

CHAPTER III: REVENUE SECTOR

3.1 GENERAL

3.1.1 Trend of Revenue Receipt

The tax and non-tax revenue raised by the Government of Arunachal Pradesh during the year 2012-13, the State share of net proceeds of divisible Union taxes and duties assigned to the State and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

Table - 3.1.1

(₹ in crore)

Sl. No.	Particulars	2008-09	2009-10	2010-11	2011-12	2012-13
Revenue raised by the State Government						
1.	• Tax Revenue	136.22	173.44	214.99	317.65	316.50
	• Non-Tax Revenue	772.01	511.25	530.14	360.71	284.22
TOTAL		908.23	684.69	745.13	678.36	600.72
<i>Percentage of increase over previous year</i>		-	(-) 24.61	8.83	(-) 8.96	(-) 11.45
Receipts from Government of India						
2.	• Share of net proceeds of divisible Union Taxes and Duties	462.09	475.40	720.18	838.97	957.93
	• Grants-in-aid	2485.64	3134.78	3956.78	3981.73	4202.87
TOTAL		2947.73	3610.18	4676.96	4820.70	5160.80
3.	Total Receipts of the State Government (1 and 2)	3855.96	4294.87	5422.09	5499.06	5761.52
4.	<i>Percentage of 1 to 3</i>	23.55	15.94	13.74	12.34	10.43

Source: Finance Accounts

Thus, there was negative growth of revenue of 11.45 per cent in 2011-12. The negative growth of revenue was mainly due to less receipts under Non-Tax Revenue. Further, during 2012-13, revenue raised by the State Government (₹ 600.72 crore) was 10.43 per cent of the total receipts against 12.34 per cent in the preceding year. The balance 89.57 per cent of receipts in 2012-13 was from the Government of India.

Recommendation: *The decrease in percentage of revenue raised by the State Government vis-à-vis total receipts in 2012-13 over 2011-12, needs to be looked into by the Government.*

3.1.2 Details of Tax Revenue

Details of tax revenue raised from 2008-09 to 2012-13 are mentioned in Table 3.2 below :

Table-3.1.2

(₹ in crore)

Sl. No.	Head of Revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase (+) /decrease(-) in 2012-13 over 2011-12
1.	Tax on Sales Trade etc.	105.67	130.23	168.24	216.36	161.62	(-) 25.30
2.	State Excise	16.60	23.79	29.74	37.63	49.11	(+) 30.51
Stamp Duty and Registration Fees							
3.	Stamps – Judicial	1.25	1.88	1.86	2.24	3.05	(+) 36.16
	Stamps – Non-Judicial						
	Registration Fees						
4.	Taxes & Duties on Electricity	-	-	-	-	-	-
5.	Taxes on Vehicles	7.76	13.07	11.76	12.41	13.38	(+) 7.82
6.	Land Revenue	4.90	4.43	3.37	3.85	4.70	(+) 22.08
7.	Others	0.04	0.04	0.02	45.16	84.64	(+) 87.42
TOTAL		136.22	173.44	214.99	317.65	316.50	(-)0.36

Source: Finance Accounts

Reasons for variations were neither stated nor were on record.

3.1.3 Details of Non-Tax Revenue

Details of non-tax revenue raised during the period 2008-09 to 2012-13 are mentioned in Table 5.3:

Table - 3.1.3

(₹ in crore)

Sl. No.	Head of Revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase (+) /decrease(-) in 2012-13 over 2011-12
1.	Interest Receipts	34.80	40.02	111.35	48.71	40.32	(-) 17.22
2.	Dairy Development	0.03	0.02	0.02	0.04	0.02	(-) 50
3.	Other Non-tax Revenue	42.75	51.30	69.11	35.44	42.27	(+) 19.27
4.	Forestry & Wildlife	12.50	9.99	12.22	36.76	7.49	(-) 79.62
5.	Mining Receipts Non-Ferrous Mining & Metallurgical Industries	42.95	57.56	37.27	74.91	54.23	(-) 27.61
6.	Misc. General Services (incl. Lotteries)	20.26	11.39	1.62	0.10	0.02	(-) 80
7.	Power	609.74	329.27	282.18	145.04	113.07	(-) 22.04
8.	Medical & Public Health	0.28	0.23	0.35	0.43	0.49	(+) 13.95
9.	Co-operation	1.03	0.73	0.70	0.77	0.24	(-) 68.83
10.	Public Works	2.56	4.28	3.02	9.00	16.17	(+) 79.67
11.	Police	1.97	1.13	3.12	2.82	2.32	(-) 17.73
12.	Other Administrative Services	3.13	5.33	9.18	6.69	7.58	(+) 13.30
Total		772.00	511.25	530.14	360.71	284.22	(-) 21.21

Source: Finance Accounts

Reasons for variations were neither stated nor were on record.

3.1.4 Response of Departments/Government to Audit

On the basis of inspections conducted in various Departments of the State Government by sending audit parties from the office of the Accountant General each year, all irregularities noticed during conduct of audit are discussed on the last day of audit with the Head of Office. Inspection Reports (IRs) incorporating audit findings are issued to the Head of Office with a request to furnish replies within one month from the date of issue of IRs. Audit findings of serious nature are processed into Draft Audit Paragraphs (DAP) and forwarded to the Secretary of the concerned Department requesting acceptance of the facts and figures. Comments of the Department, if any, are to be communicated within six weeks.

The response of the Department/Government towards audit is discussed in succeeding paragraphs.

3.1.5 Failure of Senior Officials to enforce accountability and protect interests of the State Government

The Accountant General, Arunachal Pradesh, conducts periodical inspections of Government Departments to test-check transactions and verify the maintenance of important accounts and other records, as prescribed in the Rules and procedures. Inspections are followed up with Inspection Reports (IRs) incorporating irregularities detected during inspections and not settled on the spot, which are issued to the inspected Heads of Offices with copies to the next higher authorities for taking prompt corrective action. The Heads of Offices/Government are required to promptly look into the observations contained in the IRs, rectify omissions and commissions and report compliance through initial reply to the AG within one month from the date of issue of IRs. Serious financial irregularities are reported to Heads of the Departments and the Government.

A Review of IRs issued up to March 2013 disclosed that 929 audit observations relating to 326 IRs and involving ₹ 432.32 crore remained outstanding at the end of June 2013, as shown below, along with the corresponding figures for the preceding two years.

Table - 3.1.4

	March 2011	March 2012	March 2013
Number of outstanding IRs	338	343	326
Number of outstanding Audit Observations	901	939	929
Amount Involved (₹ in crore)	463.34	475.89	432.32

Department-wise details of the IRs and Audit Observations outstanding as on 30 June 2013 and the amount involved are mentioned in Table 3.1.5.

Table - 3.1.5

(₹ in crore)

Sl. No	Department	Nature of Receipts	Number of outstanding IRs	Number of outstanding Audit Observations	Money Value Involved
1.	Finance	Taxes/VAT on Sales, Trade etc;.	74	317	54.71
		Entry Tax			
		Electricity Duty			
		Entertainment Tax, Luxury Tax, etc;.			
2.	Excise	State Excise	71	130	42.80
3.	Revenue	Land Revenue	32	100	103.77
4.	Transport	Taxes on Motor Vehicles	46	79	17.57
5.	Stamps & Registration	Stamp Duty & Registration Fees	-	-	-
6.	Geology & Mining	Non-Ferrous Mining & Metallurgical Industries	14	37	86.04
7.	Environment & Forests	Forest & Wildlife	85	253	104.75
8.	Water Resources	Water Rates	-	-	-
9.	State Lotteries		4	13	22.68
Total			326	929	432.32

Even the first replies required to be received from the Heads of Offices within one month from the date of issue of the IRs were not received for 149 IRs issued up to December 2012. This large pendency of IRs due to non-receipt of replies indicated that Heads of Offices/Departments failed to initiate action to rectify the defects, omissions/ commissions and irregularities pointed out in the IRs.

Recommendation: *The Government should take suitable steps to install an effective procedure to ensure prompt and appropriate responses to audit observations. Action may be taken against officials/officers who fail to reply to IRs/Paragraphs as per prescribed time schedules and who do not take action to recover amounts realizable/outstanding demands in a time bound manner.*

3.1.6 Departmental Audit Committee Meetings

In order to expedite settlement of outstanding Audit Observations contained in IRs, Departmental Audit Committees are constituted by the Government. These Committees are chaired by the Secretaries and attended by concerned Departmental Officers and officers of the Accountant General.

In order to expedite clearance of outstanding Audit Observations, it is necessary that the Departmental Audit Committees meet regularly. Despite several requests, no Departmental Audit Committee Meeting was held during 2011-12 and 2012-13, showing that Departments failed to take advantage of the existing mechanism.

3.1.7 Response of Departments to Draft Audit Paragraphs

Draft Audit Paragraphs (DAPs) are forwarded to Secretaries of concerned Departments through demi-official letters, drawing their attention to audit findings and requesting them to reply within six weeks. The fact that replies from Departments were not received is invariably indicated at the end of each Paragraph included in the Audit Report.

Eleven DAPs proposed for inclusion in the Report for 2012-13 were forwarded to the Secretaries of respective Departments during May, June, September and December 2013. The Chief Secretary was also requested to arrange for discussions on the issues raised in the DAPs for inclusion of views/comments of the Government in the Audit Report. Despite these efforts, no response was received on the DAPs and consequently, the DAPs had to be included in the Report without responses of the Government.

3.1.8 Follow-up on Audit Reports – Summarized Position

With a view to ensure accountability of the executive in respect of all issues dealt with in various Audit Reports, the Shakhder Committee, appointed to review the response of the State Government to Audit Reports, recommended (March 1993), *inter alia*, that concerned Departments of the State Government should, without waiting for any notice or call from the Public Accounts Committee (PAC), submit *suo moto* replies on all Paragraphs and Performance Audits featured in Audit Reports within three months, and submit Action Taken Notes (ATN) in respect of the recommendations of the PAC within the dates as stipulated by the PAC or within a period of six months, whichever is earlier.

While accepting the recommendation (1996), the Government specified the time-frame of three months for submission of *suo moto* replies by concerned Departments. Up to 51st Report, the PAC specified the time-frame for submission of ATNs on their recommendations as one month.

Reviews of outstanding Explanatory Notes on Paragraphs included in the Report of the Comptroller and Auditor General of India from 1990-91 to 2010-11 revealed that concerned administrative Departments did not comply with these instructions. Outstanding Paras featured in Audit Reports up to 2007-08 were transferred to the State Government for necessary action as per the decision taken in the '*National Seminar on Legislative Audit Interface*' of July 2010. As of November 2012, *suo moto* Explanatory Notes on 47 Paragraphs of the Audit Reports were outstanding.

Review of ten reports of the PAC containing recommendations on 21 Paragraphs in respect of Transport, Forest, Finance and Excise Departments, presented to the Legislature between September 2001 and September 2012, revealed that concerned Departments failed to submit ATNs on the recommendations made by the PAC as mentioned below.

Table - 3.1.6

Year of Audit Report	Paragraph numbers on which recommendations were made by the PAC but ATNs awaited	Number of PAC Reports on which recommendations were made	Date of presentation of the PAC Report to the State Legislature
1986-87	6.4, 6.6, 6.7 & 6.8	49 th Report	3 rd Mar. 2003
1991-92	6.4, 6.5 & 6.6	44 th Report	21 st Sep. 2001
1994-95	6.4	44 th Report	21 st Sep. 2001
1995-96	6.4, 6.5 & 6.6	46 th Report	19 th Mar. 2002
	6.7, 6.8 & 6.10	48 th Report	19 th Mar. 2002
1996-97	6.7	46 th Report	19 th Mar. 2002
1997-98	6.3, 6.5 (i) & (ii)	51 st Report	21 st Mar. 2006
1998-99	6.3.6 (a) & 6.5	51 st Report	21 st Mar. 2006
1996-97	6.9	60 th Report	27 th Sep. 2012
2000-01	6.11	60 th Report	27 th Sep. 2012

Due to failure of Departments to comply with instructions of the PAC, the objective of ensuring accountability remained unfulfilled.

Recommendation: *The Government may consider taking effective steps against defaulting Departments, including fixing responsibility, to ensure accountability of the executive.*

3.1.9 Position of Audit Paragraphs raised by Audit

The following Table shows the position of Paragraphs included in the 'Revenue Receipts' Chapter of Audit Reports relating to the Government of Arunachal Pradesh for the last five years in respect of the **Geology & Mining Department**:

Table - 3.1.7

(₹ in crore)

Sl. No.	Year of Audit Report	Para No.	Caption of the Paragraph	Amount
1.	2007-08	6.11	Non-levy of Additional Royalty	37.42
2.	2007-08	6.12	Short-realization of Royalty	15.46
3.	2007-08	6.13	Short-realization of Royalty on Boulders	0.11
4.	2008-09	4.5	Short-realization of Royalty	14.28
5.	2008-09	4.6	Non-levy of Additional Royalty	1.48
6.	2009-10	4.7	Non-levy of Additional Royalty	45.61
7.	2009-10	4.8	Short-realization of Royalty on Coal	0.18
8.	2009-10	4.9	Short-realization of Royalty	0.13
9.	2010-11	NA	NA	NA
10.	2011-12	NA	NA	NA
TOTAL				114.67

NA: Not Applicable

The summarized position of Inspection Reports issued during the last 5 years, Paragraphs included in the Reports and their status as on March 2013 are given in the following table:

Table - 3.1.8

(₹ in crore)

Year	Opening Balance			Addition during the year			Clearance during the year			Closing Balance during the year		
	IRs	Paras	Money Value	IRs	Paras	Money Value	IRs	Paras	Money Value	IRs	Paras	Money Value
2008-09	246	599	219.09	34	97	32.46	-	-	-	280	696	251.55
2009-10	280	696	251.55	33	75	41.03	-	-	-	313	771	292.58
2010-11	313	771	292.58	25	133	170.99	-	3	0.23	338	901	463.34
2011-12	338	901	463.34	07	44	12.60	02	6	0.05	343	939	475.89
2012-13	343	939	475.89	09	50	13.47	26	60	57.04	326	929	432.32

No Audit Committee Meeting was held during 2011-12 and 2012-13.

3.1.10 Recovery of Accepted Cases

Position of recovery of accepted cases was as under:

Table - 3.1.9

(₹ in crore)

Year of Audit Report	Total Money Value	Accepted Money Value	Recovery Made
2007-08	112.38	51.25	-
2008-09	31.87	-	-
2009-10	49.27	0.42	0.34
2010-11	10.56	0.53	0.10
2011-12	27.40	0.05	0.05
TOTAL	231.48	52.25	0.49

Total recovery made as at the end of 2012-13 was not even one *per cent* of the accepted money value.

Recommendation: *The Government may consider prescribing more stringent measures, including fixing of responsibility for recovery of dues in the accepted cases in the interest of revenue.*

3.1.11 Action taken on recommendations accepted by Departments/ Government

Draft Reports on Performance Audits conducted by the AG are forwarded to concerned Departments/Government for information, with a request to furnish replies within a stipulated date. Such Performance Audit Reports are also discussed in an Exit Conference, and views of the Department/Government are incorporated in the Audit Reports when they are finalized.

The following Table indicates issues highlighted in the Performance Audits on **Transport, Land Management and Environment & Forest Departments** featured in the last 10 Audit Reports, including recommendations and action taken by the Department/Government on accepted recommendations.

Table - 3.1.10

Year of Audit Report	Name of the Performance Audit Report	No. of Recommendations	No of the Recommendations accepted	Status
1999-2000	Receipts under Taxes on Motor Vehicle	-	-	-
2001-2002	Assessment, Levy and Collection of Land Revenue	2	2	-
2003-2004	Collection of Forest Receipts in Arunachal Pradesh	5	-	-
TOTAL		7	2	-

During 1999-2000, 2001-02 and 2003-04 three Performance Audits pertaining to Motor Vehicles, Land Management and Environment & Forest Departments were conducted, and they contained 7 recommendations. Out of the 7 recommendations 2 were accepted. Status of the other 5 recommendations is not available.

Recommendation: *It is recommended that the Government may put in place a monitoring mechanism to watch and ensure timely action on accepted recommendations by concerned Departments in the best interest of the revenue of the State.*

3.1.12 Audit Planning

Unit Offices under various Departments are categorized into *high, medium and low* risk units according to their revenue position, past trend of audit observations and other parameters. An Annual Audit Plan is prepared on the basis of risk analysis, which includes critical issues in Government revenue and tax administration, i.e., Budget Speech, White Paper on State Finances, Reports of Finance Commissions (State & Central), recommendations of the Tax Reforms Committee, Statistical Analysis of revenue earnings during the past 5 years, features of tax administration, audit coverage and its impact during past 5 years etc;.

During 2012-13, audit jurisdiction comprised of 133 auditable units, out of which 16 were planned and audited during the year, which was 12.03 *per cent* of the total auditable units.

Besides Compliance Audit, as mentioned above, a Performance Audit of *Receipts under Arunachal Pradesh Goods Tax (APGT) Act, 2005*, was taken up to examine the efficacy of tax administration of the receipts.

3.1.13 Results of Audit

3.1.13.1 Position of Local Audit conducted during the year

Test-check of records of 16 units of Commercial Tax, State Excise, Geology & Mining, Forest and other Departmental offices conducted in 2012-13 revealed under assessments/short levy/loss of revenue aggregating to ₹ 93.89 crore in 93 cases. The Departments collected only 0.06 lakh in 3 cases during 2012-13.

3.1.13.2 This Report

This report contains 11 Paragraphs and one performance audit involving monetary value of ₹ 181.95 crore. These are discussed in succeeding Paragraphs, from 3.2.1 to 3.2.25.

TAXATION DEPARTMENT

PERFORMANCE AUDIT

3.2 Receipts under Arunachal Pradesh Goods Tax (APGT) Act, 2005

Highlights

- *361 unregistered dealers sold goods valued at ₹26.50 crore and evaded tax of ₹1.59 crore, which the Department failed to detect.*
[Para 3.2.8.1]
- *The percentage of assessments by STs varied between 0 and 2.69 per cent during the period of PA.*
[Para 3.2.8.2]
- *10 dealers concealed turnovers of ₹12.23 crore and evaded tax of ₹1.58 crore, for which interest of ₹2.13 crore and penalty of ₹1.59 crore was also leviable.*
[Paras 3.2.8.3 and 3.2.8.4]
- *635 dealers, who were registered under the repealed Act, remained undetected and unregistered under the APGT Act.*
[Para 3.2.8.5]
- *In the absence of a mechanism for monitoring receipt of returns, Superintendents of Taxes (STs) could not detect non-submission of 22675 returns of 1821 dealers between 2008-09 to 2012-13, and consequently, penalty of ₹22.68 crore could not be levied.*
[Para 3.2.9]
- *Not a single audit assessment was completed by the Commissioner of Taxes (CoT).*
[Para 3.2.10]
- *19 dealers claimed input tax credit of ₹27.39 crore, which was irregularly allowed by STs.*
[Para 3.2.16.1]
- *Four industrial units irregularly claimed exemption of VAT of ₹7.93 crore (including interest) prior to 23 January 2009 and non-issue of necessary Entitlement Certificates by the Department.*
[Para 3.2.22]
- *The Department failed to prefer claims of compensation of VAT, resulting in loss of revenue of ₹15 crore.*

[Para 3.3.23]

3.2.1 Introduction

The Government of Arunachal Pradesh Tax and Excise Department repealed the Arunachal Pradesh Sales Tax Act 1999 and enacted the Arunachal Pradesh Goods Tax (APGT) Act, 2005 and Arunachal Pradesh Goods Tax (APGT) Rules 2005, for implementation from 1st April 2005 to avoid problems like double taxation of commodities, multiplicity of taxes, surcharge and additional tax on Sales Tax, etc. The APGT Act put forth the following advantages:

- manufacturers and traders would be given input tax credit for purchase of inputs, including capital goods, meant for use in manufacture or resale;
- multi-point tax system which was levied on each sale of a commodity;
- VAT freed itself from the malady of cascading the rebating of tax paid on inputs;
- dealers would submit self-assessed returns declaring their tax liability under the State level VAT and these would be considered as deemed assessment, except when a notice for the audit of books of accounts of a dealer was issued within the prescribed period;
- Provision of strict penal action because of self-assessment system.

Salient Features of the APGT Act, 2005

Under Section 4 (1) of the APGT Act, the rates of tax payable were as follows:-

- (a) in respect of goods specified in the 2nd Schedule, at the rate of one paisa to the rupee;
- (b) in respect of goods specified in the 3rd Schedule, at the rate of four paisa to the rupee;
- (c) in respect of goods specified in the 4th Schedule, at the rate of twenty paisa to the rupee;
- (d) in the case of any other goods, at the rate of twelve and half paisa to the rupee.

3.2.2 Organizational Set-up

At the Government level, the APGT Act is administered by the Secretary, Tax & Excise Department. At the Directorate level, the Commissioner of Taxes (CoT) is the administrative head. He is assisted by one Joint Commissioner, two Deputy Commissioners and one Assistant Commissioner. There is also an Enforcement Branch headed by an Assistant Commissioner. At District level, Superintendents of Taxes (STs) are responsible for collection and assessment of VAT. STs are assisted by Inspector of Taxes (ITs) and other ancillary staff.

3.2.3 Audit Objectives

The Performance Audit (PA) was carried out with the following objectives:

- Whether budget estimates of VAT receipts were realistically framed and whether the actual collection was reconciled?
- Whether there were system deficiencies in enforcing the provisions of the APGT Act/Rules and whether the provisions themselves were adequate to safeguard the revenue of the State?
- Whether there were compliance deficiencies in enforcing the laid down provisions leading to loss of revenue to the State?
- Whether the provisions relating to Tax Deduction at source were properly followed?
- Whether check-gates were functioning properly to prevent leakage of revenue?
- Whether internal controls were in place and adequate?

3.2.4 Methodology and Scope

While conducting the PA between June and August 2013, records pertaining to levy, assessment, collection and administration of the APGT from 2008-09 to 2012-13 were reviewed. Out of a total 17 Superintendents of Taxes in Districts, 7 (seven) units were selected by the 'Probability Proportional to Size Without Replacement (PPSWOR)' sampling method, using random number table.

Dealers in the 7 selected units were stratified on the basis of their turnover and their selection by the PPSWOR method was made as follows:

- Dealers with a turnover of over ₹ 5 crore - 100 per cent.
- Dealers with a turnover between ₹ 1 and ₹ 5 crore - 50 per cent.
- Dealers with a turnover below ₹ 1 crore - 10 per cent.

Details of selected dealers are as follows:

Table – 3.2.1

Units	Total Dealers			Dealers Selected		
	Turnover			Turnover		
	Over ₹ 5 cr.	Between ₹ 1 & 5 cr.	Below ₹ 1 cr.	Over ₹ 5 cr.	Between ₹ 1 and 5 cr.	Below ₹ 1 cr.
Zone-I Naharlagun	15	42	1614	15	21	161
Zone-II Itanagar	07	12	905	07	06	91
Ziro	01	03	201	01	02	20
BFC, Banderdewa	11	14	72	11	07	07
Aalo	07	11	121	07	06	12
Bomdila	06	06	255	06	03	26
Tezu	01	25	130	01	13	13
TOTAL	48	113	3298	48	58	330

In addition to the 7 units, records of the CoT, Arunachal Pradesh, were also examined.

3.2.5 Audit Criteria

The following Acts/Rules/Regulations were followed by audit for carrying out the PA:

- Arunachal Pradesh Goods Tax Act, 2005.
- Arunachal Pradesh Goods Tax Rules, 2005.
- Central Sales Tax Act, 1956.
- Budget documents of the State Government.
- Various orders/notifications issued by the State Government from time to time.

3.2.6 Acknowledgement

This office acknowledges the co-operation extended by the Tax Department during the course of audit. An Entry Conference¹ was held on 21 May 2013, where the Objectives, Methodology, Scope, Criteria, *etc.* of the Performance Audit were explained to the Department. The Exit Conference was held on 26 November 2013, which was attended by the Joint Commissioner, Tax & Excise, Arunachal Pradesh, Itanagar, where the results of audit were discussed. The Department accepted all points raised by audit. The Department, while appreciating the work done by audit, stated that the PA reflected the real picture of the activities of the Department and assured that necessary steps would be taken to rectify lapses.

Audit Findings

The audit findings noticed during the course of PA are mentioned in the following paragraphs:

Audit Objective: Whether Budget Estimates of the VAT receipts were realistically framed and whether actual collection was reconciled?

3.2.7.1 Trend of Revenue

The following table shows the budget estimates and the actual collection of the Department for the last five years:

¹ Attended by the Joint Commissioner of Taxes.

Table – 3.2.2

(₹ in crore)

Year	Budget Estimate	Actual Collection	Shortfall (-) Excess (+)	Percentage of Shortfall (-)/Excess (+)
2008-09	76.00	105.68	29.68 (+)	39.05 (+)
2009-10	80.00	130.23	50.23 (+)	62.79 (+)
2010-11	110.00	168.24	58.24 (+)	52.94 (+)
2011-12	173.46	216.36	42.90 (+)	24.73 (+)
2012-13	226.65	161.62	65.03(-)	28.69(-)

Source: Finance Accounts

It may be seen from the above that:

- There was a remarkable increase in VAT revenue by almost 105 per cent from ₹ 105.68 crore in 2008-09 to ₹ 216.36 crore in 2011-12.
- Budget estimates were less than the actual realisation of VAT in all the previous five years (except for 2012-13). Thus, it appears that the budget estimates prepared by the Finance Department were not realistic.

3.2.7.2 Reconciliation of Revenue Collected

The Budget Manual stipulated periodical reconciliation of receipts as per books of the Department with those booked by the Accountant General (A&E) by the controlling office.

However, it was noticed that though reconciliation was carried out regularly during the last five years, there were variations between Departmental figures and figures booked by the Accountant General (A&E), as reflected in Departmental records and Finance Accounts. Details are given below:

Table – 3.2.3

(₹ in crore)

Year	Departmental Records	Finance Accounts	Difference
2008-09	105.42	105.68	0.26
2009-10	111.80	130.23	18.43
2010-11	162.03	168.24	6.21
2011-12	233.19	216.36	16.83
2012-13	394.00	161.62	232.38

As such, no effective reconciliation was carried out during the last five years resulting in differences ranging between ₹ 0.26 to ₹ 232.38 crore. The difference especially in 2012-13 needs to be investigated since the Finance Accounts' figures show a decrease in actual collection *vis-à-vis* the budget estimates (₹ 226.65 crore) whereas the Department showed a collection of ₹ 394 crore which is 144 per cent higher than the Finance Accounts' figures.

Recommendation: The Department should periodically reconcile the actual receipts with the figures booked in the books of the Accountant General (A&E).

Audit Objective: Whether there were system deficiencies in enforcing provisions of the APGT Act/Rules and whether the provisions themselves were adequate to safeguard the revenue of the State?

3.2.8 Registration of Dealers

Registration enables a dealer to charge tax on sales from customers' claim set off in the form of Input Tax Credit (ITC) on local purchases from registered dealers, which can be adjusted against subsequent sales. When the gross turnover exceeds ₹ 5 lakh, a dealer should be registered under Section 20 of the APGT Act and obtain a certificate of registration. However, under Section 19 (4), a dealer with a gross annual turnover below the taxable amount of ₹ 5 lakh, may also voluntarily apply for registration

As per Section 9(1) of the APGT Act, a dealer who sells taxable goods without registration will be assessed to tax on sales at prescribed rates without allowing ITC. Dealing in taxable goods without registration is also a punishable offence under Section 90(1) Act *ibid*, for which the dealer is punishable with up to 3 years imprisonment or a penalty at the rate of ₹ 1000/- for each day of default under Section 87(4) of the Act. The cases detected during the course of PA due to absence of a proper system for identification and registration of dealers are mentioned in the succeeding paragraphs.

3.2.8.1 Evasion of Tax by Unregistered Dealers due to absence of a survey mechanism

With a view to identifying dealers who are liable to pay tax under the Act but have remained unregistered, it is essential that the CoT should undertake a survey of unregistered dealers from time to time.

Inspectors of Taxes (IT) were responsible to undertake surveys of unregistered dealers within their jurisdiction. The duties included:

- Maintenance of a Survey Register in prescribed form
- Submitting the survey to the ST at regular intervals and register unregistered dealers.
- Monthly Reports to be submitted to the CoT on the surveys undertaken by STs

However, it was noticed that no provision for survey was made either in the APGT Act or APGT Rules made thereunder. No executive instruction was also issued either by the Government or the CoT for conduct of surveys by the ITs. As a result, unregistered dealers carried on business on taxable goods and evaded payment of tax. A few cases are illustrated below:

- In ST Ziro and Naharlagun, 3 Divisions² were not registered under the APGT Act, but between September 2006 and March 2010, the Divisions imported ‘explosives’ and ‘excavator’, valued at ₹ 52.91 lakh (taxable at 12.5 per cent) from outside the State at concessional rates by utilizing declarations in Form ‘C’. Failure of the Department to register the Divisions resulted in tax evasion of ₹ 6.61 lakh.
- In ST Ziro, two dealers³ imported goods valued at ₹ 2.19 crore between April 2005 and March 2007 taxable at 12.5 per cent, but the ST failed to register the dealers, resulting in tax evasion of ₹ 27.42 lakh. Besides, interest of ₹ 38.90 lakh was also leviable.
- 244 dealers extracted stone, boulders, etc; valued at ₹ 1.68 crore (royalty value) between January 2011 and March 2013 and paid the royalty amount to the Assistant Mineral Development Officer. Cross-verification of records of ST, Tezu revealed that the dealers were not registered, resulting in tax evasion of ₹ 20.97 lakh calculated at 12.5 per cent.
- In ST, BFC, Banderdewa, 96 dealers purchased taxable goods from two industries valued at ₹ 18.08 crore between April 2011 and March 2013 for resale within the State. But the dealers were not registered by the ST, resulting in tax evasion of ₹ 72.33 lakh calculated at 4 per cent.
- In ST Naharlagun, 16 unregistered dealers executed works contracts valued at ₹ 4.02 crore between March 2008 and March 2013. The Executive Engineer, Capital Electrical Division, deducted VAT of only ₹ 15.39 lakh instead of ₹ 46.79 lakh. There was short-deduction of tax of ₹ 31.40 lakh, which could not be recovered as the dealers were unregistered.

For carrying on business without registration, the aforesaid 361 dealers were also liable to pay penalty of ₹ 3.61 crore calculated at the rate of ₹ one lakh each as provided under Section 87(4) of the APGT Act, 2005.

Recommendation: The Government should amend the APGT Act to include provision for periodical survey of dealers.

3.2.8.2 Assessment of dealers

Under Section 32 of the APGT Act, every return submitted by a dealer should be assessed by the ST to verify correctness of calculation, application of rates, calculation of tax, interest and penalty etc. Assessment of returns by the ST is important as it provides definite and meaningful inputs for effective selection of cases for audit assessment. As per Section 36 of the Act, no assessment or reassessment can

² Executive Engineer, PWD, Ziro; RWD, Ziro; PWD, Sagalee (ST, Naharlagun).

¹⁴ M/s Yazzad Traders, Ziro; M/s Tadop Enterprises, Ziro

be made by the STs after expiry of four years from the date the person furnished a return.

The position of assessment of returns by the STs of the seven selected units in respect of 3459 dealers for the year 2008-09 to 2012-13 was as under:

Table – 3.2.4

Unit	Dealers	Returns Received	Assessments Made	Percentage of Dealers Assessed
Zone-I Naharlagun	1671	7510	202	2.69
Zone-II Itanagar	924	5266	13	0.26
Ziro	205	420	-	--
BFC, Banderdewa	97	984	-	--
Aalo	139	1304	-	--
Bomdila	267	1379	03	0.22
Tezu	156	1575	-	--
TOTAL	3459	18438	218	1.18

From the above, it can be seen that:

- The percentage of assessment of returns varied between 0 to 2.69 *per cent*, which was abysmally low, though compliance on the part of the dealers in filling returns was very good.
- Out of 7 units, 4 units⁴ performed miserably, as they did not make any assessment during the period of PA.
- ST, Naharlagun, made the highest number of assessments followed by STs Itanagar and Bomdila.

In a situation where 100 *per cent* assessment of returns was required to be made by STs, the actual percentage of assessments made was only 1.18 *per cent*, which was an adverse indicator of the efficiency of the tax authorities. Against this backdrop, the fact that there was a persistent rise in VAT revenue in the State between 2008 and 2013 indicated that dealers in the State paid tax voluntarily and the increase in VAT revenue could not be attributed to the efficiency of tax collection efforts of the Department.

On this being pointed out, the Department, while accepting the fact, stated (November 2013) that the arrears in assessments were due to shortage of manpower.

Cross-verification of assessment records of Assam-based dealers with the records of some selected dealers in 7 STs during the course of audit revealed instances of concealment of purchases, short levy of tax, irregular grant of ITC, non/short levy of interest, *etc.* as discussed in the following paragraphs.

⁴ STs Ziro, Banderdewa, Aalo and Tezu

3.2.8.3 Concealment of Purchases

Under Section 34 (1) (b) of the APGT Act, if a dealer

(a) has not furnished returns, or

(b) furnished incomplete or incorrect returns, the COT may assess the dealer to the best of his judgment. The dealer is also liable to pay penalty of ₹ 1 lakh or the amount of tax evaded, whichever is greater, as provided under Section 87 (10) of the Act *ibid*. In addition interest at the rate of 24 *per cent* per annum is also leviable for default in payment of tax as per Section 44 (2) of the APGT Act.

- In ST, Aalo, two dealers imported petroleum products valued at ₹ 45.33 lakh from April 2005 to March 2006, but the dealers concealed the entire purchase and evaded tax of ₹ 7.56 lakh, on which interest of ₹ 13 lakh and penalty of ₹ 7.56 lakh were also leviable.
- In ST, Bomdila, two dealers imported petroleum products valued at ₹ 9.55 crore from April 2005 to March 2007, but the dealers disclosed purchase of only ₹ 1.25 crore in the Utilization Statement of Form 'C'. The dealers concealed a turnover of ₹ 8.30 crore and evaded tax of ₹ 1.16 crore, for which interest of ₹ 1.62 crore and penalty of ₹ 1.16 crore were also leviable.
- In ST, Banderdewa, two dealers imported medicines worth ₹ 28.36 lakh during 2006-07, against which the dealers disclosed purchases of only ₹ 2.61 lakh. The dealers concealed purchases of ₹ 25.75 lakh and evaded tax of ₹ 1.03 lakh, for which interest of ₹ 1.07 lakh and penalty of ₹ 2 lakh were also leviable.
- A dealer registered in ST, Zone-II, Itanagar, imported bitumen worth ₹ 86.93 lakh between April 2007 and March 2008 and concealed the entire turnover of purchase, leading to evasion of tax of ₹ 3.48 lakh, for which interest of ₹ 3.34 lakh and penalty of ₹ 3.48 lakh were also leviable.

Since assessment could not be done after the expiry of 4 years, the tax evaded by the aforesaid 7 dealers became time-barred, resulting in loss of revenue of ₹ 4.37 crore to the State Government.

3.2.8.4 Concealment of Sales

- A dealer registered in ST, Naharlagun, imported goods valued at ₹ 78.33 lakh (taxable at 12.5 *per cent*) between April 2007 and March 2009. But the dealer neither submitted any return nor paid any tax. The ST also did not assess the dealer to the best of his judgment. The dealer concealed sales turnover of at least ₹ 78.33 lakh and evaded tax of ₹ 9.79 lakh. Interest of ₹ 10.68 lakh and penalty of ₹ 9.79 lakh were also not levied or recovered from the dealer.
- In ST, Banderdewa, two dealers imported cement valued at ₹ 1.57 crore between April 2007 and March 2010. The dealer neither furnished any return

nor paid any tax. The ST did not assess the dealer to the best of his judgment and the cases were left unattended, resulting in evasion of tax of ₹ 19.68 lakh. Interest of ₹ 23.39 lakh and penalty of ₹ 19.68 lakh were also recoverable.

Thus, due to concealment of sales, the dealers evaded tax of ₹ 29.47 lakh. The dealers were also liable to pay interest of ₹ 34.07 lakh and penalty of ₹ 29.47 lakh.

Recommendation: Immediate action needs to be taken by the Government to fix norms quantifying the number of assessments to be completed by each ST per year, including a mechanism for monitoring the compliance to such orders.

3.2.8.5 Carrying forward of the database of dealers under the repealed Act

Under Section 25 of the APGT Act, in case of dealers registered under the repealed Act, the appropriate registering authority should issue a fresh certificate of registration in lieu of the existing certificate from the notified date of implementation of VAT from 1st April 2005.

It was, however, noticed that there was no mechanism to check the number of dealers registered under the repealed Act and subsequently registering them under the APGT Act. Out of the 7 selected units, the position of registered dealers in 4 Units under the repealed Act and the APGT Act was as follows:

Table – 3.2.5

Unit	No. of Registered Dealers as on 31.03.2005 under the repealed Act	No. of Registered Dealers under the APGT Act during 2005-06	No. of Unregistered Dealers during 2005-06	Total No. of Dealers as on 31.03.2013
Aalo	211	63	148	139
Tezu	112	--	112	156
Bomdila	347	73	274	267
Itanagar	386	285	101	924
TOTAL	1056	421	635	1486

It can be seen from the above that:

- Out of 1056 registered dealers under the repealed Act, only 421 dealers were actually registered under the APGT Act. Thus, 635 dealers have remained unregistered, and were liable to pay penalty of ₹ 23.18 crore for carrying on business as unregistered dealers.
- In ST, Tezu, not a single dealer was registered during 2005-06 to 2006-07.
- In STs Aalo and Bomdila, the number of registered dealers as on 31st March 2013 was less than dealers registered under the repealed Act.

Since there was no effective mechanism to trace unregistered dealers and register them under the APGT Act, evasion of tax by unscrupulous unregistered dealers cannot be ruled out.

Recommendation: The Government may take effective steps to trace dealers under the repealed Act and register them under the APGT Act on payment of penalty.

3.2.8.6 Non-publication of particulars of cancelled Certificates of Registration

Under Section 23 (9) of the APGT Act, the CoT should, at intervals not exceeding 3 months, publish in the Official Gazette, the prescribed particulars of dealers whose registration certificates were cancelled.

Scrutiny of records of 4 STs⁵ revealed that certificates of registration of 29 dealers were cancelled between April 2008 and March 2013 under the APGT Act, but their particulars were not published in the Official Gazette by the CoT. Non-publication of particulars may lead to carrying on business by such dealers even after cancellation of certificates and consequent revenue loss to the Government.

3.2.9 Submission of Returns

As per the APGT Act and Rules made thereunder, every registered dealer should furnish the following returns:

- monthly returns, when the turnover exceeds ₹ one crore in a particular year [Rule 34 (1) (a)];
- quarterly returns, when the turnover is ₹ one crore or below in a particular year [Rule 34 (1) (b)];
- an Audit Report from a Chartered Accountant, if the gross annual turnover exceeds ₹ 50 lakh (Section 50)
- In addition, the CoT may prescribe any other returns, if required (Section 29).

For non-submission of monthly/quarterly returns, penalty at ₹ 100/- for each day of default, subject to a maximum of ₹ 10,000/- would be leviable under Section 87 (9) of the APGT Act. For non-submission of Audit Report, penalty of ₹ 10,000/- would be leviable under Section 87 (18) of the Act *ibid*.

Audit observed the following:

- The CoT was empowered to prescribe any other return if required. Till date, no move was made by the CoT to introduce annual returns or to prescribe a form for annual returns.

⁵ STs of Bomdila – 10; Aalo – 4; Itanagar – 8; Tezu – 7.

- In the absence of annual returns, the utility of Audit Reports was meaningless, as it was not possible to cross-verify annual turnover of sales, purchases, opening/ closing stock at the beginning and end of the year.

It was seen that in the selected 7 units, no register was maintained to monitor filing of monthly/quarterly returns and Audit Reports by the dealer. As such, the STs did not have a database on defaulting dealers and could not initiate penal action as per provisions of the Act.

Examination of records of selected units revealed the following irregularities:

- 1799 dealers did not furnish 22527 quarterly returns from 2008-09 to 2012-13, for which penalty amounting to ₹ 22.52 crore was not levied.
- 22 dealers did not furnish 148 monthly returns from 2008-09 to 2012-13, for which penalty of ₹ 14.80 lakh was not levied.
- 136 dealers did not furnish 399 Audit Reports from 2008-09 to 2012-13 despite their individual annual turnover exceeding ₹ 50 lakh in each of the periods and for which penalty of ₹ 39.90 lakh was not levied.

3.2.9.1 Deficiencies in Deterrent Measures

As per Section 87 (18) of the APGT Act, failure to audit the accounts of dealers with a turnover of more than ₹ 50 lakh attracted a penalty of only ₹ 10,000/-. Though the Act provided for cancellation of registration certificates in case of multiple or recurrent offences, the provision was never invoked. Since audited accounts are the sole basis on which actual sales turnovers, purchases, stocks, *etc.* of a dealer could be ascertained, the nominal penalty (₹ 10,000/-) for non-submission of audited accounts may be misused by the unscrupulous dealers to evade tax.

Recommendation: The quantum of penalty for first, subsequent or continued non-submission of audited accounts may be appropriately fixed so as to make the deterrent measure more effective.

3.2.10 Tax Audit

As per Section 59 (1) of the APGT Act, the Commissioner may serve on any person in the prescribed manner a notice informing him that an audit of his affair shall be performed, and, where applicable, that an assessment already concluded under this Act may be reopened.

Audit scrutiny revealed that although more than 8 years had expired after the introduction of VAT in the State, the CoT had not selected a single dealer for audit assessment. Even the criteria for selection of tax audit were not prescribed by the Department. As a result, assessment records from 2005-06 and 2008-09 became time-barred by 31st March 2013 as no assessment or re-assessment should be made by the CoT after the expiry of 4 years from the date of submission of returns. Tax audit even

for the period from 2009-10 to 2012-13 would not be possible as the Department failed in the following:

- (a) Prescription of criteria for selection of dealers;
- (b) Fixing the percentage of dealers to be selected;
- (c) Framing the VAT Manual; and
- (d) Constitution of an Audit Team.

Recommendation: *The Government may immediately take steps to prescribe the criteria for selection of dealers, fix the percentage of dealers to be selected, compile/frame the VAT Manual and constitute an audit team before taking tax audit.*

3.2.11 Norms not fixed for Deployment of Staff

To ensure proper monitoring and assessment of returns filed by dealers, it is essential that the Department prescribe norms with regard to work output and deployment of staff in unit offices to ensure that staff assigned to each unit office is in sync with the workload of that office. It was observed that the Department had not prescribed any such norms. Inspectors of Taxes (ITs) are critical functionaries in a unit office as they assist the ST in survey, inspection, assessment of returns *etc.* The number of dealers registered under each of the 7 selected units *vis-à-vis* the number of ITs posted in these establishments as on 31 March 2013, is shown in the following table:

Table – 3.2.6

Units	Total Number of Registered Dealers	No. of ITs Posted
Zone-I, Naharlagun	1671	2
Zone-II, Itanagar	924	2
Ziro	205	1
BFC, Banderdewa	97	5
Aalo	139	1
Bomdila	267	--
Tezu	156	--
TOTAL	3459	11

From the table it may be seen that:

- Posting of 5 ITs in BFC, Banderdewa was justified as the ITs were not only assisting the ST in assessments, but also collecting Entry Tax from dealers importing goods from outside the State.
- ST, Zone – I, Naharlagun, had 2 ITs for 1671 dealers, whereas ST, Zone-II, Itanagar, also had 2 ITs for 924 dealers, which is not justified.
- No IT was posted in STs, Bomdila and Tezu.
- STs of Ziro, Aalo and BFC, Banderdewa, made no assessments even though IT/ITs were posted in each of the units.

- ST, Zone-II, Itanagar, despite having two ITs, completed only 13 assessments, whereas ST, Zone-I, Naharlagun, completed 202 assessments with the same number of ITs.

The situation was attributable to failure of the Department to prescribe norms with regard to deployment of staff and work output.

3.2.12 Delay in Issue of Notification for Delegation of Power to Goods Tax Authorities

Under Section 69 of the APGT Act, the CoT may delegate any of his powers to officers as mentioned in Rule 62 of the APGT Rules.

However, it was noticed that the CoT delegated his powers of tax assessment, interest, penalty, collection of assessed tax, under Sections 32, 34, 35, 36 and 37 of the APGT Act to the STs on 6th July 2012, i.e. after more than 7 years from the date of introduction of the APGT Act. Due to the abnormal delay in delegation of powers to the STs, assessment of tax on returns furnished was abysmally low and could adversely affect the realisation of tax, interest and penalty from defaulting dealers.

3.2.13 Preparation of Audit Manual

The Audit Manual is a guide for officers conducting audit of assessment of dealers. It outlines the policy, general rules and procedures to be followed. It also provides a framework for planning, preparation, professional approach and standard techniques to be followed while checking records for audit assessment and making reports.

Although the APGT Act, 2005, was passed by the State Legislature in March 2005 and VAT was in place for more than 8 years, the Department is yet to prepare an Audit Manual. As a result, framework for planning, preparation, professional approach to be followed while conducting tax audit could not be finalized, thereby the Department failed to conduct tax audit even for a single case.

Recommendation: The Government may expedite the preparation of an Audit Manual.

Audit Objective: Whether there were compliance deficiencies in enforcing the laid down provisions leading to loss of revenue to the State

3.2.14 Works Contracts

3.2.14.1 Application of Incorrect Rate of Tax

Under Section 5(2) of the APGT Act, works contracts were taxable at the rate of 12.5 *per cent* on taxable turnover, after deduction of labour charges.

In ST, Itanagar, a dealer⁶ disclosed taxable turnover from works contracts valued at ₹ 13.79 crore between October 2010 and March 2013. But the dealer calculated tax of ₹ 55.14 lakh at four *per cent* instead of ₹ 1.72 crore at 12.5 *per cent* on taxable turnover of ₹ 13.79 crore.

Thus, due to incorrect application of rates, there was a loss of revenue of ₹ 1.17 crore. It was also noticed that neither the dealer paid the tax nor the ST initiated action for recovery of tax.

3.2.14.2 Irregular Claims for Excess Deductions

Under Section 5 (2) of the APGT Act, dealers executing works contracts shall be liable to pay tax on the balance turnover after deduction of charges incurred towards labour, services, *etc.* If such charges are not ascertainable from the detailed accounts of dealers, a deduction of 25 *per cent* is allowed from the total turnover.

- In ST, Zone-I, Naharlagun, a dealer executed works contracts valued at ₹ 54.67 crore between April 2011 and March 2013 and claimed deduction of ₹ 31.68 crore. Since the dealer failed to furnish detailed accounts of charges paid towards labour and services, he was entitled to claim deduction of only ₹ 13.67 crore. As such, excess claim of deduction of ₹ 18.01 crore was irregular and led to short-payment of tax of ₹ 2.97 crore.
- In ST, Bomdila, two dealers executed works contracts valued at ₹ 45.78 crore between April 2009 and March 2012. The dealers claimed labour charges of ₹ 29.91 crore but failed to furnish detailed accounts of labour charges. Whereas, deduction of ₹ 11.45 crore was only admissible. As such, the dealers claimed deduction of ₹ 18.46 crore in excess of the admissible amount, resulting in under-assessment of tax of ₹ 2.77 crore.
- Another dealer registered in ST, Ziro, executed works contracts valued at ₹ 1.01 crore during 2010-11 and claimed deduction of the whole amount towards labour and services without submission of detailed accounts of charges. In the absence of detailed accounts, a deduction of ₹ 25.25 lakh was admissible. The dealer thus claimed ₹ 75.75 lakh in excess of the admissible amount, which resulted in under-assessment of tax of ₹ 9.47 lakh.

Thus, excess claim towards labour and service charges without submission of detailed account by four dealers resulted in under-assessment of tax of ₹ 5.83 crore.

3.2.14.3 Short Deduction of Tax

Under the APGT Act, works contracts were taxable at the rate of 12.5 *per cent* on the balance turnover after deducting labour and service charges from the gross turnover.

⁶ M/s Sanwar Mal Khetawat

- In ST, Zone-I, Naharlagun, two dealers executed works contracts valued at ₹ 3.16 crore between April 2010 and March 2013. While making payment to the contractors, the prescribed authorities deducted tax of only ₹ 12.64 lakh, calculated at the rate of 4 *per cent* instead of ₹ 29.63 lakh to be calculated at 12.5 *per cent*, after deducting labour charges from the gross turnover. This resulted in short-deduction of tax of ₹ 16.99 lakh.
- In ST, Aalo, two contractors executed works contracts valued at ₹ 63 lakh between April 2012 and March 2013, but the Department deducted tax of only ₹ 1.15 lakh instead of ₹ 5.88 lakh at the rate of 12.5 *per cent*, leading to short-deduction of tax of ₹ 4.73 lakh.
- A dealer registered in ST, Bomdila, supplied electrical goods valued at ₹ 76.24 lakh between April 2011 and March 2012, but tax of only ₹ 3.05 lakh instead of ₹ 9.53 lakh calculated at the rate of 12.5 *per cent* was deducted, resulting in short-deduction of ₹ 6.48 lakh.
- Another dealer of ST Bomdila executed works contracts valued at ₹ 50.62 lakh between April 2012 and March 2013, but tax of only ₹ 2.02 lakh instead of ₹ 4.75 lakh (at 12.5 *per cent*) was deducted, resulting in short-deduction of ₹ 2.73 lakh.
- In ST, Ziro, 4 dealers executed works contracts valued at ₹ 1.21 crore between April 2012 and March 2013, but while making payments to the dealers, tax of only ₹ 4.83 lakh instead of ₹ 11.33 lakh calculated at the rate of 12.5 *per cent* was deducted. This resulted in short-deduction of tax of ₹ 6.50 lakh.
- A contractor registered in ST, Zone-II, Itanagar, executed works contracts worth ₹ 12.96 crore between April 2011 and March 2013. The Department deducted tax of only ₹ 51.86 lakh instead of ₹ 121.54 lakh, calculated at the rate of 12.5 *per cent* resulting in short-deduction of ₹ 69.68 lakh.

Thus, there was a short-deduction of tax of ₹ 1.07 crore from 11 dealers/contractors by the STs.

3.2.15 Short-realization of Security Deposit

Under Section 26 (4) of the APGT Act and Rule 33 (1) of the Act *ibid*, approved road transporters are required to pay security deposit of ₹ 50,000/- for transport of taxable goods.

Test-check of records of the ST, Naharlagun, revealed that 5 approved road transporters were liable to furnish security deposit of ₹ 2.50 lakh. But the ST realized only ₹ 0.50 lakh at the rate of ₹ 10,000 instead of the prescribed rate of ₹ 50,000 leading to short-realization of security deposit of ₹ 2 lakh.

3.2.16.1 Irregular Grant of Input Tax Credit (ITC)

ITC is a set-off allowed under Section 9 of the APGT Act to registered dealers for tax paid on purchases made from other registered dealers within the State against the tax liability of the dealers in subsequent sales. The ITC is, however, not allowed in the following cases:

- (a) for purchase of non-creditable goods;
- (b) for purchase of goods in the course of Inter-State trade;
- (c) for purchases not supported by Tax Invoices; and
- (d) when the amount of tax charged is not shown separately in the Tax Invoice.

Test-check of records of 7 selected units revealed the following irregularities:

- Eleven dealers registered in 5 selected units⁷ claimed ITC of ₹ 26.43 crore between April 2008 and March 2013, which was duly allowed by the STs. Further scrutiny revealed that the amount of Input Tax Credit claimed by the dealers was not supported by Tax Invoices. The grant of ITC of ₹ 26.43 crore was not admissible but irregularly granted by the STs.
- Two dealers registered in STs Zone-II, Itanagar and Bomdila purchased HSD⁸ valued at ₹ 5.79 crore between April 2011 and March 2013. Though the item 'HSD' falls under 'non-creditable goods' as per Sl. No. 2 of the 7th Schedule attached to the APGT Act, the dealers claimed ITC of ₹ 72.21 lakh, which was accordingly allowed by the STs.
- Two dealers registered in ST Zone-II, Itanagar claimed ITC of ₹ 13 lakh between April 2009 and March 2013 for tax paid under the CST Act on import of goods in the course of Inter-State trade. Though ITC was not allowed for CST paid on import of goods in the course of Inter-State trade, the ST granted ITC of ₹ 13 lakh.
- In STs Tezu and Aalo, 4 dealers claimed ITC of ₹ 11.29 lakh for purchases made between April 2008 and March 2013 and produced Tax Invoices in support of their claim. Further scrutiny of the Tax Invoices revealed that tax was not separately charged. Hence, the claim for ITC was not admissible, but the ST granted ITC of ₹ 11.29 lakh.

Thus, STs irregularly granted ITC of ₹ 27.39 crore as claimed by 19 dealers which was not admissible as per APGT Act.

⁷ STs Zone-I, Aalo, Tezu, Ziro, Banderdewa.

⁸ HSD – High Speed Diesel.

3.2.16.2 Non/Short-levy of Interest

Under Section 44 (2) of the APGT Act, if a dealer failed to pay tax within the due date, interest at 24 *per cent* per annum was leviable for the entire period of default.

In ST, BFC, Banderdewa, a dealer defaulted in payment of tax of ₹ 25.43 lakh between July 2011 and June 2012. The dealer was liable to pay interest of ₹ 6.05 lakh, in addition to payment of tax of ₹ 25.43 lakh. But the ST did not levy any interest for default in payment of tax, leading to non-levy of interest of ₹ 6.05 lakh.

Another dealer registered in the same unit defaulted in payment of tax of ₹ 13.34 lakh between April 2005 and March 2008. The dealer belatedly paid ₹ 7.41 lakh between March and August 2007, leaving a balance of ₹ 5.93 lakh, which was not yet paid. For the belated/non-payment of tax, interest of ₹ 11.02 lakh was leviable, but the ST levied only ₹ 0.96 lakh as interest, resulting in short-levy of interest of ₹ 10.06 lakh.

Audit Objective: Whether provisions relating to Deduction of Tax at source were properly followed?

3.2.17.1 Delay in introducing Deduction of Tax at source

In the repealed Act, there was provision of deduction of tax at source by Government Departments while making payments to suppliers/contractors. After introduction of VAT from April 2005, no provision was made to deduct tax at source. However, after 2 years (April 2007) the Government amended the APGT Act and made provision to deduct tax at source from suppliers/contractors while making payments as provided under Section 47A. The Act further stipulated that if the concerned authorities failed to deduct tax at source or after deducting tax, failed to deposit the tax into Government account, they would be liable to pay a maximum penalty equal to double the amount of tax.

Due to delay in introducing the system of deduction of tax at source, there was evasion of tax, as repeatedly brought out in past Audit Reports, as detailed below:

Table – 3.2.7

Audit Report (Year)	Para No.	Amount (₹ in crore)
31 March 2007	4.16.2	0.09
31 March 2008	6.17.1	1.56
TOTAL		1.65

Even after amendment of the APGT Act, the following cases of short deduction, non-deduction and non-deposit of tax deducted were noticed through test-check of records of 7 selected units.

3.2.17.2 Non-deposit of Tax Deducted at Source

In ST, Aalo, the Executive Engineer, Electrical Division, deducted tax of ₹ 1.05 crore between April 2009 and March 2013 from contractors/suppliers, but did not deposit the amount into Government account till date of audit. For non-deposit of tax, a maximum penalty of ₹ 2.10 crore was also leviable on the authorities responsible, as provided under Section 47A of the APGT Act.

3.3.17.3 Non-deduction of Tax at Source

- A dealer registered in ST, Naharlagun, supplied steel fabricated materials valued at ₹ 59.92 lakh to Government Departments between April 2007 and March 2008, but while making payment to suppliers, the concerned authorities neither deducted tax of ₹ 7.49 lakh at source, nor did the dealer pay the amount. Thus, non-deduction of tax at source enabled the dealer to conceal the entire turnover and evaded payment of tax of ₹ 7.49 lakh. The concerned authorities were also liable to pay penalty of ₹ 14.98 lakh for non-deduction of tax at source.
- Another dealer registered in ST, Aalo, supplied electrical goods valued at ₹ 19.91 lakh to Government Departments between April 2009 and March 2010. The Departments neither deducted tax while making payments to the supplier, nor the dealer paid the admissible tax resulting in evasion of tax of ₹ 2.49 lakh. Besides, penalty of ₹ 4.98 lakh was also leviable against the authorities for violation of provision of the Act.

Audit Objective: Whether Check Gates were functioning properly to prevent leakage of revenue?

In order to analyse the system in place to ensure proper functioning of the check gates, the Border Facilitation Counter (BFC) at Banderdewa was selected in PA. The deficiencies noticed in the functioning of the BFC check gate are mentioned below:

3.2.18 Irregularities in functioning of BFC, Banderdewa

Section 102 of the APGT Act empowered the State Government to erect Check Gates or barriers or both to prevent evasion of tax and other dues payable. The BFC at Banderdewa is the most important and primary point for entry and exit of goods from the State. The main function of BFC is to assess and collect 'Entry Tax'⁹ and deposit the tax into Government account. Examination of records of BFC, Banderdewa, revealed the following irregularities:

⁹ Entry Tax means a tax on the entry of goods for consumption, use or sale and leviable on the import value of goods and payable by every importer of such goods. [Section3(2)]

- Three Iron and Steel Industries registered in ST, BFC, Banderdewa, imported taxable raw materials valued at ₹ 773.54 crore between April 2006 and March 2013 from outside the State. But Entry Tax of ₹ 30.94 crore was neither levied nor collected by the ST.
- The ST collected entry tax of ₹ 40.89 crore during 2012-13. On scrutiny of annual returns furnished to the CoT, it was seen that the ST showed deposit of tax of only ₹ 40.54 crore. Apparently, there was a short-deposit of ₹ 35 lakh, which was not reconciled till the date of audit (August 2013).
- A company registered in ST, Ziro, imported cement valued at ₹ 25.03 crore from outside the State between October 2010 and October 2011, but the ST failed to levy or collect Entry Tax of ₹ 3.13 crore.
- Sagalee PWD Division, registered in ST, Naharlagun, imported a 'Bailey Bridge' valued at ₹ 96.47 lakh between April 2008 and March 2009, for which Entry Tax of ₹ 12.06 lakh was not realised from the importer.
- A contractor registered in ST, Ziro, imported DG Sets, equipment, etc. valued at ₹ 39.03 lakh between April 2011 and December 2012, but the ST collected Entry Tax of only ₹ 1.56 lakh instead of ₹ 4.88 lakh, resulting in short-collection of Entry Tax of ₹ 3.32 lakh.

3.2.19 Absence of Basic Infrastructure in BFC, Banderdewa

Check Gates should be properly equipped with basic infrastructure like weighbridges, loading/unloading facilities, CCTV cameras, etc. in order to prevent evasion of tax by dealers. Installation of weighbridges would enable Check Gate officials to ascertain the actual weight of goods imported and make a correct assessment of Entry Tax payable and installation of CCTV cameras would ensure transparency of the working of officials at Check Gates and prevent law and order problems.

However, in BFC, Banderdewa, it was noticed that though a weighbridge and CCTV cameras were installed in April 2012, both the devices became non-functional within a few days after installation and no efforts were made to make them operational again. Non-functioning of the equipments may adversely affect the proper functioning of the Check Gate.

3.2.20 Computerization and inter-linking of the Taxation Department and Check Gates

Before implementation of VAT, computerization of the Department was to be completed and necessary hardware, power back-up facilities and internet connectivity were to be put in place in all unit offices. A Disaster Recovery System should also have been installed in the National Data Centre of the National Informatics Centre.

Scrutiny revealed that though VAT was introduced from 1st April 2005, all modules of the software could not be implemented till October 2013. Registration, Sales & Purchases, Returns, CST and TDS modules were made operational between February and September 2013, while other modules for capturing data on payment of taxes, refunds, audit & assessment and online connectivity with other offices were yet to be implemented till date. Interlinking of Check Gates with the Commissioner of Taxes and other unit offices was also yet to be implemented. Due to this, the Department failed to effectively track the movement of goods entering the State, resulting in tax evasion as mentioned in the previous paragraphs.

Recommendation: *The Government may initiate steps to overhaul the functioning of the checkgate at Banderdewa in particular and all the checkgates in general. The Entry Tax should be properly collected and the equipments needed for effective functioning of the check gates may be made operational at the earliest. The Government should also expedite the process of interlinking Check Gates with the Commissionerate and other unit offices.*

Audit Objective: *Whether Internal Controls were in place and adequate?*

3.2.21 Internal Control Mechanism

Internal Control is intended to provide 'reasonable' assurance of orderly, efficient and effective operation, adherence to laws, regulations and management directives and maintenance of reliable data. Effective Internal Control System is a pre-requisite for efficient functioning of any Department. The following deficiencies were noticed in the Internal Control Mechanism:

Internal Audit: Internal audit is one of the most vital tools of the Internal Control Mechanism and functions as the 'eyes' and 'ears' of the management. It evaluates the efficiency and effectiveness of the Department and also independently appraises the proper functioning of the organization.

It was observed that Taxation Department had no independent Internal Audit Wing. The Director of Audit, Government of Arunachal Pradesh is responsible for conducting Internal Audit of the Department. It was noticed that no Internal Audit was conducted by the Director of Audit, in any of the selected unit offices since the introduction of VAT. Due to non-conduction of internal audit, the CoT failed to evaluate proper functioning of the unit offices resulting in loss of revenue, under-assessment of tax, evasion of tax etc. as mentioned in different foregoing paragraphs of the PA.

Maintenance of Registers in Unit Offices: It was noticed that registers for recording receipt of returns/revised returns were not maintained in any of the selected units. Even in cases where returns were available in assessment files, dates of submission/receipt were neither recorded by dealers nor the ST. No registers were prescribed to maintain names of assessed dealers. Registers for receipt of audited accounts of dealers with turnovers exceeding ₹ 50 lakh were also not prescribed. For non-

maintenance of registers, the ST failed to levy penalty for non-submission/delay in submission of returns/audit reports.

Reports and Returns: The CoT prescribed that a Monthly Report of revenue collection should be submitted to him by each ST within 10th of the following month. However, no other monthly/quarterly/annual return was found to be prescribed.

Scrutiny of records of the CoT revealed that 'C' and 'F' Forms were issued by the CoT to unit offices on the basis of requisition. But no monthly return of utilization of forms showing (1) Opening Balance (2) Receipt from the CoT (3) Forms issued to dealers (4) Closing Balance, was prescribed to cross-verify whether forms issued were correctly received and duly accounted for by unit offices.

However, it was noticed that one book of 'C' Forms containing 100 leaves (GG319701 – GG319800) was issued to the ST, Anini, on 19th August 2008, which was duly initialed by the receiving officer. Scrutiny of correspondence revealed that the ST, Anini, denied receipt of the said 100 forms and claimed that some unauthorized people might have procured the forms by forging his signature and requested for investigation into the matter. Till date, investigation had not started in this case. Cross-verification of records of the CoT revealed that a closed bonded warehouse imported IMFL¹⁰ valued at ₹ 3.51 crore from outside the State by utilizing two of the said 'C' Forms during 2008-09. As the procedure for submission of Monthly Utilization Statements by unit offices was not in vogue, there was loss of revenue of ₹ 70.18 lakh under the APGT Act. The loss could have been avoided had the CoT prescribed monthly report of utilization of 'C' and 'F' forms by each unit office.

Inspection by Supervisory Officers: Regular inspection of Unit Offices/Check Gates by the CoT/JCoT/DCT/ACT is essential to ensure satisfactory functioning of unit offices.

Scrutiny of records revealed that no inspection of any of the selected unit offices was ever carried out by Supervisory Officers. In absence of supervision functioning of the ITs/STs could not be properly evaluated by the CoT.

Other points of interest

3.2.22 Irregular Exemption Claims by New Industries

On 9th July 2010, the Government of Arunachal Pradesh notified the '*Arunachal Pradesh Industrial Incentive Order 2010*' to provide exemption of tax to new industrial units under the Industrial Policy of 2008 with effect from 23rd January 2009. Under the Incentive Order, eligible industrial units should obtain '*Eligibility Certificates*' (ECs) from the Department of Industries and '*Certificates of Entitlement*' (CoE) from the Taxation Department to claim 99 *per cent* exemption from payment of tax on sale of finished goods.

¹⁰ India Made Foreign liquor.

Scrutiny of records of 4 industrial units revealed the following irregularities:

- Two industrial units registered in ST, BFC, Banderdewa, sold finished goods valued at ₹ 117.98 crore from April 2005 to March 2013 and were thus liable to pay tax of ₹ 4.72 crore. The units, however, claimed tax exemption of ₹ 4.67 crore and paid tax of ₹ 0.05 crore. Further, scrutiny revealed that though ECs were issued to the units by the Industries Department, the CoEs were not yet issued by the ST. Thus, due to irregular claim of exemption for periods prior to 23 January 2009 and non-submission of CoEs thereafter, the units were not eligible for 99 *per cent* exemption on tax payable. The claim of exemption of ₹ 4.67 crore was irregular and not admissible. The dealers were also liable to pay interest of ₹ 2.49 crore.
- Two units (1 each in STs, Banderdewa and Tezu) neither obtained ECs nor CoEs. The units sold finished goods valued at ₹ 6.63 crore between April 2005 and March 2013 and claimed exemption of ₹ 46.94 lakh being 99 *per cent* of tax payable. Thus, due to irregular claim of exemption for periods prior to effective date of grant of exemption and non-submission of ECs and CoEs thereafter, the claim of exemption of ₹ 46.94 lakh was not admissible. For non-payment of tax, interest of ₹ 29.73 lakh was also leviable.

3.2.23 Claim of Compensation for loss due to introduction of VAT

The VAT Act was implemented in Arunachal Pradesh from April 2005. The Government of India (GoI) agreed to compensate the State Government for loss of revenue consequent to the implementation of VAT and Guidelines regarding the modalities for compensation claims were issued in June 2006. As per Guidelines, VAT receipts were to be compared with the revenue of the pre-VAT period, suitably extrapolated on the basis of the average of three best growth rates of revenue of the previous five years. According to norms prescribed by the GoI, the revenue loss was to be worked out by including tax revenue generated from commodities like petrol, diesel, aviation fuel, liquor, *etc.* which were kept outside the ambit of VAT and subjected to 20 *per cent* floor rate of tax. The resultant net revenue was to be compared with the projected tax revenue for working out the loss on account of introduction of VAT. The rates of compensation were to be 100, 75 and 50 *per cent* during the first, second and third years respectively, of the implementation of VAT.

Scrutiny of records of the CoT revealed that the State Government did not prefer any claim from 2005-06 to 2007-08. Further scrutiny revealed that against the projected revenue of ₹ 43.15, ₹ 65.90 and ₹ 100.65 crore for 2005-06, 2006-07 and 2007-08, the actual collection was ₹ 47.67, ₹ 61.64 and ₹ 77.06 crore respectively. The Government did not prefer any claim for compensation of loss of revenue amounting to ₹ 15 crore due to the introduction of VAT.

3.2.24 Conclusion

- The Budget estimates were not realistically framed and the actual collection was not reconciled.
- The APGT Act, though taken from a uniform format of VAT adopted throughout the country had significant deficiencies. There was no process to identify unregistered dealers or carrying forward the list of dealers from the Repealed Act. The system in place for registration, survey, assessment of returns, audit assessment was either non-existent or weak.
- The Department had almost non-existent internal controls. There was no proper mechanism at the higher management level to monitor the performance and activities of unit offices.
- There were several compliance issues in the functioning of the Department leading to loss of revenue.
- Concerned authorities failed to deduct tax at prescribed rates from contractors/suppliers, leading to non/short deduction and non-deposit of tax into Government account.
- Check Gates were ill-equipped, with non-functional weighbridges, CCTV cameras and were without any loading/unloading facilities.

3.2.25 Recommendations

The Government may consider implementation of the following:

- An Audit Manual may be prepared to streamline the working of the Department. A system may be kept in place for timely and effective completion of assessments.
- The internal controls of the Department need to be strengthened. Senior officers need to supervise the unit offices on a regular basis and a system be put in place to ensure that all the prescribed periodical reports and returns are submitted by the unit offices.
- Industries which irregularly claimed tax exemption under the Industrial Policy and the Tax Incentive Order of 2010 should be directed to deposit the same into Government accounts.
- Central/State Government authorities should be given proper instructions for proper deduction of tax from contractors'/suppliers' bills and promptly deposit the same into Government account.
- The Government may initiate steps to overhaul the functioning of the checkgate at Banderdewa in particular and all the checkgates in general. The Entry Tax should be properly collected and the equipments needed for effective functioning of the check gates may be made operational at the earliest. The Government should also expedite the process of interlinking Check Gates with the Commissionerate and other unit offices.

COMPLIANCE AUDIT PARAGRAPH

TAXATION DEPARTMENT

3.3 Evasion of Tax

Failure of the Mission Director (MD), NRHM to deduct tax at source enabled a dealer to conceal turnover of ₹44.85 lakh and evade tax of ₹5.61 lakh for which interest of ₹5.05 lakh and penalty of ₹11.22 lakh was also leviable.

Section 47A of the APGT Act 2005 requires Government Departments/Organisations to deduct tax at source while making payments to contractors/suppliers, failing which the person authorizing the payment shall be punishable with penalty not exceeding double the amount of tax. Under Section 34 of the Act, the Commissioner of Taxes (CoT) shall assess the dealer to the best of his judgement if the dealer has failed to furnish returns within the due date, together with a penalty equal to the amount of tax assessed. Further, under Section 44(2) of the Act *ibid*, simple interest at the rate of 24 *per cent* per annum on the amount of tax payable is also leviable.

Test check of assessment records of the ST, Zone-I, Naharlagun, in February 2013 revealed that a dealer¹¹ neither furnished any return nor paid any tax from April 2006 till date. The Assessing Officer also did not initiate any action to complete the assessment to the best of his judgement and case records were left unattended.

However, cross verification of records of the Mission Director (MD), National Rural Health Mission (NRHM), Naharlagun, revealed that the dealer supplied medical equipment and other taxable goods valued at ₹ 44.85 lakh to the Directorate in November 2008, for which the MD paid the amount without deducting VAT of ₹ 5.61 lakh. The ST also failed to detect the aforesaid supply of taxable goods. As such, the inexplicable omission of the MD to deduct tax at source enabled the dealer to conceal the sales of ₹ 44.85 lakh and evade tax of ₹ 5.61 lakh, calculated @ 12.5%, for which the MD was liable to pay penalty of ₹ 11.22 lakh. For wilful evasion of tax, the dealer was also liable to pay interest of ₹ 5.05 lakh (upto January 2013) and penalty of ₹ 5.61 lakh.

The case was reported to the Department/Government in May 2013; reply is still awaited (March 2014).

¹¹ M/s Ita Drugs and Syringes, Naharlagun

3.4 Evasion of Tax by Unregistered Dealer

Failure of the ST to register a dealer under the APGT Act enabled the dealer to import goods valued at ₹1.12 crore and evade tax of ₹14.08 lakh on which interest of ₹4.66 lakh and penalty of ₹14.05 lakh were also leviable.

Every dealer carrying on taxable goods shall be registered under Section 19 of the APGT Act, 2005. If a dealer is registered under Section 7(2) of the CST Act, 1956 he shall also be registered under Section 19 of the APGT Act *ibid*. Further, if an unregistered dealer imports taxable goods he shall be liable to pay a penalty equal to the amount of unpaid tax, in addition to payment of due tax.

In Arunachal Pradesh, the item '*Pan Masala*' and '*Scented Supari*' are taxable at the rate of 12.5 *per cent*.

Test check of records of the ST, Roing, in April 2013 revealed that the ST did not register a dealer¹² under APGT Act though he was registered under Section 7(2) of the CST Act, 1956. However, it was noticed that the dealer imported '*Pan Masala*' and '*Scented Supari*' amounting to ₹ 1.12 crore between April 2010 and March 2012 from a Guwahati (Assam) based dealer by utilizing 5 (five) 'C' Forms¹³. Failure of the ST to register the dealer under the APGT Act at the time of registration under the CST Act enabled the dealer to import taxable goods of ₹ 1.12 crore and evade tax of ₹ 14.05 lakh. For wilful evasion of tax, interest of ₹ 4.66 lakh (up to February 2013) and penalty of ₹ 14.05 lakh, was also leviable against the dealer.

The case was reported to the Department/Government in June 2013; reply is still awaited (March 2014).

3.5 Loss of Revenue on sale of Timber by Unregistered Dealers

Three unregistered dealers sold sawn timber valued at ₹1.10 crore and claimed exemption from payment of tax by furnishing declarations in Form 'C', but tax of ₹13.75 lakh and penalty of ₹27.50 lakh were not assessed and recovered by the ST.

Under Section 7(1) of the CST Act, while liable to pay tax under the Act, no dealer shall carry on business unless he is registered and possesses a Certificate of Registration. Section 90(1) of the APGT Act provides for prosecution of a dealer who sells goods without registration and imprisonment up to three years, along with a fine or both. In lieu of prosecution, however, penalty at twice the tax payable is leviable

¹² M/s Arunachal Trade Agency, Roing

¹³ GG-276992, GG-276995, GG-221598, GG-221600 & GG-209762

by way of composition under Section 94(1) of the Act *ibid*. The item 'Sawn Timber' is taxable at the rate of 12.5 *per cent* in the State.

Test check of records of the ST, Roing, in April 2013 revealed that three dealers¹⁴ sold *sawn timber* valued at ₹ 1.10 crores between April 2008 and March 2012 in the course of Inter-State Trade, and claimed exemption from payment of tax by furnishing declarations in Form 'C'. Since the dealers were not registered under the CST Act, the 'C' Forms furnished by the dealers were not valid. The dealers were, thus, liable to pay tax of ₹ 13.75 lakh, but the Assessing Officer did not initiate any action to register the dealers and recover the tax payable. Besides, penalty of ₹ 27.50 lakh was also leviable for selling goods without registration in the course of Inter-State Trade.

The case was reported to the Department/Government in June 2013; reply is still awaited (March 2014).

3.6. Loss of revenue due to Short-deduction of Tax at Source

Loss of revenue of ₹ 20.54 lakh due to short-deduction of tax from Unregistered Dealers.

Under Section 5(2) of the Arunachal Pradesh Goods Tax (APGT) Act, 2005, a dealer executing works contracts shall be liable to pay VAT on the balance turnover after deduction of charges incurred towards labour, services, *etc*. If such charges are not ascertainable, a deduction of 25 *per cent* is allowed on the total turnover. Further, Section 47A of the Act *ibid* provides for deduction of VAT at source by the Government/Departments while making payment to Suppliers/Contractors and deposit the VAT so deducted into Government account.

Cross-verification of the records of the ST, Roing, with those of the Executive Engineer (EE), Rural Works Division, Roing, in April 2013 revealed that 6 (six) unregistered contractors executed works contracts valued at ₹ 3.75 crore under PMGSY scheme during 2011-12. While making payment to the contractors, the EE deducted VAT of only ₹ 14.66 lakh instead of ₹ 35.20 lakh.

Thus, failure of the EE to deduct VAT at prescribed rates and lack of co-ordination between the Departments led to short-deduction of tax of ₹ 20.54 lakh and enabled the unregistered dealers to evade the amount, since the dealers were not registered both under APGT Act and CST Act, the amount of ₹ 20.54 lakh was a loss of revenue to the State Government.

The case was reported to the Department/Government in June 2013; reply is still awaited (March 2014).

¹⁴ M/s Arunachal Timber Trade, Roing; M/s Associated Timber Trade, Roing; M/s Kengwood Products, Roing

3.7 Evasion of tax by utilizing obsolete 'C' Forms

A dealer evaded tax of ₹17.80 lakh by importing taxable goods of ₹4.45 crore through obsolete 'C' Forms, for which interest of ₹8.50 lakh and penalty of ₹35.60 lakh were also leviable.

Under Section 90(7) of the APGT Act, if any dealer wilfully evades payment of tax, he shall on conviction be punished with imprisonment upto 3 (three) years along with a fine. Section 94(1) of the Act, however, empowers the Commissioner of Tax (CoT) to accept an amount equal to double the amount of tax evaded by way of composition of offence. Under the CST Act, 1956, every dealer shall import taxable goods at concessional rate by utilizing valid 'C' Forms.

Further, 13 (thirteen) 'C' Forms¹⁵ issued to M/s Mama Enterprises, Itanagar, were declared obsolete by the CoT, Arunachal Pradesh, vide Notification dated 18 September 2009 for all purposes with retrospective effect.

Test-check of records of the ST, Zone II, Itanagar, in April 2012 revealed that M/s Mama Enterprises utilized 4 (four) of the aforesaid 'C' Forms already declared obsolete and imported taxable goods valued at ₹ 4.45 crore from 4 (four) Delhi-based dealers on 30 September 2009. But the dealer neither submitted any return nor paid the admitted tax on sale of the goods imported.

Thus, the dealer concealed turnover of at least ₹ 4.45 crore and evaded tax of ₹ 17.80 lakh. For wilful evasion of tax, interest of ₹ 8.55 lakh (up to April 2012) and penalty of ₹ 35.60 lakh were also leviable.

The case was reported to the Department/Government in September 2012; reply is still awaited (March 2014).

3.8 Concealment of Purchase

Failure of the Assessing Officer to detect import of taxable goods of ₹2.65 crore led to evasion of tax of ₹7.63 lakh. Besides, interest of ₹5.80 lakh and penalty of ₹7.63 lakh were also leviable.

Under Section 87 (10) of the Arunachal Pradesh Goods Tax (APGT) Act, 2005, if a dealer submits false, misleading or deceptive returns, he is liable to pay a penalty of a sum of ₹ one lakh or the amount of tax evaded, whichever is higher, in addition to the tax payable.

¹⁵ GG-208614 to GG-208623, GG-208679 to GG-208680 and GG-207156
GG-208679, GG-208680, GG-208621 & GG-208622

Test check of records of the Superintendent of Taxes, Aalo, in July 2013, it was noticed that a registered dealer¹⁶, in statement of utilization of 'C' Forms, disclosed taxable purchase of ₹ 73.91 lakh from a dealer registered in Guwahati, Assam, against two 'C' Forms during 2009-10 in the course of Inter-State Trade.

On cross-verification of records of both the dealers, it was found that the Arunachal based dealer had actually purchased taxable goods like soap, shampoo, chips, etc; valued at ₹ 2.65 crore during 2009-10 by utilizing the two 'C' Forms.

Thus, the dealer submitted false and misleading information in his self-assessed return, which was accepted by the Department. The dealer concealed taxable purchase of ₹ 1.91 crore and evaded tax of ₹ 7.63 lakh. Besides, interest of ₹ 5.80 lakh (upto June 2013) and penalty of ₹ 7.63 lakh were also leviable.

The case was reported to the Department/Government in December 2013; reply is still awaited (March 2014).

3.9 Non-realization of Entry Tax

Failure of the DTO to collect Entry Tax of ₹31.48 lakh resulted in non-realisation of Entry Tax to that extent.

Under provisions of the Arunachal Pradesh Goods Tax (APGT) Act, 2005, Entry Tax at applicable rates shall be paid on the import of a motor vehicle which is not registered in Arunachal Pradesh, at the time of registration of the motor vehicle. In October 2005, the Commissioner of Taxes, Arunachal Pradesh, requested all Deputy Commissioners of respective Districts to ensure payment of Entry Tax prior to registration of imported vehicles.

In Arunachal Pradesh, motor vehicles are taxable at the rate of 12.5 *per cent* and dumpers at the rate of 4 *per cent*.

Records of the District Transport Officer (DTO), Aalo, were cross-checked with those of the Superintendent of Taxes, Aalo, in July 2013. It was found that 47 new commercial motor vehicles valued at ₹ 2.70 crore, imported from outside the State, were registered between October 2010 and November 2012 without collecting Entry Tax of ₹ 31.48 lakh¹⁷.

Thus, due to failure of the DTO to collect Entry Tax of ₹ 31.48 lakh resulted in non-realisation of Entry Tax to that extent.

¹⁶ M/s Poddar Brothers, Aalo.

¹⁷ @12.5% on ₹ 2,43, 23,780 = ₹ 30, 40,473

@ 4% on ₹ 26,96,226 = ₹ 1, 07,849

Total VAT realisable = ₹ 31, 48,322

The case was reported to the Department/Government in December 2013; reply is still awaited (March 2014).

GEOLOGY AND MINING DEPARTMENT

3.10 Short-realization of Royalty on Coal

Application of pre-revised rates of Royalty on 54,641 tonnes of Coal led to short-realization of Royalty of ₹1.83 crore.

The Government of Arunachal Pradesh, vide Notification of April 2012, enhanced the rate of royalty of 'B' and 'C' grade coal from ₹ 182.50 and ₹ 137.50 to ₹ 522/- and ₹ 364/- per tonne respectively w.e.f. 1st April 2012.

Test-check of records of the Director, Geology & Mining, Itanagar, revealed that a lessee¹⁸ extracted 54,641 tonnes of coal ('B' Grade: 52,327 tonnes and 'C' Grade: 2314 tonnes) between May and June 2012. However, it was seen that the lessee paid royalty of only ₹ 98.68 lakh, calculated at the pre-revised rates, instead of ₹ 2.82 crore as per revised rates. Thus, due to incorrect application of prescribed rates of royalty led to short-realization of royalty of ₹ 1.83 crore.

The case was reported to the department/Government in May 2013; reply is still awaited (March 2014).

3.11 Non-payment of royalty by the Central Government

Failure of the State Government to raise demand for payment of royalty of ₹21.42 crore from the Central Government led to non-realisation of revenue to that extent.

Under provisions of the Petroleum & Natural Gas (PNG) Rules, 1959, a lessee shall pay the State Government a royalty on crude oil obtained from mining operations at rates fixed by the Central Government from time to time within 30 days of the month related to the production.

A mining lease agreement was executed between a lessee¹⁹ and the Government of Arunachal Pradesh under production sharing contract for a period of 20 years with effect from 16 June 1995, for extraction of crude oil from Kharsang area of the State comprising of an area of 11 sq. km. As per terms and conditions of the agreement, the lessee shall pay royalty to the State Government at the fixed rate of ₹ 528/- per Metric

¹⁸ Arunachal Pradesh Mineral Development & Trading Corporation Ltd, Itanagar

¹⁹ M/s Geo-Enpro Petroleum Ltd.

Tonne (MT) of crude oil extracted. Any payment of royalty in excess of the rates would be borne by the Central Government.

Test-check (February 2013) of records of the Director, Geology & Mining, revealed that the lessee extracted 1,12,989 MT of crude oil between October 2010 and December 2011 and paid royalty of ₹ 5.97 crore at the contracted rate of ₹ 528/- per tonne. The rates of royalty on crude oil fixed between October 2010 and December 2011 varied from ₹ 1,767.77 to ₹ 3,375.01 per tonne. As per the agreement the Government of India is liable to pay the balance amount of royalty of ₹ 21.42 crore *i.e.* difference of the rate as fixed for the aforesaid period. However, the State Government has failed to raise the demand for payment of balance amount of the royalty amounting of ₹ 21.42 crore to the Central Government.

Thus, failure of the State Government to raise demand for payment of royalty led to non-realisation of revenue of ₹ 21.42 crore.

The case was reported to the Department/Government in May 2013; reply is still awaited (March 2014).

3.12 Non-levy of Additional Royalty

For delayed payment of Royalty, Additional Royalty of ₹1.38 crore was not levied.

Rule 23 (1) of the Petroleum & Natural Gas (PNG) Rules, 1959, envisages that if any royalty is not paid by the lessee to the State Government within the time specified for such payment, the amount of such royalty shall be increased by an additional 10 *per cent* for each month or portion thereof during which such royalty remains unpaid.

Test-check of the records of the Director, Geology & Mining, Itanagar, in February 2013 revealed that the State Government executed a lease agreement in September 1997 with a lessee²⁰ for extraction of crude oil. The agreement, *inter-alia*, stipulated that the lessee shall pay royalty to the State Government within 30 days of the month related to the operation/extraction. Accordingly, the lessee extracted 37,717.66 kilo litres of crude oil between April 2010 and December 2011, for which royalty of ₹ 8.04 crore was paid between June 2010 and March 2012, after delays ranging from one to three months. For the delay in payment of royalty, additional royalty of ₹ 1.38 crore was not levied and recovered by the Department.

The case was reported to the Department/Government in May 2013; reply is still awaited (March 2014)

²⁰ M/s Oil India Limited.

3.13 Evasion of Royalty

A lessee concealed extraction of 37,890 MT of coal and evaded royalty of ₹52.10 lakh.

Section 9 of the Mines and Minerals (Regulation and Development) Act, 1957, provides payment of royalty by a lessee on the quantity of coal removed from the leased area.

Test-check of records of the Director, Geology & Mining, Itanagar, in February 2013 revealed that a lessee²¹ extracted and removed 3,54,110 Metric Tonne (MT) of coal between 2008-09 and 2009-10 from the Namchick Coal Project, Kharsang, as disclosed in his furnished return. Accordingly, the lessee paid royalty of ₹ 2.70 crore, which was accepted by the prescribed authority. However, cross-verification of records of the Indian Mineral Year Book of 2010, published by the Indian Bureau of Mines, Nagpur, revealed that the lessee actually extracted and removed 3,92,000 MT of coal during the aforesaid period.

Thus, the lessee concealed extraction of 37,890 MT of coal in his return and evaded payment of royalty of ₹ 52.10 lakh, calculated at the lowest rate of ₹ 137.50 per MT, which escaped notice of the Director, Geology & Mining.

The case was reported to the Department/Government in May 2013; reply is still awaited (March 2014).

²¹ Arunachal Pradesh Mineral Development and Trading Corporation Ltd, Itanagar