

CHAPTER-II
TAXES ON SALE, TRADE etc.



CHAPTER-II: TAXES ON SALE, TRADE, *etc.*

2.1 Tax Administration

Taxation Department is the most important revenue-earning Department of the State. The Additional Chief Secretary to the Government of Meghalaya, Excise, Registration, Taxation and Stamps (ERTS) Department is in overall charge of the Taxation Department at the Government level. The Commissioner of Taxes (COT) is the administrative head of the Department. He is assisted by a Deputy Commissioner of Taxes (DCT) and three Assistant Commissioners of Taxes (ACTs). One ACT functions as the Appellate Authority. At the district level, 17 Superintendents of Taxes (SsT) have been entrusted with the work of registration, scrutiny of returns, collection of taxes, levy of interest and penalty, issue of road permits/declaration forms, enforcement and supervision of check gates *etc.* The collection of tax is governed by the provisions of the Central Sales Tax (CST) Act, 1956; the CST Rules, 1957; the Meghalaya Value Added Tax (MVAT) Act, 2003; the MVAT Rules, 2005; the Meghalaya (Sales of Petroleum and Petroleum Products including Motor Spirit and Lubricants Taxation) (MSL) Act, *etc.* With the introduction of Value Added Tax (VAT) on 01 May 2005, the Meghalaya Sales Tax (MST) Act and the Meghalaya Finance (Sales Tax) (MFST) Act were repealed.

2.2 Internal audit

The Taxation Department has no separate Internal Audit Wing (IAW). Despite this being pointed out earlier by audit, no action has been taken by the Department to create an IAW.

Recommendation: *The Department may look into the possibility of creating an Internal Audit Wing to effectively monitor its functioning.*

2.3 Results of Audit

Test check of the records of 17 units relating to VAT during 2015-16 revealed under-assessment of tax and other irregularities involving ₹ 147.66 crore in 97 cases which fall under the following categories:

Table 2.1

Sl. No.	Category	Number of cases	(₹ in crore)
			Amount
1.	Non/Short realisation of tax	16	58.68
2.	Evasion of tax	04	2.64
3.	Loss of revenue	03	13.78
4.	Other irregularities	74	72.56
Total		97	147.66

During the course of the year, the Department accepted under assessments and other deficiencies of ₹ 90.45 crore in 66 cases. An amount of ₹ 1.06 crore was realised in three cases during the year 2015-16.

A few cases having financial impact of ₹ 21.33 crore, in terms of under assessment/short levy/non-levy of tax and other provisions of the Acts are discussed in the paragraphs 2.4 to 2.14.

2.4 Evasion of tax by using fake 'C' forms

Failure of the Superintendent of Taxes (ST) to complete assessment in time resulted in evasion of tax amounting to ₹ 0.13 crore on purchase of goods using fake 'C' forms; on which interest of ₹ 0.27 crore and penalty not exceeding ₹ 0.26 crore were also leviable.

[ST, Circle-I, Shillong; February 2016]

Under Section 8(4) read with Rule 12(1) of the CST Act, 1956 and the rules made thereunder, a registered dealer can pay tax at the concessional rate of 2 per cent for purchase of goods from another registered dealer in the course of inter-State trade by furnishing a declaration in Form 'C'. Further, under Section 45 of the MVAT Act, if the returns furnished by a dealer are incorrect, then the ST can assess him to the best of his judgement. If a dealer fails to pay the full amount of tax due per quarter, then simple interest at the rate of 2 per cent per month from the end of the month following the quarter is leviable under Section 40 of the MVAT Act. In addition, for non-payment of tax, penalty not exceeding twice the amount of tax involved is also leviable under Section 90 read with Section 96 of the Act *ibid*.

A dealer¹ engaged in re-sale of rice, mustard oil, ghee *etc.* disclosed turnover of ₹ 7.43 crore in his returns for the period between April 2006 and March 2007 and paid tax² amounting to ₹ 0.30 crore. The ST accepted the returns as correct and completed the scrutiny of returns in June 2011. However, based on the information received (December 2013 and April 2015) from the Commercial Tax Department of Madhya Pradesh, audit observed (November 2015) that between April 2006 and March 2007, the dealer purchased mustard oil amounting to ₹ 3.17 crore in course of inter-State trade from a dealer in Madhya Pradesh using six 'C' forms. Cross-verification of the particulars relating to issue of 'C' forms to the dealer revealed that the dealer had not

¹ M/s Rajasthan Foodgrains.

² At the rate of 4 per cent.

been issued any of these six forms. The dealer, thus, utilised fake 'C' forms for fraudulent purchase of goods valued at ₹ 3.17 crore and evaded tax of ₹ 0.13 crore.

Despite the information being available with the ST, no action was taken by the ST to assess the dealer, thereby resulting in evasion of tax of ₹ 0.13 crore on which penalty not exceeding ₹ 0.26 crore and interest of ₹ 0.27 crore³ were also leviable.

The case was reported to the Taxation Department, Government of Meghalaya between April 2016 and May 2016; their reply had not been received (December 2016).

2.5 Loss of revenue due to not completing of assessments

Failure to carry out timely assessment allowed two dealers to escape the liability to pay tax amounting to ₹ 0.14 crore; on which interest of ₹ 0.19 crore and penalty not exceeding ₹ 0.28 crore were also leviable.

[SsT, Circles-I & II, Shillong; February 2016]

Under Section 35 of the MVAT Act, 2003 and the Rules made thereunder, every dealer shall submit a quarterly return duly accompanied by the treasury receipt showing the amount of tax payable by him as per the return. Further, under Section 45 of the MVAT Act if a dealer fails to furnish returns/closes his business, then, the ST can assess him to the best of his judgement. If a dealer fails to pay the full amount of tax due per quarter, then simple interest at the rate of 2 *per cent* per month from the end of the month following the quarter is leviable under Section 40 of the MVAT Act. In addition, for not paying the tax, penalty not exceeding twice the amount of tax involved is also leviable under Section 90 read with Section 96 of the Act *ibid*.

2.5.1 A dealer⁴ submitted his returns only upto March 2008 and thereafter stopped submitting returns and pay any tax thereon. Despite this, no action was taken by the ST to assess the dealer on best judgement basis. The ST, however, continued to issue/re-validate Road Permits⁵ of the dealer upto March 2011. The dealer stopped all trade related activities⁶ after March 2011 indicating closure of business and the case records were left unattended. It was, however, observed (November 2015) from the records that the dealer purchased 'ghee/mustard oil' amounting to ₹ 1.10 crore in course of inter-State trade between April 2008 and May 2008 having a tax effect of ₹ 0.04 crore.

³ Calculated upto October 2015.

⁴ **M/s Hanuman Store.**

⁵ A Road Permit is issued in Form 40 which enables a registered dealer to bring goods, purchased in course of inter-State trade, into the State.

⁶ Applying for Road Permits/'C' forms *etc.*

2.5.2 A dealer⁷ submitted returns only upto March 2010 and thereafter stopped submitting returns. Despite this, no action was taken by the ST to assess the dealer on best judgement basis. The ST, however, continued to issue/re-validate Road Permits⁸ of the dealer upto December 2010. The dealer stopped all trade related activities⁹ after December 2010 indicating closure of business and the case records were left unattended. It was, however, observed (December 2015) from the records that the dealer purchased goods amounting to ₹ 1.12 crore in course of inter-State trade between April 2009 and December 2010 against which, the dealer disclosed sales of only ₹ 0.31 crore upto March 2010. The dealer thus concealed a minimum turnover of ₹ 0.81 crore¹⁰ and evaded tax of ₹ 0.10 crore.

Despite not furnishing of returns, no action was taken by the SsT to assess the dealers on best judgement basis. Thus, the dealers evaded payment of tax of ₹ 0.14 crore on which penalty not exceeding ₹ 0.28 crore and interest amounting to ₹ 0.19 crore¹¹ were also leviable, resulting in loss of revenue of ₹ 0.33 crore to the State exchequer.

The cases were reported to the Taxation Department, Government of Meghalaya between April 2016 and May 2016; their reply had not been received (December 2016).

2.6 Loss of revenue due to acceptance of incorrect claim of Input Tax Credit

A dealer fraudulently claimed Input Tax Credit of ₹ 0.90 crore; on which interest amounting to ₹ 1.03 crore and penalty not exceeding ₹ 1.80 crore were also leviable.

[ST, Circle-II, Shillong; February 2016]

Under the provisions of Section 11 of the MVAT Act, Input Tax Credit (ITC) is allowed to a registered dealer for intra-State purchase of goods, intended for re-sale, from another registered dealer. ITC is the tax paid by the second dealer while purchasing goods from another dealer in the course of intra-State trade and is allowed as a set-off against the tax payable by the second dealer while making subsequent sale. Further, under Section 11 read with Section 16 of the MVAT Act, for availing ITC a dealer must maintain all evidence in support of such a claim and the burden of proving the eligibility for claiming ITC shall be on the dealer. If a dealer falsely claims ITC, then penalty not exceeding twice the amount of tax involved is leviable under Section 90 read with Section 96 of the Act *ibid*.

A dealer¹² dealing in electronic goods submitted returns for the period between April 2007 and March 2015 disclosing intra-State purchase of goods valued at ₹ 20 crore

⁷ **M/s Mansuk Electronics.**

⁸ A Road Permit is issued in Form 40 which enables a registered dealer to bring goods, purchased in course of inter-State trade, into the State.

⁹ Applying for Road Permits/'C' forms *etc.*

¹⁰ Without taking any profit element into account.

¹¹ Calculated upto October 2015.

¹² **M/s E.N. Enterprise.**

and claimed ITC of ₹ 0.90 crore on such purchases and accordingly paid the output tax after adjusting the ITC as set-off. However, examination of the dealer's records revealed that the dealer did not provide any documentary evidence in support of his claim of ITC. As such, the ITC claim was irregular and was liable to be rejected. However, the same was not detected by the ST as he failed to assess the dealer and the case records were left unexamined thereby allowing the dealer to avail undue benefit of ITC amounting to ₹ 0.90 crore on which penalty not exceeding ₹ 1.80 crore and interest amounting to ₹ 1.03 crore¹³ were leviable. The dealer stopped submitting returns after March 2015 and there were no trade related activities in his records¹⁴ indicating closure of business.

Despite the dealer having stopped furnishing of returns, no action was taken by the ST to assess the dealer on best judgement basis or even to ascertain the status of the dealer's business. Failure of the ST to carry out timely assessment thus enabled the dealer to irregularly avail ITC benefit resulting in a loss of revenue to the State exchequer amounting to ₹ 1.93 crore.

The case was reported to the Taxation Department, Government of Meghalaya between April 2016 and May 2016; their reply had not been received (December 2016).

2.7 Short payment of tax due to irregular claim of remission

A manufacturing unit irregularly claimed tax remission beyond the eligibility period resulting in short payment of tax amounting to ₹ 0.12 crore; on which interest of ₹ 0.11 crore and penalty not exceeding ₹ 0.24 crore were also leviable.

[ST, Circle-VIII, Shillong; March 2016]

Under the Meghalaya Industries (Tax remission) Scheme, 2006 eligible manufacturing units¹⁵ are entitled to retain as remission, 99 *per cent* of the tax collected in course of intra-State trade and deposit only one *per cent* of the tax collected into the Government account. Section 3(3) of the Scheme Guidelines stipulate that an eligible unit will be entitled to the benefits under this scheme for a period upto seven years from the date of commencement of production. Further, under Section 45 of the MVAT Act if a dealer furnishes incorrect returns, then the ST can assess him to the best of his judgement. If a dealer fails to pay the full amount of tax due per quarter, then simple interest at the rate of 2 *per cent* per month from the end of the month following the quarter is leviable under Section 40 of the MVAT Act. In addition, for non-payment of tax, penalty not exceeding twice the amount of tax involved is also leviable under Section 90 read with Section 96 of the Act *ibid*.

¹³ Calculated upto October 2015.

¹⁴ The dealer stopped applying for road permits/'C' forms *etc*.

¹⁵ Units which have been approved by the Single Window Agency (constituted under the chairmanship of the Chief Minister).

A manufacturing unit¹⁶ started commercial production from 15 April 2003. The benefits granted under the Remission Scheme were to be allowed for a period of seven years, *i.e.*, upto 14 April 2010. The unit, however, continued to claim remission under the Scheme even after expiry of the seven year period. Between May 2010 and December 2013, the unit sold goods valued at ₹ 2.79 crore on which tax amounting to ₹ 12.46 lakh was payable. The unit, however, paid only ₹ 0.12 lakh (being one *per cent* of the tax collected) and retained ₹ 12.34 lakh with itself. The manufacturing unit stopped furnishing returns after December 2013 and also stopped making any payment of tax therefrom.

Despite submission of incorrect returns/non-submission of returns, no action was taken by the ST to assess the dealer on best judgement basis. Thus, inaction on the part of the ST resulted in short payment of tax amounting to ₹ 0.12 crore and undue benefit to the dealer to that extent. For short payment of tax, penalty not exceeding ₹ 0.24 crore and interest amounting to ₹ 0.11 crore¹⁷ were also leviable.

The case was reported to the Taxation Department, Government of Meghalaya between April 2016 and May 2016; their reply had not been received (December 2016).

2.8 Short payment of tax

Failure of the ST to carry out scrutiny/assessment resulted in short payment of tax amounting to ₹ 0.56 crore by a dealer; on which interest of ₹ 0.28 crore and penalty not exceeding ₹ 1.12 crore were also leviable.

[ST, Jowai; November 2015]

Under Section 35 of the MVAT Act, a registered dealer has to submit a quarterly return along with full payment of tax due as per the return. Section 39(1) of the MVAT Act stipulates that each and every quarterly return furnished by a dealer is subject to scrutiny by the ST to *inter alia* verify full payment of tax by the dealer during the quarter. Further, under Section 45 of the MVAT Act if a dealer furnishes incomplete returns, then, the ST can assess him to the best of his judgement. If a dealer fails to pay the full amount of tax due per quarter, then simple interest at the rate of 2 *per cent* per month from the end of the month following the quarter is leviable under Section 40 of the MVAT Act. In addition, for non-payment of tax, penalty not exceeding twice the amount of tax involved is also leviable under Section 90 read with Section 96 of the Act *ibid*.

A dealer¹⁸ submitted his returns for the period from July 2012 to December 2014 wherein he declared turnover of ₹ 4.60 crore. Against the tax liability of ₹ 0.92 crore¹⁹

¹⁶ M/s Regetta Foods Pvt. Ltd.

¹⁷ Calculated upto January 2016.

¹⁸ M/s VFR Bonded Warehouse.

¹⁹ 20 *per cent* of ₹ 4.60 crore = ₹ 0.92 crore.

the dealer, however, paid only ₹ 0.36 crore resulting in short payment of tax of ₹ 0.56 crore.

Despite submission of returns without full payment of tax in eight quarters²⁰ and non-payment of tax in two quarters²¹, the ST could not detect the same as he failed to scrutinise the returns of the dealer or assess him on best judgement basis. Thus, inaction of the ST resulted in short payment of tax amounting to ₹ 0.56 crore on which penalty not exceeding ₹ 1.12 crore and interest of ₹ 0.28 crore²² were also leviable.

The case was reported to the Taxation Department, Government of Meghalaya in February 2016; their reply had not been received (December 2016).

2.9 Short payment of tax

Failure of the SsT to carry out scrutiny/assessment resulted in short payment of tax amounting to ₹ 10.29 crore by two cement manufacturing units; on which interest of ₹ 3.87 crore and penalty not exceeding ₹ 20.58 crore were also leviable.

[SsT, Jowai & Circle-VII, Shillong; November 2015 & February 2016]

Under the provisions of the Meghalaya Industries (Tax Remission) Scheme 2006, eligible cement manufacturing units with installed capacity exceeding 600 tonnes per day (TPD) shall pay CST @ 2 per cent of their sale²³. Further, under Section 90 of the MVAT Act, if a dealer evades, in any way, the liability to pay tax, he shall be liable to pay in addition to tax, a penalty not exceeding ₹ 5000 or double the amount of tax payable on the sale of turnover whichever is greater. Besides, for non-payment of tax within 21 days from the expiry of the quarter, penalty at 2 per cent per month is also leviable under Section 40 of the MVAT Act.

For the period between January 2013 and December 2015 two cement manufacturing units²⁴ (with installed capacity exceeding 600 TPD) sold cement amounting to ₹ 607.46 crore in course of inter-State trade, on which, tax amounting to ₹ 10.39 crore was payable; against which, the units paid only ₹ 0.10 crore thereby resulting in short payment of tax amounting to ₹ 10.29 crore on which penalty not exceeding ₹ 20.58 crore and interest amounting to ₹ 3.87 crore²⁵ were also leviable.

Despite submission of returns by the dealers without payment of tax, no action was initiated by the SsT to scrutinise the returns or assess the units on best judgement

²⁰ **Quarters Ended:** September 2012, December 2012, September 2013, December 2013, March 2014, June 2014, September 2014 and December 2014.

²¹ **Quarters Ended:** March 2013, June 2013.

²² Calculated upto October 2015.

²³ If sold to registered dealers. Else such sale is taxable at 13.5/14.5 per cent.

²⁴ **M/s Meghalaya Cements Ltd (ST, Jowai) and M/s Amrit Cements Ltd. (ST, Circle-VII, Shillong)**

²⁵ Calculated upto January 2016.

basis. Failure of the SsT to complete the scrutiny/assessment of returns thus resulted in short payment of tax to that extent.

The cases was reported to the Taxation Department, Government of Meghalaya between February 2016 and April 2016; their replies had not been received (December 2016).

2.10 Turnover escaped assessment

A coal dealer concealed turnover of ₹ 36.69 crore and evaded tax of ₹ 1.47 crore; on which penalty not exceeding ₹ 2.94 crore and interest of ₹ 1.10 crore were also leviable.

[ST, Williamnagar; March 2016]

Under Section 90 read with Section 96 of the MVAT Act, if any dealer furnishes false returns of turnover, he shall be liable to pay, in addition to the tax, a penalty equal to double the amount of tax payable on the sale turnover. The provision of the Act, applies *mutatis mutandis* in cases of assessments and reassessments under the CST Act. Further, sale of coal in course of inter State trade is taxable at a concessional rate of two *per cent* if supported by declaration in Form 'C', otherwise such sale is taxable at the rate of four *per cent*.

Between July 2012 and March 2013 a coal dealer²⁶ submitted returns wherein he disclosed inter-State sales amounting to ₹ 57.29 crore to registered dealers and submitted 29 declarations in form 'C' in support of the sale and was accordingly assessed by the ST between August 2013 and March 2014. Examination of the declaration forms, however, revealed that the actual sale value was ₹ 93.98 crore. Thus, against actual sale of ₹ 93.98 crore, the dealer disclosed sale of only ₹ 57.29 crore, resulting in concealment of turnover of ₹ 36.69 crore.

Despite the declaration forms being available in the case records of the dealer, the ST failed to check the same while finalising assessments resulting in concealment of turnover to that extent and consequent evasion of tax amounting to ₹ 1.47 crore²⁷; on which penalty not exceeding ₹ 2.94 crore and interest of ₹ 1.10 crore²⁸ were also leviable.

The case was reported to the Taxation Department, Government of Meghalaya in April 2016; their reply had not been received (December 2016).

²⁶ M/s BCMS Traders Pvt. Ltd.

²⁷ 4 *per cent* of ₹ 36.69 crore = ₹ 1.47 crore

²⁸ Calculated upto January 2016.

2.11 Evasion of tax

Failure of the ST to assess the returns properly resulted in concealment of purchase of ₹ 6.94 crore by three dealers and consequent evasion of tax amounting to ₹ 1.02 crore; on which penalty not exceeding ₹ 1.53 crore and interest of ₹ 0.1 crore were also leviable.

[ST, Williamnagar; March 2016]

Under Section 11(4) of the Assam (Sales of Petroleum *etc.*) Taxation Act, 1955 (as adapted by Meghalaya) if the ST is not satisfied with the correctness of returns furnished by a dealer, then the ST can assess the dealer to the best of his judgement. Further under Section 16(1)(c) of the Act if the dealer has concealed particulars of his turnover, then the dealer is liable to pay as penalty, in addition to the tax payable, a sum not exceeding one and half times the tax payable. In addition, interest is leviable under Section 20A of the Act *ibid* as follows:

For the first 60 days from the due date ²⁹	12 per cent per annum
Beyond 60 days from the due date	24 per cent per annum

2.11.1 For the period between April 2014 and June 2015, a dealer³⁰ disclosed combined inter-State purchase of ‘Motor Spirits’ (MS) and ‘High Speed Diesel’ (HSD) of ₹ 1.94 crore from an oil marketing company in Assam and the same was accepted and assessed by the ST on various dates between February 2015 and November 2015. However, from the case records of the dealer, it was observed that during the same period, the dealer imported 84 consignments of MS/HSD during the period valued at ₹ 4.66 crore, against which he disclosed only ₹ 1.94 crore thereby resulting in concealment of purchase of ₹ 2.72 crore.

While completing the assessments, the ST failed to take into account all connected records which thereby enabled the dealer to conceal purchase of MS/HSD worth ₹ 2.72 crore resulting in minimum³¹ evasion of tax amounting to ₹ 0.34 crore; on which penalty not exceeding ₹ 0.51 crore and interest of ₹ 0.03 crore³² were also leviable.

2.11.2 For the period between January 2015 and September 2015, two dealers³³ disclosed inter-State sale of MS at ₹ 1.52 crore and HSD of ₹ 1.98 crore from an oil marketing company in Assam and the same was accepted and assessed by the ST in November 2015. However, from the case records of the dealers it was observed that during the same period, the dealer purchased MS worth ₹ 3.27 crore and HSD worth ₹ 4.45 crore.

²⁹ Due date is the end of the month following the quarter.

³⁰ **M/s Nengkra Service Station.**

³¹ Calculated at the minimum rate of 12.5 per cent.

³² Calculated upto January 2016.

³³ **M/s Koksi Service Station and M/s Energy station, Williamnagar.**

Despite the information being available in the case records of the dealers, the ST, while completing the assessments, failed to take into account all connected records which thereby enabled the dealers to conceal sale of MS worth ₹ 1.75 crore and HSD worth ₹ 2.47 crore thereby resulting in evasion of tax amounting to ₹ 0.68 crore on which, penalty not exceeding ₹ 1.02 crore and interest of ₹ 0.07 crore³⁴ were also leviable.

The cases were reported to the Taxation Department, Government of Meghalaya in April 2016; their reply had not been received (December 2016).

2.12 Irregular grant of concessional rate on turnover not supported by 'C' forms

Irregular grant of concessional rate on sale of coal worth ₹ 19.25 crore resulted in short payment of tax amounting to ₹ 0.39 crore on which penalty not exceeding ₹ 0.78 crore and interest of ₹ 0.19 crore were also leviable.

[ST, Williamnagar; March 2016]

Under Section 90 read with Section 96 of the MVAT Act, if any dealer furnishes false returns of turnover, he shall be liable to pay in addition to the tax a penalty equal to double the amount of tax payable on the sale turnover. Further, sale of coal in course of inter State trade is taxable at a concessional rate of two *per cent* if supported by declaration in Form 'C', otherwise such sale is taxable at the rate of four *per cent*.

Between April 2013 and December 2013, a dealer³⁵ disclosed total sales of ₹ 134.50 crore in course of inter-State trade; out of which, he disclosed ₹ 132.38 crore as sales made to registered dealers and supported by declarations in Form 'C' and was accordingly assessed by the ST between September 2013 and February 2014. Examination of the case records of the dealer, however, revealed that during the same period, the dealer actually submitted 41 declarations in Form 'C' valuing only ₹ 113.13 crore in support of his claim.

The ST, thus, irregularly allowed concessional rate of tax at 2 *per cent* on ₹ 132.38 crore instead of ₹ 113.13 crore resulting in excess amount of ₹ 19.25 crore getting taxed at concessional rate of 2 *per cent* instead of 4 *per cent*. This resulted in short payment of tax of ₹ 0.39 crore on which penalty not exceeding ₹ 0.78 crore and interest of ₹ 0.19 crore³⁶ were also leviable.

The case was reported to the Taxation Department, Government of Meghalaya in April 2016; their reply had not been received (December 2016).

³⁴ Calculated upto January 2016.

³⁵ M/s A.K. Minerals.

³⁶ Calculated upto January 2016.

2.13 Irregular claim of exemption

Failure of the ST to take timely action against a dealer resulted in irregular claim of tax remission of ₹ 0.18 crore; on which penalty not exceeding ₹ 0.36 crore and interest of ₹ 0.26 crore were also leviable.

[ST, Circle-XIII, Shillong; March 2016]

Under the provisions of the Meghalaya Industries (Tax Remission) Scheme, 2006 eligible manufacturing units³⁷ are entitled to remission³⁸ of 99 *per cent* of the tax collected in course of intra-State trade and deposit only 1 *per cent* of the tax collected into the Government account. Section 3(3) of the Scheme Guidelines stipulate that an eligible unit will be entitled to the benefits under this scheme for a period upto seven years from the date of commencement of production. Further, under Section 45 of the MVAT Act, if the returns furnished by a dealer are incorrect or if a dealer stops furnishing returns, then the ST can assess him to the best of judgement.

The dealer³⁹ was dealing in 'electronic goods'. Despite not being a 'manufacturer' and not fulfilling any of the requisite criteria⁴⁰ for claiming tax remission, the dealer claimed remission under the Meghalaya Industrial Policy and the Remission Scheme thereunder. Between July 2005 and March 2014, the dealer declared local sales of ₹ 1.72 crore and CST sales of ₹ 3.71 crore, on which tax amounting to ₹ 7.53 lakh and ₹ 15.15 lakh respectively was leviable, against which, the dealer paid only ₹ 4.76 lakh, claiming remission under the Remission Scheme. This resulted in short payment of tax of ₹ 0.18 crore, on which interest of ₹ 0.26 crore⁴¹ and penalty not exceeding ₹ 0.36 crore were also leviable.

Despite irregular claim of remission by the dealer without any supporting proofs such as Eligibility Certificate from the Industries Department, Single Window Agency approval *etc.*, the same was overlooked by the ST resulting in short payment of tax to that extent.

After March 2014, the dealer stopped furnishing returns and stopped all trade related activities indicating closure of business despite which, the ST failed to take timely action against the dealer which indicates probable loss of revenue to that extent as the chances of recovery appear to be remote.

The case was reported to the Taxation Department, Government of Meghalaya in April 2016; their reply had not been received (December 2016).

³⁷ Units which have been approved by the Single Window Agency (SWA) {constituted under the chairmanship of the Chief Minister}.

³⁸ As per the Remission Scheme, the eligible units can retain 99 *per cent* of the tax collected. This is referred to as **remission** as per the Scheme.

³⁹ **M/s Sumo Digital.**

⁴⁰ The dealer did not have SWA approval, Eligibility Certificate issued by the Industries Department and Certificate of Entitlement from the Taxation Department.

⁴¹ Calculated upto January 2016.

2.14 Irregular adjustment of tax

Irregular adjustment of *challans* in respect of tax deducted at source resulted in short payment of tax amounting to ₹ 0.10 crore; on which penalty not exceeding ₹ 0.20 crore and interest of ₹ 0.03 crore were also leviable.

[SsT Circle-III & IV, Shillong; January 2016]

As per Rule 39 of the MVAT Rules, 2005, in respect of tax deducted at source (TDS), a dealer is to furnish a copy of the certificate of TDS in Form 24 along with the attested copy of the *challan* in Form 4 for adjustment of such deposit against his dues to the ST. Further, under Section 45 of the MVAT Act, 2003, if a dealer furnishes incorrect returns, then the ST can assess him to the best of his judgement. Furthermore, for furnishing such false returns, penalty not exceeding twice the amount of tax and interest is also leviable under Sections 96 and 40 of the Act *ibid*.

For the period between May 2005 and March 2015, two dealers⁴² submitted their returns disclosing TDS of ₹ 24.98 crore and adjusted the same against the output tax. It was, however, noticed that the dealers irregularly furnished copies of TDS *challans* amounting to ₹ 0.10 crore for various periods between May 2005 and March 2015 which, in effect, belonged to other dealers. The same was, however, accepted by the SsT at the time of scrutiny between December 2014 and October 2015 and was adjusted against the tax liability.

Thus, irregular acceptance of false returns by the SsT and irregular adjustment of TDS *challans* resulted in short payment of tax amounting to ₹ 0.10 crore. For deliberate furnishing of false returns, penalty not exceeding ₹ 0.20 crore and interest of ₹ 0.03 crore⁴³ was also leviable.

The cases were reported to the Taxation Department, Government of Meghalaya in April 2016; their replies had not been received (December 2016).

⁴² M/s Sun Scientific Store (Circle-III) and M/s Gupta Construction (Circle-IV).

⁴³ Calculated upto January 2016.