

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

2.1 Tax administration

The assessment, levy and collection of value added tax in Rajasthan is governed under the Rajasthan Value Added Tax Act, 2003 (RVAT) effective from 1.4.2006. Besides, Central Sales Tax Act, 1956 (CST Act) and the rules made thereunder are also in operation for inter-state sales.

The Commissioner of Commercial Taxes is responsible for administration of Sales/Value Added Tax at the level of Department, while Secretary, Finance Department exercises administrative powers at the Government level. The Commissioner of Commercial Taxes is assisted by six Additional Commissioners, 29 Deputy Commissioners, 48 Assistant Commissioners, 101 Commercial Taxes Officers and 323 Assistant Commercial Taxes Officers.

2.2 Analysis of budget preparation

Budget estimates and revised estimates under the head “Taxes on sales, trade *etc.*” during last five years ending 2009-10 were as under:

(₹ in crore)

Year	Budget estimates	Revised estimates	Variation excess (+) or shortfall (-)	Percentage of variation
2005-06	5,425.00	5,500.00	(+) 75	(+) 1.38
2006-07	6,240.00	6,650.00	(+) 410	(+) 6.57
2007-08	7,676.00	7,600.00	(-) 76	(-) 0.99
2008-09	8,500.00	9,100.00	(+) 600	(+) 7.06
2009-10	10,030.00	10,200.00	(+) 170	(+) 1.69

The budget estimates were prepared keeping in view inflationary trends and normal growth rate. During 2005-10, there was marginal variation from (-) 1 to (+) 7 *per cent* between budget estimates and revised estimates. The fluctuation was mainly due to variation in rates of different tax on commodities.

2.3 Trend of receipts

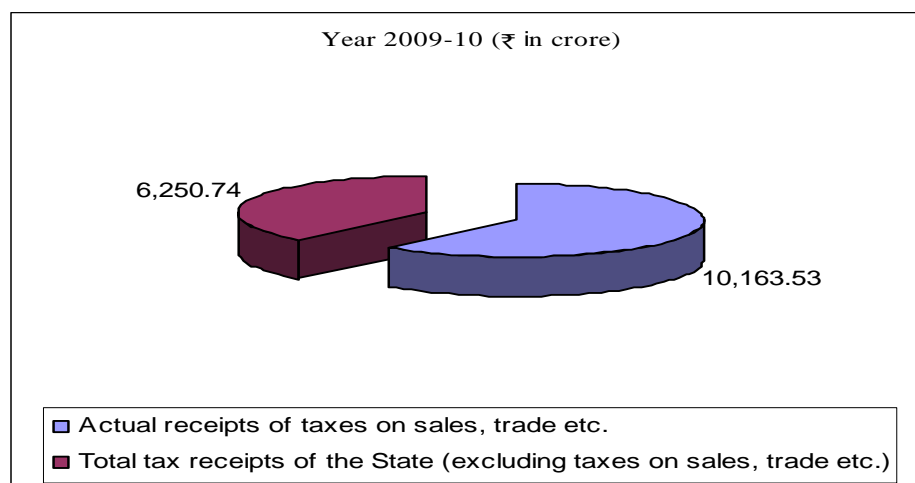
Actual receipts from the Commercial Taxes Department during the year 2005-06 to 2009-10 along with the total tax receipts of the State during the

same period is exhibited in the following table:

(₹ in crore)

Year	Revised estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts to total tax receipts
2005-06	5,500.00	5,593.64	(+) 93.64	(+) 1.70	9,880.23	56.61
2006-07	6,650.00	6,720.71	(+) 70.71	(+) 1.06	11,608.24	57.90
2007-08	7,600.00	7,750.74	(+) 150.74	(+) 1.98	13,274.73	58.39
2008-09	9,100.00	8,904.50	(-) 195.50	(-) 2.15	14,943.75	59.59
2009-10	10,200.00	10,163.53	(-) 36.47	(-) 0.36	16,414.27	61.92

Receipts of taxes on sales, trade *etc.* during the year 2009-10 along with total tax receipts of the State (excluding receipts of taxes on sales, trade *etc.*) is shown in the following pie chart:



The receipts of Commercial Taxes Department remained 57 to 62 *per cent* of the total tax receipts of the State. There has been constant increase in the revenue collection under this head and the percentage of collection with reference to total tax receipts of the State has also increased during the period 2005-06 to 2009-10.

2.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2010 amounted to ₹ 2,457.05 crore, of which ₹ 759.61 crore were outstanding for more than five years. The

following table depicts the position of arrears of revenue as on 31 March 2010.
(₹ in crore)

Year of arrear	Opening balance of arrears as on 1.4.2009	Amount collected during the year 2009-10	Closing balance of arrears as on 31.3.2010
Upto 2004-05	818.35	58.74	759.61
2005-06	151.24	11.10	140.14
2006-07	282.76	83.29	199.47
2007-08	553.08	199.17	353.91
2008-09	1,877.70	873.78	1,003.92
Total	3,683.13	1,226.08	2,457.05

The total amount of arrears upto the year 2008-09 stood at ₹ 2,457.05 crore. The chances of recovery of arrears of ₹ 759.61 crore, outstanding for more than five years, are bleak.

We recommend that the Government should take appropriate action to recover the arrears.

2.5 Cost of VAT per assessee

The following statement shows collection of Sales Tax/Value Added Tax per assessee during the last five years:

Year	Number of Assesseees	Sales Tax Revenue (₹ in crore)	Revenue per Assessee (₹ per lakh)
2005-06	2,58,614	5,593.64	2.16
2006-07	3,00,909	6,720.21	2.23
2007-08	3,19,537	7,750.74	2.43
2008-09	3,44,852	8,904.50	2.58
2009-10	3,76,688	10,163.53	2.70

2.6 Arrears in assessments

The details of cases pending assessment during the years 2005-06 to 2009-10 are mentioned below:

Year	Opening balance	New cases due for assessment	Total	Cases disposed	Cases pending at the end of year
2005-06	64,830	1,90,787	2,55,617	2,54,740	877
2006-07	877	2,43,771	2,44,648	2,43,618	1,030
2007-08	1,030	2,57,923	2,58,953	2,57,609	1,344
2008-09	1,344	2,54,289	2,55,633	2,55,262	371
2009-10	371	3,03,950	3,04,321	3,04,217	104

The word 'assessment' used in the paragraph denotes the number of self assessment returns finalised or to be finalised by the Department. The number of cases scrutinised for tax audit and tax audit completed has not been

intimated by the Department, since no cases have been selected by them for audit.

2.7 Cost of collection

The gross collection of the revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the period from 2005-06 to 2009-10 alongwith the relevant all India average percentage of expenditure on collection to gross collection for same period are as follows:

(₹ in crore)

Sl. no.	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage
1.	2005-06	5,593.64	52.42	0.94	0.91
2.	2006-07	6,720.71	60.05	0.90	0.82
3.	2007-08	7,750.74	53.76	0.70	0.83
4.	2008-09	8,904.50	70.21	0.80	0.88
5.	2009-10	10,163.53	85.90	0.85	NA

2.8 Impact of audit reports

During the last five years upto 2008-09, audit through its audit reports had pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation of tax *etc.* with revenue implication of ₹ 396.15 crore in 47 paragraphs. Of these, the Department/Government had accepted audit observations in 28 paragraphs involving ₹ 173.37 crore and had since recovered ₹ 3.66 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount	Number	Amount
2004-05	6	98.45	4	3.06	4	1.59
2005-06	14	100.98	8	8.00	3	1.30
2006-07	11	150.60	6	144.26	2	0.09
2007-08	5	17.88	2	0.26	2	0.23
2008-09	11	28.24	8	17.79	5	0.45
Total	47	396.15	28	173.37	16	3.66

The amount of recovery is less than the accepted amount because in some cases demands were pending against the dealers who were not traceable while in other cases demands were pending at various stages of recovery. **Efforts**

are required for recovery of accepted amount and settlement of other outstanding paragraphs.

2.9 Working of Internal Audit Wing

Financial Advisor is the head of the Internal Audit Wing. In the Department, 13 internal audit parties are working, each headed by Assistant Accounts Officer. Planning for internal audit of units are made on the basis of importance and revenue realisation. The position of last five years' internal audit was as under:

Year	Pending units	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remained un-audited	Shortfall in per cent
2005-06	0	443	443	441	2	0.50
2006-07	2	443	445	445	-	-
2007-08	0	443	443	378	65	15
2008-09	65	396	461	357	104	23
2009-10	104	393	497	299	198	40

There was a shortfall in conducting internal audit ranging between 15 to 40 per cent during the years 2007-08 to 2009-10.

We further noticed that Department had not made serious efforts to settle the 17,386 paragraphs of internal audit which were outstanding at the end of the year 2009-10. Year-wise break up of outstanding paragraphs is as under:

Year	Up to 2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	Total
No. of paras	6,279	2,096	2,189	2,203	2,162	2,457	17,386

We observed that 6,279 paragraphs of internal audit reports were outstanding upto the year 2004-05. Thus, the purpose of internal audit was defeated as the issues raised by internal audit were not paid due attention.

Internal audit is an essential part of internal control mechanism. **Government may consider strengthening functioning of Internal Audit Wing in order to plug the leakage of revenue and comply with the provisions of the Act and Rules.**

2.10 Results of audit

During test-check of the records of 79 units relating to Sales Tax/VAT, we noticed under-assessment of tax and other irregularities involving ₹ 35.05 crore in 1,533 cases, which broadly fall under the following categories:

Sl. no.	Category	Number of cases	Amount (₹ in crore)
1.	Under-assessment due to irregular or incorrect allowances of deduction	99	5.43
2.	Irregular grant of exemption	153	4.88
3.	Non-assessment of taxable turnover	309	4.23
4.	Short levy of tax due to application of incorrect rate of tax	93	3.24
5.	Non-levy of penalty/interest	102	0.66
6.	Non-levy of purchase tax	1	0.04
7.	Other irregularities	776	16.57
Total		1,533	35.05

During the year 2009-10, the Department accepted under-assessment and other deficiencies of ₹ 18.42 crore in 477 cases, of which 138 cases involving ₹ 0.86 crore were pointed out in audit during the year 2009-10 and the rest in the earlier years. The Department recovered ₹ 3.25 crore in 83 cases during the year 2009-10, of which 18 cases involving ₹ 21.88 lakh had been pointed out in audit during the year 2009-10 and the rest in earlier years.

After issue of the draft paragraph, the Department recovered/adjusted ₹ 5.65 lakh pertaining to one observation pointed out during 2009-10.

A few illustrative audit observations involving ₹ 4.42 crore are mentioned in the succeeding paragraphs.

2.11 Audit observations

We observed during test-check of the assessment records of sales tax/VAT in Commercial Taxes Department several cases of non-observance of provisions of Acts/Rules, non/short levy of tax/interest, incorrect computation of tax, incorrect grant of input tax credit, incorrect deferment of tax, incorrect grant of composition amount in lieu of tax liability under RST/RVAT/CST Acts. We pointed out some of these omissions in earlier years also, but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of internal audit so that occurrence of such cases can be avoided.

2.12 Non-observance of provisions of Acts/Rules

The RST/RVAT Act and Rules provides for:-

- (a) Levy of reverse tax in cases where Input Tax Credit (ITC) was allowed wrongly;*
- (b) levy of tax on taxable turnover including sale or purchases during inter-state trade;*
- (c) levy of tax at prescribed rates;*
- (d) grant of ITC in respect of purchases made by registered dealers from registered dealers within the State; and*
- (e) levy of interest at prescribed rate.*

During test check of records we noticed that some of the above provisions were not observed by the assessing authorities in cases mentioned in paragraphs 2.12.1 to 2.12.5. This resulted in non/short levy/realization of tax/interest of ₹ 1.71 crore.

2.12.1 Reverse tax

By issue of notification dated 31.3.2006 under section 18(4) of the RVAT, the State Government allowed a dealer to claim input tax credit, in excess of four *per cent* of the tax paid in the State on the purchase of goods (i) which were consigned outside the State by way of stock/branch/depot transfer or (ii) which were used as raw material in the manufacture of goods and such manufactured goods were consigned outside the State by way of stock/branch/depot transfer. Under section 18(1)(e) of the RVAT input tax credit on purchase of any taxable goods made within the State for the purpose of being used as raw material in the manufacture of exempted goods was not admissible. In cases, where input tax credit was wrongly allowed, reverse tax was to be levied.

During test-check of the assessment records of four offices (between November 2009 and February 2010), we observed that while finalising of assessments of six dealers for the year 2006-07, the assessing authorities failed to levy reverse tax in accordance with the provisions of the RVAT. This resulted in non/short levy of reverse tax

and interest of ₹ 0.85 crore as mentioned in the following table:

(₹ in crore)

Sl. no.z	Name of circle (No. of dealers)	Assessment year Month of assessment	Turnover / Purchase	Branch transfer and/or exempted sale (per cent of turnover)	Tax to be reversed (T) and interest (I) Tax reversed	Short levy of tax and interest	Remarks
1	2	3	4	5	6	7	8
1	Special Circle, Bhilwara (1)	2006-07 March 2009	30.21	6.47 (21.40)	T- 0.16 ----	0.16	The cases were reported to the Government in March 2010. The Government intimated (July 2010) that an amount of ₹ 16.19 lakh had been reversed from the excess deposits of inputs tax credit.
2	Assistant Commissioner, Raisinghnagar (3)	2006-07 August 2008 and March 2009	4.29	-	T- 0.10 ----	0.10	The cases were reported to the Government in march 2010. The Government intimated (August 2010) that ₹ 4.37 lakh had been recovered. However, details of recovery of remaining amount are awaited.

1	2	3	4	5	6	7	8
3	Special Circle-II, Jodhpur (1)	2006-07 June 2008	25.07	11.83 (47.19)	T- 0.47 I- 0.05 0.34	0.18	The cases were reported to Government in April 2010. The reply is awaited (October 2010).
4	Circle 'A', Bhiwadi (1)	2006-07 March 2009	-	10.28	T- 0.41 ----	0.41	The cases were reported to Government in April 2010. The reply is awaited (October 2010).
Total			59.57		1.19 0.34	0.85	

2.12.2 Underassessment of taxable turnover

Under section 4 of RVAT and section 8 of CST Act, the leviable tax at the prescribed rate is determined on the taxable turnover including sale or purchase during inter-state trade of different commodities. Moreover, interest at the prescribed rate is also leviable on delayed payment of tax under section 55 of the RVAT Act. Further, section 2(36) of the RVAT Act envisaged that *ex-post facto* grant of discounts or incentives or rebates or rewards and the like shall not be excluded from the sale price.

Test-check of the assessment records of three offices revealed (between September 2009 and October 2009) that while finalising assessments of 15 dealers for the year 2006-07, the Assessing Authorities either applied incorrect rates of tax on taxable turnover or assessed taxable turnover to a lesser extent. These were due to non-inclusion of *ex-post facto* trade discount or rebates in the sale price and ignoring the actual figures of purchases *etc.* This resulted in short levy

of tax and interest of ₹ 42.85 lakh as mentioned below:

Sl. no	Name of circle	Assessment year/month of assessment	No. of dealers	Observation in brief
1	2	3	4	5
1	Circle 'A', Alwar and Circle 'B', Bhilwara	2006-07 March 2009	14	Despite explicit provision for inclusion of <i>ex-post facto</i> grant of discounts or rebates in the turnover figures the assessing authorities failed to include them in case of taxable turnover of 14 dealers of mobile-set, cement, tyre-tubes and fridge amounting to ₹ 4.15 crore from the sale price/taxable turnover of ₹ 30.72 crore. Underassessment of taxable turnover resulted in short levy of tax of ₹ 25.59 lakh besides interest of ₹ 2.37 lakh.

1	2	3	4	5
2.	Special Circle-V, Jaipur	2006-07 March 2009	1	A dealer depicted gross turnover of ₹ 2.73 crore during the year 2006-07 against actual purchase of goods valuing ₹ 5.45 crore made from out of the State. The assessing authority accepted the turnover as reported by the dealer. Under- assessment of taxable turnover of ₹ 2.72 crore resulted in short levy of tax of ₹ 10.87 lakh and interest of ₹ 4.02 lakh.

After we pointed out, the Assessing Authority (CTO, Circle A, Alwar) has created (October 2010) a demand of ₹ 21.24 lakh in 13 cases while in case of Circle 'B', Bhilwara, the Assistant Commissioner intimated (June 2010) that an amount of ₹ 12.39 lakh had been adjusted against the excess deposits of the dealer and the rest amount ₹ 15,637 had been deposited in Government account. In case of Special Circle-V, Jaipur, the Government confirmed (July 2010) that the gross turnover of the dealer was ₹ 5.45 crore and the taxable turnover of the dealer was ₹ 1.32 crore during the year 2006-07. Further report on action taken is awaited (October 2010).

2.12.3 Application of incorrect rate of tax

By issue of a notification dated 31.3.2006 under section 4 and section 8 of the RVAT, the State Government has prescribed different rates of tax for different commodities. The commodities for which no specific rate has been prescribed are to be taxed at the general rate of tax *i.e.* 12.5 *per cent*. Further, interest under section 55 of the RVAT is also leviable for default in making payment of tax.

During scrutiny of the assessment records of Assistant Commissioner, Special Circle-V, Jaipur, for the year 2008-09, we noticed (October 2009) that a dealer made inter-state purchases of motor parts (₹ 6.36 crore) and tractor parts (₹ 2.51 crore) valuing ₹ 8.87 crore during 2006-07. As entry

tax is leviable on motor-parts and not on tractor-parts, the dealer accordingly paid entry tax of one *per cent* on purchases of motor-parts (including diesel engine and parts) valuing ₹ 6.36 crore. The total sales valuing ₹ 9.21 crore (total purchase: ₹ 8.87 crore plus benefit: ₹ 0.34 crore) made by the dealer during the year 2006-07 included sale of motor parts (₹ 4.74 crore), tractor parts (₹ 2.67 crore) and diesel engine parts (₹ 1.80 crore). The dealer charged tax at the rate of 12.5 *per cent* and 4 *per cent* on sale of motor-parts and tractor-parts/diesel engine respectively. The dealer made purchase of diesel engine parts valuing ₹ 1.80 crore as motor-parts and paid entry tax at one *per cent* but sold them as diesel engine-parts in the State at 4 *per cent* instead of general rate of tax 12.5 *per cent*. Tax at the rate of 4 *per cent* was accordingly deposited by the dealer. The AA while finalising the assessment, in March 2009, also levied tax at the rate of four *per cent* on sale of diesel engine parts valuing ₹ 1.80 crore (which were purchased by the dealer as motor parts) instead of levying tax at general rate of 12.5 *per cent*. Thus, application of incorrect rate of tax on sale of diesel engine parts, resulted in short levy of tax of ₹ 15.26 lakh besides interest of ₹ 5.65 lakh.

After we pointed out (October 2009), the Department stated (April 2010) that the dealer has deposited tax at the rate of 12.5 *per cent*. The reply is not acceptable as the dealer has deposited tax at the rate of 4 *per cent* instead of 12.5 *per cent*. The dealer showed the goods as diesel engine parts which is wrong as he had paid entry tax on them which is applicable on motor parts.

We reported the omission to Government (April 2010); their reply is awaited (October 2010).

2.12.4 Levy of tax at lower rate

By issue of a notification dated 24.03.2005 under the RST, the State Government prescribed a tax rate of four *per cent* on “Poha” during the year 2005-06.

On scrutiny of the assessment records of the Commercial Taxes Office, Circle-B, Kota for the year 2007-09, we found (June 2009) that five dealers, who purchased the paddy from outside the State, after processing the

same, sold “Poha” for ₹ 2.54 crore during the year 2005-06 and paid tax at the rate of one *per cent* by treating it as rice under notification dated 20.4.2005. “Poha” is a different commodity and was specifically liable to tax at four *per cent* vide notification dated 24.03.2005. However, the assessing authority, while finalising (between September 2007 and February 2008) the assessments of these dealers for the relevant year, incorrectly allowed tax rate at one *per cent* instead of levying the tax at the correct rate of four *per cent*. This resulted in short levy of tax and interest of ₹ 10.96 lakh (Tax ₹ 7.61 lakh + interest : ₹ 3.35 lakh).

After we pointed out the cases (July 2009), the Department intimated (October 2009) that a demand of ₹ 10.96 lakh has been raised and the dealers have gone into appeal against the assessment.

We reported the matter to the Government (March 2010); their reply is awaited (October 2010).

2.12.5 Irregular grant of input tax credit

As per section 2(17) of the RVAT, input tax means tax paid or payable by a registered dealer in the course of business, on the purchase of any goods made from a registered dealer. Further, section 18 of the Act *ibid*, input tax credit (ITC) shall be allowed to registered dealers in respect of purchase of any taxable goods made within the State from a registered dealer, for the purposes as prescribed thereunder.

During scrutiny of the assessment records of Commercial Taxes Officer, Circle-A, Bikaner for the period 2008-09, we found (August 2009) that a dealer purchased gram and *gwar* valuing ₹ 3.77 crore from the dealers outside the

State and claimed ITC of ₹ 10.88 lakh on it. The ITC was not available on the purchases from outside the State, however, the assessing authority, while finalising (March 2009) the assessment of the dealer irregularly allowed the ITC as claimed. This resulted in irregular grant of ITC of ₹ 10.88 lakh.

We pointed out the omission to the Department (September 2009) and reported to the Government (April 2010); their replies are awaited (October 2010).

2.13 Non-compliance of provisions of notifications

The Government notifications issued provides for:-

- (a) Grant of exemption to exempted units after deduction of ITC;
- (b) grant of benefit of composition to entitled units who applied within the prescribed due dates; and
- (c) allowing benefit of Composition Scheme for *Saraffa* dealers subject to compliance of certain conditions specified therein

During test check of records we noticed that some of the provisions above notifications were not observed by the assessing authorities in cases mentioned in paragraphs 2.13.1 to 2.13.3. This resulted in incorrect grant of deferment/ non/short levy/realization of tax/interest of ₹ 2.71 crore.

2.13.1 Incorrect deferment of tax

As per notification dated 31.3.2006 issued by the State Government under section 20(3) of the RVAT and section 9 of the CST Act, industrial units availing the benefit of exemption from tax, *inter alia*, under the Rajasthan Sales Tax/the Central Sales Tax Exemption Scheme for Industries (Incentive Scheme), 1998 were allowed to defer the payment of tax payable by them to the extent mentioned thereunder. Besides, as per section 17 of the RVAT the term “tax-payable” by a dealer is the amount of tax leviable under the Act less the amount of input tax credit.

2.13.1.1 On scrutiny of the assessment records of Commercial Taxes Office, Circle-A, Bhiwadi for the period 2008-09, we noticed (January 2010) that in case of an unit, allowed deferment under Incentive Scheme, 1998, the tax payable during the year 2006-07 was ‘nil’ after deduction of input tax credit of ₹ 2.77 crore from the tax

leviable ₹ 2.38 crore. However, despite tax-payable being nil by the unit during 2006-07, the assessing authority incorrectly allowed deferment of payment of tax of ₹ 1.15 crore. (VAT: ₹ 21.45 lakh and CST: ₹ 93.17 lakh) in contravention of aforesaid provisions. This resulted in undue benefit to the assessee.

We pointed out the omission to the Department (February 2010) and reported to the Government (April 2010); their replies are awaited (October 2010).

2.13.1.2 On scrutiny of the assessment records of the Assistant Commissioner, Special Circle-II, Jodhpur for the period 2008-09, we observed (February 2009) that unit-II of a dealer allowed exemption under Incentive Scheme, 1998. Deferment for tax-liability (60 *per cent* from 1.4.2006 to 12.6.2006 and 50 *per cent* from 13.6.2006 to 31.3.2007) was granted on 5.9.2006 to unit-II at the option of dealer. We observed that in case of unit-II, proportionate amount of input tax credit of ₹ 24.56 lakh was not deducted from the tax ₹ 39.20 lakh

payable under the RVAT during 2006-07. Based on the amount of tax payable, the actual allowance of deferment of tax worked out to ₹ 7.60 lakh. While finalising the assessment in January 2009, the assessing authority, allowed deferment of tax ₹ 20.36 lakh instead of ₹ 7.60 lakh. This resulted in grant of excess allowance of deferment of tax ₹ 12.76 lakh, besides interest of ₹ 5.10 lakh.

We pointed out the omission to the Department (March 2010) and reported to the Government (April 2010); their replies are awaited (October 2010).

2.13.2 Incorrect exemption from tax to an existing mini cement plant

By issue of notification dated 11.7.2006, the State Government notified the Compounded Levy Scheme for Mini Cement Plants, 2006. Under this Scheme, the registered dealers having mini cement plants were permitted to opt for compounding of their tax liability. The existing mini cement plants opting for this scheme should submit an application to the Assessing Authority within a period of 30 days from the publication of this notification or before the expiry of another 30 days from the stipulated period with a penalty of 50 *per cent* of the annual composition amount. There was no provision in the Scheme for entertaining the application for composition after the expiry of 60 days (*i.e.* after 8.9.2006) from the publication of notification *ibid.*

Existing mini cement plant (200 Ton per day production capacity) means any plant that has been set up and is in production at any time up to effective date of the scheme.

During scrutiny of the assessment records of the Commercial Taxes Office, Special Circle-VII, Jaipur (now Special Circle-VI, Jaipur) for the period 2008-09, we observed (January 2010) that an owner of an existing mini cement plant of 200 ton per day production capacity, opted for this scheme, and submitted an application on 29.9.2006, after stipulated period of 60 days (*i.e.* after 8.9.2006) for issue of composition certificate for the period October 2006 to March 2007.

The assessing authority, despite having no power for entertaining an application after the due date, entertained the application and issued composition certificate irregularly. Accordingly, the dealer deposited compound levy of ₹ 9.60 lakh on sale of cement valuing ₹ 5.24 crore instead of tax (at the rate of 12.5 *per cent*) amounting to ₹ 65.45 lakh. This resulted in short levy of tax of ₹ 55.85 lakh during the period from October 2006 to March 2007. Besides, interest of ₹ 21.78 lakh was also leviable.

After we pointed out, the Government stated (August 2010) that a demand of ₹ 78.94 lakh had been raised. Report on recovery is awaited (October 2010).

2.13.3 Incorrect grant of composition of tax *in lieu* of tax liability

Vide notification dated 6.5.2006, the State Government notified the 'Composition Scheme for *Saraffa* dealers, 2006' allowing such dealers to opt for composition amount *in lieu* of their tax liability in respect of their sales, subject to compliance of certain conditions specified therein. In case, the dealer violates any of the conditions of the scheme, the assessing authority may cancel the composition certificate under clause 7.6 of the scheme and in that case the dealer shall be liable for action under the provisions of the RVAT, and rules made thereunder.

During audit of the assessment records of the Assistant Commissioner, Circle-B, Jaipur for the period 2008-09, we observed that no system was in vogue for monitoring the compliance of the provisions of the composition scheme. Out of eight cases of *saraffa*¹ dealers test-checked (March 2010), we observed that in all the cases the AA failed to issue composition certificates as per clause 5.2, and the dealers did not file their turnover details within 60 days from the closure of the relevant

year as per clause 6.0. All these dealers, further, failed to deposit the composition amount within the specified period and four *Saraffa* dealers did not even submit applications for opting of this scheme under clause 5.1.

Despite non-compliance of the mandatory conditions specified in the scheme by the dealers, the AA failed to take action against these dealers under clause 7.6 of the scheme for assessing them as normal assessee under RVAT and realise the differential amount of tax. This resulted in incorrect grant of composition of tax and non-levy of differential amount of tax of ₹ 43.15 lakh, besides interest of ₹ 17.26 lakh.

We pointed out the omission to the Department and reported to the Government (April 2010); their replies are awaited (October 2010).

¹ The dealer who deals in all kinds of jewellery, ornaments and articles made of gold, silver and other precious metals and alloys thereof with or without precious or semi-precious stones including diamonds.