

CHAPTER-IV

REVENUE RECEIPTS

4.1 GENERAL

4.1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Nagaland 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 mentioned in the following table:

Table 4.1.1

(₹ in crore)						
Sl. No.	Particulars	2006-07	2007-08	2008-09	2009-10	2010-11
I.	Revenue raised by the State Government					
	• Tax revenue ¹	119.02	131.37	156.02	180.51	227.32
	• Non-tax revenue	91.14	119.48	180.55	126.35	183.14
	Total I	210.16	250.85	336.57	306.86	410.46
II.	Receipts from the Government of India					
	• State's share of divisible Union taxes	316.93	399.77	421.84	434.03	689.46
	• Grants-in-aid	2,245.42	2,345.40	2,642.48	2978.87	3900.07
	Total II	2,562.35	2,745.17	3,064.32	3412.90	4589.53
III.	Total receipts of the State Government (I plus II)	2,772.51	2,996.02	3,400.89	3719.76	4999.99
IV.	Percentage of I to III	8	8	10	8	8

The above table indicates that during the year 2010-11 the revenue raised by the State Government remained stagnant at eight *per cent* of the total revenue receipts (₹ 4999.99 crore). The balance ninety two *per cent* of receipts during 2010-11 was from the Government of India.

4.1.2 The details of tax revenue raised during the period 2010-11 along with the figures for the preceding four years are mentioned in the following table.

¹ For details see Statement No. 11 - Detailed accounts of revenue by minor heads of the Finance Accounts of the Government of Nagaland for the year 2010-11. Figures under Major heads 0020, 0021, 0032, 0037, 0038, 0044 and 0045 - showing the State's share of divisible Union taxes booked in the Finance Accounts under A - Tax revenue have been excluded from the revenue raised by the State and included in the State's share of divisible Union taxes in this table.

Table No.4.1.2

(₹ in crore)

Sl. No.	Head of revenue	2006-07	2007-08	2008-09	2009-10	2010-11	Percentage of increase (+)/ decrease (-) in 2010-11 over 2009-10
1.	Taxes on sales, trade etc.,	85.02	94.79	114.70	132.22	167.22	(+) 26
2.	Taxes on Vehicles	12.26	12.30	14.14	16.73	23.92	(+) 43
3.	Other Taxes on Income and Expenditure	16.35	17.72	19.86	22.54	24.57	(+) 9
4.	State Excise	2.13	2.83	3.34	3.13	3.00	(-) 4
5.	Stamps and Registration fees	1.05	1.02	1.01	1.19	1.35	(+) 13
6.	Other Taxes and duties	0.00	0.00	0.00	0.00	0.00	0
7.	Land Revenue	0.50	0.50	0.60	0.63	0.59	(-) 6
8.	Taxes and Duties on Electricity	0.02	0.02	0.03	0.11	0.05	(-) 55
9.	Taxes on Goods and Passengers	1.69	2.19	2.34	3.96	6.62	(+) 67
Total		119.02	131.37	156.02	180.51	227.32	(+) 26

The concerned Departments did not inform (January 2012) the reasons for variation despite being requested (December 2011).

4.1.3 The details of the major non-tax revenue raised during 2010-11 along with the figures for the preceding four years are mentioned in the following table.

Table 4.1.3

(₹ in crore)

Sl. No.	Head of revenue	2006-07	2007-08	2008-09	2009-10	2010-11	Percentage of increase (+)/ decrease (-) in 2010-11 over 2009-10
1.	Interest receipts	5.22	5.66	11.57	10.02	14.35	(+) 43
2.	Public Service Commission	0.00	0.00	0.80	0.09	0.33	(+) 267
3.	Police	2.15	2.73	0.61	0.44	34.21	(+) 7675
4.	Stationery and printing	0.08	0.07	0.01	0.01	0.01	0
5.	Public works	0.31	0.10	0.10	0.54	0.72	(+) 33
6.	Other administrative services	1.46	1.93	1.21	1.42	2.90	(+) 104
7.	Contribution and recoveries towards Pension & Other Retirement Benefits	0.23	0.21	1.05	0.21	0.30	(+) 43
8.	Miscellaneous general services	14.59	19.44	28.05	7.04	12.43	(+) 77
9.	Education, sports, art and culture	1.64	0.48	0.55	0.43	8.74	(+) 1933
10.	Medical and Public Health	0.13	0.16	0.17	0.09	0.09	0
11.	Water supply and sanitation	2.26	1.07	0.98	0.94	1.29	(+) 37
12.	Housing	2.21	2.11	2.97	3.43	3.63	(+) 6
13.	Social security and welfare	0.16	0.31	0.25	0.17	3.19	(+) 1776

14.	Crop husbandry	0.15	0.12	0.11	0.13	0.16	(+) 23
15.	Animal husbandry	0.35	0.39	0.43	0.47	0.57	(+) 21
16.	Forestry and wildlife	5.95	4.81	4.78	7.70	10.18	(+)32
17.	Food storage and warehousing	0.03	0.03	0.02	0.02	0.01	(-) 50
18.	Co-Operation	0.92	0.17	0.79	3.15	0.34	(-) 89
19.	Other agricultural programmes	0.05	0.01	0.01	0.03	0.03	0
20.	Minor irrigation	0.00	0.01	0.02	0.01	0	(-) 100
21.	Power	41.63	69.47	111.49	75.17	74.01	(-) 2
22.	Village and small industries	0.21	0.26	0.67	0.31	0.35	(+) 13
23.	Non-ferrous mining and metallurgical industries	1.91	0.30	0.89	0.59	0.72	(+) 22
24.	Road transport	8.03	8.37	9.38	10.81	11.55	(+) 7
25.	Tourism	0.30	0.21	0.13	0.30	0.16	(-) 47
26.	Other general economic services	0.07	0.08	0.08	0.12	0.12	0
27.	Miscellaneous	1.10	0.98	3.43	2.71	2.75 ²³	(+) 1
	Total	91.14	119.48	180.55	126.35	183.14	(+) 45

The concerned Departments did not inform (January 2012) the reasons for variation despite being requested (December 2011).

4.1.4 Variation between the budget estimates and actuals

The variation between the budget estimates and 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

Sl. No.	Head of revenue	Budget estimates	Actuals receipts	₹ in crore)	
				Variation excess (+) shortfall (-)	Percentage of variation
1.	Other taxes on Income and expenditure	20.20	24.57	(+) 4.37	22
2.	State excise	3.62	3.00	(-) 0.62	17
3.	Taxes on sales, Trade etc.	124.89	167.22	(+) 42.33	34
4.	Taxes on vehicles	15.12	23.92	(+) 8.80	58
5.	Interest receipts	4.50	14.35	(+) 9.85	219
6.	Police	3.08	34.21	(+) 31.13	1011
7.	Stationery and printing	0.32	0.01	(-) 0.31	97
8.	Public works	1.62	0.72	(-) 0.90	56
9.	Other administrative services	4.10	2.90	(-) 1.20	29
10.	Contribution and recoveries and other retirement benefits	0.26	0.30	(+) 0.04	15
11.	Miscellaneous general services	4.75	12.43	(+) 7.68	162
12.	Social security and welfare	0.29	3.19	(+) 2.90	1000
13.	Forestry & wildlife	8.09	10.18	(+) 2.09	26
14.	Co-operation	0.07	0.34	(+) 0.27	386
15.	Power	107.37	74.01	(-) 33.36	31
16.	Village and small industries	0.76	0.35	(-) 0.41	54

² This includes Other Non-tax Revenue receipt under Social Services-0515-other Rural Development Programmes (₹0.37 crore), 0217-Urban Development (₹0.04 crore), 0230-Labour & Employment (₹0.03 crore), 0552-Northeastern Areas (₹0.03 crore) and 1054-Roads and Bridges (₹2.28 crore).

17.	Road transport	14.01	11.55	(-) 2.46	18
18.	Other general economic services	0.11	0.12	(+) 0.01	9
19.	Land revenue	0.81	0.59	(-) 0.22	27
20.	Stamps & registration fee	1.17	1.35	(+) 0.18	15
21.	Taxes and duties on electricity	0.03	0.05	(+) 0.02	67
22.	Public service commission	0.22	0.33	(+) 0.11	50
23.	Education, sports, art & culture	0.32	8.74	(+) 8.42	2631
24.	Medical & public health	0.20	0.09	(-) 0.11	55
25.	Taxes on goods and passenger	2.54	6.62	(+) 4.08	161
26.	Housing	3.44	3.63	(+) 0.19	6
27.	Water supply and sanitation	1.29	1.29	0	0
28.	Crop husbandry	0.15	0.16	(+) 0.01	7
29.	Animal husbandry	0.65	0.57	(-) 0.08	12
30.	Food storage and warehousing	0.09	0.01	(-) 0.08	89
31.	Other agricultural programmes	0.05	0.03	(-) 0.02	40
32.	Minor irrigation	0.02	0.00	(-) 0.02	100
33.	Non-ferrous mining & metallurgical industries	1.03	0.72	(-) 0.31	30
34.	Tourism	0.32	0.16	(-) 0.16	50
35.	Other Rural Development Programmes	0.13	0.37	(+) 0.24	185
36.	Roads & bridges	0.16	2.28	(+) 2.12	1325
Total		325.78	410.36	(+) 84.58	26

The concerned Departments did not inform (January 2012) the reasons for variation despite being requested (December 2011).

4.1.5 Cost of collection

The gross collection in respect of the major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2008-09, 2009-10 and 2010-11 along with the relevant all India average percentage of expenditure on collection to gross collection for the year 2009-10, are as mentioned 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 the previous year
1.	Taxes on sales, trade etc.	2008-09	114.70	3.41	2.97	0.83
		2009-10	132.22	4.18	3.16	0.88
		2010-11	167.22	5.59	3.34	0.96
2.	Taxes on vehicles	2008-09	14.14	1.97	13.93	2.53
		2009-10	16.73	2.24	13.39	2.93
		2010-11	23.92	3.20	13.38	3.07
3.	Stamps and registration fees	2008-09	1.01	0.38	37.62	2.09
		2009-10	1.19	0.16	13.45	2.77
		2010-11	1.35	0.25	18.52	2.47

The above table indicates that the percentage of expenditure on collection during 2010-11 as compared to the All India Average percentage of expenditure on collection for 2009-10 was substantially higher in respect of all the above taxes. The percentage of

expenditure on collection of revenue in respect of taxes on vehicles has followed a downward trend whereas it had gone up in 2009-10 for Stamps and registration fee and Taxes on sales, trade etc.

The Government needs to improve the cost of collection in respect of all the three types of revenue.

4.1.6 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2010 have been furnished by the concerned Government Departments (May 2011). The consolidated arrears in revenue under various Acts from 1977-78 to 2009-10 are mentioned in the following table.

Table 4.1.6

(₹ in crore)				
Sl. No.	Name of Acts	Period of arrears	Amount in arrears	Arrears outstanding for more than 5 years
1.	Nagaland Sales Tax	1977-2008	3.70	3.33
2	Value Added Tax	2005-2010	8.33	00
3	Central Sales Tax	1988-2010	3.18	2.60
4	Petroleum Tax	2001-2010	1.33	1.19
5	Purchase Tax	1996-2006	1.27	1.27
6	Professional Tax	1988-2010	0.15	0.04
Total			17.96	8.43

(Source:-Departmental records)

Out of the total revenue arrears of ₹17.96 crore, ₹8.43 crore remained outstanding for more than five years. In cases of Nagaland Sales Tax, Petroleum Tax and Purchase Tax, most of the arrears were outstanding for more than five years.

It is recommended that the Government may institute a mechanism to pursue and monitor prompt recovery of arrears.

4.1.7 Write-off and waiver of revenue

The Department of Taxes furnished (September 2011) a nil report on the position of amounts written off as of March 2011, on being requested (May 2011).

4.1.8 Failure to enforce accountability and protect interest of the Government

The Accountant General (AG), Nagaland, Kohima conducts periodical inspection of the various offices of the Government Departments to test check the correctness of assessments, levy and collection of taxes/duties/fees etc., and verify the maintenance of accounts and records as per the Acts, Rules and procedures prescribed by the Government. These inspections are followed by the Inspection Reports (IR) issued to the heads of offices inspected with copies to the higher authorities. Serious irregularities noticed during audit are also brought to the notice of Government/Heads of the Departments by the AG. A half yearly report regarding the pending IRs is sent to the

Secretaries of the concerned Government Departments to facilitate monitoring and settlement of the audit observations raised in these IRs through the intervention of the Government.

A review of the IRs issued up to March 2011 pertaining to the offices under the following Departments disclosed that 82 IRs involving money values of ₹52.01 crore were pending at the end of October 2011 as shown in the following table:-

Table 4.1.7

(₹ in crore)

Sl. No.	Name of the Department	No. of IRs	Number of paragraphs	Amount
1	State Excise	04	06	0
2	Forest	29	85	5.95
3	Sales Tax	22	134	32.46
4	Transport	13	36	11.42
5	Motor Vehicle	12	38	1.84
6	State Lotteries	02	09	0.34
Total		82	308	52.01

It is recommended that the Government may take suitable step to install an effective procedure for prompt and appropriate response to audit observation as well as taking action against officers/official who do not send replies to the IRs/paragraphs as per the prescribed time schedule and also fail to take action to recover loss/outstanding demands in a time bound manner.

4.1.9 Audit Committee Meetings

In order to expedite the settlement of the outstanding audit observations contained in the IRs, departmental audit committees have been constituted by the Government. These committees are chaired by the Secretaries of the concerned administrative departments and their meetings are attended by the concerned officers of the State Government and officers from the office of the AG.

During 2010-11, no audit committee meeting was convened to clear the outstanding audit observations.

It is recommended that the Government may ensure that departmental audit committee meetings are held on regular basis to clear the outstanding audit observations.

4.1.10 Compliance with the earlier Audit Reports

During the period from 2003-04 to 2009-10, the Department/Government accepted audit observations involving ₹12.74 crore, of which ₹0.46 crore only had been recovered till September 2010 as mentioned in the following table:-

Table No.4.1.8

(₹ in crore)				
Sl. No.	Year	Money value of Audit Report	Amount accepted by the Departments	Amount recovered
1.	2003-04	2.78	0.02	Nil
2.	2004-05	1.50	1.37	0.22
3.	2005-06	0.02	0.02	Nil
4.	2006-07	1.17	0.24	0.24
5.	2007-08	6.51	1.35	Nil
6.	2008-09	11.78	8.77	Nil
7.	2009-10	0.97	0.97	Nil
Total		24.73	12.74	0.46

The amount recovered by the Department was only 3.61 per cent of the amount which was accepted by them.

It is recommended that the Government may institute a mechanism to pursue and monitor prompt recovery of dues involved in the accepted cases.

4.1.11 Results of Audit

This chapter contains one paragraph relating to loss of Government revenue involving ₹23.02 lakh and unrealised revenue of ₹15.90 lakh and a performance audit on “Utilisation of declaration forms in Interstate Trade”.

PARAGRAPHS

DEPARTMENT OF TOURISM

4.2 Loss of Government Revenue

Due to selection of a bidder who had quoted a lesser price in respect of lease of Tourist Lodge Kohima, Government sustained revenue loss of ₹23.02 lakh. Failure to invoke specific clauses of the agreement resulted in revenue amounting to ₹15.90 lakh remaining unrealised. Besides security deposit of ₹four lakh was also not forfeited.

The Tourist Lodge Kohima, with floor area of 17802 sqft under the control of the Department of Tourism, Nagaland was privatised on 11 July 2007 for a period of 10 years (upto 12 July 2017) on the basis of a Deed of Agreement executed between the Government and the lessee⁴. As per the terms of agreement, the lessee was to pay a monthly rent of ₹30,000 per month commencing from December 2007 which was required to be paid on or before the 15th of every month.

Scrutiny of records revealed that a short tender notice was issued (October 2006) for privatisation of Tourist Lodge, Kohima and the highest bidder⁵ who quoted ₹49,845/- per

⁴ M/s V.A. Metha

⁵ Ekobe Mechui

month was recommended by the Director of Tourism. However, the tender was cancelled (February 2007) on the grounds of certain shortcomings in the terms and conditions of the tender and the Tender Evaluation Committee directed to float a fresh tender. The Cabinet approved the proposal (March 2007) for privatisation and directed the Tourism Department to finalise the process of privatisation of Tourist Lodge, Kohima as per tenders floated after observing all necessary formalities. The following are the audit observations:

- Contrary to the directions of the Tender Evaluation Committee and Cabinet approval, the Department of Tourism represented by Commissioner and Secretary to Government of Nagaland executed the Deed of Agreement between the Government and M/s V.A. Metha (the second bidder who quoted only ₹30,015 per month) without inviting fresh tender. It was observed that selection of the lessee was faulty as the bidder who quoted a lower price of ₹30,000 per month was selected thereby foregoing revenue to the tune of ₹23.02 lakh⁶.

The Department stated (January 2012) that M/s V. A. Metha was the only party capable and willing to undertake major renovation of the tourist lodge, Kohima for making it functional. However, the Department did not state any reason for rejecting the highest bidder.

- As per the original terms and conditions of the Short Tender Notice, the selected bidder was required to provide security deposit in the form of fixed deposit receipts of ₹15 lakh. However, the deed agreement was entered into with the lessee for only ₹four lakh as security deposit. No reasons for relaxation were found on record.
- The agreement did not provide any provision for periodical review/revision of the rate of rent and monthly rent was fixed for 10 years at the same rate.
- Clause 14 of the Lease Deed states that in the event of failure to pay the monthly rent for a period of three consecutive months by the lessee, the Government will recover the amount of rent from the security deposit/interest accrued automatically, and in which case there will be no further requirement for giving three months notice for termination of the license, as the lessee has committed breach of conditions of the license.

However, the lessee had not paid any rent which was due from December 2007 i.e. after the commencement of Lease Agreement. The Department had not recovered the dues amounting to ₹15.90 lakh (December 2007 to February 2012) from the lessee and also not realised the outstanding rent from the security deposit. Although the fact that demand notices were served to the lessee on four occasions⁷ by the Director of Tourism was brought to the notice of the Government, no action on the matter was initiated by the Government which indirectly encouraged the lessee to default in payment of lease rents.

⁶ ₹49,845 x 116 (w.e.f Dec 2007 to 11 July 2017) = ₹57,82,020.

₹30000 x 116 = ₹34,80,000. Therefore ₹57,82,020 minus ₹34,80,000 = ₹23,02,020.

⁷ October and December 2008, March 2009 and July 2010.

Thus, due to award of lease to the lowest bidder, Government sustained revenue loss of ₹23.02 lakh. The Department also defaulted by arbitrarily reducing the security deposit by ₹11 lakh. Revenue amounting to ₹15.90 lakh as per deed agreement also remained unrealised (February 2012).

The Department stated (February 2012) that the lessee was being requested to deposit the rent and the entire amount is expected to be paid shortly.

The fact however remains that undue favour was extended to the lessee resulting in loss of Government revenue to the tune of ₹23.02 lakh. Outstanding revenue of ₹15.90 lakh is also yet to be realised till date (March 2012). The license was not terminated as per the terms of agreement nor was the security deposit forfeited.

FINANCE AND TAXATION DEPARTMENT

4.3 Performance Audit on “Utilisation of declaration forms in Interstate Trade

Highlights

➤ *The Department failed to conduct timely verification of stock register which led to short receipt and probable misuse of 1375 “C” forms.*

(Paragraph 4.3.8)

➤ *Three dealers concealed purchase turnover of ₹10.84 crore by utilising invalid/fake “C” forms which led to non-levy of tax and corresponding evasion of tax of ₹ 1.36 crore. Besides, penalty of ₹4.08 crore was also leviable.*

(Paragraph 4.3.11.2 and 4.3.11.3)

➤ *Five dealers imported goods worth ₹.16 crore by utilising 11 “F” forms (₹8.29crore) and three “C” forms (₹.87 crore) which were not disclosed in their accounts. The assessing officers also accepted the returns filed by the dealers without cross verifying the utilisation of the declaration forms which resulted in concealment of turnover of ₹.16 crore and evaded tax payment of ₹1.17 crore. Besides, penalty of ₹3.51crore was also leviable.*

(Paragraph 4.3.11.4)

➤ *Exemption of tax on sales worth ₹2.02 crore was allowed by the assessing officers without documentary evidence which resulted in undue exemption of tax to the tune of ₹4.13 crore.*

(Paragraph 4.3.11.6)

➤ *Three unregistered dealers utilised 18 “F” forms and irregularly imported goods worth ₹3.82 crore from three selling dealers registered in other states.*

(Paragraph 4.3.11.7)

➤ *Against the import of goods worth ₹3.10 crore by seven dealers of Nagaland, the purchasing dealers submitted utilisation statements for ₹0.48 crore resulting in concealment of purchase turnover of ₹2.62 crore and possible evasion of tax amounting to ₹31.56 lakh.*

(Paragraph 4.3.11.9)

➤ *A dealer concealed import of goods valued at ₹10.17 crore from Meghalaya being stock transfer against “F” forms during 2005-07 which led to evasion of tax to the tune of ₹1.27 crore.*

(Paragraph 4.3.11.11)

4.3.1 Introduction

The Central Sales Tax (CST) Act, 1956 and the Rules framed thereunder provide for concessional rate of tax in respect of inter-state sales of goods and exemption from tax in respect of branch transfers and export sales. The State Government grants these incentives to dealers for furtherance of trade and commerce, on production of prescribed declaration forms viz. 'C' and 'F'. Failure to furnish the declarations or submission of defective or incomplete declaration forms will make the transactions liable to tax as applicable to sale in the appropriate State. It is the responsibility of the Commercial Tax Department to ensure proper account of declaration forms and to take adequate safeguards against misutilisation of declaration forms/certificates on which tax relief is allowed involving large amount of revenue to the state exchequer.

Form “C”

Under the provisions of the CST Act, every dealer, who in the course of inter-state trade or commerce, sells to a registered dealer, goods of the classes, specified in the certificate of registration of the purchasing dealer, shall be liable to pay tax at the concessional rate of four *per cent* (two *per cent* w.e.f. 01.04.2010) of such turnover provided such sales are supported by declarations in form “C” obtained from the purchasing dealer.

Form “F”

Under section 6A of CST (Amendment) Act 1972, 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 States is exempt 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 dispatch of such goods. Filing of declaration in form “F” was not mandatory up to May 2002. However, the Act provided for the Assessing Authority to make such enquiries as he deemed necessary to

satisfy himself about bonafides of the transfer such as sale patties, dispatch particulars, way bills etc.

A Performance Audit on “Utilisation of declaration forms in inter-state trade” was conducted to check correctness of the exemptions/concessions granted on the basis of these declarations. The audit revealed various irregularities which are mentioned in subsequent paragraphs.

4.3.2 Organisational set up

The Finance Commissioner is the administrative head of the Department. The Commissioner of Taxes, assisted by two Additional Commissioners of Taxes and two Deputy Commissioners of Taxes, is responsible for the administration of the CST Act and Rules including printing, receipt and distribution of declaration forms to each zone. The entire State is divided into three Zones namely Dimapur Zone, Kohima Zone and Mokokchung Zone each headed by an Assistant Commissioner of Taxes (ACT). These zones are further sub-divided into 11 districts⁸ and the districts of Dimapur, Kohima and Mokokchung are divided into eight wards. Each district and ward is under the jurisdiction of one Superintendent of Taxes (ST). The ACT and ST are responsible for receipt and issue of declaration forms, registration of dealers and CST assessments.

The Mobile Squad is the intelligence wing of the Department attached to the Commissioner of Taxes and is headed by an ACT. The Mobile Squad conducts search and seizure and investigates cases of tax evasion. It functions under the direct control of the Commissioner of Taxes.

4.3.3 Audit Objectives

The performance audit attempted to ascertain whether:

- There exists a foolproof system for custody and issue of the declaration forms.
- Exemption/concession of tax granted by the assessing authorities 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 on the TINXSYS website and the data available there is utilised for verifying the correctness of the forms.
- Appropriate steps are taken on detection of utilisation of fake, invalid and defective forms; and
- There exists an effective and adequate internal control mechanism for preventing leakage of revenue.

⁸ Dimapur zone-Dimapur district, Mon district and Peren district.
Kohima zone-Kohima district, Phek district and Wokha district.
Mokokchung zone-Mokokchung district, Kiphire district, Tuensang district, Longleng district and Zunheboto district.

4.3.4 Scope and methodology of audit

The audit was conducted between December 2010 and June 2011. Out of 11 districts, four districts viz., Kohima, Dimapur, Mokokchung and Mon including records of the Commissioner of Taxes (CoT), Dimapur for the period from 2007-10 were selected for review. The four districts were selected considering the higher number of declaration forms issued to them by the CoT.

Details of 200 declaration forms (66 “C” forms & 134 “F” forms) pertaining to 14 States were received from other field offices for cross verification in the State, of which 123 declaration forms (51 “C” forms & 72 “F” forms) with transaction value of ₹48.31 crore were cross verified with the records of 31 dealers. For these interstate transactions, tax concession of ₹2.46 crore was allowed against “C” forms and tax amounting to ₹5.50 crore was exempted against “F” forms.

4.3.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Taxation Department for providing the information and records for Audit. An entry conference was held with the Commissioner of Taxes in December 2010 in which the scope of audit, methodology and audit objectives were discussed with the Department. The draft performance audit report was forwarded to the Government and the Department in October 2011 followed by an exit conference held with the OSD, Finance Department and Commissioner of Taxes in November 2011 to discuss the results of audit and recommendations. The report was finalised after incorporating the replies of the Department.

4.3.6 Trend of revenue under CST

The Department did not set any revenue target for CST. The revenue collection for the last five years is shown below:-

Table No.4.3.1

Year	Collection (₹ in crore)	Total tax on sales, trade etc. (₹ in crore)	Percentage to total tax on sales, trade etc.
2006-07	3.52	85.02	4.14
2007-08	3.27	94.79	3.45
2008-09	4.37	114.70	3.81
2009-10	5.36	132.22	4.05
2010-11	5.43	167.22	3.24

(Source: Finance accounts)

As would be seen from above, the revenue from CST has shown an increasing trend except in 2007-08 which was due to reduction of the CST rate from four *per cent* to three *per cent*.

Audit findings

4.3.7 Printing and custody of declaration forms

The forms are got printed by the Commissioner of Taxes (CoT) from the State Government press and supplied to the divisions for distribution amongst the circle offices under their jurisdiction. The Government of Nagaland printed 5,58,500 “C” forms from the Deputy Controller of Stamp, Central Stamp Stores, Security Press Nasik Road during the period from 1973-93. Out of the “C” forms printed, the Department had issued 3,95,783 forms till 11 June 2001. The Department through a notification dated 16 June, 2001 declared all the 3,95,783 “C” forms printed and issued upto 11 June 2001 obsolete and invalid citing the reason “to prevent misuse”.

Similarly, the Department got 82,500 “F” forms printed during April 1973 to April 1988 from the Deputy Controller of Stamp Nasik, of which 19,195 forms were issued till 11 June 2001. All these forms issued were also declared obsolete and invalid through a notification on 11 June 2001.

Audit scrutiny of the departmental records revealed that no specific reasons were recorded for cancelling the forms and the notification was issued on the verbal instructions of the CoT stating that this was in the interest of government revenues.

The Department’s action of declaring all the forms issued prior to the date of notification obsolete and invalid was not justified as those forms were not called back from the dealers. Instances of misuse of these forms were noticed in audit and have been pointed out in subsequent paragraphs.

4.3.8 Issue and accounting of declaration forms

According to clause 2 of Rule 192 of General Financial Rules, physical verification of all the 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.

Audit scrutiny revealed that though the stock registers were maintained at each level no regular physical verification was conducted by any authority either from the Commissioner’s Office or the district offices since 1979 in respect of “F” forms and since 1994 in respect of “C” forms.

Cross check of the stock register of “C” forms maintained in the Commissioner’s Office with that of the districts revealed short receipt of 1375 “C” forms by the Assistant Commissioner of Taxes, Dimapur during 2007-08 to 2009-10 as detailed hereinafter:-

Table No.4.3.2

Date of issue by the CoT	To whom issued	Leaflet nos. & quantity issued as per the stock Register of the Commissioner	Leaflet nos. & quantity received as per the stock register of the ACT Dimapur	Less receipt by ACT, Dimapur (Leaflet No.)	Numbers of forms short received
14.09.07	ACT Dimapur. Ward-C	NL.075626-076225 =600	NL.075626-076125 =500	076126 to 076225	100
29.01.08	ACT Dimapur. Ward-B	NL.078401-079675 =1275	NL.078401-079650 =1250	079651 to 079675	25
18.02.09	ACT Dimapur. Ward-D	NL.0.94001-095250 =1250	NL.094001-95000 =1000	95001 to 095250	250
23.07.09	ACT Dimapur. Ward-C	NL.098251-099250 =1000	NIL	098251 to 099250	1000
Total					1375

(Source:-Departmental records)

Failure of the Department to comply with the financial rules for timely verification of stock register by higher authority led to short receipt of 1375 “C” forms. The misuse of these forms cannot be ruled out.

On being pointed out (September 2011) the Department stated (November 2011) that the “C” forms were declared obsolete and invalid in October 2011 as they were lost. The Department stated during the exit conference (November 2011) that physical verification would henceforth be conducted periodically.

The fact however remains that the action of the Department was belated and timely conducting of physical verification would have prevented misuse of the forms.

4.3.9 System deficiencies to detect utilisation of lost, invalid/fake declaration forms

The CoT circulates to all the districts and other States, the report of declaration forms lost, declared obsolete as per information received from the districts from time to time. However, till date (March 2012), the short receipt of 1375 “C” forms as pointed out in paragraph 4.3.8 had not been reported to the competent authority by the ACT, Dimapur. It also came to the notice of audit that there is no system in the Department for blacklisting the dealers who are found utilising invalid/fake declaration forms and no data bank is being maintained for forms declared invalid or dealers found to be fictitious or whose registration certificate were cancelled.

Further, a sample of colour, design and format of the forms of other states submitted by the dealers with the returns are not available with the Department in order to enable them to identify fake or forged declaration forms while doing the assessments. Thus, the Department failed to detect any cases of fake and invalid forms till date.

The intelligence wing of the Department known as the Mobile Squad headed by an ACT, attached to the Directorate whose jurisdiction covers the entire State, is entrusted with the

task of maintaining vigil over the business activities of the traders to prevent tax evasion. Besides, the ACT is authorised to conduct search and seizures and also investigate cases of tax evasion and report to the Commissioner. However, no case of search, seizure and investigation was ever reported to the Commissioner by the Mobile Squad during the period 2007 to 2010.

4.3.10 Non-maintenance of records of receipts and issue of declaration forms by the dealers

The Department did not make any provision/issue any guidelines on the following issues to prevent possible misuse of declaration forms and subsequent evasion of tax by the dealers:-

- Prescribing a check list of points to be seen prior to acceptance of the declaration forms.
- Picking up a sample of declaration forms for cross verification with the concerned issuing States.
- Verifying the declaration forms submitted by the dealers with the database available in the TINXSYS website before allowing exemption/concession of tax.
- System for uploading the details of the dealers, issue and utilisation of declaration forms in the TINXSYS website.

4.3.11 Utilisation of declaration forms

4.3.11.1 Irregular import of goods by using 25 obsolete “F” forms

Cross check of the declaration forms submitted to the assessing officers of Sikkim by a dealer registered in NE Charge circle, Sikkim revealed that two dealers M/s Kyong Hardware registered under ST, Wokha and M/s Zhimomi Enterprise registered under ACT, Dimapur, imported goods worth ₹2.62 crore by utilising 25 “F” forms (**Appendix-4.1**) during 2007-09. On cross verification it was revealed that the forms used were declared obsolete by the Department in June 2001. The Department also stated (November 2011) that the forms were not issued to these dealers. Thus, use of obsolete forms resulted in irregular import of goods worth ₹2.62 crore by two dealers. The dealers had not accounted for these imports in their records. Hence, an amount of ₹32.81 lakh towards NVAT was also evaded.

In reply the Department stated (November 2011) that the use of obsolete form is under investigation and the outcome shall be intimated.

4.3.11.2 Concealment of turnover by utilising fake “C” forms by a dealer led to non-levy of tax

The CoT Nagaland vide notification⁹ declared the under mentioned 3,95,783 “C” forms as obsolete and invalid effective from 11.06.2001, and the notification was endorsed to the Taxation Departments in other states for compliance.

1. Sl. No. BB000001 to BB278500
2. Sl. No.1BB000001 to 1BB080000
3. Sl.No.NI.000001 to NI.037283

Cross verification of declaration forms with other States revealed that a registered dealer based in Nagaland utilised the following four “C” forms for importing goods valued ₹10.80 crore from Jharkhand during the period 2007-08 as detailed below:-

Table 4.3.3

Sl No	C form no. & Date	Name of purchasing dealer	Circle	Name of Goods	Value of Goods (₹ in lakh)	Name of Seller	Assessment year	State
1	NL 036760 12/9/2007	Krishna Trading Company	ACT Dimapur	Cement	367.16	ACC Limited	2007-08	Jharkhand
2	NL 036761 12/9/2007	Krishna Trading Company	ACT Dimapur	Cement	220.55	ACC Limited	2007-08	Jharkhand
3	NL 036763 12/9/2007	Krishna Trading Company	ACT Dimapur	Cement	139.53	ACC Limited	2007-08	Jharkhand
4	NL 036764 12/9/2007	Krishna Trading Company	ACT Dimapur	Cement	352.27	ACC Limited	2007-08	Jharkhand
Total					1079.51			

(Source:-Departmental records)

Audit scrutiny further revealed that the above stated four “C” forms utilised by M/s Krishna Trading Co. were fake as the original forms were not issued to any dealer and were instead surrendered by ST, Wokha to the Commissioner of Taxes, Nagaland (December 2000). Thus, the dealer concealed purchase turnover of ₹10.80 crore by utilising four fake “C” forms and evaded tax payment of ₹1.35 crore¹⁰. Besides, according to sub-section (7) of Section 36 of NVAT, Act 2005, penalty of ₹4.05 crore (₹ 1.35 x 3 = ₹4.05 crore) was also leviable on the dealer.

The Department in reply (November 2011) stated that audit assessment under section 36 of NVAT Act, 2005 in respect of M/s Krishna Trading Company has been completed by the revision authority and that re-opening of the case may not be appropriate.

The fact however remains that the revision authority had re-assessed the tax on assumed concealed turnover of ₹1.10 lakh against the actual turnover of ₹10.80 crore during 2007-08. The action of the revision authority was not in order as the re-assessment was not

⁹ No. CT/STS/1/01 dated 16.07.2001

¹⁰ At the rate of 12.5 per cent on ₹ 10.80 crore

based on the actual turnover of the dealer. Thus, the dealer was allowed to evade tax payment of ₹1.35 crore by concealing the actual turnover of ₹10.80 crore.

4.3.11.3 Concealment of turnover by utilising invalid “C” forms by two dealers led to non-levy of tax

Cross verification of the declaration forms revealed that goods valued at ₹27.91 lakh was imported from Assam and Rajasthan by utilising two “C” forms as detailed in the table:-

Table 4.3.4

Sl No	C form No. & Date	Name of purchasing dealer	Circle	Name of Goods	Value of Goods (₹ in lakh)	Name of Seller	Assessment year	State
1	NL 036261 47/06	Sumedan Warehousing, Mokokchung	ACT Mokokchung	Cosmetics, napkin etc	4.29	Johnson & Johnson Ltd	2005-06	Assam
2	BB 192603	Purwanchal Traders	ACT Dimapur	Mustard oil	23.62	Bhardwaj Oil India	2008-09	Rajasthan
Total					27.91			

Audit found that the dealers did not disclose in their accounts the import of goods by utilising these two “C” forms which were declared invalid by the Department in June 2001, resulting in concealment of purchase turnover of ₹27.91 lakh and evasion of tax of ₹3.49 lakh. Besides, according to sub-section (7) of Section 36 of NVAT, Act 2005, penalty of ₹10.47 lakh ($₹3.49 \times 3 = ₹10.47$ lakh) was also leviable on these two dealers.

The Department in reply (November 2011) stated that utilisation of invalid forms by M/s Sumedan Warehousing, Mokokchung is under investigation and in respect of M/s Purwanchal Traders, Dimapur, the registration certificate of the dealer was cancelled (2007) and the dealer had already left Nagaland.

The fact however remains that the tax payable by the dealer is still outstanding.

4.3.11.4 Concealment of transactions

During cross check of declaration forms it was seen that 11 “F” forms by two dealers and three “C” forms by three dealers registered in Nagaland were utilised for importing goods worth ₹9.16 crore¹¹. Scrutiny of the assessment records and returns of these five dealers revealed that an amount of ₹9.16 crore was not shown in the accounts of the dealers. The assessing officers assessed the tax payable as per the returns filed by the dealers during 2004-05 to 2008-09 without cross verifying the utilisation statements and declaration forms.

Failure of the Assessing Officer to cross verify the utilisation of the declaration forms while accepting the dealers returns resulted in concealment of turnover of ₹9.16 crore by

¹¹ “F” form=₹8.29 crore and “C” form=₹0.87 crore

these five dealers resulting in evasion of tax of ₹1.17 crore. Besides, penalty of ₹3.51 crore was also leviable (**Appendix-4.2**).

On being pointed out (September 2011), the Department accepted the facts in respect of three dealers¹² and issued notices under Section 39 of NVAT Act 2005. The Department's reply in respect of one dealer (M/s Sungyu dealer, Mokokchung) was awaited. However, in respect of M/s. Kim Hyundai, Kohima the Department stated that the forms were not utilised by the dealer and therefore the Department declared the forms obsolete on 31.10.2011. The reply of the Department is not correct as the original copies of the declaration forms obtained during cross verification by audit showed that the forms were issued by M/s Kim Hyundai. Further, during the course of audit of the records of M/s Kim Hyundai, Kohima it was observed that the Commercial Tax Department of Meghalaya had intimated in January 2008 that during the year 2004-05, goods valued at ₹8.10 crore were transferred by M/s. Kim Hyundai from Meghalaya as stock transfer. Audit pointed out that these transactions were not accounted for in the accounts of 2004-05 (June 2011), in response to which, the Department issued demand notice of ₹97.27 lakh to the dealer in July 2011.

While responding to the same issue in exit the conference (November 2011), the Department in contradiction of its earlier action, produced a copy of the notification issued in October 2011 vide which all the 51 "F" forms issued to M/s Kim Hyundai, Kohima since its registration in April 2004 till May 2009 were declared obsolete and invalid from the date of their issuance on the ground of preventing their misuse.

The Department's action of raising demand on the one hand and declaring the "F" forms already issued to and utilised by the dealer obsolete and invalid on the other, was nothing but an effort to cover up the misconduct of the dealer. The Department neither called for the utilisation certificates nor asked the dealer to return the forms.

4.3.11.5 Concealment of sales

Section 10A of the CST Act, 1956 provides that a dealer who is guilty of an offence shall be given a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty a sum not exceeding one and a half times the tax which will have been levied under sub-section (2) of Section 8 in respect of the sale to him of the goods, if the sale had been a sale falling within that sub-section.

During scrutiny of records, it was seen that a selling dealer registered under ACT, Dimapur sold goods valued at ₹5.65 crore to two dealers in Manipur against 6 "C" forms.

Cross verification of the amount shown in the counterfoils of the purchasing dealers in Manipur with the amount in the declaration forms furnished by the selling dealer revealed that against the actual export of goods of ₹5.65 crore only ₹2.60 crore (**Appendix-4.3**) was shown in the returns of the selling dealer. Thus, the dealer concealed an amount of

¹² M/s North East Traders, M/s Apex Paramilitary Bonded Warehouse and M/s Symbios Creations.

₹3.05 crore in its sale turnover during 2008-09 to 2009-10 which escaped the notice of the Assessing Officer while assessing the returns thereby resulting in evasion of tax of ₹3.05 lakh. Further, penalty of ₹4.57 lakh was also leviable on the selling dealer.

4.3.11.6 Concealment of turn over

Section 6(A) (1) of the CST Act 1956 provides that if any dealer claims that he is not liable to pay tax on the ground that the movement of goods was by way of transfer by him to other place of his business or to his agent or principal, as the case may be and not by reason of sale, then the dealer must furnish the declaration duly filled in and signed by the principal officer of the other place of business or his agent as the case may be in the prescribed form obtained from the competent authority. Rule 25 & 26 of the Nagaland Sales Tax Rules 1970 also stipulates submission of documents in support of any claim for deduction from gross turn over under section 14 of Nagaland Sales Tax Act. If the dealer fails to furnish such declaration forms/documents, then the movement of goods shall be deemed for all purposes to have been occasioned as a result of sale.

Scrutiny of records of a dealer, M/s Ravi Timber and Allied Products (P) Limited, under the jurisdiction of the Superintendent of Taxes, Mon dealing in wholesale of timber, veneer, black board and sawn timber revealed that in response to an enquiry of the Commissioner of Taxes, Commercial Tax, West Bengal (December 2007), the Department informed that 25 "F" forms were issued to the dealer for which no utilisation details were submitted by the dealer. The trading accounts submitted by the dealer for assessment also showed that during the years 2002-03, 2003-04, 2004-05 and 2005-06, the dealer had imported by branch transfer goods worth ₹10.77 crore, ₹6.77 crore, ₹7.49 crore and ₹17.55 crore respectively. The dealer was assessed to tax for the period 2002-03 to 2005-06 as under:-

Table 4.3.5

Year	Gross Turn Over	Amount Exempted including local sale of firewood	Taxable turn over as considered by the Assessing Officer	Tax assessed by Assessing Officer	(in ₹)	
					Fine imposed	Tax payable
2002-03	48491651	47243299	1248352	124835	500	125335
2003-04	133912360	132580219	1332141	133214	500	133714
2004-05	74885240	73966676	918564	91856	0	91856
2005-06	175517928	174709284	808644	89849	0	89849
Total	432807179	428499478	4307701	439754	1000	440754

Scrutiny of records (February 2011) further revealed that the AO while assessing the tax liability of the dealer for the period from 2002-03 to 2005-06, assessed the tax payable as ₹4.41 lakh after allowing exemption of tax on sales worth ₹42.02 crore¹³ being goods transferred to local factories without documentary evidence or mentioning the applicable

¹³ Excluding ₹ 83.05 lakh on sale of non taxable items such as firewood.

section under which the exemption was provided. Thus, the dealer was allowed undue exemption of tax to the tune of ₹4.13 crore¹⁴ payable under Nagaland Sales Tax Act.

The dealer had also not paid the assessed tax of ₹4.41 lakh for which no action was initiated against the defaulting dealer.

In their reply (August 2011) the Department stated that ₹89,849 (tax assessed for the year 2005-06) was realised. The Department, in contradiction to the information provided to Commissioner of Taxes, West Bengal, Kolkata, intimated that no statutory forms were issued to the dealer. The matter needs extensive investigation.

4.3.11.7 Misutilisation of declaration forms by three unregistered dealers

During cross check of the declaration forms it was observed that 18 “F” forms were issued by the Commissioner of Taxes to the ST, Mon and ACT, Dimapur, which were utilised by three unregistered dealers and goods worth ₹3.82 crore imported from Goa, Sikkim and Tamil Nadu during the period 2007-09 (**Appendix-4.4**). The ST, Mon and ACT, Dimapur did not produce the issue registers to audit and hence, it could not be verified to whom these forms were actually issued.

Irregular utilisation of “F” forms by unregistered dealers facilitated irregular transfer of goods valued at ₹3.82 crore and evasion of tax of ₹23.30 lakh.

The Department in reply stated that all the forms were declared obsolete. However, the matter was under investigation, the outcome of which would be intimated to audit.

The Department’s reply is not tenable as all the “F” forms declared obsolete and invalid were to be recalled which was not done by the Department.

4.3.11.8 Misutilisation of declaration forms by the dealers

During scrutiny of records it was seen that the ACT, Dimapur issued 5 “F” forms to two dealers which were however utilised by dealers other than by those to whom they were actually issued. One of the dealers utilising these forms was registered under VAT and CST in Nagaland. The details are shown in the following table:

Table 4.3.6

(in ₹)

Sl. No	Name of the dealer to whom Form issued	Name of the dealer who utilised the forms	Number of F forms	Value of goods	Amount exempted	Name of the seller	Assessment circle	Year of assessment
1	M/s K.P & Co.	Vinay Enterprises	1	1494672	59786	Seahath Canning	Margao	2007-08
2	M/s DK Enterprise	M/s Zhimomi Enterprises	4	9962758	1245345	CG foods	NE Charge	2008-09
		Total	5	11457430	1305131			

(Source: Departmental records)

¹⁴ 8 per cent on taxable turnover of the year 2002-03 to 2004-05 and 12.5 per cent on taxable turnover of 2005-06

As would be seen from the above table, the two dealers imported goods valued at ₹1.15 crore (**Appendix-4.5**) by utilising five declaration forms originally issued to other dealers by ACT, Dimapur.

Cross verification of the registered dealer's assessment records also revealed that the value of goods imported by utilising four declaration forms was not disclosed in the returns.

Laxity on the part of the Department to adequately safeguard against misutilisation of declaration forms resulted in evasion of tax of ₹ 13.05 lakh by the two purchasing dealers. Besides, penalty of ₹ 39.15 lakh was also leviable as per sub-section (7) of Section 36 of NVAT, Act 2005. Action against the registered dealers to whom the forms were issued was also called for under CST Rules.

The Department accepted the facts (November 2011) and stated that enquiry is being conducted.

4.3.11.9 Non-furnishing of utilisation statement of forms and non-surrender of unused forms after cancellation of registration certificate

Rule 4 (12) of the CST (Nagaland) Rules 1972 provides that no new declaration forms shall be issued to a dealer until he has rendered a satisfactory account of the old forms issued earlier and return the unused ones if any, to the said authority.

Rule 4 (7) of the CST (Nagaland) Rules 1972 provides that any unused declaration form remaining in stock with a registered dealer on the cancellation of his Registration Certificate shall be surrendered to the assessing authority within 15 days of such cancellation.

Test check of records in ACT, Dimapur revealed that the registration certificate of a dealer¹⁵ was cancelled w.e.f 27.06.2007. However, the dealer did not submit the utilisation statement of the four "C" forms issued to him on 19.4.2007 and three "F" forms issued on 31.5.2007. The ACT, Dimapur also did not initiate any steps to take back the seven declaration forms issued to the dealer.

A dealer¹⁶ registered under ACT, Dimapur was issued 48 "F" forms by ST, Dimapur (24 on 29.09.06 and 24 on 19.10.2006) without furnishing the utilisation statement of the forms issued to him earlier. Again 36 "F" forms were issued to the dealer on 29.10.2010 without obtaining the utilisation statement of the previous 48 numbers of "F" forms issued.

This indicated that there is no monitoring mechanism in the Department to watch the utilisation of the forms and hence their misutilisation cannot be ruled out.

¹⁵ M/s Anita Enterprise bearing TIN CST-13010099132

¹⁶ M/s Gen Next bearing TIN CST-13010203105

After the lapses of the Department were pointed out (September 2011), copies of the counterfoils of the used forms were obtained from the dealer and furnished during the exit conference (November 2011). The facts however remains that the action of the Department was in violation of the CST Rules. Besides, registration certificate in respect of M/s Anita Enterprise has been already cancelled and therefore there is no prospect of re-opening the case.

4.3.11.10 Variation between the figures in the declaration forms and the utilisation statements

Cross check of the figures in the details of the declaration forms obtained from the assessing officers of Assam and the utilisation statement submitted by the dealers to the Department under ACT, Dimapur revealed that seven purchasing dealers of Nagaland imported goods valuing ₹3.10 crore during 2004-05 to 2009-10 as shown in the declaration forms. However, the purchasing dealers in Nagaland submitted utilisation statements for only ₹0.48 crore (**Appendix-4.6**). Thus, either the purchasing dealers concealed purchase turnover of ₹2.62 crore or the selling dealers in the respective states inflated their sales.

Failure on the part of the assessing officers to cross check the amount shown in the declaration forms with that of the utilisation statements while assessing the returns of the dealers resulted in probable concealment of purchase turnover and possible evasion of tax of ₹31.56 lakh.

The Department in reply (November 2011) accepted the facts.

4.3.11.11 Value Added Tax evasion of ₹1.27 crore causing revenue loss of ₹44.06 lakh

According to Section 28 of the Nagaland Value Added Tax (NVAT) Rules 2005, Annual Return (in Form VAT-5) should be submitted by every registered dealer giving detailed information in respect of gross purchases including exempt and non-creditable purchases separately, gross sales including export sales, inter-State sales and consignment transfers separately, total tax due, including interest and penalty less tax credit during the year and tax payable and tax payment showing treasury voucher numbers. The annual return shall be furnished within two months of the close of the year to which it relates. Section 32 of the NVAT Act 2005, stipulates the scrutiny of such returns by the Assessing Officer.

Audit scrutiny (February 2011) of the case records of a dealer¹⁷ registered in Kohima, Nagaland dealing in medium motor vehicles, chassis of motor vehicles, spare parts and accessories etc., revealed that the dealer imported goods valued at ₹18.28 crore from M/s Kim Hyundai, Shillong, Meghalaya being stock transfer during 2004-07. As per the records of ACT, Kohima 51 numbers of "F" Form were issued during June 2004 to May

¹⁷ M/s Kim Hyundai bearing NVAT TIN 13070225085 and CST TIN 13070077161

2009. As per the enquiry report of the ACT, Kohima (November 2006), the firm neither paid any taxes nor submitted the utilisation statement of the 12 forms issued till then. 39 more “F” forms were issued in February 2008 and May 2009 without insisting for the utilisation statement of forms issued earlier.

ACT, Meghalaya, Shillong confirmed (January 2008) the transfer of stock from Meghalaya to Nagaland as detailed in the following table:-

Table No.4.3.7

Quarter ending	Value of stock transferred from Meghalaya	(in ₹)
		Tax evaded @ 12.5 per cent
30.06.2005	3096988	387124
30.09.2005	13343657	1667957
31.12.2005	18805322	2350665
Sub-Total	35245967	4405746
30.06.2006	34068128	4258516
30.09.2006	16912922	2114115
31.12.2006	15516870	1939609
Sub-Total	66497920	8312240
Total	101743887	12717986

The Superintendent of Taxes, Kohima sought a clarification (April 2008) from the dealer on the details of transaction for the period from May 2004¹⁸ to December 2006 confirmed by the ACT, Meghalaya, as the dealer had not declared the transactions in the quarterly returns. Neither did the dealer respond to that notice nor was further scrutiny under Section 32 of the NVAT Act done by the ACT, Kohima.

Failure of the assessing officer in exercising the statutory checks encouraged the dealer to conceal the taxable turnover of ₹10.17 crore which led to evasion of tax to the tune of ₹1.27 crore for the assessment year 2005-06 and 2006-07 which includes revenue loss of ₹44.06 lakh for the period from April 2005 to March 2006 as the revision of the assessment became time barred due to expiry of a period of five years from the end of the assessment year.

On being pointed out (June 2011), the Department in reply (July 2011) stated that demand notice for realisation of tax had been served to the dealer. However, the fact remains that out of ₹1.27 crore, ₹44.06 lakh has already become time barred. Out of the remaining amount of ₹83.12 lakh which is yet to be realised, the Department served notice for ₹7.96 lakh only, for reasons not on record.

4.3.12 Deficient computerisation and ineffective use of TINXSYS

Tax Information Exchange System (TINXSYS) is a centralised exchange of all interstate dealers spread across the various States and Union Territories of India. It is an exchange authored by the Empowered Committee (EC) of State Finance Ministers as a repository

¹⁸ Transactions of 2004-05 have been commented upon under paragraph 4.3.11.4

of interstate transactions taking place among various States and Union Territories. The website was designed to help the Commercial Tax Departments of various States and Union Territories to effectively monitor the interstate trade. TINXSYS can be used by any dealer to verify registration details and status of the counter party interstate dealer in any other State. Apart from dealer verification, Commercial Tax Department can use the TINXSYS for verification of central Statutory Forms (declaration in form “C” and “F”) issued by other State Commercial Tax Departments and submitted to them by the dealers in support of claim for concessions. TINXSYS also provides Management Information System (MIS) and Business Intelligence Reports to the Commercial Tax Departments to monitor interstate trade movements and to enable the EC to monitor the interstate trade trends.

In the Commercial Tax Department in Nagaland, a computer cell is functioning under the supervision of the Commissioner of Taxes. The Department adopted the NE VAT project in February 2005 under which the VAT & CST Management System (VCMS) is being implemented. The Department has also adopted and implemented TINXSYS since April 2007.

As per the administrative report of the Department, out of 11 districts, computers were installed only in seven districts and the remaining four districts¹⁹ are yet to be computerised till date. The system for verification of declaration forms submitted by the dealers with the database available in the TINXSYS website before allowing exemption and concession of tax has not been prescribed by the Department thus defeating the purpose of computerisation.

As can be seen from the table below, the Department issued 51,225 “C” forms and 4,400 “F” forms during the period from 2006-07 to 2009-10. A system generated report on data availability on TINXSYS revealed that till date (March 2012) issue details of only 54,203 “C” forms and 1,110 “F” forms were uploaded. The report further revealed that the utilisation details of only 671 “C” forms were uploaded, whereas utilisation details of “F” forms were not uploaded at all till date (March 2012).

Table 4.3.8

Year	“C” Forms issued	“F” Forms issued	Progressive number of forms issued and uploaded in TINXSYS		Progressive number of utilisation of forms uploaded	
			“C” Forms	“F” Forms	“C” Forms	“F” Forms
2006-07	14800	2900	0	0	0	0
2007-08	13725	50	0	0	0	0
2008-09	12825	1325	38468	0	0	0
2009-10	9875	125	51461	13	671	0
2010-11	Not available		54203	1110	671	0
Total	51225	4400	54203	1110	671	0

Non-uploading of details of the declaration forms issued and utilised defeated the purpose of existence of TINXSYS.

¹⁹ Peren, Longleng, Mon and Kiphire

In the exit conference (November 2011), the Department intimated that the system of online issuance of all statutory forms w.e.f. October 2011 was launched, however, physical issuance of statutory forms will also continue upto February 2012. Further, the Department stated in February 2012 that issuance of declaration forms in the present portal is build where the issuance can be made against specific purchase invoices as requested by the dealer, as such data under manual operation cannot be uploaded into the portal.

The deficient implementation of computerisation scheme and ineffective use of TINXSYS were one of the primary reasons for the cases of tax evasion not being detected by the Department.

4.3.13 Conclusion

In the absence of monitoring systems, lacunae in assessment of tax coupled with system deficiencies which existed in the Department, the assessment of tax in Nagaland is deficient. The Department had not prescribed any procedures/instructions for safe custody and issue of declaration forms and as a result, there were instances of declaration forms being lost and misused by unregistered dealers. The Department declared all the declaration forms issued prior to June 2001 as obsolete and invalid rendering all the interstate transactions upto June 2001 being irregular. The Department also did not call back the forms declared to be obsolete and invalid causing prospects of misutilisation of those forms for future transactions also. Tax evasions due to misutilisation of declaration forms, non-furnishing of utilisation statements by the dealers and subsequent concealment of turnover were noticed.

Out of 11 districts, computers were installed only in seven districts under VCMS project and till date four districts are yet to be computerised. The available facilities under computerisation were also not properly utilised as the data of the declaration forms issued and utilised was not uploaded nor any provisions were made for cross verification of declaration forms from TINXSYS website before allowing concessions/exemptions.

4.3.14 Recommendations

- *Physical verification of stocks of declaration forms should be conducted periodically both at the Directorate and the District level.*
- *Instructions/guidelines should be issued for safe custody and issue of declaration forms.*
- *Submission of utilisation statements by the dealers should be strictly enforced when any new declaration forms are to be issued.*
- *Provisions for cross verification of the declaration forms during assessment of tax should be made.*
- *The facilities of the TINXSYS website should be availed and the particulars of declaration forms issued, received and utilised by the dealers should be uploaded in the system.*