

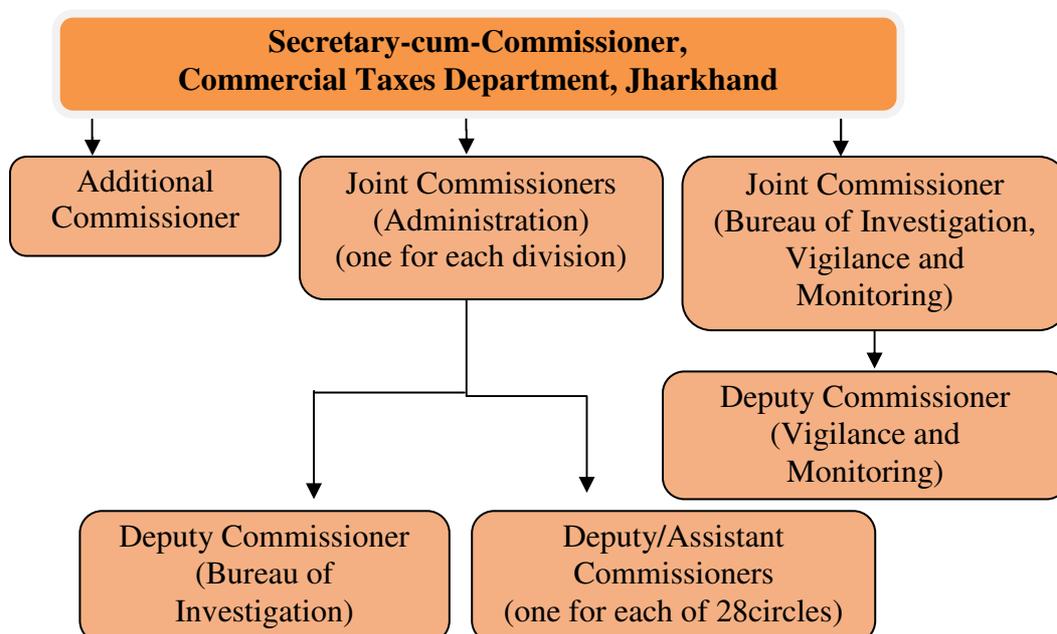
**CHAPTER-II
TAXES ON SALES,
TRADE ETC.**

CHAPTER-II: TAXES ON SALES, TRADE ETC.

2.1 Tax administration

The levy and collection of Sales Tax/Value Added Tax and Central Sales Tax are governed by the Jharkhand Value Added Tax (JVAT) Act, 2005, the Central Sales Tax (CST) Act, 1956 and Rules made thereunder. The Secretary-cum-Commissioner of Commercial Taxes is responsible for administration of these Acts and Rules in the Commercial Taxes Department (CTD) and is assisted by an Additional Commissioner and Joint Commissioners of Commercial Taxes (JCCT), Joint Commissioners of Commercial Taxes of Bureau of Investigation (IB), Vigilance and Monitoring, along with other Deputy/Assistant Commissioners of Commercial Taxes.

The organisational chart of the department is as under:



The State is divided into five commercial taxes divisions¹, each under the charge of a Joint Commissioner (Administration) and 28 circles², each under the charge of a Deputy/Assistant Commissioner of Commercial Taxes (DCCT/ACCT). The DCCT/ACCT of the circle, who is responsible for levy and collection of tax due to the Government, besides survey, is assisted by Commercial Taxes Officers. A Deputy Commissioner of IB is posted in each division to assist the JCCT (Administration) and a DCCT (Vigilance and Monitoring) is posted under the control of Headquarters in each division.

¹ Dhanbad, Dumka, Hazaribag, Jamshedpur and Ranchi.

² Adityapur, Bokaro, Chaibasa, Chirkunda, Deoghar, Dhanbad, Dhanbad Urban, Dumka, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamshedpur Urban, Jharia, Katras, Koderma, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi East, Ranchi South, Ranchi Special, Ranchi West, Sahibganj, Singhbhum and Tenughat.

2.2 Results of audit

• Access to GST database

With the introduction of IT platform for GST implementation, access to GSTN IT system and its data becomes necessary for audit so that assurance regarding robustness of the system could be derived. With respect to CAG's requirement for complete access to the GSTN IT system and data, GSTN had recommended (October 2016) to the Government of India to create login credentials for the CAG teams. The Data Transmission, Use and Storage Protocol (DTUSP) was signed with the Commercial Taxes Department, Government of Jharkhand in April 2018. However, user ID and password for access to GST data has not been provided till November 2019 despite several requests and reminders.

The Department stated (May 2019) that it had sought clarification from GST Council on 29 April 2019 regarding guidelines and procedures to be followed in providing access to the data to maintain uniformity with other states.

The reply is not acceptable as Section 18 of the CAG's DPC Act, 1971 provides CAG with the mandate to access any record, accounts and other documents that are relevant to his inquiry. Further, as per Section 16 of the CAG's DPC Act, 1971, it shall be the duty of the CAG to audit all receipts which are payable into the Consolidated Fund of India and of each State. Thus, not providing access to GST data to CAG is in violation of the provisions of CAG's DPC Act. The fact that some other states, viz., Bihar and Chhattisgarh, have started sharing GST data with Audit indicates that sharing of data did not require the approval of GST Council.

• Local audit during the year 2017-18

During 2017-18, Audit test-checked the records of eight³ out of 44 auditable units (18 per cent) of the Commercial Taxes Department. During the period covered in audit, total 2,28,771 assesseees were registered in the State, out of which 38,166 assesseees were registered in the test-checked units and Audit examined 800 assessment records. The Department collected ₹ 10,549.25 crore revenue during 2016-17 out of which the audited units collected ₹ 2,521.75 crore (24 per cent). Audit identified irregularities amounting to ₹ 187.67 crore in 182 cases as detailed in **Table –2.1**.

Table – 2.1

Sl. No.	Categories	No. of cases	Amount (₹ in crore)
1	Non/ short levy of tax due to suppression of turnover	50	120.53
2	Irregular allowance of exemption from tax	34	26.44
3	Non/ short levy of interest	35	18.44
4	Application of incorrect rates of tax	12	7.35
5	Non/ short levy of tax due to incorrect determination of turnover	10	3.41
6	Incorrect allowance of Input Tax Credit	20	0.57
7	Non/ short levy of penalty	4	5.24
8	Other cases	17	5.69
Total		182	187.67

³ Offices of DCCT, Dhanbad Urban, Giridih, Koderma, Palamu, Ranchi East, Ranchi Special, Singhbhum and Tenughat.

The Department accepted (between 2017-18 and 2018-19) under-assessment and other deficiencies of ₹15.82 crore in 30 cases, out of which, deficiencies of ₹15.48 crore in nine cases were pointed out during 2017-18 and rest in earlier years; and recovered ₹ 31.12 lakh in 17 cases.

Irregularities involving nine cases worth ₹ 15.48 crore have been illustrated in this chapter. Some of these irregularities have been repeatedly reported during the last five years are detailed in **Table –2.2**.

Table – 2.2

Nature of observations	(₹ in crore)											
	2012-13		2013-14		2014-15		2015-16		2016-17		Total	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
Non-levy of interest on disallowed exemption/ concessions	13	5.64	46	60.02	52	72.58	19	119.92	62	142.00	192	400.16
Non-levy of interest	8	4.15	10	17.71	17	60.73	15	53.14	-	-	50	135.73
Concealment of sale/ purchase turnover	28	245.11	44	222.28	69	169.03	18	284.10	108	405.37	267	1,325.89

The repetitive nature of irregularities makes it evident that the State Government and the Commercial Taxes Department have not taken adequate measures to address the persistent irregularities pointed out year after year by Audit.

2.3 Non-levy of interest on disallowed exemption/ concession

The Assessing Authorities (AAs) levied tax on disallowed claims of exemptions, concessions, or incorrect adjustment of Input Tax Credit (ITC) of ₹ 95.01 crore. However, interest of ₹ 10.45 crore was not levied.

The JVAT Act, 2005 provides for levy of interest applicable under this Act on account of disallowance of ITC, exemptions and deductions and any other concessions or rebates not supported by requisite evidence as required under the Act, Central Sales Tax Act or Rules framed thereunder. The Act further prescribes payment of simple interest on the additional tax assessed at the rate of two *per cent* per month from the date of such default for so long as the assessee continues to make default in the payment of the said tax.

Audit test-checked (between October 2017 and January 2018) the assessment records of 200 dealers out of assessment records of 1,866 dealers in Koderma and Singhbhum commercial taxes circles and found that though the AAs disallowed (between January and March 2017) claims of six dealers for exemptions, concessions and adjustment of ITC of ₹ 95.01 crore for the year 2013-14, the AAs failed to levy penal interest amounting to ₹ 10.45 crore on the disallowed claims. It was observed that the levy of interest on disallowed exemptions, concessions or incorrect adjustment of ITC in course of assessment was not being levied uniformly in both commercial taxes circles.

After the cases were pointed out (between October 2017 and January 2018), the AAs accepted the audit observations (between September 2018 and July 2019) and raised additional demand of ₹ 9.71 crore in five cases. Intimation regarding recovery is awaited (February 2020).

The matter was reported to the Government between June 2018 and July 2019; their reply is awaited (February 2020).

2.4 Non-levy of interest on additional tax assessed on enhanced turnover

The AA enhanced the turnover of two dealers on account of concealment of purchases and levied additional tax of ₹ 2.25 crore but did not levy interest of ₹ 3.93 crore.

As per the provisions of Section 40(2) of the JVAT Act, 2005, if the prescribed authority in course of any proceeding or upon any information, before assessment or otherwise, is satisfied, that the registered dealer has concealed any sale or purchase, he shall direct the assessee, after giving him reasonable opportunity of being heard, in addition to additional tax assessed on suppressed or concealed turnover, to pay by way of interest a sum at the rate of five *per cent* for each month on additional tax assessed till the date of assessment.

Audit test-checked (between October and November 2017) the assessment records of 125 dealers out of assessment records of 2,618 dealers registered in Ranchi Special Commercial Taxes Circle and noticed that two dealers had filed their returns declaring Gross Turnover (GTO) of ₹113.21 crore for the year 2013-14. The AA while finalising the assessments of these dealers (March 2017) enhanced the GTO to ₹ 129.98 crore on account of concealment of purchase by these dealers, arrived at by reconciliation of inter-State purchase of goods on *Sugam-G⁴* road permits *vis-à-vis* those shown in the trading account. Additional tax of ₹ 2.25 crore, on the concealed turnover of ₹ 16.77 crore, was levied by the AA. However, interest of ₹ 3.93 crore at the rate of five *per cent* per month, though leviable for concealment of such purchases, was not levied by the AA.

After the cases were pointed out (between October and November 2017), the AA raised (between July and August 2018) additional demand for the entire amount under observation. Intimation regarding recovery is awaited (February 2020).

The matter was reported to the Government between June 2018 and July 2019; their reply is awaited (February 2020).

2.5 Concealment of purchase turnover

The AA, while finalising the assessments, did not cross-verify the returns with the utilisation of Form 'C' and purchase statement which led to under assessment of tax of ₹ 1.10 crore.

The JVAT Act empowers AAs to impose penalty equivalent to twice (increased to thrice from July 2014) the amount of the tax assessed on the turnover concealed by the dealer.

⁴ Online generated declaration form utilised for transport of goods from outside the state of Jharkhand into the state of Jharkhand.

Audit test-checked (November 2017) the assessment records of 125 dealers out of assessment records of 2,618 dealers in Ranchi Special Commercial Taxes Circle and noticed that a dealer had disclosed inter-State purchase of taxable goods for ₹ 8.70 crore during the year 2013-14 through periodical returns and VAT audit report in Form JVAT 409 on which the assessment was finalised (March 2017). Scrutiny of usage of declaration in Form 'C' indicated that the dealer had actually purchased goods worth ₹ 16.03 crore, through inter-State purchase, by utilising 39 numbers of Form 'C'. This resulted in non-detection of concealment of turnover of ₹ 7.33 crore and consequential under assessment of tax of ₹ 1.10 crore including penalty of ₹ 73.31 lakh. This indicated that the AA did not comply with the orders of CTD to cross verify the returns with the relevant information available in records of the concerned assessee resulting in persistence of similar irregularities.

After the cases were pointed out (November 2017), the AA raised (July 2018) additional demand of entire objected amount. Intimation regarding recovery is awaited (February 2020).

The matter was reported to the Government between June 2018 and July 2019; their reply is awaited (February 2020).

