



CHAPTER-IV REVENUE RECEIPTS

GENERAL

4.1 Trend of revenue receipts

4.1.1 The tax and non-tax revenue raised by the Government of Mizoram during the year 2010-11, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are given below:

Table-4.1.1

(₹ in crore)

Particulars of revenue receipts	2006-07	2007-08	2008-09	2009-10	2010-11
I. Revenue raised by the State Government					
• Tax revenue	67.59	71.96	94.62	107.58	130.44
• Non-tax revenue	133.38	130.30	158.67	126.51	146.72
Total	200.97	202.26	253.29	234.09	277.16
II. Receipt from the Government of India					
• State's share of divisible Union taxes	288.08	368.92	383.39	394.53	451.66
• Grants-in-aid	1,479.90	1,468.56	2,016.45	2,334.89	2126.55
Total	1,767.98	1,837.48	2,399.84	2,729.42	2578.21
III. Total receipts of the State	1,968.95	2,039.74	2,653.13	2,963.51	2,855.37
IV. Percentage of I to III	10.21	9.92	9.55	7.90	9.71

Source: Finance Accounts

The above table indicates that during the year 2010-11, the revenue raised by the State Government was 9.71 per cent of the total revenue receipts (₹ 2,855.37 crore) against 7.90 per cent in the preceding year. The balance 90.29 per cent of the receipts during 2010-11 was from the Government of India.

4.1.2 The following table presents the details of tax revenue raised during the period 2006-07 to 2010-11.

Table-4.1.2

(₹ in crore)

Sl. No.	Head of revenue	2006-07	2007-08	2008-09	2009-10	2010-11	Percentage of increase (+) or decrease (-) in 2010-11 over 2009-10
1.	Sales Tax/VAT	53.72	62.04	77.51	85.94	104.70	(+) 22
2.	State Excise	1.65	1.69	1.87	2.10	2.39	(+) 14
3.	Stamp Duty and Registration Fee	0.21	0.23	0.46	0.39	0.34	(-) 13
4.	Taxes on Vehicles	5.01	5.37	5.50	6.71	7.72	(+) 15
5.	Taxes on Goods and Passengers	0.98	1.07	1.43	1.39	1.72	(+) 24
6.	Other Taxes on Income and Expenditure, Tax on Professions, Trades, Callings and Employment	4.99	0.08	6.22	8.29	9.24	(+) 11
7.	Land Revenue	0.73	1.48	1.63	2.76	4.33	(+) 57
Total		67.29	71.96	94.62	107.58	130.44	(+) 21

Source: Finance Accounts

The reasons for variations were not on record.

4.1.3 The following table presents the details of the non-tax revenue raised during the period 2006-07 to 2010-11.

Table-4.1.3

(₹ in crore)

Sl. No.	Head of revenue	2006-07	2007-08	2008-09	2009-10	2010-11	Percentage of increase (+) or decrease (-) in 2010-11 over 2009-10
1.	Interest Receipts	8.76	15.60	32.91	17.85	12.72	(-) 29
2.	Other Non-tax Receipts	17.56	22.59	18.98	21.38	37.65	(+) 76
3.	Forestry and Wild Life	4.06	2.98	2.20	2.53	2.40	(-) 5
4.	Miscellaneous General Services (including Lottery Receipts)	44.29	1.53	3.01	10.00	9.43	(-) 6
5.	Power	51.79	83.60	93.40	67.86	72.63	(+) 7
6.	Medical and Public Health	0.56	0.66	0.55	0.27	0.19	(-) 30
7.	Co-operation	0.02	0.02	0.02	0.01	0.02	(+) 100
8.	Public Works	2.02	0.45	2.02	4.12	1.70	(-) 59
9.	Police	0.35	0.34	3.56	0.26	7.33	(+) 2719
10.	Other Administrative services	3.97	2.53	2.02	2.23	2.65	(+) 19
Total		133.38	130.30	158.67	126.51	146.72	

Source: Finance Accounts

The reasons for variations were not on record.

4.1.4 Variations between the budget estimates and the actuals

The variations between the budget estimates and the actuals of revenue receipts for the year 2010-11 in respect of the principal heads of tax and non-tax revenue are mentioned in the following table:

Table-4.1.4

(₹ in crore)

Sl. No.	Head of revenue	Budget estimates	Actual revenue	Variations excess (+) shortfall (-)	Percentage of variation
Tax revenue					
1.	Sales Tax/VAT	96.93	104.70	(+) 7.77	(+) 8
2.	State Excise	2.06	2.39	(+) 0.33	(+) 16
3.	Taxes on Vehicles	6.80	7.72	(+) 0.92	(+) 14
4.	Taxes on Goods and Passengers	1.32	1.72	(+) 0.40	(+) 30
5.	Land Revenue	2.50	4.33	(+) 1.83	(+) 73
Non-tax Revenue					
1.	Interest Receipts	26.21	12.72	(-) 13.49	(-) 51
2.	Forestry and Wild Life	2.80	2.40	(-) 0.40	(-) 14
3.	Medical and Public Health	0.32	0.19	(-) 0.13	(-) 41
4.	Miscellaneous General Services	8.96	9.43	(+) 0.47	(+) 5
5.	Power	99.65	72.63	(-) 27.02	(-) 27

Source: Annual Financial Statement (Budget) and Finance Accounts

The reasons for variations were not on record.

4.1.5 Cost of collection

The gross collection in respect of the principal receipt heads, expenditure incurred on the collection and the percentage of such expenditure to the gross collection during the years 2008-09 to 2010-11 along with the all India average percentage of expenditure on collection for the year 2009-10 are given in the following table:

Table-4.1.5

(₹ in crore)

Sl. No.	Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for 2009-10
1.	Sales Tax/VAT	2008-09	77.51	6.03	7.78	0.96
		2009-10	85.94	6.84	7.96	
		2010-11	104.70	8.49	8.11	
2.	Taxes on Vehicles	2008-09	5.50	3.31	60.18	3.07
		2009-10	6.71	3.67	54.69	
		2010-11	7.72	5.39	69.82	

Source: Finance Accounts

The percentage of expenditure on collection during the year 2010-11 reflected an upward trend in both cases of Taxes on Vehicles and Sales Tax/VAT. Moreover, in both the cases the percentage of expenditure on collection was substantially higher than the corresponding all India average for the year 2009-10. **The Government needs to take appropriate measures to bring down the cost of collection.**

4.1.6 Arrears in assessment

The details of the assessments pending at the beginning of the year 2010-11, cases due for assessment during the year, cases disposed during the year and the cases pending finalisation at the end of the year as furnished by the departments are mentioned in the following table:

Table-4.1.6

Name of tax	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Arrears as percentage of total cases
Sales Tax/ Central Sales Tax/VAT	3797	906	4703	2258	2445	52
Motor Spirit Tax	150	22	172	24	148	86
Total	3947	928	4875	2282	2593	53

Source: Information as furnished by the Department

Thus, the percentage of pending cases at the end of the year 2010-11 was 53 *per cent*. The Government has not fixed any norm prescribing the number of assessments to be completed by each assessing officer during a specified period. **Immediate action needs to be taken to finalise the pending assessment cases.**

4.1.7 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2011 in respect of some principal heads of revenue amounted to ₹ 17.18 crore as mentioned in the following table:

Table-4.1.7

(₹ in crore)

Sl. No.	Head of revenue	Amount outstanding as on 31 March 2011
1.	Sales Tax/VAT/POL	14.99
2.	Taxes on Vehicles	2.19
Total		17.18

Source: Figures as furnished by the concerned Department

4.1.8 Failure to enforce accountability and protect interest of the Government

The Principal Accountant General (Audit), Mizoram, Aizawl conducts periodical inspection of various offices of the Government/departments to test check the correctness of the assessments, levy

and collection of the tax receipts and the non-tax receipts and verify the accuracy in maintenance of the accounts and the records as per the Acts, Rules and the procedures prescribed by the Government/departments from time to time. These inspections are followed by the inspection reports (IRs) issued to the heads of the offices inspected with copies to the next higher authorities. Serious irregularities noticed in audit are also brought to the notice of the Government/Heads of the departments by the Office of the Principal Accountant General (Audit), Mizoram, Aizawl.

A half yearly report of pending IRs is sent to the departmental heads with a copy to the Secretaries of the concerned departments to facilitate monitoring and settlement of the audit observations included in these IRs. However, their reply has not been received (February 2012).

IRs issued upto December 2010 pertaining to the offices under Sales Tax, State Excise, Land Revenue, Motor Vehicle Tax, Geology and Mining and Forest Departments disclosed that 277 observations relating to 119 IRs involving revenue of ₹ 63.90 crore remained outstanding at the end of June 2011. Of these, 93 IRs containing 182 observations involving revenue of ₹ 13.98 crore had not been settled for more than three years. The year wise position of old outstanding IRs and paragraphs is given in the following table:

Table-4.1.8

(₹ in lakh)

Year	Sales Tax			Motor Vehicle Tax			Forest			Others		
	No. of IRs	No. of Paras	Money Value	No. of IRs	No. of Paras	Money Value	No. of IRs	No. of Paras	Money Value	No. of IRs	No. of Paras	Money Value
1995-96	-	-	-	-	-	-	1	2	0.60	-	-	-
1996-97	-	-	-	-	-	-	1	1	5.70	-	-	-
1997-98	-	-	-	-	-	-	-	-	-	1	3	4.10
1998-99	2	2	1.21	-	-	-	-	-	-	2	2	2.50
1999-00	-	-	-	3	5	3.51	1	3	16.23	4	8	15.54
2000-01	1	2	4.18	1	1	0.60	6	7	10.45	3	4	11.05
2001-02	-	-	-	-	-	-	1	2	3.20	-	-	-
2002-03	2	4	47.48	1	3	3.56	6	10	46.89	3	4	2.50
2003-04	3	4	11.94	1	3	31.78	5	9	197.96	2	2	37.44
2004-05	4	8	68.14	2	2	1.66	1	3	22.21	9	13	127.82
2005-06	3	17	215.51	-	-	-	3	7	102.89	5	7	62.88
2006-07	3	7	45.93	1	3	4.44	2	5	48.43	4	4	28.12
2007-08	-	-	-	1	1	4.55	3	21	193.99	2	3	12.54
2008-09	3	10	93.63	-	-	-	1	6	233.12	1	1	56.76
2009-10	3	12	108.74	2	5	30.02	-	-	-	2	3	25.67
2010-11	3	30	2019.03	1	5	328.01	2	8	87.19	8	15	2010.37
Total	27	96	2615.79	13	28	408.13	33	84	968.86	46	69	2397.29

In respect of 67 paragraphs relating to 28 IRs involving revenue of ₹ 7.85 crore issued upto June 2011, even the first reply from the Department/Government has not been received (February 2012).

The Government may prescribe a time schedule for expeditious submission of replies to the IRs/paragraphs for their settlement.

4.1.9 Audit Committee Meetings

In order to expedite the settlement of the outstanding audit observations contained in the IRs, departmental Audit Committee Meetings are constituted by the Government. These committees are chaired by the Secretaries of the concerned administrative departments and attended by the concerned officers of the State Government and the officers of the Principal Accountant General (Audit).

In order to expedite clearance of the outstanding audit observations, it is necessary that the audit committees meet regularly. During the year 2010-11, no departmental audit committee meeting was held. Thus, the concerned departments failed to take the advantage of the audit committee set up.

The Government needs to look into this aspect and ensure that the audit committee meetings are regularly held to expedite settlement of the audit paragraphs.

4.1.10 Result of audit

Test check of the records of Sales Tax, State Excise, Motor Vehicles Tax, Land Revenue, Forest and Other Tax Receipts conducted during 2010-11 revealed under assessments/short/non-levy/loss of revenue amounting to ₹ 60.51 crore in 53 cases.

This report contains a Performance Audit on “**Cross Verification of Declaration forms in Inter State Trade and Commerce**” and three paragraphs involving money value of ₹ 22.23 crore. The Government/Departments accepted money value of ₹ 6.15 crore. These are discussed in succeeding paragraphs.

PERFORMANCE REVIEW

TAXATION DEPARTMENT

4.2 Performance Audit on Cross Verification of Declaration Forms in Inter State Trade and Commerce

Highlights

The maintenance of stock and issue registers of declaration forms, to safeguard mis-utilisation, was improper. The stock registers meant for issue to dealers only contained the quantity issued without showing the opening balance, quantity received and closing balance.

(Paragraph 4.2.8.2.2)

The ACT, South Zone, Aizawl irregularly retained 14 declaration form-‘C’ in the departmental custody, although the same were shown to have been issued to dealers.

(Paragraph 4.2.8.2.4)

There was probable mis-utilisation of 18 missing declaration form-‘C’ in two zones (Aizawl North and Kolasib).

(Paragraph 4.2.8.2.7)

The information related to issue of Declaration forms to the dealers was not uploaded in the TINXSYS website and the data available in the website was not utilised by the Department for cross verifying the correctness of the Declaration forms.

(Paragraph 4.2.8.2.9)

Short accountal of goods worth ₹ 10.09 crore purchased at concessional rate through use of declaration forms resulted in short levy of tax of ₹ 1.29 crore.

(Paragraph 4.2.12)

There was an evasion of tax of ₹ 46.44 lakh and non-imposition of penalty of ₹ 46.44 lakh due to fraudulent utilisation of invalid and obsolete forms by six unregistered dealers.

(Paragraph 4.2.14)

4.2.1 Introduction

Under the Central Sales Tax Act, 1956, (CST Act) registered dealers are eligible to certain concessions and exemptions of tax on inter State transactions on submission of prescribed declarations in Forms 'C' and 'F'. Form 'C' is a declaration form under Section 8 of CST (Amendment) Act, 1972 through which every registered dealer, who in the course of inter-State trade or commerce, sells to a registered dealer goods of the classes, specified in his certificate of registration and of the purchasing dealer, shall be liable to pay tax on the concessional rate on such turnover provided such sales are supported by declarations in form 'C' received from the purchasing dealer. Form 'F' is a declaration form under Section 6A of CST (Amendment) Act, 1972 through which transfer of goods not by reason of sales by a registered dealer to any other place of his business outside the State or to his agent or principal in other state is exempted from tax on production of declaration in form 'F', duly filled in and signed by the principal officer of the other place of business or his agent or principal as the case may be, along with evidence of despatch of such goods.

The State Governments grant these incentives to dealers for furtherance of trade and commerce. In Mizoram, it is the responsibility of the Taxation Department to ensure proper accountal of declaration forms and to take adequate safeguards against mis-utilisation of declaration forms/certificates on which tax relief is allowed involving large amount of revenue to the State exchequer. Section 10 of the CST Act provides penal provisions against the following offences:

If any person:

- furnishes a declaration under the provisions of the Act which he knows or has reason to believe to be false; or
- fails to get himself registered or fails to comply with an order as required by the provisions of the Act; or
- being a registered dealer, falsely represents when purchasing any class of goods that goods of such class are covered by his certificate of registration; or
- not being a registered dealer, falsely represents when purchasing goods in course of inter-State trade or commerce that he is a registered dealer; or
- after purchasing any goods for any of the purposes specified as per provisions of the Act fails without reasonable excuse, to make use of the goods for any such purpose;
- has in his possession any form prescribed for the purpose of inter-State trade which has not been obtained by him or by his principal or by his agent in accordance with the provisions of this Act or any rules made thereunder; or
- collects any amount by way of tax in contravention of the provisions of the Act,

shall be punishable with simple imprisonment which may extend to six months or with fine or with both and when the offence is a continuing offence, with a daily fine which may extend to fifty rupees for every day during which the offence continues.

4.2.2 Organisational set up

The Department of Taxes, which administers the CST Act, is headed by the Secretary at the Government level and the Commissioner of Taxes (COT) at the Departmental/Commissionerate level. At the Department level, the COT is assisted by a Joint Commissioner of Taxes and three Deputy Commissioners of Taxes at the Commissionerate level. At the Zonal level ten¹ Zonal Assistant Commissioners of Taxes (ACT)/Superintendents of Taxes (ST) are responsible for receipt of declaration forms from the Commissionerate, registration of dealers, their assessment and distribution of declaration forms to them. Besides, there are Superintendents of Taxes and Inspectors of Taxes to help them in their day to day functioning.

4.2.3 Audit Objectives

The Performance Audit was conducted to ascertain whether:

- there exists a foolproof system for custody and issue of the declaration forms;
- exemption/concession of tax granted by the assessing authority was supported by the original declaration forms;
- there is a system for ascertaining genuineness of the forms for preventing evasion of tax;
- there is a system of uploading the particulars in the TINXSYS website and the data available there is utilised for verifying the correctness of the forms;
- appropriate steps are taken on detection of fake, invalid and defective (without proper or insufficient details) forms; and
- there exists an effective and adequate internal control mechanism.

4.2.4 Audit Criteria

The audit findings were benchmarked against the following criteria:

- Provisions under Central Sales Tax Act, 1956 (CST Act);
- Provisions under the Central Sales Tax (Mizoram) Rules, 1991 (CST Rule);
- Mizoram Value Added Tax Act, 2005 (MVAT Act); and
- Notifications issued from time to time.

4.2.5 Scope and Methodology of audit

The Performance Audit (PA) covered all assessments completed under the MVAT during the financial year 2007-08 to 2009-10 where exemptions/ concessions were granted under the CST Act. The PA was conducted during the period May 2011 to August 2011.

The Performance audit also involved cross verification of records/information made available from other States and other evidences in the selected four Zonal offices² of Aizawl and Kolasib.

The audit was limited to examination of only 'C' and 'F' forms.

¹ Aizawl North, Aizawl South, Aizawl Central, Lunglei, Kolasib, Champhai, Serchhip, Mamit, Lawngtlai and Saiha

² South Zone, Aizawl; North Zone, Aizawl; Central Zone, Aizawl and Kolasib Zone, Kolasib

4.2.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the cooperation and assistance extended by the Taxation Department of the State Government, the Commissionerate and the Zonal offices concerned during the course of audit cooperation in giving the required information and records to audit. Before the commencement of audit, discussions were held with the Secretary and Joint Commissioner of Taxes of the Department, in an entry conference held on 31 May 2011 to explain the objectives and scope of audit and to obtain their inputs and views relating to inter-State trade. The audit findings were discussed in an exit conference held (7 October 2011) with the Secretary and the Commissioner of the Taxation Department and the replies of the Government have been incorporated suitably in the Performance Audit at the appropriate places.

4.2.7 Budget Estimate and Actual Collection

The year-wise budget estimates of CST, actual collection of CST, total collection of taxes (Sales tax/VAT) and percentage of CST collection with reference to the total tax collection (Sales tax/VAT) in the state during 2006-11 are given in the following table:

Table-4.2.1

(₹ in lakh)

Year	Budget estimate of CST	Actual collection of CST	Total collection of tax in the State (Sales Tax/VAT)	Percentage of CST with reference to total collection (Sales Tax/VAT)
2006-07	Nil	1.29	53.72	2
2007-08	Nil	0.79	62.04	1
2008-09	Nil	1.85	77.51	2
2009-10	Nil	0.85	85.94	1
2010-11	Nil	1.72	105.13	2
Total		6.50	384.34	2

Source: Departmental records & Finance Accounts

It could be seen from the table above that:

- The Department had not prepared any budget estimate for CST during the period 2006-11. The Commissioner of Taxes clarified (July 2011) that since the CST collections are meagre, no separate budget estimates were prepared for collection of CST.
- The Department had collected a negligible amount of CST of ₹ 6.50 lakh against the total tax of ₹ 384.34 lakh collected during the period 2006-11 which comes to only two per cent of the total tax collection.

Audit findings

The important points noticed in the course of audit are discussed in the following paragraphs:

4.2.8 Printing and custody of declaration forms

The Department has so far not laid down any prescribed procedure for printing and custody of declaration forms. However, the Department places printing orders of declaration forms in the Government approved printing presses before exhausting the available stock of declaration forms. The stocks of printed forms are kept in the custody of a responsible officer in the Commissionerate of Taxes. Printing and custody of forms without following any prescribed procedure resulted in the following discrepancies:

4.2.8.1 Printing of duplicate serial number of 'F' forms

Test check of records of the Commissioner of Taxes (COT) revealed that the following F-forms were printed by the Department:

Table-4.2.2

Sl. No.	Name of printing firms	Details of F-forms received			F-forms printed with duplicate serial number
		Month of receipt	No. of books	Sl. No. of F-forms	
1.	Dy. Controller of Stamps, Bombay	9/1987	500	DD-014026 to DD-026525	DD-026026 to DD-026525 = 500 forms
2.	Saraswaty Press Ltd., Kolkata	2/2007	300	DD-026026 to DD-033525	

Source: Departmental records

It would be seen from the above table that the Department printed 500 'F' forms in 2007 bearing duplicate serial number with respect to the forms already printed in 1987. All these 500 forms bearing duplicate serial numbers were issued to the ACT, Aizawl North Zone in November 2010.

On being pointed out by us (June 2011), the Department stated (July 2011) that those forms were called back. The Government while accepting the fact stated (November 2011) that the concerned forms have further been destroyed in October 2011 in the office premises of the Commissioner of Taxes.

4.2.8.2 Issue and accountal of declaration forms by the Department

4.2.8.2.1 Collection of declaration form fee in cash

Rule 17 of the CST (Mizoram) Rules, 1991 provides that declaration forms shall be obtained by a dealer from the concerned ST on payment of the price in the form of Court fee stamp. However, in three test checked Zones³, it was noticed in audit that cost of forms was collected in cash which was later deposited into the treasury by challans. Further, the Kolasib Zone collected an amount

³ South Zone, Aizawl; Central Zone, Aizawl and North Zone, Aizawl

of ₹ 1,852 for sale of 1,852 forms during the period between October 2001 and July 2011 and deposited the same into Government Accounts at the instance of audit only in August 2011 after a prolonged retention of cash.

The Government, while accepting the facts, stated (November 2011) that the prolonged retention of cash in hand by the Zonal Office has been viewed very seriously and proper care will be taken to avoid such inaction by Zonal Offices in future.

4.2.8.2.2 Improper maintenance of stock register

For proper accountal of the stock of forms, the Department should have maintained a stock register showing particulars like opening balance, receipt, issue and closing balance of these forms. The stock register is submitted to the competent authority at regular intervals to ensure proper accountal of such forms to prevent mis-handling of stock.

Test check of the issue registers of the COT revealed that declaration form-‘C’ (No. 01FF 054000) was shown to have been issued (July 1996) to the ACT, North Zone (erstwhile ST, Circle-I). However, at the time of audit (July 2011), it was noticed that this particular form was lying in the departmental store of the COT.

The Department while accepting the facts stated (July 2011) that the ‘C’ form No. 01FF 054000 was returned by the concerned Zonal Office as it was spoiled and defective and not fit for issue. The reply is not acceptable as no reverse entry was made in the stock register and the said form was lying in the store till July 2011 without cancellation.

In maintenance of stock registers of forms ‘C’ & ‘F’ the following other irregularities were noticed:

- According to Clause 2 of Rule 192 of GFR, physical verification of all consumable goods and materials should be undertaken at least once in a year and discrepancies, if any, should be recorded in the stock register for appropriate action by the competent authority. In the Commissionerate of Taxes, the stock registers maintained for declaration Form ‘F’ was submitted to the competent authority for verification only once in March 2010 since 2000. As a result, proper accountal of the stock of Form-F could not be ensured.
- Scrutiny of the stock registers meant for receipt of the declaration forms ‘C’ & ‘F’ from the Commissionerate in respect of the four Zonal Offices revealed that only receipt of the forms was recorded without showing any issue and the registers were not submitted to the competent authority for its verification. The stock registers meant for issue to dealers only contained the quantity issued without showing the opening balance, quantity received and closing balance. Out of four Zones, the Kolasib Zone started maintenance of the stock registers only from January 2009 onwards and there was no record prior to it.

The Government admitted the facts and stated (November 2011) that in the light of audit observation, Form No. 01FF-054000 will be declared invalid and obsolete along with other missing forms.

The Government further intimated that proper care is now being taken while issuing declaration forms and stock registers are also being maintained properly by all Zonal Offices as well as at the Commissionerate.

4.2.8.2.3 Declaration forms issued before being received

Test check of the records revealed that the following declaration forms containing 125 pages were issued by the ACT, North Zone, Aizawl to the dealers before the actual date(s) of the receipt from the COT, as recorded in the stock register of the COT:

Table-4.2.3

C-Form No.	No. of pages	Date of issue by COT	Date of issue to dealers by ACT, North Zone
01FF143476 - 01FF143502	27	20-05-2009	18-03-09
01FF143503 - 01FF143506	4	20-05-2009	20-03-09
01FF143507 - 01FF143533	27	20-05-2009	23-03-09
01FF143534 - 01FF143538	5	20-05-2009	24-03-09
01FF143539 - 01FF143580	42	20-05-2009	25-03-09
01FF143581 - 01FF143596	16	20-05-2009	26-03-09
01FF143597 - 01FF143598	2	20-05-2009	27-03-09
01FF143599 - 01FF143600	2	20-05-2009	30-03-09
Total	125	----	----

Source: Departmental records

While accepting the facts, the ACT, North Zone, Aizawl stated (June 2011) that due to absence of the ACT, declaration forms were obtained from the dealing assistant of the Commissionerate and later on the issue and receipts of declaration forms were regularised on 20 May 2009 by the competent authority.

Thus, issue of declaration forms by a subordinate staff without formal approval of the competent authority was irregular and carries the risk of mis-utilisation.

The Government while accepting the facts stated (November 2011) that to avoid such action and to prevent mis-utilisation of declaration forms, the Department has now entrusted the process of issue and maintenance of stock registers of declaration forms ('C' & 'F') to the nominated responsible officers of the Department.

4.2.8.2.4 Declaration form 'C' shown issued but lying in custody

Test check of the stock register of Forms and the stock of Forms maintained by the ACT, South Zone, Aizawl revealed that though the following 'C' forms were shown to have been issued during

July 2008 to February 2010, the same were still lying in the departmental store at the time of audit in June 2011:

Table-4.2.4

Sl. No.	C-Form No.	No. of pages	Date of issue as per stock register	Remarks
1.	01FF 121973	1	04/07/2008	Stamped seal of M/s R.K.Trading Agency
2.	01FF 137673-01FF 137675.	3	24/04/2009	Stamped seal of M/s Grace RTP Bamboo
3.	01FF 137275	1	09/03/2009	Stamped seal of M/s Bonton
4.	01FF 141115 - 01FF 141123	9	19/02/2010	Stamped seal of M/s John Enterprise

Source: Departmental records

Thus, entries made in the stock register showing issue of C-Forms without its actual issue was not only irregular but also entail the chance of their mis-utilisation.

The Government while accepting the facts stated (November 2011) that as these declaration Forms 'C' were inadvertently prepared for issue, the same had been retained at the office and appropriate measures were being taken to cancel these forms to ensure that their mis-utilisation did not happen.

4.2.8.2.5 Non-issue of usable 'C' forms and lying in custody without cancellation

Test check (June 2011) of records of the ACT, South Zone, Aizawl revealed that 25 Nos. of 'C' forms (01FF 151976 to 01FF 152000) were marked as damaged in the issue register. However, verification of the forms revealed that only four forms (01FF 151997 to 01FF 152000) were perforated and the remaining 21 forms were found to be in good condition and kept in custody without cancellation.

Thus, recording a note of damage in the stock register in respect of 25 'C' forms was irregular and it may entail chances of mis-utilisation as 21 'C' forms out of 25 'C' forms were found to be in useable condition.

The Government while accepting the fact stated (November 2011) that appropriate rectifications were already made in the stock register and forms (21 forms) will be issued to the dealers.

4.2.8.2.6 Declaration forms not issued chronologically

To ensure proper accountal of declaration forms, the declaration forms are required to be issued chronologically.

Scrutiny of records, however, revealed that the declaration forms were issued from time to time without maintaining the chronological order of the forms as detailed below:

- The Commissionerate of Taxes issued declaration forms (upto November 2010) bearing serial numbers DD 020001 to DD 026675 whereas the previous series from DD 019926 to DD 020000 having 75 forms were still lying in stock as of July 2011.
- The Central Zone issued (September 2006) 'C' form bearing serial numbers from 01FF 103890 to 01FF 103902 to a dealer (M/s Khaia & Sons) and thereafter in November 2007 seven forms of an earlier series bearing serial numbers 01FF 094804 to 01FF 094810 were issued to the same dealer.
- The ST, Kolasib Zone also has not been issuing forms chronologically. However, in reply to an audit query the ST, Kolasib stated (August 2011) that care would be taken for issuing declaration forms chronologically.

While accepting the fact the Government stated (November 2011) that proper care has now been taken to avoid such actions in future.

4.2.8.2.7 Missing declaration 'C' forms

As per provision of CST (R&T) Rules 1957, a single declaration C-form can be used to avail tax at a concessional rate for all transactions of sales taking place in a quarter of a financial year between two registered dealers. As such, there is scope for availing concessional rate of taxes by mis-utilising the missing declaration C-forms by the dealers in course of their inter-State transaction of purchases and sales.

Test check of records of North Zone, Aizawl and Kolasib Zone revealed that the following 18 declaration forms were missing, as the issuance of these forms were not reflected in the stock/issue register nor could the forms be produced to audit for verification:

Table-4.2.5

Name of Zone	Declaration form-C No.	No. of forms	Remarks
ACT, North Zone, Aizawl	01FF 107348	1	By applying correcting fluid without attestation of the competent authority it was shown in the stock register that the form no. 01FF 107348 was issued to a dealer along with other six forms on 17 April 2006. The scrutinising inspector of Taxes also accepted that the form was not received by the dealer
	01FF 101518	1	Issue not reflected in the records
ST, Kolasib Zone, Kolasib	01FF 141828	16	Issue not reflected in the records
	01FF 099868 – 01FF 099871		
	01FF 141840 – 01FF 141850		
Total		18	

Source: Departmental records

Thus, the risk of inter-State transactions by the dealers by mis-utilising the above mentioned missing 18 'C' forms and the consequent loss of Government revenue cannot be ruled out.

While accepting the audit observation the ST, Kolasib Zone stated (August 2011) that 12 forms (01FF 141828 and 01FF 141840 to 01FF 141850) were found to have been issued to two dealers and the remaining four missing forms (01FF 099868 to 01FF 099871) could not be traced. An FIR was lodged (August 2011) with the Police in respect of the four missing forms. However, result of Police investigation against the FIR was awaited (November 2011).

The Government in the reply stated (November 2011) that the Department is currently in the process of declaring the forms obsolete and invalid.

The Government, however, not only needs to declare the missing forms obsolete/invalid but also investigate the reasons for the missing forms and whether these forms had already been utilised by any dealer for availing concessional rate of tax.

4.2.8.2.8 *Delay in declaring lost declaration forms as invalid and obsolete*

Test check of records (August 2011) of the ST, Kolasib revealed that two declaration Form 'C' No. 01FF 099484 and 01FF 099485 were reported to have been lost while in custody of a dealer (M/s Issaac Store, CST Regd. MIZ-3866) in June 2007. Accordingly, the ST, Kolasib submitted (June 2007) a proposal to the COT, Mizoram for declaring the lost 'C' forms as invalid and obsolete. However, even after a lapse of four years, the same had not been declared invalid and obsolete, due to which the chances of mis-utilisation of these forms cannot be ruled out.

The Government in their reply stated (November 2011) that the Department is currently in the process of declaring the forms obsolete and invalid.

4.2.8.2.9 *Non-implementation of TINXSYS*

The Government of India introduced a website called Tax Information Exchange System (TINXSYS), which is a centralised exchange of all **interstate dealers** spread across the various States and Union Territories of India. **The website was designed to help the Commercial Tax Departments of various States and Union Territories to effectively monitor the inter-State trade. TINXSYS can be used by any dealer to verify the counterpart inter-State dealer in any other State. Apart from dealer verification, Commercial Tax Department officials use TINXSYS for verification of Central Statutory Forms issued by other State Commercial Tax Departments and submitted to them by the dealers in support of claim for concessions. TINXSYS also provides MIS and Business Intelligence Reports to the Commercial Tax Departments to monitor inter-State trade movements and enables the Empowered Committee of State Finance Ministers (EC) to monitor the trends in inter-State trade.**

Scrutiny of the reports available on TINXSYS regarding data availability in respect of Commercial Tax Department of Mizoram revealed that the Department started uploading data on TINXSYS portal only from 2008. Upto 2009, data of 1,458 dealers was made available. No details in respect

of declaration forms issued and their utilisation was uploaded. Out of the total 3,180 dealers registered with the Department as on March 2010, details of only 1,853 dealers, data in respect of issue of 60 Form 'C' and utilisation details of only 2 Form 'C' were made available on TINXSYS. As per these reports, the Department last updated the data in November 2010.

Another report available on TINXSYS revealed that the Departmental officials visited TINXSYS only for 41 times during the period 2007-10. Thus, due to non-utilisation of the TINXSYS portal the purpose of monitoring the inter-State trade movements through TINXSYS was defeated.

The Government has clarified (November 2011) that TINXSYS facilities have been utilised since its inception. However, due to development/creation of new software for administration of taxes and since the system development is an ongoing project, new data cannot be uploaded into the TINXSYS at the moment. The system will be utilised again and necessary data will be uploaded as and when the installation of the new system called VATSoft is completed and put into practical use.

4.2.9 *Utilisation of declaration forms*

4.2.9.1 *Non-submission of utilisation certificate of declaration forms*

As per Rule 6(5) of the CST (Mizoram) Rules 1991, every registered dealer to whom any declaration form was issued, should maintain a register in Form II (Register of declaration forms). The columns provided in the Form II includes the receipt details like Date of receipt, Authority from whom received, Book No., Serial No., Date of issue and Book No. The Issue side of the form contains columns like Name and address of the seller to whom issued, No. and date of order, description of goods, value of goods, seller's cash memo/challan no. etc. After implementation of VAT, all dealers are not required to be assessed as was done during the Sales Tax regime and as such dealers should be required to furnish statement of utilised declaration forms in Form II along with the returns to ascertain whether the dealer has paid the full amount of tax payable with the returns.

Test check of records revealed that the Department has not made it mandatory for dealers to furnish declaration of utilised forms while submitting VAT returns.

The Government intimated (November 2011) that at the instance of Audit the Department has made it mandatory vide a letter (June 2011) issued to all ACTs and STs in the state to ensure availability of statement of utilised declaration forms in Form II in each dealer's personal file.

4.2.9.2 *Non-conduct of cross-verification of declaration forms*

In order to check tax evasion, it is required to have a system of picking up samples of declaration forms and taking them up with the Taxation Department of the concerned States for further verification.

Test check of records and information furnished by the Department revealed that system of picking samples of declaration forms and sending them for cross verification to other States was not

prescribed and as such verification was not done to ascertain the correctness of the tax payable and paid by the dealers.

The Government stated (November 2011) that the Commercial Tax Departments of other States are occasionally sending such forms for verification which are duly verified by their Zonal offices. However, the reply is silent about the introduction of a proper system for cross-verification of forms to ascertain the correctness of the tax payable and tax paid by the dealers.

The Department may, thus, introduce a system of cross-verification of declaration forms received from the dealers and take them up with the Taxation Department of the concerned States in order to have an effective control in bringing the dealers into the tax net.

4.2.10 *Issue and accountal of declaration forms by the dealer*

4.2.10.1 *False declaration of transactions with 'C' form*

As per provision of the CST Acts and Rules, a dealer who makes purchases in the course of inter-State trade should issue a declaration form 'C' to the dealer with whom the transaction has been effected during a quarter of the financial year. Further, as per provisions of Rule 6(1) of the CST Rule, a purchasing dealer is required to fill in all particulars required to be filled in the declaration forms before furnishing it to the selling dealer and affix his signature. The counterfoil of the form is retained by the purchasing dealer and the other two portions marked 'original' and 'duplicate' are given by him to the selling dealer.

Test check of counterfoils of declaration forms revealed that as per 'C' form No. 01FF 108844, a dealer (M/s Zoram Trading Company, CST Regn. MIZ-176) purchased goods worth ₹ 32,683 from a Guwahati-based dealer (M/s Sara Lee Ltd.). Cross-verification of the seller's portion of the same 'C' form revealed that this Aizawl based dealer actually purchased goods from a Tamil Nadu based dealer (M/s Sun Star Enterprise - RC No. 793961/06-07) at a cost of ₹ 2.25 lakh.

The Taxation Department may, thus, initiate action against the dealer for false declaration of utilisation of 'C' Form.

While accepting the fact, the Government stated (November 2011) that action will be taken after investigating the matter.

4.2.11 *Non-production of the records of the dealers*

Rule 5(1) of the CST Rules provides that the taxation authority may require any dealer to produce before him any accounts, registers and documents and to furnish any information relating to the stock of goods, purchases, sales or deliveries of goods or any other matter as he may deem necessary. A dealer is punishable with a fine not exceeding five hundred rupees and if the offence is a continuing one, with a daily fine not exceeding fifty rupees every day during which the offence continues when a dealer acts in contravention of or fails to comply with the requirement of any of the rules as per provision of Rule 19.

In course of audit, it was noticed that the Assessing Officers (AOs) of Taxation Department did not retain the copies of utilisation certificate or counterfoils of declaration forms along with the case

records of the dealers for whom they had completed their assessment. As such, audit requisitioned for production of the concerned records by the 161 dealers through the AOs. But, despite requisitions made by the audit, 30 dealers under three Zones failed to furnish the concerned documents. As a result, audit exercise remained incomplete in respect of verification of transactions of Inter State sales by these 30 dealers. The details of these 30 dealers are given in the following table:

Table-4.2.6

Type of Audit	Name of Auditee units	No. of dealers not producing their records
Record checking of transaction details	ACT, South Zone, Aizawl	3
	ACT, North Zone, Aizawl	23
	ACT, Central Zone, Aizawl	1
Cross verification of declaration forms	ACT, South Zone, Aizawl	1 (1 C-form)
	ACT, North Zone, Aizawl	1 (4 C-forms)
	ACT, Central Zone, Aizawl	1 (3 C-forms)
Total		30 dealers

Source: Departmental records

The Department is, thus, required to take action against the defaulting dealers as per provisions of the existing Acts and Rules.

4.2.12 Short/non-accountal of goods imported through use of declaration forms

Test check of the records of South, Central and North Zones of Aizawl revealed that 16 dealers purchased and imported taxable goods during the period 2005-09 worth ₹ 85.18 crore (₹ 13.55 crore taxable at 4 per cent + ₹ 71.63 crore taxable at 12.5 per cent) by utilising declaration forms in the course of inter-State trade. Cross check with VAT assessment records of the dealers revealed that the AOs, without considering dealers' inter-State purchases as per their utilised declaration forms irregularly assessed these dealers determining their purchase turnover at ₹ 75.09 crore (₹ 13.85 crore taxable at 4 per cent + ₹ 61.24 crore taxable at 12.5 per cent). This resulted in short/non-accountal of goods purchased in inter-State trade transactions worth ₹ 10.09 crore ((-) ₹ 0.30 crore at 4 per cent + ₹ 10.39 crore at 12.5 per cent) which escaped assessment resulting in short levy of tax of ₹ 1.29 crore as detailed in **Appendix-4.1**. The tax effect would be much more if the profit/commission earned by the dealer on sale of such goods could be ascertained and interest and penalty for non-payment of the tax due are taken into account.

The Government in their reply (November 2011) furnished the following position:

- i. six cases of escaped tax (₹ 19.82 lakh) were already re-assessed and demand notices issued for the balance tax of ₹ 11.89 lakh;
- ii. one case of escaped tax of ₹ 2.14 lakh was re-assessed but the copy of re-assessment order is awaited (November 2011);
- iii. re-assessment of three cases of escaped tax (₹ 41.08 lakh) was under process;

- iv. in one case under ACT, North Zone, Aizawl (M/s Nunmawii Agencies) the Government stated that the assessment done by the AO was correct. The reply of the Government is not acceptable as goods valued at ₹ 1.02 crore transferred by the dealer by utilising three F-forms (No. DD 024460, DD 024461 and DD 024462) escaped assessment involving tax of ₹ 12.76 lakh as mentioned in **Appendix-4.1**.
- v. In respect of escaped tax (₹ 54.27 lakh) in respect of five dealers under the Central Zone, Aizawl, the declaration forms utilised by dealers did not necessarily contain purchases made during the period in which the declaration forms were issued and Audit might have taken into account only the date of issuing the declaration forms to these dealers. The reply, however, is not acceptable as Audit determined dealers' purchases as per dates recorded in the purchase invoice of the five dealers relating to the concerned assessment years.

4.2.13 Non-levy of penalty on misuse of 'C' forms

Under Section 8 of the CST Act, tax on inter-State sale of goods is leviable at a concessional rate of four *per cent* upto March 2007, three *per cent* from April 2007 to May 2008 and two *per cent* from June 2008 provided the purchaser furnishes to the seller a declaration in form 'C', certifying that the goods are of the class specified in his certificate of registration. Further, under Section 10A of the CST Act, when the goods are not specified in the registration certificate, it attracts penalty of a sum not exceeding one and a half times of the tax due. It was judicially held⁴ that the object of Section 10A is not to reward those who violate the law by imposing as penalty an amount which taken along with the amount paid with 'C' forms would still be less than the amount payable had 'C' forms not been used.

Test check of records of the ACTs, South & Central Zones, Aizawl revealed that during the periods between April 2005 and December 2010 seven registered dealers under the CST Act purchased and imported different items of goods worth ₹ 25.01 crore at concessional rate by utilising declaration form 'C', though the items of goods purchased were not specified in the registration certificates. The purchase turnover of ₹ 25.01 crore was taxable in the State under MVAT at 4 *per cent* for ₹ 8.42 crore and 12.5 *per cent* for ₹ 16.59 crore. Since these dealers falsely represented that the goods purchased were covered by their certificate of registrations, they were liable to pay penalty not exceeding ₹ 3.62 crore as detailed in **Appendix-4.2**.

The Government stated (November 2011) that notices were already issued to seven dealers for payment of penalty of ₹ 1.53 lakh against the leviable penalty of ₹ 3.62 crore as pointed out in Audit. The action is not justified as levy of negligible amount of penalty is contravention to the provisions of the Act and aforesaid judicial pronouncement is not prudent.

4.2.14 Evasion of tax due to fraudulent utilisation of invalid/obsolete forms by six unregistered dealers

Under Section 21 of the MVAT Act, no dealer liable to pay tax shall carry on business unless he is registered and possesses a certificate of registration. The Act further provides that, if the COT is

⁴ Bhuvaneshwari Traders Vs State of Tamil Nadu (2006) 143 STC 608 (Mad)

satisfied that any dealer liable to pay tax failed to get himself registered without reasonable cause, he shall be liable to pay penalty of a sum equal to the amount of tax assessed or a sum of rupees ten thousand whichever is more in addition to the tax payable by him.

Test check of records of the COT, Mizoram, Aizawl and cross-verification of 28 declaration forms received from three utilising States (Meghalaya, Goa and Assam) revealed that six unregistered dealers purchased and imported taxable goods worth ₹ 5.35 crore taxable at varying rates from four to 12.5 *per cent*. These unregistered dealers were neither detected by the Department and brought under the tax net nor did these dealers get themselves registered voluntarily. This resulted in evasion of tax to the tune of ₹ 46.44 lakh and penalty to the tune of ₹ 46.44 lakh by unregistered dealers as detailed in **Appendix-4.3**.

In their reply, the Government accepted (November 2011) the fact that the six dealers were unregistered. The reply is, however, silent about the action taken, if any, against these dealers as per provisions of the Act.

4.2.15 Variation between the figures of the forms as disclosed by the issuing dealer and those disclosed by the utilising dealer

As per provisions of the Rule 6(1) of the CST (Mizoram) Rule 1991, a purchasing dealer is required to fill in all particulars required to be filled in the declaration forms before furnishing it to the selling dealer and affix his signature. The counterfoil of the form is retained by the purchasing dealer and the other two portions marked 'original' and 'duplicate' are given by him to the selling dealer.

Cross-check of 165 declaration forms (123 'C' forms and 42 'F' forms) used in the course of inter-state trade revealed that in 47 cases involving 18 dealers, the counterfoils of declaration forms used and maintained by Mizoram based dealers showed purchase/stock transfer of taxable goods worth ₹ 2.63 crore which was lower than the original declaration forms value of ₹ 6.14 crore issued to the utilising dealers from outside Mizoram. Thus, these dealers may have suppressed their purchase value/incorrectly claimed the stock transfer to the extent of ₹ 3.51 crore as detailed in **Appendix-4.4**. The Department may thus investigate the cases and ascertain the reason for non-reconciliation of figures and the consequential tax effect.

The Government while accepting the facts stated (November 2011) that the cross verification will be done in consultation with the concerned States and progress will be intimated.

4.2.16 Enforcement measures

The Department did not have an inter-State Investigation Wing, except an Audit & Investigation Cell (Cell) established in April 2010 to ensure that taxes are assessed and paid correctly and to protect the tax yield of the State and to prevent evasion of tax. However, neither the Notification

establishing this Cell contained any details about the functionality and responsibilities of the Cell nor exact work done was found on record.

The Government stated (November 2011) that due to shortage of staff, no Inter-State Investigation Wing has so far been created in the Department.

4.2.17 Monitoring

The Taxation Department has so far not introduced adequate monitoring system to detect mis-utilisation of declaration forms, invalid and obsolete forms and to cross-check the correctness of the forms that are being utilised for ensuring complete accountal of inter-State transactions, and safe custody of declaration forms as could be seen from the preceding paras.

The Government stated (November 2011) that due to shortage of staff, Department has so far not introduced adequate monitoring system.

For effective monitoring of the inter-State trade, the Department may establish an effective inter-State investigation Wing/Cell to cross verify inter-State sales and purchases, to have a reliable custody of declaration forms to ensure and complete accountal of inter-State transactions.

4.2.18 Conclusion

Absence of any procedure prescribed by the Department for printing and issue of declaration forms resulted in various errors like printing of declaration forms with duplicate serial numbers, issuance of forms before being taken into stock, issuance of forms in random order, retention of issued forms in departmental custody, missing declaration forms and delay in declaring the missing/defective forms as invalid and obsolete. Improper maintenance of stock and issue registers of declarations forms exposed the system to fraud and manipulation. Fraudulent utilisation of invalid and obsolete declaration forms by unregistered dealers also revealed that a fool-proof system for detection of fake, invalid and obsolete declaration forms did not exist in the Department. Lack of monitoring and grant of exemption without cross checking the veracity of the declaration forms resulted in tax evasion. Instances of allowance of exemption/concession of tax were noticed where the dealers had not supported their claims with valid declaration forms or had produced forms which were not issued to them by the Department. Variations were noticed in the transaction value mentioned in the selling dealer's copy and purchasing dealer's copy which could only have been detected by cross-verification which was not done, neither by picking up samples nor by utilisation of the TINXSYS website by Departmental system. The information related to issue of declaration forms to the dealers was not uploaded and available data in the TINXSYS was not utilised by the Department for verifying the correctness of the forms.

4.2.19 Recommendations

- *The Department should maintain the stock and issue registers of declaration forms properly to safeguard their mis-utilisation.*
- *The Department should evolve a fool-proof system for custody and detection of fake, invalid and obsolete declaration forms to avoid their mis-utilisation.*
- *Assessment of dealer's taxable turnover should be done carefully after considering the entire declared goods so as to avoid short levy of tax.*
- *The Department should establish an effective inter-State investigation cell to monitor inter-state transactions.*
- *The Government and Department should take immediate measures to install TINXSYS system to have an effective monitoring on inter-State transactions to prevent evasion of tax.*

AUDIT OF TRANSACTIONS

TAXATION DEPARTMENT

4.3 Irregular exemption/non-levy of tax

Against the public interest, the Government irregularly allowed exemption of tax of ₹ 21.45 crore to two dealers and the Department failed to levy and realise a tax of ₹ 15.15 crore from the same dealers for the years 2008 to 2011.

Section 8(2)(c) of the Mizoram Value Added Tax (MVAT) Act, 2005 provides that for works contracts of supplying and fitting of electrical goods, supply and installation of electrical equipments including transformers, a dealer is liable to pay 12.5 *per cent* tax of the contractual transfer price after deducting 30 *per cent* of the turnover of the dealer as specified in the column 3 of Schedule-III. Further, the Government may, if it is necessary so to do in the public interest, exempt by notification, any sales or purchases made to or by a class of dealers or persons specified in the said notification from payment of the whole or any part of any tax payable under the provisions of the Act, as provided in Section 47(1) of the Act. However, as specified under Sub-Section (2) of Section 47, if any of the conditions subject to which such exemption was granted are not complied with for any reason whatsoever by any dealer or person, such dealer or person shall be liable to pay tax notwithstanding that such dealer or person was not liable to pay tax under any other provision of the Act.

Scrutiny (November 2010) of the records of the Assistant Commissioner of Taxes, South Zone Aizawl, revealed that two dealers 'A'⁵ and 'B'⁶, who did not comply with the terms and conditions of the exemption orders were exempted from payment of any tax, as required under Section 47(2) of the Act.

Details of tax to be levied are summarised in the following paragraphs:

- (i) The two dealers 'A' and 'B' were issued (September 2008) with work orders by the Power and Electricity (P&E) Department for supply, delivery and fitting of electrical materials for execution of Rural Electrification Work under Rajiv Gandhi Grameen Vidyutikaran Yojana (RGGVY) Scheme with contractual price of ₹ 139.92 crore and ₹ 105.27 crore respectively. As per the terms and conditions of the work orders, the contractual price was inclusive of all taxes and duties. The P&E Department, accordingly released the following payment to the dealers during 2008-11:

⁵ M/s T&T Projects Ltd. Venghlui TIN-15121445083

⁶ M/s Satnam Global Infra Projects Ltd. Venghlui TIN-15121427000

Name of dealer	Contractual price released (₹ in crore)			
	2008-09	2009-10	2010-11	Total
'A'	19.37	44.17	36.81	100.35
'B'	14.52	40.76	21.65	76.93
Total	33.89	84.93	58.46	177.28

- (ii) The two dealers were liable to pay 12.5 *per cent* tax of ₹ 15.51 crore during 2008-11 on the contractual transfer price of ₹ 177.28 crore after deducting ₹ 53.18 crore (30 *per cent*) for labour and non-material cost as provided under Section 8(2)(c) of the Act. The tax of ₹ 15.51 crore would further increase to ₹ 21.45 crore on completion of the contract work of ₹ 245.19 crore.
- (iii) The tax Authority, however, did not levy any taxes on these two dealers during the period 2008-11 on the ground that the Government (Taxation Department) exempted the payment of taxes by these two dealers for the contract works with P&E Department under RGGVY Scheme from October 2008 till the completion of the contract works vide their notification dated February and March 2010 read with notification dated August 2010.
- (iv) The exemption permitted by the Government was however, not justified on the following grounds:
- When the contractual price settled by the P&E Department with the dealers was inclusive of all the taxes and duties, no such exemption could be permitted by the Government in the public interest, which tantamounts to undue financial benefit to the dealers.
 - As per the terms and conditions contained in the exemption notification, the dealers were required to furnish quarterly returns (Form-5) of sales of materials made to the P&E Department, to the tax authority. While the concerned two dealers had submitted their quarterly returns in respect of the assessment years 2009-10 and 2010-11, they had concealed the actual contractual price of ₹ 177.28 crore received from the P&E Department in Section (C) of Form-5.

Thus, grant of exemption by the Government against the contractual price settled inclusive of all the taxes and duties was irregular and tantamount to undue financial benefit to the dealers. Moreover, due to non-compliance of the terms and conditions of the exemption orders, the two dealers were liable to pay tax of ₹ 15.51 crore under Sub-Section 2 of Section 47, which was not levied and realised by the tax authority. Besides, the two dealers were liable to pay by way of penalty a sum of ₹ 30.30 crore under Section 31(7)(b) for concealment of gross turnover of the contractual price in their quarterly returns.

The Department stated (January 2011) that no action could be taken by the assessing officer as the exemption was granted by the Government. The reply was, however, not acceptable as the dealers

violated the terms and conditions of the exemption orders according to which they were liable to pay tax.

The matter was reported (December 2010) to the Government and their reply is awaited (November 2011).

4.4 Concealment of sales turnover

A dealer concealed sales turnover of ₹ 2.37 crore for which tax of ₹ 29.63 lakh along with penalty not exceeding ₹ 59.26 lakh was leviable.

As provided in sub-Section 1 of Section 11, read with rates specified in Schedule-II of the MVAT Act, 2005, Silpauline which falls in the category of “Raincoat, Tarpaulin and products of water proof cloth rexine and PVC Cloth” is taxable at 12.5 *per cent* on the taxable turnover of sales of a dealer.

Further, when a dealer, in order to evade or avoid payment of tax, furnishes incomplete and incorrect returns, he shall be liable to pay a sum not exceeding twice the amount of tax assessed as provided in Section 31(7)(b).

As per information received from the Directorate of Disaster Management & Rehabilitation Department, an Aizawl based dealer supplied 59,480 pieces of Silpauline to the Director, Disaster Management & Rehabilitation Department, for which the dealer received a sum of ₹ 3.97 crore from the Department during the period 2005-07.

Test check (July-August 2010) of the records of the Assistant Commissioner of Taxes (ACT), Central Zone, Aizawl revealed that the dealer furnished his returns for the assessment years 2005-06 and 2006-07 with showing sales turnover of ₹ 31.95 lakh only. The Assessing Officer, however, while assessing the dealer in June 2009 determined the sales turnover on the basis of purchase details available on VAT and Central Sales Tax Management System (VCMS)⁷ at ₹ 1.60 crore and levied tax of ₹ 19.99 lakh.

Thus, sales turnover of ₹ 2.37 crore (₹ 3.97 crore - ₹ 1.60 crore) concealed by the dealer escaped the notice of the Assessing Officer for which a tax of ₹ 29.63 lakh was leviable, which has not been levied by the Department. Besides, a penalty not exceeding ₹ 59.26 lakh is leviable for concealment for sales turnover by the dealer.

The Government in their reply stated (September 2011) that in the light of the audit observation, the dealer was re-assessed (May 2011) levying tax of ₹ 49.81 lakh (including penalty of ₹ 0.20 lakh). However, intimation from the Department regarding realisation of tax is awaited (February 2012).

⁷ VCMS database functions as a database where all the purchase records in respect of registered dealers are uploaded in the entry check gate and retrieved only by the authority of the Taxation Department

4.5 Non-payment of tax/non-levy of tax due to escaped turnover

Two dealers were not levied with tax of ₹ 9.25 lakh due to escapement of turnover of ₹ 58.82 lakh in assessment.

Under Section 34 (1)(a) of the MVAT Act the Commissioner of Taxes may proceed to assess the amount of tax due from a dealer in respect of turnover which escaped assessment in any period.

4.5.1 Test check (July-August 2010) of the VCMS database of the Assistant Commissioner of Taxes (ACT), Central Zone, Aizawl revealed that during 2007-08, the total purchase turnover of a Aizawl-based dealer was ₹ 2.97 crore (taxable at 12.5 *per cent* ₹ 2.78 crore and at 4 *per cent* ₹ 18.58 lakh) instead of ₹ 2.48 crore (taxable at 12.5 *per cent* ₹ 2.29 crore and at 4 *per cent* ₹ 18.58 lakh) adopted in the assessment. Despite the availability of all the records pertaining to purchase turnover of the dealer with the AO, purchase turnover of ₹ 49.57 lakh escaped assessment, which resulted in non-levy of tax of ₹ 6.20 lakh.

4.5.2 Similarly, test check (July-August 2010) of the records of the ACT, Central Zone, Aizawl revealed that the AO while assessing a dealer for the period 2006-08 determined the sales turnover by taking into account the purchase value of taxable goods worth ₹ 2.88 crore (12.5 *per cent*: ₹ 2.17 crore and 4 *per cent*: ₹ 70.28 lakh) and completed the assessment determining tax of ₹ 29.97 lakh.

However, scrutiny of VCMS records provided by the AO revealed that the dealer purchased taxable goods worth ₹ 2.97 crore (₹ 2.49 crore + ₹ 47.95 lakh taxable at 12.5 *per cent* and 4 *per cent* respectively). Thus, turnover of ₹ 9.25 lakh escaped assessment on which tax of ₹ 3.05 lakh is leviable. Besides, maximum penalty not exceeding twice the amount of tax assessed amounting to ₹ 6.10 lakh was also leviable.

The Government in their reply stated (November 2011) that the Department is currently in a transitional phase to switch from VCMS to VATSoft System and necessary action will be taken as soon as the system is available back online and progress will be intimated.