

EXECUTIVE SUMMARY- CHAPTER - II

Increase in the tax collection	In 2010-11 the collection of tax (VAT) on sales & trade etc increased by 32.19 <i>per cent</i> over the previous year.
Recovery by the Department of observations pointed out by us in earlier years	During the period 2005-06 to 2009-10 we had pointed out non/short levy, non/short realisation, under assessment/suppression of turnover and application of incorrect rate of tax etc., with revenue implication of ₹ 291.01 crore in 1322 cases. The Department/Government accepted the audit observations in 185 cases involving ₹ 5.59 crore and recovered ₹ 6.15 crore pertaining to the audit finding of previous years.
Internal audit not conducted	Internal audit is intended to examine and evaluate the level of compliance with rules and procedure. Effective internal audit system both in the manual as well as computerised environment are a pre-requisite for the efficient working of any Department. However, no internal audit wing existed in the Department.
Results of audit conducted by us during 2010-11	<p>In 2010-11 we test checked the records of 42 units relating to tax on Sales Trade etc and found underassessment of tax and other irregularities involving ₹ 88.12 crore in 351 cases. The Department accepted audit observations involving ₹ 2.68 crore in four cases and recovered ₹ 1.71 crore in 117 cases pertaining to audit findings of previous years.</p> <p>In this chapter we present illustrative cases of ₹ 45.24 crore inclusive of Performance Audit report titled ‘Utilisation of declaration forms in Inter State trade’ selected from observations noticed during our test check of records relating to assessment and self assessed returns in the office of the Excise and Taxation Commissioner (ETC), Assistant Excise and Taxation Commissioners (AETCs), where we found that the provisions of Acts/Rules were not observed.</p> <p>It is a matter of concern that similar omission have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action despite switching over on IT-enabled system in the whole Department. We are also concerned that though these omissions were apparent from the records which were made available to us, the Department was unable to detect these mistakes.</p>
Our conclusion	<p>The Department needs to improve the Internal Control System including strengthening of internal audit so that weakness in the system are addressed and omission of the nature detected by us are avoided in future.</p> <p>It also needs to initiate immediate action to recover the non-realisation, under assessment of tax etc. pointed out by us, more so in those cases where it has accepted our contention.</p>

CHAPTER-II

Sales Tax/Value Added Tax

2.1 Tax administration

The Financial Commissioner Taxation and Principal Secretary to the Government of Punjab is overall in-charge of the Excise and Taxation Department. Subject to overall control and superintendence of the Excise and Taxation Commissioner (ETC), the administration of the PVAT Act/Central Sales Tax Act (CST Act), is carried out with the help of Additional Excise and Taxation Commissioner (Addl. ETC), Joint Excise and Taxation Commissioners at the headquarters (JETCs), Deputy Excise and Taxation Commissioners (DETCs) at the divisional level and Assistant Excise and Taxation Commissioners (AETCs), Excise and Taxation Officers (ETOs) and other allied staff at the district level. The authorities performing duties within jurisdictions as specified by the Government under the PVAT Act are called as Designated Officers (DOs).

2.2 Analysis of budget

Scrutiny of Budget records of the Department revealed that against the proposal of ₹ 8,625 crore submitted by the Department, the Finance Department fixed the Budget Estimates as ₹ 9,325 crore. This was subsequently revised to ₹ 10,000 crore. Against the Revised Budget Estimates of ₹ 10,000 crore, the actual receipts was ₹ 10,016.91 crore.

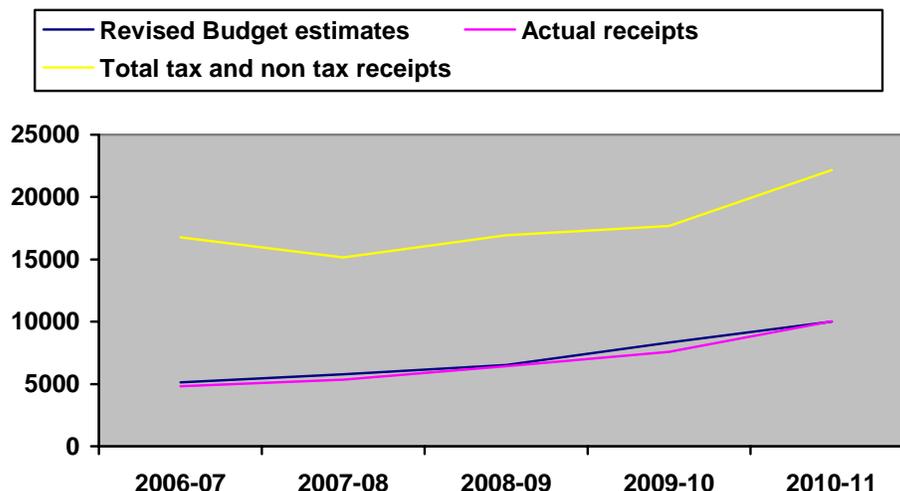
2.3 Trend of receipts

Actual receipts from Sales Tax/VAT during the last five years 2006-07 to 2010-11 along with the total tax receipts during the same period is exhibited in the following table:

(₹ in crore)

Year	Revised Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax and non-tax receipts of the State	Percentage of actual VAT receipts vis-à-vis total tax and non tax receipts
2006-07	5,125.00	4,829.02	(-) 295.98	(-) 5.78	16,761.74	28.81
2007-08	5,778.00	5,342.49	(-) 435.51	(-) 7.54	15,153.14	35.26
2008-09	6,529.62	6,435.63	(-) 93.99	(-) 1.44	16,934.10	38.00
2009-10	8,320.00	7,577.49	(-) 742.51	(-) 8.92	17,692.18	42.83
2010-11	10,000.00	10,016.91	(+) 16.91	(+) 0.17	22,158.35	45.21

The trend of actual receipts vis-a-vis budget estimates is given in the following graph.



2.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2011 was ₹ 666.46 crore of which ₹ 375.98 crore were outstanding for more than five years. The following table depicts the position of arrears of revenue during the period from 2006-07 to 2009-10:

(₹ in crore)				
Year	Opening balance of arrears	Addition	Amount collected during the year	Closing balance of arrears
2006-07	760.91	786.93	--	1,547.84
2007-08	1,547.84	486.78	--	2,034.62
2008-09	2,034.62	---	1,174.52	860.10
2009-10	860.10	--	484.12	375.98
2010-11	375.98	290.48	---	666.46

The above table shows that there was net clearance of ₹ 484.12 crore during 2009-10 but against this there was a net addition of ₹ 290.48 crore during the year 2010-11. This shows that arrear of revenue sharply increased in 2010-11 in comparison to 2009-10. The Government may take suitable steps to control this increasing trend of arrear of revenue.

2.5 Cost of VAT per assessee

(₹ in lakh)		
Total no. of assessee as on 31-03-2011	Total expenditure on collection during the year 2010-11	Cost of per assessee
1	2	3
206518	10725	0.05

2.6 Arrears in assessments

The number of cases pending for assessment at the beginning of the year becoming due during the year, disposed during the year and pending at the end of each year during 2006-07 to 2010-11 as furnished by the Department in respect of sales tax/VAT are mentioned below:

Year	Opening balance	Cases which became due for assessment	Total	Cases disposed during the year	Cases pending at the end of the year
2006-07	2,83,496	1,62,447	4,45,943	87,560	3,58,383
2007-08	3,58,383	—	3,58,383	30,460	3,27,923
2008-09	80,650	—	80,650	27,623	53,027
2009-10	53,027	—	53,027	12,968	40,059
2010-11	40,059	9,253	49,312	7,740	41,572 ¹

The closing balance of 2007-08 includes 2, 47,273 cases pertaining to VAT and there was no provision for regular assessment under PVAT Act 2005. Thus, the opening balance of 2008-09 depicts the sales tax cases only. Similarly the addition of 9,253 cases during the year 2010-11 pertains to VAT as all the assessments relating to PGST that had become due up to 2007-08 had already been depicted in the arrears of assessments.

The Government may issue strict instruction to dispose these cases.

2.6.1 Tax Audit

The number of cases selected for tax audit, tax audit completed, tax audit completed within the prescribed time, balance and revenue collection as a result of tax audit each year from 2008-09 to 2010-11 are mentioned below:

(₹ in crore)

Year	No. of cases selected for Tax Audit	Tax audit completed	Tax audit completed within the prescribed time	Balance	Revenue collected
2008-09	124	72	72	52	2.40
2009-10	210	181	181	29	2.10
2010-11	429	419	419	10	16.45
Total	763	672	672	91	20.95

2.7 Cost of collection

The gross collection in respect of the major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to the gross collection during the years 2006-07 to 2010-11 alongwith the relevant all India average percentage of expenditure on collection are mentioned below:

(₹ in crore)

Head of revenue	Year	Collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage over the previous year
Taxes/VAT on sales, trade etc.	2006-07	4,829.02	41.78	0.87	0.91
	2007-08	5,342.49	45.81	0.86	0.82
	2008-09	6,435.63	48.53	0.75	0.83
	2009-10	7,577.49	59.83	0.79	0.88
	2010-11	10016.91	107.25	1.07	0.96

¹ PGST assessment case = 32,319 and VAT assessment = 9,253

There was an increase in cost of collection in 2010-11 of 0.28 per cent as compared to the percentage for the year 2009-10. The reasons of variations were called for from the Department and the reply is awaited (October 2011).

2.8 Analysis of collection

The breakup of the total collection at pre assessment stage and after regular assessment of VAT/sales tax, for the year 2010-11 and the corresponding figures for the preceding four years furnished by the Department is mentioned below:

(₹ in crore)

Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Penalty for delay in payment of taxes and duties	Amount refunded	Net collection as per Department	Net collection as per Finance Account	Percentage of column 3 to 8
1	2	3	4	5	6	7	8	9
Taxes/ VAT on sales, trade etc.	2006-07	4,967.60	37.08	3.25	220.05	4,787.88	4,829.02	102.87
	2007-08	6,128.94	49.04	14.15	320.84	5,871.29	5,342.49	114.72
	2008-09	7,397.86	14.67	4.27	373.80	7,043.00	6,435.63	114.95
	2009-10	8,634.88	20.76	4.15	375.66	8,284.13	7,577.49	113.95
	2010-11	7,740.05	144.70	201.10	479.43	7,606.42	10,016.91	77.27
Total		266.25	226.92	1769.78	33,592.72	34,201.54		

2.9 Impact of audit reports

2.9.1 Revenue impact

During the last five years, 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 etc., with revenue implication of ₹ 291.01 crore in 1,322 cases. Of these, the Department/Government had accepted audit observations in 185 cases involving ₹ 5.59 crore and recovered ₹ 6.15 crore in 315 cases. The details are shown in the following table:

(₹ in crore)

Year	Number of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2005-06	239	399	52.86	75	1.24	44	0.81
2006-07	242	241	14.08	29	0.88	31	0.61
2007-08	88	230	133.50	59	0.34	63	0.67
2008-09	138	295	35.02	18	2.07	29	0.38
2009-10	87	157	55.55	04	1.06	148	3.68
Total	794	1,322	291.01	185	5.59	315	6.15

2.10 Working of internal audit wing

Internal audit is intended to examine and evaluate the level of compliance with the rules and procedures so as to provide a reasonable assurance on the adequacy of the internal control. Effective internal audit system both in the manual as well as computerised environments are a pre-requisite for the

efficient functioning of any Department. However, no internal audit wing exists in Department.

2.11 Results of audit

Test check of the records of 42 units relating to Sales tax/VAT during 2010-11 revealed underassessment of tax and other irregularities involving ₹ 88.12 crore in 351 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Performance audit of Utilisation of Declaration Forms in the Inter State Trade'	1	45.24
2.	Loss of revenue due to excess refund of VAT	32	10.99
3.	Non/short levy of sales tax/VAT	139	18.52
4.	Incorrect grant of exemption from tax	13	4.40
5.	Excess/irregular claim of ITC	144	7.81
6.	Other irregularities	22	1.16
Total		351	88.12

During the year 2010-11, the Department accepted audit observations involving ₹ 2.68 crore in four cases and recovered ₹ 1.71 crore in 117 cases pertaining to the audit findings of previous years.

A few illustrative audit observations involving ₹ 8.39 crore and a performance Audit of '**Utilisation of Declaration Forms in the Inter State Trade'** with financial impact of ₹ 45.24 crore are discussed in the following paragraph.

2.12 Performance Audit on Utilisation of the Declaration Forms in Inter State trade

Highlights

- The TINXSYS website was not used by the Department for verification of Declaration Forms (Form C/F) due to non-loading of the data on the website.

(Paragraph 2.12.6)

- There was loss of revenue due to grant of exemption on branch transfer on the basis of fake F forms ₹ 10.82 lakh.

(Paragraph 2.12.8)

- Our cross verification revealed acceptance of fake C Forms on interstate sales made by dealers to New Delhi dealers involving tax of ₹ 19.14 lakh which needs to be recovered.

(Paragraph 2.12.9)

- There were instances of grant of exemptions without the declarations on Form 'F' leading to non-levy of tax of ₹ 4.23 crore.

{Paragraph 2.12.11 (a)}

- Grant of exemptions on branch transfer on the basis of defective 'F' forms resulted in non-levy of tax of ₹ 7.80 crore.

{Paragraph 2.12.11 (b)}

- Grant of concessional rate of tax on inter state sale on the basis of defective 'C' forms resulted in short levy of tax of ₹ 22.65 crore.

{Paragraph 2.12.12 (a)}

- Grant of concessional rate of CST without the support of declarations in form C resulted in short levy of tax of ₹ 8.31 crore.

{Paragraph 2.12.12 (b)}

2.12.1 Introduction

Under the Central Sales Tax Act, 1956, (CST Act) registered dealers are eligible to certain concessions and exemptions from tax on inter State transactions on submission of the prescribed declaration in Forms C, D, E-I, E-II and F (for concessional rate of tax on sale made to registered dealer and Government Department, for transit sale and branch transfer without payment of tax respectively). The State Governments grants these concessions to the dealers for furtherance of trade and commerce. It is the responsibility of the Excise and Taxation Department to ensure proper accounting of the declaration forms and to take adequate safeguards against mis-utilisation of the declaration forms. A Performance Audit (PA) was conducted by us to verify the issue, accounting and use of the declaration forms.

2.12.2 Audit Objectives

The Performance Audit was carried out to ascertain whether:

- there exists a foolproof system for custody and issue of the declaration forms;
- exemptions/concessions of tax granted by the assessing authorities were supported by the original declaration forms and
- appropriate steps were taken on detection of fake, invalid and defective declaration forms.

2.12.3 Scope and methodology of audit

The Performance Audit covered the assessments made under the CST Act completed between 2007-08 and 2010-11 in 14 districts² offices out of the 24 Excise districts in the State.

2.12.4 Acknowledgement

An entry conference was held with the Financial Commissioner, Taxation and Principal Secretary to Government of Punjab, Chandigarh at Chandigarh on 23 November 2010. During the conference, the objectives, scope and methodology of audit were explained. An exit conference was held with the Excise and Taxation Commissioner on 3 October 2011, wherein the audit findings were discussed. No written replies were furnished by the Department except in respect of two paragraphs. The replies received during the exit conference and at other points of time have been incorporated.

Audit findings

System deficiencies

2.12.5 Printing and custody of the declaration forms

To get the printing of the C, E-I, E-II and F forms from the India Security Press, Nasik, approval of the Administrative Department was sought first. The stock of these forms was reviewed from time to time as per requirement of the Department and the forms were got printed accordingly. A separate room was being used for custody of these forms and great care was given for the upkeep of these forms. A register was maintained in the Head office to issue these forms to the field offices and were dispatched by hand to the authorised persons against proper receipt. Every series of these forms issued was entered in the register and in a computer system and the issue and accounting of these forms were also entered in the proper registers at the district offices. We also noticed in the test checked districts that the DOs issued the declarations to the registered dealers after submission of periodical utilisation certificates. No discrepancy was noticed in the test checked districts in the accounting of the declarations i.e. issue and receipt of the declaration forms by ETC and the field offices.

² Amritsar-I, Ferozepur, Gurdaspur, Hoshiarpur, Jalandhar_I and II, Kapurthala, Ludhiana_II and III, Moga, Mohali, Mukatsar, Patiala and Ropar.

2.12.6 Operation of the Tax Information Exchange System

The Tax Information Exchange System (TINXSYS) is a centralised exchange of all inter-State dealers spread across the various States and Union Territories of India. The system was designed to help the commercial tax departments of various States and Union Territories to effectively monitor the inter-State trade. The Commercial tax Departments officials use TINXSYS for verification of the central statutory forms used by the dealers of commercial tax Department of other States. TINXSYS also provides Management Information System (MIS) and business intelligence reports to the commercial tax departments to monitor the inter-State trade movements.

The Department has already developed an interface between the departmental server and the TINXSYS server for online migration of data. The data is being integrated automatically from the State server to the intermediate server and from the intermediate server to TINXSYS data centre.

Out of the ten³ test checked districts it was observed that TINXSYS was in operation only in the office of AETC, Ludhiana-III and in the remaining nine districts, the system was not uploaded periodically. Therefore, the central declaration forms were not got verified through TINXSYS due to non-uploading of information in the system.

The issue was contested by the Department in exit conference and stated that TINXSYS is a web based site and was available wherever internet was available. The contention of the Department is not accepted as the system though operational in all the Excise offices, yet the data on the system was not fully uploaded.

2.12.7 Submission of Declaration Forms

Second proviso to the Sub Rule (1) of the rule 12 of the CST (R&T) Rules 1957 provides that a single declaration in form C may cover all transactions of sales taking place in a quarter of a financial year between two dealers. Sub rule (7) of Rule 12 further provides that the declarations in Form C or Form F or the certificate in Form E-I or E-II shall be furnished to the prescribed authority within three month after the end of the period to which these declarations or the certificate relates.

On the other hand, the sub rules (1) and (2) of rule 40 of the PVAT Rules 2005 provides that every taxable person shall furnish the annual statement by 20 November every year alongwith declarations in Form D and other relevant forms prescribed under the Central sales tax Act 1956. This shows that the provisions relating to submission of the declarations in the PVAT Act are not inconsonance with the provisions of CST Act.

This issue was contested by the Department in exit conference and stated that as per decision of the Hon'ble Supreme Court, the declaration form could be submitted at any time. The contention of the Department is not accepted as the State Rules are not inconsonance with the CST Rules.

³ Ferozpur, Gurdaspur, Hoshiarpur, Kapurthala, Jalandhar-2, Ludhiana-3, Moga, Mohali, Patiala and Sangrur.

Compliance Deficiencies

2.12.8 Grant of exemption on branch transfer on the basis of fake F forms

AETC Sangrur

Section 6-A of the CST Act 1956 provides that where any dealer claims that he is not liable to pay tax in respect of any goods, on the ground that the movement of such goods from one State to another State was occasioned by reason of transfer of such goods by him to any place of his business or to his agent or principal, as the case may be and not by reason of sale, the burden of proving that the movement of those goods was so occasioned shall be on that dealer. For this purpose he may furnish to the assessing authority, within the prescribed time a declaration duly filled and signed by the Principal officer of the other place of business or his agent or principal as the case may be, containing the prescribed particulars in the prescribed form obtained from the prescribed authority, alongwith the evidence of dispatch of such goods and if the dealer fails to furnish such declaration, then the movement of such goods shall be deemed for all purpose of this Act to have been occasioned as a result of sale.

We found from the records relating to assessments, assessed during 2009-10 in respect of three dealers for assessments year 2005-06, that the dealers had claimed and were allowed deduction of ₹ 94.38 lakh on account of branch transfer supported by seven declarations in Forms F. During cross verification of these declaration forms we found that these forms were fake and not genuine since they were not issued by the respective Tax Departments. The tax foregone of ₹ 10.82 lakh on account of the irregular exemption, needs to be recovered from the dealers after verification. Besides penalty was also leviable for submission of fake forms.

In the exit conference, the Department accepted the audit objection and agreed to take appropriate action.

2.12.9 Grant of concession on the basis of fake C forms

Two AETCs⁴

Sub section 4 of Section 8 of the CST Act provides that the concession admissible under Section 8(1) shall not be admissible to any sale in the course of inter State trade or commerce unless the dealer selling the goods furnishes to the prescribed authority in the prescribed manner a declaration duly filled and signed by the registered dealer to whom the goods are sold.

Cross verification of C-forms pertaining to inter State sale made by the dealers of Punjab with the utilisation account of declaration forms/details of goods received through inter State purchases by the dealers of New Delhi revealed that two dealers in their assessments had claimed and allowed concessional rate of CST in two transactions during 2009-10 for assessment years 2005-06, for ₹ 2.48 crore against production of fake/non-genuine forms since they were not issued by the Tax Department of Delhi. The tax foregone of ₹ 19.14 lakh on

account of the concessional rates, needs to be recovered from the dealers, after verification. Besides penalty was also leviable for submission of fake forms.

In the exit conference, the Department accepted the audit objection and agreed to take appropriate action.

2.12.10 Mis-utilisation of declaration forms

Three AETCs⁵

Cross verification of C-forms pertaining to inter State sale made by the dealers of Punjab with the utilisation account of declaration forms/details of goods received through inter State purchases by the dealers of three States⁶ revealed that four dealers had claimed and allowed during 2009-10 for the assessment years 2005-06 and 2006-07, concessional rate of CST on seven transactions amounting to ₹ 2.75 crore against the production of declaration forms issued to the dealers other than the purchasing dealers. This misutilisation of the declarations resulted in short levy of CST of ₹ 0.25 crore, being sale deemed to be without the support of declarations.

In the exit conference, the Department accepted the audit objection and agreed to take appropriate action.

⁴ Ferozepur and Gurdaspur.

⁵ Gurdaspur, Kapurthala and Moga.

⁶ Himachal Pradesh, Jammu & Kashmir and Orissa.

2.12.11 Grant of concession without the support of F Forms/with the support of defective F forms

Three AETCs⁷

Section 6-A of the CST Act 1956 provides that where any dealer claims that he is not liable to pay tax in respect of any goods, on the ground that the movement of such goods from one State to another State was occasioned by reason of transfer of such goods by him to any place of his business or to his agent or principal, as the case may be and not by reason of sale, the burden of proving that the movement of those goods was so occasioned shall be on that dealer. For this purpose he may furnish to the assessing authority, within the prescribed time a declaration, duly filled and signed by the Principal officer of the other place of business or his agent or principal as the case may be, containing the prescribed particulars in the prescribed form obtained from the prescribed authority, alongwith the evidence of dispatch of such goods and if the dealer fails to furnish such declaration, then the movement of such goods shall be deemed for all purpose of this Act to have been occasioned as a result of sale. No provisions of the CST Act/Rules provide for such concession where the declaration forms are tampered, unsigned, not genuine and having cutting and over writing.

(a) Test check of the assessment records and annual returns revealed that while finalising the assessments during 2010-11 of three dealers for the assessment years 2005-06 to 2008-09 and as per the annual statements of two dealers for the years 2006-07 and 2008-09, the DOs allowed deduction on account of branch transfer of ₹ 33.84 crore without the production of prescribed declarations in Form F. Grant of deduction without the support of declarations resulted in non-levy of tax of ₹ 4.23 crore.

Five AETCs⁸

(b) During test check of records relating to assessments, we noticed that the DOs, while finalising the assessments of 17 dealers between April 2009 and March 2011 for the year 2004-05 to 2008-09 allowed deductions on account of branch transfer of goods valued ₹ 78.68 crore against production of declarations in Form F. Scrutiny of these declarations revealed that information like date of registration, quantity and date of dispatch of goods etc. were not found recorded on these declarations. We also noticed that the deductions were allowed against the production of duplicate declarations.

The deductions allowed on the basis of incomplete/duplicate/tampered declarations in Forms F resulted in non levy of tax of ₹ 7.80 crore.

⁷ Ludhiana II, Patiala and Sangrur.

⁸ Jalandhar-I, Ludhiana -II, Ludhiana-III, Ropar and Sangrur.

In exit conference the Department accepted the deficiencies pointed out in the declarations and agreed to take appropriate action. Action taken by the Department is awaited (December 2011).

2.12.12 Grant of concessional rate of CST on the basis of defective C forms

Eleven AETCs⁹

Sub section 4 of Section 8 of the CST Act provides that concessional rate of tax shall not apply to any sale in the course of inter State trade or commerce, unless the dealer selling the goods furnishes to the prescribed authority in the prescribed manner a declaration duly filled and signed by the registered dealer to whom the goods are sold, containing the prescribed particulars in a prescribed form obtained from the prescribed authority. No provisions of the CST Act/Rules provide for the concessional rate of CST on inter State sale of goods supported by declarations which are tampered, unsigned, non-genuine and having cutting and over writing.

(a) Test check of assessment records revealed that while finalising the assessment of 91 dealers between April 2009 and March 2011 for the assessment years 2005-06 to 2008-09, the DOs assessed the inter State sales valuing ₹ 254.89 crore at concessional rate of CST, supported by declarations in Form C which were incomplete/duplicate/tampered/unsigned/non-genuine. This resulted in short levy of tax of ₹ 22.65 crore.

Four AETCs¹⁰

(b) Test check of the records of assessments and self assessments revealed that while finalising the assessments of 10 dealers between April 2009 and March 2011 for the assessment

years 2001-02 and 2004-05 to 2008-09, the DOs assessed inter State sale of ₹ 97.14 crore at concessional rate of CST without the support of prescribed declarations in Form C. This resulted in short levy of tax of ₹ 8.31 crore.

In exit conference the Department accepted the deficiencies pointed out in Audit and agreed to take appropriate action. Action taken by the Department is awaited (December 2011).

⁹ Ferozpur, Gurdaspur, Hoshiarpur, Kapurthala, Jalandhar-I, Jalandhar-II, Ludhiana-II, Ludhiana-III, Moga, Ropar and Sangrur.

¹⁰ Gurdaspur, Ludhiana II, Ludhiana III and Mukatsar.

2.12.13 Non-levy of penalty and interest in fraudulent utilisation of declarations

AETC Jalandhar-I

Section 56 (b) of the Punjab VAT Act 2005 provides that if the dealer furnish incorrect particular deliberately, in order to evade or avoid payment of tax, the DO shall direct that the dealer shall pay, by way of penalty, in addition to the tax and interest payable by him, a sum equal to twice the amount of tax assessed on account of the aforesaid reasons. Further section 9(2) of the CST Act provides that provisions of the State Act (PVAT Act) relating to imposition of penalty and interest apply as such to the similar cases in the CST transactions.

Test check of assessment records revealed that while finalising the assessment (June 2010) of a dealer for the assessment year 2006-07 the DO allowed the concessional rate of tax on whole of the inter State sale of ₹ 73.91 crore against the production of 432 'C' forms. The scrutiny of these declaration revealed that out of these declarations ten declarations were tampered, thereby the value of goods covered by these forms was increased to the tune of ₹ 2.67 crore than the actual value.

Utilisation of the declarations in fraudulent way so to evade tax resulted in short levy of tax of ₹ 0.23 crore, non-levy of penalty of ₹ 0.45 crore and interest of ₹ 0.06 crore.

In its reply submitted in the exit conference the Department accepted the issue and stated to re-open the assessment case. Final outcome of the re-assessment is awaited (December 2011).

2.12.14 Grant of concession on the basis of defective E-I forms

Three AETCs¹¹

No provisions of the CST Act/Rules provide for exemption on account of transit sale from the payment of CST, supported by the declarations which are tampered, unsigned, non genuine and having cutting and over writing.

Test check of the assessment records revealed that while finalising the assessment of six dealers between April 2009 and March 2011 for the year 2005-06 and 2007-08, the DOs allowed exemption of tax on ₹ 12.77 crore on account of transit sale made to other registered dealers supported by incomplete and duplicate declarations in Form E-I. This resulted in non levy of tax of ₹ 1.10 crore.

In exit conference the Department accepted the deficiencies pointed out in audit and stated that defects being minor, there involved no loss of revenue. The contention of the Department is not accepted as the acceptance of the defected declarations led to violation of CST Act/Rules.

¹¹ Jalandhar-II, Ludhiana-II and Ludhiana-III.

2.12.15 Grant of exemption on the basis of defective H forms

AETC Ludhiana-II

Under the provision of CST Act read with the Rules made thereunder, sale of goods made by one registered dealer to another registered dealer for export are to be allowed as deduction from his turnover on the production of Form 'H' duly filled and signed by the exporter alongwith evidence of export of such goods. No provisions of the CST Act/ Rules provide for the exemption of CST supported with declarations in Form H which are tampered, unsigned and having cutting and over writing.

Test check of the assessment records revealed that while finalising the assessment of seven dealers between April 2010 and March 2011 for the assessment years 2005-06 to 2006-07, the DO allowed exemption from payment of tax on sale of ₹ 3.70 crore made to the exporter on the basis of incomplete and duplicate declarations in Form H. This resulted in non-levy of tax of ₹ 0.37 crore.

In exit conference the Department accepted the deficiencies pointed out in audit and stated that defects being minor, there involved no loss of revenue.

The contention of the Department is not accepted as the acceptance of the defected declarations in violation of CST Act/Rules, has revenue implication.

2.12.16 Conclusion

It is evident that due to non-compliance with the provisions of the Act/Rules inadequate and improper check of the forms by the DOs and weak internal control mechanism, resulted in tax foregone of ₹ 45.24 crore during the four years from 2005-06 to 2008-09 in the cases test checked by audit. As such the possibility of such cases at other places cannot be ruled out.

2.12.17 Recommendations

It is recommended that the Department need to strengthen

- *the internal control to avoid allowances of exemptions/concessions on the basis of deficient/incomplete forms, while finalising the assessments and also strengthen the system for cross verification of the transactions relating to stock transfer.*

2.13 Other audit observations

We noticed several cases of non-observance of provisions of Acts/Rules; non/short levy of tax, penalty and interest; incorrect allowance of exemption; and other cases during scrutiny of records of sales tax/VAT as mentioned in the succeeding paragraphs. These cases are illustrative and are based on the test check carried out by us. Such omissions on the part of Assessing Authorities (AAs)/Designated Officers (DOs) are pointed out in audit repeatedly, but not only the irregularities persist, they also remain undetected till we conduct audit. There is need for the Government to improve the internal control system so that such omissions can be detected and corrective measures taken.

2.14 Non-observance of the provisions of Acts/Rules

The Punjab General Sales Tax Act, 1948 (PGST Act), The Punjab Value Added Tax Act, 2005 (PVAT Act), The Central Sales Tax Act, 1956 (CST Act) and the Rules provide for:-

- (i) levy of tax at the prescribed rates,*
- (ii) exemption from tax*
- (iii) correct determination of the tax/turnover and*
- (iv) grant of Input Tax Credit.*

The AAs while finalising the assessment did not observe some of the provisions of Acts/Rules in the cases mentioned in paragraphs 2.14.1 to 2.14.11. This resulted in non/short levy and non-realisation of tax, interest and penalty of ₹ 8.39 crore.

2.14.1 Short/non-reversal of input tax credit

AETC, Hoshiarpur

Rule 24(1) of the PVAT Rules provides that where a person has used the purchased goods, partially for taxable sales but unable to maintain accounts as provided in the Rule 23, and the sale made by him includes tax free goods and taxable goods or consignment or branch transfers, then it shall be presumed that goods so purchased have been used in proportion to the turnover of sale of tax free goods, taxable goods and consignment or branch transfers. Accordingly, input tax credit shall be claimed in that proportion and shall be apportioned for tax free sale. Input tax credit in the case of consignment sale shall be considered only to the extent by which the amount of tax paid in the State exceeds four percent. Further, in terms of the provision contained in section 13-A of the PVAT Act, a taxable person shall not be entitled to input tax credit in respect of the tax paid by him under the Punjab Tax on Entry of Goods into Local Area Act, if such goods are for use in the manufacture, processing or packing of taxable goods sent outside the State other than by way of sale or for use in the manufacture, processing or packing of tax free goods.

1. We found (October 2010), the following deficiencies in allowing of input tax credit to a dealer by the Assessing Officer.

(a) In the assessment order (February 2010) for the year 2007-08, the dealer had gross turnover of ₹ 517.09 crore which included branch transfer of ₹ 154.76 crore and tax free sale of ₹ 240.12 crore. The dealer had eligible purchases for input tax credit (ITC) of ₹ 174.46 crore inclusive of interstate purchases.

We observed that the assessing authority in re-assessment proceedings calculated the apportionment on account of branch transfer and tax free sale (Schedule A goods) by the formula prescribed under Rule 24. This was done as the dealer had not maintained separate accounts as required under Rule 23. However while computing apportionment of ITC on account of branch transfer and tax free sale, the Assessing Authority apportioned ITC of ₹ 3.73 crore instead of correct apportionable ITC of ₹ 5.35 crore based on formula prescribed under Rule 24. This resulted in short reversal of ITC of ₹ 1.62 crore mainly due to non-consideration of entry tax for apportionment.

(b) In the case of refund for the quarter ended June 2008, the assessee had gross turnover of ₹ 138.15 crore which included branch transfer of ₹ 41.92 crore and tax free sale of ₹ 62.55 crore. The

dealer had eligible purchases for ITC of ₹ 89.35 crore inclusive of interstate purchases. It was noticed that while computing apportionment of ITC on account of branch transfer and tax free sale, the AA erroneously apportioned ITC of ₹ 1.08 crore instead of correct apportionment of ITC of ₹ 2.71 crore

based on formula in Rule 24. This resulted in short reversal of ITC leading to excess refund of ₹ 1.63 crore mainly due to non-consideration of entry tax for apportionment.

We reported the matter to the Department and the Government (October 2010 and February 2011). The Department admitted the audit observation (February 2011) and stated that the case had been taken up for re-assessment. The Department further informed (June 2011) that additional demand of ₹ 2.51 crore for the year 2008-09 had been created in this case.

AETC, Ludhiana II

Rule 24(1) of the PVAT Rules provides that where a taxable person has used the purchased goods partially for taxable and tax free sales, but unable to maintain accounts as provided in the Rule 23 and the sales made by him include sale of tax free goods and taxable goods, then it shall be presumed that the goods so purchased have been used in proportion of turnover of sales of tax free goods and accordingly the input tax credit shall be apportioned in that proportion. Rule 43 further provides that, the designated officer shall scrutinise every return filed under section 26 of the Act.

2. (a) We found (July and August 2010) that three dealers engaged in the business of manufacturing and sale of both taxable and tax free goods, in their self assessed returns for 2007-08 had shown tax free sale of ₹ 34.25 crore out of the gross turnover of ₹ 48.30 crore. The dealers had used taxable goods amounting to ₹ 30.17 crore in the manufacture of tax free goods and taxable goods, but failed to maintain separate accounts as required under Rule-23. The dealers had apportioned ITC of ₹ 79.48 lakh against the correct apportionable ITC of ₹ 104.47 lakh worked out in audit by applying the formula provided in Rule 24 of PVAT Rules and this resulted in short apportionment of ITC ₹ 24.99 lakh. The DO did not scrutinise the return filled by these dealers. Had he scrutinise the return, the irregularity could have been detected.

When we pointed out, the DO did not furnish any reply.

We reported the matter to the Department and the Government (July, August 2010 and March 2011); their replies are awaited (December 2011).

AETC, Hoshiarpur

(b) We found (October 2010) that while finalising the assessment for the year 2005-06 in October 2009 of a dealer engaged in the business of manufacture and sale of sugar (tax free goods), the AA (October 2009) erred in not including the tax free sale of ₹ 31.42 crore made in the course of inter state sale to the tax free sale of ₹ 59.14 crore made within the State for computing the apportionment of ITC. Similarly, in contravention of the provisions of the PVAT Act, no apportionment on account of tax free sale of ₹ 98.88 crore was

made by the assessee in his self assessed returns for the year 2007-08. These deficiencies resulted in short/non-reversal of ITC of ₹ 12.20 lakh.

We reported the matter to the Department and the Government (October 2010 and February 2011). The Department admitted the audit observation (February 2011) and stated that the case had been taken up for re-assessment. Final outcome of the re-assessment is awaited (December 2011).

AETC Hoshiarpur

The PVAT Rules provide that no input tax credit shall be admissible to a person for tax paid on purchases of goods, if such goods are lost or destroyed or damaged beyond repair because of any theft, fire or natural calamity. Rules further provide that ITC availed on the goods, which are destroyed beyond repair shall be reversed immediately on the occurrence of such event.

3. We found (November 2010) that in the case of a self assessed return filed by a dealer for the year 2007-08, the dealer had claimed and was allowed ITC on the purchases of ₹ 30.28 crore which included goods worth ₹ 1.16 crore destroyed in fire. No reversal of the ITC of ₹ 4.66 lakh, proportionate to the destroyed goods was carried out.

We reported the matter to the Department and the Government (February 2011) to which it was stated by the Department that additional demand of ₹ 5.73 lakh

had been created by AETC Hoshiarpur. The reply of the Government is awaited (December 2011).

2.14.2 Inadmissible/Erroneous refunds

AETC, Ludhiana III

The Punjab Tax on Entry of Goods into Local Area Act, 2000 read with new conditions regulating deferment and exemption as contained in the Punjab VAT Act, 2005 provides that a unit availing the benefit of deferment of or exemption from the payment of tax, shall be entitled to refund of tax, paid or payable by it on the purchase made from the taxable person within the State.

1. We noticed that while allowing refunds to an exempted unit (between May 2009 and September 2009) for the period October 2008 to June 2009 to a dealer, the DO did not observe the new conditions¹² regulating deferment and exemption and incorrectly allowed input tax credit against entry tax paid on import from other States made by the dealer alongwith input tax credit paid on the purchases made from the State of Punjab. This resulted in inadmissible allowance of ITC on account of entry tax and consequent

¹² Conditions no.2 (1) substituted by notification no. S.O. 21/P.O.5/2005/S.92/2005 dated 6 April, 2005 read as an exempted unit is entitled for refund of tax on purchases made from a taxable person within the State of Punjab only.

grant of refund to the extent of ₹ 1.36 crore. The AETC stated that the matter would be examined as per law.

When we reported (December 2010); the Department stated (June 2011) that ITC on account of entry tax is admissible to the taxable person under section 13-A which in no way excluded the exempted unit from entitlement of ITC on account of entry tax. The reply of the Department is not accepted because in terms of condition no. 2 (1) notified on 6.4.2005 under the saved (D&E) Rule 1991, exempted units are entitled for refunds of tax paid on the purchases made from the taxable person within the State of Punjab only, whereas these dealers had made interstate purchases which were not eligible for credit of any taxes paid.

We reported the matter to the Government (March 2011); its reply is awaited (December 2011).

AETC, Fatehgarh Sahib

The PVAT Act and Rules made thereunder provides that every taxable person shall keep a true account of goods sold and purchased by him.

2(a) We found (August 2010) from the records relating to refund that while claiming refund of ₹ 3.62 lakh for the quarter ended June 2008 and September 2008, an assessee claimed and allowed entry tax of ₹ 26.47 lakh on account of tax paid on the purchase of ₹ 6.62 crore made from outside the State of Punjab, had actually accounted for the purchase of ₹ 5.15 crore only. Though the details of inter state purchases were on the records the DO did not verify them and point out the suppression of the purchases while allowing the refund. This resulted in suppression of sales equivalent to the short accounting of ₹ 1.47 crore of imported purchase leading to inadmissible refund of ₹ 3.62 lakh and short levy of tax of ₹ 2.26 lakh.

We reported the matter to the Department and the Government (October 2010 and February 2011); their replies are awaited (December 2011).

AETC, Mohali

(b) We found (November 2010) from the records relating to refunds that the assessee claimed and was allowed refunds of ₹ 94.14 lakh for the quarter ended December 2008 and March 2009. The assessee claimed and allowed entry tax of ₹ 71.46 lakh on account of tax paid on the purchase of ₹ 17.86 crore made from outside the State of Punjab, had actually accounted for the purchase of ₹ 12.30 crore only. Though the details of inter state purchases were on the records, the DO did not verify them and point out the suppression of the purchases while allowing the refund. This resulted in suppression of sales equivalent to the short accounting of ₹ 5.56 crore of imported purchase leading to inadmissible refund of ₹ 22.27 lakh.

We reported the matter to the Department and the Government (November 2010 and February 2011); their replies are awaited (December 2011).

AETC, Ludhiana III

New conditions regulating exemption from payment of tax under the saved PGST (Deferment and Exemption) Rules, provide that a taxable person purchasing goods from an exempted unit, shall, first utilise the actual input tax credit arising out of the purchases made within the State from non-exempted taxable person and only when this is exhausted, he shall utilise the permissible notional input tax credit available to him. Conditions further provide that the taxable person purchasing goods from an exempted unit and all subsequent taxable persons to whom these goods are sold, shall not be entitled to any refund on account of the notional input tax credit arising in the hands of the first taxable person.

3. We found (December 2010) that, while authorising (August 2009) refund to a dealer for the quarter ended December 2008, the DO instead of adjusting the available actual ITC of ₹ 5.76 crore, erroneously first adjusted the notional input tax credit of ₹ 69.22 lakh towards the output tax liability without exhausting the actual ITC of the dealer and issued refund of ₹ 4.38 crore. This resulted in excess refund of ₹ 69.22 lakh on account of notional ITC which was adjusted against the output tax liability.

The matter was brought to the notice of the DO to which no reply was furnished by him.

We reported the matter to the Department and the Government (December 2010 and March 2011); their replies are awaited (December 2011).

2.14.3 Excess allowance of exemption

AETC, Ferozpur

Notification prescribing the conditions under the PVAT Act, subject to which the concessions granted under the PGST (Deferment and Exemption) Rules were allowed to be continued, provides that the quantum of deferment or exemption from payment of tax, availed by an assessee shall be calculated by adding the output tax on interstate sales, output tax on inter state stock transfer, the amount of refund allowed and the output tax on local sales.

(i) We found in November 2010 that while finalising (March 2010) the assessment of a dealer for the year 2005-06 engaged in the business of manufacture and sale of liquor and availing the benefit of exemption from payment of tax under the saved PGST (D&E) Rules, the DO, instead of adding the notional output tax of ₹ 16.91 lakh levied on the branch transfer of ₹ 3.96 crore to the quantum of exemption, erroneously debited it to the ITC. The DO also erred to add the amount of refund of ₹ 35.94 lakh instead of ₹ 41.68 lakh allowed to the assessee during the year to the

quantum of exemption. These mistakes resulted in excess allowance of exemption by ₹ 22.65 lakh.

(ii) We further noticed in the case of same assessee that against the available balance of exemption of ₹ 2.52 crore as on 31 March 2006, the DO erroneously brought forwarded and accounted the balance of exemption as ₹ 2.84 crore as on 1 April 2006, which resulted in excess allowance of exemption of ₹ 32 lakh to the dealer.

(iii) Again we found (November 2010) from the records relating to refunds in the case of the same assessee that while finalising the refunds (August and September 2009) for the years 2006-07 to 2008-09, the notional output tax was short computed by ₹ 80.92 lakh due to non/short levy of tax on branch transfer and levy of tax at incorrect rates. This resulted in short levy of notional output tax and excess allowance of exemption of ₹ 1.36 crore to the dealer.

When we reported (November 2010); the Department accepted the audit objection and stated (June 2011) that additional demand of ₹ 54.09 lakh for the year 2005-06 had been created and adjusted against the available exemption and for the assessment years of 2006-07 to 2008-09, the assessments were yet to be finalised.

We reported the matter to the Government (March 2011); its reply is awaited (December 2011).

2.14.4 Evasion of tax

AETC, Patiala

The PVAT Act and Rules made thereunder provides that every taxable person shall keep a true account of the goods sold and purchased by him. Section 56 of the PVAT Act, 2005 further provides that if the Commissioner or the designated officer is satisfied that the person in order to evade or avoid payment of tax has concealed any transactions of sale or purchase from his account books, he shall direct that the person shall pay penalty equivalent to twice the amount of tax, in addition to the tax and interest payable by him

1. We found (August 2010), in the case of an annual return filed by a dealer for the year 2007-08 that the dealer had business income of ₹ 70.00 lakh which he kept outside his books of account. When he depicted this income subsequently, instead of taking it to sale and pay tax, he took it to profit and loss account. He had also exhibited stock of ₹ 61 lakh in the debit side of his trading account instead of the credit side. These discrepancies resulted in decrease of gross profit, increase of net profit and evasion of tax of ₹ 6.21 lakh. Besides, penalty of ₹ 12.43 lakh was also leviable. No notice demanding the tax and penalty as required under the Act was issued by the DO.

When we reported (August 2010); the Department stated (April 2011) that out of the surrendered amount the dealer had increased the stock by ₹ 61 lakh and tax would be paid as and when the sale was effected. The reply is not accepted

because as to how income of ₹ 70 lakh could have been earned when the goods which were stated to be added to the stock had not been sold. Moreover by taking of the stock to purchases, the gross profit was decreased to the tune of ₹ 61 lakh and remained ₹ 48.36 lakh against which the net profit was taken as ₹ 77.63 lakh on taking the surrendered income of ₹ 70 lakh to the profit and loss account instead of taking it to the credit side (sale).

We reported the matter to the Government (January 2011); its reply is awaited (December 2011).

AETC, Ludhiana I

The PVAT Act 2005 provides that every taxable person, registered person, casual trader or any other person, who is required so to do by the Commissioner or the designated officer by notice served on him, shall keep a true account of the goods sold and purchased by him.

2. We found (September 2010) from the records relating to returns that as per certified balance sheet filed by a dealer for the year 2007-08, alongwith his annual return, the dealer has gross turnover of ₹ 111.23 crore which was inclusive of job work of ₹ 4.48 crore and may be inclusive of tax element of ₹ 3 crore. After allowing all the admissible deductions on account

of job work and the amount of tax element the GTO was worked out in audit as ₹ 103.80 crore against which the GTO ₹ 101.35 crore was accounted and assessed to tax by the dealer in his self assessed return. This has resulted in suppression of sale of ₹ 2.45 crore and led to short levy of tax ₹ 9.80 lakh.

When we reported the matter (September 2010) the Department replied that audit had wrongly included the Central Excise duty of ₹ 2.61 lakh paid by the dealer on job work, which is exempted from VAT. The reply is not relevant since the issue is about suppression of sales turnover even after removal of job work and taxes paid.

We reported the matter to the Government (January 2011); its reply is awaited (December 2011).

2.14.5 Non-levy of tax due to wrong classification

AETC, Mohali

Under the PGST Act and Rules made thereunder, poultry feed supplements such as nutrients, vitamins, antibiotics, medicines and other category of feed supplements are taxable at the rate of 8.80 per cent with effect from 17 July 2002.

We found (February 2010) that while finalising (March 2009) the assessment for the year 2004-05 of a dealer engaged in the business of manufacture and sale of medicines, the AA erroneously exempted the sale of poultry feed supplements valued ₹ 4.04 crore, treating the items as poultry feed which was tax free. This wrong classification

resulted in non-levy of tax of ₹ 35.53 lakh.

We reported the matter to the Department and the Government (February 2010 and January 2011); their replies are awaited (December 2011).

2.14.6 Non-levy of notional tax on consignment sale

AETC, Barnala

The Punjab General Sales Tax (Deferment and Exemption) Rules provides that on the branch transfer of goods or the consignment sales outside the State of Punjab, notional sales tax shall be computed at the rate of four *per cent* on production of the certificate in Form 'F'.

We found (February 2010) that while finalising (September 2008) the assessment for the year 2002-03 (July 2002 to March 2003) of a dealer engaged in the business of yarn etc. and availing the benefit of exemption from payment of tax, the AA did not assess the branch transfer of goods valuing ₹ 3.58 crore made by the dealer. This resulted in non-levy of notional tax leading to excess carry forward of exemption of ₹ 14.31 lakh.

When we pointed out (February 2010) the Department raised additional demand for ₹ 14.31 lakh (March 2011) and adjusted the same against the exemption allowed to the dealer.

We reported the matter to the Government (January 2011); its reply is awaited (December 2011).

2.14.7 Non-levy of tax at the first stage of sale

AETC, Ludhiana I

Under the provisions of the PGST Act and the Rules framed thereunder, tax is leviable at the first stage of sale of all types of man made, synthetic, natural and blended fibres and wastes thereof, packing material and paper boards. The first stage in the case of a dealer, who brings into the State of Punjab the said goods from any place outside the State, is the stage when such dealer sells the said goods for the first time within the State.

We noticed (September 2010) that while finalising (August 2009) the assessments of two dealers for the year 2003-04, the AA allowed deduction of ₹ 2.33 crore on account of sale of fibres, fibres waste, synthetic fibres waste, cones for packing yarn and paper board made to the registered dealers in the State against production of declarations. Since these goods were taxable at the first stage of sale, the deductions allowed against declarations were not admissible. This resulted in non-levy of tax of ₹ 11.18 lakh.

When we pointed out in audit, the DO replied that matter would be looked into and reply would be sent in due course.

We reported the matter to the Department and the Government (September 2010 and March 2011); their replies are awaited (December 2011).

2.14.8 Unauthorised retention of tax

AETC, Patiala

The PVAT Act provides that no person, who is registered under this Act, shall collect tax in excess of the amount leviable under the Act, and if it is collected in excess, he shall be liable to deposit the tax so collected immediately after such collection.

We found (July 2010) that a dealer engaged in the business of cement, had collected total tax of ₹ 3.71 crore on the sale of cement worth ₹ 29.70 crore made during the year 2007-08. As per the list of sales (VAT-23), the dealer had issued credit note for ₹ 17.85 lakh involving tax of ₹ 2.23 lakh. But in his self assessed returns, he claimed credit note for ₹ 89.16 lakh and shown the tax paid as ₹ 3.60 crore against the due tax of ₹ 3.69 crore (₹ 3.71-

₹ 0.02 crore). The excess claim for credit note resulted in unauthorised retention of tax of ₹ 9 lakh.

We reported the matter to the Department and the Government (July 2010 and January 2011); their replies are awaited (December 2011).

2.14.9 Under assessment of tax due to excess admittance of notional input tax credit

AETC, Hoshiarpur

Under the PGST (Deferment and Exemption) Rules saved under the PVAT Act, notional input tax credit on the purchases made from an exempted unit and used in the manufacturing of taxable goods sold in the course of inter State trade or commerce shall be available only to the extent of the central sales tax chargeable under the CST Act. Tax on the interstate sale of yarn is leviable at the rate of two *per cent*.

We found (October 2010) that a dealer engaged in the business of manufacture and sale of yarn etc. had purchased goods worth ₹ 19.42 crore from exempted units. While finalising (January and March 2010) the assessment for the years 2006-07 and 2007-08, the AA erroneously allowed notional input tax credit (ITC) of ₹ 14.05 lakh on the exempted purchase of goods at the flat rate of four *per cent* instead of ₹ 7.03 lakh i.e. equal to the CST of two *per cent*, charged on the corresponding

inter State sale of products made out of the exempted goods purchased. This mistake resulted in under assessment of tax of ₹ 7.03 lakh.

We reported the matter to the Department and the Government (October 2010 and February 2011); their replies are awaited (December 2011).

2.14.10 Excess claiming of ITC

AETC, Ludhiana II

The PVAT Act 2005 provides that every taxable person, who is required to do so by the Commissioner or the designated officer by notice served on him, shall keep a true account of the goods sold and purchased by him. The Act further provides that a taxable person shall be entitled for input tax credit in respect tax paid on the taxable goods including capital goods purchased within the State.

We noticed (August 2010) that while finalising (November 2009) the assessments of a dealer for the year 2005-06 and 2006-07, the DO allowed the dealer to claim ITC on the gross purchase of ₹ 11.63 crore mentioned in the tax returns against the admissible gross purchase of ₹ 10.76 crore stated in the authenticated trading account. The incorrect computation of gross purchase resulted in excess claim of ITC of ₹ 3.49 lakh.

When we pointed out (August 2010), the DO did not furnish any reply.

We reported the matter to the Department and the Government (September 2010 and February 2011); their replies are awaited (December 2011).

2.14.11 Non-levy of CST

AETC, Amritsar I

In terms of the notification SO-40/PA-8/2005 dated 14.10.2005 issued by the Punjab Government under Section-8 of the PVAT Act, 'blankets' are liable to tax at the rate of four per cent during the period from 1.4.2005 to 13.10.2005. Further, under the Central Sales Tax Act (CST Act), tax on the inter State sale of goods other than the declared goods and not supported by declaration in form-C shall be levied at the rate of 10 *per cent* or at the rate applicable to the sale of such goods inside the State, whichever is higher.

We noticed (October 2010) that while finalising the assessment (March 2010) for the year 2005-06 of a dealer, the DO had not levied CST on the sale of blankets costing ₹ 70.57 lakh made in the course of inter State trade and not covered by declaration in Form-C during the period from 1 April 2005 to 13 October 2005. This failure resulted in non-levy of CST of ₹ 7.06 lakh.

We reported the matter to the Department and the Government (October 2010 and March 2011); their replies are awaited (December 2011).