sale lists of the selling dealers and to modify the format of the return providing details of purchases made from unregistered dealers as well.**

During the exit conference, the department intimated that a software for submission of online returns was being developed in which provision would be made for submission of purchase and sale lists by all dealers in their quarterly returns.

2.3.13 Check posts not linked to circles

The declarations for goods being brought into and taken out at the check posts represent voluminous data and, therefore, cannot be used easily by the assessing officers for cross verification. However, if this data is put online, it will greatly empower the assessing officers. It was observed that computers are installed at the check posts but not linked to the circles. The declarations obtained from transporters are fed in the computers and circle wise compact disks (CDs) are prepared and forwarded to the concerned circles. However, the assessing officers are still not able to verify the declaration with the data provided by the dealers in their returns, due to non-availability of CD, defective CD, outdated information etc. **It is therefore, recommended that the check posts may be linked to the circles/headquarter.**

During the exit conference, the department intimated that leased lines and modems had been installed at all the check posts, the software was being developed and the check posts were expected to be linked in the near future.

2.3.14 Shortage of manpower

Manpower management is a key factor for smooth and efficient working of a department and shortage of personnel is a serious problem that impacts output, besides delaying the disposal of urgent cases.

From the information furnished by the Commissioner, Raipur, it was seen that there was manpower shortage during last three years in various cadres. At the end of March 2009, out of 1,729 sanctioned posts, 883 posts in various cadres, which is more than 50 *per cent* of sanctioned posts, were lying vacant. The vacancy position in the pre-VAT period was only 21 *per cent*. The number of

VAT dealers as on March 2008 had increased¹⁴ by 24 *per cent* as compared to March 2005. For better tax administration under VAT, the department was required to computerise its operations in a big way and accordingly created new posts of system analyst, programmers, assistant programmers and data entry operators. However, it did not simultaneously reassess the requirement of other existing posts viz. commercial tax officer, assistant commissioner, deputy commissioner and additional commissioners, reader, assistant grade II and III that were in the computerised work environment.

It was therefore recommended that the department may reassess the requirement of strength in post-computerisation scenario, for better tax administration.

During the exit conference, the department agreed that there were shortages and intimated that data entry operators were being hired, it had rationalised the manpower deployment and had effected many pending promotions.

2.3.15 Conclusion

The review revealed a number of instances and compliance deficiencies. Due to the absence of provision for disclosing the opening stock by the dealers under the VAT Act, the department was not in a position to ascertain the correctness of the returns submitted by the dealers. Neither the VAT Act/Rules nor any departmental instruction provided for the preliminary checks of the returns, such as correctness of the returns, application of correct rates of the taxes, verification of the input tax credits, completion of the returns etc., due to which the returns were not being scrutinised properly. Though the check gates had been computerised, these were not inter-linked with the assessing officers due to which the assessing officers could not utilise the check gate records effectively while conducting the assessments/scrutiny of the returns. The department had not uploaded the requisite information, relating to the forms issued to its dealers, on the TINXSYS website. There was absence of provisions for scrutiny of the returns and furnishing the details of purchases from the unregistered dealers.

2.3.16 Summary of recommendations

The Government may consider the following recommendations to rectify the deficiencies:

- making mandatory the declaration of opening stock at the time of registration;
- carrying out a review of all registered dealers who have not been submitting returns for three years;
- making provision in the software being developed, for submission of purchase lists and sale lists on line by the dealers; and
- linking the check posts with the headquarter/circles.

¹⁴ Increased from 50,498 in March 2005 to 62,685 in March 2008.

2.4 Other audit observations

Scrutiny of the assessment records under Commercial Tax Act maintained in Commercial Tax Department indicated cases of non-observance of provisions of Act/Rules, short levy of tax which are mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions on the part of AAs are pointed out in audit each year but not only do the irregularities persist, these remain undetected till an audit is conducted. There is need for Government to improve the internal control system including strengthening of internal audit to ensure that such omissions are detected and rectified.

2.5 Non-compliance of the provisions of the Act/Rules

The Chhattisgarh Commercial Tax Act provides for :

- i) levy of penalty on concealed turnover; and*
- ii) levy of tax at the rate as specified in Schedule II appended to the Act.*

Non-observance of the above provisions resulted in non/short realisation of revenue as mentioned below.

2.6 Non-levy of penalty

According to the provisions of the CGCT Act if the Commissioner or the appellate or the revisional authority during any proceeding is satisfied that the dealer has concealed his turnover or the aggregate amount of purchase prices in respect of any goods or has furnished false particulars of his sales or purchases in his return, the authority concerned may impose penalty to the extent of five times, but in no case less than three times of the amount of tax evaded.

2.6.1 Test check of the records of the Assistant Commissioner (AC), Raipur (November 2008) indicated that a dealer engaged in sale and purchase of edible oil and sugar was assessed in February 2008 for the period April 2005 to March 2006. The dealer had concealed the inter-state sale of sugar valued at Rs. 13.81 crore which resulted in under statement of turnover. Although tax of Rs. 13.81 lakh was imposed on the sale value of the concealed turnover, the penalty of atleast Rs. 41.43 lakh for concealment of turnover was not levied.

After the cases were pointed out, the Assessing Officer (AO) replied (November 2008) that the proceeding for penalty under Section 69 was being processed against the dealer. Further progress has not been received (November 2009).

2.6.2 Test check of the records of the AC-II, Durg in March, 2008 indicated that three dealers engaged in purchase and sale of iron and steel, coke and manufacture and sale of HB¹⁵ wire and MS¹⁶ wire were assessed in December 2004 for the period April 2001 to March 2002. Though the dealers have declared transactions worth Rs. 17.23 crore as interstate sale/sale of tax paid goods but had not submitted any proof in support of their claims for

¹⁵ Hard and Black.

¹⁶ Mild Steel.

exemption of Rs. 50.05 lakh and thus tax was imposed by the AO against this amount, but the minimum penalty of Rs. 1.50 crore for concealing the tax liability as provided in the Act was not levied.

After this was pointed out, the assessing authority (AA) replied (October 2008) that since assessments were made ex-parte, penalty under Section 69 of the Act cannot be levied. However, the fact remains that the assessee had willfully tried to evade tax by misclassifying the transaction as interstate sale/sale of tax paid goods and, therefore, penalty was leviable while finalising the assessments.

The matter was reported to the department and the Government (October 2008); their reply has not been received (November 2009).

2.7 Short levy of tax

According to Section 9 of the CGCT Act read with Schedule II, commercial tax on acetylene and oxygen gases is leviable at 9.2 *per cent* (including surcharge of 15 *per cent*) on the taxable turnover.

Test check of the records of the AC, Raipur (January 2007) indicated that a dealer engaged in the manufacture and sale of acetylene and oxygen was assessed in January 2004 for the period April 2000 to March 2001. Commercial tax was levied at 4.6 *per cent* instead of 9.2 *per cent* on sale of acetylene and oxygen gas of Rs. 1.25 crore. This resulted in short levy of tax of Rs. 5.51 lakh.

After the case was pointed out (December 2008), the Government (October 2009) stated that in the absence of specific entry in schedule II for 2000-01, tax on acetylene and oxygen gas has been levied on the basis of order passed under Section 68 by the Commissioner.

The reply is not tenable as Schedule II has specific entries for acetylene and oxygen to be taxed at eight *per cent* (9.2 *per cent* with surcharge) during the period from April 2000 to March 2001.