

## CHAPTER-IV

### REVENUE RECEIPTS

#### 4.1 GENERAL

##### 4.1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Nagaland during the year 2008-09, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in the following table:

(Rupees in crore)

Sl. no.	Particulars	2004-05	2005-06	2006-07	2007-08	2008-09
<b>I.</b>	<b>Revenue raised by the State Government</b>					
	• Tax revenue <sup>1</sup>	78.31	105.53	119.02	131.37	156.02
	• Non-tax revenue	77.90	96.82	91.14	119.48	180.55
	<b>Total I</b>	<b>156.21</b>	<b>202.35</b>	<b>210.16</b>	<b>250.85</b>	<b>336.57</b>
<b>II.</b>	<b>Receipts from the Government of India</b>					
	• State's share of divisible Union taxes	160.15	248.50	316.93	399.77	421.84
	• Grants-in-aid	1,523.16	1,816.35	2,245.42	2,345.40	2,642.48
	<b>Total II</b>	<b>1,683.31</b>	<b>2,064.85</b>	<b>2,562.35</b>	<b>2,745.17</b>	<b>3,064.32</b>
<b>III.</b>	<b>Total receipts of the State Government (I plus II)</b>	<b>1,839.52</b>	<b>2,267.20</b>	<b>2,772.51</b>	<b>2,996.02</b>	<b>3,400.89</b>
<b>IV.</b>	<b>Percentage of I to III</b>	<b>8</b>	<b>9</b>	<b>8</b>	<b>8</b>	<b>10</b>

The above table indicates that during the year 2008-09 the revenue raised by the State Government was ten *per cent* of the total revenue receipts (Rs. 3,400.89 crore) against eight *per cent* in the preceding year (Rs. 2,996.02 crore). The balance of ninety *per cent* of receipts during 2008-09 was from the Government of India.

<sup>1</sup> For details see Statement no. 11 - Detailed accounts of revenue by minor heads of the Finance Accounts of the Government of Nagaland for the year 2008-09. Figures under Major heads 0020, 0021, 0028, 0032, 0037, 0038, 0044 and 0045 - showing the State's share of divisible Union taxes booked in the Finance Accounts under A - Tax revenue have been excluded from the revenue raised by the State and included in the State's share of divisible Union taxes in this table.

**4.1.2** The details of tax revenue raised during the period 2008-09 alongwith the figures for the preceding four years are mentioned in the following table.

**(Rupees in crore)**

Sl. No.	Head of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase (+)/ decrease (-) in 2008-09 over 2007-08
1.	Taxes on sales, trade etc.,	53.08	77.16	85.02	94.79	114.70	(+) 21
2.	Taxes on Vehicles	7.30	8.71	12.26	12.30	14.14	(+) 15
3.	Other Taxes on Income and Expenditure	13.56	14.89	16.35	17.72	19.86	(+) 12
4.	State Excise	2.07	1.96	2.13	2.83	3.34	(+) 18
5.	Stamps and Registration fees	0.73	0.89	1.05	1.02	1.01	(-) 1
6.	Other Taxes and duties	0.03	0.01	0.00	0.00	0.00	0
7.	Land Revenue	0.43	0.55	0.50	0.50	0.60	(+) 20
8.	Taxes and Duties on Electricity	0.01	0.01	0.02	0.02	0.03	(+) 50
9.	Taxes on Goods and Passengers	1.10	1.35	1.69	2.19	2.34	(+) 7
<b>Total:</b>		<b>78.31</b>	<b>105.53</b>	<b>119.02</b>	<b>131.37</b>	<b>156.02</b>	<b>(+) 19</b>

The concerned departments did not inform (November 2009) the reasons for variations despite being requested (August 2009).

**4.1.3** The details of the major non-tax revenue raised during 2008-09 alongwith the figures for the preceding four years are mentioned in the following table.

**(Rupees in crore)**

Sl. no.	Head of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase (+)/ decrease (-) in 2008-09 over 2007-08
1.	Interest receipts	3.27	5.60	5.22	5.66	11.57	(+) 104
2.	Public Service Commission	0.13	0.01	0.00	0.00	0.80	(+) 80
3.	Police	0.41	1.56	2.15	2.73	0.61	(-) 78
4.	Stationery and printing	0.01	0.05	0.08	0.07	0.01	(-) 86
5.	Public works	0.22	0.17	0.31	0.10	0.10	0
6.	Other administrative services	5.54	7.10	1.46	1.93	1.21	(-) 37
7.	Contribution and recoveries towards Pension & Other Retirement Benefits	0.10	0.40	0.23	0.21	1.05	(+) 400

Sl. no.	Head of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase (+)/ decrease (-) in 2008-09 over 2007-08
8.	Miscellaneous general services	11.70	15.64	14.59	19.44	28.05 <sup>2</sup>	(+) 44
9.	Education, sports, art and culture	0.19	0.22	1.64	0.48	0.55	(+) 15
10.	Medical and Public Health	0.06	0.07	0.13	0.16	0.17	(+) 6
11.	Water supply and sanitation	0.97	1.06	2.26	1.07	0.98	(-) 8
12.	Housing	2.18	2.23	2.21	2.11	2.97	(+) 41
13.	Social security and welfare	0.03	0.31	0.16	0.31	0.25	(-) 19
14.	Crop husbandry	0.09	0.06	0.15	0.12	0.11	(-) 8
15.	Animal husbandry	0.33	0.37	0.35	0.39	0.43	(+) 10
16.	Forestry and wildlife	3.88	6.21	5.95	4.81	4.78	(-) 1
17.	Food storage and warehousing	0.02	0.02	0.03	0.03	0.02	(-) 50
18.	Co-Operation	0.84	0.89	0.92	0.17	0.79	(+) 365
19.	Other agricultural programmes	0.05	0.04	0.05	0.01	0.01	0
20.	Minor irrigation	0.03	0.01	0.00	0.01	0.02	(+) 100
21.	Power	39.66	42.71	41.63	69.47	111.49	(+) 60
22.	Village and small industries	0.46	1.30	0.21	0.26	0.67	(+) 158
23.	Non-ferrous mining and metallurgical industries	0.10	0.05	1.91	0.30	0.89	(+) 197
24.	Road transport	6.79	7.34	8.03	8.37	9.38	(+) 12
25.	Tourism	0.17	0.26	0.30	0.21	0.13	(-) 38
26.	Other general economic services	0.06	2.57	0.07	0.08	0.08	0
27.	Miscellaneous	0.61	0.57	1.10	0.98	3.43 <sup>3</sup>	(+) 250
<b>Total</b>		<b>77.90</b>	<b>96.82</b>	<b>91.14</b>	<b>119.48</b>	<b>180.55</b>	<b>(+) 51</b>

The concerned departments did not inform (November 2009) the reasons for variations despite being requested (August 2009).

#### 4.2 Variations between the budget estimates and actuals

The variations between the budget estimates and actuals of revenue receipts for the year 2008-09 in respect of the principal heads of tax and non-tax revenue are mentioned in the following table.

<sup>2</sup> This includes Debt relief Rs. 15.87 crore given by Ministry of Finance, Department of Expenditure, GOI on repayment of consolidated loan.

<sup>3</sup> This includes Other Non-tax Revenue receipt under Social Services-0515-other Rural Development Programmes (Rs. 2.25 crore) and 1054-Roads and Bridges (Rs. 1.09 crore).

**Audit Report (Civil) for the year ended 31 March 2009**

(Rupees in crore)

Sl. no.	Head of revenue	Budget estimates	Actual receipts	Variations excess (+) shortfall (-)	Percentage of variation
1.	Other taxes on Income and expenditure	16.36	19.86	(+) 3.50	21
2.	State excise	3.15	3.34	(+) 0.19	6
3.	Taxes on sales, Trade etc.	107.07	114.70	(+) 7.63	7
4.	Taxes on vehicles	8.56	14.14	(+) 5.58	65
5.	Interest receipts	3.06	11.57	(+) 8.51	278
6.	Police	0.60	0.61	(+) 0.01	2
7.	Stationery and printing	0.28	0.01	(-) 0.27	(-) 96
8.	Public works	1.39	0.10	(-) 1.29	(-) 93
9.	Other administrative services	3.04	1.21	(-) 1.83	(-) 60
10.	Contribution and recoveries and other retirement benefits	0.22	1.05	(+) 0.83	377
11.	Miscellaneous general services	10.80	28.05	(+) 17.25	160
12.	Social security and welfare	0.21	0.25	(+) 0.04	19
13.	Forestry & wildlife	6.94	4.78	(-) 2.16	(-) 31
14.	Co-operation	0.06	0.79	(+) 0.73	1217
15.	Power	74.67	111.49	(+) 36.82	49
16.	Village and small industries	0.22	0.67	(+) 0.45	205
17.	Road transport	11.15	9.38	(-) 1.77	(-) 16
18.	Other general economic services	0.10	0.08	(-) 0.02	(-) 20
19.	Land revenue	0.69	0.60	(-) 0.09	(-) 13
20.	Stamps & registration fee	1.00	1.01	(+) 0.01	1
21.	Taxes and duties on electricity	0.02	0.03	(+) 0.01	50
22.	Public service commission	0.21	0.80	(+) 0.59	281
23.	Education, sports, art & culture	0.28	0.55	(+) 0.27	96
24.	Medical & public health	0.17	0.17	0	0
25.	Taxes on goods and passenger	1.51	2.34	(+) 0.83	55
26.	Housing	3.19	2.97	(-) 0.22	(-) 7
27.	Water supply and sanitation	2.65	0.98	(-) 1.67	(-) 63
28.	Crop husbandry	0.13	0.11	(-) 0.02	(-) 15
29.	Animal husbandry	0.50	0.43	(-) 0.07	(-) 14
30.	Food storage and warehousing	0.08	0.02	(-) 0.06	(-) 75
31.	Other agricultural programmes	0.04	0.01	(-) 0.03	(-) 75
32.	Minor irrigation	0.01	0.02	(+) 0.01	100
33.	Non-ferrous mining & metallurgical industries	0.08	0.89	(+) 0.81	1013
34.	Tourism	0.28	0.13	(-) 0.15	(-) 54
35.	Other Rural Development Programmes	0.11	2.25	(+) 2.14	1,945

Sl. no.	Head of revenue	Budget estimates	Actual receipts	Variations excess (+) shortfall (-)	Percentage of variation
36.	Roads & bridges	0.14	1.09	(+) 0.95	679
	<b>Total</b>	<b>258.97</b>	<b>336.48</b>	<b>(+) 77.51</b>	<b>30</b>

The concerned departments did not inform (November 2009) the reasons for variations despite being requested (August 2009).

### 4.3 Cost of collection

The gross collection in respect of the major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2006-07, 2007-08 and 2008-09 along with the relevant all India average percentage of expenditure on collection to gross collection for the year 2007-08, are as mentioned in the following table.

(Rupees in crore)

Sl. no.	Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2007-08
1.	Taxes on sales, trade etc.	2006-07	85.02	4.37	5.13	0.83
		2007-08	94.79	4.48	4.73	
		2008-09	114.70	3.41	2.97	
2.	Taxes on vehicles	2006-07	12.26	2.45	19.98	2.58
		2007-08	12.30	2.79	22.68	
		2008-09	14.14	1.97	13.93	
3.	Stamps and registration fees	2006-07	1.05	0.26	24.76	2.09
		2007-08	1.02	0.38	37.25	
		2008-09	1.01	0.38	37.62	

The above table indicates that the percentage of expenditure on collection during 2008-09 as compared to the all India average percentage of expenditure on collection for 2007-08 was substantially higher in case of all the above taxes. While the percentage of expenditure on collection of revenue in respect of taxes on sales, trade, etc., and vehicles has improved, it has gone up sharply since 2007-08 for stamps and registration fees. The Government needs to improve the ratio in respect of all the three types of revenue.

### 4.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2009 have not been furnished by the concerned Government departments (November 2009) despite being requested (August 2009).

### 4.5 Write-off and waiver of revenue

The concerned departments did not inform (November 2009) the details of amount written off despite being requested (August 2009).

#### **4.6 Failure to enforce accountability and protect interest of the Government**

The Accountant General (AG), Nagaland, Kohima conducts periodical inspection of the various offices of the Government departments to test check the correctness of assessments, levy and collection of taxes/duties/fees etc., and verify the maintenance of accounts and records as per the Acts, Rules and procedures prescribed by the Government. These inspections are followed by the inspection reports (IR) issued to the heads of offices inspected with copies to the higher authorities. Serious irregularities noticed during audit are also brought to the notice of Government/head of the department by the AG. A half yearly report regarding the pending IRs is sent to the Secretaries of the concerned Government departments to facilitate monitoring and settlement of the audit observations raised in these IRs through the intervention of the Government.

Inspection Reports issued up to September 2009 pertaining to the offices under sales tax, state excise, motor vehicles tax, etc. departments disclosed that 116 observations involving money value of Rs. 315.85 crore were pending at the end of September 2009 as mentioned below:

**(Rupees in crore)**

<b>Sl. no.</b>	<b>Nature of irregularities</b>	<b>Number of paragraphs</b>	<b>Amount</b>
1.	Loss of revenue	33	204.21
2.	Misappropriation of Government money	19	7.17
3.	Non-realisation of sales tax	20	7.27
4.	Evasion of tax	16	79.03
5.	Revenue outstanding for collection	22	13.69
6.	Others	6	4.48
<b>Total</b>		<b>116</b>	<b>315.85</b>

**The Government needs to review all the lapses and initiate corrective action.**

#### **4.7 Audit Committee Meeting**

In order to expedite the settlement of the outstanding audit observations contained in the IRs, departmental audit committees have been constituted by the Government. These committees are chaired by the secretaries of the concerned administrative department and their meetings are attended by the concerned officers of the state Government and officers of the AG.

In order to expedite clearance of the outstanding audit observations, it is necessary that the audit committees meet regularly. During the year 2008-09, no audit committee meeting was held, despite being requested. Thus, the concerned departments failed to take advantage of the arrangement of audit committees.

#### **4.8 Compliance with the earlier Audit Reports**

During the period from 2003-04 to 2007-08, the department/Government accepted audit observations involving Rs. 3 crore of which Rs. 0.36 crore only had been recovered till September 2009 as mentioned below:

(Rupees in crore)

Sl. no.	Year	Money value of Audit Report	Amount accepted by the departments	Amount recovered
1.	2003-04	2.78	0.02	Nil
2.	2004-05	1.50	1.37	0.12
3.	2005-06	0.02	0.02	Nil
4.	2006-07	1.17	0.24	0.24
5.	2007-08	6.51	1.35	Nil
<b>Total</b>		<b>11.98</b>	<b>3.00</b>	<b>0.36</b>

**The Government may institute a mechanism to monitor and expedite the recoveries pointed out in the Audit Reports.**

#### **4.9 Results of audit**

This chapter contains three paragraphs including one review relating to “transition from sales tax to VAT” involving Rs. 11.78 crore. The department accepted audit observations involving Rs. 8.77 crore. No reply has been received in respect of the balance Rs. 3.01 crore. These are discussed in succeeding paragraphs 4.10 to 4.13.

### **FINANCE AND TAXATION DEPARTMENT**

#### **4.10 Transition from Sales Tax to Value Added Tax**

##### **Highlights**

- Due to lack of training, all the modules available under the VAT management system could not be utilised fully, thus defeating the purpose of computerisation.

**(Paragraph 4.10.8)**

- Though VAT has been implemented four years back, the department was yet to make the relevant forms under the VAT Act available with the units/dealers. As such, the dealers were using declaration forms that had been repealed under the Act. The practice was fraught with the risk of evasion of tax.

**(Paragraph 4.10.10)**

- Filing of returns by dealers was not properly monitored. As a result, non-submission of returns by 75 per cent of the registered dealers during 2005-06 to 2008-09 could not be detected by the department.

**(Paragraph 4.10.14)**

- Input tax credit claims of Rs. 5.06 crore by 35 assesses were allowed by the assessing authorities without prescribed input tax credit statements and abstract statement of the VAT account in support of the claim. Mandatory

audit assessment was also not carried out to examine the admissibility of the claim which resulted in non-realisation of the revenue to that extent.

**(Paragraph 4.10.18(i)&(ii))**

- Penalty of Rs. 6.50 crore was not levied on the dealers whose turnover exceeded Rs. 40 lakh in a year for non-furnishing of audited accounts for the year 2005-06 to 2007-08.

**(Paragraph 4.10.20)**

#### **4.10.1 Introduction**

The Union Government, Ministry of Finance, had constituted an Empowered Committee of State Finance Ministers (empowered committee), to resolve the variations in the State Sales Tax Acts and to introduce the state level Value Added Tax (VAT). The empowered committee, after deliberations, had issued a white paper (January 2005) defining the basic designs of state level VAT. The white paper, however, allowed the states to adopt appropriate variations in their VAT Acts, consistent with the basic design.

The argument of the white paper on state level VAT, as agreed upon in the Empowered Committee for effective implementation of VAT was that:

- it would eliminate cascading effect due to credit of tax paid on the purchase for resale or for use in the production;
- VAT will replace State Sales Tax through out the country and other taxes will be abolished and overall tax burden will be rationalised;
- due to crosschecking in a multi-stage tax, tax evasion will be checked, resulting in higher revenues to the Government;
- there would be self assessment by the dealers and set off will be given for input and tax paid on previous purchases.

The Government of Nagaland repealed the Sales Tax (ST) Act, 1967 and enacted the Nagaland Value Added Tax (NVAT) Act 2005 from 1 April 2005.

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

- VAT is a multi point tax system while sales tax was a single or cascading type of tax system;
- VAT system relies more on the dealers to pay the tax willingly and submit the returns and deemed self assessment in VAT; while supporting documents are required alongwith the return in ST;
- Percentage check is provided in the VAT Acts where as cent *per cent* cases are assessed in the erstwhile Sales Tax Act; and
- Reduced control of the executive on the dealers in VAT while many other taxes are there in ST.

**A review on the 'Transition from Sales tax to Value Added Tax' was conducted by audit. It indicated a number of system and compliance deficiencies which are discussed in the subsequent paragraphs.**

#### **4.10.2 Organisational setup**

The Commissioner of Taxes (COT) assisted by two Additional Commissioners of Taxes and two Deputy Commissioner of Taxes, is responsible for the administration of the Acts and Rules in the Taxation Department. There are three taxation zones to cover the 11 districts of the State. Each zone is headed by an Assistant Commissioner of Taxes (ACT) with head quarters at Kohima, Dimapur and Mokokchung. There are 13 wards headed by the Superintendent of Taxes (ST) for registration, assessment and collection of the VAT. In addition, an intelligent cell attached to the Directorate known as the mobile squad is headed by an Assistant Commissioner of Taxes (ACT) who is assisted by a Superintendent of taxes.

#### **4.10.3 Audit objectives**

The review was conducted with a view to ascertain whether:

- planning for implementation and the transition from the ST Act to VAT Act was effected timely and efficiently;
- organisational structure was adequate and effective;
- the provisions of the VAT Act and the Rules made thereunder were adequate and enforced properly to safeguard the revenues of the State ;
- internal control mechanism existed in the department and was adequate and effective to prevent leakage of revenue; and
- system is effective after being in place for three years.

#### **4.10.4 Scope and methodology of audit**

Records of eight out of 13 wards in three districts viz. Kohima, Dimapur and Mokokchung and the records of Commissioner of Taxes (COT), Dimapur for the period from 2004-05 to 2008-09 were selected for review. The wards were selected on the basis of higher revenue collection and number of registered dealers under the VAT regime. The audit was conducted between May and July 2009.

#### **4.10.5 Acknowledgement**

Indian Audit and Accounts Department acknowledges the co-operation of the Taxation Department in providing the necessary information and records for audit. An entry conference was held with the COT in May 2009 in which the scope of audit, methodology and audit objectives were explained to the department. The draft review report was forwarded to the Government and Department in August 2009 and was followed by an exit conference held with the COT in September 2009 to discuss the results of audit and recommendations. Replies of the department have been incorporated in the relevant paragraphs.

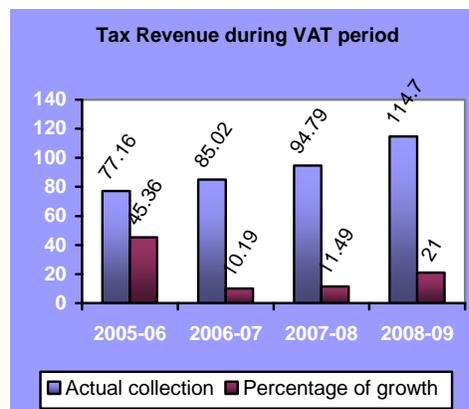
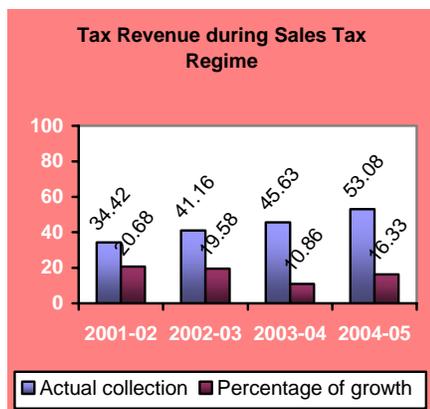
#### **Audit findings**

#### **4.10.6 Pre-VAT and post-VAT tax collection**

The comparative position of the pre-VAT sales tax collection (2001-02 to 2004-05) and the post-VAT (2005-06 to 2008-09) tax collection and the growth rate each year is shown in the table below.

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Pre-VAT			Post-VAT		
Year	Actual collection (Rs. in crore)	Percentage of growth	Year	Actual collection (Rs. in crore)	Percentage of growth
2001-02	34.42	20.68	2005-06	77.16	45.36
2002-03	41.16	19.58	2006-07	85.02	10.19
2003-04	45.63	10.86	2007-08	94.79	11.49
2004-05	53.08	16.33	2008-09	114.70	21.00



The average growth rate in the pre-VAT regime during 2001-02 to 2004-05 was 16.86 per cent while that in the post-VAT regime for 2005-06 to 2008-09 was 22.01 per cent. The growth in the years after 2005-06 could have been higher but for lack of proper enforcement of the VAT provisions in the State. The department could not assess/state (November 2009) the reasons for declining trend of growth rate though requested.

### System deficiencies

#### 4.10.7 Preparedness and transitional process

The NVAT Act and Rule 2005 was enacted in March 2005 and noticed in the Nagaland Gazette Notification in April 2005 for implementation. Before implementation of the new regime, the NVAT Act and Rules made thereunder were given wide publicity and the staff/officers in the department were imparted training.

#### 4.10.8 Computerisation of the Taxation Department and the check gates and their interlinking

GOI made an agreement with M/S Tata Consultancy Services (TCS) to computerise the VAT system implemented in the North Eastern States including Nagaland with effect from 1 April 2005. The objective was to facilitate computerisation of the registration of the dealers under the VAT and CST, computerisation of the check gates and related monitoring of inter state movement of goods, processing of returns, *challan* etc. The VAT and CST Management System (VCMS) is a web based system and there were 16 modules available in the system. Except for registration of the VAT and CST dealers, the remaining modules were not used due to lack of training, hardware etc., as stated by the superintendent of taxes of the three tests checked

districts. The modules for monitoring of filing of returns through VCMS such as tracking of defaulters, stopfilers are yet to be provided by the service providers.

**Audit observed that though several returns and reports are required under NVAT Act and Rules, the VCMS failed to generate all those important reports essential for day to day work.** It was seen that the data entries were being made in the system only after manual collection of related information/data, thus defeating the purpose of computerisation.

**For effective implementation of the VAT, the Government may provide full access to the modules developed for the VAT and the department may impart necessary training to its staff for their operation.**

#### **4.10.9 Creation of manuals and training of the staff**

Department did not prepare any manual for guidance of the officials responsible for dealing with the activities of the VAT after its introduction, in the absence of which it was difficult for them to cope up with the unique requirements of the new regime. Suitable arrangement for constituting internal check parties was also not made. All these had an adverse impact on the proper monitoring of the functioning of the NVAT.

**The Government may consider preparing a manual for day to day activities of the department.**

#### **4.10.10 Internal control**

The NVAT Act and Rule prescribes *challan* inward in Form VAT-23 for import of the goods and *challan* outward in Form VAT-24 for despatch of the goods from any place in the State to any other place or outside the State. **It was observed in audit that though VAT has been implemented in the State from April 2005 and four years have elapsed, still the relevant forms under the VAT Act have not been made available to the units/dealers.** As a result, the dealers were using the declaration forms under the repealed Act which were already obsolete.

Test check of the records of the ACT mobile squad, Dimapur and COT indicated that 53,711 obsolete Nagaland Sales Tax declaration forms of imports (Form XVI) were used by various dealers for import of the goods and surrendered in the check post located in Dimapur during December 2006 and March 2009. The Department could neither state the source from where the obsolete declaration forms were issued. The Department also did not check whether goods had been imported into the State through these forms and in the quantities and at the rates mentioned in the forms. Besides indicating absence of effective internal control mechanism in the Department, the practice of using forms that have been repealed under the Act is also fraught with the risk of evasion of tax within the State.

The Department accepted the facts and stated (September 2009) that during the transitional period, the Department had to rely on the forms prescribed under the repealed Act and Rules but would be discontinued in due course of time.

**The Government may immediately ban the use of the forms under the repealed Act and take effective steps to start utilisation of the declaration forms under the NVAT Act.**

#### **4.10.11 Internal Audit**

Internal audit is one of the tools of the internal control mechanism and functions as the 'eyes' and 'ears' of the management and independently apprises it about whether the activities of the organisation are being conducted efficiently and cost effectively.

**It was noticed by audit that there is no internal audit wing in the Department for checking of its activities relating to registration, assessment and collection etc.**

The department thus has no method of assuring itself of the efficient functioning of the various systems or to be able to identify deficiencies for their timely rectification.

**The Government may consider setting up of an independent internal audit wing to ensure compliance with the rules and regulations. Supervisory inspection should be made obligatory for proper enforcement of Act, rules and executive instructions.**

### Compliance deficiencies

#### 4.10.12 Registration and database of the dealers

Under Nagaland Value Added Tax (NVAT) Act, 2005, every manufacturer who produces any goods for sales, dealers who engage themselves in business, supplying or distributing goods, executing work contract, whose gross turnover exceeds the taxable quantum of Rs. 3 lakh shall be liable to pay tax. The Act further provides that no dealer who is liable to pay tax shall carry on business unless he has been registered and possesses a certificate of the VAT registration. The Act also empowers the Commissioner of Taxes to register a dealer compulsorily if, in his opinion, the dealer is liable for registration but failed to apply for registration. Any dealer who holds a certificate of registration under the NST Act is required to apply for fresh registration under the NVAT Act 2005 without any fee and within a further period of ninety days with late fee of Rs. 100, failing which he shall cease to be a dealer under the Act from the next day following the expiry of the said period. The registration certificate issue register in form VAT-19 is to be maintained by the assessing authority (AA) of each ward.

The year wise position of the registered dealers (RD) in eight wards under the Sales Tax Act, 1971, at the end of 2004-05 and the NVAT Act, 2005 is as shown below.

Name of district	Ward	Number of RDs under Sales tax regime	Number of dealers registered under VAT, Act 2005 during 2005-2009					Total nos. of VAT dealers
			2004-05	2005-06	2006-07	2007-08	2008-09	
Kohima	Ward -A	356	143	10	55	117	325	
	Ward -B	343	198	13	27	70	308	
Dimapur	Ward -A	452	247	93	90	205	635	
	Ward -B	588	512	91	67	93	763	
	Ward -C	236	147	49	47	96	339	
	Ward -D	686	534	419	141	61	1,155	
Mokokchung	Ward -A	107	87	32	42	70	231	
	Ward -B	61	26	44	18	48	136	
<b>Total</b>		<b>2,829</b>	<b>1,894</b>	<b>751</b>	<b>487</b>	<b>760</b>	<b>3,892</b>	

Test check of the records indicated that except for three AAs in Dimapur districts, the remaining five AAs did not maintain the data base indicating separately the number of dealers registered under the Sales Tax Act actually brought under the VAT Act and new dealers registered under the VAT Act 2005. Further, the register of the registered

dealers in Form VAT-19 was not maintained by the two AAs of Kohima District which led to non-detection of the unregistered dealers. Out of 1,374 dealers registered under Sales Tax Act in three wards of Dimapur district, 635 dealers (46.21 *per cent*) had not been registered under the VAT Act till the date of audit (June 2009).

#### 4.10.13 Periodic survey and analysis of dealers below threshold limit

The growth of revenue is directly linked with the growth of the registered dealers in the State. While relying on the voluntary registration by the dealers, it becomes important for the department to put in place an effective mechanism for collecting information from various sources in order to bring the tax evaders into the tax net.

The NVAT Act emphasises the need for survey to identify the dealers liable to pay the VAT and bring them into the tax net. The machinery for survey includes conducting of periodic raids in the premises of the dealers to determine whether they have crossed the threshold limit of turnover of rupees three lakh at any point of time or calling information from public utilities and financial institutions for cross verification.

However, in none of the eight Superintendents of taxes (STs) audited, records of the frequency of such raids, name of business premises, result of raid etc. were maintained. During the entry conference, the COT admitted that no raid was ever conducted to detect the defaulting dealers in the State.

**The Government may consider making the conducting of periodic survey/raids mandatory to unearth unregistered dealers in the interest of revenue.**

After the case was pointed out, the Department accepted the audit observation and stated (September 2009) that an intensive survey at regular intervals would be conducted to ensure that all liable dealers were brought under the tax net in accordance with the provisions of the NVAT Act.

#### 4.10.14 Non-filing of returns

Under Section 28 of the NVAT Act and Rule made thereunder, every RD shall furnish to the AAs, a monthly or a quarterly return in Form VAT-4 within 30 days of the expiry of a month/quarter. In addition to the above, an annual return in Form VAT-5 is required to be filed within 60 days of the close of the year. In case of non-filing of the return, the AA shall serve a show cause notice in Form VAT-6 and the RDs are required to file the returns in Form VAT-6R by such date ordinarily not less than 10 days, for the purpose of determination of the tax. Non-filing/belated filing of returns or non payment of tax due attracts penalty under the relevant provision of the NVAT Act. The Return, demand and collection register in Form VAT-21 is required to be maintained for watching the receipt of returns and collection of tax.

**It was noticed in audit that the receipt of quarterly and annual returns were not watched by any AA through the register resulting in non-monitoring of returns.** None of the eight AAs audited were able to furnish the details of number of returns due, number of returns received and shortfall etc.

As per the information collected from eight AAs, the ward-wise position of registered dealers who had filed their returns for the year 2005-06 to 2008-09 and assessment completed as of June 2009 is as under.

Name of district	Ward	Number RDs filed return for the year 2005-06 to 2008-09			
		2005-06	2006-07	2007-08	2008-09

		Nos. of RDs	Returns filed						
Kohima	A	143	50	153	41	208	44	325	02
	B	198	115	211	33	238	23	308	12
Dimapur	A	247	62	340	217	430	200	635	34
	B	512	116	603	282	670	146	763	00
	C	147	60	196	121	243	122	339	23
	D	534	117	953	341	1094	286	1155	130
Mokokchung	A	87	55	119	52	161	53	231	02
	B	26	36	70	36	88	33	136	05
<b>Total</b>		<b>1,894</b>	<b>611</b>	<b>2,645</b>	<b>1,123</b>	<b>3,132</b>	<b>907</b>	<b>3,892</b>	<b>208</b>
<b>Percentage of return filed</b>			<b>32.26%</b>		<b>42.46%</b>		<b>28.96%</b>		<b>5.34%</b>

From the above table it would be seen that 5.34 to 42.46 *per cent* of the RDs did not file either quarterly or the annual returns for the year 2005-06 to 2008-09. The trend also shows that from 2006-07 filing of returns has been decreasing sharply instead of improving which, in turn, has affected the growth of revenue. **Shortfall in filing of the returns in 2008-09 is alarming which requires immediate corrective action. The filing of the return by the dealers was also not periodically monitored by the COT through report/return from the unit offices.**

An examination of the records relating to receipt and disposal of the returns indicated that:

- Instead of a quarterly return for each quarter, the RDs filed only one return in form VAT-4 covering the whole year.
- Out of 46,252 quarterly returns required to be filed by 3,892 RDs during the year 2005-06 to 2008-09, only 2,849 returns were filed leaving a balance of 43,403 returns yet to be filed in the eight wards.
- Separate annual return in form VAT-5 was neither insisted upon nor furnished by the dealers.
- Except the four AAs of Dimapur district, the AAs of Kohima and Mokokchung district did not maintain the Return, Demand and Collection Register in form VAT-21.
- None of the dealers appended dated signature while filing the returns, the AAs also did not maintain a diary register. Thus there was no system to detect late submission of the returns and levy penalty.

**As submission of the returns is vital for success of the VAT, the Government may consider putting in place stringent measures for non-submission of the returns within the prescribed time frame and strengthen the system of maintenance of records/registers and to monitoring the filing of returns.**

The Department in reply (September 2009) stated that punitive action would be taken against the defaulters in accordance with the provision of the NVAT act. However, audit observed that no time frame has been fixed for taking such action.

#### **4.10.15 Scrutiny of returns**

Section 26 of NVAT Rule provides that the periodic return which is required to be furnished in the prescribed form shall be incomplete unless accompanied with lists, statements, declarations, certificates, *challans* and documents mentioned therein or which are required to be filed with the returns under this rule. Further, under section

32 of the NVAT Act and Rule 51(2) of the NVAT Rules require that the appropriate assessing authority may on the basis of the information contained in the return filed by the dealer, scrutinise the correctness of the tax assessed by the dealer himself. For this purpose, the AAs may require the dealer to produce any account, documents or any other evidence as may be deemed necessary for such scrutiny.

Scrutiny of the records of three districts indicated that the returns furnished by the dealers were not supported with the statements prescribed in the VAT Act/Rules, disclosing the details showing purchases and sales in the course of interstate trade, within the state on tax invoice, sale list of exempted goods and stock transfer etc. Moreover, the information/documents based on which the AAs scrutinised the correctness of the self returns were also not documented in the assessment case records of the dealers for future scrutiny in the interest of revenue.

**The Government may consider ensuring proper submission and vetting of documents for the returns and claims.**

The department stated (September 2009) that the scrutiny of supporting documents would be carried out during audit assessment.

However, no audit assessment was undertaken to detect the deficiencies in filing of return which resulted in poor implementation of VAT in the State.

**4.10.16 Lack of co-ordination between Mobile squad and assessing authority**

Under Rule 65 and 66 of the NVAT Rule 2005, a person transporting taxable goods valued rupees ten thousand or more in a single transaction inward the State and outward shall produce the declaration of imports in original in Form VAT-23 (*Challan* Inward) and bill of sale in Form VAT-24 (*Challan* Outward) to the officer-in-charge of the check post who shall record the particulars in the Entry Register. As soon as the original *challan* outward and duplicate copy of *challan* inward collected in the check post are received by the directorate, the COT shall forward these to the concerned AAs where the person is registered for cross verification of the particulars in the declaration forms with the records of the dealers at the time of making the assessment. The dealers also have to furnish a copy of the used declaration form to the AAs along with the tax returns.

Audit scrutiny indicated that though the used declaration forms were being sent timely by the COT to all the unit offices, no system was introduced to maintain a register recording the receipt of the used declaration form in the unit office for verification and the results of such verification. In Kohima the used declaration forms received from COT were left unattended in the ACT office and in Dimapur these forms are not traceable either in the ACT office or in the unit offices. No specific periodical report/return has been prescribed by the COT to be furnished by the AAs mentioning the details of used declaration received during the month and action taken thereon. In the absence of adequate internal control mechanism, the taxation authorities were not in a position to ensure that the purchase and sale of goods imported/exported by road, did not escape evasion by the dealers.

The Department stated (September 2009) that systems would be improved after all the check posts and unit offices were fully computerised.

**4.10.17 Lack of co-ordination with the works department and monitoring**

Under the NVAT Act 2005 and the rules made thereunder, an amount of tax deducted by a Government department or authority from the payment of any sum to a dealer for execution of work contract or supply deemed to be a payment of tax by such dealer made on the date of such deduction. Further, the NVAT Rule and the Government notifications issued from time to time provides that the person making such deduction at source (Drawing and disbursing officer in the case of a Government Department) is responsible to deposit the whole amount within ten days from the expiry of each calendar month in to the Government treasury or designated bank through a *challan* and to issue a certificate of deduction in the Form VAT-32 to the dealer/contractor for the purpose of his assessment of Tax and filing of return. A scroll for deduction and deposit in the Form-33 along with a copy of certificate of deduction issued to each dealer, and a copy of *challan* is required to be endorsed by the works department to the tax authority within 45 days following the date of expiry of the calendar month during which such deduction is made.

Scrutiny of the records of the eight wards under Dimapur, Kohima and Mokokchung districts indicated that the systems/procedures to be followed under NVAT Act/Rules and directions issued by the Taxation department had not been complied with by many of the Government (buying/works) departments. Moreover, no mechanism was formulated by the Taxation Department to cross verify the information furnished by the dealers/ contractors with the records of work departments. Follow-up action to monitor the system was non existent.

The Department while accepting the facts stated (September 2009) that despite all efforts there was lack of co-ordination by the works department and, therefore, the taxation department was contemplating initiation of legal action against the defaulters.

#### **4.10.18 Irregular claim of input tax credit**

The provisions of Rule 39 of the Nagaland Value Added Tax Rules, 2005 stipulate that the input tax credit (ITC) availed of by a registered dealer shall be on the basis of an invoice, bill or *challan* issued by the selling dealer. The rules further provide for annexing a statement in the Form VAT-8 indicating all necessary details of the selling dealer and input tax benefit claimed and abstract statement of the VAT account in support of the claim.

**4.10.18.1** It was noticed in audit (May-July 2009) that the input tax credit claim of Rs. 2.08 crore for the period from April 2005 to March 2009 by 34 RDs were without the prescribed ITC statement in VAT-8 and required information to be enclosed along with the returns for availing input tax credit under the VAT Act and Rules. The AAs admitted the ITC claimed by the dealers without proper scrutiny of supporting statement.

Thus, exemption of tax for Rs. 2.08 crore to 34 RDs without the scrutiny of supporting statement in the Form VAT-8 was irregular and resulted in short payment of tax to that extent.

The Department stated (September 2009) that all necessary documents required for availing of input tax credit would be examined at the time of audit assessment. However, audit noticed that no case had been selected for the audit assessment.

**4.10.18.2** In another instance, scrutiny (September 2008) of the assessment records of a dealer<sup>4</sup> for the years 2005-06 and 2006-07 indicated that the dealer had submitted

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<sup>4</sup> M/s Jai Gopal Anand & Sons, Dimapur (TIN: 13030017070).

self assessment in the Form VAT-4 claiming Rs. 2.98 crore<sup>5</sup> as ITC without enclosing the statement of ITC in the Form VAT-8, tax invoices, abstract statement of the VAT account etc. in support of the claim. The ACT Dimapur admitted (January 2007) the claim without these documents. Thus, Rs. 2.98 crore admitted as ITC was irregular and resulted in short payment of tax to that extent.

The matter was reported to the department and Government (May 2009), their replies have not been received (October 2009).

#### 4.10.19 Tax audit

Under Section 33 of the NVAT Act 2005 and Rules framed thereunder, the COT shall constitute a VAT audit team and select certain percentage of self assessment for a detailed check of accounts to examine the correctness of returns filed and admissibility of various claims including the input tax credit. The audit team is required to conduct its work in a time-bound manner and audit must be completed within six months. The audit report is to be transparently sent to the dealers also.

Test check of the records of eight wards in three districts indicated that though the audit team was constituted in October 2008, no dealer was selected for tax audit by the VAT audit team even after a lapse of four years of enactment of this provision.

The Department accepted the fact and stated (September 2009) that the matter was pending with the Government for issuing necessary notifications.

The reply of the department is not tenable as the percentage of dealers to be audited is prescribed under NVAT Rule 51(C) and is in force from the date of implementation of the VAT in the State.

#### 4.10.20 Audit of accounts

The NVAT Act, 2005 and Rules thereunder provide that any dealer whose gross turn over exceeds Rs. 40 lakhs in a financial year, shall get his accounts in respect of that financial year audited by a Chartered Accountant within six months from the end of that financial year and furnish copy of report of audit of the accounts in the Form VAT-17 along with the Form 18 to the AA within one month from the date of completion of such audit. In case of non furnishing of audited accounts, the AAs shall serve notice asking him to show cause and impose on him, in addition to any tax payable, a sum by way of penalty equal to 0.5 *per cent* of the turn over as he may determine to the best of his knowledge.

Scrutiny of the self assessment returns filed by the dealers of four wards in Dimapur districts for the year 2005-06, 2006-07 and 2007-08 whose turnover exceeded Rs. 40 lakh and above indicated that the dealers failed to furnish the audited accounts duly certified by the Chartered Accountant in the prescribed format within the stipulated time. The AAs while scrutinising the return did not impose minimum penalty on such defaulting dealers for non-furnishing of audited accounts which resulted in non-levy of penalty Rs. 6.50 crore for the years 2005-06 to 2007-08 as shown below:

Year	Nos. of Assessments	Turn over (Rs. in lakh)	Penalty to be imposed (Rs. in lakh)
2005-06	21	7,038.35	108.51
2006-07	100	34,339.04	357.70
2007-08	78	33,852.19	183.36

<sup>5</sup> 2005-06: Rs. 1.42 crore; 2006-07: Rs. 1.56 crore.

<b>Total</b>	<b>649.57</b>
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The Department accepted the fact (September 2009) and stated that it would be looking into this provision for necessary implementation. The reply was silent about the time frame for implementation.

#### **4.10.21 Conclusion**

Audit noticed instances of system and compliance deficiencies in enforcement of the provisions of the VAT Act and Rules which affected the collection of revenue adversely. Due to non-conduct of periodic review of Return, Demand and Collection Register by the ACTs, the Department failed to check non filing of returns and non-payment of the VAT within the prescribed period. Failure of the Department to check use of invalid and obsolete sales tax declaration forms, cross verification of records etc., increased the scope for concealment of turnover and evasion of tax by the dealers. Unless proper enforcement aspects of the VAT are fully addressed, the benefit of transition from sales tax to value added tax is difficult to be realised. The internal control mechanism is non-existent in the department.

#### **4.10.22 Summary of recommendations**

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

- Having full access to the module developed for the VAT and imparting necessary training to its staff for their operation for effective implementation of the VAT;
- preparing a manual for day to day activities of the department;
- setting up of an independent internal audit wing to ensure compliance with the rules and regulations. Supervisory inspection should be made obligatory for proper enforcement of Acts, rules and executive instructions;
- making it mandatory to conduct periodic survey/raids to unearth unregistered dealers in the interest of revenue;
- putting in place stringent measures for non-submission of returns within the prescribed time frame and strengthening the system of maintenance of records/registers relating to filing of returns for success of the VAT;
- ensuring submission and proper vetting of documents for the returns and claims; and
- banning the use of the forms under the repealed Act and take effective steps to start utilisation of the declaration forms under the NVAT Act.

### **PARAGRAPHS**

### **FINANCE DEPARTMENT**

#### 4.11 Other audit observations

*Scrutiny of the assessment records of Sales tax/value added tax (VAT) indicated cases of non-realisation of interest for delay in payment of tax and non-deposit/utilisation of departmental receipts towards expenditure mentioned in the succeeding paragraphs. These cases are illustrative and are based on test check carried out in audit. Such omissions on the part of assessing authorities (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 the Government to improve the internal control system including strengthening of internal audit.*

#### 4.12 Non-realisation of interest for delay in payment of tax

##### **Assistant Commissioner of Taxes, Dimapur did not realise Rs. 3.20 lakh towards interest leviable for delay in payment of tax**

As per Rule 31 of Nagaland Value Added Tax (NVAT) Rules 2005, every dealer required to file either quarterly or monthly return shall pay the full amount of tax payable under the Act on the sales value received during each month of every quarter within 21 days from the expiry of each such month and shall, before furnishing return for that quarter, pay the balance of the full amount of tax due according to such return. Further, every dealer shall pay on or before the 28<sup>th</sup> of March every year, the full amount of tax leviable under the Act on the sales or purchases made by him during the period commencing on and from the first day of March to the 25<sup>th</sup> day of March every year, being a part of the prescribed return period, and such dealer shall pay by the prescribed date the balance of the full amount of tax for the month or months to which the payment relates. Rule 49 states that if a dealer fails to pay the amount of tax by the due date, he shall be liable to pay the outstanding amount alongwith an interest at the rate of 2 per cent per month or parts of a month proportionately computed, starting with the first day following the due date till the date of actual payment.

Scrutiny (September 2008) of the assessment records of a dealer<sup>6</sup> for the years 2006-07 and 2007-08 indicated that the ACT, Dimapur did not realise Rs. 3.20 lakh leviable as an interest on delay ranging between 4 to 15 days in payment of the VAT of Rs. 12.16 crore.

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

### **INDUSTRIES AND COMMERCE DEPARTMENT**

#### 4.13 Non-deposit/utilisation of departmental receipts towards expenditure

##### **The management of Nagaland Hotels Limited did not deposit Rs. 19.04 lakh collected as tax from customers during 2005-06 to 2007-08**

Non-compliance of Receipt and Payment Rules 1983 resulted in non-deposit and unauthorised utilisation of departmental receipts towards expenditure.

<sup>6</sup> M/s Nestle India Ltd., Dimapur (TIN: 130030135086).

According to Schedule V of the Nagaland Value Added Tax (NVAT) Act 2005, cooked food including beverages other than liquor, served in, or supplied from any hotel, restaurant, etc., are taxable at 12.5 *per cent*. Rule 6 of Receipt and Payment Rules 1983 provides that all moneys received by or tendered to the Government officers on account of the revenues or receipts or dues of the Government shall without undue delay be paid in full into the accredited bank/treasury for inclusion in the Government account and should not be used to meet departmental expenditure.

Scrutiny (January 2009) of the records of the Nagaland Hotels Limited (NHL), indicated that two subsidiary hotels<sup>7</sup> of NHL had collected Rs. 19.04 lakh as NVAT from the customers during 2005-06 to 2007-08. However, the amount so collected was not deposited in the Government account by the NHL till the date of audit (January 2009).

The matter was reported to the department and to the Government in May 2009, their reply has not been received (November 2009). The Managing Director, NHL confirmed (July 2009) that some amount collected as tax was spent for development purposes and further stated that necessary steps would be taken to deposit the money collected as tax into the Government account. The action of the NHL in spending the amount of tax collected instead of remitting it to Government account, was grossly irregular which needs to be investigated and responsibility fixed. No intimation regarding actual deposit of the amount has been received (November 2009).

The matter was reported to the Government (May 2009), their reply has not been received (November 2009).

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<sup>7</sup> Hotel Japfu, Kohima and Hotel Saramati, Dimapur wholly run by the Government of Nagaland.